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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Thursday, July 28, 1988*

The Senate met at 9:30 a.m., and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God our Father, we hear the profound wisdom of Proverbs: "Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths."—Proverbs 3:5, 6.

None of us is infallible—and the greater our power, the greater the danger in our fallibility. It is clear in the Bible that the root of evil in history is man's desire to be his own God. All other evils derive from this original temptation and man's self-alienation from God.

In these days when issues are rarely simple—when many-sided options confront and challenge—deliver us from the ego which will not acknowledge inadequacy; give us the wisdom which admits need and the humility to seek divine guidance and follow it.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I listened to the prayer of the Chaplain and he reminded us that we must stay humble; that we have to be careful lest our egos defeat us. It was a thoughtful prayer, much needed in this day and much needed in this place.

Recently, I have been reading the history of England and about the crusades. There were eight crusades. Richard the Lionhearted led the third crusade in the late 1100's—around 1190, 1191, 1192—and his formidable adversary was the Emperor Saladin, the Emperor of Syria and Egypt.

Saladin was a very chivalrous foe. He once gave to Richard the Lionhearted a horse when King Richard's charger fell in combat. Saladin knew the futility of glory and conquest. He was powerful. And when he died, he ordered that his tunic be carried on a spearpoint throughout the camp and the cry at intervals uttered, "Behold all that remains of the Emperor Saladin." Such reminders of the vanity of vanities we do well to heed, provided we also remember that our spiritual record, whether admirable or infamous, is everlasting.

Vanity of vanities, the Chaplain's prayer gives us pause for sober reflection and points us the way to go.

There is a bit of verse that moves along this same line of thought—"Name in the Sand."

Alone I walked the ocean strand;
A pearly shell was in my hand;
I stooped, and wrote upon the sand
My name, the year, the day.
As onward from the spot I passed,
One lingering look behind I cast;
A wave came rolling high and fast,
And washed my lines away.
And so, methought, 'twill shortly be
With every mark on earth from me;
A wave from dark oblivion's sea
Will sweep across the place
Where I have trod the sandy shore
Of Time, and been to be no more,
Of me, my day, the name I bore,
To leave no track nor trace.
And yet, with Him who counts the sands,
And holds the waters in His hands,
I know a lasting record stands
Inscribed against my name,
Of all this mortal part has wrought,
Of all this thinking soul has thought,
And from these fleeting moments caught,
For glory or for shame.

Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

TIME FOR PAT SCHROEDER'S WHISTLEBLOWER BILL

Mr. PROXMIRE. Mr. President, certainly one of the most valuable Members of the Congress in either the House or Senate is Congressperson PAT SCHROEDER of Colorado. Few Members of Congress are in the same league as PAT SCHROEDER as an expert on this Nation's national security. She has not only served on the House Armed Services Committee for many years, she has served with extraordinary distinction. In March of 1987 PAT SCHROEDER introduced a bill in the House to provide protection for those invaluable defense workers who have come to be known as whistleblowers. The Schroeder bill makes it unlawful for a Government contractor to penalize any employee who discloses to an

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

appropriate Government official information concerning a Government contract which the employee believes to be either a violation of law or mismanagement or a gross waste of funds. The bill provides for prompt investigation by the Secretary of Defense of any discrimination against such an employee. Within 90 days of receiving a complaint from a "whistleblower" the Secretary must issue an order providing relief for the whistleblowing employee or denying the complaint. If the Secretary determines that a violation of the Schroeder law has occurred, the Secretary must take the following action: He must order the Government contractor to correct the violation. If the whistleblower has been fired, he or she shall be rehired without loss of compensation or other benefits. The Secretary shall also order the contractor to pay compensatory damages to the whistleblower. The Secretary must also assess against the contractor the costs reasonably incurred by the whistleblower in connection with bringing the complaint.

Mr. President, at the invitation of PAT SCHROEDER this Senator intends to introduce a companion bill of the Schroeder bill here in the Senate. Here is a reform that would go a very long way in improving the efficiency of our massive $300 billion annual military operations. All of us are familiar with the remarkable contributions of whistleblower Ernest Fitzgerald who time after time called the attention of the Congress to appalling waste: planes that would not fly; ships that would not float; guns that would not fire. These blunders have cost our taxpayers tens of billions of dollars throughout the years. They have also endangered the lives of America's combat servicemen. They have enfeebled the defense of our country. How do we stop this appalling and dangerous waste? Far and away the best way is to encourage the loyal and intelligent American citizens who work to develop and produce our weapons to speak up just as soon as they become aware of fraud or waste or gross incompetence.

As Ernie Fitzgerald, America's most widely known whistleblower, discovered, that is not easy. Here was a true defense expert. Fitzgerald received the highest civilian award in 1967 for his work as a top flight Air Force procurement specialist. But the following year when he called attention to costly and life threatening weaknesses in the Air Force's giant transport cargo plane—the C-5A, he started serving a long tour in the Pentagon's dog house. Twenty years ago, Fitzgerald came before a subcommittee of the Joint Economic Committee which this Senator chaired. I asked Fitzgerald about the efficiency of the design and construction of the C-5A. Fitzgerald committed truth. He told the committee exactly what was true. The C-5A was an immensely costly, poorly designed flop. For the past 20 years Fitzgerald has been living in a nightmare world. The Air Force fired him. The court overruled the Air Force and gave Fitzgerald his job back. For years this extraordinarily competent Air Force expert has had to struggle to hold down cost and win better performance, working under the biggest of all handicaps. He was designated by his Pentagon bosses as "not a team player." Why? Because the truth Fizgerald told hit the Pentagon's favorite defense contractors exactly where they are most sensitive—in their bank accounts. He has made a career out of standing up to the enormous influence those contractors have always carried in every administration, Republican or Democratic. He has kept his job, if only by the skin of his teeth. But he has kept it. And while doing so he has saved taxpayers billions and at the same time strengthened the quality and performance of the military weapons that defend our country.

But the Schroeder whistleblower bill is not designed for the Ernie Fitzgeralds. It is designed for the men and women who are even more vulnerable than Fitzgerald. These are the people who work for Defense contractors. Whether they are weapons designers, research scientists, or highly competent technicians operating on the assembly line, there are the people with the know-how to make a real difference. They are even more likely to know when the taxpayer and the national security is being ripped off than DOD's own experts like Ernie Fitzgerald. A word at the right time from them could save America lives and billions of dollars. But obviously if they do speak up to reveal what is wrong with the product their own company produces, they are very likely to be silenced or fired. The Schroeder bill would stop the intimidating silencing of these defense experts. It opens up this source of light and understanding. This bill gives the Federal Government a fighting chance to stop weapons disasters before they compromise our national defense or smash a multibillion dollar hole in the U.S. Treasury.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCARCE DESERT WATER

Mr. REID. Mr. President, there is no problem facing the citizens of northwestern Nevada today more important than the problem of water. The demands on the Truckee-Carson River system have grown dramatically during this century, the water supply has not. The meager water supply from these two small desert rivers is no longer sufficient to meet the needs of the cities of Reno, Sparks, and Carson City, as well as commercial agriculture demands and the needs of the fish and waterfowl at Pyramid Lake and other wetlands and wildlife areas.

Even without the devastation of this year's drought, the Truckee-Carson River system still falls short of meeting the demands for water by at least 100,000 acre feet, or 360 billion gallons, a year. Over the years, this shortfall has led to numerous law suits and court decrees. Sometimes one group of water users prevailed and other times a different group prevailed. The result has been a mishmash of court decrees mandating how the water can be used, and no one understands what the court decrees mean. In the end, no one is satisfied and hostility has continued to grow.

Upon coming to the Senate, I made it one of my top priorities to see if I could help bring the various water users on the Truckee-Carson system together to negotiate an agreement on water distribution that could replace the tangle of court decrees and bring the legal wars to an end.

Over the last 15 months, I and my staff have spent hundreds of hours working with the major water users on the system in attempting to negotiate a mutual agreement on the use of water from these two river systems. I am pleased to report that these efforts are now beginning to pay off.

During the latest round of negotiations in July, tentative agreement has been reached between the States of Nevada and California on dividing the waters of the Truckee and Carson Rivers, and Lake Tahoe. Efforts to get such an agreement approved by Congress stretch back almost two decades. Now it appears at last that an agreement has a real chance of being ratified.

Preliminary agreement has also been reached between Nevada, private groups, and the Federal Government to establish a joint program to obtain water for Stillwater, which is a wildlife refuge area and really an important wildlife refuge area. These wetlands are not only important stops on the Pacific Flyway for many migratory species, but Stillwater is also to be named as part of the nationally recognized shorebird reserve within the next several weeks.

However, Mr. President, unless action is taken quickly, these wetlands will disappear forever and the ecological damage to migratory water fowl, shorebirds, and indigenous wildlife will be immense. An agreement to get some fresh water specifically for these wetlands is an important breakthrough, not only for Nevada, but the Nation.

Hopefully, we are also approaching agreement on measures that will ensure that the cities of Reno and

Sparks will have adequate water supplies available until at least the end of the century, even during drought years, such as the one this Nation is experiencing. I hope that we can reach final agreement in this area because it is vital to the quality of life for the residents of western Nevada.

At the beginning of this century, the conventional wisdom in the Federal Government was that with a little intelligent planning we could literally "make the desert bloom like a rose." This was a visionary goal and led to many Federal projects that have, in fact, vastly improved the quality of life in the Western United States.

However, nature herself has finally forced us—all of us—to recognize the fact that our most previous desert resource—water—cannot be stretched indefinitely. There are limits to the amount of water available, and droughts like the current one make that fact even more self-evident. Therefore, we must begin to change our approach so that we concentrate on making the best use of our scarce water.

The recognition that water is limited and must be carefully allocated and not wasted is what lies at the bottom of the successes that have come out of the negotiations between the major water users in Nevada.

I applaud their efforts to date and encourage them to make even greater efforts in the future to build a broad public consensus behind the goal of utilizing the desert's scarce water supplies for the greatest public benefit.

Ultimately, I hope I can offer the successes of these negotiations in western Nevada as a model to other water users facing the same difficult decisions in areas of our country where water is extremely scarce.

I yield the floor.

Mr. EXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. EXON. Mr. President, since 5 minutes is alloted, I ask unanimous consent that I be allowed to continue for whatever remaining time there is assigned unless there is someone on the floor who seeks time.

Mr. BYRD. Will the Senator put a limitation on of 10 minutes?

Mr. EXON. I thank the majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BIPARTISAN DEFENSE BUDGET

Mr. EXON. Mr. President, my text this morning is taken from the Washington Post of Tuesday the 26th day of this month. I ask at this time that the article that I have just referred to be printed in the Record following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. I think this is a matter that needs the attention of the U.S. Senate, and I am going to make a plea to the President of the United States that would be adverse to the reports in the story that I have just referenced.

Mr. President, the Washington Post is not an infallible source of all truth, but it is one of the better-recognized newspapers in the world today. I am fearful—I am fearful, indeed, and I underline the word fearful, Mr. President—that the story that I have just referenced as of that date may be pitifully true.

The headline says: "Reagan Urged To Veto Defense Bill." Subheadline: "GOP Leaders Hope Action Would Reflect Poorly on Democrats."

Mr. President, I am not sure that headlines always reflect the true intentions of some of us. I hope that that is not the case in this instance. But I am fearful, once again, that it is.

I quote from parts of that story to underline my concern. The story, written by two very experienced journalists, Mr. Lou Cannon and Bill McAllister, starts out by saying:

> Senate Minority Leader Robert J. Dole (R-Kan.) and House Minority Leader Robert H. Michel (R-Ill.) yesterday strongly urged President Reagan to veto a $300 billion defense authorization bill, a move that could be used to promote the Republican campaign theme that Democratic efforts to cut back Pentagon spending illustrates their lack of commitment to a strong defense.

Mr. President, if there is any one measure or measures that we discuss and spend a great deal of time on here that this Senator feels should be removed completely from partisan political consideration, it is the defense budget, the defense budget of the United States of America, the defender of all of our rights and certainly the leader of the free world as we face a very uncertain future.

Let me start out by delivering the main message that I want to deliver. I plead, I implore the President of the United States to cast aside this ill-conceived political advice by his two leaders and others in the U.S. Senate and in the House of Representatives.

I continue to quote from that story:

> Dole said the defense authorization bill was insufficient to maintain U.S. military strength and said a veto was both justifiable and sustainable.

That is unadulterated bunk. I have great respect for the minority leader, but I think in his desire to be a political leader, from time to time he loses sight of some things that are more important than who sits in the high chambers of decisionmaking in the democratic and free Government of the United States of America.

I want to salute my colleague, the ranking Republican on the Armed Services Committee, because immediately following the quote that I have just attributed to Senator Dole, Senator Strom Thurmond, that great American, that great Republican, and that great Member of the Senate:

> Disagreed, saying to Reagan that "If you don't sign it, you may get a worse bill * * * it may be in the best interests of the country to go ahead and sign it."

Mr. President, I suggest that that statement by the distinguished Senator from South Carolina, the former President pro tempore of the Senate, is one of a statesman and an attempt I think by my friend and colleague from South Carolina to bring some reasonableness to what appears to be in the making and that is a Republican juggernaut, using the defense authorization bill as a political leverage instrument in the upcoming campaign.

I want to go on and quote from a couple other parts of this story because I think it is very revealing:

> White House spokesman Marlin Fitzwater said Reagan has reached no decision but that a majority of those attending yesterday's meeting favored a veto on grounds that the bill "cuts defense far more than the national security of the United States can withstand, that it guts the SDI [Strategic Defense Initiative] program, that it places other constraints on military expenditures that we don't think are correct."

Quoting further now from the next paragraph in my text of this morning:

> Anther official said a veto also could help Reagan recapture the initiative on the defense issue, on which the White House sees Democratic presidential nominee Michael S. Dukakis as potentially vulnerable.
>
> "You put national defense back on the political radar screen as an issue with a veto of this bill," the official said. "We didn't get this far on arms control with the Soviet Union by having a weak defense."

More bunk.

It is no secret that this Senator from Nebraska has openly disagreed with some of the defense policies of the Democratic nominee for President of the United States. I have taken issue with some of the stated positions of Governor Dukakis with regard to the nuclear deterrence of this country and the important role that I think nuclear deterrence does play in keeping the Soviet Union at bay and making sure that we have the strength in the United States of America to deter and cause the Soviet planners great concern as they might plan any kind of attack on the United States of America, which I suggest they are not planning at this time. But I do not trust the Soviet Union for a moment. I want to deal with them. I want to compare with them. I want enforceable and verifiable treaties executed by the two superpowers, but I do not trust them. So it is not a matter of trust. I think it is a matter of trust, Mr. President, when we as Democrats and Republicans work together to try to sustain and pay for the national defense of the United States of America.

I would simply say, Mr. President, If I wanted to be a rank partisan on this matter, which I do not care to be, if the Republican Party thinks that in the United States of America the vast majority of citizens believe that we should be spending more than $300 billion a year for national defense, then they are doomed to an overwhelming setback, maybe a landslide, in the November elections. I think what they are hearkening back to maybe is the period of 8 years ago when the window of vulnerability became the battle cry of the Republican Party.

I would simply also say, Mr. President, that it is this Senator from Nebraska, as the record will clearly show, who has carried the water of the Republican administration on many of the key votes on national defense. I am talking particlarly about the strategic defense initiative. I am talking about the Bigeye bomb. I am talking about the rail garrison MX proposal that I backed, so I speak as one who has worked carefully and cast several key votes, decided by one vote on many occasions, in favor of the administration. So I do not make these remarks this morning as an attack of one who has not been cooperative with the administration, because I have worked closely with them on defense issues.

I simply say that if the President accepts the bad advice that he has been given by some of the Republican leadership, we are going to be in total disarray with regard to the defense bill and defense budget.

I would point out, Mr. President, that SDI funding at $4.1 billion in the defense authorization bill is more than I had thought we would get funding for when we went into conference with the House of Representatives.

I would simply send the very clear warning that if the President vetoes this bill, it would be my judgment that the bill which might be returned to him at a later date would probably be more like $3.5 billion for the SDI Program that the President seems to think is a most important part of the overall defense policy of the United States of America. That would be a mistake.

Please do not do it, Mr. President, because if you do it, you will be doing it to yourself.

I hope that the President will cast those recommendations aside. On the MX rail garrison, I do not happen to agree with the level of funding of $250 million and $250 million for the small ICBM, commonly referred to as the Midgetman, and the additional $250 million that would in essence be put in escrow by the agreement between the House and Senate. That $250 million escrow simply says that the next administration, be that the administration of President Bush or the administration of President Dukakis, would have to make a determination by April 1 of next year as to what would be expended of that $250 million put in escrow because we assume that the next President of the United States would want to continue with one or the other of those programs.

So just let me say in conclusion, the main reason for my rising to bring this matter forward is that it is totally wrong to make national defense a partisan political issue in this campaign. It would be done in my view to the detriment of the national security interests of the United States, and I think it would also be to the detriment of the Republican Party. I am a strong believer in the two-party system. I think we should have our differences of opinion and be able to express that.

But in this case, Mr. President, please, do not do it. Listen to those of us who I think have cooperated with you and have a record of cooperating and do not go off on this political track that could do harm to your party, its candidates and most importantly the national security interests and defense of the United States of America.

I yield the floor.

EXHIBIT 1

[From the Washington Post, July 26, 1988]

REAGAN URGED TO VETO DEFENSE BILL

(By Lou Cannon and Bill McAllister)

Senate Minority Leader Robert J. Dole (R-Kan.) and House Minority Leader Robert H. Michel (R-Ill.) yesterday strongly urged President Reagan to veto a $300 billion defense authorization bill, a move that could be used to promote the Republican campaign theme that Democratic efforts to cut back Pentagon spending illustrates their lack of commitment to a strong defense.

Congressional and White House sources said an hour-long meeting between Reagan and Republican congressional leaders produced a free-for-all discussion that exposed deep differences among Rebublicans on national security issues and labor legislation.

Reagan led off by telling the Republicans that he wanted to hear "your input, your views, and your thoughts . . . on our get-things-done agenda for the next six months." According to one participant, "We have given him more advice than he asked for—I don't know how good any of it was."

Dole said the defense authorization bill was insufficient to maintain U.S. military strength and said a veto was both justifiable and sustainable. But Sen. Strom Thurmond (R-S.C.) disagreed saying to Reagan that "if you don't sign it, you may get a worse bill. . . . it may be in the best interests of the country to go head and sign it."

Sources said that similar arguments have been advanced within the administration by Defense Secretary Frank C. Carlucci and national security adviser Lt. Gen. Colin L. Powell.

White House spokesman Marlin Fitzwater said Reagan has reached no decision but that a majority of those attending yesterday's meeting favored a veto on grounds that the bill "cuts defense far more than the national security of the United States can withstand, that it guts the SDI [Strategic Defense Initiative] program, that it places other constraints on military expenditures that we don't think are correct."

Another official said a veto also could help Reagan recapture the initiative on the defense issue, on which the White House sees Democratic Presidential nominee Michael S. Dukakis as potentially vulnerable.

"You put national defense back on the political radar screen as an issue with a veto of this bill," the official said. "We didn't get this far on arms control with the Soviet Union by having a weak defense."

Reagan also received conflicting advice on legislation that would provide for 60 days notice to workers when plants are going to close. Sen. Alan K. Simpson (R-Wyo.) said he would vote to override a veto and urged Reagan to let the measure, now on his desk, become law without his signature.

In a rare disagreement with his Wyoming colleague, Rep. Dick Cheney urged Reagan to veto the bill. He said Republicans put their loyalty on the line by voting against the popular plant-closings measure and deserved Reagan's support.

In a photo session before the meeting, Reagan said, "my Irish is up a little" because of the Democratic convention. He then invoked the memory of Democratc President Harry S Truman's 1948 campaign pledge to "give 'em hell."

"Maybe I better just paraphrase Harry Truman: I'm going to tell the opposition the truth and they'll think it's hell," Reagan said to laughter.

The Democratic unity demonstrated in Atlanta and Democratic success in exploiting themes long used by Republicans makes it necessary for Reagan to take a more vigorous role in defending the administration record, some Republicans say.

"He's always been one who loves it to get out there on the mashed potato circuit, as he calls it, and mix it up with the opposition," Michel said. He called the President's defense of his economic record "just the beginning" and said it would probably be the theme of Reagan's speech to the Republican National Convention.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for an additional 3 minutes and that the time of the distinguished Republican leader under the standing order be reserved to him.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

The Senator from South Dakota.

DROUGHT ASSISTANCE

Mr. PRESSLER. Mr. President, last week it was my pleasure to visit many parts of South Dakota and to survey the drought. Our farmers need help. On the floor of this Senate and in my career in the House I have helped many other areas of our country where a disaster has occurred. Whether it is some industry or some State that has experienced a disaster, my record has been of helping out wherever possible.

Now our farmers in the drought area need help. Also the small businessmen in the small towns need help. Also some of the institutions such as nursing homes and hospitals need help because they are losing their private pay patients. The drought will have a long-term disastrous effect on many of these communities.

Mr. President, I have been careful not to overpromise in this drought legislation that we begin today. It is a fact of the matter that we only have a certain amount of money to work with and we have a huge deficit. But with that amount of money we must find an equitable way, and I believe that the basic legislation that has been drawn together is a good step. We now have to offer amendments.

One thing that I observed is that many of our farmers feel strongly that they would rather not seek assistance from anybody if they had a choice, but they are in a situation where they have no choice. We will lose a generation of family farmers if we do not act. We will also lose the small businessmen who service them. We will also lose the institutions which depend on them for a tax base such as schools, nursing homes, hospitals, and so forth.

Mr. President, I join with my colleagues in starting the drought legislation today. I know there will be several amendments. I think we have to be very careful that we find an equitable bill here, that we do not add too many things to it that might detract from our basic goals. But let us remember that as a Nation our farmers have helped out in the past. And our farm State Senators now ask for all of your help.

Mr. President, I yield back the remainder of my time.

IMPORT INJURY TO THE U.S. TEXTILE INDUSTRY

The **PRESIDING OFFICER.** The clerk will read the bill S. 2662 for a second time.

The assistant legislative clerk read as follows:

S. 2662, a bill to remedy injury to the U.S. textile and apparel industry caused by increased imports.

Mr. **BYRD.** Mr. President, I object to further proceedings on this bill at this time.

The **PRESIDING OFFICER.** Objection having been heard, the bill will be placed on the calendar under rule XIV.

TRIBUTE TO SENATOR ROBERT BYRD

Mr. **NUNN.** Mr. President, Senate Democrats have chosen ROBERT BYRD for the highest office the Senate can bestow because, over the years, his colleagues have come to recognize what the people of West Virginia knew when they first sent him here. He possesses the qualities we all would like to see in ourselves, in our party, and in the Senate as an institution. He has a mountain man's independence, habit of hard work, and way of turning compassion into practical action. He has added to those qualities a deep understanding of government and a long and careful study of its processes, the relationship of its branches, and the unique history and responbilities of the Senate.

In the midst of a controversial confirmation hearing last year, the majority leader promised the nominee:

> I am going to be fair with you. I am going to look at all the testimony and continue to listen to my constituents, pro and con, and talk with my colleagues, consult with my conscience, pray about it, and I hope, in the end, I will do the right thing.

He was not promising any special treatment. He was simply stating his standard practice in the Senate—a creed that exemplifies the U.S. Senate at its best.

The people of West Virginia have elected ROBERT BYRD to more legislative offices than any other individual in the history of the State. In 1976, he became the only Mountaineer in history to run unopposed for reelection to the Senate in a statewide popular vote. He was elected to a fifth term in 1982 with largest numerical majority and highest number of votes ever recorded in West Virginia, and has served longer in the U.S. Senate than anyone else in West Virginia history.

His childhood during the Depression taught him about the suffering of the people in the coalfields. His father moved the family from town to town seeking work, but despite the constant moves, ROBERT BYRD graduated first in his high school. He had to wait and save for 12 years before he could afford to attend college, even part-time, but he made good use of the time. Working as a salesman, shipyard welder, and meat cutter, he learned about the lives and needs, the hopes and dreams of West Virginians. He went to law school while serving as a Senator, and graduated cum laude, but his studies did not stop there, or even with his famed mastery of parliamentary procedure. He continues to study the classics and share them with his fellow Senators at crucial moments.

ROBERT BYRD has been constantly growing throughout his long career in public life, but he has never outgrown his concern for people. Despite his growing responsibilities, he was never too busy to ease the burdens of his colleagues, to remember a birthday, or share in their joys and sorrows with a note or a bit of poetry.

His dedication to learning and concern for people was expressed in concrete terms through his provision for scholastic recognition for valedictorians of West Virginia high schools and the national scholarship plan he authored for eligible graduates from every State. He has been a strong supporter of practical and vocational education as well, to provide young men and women the vital skills to meet the changing demands of the American workplace.

ROBERT BYRD's mastery of detail and managerial skills, like his respect for the Constitution and the legislative process, are rightly legendary. Like our founders, he viewed the legislative branch as closest to the people and the primary safeguard of their rights and welfare.

His deep respect for the Senate and his colleagues caused him to prefer to lead by bringing about a consensus rather than by confrontation. But he has not shrunk from confrontation when opponents have made it unavoidable, even when it meant taking on a President over the rights of workers whose plant was about to be closed or the reinterpretation of a treaty.

Aristotle said a leader derives his ability to persuade from his moral character, his ability to touch the feelings of people, and his ability to give solid reasons for what he advocates. The gentleman from West Virginia has demonstrated to us how it is done.

We are all grateful to the voters of West Virginia for sending this great leader to serve his State and his Nation in the Senate. ROBERT BYRD will be sorely missed as majority leader. The Senate and the Nation are blessed that he will continue to be a leader of this body as chairman of the Appropriations Committee and as President pro tempore of the Senate.

TRIBUTE TO JOHN W. RITCHEY

Mr. **ROCKEFELLER.** Mr. President, I would like to recognize John Ritchey, an elementary school principal who is truly dedicated to his work and to his students.

John Ritchey, principal of Page Jackson Solar Elementary School in Charles Town, WV, was named "West Virginia's National Distinguished Principal for 1988." John was nominated and selected by his colleagues through a statewide search process.

I am proud to be able to pay tribute to such a dedicated individual. I would like to congratulate John on being selected as "West Virginia's National Distinguished Principal for 1988."

Mrs. **KASSEBAUM.** Mr. President, an important musical event will soon be taking place, significant not just for the beautiful music it will create but for the important opportunity it will present for the people of two nations to learn a little more about each other. The event to which I refer is the upcoming concert tour by the American-Soviet Youth Orchestra.

The American-Soviet Orchestra is composed of 110 musicians, aged 17 to 23, from the United States and the Soviet Union. The project represents what I believe is the first effort by the two nations to form a joint orchestra.

On August 5, world famous conductor Zubin Mehta will conduct the young musicians in the orchestra's historic premiere concert at the Kennedy Center here in Washington. Subsequent American concerts will be held in New York City, Milwaukee, San Francisco, and Trenton, NJ.

In mid-August, the orchestra will travel to the Soviet Union for a series of concerts there, including one in Moscow's Tchaikovsky Hall. In each country, works by American and Soviet composers will be performed.

I have the privilege of serving on the advisory council for the Youth Orchestra. I am grateful, as we all should be, to the sponsors of the American tour: AFS Intercultural Programs, an international exchange organization, and the Conservatory of Music at Oberlin College in Oberlin, OH.

But as I mentioned, there is more to this project than music. There is the opportunity for people to learn more about each other. This process is already underway. As the young musicians began gathering at Oberlin recently to begin rehearsals, they checked into dormitory rooms and began a series of workshops to learn about the social and cultural traditions of the United States and Soviet Union. As the orchestra moves from city to city, its members will often live with local families. This, I feel, is part of the process that is just as important as the music the young people will create.

For while I feel we should not overemphasize the importance of such "peace through understanding" efforts, I do feel there is much to be gained when people from the two cultures get to know each other better.

Let me close by urging my colleagues to support the American-Soviet Youth Orchestra by attending one of its concerts and urging our constituents to do the same.

BECENTENNIAL MINUTE

JULY 22, 1894: DIRECT ELECTION OF SENATORS

Mr. DOLE. Mr. President, 94 years ago this week on July 22, 1894, the House of Representatives voted 137 to 49 in favor of a joint resolution proposing a constitutional amendment for direct election of U.S. Senators.

The House recognized that the constitutional system that permitted State legislatures to elect Senators had deteriorated to a national scandal. The previous year, in 1893, five State legislatures had deadlocked, and in three cases—Montana, Washington, and Wyoming—these deadlocks had prevented the election of a Senator, leaving those seats vacant. As the historian George Haynes wrote, "Statistics such as these can give nothing more than a hint of the stubbornness and acrimony of these contests." There were numerous charges of bribery to sway the votes of State legislators. Votes were delayed as legislators hid or scattered. In 1891 the Florida Legislature needed 35 days of balloting to elect a Senator. In 1893 the Oregon Legislature took 32 days to cast 58 ballots before making its choice; and the Oregon candidate who won by a majority of one vote was nominated only 15 minutes earlier, immediately before the term of that legislature was due to expire.

Throughout the 19th century reformers in Congress made unsuccessful attempts to amend the Constitution to change this disagraceful situation. In the 1890's the idea was revived by a young Nebraska representative named William Jennings Bryan, later three-time Democratic candidate for President. But in each case, senatorial opponents were able to defeat their efforts, either by burying the issue in committee or by loading it with unacceptable amendments. The situation grew steadily worse until at last an amendment was adopted in 1913.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** The time for morning business has now expired.

ENDANGERED SPECIES ACT AUTHORIZATION

The **PRESIDING OFFICER.** The Senate will now resume consideration of S. 675 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 675) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed out of order as if in morning business for 4 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

CANADIAN FREE TRADE AGREEMENT

Mr. CHAFEE. Mr. President, I would like to take a few minutes this morning to discuss the implementing legislation for a historic free trade agreement between the two countries that enjoy the largest trading relationship in the world.

I do not think many people realize that there is more trade between the United States of America and the Province of Ontario than there is between any two nations in the world except between, of course, the United States and Canada as a whole. So the trading relationship between the United States and Canada is immensely greater than anything we have with Japan or any other nation in the world.

The President has now sent to the Congress implementing legislation for a free trade agreement which over the course of 10 years will eliminate the tariffs that currently exist between the United States and Canada.

What a magnificent signal it will send to the world when this agreement is ratified by both the United States Congress and the Canadian Parliament. The agreement runs in total contrast to the protectionist fever prevalent throughout the world. The foundation of any free trade agreement, however, must be fair trade. The implementing legislation worked out between the administration and the Congress and introduced on Monday by the distinguished majority leader will establish fair trade in this agreement.

This agreement seeks to remove trade barriers across a broad range of goods and services. Mr. President, I would like to stress "services" as well. We think that trade barriers deal with goods but also they extend to services as well. And when ratified, this agreement will increase the flow of goods between the United States and with a nation that is the centerpiece of our foreign trade; namely, Canada.

I hope this agreement will increase trade between the United States and Canada and serve as an example to reinforce the idea of free and fair trade throughout the world.

My home State of Rhode Island is a substantial trading partner with Canada, with $593 million in bilateral trade in 1986. In 1986, Rhode Island received imports totaling $465 million from Canada, or 78 percent of our total bilateral trade. Rhode Island exported $128 million in products to Canada, thus we experienced a trade deficit of $377 million in 1986.

Most of this deficit was from shipment of fabricated materials, particularly precious metals, from Canada to Rhode Island. Precious metals accounted for approximately 65 percent—$302 million—of Rhode Island's total imports from Canada. These imports are extremely important to the jewelry and silverware industry in Rhode Island and therefore are used for manufacturing and not direct consumption.

This agreement will provide a double benefit to many Rhode Island businesses who import raw materials and export finished products.

I choose it only because I believe this is typical of the many States in the Nation. We will be able to import the raw materials, the precious metals from Canada without them being subject to any tariff, and will be able to export our finished goods, the jewelry that we make, the silver flatware that we make, to Canada without the high tariff that currently exists on those exports to Canada now.

The raw materials will be less expensive as U.S. tariffs are eliminated and the finished products will be more competitive as Canadian tariffs, such as their 13.8-percent tariff on jewelry, are removed over 5 years.

I believe this free trade agreement will be very important to Rhode Island, New England and all of the United States in the coming months and years. These benefits include opening markets for our manufacturers, high technology companies, and service industries.

This agreement will provide many benefits to all New England States, as I mentioned.

In addition, the free trade agreement merits special attention in Rhode Island and all of New England for providing secure, tariff-free energy supplies. There are currently no barriers to energy exports in Canada, and the FTA will prevent future problems. I understand that the New England Power Pool has plans to provide a significant and growing proportion of the region's energy needs with hydroelectric power and natural gas from Canada. In light of the continuing tension in the Persian Gulf and the problems of acid rain, that threaten to undermine the dominant sources of energy for New England, our future reliance on Canadian energy sources is of increasing importance.

There are currently no barriers to energy exports in Canada, and the free trade agreement will prevent any tariffs being levied on that power that comes down into our area. I believe it is vitally important that we proceed with implementation of this agreement. It is apparent that the Canadians will be unable to act on implementation until we have completed our work in Congress. The administration has kept its word to Congress, worked diligently with those of us on the respective committees.

I note several members of the Finance Committee on the floor today. I think everyone of them will testify to the fact that the administration has worked extremely closely with the Finance Committee in fashioning this agreement. The administration has submitted to Congress the implementing legislation which was developed from our recommendations.

The distinguished majority leader introduced the legislation last Monday, and I hope we can complete action on it before the August recess, which is only about 2 weeks away.

Mr. President, I urge my colleagues to give attention, thought, study, and passage—enthusiastic passage—to the Canadian free trade agreement.

ENDANGERED SPECIES ACT AUTHORIZATION

The Senate continued with the consideration of S. 675.

Mr. MITCHELL. Mr. President, with respect to the pending business, S. 675, I ask unanimous consent that the name of the Senator from Maryland [Mr. SARBANES] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I rise today in strong support of S. 675, to reauthorize appropriations for the Endangered Species Act of 1973. The Fish and Wildlife Service has called the 1973 act "the most far-reaching law ever enacted by any country to prevent the extinction of imperiled animals and plants." For 15 years the Endangered Species Act has provided the impetus for preventing the permanent loss of plants and animals and has hastened the return of some species to our landscapes.

Our lives are inextricably linked to the lives of the plants and animals about us, including the most majestic ones and the most humble ones. We cannot destroy the environment of our fellow creatures without harming it for ourselves. It is nature, after all, to which we have always turned, and to which we will continue to turn, for new medicines, for improvements in the quality of our agricultural crops, for a myriad of other practical and immensely valuable uses, and for the simple inspiration that the beauty of living diversity gives us.

In my home State, Mr. President, the Endangered Species Act has led to the return of a species that had once disappeared from Vermont, the peregrine falcon. Since efforts to restore the peregrine to Vermont began in 1985, five pairs of captive-bred falcons have been released. This year several of them have already successfully fledged young. But what is most encouraging is that this year—for the first time since peregrine falcons were extirpated from Vermont in the late 1950's—a wild pair of these magnificent birds is nesting in Vermont.

There are currently many species that are threatened or endangered in the United States. The official list of such species will continue to grow as the backlog of species awaiting listing is reduced. As with land acquisition, delaying action on endangered species will only increase the future cost and effort required to accomplish the goals of the act. This body must continue its leadership on this issue by passing S. 675 with its strengthening amendments.

The strengthening amendments to the Endangered Species Act included in S. 675 will improve endangered species programs at the State and Federal levels. At the State level, amendments provide help for States and private landowners protecting listed endangered plants on their lands. Also, the amendments will increase funding authorizations for grants to States. Forty-nine States have 76 agreements with the Federal Government to carry out conservation projects, yet funding for these projects has remained virtually unchanged since 10 years ago when only 21 agreements were signed. The States are working to become true partners in the overall conservation effort and this additional funding is essential to their effort.

At the Federal level, amendments contained in S. 675 will strengthen the existing endangered species program by providing for monitoring of candidates for the endangered or threatened species lists. Such monitoring will facilitate timely actions which enhance the recovery potential of these species while at the same time costing less than last-ditch efforts. Recently recovered and delisted species also will be monitored. Recovery plans will be standardized to contain explicit management actions and measurable recovery criteria. Finally, the bill authorizes increased funding for Federal programs.

Through these amendments, S. 675 both improves and strengthens the Endangered Species Act. I urge my colleagues to support this legislation as presented by the committee that has worked so diligently to bring it to the floor today.

Mr. MITCHELL. Mr. President, under the unanimous-consent agreement, there will be three amendments offered to the pending legislation by the distinguished senior Senator from Idaho [Mr. McCLURE]. Two of those amendments wil be accepted, having been cleared on both sides of the aisle. One will be contested.

I ask unanimous consent that we proceed to the consideration of the two amendments that will be accepted en bloc and that they be presented by Senator McCLURE for acceptance.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2722

(Purpose: To amend the Endangered Species Act of 1973 to direct the United States fish and Wildlife Service to make annual reports to Congress on the Federal and State expenditures of programs associated with listing and protecting endangered species)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 2722.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end if the bill, add the following new section:

SEC. 10. FEDERAL COST OF PROTECTING ENDANGERED SPECIES.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL COST ANALYSIS BY THE FISH AND WILDLIFE SERVICE

"SEC. 18. On or before January 15, 1990, and each January 15 thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain—

"(1) an accounting of all Federal expenditures, listed on a species by species basis made pursuant to this Act; and

"(2) an accounting of all expenditures, listed on a species by species basis by States receiving cost sharing under this Act.".

Mr. McCLURE. Mr. President, this amendment is aimed at strengthening the effectiveness of the Endangered Species Act. It will require the Secretary of the Interior to provide an accounting, by species, for all Federal funds spent on listing and recovery efforts.

The second paragraph of section 3 of the report on S. 675 states that:

> For the 5-year period from fiscal year 1982 through fiscal year 1986, 5 percent of the listed U.S. species * * * received about 45 percent of the available funding for development and implementation of recovery plans and actions.

The fact is that many plant, animal and fish species that really need immediate attention are not getting it. Funds are largely being spent on a few of the more interesting or controversial critters that have great public appeal or are being diverted to finance the controversy, studies, and attempts to list "surrogate" species such as the spotted owl, which I discussed in my statement here on Monday.

This amendment will provide both the public and the Congress with an accounting of where funds for threatened or endangered species or those proposed for listing are being spent. The availability of such a list on an annual basis will provide us with useful information for two distinct purposes.

First, we can use the information to determine whether or not authorized appropriations are being spent wisely. If we find that some species truly in danger of extinction are being neglected, we will be in a better position to determine how best to shift funding to correct the problem.

Second, both the Congress and the public will be able to see precisely how much it is costing the taxpayer to manage and recover each species listed. Perhaps there will never be a time when we have to make a decision to allow a species to go extinct. However, in my opinion, both we and the public need to have a better idea of what it is costing to preserve that plant, bear, snail darter, sea turtle, or piping plover.

This amendment provides us with another tool for use in making decisions that are important to the entire Nation and to provide a better perspective of how we are managing the taxpayers' money.

I appreciate the cooperation of both floor leaders in working out an agreement on this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. McCLURE. Mr. President, I understand that it is the desire of the floor managers to consider both amendments simultaneously. I ask unanimous consent that it be in order for me to send a second amendment to the desk and that the two amendments be considered en bloc.

The PRESIDING OFFICER. Unanimous consent has already been given.

AMENDMENT NO. 2723

(Purpose: To amend the Endangered Species Act of 1973 to require public review and comment prior to approval or implementation of a recovery plan)

Mr. McCLURE. Mr. President, I send the second amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 2723.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 7, strike the second period and the quotation marks and, following line 7, insert the following new paragraphs:

"'(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

'(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).'."

Mr. McCLURE. Mr. President, this amendment will require the Secretary to solicit comments and additional information for consideration from local communities prior to final approval of new recovery plans, or before approval of revisions to existing plans.

In most cases dealing with fish or wildlife species, there are at least three agencies involved in carrying out the mission required by the Endangered Species Act. First, the U.S. Fish and Wildlife Service who has the responsibility to see that the act is carried out and enforced; the land management agency—such as the Forest Service or BLM—with responsibility for managing habitat; and, finally, the State fish and game department who actually manages the critters themselves.

Responsibility for preparation of a recovery plan lies with the Fish and Wildlife Service. However, since they consider such a plan to be strictly a "biological opinion" and not an implementation document, it is not currently subject to NEPA public input requirements.

But, that does not alter the fact that a lot of different "publics," communities, and State and local governments are very directly affected by such a plan regardless of when, how, and by whom it is ultimately implemented.

My first amendment will require the Fish and Wildlife Service to consult with local residents and entities that might be directly affected by a proposed recovery plan before final approval of the plan. It does not make the Secretary responsible for gathering the information. It does allow those most directly affected by a proposal to provide additional information to the Secretary that might otherwise be overlooked.

I believe the results of my amendment will be to improve communications between Federal agencies and local communities and by doing so, will help in avoiding unneeded polarization and delays in implementing recovery efforts.

Let me cite an example of how this process has already been used successfully. A few years ago, biologists decided that the only way to recover the grizzly bear population in the Cabinet Mountains along the Idaho-Montana border was to either transplant bears from another location or to use cross fostering between grizzly cubs and black bear sows. Such cross fostering had never been done outside a zoo and nobody had any idea whether or not it would work.

The issue had become so polarized that we had included language in the Interior appropriations bill prohibiting all Federal agencies from proceeding any further on such a plan for the Cabinets.

However, in working with the Fish and Wildlife Service and the Forest Service, we managed to get a commitment from them to take the proposal to the local communities and try to work out their differences.

I believe the results have been satisfactory to everyone. The agencies have altered their plan based on the input they received and fears within the local community were laid to rest. It now appears that recovery of the grizzly in the Cabinets may finally be within reach.

Mr. President, my amendment will simply require the agencies involved to follow the same approach as was used in dealing with the situation in the Cabinets.

Let me cite another example of a current conflict that illustrates the kind of concerns communities throughout Idaho and other predominantly Western States have when it comes to landing right in the center of a controversy centered around the ESA.

Implementation of the grizzly bear recovery plan for Idaho's Selkirk Mountains has been written, approved, and is currently being revised. I doubt whether anyone, including the agencies involved with the project can tell you how much it has cost to date for the preparation and implementation of the plan, much less what the economic tradeoffs of the implementation are.

For instance, restrictions imposed on timber harvesting due to grizzly bear management to comply with the recovery plan has reduced the ASQ level on the Bonners Ferry Ranger District of the Forest Service by approximately 5 million board feet per year.

Using an average of $85 per thousand that the Government would receive for the timber if it could be sold, gross income loss to the Treasury would be about a half million dollars per year.

In addition, that 5 million feet would support 35 directly related jobs and 50 indirectly related jobs for men and women in local communities. A study just issued by the University of Montana's Bureau of Business and Economic Research indicated that in 1985—the latest year for which figures were available for the study—showed earnings for timber industry workers to exceed $28,400 per year as compared to $17,100 for all other nonfarm workers in the State.

In other words, wages and salaries directly lost due to limitations imposed by bear recovery plan implementation amounts to about $1 million. That does not include the wages and salaries of the 50 indirect jobs lost.

Individual income taxes lost from directly related jobs would amount to about $150,000 per year, there would be a corresponding loss of income tax revenue from wages and salaries to the State, and county governments would lose an estimated $108,000 per year from shared receipts that support local road and school programs.

In other words, the affect of implementing the recovery plan to the local economy, and State and Federal tax revenues comes to a total of at least $1,260,000 per year.

When coupled with Federal and State funds spent in direct support of the recovery effort, it becomes immediately apparent that the taxpayer is being required to come up with a substantial sum of money each and every year to support a recovery effort with a goal of increasing the bear population from the current estimated level of 25 bears to some 70 in one relatively small geographic area.

Now, I am not necessarily arguing we should not be doing so. What I am arguing is that we should at least be provided with such information so that we can ultimately make better decisions about how best to go about setting priorities for both species and revenue/spending questions.

By accepting my amendment to allow community leaders to provide information to the Secretary about local concerns prior to final approval of a recovery plan, recovery efforts will ultimately be less costly, have more support by local communities, and we will begin to see cooperation in place of conflict.

Mr. President, it is my understanding that the managers on both sides have had the opportunity to examine these two amendments. I trust they will be adopted.

Mr. MITCHELL. Mr. President, we are in agreement that the public should be more involved in the process that precedes approval and implementation of recovery plans and that there should be an annual accounting of direct Federal and State Government expenditures in behalf of threatened and endangered plants and animals on a species-by-species basis.

The Senator's original proposals went further and we could not agree to accept them in their original forms. For that reason, his amendments have been modified, and a statement from the other day explaining the original amendments should not be read to ascertain congressional intent with respect to the amendments we are accepting today.

With this understanding, the Senator's amendments are acceptable to the managers of the bill.

Mr. CHAFEE. Mr. President, the distinguished majority manager of this legislation has correctly stated the situation. The distinguished senior Senator from Idaho has modified his original proposal so we are proceeding on that one, not on the prior one, and his current proposal is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Idaho.

The amendments (Nos. 2722 and 2723) were agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. MITCHELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2724

(Purpose: To amend the Endangered Species Act of 1973 to require a comprehensive economic analysis as a part of each new or revised recovery plan.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McClure] proposes an amendment numbered 2724.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Section 3 of the bill add the following new paragraph:

"( ) In developing or revising a recovery plan pursuant to this section, the Secretary shall conduct a comprehensive economic analysis of the costs and benefits of such a recovery plan. The analysis shall include the economic loss in jobs, wages, state and federal tax revenues, shared payments to county governments, and forgone opportunities which are substantially caused by the development or implementaion of a recovery plan. The analysis shall be made after consultation with local and state officials and with individuals, businesses, and other agencies which may be affected by the recovery plan."

Mr. McCLURE. Mr. President, this amendment deals with the development or revision of recovery plans. This amendment requires the Secretary, acting through the Director of the Fish and Wildlife Service, to include a comprehensive economic analysis of costs and benefits associated with recovery plan recomendations for threatened and endangered species.

It is time for the Congress to stop hiding its head in the sand when it comes to deciding whether or not the economic effects of a proposed recovery plan on a local community should be discussed.

A lot of communities in Idaho are directly affected by recovery plans for animals such as the grizzly bear and the wolf or by plants such as the McFarlanes four-o-clock.

It is easy for biologists on Federal or State payrolls to make a decision to limit commodity uses of public lands without consideration of how that decision might affect a sawmill worker, a rancher, a miner, or an equipment dealer. It's easy because his paycheck, and his family, and his ability to pay his mortgage and car payment are not going to be affected.

Under current language, the Congress has provided biologists with total control over what goes into a recovery plan. The team assigned to develop a recovery plan are not required to consider any factors other those related to the biological recovery of the critter involved.

Opponents of requiring consideration of the affect of such plans on local communities and governments argue that since recovery plans are only biological opinions and not action plans, that there is no need to consider anything else.

In the real world though, that's not the way things work. In fact, the conservation organizations who are the first to remind you that recovery plans are only biological opinions, are usually also the first to demand immediate implementation as soon as a plan has received final approval. In fact, it is not unusual to find them threatening litigation when their demands are not immediately met.

Most Members of Congress are fortunate not to have to deal with such problems because most have little public land in their States. Through no choice of our own, two-thirds of Idaho belongs to the Federal Government. Those lands are managed by biologists and other Government employees who have no personal risk in decisions they make to restricting access and use to others who have no choice but to depend on federally owned lands to make their living.

Idaho's economy has long been dependent on three basic industries; agriculture, mining, and timber. Arguments that tourism will replace jobs lost in those industries is foolish. While the argument may be true numerically, those jobs do not even come close to producing the payroll, tax base, and investment of our big three.

This amendment will go a long way in helping to identify the real impacts of recovering a threatened or endangered species. It will help to identify the sacrifices demanded of men, women, and children by bureaucrats, conservationists, and the Congress in the name of saving an animal, plant or fish that few of this country's citizens have ever even heard of.

The people in Idaho are the ones who must pay the price when their children must ride to school over icy, snow packed roads that could not be plowed because road maintenance funds had to be cut due to restrictions in a recovery plan.

Schoolchildren pay the price when educational programs must be curtailed or dropped because of restrictions imposed on economic growth in a community as a result of restrictions in a recovery plan.

The taxpayers of Idaho pay the price through the loss of important social and educational programs. We simply don't have the population or tax base that allows us to make up revenues lost due to restrictions imposed on natural resource use required by a recovery plan.

Idaho's citizens, by no choice of their own, are being required to sacrifice their jobs, businesses and futures in order to save a plant, animal or fish and because of the demands of many conservationists, biologists, and the Congress that concern for animals be placed ahead of those people.

Mr. President, allowing such a situation to continue is grossly unfair to the citizens of my State. All we ask is that our concerns and the losses we face under current law be identified and considered before final decisions are made.

My amendment will help accomplish that and I hope my colleagues will support me in requiring the Secretary to provide a comprehensive economic analysis as a part of each recovery plan developed.

Mr. President, I have to say that the managers of the bill are opposed to this amendment. I have to say that because we have discussed it extensively over the last several days. This amendment is that portion of my original amendment to which they took exception. I, therefore, separated it from the other portions which have now been adopted. I thank the managers for adopting those portions, but I would urge them to reconsider and allow this amendment to be adopted also.

Mr. CHAFEE. Mr. President, reluctantly, I rise in opposition to the amendment of the distinguished senior Senator from Idaho. I do so because I do not think it is necessary. Furthermore, Mr. President, if we should adopt this amendment, the development of recovery plans for endangered species would really be stymied.

In 1978, 10 years ago, an amendment similar to that being offered by the Senator from Idaho was adopted here and added economic considerations to the listing process for endangered species. Four years later, by 1982, we found the process for the listing had become so confused and so bogged down in this economic analysis that it simply ground the whole process to a halt.

The lesson that we learned is this: If you want to tie the endangered species program up into knots and stop the protection of species, take decisions that are meant to be based solely on biology and mix in a few requirements for economic analysis and you have chaos. And that is what happened.

So we changed the law in 1982, just 4 years after we adopted it. We realized what had happened and we changed the law to correct that problem. In my judgment, it would be a great mistake to repeat those errors that we made in 1978 that we had to correct 4 years later and start down the whole path all over again.

For these reasons, I oppose the Senator's amendment. I hope that he would consider withdrawing it. I certainly would urge him to do so.

Mr. MITCHELL. Mr. President, I oppose the amendment by the Senator from Idaho.

I remind my colleagues that there are three fundamental provisions of the Endangered Species Act.

First, the act establishes a listing process for deciding whether a species is in danger of extinction; that is, "endangered," or is likely to become so in the foreseeable future; that is, "threatened." An identical process is provided for delisting species that have recovered.

Second, the act requires that plans be developed to provide for the recovery of species listed as threatened or endangered.

Third, the act requires preparation of opinions on whether actions funded, authorized or carried out by Federal agencies are likely to jeopardize the continued existence of a threatened or endangered species or adversely modify habitat critical to such species.

Mr. President, each of these critical provisions of the act requires determinations that are, of necessity, solely biological in nature.

It is especially critical to the scientific credibility of the endangered species program that decisions about when to delist a species as recovered be based on the biological status of the species, not on how much it will cost to restore its numbers or whose economic interests it may affect.

The only consequence of asking the U.S. Fish and Wildlife Service, an agency entrusted with the task of determining the status of species because of its unique biological expertise, to consider economic impacts in the preparation of recovery plans will be to postpone needed action to recover them.

Moreover, the act already properly allows for the balancing of economic and conservation needs when deciding what actions to take to protect a species.

In 1978 Congress amended the act to allow the flexibility to balance economic and conservation interests when an irreconcilable conflict exists between the needs of a listed species and a necessary Federal action; that this process has been used rarely is testimony to the act's effectiveness in avoiding such conflicts.

Private development interests also are making increasing and creative use of 1982 amendments allowing for the incidental taking of endangered species in the course of private activities, a further example of the flexibility the act provides to advance both species conservation and economic interests.

Mr. President, there is nothing new in the idea to require consideration of economic impacts in biological decisions about the status of a species. In 1978 Congress tried requiring economic assessments at the time of listing, but Congress repealed this requirement in 1982 because of the abuses to which it led. In the Senate, the repeal was by voice vote and therefore unanimous.

The duty to consider economic impacts at the time of listing nearly halted the listing process in the intervening years, undermined the scientific credibility of the endangered species program and opened the program to charges of political manipulation.

Requiring economic assessments in recovery plans is likely to lead to similar abuses.

The determination of whether a species has recovered and is no longer threatened with extinction must remain solely a biological determination.

Requiring recovery plans to consider the economic impacts to a particular industry which may result from efforts to restore a species may lead to such considerations dominating the setting of recovery goals.

It is essential to the act's integrity that recovery goals for the number of individuals or populations needed to ensure a specie's existence be based solely on the best available scientific data.

The duty to consider economic impacts in recovery plans would, in all probability, stifle development of new recovery plans and threaten implementation of existing ones.

As it is, more than 40 percent of the nearly 500 U.S. species listed under the act do not have plans approved to outline needed steps toward recovery.

I would say to my colleagues that the cost-benefit analysis required by Senator McCLURE's amendment can only result in a ledger sheet that is inherently unbalanced.

The outcome of such an analysis inevitably will be a lengthy tally on one side of specific foregone economic opportunities which are attributed, subjectively and speculatively, to the Endangered Species Act.

On the other side of the ledger will be benefits from the preservation of a species that are more difficult to identify and less tangible. But in the long run the benefits realized from preventing species extinctions may be more important to each of our lives and our children's lives.

In this connection, Mr. President, I want to elaborate on this point and to respond to those who have suggested that we not put the prevention of species extinction ahead of the needs of people.

The Endangered Species Act conjures up images of esoteric plants with unpronounceable names that few people have ever seen or heard of. But there are sound reasons of human self-interest to continue this critically important program.

First, I happen to believe that we have a moral obligation to preserve other forms of life.

But I would remind those who argue that our greater moral obligation is to the members of our own species, that it is in our self-interest to prevent extinctions of other forms of life.

We try to assist even the most obscure or seemingly insignificant species because the world's living material continually provides us with ways of improving our existence.

Species that seem unimportant today may become useful or essential tomorrow.

Penicillin originally was derived from a species of fungus.

Aspirin originally was derived from willow trees. Can any Member of the Senate place a dollar value on the benefits the human race has received from the existence of penicillin and aspirin?

A wildflower yields chemicals that can perform the difficult job of lubricating jet aircraft engines.

A marine snail off the coast of California contains a chemical useful in reducing blood pressure.

A small plant from Madagascar is now known to produce one of the best treatments we have for certain types of cancer.

Mr. President, according to Dr. Thomas Eisner of Cornell University, 40 percent of all prescriptions written in the United States contain as their chief ingredients compounds derived from plants.

Senators may find informative the example of the evening primrose, a wildflower which Dr. Peter Raven, director of the Missouri Botantical Gardens, discussed in testimony before the Environment and Public Works Committee in 1982.

About half the world's primrose species occur in the United States. Four are considered to be endangered, including the Idaho Dune evening primrose. Until recently, these plants have been valued mainly for their attractive flowers, which generally open in the evening.

On that basis we might conclude that, while it is certainly nice to have these pretty wildflowers, human existence certainly does not depend upon it.

During the past decade, however, it has been discovered that the oil in the seeds of these plants is one of only two known natural sources of a nutrient called gamma-linolenic acid, or GLA. The other source is human milk.

We are not finding that the GLA in the oil of evening primrose seeds may play an essential role in helping us to avoid coronary heart disease and to cure diseases such as arthritis, which afflict millions of Americans.

Dr. Raven asked, "Who knows which of the evening primroses of the United States may prove to be the richest source of gamma-linolenic acid?"

And I would ask, "Are we yet wise enough to know which of the primroses we can do without?"

I would suggest to my colleagues that they also consider the comments of Dr. Thomas Eisner, of Cornell University.

In testimony before the committee in 1982, Dr. Eisner discussed what may prove to be one of the most serious consequences of species extinction. He said the following:

> In these days of genetic engineering, a species is to be viewed as more than just a unique conglomerate of genes. It is to be viewed also as a depository of genes that are potentially transferable. The technology of gene transfer, nonexistent only a few years ago, is now beyond the stage of infancy. Genes can be transferred between micro-organisms, they are beginning to be transferred between animals, and they will doubtless eventually be transferable between plants. The implications of this technology are tremendous and the subject of intense current discussion. The extinction of a species, in light of these advances, takes on new meaning. It does not simply mean the loss of one volume from the library of nature, but the loss of a loose leaf book whose individual pages, were the species to survive, would remain available in perpetuity for selective transfer and improvement of other species.

That is the end of Dr. Eisner's statement.

Imagine, for example, the importance to agriculture, the Nation's farmers and to each and everyone of us of being able to endow plants with genetic capacity to produce their own repellents against pests.

Preserving species can make real differences in the lives of real people.

Finally, it is worth remembering the admonition of Dr. E.O. Wilson, the Baird professor of science at Harvard. He told the committee in 1982, that the worst thing, short of nuclear war, that can happen to this Nation and the world:

> Is not energy depletion, or domination by a foreign power, or economic collapse. As dreadful as these catastrophes would be, they could be repaired in a few generations. But the one process ongoing that will take millions of years to restore is the loss of genetic and species diversity by the destruction of natural habitats. That is the folly our descendants are least likely to forgive.

Mr. President, adoption of this amendment will lead inexorably to such folly. It will mean the effective end of the endangered species program because it will tie up the program's limited resources in an effort to make an unlimited number of speculative and subjective judgments that will serve only to retard and undermine the endangered species program.

I urge my colleagues to reject the amendment.

The **PRESIDING OFFICER.** The Senator from Idaho.

Mr. **McCLURE.** Mr. president, I commend the distinguished Senator form Maine for an eloquent defense of the Endangered Species Act; an act which I defend as well. But I am struck by one theme that runs through the statements by both the managers of the bill. The Senator from Rhode Island said it is not necessary for us to consider economic impact. The Senator from Maine said it is already provided for in the 1978 act.

I am not quite certain which is the prevailing opinion in this body, since we have a diversity of opinion on the part of the two managers of the bill. It is suggested that, by both managers of the bill, that we should not analyze what the direct impact is upon human beings because there is no way in which the economic cost could outweigh the benefits of preserving a species. I do not think they really mean to say that. But the most eloquent portions of the statement of the Senator from Maine were directed to the tremendous cost if we lose something without knowing what its value is; and that it is impossible to know what its value is because we do not know yet what the future may bring. And therefore I am driven inexorably to the conclusion that no matter what the cost is, we will preserve every species. There is an unlimited potential value that is worth an unlimited potential cost.

That, on the face of it, I reject. The Senator may well embrace that. I do not. I think the 1978 act does require some economic balance, but my concern is, in theory, that economic impact is not felt until an action plan is implemented. In theory then you do not have to deal with economic impact until you pass the listing stage and the development of the recovery plan. You only deal with economic cost when it comes to the implementation of the recovery plan.

That is not the world in which we live. The listing has consequences. The development of the recovery plan has consequences, even before you get to the implementation stage of the recovery plan. That is what I am trying to get at. The 1978 act requiring economic impact analyses, that was rejected in 1982, dealt with the economic impact at the listing stage. It is argued that that listing question ought to be a purely biological opinion, and I agree. But what I seek now is to move that downstream one step in the process and call for the economic balancing analysis at the development of the recovery plan because once the recovery plan is developed and it awaits implementation, it has consequences, and it has consequences on human life and value.

My friend from Maine mentioned the evening primrose. I remember my first discovery of the desert primrose in Idaho was when I was a high school boy in the dry mountains outside my home in Idaho. It was a thrill to find it. It is a rare species. It was then, and that is a lot of years ago. More years ago than I like to confess, perhaps, but a lot of years ago.

I remember the thrill that I had in identifying the species that is as rare as that, and it is, indeed, a beautiful little plant.

Then the Senator goes on to indicate that we have found in primroses, not necessarily the evening primrose or the endangered or threatened species, but in that genus of plants, a substance of value to mankind.

I am mindful of the fact now we have the possibility for gene splicing, gene cloning, reproduction and transfer to other matters, but is it not fortunate that we have that because otherwise if we found something of great value, I suppose we would go out and destroy all the evening primroses in an effort to get it.

I do not say that more than half facetiously because obviously the discovery of that particular substance does not depend upon the threatened species to which he makes reference. The substance comes from the genus of plants, only a few of which are threatened or endangered. And that substance to which he makes reference is readily available from plants that are not even remotely threatened or endangered.

That is not really the point that I am trying to make with my amendment. The point that I am trying to make is that there are costs involved in decisions, some of which are marginal—not the listing, and I am not going to get into the question of misuse of the Endangered Species Act by people who try to use it, who do use it in an attempt to achieve other objectives that are totally unrelated to endangered species. That is a real abuse. But I am not going to get into that particular point.

I want to talk about the marginal decisions that do not come at listing but in the development of the recovery plan and they are marginal decisions. They are not absolutes; they are not black and white. They are a range of options that resource managers can use to minimize the effect upon an endangered or threatened species or its habitat. It is that range of options that they can begin to make some economic choices, as well as biological choices. It is in choosing those different actions that they ought to have some idea of what the costs are.

Both my friends have suggested that, in effect, the good to mankind outweighs the economic costs. Let us assume for a moment that that is correct, but let us recognize, too, if you will, that that burden falls unevenly. A few pay the price for the many.

If I understand anything about the environmental movement, and I think I understand much of it, it is that we should not pass hidden costs on to future generations. We should not simply take actions that cost the future without recognizing that and attempting to internalize the costs today. Make the people who share the benefits pay the costs of the benefits that they get from resource use today.

I support that idea. I do not think we have the right to burden future generations with the hidden costs that sometimes are embraced in environmental impacts. We ought to face up to that and pay it now. Let those who consume the products from those resources pay the costs that otherwise would have been transferred to future generations.

But when we are doing that, we also ought to say that if there is an indirect or direct benefit to all of our society, do not expect a few individuals to pay it. That is what we are doing when we ignore the economic effects of some of the actions taken in the development of recovery plans. A few individuals, a community, a locality, an area pays the costs for which other people seek the benefit. If other people want the benefit, let them pay the costs.

I am not suggesting that the economic analysis would in every instance say, "Don't do it." I am suggesting that they might identify costs which society, as a whole, could share.

If at some point we decide the piping plover habitat opposite JOHN CHAFEE's summer cabin is so important to our society that he has to tear his house down, I suspect that we might be asked to share in that cost. I suggest that it is fair that we should. If I believe the piping plover is so important that JOHN has to give up his summer cabin, I should not expect him to take that cost all by himself. I think society ought to bear some of the responsibility and be willing to pay some of the costs. Are we not noble, indeed, when we say we are going to do something fine for this country and you pay the cost?

That is not my idea of the kind of society in which we live. We do not do that in any other realm of which I am aware in this country and should not do so consciously and willingly.

If we are to avoid doing that, we must identify what those costs are and who bears them, not so that we can deny taking the steps, but so that we can effectively and fairly and adequately distribute the cost rather than saying that we are going to do something noble and you are going to bear the burden. That I believe, is precisely what we ought to be trying to avoid.

Mr. President, I do not know whether either of the managers of the bill would care to respond. I do not mean to cut off the debate.

Mr. President, I understand the dilemma we are faced with and there may be other ways in which we can approach this dilemma of the cost of actions taken when the costs are not known or identified. The way in which we share the burden of those costs of actions taken by the Federal Government, and perhaps what we ought to do in order to avoid the consequences of a listing, is to prohibit any consequences of a listing. Nobody can take any action based upon the listing until a recovery plan moves to the active stage. Maybe we should separate the consequences of the development of a recovery plan by prohibiting that there be any consequences. Nobody can take any action based on a recovery plan until it has been put into effect in an action plan. Nobody can be forced to preserve the habitat until the recovery plan is put into effect. Maybe that is the way we should approach this if we are going to be blind to the consequences, until we get to the applications.

Well, that is not the world in which we live now. That is not the way it actually works now. But I understand the managers. I do not derogate their motives. I think they are sincere. I think they are trying to make this statute work. They and I share a feeling that this protection of endangered and threatened species is important to mankind and to our country. I wish it were applied more broadly throughout the world than it is. We do not have the capacity to apply it to the rest of the world, but we can to our own people.

I understand they are sincerely concerned about the effects of delay involved in requiring an economic analysis that absorbs too much of the resources of the agencies required to implement it. But that is a confession that we as a Congress are unwilling to take enough money to put into that program to make it work, but we are willing to make it cost other people, and it is to that that I object.

But I understand the difficulties they have in trying to get this done.

I will again at a later time come back and attempt to again persuade my friends who have the responsibility to manage this bill that there is an injustice, an unnecessary injustice in the way this law is working in practice. But until that time, I understand the opposition of my friends and I also think I have a pretty accurate understanding of the prospects of this amendment being adopted if, in fact, the managers of the bill are opposed to it as they are. Therefore, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment was withdrawn.

Mr. MITCHELL. Mr. President, I thank the distinguished senior Senator from Idaho for his usual incisive comments. He has contributed significantly to improvement of this legislation by the presentation of two amendments which were accepted, and he has identified a problem in connection with the third amendment which, although not accepted, is something that I know Senator CHAFEE and I will look forward to working with Senator McCLURE on, in the future.

Mr. President, I believe the Senator from Delaware seeks recognition, so I will yield the floor at this time.

Mr. CHAFEE. Mr. President, if I might just take 1 minute, I also thank the distinguished Senator from Idaho for his contributions. Anytime the Senator from Idaho is involved in a problem, he gives it a lot of thought and careful attention, and we have grown to recognize that over many years. It has been my privilege to have worked with him on matters where we have not been in agreement, but there is no question but that he has analyzed the problem and many is the time that we have been able to iron out our differences.

I have learned from experience that when the senior Senator from Idaho rises to discuss any of these environmental matters, he has given them a lot of thought and has a major contribution to make. So I thank him for his contributions.

Mr. McCLURE. I thank the Senator.

Mr. ROTH. Mr. President, I commend Senators MITCHELL and CHAFEE for their work on S. 675, reauthorization of the Endangered Species Act. I am pleased to be an original cosponsor of this bill which will allow the programs started by the original Endangered Species Act of 1973 to continue until 1992.

The legislation is necessary to continue our efforts to protect those species in our Nation's many diverse environments who would not otherwise survive human encroachment. These environments consist of a delicate balance of interactions of which we know too little to be able to ensure the preservation of various species of plants and animals. In the past 7 years, 7 years which have seen no increase in funds for the protection of endangered species, the number of species protected under the act has nearly doubled. Another 1,000 species have been identified as candidates that warrant listing and protection under the act. Only 5 of the 425 U.S. listed species have recovered to the point where they no longer require protection under the act.

Mr. President, the Endangered Species Act is the cornerstone of this Nation's efforts to preserve the diversity of life and to slow the rate at which many organisms are becoming extinct. I believe we must take action to protect plants and animals from extinction. We have become caretakers of the world and we must live up to this responsibility.

The State of Delaware is part of the range of such various endangered species as the small whorled pogonia, a member of the orchid family; the piping plover, an Atlantic shore bird; the short-nosed sturgeon; the peregrine falcon; and the majestic bird which represents the greatness of our magnificent country, the bald eagle. To allow these diverse species to disappear forever; never again to prosper, or to swim our beautiful rivers, or fly our blue skies; would be devastating to all mankind.

Since 1973, the Endangered Species Act has worked to allow these and all other endangered species a chance to survive; to be more than just a picture in a book or an exhibit in a museum of natural history; to remain viable, living, plants and animals which enhance the lives of us all.

Mr. President, I am a strong supporter of an environmental morality, an environmental ethic. I therefore believe that we have a responsibility to protect and preserve our natural resources, including our plants and animals. Any lack of wisdom in the use and protection of these resources may ultimately challenge the existence of mankind itself. Consequently, with the passage of time, one generation must work to protect endangered species for the benefit of both themselves and all future generations. We have suffered the loss of too many species whose contributions to our world were not, and now will never be, fully understood. We must never allow ourselves to fall into the belief that any one species is too insignificant to have an impact if it is lost. By protecting these species we also protect and enhance our own.

So let us now endeavor to preserve and protect endangered species for both the enjoyment and enrichment of our lives and the lives of our children.

Mr. President, at this time I ask unanimous consent that an article from the Saturday, July 19, 1988, edition of the Wilmington News-Journal describing the plight of one of our Nation's shore birds be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the News Journal, July 9, 1988]

ONLY CHILD—OF 12 RARE BABY BIRDS, ONLY ONE HAS SURVIVED ON DELAWARE'S BEACHES

(By Ann Stewart)

A few weeks ago, hopeful scientists and bird-lovers were expecting a dozen new chicks to boost Delaware's diminishing population of an endangered species of shore birds.

But today, only one baby piping plover is known to be alive in the state. A series of mishaps—natural and man-made—have dashed the hopes conservationists had for the other 11 plover eggs that were laid on Delaware beaches this year.

"The northernmost nest was abandoned, and those [four] eggs never hatched," said Janis Thomas, a specialist on endangered species with the state Department of Natural Resources and Environmental Control. "Another egg was destroyed in one of the two remaining nests, but the other seven chicks hatched. . . . Then, all but one of the chicks were wiped out over the Fourth of July weekend."

The piping plover is about the size of a sparrow and the color of the dry sand in which it lays its eggs. It lives in the United States and Canada along the Atlantic coast and around the Great Lakes.

In Delaware piping plovers generally nest on the beaches from Cape Henlopen south to Fenwick Island, with the three nests this summer near Indian River Inlet.

The species faces one major problem that has caused its numbers to decline in recent years. It lives, mates and raises its young on the same beaches and at the same times of the year that the shorelines are crowded with human vacationers.

"They nest right on the sandy beaches, between the high-tide line and the dunes, and they don't move back into the dunes like some shore birds do—they stay on the beach," Thomas said. "And they're nesting right at the same time the human use of the beach is highest."

Humans, she said, interfere with the birds' life cycles, even though that interference is usually unintentional. The presence of crowds on the beach discourages the plovers from venturing down to the water to feed, and it often also means the presence of dogs and vehicles that can destroy eggs or young plovers. The chicks are unable to fly for the first four weeks of their lives, a time when they are particularly vulnerable.

The seven newly hatched chicks that perished or disappeared in Delaware last weekend met various fates, Thomas said. All were living in areas that officials had fenced in as soon as they discovered the nests.

Some of the babies disappeared at night, probably the victims of animal predators, Thomas said. One died of starvation, and another was struck by a four-wheel-drive vehicle on the beach. State and federal wildlife experts are keeping a close eye on the remaining baby plover and plan ongoing studies of the species in Delaware and along the coast, Thomas said.

David Klinger, with the U.S. Fish and Wildlife Department in Washington, said protection programs are under way in all regions where the piping plovers live. The species is considered endangered in the Midwest and threatened along the Atlantic coast, where 790 breeding pairs are estimated to exist.

An endangered species is likely to become extinct "if you don't take immediate conservation measures," Klinger said. A threatened species is likely to become endangered.

Mr. ROTH. Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I join in commending our distinguished colleagues, Senator MITCHELL and Senator CHAFEE, for their outstanding contribution in bringing to the floor the Endangered Species Act of 1988. This is important legislation. It directs its attention to a very important environmental concern. It is highly desirable that this authorization extend through the year 1992 to provide for adequate planning. It authorizes the increased appropriations for this important purpose, and I am delighted to lend my voice in support and urge my colleagues to pass this important bill.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I am pleased that the Senate is nearing the completion of its consideration of the reauthorization of the Endangered Species Act. Action on this legislation has been stymied since its offical authorization expired in 1985.

I want to thank all the Senators involved for reaching an agreement that allowed the Senate to consider this reauthorization of the Endangered Species Act without the bill becoming bogged down on amendments that do not pertain to it.

Mr. President, in 1973, we first enacted legislation to protect and restore species of plants and animals that are in danger of extinction. Due to the Endangered Species Act, we have seen the American bald eagle, the symbol of our Nation, make a steady comeback. This is just one example of a species that has made a dramatic recovery as a result of this legislation.

In my own State of West Virginia, such species as the peregrine falcon and the northern flying squirrel are protected under the Endangered Species Act, and in the case of the peregrine falcon are recovering.

Much of the splendor of our Nation's flora and fauna is due to broad array of plant and animal species that are found in the United States. We remain committed to preserving this diversity, and the delicate balance of nature this diversity gives us. Today, nearly 1,000 species of plants and animals are covered by the act. However, at the same time we have experienced the loss of some species.

S. 675 reauthorizes the Endangered Species Act for 5 years, and provides $307 million over that time for the administration of the act.

Enactment of this legislation will help assure that those species that are threatened with extinction can be preserved. It is fitting legacy to future generations that we work to preserve our endangered plants and animals, so that they can enjoy and benefit from the diversity of plant and animal species that inhabit our great country.

I support the passage of this legislation, and I commend the Senators from Maine and Rhode Island for their forebearance and patience in working on an agreement to get this legislation before the Senate.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senators HUMPHREY and BOSCHWITZ be added as cosponsors to this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise today to urge the passage of this bill, S. 675, a bill to reauthorize the Endangered Species Act. As an original cosponsor and member of the committee that drafted this legislation, I believe today is an historic day in the preservation of the precious and wonderful creatures of this Earth. This day has been long awaited and the managers of the bill, Senators MITCHELL and CHAFFEE, deserve great praise for working through controversial issues to bring this very important piece of legislation to fruition.

The Endangered Species Act is the Nation's premier plant and wildlife protection act. It protects plant and animals from extinction by prohibiting Federal actions that will adversely affect species protected by the act. The act protects those species threatened by extinction by classifying or listing them as either "endangered" or "threatened" depending on the possibility of extinction. Once covered, no Federal action may be taken when endangered species are adversely affected, while only limited adverse actions may be taken for threaten species. S. 675 reauthorizes and toughens the act to provide greater protection and speedier process. Historically and tragically, paperwork has taken so long that species have gone extinct before listing. Thus, the bill also increases funding authorization for the Fish and Wildlife Service to review Federal actions, listing species, and enforcing the violations. Penalties for violations are also stiffer.

What makes the Endangered Species Act so special is that it commits us, as human beings, the stewards of the Earth, to preserve the existence of all creatures, both big and small, plant and animal. This act, when it was first enacted in 1973, became a symbol to the world, showing that Americans are willing to do what it takes to protect God's creatures. Though there have been some failures, there have been many more successes and these amendments will make those successes both more likely and more frequent.

Coming from Minnesota, I take special pride in the fact that Minnesota is the steward of the timberwolf. It is in northeastern Minnesota that the only thriving timberwolf population in the

United States exists. This population has been controversial, but I am proud to say that the myths surrounding the big, bad wolf are rapidly being dispelled. As evidence, when Minnesota gets a professional basketball team in the near future, it will be called the "Timberwolves."

But even more exciting are the plans to build the International Wolf Center in northeastern Minnesota. This center will be the permanent home of the "Wolves and Human" exhibit that toured the Nation to packed audiences. It will also serve as the focal point of wolf research and public education on one of the world's most intriguing and misunderstood animals. To further this cause, the committee, at my urging, recommended that the center receive Federal support. This lays the groundwork for Federal-State-local sharing of costs and responsibilities.

In conclusion, this bill has deservedly passed the U.S. Senate today. It reaffirms man's stewardship of the Earth and the commitment to protect all of God's creatures. I am proud to have contributed to this bill and to be a cosponsor.

Mr. SIMPSON. Mr. President, the Endangered Species Act has come to be one of the most important pieces of environmental legislation on the books today. The act supersedes all other Federal laws when conflicts concerning a threatened or endangered species arise.

Significant efforts to protect endangered or threatened species are entirely necessary to preserve ecological diversity in the United States. However, there are individuals in Federal agencies and those belonging to some radical environmental interest groups that would clearly abuse authorities provided for in the Endangered Species Act in order to carry out a personal agenda not necessarily at all related to protecting plant and animal species. We must constantly guard against cases where well-meaning or mischievous persons attempt to use the act to carry out a "hidden agenda" in the field of land use planning and wildlife management.

Generally, the Endangered Species Act has worked well despite efforts by some to stretch its intent. In the Western States we find that the most serious effects of misapplication of the act may interfere with the State's right to allocate water or to manage wildlife. These are critically important western issues and I would point out that we have a situation with the Platte River where downstream water users try to use the Endangered Species Act to stop water development in upstream States. This use of the Endangered Species Act to achieve goals other than species preservation is what gives the act "a bad name" with water users and public land users.

Water conflicts on the Platte River revolve around the whooping crane. Before the turn of the century the Platte River caused severe flooding during the spring snow melt in the Rocky Mountains, and these floods would move down through the flat lands in eastern Wyoming and western Nebraska and would nearly scrub the river banks of brush and woody growth, which would often conceal predators that preyed on the whooping cranes and other water fowl. Once the first dam was built on the Platte River these massive spring floods were stopped. The point being that the first dam was built at the turn of the century and now environmental groups are trying to use the Endangered Species Act to stop dams being built 80 years later and saying that flows are a serious problem. The honest fact of the matter is that the whooping crane does not need the flow of water to survive. What the whooping crane needs is the removal of brush and undergrowth along the riverbanks and that can be accomplished in other ways. Thus, no flow of water today will really affect the whooping crane or whooping crane habitat. Nevertheless, environmentalists in other States often bring suit to stop water development projects in Wyoming and this is very unfortunate and even dishonest.

Then we have the conflicts with wolves and grizzly bears in my State. We find there is much misinformation and emotion involved in the debate about how to manage threatened and endangered predators. At the center of this issue is the Sierra Club versus Clark case. This case was brought by radical environmental groups that were more interested in preserving the creatures they perceived as being "warm and fuzzy" at the expense of reasonable and professional wildlife management initiatives. Unfortunately, the court rejected the Government's argument for managerial discretion and this takes the management out of the professionals hands and puts it in the hands of the court and the armchair wildlife managers that are members of certain extremist environmental groups.

This court case has wide ranging ramifications, the most serious of which could effect an ongoing grizzly bear hunt in the State of Montana. In addition, even as Congress considers the Endangered Species Act, the representatives from the State Game and Fish Departments of Montana, Wyoming, and Idaho are meeting to develop a program to allow hunting of nuisance grizzly bears. These professional State wildlife managers would be precluded from holding any such hunt which would actually benefit the recovery of the grizzly bear because of the Sierra Club versus Clark case. I find this most disturbing.

These are legitimate reasons to conduct hunts or depredation takings of a threatened species, especially if the species are large carnivorous predators. With the Sierra Club versus Clark case we find that the courts are interpreting Congress's intent as rejecting the concept of management in favor of conservation and intentionally limiting the Secretary's discretion to allow the regulated taking of a threatened species. This type of ruling can only have a long-term negative effect for threatened species and will most certainly result in less public acceptance of the Endangered Species Act and endangered species regulations. Indeed, if this decision is not overturned there will be a backlash on the part of the public to push Federal endangered species managers to delist species in a much narrower time frame than has been contemplated thus far.

Some environmental groups are just waking up to the fact that it might be better in the long run to have a species with a threatened classification while allowing some hunting of the species. The alternative is to delist the species so that hunting can be allowed. It seems much more logical to give species like the grizzly bear and the wolf protections afforded under the threatened classification while allowing hunting in certain circumstances where total mortality of a given population is taken into account.

We now have a situation in Montana where the grizzly bear—a threatened species—is being hunted on a limited basis and total mortality is taken into account prior to the setting of seasonal taking limits. However, at any time any individual or group could file suit against the State of Montana to stop this hunt by citing the Sierra Club versus Clark ruling. That is the box we find ourselves in today.

I am not one whit interested in weakening the Endangered Species Act. However, I am interested in making the Endangered Species Act work in a better and more reasoned fashion then we have seen it work in the past. In order to make the Endangered Species Act work in a more effective manner, it must be amended. At some point, Congress must realize that this is not a perfect law and that some changes in it could actually benefit certain species and help to reduce conflicts with public activities.

If the Endangered Species Act is not amended this year, I predict that in the Western States we will have continued resistance to reintroduction of the timber wolf into Yellowstone Park, continued feelings of hostility toward the grizzly bear on the part of some public land user groups, and continued distrust of the Federal Government by public land users. In the long haul this will only frustrate Federal initiatives to help the grizzly bear or the timber wolf recover and that will be a truly unfortunate outcome.

As responsible legislators we should try to find solutions to all of these problems whether it means amending the act or requesting Federal agencies to modify regulations. I will continue to try to be a constructive force in this regard whether the act is amended or not. But, any constructive role could be made much easier if a few words in the act were changed in a more positive direction.

At one time in the past I did have a hold on the Endangered Species Act because I wanted to educate my colleagues about the Sierra Club versus Clark case in order that a possible compromise resolution of this issue might be developed. Since that time—and on many other occasions—Senator MITCHELL and I have discussed this matter, and we both believe that now it would be wise to proceed today with the Endangered Species Act and to continue working closely on the problem involving Sierra Club versus Clark. Senator MITCHELL and I intend to hold hearings on this issue and to work with the environmental community and the professional wildlife managers at the State and Federal level in order to develop an honest and nonemotional—(if possible)—consensus about how large predators should be managed in the context of the extraordinary case language in the Endangered Species Act.

Predators are especially challenging animals to manage because their population dynamics are much different from ungulates and other animals that they prey on. While the extraordinary case language may apply well to ungulates and other animals, the language does not address problems of managing large and efficient predators. I sincerely commend Senator MITCHELL for his assistance and willingness to find a solution to this seemingly intractable problem. It is always a great pleasure to work with him. I do look forward to resolving this issue in the context of hearings and study in the coming year. In the meantime, the Endangered Species Act must be authorized and funded in order that programs, including the efforts to recover the black footed ferret, another threatened and endangered species, may go forward. We have made excellent progress. Much more needs to be done—and in a thoughtful and sensible manner.

Mr. CRANSTON. Mr. President, I commend the distinguished floor manager of the bill, the Senator from Maine [Mr. MITCHELL], for his diligence in bringing a reauthorization of the Endangered Species Act to the Senate floor. I congratulate him for his persistence. This has not been an easy bill to move, and it has taken skill and dedication to bring it before us today.

The measure before us today is critical to the welfare of not only plants and animals, but critical to the welfare of us all. When I came to the Senate in 1969, one of my first actions in those early years of my Senate career was to become involved in legislative efforts that led to enactment of the first Endangered Species Act in 1973. I felt then, as I do now, that the endangerment and extinction of plants and animals is of enormous importance. The faster we extinguish species, the faster we hasten our own demise as a race. For the fact is, all species of plants and of animals comprise the biological support system for the human race. They are as important to us as the oxygen we breathe. We waste them with as great a hazard to our survival.

In and of itself, extinction is neither new nor phenomenal. But man's actions over the last few decade have so accelerated the process that we are losing species at a rate that exceeds any time in human history. By 1990, some scientists believe, we will lose as many species in a single week as were lost in the previous three centuries. Not only in America, but around the world, we are snuffing out the lives of animals and birds and plants at an alarming and devastating rate. Prof. Jared M. Diamond and Robert M. May have estimated that in the 5 years 1985–90 we will have lost over 100,000 species through the decimation of the rainforest of Madagascar, Eduador's Pacific coast and Brazil's Atlantic coast. The next 10 to 15 years will see another half million species lost in Central America, Southeast Asia, West Africa, the Himalayan foothills and Pacific Islands.

Here at home the only differnce is one of sheer numbers. The threat of extinction haunts familiar species: The whooping crane, the Florida manatee, the California condor. Countless species less well-known struggle for survival, including many of the freshwater shellfish of the southeastern United States and many butterflies. As many as half of the native plants of Hawaii are on the verge of total loss. And nearly always, the threat to species survival stems from unwise—and very often unnecessary—changes in natural habitat that stem from human expansion.

Fifteen years ago when the Endangered Species Act was first authorized, Congress made an extraordinary and historic commitment to all of life on all of the Earth. The first act passed the Senate 92 to 0. Just 12 opposing votes came in the House. Fifteen years of experience with the act has shown its validity and its effectiveness. It has also shown its flexibility in accommodating diverse economic considerations throughout the country. Legislative reauthorizations in 1978, 1979, and 1982 resolved a number of issues brought by affected groups. In 1982, Congress amended the act to include a new section 10(j) to encourage the establishment of "experimental populations" of endangered or threatened species—populations that are purposely introduced outside the current range of the species to further the species' conservation.

In the bill before us, the committee has wisely given the U.S. Fish and Wildlife Service equal enforcement authority, with the Department of Agriculture, over the import-export of plants protected by the Convention on International Trade in Endangered Species [CITES]. Experience with a cooperative agreement between the Animal and Plant Inspection Service [APHIS] undertaken in 1984 and 1985, shows that enforcement is improved by joint enforcement: During the period five prosecutions were initiated by the U.S. Fish and Wildlife Services whereas in the prior 1981 to 1985, none had been initiated by APHIS alone.

Section 2 of the committee bill requires the Secretary to inaugurate a system to monitor the status of so-called candidate species, those of seem to warrant listing but have neither been listed nor denied. Under current law, U.S. Fish and Wildlife has enough information to start formal listing proceedings for some 950 species. Yet it will take as many as 20 years, with current resources, to complete the listing. In the meantime, this amendment by the committee will help reduce extinctions or substantial declines by setting forth a system of monitoring and widely published notices based on regular surveys of species status. The committee is to be congratulated for establishing this vital program of interim protection.

In section 3 the committee has wisely required recovery plans to be developed and implemented without preference for the taxonomy of the species. A review of the funding history for species recovery and conservation, for the 5-year period 1982–85, reveals that 12 species of birds, mammals, and sea turtles (about 5 percent of the listed U.S. species) received close to half of the available funding for recovery, and little or no money has gone to recover listed insects, mollusks, crustaceans, and plants. The committee bill simply directs the Fish and Wildlife Service and the National Marine Fisheries Service to allocate their resources for recovery more evenly, with priority to those species that are both likely to benefit most from support and that are in greatest conflict with development activities.

Section 4 sets forth a new subsection requiring a systematic effort between the Secretary and the States to monitor effectively species that have recovered and have been subsequently delisted. The monitoring must continue for 5 years, and emergency listing authority must be activated if a species appears to be again at risk.

Section 5 expands the State-Federal cooperative program (section 6 of the act) to allow States to assist in the candidate species monitoring effort, and establishes a new cooperative endangered species conservation fund. The programs set forth in section 6 are among the most valuable in the act. In my State of California, section 6 funds are the main funding source for recovery of federally listed species, yet funding is both unreliable and inadequate. Year after year, the Reagan administration has requested zero section 6 funding. Some States have reduced their requests and curtailed their endangered species activities and others have eliminated section 6 grants entirely. When I asked California officials for comment on the value of the program, Acting Fish and Game Director Pete Bontadelli wrote me as follows:

> . . . our allotment has dwindled from approximately $900,000 per year (1977-1981) to approximately $400,000 per year. There are currently 54 animals and 26 plants on the Federal lists of threatened and endangered species which are resident in California. A typical recovery task, such as determining precise habitat requirements, population size, or developing long-term monitoring/management programs, requires $10,000 to $25,000 per year. To carry out just one task for each of the 80 federally listed species would cost a total of $800,000 to $2,000,000 per year.

The committee's addition of a cooperative endangered species conservation fund mechanism can be a major boon to the critically important State conservation effort for endangered species. There is ample precedent through such programs as the Federal Aid in Sport Fish Restoration Act and the Migratory Bird Conservation Fund Act to support the notion of guaranteed funding for endangered species grants to States. I wholeheartedly endorse this provision.

Finally, section 6 of S. 675 makes unlawful the malicious damage or destruction of endangered plants on Federal lands or under Federal jurisdiction. Under present law, only the removal of an endangered plant is illegal. The committee amendment also makes it unlawful to damage, destroy, remove, dig up, or cut any endangered species of plant on areas other than Federal land in violation of State law or if State criminal trespass laws are being violated. Recently, the U.S. Fish and Wildlife Service determined not to identify critical habitat for endangered plant species, so as to not identify their location and thus render plants susceptible to theft and vandalism. The penalties set forth by the committee amendment will assist, among others, private landowners who wish to protect species on their land, but who find that penalties for violation of State law are frequently too low to be a deterrent.

Mr. President, I am in full support of the reauthorization of the Endangered Species Act before us today. I urge my colleagues to support it as well. It is a measure that is in the interest not only of animals and of plants, but in the interest of the human race.

Mr. BRADLEY. Mr. President, I rise today in support of S. 675, legislation to reauthorize the Endangered Species Act.

The Endangered Species Act of 1973, one of the Nation's landmark environmental laws, prohibited buying, selling, possessing, importing, or exporting any endangered or threatened species whether American or foreign. In 1982, the act was amended to streamline the listing procedure for species and to prohibit Federal funding of public works projects that would jeopardize endangered species.

Endangered species of wildlife, fish, and plants are invaluable resources to this country. I believe we have an obligation to ourselves and to our children to preserve the environment—and to protect the life in it.

The Endangered Species Act is important not only in helping to halt the demise of species but also in assisting their recovery. For example, the ESA is helping threatened and endangered populations of wolves recover and be reintroduced in the lower 48 States. Wisconsin, Idaho, and Montana have seen a reappearance of wolves, and wolves which once roamed the Yellowstone Park ecosystem may be reintroduced as an experimental population, under the experimental population provision of the ESA.

While protecting threatened and endangered populations of wolves, the act gives great flexibility to the Secretary of the Interior to protect livestock. Individual animals that prey on livestock may be removed by the appropriate agencies. And the act gives the Secretary of the Interior great latitude in managing experimental populations of wolves where they are reintroduced.

We can learn to live with rare and endangered wildlife. They are a part of the delicate balance of life. And they are a part of the heritage of every American—from New Jersey, where we've taken steps to protect the rare buck moth of the Pine Barrens, to Montana, where the grey wolf once again roams Glacier National Park.

I urge the adoption of this important legislation without any weakening amendments.

Mr. BINGAMAN. Mr. President, I rise in strong support of S. 675, legislation to reauthorize the Endangered Species Act. The reauthorization of this act is long overdue and its passage is critical to maintaining the quality and the quantity of our endangered species. This is one of the more important pieces of legislation of the 100th Congress.

I commend Senator GEORGE MITCHELL for his leadership on this bill. Senator MITCHELL has successfully negotiated a balance between important environmental, agricultural, and economic demands.

I encourage my colleagues to support this legislation to protect and recover species threatened by extinction. Funding for endangered species has remained constant for the past 7 years, yet the number of species protected under the act has nearly doubled. Only half of the listed U.S. species have plans outlining steps to recovery. Only 5 of the 425 U.S. listed species have recovered to the point where they no longer require protection under the act.

The legislation calls for increased monitoring of species awaiting listing as either threatened or endangered. It requires the U.S. Fish and Wildlife Service to cooperate with the states in a 5-year program to monitor the status of species that have been recovered and taken off the endangered list.

S. 675 brings flexibility in dealing with threatened species, including the authority for Federal officials to kill problem animals from the experimental populations. And most important, the Secretary has sufficient flexibility to allow regulated taking of experimental populations where necessary to deal with the particular circumstances facing the population.

It will also add several species from the Southwest to the endangered list, assuring funding to monitor their status. One such species is the Chihuahua chub, whose distribution is limited to the Mimbres River in southern New Mexico. Another New Mexico endangered species is the violet crowned hummingbird, found only in Hidalgo County. The federally listed Pecos gambusia is restricted to the Pecos River and, like the violet crowned hummingbird, its survival is dependent upon the passage of the Endangered Species Act. Under the current law, these species receive no protection until they are formally proposed for listing. This amendment will correct this shortcoming. In the past 3 years, several candidate species are reported to have gone extinct before listing was completed.

This legislation also presently requires species in trouble to be targeted for funding which would otherwise be unavailable. The Socorro isopode, which survives in hot springs near Socorro, would win long overdue financial support. Resources previously allocated to "higher life forms," will also be distributed on the basis of biological information, with priority given to those species that are, or may be, in the greatest conflict with development activities.

In conclusion, the passage of this legislation will send a strong signal that the Senate is committed to protecting our endangered species. I urge my colleagues to support it. Thank you.

Mr. MITCHELL. Mr. President, before proceeding to final passage, I merely want to thank my distinguished colleague, Senator CHAFEE, the former chairman of the Subcommittee on Environmental Protection, now the ranking member, whose valuable contribution has helped make this action possible, and also to thank the staff members who have been so valuable in contributing: Bob Davison, majority staff; and Steve Shimberg, of the minority staff.

Mr. President, it is my understanding that under the unanimous-consent agreement no further amendments are in order.

Mr. CHAFEE. Mr. President, before we move to passage, I would like to take a minute to thank the distinguished Senator from Maine, and the chairman of the subcommittee of the Environment Committee that handles this for his leadership in this matter. He has given constant attention to all environmental matters in that committee. He is one of the great environmentalists in the U.S. Senate, and not only believes in it, talks about it, but achieves passage of legislation as we are seeing here today.

I want to extend my thanks to him both personally and for the whole Nation for what he has done.

Mr. MITCHELL. I thank my friend and colleague.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 507, H.R. 1467; that all after the enacting clause be stricken; that the text of S. 675, as amended, be inserted; and that the bill be advanced to third reading and final passage with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the passage of the bill.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Florida [Mr. CHILES], and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey [Mr. LAUTENBERG] would vote "yea."

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—93

Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—2

Garn
Symms

NOT VOTING—5

Adams
Bentsen
Biden
Chiles
Lautenberg

So the bill (H.R. 1467), as amended, was passed, as follows:

H.R. 1467

Resolved, That the bill from the House of Representatives (H.R. 1467) entitled "An Act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. DEFINITIONS.

(a) Paragraph (13) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended to read as follows:

"The term person means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.".

(b) Paragraph (15) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended by inserting "also" before "means the Secretary of Agriculture".

SEC. 2. LISTING.

(a) CANDIDATE SPECIES.—Subparagraph (C) of section 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end thereof the following clause:

"(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7 to prevent a significant risk to the well being of any such species.".

(b) SIMILARITY OF APPEARANCE.—Subsection (e) of such section 4 (16 U.S.C. 1553(e)) is amended by striking out "regulation," and inserting in lieu thereof "regulation of commerce or taking,".

SEC. 3. RECOVERY PLANS.

Section 4(f) of the the Endangered Species Act (16 U.S.C. 1553(f)) is amended to read as follows:

"(f)(1) RECOVERY PLANS—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in development and implementing recovery plans, shall, to the maximum extent practicable—

"(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

"(B) incorporate in each plan—

"(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

"(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

"(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

"(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

"(3) The Secretary shall report annually to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed.

"(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan.

The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

"(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).".

SEC. 4. MONITORING OF RECOVERED SPECIES.

Section 4 of the Endangered Species Act (16 U.S.C 1533) is amended by re-designating subsections (g) and (h) as subsections (h) and (i) and by inserting the following new subsection:

"(g) Monitoring.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c).

"(2) The Secretary shall make prompt use of the authority under paragraph 7 of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species.".

SEC. 5. COOPERATION WITH THE STATES.

(a) Monitoring of Recovered Species.—Paragraph (1) of section 6(d) of the Endangered Species Act (16 U.S.C. 1535(d)(1)) is amended to read as follows:

"(d) Allocation of Funds.—(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species pursuant to subparagraph (C) of section 4(b)(3) and recovered species pursuant to section 4(g). The Secretary shall allocate each annual appropriation made in accordance with the provisions of subsection (i) of this section to such States based on consideration of—

"(A) the international commitments of the United States to protect endangered species or threatened species;

"(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

"(C) the number of endangered species and threatened species within a State;

"(D) the potential for restoring endangered species and threatened species within a State;

"(E) the relative urgency to initiate a program to restore and protect an endangered species and threatened species in terms of survival of the species; and

"(F) the importance of monitoring the status of candidate species within a State to prevent a significant risk to the well being of any such species.

"(G) the importance of monitoring the status of recovered species within a State to assure that such species do not return to the point at which the measures provided pursuant to this Act are again necessary.

"So much of the annual appropriation made in accordance with provisions of subsection (i) of this section allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.".

(b) Appropriations.—Section 6 of the Endangered Species Act (16 U.S.C. 1535) is amended by adding the following new subsection:

"(i) Appropriations.—(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to five percent of the combined amounts covered each fiscal year into the Federal aid in wildlife restoration fund under section 3 of the Act of September 2, 1937, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under section 1016 of the Act of July 18, 1984.

"(2) Amounts deposited into the special fund shall be available annually for allocation in accordance with subsection (d) of this section.".

SEC. 6. PROTECTION OF PLANTS.

Section 9(a)(2)(B) of the Endangered Species Act (16 U.S.C. 1538(a)(2)(B)) is amended to read as follows:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in violation of any law or regulation of any state or in the course of any violation of a state criminal trespass law;".

SEC. 7. PENALTIES AND ENFORCEMENT.

(a) Civil Penalties.—Paragraph (1) of subsection (a) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$10,000" and inserting in lieu thereof "$25,000", and by striking "$5,000" and inserting in lieu thereof "$12,000".

(b) Criminal Violations.—Paragraph (1) of subsection (b) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$20,000" and inserting in lieu thereof "$50,000", and by striking "$10,000" and inserting in lieu thereof "$25,000".

(c) Rewards.—Subsection (d) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by adding at the end thereof the following sentence; "Whenever the balance of sums received under this section and section 6(d) of the Act of November 16, 1981 (16 U.S.C. 3375(d)) as penalties or fines, or from forfeitures of property, exceed $300,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 6(i) of this Act.".

SEC. 8. SEA TURTLE CONSERVATION

(a) The Secretary of Commerce shall delay the effective date of regulations promulgated on June 29, 1987, relating to sea turtle conservation, until May 1, 1990, in inshore areas, and until May 1, 1989, in offshore areas, with the exception that regulations already in effect in the Canaveral area of Florida shall remain in effect. The regulations for the inshore area shall go into effect beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination, the Secretary shall modify the regulations accordingly.

(b)(1) In General.—The Secretary of Commerce shall contract for an independent review of scientific information pertaining to the conservation of each of the relevant species of sea turtles to be conducted by the National Academy of Sciences with such individuals not employed by Federal or State government and having scientific expertise and special knowledge of sea turtles and activities that may affect adversely sea turtles.

(2) Purposes of Review.—The purposes of such independent review are—

(i) to further long-term conservation of each of the relevant species of sea turtles which occur in the waters of the United States;

(ii) to further knowledge of activities performed in the waters and on the shores of the United States, Mexico and other nations of the world which adversely affect each of the relevant species of sea turtles;

(iii) to determine the relative impact which each of the activities found to be having an adverse effect on each of the relevant species of turtles has upon the status of each such species;

(iv) to assist in identifying appropriate conservation and recovery measures to address each of the activities which effect adversely each of the relevant species of sea turtles;

(v) to assist in identifying appropriate reproductive measures which will aid in the conservation of each of the relevant species of sea turtles;

(vi) in particular to assist in determining whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of each of the relevant species of sea turtles and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations; and

(vii) to furnish information and other forms of assistance to the Secretary for his use in reviewing the status of each of the relevant species of sea turtles and in carrying out other responsibilities contained under this act and law.

(3) Scope of Review.—The terms and outlines of such independent review shall be determined by a panel to be appointed by the President of the National Academy of Sciences, except that such review shall include, at a minimum, the following information:

(i) estimates of the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles;

(ii) the distribution and concentration, in terms of United States geographic zones, of each of the relevant species of sea turtles;

(iii) the distribution and concentration of each of the relevant species of sea turtles, in the waters of the United States, Mexico and other nations of the world, during both the migratory and reproductive phases of their lives;

(iv) identification of all causes of mortality, in the waters and on the shores of the United States, Mexico and other nations of the world, for each of the relevant species of sea turtles;

(v) estimates of the magnitude and significance of each of the identified causes of turtle mortality;

(vi) estimates of the magnitude and significance of present or needed head-start or other programs designed to increase the production and population size of each of the relevant species of sea turtles;

(vii) description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures;

(viii) the identification of nesting and/or reproductive locations for each of the relevant species of sea turtles in the waters and on the shores of the United States, Mexico and other nations of the world and measures that should be undertaken at each location as well as a description of worldwide efforts to protect such species of turtles.

(4) Completion and Submission of Review.—Such independent review shall be completed after an opportunity is provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel. It shall then be submitted by the Secretary, together with recommendations by the Secretary in connection therewith, to the Committee on Environment and Public Works of the Unites States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives on or before April 1, 1989. In the event the independent review cannot be completed by April 1, 1989, then the panel shall give priority to completing the independent review as it applies to the Kemp's ridley sea turtle and submitting the same to the Secretary by that date, or as expeditiously as possible, and thereafter shall complete as expeditiously as possible the remaining work of the independent review.

(5) Review of Status.—After receipt of any portion the independent review from the panel, the Secretary shall review the status of each of the relevant species of sea turtles.

(6) Recommendations of the Secretary.—The Secretary, after receipt of any portion of the independent review from the panel, shall consider, along with the requirements of existing law, the following before making recommendations:

(i) reports from the panel conducting the independent review;

(ii) written views and information of interested parties;

(iii) the review of the status of each of the relevant species of sea turtles;

(iv) the relationship of any more or less stringent measures to reduce the drowning of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species;

(v) whether increased reproductive or other efforts on behalf of each of the relevant species of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets;

(vi) whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures imposed upon them in order to reduce the drowning of each of the relevant species of sea turtles in shrimp nets;

(vii) other reliable information regarding the relationship between each of the relevant species of sea turtles and shrimp fishing and other activities in the waters of the United States, Mexico and other nations of the world; and

(viii) the need for improved cooperation among departments, agencies and entities of Federal and State government, the need for improved cooperation with other nations and the need for treaties or international agreements on a bilateral or multilateral basis.

(7) Modification of Regulations.—For good cause, the Secretary may modify the regulations promulgated on June 29, 1987, relating to sea turtle conservation, in whole or part, as the Secretary deems advisable.

(8) Secretary and Educational Efforts.—The Secretary shall undertake an educational effort among shrimp fishermen, either directly or by contract with competent persons or entities, to instruct fishermen in the usage of the turtle excluder device or any other device which might be imposed upon such fishermen;

(9) Sea Turtle Coordination.—In order to coordinate the protection, conservation, reproductive, educational and recovery efforts with respect to each of the relevant species of sea turtles in accordance with existing law, the National Marine Fisheries Service shall designate an individual as Sea Turtle Coordinator to establish and carry out an effective, long-term sea turtle recovery program.

(10) Purpose of Section 8.—Section 8 is intended to assist the Secretary in making recommendations and in carrying out his duties under law, including the Endangered Species Act (16 U.S.C. 1531 et seq.), and nothing herein affects, modifies or alters the Secretary's powers or responsibilities to review, determine or redetermine, at any time, his obligations under law.

(11) Definitions.—For the purposes of this section, the terms:

(i) "relevant species of sea turtles" means the Kemp's ridley sea turtle, United States breeding populations of the loggerhead, the leatherback, and the green sea turtle, other significant breeding populations of the loggerhead, the leatherback and the green sea turtle;

(ii) "status" means whether a given species of turtle is endangered, threatened or recovered;

(iii) "size" means the size of a given species of sea turtle; and

(iv) "age and sex structure" shall be considered to mean the distribution of juveniles, subadults and adults within a given species or population of sea turtles, and males and females within a given species or population of sea turtles.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 15. (a) In General.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $2,200,000 for fiscal year 1998, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

"(b) Exemptions From Act.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 7(e), (g), and (h) not to exceed $600,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992."

"(c) Convention Implementation.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $400,000 for each of fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended."

SEC. 10. EDUCATION, STUDY AND REPORT.

(a) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements to be effective on or after September 15, 1988, based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

(b) The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural foods and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

(c) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit an interim report on September 15, 1988, and a final report within one year of the date of enactment of this Act, presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

SEC. 11. SCRIMSHAW CERTIFICATES.

(a) Section 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(A)) is amended to read as follows:

"(8)(A)(i) Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a 6-month period beginning on the date of enactment of the Endangered Species Act Amendments of 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on the date of such enactment.".

(b) Section 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(B) is amended by striking "original" and inserting "previous".

(c) Section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end thereof the following subparagraph:

"(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.".

(d) Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended by striking paragraph (9).

SEC. 12. FEDERAL COST OF PROTECTING ENDANGERED SPECIES.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL COST ANALYSIS BY THE FISH AND WILDLIFE SERVICE"

"SEC. 18. On or before January 15, 1990, and each January 15 thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain—

"(1) an accounting of all Federal expenditures, listed on a species by species basis made pursuant to this Act; and

"(2) an acccounting of all expenditures, listed on a species by species by States receiving cost sharing under this Act.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. SANFORD] appointed Mr. MITCHELL, Mr. BURDICK, Mr. BAUCUS, Mr. BREAUX, Mr. CHAFEE, Mr. STAFFORD, and Mr. SIMPSON conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I ask unanimous consent that consideration of S. 675 be postponed indefinitely.

The PRESIDING OFFICER. Without objection, it is so ordered.

DROUGHT ASSISTANCE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2631, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2631) to provide drought assistance to agricultural producers, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Drought Assistance Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

Sec. 101. Assistance for livestock producers.
Sec. 102. Assistance for dairy farmers.

TITLE II—DISASTER PAYMENTS

Sec. 201. Payments to program participants for basic commodities.
Sec. 202. Payments to program nonparticipants for basic commodities.
Sec. 203. Peanuts, sugar, and tobacco.
Sec. 204. Soybeans and nonprogram crops.
Sec. 205. Effect of Federal crop insurance payments.
Sec. 206. Transfer of funds.
Sec. 207. Crops harvested for forage uses.
Sec. 208. Timing and manner of disaster payments.
Sec. 209. Use of Commodity Credit Corporation.
Sec. 210. Payment limitations.

TITLE III—GENERAL PROVISIONS

SUBTITLE A—COMMODITY STOCK ADJUSTMENT

Sec. 301. Soybeans, sunflowers, and cottonseed and sunflower seed.
Sec. 302. Oats.
Sec. 303. Producer reserve program for wheat and feed grains.

SUBTITLE B—DISASTER CREDIT AND CREDIT FORBEARANCE

Sec. 311. FmHA farm operating loans.
Sec. 312. Forbearance and restructuring on farm loans.

SUBTITLE C—CONSERVATION AND WATER ASSISTANCE

Sec. 321. Conservation and wildlife enhancement.
Sec. 322. Water management for rural areas.

SUBTITLE D—RURAL BUSINESSES

Sec. 331. Business and industrial loans.
Sec. 332. Survey of agriculture-related rural businesses and enterprises.

SUBTITLE E—MISCELLANEOUS

Sec. 341. Special conservation reserve enhancement program.
Sec. 342. Drought relief contingency plan.
Sec. 343. Sale of corn to ethanol producers.
Sec. 344. Sense of Congress regarding agricultural exports.
Sec. 345. Sense of the Senate regarding expeditious action on tax legislation affecting farmers.

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 101. ASSISTANCE FOR LIVESTOCK PRODUCERS.

(a) IN GENERAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'.

"DEFINITIONS

"SEC. 602. As used in this title:

"(1) The term 'livestock producer' means—

"(A) any established producer or husbander of livestock, or dairy producer, who is a citizen of, or legal resident alien in, the United States; or

"(B) any farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production, dairy production, or husbandry;

who is actively engaged in farming and who receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary.

"(2) The term 'livestock' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

"(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

"(B) are purchased as part of a normal operation and not to obtain additional benefits under this title.

"(3) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"(4) The term 'feed', for the purposes of emergency feed assistance, means any type of feed (including feed grain, mixed feed, liquid or dry supplemental feed, roughage, pasture, forage) that—

"(A) best suits the livestock producer's operation; and

"(B) is consistent with acceptable feed practices.

"EMERGENCY LIVESTOCK ASSISTANCE

"SEC. 603. The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock in any State, county, or area of a State, where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster that adversely affects livestock or

handling of livestock, the Secretary determines that a livestock emergency exists.

"DETERMINATION OF NEED FOR ASSISTANCE

"SEC. 604. (a)(1) Whenever the Governor of a State or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that a livestock emergency due to a natural disaster exists in the State or county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in a State, county, or area and for emergency livestock feed assistance under this title.

"(2) The Governor's or county committee's request for a livestock determination and for emergency livestock feed assistance shall include recommendations to the Secretary of those options that will most fully use feed available through local sources, to the extent feasible.

"(b) The Secretary may consider a State, county, or area in a State for emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

"(c) The Secretary shall act on requests for determinations under subsection (a) and make final determinations on whether a livestock emergency exists in any State, county, or area in accordance with regulations issued by the Secretary that ensure thorough and prompt action (not later than 30 days after receipt of such requests) and provide for appropriate notification procedures.

"(d)(1) Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related condition in 1988, for the emergency feed program or emergency feed assistance program prior to the effective date of this title shall continue to be eligible for such program and may be eligible for other programs under this title for such drought or related condition.

"(2) As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program and the emergency feed assistance program, should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

"ELIGIBLE LIVESTOCK PRODUCERS

"SEC. 605. (a) If the Secretary determines that a livestock emergency exists in a State, county, or area, subject to the limitation on benefits provided in section 609, livestock producers located in such State, county, or area shall be eligible for feed assistance in accordance with the following paragraphs:

"(1) A livestock producer shall be eligible for such assistance if the producer has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the emergency and does not have sufficient feed that has adequate nutritive value and is suitable for such producer's livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 604) for the estimated duration of the emergency. Such producer shall be eligible for feed assistance under the programs specified in section 606 made available where the producer is located in quantities sufficient to meet the feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

"(2) A livestock producer that does not produce feed on the farm or ranch or that produces feed on such producer's farm or ranch but normally not in quantities sufficient to feed all the producer's livestock, with respect to the portion of such producer's livestock not normally fed with feed produced on the farm, such producer shall be eligible for (A) assistance under section 606 for the preservation and maintenance of foundation herds of livestock (including producing dairy cattle) if the producer does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such livestock as a result of the emergency, as determined by the Secretary, and (B) such other assistance under section 606 as the Secretary, in the Secretary's discretion, determines necessary to alleviate a crisis caused by the livestock emergency.

"(b) Any livestock producer located in a State, county, or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this title, who qualifies for assistance under such pre-existing program, shall be eligible for assistance for such drought or related condition as prescribed in paragraph (1) (or, at the producer's option, for assistance under such pre-existing programs) and paragraph (2).

"ASSISTANCE PROGRAMS

"SEC. 606. (a) The following assistance programs may be made available by the Secretary under this title, subject to the limitation on benefits under sections 605 and 609, to livestock producers:

"(1) The donation of feed owned or controlled by the Commodity Credit Corporation to producers who are financially unable to purchase feed at market prices or to participate in any other program set forth in this subsection.

"(2) The sale of owned or controlled held by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

"(A) with respect to assistance provided for drought or related condition in 1988, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

"(B) with respect to assistance provided for any other livestock emergency, 50 percent of the average market price, as determined by the Secretary.

"(3) Reimbursement of not to exceed 50 percent of transportation and handling expenses incurred by producers in connection with feed grain donations or sales under paragraph (1) or (2).

"(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by producers for their livestock during the duration of the livestock emergency.

"(5) (or silage) Hay transportation assistance of not to exceed 50 percent of the cost of transporting hay purchased from a point of origin beyond such producer's normal trade area to the livestock, subject to the following limitations:

"(A) The transportation assistance may not exceed $50 per ton of eligible hay ($12.50 for silage).

"(B) The quantity of eligible hay (or silage) may not exceed—

"(i) 20 pounds per day per animal unit (or a comparable quantity of silage, as determined by the Secretary); or

"(ii) the lesser of the producer's feed loss or the quantity of additional feed needed for the duration of the livestock emergency.

"(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, subject to the following limitations:

"(A) Transportation assistance may not exceed $24 per head of eligible livestock.

"(B) Transportation assistance may not exceed the lesser of the value of the producer's feed loss or the value of additional feed needed for the duration of the livestock emergency.

"(b) If assistance is made available through the furnishing of feed grains under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grains through a dealer or manufacturer and the replacing of the feed grains so furnished from feed owned or controlled by the Commodity Credit Corporation.

"(c) In providing assistance under paragraph (2) or (4) of subsection (a), the Secretary may make in-kind payments through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with the rules prescribed by the Secretary.

"ADDITIONAL ASSISTANCE

"SEC. 607. (a) In addition to the assistance provided under section 606, if the Secretary determines that the livestock emergency in a State, county, or area also requires the provision of the assistance described in subsection (b), the Secretary shall provide such assistance.

"(b) Special assistance under this section includes—

"(1) donating feed owned or controlled by the Commodity Credit Corporation with respect to livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary shall by rule prescribe;

"(2) making emergency water assistance available to eligible farmers and ranchers for livestock under terms and conditions comparable to those provided for under the program designated ECP EC-6 by the Department of Agriculture, including practices and measures provided for in such program; and

"(3) making commodities available through Commodity Credit Corporation catalog to producers through the use of catalog lots of a size that it is economically feasible for small producers to obtain through commodity certificate exchanges.

"USE OF THE COMMODITY CREDIT CORPORATION

"SEC. 608. The Secretary shall carry out this title through use of the funds, facilities, and authorities of the Commodity Credit Corporation.

"PAYMENT LIMITATION

"SEC. 609. (a) For each livestock disaster, the total amount of benefits that a person receives under one or more of the programs established under this title may not exceed $50,000.

"(b) Any person that has gross revenues in excess of $2,500,000 annually shall not be eligible to receive any livestock emergency benefits under this title.

"(c) Each person (including, in the case of a cooperative association of producers, each member of the association) otherwise eligible for livestock emergency benefits under

this title for the drought or related condition in 1988 shall be subject to the combined payment and benefits limitation established under section 210(c) of the Drought Assistance Act of 1988.

"(d) No person may receive benefits under this title attributable to lost production of a feed commodity due to the drought or related condition in 1988 to the extent that such person receives a disaster payment on such lost production.

"(e) The Secretary shall issue regulations—

"(1) defining the term 'person' in conformity, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), or a successor statute; and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

"REGULATIONS

"SEC. 610. The Secretary shall issue regulations to carry out this title. Such regulations shall establish procedures to ensure that the request for assistance by a State, county, or area under section 604 and individual applications of livestock producers under sections 605 amd 612 for assistance are processed, and decisions thereon are made, as quickly as practicable.

"PENALTIES

"SEC. 611. (a) Any person who disposes of any feed made available to producers such under this title other than as authorized by the Secretary shall be subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose.

"(b) Any person who disposes of any feed made available to livestock producer under this title other than as authorized by the Secretary shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

"DISASTER EMERGENCY ASSISTANCE

"SEC. 612. (a) The Secretary shall provide assistance under this title to producers that—

"(1) conduct farming, ranching, or aquaculture operations in any country contiguous to a county where the Secretary has found that a livestock emergency exists or where the President has determined that a major disaster or emergency exists in accordance with the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.); and

"(2) are otherwise eligible for assistance under this title.

"(b) The Secretary shall accept applications for such assistance from producers affected by such disaster or emergency at any time during the 8-month period beginning on—

"(1) the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by the disaster or emergency; or

"(2) the date the President makes the major disaster or emergency designation with respect to the disaster or emergency.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1105 of the Food and Agricultural Act of 1977 (7 U.S.C. 2267) is repealed.

(2) Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the period at the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

(3) Section 421 of the Agricultural Act of 1949 (7 U.S.C. 1433) is repealed.

(4) Public Law 86-299 (7 U.S.C. 1427 note) is repealed.

(5) Section 303 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 1427 note) is repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall become effective 15 days after the date of enactment of this Act.

(2) APPLICATION.—The provisions of section 604(d), 605(b), and 609(d) of the Agricultural Act of 1949, as added by subsection (a), shall apply only with respect to any livestock emergency caused by the drought or related condition in 1988.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS.

Section 201(d)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)(i)) is amended by striking out "if for any of the calendar years 1988, 1989, and 1990" and inserting in lieu thereof "if for each of the calendar years 1988 and 1990".

TITLE II—DISASTER PAYMENTS

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR BASIC COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture (hereinafter referred to in this title as the "Secretary") determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on such farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest (or prevented from being planted because of drought or related condition in 1988, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop.

(2) MAXIMUM NUMBER OF ELIGIBLE ACRES.—Payments provided under paragraph (1) for a crop of a commodity shall not be made available with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(3) RELATIONSHIP TO DEFICIENCY PAYMENTS.—The total quantity on which deficiency payments would otherwise be payable to producers on a farm for a crop of the commodity under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall be reduced by the quantity on which any payment is made to the producer for the crop under paragraph (1).

(4) ELECTION.—Effective only for the 1988 crops of wheat and feed grains, in the case of producers on a farm who elected after March 11, 1988, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107D(c)(1)(C) or 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) or 1444e(c)(1)(B)), the Secretary shall allow such producers to elect (within 30 days after the date of enactment of this Act) whether to receive disaster payments in accordance with this subsection in lieu of receiving payments under such section.

(b) ADVANCE DEFICIENCY PAYMENTS.—

(1) FORGIVENESS.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if, because of drought or related condition in 1988, the total quantity of a crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the producer shall not be required to refund any advance deficiency payment made available for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 144b-2) with respect to any deficiency in production up to 35 percent for the crop.

(2) ELECTION.—The Secretary shall allow producers on a farm who elected to participate in the production adjustment program established for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, but who elected prior to the date of enactment of this Act not to receive advance deficiency payments made available for the 1988 crop year under section 107C of such Act, to elect (within 30 days after the date of enactment of this Act) whether to receive such advance deficiency payments.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR BASIC COMMODITIES.

(a) DISASTER PAYMENTS.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as provided in subsection (b), if the Secretary determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on such farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop.

(b) LIMITATIONS.—

(1) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting because of drought or related condition in 1988, as determined by the Secretary, but not in excess of the quantity of acreage planted (or prevented from being planted because of a natural disaster or other condition beyond the control of the producers, as determined by the Secretary) to the commodity on the farm during the 1987 crop year minus acreage actually planted to the commodity during the 1988 crop year. The Secretary shall make appropriate adjustments in applying the limitation contained in the preceding sentence to take into account rotation practices of the producers.

(2) ACREAGE LIMITATION FACTOR.—The amount of payments made available to pro-

ducers of a crop of a commodity under this section shall be reduced by a factor equivalent to the acreage limitation percentage established for the crop under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 203. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—Effective only for the 1988 crop of peanuts, sugar beets, sugarcane, or tobacco, if the Secretary determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts and tobacco) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to the applicable payment rate, as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop.

(b) PAYMENT RATE.—For purposes of subsection (a), the payment rate for a commodity shall be equal to 65 percent of—

(1) in the case of peanuts and tobacco, the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary; and

(2) in the case of sugar beets and sugarcane, a rate determined by the Secretary to be fair and reasonable in relation to the level of price support that is established for the 1988 crop of sugar beets and sugarcane.

(c) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting because of drought or related condition in 1988, as determined by the Secretary, but not in excess of the quantity of acreage planted (or prevented from being planted because of a natural disaster or other condition beyond the control of the producers, as determined by the Secretary) to the commodity on the farm during the 1987 crop year minus acreage actually planted to the commodity during the 1988 crop year. The Secretary shall make appropriate adjustments in applying the limitation contained in the preceding sentence to take into account rotation practices of the producers.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm as otherwise determined under this section shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

SEC. 204. SOYBEANS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—Effective only for the 1988 crop of soybeans or any nonprogram crop, if the Secretary determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of (1) with respect to soybeans, the State, area, or county yield, adjusted for adverse weather conditions during the 3 previous crop years, or (2) with respect to nonprogram crops, the county or area average yield (subject to subsection (e) and as determined by the Secretary), for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to the applicable payment rate, as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop.

(b) PAYMENT RATE.—For purposes of subsection (a), the payment rate for a commodity shall equal 65 percent of the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(c) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting because of drought or related condition in 1988, as determined by the Secretary, but not in excess of the quantity of acreage planted (or prevented from being planted because of a natural disaster or other condition beyond the control of the producers, as determined by the Secretary) to the commodity on the farm during the 1987 crop year minus acreage actually planted to the commodity during the 1988 crop year. The Secretary shall make appropriate adjustments in applying the limitation contained in the preceding sentence to take into account rotation practices of the producers.

(d) TREE SEEDLINGS.—If the Secretary determines that producers of nonprogram crops that have planted tree seedlings during the 5-year period ending on the date of enactment of this Act have suffered in excess of a 35 percent loss of such seedlings as a result of drought or related condition in 1988, the Secretary shall make disaster payments available to such producers with respect to any lost seedlings in excess of 35 percent of the seedlings planted during such period. Payments under this subsection shall be made available at a rate equal to 65 percent of the replacement cost of such seedlings, as determined by the Secretary.

(e) DEFINITION.—As used in this section, the term "nonprogram crop" means—

(1) all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1988; and

(2) other commercial crops for which such insurance was not available for purchase or, if available, was not purchased by such producers for crop year 1988, if—

(A) in accordance with rules and regulations issued by the Secretary, producers of such crops provide satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years, except that if such data does not exist for any of the 3 preceding crop years the Secretary shall use county average crop yield data; and

(B) such producers provide satisfactory evidence of 1988 crop year losses resulting from drought or related condition in 1988 exceeding 65 percent of the crop yield established in subparagraph (A),

except that such term shall not include a crop covered in sections 201 through 203, or a crop of soybeans.

SEC. 205. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1988 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary shall reduce the amount of payments made available for such crop under this title to the extent that—

(1) the amount determined by adding the net amount of crop insurance indemnity payments (gross indemnity less premium paid) received by such producers for the loss of production of the crop and the payment determined in accordance with this title; exceeds

(2) the amount determined by multiplying—

(A) 100 percent of the commodity yield used for the calculation of payments made under this title; by

(B) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary; by

(C)(i) in the case of producers on a farm who participated in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1988 crop of the commodity;

(ii) in the case of producers on a farm who did not participate in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice and producers of sugar beets, sugarcane, peanuts, or tobacco, the loan level established for the 1988 crop of the commodity; and

(iii) in the case of producers on a farm of soybeans or a nonprogram crop (as defined in section 204(e)), the simple average price received by producers of the commodity, as determined by the Secretary, in accordance with section 204(b).

SEC. 206. TRANSFER OF FUNDS.

The Secretary may transfer funds made available to the Commodity Credit Corporation during fiscal year 1988 to the Agricultural Stabilization and Conservation Service in such amounts as may be necessary for salaries and other expenses incurred in carrying out this title.

SEC. 207. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of enactment of this Act, the Secretary shall announce the terms and conditions by which producers on a farm may prove yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 208. TIMING AND MANNER OF DISASTER PAYMENTS.

(a) TIMING.—The Secretary shall make disaster payments available under this title as soon as practicable after the date of enactment of this Act.

(b) MANNER.—The Secretary may make payments available under this title in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 209. USE OF COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity

Credit Corporation in carrying out this title.

SEC. 210. PAYMENT LIMITATIONS.

(a) Disaster Payments.—Subject to subsection (c), the total amount of payments that a person receives under one or more of the programs established under this title may not exceed $100,000.

(b) Limitation Based on Gross Revenue.—Any person that has gross revenues in excess of $2,000,000 annually shall not be eligible to receive any crop disaster benefit payments under this title.

(c) Combined Limitation.—A person may not receive any payment under this title or benefit under title VI of the Agricultural Act of 1949 for livestock emergency losses suffered due to the drought or related condition in 1988 if such payment or benefit would cause the total amount of such payments and benefits received by such person to exceed $100,000. If a person is subject to the preceding sentence, the person may elect (subject to the benefits limit under title VI of such Act) whether to receive the $100,000 in such payments, or such livestock emergency benefits, or a combination of payments and benefits specified by such person.

(d) Relationship to Livestock Emergency Benefits.—No person may receive disaster payments attributable to lost production of a commodity due to the drought or related condition in 1988 under this title to the extent that such person receives a livestock emergency benefit on such lost production under title VI of the Agricultural Act of 1949 (as added by section 101(a) of this Act).

(e) Definition of Person.—The Secretary shall issue regulations—

(1) defining the term “person” in conformity, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

(f) Regulations.—The Secretary shall issue regulations to equitably and efficiently implement the requirements of this section.

TITLE III—GENERAL PROVISIONS

Subtitle A—Commodity Stock Adjustment

SEC. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED.

(a) Planting of Soybeans and Sunflowers on Permitted Acres.—Section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

“(e)(1) Notwithstanding any other provision of this Act, effective only for the 1989 and 1990 crops, if an acreage limitation program is in effect for a crop under this Act, the Secretary may permit producers to plant soybeans or sunflowers on not less than 10 percent, nor more than 35 percent, of the permitted acreage for the crop, as determined by the Secretary.

“(2) For purposes of determining the farm acreage base or the crop acreage base for the crop, any acreage on the farm on which soybeans or sunflowers are planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the soybeans or sunflowers were substituted.

“(3) Not earlier than November 15, 1988, and not later than March 1, 1989, with respect to the 1989 crops, and not earlier than November 15, 1989, and not later than March 1, 1990, with respect to the 1990 crops, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage under this subsection. Such statement shall include—

“(A) the estimated impact such action may have on soybeans, sunflowers, corn, wheat, upland cotton, extra long staple cotton, and rice;

“(B) an economic evaluation of market effects due to permitting or not permitting the plantings of soybeans or sunflowers on permitted acreage;

“(C) an estimate of foreign production of oilseeds, and the impact of such plantings on domestic oilseed markets; and

“(D) such other factors as the Secretary considers appropriate.”.

(b) Soybean Marketing Loans.—Not earlier than February 1, 1989, and not later than March 1, 1989, with respect to the 1989 crop of soybeans, and not later than September 1, 1989, with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for implementing or not implementing the soybean marketing loan program authorized under section 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(3)). Such statement shall include—

(1) an economic evaluation of current soybean markets, foreign and domestic;

(2) the current foreign soybean production statistics;

(3) the United States soybean export market situation and outlook;

(4) the computation of the prevailing world market price for soybeans, as described in section 201(i)(3)(B) of such Act;

(5) the fiscal impact of the implementation of the marketing loan for soybeans; and

(6) such other factors as the Secretary considers appropriate.

(c) Export Assistance for Cottonseed and Sunflower Seed.—If the Secretary of Agriculture determines that the price of cottonseed or sunflower seed is adversely affected by the amendment made by subsection (a), the Secretary shall use existing export assistance programs to provide export and other assistance for cottonseed and sunflower seed, and the products thereof, to help offset such adverse effects.

SEC. 302. OATS.

(a) Farm Acreage Bases.—Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end thereof the following new subsection:

“(c)(1) Notwithstanding any other provision of this Act, effective only for 1989 and 1990 crops, if the acreage limitation percentage established for the 1989 or 1990 crop of feed grains under section 105C(f) is less than 12.5 percent, the Secretary shall permit producers on a farm to designate any portion of the farm acreage base (excluding any portion designated as soybean acreage base) as acreage base established for oats.

“(2) Producers on a farm who redesignate any portion of a farm acreage base as oats acreage base under paragraph (1) shall reduce by an equivalent quantity one or more crop acreage bases (excluding any crop acreage base established for soybeans) established for the farm for such crop year.”.

(b) Sense of Congress.—It is the sense of Congress that if the acreage limitation requirement established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)) is 12.5 percent or more, the Secretary should establish the lowest possible acreage limitation requirement for oats under section 105C(f) of such Act if market imbalances for barley and oats exist.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

(a) Repayment of Loans.—Effective for the 1988 marketing year for wheat or feed grains, if the conditions described in clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) have been met at any time during the marketing year for such commodity, producers may repay loans made under section 110(b) of such Act for such commodity without payment of additional interest or other charges provided for under clause (4) of the third sentence of section 110(b) of such Act, regardless of the market price.

(b) Storage Payments and Interest.—If during the 1988 marketing year the Secretary allows producers to place wheat or feed grains into the producer reserve established under section 110(b) of such Act, the Secretary shall not make storage payments or forgive interest charges during the remainder of such marketing year with respect to quantities of such commodity that the producers place into the reserve during such marketing year.

Subtitle B—Disaster Credit and Forbearance

SEC. 311. FmHA FARM OPERATING LOANS.

(a) Direct Loans.—The Secretary of Agriculture shall ensure, to the maximum extent practicable, that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) for 1989 crop production are made available to farmers and ranchers suffering major losses due to the drought or related condition in 1988, as authorized under existing law and under rules and regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

(b) Guaranteed Loans.—The Secretary shall make available in fiscal year 1989 guarantees for operating loans under subtitle B of such Act, as authorized under such Act, to commercial or cooperative lenders, in addition to the other purposes for which guarantees may be provided for such loans, to refinance and reamortize 1988 operating debt of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of the drought or related condition in 1988. Each such guaranteed loan shall contain terms and conditions governing reamortization, with respect to the 1988 operating debt of the farmer or rancher, that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit, while repaying the guaranteed loan, as determined by the Secretary.

SEC. 312. FORBEARANCE AND RESTRUCTURING ON FARM LOANS.

It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to the drought or related condition in 1988—

(1) exercise forbearance in the collection of interest and principal on direct farmer program loans made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) that are outstanding on the date of enactment of this Act for such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 (Public Law 100-233) and similar provisions of law for such farmers and ranchers; and

(3) encourage commercial lenders participating in guaranteed farmer lending programs to exercise forbearance before declaring such loans in default.

Subtitle C—Conservation and Water Assistance

SEC. 321. CONSERVATION AND WILDLIFE ENHANCEMENT.

(a) IN GENERAL.—In the case of an owner or operator who has entered into a contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and harvests hay during the 1988 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary shall not reduce the amount of rental payments made to such owner or operator as the result of such harvesting to the extent that the owner or operator shares the cost of carrying out conservation practices to enhance soil, water, and wildlife conservation practices on and in the vicinity of lands subject to such contract in accordance with a conservation plan approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies.

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 322. WATER MANAGEMENT FOR RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture is authorized (directly or in coordination with any other Federal agency, entity, corporation, department, unit of State or local government, cooperative, confederation, individual, public or private organization, Indian tribe, or university) to conduct research and demonstration projects, provide technical assistance and extension services, make grants, loans, loan guarantees, and provide other forms of assistance for the purpose of helping rural areas make better and more efficient use of water resources to alleviate problems arising in such areas from droughts or lack of water.

(b) ACTIVITIES.—The Secretary is authorized to provide assistance under this section for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmissions, application, and activation.

(c) COOPERATION.—In taking action in accordance with this section, the Secretary—

(1) should address the general, special, or unique problems of water management existing in rural areas;

(2) may carry out such action independently or in cooperation with Federal, State, and public or private entities and agencies; and

(3) shall cooperate with—

(A) cooperatives, public or private organizations, confederations, authorities, or other entities, including such entities that may be organized under multiple State agreements or compacts, and entities created under State law to carry out projects authorized in accordance with this section; and

(B) water, watershed, and sewer authorities, rural electric cooperatives, Federal agencies, and other State or local governments or agencies.

(d) REGULATIONS.—The Secretary shall issue regulations to carry out this section. Such regulations shall—

(1) specify the terms and conditions that the entities described in subsections (a) and (c) must meet in order to participate in programs carried out under this section;

(2) establish a procedure under which entities described in subsections (a) and (c) may apply for assistance under this section; and

(3) foster cooperation between such entities and other Federal, State, or local agencies for the purpose of carrying out this section.

(e) DEFINITION.—As used in this section, the term "university" means—

(1) a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

(2) a land grant university established under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.);

(3) the Tuskegee University; and

(4) any other support research organization.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section.

(2) NON-FEDERAL SOURCES.—The Secretary is authorized to accept funds from non-Federal sources to carry out the activities authorized by this section.

(g) NO EFFECT ON COST SHARING.—Nothing in this section shall be construed to waive any cost sharing requirements imposed under any other provision of law.

Subtitle D—Rural Businesses

SEC. 331. BUSINESS AND INDUSTRIAL LOANS.

To the maximum extent practicable, the Secretary of Agriculture shall make available in fiscal year 1989 rural industrialization loans or loan guarantees, as authorized under section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), to assist rural businesses and enterprises (including cooperatives) directly and adversely affected by the drought or related condition in 1988. Any such drought-related rural industrialization loan may be made only if the loan otherwise meets the terms and conditions relating to eligibility established under section 310B of such Act and the Secretary determines that making the loan will serve to meet the original purpose of the rural industrialization loan program to prevent the loss of, or create, rural employment opportunities.

SEC. 332. SURVEY OF AGRICULTURE-RELATED RURAL BUSINESSES AND ENTERPRISES.

Not later than 90 days after the date of enactment of this Act, the Secretary shall—

(1) conduct a survey of rural businesses and enterprises in the United States whose activities involve or are directly related to the production, processing, and marketing of agricultural commodities and products, or to servicing the business and home needs of United States farmers and ranchers, to determine the extent that such businesses are being adversely affected by the drought or related condition in 1988; and

(2) submit a report describing the results of such survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle E—Miscellaneous

SEC. 341. SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.

Effective beginning with the 1988 crop year, section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The provisions of this subsection and of section 1305(d) of the Agricultural Reconciliation Act of 1987 (Public Law 100-203; 7 U.S.C. 1308 note) that limit payments to any person shall not be applicable to payments received by a State or local governmental entity in connection with agreements entered into under a special conservation reserve enhancement program carried out by the entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to State and local governmental entities that the Secretary determines will advance the purposes of this subtitle.".

SEC. 342. DROUGHT RELIEF CONTINGENCY PLAN.

Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing a Federal drought disaster contingency plan to respond to agricultural disasters caused by drought in each of the 1988 through 1990 crop years. Such plan shall evaluate the various alternatives available for the use of agricultural set-aside acreage, conservation reserve acreage, conservation use acreage, and any other land held in inventory by the Farmers Home Administration.

SEC. 343. SALE OF CORN TO ETHANOL PRODUCERS.

(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture shall make available for sale to domestic producers of ethanol fuel approximately 16 million bushels per month of corn owned by the Commodity Credit Corporation.

(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn (prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

(c) MAXIMUM AMOUNT.—The quantity of corn sold to any ethanol producer under this section shall not exceed 2 million bushels per month.

(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

(e) TERMS.—Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed by-products equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary.

(f) TERMINATION.—The Secretary may terminate the program established under this section if the Secretary determines that—

(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

(2) a sufficient supply of corn would otherwise not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

SEC. 344. SENSE OF CONGRESS REGARDING AGRICULTURAL EXPORTS.

(a) FINDINGS.—Congress finds that—

(1) foreign trade is highly important to the domestic agricultural industry;

(2) the Food Security Act of 1985 (Public Law 99-198) created several programs to help enhance the export of domestic agricultural commodities and the products thereof, and to help restore the United States share of international agricultural markets;

(3) the programs referred to in paragraph (2) have been successful in achieving the purposes for which such programs were created and have resulted in increased exports of domestic agricultural commodities;

(4) it is important that the United States be perceived as being a reliable supplier of agricultural commodities; and

(5) any action taken by the President or Congress that would indicate a scaling back of the commitment to expand agricultural exports would be harmful to the agricultural interests and general economy of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should be no embargo on exports of domestic agricultural commodities and the products thereof.

SEC. 345. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS.

It is the sense of the Senate that Congress act expeditiously in enacting legislation that—

(1) provides an exemption from the Federal excise tax on diesel fuel that is to be used for farming purposes rather than a refund of such tax after it is paid by farmers; and

(2) repeals the application of the accounting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, as I understand it, the matter before us is S. 2631, the Drought Assistance Act of 1988 as reported by the Committee on Agriculture, Nutrition, and Forestry; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I see my good friend, the distinguished Senator from Indiana, here.

There has been a great deal of discussion about drought relief, and I would just want to let Senators know that the walrus once said the time has come, or something to that effect, and we are ready to go forward with drought relief.

I would notify my colleagues that I would hope that we will not have to spend a great deal of time on it. We have spent a lot of time in committee and with individual Senators. Of course, we do want to send as slimmed-down, streamlined bill as possible to the other body.

The other body is meeting today, I think just about this time, on exactly the same issue, drought relief.

We have talked with them. Senator LUGAR and I have talked with them. I know if we are able to get our bill through, if they are able to get their bill through, we are eager to go to a committee of conference as quickly as possible.

Basically, Mr. President, this is the situation: We are on the floor of the Senate today to send a message of hope to the American farmer and rancher. That message is this: Farmers can count on the disaster assistance in this bill to get them through the worse drought in 50 years. This bill is a promise that the Senate can make and that farmers can count on.

If this bill passes, farmers and ranchers can count on what is in here. This is a strong statement, but it is one that I am willing to make for several reasons.

First, this is a bipartisan bill. Senator LUGAR and I, and each of the majority and minority members of the Agriculture Committee, have worked on this bill together, hand in hand, every step of the way.

We have kept the distinguished majority leader and the distinguished minority leader posted at each step of the way.

Second, this is a generous, but realistic bill. It is the most generous disaster bill we have ever considered because this is the worst drought in 50 years. But this is also a realistic bill. It does not give every farmer or farm group all they want, but it does treat every farmer and farm group fairly.

Third, the President will sign this bill. There is no sense in sending to the President a bill that he cannot or he will not sign. That would just raise false hopes. Farmers need real help now, not false hopes.

Senator LUGAR and I have met personally with the President and he has assured us that he can sign drought legislation such as we have produced.

But if we are going to make and keep this promise to the farmers and ranchers of this country I will need the cooperation of every Senator here. I will do everything I can to address their concerns.

But we must not try to rewrite the 1985 farm bill or offer amendments that will bust the budget. We cannot use this bill as a vehicle for other extraneous amendments.

This bill is the product of the bipartisan, bicameral task force that was set up to coordinate the congressional response to this drought.

After weeks of work, the task force put together a set of legislative initiatives that was to become S. 2631. Senator LUGAR and myself were joined by many of our colleagues in introducing S. 2631 on July 12, 1988.

The Agriculture Committee immediately held hearings on the bill and, 2 days later, S. 2631 as amended by the committee, was unanimously reported.

The report on the bill was filed this past Monday and was printed on Tuesday of this week. The bill has 46 cosponsors.

I thank Senators LUGAR, MELCHER, PRYOR, DOLE, and COCHRAN for their participation on that task force. I want to thank Congressmen DE LA GARZA, MADIGAN, and all of the House Members who participated.

The core package that was developed by that task force is the core of the bill that is before the Senate today.

I also want to thank the distinguished majority leader and the minority leader for helping us to bring this bill to the floor in this short period of time.

Mr. President, if I can impress upon my colleagues anything about this bill, it would be this:

This bill is generous; this bill is fair, and this bill is timely.

This bill is the most generous disaster relief package ever considered by the Senate. It provides disaster payments to crop producers at levels that ensure that even the hardest hit producer will receive about 50 percent of expected gross returns.

The bill will improve the emergency feed assistance programs being offered to livestock producers. We maintain the viability of our foundation livestock herds, thereby insuring that our ranchers can stay in business and that our meat supply remains relatively stable.

This bill is fair. It provides for drought assistance for producers of almost every commercial crop grown in the United States.

This bill is timely. After visiting some of the more drought ravaged States in late June, I made a commitment to our farmers that I would work together with Democrats, Republicans, and the administration to enact legislation as quickly as possible.

Our efforts here today are a reflection of that commitment. Enactment of this legislation at this time will tell our farmers that they can make it through the remainder of this tough year. Our livestock producers will be better able to make the decision between slaughtering their herds or trying to hold on.

Specifically Mr. President, the bill provides for:

Disaster payments equal to 65 percent of expected returns to producers who have suffered losses in production over 35 percent due to the drought.

A consolidation and revision of current laws providing for emergency livestock feed assistance to livestock producers who have been hurt by natural disasters.

Forbearance on and restructuring of farm loans made to producers whose incomes will be slashed by the drought.

Additional conservation measures to help repair some of the damage done by the drought.

This is not a cheap bill. But we can afford this type of relief, Mr. President, because of offsetting savings in the major commodity programs.

The increased commodity prices occurring due to the drought will make Government commodity programs much less expensive for the 1988 crop.

Throughout the development of this package, we made every effort to be reasonable and keep costs within the range that we expected to be saving on farm programs. I believe we have done so.

Mr. President, our citizens correctly expected a lot out of their Government. They expect us to help those who need it. They wish we would be frugal with their money.

They expect us to pass legislation for its substance—not for its political worth and not just for its appearances.

I am proud of the members of the Senate Agriculture Committee. They tackled this legislation in a businesslike manner.

They have refrained from loading this vehicle down with excessive legislative baggage.

They are aware that in order for this bill to move quickly, it must be a tailored, rational response to this crisis. It needs everyone's support.

Mr. President, I respectfully ask my colleagues for their support and for their restraint. We have here the most generous drought relief package ever reported by the Agriculture Committee.

This is a bold proposal. It is an equitable bill. Passage of this bill without any amendments whatsoever will provide great benefits to rural America.

As I made a commitment to the farmers whose fields I saw destroyed by this drought, I will also make a commitment to my colleagues in the Senate.

After we pass this bill, we will complete the conference in as rapid a fashion as is possible.

Hopefully, Senator LUGAR and I will be back here before you with the conference report on this bill in record time.

Mr. President, the time is short. The situation is urgent. The concern throughout the country is great. I do not want to take more time.

I yield to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished chairman. He has offered again important leadership in bringing to the floor this drought disaster legislation.

I am pleased to join with him and with Senators on both sides of the aisle, cosponsors, in bringing this important drought legislation before the full Senate.

On July 14 the Senate Agriculture Committee approved the most generous farm disaster bill in modern times. We unanimously reported this legislation just 2 days after the bipartisan, bicameral drought task force introduced its recommendations to the House and Senate.

We began this process with a goal that followed three broad guidelines.

First of all, we wanted to provide assurances to consumers of a continued supply of food at reasonable prices. I can state with confidence that there will be plentiful supplies of food at reasonable prices.

Second, we wanted to protect farm income in an equitable manner. The level of income protection contained in this bill is greater than any other relief package crafted in modern times. Most farmers with complete crop losses can expect to come out of this disaster with about one-half of their expected income had they harvested normal crops. If they have federally subsidized crop insurance they will probably come out with 75 percent or more of their expected normal income. If they have any crop at all, they will come out with income at higher prices than unhappily the drought has produced.

Third, we wanted to send a strong signal to our rural communities that they would not be standing alone in overcoming the adverse impact of this drought. We have provided very generous income relief in order that most drought-stricken farmers will have the money to pay their bills at the local hardware stores, grocery stores, and feed and fertilizer stores.

The task force package, S. 2631, was the product of at least 2 weeks of nearly round the clock work and was cosponsored by nearly every member of the Senate Agriculture Committee.

Not only did the vast majority of House and Senate agricultural members endorse the task force package, but President Reagan told a bipartisan group of House and Senate leaders that he would sign that bill "as soon as it hit my desk."

The need for this legislation is obvious. Our heartland has been devastated by a drought that may well be the worst on record. Our farm economy, buoyed by the 1985 farm bill and a lower valued dollar, had just begun the long journey to recovery after several difficult years. Economic recovery has been set back along with the hopes of many farm families. It is our hope that prompt passage of this legislation will send a strong signal to farmers in distress that the Congress and the administration recognize the severity of the drought and are acting on a bipartisan basis to alleviate the worst of its impacts.

Some will argue that this bill does not go far enough. Others will argue that the bill is too generous given our budget constraints. In my opinion, neither is true. The committee, working with the Secretary of Agriculture, has walked a fine line and has done a compassionate job of setting priorities and achieving fairness among the various commodities impacted by drought.

I am hopeful that all Senators will support the committee bill and not delay this important assistance to farmers. Farmers need to know what the game plan will be and they clearly need to know and understand the situation as soon as possible.

Let me briefly summarize the fundamental points of this bill.

First, producers of any crop who suffer crop losses in excess of 35 percent will receive disaster payments from the Commodity Credit Corporation. Those payments will amount to 65 percent of the expected return for the crop in question. For wheat, feed grains, cotton, and rice, that expected level of return is the 1988 target price. For soybeans and other nonprogram crops the bill calls for disaster payments based upon an average market price over the past 5 years dropping the high and low years. Expected yields were determined using criteria consistent with past drought relief activities.

Second, advance deficiency payments will be forgiven on crop losses of up to 35 percent of the farm program payment yield. For losses greater than 35 percent, advanced deficiency payments will be deducted from the expected disaster payment.

Our intention was to cover all crops—both program and nonprogram—and do so in fair and equitable fashion. We also tried to preserve the integrity of the Federal Crop Insurance Program by making disaster payments to those who were insured as well as those who were not.

The bill also proposes several significant changes to the Emergency Livestock Feeding Programs. Specifically, he will be given the authority to help livestock producers who do not grow their own feed. Current programs are limited only to those producers who grow their own feed.

Although dairy producers are eligible for such livestock feeding programs, there is fear that price support might be cut unduly in 1989. The committee believes that the drought will cause enormous uncertainty into dairy production estimates that the best course is to forgo the 1989 price cut until crop prices and production settle out. In 1990 the dairy production situation will become more clear.

The drought has aggravated a very serious soybean, sunflower, and oat supply situation. As a result, the bill recommends two modest steps to free up farmer planting decisions with respect to these crops.

We have authorized the Secretary of Agriculture to allow wheat, feed grain, cotton, and rice farmers to plant 10 to 35 percent of their permitted acres to soybeans or sunflowers without loss of their crop base history. Such farmers would also have the option of planting oats on their permitted acres as long as they trade wheat, feed grain, cotton or rice base for the combined oats/barley base.

The bill also calls for Federal and commercial credit forbearance so that drought-stricken farmers are not forced from the land due to circumstances beyond their control.

The drought has also destroyed many wildlife habitats in large areas of our country. The bill recommends using the 25-percent rent penalty paid by those who hay conservation reserve [CRP] land to be used in future years to improve the wildlife and conservation value of the conservation reserve land. Farmers with CRP land could cost share with the Federal Government to put permanent wildlife and conservation improvements on the CRP land.

The Secretary of Agriculture will release an important crop report in August. It is too early to predict the severity of this drought and the productions with regard to the cost of this bill are uncertain at best. However, we believe the bill is somewhat self-limiting and we do not expect the cost for disaster assistance to exceed the savings from lower target price deficiency payments.

Payment limits will also help limit taxpayer exposure. Those caps will remain at their traditional limit of $100,000 for disaster payments and livestock disaster assistance will be limited to $50,000. Producers could not receive a livestock feed subsidy and a crop disaster subsidy on the same production.

In conclusion, this bill has broad-based bipartisan and bicameral support. It is my sincere hope that farmers affected by drought will take heart from our actions and that this assistance will not be held up by protracted debate that will only hurt the drought stricken farmer who is anxiously awaiting some sign of compassion from the Congress and the President. It is our hope to move as quickly as possible with this drought relief legislation.

Both the Congressional Budget Office [CBO] and the Department of Agriculture have estimated the cost of this bill. As usual, they make different assumptions and come up with different cost estimates.

In a nutshell, CBO estimates far greater savings in deficiency payments that the USDA because they believe the corn crop is going to be about 500 million bushels lower than what USDA believes.

On the cost side, USDA and CBO are close but they arrive at about a $6 billion cost differently. Because USDA is estimating a larger corn crop, they have a lower estimate for disaster payments than CBO. USDA is higher than CBO in their estimate of livestock feed assistance.

The bottom line is that USDA believes the committee has already spend most of the savings from reduced deficiency payments and has no room to accept costly amendments. CBO, on the other hand, thinks that we have $1.8 to $2.6 billion in excess savings that could be spent on drought relief.

The estimates are very tentative at this point, but by conference we should have a much firmer fix on the cost of the original task force package and the amendments thereto. There is strong sentiment on both sides of the aisle to craft this bill in a across-the-board reductions under the Gramm/Rudman/Hollings sequester.

Mr. President, it is with pleasure that I recommend approval of S. 2631, as amended. I urge speedy consideration and hope that all Senators find that they can support the package as reported by the Senate Agriculture Committee.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will yield the floor in just about 1 minute, because I know other Senators are seeking recognition.

If I could just urge Senators and staff, if they have amendments, to come to the floor as quickly as possbile with them. It would be my intention, as soon as it appears there are not any amendments pending and Senators are ready to go with them, to move to third reading. I realize there are a number of amendments, and certainly there are Senators here already who have some. Nobody is arbitrarily going to try to cut anybody off. Because the House is moving on theirs, we are trying to move on ours, trying to send out a positive signal, and because we had a late night last night, I am trying to help as much as possible with the schedule.

So I would suggest that we probably would not look kindly to long quorum calls or anything else, waiting for people when there is not an amendment pending or somebody about to bring one up. I think it would probably be a good time to move this along. We are ready to go, and I suspect most Senators are ready to go.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I think everybody ought to be refreshed on what has happened to American agriculture over the past several years. What happened to American agriculture over the past several years, they got into a losing position, economically. Farm prices were much too low. Commodity prices were at a level where, if you raised enough of them and you did not have some help, you could go broke because you were losing money producing grains, losing money producing commodities whose prices were so low that it was below the cost of production.

Last year, something very nice hapend. Cattle prices improved. Cattle prices got up to a point last year where you made a profit and farmers and ranchers throughout America got a shot in the arm when the largest portion of the whole agricultural economy, the whole agricultural industry of the United States, saw their product; namely, cattle, climb up into a level where you could make a profit.

Grain prices, which had sunk to really dismal lows last year, showed some signs this year of recovery. Why? Because surpluses were being worked down. We are exporting more wheat, we are exporting more corn and utilizing more corn domestically than had been anticipated, so both wheat and corn prices were showing signs, and very encouraging signs, of strengthening. Still below the cost of production, but at least going up in the right direction.

So now what has happened this year as this drought is unfolding across this country, affecting so many different States and affecting so many counties in States? In our State of Montana, not all counties are in drought. About a third of the State actually looks very good. West of the divide there has been adequate rainfall. The crop levels in the forests and everything looks pretty good. There is pretty good production.

But in about two-thirds of the State, east of the divide, almost all that is in drought. In some of it there is practically no growth: No grass growth, no hay, our grain is so stunted that if you could get some percent out, 10 percent production, 10 percent able to harvest out of some fields, that is pretty good. But it varies from literally nothing to, in some areas, where you have got half a crop, some 60 percent of a crop. It is that kind of a year. And it is a very discouraging year. Because just at the time when it looked like American agricultural producers, and in our case Montana producers, were going to get their heads above water and see encouraging signs—like on their ledger books, instead of red ink see some black ink, where they actually were making a profit—for so many of those producers out there that had to be all shoved aside because drought took over.

Livestock had to be moved or had to be sold because there was not any feed. In some cases there was not any water. And it was a desperate situation and it still is.

Those are the farmers and ranchers that are immediately hit by drought. There is immediate devastation of their crops or immediate emergency steps taken to do something with their livestock in order to keep them, in order not to have to sell all of them. Perhaps moving them to some area where there is some feed, either in a different part of the State or, if you cannot do that, then just sell them, probably selling most of the herd.

And by selling most of the herd, it absolutely guarantees that there will not be any profit for them this year because it is during the summer months, when the gain that they get by the calves growing and weighing more, or the steers that they are running for gain, yearling steers that they are running for gain over the summer, when they actually gain and then there is substantially more to sell in the fall. So they lose that, any chance of a profit, and probably are in a loss situation overall right from the start, immediately when they either have to move the cattle or sell a portion of the cattle, just to be able to keep going under some limited means.

What happens to their communities? You know, this is farmers and ranchers. What happens to their communities and all of rural America is that the purchasing power within those communities goes down and the communities themselves find their small business people, service people, professional people that live in those communities, facing a dismal picture in their own economic plight because the producers, farmers, and ranchers in the area have less purchasing power. There is less activity in communities, and so their income goes down, too.

So, what we are faced with in this drought disaster bill is attempting to, first of all, help the producers, the farmers and the ranchers—the farmers that have grains, the farmers that have other covered crops, program crops; helping the livestock people that have cattle or hogs or sheep or, for that matter, poultry—helping them.

And then, if we help them we will help the communities because there will be a return of some purchasing power. The situation will not be as bad as it would have been if there were not a drought disaster bill. And, so, this is exactly what we must do. Pass this bill to help rural America.

Early on in discussions we had both with the Department of Agriculture and among ourselves on the Senate Agriculture Committee, we agreed that those who lost the most, were devastated the worst by the drought, ought to have the greatest help. It is how to devise that mechanism that we sought; to draft a bill to do just that. When we asked Secretary Lyng for his advice on how to draft the bill he stressed that you, meaning we in the community, should try to draft the language that recognized and that guaranteed that those who were most devastated by the drought would get the greatest assistance out of the bill. And we have endeavored to do that.

To the extent that we can, it is a question of judgment how far we should go in that direction. I shall have an amendment that will nudge us along that path, when it is appropriate, after we have had opening remarks from other Senators. When it is appropriate and when I have recognition I shall offer an amendment that nudges us further along that path to earmark within the bill the greatest assistance for those who have had the greatest suffering and losses from the drought.

Noboby has said that this will not cost money. Indeed, it will cost a substantial amount of money. It appears to me we are talking about expenditures out of this fiscal year, between now and October 1, of about $2 to $3 billion. That is out of this year.

Out of the next fiscal year beginning October 1, I think we can anticipate expenditures of around $6 billion, maybe a little bit less, but somewhere in the range of $5.5. billion and $6 billion in the next fiscal year.

Does that upset the budget? No. Does that add to the anticipated deficit for this fiscal year or the next fiscal year? The answer to that is no. One might ask: "That is odd; you are going to spend some money and it does not add to the anticipated deficit? You go to spend additional money that you had not planned on and it is within the budget?"

The reason it is within the budget and does not add to the anticipated deficit is because there have been improvements in commodity prices, substantial improvements, part of which is due to the drought itself. There will be less money than had been anticipated being paid out in deficiency payments to farm producers.

I will go back over that. Target prices are set by law. Target prices are those prices that are set by law that say what a farmer ought to get for a bushel of wheat is something over $4 a bushel in the marketplace. That is what the law says. That is a target price. Corn is something like $2.75; somewhere in that range. Maybe it is $2.90. But it is in that range. That is the target price.

When the President presented his budget and, indeed, when we adopted the budget resolution in Congress, we anticipated prices for corn and wheat and other program crops to be much lower than what the market price is right now.

Corn is selling for around $3 a bushel. Because that is above the target price, there will not be any deficiency payments. Farmers who have a crop will get enough in the marketplace that there need not be deficiency payments. They are above the target price. So that outlay for corn is virtually wiped out, and although we budgeted for it, it will not be necessary.

The same is true with wheat, to a certain extent. Wheat prices are much higher than have been anticipated at the start of the year when both the President presented his budget and when Congress adopted the budget resolution.

So those payments, those deficiency payments to farmers, will be much lower for these crops than they had been anticipated, indeed, for this year. Even with the additional funds necessary for some drought assistance that will be spent between now and October 1, it appears that there will be over $4 billion left over from the farm programs that we had budgeted earlier. In other words, it is in that magnitude that the shift has come. What appeared to be the situation in January, February, and March has changed that much that there will be a requirement of $4.5 billion less than had been anticipated. So that is to the plus.

Let us get back to what we are going to be spending this money for in this bill. First of all, livestock. For livestock, it will provide some feed assistance. It will sell some feed, barley or corn or sorghum, out of Government stocks at a reduced price to livestock producers who are in drought areas. That is to give them assistance.

It will provide transportation costs either to move livestock out of the drought area to better feed or to bring in the feed, like hay, in order to maintain a livestock herd.

For water development, which is extremely important in Montana and, I judge, in many other States, drilling wells, developing springs, piping water from where it is in some reservoir to another part of a farm or ranch in order to take care of the livestock, there will be cost assistance or matching costs available where the farmer or rancher puts up some money and Uncle Sam puts up some money for assistance.

That type of effective program that we have used so often in the past will be liberalized and just be available on a broader scale than any other time in the past..

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That type of effective program that we have used so often in the past will be liberalized and just be available on a broader scale than any other time in the past.

I also want to mention irrigation systems. The provisions in this bill will allow the Secretary and, indeed, direct the Secretary, or will surely point him in the right direction in a strong way to, say, enter into some grants and some loans with anybody, any association, an irrigation district or another quasi-Government group that has some need for irrigation development or irrigation repair and are in the drought area and help them do it. It is another cost-sharing arrangement.

There will be disaster loans available also. For the wheat feed grains and other type program crops, such as cotton and rice, the deficiency payments are virtually guaranteed. That is one thing. The amounts of the deficiency payments are certainly guaranteed. We call them disaster payments, but it is the same thing.

For nonprogram crops, such as fruits and vegetables, they will get some assistance, too, up to a certain point. Soybeans are the same, a nonprogram crop. Those producers will get some assistance.

I want to mention also those engaged in tree farming. The authorization is there for assistance for them also.

I think all in all that the broad range, the broad spectrum of agricultural producers across the country, wherever there is drought, can look to this bill and see whether they fit in and see whether it is to their advantage to participate in one of the many types of aid that is available under this bill.

The greatest need, to a certain extent, has already been recognized. I already indicated I will try to nudge that along a little bit more than it is in the current bill; to give those who have had the greatest loss in the drought areas the most assistance.

All in all, what we are attempting to do is just what I described at the outset. We are to help agriculture producers, farmers and ranchers who are in drought areas to get a chance to hold their heads above water economically, to maintain their operation so they do not have to be washed under; to get a chance to nudge forward into a profit situation.

They will not be in a profit situation this year in almost all cases, but at least we will keep them whole to the extent they can come back for another year; for a better year. And in doing this for farmers and ranchers, we are doing it for their rural communities, to help those rural communities have a better position economically than they have had in the past, to keep coming forward, to keep coming up economically.

All in all, I am very pleased with the outcome of this bill. I know there will be numerous amendments, and I think many of them will be very advantageous and constructive. I have no desire myself, and I will so resist, those amendments that will go to the extent of starting to redraft the Farm Act itself.

What we are doing here is a drought disaster relief bill. We will go into whatever the next farm bill will be next year. Congress can address that next year.

What we are doing this year in this bill is to give assistance to farmers and ranchers devastated by drought, to give assistance through them to maintaining power in rural communities so that rural America can continue to recover from what has been a hard, tough fight for all rural communities.

Mr. President, I yield the floor.

Mr. **LEAHY**. Mr. President, I commend the Senator from Montana for his excellent statement. He has been a stalwart and essential partner in the development of this legislation. I yield to the Senator from Mississippi.

The **PRESIDING OFFICER** (Mr. SHELBY). The Senator from Mississippi.

Mr. **COCHRAN**. Mr. President, I am encouraged that the bipartisan cooperation which brought this bill this far this quickly will continue and our farmers and ranchers will receive financial relief from the 1988 drought in a timely manner.

Getting a comprehensive assistance package to the floor this quickly required true dedication by all involved Members, and especially by the chairman and ranking minority leader of the Committee on Agriculture, Nutrition, and Forestry. The Secretary of Agriculture and the administration have been very cooperative and very involved in getting an effective and responsible assistance package put together. President Reagan has provided strong support for an effective assistance package.

Mr. President, although no legislative relief can fully compensate for a lost crop, I believe this bill provides more generous drought benefits than has ever been put together. I think it will be very helpful to our farmers and ranchers in their efforts to recover from the damages and the economic problems that have been sustained, and will be sustained, as a result of the drought.

I believe this bill meets the Joint House/Senate Bipartisan Drought Task Force objectives. The bill provides effective, but responsible, levels of assistance. I am especially pleased that the bill provides assistance to program crops as well as nonprogram crops such as soybeans and pine tree seedlings.

Mr. President, I hope Senators will be cognizant of the benefits provided by this bill and carefully weigh the potential budget consequences of additional amendments. I urge my colleagues to support this bill and work toward early passage.

It is important to note that many sectors of the American economy are suffering heavily from this drought, including the barge and towing industry.

The barge and towing industry daily carries some of America's most critical cargoes to support our Nation's industries. Annually, hundreds of millions of tons of bulk cargo travel down the Mississippi and Ohio Rivers and their tributaries, and other waterways. Over half the grain America exports travels to coastal seaports by barge. Over 20 percent of all the coal we produce travels by barge, as well as over 40 percent of all petroleum and petroleum products. Sand, gravel, ore, scrap metal, fertilizer, and other commodities essential to America's economy are also transported by this industry.

As our rivers shrink due to the drought, we become much more aware of the vital role they play in all of our lives.

We may need to consider a supplemental appropriation for the Army Corps of Engineers, and the U.S. Coast Guard to be sure the Nation's waterways are kept open.

Mr. President, there are several Senators from the committee on the floor and Senator LEAHY and Senator LUGAR, the managers of the bill, had suggested we might go from one side of the aisle to the other during the period of opening statements so that those members of our committee and others who worked on the legislation could discuss their views of it. At this point I would ask that the chair recognize a Senator from our side of the aisle, if he could, for an opening statement.

Mr. **LEAHY**. Senator BOND is here, Mr. President. I think it would make it a lot easier so Senators can plan if we do just go back and forth.

Mr. **BOND** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Missouri.

Mr. **BOND**. Mr. President, I thank our distinguished committee chairman and our acting floor leader.

Today we have the opportunity to prove to our Nation that we can and will respond to natural disasters in a compassionate and expeditious fashion. After traveling thousands of miles across parched lands to see the effects of the drought firsthand, the members of the Agriculture Committee have developed a comprehensive drought assistance package which cuts across the broad spectrum of American agriculture. While the legislation will not erase the drought's devastating effects, it does provide sufficient assistance to allow the vast majority of our farmers to farm again next year.

Having served the people of Missouri over several years, I have stood with them through many natural and manmade catastrophies. During these times, I have continually been amazed at the extraordinary courage, dedication, and compassion exhibited by our fellow Americans. Nowhere has this courage been more evident than in our Nation's farmers. While farmers lack precipitation, they certainly do not lack determination—determination to make it through this difficult time.

Last week, I had the privilege of accompanying the Secretary of Agriculture and the other members of the Interagency Drought Task Force as they toured drought-stricken farms in Missouri. While recent rains were certainly welcome, a great deal of damage has already been done. Our most recent crop report indicates that 71 percent of Missouri's corn crop is rated poor or very poor. During my visits and tours, I saw corn which looked green and healthy—from a distance. The closer you get to the corn the more the damage is apparent—stunted growth, curled leaves, and ears filled with five or six kernels. The fact that the task force made the drought tour underscores the concern and commitment which this administration has shown throughout the past few months.

The administration has played a vital role in developing this comprehensive legislation and I know all of us on the committees dealing with agriculture are very appreciative of that working cooperation.

Mr. President, when this legislation was introduced, I stated my hope along with that of the leaders of our committee that it would not become a political pawn or a Christmas tree. I am pleased to report that, for the most part, we have achieved this goal and shied from wholesale changes in current farm policy. The bill which was reported out of committee provides disaster assistance in an equitable and responsible fashion. I hope that my colleagues understand the urgency of this legislation and resist the urge to hitch a ride on this fast-moving train.

The most immediate problems caused by the drought have been in the livestock sector. Loss of forage has increased hay prices significantly. Feed grain prices have responded to reduced production estimates and decreased marketings. As a result, there have been widespread reports of severe culling and, to a lesser extent, herd liquidations. If we see this liquidation continuing we might have lower meat prices this year, but we surely face the prospect of much higher prices and limited supplies in the years ahead. The committee's legislation takes this situation into account and restructures existing feed assistance programs to make them more equitable. Throughout the past couple of months, I have repeatedly expressed my concern that feed assistance should be made available to producers whether they produce their own feed or not. While producers who purchase all of their feed have chosen not to invest in land, they have made significant investments in other areas of production, such as milking barns or farrowing houses. Although it was not the intent of the bill to provide a windfall to large livestock producers, I was pleased to support an amendment proposed by my distinguished colleage from Minnesota, Senator BOSCHWITZ, which limits feed assistance to those producers with gross revenues less than $2.5 million. This, coupled with the existing $50,000 cap, assures that assistance will be funneled to those who need it the most. While supportive of a mandatory feed assistance program which goes beyond foundation herds, I believe the bill strikes a fair compromise—one that puts the hog producer on the same field as the cattle producer.

The vast assortment of feed assistance programs should give the Secretary of Agriculture all the authority necessary to minimize the impacts unique to various geographic regions. In one area it may be wise to transport the livestock to feed while in another it may be more economical to move the feed to the livestock. With this bill the Secretary will be in a position to make these kinds of important decisions.

With regard to disaster payments, the legislation provides disaster assistance to virtually all agricultural producers once they have suffered a 35-percent loss. This goes for those who participated in the Federal farm program and those who elected not to. The payment rates have been set at a level which should allow farmers to remain in business yet not profit from the drought. The committee's amendment modifies the existing payment formula to provide additional payments to those producers who suffer the greatest loss.

While many of us have indicated concern over the possible repayment of advance deficiency payments, the committee has agreed to forgive the portion of the payment made with respect to lost production which does not exceed 35 percent.

Mr. President, one specific area which troubles me is our domestic soybean industry. In previous floor statements I have detailed the problems which put soybean producers at a competitive disadvantage with regard to various program crops. While this is not the time to chronicle once again the inequities of current agricultural policy, I would like to bring a few facts to the attention of my colleagues.

Soybeans have long been the premier agricultural export commodity—providing many jobs and giving a much needed boost to our Nation's balance of trade. In 1981, the United States exported 929 million bushels of soybeans and produced over three-quarters of the world market trade. However, our world market share dropped 14 percent last year—a 14-percent decline in a world oilseed market that is increasing around 4 percent annually. In 1979, we were the No. 1 supplier of both soybean oil and soybean meal. Today we have fallen to No. 3 in soybean oil and No. 2 in soybean meal.

My home State of Missouri produces 8 percent of U.S. soybeans. While soybeans accounted for almost 21 percent of the total value of U.S. exports in fiscal year 1987, in Missouri soybeans accounted for over 56 percent of the total value of agricultural exports.

Mr. President, given the extreme importance of soybeans to our national economy, we need to be assured that producers have the ability to plan for the market—not only our domestic market but the international market. Without changes in the near future, we could seriously jeopardize the long-term viability of the U.S. soybean industry.

This dilemma could not come at a worse time. The drought has already caused significant damage to the 1988 soybean crop and stocks are being drawn down to very low levels. According to USDA's July 12 Crop Report, soybean production is now estimated at 1.65 billion bushels, only 87 percent of earlier levels and more than 13 percent less than last year's production. Assuming a relatively inelastic demand for soybeans and soybean products, total use should remain around 2 billion bushels. With total beginning stocks estimated at 290 million bushels you can see we are facing an extremely tight soybean situation. In other words, we produce 1.65 billion bushels and we use 2 billion bushels. Will processors be forced to import soybeans? This sounds more like the Federal budget than an agricultural commodity.

The continued decline in the U.S. soybean production has been more than offset by increases in competing countries such as the European Community, Brazil, and Argentina.

Recent reports indicate that Brazilian soybean plantings could increase between 13 and 21 percent this upcoming year to a record 31.5 million acres. This alone is more than half of U.S. acreage. Production is estimated between 804 and 858 million bushels—again over 50 percent of the U.S. level.

A recent article in the New York Times says that the U.S. drought will enrich those Brazilian farmers who have not sold. The largest soybean producer in the world in Brazil said he expects to earn about 50 percent more this year. Export of soybeans has increased exponentially in Brazil, and American soybean producers are the losers.

The next time we see Juan Valdez in a television commercial, look closely at the beans he is picking. They may not be coffee beans but soybeans.

Did Juan Valdez finally realize that U.S. farm programs will minimize the risks on soybeans? Why should Juan subject himself to the fluctuations of the coffee market when soybeans offer such a low risk, high profit alternative?

While the legislation which we are debating today recognizes the problems now facing our soybean industry, it gives the Secretary of Agriculture the discretion to invoke changes which would result in additional production. After traveling with the Secretary last week, I am concerned that these changes will not be invoked. We have worked too hard for too long to let our soybean industry take a backseat to any country.

In committee, I thought we had reached a compromise to make planting on 10-35 percent of permitted acres mandatory for the 1989 crop and discretionary for the 1990 crop. Because this compromise was not achieved, I am concerned that we have not gone far enough by making the provision strictly discretionary. Although I will not offer an amendment to modify this language, I want to make my colleagues aware of the current inequities and serve notice that this situation will be closely monitored in upcoming months.

Mr. President, throughout the development of this legislation I have provided many suggestions and worked to accomodate the goals of both the chairman and ranking minority member of the committee. I did not offer amendments in committee, do not plan to offer any on the floor. The magnitude of the devastation and a real sense of urgency leads me to urge my colleagues to resist the urge to offer unnecessary amendments to the bill. We have a chance to come through for our farmers in record time—let us not blow it.

I yield the floor.

Mr. CONRAD. Mr. President, I rise to address the drought relief bill which is before us today. I want to emphasize that this drought without question is the worst drought since 1936, and it is not over. Temperatures reached 110 degrees in parts of my State yesterday. While there have been scattered rain showers across parts of the Corn Belt, much of the corn crop was severely damaged by the drought at the critical pollination time and will never recover.

Mr. President, as I have said before, across the drought stricken part of this country there is no rain, no amber waves of grain, no corn as high as an elephant's eye. And there are people who are in very serious need of help. That is why, Mr. President, this drought relief bill is so critically important.

The headlines in my own State have recently indicated that the most recent tally of the economic loss to the State of North Dakota as a result of this drought has now reached $3 billion. Mr. President, this is simply staggering in a State economy that is about $12 billion.

Another headline that recently appeared in the North Dakota news media said North Dakota could lose a quarter of its farmers. This is an estimate done by the State Agriculture Commissioner in conjunction with the estimates of the State University. This drought is a body blow to a State that has already been badly hurt by a weakened farm and energy economy.

It is in that context, Mr. President, that we have spent an enormous amount of time evaluating the various drought relief packages before us.

At an appropriate point, I will want to enter into the Record the analysis that we have done, what will happen for various levels of crop loss for various types of commodities. Suffice it to say at this point that under the package that is in front of us, those who suffer a total loss and do not have Federal crop insurance can expect to get about 44 percent of their predrought income. In other words, those that suffer a total loss, do not have Federal crop insurance, can expect to get about 44 percent of their predrought income. Those that lose half of their crop can expect to get about 60 percent of their predrought income.

Mr. President, Senators MELCHER, BURDICK and I will be offering amendments a little later today that will improve that situation. We hope and expect that those amendments will be accepted because we have a need to deal with the critical problem facing our constituents. Some are quick to say, well, many people, many farmers have Federal crop insurance. That is certainly true. Many do and many do not.

In fact, again at an appropriate place in the Record I will be entering in the level of insurance coverage under Federal crops for selected States and nationally by commodity. This study reveals that only 22 percent of all farmers in 1987 were covered by Federal crop insurance. So there is a need to go further that we have so far in the core bill.

Mr. President, the proposals that we will make will not break the bank because as has already been indicated the savings as a result of this drought will be $4.8 billion in fiscal 1988, according to CBO; in fiscal 1989, the savings will be $7.5 billion; for a total savings of $12.3 billion over the 2 years. There will be additional savings in 1990. This bill as currently constructed according to CBO has a price tag of $5.7 billion for fiscal year 1989. There are no costs, no net costs, for fiscal 1988 to match against the $4.8 billion of savings. The $4.8 billion is a net figure.

So, Mr. President, there is room for additional drought relief that would be within the budget. At an appropriate point we will be asking for those amendments to be considered by our colleagues.

At this point I ask unanimous consent to include in the Record the newspaper articles I alluded to as well as the staff analysis of the programs that have been before us, their various options and their effect on farmers; and also the list of the Federal crop insurance coverage nationally for selected States.

There being no objection, the material was ordered to be printed in the Record, as follows:

NEW DROUGHT TALLY $3 BILLION

(By Mikkel Pates)

Experts sharpened their pencils and on Friday still came up with a $3 billion loss to North Dakota's economy from the drought of 1988.

An Extension Service task force on Friday released an updated and more comprehensive view of a similar survey conducted two weeks ago. The old estimate was $2.7 billion, including a "multiplier effect" of times a farm dollar turns over in the economy. The new range is $2.4 billion to $3 billion, but includes many more things.

Losses in livestock and row crops were added to losses of small grains (wheat, barley, oats and rye).

Gains due to all-risk crop insurance, further price gains for stored crops and this year's potential row crops (corn, soybeans and sunflowers) were added to previous market information.

The economists said the western two-thirds of North Dakota has taken a substantial hit from continued record-setting temperatures and little rain, while the eastern one-third of the state gained both from timely rains and from the diversification in row crops.

Extension Agronomist James Helm reported that crop conditions have worsened significantly in the far west and the north-central part of the state, where yields now are nearly zero in some places.

"There is a widening disparity between the western two-thirds of the state and the eastern one-third," said Arlen Leholm, extension economist, adding it's a "long-term people problem" because of added financial hardship and related stress.

"I think we'll see a whole new tier . . . a second wave" of farmers leaving the land because of the drought, Leholm predicted. He said North Dakota is the hardest-hit among the states because of its crop losses and its dependence on agriculture.

Areas that improved include the northern Red River Valley, where yields still will be 30 percent less than five-year averages, and northern Burke, Renville and Bottineau counties in the northwest.

Areas that declined were west-central and the northcentral counties (southern Pierce and eastern McHenry) where farmers now can expect almost zero yields.

Crop yield reductions are now projected at durum, 70 percent; other spring wheat, 59 percent; barley, 59 percent; oats, 62 percent; corn, 10 percent; sunflowers, 20 percent; and soybeans, no reduction.

Helm said statewide yields—including abandoned acreage—will be about 12 bushels per acre for wheat, about 15 bushels for barley and in the low 20s for oats.

Quality will also be reduced although the statistics didn't specify it.

Deficiency payment losses are now estimated at $473 million, compared to a $400 million estimate two weeks ago. If market prices go any higher, another $134 million could be lost, Leholm said.

Maximum deficiency payments are the difference between a target price and the market price, as it exceeds a loan value that farmers participating in the farm program receive.

Instead of a previously projected $1.53 per bushel total deficiency payment for wheat, for example, the task force now estimates it will be 38 cents.

Leholm said it wouldn't take much further reduction of supplies to further reduce deficiency payments in all categories.

The economist called for "an early announcement" of a solution to the deficiency payment problem.

"We simply have to have it," Leholm said of replacing deficiency payments.

He could not, however, suggest a good way to provide full deficiency payments or drought-disaster payments only to the hard-hit farmers. Congress is wrestling with that problem right now.

Certain kinds of disaster payments were discontinued in the late 1970s and replaced with more government subsidy of crop insurance because of abuses. The trick, Leholm said, is to get relief to drought-stricken farmers without giving windfall profits to lucky farmers who got good crops.

Leholm noted that any program that will require farmers to "prove" their drought losses will add costs to an already burdened Agricultural Stabilization and Conservation Service.

Bob Christman, head of the ASCS in North Dakota, said county offices probably will use up their staff cost appropriations with existing programs before the Sept. 30 fiscal year ends.

The offices already have handled the additional work of approving farmers for haying of Conservation Reserve Program acres, and haying and grazing of other normally idled lands. Also, before July 15, farmers will certify their acres and report failed acreage.

Christman said there is a reluctance among congressional leaders right now to pass supplemental appropriations to handle administrative cost overruns. But, he said, as drought relief programs are passed, Congress "may add funding to handle the cost of administering the program."

Among the specific items included in the analysis:

Livestock losses are projected at $225 million and could be felt for up to three years, as many farmers have reduced their breeding herds.

The breakdown includes: $150 million in costs for extra moving, selling or feeding costs; $25 million for other than beef livestock, particularly hogs; and $50 million in lower prices for culled cows and calves.

The State has gained $105 million in the value of stored crops, but the number of farmers getting rich selling stored crops has been "greatly overstated" in the media, Leholm said.

Many of the stored crops are in the farmer owned reserve program, he said which means the government has already paid farmers a loan to keep the grain in storage. The loans would have to be paid off before the farmer could reap any market advantage in selling the grains, he said.

Row crops in the field are worth an estimated $120 million more than they were two weeks ago, because of market increases. Much of those crops still have good potential, but they need rain within 10 days to reach that potential.

Corn is reaching a critical growing stage now.

About $136 million will be paid out in crop insurance claims in the state.

If weather worsens, another survey of row crops will come in about 20 days, Helm said. If weather improves, there will likely be no follow-up.

"You people aren't going to come and listen to us talk about good conditions," Helm said, facing a cadre of television cameras.

The task force included six agronomists and 15 economists, who flew across the state and then huddled in Fargo for analysis.

Yield projections are the poorest since 1961, and before that the 1930s. Farmers in the 1930s were better able to "hunker in and live off the land" than they are today, Leholm said. He said the industry was more labor-intensive and fewer inputs were purchased.

N.D. COULD LOSE A QUARTER OF ITS FARMERS

As many as 7,000 North Dakota farmers, most of whom took up the trade in the last 10 years, could be forced out of the business because of this year's drought, state Agriculture Commissioner Kent Jones said.

"There's at least that many who are in real trouble," Jones said Thursday. "A lot of them are young farmers who got started in the late 70s."

The estimate by Jones represents 22 percent of the state's 31,000 farmers.

"If we don't get the deficiency payments, that number will climb even higher," he said.

If there were no drought, the number of farmers going out of business would have been about 3,500, Jones said.

Meantime, the Agricultural Stabilization and Conservation Service said some drought-stricken livestock farmers would start getting their government grain next week.

Farmers in Dickey, LaMoure and Wells counties received loading orders Wednesday to get government grain stored in elevators.

The Emergency Feed Assistance Program allows qualifying farmers to buy Commodity Credit Corp owned grain at 75 percent of the basic county loan rate.

Meanwhile, seasonable temperatures in the 70s and 80s throughout North Dakota replace the searing heat.

Temperatures had been hovering around the 100 degree mark until a cold front moved through the state Wednesday and Thursday.

SUMMARY OF EFFECT OF DROUGHT RELIEF OPTIONS ON FARMER'S INCOME

[Formula Assumptions for Each Option—Wheat]

Option	Percent of target	Trigger loss (percent)	Guarantee
S. 2603			$2.02
Task force option No. 1	65	35	2.75
Compromise alternative	65	35	2.75
3rd Tier: Yes	85	75	3.60
4th Tier: No	0	0	0.00

Source: Prepared by office of Senator Conrad.

TOTAL INCOME AFTER ALTERNATIVE DROUGHT RELIEF PAYMENTS

Percent of program crop	S. 2603 disaster low yield and guarantee	Percent of pre drought income	Task force option 65 percent 35 percent	Percent of pre drought income	Compromise alternative 65 percent 35 percent	Percent of pre drought income	Deferred repayment of advance deficiency on lost production over 35 percent on base	Effective income	Percent of pre drought income
Base	$11,183	100	$11,183	100	$11,183	100	$0	$11,183	100
100	10,243	92	10,243	92	10,243	92	0	10,243	92
90	9,708	87	9,395	84	9,395	84	0	9,395	84
80	9,173	82	8,548	76	8,548	76	0	8,548	76
70	8,637	77	7,700	69	7,700	69	0	7,700	69
60	8,102	72	7,097	63	7,097	63	74	7,171	64
50	7,567	68	6,739	60	6,739	60	222	6,961	62
40	7,336	66	6,380	57	6,380	57	370	6,751	60
30	7,188	64	6,022	54	6,022	54	519	6,541	58
20	7,041	63	5,663	51	5,766	52	667	6,433	58
10	6,893	62	5,305	47	5,612	50	815	6,427	57

TOTAL INCOME AFTER ALTERNATIVE DROUGHT RELIEF PAYMENTS—Continued

Percent of program crop	S. 2603 disaster low yield and guarantee	Percent of pre drought income	Task force option 65 percent 35 percent	Percent of pre drought income	Compromise alternative 65 percent 35 percent	Percent of pre drought income	Deferred repayment of advance deficiency on lost production over 35 percent on base	Effective income	Percent of pre drought income
0	6,745	60	4,946	44	5,458	49	963	6,422	57

BASIC PRICE, PROGRAM AND PRODUCTION ASSUMPTIONS USED IN THIS EXAMPLE

Crop	Wheat
Acres before set-aside	100
Set-aside (percent)	27.5
Predrought base price	$2.70
Average market price—1988	$3.50
Bushels per acre (program yield)	33.4
Target price	$4.23
USDA estimated deficiency payment	$1.53
Deficiency guarantee (S. 2603)	$2.02
Fed. crop ins. prem./acre—Low opt	$1.44
Fed. crop low option payout per bu	$2.00
Fed. crop ins. prem./acre—med opt	$2.42
Fed. crop med option payout per bu	$2.25
Fed. crop ins. prem./acre—high opt	$3.72
Fed. crop high option payout per bu	$2.60
Normal production (Bu. per acre)	38.2

Percent of program crop	Price and production					Income under 1985 farm bill			
	Market price (per bushel)	Program production per acre (bushels)	Program production per farm (bushels)	Normal production per acre (bushels)	Normal production per farm (bushels)	Market income (per farm)	Target price (per bushel)	Deficiency payment	Market and deficiency income
Base	$2.70	33.4	2,422	38.2	2,770	$7,478	$4.23	$3,705	$11,183
100	3.50	33.4	2,422	33.4	2,422	8,475	4.23	1,768	10,243
90	3.50	30.1	2,179	30.1	2,179	7,628	4.23	1,768	9,395
80	3.50	26.7	1,937	26.7	1,937	6,780	4.23	1,768	8,548
70	3.50	23.4	1,695	23.4	1,695	5,933	4.23	1,768	7,700
60	3.50	20.0	1,453	20.0	1,453	5,085	4.23	1,768	6,853
50	3.50	16.7	1,211	16.7	1,211	4,238	4.23	1,768	6,005
40	3.50	13,4	969	13.4	969	3,390	4.23	1,768	5,158
30	3.50	10.0	726	10.0	726	2,543	4.23	1,768	4,310
20	3.50	6.7	484	6.7	484	1,695	4.23	1,768	3,463
10	3.50	3.3	242	3.3	242	848	4.23	1,768	2,615
0	3.50	0.0	0	0.0	0	0	4.23	1,768	1,768

WHEAT—INCREMENTAL AMOUNTS USED IN CALCULATIONS FOR EACH DROUGHT RELIEF OPTION

Percent of Program Crop	Amount of alternative drought relief payments[1]				Task force forgiven advance deficiency payments on lost production up to 35 percent	Conrad forgiven advance deficiency payments on lost production up to 35 percent	Amount of existing deficiency payment netted out from relief payment	Federal crop insurance payment amounts (net of premium)			Task force base relief payment	Compromise base relief payment
	S. 2603 guaranteed deficiency payment	S. 2603 proposed disaster low yield	Task force 65 percent 35 percent option	Compromise 65 percent 35 percent option				Low option	Medium option	High option		
Base	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
100	0	0	0	0	0	0	0	(104)	(175)	(270)	0	0
90	312	0	0	0	0	0	0	(104)	(175)	(270)	0	0
80	625	0	0	0	0	0	0	(104)	(175)	(270)	0	0
70	937	0	0	0	0	0	0	(104)	(175)	45	0	0
60	1,249	0	245	245	0	0	(88)	(104)	97	675	333	333
50	1,562	0	734	734	0	0	(265)	(104)	642	1,304	999	999
40	1,874	304	1,223	1,223	0	0	(442)	380	1,187	1,934	1,664	1,664
30	2,187	691	1,712	1,712	0	0	(619)	864	1,731	2,563	2,330	2,330
20	2,499	1,079	2,201	2,303	0	0	(795)	1,349	2,276	3,193	2,996	3,098
10	2,811	1,466	2,690	2,997	0	0	(972)	1,833	2,821	3,823	3,662	3,969
0	3,124	1,854	3,179	3,691	0	0	(1,149)	2,317	3,366	4,452	4,328	4,840

[1] Nets out any deficiency payment due under 1985 farm bill on lost production and includes any forgiven advance deficiency payments on lost production up to 35 percent.

WHEAT—TOTAL INCOME IF FARMER HAS FEDERAL CROP INSURANCE

[Using alternative drought relief payments plus Federal crop insurance payments (net of premium)]

Percent of program crop	Guaranteed deficiency payment in S. 2603						Task force						Compromise					
	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income	Low option insurance	Percent of pre-dought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income
Base	$11,183	100	$11,183	100	$11,183	100	$11,183	100	$11,183	100	$11,183	100	$11,183	100	$11,183	100	$11,183	100
100	10,139	91	10,067	90	9,973	89	10,139	91	10,067	90	9,973	89	10,139	91	10,067	90	9,973	89
90	9,603	86	9,532	85	9,438	84	9,291	83	9,220	82	9,126	82	9,291	83	9,220	82	9,125	82
80	9,068	81	8,997	80	8,903	80	8,443	76	8,372	75	8,278	74	8,443	76	8,372	75	8,278	74

WHEAT—TOTAL INCOME IF FARMER HAS FEDERAL CROP INSURANCE—Continued

[Using alternative drought relief payments plus Federal crop insurance payments (net of premium)]

Percent of program crop	Guaranteed deficiency payment in S. 2603						Task force						Compromise					
	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income	Low option insurance	Percent of pre-dought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income
70	8,533	76	8,462	76	8,683	78	7,596	68	7,525	67	7,745	69	7,596	68	7,525	67	7,745	69
60	7,998	72	8,199	73	8,777	78	6,993	63	7,194	64	7,772	70	6,993	63	7,194	64	7,772	70
50	7,463	67	8,209	73	8,871	79	6,634	59	7,381	66	8,043	72	6,634	59	7,381	66	8,043	72
40	7,412	66	8,219	73	8,966	80	6,760	60	7,567	68	8,314	74	6,760	60	7,567	68	8,314	74
30	7,361	66	8,228	74	9,060	81	6,886	62	7,753	69	8,585	77	6,886	62	7,753	69	8,585	77
20	7,310	65	8,238	74	9,155	82	7,012	63	7,940	71	8,856	79	7,114	64	8,042	72	8,959	80
10	7,259	65	8,248	74	9,249	83	7,138	64	8,126	73	9,127	82	7,445	67	8,433	75	9,435	84
0	7,209	64	8,257	74	9,344	84	7,263	65	8,312	74	9,399	84	7,776	70	8,824	79	9,911	89

WHEAT—TOTAL INCOME IF FARMER HAS FEDERAL CROP INSURANCE

[Using alternative deficiency payment guarantees plus Federal crop insurance payments (net of premium). Compromise with deferral of repayment of advanced deficiency]

Percent of normal crop	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income
Base	$11,183	100	$11,183	100	$11,183	100
100	10,139	91	10,067	90	9,973	89
90	9,291	83	9,220	82	9,126	82
80	8,443	76	8,372	75	8,278	74
70	7,596	68	7,525	67	7,745	69
60	7,067	63	7,268	65	7,846	70
50	6,857	61	7,603	68	8,265	74
40	7,131	64	7,937	71	8,685	78
30	7,405	66	8,272	74	9,104	81
20	7,781	70	8,709	78	9,626	86
10	8,260	74	9,248	83	10,250	92
0	8,739	78	9,788	88	10,874	97

SUMMARY OF EFFECT OF DROUGHT RELIEF OPTIONS ON FARMER'S INCOME

[Formula Assumptions for each option—Corn]

Option	Percent of target	Trigger loss	Guarantee
S. 2603			$1.16
Task force option #1	65	35	1.90
Compromise alternative	65	35	1.90
3rd Tier: Yes	85	75	2.49
4th Tier: No	0	0	0.00

TOTAL INCOME AFTER ALTERNATIVE DROUGHT RELIEF PAYMENTS

	Percent of program crop	S. 2603 disaster low yield and guarantee	Percent of predrought income	Task force option 65 percent 35 percent	Percent of predrought income	Compromise alternative	Percent of predrought income	Deferred repayment of advance deficiency on lost production over 35 percent of base	Percent of predrought income
Base	$26,808	100	$26,808	100	$26,808	100	$0	$26,808	100
100	24,612	92	24,612	92	24,612	92	0	24,612	92
90	23,125	86	22,520	84	22,520	84	0	22,520	84
80	21,638	81	20,429	76	20,429	76	0	20,429	76
70	20,152	75	18,337	68	18,337	68	0	18,337	68
60	18,665	70	16,861	63	16,861	63	185	17,045	64
50	17,178	64	15,999	60	15,999	60	554	16,554	62
40	16,390	61	15,138	56	15,138	56	924	16,062	60
30	15,743	59	14,276	53	14,276	53	1,294	15,570	58
20	15,096	56	13,415	50	13,661	51	1,663	15,324	57
10	14,449	54	12,554	47	13,292	50	2,033	15,325	57
0	13,803	51	11,692	44	12,923	48	2,402	15,325	57

BASIC PRICE, PROGRAM AND PRODUCTION ASSUMPTION USED IN THIS EXAMPLE

Crop	Corn
Acres before set-aside	100
Set-aside (percent)	20.0
Predrought base price	$1.83
Average market price—1988	$2.75
Bushels per acre (program yield)	105.0
Target price	$2.93
USDA estimated deficiency payment	$1.10
Deficiency guarantee (S. 2603)	$1.16
Fed. crop ins. prem./acre—Low opt	$2.21
Fed. crop low option payout per bu	$1.25
Fed. crop ins. prem./acre—Med opt	$4.78
Fed. crop med option payout per bu	$1.50
Fed crop ins. prem./acre—High opt	$7.59

BASIC PRICE, PROGRAM AND PRODUCTION ASSUMPTION USED IN THIS EXAMPLE—Continued

Crop	Corn
Fed. crop high option payout per bu	$2.00
Normal production (bu. per acre)	120.0

Percent of program crop	Price and production					Income under 1985 farm bill			
	Market price (per bushel)	Program production per acre (bushels)	Program production per farm (bushels)	Normal production per acre (bushels)	Normal production per farm (bushels)	Market income (per farm	Target price (per bushel)	Deficiency payment	Market and deficiency income
Base	$1.83	105.0	8,400	120.0	9,600	$17,568	$2.93	$9,240	$26,808
100	2.75	105.0	8,400	105.0	8,400	23,100	2.93	1,512	24,612
90	2.75	94.5	7,560	94.5	7,560	20,790	2.93	1,512	22,302
80	2.75	84.0	6,720	84.0	6,720	18,480	2.93	1,512	19,992
70	2.75	73.5	5,880	73.5	5,880	16,170	2.93	1,512	17,682
60	2.75	63.0	5,040	63.0	5,040	13,860	2.93	1,512	15,372
50	2.75	52.5	4,200	52.5	4,200	11,550	2.93	1,512	13,062
40	2.75	42.0	3,360	42.0	3,360	9,240	2.93	1,512	10,752
30	2.75	31.5	2,520	31.5	2,520	6,930	2.93	1,512	8,442
20	2.75	21.0	1,680	21.0	1,680	4,620	2.93	1,512	6,132
10	2.75	10.5	840	10.5	840	2,310	2.93	1,512	3,822
0	2.75	0.0	0	0.0	0	0	2.93	1,512	1,512

CORN—INCREMENTAL AMOUNTS USED IN CALCULATIONS FOR EACH DROUGHT RELIEF OPTION

Percent of program crop	Amount of alternative drought relief payments[1]				Task force forgiven advance deficiency payments on lost production up to 35 percent	CONRAD forgiven advance deficiency payments on lost production up to 35 percent	Amount of existing deficiency payment netted out from relief payment	Federal crop insurance payment amounts (net of premium				
	S. 2603 guaranteed deficiency payment	S. 2603 proposed disaster low yield	Task force 65 percent 35 percent option	Compromise 65 percent 35 percent option				Low option	Medium option	High option	Task force base relief payment	Compromise base relief payment
Base	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
100	0	0	0	0	0	0	0	(177)	(382)	(607)	0	0
90	823	0	218	218	218	218	0	(177)	(382)	(607)	0	0
80	1,646	0	437	437	437	437	0	(177)	(382)	(607)	0	0
70	2,470	0	655	655	655	655	0	(177)	(382)	233	0	0
60	3,293	0	1,489	1,489	764	764	(76)	(177)	248	1,913	800	800
50	4,116	0	2,937	2,937	764	764	(277)	(177)	1,508	3,593	2,400	2,400
40	4,939	699	4,386	4,386	764	764	(378)	873	2,768	5,273	3,999	3,999
30	5,762	1,539	5,834	5,834	764	764	(529)	1,923	4,028	6,953	5,599	5,599
20	6,586	2,379	7,283	7,529	764	764	(680)	2,973	5,288	8,633	7,199	7,445
10	7,409	3,219	8,732	9,470	764	764	(832)	4,023	6,548	10,313	8,799	9,537
0	8,232	4,059	10,180	11,411	764	764	(983)	5,073	7,808	11,993	10,399	11,629

CORN—TOTAL INCOME IF FARMER HAS FEDERAL CROP INSURANCE

[Using alternative drought relief payments plus Federal Crop Insurance payments (net of premium)]

Percent of program crop	Guaranteed deficiency payment in S. 2603						Task force						Compromise					
	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income
Base	$26,808	100	$26,808	100	$26,808	100	$26,808	100	$26,808	100	$26,808	100	$26,808	100	$26,808	100	$26,808	100
100	24,435	91	24,230	90	24,005	90	24,435	91	24,230	90	24,005	90	24,435	91	24,230	90	24,005	90
90	22,948	86	22,743	85	22,518	84	22,344	83	22,138	83	21,913	82	22,344	83	22,138	83	22,913	82
80	21,462	80	21,256	79	21,031	78	20,252	76	20,046	75	19,822	74	20,252	76	20,046	75	19,822	74
70	19,975	75	19,769	74	20,384	76	18,160	68	17,955	67	18,570	69	18,160	68	17,955	67	18,570	69
60	18,488	69	18,912	71	20,578	77	16,684	62	17,108	64	18,773	70	16,684	62	17,108	64	18,773	70
50	17,001	63	18,686	70	20,771	77	15,822	59	17,507	65	19,592	73	15,822	59	17,507	65	19,592	73
40	16,564	62	18,459	69	20,964	78	16,011	60	17,905	67	20,411	76	16,011	60	17,905	67	20,411	76
30	16,128	60	18,232	68	21,157	79	16,200	60	18,304	68	21,229	79	16,200	60	18,304	68	21,229	79
20	15,691	59	18,005	67	21,350	80	16,388	61	18,703	70	22,048	82	16,634	62	18,949	71	22,294	83
10	15,254	57	17,778	66	21,544	80	16,577	62	19,101	71	22,866	85	17,315	65	19,840	74	23,605	88
0	14,817	55	17,552	65	21,737	81	16,765	63	19,500	73	23,685	88	17,996	67	20,730	77	24,916	93

CORN—TOTAL INCOME IF FARMER HAS FEDERAL CROP INSURANCE

[Using alternative deficiency payment guarantees plus Federal crop insurance payments (net of premium) compromise with deferral of repayment of advanced deficiency]

Percent of normal crop	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income
Base	$26,808	100	$26,808	100	$26,808	100
100	24,435	91	24,230	90	24,005	90
90	22,344	83	22,138	83	21,913	82
80	20,252	76	20,046	75	19,822	74
70	18,160	68	17,955	67	18,570	69
60	16,869	63	17,293	65	18,958	71
50	16,377	61	18,061	67	20,146	75
40	16,935	63	18,829	70	21,335	80
30	17,493	65	19,598	73	22,523	84
20	18,298	68	20,612	77	23,957	89
10	19,348	72	21,872	82	25,638	96

CORN—TOTAL INCOME IF FARMER HAS FEDERAL CROP INSURANCE—Continued

[Using alternative deficiency payment guarantees plus Federal crop insurance payments (net of premium) compromise with deferral of repayment of advanced deficiency]

Percent of normal crop	Low option insurance	Percent of pre-drought income	Medium option insurance	Percent of pre-drought income	High option insurance	Percent of pre-drought income
0	20,398	76	23,133	86	27,318	102

FEDERAL CROP INSURANCE COVERAGE NATIONALLY AND SELECTED STATES

The following are the precentages of crops insured nationwide at all levels for 1987:

	Percent
All crops	21.9
Wheat	27.1
Corn	18.2
Soybeans	19.4
Vegetables	27.3
Fruits	23.1

These are total crops insured in some drought States:

	Percent
Alabama	18.6
Arkansas	14.2
California	2.6
Colorado	18.8
Georgia	18.4
Illinois	10.3
Indiana	9.6
Iowa	25.6
Kansas	16.6
Kentucky	7.6
Louisiana	25.6
Michigan	3.5
Minnesota	26.0
Mississippi	18.9
Missouri	17.1
Montana	63.1
Nebraska	26.1
North Carolina	10.3
North Dakota	41.4
Ohio	5.9
Oklahoma	10.2
South Dakota	13.5
Wisconsin	3.3

Source: Federal Crop Insurance Corporation. 1988 levels of coverage are expected to be the same or slightly higher.

Mr. CONRAD. I also ask unanimous consent to include the preliminary estimates of CBO of the net savings under alternative drought relief proposals.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRELIMINARY ESTIMATES OF NET SAVINGS UNDER ALTERNATIVE DROUGHT RELIEF PROPOSALS

[In billions of dollars]

	Fiscal year—		
	1988	1989	Total
Option No. 1—Current bill:			
Baseline savings	$4.8	$7.5	$12.3
Cost of Senate bill as is	0.0	5.7	5.7
Net savings	4.8	1.8	6.6
Option No. 2—90 percent/60 percent:			
Baseline savings	4.8	7.5	12.3
Cost of Senate bill w/90 percent over 60-percent loss	.0	6.5	6.5
Net savings	4.8	1.0	5.8
Option No. 3—85 percent/75 percent:			
Baseline savings	4.8	7.5	12.3
Cost of Senate bill w/85 percent over 75-percent loss	.0	6.2	6.2
Net savings	4.8	1.3	6.1
Option No. 4—85 percent/65 percent:			
Baseline savings	4.8	7.5	12.3
Cost of Senate bill w/85 percent over 65-percent loss	.0	6.4	6.4
Net savings	4.8	1.1	5.9

Note.—Bill cost estimates use mid-points of estimated ranges.

Mr. CONRAD. I yield the floor.

Mr. LEAHY. Mr. President, if the Senator from South Dakota will withhold just 1 minute, I want to thank the Senator from North Dakota for his excellent statement. He, too, has been one who has worked extremely hard, both night and day, on the drought relief package. That is one of the reasons why we are able to bring a comprehensive package to the Senate.

Mr. President, I notice the distinguished Senator from South Dakota, who has also been one who worked extraordinarily hard on this—in fact, he invited me out to his State to see the extent of the drought damage. He has been of invaluable assistance in the preparation of this drought package. I yield to the Senator from South Dakota.

The **PRESIDING OFFICER.** The Senator from South Dakota.

Mr. DASCHLE. I thank the distinguished Senator from Vermont for his very kind and generous remarks. I would like to commend both he and our Republican leader, the Senator from Indiana, for their excellent cooperation and the kind of leadership they have demonstrated in bringing this very difficult but timely bill to the floor. Their work all the way along, demonstrating sensitivity to the need for emergency aid and a commitment to follow through with disaster assistance is a very significant part of the reason we are here on the floor today.

I rise in strong support of S. 2631, as have many of my colleagues. I believe it is the single most comprehensive and perhaps most effective approach we have taken to drought legislation in my lifetime. Far too many farmers throughout South Dakota have faced similar disasters and have memories of woefully inadequate assistance in past disaster situations. For example, a couple of years ago South Dakota farmers were forced to go to court to receive the flood assistance they were entitled to under the law. Contrary to these past situations this legislation does address the need and it addresses that need in a comprehensive and very effective fashion. Part of the reason it does is because of the strong bipartisan support we have seen throughout this process. It is no accident this morning that we see the Democrats and the Republicans rising in support of this legislation.

The reason is simple. There is a hurt throughout the country and a hurt greater than anything we have experienced in agriculture in my lifetime. In South Dakota, two-thirds of the State is critically short of topsoil moisture. We have lost more than 1 million acres of topsoil thus far. All but four counties in my State have already been approved for some form of disaster assistance, and each day South Dakota experiences a loss of about $30 million in crops. The loss is already expected to exceed $800 million.

The most important provision of the bill before us, in my view, is the one that has already been addressed by a couple of my colleagues, and that is its very comprehensive nature of its assistance. It attempts to address every segment of agriculture. It reforms procedures by which emergency livestock feed programs will be administered. It brings all these programs under one procedure, which should have been done a long time ago. It requires the Secretary of Agriculture to respond within 30 days to a State's request for assistance.

S. 2631 also contains the comprehensive program for reimbursement of crop loss and it provides equitable disaster payment and efficiency payment provisions.

The bill also contains provisions designed to encourage forbearance on loans and waives the 50 cents per hundredweight price support reduction scheduled in January.

There is a significant provision in this bill that was proposed by the Governor of South Dakota, and has now been supported by a number of other Governors, which would provide for additional financial flexibility for those producers who are currently enrolled in the Conservation Reserve Program. Under my amendment in this bill, those who are enrolled in CRP will be able to consolidate their loans and advance their financial positions through the utilization of greater flexibility of payments through CRP.

There is one provision in the bill that has been misreported and misunderstood all the way along. I want to take a couple of minutes to explain that provision and set the facts straight.

It has been reported that a provision in this bill to sell Government-owned grain is a giveaway to the largest ethanol producers in the country. I must tell each of my colleagues that nothing could be farther from the truth. Ethanol plants save $600 million a year in price supports. It displaces 1.6 billion gallons of foreign oil, not to mention the tremendous environmental attributes it has. In many of our environmentally impacted areas, ethanol has been advocated by the EPA and State officials to ensure that air quality is improved.

The rapid rise in corn prices because of the drought has devastated the ethanol producers who are providing these advantages to our environment and the economy. Already, some plants have closed because of this dramatic increase in price and the potential shortage of grain. We could lose many more before the end of this year.

This provision contains a strict targeting mechanism by limiting the sale of Government grain to 2 million bushels per month. I emphasize that this is not a giveaway. This 2 million bushels of grain is going to be sold at 110 percent of the loan rate. The loan rate on corn currently is $2.21. Add 10 percent to that, given the market price today of $2.53, and we have a difference of about 10 cents a bushel. In addition, these ethanol producers will have to pay both transportation, handling, and shipping costs.

While this provision will supply all the needs of the small- and medium-sized ethanol producers, it provides less than one-fifth the need of the largest producer, which currently provides 75 percent of the ethanol market. Thus, it should be obvious that this provision was designed primarily to keep small ethanol producers alive.

Should small plants fail, the larger producers will be the beneficiaries. It is clear that the large producers will survive this drought. What is not clear is whether the smaller ethanol producers can survive.

In addition to targeting, this amendment requires all animal feed by-product produced by CCC corn sold to ethanol producers be sold to domestic livestock producers. Currently, 85 percent of the corn feed meal and 35 percent of the distillers' dried grain are exported.

Finally, the Secretary of Agriculture is given the authority to terminate this program if it is no longer necessary. I have heard it argued that this provision could create a shortage of grain for drought-stricken livestock producers. Once again I emphasize that this fear is based more on fiction than fact. The fact is that the 192 million bushels of corn that this program could use will give us tremendous opportunity to keep the industry on its feet.

I hope we can separate fact from fiction and that in the process of addressing the drought and those who are the victims of it, we can help all aspects of agriculture. We are facing a disaster in ethanol production today.

There is one other issue I wish to address before I close, and that deals with the underlying philosophy of the bill that we address only this particular disaster.

In South Dakota, 4 years ago, many of our farmers were devastated by a ravaging flood that left thousands of them without any opportunity to produce grain for an entire year and in some cases 2 years.

I had anticipated offering an amendment which would have mandated disaster payments to those who were stricken by the flood and still have not received those benefits.

As a result of negotiations with the Department of Agriculture and as a result of their willingness to work with us, I am encouraged that we can address the needs of those producers without specifically writing into this legislation any additional provisions for the problems experienced by that disaster in 1984.

Mr. President, farmers have said that a good drought bill ought to have three things. It ought to require an understanding that this drought is as serious as any that we have experienced. It ought to recognize that it has hit the breadth of agricultural productivity from livestock to grain, and it should be expeditious.

As we consider this legislation today we have addressed those three concerns. This is a serious substantive piece of legislation. It does recognize the breadth and width of the drought for all producers. If we pass it today it will be expeditious.

Mr. President, before I yield the floor, it is my understanding that the manager of the bill has indicated a willingness to accept amendments that have been worked out, and it is under that understanding that I send an amendment to the desk.

Mr. COCHRAN. Mr. President, reserving the right to object, and I do not object, I am not going to interfere with the Senator's sending an amendment to the desk, but we do have other Senators who have come to the floor to make some opening statements. I wonder if the Senator could withhold for a moment until they conclude the opening statements.

Mr. DASCHLE. I would be happy to.

Mr. LEAHY. Mr. President, because at the moment there were no Senators who wished to make opening statements, the Senator from South Dakota asked if it might be a good time to bring up his amendment. I suggested to him that it would be.

But now that there are other opening statements to be made, if the Senator would be willing to withhold, it would be a good time.

Mr. DASCHLE. I would be happy to defer, and I will withdraw my amendment and offer it at another time.

Mr. LEAHY. The Senator from South Dakota shows his usual courtesy and cooperation, and I apologize to him because I was the one who had suggested that he bring it up at this time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I say to my friend from South Dakota that my opening statement is not very lengthy, and he may be able to offer his amendment shortly.

Mr. President, like a great many Members of this body who represent States that are heavily involved in agriculture, I toured my State a couple week ago and the devastation was not unlike that experienced in most places throughout the Farm Belt in this country.

About the only good news I can say with reference to Kentucky is that our principal cash crop, tobacco, may not be as devastated as the other crops because the rain we received last week comes at a good time for tobacco.

But if you look at corn the story is very much the same as it is throughout the Farm Belt and certainly the soybean crop is severely damaged.

So, we are here today to work on a most important piece of drought assistance legislation.

Obviously we need to act quickly.

Both the chairman and ranking member of the Agriculture Committee, Senator LEAHY and Senator LUGAR, deserve recognition for their efforts to craft a compassionate and responsible disaster relief measure. They have worked in a truly bipartisan manner and I commend them for their leadership and responsiveness to the needs of this Nation's farmers.

As I indicated, 3 weeks ago, I traveled across the Commonwealth of Kentucky and met with farmers who were affected by the drought. These were men and women who, just a few short months ago, thought this might be the year they would finally get a chance to get ahead. One can imagine the despair and frustration these people related to me as we stood in a parched field of stunted corn. These were good businessmen and women, caught in forces beyond their control, faced with the prospect of losing their livelihood.

The rains of the past few weeks have greened things up a bit and have eased the dark spirits of many of these farmers, but the damage, for many crops, has already been done. Instead of a year to get ahead, this will prove for many a year simply to survive.

Corn growers in my State, as across the Nation, are faced with the possibility of a near total loss. Hay producers may make a small crop, but early cuttings have been lost, and yield is way down. Small farmers attempting to diversify into vegetable or fruit production have been equally devastated. Livestock farmers, additionally, have faced skyrocketing feed costs and have watched profit margins dry up with their pastures. Given these conditions, the question in Kentucky farmers' minds has turned from "can I make a profit this year?" to "can I stay in business this year?" The story is the same across the country, and I am certain many of my colleagues share my deep empathy for these good men and women.

The legislation before us today provides a solid response to the terrible crisis these farmers are facing. Through ensuring farmers who are impacted by the drought a stream of income, it will allow these farmers to hold on for another year. It expands eligibility for the emergency feed programs to those who do not grow their own grain. It cancels authority for the $0.50 reduction in dairy price supports scheduled on January 1 of next year. It encourages Federal farm credit institutions to exercise forbearance in dealing with troubled farm borrowers. The bill utilizes farm program savings resulting from higher farm prices. This is not a boondoggle bill. Rather it is a responsible and compassionate response to a tragic situation across the country.

Once again, I encourage my colleagues to support this legislation. More importantly, however, I encourage swift action on this bill. While we should, of course, ensure that the provisions are carefully and adequately drafted, we should also be aware that our farmers are looking to Washington for reassurance that they will be protected through this difficult time. Farmers need our assistance, and they need it quickly. I would hope that today's deliberation and the House/Senate conference could be conducted with the sense of urgency which this issue deserves.

In closing, I again thank the distinguished chairman of the Agriculture Committee and the ranking Republican for the spirit of bipartisanship which has hung over this entire measure. We have acted quickly in the Agriculture Committee, and I hope that the full Senate will do likewise.

Mr. President, I yield the floor.

Mr. BURDICK. Mr. President, today we send an important signal to our farmers and ranchers that there will be Federal assistance this fall. For my State of North Dakota, this will mean saving many of our farmers and ranchers who would have been lost without this assistance.

As I have traveled throughout North Dakota this summer, I have witnessed devastation of crops and pastures. I have seen the look on the faces of our farmers and ranchers. It is a look of uncertainty and of worry. Now, with this bill, these people will have hope that they can survive this drought. They will have hope that they will still be on their land next year.

I commend my colleagues, Senators LEAHY and LUGAR for shepherding this bill through the legislative process in record time. I hope that my colleagues will join in support of this bill.

AMENDMENT NO. 2725

(Purpose: To improve Indian participation in drought assistance programs)

Mr. DASCHLE. Mr. President, if there are no other Senators wishing to make opening statements at this moment, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] for himself, Mr. BURDICK and Mr. CONRAD proposes an amendment numbered 2725.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 17, strike out "or".

On page 40, line 3, insert "or" after the semicolon.

On page 40, between lines 6 and 7, insert the following new subparagraph:

"(C)(i) any Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)));

"(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.) (commonly known as the 'Indian Reorganization Act'));

"(iii) any tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); or

"(iv) any economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (25 U.S.C. 1452(e))).

On page 41, between lines 4 and 5, insert the following new paragraph:

"(5) The term 'area' shall include any Indian reservation (as defined in section 335(e)(1)(D)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(D)(ii))).

Mr. DASCHLE. Mr. President, I rise today to offer an amendment to the Drought Assistance Act of 1988. This bill is a comprehensive and important proposal, providing assistance to both livestock and grain producers. My amendment would make certain that the assistance and the provisions of the bill are offered to Indian operators and Indian tribes.

Under current law, Indian tribes can apply for assistance under existing Federal programs for livestock producers. This amendment makes certain that they will continue to be treated in the same manner as other producers and farming organizations once the changes called for in the bill are enacted into law.

All operators have clearly suffered from the drought. However, the drought has particularly impacted Indian livestock operators, primarily because of the lack of available credit for these producers. As of June 18, 60 percent of Standing Rock Reservation's ranchers had no supply of feed grain on hand for this summer's feeding of livestock. Seventy-one percent of the reservation's ranchers will be forced to sell or cull their livestock herds because of feed shortages. To ensure the continuation of Indian tribal ranches, it is imperative that Federal disaster assistance be continued to Indian tribes and operators.

My amendment would accomplish two objectives.

First, it would allow Indian tribes to receive feed through title I, the emergency livestock assistance provisions in this legislation.

Second, my amendment provides that Indian tribes on reservations, like any other area, could appeal directly to the Secretary of Agriculture for assistance. Reservations would be considered as an area for purposes of activating the emergency livestock programs.

For that reason, I urge the adoption of this amendment, which will make certain that tribes are fully covered by the provisions in S. 2631 for emergency feed assistance.

Mr. COCHRAN. Mr. President, the amendment offered by the Senator from South Dakota clarifies that Indian tribes are eligible to receive assistance under the Emergency Livestock Feeding Program.

We have reviewed the amendment on this side of the aisle and recommend its approval.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the Senator from South Dakota makes a good and cogent argument for this amendment, and I am certainly in favor of it. I urge its adoption.

Mr. DASCHLE. I thank both Senators and urge its passage.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I add my voice to those supporting this amendment. It is critically important for the Indians of my State who have been devastated by the drought and who are having to sell off some of their foundation herds in order to get through this period.

I commend the Senator from South Dakota for taking the lead on putting this amendment together. It is of great assistance to the people of my State as well.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2725) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, if no other Senator is seeking recognition, let me make a few comments about a few of the provisions of this bill that might be of interest to Senators generally.

We know that this legislation is designated primarily to benefit producers, producers of agricultural commodities. We made a very strong effort to ensure that it applies fairly and equitably to the broad range of agriculture producers; that is to say, we did not single out just those who have income protection under the 1985 farm bill, the program crop producers. Those who produce nonprogram crops, such as soybeans or pine tree seedlings, are covered under this drought relief legislation.

The bill also provides very helpful assistance to livestock producers. It creates an opportunity for access to the Commodity Credit Corporation for surplus stocks at a discount to try to help farmers recover from some of the damage caused by this drought.

There are others, too, that are adversely affected by the drought—businesses in rural areas, agribusiness. We encourage the availability, through the Farmers Home Administration under the old Rural Development Act, of loans and other benefits that are authorized to help businesses recover from the adverse consequences of this drought.

I happened to be in my State the other day, Mr. President, and had an opportunity to go aboard a Corps of Engineers boat and tour the river at Greenville, where it has shrunk, not only in width, but in depth, as a result of this drought, causing a backup of barges and making it very difficult and certainly more costly to transport grain to market from the farms throughout America. This industry is suffering as a result of the drought.

We need to be sure, through the Appropriations Committee, that sufficient funds are available for the balance of this fiscal year to ensure that the low places in the river, the trouble spots, are kept clear so that traffic can continue to move. The barge and towing companies are providing very meaningful assistance to the transportation needs of our country, and we cannot afford to let this drought create an insurmountable problem for getting grain to market. We need to keep a careful eye on this situation.

I asked the Corps of Engineers to provide a report on the additional expenses being incurred in keeping the river open so that we will know if there is any need for supplemental appropriations for the balance of the fiscal year. We are going to keep an eye on that as well.

This is a comprehensive bill. It is comprehensive in its application, and it involved both the administration and the Congress in its development. I think the reason we are here today considering this bill is that the administration was involved from the beginning, through the Secretary of Agriculture, in our joint House-Senate task force, which met regularly, reviewed reports about the extent of the damage, and determined what needed to be done by the Government to relieve the damages of the drought. That was the predicate that was laid for the development of this legislation. It became obvious that a disaster relief bill was needed, and one was drafted on the basis of the recommendations of the task force.

I am glad we were able to work in such a bipartisan and harmonious way in the development of a bill, and I am optimistic that undergirding relationship here in the Senate and in Congress will lead to final enactment of the drought relief bill. I am delighted with the progress we have made and with the success that has been achieved. I look forward to timely approval of the bill and its enactment into law with a signature by the President.

Mr. HARKIN. Mr. President, I am pleased to support this bill and give my whole hearted endorsement because of the significant help it will provide to farmers in my State and across the Nation who have been hard hit by the worst drought in over 50 years and perhaps 100 years. This bill fulfills the promise we made to farmers and rural communities that we would not abandon them in this time of natural disaster and economic emergency.

There are two main goals of this legislation: maintaining farm income and preserving livestock herds. These two factor are the economic lifeblood of rural communities. The bill includes an important title improving and expanding the emergency feed programs for livestock. For crop losses it is significant that the bill provides comparable assistance across the board—including crops that are within Federal farm programs and those that are not.

The principle that has guided this bill is that money saved by the Federal Government because of the drought should be fully utilized to maintain farm incomes. I hope that principle will prevail as we debate the bill today. We should not try to save money that has already been committed to the farm sector.

I think it is particularly important to note that farmers who wisely purchased crop insurance will get a higher level of compensation than those who did not. And I believe that is the correct course. I have maintained thoughout the crafting of this bill that the Federal Crop Insurance Program must not be weakened. We must indeed increase crop insurance participation.

I wish to commend all Senators and their staffs for their hard work on this bill, especially Senator Leahy, the chairman of the committee, and Senator Lugar, and all the other Senators. This bill has been worked out on a bipartisan basis through compromise and negotiations. I especially want to thank the majority and minority staff of the Agriculture Committee for their extraordinary effort on the bill. I also commend Secretary Lyng and the Department of Agriculture for their cooperation in putting the bill together.

Naturally, as I am sure most of us feel, there are some provisions that I disagree with. For the record, I wish to mention a few of these disagreements. They are not enough to get me to not support the bill. I wish it had been different, but in the spirit of compromise, I understand that is the way we have to work.

First, I believe the definition in section 101(a) of the bill at page 40 should more clearly have included feed premixes and protein meals within the Emergency Livestock Feed Assistance Program. Many farmers mix their own feeds on the farm. They should be treated the same as farmers who purchase complete feeds. In other words, under the Emergency Livestock Feed Program, if you are a farmer and you go out and buy your feed and it is already premixed, you are eligible. But if you buy your feed and then you go out and buy your additives and your protein and mix it on your farm, then you are penalized. I wish that could have been changed.

I understand that the House-passed bill has a provision in there that does address this. There may be some slight problems with it. I am assured by both minority and majority staff that this could be worked out, hopefully, in the conference committee.

Second, I believe that subsection 303(b) at page 71 of the bill should not have been included. That provision prohibits the Secretary from paying storage or forgiving interest charges for the remainder of the marketing year on wheat or feedgrains that the Secretary may allow into the producer reserve during the 1988 marketing year. I see no reason to so limit the Secretary's ability to provide incentives for entry of grain into the producer reserve, nor do I see a need to alter the basic statutes governing the reserve program. Basically, this provision included in this bill changes a major provision of the 1985 farm bill, something that we did not want to do in this drought bill. I believe we should allow the producer reserve mechanism to work without tinkering with it in this bill. There has been a general consensus as I said, that the drought bill should not become a forum for rewriting the 1985 farm bill. This provision goes back even farther to change the producer reserve which has been in effect, if I am not mistaken, since 1977.

Mr. President, this drought bill provides significant and critical help to farm families and their communities. Thousands of farm families will be enabled by this bill to stay in business and remain in their communities. It is a bill that is needed. I hope that we have expeditious action on it in the Senate and that we can get the conference committee to work rapidly on it and get it down to the President for his signature.

I certainly encourage and urge all Senators to vote in favor of the drought assistance bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I rise, also, in support of the bill that has been crafted, not only in a bipartisan manner but in a bicameral manner by both the House and the Senate at one time.

Indeed, the executive, the Secretary of Agriculture and others have been involved in it as well. So I think the bill can be rapidly passed in both bodies; hopefully so. I understand there are a large number of amendments here in the Senate but I hope it will be passed rapidly.

I know that it will be acceptable to the administration, certainly in the form that it is coming out of this body, and then it will be signed and we will be able to move forward.

Mr. President, it is the broadest drought relief bill that the Congress has ever passed and yet it is a bill that will not increase the budget deficit. It is a bill that will redirect moneys that would otherwise be in the agricultural system in the event that we had had a more normal year.

In addressing the budget and in estimating what the cost of agriculture would be for this fiscal year and the next fiscal year, certain price assumptions had to made. The price assumptions were quite low.

Because of the drought and because of the scarcity of some of the commodities or the lessened amounts of those commodities, prices have risen very substantially; therefore, Government programs on program crops will of course go down very substantially. The CBO estimates by about $7.5 million.

This drought relief bill will not use all of the money that will be saved in the budget and, therefore, hopefully will improve our deficit position. But it will, indeed, redirect money. It will redirect money that would have gone to the general farm community, now to be directed toward those who have had drought damage.

Of course, 35 percent of the farm damage is assumed by the farmer as it should be assumed by the farmer and I will describe some of the details of the bill as I am sure has already been done on the floor in greater detail, in a moment. I have never seen a drought of this magnitude. As a matter of fact, in my lifetime there has not been a drought of this magnitude. So I wanted to get out and I wanted to see it and I made quite an intensive tour of my State of Minnesota.

I was, in the last 2½, 3 weeks, in 62 of the counties. I saw the worst experiences, perhaps, of the drought in the northwestern part of our State. And I saw more very good crops in the southeastern and south central portion of our State. Not every county is impacted severely by the drought. But yet every county is impacted by the drought in some degree. Many farmers in our State will not be collecting under this bill because their loss is not 35 percent. On the other hand, many farmers will have no crop at all.

When I was in the northwestern part of our State, a town called Hallock, up near the North Dakota border I went out to a field—it was not a particularly good field in general—but I went out into a field and saw no crops at all. The weeds were not even growing very well. And this is a county where much of the land has already been turned over, where the crops have been so sparse as there is no purpose even in trying to harvest them. That is, it makes more sense to control the weeds and perhaps set the ground in such a manner that it retain the moisture in the event some is forthcoming.

I stood outside in Graceville, MN, in Thief River Falls, MN, when it was 106 degrees, wind blowing in from the Dakotas, and it was like taking a hair dryer and holding it in front of your face and just holding it there. It was a hot, dry wind that, indeed, practically caused the crops to wither before your eyes.

It was a sad sight to see some of the corn up in St. Cloud, in the central area of Minnesota, where there will be no yield whatsoever from corn. And yet in other parts of the State the yields will be pretty good.

The drought has really hurt. It has not only hurt the farmers. It has hurt all of rural America. I have taken the time to call some merchants, some national merchants and some local merchants to see how their business is; to see whether or not they are impacted as well and, indeed, they are. This drought is having an impact not only on the farmers but on all of rural America. And, of course, the purpose of this bill is to see the cash flow continues throughout rural America and that is very important.

So, as I said, Mr. President, I had never before witnessed a drought of this intensity. It was important, in order to legislate properly, to get out and to see it and to get on the ground and to stomp across the fields and to just get a sense of it, not through the windshield or not by flying over because, really, when you fly over—I know on July 4, before I started that drought tour, I went to a series of parades around Minnesota on July 4, and I took a helicopter and I noted how green the crops look, but when you get down on the ground that greenness is quickly dissolved into disasters in many of those fields and no crops at all.

Mr. President, as I noted, there will be substantial savings, budgetary savings made because of the heightened prices of commodities. The results of that will be that the money that we save will be redirected into those rural communities where the drought has had the highest impact.

The drought package, Mr. President, can be divided into two parts, the part that affects crops and the part that affects livestock. The part that affects crops I think are fair provisions, provisions that are more generous than we have ever legislated before, but yet are fair, not overly generous.

The first 35 percent of the loss as I have indicated is carried by the farmer, as it should be. In the event that the program crop and deficiency payment has been prepaid, in that case the farmer would keep that deficiency payment and that would account, in the case of corn, which is far and away the largest crop, for 5 of those 35 percent. So in reality the farmer is standing only the first 30 percent. Of the balance of the crop, the remaining 65 percent, the drought relief package would give the farmer 65 percent of the loss. In other words, 65 times 65 or 42 percent, roughly, of the entire loss.

If you add those two figures together this bill would pay a farmer approximately 47 percent of what he would have received in a normal year for the crop. That is a generous support, in my judgment, by the Federal Government. And it is an adequate support to see that those farmers can make their way through this very difficult year.

As I went around to these farm hearings, and in the final analysis I held 62 of them, and talked to, really, thousands of farmers—perhaps 4,000 or 5,000 farmers, perhaps even more than that at these hearings. I most often asked whether or not the bill was adequate in their judgment. When you talk to 4,000 or 5,000 farmers you do not get absolute unanimity, but almost.

I would say that not more than half a dozen farmers said that this was not enough; that this was indeed adequate. As a matter of fact, most, indeed, volunteered that this was a good program that would allow them to get through a very difficult year.

The program applies not only to crops, it also supplies to nonprogram crops, be it blueberries or strawberries or potatoes or lettuce or tomatoes—whatever. It applies to all crops.

In addition to applying all crops it applies to all farmers. Farmers did not have to be in the program for the purpose of being the beneficiaries of this drought disaster package.

This is a very broad program in the crop area and, indeed, gives substantial relief. There was a good deal of talk about Federal crop insurance, Mr. President, and there was some thought that perhaps Federal crop insurance should be opened up once again.

I objected to that. I did not think one should be able to buy insurance when the barn is on fire, so to speak, and that those people who excercised prudence in advance of the events should not be penalized. So that the payment, the disaster payment, will not be lessened in the event that somebody has crop insurance.

The livestock provisions, and I will not go into them at length, Mr. President, are somewhat more controversial.

I do not think it is clear yet what the livestock provisions will be at the termination of this entire legislative process. The question of whether or not feedlots, or those who are just feeding animals, should be included is a real one. That would increase the cost of this bill, and perhaps not justifiably so, inasmuch as farmers who produce their own crops and who really have experienced a loss but who have crops in their bins from either previous years' productions or perhaps whatever they produce this year, would be docked, would be penalized by what they had in their bins. And people who have feedlots, people who only feed and perhaps have just a nominal amount of feed around would not suffer such a penalty.

So by investing in land and by investing in the variable cost of production, by investing in those things that are basic to farming, the farmer would, indeed, penalize himself or herself on the basis of the livestock provisions.

Mr. President, the bottom line is, I think we are acting responsibly, not only, as I say, have we acted in a bipartisan manner, but, indeed, in a bicameral manner. I cannot remember having participated in such a procedure before.

I compliment the chairman of our committee, the ranking member of our committee, and, indeed, the chairman and ranking member of the House Agriculture Committee. I join in with those who have expressed their confidence and compliments to the Secretary of Agriculture who has stayed ahead of the things in this whole business and has, indeed, been helpful in bringing us together.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I want to say I appreciate the kind words of the Senator from Minnesota. It truly has been an effort where everybody on both sides of the aisle in both bodies have worked very hard. The emergency is real. I think the remedy is, too.

I see the distinguished senior colleague of the distinguished Presiding Officer on the floor seeking recognition, and I will yield immediately to him.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I want to congratulate the chairman of the Senate Agriculture Committee and his very competent staff for the leadership that they have shown relative to expediting this legislation. I do not think there is any question that Senator LEAHY has been the motivating force, the No. 1 force in the Congress, and that includes the House and the Senate, in endeavoring to approach the problems of drought assistance in an orderly, expeditious, and humane manner.

We have, in the past, had drought assistance. Senators would introduce amendments on the floor to bills or attempt to bring them up and, unfortunately, partisan politics would take place. There would be jockeying for position. It ended up that the farmers did not get the relief as expeditiously as the farmers needed it and the legislation would get bogged down in conference.

This time, however, under the leadership of Senator LEAHY and the ranking Republican Senator on the Senate Agriculture Committee, Senator LUGAR, they got together and worked and then got with their counterparts in the House and got with the Secretary of Agriculture and have reached a basic agreement as to the broad, general outlines of what a drought assistance bill ought to contain.

It has to be kept within the budget, and they analyzed expenditures into the field of agricultural assistance in the farm bills that we have.

Of course, from a very careful accounting analysis, aided by CBO and the OMB, they realize that because of reduced harvest and because of some effects of the drought from previous years and other factors, that there were some sums available that could be used without going beyond the budget to assist the farmer in this great time of need.

Senator BURDICK, the chairman of the Senate Agriculture Appropriations Subcommittee, likewise, has worked with this group. Senator BURDICK has provided leadership and has been a catalytic agent in expediting and bringing this bill to the floor at a time when it can help farmers before the harvesting season and to have a good approach toward the problems that confront farmers.

There have been numerous members of the Agriculture Committee whose areas were particularly hard hit, such as Senator MELCHER of Montana, who took quite a lead and has brought about provisions in the bill which particularly are helpful to the farmers in his State and in the northern part of the Great Plains of the United States.

I can say the same words about Senator CONRAD, Senator DASCHLE, and other members, and certainly Senator BURDICK was involved. While not a member of the Agriculture Committee, Senator BURDICK's expertise in the field of agricultural appropriations and his knowledge of the problems of farmers has been a tremendous help in bringing this bill to the floor at this particular time when it can be very helpful.

There have been numerous other people who have faced regional problems, we in the Southeast having now faced 4 drought years. The drought year in 1985 was not as bad, but some counties were affected. But 1986, 1987, and 1988 have been disastrous years for the Southeastern States. I feel like the provisions contained in this legislation will do much to help them and to recognize some long-term approaches toward endeavoring to reduce the devastating effects of the lack of water as it applies to agricultural crops and to the livestock that is grown in this area.

I think we have an excellent bill. Just, for example, in livestock, while there were many provisions that existed that were discretionary, such as 50 percent reimbursement of feed grains to those livestock producers when drought occurs, where there was discretionary authority to allow the sale of CCC stocks of feed grains for livestock, where there were programs dealing with hay transport assistance, emergency stock water assistance, feed transport assistance and livestock transportation assistance, as well as commodity catalogs and other programs that were designed. These programs are now required relief when a country becomes declared as a disaster area.

The programs also allow for the fact that you do not have to grow your own feed, as was a provision in the previous drought bills. It has much broader coverage of foundation stock, covering poultry, hogs, catfish, cattle, other aspects of livestock or animals which are so dependent upon the feed grain. And whether or not they will have a successful agricultural year relative to their particular livestock depends greatly on the cost of feed grains which are unquestionably affected by drought.

Now, I will not go into all of the detail of the provisions of this bill, but for row crops, the program crops, it seems to me this legislation provides a very realistic approach. There have been various charts and illustrations that have been brought before the Agriculture Committee that I hope Senators like Senator BOSCHWITZ will make a part of the RECORD. But basically after you get above the 35 percent disaster destruction area, then it pays at 65 percent whole basis. I think this is a very proper approach.

The bill also encourages the purchase of crop insurance. It does not allow for a bonanza so that those people who had crop insurance would get more than what they normally would have had in a good harvest year, but it is well structured; it is well balanced.

For anyone who thinks agricultural economics is a simple subject, I suggest they study a bit more. It is almost like learning Latin or some foreign language, to be able to comprehend the various terms that are used and to understand the interrelationship of various factors and the crops that are very much involved.

The issue of advance deficiency payments has also been taken care of. There is a cap of $100,000 for any person. It does not disturb the payment of the deficiency payments which are previously allowed under the farm bill.

I think altogether it is an outstanding bill that has been put together and it is being brought forth when time is of the essence. It is absolutely necessary that we move on this legislation and move fast.

I would like to pay a little attention to a provision that I advocated be put into the bill which deals with water management. We have had now in the Southeast droughts for 3 and 4 years in some areas. This has caused many problems. There is no question that in the Southeast, in many sections including my home State of Alabama, we are going to have to go toward encouraging some irrigation as a long-term solution to reoccurring drought. We have a number of water authorities which have been brought about by programs under the Farmers Home Administration. Many of those are fragmented. Many are within a county. I think in my home county there are 8 different water authorities. Many counties have countywide authorities. But they need to be able to come together in a cooperative program in many localities to provide water for drinking purposes in drought periods, and they can also be used to help with regard to irrigation.

The language of this water management section is broad. It is flexible. It gives a great deal of leeway. It authorizes many different types of Government entities to become involved. We envision that they can come together in a confederation to issue bonds, make pledges of revenue, and develop systems from water piped from wells or piped from rivers and other water collection areas such as watersheds. It provides that there can then be programs developed through regulations promulgated by the Secretary of Agriculture, designed so that water can be transported or transmitted in cooperative efforts. The language is broad and structured in such a manner that it can help meet some of the problems we have as well as problems existing in other parts of the country.

Now, there are also other problems that arise with drought. For example, drought brings, in many instances, insects and various types of problems that come from insects. I understand, for example, in the Dakotas and Montana there is a siege of grasshoppers. In 13 counties in my home State today we have a tremendous problem with beet army worms. We think the language is broad enough to allow for remedies relative to these related problems which result from the drought.

I would like to talk a little bit about soybeans. We have a real problem in this area. We have had substantial reduction in my State and in the country in the number of acres planted in soybeans over a period of time. We are now down to about 57 million acres for soybeans. We were in a situation a few years ago where there were some 20 million additional acres planted to soybeans. But we have seen our competitors, particularly in South America, Brazil, Argentina, and in some European countries vastly increase soybeans acreage and they have become very competitive with the United States soybeans in the export market.

So we have to bear in mind what our foreign competitors are doing. We also must bear in mind that we ought not to be giving loans and grants to foreign competitors to build up their infrastructure in order to make them more competitive with American producers. I offered an amendment to the Senate farm bill which stated that before a loan or grant could go to soybean competitors it would be necessary for the Secretary of Agriculture to certify that that loan or grant would not enhance the competitiveness of that foreign country to which that loan or grant might go. Unfortunately, that amendment got knocked out in conference. Sometimes I think we pay more attention to foreigners than we do to our own farmers. We are worried about loans that certain banks have rather than having the interest of the American farmers deeply at heart.

But the provisions of the bill allow for permitted soybean plantings to take place. Under the permitted plantings provision of this bill, the Secretary, not earlier than November 15, 1988, and not later than March 1, 1989, makes a determination as to whether or not you will permit or not permit producers to plant soybeans or sunflowers on the permitted acres where it has been designated to a program crop in the past.

Now, the Secretary is required to take into consideration when making this determination: first the estimated impact such action shall have on soybeans, sunflowers, corn, wheat, upland cotton, extra long staple cotton, and rice; second, an economic evaluation of market effects due to permitting or not permitting the planting of soybeans or sunflowers on committed acres; third, an estimate of foreign production of oil seeds and the impact of such plantings on the domestic oil seed market; and fourth, such other factors as the Secretary considers appropriate.

At the time that the Secretary makes that determination we will know what the plantings will be in Argentina and in Brazil. Then we find that in 1990 the same thing is required. To give some idea of what we are talking about, under the provisions, if 10 percent were to go on permitted acres, it would mean an increase relative to the plantings of soybeans. With 10 percent of the base acres possibly permitting soybean plantings, this would mean a maximum of 16 million-acre increase which would mean a 28 percent increase in the overall soybean production in the United States should the total possible acres go into soybeans under this program. I think we have to look at that time and say what will be the effect? You have to figure out what is going on in Brazil, Argentina, Europe and other competitor countries and determine what would be their effect on the price of soybeans. The price of soybeans is a very important factor. A farmer cannot raise soybeans below the cost of production. The cost of production will vary in certain sections of the country. It is higher in the South than it is in the North. That is because of the fact that our average yield is about 26 or 27 bushels per acre whereas in some areas in the North the average is 45, and in some areas as much as 60 bushels to the acre. So the cost of production gets involved in this. And the price is involved.

We certainly do not want to see, and I do not believe any section of the country wants to see, that the price of soybeans goes down because of such increased production, or because of such increased plantings that occur. So it is very important.

I would like to submit for the RECORD a table showing the various total program acres in the various crops, corn, wheat, rice, and cotton, and the acres required set-aside percentages, and what a 10-percent minimum acreage would do in each of the relative fields.

I ask unanimous consent that be put in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. HEFLIN. We also have in the bill a provision in regards to a marketing loan. I think and have held for some time that a marketing loan is the answer to the problems of soybeans farmers have experimented with for the last several years. We instituted a marketing loan for cotton and rice. It has worked well. It has brought about reduced plantings among the competitors of cotton and rice throughout the world. It has caused the farmer to get a reasonable price for the cotton and for the rice he has grown. That program has worked well. I think that program would work well for soybeans, as well. Under the provisions of this bill the Secretary is required to make an evaluation as to whether or not the existing discretionary marketing loan, which I added in an amendment to the last farm bill, shall be implemented or not, taking into account certain factors that are contained therein.

So I think that overall this is a good bill. It does much for the farmers of our country. It is coming at a time when they need help. They need it at a time when they can calculate what they have left. And I think there are certain aspects of this that the Secretary of Agriculture has to work out.

You get into a situation where the underlying question is, what is a total loss. You have to consider the cost of harvesting, the cost of late applications of insecticides and other things in certain types of crops. All of this ought to be considered and evaluated. The Secretary ought to devise a plan.

You can look to insurance losses and see how they have been calculated in the past. We hope that the Secretary will come up with a very businesslike approach based on these practices as to what is and is not a total loss bearing in mind the effects it may well have on harvesting, on the use of insecticides, the problems that may come to the environment, or the fact that the environment may be saved some problems because of the nonuse of certain types of chemicals at a certain period of time.

Again, I congratulate the many, many people who have worked on this, the various staffs that have worked, and individual staff members. I think we have an excellent bill. I hope the Senate will expeditiously pass this, that the House will likewise, and that a conference committee will soon report this legislation. It is my hope that before we adjourn in August for the Republican National Convention we will have finalized a disaster assistance bill, signed by the President.

Thank you, Mr. President.

(Exhibit No. 1)

TOTAL PERMITTED ACRES ESTIMATES

(Approximate acres)

Crops	Total program acres (in millions)	Acres required set-aside (percent)
Corn	83.3	20
Wheat	92.0	27.5
Rice	4.2	25
Cotton	14.7	12.5

[Acres in millions]

Crops	Base acres for permitted planting	Permitted minimum acres (10 percent)
Corn	+66.6	6.7
Wheat	+66.7	6.7
Rice	+3.2	.3
Cotton	+12.9	1.3
Total	162.3	16.3

A maximum of 16.3 million acres could go into soybeans at 10 percent mandate. This is based on 100 percent participation in the program by all program participants.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise to strongly support the drought assistance legislation. I am also opposed to a proposed amendment to strike the ethanol assistance section from the bill. Let me first say that I support this legislation because I come from a State that is one of the hardest hit by the drought.

Let me also say that I have visited many parts of South Dakota. I took a drought tour with the Secretary of Agriculture. I took a tour with Milton Hertz Administrator of the ASCS to Eureka, SD, the center of the drought, and have been in touch with many farmers, ranchers, and small businesses who have been impacted by the drought.

Small business and small town institutions have been severely impacted by the drought. We have to remember that. So in this bill, if we help the farmers, it will in turn help the small businesses, the hospitals, nursing homes, schools, and other institutions in our small towns and cities, not to mention our larger cities. It will help the entire Nation because it will preserve that group of family farmers who produce the food supply.

Our country has been very blessed by having a surplus of food. Many countries have a shortage of food. They have a real problem.

Everyone, whether they live in New York City or on a farm, has an interest in this piece of legislation.

Mr. President, also let me say that this Senator has frequently voted for assistance to other parts of our country when they experience a disaster. The drought areas are now experiencing a disaster and the shoe is on the other foot so to speak. We are all one family in this country. This bill will certainly assist our farmers and ranchers.

This bill is within the budget. Money that would have been spent in a normal year for deficiency payments and other parts of the farm program, approximately $5 or $6 billion, will be used to provide drought relief. This morning the deficit numbers came out, and we are in a situation where we cannot have a lot of add-ons to this bill. There are many amendments that I would like to offer to this bill, but I shall not because we are told that if additional costs are added, it may well be vetoed. If we add additional amendments to this bill it may exceed budgetary requirements, or it may falter in conference or falter because some of our city cousins look upon it as excessive spending. So we are trying to stay within the fiscal outlines that have been laid down.

Mr. President, in my own State of South Dakota, the most recent crop report estimates are that 66 percent of South Dakota was critically short of moisture, 22 percent was short, and no areas had a surplus of moisture.

Crop production this year will be reduced significantly. The drought that we are experiencing is the most severe that I have seen in my lifetime.

Mr. President, I grew up on a family farm near Humboldt, SD; I have seen a lot of different weather, a lot of crops and a lot of activity on the farm. But this particular drought is the worst that I have seen in my lifetime. That is getting to be quite a number of years, I might say. Livestock producers have been hit particularly hard. Pastures are dry, and hay is nonexistent in many areas. Farmers and ranchers have had to sell their cattle, or move them to other areas, or feed hay.

Ranchers who have been feeding hay all summer must soon face another long winter. Many of these farmers and ranchers will be put out of business if they do not receive disaster assistance.

The drought assistance legislation will provide help to many farmers and ranchers. It will not meet the needs or desires of all farmers and ranchers. The disaster payments will not equal the income farmers would have received if they had been able to raise an average crop. But the payments will allow many farmers to remain in business and plant a crop next year.

To date, livestock producers probably have been hurt the most. Many ranchers have been forced to buy hay or move their cattle. The Emergency Feed Program changes in the bill should help these producers. Again, the program will not replace rain, but it will help ranchers and other livestock producers remain in business.

The bill also recognizes the impact of the drought on businesses that are dependent on agriculture. Many small businesses in rural communities are especially affected by the drought. Fuel, fertilizer, seed, and other farm input suppliers are adversely affected by the drought.

Mr. President, the drought assistance bill does not solve all of the problems created by the drought, but it does provide much needed assistance to many farmers and ranchers.

I thank the people who have worked so hard on this matter, on both sides of the aisle, and I thank our leadership for bringing it to the floor quickly. We now must act on this. I am sure the Senate will complete its work today.

I hope there is a speedy resolution of this in the conference and that it is signed into law by the President.

I understand that there will be one amendment to strike the ethanol assistance section of the drought bill.

Most Members would like to change many sections in the drought bill, but in order to speed assistance to farmers and ranchers, compromises have been necessary. If we start adopting amendments, the entire package could fall apart.

The United States has a policy of encouraging the development of the ethanol industry. The use of ethanol reduces our dependence on foreign oil, reduces the cost of farm programs, increases farm prices, and provides substantial environmental benefits. The increase in commodity prices caused by the drought could force many small ethanol plants to close down. Next year, or in 2 years—after a good harvest—commodity prices will stabilize and the ethanol industry once again will be economical. Unfortunately, many of the plants forced to close this year will not reopen in the future. The larger ethanol producers most likely will survive but the small plants will be lost. Many of these small plants have been built with Federal guaranteed loans. If they close, the Government will be required to pay off the loans.

Mr. President, several years ago, the United States made a wise decision to support the ethanol industry. Adopting this amendment would change that policy and threaten all of the progress that has been made in developing the domestic ethanol industry. I urge my colleagues to oppose this amendment and to adopt the drought assistance package developed by the drought task force.

Mr. President, in this legislation is a provision authorizing a program proposed by the State of South Dakota. The State Conservation Enhancement Program will not increase expenditures. The necessary language was included in this bill to make that program possible. I strongly support it.

Mr. President, in conclusion, I thank the various Members on both sides of the aisle who have worked on the bill. I see my colleague Senator BURDICK, who has done a great deal of work on it, as well as Senator LUGAR and many others. I think it is a good piece of legislation, and I am proud to be associated with it. I hope we can move it through quickly.

Mr. BYRD. Mr. President, I strongly support the passage of the drought assistance bill, S. 2631, that is before us today. This year we have seen drought conditions throughout a great part of the United States. These conditions have wreaked havoc on our Nation's farmers.

We have seen crops shrivel in the fields, livestock producers have been unable to provide feed for their livestock, and shipments have been hampered on our inland waterways. The legislation before us is designed to help the farmers who have suffered the most from drought-related losses.

This drought legislation is important to West Virginia, where many farmers have crop losses of up to 40 percent, and in some cases the crop losses are as high as 80 percent. Due to drought conditions that have occurred in the State in 1986 and 1987, many livestock producers lack adequate feedstock reserves and are facing an inability to feed their stock.

The legislation will benefit West Virginia farms in several ways. The disaster payment program will provide payments to farmers who have suffered more than a 35-percent loss in production due to the drought, not only for crops covered under current Federal support programs, but for all "nonprogram" crops as well. These payments would be equal to 65 percent of the established crop price for the production deficiency in excess of 35 percent. This is especially important to West Virginia farmers whose crops are not currently covered.

In West Virginia, many livestock producers have been unable to purchase the feed they need at a reasonable cost. The livestock feed assistance provisions extend assistance not only to livestock producers that produce their own feed, but also those who must purchase feed for their herds.

Our dairy industry will benefit from the provision in this bill which rescinds the 50-cent dairy price support cut that is scheduled to occur January 1, 1989. This rescission will help dairy farmers who are faced with increased feed costs due to the drought.

Mr. President, other provisions in the bill, such as those dealing with credit assistance, are designed to encourage lenders to work with those who hold farm loans to develop repayment plans that will not cause the loss of their farms.

This legislation is greatly needed, and I thank the chairman, Mr. LEAHY, and ranking member, Mr. LUGAR, of the Senate Agriculture Committee, for their expeditous consideration of drought assistance legislation.

While the recent rainfall that has occurred in some parts of our country has lessened the immediate impact of the drought's devastation for some farmers, there are many more farmers who have already been so severely impacted that they face the loss of their livelihood.

Mr. President, I hope that we will quickly conference with the House of Representatives, and send this legislation to the President for his signature, so that our Nation's farmers receive the assistance they need now, before it is too late.

Mr. LEAHY. Mr. President, I appreciate the kind words of the distinguished majority leader.

I note that he has been very clear and forceful in expressing the concerns of West Virginia in the matter of drought relief. I thank him again for making sure that the schedule of the Senate had the time available for drought relief. He has made it very clear right from the beginning, along with the distinguished Republican leader, that when we had this package ready to go, the leadership was going to make sure that it was immediately on the floor. I must say that with the crowded legislative schedule, that has been a most generous and a most open-ended commitment.

I also state to my good friend from West Virginia that it is a commitment we are not going to try to abuse.

I ask those Senators with amendments to please bring them to the floor, because I would like to finish this bill as soon as possible, so that the distinguished leader and the distinguished chairman of the Agriculture Appropriations Subcommittee can bring that important piece of legislation before the Senate, too.

I compliment the two leaders on making available the time for this very important legislation.

Mr. President, I understand that the Senator from Montana and the Senator from North Dakota have a matter they wish to bring forward. I see them on the floor, so I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2726

(Purpose: To provide additional payments for producers with excessive crop losses from drought and related conditions in 1988)

Mr. MELCHER. Mr. President, I have an amendment on behalf of myself and Senators Burdick, Conrad, Daschle, and Dole. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. Melcher], for himself, Mr. Burdick, Mr. Conrad, Mr. Daschle, and Mr. Dole proposes an amendment numbered 2726.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, strike out lines 18 through 21 and insert in lieu thereof the following:

payment available to such producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(B) 85 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

On page 56, strike out lines 17 through 21 and insert in lieu thereof the following:

to such producers at a rate equal to—

(1) 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

On page 58, strike out lines 5 through 10 and insert in lieu thereof the following:

available to such producers at a rate equal to—

(1) 65 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) Payment Level.—For purposes of subsection (a), the payment level for a commodity shall be equal to—

On page 60, strike out 18 through 22 and insert in lieu thereof the following:

ers at a rate equal to—

(1) 65 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) Payment Level.—For purposes of subsection (a), the payment level for a commodity shall be equal to

On page 62, strike out lines 2 through 3 and insert in lieu thereof the following:

able at a rate equal to—

(1) 65 percent of the replacement cost of such seedlings lost in excess of 35 percent, as determined by the Secretary, but not greater than 75 percent, for the crop; and

(2) 85 percent of the replacement cost of such seedlings lost in excess of 75 percent, as determined by the Secretary.

Mr. MELCHER. Mr. President, when I made my opening remarks about the necessity for drought disaster relief legislation, this bill, its passage, its enactment into law, I stated it would be our goal from the outset to provide the most disaster relief, the most help for those who had the greatest losses. By and large the bill does that.

But I also stated in my opening remarks that I would offer an amendment that would nudge it along further in that direction. In other words, for those whose losses are the greatest because of the drought we would give a large proportionate amount of disaster assistance.

This amendment that I have offered simply does that. If the loss is up to 75 percent, in other words, three-fourths of the crop has been lost, let us say it is a wheat farmer or corn farmer, three-fourths of the crop has been lost over their normal yield, then they would receive 85 percent of disaster relief that is provided for in the bill. In other words, it is a little boost, it is a little extra, it is a little more help because their losses are greatest.

This amendment which I hope will be accepted will then move this bill a little bit further along in that direction we would like it to take where those with the greatest need will get the most benefit out of the bill.

Mr. President, I have no more to comment on the amendment. I think it is justified and needed, and I hope it will be accepted.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise in strong support of the amendment that has been offered by my colleague from Montana. For weeks we have been fighting to provide more drought relief for those who suffer the greatest losses. That is what this amendment is aimed to do.

Our numbers have changed repeatedly in terms of the estimate of the cost and the estimate of the savings available to deal with the drought relief package before us, and repeatedly we have attempted to get the latest numbers so that we could do the best job we can of matching the cost of this program with the savings.

Just now the numbers have changed once again in terms of the costs. We were advised by CBO that the cost was $500 million of this provision. We are now told by the department it is closer to $250 million.

The fact is we cannot know and will not know until sometime later what the actual cost is.

The concept is what is critical at this point, that is, that we are going to provide more assistance for those who provide the greatest losses. If you have more than a 75-percent loss you get 85 percent of the target price on that loss over 75 percent.

Obviously, those percentages could change and I would hope that if we go into conference committee and we find we have more budget room that the conferees will do everything they can to improve those percentages.

We talked about an option that would provide 90 percent over a 60-percent loss, and other formulations.

We hope that when we get into conference that the new budget numbers will be used to collaborate the amount of relief given.

But the critical idea is to get in front of us a notion of greater drought relief for those who suffer the greatest losses.

Mr. President, very briefly, again those who suffer 100 percent loss under the core bill would get 45 percent of their predrought income. With this alteration, that percentage on wheat would go to 49 percent and be somewhat of an additional help, a very positive direction for those producers who have suffered the greatest losses.

At this point, I thank the chairman of the committee and the ranking member for the really extraordinary efforts they have made to get a drought relief package before us today.

I also publicly thank the chairman for coming to my home State and seeing firsthand the kind of devastation we have suffered there. There are others deserving of thanks as well, but

I think at this point I want to single out the chairman and the ranking member and their staffs for really an exceptional effort.

With that I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from North Dakota for his kind and generous remarks. He has toiled endlessly on this amendment as has the Senator from Montana.

When we passed the drought bill we left open this question because of the very serious concerns these Senators have raised, and they have worked diligently during the week we were out of session and during the past few days especially, really right up to the last few hours on this subject.

Let me say it this way: There is no way that we could ever make totally whole people who have lost money in this drought. We can, however, take the steps necessary to make sure that they can at least recover from the effects of the drought and be farming again next year.

I think what the Senator from North Dakota and the Senator from Montana and others have said is: let us hold out that hope. They have come from the hardest hit areas of the United States. Their amendment does that.

I find the amendment acceptable. If we accept as a basic premise of this relief package that we are going to allow people to recover, we cannot remove all the pain, we cannot remove all the suffering, we cannot remove all of the economic loss. But this amendment will help assure that we allow good farmers to recover and farm again next year.

I support the amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I support the amendment. I do so on the basis of discussion we have had around the committee table in which we tried to assess the actual damage to farmers from the drought.

We found as each one of us tries to assess that the picture changes, different combinations of crops, different circumstances of moisture, a variety of situations by State and by crop.

The amendment that was offered by the distinguished Senator from Montana tries to get at the problem of someone who has a total disaster, that is, no crop at all, and clearly under those circumstances the arithmetic works out in a way which is adverse as opposed to even a fairly small crop which can go into the market at higher prices this year plus the disaster payment for whatever he is entitled to.

So we have tried in equity to bring everybody up as best we could across the country, across the crops, across the conditions. This is a refinement to the 35/65 formula. It hits the extreme cases and brings greater equity.

For these reasons, I support the amendment and commend it to other Members.

Mr. LEAHY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there any further debate on the amendment?

The Republican leader.

Mr. DOLE. Mr. President, I thank, first of all, the managers who have been doing yeoman's work on this legislation on both sides of the aisle and my colleague from North Dakota. I wish to cosponsor the amendment, if that is not objectionable, and also Senator Grassley wishes to be a cosponsor. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. As we point out in private discussions, there are those who are going to suffer great loss and are going to have less benefits than those who suffer less loss. This is one way to address that.

All of us have watched the news reports and some of us have witnessed firsthand the devastating impact of this drought, clearly one of the worst in memory.

In my State we were quite fortunate. We had a good wheat crop. We have had some rain recently. The soybeans are in pretty good shape. But we do have some corn that is in pretty bad shape, but not nearly as bad as in a State like Indiana, Senator Lugar's State, and other States that are represented here on both sides of the aisle.

So I think this is a necessary and positive step toward ensuring the financial survival of thousands of farmers across America's Farm Belt.

I certainly congratulate my colleagues on the committee. At the outset, it was agreed that this was going to be a bipartisan effort. I think we can stand here today and say it has been. We have had good ideas from that side; we have had good ideas from this side. In the final analysis, we have a bipartisan piece of legislation that I believe will enjoy an overwhelming vote even from some Senators on both sides of the aisle who do not have many problems from the drought.

So there has not been any effort, as far as I know, to get into some game of one upmanship, because, we have some budget constraints. Certainly, we have to look out for our States and our own farmers and our own interests. So I hope that we can move very quickly on this bill.

I would say to my colleagues on this side of the aisle that we have asked our Cloakroom to notify all Republican Senators that if they have any amendments—this is in accordance with the desire of the majority leader and the two managers—if they have any amendments, they should notify, on this side, Senator LUGAR by 2:30 and let us know as nearly as they can the content of the amendment.

I believe this bill meets our basic objectives. I heard this morning at the White House that we have about $5 billion in savings from reduced farm program outlays as a result of the drought lowering deficiency payments. It has been the intention of the committee and members of the bipartisan task force composed of House Members and Senators from both parties to keep the cost of the package in line with the savings. I would guess the conferees are going to have to make some changes. I think we are already on the edge or maybe a bit over the spending edge. We may have to make some modifications during conference to further balance the budget equation.

I would caution Members on this side and the other side, too, that there is not much wiggling room left. I know the manager on this side has been notified by many people of different kinds of disaster losses. But I think, as some Senators said, earlier this morning, that we are dealing with drought legislation and it ought to be confined to that. We are not trying to rewrite the 1985 farm bill.

I also commend Secretary Lyng, who has acted with total responsiveness to Members of Congress on both sides of the aisle. He has a lot of credibility with the American farmer. His recent trip to 10 drought States in the last couple of weeks underscored the severity of the problem and also that he is sincere.

I also note that it rained in eight of those States, but that was not part of his program.

We have seen the impact.

It has been widespread and has hurt livestock producers and producers of both program and nonprogram crops. Livestock producers, who need immediate assistance, have struggled to find adequate supplies of feed and water and have been forced to reduce their inventories as feed costs have risen. Market prices have fallen sharply from levels of earlier this year. Crop producers have seen the prospects of good harvests in many States wither under record temperatures and continued dryness. Many producers will be unable to return advance deficiency payments. Some producers will have a crop to sell and will benefit from the higher grain prices. But many producers will lose all or a significant portion of their crop after having invested money into planting. They will lose twice—from not having a crop to sell and from reduced deficiency payments.

This bill bases assistance on actual production losses resulting from drought. Producers with a loss greater than 35 percent will qualify for a disaster payment. Assistance would equal 65 percent of their expected predrought returns based on the target price for program participants. And the amendment that is pending now, of course, modifies that, to some extent, which is a good idea because those with more severe losses will receive more of a payment.

Advanced deficiency payments would be forgiven on losses up to the 35 percent threshold. Deficiency payments would not be made on the same unit of production covered by disaster payments.

The bill also permanently restructures the livestock feeding programs by making producers who do not grow their own feed eligible and expands eligibility to include all livestock. I know there is some controversy about that. But, again, in discussing it with our minority manager, Senator LUGAR, it seems to me that we should support the efforts by the committee. And if there are efforts made to change that process now, I, for one, would resist it.

In addition, it changes the formula for livestock producers to purchase CCC stocks at 50 percent of the market price after 1988 and continues the current policy of allowing producers to purchase CCC stocks at 75 percent of the county loan rate in 1987.

The bill also waives the 50-cent dairy price cut scheduled for January if the net CCC purchases exceed 5 billion pounds. I disagree with the action on the House side of increasing the support price 50 cents in place of access to the feed programs. I think you can justify a freeze that waives the 50-cent cut.

The Senate bill also gives the Secretary discretionary authority to allow planting of soybeans and sunflowers on permitted acres within a range of 10 to 35 percent.

It also allows small ethanol producers access to CCC grain. I know there is some controversy about this provision by those who suggest it should not be in the bill at all. I do not have any strong feelings about it. I believe my office was contacted by two producers in my State, who may be forced to go out of business. This, of course, would be helpful to those particular businessmen.

So I would say, that this has been a catastrophe that affects not only farmers, but it is also going to hurt agribusiness and the entire rural infrastructure. This morning's story in the Washington Post describing the drought's affect on the movement of grain along river shipping routes is a good example of the drought's ripple effects.

It is in our interest to act on this bill in a bipartisan way as quickly as possible.

I also commend the committee for not tampering with the 1985 farm bill. I can recall standing on this floor day after day after day trying to pass the 1985 farm bill and being held up by Members who did not like the 1985 farm bill. I think, as it turned out, the 1985 farm bill saved a lot of family farmers across this country. It cost a lot of money, but it is working. And it was working very well when the drought came along, which we could not foresee.

The 1985 farm bill was designed to deal with surplusses, not scarcities. So now we have the problem of scarcities and other problems because of the drought. We are trying to remedy that with this legislation.

I commend the chairman, Senator LEAHY from Vermont, for his diligence and his efforts and his bipartisanship. I commend the distinguished Senator from Indiana, Senator LUGAR, for the same. With their help and their mutual cooperation which underlies much of what we do, in the Agriculture Committee, I think we can fend off most of the amendments that would break the bank and maybe complete this bill fairly quickly.

Mr. LUGAR. Mr. President, I thank the Republican leader for his leadership and very thoughtful remarks.

Mr. President, I ask unanimous consent that I may be added as a cosponsor of the Melcher amendment and that the Senator from Minnesota, Mr. BOSCHWITZ, be added as a cosponsor.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I wish to say how much I appreciate the comments of the distinguished Republican leader. I appreciate the comments very much that he made about Senator LUGAR and myself and all the others who have worked on this legislation.

The distinguished Senator from Kansas commented how we held hands across the political aisle on this, as we have on so many matters out of the Agriculture Committee. Indeed, that really has been the way the committee has been run over the years that I have been on there. When it has been most successful, we have held hands across the aisle that way.

The distinguished leader, of course, was one of the ones who led in nutrition matters, and his support for Senator LUGAR and myself is one of the reasons why we pushed a major nutrition bill this week.

Had Senator LUGAR not been so helpful, and Senator DOLE not been so helpful, had so many Senators on both sides of the aisle not been so helpful, that would not have happened. And I think that, of course, is what is going to be what makes the drought bill work.

Mr. President, unless somebody else wants to speak on it, I urge adoption of the amendment before the Senate

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent that Senators DURENBERGER and HARKIN be made cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. And Senator BREAUX, also.

Mr. LEAHY. I would ask unanimous consent that if there are other Senators who wish to have their names added as cosponsors, that they be allowed to do that at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. I want to publicly commend the Senator from Montana for standing tall and fighting hard over the past several weeks to make sure that those who suffer the greatest losses get some help. He has been an absolute tiger fighting for his constituents who have been as hard hit as mine, and I think all of us owe him a debt of gratitude for sticking in there and fighting very hard to make sure that those people who suffer the greatest losses get some additional help. I want to publicly commend him for that.

Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. There is an amendment pending. Is this amendment in the second degree?

Mr. CONRAD. We have not yet moved the Melcher amendment?

I will withhold the offer.

Mr. LEAHY. If the Senator will withhold, I will——

The PRESIDING OFFICER. The Chair will remind the Senator there is no such motion in the Senate. Are there other Senators wishing to speak on this amendment?

The Senator from Montana.

Mr. BAUCUS. I would like very briefly to join the Senator from North Dakota in praising the senior Senator from Montana.

Also, Mr. President, I congratulate Chairman LEAHY and the members of the Agriculture Committee for getting this drought bill to the floor so quickly.

This is one of the few examples of truly emergency legislation that this body will consider this year.

Farmers and ranchers in my State are suffering through a drought of almost unprecedented severity.

Throughout central and eastern Montana, pastureland and the hay crop are in very poor condition. Ranchers simply have nothing to feed their livestock.

Farmers in my State are likely to lose at least 60 precent of their wheat and barley crop.

This bill provides the critical emergency relief to keep farmers and ranchers in business, and salvage livestock herds.

These farmers and ranchers shouldn't be forced to wait in limbo indefinitely while we debate this bill.

Given the dire need for this legislation, I would like to urge my colleagues to resist the temptation to offer amendments and engage in extensive debate on this bill.

We must act quickly.

Let us pass this drought relief legislation today and sent it to conference.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2726) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2727

Mr. CONRAD. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Dakota (Mr. CONRAD) for himself, Mr. BURDICK and Mr. MELCHER, proposes an amendment numbered 2727.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert on page 55, after line 23, a new paragraph:

(3) REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS.—Effective only for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for such crop must be repaid, such repayment shall not be required prior to July 31, 1989, for that portion of the crop for which a disaster payment is made under this Title.

Mr. CONRAD. Mr. President, on behalf of Senator MELCHER, Senator BURDICK and myself I offer an amendment that would defer the repayment of advanced deficiencies that are provided for in the core bill. In the core bill, those that suffer losses up to 35 percent of their crop are forgiven any repayment of their advanced deficiency. Those that suffer losses of greater than 35 percent would have their disaster payment reduced by the amount of the advanced deficiency payment that they have received.

Mr. President, what this amendment does is to allow farmers to keep that advanced deficiency until July 31 of next year. In other words, instead of having their disaster payments reduced by the amount of the advanced deficiency they have received, they would be able to retain that until July 31 of next year.

Mr. President, this is a significant assist to farmers. It would mean about $1 billion would be deferred so that farmers would have that in their hands so they can put in a crop next year. That is critically important for those farmers who have been especially hard hit.

One of the nice features about this amendment is that it is layered in very neatly. Those that have the greatest losses get the greatest help.

Mr. President, for example, in the core bill those who suffered a 100-percent loss can expect to get 44 percent of their predrought income. With the Melcher-Conrad-Burdick amendment that was previously adopted, that will rise to 49 percent of their predrought income. And, if the amendment that I and Senator MELCHER and Senator BURDICK are offering now is adopted, those that suffer a complete loss will be at 57 percent of their predrought income.

Mr. President, one reason that I am offering this amendment is because of the uncertainty of the budget numbers. Very frankly, I want to be very direct about this. If we learn later on that there is more budget room than we are told today, I will move next year to forgive the repayment of these advance deficiencies. We do not know that now. We do not know that there is room, if there are additional savings or not. But the best way we can preserve the flexibility and give farmers that added hope, is to act now to defer, the repayment until July 31 of next year. That makes this virtually a no-cost amendment unless we find there is additional budget room, at which time I will move, as I say, to give farmers that additional assistance.

I want to, again, make special note of those who have really helped in this effort: Senator MELCHER, of Montana; Senator BURDICK, my own colleague; WYCHE FOWLER and HOWELL HEFLIN, who spoke up at a critical time in the committee in support of this concept; DAVID PRYOR and DAVID BOREN, who were supportive; and the current Presiding Officer, Senator HARKIN, of Iowa, who also hung with us in the those critical hours. And also I want to thank my colleagues on the other side of the aisle: Senator BOSCHWITZ and Senator BOND, who worked closely with us on trying to find a comprehensive package that would address the question of those most hurt. And finally, I want to again thank the chairman of the committee, his staff, the ranking member and his staff for the really exceptional effort that has gone into this bill and for their patience and support in developing this proposal. Without their active assistance, we could not have developed the proposal or been in a position to offer it.

Mr. President, I urge the adoption of the amendment.

Mr. LEAHY. Mr. President, I certainly support this amendment. I think the points made by the Senator from North Dakota are absolutely right. He worked long and hard on this and has certainly convinced me. I support the amendment.

Mr. LUGAR. Mr. President, we are prepared to support the amendment on our side. We believe it offers, once again, greater equity to those who have been hit the hardest and we are prepared to ask Members to vote for this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2727) was agreed to.

Mr. LEAHY. I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2728

Mr. BREAUX. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for himself, Mr. JOHNSTON and Mr. MELCHER, proposes an amendment numbered 2728.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, between lines 2 and 3, insert the following new subsection to section 203:

"(e) Effective only for the 1988 crop of sugarcane and sugar beets, if the producers of such crop are unable to process the commodity into sugar due to the inability of local processing plants to process sugar as a result of drought or related condition in 1988, such producers shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to such inability.".

Mr. BREAUX. Mr. President, my colleagues, it is certainly very true the Congress could not arrange to make it rain. I know when the drought condition first started getting extremely serious, people in the country looked to the Congress and said: help us with our problem. It was very, very clear that, of course, the Congress could not get at the core of the problem. The fact is we need more water.

The Congress does have the ability to address the problems that result due to lack of sufficient water for agricultural commodities throughout this Nation. I take this opportunity to say that we have made, I think, a great effort. As the Republican leader pointed out and others previously, it truly has been a bipartisan effort—both Republican members of the committee and Democratic members of the committee working together to try and craft a solution to the disaster that is unfolding as we speak on the floor this afternoon.

Indeed, for some areas, it is truly a disaster that, were it not for this legislation, more people would leave the family farms, more would be forced into bankruptcy and less food at a much higher price would be produced for people in this country.

The effort we have today is truly a good package; it is a good compromise. For those citizens around the country who may criticize our effort by saying, "There goes Congress again trying to throw money to the agricultural community to help them solve their problems," I only point out that this legislation does not cost the Treasury or taxpayer more money than exists in the farm programs. The testimony before our committee was clear. Because of a shortage of agricultural commodities, because of the drought, less money is going to have to be spent in deficiency payments to farmers under the current agricultural program. These moneys that would be saved because less would have to be paid out would, in fact, be utilized under this legislation to help those farmers who are now suffering from the drought.

At the very worst, it is a wash in the sense of having any additional funds being spent to help the agricultural community. Without this legislation, Mr. President, farmers throughout America, indeed, will perish and will not be able to stay on the farm and produce the crops to feed not only the United States, but so many others in other parts of the world.

So this legislation is critically needed. It is a good compromise between various conflicting viewpoints, and I also point out that from a cost standpoint, it is well within those costs which the Agriculture Department was expecting to pay out had we not had a drought.

So, Mr. President, I rise this afternoon to offer an amendment which really is almost a technical amendment which addresses the bill on page 57. That part of the bill before us provides for disaster payments for peanuts, sugar beets, sugarcane, or tobacco. That section of the bill states that for the 1988 crop of sugarcane and sugar beets, "if the Secretary determines that because of drought or related conditions in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result" of the formula that is included, that payments would be made.

The problem with that section is that when it deals with crops of sugarcane in particular, and I also imagine sugar beets, that it does not take into consideration the fact that you may be able to harvest an amount of sugarcane, but the sugarcane is worthless until it is processed into sugar. That processing operation can take a tremendous amount of water which, because of the drought conditions, may not be available to run the processing mills to produce sugar, which is of value.

As an example, I point out that some sugar mills in Louisiana can use between 10,000 to 20,000 gallons of water per minute in the processing operation. If the water is not there because of the drought, the sugarcane then becomes worthless.

I think the legislation probably was intended to cover this problem in the way it was written, but my amendment, Mr. President, clearly points out that if the producers of the 1988 crops of sugarcane and sugar beets are unable to process the commodity into sugar as a result of the 1988 drought or related condition, that they would be eligible under the provisions of the legislation for disaster payments.

I think that is in keeping with the spirit of the legislation. I have spoken with the distinguished chairman. He has done an outstantanding job with this legislation, as well as the ranking minority member. I ask that they consider this amendment favorably as well.

Mr. LEAHY. Mr. President, I have discussed this with the distinguished Senator from Louisiana. He has brought to my attention a situation which is really unique to Louisiana. The sugarcane producers are not in that great a shape. They are able to raise the sugarcane but cannot get it processed. I understand that if the water level in the Mississippi stays where it has been, they cannot process it and they come away with nothing for their efforts.

Yet, on the other hand, if the water level goes up and they are able to process it, they do not need the help.

It is a situation I would not have been aware of had the Senator from Louisiana not brought this to my attention. I think it is a valid point, and I support the amendment.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Indiana.

Mr. LUGAR. Mr. President, we reviewed the amendment on this side of the aisle, and we are prepared to accept it. I simply want to note at this point that we do not have firm cost estimates for the amendment. I do not believe the cost itself will be significant, but we simply do not have that.

I just indicate that if it turns out there are substantial costs, then I would want to raise the possibility of reviewing that situation at the time of conference. We have no reason to believe there are significant costs. We are prepared to accept the amendment at this time on our side.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank both my colleagues for their comments. Mr. President, I ask unanimous consent that my senior colleague from Louisiana, Senator JOHNSTON, be added as a cosponsor and I think the distinguished Presiding Officer, Senator MELCHER, also asked to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I am pleased to join with my colleague from Louisiana in sponsoring this needed amendment to assure that producers of sugarcane are treated on a basis equivalent to other commodity producers in this drought relief legislation.

As my colleague has explained, we face an unusual situation in South Louisiana along Bayou Lafourche, where much of Louisiana's sugarcane is produced. While rainfall has not been inadequate on the fields, the lack of rainfall in the upper reaches of the Mississippi River has had a severe effect on water levels all along the Mississippi River. Because of these low water levels, the Bayou Lafourche Fresh Water District pumping station in Donaldsonville has had to shut down its electrical pumps and instead is now using auxiliary diesel pumps, whose water intakes can be regulated. As a result, water flows have been reduced into Bayou Lafourche by about 15,000 to 20,000 gallons per minute. Current pumping capacity at Donaldsonville with these auxiliary pumps is now 20,000 to 25,000 gallons per minute.

This reduction poses a serious potential problem for sugar producers. Sugar yields are determined not by the amount of cane cut in the fields but by the amount of raw sugar recovered in the processing stage when the cane is ground and processed at the raw sugar mill into raw sugar. This grinding and processing stage requires large amounts of water. For example, the five sugar mills' water use along Bayou Lafourche in Assumption and Lafourche Parishes ranges from a low of 10,000 to 12,000 to a high of 19,000 to 21,000 gallons of water per minute. What we fear is that if current drought conditions continue, sufficient amounts of water may not be available this year during grinding season which begins in October to process the cane, which would cause huge losses for sugar producers in this area as a result of the drought.

As I read the current bill language, sugar producers may not be eligible for assistance since the trigger is based on the quantity of crop harvested. What my colleague and I propose is to change the timing of this trigger for sugarcane from harvest to raw sugar recovery, or to base the trigger on the quantity of raw sugar recovered in lieu of the quantity of sugarcane harvested. We believe this change will give sugarcane producers the same protection the bill extends to producers of other commodities and that it is consistent with the committee's intent. The Secretary must still determine that drought or drought-related conditions in 1988 were the cause of the loss, and the same quantitative loss must occur to trigger assistance. The only difference is the stage at which the quantitative loss is computed—at the raw sugar recovery stage rather than at harvest.

I certainly hope that mother nature will cooperate and that this change will become moot. But if mother nature decides to withhold her bounty and water levels in the Mississippi remain well below normal through the fall, this change will assure that producers of cane sugar receive the same protection as producers of other commodities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2728) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2729

(Purpose: To require the Secretary of Agriculture to conduct a study of food prices to determine the effects of the drought on recipients of Federal nutrition and hunger benefits)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, and Mr. LEAHY, proposes an amendment numbered 2729.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF THE EFFECT OF DROUGHT ON FOOD PRICES.

(a) SURVEY.—The Secretary of Agriculture shall conduct a survey of food and commodity prices as of December 31, 1988, to determine the effects of the drought and related conditions in 1988 on recipients of Federal nutrition and hunger benefits.

(b) REPORT.—Not later than March 1, 1989, the Secretary shall submit a report to Congress on the results of the survey required under subsection (a), including—

(1) an analysis of the adequacy of benefits under Federal nutrition and hunger programs with respect to any food price inflation that has occurred because of the drought or related conditions in 1988; and

(2) recommendations for any actions that may be taken by the Secretary or Congress to address problems identified in such survey.

Mr. HARKIN. Mr. President, this amendment will require the Secretary of Agriculture to conduct a study of the effects of the drought on food prices and the effects that any food price inflation has on recipients of Federal food assistance. The study would be based on prices and conditions as they exist at the end of this year. The Secretary would be required to report the findings of this study to Congress by March 1, 1989. The report would include recommendations for any actions that may be taken by the Secretary or Congress to address problems identified in the report.

This study required by this amendment will consider the range of Federal programs. The most important of these programs is food stamps. USDA ordinarily conducts a food price survey as of June 30 of each year and adjusts food stamp benefits for inflation on October 1 of that year. The survey for this year will not reflect food price increases from the drought. So it will be more than a year before drought-caused price increases are reflected in food stamp benefits. This amendment simply requires a midyear study so that Congress and USDA can better determine whether any special actions may be necessary to meet the nutritional needs of our low-income citizens.

The Hunger Prevention Act which we passed on Tuesday increases basic food stamp benefits for fiscal year 1989 by eight-tenths of 1 percent. However, studies are showing that food prices are expected to increase as much as 2 or 3 percent above the originally projected 3-percent increase because of the drought.

Mr. President, this amendment basically is designed to give us the information we need, or the Secretary may need, at midyear next year to make any adjustments that we may need to make sure that the hunger relief bill that we passed is able to keep up with any increase in prices caused by the drought.

Let me also add, Mr. President, that while not in the amendment itself, I believe it is included within the intent of the amendment and by the bill that we are passing that the Secretary of Agriculture will, under the authorities already vested in that office, monitor food price increases that may occur in the grocery stores across this country this fall, this winter, and next spring.

There have been some occasions that some food price increases may be taking place which I feel are not warranted by the effects of the drought. Quite frankly, I am concerned that there might be some price gouging that might be going on out there. Processors and others may be taking advantage of the drought to maybe boost their prices and gain a little extra profit in the grocery store because of the drought.

I know we are all hopeful that does not happen. I hope the Secretary will use the authority he has to monitor those prices and to give us that information as we go through the next year. This amendment simply speaks to a study to be done midyear on the effects of the drought on food price increases to those programs that go to low-income people, the Federal food programs like food stamps, WIC, and other programs.

Mr. President, I also ask unanimous consent that the distinguished chairman of the committee, Senator LEAHY, also be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection it is so ordered. The Senator from Vermont.

Mr. LEAHY. Mr. President, Senator HARKIN raises a good point. I have been concerned about this. Certainly I have already started getting calls and letters from Vermont from people who are concerned. We asked the General Accounting Office to monitor prices, and I think that what the amendment of Senator HARKIN does is to underscore in this very important piece of legislation the concern of the Congress.

I think it is something that should be done because if, as I said, the letters and calls I have already received are any indication, I suspect we are going to receive a lot more. It would be well that we have this survey to be able to point to the fact that it is an expression of the Congress. I certainly support this amendment and I appreciate the courtesy of the distinguished Senator from Iowa in adding me as a cosponsor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I commend the Senator from Iowa for an excellent amendment. It seems to me not only is it important with regard to the nutrition and hunger programs but likewise for consumers all over America to have the benefit generated by this amendment. We are prepared to accept the amendment on this side of the aisle and commend it to our members.

Mr. HARKIN. Mr. President, I thank the distinguished chairman and ranking member for their support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2729) was agreed to.

Mr. LEAHY. I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2730

(Purpose: To provide for temporary irrigation systems, extension of wells and the drilling of temporary wells through the ECP program of the USDA)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 2730.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 77, after line 17, to Subtitle C-Conservation and Water Assistance, Sec. 322, add a new paragraph:

(h) The Secretary shall make emergency water assistance available to eligible farmers for crops under the program designated ECP EC-6 by the Department of Agriculture, including, but not limited to extension of wells, drilling temporary irrigation wells and installation of temporary irrigation water delivery systems in areas where irrigation is a normal practice.

Mr. McCLURE. Mr. President, this amendment will utilize the ECP program that is already in place for the provision of water to some irrigated crops that during a drought would not get it.

Mr. President, I bring this amendment to the drought assistance bill in an effort to rectify a situation which has been ongoing in Idaho for the past 2 years. This is the second year of the drought in Idaho. Last year, snow and rain levels were seriously reduced and this winter it snowed less than the year before. Not only has this water shortage hit our dry lands but has seriously affected parts of Idaho which are traditionally irrigated farmlands.

Last spring when the first signs of drought began to be seen in the farmlands of Idaho I requested the Agriculture Stabilization and Conservation Service of the U.S. Department of Agriculture to make available funds from the Emergency Conservation Program. These funds could be used for extending wells to find water after the water level has dropped, for drilling new wells and putting in place temporary, and I do mean temporary irrigation systems to aid farmers in fighting the drought.

ASCS refused to use available funds for this purpose even though this program was used in 1977 for the same purposes. In order to force ASCS to provide aid under the Emergency Conservation Program, the Appropriations Subcommitee on Agriculture, Rural Development and Related Agencies included language in the Senate report which directed the Secretary of Agriculture to make funds available to assist drought stricken farmers. To date the USDA has ignored the committee language and has left farmers to the ravages of the drought.

I cannot stand idly by and let farmers lose their crops when the means are available to save them. Thus today I bring an amendment which will provide funds through the Emergency Conservation Program to help farmers through a cost share program provide water to their lands. I am limiting this assistance to the extension of wells, the drilling of temporary wells and the construction of temporary irrigation delivery systems in areas where irrigation is a normal practice. I want to stress that these are temporary measures designed to deal with drought conditions. Funds made available for this program would go only to temporary measures such as extending wells that already exist to provide water for the drought year. I do not intend that this program be used to rehabilitate old irrigation systems, or provide for system betterment. I want only to assist drought striken farmers survive the drought year. No permanent structures such as central pivot systems or increased permanent mainlines, would, in my mind, be authorized under this program. Farmers whose stream water dries up, however, need a cost share program which helps them drill wells, which while may be permanent structures would not be used in nondrought situations.

I also do not want or intend funds to be expended under this program which would expand acreage under production. It is to be used only to help farmers irrigate crops which were already in their established rotations or crop plans.

I do not want to see the Federal Government become involved in setting up totally new expanded irrigation systems. I want to use an existing program to a limited degree to help farmers who can most readily use this type of help.

Irrigation is used extensively in certain areas of the country. Idaho has 3.6 million irrigated acres out of 6.2 million acres of arable lands, with irrigation systems already in place. If the well goes dry the farmer must drill deeper. My amendment will enable farmers to do this with a cost share to help reduce the cost. The farmer must still foot part of the bill. This will simply help the farmer help himself.

I think it is much better to spend a little on irrigation improvements instead of a lot on drought disaster payments. This is one way to insure that losses will be lessened.

Mr. President, this is a small amendment, it does not add to the cost of the overall program as it uses funds which are already appropriated under the Emergency Conservation Program. USDA has had these funds available but has just not agreed to use them. I believe that it is time to make use of this program to meet the needs of Agriculture. I urge acceptance of this amendment and I thank the membership from both sides of the aisle for their consideration of this amendment.

Mr. LUGAR. Mr. President, we are prepared to accept the amendment on this side of the aisle and commend it to the attention of our Members.

Mr. LEAHY. Mr. President, the Senator from Idaho has raised points in his amendment with me and I must confess that I have some questions in my mind. I know that the distinguished Senator is going to add some more legislative language and we do have time to look at it in greater detail between now and when we go to conference. It is a question of it being in our bill and not in the bill of the other body.

I intend to work with the distinguished Senator from Idaho on those issues both in the legislative language and in the final form. So I have no objection to the amendment on that basis.

Mr. McCLURE. Mr. President, I thank the distinguished managers of the bill. I appreciate their accommodation and I am certain that what we are able to state in terms of the legislative history will satisfy the managers of the bill, but I look forward to working with both managers on that basis.

The PRESIDING OFFICER (Mr. HARKIN). If there is no further debate, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 2730) was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2731

(Purpose: To amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for himself, Mr. DOLE, and Mr. WARNER, proposes an amendment numbered 2731.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SECTION 1. TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.

(a) IN GENERAL.—Subparagraph (A) of section 263A(d)(1) of the Internal Revenue Code of 1986 (relating to exception for farming businesses) is amended to read as follows:

"(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(b) TECHNICAL AMENDMENTS.—

(1) The heading of paragraph (1) of section 263A(d) of such Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(2) Subsections (d)(3) and (e) of section 263A of such Code are each amended by striking out "or animal" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

Mr. WALLOP. Mr. President, I offer this amendment on behalf of Senator DOLE, WARNER, and myself. I rise today to once again draw the attention of my colleagues to an inequity built into the Tax Reform Act of 1986. While we work on this legislation to provide some relief from the ravages of the drought, we should also focus on some of the tax relief this Nation's cattle producers and livestock producers urgently need, the repeal of the so-called heifer tax.

Before us today is a drought relief package. It has been crafted to ease the financial strain which is resulting from the drought. Repealing the heifer tax would ease an administrative and financial burden that livestock producers should not have had to bear in the first place.

The National Cattlemen's Association estimates the heifer tax will cost producers $50 to $100 in increases in their tax bills for each animal placed back in the herd. The drought has caused many cattle producers, both beef and dairy, to sell off high numbers of breeding cattle in order to keep the remaining animals in their herds alive.

In the next couple of years, Mr. President, these producers will face the mammoth and expensive job of rebuilding their herds. They will keep an unusually high number of replacement heifers. If the heifer tax requirements are still on the books when the rebuilding program begins, Congress will merely have added insult to injury caused by the drought. The heifer tax is one of the more ridiculous provisions that this Congress has ever passed and it was contained in the Tax Reform Act of 1986—one of the reasons that I voted against that bill and called attention of the Senate to it about 2 o'clock in the morning before we passed that bill.

The heifer tax is shorthand for Internal Revenue Code section 263(a) which requires a rancher to apply the uniform cost capitalization rules to animals and plants with preproductive periods in excess of 2 years. For livestock producers, this means that the preproductive period begins when the animal is conceived and ends when the animal is intended for use. It creates voyeurs out of ranchers. I would like anyone to tell me how anyone is to know the precise moment of conception. While we argue that case in a number of other areas, Congress has at least recognized in one area of the Tax Code that life begins at conception.

Rather than expensing the direct and indirect costs of production such as feed, vet bills, rent, depreciation, interest and taxes, the producer must now capitalize those costs and then depreciate them over 5 years.

The practical problems resulting from the capitalization rules are overwhelming. Since the capitalization period begins at conception, on each animal that is bred, a producer will have to keep a detailed description of the expenses directed to this unborn animal. Once the animal gives birth and the result is a heifer, the record keeping continues until, over a year later, the new heifer is bred. Then the cycle starts all over again.

But, I must point to another inconsistency; typically only a small fraction of the herd is used as replacement breeding stock and the determination is not made when the animal is born but when it reaches breeding age. So, Mr. President, if a heifer is culled from the herd when it reaches breeding age, all of the record keeping to date is an exercise in exasperation but not in revenue collecting. Similarly, if the calf happens to be a bull calf, the recordkeeping then ends and expenses will be capitalized over a 9-month period. Another problem occurs because in order to determine the depreciation base for each animal, the producer has to figure out in the middle of this drought, let alone in the middle of an ordinary year, how to allocate the costs between the cow and the unborn calf.

Let me ask any colleague here on the floor if he can devise some rule or simple formula which is accurate that will tell me how much of a bale of hay should be recorded on the mother's expense sheet and how much should be recorded on the unborn calf's expense sheet. I have heard from dozens of my constituents, and I guarantee you that every Senator in here who has livestock producers has heard from his, who derive their livelihood from the livestock industry, particularly the cattle industry, who are faced with the overwhelming task of complying with this ridiculous process. They figure they are going to spend more time at the desk keeping records rather than out in the field taking care of their livestock. These folks are in the ranching business because they want to ranch, not because they want to be full-time accountants.

As I said before the Wyoming stockgrowers experienced in 1987 a 100-year season, in which good grass, plenty of water, good prices and a mild winter combined to provide a once-in-a-lifetime season. Now we are again experiencing a once-in-a-lifetime season, a 100-year season on the other end of the spectrum. We have the opportunity to provide some relief. Let us not forget about this ill-conceived tax law and work to provide livestock producers relief which will be of help to them as they begin to try to crawl their way back into full production once the drought ends.

I urge my colleagues on the Finance Committee and I urge the Senate to please consider this amendment. Before I yield the floor, Mr. President, I ask unanimous consent Senator KARNES and Senator KASTEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr President, there is much in the amendment that appeals to me. In fact, it would be quite popular I expect in my home State of Vermont. If I could take purely a parochial view, I might cosponsor and say let us go with this, let us pass it. And make sure the press release is zipped off to Vermont immediately saying what I have done. But that is not what we have here. We have a drought, a specific drought relief bill before the Senate. It is not a farm bill. It is not a tax bill. I do not see anything in our jurisdiction would allow us to amend the Internal Revenue Code, nor would such an amendment be able to come out of the Senate Agriculture, Nutrition and Forestry Committee.

I also feel that many peices of legislation, so many amendments that have been proposed by my colleagues on both sides of the aisle, would be personally very appealing to me and I expect be appealing to many Members. But they cannot be in this bill. You know, I have said over and over again we cannot expand this into the 1985 point 5 farm bill or the 1990 minus 2 year farm bill. We cannot make it something that it is not, nor do we really keep faith with ourselves on this if we do.

I have sympathy for the Senator from Wyoming's amendment, but I also have sympathy—I do not want to embarrass them by naming them—for at least 20 or more Senators who have come and urged adoption of amendments that would not only be good for their home States, but in many instances would be good for mine. But they go beyond the extent of the drought relief bill.

This amendment, when a tax bill is before us or a revenue-raising bill, or revenue-decreasing bill, either one, would make sense to be included in that. I really must object to it on this bill, and I must oppose it on this bill notwithstanding much of what I find I would normally support.

But, in saying that—I said the same about a number of other pieces of legislation, including a couple that would probably have the support of 95 percent of the people in my own State of Vermont—that I cannot support this amendment.

Mr. MELCHER. Mr. President, I suspect that perhaps this amendment is not going to be a part of this bill. But, nevertheless, it is not a part of this bill for the reasons just enumerated by the distinguished chairman of the committee.

Mr. President, I want to express profound and deep, concerned support for correction of this so-called heifer tax.

I ask unanimous consent that I be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, this amendment would do just exactly as Senator WALLOP has described. It would be a good step to knock down a very involved, a very detailed, a very repugnant recordkeeping. It is this type of correction in the Tax Code that is absolutely essential if we are going to preserve the mental health of cattle producers. Just imagine how much recordkeeping there is to know the date of conception and to be able to enter for every heifer on your records when some heifer conceives.

Then to know the time of reproductivity; is it 12 months that heifer A or heifer B or heifer whatever is in puberty? Is it 14 months of age that a heifer A or heifer B or heifer C or what have you is sexually active? And, therefore, we know the time of conception? Or is heifer A or heifer B or heifer C or what have you just a slow breeder and is not going to get into sexual activity until she is 24 or 26 months old?

This type of recordkeeping is impossible. It is unworkable. This amendment to the Tax Code is sorely needed and it is needed this year. If this bill is not the right vehicle and the distinguished chairman has accurately described why probably it is not the correct vehicle, I join with the Senator from Wyoming, Senator WALLOP, in urging the Senate and the Congress to repeal this ill-advised, and I might say ill-conceived section of the Tax Code.

Mr. WALLOP. Mr. President, I welcome the Senator from Montana as a cosponsor. I understand and hear what the distinguished chairman, the Senator from Vermont, is saying. It has a revenue effect. Is is not always as great as the revenue effect of some things that are in here.

I also point out that the Agriculture Committee recognized the urgency of this by making a part of this bill a sense-of-the-Senate resolution, a sense-of-the-Congress resolution, that acts expeditiously in enacting legislation to repeal it. My only point that I make here is that the sense-of-the-Senate resolutions provide a great deal of relief for Senators, but they provide precious damned little relief for people suffering from drought. So it makes it possible for us to say we recognize everything we do, but on the other hand it does not do anything for the people who have to comply with this, for the people who have to suffer with this, and for the people who would genuinely benefit in a drought-specific piece of relief when they go to try to rebuild the herds that are decimated by the dry grazing conditions that have forced them to eliminate large numbers of breeding animals.

Mr. President, I can read tea leaves as well as anyone else.

The purpose of this drought legislation is to try to get true relief to farmers and ranchers as quickly as we can. We need not delay it by voting on something that the Senate will reject or that the conference would reject. But I have to say that the sense-of-the-Senate resolution is not going to help anybody who is suffering from the drought. It may help some people who are suffering from political weaknesses.

I hope we take it to heart, as the Senator from Montana and I suggest—that we pass it and pass it this year, because it is stupid and unnecessary and, particularly, it provides relief to people in the livestock industry who may not get specific relief from this bill.

The hay and fodder provisions are fine, but it is hard to feed hay to cattle that have no water. Even if it is well conceived, people will not be able to use them. This they could use.

Mr. DOLE. Mr. President, I would like to add my support for the amendment offered by the distinguished Senator from Wyoming. Although it may not be the most accurate way to describe this issue, heifer tax is not only a colorful short hand, it is also the way many livestock producers, in fact, view the problem. Actually, as my colleagues know, the issue is one of tax accounting: When does a taxpayer get to deduct costs involved in breeding cattle and other livestock?

Prior to the 1986 Tax Act, these "preproductive" expenses such as feed, interest, and pasture leasing were deducted when incurred. In 1986, the law as changed to require these costs to be capitalized and amortized over the life of the animal.

The argument in favor of this change was that we should match deductions for costs incurred to produce income with the income that is generated. That is not, as a concept, completely ridiculous, but it unfortunately may be creating a recordkeeping problem greater than the benefit from the so-called reform.

I know that the 1986 act contains an option by which taxpayers could continue to deduct preproductive expenses at the time they are incurred. However, the taxpayer would be required to use a less favorable depreciation for all assets purchased in 1987 and later. It is difficult to argue that this is a fair tradeoff.

Mr. President, I congratulate the Senator from Wyoming and hope that we will be able to address this issue before the Senate adjourns this fall.

Mr. McCLURE. Mr. President, I support the statements made by my friend, Senator WALLOP. Although this amendment was withdrawn I am in support of this amendment and I want to bring to the attention of my colleagues section 345 of this bill. Section 345 is only sense-of-the-Senate language but is very important to the agriculture industry.

The Congress made a grave error last year when they prohibited off-road vehicle users, including farmers, from buying diesel fuel tax free and required them to pay the excise tax and then seek a refund. The Senate quickly recognized this mistake and passed S. 2223 which prohibits the imposition of the excise tax on diesel fuel for off-road highway use. However, S. 2223 has been on the Senate Calendar since March 29, 1988, because the House has refused to act on this measure which constitutionally must originate in the House.

Section 345 expresses the sense of the Senate that the Congress act expeditiously to provide an exemption from the Federal diesel fuel tax for farming purposes rather than forcing farmers to pay and then seek a refund.

Both the House and Senate have recently included provisions in the technical corrections bill to resolve this problem. However, the outcome of the bill is unclear and many are concerned that it will not pass the Congress before the end of the session.

Mr. President, there are many things the Congress can do to help alleviate the drought that has stricken many of our farmers and ranchers across this country. Removing the unnecessary burden on farmers and ranchers to pay the diesel excise tax will go a long way to improve the cash-flow situation of those already facing difficulties. I hope our colleagues in the House will recognize the urgency of this matter and act quickly to resolve this problem if the technical corrections bill is not adopted prior to the end of the session.

Section 345 also includes language seeking to repeal the application of the accounting capitalization rules to farm animals under section 263A of the Internal Revenue Code of 1986. Section 263A is commonly referred to as the "heifer tax."

I have heard from a number of accountants, farmers, and ranchers who have expressed concern about the unfairness of the so-called heifer tax. I have cosponsored a bill to repeal section 263A which will make the preproductive period expenses inapplicable to agricultural producers using the cash method of accounting. This would allow farmers and ranchers the ability to deduct preproductive expenses as they are incurred.

Mr. President, repeal of the "heifer tax" and the excise tax on diesel fuel for farmers will help in the effort to deal with the difficulties forced on the agricultural industry due to the drought. This is only one small step, but it is a critical step that is long overdue. I hope my colleagues in both the House and Senate will recognize the burden this has placed on the farmers and ranchers of this country and will act expeditiously to correct this injustice.

Mr. WALLOP. Mr. President, the yeas and nays have not been ordered, so I ask unanimous consent that I be permitted to withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

Mr. WALLOP. I do so.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment was withdrawn.

AMENDMENT NO. 2732

(Purpose: To repeal the diesel fuel tax provisions as they relate to farmers and ranchers)

Mr. KARNES. Mr. President, first of all I want to congratulate the chairman and ranking minority member of the Senate Agriculture Committee and their staffs for all their hard work and effort in expediting this drought relief package.

I also want to thank all the members of the House and Senate ad hoc drought relief task force, in addition to the chairman and ranking minority member, for their efforts in moving expeditiously to provide some measure of help to the many farmers across the country who have been suffering through what has become, in many areas, the worst drought in 50 years.

Finally, I want to thank the Secretary of Agriculture for all that he has done to be responsive to this Nation's farmers as the drought began early on, providing, virtually overnight, drought declarations in those counties that were experiencing the beginnings of the drought. The Secretary and the Department of Agriculture have provided assistance that was both measured and appropriate.

The drought has moved beyond one department's ability to handle however. It has been calculated that farm losses from this drought will be in the billions of dollars. Many corn belt farmers have lost their entire production for the year. Producers in other areas will have much reduced incomes from their remaining production. Even those who will be able to harvest a crop are facing much higher costs as a result of the drought. In many cases even the higher profits resulting from the drought will be offset by the higher input costs, particularly for water.

In my own State of Nebraska, two-thirds of the corn crop is irrigated through deep wells many of which are powered by diesel fuel. In many areas of my State, and elsewhere in the Midwest, the irrigation pumps have been running continuously since the drought began.

These farmers will harvest a drought reduced crop but at a very high cost.

This drought comes on the heels of several years of economic difficulty that our farmers have had to endure. At the beginning of 1988 it looked as if this year would offer some optimism. Our agricultural exports were on the rise as was domestic consumption. The drought will prevent 1988 from becoming the year that prosperity returned to the farm belt. Some will profit, many more will not.

With that, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KARNES] proposes an amendment numbered 2732.

Mr. KARNES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. LEAHY. Mr. President, I would like to hear it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In the appropriate place in the bill, strike and insert the following:

SEC. 345. DIESEL TAX REPEAL.

(a) DIESEL FUEL DESTINED FOR USE ON A FARM FOR FARMING PURPOSES.—The tax imposed by section 4091 of the Internal Revenue Code of 1986 shall not apply in the case of sale of any taxable diesel fuel which the Secretary determines is destined for use on a farm for farming purposes.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) above shall apply to sales after March 31, 1988.

Mr. LEAHY. Mr. President, I wonder if the Senator from Nebraska could tell us whether this is a revenue amendment.

Mr. KARNES. This amendment does have revenue implications, yes.

Mr. LEAHY. The reason I ask is that it would appear to be an amendment that would be out of order on this bill, which is obviously not a revenue bill. This is an amendment not originating in the other body, which has the constitutional authority to originate revenue raising amendments.

While it may appear so to a number of Senators, I have to think that it falls very much it the category of the prior amendment, offered by the distinguished Senator from Wyoming, and is something that should be the subject when the revenue code corrections bill or another revenue measure comes before this body.

I would be very reluctant to see a revision of the Tax Code tacked on to this drought relief bill. There are those who are concerned throughout this country about this bill. I do not want to see a 1985-and-a-half law or a 1990-minus farm bill. I also do not want to see changes in the Internal Revenue Code in this legislation. All of us could say where we think the Internal Revenue Code should be changed.

I would hope that Senators would not seek changes in the IRS Code on the drought relief bill, or we are going to be open to the charge of a Christman tree bill. It is close to 100 degrees outside. It is not time to start singing "Jingle Bells"—and I say that with all affection for my colleague from Nebraska.

This is not what we want in this bill. I understand the concern of the Senator from Nebraska. I do not in any way suggest that this concern is not valid, and I do not suggest that it is not something that should be brought up at some point. In fact, I may well end up agreeing with him, but not on this bill.

Mr. KARNES. Mr. President, as I conclude my remarks, we may get to a point of mutual agreement. Let me proceed, if I may.

Mr. President, in debating this drought relief bill, we need to recognize all aspects of the hardship that has befallen farmers. Some hardships were exacerbated, not by the forces of nature, but by acts of Congress. This is especially true with regard to the diesel fuel tax that farmers have had to deal with during this drought.

Many farmers have done their best to battle the drought by irrigating their crops. Many of those farmers use diesel fuel to pump the water that is so crucial to saving their crops this year. I have written letters, held meetings, and spoken on this floor often in the past several months to talk about the problems that the diesel fuel tax is causing for farmers. Those problems have been compounded by the drought because farmers have been forced to increase their water usage, which in turn increases their fuel needs.

The amendment I have sent to the desk addresses this tax inequity.

I am fully aware of the implications this may have from a finance and a revenue point of view. However, I consider it an important drought assistance measure because of the synergistic effect it has had on farmers during the drought.

In my own farming organization, we have anticipated that the increase in cost as a result of this diesel fuel tax will add $1,700 to the cost of operations this year in our 300-acre farm.

The amendment I have would repeal the diesel tax that was in my opinion, unfairly imposed on farmers last year in the continuing resolution.

Mr. President, my amendment would effect a full repeal of the diesel tax as it relates to off-road agricultural users like farmers. This is the kind of language that the farmers of America need, this repeal language. Now is the time to take a hard look at how hard times can magnify the impact on the pocketbooks of farmers by acts of Congress. Every day that this tax remains on the books it impacts the pocketbooks of American agriculture dramatically in a negative fashion.

Mr. President, the diesel tax is a tax that farmers should not pay for the simple fact that it is a tax they do not owe. In fact the IRS gives a tax credit at the end of the tax year—if the farmers remember to make the application, keep the proper receipts, and so forth.

It is much like the paperwork my distinguished colleague from Montana described with the heifer tax.

What the tax amounts to is forced potentially non-interest-bearing loans by farmers to Uncle Sam to help the Government pay its bills, and the great irony about this tax, I might add, is the fact that this indeed is a credit, so you need to have income in order to get your refund. Many farmers this year will not have income. Thus, they will not be able to benefit from what now is in the provisions of the law which I do not consider to be a benefit since they have already paid the tax. Nonetheless, people need to recognize this is a credit against tax liability, and if there is no tax liability because of loss, they will not receive the funds that they would otherwise expect.

I have talked to many farmers in Nebraska and around the country who tell me that fuel costs are already too high. They know a drought means they will have to extend themselves to the limit with their irrigation costs and costs of operations to maintain a viable farming operation. In such a desperate situation with this drought, every penny counts, and this 15 cent tax only adds insult to injury.

There has been some activity on Capitol Hill in response to the legitimate complaints of farmers about this nuisance tax. The Senate Finance Committee has indeed held hearings on this matter this year. The committee has included a provision in the tax corrections bill currently in the Senate that would modify—not repeal, but only modify—this tax. But, Mr. President, I do not think a modification is enough.

The drought has been a major hardship for farmers, and a mere modification of the tax would have prevented farmers from having to fight a paperwork battle as well during this dry summer. The tax is so unfair and so unnecessary for farmers that it should simply be repealed, and all the money already collected should be returned immediately. It is not fair that the Government should only offer to return to farmers a portion of a tax that farmers simply do not owe. Of course, they have to establish first of all a tax liability.

Mr. President, let me say I do not intend to call for a rollcall vote on this particular amendment. I am aware of the problems, the revenue problems that the chairman has pointed out, both procedural and political, with adding this language at this time on this particular drought bill. But I want my colleagues to know that this issue is entirely relevant to the disaster we are discussing here today because paying of this tax adds to the disaster that the farmers feel in their pocketbook. The drought package does contain a sense of the Senate resolution provision calling on the Senate to act to correct this inequity. The major difference between that provision and my amendment is that the Karnes amendment would have the force of law. However, I am glad to see the sense of the Senate language in the bill, for it shows that our efforts to keep the focus on the diesel tax are indeed succeeding. We have to wait for nature to end the drought, but it will take an affirmative act of Congress to reverse the diesel fuel tax provisions as they relate to farmers. If I had gone through with my amendment we could have accomplished that today, but I do not want to hold up the drought package. I do feel it would be useful to allow the Senate to vote directly on the sense of the Senate language in the bill today, separate and apart from the other language of the bill. And when I do call for that vote in a moment, I hope it will be unanimous.

Today we may vote on a sense of the Senate resolution, after I withdraw my pending amendment. But one of these days, we are going to see a bill come to the floor where there will be no procedural impediments to the amendment I have sent to the desk today.

At that time I hope that other farm State Senators, at least the 29 Senators who have joined with me on May 27 when I sent a letter to the majority leader asking for this issue to be raised, will join with me and with many of my colleagues to be able to put the full Senate on record with regard to a full, legally binding repeal of the diesel tax as refers to off-road agricultural uses.

With that, Mr. President, and with respect to the comments from my distinguished chairman on the Agricultural Committee, Senator LEAHY, I withdraw my amendment.

The PRESIDING OFFICER (Mr. FOWLER). The Senator has a right to withdraw his amendment.

The amendment was withdrawn.

Mr. SHELBY addressed the Chair.

Mr. LEAHY. Mr. President, I wonder if the Senator from Alabama will defer a moment.

Mr. SHELBY. I will be glad to defer.

Mr. LEAHY. I thank the Senator from Nebraska for withdrawing the amendment.

As I say, I fully understand his full concern and share that.

Mr. KARNES. Mr. President, if the chairman will yield, I will be asking at the appropriate time for a division and a separate vote on section 345 of S. 2631, a separate vote on the sense-of-the-Senate provision dealing with the diesel fuel tax.

If the chairman will yield, I will allow him to direct me as to when is the appropriate time. I will be asking for that. I do not want to interrupt the procedure.

Mr. LEAHY. I wanted to consult with the Parliamentarian. I am sure the Senator from Nebraska will, too—as the matter is on page 83 of the bill. The Senator, of course, is free to make any requests he wishes to.

I will note for all Senators' sake that we will move to third reading as rapidly as we see no other amendments on the floor.

With that, Mr. President, I yield to the distinguished Senator from Alabama who has been patiently awaiting recognition and who has kindly stepped aside for a number of Senators so far.

I yield to my friend from Alabama.

The PRESIDING OFFICER. The Chair advises that in the opinion of the Chair the Senator from Nebraska has the floor and has not yielded the floor.

Mr. LEAHY. I apologize. I thought I just yielded to him for a question. I had not realized I yielded the floor.

Mr. KARNES. Mr. President, I will be happy to yield to the chairman if he would provide me an answer if the appropriate time is now for the Chair to request if there is a sufficient second on my proposal to have a division on this particular item of the bill.

Mr. LEAHY. Mr. President, as I said, I understood I had gotten the floor from the Senator from Alabama and yielded for a question to the Senator from Nebraska, and perhaps I had not made that clear. I hope that at the moment, though, Senators will cooperate to allow the Senator from Alabama to be able to go forward with his matter.

No Senator loses any rights by following that procedure, and I would hope that we may be able to do this as we have tried to go back and forth here today.

Mr. KARNES. Mr. President, with that understanding, I would like again, as I mentioned, to secure a vote on this. I will be talking to the chairman with that understanding.

Mr. LEAHY. I will note that any Senator is free to seek a vote on any issue that may be appropriately before the Senate for a vote, and we are not so suddenly going to zip to third reading that nobody gets a chance to do that. It will be my intention, and I am sure the intention of the distinguished Senator from Indiana, to make very, very clear to the body when we are about to seek third reading.

Mr. LUGAR. Will the Senator yield for a question?

Mr. KARNES. Yes.

Mr. LUGAR. It appears to this Senator that the issue is one of parliamentary procedure as to how the objective of the Senator is to be achieved. The distinguished chairman has pointed out, the sense-of-the-Senate resolution commending repeal of the diesel fuel tax—which all of us on the Agriculture Committee certainly commend the Senator for his leadership in bringing out—is difficult to vote on in its present form.

If the Senator were prepared to yield the floor for the time being we might proceed with the distinguished Senator from Alabama, he and I and the chairman could approach the Parliamentarian and really try to see how that job could be done. I ask the Senator's indulgence, perhaps, in allowing us to work through the parliamentary procedure.

Mr. KARNES. I respect that request and I respect the comments of the chairman and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the drought of 1988, probably the worst in recent history, has caused immediate and irreparable damage to many residents of my State of Alabama. Needless to say, the drought will have an adverse economic effect upon my State and upon our country. Unfortunately, such acts of God cannot be prevented. They must be allowed to run their course.

However, after the fact, public policy can be tailored to minimize the negative impacts of the drought. Congress, through a bipartisan effort, has drafted legislation that will effectively assist our farmers. The lack of rain is not a Republican's problem nor is it a Democrat's problem. The drought was not discriminatory; it affected everybody equally. Thus, to combat this problem it was necessary for a bipartisan approach to be utilized in the Congress.

The Senate and the House, Democrats and Republicans, worked together to create a plan that will help people. The legislation, S. 2631 the "Emergency Livestock Feed Assistance Act of 1988," of which I am a cosponsor, not only provides hope for farmers, it provides the assurance that they will be in business next year.

The legislation would provide disaster payments to program participants and nonparticipants for basic commodities. Further, the legislation would ensure, to the maximum extent practicable, that direct operating loans made or insured by the Farmers Home Administration [FmHA] for 1989 crop production be made available to farmers and ranchers suffering major losses due to the drought or related condition in 1988. Also, the legislation would guarantee the operating loans made available in fiscal year 1989. Moreover, the legislation would protect rural businesses by making available loans to assist rural businesses and enterprises directly and adversely affected by the drought or related condition in 1988. Additionally, the package provides assistance to farmers who carry out conservation practices to enhance soil, water, and wildlife.

The pending legislation may not be a panacea for the adverse consequences caused by the drought, but it does provide needed and prudent assistance to our farmers. The package is balanced. It is fair to the farmer and to the taxpayer. It is based upon farm program savings. I find the package fair and equitable to the American public.

I urge my colleagues to vote for the legislation.

I yield the floor.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I would like to get the ear of our chairman so that I might just raise an issue. I do not intend to offer an amendment at this time, but I do want to raise the issue of section 303, which relates to the farmer-owned reserve. It has been our intention, as we went through this bill, not to rewrite the 1985 farm bill. As we go through this legislation and look at section 303, it does significantly alter the provisions in the 1985 act that relate to the farmer-owned reserve.

Currently, if you get to the trigger point on the farmer-owned reserve and then at a later date the price falls below the trigger point, you are back under the provisions of the farmer-owned reserve and farmers get storage payments. Under section 303, once you have gone over the trigger point, even if you fall back at a later time, farmers would not get storage payments.

I understand that there are certain policy arguments that can be made in terms of providing more grain that is free to move in the market place under these conditions. But I think there are other policy implications as well. For example, farmer-owned reserve will provide food and feed security for next year if this drought continues.

I note that on the House side they have dropped this section. I would urge the conferees on our side to recede to the House position when they consider section 303 and the other provisions of the bill in conference committee.

I will not offer an amendment at this time, so we are not taking it up and potentially face a vote, but I do urge the conferees to give close consideration to this issue when they discuss it at conference.

Mr. LEAHY. Mr. President, the Senator from North Dakota raises a very valid point. He has discussed it with me before. It is a matter that will be in conference.

I would ask the Senator from North Dakota if he might be willing to make himself available to join with me at the conference when that matter comes up, because I would like to be able to have the benefit of his counsel during that time.

Mr. CONRAD. Mr. President, I certainly will be pleased to do that so that we have a chance to discuss the implications of this. It is a change in what is in the 1985 Farm Act in terms of the farmer-owned reserve. I am hopeful we will give it close attention at the time of the conference.

I appreciate the chairman's consideration.

AMENDMENT NO. 2733

Mr. LEAHY. Mr. President, while we are sorting out a couple of matters preparatory to reaching a point where, hopefully, we might be able to go to third reading, I have two amendments on behalf of Mr. EXON which I believe have been cleared.

I send the first of the two amendments to the desk on behalf of Mr. EXON relating to the forward contracting report and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] on behalf of Mr. EXON proposes an amendment numbered 2733.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78 after line 24, add a new Section 333 as follows:

"Section 333. Forward Contracting Report

"Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report on the financial impact that forward contracting, hedging, and associated margin requirements for wheat, feed grains, and soybeans during the recent drought-related period of price volatility have had on producers and on grain marketers, particularly local elevators and intermediaries.

"In his report, the Secretary shall include a discussion of—

"(i) the extent to which currently planted or stored crops are subject to cash forward contracts or are otherwise hedged, and what portion of such forward contracts are in danger of being defaulted on as a result of drought-related crop losses;

"(ii) the extent to which local elevators may experience severe financial stress due to defaults on cash forward contracts or due to margin requirements on futures market positions;

"(iii) the extent to which producers have been able to renegotiate forward contracts in light of drought-related changes in economic conditions;

"(iv) the extent to which hedging and forward contracting practices may produce unusual demands for credit among farm producers and marketers in light of drought-related conditions; and

"(v) such other areas of concern as the Secretary may find appropriate.

"The Secretary shall alert the aforementioned Committees promptly if he finds that serious economic or financial problems as discussed above are likely to arise in advance of the report's completion. The Secretary shall consult with the Chairman of the Commodity Futures Trading Commission on issues concerning futures markets which arise in the course of this study."

Mr. EXON. Mr. President, I have two revisions to the drought assistance bill which I believe will be acceptable to both sides of the aisle. They are simple, straightforward, and they just plain make sense.

The first amendment would require the Secretary of Agriculture, in consultation with the Commodity Futures Trading Commission, to study what I fear could become a painful problem for farmers who have forward contracted their grain and now may not be able to deliver on those contracts. Farmers hardest hit by the drought may find themselves in a situation where they are required to buy their way out of those contracts by paying the difference between the contract price and the market price at the time those contracts are due.

I fear this could be a painful and costly predicament for many farmers who sought to limit their risk by forward contracting. We cannot know for sure what the magnitude of this problem will be until we take a close look at it, and this amendment will require the Secretary to do so and report back to Congress.

The other change I propose will alter the ethanol provisions of the bill to allow the Secretary to substitute grain sorghum instead of corn if an ethanol producer so chooses. This change does not in any way expand the ethanol provision—it simply provides the Secretary greater flexibility.

There is an ethanol plant in Hastings, NE, which sometimes uses sorghum instead of corn. Unfortunately, the committee-approved bill did not provide for the substitution of grain sorghum in the program. This simple change makes sense and I urge its adoption as well.

Mr. LEAHY. Mr. President, I would note that this first amendment would require the Secretary of Agriculture, in consultation with the Commodities Futures Trading Commission, to study what Senator EXON feels is a problem for farmers who have forward contracted their grain and may not be able to deliver on those contracts.

What the memo would do is require the Secretary to look and find out whether that is a problem and report back to the Congress. I understand that there is not an objection to that amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished leader is correct. We are prepared to accept the amendment on our side.

Mr. LEAHY. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Do both sides yield back their time?

The question is on agreeing to the amendment.

The amendment (No. 2733) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2734

Mr. LEAHY. Mr. President, if I can have the indulgence, I do have a second one on behalf of Mr. EXON. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. EXON, proposes an amendment numbered 2734.

At the end of page 81 insert the following:

"(G) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol."

Mr. LEAHY. Mr. President, I understand that this provision, according to Senator EXON, does not in any way expand the ethanol provision, but simply provides the Secretary greater flexibility if he chooses to use it. I have no objection to this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, we have no objection on our side to the amendment. We are prepared to support it.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2734) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I rise to express my support for the drought legislation before us. I would also like to commend the leadership of the Agriculture Committee for putting together a bill in such a timely fashion, including the two amendments I offered which just passed.

The drought bill before us will not be all things to all people. But it is a reasonable response to a real problem.

A number of areas in Nebraska have been hard hit by the drought and this legislation will provide farmers and ranchers in those areas with the assistance they need.

There are several provisions that have been of particular interest to me. The first one, which I authored, requires the Secretary of Agriculture to prepare a drought contingency plan. I originally offered this provision because I feel we need a coordinated, nationwide approach for dealing with this drought which has been virtually a nationwide problem. I still believe there is more we can and should be doing to coordinate our efforts and the plan required in this provision would serve as a "road map" of sorts. Such a "road map" will become even more important if the drought becomes more than a 1-year phenomenon.

Another provision which I strongly support and advocated from the beginning relates to ethanol production. Nebraska has been the cradle of ethanol development and I do not want to see the advances we have made go down the tubes because of the drought.

Ethanol will become even more important in the years to come. It is a valuable tool which can and should be used to deal with air quality problems. The ethanol production assistance provisions in the drought bill will help maintain a domestic ethanol industry which could otherwise go by the wayside during the drought because of lack of availability or skyrocketing prices of feed stocks. We know from experience that the markets we have developed for ethanol have not come easily. To abandon those markets by allowing ethanol production to stop would be a waste and a disservice to American farmers who hold the key to improving our energy security and our air quality.

I also appreciate the committee's acceptance of two other amendments I offered to this bill earlier today.

The first amendment would require the Secretary of Agriculture, in consultation with the Commodity Futures Trading Commission, to study what I fear could become a painful problem for farmers who have forward contracted their grain and now may not be able to deliver on those contracts. Farmers hardest hit by the drought may find themselves in a situation where they are required to buy their way out of those contracts by paying the difference between the contract price and the market price at the time those contracts are due.

The other amendment which was accepted earlier will alter the ethanol provisions of the bill slightly to allow the Secretary to substitute grain sorghum instead of corn if an ethanol producer so chooses. This change does not in any way expand the ethanol provision—it simply provides the Secretary greater flexibility.

There is an ethanol plant in Hastings, NE, which sometimes uses sorghum instead of corn. Unfortunately, the committee-approved bill did not provide for the substitution of grain sorghum in the program. This simple change makes sense.

I urge my colleagues to give swift approval of this legislation so that we can move forward in working out our differences with the House of Representatives and send a bill to the President as soon as possible.

He should sign it into law and I hope he will do so.

Mr. RIEGLE. Mr. President. I rise as a cosponsor of this measure and as the Senator from one of the hardest hit States to seek assistance for Michigan and for American farmers. I thank Senator LEAHY and the other members of the committee for allowing me to serve as an ad hoc member of the drought emergency task force.

In Michigan, agriculture is our second largest industry, accounting for more than $15.5 billion to the State's economy each year. We lead the Nation in the production of 9 commercial crops, and we rank fifth or higher in the production of 20 others. Agriculture is a centerpiece of the economic strength of my State. I can tell you from traveling across the State speaking with individual farmers and farm leaders that tremendous damage has happened in our State as it has across the country. I think this is a vitally needed piece of legislation. I thank the chairman and others who have worked on it for including nonprogram crops on the same footing as program crops. This drought does not discriminate between one type of crop and another, and so it is very important that all the nonprogram crops be covered as they are in this bill.

We are in an agricultural crisis in Michigan, just as in other States in the Midwest. While we have received some rainfall in the last weeks, we are still in a crisis condition, and hot dry weather is predicted to return to Michigan in the next few days. The damage is pervasive across all crops. Our hay crop has been reduced by 30 to 50 percent—one county had losses over 70 percent. No second cutting was possible. Many of our dairy farmers and beef producers can't find hay to buy at any price, and have been forced to market their cattle.

Our losses on the small grains, oats and barley, rye, and wheat are running as high as 50 percent. As for corn, thousands of acres are being lost with little chance of any meaningful reversal; losses here are projected to range from 40 to 50 percent.

Major losses are also mounting on the entire range of our nonprogram crops. As the Nation's leading cherry producer, the crop in Michigan ranges from barely adequate to outright disastrous. Worse, many fruit trees are dying from the heat stress, which means our farmers are losing their future production until replacement trees can mature.

Our farmers are disking up potato fields, and many are unable to plant dry beans. Every crop in our State—and we produce more than 50 commercial crops—has been damaged by the drought. In total, losses in Michigan could reach as high as $500,000,000.

Farmers in the State who have been around since the Depression say that 1988 is worse than the drought of 1934. Thousands of Michigan farmers need this drought relief legislation if they are to avoid financial ruin.

The committee bill that we all been working on and which is now on the floor is urgently needed and will send a message of hope to farmers across America. The key provision of this draft is the extension of disaster relief coverage to those who produce nonprogram crops.

Two years ago, during a flood disaster in our State, we found that there was no mechanism available to aid nonprogram farmers. At that time, I crafted with Senator Mattingly and Senator LEVIN a program which was enacted and worked well. It saved thousands of farmers from bankruptcy. I introduced this same program this year, S. 2555, and I am grateful that you have included this structure in the pending bill.

I think that lowering the disaster threshold to 35 percent is a positive move given the overall scale of this drought disaster. I realize the budgetary constraints that we are all forced to operate under but there seems to be a real argument for raising the payment limitation, perhaps to $150,000 since farmer's losses in many cases will exceed easily the limitation. We want to keep our farmers in business and out of foreclosure; raising the payment cap would be one means to accomplish this.

Other elements of the proposed legislation are of critical importance to farmers in Michigan and I strongly support them. The bill helps meet feed costs that dairy, beef, and other livestock producers are having to bear as a result of failed hay crops, and will rescind the 50 cent reduction in dairy price supports that are scheduled for January 1989; these are important provisions.

Finally, it is vital that the bill contain language to encourage the Secretary of Agriculture to pursue more lenient credit policies. Our farmers can't stand more debt. It is essential that some assistance in this area be forthcoming.

One provision included in this bill is of critical importance to Michigan's fruit producers. This is the provision which will extend assistance for the replacement of trees that are lost in the drought. As everyone knows, once a tree is lost, it takes up to 5 years before a replacement tree is mature and producing fruit. Extending assistance for the replacement of trees is one means of easing the loss that cherry, apple, and other fruit producers will suffer over the next years.

While our Federal package is crucial, I believe that the States must help as well. During the 1986 flood disaster Governor Blanchard worked with us and State agricultural leaders to create a complementary State program of assistance. It included special financing programs for farmers and other assistance measures. We should encourage all States to participate in developing supplemental relief efforts.

Mr. Chairman, farmers are very proud and hardworking people, and they are reluctant to seek help from anyone. The scale of this drought crisis has required them to seek our help—and we must respond. A drought relief package makes good economic sense for America. Every citizen will gain if we can avoid the costs of widescale bankruptcies, foreclosures, and the severe damage we would see in our rural communities. We need our national agricultural base to feed and clothe ourselves and to reduce our trade deficit with exports overseas. On human terms and economic terms America needs this drought relief package.

Finally, I want to say that this bill is good economics for the whole country. This is not just something that benefits farmers and farm families that have been damaged by the drought. But by keeping families intact, farms intact, avoiding foreclosures, avoiding bankruptcies over a period of time, our communities in the rural areas and across America as a whole will be helped and strengthened. The drought is the worst in recorded temperature of this country. So I hope that after we finish the amendment process my colleagues will pass this measure, take it to conference, get it enacted as soon as possible, and get the President's signature on this bill.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Michigan for his comments. The Senator from Michigan is not a member of the Senate Agriculture Committee but nonetheless spent time with and has worked with the Senate Agriculture Committee. He testified before us. He met in effect as an ad hoc member of the drought task force. He was at all those meetings, again pointing out the problems in his home State of Michigan and in fact the problems throughout the Midwest. His assistance has been invaluable. I thank him for that assistance. I think he can take a great deal of credit for the legislation we have before this body today.

Mr. RIEGLE. I thank the Senator.

Mr. HEINZ. Mr. President, I want to join my colleagues in commending Senator Leahy, Senator Lugar, and other members of the Agriculture Committee for bringing this bill to the floor. They have done an outstanding job of crafting an excellent bill in record time. It provides help for all those farmers. Let me tell you our farmers desperately need it. I am pleased to be an original sponsor of this legislation. I hope it will move through conference rapidly.

I say that for several reasons, not the least of which is that my home State of Pennsylvania, with annual agricultural sales worth some $3½ billion, is privileged to have agriculture as our No. 1 industry. It is larger than steel. It is larger than apparel and textiles. We are the fourth largest egg producer. We are the fourth largest dairy State. We have sizable livestock operations. If the Midwest is the Nation's bread basket, Pennsylvania is its pantry.

Our State is a disaster. Indeed, the Governor of our State yesterday declared our State a disaster. Earlier today, I wrote Secretary Lyng, urging him to act promptly and favorably on Governor Casey's request. Pennsylvania's Secretary of Agriculture, Boyd Wolf, estimates our crop damages at $300 million so far. We have gotten—up to this point—excellent cooperation from the Federal Government. The farmers already have permission, for example, for emergency hay and grazing on set-aside fields. I hope it continues.

Mr. President, I just want to say that I support this drought bill because it will provide relief on a timely basis to distressed farmers, including those in Pennsylvania. To my mind, while there are many excellent provisions, the three most important are: first, there is emergency livestock feed assistance, even for those farmers who do not grow their own feed. Second, there is disaster assistance both to producers of program crops as well as to producers of nonprogram crops, which is the majority of Pennsylvania farmers. Third, it repeals the 50-cent dairy price support reduction that would otherwise be scheduled for January.

The 1985 farm bill mandates the Secretary of Agriculture to reduce dairy price supports from $10.60 per hundredweight [cwt] to $10.10/cwt if he projects that surplus dairy purchases for that calendar year will exceed 5 billion pounds milk equivalent.

Mr. President, the dairy support price was $13.10/cwt in 1983. We had a surplus problem then. We do not now. Now our dairy farmers are caught in a terrible bind. The cost of feed has nearly doubled in recent months. The milk-feed ratio has plummeted from 1.6-1.0 to 1.3-1.0 and lower.

We do not want the farmers in our State or any other State decimated. We are going to lose a lot of hardworking farmers, including dairy farmers, if this legislation does not pass. We need to send a message to the lenders, to farmers, that we stand behind them, and I think this bill will do that by saying that we in Congress are serious, that we can and are acting, and that it is only a matter of a very brief time before this badly needed and very much deserved legislation becomes law.

Mr. President, just this past Monday, I visited with several farmers in Lancaster County. I saw their corn. They got some rain, but it was too late for tassling.

One of the things that struck me was the problems they perceived with Federal crop insurance. Just 3 percent of Pennsylvania's farmers have Federal crop insurance. Uniformly, they complained that premiums are too expensive, and they have little chance of collecting on their policy.

I understand the General Accounting Office has just released a study of Federal crop insurance. I look forward to reviewing it. We need to find ways to make the program more attractive. I would exhort the committee to use the opportunity occasioned by the drought to study the issue and devise ways to boost participation in Pennsylvania and across the Nation.

In conclusion, I have had an opportunity to discuss this legislation with many consumers in my State. At first, they wonder why we need to spend $4 or $5 billion on drought relief for our farmers. Mr. President, the best thing we can do for the consumers of this country is to head off an exodus from the family farms that supply the vegetables, the produce, the livestock which they as customers buy in their stores and supermarkets. The best thing we can do is to keep a plentiful and dependable supply available because failing that the prices of food will not just rise a little, but they will skyrocket. There will be shortages, and people who are on tight budgets now will find themselves in an impossible situation later.

This Senator is convinced that this legislation not only helps our farmers survive, but it will help our consumers survive, and both deserve it.

AMENDMENT NO. 2735

(Purpose: To provide flexibility in emergency loans)

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana [Mr. Lugar] proposes an amendment numbered 2735.

Mr. LUGAR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the appropriate place in the bill the following new section:

"Sec. . Notwithstanding any other provision of law, with respect to any person that applies for emergency financial assistance under Subtitle C—Emergency Loans, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961-1970), if the Secretary determines that the applicant's farming, ranching, or acquaculture operations have been substantially affected due to drought or related condition in 1988, the Secretary may, in the Secretary's discretion, waive the limitation in section 321(b) of such act (7 U.S.C. 1961(b)) regarding crop insurance with respect to such applicant.".

Mr. LUGAR. Mr. President, current law requires that a farmer have crop insurance in order to be eligible for the low-interest Farmers Home Administration emergency loans. In my own State of Indiana, only about 10 percent of the farmers have crop insurance. While the Secretary of Agriculture has declared all 92 counties disaster areas, very few farmers will be eligible for the emergency loan assistance triggered by this declaration. My amendment simply gives the Secretary the authority to waive the crop insurance requirement if he deems it to be appropriate.

I am aware that there would be a sizable cost associated with the amendment if the waiver were to be mandatory in all instances and therefore I ask for discretionary authority to get around the cost problem and take another look at the situation in conference.

My understanding is the House has a similar amendment and we will have the opportunity to discuss this further in conference.

The **PRESIDING OFFICER.** The Senator from Vermont.

Mr. LEAHY. As he usually does, the Senator from Indiana makes eminent good sense and I support the amendment.

The **PRESIDING OFFICER.** Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2735) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2736

(Purpose: To provide for the payment of assistance to producers of crops who suffer losses because of a reduction in the quality of such crops due to drought conditions in crop year 1988)

Mr. BURDICK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. BURDICK], for himself and Mr. MELCHER, proposes an amendment numbered 2736.

Mr. BURDICK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 67, between lines 3 and 4, insert the following new section:

SEC. 211. CROP QUALITY REDUCTION DISASTER PAYMENTS.—

(a) IN GENERAL.—To ensure that all producers of crops covered under the provisions of section 201 through 203, and producers of soybeans, are treated equitably, the Secretary may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by drought in 1988.

(b) ELIGIBLE PRODUCERS.—A producer of crops identified in subsection (a) shall be eligible to receive reduced quality disaster payments under this paragraph if such producer incurs a loss of not less than 35 percent and not more than 75 percent of the producers program payment yield for such crop as determined by the Secretary.

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, but such rate shall not exceed 10 percent of the established price, as determined by the Secretary, for the 1988 crop for which such payment is being made.

(d) DETERMINATION OF PAYMENT.—The amount of a payment to a producer under this paragraph shall be determined by multiplying the payment rate established under subsection (c) by the actual harvested yield for the crop on the producers farm that is reduced in quality by drought in 1988.

Mr. BURDICK. Mr. President, the amendment I offer today would give the Secretary of Agriculture the discretion to make crop quality reduction disaster payments.

These payments would be made to producers of certain crops where a reduction in the quality of the crops has occurred due to drought and where the crop loss is between 35 and 75 percent of the farm program payment yield.

The payment rate cannot exceed 10 percent of the established price for the 1988 crop. This crop quality reduction disaster payment is necessary for producers who harvest a partial crop that is low in quality.

For example, under S. 2631, those who suffer a 50-percent loss will receive disaster payments on only 15 percent of their loss. They will incur the expense of harvesting the crop and taking it to market.

Further, the crop may be of poor quality in many areas of our country and, as a result, the producer will be docked for delivery of poor quality crops. Many of the farmers in North Dakota fall into this category.

The disaster payments producers will receive under S. 2631 do not provide sufficient relief in those cases where they will not receive the full market price for their wheat.

In some cases, it is arguable that a person in this situation is worse off than those who suffer almost a total crop loss.

I believe that we must assist our producers who face this situation. Without this additional assistance, many of the farmers in my State tell me they will not come close to recovering their costs. Many are living on the edge, surviving year by year. Without a crop quality reduction payment, they will be forced closer to this edge.

Mr. President, I hope my colleagues will join me in supporting this amendment.

I urge the adoption of this amendment.

The **PRESIDING OFFICER.** Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2736) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The Senator from North Dakota.

Mr. BURDICK. Mr. President, I have one more amendment.

AMENDMENT NO. 2737

(Purpose: To permit commodities in the form of generic certificates redeemable for commodities owned by the Commodity Credit Corporation to be used to repay loans made through the producer-owned reserve)

Mr. BURDICK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from North Dakota [Mr. BURDICK] proposes an amendment numbered 2737.

Mr. BURDICK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 71, at the end of section 303, add the following new subsection:

(c) REDEMPTION OF GENERIC CERTIFICATES.—Effective only for the 1988 marketing year, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445(e)) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the producer may repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the commodities are placed under loan and redeemed only within the same county or within the normal trading area of the producer.".

Mr. BURDICK. Mr. President, this amendment would allow farmers who have substituted their grain pledged as loan collateral to redeem those loans with PIK certificates.

Currently, farmers may substitute their grain pledged as collateral for a price support loan for another lot of grain. This lot must be of equal or better quality, but does not have to be of the same class.

Spring wheat may be substituted for durum, for example. Also, the substituted grain may be produced or purchased by the farmer. Farmers use substitution to maintain the condition of grain under loan. They also use substitution to take advantage of improved market prices for different classes of grain.

Prior to October 1986, farmers were allowed to use PIK certificates to redeem grain that had been substituted. Farmers and elevators used the substitution provisions to establish loans in different counties in order to take advantage of the higher differentials between the posted county price and the loan rate.

According to USDA, this practice created some market dislocation, and the decision was made to prohibit the use of PIK certificates to redeem grain that had been substituted.

My amendment would allow the redemption of substituted grain with certificates once again, but with one important limitation. PIK certificates could be used only if the substitution and redemption takes place within the same county or normal trading area.

Mr. President, we need to encourage the movement of grain to market during this drought. My amendment would do this by enabling farmers to market their substituted grain freely without creating the market dislocations experienced in the past.

I am hopeful that my colleagues will support this amendment. I urge the adoption of this amendment.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2757) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to make a few general comments concerning the bill. First and foremost, I wish to compliment the managers of the bill, Senator Leahy, and Senator Lugar, for their fine work. I think they have put together a package which certainly was not an easy task.

There are a lot of different ideas on how to help farmers. I, like many of my colleagues, have traveled around my State. I visited many counties. I can say there are a lot of counties in Oklahoma and throughout the country that are hit very hard by the drought.

I think this bill is a giant step in the right direction toward helping many farmers. It is a very good, well-crafted package. I also compliment Senator Dole and others who have had much input on this legislation.

Mr. President, I also wish to compliment Senator Karmes. I heard his comments concerning the diesel tax. He is working trying to get it repealed, not just modified or reduced, and I commend him for it. I really do not think our farmers should be making no-interest loans to the Federal Government, particularly right now.

Many farmers are suffering from the drought. They have had hard, difficult times. For them to be forced, under current law, to pay the diesel tax and then apply for a refund without interest is outrageous. I think it needs to be repealed. It needs to be repealed as soon as possible, and I compliment the Senator from Nebraska for his leadership.

I expect sometime this year, and I hope sooner than later, that we will be successful in approving a repeal. I personally would like to see it be part of this package.

Interestingly enough, when I was traveling around my State talking about the drought—and we had a lot of meetings—in every single meeting somebody brought up the diesel tax: "Well, I am not sure how you can help me with disaster payments, and I am not sure how this program will work, Senator. But you can help me if you could repeal the diesel tax."

I hope it will be part of this package; if not part of this package, certainly part of the technical corrections bill. I hope that we will move forward quickly with that legislation.

Mr. President, again, talking about this package—I compliment the authors, because I think they have done an outstanding job—in our meetings and our discussion of the bill, some concerns came out. I may try to address a couple of those concerns with amendments. I will go through some of those concerns and, again, maybe if the sponsors of the amendment care to join in a dialog in a moment, I would appreciate it.

One of the concerns I have about the bill is I think it is almost impossible to estimate the total cost of the bill; almost impossible. As my colleagues are well aware, we have had a very difficult time estimating the cost of farm programs for the last many, many years. But certainly since I have been in the Senate for the last 8 years, the cost of farm programs have risen and risen dramatically far and above our estimates.

I think the estimates were made in good faith. I do not think they were pie in sky. I just think we underestimated it because, for whatever reason, some farmers farm the farm programs and they have done quite well. We have seen a lot of abuses, and some of those abuses we have corrected. Maybe some of those abuses we have not corrected.

I happen to think that the bill, as drafted right now, would accomplish its goal, as explained by the managers, and not replace the farm bill or be overly generous for probably 90-some percent of the farmers. But I also think it is open for abuse. I believe unless it is tightened, and maybe it will be tightened on the floor today with one of my amendments, that it will be open to abuse. I certainly think it will need to be tightened in conference.

I understand the desirability to enhance and, the desirability of people to say I am working for my constituents. But we also have responsibility for the budget. We are talking about a very expensive program under anybody's explanation right now—$5.5 to $6 billion. I am afraid it may well be much more than that, and I will talk about why. Maybe I am wrong, and if I am, I stand corrected, I hope that is the case.

Has Senator Dole's amendment dealing with payment limitations been accepted yet? It says the total amount of benefits cannot exceed this year's projected income. I know that it is being considered.

Mr. LEAHY. That is not my understanding of what the amendment of the Senator from Kansas did.

Mr. NICKLES. I will talk about that in just a moment. I hope we do come up with something. I think it is important to have some kind of limitation because right now, as the bill is drafted, it is a commodity-specific bill. So you could easily have a disaster in one crop, but have bumper crops in other commodities. A farmer's total income in 1988 could well exceed his farm income of 1987 or 1986. I can illustrate easily how that can happen.

A farmer may have six or seven commodities. With many commodities right now, prices are higher than normal and you may have a very good crop in those commodities. Then, if you have a failure, say, in soybeans or a failure in corn you could receive disaster payments, et cetera. Add all that together and compare it to last year or the previous year, and you might find that your total income exceeded substantially, because of these payments, last year's income.

I am not really sure that is the intention of the framers of this legislation. I think it is something we need to look at. I think we should look at total gross income and really try and figure out some way or another of helping those who need help.

I compliment my friends from North Dakota who have done a good job in creating an amendment to help those with total crop failure. I do not have a problem with that. I am concerned with helping those who do not need help and breaking the bank as a result. That is the point and reason why I say that.

I can easily see under the present bill how a farmer will be able or entitled to receive $150,000. They can receive $50,000 in deficiency payments on their wheat, and then they could receive disaster payments for $100,000 in soybeans and/or corn.

I can see that happening in my State. It could probably happen in a lot of States, particularly winter wheat States. I really do not know if it is our intention to increase the amount of money those farmers can receive, for the most part, from $50,000 to $150,000. That could be a very expensive provision, and possibly we should examine it.

One alternative is to have disaster crop payments limited to $50,000, and to have feed assistance limited to $50,000 because right now that is not the case. Right now you can have $50,000 in deficiency payments, $100,000 in crop/feed assistance, for a total of $100,000 in disaster payments. The grand total being $150,000.

I think we may start reading stories a year from now about people doing very well in a few commodities and still receiving $50,000 in deficiency payments. Even though prices are up—wheat is about $1 higher than it was, you can still get a deficiency payment in wheat and then receive up to $100,000 for a loss in a couple other commodities. That is not going to happen very often, but it could.

Again, I think this whole program is well designed, but I do think it has some loopholes and it could be farmed by farmers farming the farm program. I hope that we would just tighten it. I think we are going to have to tighten it because I believe the total cost of the bill is going to greatly exceed the estimates.

I mentioned the case of a diversified farmer. I talked to farmers in my State these past couple of weeks. Some of them have seven different crops. They told me they did well on four crops and they had three bad crops. Some of the crops they planted earlier were doing pretty well. They were also doing pretty well on their livestock. Cattle prices are still pretty decent. Wheat prices were good. They had a good wheat crop. We are a winter wheat State, but a few lost some of their soybeans, corn, or green beans.

I asked; "How is your total farm income going to be?"

"Well, it will be a little better than last year, but if we enact this program, it will be close to 100 percent of last year's." Some did better in a few crops than last year and a few did a little less in some crops. Hey, they lost crops last year, too, but they did not have this program.

Again, this is just a point I am trying to make. We need to be careful about how much this will cost.

The feed assistance program: I have an amendment that deals with this and I would like to bring it to everybody's attention. I talked about the feed assistance program to some of the farmers in my State. One said: "Well, I think it is great. I have livestock and you are going to be giving me a program where the Government will pay half the cost of my feed. This will be helpful."

The guy next door said: "Wait a minute. I sold him his feed for the last 10 years. If he can buy feed from CCC at half the cost that he can buy it from me, I just lost a customer." He said: "Thanks a lot, Senator. You guys helped him, but you hurt me. You have taken my customer away."

So we talked about trying to figure out what we were trying to do. Trying to help the livestock producer because he cannot buy feed, that is one thing. In most cases, in almost every part of the country, feed is available at a price and really at prices that are very close, in some cases, if you look at milo and corn, to the target price. If a livestock producer, and do not think this is against livestock producers because it is not—I happen to be a very big livestock State—but if a livestock producer, cattle producer, is able to buy corn—right now he can buy corn at $3; the target price is $2.93—if he buys his normal amount, why should we say Uncle Sam is going to pay for half of it? I do not see why.

I am concerned about a windfall, but I am also concerned with helping people. Are we saying corn prices are too high? I do not think $3 is too high. Wheat prices are up now. I am glad they are. I do not think they are too high. I have been wanting wheat prices to go up. I have been wanting corn prices to go up. I would like to see farmers get a decent price for their commodities. We have a target price for corn at $2.93, and the current market price is $3. I think that is fine. Should we have a farm program for the livestock producer where he can get half of that at Government expense? I do not think so.

I have an amendment, and I am interested in the opinion of the Senators, which says you would only get assistance after you have made your normal purchases. In other words, if you are a livestock producer you may normally buy, say, 1,000 bushels of corn or milo or something like that. After you buy that 1,000 bushels, you may need to buy additional amounts because of the drought and you are not able to graze because your pasture is down or you do not have as much hay as you normally need or you have to buy additional amounts, then we will provide assistance because you do not have access to additional feed. Then we will provide help for that additional amount, but not because prices happen to be a little higher than somebody anticipated.

As a matter of fact, if you look at cattle, the cattle industry has been doing fairly well. Cattle prices have been higher in the last year than they have been in a long time. So I do not think that we should come up with a program that is going to subsidize the total purchase of a livestock producer until after he purchases his normal amount.

Again, this idea came from farmers. This idea did not come from OMB. This idea did not come from the Department of Agriculture. It came from farmers who said that is probably where you need some help, and it makes sense. So I hope that my colleagues will be able to accept the amendment. I personally like those prices coming up a little bit in the marketplace and do not think we should come up with a Federal program that says well, those prices are too high so we are going to subsidize part of the difference. I find that a little inconsistent with a lot of what many of us have been trying to do.

I make that comment. I will send that amendment to the desk in just a moment.

One or two final comments. One of the other concerns I have—and I realize and I understand the efforts by many of my colleagues to be equitable—if we are going to help program commodity crops, let us also help the nonprogram commodity crops. I guess that is equitable and I share that concern. I talked to a lot of producers who produce green beans, peas, and many other commodities. Vegetables that are covered by this bill will receive assistance they did not in the past. My concern would be that we might get those commodities entangled in commodity programs in the future, and I do not think that would be very healthy in the long run.

My second concern is I imagine it would be very difficult if not totally impossible to estimate the cost of that type of provision. So I am concerned again about the cost and am concerned about some of the provisions of the bill. Again, 90 percent of it I think is very well directed but possibly in some cases it is subject to abuse.

AMENDMENT NO. 2738

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2738:

On page 47, between lines 19 and 20, add the following: "(d) Livestock assistance provided to any livestock producer under this section shall be limited to the quantity of feed purchased in addition to normal purchases as a result of the livestock emergency."

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have discussed with the two managers the possibility of getting an agreement on amendments. I propose an amendment by Mr. SASSER on emergency feed availability; an amendment by Mr. FORD on extension services assistance to farmers; an amendment by Mr. LEAHY, a technical amendment; an amendment by Mr. LEAHY on farm workers assistance; an amendment by Mr. LEVIN on fuel assistance; an amendment by Mr. BOREN on Oklahoma and Auburn University for drought satellite systems and water management; one amendment by Mr. DASCHLE to cap ethanol; an amendment by Mr. NICKLES on a payment amendment; an amendment by Mr. NICKLES on livestock; an amendment by Mr. GRAMM, no penalty for prepurchase; an amendment by Mr. DOLE, no payment in excess of 100 percent; an amendment by Mr. DURENBERGER, a sense-of-the-Senate amendment on rural economic development; an amendment by Mr. KARNES on diesel fuel tax.

Mr. DOLE. Mr. President, reserving the right to object, I would like to have an opportunity to sort of go over these with the manager on this side. I understand there is one or two that have no relationship to the drought. They are amendments on Oklahoma and Auburn University. We have a lot of those if they want to start putting those in here. We did not think they would. But I would like to check with Senator LUGAR.

Mr. LEAHY. If the distinguished leaders will yield to me just a moment, I might note on the recommendation for a unanimous-consent agreement two things: One, I would hope we do enter into an agreement, that Members would be willing to enter into a fairly short-time agreement. I should also note, and I would hope everybody understands, simply because we set an agreed time, an agreed amendment for any Member, including this Member who has a couple on there, that is not to be taken as an indication that the two managers will support that amendment, or that it may necessarily pass if it comes to a vote. The distinguished minority leader has raised a point about amendments which at least in their descriptions sound like they may not have relationships to the drought bill.

As I have told Members now for 2½ weeks and several Members here this afternoon, if it does not relate, I will strongly oppose it, and Senator LUGAR has been saying the same thing. I would not want a Senator to think that if he gets on the list that he is automatically home free.

Mr. DOLE. I do not have any quarrel with that. I do not have any quarrel with the amendment. Maybe it would be offered on the agriculture appropriations bill which would be next. I am just suggesting that if in fact we are going to have a list, then I have to go back on some we turned down where we said, no, you cannot do it on this bill.

Before we foreclose those amendments, I would like to have an opportunity to at least add those to the list. I do not object to the amendment. I would be happy to support it on the agriculture appropriations bill, which is going to be next. If we start opening the floodgates on the drought bill on university amendments, we are going to have a problem, I think.

Temporarily, I would object.

Mr. BYRD. My fear is, and I respect the viewpoint that has been expressed by the distinguished Republican leader, if we do not get an agreement limiting the amendments, and there is no rule on germaneness in any event, even without the agreement, those Senators may come in and offer their amendments, and we cannot prevent them from doing so. I felt by limiting the amendments, at least we preclude the possibility of other amendments that we may not know about at this time which may be similar to those that have been referred to by the distinguished Republican leader.

Incidentally, I did show this to Mr. LUGAR. He said they were aware of all of these. He indicated to me that this list was OK.

Mr. DOLE. I think we can accommodate the majority leader soon. I have a couple of Members to meet. I saw Senator LUGAR. I said I do not think I can do that on this bill. But now, if you can do that on this bill, I need to get back to him.

Mr. BYRD. I withdraw my request temporarily.

Mr. LEAHY. Mr. President, I would urge all Senators—please do not try to load up the drought relief bill. We had a very good core bill. We have added a few good things to it. We have strong bipartisan support, and we still have to go to conference with the other body before we get done. Certainly, as one conferee, the intensity of my adherence to the Senate bill will be in direct ratio to how close it is to the core bill.

My ability to concentrate on the Senate's position will be focused in direct ratio to its proximity to the core bill. My ability to be distracted and to be open to compromise with the other body will also be in direct ratio to the extent that amendments move away from real drought relief and the core bill.

Naturally, all amendments will be defended to a point in conference, but let us not add on things that may well not be in the bill that shows up on the President's desk.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Texas.

Mr. GRAMM. Mr. President, I do not want to pour cold water on this dry ground we are talking about here, but I do have an amendment.

Before that, I would like to remind people of some cold budget realities as we move to adopt this bill.

The first cold reality is that as our mid-session deficit review just came out and we had built into it the impact of the drought on the programs of the Department of Agriculture, we were looking at a deficit of $140.1 billion.

I remind my colleagues that in adopting this bill, we said that if the deficit exceeds $146 billion, we are going to have a sequester order which is going to cut spending across the board to bring it back to $136 billion. What that means is that we have $5.9 billion left to spend if everything stays great. This bill, with the committee amendments, is now in the range of $5.85 billion to $6.55 billion.

I also remind my colleagues that this Tuesday we adopted a nutrition bill that costs over $300 million, and we have yet to adopt a drug bill, and everybody is talking about $2 billion to $3 billion in that drug bill.

I understand that the House disaster relief bill costs about half as much as this one does.

So I hope that as we go to conference, we are going to keep in mind that we not only want to prevent a disaster on the American farm and a disaster to the American taxpayer, but we also want to prevent a disaster in Government by meeting these targets for deficit reduction so that we do not have an across-the-board cut. In fact, if this bill hits the high end, we could be voting today for a sequester.

I know we are going to conference with the House. I know there will be a lot of praying over these figures. I hope some degree of rationality will come into play on the nutrition bill and the drug bill as well. But I thought that before offering my amendment, I should remind my colleagues that we are getting perilously close to voting ourselves into an across-the-board spending cut, including a cut in agriculture programs.

I do not want anybody to say on October 15, when we have all been called back from election campaigning to have a vote on what to do about this sequester order: "My goodness, nobody ever told me. Nobody ever suggested that we were spending all this money."

I remind my colleagues that as of today, if the estimates in this bill hit the high end when we vote for this bill, we may be voting for a sequester order. I am going to vote in favor of this bill today, but will be forced to oppose the conference report if the conferees do not succeed in lowering the cost of this bill.

It may be that we will go to conference with the House and we will cut out some of the expensive programs and get it back down. I hope we will do that. But I thought it would be important, in the midst of all this discussion about the drought, to remind people that there are other problems in the country that have to be put into focus with this problem.

Mr. President, I send an amendment to the desk.

The **PRESIDING OFFICER**. The Chair reminds the Senator from Texas that there is a pending amendment.

Mr. **GRAMM**. I ask unanimous consent to temporarily set aside the Nickles amendment for the consideration of this amendment, which has been accepted on both sides.

Mr. **SASSER**. I object, Mr. President.

The **PRESIDING OFFICER**. There is objection.

Mr. **GRAMM**. Mr. President, I move to recommit the bill with instructions, and I send the instructions to the desk.

Mr. **LEAHY**. Mr. President, I wonder if the distinguished Senator from Texas would mind withholding that for a moment.

We are trying to get a drought relief bill out. The distinguished Senator from Oklahoma has a matter which I think is probably going to be disposed of very quickly.

Senators have been waiting here patiently, and we are delighted that the Senator from Texas and others have joined us.

I wonder if the Senator might withhold this a little and let this follow its course, and see if we can get some drought relief here, and allow the Senator from Oklahoma a chance to finish.

Mr. **GRAMM**. Mr. President, this amendment has been agreed to on both sides. I understood that the distinguished Senator from Oklahoma was willing to allow the amendment to be set aside.

Mr. **LEAHY**. Mr. President, we have tried very carefully to accommodate Senators who have been waiting here for some time.

Mr. Nickles took a few minutes to confer with us—and I compliment him on this—in an attempt to make what might have been an hour of debate get down to a couple of minutes.

We have been trying, informally, to go from one side to the other side. I know that the Senator from Tennessee has been waiting.

I wonder if we might let the Senator from Oklahoma, who is close to finishing on his amendment, finish that, and the Senator from Tennessee be able to go to his amendment, and the Senator from Texas then go to his amendment, and allow the normal comity to speed things up by going back and forth.

Mr. **GRAMM**. Mr. President, I was unaware, when I was recognized, that there was an amendment pending. I was a little bit startled after the author of the amendment suggested that he would allow it to be set aside, and then the distinguished Senator from Tennessee objected.

Given that I was unaware that the distinguished Senator from Tennessee has an amendment and that under the normal process he would have the right to offer that before I offered mine, I withdraw my amendment.

The **PRESIDING OFFICER**. The Senator has the right to withdraw his amendment.

Mr. **LEAHY**. I appreciate the Senator doing that.

AMENDMENT NO. 2738

Mr. **NICKLES**. Mr. President, I have consulted with the managers of the bill and I want to get some kind of interest on their part to manage the total cost of the bill.

I have mentioned that we have not been successful in the task of gauging how much many of these farm programs will cost. I was informed that CBO estimates the Feed Assistance Program costing $700 million, and the USDA estimates $3 billion.

I have had some people from USDA and ASCS tell me how the Feed Assistance Program would affect cattle producers in my State. Some people say, "Your amendment might be negative on cattle producers." I have received a lot of this input from cattle producers. We are a big cattle producing State.

They say: "Senator, you're going to allow us to purchase a lot of our feed at half price. We don't really need it, Senator, but we appreciate it. If you offer it and Congress passes it, we are going to take it."

Some of them possibly do need it, but a lot do not, because we are looking at feed prices of corn of about $3 with a target price of $2.93. Market prices are up around the target price, and I like that.

I do not think we should be making Government payments on up to half that amount just because the price got up to where we said it should be. Yes, we have some shortages of hay, and I know hay prices have gone up.

I want to help those who really are in need of help. But I also know that a lot of our cattle producers have done fairly well. They are saying for the first time you are going to allow them—not necessarily for the first time—it has happened on more select cases in the past—to receive CCC stocks at reduced price.

Some of them say, "Thank you" but they do not really need it.

So, finally, we are going to be helping a lot of people who do not need the help, and that is not the purpose of this legislation.

I see some of the conferees are here. My guess is when you have USDA really look at some of these provisions, particularly the Feed Assistance Program, you are going to find it has potential to be extremely expensive. I would hope that the conferees will look at this provision very closely with the idea that we are going to have to do a good job managing resources, or else a lot of cards are going to fall, and a lot of people are going to be upset, "I understand that X, Y, Z producer—maybe he is in Oklahoma, Texas, or Vermont, a dairy producer, cattle producer, hog producer, or chicken producer—got *X* number of dollars in feed assistance up to $50,000 in subsidy on feed assistance, and did you read what their net income was?" They could be a public company. Maybe it is Tysons Food, or whoever. The net result was they had a great year. Maybe they did not, but I do not know.

I simply think it is very open for abuse.

Again, this amendment and this proposal came from producers with the idea of saying, "Well, let's use a little common sense; let's not give feed assistance until after they have already purchased what they purchased last year. Then if they had a shortage, we will subsidize that shortage. But let's at least let them buy what they normally buy."

There is one other point, and again I have the attention of the Senator from Vermont—this is awfully important—we are trying to help all farmers.

You have some farmers who produce feed for other farmers.

I had a feed producer say, "If you pass the amendment as I understand it, they are not going to buy the feed from me; they are going to buy it from CCC, and I have lost a customer. If I lose customers you are hurting me. You may be helping whoever benefits directly from CCC purchases, but you are hurting me because you have taken away my customer. He would rather buy from the Government than he would from me."

I do not think that is anybody's intention under this bill. I think it is a loophole that can be closed with maybe just a couple of word changes in the language. I hope that the sponsors of the amendment will look at it and look at it very closely.

Mr. **LEAHY**. Mr. President, I thank the Senator from Oklahoma. He said this matter will be in conference. He has raised a number of points with me, both on the floor and privately today. I have asked the staff to run some of those numbers. I will be conferring with him again prior to conference.

But with the fact that it will be a conferenceable matter, I hope the Senator from Oklahoma will be willing to withdraw the amendment now and let us work together prior to the conference.

Mr. HEFLIN. Mr. President, I wonder if the chairman will yield to me for 2 minutes relative to this issue?

Mr. LEAHY. I yield the floor.

Mr. HEFLIN. Mr. President, I feel like I want to oppose what the distinguished Senator from Oklahoma proposed. I am glad to see he will withdraw it.

I do want to point out that this language has been carefully crafted. He has used 50 percent. The language of the bill says that the producers of livestock at a price established by the Secretary that shall not exceed. So you already have limitations. This is a matter that the Secretary is going to have to look into in regards to these matters.

The amendment in the language that the Senator had is on a quantity in regards to past usage.

We have just had a great breakthrough for the cattle industry of America in that through negotiations we have eliminated the quotas that the Japanese have.

As a result of that there have been many, many cattle farmers who have increased their herds substantially.

There are all sorts of factors in it. There is not only just beef cattle. There are hogs. There are every type of livestock that is involved in this.

So I think before we make any decision on this, we ought to look at the language that is already there and also look at the overall problems involved in this.

I appreciate the fact that the Senator from Oklahoma has withdrawn his amendment, and we will look further into it.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the Senator from Oklahoma for a very constructive dialog. Certainly the points he raised will be important ones in conference and with regard to further amendments which we may consider yet today.

The thought of limiting this expense so that we do not run into the Gramm-Rudman-Hollings situation and certainly our intent to prevent fraud, to prevent people from enriching themselves at a time we are trying to help poor people in a disaster, those are obviously the aims of the Senator from Oklahoma. They are important aims. I appreciate his not pressing the amendment at this point.

I assure him my personal interest in what he is doing and that will be pursued in the conference.

Mr. NICKLES. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me just make one comment. I am not going to interfere with the right of the distinguished Senator from Tennessee to the floor. But to clarify the points as to whether a feed dealer or merchant could be circumvented by the Secretary directing feed assistance from the Commodity Credit Corporation, the Senator should notice that on page 15 of the committee report there is a provision, section 606(b) dealing with this problem and stating that the Secretary may direct that a merchant or a dealer actually be the source of the feed grain assistance for livestock producers and that feed can be replaced by the Commodity Credit Corporation stocks to that feed dealer or merchant.

That provision is designed to cover that problem and the potential for inappropriate competition for feed dealers.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 2739

(Purpose: To identify areas where available Commodity Credit Corporation stocks may be less than the demand for such stocks and to make such stocks available for use by certain eligible producers)

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee [Mr. SASSER] proposes an amendment numbered 2739.

Mr. SASSER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, between lines 14 and 15, insert the following new subsection:

(b) ALLOCATION OF COMMODITY CREDIT CORPORATION STOCKS FOR EMERGENCY LIVESTOCK ASSISTANCE.—

(1) Evaluation and needs assessment.—

(A) EVALUATION.—Not later than 21 days after the date of enactment of this Act, the Secretary of Agriculture shall complete an evaluation of Commodity Credit Corporation feed stocks that will be available to be used for emergency assistance provided under title VI of the Agriculture Act of 1949 (as added by subsection (a)) to determine the quantity of available feed grains on a State-by-State basis.

(B) NEEDS ASSESSMENT.—In conjunction with the evaluation conducted under subparagraph (A), the Secretary shall conduct a needs assessment of eligible livestock producers as defined in section 605 of the Agriculture Act of 1949 (as added by subsection (a)) on a statewide basis to determine areas where available Commodity Credit Corporation stocks may be less than the demand for such stocks.

(C) RESULTS.—On completion of the evaluation and assessment under this paragraph, the Secretary shall make the results of such available to the appropriate Committees of Congress and the States.

(2) LISTING OF STATES WITH SURPLUS SUPPLY.—Based on the evaluation and assessment prepared under paragraph (1), the Secretary shall prepare a listing of States where available feed grains owned by the Commodity Credit Corporation will exceed usage of such stocks under the provisions for assistance provided for under title VI of the Agriculture Act of 1949 (as added by subsection (a)).

On page 51, line 15, strike out "(b)" and insert in lieu thereof "(c)".

On page 52, line 7, strike out "(c)" inset in lieu thereof "(d)".

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I am pleased that the Senate Agriculture Committee has moved forward expeditiously with this drought relief measure.

I wish to extend my commendation to the distinguished chairman of the committee, Senator LEAHY, and the distinguished ranking member, Mr. LUGAR.

We are all aware of the desperate situations which America's farmers are facing because of this drought, which is assuredly creating some of the worst conditions this country has seen since the 1930's.

While the month of July has brought rains to some areas of the country, this relief has been scattered, and many areas of the country still have severe shortages of water. My home State of Tennessee is a perfect example. While west Tennessee has received rain over the past 3 weeks which will help to salvage some crops, east Tennessee has not received the same rains and most counties remain 10 to 12 inches short of rainfall for the year.

Needless to say, crops and farmers are still suffering from the early impact of this drought, which has been unusual in that it began in the spring and early summer. I believe the measures taken in this drought relief package will help to ensure the necessary assistance which our farmers need. Making this assistance available to all crop producers is a key part of the legislation and a step which I commend the Agriculture Committee for taking. As well, I am pleased that a feed assistance program has been established which will be available to all livestock producers affected by this drought.

Mr. President, while I am supportive of the mechanisms for feed assistance, I am concerned about the actual availability of this feed. Specifically, the bill provides for use of Commodity Credit Corporation feed grains at 75 percent of the county loan rate or a 50-percent reimbursement to farmers for the cost of feeds purchased if they are being severely impacted by this drought. Now we are all aware of the shortages of feed which our farmers are already experiencing. This leads me to believe that it will be necessary for those feeding livestock to turn to CCC stocks in order to ensure adequate feed supplies. This will put a strain on those CCC stocks which will not only have to provide immediate supplies but will have to be sufficient to cover the winter months as well.

I am very concerned about the availability of these CCC feed grains in several States, including Tennessee, and that is why I am offering this amendment. Our officials in the State of Tennessee tell me they have some 11 million bushels of CCC feed grains as well as another 7 to 8 million of additional feeds which might be available over the next 6 months. We have had some experience with droughts in Tennessee in recent years. In the drought conditions of 1983, which were much less severe, I am told by the Department of Agriculture that Tennessee made use of some 30 million bushels of CCC feed stocks. That is almost twice as much as the present stocks which are on hand.

My farmers tell me these surpluses will simply not be enough. After checking with the agricultural stabilization and conservation service in Tennessee, I am more convinced that we will have livestock producers eligible for feed assistance from CCC stocks who will be told that CCC surpluses simply do not exist in Tennessee. Further, this appears to be the case in several States affected by the drought.

Mr. President, I am sure many of my colleagues can see where this is leading. While the mechanisms are in place for assistance, we may well run into the situation where farmers are eligible for emergency feeds from the CCC stocks that are going to be told there are none available and will not know where to turn for available stocks.

Mr. President, that is the crux of my amendment. The Department of Agriculture has the authority to make CCC stocks from one State available to livestock producers in another State, and this legislation further authorizes the availability of these stocks. Farmers in my State would have access to CCC stocks from other States, but the process could be long and tedious, and in the meantime their livestock would be suffering. I am offering an amendment which will seek to remedy this situation by assessing the current availability of CCC feed grains on a State by State basis and also the probable use in each State.

My amendment will call on the Department of Agriculture, within 3 weeks of the signing of this bill, to evaluate the availability of CCC feed grains, on a State by State basis, which may be used for the feed assistance programs called for in this act. Also, the Department should assess the need for feed assistance on a State by State basis and attempt to determine where shortfalls may exist.

This evaluation will allow the Department of Agriculture to determine the amount of assistance which will be available. In turn, the Department will be able to inform States with deficient stocks where eligible farmers might turn for additional assistance.

Mr. President, this is a very straight forward amendment which will require the Department of Agriculture to prepare for a likely scenario, livestock producers looking for feed grains. It is my understanding that this measure has been approved on both sides of the aisle and I would ask for its adoption.

I thank the chairman and the ranking member of the Agriculture Committee for their cooperation. I believe this amendment will be of great assistance to our livestock producers in procuring much needed feed grains.

Mr. President, this amendment has been cleared with both the distinguished chairmen. I ask for its acceptance.

Mr. LEAHY. Mr. President, the Senator from Tennessee, in his usual fashion, has hit upon an extremely important area. It would allow the Department of Agriculture to respond to requests for feed assistance in a timely manner in those areas where shortages of grain exist. I think he has pointed out a very, very good point and I strongly support it.

Mr. COCHRAN. Mr. President, we have reviewed the amendment on this side of the aisle and recommend its approval.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the question is on agreeing to the amendment of the Senator from Tennessee [Mr. SASSER].

The amendment (No. 2739) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2740

(Purpose: To prohibit the Secretary of Agriculture from considering certain purchases of feed when determining eligibility for emergency feed programs)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2740.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, between lines 2 and 3, insert the following new subsection:

"(c) Notwithstanding any other provision of this Act, for the purpose of determining the eligibility of livestock producers who normally produce their own feed for assistance under this title, or under the emergency feed program or the emergency feed assistance program, because of the drought or related conditions in 1988, the Secretary shall not consider any feed purchased in anticipation of short supplies by such producers within 60 days prior to the announcement by the Secretary that the county that such producer is located in is eligible for assistance under this title as prescribed in section 604, in determining the eligibility of the producer for such assistance.".

Mr. GRAMM. Mr. President, this amendment has been accepted on both sides. It is a very simple amendment. It tries to deal with the problem of people who go out and try to respond to the crisis that is occurring around them. If a fellow that was in the cattle business or the dairy business recognized 2 months ago that we were having a drought, that we were going to have a feed shortage and stockpiled hay and paid a premium for it before his county was declared eligible, he is going to be excluded from these programs. However, the fellow who sat around on his jeans and did not do anything is going to be eligible.

So, Mr. President, the purpose of this amendment is to assure that we do not penalize the people who were doing what we wanted them to do, and that was to be prudent in their operation.

I thank my colleagues for accepting the amendment.

Mr. LEAHY. Mr. President, the Senator from Texas is right. I have no objection to the amendment.

Mr. COCHRAN. Mr. President, we have reviewed the amendment. We commend the Senator from Texas for offering it and recommend that it be approved.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. GRAMM].

The amendment (No. 2740) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I am about to send a technical amendment to the desk. It truly is a technical amendment. It is a line that was dropped out of the bill.

But, before I do, let me just add one more time that we can finish this bill fairly quickly. If those Senators who have amendments would bring them here and if those Senators who have amendments that should be on other pieces of legislation find something else to occupy their time rather than coming here, we could be done.

AMENDMENT NO. 2741

(Purpose: To make a technical correction in the bill)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2741.

On page 74, between lines 17 and 18, add the following:

"(b) CONSERVATION PRACTICES.—For purposes of subsection (a), the term "conservation practices" includes—".

Mr. LEAHY. Mr. President, this is truly a technical amendment. The line was dropped out in the printing of the bill.

Mr. COCHRAN. Mr. President, we have reviewed the amendment and recommend that it be approved.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment of the Senator from Vermont [Mr. LEAHY].

The amendment (No. 2741) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2742

(Purpose: To require the Extension Service to provide drought information in certain counties)

Mr. LEAHY. Mr. President, if no one else is seeking recognition at the moment, I have another amendment that I will send to the desk, on behalf of Senator FORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for Mr. FORD proposes an amendment numbered 2742.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DROUGHT INFORMATION.

The Secretary of Agriculture shall direct the Extension Service to use available resources to provide information through publications or telecommunications, on a daily basis where practicable, concerning drought conditions and drought assistance to persons residing in counties that have been declared disaster counties, as a result of drought or related conditions in 1988, or because of a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, as a result of drought or related conditions in 1988.

Mr. FORD. Mr. President, today I am offering an amendment which proposes a simple solution to a drought-related problem that has been almost as devastating as the lack of water: a lack of information. The amendment has no cost. It merely directs the Secretary of Agriculture to make use of existing resources in a way that is not being done in many States.

Mr. President, each State already has a unique information network in place through the Cooperative Extension System, which links research, science, and technology to the needs of the people. USDA's Extension Service also has the latest information from the Department concerning the drought. However, given the dire circumstances caused by the drought, many farmers and ranchers do not get this information in a timely way, and sometimes the information is simply too late to be helpful.

In my State, 115 counties have been declared disaster areas either for purposes of haying and grazing rights, or feed assistance programs, or both. It took several days for some farmers to find out. The Secretary has made numerous announcements concerning the drought over the last few weeks, almost on a daily basis. It takes several days for some farmers to find out. USDA and many States have established toll-free "hotlines" for providing drought-related information. Some farmers with unanswered questions still do not know of these hotlines.

It is critical that this information be transmitted quickly. For example, under the Secretary's recent decision to allow haying for 30 days on Conservation Reserve Program acreage, farmers had 10 days to sign up with their county ASCS office. Many farmers did not know for several days, giving them very little time to make a significant business decision.

What can be done? My amendment attempts to address this situation. It requires the Secretary to direct the Extension Service to use available resources to provide drought-related information through publications or telecommunications, on a daily basis if possible. This amendment attempts to go one step beyond the information gathering process which the Extension Service already provides, by requiring that they seek daily outlets to disseminate the information so long as the drought exists.

I believe the Drought Information Service which has been established in Kentucky can serve as a model for implementing this amendment. A unique agreement was recently reached between the Extension Director at the University of Kentucky, Kentucky Educational Television—public television which is broadcast into all 120 counties in the state—the Kentucky Cable Television Association, and Kentucky Network radio news.

Under the agreement, the television and radio participants broadcast the latest drought-related information two or more times per day, at times which have been advertised and are known to farmers and others affected by the drought. The broadcasts generally run for 4 to 5 minutes. They may include the latest USDA program announcements, current State or National drought stories, and a listing of the various "hotline" numbers which may be called for further information.

All that was needed to arrive at this agreement was the leadership of the organizations involved and a desire to help those affected by the drought. The University Extension Service already provided drought-related information through its computer information system, "AgText," which all of the participants had access to. All that was needed was the university's commitment to condense this information for broadcast use, and the broadcasters' commitment to set aside sufficient time.

My amendment merely requires the Secretary to direct the Extension Service to use existing resources to bring about the same timely distribution of information where possible.

Although this is a small step, I believe it has already connected several farmers with the information needed to help themselves. With the passage of this Drought Relief Act, timely information will become a crucial element in its successful implementation. For these reasons, I urge the adoption of the amendment.

Mr. LEAHY. Mr. President, I note that this amendment has no cost. It merely directs the Secretary to use existing resources in the extension service to provide drought information not now being offered. I understand it has been cleared. It has no cost. It is simply a directive. I would ask for its adoption.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2742) was agreed to.

AMENDMENT NO. 2743

Mr. LUGAR. Mr. President, on behalf of Senator DURENBERGER and Senator HARKIN, I send a sense-of-the-

Senate resolution to the desk concerning rural development. Once again, this is an amendment that has been cleared by both sides. The amendment says that the Congress should proceed with rural development legislation; that we should take a look at those programs, improve and strengthen them. It is an amendment that I believe all of us agree with.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. DURENBERGER (for himself and Mr. HARKIN) proposes an amendment numbered 2743.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . RURAL ECONOMIC DEVELOPMENT RESPONSE TO THE DROUGHT.

(a) The Congress finds that:

1. A severe drought is being experienced in a large number of States, with serious economic consequences for family farmers;

2. The effect of the drought is not isolated to farmers, but is having a devastating impact on the economy vitality of rural communities;

3. Rural businesses and financial institutions are already experiencing the negative effects of decreased sales, and they anticipate severe problems over the next year, due to crop failures and the unavailability of credit;

4. Local rural governments, whose fiscal bases depend on tax revenues from agriculture and agriculture-related businesses, will experience difficulties in providing services which are important to the quality of life of rural residents;

5. Significant savings will accrue to the federal budget due to reduced deficiency payments and storage payments, in excess of the funds allocated by this Act; and

6. Assistance to farmers, while essential, represents only the first stage of a comprehensive response to the serious national problems created by the drought.

(b) It is the sense of the Congress that:

(1) Budgetary savings which accrue from the drought and other economic circumstances should, to the maximum extent possible, be dedicated to relief for farmers and agricultural workers and to assist rural businesses and communities in promoition of rural economic development;

(2) The Congress should urgently proceed with action on comprehensive rural economic legislation which addresses the needs of rural businesses and governments; and

(3) Rural development programs should stress efforts to cooperate with and support local decision-making, promote market-based capital formation, create a more equitable and dependable partnership between the federal government and other levels of government, provide federal initiatives for improving the quality of rural health care, child care and education, and create a far greater sensitivity on the part of the administration and the Congress to the impact of federal spending, tax, trade and regulatory decisions on rural communities.

Mr. DURENBERGER. Mr. President, the intent of the amendment I am proposing today is to state the commitment of this body that the legislation before us is not the end of our response to the drought; it is only the beginning.

As the Senator from Iowa and I both know from considerable personal experience, the rural economy is a complex and integrated network of family farms, small businesses, financial institutions and social service providers, such as schools and hospitals. To a greater degree than urban areas, even small changes in the rural economic base are immediately felt in all the other sectors.

In 1986, the Subcommittee on Intergovernmental Relations, which I then chaired, produced a report entitled "Governing the Heartland: Can Rural Governments Survive the Farm Crisis?" That report documented, with data from several States, the fiscal impact of declining land values and farm income on the capacity of local governments to provide basic services. The interconnections between agriculture, small business, local govenment and public services are immediate and strong. Therefore public policy must appreciate the fact that what may have begun as a "farm problem" is very soon a general "rural problem". Treating only the farm "symptoms" will not solve rural problems. Unfortunately, for too long we have simplistically equated "rural" and "farm"; government must undertake a more comprehensive approach.

The amendment before the Senate at this point expresses the sense of the Senate that the drougth has made all the more urgent the need to pass a comprehensive rural development bill. It has been the position of this Senator that legislation to strengthen America's heartland has been neglected too long. I regret that we have not met earlier expectations for passage of a rural development bill last spring, and that it has taken an economic catastrophe to get us to focus on these issues.

It is my hope that with the passage of this amendment that the Senate will commit itself to dealing with the broader rural development challenges created by the drought and those which existed before the drought took hold. We have an unfortunate tendency around here to "hit and run" national problems. I do not want any Senator to leave this floor tonight with the sense that we have "taken care of rural America". Much needs to be done and I urge my colleagues to prepare to tackle the unfinished rural agenda before us.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2743) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, again I would not for the sake of my colleagues, I know a couple of people have suggested amendments that they might bring up. They may well want to do that soon because I think we are very near the point where I would like to see us go to third reading.

I understand the distinguished Senator from Michigan, who is here, Senator LEVIN, has an amendment which has been cleared on both sides. I do not see somebody with an amendment right at the moment on the distinguished Senator from Indiana's side, so I wonder if we might yield to the distinguished Senator from Michigan so he can bring up his amendment.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2744

(Purpose: To ensure that full disaster payments are made)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes and amendment numbered 2744.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, line 4, after the word "make" insert the following: "full".

Mr. LEVIN. Mr. President. I am pleased that the Senate is taking up this drought relief legislation today. I want to thank the bipartisan leadership of the Agriculture Committee for their willingness to listen to the views of Senators who are not on the committee but those States have been devastated, and for their efforts to bring this bill to the Senate floor with the urgency that situation demands.

I have traveled extensively throughout Michigan during the past several weeks to examine the effects of the drought on a variety of agricultural operations. I visited with producers of program crops and nonprogram crops. I stood in the fields and listened to farmers explain what those fields should look like, as opposed to the dust that we were standing on.

Although there has recently been some rainfall in some of the drought stricken areas, the most recent information available still indicates the magnitude of the disaster. In Michigan, 73 percent of the oats are rated poor to very poor; 60 percent of the corn is rated poor to very poor; 35 percent of the soybeans are rated poor to very poor. Clearly, there is the need for action, and the time for action is now.

This legislation provides that action. It will provide disaster payments for hundreds of thousands of farmers. For example, if a farmer lost 60 percent of his corn crop, he would be eligible for a disaster payment of 25 percent of his loss.

I am especially pleased that the Committee agreed to a provision that I proposed which would for the first time provide a disaster payment for the replacement of tree seedlings that are 5 years old or younger that die as a result of the drought. This provision is especially important to Michigan fruit growers. I also want to thank Senators LEAHY, MELCHER, FOWLER, and DASCHLE for their help in having this provision included in the bill.

This is a new provision which I have been urging. It is included in here. We do not know how many orchard owners will be helped yet because it depends on the impact of the drought which is still unknown, but at least they are included for the first time and that is critically important, as are the benefits which are here for so many other crops that have been hurt in my State. But that is a new provision. We are grateful for it.

Mr. President, this legislation represents the Federal Government at its best. It is bipartisan, it is responsible, and it is responsive. This is Government doing what it should be doing. I urge its speedy adoption by the Congress.

Mr. President, the amendment I am offering today requires the Secretary of Agriculture to make full disaster payments provided for in S. 2631. I offer this amendment because of the experience that I and many of my colleagues had in providing disaster assistance for farmers who were affected by the 1986 natural disasters.

While I have been heartened by the responsiveness of the Department of Agriculture and its willingness to work with Congress in fashioning a comprehensive package of benefits for those farmers who have suffered as a result of the drought, I am nevertheless mindfull of the fact that it may be helpful to revisit some recent history regarding congressional efforts to provide disaster payments.

I want to highlight what occurred in the effort to provide disaster payments for those farmers who suffered damages in 1986. In October of that year, Congress included provisions in the continuing resolution which provided disaster payments to farmers adversely affected by floods and drought. I participated in the drafting of those provisions because many Michigan farmers incurred damages as a result of the flooding that followed unprecedented rainfall.

The 1986 legislation authorized expenditures of $400 million to make disaster payments, and the report that accompanied the continuing resolution specifically stated, "Should the $400 million made available for payments be insufficient to carry out the program a request for a supplemental appropriation should be submitted to the Congress of additional funds transferred from the disaster loan account."

In December 1986, the Department of Agriculture, USDA, published final regulations that indicated that the Department intended only provide $400 million in disaster payments, and that, as a result of not seeking additional funds, the disaster payments would be pro-rated. Consequently, farmers only received 74 percent of the amount of the disaster payment that they were entitled to.

In April 1987 Congress responded to this problem by passing H.R. 1157, a bill which provided for the balance of the disaster payments to be made. H.R. 1157 provided about $162 million to make these payments, and to make payments for some farmers who did not receive any payments or only a partial payment because of technical problems in regulations promulgated by USDA H.R. 1157 became part of the supplemental appropriations that was being considered at the time.

In July 1987, I became aware that USDA was contending that there were difficulties in processing the balance of the disaster payments. On July 28, 1987, Senator RIEGLE and I wrote to Secretary of Agriculture Lyng and asked for an explanation of the delay, and a schedule that would explain when the payments would be made. On August 11, 1987, USDA responded that the timing of the payments was contingent upon receipt of disaster data, and that payments should be made by mid to late August.

By August we learned that some farmers would only receive 44 percent of the amount they qualified for. On August 24, 1987, Senator RIEGLE and I sent a hand-delivered letter to Secretary Lyng and asked whether he intended to follow the congressional intent stated in the conference report for the continuing resolution. On September 21, 1987, the Secretary responded that USDA did not intend to request additional funding or transfer funds to make these payments.

In December 1987, Congress included provisions in the continuing resolution to provide funds to make the balance of those payments. In March 1988, it became apparent that USDA was delaying making these payments. On March 29, 1988, Senator RIEGLE and I again sent a hand-delivered letter to Secretary Lyng asking why these payments were being delayed. On June 2, 1988, USDA responded to that letter stating that additional claims had arisen and that full payments for this group of farmers was unlikely. The letter also explained that the partial payments should be made in 4 to 5 weeks.

On June 29, 1988, I received a letter from USDA indicating that the final payments were going to made, but still less than Congress intended.

Again, I want to emphasize that I am pleased that the Department has played a positive and productive role in the formulation of this legislation. The purpose of my amendment is to help ensure that we will avoid the experiences that followed the 1986 effort to provide disaster benefits to farmers. I urge my colleagues to support this amendment.

The amendment has been cleared, as I understand it, on both sides. I very much, again, appreciate not only the cooperation on this amendment but, more important, on this entire bill, the bipartisan leadership of Senators LEAHY and LUGAR and all their colleagues on the Agriculture Committee. They are indeed to be commended and thanked by all Americans, whether we happen to be drought impacted or not.

This drought will and has affected all of us. We are grateful to the two of them and their colleagues.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the Senator for his generous comments. We believe the amendment has merit and we support it.

The PRESIDING OFFICER. Is there any further discussion of the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2744) was agreed to.

Mr. LUGAR. I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President. This drought bill before us today contains a provision which is very important to the dairy farmers of this Nation.

The bipartisan, House/Senate drought task force agreement, which is the heart of this bill, includes the requirement that the Secretary not cut the price of milk this coming January.

This provision is important because now all dairy farmers in the Nation will know, with assurance, that there will be no cut in the price support level next year.

Why do I think this is important? Because I care about America's dairy farmers and I want to make sure there is an adequate supply of milk products for our Nation's nutrition programs.

I am concerned about the trends in dairy resulting from the drought. Dairy production is down, feed prices are up, and market price are beginning to reflect that.

I am concerned about what this tells us about America's dairy farmers. I know in my own State of Vermont, dairy may have to be put on a list of endangered industries. More and more of our farm families just cannot make a living milking cows. Farms are being sold and there is a great concern that the nature and heart of my State may change if dairy farmers are no longer a part of the beauty and economy of the State.

Dairy farmers want to make a decent living, just like everyone else. And they need to know that there is a future ahead for them. That is why I am concerned about the impact of the drought on their ability to survive through these hard times.

Mr. President, I am also concerned about what these trends in dairy imply for our nutrition programs.

We may be running short of milk products. USDA dairy product purchases for June dropped in half from the previous month. In a letter to me from Assistant Secretary of Agriculture John Bode, he states that cheese may not be available for our scholl lunch and other nutrition programs after December. The problem is even worse for nonfat dry milk.

I understand that the House has just voted on a dairy amendment by Congressman PENNY to their drought bill. It provides for a 50-cent price support increase for 3 months, April to June. However, if the conditions in dairy worsen, and the supply of milk products for our nutrition programs are threatened, I intend to hold hearings in September to establish the dairy needs of our feeding programs and to provide for those needs.

The dairy program is no longer operating as a surplus generating program. The caves in Kansas City are empty, and soon, the school lunch plate may also be bare of cheese.

As we get better information about dairy production and the availability of product for our nutrition programs, I will push for a nutrition and dairy policy that provides adequate dairy for our Nation's children and all those who use our nutrition programs.

AMENDMENT NO. 2745

Mr. KARNES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KARNES] proposes an amendment numbered 2745.

Mr. KARNES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, at the appropriate place, strike Section 345 and insert in lieu thereof:

SEC. 345. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS.

It is sense of the Senate that Congress act prior to expiration of the 100th Congress legislation that—

(1) provides an exemption from the Federal excise tax on diesel fuel that is to be used for farming purposes rather than a refund of such tax after it is paid by farmers; and

(2) repeals the application of the accounting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

Mr. KARNES. Mr. President, earlier in the afternoon I made a statement concerning a provision which is a great concern of mine and many others of my colleagues in the Senate, dealing with diesel fuel and the repeal, rather than the modification or reduction, of the diesel fuel tax. At that time I proposed an amendment and then also in consideration of the consideration of this bill, withdrew the amendment and sought at that time a division so that we could have a separate vote on the repeal of the diesel fuel tax.

At that time I was advised that we needed to make a change in the provision, which I have done at this point in time, and I would like to just emphasize that this is not an idle request on my part; this is critically important to the farmers and ranchers of my State and throughout the country. I continually am asked about this diesel fuel provision.

The provision does not have any cost impact. It is a sense-of-the-Senate resolution, but I do feel it is absolutely important that we have a separate vote on this provision to send a strong signal not only to the House Ways and Means Committee but to the farmers and ranchers of our country that we are indeed serious about repealing this tax rather than just giving lip service and doing modifications.

Some may argue that this is merely duplicative of the provisions of section 345 of the bill which we have before us at this point in time. It is indeed very similar. However, this provision needs to have a separate statement on behalf of my colleagues in the Senate.

I would shortly move for the yeas and nays but prior to doing that I take with great seriousness the comment of our chairman on the Agriculture Committee that we should not add anything on this bill which would, in his words, reduce the intensity with which the chairman will be negotiating the provisions of our drought package and I seriously hope that this will not reduce it. It may, indeed, intensify his concern and interest.

At this point in time, Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Vermont.

UNANIMOUS-CONSENT AGREEMENT

Mr. LEAHY. Mr. President, insofar as the amendment is already in the bill, a vote on it is, in effect, redundant to what is going to be passed, I am pretty sure, in the drought bill, although the Senator is perfectly within his right to ask for another vote on something that is already there.

I wonder if we might be able to or be willing to enter into a unanimous-consent agreement, to have that vote be the penultimate vote on this package and occur just before the vote on final passage? Just as a convenience for those Senators who are at hearings and other matters so they would only have to come over for the one vote—in other words, stack it up just before the vote on final passage.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Chair hears none. It is so ordered.

The Senator from South Dakota.

AMENDMENT NO. 2746

Mr DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 2746.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, line 17, strike the word "approximately" and insert in lieu thereof "not more than".

On page 81, following line 25, strike the period and add the following:

", except that the Secretary shall terminate the program under this section no later than September 1, 1989."

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, this morning in my remarks concerning the bill, I addressed the ethanol provision of this legislation. I tried to enumerate the importance of that provision to ethanol producers and to agriculture in general.

In working with other Senators who have expressed concern about that provision, as well as with Members who may serve on the conference committee with the House, I have concluded that we might strengthen and further clarify the intent of the ethanol provision by making two changes, which is the purpose of this amendment:

First of all, the amendment would put a cap on the monthly disbursement of CCC grain and, second, sunset the program at the end of the 1988 crop year.

The bill, as it is currently written, would make available approximately 16 million bushels of CCC corn. We use the term "approximately" in the bill. We intended this to be a ceiling on the amount of corn made available. Thus, the first part of my amendment changes the definition from "approximately" to "not more than."

Second, even though the Secretary already has broad discretionary authority to terminate this program at any time, the second provision of my amendment sunsets this program after the 1988 crop year, on September 1, 1989.

Mr. President, as I said, the intent of this amendment is to accomplish two objectives: First of all, to clarify the whole purpose of this provision in the bill to Senators who have expressed concern and, second, to ensure we have a better opportunity in the conference with the House of Representatives. This is a very critical provision of the bill, and with this amendment, I am hopeful that we can see to it that this provision will reach the President's desk along with the rest of the drought legislation.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I commend the Senator from South Dakota for a very constructive amendment. I share with him enthusiasm about the development of ethanol and gasohol. I share with him the anxieties we all have during this crucial drought period about the future of a good number of these alcohol plants in our country.

There can be a lot of debate certainly about alternative fuels. Many will say this is not the time to bring those subjects up, and I agree with that.

I agree, likewise, when our bill came out of committee, we had a very substantial amendment. The Senator has refined committee version considerably. He has reduced the anxiety of many colleagues a great deal through this constructive work and certainly he has strengthened the hand of the Senate in conference.

For all those reasons, I support the amendment and commend it to our colleagues on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2746) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2747

(Purpose: To provide emergency assistance to low-income agricultural workers affected by the drought of 1988)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Mr. KENNEDY and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for Mr. KENNEDY (for himself and Mr. LEAHY) proposes an amendment numbered 2747.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, after line 7, add the following new subtitle:

Subtitle E—Miscellaneous

Section . ASSISTANCE TO LOW-INCOME AGRICULTURAL WORKERS.

For necessary services to be provided by agencies that have received funds under the authority of Section 402 of the Job Training Partnership Act to low-income agricultural workers who have been adversely affected by the drought, not to exceed $5,000,000 shall be made available to be derived by transfer from the Disaster Relief Program of the Federal Emergency Management Agency. These funds shall be distributed by the Secretary of Labor within 30 days of enactment of this Act based upon an assessment of the number of low-income agricultural workers in each grantee's service delivery area who have lost income or are unable to work due to the drought, including those workers who have stayed at home in anticipation of work shortages. Emergency services to be provided under this section may include all types of assistance as the Secretary determines to be necessary. For the purposes of this section, a low-income agricultural worker receiving assistance must meet the income eligibility requirements of the Section 4021 program of the Job Training Partnership Act.

Mr. LEAHY. Mr. President, this amendment provides funds for the Job Training Partnership Act to help farmworkers affected by the drought. Up to $5 million would be provided for all types of assistance to be determined by the Secretary of Labor. There is a problem, and the press has made it very clear, that there are a lot of farmworkers affected by the drought.

We have seen articles, and I recall one in a local newspaper just a couple weeks ago, about what has happened to farmworkers who have gone to a particular area seeking their normal employment for this time of year and, of course, there is none. There are no crops. There is nothing to harvest.

This is a very modest amount, but it is to try to help those workers who otherwise would sort of disappear through the types of things available for them.

I understand this amendment has been cleared, Mr. President. I urge its adoption.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, we support the amendment on our side of the aisle.

Mr. KENNEDY. Mr. President. I want to commend Senator LEAHY and Senator LUGAR for their leadership in bringing this bill to the floor. I also want to thank Senator LEAHY and Senator BURDICK for their help on this amendment. Unfortunately, the drought affects more than farmers. It will have a devastating impact on farmworkers—especially migrant farmworkers who are far from home and have been left without work. These workers are very poor—even when they have work. The average income for the 460,000 hired farmworkers in the United States is $5,826.

That figure is low, but the sad reality is that migrants earn one-third less than the average farmworker—under $4,000 a year.

Of these low-income workers, 105,000 belong to families whose income falls below 70 percent of the lower living standard income level—even when the Nation is not gripped by drought, even when the crops are plentiful.

Mr. President, the problem is that most migrants will not qualify for disaster unemployment assistance under the Disaster Relief Act.

In most States, migrants cannot meet residency requirements for general assistance and find it difficult to qualify for food stamps or emergency food stamps.

This amendment sets aside a small amount—$5 million—within FEMA for programs to assist migrant and seasonal farmworkers. This money will help to provide destitute workers with food, clothing, shelter, health care and transportation.

This is a small amount relative to the total cost of this bill—but it will help those most in need of assistance. We should probably do more, but we cannot afford to do less. I urge the Senate to adopt the amendment.

Mr. HATFIELD. Mr. President, the legislation under consideration by the Senate today represents a reasonable and well-timed response to the drought crisis facing our Nation's food producers. The tragic effects of the lack of precipitation are economic upheaval and uncertainty for the future of many farmers and ranchers. I commend the chairman and the ranking member of the Senate Agriculture Committee for their strong leadership, which has led to the bipartisan bill we have before us today.

The Drought Assistance Act is aimed at providing relief to those producers faced with crop failure and high feed prices. I believe emergency assistance is warranted and support the act. But I also am concerned about the future of the hundreds of thousands of hired farmworkers, especially migrants, who are suddenly left without income. This amendment will send some badly needed assistance.

There are over 460,000 hired farmworkers in this country. These are not wealthy people who can live on savings until times get better. These workers are often unskilled and find great difficulty in locating other employment. During this drought many of these individuals and their families find themselves stranded in communities where work was expected to be available. But the jobs have shriveled up along with the crops and these migrants do not meet residency requirements to receive public assistance.

The average annual income of the average farmworker is $5,826. Migrant farmworkers earn even less than that—an average of one-third less. Over one-fourth of all farmworkers have family incomes below 70 percent of the lower living standard income level. Life is tough for these people, and the drought places them in an even more precarious position. With no jobs and often no permanent home, there are few resources for farmworkers to turn to during this emergency situation. In at least 26 States, the families of migrant workers are not eligible for Aid to Families with Dependent Children. Most of them will not qualify for disaster unemployment assistance under the Disaster Relief Act. And the traditional resources for farmworkers are already strained by the increase in persons eligible for services as authorized by the special agriculture worker provisions of the Immigration Reform and Control Act.

Mr. President, Congress is responding to the plight of the farmer, but I believe it also should respond to the plight of the farmworker. The impact is devastating to these people, many of whom are impoverished. This amendment would provide, through the transfer of available funds within the Federal Emergency Management Agency, funding to the Department of Labor for grants to existing migrant and seasonal farmworker agencies. These funds will make available emergency services such as food, shelter, clothing, medical and transportation assistance. This is a small amount in comparison to the total cost of the Drought Assistance Act, but it will provide a great deal of help to those who face a season of suffering. I urge my colleagues to support the amendment and appreciate the fine work of my colleague from Massachusetts, Senator KENNEDY, on his efforts to win its approval.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2747) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I understand there may be an amendment by the distinguished senior Senator from Kansas and one perhaps by the distinguished senior Senator from Oklahoma. Those are all that I know of. Once those are disposed of, I urge we go to third reading.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2748

(Purpose: To provide a total payment cap)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2748.

At the appropriate place, add the following:

SEC. . The Secretary shall, to the extent practicable, ensure that producers will not receive benefits provided under this Act which, when added to other income from Farm Program payments and crop marketings, would result in a net income from farming operations in excess of that required to assure that they will achieve 100 percent of their expected returns for 1988 under normal conditions.

Mr. DOLE. Mr. President, I am offering this amendment to provide a total payment cap under the drought legislation. Every time we come in and do the right thing—and this is the right thing in trying to help farmers in distress—some are going to find loopholes in the legislation, and some farmers are going to be better off than they would have been if they received normal rains. That is not the purpose of the legislation.

I even had farmers indicate to me, "Let's make certain we don't have a lot of horror stories because it gives rural America and farmers and farm programs a bad name." What I am trying to do is prevent that kind of a thing from happening.

I know the chairman has indicated privately it is going to be hard to administer. What I am trying to do is get something in the conference where the conferees, working with the Secretary, can make certain that nobody gets benefits plus crop income that would have exceeded their normal income.

I know it is hard to administer. I talked to Secretary Lyng about it twice. What I do not want to see in a few months are stories in the large metropolitan papers saying, "Farmer X, who is spending the winter in Florida, received $X00,000 in disaster payments and because the price of soybeans were high, he got enormous profits from that as well."

It would seem to me this is a little safety valve to protect the American farmer. We know we are up against the $5 billion limit. All it says is: "The Secretary shall, to the extent practicable"—it is pretty hard to micromanage a program of this kind, and there probably are going to be some cases of abuse, in any event.

I hope we are doing the farmer a favor and the Secretary a favor because I happen to believe at least we can put up the caution flag, the warning flag. If it cannot be fixed in conference, it cannot be fixed. I know the problems both managers have expressed.

We want to make certain producers are helped by our drought package to the extent they receive 100 percent of what they would have expected under normal conditions, but we do not want any undue excesses from the Government and most farmers would agree. They would take it, but they do not necessarily want it.

Mr. LEAHY. Mr. President, the distinguished Republican leader says he does not want to see those horror stories. I can assure him, as chairman of this committee, I do not want to see those horror stories. He is absolutely right to the extent they occur, it really hurts everybody who comes under any kind of a farm program. We are going to be taking up the farm bill next year.

I concur with the Senator, and I support his amendment. He is absolutely right. We have to have something in there to make sure people do not come out better from the drought than they would have without, and, in fact, I have not heard one single farmer or rancher who would urge that. I think it is a good amendment. There are hundreds of thousands of farmers and ranchers out there, and there probably is no way we can absolutely be certain we can write something here to cover every conceivable possibility, but we can close all the obvious loopholes. I believe that is what the Senator from Kansas is trying to do. I concur and support his amendment.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join the chairman in commending the distinguished Senator from Kansas. This is an important amendment. The Senator has pointed out the administration of the amendment may be difficult. Some creativity will be required between now and the conference, but what he is trying to do must be done for the confidence and credibility of this legislation.

The Senator from Oklahoma spoke to that question in a different light earlier, but both were on that wave length, and it is shared in a bipartisan way.

I support the amendment, and I commend it to all of our colleagues.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment the distinguished Republican leader, the Senator from Kansas. I think this is an important amendment. Whether it needs to be modified to make it very workable, I do not know, but it needs to be adhered to. If we are not careful, as the Senator from Minnesota has discussed with this Senator and others, we are in a situation where in a small percentage of cases this program could be abused, and we do not want to see it abused.

If I could get the attention of the Senator from Vermont, I would like to talk about just one case because we had a discussion in the Cloakroom on how this program would work. One of the commodities that is affected is soybeans. Soybean prices have gone up substantially. As a matter of fact, soybean prices a year ago, if I remember, in my State were about $5.50 or $6. Today they are about $8. So we have had a significant price increase.

As I understand it, and this is what I would like to get nailed down if possible, assistance is not affected by a very significant price increase. As a matter of fact, you could have prices double and you could only produce half as much and a farmer's total income would be the same but he would still be entitled to receive disaster payments under the bill as it is written right now. Is that not correct?

Mr. LEAHY. I am advised that there are no futures contracts traded today above $7.75 in soybeans. I am not sure how it could happen, unless I misunderstood the Senator from Oklahoma.

Mr. NICLKES. Let me give the Senator an example. I apologize to the Senator from Kansas if I am eroding on his amendment.

Mr. DOLE. No.

Mr. NICKLES. I think it is very important. I saw the projections on a lot of different commodities that the committee came up with, but I have also seen some prices exceed what were estimated prices for the commodities. Take soybeans, for example, and maybe if you would, look at soybean prices. As I understand it, the disaster payment for soybeans is going to be about $3.60. As I understand, as well, prices have been in the $5.50 range for soybeans. Let us just say, for example, the price goes to $11. In my State soybeans right now are selling for about $7.50 to $8. But let us say prices go to $11. They double. Last year, let us say, they were $5.50. A producer last year produced 100 percent. This year he only produces 50 percent. The drought hits him. But the total income comes out the same. Fifty percent of a crop times double the price equals the total amount of income he had at 100 percent of half the price at $5.50. The farmer's total income is the same. But under the bill as written I am pretty sure—and maybe Senator LUGAR's staff could help us, but as I understand the farmer would still receive a $3.50 disaster payment. So his total income would exceed that of last year. I think that is one of the reasons why we need the amendment of the Senator from Kansas. But I would like a real clear definition as it pertains to that one specific commodity and how the program would work.

Mr. LEAHY. The Senator understands there is first a loss threshold which they would have to reach and then, of course, under the example used by the distinguished Senator from Oklahoma, you would have to have a doubling of the price. I suppose if you could go through every single one of those possibilities you could reach that point. The Senator from Kansas, in the amendment which I support, is attempting to make sure nobody does do that.

Mr. NICKLES. If the Senator will yield, I appreciate the acknowledgement and again I am trying to help the Senator come up with a bill that is affordable.

Mr. LEAHY. Let me assure the Senator from Oklahoma that when we go to conference, I am not going to be supporting a bill which leaves loopholes so that people are going to get windfalls out of this. We are going to do everything possible to close them. One of the problems, of course, is that the drought is not consistent throughout the country. It is not consistent throughout commodities. That in itself creates wide variations in prices. We have seen what has happened in the futures markets when suddenly a raincloud appears quite literally on the horizon and the prices suddenly drop the limit for the day and then that passes without rain and they are back up to the limit the next day. It is almost like a Rubik cube. When you try to draft drought legislation, you are really working with a Rubik cube. You hope that all the pieces eventually line up. It may not be possible to make every single one of them line up. What we are trying to do is come as close both to what we mandate in law and the discretion we give to the Secretary to line up that cube. I think we are coming very close to it. But this Senator is not about to vote for windfalls. This Senator wants to vote for drought relief, as I am sure the Senator does. He raises valid points and I believe that is why the Senator from Kansas offered his amendment.

Mr. NICKLES. If I might finish before my good friend, the Senator from Minnesota, comments, the reason why I raise this is because I do think it needs some tightening. I do believe there is a misconception. People say, "Well, you can never make more than what you made last year." And the amendment of the Senator from Kansas is more general; it includes the farmer's total income, but really I hope the committee will look at the specific commodities, because that is really what the bill addresses. In other words, you could have a farmer that did exceptionally well in some commodities and he could still receive disaster payments. I am not disagreeing with that, but I would say for that specific commodity you would not want the farmer to have a windfall. And so if you do have price escalations and production losses and they still equal where the total income was in a normal year, the farmer does not receive disaster payments.

I believe right now as it is drafted a farmer can receive disaster payments and still have total income, because of price increases and some production losses, that would exceed last year's income. Now, that may be a very small percentage of the time but it could happen and it is a loophole that I hope would be tightened in conference.

Mr. LUGAR. Will the Senator yield for a comment?

Mr. NICKLES. I will be happy to yield.

Mr. LUGAR. I think part of the Senator's problem may come from the fact that many of the crop histories on various farms are much lower in fact than what actually occurs. This really works to help the Senator's and all of our concern. For example, last year on my 300 acres of corn we got about 145 bushels to the acre, but our program payment yield is 119. Now, I do not know whether we will qualify for a disaster payment. I hope not but we might. And if we do, it will be based on 119, not 145 bushels per acre. So as a result of these limitations that are already historically ingrained in the program there is some down-sizing against windfalls and against the possibility of being swept away on this.

Now, this does not obviate the Senator's point that we ought to take a look and see if whether even crop by crop we can tighten it down further. But I assure the Senator I share the point of view of the Senator from Vermont that attempting to do this, given the staffs available, going into each farmer's field, theoretically is one thing but practicality is another thing. I think we will have to examine along with it, too, while we are trying to hit the windfall, how we are going to administer this program for farmers that are hit by the drought and need money.

Mr. NICKLES. If I might just offer a suggestion. I am thinking out loud, but you might take the amendment of the Senator from Kansas and make it more crop specific and say that if the circumstances due to higher prices and reduced production still would generate this year's projected income, then no disaster payments would be made. Disaster payments would not be made to exceed this year's projected income projected in that commodity. Something along that line I think could help because, again, the example in soybeans is the only one right now that I see it applying to. Soybean prices have been very volatile, as the Senator from Vermont mentioned, but it could well be that a farmer would produce a crop of soybeans that last year he sold for $5.50. We had soybeans in my State selling for over $8 for a while. If those prices continue to escalate, conceivably he could do as well or better with these disaster payments.

I do not think we are trying to enhance. We are trying to help people get through the disaster, but we are not trying to enrich or reward them because of the disaster.

I thank the Senator.

Mr. MELCHER. Mr. President, I would like to point out that as this bill works we really will not know what the market price is for a lot of commodities until well after the payments have been made. I recognize the point that the Senator from Oklahoma raises, but there is no definite formula that we can apply here without knowing what the prices for all commodities would be at final sale by the farm producers.

Mr. BOSCHWITZ. Mr. President, I have looked at these various commodities. The only one really that I have found where that can happen, where you can have a shorter crop where you can make more, is oats, because there the price is almost tripled. So that if you had half a crop you would get more for half the crop than you got for the whole crop last year.

I do not see how it could work for soybeans. While it is $3.60 a bushel, you still have to have a 35-percent loss. There is no target price. There is no payment on the first 35 percent. But I think the amendment of the Senator from Kansas is a very good one. I presume it also would include crop insurance payments. I believe we have language in this bill that already says that crop insurance payments must be counted in income. I presume that the Senator from Kansas intends that as well.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOLE. I would include Federal crop insurance payments in this. If that is not in the amendment, I would so modify the amendment. I ask that the amendment be so modified.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. BOSCHWITZ. Mr. President, I might also say that there are provisions in this bill that would exempt very large farmers, very large farm operations from disaster relief. As the Senator from Kansas may also have noted, the bill exempts from any relief at all farms or corporations that have volumes in excess of $2 million, no matter where that volume comes from. In the case of livestock producers, it is $2½ million, and the purpose of that is to prevent some of the very large agricultural companies, the Cargills of the world who have large livestock operations, from receiving relief under the bill.

I yield the floor.

Mr. DOLE. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2748), as modified, is as follows:

At the appropriate place, add the following:

SEC. . The Secretary shall, to the extent practicable, ensure which, when added to other income from Farm Program payments including crop insurance payments, and crop marketings, would result in a net income from farming operations in excess of that required to assure that they will achieve 100 percent of their expected returns for 1988 under normal conditions.

Mr. DOLE. I think it could have been construed to include that, but I think this clarifies it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas [Mr. DOLE].

The amendment (No. 2748), modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I urge my colleagues to vote in favor of this drought assistance legislation. Certainly, the problem of the drought is nationwide and it has struck my State of Pennsylvania somewhat late in the day. But we have had yesterday a request by the Governor of Pennsylvania a statewide disaster declaration in the Commonwealth of Pennsylvania.

During the course of the past recess, I have had occasion to visit a number of farms in my State. During my visits, I found a very serious situation. Where the corn should be 12 feet high, it is barely waist high.

I had hoped that this legislation would do more in aid of the milk farmers. However, I understand the uncertainty in dairy production estimates, and the consideration that if more is added on to the bill at this time it is unlikely to be approved at the White House. Therefore, I agree that the timing may not be appropriate for such action.

It is my hope, however, that some of the provisions in the House of Representatives bill might be adopted in conference. So something should be done to a greater extent for the dairy farmer.

Mr. President, as an original cosponsor of S. 2631, I applaud the Senate Agriculture Committee and the drought task force for drafting responsible legislation in a timely fashion. This bill comes at a time when the farmers of this Nation need any hope and help to see them through this time of crisis. With bankruptcy threatening many farmers, this legislation provides the assistance that is necessary to carry farmers into next year.

Agriculture is the largest industry in Pennsylvania, with over $35 billion in annual production, processing, distribution and sales, and I am committed to helping preserve its welfare. Although rain in Pennsylvania last week brought some relief to parched parts of Pennsylvania, the rains will not correct the damage already done by the drought.

Preliminary assessments in Pennsylvania indicate approximately $300 million in crop losses this year, with a majority of this loss in the corn crop.

Mr. President, Pennsylvania is a grain deficit State. In other words, my State receives a large portion of its feed from the Midwest States which have been severely affected by the drought. As the livestock producer's stored feed is being depleted and the cost of feed continues to increase, the cost of production, in turn, increases. Many livestock producers and dairy farmers therefore, have turned to reducing herd sizes due to the lack of feed and apprehension of future feed costs.

To protect livestock herds, the bill provides restructuring of existing

USDA emergency feed programs. This restructuring will include all types of livestock farmers, whereas currently only livestock farmers that grow their own feed benefit from such feed assistance programs.

Reports indicate that due to shortages of quality feed and the drought's heat, milk production in Pennsylvania is declining. Because there is uncertainty in the dairy production estimates caused by the drought, the bill waives the Secretary's authority to reduce the support price by 50 cents in January 1989. This provision will assist the dairy farmers in maintaining a cash flow during this time of uncertainty.

To assist crop farmers and to protect farm income, this bill will provide partial reimbursement of losses to farmers who lose more than 35 percent of their normal crop. Unlike many assistance programs in the past, this bill will treat all producers equally and fairly by including producers of program and nonprogram crops, as well as producers of program crops who did not participate in the programs.

Mr. President, I recently have met with Pennsylvania farmers and toured sites affected by the drought. Based on my observations I wholeheartedly agree that this legislation will go a long way toward helping Pennsylvania's and the Nation's farmers in this time of crisis.

I thank the Chair.

I yield the floor.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask unanimous consent that Senators HATFIELD and GRAHAM be added as cosponsors of the Kennedy-Leahy farm worker amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I want to commend him and the ranking minority member for the outstanding work that they have done on this piece of legislation and for shepherding it through as quickly as they have, and as expeditiously as they have.

I simply have one question I would like to ask the manager of the bill, if I could direct his attention to page 75 of the bill, section 322(a), which deals with water management for rural areas.

Under this language, it says the Secretary is authorized, directly or in coordination with any Federal agency, community, State or local government, university and other entities, to conduct research at extension services, make grants, loans, loan guarantees and provide other forms for assistance for the purpose of helping rural areas make better and for efficient use of water resources and to alleviate problems arising in such areas as drought through a lack of water.

My question is this: In the opinion of the distinguished chairman of the committee and the ranking member, would this provision allow the Secretary, if in his discretion he thought it advisable and helpful, to enter into research projects with any of the entities mentioned in this section, to refine and extend programs arising from current satellite technology, to integrate the data, and to establish systems for continuous timely and accurate assessment of the impact of drought conditions, the amount of remaining soil moisture in areas, and allowing for the interpretation of these data?

Mr. LEAHY. It would be my understanding that it would.

Mr. BOREN. I thank the distinguished chairman.

Mr. LUGAR. Mr. President, I agree with the distinguished chairman that this provision might make possible that type of research. But I stress that the Secretary, under this provision, is authorized. It is discretionary, not mandatory. He is authorized to do this.

In the long list of entities that the distinguished Senator from Oklahoma read—corporations, departments, units of States, cooperatives, federations, Indian tribes—all of these people, including universities, can do this work.

So I just want to stress that, because we have had a good bit of conversation on the floor today, and each of us, in our States, has universities, cooperatives, federations, and corporations, there is no end of possibilities for potential research on this issue or others.

The Senator is correct, in a generic sense, with regard to satellite technology and assistance with water problems and the drought. The bill does give the Secretary this authority. I am prepared to stand by our original text, with the understanding I have just enumerated.

Mr. HEFLIN. There is a part I put in the bill, and it would appear to me that water management includes many aspects, includes the ability to make use of modern technology in every respect, to alleviate the problems of droughts, the lack of water, and in it would be the use of forecasting and the use of any technologies that would aid and assist in the acquiring and interpretation of data relative to the matters.

Of course, it is a matter for the Secretary.

I brought up before the task force the fact that we do have one of the weather satellites that is now malfunctioning. We had two GOES satellites that were used in weather satelliting and forecasting, and one of them went out of order, and we are using two, and we may be faced with a situation with one. But that falls under some of the other organizations.

I think it would be a correct interpretation.

Mr. BOREN. I thank my colleagues for their responses.

Mr. LEAHY. Mr. President, I might note at this point that I know of no other amendments.

Mr. DOLE. Mr. President, I just want to comment in the same fashion as Senators BOREN and HEFLIN. I know of the colloquy that has taken place.

I share the views expressed by the Senator from Indiana and the chairman. I appreciate the chairman and the Senators involved who worked it out in this fashion, because there were some requests on this side.

As the Senator from Indiana has said, you can do anything in research. There are certain institutions and universities called to my attention by two of my colleagues. I believe the record has been made. We would give the Secretary the discretion he needs in a generic way to make that determination.

I was approached by Senator GRAMM with reference to Texas A&M, and we have been working on a project at Kansas University, which can be construed as qualifying under these provisions. Whether or not they will be is up to the Secretary.

I thank the Senator from Indiana and the chairman.

Mr. LEAHY. Mr. President, I inquire if any other Senator has an amendment. I know of none, and I am not going to cut off any Senator who wishes to speak to the bill. I do not believe there are further amendments.

We will have a rollcall vote on the Karnes amendment, which is really voting a second time on something already in the bill.

Right after that, my understanding is that the Chair will put the question on the committee substitute and call for third reading and a vote on final passage. After the Chair calls for a third reading, before going to final passage, I will ask for the yeas and nays on final passage.

So I hope we might be ready to go to that first vote in the next 4 or 5 minutes, if Senators can restrain themselves.

I yield the floor.

Mr. SYMMS. Mr. President, I will only take a minute or two. I have discussed the issue I want to raise here today with the distinguished chairman and the distinguished ranking member, both of whom have urged me not to offer this amendment. But we do have some pending issues that I hope we could get some consideration on from the Agriculture Committee.

I see the distinguished Republican leader on the floor. It is an issue I have discussed with him in the Finance Committee. If I may have the attention of the Republican leader, I will make the point of this issue.

Farmers in my State, as well as farmers in California, Michigan, Colorado, Minnesota, Nebraska, North Dakota, Oregon, Texas, Washington, and Wyoming, are in the business of raising lentils, peas, and other high-protein edible beans. There is a large export trade in these products. These products are not subsidized and do not benefit from other agricultural programs.

The exporters of these products, organized domestic international sales corporations [DISC's] in the 1970's and 1980's actively went out and sought markets and expanded America's ability to export the labors of our farmers around the world and help feed a hungry world.

These DISC corporations are being hit hard now by the IRS for retroactive payments that are straining their working capital this year.

This scaled down amendment has reached the point that the Treasury Department has no objection to its enactment. The revenue cost is less than $1 million.

I had thought, originally, that since there were no amendments of this nature on the Technical Corrections Act, we could put it on this bill; because I believe this bill will pass Congress and be signed by the President.

I should like the attention of the Republican leader. Do I correctly understand that there will be an opportunity? I have a little amendment dealing with DISC's that export beans. I have asked the chairman of the committee and the ranking member. They are trying to restrain having an amendment offered that would be in the jurisdiction of the Finance Committee. But does it appear to the chairman emeritus of the Finance Committee that we will have an opportunity to have any of these amendments, which are low cost to the Treasury but important to agriculture exports, offered this year?

Mr. DOLE. I would hope so. In fact it is my hope that we will have the technical corrections bill on the floor. I think Senator BENTSEN, the chairman, and Senator PACKWOOD, the ranking Republican, on that committee, have indicated they want to do that. That would be an opportunity. I do not know what the cost would be.

Mr. SYMMS. As to the cost of this, Treasury projects it to be less than $1 million, but it is very important to my State, Idaho, and to California, Michigan, Colorado, Minnesota, Nebraska, North Dakota, Oregon, Texas, Washington, and Wyoming, and it is important for the export sector.

Mr. DOLE. I think that there will be that opportunity. I cannot guarantee it, but as I understand from those two Senators, they are going to have that bill before us before we adjourn.

Mr. LUGAR addressed the Chair.

Mr. SYMMS. Mr. President, I am happy to yield to the Senator from Indiana.

Mr. LUGAR. Mr. President, the Senator makes a good point. But I would just have to concur that this is not the time or the place, and the Senator understands that. I am hopeful his constituents do.

Mr. SYMMS. I thank my good friend very much.

What we would like to do is to accomplish passing this before this 100th Congress ends if possible. I do not want to clutter up the operation here.

I did have one question, I wonder if I could ask, and that is what is the status now of the ethanol situation in this bill? Maybe one of the managers of the bill could tell me. Does this bill contain a part where the Government grain is going to be now in competition with farmers in ethanol production?

Mr. LUGAR. There is a provision for ethanol in the bill, and the distinguished Senator from South Dakota offered limits on that today. As I recall, no more than 16 million bushels can be involved and there is a sunset of September 1, 1989.

So, those were provisions made to limit the cost and limit the coverage, and that is the ethanol provision as modified.

Mr. SYMMS. So we do not have something here in the bill where if the price of grain was high and they were trying to sell to an ethanol producer, the Government will not be coming in and giving them low-priced grain to compete against the farmers then. That was my point.

Mr. LUGAR. I think the Senator would probably have to interpret the market situation as he sees it.

As I see it, this is a great help to farm producers. I would say just from seven northern counties of Indiana around South Bend they would be very much in favor of the ethanol provision. It is very parochial.

Mr. SYMMS. I thank the Senator very much.

All I want to say, Mr. President, is that I hope we would allow the ethanol industry to shake out the old, less efficient plants and be able to modernize and be competitive. I am one who believes there could be a great future for ethanol in this country, but we do not in my view want to clobber it up with Government interference. That will cause it to be inefficient and not as productive as we would want it to be. If ethanol were competitive in the energy market in the future it would be a great boon to agriculture in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I understand the pending business is the sense of the Senate resolution of the Senator from Nebraska.

Mr. LEAHY. Mr. President, will the Senator just yield for a unanimous consent request?

Mr. MURKOWSKI. I am happy to yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Senators Bentsen and Levin be added as cosponsors to the Kennedy-Leahy, et al farm worker amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 2745, AS MODIFIED

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Mr. President, I understand the pending business is the sense-of-the-Senate resolution by the Senator from Nebraska which by the end of the 100th Congress would direct, prior termination, the change in the handling of the diesel tax which must be collected and paid by farmers and then a refund sent in.

Mr. President, the State I represent has farmers but primarily farmers of the sea, fishermen.

I have checked with the Senator from Nebraska who introduced the legislation, and he has agreed. I would propose a unanimous consent agreement, which has been cleared with both floor leaders, at this time to add after the word "farmers," "fishermen," so it would read both farmers and fishermen. It would treat our farmers of the sea in the same manner in which our farmers from the land are exposed to this very difficult procedure of paying and then filing for refund, and since there is so much seasonal activity connected with both conventional farming and fishing and these individuals have lost the use of that money it creates an undue hardship.

I therefore ask unanimous consent that the sense-of-the-Senate resolution be amended to include "fishermen."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair, and I thank my colleagues.

I send the modification to the desk.

The modification is as follows:

On page 83, line 4, at the appropriate place, strike section 345 and insert in lieu thereof:

SEC. 345. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS.

It is the sense of the Senate that Congress act prior to expiration of the 100th Congress legislation that—

(1) provides an exemption from the Federal excise tax on diesel fuel that is to be used for farming and fishing on purposes rather than a refund of such tax after it is paid by farmers and fishermen; and

(2) repeals the application of the accounting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. What is the parliamentary situation? What is pending?

The PRESIDING OFFICER. There are no amendments now pending. That would then bring up the Karnes amendment.

Mr. LEAHY. Then I understand there are no amendments. I know of none.

I would ask if it would be possible to call up the Karnes amendment on which the yeas and nays have been ordered. It has been modified. If that happened, would we then vote on that? Would the Chair then put the question on the committee substitute? Would the Chair then call for third reading and would we then go for final passage?

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, may I address this question to the managers?

Are there any other amendments that they know about?

Mr. LUGAR. No.

Mr. BYRD. Mr. President, what amendment is now about to be pending?

Mr. LEAHY. The amendment that would be pending that would come up, Mr. President, I tell my friend from West Virginia, would be the amendment by the Senator from Nebraska on which the yeas and nays have been ordered.

Mr. BYRD. All right.

Mr. LEAHY. I would also tell my friend from West Virginia that we have for the past hour and a half requested everybody to come to the floor with amendments and we know of no other amendments.

Mr. BYRD. Mr. President, I ask unanimous consent that there be no amendments beyond the amendment by Mr. KARNES which has been discussed here.

Are there committee amendments?

Mr. LEAHY. There would be a committee substitute.

Mr. BYRD. And a committee substitute and that upon the disposition of the amendment by Mr. KARNES, the Chair then put the question, without further amendment, debate or motion, on the committee substitute, and that without debate or further intervening action of any kind the Senate vote on the committee substitute and then without any further debate, intervening action, the motion to vote immediately then upon the passage of the bill.

Mr. LEAHY. We have not asked for the yeas and nays on the passage.

The PRESIDING OFFICER. Without objection.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

HEIFER TAX AND DIESEL SENSE OF THE SENATE AMENDMENT

Mr. WALLOP. Mr. President, I rise today to voice my agreement with the sense of the Senate regarding expeditious action on tax legislation affecting farmers and to congratulate my friend from Nebraska, Senator KARNES, for asking for the yeas and nays on this amendment. Today we have a chance to show our resounding support for the correction of two very ill-conceived tax laws that are especially burdensome to America's farmers and ranchers.

The exemption of farmers—and all off-road users—from the Federal excise tax on diesel fuel, was one of the surprises in the Tax Reform Act of 1986. Since the change in the collection point of the excise tax went into effect on April 1, 1988, I have received bales and bales of letters from constituents who had previously been able to buy their diesel for off-road use tax free. Now, quite, frankly, they feel that they are giving the Federal Government an interest-free loan from the time they pay the tax until the time, months later, they apply and receive a refund. Mr. President, they don't think this is fair and neither do I.

As I stated earlier today, the heifer tax has to be one of the most ridiculous provisions resulting from the Tax Reform Act. The requirement that a rancher keep a detailed listing of all expenses incurred on a heifer from the point of conception until the time she is bred is totally unreasonable to ask of America's ranchers. As well as costing the rancher anywhere from $50 to $100 in additional taxes per heifer returned to the breeding stock, it will cost the rancher an incredible amount of time in the administrative burden of keeping excessive records.

Mr. President, I would much rather see these two provisions deleted from the books once and for all, but this opportunity to express our support for the correction of the problems resulting from the change in the diesel tax collection point and the heifer tax will put these two issues on top of our legislative agenda. I urge my colleagues in both the House and the Senate to provide the relief from these ill-conceived tax laws before the end of the 100th Congress.

The PRESIDING OFFICER. The question recurs on the amendment by the Senator from Nebraska as modified. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Florida [Mr. CHILES], and the Senator from Nevada [Mr. REID] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—94

Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—6

Adams
Bentsen
Biden
Chafee
Chiles
Reid

So the amendment (No. 2745), as modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

DISASTER YIELD DETERMINATION FOR FAILED ACREAGE

Mr. HEFLIN. Mr. President, in many areas of my State, crops such as cotton have been devastated by this year's drought, and there is little crop, if any crop, to harvest. I understand that the Department of Agriculture has the ability to evaluate and determine the yield of a crop in the field. In many cases in my State it is going to be impossible to harvest cotton because of the condition of our crop.

I believe it is the intent of the committee that a producer and representatives of the ASCS offices can determine whether a crop is harvestable as well as whether a crop should be carried through the rest of the crop year when it is known by USDA or FCIC appraisal that there will be no sustainable crop to harvest.

This is particularly important to cotton growers who could be required to continue to use pesticides and other crop inputs, knowing they will not have a crop to harvest. I believe it is important to decrease farm losses when it is makes common sense to do so.

Mr. President, I believe you do agree with me to the intent of the committee pertaining to this area.

Mr. LEAHY. I agree with the Senator that he has stated correctly the committee's intent on this matter.

Mr. THURMOND. Mr. President, I rise today in support of S. 2631, the Drought Assistance Act of 1988. This bill is a needed and appropriate effort to minimize the adverse affect that the drought of 1988 has had on farmers, ranchers, and rural communities.

I commend the President, the Secretary of Agriculture, the Senate Agriculture Committee and the House Agriculture Committee for their prompt and bipartisan action in drafting this legislation. The President, the Secretary of Agriculture and many members of the Agriculture Committee personally toured drought stricken areas to get a first-hand view of the drought's impact. They witnessed stunted corn, sparse bean fields and withered plants starved for water.

Realizing the devastating impact the dry weather will have on the farm economy, it is imperative that drought assistance be directed to those who suffer from the drought and not an attempt to rewrite the agricultural policies of the 1985 farm bill. This bill meets this objective. Livestock and dairy producers who have found feed difficult to obtain or too costly, will benefit from the liberalized feed assistance programs. In addition, growers of program and nonprogram crops will be assisted through disaster payments and other helpful provisions that are contained in the bill.

Moreover, this bill urges forbearance of certain farm operating loans and encourages business loans from the Farmers Home Administration for rural businesses adversely affected by the drought.

Farm statistics from 1987 were encouraging and seemed to indicate a recovering American agricultural community. Unfortunately, as this drought has shown, nature plays the dominant role in agriculture. We pass laws to help farmers, but without nature's cooperation, they are for almost naught. American farmers are the backbone of our country, and when faced with adversity, such as this year's drought the Federal Government must step-in with adequate temporary relief programs to provide assistance. This legislation will accomplish this need and I would urge passage of this bill.

DROUGHT RELIEF PACKAGE

Mr. DURENBERGER. Mr. President, I rise to express my strongest support for the disaster relief package pending before the Senate. This legislation, the most generous agricultural assistance proposal ever considered by the Congress, is an appropriate response to one of the most devastating droughts in our Nation's history. It is an honor to be listed as an original cosponsor of this sweeping program.

Like many of my colleagues, I have spent a considerable amount of time visiting with farmers and businesses in rural communities discussing how Congress should respond to the drought. Throughout my travels I have heard time and time again a number of common concerns. The vast majority of them are contained in this legislation. Specifically:

Relief is targeted to those who have suffered losses from the drought. There is no financial windfall for anyone in this package.

Assistance will be made to all producers who have suffered production losses, whether they are small grain, row crop, specialty or livestock producers.

Attention is given to the adverse impact the drought is having on our wildlife habitats. Hopefully, the incentives contained in this package will be sufficient to restore the damage done to our Conservation Reserve Program acreage.

Financial assistance is made available to small businesses and ethanol producers.

Taken as a whole, this $6 billion bundle of assistance goes a long way toward providing our farmers and those who depend on them the tools they need to make it through the winter and into the next planting season. My heart and my prayers go out to those who feel that this package is insufficient. I will strive to do my best to see if additional assistance can be made available for them. But in the absence of support from the administration for additional financial help, I do not see where the Senate has any option but to adopt the package reported out of the Senate Agriculture Committee.

Mr. President, I would be remiss if I did not take a few moments to highlight what I believe to be some of the outstanding issues which are not adequately resolved by this package.

In the case of the Dairy Program, I am pleased to see that the legislation strips the Secretary of Agriculture of his authority to reduce the milk price support by $0.50/per hundredweight on January 1, 1989. Although I support that deletion, I believe the committee did not go far enough. At the very least, an increase of $0.50/per hundredweight should have been included in this package to compensate dairy producers for their higher feed costs.

In the case of livestock producers, it was my hope that the Secretary would grant producers who suffered crop losses an opportunity to extend their 1987 loans until after the harvest. It just does not make sense to force these livestock producers to sell their grain today to pay off their 1987 crop loan, only to have the producer go back into the market in November to buy grain to replace that which was lost to the drought. I believe that livestock producers should be able to hold onto their grain until they get a better idea of the harvest.

For those grain producers who have suffered catastrophic losses, I believe that the 65 percent payment rate contained in this bill should be increased to 85 percent. For many producers, the slight increase of 15 percent could be the difference between putting a crop in next year or calling it quits this winter. After watching the wrenching restructuring which has taken place over the past 4 years, I do not think this country has the luxury of allowing any more family farms to close the doors.

For the thousands of rural communities and the farm related businesses who are their lifeblood, I had hoped that this legislation would go farther than it does. I understand the difficult job the Senate Agriculture Committee faces in completing its work on a rural development bill, but I do not think our rural communities will be able to hold on much longer. The loss of economic activity from this drought demands our immediate attention, and I urge the membership of the Agriculture Committee to send them a positive sign by resuming work on a rural development package.

In closing, Mr. President, I want to thank Minnesota's farmers and rural communities for opening up their homes and towns to me not only for the last few months, but for the past

10 years. Together, we survived the 1980 grain embargo, the 1983 drought and the breathtaking decline in farm asset values over the 1985-87 period. Together, we will survive this drought.

Mr. President I ask unanimous consent that a summary of this legislation taken from the committee report be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Title I. Assistance for Livestock Producers

SEC. 101. ASSISTANCE FOR LIVESTOCK PRODUCERS

Section 101 establishes a comprehensive new livestock assistance program under the Agricultural Act of 1949, effective 15 days after the date of enactment of the bill. This new program would replace current Emergency Feed Programs and Emergency Feed Assistance Program, and specifically authorize other forms of livestock assistance.

In General

Subsection (a) amends the Agricultural Act of 1949 to add at the end a new title VI—Emergency Livestock Feed Assistance Act of 1988. The provisions of that new title are as follows:

Section 601 provides that the title may be cited as the Emergency Livestock Feed Assistance Act of 1988.

Section 602 sets out certain definitions to be used in the title as follows:

(1) "Livestock producer" is defined as any established producer or husbander of livestock, or dairy producer, who is a citizen of, or legal resident alien in, the United States; or any farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production, dairy production, or husbandry. Further, to be considered to be a livestock producer for the purposes of receiving benefits under title VI, the person must be actively engaged in farming and must receive a substantial amount of total income from the production of grain or livestock, as determined by the Secretary of Agriculture.

(2) "Livestock" is defined as cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

(B) are purchased as part of a normal operation and not to obtain additional benefits under title VI.

(3) "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) "Feed" means any type of feed (including feed grain, mixed feed, liquid or dry supplemental feed, roughage, pasture, forage) that—

(A) best suits the livestock producer's operation; and

(B) is consistent with acceptable feed practices.

Emergency livestock assistance.—Section 603 provides that the Secretary shall provide emergency livestock feed assistance under this title for the preservation and maintenance of livestock in any State, county, or area of a State, where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster that adversely affects livestock or handling of livestock, the Secretary determines that a livestock emergency exists.

Determination of need for assistance.—Section 604 sets forth the procedures whereby areas may be determined to be in need of assistance under title VI. Either a Governor or a county Agricultural Stabilization and Conservation Committee may submit requests for a determination by the Secretary that a livestock emergency exists in a specific area or the Secretary may consider an area for assistance on the Secretary's own initiative.

Section 604(c) provides that the Secretary shall act on requests for assistance submitted by a Governor or a county committee not later than 30 days after receipt of the request and shall notify the requesting party of the action to be taken.

Section 604(d) provides that producers in the counties that have already been opened up for the Emergency Feed Program and the Emergency Feed Assistance Program in 1988 would automatically be eligible to submit applications for assistance under the program established by title VI. Further, as soon as is practicable after this bill is enacted, the Secretary shall determine whether any of the assistance programs provided for in title VI should also be made available in such counties.

Eligible livestock producers.—Section 605 sets forth eligibility criteria for livestock producers to obtain feed assistance under title VI. First, such producer must be located in an area in which the Secretary has determined that a livestock emergency exists.

If the livestock producer is located in such an area (or a contiguous area under section 612), such producer is eligible for feed assistance specified in section 606 as follows:

(1) assistance that is sufficient to offset a feed deficiency on the farm caused by a substantial loss in the farm's feed production normally fed to livestock on the farm as a result of the emergency if the producer does not have sufficient feed that has adequate nutritive value and that is suitable for such producer's livestock for the estimated duration of the emergency;

(2) assistance for the preservation and maintenance of foundation herds of livestock if the producer does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such livestock as a result of the emergency; and

(3) such other assistance as the Secretary, in the Secretary's discretion, determines necessary to alleviate a crisis caused by the livestock emergency.

Finally, the feed assistance made available under title VI because of a loss of feed production on the farm shall be designed to offset that feed loss, and assistance made available for the preservation and maintenance of foundation herds shall only be made available with respect to the portion of a producer's livestock not normally fed with feed produced on the farm.

Section 650(b) provides that any producer located in an area that has been determined to be eligible for pre-existing emergency feed programs as a result of the 1988 drought prior to the effective date of this Act and who qualifies for assistance under such programs shall be eligible for assistance for such drought or related condition in accordance with paragraphs (1) and (2) above (or, at the producer's option, for assistance under such pre-existing programs).

Assistance programs.—Section 606(a) lists the following assistance programs that may be made available by the Secretary as provided in section 605:

(1) The donation of commodities owned or controlled by the Commodity Credit Corporation that can be used for feed purposes to producers who are financially unable to purchase feed at market prices or to participate in any other program set forth in this subsection.

(2) The sale of CCC owned commodities that can be used for feed purposes at not less than 50 percent of average market price as determined by the Secretary. Generic commodity certificates may be used to purchase CCC feed grain under this program. Producers who utilize this program for 1988 may purchase CCC feed grain at 75 percent of the loan rate. (Secretary may make in-kind payments.)

(3) Reimbursement of not to exceed 50 percent of transportation and handling expenses incurred by producers in connection with feed grain donations or sales under paragraph (1) or (2).

(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by farmers during the duration of the emergency. (The Secretary may make in-kind payments.)

(5) Hay transportation assistance of not to exceed 50 percent of the cost of transporting hay or silage purchased from a point of origin beyond the producers' normal trade area. Such transportation assistance may not exceed $50 per ton for hay or $12.50 per ton for silage and the quantity of hay may not exceed 20 pounds per day per animal (or a comparable amount of silage) or the lesser of the producer's feed loss or the quantity of additional feed needed for the duration of the livestock emergency.

(6) Livestock transportation assistance to and from available grazing locations and not to exceed 50 percent of the cost of such transportation. Such transportation assistance may not exceed $24 per head of eligible livestock and may not exceed the lesser of the value of the producer's feed loss or the value of additional feed needed for the duration of the livestock emergency.

Section 606(b) provides that if assistance is made available through the furnishing of feed grains to producers, the Secretary may provide for the furnishing of the feed grains through a dealer or manufacturer and the replacing of the feed grains so furnished from feed owned or controlled by the Commodity Credit Corporation.

Additional assistance.—Section 607(a) provides that if the Secretary determines that the livestock emergency in an area also requires the provision of the assistance listed in section 607(b), the Secretary shall provide such assistance.

Section 607(b) lists certain special assistance that may be made available by the Secretary as follows:

(1) donating feed held by the Commodity Credit Corporation with respect to livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area;

(2) making emergency water assistance available to eligible farmers and ranchers under terms and conditions comparable to those provided for under the program designated ECP EC-6 by the Department of Agri-

culture, including practices and measures provided for in such program; and

(3) making Commodity Credit Corporation catalog commodities available to producers through the use of catalog lots of a size that is economically feasible for family farmers to obtain through the exchange of certificates.

Use of the Commodity Credit Corporation.—Section 608 would require the Secretary to carry out the provisions of title VI through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

Payment limitation.—Section 609(a) provides that for each declared livestock disaster, the total amount of benefits that a person receives under one or more of the programs established under this title may not exceed $50,000. In this context, a "benefit" received by a producer refers to the amount of financial and other assistance provided to the livestock producer by the government during the emergency that constitutes a governmental expenditure or net loss.

Section 609(b) provides that any person that has gross revenues in excess of $2,500,000 annually shall not be eligible for assistance under title VI.

Section 609(c) provides that each person (including in the case of a cooperative association of producers, each member of the association) otherwise eligible for livestock emergency benefits under title VI for the 1988 drought shall be subject to the combined payment and benefits limitation established under section 210(c) of the Drought Assistance Act of 1988 (a combined $100,000 limitation).

Section 609(d) provides that no person may receive assistance under title VI that is attributable to lost feed production due to the 1988 drought to the extent that such person receives a disaster payment under title II of the Drought Assistance Act of 1988 on such lost production.

Section 609(e) would require the Secretary to issue regulations—

(1) defining the term "person" in conformity, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

Regulations.—Section 610 requires the Secretary to issue regulations to carry out title VI. The regulations must establish procedures to ensure that requests for assistance by a State, county, or area under section 604 and individual applications of livestock producers under section 605 and 612 for assistance are processed, and decisions made, as quickly as possible.

Penalties.—Section 611 sets forth penalties applicable to persons who misuse any assistance provided to them under title VI. Producers who improperly dispose of feed provided to them under title VI shall be subject to a civil penalty equal to the market value of the feed involved and shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

Disaster emergency assistance.—Section 612 would make assistance under title VI available to producers that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that a livestock emergency exists or where the President has determined that a major disaster or emergency exists in accordance with the Disaster Relief Act of 1974 and who are otherwise eligible for assistance under title VI.

Section 612(b) would require the Secretary to accept applications for assistance from such producers at any time during the 8-month period beginning on—

(1) the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by the disaster or emergency; or

(2) the date the President makes the major disaster or emergency designation with respect to the disaster or emergency.

Conforming Amendments

Subsection (b) makes certain conforming amendments to current law as follows:

(1) the repeal of section 1105 of the Food and Agriculture Act of 1977, section 421 of the Agricultural Act of 1949, Public Law 86-299, and section 303 of the Dairy and Tobacco Adjustment Act of 1983; and

(2) in section 407 of the Agricultural Act of 1949, striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the period at the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

Effective Date

Subsection (c) provides that section 101 and the amendments made by section 101 shall become effective 15 days after the date of enactment of the bill.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS

Section 102 would amend section 201(d)(1) of the Agricultural Act of 1949 to remove the authority of the Secretary to reduce the price support level for milk in 1989 by 50-cent per hundredweight from the 1988 support level.

Title II. Disaster Payments

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR BASIC COMMODITIES

Disaster Payments

Subsection (a) would provide that, with respects to producers of the 1988 crop of wheat, feed grains, cotton, or rice who elected to participate in 1988 production adjustment programs, if the Secretary of Agriculture determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than 65 percent of the farm program payment yield established by the Secretary for such crop multiplied by the acreage planted for harvest (or prevented from being planted) for such crop, the Secretary shall make disaster payments available to such producers.

The disaster payments shall be made at the rate of 65 percent of the 1988 target price for such crop such commodities on any deficiency in production on the farm greater than 35 percent for the crop. Disaster payments shall not be made available with respect to any acreage on the farm in excess of the permitted acreage for the farm for the commodity.

The total quantity on which deficiency payments would otherwise be payable to a producer on a farm for any crop shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under this Act.

Producers of wheat and feed grains who entered the 0-92 program after March 11, 1988, may elect to receive disaster payments under this Act in lieu of the anticipated 0-92 payment.

Advance Deficiency Payments

Subsection (b) provides that with respect to the 1988 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, producers who harvest less than 100 percent of their farm program payment yield will not be required to repay any advance deficiency payments made with respect to any portion of such deficiency in production up to 35 percent of the producers' farm program payment yield. The remainder of any advance deficiency payment received would be subject to refund.

Producers who were eligible to receive advance deficiency payments for the 1988 crops, but who did not do so, shall be given the opportunity to elect to receive advance deficiency payments for the 1988 crops as soon after the date of enactment of the bill as possible.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR BASIC COMMODITIES

Disaster Payments

Subsection (a) provides that, with respect to producers of wheat, feed grains, cotton, and rice who elected not to participate in 1988 production adjustment programs established under the Agricultural Act of 1949, if the Secretary determines that because of drought or related condition in 1988 such producers suffer a loss in production of over 35 percent, the Secretary shall make disaster payments available to such producers. The disaster payments shall be made at the rate of 65 percent of the 1988 basic count loan rate for such crops (on a comparable price if there is not current basic county loan rate) on any deficiency in production for the crop on the farm greater than 35 percent for the crop.

Limitations

Subsection (b) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of drought in 1988, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1987 less acreage actually planted in 1988. The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

The amount of payments made available to nonparticipants shall be reduced by a factor equal to the acreage reduction percentage established for the program crop under the Agricultural Act of 1949.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO

Disaster Payments

Subsection (a) provides that, with respect to producers of the 1988 crops of sugar beets, sugar cane, tobacco and peanuts, if the Secretary determines that because of drought or related condition in 1988 such producers suffer a loss in production of over 35 percent, the Secretary shall make disaster payments available to such producers. The disaster payments shall be made available from any deficiency in production for the crop on the farm greater than 35 percent of the country average yield (or program yield in the case of peanuts and tobacco) established by the Secretary for such crop.

Payment Rate

Subsection (b) provides that the payment rate for these commodities shall be equal to 65 percent of—

(1) in the case of peanuts and tobacco, the basic country loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary; and

(2) in the case of sugar beets and sugarcane, a rate determined by the Secretary to be fair and reasonable in relation to the level of price support that is established for the 1988 crop of sugar beets and sugarcane.

Limitations

Subsection (c) provides that the Secretary shall provide prevented planning credit with respect to acreage that producers on a farm were prevented from planting because of drought in 1988, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1987 less acreage actually planted in 1988. The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

Special Rules for Peanuts

Subsection (d) sets forth certain special rules for peanuts as follows:

(1) a deficiency in production of quota peanuts from a farm as otherwise determined under this section shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this provision shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

It is the intent of the Committee that, in the case of peanuts, the Secretary determines the 1988 program yield in accordance with the rules codified at 7 C.F.R. Part 729.

SEC. 204. SOYBEANS AND NONPROGRAM CROPS

Disaster Payments

Subsection (a) provides that, with respect to the 1988 crop of soybeans and nonprogram crops, if the Secretary determines that because of drought or related condition in 1988 producers of such crops suffer a loss in production of over 35 percent, the Secretary shall make disaster payments available to such producers. The disaster payments shall be made available for any deficiency in production for the crop on the farm greater than 35 percent of (1) with respect to soybeans, the State, area, or county average yield, adjusted for adverse weather conditions during the 3 previous crop years, or (2) with respect to nonprogram crops, the country or area average yield established by the Secretary for such crop.

Payment Rate

Subsection (b) provides that the disaster payments shall be made available at the rate of 65 percent of the average market price received by producers of such crops in 3 out of the last 5 years, dropping the high and low years, (as determined by the Secretary) on any deficiency in production on the farm below 65 percent for the crop.

Limitations

Subsection (c) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of drought in 1988, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1987 less acreage actually planted in 1988. The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

Tree Seedlings

Subsection (d) provides that, if the Secretary determines that producers of nonprogram crops that have planted tree seedlings during the 5-year period ending on the date of enactment of the bill have suffered in excess of a 35 percent loss of such seedlings as a result of drought or related condition in 1988, the Secretary shall make disaster payments available to such producers with respect to any lost seedlings in excess of 35 percent of the seedlings planted during such period. It is the intent of the Committee that this subsection not apply to trees used for ornamental purposes.

Payments made under this subsection shall be made available at a rate of 65 percent of the replacement cost of the seedlings, as determined by the Secretary.

Definitions

Subsection (e) sets forth the definition of "nonprogram crop" follows:

(1) all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1988; and

(2) other crops for which Federal Crop Insurance is not available or was not purchased if—

(A) in accordance with regulations issued by the Secretary, producers of such crops can provide satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years, except that if such data does not exist for any of the 3 preceding crop years the Secretary shall use county average crop yield data; and

(B) such producers provide satisfactory evidence of 1988 crop year losses resulting from drought or related condition in 1988 exceeding 35 percent of the crop yield established in paragraph (A) above,

except the term "nonprogram crop" shall not include a crop covered in sections 201 through 203 of the bill or a crop of soybeans.

SEC. 205. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS

Section 205 provides that payments determined in accordance with this bill with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of the crop of a commodity on the farm and the disaster payment made available for the commodity exceeds the amount determined by multiplying—

(1) 100 percent of the commodity yield used for the calculation of payments made under title II of the bill by

(2) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; by

(3) with respect to—

(i) Producers who participated in the production adjustment programs for wheat, feed grains, upland cotton, extra long stable cotton, and rice, the established price for the 1988 crops of such commodities;

(ii) Producers who did not participate in production adjustment programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice, and producers of sugarcane, sugar beets, peanuts, and tobacco, the loan level established for the 1988 crops of such commodities; and

(iii) Producers of soybeans and any nonprogram crop, the average market price received by producers of such crops in 3 out of the last 5 years, dropping the high and low years.

SEC. 206. TRANSFER OF FUNDS

Section 206 would authorize the Secretary, for fiscal year 1988 to transfer to the Agricultural Stabilization and Conservation Service from funds made available to the Commodity Credit Corporation such sums as may be necessary to administer this title, including salaries and other expenses.

SEC. 207. CROPS HARVESTED FOR FORAGE USES

Section 207 provides that, not later than 15 days after the date of enactment of this Act, the Secretary shall announce (through press release or otherwise) the terms and conditions by which producers may prove their yield on crops that will be harvested for silage or other forage uses.

SEC. 208. TIMING AND MANNER OF DISASTER PAYMENTS

Timing

Subsection (a) provides that the Secretary shall make disaster payments available under title II to producers as soon as practicable after enactment of the bill.

Manner of Payments

Subsection (b) provides that disaster payments under this Act may be made available in cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 209. USE OF COMMODITY CREDIT CORPORATION

Section 209 provides that the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out the provisions of title II of the bill.

SEC. 210. PAYMENT LIMITATIONS

Disaster Payments

Subsection (a) provides that the total amount of benefits received under title II for distress caused by the 1988 drought shall not exceed $100,000 per person.

Limitation Based on Gross Revenue

Subsection (b) provides that any person that has gross revenues in excess of $2,000,000 annually shall not be eligible to receive any crop disaster benefit payments under title II.

Combined Limitation

Subsection (c) provides that a person may not receive over $100,000 in disaster benefits provided under this Act (including both payments for crop losses and livestock disaster assistance). A person who might be subject to this limit may choose whether to receive benefits in the form of disaster payments or in the form of livestock assistance.

Relationship to Livestock Emergency Benefits

Subsection (d) provides that no person may receive disaster payments attributable to lost production of a commodity due to the drought or related condition in 1988 under title II to the extent that such person receives a livestock emergency benefit on such lost production under title VI of the Agricultural Act of 1949 (as added by this bill).

Definition of Person

Subsection (e) would require the Secretary to issue regulations—

(1) defining the term "person" in conformity, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

Regulations

Subsection (f) provides that the Secretary shall issue regulations to equitably and efficiently implement the requirements of this provision.

Title III. General Provisions

Subtitle A—Commodity stock adjustment

SEC. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED

Planting of Soybeans and Sunflowers on Permitted Acres

Subsection (a) would amend section 504 of the Agricultural Act of 1949 to provide that, with respect to the 1989 and 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if an acreage limitation program is in effect for any of such crops, the Secretary may permit producers to plant soybeans and sunflowers on at least 10 percent but not more than 35 percent of the permitted acreage for the crop, as determined by the Secretary, without loss of base history.

Not later than November 15, 1988, and not later than March 1, 1989, with respect to the 1989 crops, and not earlier than November 15, 1989, and not later than March 1, 1990, with respect to the 1990 crops, the Secretary shall submit to the House and Senate Agriculture Committees a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage under this provision. This statement shall inlcude—

(A) the estimated impact such action may have on soybeans, sunflowers, corn, wheat, upland cotton, extra long staple cotton, and rice;

(B) an economic evaluation of market effects due to permitting or not permitting the plantings of soybeans or sunflowers on permitted acreage;

(C) an estimate of foreign, production of oilseeds, and the impact of such plantings on domestic oilseed markets; and

(D) such other factors as the Secretary considers appropriate.

Soybean Marketing Loans

Subsection (b) provides that not earlier than February 1, 1989, and not later than March 1, 1989, with respect to the 1989 crop of soybeans, and not later than September 1, 1989, with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall submit to the House and Senate Agriculture Committees a statement setting forth the reasons for implementing or not implementing the soybean marketing loan program authorized under section 201(i)(3) of the Agricultural Act of 1949.

This statement shall include—

(1) an economic evaluation of current soybean markets, foreign and domestic;

(2) the current foreign soybean production statistics;

(3) the United States soybean export market situation and outlook;

(4) the computation of the prevailing world market price for soybeans, as described in section 201(i)(3)(B) of the Agricultural Act of 1949;

(5) the fiscal impact of the implementation of the marketing loan for soybeans; and

(6) such other factors as the Secretary considers appropriate.

Export Assistance for Cottonseed and Sunflower Seed

Subsection (c) provides that if the Secretary of Agriculture determines that the price of cottonseed of sunflower seed oil is adversely affected by the increased planting flexibility, provided in subsection (a), the Secretary shall use existing export assistance programs to provide export and other appropriate assistance programs to provide export and other appropriate assistance for cottonseed and sunflower seed, and the products thereof, to help offset such adverse effects.

SEC. 302. OATS

Farm Acreage Base

Subsection (a) amends section 503 of the Agricultural Act of 1949 to provide that, with respect to the 1989 and 1990 crops, if the feed grain acreage limitation percentage established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 is less than 12.5 percent of the crop acreage base, the Secretary shall allow producers to designate any portion of the farm acreage base (excluding soybeans) as oats base.

Such designation shall not result in an overall increase in the farm acreage base (excluding soybeans) and must be offset by an equivalent downward adjustment in one or more other crop acreage bases established for the farm for such crop year.

Sense of Congress

Subsection (b) provides that is the Sense of Congress that, with respect to the 1989 and 1990 crops of feed grains if the feed grain acreage limitation percentage is established at greater than 12.5 percent of the crop acreage base, the Secretary is encouraged to establish the lowest possible acreage limitation requirement for oats under 105C(f) of the Agricultural Act of 1949 if market imbalances for barley and oats exist.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS

Repayment of Loans

Subsection (a) provides that effective for the 1988 marketing year for wheat and feed grains, if the trigger level in the Farmer Owned Reserve (section 110 of the Agricultural Act of 1949) has been met at any time during such marketing year, producers may repay loans made under section 110(b) of the Agricultural act of 1949 without payment of additional interest or other charged provided for under clause (4) of the third sentence of section 110(b) of such Act, regardless of the market price.

Storage Payments and Interest

Subsection (b) provides that if, during the 1988 marketing year the Secretary allows producers to place wheat or feed grains into the farmer owned reserve established under section 110 of the agricultural Act of 1949, no storage payments shall be made and interest charges shall not be forgiven for the remainder of the 1988 marketing year on quantities of such commodity that the producers place into the reserve during such marketing year.

Subtitle B—Disaster credit and credit forbearance

SEC. 311. FMHA OPERATING LOANS

Direct Loans

Subsection (a) provides that the Secretary of Agriculture shall ensure, to the maximum extent practicable, that direct operating loans made or insured by the Farmers Home Administration for 1989 crop production are made available to farmers suffering major losses due to the 1988 drought, as authorized in existing law, to help such farmers stay in business.

Guaranteed Loans

Subsection (b) provides that the Secretary shall make available in fiscal year 1989 guarantees for operating loans as authorized under subtitle B of the Consolidated Farm and Rural Development Act to commercial or cooperative lenders, in addition to the other purposes for which guarantees may be provided for such loans, to refinance and reamortize 1988 operating debt of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of the 1988 drought.

Each such guaranteed loan shall contain terms and conditions governing reamortization, with respect to the 1988 operating debt of the farmer or rancher, that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit, while repaying the guaranteed loan, as determined by the Secretary.

SEC. 312. FORBEARANCE AND RESTRUCTURING OF FARM LOANS

Section 312 provides that it is the sense of Congress that the Secretary of Agriculture should—

(1) Exercise forbearance in the collection of interest and principle on outstanding Farmers Home Administration direct loans for producers affected by drought in 1988;

(2) Expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and similar provisions of law for farmers and ranchers hurt by the 1988 drought; and

(3) Encourage commercial lenders participating in guaranteed farmer lending programs to exercise forbearance before declaring such loans in default.

Subtitle C—Conservation and water assistance

SEC. 321. CONSERVATION AND WILDLIFE ENHANCEMENT

In General

Subsection (a) provides that, with respect to any producer who harvested hay from land subject to a conservation reserve program contract during 1988 as authorized by the Secretary of Agriculture, the Secretary shall not reduce such producer's rental payments as the result of such harvesting to the extent that the owner or operator shares the cost of carrying out conservation practices in order to enhance soil, water and wildlife conservation values on and in the vicinity of lands subject to such contract in accordance with a conservation plan approved by the Soil Conservation Service in consultation with the appropriate State and Federal agencies.

Conservation Practices

Subsection (b) provides that for the purposes of this section, the term "conservation practices" includes—

(1) Establishment of permanent shelterbelts and windbreaks;

(2) Restoration of wetlands;

(3) Establishment of wildlife food plots; and

(4) Planting of trees.

SEC. 322. WATER MANAGEMENT FOR RURAL AREAS

In General

Subsection (a) provides that the Secretary of Agriculture is authorized to conduct research and demonstration projects, provide technical assistance and extension services, make grants, make loans, loan guarantees, and provide other forms of assistance for the purpose of helping rural areas make better and more efficient use of water resources to alleviate problems arising in such areas from droughts or lack of water.

Activities

Subsection (b) provides that the Secretary is authorized to provide assistance for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmissions, application, and activation.

Cooperation

Subsection (c) provides that in taking action in accordance with this section, the Secretary—

(1) should address problems of water management existing in rural areas;

(2) may carry out these actions independently or in cooperation with Federal, State, and public or private entities and agencies; and

(3) shall cooperate with cooperatives, public or private organizations, confederations, and other entities to carry out projects authorized in accordance with this section.

Regulations

Subsection (d) would require the Secretary to issue regulations to carry out this provision that—

(1) specify the terms and conditions that such entities described above must meet in order to participate in programs carried out under this section;

(2) establish a procedure under which such entities may apply for assistance under this section; and

(3) foster cooperation between such entities and other Federal, State, or local agencies for the purpose of carrying out this section.

Definition

Subsection (e) would define the term "university" to mean—

(1) a land grant university established under the First Morrill Act;

(2) a land grant university established under the Second Morrill Act;

(3) the Tuskegee University; and

(4) any other support research organization.

Funding

Subsection (f) provides there are authorized to be appropriated in each fiscal year such sums as are necessary to carry out this section. The Secretary is authorized to accept funds from non-Federal sources to carry out this section.

No Effect on Cost Sharing

Subsection (g) provides that nothing in this section shall be construed to waive any cost sharing requirements imposed under any other provision of law.

The authorization contained in this section is general, to include all aspects of water management in rural areas, including the protection of streams and other water from agricultural and animal waste, because different rural localities have different water management problems.

It is the intent of the Committee that entities described in this section of the bill cooperate with each other, with local and State governments and agencies, and the Federal government (including agencies in addition to the Department of Agriculture) to identify water-related problems, develop plans to alleviate such problems, and coordinate the use of assistance provided by the Secretary of Agriculture under this section. The Secretary is encouraged to use loan programs conducted by the Farmers Home Administration and other lending authorities (including the Banks for Cooperatives) as authorized in existing law to carry out this provision.

The regulations issued by the Secretary under this section should specify the authorities needed by entities applying for assistance under this section, including whether such entities must be authorized to borrow money, mortgage property, issue bonds or other instruments of credit, and receive grants from other units of government or private sources.

Subtitle D—Rural businesses

SEC. 331. BUSINESS AND INDUSTRIAL LOANS

Section 331 provides that the Secretary of Agriculture shall make available in fiscal year 1989, to the maximum extent practicable, rural industrialization loans or loan guarantees, as authorized under section 310B of the Consolidated Farm and Rural Development Act to assist rural businesses directly and adversely affected by the 1988 drought. Any loans made available under this section must otherwise meet the terms and conditions relating to eligibility established under the Business and Industrial Loan program to prevent the loss of, or create, rural employment opportunities.

SEC. 332. SURVEY OF AGRICULTURE-RELATED RURAL BUSINESSES AND ENTERPRISES

Section 332 provides that not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a survey of rural agribusinesses to determine the extent that such businesses are being adversely affected by the 1988 drought and submit a report describing the results of such survey the House and Senate Agriculture Committees.

Subtitle E—Miscellaneous

SEC. 341. SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM

Section 341 of the bill would amend section 1234(f) of the Food Security Act of 1985 to provide that the provisions of that subsection and of section 1305(d) of the Agricultural Reconciliation Act of 1987 that limit payments to any person shall not be applicable to payments received by a State or local governmental entity in connection with agreements entered into under a special conservation reserve enhancement program carried out by such entity. However, any such conservation reserve enhancement program must first be approved by the Secretary of Agriculture.

SEC. 342. DROUGHT RELIEF CONTINGENCY PLAN

Section 342 of the bill would require the Secretary of Agriculture, not later than 30 days after the date of enactment of the bill to prepare and submit to the House and Senate Agriculture Committees a report describing a Federal drought disaster contingency plan to respond to agricultural disasters in each of the 1988 through 1990 crop years. In preparing such plan, the Secretary should evaluate the various alternatives available for the use of agricultural set-aside acreage, conservation reserve acreage, conservation use acreage, and any other land held in inventory by the Farmers Home Administration.

SEC. 343. SALE OF CORN TO ETHANOL PRODUCERS

Subsection (a) provides that if, during any month beginning after July 31, 1988, the average corn price (as determined by the Secretary of Agriculture) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980), the Secretary shall make approximately 16 million bushels of Commodity Credit Corporation corn per month available for sale to domestic producers of ethanol at a reduced price.

Subsection (b) provides that such corn shall be sold at a price that is not more than the fuel conversion price but not less than 110 percent of the basic county loan rate for corn (prior to any adjustment under the "Findley" provisions of the Agricultural Act of 1949 (sec. 105C(a)(3)).

Subsection (c) provides that the quantity of corn sold to any ethanol producer under this section shall not exceed 2 million bushels per month.

Subsection (d) provides that the "average corn price" shall be determined by the Secretary and shall be based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (the Farmer Owned Reserve).

Subsection (e) provides that domestic producers of ethanol fuel purchasing corn under this provision may not resell such corn and must make available a quantity of feed byproducts equal to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and under terms and conditions approved by the Secretary.

Subsection (f) provides that the Secretary may terminate this program if it is determined that—

(1) the program isn't necessary to maintain the economic viability of the ethanol industry; or

(2) a sufficient supply of corn would otherwise not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

SEC. 344. SENSE OF CONGRESS REGARDING AGRICULTURAL EXPORTS

Subsection (a) sets forth certain findings of Congress, including findings that—

(1) foreign trade is highly important to the domestic agricultural industry;

(2) the Food Security Act of 1985 created several programs to help enhance exports of U.S. commodities and products, and to help restore the U.S. share of international agricultural markets;

(3) those programs have been successful in achieving those purposes and have resulted in the increased exportation of domestic agricultural commodities;

(4) it is important that the United States be perceived as being a reliable supplier of agricultural commodities; and

(5) any action taken by the President or Congress that would indicate a scaling back of the commitment to expand agricultural exports would be harmful to the agricultural interests and general economy of the United States.

Subsection (b) restates the policy of Congress established in section 1133 of the Food Security Act of 1985. Subsection (b) provides that it is the Sense of Congress that there should be no embargo on exports of domestic agricultural commodities and the products thereof.

SEC. 345. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS

Section 345 provides that it is the sense of the Senate that Congress act expeditiously in enacting legislation that would exempt farmers from the federal excise tax on diesel fuel that is to be used for farming purposes, and would repeal the application of the accounting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

DAMAGE BY HAIL

Mr. WIRTH. Mr. President, in my own State of Colorado, several counties in the northeast corner were struck by a hailstorm earlier this month, causing millions of dollars in damage. In Logan, Morgan, and Washington Counties, more than 12,000 acres of corn, beans, hay, sugar beets, and other grains were destroyed at a cost of $2.3 million. The damage in Phillips County exceeded that in the previous three counties combined—farmers there lost $3.8 million with 12,000 acres damaged.

We have all watched helplessly as this year's severe and persistent drought has destroyed the livelihood of our Nation's farmers and ranchers. On the whole, Colorado has escaped much of the ravages of this natural disaster, despite the fact that this year's mountain snowpack was 15 to 30 percent below normal and the spring water run-off was reduced by 48 percent. This is largely due to irrigation and dry-land farming techniques practiced by my State's farmers.

As the Nation's drought has cut commodity supplies and raised crop prices and the market price has approached the target price level, farmers may be forced to return a portion or all of their advance income support payment to the Federal Government. Farmers may also be required to repay their Federal crop loans. Yet, many will have no crop to sell and, consequently, no means of repayment. The drought has had a truly devastating effect on the Nation's agriculture economy, raising the threat of bankruptcy to producers affected by the drought, as well as those damaged by hail as in Colorado.

Mr. President, for those Colorado farmers damaged by July's hailstorm, the only difference between them and producers elsewhere is the nature of the natural disaster. Unfortunately, while S. 2631 contains assistance for those farmers who suffered drought damage, producers who lost crops through hail will receive no help. While I was originally going to offer an amendment to extend coverage to include hailstorm, in the interest of seeking quick action on this bill, I will withhold.

However, I would like to ask my good friend, the distinguished chairman of the Agriculture Committee, what his intentions will be with regards to those Colorado farmers who suffered hail damage? It is my understanding that the drought assistance bill currently under consideration in the House has provisions which could be of assistance to these producers. It is my hope that the conferees can reach an agreement which can accommodate these deserving farmers.

Mr. LEAHY. I would like to thank Senator WIRTH and others for not offering an amendment on this issue.

As we know, the House bill now includes hail and other types of damage in their eligibility criteria.

I am worried, as I have told my colleagues that by opening up the bill to include other disasters we may be establishing a precedent that we will not be able to pay for the next time we have a local disaster

We have savings this year we can use to help producers with. But we have those savings only because of the widespread nature of the drought.

The drought versus disaster issue will come up in conference. We will look carefully at the producer who has suffered loss due to hail and other factors. We will do what we can to assure fair and equitable treatment.

Mr. METZENBAUM. Mr. President, I rise today in strong support of the Drought Assistance Act of 1988.

I want to take a moment to compliment the distinguished chairman of the Agriculture Committee, Mr. LEAHY, and the ranking minority member, Mr. LUGAR, and their staffs.

It is my understanding that the Agriculture Committee staff has done everything short of camping out in their offices to hammer out this piece of legislation in a timely, responsible fashion. They are to be recognized, and congratulated.

In addition to the outstanding legislative leadership that Chairman LEAHY has shown during this crisis, I would also like to compliment him for the concern he has shown for the special problems of particular States that have been caused by the drought.

The Senator from Vermont has been very attentive and responsive to several Ohio concerns that I raised with him, and I want to take this opportunity to express my thanks.

Mr. President, the Drought Assistance Act of 1988 continues the Federal Government's commitment to the American family farmer. In the past, we have seen how unstable the farm economy can become—even during good growing seasons. The Government has attempted to "even out" this "economic roller-coaster" that farmers have been forced to ride, with considerable success. The farm bill of 1985 and the legislation that preceded it provided a regulatory foundation upon which our farmers could depend—it provided a measure of consistency, something not lately seen out in farm country.

Now, we are facing what may turn out to be the worst drought in recorded history.

In Ohio, the corn crop will be a near-complete failure. The auctioneers are having a busy summer as livestock farmers are forced to sell off their herds, while vegetable, wheat, soy, and fruit producers have barely any product to sell.

The Government must come through during this crisis.

Mr. President, since Memorial Day, I have visited five Ohio farms and another four agricultural gatherings in Ohio.

I have seen the fields turned to brown dust; I have seen corn barely 4 feet high when it should be over my head; and I have seen the herds threatened by lack of feed.

What has left the most important image on my mind, however, was the farmers and farm families with whom I had the privilege of speaking. These are people of whom we can be proud. These are the people upon whom we depend for our breakfast, lunch and dinner—but these people are depending on us right now.

Mr. President, without exception, the Ohio farmers I have spoken to are not looking for Government handouts or a free ride. They are not that type of people. What these independent, hard-working family farmers need is the means to make it through this growing season. I believe that this bill will do just that.

I am honored to serve as a member of the drought task force that has functioned as a clearinghouse for ideas to ease the effects of the drought. From our very first meeting on June 17, Chairman LEAHY insisted that the overriding objective of our drought bill must be to guarantee the solvency of the family farmer during this crisis.

It is tragic that just as the American family farmer was getting back on his feet, he is knocked down by this natural disaster.

As the chairman noted in his introductory remarks, this bill is the Senate's promise to the American farmer: it is a promise that the Federal Government can be counted on for a helping hand during what Secretary of Agriculture Lyng termed "a truly catastrophic" season.

Mr. President, the Drought Assistance Act of 1988 is crucial for Ohio's farmers, it is crucial for America's farmers. I am proud to be a original cosponsor of it, and I urge the Department of Agriculture to implement the bill's provisions quickly so as to speed relief to our farmers in need.

Mr. GORE. Mr. President, I would like to express my support for this legislation and applaud the Agriculture Committee, under the guidance of Senator LEAHY, for their thorough and expeditious work in producing this legislation.

The drought of 1988 has been especially severe in Tennessee. Not only have we received less than 55 percent of our average rainfall, we began this growing season in a rain-deficit situation. For some parts of Tennessee, this is the third straight year of drought.

Many farmers in Tennessee and across the Nation thought this would be the first year since the early 1980's to make a substantial profit on their crop. Excess supplies were dwindling and prices were rising. However, because of the drought, even our most efficient farmers will suffer economically this year.

Tennessee farmers are hard-working and independent. They would rather the rains come and be able to grow a healthy, high-yield crop. However, this year the drought has not given our farmers a fair chance and we need this legislation if our farmers are to survive. In Tennessee, the drought has not been selective. All farmers in drought areas across the State have been adversely affected.

Row crop farmers are seeing their plants stunted in the field. Without rain, plants that have come up have simply stopped growing. Corn is tassling before any appreciable feed is produced on the cob. Soybeans, tobacco and other crops are permanently damaged in the field, and it is too late to replant.

Dairy farmers are losing production because of the heat and the lack of feed for their herds. Moreover, dairy farmers and livestock growers are seeing their feed costs double. At the same time, those that usually are able to produce a substantial amount of their feed are being forced to buy feed at the marketplace at inflated prices. Many livestock growers simply cannot afford to maintain a herd under these stressful conditions and are being forced to sell their herds onto an already saturated market at depressed prices.

Also, soil erosion on cultivated land has increased as our topsoil is so dry that it is blowing away. Water sources, such as ponds and wells have been damaged under the stress of drought. We are actually losing a greater percentage of the rain that is falling to runoff because so much vegetative cover has died. Next year our farmers in drought-stricken areas will have to make extensive land improvements to repair the conservation damage caused by the drought.

The assistance in this legislation will be of great help to the drought-affected farmers in Tennessee and across the Nation.

Farmers of program and nonprogram crops who have lost more than 35 percent of their expected returns will be reimbursed at a rate of 65 cents on the dollar for those losses greater than 35 percent. Producers of program crops that have a target-price system of payment will not be required to repay advanced deficiency payments.

The Secretary of Agriculture is directed to make a report to Congress on the feasibility of instituting a marketing loan program for soybeans.

FmHA borrowers who have been affected by the drought will receive special consideration by the Secretary of Agriculture in any attempt to collect delinquent debt.

Those farmers who have had to utilize their conservation land for haying or grazing will be able to use a portion of their Federal land payments to make conservation improvements on their land.

Existing feed programs for livestock and dairy farmers will be expanded to include more feeders. Dairy support prices will not be cut in January 1989, as would have been possible otherwise.

I applaud these efforts, but as a livestock farmer myself, I caution my colleagues not to be too quick to consider the problems of this drought solved. We will be suffering the effects of this drought for at least another 15 months.

Foundation herds, both cattle and hogs, are being sold for slaughter. It will take time for these herds to be rebuilt. Dairy farmers and hog and cattle producers who grow their own sileage will suffer the effects of this drought until they are able to harvest next year's corn crop in the fall of 1989. Many farmers will be forced to reseed their drought-stressed hay and pasture land to reestablish their average yields. The effects of these hardships will show on farm income balance sheets, in reduced economic activity across rural America and on the grocery store shelves.

Finally, Mr. President, I believe this bill is a good assistance package for our farmers who have suffered because of the drought. However, I believe in the future we must look deeper into this problem to identify the causes of drought.

Our weather patterns are changing. The 1980's have already accounted for four of the warmest years in the history of global measurements. It appears that 1988 will be the fifth, and threatens to be the warmest ever. In studying the trend, we must not overlook the effect our actions have on our changing global environment.

Carbon dioxide emissions are increasing, as are chlorofluorocarbons, methane, nitrous oxide, and other greenhouse gases. Meanwhile, worldwide deforestation continues to have an adverse impact on our atmosphere.

If we are to understand global environmental problems, such as the drought, we must begin to view the Earth as a dynamic system of interacting variables. It is not enough to study the oceans, the atmosphere and the solid Earth separately. We must begin to study these problems jointly. I believe we may find in the future that droughts are predictable and that actions can be taken to avoid their worst problems.

Mr. President, I applaud this bill. It will bring much-needed assistance to the farmers of Tennessee. I urge my colleagues to vote for its passage.

Mr. McCLURE. Mr. President, today I rise to speak in favor of a section in the drought assistance bill concerning the Export Enhancement Program.

The Export Enhancement Program is a success story for American wheat. Since its enactment in 1985, well over a billion bushels of U.S. wheat have been shipped overseas, and has raised the U.S. share of the world markets from 29 percent in 1985–86 to 42 percent in 1987–88. Other commodities including grain, sorghum rice, poultry, and poultry feed, barley and barley malt, eggs, soybean and other vegetable oils, and dairy cattle also benefit from EEP.

EEP's main aim is to raise U.S. export volumes as well as challenge unfair trade practices by particular countries in particular markets and negotiate reforms in international agricultural practices. On this last front, it has had notable success: Agricultural trade is the centerpiece of current negotiations by the member nations of the General Agreement on Tariffs and Trade [GATT] in Geneva, and though the major farm exporting countries still hold widely different views of what the talks' outcome ought to be, it's unlikely they'd be talking at all if it weren't for the powerful incentive EEP has provided.

The basic purpose of the EEP is to allow U.S. exporters to meet prevailing world prices for agricultural goods. The program doesn't undercut or drive down prices—it's designed to meet the competition. EEP is not a cash subsidy program. It takes Government owned surplus stocks of grain and other commodities and gives them to exporters as bonuses to allow them to make an export sale. Through the USDA, bids are accepted and the sale is completed. Through this mechanism farmers benefit from increased sales, Government stocks are reduced thus prices will rise due to reduced world wide stocks.

Total 1987-88 U.S. wheat exports were up 60 percent over 1986-87 levels. The increase primarily reflected large purchases by the Soviet Union and China, both of which bought wheat under EEP.

The 1988 drought has been devastating to many parts of our country. Although there are sure to be big declines in spring and durum wheat output, the full impact of this year's hot weather is not yet known. It is important, though, to put the drought in perspective. Since even a reduced U.S. crop will be far more than we can possibly consume in this country, we still need exports. This Nation does not export wheat at the expense of U.S. consumers—on the contrary, it's only our export markets that allow us to make efficient use of our large-scale capacity to grow wheat. Our overseas markets allow us to grow wheat on more acres—and, because of economies of scale, U.S. production costs are kept down. The American consumer gets more of a bargain in the grocery store, not less, because of our overseas markets.

We have already seen EEP serve two significant functions. First, it has helped spur a dramatic increase in U.S. exports translating into higher farm incomes, more U.S. economic growth, and a positive contribution to the U.S. balance of trade. Second, it has helped bring our foreign competitors to the bargaining table aimed at solving many of the problems that made EEP necessary.

Neither the United States nor the world is about to run out of wheat. The 1988 drought is severe, it is a tragedy for farmers and rural communities, and it will undoubtedly have some effects on the Nation's economy. But it is not going to cause food shortages or runaway inflation. Despite the drought, we will grow much more wheat than we can hope to use in this country and that means we must continue to export. To do that, it will be essential to maintain a strong, aggressive Export Enhancement Program. To back down on EEP now would send precisely the wrong signal to our foreign competitors, telling them we won't stay in the export game for the long haul. And it would mean much lower exports for the United States, and thus would make the drought's impact on American farmers even worse. Not only would they have less grain to sell, but there would be less demand for what they did produce and the United States would be viewed as an unreliable source. Unless the Nation wants drought-stricken rural communities to be hit with a double whammy, it's vital to continue the EEP, vital to keep selling grain, generating economic activity throughout the country and strengthening the U.S. balance of trade.

Mr. KASTEN. Mr. President, I rise in support of S. 2631, the Drought Assistance Act of 1988.

The drought of 1988, which will go down as perhaps the worst in recorded history, has hit the State of Wisconsin especially hard. Lack of rain and abnormally high heat has devastated crops and stressed livestock throughout my State. While rain has recently fallen on some parts of Wisconsin, other parts have been left dry. Without Federal help, the future for farmers in much of Wisconsin is bleak.

I want to take a moment to impress upon my colleagues the impact of the drought of 1988 on a State that rarely has major natural disasters. A survey of the corn crop in Wisconsin reveals that between 53 and 69 percent of it is either in poor or very poor condition. Thousands of acres of corn, planted too late to take advantage of early spring rains, will not produce anything at all.

For a State like Wisconsin, though, even the badly damaged corn crop is of less urgency than the forage situation. Dairy farmers need hay and other forages to keep their cows alive—and Wisconsin has far more cows than any other State. Wisconsin farmers lost up to half of this year's first crop of alfalfa and up to 80 percent of the second crop. These are devastating losses that hold out for farmers the prospect of not having enough feed to keep their cows alive this fall.

Nor can hay that is lost in the field be easily replaced. Market prices for hay have more than doubled over this time last year, and the hay available on the market is generally of lower quality.

Add to this the effect that high temperatures have had on my State's dairy cows—stressing them and reducing milk production—and you can begin to understand why many Wisconsin farmers are reducing their herds and many others are selling out completely.

S. 2631 will not save all of these farmers, nor will it make any farmers whole. And 1988 will go down for most farmers as a bad year even with the assistance provided in this bill.

But S. 2631 does provide a desperately needed program of assistance to help keep most farmers in business. It is a sound response to an unprecedented disaster, and it deserves quick passage.

S. 2631 makes disaster payments available to producers of both program and nonprogram crops, on the principle that farmers who have lost more than 35 percent of their crops will have 65 percent of their loss made up by Federal payments. Payments to producers of program crops would be based on a percentage of the target prices for that commodity, while payments for nonprogram crops would be based on a percentage of the average market price for 3 out of the last 5 years.

Mr. President, it is important to my State that we extend disaster payment assistance to producers on nonprogram crops. Wisconsin's growers of peas and other nonirrigated crops face losses every bit as serious as those faced by producers of corn, wheat or cotton across the country. They need help and deserve it, and under this bill they get it.

S. 2631 blocks a 50-cent-per-hundredweight cut in the dairy price support level that the Secretary of Agriculture could have imposed on January 1, 1988, if he estimated Government purchases under the price support program at over 5 billion pounds.

This is vitally important to Wisconsin dairy farmers, who have seen the dairy support price reduced time and again since well before the 1985 farm bill, while target prices for other program commodities have undergone little change. At a time when their milk production is down, their costs up, and even finding feed for their cows is a struggle, Wisconsin farmers cannot afford a further cut in prices.

I frankly would like to do more in this area, Mr. President. The 1985 farm bill, taken as a whole, has worked against the interests of those areas of the country that have the most dairy farmers. It has encouraged skyrocketing milk production in areas dominated by a small number of large farmers, while imposing steadily declining prices on the tens of thousands of family farmers in Wisconsin, Minnesota, New York, Pennsylvania, and other traditional dairy States.

This is not acceptable, Mr. President. Family dairy farmers have done more than their share to reduce Government spending on their price support program, while the 1985 farm bill lavished billions of dollars on the producers of other commodities. The same farm bill that gave one price support cut after another to Wisconsin farmers offered huge increases in federally guaranteed minimum prices for milk used as fluid to dairy farmers in other areas of the country.

Much as I would like to address the fundamental issues in dairy policy, Mr. President, I appreciate the urgency of this drought legislation, and will therefore offer no amendments on dairy at this time. I would simply like to draw my colleagues attention to the action of the House today in approving a 50-cent increase in the price support level through next July. This is not a perfect amendment; for one thing, should the higher price support level result in higher government spending on dairy, much of that spending would occur in areas like the west coast which have not borne the full weight of the drought.

But the House action does indicate sensitivity to the plight of dairy farmers in the Upper Midwest. I support it, and urge the Senate members of the conference committee on this legislation to include this amendment in the final bill.

Mr. President, S. 2631 provides important incentives to farmers to grow more soybeans and more oats. The recent structure of the feed grains program, combined with the effects of the drought, has reduced the incentive for farmers to plant soybeans, jeopardizing a vital export market. This same combination has discouraged farmers from growing oats, a crop for which market demand is rising.

By allowing up to 35 percent of permitted corn acreage to be planted to soybeans under certain circumstances, this legislation should help increase soybean production in this country. By allowing farmers to convert program base in corn, wheat or other program crops to oat base, S. 2631 takes a step toward allowing the United States to again be self-sufficient in oat production.

S. 2631 also encourages farmers to take steps to conserve soil resources, by authorizing conservation enhancement, wildlife management, and water management programs, including cost-sharing for farmers who agree to plant crops that would help support wildlife and enhance soil conservation on their land. The drought of 1988 has been a disaster for the environment as well as for farmers. Soil erosion has been increased in some areas as lack of moisture encourages greater wind erosion; wildlife and waterfowl populations have declined dramatically as breeding areas have dried up. Everyone must work together to begin to repair the damage to some of the things that make rural America a place worth living in.

Mr. President, I do have concerns about one element of this legislation. S. 2631 makes farmers who do not produce their own feed eligible for Federal feed assistance programs. I do not wish to appear unsympathetic in the face of a disaster that has been hard on producers of all commodities, including beef, pork, and poultry.

But the fact is that many of these farmers do not have the expenses associated with buying cropland, maintaining that land, and raising crops on that land. These farmers prospered when grain prices were low—a situation created in large measure by Federal farm programs. Now that grain prices have risen, we ought not to be rushing to provide assistance to farmers who have not themselves lost crops of corn or hay. That would not be fair to beef or pork producers in nondisaster affected areas, who would still have to, in effect, compete with the Government for scarce stocks of feed; it isn't fair to the grain dealer who makes his living selling grain to farmers; and it most certainly is not fair to thousands of farmers in my State who raise most of their own feed. Wisconsin dairy farmers have seen some of their competitive advantage eroded because farmers in other parts of the country have been able to buy feed cheaper than it can be grown in our part of the country. Now that the situation has been reversed, I see no reason to change the longstanding Federal policy that disaster programs should address crop loss only, not merely higher prices for some inputs.

I strongly urge those Senators who will serve in the forthcoming conference on this legislation to delete this whole provision from the bill. Federal feed assistance programs may well need an overhaul; this emergency drought relief legislation is not the place to do it.

I support S. 2631 as a necessary and vital step to address a disaster greater than any in the long history of agriculture in my State. Wisconsin farmers need help; this bill gives it to them. I urge my colleagues to support this legislation.

Mr. HELMS. Mr. President, the Drought Assistance Act of 1988 is badly needed. The drought has affected nearly every region of the United States, including western North Carolina, and I am grateful to President Reagan and Secretary Lyng for taking an active role in working with Congress Members to produce a drought package to get benefits to drought-stricken farmers quickly.

However, sad to say, there is the not unusual spectacle of some political opportunists to use the farmers' plight to add extra benefits that could jeopardize the administration's support and bring costs over budget limits.

First, the House drought package makes substantial changes in the dairy program by increasing price supports. I consider this a major change in the 1985 farm bill that has no business in an emergency drought bill. Current law provides a mechanism to raise and lower price supports according to production levels. If the Nation's dairy farmers overproduce—I should point out that North Carolina dairy farmers do not overproduce, and have not contributed one iota to Government surpluses—and the Government is left with huge surpluses, the price goes down. If the Nation's dairy farmers produce according to market demand, the price goes up. It's very simple—and it is working. However, if we allow the support price to be increased in this legislation, all the work of the market-oriented 1985 farm bill will be lost and the huge dairy surpluses will appear again.

Mr. President, I must point out that under the drought core package, agreed to by the administration, dairy farmers are treated quite generously. Most dairy farmers will receive drought assistance through both the crop assistance and the emergency livestock feed provisions.

A second issue of concern in the Senate package would allow subsidized corn sales to ethanol producers. Secretary Lyng has informed me that this provision would create a direct annual windfall to ethanol producers of $75 million or more and would increase annual Commodity Credit Corporation outlays by several hundred million dollars because of the market impact of releasing Government-owned stocks.

Another problem with the Senate bill is the emergency feed assistance section which goes far beyond drought assistance provided to livestock producers in the past. USDA is properly worried that this section could cost billions of dollars. I would add that there is a grave inequity for the poultry producers in the United States in how this feed assistance will be distributed. As written, little assistance will be provided to the over 20,000 individual contract poultry growers, not to mention all the contract turkey growers.

Chickens and turkeys are grown in the United States under a vertical integration system of production. Approximately 5 billion chickens were produced last year by about 60 firms. The firm provides baby chickens and turkey poults, feed, medication, and other services to the contract grower. The contract grower provides the land, grow-out houses, and labor. The contract growers are reimbursed for their services according to a negotiated formula and contract. In this way, the integrated firms rather than the grower faces market risk.

The pending drought legislation has been drafted to provide assistance to qualified livestock producers including chicken and turkey producers. However, the legislation is written so there is a limit as to the amount of benefits farmers can receive. Because of the structure of the cattle, pork, and dairy industries, they will receive the full benefits of the assistance without any limitations. However, the structure of the turkey and chicken industry will severely limit the assistance to growers.

The chicken and turkey industry will be placed at a competitive disadvantage by this drought legislation. The per-pound assistance for cattle, pork, and dairy products will be much greater than the small amount of assistance the poultry industry will receive.

I'm quite concerned about this economic disadvantage to the small turkey and chicken grower. One poultry firm in North Carolina recently canceled many contracts with growers and I fear many more may follow. The Senate should reconsider the emergency feed assistance. Expanding eligibility will create an enormous budget exposure while at the same time discriminate against the chicken and turkey industry.

Mr. President, drought assistance is needed immediately. The Senate should pass the drought aid package agreed to by President Reagan and Secretary Lyng—without all the costly extras.

Mr. GLENN. Mr. President, I rise today to join my colleagues in support of Senate bill 2631, the Drought Assistance Act of 1988. This is a comprehensive bipartisan bill which will help ease the disastrous losses faced by farmers and ranchers in this country. I applaud my colleagues in the Senate Agriculture Committee for their work in moving this legislation in a timely manner.

The drought of 1988 is the worst drought in 50 years. It has been very widespread, affecting many of the main production regions of the United States. It has devastated millions of acres of cropland, placing intense pressure on the economic health of thousands of American farmers. As a result, we must provide a short-term aid to address our current problems as well as devise a long-term strategy which will return profit to agriculture.

My own State of Ohio has been particularly hard hit by the drought. Much of the corn crop has already deteriorated, and the USDA now rates over one-third of Ohio's corn as very poor. This means that Ohio corn farmers may only receive 50 percent of the State average yield which is 130 bushels per acre. It is even more unfortunate that this drought came at a time when many of the farmers in my State were beginning to recover from past financial difficulties.

Livestock producers in my State are facing an equally critical situation. Many must either purchase feed grain at prohibitively high prices or liquidate their herds. If these trends continue, consumers will have higher food prices next year.

The major provision of the bill provides disaster assistance to farmers, ranchers, and producers of program and nonprogram crops who have lost 35 percent or more of their crop. Assistance is equal to 65 percent of their expected predrought returns. In addition, programs to provide reasonably priced feed for livestock and dairy producers have been consolidated. As a result, farmers can more accurately determine their eligibility for assistance.

A drought of this magnitude has the potential to again devastate our farmers. For this reason, I particularly support the provision of the bill which encourages the Secretary of Agriculture and private lenders to use credit programs already authorized to help alleviate the sudden cash flow problems these farmers are facing.

In believe this bill is a constructive response to the hardships resulting from the current drought. I believe it treats our farmers fairly and responsibly. I urge my colleagues to join me in voting for this critically needed legislation.

RECLAMATION PROVISIONS AND DROUGHT ASSISTANCE

Mr. BRADLEY. Mr. President, I would like to call attention to a provision in H.R. 5015, the House drought assistance bill, which has not been included in the Senate bill before us now. The section to which I refer deals with the Bureau of Reclamation's authorities to manage Western water supplies during the dry conditions which have prevailed during the past 2 years.

As chairman of the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources, I am concerned about these provisions being attached to a bill over which my committee has no jurisdiction. I note that the House Committee on Interior and Insular Affairs has already reported a bill, title IV of S. 795, which includes most of the provisions added to the House drought bill. Consequently, there is a simple solution to this jurisdictional problem. If the House provisions truly are necessary to address the current emergency, let the House act on these provisions as a separate bill. S. 795 has already been reported for floor consideration by the House Committee on Interior and Insular Affairs and could be brought up for consideration at any time. Returning S. 795 to the Senate would allow for proper consideration of the issue in an expeditious manner by both Houses.

I might add that there is more here than just a question of jurisdiction. The drought bill addresses foremost the impact of lost production and lost income to the farmers throughout the Nation. But this House provision has a different focus: to maintain production on irrigated acreage. This is an appropriate goal. But water from reclamation projects belong as much to the taxpayers of the Nation who financed the projects as to the farmers who use them. Reclamation law is specifically intended to address the need of small farmers. And, this is not the time to waive reclamation law, especially the acreage limitation provisions.

This year, commodity prices will be at the highest levels seen in recent times. The irrigation water potentially supplied by this House provision will allow certain producers to maintain or increase production and reap windfall profits. At a minimum, the full cost of irrigation water must be paid by any new and unqualified recipients. I am afraid that the House provision will allow very large growers access to Federal water at prices subsidized by the taxpayers, at the same time they receive a crop sales bonanza. This is simply not acceptable. If any waivers of reclamation laws are to be countenanced, it must be with the full agreement of the authorizing committees and after public hearings.

One other section of the House provision, the amendments and the Warner Act, has also not been subject to public review. It strikes me as odd that we can so easily modify a public law which has been part of reclamation law for nearly 80 years. It also seems inappropriate to consider any permanent changes or directives in this drought bill, which is really an emergency statute. Along these lines, there is a permanent authorization of unallocated storage from the New Melones unit for two irrigation districts, during drought conditions. Surely, any changes adopted in our present haste need to have a very limited lifetime. I thank my colleagues for their support in these matters and am sure that, working together, we will be able to address these concerns.

Mr. LUGAR. I agree with the distinguished senior Senator from New Jersey that modifications to the reclamation law ought to be considered by the proper committees of jurisdiction.

Mr. LEAHY. Mr. President, I appreciate the concerns of the senior Senator from New Jersey. I see no reason to include these provisions in pending drought assistance legislation since they pertain to the Bureau of Reclamation and are entirely within the jurisdiction of other committees of the House and Senate.

Mr. LUGAR. Mr. President, I worked hard on the Reclamation Reform Act of 1982, which was the first major modification of the Reclamation Program in 80 years. I agree with the distinguished Senator from New Jersey that any revisions in Bureau of Reclamation programs should be carefully considered and thoroughly reviewed. I do not believe that such modifications belong in legislation pertaining to programs under the jurisdiction of the Department of Agriculture.

Mr. SARBANES. Mr. President, I rise in strong support and as a cosponsor of the bill before us today, S. 2631, the Drought Assistance Act of 1988. U.S. farmers have been affected by drought conditions of varying intensity several times since 1980. In fact, my State of Maryland is among the few States that has suffered extensive drought damage for three consecutive years. The drought this year is by far the worst. Crop loss alone is estimated to be $269 million in Maryland this year—more that twice the losses suffered each of the previous 2 years.

Earlier today, the members of the Maryland delegation met with Maryland farmers and representatives from Maryland's Department of Agriculture, the Farm Bureau and the Grange about the status of farming in our State during this current drought. What we heard is that the drought is severely impacting Maryland's major crops. The farmers of corn, soybeans, hay, vegetables, and tobacco are expected to suffer losses in the millions of dollars. Dairy and livestock farmers will be faced with escalating costs for feed. All in all, Maryland farmers and the Maryland economy will have experienced losses of close to a half billion dollars from the droughts in the last 3 years.

The drought of 1988 is being compared to the droughts of the 1930's. Not since then have farmers experienced such extensive drought damage during the early part of the year, the critical growing period for many crops. Droughts usually occur in the summer or fall. A spring drought is especially damaging because crops are prevented from even getting started and spring droughts are critical to such crops as corn—one of Maryland's largest commodities. Maryland farmers are expected to lose 80 percent of their corn crop this year. Some counties in my State may experience losses as high as 75 percent of vegetables and fruit grown for market. In addition, livestock and poultry farmers must buy feed at higher prices because of the already diminished feed supplies. Maryland producers, as well as others across our country, need immediate help to survive this natural disaster.

I want to commend Senators LEAHY and LUGAR, as chairman and ranking member of the Senator Agriculture Committee, for their efforts in putting together this legislation. It addresses the immediate needs of America's farmers during this drought and establishes parameters for future disasters of this magnitude. I am especially pleased that the bill before us today provides assistance to farmers who do not have Federal crop insurance and provides emergency feed assistance for livestock producers.

I believe that this legislation will assure American farmers that Congress does not intend to stand by and watch them sink deeper into depression and hopelessness. The legislation before us today proves that Congress intends to protect farmers in a fair and equitable manner without burdening the American taxpayer. The payments are based upon farm program savings and the benefits are capped at $100,000—as they were in the 1985 farm bill. More importantly, all producers will be treated fairly regardless of whether or not they participate in Federal farm programs.

Mr. President, this legislation has broad support in the Congress, and there is great need for it in our country. Therefore, I strongly urge my colleagues to act expeditiously to pass this measure that will provide needed relief from this drought to the American farmer.

Mr. BINGAMAN. Mr. President, I rise to endorse S. 2631 which calls for quick and effective aid to those farmers and ranchers who have suffered from the worst drought in this country in 50 years.

This legislation sends a signal to American farmers that the U.S. Senate and the American people support them, and, that they can be assured of help to get through and recover from the drought. Farmers and ranchers deserve to know what actions they can expect to help alleviate the impact of the drought on farm and ranch operations.

This bill covers all types of agricultural producers from throughout the country who have suffered losses from the ravages of the drought.

There are three major provisions to this legislation. First, the bill will protect farm income so that farmers can be back in production next year. Producers will receive 65 percent of their expected return for losses greater than 35 percent of their normal crop. This is an increase from 50 percent in 1986. Second, livestock herds will be protected. This is needed to enable livestock producers to continue to supply meat and poultry for the Nation's dinner tables by restructuring and giving new authority to the Secretary, an expanded number of livestock producers will have access to emergency feed programs. Third, all producers will be treated equitably. This includes producers of program and nonprogram crops, and producers of program crops who do not participate in Federal farm programs.

All disaster benefits will be capped at $100,000 for each producer. However, producers will not be able to receive both a disaster payment and a deficiency payment for any portion of their crops. Double payments will not be given. This is fair and balanced legislation that represents a bipartisan consensus on how best to meet the needs of our farms and farm communities and assist them in getting through these difficult times.

Mr. President, the people of New Mexico empathize with those afflicted by the drought. While our State's farmers have not suffered as those in the Midwest have, New Mexico farmers are well acquainted with the hardships that stem from severe drought.

I urge my colleagues to pass this important legislation. Our farmers and ranchers deserve nothing less than our full support.

Mr. MOYNIHAN. Mr. President, I want to commend Senator LEAHY, Senator LUGAR, and the other members of the Senate Agriculture Committee. They have done an outstanding job of drafting an emergency drought relief bill. The bill provides help to those farmers who desperately need it, and it does so in a fiscally responsible manner. I am pleased to be an original cosponsor of S. 2631.

Mr. President, people don't often associate New York with agriculture but, in fact, it's our biggest industry. We produce fruits and vegetables, corn, and specialty crops. We have sizable livestock and poultry operations. And we are a dairy State—the Nation's third largest. We produce more than 8 percent of the Nation's milk.

We have some 42,000 farms in New York. Cash receipts from farm marketings average about $2.6 billion annually. Milk marketings alone exceed $1.4 billion each year.

I support the drought bill because it will provide relief to distressed New York farmers. The most important provisions include:

Emergency livestock feed assistance, even for those farmers who do not grow their own feed;

Disaster assistance to producers of program and nonprogram crops; and

Repeal of the 50-cent dairy price support reduction scheduled for January 1, 1989.

The 1985 farm bill mandates the Secretary of Agriculture to reduce dairy price supports from $10.60 per hundredweight [cwt] to $10.10/cwt if the projects that surplus dairy purchases for that calendar year will exceed 5 billion pounds milk equivalent.

Mr. President, the dairy support price was $13.10/cwt in 1983. We had a surplus problem then. We don't now. Of course, we never did in the Northeast, but that's another matter. Now our dairy farmers are caught in a terrible bind. The cost of feed has nearly doubled in recent months. The milk-feed ratio has plummeted from 1.57 to 1.0 in June of last year to 1.36 to 1.0 last month. Which is to say that 1 pound of milk is equal in value to 1.36 pounds of the standard feed ration known as 16 percent concentrate. In some parts of New York, the ratio is even lower.

Mr. President, it happens our home for the past quarter century is a dairy farm. We have cows in the pasture and hay in the barn. Our neighbors are dairy farmers. We are very near Cornell, which is a land grant college and very respected on dairy matters.

One of my neighbors, Eric Myerhoff, has about 100 Holsteins. During the Payment-in-Kind program, he had difficulty obtaining feed. This year, even before the drought set in, farmers were going to idle about as many acres as they did during PIK. And now the drought.

We are going to lose a lot of hardworking dairy farmers if we cut the support price. We need to send them a message of hope. This bill does that by repealing authority for the January price reduction.

I note with interest that no payment under title II of this bill will exceed $100,000 per person, and that persons with gross revenues over $2 million shall not be eligible to receive benefits under title II.

I commend the bill to my colleagues.

SAVE OUR FARMERS

Mr. DIXON. Mr. President, one of the greatest crises confronting American agriculture currently has a grip on our Nation's heartland. Weeks without rain, combined with smoldering temperatures, have left crops and livestock throughout the country in a devastated condition.

As many of us foresaw, a major national drought is now upon us. Farmers in Illinois, as well as other States, have not experienced such excessively high temperatures and lack of rainfall so early in the year since 1934.

In my State of Illinois, this drought has resulted in serious damage to our crops. Reports indicate that at least 50 percent of the corn crop is already lost, with at least a 5-percent increase for each additional day without rain. It is being estimated that over 30 percent of our soybean crop is in poor or very poor condition. Our livestock producers are facing escalating feed prices and depleting sources of grain.

Mr. President, we have reached the critical juncture. Every day that action is delayed jeopardizes the livelihoods of thousands of our Nation's farmers.

For the past several months, discussions have been conducted regarding what actions should be taken if the drought conditions persist. The Agriculture Committees in both the House and Senate, as well as the administration's task force, have been working in tandem to study the devastating effects of this drought, and to respond appropriately.

Emerging from these discussions was a comprehensive package designed to protect our drought-stricken producers. This drought package is a bipartisan effort. Members on both sides of the aisle have worked together to ensure that adequate, targeted relief would be forthcoming. I am pleased to see that politics was not played at the expense of the misery of others.

The drought legislation before us today is a fair and equitable package. Almost every crop, not just the few major commodities covered by the 1985 farm bill, comes under the protection that our Government has constructed. Producers are receiving the assurance that although their crops may fail, we will not allow the American farmer to fail. We are not providing a windfall for some; we are not providing Government assistance to those who do not need it. Rather, what we are doing is providing farmers with the assistance to make it through another year marked by devastating conditions far beyond their control.

At the same time, we are preserving the integrity of the Federal Crop Insurance Program. Those farmers who have wisely participated in the Federal Crop Insurance Program are not penalized in this legislation for utilizing good farm management techniques. These farmers, in addition to their own crop insurance, are eligible for Government assistance. These farmers can receive protections up to 100 percent of their entire crop yield. Once again, this legislation is not designed to be a windfall; no one will receive protections which exceeds what they would typically make in a normal year. No one, however, will be denied Government assistance for employing good management techniques.

Livestock assistance programs will also be liberalized to ensure that livestock producers that do not produce feed on the farm, as well as those that do, will be eligible for assistance to preserve their foundation herds. Many livestock producers, currently excluded from participation in emergency feed programs, will be assisted in acquiring needed feed which is in short supply and long in price.

Mr. President, this drought package is a good package, but no one would attempt to characterize it as a package which is all inclusive and anticipates all consequences of the drought. There are still many issues not included in this package which need to be addressed. Where not specifically stated, this legislation does not preempt other emergency drought legislation that precedes it. Nor does it preclude the Secretary of Agriculture from utilizing his discretionary authority in instances that demand quick attention and action to protect the American farmer. The Secretary retains a great deal of discretionary authority from the 1949 and 1959 acts.

Even when this bill is signed into law, there may be actions that the Secretary must undertake, which are not spelled out in this legislation, but which nonetheless require him to proceed in a quick and timely fashion.

Requiring immediate action on the part of the Secretary is a 30 to 60 day extension of the 9 month corn loan for the 1987 crop. As I have informed Secretary Lyng, such an extension would provide farmers with a breathing space, allowing them to make accurate marketing decisions. These loans come due at the end of this month, and farmers are still unaware of the condition of their crops in the field, the provisions contained in the final version of our drought package, and the USDA's own crop report. An extension of this loan is critical, and I urge the Secretary to use his discretionary authority to provide it immediately.

The drought package directs the Secretary to use the Export Assistance Program for cottonseed and sunflower seed oil if there is an adverse impact due to the increased planting on permitted acres. In effect, a floor on the price of cottonseed and sunflower seed oil is created. If a situation like this does come into existence, I would urge, as many of my colleagues would, for the Secretary to provide the same safety net for corn oil as provided for these other vegetable oils. Without this protection, the efforts to raise the price of vegetable oil would be defeated because corn oil would remain on the market without the market price support, thus serving as a drag on any price improvement that was intended.

I would also like to see the Secretary allow farmers to harvest oats for sale on set-aside acres. Oats on these set-aside acres are at their peak, and if they could be harvested now, farmers could at least have some crops to sell. These oats, if not released immediately, will die in the fields. While farmers are being forced to watch their oats die, our Government is importing oats from foreign countries to meet our consumption needs.

As we in Congress proceed on this legislative track, the Secretary of Agriculture must be paying heed to other pressing issues that require immediate action, and are within the confines of his discretionary authority.

Mr. President, we are all familiar with the extremely tough times that American agriculture has experienced. Throughout most of this decade, farmers have been fighting the onslaught of financial ruin. Last year, for the first time in a long time, we saw signs of some economic improvement. It is ironic that at a time when farmers are just beginning to recover financially, this national drought could force them back to the serious situation from which they just escaped. Those farmers who are still in trouble could very well lose everything. We cannot allow this to happen. It is now time to act. I urge my colleagues to support this vital drought relief package.

Mr. ROTH. Mr. President, I rise today to congratulate my colleagues from the Agriculture Committee for their hard work on the drought legislation that we are considering today, and am pleased to support it. I would like to make a few general comments about the situation in Delaware, and my concerns with the current bill.

One of my major concerns has to do with disaster payment determinations for soybean and nonprogram crops. I am concerned because in Delaware we have had disaster declarations for the last 3 or 4 years, depending on which county you live in. This makes it particularly difficult to determine accurate crop productions. Although I am not completely satisfied, I am pleased that soybean yield determinations are adjusted for the adverse weather conditions they encountered over the last 3 years, and that with nonprogram crops, the county average yield established by the Secretary will determine the amount of disaster payment to be made available.

Agriculture is a very important industry in Delaware, with over 3,200 farms covering more than 640,000 acres. And the disaster that we are looking at for this year's crop losses are estimated at $37 million so far. Some selected crop losses Delaware farmers are expecting this year include a 60-percent loss in corn and a 40-percent loss in potatoes in New Castle County. In Kent County, snap beans are a total loss, while cucumbers have a 45-percent loss. In Sussex County, our farmers face a 50-percent loss in corn production, and a 45-percent loss in tomatoes. In economic terms the overall losses are $8 million for New Castle County, $15 million for Kent County, and $9 million for Sussex County.

Delaware farmers are facing difficult times, and it is imperative that they and our agriculture businesses receive assistance as soon as possible.

Mr. SIMPSON. Mr. President, I strongly support providing emergency relief to those ranchers and farmers who have been devastated by this year's drought. The Government should act swiftly, firmly, and compassionately to minimize the suffering. But we must also keep in mind that the drought has not affected all farmers equally and there is no reason for emergency drought relief to go to those who are facing no emergency.

Cattle and sheep are the No. 1 agriculture products of my State of Wyoming. After strong spring markets, prices for all livestock—cattle, sheep, and hogs—began to drop off. These lower prices are a result of a shortage of feed and higher feed prices throughout the drought-stricken parts of the United States. And if feed can be found, the price to these producers is astronomical.

While smart managers would like to hold their livestock from the market until prices stabilize, some have no choice because of the lack of feed. This legislation should help them to achieve that original goal.

The lack of feed for Wyoming's livestock industry is most evident in the severe reductions in my State's hay crop. We will now provide these producers—with the proven losses—assistance under the nonprogram crop provisions of this legislation. That is a fair and just remedy to their industry as well.

When Senators LEAHY and LUGAR—and we must all commend them highly—and others introduced a bipartisan bill I was pleased to see the three guidelines that were used in crafting this legislation:

First, that while the Government can never make anyone "whole" again, we should assure that a farmer or rancher will not be put "out of business" because of the drought yet be right back in production next year;

Second, that we provide enough emergency livestock feed to keep herds intact; and

Third, that we treat equitably both those farmers who do not participate in Federal subsidy programs and those who do.

If we can stick to these guidelines, we will have done our duty in a responsible manner. However, I am deeply concerned that this legislation not become a "Christmas tree" of goodies for the agriculture industry—and I would earnestly urge the President to veto any such foolishness.

DAIRY

One of my greatest concerns throughout this debate has been that we get meaningful and honest assistance to those who are truly suffering in this drought without succumbing to the temptation to rewrite the farm bill. But we have surely not taken that approach with the dairy industry. We flunked out again with them. They are tough.

This legislation we are not debating eliminates the January 1, 1989, 50 cents per hundredweight cut in the dairy price support. That is not drought relief, my friends—that's a change in the basic dairy policy. Such a change goes far beyond helping those "in need"—this proposal assists all producers regardless of need. It could have the unintended effect of providing a real windfall for certain regions and producers.

The increasing of milk price supports has only one effect—overproduction of milk and a build up in the dairy herd.

The argument expressed in support of the dairy provision is that it will make up for the increased cost of feed, but here that assumes that dairymen all across this vast country have been affected equally when we know that is simply not the case. It also ignores the bill's provision which expends the Emergency Feed Assistance Program.

Supporters of this proposal argue that dairy cow slaughter is rapidly increasing because of the drought. Yet here are the facts—dairy cattle slaughter from January 1 through July 1, 1988, was 5.2 percent below 1987 levels.

Current dairy herd cull rates indicate dairy cow retention—not liquidation. In fact, dairy cow liquidation would need to increase by 5,700 head per week for the rest of this year in order to bring the dairy cow culling rate up to the average annual rate of the past 2 years.

Such policy changes will send exactly the wrong signal to the dairy industry. Increased milk production will only lead to calls for another dairy buyout or diversion program during consideration of the next farm bill—proposals that we watched so painfully devastate the beef cattle industry just a few years back. Let us resist such absurdity again now.

But at least the Senate did not act as irresponsibly as the other body today. They approved an amendment today which would increase the dairy price support by 50 cents per hundredweight during a 3-month period—April, May, and June. The industry calls that the flush period—those cows have finished their spring calving and are flush with milk. We're talking about a temporary increase in the price support just when the cows are producing the most milk! Guess who really gets flushed, ye olde taxpayers!

That makes no sense to me at all. We're tempting fate by asking for a sequester. We're spending money as if we had some to spend! I have been in town here a few years now and I have seen the dairy industry lobbies at work—there are more than one.) They are so very skillful at what they do. They can stir the money pot better than those witches in the first act of Macbeth!

We really need to resist such absurdities and I strongly urge the Senate conferees to reject this ridiculous proposal in the House bill.

I strongly commend the Department of Agriculture, President Reagan, and most members of the Senate Agriculture Committee—Senator PAT LEAHY and Senator DICK LUGAR who were working so diligently to assure fair and appropriate treatment for our ranchers and farmers suffering through this summer's crackling heat, lack of moisture, and even fires too.

Mr. GRASSLEY. Mr. President, I want to make clear at the outset just how pleased I am with the hard-work—the bipartisan work—that has been put into this drought bill, called the Drought Assistance Act of 1988.

I have nothing but praise for the congressional and administration members of the drought task force for putting "politics as usual" behind them and rolling up their sleeves to tackle one of the worst droughts ever to face our Nation.

I particularly want to thank Senator LEAHY and Senator LUGAR, the chairman and ranking members of the Agriculture Committee for their leadership. I am particularly grateful because they welcomed me to some of their meetings and were open to my suggestions and concerns, even though I am not a member of the committee.

I appreciate their helpfulness, and was proud to add my name as a cosponsor to this drought package.

I do not think anyone would claim this is a perfect bill, but I think it goes far toward providing significant relief—on a targeted basis—to those who are truly harmed by the drought.

In my State of Iowa, the drought has been spotty. Some farmers have lost most or all of their crop. Others have received adequate rain at the right time, and therefore should do very well this year. It does not make sense to direct assistance to those who haven't been impacted, and this bill does a good job toward that end.

Today, it was reported in the Des Moines Register that an Iowa State University study predicts that Iowa will lose nearly $1 billion in net farm income from the drought, even if Iowa receives normal moisture from here on out. That is a reduction of nearly one-third compared to last year's Iowa net farm income of $2.99 billion. Hopefully, this drought legislation will help minimize this impact, not only on farmers, but local communities and small rural businesses which rely upon a healthy farm sector.

Mr. President, I do not want to dwell upon this because for the most part, the politicians in Washington have made sincere attempts to be statesmen, instead of trying to exploit the misery of our farmers for their own selfish political gain.

As many of you know, I wrote to the legislative and administration members of the drought task force in June thanking them for their hard work for our farmers. In this letter I stated, and I repeat now,

> It has been encouraging to our farmers and Americans all over to see that in the face of a crisis, Washington still has the capacity to set aside politics in order to work on a bipartisan response. Moreover, the future and well-being of hundreds of thousands farm families and rural communities throughout the Nation hinges upon our ability to maintain this spirit of cooperation and compromise.

Mr. President, I am not naive, after all, this is an election year, and a big one that will determine who controls the White House during the next 4 years. Consequently, I imagine that some will fall to the temptation of playing politics with the problems facing our farmers.

Let me just say, farmers are a smart bunch of people. They know that now, more than ever, their futures hinge upon bipartisanship, statemanship—and the only people who will benefit from political pot shots will be the politician. In short, be warned right now that farmers will not tolerate politics as usual, they have too much at stake.

You can bet your bottom dollar, however, that this not-so-perfect drought assistance package will magically transform into a perfect drought package as soon as it is signed into law.

There will be some politicians chomping at the bit to attack Secretary Lyng and others in the Reagan administration for what will be characterized as poor administration, foot-dragging, apathy, and so forth. Nothing the administration will do from here on out will be good enough or quite right.

I will be the first to admit, I do not always agree with the administration. But I recognize, as all of my colleagues should recognize, that this drought legislation is our bill. It is our responsibility.

My point is this, if you think provisions should be administered in one way or another, say so now. Let us make this bill clear now. Let us give the Secretary the necessary direction now, and if you think there may be a problem later, and it is a vague or discretionary matter that we are leaving to the Secretary to figure out, then speak now, or forever hold your peace.

Realistically, I think that we should expect, and be willing to continue to work with the administration throughout the rest of this year to try to figure out the best way to administer this package. We cannot responsibly treat it as a hot potato that we want to drop in the hands of the administration and then set back to criticize like Monday morning quarterbacks.

Let us face it. This is a massive drought assistance effort. There are some areas no one knows yet how it should work, or how to most effectively, fairly administer.

For instance, it is my understanding that the House bill has a provision requiring nitrate testing for feed grain. The problem is, the Department of Agriculture does not have adequate facilities and equipment to take on such a massive effort.

Another problem is what exactly do we mean by "county average yield" for nonprogram crops and for farmers of program crops, but who have not participated in the programs? For most farms in the program, the term used to determine yield is "farm program payment yield." But what do we do about farmers who have just recently started growing alternative crops, but have not yet established an adequate historical yield average?

Mr. President, there are some vague areas in this bill that will be extremely difficult to sort through by the officials of the Department of Agriculture. What Members of Congress must be willing to do is to work closely with the administration working these problems out.

And I know with all confidence, that is the intention of Chairman LEAHY and ranking member LUGAR and other members of the task force.

Mr. President, so the record is clear, Congress is not the only one to be applauded for concern and efforts directed at the drought. President Reagan, Vice President BUSH, Secretary Lyng, Deputy Secretary Myers, have all made clear their concern about our Nation's drought victims and their concern about providing needed assistance.

Let me share with my colleagues, a chronology of administrative initiatives already taken by the Reagan administration, to help our American farmers.

As you can see, the administration began clear back in March to set up a USDA Drought Task Force, and has taken over 60 major actions since. This is on top of the untold thousands of man-hours devoted to this crisis.

The chronology is as follows:

USDA 1988 DROUGHT-RELATED ACTIONS

The U.S. Department of Agriculture has completed a chronology of actions and events relative to the 1988 drought from March 1 to the present. For the duration of the drought, updates will be issued on the 15th and 30th of each month, or the next closest working day.

March 1.—Secretary of Agriculture Richard E. Lyng establishes USDA Drought Task Force under the chairmanship of Deputy Secretary Peter C. Myers. Members—agency administrators and key USDA personnel—will constantly monitor the potential drought situation. (USDA News Release 516-88.)

May 31.—USDA announced that counties found to be suffering from drought will be allowed emergency haying and grazing of Acreage Conservation Reserve and Conservation Use Acreage (set-aside acres). At this time, haying and grazing provisions do not apply to Conservation Reserve Program acreage. (USDA News Releases 701-88 & 701A-88.)

June 9.—USDA announces that standing hay on farms held in inventory by its Farmers Home Administration can be sold at a reasonable cost to help meet livestock needs in drought-stricken counties where state Agricultural Stabilization and Conservation Service committees have authorized release of set-aside acres for haying and grazing. (USDSA News Release 743-88.)

June 14.—Secretary Lyng briefs the Senate and House Agriculture Committees on the drought, and offers full USDA cooperation with the Congressional Drought Relief Task Force, announced this date by Sen. Patrick Leahy (D-Vt.) and Rep. Kika de la Garza (D-Texas).

June 15.—The White House announces establishment of the Interagency Drought Policy Committee consisting of the Departments of Agriculture, Interior, Army and Energy, Tennessee Valley Authority, Federal Emergency Management Agency, Office of Management and Budget, and the Office of the Vice President. The Departments of State and Transportation and the Council of Economic Advisers have since been added.

June 16.—T1Secretary Lyng announces that producers in counties found to be suffering from severe drought will be authorized to harvest hay on land in the Conservation Reserve Program. Haying will be allowed for 30 days if farmers give up a proportional part of their CRP payments. Livestock grazing of this acreage is not authorized. At this time, the Palmer Long-Term Drought Severity Index is a factor in determining county eligibility. (USDA News Release 782-88.)

June 20.—The Interagency Drought Policy Committee meets for the first time.

June 20.—USDA starts making an audiotape of daily crop weather updates available to the media and others after 9 a.m. weekdays at (202) 447-2545.

June 21.—USDA announces that haying will be allowed on Conservation Reserve Program lands if the county has been approved for emergency haying and grazing of Acreage Conservation Reserve and Conservation Use Acreage due to drought. This means USDA will no longer use the Drought Severity Index to decide if haying will be allowed. Other restrictions for haying of CRP acreage, announced June 16, still apply. (USDA News Release 802-88.)

June 22.—Secretary Lyng participates in meeting of Congressional Drought Relief Task Force. A "statement of general agreements" issued after the meeting, states that administrative or legislative response to the drought should be based on assurance of continued adequate food supply and protection of the integrity of rural communities and their economies. The document called on the Secretary to implement various forms of disaster assistance, most of which already are authorized by law.

June 23.—Secretary Lyng and governors from Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin discuss the drought at a meeting of the National Governor's Association Committee on Agriculture and Rural Development in Chicago. Other USDA officials at the session are Assistant Secretary Ewen Wilson, Chief Meteorologist Norton Strommen, and Intergovernmental Affairs Director Jerry Barron.

June 23.—During the National Governors' Association Chicago meeting, Secretary Lyng announces a toll-free drought hotline to deal with questions about federal government services available in drought-stricken areas. Lines (1-800-541-3375, 447-8455 in the Washington, D.C., area) will be in service from 8 a.m. to 6 p.m. weekdays, 9 a.m. to 1 p.m., Saturdays. (USDA News Release 820-88.)

June 23.—Secretary Lyng briefs the President and Vice President on the drought situation, and states that there is agreement among congressmen, senators, farm groups and governors that it is too early for emergency relief measures. Also attending the meeting were White House Chief of Staff Howard Baker, Deputy Chief of Staff Kenneth Duberstein, OMB Director James Miller, and Cabinet Secretary Nancy Risque. The Secretary also briefed the Cabinet in a meeting which followed.

June 23.—The second meeting of the Interagency Drought Policy Committee takes place at USDA.

June 24.—In its first day of operation, USDA's drought hotline logs more than 600 calls in 10 hours. At Secretary Lyng's direction, another 8 lines are added to the initial 10. The states with the greatest number of callers on the first day are Iowa, Wisconsin, and North Dakota.

June 27.—USDA announces that special surveys of crop acreage will be taken in several states to ensure that USDA's July 12 Corp Production report reflects the drought's impacts. The July 12 World Agricultural Supply/Demand Estimates report, normally based on trend yields, also will take drought impacts into account. (USDA News Release 846-88.)

June 27.—To help cattle producers hurt by the drought, USDA has set aside up to an additional $50 million to purchase bulk ground beef for school lunch and domestic food assistance. (USDA News Release 848-88.)

June 27.—In separate actions, Secretary Lyng authorizes additional emergency provisions for producers in countries suffering from severe drought. In counties approved for emergency haying and grazing of Conservation Use Acreage and Acreage Conservation Reserve, he permits producers to sell their hay to anyone. He allows harvest of Acreage Conservation Reserve, Conservation Use, and Conservation Reserve Program lands in eligible counties for green chop for immediate feeding to livestock or for silage. He permits oats harvested for forage from Acreage Conservation Reserve or Conservation Use Acreage to be green-chopped or used for silage through July 8. And he made counties approved for the Emergency Feed Program automatically eligible for the Emergency Feed Assistance Program. (USDA News Release 849-88.)

June 27.—The Interagency Drought Committee meets for the third time, preparing its interim report for presentation to the President on June 30.

June 28.—Federal and state officials announce establishment of a national hay information network—"HayNet"—to assist in locating available hay and identifying drought-stricken areas that need forage for cattle feeding. The action by USDA and the National Association of State Departments of Agriculture will broaden state hay hotline efforts to the national scale with an electronic mail data bank. (USDA News Release 850-88.)

June 29.—USDA announces it will hold a press conference at 3:30 p.m. on July 12, immediately following release of the July Crop Production and World Agricultural Supply/Demand Estimates report, USDA will hold a press conference on the reports' contents, especially as they relate to the drought. Assistant Secretary for Economics Ewen Wilson, World Agricultural Outlook Board Chairman James Donald, and Administrator Charles Caudill of the National Agricultural Statistics Service, will brief the press in the Commerce Room of the J.W. Marriott Hotel. The U.S. Agricultural Communicators' Congress is being held at the Marriott, and USDA officials will brief the 600 attendees along with other local and national press. (USDA News Release 863-88.)

June 29.—To help livestock and poultry producers hurt by the drought, USDA announces it has amended Mexico's GSM-102 Export Credit Guarantee Program so that country can buy U.S. frozen or chilled meat under the program. The action creates a $40 million line of credit coverage. (USDA News Release 869-88.)

June 30.—Speaking at USDA's Agricultural Products Quality Conference in St. Louis, Secretary Lyng says the best drought aid for farmers will be effective, bipartisan legislation. He also says the United States will continue to aggressively promote farm exports despite the drought's threat to grain supplies.

June 30.—To provide further relief to farmers suffering from severe drought, USDA and the Interior Department approve emergency haying of certain Water Bank Program lands. Counties approved are those previously designated by USDA officials for emergency haying and grazing of Acreage Conservation Reserve and Conservation Use Acreage, and haying of Conservation Reserve Program land. The approval is effective July 1 in some counties, and July 15 in others. (USDA News Release 878-88.)

June 30.—USDA's Office of Public Liaison devotes its regular briefing for trade associations and similar agricultural groups in Washington to the drought. This practice will continue every Thursday at 10 a.m. in Room 107-A of USDA's Administration Building as long as the drought lasts. The briefings are open.

June 30.—As of the end of June, USDA has approved haying and grazing on Acreage Conservation Reserve and Conservation Use Acreage and haying on Conservation Reserve Program land in 1,715 counties in 35 states. Emergency Feed Programs (cost share) and Emergency Feed Assistance Programs (CCC inventory at 75 percent of loan) have been approved for 297 counties in 20 states, and 0/92 provisions have been approved for 48 counties in 13 states.

July 1.—Secretary Lyng delivers the Interagency Drought Policy Committee's interim report to the president and briefs the White House press following their meeting. The committee meets at USDA late in the day.

July 1.—USDA's drought hotline has received more than 3,300 calls in its first week of operation. States with the leading number of calls to date are Iowa, Wisconsin, Illinois, Missouri, Minnesota, Michigan, Tennessee, Ohio, Arkansas, North Dakota, Nebraska, and Kentucky.

July 6.—Testifying before the House Committee on Agriculture's Subcommittee on Wheat, Soybeans, and Feed, Assistant Secretary for Economics Ewen Wilson says existing stocks of corn and wheat will help offset drought-related production shortfalls, but diminished stocks of soybeans and oats will mean tight supplies if the drought persists. He also meets on drought with the House Committee on Banking, Finance, and Urban Affairs, Subcommittee on Economic Stabilization.

July 6.—USDA announces that producers who donate all hay harvested off Conservation Reserve Program and Water Bank Program acreage in counties where these lands are approved for haying will not be subject to the previously announced 25 percent reduction from their next annual per-acre rental payment for the acreage hayed. Secretary Lyng said a producer must donate the hay through and obtain certification from an official of a designated state agency engaged in drought relief efforts. This official must certify that the donated hay has met requirements for exemption from the payment reduction. (USDA News Release 910-88.)

July 7.—Secretary Lyng meets with governors and congressional officials from drought-affected states and urges Congress to move quickly on drought relief.

July 7.—USDA announces that ASCS county committees can declare their counties eligible for aid under the Emergency Feed and Emergency Feed Assistance Programs. Each committee has the authority to make the declaration based on determination of substantial feed loss in the county. Previously, state and federal officials made these decisions. (USDA News Release 917-88.)

July 7.—The Interagency Drought Policy Committee meets at USDA.

July 8.—USDA's Office of Intergovernmental Affairs launches its nationwide electronic data bank, "Haynet," designed to provide state-by-state information on hay needs and availabilities via the Dialcom system.

July 8.—USDA issues a statement that, contrary to rumors, producers will not be permitted to harvest grain on Conservation Use Acreage, Acreage Conservation Reserve, or Conservation Reserve Program land. Secretary Lyng reiterates that the requirement still is in effect for a protective cover on land taken out of crop production under the acreage reduction and conservation programs. (USDA News Release (926-88.)

July 8.—By the end of its second full week of operations, USDA's drought hotline has received 5,200 calls. States with the most callers are Illinois, Wisconsin, Iowa, Minnesota, and Michigan.

July 11.—Secretary Lyng and Chairman of the Senate Agriculture Committee Patrick Leahy share the luncheon speaker's podium at the U.S. Agricultural Communicators' Congress in Washington. A bipartisan approach to drought aid dominates the remarks of both officials. Later in the day, Vice President Bush also urges "whatever is necessary" to help drougth-stricken farmers.

July 11.—To help hog producers hurt by the drought, USDA announces plans to purchase ground pork for domestic food assistance programs using part of an additional $50 million in Section 32 funds which USDA set aside on June 27 to help cattle and hog producers during the drought. Pork purchase will begin in late July. (USDA News Release (930-88.)

July 11.—Secretary Lyng and leaders of the House and Senate Agriculture Committees meet with President Reagan to discuss the proposed $5.5 billion drought aid legislation.

July 12.—Testifying before the Senate Agriculture Committee, Secretary Lyng says the drought aid legislation introduced by Senators Patrick Leahy and Richard Lugar offers equitable and compassionate assistance to drought victims.

July 12.—USDA cuts estimates of U.S. grain production by about one-fourth from last year, one of the largest declines on record but not enough to cause food shortages or dramatic retail price increases. Assistant Secretary for Economics, Ewen Wilson briefs the media on the Crop Reduction and World Agricultural Supply/Demand Reports at the Marriott Hotel in Washington, site of the U.S. Agricultural Communicators Congress.

July 13.—Secretary Lyng joins President Reagan in meeting with state presidents of the American Farm Bureau Federation on the drought.

July 13.—USDA announces that producers in counties not suffering from drought may harvest hay under various acreage reduction programs and the 10-year Conservation Reserve Program if they donate hay to farmers in drought-stricken areas. Previously, hay could only be taken from land in counties approved for emergency haying or grazing of such acreage due to drought. (USDA News Release 943-88.)

July 14.—Secretary Lyng accompanies President Reagan to drought areas of Illinois and Iowa. The president calls for comprehensive, nonpartisan disaster relief for all farmers and all crops and advocates forgiveness of repayment of advance deficiency payments and help for those farmers with nonprogram crops not covered by disaster relief. During the visit, the president announces that Secretary Lyng will lead members of the Interagency Drought Policy Committee and other officials on site visits of 10 states next week to assess the full dimensions of the drought.

July 15.—USDA announces that the secretary's tour of drought-stricken areas next week will take the Interagency Drought Policy Committee and other officials to Ohio, Indiana, Tennessee, Missouri, Iowa, South Dakota, North Dakota, Minnesota, Wisconsin and Michigan. The trip will cover three days from July 19-21. (USDA News Release 961-88.)

July 15.—The second report of the Interagency Drought Policy Committee goes to the president. The committee also meets at USDA.

July 15.—At the end of its third week of operation, USDA's drought hotline has logged 5,700 calls. Volume increased this date based on intense interest in the drought aid bills being considered by Congress. States with the most callers are Illinois, Iowa, Wisconsin, Minnesota and Michigan.

July 15.—USDA's Office of Intergovernmental Affairs says 12 states have reported a need for hay and 8 have reported hay on hand in its second weekly "HayNut" compilation of nationwide information on hay supplies and needs. The information is available on the Dialcom electronic mail system.

July 15.—USDA announces it has extended the seventh signup for the Conservation Reserve Program until Aug. 31 to give producers more time to consider the effect of the drought. Also, cropland which has been hayed in counties approved for drought relief is eligible for CRP for the 1988 crop year if it meets other program requirements. Acreage Conservation Reserve and Conservation Use acreage is not eligible. (USDA News Release No. 962-88.)

Add to July 15 item on interagency report: The report said the drought could slow U.S. economic growth by 0.2 percent this year and cost $5 to $10 billion in crop losses.

July 18.—USDA releases schedule of Secretary Lyng's July 19-21 drought tour along with the names of officials who will be in the official party. (USDA News Release 975-88.)

July 19.—Secretary Lyng and officials of the Interagency Drought Policy Committee start a 10-state, 3-day tour of the drought-stricken Midwest. Stops today are: Mansfield, Ohio; Lafayette, Ind.; Jackson, Tenn.; Cape Girardeau, Mo.; overnight in St. Joseph, Mo.

July 19.—USDA announces that all counties in Alabama, Missouri, and Ohio are eligible for Farmers Home Administration emergency loans because of farm losses due to drought. (USDA News Release 975-88.)

July 19.—To offset the effects of drought and to ensure adequate supplies for next year's planting, USDA says producers may elect to plant hybrid seed corn and not have it considered a feed grain under 1988 production adjustment programs. (USDA News Release 976-88.)

July 20.—On the second day of the Interagency Drought Policy Committee's tour of the Midwest, Secretary Lyng and other officials visit farms in St. Joseph, Mo.; Cedar Rapids, Iowa; Aberdeen, S.D.; Jamestown, N.D.; and St. Cloud, Minn. While in Cedar Rapids, Secretary Lyng said it is likely to be October before aid from the drought relief bill—now before Congress—reaches farmers.

July 20.—USDA extends through Aug. 31 the period for emergency haying of acreage enrolled in the Conservation Reserve Program. The CRP acreage must be in counties approved for emergency haying and grazing of Acreage Conservation Reserve and Conserving Use Acreage. (USDA News Release 981-88.)

July 20.—USDA's Cooperative Extension System is employing electronic technology in many ways to get information to farmers and others concerned with the drought. (USDA News Release 983-88.)

July 21.—On the third and final day of the drought tour, Secretary Lyng and other officials of the Interagency Drought Policy Committee tour farms in Eau Claire, Wis. and Midland, Mich.

July 21.—USDA's Extension Service warns producers with forward commodity contracts to consider drought impact on their ability to deliver promised grain to grain elevators and other merchandisers. (USDA News Release 997-88.)

July 22.—A month old today, USDA's drought hotline has logged more than 6,700 calls in the 4 weeks since it began.

July 22.—All 72 counties in Wisconsin are now eligible for emergency loans from the Farmers Home Administration. Wisconsin joins Missouri, Ohio, and Alabama in eligibility. (USDA News Release 1005-88.)

July 22.—The Interagency Drought Policy Committee meets at USDA.

July 25.—Secretary Lyng briefs President Reagan on last week's 3-day tour by the Interagency Drought Policy Committee of 10 drought-stricken Midwest states. A White House statement issued after the meeting noted that the Secretary told the President last week's rains may have come too late to help the corn crop but may have eased stress on soybeans. The White House also issued a copy of President Reagan's letter to Congress expressing concern of features of the drought relief legislation incorporated, "without adequate review."

July 25.—All 92 Indiana counties are now eligible for emergency loans from the Farmers Home Administration. Indiana joins Wisconsin, Missouri, Ohio, and Alabama. Nationwide, 433 counties are now eligible for this form of drought-related aid. (USDA News Release 1009-88.)

Mr. President, as you can see, the administration has underscored its commitment to drought assistance, not only by word, but by an impressive record of hard work.

I wanted to share this information with my colleagues to take the opportunity to offer thanks and appreciation for hard work well done, and to remind my colleagues that we must continue to work together in bipartisan manner to help rural America through this crisis.

Again, I thank Senator LEAHY, Senator LUGAR, as well as Senator BYRD and Senator DOLE for making drought assistance a top priority, and I urge that we continue to forward in this bipartisan spirit in facing this grave challenge of our Nation's drought.

DROUGHT RELIEF AND COLORADO HAIL STORMS

Mr. ARMSTRONG. Mr. President, the drought that afflicts large areas of our country could become a fatal financial blow to a large number of farmers and ranchers who have managed, up to now, to survive a long series of economic setbacks. I think all of us in this Chamber see the drought relief measure as a conscientious effort to provide emergency assistance to a segment of our economy that is not in strong enough economic condition to withstand any more severe losses.

Recognizing the validity of emergency relief programs as an essential role for government, I must point out that we, as a body, have not yet fairly resolved many of the issues involved. The disastrous hail storms that have devastated over 24,000 acres in northeastern Colorado in just this last month provide a powerful case in point. Many of the farmers struck by these hail storms have suffered a more severe crop loss than some operators in the drought areas. I understand the House bill includes provisions for those suffering loss from hail and I urge the Members who will serve on the conference committee with the House to work out an equitable provision for hail loss in the final version of this legislation.

The problem with this type of legislation is that the end result is arbitrary at best, leaving all kinds of questions of fairness in its wake. Weather created disasters stalk every farm and ranch operation and, when they strike, on what basis does the Government tell one farmer we will help him and another we will not. What is the fairness of giving aid to one farmer who has suffered a 50-percent crop loss because he happens to be in a large drought area and denying aid to a farmer who has suffered a 100-percent loss because he was the victim of a storm covering a limited acreage?

Where do we draw the line on who is eligible for emergency aid and who is not? Is the wheat farmer who loses his crop to dry weather more deserving of emergency aid than the rancher who loses his heard in a blizzard? Or, is the farmer more deserving of help than a businessman who loses his entire business because of natural causes beyond his control? Congress has attempted to help farmers deal with these problems on a continuing basis through crop insurance, but at what point do disaster relief programs provide a disincentive for people to prudently insure.

These are questions we are obviously not going to begin to address in the passage of this drought relief bill, but at some point Congress must develop far more coherent and comprehensive disaster relief policies. We need better guidelines for these programs which will treat all farmers and ranchers equitably and retain incentives for everyone to take proper precautionary actions to protect themselves against natural disasters.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from New Mexico [Mr. Bingaman] be named as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask for third reading.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEAHY. Mr. President, I ask unanimous consent that other Senators have the rest of the day to be able to add their names as cosponsors should they wish to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

Mr. LEAHY. Mr. President, may we have order so we can hear the majority leader?

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I wanted all Senators to be informed that upon the passage of this bill the Senate will proceed to the consideration of the agriculture appropriation bill and we expect further votes today.

I thank all Senators.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I have not had an opportunity to discuss with the majority leader.

Mr. LEAHY. Could we have order, please, Mr. President? I cannot even hear the minority leader. I am right here.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. It is my understanding that we could complete action on the ag appropriation bill in about 4 hours. I am not suggesting we do that this evening.

I have talked to the manager on this side, and I think I can fairly say it was his hope we might lay the bill down and have opening statements and take amendments that could be accepted.

There are about 20 amendments. And then complete action on that bill tomorrow morning.

Is there a possibility we might do that?

Mr. BYRD. Yes; that would be agreeable if we could get an agreement as to the number of amendments so that we can put a limit on them; know that there will not be any more and know that there will be final passage tomorrow at a reasonable time.

If we could work together and develop that?

Mr. DOLE. I guess Members should be on notice there could be a vote if we could not work that out.

Mr. BYRD. There could be unless we work that out.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. Cranston. I announce that the Senator from Washington [Mr. Adams], the Senator from Texas [Mr. Bentsen], the Senator from Florida [Mr. Chiles], and the Senator from Nevada [Mr. Reid] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. Chafee] is necessarily absent.

The PRESIDING OFFICER (Mr. Conrad). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—94

Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—6

Adams
Bentsen
Biden
Chafee
Chiles
Reid

So the bill (S. 2631) as amended, was passed as follows:

S. 2631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Drought Assistance Act of 1988".

(b) Table of Contents.—The table of contents is as follows:

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

Sec. 101. Assistance for livestock producers.
Sec. 102. Assistance for dairy farmers.

TITLE II—DISASTER PAYMENTS

Sec. 201. Payments to program participants for basic commodities.
Sec. 202. Payments to program nonparticipants for basic commodities.
Sec. 203. Peanuts, sugar, and tobacco.
Sec. 204. Soybeans and nonprogram crops.
Sec. 205. Effect of Federal crop insurance payments.
Sec. 206. Transfer of funds.
Sec. 207. Crops harvested for forage uses.
Sec. 208. Timing and manner of disaster payments.
Sec. 209. Use of Commodity Credit Corporation.
Sec. 210. Payment limitations.
Sec. 211. Crop quality reduction disaster payments.

TITLE III—GENERAL PROVISIONS

SUBTITLE A—COMMODITY STOCK ADJUSTMENT

Sec. 301. Soybeans, sunflowers, and cottonseed and sunflower seed.
Sec. 302. Oats.
Sec. 303. Producer reserve program for wheat and feed grains.

SUBTITLE B—DISASTER CREDIT AND CREDIT FORBEARANCE

Sec. 311. FmHA farm operating loans.
Sec. 312. Forbearance and restructuring on farm loans.
Sec. 313. Flexibility in emergency loans.

SUBTITLE C—CONSERVATION AND WATER ASSISTANCE

Sec. 321. Conservation and wildlife enhancement.
Sec. 322. Water management for rural areas.

SUBTITLE D—RURAL BUSINESSES

Sec. 331. Business and industrial loans.
Sec. 332. Survey of agriculture-related rural businesses and enterprises.
Sec. 333. Foward contracting report.

SUBTITLE E—MISCELLANEOUS

Sec. 341. Special conservation reserve enhancement program.
Sec. 342. Drought relief contingency plan.
Sec. 343. Sale of corn to ethanol producers.
Sec. 344. Study of effect of drought on food prices.
Sec. 345. Drought information.
Sec. 346. Rural economic development response to the drought.
Sec. 347. Assistance to low-income agricultural workers.
Sec. 348. Total payment cap.
Sec. 349. Sense of Congress regarding agricultural exports.
Sec. 350. Sense of the Senate regarding expeditious action on tax legislation affecting farmers.

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 101. ASSISTANCE FOR LIVESTOCK PRODUCERS.

(a) IN GENERAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'.

"DEFINITIONS

"SEC. 602. As used in this title:

"(1) The term 'livestock producer' means—

"(A) any established producer or husbander of livestock, or dairy producer, who is a citizen of, or legal resident alien in, the United States;

"(B) any farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production, dairy production, or husbandry; or

who is actively engaged in farming and who receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary.

"(C)(i) any Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)));

"(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.) (commonly known as the 'Indian Reorganization Act'));

"(iii) any tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); or

"(iv) any economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (25 U.S.C. 1452(e))).

"(2) The term 'livestock' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

"(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

"(B) are purchased as part of a normal operation and not to obtain additional benefits under this title.

"(3) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"(4) The term 'feed', for the purposes of emergency feed assistance, means any type of feed (including feed grain, mixed feed, liquid or dry supplemental feed, roughage, pasture, forage) that—

"(A) best suits the livestock producer's operation; and

"(B) is consistent with acceptable feed practices.

"(5) The term 'area' shall include any Indian reservation (as defined in section 335(e)(1)(D)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(D)(ii)).

"EMERGENCY LIVESTOCK ASSISTANCE

"SEC. 603. The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock in any State, county, or area of a State, where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster that adversely affects livestock or handling of livestock, the Secretary determines that a livestock emergency exists.

"DETERMINATION OF NEED FOR ASSISTANCE

"SEC. 604. (a)(1) Whenever the Governor of a State or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that a livestock emergency due to a natural disaster exists in the State or county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in a State, county, or area and for emergency livestock feed assistance under this title.

"(2) The Governor's or county committee's request for a livestock determination and for emergency livestock feed assistance shall include recommendations to the Secretary of those options that will most fully use feed available through local sources, to the extent feasible.

"(b) The Secretary may consider a State, county, or area in a State for emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

"(c) The Secretary shall act on requests for determinations under subsection (a) and make final determinations on whether a livestock emergency exists in any State, county, or area in accordance with regulations issued by the Secretary that ensure thorough and prompt action (not later than 30 days after receipt of such requests) and provide for appropriate notification procedures.

"(d)(1) Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related condition in 1988, for the emergency feed program or emergency feed assistance program prior to the effective date of this title shall continue to be eligible for such program and may be eligible for other programs under this title for such drought or related condition.

"(2) As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program and the emergency feed assistance program, should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

"ELIGIBLE LIVESTOCK PRODUCERS

"SEC. 605. (a) If the Secretary determines that a livestock emergency exists in a State, county, or area, subject to the limitation on benefits provided in section 609, livestock producers located in such State, county, or area shall be eligible for feed assistance in accordance with the following paragraphs:

"(1) A livestock producer shall be eligible for such assistance if the producer has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the emergency and does not have sufficient feed that has adequate nutritive value and is suitable for such producer's livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 604) for the estimated duration of the emergency. Such producer shall be eligible for feed assistance under the programs specified in section 606 made available where the producer is located in quantities sufficient to meet the feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

"(2) A livestock producer that does not produce feed on the farm or ranch or that produces feed on such producer's farm or ranch but normally not in quantities sufficient to feed all the producer's livestock, with respect to the portion of such producer's livestock not normally fed with feed produced on the farm, such producer shall be eligible for (A) assistance under section 606 for the preservation and maintenance of foundation herds of livestock (including producing dairy cattle) if the producer does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such livestock as a result of the emergency, as determined by the Secretary, and (B) such other assistance under section 606 as the Secretary, in the Secretary's discretion, determines necessary to alleviate a crisis caused by the livestock emergency.

"(b) Any livestock producer located in a State, county, or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this title, who qualifies for assistance under such pre-existing program, shall be eligible for assistance for such drought or related condition as prescribed in paragraph (1) (or, at the producer's option, for assistance under such pre-existing programs) and paragraph (2).

"(c) Notwithstanding any other provision of this Act, for the purpose of determining the eligibility of livestock producers who normally produce their own feed for assistance under this title, or under the emergency feed program or the emergency feed assistance program, because of the drought or related conditions in 1988, the Secretary shall not consider any feed purchased in anticipation of short supplies by such producers within 60 days prior to the announcement by the Secretary that the county that such producer is located in is eligible for assistance under this title as prescribed in section 604, in determining the eligibility of the producer for such assistance.

"ASSISTANCE PROGRAMS

"SEC. 606. (a) The following assistance programs may be made available by the Secretary under this title, subject to the limitation on benefits under sections 605 and 609, to livestock producers:

"(1) The donation of feed owned or controlled by the Commodity Credit Corporation to producers who are financially unable to purchase feed at market prices or to participate in any other program set forth in this subsection.

"(2) The sale of owned or controlled held by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

"(A) with respect to assistance provided for drought or related condition in 1988, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

"(B) with respect to assistance provided for any other livestock emergency, 50 percent of the average market price, as determined by the Secretary.

"(3) Reimbursement of not to exceed 50 percent of transportation and handling expenses incurred by producers in connection with feed grain donations or sales under paragraph (1) or (2).

"(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by producers for their livestock during the duration of the livestock emergency.

"(5) (or silage) Hay transportation assistance of not to exceed 50 percent of the cost of transporting hay purchased from a point of origin beyond such producer's normal trade area to the livestock, subject to the following limitations:

"(A) The transportation assistance may not exceed $50 per ton of eligible hay ($12.50 for silage).

"(B) The quantity of eligible hay (or silage) may not exceed—

"(i) 20 pounds per day per animal unit (or a comparable quantity of silage, as determined by the Secretary); or

"(ii) the lesser of the producer's feed loss or the quantity of additional feed needed for the duration of the livestock emergency.

"(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, subject to the following limitations:

"(A) Transportation assistance may not exceed $24 per head of eligible livestock.

"(B) Transportation assistance may not exceed the lesser of the value of the producer's feed loss or the value of additional feed needed for the duration of the livestock emergency.

"(b) If assistance is made available through the furnishing of feed grains under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grains through a dealer or manufacturer and the replacing of the feed grains so furnished from feed owned or controlled by the Commodity Credit Corporation.

"(c) In providing assistance under paragraph (2) or (4) of subsection (a), the Secretary may make in-kind payments through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with the rules prescribed by the Secretary.

"ADDITIONAL ASSISTANCE

"SEC. 607. (a) In addition to the assistance provided under section 606, if the Secretary determines that the livestock emergency in a State, county, or area also requires the provision of the assistance described in subsection (b), the Secretary shall provide such assistance.

"(b) Special assistance under this section includes—

"(1) donating feed owned or controlled by the Commodity Credit Corporation with respect to livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary shall by rule prescribe;

"(2) making emergency water assistance available to eligible farmers and ranchers for livestock under terms and conditions comparable to those provided for under the program designated ECP EC-6 by the Department of Agriculture, including practices and measures provided for in such program; and

"(3) making commodities available through Commodity Credit Corporation catalog to producers through the use of catalog lots of a size that it is economically feasible for small producers to obtain through commodity certificate exchanges.

"USE OF THE COMMODITY CREDIT CORPORATION

"SEC. 608. The Secretary shall carry out this title through use of the funds, facilities, and authorities of the Commodity Credit Corporation.

"PAYMENT LIMITATION

"SEC. 609. (a) For each livestock disaster, the total amount of benefits that a person receives under one or more of the programs established under this title may not exceed $50,000.

"(b) Any person that has gross revenues in excess of $2,500,000 annually shall not be eligible to receive any livestock emergency benefits under this title.

"(c) Each person (including, in the case of a cooperative association of producers, each member of the association) otherwise eligible for livestock emergency benefits under this title for the drought or related condition in 1988 shall be subject to the combined payment and benefits limitation established under section 210(c) of the Drought Assistance Act of 1988.

"(d) No person may receive benefits under this title attributable to lost production of a feed commodity due to the drought or related condition in 1988 to the extent that such person receives a disaster payment on such lost production.

"(e) The Secretary shall issue regulations—

"(1) defining the term 'person' in conformity, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), or a successor statute; and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

"REGULATIONS

"SEC. 610. The Secretary shall issue regulations to carry out this title. Such regulations shall establish procedures to ensure that the request for assistance by a State, county, or area under section 604 and individual applications of livestock producers under sections 605 amd 612 for assistance are processed, and decisions thereon are made, as quickly as practicable.

"PENALTIES

"SEC. 611. (a) Any person who disposes of any feed made available to producers such under this title other than as authorized by the Secretary shall be subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose.

"(b) Any person who disposes of any feed made available to livestock producer under this title other than as authorized by the Secretary shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

"DISASTER EMERGENCY ASSISTANCE

"SEC. 612. (a) The Secretary shall provide assistance under this title to producers that—

"(1) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that a livestock emergency exists or where the President has determined that a major disaster or emergency exists in accordance with the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.); and

"(2) are otherwise eligible for assistance under this title.

"(b) The Secretary shall accept applications for such assistance from producers affected by such disaster or emergency at any time during the 8-month period beginning on—

"(1) the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by the disaster or emergency; or

"(2) the date the President makes the major disaster or emergency designation with respect to the disaster or emergency.".

(b) ALLOCATION OF COMMODITY CREDIT CORPORATION STOCKS FOR EMERGENCY LIVESTOCK ASSISTANCE.—

(1) EVALUATION AND NEEDS ASSESSMENT.—

(A) EVALUATION.—Not later than 21 days after the date of enactment of this Act, the Secretary of Agriculture shall complete an evaluation of Commodity Credit Corporation feed stocks that will be available to be used for emergency assistance provided under title VI of the Agriculture Act of 1949 (as added by subsection (a)) to determine the quantity of available feed grains on a State-by-State basis.

(B) NEEDS ASSESSMENT.—In conjunction with the evaluation conducted under subparagraph (A), the Secretary shall conduct a needs assessment of eligible livestock producers as defined in section 605 of the Agriculture Act of 1949 (as added by subsection (a)) on a statewide basis to determine areas where available Commodity Credit Corporation stocks may be less than the demand for such stocks.

(C) Results.—On completion of the evaluation and assessment under this paragraph, the Secretary shall make the results of such available to the appropriate Committee of Congress and the States.

(2) Listing of states with surplus supply.—Based on the evaluation and assessment prepared under paragraph (1), the Secretary shall prepare a listing of States where available feed grains owned by the Commodity Credit Corporation will exceed usage of such stocks under the provisions for assistance provided for under title VI of the Agriculture Act of 1949 (as added by subsection (a)).

(c) Conforming Amendments.—

(1) Section 1105 of the Food and Agricultural Act of 1977 (7 U.S.C. 2267) is repealed.

(2) Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the period at the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

(3) Section 421 of the Agricultural Act of 1949 (7 U.S.C. 1433) is repealed.

(4) Public Law 86-299 (7 U.S.C. 1427 note) is repealed.

(5) Section 303 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 1427 note) is repealed.

(d) Effective Date.—

(1) In general.—This section and the amendments made by this section shall become effective 15 days after the date of enactment of this Act.

(2) Application.—The provisions of section 604(d), 605(b), and 609(d) of the Agricultural Act of 1949, as added by subsection (a), shall apply only with respect to any livestock emergency caused by the drought or related condition in 1988.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS.

Section 201(d)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)(i)) is amended by striking out "if for any of the calendar years 1988, 1989, and 1990" and inserting in lieu thereof "if for each of the calendar years 1988 and 1990".

TITLE II—DISASTER PAYMENTS

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR BASIC COMMODITIES.

(a) Disaster Payments.—

(1) In general.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture (hereinafter referred to in this title as the "Secretary") determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on such farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest (or prevented from being planted because of drought or related condition in 1988, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(B) 85 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

(2) Maximum number of eligible acres.—Payments provided under paragraph (1) for a crop of a commodity shall not be made available with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(3) Relationship to deficiency payments.—The total quantity on which deficiency payments would otherwise be payable to producers on a farm for a crop of the commodity under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall be reduced by the quantity on which any payment is made to the producer for the crop under paragraph (1).

(4) Election.—Effective only for the 1988 crops of wheat and feed grains, in the case of producers on a farm who elected after March 11, 1988, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107D(c)(1)(C) or 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) or 1444e(c)(1)(B)), the Secretary shall allow such producers to elect (within 30 days after the date of enactment of this Act) whether to receive disaster payments in accordance with this subsection in lieu of receiving payments under such section.

(b) Advance Deficiency Payments.—

(1) Forgiveness.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if, because of drought or related condition in 1988, the total quantity of a crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the producer shall not be required to refund any advance deficiency payment made available for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 144b-2) with respect to any deficiency in production up to 35 percent for the crop.

(2) Election.—The Secretary shall allow producers on a farm who elected to participate in the production adjustment program established for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, but who elected prior to the date of enactment of this Act not to receive advance deficiency payments made available for the 1988 crop year under section 107C of such Act, to elect (within 30 days after the date of enactment of this Act) whether to receive such advance deficiency payments.

(3) Repayment of advance deficiency payments.—Effective only for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for such crop must be repaid, such repayment shall not be required prior to July 31, 1989, for that portion of the crop for which a disaster payment is made under this title.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR BASIC COMMODITIES.

(a) Disaster Payments.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as provided in subsection (b), if the Secretary determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on such farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to—

(1) 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) Limitations.—

(1) Prevented planting credit.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting because of drought or related condition in 1988, as determined by the Secretary, but not in excess of the quantity of acreage planted (or prevented from being planted because of a natural disaster or other condition beyond the control of the producers, as determined by the Secretary) to the commodity on the farm during the 1987 crop year minus acreage actually planted to the commodity during the 1988 crop year. The Secretary shall make appropriate adjustments in applying the limitation contained in the preceding sentence to take into account rotation practices of the producers.

(2) Acreage limitation factor.—The amount of payments made available to producers of a crop of a commodity under this section shall be reduced by a factor equivalent to the acreage limitation percentage established for the crop under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 203. PEANUTS, SUGAR, AND TOBACCO.

(a) Disaster Payments.—Effective only for the 1988 crop of peanuts, sugar beets, sugarcane, or tobacco, if the Secretary determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts and tobacco) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to—

(1) 65 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) Payment Level.—For purposes of subsection (a), the payment level for a commodity shall be equal to—

(1) in the case of peanuts and tobacco, the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary; and

(2) in the case of sugar beets and sugarcane, a rate determined by the Secretary to be fair and reasonable in relation to the level of price support that is established for the 1988 crop of sugar beets and sugarcane.

(c) Prevented Planting Credit.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting because of drought or related condition in 1988, as determined by the Secretary, but not in excess of the quantity of acreage planted (or prevented from being planted because of a natural disaster or other condition beyond the control of the producers, as determined by the Secretary) to the commodity on the farm during the 1987 crop year minus acreage actually planted to the commodity during the 1988 crop year. The Secretary shall make appropriate adjustments in applying the limitation contained in the preceding sentence to take into account rotation practices of the producers.

(d) Special Rules for Peanuts.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm as otherwise determined under this section shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) Effective only for the 1988 crop of sugarcane and sugar beets, if the producers of such crop are unable to process the commodity into sugar due to the inability of local processing plants to process sugar as a result of drought or related condition in 1988, such producers shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to such inability.

SEC. 204. SOYBEANS AND NONPROGRAM CROPS.

(a) Disaster Payments.—Effective only for the 1988 crop of soybeans or any nonprogram crop, if the Secretary determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of (1) with respect to soybeans, the State, area, or county yield, adjusted for adverse weather conditions during the 3 previous crop years, or (2) with respect to nonprogram crops, the county or area average yield (subject to subsection (e) and as determined by the Secretary), for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to—

(1) 65 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) Payment Level.—For purposes of subsection (a), the payment level for a commodity shall be equal to the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(c) Prevented Planting Credit.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting because of drought or related condition in 1988, as determined by the Secretary, but not in excess of the quantity of acreage planted (or prevented from being planted because of a natural disaster or other condition beyond the control of the producers, as determined by the Secretary) to the commodity on the farm during the 1987 crop year minus acreage actually planted to the commodity during the 1988 crop year. The Secretary shall make appropriate adjustments in applying the limitation contained in the preceding sentence to take into account rotation practices of the producers.

(d) Tree Seedlings.—If the Secretary determines that producers of nonprogram crops that have planted tree seedlings during the 5-year period ending on the date of enactment of this Act have suffered in excess of a 35 percent loss of such seedlings as a result of drought or related condition in 1988, the Secretary shall make disaster payments available to such producers with respect to any lost seedlings in excess of 35 percent of the seedlings planted during such period. Payments under this subsection shall be made available at a rate equal to—

(1) 65 percent of the replacement cost of such seedlings lost in excess of 35 percent, as determined by the Secretary, but not greater than 75 percent, for the crop; and

(2) 85 percent of the replacement cost of such seedlings lost in excess of 75 percent, as determined by the Secretary.

(e) Definition.—As used in this section, the term "nonprogram crop" means—

(1) all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1988; and

(2) other commercial crops for which such insurance was not available for purchase or, if available, was not purchased by such producers for crop year 1988, if—

(A) in accordance with rules and regulations issued by the Secretary, producers of such crops provide satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years, except that if such data does not exist for any of the 3 preceding crop years the Secretary shall use county average crop yield data; and

(B) such producers provide satisfactory evidence of 1988 crop year losses resulting from drought or related condition in 1988 exceeding 65 percent of the crop yield established in subparagraph (A),

except that such term shall not include a crop covered in sections 201 through 203, or a crop of soybeans.

SEC. 205. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1988 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary shall reduce the amount of payments made available for such crop under this title to the extent that—

(1) the amount determined by adding the net amount of crop insurance indemnity payments (gross indemnity less premium paid) received by such producers for the loss of production of the crop and the payment determined in accordance with this title; exceeds

(2) the amount determined by multiplying—

(A) 100 percent of the commodity yield used for the calculation of payments made under this title; by

(B) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary; by

(C)(i) in the case of producers on a farm who participated in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1988 crop of the commodity;

(ii) in the case of producers on a farm who did not participate in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice and producers of sugar beets, sugarcane, peanuts, or tobacco, the loan level established for the 1988 crop of the commodity; and

(iii) in the case of producers on a farm of soybeans or a nonprogram crop (as defined in section 204(e)), the simple average price received by producers of the commodity, as determined by the Secretary, in accordance with section 204(b).

SEC. 206. TRANSFER OF FUNDS.

The Secretary may transfer funds made available to the Commodity Credit Corporation during fiscal year 1988 to the Agricultural Stabilization and Conservation Service in such amounts as may be necessary for salaries and other expenses incurred in carrying out this title.

SEC. 207. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of enactment of this Act, the Secretary shall announce the terms and conditions by which producers on a farm may prove yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 208. TIMING AND MANNER OF DISASTER PAYMENTS.

(a) Timing.—The Secretary shall make full disaster payments available under this title as soon as practicable after the date of enactment of this Act.

(b) Manner.—The Secretary may make payments available under this title in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 209. USE OF COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

SEC. 210. PAYMENT LIMITATIONS.

(a) Disaster Payments.—Subject to subsection (c), the total amount of payments that a person receives under one or more of the programs established under this title may not exceed $100,000.

(b) Limitation Based on Gross Revenue.—Any person that has gross revenues in excess of $2,000,000 annually shall not be eligible to receive any crop disaster benefit payments under this title.

(c) Combined Limitation.—A person may not receive any payment under this title or benefit under title VI of the Agricultural Act of 1949 for livestock emergency losses suffered due to the drought or related condition in 1988 if such payment or benefit would cause the total amount of such payments and benefits received by such person to exceed $100,000. If a person is subject to the preceding sentence, the person may elect (subject to the benefits limit under title VI of such Act) whether to receive the $100,000 in such payments, or such livestock emergency benefits, or a combination of payments and benefits specified by such person.

(d) Relationship to Livestock Emergency Benefits.—No person may receive disaster payments attributable to lost production of a commodity due to the drought or related condition in 1988 under this title to the extent that such person receives a livestock emergency benefit on such lost production under title VI of the Agricultural Act of 1949 (as added by section 101(a) of this Act).

(e) Definition of Person.—The Secretary shall issue regulations—

(1) defining the term "person" in conformity, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

(f) Regulations.—The Secretary shall issue regulations to equitably and efficiently implement the requirements of this section.

SEC. 211. CROP QUALITY REDUCTION DISASTER PAYMENTS.

Crop quality reduction disaster payments.—

(a) In general.—To ensure that all producers of crops covered under the provisions of sections 201 through 203, and producers of soybeans, are treated equitably, the Secretary may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by drought in 1988.

(b) Eligible producers.—A producer of crops identified in subsection (a) shall be eligible to receive reduced quality disaster payments under this paragraph is such producer incurs a loss of not less than 35 percent and not more than 75 percent of the producers program payment yield for such crop as determined by the Secretary.

(c) Maximum payment rate.—The Secretary shall establish the reduced quality disaster payment rate, but such rate shall not exceed 10 percent of the established price, as determined by the Secretary, for the 1988 crop for which such payment is being made.

(d) Determination of payment.—The amount of a payment to a producer under this paragraph shall be determined by multiplying the payment rate established under subsection (c) by the actual harvested yield for the crop on the producers farm that is reduced in quality by drought in 1988.

TITLE III—GENERAL PROVISIONS

Subtitle A—Commodity Stock Adjustment

SEC. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED.

(a) Planting of Soybeans and Sunflowers on Permitted Acres.—Section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, effective only for the 1989 and 1990 crops, if an acreage limitation program is in effect for a crop under this Act, the Secretary may permit producers to plant soybeans or sunflowers on not less than 10 percent, nor more than 35 percent, of the permitted acreage for the crop, as determined by the Secretary.

"(2) For purposes of determining the farm acreage base or the crop acreage base for the crop, any acreage on the farm on which soybeans or sunflowers are planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the soybeans or sunflowers were substituted.

"(3) Not earlier than November 15, 1988, and not later than March 1, 1989, with respect to the 1989 crops, and not earlier than November 15, 1989, and not later than March 1, 1990, with respect to the 1990 crops, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage under this subsection. Such statement shall include—

"(A) the estimated impact such action may have on soybeans, sunflowers, corn, wheat, upland cotton, extra long staple cotton, and rice;

"(B) an economic evaluation of market effects due to permitting or not permitting the plantings of soybeans or sunflowers on permitted acreage;

"(C) an estimate of foreign production of oilseeds, and the impact of such plantings on domestic oilseed markets; and

"(D) such other factors as the Secretary considers appropriate.".

(b) Soybean Marketing Loans.—Not earlier than February 1, 1989, and not later than March 1, 1989, with respect to the 1989 crop of soybeans, and not later than September 1, 1989, with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for implementing or not implementing the soybean marketing loan program authorized under section 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(3)). Such statement shall include—

(1) an economic evaluation of current soybean markets, foreign and domestic;

(2) the current foreign soybean production statistics;

(3) the United States soybean export market situation and outlook;

(4) the computation of the prevailing world market price for soybeans, as described in section 201(i)(3)(B) of such Act;

(5) the fiscal impact of the implementation of the marketing loan for soybeans; and

(6) such other factors as the Secretary considers appropriate.

(c) Export Assistance for Cottonseed and Sunflower Seed.—If the Secretary of Agriculture determines that the price of cottonseed or sunflower seed is adversely affected by the amendment made by subsection (a), the Secretary shall use existing export assistance programs to provide export and other assistance for cottonseed and sunflower seed, and the products thereof, to help offset such adverse effects.

SEC. 302. OATS.

(a) Farm Acreage Bases.—Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this Act, effective only for 1989 and 1990 crops, if the acreage limitation percentage established for the 1989 or 1990 crop of feed grains under section 105C(f) is less than 12.5 percent, the Secretary shall permit producers on a farm to designate any portion of the farm acreage base (excluding any portion designated as soybean acreage base) as acreage base established for oats.

"(2) Producers on a farm who redesignate any portion of a farm acreage base as oats acreage base under paragraph (1) shall reduce by an equivalent quantity one or more crop acreage bases (excluding any crop acreage base established for soybeans) established for the farm for such crop year.".

(b) Sense of Congress.—It is the sense of Congress that if the acreage limitation requirement established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)) is 12.5 percent or more, the Secretary should establish the lowest possible acreage limitation requirement for oats under section 105C(f) of such Act if market imbalances for barley and oats exist.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

(a) Repayment of Loans.—Effective for the 1988 marketing year for wheat or feed grains, if the conditions described in clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) have been met at any time during the marketing year for such commodity, producers may repay loans made under section 110(b) of such Act for such commodity without payment of additional interest or other charges provided for under clause (4) of the third sentence of section 110(b) of such Act, regardless of the market price.

(b) Storage Payments and Interest.—If during the 1988 marketing year the Secretary allows producers to place wheat or feed grains into the producer reserve established under section 110(b) of such Act, the Secretary shall not make storage payments or forgive interest charges during the remainder of such marketing year with respect to quantities of such commodity that the producers place into the reserve during such marketing year.

(c) Redemption of Generic Certificates.—Effective only for 1988 marketing year, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445(e)) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the producer may repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the commodities are placed under loan and redeemed only within the same county or within the normal trading area of the producer.".

Subtitle B—Disaster Credit and Forbearance

SEC. 311. FmHA FARM OPERATING LOANS.

(a) Direct Loans.—The Secretary of Agriculture shall ensure, to the maximum extent practicable, that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) for 1989 crop production are made available to farmers and ranchers suffering major losses due to the drought or related condition in 1988, as authorized under existing law and under rules and regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

(b) Guaranteed Loans.—The Secretary shall make available in fiscal year 1989 guarantees for operating loans under subtitle B of such Act, as authorized under such Act, to commercial or cooperative lenders, in addition to the other purposes for which guarantees may be provided for such loans, to refinance and reamortize 1988 operating debt of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of the drought or related condition in 1988. Each such guaranteed loan shall contain terms and conditions governing reamortization, with respect to the 1988 operating debt of the farmer or rancher, that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit, while repaying the guaranteed loan, as determined by the Secretary.

SEC. 312. FORBEARANCE AND RESTRUCTURING ON FARM LOANS.

It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to the drought or related condition in 1988—

(1) exercise forbearance in the collection of interest and principal on direct farmer program loans made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) that are outstanding on the date of enactment of this Act for such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 (Public Law 100-233) and similar provisions of law for such farmers and ranchers; and

(3) encourage commercial lenders participating in guaranteed farmer lending programs to exercise forbearance before declaring such loans in default.

SEC. 313. FLEXIBILITY IN EMERGENCY LOANS.

Notwithstanding any other provision of law, with respect to any person that applies for emergency financial assistance under Subtitle C—Emergency Loans, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961-1970), if the Secretary determines that the applicant's farming, ranching, or acquaculture operations have been substantially affected due to drought or related condition in 1988, the Secretary may, in the Secretary's discretion, waive the limitation in section 321(b) of such Act (7 U.S.C. 1961(b)) regarding crop insurance with respect to such applicant.

Subtitle C—Conservation and Water Assistance

SEC. 321. CONSERVATION AND WILDLIFE ENHANCEMENT.

(a) In General.—In the case of an owner or operator who has entered into a contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and harvests hay during the 1988 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary shall not reduce the amount of rental payments made to such owner or operator as the result of such harvesting to the extent that the owner or operator shares the cost of carrying out conservation practices to enhance soil, water, and wildlife conservation practices on and in the vicinity of lands subject to such contract in accordance with a conservation plan approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies.

(b) Conservation Practices.—For purposes of subsection (a), the term "conservation practices" includes—

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 322. WATER MANAGEMENT FOR RURAL AREAS.

(a) In General.—The Secretary of Agriculture is authorized (directly or in coordination with any other Federal agency, entity, corporation, department, unit of State or local government, cooperative, confederation, individual, public or private organization, Indian tribe, or university) to conduct research and demonstration projects, provide technical assistance and extension services, make grants, loans, loan guarantees, and provide other forms of assistance for the purpose of helping rural areas make better and more efficient use of water resources to alleviate problems arising in such areas from droughts or lack of water.

(b) Activities.—The Secretary is authorized to provide assistance under this section for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmissions, application, and activation.

(c) Cooperation.—In taking action in accordance with this section, the Secretary—

(1) should address the general, special, or unique problems of water management existing in rural areas;

(2) may carry out such action independently or in cooperation with Federal, State, and public or private entities and agencies; and

(3) shall cooperate with—

(A) cooperatives, public or private organizations, confederations, authorities, or other entities, including such entities that may be organized under multiple State agreements or compacts, and entities created under State law to carry out projects authorized in accordance with this section; and

(B) water, watershed, and sewer authorities, rural electric cooperatives, Federal agencies, and other State or local governments or agencies.

(d) Regulations.—The Secretary shall issue regulations to carry out this section. Such regulations shall—

(1) specify the terms and conditions that the entities described in subsections (a) and (c) must meet in order to participate in programs carried out under this section;

(2) establish a procedure under which entities described in subsections (a) and (c) may apply for assistance under this section; and

(3) foster cooperation between such entities and other Federal, State, or local agencies for the purpose of carrying out this section.

(e) Definition.—As used in this section, the term "university" means—

(1) a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

(2) a land grant university established under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.);

(3) the Tuskegee University; and

(4) any other support research organization.

(f) Funding.—

(1) Authorization of appropriations.—There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section.

(2) Non-federal sources.—The Secretary is authorized to accept funds from non-Federal sources to carry out the activities authorized by this section.

(g) No Effect on Cost Sharing.—Nothing in this section shall be construed to waive any cost sharing requirements imposed under any other provision of law.

(h) The Secretary shall make emergency water assistance available to eligible farmers for crops under the program designated ECP EC-6 by the Department of Agriculture, including, but not limited to extension of wells, drilling temporary irrigation wells and installation of temporary irrigation water delivery systems in areas where irrigation is a normal practice.

Subtitle D—Rural Businesses

SEC. 331. BUSINESS AND INDUSTRIAL LOANS.

To the maximum extent practicable, the Secretary of Agriculture shall make available in fiscal year 1989 rural industrialization loans or loan guarantees, as authorized under section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), to assist rural businesses and enterprises (including cooperatives) directly and adversely affected by the drought or related condition in 1988. Any such drought-related rural industrialization loan may be made only if the loan otherwise meets the terms and conditions relating to eligibility established under section 310B of such Act and the Secretary determines that making the loan will serve to meet the original purpose of the rural industrialization loan program to prevent the loss of, or create, rural employment opportunities.

SEC. 332. SURVEY OF AGRICULTURE-RELATED RURAL BUSINESSES AND ENTERPRISES.

Not later than 90 days after the date of enactment of this Act, the Secretary shall—

(1) conduct a survey of rural businesses and enterprises in the United States whose activities involve or are directly related to the production, processing, and marketing of agricultural commodities and products, or to servicing the business and home needs of United States farmers and ranchers, to determine the extent that such businesses are being adversely affected by the drought or related condition in 1988; and

(2) submit a report describing the results of such survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 333. FORWARD CONTRACTING REPORT.

(a) Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the financial impact that forward contracting, hedging, and associated margin requirements for wheat, feed grains, and soybeans during the recent drought-related period of price volatility have had on producers and on grain marketers, particularly local elevators and intermediaries.

(b) In his report, the Secretary shall include a discussion of—

(i) the extent to which currently planted or stored corps are subject to cash forward contracts or are otherwise hedged, and what portion of such forward contracts are in danger of being defaulted on as a result of drought-related crop losses;

(ii) the extent to which local elevators may experience severe financial stress due to defaults on cash forward contracts or due to margin requirements on futures market positions;

(iii) the extent to which producers have been able to renegotiate forward contracts in light of drought-related changes in economic conditions;

(iv) the extent to which hedging and forward contracting practices may produce unusual demands for credit among farm producers and marketers in light of drought-related conditions; and

(v) such other areas of concern as the Secretary may find appropriate.

(c) The Secretary shall alert the aforementioned committees promptly if he finds that serious and economic or financial problems as discussed above are likely to arise in advance of the report's completion. The Secretary shall consult with the Chairman of the Commodity Futures Trading Commission on issues concerning futures markets which arise in the course of this study.

Subtitle E—Miscellaneous

SEC. 341. SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.

Effective beginning with the 1988 crop year, section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The provisions of this subsection and of section 1305(d) of the Agricultural Reconciliation Act of 1987 (Public Law 100-203; 7 U.S.C. 1308 note) that limit payments to any person shall not be applicable to payments received by a State or local governmental entity in connection with agreements entered into under a special conservation reserve enhancement program carried out by the entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to State and local governmental entities that the Secretary determines will advance the purposes of this subtitle.".

SEC. 342. DROUGHT RELIEF CONTINGENCY PLAN.

Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing a Federal drought disaster contingency plan to respond to agricultural disasters caused by drought in each of the 1988 through 1990 crop years. Such plan shall evaluate the various alternatives available for the use of agricultural set-aside acreage, conservation reserve acreage, conservation use acreage, and any other land held in inventory by the Farmers Home Administration.

SEC. 343. SALE OF CORN TO ETHANOL PRODUCERS.

(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture shall make available for sale to domestic producers of ethanol fuel not more than 16 million bushels per month of corn owned by the Commodity Credit Corporation.

(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn (prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

(c) MAXIMUM AMOUNT.—The quantity of corn sold to any ethanol producer under this section shall not exceed 2 million bushels per month.

(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

(e) TERMS.—Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed by-products equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary.

(f) TERMINATION.—The Secretary may terminate the program established under this section if the Secretary determines that—

(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

(2) a sufficient supply of corn would otherwise not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period, except that the Secretary shall terminate the program under this section no later than September 1, 1989.

(g) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol.

SEC. 344. STUDY OF EFFECT OF DROUGHT ON FOOD PRICES.

(a) SURVEY.—The Secretary of Agriculture shall conduct a survey of food and commodity prices as of December 31, 1988, to determine the effects of the drought and related conditions in 1988 on recipients of Federal nutrition and hunger benefits.

(b) REPORT.—Not later than March 1, 1989, the Secretary shall submit a report to Congress on the results of the survey required under subsection (a), including—

(1) an analysis of the adequacy of benefits under Federal nutrition and hunger programs with respect to any food price inflation that has occurred because of the drought or related conditions in 1988; and

(2) recommendations for any actions that may be taken by the Secretary or Congress to address problems identified in such survey.

SEC. 345. DROUGHT INFORMATION.

The Secretary of Agriculture shall direct the Extension Service to use available resources to provide information through publications or telecommunications, on a daily basis where practicable, concerning drought conditions and drought assistance to persons residing in counties that have been declared disaster counties as a result of drought or related condition in 1988, because of a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, as a result of drought or related conditions in 1988.

SEC. 346. RURAL ECONOMIC DEVELOPMENT RESPONSE TO THE DROUGHT.

(a) The Congress finds that—

(1) A severe drought is being experienced in a large number of States, with serious economic consequences for family farmers;

(2) The effect of the drought is not isolated to farmers, but is having a devastating impact on the economy vitality of rural communities;

(3) Rural businesses and financial institutions are already experiencing the negative effects of decreased sales, and they anticipate severe problems over the next year, due to crop failures and the unavailability of credit;

(4) Local rural governments, whose fiscal bases depend on tax revenues from agriculture and agriculture-related businesses, will experience difficulties in providing services which are important to the quality of life of rural residents;

(5) Significant savings will accrue to the Federal budget due to reduced deficiency payments and storage payments, in excess of the funds allocated by this Act; and

(6) Assistance to farmers, while essential, represents only the first stage of a comprehensive response to the serious national problems created by the drought.

(b.) It is the sense of the Congress that—

(1) Budgetary savings which accrue from the drought and other economic circumstances should, to the maximum extent possible, be dedicated to relief for farmers and agricultural workers and to assist rural businesses and communities in promotion of rural economic development;

(2) The Congress should urgently proceed with action on comprehensive rural economic legislation which addresses the needs of rural businesses and governments; and

(3) Rural development programs should stress efforts to cooperate with and support local decison-making, promote market-based capital formation, create a more equitable and dependable partnership between the Federal Government and other levels of government, provide Federal initiatives for improving the quality of rural health care, child care and education, and create a far greater sensitivity on the part of the administration and the Congress to the impact of Federal spending, tax, trade and regulatory decisions on rural communities.

SEC. 347. ASSISTANCE TO LOW-INCOME AGRICULTURAL WORKERS.

For necessary services to be provided by agencies that have received funds under the authority of section 402 of the Job Training Partnership Act to low-income agricultural workers who have been adversely affected by the drought, not to exceed $5,000,000 shall be made available to be derived by transfer from the Disaster Relief Program of the Federal Emergency Management Agency. These funds shall be distributed by the Secretary of Labor within 30 days of enactment of this Act based upon an assessment of the number of low-income agricultural workers in each grantee's service delivery area who have lost income or are unable to work due to the drought, including those workers who have stayed at home in anticipation of work shortages. Emergency services to be provided under this section may include all types of assistance as the Secretary determines to be necessary. For the purposes of this section, a low-income agricultural worker receiving assistance must meet the income eligibility requirements of the section 402 program of the Job Training Partnership Act.

SEC. 348. TOTAL PAYMENT CAP.

The Secretary shall, to the extent practicable, ensure that producers will not receive benefits provided under this Act which, when added to other income from Farm Program payments and crop marketings, would result in a net income from farming including crop insurance payments, operations in excess of that required to assure that they will achieve 100 percent of their expected returns for 1988 under normal conditions.

SEC. 349. SENSE OF CONGRESS REGARDING AGRICULTURAL EXPORTS.

(a) FINDINGS.—Congress finds that—

(1) foreign trade is highly important to the domestic agricultural industry;

(2) the Food Security Act of 1985 (Public Law 99-198) created several programs to help enhance the export of domestic agricultural commodities and the products thereof, and to help restore the United States share of international agricultural markets;

(3) the programs referred to in paragraph (2) have been successful in achieving the purposes for which such programs were created and have resulted in increased exports of domestic agricultural commodities;

(4) it is important that the United States be perceived as being a reliable supplier of agricultural commodities; and

(5) any action taken by the President or Congress that would indicate a scaling back of the commitment to expand agricultural exports would be harmful to the agricultural interests and general economy of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should be no embargo on exports of domestic agricultural commodities and the products thereof.

SEC. 350. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS.

It is the sense of the Senate that Congress act prior to experation of the One Hundredth Congress on legislation that—

(1) provides an exemption from the Federal excise tax on diesel fuel that is to be used for farming and fishing purposes rather than a refund of such tax after it is paid by farmers and fishermen; and

(2) repeals the application of the accounting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

If we can restore order so the Senator can be heard.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I know the distinguished majority leader has another bill to go to. I will take only a few seconds. Tomorrow I intend to speak at greater length to compliment the superb staff on both sides of the aisle who worked on this, and a number of Senators who were absolutely instrumental in helping this. I mention only my good friend from Indiana, Senator LUGAR, here tonight, and my compliments, heartfelt compliments, to the distinguished majority leader and the distinguished minority leader in making it possible to get up what was truly an emergency piece of legislation, and working with us to make it possible to do it in a record amount of time.

This is the largest drought relief bill ever passed by the U.S. Senate. It has been handled in a record amount of time. It is because it was done in a bipartisan, bicameral fashion with a great deal of cooperation from the Senators on both sides of the aisle, a great deal of cooperation from the leadership, and from the staff.

As I said, I will speak at greater length on this tomorrow. I just wanted that noted for the RECORD.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Indiana.

Mr. LUGAR. Madam President, I take one moment to compliment my distinguished colleague, the chairman of our committee. It is obvious that the spirit, unanimity, that finally came to this bill today came in large part because he brought to our committee room the proper spirit for an emergency, and on which so many people depended upon our action in a timely way.

I will join him in due course in thanking individually the talented members of our staffs and our colleagues. But we thank all Senators for the spirit with which we were able to approach a complex bill in the course of the afternoon, and with a very strong signal of hope.

Mr. DOLE. Madam President, I wanted to say just a word to compliment both Senator LEAHY and Senator LUGAR for their outstanding work and all other Members on both sides of the aisle for the spirit of cooperation. It was not any confrontation, one vote on the sense-of-the-Senate resolution and final passage. It is pretty good work. So I commend all Senators.

MIDSESSION REVIEW, DROUGHT RELIEF BILL, AND BUDGET RESOLUTION

Mr. DOMENICI addressed the Chair.

The PRESIDING CHAIR. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I will not take over a couple of minutes. I want to discuss the midsession review which was released today by the OMB Director representing the President of the United States. I have a detailed analysis of that midsession review as it pertains to whether or not we might have a sequester, that is an arbitrary, across-the-board cut, come August here in the U.S. Congress or not.

Madam President, I rise today to share with my colleagues my view of the current budget situation as it relates to the drought relief bill, the midsession budget review, and the budget resolution.

First, that midsession review on the economic front and on the budget front is a rather positive document. There is no question that the deficit is coming down. There is no question that the strength in the economy is much better than anticipated earlier in the year; and that in all respects things are much better than we thought in January and February when we began working on the budget and on the appropriation process.

However, for those who are waiting around for the OMB Director, who is solely and singularly in charge this year of making the economic assumptions and the technical adjustments, those who are waiting around for that event to occur to know how much we really had by way of latitude to avoid a sequester should know that is finished.

That document is now binding, and we do not wait around for anyone else the way we drafted the Gramm-Rudman law. No. 2, the one we are operating under.

It is the sole responsibility of the OMB Director to make the technical adjustments and to make the economic assumptions. They are made. They are finished.

What I have done for the Senate, and I will not verbalize them, but I strongly recommend that those who are going to conference on appropriation bills, those who are going to conference on welfare reform, those who are going to conference on this drought bill, I strongly recommend they look at the latitude—that is the amount of leeway we have left in order to avoid a sequester.

Clearly we are not finished with appropriations, but if in each case we come down on the long side in conference, there will be less to spend on drought relief. But if in each case we come down on the long side in any of this, there will be less to spend on drought relief. On this drought relief if we come down on the long side as between the two Houses, there will be less to spend somewhere else.

The House has an emergency supplemental for drugs. They have not paid for it. It is $2.5 billion. We do not have one yet. We are hoping we will find some way to pay for part of ours.

When you add up all those, as I have done—and I have put them in separate columns for those who are interested—it seems to me that these are as authentic and as accurate as can be. It shows that unless we use some real discretion in the conferences and on the remaining bills, we could have anywhere from $1.5 billion to $3 billion sequestered this year. I do not think anyone wants that, and I hope it can be avoided. I am not predicting it. But what I have put in the RECORD, for those who are interested, will indicate that if each waits for the other to make the savings or to come on the low side, and in each case with the high side as they make their negotiations between the two bodies, we will come to the end of the year and we will not have enough room for what we expect, and we will have a sequester.

MIDSESSION REVIEW

The report released by the President this morning is both good budget and good economic news. It is a report that reflects positively on the work of this administration and Congress over the past few years.

The midsession review is designed to update the President's budget request of last February. But it also provides us with an up-to-date status report on the economic outlook and the Gramm-Rudman-Hollings deficit estimate used to calculate possible across-the-board cuts.

On the economic front, today's report shows a major improvement in the economy compared with the forecasts of last February. The economy is projected to grow at an annual rate of 3 percent this year. In fact, even this forecast does not incorporate the Department of Commerce's preliminary second quarter GNP figure, released yesterday, which showed the economy growing at a 3.1-percent rate.

On the budget front, while the deficit for the current fiscal year is estimated to be $152.3 billion, an increase of $5.6 billion from the estimate last winter, almost all of this increase is due to technical factors such as the shift of nearly $3.5 billion in foreign military sales prepayments that were expected to come in this year and now are likely to be received next year, plus increased spending to resolve bank and thrift institution problems.

For next year, the deficit continues its downward path regardless of the measurement used. As an example, if the President's policies were adopted—an unlikely event at this late stage of the year—the deficit would decline to $123 billion. On another measure, assuming a continuation of current programs—the deficit would decline to about $132 billion.

These estimates reflect very positively on the policies pursued over the last many years to hold down the rate of Government spending and to maintain and sustain economic growth. Under any of these estimates the Federal deficit drops to about 2.5 percent of GNP, the lowest level in over 9 years.

Finally, the report gives us a preview of the Gramm-Rudman-Hollings deficit forecast for next year—as of today a figure totaling $140.1 billion.

While this means another set of numbers, the bottom line simply is that as of today, Congress and the administration can avoid the senseless across-the-board cuts by completing the appropriation bills and avoiding adding costly new programs in the remaining days of the 100th Congress.

Any new legislation, including such things as drought legislation or emergency antidrug legislation, that adds over $5.9 billion to next year's spending, could trigger the across-the-board cuts.

This simply means that the Congress and the administration must work closely together over the next 2 months to continue to hold down unnecessary spending and, if possible, to make sure any new spending is counterbalanced with spending cuts.

THE DROUGHT BILL

I will now shift my comments to the drought assistance bill as it relates to the budget resolution and the midsession review.

First, it should be noted that this bill, as it now stands, technically violates the Budget Act because it provides for spending that is greater than that provided in the fiscal year 1989 budget resolution, as scored against the February baseline. I do not intend to raise this point of order, nor do I know of any other Senator that wishes to raise a point of order on this bill in its current form.

All Members, and the administration, support efforts to aid drought-stricken farmers. But I believe there has to be rationality and responsibility to such aid. In today's midsession report the administration has listed five essential elements that they believe are necessary for effective drought assistance. They are:

First, relief should only go to those who need it most.

Second, farmers who wisely purchased crop insurance, should not be penalized relative to farmers who did not act with such prudence.

Third, legislation should not encourage farmers to act inefficiently. For example, no program should include any incentive for a farmer to plow under his crop.

Fourth, drought relief should not be used to rewrite the farm bill.

Fifth, spending on drought relief has to be considered in the context of the bipartisan budget summit agreement and our efforts to reduce the Federal budget deficit. The automatic sequester that overspending would trigger would take back from farmers with one hand the relief provided with the other hand.

Embodies in the deficit estimate of $140.1 billion are specific assumptions on the agriculture portion of the budget. For example, Commodity Credit Corporation [CCC] outlays are below the February estimate by $6 billion in fiscal year 1989 because of the drought and other conditions.

Outlays for the agricultural credit insurance fund have increased by $0.8 billion in fiscal year 1989. Drought conditions have also increased Federal Crop Insurance Corporation spending by $0.1 billion in 1989.

The net result of these conditions is an overall reduction in the agriculture function of the budget of some $5.1 billion.

The drought relief bill before the Senate today is estimated, by the U.S. Department of Agriculture, to cost between $5 and $7 billion, with the midpoint being $6 billion. CBO estimates the bill will cost almost $5 billion. OMB estimates the bill at $6.6 billion.

The point is that this bill, if its costs today add $5.9 billion to the current GRH estimate of $140.1 billion, we breach the critical $146 billion figure, something that no one wants. In my view this bill *cannot* be expanded on the floor without breeching the sequester trigger of $146 billion.

More important, this assumes that all the increased spending is limited to this drought bill. It says nothing about the other spending increases being considered around here—such as the hunger prevention act we adopted a few days ago, anti-drug legislation, welfare reform, the regular appropriation bills and any supplemental bills.

Madam President, I ask unanimous consent to have printed in the RECORD a table of statistics in connection with this matter.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

POTENTIAL FOR SEQUESTRATION

[In billions of dollars]

	Current Status	
	House	Senate
GRH base outlays[2]		1,114.2
Economic and technical changes: OMB scorekeeping differences	1.7	1.7
Legislation: 1989 Appropriation bills	−0.9	−1.6
Passed:		
H.R. 1720 (S. 1511), Family Welfare Reform	−0.2	−0.1
H.R. 3093, Operational Acreage Diversion Act	−0.3	
H.R. 4150, Postal Reorganization Amendments	−0.3	
Other legislation	(1)	(1)
Reported:		
H.R. 4213, GI Bill Amendments	−0.1	
H.R. 5026, Dire Emergency Supplemental, 1988	0.1	
H.R. 5096, Emergency Supplemental, 1988		
S. 2560, Hunger Prevention Act		0.4
S. 332, Temporarily suspend deportation		0.2
Other legislation	(1)	(1)
Committee (preliminary):		
S. 2449, Postal Reorganization Amendments		−0.3

POTENTIAL FOR SEQUESTRATION—Continued

[In billions of dollars]

	Current Status	
	House	Senate
S. 2631, Drought Assistance Act	5.4	4.9 to 5.7
Total legislation	6.3	3.6 to 4.4
Projected GRH outlays	1,122.14	1,120.8 to 1,121.6
GRH base revenues[2]		973.8
Legislation:		
Passed:		
H.R. 1720 (S. 1511), Family Welfare Reform	0.2	0.1
Projected GRH revenues		
Projected GRH deficit		

[1] Less than $50 million.

[2] Includes legislation enacted as of July 9, 1988, and Public Law 100–371, the Energy-Water Appropriations bill.

Source: Prepared by SBC Republican Staff; contains certain staff estimates.
Note.—Details may not add to totals due to rounding.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. BYRD. Madam President, the distinguished Republican leader and I have an understanding that the Senate will proceed to consideration of H.R. 4784, the agriculture appropriation bill.

I ask the Chair lay before the Senate that bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to the immediate consideration of the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,762,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $363,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

[OFFICE OF THE ASSISTANT SECRETARY FOR SPECIAL SERVICES

[For necessary salaries and expenses to continue the Office of the Assistant Secretary for purposes of providing special services to the Department, $150,000: *Provided,* That none of these funds shall be available for the supervision of Natural Resources and Environmental activities, the Soil Conservation Service, or the Forest Service.**]**

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $467,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $50,659,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $21,297,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,494,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $5,000,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,389,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, **[**$21,211,000**]** *$21,271,000* and in addition, for payment of the USDA share of the National Communications System, $262,000; making a total of **[**$25,862,000**]** *$25,922,000* for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

WORKING CAPITAL FUND

An amount of **[**$5,708,000**]** *$4,708,000* is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $408,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, **[**$7,826,000**]** *$7,940,000* including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000, may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, **[**$497,000**]** *$500,000.*

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, [$476,000] *$479,000.*

Office of the Inspector General

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), [$49,541,000] *$51,442,000* including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, [$20,594,000] *$21,079,000.*

Office of the Assistant Secretary for Economics

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $447,000.

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $49,336,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, [$63,091,000] *$64,086,000*: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

World Agricultural Outlook Board

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), [$1,820,000] *$1,836,000*: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Office of the Assistant Secretary for Science and Education

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $432,000.

Agricultural Research Service

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, [$555,755,000] *$559,157,000*: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $175,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $300,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $175,000 whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $300,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the limitations on purchase of land shall not apply to the purchase of land at the Grand Forks Human Nutrition Center, Grand Forks, North Dakota: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, [$11,000,000] *$57,385,000*: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided, further,* That funds recovered in satisfaction of judgment at the Plum Island Animal Disease Center shall be available and augment funds appropriated in a prior fiscal year for construction at Plum Island Animal Disease Center and be used for construction necessary to consolidate research and operations at the Center and for renovation of the Beltsville Agricultural Research Center.

Cooperative State Research Service

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); [$12,975,000] *$20,000,000* for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $24,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; **[**$30,937,000**]** ***$24,256,000*** for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); **[**$29,428,000**]** ***$40,842,000*** for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; **[**$641,000**]** ***$1,050,000*** for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); **[**$2,168,000**]** ***$6,368,000*** for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; **[**$2,000,000**]** ***$4,000,000*** for a ground water quality program; **[**$2,050,000**]** ***$3,412,000*** for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); **[**$3,900,000**]** ***$5,000,000*** for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and **[**$5,844,000**]** ***$6,909,000*** for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, **[**$284,276,000**]** ***$306,170,000.***

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000 **[**, of which $39,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation**]**; payments for the urban gardening program under section 3(d) of the Act, $3,500,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; **[**payments for the farm safety program under section 3(d) of the Act, $970,000;**]** payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; **[**payments for an integrated reproductive management program under section 3(d) of the Act, $47,000;**]** payments for the rural development centers under section 3(d) of the Act, **[**$903,000**]** ***$950,000;*** payments for extension work under section 209(c) of Public Law 93-471, **[**$935,000**]** ***$970,000;*** payments for a ground water quality program under section 3(d) of the Act, **[**$1,000,000**]** ***$2,000,000;*** payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 100-219, $3,350,000; *payments for other national priority and agricultural competitiveness initiatives under section 3(d) of the Act, $7,733,000;* and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $18,291,000; in all, **[**$348,957,000**]** ***$353,255,000,*** of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, **[**$7,550,000**]** ***$5,757,000,*** of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, **[**$13,446,000**]** ***$14,682,000:*** *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $775,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further, That $583,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318).*

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $421,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, **[**$329,273,000**]** ***$328,170,000;*** of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, **[**$2,546,000**]** *$2,847,000.*

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, **[**$404,954,000**]** *$405,680,000*: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, **[**$8,115,000**]** *$8,255,000*: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,655,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, **[**$33,373,000**]** *$33,541,000*; of which not less than $1,591,000, shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed **[**$31,701,000**]** *$34,000,000* (from fees collected) shall be obligated during the current fiscal year for administrative expenses*: Provided, That, if crop size is understated and/or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum.*

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than **[**$7,811,000**]** *$7,911,000* for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, **[**$2,397,000**]** *$2,419,000*: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,562,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $413,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $580,000,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

Federal Crop Insurance Corporation

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), [$200,426,000] *$203,571,000*: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $112,000,000.

Commodity Credit Corporation

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1989, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained or anticipated, but not previously reimbursed, [but not to exceed $6,828,286,000,] pursuant to Section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed [$7,200,000] *$7,268,000* may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $418,000.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, [$1,844,990,000,] *$1,694,424,000* of which not less than [$1,794,420,000] *$1,643,854,000* shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further*, That agreements entered into or renewed during fiscal year 1989 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1985, 1986, 1987, and 1988, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $1,381,000 as authorized by section 521(c) of the Act, also including not to exceed $15,000,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to non-profit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $3,660,061,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

CITY OF LINCOLN

Hereafter, the area within the present city limits of the city of Lincoln, Burleigh County, State of North Dakota, and the southeast quarter (SE¼) of section eighteen (18), township one hundred thirty-eight (138) north, range seventy-nine (79) west, Burleigh County, North Dakota, shall continue to be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $569,000,000, of which [$454,000,000] *$494,000,000* shall be guaranteed loans; [$14,000,000] *$9,000,000* for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, [$3,200,000,000] *$4,000,000,000*, of which [$2,300,000,000] *$3,100,000,000* shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; [and] for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; *and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101–5106), $3,000,000.*

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,467,596,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,607,047,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, *$14,000,000,* as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, [$6,500,000] *$3,000,000 and from funds transferred from the Rural Development Insurance Fund, $11,000,000: Provided, That such funds be made available within six months of enactment.*

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, [$500,000] *$713,000,* to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, [$540,000] *$6,500,000: Provided, That $500,000 shall be available for grants to qualified non-profit organizations to provide technical assistance for rural communities needing improved passenger transportation systems or facilities in order to promote economic development.*

[OFFICE OF THE ADMINISTRATOR

[For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.]

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, [$414,734,000] *$415,334,000,* together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed [$2,675,000] *$3,000,000* of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further, That notwithstanding any other provision of law, $2,000,000 of this appropriation shall be available solely to carry out S. 2246, the Lower Mississippi Delta Development Commission, as reported by the Committee on Environment and Public Works, and the provisions of such reported bill are hereby incorporated by reference and made a part of this Act: Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1989 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1989, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds: *Provided further, That, in addition to the authorized amounts provided for insured electric and telephone loans and to the extent of available applications therefor, carryover amounts from prior years' unobligated loan authorizations shall be obligated by the Administrator of the Rural Electrification Administration during fiscal year 1989 as necessary to approve insured loans without regard to nonstatutory quotas or other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government.*

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), [$327,675,000] *$341,000,000.*

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,447,000.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For grants and loans authorized under section 313 of the Rural Electrification Act for the purpose of promoting rural economic development and job creation projects, $540,000: Provided, That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers.

[OFFICE OF THE ADMINISTRATOR

[For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $160,000: *Provided,* That no other funds in this Act shall be available for this Office.]

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1989, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, [$31,124,000] *$31,284,000*: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further,* That no less than 2 percent of the full-time employees of the Rural Electrification Administration shall be used to establish an economic development unit within the Rural Electrification Administration to provide professional economic development assistance to rural electric and telephone systems on specific economic and community development projects and activities.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $461,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, [$403,262,000] *$406,846,000*, of which not less than $5,494,000 is for snow survey and water forecasting and not less than $5,043,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: [*Provided further,* That the Chief of the Soil Conservation Service shall report directly to the Secretary of Agriculture:] *Provided further,* That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,051,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,651,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works, and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $172,373,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures, as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,120,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, **[**$11,891,000**]** *$13,000,000*, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), **[**$5,000,000**]** *$12,000,000*, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), **[**$3,000,000**]** *$5,000,000*, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, **[**$4,904,000**]** *$6,000,000*, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,864,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: *Provided*, That 4 per centum of the funds available for the conservation reserve program in this Act **[**, but not to exceed $48,362,000, shall be available for payment to technicians of the Soil Conservation Service for services**]** *may be transferred to the conservation operations account of the Soil Conservation Service for services of its technicians* in carrying out the conservation programs of the Food Security Act of 1985: *Provided further*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land **[**: *Provided further*, That not to exceed $385,000,000 of the funds in this Act, or otherwise made available by this Act, shall be available to provide cost share assistance on crop year 1989 acreage during fiscal year 1989.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $406,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); **[**$4,624,127,000**]** *$4,573,816,000*, to remain available through September 30, 1990, of which **[**$530,855,000**]** *$480,544,000* is hereby appropriated and $4,093,272,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $5,200,000 shall be available to develop a system for independent verification of school food service claims.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $19,925,000, to remain available through September 30, 1990. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,927,362,000, to remain available through September 30, 1990.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, [$53,500,000] *$50,000,000*: *Provided,* That funds provided herein shall remain available through September 30, 1990: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), [$13,427,955,000] *$13,412,955,000*: *Provided,* That funds provided herein shall remain available through September 30, 1989, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $10,000,000 of the funds provided herein shall be available for the purchase of equipment to improve the processing of food coupons: *Provided further,* That $908,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $199,147,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, [$86,494,000] *$91,952,000*; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, [$9,013,000] *$8,823,000*: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), [$92,017,000] *$100,900,000*: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: *Provided further, That $900,000 of the foregoing amount shall be available for necessary expenses for agricultural aid and trade missions, as authorized by Public Law 100-202.*

[AGRICULTURAL TRADE MISSIONS

[For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202, $400,000.]

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than [$817,000,000] *$851,900,000*, of which [$428,200,000] *$468,100,000* is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title to this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), [$3,827,000] *$5,319,000*: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section

104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), [$1,000,000] *$1,500,000*: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $481,844,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That this appropriation shall be available to employ persons or organizations, on a temporary basis, by contract or otherwise *without regard to chapter 51 and subchapter III of chapter 53 of title 5: Provided further, That funds appropriated may be obligated or expended by the Commissioner of Food and Drugs, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration, including functions under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 201 et seq.), and to appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups, and the Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under this paragraph.*

For purposes of carrying out the provisions of section 10 of the Medical Device Amendments of 1976 (42 U.S.C. 3512) there shall be up to $4,000,000 available from the devices and radiological products account.

For purposes of establishing and implementing a demonstration project that authorizes the Secretary to use the facilities of any public or private cooperative, with the permission of any such cooperative, to perform any of the activities authorized under chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.), in accordance with regulations to be promulgated by the Secretary, up to $3,000,000 shall be made available.

For purposes of establishing and implementing a program under which the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may make grants to, or enter into contracts with, any public or nonprofit academic institution, including schools of medicine, dentistry, and core curriculum programs that will be used to train individuals in the field of regulatory review medicine, $1,000,000 shall be made available.

No later than September 30, 1989, contact lenses as defined in 21 CFR 886.5916 and 886.5925 shall be considered class II devices unless the Secretary has affirmatively determined that such devices meet the criteria set forth in 21 U.S.C. 360c(a)(1)(C).

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, [$23,950,000] *$26,450,000.*

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued in fiscal years 1988 and 1989, as authorized, $175,000,000: *Provided,* That not to exceed [$1,352,000] *$2,235,000* of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further,* That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; [$33,898,000] *$35,547,000,* including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $35,000,000 (from assessments collected from farm credit system banks *and the Federal Agricultural Mortgage Corporation*), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1989 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 694 passenger motor vehicles, of which 689 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1989, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. *Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.*

SEC. 622. In fiscal year 1989, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: *Food and Drug Administration, 7,350;* Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. [None] *Hereafter, none* of the funds appropriated in this *or any other* Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 633. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. *Also, none of the funds in this Act, or otherwise made available by this Act, shall be used to sell more loans from the Rural Development Insurance Fund than needed to realize net proceeds of $584,000,000, the total level authorized by the Omnibus Reconciliation Act of 1986, Public Law 99-509, and the Continuing Appropriations Act of 1987, Public Law 99-591.*

[SEC. 634. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out the honey price support program under section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)) if the aggregate amount of loans under such program to any one person for a single crop year exceeds $250,000.

[SEC. 635. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $110,000,000.

[SEC. 636. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $900,000,000 in the President's fiscal year 1989 Budget Request) if the aggregate amount of funds and/or commodities under such programs exceed $770,000,000.

[SEC., 637. Notwithstanding any other provision of this Act, each appropriation item or loan program level made available under this Act shall be reduced by 1 per centum, rounded to the nearest thousands of dollars, except for programs scored as mandatory during fiscal year 1989 and Public Law 480: *Provided*, That such reductions shall be applied proportionally to each program, project, and activity as set forth in the accompanying report (H. Rept. 100-690).

[SEC. 638. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the Federal entity or official to which funds are appropriated under this Act.]

SEC. 634. No later than 30 days after enactment of this Act, funds provided in this Act shall be used to implement section 633 of the 'Rural Development, Agriculture and Related Agencies Appropriations Act, 1988', and, within the authorities provided in such section, shall allocate $150,000,000 in prepayments to telephone program borrowers and $350,000,000 in prepayments to electric program borrowers.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to prevent a Rural Telephone Bank borrower from concurrently rescinding the unadvanced portion of an approved loan made by the Bank prior to October 1, 1987, and reapplying during this fiscal year, without prejudice, to the Rural Telephone Bank for a new loan in such amount for the same purpose or purposes; nor, shall such funds be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 636. Not less than $10,000,000 nor more than $20,000,000 of section 32 funds shall be used to purchase sunflower oil, such purchases to facilitate additional sales of sunflower oil in World Markets at competitive prices, so as to compete with other countries in fiscal years 1989 and 1990: Provided, that these funds shall be in addition to funds made available for this purpose by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Public Law 100-202).

SEC. 637. Within 30 days of the enactment of this section the Secretary of Agriculture may establish and operate a program for fiscal year 1989 as follows:

(a) The Secretary shall make available to sugar refiners, operators and processors commodities acquired by the Commodity Credit Corporation at such levels as the Secretary determines necessary to permit such refiners, operators or processors to purchase in the amounts specified below raw sugar grown in the Republic of the Philippines and countries designated as beneficiary countries pursuant to section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) at prices equivalent to the market price for raw cane sugar in the United States on the condition that an equivalent amount of sugar refined in the United States is exported to world markets within 60 days. The Secretary shall make such commodities available on the basis of competitive bids and shall have discretion to accept or reject bids under such criteria as the Secretary determines appropriate. Generic certificates shall be issued in lieu of commodities acquired by the Commodity Credit Corporation under the program established under this section.

(b) The Secretary shall make available sufficient commodities to permit the importation of no less than 290,000 short tons of sugar, raw value, from the beneficiary countries specified in subsection (a), and no less than 110,000 short tons of sugar, raw value, from the Republic of the Philippines. Sugar imported under the program authorized under this section shall be in addition to any sugar quota level established for the countries specified in subsection (a) pursuant to headnote 3 of schedule 1, part 10, subpart A of the Tariff Schedules of the United States (9 U.S.C. 1202).

(c) In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the program established under this section, make appropriate adjustments in bids received from sugar refiners, operators and processors to reflect differing transportation costs based on refinery and factory location.

(d) The program authorized under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(f) Nothing in this section shall be deemed to increase the appropriation for any program administered by the United States. Department of Agriculture.

(g) The Secretary may provide such other terms and conditions as the Secretary determines appropriate to carry out this section.".

SEC. 638. (a) Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of establishing eligibility for free or reduced-price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.".

(b) Section 17(p) of such Act (as amended by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

"(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

"(A) a member of a household receiving assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).".

(c) Subparagraph (A) of section 17(p)(3) of such Act is amended to read as follows:

"(A) The Secretary, in consultation with the Commissioner of Aging, shall establish, within 6 months of enactment, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.".

SEC. 639. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 640. In implementing the provisions of this Act, the Director of the Office of Management and Budget and the head of each Federal agency for which funds are appropriated under this Act shall comply with the instructions and the specific allocations and earmarking of funds contained in the joint statement of managers accompanying the conference report of this Act.

SEC. 641. The Committee recognizes the existence and seriousness of the drought throughout the country, and agrees that an amendment will be included in the bill providing funds for the Department of Agriculture for fiscal year 1989 to provide relief to those who have been damaged by the drought included those entitled to deficiency payments under the Food Security Act of 1985.

SEC. 642. Notwithstanding any provision of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950b), any REA borrower which has hydroelectric facilities and associated equipment, the acquisition or construction of which was not financed with loans made or guaranteed under such Act, may, at the option of the borrower, without the approval of the Administrator, sell such facilities and equipment to an entity not receiving financial assistance hereunder and use the proceeds from such sale, or any part thereof, to prepay outstanding loans made by the Federal Financing Bank and guaranteed under such Act. Such Federal Financing Bank loans may be prepaid hereunder by paying the outstanding principal balance and accrued interest due on the loan and no sums in addition thereto may be charged against the borrower, the fund, or the Rural Electrification Administration. Prepayments hereunder shall not require the consent of the Secretary of the Treasury under section 306A of such Act or otherwise and shall not be included within those amounts authorized for prepayment pursuant to, or otherwise subject to, section 1401 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) or section 633 of Continuing Appropriations, Fiscal Year 1988 (Public Law 100-202): Provided, however, That such prepayments shall be made not later than December 31, 1988.

SEC. 643. Notwithstanding any other provision of this Act, each appropriation item or loan program level made available under this Act shall be reduced by 2 per centum, rounded to the nearest thousands of dollars, except for programs scored as mandatory during fiscal year 1989 and Public Law 480: Provided, That such reductions shall be applied proportionally to each program, project, and activity as set forth in the accompanying report (S. Rept. 100-389).

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989".

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Madam President——

Mr. STENNIS. May we have quiet, Madam President?

The PRESIDING OFFICER. Absolutely. If the Senator from Kansas will withhold, and the other Senators clear the aisles, Senators will take their seats so we can hear the minority leader and other Senators wishing to speak.

Mr. DOLE. I thank the Presiding Officer.

I would say to the majority leader that we put out on our hotline about 6 o'clock any amendments to this bill—and we put it out at a timely though it might be kind of confusing in the offices. But for any amendments to this bill there should be notice given to Senator Cochran on this side by 6:30.

Mr. BYRD. Madam President, if the distinguished Senator will yield, our Cloakroom put out the same word. Senators who have amendments should let the joint leadership know by 6:30 p.m. today. Perhaps we could get a limit on those amendments, and we would be able to complete action on this bill at a reasonably early hour tomorrow.

If we can get an agreement today, if that is possible, limiting amendments, and if Senators want to enter into time agreements on their amendments, that is even better. When we finish this bill tomorrow, that will be the end of the work for this week.

Mr. PRYOR. Madam President, I do not know yet if it is time for us to submit our amendments so that we will be protected. However, so that our colleagues will know, I will have one amendment that I hope the managers of the bill will accept. I will deal with consulting and taking about 15 percent of the consulting contracts out of the U.S. Department of Agriculture and related agencies.

The other amendment I will have will be offered by my distinguished colleague, Senator Bumpers, and me and several others relating to the Farm Credit System.

Those will be the two amendments I will be involved with. I hope that the staff will record my interest in those two specific amendments.

Mr. BURDICK. Madam President, today we take up for consideration the appropriations bill for agriculture, rural development, and related agencies for fiscal year 1989—H.R. 4784.

I would like to give a brief summary of the bill before proceeding with the discussion and any amendments that might be proposed.

First of all, regarding the amount funded, the bill is $43.7 billion in budget authority and $26.6 billion in outlays. These totals do not reflect the 2-percent cut in domestic discretionary programs which I will discuss in more detail later.

In summary, we have a bill that provides the proper amount of emphasis on agriculture and rural development. The bill restores the cuts proposed by the President in the Extension Service and in the research programs. In addition to these restorations, the bill contains an increase over 1988 of $11 million for water quality research and it contains $5 million—a 28-percent increase over 1988—for low input agriculture.

In the pest control programs, the bill restores cuts proposed by the President for boll weevils, grasshoppers, fire ants, animal welfare, and pseudorabies, and we have increased the Animal Damage Control Program over 1988 in order to restore the predator control program and to provide necessary improvements in the program.

For the Commodity Credit Corporation, the bill provides a current indefinite appropriation to reimburse net realized losses. This appropriation was authorized last year and is requested by the President.

For the Farmers Home Administration, the bill restores the rural housing grants and loans programs which were proposed to be eliminated by the President. It contains a slight reduction in the section 502 single family loan program to reflect the reduced authorization level for that program.

Increases are provided for both farm ownership and farm operating loans. The bill maintains 1988 levels for rural development grants and loans, and provides full reimbursements to the various revolving funds within the Farmers Home Administration.

For the Rural Electrification Administration, the bill restores all loan programs which were proposed to be eliminated by the President.

Under conservation, the bill also restores the cost-share programs which were proposed for elimination. The Conservation Reserve Program is funded at the full $1.8 billion requested by the Administration.

The nutrition programs are funded based on current estimates. An increase over last year's level is provided for WIC, and a significant increase is given to FDA for AIDS research and education.

Finally, the bill contains a slight increase for the Foreign Agricultural Service, and funds the Public Law 480 Food for Peace Program to maintain the 1988 program level.

Madam President, at this time, I would like to revisit the issue of the 2-percent across-the-board cut that is currently in the bill. It is unfortunate that this provision is included, because it severely affects many programs and accounts—especially those accounts that are primarily salaries and expenses.

The reason the cut is included is because the committee did not receive word on the cost of some provisions in the bill until it was too late to make specific changes to come within the 302(b) allocation set by the committee and required by the Budget Act.

In fact, the committee was informed by the Budget Committee just prior to reporting the bill—during full committee markup—that it was $199 million over in outlays. In fact, that was an error by the Budget Committee, and the bill was only $131 million over. If we had known that at the time, we would not have had to make such a severe across-the-board cut.

Even more frustrating is the fact that even since the Appropriations Committee reported the bill, additional scorekeeping adjustments have been made by the Budget Committee. At this time, the bill is within its allocation, but just within.

Finally, I would like the Members of the Senate to know that the House bill contains significant cost-saving measures which we are told by our Budget Committee do not count as savings for the purposes of the Budget Act. These savings include $275 million in the Conservation Reserve Program, $159 million in the Targeted Export Assistance Program, and $67 million in the Export Enhancement Program.

These discrepancies must be worked out before we can conference this bill. The House allocation is $655 million in budget authority and $132 million in outlays lower than the Senate. Without common cost analyses by the House and the Senate, we cannot responsibly deal with the budget problems of this country. It is impossible to do fiscally responsible work under these circumstances, Mr. President.

Mr. President, I would like to say a special thank you to Senator Cochran from Mississippi who is the ranking member of the subcommittee. He has been very helpful to me in composing the bill and taking it through both subcommittee and full committee. His support is crucial and certainly does not go unnoticed.

For now, Mr. President, this concludes my comments on the agriculture appropriations bill. I hope that the Senate can act on it expeditiously.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I am pleased tonight to join with my friend and distinguished colleague from North Dakota to present this bill to the Senate.

H.R. 4784, the appropriations bill for Agriculture, Rural Development and Related Agencies for fiscal year 1989 provides funding for a wide range of programs and activities. These include agricultural research and extension, conservation, farm income and commodity price support, commodity and food marketing and inspection, nutrition assistance, and the various export and international activities of the Department of Agriculture. The rural development title of the bill includes funding levels for Farmers Home Administration and Rural Electrification Administration programs. The bill also provides funding for the Food and

Drug Administration, the Commodity Futures Trading Commission, the Department of the Treasury for interest expenses incurred by the Farm Credit System Financial Assistance Corporation, and establishes limitations on the administrative expenses of the Farm Credit Administration and the Farm Credit System Assistance Board.

H.R. 4784 was passed by the House of Representatives on Thursday, June 16, and was marked up and reported by the Senate Appropriations Committee on the following Monday, June 20. The report accompanying this bill is Senate Report 100-389.

As reported by the Appropriations Committee, the agriculture appropriations bill includes $47.3 billion in total budget authority for fiscal year 1989. Not reflected in this number is a general provision which has the effect of reducing all discretionary accounts by 2 percent. After adjustments by the Congressional Budget Office [CBO] and the Senate Budget Committee, the bill is scored at $35.7 billion in budget authority and $29.8 billion in outlays and is now within the 302(b) allocation assigned to the Agriculture Subcommittee.

AGRICULTURAL PROGRAMS

One of the highlights of this bill is the committee's recommendation in regard to the Commodity Credit Corporation [CCC]. This bill includes a current, indefinite appropriation for the CCC without the funding ceiling proposed by the House, and this recommendation is strongly supported by the administration. Commodity price support programs are financed through the CCC. The CCC borrows funds from the U.S. Treasury and repays these borrowings, with interest, from receipts and from appropriations provided by Congress. The CCC's outstanding borrowings from the Treasury may not exceed $30 billion. The Corporation's level of borrowing authority was increased from $25 billion to $30 billion by the committee just last year.

A key element in the success of U.S. agriculture is the support it has enjoyed from both private and public research funding. I believe this bill proposes a comprehensive, geographically broad-based, well-funded research program for agriculture and technology transfer needs.

A productive and abundant water and soil resource base is critical to maintaining a competitive production agriculture. This bill supports continuation of the existing cost-share conservation programs, as well as the Conservation Reserve Program [CRP], and urges the Secretary of Agriculture to use his statutory discretion to assure that the program is fully implemented, abuses are minimized, soil erosion and tree planting are maximized, and farm program costs are minimized.

The Food Security Act of 1985 authorized several export assistance programs to counter the adverse effect of unfair trade practices. Reflected in this bill is the committee's continued support of the Export Enhancement Program [EEP] and the Targeted Export Assistance [TEA] Program and its rejection of the House provisions which reduced the funding available for these valuable programs which are necessary to make U.S. commodities competitive in export markets.

RURAL DEVELOPMENT

Madam President, I am pleased to report that increased attention to rural development has been emphasized in this bill. Over the years, programs have been developed to help meet important needs in rural areas, including transportation, water, credit, housing, and electricity. Many of these programs have been very beneficial and have improved the lives of those who live in our Nation's small towns and rural communities. Specifically, the bill rejects the rural housing voucher proposal and restores most rural housing programs to current levels; provides funding for rural water and waste disposal loans and grants, as well as funding for industrial development loans and community facility loans for rural towns and villages; supports REA program levels that will help make available adequate and affordable electric and communications services to rural areas; and establishes a rural economic development unit within REA that will provide advice, guidelines, and assistance on rural development projects and programs for borrowers. I believe that it is important for us to focus attention on policies that can help assure a healthy rural America. And by supporting our existing programs, as the committee has done, we do not need to create a new bureaucracy to get this job done.

NUTRITION PROGRAMS

Nutrition programs are funded in this bill to help alleviate the agonizing pain of poverty.

Rural families, as well as urban families, are subject to the agonizing pain of poverty. There are millions who could not live a healthy life were it not for assistance from the Federal Government. Through its nutrition assistance programs, the Food and Nutrition Service provides young and old alike with various forms of food assistance. Adequate funding levels are provided for the ongoing nutrition programs that come within the jurisdiction of this bill. And for the first time, funding is included for adult day care centers which were recently made eligible for participation under the child care food program.

ADMINISTRATION'S POSITION

Earlier in my statement, I indicated the administration's strong support for the recommendation of the committee on its treatment of the Commodity Credit Corporation. There are other provisions in the Senate version of this bill that the administration supports. Specifically, the bill provides full funding for the Office of the Assistant Secretary for Natural Resources and Environment, the Conservation Reserve Program, and the Farmers Home Administration reimbursements for losses. It also attempts to curb Government waste, fraud, and abuse by funding an independent verification system of school food service claims in the Child Nutrition Program.

However, the administration has expressed several valid concerns with regard to this bill. They range from what is referred to as "excessive discretionary funding" to a "disregard for the President's loan program reform proposals." These are objections that will have to be addressed either here in the Senate or in conference, along with the serious scorekeeping discrepancies between OMB and CBO, before we send this bill to the President.

Madam President, the Appropriations Committee has produced an agriculture appropriations bill which, I believe, deserves the support of the Senate. I recommend it to my colleagues.

The PRESIDING OFFICER. The senior Senator from Mississippi.

Mr. STENNIS. Madam President, I will take only a very few moments by way of introduction and backing of this bill. I am very pleased that today the Senate will consider the agriculture, rural development and related agencies appropriation bill for fiscal year 1989. This very important bill, which provides approximately $47.3 billion in total budget authority for various agriculture, rural development and domestic and international food programs, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is clear evidence of the hard work and excellent leadership of subcommittee Chairman BURDICK and the ranking minority member, Senator COCHRAN. I also wish to compliment the highly skilled work of their dedicated staff: Mr. Rocky Kuhn, Ms. Deborah Dawson, Ms. Koni Gleason, Ms. Irma Hanneman, and Mrs. Judee Klepec.

I will only take a few moments to briefly highlight a few important items regarding this bill.

First and foremost, I am pleased to report that this appropriation bill, which is the 12th bill to be considered by the Senate, is within the 302(b) allocation for budget authority and outlays. Similarly, this bill complies with the budget summit agreement reached between the administration and the Congress on November 20, 1987, that same outstanding document that followed that has contributed so much to our problems since that date.

Second, this $47.3 billion bill as reported to the Senate is only $645 million over the President's $46.6 billion request and approximately $3.1 billion above the $44.1 billion House-passed agriculture appropriations bill.

Finally, I ask my colleagues to resist any further amendments adding additional funds which would violate the bill's spending ceiling set by the committee's 302(b) allocation. Let me also remind my colleagues that the Senate rules do not permit legislative amendments on appropriation bills.

In conclusion, I firmly support this bill and ask that it be adopted as expeditiously as possible so that we can proceed to conference with our House counterparts in a timely manner. It is vitally important that we complete Senate action on all 13 regular appropriation bills as soon as possible. We will have an insurmountable problem if we do not.

Madam President, I yield the floor.

Mr. BURDICK. Madam President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of lines 4 through 8 on page 69, and that the bill, as thus amended, be regarded for the purpose of amendment as original text, provided that no point of order shall be waived by reason of the agreement to this request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments were agreed to en bloc, with the exception of the committee amendment on page 69, lines 4 through 8.

Mr. BURDICK. I presume we are ready for amendments, if there are.

Mr. BUMPERS. Madam President, parliamentary inquiry. Is the committee amendment which was excepted from those agreed to en bloc now the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Madam President, that is an amendment that I offered in the committee and I will defend on the floor.

As I understand it, they are trying to work out some arrangement so we do not have any more rollcalls. That committee amendment could very well require a rollcall vote. So if somebody wants to make a unanimous-consent request to set that aside temporarily while other amendments are offered, I would have no objection to that, if that is permissible.

So, the second parliamentary inquiry is: Is that permissible?

The PRESIDING OFFICER. It takes unanimous consent to do that.

Mr. COCHRAN. Reserving the right to object.

Mr. BUMPERS. I am not making the request.

Mr. COCHRAN. I apologize to the distinguished Senator. I was in a conversation with the Senator from Ohio about an amendment he was proposing. Could the Senator from Arkansas repeat what he said if it takes unanimous consent.

Mr. BUMPERS. I am happy to.

The distinguished chairman of the committee asked unanimous consent that all the committee amendments, with the exception of one—which actually deals with contact lenses and the FDA and it is my amendment that I put on in committee—he asked that all the committee amendments be agreed to en bloc except that one. I have no objection to that. I understand Senator QUAYLE wants to raise a point of legislation on appropriations.

But when he did that, as I understand it, that then automatically makes that the pending business.

I was simply asking the Parliamentarian if it would not be permissible, in order not to slow up the work of the Senate, to temporarily lay that committee amendment aside so that others who may wish to speak or offer amendments may do so. I was simply saying I have no objection if somebody wants to temporarily set that amendment aside.

Mr. COCHRAN. I thank the Senator and appreciate the explanation of his statement.

Mr. GLENN. Madam President, parliamentary inquiry. Is the bill open for amendment at this time?

The PRESIDING OFFICER. The pending business before the Senate now is the amendment which has just been discussed by the Senator from Arkansas. It takes unanimous consent to set that aside, if the Senator from Ohio wishes to offer an amendment.

Mr. GLENN. Madam President, I ask unanimous consent that the pending amendment be set aside so that I might offer an amendment to the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is set aside. The Senator may offer his amendment.

AMENDMENT NO. 2749

(Purpose: To make funds available to carry out the new nonfood uses program contained in the Food Security Act of 1985)

Mr. GLENN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an amendment numbered 2749.

Mr. GLENN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: "*Provided further,* That not less than $15,000,000 shall be made available to carry out the program authorized under section 1436(b) (1) and (2) of the Food Security Act of 1985 (7 U.S.C. 1632(b) (1) and (2)), and not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the appropriate Committees of Congress, a report on the content and progress of research conducted through the Department of Agriculture on new non-food uses for agricultural commodities.".

Mr. GLENN. Madam President, I am joined in offering this amendment by my distinguished colleagues, Senators HARKIN and CONRAD.

Madam President, this amendment is very straightforward. Yet it addresses what I believe is one of the major issues facing American agriculture today. That is, the development of new nonfood uses for our Nation's agricultural commodities.

This amendment will earmark not less than $15 million of the Agricultural Research Service portion of the Department of Agriculture's budget for the new nonfood uses research program that was originally authorized in the 1985 farm bill. It is important to note that this does not represent an increase to the Department's budget rather it seeks to channel existing funds into this important and too often neglected aspect of our agricultural research efforts.

Madam President, the 1980's have not been kind to U.S. agriculture. Prices have declined, forcing income lower. Land values have declined, forcing thousands of farmers out of business. Most recently, severe drought has devastated millions of acres of cropland, placing even more pressure on the economic health of thousands of American farmers. As a result, we must provide short-term aid to address our current problems as well as devise a long-term strategy which will return profit to agriculture.

History tells us that farm prosperity occurs when demand for agricultural commodities is in balance with supply. Beginning in the mid-1950's, an expanding export market absorbed the increasing supply of commodities produced by U.S. farmers. While not every year was profitable for every farmer, on balance the period between 1955 and 1980 was one of acceptable income for the farm sector as a whole.

Since 1981, farm exports have declined from $44 billion to an estimated $32.5 billion in 1987. During this same period domestic demand for food has increased, but only at the relatively slow rate of population growth. The extension of these trends yields a sobering conclusion—traditional markets show little promise to consume any growth in supply and restore prosperity to American farm families.

I believe that this should challenge us to develop bold, new programs which look to the future while embracing the lessons from history that farm prosperity is led by demand. That is why I am convinced that new nonfood uses research is a common sense approach to creating new markets for our agricultural products and why I worked to have such a program included in the 1985 farm bill.

New nonfood uses for farm and forest products are not far-off fantasies that will take years to develop. Right now, corn starch is used not just in producing alcohol, but also in manufacturing paper and plastic products, building materials, textiles, and adhesives.

And, in my judgment, we have just begun to scratch the surface. Many petrochemicals can be made from carbohydrates contained in food and feed grains. Even greater potential lies in developing new chemicals and other products that utilize the desirable properties of starch and cellulose. For example, it has been estimated that corn starch-based degradable plastics could replace 30 to 45 percent of the low density polyethylene plastics used in this country. This would result in a new market for more than 110 million bushels of corn each year—and this is but one example.

The new nonfood uses research program that this amendment will fund encourages the application of basic research in biology, chemistry, and physics to develop new uses for farm and forest products. Although some limited research is being conducted by USDA, land-grant colleges, and private industry, the amount spent is not sufficient. For example, it has been estimated that in fiscal year 1987 only $6 million out of a total Agricultural Research Service budget of $510 million was spent on developing new uses for food and feed grains. This program will also serve to better focus our existing efforts to develop new nonfood markets for our agricultural commodities.

I want to emphasize that the problems facing American agriculture are complex. They will not be solved quickly, rather they require a forward-looking strategy to help return our agricultural communities to prosperity. Madam President, my amendment contributes to this by sending the message that we must revise our approach to agricultural research—that we must begin to emphasize the development of new products and new markets for our agricultural commodities.

Madam President, in summary, the purpose of this amendment is very simple. Each year we put large amounts of money into basic research in agriculture. It is one of the testimonials to how good we are in research in this country that we have used that money through the years to develop an agricultural base that is second to none. This research for hybrids, seeds, fertilizers, and soil stabilization, to name just a few things, are the envy of the rest of the world.

When I was a boy in New Concord, OH, good farm production for corn was 45 or 48 bushels per acre. Now, last year in Ohio, it ran 137 bushels per acre. We did not do that by luck. We did not do it because of more rain. We did it because we do good agricultural research in this country. It has given us surpluses so enormous we do not know what to do with them. Although not necessarily this year.

We are the envy of the rest of the world. We have great surpluses. We do not even have places to store everything that we produce.

In 1985, I proposed, and we passed, authorizing legislation which would direct some of this money into new nonfood uses research. In other words, we are asking ourselves: can we figure out better ways to do research on ethanol production with corn? Can we figure out ways of making degradable plastic? Can we make wall board? There are a wide variety things that we can produce if we just do the research.

I think we can be every bit as productive, every bit as innovative in this new nonfood uses research as we have been with the $500 to $600 million that we devote every year, for production research.

This legislation to expand new nonfood uses research was passed back in 1985. However, we never put any money into it. The authorizing legislation has been sitting there since 1985.

What this amendment does for the first time—and ARS agrees with this—is to put not less than $15 million out of the $500 million or so that we have for research at ARS into this new nonfood uses program.

In 1987, we had $510 million in agricultural research in this country. Only $6 million of it—only $6 million—went for nonfood uses research. This amendment would start to alter that ratio slightly and let us develop some ways to use our agricultural production for nonfood uses. It seems so logical.

I am joined in this effort by Senators HARKIN and CONRAD, who worked on this in the past with me. I understand this will be accepted on both sides.

Mr. CONRAD. Mr. President, I rise today in strong support of Senator GLENN's amendment to target funds for research developing new industrial uses for agriculture and forestry commodities. I want to commend the Senator from Ohio for his leadership in substantively supporting research into new uses.

Agriculture is entering a new century and a new era. This era is one of frequent surpluses of traditional crops, increasing production costs and low prices. If our agricultural industry is to survive, it must adapt to this reality. This adaption must include finding new uses for traditional crops, and uses for new crops, increasing our crop diversification, and exploring alternative production methods which cost less and have less impact on the environment.

Mr. President, I have held two hearings in my Subcommittee on Agricultural Research, and General Legislation on new uses. I was amazed by the number of new industrial uses being discovered for agricultural commodities, including forestry products. The chemical structures of plants and plant products are remarkably versatile. Many of our traditional agricultural commodities—corn, soybeans, cotton, and new crops; kenaf, meadowfoam, and guayule, for example—can be used to produce substances which replace chemicals and products currently derived from nonrenewable or synthetically produced resources, much of which we import.

One of the more well-known new uses is the manufacture of plastics using corn starch. The use of domestically produced corn starch instead of petroleum in the production of plastic bags, for example, could reduce our demand for imported petroleum by nearly 42 percent.

The economic opportunity provided by the versatility of plants is tremendous. This opportunity will benefit not only the agricultural industry, but our entire country. The development and commercialization of new uses will increase the demand for agricultural and forestry crops, benefiting rural businesses and communities. It can reduce our reliance on nonrenewable resources and imports, and provide a new market for our renewable, domestically produced agricultural resources.

It will create new industries to produce the products, which means new jobs in manufacturing, processing, and management. It will provide new products for domestic and foreign sales, thereby providing increased exports and reduced demand for imported products, making us more competitive in the world economy and reducing our trade deficit. It can reduce our reliance on nonbiodegradable, often environmentally harmful products by providing biodegradable or environmentally safe substitutes.

The first step to realizing this opportunity is to increase our national commitment to increased agricultural research into new uses. This amendment expresses that commitment through targeted funding for new uses research.

Much more research is needed to discover new industrial uses for agricultural and forestry products and to develop the product idea to the point that it is ready for commercialization. While the U.S. Department of Agriculture's Agricultural Research Service should be commended for its research into new uses, the majority of its research funding has been directed at improving the production of traditional crops for traditional uses.

This amendment will help ensure that our Federal Government devotes more of its research efforts to new uses. In addition, it provides an oversight tool for Congress by requiring that the Secretary of Agriculture report to Congress on the type and progress of new uses research. I strongly believe that this research must be increased.

I have also spoken about the commercialization on new industrial products. The benefits of our new uses research cannot be fully reaped until the products and processes developed through research are produced and sold. I, along with Senator GLENN and Congressman TIM PENNY, have introduced a bill to increase the commercialization of new uses through a partnership between the Federal Government, private industry, universities, and State and local governments. Our bill currently has eight cosponsors in the Senate and has been approved by the Senate Agriculture Committee for inclusion in the rural development bill.

I strongly believe that new uses research and development is vitally important to the future of our economy and must be encouraged. I urge my colleagues to support this amendment.

Mr. HARKIN. Mr. President, I want to commend Senator GLENN for his leadership in the area of developing nonfood products from agricultural materials. I applaud him for offering this amendment, which I am pleased to cosponsor.

Stimulating the diversification of agriculture is crucial to the economy of rural areas. We are all aware of the fact that our agricultural "factory," with its level of technology, superior natural resource base, and the amazingly productive American farmer, can out-produce most of the rest of the world combined. This is both a blessing and a curse. The blessing, of course, is that we can meet all of our Nation's food and fiber needs with ease and at a low cost. The curse results from the fact that we can, and do, overproduce. The result of this overproduction has been the lowering of the value of both our commodities and our land.

In the long term, the agricultural problem is more than a question of production levels or of export markets. It is also a problem of insufficient diversification. We lack diversification in many agricultural areas of the country where only a few commodities are produced. We also lack diversification in the range of end uses for which our agricultural feedstocks might be used.

As the capacity to produce traditional commodities such as corn or soybeans increases, our farmers face three choices. First, they can continue producing at levels in excess of demand, creating lower prices that will not cover the costs of production. Second, they can leave part of their capacity idle. Third, they can find new things to do with that capacity. I believe the latter is the best solution. But it is one that will take many years to implement.

To accomplish the diversification that we need, a great deal of research is needed. Unfortunately, the Department of Agriculture has not recognized that need. The redirection of research into biotechnology and other areas that will develop the technologies that are necessary to bring nonfood products from agricultural products to the marketplace has not occurred.

This amendment moves us in that direction—starting now.

We must develop new plants capable of producing new industrial and commercial products that can compete for land, labor, and capital. We need our existing commodities "bio-engineered" so that the range of new products capable of being produced can be expanded several fold.

I can see a day when new plants will be designed for specific end uses, or process conditions. I believe it is possible that, with the mapping of genetic structure of corn, wheat, soybeans and other feedstocks, we will be able to bio-engineer new industrial oils, new proteins and new chemicals. All of this diversification is necessary as a precursor to a competitive agricultural system.

The days of monolithic, simple basic industries surviving by means of a single proven technology are over. The experience of the steel industry and the auto industry make this point all too clear. We need new technology and new knowledge to continue the evolution of our Nation's largest industry—agriculture—so that its full potential can be realized.

The development of this new technology for agriculture will require new knowledge. Systematic development of new plants and the modification of existing plants to produce new products is beyond the current state of the art. What is needed, therefore, is a large scale multiyear research program directed toward the development of a more diverse agricultural system.

This amendment requires that a minimum of $15 million be spent on industrial, new, and value-added products. That is a bare bones minimum and I would like to see far more than that sum devoted to that type of research. Within a few years, more than five times that sum should be spent on nonfood uses of agricultural products alone.

I urge the adoption of the amendment.

Mr. BURDICK. Madam President, the farm bill of 1985 authorizes money for this purpose. Apparently, Senator GLENN wants to make sure that a minimum amount of money is used for this purpose. Our position is the amendment is acceptable.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, this amendment does not appropriate any new money over and above the amount provided by the bill. It does set forth the direction to the Agriculture Research Service, that at least $15 million be used for the purposes described by the Senator in his statement in support of his amendment.

We have no objection to this amendment and recommend that it be approved.

Mr. GLENN. I need no further time for debate. I will be happy to urge the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2749) was agreed to.

Mr. GLENN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 2750

Purpose: To reduce certain appropriations for consulting services

Mr. PRYOR. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. In order to offer an amendment there is an amendment pending that was offered by the other Senator from Arkansas on the committee that was not agreed to en bloc.

Mr. COCHRAN. Madam President, I ask unanimous consent that the pending committee amendment be set aside to permit the distinguished Senator from Arkansas to offer this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. PRYOR. Madam President, I thank my distinguished friend from Mississippi and one of the comanagers of this bill.

The PRESIDING OFFICER. Will the Senator withhold? The Senator has offered his amendment; is that correct?

Mr. PRYOR. That is correct.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 2750.

Mr. PRYOR. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the end of the bill, add the following:

CONSULTING SERVICES

SEC. . (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to—

(1) 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(1); and

(2) 5 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(2).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

Mr. PRYOR. Madam President, this is the eighth appropriation bill to which I have proposed a similar amendment. This deals with the contracting out and the consulting services for, at this point, the Department of Agriculture and related agencies.

I have done this on other appropriation bills which have come before the Senate in the last several weeks, Madam President.

At this point we are approaching, I think, a figure of somewhat nearing $800 million to $900 million that we are saving in consulting fees and arrangements in the Federal Government.

On this appropriation bill, Madam President, the USDA, we find according to the General Accounting Office in the 11 categories in which they define consulting services, that in the fiscal year 1987, that some $43,684,000 was expended. I am, as I have in the past, Madam President, taking 15 percent from the defined categories of the General Accounting Office. Those would be the four categories, and from the remaining seven categories a 5 percent across-the-board cut in the ability for the U.S. Department of Agriculture to, in fact, engage in consulting services.

This would result in a net saving in this appropriation bill of some $5,120,000 for fiscal year 1989 in consulting dollars that could be expended.

As many of my colleagues know, I have pledged to offer similar amendments to each and every appropriations bill which comes before the Senate.

Let me state at the outset, that I am obviously a strong supporter of the American farm, the family farmer, and a strong Department of Agriculture. I am confident that this amendment will have no adverse impact on agriculture. In fact, I believe it will strengthen the hand of the Department by requiring the use of more effective procurement practices.

Already the Senate has accepted seven of these amendments, one each to Treasury-Postal, Foreign Operations, Housing and Urban Development, Transportation, Interior, the State, Justice, and Commerce, and finally, the Labor, HHS, and Education appropriations bills.

All of us are concerned with the procurement scandal unfolding over in the Pentagon. But I want to assure my colleagues that the buddy system which is at work in the defense industry is well entrenched in the civilian agencies as well.

At a June 13 hearing of the Federal Services Subcommittee—which I chair—the Office of Management and Budget [OMB] testified that Federal agencies spent up to $26 billion in fiscal year 1987 on consultant services. These same agencies only reported spending $243 million for the same time period. The agencies are obviously using a narrow definition on consultants.

Mr. President, at this hearing, the Deputy Director of OMB, Mr. Joseph Wright, made these remarks about the Government's use of consultants: I paraphrase:

The amount of consultant services used by the Federal Government is seriously understated;

It has taken OMB much too long to revise its A-120 Circular which governs the procurement of consultant services; and

There is no consistency among the agencies of the Federal Government in terms of what they report as consultant contracts to the Federal Procurement Data Sysem [FPDS];

Furthermore, Mr. Wright said: "I do not see much progress. For example, in 1987, 50 percent of consultant contracts were noncompetitive * * *. In addition, over two-thirds of the contract awards in 1987 were for modifications to existing contracts * * *."

Mr. President, I hope what I am about to say will demonstrate the magnitude of the underreporting of consultant contracts within this appropriations function. GAO provided me with a comparison of the figures these agencies reported, versus what they actually spent for consultants for fiscal year 1987. The reported figure was $5,907,000. In contrast, when the GAO used a broader definition of consultants, it came up with $43,684,000. Again, $6 million reported; $44 million spent.

My amendment uses both a Cabinet Council on Management and Administration [CCMA] study and the new OMB Circular A-120 to establish the universe of contracts we are limiting. I asked GAO to use the CCMA study to produce estimated figures for agency expenditures within this appropriation function for these kinds of contracts in fiscal year 1987. This is essentially our baseline. A baseline, I might add, that has never existed in the past, and which is absolutely essential if we are ever going to control this area of ever-increasing Government spending.

Mr. President, the estimated savings that would accrue from my amendment, using the fiscal year 1987 baseline is up to $5.1 million. This is certainly a meaningful effort at deficit reduction.

I should note that GAO supplied two sets of figures. One set includes everything that could be construed as consultant services. In this category, which includes some unknown level of consultant activity such as contracts for technical representatives and quality control studies, I am requiring that agencies limit their spending to 95 percent of what they spent in fiscal year 1987, a 5 percent savings.

The second category, which GAO, OMB, and I all agree consists of consultant contracts, involves management and professional services, special studies and analyses, technical assistance and management review of program-funded organizations. Here I am requiring the agencies to limit their spending to 85 percent of what they spent in fiscal year 1987, a 15 percent savings. Also, I should note that the agencies, with OMB's guidance, will be required under my amendment to calculate their own fiscal year 1987 cost data, to which the cuts will be applied.

Mr. President, some have questioned whether this formula actually will produce savings. In order to respond objectively, I asked the Congressional Budget Office [CBO] to do a formal cost estimate of my amendment. CBO's conclusion is that the savings are real. I quote from the CBO letter, signed by Acting Director James L. Blum: "CBO expects that the language is sufficient to achieve the desired reduction in appropriation levels."

I hope my colleagues will join me in supporting this effort. In doing so, I believe we will restore some modest control to an area of procurement that has taken on a life of its own.

Madam President, that concludes my statement. It is my understanding that there is a possibility that both managers on the Democrat and Republican side will, in fact, accept this amendment. I am very hopeful they will look favorably upon that.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. The amendment seeks to limit the amount of money spent on consulting services. It is a general, Governmentwide amendment that Senator PRYOR is offering to all appropriation bills. But he missed the first few bills. He has added it to six bills and it has been accepted in all six.

You know the USDA is strongly opposed to the amendment. At a minimum we would offer a perfecting amendment stating:

Strike out subsection (c), beginning on page 2. Insert the following in-lieu-thereof:

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this act.

Does the Senator appreciate the amendment?

Mr. PRYOR. Madam President, if I may be recognized to respond to my distinguished friend, the chairman from North Dakota? It is not my desire, nor my wish to have this type of perfecting amendment added to this amendment. It would be my preference, as has been the case in five of the seven appropriations bills that we have attached these amendments to, that these savings would be true savings and that they would be returned to the Treasury of the United States.

However, due to this late hour, Madam President, and knowing that there are some 20 or 25 amendments possibly coming to the appropriation bill for the Department of Agriculture and related agencies, I will withdraw any objections, and in fact support the amendment offered by the distinguished Senator from North Dakota, knowing that there will be a 4-percent pay raise, and knowing that these dollars that we are saving for outside consulting services will, in fact, be applied in that 4 percent pay raise category. So I have no objection to the perfecting amendment.

AMENDMENT NO. 2751 TO AMENDMENT NO. 2750

The PRESIDING OFFICER. The Senator from Mississippi will withhold. Will the clerk officially report the perfecting amendment offered by the Senator from North Dakota.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK) proposes an amendment numbered 2751 to amendment No. 2750.

Mr. BURDICK. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out subsection (c), beginning on page 2. Insert the following in-lieu-thereof:

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this act.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, we have no objection to the amendment to the amendment.

The PRESIDING OFFICER. Is there further debate on the second-degree amendment offered by the Senator from North Dakota? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2751) was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, we appreciate the fact that Senator PRYOR is offering this amendment, or similar amendment, to many bills as they are coming before the Senate this year, as we understand it. The amendment is intended to curb abuses in the procurement of consulting services, particularly the misuse of sole-source awards.

It has come to my attention that the Department of Agriculture probably has fewer of these kinds of contracts than any other Department of the Government, and it is important, I think, to note now for the information of Senators that this is probably less of a problem, if it is a problem, at the Department of Agriculture than maybe in some of the other Departments of Government.

I have not done an exhaustive study of that so I do not have any evidence to present to the Senate along those lines, but I do think it is important to know that there is a serious concern at the Department of Agriculture about this amendment on this bill in this form. And I am not going to urge that we have a full-scale argument over it or that we ask the Senators to come in and let us have a record vote on the amendment. I am not going to suggest that. But I do think it is fair to say that a great amount of effort is spent at the Department of Agriculture to keep abuses in this area from occurring. I have been given a copy of a letter that was sent to the distinguished Senator from Arkansas from the Deputy Secretary of Agriculture, Peter Myers, outlining objections to the amendment and explaining some concerns that the Department has about practical consequences of this kind of legislative action on this appropriations bill.

I ask unanimous consent, Madam President, that a copy of this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC.

Senator DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office and Civil Service, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Recently we learned of your intention to propose an amendment to H.R. 4784, the appropriations bill for Rural Development, Agriculture, and Related Agencies for fiscal year 1989, that would place limits on certain appropriations for consulting services.

We respectfully request that this proposed amendment not be added to the Agriculture appropriation bill for fiscal year 1989.

We share your concern that contracting for consulting services should be limited. They should only be used to provide those services that are absolutely necessary to directly support the most efficient operations of this Department's programs and only in those cases where in-house expertise and resources are not available or it would not be prudent to staff for one time projects or projects of short durations. We concur with the intention of the proposed amendment to curb abuses in the procurement of consulting services, particularly the misuse of sole source awards. As a result, USDA has a general policy that all consulting service contracts be solicited on a competitive basis. Exceptions to this policy must be fully justified under the requirements of the Federal Acquisition Regulations. Further, all consulting contract awards over $50,000 must be reviewed and approved by the Assistant Secretary for Administration.

We note from a General Accounting Office [GAO] report of June 1988 on the use of government consultants for fiscal year 1987, that the Department of Agriculture ranks among the lowest of the major Cabinet Agencies in the use of consulting contractors. Even using the expanded definitions of the President's Council on Management and Administration in the GAO report, Agriculture would still remain a relatively small user of consulting service contracts. Due to the relatively low dollar volume of such transactions in fiscal year 1987, the Departmental base is small. Coupled with a planned increase in the use of consulting services in fiscal year 1989, cuts of 5 to 15 percent from the fiscal year 1987 level would result in significant program disruption.

Some examples of the disruptive effects are as follows:

Food Safety and Inspection Service:	
Contract with Texas A&M University to train meat and poultry inspector personnel	$3,000,000
Science Program Sample Analysis Contracts	2,000,000
Rapid Response Residue Contracts	500,000
Total	5,500,000
Available funds based on amendment limitation	2,000,000
Federal Crop Insurance Corporation:	
Study of actuarial rates and coverages	500,000
Electronic data services and crop insurance advertising	175,000
Total	675,000
Available funds based on amendment limitation	43,000
Rural Electrification Administration:	
Redesign of major accounting systems	300,000
Contracts for third party review of financially troubled borrowers (in excess of)	200,000
Total	500,000
Available funds based on amendment limitation	158,000

In addition, Soil Conservation Service efforts to implement the conservation provisions of the Food Security Act of 1988, training programs of the Farmers Home Administration, audit programs of the Inspector General, and major assessments, electronic benefit transfer tests and national surveys which guide the management of the Food and Nutrition Service Food Stamp and Women, Infants and Children Programs will be severely affected. We agree that there should be prudent use of consultant contracts and we are confident that there are adequate controls within the Department of Agriculture to insure that this is the case.

Therefore, we request that the proposed amendment that would reduce available funds for consulting contracts not be considered for inclusion in the Department of Agriculture appropriation bill for Fiscal Year 1989. We are available to discuss our concerns with you on this request.

Sincerely,

PETER MYERS.

Mr. COCHRAN. In conclusion, Madam President, let me just say, I do not know what the reaction of the other body will be to this amendment but I am assuming that the Senate is going to agree to it and it will become a part of our bill.

We have a duty to present the suggestion to conferees, that this be made a part of the final legislation. And we will do that, as conferees, with loyalty to the Senate bill.

But beyond that, I do not think it is fair to say that it is going to be greeted all that warmly. It may be, it may not be—in the conference.

But I am prepared as one of the managers of the bill to take the amendment to the conference and to see what the reaction of the conferees to the amendment will be.

The PRESIDING OFFICER. Is there further debate on the amendment, as amended? Is there objection to the amendment, as amended?

If not, the question is on agreeing to the amendment, as amended.

The amendment (No. 2750), as amended was agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam Chairman, the distinguished majority leader and Republican leader a moment ago asked Senators to let us know if they had amendments to this bill in hopes that we could identify the amendments that were going to be offered and maybe get some limitations on the number of amendments and time agreements on the amendments, if that is possible. We hope that we can proceed to take additional amendments if amendments are offered that can be accepted and then abide by the wishes of the leadership as to whether or not we continue to work on this bill later tonight.

We have worked up a list on this side of the aisle of these amendments, and we have 14 amendments that we know about that will be offered or intend to be offered by Senators to this bill. I am going to read this so that Senators' offices can pay attention and advise us if this is a complete list:

An amendment by Senators CHAFEE and DECONCINI; one by Senator COHEN; one by Senator QUAYLE; Senator STEVENS has three amendments; Senator DOLE; Senator HATCH has an amendment; Senator DOMENICI; Senator BOND; Senator GRAMM has two amendments; and Senator HECHT.

Those are all the amendments that we have been notified about on this side of the aisle. If we have an incomplete list, I hope Senators will advise us.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PROXMIRE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVELOPMENT OF A PILOT PROGRAM BY THE CITY OF NORTHPORT, AL, TO DEMONSTRATE THE BENEFITS OF A LAND INFORMATION SYSTEM

Mr. SHELBY. Mr. President, the National Research Council of the National Academy of Sciences, in 1980, identified the "critical need for a better land information system in the United States" in its report entitled "Need for a Multipurpose Cadastre." The Academy suggested that "local governments be the primary access point for local land information" and called for the "establishment of Federal cooperative agreements with States and/or local governments * * * and funding for these efforts". In a subsequent 1983 report, "Standards and Procedures for a Multipurpose Cadastre," the National Academy of Sciences recommended a program of Federal grants to counties or municipalities "be established to provide between 30 and 50 percent of the cost of developing multipurpose cadastres".

I point out these findings by the National Academy of Sciences because they are relevant to a project now proposed by the city of Northport, AL. The Northport proposal is to develop a multiple purpose, computerized land information system. This system, commonly referred to as a multipurpose cadastre [MPC], or land information system, is a computer data base in which a variety of land characteristics and qualitative and quantitative data is collected, stored and available for future retrieval.

Northport is a prime pilot area for demonstrating the development and implementation of an MPC. Home to the William Bacon Oliver Lock and Dam replacement project, one of the largest civil works construction projects in progress, the city is undergoing rapid change from an agriculture-based to a commercial-based locality. Due to the impact of the Black Warrior River and the Oliver Lock and Dam, the city has experienced significant changes in its growth, composition, and land patterns. Its growth is placing great demands on the local infrastructure, and access to water and sewer systems is a constant local issue. Additionally, due to the aforementioned reasons, the current status of land records is inaccurate.

All of these variables make Northport an excellent location to develop an MPC. This pilot program will provide a model of how the system envisioned by the National Academy of Sciences can be implemented in medium-sized cities across the Nation.

As my friend from North Dakota is aware, the committee report accompanying the House Agriculture Appropriations bill recommended up to $400,000 for a cooperative agreement between the Soil Conservation Service and the city of Northport for the development of this project. However, due to a miscommunication, this request was not made known to the Senate Appropriations Committee. As a result, the committee report accompanying the Senate-considered measure does not coincide with the House Appropriations Committee recommendation. I regret this unfortunate mishap and will be grateful to the distinguished chairman for any assistance he is able to provide in recommending this project.

Mr. BURDICK. I want to thank my friend from Alabama for his efforts to point out both the need for this demonstration project and the reason for its exclusion from the Senate committee report. It is indeed included in the House committee report. I want to assure the junior Senator from Alabama that this particular project will be an item addressed in conference and that I will recommend that we include the project in the conference committee report and grant the Senator's request.

Mr. SHELBY. I thank my good friend from North Dakota for his understanding and assistance in addressing this important situation.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Lautenberg). Without objection, it is so ordered.

AMENDMENT NO. 2752

(Purpose: To require the Agricultural Research Service to offer certain property owned by the Service for sale)

Mr. BURDICK. Mr. President, I send an amendment to the desk in behalf of Senator Chiles and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the excepted committee amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. Burdick], for Mr. Chiles, proposes an amendment numbered 2752.

On page 88, between lines 16 and 17, insert the following new section:

Sec. . Hereafter, notwithstanding any other provision of law, the Agricultural Research Service, upon relocation of its current facility, shall offer the property owned by such Service at the United States Horticultural Research Laboratory in Orlando, Florida, for sale at fair market value, and any proceeds from the sale of such property shall be placed in an escrow account to be made available for the purchase of land and equipment to provide field sites, equipment, associated buildings, and to pay operating costs in conjunction with any proposed replacement facility.

Mr. BURDICK. Mr. President, the purpose of this amendment is to require the Agricultural Research Service to sell property owned in Orlando, FL, and use the money to acquire field sites, equipment and buildings for a new replacement facility.

The Treasury appropriations bill provides money to the General Services Administration to build a new Federal building in Lakeland, FL. The ARS facilities in Orlando will be moved to that facility.

There is no cost to this amendment. USDA does not oppose it. It will allow the sale of costly space in downtown Orlando, and use the proceeds to build and expand ARS facilities in Lakeland in addition to the money provided by GSA.

I am pleased to recommend that the amendment be accepted.

Mr. COCHRAN. Mr. President, we understand that the Agricultural Research Service has reviewed the proposal contained in this amendment. It authorizes it to sell a lab at fair market value and to use funds for new facilities elsewhere. We recommend the amendment be approved.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Florida [Mr. Chiles].

The amendment (No. 2752) was agreed to.

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have in my hand a list of amendments. They are all known to the distinguished Republican leader and the chairman, Mr. Burdick, and the distinguished ranking member, who has the list in front of him. Rather than go down the list and read them one by one, I will submit the list and ask unanimous consent that these be the amendments that will be eligible—and no other amendments will be eligible—for offering on this bill. I submit that list, and I ask unanimous consent that no amendments to the amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that they be printed in the Record.

There being no objection, the list of amendments was ordered to be printed in the Record, as follows:

Floor Amendments

Metzenbaum—orphan product contracts, +$2,000,000.
DeConcini—WIC, Add $30,825,000 with a .7-percent almost across-the-board cut.
Domenici—REA.
Bumpers—FCS—change assessment to Farm Credit System institutions.
Chiles—ARS Lakeland/Orlando—provide for land sale and use of proceeds.
Quayle/Dodd—strike contact lens language.
Pryor—consulting services.
Hatch—FDA clarifying language on biotechnology demo project.
Melcher—$50,000 for M.S.U. Regional Feasibility Center.
Bingaman—earmark $2,000,000 for human nutrition competitive grant.
Melcher—BARD—$20,000,000.
Ford—direct ES to make daily information on the drought available.
Stevens—land transfers—University of Alaska.
Stevens—percentage of federal money in projects.
Leahy/Lugar—competitive research grants—$9,250,000.
Biden/Sarbanes—more money for financial management.
Bond—higher education—add $2,300,000.
Cohen—WIC vendors.
Boren—University of Oklahoma satellite.
Kennedy-Hatch—FDA blood inspection.
Heflin—Research dollars water management.
Heflin-Shelby—mapping funds.
Leahy—child nutrition.
Kerry—farmer's market.
Bumpers—Delta/PCA.
Byrd—SC project.
Bond—strike REA provision.
Stevens—Community land grants.
Dole—Improves the provision of funds to certain trade centers.
Gramm (TX)—agriculture programs.
Gramm (TX)—Texas A&M—Drought Research Program.
Hecht—building project in Nevada.
Shelby—Northport, Ala., No. 2650.
Dole—International Livestock Program.
Exon—sugar beets.

Mr. BYRD. Mr. President, I wonder if Mr. Bumpers can indicate whether or not we can agree to a time limit on his amendment.

Mr. BUMPERS. Mr. President, I agreed earlier to a 40-minute time limit, equally divided, on a farm credit amendment. Then there is a committee amendment, which is actually an amendment that I had put on in the committee, which was excepted from the committee amendments when they were accepted en bloc, with that one exception.

I understood that Senator Quayle wanted to raise an argument about that. He is not here, and I do not know whether he will be here this evening. I do not care when we do it, because I want to defend that.

I think a 20-minute time agreement on that will be adequate—no more than 30. I am just getting this through staff members. I understand that Senator QUAYLE wants to raise the question of legislation on an appropriation. Perhaps, just for my sake right now, I think I had better say 30 minutes on that.

Mr. BYRD. I make that request, as propounded by the distinguished Senator from Arkansas [Mr. BUMPERS].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, are there committee amendments, also?

The PRESIDING OFFICER. There is one committee amendment still excepted.

Mr. COCHRAN. Mr. President, if the majority leader will yield, there is one amendment that has not yet been agreed to, and it involves the Senator from Arkansas, which he mentioned.

There are a couple of amendments that we know can be offered. I know that Senator COHEN has an amendment that we would recommend be accepted. I do not know whether the majority side has agreed to accept it or not.

Mr. BYRD. That amendment is on the list?

Mr. COCHRAN. Yes, it is.

Mr. BYRD. But there are no committee amendments other than the one?

Mr. COCHRAN. That is correct.

Mr. BYRD. The one committee amendment, Mr. President, in addition to the list I have sent to the desk for enumeration, to be placed in the RECORD. I want to be sure that committee amendment is included.

I add that no motions to recommit, with or without instructions, be in order; that upon the disposition of the aforementioned amendments, the Senate, without further debate, amendment, or action of any kind, proceed to third reading; that following third reading, without any motion, intervening action, or debate, the Senate proceed to final passage and vote immediately.

Mr. BUMPERS. Mr. President, reserving the right to object.

Mr. BURDICK. Mr. President, reserve a place for one technical amendment.

Mr. BYRD. The chairman wishes to have one technical amendment added to the list.

I so request.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, reserving the right to object, and I hope I will not object, there is a possibility I would like to offer a second-degree amendment to the committee amendment.

I did not understand the original unanimous-consent request a moment ago. I did not know if it included the committee amendment or just that farm credit amendment.

Mr. BYRD. Mr. President, the request includes the farm credit amendment of the distinguished Senator from Arkansas and, of course, the committee amendment.

Mr. BUMPERS. Would the leader be willing to save 5 minutes for a second-degree amendment should I decide to offer it?

Mr. BYRD. Yes.

Would the amendment be germane?

Mr. BUMPERS. It will be germane to the committee amendment.

Mr. BYRD. It will deal with the same subject matter?

Mr. BUMPERS. Yes. It really is a striking amendment. It just strikes part of the amendment.

Mr. BYRD. Yes.

I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of H.R. 4784, an act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending Sept. 30, 1989, and for other purposes, the following amendments be the only amendments in order:

Biden/Sarbanes—more money for financial management.

Bingaman—earmark $2,000,000 for human nutrition competitive grant.

Bond—higher education, add $2,300,000.

Bond—Strike REA provision.

Boren—University of Oklahoma satellite.

Bumpers—FCS, change assessment to Farm Credit System institutions, on which there shall be 30 minutes, equally divided.

Bumpers—Delta/PCA.

Bumpers—2nd degree amendment to the committee amendment.

Byrd—SC project.

Burdick—technical.

Cohen—WIC vendors.

DeConcini—WIC, add $30,825,000 with a .7 percent almost across-the-board cut.

Domenici—REA.

Dole—improves the provision of funds to certain trade centers.

Dole—International Livestock Program.

Exon—sugar beets.

Ford—direct ES to make daily information on the drought available.

Gramm—agriculture programs.

Gramm—Texas A&M, drought research program.

Hatch—FDA clarifying language on biotechnology demo project.

Hecht—building project in Nevada.

Heflin—research dollars water management.

Heflin/Shelby—mapping funds.

Kennedy/Hatch—FDA blood inspection.

Kerry—farmers market.

Leahy—child nutrition.

Leahy/Lugar—competitive research grants, $9,250,000.

Melcher—BARD, $20,000,000.

Melcher—$50,000 for MSU regional feasibility center.

Melcher—noxious weeds.

Metzenbaum—orphan product contracts, +$2,000,000.

Quayle/Dodd—strike contact lens language.

Stevens—community land grants.

Stevens—land transfers, University of Alaska.

Stevens—percentage of federal money in projects.

Ordered further, That no amendment in the second degree be in order except the Bumpers amendment.

Ordered further, That no motion to recommit, with or without instructions, be in order.

Ordered further, That upon the disposition of the above listed amendments, without further debate or intervening action or motion, the Senate proceed to third reading, and without any intervening debate, action or motion, the Senate proceed to final passage of the bill.

Mr. BYRD. Mr. President, I thank all Senators.

The Senate will come in tomorrow and begin action on this bill at 9:30.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 908. An act to amend the Inspector General Act of 1978.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3541. An act to redesignate Salinas National Monument in the State of New Mexico, and for other purposes;

H.R. 4726. An act to designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building"; and

H.R. 4741. An act to amend title 38, United States Code, to incease the rates of compensation and dependency and indemnity compensation (DIC) payable to veterans with service-connected disabilities and their survivors, and for other purposes.

At 6:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2213) to require certain telephones to be hearing aid compatible.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5015. An act to provide drought assistance to agricultural producers, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 6:28 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 475. Joint resolution to designate October 1988 as "Polish American Heritage Month".

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. STENNIS).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3541. An act to redesignate Salinas National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4741. An act to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation (DIC) payable to veterans with service connected disabilities and their survivors, and for other purposes; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second times and placed on the calendar:

S. 2662. A bill to remedy injury to the United States textile and apparel industries caused by increased imports.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2424. A bill to authorize appropriations under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes (Rept. No. 100-436).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2140. A bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave bank program for Federal employees, and for other purposes (Rept. No. 100-437).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2561. A bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes (Rept. No. 100-438).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 100-4. Two Conventions: (A) The Convention on Early Notification of a Nuclear Accident, with declaration; and (B) The Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, with declarations; both adopted in Vienna at a Special Session of the General Conference of the International Atomic Energy Agency on September 26, 1986, and signed by the United States on that date (Exec. Rept. No. 100-20).

Treaty Doc. 99-7. An Amendment to Paragraph A.1 of Article VI of the Statute of the International Atomic Energy Agency, as amended, Relating to the Composition of the Board of Governors, which was approved by the Agency's General Conference on September 27, 1984 (Exec. Rept. No. 100-21).

TEXTS OF RESOLUTIONS OF ADVICE AND CONSENT TO RATIFICATION AS REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, done at Vienna on September 26, 1986, subject to the following declarations on the part of the United States of America:

With respect to the Convention on Early Notification of a Nuclear Accident or Radiological Emergency

As provided for in paragraph 3 of article 11, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

With respect to the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

In accordance with paragraphs 3 and 4 of article 2 and paragraph 2 of article 7, the United States declares that reimbursement of costs is among the terms of assistance it may provide unless the United States explicitly specifies otherwise or waives reimbursements.

With respect to any other state party that has declared pursuant to paragraph 9 of article 8 that it does not consider itself bound in whole or in part by paragraph 2 or 3, the United States declares pursuant to paragraph 9 that in its treaty relations with that state the United States does not consider itself bound by paragraphs 2 and 3 to the same extent provided in the declaration of that other state party.

With respect to any other state party that has declared pursuant to paragraph 5 of article 10 that it does not consider itself bound in whole or in part by paragraph 2 or that it will not apply paragraph 2 in whole or in part in cases of gross negligence, the United States declares pursuant to paragraph 5 that in its treaty relations with that state the United States does not consider itself bound by paragraphs 2 to the same extent as provided in the declaration of that other state party.

As provided for in paragraph 3 of article 13, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the acceptance of an amendment to paragraph A.1 of Article VI of the Statute of the International Atomic Energy Agency, as amended, relating to the composition of the Board of Governors, which was approved by the Agency's General Conference on September 27, 1984.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN (for himself, Mr. BRADLEY and Mr. WILSON):

S. 2664. A bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property; to the Committee on Finance.

By Mr. HEFLIN:

S. 2665. A bill for the relief of Ekkehard Bonatz; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. DURENBERGER and Mr. GORE):

S. 2666. A bill entitled the "Global Environmental Protection Act of 1988"; to the Committee on Environment and Public Works.

By Mr. WIRTH (for himself, Mr. JOHNSTON, Mr. BUMPERS, Mr. FOWLER, Mr. MATSUNAGA, Mr. PELL, Mr. MELCHER, Mr. SANFORD, Mr. GORE, Mr. STAFFORD, Mr. BAUCUS, Mr. CHAFEE, Mr. DANFORTH, Mr. BINGAMAN, Mr. INOUYE, Mr. HEINZ, Mr. EVANS and Mr. HARKIN):

S. 2667. A bill to establish a national energy policy to reduce global warming, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HECHT (for himself, Mr. WILSON, Mr. DOLE, Mr. MCCAIN, Mr. REID, Mr. HATCH, Mr. GARN, Mr. DECONCINI and Mr. D'AMATO):

S.J. Res. 353. A joint resolution to designate the period commencing September 25, 1988 ending October 2, 1988, as "National Angel Plane Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 453. A resolution to authorize the use by the Senate of the terrace and grounds on the West Front of the Capitol; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, and Mr. WILSON):

S. 2664. A bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain ex-

penses of producers of creative property; to the Committee on Finance.

TAX TREATMENT OF PRODUCERS OF CREATIVE PROPERTY

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation on behalf of myself and my distinguished colleague from New Jersey, Senator BRADLEY, to clarify that the uniform capitalization rules enacted in the Tax Reform Act of 1986 do not apply to writers, painters, photographers, and other creative artists. This legislation is necessary because a footnote in the conference committee report on the 1986 act has prompted the Treasury Department to take the position that the uniform capitalization rules are intended to require writers and creative artists to capitalize their expenses, and postpone the tax deduction for these expenses until later years as the income from their works is received.

Let me say categorically that Congress never intended that the uniform capitalization rules apply to creative artists. I know that Senator BRADLEY joins me in this view. Indeed, we are not aware that any of our colleagues on the Senate Finance Committee or House Ways and Means Committee argue otherwise.

The uniform capitalization rules were added to the 1986 tax reform legislation in order to better match the expenses of producing property with the income received from its sale. For example, the costs associated with running an auto manufacturing facility must be deducted against the stream of income from the sale of cars—the income forecast, if you will.

Buried on page 308 of the 886-page conference committee report on the legislation—a report which does not have the force of law—is a footnote that the Treasury Department believes means creative artists fall under the uniform capitalization rules. Which is to say that they can no longer deduct on a current basis the expenses they incur in producing creative works. Instead, Treasury argues, writers, painters, photographers, sculptors, composers, and other creative artists must capitalize these expenses—for studio rent, research, insurance, paint, canvas, film, typewriter ribbons, and so forth—and divide and match them with a specific work, to be deducted only as the income from the work is received. Alternatively, creative artists may elect a 3-year capitalization procedure. In either case, however, the deduction for current out-of-pocket expenses must be postponed to later years, with attendant complexity and bookkeeping burdens.

As a writer, I know how dumb it is to ask authors or artists to try to forecast what income they may receive from a given work. In 1963, the M.I.T. Press published Nathan Glazer's and my "Beyond the Melting Pot." It has been in print some 25 years now, and has sold some 350,000 copies. My share of the royalties has come to about $20,000 over the period. Now how on Earth was I supposed to know this—especially given the review in the New York Times—when I made out my income tax return in 1963? The income forecast method works well enough where large numbers are involved. A plant may be designed to produce 25,000 Dodge "Shadows" a year for 10 years. Fair enough. A book, a painting, a piece of sculpture is a onetime event. And we know the science of onetime events is but little advanced.

Senator BRADLEY and I have been working to get a clarification of Congress' intent since this problem arose. Last year, we sponsored a clarifying amendment that was adopted by the Finance Committee in its initial draft of budget reconciliation legislation. The House Ways and Means Committee voted out a similar provision at that time. Unfortunately, though, the budget summit agreement to limit that legislation's tax provisions solely to revenue raising measures caused the amendments to be dropped.

Just recently, the House Ways and Means Committee has voted out a similar provision as part of its technical corrections bill. Senator BRADLEY and I will seek to add the bill introduced today to the Senate Finance version of the technical corrections bill. I urge my colleagues to join us in support of this bill, to insure a speedy resolution of this problem.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN PRODUCERS OF CREATIVE PROPERTY UNDER CAPITALIZATION RULES.

(a) GENERAL RULE.—Section 263A of the Internal Revenue Code of 1986 is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

"(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term 'qualified creative expense' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

"(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) WRITER.—The term 'writer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

"(B) PHOTOGRAPHER.—The term 'photographer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

"(C) ARTIST.—The term 'artist' means any individual if the personal efforts of such indivdual create (or may reasonably be expected to create) a painting, sculpture, statue, drawing, cartoon, graphic design, or original print edition.

"(D) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS—

"(i) IN GENERAL.—In the case of a personal service corporation, this subsection shall apply to any expense of such corporation which directly relates to the activities of the qualified employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—The term 'qualified employee-owner' means any individual who is an employee-owner of the personal service corporation and who is a writer, photographer, or artist, but only if substantially all of the stock of such corporation is owned by such individual and members of such individual's family (as defined in section 267(c)(4)).

"(iii) PERSONAL SERVICE CORPORATION.—For purposes of this subparagraph, the term 'personal service corporation, means any personal service corporation (as defined in section 269A(b)).

"(i) TREATMENT OF CERTAIN FILM PRODUCERS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified film indirect cost if the aggregate amount of such costs paid or incurred by the taxpayer during the taxable year does not exceed $50,000.

"(2) QUALIFIED FILM INDIRECT COST.—For purposes of this subsection, the term 'qualified film indirect cost' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a film producer,

"(B) which is not a direct cost of any motion picture film or video tape,

"(C) which is paid or incurred during the period prior to the actual production of such film or video, and

"(D) which, without regard to this section, would be allowable as a deduction for the taxable year.

"(3) FILM PRODUCER.—For purposes of this subsection, the term 'film producer' means any individual if the personal efforts of such individual produce (or may reasonably be expected to produce) a motion picture film or video tape.

"(4) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS.—If a film producer is a qualified owner-employee (as defined in subsection (h)(3)(D)) of 1 or more personal service corporations (as defined in subsection (h)(3)(D)), this subsection shall apply to any expense of any such corporation which directly relates to the activities of the qualified owner-employee in the same manner as if such expense were incurred by such owner-employee (and all such expenses shall be taken into account in determining whether the $50,000 requirement of paragraph (1) is met)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) RULES TO APPLY FOR SECTION 280.—The rules of subsection (h) of section 263A of the Internal Revenue Code of 1986 (as added by subsection (a)) shall also apply for purposes of section 280 of the Internal Revenue Code of 1986 (as in effect before its repeal by the Tax Reform Act of 1986).

● Mr. BRADLEY. Mr. President, I am pleased to join my distinguished colleague, Senator MOYNIHAN, in cosponsoring this legislation to provide much needed relief to authors and other creative artists from the unfair and burdensome uniform capitalization rules. This bill corrects a problem arising out of the IRS' interpretation of the 1986 tax law. Under the IRS' view, creative artists can no longer deduct the expenses they incur in producing their artistic works but must instead capitalize those expenses and deduct them over a 3-year period.

I oppose the IRS' interpretation. Congress never intended to subject authors and other creative artists to the uniform capitalization rules. This legislation will correct that unfair and unworkable result.●

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. DURENBERGER, and Mr. GORE):

S. 2666. A bill entitled the "Global Environmental Protection Act of 1988"; to the Committee on Environment and Public Works.

GLOBAL ENVIRONMENTAL PROTECTION ACT

● Mr. STAFFORD. Mr. President, yesterday I introduced the Global Environmental Protection Act of 1988. The bill has five titles, and I asked that it be printed in the RECORD in its entirety so that the community which follows the proceedings of the Senate would have available to them the totality of my proposal.

One title of that bill, title IV, would elevate the Environmental Protection Agency to Cabinet status. This title is based on S. 2576, a bill which was introduced several weeks ago by myself and other Senators. Matters of that sort are within the jurisdiction of the Committee on Governmental Affairs, to which S. 2663 was referred for that reason. However, the remainder of S. 2663, is entirely and exclusively within the jurisdiction of the Committee on Environment and Public Works, as the Parliamentarian agrees and has determined.

Having introduced this bill in a form that makes it entirely available to the public and the press and which preserves the prerogatives of the Committee on Governmental Affairs with respect to title IV, the only matter in S. 2664 that is within the jurisdiction of any other committee of the Senate, I am now introducing a modified version. In this bill, title IV has been deleted, thus leaving all matter which it contains exclusively in the jurisdiction of the Committee on Environment and Public Works.●

By Mr. WIRTH (for himself, Mr. JOHNSTON, Mr. BUMPERS, Mr. FOWLER, Mr. MATSUNAGA, Mr. PELL, Mr. MELCHER, Mr. SANFORD, Mr. GORE, Mr. STAFFORD, Mr. BAUCUS, Mr. CHAFEE, Mr. DANFORTH, Mr. BINGAMAN, Mr. INOUYE, Mr. HEINZ, Mr. EVANS, and Mr. HARKIN):

S. 2667. A bill to establish a national energy policy to reduce global warming, and for other purposes; referred to the Committee on Energy and Natural Resources.

NATIONAL ENERGY POLICY ACT

Mr. WIRTH. Mr. President, the purpose of my rising at this point in the evening is to introduce a broad piece of legislation focused on global warming and international policy, a bill which will be S. 2667.

The issue of global warming has become an everyday concern to millions and millions of Americans.

The drought and heat wave that we are going through this summer and that we have been focusing on all day long on the floor of the Senate today is a reminder of what the country and what the world could look like in the future if this global warming trend continues.

There is little question in the scientific community that the globe is getting warmer. The four hottest years since recorded measurements were begun have occurred since 1980. Last year was the hottest year on record and this year is going to break that record unless something extremely unusual happens.

The trends toward climate change and global warming are clear and those trends are closely paralleling the greenhouse theory and the climatic models that have been established in the scientific atmospheric community over the last decade or more.

Scientists predict that average global temperatures could increase by anywhere from 3 degrees centigrade to 8 degrees centigrade by the year 2050.

What does that mean? Is 3 degrees centigrade a great deal? Is 8 degrees centigrade a great deal?

One way to understand that and put it in context is to realize that at the height of the ice age, on average, the climate of the globe was 5 degrees centigrade colder than it is today on average.

Five degrees centigrade colder brought us an ice age during which there was ice 2 miles thick on the North American Continent.

If the globe would have that consequence when it was 5 degrees centigrade colder than today, imagine what the implications would be if it was 5 degrees centigrade warmer.

The implications of this kind of global warming are absolutely staggering. One can stop to think about the agricultural bill which we have been discussing all day long here today. What happens to the most productive agricultural area in the world, our great Farm Belt, the Midwest, becoming dryer and dryer and those great farmlands migrating north very, very rapidly?

What happens when the ice cap, particularly in Greenland, begins to melt and the oceans begin to rise? What happens to the coastlines of this country, low-lying areas all around the globe when sea levels rise? What happens to the outer banks of North Carolina, to Florida, to Louisiana? What happens to our great cities? Eighty percent of our population lives on or near the coast. What happens to water overall?

In my area of the country imagine what happens in the area of water storage projects, water which makes the arid West livable? What happens to the Western ski industry enjoyed by millions of Americans? What happens when global warming occurs?

We may be seeing an aspect of that as well, Mr. President, in the exploding forest fires that we see now at the end of July, a phenomenon of very dry forests that normally occurs much, much later in the year. We are seeing that at an unprecedented rate across the world.

The implications of this are absolutely phenomenal.

This global warming phenomenon is probably the most significant economic, political, environmental, and human challenge of the next decade and well into the next century for all of us.

Without preventive action, the pace of change due to changing weather patterns and rising sea levels will be so rapid that nature and human society will be seriously disrupted.

This is a serious and remarkably complicated problem.

The theory, as I have suggested earlier, is well established. The exact predictions and measurements are not available at this point. We just do not know enough.

Most do agree that we can only experiment with the Earth once and that we must slow down that experiment.

A solution to the problem is further complicated by various constituencies in the United States and overseas. Environmental groups who do not want us to look at the possibility of replacing fossil fuels with any sort of nuclear program, the nuclear industry and nuclear issue overall, which we have had all kinds of troubles with since Three Mile Island, Chernobyl, and so on, possibly has to be readdressed. The coal issue, looking at coal and the relationship of coal to carbon dioxide or fossile fuels and the potential there and, of course, the population issue. Unless we level off the population in the world we are going to have almost no chance at all of catching up and controlling this phenomena of global warming.

Of course, this is enormously complicated internationally as well. We in the United States contribute only a part to this. We are going to have to cooperate and work very carefully not only with the industrialized powers of Europe and Japan, but with the newly emerging nations. The Chinese, for example, embarked upon a very rapid project of industralization depending upon the burning of coal. What are the implications of that for increased and rapidly increased global warming?

How are we going to work with the countries which are the home of the very rich and very important tropical rain forest, countries that have many millions of people who live on a slash and burn economy destroying the rainforest and putting up into the atmosphere the carbon dioxide that results from the burning of those rainforests, much less of course the destruction of that biological diversity.

The legislation which I am introducting today along with a number of my colleagues in the Senate is a first step. This is a very large and comprehensive bill.

This will be accompanied by legislative initiatives from the Committee on Environment and Public Works, the Commerce Committee, and elsewhere.

What we are calling for in the legislation, Mr. President, is a national commitment to a 20-percent reduction in the omissions of carbon dioxide by the year 2000. This is very similar to the call that came out of the Global Warming Conference in Toronto 3 weeks ago.

This means that there has to be a dramatic change in the pattern of energy use in the United States. We have to do much better at energy conservation, especially in the buildings and transportation sectors. We have to look very carefully, particularly at—and I will be offering, along with the bill, an amendment that would go to the issue of increased automobile efficiency, an area in which we can have the greatest impact right away. We have to look at alternative energy programs, solar and renewable, and we have to start again on nuclear to see if we can develop a passively safe and cost-effective nuclear program.

We are going to have to work very hard on natural gas, the least destructive of the fossil fuels, focusing on experiments in natural gas to make sure that those can be used for transportation, for example, and do a lot more in terms of finding what we know are very significant known reserves of natural gas in such areas as geopressurized brine, tight sand formations, and so on.

In the area of rain forest protection, we are going to have to work with countries around the globe to develop sustainable economic models to work with them on forest plans and do everything we can to stop the destruction of rain forests. And that means we have to do that in our backyard, as well, Mr. President, which means that we are going to have to stop the destruction of the last great rain forest in North America, which is the Tongass Forest in southern Alaska.

We have a great deal of work to do in the basic science area as well. We need new initiatives into the basic science of atmospheric research, going to NOAA, NBS, a whole variety of Government agencies and private agencies to better understand what is happening out there.

We have a job to do on population. It is estimated that today we are spending in the world someplace in the neighborhood of $2.5 billion overall on population and that in order to control population and begin to put a lid on that, that figure should be tripled if not quadrupled.

Finally, we have a very big job to do in terms of our institutional arrangements, on the Federal level, on the State level, in government relationships between the Federal Government and State agencies and our international relationships around the world with foreign governments.

All of these aspects are in this broad and comprehensive bill which I am introducing this evening and which has very broad cosponsorship.

As I pointed out, we are working as well with the Committee on Environment and Public Works. Senator STAFFORD has introduced legislation coming out of that committee which he introduced, I believe, last night and we will see a whole variety of initiatives in other committees as well.

Mr. President, as I stated, this is probably the single most important, most challenging economic, environmental, political in many ways, and human challenge that we have faced.

Mr. President, in recent weeks and months a series of events have occurred that, collectively, are changing the way we look at man's relationship to this planet and its fragile atmosphere.

As has been reported in Time, Newsweek, Sports Illustrated, Fortune, and virtually every newspaper and television station in America, the evidence is mounting that the inhabitants of this planet are on a course toward dramatic changes in our world's climate—and that the cause of this change is the "greenhouse effect" caused by the increasing amounts of carbon dioxide and other waste gases we are discharging into the atmosphere.

In June of this year I chaired the most recent hearings held by the Senate Energy and Natural Resources Committee about the greenhouse effect. Dr. James Hansen, the Director of NASA's Goddard Institute for Space Studies, and one of the world's leading atmospheric scientists, testified that according to his studies, we now can say with 99 percent certainty that the greenhouse effect is upon us and that because of it, events such as the North American drought are increasingly likely to occur.

Dr. Hansen's stunning testimony also revealed that the 4 warmest years on record have all occurred during this decade, and that during the first 5 months of this year, the Earth is warmer than it has been during any comparable period since measurements began 130 years ago; 1988 will very likely be the warmest year on record.

It is unlikely that scientists can say with 100 percent certainty that this drought and heat wave is the direct result of the greenhouse effect. But the scientists of the world are sounding an alarm. The evidence is overwhelming that the buildup of greenhouse gases—carbon dioxide, chlorofluorocarbons, methane, nitrous oxide, and tropospheric ozone—is increasing the likelihood of dramatic climate change, of extreme events such as heat waves and drought, and of the even more vexing problems of sea level rise and changing agricultural patterns.

We need look no further than this year's drought to imagine what the implications might be. The drought now ravaging vast segments of the American agricultural community is a case study of a future shaped by global warming. The impacts of today's drought go far beyond agriculture. The Mississippi River has dipped to the lowest point ever recorded, halting the transportation of many goods in the Midwest. In my home State of Colorado the situation is no better—spring runoffs are among the lowest on record and reservoir levels are alarmingly low.

If we put those images in an international context, we can imagine the dramatic changes that could occur for international trade and world relations. The conclusion we must reach is simple and urgent. It is time for the nations of the world to act.

Already, the carbon dioxide and other greenhouse gases man has spewed into the atmosphere may have committed us to a warming of more than 1 degree centigrade. And if current trends continue and those gases double in concentration by the middle of the next century, the best scientific models predict that we are looking at an average global warming of 2.0 to 4.5 degrees centigrade, or more.

Earlier this year, the United Nations released a report on this issue that resulted from conferences held last year. The U.N.'s report found that if current emission trends continue, the most probable rates of global temperature increase and sea-level rise would be about 5 times the rates experienced over the last 100 years. That rate of change would be of a magnitude greater than anything experienced in human history.

This report went on to say that temperature and rainfall changes will vary. The semiarid countries in the low latitudes are likely to suffer from less, more sporadic rainfall—aggravating current drought, famine and fuelwood problems. Temperature increases would be largest in the winters at high latitudes. The midlatitudes—including the United States, could expect warmer summers and midcontinental soil moisture loss.

One month ago, Canada hosted a "World Conference on the Changing Atmosphere" in Toronto. That conference, which included scientists and public policymakers from more than 40 nations, found that global climate change threatens to diminish global food security, change the distribution and availability of fresh water resources; increase political instability; jeopardize prospects of development and the reduction of poverty; accelerate extinction of animal and plant species; and alter the yields, productivity and biological diversity of both natural and managed ecosystems, particularly forests.

It is my belief that global warming is a challenge as compelling and as imperative as nuclear arms control. Unfortunately, we can not negotiate with the climate. Instead, the nations of the world must make choices, unilaterally and collectively, to adapt our behavior in order to have the stable climate on which so much human endeavor depends.

Those choices involve how we generate the energy we use to run our economy, and how we handle the waste products of energy generation and other industrial activities. They also involve how we treat the world's forests and the other parts of the natural systems which help mediate sudden changes in our atmosphere and our climate.

As we in the United States build the foundation for national and international action to combat global warming, it is imperative that we do so based upon a strong coalition between the public and the private sectors. Our history tells us that this kind of cooperation ultimately makes our programs stronger and more successful. There will be opportunities for individuals, corporations and governments to innovate, to mobilize and create new products and to adapt old products and services that will be economically important and promote the good of the global commons and the economic development of all nations.

As we forge unprecedented cooperative efforts between nations and between interests within those nations, our leadership will be tested as perhaps never before. I trust that we will be up to the challenge, and I hope we can act before the crisis or tragedy of further drought, growing starvation, or coastal flooding bring what can be a gruesome message.

Today I am introducing "The National Energy Policy Act of 1988." I am proud to be joined in this initiative by Senator JOHNSTON, the chairman of the Committee on Energy and Natural Resources, whose leadership on this issue has been invaluable by my colleagues from the Committee on Environment and Public Works, Senators BAUCUS, CHAFEE and STAFFORD; and by Senator GORE, who has also been working on this issue for many years; by Senators FOWLER, BINGAMAN, PELL, INOUYE, MATSUNAGA, EVANS, DANFORTH, SANFORD, HARKIN, HEINZ, MELCHER, and BUMPERS.

It is my hope that this bill will begin the change of direction we need to take. It is a complex bill, but with a single, unifying purpose—to aggressively address the problem of global warming.

Slowing the rate of change in our atmosphere is not going to be easy. There is no one solution to this problem. My bill is based on my conclusion that we will need to explore every reasonable alternative, and utilize every reasonable approach, that will help us ameliorate global climate change.

This bill has six major themes, six fronts on which I think we need to move forward if we are to effectively combat global warming. They are:

Setting an overall, national goal of reducing CO_2 emissions by 20 percent over the next 12 years.

Increasing the efficiency with which we use energy. By using energy more efficiently, we can do the same work while burning less fuel and thus creating less carbon dioxide. In the short term, increasing the efficiency with which we use energy may yield us the greatest gains in fighting global warming, in the shortest time.

Efficiency initiatives make sense—not only because they decrease our need for fossil fuels, but because they save energy costs, are necessary to maintain our industrial competitiveness in world markets, and can be an important contribution to reducing our dependence on energy imports.

Minimizing emissions of greenhouse gases by controlling those emissions, by burning fuels more cleanly, and by burning cleaner fuels.

Increasing our knowledge of the greenhouse effect, its consequences, and how we can deal with them. Our insufficient knowledge of the sources and sinks of methane, nitrous oxides and ozone in the lower atmosphere makes it difficult for us to know how best to control these gases. We need to know, more precisely, the nature of the problem we face. And we need to begin seriously thinking about how to deal with the warming we have already experienced.

Increasing research on alternatives to fossil fuels for energy production. We need to rededicate ourselves to efforts to develop the energy sources we will need for the future. That includes solar and renewable energy sources, and a fresh look at nuclear power.

We are spending but a fraction of what we spent a decade ago on renewables, despite the fact that they hold great promise for the future. We are letting other nations take the leadership on developing these technologies, for which there will be a vast market in the future as lesser-developed countries struggle to increase their standards of living.

And we need to do a complete reassessment of the nuclear power option. We need to reorient some of the funding we have been giving to nuclear to see if we can develop modular power reactor designs that are inherently safe, that minimize waste problems, and that can meet the necessary test of cost-effectiveness.

Working with the other nations of the world to combat global warming. The industrialized nations need to join together in this battle. And we need to work with the lesser developed nations to halt the devastating rise in tropical deforestation. Millions of acres of tropical forest are cleared each year, never to return to forest. Growing forests turn carbon dioxide into biomass—the destruction of forests greatly exacerbates the global warming problem.

Furthermore, we need to help the world's poorer countries to control the explosive growth in their population. Half the world's people depend on biomass—principally firewood—for energy, and the majority of that group are cutting wood faster than it can grow back, creating a deadly cycle of poverty and deforestation.

I believe we need to examine all of these issues in order to develop the type of comprehensive approach we will need to be able to deal effectively with this global problem. As the Senate looks at this legislation, I hope that we will approach these proposals with open minds and a clear sense of the importance of this issue, and that we will examine all other ideas that are brought before us in an equally open-minded manner.

Mr. President, today I am also introducing an amendment calling for improvement in the fuel efficiency of

America's automobiles and other motor vehicles. Motor vehicles are responsible for 50 percent of all the carbon dioxide generated released into the atmosphere in this country by human activities. That is a segment of the problem which we cannot ignore. Not all of the cosponsors of the larger bill agree as to how much we need to increase the efficiency of our vehicle fleet, or how best to accomplish such an increase. That is a question, however, that I feel we must address as we begin the process of hearings and discussion on this legislation.

The implications of global warming are enormous. How we deal with this challenge may determine, as much as how we deal with the threat of nuclear war, whether our children and grandchildren inherit a liveable world. Last year, one of our witnesses told us:

> The inhabitants of the planet Earth are quietly conducting a gigantic experiment. So vast and so sweeping will be its impacts that were it brought before any responsible council for approval, it would be firmly rejected as having potentially dangerous consequences. Yet the experiment goes on with no significant interference from any jurisidiction or nation.

We must summon our collective resources to develop strategies for the nations of the world to instigate that "significant interference." We are entering a new age, in which issues that strike to the very future of life on this planet will have to be addressed.

It is essential for us to clearly state the risks which now confront us and to lay out a responsible, coherent, comprehensive response to those risks. And we must do it now. The bill I am introducing today is an important starting point for this process, in which I hope all of my colleagues will join.

Mr. President. I ask unanimous consent to have printed in the RECORD the text of the legislation, the text of the automobile fuel efficiency standards amendment, a cost analysis of the authorizations requested in the legislation, a brief summary of that legislation, and finally a superb piece authored by Philip Shabecoff from the New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2667

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be referred to as the "National Energy Policy Act of 1988."

(b) TABLE OF CONTENTS.—

Title I. National Energy Plan
Title II. Office of Climate Protection
Title III. Energy Efficiency
Title IV. Energy Research and Development Priorities
Title V. State Energy Conservation Program
Title VI. Renewable Energy
Title VII. Advanced Civilian Reactor Programs
Title VIII. Fusion
Title IX. Coal
Title X. Natural Gas
Title XI. Northeast Natural Gas Pipeline Capacity
Title XII. Natural Resource Policy
Title XIII. Basic Science Initiatives
Title XIV. Development Assistance
Title XV. International Activities
Title XVI. Moderating World Population Growth

SEC. 2. FINDINGS AND PURPOSES.—

(a) FINDINGS.—The Congress finds that:

(1) The earth's atmosphere is being altered by the generation of carbon dioxide and other trace gases (methane, tropospheric ozone, chlorofluorocarbons, and nitrous oxide);

(2) These gases are, in large part, the result of human activities including the widespread use of fossil fuels, population growth, deforestation, agricultural practices, and use of chlorofluorocarbons;

(3) Current scientific understanding predicts that continued alteration of the global atmosphere will cause widespread temperature extremes and sea level rise which will, in turn, have serious implications for the earth's ecosystems, agricultural production, water supply, human health, wetlands, and climate;

(4) Shifts in regional precipitation, growing seasons, sea level, and possible increases in the severity and frequency of storms and hurricanes will cause major disruptions in the economic, political, social, and ecological systems of all nations;

(5) Energy and natural resources policies must be designed to reduce carbon dioxide and trace gas generation including reduction in the combustion of fossil fuels through energy efficiency, fuel switching, and conservation; use of safe nuclear, innovative clean coal and renewable energy technologies; and reforestation policies;

(6) In the near-term, increasing the nation's energy efficiency can make the largest and least costly contribution to reducing carbon dioxide and trace gas production and reliance on imported oil;

(7) Development of affordable solar energy technologies, particularly solar photovoltaics, promises to provide major new means of energy production and use that can reduce dependence on fossil fuels;

(8) Policies are urgently needed for reducing deforestation and increasing reforestation; and for promoting economic growth and development through sustainable development at the national and international levels;

(9) Insofar as some degree of further atmospheric change is inevitable, the Federal Government must take immediate steps to devise and implement adaptive strategies for coping with the environmental and economic impacts of climate change; and

(10) Adoption and implementation of these energy and natural resources policies will help promote national and international economic growth and development, achieve a secure energy supply, and protect the national and global environment.

(b) PURPOSES.—The overall purpose of this Act is to establish a national energy policy that will reduce generation of carbon dioxide and trace gases as quickly as is feasible in order to reduce to the maximum extent practicable, risks associated with an atmospheric warming and global climate change. The specific purposes are:

(1) to require the Secretary of Energy, hereinafter referred to as the "Secretary ", to prepare a least-cost National Energy Plan;

(2) to establish an Office of Climate Protection in the Department of Energy;

(3) to provide for the establishment and financing of energy efficiency research and development projects;

(4) to establish criteria to be used by the Secretary to determine priorities in energy research and development and, to consider global climate change in all research and development policies;

(5) to require states to update their energy conservation plans and establish new targets for conservation;

(6) to develop solar, fuel cell, hydrogen, and other renewable energy technologies;

(7) to provide for the establishment and financing of an advanced passively safe nuclear reactor demonstration project;

(8) to provide for the preparation of a comprehensive report on research, development and demonstration technology for the production of electricity from thermonuclear fusion;

(9) to provide for the preparation of a comprehensive report on the Clean Coal program's implications for global climate change;

(10) to provide financial assistance for demonstration projects for natural gas-powered vehicles;

(11) to expedite final FERC approval of new natural gas pipelines to serve markets in the Northeast U.S.;

(12) to study the natural resources that would be affected by global climate change;

(13) to expand financial support for ongoing and new research initiatives at NOAA, NASA, NSF, and NBS;

(14) to require an interagency study of the contribution international deforestation and reforestation play in global climate change;

(15) to call for the convening of international conferences on nuclear power, an international agreement on NOX, a strengthening of the Montreal Protocol, and a special office at UNEP and WMO to monitor global carbon dioxide production; and

(16) to address world population growth by establishing a policy and providing financial assistance for international family planning and information services.

SEC. 3. NATIONAL GOAL—The Congress hereby establishes as national goals—

(a) that the introduction into the atmosphere of CO_2 from the United States of America shall be reduced from 1988 levels by at least 20 percent by the year 2000 through a mix of federal and state energy policies that are designed to mitigate the costs and risks, both economic and environmental, associated with meeting national energy needs while reducing the generation of carbon dioxide and trace gases and sustaining economic growth and development; and

(b) the establishment of an International Global Agreement on the Atmosphere by 1992.

TITLE I—NATIONAL ENERGY PLAN

(a) Not later than 18 months after the enactment of this Act, the Secretary, and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Interior shall prepare and after public review and comment transmit to Congress a "Least-Cost National Energy Plan" for meeting the national goal set out in Section 3 of this Act.

For purposes of the Plan, (1) "energy resources" shall be defined as those sources of additional energy supply involving either the production of additional energy or additional improvements in the efficiency of energy processing and end use. (2) "Cost-effective" shall be defined as those resources projected to be reliable and available within a needed time frame, and that could be used to meet anticipated energy needs at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof. (3) "System costs" shall be defined as all direct costs of a resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, also including among other factors, waste disposal costs and fuel costs (including projected increases), and such quantifiable environmental and national security costs and benefits as the Secretary determines are directly attributable to such resources. (4) "Estimated incremental system cost" of any conservation resource shall not be treated as greater than that of any other resource unless the incremental system cost of such conservation resource is in excess of 110 per centum of the incremental system cost of the other resource.

(b) The Plan shall include—

(1) an assignment of the priorities among energy resources that the Secretary determines to be cost-effective, according to their impact on the global climate;

(2) a range of national energy demand forecasts for the short-, medium-, and long-term (at least 50 years), reflecting plausible high and low economic growth scenarios, and assuming no improvements in current average efficiencies of energy use in new buildings, machines, and vehicles;

(3) A comprehensive inventory of resource availability and system cost, taking into account all sectors of energy use and production which shall include but not be limited to—

(i) coal, including clean coal technologies and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency and end use, as well as the potential of further research and development;

(iii) efficiency improvements and technological gains in electrical energy generation and transmission and energy extraction;

(iv) other alternative energy sources such as renewable resources, solar, nuclear fission, nuclear fusion, geothermal, and hydroelectric power; and

(v) improvements in the fuel efficiency of automobiles and light trucks.

(4) Targets for the cost-effective resource acquisitions that will be needed to ensure that the nation can meet short-, medium-, and long-term energy needs without exceeding the national goal for carbon dioxide generation;

(5) A Two-Year Action Plan for meeting the Plan's resource acquisition targets, including, but not limited to, all practicable actions within the Secretary's and other federal agencies' current legislative authority;

(6) A Research and Development Plan for investigating promising but unproven technologies identified in the planning process as potentially significant future contributors to meeting the Plan's goals;

(7) Recommendations for any new federal legislation that may be needed to meet the Plan's goals, including estimates of accompanying carbon dioxide and trace gases generation;

(8) Recommendations for any new state agency or legislative actions that are needed to meet the Plan's goals, and for any new federal policies that are needd to encourage such actions, including estimates of accompanying carbon dioxide and costs impacts of such actions.

(c) Immediately following submission to Congress of the Least-Cost National Energy Plan, the Department of Energy shall implement the provisions of its Action Plan to the maximum extent practicable; and

(d) The Plan, its Action Plan, and its Research and Development Plan shall be revised and resubmitted to the Congress every two years.

TITLE II—OFFICE OF CLIMATE PROTECTION

Sec. 201. In order to elevate the priority attached to climate change considerations within the Department of Energy, there is hereby established the Office of Climate Protection. The Director of the Office shall be appointed by the President, by and with the consent of the Senate, and shall report directly to the Deputy Secretary. This office shall be responsible for:

(a) the Department of Energy's participation in studies, environmental assessments and other work being conducted by the various domestic and international agencies involved in global climate change analysis; and

(b) monitoring United States' energy policies for atmospheric and global warming effects and reporting on these effects annually.

TITLE III—ENERGY EFFICIENCY

Subtitle A

Sec. 301. The Secretary in conjunction with appropriate Federal agencies shall—

(a) give a high priority to improvements in energy efficiency in Departmental planning, research and development programs, private assistance programs, and to improvements in buildings and equipment of the Department;

(b) submit to Congress within one year after the enactment of this title, and every three years thereafter, a report evaluating the policy options that would be necessary to produce a decrease of two through four per centum per year in the energy use per unit of GNP in the United States through the year 2005. These policy options and programs shall be ranked according to their cost effectiveness.

Sec. 302. (a) The President's budget request for fiscal years 1990 through 1992 shall include the Secretary's recommendations of amounts to be set aside for new initiatives in energy efficiency research and development. Funds made available for new initiatives shall supplement and not supplant funds available to complete on-going energy efficiency research and development projects supported in whole or in part by the Secretary during the fiscal year 1989. Funds made available for new initiatives shall be used by the Secretary to support the most promising and deserving new ideas in energy efficiency research and development brought to the attention of the Secretary during the previous fiscal year.

(b)(1) There is hereby authorized to be appropriated to the Secretary for the energy efficiency research and development programs of the Secretary, an amount not to exceed $209,147,000 in fiscal year 1990, of which $6,000,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $65,460,000 of which $2,000,000 shall be made available for new initiatives;

(B) for industrial energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $46,740,000, of which $1,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $58,100,000 of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $37,050,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy efficiency research and development policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $1,797,000.

(2) There is hereby authorized to be appropriated to the Secretary for the energy efficiency research and development programs of the Secretary, an amount not to exceed $253,000,000 in fiscal year 1991, of which $7,000,000 shall be available for new initiatives as set forth below:

(A) for transportation energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $84,000,000, of which $3,000,000 shall be made available for new initiatives;

(B) for industrial energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $45,000,000 of which $1,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $55,000,000 of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $64,000,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy efficiency research and development policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $5,000,000.

(3) There is hereby authorized to be appropriated to the Secretary for the energy efficiency research and development programs of the Secretary, an amount not to exceed $301,000,000 in fiscal year 1992, of which $8,000,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $98,000,000, of which $3,000,000 shall be made available for new initiatives;

(B) for industrial energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $50,000,000, of which $2,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed

$65,000,000, of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy efficiency research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $83,000,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy efficiency research and development policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $5,000,000.

SEC. 303. (a) As used in this section and in section 304 the term "joint research and development venture" has the meaning given such term in the National Cooperative Research Act of 1984 (98 Stat. 1815).

(b)(1) The Secretary shall solicit proposals in accordance with the provisions of this section for joint research and development ventures for the commercial demonstration of energy efficiency technologies that show significant promise for cost-effective commercial application and that can contribute significantly to reducing the rate and scope of carbon dioxide and trace gas generation. Each joint research and development venture under this section shall include manufacturing firms, investors, and such other participation as the Secretary deems appropriate to achieve the purposes of this section.

(2) Not later than 120 days after the date of the enactment of this section the Secretary shall publish plans to implement this section, provide opportunity for public comment on such plans, and report to Congress on the plans.

(3)(A) Not later than one year after the date of the enactment of this subsection the Secretary shall issue a general request for proposals under this subsection. Such general request shall contain a description of the criteria the Secretary will use in awarding financial assistance under this subsection. The primary such criterion shall be the probability of significant near-term impact of the proposal on the rate of carbon dioxide and trace gas generation. The secondary criterion shall be the probability of significant near-term impact of the proposal on reduction of oil imports. The Secretary may include such other criteria as the Secretary finds appropriate, including the net cost under the proposal in Federal financial assistance and the likelihood of early commercial application of technology demonstrated under the proposal.

(B) Proposals shall be submitted to the Secretary within 120 days after such general solicitation is published in the Federal Register.

(C) The Secretary shall not provide federal financial assistance for more than 50 per centum of the costs of any proposal under this subsection as estimated by the Secretary at the time of acceptance of such proposal. For purposes of this subsection, other federal funds, existing facilities, equipment and supplies, and previously expended research and development funds are not cost sharing.

(4) The Secretary shall issue general requests for proposals under this subsection on the first and second anniversaries of the issuance under paragraph (3).

(5)(A) The Secretary may provide technical assistance to persons developing proposals under this subsection.

(B) The Secretary may provide technical and financial assistance in accordance with this subsection to proposals that have been accepted by the Secretary under this subsection.

(C) There is authorized to be appropriated to the Secretary for purposes of this subsection not more than $50,000,000 for each of the fiscal years 1990, 1991, and 1992, such amounts to remain available until expended.

SEC. 304. (a) The Secretary shall establish and provide financial assistance to joint research and development ventures with such specialized private firms and investors as the Secretary deems appropriate in order to establish at least five regional centers for energy-intensive industries. The centers shall conduct basic and applied research and development on common industrial processes. The centers shall focus their efforts on changes to industrial processes that may result in improved energy efficiency. The centers may also conduct research on other improvements of benefit to industry so long as energy efficiency improvements are an integral part of that research. In locating the regional centers under this section, the Secretary shall consider regional differences in manufacturing use of fossil fuels, employment and economic activity.

(b) The regional centers under this paragraph shall carry out research and development efforts to reduce the production of CO_2 and trace gases into the atmosphere by improving the quality and energy efficiency of industrial processes.

(c) The research and development strategy under this paragraph shall be guided by—

(1) a detailed characterization of the needs of domestic manufacturing industries;

(2) a close working relationship with all sectors of the domestic manufacturing industry; and

(3) coordination among the centers to pool and conserve resources.

(d) There is authorized to be appropriated to the Secretary $5 million for fiscal year 1990, $15 million for fiscal year 1991, and $25 million for fiscal year 1992. Industries for which the centers are established shall contribute matching funds starting in 1991.

SEC. 305. (a) As used in this section, the term "Federal building" has the meaning given such term in section 521 of the National Energy Conservation Policy Act and includes facilities used in connection with such Federal building.

(b)(1) The Secretary shall establish a Federal Energy Analysis Team to analyze, and make recommendations with respect to energy efficiency and the use of renewable energy in, specific Federal buildings selected by the Secretary under this section. The Team shall be made up of individuals—

(A) engaged in research on energy efficiency or the use of renewable energy in buildings at the National Laboratories of the Department of Energy; and

(B) nominated by the Secretary of Defense, the Administrator of the General Services Administration and the Director of the National Bureau of Standards, respectively, on the basis of their expertise in energy efficiency and the use of renewable forms of energy in buildings. Persons who serve on the Team shall be transferred to the Team for purposes of this section without loss of salary or benefits.

(2) The Team shall conduct an analysis of energy use in Federal buildings designated by the Secretary under paragraph (3) to determine the potential for the use of renewable forms of energy and for improved energy efficiency in such buildings and make recommendations for cost-effective renewable energy and energy efficiency improvements in such buildings. For purposes of this section an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the life or remaining term of lease of the building.

(3) The Secretary shall designate buildings to be analyzed by the Team so as to obtain a sample of buildings of the types and in the climates that is representative of the Federal buildings owned or leased by Federal agencies in the United States that consume the major fraction of the energy consumed in Federal buildings.

(4) The Secretary shall submit a plan for implementing this subsection to Congress within six months after the date of the enactment of this section.

(5) The Team shall report its findings and recommendations based on the analyses carried out under paragraph (2) to the Secretary and to the head of the agency owning or leasing each building analyzed within eighteen months after the date of the enactment of this section.

(b)(1) The Secretary shall use the results of the analyses under subsection (a) to develop goals for 1995 for energy efficiency and the use of renewable energy in Federal buildings generally and in the categories identified by the Secretary under subsection (a)(3). Goals developed under this subsection shall be submitted to Congress within twenty-four months after the date of the enactment of this section.

(2) Any agency that chooses not to implement promptly the recommendations of the Team with respect to a Federal building analyzed under subsection (a)(2) shall provide Congress with a written explanation of the reasons for such choice.

(3) Any agency that implements the recommendations of the Team with respect to a Federal building analyzed under subsection (a)(2) may retain for purposes of furthering the objectives of the agency one half of the dollar savings realized as a result of such recommendations. The Secretary shall consult with the heads of the appropriate Federal agencies to insure that the maximum dollar savings under this section are realized.

(c) There is hereby authorized to be appropriated to the Secretary for purposes of carrying out this section $2,500,000.

SEC. 306. REPEAL OF PROHIBITIONS ON SUPPLY AND INSTALLATION OF RESIDENTIAL ENERGY CONSERVATION MEASURES BY UTILITIES.—Section 216 of the National Energy Conservation Policy Act (42 U.S.C. 8217) is repealed and subsequent sections are renumbered accordingly.

SEC. 307. HOME ENERGY EFFICIENCY RATINGS.—Title II of the National Energy Conservation Policy Act is amended by adding a new Part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"SEC. 271. (a) Within 12 months after the date of the enactment of this section the Secretary in consultation with the Secretary of Housing and Urban Development shall by rule promulgate guidelines for regulations to be formulated and implemented by State government that would require the assignment of an energy efficiency rating to residential buildings.

"(b) The rule under subsection (a) shall—

"(1) provide for a numerical rating of the efficiency with which any residential building may be supplied with heating and cooling energy on an annual basis, and evaluate the practicality of including major energy consuming appliances in such rating;

"(2) provide that all residential buildings receive a rating at time of sale;

"(3) ensure that the rating is prominently communicated to potential buyers and renters; and

"(4) ensure that the rating system is designed to facilitate its use by the secondary mortgage markets to promote energy efficiency.

"(c) For purposes of the rule under subsection (a) supply of energy to any residential building from the level of the contribution of renewable sources shall not result in a reduction in the energy efficiency rating of such building.

SEC. 272. (a) After October 1, 1990, no State is eligible to receive funds appropriated under section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) unless an energy efficiency rating substantially similar to that provided for in the model regulation under section 271 (a) has been adopted by law or regulation by such State.".

SEC. 308. ENERGY EFFICIENCY STANDARDS FOR INCANDESCENT AND FLUORESCENT LAMPS.—Part B of Title III of the Energy Policy and Conservation Act, as amended, is further amended—

(a) in section 322(a) by striking paragraph (14) and inserting in lieu thereof new paragraphs (14), (15), and (16) as follows:

"(14) Incandescent Lamps.

"(15) Fluorescent Lamps.

"(16) Any other type of consumer product that the Secretary classifies as a covered product under subsection (b).",

(b)(1) in section 324(a)(1) by inserting after the phrase "through (12)", "(14) and (15)"; and

(2) in the remaining provisions of section 324 by striking the phrase "paragraph (14)" everywhere it appears and inserting in lieu thereof the phrase "paragraph (16)".

(c)(1) in section 325(i) by striking the phrase "paragraph (14)" everywhere it appears and inserting in lieu thereof the phrase "paragraph (16)".

(2) by adding at the end of subsection 325(i) a new paragraph (4) as follows:

"(4) The Secretary, before January 1, 1990, shall prescribe an energy conservation standard for each of the covered products specified in paragraphs (13) and (14) of section 322(a). Concurrent with the Secretary's prescription of such standards the Secretary shall also prescribe test procedures."

SUBTITLE B

Amendment to Public Utility Regulatory Policies Act of 1978.

SEC. 309. DEFINITIONS.—Section 3 of the Federal Power Act, as amended, (16 U.S.C. 796 *et seq.*) is further amended by inserting the following definitions after the definition of "qualifying cogenerator" and renumbering the definitions accordingly:

"(19)(A) 'qualifying conservation' means any reduction at any time in the demand for electric energy by the customers of a utility, which reduction—

"(i) would not occur but for payments received by a qualifying conservation entity; and

"(ii) the Commission determines, by rule, meets such requirements as the Commission may, by rule, prescribe;

"(B) 'qualifying conservation entity' means a person who—

"(i) the Commission determines, by rule, meets such requirements as the Commission may, by rule, prescribe;

"(ii) is not primarily engaged in the generation or sale of electric power (other than electric power from cogeneration facilities or small power production facilities);".

SEC. 310. PURCHASES OF QUALIFYING CONSERVATION BY UTILITIES.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3), as amended, is further amended by—

(a) inserting the following new subsection after subsection (a) and relettering the remaining subsections accordingly:

"(b) CONSERVATION RULES.—Not later than 1 year after the date of enactment of this subsection, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage the achievement of qualifying conservation. Such rules shall require electric utilities to offer to purchase qualifying conservation from qualfiying conservation entities under such terms as the Commission may prescribe and shall include provisions concerning verification of the achievement of qualifying conservation. Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments.";

(b) striking subsection (b) and inserting the following in lieu thereof:

"(c) RATES FOR PURCHASES BY ELECTRIC UTILITIES.—The rules prescribed under subsections (a) and (b) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, or to purchase qualifying conservation from a qualifying conservation entity, the rates for such purchase—

"(1) shall, in the case of purchases from qualifying cogeneration facilities and qualifying small power production facilities, be just and reasonable to the electric consumers of the electric utility;

"(2) shall be in the public interest; and

"(3) shall not discriminate against qualifying cogenerators, qualifying small power producers, or qualifying conservation entities. No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy. Rules prescribed under subsection (b) shall give state regulatory authorities and nonregulated electric utilities the option of restricting the rate paid for qualifying conservation to an amount no greater than:

(1) the incremental cost of alternative electric energy; or

(2) the amount by which the incremental cost of alternative electric energy exceeds the price for the generation of electric energy paid by the customers whose demand for electric energy is reduced as a result of qualifying conservation."; and

(c) adding the following at the end of subsection (d): "The term 'incremental cost of alternative electric energy' means, with respect to purchases of qualifying conservation from qualifying conservation entities, the cost to the purchasing electric utility of the electric energy which, but for the purchase from such conservation entity, such utility would generate or purchase from another source.".

SEC. 311. CONFORMING CHANGES.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3), as amended, is further amended—

(a) in subsection (f) by striking "subsection (a) of this section or revised under such subsection" in each place it appears and substituting "subsections (a) or (b) of this section or revised under such subsections" in lieu thereof;

(b) in subsection (g) by striking "subsection (a)" and substituting "subsections (a) or (b)" in lieu thereof;

(c) in subsection (g) by striking "or qualifying cogenerator" and inserting "qualifying cogenerator, or qualifying conservation entity" in lieu thereof;

(d) in paragraph (2) of subsection (h) by striking "or qualifying small power producer" and substituting "qualifying small power producer, or qualifying conservation entity" in lieu thereof;

(e) in subsection (j) by striking "and 'qualifying cogenerator'" and substituting "'qualifying cogenerator,'" 'qualifying conservation', and 'qualifying conservation entity'" in lieu thereof; and

(f) in subsection (j) by striking "3(17) and 3(18)" and substituting "3(17), 3(18) and 3(19)" in lieu thereof.

TITLE IV—ENERGY RESEARCH AND DEVELOPMENT PRIORITIES

SEC. 401. The Secretary of Energy shall establish priorities, using the following criteria in order of importance, for research and development programs:

(1) potential to reduce generation of carbon dioxide and trace gases sooner than alternative projects;

(2) the projected cost effectiveness of the energy ultimately to be produced or saved, including an evaluation of the likelihood of success of the research;

(3) the environmental and public health impacts of the energy ultimately to be produced or saved by the specific research;

(4) the national security impact of the energy produced or saved, including its projected reduction of oil imports and contribution to the diversity of the fuel mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or restoring technical leadership in the area of renewable energy technologies;

(6) the impact of given research in the area of fundamental scientific inquiry; and

(7) the impact of the research on special or targeted populations, including low-income or aged persons.

TITLE V—STATE ENERGY CONSERVATION PROGRAM

SEC. 501. UPDATE OF STATE ENERGY CONSERVATION PLANS.—Section 362(a) of the Energy Policy and Conservation Act (42 U.S.C. 6322(a)) is amended by adding at the end of paragraph (1) the following:

"a reduction of 10 percent or more in the total amount of energy consumed in such State in the year 2000 from the projected energy consumption for such State in the year 2000; and"

SEC. 502. INTEGRATED ENERGY PLANNING.—Section 361(b) of the Energy Policy and Conservation Act (42 U.S.C. 6321) is amended by adding at the end thereof the following: "It is also the purpose of this part to encourage the States to develop a comprehensive energy plan that will balance the energy needs of the States with the acquisition of cost-effective energy resources and to integrate energy planning and management in order to achieve the goal of increased energy efficiency.".

SEC. 503. ADDITION OF ENERGY EMERGENCY PLANNING; AND INTERGOVERNMENTAL COORDINATION; AND CONSOLIDATION OF ENERGY EXTENSION SERVICE.—Section 362(c) of the

Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(a) in paragraph (4) by striking the word "and" after the semicolon;

(b) in paragraph (5) by striking the period and inserting a semicolon; and

(c) by adding at the end thereof the following:

"(6) an energy emergency planning program for an energy supply disruption which shall include a specific implementation strategy and regional coordination and may include planning for oil, electricity, natural gas, coal, and nuclear power supply and delivery disruptions; and

"(7) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting the State, including, but not limited to, any program administered within the Office of State and Local Assistance Programs of the Department of Energy as of December 31, 1987, and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services; and other similar programs that may be administered by these or other agencies; and

"(8) programs to implement the functions of Energy Extension Service, as provided by law on the day before the date of enactment of this title which shall—

(A) include programs for identification, development, and demonstration of energy efficiency opportunities, techniques, materials, and equipment, including opportunities, techniques, or methods responsive to local needs or resources, and alternative energy technologies such as, but not limited to, soloar heating and cooling, for agricultural, commercial and small business operations, individual energy consumers, and new and existing residential, commerical, and agricultural buildings or structures;

(B) provide for technical assistance, instruction, information, dissemination, and practical demonstrations in energy efficiency opportunities;

(C) provide, to the extent possible within the personnel and funding limitations, an active interface with end use energy consumers at the local level for the purpose of offering active outreach assistance and affording a communication channel for end user technology requirements; such outreach assistance shall be provided by means of such appropriate local offices, including metorpolitan offices, county agents and technical staff assistants, and may be required to provide energy extension services;

(D) make optimum use of existing outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, college or other organization's programs for energy information, education, or technology transfer which have objectives similar to those of this section and activities similar to those specified in this Part; and

(E) establish and implement policies and procedures designed to assure that assistance provided under this title does not replace or supplant the expenditure of other Federal, State or local funds for the same purposes, but instead supplements such funds and increases the expenditure of such State or local funds to the maximum extent possible.

SEC. 504. ADDITIONAL OPTIONAL PROGRAMS; AND INCORPORATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN INTO OPTIONAL STATE ENERGY CONSERVATION PLAN.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(a) in paragraph (4) by striking "and" after the semicolon;

(b) in paragraph (5) by striking the period and inserting a semicolon; and

(c) by adding at the end thereof the following:

"(6) financing for energy efficiency and renewable energy capital investments, projects and programs—

(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates or grants for the purchase and installation of energy efficient and renewable energy measures; and

(B) may be used in public or non-profit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 subject to the condition that a State may limit program eligibility to such organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 as it may specify;

"(7) programs for the transfer of the technologies resulting from research and development in energy efficiency and renewable resources;

"(8) programs to accelerate the use of alternative transportation fuels, such as CNG, ethanol, biomass, and electric, for state government vehicles, taxis, mass transit and privately-owned vehicles; and

"(9) programs and procedures to carry out a continuing public education effort to increase public knowledge of—

(A) energy and/or cost savings which are likely to result from the implementation of energy efficiency measures and renewable resource energy measures; and

(B) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of energy, including energy conservation measures and renewable resource energy measures;

"(10) procedures for encouraging and for carrying out energy audits with respect to all buildings, facilities, and processes within the State;

"(11) a program within the State for the purpose of preventing any unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures;

"(12) procedures for verification of the purchase, installation, and actual cost of energy efficiency measures and renewable resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-8) or section 451 of the Energy Conservation and Production Act;

"(13) programs to initiate and further the adoption of integrated energy planning methodologies which provide for:

(A) periodic evaluation of energy needs, resource availability, and cost; and

(B) utilization of reliable energy supplies that meet applicable safety, environmental, and policy requirements, and that result in the lowest cost.".

"(14) programs to permit each State to establish a technical support institute to be designated by the Governor of that State—

(A) the purpose of which shall be to assist in implementation of State energy efficiency programs;

(B) which shall provide such analyses and technical support as is necessary for effective State energy efficiency programs.".

(b) ELIMINATION OF SSECP.—Section 367 of the Energy Policy and Conservation Act (42 U.S.C. 6327) is repealed.

(c) ELIMINATION OF EES.—The National Energy Extension Service Act (title V, Public Law 95-39) is repealed.

SEC. 505. AUTHORIZATION.—Section 365(f) of the Energy Policy and Conservation Act (U.S.C. 6325) is amended by inserting the following new text: "There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal years 1989, 1990, 1991, and 1992."

SEC. 506. STATE ENERGY ADVISORY BOARD.—Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end thereof the following:

"(g)(1) There is herby established a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board'), which shall consist of not less than 10 nor more than 15 members appointed by the Secretary. Not less than one-half of the members of the Board shall be persons who serve as Directors of the State agency, or division of such agency, which is responsible for developing State energy conservation plans pursuant to section 362. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, and research institutions. One member of the Board shall be appointed from each of the ten Department of Energy Regions, as such Regions exist as of December 31, 1987.

"(2) The Secretary shall designate one of the members of the Board to serve as its chairman, and one of the members of the Board to serve as vice-chairman, and shall provide the Board with such services and facilities as may be necessary for the performance of its functions. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(3) The Board shall be nonpartisan.

"(4) The Board may adopt administrative rules and procedures, and may elect one of its members Secretary.

"(5) The Secretary shall reimburse members of the Board for the full amount of any expenses (including travel expenses) necessarily incurred by them in the performance of their duties as such.

"(6) The Board shall—

"(A) recommend programs or changes to State and Federal energy policies in order to achieve the objectives of this part;

"(B) carry on a continuing review of the research and development and technology transfer activities of the Department with respect to energy efficiency and renewable resources;

"(C) encourage technology transfer of the results of such research and development activities;

"(D) serve as a liaison between the States and the Department on energy efficiency; and

"(E) advise the Assistant Secretary for Conservation and Renewable Energy, the Director of the Office of State and Local Assistance Programs, and the Director of the Building and Community Systems Office with respect to such recommended improvements.

"(7) The Board shall meet and report at least annually to the Secretary and the Congress on the Status of the program under this part, including any recommendations it may have for the administrative or legislative changes to improve its operation.".

SEC. 507. GRANTS FOR PROJECT COSTS AND TECHNICAL ASSISTANCE.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects including loan programs and performance contracting.".

SEC. 508. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.—

(a) ADMINISTRATIVE COST LIMITS.—Subsection (a) of section 415 of the Energy Conservation and Production Act is amended—

(1) in the second sentence by striking "administrative purposes" and inserting "direct administrative purposes"; and

(2) by adding at the end thereof the following: "At least an amount equal to 80 percent of the administrative costs incurred with respect to any grant made by the Secretary under this part shall be available to subgrantees performing program measures and to assure that subgrantees with small programs have adequate administrative funding.".

(b) WAIVER OF 40 PERCENT REQUIREMENT.—Subsection (a) of section 415 of the Energy Conservation and Production Act is amended—

(1) in the first sentence by striking out "An average" and inserting "(1) Except as provided in paragraph (2), an average"; and

(2) by adding at the end thereof the following:

"(2)(A) The Secretary may approve a State application to waive the 40 percent requirement established in paragraph (1) if the State includes in the State's plan—

"(i) an energy evaluation or audit which establishes priorities for selection of weatherization measures based on their contribution to energy efficiency; and

"(ii) a standard for determining whether to invest in individual measures based on rate of return to ensure that investment in each additional measure is an appropriate use of funds.

"(B) The Secretary shall establish standards for States applying for a waiver under this paragraph for determining whether energy audit techniques measure—

"(i) the energy requirements of individual dwellings;

"(ii) the rate of return of each additional conservation investment; and

"(iii) the interaction between conservation measures.

State applications for waivers shall be judged on these standards.".

(b) The Secretary shall make information available to States applying for waivers under this paragraph on approved energy evaluation instruments and provide training for State and local agencies in the implementation of such instruments.".

(c) WAIVER OR ADJUSTMENT OF $1,600 REQUIREMENT.—Subsection (c) of section 415 of the Energy Conservation and Production Act is amended by adding at the end thereof the following:

"(3)(A) Upon application by a State to the Secretary, the Secretary may increase the $1,600 maximum average per dwelling unit provided in paragraph (1) by up to $800 if the financial assistance is for the costs of replacing part or all of the heating system or the cooling system of the dwelling unit and the dwelling unit conforms to the program regulations and such replacement has been found to be the most cost-effective use of the funds.

"(B) Beginning with fiscal year 1990, the $1,600 per dwelling unit maximum average provided in paragraph (1) shall be adjusted annually by increasing the maximum average amount by an amount equal to the percentage of the Consumer Price Index for the previous fiscal year times the maximum average amount for such previous fiscal year. The increase under the preceding sentence for any fiscal year shall not exceed 3 percent.".

TITLE VI—RENEWABLE ENERGY

Subtitle A

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Solar Development Initiative Act of 1988".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a diversified and balanced energy resource base is important for the Nation's economic growth;

(2) renewable energy sources, including solar energy, can make a significant contribution toward minimizing the potential for undue dependence on any single energy source;

(3) recent energy trends, including increased imports of foreign oil, increased consumption of petroleum and declining domestic production of petroleum, have reaffirmed the importance of continued Federal support for, and encouragement of, solar energy technologies; and

(4) the international competitiveness of domestic solar thermal and photovoltaics industries depends upon maintaining our technological lead and providing development and marketing assistance to exporters of solar technologies.

(b) PURPOSE.—The purpose of this Act is to—

(1) establish multi-year funding levels for a Federal solar research and development program that will maintain current efforts and provide funding stability; and

(2) reaffirm existing Federal policies and establish new policies which promote and encourage investments in solar energy technologies by the private and public sectors.

SEC. 603. SOLAR AND RENEWABLE ENERGY RESEARCH PROGRAM.

The Secretary of Energy is directed to consult with the solar energy industry to develop a complimentary program of solar and renewable research, development, and demonstration project which—

(1) have near-term commercial applications; and

(2) will enhance the international competitiveness of the solar and renewable energy industries.

The Secretary shall include the funding necessary to implement this program in the fiscal year 1990 budget.

SEC. 604. FEDERAL SOLAR BUILDINGS DEMONSTRATION PROGRAM.

(a) PROGRAM SUCCESSFULLY IMPLEMENTED.—Congress finds that the Secretary of Energy, in consultation with the Administrator of the General Services Administration, has successfully implemented a program to demonstrate in Federal buildings the application of solar heating and solar heating and cooling technology pursuant to part 2 of title V of the National Energy Conservation Policy Act (Public Law 95-619).

(b) INFORMATION ABOUT FEDERAL SOLAR BUILDINGS PROGRAM.—In order to more widely disseminate information about the Federal solar buildings program and the benefits of solar heating and solar heating and cooling technology, the Secretary of Energy shall establish a program to disseminate such information for Federal procurement officers and Federal loan officers which shall include site visits and technical briefings. The Secretary shall utilize existing funds for this program.

SEC. 605. INTERNATIONAL MARKET ENHANCEMENT.

(a) CONTINUATION OF ACTIVITIES BY THE COMMITTEE ON RENEWABLE ENERGY, COMMERCE, AND TRADE.—The Committee on Renewable Energy, Commerce, and Trade established by section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) shall continue its activities to coordinate the actions and programs of the Federal Government affecting commerce in renewable energy products and services.

(b) COMMERCE PROGRAMS.—It is the sense of the Congress that the programs established by the Secretary of Commerce under section 256(c)(1) of the Energy Policy and Conservation Act should be funded through the Department of Energy at a minimum level of $1,500,000 in fiscal years 1988, 1989, and 1990.

(c) AMENDMENT TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 212(c)(7) of the Caribbean Basin Economic Recovery Act (97 Stat. 387; 19 U.S.C. 2703(c)(7)) is amended to read as follows:

"(7) the degree to which such country is undertaking self-help measures to promote its own economic development and energy self-sufficency using locally available renewable resources;".

SEC. 606. FEDERAL PROCUREMENT.

(a) SECRETARY OF DEFENSE.—Section 2857(b)(1) of title 10, United States Code, is amended by inserting after "has the potential for" the following: "reduced energy costs".

(b) UTILIZATION OF SOLAR ENERGY BY OTHER FEDERAL AGENCIES.—The Secretary of State, the Secretary of Energy, the Secretary of Housing and Urban Development, the Director of the General Services Administration, and the Commissioner of the United States Postal Service shall require that the design of all new Federal facilities built under their respective jurisdictions shall include consideration of energy systems using solar energy or other renewable forms of energy in those cases in which use of such form of energy has the potential for significant savings of fossil-fuel-derived energy.

SEC. 607. AMENDMENT TO THE EXPORT-IMPORT BANK ACT OF 1945.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended by adding at the end thereof the following:

"(c) Not less than .025 percent of the loan authority of the Bank shall be available only for solar and renewable energy loans.".

SEC. 608. SPECIAL ACTIVITIES OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

Section 234(e) of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence, by inserting after "cooperatives" the following: "and including the initiation of incentives, grants, and studies for renewable energy and other small business activities"; and

(2) by adding at the end thereof the following new sentence: "Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.".

SEC. 609. AMENDMENT TO THE SMALL BUSINESS ACT.

(a) Section 7(l) of the Small Business Act (15 U.S.C. 636(l)) is repealed.

(b) Section 7(a)(12) of such Act (15 U.S.C. 636(a)(12)) is amended to read as follows:

"(12) The Administrator may provide loans under this subsection to assist any small business concern, including startup, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures. Proceeds of loans under this paragraph shall not be used for research and development. Not less than .025 percent of the loan authority provided under this subsection shall be available only for loans under this paragraph. The Administrator shall include a list of solar and renewable energy loans in an annual report to the Congress.".

(c) Section 7(a)(14) of such Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

"(14) The Administrator under this subsection may provide extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest in extensions and revolving lines of credit as may be legal and reasonable. The Administrator shall give due consideration to the export potential of solar and renewable energy products in implementing his authorities under this subsection and shall include a list of solar and renewable energy loan guarantees in an annual report to the Congress.".

Subtitle B

This subtitle may be cited as the "Renewable Energy Technology Competitiveness Act of 1988".

SEC. 610 FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) a secure and diverse supply of energy is in the Nation's best interest, and it is appropriate for the Federal Government to sponsor a balanced program of energy research and energy technology development and demonstration to insure diverse supplies of energy by the year 2000;

(2) a strategic plan to pursue a program that balances Federal investments among energy supply and technology options is needed to assure that a well-managed, cost-effective research, development and demonstration program will be implemented;

(3) renewable energy technologies can make the energy sources of the United States secure and diverse with minimal environmental risks;

(4) the development and use of renewable energy technologies can significantly reduce United States dependence on foreign energy sources; however the extent of such contribution is dependent upon increasing efficiencies and reducing costs of renewable energy technologies;

(5) energy for buildings consumes approximately 36 per centum of the total United States energy supply, and approximately two-thirds of United States electricity is consumed in buildings;

(6) use of renewable energy technologies in buildings potentially could provide for a cost-effective increase in energy efficiency in the buildings' sector of as much as 30 to 50 per centum;

(7) the Federal Government, as the largest consumer of energy in the United States, should promote the effective use of renewable energy technologies;

(8) the technological lead of United States firms and their capability to compete with foreign renewable energy and energy conservation technology has declined in recent years, and many foreign firms are selling renewable energy technology in the United States;

(9) competitiveness of United States firms overseas depends in part on long-term, stable Federal support of research and development efforts to maintain United States preeminence in technology; it is also appropriate for the Federal Government to support nearer-term commercial and proof-of-concept demonstration so that United States firms will have not only technology, but also product to market;

(10) the development and export of renewable energy product and technology can contribute positively to the balance of trade; and

(11) the volatility of world energy markets underscore the need for sustained levels of support for the research and development of renewable energy technologies.

(b) It is the purpose of this Act to direct the Secretary of Energy to pursue an aggressive national program of research development and demonstration of renewable energy technologies in order to ensure a stable and secure future energy supply by—

(1) providing a long-term stable environment for renewable energy technology research and development activities through the establishment of long-term goals and multiyear funding levels;

(2) directing the Secretary to undertake initiatives to hasten the commercialization in the near term of renewable energy technologies;

(3) fostering collaborative research and development efforts involving the private sector through government support of a vigorous program of joint venture innovative projects; and

(4) promoting the use of renewable energy in buildings owned or leased by the Federal Government.

SEC. 611. DEFINITIONS.

As used in this subtitle the term "Secretary" means the Secretary of Energy.

SEC. 612. NATIONAL GOALS AND MULTI-YEAR FUNDING FOR FEDERAL WIND, PHOTOVOLTAICS AND SOLAR THERMAL PROGRAMS.

(a) The following are declared to be the national goals for the wind, photovoltaics and solar thermal energy programs currently being carried out by the Secretary under existing law:

(1) WIND.—(A) In general, the goals for the Wind Energy Research Program include improving design methodologies and developing more reliable and efficient wind turbines to increase the cost competitiveness of wind energy. Research efforts shall emphasize—

(i) activities that address near-term technical problems and permit exploitation of current market opportunities of the wind energy industry;

(ii) developing advanced airfoils and variable speed generators to increase wind turbine output and reduce maintenance costs by decreasing structural stress and fatigue;

(iii) increasing the basic knowledge of aerodynamics, structural dynamics, fatigue and electrical systems interactions as applied to current wind energy technology; and

(iv) improving the compatibility of electricity produced from windfarms with conventional utility needs.

(B) Specific goals for the Wind Energy Research Program shall be to—

(i) reduce average wind energy costs to 3 to 5 cents per kilowatt hour by 1995;

(ii) reduce capital costs of new wind energy systems to $500 to $750 per kilowatt of installed capacity by 1995;

(iii) increase installed wind generating capacity to 4,000 to 8,000 megawatts by 1995;

(iv) reduce operation and maintenance costs for wind energy systems to less than 1.0 cents per kilowatt hour by 2,000; and

(v) increase capacity factors for new wind energy systems to 25 to 30 per centum by 1995.

(2) PHOTOVOLTAICS.—(A) In general, the goals of the Photovoltaic Energy Systems Program include improving the reliability and conversion efficiencies and lowering the costs of photovoltaic conversion. Research efforts shall emphasize advancements in the performance, stability and durability of photovoltaic materials.

(B) Specific goals of the Photovoltaic Energy Systems Program shall be to—

(i) improve operational reliability of photovoltaic modules to 30 years by 1995;

(ii) increase photovoltaic conversion efficiency of new photovoltaic amorphous silicon modules to 15 per centum by 1995;

(iii) decrease new photovoltaic module direct manufacturing costs to $0.80 per watt by 1995; and

(iv) increase installed capacity of photovoltaic electric power production capacity to 100 to 200 megawatts by 1991.

(3) SOLAR THERMAL.—(A) In general, the goal of the Solar Thermal Energy Systems Program shall be to advance research and development to a point where solar thermal technology is cost-competitive with conventional energy sources and to promote the integration of this technology into the production of industrial process heat and the conventional utility network. Research and development shall emphasize development of a thermal storage technology to provide capacity for shifting power to periods of demand when full insulation is not available, improvement in receivers, energy conversion devices, and innovative concentrators using stretch membranes, lenses and other materials, as well as exploration of advanced manufacturing techniques.

(B) Specific goals of the Solar Thermal Energy Systems Program shall be to—

(i) reduce solar thermal costs for industrial process heat to $9.00 per million Btu; and

(ii) reduce average solar thermal costs for electricity to 4 to 5 cents per kilowatt hour.

(4) The President's budget request for fiscal year 1989 shall contain the Secretary's recommendations for specific cost, installed capacity and other pertinent goals for 1995 for Department of Energy research and development programs in Biofuels Energy Systems, Solar Buildings Energy Systems, Oceans Energy Systems and Geothermal Energy.

(b) There is authorized to be appropriated to the Secretary—

(1) for the Wind Energy Research Program, an amount not to exceed $19,000,000 in fiscal year 1990; $22,000,000 in fiscal year 1991; and $26,000,000 in fiscal year 1992;

(2) for the Photovoltaic Energy Systems Program, an amount not to exceed $43,100,000 in fiscal year 1990; $45,000,000 in fiscal year 1991; and $50,000,000 in fiscal year 1992;

(3) for the Solar Thermal Energy Systems Program, an amount not to exceed $28,700,000 in fiscal year 1990; $32,000,000 in

fiscal year 1991; and $35,000,000 in fiscal year 1992;

(4) for the Biofuels Energy Systems Program, an amount not to exceed $32,100,000 in fiscal year 1990; $35,100,000 in fiscal year 1991; and $40,000,000 in fiscal year 1992;

(5) for the Solar Buildings Energy Systems Program, an amount not to exceed $8,000,000 in fiscal year 1990; $9,000,000 in fiscal year 1991; and $10,000,000 in fiscal year 1992;

(6) for the Ocean Energy Systems Program, an amount not to exceed $5,000,000 in fiscal year 1990; $5,000,000 in fiscal year 1991; and $5,000,000 in fiscal year 1992;

(7) for the Geothermal Program, an amount not to exceed $34,900,000 in fiscal year 1990; $38,700,000 in fiscal year 1991; and $35,700,000 in fiscal year 1992.

(c)(1)(A) The President's budget request for fiscal year 1990 shall include the Secretary's recommendations for at least one proposed proof-of-concept or near-commercial demonstration project in each of the categories represented by paragraphs (1), (2) and (3) of subsection (b). Each proposed project shall be described in sufficient detail to support congressional authorization and solicitation of bids for construction of necessary facilities.

(B) A list and description of alternative project plans recommended by the Secretary under this paragraph shall be submitted in President's fiscal year 1990 budget request. Such plans shall require funding or in-kind contributions from private sources in support of up to 50 per centum of total project costs.

(C) In selecting projects under this paragraph, the Secretary shall take into account the extent to which such projects will contribute to earlier commercialization of key technologies within such categories than might occur without Federal support under this paragraph and the extent to which such projects will contribute to the competitiveness of United States firms engaged in international trade in renewable energy technologies.

(2) On or before May 1, 1991, the Secretary shall submit to Congress a report analyzing options available to the Secretary under existing law to accelerate the timely commercialization of wind, photovoltaic, solar thermal, biofuels, biomass, solar buildings, ocean and geothermal renewable energy technologies through emphasis on development and demonstration assistance to specific technologies in the research, development and demonstration programs of the Department of Energy that are near commercial application.

(3) Whenever the Secretary determines that any of the goals established under this section is no longer appropriate, he shall notify Congress of the reason for the determination and provide an amended goal that is consistent with the purposes of this Act.

SEC. 613. JOINT RESEARCH AND DEVELOPMENT VENTURES.

(a)(1) Congress finds that joint research and development ventures can—

(A) improve coordination in technology development among firms in industries attempting to commercialize renewable energy and energy conservation technologies;

(B) assist in setting national standards to improve the operation of markets for these technologies; and

(C) enhance the ability of domestic firms to compete with foreign enterprises in sales of renewable energy and energy conservation technologies.

(2) The purpose of this section is to direct the Secretary of Energy to make use of joint research and development ventures to further commercialization of renewable energy and energy conservation technologies.

(3) As used in this section the term "joint research and development venture" means a joint research and development venture under the National Cooperative Research Act of 1984 (98 Stat. 1815).

(b)(1) The Secretary shall establish seven joint research and development ventures in accordance with the provisions of this section. Each joint research and development venture under this section shall include manufacturing firms, investors, an advisory committee appointed in accordance with this section and such other participation as the Secretary deems appropriate to achieve the purposes of this section.

(2) The Secretary shall establish at least one joint research and development venture in accordance with subsection (c) to develop technology and expertise for domestic commercial use and for export in—

(A) photovoltaics technology;

(B) wind energy technology;

(C) solar thermal technology;

(D) factory-made housing;

(E) advanced district cooling technology;

(F) integrated renewable energy systems; and

(G) renewable energy and energy conservation technology exports.

(3) Not later than one hundred and eighty days after the date of the enactment of this section the Secretary shall publish plans to implement this section and report to Congress on such plans.

(c) Joint Research and Development Ventures.

PHOTOVOLTAICS TECHNOLOGY

(1)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the development of high-efficiency thermal and electrical distribution, storage and end-use systems employing electricity from photovoltaic conversion of solar energy that may be deployed in villages in remote or rural areas, including villages in developing countries.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate an integrated, cost-efficient village energy system including components for electrical and thermal production, conversion, distribution, storage and use under electronic control.

(C) Subsystems of the village energy system under this paragraph may include—

(i) advanced photovoltaic concentrators or other photovoltaic arrays;

(ii) an electronically-controlled village electrical system;

(iii) a potable water desalination system employing multistage flash distillation technology; and

(iv) a small scale village refrigeration system employing a low-temperature chiller driven by waste heat from the village energy system or by photovoltaic arrays.

(D) The Secretary shall appoint members to an Advisory Committee on Photovoltaic Village Energy Systems to assist the Secretary in carrying out his reponsibilities with respect to the joint venture under this paragraph. Such committee shall include at least one member representing—

(i) firms in the photovoltaic manufacturing industry;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iv) the Director of the Export-Import Bank;

(v) the Electric Power Research Institute;

(vi) the Solar Energy Research Institute; and

(vii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary a total of not more than $1,200,000 for fiscal years 1990, 1991, and 1992 to carry out the purposes of this paragraph.

WIND ENERGY TECHNOLOGY

(2)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the development of high-efficiency thermal and electrical distribution, storage and end-use systems employing wind-diesel systems designed for use where diesel generation of electricity currently is being used at a site with significant wind energy potential.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate an integrated, cost-efficient wind-diesel village energy system including components for electrical and thermal production, conversion, distribution, storage and use under electronic control.

(C) Subsystems of the village energy system under this paragraph may include—

(i) a diesel generator operating in conjunction with one or more wind turbines;

(ii) an electronically-controlled village electrical system;

(iii) a potable water desalination system employing multistage flash distillation technology; and

(iv) a small scale village refrigeration system employing a low-temperature chiller driven by excess wind-generated energy or a combination of wind-generated and diesel-generated energy.

(D) The Secretary shall appoint members to an Advisory Committee on Wind Energy Village Energy Systems to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such committee shall include at least one member representing—

(i) firms in the wind energy equipment manufacturing industry;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development; and

(iv) the Director of the Export-Import Bank;

(v) the Electric Power Research Institute;

(vi) the Solar Energy Research Institute; and

(vii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary a total of not more than $1,200,000 for fiscal years 1990, 1991, and 1992 to carry out the purposes of this paragraph.

SOLAR THERMAL TECHNOLOGY

(3)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the efficient use of solar thermal energy deployed in planned communities in the United States and overseas as a total energy system for the supply of electricity, industrial energy, potable water, refrigeration and the community heating and cooling needs, and the treatment of community-generated wastes.

(B) The purpose of the venture under paragraph (A) shall be to design, test and demonstrate an integrated, cost-effective community total energy system including components for thermal production, conversion, distribution, storage and use under automated control.

(C) Subsystems of the community total energy system under this paragraph may include:—

(i) advanced solar thermal concentrators;

(ii) a portable water desalination system employing advanced thermal distillation technology;

(iii) an automated energy distribution and control system;

(iv) a thermally-driven solar refrigeration system; and

(v) advanced waste treatment systems using thermal energy or direct concentrated solar flux.

(D) The Secretary shall appoint members to an Advisory Committee on Solar Thermal Community Total Energy Systems to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such committee shall include at least one member representing—

(i) firms in the solar thermal manufacturing industry;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iv) the Director of the Export-Import Bank;

(v) the Electric Power Research Institute;

(vi) the Gas Research Institute;

(vii) the Solar Energy Research Institute; and

(viii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary a total of not more than $900,000 annually for fiscal years 1990 through 1992 to carry out the purposes of this paragraph.

FACTORY-MADE HOUSING

(4)(A) Congress finds that—

(i) the United States is moving toward the industrialization of home building;

(ii) ninety per centum of new homes have factory-made components and over four hundred thousand of the approximately two million homes built each year are largely factory-made;

(iii) the United States is facing competition from foreign home builders who make use of factory-made housing techniques;

(iv) foreign firms have begun to penetrate United States markets for homes and housing-related products, while United States exports in these categories have stagnated;

(v) housing construction and materials comprises 21 per centum of the Gross National Product;

(vi) the Office of Technology Assessment has found that the technological innovations that could improve the quality and reduce the cost of housing in the United States are "being needlessly slowed by inadequate research and development";

(vii) the Department of Commerce has warned that foreign competitors have targeted the United States market for residential construction in the same way that domestic markets for autos and steel have been targeted in the past; and

(viii) a joint research and development venture supported in part by the Federal Government is needed to assist the United States home building industry in competing with housing products and technology from overseas.

(B) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary deems appropriate in order to establish at least three regional centers to develop techniques to improve the energy performance of factory-made housing offered by United States firms. In locating the regional centers under this paragraph, the Secretary shall consider regional differences in housing needs, housing design, construction technique, marketing practices and construction materials.

(C) The regional centers under this paragraph shall carry out research and development efforts to improve the quality, energy efficiency and adaptability to renewable forms of energy of factory-made housing offered for sale in the United States and the productivity and energy efficiency of the housing construction process. The research and development programs at these centers shall consider housing design, fabrication, delivery systems, construction processes, marketing and product export.

(D) The research and development strategy under this paragraph shall be guided by—

(i) a detailed characterization of the needs of the home building industry;

(ii) a close working relationship with all sectors of the home building industry; and

(iii) coordination among the centers to pool and conserve resources.

(E) The Secretary shall appoint members to an Advisory Committee on Energy Performance in Factory-Made Housing to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture established under this paragraph. Such committee shall include at least one member representing—

(i) the Secretary of Housing and Urban Development;

(ii) the Secretary of Commerce;

(iii) the National Institute of Building Sciences;

(iv) the National Association of Home Builders;

(v) the National Laboratories of the Department of Energy;

(vi) the National Bureau of Standards; and

(vii) such other groups of institutions as the Secretary deems appropriate.

(F) There is authorized to be appropriated to the Secretary a total of not more than $10,000,000 for fiscal years 1990 through 1992 to carry out the purposes of this paragraph.

ADVANCED DISTRICT COOLING TECHNOLOGY

(5)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary deems appropriate in order to develop advanced district cooling technologies that are applicable in cities with high cooling loads.

(B) The joint research and development venture under this paragraph shall—

(i) develop technical strategies for decreasing the capital cost and increasing the energy efficiency of major district heating and cooling system components;

(ii) encourage the use of cogeneration and renewable energy technologies in district heating and cooling; and

(iii) assist in transfer of district heating and cooling technology to local governments.

(C) The Secretary shall select three major cities for application of advanced district cooling technologies developed by the joint venture under this paragraph. The activities to be carried out in such application shall include district cooling assessment, feasibility, and engineering design studies.

(D) The Secretary shall appoint members to an Advisory Committee on Advanced District Cooling Technology to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such Committee shall include at least one member representing—

(i) the Secretary of Housing and Urban Development;

(ii) the Secretary of Commerce;

(iii0 firms manufacturing district cooling equipment;

(iv) the National League of Cities; and

(v) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated for each of the fiscal years 1950 through 1992 not more than $1,000,000 per year to carry out the purposes of this paragraph.

INTEGRATED RENEWABLE ENERGY SYSTEMS

(6)(A) Congress finds that—

(i) the fuel cell is energy technology that will require Federal assistance to achieve commercial acceptance in domestic and foreign markets;

(ii) use of low maintenance, high efficiency fuel cells can minimize costs, conserve energy and provide opportunities, to more fully utilize locally available energy resources;

(iii) fuel cells are self contained, environmentally safe and can provide sufficient energy to operate vehicles, heat, light and cool individual buildings and isolated military, commercial and industrial facilities and function as mobile power sources; and

(iv) integrated energy systems involving fuel cells could provide opportunities for export of fuel cells and renewable energy technology developed in the United States.

(B)(i) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary determines appropriate in order to address the problems of variable output from solar and wind energy systems. The primary emphasis of the joint research and development venture under this paragraph shall be the integration of solar and wind systems with fuel cell and energy storage systems so as to produce approximately constant output.

(ii) Such joint venture shall emphasize the production of reliable electric power capable of meeting utility requirements, but may also consider single purpose needs such as portable medical uses, vehicular applications and the provision of heat, light and cooling in isolated areas at efficiency and cost improvements over central utility service.

(C) The joint research and development venture under this paragraph shall consider the interests of electric and natural gas utilities and manufacturers of fuel cells and renewable energy systems in order to enhance the ability of solar and wind energy to contribute to the demand for electric power in the 1990's.

(D) The secretary shall appoint members to an Advisory Committee on Integrated Renewable Energy Systems to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such committee shall include at least one member representing—

(i) firms manufacturing solar, wind or fuel cell equipment;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iv) the Director of the Export-Import Bank;

(v) the Solar Energy Research Institute;

(vi) the Electric Power Research Institute;

(vii) the Gas Research Institute; and

(viii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary in total for the fiscal years 1990 through 1992 an amount not to exceed $5,000,000 to carry out the purposes of this paragraph.

EXPORT TECHNOLOGY PROJECTS

(7)(A) Congress finds that—

(i) the United States has several advanced energy conservation and renewable energy technologies that lack only sufficient coordination, support, and emphasis to become important export items capable of reducing the United States' trade deficit;

(ii) a major barrier to export of energy conservation and renewable energy technology is the lack of information on overseas markets and technology development by foreign competitors;

(iii) the industry that markets energy conservation technology is highly fragmented and the renewable energy industry is comprised of small firms that lack the necessary resources to identify and target overseas markets;

(iv) a joint research and development venture is needed to bring together a broad array of manufacturing firms, financial institutions, and Federal agencies to identify and develop promising technologies and export markets for energy conservation and renewable energy technologies.

(B) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary determines appropriate for the purpose of improving energy conservation and renewable energy manufacturing processes in order to enhance product reliability and cost competitiveness relative to foreign-made products. The joint venture under this paragraph shall be coordinated with research, assessement and targeting of foreign markets for energy conservation and renewable energy products.

(C) The Secretary shall appoint members to an Advisory Committee on Energy Conservation and Renewable Energy Technology Exports to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such committee shall include at least one member representing—

(i) the Secretary of Commerce;

(ii) the Director of the Agency for International Development;

(iii) the Director of the Export-Import Bank;

(iv) the United States Export Council for Renewable Energy;

(v) the National laboratories for the Department of Energy; and

(vi) such other groups or institutions as the Secretary deems appropriate.

(D) There is authorized to be appropriated to the Secretary to carry out the purposes of this paragraph a total amount for fiscal year 1990 through 1992 not to exceed $5,000,000 with respect to renewable activities under this paragraph and $5,000,000 with respect to energy conservation activities under this paragraph.

SEC. 614. RENEWABLE ENERGY EXPORTS.

(a)(1) Congress finds that—

(A) Among the major problems in promoting exports of renewable energy technology are the lack of available information on overseas markets and the absence of financing for the purchase of the technologies; and

(B) the Committee on Renewable Energy, Commerce, and Trade established under the Renewable Energy Industry Development Act (Public Law 98-370) currently coordinates Federal Government activities to promote renewable energy exports.

(2) The purpose of this section is to evaluate current efforts to promote exports of renewable energy technology, to establish a joint government-industry plan to identify promising technologies and increase the financing available for exports of renewable energy technologies, to target potential markets for these technologies and to authorize funding of these activities.

(b) In order to provide reliable information on overseas markets for renewable energy technology, the Secretary shall review the activities of the Committee on Renewable Energy, Commerce, and Trade in order to determine if current efforts by such Committee to promote exports of renewable energy technology are sufficient and whether additional efforts are necessary. The Secretary shall report to Congress the results of such review on or before six months after the date of the enactment of this section.

(c) Each participating member of the Committee on Renewable Energy, Commerce, and Trade shall report annually to Congress on the actions of such agency during the previous fiscal year to achieve the purposes of the Committee on Renewable Energy, Commerce and Trade and of this section. Such report shall describe the exports of renewable energy technology that have occurred as a result of such agency actions.

(d) The Committee on Renewable Energy, Commerce, and Trade shall—

(1) establish a joint government-industry plan to maintain or increase the market share of the United States in international trade in renewable energy technologies, including technologies for production of alcohol fuels, biomass energy, geothermal energy, wood energy, and in technologies for passive solar energy conversion, photovoltaics, solar thermal energy conversion and wind energy conversion. Such plan shall include guidelines for agencies that are members of the Committee with respect to the financing of exports of such renewable energy technologies.

(2) develop, in consultation with representatives of affected industries, administrative guidelines for Federal export loan programs to simplify application by firms seeking export assistance for renewable energy technologies from agencies implementing such programs; and

(3) target renewable energy technology markets for primary emphasis by Federal export loan programs, development programs and private sector assistance programs.

(e) There is hereby authorized to be appropriated to the Secretary for activities of the Committee on Renewable Energy, Commerce, and Trade an amount not to exceed—

(1) $1,500,000 in fiscal year 1990;

(2) $2,200,000 in fiscal year 1991 and;

(3) $2,500,000 in fiscal year 1992.

SEC. 617. FINDINGS.—The Congress finds that—

(a) while the Federal government has invested substantially in fuel cell technology through research and development during the past ten years, additional research on technologies that enable fuel cells to use alternative fuel sources needs to be undertaken in order to fulfill the conservation promise of fuel cells as an energy source;

(b) there is no national policy for acting upon the findings of this research and development; and

(c) if such a national policy were developed, the public investment in fuel cell technology would be realized through reduced technology on imported oil and the subsequent improvement in the international trade accounts of the United States.

SEC. 618. RESEARCH PROGRAMS.—

(a) PROGRAM AUTHORIZATION.—The Secretary shall implement and carry out a research program for the purposes of—

(1) exploring the operation of fuel cells employing methane gas generated from various forms of biomass;

(2) developing technologies to use renewable energy sources, including wind and solar energy, to produce hydrogen for use in fuel cells; and

(3) determining the technical requirements for employing fuel cells for electric power production as backup spinning reserve components to renewable power systems in rural and isolated areas.

(b) GRANTS.—In carrying out the research program authorized in subsection (a), the Secretary may make grants to, or enter into contracts with, private research laboratories.

(c) REPORT TO CONGRESS.—The Secretary shall transmit to the Congress on or before September 30, 1990, a comprehensive report on research carried out pursuant to this Act.

(d) AUTHORIZATION.—There are hereby authorized to be appropriated $5,000,000 for fiscal year 1989 to the Secretary to be used to conduct research as provided in this Act.

SEC. 619. INCLUSION OF FUEL CELLS AS A FUEL CONSERVATION TECHNOLOGY UNDER REIDA.—Section 256 of the Energy Policy and Conservation Act is amended by inserting at the end thereof the following:

"(e) For purposes of this section, the term 'domestic renewable energy industry' shall include industries using fuel cell technology.".

SEC. 620. ENVIRONMENTAL PROTECTION AGENCY GUIDELINES FOR THE USE OF FUEL CELL TECHNOLOGIES.—Within 180 days of the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall prepare Federal guidelines for cities and municipalities specifying environmental and safety standards for use of fuel cell technology. In the preparation of the guidelines, the Administrator shall utilize the successful experience of the New York City Fire Department in the use of fuel cell technologies.

SEC. 621. DEPARTMENT OF COMMERCE INVESTIGATION OF EXPORT MARKET POTENTIAL FOR INTEGRATED FUEL CELL SYSTEMS.—Within 180 days of the date of enactment of this Act, the Secretary of Commerce shall assess and report to Congress concerning the export market potential for integrated systems of fuel cells with renewable power technologies.

SUBTITLE D

SEC. 622. That this subtitle may be cited as the "Hydrogen Research and Development Act".

FINDINGS AND PURPOSE

SEC. 623. (a) The Congress finds that—

(1) due to the limited quantities of naturally occurring petroleum-based fuels, viable alternative fuels and feedstocks must be developed;

(2) priority should be given to the development of alternative fuels with universal availability;

(3) hydrogen is one of the most abundant elements in the Universe, with water, a primary source of hydrogen, covering three-fourths of the Earth;

(4) hydrogen appears promising as an alternative to environmentally damaging fossil fuels;

(5) hydrogen can be transported more efficiently and at less cost than electricity over long distances;

(6) renewable energy resources are potential energy sources that can be used to convert hydrogen from its naturally occurring states into high quality fuel, feedstock, and energy storage media; and

(7) it is in the natural interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities which will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) The purpose of this title is to—

(1) direct the Secretary of Energy to prepare and implement a comprehensive 5-year plan and program to accelerate research and development activities leading to the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable; and

(2) develop renewable energy resources as primary energy sources to be used in the production of hydrogen.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 624. (a) the Secretary shall prepare a comprehensive 5-year program management plan for research and development activities which shall be conducted over a period of no less than 5 years and shall be consistent with the provisions of sections 625 and 626. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Hydrogen Technical Advisory Panel established under section 628, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen production capability within the shortest time practicable.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 6 months after the date of the enactment of this Act. The plan shall include (but not necessarily be limited to)—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibiliites of individual agencies and individual institutional elements;

(3) the program strategies including technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive 5-year plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on and recommendations for improvements in the comprehensive program management plan made by the Hydrogen Technical Advisory Panel established under section 628.

RESEARCH AND DEVELOPMENT

SEC. 625. (a) The Secretary shall establish, within the Department of Energy, a research and development program, consistent with the comprehensive 5-year program management plan under section 624, to ensure the development of a domestic hydrogen fuel production capability within the shortest time practicable.

(b)(1) The Secretary shall initiate research or accelerate existing research in areas which may contribute to the development of hydrogen production and use.

(2) Areas researched shall include production, liquefaction, transmission, distribution, storage, and use. Particular attention shall be given to developing an understanding and resolution of all potential problems of introducing hydrogen production and use into the marketplace.

(c) The Secretary shall give priority to those production techniques that use renewable energy resources as their primary energy source.

(d) The Secretary shall, for the purpose of performing his responsibilities pursuant to this title, solicit proposals for and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of hydrogen production technology.

(e) The Secretary shall conduct evaluations, arrange for tests and demonstrations, and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section.

DEMONSTRATIONS AND PLAN

SEC. 626. (a)(1) The Secretary shall conduct demonstrations of hydrogen technology, preferably in self-contained locations, so that technical and nontechnical parameters can be evaluated to best determine commercial applicability of the technology.

(2) Concurrently with activities conducted pursuant to section 103, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

(b) The Secretary shall, in consultation with the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and the Hydrogen Technical Advisory Panel established under section 628, prepare a comprehensive large-scale hydrogen demonstration plan with respect to demonstrations carried out pursuant to subsection (a)(1). Such plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a large-scale hydrogen production demonstration program;

(2) an assessment of the appropriateness of a large-scale demonstration immediately upon completion of the necessary research and development activities; and

(3) an implementation schedule with associated budget and program management resource requirements.

COORDINATON AND CONSULTATION

SEC. 627. (a) The Secretary shall have overall management responsibility for carrying out the program under this title. In carrying out such program, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this title.

(b) The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this title.

(c) The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 106 in carrying out his authorities pursuant to this title.

TECHNICAL PANEL

SEC. 628. (a) There is hereby established a technical panel of the Energy Research Advisory Board, to be known as the Hydrogen Technical Advisory Panel, to advise the Secretary on the program under this title.

(b)(1) The technical panel shall be appointed by the Secretary and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary, in consultation with the Chairman of the Energy Research Advisory Board, deems appropriate based on his assessment of the technical and other qualifications of such representatives. Appointments to the technical panel shall be made within 90 days after the enactment of this Act. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(2) Members of the technical panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necesary to carryout this section.

(e) The technical panel shall review and make any necessary recommendations on the following items, among others—

(1) the implementation and conduct of the program under this title; and

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems.

(f) The technical panel shall prepare and submit annually to the Energy Research Advisory Board a written report of its findings and recommendations with regard to the program under this title. The report shall include—

(1) a summary of the technical panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the program; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 624.

(g) After consideration of the technical panel report and within 30 days after its receipt, the Energy Research Advisory Board shall submit the report, together with any comments which the Board deems appropriate, to the Secretary.

(h) The Secretary shall provide such staff, funds, and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

DEFINITIONS

SEC. 629. As used in this title—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term capability" means proven technical ability.

AUTHORIZATION OF APPROPRIATIONS

SEC. 630. There is hereby authorized to be appropriated to carry out the purpose of this title (in addition to any amounts made available for such purpose pursuant to other Acts)—

(1) $10,000,000 for the fiscal year beginning October 1, 1990;

(2) $15,000,000 for the fiscal year beginning October 1, 1991;

(3) $20,000,000 for the fiscal year beginning October 1, 1992;

(4) $25,000,000 for the fiscal year beginning October 1, 1993; and

(5) $30,000,000 for the fiscal year beginning October 1, 1994.

HYDROGEN-FUELED AIRCRAFT RESEARCH AND DEVELOPMENT

FINDINGS AND PURPOSE

SEC. 631. (a) The Congress finds that—

(1) long-term future decreases in petroleum-base fuel availability will seriously impair the operation of the world's air transport fleets;

(2) hydrogen appears to be an attractive alternative to petroleum in the long term to fuel commercial aircraft;

(3) it is therefore in the national interest to accelerate efforts to develop a domestic hydrogen-fueled supersonic and subsonic aircraft capability; and

(4) the use of liquid hydrogen as a commercial air transport fuel has sufficient long-term promise to justify a substantial research, development, and demonstration program.

(b) The purpose of this title is to—

(1) direct the Administrator of the National Aeronautics and Space Administration to prepare and implement a comprehensive 5-year plan and program for the conduct of research, development, and demonstration activities leading to the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(2) establish as a goal broad multinational participation in the program; and

(3) provide a basis for public, industry, and certifying agency acceptance of hydrogen-fueled aircraft as a mode of commercial air transport.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 632. (a) The Administrator shall prepare a comprehensive 5-year program management plan for research, development, and demonstration activities consistent with the provisions of sections 633, 634, and 635. In the preparation of such plan, the Administrator shall consult with the Secretary of Energy, the Secretary of Transportation, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) The Administrator shall transmit the comprehensive 5-year program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate within 6 months after the date of the enactment of this Act. The plan shall include (but not necessarily be limited to)—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including detailed technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive 5-year plan is initially transmitted under subsection (b), the Administrator shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on and recommendations for improvements in the comprehensive program management plan made by the Hydrogen-Fueled Aircraft Advisory Committee established under section 637.

RESEARCH AND DEVELOPMENT

SEC. 633. (a) The Administrator shall establish, within the National Aeronautics and Space Administration, a research and development program consistent with the coprehensive 5-year program management plan under section 632 to ensure the development of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) The Administrator shall initiate research or accelerate existing research in areas which may contribute to the development of a hydrogen-fueled aircraft capability.

(c) In conducting the program pursuant to this section, the Administrator shall encourage the establishment of domestic industrial capabilities to supply hydrogen-fueled aircraft systems or subsystems to the commercial marketplace.

(d) The Administrator shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of hydrogen-fueled aircraft technology.

(e) The Administrator shall conduct evaluations, arrange for tests and demonstrations and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section.

FLIGHT DEMONSTRATION

SEC. 634. (a) Concurrent with the activities carried out pursuant to section 203, the Administrator shall, in consultation with the Secretary of Transportation, the Secretary of Energy and the Hydrogen-Fueled Aircraft Advisory Committee established under section 637, prepare a comprehensive flight demonstration plan, the implementation of which shall provide confirmation of the technical feasibility, economic viability, and safety of liquid hydrogen as a fuel for commercial transport aircraft. The comprehensive flight plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a flight demonstration program;

(2) the selection of a domestic site where demonstration activities can lead to early commercialization of the concept;

(3) an assessment of a preliminary flight demonstration to occur concurrently with the later stages of research and development activities; and

(4) an implementation schedule with associated budget and program management resource requirements.

(b) The Administrator shall transmit such comprehensive flight demonstration plan to the Congress within 2 years after the date of the enactment of this Act.

HYDROGEN PRODUCTION AND GROUND FACILITIES

SEC. 635. (a) The Administrator, in consultation with the Secretary of Transportation and the Secretary of Energy, shall define the systems, subsystems, or components associated with the production, transportation, storage, and handling of liquid hydrogen that are specifically required for and unique to the use of such fuel for commercial aircraft application.

(b) The Administrator shall structure the research and development program pursuant to section 633 to allow the development of the systems, subsystems, or components defined pursuant to subsection (a) of this section.

(c) The research and development program for hydrogen production, transportation, and storage systems, subsystems, and components which are suitable for inclusion as part of fully integrated hydrogen-fueled aircraft system, but which are not being specifically developed for such application shall be the responsibility of the Secretary of Energy. Such activities shall be included as part of the program established pursuant to title I of this Act, and shall be so conducted as to ensure compliance with hydrogen-fueled aircraft system constraints.

COORDINATION AND CONSULTATION

SEC. 636. (a) The Administrator shall have overall management responsibility for carrying out the program under this title. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Departments of Transportation and Energy to the extent deemed appropriate by the Administrator, and

(2) may utilize the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(c) The Administrator shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 207 in carrying out his authorities pursuant to this title.

ADVISORY COMMITTEE

Sec. 637. (a) there is hereby established a Hydrogen-Fueled Aircraft Advisory Committee, which shall advise the Administrator on the program under this title.

(b) The Committee shall be appointed by the Administrator and shall be comprised of at least 7 members from industrial, academic, financial, environmental, and legal organizations and such other entities as the Administrator deems appropriate. Appointments to the Committee shall be made within 90 days after the enactment of this Act. The Committee shall have a chairman, who shall be elected by the members from among their number.

(c) the heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least 4 times annually, notwithstanding subsections (e) and (f) of section 10 of Public Law 92-463.

(e) The Committee shall review and make any necessary recommendations on the following items, among others—

(1) the implementation and conduct of the program under this title; and

(2) the economic, technological, and environmental consequences of developing a hydrogen-fueled aircraft capability.

(f) The Committee shall prepare and submit annually to the Administrator a written report of its findings and recommendations with regard to the program under this title. The report shall include—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the program; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 632.

(g) The Administrator shall provide such staff, funds, and other support as may be necessary to enable the Committee to carry out the functions described in this section.

DEFINITIONS

Sec. 638. As used in this title—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "capability" means proven technical ability; and

(3) the term "certifying agency" means any government entity with direct responsibility for assuring public safety in the operation of the air transport system.

AUTHORIZATION OF APPROPRIATIONS

Sec. 639. There is hereby authorized to be appropriated to carry out the purpose of this title—

(1) $10,000,000 for the fiscal year beginning October 1, 1990;

(2) $15,000,000 for the fiscal year beginning October 1, 1991;

(3) $20,000,000 for the fiscal year beginning October 1, 1992;

(4) $25,000,000 for the fiscal year beginning October 1, 1993; and

(5) $30,000,000 for the fiscal year beginning October 1, 1994.

TITLE VII—ADVANCED CIVILIAN REACTOR PROGRAMS

Sec. 701. Findings and Purposes.—(a) Congress finds that the use of energy generated from nuclear fission could potentially supplant economically the burning of fossil fuels and thereby contribute substantially to reducing the rate and scope of global climate change;

(b) the purpose of this title is to redirect programs in existence on the date of the enactment of this title for research, development, and demonstration of technologies for the generation of commercial electric power from nuclear fission. Notwithstanding any other provision of law, this title shall be the exclusive source of authority for appropriations for such programs; and

(c) for purposes of this section, programs for research, development, and demonstration of technologies for the generation of commercial electric power from nuclear fission include programs of the Secretary designated in appropriations acts for the fiscal year beginning on October 1, 1988, as Advanced Reactor Research and Development, Advanced Nuclear Systems, Facilities, and Program Direction.

Sec. 702. Research, Development, and Demonstration Program.—(a) The Secretary shall carry out a comprehensive program of research and development of technologies for the generation of commercial electric power from nuclear fission that to the maximum extent practicable—

(1) permit modular design;

(2) exhibit passive safety;

(3) are adaptable to standardized construction and licensing;

(4) are cost-effective in comparison to alternative sources of electricity of comparable availability, reliability, and impact on the rate and scope of global climate change;

(5) minimize the volume of nuclear waste produced and the cost of nuclear waste disposal; and

(6) prevent diversions of radioactive material for use in nuclear weapons.

(b) The Secretary shall—

(1) solicit proposals for an advanced nuclear power reactor demonstration project that exhibits the characteristics set forth in subsection (a); and

(2) participate in the project if an acceptable proposal is submitted.

Sec. 703. Appropriations.—(a) There is authorized to be appropriated to carry out the purposes of this title for the fiscal year beginning on October 1, 1990, not more than $100 million; for the fiscal year beginning October 1, 1991, not more than $200 million, and for the fiscal year beginning October 1, 1992, not more than $200 million.

(b) An appropriate portion of the funds under subsection (a) shall be used to support construction of a commercial-scale advanced civilian nuclear power reactor demonstration project to be chosen from proposals under section 702(b) and connected to a utility grid by the year 2000. The demonstration project under this section shall exemplify technology and design features that can be adopted and deployed by the utility industry for the nuclear generating capacity reasonably expected to be required over at least the next 40 years;

(c) The project under subsection (b) shall be reasonably anticipated to maximize acceptance by the public, the financial community, utilities, the Nuclear Regulatory Commission, and state electric utility regulators and shall show potential to generate economical electric power at kilowatt capacities of 400 to 600 megawatts;

(d) The Secretary shall issue a draft request for proposals under section 702(b) within 6 months after the date of the enactment of this title and a final request for proposals no later than 12 months after such enactment. The Nuclear Regulatory Commission shall comment on the draft request for proposals. The Secretary shall consider and respond to any such comments received within three months after issuance of the draft request for proposals;

(e) Final proposals under section 702(b) may be submitted to the Secretary no later than one year after the final request under subsection (d) is issued. The Secretary may provide technical assistance to persons with proposals the Secretary considers meritorious;

(f) The Secretary shall select an acceptable proposal within 1 year after the deadline for final proposals under subsection (e). If at any time it appears that no project will be able to meet the Secretary's criteria by the time of such deadline, to be extended by the Secretary once for no more than 1 year if the Secretary finds that the extension is likely to permit acceptable proposals to be submitted.

Sec. 704. Cost Sharing.—Funds under this title may be expended for construction of a demonstration project under section 703(b) only if—

(a) the proposal accepted by the Secretary provides for—

(1) 50-50 cost sharing with non-federal funds;

(2) non-federal financial responsibility for any and all payments in excess of the amounts authorized by this title; and

(3) the project will be managed by the non-federal participants.

(b) the Nuclear Regulatory Commission finds that there is no compelling reason to believe that the demonstration project could not receive the necessary licenses, if built to their specifications set forth in the proposal.

Sec. 705. Licensing.—(a) Within one year after acceptance by the Secretary of that proposed under section 703(f), the Nuclear Regulatory Commission shall identify changes in Commission regulations that would improve, consistent with the public health and safety, prospects for the successful licensing of the demonstration project under section 703(b).

SEC. 706. RESEARCH AND DEVELOPMENT.—Pending acceptance of a proposal by the Secretary, the Secretary is authorized to carry out such research as is necessary to prepare for the demonstration project under section 703(b).

TITLE VIII—FUSION

SEC. 801. (a) Within one year after the date of the enactment of this section, the Secretary shall report to Congress on international collaboration in research, development, and demonstration in technology for the production of electricity from thermonuclear fusion;

(b) The report under subsection (a) shall present a program of research, development, and demonstration in thermonuclear fusion that would insure by 2010;

(1) a determination of the technological feasibility of thermonuclear fusion as a source of electric power; and

(2) in the event that such feasibility is determined, the development of a design of a prototype commercial fusion reactor, accompanied by cost estimates and specifications sufficient to permit bids for construction of the reactor;

(c) the report shall include:

(i) an assessment of the actions needed and the funds that would be necessary to achieve the goals of the program under subsection (b);

(ii) an analysis of funds that would be provided by the United States under appropriate scenarios for international collaboration in a program of thermonuclear fusion research, development, and demonstration that would achieve such goals; thermonuclear fusion research, development, and demonstration that would achieve such goals;

(iii) a review and analysis of the major obstacles to international collaboration in such a program; and

(iv) the Secretary's recommendations for additional legal and budgetary authority required to implement the preferred scenario among those considered under paragraph (2).

TITLE IX—COAL

SEC. 901. REPORT.—(a) Within 9 months after the date of the enactment of this title the Secretary shall provide Congress with a comprehensive report reviewing the clean coal technologies to be developed in projects that have received Federal funds under the Department of Energy's Clean Coal Technology Program. This report shall analyze each such project to determine the change in the production of CO2 that is likely to result from the project specifically and in total were the technology being developed widely implemented relative to alternative coal use technologies;

(b) Before submitting the report under subsection (a), the Secretary shall make a draft report available to the public and provide an opportunity for comment on such draft report. The Secretary shall provide appropriate responses to comments received in the final report; and

(c) The Secretary shall include in the report his recommendations as to the most promising clean coal technologies that also would reduce the production of CO2 per unit of energy delivered relative to alternative coal use technologies.

SEC. 902. PROGRAM.—(a) The Secretary shall establish and carry out a program of research, development and demonstration of techniques for recovery and disposal of CO_2 from automobiles, trucks and buses, electric utility power operations, and industrial manufacturing processes; and

(b) Within 6 months after the date of the enactment of this section the Secretary shall submit a report to Congress on his plans to implement subsection (a). Such report shall include the Secretary's recommendations of priority in research, development, and demonstration opportunities under this section. The report shall also include the Secretary's five-year budget for the program under this section.

SEC. 903. COAL STUDY. (a) The Secretary, through one or more of the Department's National Laboratories, shall establish and carry out a comprehensive program in the fundamental physics and chemistry of coal combustion. The program under this section shall examine the breakup of representative types of coal under combustion into final products at the molecular level;

(b) In designing the program under this section, the Secretary shall give priority to research that will clarify the fundamental mechanisms for the production of oxides of sulphur and nitrogen during the combustion process, with the ultimate goal of using information gained thereby to limit or control the introduction of these gases into the atmosphere; and

(c) Within 6 months after the date of the enactment of this section the Secretary shall submit a report to Congress on his plans to implement subsection (a), including a five-year budget for the program under this section.

SEC. 904. IMPROVED EFFICIENCY.—The Secretary shall support research that will improve the efficiency of coal generated electricity and industrial processes with priority given to those projects which have the greatest potential for reducing the generation of carbon dioxide.

SEC. 905. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for purposes of this title not more than $5,000,000 for fiscal year 1990, not more than $15,000,000 for fiscal year 1991, and not more than $25,000,000 for fiscal year 1992.

TITLE X—NATURAL GAS

SEC. 1001. NATURAL GAS FOR MASS TRANSIT PROGRAM.—(a) The Secretary shall enter into cooperative agreements with, and provide financial assistance under this section to, at least five appropriate municipal governments to demonstrate the feasibility of using natural gas as a fuel for mass transit in urban areas;

(b) The program of the Secretary to implement the agreements under subsection (a) may include interested or affected private firms willing to provide assistance in cash or in kind for any such demonstration;

(c) The Secretary shall not enter into any agreement under subsection (a) with any municipal government unless such government agrees to provide at least twenty-five per centum of the costs of such demonstration;

(d) The Secretary shall give priority under this section to municipalities where the use of natural gas as a transportation fuel could have a significant effect on the ability of such municipalities to comply with applicable regulations governing air quality;

(e) Within 6 months after the date of the enactment of this section the Secretary shall report to Congress on his plans to implement this section; and

(f) There is authorized to be appropriated to the Secretary not more than $30,000,000 for each of fiscal years 1990, 1991 and 1992 for purposes of this section.

SEC. 1002. REPORT.—Within 9 months after the date of the enactment of this title the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on the feasibility of using natural gas in diesel-powered vehicles to facilitate compliance by such vehicles with applicable emissions requirements for such vehicles.

SEC. 1003. RESEARCH PROGRAM.—(a) The Secretary shall establish and carry out a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) more economic recovery of unconventional natural gas, including gas from tight sands, gas from less permeable formations, and coal-bed methane.

(b) The Secretary shall seek to enter into joint research and development ventures with persons engaged in the production, transportation or major use of natural gas to implement the program under subsection (a). For purposes of this section a "joint research and development venture" means a joint research and development venture under the National Cooperative Research Act of 1984.

TITLE XI—NORTHEAST NATURAL GAS PIPELINE CAPACITY

SEC. 1101. EXPEDITION OF APPROVAL FOR NEW PIPELINE PROJECTS.—(a) Within 90 days of the date of enactment of this Act, the Chairman of the Federal Energy Regulatory Commission shall prepare and transmit to the Congress recommendations for enacting legislation to expedite final Commission approval of new pipeline projects to serve markets in the Northeast United States;

(b) The legislation shall be designed to require the Commission to take final action no later than March 31, 1990, on any application currently pending in the Northeast pipeline certificate proceeding (CP87-451 et al.) that the Commission determines merits granting a certificate of public convenience and necessity under the Natural Gas Act; and

(c) The legislation shall also include recommendations for expediting judicial review of any certificate granted by the Commission in the Northeast pipeline certificate proceeding.

TITLE XII—NATURAL RESOURCES POLICY

SUBTITLE A—GENERAL

SEC. 1201. ECOLOGICAL AND ENVIRONMENTAL RESOURCE STUDY.—(a) The Secretary of the Interior shall conduct a study of the ecological and environmental resources that would be affected by a global climate change. The study should include effects in wildlife habitat preservation, coastal protection, inland rivers and lakes, irrigation and reclamation, groundwater protection, and national wildlife refuges and parks, national forests, and other Federal lands;

(b) The study should—

(1) include specific regional climatic and resource base information useful in anticipatory and mitigatory planning;

(2) identify actions that, if taken, could help mitigate the effects of global climate change; and

(3) evaluate the cost-effectiveness, including environmental externalities of possible action.

(c) The Secretary of the Interior shall consider the relative impact on global warming of all mineral leasing programs; and

(d) The Secretary of the Interior and the Secretary of Agriculture shall consider the relative impact on global warming of all Federal forest land management programs, including timber sales and reforestation.

Subtitle B—Tongass Timber Reform

SEC. 1202. ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.—Section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)) is hereby repealed, effective October 1, 1988.

SEC. 1203. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.—Section 705(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(d)) is hereby repealed.

SEC. 1204. REPORT ON ADEQUACY OF TIMBER SUPPLY.—The second sentence of section 607(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(a)) is hereby repealed.

SEC. 1205. STATUS OF TONGASS NATIONAL FOREST.—Section 607(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(b)) is amended—

(a) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(b) by striking out the period at the end of such section and inserting in lieu thereof ", and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats."

TITLE XIII—BASIC SCIENCE INITIATIVES

Sec. 1301. (a) Purposes.—The overall purpose of this title is to expand support for ongoing and new scientific research initiatives regarding the causes, mechanisms, and implications of the greenhouse effect and global climate change, on the part of the National Aeronautics and Space Administration, the National Science Foundation, and the National Oceanic and Atmospheric Administration ("the Agencies"), and the National Bureau of Standards (NBS) for research on the development of safe, nonozone depleting substitutes for chlorofluorocarbons (CFCs). The specific purposes of this title shall include—

(1) support for NASA, NOAA and NSF in their research in such major climate-related processes as interactive atmospheric dynamics and chemistry; natural emissions of greenhouse gases; ocean-atmosphere-ice interactions; carbon cycle links to ocean and terrestrial nutrients; cloud formation, dynamics, and radiative properties; precipitation processes; tropical global-ocean atmosphere interaction; global ocean circulation and heat capacity; sea-ice dynamics; global tropospheric chemistry; and stratospheric ozone chemistry; solar irradiance variations; paleoclimate; biosystem-climate interactions; and sea level-climate interactions;

(2) support for the Agencies in providing research to address scientific issues such as: detection of the greenhouse warning signal through land and ocean measurements of temperature and other climate-sensitive variables; improvement of models to assess the rate and scope of climate change; understanding the role of clouds in reflecting solar radiation and in trapping terrestrial radiation; identifying sources and sinks of carbon dioxide and trace gases, especially methane; understanding the relationship between stratospheric ozone depletion and global climate change; the role of oceans in the global carbon cycle; modelling regional climate changes; understanding the effects of climate change on ecosystems and climate biota feedbacks; understanding the role of changes in the polar ice packs on climate (e.g. reflection of solar radiation, influence on the heat budget, and contribution to sea level rise); assessing the validity of climate models by testing them against the past climate record; and predicting the possible range of future climatic conditions that could arise from natural processes and selected scenarios of human perturbations;

(3) support for the completion or continuation of the following Agency space missions and experiments: Earth Radiation Budget Experiment (ERBE); Upper Atmosphere Research Satellite (UARS); Ocean Topography Experiment (TOPEX/Poseidon); and the NASA Scatterometer (NSCAT);

(4) support for the Agencies in assembling and operating the Earth Observing System to study the composition and dynamics of the atmosphere; measure the Earth's energy balance; observe ocean and ice surfaces; collect data on the Earth's radiation budget; measure sea surface temperature and monitor ocean biological activity and land vegetation; and

(5) support for the National Bureau of Standards' efforts to find alternative refrigerants or other technologies that meet stringent requirements with respect to health, stability, thermophysical properties, and cost and do not result in decreased energy efficiency; develop effective replacements for harmful CFCs in time to be of value to CFC dependent industries in meeting their product line changes for the Montreal Protocol schedule; develop models to correlate and extend the available measured property data; and assist industry in evaluating the full potential of alternative fluids.

(b) There is hereby authorized to be appropriated $610 million in additional funding to the following Agencies for the fiscal years 1990, 1991, and 1992, to support each Agency's efforts in carrying out the purposes of this title:

(1) $275 million to NASA;

(2) $200 million to NOAA;

(3) $125 million to NSF; and

(4) $10 million to NBS.

TITLE XIV—DEVELOPMENT ASSISTANCE

Sec. 1401. BILATERAL TROPICAL FORESTRY PROGRAM.—(a) Not later than one year after the enactment of the title, the Secretary of State, in conjunction with the Secretary of the Treasury, Administrator of the Agency for International Development, the Secretary of the Interior, and the Secretary of Agriculture shall transmit to Congress a report containing—

(1) a description and inventory of the existing forest resources in all tropical countries of the world;

(2) an evaluation of the potential in each tropical nation for reforestation, afforestation, and conservation of existing forest resources;

(3) a description of appropriate mechanisms in each country for preserving forest resources and creating new forested area, including but not limited to choice of mixed species to encourage a diverse forest and and discourage monoculture estates, and involvement of local groups in the design, implementation, and monitoring of projects; and

(4) the potential for reducing, mitigating, or preventing climate disruption by providing bilateral development assistance and other forms of financial assistance and incentives to tropical countries for reforestation, afforestation, and conservation of existing forest resources. The report referred to in this subsection shall be prepared in consultation with the government and the public in each tropical country and shall be updated and transmitted to the Congress every three years.

(b) Within one year of the completion of the report required under subsection (a) and every three years thereafter, the same Agencies, in consultation with the government and public in each tropical country and interested members of the public in the United States, shall establish and transmit to Congress a forest plan with goals for each tropical country. These goals shall include maximum feasible conservation of existing forest areas and reforestation and afforestation in areas not covered by forests.

(c) The Administrator of the Agency for International Development shall make development assistance monies, export credits, and other forms of financial support available for projects and programs to implement the plan required by subsection (b). The Administrator shall ensure that all activities supported by U.S. bilateral foreign assistance are consistent with the plan. Beginning two years after the approval of the first plan, the Administrator, in allocating development assistance monies to countries identified in the plan, shall take account of the success or lack of success of each country in meeting the goals established in the plan;

(d) The Administrator shall promote support by other bilateral donors for activities necessary to implement the plan; and

(e) Not later than one year after the date of enactment of this title, and annually thereafter, the Department of State, in cooperation with the Department of the Interior, the Department of the Treasury, the Department of Agriculture, and the Agency for International Development shall submit to the Congress a report describing actions taken pursuant to this section, the extent to which other donors have supported actions necessary to implement the forest plan, the extent to which each tropical country has succeeded in achieving the goals set out in the plan, and how the success or lack of success of each country in meeting the goals established in the plan has been taken into account in allocating development assistance monies to each country.

SEC. 1402. MULTILATERAL TROPICAL FORESTRY PROGRAM.—(a) The Secretary of the Treasury shall instruct the United States' Executive Director of the multilateral development banks to promote the adoption by each such bank of a forestry program substantially equivalent to the program set out in section 1401 and containing the following components—

(1) identification of each borrowing country's potential for afforestation;

(2) establishment of goals for afforestation for each borrowing country, in consultation with the government and the public in that country;

(3) creation of incentives to encourage afforestation and disincentives to discourage deforestation; and

(4) allocation of the resources of each such bank to each borrowing country in proportion to the degree with which such country has created new forest areas and protected existing forest areas;

(b) Beginning two years after the enactment of this title, the Secretary of the Treasury shall instruct the United States

Executive Director of each of the multilateral development banks to oppose loans and other financial or technical assistance to any borrowing country that has not established and successfully implemented a program setting reasonable goals for that country for preserving existing forest resources and creating new forested areas, except where the Secretary determines that such goals are advanced more effectively by actions other than voting against such assistance;

(c) The Secretary of State shall instruct the United States representatives to the United Nations Food and Agriculture Program to promote the establishment and coordinate the implementation of forestry plans for tropical countries substantially equivalent to those set out in section 1401 and subsection (a) of this section that contains incentives to encourage afforestation and disincentives to discourage deforestation;

* * * * *

Treasury and the Secretary of State shall submit to Congress a report describing progress by each of the multilateral development banks, the United Nations Food and Agriculture Program, the United Nations Development Program, and the International Tropical Timber Organization in adopting and implementing programs meeting the standards set out in this section, including in particular—

(1) efforts by the Department of the Treasury, the Department of State, and other federal agencies to assure implementation of multilateral development programs substantially equivalent to that set forth in section 1402 and subsection (a) of this section, and the result of such efforts;

(2) progress by the United Nations Food and Agriculture Organization in promoting the establishment and coordinating the implementation of forestry plans for tropical countries meeting the criteria set forth in section 1401 and subsection (a) of this section;

(3) progress in the identification of each multilateral development bank, the United Nations Food and Agriculture Program, the United Nations Development Program of the potential for afforestation by recipient countries;

(4) progress in the establishment of goals by each multilateral development bank, the United Nations Food and Agriculture Program, and the United Nations Development Program for afforestation by each recipient country;

(5) the nature of incentives and disincentives created by each multilateral development bank and the United Nations Development Program to encourage afforestation and to discourage deforestation, respectively;

(6) the extent to which the allocation of the resources of each multilateral develoment bank and the United Nations Development Program to recipient countries is proportional to the success or lack of success of such country in creating new forest areas and protecting existing forest areas; and

(7) a description of proposed loans, country programs, and other financial and technical assistance to which subsections (b) and (d) apply, and votes and other actions on proposals by the United States executive director to the relevant multilateral development bank and the United States Ambassador to the United Nations.

SEC. 1403. TRADE IN WOOD AND WOOD PRODUCTS.—(a) Not later than one year after the enactment of this title, the Secretary of Commerce, in consultation with interested members of the public, shall promulgate regulations requiring wood and products containing wood imported into the United States to bear a label containing the following information:

(1) the country or countries in which the wood or woods were harvested; and

(2) the scientific and common names of such wood or woods.

(b) Not later than four years after the enactment of this title, the Secretary of Commerce, in consultation with the Secretary of State, the Administrator of the Agency for International Development, the Secretary of the Treasury, and interested members of the public, shall by regulation prohibit the importation into the United States of wood and products containing wood from—

(1) those tropical countries that have not successfully achieved the goals established under sections 1501 and 1502 of this title;

(2) those countries that import wood or products containing wood harvested in the countries identified in paragraph (1); and

(3) those countries that permit transit of wood or products containing wood harvested in those countries identified in paragraph (1).

(c) Not later that two years after the publication of the regulation referred to in subsection (a) and no less frequently than biennially thereafter, the Secretary of Commerce, in consultation with the Administrator of the Agency for International Development, the Secretary of the Treasury, and interested members of the public, shall review and, as necessary, revise the regulation referred to in subsection (a);

(d) The President shall encourage those countries which import or consume wood or wood products from countries identified in sections 1401 and 1402 to adopt laws and regulations substantially equivalent to the regulation referred to in subsection (a); and

(e) The Secretary of Commerce, not later than one year after the initial publication of the regulation referred to in subsection (a) and annually thereafter, shall submit a report to the Congress describing—

(1) progress in controlling imports to the United States of wood and wood products from countries that have not successfully achieved the goals established under sections 1401 and 1402; and

(2) progress by those countries which import or consume wood or wood products from countries identified in paragraph (1) in controlling imports of such wood and wood products;

SEC. 1404. BILATERAL ENERGY PROGRAM.—Section 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151d) is amended by:

(a) changing the title of the section to read: "Sustainable Energy Development, Private Voluntary Organizations, and Selected Development Activities."

(b) striking out all of subsection (a)(1) except the first two sentences and striking out all of subsection (a)(2);

(c) inserting the following new subsection (a)(2);

"(2) The Congress finds that energy conservation, improvements in end use energy efficiency, plan energy production from renewable, decentralized sources have great potential for meeting energy needs in developing nations, especially the needs of the rural poor. These techniques can enable developing countries to make efficient use of scarce resources; minimize environmental harm (including warming of the earth's atmosphere due to the "greenhouse effect"); lessen the danger of nuclear weapons proliferation; and reduce dependence on dwindling oil reserves and expensive imported energy. Often, energy needs can be met more cheaply and more employment can be generated by these methods than by production of energy from conventional sources."

(d) striking out the last sentence of subsection (b)(2), redesignating that subsection as subsection (a)(3), and inserting at the end of that subsection the following: "Such programs also may include any type of assistance aimed at energy efficiency, improvements in end use energy efficiency, and assistance for transmission facilities to increase the availability of energy in rural areas. No assistance shall be furnished under this Act for large-scale production of energy from fossil fuels."

(e) inserting the following new subsection (a)(4):

"(4) In providing assistance to developing countries as authorized in subsection (3), the President shall—

"(A) prepare for each aid-receiving country, in cooperation with the government and public in country and interested members of the public in the United States, an analysis—

"(i) describing feasible actions that can reduce emissions of 'greenhouse gases,' while at the same time meeting development needs, through actions which improve end use energy efficiency, promote reliance on renewable energy sources, or encourage energy efficiency or use of alternative fuels;

"(ii) comparing the economic and environmental costs of the actions described in subparagraph (i) with the economic and environmental costs of investments to provide additional supplies of energy;

"(iii) analyzing the need for foreign assistance, and especially U.S. bilateral assistance, to make possible the actions described in subparagraph (i).

"(B) provide technical assistance and support projects to improve energy efficiency, with emphasis on training, information and institution-building in all sectors; improvement of indigenous capabilities to develop and implement least cost planning strategies and programs of energy efficiency; developing indigenous capabilities to adapt technologies of energy conservation and end use energy efficiency; and, in transportation, energy-saving methods of mass transit (such as light rail, buses, and van pools), energy-efficient motor vehicles and railroads, traffic management techniques (such as computerization of traffic signals and fuel savings at airports), and transfer of appropriate U.S. technologies.

"(C) support projects to develop and demonstrate energy conservation, improvements in end use energy efficiency, and small-scale, decentralized, renewable energy sources for rural areas. Such projects shall use appropriate technologies and methods suited to the local environment, shall feature close consultation with and involvement of local people at all stages of project design and implementation, and shall be directed toward the earliest possible widespread application. Appropriate technologies include but are not limited to biomass, biogas, wind energy, passive solar, solar electricity, and low-head hydroelectric generation.

"(D) whenever appropriate, accomplish the objectives of this subsection through projects managed by private and voluntary organizations or international or regional or national nongovernmental organizations.

"(E) direct the Administrator of the U.S. Agency for International Development, in consultation with the President of the Export-Import Bank and the President of the Overseas Private Investment Corporation, to encourage private sector investment in energy efficient technologies in developing countries.

"(F) make the analyses referred to in subsection (A) available to the public and transmit them to the Congress at least annually.

"(G) beginning one year after enactment of this title, refuse to approve any project or program authorized by this subsection involving the obligation of more than $100,000 unless such an analysis has been prepared, transmitted to the Congress, and made available to the public.

"(H) promote vigorously the adoption by other bilateral donors of energy efficiency programs for countries that receive development assistance that emphasize least-cost energy planning, energy conservation, and end use energy efficiency.

"(I) not later than one year after the date of enactment of this title, and annually thereafter, submit to the Congress a report describing progress under the program established by this section, including in particular the nature of all projects supported; their costs and results; progress in reducing emissions of greenhouse gases; and progress by other bilateral donors in implementing programs of least cost energy planning, energy conservation, and end use energy efficiency for aid-receiving countries."

(f) striking out subsection (b), redesignating subsection (c) as subsection (a)(5), and redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

SEC. 1405. MULTILATERAL ENERGY CONSERVATION AND EFFICIENCY PROGRAM.—(a) The Secretary of the Treasury shall instruct the United States Executive Director of each of the multilateral development banks vigorously to promote the adoption by each such bank of an energy conservation and efficiency plan containing the following components—

(1) least cost energy planning for each borrowing country that—

(A) gives priority to projects and programs to support energy conservation, end use energy efficiency, and renewable energy sources in major economic sectors; and

(B) compares the economic and environmental costs of the actions described in subparagraph (A) with the economic and environmental costs of investments to provide additional supplies of energy;

(2) analysis for each proposed loan to support additional power generating capacity comparing the economic and environmental costs of investments in reduction of demand for energy, including energy conservation and end use energy efficiency, with the economic and environmental costs of the proposal;

(3) an implementation strategy, including technical assistance grants as appropriate, for implementing the plan referred to in paragraph (1);

(4) strict standards requiring consistency of each proposed loan with the relevant least cost energy plan for each borrowing country; and

(5) measures to encourage reform of macroeconomic policies, such as energy prices, to facilitate energy conservation and end use energy efficiency.

(b) Beginning two years after the enactment of this title, the Secretary of the Treasury shall instruct the United States Executive Director to each of the multilateral development banks to oppose loans and other financial or technical assistance to any borrowing country for which a least cost energy plan giving priority to energy conservation, end use energy efficiency, and renewable energy sources is not in place, except where the Secretary determines that such goals are advanced more effectively by actions other than voting against such assistance.

(c) The Secretary of State shall instruct the United States Ambassador to the United Nations vigorously to encourage the United Nations Development Program to adopt and implement energy conservation and efficiency programs for recipient countries substantially equivalent to those set out in subsection (a) that require least cost energy planning to give priority to energy conservation, end use energy efficiency, and renewable energy sources. Beginning two years after the enactment of this title, the Secretary of State shall instruct the United States Ambassador to the United Nations to oppose the adoption of any country programs for any country for which a program of least cost energy planning giving priority to energy conservation, end use energy efficiency, and renewable energy sources is not in place, except where the Secretary determines that such goals are advanced more effectively by actions other than opposing the adoption of such plan.

(d) Not later than one year after the date of enactment of this title, and annually thereafter, the Secretary of the Treasury and the Secretary of State shall submit to the Congress a report describing progress by each of the multilateral development banks and the United Nations Develoment Program in adopting and implementing programs meeting the standards set out in subsections (a) and (c), including in particular—

(1) efforts by the Department of the Treasury, the Department of State, and other federal agencies to assure implementation by each of the multilateral development banks and the United Nations Development Program of programs substantially equivalent to those set out in this section, and the results of such efforts;

(2) progress by each multilateral development banks and the United Nations Development Program in drafting and adopting least cost energy plans for each recipient country;

(3) the absolute dollar amounts, and proportion of total lending in the energy sector, of loans, portions of loans, or projects approved by each multilateral development bank and the United Nations Development Program in the previous year for projects or programs of energy conservation and end use energy efficiency; and

(4) a description of proposed loans, country programs, and other financial and technical assistance to which subsections (b) and (c) apply, and votes and other actions on proposals by the United States Executive Director to the relevant multilateral development bank and the United States Ambassador to the United Nations.

SEC. 1406. ENVIRONMENTAL CONSERVATION AND DEBT REDUCTION.—

(a) It is the policy of the United States that the Secretary of the Treasury, in consultation with interested members of the public including commercial banks, shall enter into negotiations with selected developing country governments to obtain improvements in policies in the forestry and energy sectors by those countries as a condition of reducing or converting sovereign and private debt owed to creditors in the United States. As a condition of the adoption of policies or programs to preserve existing forested areas, encourage the creation of new forested areas, or promote energy conservation or end use energy efficiency, the Secretary may reduce the principal of, extend payments on, or reduce the rate of interest on up to one-half of the total sovereign debt owed to the United States by developing country governments.

(b) Not later than one year after the enactment of this title, the Secretary of the Treasury, in consultation with interested members of the public including commercial banks, shall promulgate regulations to implement the program established in subsection (a). Such regulations shall—

(1) identify those developing countries that are promising candidates for participation in such a program from the point of view of their contribution to global climate disruption and the total amount of debt owned to official and private creditors in the United States;

(2) establish a timetable of the initiation of negotiations with each such country; and

(3) establish criteria and standards for the adoption, implementation, and monitoring or programs and policies in the forest and energy sectors by developing country governments that wish to participate in the program established by subsection (a).

(c) The Secretary of the Treasury, in consultation with interested members of the public including commercial banks, shall encourage the adoption of joint initiatives of debt reduction and conversion by the public and private sectors in other member countries of the Organization for Economic Cooperation and Development. (a) Not later than one year after the enactment of this title, the Administrator of the Agency for International Development shall transmit to the Congress a report for each country that receives development assistance monies from the United States containing—

(1) a least cost energy plan that provides for economic development;

(2) a comparison of the economic and environmental costs of alternative investments in the energy sector, such as conservation and end use efficiency, with the economic and environmental costs of investments to provide additional power generating capacity;

(3) an implementation strategy, including technical assistance grants as appropriate, for implementing the plan referred to in paragraph (1); and

(4) the potential for reducing, mitigating, or preventing climate disruption by providing bilateral development assistance for least cost energy planning, energy efficiency, and end use efficiency.

(b) The report referred to in subsection (a) shall be updated and transmitted to the Congress every two years. The first report and all subsequent reports shall be prepared in consultation with the government and the public in each recipient country and interested member of the public in the United States. The Administrator shall assure that all development assistance monies expended in each recipient country are consistent with the least cost plan applicable to that country;

(c) The Administrator shall promote the adoption by other bilateral donors of energy efficiency programs for countries that receive development assistance that emphasize least cost energy planning, energy efficiency, and end use efficiency;

(d) Not later than one year after the date of enactment of this title, and annually thereafter, the Administrator shall submit to the Congress a report describing progress under the program established by this section, including in particular—

(1) the nature of energy projects supported in each recipient country and the dollar amount of each;

(2) improvements in energy conservation and end use efficiency resulting from projects financed in each recipient country;

(3) progress in reducing, mitigating, or preventing climate disruption by providing bilateral development assistance to recipient countries through support of projects to encourage energy conservation and end use efficiency; and

(4) progress by other bilateral donors in implementing least cost energy programs for recipient countries.

Sec. 1405. Multilateral Energy Efficiency Program.—

(a) The Secretary of the Treasury shall instruct the United States Executive Director to each of the multilateral development banks to promote the adoption by each such bank of an energy efficiency program substantially equivalent to the program set out in section 1404 and containing the following components—

(1) least cost energy planning for each borrowing country;

(2) analysis for each proposed loan to support additional power generating capacity comparing the economic and environmental costs of alternative investments in the energy sector, including energy conservation and end use efficiency, with the economic and environmental costs of the proposal;

(3) an implementation strategy, including technical assistance grants as appropriate, for implementing the plan referred to in paragraph (1); and

(4) strict standards requiring consistency of each proposed loan with the relevant least cost energy plan for each borrowing country;

(b) The Secretary of the Treasury shall instruct the United States Executive Director to each of the multilateral development banks to notify the staff of each bank that all future contributions to such bank from the United States shall be conditioned upon adoption and successful implementation of a program meeting the standards set out in subsection (a);

(c) Not later than one year after the date of enactment of this title, and annually thereafter, the Secretary of the Treasury shall submit to the Congress a report describing progress by each of the multilateral development banks in adopting and implementing programs meeting the standards set out in subsection (a), including in particular—

(1) efforts by the Department of the Treasury and other Executive Branch agencies to assure implementation by each of the multilateral development banks of a program substantially equivalent to that set out in this section, and the results of such efforts;

(2) progress by each multilateral development bank in drafting and adopting least cost energy plans for each borrowing country; and

(3) the absolute dollar amounts, and proportion of total lending in the energy sector, of loans or portions of loans approved by each multilateral development bank in the previous year for products or programs of energy efficiency and end use efficiency.

Sec. 1407. Report by the Administrator of the Agency for International Development.—Not later than one year after the enactment of this title, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit to the Congress a report describing options and strategies for the use of bilateral and multilateral development assistance programs sponsored by the United States to control emissions into the atmosphere of carbon dioxide, nitrous oxide, methane, and other greenhouse gases. Interalia, this report shall analyze mechanisms by which strategies to encourage afforestation, reforestation, energy conservation, end use energy efficiency, and renewable energy sources can be incorporated into the programs of the International Monetary Fund.

TITLE XV—INTERNATIONAL ACTIVITIES

SUBTITLE A

Sec. 1501. Multilateral Global Climate Protection Convention.—(a) It is the policy of the United States that the Secretary of State, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy, and science agencies (e.g., NASA, NOAA, and NSF) shall convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to actively encourage the adoption of a binding multilateral global climate protection convention containing measures at least as stringent as those in this Act;

(b) The Secretary of State shall sponsor such other meetings as may be necessary to assure that the convention is opened for signature no later than the end of 1992; and

(c) The Secretary of State shall seek to assure that the convention, through least cost energy planning, energy efficiency, and end use efficiency, requires a reduction of not less than 20 percent in global generation of carbon dioxide over 1988 levels by the year 2000, a reduction not less than 50 percent in global generation of carbon dioxide over 1988 levels by the year 2015, and appropriate reductions in emissions of nitrous oxide, methane and other greenhouse gases.

Sec. 1502. Multilateral Agreement to Reduce Emissions of Oxides of Nitrogen.—Not later than one year after the enactment of this title, the Secretary of State, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and the administrators of NSF, NOAA, and NASA shall initiate negotiations on behalf of the United States and actively encourage the adoption by the end of 1991 of a binding multilateral agreement requiring reductions of not less than 30 percent in emissions of oxides of nitrogen over 1987 levels by the year 1998.

Sec. 1503. Reassessment of Montreal Protocol on Substances That Deplete the Ozone Layer.—(a) Not later than one year after the enactment of this title, the Secretary of State, in consultation with the Administrator of the Environmental Protection Agency, shall request and, if necessary, convene in the United States such meetings of the parties to the Montreal Protocol on Substances that Deplete the Ozone Layer as may be necessary for the reassessment of the control measures contained therein;

(b) The Secretary of State shall actively encourage the adoption of additional control measures requiring the virtual elimination of emissions of all substances identified in the Montreal Protocol within five to seven years from the date of enactment of this title and appropriate control measures for other ozone-depleting chemicals not identified in the Montreal Protocol.

Sec. 1504. Internatioinal Nuclear Conference.—The Secretary of State, in consultation with the Secretary of Energy, shall convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to encourage the exchange of information concerning passively safe nuclear reactors, nuclear safety, and disposal of nuclear waste.

Sec. 1505. Special Programs.—The Secretary of State should encourage the establishment of a special office of the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) to monitor annual generation of CO^2 and estimated trace gases on a country-by-country basis. That office shall also be responsible for assisting global negotiations and ultimately administering a global protocol.

Sec. 1506.—(a) It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDBs) to—

(1) promote the adoption of internal guidelines requiring the use of least-cost planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize the generation of carbon dioxide and trace gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as non-motorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practicies which encourage or discourage the use of renewable energy technologies overseas, and on ways

to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of their energy efforts, and meeting energy needs through these means shall be discussed in every country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

SEC. 1507. INTERNATIONAL RESEARCH.—(a) It is the policy of the United States to promote and support—

(1) domestic and international research efforts with respect to the greenhouse effect and its impact;

(2) studies of methods to reduce the rate of increase in the concentration of carbon dioxide and trace gases in the atmosphere of the Earth; and

(3) efforts to prevent degradation of the environment of the Earth by the greenhouse effect;

(b) The President is requested to take all appropriate actions, in cooperation with any international organizations which the President, determines to be appropriate, to establish a long term study, beginning with a 1-year cooperative international research program, with respect to the greenhouse effect with the purposes of—

(1) increasing the worldwide dissemination of information with respect to the causes of the greenhouse effect and methods to alleviate or avoid the effects of global warming and climate change;

(2) coordinating the research efforts of the participating nations with respect to the greenhouse effect;

(3) fostering cooperation among nations to develop more extensive research efforts with respect to the greenhouse effect;

(4) preparing a report on the accomplishments of the program;

(5) identifying the potential alternative policies necessary to avoid a buildup of carbon dioxide and trace gases beyond levels which could have catastrophic results; and

(6) developing a long-term plan for future research efforts with respect to the greenhouse effect.

(c) Any such program established by the President should be started during or before the calendar year 1991, which year shall be known as the "International Year of the Greenhouse Effect"; and

(d) The participation of the United States in any such program established by the President should be planned and coordinated on behalf of the United States by the Chairman of the National Academy of Sciences and the Secretary of Energy.

TITLE XVI—MODERATING WORLD POPULATION GROWTH

SEC. 1601. FINDINGS.—Taking into account the impact that future world population growth will have on increased demand for energy and on the rate of tropical deforestation, Congress hereby finds that:

(1) In order to avoid the potentially catastrophic consequences of significant global warming a coordinated effort to address world population growth must be initiated;

(2) U.S. participation in international programs to moderate high rates of population growth is necessary to control rising levels of atmospheric pollutants and greenhouse gases;

(3) at current birth and death rates the world population, now at 5 billion, is adding an additional 1 billion people every ten years;

(4) half of the world's people depend primarily on biomass energy, principally fuelwood, for their most basic nonfood energy needs—cooking, water heating, and space heating—and 1.5 billion people are cutting wood faster than forests can grow back;

(5) growing rural populations will continue to encroach on remaining forests in search of land for food and commercial crops, for fuelwood needed for cooking and heating and fodder for livestock;

(6) the World Bank estimates that an average fertility rate of 2.4 children per woman, the rate needed for eventual population stabilization at present death rates, could be achieved by the year 2000 if the proportion of couples in developing countries using contraception were to rise from the current rate of 40 percent to 72 percent; and

(7) these population stabilization goals can be accomplished through a mix of bilateral and international population policies to make family planning services universally available on a voluntary basis in order to slow the rate of population growth and therefore reduce pressures on global resources.

(b) The overall purpose of this Title is to:

(1) significantly increase funding for new investments in international family planning information services to ensure universal access to effective modern contraception; and

(2) increase funds available for applied research and development of new contraceptive technologies with a particular focus on methods adaptable for use in developing countries.

(c) There is hereby authorized to be appropriated to the President $500 million for fiscal year 1990 and $540 million for fiscal year 1991 and $580 million for fiscal year 1992 for international population and family planning assistance. Of the funds appropriated, not less than 16 percent or $60 million, whichever amount is less, shall be solely available for the United Nations Population Fund. None of the funds made available for international population and family planning assistance may be used to pay for the performance of involuntary sterilization or abortion or to coerce any person to accept family planning services. Restrictions may be applied by the President to information, counseling, or services that may be provided by family planning entities abroad only to the extent that the same restrictions are applied by the President to information, counseling, and services that may be provided by family planning entities receiving funds under grants and contracts made under Title X of the Public Health Service Act (42 U.S.C. 300 and following).

AMENDMENT NO. 2753

At the end of the bill, add the following new title:

TITLE—AUTOMOBILE FUEL EFFICIENCY STANDARDS AMENDMENTS ACT OF 1988

SEC. 001. SHORT TITLE.

This title may be cited as the "Automobile Fuel Efficiency Standards Amendments Act of 1988".

SEC. 002. DEFINITIONS.

Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001), relating to definitions, is amended—

(1) in paragraph (2), immediately after "off-highway operations" insert the words "or a light truck";

(2) by inserting immediately after paragraph (2) the following new paragraph:

"(2)(A) The term 'light truck' shall have such meaning as the Secretary shall prescribe by rule."

SEC. 003. AVERAGE FUEL ECONOMY STANDARDS.

Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)), relating to average fuel economy standards, is amended by striking out

"1985 and thereafter .... 27.5"

and inserting in lieu thereof the following:

"1985 through 1990 .... 27.5
1991 and thereafter......... As provided in accordance with section 513 of this Act.".

SEC. 004. EXCEPTION.

Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)), is amended by striking out "The Secretary" and inserting in lieu thereof "Except in the case of standards established by sections 513 and 514, the Secretary".

SEC. 005. LIGHT TRUCKS.

Section 502(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(b)), relating to standards for other than passenger automobiles, is amended by inserting immediately after "average fuel economy standards for automobiles which are not passenger automobiles" the words "or light trucks".

SEC. 006. EXEMPTIONS.

Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)), relating to exemptions for manufacturers of limited number of cars, is amended (1) by inserting immediately after "10,000 passenger automobiles", wherever it appears therein, the words "or 10,000 light trucks"; (2) by inserting immediately before the period at the end of the first sentence of such paragraph (1) the words "or section 513 or 514"; (3) by inserting immediately before "is more stringent" in such paragraph (1) the words "or sections 514 and 513"; and (4) by inserting immediately before "manufactured by manufacturers" in such paragraph (1) the words "or light trucks".

SEC. 007. EMERGENCY VEHICLES.

Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1)), relating to exemption of emergency vehicles, is amended by inserting immediately before the period at the end of the first sentence thereof the following: "or section 513 or 514".

SEC. 008. CONSULTATION.

Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)), relating to consultation with the Secretary of Energy), is amended by striking out "under this section" and inserting in lieu thereof "under this section or sections 513 and 514".

SEC. 009. NOTIFICATION.

Section 502(j) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(j)), relating to notification of the Secretary of Energy, is amended by striking out "under this section" and inserting in lieu thereof "under this section or sections 513 and 514".

SEC. 110. CALCULATION OF AVERAGE FUEL ECONOMY.

Section 503(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)(1)) is amended by inserting immediately after "passenger automobiles" the words "and light trucks".

SEC. 111. NEW STANDARDS.

The Motor Vehicles Information and Cost Savings Act (15 U.S.C. 2001) is amended by adding at the end thereof the following new sections:

PASSENGER AUTOMOBILE

"SEC. 513. (a) Notwithstanding any other provision of this Act, commencing with model year 1992 and each model year thereafter, the average fuel economy for passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1992 through 1995	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 15 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"1995 through 1999	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"2000 through 2009	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 60 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"2010 and thereafter	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"(b) Notwithstanding subsection (a), no manufacturing prior to the year 2009 shall have to achieve a fleet average fuel economy standard higher than 60 miles per gallon.

"LIGHT TRUCKS

"SEC. 514. Notwithstanding any other provision of this Act, commencing with model year 1992 and each model year thereafter, the average fuel economy for light trucks manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1992 through 1995	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 15 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"1995 through 1999	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"2000 through 2009	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 50 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"2010 and thereafter	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"MODIFICATIONS

"SEC. 515. (a) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under section 513 or section 514 to such manufacturer for model year 1991, and any model year thereafter. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested. No such average fuel economy standard shall be adjusted if such adjustment would result in an increase or decrease of such standard by an amount in excess of 1.0 miles per gallon.

"(b) The Secretary shall, on an annual basis, report each such adjustment made to the Congress. In each such report, the Secretary shall justify clearly the reasons for the adjustments and shall address the following criteria: technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, the need for the Nation to conserve energy, and the effect on domestic employment—long-term and short-term—of any such adjustment.

"(c) The provisions of subsection (l) of section 502 of this Act shall not be applicable with respect to the fuel economy standards established pursuant to section 513 or 514 of this Act.

"(d) The Secretary shall in calendar year 2000, pursuant to a rulemaking, make a determination whether the miles per gallon minimum established for each manufacturer effective for model year 2005 and later should be raised, and what the increased standard should be. This determination shall be based upon the factors enumerated in subsection (b). The Secretary's determination to raise the standard shall have the full force and effect as though the standard were set in this statute.

"INCENTIVES FOR PASSENGER AUTOMOBILES

"SEC. 516. (a) Notwithstanding the provisions of section 513, in the case of any manufacturer who obtained an average fleet fuel economy for passenger automobiles of at least 27.5 miles per gallon for model year 1985, the average fuel economy for passenger automobiles manufactured by such manufacturer for model years 1991, 1992, and 1993 shall be 27.5; for model years 1994 and 1995, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 15 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 1996, 1997, 1998, and 1999, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 2000 through 2009, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 50 percent (as measured in miles per gallon) of such amount achieved for model year 1985; and for model year 2010, and each model year thereafter, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"INCENTIVES FOR LIGHT TRUCKS

"SEC. 517. (a) Notwithstanding the provisions of section 514, in the case of any manufacturer who obtained an average fleet fuel economy for light trucks of at least 21 miles per gallon for model year 1985, the average fuel economy for light trucks manufactured by such manufacturer for model years 1991, 1992, and 1993 shall be 21; for model years 1994 and 1995, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 20 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 1996, 1997, 1998, and 1999, an amount determined by the Secretary to be equal to the fleet av-

erage fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 2000 through 2009, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 50 percent (as measured in miles per gallon) of such amount achieved for model year 1985; and for model year 2010, and each model year thereafter, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.".

SEC. 112. CONFORMING AMENDMENTS.

(a) Section 507(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)(1)) is amended by striking out "section 502" and inserting in lieu thereof "section 502, 513, or 514".

(b) Section 505(a)(1) of the Motor Vehicles Information and Cost Savings Act (15 U.S.C. 2005(a)(1)), is amended by inserting immediately after "section 502" a comma and the following: "513 and 514".

SEC. 113. STANDARDS.

(a) Section 503 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003) is amended by adding at the end thereof the following:

"Testing

"(g)(1) The EPA Administrator, in consultation with the Secretary of Energy, shall, by rule, establish, and from time to time revise, standards for fuel economy testing which will have the effect of assuring that such testing will, to the extent possible, simulate average drivers and driving conditions in the United States.

"(2) Such standards shall assure that, with respect to fuel economy testing on and after the expiration of the 18-month period following the date of the enactment of this subsection—

"(A) such testing, notwithstanding the provisions of paragraph (1) of subsection (d), may be conducted in conjunction with emissions tests required under the Clean Air Act or may be conducted separately;

"(B) such testing of production vehicles of a manufacturer shall be conducted within 30 days of the existence of such vehicles in order to verify test results recorded on prototype vehicles;

"(C) if the results of any such test on a production vehicle differs from the results of the test on the prototype vehicle by more than 0.5 miles per gallon, that labels affixed to that model will be changed, 90 days after such results are available, to reflect the results of the production model test;

"(D) in order to determine the extent of the decline in the fuel economy of light vehicles in use, if any, a sample testing of such vehicles shall be carried out over a period sufficient to determine the extent of such decline, if any, and that the results of such testing will be submitted to the President of the United States and the Congress.

"Gas Mileage Guide

"(h)(1) The Secretary of Energy shall take such action as may be necessary to distribute to each automobile dealer in the United States 100 copies of each new issue of the Gas Mileage Guide, and such additional copies as may be requested by any such dealer from time to time.

"(2) The EPA Administrator shall, not less than twice each calendar year, update the Gas Mileage Guide so as to reflect mid-year model changes.

"Injunctions

"(i)(1) Upon petition by any individual, the United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of or failure to comply with, section 506 or subsection (h)(1).

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of this Act, trial shall be by the court, or upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(3) Actions under paragraph (1) of this subsection and under subsection (a) of this section may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(4) In any actions brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.".

SEC. 114. ELIMINATION OF UNLAWFUL CONDUCT.

Section 507 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007), relating to unlawful conduct, is amended—

(1) by striking out the section heading "Unlawful conduct" and inserting in lieu thereof "Conduct constituting civil violation";

(2) in subsection (a), by striking out the words "is unlawful" and inserting in lieu thereof "shall warrant civil penalty under subsection (c) of this section";

(3) in subsection (b), by striking out the words "to have engaged in unlawful conduct" and inserting in lieu thereof "subject to civil penalty under subsection (c) of this section"; and

(4) at the end thereof by adding the following new subsection:

"Assessment

"(c) Conduct in violation of this section shall be subject to a penalty which shall be assessed pursuant to section 508 as an Energy Security Fee.".

SEC. 115. ENERGY SECURITY FEE.

(a) The text of section 508(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)), relating to penalty for violations, is amended to read as follows:

"(a)(1) If the average fuel economy calculation reported under section 503(d) of this title indicates that any manufacturer has failed to achieve fleet average fuel economy equal to or exceeding the fuel economy standard applicable for that model year (unless further measurements of fuel economy, further calculations of the average fuel economy, or other information indicates that the manufacturer did not fail to meet or exceed the standard) the Secretary shall commence a proceeding under paragraph (2) of this subsection. The Secretary shall publish in the Federal Register the results of such further measurements, calculations, and any other relevant information.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer failed to meet or exceed the applicable fuel economy standard, the Secretary shall require the manufacturer to pay into the Energy Conservation Fund an Energy Security Fee in an amount calculated pursuant to the provisions of subsection (b) of this section. Any interested person may participate in any proceeding under this paragraph. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any Energy Security Fee assessed under this section against any person, but only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(2) such manufacturer shows that such violation resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that modification of such fee is necessary to prevent a substantial lessening of competition, as determined under subsection (c) of this section.".

(b) Section 508(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(b)), relating to amount of penalty, is amended—

(1) in subparagraph (1)(A), by striking out the words "liable to the United States for a civil penalty" and inserting in lieu thereof "assessed an Energy Security Fee which shall be payable into the Energy Conservation Fund";

(2) in subparagraph (1)(B), by striking out the words "liable to the United States for a civil penalty" and inserting in lieu thereof "assessed an Energy Security Fee which shall be payable into the Energy Conservation Fund";

(3) in paragraph (2), by striking out the words "liable to the United States for a civil penalty" and inserting in lieu thereof "assessed an Energy Security Fee which shall be payable into the Energy Conservation Fund";

(4) in paragraph (3)—

(A) by striking out the words "such civil penalty" and inserting in lieu thereof "the Energy Security Fee";

(B) by striking out the words "any civil penalty" and inserting in lieu thereof "any Energy Security Fee"; and

(C) by striking out the words "except that any civil penalty" and inserting in lieu thereof "except that any Energy Security Fee";

(5) in paragraph (3)(C)—

(A) by striking out the words "such penalty" and inserting in lieu thereof "Energy Security Fee"; and

(B) by striking out the words "such penalty" and inserting in lieu thereof "such Fee";

(6) in paragraph (4)—

(A) by striking out the words "modification of the civil penalty" and inserting in lieu thereof "modification of the Energy Security Fee";

(B) by striking out the words "such penalty" and inserting in lieu thereof "such Fee";

(C) by striking out the words "for a civil penalty" and inserting in lieu thereof "for an Energy Security Fee";

(D) by striking out the words "the penalty" and inserting in lieu thereof "the Fee"; and

(E) by striking out the words "general fund of the Treasury" and inserting in lieu thereof "Energy Conservation Fund";

(7) in paragraph (5)—

(A) by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee";

(B) by striking out the words "such civil penalty" and inserting in lieu thereof "such Energy Security Fee"; and

(C) by striking out "such penalty" and inserting in lieu thereof "such Fee"; and

(8) in paragraph (6), by striking out the words "a civil penalty" and inserting in lieu thereof "an Energy Security Fee".

(c) Section 508(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(c)), relating to review of penalty by interested person, is amended—

(1) in paragraph (1), by striking out the words "civil penalty" and inserting in lieu thereof "an Energy Security Fee"; and

(2) in paragraph (2)—

(A) by striking out the words "a civil penalty" and inserting in lieu thereof "an Energy Security Fee"; and

(B) by striking out the words "the civil penalty" and inserting in lieu thereof "the Energy Security Fee".

(d) Section 508(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(d)), relating to prescription of additional amount by rule, is amended—

(1) in paragraph (1)(A), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee";

(2) in paragraph (1)(A)(i)—

(A) by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee"; and

(B) by striking out the words "higher penalty" and inserting in lieu thereof "higher Fee";

(3) in paragraph (1)(A)(ii), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee";

(4) in paragraph (1)(B)(i), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee"; and

(5) in paragraph (2), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee".

SEC. 116. FEDERAL PURCHASES OF VEHICLES.

Section 510 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010) is amended by adding at the end thereof the following:

"Federal Purchases of Vehicles

"(c) In the annual purchase of light vehicles by any executive agency, any manufacturer that offers a fleet of vehicles with a fuel economy at least 10 percent more fuel efficient than a fleet of similarly-sized vehicles that have fuel economies representative of the average fuel economies within any size class shall have the right to make a discounted bid. In such a case, the bid shall be considered as if its cost had been reduced 2 percent.".

SEC. 117. ENERGY CONSERVATION TRUST FUND.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new sections:

"ENERGY CONSERVATION FUND

"Establishment

"SEC. 513. (a) All of the Energy Security Fees assessed and collected pursuant to section 508 of this Act shall be deposited in a separate account within the Treasury of the United States. Such account shall be known as the 'Energy Conservation Fund' (hereinafter referred to as the 'Fund').

"Subject to Appropriation

"(b) All funds in the account shall be available only to the extent provided in appropriation Acts, for carrying out the provisions of subsection (e) of this section.

"Regulations

"(c) The Secretary of the Treasury shall prescribe such rules and regulations as may be necessary to carry out the provisions of subsections (a) and (b) of this section.

"Source of Monies

"(d) The Fund shall consist of amounts deposited in the Fund derived from—

"(1) Energy Security Fees levied under section 508 of this title; and

"(2) monies appropriated to the Fund by the Congress.

"Purpose of Fund

"(e) Monies in the Fund may be used for the following purposes:

"(1) grants to any State or local government engaged in energy conservation research or in implementation of energy conservation programs;

"(2) grants to any public or private nonprofit organization engaged in energy conservation research and development;

"(3) grants to any State or local government engaged in research for the purpose of developing petroleum fuel substitutes or related technology development programs;

"(4) grants to any public or private nonprofit organization engaged in energy research and development programs; and

"(5) any other purpose deemed appropriate by the Congress.

"Secretary of Energy

"(f) The Secretary of the Department of Energy may prescribe rules for purposes of carrying out the provisions of subsection (e) of this section.

"AUTHORIZATION OF APPROPRIATIONS

"Appropriations to Fund

"SEC. 514. (a) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of section 513(e).

"Appropriations from Fund

"(b) There are authorized to be appropriated from the Fund such amounts as may be necessary to carry out the provisions of section 513(e).".

SEC. 118. RECOMMENDATIONS FOR ADDITIONAL LEGISLATION.

Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012), relating to reports to the Congress, is amended by adding at the end thereof the following new subsection:

"Recommendations

"(d) The Secretary shall, within 2 years after the date of enactment of the Automobile Fuel Efficiency Standards Amendments of 1987, submit to the Congress recommendations for such additional legislation as may be necessary to carry out the purposes of this Act.".

Funds authorized in the National Energy Policy Act of 1988—S. 2667

Program	Fiscal year 1990	Fiscal year 1991	Fiscal year 1992	Comparison to funding in fiscal years 1988, 1981: Fiscal year 1988 level	Fiscal year 1981 level
Energy efficiency	$209,147,000	$253,000,000	$301,000,000	$156,000,000	[4]$343,000,000
Renewables:					
Wind energy	19,000,000	22,000,000	26,000,000	8,100,000	83,700,000
Photovoltaic energy	43,100,000	45,000,000	50,000,000	35,000,000	153,200,000
Solar thermal energy	28,700,000	32,000,000	35,000,000	17,000,000	119,900,000
Biofuels energy	32,100,000	35,100,000	40,000,000	17,000,000	57,700,000
Solar buildings energy	8,000,000	9,000,000	10,000,000	5,200,000	74,900,000
Ocean energy	5,000,000	5,000,000	5,000,000	4,000,000	35,000,000
Geothermal energy	34,900,000	38,700,000	35,700,000	20,935,000	156,000,000
Hydrogen fuel cells	20,000,000	30,000,000	40,000,000	N/A	N/A
Total (Renewables)	190,800,000	216,800,000	241,700,000		
Clean coal	[1]5,000,000	[2]15,000,000	[3]25,000,000	[5]525,000,000	N/A
Natural gas	30,000,000	30,000,000	30,000,000	N/A	N/A
Advanced civilian nuclear	100,000,000	200,000,000	200,000,000	[6]200,000,000	650,000,000
Basic science initiatives	203,000,000	203,000,000	203,000,000	N/A	N/A
World population growth	500,000,000	540,000,000	580,000,000	200,000,000	190,000,000
Total (Each fiscal year)	1,237,947,000	1,457,800,000	1,580,700,000		
Grand total (Over 3 years)			4,276,447,000		

[1] Fiscal year 1989. [2] Fiscal year 1990. [3] Fiscal year 1991. [4] Fiscal year 1980. [5] All clean coal R&D. [6] All nuclear R&D.

SUMMARY OF S. 2667

REDUCE CARBON DIOXIDE EMISSIONS

The bill would set a 20-percent reduction in carbon dioxide (CO_2) emissions for the U.S. over the next 12 years. According to a study by the Environmental Protection Agency (EPA), the U.S. generated 1,186-million tons of carbon in 1985, or one-fifth of the world's CO_2 emissions. Ranked second is the Soviet Union (958), followed by the developing countries other than China (819) and Western Europe (780).

Scientists estimate that CO_2, resulting almost entirely from the burning of fossil fuels, produces half the greenhouse effect, while methane accounts for 20%, chlorofluorocarbons (CFCs) 15%, nitrous oxide 10%, and tropospheric (ground-level) ozone 5%.

MAP OUT ENERGY PLAN

Within 18 months after the bill was enacted, the Energy Secretary and the EPA Administrator, in consultation with the Interior Secretary, would be required to prepare a "Least-Cost National Energy Plan" that would recommend how to conserve fossil-fuel energy and tap renewable sources in cost-effective ways to meet short-, medium- and long-term demands without exceeding the nation's self-imposed lid on CO_2 emissions.

"The nation lacks a comprehensive energy policy that aims to reduce the greenhouse gases while aggressively promoting conservation and the use of alternative energy resources," Wirth said.

RESEARCH, DEVELOP NONFOSSIL FUEL ENERGY SOURCES

The bill would authorize about $450 million between fiscal 1990 and fiscal 1992 to research and develop renewable energy sources. These include wind, solar, photovoltaic, biofuels, ocean, geothermal, and hydrogen fuel cells. These energy sources would also be promoted for use in federal buildings. Such renewables now supply only about 8 percent of U.S. energy demand, according to the U.S. Department of Energy (DOE).

PROMOTE ENERGY CONSERVATION IN BUSINESSES, HOMES, FEDERAL BUILDINGS

The bill would direct the Energy Secretary, working with other federal agencies, to report on policy options that would decrease energy use per unit of GNP in the U.S. by two to four percent annually through the year 2005. Funding would be authorized to establish five regional centers for energy-intensive industries that are joint government-industry ventures. Other provisions encourage public-private partnerships to reduce energy consumption by buildings, for example. Bureaucratic burdens would be removed to increase federal investments in energy efficiency.

HALT TROPICAL RAIN FOREST DESTRUCTION, ENCOURAGE REFORESTATION

Forests play a major role in filtering carbon dioxide through photosynthesis. Rain forests are being destroyed at the rate of 100 acres per minute, or 18.3-million acres annually, according to the International Tropical Timber Organization. The bill directs the Secretary of State, working with the Agency for International Development (AID) and other federal agencies, to inventory forests in all tropical countries and set conservation goals for each country. The U.S. would also be directed to promote forestry programs by the World Bank, the Inter-American Development Bank and other international development banks. AID, the Export-Import Bank and the Overseas Private Investment Corporation would be instructed to promote private investment in energy-efficient technologies in developing countries. Subsidies to cut timber from Alaska's Tongass National Forest, the last great rain forest in North America, would be repealed; this amounts to between $40 and $50 million annually.

CONVENE AN INTERNATIONAL CONFERENCE TO REDUCE GREENHOUSE GASES

The Secretary of State would be authorized to hold an international meeting to adopt a binding global climate protection convention to reduce the 1988 level of CO_2 emissions by at least 20 percent by the year 2000. By 2015, a 50-percent cut from 1988 is directed by the bill. Further, the U.S. would be authorized to try and reach an international accord to reduce by 1998 nitrogen oxide (NOx) emissions by not less than 30 percent from 1987 levels by 1998. Recent measurements indicate that ozone levels in the troposphere (the atmospheric level extending outward about 7 to 10 miles from the earth's surface), which acts as a greenhouse gas, are rising at one percent annually in large part as a result of NOx emissions.

STRENGTHEN BASIC ATMOSPHERIC RESEARCH

The bill would expand funding ($600 million over three years) for ongoing and new scientific research by the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), and the National Oceanic and Atmospheric Administration (NOAA) into the causes, mechanisms, and implications of the greenhouse effect and global climate change. The National Bureau of Standards (NBS) would be charged with helping to develop safe, nonozone depleting substitutes for chlorofluorocarbons (CFCs).

EXAMINE NEW GENERATION OF SAFER, MODULAR, COST-EFFECTIVE NUCLEAR REACTORS

A program would be funded to research, develop and demonstrate technologies for a new generation of nuclear reactors that would be passively safe, modular and cost-effective. This program must also address ways to minimize the volume of nuclear wastes produced, dispose of the wastes, and prevent diversions of radioactive materials for use in nuclear weapons. About $100 million is proposed for fiscal 1990, and $400 millon for 1991 and 1992 combined

INCREASE U.S. EFFORTS TO HELP CONTROL WORLD POPULATION GROWTH

The world's population, now at five billion, is projected to increase by one-billion persons every ten years. Half depend primarily on biomass energy, principally wood for cooking and heating. About 1.5-billion persons cut wood faster than forests can be replenished. More than $1.5-billion would be invested between fiscal 1990 and 1992 in international family planning information services.

EXPEDITE APPROVAL OF NEW NATURAL GAS PIPELINES TO REPLACE OIL-FIRED POWER PLANTS

Natural gas produces about half the CO_2 of coal and about two—thirds that of oil for the same amount of energy. To encourage natural gas consumption, the bill would direct the chairman of the Federal Energy Regulatory Commission (FERC) to recommend to Congress within 90 days of enactment a proposal to expedite the commission's approval of new pipeline projects serving the Northeast.

FUND PROJECTS TO CONVERT MASS TRANSIT, OTHER VEHICLES FROM GASOLINE TO CLEANER-BURNING NATURAL GAS

The bill would provide $90 million from fiscal 1990 through 1992 to at least five municipal governments to demonstrate the feasibility of using natural gas to fuel mass transit systems in urban areas.

[From the New York Times, July 19, 1988]

MAJOR "GREENHOUSE" IMPACT IS UNAVOIDABLE, EXPERTS SAY

(By Philip Shabecoff)

WASHINGTON, July 18.—Momentum toward a global warming caused by the greenhouse effect is now so great that there is no way to avoid a significant rise in temperature in the coming century, many scientists around the world now agree.

Even draconian measures to reduce the air pollution that is responsible for the global warming can only buy time to adjust to a warmer world and put a ceiling on the ultimate warming, these scientists say.

It is already time, they warn, to begin planning how to cope with the consequences of the increasing temperature and the associated changes in weather patterns, a rising sea level and other effects.

Yet strong measures to slow emissions from the burning of fossil fuels and reduce the ultimate temperature increase are also crucial, many experts believe. Without preventive action, they say, the pace of change will be so rapid that nature and human society will be seriously disrupted.

"What I fear most is rapid change," said Stephen H. Schneider, a climatologist for the National Center for Atmospheric Research in Boulder, Colo. The faster the changes, the more "surprises and imbalances," he said. "The effects on forests, and of sea level change, will be more damaging."

"But if the change is slow enough you can study the problems, determine what the regional impacts will be and learn how to adjust," Dr. Schneider said. "For example, you could develop seeds that will be able to take advantage of a longer but drier growing season."

Some Government officials and scientists are skeptical about the human ability and will to make the kinds of broad adjustments necessary to make a substantial reduction in the pace of global warming. Making the political case for painful countermeasures is hard because scientists still cannot say exactly what and where the disruptions would be.

And some serious conflicts of interest arise. How would curbs in energy use be divided, for example, among rich countries, which now burn the bulk of the world's fuels, and poor countries desperate to develop? Should countries seek to revive faltering nuclear power, which does not produce the carbon dioxide chiefly involved in the greenhouse effect, or should they subsidize conservation and solar energy? Will improvements in energy efficiency meet the need, or must ways of life be altered?

Given the costs of preventive action and the uncertainties about the benefits, some scientists and officials, including members of the Reagan Administration, argue that it makes sense to await more scientific knowledge before implementing expensive measures. There seems to be a growing consensus, however, that the dangers of inaction outweigh the risks and costs of acting in face of scientific uncertainty.

One thing, at least, now appears clear to most atmospheric scientists. If the temperature increase is to be held to a minimum, there is no alternative to reducing emissions of carbon dioxide from the combustion of fossil fuels.

Carbon dioxide is chief among the gases emitted by human activity. The gases absorb infrared radiation from the sun that would otherwise be reflected back into the upper atmosphere, thus causing a gradual warming of the lower atmosphere and earth's surface. And among fossil fuels, coal, which is the most plentiful and the cheapest is the worst culprit. Gaining a given amount of heat from coal releases double the carbon dioxide than from natural gas, and a quarter more than from oil.

Other "greenhouse gases" include chlorofluorocarbons and halons—widely used industrial chemicals that many nations have agreed to reduce because they also damage the upper atmosphere's ozone layer—as well as methane from agriculture and waste dumps and nitrous oxides from motor vehicles, industry and fertilizers.

Some experts, including Dr. Irving M. Mintzer, a scientist for the World Resources Institute, a Washington research group, believe that the necessary adjustments can be made with relatively little pain if officials move quickly and aggressively.

Dr. Mintzer said the cuts in carbon dioxide emissions could be achieved by measures that would be desirable even without a global warming problem. They include cars that can get at least 40 miles a gallon as against the United States average of 20 miles a gallon, more efficient light bulbs and electric appliances, urban planning that reduces traffic congestion, better insulated homes, and a halt to the rapid deforestation of the tropics. The clearing of tropical forests contributes to the problem because the giant old trees contain large amounts of carbon that are released when the trees rot or burn.

Other experts, including Lester B. Lave, an economist and environmental expert at Carnegie-Mellon University in Pittsburgh, do not think it will be so easy to slow the global trend.

"If anybody says they have an ice cream syrup recipe for doing it they are pulling our legs," he said.

LESS OF A THROWAWAY SOCIETY

Dr. Lave said that with a growing population and expanding economies, the world will need to consume more energy, even if it is used more efficiently. Realistically, he contended, that will require either burning more fossil fuel or a major expansion of nuclear energy.

Major changes in daily life would be necessary, he said. "We got to drive and fly less, and use a lot less fuel for space conditioning," he said. "Our houses can't be as warm in winter or as cool in summer. A lot of materials we use such as plastics and aluminum are really congealed energy. We are going to have to be less of a throwaway society."

Dr. Lave said that before people will be willing to make such sacrifices, scientists will need to convince them that they will suffer as a result of the global warming.

"If you really want me to give up my car or my air conditioner, you better prove to me first the earth would otherwise be uninhabitable," he said.

Perhaps the most difficult obstacle, in the view of many experts, would be reconciling global curbs in fossil fuels with efforts by poor countries to develop their industry and economies. Many of the countries, including China, the world's most populous, plan to base their economic growth on the expanding use of coal.

3 TO 9 DEGREES HIGHER

Delegates to a recent conference on world climate change, convened in Toronto by the Canadian Government, recently called for a 20 percent cut in global emissions of carbon dioxide by the year 2005, with the ultimate goal of reducing emissions by 50 percent. The world's population is now sending about 5.5 billion tons of carbon dioxide into the atmosphere each year, about half of which is absorbed by the oceans and forests. Thus a 50 percent cut in emissions would roughly stabilize the amount of the gas in the atmosphere.

But achieving such a cut in fuel burning in a world with even more people demanding ever better lives would be an awesome undertaking.

In the last century, as the industrial revolution exploded in Europe and North America largely through an exponential increase in the use of coal and oil, the concentration of carbon dioxide in the atmosphere rose to about 350 parts per million from about 274 parts per million. According to several mathematical models prepared by scientists, when the amount of carbon dioxide reaches about 550 parts per million, about double that of the pre-industrial era, the average annual temperature will be 3 to 9 degrees Fahrenheit warmer than it would otherwise be. Such an increase would be outside the experience of human history.

At the current level of fossil fuel use, the doubling of carbon dioxide would be reached sometime around 2060 to 2070, according to several estimates. At the same time, other gases contributing to the greenhouse effect are also increasing, so the 3-to-9-degree warming may occur as early as 2030 by some estimates.

Such a rapid warming, by melting glaciers and causing thermal expansion of oceans, would raise the sea level by one to four feet. It would also cause disruptive shifts in weather patterns. So far, however, the global computer models cannot predict with confidence what those shifts will be.

BEST AND WORST CASES

Dr. Mintzer has prepared several different models for global warming based on different policies for using fossil fuels. If current trends in fuel use continue, he found, fossil fuel burning would be two and a half times its 1986 level by the year 2075, and average global temperatures would rise 5 to 15 degrees.

In the worst case model, in which the use of coal and other fossil fuels increases fivefold by 2075, global temperatures would rise 10 to 30 degrees.

Dr. Mintzer's best case model, which would entail substantially improved efficiency in the use of energy by industry, motor vehicles and houses, rapid introduction of solar and other renewable energy sources and a global commitment to restoring forests, shows temperatures rising 3 to 8 degrees by 2075.

Policies to reduce carbon dioxide would not be intended "to return to levels of a prehistoric environment but to influence climate change so it can be managed with minimum disruption of human society," Dr. Mintzer said.

Slowing down the rate of warming is crucial because it would give scientists time to find out what the problems will be and what responses are feasible and allow governments, industry and individuals time to carry out those responses, Dr. Mintzer contended.

Dr. Chauncey Starr, president emeritus of the Electric Power Research Institute, an arm of the electric utility industry, said he doubted that the goals of reducing carbon-dioxide emissions by 20 percent by the year 2005 and by 50 percent by the middle of the next century could be achieved.

WORLD HAS NO CHOICE

"Certainly everyone using fossil fuels should use them as efficiently as possible to reduce effluents into the atmosphere," he said, "but the reality is that most of the world has no choice but to use fossil fuels."

While the amitious goals set in Toronto may not be achievable, the rate of carbon dioxide emissions could be slowed by increasing use of energy sources that do not release carbon such as solar, hydroelectric and nuclear power, Dr. Starr said. Changes in technology, like substituting electric cars for gasoline-powered vehicles in urban areas could also help, he said.

But Dr. Starr also suggested that some of the adjustments needed to reduce the pace and scope of global warming might not be worth the cost. Reducing the carbon dioxide emissions from electric power plants in the United States by 50 percent would buy "a year or two of time" in delaying the onset of the greenhouse effect he said, adding, "What would you be willing to pay for that?"

But Dr. Schneider of the National Center for Atmospheric Research said the response to global warming should be based "not on economic judgments alone but on strategic considerations," similar to expenditures on national defense. Because of all the scientific unknowns, is it not feasible to apply cost-benefit analysis to the problem, he said. "But in my value system," he added, "prudence means slowing it down."

At the recent Toronto conference Michael B. McElroy, chairman of Harvard University's Department of Earth and Planetary Sciences, said "We face an immediate and important challenge: to understand and predict the consequences of our actions, and to bring this knowledge to bear on policy so as to preserve the viability of the planet for ourselves and for generations yet unborn."

"It is an awesome responsibility, he said.

Mr. BINGAMAN. Mr. President, I rise today to join my distinguished colleagues, Senators JOHNSTON and WIRTH in introducing the National Energy Policy Act of 1988. This legislation represents an important effort to address the serious problem of global climate warming. It calls for the United States and other nations of the world to act quickly to slow the growing accumulation of carbon dioxide and other "greenhouse" trace gases that are causing the unprecedented pace and scale of global climate change.

This legislation would enable the United States to craft a comprehensive energy policy to reduce the generation of carbon dioxide and trace gases and to take the lead in the worldwide effort to stabilize and protect our climate. There is probably no other issue or problem that threatens our health and environment to the extent of global warming. It is an issue that can be addressed and a problem that can be corrected. But this can only occur if we have the wisdom and courage to put into place an effective national policy and plan. This legislation does that.

The legislation focuses on initiatives to: increase energy-efficiency in all sectors of the U.S. economy; expand research and development of non-fossil fuel sources such as solar; encourage technologies to reduce carbon dioxide emissions from coal-fired powerplants and other sources; develop policies to stop tropical deforestation; and research the greenhouse effect, its causes, and the steps needed to cope with it.

Specifically, this bill sets an overall national goal of reducing CO_2 emissions by 20 percent over the next 12 years; funds new research on ways to increase the efficiency of America's energy use; encourages new incentives for utilities and others to install energy-efficiency improvements; funds increased research and development on non-fossil fuel energy sources, including fuel cells, solar photovoltaic and thermal, ocean energy, wind power, and hydrogen fuels, and sets specific performance goals for that R&D; greatly increases funding for basic scientific research in our atmosphere; increases funding for research to find effective replacements for the chlorofluorocarbons [CFC's] used in air conditioning and refrigeration equipment. CFC's have been identified as major contributors to the greenhouse effect, and to the deterioration of the Earth's protective ozone layer.

I encourage my colleagues to support this comprehensive effort to deal with the global warming trend that seriously jeopardizes our quality of life and that of future generations.

Mr. HARKIN. Mr. President, I am pleased to add my name as an original cosponsor of the National Energy Policy Act, sponsored by my good friend and colleague from Colorado Senator WIRTH.

When this country was hit with the shock of oil price increases in the 1970's, we were forced to take a long-overdue look at our national energy policy. What we found was that we had no policy. And despite a number of programs to promote development of alternative energy sources, energy conservation measures and other needed initiatives, we still don't have a national energy policy. Once we got used to paying higher prices for petroleum, the energy crisis seemed to disappear. While the crisis is still with us, what has virtually disappeared under this administration is the progress we had made toward promoting alternative energy and conservation.

Now, another crisis has drawn our attention back to energy issues. For some years now, we have heard warnings from the world scientific community of the threat of global warming through the greenhouse effect. As the public is more and more aware, use of nonrenewable fossil fuels not only threatens our environment when we extract them from the Earth, but their very use threatens the global ecosystem.

Scientists tell us that the current carbon dioxide emission rates will result in global temperature increases of 3 to 8 degrees Fahrenheit over the next 75 to 150 years. When I first heard that figure, it didn't sound too bad. But then I looked at the projected results of such a temperature increase. While we obviously can't predict all the ramifications, many climate models suggest that precipitation changes in the grain-growing regions of the United States could make droughts such as the one currently gripping the Farm Belt commonplace. The world's coastal cities will be threatened by an increase in sea level resulting from melting polar ice. And finally, the current heat wave has given us a glimpse of the threat posed to human health by excessively high summer temperatures.

While the exact consequences of global warming are far from clear, it is certainly in our best interest to minimize the threat. The National Energy Policy Act is a comprehensive, much needed step toward that end. By establishing an overall energy policy with the goal of reducing the risks from global warming, we can put some rationality and reason into our Nation's and the world's use of energy.

As with any bill of this magnitude, there are some provisions about which I have some concerns and reservations. The role of nuclear power in our Nation's energy future is obviously a very controversial issue, and I will make sure title VII of the bill concerning nuclear fission receives careful scrutiny by the Senate. And I think greater attention will need to be paid to the role of alternative energy sources, such as ethanol, and alternative engines, such as the Stirling engine, which have greater fuel efficiency and allow for fuel switching. Yet the need to bring this potentially devastating problem to the attention of the Senate is compelling, and I look forward to working with Senator WIRTH and other colleagues to resolve those concerns and perfect the bill.

By Mr. HECHT (for himself, Mr. WILSON, Mr. DOLE, Mr. MCCAIN, Mr. REID, Mr. HATCH, Mr. GARN, Mr. DECONCINI, and Mr. D'AMATO):

S.J. Res. 353. Joint resolution to designate the period commencing September 25, 1988, and ending October 2, 1988, as "National Angel Plane Week;" to the Committee on the Judiciary.

NATIONAL ANGEL PLANE WEEK

● Mr. HECHT. Mr. President, today, for the second consecutive year, I am introducing a joint resolution to proclaim the week of September 25–October 2, 1988, "National Angel Plane Week."

The Angel Planes are a national group of individual airline pilots who provide transportation at no cost to those people in need of medical attention who reside in communities where such treatment and attention cannot be provided or to those people who cannot afford the cost of such emergency transportation.

The mission of the Angel Planes is extremely vital to many areas which are rural and remote, like many areas of Nevada and other Western States because they provide quick, responsive attention to those people who cannot obtain immediate travel to medical service.

Along with their efforts to transport those in need of medical attention, the Angel Plane pilots also transport blood supplies to hospitals and organs for victims in need.

Inasmuch as the State of Nevada is the home of the founding chapter and the national headquarters of the organization, I am greatly honored to again bring attention to the worthwhile and charitable activities of a truly outstanding group of individual pilots.

In conjunction with the airshow of the Angel Planes to be held in Nevada on October 1 and 2, 1988, it is fitting that Congress acknowledge the tremendous contribution that the members of this organization have made and are making, to help their fellow Americans.●

ADDITIONAL COSPONSORS

S. 570

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 570, a bill to reduce atmospheric pollution to protect the stratosphere from ozone depletion, and for other purposes.

S. 571

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 571, a bill to reduce atmospheric pollution to protect the stratosphere from ozone depletion, and for other purposes.

S. 675

At the request of Mr. MITCHELL, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 675, supra.

S. 824

At the request of Mr. SPECTER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 824, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killing, and for other purposes.

S. 909

At the request of Mr. REID, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 909, a bill to require that all amounts saved as a result of Federal Government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the Treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that executive agency are made pursuant to that circular.

S. 1429

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1690

At the request of Mr. CONRAD, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1690, a bill to amend the Historic Sites, Buildings, and Antiquities Act of 1935, and for other purposes.

S. 1738

At the request of Mr. WILSON, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1998

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1998, a bill to regulate interstate natural gas pipelines providing transportation service which bypasses local distribution companies and to encourage open access transportation by local distribution companies at cost-based rates.

S. 2000

At the request of Mr. CRANSTON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2000, a bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity.

S. 2011

At the request of Mr. CRANSTON, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2011, a bill to increase the rate of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2221

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2221, a bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes.

S. 2345

At the request of Mr. WEICKER, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from New York [Mr. MOYNIHAN], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2345, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

S. 2348

At the request of Mr. PRYOR, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2348, a bill to amend title 31, United States Code, to permit the Comptroller General of the United States to review and decide protests of Federal Government employees relating to converting to contractor performance certain functions performed by such employees.

S. 2393

At the request of Mr. HARKIN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2393, a bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to authorize such act, and for other purposes.

S. 2480

At the request of Mr. MOYNIHAN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2480, a bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation or basic employee benefits.

S. 2484

At the request of Mr. DANFORTH, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2484, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

S. 2631

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 2631, a bill to provide drought assistance to agricultural producers, and for other purposes.

At the request of Mr. SANFORD, his name was added as a cosponsor of S. 2631, supra.

At the request of Mr. LEAHY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2631, supra.

S. 2662

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 2662, a bill to remedy injury to the U.S. textile and apparel industries caused by increased imports.

SENATE JOINT RESOLUTION 271

At the request of Mr. QUAYLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 280

At the request of Mr. HATCH, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 291

At the request of Mr. COCHRAN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Washington [Mr. ADAMS], the Senator from Washington [Mr. EVANS], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of Senate Joint Resolution 291, a joint resolution to designate the Month of September 1988 as "National Sewing Month."

SENATE JOINT RESOLUTION 320

At the request of Mr. HATCH, the names of the Senator from Illinois [Mr. SIMON], the Senator from Missouri [Mr. DANFORTH, and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Joint Resolution 320, a joint resolution to commemorate the 50th anniversary of the passage of the Food, Drug and Cosmetic Act.

SENATE JOINT RESOLUTION 346

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE RESOLUTION 453—AUTHORIZING THE USE OF THE WEST FRONT OF THE CAPITOL AND THE CAPITOL GROUNDS TO COMMEMORATE THE BICENTENNIAL OF THE CONGRESS

Mr. BYRD submitted the following resolution, which was considered and agreed to:

S. RES. 453

Resolved, That the Senate is authorized to utilize the terrace and grounds on the West Front of the Capitol to commemorate the One Hundredth Congress under the United States Constitution.

AMENDMENTS SUBMITTED

ENDANGERED SPECIES ACT AUTHORIZATION

McCLURE AMENDMENT NOS. 2722 THROUGH 2724

Mr. McCLURE proposed three amendments to the bill (S. 675) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992; as follows:

Amendement No. 2722

At the end of the bill, add the following new section:

SEC. 10. FEDERAL COST OF PROTECTING ENDANGERED SPECIES.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL COST ANALYSIS BY THE FISH AND WILDLIFE SERVICE.

"Sec. 18. On or before January 15, 1990, and each January 15 thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceeding fiscal year which shall contain—

"(1) an accounting of all Federal expenditures, listed on a species by species basis made pursuant to this Act; and

"(2) an accounting of all expenditures, listed on a species by species basis by States receiving cost sharing under this Act.".

Amendment No. 2723

On page 6, line 7, strike the second period and the quotation marks and, following line 7, insert the following new paragraphs:

"'(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public reviews and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

'(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).'."

Amendment No. 2724

At the end of section 3 of the bill add the following new paragraph:

"( ) In developing or revising a recovery plan pursuant to this section, the Secretary shall conduct a comprehensive economic analysis of the costs and benefits of such a recovery plan. The analysis shall include the economic loss in jobs, wages, state and federal tax revenues, shared payments to county governments, and forgone opportunities which are substantially caused by the development or implementation of a recovery plan. The analysis shall be made after consultation with local and State officials and with individuals, businesses, and other agencies which may be affected by the recovery plan."

DROUGHT ASSISTANCE ACT

DASCHLE (AND OTHERS) AMENDMENT NO. 2725

Mr. DASCHLE (for himself, Mr. BURDICK, and Mr. CONRAD) proposed an amendment to the bill (S. 2631) to provide drought assistance to agricultural producers, and for other purposes; as follows:

On page 39, line 17, strike out "or".

On page 40, line 3, insert "or" after the semicolon.

On page 40, between lines 6 and 7, insert the following new subparagraph:

"(C)(i) any Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)));

"(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.) (commonly known as the 'Indian Reorganization Act'));

"(iii) any tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); or

"(iv) any economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (25 U.S.C. 1452(e))).

On page 41, between lines 4 and 5, insert the following new paragraph:

"(5) The term 'area' shall include any Indian reservation (as defined in section 335(e)(1)(D)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(D)(ii))).

MELCHER (AND OTHERS) AMENDMENT NO. 2726

Mr. MELCHER (for himself, Mr. BURDICK, Mr. CONRAD, Mr. DASCHLE, Mr. DOLE, Mr. LUGAR, Mr. BOSCHWITZ, Mr. GRASSLEY, Mr. DURENBERGER, Mr. HARKIN, and Mr. BREAUX) proposed an amendment to the bill (S. 2631) supra; as follows:

On page 53, strike out lines 18 through 21 and insert in lieu thereof the following:

payment available to such producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(B) 85 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

On page 56, strike out lines 17 through 21 and insert in lieu thereof the following:

to such producers at a rate equal to—

(1) 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

On page 58, strike out lines 5 through 10 and insert in lieu thereof the following:

available to such producers at a rate equal to—

(1) 65 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the applicable payment level under subsection (b), as determined by the Secretary for any deficiency in production greater than 75 percent for the crop.

(b) PAYMENT LEVEL.—For purposes of subsection (a), the payment level for a commodity shall be equal to—

On page 60, strike out 18 through 22 and insert in lieu thereof the following:

ers at a rate equal to—

(1) 65 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 35 percent for the crop, but not greater than 75 percent, for the crop; and

(2) 85 percent of the applicable payment level under subsection (b), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) PAYMENT LEVEL.—For purposes of subsection (a), the payment level for a commodity shall be equal to

On page 62, strike out lines 2 through 3 and insert in lieu thereof the following:

able at a rate equal to—

(1) 65 percent of the replacement cost of such seedlings lost in excess of 35 percent, as determined by the Secretary, but not greater than 75 percent, for the crop; and

(2) 85 percent of the replacement cost of such seedlings lost in excess of 75 percent, as determined by the Secretary.

CONRAD (AND OTHERS) AMENDMENT NO. 2727

Mr. CONRAD (for himself, Mr. BURDICK, Mr. MELCHER, and Mr. DASCHLE) proposed an amendment to the bill S. 2631, supra; as follows:

Insert on page 55, after line 23, a new paragraph:

(3) REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS.—Effective only for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for such crop must be repaid, such repayment shall not be required prior to July 31, 1989, for that portion of the crop for which a disaster payment is made under this Title.

BREAUX (AND OTHERS) AMENDMENT NO. 2728

Mr. BREAUX (for himself, Mr. JOHNSTON, and Mr. MELCHER) proposed an amendment to the bill S. 2631, supra; as follows:

On page 60, between lines 2 and 3, insert the following new subsection to section 203:

"(e) Effective only for the 1988 crop of sugarcane and sugar beets, if the producers of such crop are unable to process the commodity into sugar due to the inability of local processing plants to process sugar as a result of drought or related condition in 1988, such producers shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to such inability.".

HARKIN (AND LEAHY) AMENDMENT NO. 2729

Mr. HARKIN (for himself and Mr. LEAHY) proposed an amendment to the bill S. 2631, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF EFFECT OF DROUGHT ON FOOD PRICES.

(a) SURVEY.—The Secretary of Agriculture shall conduct a survey of food and commodity prices as of December 31, 1988, to determine the effects of the drought and related conditions in 1988 on recipients of Federal nutrition and hunger benefits.

(b) REPORT.—Not later than March 1, 1989, the Secretary shall submit a report to Congress on the results of the survey required under subsection (a), including—

(1) an analysis of the adequacy of benefits under Federal nutrition and hunger programs with respect to any food price infla-

tion that has occurred because of the drought or related conditions in 1988; and

(2) recommendations for any actions that may be taken by the Secretary or Congress to address problems identified in such survey.

McCLURE AMENDMENT NO. 2730

Mr. McCLURE proposed an amendment to the bill S. 2631, supra; as follows:

On page 77, after line 17, to Subtitle C—Conservation and Water Assistance, section 322, add a new paragraph:

(h) The Secretary shall make emergency water assistance available to eligible farmers for crops under the program designated ECP EC-6 by the Department of Agriculture, including, but not limited to extension of wells, drilling temporary irrigation wells and installation of temporary irrigation water delivery systems in areas where irrigation is a normal practice.

WALLOP (AND OTHERS) AMENDMENTS NO. 2731

Mr. WALLOP (for himself, Mr. Dole, Mr. Warner, Mr. Karnes, Mr. Kasten, and Mr. Melcher) proposed an amendment to the bill S. 2631, supra; as follows:

At the appropriate place in the bill insert the following:

SECTION 1. TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.

(a) In General.—Subparagraph (A) of section 263A(d)(1) of the Internal Revenue Code of 1986 (relating to exception for farming businesses) is amended to read as follows:

"(A) In general.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(b) Technical Amendments.—

(1) The heading of paragraph (1) of section 263A(d) of such Code is amended to read as follows:

"(1) Section not to apply to certain property.—".

(2) Subsections (d)(3) and (e) of section 263A of such Code are each amended by striking out "or animal" each place it appears.

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

KARNES AMENDMENT NO. 2732

Mr. KARNES proposed an amendment to the bill S. 2631, supra; as follows:

In the appropriate place in the bill, strike and insert the following:

SEC. 345. DIESEL TAX REPEAL.

(a) Diesel Fuel Destined for use on a Farm for Farming Purposes.—The tax imposed by section 4091 of the Internal Revenue Code of 1986 shall not apply in the case of sale of any taxable diesel fuel which the Secretary determines is destined for use on a farm for farming purposes.

(b) Effective Date.—The Amendment made by subsection (a) above shall apply to sales after March 31, 1988.

EXON AMENDMENTS NOS. 2733 AND 2734

Mr. LEAHY (for Mr. Exon) proposed two amendments to the bill S. 2631, supra; as follows:

On page 78 after line 24, add a new Section 333 as follows:

"Section 333. Forward Contracting Report

"Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report on the financial impact that forward contracting, hedging, and associated margin requirements for wheat, feed grains, and soybeans during the recent drought-related period of price volatility have had on producers and on grain marketers, particularly local elevators and intermediaries.

"In his report, the Secretary shall include a discussion of—

"(i) the extent to which currently planted or stored crops are subject to cash forward contracts or are otherwise hedged, and what portion of such forward contracts are in danger of being defaulted on as a result of drought-related crop losses;

"(ii) the extent to which local elevators may experience severe financial stress due to defaults on cash forward contracts or due to margin requirements on futures market positions;

"(iii) the extent to which producers have been able to renegotiate forward contracts in light of drought-related changes in economic conditions;

"(iv) the extent to which hedging and forward contracting practices may produce unusual demands for credit among farm producers and marketers in light of drought-related conditions; and

"(v) such other areas of concern as the Secretary may find appropriate.

"The Secretary shall alert the aforementioned Committees promptly if he finds that serious economic or financial problems as discussed above are likely to arise in advance of the report's completion. The Secretary shall consult with the Chairman of the Commodity Futures Trading Commission on issues concerning futures markets which arise in the course of this study."

At the end of page 81 insert the following:

"(G) Other Commodities.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol."

LUGAR AMENDMENT NO. 2735

Mr. LUGAR proposed an amendment to the bill S. 2631, supra; as follows:

Add at the appropriate place in the bill the following new section:

"Sec. . Notwithstanding any other provision of law, with respect to any person that applies for emergency financial assistance under Subtitle C—Emergency Loans, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961-1970), if the Secretary determines that the applicant's farming, ranching, or acquaculture operations have been substantially affected due to drought or related condition in 1988, the Secretary may, in the Secretary's discretion, waive the limitation in section 321(b) of such act (7 U.S.C. 1961(b)) regarding crop insurance with respect to such applicant.".

BURDICK (AND MELCHER) AMENDMENT NO. 2736

Mr. BURDICK (for himself and Mr. Melcher) proposed an amendment to the bill S. 2631, supra; as follows:

On page 67, between lines 3 and 4, insert the following new section:

Sec. 211. Crop quality reduction disaster payments.—

(a) In general.—To ensure that all producers of crops covered under the provisions of sections 201 through 203, and producers of soybeans, are treated equitably, the Secretary may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by drought in 1988.

(b) Eligible producers.—A producer of crops identified in subsection (a) shall be eligible to receive reduced quality disaster payments under this paragraph if such producer incurs a loss of not less than 35 percent and not more than 75 percent of the producers program payment yield for such crop as determined by the Secretary.

(c) Maximum payment rate.—The Secretary shall establish the reduced quality disaster payment rate, but such rate shall not exceed 10 percent of the established price, as determined by the Secretary, for the 1988 crop for which such payment is being made.

(d) Determination of payment.—The amount of a payment to a producer under this paragraph shall be determined by multiplying the payment rate established under subsection (c) by the actual harvested yield for the crop on the producers farm that is reduced in quality by drought in 1988.

BURDICK AMENDMENT NO. 2737

Mr. BURDICK proposed an amendment to the bill S. 2631, supra; as follows:

On page 71, the end of section 303, add the following new subsection:

(c) Redemption of Generic Certificates.—Effective only for the 1988 marketing year, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445(e)) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the producer may repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the commodities are placed under loan and redeemed only within the same county or within the normal trading area of the producer.".

NICKLES AMENDMENT NO. 2738

Mr. NICKLES proposed an amendment to the bill S. 2631, supra; as follows:

On page 47, between lines 19 and 20, add the following:

"(d) Livestock assistance provided to any livestock producer under this section shall be limited to the quantity of feed purchased in addition to normal purchases as a result of the livestock emergency."

SASSER AMENDMENT NO. 2739

Mr. SASSER proposed an amendment to the bill S. 2631, supra; as follows:

On page 51, between lines 14 and 15, insert the following new subsection:

(b) Allocation of Commodity Credit Corporation Stocks for Emergency Livestock Assistance.—

(1) Evaluation and needs assessment.—

(A) Evaluation.—Not later than 21 days after the date of enactment of this Act, the Secretary of Agriculture shall complete an evaluation of Commodity Credit Corporation feed stocks that will be available to be used for emergency assistance provided under title VI of the Agriculture Act of 1949 (as added by subsection (a)) to determine the quantity of available feed grains on a State-by-State basis.

(B) Needs assessment.—In conjunction with the evaluation conducted under subparagraph (A), the Secretary shall conduct a needs assessment of eligible livestock producers as defined in section 605 of the Agriculture Act of 1949 (as added by subsection (a)) on a statewide basis to determine areas where available Commodity Credit Corporation stocks may be less than the demand for such stocks.

(C) Results.—On completion of the evaluation and assessment under this paragraph, the Secretary shall make the results of such available to the appropriate Committees of Congress and the States.

(2) Listing of states with surplus supply.—Based on the evaluation and assessment prepared under paragraph (1), the Secretary shall prepare a listing of States where available feed grains owned by the Commodity Credit Corporation will exceed usage of such stocks under the provisions for assistance provided for under title VI of the Agriculture Act of 1949 (as added by subsection (a)).

On page 51, line 15, strike out "(b)" and insert in lieu thereof "(c)".

On page 52, line 7, strike out "(c)" and insert in lieu thereof "(d)".

GRAMM AMENDMENT NO. 2740

Mr. GRAMM proposed an amendment to the bill S. 2631, supra; as follows:

On page 45, between lines 2 and 3, insert the following new subsection:

"(c) Notwithstanding any other provision of this Act, for the purpose of determining the eligibility of livestock producers who normally produce their own feed for assistance under this title, or under the emergency feed program or the emergency feed assistance program, because of the drought or related conditions in 1988, the Secretary shall not consider any feed purchased in anticipation of short supplies by such producers within 60 days prior to the announcement by the Secretary that the county that such producer is located in is eligible for assistance under this title as prescribed in section 604, in determining the eligibility of the producer for such assistance.".

LEAHY AMENDMENT NO. 2741

Mr. LEAHY proposed an amendment to the bill S. 2631, supra; as follows:

On page 74, between lines 17 and 18, add the following:

"(b) Conservation Practices.—For purposes of subsection (a), the term "conservation practices" include—."

FORD AMENDMENT NO. 2742

Mr. LEAHY (for Mr. Ford) proposed an amendment to the bill S. 2631, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . DROUGHT INFORMATION.

The Secretary of Agriculture shall direct the Extension Service to use available resources to provide information through publications or telecommunications, on a daily basis where practicable, concerning drought conditions and drought assistance to persons residing in counties that have been declared disaster counties, as a result of drought or related condition in 1988, or because of a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, as a result of drought or related conditions in 1988.

DURENBERGER (AND HARKIN) AMENDMENT NO. 2743

Mr. LUGAR (for Mr. Durenberger, for himself, and Mr. Harkin) proposed an amendment to the bill S. 2631, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . RURAL ECONOMIC DEVELOPMENT RESPONSE TO THE DROUGHT.

(A) The Congress finds that:

(1) A severe drought is being experienced in a large number of states, with serious economic consequences for family farmers;

(2) The effect of the drought is not isolated to farmers, but is having a devastating impact on the economy vitality of rural communities;

(3) Rural businesses and financial institutions are already experiencing the negative effects of decreased sales, and they anticipated severe problems over the next year, due to crop failures and the unavailability of credit;

(4) Local rural governments, whose fiscal bases depend on tax revenues from agriculture and agriculture-related businesses, will experience difficulties in providing services which are important to the quality of life of rural residents;

(5) Significant savings will accrue to the federal budget due to reduced deficiency payments and storage payments, in excess of the funds allocated by this Act; and

(6) Assistance to farmers, while essential, represents only the first stage of a comprehensive response to the serious national problems created by the drought.

(B) It is the sense of the Congress that:

(1) Budgetary savings which accrue from the drought and other economic circumstances should, to the maximum extent possible, be dedicated to relief for farmers and agricultural workers and to assist rural businesses and communities in promotion of rural economic development;

(2) The Congress should urgently proceed with action on comprehensive rural economic legislation which addresses the needs of rural businesses and governments; and

(3) Rural development programs should stress efforts to cooperate with and support local decision-making, promote market-based capital formation, create a more equitable and dependable partnership between the federal government and other levels of government, provide federal initiatives for improving the quality of rural health care, child care and education, and create a far greater sensitivity on the part of the administrative and the Congress to the impact of federal spending, tax, trade and regulatory decisions on rural communities.

LEVIN AMENDMENT NO. 2744

Mr. LEVIN proposed an amendment to the bill S. 2631, supra; as follows:

On page 65, line 4, after the word "make" insert the following: "full".

KARNES AMENDMENT NO. 2745

Mr. KARNES proposed an amendment, which was subsequently modified, to the bill S. 2631, supra; as follows:

On page 83, line 4, at the appropriate place, strike section 345 and insert in line thereof:

SEC. 345. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS.

It is the sense of the Senate that Congress act prior to expiration of the 100th Congress legislation that—

(1) provides an exemption from the Federal excise tax on diesel fuel that is to be used for farming and fishing on purposes rather than a refund of such tax after it is paid by farmers and fishermen; and

(2) repeals the application of the accounting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

DASCHLE AMENDMENT NO. 2746

Mr. DASCHLE proposed an amendment to the bill S. 2631, supra; as follows:

On page 80, line 17, strike the word "approximately" and insert in lieu thereof "not more than".

On page 81, following line 25, strike the period and add the following: ", except that the Secretary shall terminate the program under this section no later than September 1, 1989.".

KENNEDY (AND OTHERS) AMENDMENT NO. 2747

Mr. LEAHY (for Mr. Kennedy, for himself, Mr. Leahy, Mr. Graham, Mr. Hatfield, Mr. Bentsen, and Mr. Levin) proposed an amendment to the bill S. 2631, supra; as follows:

On page 39, after line 7, add the following new subtitle:

Subtitle E—Miscellaneous

SEC. . ASSISTANCE TO LOW-INCOME AGRICULTURAL WORKERS.

For necessary services to be provided by agencies that have received funds under the authority of Section 402 of the Job Training Partnership Act to low-income agricultural workers who have been adversely affected by the drought, not to exceed $5,000,000 shall be made available to be derived by transfer from the Disaster Relief Program of the Federal Emergency Management Agency. These funds shall be distributed by the Secretary of Labor within 30 days of enactment of this Act based upon an assessment of the number of low-income agricultural workers in each grantee's service delivery area who have lost income or are unable to work due to the drought, including those workers who have stayed at home in anticipation of work shortages. Emergency services to be provided under this section may include all types of assistance as the Secretary determines to be necessary. For the purposes of this section, a low-income agricultural worker receiving assistance must meet the income eligibility requirements of the Section 402 program of the Job Training Partnership Act.

DOLE AMENDMENT NO. 2748

Mr. DOLE proposed an amendment, which was subsequently modified, to the bill S. 2631, supra; as follows:

At the appropriate place, add the following:

SEC. . The Secretary shall, to the extent practicable, ensure that producers will not receive benefits provided under this Act which, when added to other income from Farm Program payments and crop marketings, would result in a net income from farming including crop insurance payments, operations in excess of that required to assure that they will achieve 100 percent of their expected returns for 1988 under normal conditions.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

GLENN (AND BOND) AMENDMENT NO. 2749

Mr. GLENN (for himself and Mr. BOND) proposed an amendment to the bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes: as follows:

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That not less than $15,000,000 shall be made available to carry out the program authorized under section 1436(b) (1) and (2) of the Food Security Act of 1985 (7 U.S.C. 1632(b) (1) and (2)), and not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the appropriate Committees of Congress, a report on the content and progress of research conducted through the Department of Agriculture on new non-food uses for agriculture commodities.".

PRYOR AMENDMENT NO. 2750

Mr. PRYOR proposed an amendment to the bill H.R. 4784, supra; as follows:

At the end of the bill, add the following:

CONSULTING SERVICES

SEC. . (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to—

(1) 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(1); and

(2) 5 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(2).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

BURDICK AMENDMENT NO. 2751

Mr. BURDICK proposed an amendment to amendment No. 2750 proposed by Mr. Pryor to the bill H.R 4784, supra; as follows:

Strike out subsection (c), beginning on page 2. Insert the following in-lieu-thereof:

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the four percent increase in rates of pay in such department, agency, or instrumentality made under this act.

CHILES AMENDMENT NO. 2752

Mr. BURDICK (for Mr. CHILES) proposed an amendment to the bill H.R. 4784, supra, as follows:

On page 88, between lines 16 and 17, insert the following new section:

SEC. . Hereafter, notwithstanding any other provision of law, the Agricultural Research Service, upon relocation of its current facility, shall offer the property owned by such Service at the United States Horticultural Research Laboratory in Orlando, Florida, for sale at fair market value, and any proceeds from the sale of such property shall be placed in an escrow account to be made available for the purchase of land and equipment to provide field sites, equipment, associated building, and to pay operating costs in conjunction with any proposed replacement facility.

NATIONAL ENERGY POLICY ACT

WIRTH AMENDMENT NO. 2753

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill (S. 2667) to establish a national energy policy to reduce global warming, and for other purposes; as follows:

AMENDMENT No. 2753

At the end of the bill, add the following new title:

TITLE—AUTOMOBILE FUEL EFFICIENCY STANDARDS AMENDMENTS ACT OF 1988

SEC. 001. SHORT TITLE.

This title may be cited as the "Automobile Fuel Efficiency Standards Amendments Act of 1988".

SEC. 002. DEFINITIONS.

Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001), relating to definitions, is amended—

(1) in paragraph (2), immediately after "off-highway operations" insert the words "or a light truck";

(2) by inserting immediately after paragraph (2) the following new paragraph:

"(2)(A) The term 'light truck' shall have such meaning as the Secretary shall prescribe by rule."

SEC. 003. AVERAGE FUEL ECONOMY STANDARDS.

Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)), relating to average fuel economy standards, is amended by striking out

"1985 and thereafter .... 27.5"

and inserting in lieu thereof the following:

"1985 through 1990 .... 27.5
1991 and thereafter........ As provided in accordance with section 513 of this Act.".

SEC. 004. EXCEPTION.

Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)), is amended by striking out "The Secretary" and inserting in lieu thereof "Except in the case of standards established by sections 513 and 514, the Secretary".

SEC. 005. LIGHT TRUCKS.

Section 502(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(b)), relating to standards for other than passenger automobiles, is amended by inserting immediately after "average fuel economy standards for automobiles which are not passenger automobiles" the words "or light trucks".

SEC. 006. EXEMPTIONS.

Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)), relating to exemptions for manufacturers of limited number of cars, is amended (1) by inserting immediately after "10,000 passenger automobiles", wherever it appears therein, the words "or 10,000 light trucks"; (2) by inserting immediately before the period at the end of the first sentence of such paragraph (1) the words "or section

513 or 514"; (3) by inserting immediately before "is more stringent" in such paragraph (1) the words "or section 514 and 513"; and (4) by inserting immediately before "manufactured by manufacturers" in such paragraph (1) the words "or light trucks".

SEC. 007. EMERGENCY VEHICLES.

Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1)), relating to exemption of emergency vehicles, is amended by inserting immediately before the period at the end of the first sentence thereof the following: "or section 513 or 514".

SEC. 008. CONSULTATION.

Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)), relating to consultation with the Secretary of Energy), is amended by striking out "under this section" and inserting in lieu thereof "under this section or sections 513 and 514".

SEC. 009. NOTIFICATION.

Section 502(j) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(j)), relating to notification of the Secretary of Energy, is amended by striking out "under this section" and inserting in lieu thereof "under this section or sections 513 and 514".

SEC. 110. CALCULATION OF AVERAGE FUEL ECONOMY.

Section 503(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)(1)) is amended by inserting immediately after "passenger automobiles" the words "and light trucks".

SEC. 111. NEW STANDARDS.

The Motor Vehicles Information and Cost Savings Act (15 U.S.C. 2001) is amended by adding at the end thereof the following new sections:

PASSENGER AUTOMOBILE

"SEC. 513. (a) Notwithstanding any other provision of this Act, commencing with model year 1992 and each model year thereafter, the average fuel economy for passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:

"1992 through 1995	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 15 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"1995 through 1999	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"Model year:

"2000 through 2009	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 60 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"2010 and thereafter	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"(b) Notwithstanding subsection (a), no manufacturing prior to the year 2009 shall have to achieve a fleet average fuel economy standard higher than 60 miles per gallon.

"LIGHT TRUCKS

"SEC. 514. Notwithstanding any other provision of this Act, commencing with model year 1992 and each model year thereafter, the average fuel economy for light trucks manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:

"1992 through 1995	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 15 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"1995 through 1999	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"Model year:

"2000 through 2009	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 50 percent (as measured in miles per gallon) of such amount achieved for model year 1985.
"2010 and thereafter	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"MODIFICATIONS

"SEC. 515. (a) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under section 513 or section 514 to such manufacturer for model year 1991, and any model year thereafter. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested. No such average fuel economy standard shall be adjusted if such adjustment would result in an increase or decrease of such standard by an amount in excess of 1.0 miles per gallon.

"(b) The Secretary shall, on an annual basis, report each such adjustment made to the Congress. In each such report, the Secretary shall justify clearly the reasons for the adjustments and shall address the following criteria: technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, the need for the Nation to conserve energy, and the effect on domestic employment—long-term and short-term—of any such adjustment.

"(c) The provisions of subsection (l) of section 502 of this Act shall not be applicable with respect to the fuel economy standards established pursuant to section 513 or 514 of this Act.

"(d) The Secretary shall in calendar year 2000, pursuant to a rulemaking, make a determination whether the miles per gallon minimum established for each manufacturer effective for model year 2005 and later should be raised, and what the increased standard should be. This determination shall be based upon the factors enumerated in subsection (b). The Secretary's determination to raise the standard shall have the full force and effect as though the standard were set in this statute.

"INCENTIVES FOR PASSENGER AUTOMOBILES

"SEC. 516. (a) Notwithstanding the provisions of section 513, in the case of any manufacturer who obtained an average fleet fuel economy for passenger automobiles of at least 27.5 miles per gallon for model year 1985, the average fuel economy for passenger automobiles manufactured by such manufacturer for model years 1991, 1992, and 1993 shall be 27.5; for model years 1994 and 1995, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 15 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 1996, 1997, 1998, and 1999, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 2000 through 2009, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 50 percent (as measured in miles per gallon) of such amount achieved for model year 1985; and for model year 2010, and each model year thereafter, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.

"INCENTIVES FOR LIGHT TRUCKS

"SEC. 517. (a) Notwithstanding the provisions of section 514, in the case of any manufacturer who obtained an average fleet fuel economy for light trucks of at least 21 miles per gallon for model year 1985, the average fuel economy for light trucks manufactured by such manufacturer for model years 1991, 1992, and 1993 shall be 21; for model years 1994 and 1995, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 20 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 1996, 1997, 1998, and 1999, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 35 percent (as measured in miles per gallon) of such amount achieved for model year 1985; for model years 2000 through 2009, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 50 percent (as measured in miles per gallon) of such amount achieved for model year 1985; and for model year 2010, and each model year thereafter, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1985, plus an amount equal to 100 percent (as measured in miles per gallon) of such amount achieved for model year 1985.".

SEC. 112. CONFORMING AMENDMENTS.

(a) Section 507(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)(1)) is amended by striking out "section 502" and inserting in lieu thereof "section 502, 513, or 514".

(b) Section 505(a)(1) of the Motor Vehicles Information and Cost Savings Act (15 U.S.C. 2005(a)(1)), is amended by inserting immediately after "section 502" a comma and the following: "513 and 514".

SEC. 113. STANDARDS.

(a) Section 503 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003) is amended by adding at the end thereof the following:

"Testing

"(g)(1) The EPA Administrator, in consultation with the Secretary of Energy, shall, by rule, establish, and from time to time revise, standards for fuel economy testing which will have the effect of assuring that such testing will, to the extent possible, simulate average drivers and driving conditions in the United States.

"(2) Such standards shall assure that, with respect to fuel economy testing on and after the expiration of the 18-month period following the date of the enactment of this subsection—

"(A) such testing, notwithstanding the provisions of paragraph (1) of subsection (d), may be conducted in conjunction with emissions tests required under the Clean Air Act or may be conducted separately;

"(B) such testing of production vehicles of a manufacturer shall be conducted within 30 days of the existence of such vehicles in order to verify test results recorded on prototype vehicles;

"(C) if the results of any such test on a production vehicle differs from the results of the test on the prototype vehicle by more than 0.5 miles per gallon, that labels affixed to that model will be changed, 90 days after such results are available, to reflect the results of the production model test;

"(D) in order to determine the extent of the decline in the fuel economy of light vehicles in use, if any, a sample testing of such vehicles shall be carried out over a period sufficient to determine the extent of such decline, if any, and that the results of such testing will be submitted to the President of the United States and the Congress.

"Gas Mileage Guide

"(h)(1) The Secretary of Energy shall take such action as may be necessary to distribute to each automobile dealer in the United States 100 copies of each new issue of the Gas Mileage Guide, and such additional copies as may be requested by any such dealer from time to time.

"(2) The EPA Administrator shall, not less than twice each calendar year, update the Gas Mileage Guide so as to reflect mid-year model changes.

"Injunctions

"(i)(1) Upon petition by any individual, the United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of or failure to comply with, section 506 or subsection (h)(1).

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of this Act, trial shall be by the court, or upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(3) Actions under paragraph (1) of this subsection and under subsection (a) of this section may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(4) In any actions brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.".

SEC. 114. ELIMINATION OF UNLAWFUL CONDUCT.

Section 507 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007), relating to unlawful conduct, is amended—

(1) by striking out the section heading "Unlawful conduct" and inserting in lieu thereof "Conduct constituting civil violation";

(2) in subsection (a), by striking out the words "is unlawful" and inserting in lieu thereof "shall warrant civil penalty under subsection (c) of this section";

(3) in subsection (b), by striking out the words "to have engaged in unlawful conduct" and inserting in lieu thereof "subject to civil penalty under subsection (c) of this section"; and

(4) at the end thereof by adding the following new subsection:

"Assessment

"(c) Conduct in violation of this section shall be subject to a penalty which shall be assessed pursuant to section 508 as an Energy Security Fee.".

SEC. 115. ENERGY SECURITY FEE.

(a) The text of section 508(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)), relating to penalty for violations, is amended to read as follows:

"(a)(1) If the average fuel economy calculation reported under section 503(d) of this title indicates that any manufacturer has failed to achieve fleet average fuel economy equal to or exceeding the fuel economy standard applicable for that model year (unless further measurements of fuel economy, further calculations of the average fuel economy, or other information indicates that the manufacturer did not fail to meet or exceed the standard) the Secretary shall commence a proceeding under paragraph (2) of this subsection. The Secretary shall publish in the Federal Register the results of such further measurements, calculations, and any other relevant information.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer failed to meet or exceed the applicable fuel economy standard, the Secretary shall require the manufacturer to pay into the Energy Conservation Fund an Energy Security Fee in an amount calculated pursuant to the provisions of subsection (b) of this section. Any interested person may participate in any proceeding under this paragraph. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any Energy Security Fee assessed under this section against any person, but only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(2) such manufacturer shows that such violation resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that modification of such fee is necessary to prevent a substantial lessening of competition, as determined under subsection (c) of this section.".

(b) Section 508(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(b)), relating to amount of penalty, is amended—

(1) in subparagraph (1)(A), by striking out the words "liable to the United States for a civil penalty" and inserting in lieu thereof "assessed an Energy Security Fee which

shall be payable into the Energy Conservation Fund";

(2) in subparagraph (1)(B), by striking out the words "liable to the United States for a civil penalty" and inserting in lieu thereof "assessed an Energy Security Fee which shall be payable into the Energy Conservation Fund";

(3) in paragraph (2), by striking out the words "liable to the United States for a civil penalty" and inserting in lieu thereof "assessed an Energy Security Fee which shall be payable into the Energy Conservation Fund";

(4) in paragraph (3)—

(A) by striking out the words "such civil penalty" and inserting in lieu thereof "the Energy Security Fee";

(B) by striking out the words "any civil penalty" and inserting in lieu thereof "any Energy Security Fee"; and

(C) by striking out the words "except that any civil penalty" and inserting in lieu thereof "except that any Energy Security Fee";

(5) in paragraph (3)(C)—

(A) by striking out the words "such penalty" and inserting in lieu thereof "Energy Security Fee"; and

(B) by striking out the words "such penalty" and inserting in lieu thereof "such Fee";

(6) in paragraph (4)—

(A) by striking out the words "modification of the civil penalty" and inserting in lieu thereof "modification of the Energy Security Fee";

(B) by striking out the words "such penalty" and inserting in lieu thereof "such Fee";

(C) by striking out the words "for a civil penalty" and inserting in lieu thereof "for an Energy Security Fee";

(D) by striking out the words "the penalty" and inserting in lieu thereof "the Fee"; and

(E) by striking out the words "general fund of the Treasury" and inserting in lieu thereof "Energy Conservation Fund";

(7) in paragraph (5)—

(A) by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee";

(B) by striking out the words "such civil penalty" and inserting in lieu thereof "such Energy Security Fee"; and

(C) by striking out "such penalty" and inserting in lieu thereof "such Fee"; and

(8) in paragraph (6), by striking out the words "a civil penalty" and inserting in lieu thereof "an Energy Security Fee".

(c) Section 508(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(c)), relating to review of penalty by interested person, is amended—

(1) in paragraph (1), by striking out the words "civil penalty" and inserting in lieu thereof "an Energy Security Fee"; and

(2) in paragraph (2)—

(A) by striking out the words "a civil penalty" and inserting in lieu thereof "an Energy Security Fee"; and

(B) by striking out the words "the civil penalty" and inserting in lieu thereof "the Energy Security Fee".

(d) Section 508(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(d)), relating to prescription of additional amount by rule, is amended—

(1) in paragraph (1)(A), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee";

(2) in paragraph (1)(A)(i)—

(A) by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee"; and

(B) by striking out the words "higher penalty" and inserting in lieu thereof "higher Fee";

(3) in paragraph (1)(A)(ii), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee";

(4) in paragraph (1)(B)(i), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee"; and

(5) in paragraph (2), by striking out the words "civil penalty" and inserting in lieu thereof "Energy Security Fee".

SEC. 116. FEDERAL PURCHASES OF VEHICLES.

Section 510 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010) is amended by adding at the end thereof the following:

"Federal Purchases of Vehicles

"(c) In the annual purchase of light vehicles by any executive agency, any manufacturer that offers a fleet of vehicles with a fuel economy at least 10 percent more fuel efficient than a fleet of similarly-sized vehicles that have fuel economies representative of the average fuel economies within any size class shall have the right to make a discounted bid. In such a case, the bid shall be considered as if its cost had been reduced 2 percent.".

SEC. 117. ENERGY CONSERVATION TRUST FUND.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new sections:

"ENERGY CONSERVATION FUND

"Establishment

"SEC. 513. (a) All of the Energy Security Fees assessed and collected pursuant to section 508 of this Act shall be deposited in a separate account within the Treasury of the United States. Such account shall be known as the 'Energy Conservation Fund' (hereinafter referred to as the 'Fund').

"Subject to Appropriation

"(b) All funds in the account shall be available only to the extent provided in appropriation Acts, for carrying out the provisions of subsection (e) of this section.

"Regulations

"(c) The Secretary of the Treasury shall prescribe such rules and regulations as may be necessary to carry out the provisions of subsections (a) and (b) of this section.

"Source of Monies

"(d) The Fund shall consist of amounts deposited in the Fund derived from—

"(1) Energy Security Fees levied under section 508 of this title; and

"(2) monies appropriated to the Fund by the Congress.

"Purpose of Fund

"(e) Monies in the Fund may be used for the following purposes:

"(1) grants to any State or local government engaged in energy conservation research or in implementation of energy conservation programs;

"(2) grants to any public or private nonprofit organization engaged in energy conservation research and development;

"(3) grants to any State or local government engaged in research for the purpose of developing petroleum fuel substitutes or related technology development programs;

"(4) grants to any public or private nonprofit organization engaged in energy research and development programs; and

"(5) any other purpose deemed appropriate by the Congress.

"Secretary of Energy

"(f) The Secretary of the Department of Energy may prescribe rules for purposes of carrying out the provisions of subsection (e) of this section.

"AUTHORIZATION OF APPROPRIATIONS

"Appropriations to Fund

"SEC. 514. (a) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of section 513(e).

"Appropriations from Fund

"(b) There are authorized to be appropriated from the Fund such amounts as may be necessary to carry out the provisions of section 513(e).".

SEC. 118. RECOMMENDATIONS FOR ADDITIONAL LEGISLATION.

Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012), relating to reports to the Congress, is amended by adding at the end thereof the following new subsection:

"Recommendations

"(d) The Secretary shall, within 2 years after the date of enactment of the Automobile Fuel Efficiency Standards Amendments of 1987, submit to the Congress recommendations for such additional legislation as may be necessary to carry out the purposes of this Act.".

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Friday, July 29, 1988, in Senate Russell 385, beginning at 9:30 a.m., on the following:

H.R. 3617, Coushatta Tribe of Louisiana land claims;

H.R. 2370, establishment of economic development plan for Shoshoni Nation;

S. 1602, Lands held in trust for the Potawatomi Indian Community;

S. 2382, To delay implementation of a certain rule affecting the provision of health services by the Indian Health Service;

S. 1870, Distribution of funds awarded the Wisconsin Band of Potawatomi Indians;

H.R. 4143, establishing a reservation for the Grande Ronde community; and to be followed by a hearing on S. 187, the Native American Cultural Preservation Act.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 28. To hold a closed hearing jointly with the Select Committee on Intelligence regarding United States policy options toward South Africa—intelligence issues.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 28, 1988, to hold a nomination hearing on Harold Christensen.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 28, 1988, to hold a meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet on Thursday, July 28, for a hearing on oversight of DOD's safety programs for chemical and biological warfare research.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DR. ARTHUR JAMES KRAUS

● Mr. MOYNIHAN. Mr. President, I rise today to honor Dr. Arthur James Kraus for his commitment to academic freedom. He has displayed courage and dedication in fighting for the rights of all Americans.

Dr. Kraus has championed the cause of freedom throughout his life, even when his beliefs were not popularly supported. For example, he argued strongly against anti-isolationist policy, predicting that such a policy would indeed lead the United States into a Second World War. Furthermore, in 1932 as a professor at the City College of New York, he began a hunger strike as a protest against the rise of European fascism, thus attracting worldwide attention. His courageous stand was supported by 2,000 students who participated in the first student march in American history. Indeed, after the success of this march, Dr. Kraus was praised by the president of City College for his "heroic deed."

Despite this praise and recognition, Dr. Kraus was asked to resign his post at City College. He refused, and was finally told that he could return to his position only after a physical examination. He submitted to this examination, only to be summarily dismissed without a hearing in January 1933. Although he no longer had a teaching post from which he could promote his views, he managed to travel throughout the United States to fight for the right to pursue individual beliefs and universal academic freedom.

After long years of fighting for these beliefs, Dr. Kraus finally began to receive the recognition and respect that he has deserved. In 1970 the city of New York officially apologized to Dr. Kraus, and the State of New York restored his pension in full. Not stopping to rest on these laurels, he continues his struggle to protect the rights to which all Americans are entitled. In recognition of his perseverance and commitment to these convictions, the citizens of Nassau and Suffolk Counties have petitioned Congress to recognize the "heroic life" of Dr. Kraus. I rise to join my fellow New Yorkers in supporting and honoring a man who truly has the courage of his convictions.●

NATIONAL GALLUP GEOGRAPHY TEST

● Mr. STAFFORD. Mr. President, on Wednesday, July 27, 1988, National Geographic Society President Gilbert M. Grosvenor announced the results of an international test of geographic knowledge conducted by the Gallup Organization, Inc. Speaking at a National Press Club luncheon, President Grosvenor noted that Americans ranked among the bottom third of 11,000 adults from around the globe who participated in the survey. It is indeed disturbing information.

The Senate Subcommittee on Education, Arts, and Humanities held a hearing at the National Geographic Society earlier this year where Senator CLAIBORNE PELL and I heard testimony from a prominent panel of witnesses which included former Chief Justice Burger and Secretary of Education William Bennett about the extent of geographic illiteracy in America. The Gallup Survey, released yesterday, not only confirms the information presented at that hearing, but highlights how poorly Americans perform on tests of geographic literacy compared to our neighbors and other industrialized nations.

The information presented in the Gallup Survey further reinforces the subcommittee's concern about geographic instruction in our schools and the need for enhanced teacher training opportunities in this and related curriculum areas. Legislation introduced last week by Senator PELL and myself would make vital inservice opportunities available to elementary and secondary teachers, and encourage the development of appropriate instructional materials. S. 2642, the National Geographic Studies Centers Act, capitalizes on the leadership role assumed by the National Geographic Society by creating an important Federal partnership to address this area of critical national concern.

On behalf of Senator PELL and myself, I ask that the prepared remarks of society president Gilbert M. Grosvenor before the National Press Club be printed in their entirety in today's RECORD.

The remarks follow:

SPEECH BY GILBERT M. GROSVENOR

Thank you. I'm delighted to be here. As head of the National Geographic Society, I think I can say with some authority—there are few tribal rites anywhere in the world as intimidating as speaking before the National Press Club. [Tribal rites story].

But don't hold me to the one-leg restriction, because my message of what Americans don't know about the world and why it's hurting us is too important to cut short. The humorist S.J. Perelman once told of a conversation he had with a young lady in which he suggested she take a trip around the world. "Oh, I know," said the young lady, yawning with boredom, "but there are so many other places I want to see first."

Yet that sort of ignorance is not just the domain of humorists. There is a shocking lack of geographic knowledge in this country.

It's good thing our ancestors found their way to America, because 24 million American adults, one in seven, can't even find the U.S. on a map of the world.

It's fortunate our pioneer fathers and mothers knew the way west across the prairies and the deserts and over the mountains, because 43 million American adults, three in ten, could not follow simple N-S-E-W directions on a map. Yet seventy percent of these same people assert that map-reading skills are essential—a higher percentage than the same people placed on the importance of writing a business letter or using a calculator.

These are but a few of the findings from an international survey conducted for the National Geographic Society by the Gallup organization. We believe this survey is the most comprehensive study ever done of adult geographic knowledge. Most of the results are disturbing.

The TV network anchors will find this hard to believe, yet approximately one out of two Americans could not even locate South Africa on a world map. Further, 45 percent of Americans do not know that apartheid is the official government policy of South Africa. Clearly our youngsters who protest apartheid at the South African embassy know where South Africa is located. But I wonder if they can find Angola, Botswana, Zimbabwe, Mozambique, Namibia, Swaziland, or Lesotho—all critical areas.

At one time we could afford insular thinking. Distance and vast oceans protected us. Yet these natural protections mean nothing in the age of ICBMs, satellite TV, and computerized money transfers across continents. National boundaries mean nothing in the age of holes in the ozone, the greenhouse effect, and nuclear accidents.

We're part of a global village. We're all interconnected. We all share the same world, not only environmentally but economically.

Clearly this nation wishes to be a major player in the future decision-making process. If we are to be influential in resolving atmospheric and ocean pollution, deforestation, global hunger, nuclear arms control, population balance—and a whole host of other issues—we must be geographically literate. Gone are the days when American dollars could override international ignorance.

A professor at the Wharton School of Business said during October's stock-market crash, "This is one financial world today." Well, it's one economic world in all sorts of ways.

Consider world trade. I was in London a few weeks ago, and I spotted an open van—a lorry as they call it—full of boxes of fruits and vegetables. I was interested in what was written on those boxes, so I hopped up in the truck. I found onions and avocados from Spain, bananas from the Windward Islands, Honduras, and Belize; strawberries from Kenya; fruit from Cyprus; tomatoes from the Netherlands; grapes and pears from South Africa * * * nothing from the United States. After reading the Gallup Poll I'm not surprised. Twenty percent of Americans could not name a single country in Europe!

We face an increasingly competitive world. Europe is preparing for a revolution in how it functions in terms of trade. By the end of 1992 all border barriers and other impediments to the flow of people, goods, services, and money among the 12 nations of the European Economic Community are scheduled to fall. If this happens it will create the world's largest single market with greater GNP, greater number of consumers, and greater economic clout than the United States.

Americans apparently don't carefully follow current events. Take the Persian Gulf. Our ships have been attacked, and we have lost men. Tensions are so high we accidentally shot down an Iranian passenger jet. And yet three out of four Americans cannot identify the Persian Gulf on a map.

The same geographic ignorance abounds at home. We have experienced a disastrous drought in the American farm belt, but would you believe that one-half of our adult population can't find Illinois on a map?

And bad news for Michael Dukakis—six adults out of ten don't know where Massachusetts is. Good news, however, for Senator Bentsen and geographic balance on the ticket—nine out of ten of us can place Texas.

Worse still, among 18 to 24-year-olds—the most recent products of our schools—the percentages of ignorance are even higher. When comparing geographic knowledge today with that of 40 years ago, the survey found in every dimension of the Gallup survey, that our young adults lag behind. You've heard of the lost generation—well, we've found them, and they are lost because they don't know where in the world they are.

Ladies and gentlemen, geographic ignorance has dire consequences. Our adult population, especially our young adults, do not understand the world at a time in our history when we face a critical economic need to understand foreign consumers, markets, customs, opportunities, and responsibilities. If we don't understand place and location, then the consequences of events lose meaning. Many Americans don't even know where they themselves are. And as I've often said, if you don't know where you are, you're nowhere.

How about this one:

One in four Americans could not find the Pacific Ocean. Now that's 33 percent of the planet's surface. Earth's combined landmasses would comfortably float within the boundaries of the Pacific Ocean.

Yet we must know these people inhabiting the Pacific Rim. New Zealand, Australia, the Philippines, China, Taiwan, Korea, Japan—just to name a few—wield tremendous economic clout. To increase our trade, we must understand those who are to buy our products.

Bankers don't like to hear this, but any decent economic geographer could have warned bankers that those massive loans to the Third World were gravely at risk. Most of these countries don't generate enough harvestable natural resources to pay off the interest on these loans, must less support a reasonable repayment schedule. Let me say again: Geographic ignorance has dire consequences.

Now to the flip side of geographic knowledge. I am reminded of Governor Lamar Alexander's spectacular success in promoting Tennessee as an ideal environment for Japanese investment. How did he do it? He sold the very thorough Japanese Nissan auto-search committee on Tennessee's geography. He preached central location; easy access by sea, rail and interstate highway networks; stable labor force; favorable climate; excellent local engineering schools; suitable land and water resources; and favorable economic conditions. Governor Alexander steeped himself in Japanese culture and business practices. He consulted at length with Ambassador Mike Mansfield about trade, business, and cultural factors that are important to Japan. Pure geography!

There's even a best-selling book, called "The Rise and Fall of Great Powers," which in effect asked the question of whether we understand the changing world well enough to adapt to the 21st century.

Our competition understands the world much better than we do, according to the Gallup results. Internationally, the Swedes scored higher than anyone else; over 90 percent of them said they had taken at least one class in school devoted exclusively to geography. Only 25 percent of our students have had a geography course in elementary school, junior or senior high school. When you compare American adults generally to adults in the other countries surveyed, we are in the bottom one-third. In the nine-nation standings Sweden is number one; followed by West Germany; then Japan, France, and Canada lumped together; then Great Britain and the USA; followed by Italy and Mexico. That's the good news. The most disturbing aspect is—if you look at young adults, ages 18-24, the U.S. comes in dead last, significantly trailing Italy and Mexico.

We know that geographic illiteracy permeates our schools. But we want to determine a precise bench mark for future comparisons, so we've commissioned the National Assessment of Educational Progress, also known as the Nation's Report Card, to test 12th graders across the country on what they know about the world. These results will be announced next year.

We've heard why Johnny can't read, why Johnny can't add. The reason why Johnny doesn't know where he is is very simple. Geography simply isn't taught in the schools any more.

And really, it's no wonder—geography became boring. Charles Kuralt once said, "Thanks to the Interstate Highway System, it is now possible to travel from coast to coast without seeing anything." And really, that's what geography became—a bland, monotonous blur of memorized names and places.

We cannot allow the planet to be a blur to our people. The world is too dangerous, too competitive, too immediate a place. We at the National Geographic Society are throwing everything we have into the fight against geographic illiteracy because we believe this country's future depends upon it. We are putting our reputation, our money, our relevancy on the line.

In January we set up a foundation and committed 40 million dollars to pursue geographic literacy.

We are committed to restoring geography to the American classroom. Here's how:

(1) Create a public awareness: We hope we're doing that today! The President's page in the magazine, which reaches 40,000,000 readers each month, will carry periodic accounts of our programs and the progress to solve the problems.

Government leaders are responding, particularly Secretary of Education William Bennett. In Congress we are most grateful for the support of Senators Claiborne Pell and Robert Stafford who have clearly seen the problem and have addressed the issue.

We must create a dialogue with the American people, elected officials, educators, and parents stressing the importance of teaching geography in our K-12 schools. In effect: a grassroots campaign across this nation. To further stimulate interest, we are announcing today a National Geography Bee.

(2) An intensive and aggressive training of our geography and social studies teachers in every state. Teachers are the key—the heart—of our effort. Well-informed, enthusiastic teachers using modern visual aids—including high tech—are critical to reaching kids in today's visual world. I have great confidence in the ability of our teachers to respond, but they need our support nationally. We are establishing regional centers alliances throughout the country on university campuses. Today 22 are in place in 20 states.

Alliance coordinators—professional geographers—selected K-12 teachers from their state to attend a Summer Institute at NGS headquarters for an intensive 30-day course. Returning home, those teachers are required to perform at least three in-service workshops for teachers in their school district. They join their state alliance and help staff local summer institutes similar to the one at the Geographic. Already we are intensively training 700 teachers this summer. Our goal: to train all 15,000 geography and social studies teachers in the USA.

(3) We are building—or funding others to build—creative, modern, high-tech, visually-driven curricula materials. Example: (1) the National Geographic Kids Network, a five-million dollar equally funded project with NSF working with TERC (Technical Education Research Center) in Boston. (2) an exciting joint project with Apple Computer, Lucas Films (of Star Wars fame) and NGS. (3) a well-funded research program to develop laser-disc capability. (4) user-friendly computer software learning tools.

After six years of work, we will soon publish the first atlas of U.S. history from a geographic perspective to be published in 50 years. It's full of wonderful maps, photographs, artists' renderings. As one way to show our commitment to the effort of geographic literacy, today we're also announcing that we are sending a copy of this atlas at no cost to 35,000 public, private, and parochial schools across the United States—a one million dollar National Geographic Centennial gift to our nation's schools.

The purpose of education is to prepare our children for the world, to give them perspectives in which to view the world and to participate successfully in it. I don't believe we are currently doing that. As today's survey results indicate, we've already lost a good number of young adults to geographic illiteracy. They lack knowledge and curiosity about the world. This is limiting to personal fulfillment and national progress. I grew up in a family that has been associated with the National Geographic Society since its founding. Geography was the adventure of exotic locations, the mystery of ancient excavations, the thrill of an African plain bursting with wildlife.

Konrad Adenauer once said, "We all live under the same sky, but we don't all have the same horizons." Ladies and gentlemen, America's children must have the broadest horizons possible.

Thank you for inviting me, and thank you for your hospitality.●

OLDER AMERICANS ACT FUNDING

● Mr. MELCHER. Mr. President, I would like to take this opportunity to express my support for the funding proposed for the Older Americans Act [OAA] in the fiscal year 1989 Labor, Health and Human Services, and Education and related agencies appropriations bill. Under the measure, funding for virtually all of the OAA programs would be increased over their fiscal year 1988 levels and those proposed by the administration.

Mr. President, for more than two decades the OAA has served as the cornerstone of our Nation's commitment to the welfare of those elderly Americans who are without adequate resources. Under the OAA, a wide array of social and community services—including, congregate and home-delivered meals, senior centers, and community service employment programs—have been provided to older persons in the greatest financial and social need. The underlying philosophy of these programs is to foster maximum independence. For many older Americans, OAA services have enabled them to remain in their homes and to avoid costly and unnecessary institutionalization. For the elderly in nursing homes, the OAA provides for ombudsman services to help ensure that the rights of elderly residents are upheld and to protect them from abuse.

Mr. President, the Reagan administration consistently has pushed to cut funding for programs under the OAA. And the President's fiscal year 1989 budget is no exception. Fortunately, widespread congressional support for the OAA programs has served to blunt the administration's efforts and to protect most of these programs, particularly those providing nutrition and employment services.

This measure continues to place a high priority on funding for the OAA. For supportive services and centers authorized under the OAA, the bill would provide an increase of $11.9 million above the fiscal year 1988 level and that requested by the administration. Funding for long-term care ombudsman activities would receive an increase of $43,000 over the administration's budget request. Nutrition services, namely, congregate meals and home-delivered meals, would receive an additional $18.7 million, an increase by the same amount over the administration request. Services for homebound frail elderly—namely, homemaker and home health aides, visiting and telephone reassurance, chore assistance, respite care for family members, and minor home modifications—would be provided $213,000 more than was requested by the administration. For training personnel, research, and demonstration projects in the area of aging, an increase of $1.1 million over the fiscal year 1988 appropriation and administration request is proposed. Mr. President, all in all I commend Senator CHILES for the bill.●

A TRIBUTE TO CECILE NORTON

● Mr. BRADLEY. Mr. President, on Sunday, July 24, the residents of Sea Bright, in Monmouth County, NJ lost a dedicated public servant who left behind a legacy that will be remembered for many years to come. Cecile Norton, who served as mayor of Sea Bright for more than two decades, died after a lengthy illness. I ask my colleagues to join me in paying tribute to a woman who made a major contribution to Monmouth County.

Mrs. Norton lived in Sea Bright for almost 50 years. She was elected mayor in 1967 and reelected continuously until her retirement in 1987. She also served for a short time on the county board of freeholders in 1976 when she was appointed to fill a vacancy.

Mrs. Norton was a staunch supporter of programs for the elderly, day care programs and vocational rehabilitation programs, and she was active in all of these areas up until the final stages of her illness.

Cecile Norton will be remembered as one of Monmouth County's most respected citizens—an intelligent, involved, and caring individual. She will be sorely missed by all of us.●

A TRIBUTE TO NELSON MANDELA

● Mr. BRADLEY. Mr. President, July 18 marked the 70th birthday of Nelson Mandela, the leader of the African National Congress who has been serving a life sentence since 1962 for sabotage and conspiracy to overthrow the Government of South Africa. I ask my colleagues to join me in paying tribute to a man who embodies the struggle of black south Africans for justice and fundamental human rights.

Though imprisoned for nearly 25 years, Nelson Mandela has continued to lead the struggle for basic equality by the black majority of South Africa. His name is synonymous with the indominable spirit of those who struggle against injustice, against torture, against repression, against apartheid.

Nelson Mandela's 70th birthday should serve as a reminder to all nations that we can never accept the intolerable conditions for blacks in South Africa. The United States must take the lead in sending a strong message to the South African Government that we will seek additional means to end apartheid and will insist on support from all who cherish freedom and democracy.●

EXCELLENCE IN TEACHING AWARDS

● Mr. BOND. Mr. President, I rise today to pay tribute to an extraordinary group of citizens. Twelve outstanding educators in the Kansas City, MO, area have received the fifth annual "Excellence in Teaching Awards."

The recognition of such achievements is particularly significant today, as we celebrate the 200th year of our Constitution. A nation's greatness lies in its citizens, and so it is appropriate for us to pause to thank those who broaden the intellectual horizons of the leaders of tomorrow.

These teachers, selected from among almost 700 nominees, represent the best of American education. They are from different schools, in different districts, but there is one distinctive attribute that they share. They are truly dedicated, giving generously of themselves to our children as they provide caring that goes beyond the classroom.

These individuals fulfill a sacred trust—for they help keep the American dream alive. With them, we look to the future with hope. We see the day when every child has the opportunity to receive a quality education, and with it, the sense of pride and self-esteem that these educators have striven to inculcate.

And so, we salute Toni Baggerly, Richard Bay, Joan Bland, Carol Chatelain, Tom Creamer, Jennifer Hogan, Sister Mary Monaghan, Touraj Parvin, Helen Ragsdale, Debbie Sack, Christine Ware, and Loretta Wiseman. Their achievements arouse our admiration, their abilities inspire our respect, and their dedication to America's children call forth our heartfelt thanks and good wishes.●

WHAT THE UNITED STATES MUST DO IN SOUTH AFRICA

● Mr. ARMSTRONG. Mr. President, the debate over the South Africa situation is likely to heat up in the coming

months both in Congress and on the election campaign. It is a very complex issue with no easy answers. However, I believe that sanctions and disinvestment are not the answers.

I urge my colleagues to read the following article from the July 18, 1988 issue of Fortune magazine. It is an extremely thoughtful account of United States actions in South Africa.

The article follows:

HAS AMERICA'S ANTI-APARTHEID POLICY BACKFIRED?

Yes, says FORTUNE's managing editor Marshall Loeb after a 12-day trip throughout South Africa and interviews with 60 leading South Africans, from white liberals to blacks and mixed-race "coloreds," as well as political conservatives.

According to Loeb, the crusade to end virtually all commerce with South Africa may be one of the more perverse and self-defeating U.S. policies ever conceived.

In a controversial report in the July 18 FORTUNE, Loeb compares U.S. sanctions and disinvestment in South Africa to the bombing of London in World War II: Just as the British resolve to resist was raised, so the measures against Pretoria have moved white South Africans to resist. The result is well-intentioned but wrongheaded, a policy that is hurting the people it was intended to help and raising the specter of a more racist and reactionary government.

What should the U.S. do? With the debate heating up over a bill that would force all U.S. companies to pull out, the attached report will be of special interest to you.

It's another example of FORTUNE's ability to present fair and balanced arguments on tough subjects.

Sincerely,

JAMES B. HAYES.

[From Fortune, July 18, 1988]

WHAT THE U.S. MUST DO IN SOUTH AFRICA

(By Marshall Loeb)

It is hard to think of any U.S. policy more perverse and self-defeating than the policy of trade sanctions and disinvestment aimed against South Africa. Well-intentioned but wrongheaded, these measures are creating many more unemployed blacks and many more white millionaires. Designed to end the abomination of apartheid, they are instead inspiring a thuggish government to roll back reforms. Worse, they are moving the white electorate still further to the right, raising the specter that the current government will be replaced by one still more racist and reactionary.

These are the conclusions of FORTUNE's managing editor after a 12-day trip throughout that tortured but terribly important country, a journey that included interviews with 60 leading South Africans, mostly white liberals, but also some blacks and mixed-race "coloreds," as well as political conservatives. Hear what they say:

Anthony Bloom, longtime champion of human rights, CEO of a $1.3-billion-a-year conglomerate, the Premier Group: "Sanctions and disinvestment simply produced belligerency and defiance among white South Africans and the government."

Helen Suzman, South Africa's most important liberal, a minority member of Parliament for 35 years: "Sanctions and disinvestment only make this government more recalcitrant and make its supporters tougher than ever."

Chief Mangosuthu Buthelezi, leader of the six million-strong Zulu tribe, South Africa's largest: "Sanctions and disinvestment worsen our position and set the clock back. They are madness!"

The issue has a fresh urgency because Congress is debating a bill that would significantly harden and expand these measures. Since October 1986, the sanctions have forbidden new U.S. investment in South Africa as well as many imports (notably of coal, steel, and farm products) and some exports. The new bill would force all remaining U.S. companies to pull out. It would also ban almost all U.S. exports to South Africa and all imports except strategic metals. The bill stands to sail through the House but faces a tougher time in the Senate, where it probably will either fail to pass or fail to survive a White House veto. In any event, the issue has been thrown into the presidential campaign. Michael Dukakis has endorsed Jesse Jackson's call for burn-the-bridges economic warfare against South Africa. George Bush is resisting. The crusade to end virtually all commerce with South Africa surely will be thrust upon the next President.

Everybody admits that sanctions and disinvestment have failed to budge the South African government. Proponents of the new bill concede the point but, turning all logic on its head, argue that the way to make them work is to make them more punitive. Their goal is to isolate South Africa from the world and so seriously cripple its economy that its government somehow will be forced to end its repressive, racist policies and allow the oppressed black majority to take control.

In fact, sanctions have slowed but not stopped the expansion of South Africa's economy. That economy has the capacity to grow 5% to 7% in real terms; this year, largely because South Africa is capital starved and sanctions prevent it from borrowing much abroad, the rate may be less than 2.5%. Alas, that is not enough to provide jobs for South Africa's exploding population, which is growing at 3% a year. The people who are not getting jobs are young blacks. Black farm workers, coal miners, and others in industries hit hardest by the sanctions against imports from South Africa have lost their jobs by the thousands.

Thousands more jobs were lost when U.S. companies pulled out, as more than 160 have done since 1984 in response to pressure from impatient anti-apartheid activists at home. They typically sold their operations to local managers, who often proceeded to cut back, restructure, and layoff. After all, say the new owners, they have to rationalize operations to pay the debts they took on to buy the companies. That's a handy excuse, too, for chopping social programs. U.S. companies in the past eight years have pumped $210 million into housing loans and grants, education and training, college scholarships, clinics, legal aid, and other programs for South African blacks. Many of the subsidies disappear as soon as the U.S.-owners do.

Cutbacks will deepen if more U.S. firms leave. Says Henry Slack, a director of Anglo American Corp., the gold and diamond mining company that is South Africa's largest: "I can give you a categorical guarantee that if Johnson & Johnson pulls out, its successor will not provide doctors and clinics with free medical supplies and will not pay the bills to educate the many black doctors that J&J does now."

But some white South African business people will grow even richer. About 140 already have become millionaires by buying U.S. companies at fire-sale prices. Not all businessmen are happy. Says the liberal Tony Bloom of the Premier Group: "I'm sorry to see U.S. companies go, even though we ourselves have benefited from disinvestment." A number of local managers have also used their new freedom from U.S control to resume selling to the police and the military. Tian van der Merwe, a liberal member of Parliament, recalls what happened when General Motors sold to a local group who renamed the company Delta Motors. Says he: "Right away the Delta boys said, 'At last we have Detroit off our backs. Now we can sell armored trucks to the army.'"

The whites in general have responded to sanctions and disinvestment not by giving in but by digging in. Confronted by those and earlier trade restrictions, they have become remarkably self-sufficient. They squeeze oil out of coal and have even built a South African armaments industry, which now is their second-biggest (after mining) and which exports to 23 nations. It is commonly said that sanctions have forced the dominant white tribe of Afrikaners to go back to the laager, to circle their wagons as their forefathers did when attacked. Just as the bombing of London in World War II raised the British resolve to resist, so the measures against Pretoria have moved white South Africans to resist.

Crying defiance and exploiting the backlash, the far-right Conservatives won 27% of the vote in the last election, in May 1987, and displaced Helen Suzman's Progressives as the official opposition party. Many Progressives voted instead for the ruling Nationalist Party to buttress it against the fast-rising Conservatives. The Conservatives, at least three of whose 22 members of Parliament are also members of the neo-Nazi Afrikaner Resistance Movement, want to roll back the Nationalists' reforms. They would, for example, outlaw black trade unions and try to restrict the movement of blacks from place to place. Says Budget Minister Kent Durr, who identifies himself as a liberal Nationalist: "The neo-Nazis love sanctions."

Advocates of still stiffer sanctions and total disinvestment contend that the political perils and the privations inflicted on blacks are a small price to pay. Extremists even believe that a severe international boycott, by hastening the rise of the far right and further polarizing black and white, will bring about a bloody revolution, which they think is a necessary step to black power. Aside from the immortality of this argument, the trouble is that the blacks could scarcely win such a confrontation because the white government has all the artillery. Yet the American extremists, comfortable in their Georgetown or Palo Alto sanctuaries, seem prepared to fight to the last South African black.

They should ask the blacks about that. Listen to James Ngcoya, president of the 100,000-member South African Black Taxi Association: "I've heard people say that if sanctions make black people suffer more, that does not matter because they're suffering already and won't mind suffering some more. I've even heard them say that whether more sanctions will help to bring down apartheid doesn't matter because imposing sanctions puts America on the right side of history. Does that mean you really do not care what the black people of South Africa want? You really do not care about what will help us? I ask you to listen to our voices before you decide what is good for us, before you decide that black children must go hungry so you can be on the right side of history."

And Chief Buthelezi says: "When you try to destroy an economy that has achieved a vibrancy that has not been achieved anywhere else in Africa, you are sentencing us to starvation."

True, some prominent South African blacks and coloreds still want tighter sanctions, including the Most Reverend Desmond Tutu, the Nobel Prize—winning Anglican Archbishop of Cape Town; the Reverend Allan Boesak, president of the World Alliance of Reformed Churches; and the leaders of the largest black trade union, COSATU, and of the outlawed African National Congress, which is still the most popular among the many divided, fractious, and government-infiltrated black political organizations. On the other hand, sanctions are anathema to the Zulus' 1.2-million-member United Workers Union of South Africa plus some large black church groups including the Zion Christian Church and the United Congregational Church. Very significantly, notes Indiana Republican Congressman Dan Burton, vice chairman of the House subcommittee on Africa: "In 14 polls taken over four years in South Africa by a variety of private institutes and newspapers, all but one showed blacks opposing disinvestment and sanctions, most by a margin of three or four to one."

Faced with its policy failures, what should the U.S. do now? Above all, it must once again become actively engaged in South Africa. With its current policy of withdrawal, the U.S. has forfeited almost all influence over the Pretoria government and much of its ability to help South African blacks. If that is to change, sanctions must go. Lifting them seems impossible in the current environment, but the U.S. could bargain to remove sanctions in return for human rights concessions by Pretoria.

At the same time, the 150 American companies still in South Africa should be encouraged by their shareholders and directors to remain, to expand their social programs, and to train and promote more blacks for management and technical jobs. (U.S. firms have not done nearly enough training and promoting in South Africa, but they have accomplished far more than almost all local companies.)

American universities and corporations should give scholarships by the thousands to South African blacks. Says Sylvia Vollenhoven, a prominent colored journalist in Cape Town: "You should bring to America just about any black who has any kind of power, just to show him what real freedom looks like. Every radical who goes will come back with his ideas changed."

American publishers should send textbooks to black schools in South Africa, which desperately needs them. Most U.S. publishers refuse to sell texts to South Africa. What makes them think South African children are better off with government-approved South African texts—or none—than with U.S. books?

American companies and individuals should be encouraged to invest in black-owned ventures in South Africa. Despite police harassment, a surprisingly large group of black entrepreneurs is rising. They own small printing businesses, food shops, restaurants and bars; they drive minivans full of workers from the segregated black townships to their jobs in white cities and back; they sew dresses and make shoes and repair cars. Not even the worst repression has been able to break the entrepreneurial spirit of these determined people.

Helen Suzman argues persuasively that it was the rise of black economic power that forced the government to make concessions to blacks. The hated Pass Laws and Influx Control, which restricted their movements, were repealed in 1986 largely because the huge rush of blacks to the cities to fill jobs had made those rules unworkable. The law reserving skilled jobs for whites was repealed because a growing economy needed more skilled labor. Black trade unions were recognized because businesses needed a force to bargain with to halt wildcat strikes. Those unions now are potent and skillfully led.

The black's surest hope for gaining political power is to gain still greater economic power. The faster the economy grows, the more rapidly they can do that. Budget Minister Durr puts it a different way: "No declining economy in history has ever delivered democracy. If people want to help democracy, they must help the economy."

If and when the U.S. once again becomes an active player in South Africa, the U.S.—along with Britain, West Germany, Japan, and other allies who have not adopted widespread sanctions—can press Pretoria for policitical concessions. Among them: Lift the state of emergency under which thousands of people have been jailed without due process. Free African National Congress hero Nelson Mandela and many other political prisoners, and legalize the ANC. Though the exiled ANC is strongly Communist influenced and resorts to terror, the liberals among South African business leaders believe that it will become more reasonable when it allowed to reenter—and obliged to compete in—the political process. Surely Mandela will be easier to deal with than some fiery radicals among the ANC young. In addition, the inhumane Population Registration Act, the Group Areas Act and the Land Act—which segregates blacks, colored, and Asians from whites and determines where they may live—must be repealed. Most important, Pretoria must set a timetable for giving the vote to blacks.

Accomplishing all that will be difficult and may take longer than most Americans would like. But the U.S. stands a far better chance of making progress if it abandons sanctions and becomes involved again in South Africa instead of toughening an already bankrupt policy and just walking away.●

PROTECTING RELIGIOUS AND ACADEMIC FREEDOM WITHIN THE DISTRICT OF COLUMBIA

● **Mr. ARMSTRONG.** Mr. President, on Tuesday about a dozen religious groups held a press conference to announce their support for my recent amendment to the District of Columbia Appropriations Act. As my colleagues recall, on the 11th of this month the Senate adopted my amendment to protect religious liberty and academic freedom within the District of Columbia. That amendment, the "Nation's Capital Religious Liberty and Academic Freedom Act," will allow an educational institution affiliated with a religious organization to decide for itself whether to extend benefits or recognition to homosexual individuals or groups.

The Armstrong amendment addresses a fundamental problem of religious freedom, and I am gratified with the response of the religious community. Of course, a majority of the Senate also saw the threat to religious liberty when it adopted my amendment by a vote of 58 to 33. The amendment is a long way from becoming law, however. The House version of the D.C. Appropriations Act does not have a comparable provision and the "Nation's Capital Religious Liberty and Academic Freedom Act" may face a difficult future in the conference committee. I do remain hopeful, however, that the conferees will see the wisdom of adopting the Senate provision.

Mr. President, I ask that a list of groups that participated in Tuesday's press conference be placed in the RECORD along with their statements.

The material follows:

NATIONAL ASSOCIATION OF EVANGELICALS

(Director, Office of Public Affairs—Dr. Robert P. Dugan)

The organizations listed join in support of the right of religious schools to be free of compulsion to support organized group activity which is in opposition to the school's own religious beliefs. These organizations commend the measure proposed by Senator William Armstrong (R–CO) and adopted by the United States Senate which would require the District of Columbia to recognize this right, and they urge its adoption by the Congress.

Public Affairs Committee of the Southern Baptist Convention, Members of the Committee—Dr. Richard Land, Rev. Norris Sydnor, Mr. Les Csorba.

Lutheran Church—Missouri Synod Executive Director, Office of Government Information—Mr. Robert Morrison.

American Association of Christian Schools—Mr. Jack Clayton.

Association of Christian Schools International—Dr. John Holmes.

American Association of Bible Colleges—Dr. John Ragsdale, President United Wesleyan College.

National Committee of Catholic Laymen Washington Bureau Chief—Mr. Jack Fowler.

Presbyterian Lay Committee.

Good News Fellowship (within the United Methodist Church).

Siena Group for Catholic Policy—Mr. Michael Schwartz.

Catholic League for Religious and Civil Rights, Washington Chapter, Executive Director—Mr. Patrick Riley.

The Center for Law and Religious Freedom—Mr. Bradley P. Jacob (of the Christian Legal Society).

Christian Legal Defense and Education Foundation.

Salvation Army—Col. Ernest A. Miller, Director, National Public Affairs.

STATEMENT OF ROBERT P. DUGAN, JR., DIRECTOR, OFFICE OF PUBLIC AFFAIRS, NATIONAL ASSOCIATION OF EVANGELICALS

The National Association of Evangelicals has called this press conference to announce our support, along with many other organizations concerned with religious liberty, for

Senator William Armstrong's amendment to the District of Columbia Appropriations bill. That amendment, passed by the Senate 58 to 33 on July 11, would exempt religious schools here in the nation's capital from one provision of the District's Human Rights Act that prohibits discrimination on the basis of sexual orientation.

The Armstrong amendment answers with a resounding No! the question whether religious schools and colleges should be forced to subsidize student organizations promoting beliefs and practices contrary to their own. It would legislatively overrule the decision of the District of Columbia Court of Appeals in *Gay Rights Coalition of Georgetown University Law Center* v. *Georgetown University.*

There are those who are dismayed by the Senate's vote. We are dismayed by the court decision that made the vote necessary to preserve the free exercise rights of religious schools and colleges. Should Yeshiva University be forced to support Jews for Jesus? Should Howard University be forced to subsidize a student organization promoting white supremacy? As these hypothetical cases demonstrate, the issue is far broader than the narrow context in which it arose.

Let me briefly sketch the background of this case. Two gay student organizations sued Georgetown University seeking university recognition and the accompanying benefits of that status. The trial court ruled that Georgetown's action in denying university recognition and the accompanying benefits to the gay student organizations was protected under the Free Exercise Clause of the First Amendment.

On appeal, the District of Columbia Court of Appeals ruled that D.C.'s Human Rights Act did not require a grant of university recognition, but did require that Georgetown make its facilities and services equally available without regard to sexual orientation, including the tangible benefits that accompany university recognition.

The Court concluded: "The District of Columbia's interest in eradicating sexual orientation discrimination outweighs any burden that equal provision of the tangible benefits would impose on Georgetown's religious exercise." Translated, this legalese means that a religious institution can be forced to subsidize a student group which advocates beliefs and practices totally contradictory to its faith.

Over 200 years ago, Jefferson wrote that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." Jefferson used a strong word, but he was right to call such compulsion by its name—*tyranny.* It is one thing for student organizations to insist on toleration from those who disagree with their beliefs; it is quite another to demand a subsidy to spread them.

This religious liberty issue has a free speech parallel critical to the press. Should the Washington Post be forced to print views which contradict its editorial policy? Of course not, and the Supreme Court has so held. (*Miami Herald Publishing Co.* v. *Tornillo,* 418 U.S. 241 (1974).)

When Congress disagreed with the *Grove City* decision of the Supreme Court, it passed the Civil Rights Restoration Act to overturn that decision. Congress is equally free to change D.C. law and protect religious schools from this unconstitutional precedent.

If Jefferson was right, if what happened in the Georgetown case was tyranny, then the conferees on the D.C. Appropriations bill cannot do less than accept Senator Armstrong's religious liberty Amendment. Congress must restore to religious educational institutions in the District of Columbia that ultimate civil right, the right of free exercise of religion.

PUBLIC AFFAIRS COMMITTEE OF THE SOUTHERN BAPTIST CONVENTION

My name is Richard Land. I am here today to speak on behalf of the Public Affairs Committee of the Southern Baptist Convention concerning Senator William Armstrong's amendment to the District of Columbia appropriations bill. As a member of the Committee I speak at the request of the Chairman, the Honorable Samuel Currin, a state judge in North Carolina. As noted in the *Congressional Record* for July 11, 1988, the Committee's executive body "unanimously supports this amendment."

The issue which the "Armstrong Amendment" addresses is religious liberty. Are we, or are we not, to continue to protect and to practice the freedom of religious expression which was purchased at such a painful price by our forebears and is now protected and guaranteed by the First Amendment to the Constitution of the United States?

The issue is not homosexuality, but separation of church and state. The issue is whether a government institution, in this case the District of Columbia, has the right to force a religious institution, in this case Georgetown University, a Roman Catholic Jesuit institution, to subsidize the propagation and promulgation of beliefs diametrically opposed to its religious convictions.

The issue is not whether homosexuals may attend Georgetown. They do. The issue is not whether they are able to participate in university life. They do. The question is whether Georgetown as a religious institution must subsidize a group which promotes beliefs totally contrary to the religious convictions of the institution's founders and supporters.

Will the government of the District of Columbia be allowed to coerce people to support, financially and otherwise, ideas that violate their consciences? There is a name for such government action, and it is oppression, not freedom of conscience; it is religious discrimination, not religious liberty.

Our Baptist forebears were adamant in their opposition to such coerced support in the form of tax-supported official state churches both in England and in colonial America. As Baptists, we would betray the sacred heritage of liberty bequeathed to us by men and women such as Isaac Backus and John Leland if we did not object in the strongest terms to this egregious court decision and the extremely dangerous precedent it represents. Further, we would be false to our religious and political heritage if we did not avidly support the Armstrong Amendment's reaffirmation of religious freedom in our nation's capital.

The Armstrong Amendment is nothing more, and nothing less, than a defense of, and insistence upon, the protection from government coercion guaranteed by the First Amendment of the Constitution of the United States.

STATEMENT OF THE LUTHERAN CHURCH—MISSOURI SYNOD CONCERNING THE ARMSTRONG AMENDMENT

The Lutheran Church—Missouri Synod, with 2.6-million members nationwide, has always regarded education as an important task of the Christian community. That is why our more than 6,000 congregations support schools from pre-kindergarten through college and seminary levels. Our Christian Day Schools comprise the largest Protestant school system in the United States.

The integrity of these schools is inextricably linked to the religious free exercise of the Church itself. The District of Columbia's Human Rights Ordinance establishes homosexual conduct as a legitimate moral choice. Within our church body, this cannot be accepted. When this ordinance is applied to the educational institutions of our church body—or those of other faith communities—a constitutional guarantee of fundamental importance is breached. Federal jurisprudence on this issue—which it may at first appear to be narrowly focused on the District of Columbia and one of its great universities—will have national implications for the religious freedoms of all.

Our church body seeks no public condemnation of homosexuals as persons, nor any diminution of their proper civil rights. We will continue to deal compassionately with the problems posed by homosexuality within our own community and within society at large. But we will not be forced by government to say that sin is not sin.

We, therefore, commend Senator William L. Armstrong and the strong bi-partisan majority of the United States Senate that has supported his amendment to the District of Columbia Authorization bill. We appeal to the members of the House-Senate Conference Committee to uphold this basic principle of religious freedom. We pray that God will bless and guide all members of the U.S. Congress and the Government of the District of Columbia.

Mr. ROBERT P. DUGAN, JR.,
NAE Office of Public Affairs,
Washington, DC.

We heartily endorse the principle expressed by Senator William Armstrong and the United States which would reject any law which would force an institution to make its facilities available to groups whose lifestyle/values are unacceptable to said institutions. We oppose forcing religious institutions to hire homosexual persons or deal with them in any way as a protected civil rights group or category.

JAMES V. HEIDINGER II,
Editor/Executive Secretary.

STATEMENT OF MICHAEL SCHWARTZ, CHAIRMAN, CATHOLIC CENTER

The Armstrong religious liberty amendment to the D.C. Appropriations Bill is a necessary safeguard for religious freedom. Senator Armstrong deserves the gratitude of all Americans for his tenacity in fighting to affirm religious freedom in the face of a political movement which exhibits wanton disregard for constitutional rights. He has displayed courage where all too many other public officials have shown cowardice.

If an institution which exists to carry out a religious mission can be forced by civil law to act against its own professed beliefs and proclaim the legitimacy of that which is sinful, then religious freedom has become a fiction. The unfortunate coercion of Georgetown University by the authorities of the District of Columbia in the matter of granting formal recognition to a homosexual organization is a very serious attack on religious freedom which places in jeopardy the rights of all believers. By adopting Senator Armstrong's amendment, the U.S. Senate has affirmed the primacy of constitutional rights over the extortionate demands of a pressure group which evidently holds such rights in contempt.

It is our hope that, guided by the Senate's action in defense of religious freedom, the District of Columbia and other jurisdictions will cease and desist from their efforts to suppress religious freedom in order to pay off political debts to constituency groups which refuse to respect the rights of others.

Statement of John P. Fowler, Washington Bureau Chief of the National Committee of Catholic Laymen

The National Committee of Catholic Laymen is pleased to join today with this broad-based coalition of religious organizations to support Sen. William Armstrong's amendment protecting the constitutional right of religious freedom.

Senator Armstrong offered his amendment—passed by the Senate on July 11th—after a District of Columbia court forced Georgetown University to comply with the District's Human Rights Act by subsidizing a student advocacy group promoting homosexual rights—despite the fact that such practices are hostile to the Catholic institution's religious teachings and tenets.

The decision of the District court sets an unconscionable precedent threatening a most fundamental principle of our Republic: the Constitution's First Amendment right of free worship. Unless the entire Congress moves to adopt the Armstrong Amendment, not only will the rights of religious institutions in the District of Columbia be damaged, but a dangerous precedent allowing for the destruction of our First Amendment rights will be established for other courts and governments—at both a local and state level—to follow.

When the religious rights of one institution are threatened, then the religious rights of all institutions—and all those rights guaranteed all Americans—are threatened. The National Committee of Catholic Laymen applauds Senator Armstrong for his amendment to protect these rights, and strongly urges the Congress to give it unanimous approval.

MEMORANDUM

Date: July 26, 1988.
From: Myron S. Augsburger.
Re: The Armstrong amendment to the D.C. Budget bill.

First, as President of the Christian College Coalition, representing 77 Christian colleges, I wish to express my personal views on the issues surrounding Senator William Armstrong's amendment 2541 to the Disrict of Columbia budget bill. My colleagues and I are committed to securing religious freedom for all persons and institutions in our pluralistic society and to holding each institution accountable to maintain its integrity as it exercises this freedom.

Second, I believe supporting the Armstrong amendment is important to the cause of religious liberty. It sends a political shot across the bow of those who would ignore the Constitutional right of religious free exercise we enjoy. I am thankful for Senator William Armstrong's efforts in the defense of religious liberty. I see his amendment as a good faith effort to secure for religious educational institutions in the District of Columbia their legitimate right to withhold institutional recognition and funding from student groups which advocate positions inimical to their institution's religious beliefs.

Third, I support efforts which seek to secure our First Amendment rights under the Constitution. As the Williamsburg Charter rightly affirms, religious liberty, or freedom of consicence, is our nation's "first liberty," which undergrids all other rights and freedoms secured by the Bill of Rights.

Fourth, of particular concern to me is securing the right of educational institutions to maintain the integrity of their religious convictions. The ruling of the D.C. Superior Court requiring Georgetown University to recognize officially a student group advocating beliefs in stark contrast with Catholic teaching clearly violates the moral character of the University. In my view, the Court is interfering in the University's free exercise of its religion.

Fifth, I believe the best avenue for affirming Georgetown University's right of religious free exercise is through our courts. Unfortunately, the University has decided not to pursue an appeal under the First Amendment and, instead, to settle the matter out of court.

Sixth, those who earnestly, and I believe sincerely, seek to defend the principle of religious liberty in this case are now in the unhappy position of having to support legislation that can be viewed as being anti-gay, or a case of "D.C. bashing," or both. I have no interest in denying the civil rights of homosexual persons or the ability of the District of Columbia to govern itself.

Seventh, in the noble cause of securing religious liberty for all in our pluralistic society, I would emphasize the spirit of the Golden Rule rather than Majority Rule. In the words of the Williamsburg Charter, "Rights are best guarded and responsibiliies best exercised when each person and group guards for all others those rights they wish guarded for themselves."

AACS Deplores Court Order Requiring Religious School To Allow Homosexuals To Organize on Campus

James E. Lowden, Executive Director of the American Association of Christian Schools, released today a statement of Dr. Richard Harris, Executive Vice President AACS, which expressed gravest concern about the District of Columbia statute which resulted in a recent appeals court decision ordering Georgetown University to permit homosexual groups to organize on the campus of the Roman Catholic institution. The statement by Dr. Harris pointed out that this intolerable precedent effectively bans religious institutions which enforce historic religious or Biblical beliefs from the nation's capitol.

Lowden stated that the concerns expressed by Dr. Harris should be thoughtfully considered by all citizens. "The astonishing rapidity of erosion of religious freedom should concern everyone," he said.

AACS is a service organization for its member schools, but increasingly finds that it must defend against movements that will destroy the right of Christian schools to exist.

Statement of Dr. Richard Harris, Executive Vice President of the American Association of Christian Schools, Concerning Homosexuality and Religious Institutions

"I consider the Government of the United States as interdicted by the Constitution from meddling with religious institutions, their doctrines, discipline or exercises."—Thomas Jefferson.

The American Association of Christian Schools represents 1,200 Christian schools across the nation. Most of these schools are operated by churches. We are concerned with any governmental entanglement with any religious school anywhere because it is necessarily the same as entanglement with the religious doctrines of the church.

The U.S. Supreme Court recognized in 1971 in *Lemon* v. *Kurtzman* that a church school is an "integral part of the religious mission of the church." That position is also the doctrinal belief of our member schools and the churches that support them.

We desire that all levels of government know of our strongest possible objections to the District of Columbia ordinance which has resulted in a court order requiring a religious institution, Georgetown University, to allow homosexual groups to organize and use school facilities even though homosexuality violates the religious teachings of the Roman Catholic Church. Enforcement of this ordinance against a religious institution sets an intolerable precedent.

What is at stake here is nothing less than the banning of religious schools in the nation's capitol that enforce religious or Biblical beliefs concerning sodomy. No government entity should even possess, let alone exercise power to commit such an outrageous act.

It is of no consolation whatsoever that religious schools are given the empty reassurance that they are free to teach, but not practice their beliefs that homosexuality is sinful. Such governmental action reduces religious belief to a set of inner feelings that are allowed no free exercise.

Christian schools must not only be able to teach, but they must be able to practice their historic Biblical beliefs without governmental interference. The precedent of the Georgetown case must not only be allowed to spread to other jurisdictions, it must not even be allowed to survive in the District.

Finally the judicial assertion that the "compelling governmental interest" in overcoming "sexual orientation discrimination" outweighs free exercise rights is a dangerous notion that threatens the religious liberty of every citizen. It is difficult, if not impossible, to imagine any more reprehensible attack on both freedom and morality in one court ruling. Congress should act to put an end to this attack at once.

Statement of the Center for Law and Religious Freedom Concerning the Armstrong Amendment

Religious freedom is not a partisan matter. Democrats and Republicans alike have called it America's First Liberty. Free exercise of religion is an inalienable right, guaranteed to all Americans by the First Amendment to the Constitution. The protection of religion under our Constitution is very high because it is the liberty upon which all other liberties, including speech and press, have historically depended and continue to depend.

The issue before us today is whether religious institutions, including universities, are free to withhold financial support and other services from groups whose views and practices violate the religious tenets of the institution.

The Center for Law and Religious Freedom of the Christian Legal Society believes that the action of the United States Senate in adopting Senator William Armstrong's amendment to the District of Columbia appropriations law is consistent with the spirit of America's First Liberty. All levels of government have a duty to protect fundamental First Amendment freedoms and to interfere with such freedoms only when a governmental interest is truly compelling. Even the most compelling of governmental interests, however, can only be achieved through the least burdensome means.

Religious institutions, like Georgetown University, enjoy no less protection under the Constitution than other private institutions in our society. The NAACP cannot be forced to subsidize an organization promoting racial discrimination. Similarly, the Washington Post cannot be forced to accept advertising that offends its editorial policy and community standards. In like manner, it is unconstitutional to force religious institutions, such as Georgetown, to subsidize groups that promote lifestyles and practices that violate their religious beliefs.

After spending hundreds of thousands of dollars seeking to protect its constitutional rights, Georgetown University could no longer afford to pursue its case to the United States Supreme Court. Thus, Georgetown was put to the cruel choice of either paying the high legal costs of preserving its religious liberty or sacrificing its constitutional right for lack of financial resources.

The Georgetown University decision in the District of Columbia Court of Appeals was incorrect not only in ignoring the constitutional rights of the University, but also in misconstruing the local statute. A correct reading of the law would have recognized that Georgetown did not discriminate against any person because of homosexual orientation or even homosexual practice, but rather declined to support a group that advocated behavior held to be immoral by the Roman Catholic Church. Georgetown's opposition would have been the same if the student group in question had been one composed entirely of heterosexuals who advocated pre-marital sex or any other practice inconsistent with Catholic moral and religious teaching.

Section 1–2520 of the District of Columbia Code undermines the constitutional rights of religious educational institutions, a defect which the Armstrong amendment seeks to correct. The "Nation's Capital Religious Liberty and Academic Freedom Act" is in harmony with the decisions of the Supreme Court. The Court has ruled that a private person or organization may not be forced to subsidize or endorse speech with which it disagrees. Thus, in *Miami Herald Publishing Co.* v. *Tornillo,* 418 U.S. 241 (1974), a Florida statute requiring newspapers to give free reply space on their editorial pages to political candidates who had been criticized in the press was declared unconstitutional as a violation of the First Amendment rights of newspaper editors to choose what to print. Similarly, in *Pacific Gas & Electric Co.* v. *Public Utilities Commisison,* 475 U.S. 1 (1986), the Supreme Court struck down a state regulatory requirement that utility companies include in their billing envelopes flyers prepared by a ratepayers' organization. *Abood* v. *Detroit Board of Education,* 431 U.S. 209 (1977), applies the same principles to prohibit an employer from requiring a non-union employee, as a condition to continuing employment, to contribute to the support of an idealogical cause that he opposes. These cases, and others, stand for the proposition that a private entity, like a religious university, may not be required to provide services, facilities or financial support to groups advocating values and practices that undermine the institution's beliefs.

The United States Senate, by passing the Armstrong amendment, has taken a much-needed first step to protect religious schools from the harsh and constitutionally defective District of Columbia statute.

Court Order Requiring Religious Institutions To Allow Homosexuals To Organize on Campus Raises Grave Concerns

"* * * it is proper to take alarm at the first experiment on our liberties. * * * The freemen of America did not wait until usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle"—James Madison Memorial and Remonstrance

James Madison deplored the notion that the civil magistrate may employ religion as an engine of civil policy. Yet, forsaking this once hallowed principle, an appeals court in the District of Columbia has ordered Georgetown University, a Jesuit institution, to allow homosexual groups to organize and operate on campus.

The court order enforces a District of Columbia "gay rights" ordinance on the campus even though homosexuality violates the normative teachings of the Roman Catholic Church.

The statute and the decision do violence to both religious liberty and to historic standards of decency. The court decision states that the "compelling governmental interest" in overcoming "sexual orientation discrimination" outweigh the exercise rights of Georgetown University. Such a legal doctrine completely destroys the concept of limited government and replaces it with unlimited government. All that is necessary for destruction of religious freedom under this thinking is for civil government to assert a "compelling state interest" and proclaim that it outweighs free exercise rights. Religion will become an arm of the state.

The oppressive action by the District of Columbia can be halted by the U.S. Congress. Article I, Section 8 of the U.S. Constitution gives Congress the power "To exercise exclusive legislation in all cases whatsoever. Article I, Section 9 gives Congress exclusive power over appropriations. Both powers can easily be employed if Congress has the will.

The U.S. Senate recently chose the latter power. An amendment restricting appropriations for the District unless the most egregious parts of the D.C. statute is amended. Final action has not been taken by the entire Congress as of this date.

The District of Columbia is presently exercising its own power of the purse, however. It is pressuring Georgetown with loss of tax-exempt bonds unless it allows homosexuals to organize on campus.

The Christian Legal Defense and Education Foundation views these developments with utmost alarm. No church or religious institution is safe when a government that is hostile to a religious belief is empowered to persecute those adherents to the faith that dare to practice that belief.

The issues raised by this crisis are far too important to hinge upon whether or not Georgetown waged the most vigorous legal defense that was possible in this case. The precedent being set in the nation's capitol should be of greatest concern to everyone. Ignoring what is happening here is a certain formula for future losses of freedom.●

1988 CLASS OF BOYS NATION

● Mr. LUGAR. Mr. President, I want to pay tribute to the 1988 Boys Nation. Through 42 years, the American Legion has been dedicated to strengthening America by preparing our Nation's youth with skills needed for leadership and qualities associated with good citizenship.

Forty-nine States and the District of Columbia conduct a Boys State Program annually in which more than 28,000 young men participate in these civic workshops. Two outstanding Boys State participants from each State are selected to attend the American Legion Boys Nation. During the week-long program, the young citizens learn how government functions through hands on participation. My colleagues who are Boys State graduates include Senators Lawton Chiles, Sam Nunn, Charles E. Grassley, William S. Cohen, Max Baucus, Jeff Bingaman, Larry Pressler, and Al Gore.

Today I met with the two Boys Nation delegates from Indiana, Richard P. Church and Matthew George Krueger. These two outstanding individuals have fine leadership abilities that will only be enhanced by their experience with Boys Nation.

As a Boys State graduate myself, I urge my colleagues to join me in saluting the 1988 delegates to Boys Nation.●

CHILDREN'S INN AT THE NATIONAL INSTITUTES OF HEALTH

● Mr. LAUTENBERG. Mr. President, as many of my colleagues who are parents know, having a sick child is a stressful and upsetting experience. While most parents are fortunate enough to have healthy children who suffer only from the occasional childhood illness, others must confront numerous difficulties that occur when their child is seriously ill. Often, when seeking medical treatment for a child in a strange city, there is the additional burden of finding lodging for the parents and the patient.

In response to the need for such lodging, Children's Inn at the National Institutes of Health was organized. Children's Inn will be a "home" for patients and their parents while the child is undergoing treatment at the Warren Grant Magnuson Clinical Center, located on the campus of the National Institutes of Health in Bethesda, MD.

Children from throughout the Nation who suffer from a variety of serious illnesses, such as cancer, heart surgery, genetic problems, rare diseases or difficult diagnostic problems will be housed at Children's Inn for periods ranging from one night to 6 months. Many will be participants in innovative biomedical research at the clinical center and may be required to return periodically for as long as several years to continue treatment. The patients and their parents will take great comfort in knowing that they will have a place to stay where their unique situations are understood and accommodated while they undergo treatment.

Mr. President, on July 29, 1988, groundbreaking for Children's Inn will take place on NIH grounds. As a member of the inn's advisory board, I would like to take this opportunity to congratulate those individuals, foundations, and corporations, whose generous gifts have made this humanitarian concept a reality. I would especially like to appaud the generosity of Merck of New Jersey, a company that continues to demonstrate its commitment to the improvement of health and the relief of suffering. I urge my colleagues to lend their support to this worthwhile project.●

NEW NETHERLAND FESTIVAL

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to the citizens of New Jersey, Connecticut, Delaware, New York, and Pennsylvania who are organizing The New Netherland Festival and building a full-size replica of the *Half Moon,* the ship that Henry Hudson sailed up to Albany in 1609. These citizens want to recognize the important role that the Dutch settlers played in American history and celebrate the 380th anniversary of Henry Hudson's explorations, the 375th anniversary of the founding of New Netherland, and the 365th anniversary of the first European settlements in New Netherland.

Their efforts are substantial, especially the building of the *Half Moon.* Starting with the keel dedication ceremony they will construct a replica of Henry Hudson's 17th century Dutch ship. It will serve as the central attraction for a series of New Netherland Festivals along the Delaware, Hudson, and Connecticut Rivers in 1989. Then, in 1990, Commodore Jonathan de Jonge will sail the ship to the Netherlands.

These celebrations are being planned in the same spirit that colonized this country. The Dutch settlers brought with them a belief in religious freedom, separation of church from state, ethnic equality, women's rights, and a free public school system—all beliefs we now call America. Without their influence America would not be what it is today.

Mr. President, I commend the organizers of this celebration and wish them great success in their endeavor.●

AMERICAN SOVIET YOUTH ORCHESTRA

● Mr. SIMON. Mr. President, I rise to commend the American Soviet Youth Orchestra for helping to foster greater understanding between the United States and the Soviet Union. I am sure my colleagues in the Senate would agree that we are infinitely better off when we learn more about other countries and as others learn more about us. We all gain through greater understanding of other cultures, languages and traditions, and our foreign policy will be the wiser for it.

The American Soviet Youth Orchestra Program will bring together 58 Americans between the ages 17 and 23 and 52 Soviet musicians in the same age group. These youngsters will form the first joint orchestra to include both American and Soviet musicians, which is testament to the tireless efforts of executive director Grace Kennan Warnecke, Stephen H. Rhinesmith of American Field Services, and Oberlin College president, S. Frederick Starr. Without their relentless work, this project would not have happened.

This unique musical enterprise will bring together this talented group of youngsters for 2 weeks of preparation beginning July 16 at the renowned Oberlin College Conservatory of Music. They will then tour both the United States and the Soviet Union, with their first concert here in Washington, DC, on August 5.

Mr. President, I am confident that my colleagues in the Senate will agree that the American Soviet Youth Orchestra embodies the cooperative spirit of working together with the Soviet Union where we can do so. I submit that relations today between our two countries surely would be better had a young Eureka College double bassist named Ronald Reagan played in an orchestra alongside a budding violinist—Mikhail Gorbachev. I urge my colleagues in the Senate to join me in supporting this invaluable program and congratulating the talented youngsters who are participating in the program.●

EDUCATION PROGRAMS FOR DEAF STUDENTS

● Mr. BOSCHWITZ. Mr. President, yesterday the Senate passed the Labor-HHS bill, which I supported. However, I was disappointed with the level of funding to assist education programs for deaf students.

The Health and Human Services appropriations bill did not contain adequate funding for postsecondary deaf education programs at California State University-Northridge, Seattle Community College, the University of Tennessee or the St. Paul Technical Institute.

These programs, Mr. President, served nearly 700 full-time students on a daily basis, and more than 1,800 students annually. The current funding level for these programs is $2 million, the minimum funding required by law. Unfortunately, that funding has actually declined over the past 3 years.

There is ample evidence, Mr. President, that these programs should receive increased funding. Earlier this year, the Commission on Education of the Deaf recommended that regional postsecondary education programs for the deaf receive increased funding. The same Commission also recommended the establishment of a fifth regional program. That will not be possible with the current funding level.

Not only will expansion of the program be impossible, but even maintaining current services will be difficult. Schools have been forced to turn away deaf students, cut services, delay programs to train interpreters and otherwise limit the scope of their mission. It's unfortunate, Mr. President, particularly in light of the valuable educational services these programs provide to the hearing-impaired.

The battle appears to be lost this year, Mr. President. But I want this body to know that I am not ready to give up. I understand the tremendous struggle deaf people have to function in society, and I will continue to fight battles on their behalf here on the floor of the Senate.●

GROUP FINANCIAL PARTNERS, INC.

● Mr. McCONNELL. Mr. President, I rise today to insert into the RECORD an article that appeared recently in the Louisville Courier-Journal on Group Financial Partners, Inc., a Louisville-based holding company whose assets value over $100 million and whose business and real estate holdings stretch beyond Kentucky from Connecticut to Florida.

Group Financial Partners got its start 5 years ago as the Gill Family Partners. They began buying, leasing, and selling properties, and since 1986 has expanded to buying corporations. Tube Turns, Inc., for example, was purchased from Sumitomo Metal Industries of Japan in June 1988. The Louisville company currently makes forged steel pieces and engineered products for corporations such as John Deere, General Electric, and Pratt & Whitney.

The chairman and president of Group Financial Partners is a good friend of mine, Mr. Bob Gill. He is assisted by his son, Jeff, an executive vice president and a good friend as well. He attributes the success of his company to his young 11-member staff and to recognizing opportunities and "getting out of your chair and doing something about it."

Mr. President, I urge my colleagues to take a moment to read about Bob and Jeff's thriving business and its inspiring successes. I believe they have much to offer as an example of sound American entrepreneurship.

The article follows:

FIRM SEIZES OPPORTUNITY FOR GROWTH

(By Susan Tompor)

Four years ago, the Louisville-based holding company had one property to its name—a 208,000-square-foot manufacturing plant in West Haven, Conn.

And it owned that plant with 21 other limited partners.

Since then, Group Financial Partners has added more than 1 million square feet in real estate—including Louisville's 75-year-old Starks Building, the IBM office building in Lexington and the Belknap warehouse at Riverport in Jefferson County.

It also owns four manufacturing plants—Tube Turns Inc. and Tri-Tech Inc. in Louisville; F.W. Bell Inc. in Orlando, Fla., and Continental Testing Laboratories Inc. in Fern Park, Fla.

Together, those manufacturing plants—and a property management division—employ about 690 people.

"And we've tried to buy a lot more," said Robert E. Gill, chairman and president of Group Financial Partners.

"We've come in second quite a few times."

Gill expects to keep buying—and eventually build some new properties for Group Financial Partners.

"Our goal is to become one of Louisville's major companies," Gill said.

Does that mean doubling the company's current assets, which are valued at more than $100 million?

"Oh no, much bigger," Gill said.

A key part of that strategy involves focusing on companies that have a niche in a given market—or may complement existing operations.

Tri-Tech, for example, boasts that it holds 70 percent of the market for special fittings, such as those used in nuclear submarines and aircraft carriers.

When looking at acquiring a company, Gill said his firm also considers the potential customer base—and if any of those companies are already customers of other Group Financial Partners' operations.

The reasons: Contacts and credibility.

Knowing someone at one division of a company may prove helpful in selling to another part of that business, Gill said.

"General Electric is a customer of almost every company we have," Gill said.

Typically, Group Financial Partners focuses mainly on acquiring and maintaining properties. Operating the plants is left to managers who are experienced with intricacies of those operations.

"Our relationship with GFP is we operate and if we need help we call for help," said Russell A. Johnson, president of Tri-Tech, which employs about 75 people.

For its part, Gill said, Group Financial Partners gives the operating companies the freedom and financial backing to try new ideas.

Employees of each division also are given an opportunity to invest in that company.

Group Financial Partners began in November 1983 as the Gill Family Partners. Gill, who had spent 30 years in the elevator business, had recently sold Armor Elevator Co. to Finland's Kone Corp. The price was not disclosed. (Gill and a group of investors paid $17.1 million for Armor Elevator when they bought it in 1975 from the A.O. Smith Corp.)

Through late 1985, the company acquired four properties: the Connecticut manufacturing plant for an undisclosed price, which is being leased to Sikorsky Aircraft; the former Avery Building at 515 W. Market for $7.8 million ; the former American Air Filter Co. plant at 6200 Strawberry Lane for $2 million ; and 6½ acres of real estate in the East End, which was later sold for commerical development. (The American Air Filter plant—which is next to the Naval Ordnance Station—was sold to the U.S. Navy in 1986.)

The rush of buying activity, though, began in 1986. That year alone the company bought:

A three-story office building in Lexington for $7.4 million, now leased to IBM.

The Starks Building for $22.7 million.

A subsidiary of Tube Turns—later renamed Tri-Tech—from Allegheny International Inc. for an undisclosed price.

And the two Florida companies from Allegheny, also for an undisclosed price.

In May of 1987, Group Financial Partners bought the vacant Belknap Inc. distribution center at Riverport for $8 million. The warehouse—which has 321,000 square feet—was opened in 1985, about a year before Belknap went bankrupt.

Most of that Belknap space is now being leased to the Enro Shirt Co. and the U.S. Census Bureau. About 35,000 square feet remains unleased.

Last month, Group Financial Partners bought Tube Turns Inc. from Sumitomo Metal Industries of Japan.

Gill said the partnership started learning about properties on the market through business contacts and investment banking firms.

And after several years of buying properties, "we now have people who will contact us to see if we have an interest," Gill said.

With Tube Turns, the relationship started when Gill was asked to be a trustee in the early 1980s to oversee the operations of Tube Turns' subsidiary. Tube Turns Technologies Inc.

Sumitomo, part of one of Japan's largest industrial consortiums, bought Tube Turns from Allegheny in 1983 for an undisclosed price. As part of that deal, Tube Turns had to spin off the technologies operations, which could not be operated by a foreign business because of its defense related work.

Operations were going to be left to the trustees. And Sumitomo then would be given only financial information.

But an agreement was never completed—and Gill became interested in buying Tube Turns Technologies himself.

And last year Gill started looking at the other part of Tube Turns.

Gill said he thought the Japanese might be interested in selling the company once he learned that Tube Turns was going out of the welded pipe fittings business in early 1987.

That business was a key reason Sumitomo bought Tube Turns initially, Gill said. Sumitomo Metals was able to provide raw materials for the fittings and had sent partly finished goods to the plant from Japan.

But that business began to sour after higher tariffs were placed on parts imported from Japan and after business began to decline in the oil industry, which was a major customer for the fittings.

Gill said the fittings business became a "money loser" and he wasn't particularly interested in it anyway. But he did find the rest of the operation—which makes steel forgings and engineered products—attractive.

Product lines currently include forged aerospace engine shafts, artillery shells and axles. Major customers include Pratt & Whitney, General Electric and John Deere.

Jack Kramer, president and chief executive officer of Tube Turns, said he was "extremely happy" that Group Financial Partners took over the company—which now employs 230 people—on June 6.

"I see them as being very aggressive—particularly in the area of marketing and developing new products," Kramer said.

Johnson, Tri-Tech's president, said Gill has "tremendous vision."

Gill's son, Jeffrey, 32, agrees. Jeffrey, an executive vice president of the firm, says his father is "very sharp" and "very demanding."

"Fortunately, I'm on good terms with his wife," he jokes.

Robert Gill said a major part of Group Financial Partner's success is the enthusiasm of the company's 11-member staff.

Besides Gill, who is 62, and Mansel O. Wiley, vice chairman who is 70, the rest of the staff is 35 years old or under.

"They do all the work—sincerely they're smart. They're well-educated. They're ambitious."

Being successful, Gill said, requires opportunities and being able to recognize them.

"But the key element is doing something about it. Getting out of your chair and doing something about it."•

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business, not to exceed beyond 10 minutes, and the Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNITY AND MIGRANT HEALTH CENTERS AMENDMENTS OF 1988—S. 2385

Mr. HATCH. Mr. President, I am pleased to join Senator KENNEDY in supporting S. 2385, the Community and Migrant Health Centers Amendments of 1988. This measure reauthorizes some of the most important programs in the Public Health Service for providing access to health care for our medically underserved. In addition to providing for significant increases in the authorization levels for community health centers, migrant health centers, and other programs, this legislation makes several important changes to increase our efforts to combat infant mortality and to improve access to health care in frontier areas.

Community Health Centers [CHC], Migrant Health Centers [MHC], along with the National Health Service Corps, are the principal Federal health service programs for medically underserved populations and medically underserved areas of the country. During fiscal year 1988, 540 CHC's will provide primary care services to approximately 5.25 million medically underserved persons; 117 MHC's will provide care to approximately 470,000 migrant and seasonal farmworkers and their families. Of those served by CHC's and MHC's, it is estimated that 60 percent are poor, 58 percent lack any form of health insurance, over one-third are children under the age of 14, and over one-third are women of child bearing age.

Both the CHC and MHC programs make significant contributions in the fight to reduce infant mortality in the United States. Sadly, though, infant mortality continues to be a problem in this country, but it is one that can be prevented if we do a better job of coordinating services as well as providing prenatal and perinatal care to women. The good news is that the United States is first in the world in birth weight specific infant survival rates. Yet, at the same time, our Nation ranks 17th in the world in its overall infant mortality rate.

So how can we explain those two conflicting facts? First, we have the best health care system in the world. An infant born in a hospital in this country has a better chance of survival, whatever its birth weight, than it would if born anywhere else in the world. But, we also have too many babies born prematurely and at low birth weights. The simple fact is that a baby born at a low birth weight is not as likely to survive as one born at a normal weight. In fact, two thirds of all infant mortality can be attributed to those infants born at low birth weight.

Fortunately, low birth weight is largely preventable by providing proper nutrition and prenatal care and, at the same time, decreasing alcohol abuse, drug use, tobacco use, and the number of teenage pregnancies.

The Community and Migrant Health Centers Amendments of 1988, S. 2385, addresses several of these issues. It establishes a new program to coordinate with other prevention efforts—prevention efforts which can reduce the number of low birth weight babies in this country.

It also provides increased funding for Community Health Centers and Migrant Health Centers which provide prenatal and perinatal care to women. This provision is similar to legislation introduced by Senators KENNEDY, QUAYLE, and myself which passed the Senate earlier in this Congress.

S. 2385 is especially important to my home State of Utah, where the rate of decrease in its infant mortality rate has slowed. The legislation specifically targets resources for those States which have suffered recent increases or which have infant mortality rates higher than the national average.

In addition, this bill recognizes that some areas of our country—frontier areas—have health care problems which are different from urban or rural areas. Frontier areas account for 45 percent of the total land mass of the United States. An estimated 3 million individuals, or 1 percent of the total population, reside in frontier areas, yet less than one-tenth of 1 percent of the total physicians service these areas.

This bill will increase the availability of health care provided through community health centers for these areas of the United States which have fewer than six people per square mile, areas where many health needs are currently being left unaddressed. Again, this measure has particular significance to my home State of Utah where a large portion of the State qualifies as a frontier area.

It has been a pleasure to work with Senator KENNEDY and Senator QUAYLE on this legislation, and I look forward to its expeditious enactment. Infant mortality is a health problem that affects our entire Nation, but it is one problem for which the cure already exists.

It is my hope that S. 2385 will help us achieve an objective we all share—the healthy birth of babies who will be the next generation of Americans. In addition, by continuing our support for the community health centers and migrant health centers in this country, I hope we can continue to improve access to the medically underserved of our Nation.

I would like to make one technical point before we vote on this legislation. The provision on other operation funding includes Federal or non-Federal resources of a restricted or nonrestricted nature which are available to be expended for current operating expenses of the CHC's and MHC's. My understanding is that this legislation in its current form is now acceptable to both the House and the administration. I urge my colleagues to support this important health legislation.

ANDERSON/VAN ATTA COLUMN ENTITLED "MISSILE PROJECT CLOSE TO NUNN'S HEART": SETTING THE RECORD STRAIGHT

Mr. NUNN. Mr. President, yesterday newspapers around the country carried a column by Jack Anderson and Dale Van Atta entitled "Missile Project Close to Nunn's Heart."

This column contained a number of misleading and outright false statements and allegations concerning the Defense Department's Tacit Rainbow antiradar cruise missile program.

I ask unanimous consent that a letter which I am sending tomorrow to editors of newspapers carrying the column be printed in the RECORD.

I also ask unanimous consent that a letter to the editor of the Washington Post from Under Secretary of the Air Force James McGovern concerning this article which Secretary McGovern also sent to me be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. The serious errors in this column could have been avoided if either Mr. Anderson or Mr. Van Atta had talked to me or my staff prior to publication of the column. It is unfortunate that these errors have to be corrected after the fact.

EXHIBIT 1

COMMITTEE ON ARMED SERVICES,
Washington, DC, July 28, 1988.

DEAR EDITOR: A recent article by Jack Anderson and Dale Van Atta ("Missile Project Close to Nunn's Heart") is completely misleding and largely false. Before addressing the errors, let me outline a number of key facts.

In the early 1980s, the Army, Navy and the Air Force each started separate cruise missile programs that were designed to attack enemy radars. A proposal to consolidate the programs into a single joint service program because of duplication and cost was first made by the House of Representatives in the spring of 1984. In the summer of 1984 the Senate agreed to the House proposal.

In November 1984, Department of Defense officials selected the Tacit Rainbow program as the joint service program because they concluded that it was the best program for meeting the requirements for each of the military departments. Since that decision was made, the military services and the Department of Defense have asked for money every year to continue development of Tacit Rainbow. The other cruise missile programs, including the Seek Spinner program cited in the Anderson/Van Atta article, were terminated by DoD, and DoD has not requested any money for these programs since 1985. In the summer of 1986, the Northrop Corporation decided to locate its plant to build Tacit Rainbow missiles in Georgia.

Now let me address some of the errors in the story.

First, Mr. Anderson and Mr. Van Atta call Tacit Rainbow "an Air Force missile program that the Air Force didn't want." The facts show just the opposite. The Tacit Rainbow program was started by the Air Force. DoD evaluated all three of the cruise missile programs under development in the Army, Navy, and Air Force, and, with the agreement of the military services, selected the Air Force's Tacit Rainbow program as the single joint service program to perform this mission.

Second, the article implies that the Air Force would have terminated Tacit Rainbow and developed Seek Spinner if I had not forced them to fund it because it is being built in Georgia. Again, this is not supported by the facts. During the early 1980s I supported both Tacit Rainbow and Seek Spinner. In 1984 the House Armed Services Committee recommended consolidation of three programs into a single joint service program. The Senate Armed Services Committee agreed with that recommendation. The military services and the Defense Department then decided that Tacit Rainbow should be the services' joint cruise missile program. It was not until two years later that Northrop Corporation decided to locate a production facility in Georgia.

Third, the article implies that I am being parochial by defending Tacit Rainbow and that a better alternative, Seek Spinner, should be funded. Again consider the facts. The Department of Defense and the Air Force selected Tacit Rainbow over Seek Spinner in November, 1984. The Defense Department requested funds to continue development of Tacit Rainbow in each of the last five years. I have never tried to increase funding for the program over the levels requested by the Defense Department.

In contrast, the Defense Department has not asked for any money for Seek Spinner since January, 1984. The Senate has not provided any funds for Seek Spinner under three different Chairmen of the Armed Services Committee—Senator John Tower, Senator Barry Goldwater, and myself. The House of Representatives has added funds for Seek Spinner to the Pentagon's budget each year since 1985 over the objections of the military services and the Department of Defense.

Fourth, the article states that "one who stood up with Nunn for the unwanted 'Tacit Rainbow' missile program was Melvyn R. Paisley" and that "Paisley was instrumental in the Navy's decision to join the Air Force on the program." I have no idea what role Mr. Paisley played in the Tacit Rainbow program because I have never discussed the subject with him. To connect me in any way with Mr. Paisley's alleged activities is totally unfounded and unfair.

Finally, the article suggests that "Nunn cronies" profited from Northrup's decision to buy land and locate production facilities in Perry, Georgia. The facts are available to anyone who wants to go to the Court House in Perry, Georgia, where the land transactions are a matter of public record. I had nothing to do with Northrup's decision to select any piece of property in Houston County, and to imply that I did, either to benefit myself or anyone I know, is absolutely wrong.

These serious errors could have been avoided had either Mr. Anderson or Mr. Van Atta talked to me or my staff prior to publication of the article. I regret that these errors must be corrected after the fact, but I hope that you will share this letter with your readers if your paper ran the original Anderson article.

Sincerely,

SAM NUNN,
Chairman.

DEPARTMENT OF THE AIR FORCE,
Washington, DC, July 28, 1988.

Mr. BENJAMIN BRADLEE,
Executive Editor, Washington Post,
Washington, DC.

DEAR MR. BRADLEE: Jack Anderson's story in the July 27th Washington Post discusses two weapons programs, Tacit Rainbow and Seek Spinner. These systems are lethal, loitering missiles, designed to operate autonomously and seek out and destroy enemy air defense radar systems. Though the article was well intended, let me set the record straight concerning the myths of this story with the real facts surrounding these programs.

Myth.—Tacit Rainbow is an "unwanted," program forced upon the Air Force by Congress with the implication that just the opposite is true for Seek Spinner.

Fact.—Air launched Tacit Rainbow fills a validated requirement generated and originated solely within the Air Force. Funding for air launched Tacit Rainbow has been in every Air Force budget request since 1981. Seek Spinner, on the other hand, was canceled in 1984 and has not been in any Air Force budget since, although it continued to receive Congressional funding in 1986 and 1987. In November 1984, then Secretary of Defense Caspar Weinberger directed that Seek Spinner, along with several other duplicative programs be canceled. He also directed that Tacit Rainbow become the DOD missile to meet the requirements of all three Services. Tacit Rainbow was selected primarily because it was the only system that was both air and ground launchable.

Myth.—Implied in the story is that Senator Sam Nunn supported the selection of Tacit Rainbow over Seek Spinner because the air launched Tacit Rainbow production facility was to be built in his hometown of Perry, GA.

Fact.—The Department of Defense, not the Congress, chose Tacit Rainbow over Seek Spinner. The site for the air launched Tacit Rainbow facility was not decided until September 1986, a full two years after the decision to cancel Seek Spinner.

Myth.—Tacit Rainbow is hobbled by the fact that it must be dropped from an aircraft such as a B-52.

Fact.—Air launched Tacit Rainbow will not only be launched from the larger B-52, but will also be launched from smaller tactical aircraft. During the current test program, Tacit Rainbow has already been launched from a Navy A-6E and current plans are for the Air Force to launch it from the EF-111 and F-16 as well as the B-52.

Myth.—Tacit Rainbow runs out of fuel in 40 minutes with the implication that the enemy can defeat the missile by simply turning his radar off and waiting until the missile runs out of fuel and crashes.

Fact.—The objective of any system designed to suppress enemy air defenses is to keep your own aircraft from being shot down. A system which forces the enemy to turn his radar off so he cannot shoot down your aircraft helps accomplish that objective. Fuel in Tacit Rainbow will allow it to fly at least twice as long as the 40 minutes stated in Anderson's story. In many tactical scenarios, getting the enemy to turn off his radars for even 20 minutes would be ample time to successfully accomplish the mission.

Myth.—Tacit Rainbow has experienced an enormous cost overrun.

Fact.—Since its start in 1981, the air launched Tacit Rainbow program has experienced a cost overrun, but approximately half of that stated in Anderson's story. Despite our best efforts, sometimes cost overruns occur in developmental programs that push state of the art in technology. There are many uncertainties and developmental risks involved in these types of programs. However, the overrun is not due solely to technical difficulties. The original contract on which that overrun percentage is based, called for a ground launched system built to commercial standards. Changing Tacit Rainbow to an air launched system raised the design requirements to military standards to meet airworthiness tests. This was a contributing factor in the cost overrun. Nevertheless, the Full Scale Development program has been functioning under a capped contract since October 1986 and there have been no cost overruns since.

Those of us who have worked closely with Sam Nunn, as the Chairman of the Senate Armed Services Committee, can assure your readers that pork barrel politics on defense is not his style. Unfortunately the current well publicized allegations of procurement fraud have permitted any disgruntled contractor to allege foul play, no matter how spurious the claim. With every contract award, there are usually several disappointed contractors wanting to revisit the issue. The bottom line is that the decision to choose Tacit Rainbow over Seek Spinner was made in the Pentagon without Congressional influence.

Sincerely,

JAMES F. MCGOVERN,
Acting Secretary of the Air Force.

SENATE ARMED SERVICES COMMITTEE ACTIONS WITH RESPECT TO THE TACIT RAINBOW AND SEEK SPINNER DEFENSE PROGRAMS

Mr. WARNER. Mr. President, I take this opportunity to provide the Senate with facts, which are a matter of record, regarding the Senate Armed Services Committee's actions on the Tacit Rainbow and Seek Spinner Programs, and specifically the actions taken by the chairman of that committee, Senator NUNN, with respect to those programs.

I now ask unanimous consent to have printed in the RECORD a copy of a memorandum prepared for me by Mr. Carl Smith, the minority staff director of the Armed Services Committee, concerning his recollections of the committee and Senator NUNN's actions with respect to these programs since the early 1980's.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Additionally, prior to the recent decision by the conference committee on the fiscal year 1989 Department of Defense authorization bill to terminate funding for the Seek Spinner Program, I personally spoke with the Secretary of Defense on at least two occasions concerning the Department's official position respecting both Seek Spinner and Tacit Rainbow. I was advised by Secretary Carlucci that it was the decision of the Department of Defense that the Seek Spinner Program be terminated. This fiscal year 1989 decision was consistent with the Department of Defense position since 1984.

During the course of the conference deliberations, the future of these programs was reviewed at several meetings of the chairman and ranking members of both committees. While I advocated the continued funding of both programs, Seek Spinner at a sustaining level, it was the ultimate decision of the conference to support only Tacit Rainbow.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 27, 1988.

Memorandum to Senator Warner.
From: Carl Smith.
Subject: Tacit Rainbow/Seek Spinner.

I was the majority staff member responsible for working both the Tacit Rainbow and Seek Spinner programs from the inception of the programs in the early 1980's until I became the Staff Director in 1986. At no time since I have been with the Committee has Senator Nunn ever acted to "protect" the Tacit Rainbow program. He has, however, opposed add-ons for the Seek Spinner program—a program supported by some Members of Congress—which DoD has sought to terminate for the past four years. Senator Nunn's position was consistent with the committee position which was to support Tacit Rainbow while opposing Seek Spinner.

In 1984, at the direction of Congress, DoD reduced the number of lethal drone programs from 9 to 5. Tacit Rainbow (a "black" program at the time) survived the cut; Seek Spinner did not. Some Members of Congress and influential staff members of the House Armed Services Committee disagreed with the DoD decision to terminate the Seek Spinner program and, over the objection of the Pentagon, succeeded in earmarking funds for Seek Spinner. Jacit Rainbow, *supported* by DoD, has recieved favorable treatment each year in the Congress. Senator Nunn supported Tacit Rainbow, as it was requested in the President's budget. The Pentagon requested funding for Tacit Rainbow, and the Congress approved it.

AGRICULTURE AND CHILE'S ECONOMIC PROGRESS

Mr. HELMS. Mr. President, the media do not normally present the truth about Chile to the American people. From time to time, however, an objective article does slip by.

I was pleasantly surprised to find an article entitled, "How the Media Slight Pinochet," in, of all places, the New York Times of July 15. The article was not written by New York Times reporters, of course. It was written by a former Chilean Minister of Finance and Minister of Economics in 1982 and 1983, Mr. Rolf J. Luders, and by Steve H. Hanke, a professor of applied economics at the Johns Hopkins University.

This article describes how the journalistic community is unwilling to give Chile credit for the steady progress being made in that country toward a stable and prosperous constitutional democracy. Under President Pinochet, Chile has been making not only an orderly transition to democracy following the disastrous Communist regime that preceded Mr. Pinochet, but also has been building the economic base to provide for individual growth and freedom.

Mr. President, I am deeply concerned about the systematic international campaign being waged against the people of Chile by the forces of international communism, international socialism, and the international news media. A key weapon in this campaign has been the media coverup of the economic progress Chile has registered under its free enterprise system.

It is a fair conclusion that there are some in this world who do not want people of Chile to be free. There must be some who do not want the Chilean nation to be sovereign and independent. Indeed, some appear to be seeking to destroy the Chilean economy which is based upon free enterprise.

It is not surprising, then, that these forces seek to destroy the Chilean political system and its ongoing transition to representative constitutional government. Destroying Chile's economic growth and productive economic base is a method of destroying the conditions in which representative government can be established.

Central to this international campaign against Chile is systematic disinformation. Simply put, the international media—and especially in the United States—have bent every effort to put across the big lie about Chile.

The media clearly do not want the truth known about Chile. They do not want the world reminded that Salvador Allende and his assorted Marxists and Communists plunged Chile into a social and economic chaos from which it has taken some 15 years for the nation to recover. Allende subverted the constitutional order and destroyed the Chilean economy. He sought to impose a Communist system on the Chilean nation.

Mr. President, as a result of this attack on the Chilean nation by Allende and his sponsors in Havana and Moscow, the Congress of Chile and the Supreme Court of Chile requested the armed forces to intervene. The media never bothered to mention that. The armed forces responded to these requests and restored public order.

As the custodians of the national stability, the armed forces have acted in a responsible manner to reconstruct and develop the Chilean economic base as well as to prepare the restoration of constitutional representative government.

At a time when nearly every other Latin American country is in economic and political disarray, Chile presents the best hope for achieving a free, prosperous, and stable democracy with the benefits going to all the people.

Mr. President, too often we forget the role that agriculture can play in economic development. The emphasis, particularly in today's so-called Third World, has been on industrialization to the detriment of agricultural development. Of course, common sense would dictate a balanced policy involving both agricultural and industrial development.

Chile is a unique example of such a balanced policy. Agriculture has been at the heart of Chile's economic progress for over a decade.

A legislator familiar to all North Carolinians once argued against a proposed bill regulating the planting of a crop. He said, and I quote:

> For my part, I do not like this constraining of men to manure or use their grounds at our wills; but rather, let every man use his ground to that which it is most fit for, and therein use his discretion.

Now I do not expect that Senators will immediately recognize this legislator and the circumstances.

He was Sir Walter Raleigh, speaking on November 4, 1601, in the last Elizabethan Parliament. He was making the point that free enterprise in agriculture is a better policy than government intervention. The House of Commons agreed with him and the bill was withdrawn.

Mr. President, in Chile there is free enterprise in agriculture. Chile's economic miracle has been based to a large degree on the agricultural sector. When I visited Chile back in 1986 it was at the invitation of the National Agricultural Society. I learned a great deal from the fine members of this organization. But what I saw is covered up by the international media which are advocates of and propagandists for socialism in all its varieties.

Chile is practicing real free enterprise. By real free enterprise, I mean productive capitalism. This is not the finance capitalism of the Wall Street bankers and their cosmopolitan friends in London and Frankfurt and other international financial centers. That kind of capitalism is based upon the twin pillars of debt and monopoly. It is the road to economic concentration and to political slavery.

The productive capitalism that Chile is practicing is based upon such fundamentals as private property, private initiative, and voluntary exchange. Productive capitalism in the agricultural sector develops the abundance inherent in the natural order that God has given us.

In 1973, before Chile was liberated from the chaos of Allende's Cuban and Soviet-sponsored communism and terrorism, the economy was dependent on a single mineral export. Copper accounted for 82 percent of Chile's exports making the Chilean economy a hostage to the international fluctuations in the price of copper.

With 15 years of sustained effort in a productive free enterprise economy, the picture has dramatically changed. Chile is liberating itself from dependency on copper. Today, copper exports account for only 42 percent of total exports and new sectors have emerged with dramatic export peformances. Agriculture, forestry, and fisheries have been at the heart of the new productive economy.

Mr. President, it is worthwhile to consider for a moment the progress that Chile has registered in these areas. Chile's economic miracle with agriculture at its heart is a model for development in Latin America.

Chilean farmers are not growing for subsidized programs. Chilean farmers are growing for the market. They have been innovative and creative in identifying new markets both at home and abroad and in providing quality products to these markets. Because Chile is in the Southern Hemisphere, for example, its agricultural exports do not compete with our growing seasons.

Latin America is wallowing in socialism in country after country. Most of Latin America is in chaos or is headed for chaos owing to economic policies based upon Marxism in one form or other. Free enterprise and productive capitalism alone can provide the basis for economic progress in Latin America or anywhere on this Earth. Socialists, Communists, and the media do not want to have the successful Chilean model around to prove the point.

In Chile's agriculture, exports in the fruit sector have risen from United States $14 million in 1973 to $550 million today. Between 1974 and 1976 grape production increased by 450 percent; apples by 350 percent; and plums by 300 percent. Chile now accounts for 80 percent of all grapes exported from the Southern Hemisphere, 31 percent of the apples, and 92 percent of the peaches. From now to the 1990-91 harvest, kiwi production should have multiplied by 5, pears by 2, and apples by 1.5. Nearly United States $2 billion has been invested in this sector since 1974. In addition, there are plans for the development of exports in berries such as raspberries, strawberries, cranberries, gooseberries, and blackberries.

In Chile's forestry industry, exports have grown from just United States $36 million in 1973 to $550 million today. Hundreds of millions of dollars have been invested in radiata pine with planting increasing from 290,000 hectares in 1973 to 1,300,000 hectares in 1987. This constitutes the largest such area planted in the world. New saw mills and cellulose plants have been established and it is estimated that a further United States $2 billion will be invested in such plants before the end of the century.

In Chile's fishing industry, exports have increased from United States $22 million in 1973 to $640 million today. Chile has become the world's foremost fishmeal producer. Chile is also about to become the world's principal Pacific salmon producer. Exports in this area have grown from US$400,000 in 1984 to over $6 million today. Investments in this area are expected to generate exports of $40 million in just 3 years and $200 million by the mid-1990's.

CHILE AS A MODEL FOR LATIN AMERICA

Mr. President, these are just some examples of the economic progress that has resulted from Chile's commitment to free enterprise. The significance of Chile's economic miracle is that it is a model for developing countries not only in Latin America but in other areas of the world. Chile is an example of a country that was dependent upon a single mineral resource for over 80 percent of its foreign exchange earnings. It cut this dependency in half in the space of 15 years mainly through innovative and diversified agricultural development.

So long as Latin American countries adopt Marxism in their economies they will continue to disintegrate and head for chaos. Their national debt will increase and they will be unable to finance even the interest payments on this ever increasing debt because they cannot generate the foreign exchange required for such payments. We see this today in Latin America. Starvation, disease, and death will stalk these countries on an ever larger scale as their disintegrating socialist economies are unable to produce food, employment, and minimum public sanitation and public health services.

Mr. President, the international debt crisis is upon us in full force. Our money center banks are on the line for billions of dollars. The banks are looking for a bailout from Congress and the American taxpayer. The bailout is disguised, in part, as increased U.S. contributions, billions of dollars of taxpayer money, for the World Bank and for the International Monetary Fund. This money will be handed over to Latin American countries who will use it to make the interest payments to the money center banks. In short, we have risk free international banking for Wall Street courtesy of the American taxpayer.

The debt crisis in Latin America is a direct result of irresponsible lending to socialist economies. There will never be a way out of this situation unless and until Latin American economies adopt free enterprise and productive capitalism.

Chile's economic development provides a model for Latin America. The question is how much misery do Latin Americans have to suffer before their government bureaucrats and politicians allow their people to adopt this model of free enterprise and productive capitalism.

Mr. President, I ask unanimous consent that the July 15 article from the New York Times, entitled, "How the Media Slight Pinochet," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 15, 1988]

HOW THE MEDIA SLIGHT PINOCHET

(By Rolf J. Luders and Steve H. Hanke)

BALTIMORE.—The journalistic drum-beat from Chile has, for some time, signaled that freedom and democracy are on the rocks and that prospects for change are slim. It is alleged that the responsibility for this sad state of affairs lies with that country's ever-present pariah, Gen. Augusto Pinochet.

In fact—hard though this may be for liberal critics to accept—General Pinochet and the military regime have moved dramatically to expand economic liberty and are moving Chile on schedule, under the Constitution, toward a full democracy.

The Chilean Constitution requires that a plebiscite be called before Jan. 11, 1989. Voters will be called upon to ratify or reject a candidate nominated by the commanders in chief of the armed forces and the police: the junta. The candidate, if ratified, will become President and serve from March 1990 until 1997. If the candidate is rejected, General Pinochet will continue as President until March 1990. At that time, a new president, chosen in a general election, will assume the reins.

The important points are: first, the Chilean military regime is constitutionally required to end, at the latest, in March 1990; second, a Congress with two chambers will be elected; third, all individual rights and guarantees, currently restricted, will become fully applicable.

The constitutional process is designed to guarantee an orderly transition to democracy. But this is lost on most liberal commentators. Rather, they hammer away on two themes: that the rules of the game are rigged to favor the present Government and that the process will be accompanied by widespread electoral fraud.

For example, many analysts assert that the miltiary regime—in an attempt to hold down voter registration and restrict it mostly to those who favor its candidate—has limited the number of registration offices and the hours they are open and harassed potential registrants. These assertions are baseless.

Of Chile's approximately eight million potential voters, six million have already registered. If the current registration rate of about 500,000 a month continues for only one more month, the percentage of potential voters who have registered will exceed that of the 1973 election. Even Chilean opponents of the plebiscite admit that, based on the registration criterion, legitimate elections can be held.

Nevertheless, the claim is still heard that the system is rigged because of provisions in the Political Parties Act that make it extremely difficult to organize political parties. This claim has also proved to be unfounded. To date, eight parties have been legally recognized. Four of them are openly in the opposition. The other four are either independent or support the Government. In addition, four more opposition parties are currently registering members in anticipation of official recognition.

Moreover, a new voting procedures law was enacted recently. It has not been contested by the opposition. On the contrary, important opposition leaders—such as the President of the Committee for Free Elections—confirm that the "legislation provides guarantees for a secret vote and protects individuals against pressures."

Some analysts further argue that the junta's control of the media makes a legitimate election impossible. This argument is highly questionable. For example, newspapers and magazines cover the full range of political views. There is also a wide range of radio programming, with the opposition represented by some of the country's most important radio stations. Even though all television channels are probably sympathetic to the government, they are open to opposition leaders, who appear regularly.

If all this weren't enough, liberal pundits slant opinion poll data to give the impression that General Pinochet is highly unpopular. For example, they continue to report that only about 20 percent of the voters favor the General, implying that 80 percent oppose him. These numbers merit two comments.

First, the data are outdated. All recent polls show that more than 20 percent favor General Pinochet. For example, a recent poll by the Chilean State University found that almost 38 percent of the voters would favor any candidate presented by the junta. The poll also found that 29 percent would vote against the junta's candidate and that 27 percent are undecided.

This brings us to our second comment: Most informed observers believe that General Pinochet, if he were the candidate, would probably pick up something in excess of one-half of the undecided votes. If this occurs, and if General Pinochet is the candidate, he would legitimately win the plebiscite.

But why the insistence on presenting polling data in a biased manner? Because it will allow the press to validate its allegations. If President Pinochet is the junta's candidate, and he wins the plebiscite, then the press can claim that there was vote fraud, confirming its previous assertions.

The evidence clearly demonstrates that the junta has followed the 1980 Constitution, that it intends to continue to do so and that it will relinquish power. This shouldn't be too surprising. After all, the military regime has, with its radical free-market reforms, dramatically reduced the scope and power of the state—hence, its own power—and increased individual freedom in the economic sphere.

For example, it has privatized state-owned enterprises and social security, deregulated financial markets, instituted laws that protect the rights of foreign investors, reduced tariffs, abolished most business regulations, cut Government spending and taxes and reformed labor laws so that the Government cannot intervene in collective bargaining.

In consequence, Chile has the freest economy in Latin America. By March 1990, it will also have a duly elected civilian government.

ROBERT McCLORY—AN OUTSTANDING PUBLIC SERVANT

Mr. DIXON. Mr. President, one of Illinois' most respected statesman, Robert McClory, passed away last Sunday. I join my State, my country, and anyone who had the privilege of knowing Bob McClory in expressing my great regret to his wife, Doris, and his family.

In 1950, Bob and I were both elected to the Illinois General Assembly. He preceded me to the Congress by a couple of years, he came in 1963 and I came in 1980. During his 20 years as a Congressman, he established a reputation for fairness and thoughtfulness.

Bob played an important role in the Watergate impeachment hearings. Although a strong supporter of the President, he voted his conscience when the evidence became overwhelming. In addition, he was a strong advocate for civil rights and, served as a floor manager for the equal rights amendment in the House.

Bob McClory was an unusually dedicated and effective public servant. He had ability, courage, conviction, and most of all, great integrity. His presence will be sorely missed.

Mr. President, I ask unanimous consent that a copy of today's Washington Post editorial honoring Bob McClory be reproduced in the RECORD in its entirety.

ROBERT MCCLORY

Though he gained sudden national attention as one of the Republicans on the House Judiciary Committee to vote for the impeachment of Richard Nixon, Illinois Rep. Robert McClory was well known by his colleagues and constituents for years before as a thoughful, independent legislator with a deep-seated belief in civil and constitutional rights. Mr. McClory, who died here Sunday at the age of 80, was never a Capitol Hill showboat, which may have accounted for his gradual rise to national prominence. But blacks in particular knew he was a man attuned to their legislative agendas. He would listen, think and proceed—often winning votes from some of the most unlikely members of his party for bills he believed should be enacted.

So to those who knew him, his approach to Watergate was not surprising. When committee hearings began, he stood by the president: "I started out with the view that I wasn't going to vote any impeachment. No impeachment at all." He would become one of seven committee Republicans to vote for impeachment because of "abuse of power" by the president and one of two Republicans to vote for a "failure to answer subpoenas" article. He did vote against one impeachment article concerning "obstruction of justice" by the president. Throughout the hearings, Mr. McClory could be seen agonizing as he wrestled with the evidence and then cast his votes.

Before that and afterward as well, Mr. McClory could also be seen in his district and in this capital city, meeting with local citizens to discuss civil rights legislation, local self-determination for the District of Columbia, fair housing, the Equal Rights Amendment and, in 1976, legislation to ban "Saturday night specials"—the cheap, dangerous handguns most used in crimes.

Though Mr. McClory wasn't one to hold big press conferences to set forth his views, he never shied from answering questions about stands he took that were not always those of the majority of Republicans in Congress. He considered himself a party loyalist, but he would outline how he reached his decision and then explain in his quiet manner that he just did what he thought was right.

Others thought so, too, and they will remember Robert McClory as a quiet champion of those who most needed help from their Congress.

CONGRATULATIONS TO REPRESENTATIVE AND MRS. CARPER

Mr. ROTH. Mr. President, it gives me great pleasure to report to the Senate that my colleague from Delaware in the House, Representative CARPER and his wife, Martha, became the proud parents of Christopher Thomas Carper on July 27. Weighing in at 7 pounds, 7 ounces, Christopher made his first appearance in Delaware at 5:08 a.m. yesterday morning.

Christopher is TOM's and Martha's first child, and I know my colleagues in the Senate join me in extending our congratulations on this happy occasion.

MR. JOHN A. NORRIS

Mr. HATCH. Mr. President, I rise today to pay tribute to a distinguished public servant. Mr. John A. Norris, Deputy Commissioner and Chief Operating Officer of the Food and Drug Administration, has recently left the Government, and I would like to recognize the tremendous efforts Mr. Norris had made during his tenure in government service.

Mr. Norris, a graduate of Harvard, Cornell, and Rochester Universities, and Dr. Young set out 4 years ago with some rather challenging objectives. The two wanted to prepare the agency for the next century while maintaining its commitment to protect the public health. Aiming to strengthen product reviews and the FDA's science base while emphasizing consumer protection and employee morale, they crafted a specific three-phase action plan.

I am pleased today to be able to say that this team of qualified health professionals fulfilled 96 percent of their 258 objectives in the first phase, with the remainder being long-term goals. As Mr. Norris leaves the FDA, the agency is forging ahead with phase two, and the FDA will continue to employ the team's farsighted plan well into the next century.

Among Mr. Norris' accomplishments at the FDA are the streamlining of the new drug review process and the elimination of major delays in the reviews of technological advances. Thanks to these improvements, AIDS drugs and therapies were given special attention and desperately ill patients could benefit from investigational drugs sooner.

The plan also achieved successes in the areas of responding to product tampering incidents and the investigations of contaminated food incidents.

But the Young-Norris record of success does not stop there. By providing specific goals for the FDA, it will remain the vibrant guardian of public health it has become in recent years. By revamping the system, the two have cleared the way for future progress. For instance, there is currently no backlog in the FDA of AIDS drugs awaiting review.

In addition, by educating the Nation about AIDS through their publications, the FDA has provided a valuable public service. Through improvements in management, product experience reporting, food safety programs, consumer education, and biotechnology, the Young-Norris team had made great strides for our Nation's health.

Today I urge all of my distinguished colleagues to take note of the achievements that Mr. Norris has made during his years that will benefit our Nation for years to come. I wish to personally thank Mr. Norris for his valuable public service and wish him the best of luck in his future endeavors.

EXECUTIVE BRANCH COMMITMENTS ON UNITED STATES-JAPAN PLUTONIUM ACCORD

Mr. CRANSTON. Mr. President, on May 26, Acting Secretary of State John C. Whitehead sent to the Senate Foreign Relations and House Foreign Affairs Committees a letter providing important commitments as to how the executive branch will implement a new United States nuclear-cooperation agreement with Japan. The letter resulted from extensive negotiations with the committees in an attempt to satisfy congressional concerns about the enormous amounts of plutonium—indeed more plutonium than is contained in the entire United States nuclear arsenal—that Japan will acquire under the terms of the agreement for use in its nuclear power program. I will ask unanimous consent that the full text of the letter be printed in the RECORD.

Mr. President, I have discussed this letter with my committee colleagues on both sides of the aisle, and it is our understanding that the letter is not simply a commitment to certain policies by the Reagan administration for the 7 months remaining in its term of office, but rather represents a U.S. Government obligation to carry out the policies specified in this letter for the full 30-year term of the agreement.

For this reason, I share the view of our distinguished chairman, Mr. PELL, as stated in his letter to Mr. Whitehead which he has placed in the RECORD, that it is not necessary to proceed legislatively at this time. I am, therefore, suspending plans to find an appropriate vehicle for an amendment—the United States-Japan Nuclear Cooperation Act of 1988—that I prepared with my distinguished colleague from Minnesota, Mr. BOSCHWITZ, to establish strict conditions to govern implementation of the new agreement.

The letter from Acting Secretary Whitehead, although it fails to correct fundamental legal defects in the agreement, does go a long way toward meeting the conditions of our amendment. The principal legal defect of the agreement is that it provides Japan an advance programmatic consent over the 30-year life of the agreement to process, transport and use United States-controlled plutonium, rather than maintain United States case-by-case consideration of individual Japanese plutonium requests. The case-by-case approach had been required under the previous agreement with Japan, which was not to expire until 2003, and is required under section 123 of the Atomic Energy Act.

Although the new agreement does not meet this essential requirement of law—a position taken by majorities of the Senate Foreign Relations and House Foreign Affairs Committees and supported by an independent legal analysis by the U.S. Comptroller General—the letter from Mr. Whitehead provides the assurances we sought that the United States can suspend the advance consent given to Japan at any time in order to prevent an increase in the risk of nuclear weapons proliferation or other threat to United States national security. In particular, the letter makes clear that the advance consent is based on the premise that the most advanced safeguards, physical-protection and environmental-protection measures will be applied by Japan to the highly toxic, weapons-usable plutonium covered by the agreement.

Mr. President, having discussed this letter with my committee colleagues, I would like to make clear our understanding of the far-reaching executive branch commitments it contains.

1. PLUTONIUM SHIPMENTS PURSUANT TO THE IMPLEMENTING AGREEMENT

We understand that with regard to any transportation plan for air shipment of plutonium that specifies a route that could necessitate emergency landings in the United States, there will be included in such plan a provision designating one or more remote U.S. military bases to be used for an emergency landing. Thus, it is understood that the legal standard for certification of crashworthiness of shipping casks, as provided in section 5062 of the Omnibus Budget Reconciliation Act of 1987, will apply to any transportation plan that includes a route that could necessitate emergency landings in the United States.

Regarding possible sea shipments of plutonium, we note that the executive branch has not yet proceeded with a subsequent arrangement, pursuant to section 131 of the Atomic Energy Act, to approve shipment of plutonium by sea from Europe to Japan. Because of the extraordinary security and safety measures that had to be taken in connection with a previous sea shipment, and the high cost of these measures, we have grave reservations about shipment of plutonium by sea—especially programmatic approval of sea shipments now being considered by the Reagan administration. We expect that the executive branch will exhaustively review all risks associated with sea shipments of plutoniom, and we would look highly critically on any submitted subsequent arrangement that did not reflect extensive study and resolution of all security, safety and economic considerations associated with these shipments.

In general, we emphasize our expectation that information on transportation plans for air or sea shipment of plutonium will be submitted to the Senate Foreign Relations and House Foreign Affairs Committees by the executive branch prior to, not after, implementation of each plan.

2. SUSPENSION RIGHTS

We note that under section 131 of the Atomic Energy Act, the foremost consideration in assessing whether there is a significant increase in the risk of proliferation is whether a nuclear facility operates under conditions that will ensure "timely warning" of a diversion of weapon-usable material. It is our understanding, therefore, that timely warning will be the foremost consideration in future determinations as to whether the United States' right to suspend the programmatic consent for Japanese plutonium activities should be exercised in whole or in part.

3. PROGRAMMATIC APPROVALS

Regarding the executive branch assurance that the U.S. programmatic consent is premised on "adequate safeguards and physical protection measures," we emphasize our understanding that "adequate safeguards measures" includes measures that will effectively ensure timely warning of a diversion.

There is ample legislative history to support this conclusion. Senator GLENN, during the markup of section 131 of the Atomic Energy Act, as amended by the Nuclear Non-Proliferation Act of 1978, stated:

> The idea [of timely warning] is simply that the disappearance of any of this [safeguarded] material will be reported to the international community in plenty of time to allow for appropriate counteraction. Thus timely warning is essential to effective safeguards.

Representative Bingham subsequently reiterated this point in offering the Senate's section 131 language on the House floor:

> [W]e consider [timely warning] to be an essential to the safeguarding of nuclear facilities. If there is no timely warning, there are no effective safeguards.

He was supported by Representative Findley, ranking minority member of the committee, who stated in two speeches before and after the final markup of the NNPA:

> Moreover, the definition of an effective safeguard standard—timely warning—will ensure that recipient nations cannot manufacture, undetected and overnight, bombs from materials we provide for peaceful purposes.

We also underscore the need for the executive branch to ensure that Japan, in addition to cooperating to enable use of "the most advanced safeguards technology available" will cooperate to enable use of the most advanced physical-protection technology available as well. We emphasize our understanding that "adequate physical protection" measures include those spelled out by the Department of Defense in its report submitted to Congress last year on international plutonium commerce pursuant to the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986.

The DOD report found that "opportunities for terrorist acts, including attempts to steal civil plutonium, will increase substantially as a result of the increased commercial use of plutonium." In particular, the DOD found that "It is prudent that physical security requirements and systems take the capabilities of terrorist organizations, rather than their intentions, as their point of reference" for protection of plutonium. The DOD made a number of specific recommendations applicable to the agreement with Japan, including use of armed guards and establishment of communication links and minimum response times between escorts/guards and response forces.

We assume that the above standards will be used by the executive branch over the life of the agreement in making determinations of adequacy of safeguards and physical-security measures in connection with approvals for the use of plutonium provided in article 1 of the implementing agreement.

4. ADDITIONAL STEPS TO APPRISE CONGRESS

We emphasize our understanding that with regard to the executive branch's annual reporting to Congress of "why the statutory criteria for the approvals for reprocessing and related activities given in article 1 of the implementing agreement continue to be met," such criteria include determinations, pursuant to section 131 of the Atomic Energy Act, of no significant increase in proliferation risk and no threat to national security, giving foremost consideration to whether conditions, including technical safeguards arrangements, provide timely warning of diversions of nuclear material. These determinations represent the cornerstone of the executive branch's annual reporting obligation, and they should be reflected as well in its annual reporting on "the status of safeguards technology and safeguards techniques to be applied to such facilities, with particular attention to the expected capabilities of nuclear material accounting."

As indicated above, we assume that if the executive branch determines that timely warning cannot be assured, and consequently the risk of proliferation increases significantly, the programmatic consent for reprocessing and related activities will be suspended by the President in whole or in part to compensate for this deficiency.

5. FUTURE FACILITIES

We understand that, with regard to executive branch reporting to the committee on the addition of a facility to annex 1 or 2, "any other facts" to be reported—in addition to a description of the safeguards to be applied to the facility—will include a description, classified if necessary, of the physical protection measures to be applied to the facility, as well. Only in this way can the executive branch cover all facts pertinent to its "conclusion that the use of nuclear material subject to the agreement at that facility will not result in a significant increases in the risk of proliferation or be inimical to the common defense and security of the United States."

It is also our understanding that any modification in the safeguards concepts contained in the agreement will be processed as a subsequent arrangement pursuant to section 131 of the Atomic Energy Act. Thus, with regard to a facility to which such modified safeguards concepts apply, this facility could not finally be incorporated into the programmatic approval until all required determinations are made, giving foremost consideration to "timely warning" with regard to increased proliferation risk, and until Congress reviews such determinations for no less than 15 days.

6. OTHER MATTERS

We understand that the prohibition on "any substitution for, 'swapping' of, or other disposition of nuclear material subject to the agreement which would undermine United States nonproliferation or national security objectives" applies to any replacement of United States-controlled nuclear material with non-United States-controlled nuclear material that would have the effect of exempting Japan from United States atomic energy law and regulations that otherwise would apply to the material in question.

We welcome the above-cited commitments made in Acting Secretary Whitehead's letter, as well as the commitment regarding U.S. restraint in the negotiation of future nuclear agreements with other countries or group of countries. These commitments should help reduce the nuclear-proliferation and nuclear terrorism risks associated with the unfortunately defective new United States-Japan nuclear agreement.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, May 26, 1988.

Hon. ALAN CRANSTON,
U.S. Senate.

DEAR ALAN: Given your interest in the U.S.-Japan Nuclear Cooperation Agreement Concerning Peaceful Uses of Nuclear Energy, I wanted you to have a copy of the attached letter I sent today to the Senate Foreign Relations Committee and House Foreign Affairs Committee confirming the Administration's intentions and understandings in implementing the Agreement. This letter responds to matters raised during consideration of the Agreement by the Congress. I believe the effective implementation of the Agreement within this framework will serve the national interest as well as our common non-proliferation goals.

Sincerely,

JOHN C. WHITEHEAD,
Acting Secretary.

DEPARTMENT OF STATE,
Washington.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: On behalf of the Administration, I wish to confirm a number of intentions and understandings regarding the Agreement for Cooperation Between the Government of the United States and the Government of Japan Concerning Peaceful Uses of Nuclear Energy and the Implementing Agreement.

1. PLUTONIUM SHIPMENTS PURSUANT TO THE IMPLEMENTING AGREEMENT

The Administration will not allow air shipments of plutonium pursuant to the Implementing Agreement to overfly or land in the United States—except in the case of aircraft emergency. Any transportation plan in which the Administration would be willing to cooperate providing for such emergency landing sites would restrict them to remote military bases. Moreover, the Administration will require in connection with any such transportation plan providing for emergency landings in the United States that containers for air shipment of plutonium comply with the legal standards for transit of the United States, including the provisions of Section 5062 of the Omnibus Budget Reconciliation Act of 1987 concerning the development and testing of casks for transporting plutonium.

As confirmed in the side letters exchanged in connection with the Implementing Agreement, the cooperation and appropriate assistance of the United States must be secured for any air transport of plutonium to Japan pursuant to the Implementing Agreement. The Administration will only provide such cooperation and appropriate assistance if, among other considerations, it is satisfied that U.S. national security, non-proliferation and environmental interests and the health and safety of the American people are fully protected.

The Administration will consider programmatic shipment of plutonium by sea under adequate physical security pursuant to the Implementing Agreement. Such an arrangement would be treated by the Administration as a subsequent arrangement in accordance with Section 131 of the Atomic Energy Act.

The Administration will keep the Chairman and ranking minority members of the Senate Foreign Relations Committee and the House Foreign Affairs Committee apprised of developments regarding the certification of a plutonium container for air shipment. The Administration also will inform the Chairmen and ranking minority members of these committees as to transportation plans for air or sea shipment and their implementation, including United States cooperation and assistance under such plans.

2. SUSPENSION RIGHTS

Pursuant to the first sentence of Article 3(2) of the Implementing Agreement, the United States has the unilateral and unambiguous right to suspend its consent in order to prevent a significant increase in the risk of proliferation or threat to its national security. The remainder of Article 3 and paragraph 7 of the Agreed Minutes to the Implementing Agreement does not detract from the right of the United States to make such judgments, but rather affirms the nature of this right and specifies procedures which are to be followed in its exercise.

The provision that suspension decisions would be taken in the most extreme circumstances of exceptional concern from a nonproliferation or national security point of view and would be taken at the highest levels of government appropriately reflects the seriousness with which the United States should approach any invocation of its suspension rights in this agreement with Japan, a close ally with excellent non-proliferation credentials.

The provision stating that the parties will implement their consent rights to avoid hampering, delaying or unduly interfering in the nuclear activities in the two countries is equivalent to provisions in international safeguards agreements and is fully reciprocal. It in no way diminishes the right of the United States to suspend approval to prevent a significant increase in the risk of proliferation or in the threat to its national security.

The language that each party will carefully consider the economic effect of suspension in no way inhibits the right of the United States to suspend consent on nonproliferation or national security grounds. It is intended only to highlight the seriousness of this step and to ensure that it is not undertaken so as to risk inflicting gratuitous damage on another nation's economy.

The Administration will suspend the approval given in Article 1 of the Implementing Agreement promptly and to whatever extent is required to prevent a significant increase in the risk of proliferation or in the threat to national security. The Administration will promptly report to the Chairmen and the ranking members of the SFRC and HFAC if it concludes that such suspension is necessary.

3. PROGRAMMATIC APPROVALS

The United States approvals for the use of plutonium provided in Article 1 of the Implementing Agreement are based inter alia on the premise that adequate safeguards and physical protection measures—as required by the Agreement and the Implementing Agreement—are being applied to existing facilities and will be applied to future facilities when they are added to Annex 1 or 2.

As provided for in the safeguards concepts (House Document 100-128, p. 98 ff), in Japan's letter on non-proliferation policy submitted to the U.S. in connection with the Agreement (p. 189 ff) and in the Safeguards Agreement between Japan and the International Atomic Energy Agency in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/255), Japan will cooperate to enable use of the most advanced safeguards technology available for safeguards on nuclear material subject to the Agreement.

4. ADDITIONAL STEPS TO APPRISE CONGRESS

In order to keep Congress informed concerning the implementation of the Agreement, the Administration will include a description of the status of the U.S.-Japan Agreement in the President's Annual Report to Congress on Nonproliferation, pursuant to Section 601 of the Nuclear Non-Proliferation Act of 1978. This description will contain, among other things, (a) an explanation of why the statutory criteria for the approvals for reprocessing and related activities given in Article 1 of the Implementing Agreement continue to be met, (b) a report on the status of future facilities which are intended to be placed on Annexes 1 and 2, and (c) the status of the development of safeguards technology and safeguards techniques to be applied in such facilities, with particular attention to the expected capabilities of nuclear material accounting.

5. FUTURE FACILITIES

Within 45 days of receiving the notification from the Government of Japan required by Article 2 of the Implementing Agreement and paragraph 5 of the Agreed Minutes thereto concerning the addition of a facility to Annex 1 or 2, the Administration will inform the Chairmen and ranking members of the SFRC and HFAC of the notification and will provide a report (classified if necessary) containing a description of the safeguards to be applied and any other facts relevant to the conclusion that the use of nuclear material subject to the Agreement at that facility will not result in a significant increase in the risk of proliferation or be inimical to the common defense and security of the United States.

Whenever safeguards measures are adopted or modified in accordance with Article 2(4) of the Implementing Agreement, the Administration will process these actions as subsequent arrangements in accordance with Section 131 of the Atomic Energy Act.

6. OTHER MATTERS

The entry-into-force of the Agreement does not oblige the United States to grant any other country or any group of countries treatment equal to or better than that provided to Japan in the Agreement.

The Administration will not approve any substitution for, "swapping" of, or other disposition of nuclear material subject to the Agreement which would undermine U.S. non-proliferation or national security objectives.

Sincerely,

JOHN C. WHITEHEAD,
Acting Secretary.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF TIMOTHY LATHROP TOWELL

Mr. BYRD. Mr. President, I ask unanimous consent that at 9:30 tomorrow morning, the Senate go into executive session to consider the nomination of Timothy Lathrop Towell, of Ohio, a career member of the Senior Foreign Service, Class I, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay; that there be no time for debate thereon; that the vote occur immediately; that upon the disposition of the vote, the motion to reconsider be laid on the table; that the President be immediately notified of the outcome of the vote; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, as in executive session, that it be in order to order the yeas and nays at this time on that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, did the distinguished Senator from Colorado wish me to yield to him?

Mr. WIRTH. I did.

I just wanted to note, on the nomination and vote on Timothy Towell, Ambassador to Paraguay, I wanted to commend the leader on that. He is an absolutely superb career public servant. We have a great honor in this country to be as well served by Timothy Towell. I am delighted his nomination will not only be up tomorrow morning, but we will have a chance to register our support of that nomination.

I thank the majority leader.

DESIGNATING THE "DAN DANIEL POST OFFICE BUILDING"

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4726.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4726) to designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building".

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I am pleased to express my support for H.R. 4726, legislation introduced by my Virginia colleague Congressman NORMAN SISISKY, to dedicate the Danville, VA, Post Office in the name of our late esteemed colleague, Congressman DAN

Daniel of Virginia's Fifth Congressional District.

On July 26, 1988, the House of Representatives voted to suspend the rules and unanimously approved H.R. 4726. This expedited treatment is in itself a high tribute. Today, the Senate, with my great appreciation, is also moving to expedite passage. I wish to pay special thanks to the chairman and ranking member of the Senate Committee on Governmental Affairs, Senators Glenn and Roth, and the chairman and ranking member of the Senate Subcommittee on Federal Services, Post Office, and Civil Service, Senators Pryor and Stevens, for their essential support and agreement.

Mr. President, I believe that the action authorized by this legislation is appropriate and fitting to the man. Dan Daniel was as much a part of the fabric of his community as the bricks and mortar of their U.S. Post Office. He had just begun his 20th year in Congress when he was taken from us. Although he had announced that he would be retiring at the end of the 100th Congress, he still would have served as an elder statesman for all of Virginia.

When funeral services were held for Dan Daniel on January 26, 1988, 70 Members of Congress, the Governor of Virginia, and other dignitaries traveled to Danville to pay their last respects. The day after, I paid personal tribute to him on the floor of the U.S. Senate.

If I might reiterate my closing remarks of that day, I recalled the words of Thomas Jefferson when he said, "God grant that men of principle shall always be our principal men." The memory of Dan Daniel's distinguished career in public service continues to justify this fitting tribute.

Mr. TRIBLE. Mr. President, today the U.S. Senate pauses to honor a friend and colleague, Dan Daniel.

My colleagues in this body surely know Dan as a statesman and skilled legislator. However, those of us who had the honor and privilege to work with him representing Virginia know Dan as a man of highest integrity and a leader loved by all.

Dan was the consummate Virginia gentleman. He was proud of Virginia's rich contributions to our democracy and worked hard to preserve Virginia's great history and heritage. Dan lived up to the high standards of public service established by our Nation's forefathers and encouraged his colleagues to do so as well.

Dan's legacy to the Commonwealth and the Nation is unmatched. With grace and persuasion, he worked effectively to promote peace and freedom in the world and fiscal responsibility at home. But while he worked to make America strong, he never forgot the people of southside Virginia and worked hard to improve their lives and communities.

This is a small but fitting tribute to a giant of a man.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4726) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 453—AUTHORIZING USE BY THE SENATE OF THE TERRACE AND GROUNDS ON THE WEST FRONT OF THE CAPITOL

Mr. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Senate resolution (S. Res. 453) to authorize the use by the Senate of the terrace and grounds on the West Front of the Capitol.

Resolved, That the Senate is authorized to utilize the terrace and grounds on the West Front of the Capitol to commemorate the One Hundredth Congress under the United States Constitution.

The PRESIDING OFFICER. Is there objection to proceeding to the consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 453) was agreed to.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

I thank all Senators. I especially thank the distinguished Republican leader.

ORDERS FOR FRIDAY

ADJOURNMENT UNTIL TOMORROW AT 9 A.M.

MORNING BUSINESS

RESUME CONSIDERATION OF H.R. 4784

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 o'clock tomorrow morning; that following the two leaders or their designees, there be a period for morning business to extend until the hour of 9:30, that Senators be permitted to speak therein for not to exceed 5 minutes each; and that at the hour of 9:30 a.m. the Senate resume consideration of the appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions and resolutions over, under the rule come over tomorrow and that the call of the calendar be waived on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning, and after the two leaders have been recognized, under the standing order, there will be a period for morning business during which Senators may speak for not to exceed 5 minutes each. That period for morning business will extend to the hour of 9:30 a.m.

At 9:30 a.m., the Senate will go into executive session to consider the nomination of Timothy Lathrop Towell to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay. There will be no debate on that nomination. There will be a rollcall vote. It will occur at 9:30. It will be a 15-minute rollcall vote, and the call for the regular order will be automatic.

Upon the disposition of that nomination, the Senate will return to legislative session and will resume consideration of the Agriculture appropriations bill.

There are several amendments, more than 30, that have been listed that will qualify for action, and there will be rollcall votes throughout the day. I hope that it will be possible to complete action on that bill tomorrow and at a reasonably early hour.

So Senators will want to be here early, the first rollcall being at 9:30 a.m.

Mr. DOLE. Mr. President, I have no further business except just a reminder that we did announce the vote after we indicated no more votes this evening. Our Members are pretty well scattered. Would it be possible to make that vote a 20-minute vote in the morning?

Mr. BYRD. Yes, Mr. President.

TWENTY-MINUTE ROLLCALL VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that the rollcall vote of the nomination at 9:30 tomorrow morning be a 20-minute rollcall vote and the call for the regular order will be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his suggestion.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, does the Republican leader have anything further?

If not, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 7:39 p.m., the Senate adjourned until Friday, July 29, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1988:

THE JUDICIARY

D. BROOKS SMITH, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA, VICE CAROL LOS MANSMANN, ELEVATED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT (JUNIOR GRADE):

JOHN R. TURLEY
TALMADGE SEAMAN
RAYMOND A. SCHEMBRI
WILLIAM S. STRONG
MARK E. MATTA
STEVEN S. BECKERMAN
RICHARD C. JOHNSON
DOUGLAS W. MILLER
JANIS E. NAGY
JAMES O. FITTON
SALVATORE G. PALMERI
TERRY D. CONVERSE
BRENTON P. LEBISH
JERRY S. VOSBURGH
MARK D. RIZZO
EDWARD L. GIES, JR.
REYNALDO E. QUIROZ
JAMES N. KOSHAR
RONALD H. NELSON
GAVIN W. WENTE
GENE W. ADGATE
HENRY M. HUDSON, JR.
BARRY J. WEST
MICHAEL J. KELLY
MARK C. JESSEN
FRANK D. GARDNER
ROGER D. BARNETT
JEFFREY W. JESSEE
RALPH MALCOLM, JR.
GEORGE A. ELDREDGE
GREGORY W. JOHNSON
ERIC C. JONES
SCOTT A. MEMMOTT
JOHN R. LUSSIER
GREGORY P. HITCHEN
MELVIN W. BOUBOULIS
RICHARD W. SANDERS
MELISSA BERT
JASON B. JOHNSON
ANITA K. ABBOTT
RAYMOND W. PULVER
VERNE B. GIFFORD
STUART M. MERRILL
DONNA J. BERGESON
SCOTT N. DECKER
RONALD J. BALD
CHARLES E. ELIAS
JOSEPH E. VORBACH
PETER W. GAUTIER
KEVIN E. LUNDAY
CHRISTOPHER A. KLEIMAN
MATTHEW T. RUCKERT
MARKUS D. DAUSSES
STEPHEN V. AVALLONE
MARY A. SPAKOWSKI
DONALD E. CULKIN
BRIAN R. BEZIO
CHRISTOPHER M. SMITH
KEVIN F. MANALILI
KAREN A. KUSANKE
JONATHAN E. THOMAS
CHRISTINE L. MACMILLIAN
ANTHONY J. VOGT
JOANNA M. COLLINS
JAMES A. CULLINAN
JOSEPH SEGALLA
DONALD R. SCOPEL
EMILY M. MEYERS
JOHN J. PLUNKETT
GWEN L. KILLEY
CHRISTOPHER M. RODRIQUEZ
RICHARD J. RAKSNIS
MARVIN L. GRIER
PATRICK P. O'SHAUGHNESSY
MARC A. GRAY
JAMES L. WEBER
JENNIFER A. JOHNSON
ANTHONY POPIEL
GRAHAM S. STOWE
MATTHEW L. MURTHA
CHRISTOPHER P. CALHOUN
JAMES M. CASH
KYLE G. ANDERSON
DWIGHT T. MATHERS
JONATHAN P. MILKEY
PAULINE F. COOK
MATTHEW J. SZIGETY
ROBERT J. TARANTINO
EDWARD D. BASS
RUSSELL C. LABODA
JOHN E. HARDING
CHRISTIAN C. FAHY
ANDREW P. KIMOS
KEVIN P. DURAN
THOMAS J. MORGAN
CRAIG S. SWIRBLISS
DAVID E. DICKEY
JOHN T. DAVIS
JOHN GODEK
JOHN J. ARENSTAM
ANTHONY R. GENTILELLA
JOHN M. FITZGERALD
JOHN G. TURNER
KIRK D. JOHNSON
RAMONCITO R. MARIANO
TAMARA SUWALOW
MARIA A. SIMMONS
DAVID R. BIRD
LEIGH A. ARCHBOLD
GEORGE F. YOUNG
JEFFREY S. CASE
WILLIAM B. BREWER
D. G. DOHERTY
WILLIAM G. KELLY
JOHN R. DISBENNETT
JOHN L. BRAGAW
DONALD E. AMADEE
ELLYN V. DONOVAN
GEORGE P. BENISH
WILLIAM J. KUPCHIN
LANCE W. STODDART
WILLIAM J. LEWIS
GLENN L. GEBELE
MICHAEL S. SABELLICO
DAVID A. YARBOROUGH
LAURA H. LEE
BRIAN J. TETREAULT
LAURIE S. WATTS
JOHN K. FRIEDERICH
JEFFREY C. HAGAN
SUSAN K. VUKOVICH
KEVIN S. MIRISE
ROBERT J. WILES
EDWARD GRZESIK
CRAIG O. FOWLER
THEODORE E. KOZIKOWSKI
DANIEL S. CRAMER
JOHN J. METCALF
GREGORY S. LINGLE
GEORGE E. PELLISSIER
STEVEN J. REYNOLDS
SEAN M. MAHONEY
KEVIN J. MCKENNA
CHRISTOPHER E. ALEXANDER
BYRON T. INAGAKI
JAMES W. SEBASTIAN
HAN KIM
PHYLLIS E. BLANTON
ANDREW C. PALMIOTTO
MATTHEW K. CREELMAN
CALEB CORSON
ROBERT C. RUPERT
MARK H. NGUYEN
CYNTHIA L. JOYNER

IN THE COAST GUARD

THE FOLLOWING PERMANENT CHIEF WARRANT OFFICERS, W1 OF THE U.S. COAST GUARD TO BE PERMANENT CHIEF WARRANT OFFICER, W2:

ROLAND LILL
GREGORY W. ALBRECHT
RICHARD E. STARK
DAVID P. MAYNARD
DONNIE J. GRAY
GARY D. DAVIS
ROBERT E. TREDWAY
JAMES E. DURYEE
MICHAEL P. NELSON
GREGORY E. HOLLOWAY
KENNETH W. MILLER
PAUL N. COOK
ROBERT A. BOYCE
CHARLES R. OLSON
DAVID W. HATTON
JAMES E. MAGUIRE
CONRAD H. ROWE
STEVEN M. HADLEY
GEORGE M. FEWELL
FREDERICK N. WILLIAMS
GERALD J. FORTIN
DELBERT M. MCCARTNEY
GREGORY T. KRIVDO
KASPER W. BONTJE
MAURICE J. SHARPE III
VICTOR R. MAULDIN
STANLEY D. BROOKS
LEONILO L. MANIPON
ROBERT M. CLAYTOR
WAYNE A. STACEY
PATRICK M. FARRELL
DALE W. GARVIN
DANIEL G. GATCHELL
RICHARD L. RIPPERT
RODERICK N. SONNTAG
JAMES R. HAUGEN
GLENN R. FRANCIS
RONALD P. HILL
DOUGLAS G. QUINLEY
EDMUND L. KYTTLE
LOUIS J. GATTO
JOHN W. WINTERS
GEORGE S. SOLOMON
ROBERT D. CARR
STEVEN T. SALMI
MICHAEL A. MAYFIELD
SAMMY R. DAVIS
GARY J. THORSON
ALEXANDER S. DELCAMPO
DAVID L. DRUSO
ROBERT G. SORRELL
THOMAS A. MOORE
JAMES W. BROWN
JEFFREY J. DELMONTE
GERALD L. BAILEY
RICHARD E. SMALLWOOD
ROBERT W. SKOG, JR.
THOMAS S. THARRINGTON
JOSEPH E. GROSS
DAVID M. HAWES
ALAN L. JORGENSEN
ROBERT J. WHITMAN
RONALD E. HOLTON
BRUCE D. HIBBS
THOMAS A. DICKEY
MARK H. DOBNEY
MICHAEL E. PENDLETON
FRANK A. WESCOVICH
JAMES A. QUADE
JOHN J. COLT
PATRICK G. MCLAUGHLIN
CHARLES JENNINGS
JEROME R. CROOKS, JR.
GARY M. HOLLOWAY
HARRY SPONDER
DAVID A. SPRINGLE
FRANK M. DENDIS
LARRY G. SCHIMELPFENIG
DANIEL J. MOESER
ROBERT F. PARKS
JOHN R. BUCHHAMMER
MICHAEL F. GATTI
DONALD D. CARR
JOHN F. EATON, JR.
WILLIAM J. HAYDEN
JERRELL D. GORMAN
BILLY W. OWEN
DIONISIO N. GOMEZ, JR.
WAYNE C. CONNER
DAVID J. STEVENS
STEVEN J. DAY
CHARLES A. HOWARD
TIMOTHY A. HELBLING
ROBERT C. MARLEY
MICHAEL R. THOMPSON
GARY R. WALLIS
CHARLES K. FELLOWS
ROBERT F. DUDLEY, JR.
DOMINADOR A. SALAZAR
ROBERT J. WALLACE
DAVID L. JOHNSON
JEFFREY S. PHELPS
ALAN E. MCINTIRE
THOMAS M. GRAHAM
THOMAS E. HALL
BRIAN E. GRAY
MICHAEL J. FISETTE
JAMES W. WAGSTAFF, JR.
WILLIAM K. HECKMAN, JR.
ROBIN D. OUELLETT
PAMELA D. JONES
ROBERT A. PETERSON
PAUL L. PARDO
DANIEL J. MARSTON
DAVID H. DOLLOFF
KENNETH R. HUNTING
PATRICK J. SAURO
RICHARD J. MATHIEU
ROBERT D. SANGER
ROBERT P. GOULAS III
JAMWA S. BANDY

THE FOLLOWING PERMANENT CHIEF WARRANT OFFICERS, W-2 OF THE U.S. COAST GUARD TO BE PERMANENT CHIEF WARRANT OFFICER, W3:

JEFFREY D. ELLISON
DALE L. PUCKETT
WILLIAM S. NOVOBILSKY, JR.
THOMAS A. SAINT, JR.
ELMER W. LITTLEFIELD III
THOMAS L. GOODMAN
WAYNE M. JILES
CLIFFORD P. GORMAN, JR.
NEIL H. CHRISTIAN
JOHN L. WILLIAMS
HAROLD F. WHITE
EVERETT A. THOMAS
HENRY R. MURAK
KARL KIER
EARL A. SANDNESS, JR.
STANLEY A. MASSIE II
ROBERT M. DAVIS
JOSEPH T. KNOWLES
WILLIAM F. CARROLL, JR.
NORMAN W. COX II
THOMAS S. HAMILTON III
ANTONIO T. MATEO
DAVID R. LAPP
LOWELL S. LILLARD
DAVID J. HALTER
DANIEL D. PARKER
JOHN H. PABICH
ROMEO L. EMBUSCADO
ROGER C. YOUNG
RONALD S. BEGLIN
SCOTT R. RICHARDSON
TERRANCE E. HOLUB
DAVID M. KRYM
STEPHEN KIBNER
MICHAEL H. SEIBERT
DANIEL R. ESTEP
LEONARD M. GRZELEWSKI
EUGENE H. PELTIER
DEAN C. MILLER, JR.
MOISES F. DELEON
JAMES R. NAEGEL
WILLIAM D. CARNEGIE, JR.
DELBERT W. RILEY
THOMAS G. EDMONDS
RANDALL J. BLUNCK
MICHELE A. BILLS
DONALD H. DUNN
LESTER F. BLISS
JOHN A. WHITE
DENNIS S. WHITEHOUSE
CHARLES R. LEDDEN
DANIEL F. HISKEN
DENTON C. ADAMS
JOHN C. HALEY
HARVARD K. MADIGAN
CURTIS G. ERICKSON
STEPHEN J. ALDRICH
JAMES F. DAVIS
GEORGE G. HELM
DANIEL C. SLAGLE
FREDERICK P. COURTNEY
DAVID P. HARTLEY
LEONARD CRUZ
DAVID M. WHEATON
WALTER A. DENNIS, JR.
CHARLES R. BYRNE, JR.
ERNEST M. GASKINS
PATRICK A. RYKARD
DAVID J. RIGHTMYER
BRUCE C. KIPPLEY
DONALD R. LINCOLN
HARRY H. DUNCAN
DAVID R. ALT
FRANK E. GORDON
EDWARD L. WHITESIDE
JOSEPH D. LEWIS
ROBERT H. COLLUPY, JR.
THEA S. KENNEDY
STEVEN R. PRATHER
CLYDE J. BUCHANAN
JOHN W. GREGSON
GARY A. LEWIS
RONALD J. HANSEN
KURT F. DONINGER
PETER C. HOPKINSON
ROBERT J. BRICKWEDDE
JAMES R. RAPER
CHARLES M. COLLINS
ROMA D. WADE, JR.
LAVERN H. WILLIAMS
PAUL M. BLANK
RONALD W. ONOFF
JAMES W. HILL
PAUL J. DIMAURO
RICHARD L. HELT
ROBERT C. LAFEAN
KENNETH A. SIDERS
DAVID M. CUNNINGHAM
STEPHEN P. TOLBERT
WILLIE S. BUTLER
COLEMAN M. RAY
GEORGE O. GEHRING
JOHN A. CRICK, JR.
THOMAS M. KUEBLBECK
GREGORY D. SMITH
RONALD P. KIEVIT
MILAN Q. KRAMBECK
GREGORY E. JOHNSON
HECTOR G. BARAJAS
LOUIS J. CYGANEK
JOHN B. KLINE
GUY I. KENT
JOSEPH J. LISKO
RILEY W. BYRD, JR.
THOMAS M. MADIGAN
PERLEY O. WEED
LAWRENCE P. LEONARDSON
RALPH L. KING
E. W. EFFLER
VICTOR P. SARMIENTO
FREDERICK C. HARMON, JR.
CHARLES O. BOLL, JR.
MIQUELL B. MARCELLIAN
PAUL C. SCOTTI
PATRICK L. WILLS
ROBERT E. SMITH
THOMAS FLORA
ROGER R. MAPILI
RICHARD G. WAECHTER
WILLIAM N. VAIL

THE FOLLOWING PERMANENT CHIEF WARRANT OFFICERS, W-3 OF THE U.S. COAST GUARD TO BE PERMANENT CHIEF WARRANT OFFICER, W4:

CARLO E. PORAZZI
DONALD A. NELSON
SAMUEL B. BROMLEY, JR.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

THOMAS J CONAGE, [redacted]

To be lieutenant colonel

ROGER H BOWER, [redacted]
MICHAEL K GREENBERG, [redacted]
LILIANA Q HALIM, [redacted]

To be major

JAMES L LAUB, [redacted]
FREDERICK D LEONARD, [redacted]
JAMES H SAMMONS, [redacted]

To be captain

JOHN W HUFFMAN, [redacted]

DENTAL CORPS

To be lieutenant colonel

RICHARD L CANAAN, [redacted]
PAUL A HANSEN, [redacted]

To be major

CRAIG H CHIDLEY, [redacted]
ROBERT L ECKLES, [redacted]
THOMAS W PIKE, [redacted]
MAURICE R SALAMANDER, [redacted]
JAMES L SHEETS, [redacted]
HAROLD B SMITH, [redacted]
RICHARD A URBANEK, JR, [redacted]

To be captain

MALCOLM R BERG, [redacted]
BEVERLY J LEDDY, [redacted]

THE FOLLOWING CADET, U.S. AIR FORCE ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANT, LINE OF THE AIR FORCE, IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 9353(B) AND 531, TITLE 10, UNITED STATES CODE, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

DREXEL L KLEBER, [redacted]

THE FOLLOWING CADETS, U.S. AIR FORCE RESERVE OFFICERS TRAINING CORPS, FOR APPOINTMENT AS SECOND LIEUTENANT, LINE OF THE AIR FORCE, IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS

OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

KARL MAYBURY, [redacted]
DANIEL RUNKLE, [redacted]
ROGER J WITEK, [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, U.S. AIR FORCE ACADEMY, UNDER THE PROVISIONS OF SECTION 9333(B), TITLE 10, UNITED STATES CODE.

RICHARD R LEE, [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

JUDGE ADVOCATE

To be major

JIMMIE L BENTON, [redacted]

CHAPLAIN

To be major

CHILTON W MCPHEETERS, [redacted]

LINE OF THE AIR FORCE

To be major

ROGER F ELLIS, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

WILLIAM A. AILEO, [redacted]
JOEL R. ALVAREY, [redacted]
ALFRED F. ARQUILLA, [redacted]
PETER E. BROWNBACK III, [redacted]
JOSEPH W. CORNELISON, [redacted]
RAYMOND K. COSTELLO, [redacted]
ROY L. DODSON, [redacted]
DAVID R. DOWELL, [redacted]
ARTHUR L. HUNT, [redacted]
WILLIAM H. LANTZ, JR., [redacted]
JOHN P. MCLAURIN III, [redacted]
JAMES D. MOGRIDGE, [redacted]
MICHAEL J. NARDOTTI, JR., [redacted]
JAMES D. PLLEY IV, [redacted]
DANIEL L. ROTHLISBERGER, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTIONS 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be colonel

MORRIS H. MOSES, [redacted]

ARMY

To be lieutenant colonel

DAVID J. BLOCK, [redacted]

ARMY NURSE

To be major

*JOHN N. SCHANK, [redacted]

VETERINARY CORPS

To be major

*DAVID R. SCHUCKENBROCK, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be lieutenant colonel

*ROBERT E. WILLIAMS, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

GERALD A. NAGEL, [redacted]

VETERINARY CORPS

To be major

*PATRICIA C. NOSSOV, [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be major

CANDACE C. ABBOTT, [redacted]
JOSEPH A. ABBOTT, [redacted]
AMRIT S. ABING, [redacted]
RANDAL G. ABRAHAM, [redacted]
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ANTHONY C. ADAMSON, [redacted]
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ROBERT C. ADLER, [redacted]
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THEODORE R. ANKENBAUER, [redacted]
DERRICK D. ANKROM, [redacted]
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MARK E. APFEL, [redacted]
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VINCENT AZZARELLI, [redacted]

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STEVEN W. BYRUM, [redacted]

NONIE C. CABANA, [redacted]
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BERTRAM CONROY, [redacted]

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EDWARD N. COPPOLA, [redacted]
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IVAN A. CORRETJER, [redacted]
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PETER W. CZAPOR, [redacted]

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CLEMENTE ECHEVARRIA, [redacted]
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ROSE Y. ELDRIDGE, [redacted]
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W. MICHAEL GUILLOT, [redacted]
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MARK J. HARPOLE, [redacted]
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REBA M. HARRINGTON, [redacted]
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MICHAEL E. HARRIS, [redacted]
VICKI L. HARRIS, [redacted]
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MARK E. MORRISON, [redacted]

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BRUCE A. NETARDUS, [redacted]
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QUINN H. NIXON, [redacted]
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ROSEMARY NORMAN, [redacted]
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PATRICK D. NOWAK, [redacted]
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GAIL M. NUSZ, [redacted]
WILLIAM R. NUSZ, JR, [redacted]

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FRANK OCASIO, [redacted]
IAN P. OCONNELL, [redacted]
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THOMAS N. RESHA, JR, [redacted]
ALAN D. RESNICKE, [redacted]
JOHNNY R. REVEL, [redacted]
RICHARD E. REW, JR, [redacted]
BARBARA F. REYNOLDS, [redacted]
JON K. REYNOLDS, [redacted]
MICHAEL L. RHODES, [redacted]
ULYSSES S. RHODES, [redacted]
PETER M. RICARD, [redacted]
STEVEN M. RICE, [redacted]
ADRIAN L. RICHARDSON, [redacted]
MARK H. RICHARDSON, III, [redacted]
CLYDE E. RIDDLE, [redacted]
HARRY J. RIEMER, II, [redacted]
DAVID M. RIESTER, [redacted]
LEONARD M. RIGGINS, JR, [redacted]
RAYMOND T. RIGMAIDEN, [redacted]
BRADLEY V. RIKER, [redacted]
DAVID J. RIKER, [redacted]
HUGH H. RILEY, [redacted]
TERRILL W. RILEY, [redacted]
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JOSEPH A. RIVAS, [redacted]
BOLIVAR V. RIVERA, [redacted]
SUSAN C. ROACH, [redacted]
LANCE M. ROARK, [redacted]
ROGER E. ROBB, [redacted]
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GUS R. ROBINSON, [redacted]

MARYANN ALLEN ROBINSON, [redacted]
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EDWIN J. ROBLEY, [redacted]
REED W. RODERICK, [redacted]
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GARY W. SNYDER, [redacted]
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ROBIN A. SNYDER, [redacted]
JOHN G. SOBOTA, JR, [redacted]
KATHERINE E. SOLTERS, [redacted]
PAUL W. SOMERS, [redacted]
DALE A. SONDAG, [redacted]
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PATRICK SORRENTI, [redacted]
JOHN J. SOTO, [redacted]
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JOHN R. SOVOCOOL, [redacted]
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JOSEPH A. SPANN, [redacted]
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CLARK F. SPEICHER, [redacted]
STEPHEN M. SPENCE, [redacted]
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ELIZABETH SPENCER, [redacted]
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RITA A. SPRINGER, [redacted]
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REBECCA A. TAYLOR, [redacted]
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CHARLES A. VICKREY, [redacted]
CHARLES L. VIERS, [redacted]
WILLIAM J. VIHEREK, [redacted]
PAUL T. VINCI, [redacted]
DONALD J. VIROSTKO, [redacted]
JAY M. VITTORI, [redacted]
EDWARD H. VOGEL, II, [redacted]
RUDOLF N. VONNIEDERHAUSERN, [redacted]
FREDERICK M. VORNBROCK, [redacted]
SUSAN J. VOVERIS, [redacted]
ADRIAN C. VROEGINDEWEY, [redacted]

RUSSELL L. WADDELL, [redacted]
ANNETTE D. WADDELOW, [redacted]
RALPH E. WADE, [redacted]
ROBERT WAGENHALS, JR, [redacted]
CHARLES K. WAGGONER, [redacted]
LARRY D. WAGGONER, [redacted]
BARBARA J. WAGNER, [redacted]
FRED K. WAGNER, [redacted]
FREDERICK E. WAGNER, [redacted]
KEITH J. WAGNER, [redacted]
ROBERT J. WAGNER, [redacted]
LARRY J. WAITE, [redacted]
DENNIS J. WALDROP, [redacted]
KATHLEEN A. WALDROP, [redacted]
DAVID E. WALKER, [redacted]
KIM M. WALKER, [redacted]
LAWRENCE A. WALKER, [redacted]
MICHAEL A. WALKER, [redacted]
STEPHEN D. WALKER, [redacted]
ALLEN L. WALLACE, [redacted]
JOHNNY L. WALLACE, [redacted]
MARGARET T. WALLACE, [redacted]
MARSHALL A. WALLACE, [redacted]
RICHARD L. WALLACE, [redacted]
ROBERT B. WALLACE, [redacted]
SHIRLEY A. WALLACE, [redacted]
KIRK D. WALLENDORF, [redacted]
BRUCE A. WALLS, [redacted]
MARJORIE J. WALTER, [redacted]
LEROY L. WALTERS, [redacted]
CARL E. WALZ, [redacted]
MICHAEL C. WAMBSGANSS, [redacted]
GEORGE A. WARD, [redacted]
JOHN E. WARD, JR, [redacted]
BARBARA J. WARNER, [redacted]
JAMES E. WARNKE, [redacted]
GEORGE B. WARTON, II, [redacted]
GRACE Q. WASHBURN, [redacted]
LAREN K. WATANABE, [redacted]
DARRELL I. WATSON, [redacted]
JAMES E. WATSON, [redacted]
NAN ETTA WATSON, [redacted]
TERRY J. WATSON, [redacted]
WILLIAM T. WATSON, JR, [redacted]
GLENN D. WATT, JR, [redacted]
HERBERT WATT, [redacted]
KEITH P. WAWRZYNIAK, [redacted]
JOHN R. WAY, JR, [redacted]
STEVEN E. WAYNE, [redacted]
DANNY W. WEBB, [redacted]
DOUGLAS G. WEBB, [redacted]
JAMES J. WEBB, [redacted]
JEFFERY B. WEBB, [redacted]
CHRISTOPHER R. WEBER, [redacted]
LARRY G. WEBER, [redacted]
RICHARD D. WEBSTER, [redacted]
FREDERICK A. WEEKS, [redacted]
PHILIP D. WEINBERG, [redacted]
ALLAN M. WEINER, [redacted]
JAMES C. WEIR, JR, [redacted]
JAMES H. WEISER, [redacted]
ARTHUR L. WEISS, [redacted]
JONATHAN M. WEISS, [redacted]
KEITH R. WEISSENSTEIN, [redacted]
STEPHEN S. WELBORN, [redacted]
RICHARD J. WELCH, [redacted]
PAULA A. WELENC, [redacted]
MICHAEL E. WELHAM, [redacted]
WILLIAM J. WELKER, JR, [redacted]
GEORGE P. WELLER, [redacted]
WILLIAM A. WELLS, [redacted]
KATHLEEN E. WELSH, [redacted]
RICHARD R. WELTON, [redacted]
ARTHUR H. WENDEL, [redacted]
EDWARD L. WENIGER, [redacted]
WILLIAM W. WENNINGER, [redacted]
FRANCES M. WENTWORTH, [redacted]
ROBERT D. WERNER, JR, [redacted]
MARK M. WERTHMANN, [redacted]
ROBERT T. WEST, [redacted]
RICHARD L. WESTBY, [redacted]
MARSHA L. WESTFALL, [redacted]
JACK R. WESTON, [redacted]
SHERI L. WETEKAM, [redacted]
RUSSELL S. WETHERINGTON, [redacted]
DAVID C. WETLESEN, [redacted]
LEE M. WETZELL, [redacted]
ROBERT L. WETZLER, [redacted]
BRIAN R. WHALEN, [redacted]
DEREK P. WHEELER, [redacted]
ROBERT E. WHEELOCK, JR, [redacted]
MARK J. WHETSTONE, [redacted]
CARL A. WHICKER, [redacted]
JAMES F. WHIDDEN, II, [redacted]
LARRY M. WHITAKER, [redacted]
ARVIL E. WHITE, III, [redacted]
DANA F. WHITE, [redacted]
DAVID B. WHITE, [redacted]
G. ANDERSON WHITE, III, [redacted]
HILDERY P. WHITE, JR, [redacted]
JERRY L. WHITE, [redacted]
PAUL K. WHITE, [redacted]
THOMAS J. WHITEHAIR, [redacted]
CRAIG C. WHITEHEAD, [redacted]
STEPHEN R. WHITEHOUSE, [redacted]
STEVEN D. WHITEMAN, [redacted]
CLARENCE G. WHITESCARVER, [redacted]
BERNARD A. WHITLEY, [redacted]
JOHN A. WHITLEY, [redacted]
BRENDA S. WHITMER, [redacted]
WESLEY R. WHITMORE, JR, [redacted]
GENE M. WHITTEN, [redacted]
EDWARD WHONIC, [redacted]
MICHAEL M. WHYTE, [redacted]
KENNETH E. WIECHERT, [redacted]
WYNN H. WIEGAND, [redacted]
ROBERT M. WIEHR, [redacted]
IRA H. WIENER, [redacted]
CLIFFORD O. WIENK, [redacted]
DAVID C. WIKER, [redacted]
SCOTT L. WILBERG, [redacted]
MARK WILDERMAN, [redacted]
RUSSELL F. WILEY, [redacted]
BILLY R. WILHITE, [redacted]
KEITH M. WILKINSON, [redacted]
DONALD A. WILLE, [redacted]
BILL E. WILLIAMS, JR, [redacted]
CHAPMAN U. J. WILLIAMS, [redacted]
DANIEL H. WILLIAMS, [redacted]
DAVID R. WILLIAMS, [redacted]
DONALD J. WILLIAMS, [redacted]
FRANKLIN L. WILLIAMS, [redacted]
HALROY C. D. WILLIAMS, [redacted]
HARVEY L. WILLIAMS, JR, [redacted]
JAMES D. WILLIAMS, [redacted]
JAMES R. WILLIAMS, III, [redacted]
KEVIN E. WILLIAMS, [redacted]
MARY L. WILLIAMS, [redacted]
MICHAEL D. WILLIAMS, [redacted]
PAUL L. WILLIAMS, [redacted]
QUEEN E. WILLIAMS, [redacted]
RALPH W. WILLIAMS, III, [redacted]
RICHARD J. WILLIAMS, [redacted]
RONALD D. WILLIAMS, [redacted]
TIMOTHY A. J. WILLIAMS, [redacted]
ROOSEVELT WILLIAMSON, [redacted]
SIMON L. WILLIS, JR, [redacted]
CARTER E. WILSON, III, [redacted]
CHESTER A. A. WILSON, JR, [redacted]
DAVID L. WILSON, [redacted]
JESSE C. WILSON, JR, [redacted]
MICHAEL W. WILSON, [redacted]
SYLVESTER E. WILSON, [redacted]

JAMES E. WINGATE, [redacted]
PAUL R. WINGO, [redacted]
ROBERT D. WINIECKI, [redacted]
DAVID A. WININGER, [redacted]
ANDREW C. WINTER, II, [redacted]
DAVID G. WINTERROWD, [redacted]
SANFORD C. WISE, III, [redacted]
GORDON D. WISHON, [redacted]
VINCENT P. WISNIEWSKI, [redacted]
STEVEN J. WITT, [redacted]
WILLIAM T. WITTMAN, [redacted]
DAVID J. WITTROCK [redacted]
ROBERT A. WITZEL, [redacted]
BARTON H. WOHL, [redacted]
JOHN M. WOHLEBER, II, [redacted]
ROBERT A. WOLCOTT, [redacted]
PAUL J. WOLF, [redacted]
WALTER E. WOLF, [redacted]
KENNETH W. WOLFE, [redacted]
WILLIAM C. WOLFENBARGER, [redacted]
FREDERICK J. WOLFF, [redacted]
ALAN A. WOLOSZ, [redacted]
BRADFORD O. WOMACK, [redacted]
WILLIAM P. WOMACK, [redacted]
DEBORAH J. WOOD, [redacted]
ISAAC K. WOODFORK, [redacted]
BYRON D. WOODS, [redacted]
GLEN A. WOODWARD, [redacted]
ROBERT L. WOODY, [redacted]
BRET R. WOOLF, [redacted]
MICHELE A. WOOLMAN, [redacted]
CARL E. WORKMAN, JR, [redacted]
DAVID A. WORMALD, [redacted]
JERRY R. WORSHAM, [redacted]
JEFFREY A. WORTHING, [redacted]
CHARLES R. WRIGHT, JR, [redacted]
DAVID W. WRIGHT, [redacted]
EDGAR A. WRIGHT, [redacted]
JONNIE L. WRIGHT, [redacted]
LINWOOD L. WRIGHT, [redacted]
MICHAEL A. WRIGHT, [redacted]
MARY J. WYGLE, [redacted]
MARK S. WYNN, [redacted]
STCLAIR T. WYRE, [redacted]
NEIL R. WYSE, [redacted]

THOMAS D. YANNI, [redacted]
CHARLES R. YATES, JR, [redacted]
GLENN S. YEAKEL, [redacted]
LAN R. YONEDA, [redacted]
KENNETH W. YOUNG, [redacted]
LANCE S. YOUNG, [redacted]
DANIEL A. YOUNGCLAUS, [redacted]
ADELLE R. ZAVADA, [redacted]
KEITH D. ZDEB, [redacted]
FREDERICK H. ZEITZ, III, [redacted]
STEVEN G. ZENISHEK, [redacted]
MICHAEL A. ZENK, [redacted]
FRANK L. ZENTNER, JR, [redacted]
ROBERT H. ZIELINSKI, [redacted]
DOUGLAS E. ZIMMERMAN, [redacted]
PETER F. ZIMOWSKI, [redacted]
JEFFREY A. ZINK, [redacted]
WILLIAM E. ZINNEL, III, [redacted]
WILLIE T. ZINNERMAN, [redacted]
ANTHONY E. ZOMPETTI, [redacted]
THOMAS J. ZUZACK, [redacted]

CHAPLAIN CORPS

To be major

DERRICK K. ANDERSON, [redacted]
JAMES P. BARLOW, [redacted]
PAUL W. BERNY, [redacted]
RICHARD L. BLANTON, [redacted]
KENT E. BRYANT, [redacted]
JAMES W. BYINGTON, [redacted]
REX E. CARPENTER, [redacted]
FRANCIS X. CONROY, [redacted]
RICHARD J. DAVIS, [redacted]
EDWARD P. FEDOR, [redacted]
STEPHEN L. FRICK, [redacted]
FANNALOU GUGGISBERG, [redacted]
MARION T. HARNED, [redacted]
JOE F. JOHNSTON, [redacted]
LAWRENCE F. KEITH, [redacted]
WAYNE R. KNUTSON, JR, [redacted]
BENNIE R. LIGGINS, [redacted]
JAMES A. MARTINEZ, [redacted]
LESLIE G. NORTH, [redacted]
JEREMIAH C. ORIORDAN, [redacted]
MACK R. PAINTER, JR, [redacted]
DANNY C. RIGGS, [redacted]
JACK D. RITSEMA, [redacted]
FROILAN A. SALUTA, [redacted]
JAMES CHARLES SEAMAN, [redacted]
BILLY EARL WAYNE SIMMONS, [redacted]
JAMES P. THOMAS, [redacted]
CURTIS D. WALLACE, [redacted]
LAWRENCE E. WALLING, [redacted]
ROGER S. WINBURG, [redacted]

JUDGE ADVOCATE

To be major

JAMES ELLSWORTH ARNOLD, [redacted]
JOHN A. AVERETT, [redacted]
JONATHAN A. BASTEN, [redacted]
ROBERT BLEVINS, [redacted]
CAROL L. BRENNECKE, [redacted]
ANNE L. BURMAN, [redacted]
W. WILSON BURR, [redacted]
KARLA R. BURTON, [redacted]
ALVIN CHASE, [redacted]
KEVIN J. CORCORAN, [redacted]
JOSEPH F. DENT, [redacted]
TERRENCE P. DERMOTT, [redacted]
MARK B. DEVEREAUX, [redacted]
CHRISTOPHER R. DOOLEY, [redacted]
ROBERT A. FEDERICO, [redacted]
DANIEL B. FINCHER, [redacted]
JAMES S. GARBETT, [redacted]
THOMAS E. GIBSON, JR, [redacted]
MICHAEL H. GILBERT, [redacted]
SANDRA J. GOODING, [redacted]
DWIGHT R. HITT [redacted]
BRIAN J. HOPKINS, [redacted]
KEITH J. KLEIN, [redacted]
FRANCIS J. LAMIR, [redacted]
ROCCO J. LAMURO, [redacted]
BLANE B. LEWIS, [redacted]
KENNETH G. MATTERN, [redacted]
DONALD G. MCKINNEY, [redacted]
LARRY T. MCRELL, [redacted]
TONY E. MONTGOMERY, [redacted]
DIXIE A. MORROW, [redacted]
DAVID J. MOUSSETTE, [redacted]
JOHAN M. S. MULLER, [redacted]
SAMUEL C. MULLIN, III, [redacted]
THOMAS J. NIED, [redacted]
WILLIAM E. J. ORR, [redacted]
SUZANNE PETERS, [redacted]
GLEN K. RICHARDSON, [redacted]
ALBERT A. RINGGENBERG, [redacted]
MICHAEL E. SAVAGE, [redacted]
MICHAEL N. SCHMITT, [redacted]
DONALD D. SELF, [redacted]
WILLIAM T. SHEARER, III, [redacted]
ANNA T. SMITH, [redacted]
CRAIG A. SMITH, [redacted]
ROBERT W. SNIVELY, [redacted]
DAVID E. SPROWLS, [redacted]
ROBERT L. THOMAS, [redacted]
MARC W. TROST, [redacted]
DOUGLAS E. WADE, [redacted]
CARLA S. WALGENBACH, [redacted]
ROBIN D. WALMSLEY, [redacted]
JAMES R. WISE, [redacted]

NURSE CORPS

To be major

VERA S. AARON, [redacted]
MARIANNE B. AIRHART, [redacted]
CYNTHIA L. AKRIDGE, [redacted]
SANDRA H. ALFORD, [redacted]
DALE E. ALLEN, [redacted]
RUTH M. ANDERSON, [redacted]
PATRICK G. BAILEY, [redacted]
JANET M. BARRETT, [redacted]
CAROLE D. BARRY, [redacted]
JOANNE L. BENTS, [redacted]
LINDA R. BESON, [redacted]
LINDA A. BLAINE, [redacted]
TERRY K. BLUE, [redacted]
TERRY L. BLY, [redacted]
CECILLIA O. BOLAND, [redacted]
THERESA M. BOSTWICK, [redacted]
MARCI S. BOSWELL, [redacted]
ELIZABETH L. BOWERS, [redacted]
TYWANA F. C. BOWMAN, [redacted]
KAREN A. BOYLE, [redacted]
ELAINE L. BRADEN, [redacted]
MARILYN R. BRANDT, [redacted]
BRENDA S. BROWN, [redacted]
MELISSA A. BURKETT, [redacted]
LORRAINE J. BUTLER, [redacted]
JULIE A. BUTTON, [redacted]
TERESA A. CAMPBELL, [redacted]
CHERYL A. CARROLL, [redacted]
NOEL F. CARROLL, [redacted]
MARYLOU CARSON, [redacted]
VIOLET S. CHADWICK, [redacted]
DIANA L. CHRISTIAN, [redacted]
JOHNNIE M. COBWELL, [redacted]
TERESA L. COCHRAN, [redacted]
ELTON C. COOK, [redacted]
GUY T. COX, [redacted]
FLORENCE B. CRUZ, [redacted]
ROSEMARY B. CUNNINGHAM, [redacted]
CINDY A. DAVIS, [redacted]
RANDALL L. DEHNER, [redacted]
ANDREA R. DELLASPINA, [redacted]
CLETA L. DEMPSEY, [redacted]
SHERRY A. DERDAK, [redacted]
CAROL R. DILTZ, [redacted]
STEPHEN R. DISTASIO, JR, [redacted]
ROCKIE L. DUGGER, [redacted]
PAULA A. H. DUNAWAY, [redacted]
BONNIE L. DUNCAN, [redacted]
CARLTON W. DUNN, [redacted]
JOANNA S. EASTMAN, [redacted]
RUTH M. ECKERT, [redacted]
MARGARET T. ELGIN, [redacted]
DOUGLAS G. ERICKSON, [redacted]
KATHLYN M. EYDENBERG, [redacted]
MARIE E. FERRELL, [redacted]
KATHLEEN A. FITZGERALD, [redacted]
MARGARET R. FITZGERALD, [redacted]
JEWELL B. FLEETWOOD, [redacted]
MARY J. FLOWERDAY, [redacted]
RICHARD L. FORTNER, [redacted]
SUSAN S. FOSTER, [redacted]
MICHAEL W. FRITCHEN, [redacted]
ROSALYN V. GARDINER, [redacted]
EUGENIO GOITIA, JR, [redacted]
WARREN H. GOUNER, [redacted]
RENEE M. GREER, [redacted]
ILONA S. GRIBBLE, [redacted]
CORNELIA A. GRIFFIN, [redacted]
MARGARET A. GRIFFIN, [redacted]
YVONNE L. GRINER, [redacted]
CAROLANN HALLORAN, [redacted]
KATHRYN R. HAMILTON, [redacted]
GARY C. HAMMOND, [redacted]
SYLVIA A. HARDIN, [redacted]
BETTY S. HARRIS, [redacted]
JAMES W. HARTLEY, [redacted]
KARLA K. HERRES, [redacted]
CONSTANCE D. HICKMAN, [redacted]
ELAINE C. HIMES, [redacted]
CAROL L. HOLDSWORTH, [redacted]
RICHARD M. HOLT, [redacted]
BARBARA A. HOSTETLER, [redacted]
DONNA M. HOUF, [redacted]
ROBERT A. HOUSE, [redacted]
DOREEN A. HUNTER, [redacted]
LORI K. IRWIN, [redacted]
VICKI D. JOHNSON, [redacted]
ALBERT S. JONES, JR, [redacted]
JUNE M. JONES, [redacted]
MARGARET A. KAHLER, [redacted]
SARAH R. KENDALL, [redacted]
BERNNIE M. KENNEDY, [redacted]
JOHN A. KENNEY, [redacted]
PETER C. KINNEAR, [redacted]
DENISE L. KLAPP, [redacted]
MADELYN C. KLATT, [redacted]
ELIZABETH L. KOLB, [redacted]
KATHLEEN M. KOLES, [redacted]
THERESA D. KREUZKAMP, [redacted]
BETH M. KRISTENSON, [redacted]
SUSAN M. LAHAIE, [redacted]
LINNEA R. LAKE, [redacted]
JAMES L. LANGLOIS, JR, [redacted]
STACY L. LANHAMLAHERA, [redacted]
IRENE D. LARSON, [redacted]
ELLEN N. MALOOF, [redacted]
CHERYL A. MANEY, [redacted]
LARRY G. MARTINDALE, [redacted]
BARBARA C. MARTINEZ, [redacted]
PATRICIA J. MCCAFFREY, [redacted]
KAREN L. MCCLURE, [redacted]
MARY L. MCELROY, [redacted]
KYMBERLE G. MCELWEE, [redacted]
MAUREEN A. MCHUGHCASTRO, [redacted]
CYNTHIA A. MCKINNIE, [redacted]
EUGENE N. MEIERGERD, [redacted]
RUTH M. MERCADODEJESUS, [redacted]
LINDA F. MILLERHAMMONDS, [redacted]
LINDA S. MITCHELL, [redacted]
THOMAS P. MOERSCHEL, [redacted]
THOMAS M. MOLES, [redacted]
DANNY E. MONTGOLF, [redacted]
MARC W. MURPHY, [redacted]
KAREN M. MUTZ, [redacted]
BARBARA AG NEDERVELT, [redacted]
PATRICIA L. NESS, [redacted]
CANDY J. NISTLER, [redacted]
KENNETH D. OEFINGER, [redacted]
DAWN M. OERICHBAUER, [redacted]
THOMAS R. PALMER, [redacted]
JOE L. PATRICK, [redacted]
VIVIAN PEREZ, [redacted]
NANCY L. PETRASEK, [redacted]
SALLY J. PETTY, [redacted]
JANET E. PINEAU, [redacted]
ANTHONY J. PINTO, [redacted]
MARY A. PROSYNIUK, [redacted]
HARRIET A. QUESENBERRY, [redacted]
PATRICIA L. RAMSAY, [redacted]
SANDRA B. RAUSCH, [redacted]
DAVID A. ROCK, [redacted]
IRMGARD RONDEAU, [redacted]
CHARLES R. ROUNTREE, [redacted]
RONALD E. RYDGREN, [redacted]
JOANN E. SAMMONS, [redacted]
ROGER W. SCHLINDWEIN, [redacted]
JOSEPH O. SCHMELZ, [redacted]
SANDRA R. SCHMIDTBERRINGER, [redacted]
JOHN A. SCHOENHERR, [redacted]
MAUREEN SCULLION, [redacted]
GAIL D. SEARS, [redacted]
GENE W. SHEARER, [redacted]
DAVID R. SHOEMAKER, [redacted]
KAREN L. SIMPSON, [redacted]
KIMBERLY A. SINISCALCHI, [redacted]
DAVONNA J. SJURSETH, [redacted]
GREGORY L. SLEUTEL, [redacted]
SARA A. SMITH, [redacted]
THOMAS C. SMITH, [redacted]
MARY J. SNYDER, [redacted]
LEWIS A. STANLEY, [redacted]
HARRIET N. STENZEL, [redacted]
BRIDGET S. STONUEY, [redacted]
MARY J. STOSIC, [redacted]
DIANN K. STUCKEY, [redacted]
LILLIAN J. STUCKEY, [redacted]
PHILIP W. SWANSBURG, [redacted]
KATHLEEN M. TAYLOR, [redacted]
LINDA K. TAYLOR, [redacted]
GAIL M. THERRIEN, [redacted]
SHELIA L. TINSON, [redacted]
GEORGE A. TIRABASSI, JR, [redacted]
JAMES F. TITCH, [redacted]
KEIKO L. TORGERSEN, [redacted]

KATHLEEN L. TORRES, [redacted]
CHARLES R. TUPPER, [redacted]
STEPHEN H. TURNER, [redacted]
JOSEPH F. VANSICKLE, [redacted]
WENDY C. WALTERS, [redacted]
LANETTE A. WATSON, [redacted]
MARGARET A. WESBECHER, [redacted]
DEBORAH A. WHITE, [redacted]
GREGORY WILLIS, [redacted]
JANICE S. WILMOT, [redacted]
LAVON E. YUILL, [redacted]

MEDICAL SERVICE CORPS

To be major

THOMAS C. ARDOLINE, [redacted]
CHARLES C. ARMSTEAD, [redacted]
JOHN R. BALDWIN, II, [redacted]
RANDY B. BECKER, [redacted]
TERENCE W. BECKWITH, [redacted]
ALBERT L. BLEDSOE, SR, [redacted]
REGINALD L. BOND, [redacted]
ROBERT C. BONDS, [redacted]
DAVID M. BOYLES, [redacted]
KAREN A. BRADWAY, [redacted]
DEBRA A. CAVANAUGH, [redacted]
ERIN T. CAVIT, [redacted]
RALPH B. CHARLIP, [redacted]
JOSEPH J. CULFA, JR, [redacted]
GEORGE B. DAVIS, [redacted]
ROY B. DEITLE, [redacted]
GEORGE DEROSA, [redacted]
JOSEPH F. M. ETHIER, [redacted]
THOMAS E. FEWELL, [redacted]
HARRY FLEMING, [redacted]
GARY S. FORTHMAN, [redacted]
WILLIAM J. FREDERICK, JR, [redacted]
HOWARD D. GOOGINS, [redacted]
RONALD E. HAGUE, [redacted]
JON F. HALL, [redacted]
CHARLES V. HELVEY, [redacted]
ROY J. HOBBS, [redacted]
C. JEAN INGRAM, [redacted]
KATHY A. JENNER, [redacted]
THOMAS A. KEEFFER, [redacted]
LARRY A. KEMP, [redacted]
BARBARA L. LEISEY, [redacted]
PATRICIA C. LEWIS, [redacted]
WILLIAM T. MACORKINDALE, [redacted]
RICHARD D. MARSH, [redacted]
TERRY M. MCCULLOUGH, [redacted]
JAMES P. MORELAND, [redacted]
MICHAEL J. MURPHY, [redacted]
TERRY M. OAKS, [redacted]
MILTON T. OBENOSKEY, [redacted]
DAVID A. OLSEN, [redacted]
EARLE W. OVERTON, III, [redacted]
HUGH J. PATERSON, JR, [redacted]
PASQUALE PATRUNO, JR, [redacted]
DONALD A. PERRO, [redacted]
GILBERT J. PILKINGTON, JR, [redacted]
BRADLEY E. PROVANCHA, [redacted]
DAVID L. QUICK, [redacted]
CHRISTOPHER E. RAU, [redacted]
ROBERT E. RAY, [redacted]
RALPH J. RICCARDI, JR, [redacted]
JESSE B. ROBINS, [redacted]
DAVID A. ROSHIO, [redacted]
ROY J. RUFF, JR, [redacted]
GEORGE W. SHERMAN, [redacted]
GEORGE L. SMALL, [redacted]
TIMOTHY Z. SMITH, [redacted]
JACKIE K. TARKINGTON, [redacted]
JONATHAN M. WAGNER, [redacted]
GEORGE B. WALKER, JR, [redacted]
JAMES H. WARE, [redacted]
EDWARD J. WRIGHT, JR, [redacted]
ROMAN YBARRA, JR, [redacted]

BIOMEDICAL SCIENCES CORPS

To be major

ALBERT F. BADEAU, III, [redacted]
THOMAS W. BANDY, [redacted]
FERNANDO BARJA, JR, [redacted]
PAUL T. BARNICOTT, [redacted]
LAWRENCE D. BARNUM, [redacted]
HARVEY S. BENNETT, [redacted]
ELIZABETH A. BERNTSEN, [redacted]
MARY E. BILLINGER, [redacted]
DONALD V. BRADLEY, JR, [redacted]
REX S. BRENNAN, [redacted]
ALBERT L. BREWSTER, JR, [redacted]
MARK J. BUSH, [redacted]
DANIEL E. CALLAHAN, [redacted]
JOSEPH J. CANESTRARI, [redacted]
CHARLES E. CARDONA, [redacted]
ELIZABETH A. CARGO, [redacted]
JAMES L. CARY, [redacted]
ROBIN L. CHERRY, [redacted]
HUGH W. CHRISTENSEN, [redacted]
RAMON A. CINTRONOCASIO, [redacted]
JOHN V. CIVITELLO, JR, [redacted]
HOWARD F. CLARKE, JR, [redacted]
TIMOTHY L. COBB, [redacted]
DONALD A. COERVER, [redacted]
RONALD R. COOPER, [redacted]
HERBERT J. COREY, [redacted]
EUGENE R. CRAIG, [redacted]
DARRELL W. CRISWELL, [redacted]
CHARLES A. CULVER, [redacted]
DEAN L. DAVIDSON, JR, [redacted]
MARTHA L. DAVIS, [redacted]
MICHAEL K. DOWNEY, [redacted]
GARY L. DUNHAM, [redacted]
BRUCE W. EBERT, [redacted]
ALAN L. EDWARDS, [redacted]
TERRY M. FAIRMAN, [redacted]
PETER M. FALK, [redacted]
PHOEBE C. FISHER, [redacted]
WENDELL G. GEIGER, [redacted]
THOMAS G. GIVENS, [redacted]
DORIS L. GONZALEZ, [redacted]
BRIAN J. HARMS, [redacted]
STEPHEN P. HEDRICK, [redacted]
JUDITH A. HOLL, [redacted]
RANDALL L. HOWE, [redacted]
LARRY L. ISOM, [redacted]
PEYTON R. JACKSON, [redacted]
JACK H. JETER, JR, [redacted]
STEVEN C. JEZ, [redacted]
PATRICK N. JOHNSON, [redacted]
CHARLES S. KLUNDER, [redacted]
MARK D. KNUTH, [redacted]
THOMAS A. KRAFT, [redacted]
ROBERT G. LALIBERTE, [redacted]
JAMES P. LIGHTFOOT, [redacted]
RICHARD S. LOFTS, JR, [redacted]
STEPHANIE F. MCCANN, [redacted]
MICHAEL A. MCDOWELL, [redacted]
LAWRENCE A. MCGOWAN, [redacted]
MICHAEL D. MCKINNON, [redacted]
MICHAEL J. MCNAMARA, [redacted]
JEFFREY B. PADDOCK, [redacted]
THOMAS J. PARRY, [redacted]
STEPHEN N. PAYNE, [redacted]
LEIF D. PEDERSEN, [redacted]
WILLIAM C. PERRY, [redacted]
DANNY R. PERSON, [redacted]
LAURA L. POOLE, [redacted]
STEVEN C. PUTBRESE, [redacted]
JAMES A. QUATTLEBAUM, [redacted]
LAWRENCE J. READY, [redacted]
JACKIE D. REEDER, [redacted]
JOHN E. ROE, JR, [redacted]
PAUL E. ROSETE, [redacted]
RENALD ROUILLARD, [redacted]
MICHAEL J. RUSDEN, [redacted]
PERRY E. SCHLACHTER, [redacted]
CARI A. SHERRIS, [redacted]
RICHARD F. STEINER, [redacted]
GERALD W. TALCOTT, [redacted]
BRENDA D. THOMPSON, [redacted]
LEONARD G. TRUJILLO, [redacted]
JOHN F. WARD, [redacted]
TERRY D. WEAVER, [redacted]
BERYL A. WELTON, [redacted]
JAY A. WENIG, [redacted]
THOMAS W. WILDES, [redacted]
JAMES F. WILLIAMSON, [redacted]
RICK W. WILSON, [redacted]
DORIS WONG, [redacted]
RODNEY Y. H. WONG, [redacted]

IN THE NAVY

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, LINE, COMMANDER

To be commander, line, USN, permanent

JONATHAN C. UNDERWOOD

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, LINE, LIEUTENANT COMMANDER

To be lieutenant commander, line, USN, permanent

WESLEY ALAN BARTON
MICHAEL C. BRAUNBECK
JEFFREY B. CASSIAS
GEORGE T. HARGROVE
DAVID B. SILVERMAN
MICHAEL ALBERT WAITE
STEPHEN T. WITKOWSKI

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, LINE, LIEUTENANT

To be lieutenant, line, USN, permanent

RONALD LEE AASLAND
AURORA SISON ABALOS
ANN GRAYSON ABBOTT
KENNETH JOSEPH AHLIN, JR
STANLEY AKINOBU AKAHOSHI
DAVID CHRISTIAN ALGERT
RUBEN GEORGE ALLEN
MATTHEW BERNARD ALLMANN
RUBEN VILLARUEL ALOTA
DAVID R. ANDERSEN
ERIK NARVE ANDERSON
SCOTT WILLIAM ANDERSON
JOHN MICHAEL ANDREWS
JOHN SCOTT ANDREWS
PAUL PHILIPPE ANGLADE
WILLIAM BENSON ARCHER
LAWRENCE N. ASH
BARON WILLIAM ASHER
ELIZABETH ANN ASHLEY
STEVEN J. AUE
PHILIP JAMES AZZOLINA
WILLIAM BRIAN BAGGOTT
LINDA JO BAHRANI
ANDREW SCOTT BAITINGER
KEITH LAIRD BARCLAY
CURTIS GUS BAREFIELD, JR
EDWARD WILLIAM BARKER
VERNON DALE BASHAW
MARK THOMAS BASICH
ROLAND WESLEY BATTEN, JR
FREDERICK ANTHONY BEDNARSKI
BARRY WALDEN BEHNFELDT
STEVEN JOHN BENTZ
MICHAEL H. BERNARD
JOHN LORING BISCHOF
JOHN KEVIN BISHOP
WANDA OLSON BISKADUROS
STEVEN BURCH BIXLER
REBECCA GRISWOLD BLACKADAR
CHARLES RAYMOND BLAKE
KEITH ALAN BLUESTEIN
CRAIG ROBERT BODKIN
ANDREW THEODORE BOERSMA
WILLIE REGINALD BOGAN
STEVEN BRUCE BOLSTAD
MARK ALAN BORUP
RAFAEL PUELMA BOUFFARD
DANIEL TAYLOR BRACKETT
ELIZABETH ANN BRELAND
STEPHEN GEORGE BRENNAN
STEVEN GRANT BROCKETT
SHARON LAVONNE BROGDON
THOMAS JOSEPH BROVARONE
ROBERT GUSTAV BRUNT
JOHN LEE BUCKLES
DEAN WILLIAM BUEHLER
KEVIN EDWARD BURNS
ROBERT JAMES BURRELL
EDWARD CORE BURTON
MARIANNE ROBINSON BUSHER
RAYMOND KARL BUZZARD
RICHARD DONALD BYLAND
KENT GEOFFREY CALDWELL
GENE KEVIN CAMPBELL
JEFFREY LEE CANFIELD
LEE STEPHEN CARDWELL
JOSETTE LAVERNE CAREY
ROBERT JACK CARSON
RICHARD GERARD CATOIRE
THOMAS HOWARD CECERE
MARK ANTHONY CECIL
DAVID MICHEAL CHANDLER
JEFFREY ROBERT DARR CHARRON
NICHOLAS STEPHEN CHEKAN
STEVE CHENNAULT
MARK ALAN CIAMPA
JAMES BRETT CLARK
ROBERT JOSEPH CLARK
ANDREW BRYAN CLARY
GREGORY ROLAND CLEMENT
DAVID CHAPPELL CLUTCH
ERIC TALMADGE COCHRAN
JOHN EDMUNDS COLE
DAVID J. CONAWAY
JAMES MICHAEL COOK
RICHARD HOLMES COOK
WILLIAM THOMAS COONEY
LENNY COOPER
BRUCE ANTHONY COSTA
DAVID THOMAS COULTER
JAMES MATTHEW COUMES
JAMES COOPER COX
SCOTT T. CRAIG
TERRY DONALD CRAIG
TIMOTHY WILLIAM CRAWFORD
CHARLES PATRICK CROOKS
MICHAEL EARL CROSS
MICHAEL STEPHAN CUSHANICK
BERNARD EUGENE DAIL, JR
DAVID KEITH DALLAS
JOHN MICHAEL DALY
JANIE MOORE DARBY
DONALD E. DAVIES
GERALD LEE DAVIS
WILLIAM JOSEPH DAVIS, JR
ANDREW SANFORD DEAN
MARK JOSEPH DEARDURFF
JON EUSTACE DELGADO
JOHN EDWARD DEORDIO
RAINER JOSEPH DEPONTBRIAND
ERIC EDWARD DEVITA
RANDOLPH LUNDY DEWAR
JOSEPH MICHAEL DOBRY
STEVEN HOWARD DOHL
THOMAS HENRY DOLEMAN, JR
MAUREEN ANNE DOMBROWSKI
DANIEL THOMAS DOYLE
MARK S. DRAXTON
CHRISTOPHER JOHN DRENNEN
SUSAN A. DRIVER
CHARLES FREDERICK DRUMMOND
DANIEL EUGENE DUGAN
HAROLD PATRICK DUNNING
DEBORAH GAIL DUNSTON
KEVIN CRAIG DYE
STEPHEN REUBEN EDSON, III
ERIC RICHARD ELLEFSEN
RICHARD DEWAYN EMRY
BENJAMIN D. ERNST
MARY RUTH EVANS
MARGARET LISE EWALD
MICHAEL JOSEPH EYSAMAN
JOAN MARY FALLON
KARLA PATRICE FEARS
JACKIE DALE FIELDS
ROBERT DOUGLAS FINK
ROBERT LEE FIREHAMMER, JR
RONALD MATTHEW FLEMING
JAMES FORD
PETER SANDE FRANO
JEROME DOMINIC FRECHETTE
JOSEPH DOUGLAS FRICKE
RAYMOND TALLEY FULLER, JR
MARY ALICE FULTS
MATTHEW JAMES GARSIDE
JULIE ANN GEHRES
DOUGLAS JAMES GEIB
JEFF L. GERNARD
DAVID JOHN GILBANK
CRAIG WALTER GOODMAN
THOMAS PATRICK GOONEN
MARIA OKSANA SKALA GOTHARD
DONALD BRIAN GOULET
ROBERT DAVID GOURLEY
KEVIN HIGHLEY GRAFFIS
LARRY ALLAN GRANT
RAYMOND CHESTER GRAVES, JR
JOANN GREEN
MARVIN DOUGLAS GREEN
JAMES CHARLES GREENLEY
JEFFREY WILLIAM GREGOIRE
JAMES CHARLES GREY
MICHAEL JACK GRIFFITH
SCOTT BRITTON GRIM
JAMES ALBRIGHTON GROSS
JOSE ADAN GUTIERREZ
MARK HAYES GYORGY
FRANK ERICH HACKLANDER
MICHAEL FRANCIS HAFFNER
LAWRENCE CLARK HALE
ROSS KINNISON HALL
DAVID CONARROE HAMMONS
MICHELLE MALONE HANKO
CHRISTOPHER DAVID HANNEMANN
CHRISTOPHER PAUL HARPER
CECILIA JOHNNESE HARRIS
WILLIAM C. HARRIS
WILLIAM FREDERICK HARRIS, JR
SUSAN ANN HART
NORMAN ROBERT HAYES
ROBERT WILLIAM HAYES
DEBORAH ANN HEADRICK
THOMAS V. HEAPHY
MARY TERESA HECK
RAMON MANUEL HEDGES
JAMES PATRICK HELD
PAUL EDWARD HENNES

THOMAS JOSEPH HENNING
CAROLINE MARGARET HILLEN
JEFFREY ALLEN HILLIARD
THOMAS LEONARD HOFFMAN
ROBERT ALLEN HORNBECK
MICHAEL LOUIS HORVATH, JR
TIMOTHY J. HOWINGTON
MARK RICHARD HOYLE
JAMES RONALD HUNTER
ROBERT BURKE HURLEY
RONALD KURT IMHOF
KIM DENISE INGRAM
CINDY LOUISE JAYNES
PATRICK L. JECK
KEVIN MARK JOHNSON
ROBERT JACK JOHNSON
JANE WALKER JONES
MARGARET ANNE CEILE JONES
MARTIN ARTHUR JONES
THOMAS PARKER JONES, JR
PETER ROGER KATTMANN
PETER WILLIAM KEHRIG
TERRY R. KEITZER
MARK FRANKLIN KELLER
KENDALL SALISBURY KELLY
BEVERLY JANE KELSEY
SIDNEY DALTON KENNEDY
DAVID WILLISTON KENNISON
JOHN DAVID KENT
PAUL RAYMOND KERSTANSKI
MERLE LEE KILPATRICK
MARK STEVEN KINNANE
LEO EDWIN KNAPP, JR
RUSSELL PAUL KNIGHT
MARK ANTHONY KOHART
JOHN PETER KOVACH
KEVIN JOHN KOVACICH
RAYMOND KOZICKI, JR
GARY LYNN KREEGER
THEOPHIL JOSEPH KULCZAK
ALAN ARTHUR LABEOUF
PATRICIA ANN LACKEY
FREDERIC DAVIS LANCASTER
THOMAS JOSEPH LANCASTER
JEFFREY MICHAEL LANDSMAN
ROBERT MICHAEL LARWOOD
DANIEL HENRI LAURE
DEBRA JEAN LAVOW
HENRY NMN LE
DAVID MICHAEL LEONARD
THOMAS WINSTON LETT
RAYMOND JOHN LEWIS
STEPHEN JOHN LITTFIN
RONALD ARTHUR LITTLE
MARK STEVEN LITTLETON
MENDAL SCOTT LIVEZEY
JOHN PATRICK LONG
DENNIS ALAN LOTT
MICHAEL WARREN LUCK
SPOTRIZANO DESCANZO LUGTU
THOMAS BENNETT LUKASZEWICZ
SHERMAN RUDOLPH LUPTON
PAUL DOMINIC MACRI
KEVIN JAMES MAGUIRE
JOHN MAITNER, II
DAVID PAUL MALONEY
PAMELA JEAN MANEVAL
MARY SHEILA MARKERT
CAROL MAE MARSHELL
DANIEL JOSEPH MARTIN
FRANCIS IGNATIUS MARTINELLI
DANIEL EARL MATHIS
GERALD JACOB MAURER
DAVID NEAL MAYNARD
KIMBERLYN JOY MCALLISTER
DONALD RAY MCBRAYER
JEFFREY CARROLL MCCAMPBELL
ROBERT THEODORE MCCAMPBELL
DOUGLAS LEE MCCLAIN
MICHAEL RAY MCDERMOTT
ANN MARIE MCDONALD
JEFFREY LYNN MCKENZIE
DONALD KEITH MCKNIGHT
MICHAEL D. MCLAUGHLIN
SCOTT WILLIAM MCLELLAN
THOMAS ALAN MCMURRY
RICK MARK MCQUEEN
ROBERT BRUCE MCWHORTER
ALISA ANN MEAD
DAVID AUSTIN MEE
THOMAS ROBERT MEHRINGER
LORI JOAN MELLING
BRAD C. MILLER
STEWART ALEXANDER MILLER
ROBERT BURNS MONROE
STEPHEN CHRISTOP MONTGOMERY
LEONARD HAROLD MOORE, JR
ELLEN ELIZABETH MOREAU
PAUL SCOTT MORGAN
MICHAEL WILLIAM MORRIS
ANTHONY JOSEPH MULLARKY
LINDA LUCILLE MUTH
ROBERT DOBBINS MUZZEY
ANDREW OWENS NAGLE
JOHN JOSEPH NASH, JR
VINCENT PATRICK NATALE
JOHN PHILLIP NEAGLEY
SEAN G. NEILAN
BRIAN DOMINIC NEUENFELDT
TERESA CAY NICHOLLS
GORDON C. NICHOLSON
JANIS LYNN NOBLE
LINDA LEE NOBLE
GREGORY RICHARD NOWAK
JOHN CARL OBERST
JEFFREY ALAN OGUREK
GREGORY JAY OLSEN
JONATHAN JAMES OLSON
JAMES EDWIN OTIS
PATRICK J. OTOOLE
KATHRYN ANN OYE
RICHARD KENNETH PACKER
GEARY LEE PADDEN
BURT T. PALMER
PAULA ANN PANKOWITZ
LUKE RAYMOND PARENT
MARK WILLIAM PATCHEN
TYRONE PAYTON
ROBERT FRANCIS PERRY
HARALD CARL PETERS
MARLENE JANE PETERSON
TENISE LOUISE PETTIGREW
DAVID LEE PEVELER
EUGENE CHRISTOPHER PICCIANO
THOMAS CARL PIELUSZCZAK
KATHERINE ANNA PIERCE
JONATHAN R. PITTMAN, III
ROBERT ANTHONY PLEBAN
LINAS MATTHEW PLOPLYS
DALE PATRICK PLUNKETT
PAUL MAURICE POMPIER
SHAWN JULIE PRABLEK
MICHAEL STEVEN PYLES
BRYAN DAVIDSON QUIGLEY
PATRICK MICHAEL QUIGLEY
JOSEPH L. QUIMBY
DAVID MAURICE QUISENBERRY
JANET KAY NISULA RAYCRAFT
JENNIFER SUSAN REED
HELENA EDITH REEDER
KEVIN P. REGULA
JOHN R. REICHL
PATRICK JOSEPH REIDY, JR
ROBERT JOSEPH REITER
ADONIS BELMONTE RELIEVE
NEIL ALAN RENVYLE
PATRICK THOMAS RHOADS
THOMAS ANTHONY RIDLEY
FRANK LOUIS ROBERTO, JR
GEORGE I. ROCKWOOD, III
RAYMOND BERNARD ROLL
CHARLES GAIL ROLLER
LOUIS RICHARD ROMANO
JOSE LUIS ROMERO
DAVID WAYNE ROOTS
GARY LEE ROSSI
DAVID GERARD ROUSSIN
GEOFFREY L. ROWE
RODNEY ROSS ROYCROFT
JOHN PETER RUBEL
GREGORY NMN RUCCI
TERRY LYNN RUCKER
ENRIQUE LERMA SADSAD
HECTOR SAMARIO
WILLIAM PETER SAVINO
DEAN ROBERT SAWYER
LISA KAREN SCHAEFER
KEITH ELDON SCHANZ
CARL V. SCHLOEMANN
ANTHONY PETER SCHMIDT
JAMES ANDREW SCHOENDIENST
CHRISTOPHER G. SCHREIBER
STEVEN RANDALL SCHREIBER
KEVIN DAVID SCOTT
JAMES LEE SEABORN
MATTHEW SEAMON
CURTIS WILLIAM SENFT
GREGG STEVEN SHALLAN
JOHN HUNT SHATTUCK
JOHN LAWRENCE SHEA
MARK ALLEN SHEDDAN
HERMAN ALDER SHELANSKI
LINDA MAUREEN SHERFEY
BERNARD VINCENT SHINAL
JAMES R. SICKMIER
WILLIAM FREDERICK SILLS
STEVE BRIAN SIMET
HAROLD LOREN SKOOG
FRANCIS R. SLATTERY
THOMAS JOSEPH SLATTERY
STEPHEN JOSEPH SLOAN
GREGORY JOHN SMITH
IRENE MARIE SMITH
JOHN WESLEY SMITH, JR
LESTER DAVID SMITH
STUART JAMES SMITH
PATRICK WERNER SNELLINGS
RANDY SOUZA
THERESA DETAMBLE SPEAKES
ROBERT STRICKLIN SPRATT
ANTHONY L. STAINBROOK
DAVID BURCHER STANSBURY
MAURICE WINFIELD STARR
RICHARD ANDREW STAUDE
SCOTT ANDREW STEARNEY
STUART STEIN
GARLAND STEPHENS
PAUL COURTNEY STEWART
CARRIE BETH STUART
SCOTT JEFFREY TAPPAN
SCOTT KARL TAUBE
DAVID ZACHARY TAYLOR
THOMAS JOHN TAYLOR
TODD EDWARD TAYLOR
ARLENE LAURA THOMPSON
WILLIAM HAYNE THOMPSON
ROXIE MARIE THOMSEN
ALLAN NORMAN THORBJORNSEN
THOMAS S. TINGLEY
CARL RAY TURNER II
NORA WINGFIELD TYSON
DEBORAH SUE VALLEZ
JAMES ALAN VANNEST
DEREK VAZQUEZ
VICTOR M. VELAZQUEZ
KEVIN JEROME THOMAS VIRGIN
THOMAS EDWARD WALKER
JAMES GREGORY WALLACE
MICHAEL LEE WALLING
RICHARD BLAIR WALLIO
JEFFREY THOMAS WALTERS
MATHER KNIGHT WALTRIP
WILLIAM FAREL WARLICK
STEVEN WALTER WARREN
BILLY JOE WASHINGTON
SYLVIA HELENE WASYLYK
JOHN KELLEHER WATSON, JR
MICHAEL ERNEST WATSON
RICHARD WARREN WATSON
CHRISTOPHER HAYNES WATTS
ALBAN WEBER
JAMES PAUL WEBSTER
KENNETH LANN WEDDINGTON
PATRICK RANDOLPH WHEELER
EDWIN DEXTER WHITE
GEORGE SCOTT WHITEHEAD
GARY DALE WHITMAN
BRUCE ROBERT WILLHITE
CATHY MAE WILLIAMS
BRIAN FRED WILSON
MATTHEW LOUIS WOLFE
CHRISTOPHER PAUL WOODRUFF
MARK POWELL WROBLEWSKI
GORDON BRUCE WULF
JAMES LYNTON WYANT
JOHN KAZUO YASUI
RICHARD STEPHEN YOUNG
KAREN LOUISE ZOELLER

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), line, USN, permanent

MARGARET ANNETTE ANDREWS
JAMES DAVID AREND
TRACY JEAN AUSTINSTANLEY
JOHN WESLEY BARKER
THOMAS EDWARD BARNES, JR
MATTHEW SPENCER BEAVER
LATOYA BELLAMY
FRANK KELLY BERKHIMER
BARTON JAMES BERNALES
PATRICIA ANN BISSON
ALAN WAYNE BLACKKETTER
STEVEN HARTLEY BLAISDELL
TIMOTHY JAMES BLOCK
DAVID DUANE BOAL
GARY MICHAEL B. BOARDMAN
LAURA ANN BOEHM
SHARON R. BOGGS
GUY ALANSON BONY
EDWARD GLEN BRYANT
DIANE ELIZABETH BURGESS
STEPHEN ROBERT BURNETT
DAVID LLOYD BUTTRAM
WINSLOW HURLBURT BUXTON, III
MICHAEL PAUL CADY
DAN GEORGE CALDERALA
STEVEN JOSEPH CAMACHO
PETER JAMES CARROS, JR
WALLACE LEROY CHAMBERS, JR
JAMES EARL CHISUM, JR
PATRICK ROGER CLEARY, III
GRANT ALEXANDER COOPER, IV
FRANCIS GREENAN COYLE
MARY ANN CRUZ
JAMES JOSEPH CUNHA
ANGELA WILSON CYRUS
JOHN AMEEN DAVID
LAURELL ARNETTE DAVIS
THOMAS PAUL DAVIS
DAVID LEE DEVINE
STEVEN JOSEPH DOMINGO
BRYANT STEVEN DOUGLAS
THOMAS LINCOLN EGBERT
ROBERT DEAN EIDSMOE
KELLY JEAN EPPS
TRACY ANN ETHERIDGE
DAVID JOSEPH EVERETT
TERESA LOUISE FAIRBANKS
JOHN PAUL FATIGATE
PATRICK JOHN FITZGERALD
MICHAEL JOHN FOSTER
REX DAVID FOSTER
JEFFREY ALBERT FRANKLIN
EDWARD GIBSON GALLREIN, III
KATHRYN JEAN GARBE
ROY JOHN GEBERTH
CARVIN KEITH GERALD
CHARLES PATRICK GOMPF
ROSEMARIE JANE GOODRICH
CARL ROYCE GRAHAM
REUBEN KEITH GREEN
TIMOTHY CHARLES GROELINGER
REBECCA SUSANNE GUSTAFSON
SUSAN MARY HAEG
WILLIAM KEVIN HAMLET
NEIL ANTHONY HAMLETT
CRAIG ALLEN HAMMONS
WILLIAM CLAIBORNE HARRIS
FRANCIS LEO HARRISON, JR
JOHN RICHARD HAVLIK
TEDDIANN SCHUUR HAYES
DWIGHT OTTO HEINZELMAN
PATRICIA F. HENDERSON
CRAIG LESLIE HERRICK
TIMOTHY MICHAEL HOWLIN
WILLIAM JOSEPH HUGHES, JR
TERRI ELAINE HUMPHRIES
RICHARD THOMAS IRWIN
GEORGE WILLIAM JACOBS
RAMON ANTONIO JIMENEZ
ROGER PAUL KAY
KATHLEEN ANNE KEELY
DONALD ANTHONY KELLEY, JR
MICHAEL ALAN KELLY
JULIE ANNE KENDALL
STEPHANIE S. KESSLER
MICHAEL ANTHONY KETTLES
DOUGLAS SCOTT KILLEY
DAVID MAURICE KING
ROY IAN KITCHENER
JEFFERY LANE LACAZE
ROBERT JEFFREY LAMONT
BRIAN THOMAS LIPPE
FREDRIC WALTER LONGENECKER
KATHRYN AMY LOWELL
DEBORAH ELOISE LUCKETT
MARY ELLEN LUTS
ROBERT WILLIAM MACKLEY, JR
STEPHEN PAUL MARKLE
GERENE PINE MARTIN
MARSHALL WARREN MARTIN, JR
YOLANDA E. MCCARDEN
ROSALIND MCCRORYROBINSON
THOMAS JOHN MCDONOUGH, JR
JAMES MULKEY MCDOWELL
MARK WARREN MCGRAW
MICHAEL DANIEL MILAZZO
JANE FRANCES MILLS
SUSAN ANNE MITCHELL
LAVON RENE MOORE
BRIAN WADE MORRIS
TAMARA ELIZABETH MORRISON
WAYNE WESLEY NEWCOMB
LAMONT LYNN NEWTON
NATHAN CATE NICKERSON, JR
CHARLES EVERETT NORBERG, JR
GERALD LEE NYBERG
PATRICK JOSEPH OROURKE
GEOFFREY LAWRENCE OWEN
MARTHA ANNE PADFIELD
GERALD LEE PAINTER
MICHAEL EDWARD PAS
JULIA LEE PETRITSCH
STEPHEN MICHAEL PRESCOTT
ROBERT MICHAEL PRIES
JOHN S. PURNELL
ROGER ALLEN PYLE
RICHARD ALLEN RAINER, JR
WILLIAM SCOTT RAMSHAW
WILLIAM PATRICK REAVEY, JR
DANNY DALE RHUDY
PAUL MCCAUSLAND RICH
SUSAN KAY RIDDLE
THOMAS CHARLES RIECKENS
WILLIAM DAVID RILING
DAVID STEPHEN RIVARD
CHARLES ANTHONY ROMANO
WILLIAM FREDERICK ROMINE
KENNETH DEAN ROSENBERG
ANDREI SAPSAI, JR
GEORGE ANDREW SCHEEL

DAVID ALLEN SCHNELL
MICHAEL CHARLES SHORTHILL
ALAN GREGORY SIMS
WARREN BURTON SMATHERS
BRADLEY JOSEPH SMITH
MARK THOMAS SMOLINSKI
WILLIAM ANTHONY SNELL, JR
JAMES BRENT SPERRY
YVETTE ELAINE SPILLMAN
WALTER HENRY STAMMER, III
STEPHEN MICHAEL STERNBERG
DEAN ETTA STEWARTCURRY
ANTHONYWAYNE SWAIN
JIMMY LIONEL TADLOCK
GREGORY MYERS THARPE
DONALD KEATH THOMAS
KELVIN TYROME THOMAS
RALPH LAWRENCE TINDAL, III
WILLIAM MICHAEL TOOKER
JAMES ROBERT TURNBAUGH
WILLIAM ROBERT TURNER, II
KARLA TINNON TYREE
JUDITH MARIE VENDRZYK
RUDOLF JAN VERSCHOOR
DARREN THOMAS VIERA
KAREN JEAN VIGNERON
STEPHEN JOSEPH VISSERS
EDWARD STEPHEN WAGNER, JR
DEIRDRE RYAN WALKER
GLEN LEIGHTON WASHINGTON
WANDA HEREFORD WASHINGTON
DOUGLAS W. WEAVER
MICHAEL JAY WEAVER
SCOTT NORMAN WELLER
EDWARD ANTHONY WHALEN
RICHARD JEFFREY WILLARD
RANDALL GARDNER WILLIAMS
RUBY STACY WILSON
ANGELA MARIE WRIGHT
VANESSA WYNDHAM
MYRTLE MARY YARBROUGH
EDWARD ANDREW YEASTE
JOSEPH YUSICIAN
SUSAN ELIZABETH ZACHODNI

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, LINE, ENSIGN

To be ensign, line, USN, permanent

THOMAS M. BAKKEN
LOUIS N. BATIDES
WALTER D. BAUMGARDT
MICHAEL A. BELL
NEIL K. BENAR
RONALD D. BENNETT
STEPHEN W. BERRY
MARK A. BIGLER
STEVEN J. BLIVIN
TROY F. BOREMA
SCOTT A. BOYNTON
MARK BRIDENSTINE
JAMES F. BRIGGS
JOHN P. BROSCHAK
STUART E. BROYLES
PAUL A. BURKE
DOUGLAS E. BURNS
LAURENCE T. BURNS
JULE B. BUTLER
JOSEPH R. CALABRESE
MARK D. CAMPBELL
EDWARD M. CARRERAS
HOWARD HAN KUANG CHU
DAVID E. CLAUSEN
DAVID R. CLYMER
DANIEL S. COLLINS
KEITH L. COMPTON
RICHARD A. CORRELL
NORMAN W. CRAMER
NED L. CROSS, JR
DANIEL J. CUNNINGHAM
ROBERT L. DAIN
JAMES J. DEVINE, JR
RICHARD T. DIDONATO
WILLIAM T. DUNPHY
JAY R. EDGEWORTH
FRANCIS J. FLAHERTY
PHILIP J. FLESCH
BRUCE M. FOCHT
RONALD J. FOCIA
MICHAEL J. FORD
DIRK L. FOSTER
STANLEY W. FRANK
DOUGLAS N. FULTON
HARVEY L. GUFFEY, JR
SAMUEL W. HANNA, IV
ERIC T. HANSON
WILLIAM F. HEINS
MICHAEL E. HOLZMANN
THOMAS J. HOOK
JESSE E. HUNTLEY, II
ALAN S. ICENHOUR
JAMES E. IVEY
JOSEPH P. JAEGER
JOSEPH T. JENKINS
KIP D. JOHANNSEN
JEFFREY D. JOHNSON
KEVIN A. KEEFE
MARK J. KENNA, JR
PAUL P. KIEL
JASON A. KIM
ALLEN J. KORONKOWSKI
DAVID W. KRISOVITCH
KENNETH H. KUTZER
SCOTT K. LACHANCE
JEFFREY D. LANCASTER
CHRISTOPHER A. LAND
MICHAEL J. LARSON
JEFFREY A. LIPPE
DAVID S. LOFSTEAD
JEFFREY P. LORTZ
CHRISTIAN G. LOUIS
KEITH D. LOWHAM
MATTHEW H. LOWRY
THOMAS G. LUNNEY
KEVIN A. MARKS
JOSEPH A. MARTINELLI
SEAN J. MCAVEETY
JOHN P. MCCOY
JOHN E. MCCRAY, JR
JOHN E. MCGIMPSEY
RALPH R. MERRILL
RONALD L. MILLER
TIMOTHY S. MILLER
TODD E. MITCHELL
DAVID TSUN MUNN MOK
DAVID MOLEA
TOMMY E. MOORE, JR
RUSSELL J. MORRISON
MARLIN O. MULLINS
JOHN F. MYERS, IV
ROBERT T. MYSLINSKI
KEVIN M. NAMEY
JOHN M. NILAND
MICHAEL W. NOONAN
DAVID B. OSGOOD
STEVEN M. OXHOLM
PAUL N. PAGE
MARK W. PANGER
JAMES Y. PARK
PETER PILOT
DANIEL J. PINTAR
GLENN C. REICHART
STANLEY M. ROBERTSON
RHETT C. ROSS
TOBIN ROSS
KENNETH R. ROUBIK
WILFREDO RUIZ
CHARLES W. SCHAEFER
BRUCE W. SCHIEK
JOSEPH E. SCHIESTLE
STEVEN D. SCHMIDT
WILLIAM R. SEDEWITZ
JOHN C. SHEPARD, III
THEODORE D. SHERRY
DEANO R. SMITH
JAMES A. SMITH
ROBERT M. SMITH
STEVEN R. STACY
PATRICK W. STANTON
GARY L. STEWART
JOSEPH B. STROUP
JOHN R. TAPPERT
BRIAN C. THOMAS
DAVID M. TOBIN
MARK A. TURNER
DAVID G. VALLELY
GLENN R. VAVOSO
MANUEL M. E. VILLANO
HAROLD T. VINCENT, II
KYLE R. WARRAS
STEVEN N. WATSON
STEPHEN J. WEBER
MATTHEW A. WEINGART
CLARENCE R. WILLIS
DOUGLAS G. WUTKA
TODD A. YOUNG
MARK Z. ZIELINSKI

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICER, TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, MEDICAL CORPS, CAPTAIN

To be captain, Medical Corps, USN, permanent

LOUIS E. ANTOSEK

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, MEDICAL CORPS, COMMANDER

To be commander, Medical Corps, USN, permanent

DENNIS EUGENE DEAKINS
THOMAS W. JAMIESON
RICHARD A. KINDER
ROGER JAY PENTZIEN

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, MEDICAL CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Medical Corps, USN, permanent

SCOTT M. BALDERSTON
JAMES ROBERT BROOKS
WILLIAM R. CORSE
CHARLES B. DAVIS
ERNESTO ALBE DIAZORDAZ
LAVERNE C. INGRAM
STEVEN SCOTT KERRICK
BRIAN ROBERT MCDONALD
RICHARD LOUIS NEMEC
DOMINIC PAPARELLA
WILLIAM HOMER REED
STEVEN WESLEY REMMENGA
DAVID LEE SHIVELEY
DEAN ANGELA WELDON

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, MEDICAL CORPS, LIEUTENANT

To be lieutenant, Medical Corps, USN, permanent

THOMAS A. ALLINGHAM
BENJAMIN C. ANDREWS, JR
CHRISTOPHER ARMSTRONG
MARC H. BLASSER
WAYNE ALAN BREER
KEVIN E. BROOKS
DANIEL JOHN CARUCCI
JOHN CLARK CHAHBAZI
JAMES M. CHIMIAK
JEFFREY WALTER DEMPSKI
MARK PATRICK DOWNEY
MARSHA LOUISE DUPREE
WILLIAM SCOTT ELWOOD
SARAH GALE FELLOWES
DANIEL K. FRUM
JANET NMN FUJIKAWA
JAMES ALAN GRAF
BEVERLY HARRELLBRUDER
JOHN CHARLE HARRINGTON
KARL A. HOLZINGER
CHRISTOPHER S. HULBURD
PAUL LAMPERT
CYNTHIA TOYOMI I. MACRI
IRENE M. MCALEER
TIMOTHY DENNIS MCGUIRK
THOMAS J. MORAN
TIMOTHY P. OMALLEY
MAURICE JOSEPH PARE, JR
DENNIS JOHN PLAJA
DONALD C. PUTZIER
STEPHANIE WELL PUTZIER
DONALD H. ROSENBAUM, JR
CARLOS E. RUBIO
GEORGE J. SCHMIEDER
THOMAS NORWOOD SHELTON
GERALD NICHOLLS J. SIMS
ERIC RICHARD SOVER
ERIC CARL TORP
LYNN MARIE UTECHT
JEFFREY A. WATSON
PETER JOHN WEISS
JAMES THOMAS WHITE, JR
CYNTHIA MARY WILLIAMS
JOHN P. WILLIAMS
WILLIAM EDWIN WILLIAMS

THE FOLLOWING NAMED REGULAR OFFICER, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Supply Corps

CURTIS LAMONT FIELDS

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, SUPPLY CORPS, LIEUTENANT

To be lieutenant, Supply Corps, USN, permanent

JIMMY EDWARD ALLEN
ALLEN DAVID BOOKER
GERALD BORN
DOUGLAS CARL BOVID
KENNETH WAYNE BOWMAN
GREGORY FRANCIS BREEN
ROBERT CHARLES BRONSON, JR
CRAIG ANTHONY BROWN
DAVID LANDT BROWNLIE
MORRIS AARON CAPLAN
SAMUEL S. CHINNAPONGSE
GLENN ROBERT COOK
JOHN ANTHONY CORSO
KELLEY THOMAS DAHL
JOEL VINCENT DEARE
JACK ALAN DYKSTRA
ALBERT RAFAEL FINKELSTEIN
FREDERICK CLAIR FREEMAN, JR
DEAN JAMES GIORDANO
DALE WELLINGTON GOELLER
CHARLES PETER HEROLD, JR
MATTHEW ALBERT HERT, JR
SCOTT HARLEY HOLDEN, JR
ROBERT MASAO INABA
JOHN RICHARD JUTTE
WILLIAM CLARKE LYON
TIMOTHY JOSEPH LYONS
JOHN MALVEAUX
JACK QUENTIN MILLS
ROBERT ANGELO MORRIS
JIMMY JOE MOSLEY
DONN DANIEL MURRAY
WILLIAM HOWELL PORT
ADONAI DIONICIO SANTOS
JEFFREY MICHAEL SCHNUR
JOHN STARK SPICER
MARK JOSEPH STEINMETZ
MARK ALAN STILES
DERRIC THOMAS WHITE

THE FOLLOWING NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Supply Corps

DANIEL MARTIN MOCK
ROBERT EVAN OLIVER
DAVID MALCOLM WATT

THE FOLLOWING NAMED LINE OFFICER, U. S. NAVAL RESERVE, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Supply Corps

SPENCER NMN MEAD, JR

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, SUPPLY CORPS, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Supply Corps, USN, permanent

LESLIE HOWARD ALEXANDER
WILLIAM MICHAEL BARNETT
ERIC DEAN BERRY
RONALD LEE BLACK
KELLY JOSEPH BLAIR
W. WAYLAND COKER
JAMES ANTHONY COLE
ROBERT WILLIAM COLE, JR
JAMES PATRICK CRAIG
CHARLES CYRUS
VICTOR SAMUEL DIRAMIO
STEVEN WALTER DOLLASE
DAVID PAUL FOWLER
TODD FRIEDLANDER
DAVID REED GEE
VIDAL EDUARDO GONZALEZ
WILLIAM DAVID GRAF
WALTER ADAM GRAUER
JOHN MICHAEL GROLL, III
JAMES HENDRY HOOVER
MICHAEL ALEXANDER HOPKINS
MICHAEL DEAN HUGHES
DANA WILSON IVEY
MAURA LEE JOHNSON
WILLIAM GREGORY KAAG
KEVIN GERARD KEITH
NANCY LYNN KELKER
SIDNEY JEUN KIM
LARRY MILTON KOLB
DAVID JOHN LAIRD
ALBERT MICHAEL LEEPER
GREGORY MARK MACCUNE
STUART ALLEN MARSHALL
JAMES CASEY MAYHEW
MICHAEL BRENT MCPEAK
RANDAL MARTIN MEIS
ANDREW SCOTT MORGAN
DAVID KENNETH MORRIS
LINDA MAE NEWHART
PAUL FRANCIS NICHOLS
BRADLEY ERIC NOREN
LESSIE INETTA OLIVER
MICHAEL NICHOLAS ORNDORFF
JAMES DORAN PETERS
JAMES THOMAS PIBURN
STEVEN EDWARD PUTLACK
ALFREDO EDWARD RACKAUSKAS
JESSE WAYNE REED
RENAN ESTRADA ROJO
STEVEN ROBERT SCHARPNICK
MARK GEORGE SCHEDLER
BARRY ROBERT SMITH
ALFRED WAYNE SNODGRASS, JR
EUNICEA FAYE PARKER SOULET
THOMAS ALVIN THARP
PAUL DAVID THAYER
SCOTT RAY THON
CHRISTIAN ERIC VALLE
LAWRENCE JAMES VESEY
JOHN ROBERT WILLIAMS
RAYMOND JOHN WYSOCKI
ELLIOTT CORY YODER
AMBROSE CARL YOUNG
MICHAEL EARL ZIMMERMAN

THE FOLLOWING NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT ENSIGN IN THE SUPPLY CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, ENSIGN

To be ensign, Supply Corps

ROYAL GEORGE COLLETTE
WILLIAM PAUL JOHNSON
CHARLES MAURICE LANMAN

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CHAPLAIN CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, CHAPLAIN CORPS, LIEUTENANT

To be lieutenant, Chaplain Corps, USN, permanent

SUSAN ROBERTA CARNEY
ROBERT LEE WILLIAMS, JR

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICER, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, CIVIL ENGINEER CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Civil Engineer Corps, USN, permanent

CHUCK L. DOHERTY

THE FOLLOWING NAMED REGULAR OFFICER, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Civil Engineer Corps

WAYNE ORVILLE WALKER

THE FOLLOWING NAMED LINE OFFICER, U. S. NAVAL RESERVE, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Civil Engineer Corps

JEFFREY JAMES TORRENCE

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, CIVIL ENGINEER CORPS, LIEUTENANT

To be lieutenant, Civil Engineer Corps, USN, permanent

JOSEPH ADRIEN ANGELL, II
CHRISTIAN NEILL BAUDHUIN
ANTHONY CHARLES BOLES
JOHN ROBERT BROWN
MARK MATTHEW BRUNETTE
WILLIAM ARTHUR DAVIDSON
RICHARD JACOB DIEFFENBACH
JOSEPH DELBERT HEDGES
JULIAN BUTLER IRBY
ROBERT BURTON KAHLER
MARK GERARD LOCASTRO
STEPHEN JOSEPH MARKEY
LEO DARRELL MCKINLEY
RANDALL GARRY ORTGIESEN
STANLEY CHARLES SIKES
KIMBERLY DALE WEISENBURGER

THE FOLLOWING NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Civil Engineer Corps

ANDREW BARNES ANDERSON
LARRY WAYNE BEESE
WILLIAM EDWARD BENNETT
DAVID ALLEN BERCHTOLD
JAMES VINCENT BOTZET
ROBERT SPENCER CLARKE
JAMES JOSEPH CUMMINGS
MARK WENDELL JACKSON
EDUARDO PASION MANGLALLAN
JAY DEAN MATTHES
CLARK RUSSELL MCCORMICK
JASON HENRY SCHAPEROW
MARK DANIEL STORTO

THE FOLLOWING NAMED LINE OFFICERS, U. S. NAVAL RESERVE, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Civil Engineer Corps

WILLIAM GLEN EICH
DEMETRIUS EVERETT FOWLER
RICHARD ALBERT HENDERSON
BRYAN KEITH JAGOE
ROSALIND MCCRORY ROBINSON

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, CIVIL ENGINEER CORPS, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Civil Engineer Corps, USN, permanent

ROBERT EUGENE ANDRES
JEFFREY THOMAS BOROWY
KENNETH WYATT BRANCH
CARLOS DELANO CLARKE
RICHARD DAVID COOK
WILLIAM FREDERICK CORDS
RICHARD EDWARD CROMPTON
DANIEL HOLM CROSS
KEVIN JAMES DAMANDA
DAVID JOHN EBERSPEAKER
JOHN JOSEPH HEINZEL
WILLIAM THOMAS KING
WILLIAM RAYMOND ODONNELL
TIMOTHY PATRICK OROURKE
JOHN DAVID PITTS
TRACY ALLISON PROCTOR
JOHN DAVIS RICE
STEPHEN TERRY ROOKUS
LINDA MARIE THOMAS
VERNON ROBERT TURNER
DAVID KENNETH WEIL
CHARLES KIRK WILSON
KAREN MARIE ZAPP

THE FOLLOWING NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT ENSIGN IN THE CIVIL ENGINEER CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, ENSIGN

To be ensign, Civil Engineer Corps

SCOTT ALAN BOYER
JAMES HOWARD CHAPPELL
BRETT ALLEN COVINGTON
JAMES GERARD SILK

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL'S CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, JUDGE ADVOCATE GENERAL'S CORPS, LIEUTENANT

To be lieutenant, Judge Advocate General's Corps, USN, permanent

ALBERT ANTHONY ABUAN
JOHN STEPHEN ALLEN
WILLIAM CRAIG ASELTINE
RICHARD WARREN BAGLEY
JAMES NORMAN BOND
LYLE H. BOWEN, JR
CARLETON ROBERT CRAMER
ROBERT JOSEPH EATINGER
CHRISTOPHER J. FEKETE
PAUL RICHARD FOSTER
JOHN VINCENT GARAFFA
LUIS JACINTO GONZALES
HOWARD BARRY GOODMAN
JOYCE ELAINE KING
PENNIE CANNON LEACHMAN
EMERY FIELDS NAUDEN
CAROL G. RICCIARDELLO
DONALD JEFFREY SHERMAN
MARVIN W. SHUMATE
SHELLEY W. SPRATT
PETER JOHN STRAUB
DAVID NEILL VENTKER
RICHARD GARRETT VINET
KEITH E. VOGELHUBER
DAVID ALLEN WAGNER
DAVID STEWART YANDLE

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, DENTAL CORPS, COMMANDER

To be commander, Dental Corps, USN, permanent

DALE E. WILCOX

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE DENTAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, DENTAL CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Dental Corps, USN, permanent

STEPHEN JOSEPH ADAMSON
CHARLES ANTHONY ARENA
RONALD EUGENE BAJUSCAK
SUSAN CAROLYN BESTGEN
RONALD LEE BIXLER
JOHN T. DAVIS
JEFFREY ROLAND JOHNSON
SUSAN DOERR LEARY
KEITH TAYLOR MCMAHON
ELAINE NELSON
JAMES E. PASTOR
THOMAS EDWIN PORCH
JOHN K. ROBERTSON
JAMES STEVEN VACEK
RICHARD JOHN WILLS

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE DENTAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, DENTAL CORPS, LIEUTENANT

To be lieutenant, Dental Corps, USN, permanent

JOHN RICHARD ARAGON
JOHN MARK BARRY
ZACHARY JAMES BERRY
DAVID ANTHONY BITONTI
JANNAS E. BROWN
TERRILL LYNN BROWN
JOHN CYRIL CALHOUN
THOMAS JOSEPH CANAAN
LINONEL M. CANDELARIA
MICHAEL JOHN CHUTICH
PAUL RAY DAVID
THOMAS JOSEPH J. DEMAYO
GEORGE DIKTABAN
RICHARD QUIN DUFURRENA
ANDREW DEXTER DUNAVANT
DOROTHY CHARLOTTE DURY
DANIEL GLEN EHRICH
BYRON CARLTON ESCOE
MITCHELL DUAN ESQUIBEL
PATRICIA MARIE GARRITY
KENT STUART GORE
PAUL B. GREENAWALT
LYNDA DENISE GROSSMAN
JEFFREY LYNN HAINLEY
DAVID WAYNE HAMULA
BILLY WILSON HANES, JR
SCOTT C. HANEY
JOSEPH F. IANNONE
PETER VINCENT JAHNKE
MARY ELIZABETH JOHNSON
JAMES ERNEST KELLEY
JOSEPH ROBERT KLOCHAK
LINDA KATHRYN LAFFERTY
MICHAEL TODD LEWIS
BRUCE CARLTON MCLEOD
KEVIN JOHN MEARS
DAVID K. OYSTER
JEFFREY ALAN PLATT
TIMOTHY R. POSCH
GARY E. PROSE
JOSE QUESADA
NANCY L. REEVES
GARY DEAN REINHARDT
DAVID ALAN RUSSELL
NICOLAS HENRY RUSSO
DEBRA MARIE RYKEN
JIMMY M. SAIKU
TERRY LEE SCHRUBB
JOHN ANTHONY SCHWERER
TRACY ALAN SCOTT
RUSSELL JOHN SMITH
THOMAS RAY SPRADLIN
MARY LOU STEWART
ORSURE WRAY STOKES
MARK ALLEN THOMAS
EDGAR W. TURNER, III
BARBARA SUSAN TWINER
PAUL JAMES VANKEVICH
STEPHEN WATERMAN, IV
CAROLINE MARIE WEBBER
FRANK H. WHITE
ANDREW KIRK YORK, II
FREDERICK GILBER YOUNG
CHARLES J. J. YOUNGBLADE

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICER, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE MEDICAL SERVICE CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, MEDICAL SERVICE CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Medical Service Corps, USN, permanent

RICHARD R. ROSANDER

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL SERVICE CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, MEDICAL SERVICE CORPS, LIEUTENANT

To be lieutenant, Medical Service Corps, USN, permanent

JOHN KEVIN BAIRD
JOANN BASLER
BRITT CLARK BAYLES
LINDA MAE BORIS
MARK DENNIS BRYSON
MICHAEL GERARD CAMPHOR
JAMES BENJAMIN I. CANBY
JEFFREY LYNN CLARK
ANTONIO ALVAREZ COOPER
ROMAN DAVID COTA
MICHAEL J. DEJAEGER
MARY LOUISE DELVECCHIO
ELAINE CLAIR EHRESMANN
MICHAEL BLAIR FOGARTY
CONSOLACION FONTANOZA
SCOTT EUGENE FOSTER
GEORGE FREDERICK GABB
ERIC JOSEPH GETKA
RICHARD JOSEPH HACKMAN
GREGORY ARLEDGE HARRIS
OLAF GREGORY HAUGEN
BRADLEY ERIC HOMMAN
PHILIP HARRISON HUFF
LYN ERIC HURD
WILLIAM B. JENKINS
KARL WAYNE JOHNSON
WILLIAM WENDELL KANOUR
STEPHEN ALEN KENT
CARL WAYNE KNAPP
PETER EFREM KOPACZ
ANDREW DAVID KURTZMAN
STEPHEN NORMAN LANIER
STEVEN LEE LARUE
JUSTIN C. MATUS
KEVIN ROYAL MOTTINGER
TYRONE DANIEL NAQUIN
ROBERT LEROY ODETTE
RICARDO UVERO ORIAS, II
BRUCE EDWARD ORTEL
CLAUDE L. PARNELL
DAVID EUGENE PRICE
DAVID DEAN RICKER
MARY MUIR RIFFLE
TIMM LEROY SHAUB
MARGARET ANN SIMONEAU
KATHRYN M. SPAULDING
TIMOTHY PATRICK STEELE
ANN ARLINE STEVENSON
EDGARDO CORPUS VIAS
THOMAS JOSEPH WHEATON

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE MEDICAL SERVICE CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531: U. S. NAVAL RESERVE, MEDICAL SERVICE CORPS, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Medical Service Corps, USN, permanent

DIANE MARIE BRZEZINSKI
CRAIG LEE BURTON
ANGELA CUDONESHERIDAN
VINCENT DEINNOCENTIIS
KATHY FEHNEL GOLDBERG
SAMUEL PAUL HARRY
RUPERT F. LINDO
PHILIP LEE LIOTTA
WILLIAM GARY MOORE
EDWARD STEPHEN PISKURA
PATRICIA JEAN ROEDIGER
PATRICIA LYNN ROSE
MICHAEL SANCHEZ
LAURA SUZANNE TILLERY

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE NURSE CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, NURSE CORPS, LIEUTENANT

To be lieutenant, Nurse Corps, USN, permanent

PATRICIA EILEEN AIMES
REGINA DENISE BARBOUR
AMY ELIZABETH BODE
HARDIN BROWN
CHERI KAY BUCHANAN
ANN MARIE CARLIN
LORI ANN CARLSON
WANDA D. CASTLEBERRY
MIN SOOK CHUNGPARK
JOHN HENRY CLARK
MICHAEL RONAL ESLINGER
PAUL ROBERT FELHOFER
MARTIN LEON FORDHAM
CAROLE C. FORMANEK
PATRICIA M. GALLAGHER
PAMELA GAYLE GIZA
DEBRA SUE GRAMM
MARTHA JILL HANSEN
STEFFANI HETMAN HANSEN
CATHERINE LOUIS HAWLEY
AMELIA HELENA HOLMES
JOHN FREDERICK HORTON
ANTHONY ELIAS JAIME
CAROL PAGE MARKS
CRUZ MATA
MATTHEW F. MCGAHAN
WILLIAM TRACY MOCK
MARGARET NMN MORTENSON
PAMELA LYNN MURPHY
SHAUNEEN P. MURRAY
GINAMARIE PEARCE
JANICE MARIE PETERSEN
LORI ANN PIERCE
MARY HELEN PRICE
FAYE MARIE PYLES
VALERIE ROBINSON
JACQUELINE LUC SAUCIER
MARGARET JOAN SCHMIDT
ANN MARIE SMITH
LOUISE M. THERRIAULT
PEGGY ANN WALTERS
JOANNE FRANCES WIGLEY
LAURIE LYNN WILLIAMSON
DONA M. R. WILLOUGHEY

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE NURSE CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U. S. NAVAL RESERVE, NURSE CORPS, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Nurse Corps, USN, permanent

THOMAS CLIFFORD ARMEL
LINNEA MARIE AXMAN
GAYLENE IDA BARNUM
RICHARD LEE BLUMLING
TAMARA JANE CROSS
JOHNNY MICHAEL DENHAM
PAMELA RUTH FOTO
THERESA SUSAN GEE
DENISE C. GILBERT
ANNETTE NOE HASSELBECK
KIM H. HESS
RAYMOND JOSEPH HOOD
LEIGH ANN HURD
LINDA ANN IRELAND
JANET RUTH JENISTA
LISA JANE LEIBY
JEANNE YACHING LING
ELIZABETH ANN LOREI
MARK ROY MALEBRANCHE
ANNMARIE MCCAULEY
DEBORAH CLAY MULVEY
ANNA MARIA OSHEA
DOROTHY GERTRUD PACKER
JAMES ROBERT PIERCE
JOHN ALOYSIU ROTHACKER
LEON LLOYD SANDERS
THOMAS AUSTIN SHELTON
DONNA LYNN TAYLOR
SABRINA THORNTONWYCHE
ROBERT CHARLES VOGLER
BARBARA ANNE WEBERT
TERESA DIANE WILDER

THE FOLLOWING NAMED LIMITED DUTY OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT AS REGULAR OFFICERS IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICERS, LINE, LIEUTENANT

To be lieutenant, line, USN, permanent

JAMES WARREN BLOW
MICHAEL ALLYN GRAY
SCOTT RUSSELL HENDREN
MARTIN MICHAEL MELTON
CHARLES JOHN RILEY, JR
DAVID DONALD YACKEL

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICER, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(E):

LIMITED DUTY OFFICER, LINE, LIEUTENANT

To be lieutenant line, USN, permanent

GORDON KENIMER CONE

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(E):

LIMITED DUTY OFFICER, LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), line, USN, permanent

THOMAS OWEN COOLEY
EDWARD JOHN HOLTMAN
MARK RICHARD JUDY
GARY LEE MATTHEWS
KELLY GEORGE MCGLAUFLIN
ERIC CHARLES MILLER
KEVIN SCOTT MOORE
MARK WILLIAM PIVERAL
STEPHEN BLUE PRESTON
STEPHEN DEAN STEWART
JOHN MICHAEL WEIDNER

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICER, TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(E):

LIMITED DUTY OFFICER, LINE, ENSIGN

To be ensign, line, USN, permanent

ROBERT DAVID LEE

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be lieutenant commander

CHRISTOPHER R. ACCETTA
CHARLES FRANCIS ADAMS
DAVID PAUL ADKISON
EUGENE HALE ALEXANDER
ELLIS ALLEN
THOMAS A. ALLINGHAM
PAUL BERRY ANDELIN
DERYK L. ANDERSON
BENJAMIN CHARL ANDREWS
DAVID CRAIG ARMSTRONG
STUART ALLAN ARONSON
JAMES DAVID ARTUSO
DENNIS W. AUST
JAMES WILBER BACKSTROM
STEVEN LEROY BAILEY
STEVE T. BALDWIN
JOHN DAVID BALUCH
RICHARD A. BANKS
WILLIAM BRUCE BARHAM
KYLE SCOTT BATEMAN
STEPHEN E. BAUM
MICHAEL NEAL BAXLEY
RICHARD ALAN BEANE
DAVID JUDSON BEARDSLEY
MARK A. BEATTIE
ANITA JOYCE BELL
MARTY C. BELL
ALVIN J. BERLOT
RICHARD A. BESSETTE
DAVID ALAN BIANCHI
CARY EUGENE BICKEL
JAMES L. BLAIR
MARC H. BLASSER
MARGARET LIV BLOM
PAUL FRANCIS BOFFETTI
JEFFERY DOUG BONDESSON
DANIEL GEOFFREY BOSSO
MICHAEL RAMIREZ BOWEN
DOUGLAS JOHN BOWER
JOHN KEVIN BOWER
KENNETH G. BRADSHAW
ELIZABETH W. BRADY
OSCAR SVEN BRANN
STEVE JOHNS BRASINGTON
THOMAS KEVIN BREDEMAN
WAYNE ALAN BREER
DONALD JOSEPH BRIDEAU
JAMES CYRIL BROWN, JR
JAMES DAVID BRUCKNER
THOMAS BUCKLEY
BRIAN WILLIAM BULLOCK
DAVID MARSHALL BURCH
WILLIAM T. BUSCH
PATRICIA L. BUSS
EDWARD BRUCE BYNUM
LYDIA CANAVAN
SANFORD A. CARIMI
KIMBERLY CARLTON
ROBERT E. CARROL
DANIEL JOHN CARUCCI
VICTORIA ANNE CASSANO
JONATHAN EVAN CAYLE
JOHN A. CHARLES
DAVID ROBERT CHARNOCK
RICHARD MER CHESBROUGH
PAUL D. CHIDESTER
ARNOLD RAY CHRISTOPHER
JOHN FREDERICK COCO
CHRISTOPHER JAMES COLD
FREDERICK J. COLE
JOHN JEFFREY COLLINS
JEANETTE LEE COLSON
KELLY ROBERT CONATY
DOUGLAS ROBERT CONTE
ALBERT ANTHONY COOK
DAVID HARRY COOK
PETER DANIEL COSPITO
SAMUEL CLAYT COVINGTON
TIMOTHY JOHN CRAIG
IRVIN JEFFREY CRAMP
JAMES MONTGOMERY CRANE
TERRY LEE CROASDALE
RANDALL CULPEPPER
JERRI CURTIS
JAMES MICHAEL DAMATO
JOHN CHRISTOPHE DANIEL
KAREN CARMILLE DANTIN
PAUL DATO
CHARLES DAURIA
GEORGE DAVIS
WILLIAM GORDON DAVIS
ERIC ALLAN DEFREITAS
KEVIN DELAHANTY
DAVID MICHA DELVECCHIO
CLAYTON L. DENTON
YURI ANTH DEYCHAKIWSKY
ROBERT T. B. DO
RICHARD L. DOBBEN
KENNETH GREGORY DOBSON
JAMES MICHAEL DORCHAK
JOHN DAVID DORCHAK
FREDERICK HUDSON DORE
THOMAS AMBROSE DOWGIN
JOSEPH GERARD DOYLE
WILLIAM A. DOYLE
DAVID MICHAEL DRESNER
ELIZABETH DUBOVSKY
THOMAS A. DUC, JR
JAY DUDLEY
MICHAEL J. DUFFY
WILLIAM J. DURKAN
ROSS A. DYKSTRA
DANIEL P. EARDLEY
KIRK TORGLE ECKLUND
KENNETH JOHN EDWARDS
RICHARD WAYNE EMERINE
CLINTON FORREST FAISON
JEFFREY L. FARMIN
RICHARD C. FEESE
SARAH GALE FELLOWES
ROBERT J. FISCHER
WESTBY GUINARD FISHER
JOHN ATTKIS FLICKINGER
RANDALL CALVIN FLOYD
RILEY D. FOREMAN
BRIAN GLENN FORRESTER
CAROL A. FORSSELL
MILTON JACK FOUST, JR
MICHAEL J. FRAC
GREGORY FRAILEY
DEBORAH ANNE FRASSICA
MICHAEL A. FUEYO
DONALD GALLIGAN
STEPHAN OSCAR GERLACH
RUSSELL CHARLE GILBERT
RICHARD GILLERMAN
JOHN DAVID GOBER
ANTHONY GOETTING
NORMAN GOLDBACH
JEFFREY GOLDSTEIN
JOHN GORMAN
THOMAS A. GRIEGER
LANE BROOKS GRIGGS
ELLEN GROSSPATTON
THOMAS ALBERT GRUGLE
BARTON CHARLES GUMPERT
JILL ELIZABE GUSTAFSON
RICHARD KEITH HACKER
STEVEN JEFFREY HAGER
GREGORY A. HAINES
SALLY DIXON HALEY
ROBERT DWAIN HALL
WILLIAM JOHN HALL
GLENN HAMBURG
DOUGLAS KAY HANKS
BEVERLY HARRELLBRUDER
JOHN CHARLE HARRINGTON
WILLIAM HASELOW
EDWARD H. HAUSLADEN
ROBERT MARSHALL HAY
WILLIAM BERNARD HEBDA
STEPHEN E. HEIM
GARY DAVID HELMBRECHT
STANLEY CLIFFOR HENJUM
RICHARD HERNANDEZ
RANDALL DEE HIGHTOWER
RANDALL J. HILL
LESLIE HOCKING
KAREN JANE HOFFMEISTER
ROBERT JON HOLME
MICHAEL L. HOLMES
MICHAEL RAY HOLTEL
TODD A. HOOVER
WHITNEY H. HOWARD
ROBERT S. HUFFARD
KEVIN SAMUEL HUGHES
CHRISTOPHER S. HULBURD
WILLIAM CHARLES HYDE
BARRY K. JARNAGIN
PIERRE JEAN A. JEAN
EDWARD JOSEPH JELONEK
IGOR A. JERCINOVICH
DEBRA ANN JONES
FREDERICK L. JONES
NATHAN H. JORGENSEN
DIANE L. KALLGREN
PATRICIA HOWE KASPER
RICHARD MICHAE KEATING
MICHAEL A. KEEFE
LAURENCE ROBERT KELLEY
JON PEMBROKE KELLY
LESLIE JEAN KERSCH
THOMAS JOHN KERSCH
EDWIN PAUL KEZAR
ELIAS EDWARD KHALFAYAN
RICHARD C. KIRKPATRICK
KAYNE KISHIYAMA
DIANNE KNIGHT
ANDREW MARK KNOLL
S. KOBYLINSKIBRAUNSTEIN
JEROME THOMA KOCHINSKY
MARK ALAN KONTOS
KATHERINE INEZ KRAUSE
DAVID H. KRUGER
RODNEY LAHREN
DEBORAH SUZANN LAMBERT
KATHERINE LEONARD
ROSS STEWART LEVINE
SCOTT FORREST LIMPERT
DAVID GLENN LITAKER
RONALD LOCKE
DIANE CHRISTINE LUNDY
JON LUTZ
ROBERT P. LYNCH
JOHN MACLEARN J. MACKAY
JAMES OLIVER MAHER, III
RICHARD MICHAE MAJESTE
SUE A. MANDELL
STEPHEN ERNEST MANDIA
JOHN MARTY
TIMOTHY C. MAY
WAYNE ZIMMER MCBRIDE
CHARLES MILTON MCCURDY
TIMOTHY DENNIS MCGUIRK
THOMAS JOSEPH MCLARNEY
JAMIN T. MCMAHON
DEANNA SIMMONS MCNEIL
WILLIAM GARTH MCNETT
BRIAN HUGH MCPHILLIPS
JOHN A. MCQUESTON
ROGER JOHN MCSHARRY, JR
ROBERT JOSEPH MEADE
STEPHEN J. MEISTER
IGNACIO INA MENDIGUREN
PATRICIA MERCER
PAUL GLENN MERCHANT
JOHN FRANCIS MONROE
THOMAS ALEXANDER MOORE
STEPHEN ERIC MORROW
NATHAN HALE MULL, IV
KEVIN P. MULVEY
JACK W. MURBACH
GERALD STEPHEN MURPHY
JUDITH R. NAGY
MARIE DIANE NASSIFF
WILLIAM FREDERI NELSON
JOHN D. NISBET
CHARLES R. NIXON, III
JAMES FRANCIS NOLAN
KARL RAY NOLL
MICHAEL S. OCONNOR
STEPHEN MICHAE OCONNOR
JOHN CHRISTOPHE OSGOOD
CINDY L. OWEN
BRIAN J. PACIOUS
JUDITH BRAXMEIER PAGE
THOMAS A. PALUCH
THOMAS JUSTUS PATTEE
RALPH CHARLES PENE, JR
STEPHEN FRANCIS PENNY
DAVID E. PERKINS
RICHARD STEPHEN PERREN
EDMUND JOSEPH PEZALLA
JOHN K. PFAFF
KATHLEEN ME PIACQUADIO
MARK PICKETT
CHARLES VICTOR POLLACK
ROBERT E. POLLARD
PAUL JEFFREY PONTIER
EDWARD JOSEPH POSNAK
GREGORY NEIL POSTMA
JAMES CARVILLE POWERS
LAURA A. PRAGER
DONALD C. PUTZIER
STEPHANIE WELL PUTZIER
SUE ANN REYNOLDS
CARL ANTHONY RIDDICK
ROBERT STEVEN RIDDICK
EARNEST C. RILEY

ANDREW NEAL ROBBINS
JAMES LINCOLN ROBERTS
JULIA KAROL ROBERTSON
STEPHEN LAVAL ROBINSON
WILLIAM PIERC ROBINSON
RICHARD EARL ROCHESTER
ALAN ELLIS ROLFE
MICHAEL JOSEPH ROMANO
PETER L. ROSE
DANIEL GEOFFREY ROSS
GLENN ROSS
TIMOTHY S. ROUSH
CARLOS E. RUBIO
BRUCE L. RUSSELL
KENNETH MAURICE SAMPLE
JOSE SAMSON
REED MICHAEL SAUNDERS
DAVID FRANCIS SCACCIA
VANN EDWARD SCHAFFNER
CHRISTOPHER PA SCHMIDT
GEORGE JOSEP SCHMIEDER
GERALD STEPHEN SCHOLL
ALLENE JANE SCOTT
KEVIN GERARD SEAMAN
ANTHONY M. SENTER
CEDRIC HALE SENTER, JR
JOHN P. SERLEMITSOS
TRUEMAN WINFIELD SHARP
JOHN BRIAN SHAW
JENNIFER R. SHERADEN
KENT EUGENE SHOMAKER
ANN MURRAY SIEFERT
DOUGLAS DAVID SLATEN
ROGER H. SMITH
MARK L. SOBCZAK
ERIC WILLIAM SPAK
FRANK SPANO
LUCIA MARIAN SPEARS
CHRISTOPHER C. STAEHELI
JEFFREY SCOTT STEELE
MICHAEL STEELMAN
SCOTT STEELMAN
CHARLES K. STEVENS
RICHARD ALAN STOERMANN
MICHAEL MURPHY STONE
WILLIAM F. SULLIVAN
LISA ANN SWANN
STEVEN E. SWARTZ
FRANCIS M. SWEENEY
CARLA BERNADETTE SWEET
JAMES ALLEN SWENSON
RUDOLPH VALE TACORONTI
NOELLE CATHER THABAULT
ROBERT PAUL THIEL
FRANKLIN THEODORE THOM
ELIZABETH THOMAS
JEFFRY M. TILLERY
RICHARD WILLIAM TOBIN
PAUL V. TOMASIC
PAUL R. TOURIGNY
RUSSELL J. TREVENA
WARING TRIBLE, JR
PETER KEENE TRUE
ELMO GLENN TUCKER
ARCHER KILBOU TULLIDGE
PAULA A. VANDERFORD
BETH VERMONT
ROBERT SETH WALL
DOUGLAS CHARLE WALLACE
ROBERT DOYLE WALLACE
SHARON KAY NUG WALLACE
GLEN LEE WATKINS
DANIEL E. WEAKELY
RAMONA PETRUTIS WEAVER
RUSSELL S. WEBER
JONATHAN WILLIAM WEEKS
ANN C. WEISS
KURT J. WEISSEND
JAMES THOMAS WHITE, JR
KEVIN MICHAEL WHITE
FRANK WHITMER
STANLEY WIERCINSKI
JEFFREY GRAY WILLIAMS
WILLIAM EDWIN WILLIAMS
KAREN L. WINTER
EDWARD J. WOLF
DANIEL EUGENE WOLFE
WILLIAM BOYD WOODWARD
JAMES M. WOODWORTH
JAMES P. WORRELL
SCOTT LEE YAGEL
ANN KAREN YOSHIHASHI

SUPPLY CORPS OFFICERS

To be lieutenant commander

RAYMOND EDWARD BERUBE
KENNETH C. BITTER
RICHARD EDWARD BOIKE
EDWARD BRESLAUER
MICHAEL BENTLEY BRYANT
RODNEY E. BRYANT
STEVEN ANTHONY CASTILLO
GREGORY BRYANT CHITWOOD
CHARLES PEGRAM COLE, JR
DONALD JAMES CURFMAN
GREGORY STEVENS CURTIS
JOHN M. DOSWELL
EARL EUGENE DOVE, JR
JOSEPH JOHN EBLE
MAXINE RICHARD ENGLER
BENNY ARCEO FEGURGUR
DAVID MICHAEL FITZGERALD
LOUIS JACKSON FRYMIRE, JR
CLARK HOLLAND GARVIN
ROBERT EDWARD HALE
JOHN RAYMOND HALEY
ROGER DALE HARGROVE
WALTER WILLIAM HARSCH
MICHAEL JAY HAYDEN
MARK F. HEINRICH
DAVID ALAN HIGGINS
BRIAN LEE HINTON
JON VICTOR HITCHCOCK
PAUL THOMAS JENSEN
PETER NMN KOENIG
RAYMOND KIEL LOFINK
MICHAEL THOMAS MADDEN
WILLIAM WRIGHT MCCARY
LAURIE ANN MCKEE
ALVIN BERNARD MILLER
ROBERT JOHN PALMQUIST
KEVIN LAWRENCE PETERSEN
WILLIAM JACOB PLATT
JAMES TERRY PULLEN
DONALD JOSEPH REITER
ARTHUR DUMLAO RIVERA
JERRY L. ROGERS
FRANK STEVEN RUSSELL
SCOTT EUGENE SAMUELSON
JON ARTHUR SCHAUBER
WILLIAM JOSEPH SCHWORER, III
JOHNNY ROY SIMPSON
DENNIS JAMES SMITH
RORY LEE SOUTHER
PAUL CHARLES STANFIELD
MARK RANDALL STEVENS
THOMAS J. SUMMEROUR, JR
JOHN JOSEPH SWEENEY, JR
MICHAEL LAWRENCE SZYMANSKI
EMMETT TERRELL
PHILIP JOSEPH VALENTI
SUSAN JOLIE WALSH
DAVID JEFFERY WARKENTIEN
JULIE ELIZABETH WEBB
CHRISTOPHER WILLIAM WEBSTER
BRUCE EDWARD WORLEY
JOHN THOMAS YATES, JR

CHAPLAIN CORPS OFFICERS

To be lieutenant commander

REX ALAN AUKER
CATHERINE MAY BEAUMONT
GARY ALAN DALLMANN
MARTHA MARIE EWING
FRANK ELLIS HIGHTOWER
BERTRAM EDWARD MOORE, JR
SAMUEL FLEMING MORGAN
ANGEL PARIS
RICHARD ANTHONY PUSATERI
KERBY EARL RICH
CURTIS DON SCHMIDTLEIN
VIRGIL JAMES TILLMAN

CIVIL ENGINEER CORPS OFFICERS

To be lieutenant commander

KEVIN RONALD BARRE
MARGARET LYNNE BROWN
ROBERT CHARLES CITRANO
RONALD J. CLARK
ARTHUR NORMAN COLE
MYRON W. DAVIS, III
THOMAS M. DESTAFNEY
WILLIAM SCOTT DUFFY
LARRY WARREN ELKINS
ALVIN EUGENE GRIMMIG, JR
THOMAS S. HOLLINBERGER
LARRY J. MACIAS
KENNETH G. MONCAYO
SAMUEL JOSE PENA
STUART E. PERRITT
WILLIAM FRANCIS SMITH, JR
FREDERICK GEORGE TRUMMER
MARK E. WHITSON
DENNIS WAYNE WILBORN

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be lieutenant commander

JOHN STEPHEN ALLEN
JAMES RICHARD ALSUP
WILLIAM CRAIG ASELTINE
RICHARD WARREN BAGLEY
JAMES NORMAN BOND
ROGER REX CLAUSSEN
ROBERT JOSEPH EATINGER
JOHN VINCENT GARAFFA
SUSAN KATHRYN HOLBAUGH
TERESA MARIE INGOGLIA
TIMOTHY JOHN NAGLE
SHELLEY WINFIEL SPRATT
RICHARD GARRETT VINET
KEITH EDWAR VOGELHUBER
DAVID STEWART YANDLE

DENTAL CORPS OFFICERS

To be lieutenant commander

CHARLES ROBER ANDEREGG
HOWARD HUGH J. ANDERSON
RICHARD DOUGLAS ARCHER
MICHAEL ARTHUR ARROW
JOYCE LYNN AWRAMIK
WILLIAM HERBERT AYERS
ROBERT JOHN BAEMMERT
DAVID ALLEN BANACH
THOMAS MICHAE BARANSKY
LANCE SCOTT BAUMGARTEN
GREGORY STEVEN BENSON
CURTIS RHOADS BERGEY
GEORGE JOINER BINGHAM
JAMES MICHAEL BOYLE, II
TIMOTHY JOHN BRADY
PAUL THOMAS BROERE
TERRILL LYNN BROWN
JOHN STEPHEN BUCK
TIMOTHY JAMES BUTSON
ALVIN DALE CHAPMAN
MICHAEL JOHN CHUTICH
MARTIN THOMAS CLARK
STEVEN REED CLARKE
DAVID ANDREW COHEN
PAUL RAY DAVID
PETER B. DODSON
CHARLES LEE EDWARDS
KIRK FRED ENGEL
MITCHELL DUAN ESQUIBEL
JOHN FIDLER
ROBERT POWELL FIELDS
ROBERT KURT FRISK
FRANCISCO FUENTES
GODFREY JOEL FUNARI
GENE HOWARD GARRETT, JR
RAY COOKE GILLESPIE
RICHARD EARL GOLDEN, JR
KENT STUART GORE
MARTIN LOUIS GOTTSTINE
PAUL MILLER HAMILTON
GARY JAMES HAMMOND
DAVID WAYNE HAMULA
HENRY JOHN HANDLER
WILLIAM BYRON HANN
JAMES KEVIN HARPER
JEFFREY VINCENT HAYS
DAVID LYNN HOBBS
ROGER ANDREW HOUK
TIMOTHY RAY HUBER
HERALD HALL HUGHES, III
KENNETH HUNTER
LYNN CLAIR HYLAND
GLEN MASAO IMAMURA
LYNN THORNTON JETT
JANICE RUTH JOHNSON
MARY ELIZABETH JOHNSON
SCOTT ALLEN JOHNSON
TRACY JOHNSON
KIRK DONALD KALLANDER
KEVIN SCOTT KAMINSKE
EDWARD CLIFFE KASSAB
TODD CANDLER KINCER
PHILIP JOSEPH KING
KENT GORDON KNUDSON
ROBERT WILLIAM LADLEY
TERRANCE CHRISTO LEARY
WILLIAM JOHN LEONARD
LANCE LEWIS LERNER
MICHAEL E. LEVINE
MICHAEL TODD LEWIS
MARK LYNN LITTLESTAR
PAUL MARK LOEFFLER
DAVID PAUL LUDINGTON
WILLIAM DONALD J. LUPER
JAMES HOWARD MANN, JR
JOHN WILLIAM MASTERS
JAMES SCOTT MATTHEWS
CRAIG LEWIS MEADOWS
JON MOLES
ALICE POLEY MORAN
GREGORY MORANDO
ROBERT FILMOR MORRISON
MARY ALICE MUELLER
SCOTT STEVEN NAGATANI
EDWARD JOSE NIEBERLEIN
TERRENCE DILLON OHARE
MARK PHILLIP ORTH
GREGORY EDWARD OXFORD
DAVID K. OYSTER
SCOTT RICHARD PECK
ANDREW DEAN PETERS
LEO PRUSINSKI
JAMES CARLTON J. RAGAIN
BRUCE ALAN RANNIN
GARY DEAN REINHARDT
JEFFERY LYN RICKABAUGH
MARY LEE RITZ
DONALD DELROY ROUTIER
JOSEPH EDWARD RUSZ, JR
JIMMY M. SAIKU
DAVID ROBERT SCANLON
PAUL EUGENE SCHMIDT, JR
ROBERT WILLIAM SCHUTT
VERNON SELLERS
THOMAS GABRIEL SHAW
ROBERT GERARD SHERMAN
CHERYL ANN STEWART
ORSURE WRAY STOKES
ROBERT TAFT
MELANIE ANN TARY
DAVID IAN THOMPSON
MICHAEL DALE TURCK
EDGAR WOOLDRIDG TURNER
JOHN M. VININGS
JAMES JOSEPH WARE
STEPHEN WATERMAN, IV
JOHN HARVEY WATTS
FRANK H. WHITE
CARL KENNETH J. WIGGERS
LARRY NOLAN J. WILLIAMS
STEVEN MARK WOLFF
ROBERT LEE WREN
WILLIAM FRANK WRIGHT
ANDREW KIRK YORK, II
FREDERICK GILBER YOUNG
CHARLES JOH YOUNGBLADE

MEDICAL SERVICE CORPS OFFICERS

To be lieutenant commander

DAVID SCOTT ADKINS
DENNIS M. ALDER
SAMUEL PATRICK ALFORD
JOSEPH CHRIST ANDORFER
ANGELE WERTHMUL BARROW
DAVID PROYER BATES, III
BRAD LEE BENNETT
MARJORIE ANN BIANCO
RICHARD R. BOONE
AGNES ROGERS BOULDIN
ELIZABETH ROS BURKHART
DEBORAH LANZ CAMPONOVO
RODRIGO SANTOS CATABAY
RICHARD MARK COCRANE
ROBERT EDWARD CONNORS
RAYMOND GRE CRAIGMILES
FRANK LINWOOD CRYMES
TRACEY MILLER DEBOW
RONALD WALTER DHERON
BEVERLY PAIGE DOBSON
MICHAEL THOMAS DONLIN
DANNY J. FAHLER
ARTHUR WILLIAM FOX
LARRY MATTHEWS FULCHER
ERIC JOSEPH GETKA
LEO IGNAZI GIAMBARRESI
DAVID PAUL GLEISNER
MICHAEL ARTH GREENAUER
GREGORY EUGENE HALL
MONTE LEE HARRIS
THOMAS HASSELBACHER
ROGER NELSON HIRSH
JAMES STEWART HOGERSON
KENNETH LAVERN HUTTON
MICHAEL EDWARD JONES
MARK STEPHEN LOCKHART
RICHARD ERICK LUNDGREN
KATHRYN WESTFALL MARKO
CYNTHIA F. MARTIN
PAUL GARRETT MATHEWSON
ROBERT ALLAN MATTHEWS
MARK WILLIA MATTINGLEY
ALBERT HYLAND J. MERCER
ARTHUR RICHARD MILLER
CHARLES EDWARD MILLER
STEVEN WARREN MOLL
MICHAEL R. MORAN
JAMES TERKEURST NEED
ALAN LEE NELSON
LARRY N. NEWTON
DANN WILLIAM NIELSEN
KATHERINE RENE NOELLER
ROBERT LEROY ODETTE
MICHAEL ALLEN PASKE
ROBERTO QUINONES, JR
DENNIS LYNN REEVES
JOHN MICHAEL REGTS
ROY DON SANDERSON
ROBERT ANTHONY SELLIN
JOYCE ANN SHERROD
MICHAEL JACOBY SMITH
RANDALL JAY SMITH
CRAIG S. STAAB
IVORY WYZEL TAYLOR
MARK ANDREW WALKER
JOHN GAINES WALLACE, JR
STEPHEN CRAIG WHITE
MICHAEL P. WOOD
THOMAS LEE YORK
WALTER MARTIN YOUNG, JR

NURSE CORPS OFFICERS

To be lieutenant commander

MARK MICHAEL ABRAMS
WILLIAM EDWARD ALLEN
CAROL ANN BARNETT
KATHRYN M. BEASLEY
STEPHEN MICHAEL BOHUSZ
SALLY ANN BULLA
DENNIS J. BUTTERWORTH
SUSAN SUMIKO CARTHEY
MARY ELIZAB CHAIMOWITZ
JAMES LELAND CHRISTIE
RANDEEN LOY CORDIER
CATHERINE LOUIS COSTIN
THERESA A. DANSCUKSLOAN
JOHN MARC DELISLE
SHERRY KEE DOTSON
JAN HAPPELL DOUGLAS
RONALD LAWRENC ERICSON
MICHAEL RONAL ESLINGER
JUDITH A. FIDELLOW
JOHN HUDSON FILLMORE
ROBERT STEVE FLOWERDAY
JAMES ROBERT FRALEY
KEVIN JOSEPH GALLAGHER
PATRICIA JEANNE GOODIN
GREGORY LOR GROENEVELD
SUSAN BLYTHE HERROLD
DURINDA JEANETT HIBSON
MARGARET ANNA HOLDER
DIANA MAE HOLMES
CATHY ANN HOSTINSKY
RICHARD JAMES HREZO
MORRIS GEORGE ISETT
PAUL KIRK JOHNSON, JR
CAROLYN ANN KELMECKIS
ELLEN KAY KNELLER
JAMES EDWARD KOHL
DENISE REILLY LAUER
DENISE SAMEL LICATA
GENE ALAN LINCOLN
BARBARA BAKER LONG
CAROL WALSH LUND
KAREN MAHER
MICHAEL OLIVER MAHLER
ROBERT JAMES MARINE
KENNETH COLEMAN MAY
HEATHER LEE MCMURRAN
JEANNETTE COLLEE MOORE
KAREN LYNNE PAGE
KATHY ANN PARE
DEBORAH WILLIAM PAULIN
FRANK PEIFFER
SANDRA WORTHIN PEPPARD

WAYNE G. PHELPS
JOHN EDWAR PIWOWARCZYK
PATRICK JOSEPH QUIMBY
IRENE ANN RATTIE
CHERYL LEE RHODES
ROBERT ALAN ROSS
SUSAN BLAISD RUFFRIDGE
MARK WARREN SAMSON
GRACEANN E. SCHARTNER
MICHAEL STUART SEATOR
SHARON R. SEBBIO
JAMES LANCE SHEALY
TERESA ANN SILEVEN
NANCY JO SILKI
CHRIS CHARLES SIMMON
STEPHEN SIEGFR STEWART
AMY LEE SUGGS
JACQUELYN M. SULLIVAN
CHERYL BECKER THOMAS
JENNIFER LYNNE TOWN
STEPHEN MICHA ULBRICHT
CHARLES ANDR VACCHIANO
JEFFREY JOSEPH VIAU
RICHARD ALAN VROMAN
JUDITH ANNE WEISER
ELIOT STEVEN WINECOUR
DANNY GENE WRIGHT
BARBARA JEAN ZUELZKE

LIMITED DUTY OFFICERS (STAFF)

To be lieutenant commander

GILBERTO ROSADO
THOMAN NICHOLAS TICHY

HOUSE OF REPRESENTATIVES—*Thursday, July 28, 1988*

The House met at 10 a.m.

The Reverend John T. Porter, Sixth Avenue Baptist Church, Birmingham, AL, offered the following prayer:

Almighty and everlasting God: We come before Thy presence with hearts overflowing with thanksgiving. We are thankful for all Thy loving kindness and tender mercies. Thou has given to us, for an inheritance, a rich land wherein all persons from all walks of life can participate and have input in plotting its course and determining its destiny.

We cherish the privilege of participating in the political process and ask that Thou would remind us of the moral responsibility that is ours to work untiringly to secure for our posterity, a lasting peace, a prosperous economy, and the opportunity for every person to live and know happiness.

Bless we pray, Thy servants, the President of the United States, the Members of the House of Representatives, the Senate, and all who are in authority to govern.

Grant unto them health, wisdom, and courage but most of all, Thy grace, that they will do and say those things that are pleasing in thy sight. And the world will be made better.

Give to us a higher level of consciousness and a new sense of duty.

O God, our God, how excellent is Thy name in all the Earth. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 442) "An act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians."

REV. JOHN THOMAS PORTER

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Mr. Speaker, our guest Chaplain today, Rev. John Thomas Porter, hails from my home district in Birmingham, AL. He is pastor of Sixth Avenue Baptist Church in Birmingham, one of the largest churches in Jefferson County, with a congregation of some 3,400 members. Our local community has been the beneficiary of the good works of Reverend Porter and the members of the Sixth Avenue Baptist Church, both through spiritual enrichment and their community outreach programs.

The growth of Sixth Avenue over the years, both in terms of its congregation and civic efforts, can, in fact, be attributed to the leadership of Reverend Porter. He was installed at Sixth Avenue Baptist Church on December 9, 1962. Another well-known minister, the Reverend Dr. Martin Luther King, Jr., delivered the sermon at that installation. Reverend Porter first met Dr. King while enrolled at Alabama State University in Montgomery, worked with Dr. King's father at the Ebenezer Baptist Church in Atlanta, and was with Dr. King in Birmingham during the 1960's civil rights struggle.

Reverend Porter received a bachelor of science degree from Alabama State University, and went on to receive a master of divinity degree at Morehouse College School of Religion in Atlanta, GA. He has also been awarded honorary doctorate of divinity degrees from Daniel Payne College and Birmingham Baptist Bible College, both in Birmingham.

Reverend Porter's sense of civic responsibility led him to become involved in the local political arena. He was elected to the Alabama State Legislature in 1974, and was appointed by former Alabama Gov. George Wallace to the State Board of Pardons and Paroles in 1977 and again when his first 6-year term expired.

His civic participation includes service on the boards of numerous community organizations, including the advisory board of the University of Alabama at Birmingham, the board of management of the Young Men's Christian Association, the board of directors of the Birmingham Urban League, the board of directors of the Morehouse School of Religion, the Birmingham Ministerial Association, the Advisory Board of Operation New Birmingham, and the board of directors of the Citizen Federal Savings Bank.

Reverend Porter and his wife, Dorothy, have four children, Jon, Mark, Mia, and Robert.

Reverend Porter has extended his ministering beyond the pulpit to the entire Birmingham community, and has tirelessly worked to improve our community and the lives of all who live there.

It is with great pride that I introduce to my colleagues in the House, Rev. John Porter, and welcome him to our Chambers here today as he opens today's session with his words of inspiration.

REMEMBERING AMERICAN POW/MIA'S

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, this weekend the National League of Families, the largest national organization of POW/MIA family members will be holding its 19th annual convention in Washington. I urge my colleagues to use this occasion to increase their attention on the fate of the 2,394 brave American servicemen still missing in Indochina.

Just last week Hanoi offered to undertake concerted efforts to resolve our POW/MIA questions. While the Vietnamese have made commitments of cooperation in the past only to discontinue them, I am cautiously optimistic that real progress can be made. This is the first time that Hanoi has offered, in some specific terms, to jointly resolve POW/MIA cases. All of this progress stems from General Vessey's mission to Hanoi last year. Of course, actions speak louder than words, and we'll have to wait and see what the Vietnamese actually do before making any final judgments. Of course, our intense intelligence and other efforts continue.

As chairman of the House POW/MIA Task Force, "I will not forget."

BUY AMERICA BACK FOR OUR CHILDREN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, foreigners are becoming the new owners of America. A recent study shows that their ownings have tripled since 1980 to $1.5 trillion. They own 20 percent of

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the prime commercial real estate in New York City. They own the Department of Justice Building and also the Watergate Building. They own Bank America and Westin Hotels and Resorts. They own 10 percent of our manufacturing base. They own 12.5 million acres of farm land in America, and in addition more than 25 percent of our commercial and industrial loans are owed to foreign banks.

Foreign investors, by the way, now hold about 20 percent of all U.S. bank assets.

I say it is time to stop taking in their poor and tired and start using that money to buy back America for our kids. They may not have an America to own someday.

WE NEED A NEW COMMITMENT AGAINST ILLEGAL DRUGS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, all of us have just returned from either our district work period or the convention in Atlanta, depending on whichever party we happened to be in. I think we need to come away with a renewed sense of commitment about a very serious problem. That is the problem dealing with illegal drugs in our society.

I held over 46 public meetings in my congressional district in Texas last week and came away from these meetings with the sense, that while some may believe that illegal drug use is a problem in the urban areas and in the Northeast, it is really a problem everywhere.

Let me give you some examples from my district. I spent 2 hours with the sheriff of Hill County. Hill County is a rural county approximately halfway between Dallas/Forth Worth and Austin, TX. They built a new jail 2 years ago. The old jail held 15 people. Their new jail was supposed to last to the year 2010. It is now over capacity. It had 42 individuals in it the day I visited there. Over 80 percent of those individuals were involved in some sort of illegal drug activity.

We could go to Johnson County, a county just south of Fort Worth, TX, again a rural county. The sheriff of Johnson County has busted 67 speed labs in the last 2 years.

We could go to Brazos County where we find that half of the graduating class at the A&M Consolidated High School admits to using some sort of illegal drugs at least once a week, according to one member of that graduating class.

I could go on and on, but the bottom line is that illegal drug use in our society is a real problem, and it is a real problem everywhere. It affects us all. We need to make a commitment, both parties, Republican and Democrat, to do something about it this year in a bipartisan fashion and come up with some tough solutions, some answers to tough questions, so that we can eliminate the scourge of illegal drugs from our society.

□ 1015

DROUGHT ASSISTANCE ACT OF 1988 MAKES GOOD SENSE

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, later on today the House of Representatives takes up the Drought Assistance Act of 1988. Much of agricultural America has been severely damaged by this summer's drought. Many parts of my home State of South Dakota have not seen a drought this serious since the Great Depression.

The Drought Assistance Act of 1988 provides vitally needed help to our farmers and ranchers, and the livestock sector, the grain and dairy sector, and it is a bill vitally needed to maintain our family farm system, the most efficient means of producing food the world has ever seen.

All of this is going to be done within the context of the budget constraints we have. The increased market price for grains has reduced the Government's exposure to deficiency payment liabilities, and we should be able to save about $8 billion projected there, and about $6½ billion of that should be funneled back around for drought assistance in this bill. The Drought Assistance Act of 1988 makes good agricultural policy sense, it makes good budget sense, and it makes good consumer sense.

Mr. Speaker, I would encourage my colleagues to support this bill later on today.

"WHERE WAS MIKE?"—NATIONAL SECURITY POLICY

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, the Democratic Presidential nominee says, "we must be * * * militarily strong." Apparently, Mr. Dukakis and the real world have two different definitions of strength. I'm not the only person concerned about Mike's definition. Former Secretary of Defense James Schlesinger, recently wrote to Mr. Dukakis saying, "many of us who have worked for the Nation's security in Democrat and Republican administrations feel trepidation about your views—and more importantly, your instincts—on crucial defense issues."

Mr. Speaker, these concerns are certainly merited. Mike Dukakis has opposed and opposes virtually every major military weapon system in recent years. He opposes the MX, Midgetman, the B-1 and Stealth bombers, and the strategic defense initiative. Mike also supports a ban on missile test flights. And yet, Dukakis says, "we must always be prepared to defend our freedom." What with—words?

The implementation of these positions would wreak havoc on America's national security. Mike Dukakis congratulates President Reagan on the accomplishment of the INF Treaty. How does Mike Dukakis expect Gorbachev to negotiate further nuclear arms reductions when he's giving up every major weapon system America has? Gorbachev even believes that SDI can work—the Soviets are actively pursuing their own SDI program.

In conclusion, Mr. Speaker, it's obvious to me that when Mr. Dukakis talks about a strong national defense, he has no concept of what that really means!

BE WARY OF BORN-AGAIN CHILDREN'S ADVOCATES

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, Vice President BUSH has obviously seen the polls and realizes he is losing the women's vote by large numbers.

For almost 8 years, GEORGE BUSH has been nowhere on family issues, but suddenly he proposes a child care rebate plan. I must ask: Where was GEORGE in 1981 and 1982 when his administration slashed almost all children's programs by 25 percent including maternal and child health? Where was GEORGE when another GEORGE, the gentleman from California [Mr. MILLER] was fighting against the Reagan budget cuts in Head Start? Where was GEORGE when Congress gave a parent 2 weeks if laid off to plan for feeding his or her family? Where was he on the parental leave bill?

GEORGE BUSH stood silently by as many American families lost ground or stood still, and American families should be wary of born-again children's advocates.

VOTE "NO" ON THE OLIN AMENDMENT

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, I would like to talk about the drought bill and the dairy provisions.

As usual, the confusing facts and projections are flying around, but certain facts are not in dispute. The days of dairy surpluses are gone. For the first time in 30 years there is a shortage of milk protein in the world. Right now we have 1 year of corn in storage, 1 year of wheat, but we have less than 1 day of dairy products, of cheese and nonfat dry milk in noncommitted stores.

Mr. Speaker, what does this mean? It means the TEFAP Program is totally gone. By U.S. facts, the drought has cut the protected, under Gramm-Rudman, School Lunch Program by almost $200 million, because we do not have anything to give them.

Other nutrition programs are cut by another $200 million. In addition, these shortages threaten huge consumer price increases which would reach up to about $8 billion in terms of 1988 money, if we take a look at what happened in the 1970's when similar circumstances occurred.

The dairy provisions of the bill are well within budget, well within the intent of the 1985 farm bill and only provide half of what it should to bring the dairy farmers even as a result of the drought.

We cannot protect a nutrition program against a drought, but we can protect them against the Olin amendment.

Vote "no" on the Olin amendment on the drought bill.

MR. PRESIDENT, PLEASE VETO DEFENSE BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the air in Washington has been charged lately with threats from the White House that President Reagan is going to show the Congress because he does not like the arms control provisions in the Defense bill, and he is going to veto the Defense bill and send it back.

Mr. Speaker, in the spirit of our childhood friend, Brer Rabbit, who used to say, "Please, don't throw us in the brier-patch," let me say, Mr. President, please veto that bill. Since that bill passed the House, there has been the tremendous Pentagon scandal that we have all learned about, and there are many, many things we want to do on procurement reform and going after some of this contractor fraud. We woud love to have that bill back, Mr. President. He will get it back with all sorts of improvements plus the arms control, so, please, Mr. President, do veto that bill. We have some things we want to do to it now.

AIDS VIRUS: REPORTABILITY IN CONFIDENCE TO NECESSARY PUBLIC HEALTH AUTHORITIES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the American people are slowly beginning to appreciate what it means for all of us when we witness the fact that we are dealing with the Nation's first politically protected disease, namely, the virus for AIDS.

I commend the Department of Health and Human Services for recognizing what most of us have recognized for the last 6 years, that the first thing one has to do to control any epidemic is find out who has it. They have finally awakened to that fact.

The way we have normally determined who has a communicable disease in our society is to pursue a routine step that historically has been pursued to control any communicable disease that comes down the pike; it is called reportability, in confidence, to public health authorities, and had we been reporting those with the virus for the last 5 or 6 years, which we should have been but have not been doing so, we would know who has the virus, where they live, what occupations they pursue and the extent of the menace that we are facing in this country.

Since we have not been doing that as a policy in America, because it is the first politically protected disease, we have to go about radical studies that are now talked about in this morning's paper, where in the District of Columbia there are investigators working at a cost of $4.3 million, knocking on doors and saying, "Here is $50, would you like to give us a sample of your blood so we can test it to find out how many cases of the virus of AIDS we have in America?"

Mr. Speaker, I commend them for recognizing the necessity of finding out, but this is preposterous. We should not be pursuing those invasive tactics into people's lives. We should be adopting the principle of reportability.

FBI LIBRARY PROGRAM

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the latest example of the Reagan administration's incursion on civil liberties is the so-called Library Awareness Program. Through this project, the FBI attempts to monitor the activity of suspected foreign agents in U.S. public libraries.

Details of the exact purposes and procedures of the program remain ambiguous. Descriptions of the its goals vary from one FBI spokesperson to the next. And the evidence of its supposed successes is classified.

However, it is very clear that the program potentially threatens fundamental civil liberties. Under the program, FBI officials have asked librarians to show them lists of borrowers and the books they have borrowed. Such a practice not only violates the librarian code of ethics, but represents a violation of State law in 38 States, including New York. Under the program, FBI agents have also encouraged librarians to report on library users with foreign sounding accents, or who appear suspicious.

Mr. Speaker, this program is a gross violation of freedom of thought and the free exchange of ideas, the very freedoms on which our democracy thrives and grows. I urge the Reagan administration to take immediate action to abolish this ridiculous and dangerous program.

IF SOVIETS WANT CAPITAL FROM US, WE SHOULD GET SOMETHING IN RETURN

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, yesterday's Washington Times had an article concerning $270 million in credit offered to the Soviet Union by West Germany. Twice in the last 3 months the Soviets have received large amounts of credit from our West European allies. Twice the Soviets have not been held accountable for their human rights practices. Twice they have dipped their hands in the pool of Western prosperity without any strings attached. If the United States or our allies are to continue this practice a price has to be placed on our generosity.

I recently came back from a trip to the Soviet Union where I met with many dissidents and Soviet officials on issues of human rights. From observation of the Soviet system and conversation with embassy experts, it is clear that the Soviet economy is stagnant. Conservatives as well as liberals in the Communist Party desire economic progress after years of failure and General Secretary Gorbachev is trying to address his country's economic doldrums. It is unclear, however, how perestroika and glasnost will affect United States-Soviet relations in Central America, southern Africa, the Middle East, and Eastern Europe or how these new policies will impact on the Soviet Union's human rights record as it applies to religious rights and Jewish refuseniks.

Untied loans, credits, joint ventures, are prizes which the United States or our allies cannot quickly grant to the Soviet Union.

I realize the difficulties in monitoring the actions of our allies, but the issue of untied loans and credits to the Soviet Union is more than just an economic question. It is also a political question. If glasnost and perestroika brings fundamental changes in the policies of the Soviet Union then it can be rewarded. Until meaningful changes can be documented, however, I concur, with Herbert Stein from the American Enterprise Institute. He states in the Times article, "[If the Soviets] want capital from us we'd like to get something back beside 6 percent interest. What we want * * * is better behavior."

VOTE AGAINST OLIN AMENDMENT

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I ask Members, when the drought-relief bill is brought before us today, to vote against the Olin amendment to eliminate the 50 cents per hundredweight increase for dairy products. That increase will have virtually no effect on consumer prices, but it will have a crucial effect for my dairy farmers, and many other dairy farmers.

The average farmer in my district milks about 50 to 60 cows, and they are not going to get rich doing that. If a farmer has 60 cows and lives in a State like Wisconsin, they have experienced approximately $15,000 in additional costs because of drought damage. This increase in the support price will only recoup about $3,000 of that loss for those same dairy farmers.

My farmers simply do not understand why cheese, for instance, should be eliminated from the emergency feed program, because we no longer have enough dairy products in this country to provide poor people with products such as cheese, and I would say neither do my poor people understand why we should be in that kind of a shortage situation.

Much will be made of the fact that the U.S. Chamber of Commerce today supports the Olin amendment. Let me simply say that I do not know why that should surprise anybody. The last time I can remember the U.S. Chamber of Commerce supporting anything to help the average family farmer in this country, Millard Fillmore was President.

THERE IS PORK IN THE DROUGHT BILL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, in a little bit we are going to be taking up the drought assistance bill. We are going to be told how we need to have this to help the farmers with the drought assistance, and that is true. That is what we ought to be doing in the bill.

Mr. Speaker, guess what, I got down in this bill, and I find section 423 of the bill, section 423, which is very interesting. It turns out it has absolutely nothing to do with drought assistance. What it is doing is building a temperature control curtain as a demonstration project to control the temperature of the water from Shasta Dam in California.

Why do we need to do that? We have to do that because the survival of fish is threatened, because the water is too warm for the survival of fish eggs. Why is that important? According to the report, it is because of sport fishing and fishing-related tourism.

What in the devil does that have to do with assisting farmers on drought? That is pure pork that is being put down in a bill that has a real emergency purpose to it.

I am getting sick and tired of the fact that we cannot do the right things around here, that every time we come up with a real bill to do real things to help real people we have to bury pork down in it as well.

□ 1030

The Shasta Dam project is absolutely disgusting. It has no place in this bill whatsoever.

LEGISLATION TO PREVENT DROUGHT DAMAGE FROM RECURRING

(Mr. ANTHONY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANTHONY. Mr. Speaker, this year, the United States has suffered from drought conditions of record proportions that are adversely affecting our farm sector and all related economic activity. I strongly commend the action being taken by the House and Senate Agriculture Committees as they address the problems associated with the drought and seek to bring equitable relief to our Nation's farmers.

I am today introducing legislation that is not directly tied to the drought of 1988, but looks to the future to help prevent this year's drought damage from recurring. Much of our Nation's farmland, as that in the State of Arkansas, receives abundant amounts of rainfall but not always at the right time. My legislation will provide an incentive for American farmers to construct water storage reservoirs in order to collect and retain water for use on their crops during later dry periods.

Specifically, my legislation would direct the Agricultural Stabilization and Conservation Service to recognize acreage dedicated to the use of water storage as meeting set-aside requirements for ASCS programs. The set-aside requirement's historic objectives have been to provide a tool for commodity supply management and to assure a conserving use of the land being taken out of production. My legislation will allow these historic objectives to continue.

In addition, many other positive benefits will result. My bill will offer the farmer an additional beneficial use of his property and, thereby, increase the value of his farm. Also, a better utilization of stored surface water will lessen the depletion of our fragile groundwater supplies that are threatened with lowering water tables and contamination.

Finally, give this Congress, sensitivity to budgetary expenditures, I am proud to announce that my proposal will not deprive the U.S. Treasury of 1 penny. Rather, it will help provide an insurance policy against future drought conditions. The drought of 1988 has been projected to cost the American taxpayer in Federal relief assistance alone nearly $6 billion.

In short, my legislation will allow a cost-free method to help guard against future disaster. It will simply provide our farmers with the ability and incentive to properly utilize their own resources and initiatives to do what makes sense. I respectfully ask this Chamber to adopt this measure so that this incentive can be in place for the 1989 crop year.

DEFENSE AUTHORIZATION BILL SHOULD BE VETOED

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, last November the Congress and the President came to an agreement on how much to spend for the Nation's defense.

Unfortunately, it now appears that in getting that spending hurdle out of the way early, the way was cleared to completely reorder our national security agenda.

The Defense authorization bill that is on the President's desk definitely is not in the interests of the Nation's security and I strongly urge President Reagan to veto it.

This bill is chock full of unsound arms control provisions and reordered priorities that are a tribute to partisan politics. Particularly damaging is the gutting of the Strategic Defense Initiative—our best hope of ending the threat of nuclear missiles.

Furthermore, this bill will cut the legs from under our negotiators at the very time our strengthened national defenses have brought the Soviets back to the bargaining table for meaningful talks.

We can do better than this.

Pick up your veto pen, Mr. President. Say "no" to a weak America and "yes" to a strong and credible defense.

THE AMERICAN PEOPLE MUST DECIDE—LIBERALISM OR CONSERVATISM

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, there seems to be a debate centering on the "L" and the "C" word, whether anybody will admit this in this Congress or anybody running for President will admit to being a liberal or a conservative. I have been in politics for 20 years. I have never quite understood what a liberal is or a conservative. I see Members on both sides of the aisle that one day tend to vote conservatively and the next day liberal.

But this administration is probably the most conservative in modern times. So I suggest that the American people take a look at some of what has happened and see whether they think that embodies the kind of principles they want in conservatism or liberalism.

If the American people do not like the doubling of the national debt, I suggest they take another look at conservatism and what is embodied in it. If they do not like trading weapons to Mideast terrorists, they ought to take another look at conservatism. If they do not like this country going from the leading creditor nation to the world's leading debtor nation in just two terms, then they ought to take another look at the principles embodied in conservatism. If they do not like this country trying to buy off a two-bit drug running dictator in Panama, then they ought to take another look at the principles embodied in conservatism.

Mr. Speaker, I think it is time for the American people to try to see what these two philosophies, liberal and conservative, really embody in the every day running of the Government.

RIPPING OFF THE ELDERLY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the new Medicare Catastrophic Act is well named. It is, indeed, a catastrophy. Our middle-class older citizens next year are going to be hit with the biggest tax increase in history.

You can call it a premium but it is a tax increase. At first, it will hit hard, increasing the tax liability of those over 65 by 15 percent, up to a maximum of $1,600 for a couple filing jointly. And it gets worse, much worse. By 1993, that same couple will be hit by a tax increase which can add up to $2,100 to their tax liability.

But that still isn't the whole story. After 1993, the tax surcharge will rise 1 percent a year. As currently written, this disaster will cost a person who is 50 today an increase of his tax liability of 38 percent in 2003 when he reaches 65.

Our older people are rightly outraged by this banditry. It is a tax on being old. It turns what used to be the virtues of frugality and prudence on their heads. Any one who was careful, and denied himself to take care of his own needs in his older years is now told that we are going to load the profligacy of Government spending and deficits on his back.

It is an outrage that the health cost of the AIDS victims and the low-income unwed mothers has been placed on the backs of the seniors as we are now finding out.

GEORGE BUSH DOES NOT UNDERSTAND THE AVERAGE AMERICAN

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, we are in July and the Vice President has already proposed four tax loopholes. We need to get out from underneath the towering Reagan-Bush deficit.

We will not get anywhere if we follow voodoo economics or with George Bush's loophole economics, and that is really what we are talking about. How can he give more and more breaks to wealthy in this country?

I just do not think that he is going to be successful running on a slogan of "a rising tide lifts all yachts." I just do not think he is going to be able to say, "It is tea time in America." It is just not the same as the Ronald Reagan message to this country.

I know that he is trying to remind us of some earlier politicians, but I just do not think saying that if he is elected there is going to be a pheasant in every pot is something that those disaffected middle Americans are going to be relating to.

My only hope is that as this campaign goes on and as people get to know the real George Bush better and better, they will understand that when the Secret Service has to reach him quickly they dial the Kennebunkport area code, they do not dial Houston, and that is the only way you can get him quickly.

I think it was most revealing when he said about 2 weeks ago that when he got back into the campaign the Democrats were going to scatter like quail. What is a quail? Is there something else going on in America, some other culture that I am unfamiliar with?

I just think that the more the country gets to know this man, the more they are going to understand that he does not understand the real problems of working-class America.

REQUIRING EPA TO COMMENCE REMEDIAL ACTION UNDER COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation requiring the Environmental Protection Agency to commence remedial action under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The remedial action is to include the prompt acquisition of each private residence in the vicinity of the Paoli, PA, railyard, at which PCB levels were found in excess of 50 parts per million.

Although I commend current efforts to seek private party response action and pursuit of enforcement actions at the site, we can no longer stand idly by while area residents are expected to live in a highly contaminated environment.

My legislation would ensure relocation of residents through the acquisition of their property. Relocation is the best way to protect the health and welfare of citizens whose properties are highly contaminated and may, in the long run, prove the least expensive method of cleanup.

INCREASING FUNDING FOR THE WAR ON DRUGS

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, there are 33 agencies of the U.S. Government that are dealing with the war on drugs in one way or another. They range all the way from investigators in foreign countries to those who interdict drugs coming into the country, to those who arrest the drug abusers and drug dealers, and also to those who deal with the treating of the drug addicts in the country.

Almost all of these agencies need more money. They need more resources.

On Tuesday the Appropriations Committee added $2.6 billion to the supplemental appropriation reported out of the committee, and it is needed for resources as they are needed in these 33 agencies. This is the only way we can effectively cope with this problem.

Although I was the principal author of the amendment, it enjoyed almost unanimous support in the committee.

If we really mean to more aggressively attack the drug problems, we need to pass this supplemental for $2.6 billion. The increased funds could only be used by those agencies that increase their efforts in this regard.

I hope that this bill will pass in the near future.

PROVIDING FOR CONSIDERATION OF H.R. 5015, DISASTER ASSISTANCE ACT OF 1988

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 504 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 504

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture, as modified by the amendments in section 2 of this resolution, now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order specified in the report, may only be offered by the member designated in the report, or his designee, shall be considered as having been read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and a member opposed thereto, shall not be subject to amendment except as specified in the report, and all points of order against said amendments are hereby waived. It shall be in order to consider the amendments en bloc if offered by Representative de la Garza of Texas, and said amendments en bloc shall not be subject to a division of the question of the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified, made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendments to the amendment in the nature of a substitute recommended by the Committee on Agriculture are as follows: (1) in section 412, strike "and the authorities granted in this subtitle"; (2) in section 419(2), strike all that follows "for" through the period and insert "responding to droughts and drought-related problems in the Reclamation States."; (3) in section 420(a), insert "Reclamation" after "any"; (4) in section 420(a)(2), strike "the State" and insert "that State"; and (5) strike section 208.

□ 1045

The SPEAKER pro tempore (Mr. WILLIAMS). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 504 is a modified open rule providing for the consideration of H.R. 5015, the Drought Assistance Act of 1988. The rule waives all points of order against consideration of the bill and provides for 1 hour of general debate, with the time equally divided between the chairman and the ranking minority member of the Committee on Agriculture. The rule makes in order the Agriculture Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendments in section 2 of this resolution, to be considered as original text. The amendments in section 2 of the rule delete a provision of the committee substitute that is within the jurisdiction of the Committee on Appropriations and modifies several provisions dealing with matters within the jurisdiction of the Committee on Interior.

The rule waives all points of order against the substitute, as modified, and provides that the substitute shall be considered as having been read. The rule provides that no amendments to the substitute are in order except for amendments printed in the report of the Committee on Rules accompanying this resolution. These amendments may be considered only in the order listed in the report and may be offered only by the designated Member or his designee, with debate limited to the time specified in the report and divided between the proponent of the amendment and an opponent. These amendments shall be considered as having been read and are not subject to amendment, except as specified in the report. All points of order against consideration of the amendments are waived. The amendments made in order are:

First. Four amendments to be offered by Mr. DE LA GARZA of Texas dealing with the Emergency Forage Program and with food stamps for migrant or seasonal farmworkers, and limiting the fiscal year 1989 outlays by the Commodity Credit Corporation to carry out the provisions of this bill to no more than $6.9 billion. The rule provides that these amendments will be considered en bloc and will not be subject to a demand for a division of the question. They are debatable for 20 minutes;

Second. An amendment to be offered by Mr. OLIN of Virginia or Mr. ROBERTS of Kansas to strike the provision of the substitute calling for a 50-cent increase in the dairy price support. This is debatable for 30 minutes;

Third. A substitute amendment for the Olin-Roberts amendment to be offered by Mr. GUNDERSON of Wisconsin or Mr. PENNY of Minnesota changing the dairy price support increase now included in the substitute. This is debatable for 30 minutes;

Fourth. An amendment to be offered by Mr. SCHUETTE of Michigan dealing with the Federal Crop Insurance Program. This is debatable for 20 minutes;

Fifth. An amendment to be offered by Mr. SCHUMER of New York limiting the benefits from this bill for emergency crop loss assistance for annual crops to those farmers whose gross revenues for 1988 do not exceed $2 million. This is debatable for 20 minutes; and

Sixth. An amendment by Mr. DORGAN of North Dakota authorizing the Secretary of Agriculture to determine a yield for each crop that will be considered as zero yield because the cost of harvesting the crop would be higher than the value of the crop. This is debatable for 20 minutes.

Finally, Mr. Speaker, this rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, I am not going to take up a lot of time explaining how important this legislation is. Any of us who come from agricultural districts just have to look around when we visit home to see the damage that this drought has caused. South Carolina has not been as hard hit as some other areas of the country, but I was just briefed yesterday by the General Accounting Office on the problem of low-water levels on the Savannah River lakes and they told me that the water flow into those lakes is the lowest since 1925, so you can imagine that there has not been enough rain for the crops. I know there are some who will argue that we should not rush to help our farmers everytime they do not have a bumper crop, but this drought is a natural disaster of major proportions.

Whenever any segment of our population faces such a disaster, natural or otherwise, our policy has been to reach out with a helping hand. When New York City was on the brink of bankruptcy, we bailed them out. When Chrysler was about to go under we loaned them money. Whenever a hurricane or tornado devastates a city, we are there to help. Our farmers have a right to expect that we will reach out to help them in the face of this disaster. While we cannot legislate rain, which would be the best help the farmers could get, we can make sure that struggling farmers have the financial wherewithal to survive until the rains do come.

I want to commend the Agriculture Committee for moving expeditiously on this bill and I urge everyone to support this rule and the bill so that our farmers will be reassured that help is on the way.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] has ably explained the provisions of the rule. We are here today to ease the crisis of the American farmers, not only on the crop field, but in the dairy industry as well.

The Committee on Agriculture has hammered out a fine bill and it should be supported. In the Committee on Rules, I fought against adding any amendments to the bill because it was expertly crafted by knowledgeable people taking into consideration all of the problems the farmers have in the different areas of this Nation.

Realizing that, I thought it would be most helpful for the House to consider the original version without amendments.

Now that these amendments have been made in order, I think that we should stick to our original committee action and defeat these amendments, if at all possible.

Our dairy farmers are having a tough time, as are the corn farmers, the wheat growers and you name it across the spectrum of this land of ours. The high cost of feed for dairy stock may put some dairymen out of business.

If they have to go out of business, they cannot instantaneously go back into business because it takes a few years to breed a calf and raise it to a producing milk cow.

So if our dairy farmers go out of business, the consumers are the ones who are going to be hurt. And I think truly the Agriculture Committee bill is framed for the benefit of the consumer, contrary to what you might hear on the floor today.

Mr. Speaker, having been born on a farm I know the problems that the farmers have, the tobacco growers, the cotton growers, you name it, all the way down the line. If their crops fail, that is their livelihood. And this drought relief bill provides immediate help to a degree for those farmers who have suffered a great loss.

It is important we pass this bill without too much debate.

Mr. Speaker, I urge the adoption of the rule keeping in mind what I said about the impending amendments.

Mr. Speaker, I yield 6 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Speaker, our time is very limited when we get to the critical issues on this bill, especially with respect to the dairy. The ranking Republican on the Committee on Rules has outlined some of the problems for the dairy farmers. I would like to go into some more detail on the information that Members ought to have before they make up their judgments on how to vote on the Olin amendment.

I obviously oppose the Olin amendment. Let us first take a look at what the dairy provision is in this bill. I first point out that the core bill, so-called, without the amendments added on, the so-called Jeffords amendment, would in effect do nothing, because projections are that there will be no production sufficient to trigger an additional cut next year. Thus, the fact that we do not have any assistance to the dairy farmers in this bill except a few in the drought areas—and they are very limited assistance—unless you keep in this amendment.

Second, it is totally consistent with the budget. The drought has caused savings because of the reduced production below estimates, thus this dairy provision is well within and only spends maybe half of what the savings will be because of the drought as far as budget provisions go.

Third, it is totally consistent with the 1985 farm bill. You have to understand the dairy program, the Dairy Price Support Program.

The price support in that 1985 farm bill was based upon lowering grain prices. They were to come down, the feed prices, each year. The dairy price was supposed to follow it down, one, because the feed prices were coming down, but more because it would drive some more out of production and therefore the amount of dairy production would stay down if it was going to get too high.

However, now we do not have stable grain prices. We have had rapidly increasing grain prices depending on the area of the country, anywhere from 30 to 50 percent.

For every 15-percent increase in feed prices it equals about a 50-cent price cut. Thus, again depending on what area you have, you had first the 50-cent cut on January 1 and then now because of the increasing prices you had either $1 or $1.50 in addition to that.

Thus, the bill is not even going to bring the dairy farmers halfway back to where the intent of the 1985 farm bill was. We also must remember that right now, which I will go into next, we do not have any stores on hand at this particular time.

The cost of the bill is only, over 2 years, $150 million. That is only 3 percent of the bill's cost. Yet the dramatic impact which will occur both to consumers and to our nutrition programs if we do not keep it in the bill are very, very dramatic.

Let us talk first about the impact that we have with respect to nutrition programs.

For the first time in 30 years, we have no milk protein available on the world markets. I repeat no milk protein available on the world markets.

That is a dramatic change because of the programs that we have in this country and the programs now in effect in the EEC.

What is the situation with respect to the dairy? Well, right now we have about a year's supply of corn in the bins, we have about a year's supply of wheat in the bins. What do we have for dairy? Less than 1 day's supply of noncommittted resources in the dairy, that is cheese and nonfat dry milk.

What does that mean? What does it mean to nutrition programs? Well, this is right now, this is not next year, this is not based upon projections, this is the facts right now: No more TEFAP programs, gone. The distributions to the poor, to the homeless, no more, gone; there is not anything to give them.

What is the impact on the School Lunch Program? The School Lunch Program is going to suffer. That protected program, that program which is protected under Gramm-Rudman has already received a $200 million cut and that is not going to be made up out of Federal resources, that is going to come out of the kiddies' pockets. That is where it has got to be made up, in higher School Lunch Program costs. That is what we have right now.

In addition to that, the other nutrition programs, the elderly nutrition programs, the child programs, another $200 million. It is not going to be made up anywhere else in the budget.

That is what we are suffering right now if we do not do anything. We cannot do anything about that, gone. What we are trying to do with the Olin amendment is to say, "Hey, we could not prevent the drought. No, that is too bad. We have suffered these cuts." But Olin would have you do it again next year. He would have you say, "Hey, take another $200 million, forget about it," you know. Well, we say a vote against Olin will help protect the School Lunch Program and the other nutrition programs. In addition to that, if we do, and I am not even saying it will cost anything—I think the projections are wrong and that we are going to have shortages and that our bill will not cost anything because then the price will stay above, the market price will stay above.

Let us assume we spend $150 million.

□ 1100

Where is that $150 million in product going to go? It is going to go to the poor.

Second—and I will go into more detail on this when we get into general debate—the potential impact upon the consumer is incredible. When we had similar circumstances, nowhere near as dramatic as this, in the 1970's, we had escalated grain prices because of grain shortages, and we had a 20- to 40-percent increase in retail prices. If we take the present-day situation and we take the present dollars, that is an $8 billion increase in consumer prices due us in the next year if we are right and if the Olin amendment passes.

I am not even sure we can guarantee that we will not have shortages even if the Olin amendment is defeated, but let me tell the Members this: I would be willing to spend $150 million to save my consumers $8 billion, to save the School Lunch Program $200 million, and to save the child and adult programs $200 million.

So, Mr. Speaker, I ask the Members to vote "no" on the Olin amendment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this rule. I think that we need to pass this bill. The bill needs to be amended. The rule makes in order the Olin-Roberts amendment, which basically strikes out another attempt to raise the Dairy Price Support Program and increase the amount the Federal Government pays for milk, contrary to the 1985 farm bill and totally unrelated to the drought situation.

This provision, which was introduced by the gentleman from Vermont [Mr. JEFFORDS] at the end of our debate in committee, passed the committee only by a narrow vote of 15 to 12. I am very pleased that the rule allows this amendment to come up so we can reconsider this item.

That particular price increase does not belong in a drought bill. It has nothing to do with the drought whatsoever. We will cover that in some detail later.

The amendment would take us back to the basic bill that we started out with. It was a bill that was agreed to by the House, the Senate, Republicans, Democrats, the U.S. Department of Agriculture, the President, and we will get the support of all those groups if we get back to the basic bill. It provides for freezing the dairy price control at the level it is right now on through 1989. That will provide for the dairy industry 50 cents a hundredweight more than the 1985 farm bill, and that is a moderate approach and probably adequate for the situation.

In the drought bill there is support and help for dairy farmers with regard to loss of forage and feed. They are getting the same help available to every livestock producer and every farmer. I am not saying that is adequate, but it is the same. Dairy farmers are not being shorted, nor should they be.

We are going to hear during this debate all kinds of talk about the crisis in the dairy business, how we are going to run out of milk and how consumer prices are going to go through the ceiling. We will hear that there is a huge slaughter of dairy animals going on at the present time, that a catastrophic thing is occurring, that dairymen are going out of business and sending their cows to slaughter. We will also hear, as we did hear just recently—I do not know where in the world this data came from—that we have no stocks of dairy products. We will hear that we have not gotten enough for the School Lunch Program. We will hear that without a price increase, dairymen are going to go out of business by the droves. Well, we all remember Paul Harvey. Paul Harvey said: "And now for the rest of the story." Well, Mr. Speaker, the rest of the story is that these cries of crisis are phony. They are fabricated. I do not impugn the motives of anybody who has some basis for saying them, but I do not believe them.

Mr. Speaker, we will talk about this a little more later, but let me talk just briefly about these three principal claims of crisis. On the question of slaughter, we have the figures from the U.S. Department of Agriculture of annual slaughter of dairy cows since the beginning of the year, compared to all the prior years, going back at least to 1985 when there was no special program. The slaughter this year is lower than it was in any of these previous years. There is no sign of an increase in the slaughter rate. So we can forget that one.

On the subject of dairy stocks of surplus commodities, the gentleman has talked about being down to 1 day's supply, and I do not know where he got his data. I have a report from the Department of Agriculture which shows their inventory on hand as of July 1, 1988. We have butter, cheese, and nonfat dry milk for a total of 5.8 billion pounds of equivalent milk. The mix is a little bit in favor of butter, but there is cheese on hand. There are adequate amounts set aside for the School Lunch Program later this year, and any claim that we have no stocks is crazy. We have bought 7.8 billion pounds of milk this year from the manufacturers in the form of butter, cheese, and nonfat dry milk. We have still got 5.8 billion pounds left. I do not know where in the world the gentleman from Vermont gets his numbers, but they certainly do not agree with what is on hand.

This question of a giant exodus from the business is one that is without basis.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. OLIN. I will yield when I have finished here, if the gentleman will hold on.

The market is starting to work. Prices are going up. The economists expect that dairy prices in the market will increase by about $1 a pound in the fourth quarter, going into the first quarter of next year. There is no crisis.

Mr. Speaker, I urge the Members to listen to the debate and not be taken in by some of the things they hear. I ask the Members to support the Olin-Roberts amendment, and then let us go on to support the whole drought bill.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I have just been sort of semi-accused of giving out a few phony figures here. I would just like to point out that they came from the U.S. Department of Agriculture, and if we do not believe those figures, we are disagreeing with the USDA. That is from the July 18 letter from Mr. Bode at the USDA. These are the figures on the child nutrition program, and the other facts came from the USDA reports with respect to the slaughter of cows.

I would just point out that in May of this year they slaughtered 39,000. That is almost half of what was slaughtered in the previous 11 months. We are about 85,000 ahead, down from where we were 1 year ago. And in June and July the slaughter rates are even up higher than they were under the whole herd buyout. Those are USDA figures. They indicate a serious shortage is possible if we do not support this bill and oppose OLIN.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, this dairy issue is going to be very contentious, and we will get to that. I want to talk about the rule and the bill in general terms for just a few seconds.

This is a fair rule, and it ought to be passed, and the bill should be passed. I want to speak to that for just a moment because we have heard parts of the bill being presented, and I want to speak to the whole issue.

The critics of the 1985 farm bill are now convinced that it works. The Committee on Agriculture, to its credit, brought a bill to the floor, and we passed it by a grand margin. So I think the Agriculture Committee has proven its reputation.

That is happening again today. The Agriculture Committee is bringing forward a drought bill which is targeted directly at the issue, at those people who have lost crops. That is what a drought bill is all about. It is revenue-neutral because the deficiency payments that are normally paid to people who grow crops will no longer be paid, simply because there are no crops.

This is indeed a consumer protection bill, as was the 1985 farm bill, simply because if we allow the farmers in America to go broke through drought or through lack of assistance, we reduce the supply. The people in the city ought to understand that. They ought to understand that if we limit the supply, the cost of groceries is going to go sky-high. Every person and every Member of Congress and every consumer in America ought to be in support of this drought bill.

The Agriculture Committee honestly showed great restraint in this bill. There was temptation to assist everybody in America who is in agriculture. That temptation was resisted, and the Agriculture Committee came forward with a narrowly constructed drought assistance bill to those people who have lost crops in America. It will help farmers recovery from this horrible drought. It will provide consumer protection against huge increases in grocery bills, and it is revenue-neutral.

Mr. Speaker, it has all the aspects of what it is, a bill that is worthy of our support.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, let me simply respond to a few points made by the gentleman from Virginia [Mr. OLIN], who spoke on behalf of his amendment a minute ago.

If we want to maintain the principle of returning to the basics of the agriculture bill which we passed in this House a number of years ago, we will not support the Olin amendment because the fact is that the drought has totally changed conditions for most dairy farmers. Every single county in my State has been declared a disaster area. The fact is, as I said a moment ago, that the average farmer in Wisconsin who has 60 cows will have lost about $12,000 to $15,000 because of increased feed costs because of the drought. The 50-percent increase in the support prices will only recoup for that farmer about 3,000 dollars' worth of costs. It seems to me that is little enough that we can do to try to help people in a very desperate situation.

But I would urge the Members to get beyond the numbers. We are not talking about numbers today; we are talking about people. We are going to have numbers coming from all sides. Let us cut through the numbers and simply look at what is happening to people.

I was on a farm a couple of weeks ago. This is a doggone good farmer. The farm has been in the same family since 1856. The farmer, who is a young farmer, graduated near the top of his class at the University of Wisconsin Dairy School. He told me, "Dave, I simply don't know if I can make it." And he is one of the best farmers in the county.

I was on another farm the other day, and that farmer has lost almost 70 percent of his first hay crop, he had totally lost his second crop, and he is absolutely against the wall.

Wisconsin is going to lose, if something does not happen, about 4,000 farmers this year. I had about 30,000 farmers in my district when I came here in 1969. Do you know how many I have today? Less than half that amount. They are being squeezed out, and the drought is going to finish the job for a lot of them.

Mr. Speaker, I ask the Members, in the interest of the consumers and farmers, to oppose the Olin amendment. It is outrageous that at a time when people are talking about these so-called dairy surpluses we do not have enough milk product in this country today to continue to provide cheese under the TEFAP Emergency Hunger Program or to provide help to the people who need the Emergency Feed Program in order to have a decent diet. I urge the Members to oppose the Olin amendment.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 63, not voting 23, as follows:

[Roll No. 246]

YEAS—345

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans

Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan

Luken, Thomas
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder

Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Studds
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—63

Archer
Armey
Badham
Barton
Bates
Bentley
Bilirakis
Brown (CO)
Bunning
Burton
Cheney
Crane
Dannemeyer
Davis (IL)
DeLay
DioGuardi
Dreier
Edwards (OK)
Fawell
Fields
Gekas
Gingrich
Gregg
Hansen
Hefley
Henry
Hunter
Hyde
Inhofe
Ireland
Kasich
Kyl
Lewis (CA)
Lewis (FL)
Lowery (CA)
Lukens, Donald
Lungren
McCandless
McCollum
Meyers
Miller (WA)
Molinari
Nielson
Packard
Porter
Rhodes
Roberts
Schaefer
Shays
Shumway
Shuster
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Stump
Sundquist
Thomas (CA)
Upton
Volkmer
Vucanovich
Walker
Whittaker
Young (AK)

NOT VOTING—23

Biaggi
Boulter
Chappell
Combest
Daub
Early
Gray (IL)
Gray (PA)
Hall (OH)
Hayes (IL)
Kemp
Leath (TX)
Mack
MacKay
Martin (IL)
Mavroules
Mica
Rowland (CT)
Spence
Stark
Stratton
Torricelli
Vander Jagt

□ 1135

Mrs. SMITH of Nebraska and Mr. LOWERY of California changed their vote from "aye" to "no."

Mr. HILER and Mr. CRAIG changed their vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RETIRING JUDICIARY COMMITTEE CHAIRMAN RODINO CONTINUES TO DEMONSTRATE SUPERIOR ABILITIES AND OBJECTIVITY

(Mr. BROOKS asked and was given permission to extend and revise his remarks at this point in the Record and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, the U.S. House of Representatives has been enriched for almost 40 years by the presence of a man of rare legal talent. For almost 16 of those 40 years, Congressman Peter Rodino has used that talent to lead this House through some of its most difficult and trying legal challenges. As chairman of the House Judiciary Committee, Peter Rodino has demonstrated a never-ending objectivity. A vast knowledge of the law of this land, and a deep ever present respect for the procedural requirements of our Constitution and of this institution.

Chairman Rodino established an enviable record in his conduct of the impeachment proceedings of 1974 which will live in the records of history as evidence that our political system works in good times and bad. When Peter Rodino departs from the U.S. House of Representatives at the end of the 100th Congress, he will leave behind a legacy that will stand well into the 21st century as a standard all Members should strive to reach.

Chairman Rodino has never sought personal gain or aggrandizement in his position as chairman of the Judiciary Committee. He has, instead, sought only to protect the cherished concept in our Constitution that our Nation abides by the rule of law, not the rule of man.

Once again, Chairman Rodino has provided us with a glimpse of his extraordinary understanding of the laws of this land and the unique relationships of the three branches of the Government in carrying out those laws. In today's Washington Post, Thursday, July 28, 1988, Chairman Rodino makes a most persuasive argument for why there should be no pretrial pardons for Colonel North and Admiral Poindexter. It is not a political argument. It is a well-reasoned statement of the damage that would be done to our most basic precepts of law. I commend its reading to all of my colleagues, Republican and Democratic alike, and ask that it be included in the Congressional Record.

Pretrial Pardons for North and Poindexter? No

(By Peter W. Rodino, Jr.)

As the independent counsel is finishing preparation for trial in the cases of Oliver North and John Poindexter, there is a perceptible wariness in Washington that a presidential pardon will intercede to end the proceedings before a jury can receive a single piece of evidence. The president has steadfastly refused to quiet fears by ruling out the possibility of a pretrial pardon. One day he seems to suggest that the indicted former officials should not be subject to ordinary justice because they are "heroes" who are "not guilty of any lawbreaking of any kind." The next day, he states the case should go forward. If the lessons of history are heeded, the president would be well advised to let the legal process run its course. For a presidential pardon, if granted at this time and in these circumstances, would surely open up a grievous wound from a darker period of American history that has only just begun to heal.

It was not so long ago—August 1974— that everyone in Washington and the nation believed that another "ordeal" was finally over. While two years of Watergate scandals had left the nation divided and spent, the most sacred principle of our system of government had been reaffirmed: the rule of law. President Ford expressed this sense of both relief and pride in his inaugural remarks of Aug. 9 of that year: "Our long national nightmare is over. Our Constitution works. Our great republic is a govenment of laws and not of men." A month later, President Ford granted Richard Nixon a "full, free and absolute pardon" for all offenses committed against the United States during his years as president. Instead of ending the "American tragedy" of Watergate, President Ford only extended it by circumventing the judicial process before which all citizens should come as equals. The discord and rancor that followed in the wake of the Nixon pardon drew their force from an innate American revulsion with the notion that a "personal" power of a president could ever take precedence over the "process" of orderly justice.

In crafting the power of the pardon, the Founding Fathers, with their keen sense of human nature, were confident that restraint was a natural incident of having a president elected by the people in the first place. They believed that the check on the power lies outside the Constitution, reposed within the good judgment and self-restraint of the president himself. When at the Constitutional Convention George Mason worried aloud that "if the president has the power of granting pardons prior to indictment or conviction, may he not stop inquiry or conviction, may he not stop inquiry and prevent detection?" he was eventually answered by men such as Alexander Hamilton that the president would be restrained by "the dread of being accused of weakness and connivance."

Hamilton's words carry special meaning in the current instance. No president, including Ford, has ever pardoned top-level aides for possible criminal acts in furtherance of the president's own policies. A pardon of North and Poindexter would send a disquieting message that equal justice for all citizens applies except in the case of the president's men—or the president himself. For a pretrial pardon in the present case might well be construed, rightly or wrongly, as a self-serving act. No longer subject to the sanction of popular disapproval by the electorate, President Reagan could be cast in history in precisely the way that Edmund Randolph, on the floor of the Constitutional Convention, had warned would be the charge against any president exonerating his aides by pretrial clemency: that the "President may himself be guilty" and the "traitors may be his own instruments."

But how history judges a single president is not what matters most to the nation. It is, rather, whether dangerous precedents will be set regarding the fundamental question of the executive's relationship to the rule of law. Nothing undermines the rule of law more than the desire of some temporary government—even for purposes believed to be good—to set aside the law, distort it or ignore it. Can we permit any president who is frustrated by Congress, by the courts or by the limits of his constitutional authority to circumvent these restraints by acting at will and then invoking the power of the pardon? Can we permit those who carry out the president's policies to act outside the law, to avoid trial if apprehended, to receive a presidential commendation for their actions instead of the verdict of their peers?

If left to the American people, the answer would be no. Polls indicate that more than 60 percent of the public rejects the notion of a pretrial pardon for North and Poindexter, roughly the same number who opposed immunity for Nixon in August 1974. The answer would also be no if judged according to the president's own Department of Justice rules governing petitions for executive clemency: the indicted former officials would not be eligible to apply for pardons until five years after their release from prison, parole or probation. Indeed, where there is a "violation of public trust involving personal dishonesty," the rules require that there be a waiting period of seven years before a pardon can be considered. The guidelines do not even consider the possibility of a pretrial pardon.

President Reagan has been fortunate to have served during a time when the nation reveled in saluting Lady Liberty's 100th anniversary and in commemorating the bicentennial of the Constitution as a testament to what free men can achieve. But with talk of a pretrial pardon of North and Poindexter in the air, the president is now face to face with the Constitution as a living document upon whose surface he shall leave his personal mark. Let us hope that, unlike President Ford in the late summer of 1974, he will simply rest his case with the belief that "our Constitution works" and that we are "a government of laws and not of men."

DISASTER ASSISTANCE ACT OF 1988

The SPEAKER pro tempore (Mr. WILLIAMS). Pursuant to House Resolution 504 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5015.

□ 1138

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes, with Mr. OBEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to inform the Members that we find ourselves in the worst drought situation possibly in this century, and the Government, from the President to the Secretary of Agriculture, and every other official of the Government, feeling for the people, the producers, the consumer, and everyone that can be affected on account of the drought, all agree that compassion and assistance to the best we can do under our budgetary constraints should be afforded to the producers, farmers, and ranchers in rural America.

Mr. Chairman, the task of designing the vehicle has fallen on the shoulders of the Committee on Agriculture. We bring the Members a bill that is not perfect. We bring the Members a bill that does not take care of every Member's problems, concerns, or needs. The committee considered over 60 amendments encompassing the spectrum of needs by areas, by crop, by commodity, and this is the end result of our labors.

This has the compassion, this has the guidance to the Department, this has necessary assistance within the limitations imposed upon us by the budget. I would hope that the Members, my colleagues, support the package that we, from the Committee on Agriculture, have brought before them.

There are several amendments which will be offered to round out the consideration of the bill, and I would hope that the Members listen carefully to the debate, and it would be my hope that the House make the decision on those amendments, hopefully in support of the position of the Committee on Agriculture.

I would like to thank all of the members, the ranking member on the committee, members on both sides, because this has been a bipartisan issue. It has not been a regional or provincial issue but, rather, it has been an attempt to fulfill our responsibility in this moment of need.

I would just like to make one clarification. There seems to be the impression or the perception that moneys dispensed under this legislation would go into a farmer's bank account or into a rancher's savings account or into his hip pocket to go off on a vacation someplace. I want to make it perfectly clear that this is not the case. The money goes to the seed man, to the feed man, to the fertilizer man, to the hardware store, to the implement dealer, to the tax collector, county, school, State, to the U.S. tax collector. That is where the money goes. It does not go to the farmer. He is but the conduit through which that money is sent out into rural America and throughout the United States.

Mr. Chairman, some of this money will wind up in inner-city Detroit. That is where the money goes when the farmer buys a pickup or a truck. Some of this money will go to Indianapolis. That is where the money goes when the farmer buys a tractor and pays the monthly installment thereon to the dealer. That is where the money is going to go.

Another perception or misconception or erroneous perception is that this is a farmer bailout. It is not. The main reason for this legislation is to try, in a small way, to keep the farmer on the ground, on the land, in a stable condition. Why? So that the consumers of America, who are the best fed in the world for the least amount of disposable income per family of any country in the world, can remain there notwithstanding the drought and/or hail and/or flood.

□ 1145

That is the reason, the security and the integrity of this Nation, the greatest nation in the world, by providing stability that benefits the consumer, that person who is fed by the few farmers who will be helped by this bill.

So having made those clarifications, I again thank all who have helped along the way and send the word out, hopefully before the afternoon is over, to the producers of rural America to hold on, that help is coming, in a compassionate, sensible, responsible way.

That will be our attempt, and I hope that is the message that goes out before the afternoon is over.

Mr. Chairman, the drought of 1988 will long be remembered by America's farmers and ranchers as the worst drought to strike America's heartland in over 50 years. Not since the Dust-Bowl days of the 1830's have drought conditions across the Nation been so extreme. While we have gotten some relief in widespread rains in the last few days, the drought has already stunted young crops in the Midwest, prevented the planting of millions of acres of normally productive farmland in the South, and caused livestock producers throughout the West to bring large numbers of cattle to slaughter.

The impacts of this terrible drought are staggering. Five entire States—Alabama, Indiana, Ohio, Missouri, and Wisconsin—have already been declared disaster areas due to drought. Requests from five other States are pending. Projected ending stocks of wheat, corn, barley, oats, and sorghum are down dramatically from previous years. Production of oats, for example, is expected to be the lowest since 1874. Corn production could be down 25-30 percent by year's end.

As I mentioned before, the effects of the drought extend far beyond the farmer and rancher. Rural communities dependent upon agriculture have been hard hit. With no fields to plant and no crops to sell, the entire infrastructure of agriculture—feed stores, fertilizer distributors, implement dealers—are all hit hard. And others in the small towns and communities—local shopkeepers, small businessmen, and the corner market—are impacted as well.

The effects of the drought will be felt by consumers. The Department of Agriculture has estimated that food prices may rise 3 to 5 percent next year. The commodity markets have responded to the drought with increased grain prices of as much as 35-40 percent since May. Though the markets are down as of late with recent rains in the Midwest, any substantial rise in prices will eventually be felt by all Americans.

Mr. Chairman, the committee bill is emergency legislation intended to provide immediate relief to agricultural producers and rural communities suffering from the drought. The committee, in its consideration of the bill, sought to address all aspects of the drought and its effects. We purposely sought, however, to focus our efforts on the immediate crisis and not to reopen debate on basic farm policy issues.

H.R. 5015 was drafted with three basic goals in mind: First, to assure American consumers that the drought of 1988 would not disrupt the continued adequate supply of food that we all enjoy; second, to provide some income protection to farmers and ranchers affected by the drought in an efficient and equitable manner; and third, to ensure that the integrity of drought-stricken rural communities and their economies is preserved.

I believe that we have succeeded in achieving these goals in an open and bipartisan manner.

Title I of the bill improves the efficiency of emergency livestock feed assistance programs already administered by the Department of Agriculture. Nearly 1,500 counties in 37 States are already receiving feed assistance due to the drought. Our bill would simply improve the efficient delivery of this assistance in the future. I should note that there was considerable debate in the committee over whether the feed assistance programs should be expanded beyond their current scope. The administration opposed this action, and, after much deliberation, the committee decided to maintain the narrower focus in assisting livestock producers.

Title I also provides for an increase in the support price for dairy producers who have been hard hit by rising feed prices. There remains some division within the committee over this provision and I know that some of our other colleagues have strong views on this issue. We will hear more of this when amendments to the bill are considered.

Title II would aid those who suffered crop yield losses by providing emergency payments to those who suffered more than a 35-percent loss of production. Payments would amount to 65 percent of the target price or price support level for the commodity affected or the market price if it is a nonprogram crop. In addition, we would provide some minimum protection to producers who have suffered total or near total losses due to drought, through a supplemental payment of 30 percent of the normal disaster payment.

The committee also agreed that any producer who chooses to accept a disaster payment, should be required to purchase crop insurance for the next 2 crop years. We believe that the required purchase of crop insurance could help to stave off the need for similar disaster program payments in the future.

Title III of the bill authorizes commodity stock adjustments to provide the Secretary with flexibility to adjust the amount of farm acreage planted for certain crops to reflect changes in yearend stocks. In this way, any shortages of specific crops that may result from the drought can be made up in a more market responsive manner.

Title IV of the bill deals with matters of water shortages and would provide assistance for water projects and water delivery systems in both the Eastern and Western States.

Title V would seek to improve the Department of Agriculture's ability to provide weather information to agricultural producers in an attempt to improve their ability to better respond to future weather problems.

Mr. Chairman, H.R. 5015 is not a budget busting bill. CBO's current estimate of the cost of the bill is $6.1 billion. At this level, the programs authorized will cost less than the preliminary estimates of reduced spending for farm program for this fiscal year—about $7.5 billion according to CBO. Included at the end of my remarks is a copy of the CBO estimate. In addition, I will offer an amendment to the bill to provide that the outlays attributable to this bill not exceed a certain level to ensure that the actual spending from drought relief programs would not trigger sequestration under the Gramm-Rudman-Hollings law.

Mr. Chairman, I believe that H.R. 5015, as reported by the Committee on Agriculture, is an efficient, effective, and fiscally responsible reaction to the drought crisis affecting the Nation. This bill will help the farmer and the rancher in mid-America, the implement dealer and the local barber in rural America, and consumers throughout America. I urge my colleagues to support the bill.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 28, 1988.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared a preliminary estimate of the cost of H.R. 5015, the Disaster Assistance Act of 1988, as ordered reported by the House Committee on Agriculture, July 26, 1988. Relative to our new summer baseline, which has not yet been completed, we estimate that H.R. 5015 would add $5.6 billion to budget authority and outlays for fiscal year 1989. (The summer baseline will be completed on August 15, 1988.) We have also estimated costs of the bill against our February 1988 baseline which underlies the fiscal year 1989 budget resolution. While a drought is not assumed in that baseline, the bill would still add an estimated $0.5 billion in budget authority and outlays in fiscal year 1989, $0.2 billion in fiscal year 1990, and $0.1 billion in fiscal year 1991. The bill would not increase fiscal year 1988 costs against any baseline.

CBO's preliminary summer baseline shows a reduction in budget authority and outlays for fiscal year 1989 of $8.7 billion for the Commodity Credit Corporation (CCC) and $7.5 billion for function 350, relative to the budget resolution baseline. Added costs for the Federal Crop Insurance Corporation ($0.6 billion) and the Agricultural Credit Insurance Fund ($0.7 billion) partially offset the reduction in CCC costs.

Our projections are particularly uncertain right now, because the full impact of the drought is unknown and will depend on weather conditions over the next several weeks. In addition, little information is available as to the distribution of crop damage by farmer and among crops, both of which affect the estimated costs.

PRELIMINARY ESTIMATE OF THE COST OF H.R. 5015 RELATIVE TO THE SUMMER 1988 CBO BASELINE

[Budget authority and outlays, by fiscal year in billions of dollars]

	1989	1990	1991	1992	1993
DIRECT SPENDING					
Sec. 103—Forage interseeding	0.4	0	0	0	0
Sec. 104—Nitrate testing	(1)	0	0	0	0
Sec. 201–202—Program crop disaster payments	2.3	0	0	0	0
Sec. 203–204—Nonprogram crop disaster payments	1.6	0	0	0	0
Sec. 205—Supplemental disaster payments	.3	0	0	0	0
Sec. 102—Dairy	.3	0.2	0.1	(1)	0
Sec. 211–214—Forest crops	.1	0	0	0	0
Sec. 303—Producer Reserve Program	(1)	0	0	0	0
Sec. 207—Crop insurance	.1	.2	.1	0	0
Sec. 311—Emergency loans	.5	(1)	(1)	(1)	(1)
Sec. 312—Operating loans	.5	−.1	−.1	−.1	−.1
Total costs	6.1	.3	.1	−.1	−.1

[1] Less than $50 million.

The bill provides for disaster payments for both program crops (i.e., those for which there are target prices) and nonprogram crops and for both program participants and nonparticipants. Producers of all commercially-grown crops would be eligible for disaster payments in 1988 crop losses exceeding 35 percent of the calculated program yield or equivalent yield. Payments are to be made on the lost production exceeding the 35 percent threshold. Adjustments would be made in payments for required program acreage reduction for nonparticipants and for advanced deficiency payments already received by participants.

Most of the estimated $2.3 billion cost for the program disaster payments in 1989 is for drought-related yield losses in corn. Even though crop damage form the drought to spring wheat is extensive, that class represents less than one-fourth of the total wheat crop. For the nonprogram crops the estimated $1.6 billion in 1989 disaster payments would be mostly for hay and soybean producers. These estimates were developed by estimating both the reduced production by crop in major states and the distribution of loss by farms. A supplemental disaster payment is provided in Section 205 for producers with losses exceeding 75 percent of normal production. CBO estimates costs of $0.3 billion for this provision. The projections of crop losses are very uncertain; final results will not be known for several months and weather during the remainder of the summer will be the major factor.

The bill provides little expansion in coverage of emergency disaster assistance to livestock feeders beyond the program currently being run by the U.S. Department of Agriculture. Though more classes of animals would be provided assistance under the bill than under the current program, a per person payment limit is introduced. CBO estimates no additional outlays under the bill provisions for livestock assistance in Section 101.

Other provisions with costs include the dairy, forest crops, and forage interseeding provisions. The bill would preclude the expected reduction in the dairy support price of $0.50 per hundredweight for calendar year 1989, and would raise the support level an aditional $0.50 per hundredweight on October 1, 1988. CBO estimates this would increase outlays by $285 million in 1989 and by another $340 million over the 1990-1992 period. The bill calls for spending to replace tree seedlings destroyed by the drought. We have estimated the cost of this provision to be $75 million in 1989, but its effects are very uncertain because the extent of drought damage is unknown. The bill also requires the Secretary of Agriculture to provide cost-sharing for overseeding of damaged forage crops. This is estimated to cost $400 million at a per acre cost of $40.

Provisions requiring farmers who take advantage of the disaster program to buy federal crop insurance for the 1989 and 1990 crops are estimated to result in outlays of $0.1 billion for fiscal year 1989 and higher amounts in later years as premium payments fall short of indemnity costs in this program. This provision may preclude future emergency disaster legislation, thereby reducing future outlays—but such savings would not be reflected when measured against a current baseline. The bill waives the requirement that a farmer must have 1988 crop insurance to be eligible for an FmHA disaster emergency loan. CBO estimates outlays of $0.5 billion from this provision.

The estimates of the budget impact of Section 312 assumes that the Secretary of Agriculture will apply the amount of emergency disaster loans not used in 1988 to expand the level of direct operating loans available in 1989. CBO also assumes that the Secretary will apply the unused portion of 1988 guarantee loan authority to expand the level of guarantee loans available in 1989.

Other bill provisions are estimated to result in little or no cost. The provision on the farmer-owned reserve is estimated to have a small impact on repayments, allowing savings of about $5 million from a reduction in acquisition costs. The provision allowing soybeans to be planted on programs base acreage is assumed not to require additional outlays, as the acreage reduction for crop years 1989 and 1990 can be set to reflect the expected soybean acreage expansion.

In addition to the direct spending amounts shown in the above table, the bill includes authorizations for appropriations that are estimated at $35 million in fiscal year 1989 with outlays of $28 million for the loan program and water projects such as Shasta Dam (Title IV), rural business (Sec. 331-332), and the national agricultural weather information system (Title V). Outlays for these sections total $17 million for fiscal years 1990-1993.

We will provide a final estimate for this bill when the summer baseline is completed.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Eileen Manfredi, Andrew Morton, and James Hearn who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM,
Acting Director.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] has consumed 6 minutes.

Mr. MADIGAN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in support of H.R. 5015, the Disaster Assistance Act of 1988. I want to express my appreciation of the leadership of our chairman, my friend the gentleman from Texas, and the hard work of all my colleagues on the Agriculture Committee. Faced with a very difficult task, the committee performed in a truly bipartisan way to respond to the drought crisis. The bill we bring to the floor provides disaster relief that is both compassionate and budget responsible.

The need for this legislation is clear. American farmers in 40 States face serious drought-related crop damage. In my own State of Illinois, the hot and dry conditions are even more severe than the recordbreaking drought years of the 1930's. The severity of this disaster is best reflected in the recent Agriculture Department estimates that the 1988 drought will cost farmers over $10 billion. Fortunately, the efficiency of our agriculture producers will ensure that there will be sufficient food available to meet all requirements without large increases in consumer prices. Drought affected farmers, however, will be in desperate circumstances without the assistance in H.R. 5015.

Recognizing the budgetary constraints that Congress faces, the Agriculture Committee knew that we could not hope to make up all the financial losses that farmers will incur. This legislation will only provide enough help to keep drought-stricken farmers going until next year. At a time when many farmers are just recovering from the economic hardship of the early 1980's, losses of the magnitude being created by the drought would quite simply drive tens of thousands of farm families into bankruptcy.

To find the funds to pay for this limited disaster-relief bill, the committee is drawing on the reductions in agricultural spending that the drought has created. The economic effect of the drought has reduced expected Federal outlays for deficiency payments by several billion dollars. H.R. 5015 uses those savings to fund the cost of disaster assistance, in that way we have sought to keep the bill budget neutral.

The core approach in H.R. 5015 meets the criteria set forth by the President in his statements on drought relief, as well as gaining the support of commodity and farm associations.

Overall, the Agriculture Committee brings to the floor a bipartisan and budget-responsible disaster assistance bill that is vital to the economic survival of tens of thousands of farm families and the small towns who depend upon their income for support. I urge my colleagues to support H.R. 5015.

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN], the distinguished chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains.

Mr. GLICKMAN. Mr. Chairman, first of all I want to pay tribute to the gentleman from Texas [Mr. DE LA GARZA], chairman of the full committee, and to the gentleman from Illinois [Mr. MADIGAN], the ranking member, who moved this bill with all deliberate speed to the point we are considering it right now.

I also want to pay particular tribute to the staff. I think the staff has worked tremendously on this bill, many of whom have stayed up all night for the last several nights to try to get this work product together, and that is the staff of both the Democrat and Republican side.

Mr. Chairman, I rise in strong support of H.R. 5015, the Disaster Assistance Act of 1988, and to urge my colleagues support of the bill.

American agriculture has been hit by the worst drought since Dust Bowl days this year. Although parts of the Midwest have received rain during the last few days, the severe shortage of rain this past winter and spring has virtually depleted soil moisture. As a result, the rains, though as welcome as they are, will not be sufficient to make up for the shortfalls which have occurred already and America's farmers will suffer devastating losses.

The Department of Agriculture estimates that this year's corn crop will be off by 25 percent or more, wheat and soybeans will suffer losses of almost 15 percent, the barley crop will fall by nearly 50 percent, grain sorghum is off by one-fourth, and the oats crop will fall by one-third.

The losses that farmers will suffer will soon be felt in the rest of the economy. Suppliers of farm equipment, fertilizers, grain merchandisers and exporters, farm bankers, and all of the workers who depend on the production of American agriculture will soon feel the effects of the drought. As these losses ripple out through the economy, all of us are going to feel the damage our farmers are suffering.

I will say, however, that as concerned as I am about the effects of this drought, I am also concerned that some do not take advantage of it. Food prices will, inevitably, increase. However, those increases should be moderate and should not be excessive. Those of us on the committee are very concerned that food processors, manufacturers, wholesalers, and retailers not take undue advantage of the drought to hike prices more than amounts commensurate with the expected increases in commodity prices. I am pleased that members of the committee unanimously accepted my sense of the Congress resolution on this issue and included it in the bill.

I want to commend the chairman of the Agriculture Committee, Mr. DE LA GARZA, and the ranking minority member, Mr. MADIGAN, for the leadership they have provided in bringing this bill to the floor in such an expeditious fashion. I want also to express my appreciation to Secretary Lyng for the assistance he and his staff have provided to those of us on the committee during the writing of the bill.

Mr. Chairman, the basic elements of the bill for crop farmers are these: Farmers who have suffered a loss of 35 percent of their expected harvest will receive disaster payments on that lost production in an amount equal to the losses times 65 percent of the farm bill established target price. In recognition of the severity of the damage being suffered by those who have lost most of their crop, the committee has included a provision to make sure those special needs are addressed. Farmers who have lost more than three-fourths of their crop will receive a disaster payment equal to the basic rate plus an additional 30 percent of the target price. Finally, in the event that market prices rise to the level at which farmers who have received a portion of their income support payments for the 1988 crops in advance would have to refund those payments, the bill provides that if a farmer's crop falls below his expected yield, the farmer may keep that portion of the advance payment on which he suffers a crop loss below his program payment yield.

As a condition of accepting these payments, the committee voted to require that farmers enroll in Federal crop insurance for the next 2 years. This is an unprecedented step, and I believe, a courageous step. As my colleagues on the committee know, Federal crop insurance is not universally popular in farm country. Indeed, the low levels of participation are due in part to the unpopularity of the program with most farmers. I believe, however, that Federal crop insurance is, from a policy point of view, a sound policy. I recognize that there are problems, in fact, I was one, in connection with the chairman of the Subcommittee on Conservation, Credit, and Rural Development, Mr. Jones of Tennessee, who asked the General Accounting Office to examine the program a couple of years ago. Yes; there are problems, as this report identified; however, we need to move to reform and strengthen the program, not shy away from it.

The legislation also includes provisions to ensure that users of American commodities have supplies available to them. It will also provide American farmers with greater flexibility to respond to market demands for these commodities by removing impediments in government programs.

The bill will require the Secretary, for the 1989 crop years, to allow farmers to devote as much as 10 percent, but not more than 25 percent of their permitted acreage to soybeans and sunflowers. Farmers will not be required to do so, but they will have the freedom to do so, within these limits, if the market signals are favorable to soybean production.

Presently, such an action would jeopardize farmers who might to make such a choice from receiving future program benefits. I do not think we should be in that position. I think we should be encouraging flexibility and making sure American farmers can participate in the increasing demand worldwide for these products.

As the crop estimates show, we will face dangerously low levels of soybeans a year from now. Also, our competitors are increasing production; foreign farmers are benefiting from market demand but U.S. commodity programs are keeping U.S. farmers from meeting U.S. needs. This provision of the bill provides that flexibility; it has been the subject of intense study by my subcommittee; and it builds on the precedents Congress has taken in the past to provide similar flexibility.

Similarly, the bill will allow farmers to increase their plantings of oats. The oats crop will be very, very severely damaged by the drought. The United States imports about 30 to 40 million bushels of oats each year—the most productive agriculture system in the world should not be importing grain, especially as demand for oats for human foods, because of its recognized health effect, increases. Yet, the Government farm program discourages farmers from growing oats.

This bill will correct that situation by treating farmers who increase oats production similar to those who decide to shift from cotton, corn, wheat, or feed grains into soybeans. At a time when the drought is diminishing crop supplies, I think it prudent and responsible to ensure that domestic users of these products have ample supplies and that farmers have the flexibility to meet that demand.

In closing, let me say to my colleagues that I think this is a reasonable response to the drought. It does not provide everything to everybody; it will not create windfalls for farmers; and it will not bust the budget. Although it will indeed have a big price tag, this is a drought causing almost unprecedented damage. I think it is the right thing to do and it is important that we act affirmatively to let American agriculture know that we will stand by its side.

I urge its passage.

Finally, I would just like to mention the dairy provisions. I would like to have come up with a better targeted way to help those dairy farmers in those parts of the country who are hurting without an across-the-board price increase that may help some folks who are not particulary affected by the drought right now. For that reason I intend to support the Olin-Roberts amendment and oppose the Penny-Gunderson amendment because I believe that basically what we have done in the bill before it was amended in committee by the Jeffords amendment.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. Coleman].

Mr. COLEMAN of Missouri. Mr. Chairman, the Nation's farmers and livestock producers are facing the greatest natural disaster to strike them in a half century and they are looking to us for the help only Congress can provide.

I believe H.R. 5015, the Drought Assistance Act of 1988, can provide that assistance and I rise in support of its passage.

Initially, Mr. Chairman, I would like to take this opportunity to commend Agriculture Secretary Richard E. Lyng for his diligent efforts during this difficult time. Since early this year, when the potential seriousness of the drought was realized, Secretary Lyng has acted quickly and decisively to use the tools the Department has had at its disposal to help farmers and producers. He has acted with compassion and common sense while keeping the Department responsive to the disaster. I expect he will act quickly to use the additional tools that we will be providing him in the Drought Assistance Act of 1988.

Mr. Chairman, by mid-April of this year it was apparant in many north Missouri counties that without substantially more rainfall our farm economy would be faced with serious problems—this time not from foreign export subsidies, high interest rates, embargoes, or rising production costs—but problems caused by Mother Nature. By the first of June, all 27 counties in my congressional district had recorded less than half their normal rainfall. In Gentry County, for example, we could have expected 12.25 inches of rain by that date but county officials were able to record only 3.53 inches, or about 28 percent of normal rainfall. This incredibly dry weather, compounded by record temperatures and hot winds, has created a devastating situation in north Missouri and in much of America's heartland.

As we survey this devastation, it may be too early to determine what the soybean crop may be. With reasonable temperatures and timely rain—both of which have recently come to some parts of the country—soybeans could begin to flourish and our soybean farmers could realize near normal crops. Certainly, we all hope so.

But, Mr. Chairman, we must face the fact that the Nation's corn crop has been severely damaged. I know first hand that corn growers in north Missouri will probably sustain losses of 50 to 80 percent of their crops; and I fear that large numbers of our farmers will lose their corn crops entirely. Many of our livestock producers also face critical problems caused by the drought, and while this bill does not go as far as many of us wanted, it will provide essential assistance in the form of feed donations and help in transporting hay and animals. It will help producers reestablish damaged pastures though its cost-share program.

Mr. Chairman, we rightfully have moved quickly to expedite help to our farmers and producers. As we have done so, we recognize that the full cost of this bill is not really known—cannot be known—at this time. It is wise for us to remember that everything we now do here in Congress must be done under the severe budget constrictions in place as a result of the Gramm-Rudman Balanced Budget Act. We must be prepared to deal with the effect this budget reality may have on disaster assistance.

Mr. Chairman, I urge my colleagues to act quickly and decisively on this bill which represents not only essential help in today's disaster but hope for the future for our Nation's farmers and producers.

Mr. Chairman, I would like to join with my colleagues in commending the chairman and the ranking member for their diligence and for securing committee passage of this legislation and bringing it to the floor.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. HUCKABY] one of our subcommittee chairmen.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to commend the gentleman from Texas [Mr. DE LA GARZA] chairman of the committee; and the gentleman from Illinois [Mr. MADIGAN], the ranking minority member, for the outstanding work they did on this legislation. I think it is a very strong bill, it is a very fair bill and it is a very timely bill. It will deliver significant dollars, real dollars to farmers who incur a loss.

But those farmers must demonstrate they have a loss. They must have a loss in excess of 35 percent of normal crop yield in order to receive anything. Then beyond that they will start receiving dollars.

I would like to take just a minute to explain to the Members what a farmer can anticipate receiving depending upon the degree of loss that he had. If I might use cotton as an example, we might assume a cotton farmer has 100 acreas of cotton and his average yield is 600 pounds. This is roughly the nationwide average yield. As we know, today the target price is 76 cents.

If this farmer made a normal crop and he did not have a loss, he could anticipate grossing about $39,000 in the marketplace for his cotton, plus the deficiency payments that he would receive from the Government. If this farmer should encounter a loss of 50 percent, if he should only make half a crop, he would receive Government payments in excess of $7,000. If the farmer had an even greater loss, if he only made 25 percent of his normal yield on that 100 acres of cotton, he would then receive in excess of $12,000 of Government payments.

Finally, for those unfortunate farmers who do not make a yield at all, their yield is so low they do not even harvest their crops, there are additional Federal payments here so that that farmer would receive slightly in excess of $20,000 of Government payments due to the fact that he did not make a crop.

So it is a fair bill, and, of course, this legislation treats all of the other commodities the same way, and I would urge my colleagues to support it.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, we are standing at the threshold of the dramatic realization that all of the efforts of man, the fields, the dams, the power generation, can be silenced and erased quickly and easily by the Almighty in one act of nature. Agricultural producers, more than any group, have faced daily and live forever with this reality.

Because of this, almost subconsciously producers have been driven to create, to utilize, to improvise, and in the final analysis produce to capacity. The citizens of this Nation have puzzled as Congress time after time voted to stabilize, support, and preserve a system of agriculture and distribution that preserves one of the greatest systems of agricultural nutrition in the world. Indeed, as a nation we are standing at the threshold of realization that surpluses are like money in the bank. The health, vitality, and well-being of the world may indeed depend on our productive capacity and ability.

As we face the realization of empty rivers, empty plates, and empty pocketbooks, I believe this Congress will respond. This bill, like any bill, is not without fault, but it does reflect the well-intentioned efforts of the chairman of the committee, KIKA DE LA GARZA, of the leadership, of the gentleman from Illinois [Mr. MADIGAN], the ranking member on the Agriculture Committee, as well as the Secretary of Agriculture and many of us on the task force who have labored arduously to produce a bill that will assist the producers of America. I urge your support for the legislation and the force against famine.

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Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. PANETTA], the chairman of the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition of the Committee on Agriculture.

Mr. PANETTA. Mr. Chairman, one of our responsibilities in this institution is to try to respond to disasters whether they be economic or natural. It is never pleasant to deal with those kinds of situations whether they affect an urban city in this country or whether they affect a particular industry in this country or whether they affect an area like agriculture.

Today we have a real disaster in agriculture with regard to the drought that has impacted this country.

According to the U.S. Department of Agriculture itself, we are dealing with one of the worst droughts in U.S. history. As a consequence, we have a duty to respond. But we have to respond in a responsible way. That is what this bill does.

This bill targets the assistance to those who have had a loss of more than 35 percent of their crops and tries to provide additional assistance to those who have had losses that exceed 75 percent of their production.

It also tries to provide expanded feed assistance because we are looking at the possibility of feed increases in the range of anywhere from 30 to 40 percent. But in providing this assistance, there are also some very tough limitations that have been included by the Committee on Agriculture.

One of those limitations is that anyone who receives drought relief under the bill would be required to purchase crop insurance in 1989 and 1990 if it is available at a reasonable cost. The whole purpose of that requirement is to try to prevent us from having to repeat this time and time and time again.

The purpose of crop insurance is to give farmers that kind of protection. What we have done in this bill is to say to farmers, "We are coming to the end of the road in providing drought relief automatically by the Congress," that there are going to have to be steps taken by the farmers on their own to provide protection. That is one of the requirements contained in this legislation.

Second, we retain the $100,000 cap on relief being provided. Third, there will be a limit in terms of overall expenditures which the chairman will offer that will also limit what can be spent in the bill.

It is a tight bill, it is a needed bill, it is a good bill.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I just want to make a couple of points. I have already had a chance to speak during the rule and during the 1-minute time.

First of all, I would like to raise your awareness. We here in the Congress and only we are responsible for the Dairy Program. In the late 1970's and early 1980's we recognized that what was happening at that time was so detrimental to both consumers and to the dairy, that we took the program over. So there is no way that any of us can duck the responsibility or pass it on.

Now I want to tell you why that is important. What we see now, as I mentioned earlier, for the first time in 30 years there is a lack of any milk protein in the world. We have a year's supply of corn, a year's supply of wheat, less than 1 day's supply of uncommitted dairy products in this country.

What is happening? The nutrition programs are being cut by the back door $200 million in the School Lunch Program, another $200 million in other feeding programs. That totally wipes out TEFAP.

In addition to that, I just want to show you these charts that show that. If we were to go back to 1983 it would be off the chart. So we are way, way down.

Second, we have to protect the consumers against what happened in the 1970s. That is our responsibility, nobody else's.

In the 1970's when the administration did not take care of the program properly, there was a 20-percent increase in retail prices. In today's terms that would be a $8 billion increase in cost to the consumers.

This bill takes 3 percent to give us an insurance program to prevent the number of farmers that are going out right now, to stop.

Last, for the previous year starting in May, we had 85,000 drop-in cow numbers. Forty thousand of that occurred in the month of May. Since that time, the rate that they are leaving is as high or greater than it was during the whole herd buyout when we were trying to remove 16 billion pounds.

Vote "no" against Olin.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Arkansas [Mr. Alexander].

Mr. ALEXANDER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of H.R. 5015, the drought relief legislation.

The torrid heat of this spring and summer, which some scientists allege was trapped in the lower atmosphere by the greenhouse effect, has turned what we once proudly hailed as amber waves of grain into the killing fields of 1988; killing fields where crops, livestock, and livelihoods have already been lost.

It is a hard thing to drive through the countryside and see such a sight. How much harder still it must be to live with the drought every day, to see your hopes charred by a broiling sun in a cloudless blue sky.

The drought is everyone's problem for, as someone once said, "man, despite his artistic pretensions and his many accomplishments, owes his existence to a 6-inch layer of topsoil and the fact that it rains."

It will rain again, Mr. Chairman. In my part of the country it has been raining much of the last 2 weeks. But the rains have come too little, too late, for farmers to pay their bills this year without some help. And that's where this legislation comes in.

The bill is designed to provide fair, equitable assistance to all farmers, ranchers, and rural businesses who need it. Those who have suffered the greatest losses will receive the greatest benefits.

Time is of the essence; farmers' bills will soon come due. I hope the House will give this bill due consideration today, and move it forward, so that rural America can make it through this year.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. Roberts].

Mr. ROBERTS. Mr. Chairman, I rise in support of this package with one strong reservation. And having said that I would like to join my colleagues in paying tribute to the chairman of the committee, the gentleman from Texas [Mr. de la Garza], and to the ranking member, the gentleman from Illinois [Mr. Madigan], and more especially to my friend and colleague from Texas, the gentleman from Texas [Mr. Stenholm], who has the difficult position of trying to broker out the differences between our livestock producers, our grain producers, our milk producers and all of the related industries that are involved. And he has come up, along with Mr. Gunderson and Mr. Penny, with a so-called compromise effort that will be later debated in this bill.

I want everybody to understand, especially since my remarks do follow my colleague, Mr. Jeffords, who is a very articulate spokesman in behalf of dairy, that we do not have an argument in the House Committee on Agriculture over needed assistance to dairy producers. Everybody agrees with that.

But what we would like to do is limit this package to the regular assistance that is provided to all the livestock producers and all farmers and ranchers and not increase a price support at this time which we think is simply unwarranted.

We are going to try to make our case without any kind of rancorous debate because the issue is so important to help the farmer and the rancher who is in desperate need.

So I would say to my colleagues please pay attention to Mr. Jeffords and Mr. Gunderson and Mr. Penny and Mr. Rose and more especially to Mr. Olin and myself and others who will argue the opposing viewpoint.

My colleagues on the dairy side are articulate, they are persuasive, they are sincere; unfortunately they are wrong.

The best way to get this drought relief bill passed and signed by the President, and get the help to the farmer is to support the Olin/Roberts amendment at the appropriate time. Keep this package the way it was in the original bill.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to our distinguished chairman of the Subcommittee on Forests, Family Farms and Energy of the Committee on Agriculture, the gentleman from Missouri [Mr. Volkmer].

Mr. VOLKMER. Mr. Chairman, I, too, wish to stand here and commend the chairman of the Committee on Agriculture and the ranking minority member and all the members, really, of the Committee on Agriculture for the lot of hard work that went into this legislation. For the time that we spent and wrestled with many of the provisions, I have to say that we have a very comprehensive drought relief bill here for all segments of agriculture.

I believe that we should look at it as not any one segment over another, but that this is basically fair to all segments except, I believe, maybe we have not—and we wrestled with it a good many days—the livestock producer who has a foundation herd, whether it is cattle or hogs, that does not produce his own feed, his own grain. He is not taken care of in here. I would have liked to see that we could do that. Perhaps we can still do it by the time the bill comes out of conference.

The Senate does have a provision although I do not agree with that provision. I wish to again commend the members of the Committee on Agriculture.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. Hopkins].

Mr. HOPKINS. Mr. Chairman, I rise in support of the drought relief bill.

Mr. Chairman, the drought relief bill offered by the Agriculture Committee today is a compassionate, affordable, equitable plan for keeping America's farmers productive and I urge its prompt passage and implementation.

This is an evenhanded approach. It is not an invitation for farmers to back their trucks up to the bank; it allows family farmers to stay in business for the next growing season.

That is essential for our farmers; it is crucial for our consumers; and it's good for America.

This bill has been debated strenuously in forums ranging from the congressional drought task force and the House and Senate

Agriculture Committees to "farm congresses" like the one I held for farm leaders of central Kentucky during last week's recess.

The country's leading agricultural experts have examined the bill, its contents reflect their input.

I hope that my colleagues will examine all the evidence and approve the bill resoundingly.

Mr. Chairman, may I also take this opportunity to observe that in this period when dark clouds hang over American agriculture, we have found some silver linings.

In this time of need in Kentucky and elsewhere, the good farmers of North and South Carolina, Virginia, and Oregon have donated hay to feed Kentucky livestock.

The United Parcel Service, the Nation's railways and trucking system and their private entities have donated time, money, and faculties to bring feed to our State.

On behalf of the people of Kentucky, I thank you.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think a couple of issues ought to be clarified about this bill immediately.

You must be in a designated drought area to receive assistance in this bill and that is exactly why we are providing assistance, for those people in a drought area designated as such.

If you are in a drought area you will receive assistance for your lost crops. In addition, you will receive, if you have livestock or dairy, feed assistance for those crops that you have lost that you normally feed to your cattle or to your dairy herd.

Now I say that because I am going to point out how narrowly drawn this bill actually is and how important it is that we draw it narrowly.

Otherwise, there was great effort in the Committee on Agriculture to try to assist people and insulate them from higher prices if they did not grow their own feed.

The Committee on Agriculture, wisely, saw the problem in that simply because we do not have the money and it is bad precedent to begin with, because we in the West, in parts of the West and certainly parts of the South, are not in a drought condition, we ought not to be assisted because of higher feed costs to our people.

Therefore, if you are going to do that you are going to go much beyond the whole drought designated situation.

I compliment our chairman and our ranking member on the Committee on Agriculture for recognizing that this is an important assistance for drought-related loss of crops. That is as far as it goes. This is not a Christmas tree.

For one of those Members of Congress who is very concerned about public spending, I can tell all of you this is a bill that will demand your support because it is within budget.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I rise in strong support of the bill and commend the distinguished chairman of the committee and the gentleman from Illinois [Mr. MADIGAN] for the work they have done here.

Mr. Chairman, I rise in support of H.R. 5015, the Drought Assistance Act of 1988, and urge all of my colleagues to support this essential measure. There is no doubt that America's farmers are facing the worst of times because of the weather. There is also no doubt that we are jeopardizing our ability to produce food and fiber in the years to come if meaningful assistance is not provided.

I want to offer my personal thanks to the distinguished chairman of the House Agriculture Committee, Mr. DE LA GARZA, for his leadership in moving this proposal through his committee so quickly.

The proposal before us today is in many ways modeled after the Disaster Program that we had in place 2 years ago following another series of droughts, rainstorms, and hail in various parts of the country. The success of the broad assistance provided by that program led me to introduce H.R. 4896, a rewrite of that program. The bill before us today adds to the disaster assistance we had 2 years ago by expanding it to help even more farmers, again based on the theory that there should be no discrimination between any farmer. It should make no difference whether a farmer produces wheat, corn, sugar beets, dry beans, or cauliflower. If more than 35 percent of the crop has been destroyed, that farmer deserves assistance.

However, I am deeply troubled by the provisions in the bill which require farmers to purchase crop insurance in 1989 and 1990 if they want disaster payments this year. Many farmers have told me that they cannot afford crop insurance. It is simply too expensive given operating margins. To say that the crop insurance requirement is waived if premiums increase by more than 25 percent over current rates does not offer a cushion against overly expensive crop insurance rates. It presumes that rates are acceptable to start with. If that were the case, more farmers certainly would have purchased insurance. It is my opinion that this section of the bill is a flaw which could undo much of the good done by the rest of the package.

The assistance that is provided is done so in a responsible fashion. The farmer receives help only for those losses in excess of 35 percent. If a farmer faces extraordinary losses—losses in excess of 75 percent—the farmer is provided with additional payments because of such heavy devastation. Total assistance from all losses is limited to $100,000.

This combination of limitations provides the greatest assistance to those producers facing the greatest losses, while putting a cap on total assistance so that we can be sure that help is targeted toward small- and medium-sized producers.

I am also very pleased that the bill will prohibit the dairy price support cut that is expected next January. To add a price support cut on top of higher feed grain prices would certainly put unacceptable pressure on dairy farmers. To void this cut will help them to have a better chance of surviving.

The provisions in the bill which also provide a temporary increase in the Dairy Price Support Program are good ones. Dairy farmers will be facing higher feed costs. If they cannot get a better price for their products, then they will be unable to meet their expenses. Many will be forced to sell all or a portion of their herds. The sale of those animals for slaughter will push down beef and pork prices, hurting those producers.

And there is yet another consequence. If dairy farmers are forced to reduce their production, there will be less cheese and nonfat dry milk available for Federal feeding programs like the School Lunch Program. Earlier this year USDA had estimated the amount of cheese available for the School Lunch Program would drop from 200 million pounds to 130 million pounds. Recently this estimate was revised to drop the amount of cheese for the School Lunch Program to 80 million pounds. This reduction of donated cheese reduces support for the School Lunch Program by $180 million. We will either have less food available for the School Lunch Program, or we will have to appropriate more money to cover higher costs.

If we allow a price support increase in the Dairy Program, we allow ourselves the chance of making sure we have a better supply of dairy products for food assistance efforts.

The problem really stems from the use of a 5-million-pound trigger on Government purchases. That number in the farm bill was based on guesstimates of how much product was needed for food programs. It has come to our attention that the 5-million-pound trigger is too low. The proposal sponsored by Mr. JEFFORDS and cosponsored by myself to raise the trigger to 7 million pounds deserves consideration.

Let me also say that I regret the elimination of feed assistance to livestock and dairy producers who do not grow their own feed. Many of them will face great difficulty in obtaining adequate feed supplies because they can't find acceptable feed within reasonable distances. I understand that the provision was eliminated for budgetary reasons, but this disaster is one situation for which we must find room in the budget.

Mr. Chairman, while this disaster bill could be a better one—especially if the crop insurance provisions were eliminated—it is basically a good one as it stands. I urge its adoption.

Mr. DE LA GARZA Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM], chairman of the Subcommittee on Livestock, Dairy and Poultry of the Committee on Agriculture.

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Chairman, just a few points in the debate that I think are very relevant.

The Department in objecting to some provisions, particularly dairy, makes the statement we do not expect milk shortages. My point is no one knows today as we debate this whether we will or will not.

The committee bill, if it does anything, errs on the side of a little too much milk and food than on too little.

Also, I would like to comment regarding "milking" the drought, the Washington Post editorial in which it said, "Congress should spend more on the drought bill than the Government will save in normal farm supporters."

The Agriculture Committee has totally and will today conform absolutely to the Gramm-Rudman-Hollings guidelines as designated by OMB and we most assuredly will not spend more than the agriculture budget provides in fact hopefully less.

The question of money, we are within $300 million of what the administration wants. Do not be misled by the argument today on the dairy side. We are only talking about $115 million difference and we will debate that adequately at the appropriate time; $115 million, it is not $300 million.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I too would like to commend Chairman DE LA GARZA and Mr. MADIGAN, the ranking member and the entire committee for their tremendous work.

Mr. Chairman, today Congress begins the final process toward assisting our Nation's farmers. There are some who argue that we should let nature take its course. I do not agree.

The American farmer remains a backbone in our economy. This package is a modest attempt to minimize losses across a broad range of commodities. These commodities are vital for ensuring adequate food supplies for this country.

The U.S. Department of Agriculture has been running out of surplus commodities that supply our country's food assistance programs for the elderly, homeless, and poor. In addition, commodities such as milk are important for school lunch programs.

This Congress is currently reauthorizing the Temporary Emergency Food Assistance Program and increasing the benefits of the current Food Stamp Program to provide adequate nutrition to low-income Americans. To ensure the success of these programs, surplus commodities must be available. By allowing our surplus commodities to fall short, we run the risk of runaway food prices and food shortages for low-income and elderly Americans.

The dairy provision in this package assists dairy farmers in maintaining adequate supplies of milk which in the long run will maintain surpluses and stable milk prices. We should not forget the lessons of 1974 when this country faced a shortage of milk.

I urge my colleagues to support the dairy provision in this bill for the benefit of those Americans so dependent on our surplus food.

□ 1215

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Chairman, I thank the chairman of the committee and the ranking minority member for what I think is a very good bill. It brings hope to a lot of farmers on Maryland's Eastern Shore and in southern Maryland.

I would also like to take my few seconds here to thank the chairman who left his home last Monday morning at 6 a.m. and traveled to Dulles and then on to the Eastern Shore and spent the rest of that day visiting farmers firsthand who have suffered from this drought. I think he brought a lot of hope to them. He also brought a lot of rain. It has not stopped raining there since he left, and we are indebted to him.

Mr. Chairman, I rise in support of H.R. 5015.

Mr. Chairman, for 6 of the past 8 years, Maryland's farmers have endured drought-stunted harvests. This year, with rainfall far below normal, farmers are once again searching the sky for signs of life-giving water. If it doesn't come soon, disaster will.

Even if the skies break, however, and the summer rains come, the drought of 1988 will have taken a costly toll from my district's farmers. According to recent estimates by the Agriculture Department, Maryland farmers as a whole have already lost more than $233 million in farm income because of this drought.

Most of Maryland's farmland is located in the 13 counties that comprise my State's First Congressional District which I represent. Each one of these has been declared a drought disaster. Farmers in these counties can expect to lose a total of at least $175.3 million, and according to my State's agricultural emergency board, that estimate is probably on the low side.

I am submitting a county-by-county breakdown of the crop damage suffered by farmers in my district's 13 counties, and request that this be printed in the record of this debate. As you can see, Mr. Chairman, farmers in my district have seen their sun-baked pastures wither, their soybeans turn to stone, and their feed corn dwarf in the droughts blazing heat.

DROUGHT'S IMPACT ON MARYLAND CROPS

[Table gives the number of acres planted and percentage of acreage lost and projected total dollar loss for key Maryland crops as of the week ended July 15. Tobacco and poultry are not included in county-by-county figures but are included in projected total dollar loss. Detailed reports have not yet been received for Allegany, Anne Arundel, Baltimore, Garrett, Prince George's, Queen Anne's and Washington counties. Losses in these counties are estimated at $28 million to $33 million.]

County	Feed corn	Percent loss	Soybeans	Percent loss	Hay	Percent loss	Pasture	Percent loss	Truck crops[1]	Percent loss	Total loss
Calvert	7,700	33	5,200	48	1,800	50	6,400	60	300	70	$3,847,244
Caroline	30,000	77	55,000	90	3,500	50	1,000	75	8,000	29	17,000,000
Cecil	24,000	55	14,500	59	11,200	40	10,000	90	100	75	9,545,620
Charles	10,000	62	10,000	50	3,000	55	3,500	50	1,500	70	5,861,100
Dorchester	26,000	61	71,000	71	1,200	80	2,000	80	7,000	12	21,692,470
Harford	40,000	64	5,000	56	16,200	40	26,100	80	1,500	25	15,395,620
Kent	72,000	60	19,000	67	5,200	75	3,750	50			37,162,000
St. Mary's	11,200	37	12,500	35	4,200	40	3,000	50	1,300	40	11,749,500
Somerset	10,000	40	19,100	32	1,800	33	1,500	100			3,983,595
Talbot	31,000	65	43,000	45	3,000	52	3,000	80	550	8	13,215,198
Wicomico	22,000	35	52,000	36	1,100	35	1,200	100			7,495,520
Worcester	37,000	30	42,000	10	900	21	1,200	99	1,500	45	6,346,930
Queen Anne	62,000	40	49,000	61	5,500	40	3,000	60	4,000	84	22,129,920

[1] Includes such crops as watermelons, sweet corn, cantaloupe, peas, tomatoes, pumpkins, snap beans, and greens.

Nor is this drought, or these losses, an isolated misfortune. This is, in fact, the third consecutive year of drought-blighted harvests in my district. Last year, every county in my district was declared a drought disaster. The drought of 1987 cost Maryland farmers $116 million, and like this year, most of the losses were suffered by farmers working my district's farmland.

Over the past 3 years, in fact, Maryland farmers may have lost as much as $500 million due to these recurrent droughts. This is money lost at a time when these farmers have struggled to make ends meet through the worst agricultural recession since the 1930's. Each year, it seems, the fruits of their labor have withered in their sun-baked fields.

My first concern, Mr. Chairman, is for the farmers and their families who desperately need and deserve relief against the losses inflicted by this year's disaster. But we must adopt new programs if this relief is to be available to the farms in my district.

The Agriculture Department currently operates two important programs offering drought-stricken farmers relief against these disastrous losses. Unfortunately, few of the drought's victims ever qualify for these programs. Despite last year's $116 million loss, for example, farmers in Maryland received only $1.2 million of relief from the Crop Insurance Program.

The reason is simply that Federal crop insurance is too costly for small family farmers to afford. Officials in my State estimate that only about 3 percent of Maryland farmers now carry drought insurance on their crops.

The emergency farm relief legislation that we are taking up today, H.R. 5015, will change this, and I want to applaud the efforts of the House Agriculture Committee, and especially Chairman DE LA GARZA, in crafting this legislation. The chairman and I just returned from inspecting several crop damaged farms in my district, and we have both heard firsthand about the weaknesses of the Agriculture Department's relief programs.

The bill that Chairman DE LA GARZA brings to the floor today is especially important to my district. It opens the doors of Federal assistance to smaller, drought-burdened farmers that have been shut out of the Crop Insurance Program. Without the help that is offered in H.R. 5015, many of these families will not be in the farming business next year. So we must act, and act swiftly to adopt this important legislation.

Under the terms of H.R. 5015, all farms that lose more than 35 percent of their crops to the drought will qualify for Federal assistance, regardless of whether or not they have Federal crop insurance. For losses above this level, farmers will receive 65 percent of the crop's estimated value.

This cash relief, in combination with other provisions in the bill, should not only protect farm income. It will help to buffer the fragile economy of rural communities and to stabilize food prices for consumers.

Mr. Chairman, not since the Dust Bowl years of the Great Depression have the Nation's farmers suffered weather as harsh and unforgiving as these annual droughts. Even as we in Congress are forging new emergency relief legislation, the withering heat continues to beat down on farms from Montana to the Eastern Shore of Maryland in my district.

Despite the recent rainfall, nearly 1,900 counties across the country have been declared eligible for some form of Federal disaster assistance. If the drought drags on and the situation worsens, more counties may fall victim to the heat, and more may need to be done to shield our farmers from even greater losses. But H.R. 5015 is an excellent beginning. It offers the hope and help that our farmers need to get through this disastrous season. It will tell them that the American people support them and are willing to take whatever steps are necessary to protect them from the worst effects of this year's drought.

H.R. 5015 has broad bipartisan support in both the Senate and the House, where I have joined with a number of my colleagues in cosponsoring the bill. I am therefore optimistic that we will move swiftly to enact this legislation and that we will have relief available and on its way to our farmers before harvest time.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of H.R. 5015.

Mr. Chairman, I stand in support of H.R. 5015, the drought assistance bill. Passage of this bill is important. It is important because as the farmers of this Nation continue to look out upon their parched land, they need to know that there will be some form of help for them when they need it.

This help can be found in the provisions of H.R. 5015. The programs which are established in it can tide them over until the next crop year. We all know that this legislation only presents a very modest form of support to most farmers. When we were writing the bill in the Agriculture Committee we had to keep in mind the constraints of meeting our deficit responsibilities. The idea was to construct a bill which would equal the savings in Federal outlays which had been previously earmarked for agricultural programs. These savings were the result of the impact of the drought on Federal programs and the thought was to turn this funding around and give it back to the farmers in the form of drought aid.

I still believe that some aid should be given to livestock producers who do not grow their own feed and I fought long and hard during markup to include this provision in the bill. However, I understand that the Senate bill, as reported, has a provision for these producers in it. Furthermore, I have expressed my support for keeping the provision in the bill to my colleagues in the Senate. Hopefully, this will be accomplished today. And when the bill goes to conference I intend to fight to keep this provision in the final legislation.

H.R. 5015 includes many programs targeted toward helping our Nation's farmers who have fallen upon hard times. It is not a perfect bill and far from being a bailout. It offers some hope in the form of assistance—Congress cannot legislate rain and this is what was truly needed during the last few weeks. However, the least we can do now is offer a helping hand, and send a message to the world's most efficient and productive farmers that we will do all in our power to see them through these difficult times. I urge my colleagues to support this bill.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I wish to thank the gentleman from Illinois for yielding this time to me, and I commend him and the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA] and all members of the committee for the hard work and the efforts they have made to craft a measure to help agriculture production in this country.

I think the message to farmers today is that Congress is going to respond to the drought that has gripped America and that has scorched my State of Michigan. The basic thrust here is to try to help farmers and try to help agriculture production and rural communities that are trying to recover from a natural disaster through no fault of the farmers and no fault of rural communities.

There is a challenge before Congress and a challenge before the Committee on Agriculture, and that is to try to build a fair bill. That means trying to assist the program crop farmers, corn and wheat, and also the nonprogram crop farmers, dry edible beans, sugar beets, and soybeans, making sure that the livestock industry is being helped, dairy cattle, beef, and poultry, and looking at those who have crop insurance and those who do not have crop insurance. And let us not forget fruits, vegetables, and cherries, particularly in a diverse State like the State of Michigan.

Congress has tried to help, and that is our intent. Are we fully compensating farmers for their losses? No. Congress cannot make someone fully whole when we see a disaster like this drought of 1988 or the flood that hit the State of Michigan in 1986. But Congress is trying, trying to craft a fair bill, knowing that it is important that we have a viable, strong, vibrant productive agriculture and rural communities into the decades of the 1990's.

Mr. Chairman, I urge my colleagues to support this bill, to support American agriculture and to support rural communities in this country.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, on several occasions during the last month, I have had the opportunity to witness, firsthand, the devastating effects of the heat and drought on farmers in my district. For many of the farmers with whom I spoke the drought of

1988 represents the third financial knockout punch of this decade. The floods of 1986 and the near-depression conditions of the early eighties provided financial setbacks Nos. 1 and 2. The House Agriculture Committee's bill is in line with several of the recommendations I received from drought-stricken farmers in my district and I commend Chairman DE LA GARZA and other members of the committee for what they have achieved.

This bill meets four key criteria. First, the bill targets help to all crop producers, program and nonprogram growers alike, who are most hurt by the drought. Second, it provides important emergency feed assistance to many livestock producers. Third, payment limitations guarantee that there will be no unfair windfalls. And fourth, while compasssionate, it is also a fiscally responsible bill that is paid for out of savings made possible by lower farm program payments caused by high grain prices.

Mr. Chairman, I do have one serious reservation about the bill before us which I hope can be addressed in conference. There are many livestock producers in my district who do not grow their own feed that will not be eligible to participate in the bill's emergency feed program. Many of these producers are experiencing extraordinary financial strains due to rising feed prices and declining feed supplies caused by extreme dry weather conditions. According to the Michigan Pork Producers Association, 60-70 percent of the 5,500 Michigan swine producers do not grow all of their own feed and 20-30 percent of these producers grow no feed at all. Given that feed grain prices have skyrocketed for all Michigan livestock producers by at least 125 percent above last year levels, we should help them all if they can prove that the drought has caused them undue financial hardship.

Although we have had a few good July rains in Michigan, a State known for its agricultural diversity, we are still likely to lose over 50 percent of this year's corn crop and a significant amount of our soybean, dry bean, fruit, and vegetable harvests. I am confident that the assistance contained in this measure will help keep thousands of families in Michigan and throughout America in the business of farming. Therefore, I will be supporting this drought relief bill and urge all of my colleagues to do the same.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], who is an original cosponsor of this bill.

Mr. MICHEL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as one of the original sponsors of the drought relief bill, I want to commend the committee and Members on both sides of the aisle for the expeditious manner in which they have moved the bill to the floor, as well as for keeping the bill basically free from extraneous and special interest amendments. I know that the gentleman from Illinois [Mr. MADIGAN] who represents my neighboring district and I have visited with many of our farmers during this drought period. I am probably one of the few Members of this House who can remember the drought of 1936, and this one certainly rivals that one for severity. This past week we looked at corn ears that were no more than a nubbin, about the size of your small finger.

It is a disastrous situation out in Illinois, and I would be willing to wager that in my district practically every farmer is going to suffer at least a 35-percent loss and qualify for the basic payment. I am also happy to see that additional extra assistance is provided for farmers who have lost in excess of 75 percent of their crop, because, frankly, in my district that's what the loss is more likely to be.

Sometimes in situations like this when we act in haste, we don't tie down the provisions tight enough as I'm glad to note the committee has a provision to prevent any windfall profit, or ripping off the program, double dipping or whatever. I applaud the committee for having the foresight to see to it that the beneficiaries of the program will be the destitute farmers and not cater to those who might seek ways of capitalizing unduly on the program.

Farmers in my area of central Illinois frankly do not want a handout; they want a helping hand to carry them through this natural disaster. That is what this bill provides, a bridge for farmers to get to next year's planting season and stay in the agriculture business.

Of course, while the bill is pretty sound overall, there is a provision or two here that I hope we can correct, because if there was one message I got when I talked to my farmers spread out under the old apple tree back home on several occasions, it was: "Don't monkey or tamper with the basic agriculture act. We like it, and whatever you do, put on a temporary and emergency basis." I think that is basically what we have done here except for the milk and cotton provisions and hopefully those can be corrected.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished committee chairman.

Mr. DE LA GARZA. Mr. Chairman, I personally would like on behalf of the committee to thank the distinguished minority leader for his excellent cooperation in getting us to this point.

Mr. MICHEL. Mr. Chairman, I thank the distinguished gentleman, and I applaud you, Mr. MADIGAN, and your committee again for what you have brought forth.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, let me say to my colleagues that this bill was not easily put together. There were many times when the committee was at work and when the special group task force was at work that I did not think we were going to have a bill.

I want to compliment the chairman of our committee, the gentleman from Texas [Mr. DE LA GARZA], for what I consider to be a very statesmanlike piece of work in moving this piece of legislation through the Committee on Agriculture and, I am sure, through the floor here today. He did it very skillfully, and he showed his legislative ability in working with the different groups in the committee.

This bill should not be criticized because of the dairy provision in it. The dairy provision in the bill is very fair. Unfair potshots have been taken at it in the press. If we would listen closely to the arguments that are going to be made in opposition to the Olin amendment, in support of the Penny-Gunderson amendment, and in support of what the gentleman from Vermont [Mr. JEFFORDS] would like to do, and that is to stay with the committee position, I think we will see that this bill is fair and well crafted.

Mr. Chairman, I hope the Members will stick with the bill the way it is written.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, there is one overall goal in the drought legislation that is before us, and that is an attempt to stabilize agriculture from the ravages and effects of the drought that has occurred this year. We do so in four particular manners. No. 1, we try to provide feed assistance up to 50 percent for cost of feed and transportation to those producers of feed for their own livestock who obviously will not have that feed this year.

The second thing we do is provide disaster payments to all farmers of any crops who have suffered a significant loss of that crop as a result of the disaster; that is program crops and nonprogram crops up to 65 percent coverage.

The third provision in the bill deals with dairy, of course, and that is very important to my area. As we get into the dairy debate later on this afternoon, I want to call to the attention of every Member that unlike feed assistance, unlike dairy payments, dairy farmers are unique because they are the only element of agriculture that in this bill does not get 1 penny for the loss of production of milk, and that is why we have to deal with dairy differently.

Frankly, I wish we had in this bill a disaster payment to dairy farmers for loss of production, and then we would not be involved in the debate we are involved this afternoon. That is not the choice that is before us.

The fourth element in the bill is to provide some enhanced Farmers Home Administration credit assistance both for the farmers in restructuring and also some expanded efforts to provide help to those agribusinesses that will be suffering as a result of loss of income to their farmer constituents and clients, providing some assistance as well to survive over the next year.

Mr. Chairman, I commend the members of the committee for putting this bill together and moving to the floor quickly. I call to the attention of all Members the fact that it is not our choice that dairy is different, but we must understand that if we do not deal with the price support, we in essence get little or nothing.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Chairman, I thank the chairman of the Agriculture Committee, and I salute him and his committee for the work they have done.

Mr. Chairman, I support the dairy provision in the bill as reported by the Agriculture Committee.

We should understand that even if it were not for the drought, we should have this increase in the support price for milk. Do my colleagues understand that the support price for milk has declined by some $3 in the 1980's? Do you think that dairy farm families are unaffected by inflation?

In Wisconsin, we have seen our crops devastated by drought this year. But the fight of our farmers isn't just a fight against the drought, it is a fight against the farm recession, a fight they've been fighting for years.

My farmers don't understand why there is this perception that we have surplus of dairy products when CCC-owned dairy commodities in storage have decreased to almost nothing and USDA is telling hungry people in this country that there is no longer enough food for the Temporary Emergency Food Assistance Program and other hunger assistance programs.

Dairy surpluses are yesterday's news. If we allow the support price to continue to fall, dairy shortages and high prices will become tomorrow's news. In light of the drought, if we don't increase the support price now, you can count on severe shortages.

Regardless of how this dairy question is resolved, however, we need this emergency drought legislation, and I urge support for this bill.

The drought is real and the drought is heartless. The rural areas in my district are already suffering from these years of farm recession we have seen, and that's not just farmers, its farm businesses, its the small towns, and its the large towns.

This drought is a 50-year drought. It's arrival in the midst of a farm recession that has been throwing my farm families off the farm in droves, is a bitter development. The bill before us provides needed relief. For many, it will make the difference between success and failure. I urge support for this bill.

1230

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Chairman, I rise today in support of H.R. 5015 and commend the administration and the leadership on both sides for the cooperative, bipartsan effort in the difficult task of designing a core package of drought legislation that is needed across the Farm Belt.

I also commend the Secretary of Agriculture for the unusually swift and favorable response to numerous decisions that needed to be made by local and State ASCS offices in combating the early effects of the drought. While the Secretary has pledged to continue to use existing authority in these mitigation efforts.

I strongly support the intent that relief be based on proven commodity losses, be consistent across commodity lines, direct Emergency Feed programs to those producers who are unable to grow adequate stocks needed to support their foundation herds or poultry, and to avoid discriminating against producers who have chosen to participation in the farm program and crop insurance programs. In addition, the emergency rural business provisions which directs the Secretary to stretch the FmHA business and industry loan programs to the maximum, is an essential element of this drought bill recognizing the devastating effects upon our rural communities.

This Congress, and in particular the House and Senate conferees, must also be able to draw the line on those elements that have no place in this legislation. Assistance through H.R. 5015 must be directed only to those who suffer substantial losses due to drought in 1988 and should deal with the drought impact as it affects producers in 1988. It should not generally be utilized to make major policy changes in basic farm policy. The taxpayer should not be tapped to grant windfall profits to those who do not suffer from the drought; nor should those who are not participants in the Farm Program or Federal crop insurance be treated more beneficially than those who do participate. That would set a bad precedent—discouraging the higher levels of participation that it is our policy to encourage.

I recognize that any drought legislation passed by the House may contain elements upon which not all can agree. Therefore, perhaps the most important element is one that cannot be included in this legislation. That is the commonsense element which will be essential and must be employed by county ASCS personnel and the personnel of other Federal agencies in implementing this legislation.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. Weber].

Mr. WEBER. Mr. Chairman, I rise in strong support of the Drought Assistance Act. The Agriculture Committee is to be commended for putting together a balanced, responsible, and sensible approach to one of the most severe and extensive droughts in 50 years. They have worked together in a bipartisan fashion and have produced a bill that is worthy of support. I'm pleased that the bill will provide assistance to all producers, whether or not they participate in the Farm Program, and regardless of the type of crop they produce. I'm also quite pleased that farmers who have crop insurance will not be penalized. I think that would be fundamentally unjust and undermine any incentive to acquire crop insurance in the future. In fact, the bill has the positive feature of requiring those who receive Federal disaster payment to sign up for crop insurance for the next 2 years.

Finally, the bill recognizes that the drought will affect people other than farmers and that rural businessmen will suffer as well. I think it is terribly important that we realize that the entire rural community is affected. That's why I'm glad the bill urges USDA to use existing loan programs and to establish a special guarantee program to help rural business cope with losses as a result of the drought.

I am disturbed, however, with the committee's decision not to provide feed assistance to producers who do not raise their own feed. I have many livestock producers in my district who purchase their feed—and I know that my district is not unique in this—who will have to struggle to make it with the high-feed costs they'll be facing. Why should the livestock producer who raises his own feed receive assistance, while the one who doesn't be denied it? The drought is just as real and damaging to them.

I think we also need greater flexibility in the Feed Assistance Program in recognition of the large quantity of grain stored on farms. It doesn't make a great deal of sense to me to move all the farm-stored grain out of drought-distressed counties pass it through commercial warehouses and send it back to those same drought-stricken farmers in the form of feed assistance. Arrangements should be made to allow distressed farmers to have access to their own feed under loan at some discount or be able to get it directly to their neighbors in need.

But these minor difficulties do not substantially detract from the overall strength of the bill. This bill is not a budget buster as it will be funded out of money already appropriated to administer the Farm Program that will not be necessary because of higher commodity prices. Further, this legislation will not come near to compensating farmers for the substantial losses they will suffer, but it will help them get through this difficult and exacting year.

Most of the controversy surrounding this bill is centered on the dairy provision and the increase in the dairy price support. People have remarked that this increase will be incredibly expensive and undermine the Farm Program. This is not true. The bill calls for a 50-cent increase in October to be removed in July if the milk surplus remains above the 5-billion-pound threshold. This provision simply gives drought-stricken dairy farmers some protection and insurance during the critical spring months when market prices generally fall and feed will be scarce and expensive because of the drought. Without some income support many dairy farmers will be forced to liquidate their herds and some just will not survive.

Though weather conditions may be good next year, it takes over 2 years to rebuild a herd. With dairy supplies already tight, if dairy production declines further this spring, we could be faced with rising dairy prices that could cost the consumer several billion dollars.

The maximum amount that this increase will cost is $140 million and if the market price stays high and above the support price as it is now, it will cost nothing. It is no more than an insurance policy that will protect dairy farmers income and ensure an adequate milk supply to keep consumer prices stable. I urge that we retain the dairy provision intact and pass the bill.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. OLIN], a distinguished member of the committee.

Mr. OLIN. Mr. Chairman, I thank the gentleman from Illinois [Mr. MADIGAN], the ranking member of the committee, for yielding this time to me.

Mr. Chairman, this drought bill, of course, is an important bill. But by and large it is a good bill, and I hope to be able to vote for it.

Let me see if I can put the dairy situation in focus. My district in Virginia is the largest dairy district in the State. I have got hundreds and hundreds of dairy people. I am not insensitive to the pain and difficulty of being a dairyman, but what are my dairymen saying to me? They say they are hurting. They do not think we should cut the support price any more. But they also say the market is working, supply and demand are almost in balance. Do not overreact. They are saying, "We want higher prices for our products, our milk products, but we do not want those prices if it means upping production again. We don't want more production." They say, "We've spent 5 years getting back on the track with dairy. We're there. Don't take action on this drought bill; that sends the signal for another wave of expensive production. Don't do that."

The moderate course, is the core bill which freezes the dairy price support at this year's level for another year. It avoids another 50-cent cut.

Of course dairy farmers need to have help because of the drought. They need the same help for lost forage and feed that every other farmer is going to get, and that is in this bill.

The basic drought bill has wide support. It needs to be enacted and signed by the President. The Olin-Roberts amendment will make this possible.

Mr. Chairman, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Iowa [Mr. NAGLE], a member of the committee.

Mr. NAGLE. Mr. Chairman, I rise in support of H.R. 5015. I was privileged to be appointed to the original bipartisan, bicameral drought task force that prepared this bill for committee consideration.

I know that Members of this body are frequently criticized collectively, sometimes even by ourselves, as being slow, misguided, too devoted to partisan politics, and too concerned with the details of legislation to see the broader picture of national interest. Frequently, that criticism is misplaced. Sometimes it fits.

However, when we do respond, as we have with this bill, H.R. 5015, as quickly and as responsibly as we have; we should not hesitate to take credit. Under the leadership of our own House chairman of the Agricultural Committee, KIKA DE LA GARZA, and ranking minority member ED MADIGAN, we have managed to set politics aside and produce what in my judgment is a fine, responsible piece of legislation.

Members of the task force worked closely with the Members of the other body. Political registration was set aside, both during the task force meetings, and during our committees debate. Representatives of the administration, led by Secretary Lyng, worked closely with us, in cooperation with us, in partnership with us. All of us, in this Member's judgment, have been responsible and responsive.

My only hope is that somebody in the distant future when and if the journal of this day's deliberations is ever read, it will be said that on this occasion, on this day in response to the great drought of 1988, the Government functioned and functioned well.

Many will speak today as to the provisions of this bill. What it basically is designed to do is see that American agriculture remains strong and that one of this Nation's greatest strengths, its abundant supply of food and fiber, was protected from the forces of nature in the year of 1988.

We fundamentally changed a concept with this legislation. Rather than giving the agricultural sector of this country more credit at a time when they are awash with credit, we took steps to protect farm income; to see that they survive this crisis and continue producing and contributing to this Nation's economy.

It is true that every farmer who loses his crop because of this drought will suffer some loss, but with the provisions of this bill, the loss will be lessened and they will survive. Income given at the basic level of 65 percent of the expected target price will start on the farm and flow through the agricultural industry and into the small towns of rural America.

It is a good bill—good for rural America and good for urban America because it maintains that abundant productive unit that will supply next year's quality food at reasonable prices.

If the bill is short, it is only in the failure to directly address the problems of our mainstreet merchants, who are suffering also. An aggressive use of Small Business Administration's Disaster Loan Program is needed. I understand that step is now being taken through our supplemental appropriations bill in order to commence to make these low-cost loans available. We all must watch, push and encourage that legislation through the other body and then, if necessary, conference committee.

With the passage of this bill and those additional steps, we will have done well.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in measured and cautious support of H.R. 5015. There are problems with this bill, and I hope that my colleagues in this body and the other body will take the time to correct them before sending the bill to the President.

Farmers need drought relief legislation. Vast portions of the Nation's agriculture are harmed. My own area of southwestern Michigan has simply been devastated. Corn and soybeans are nearly wiped out. Apples, cherries, and blueberries will suffer damage for years to come. Livestock, dairy, and poultry farmers face skyrocketing feed costs and dwindling feed supplies.

My farmers want, need and deserve Federal help, but they are equally concerned that any new Federal assistance be fair and efficient.

Unfortunately the House is about to consider legislation today which has several serious problems. They include a Feed Assistance Program which does not help livestock producers who do not grow their own feed. This provision was at one time included in the bill, but the committee dropped it because supposedly it was too costly. There are other parts of the bill that could be dropped, like the millions of dollars for losses not related to drought.

A nonprogram crop assistance plan will not help many perennial crop growers. Apple, cherry, blueberry, and other fruit trees in Michigan are dying right now. Because these crops are harvested early, 1988 losses are not too bad, but the real losses are going to be next year and the year following that.

In following inadequate guidelines for nonprogram crop payments the Government's inexperience in the nonprogram crop area shows up in this bill. Each commodity differs in market value depending upon the quality, variety, intended use, et cetera. Yields depend upon factors such as the trees' age, soil condition, irrigation, et cetera. Most county ASCS offices do not have much experience dealing with the programs for perennials and other nonprogram crops, and this bill does little to correct that.

Mr. Chairman, I hope that my colleagues will do their very best to correct these and other problems with this well-intentioned legislation.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, the Drought Assistance Act is a generous response by this urban Congress to the serious problems many of our Nation's farmers are facing with the worst drought in 40 years.

I particularly support the concept of a producer-by-producer determination of eligibility.

In northeast Kansas, some farmers received timely rains while other farmers a few miles away did not get needed rains.

This bill will enable those farmers who have suffered at least a 35-percent crop loss to receive disaster payments equal to 65 percent of the target price on lost production.

This legislation will not restore farmers to where they would have been had the drought not occurred.

And I don't believe farmers expect that, but it will provide some assistance to those farmers who have suffered the most.

The cost of farm programs including drought assistance will be less than projected earlier this year. The final bill should contain language to assure that we do not exceed the budget limit for farm programs.

Under this bill farmers who purchased crop insurance are treated fairly. If we expect farmers to buy crop insurance in the future, we must make sure it paid for farmers to purchase corp insurance this year.

This bill does that.

The level of dairy price supports has been controversial.

I believe we should preserve the current rate and not allow support rates to fall 50 cents in January.

I do not believe we should increase dairy price supports. I will therefore support the Olin-Roberts amendment.

I urge my colleagues to support the Drought Assistance Act.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman from Illinois for yielding this time to me.

Mr. Chairman, in recent weeks I have attended every single meeting of the drought task force. In my 14 years in the Congress, I have never seen so much cooperation between the administration, between both political parties, and between the House and the Senate.

On the evening of July 26, I met with the Secretary of Agriculture, Richard Lyng, to discuss some of these issues. He showed me little nubbins of corn that he brought from the Midwest that were no longer than my finger.

Mr. Chairman, I think every one of us realizes that the situation is desperate and that we must come up with the best possible bill, and I believe that is what the House is now doing.

Of course no legislation is perfect, but I am hopeful that after we have carefully considered the legislation before us today that we will come up with a bill that is as fair as it possibly can be.

As my colleagues are aware, the drought of 1988, the worst drought in our Nation in nearly 50 years, continues to hold in its grip farms and ranches all across our most productive land.

In my district alone, 34 counties have been identified by the U.S. Department of Agriculture as emergency assistance areas due to below normal rainfall and above normal temperatures.

Nationally, 2,156 counties in 42 States have been designated for the haying and/or grazing provision on set-aside and conservation acres, 1,453 counties in 37 States are eligible for emergency feed assistance, and 101 counties in 21 States have been allowed to participate in the 0/92 program.

I was pleased by the early actions taken by the Secretary of Agriculture to bring assistance to drought counties in Nebraska and across the United States. Despite the Secretary's early efforts, further assistance is needed and should be approved by this Congress.

The USDA estimates the dry conditions across the major grain producing areas of the country, including my home State of Nebraska, would cause the yield of all grains to drop by an average of 24 percent this year.

More specifically, corn production is expected to be at least 26 percent below normal, wheat and soybeans down 13 percent, barley yields will be 45 percent less than normal, and sorghum production will decline by about 24 percent.

Although Nebraska has been blessed by late summer rains, 43 percent of the corn crop is rated fair or poor, 63 percent of the soybeans are considered only fair, 71 percent of the sorghum is described as poor to fair, and 76 percent of the alfalfa is rated poor to fair. The drought continues to plague Nebraska as it does other States in the country, and help should be brought to our farmers and ranchers.

Our other important agricultural sector, the livestock industry, is also suffering during the drought. Many producers have lost some to most of their feed grain crops and their normal forage production. In addition, pastures and rangeland are in the worst condition since 1921 when such measurements were first established. Livestock farmers have little of their own crops, and feed prices have risen between 30 to 40 percent.

The disaster assistance package we are considering today, as approved by the Agriculture Committee, is very detailed and complex. Many interests, from the Louisiana catfish farmer to the Nebraska cattlemen, have been discussed by the committee and addressed in this bill. Although I do not favor all the provisions of this bill, nor do I agree with the special consideration given some interests, I believe fair and responsible assistance is generally provided in this bill.

One group that has not been adequately addressed are the Nation's irrigators. It is simply untrue that my State's farmers who have invested in irrigation will come out way ahead as a result of this year's drought. While corn prices have been averaging well above the $2.50 cent level the past few weeks, it is estimated that over 60 percent of the 1987 crop has been sold at an average price around $1.70 per bushel.

Yes, my irrigated farmers will have a crop, but yields could be down 10 to 25 percent. It is true that irrigation will prevent total disaster, but during a drought the increased heat and dry winds cause all plants and animals to use more water than under normal conditions. This stress will reduce yields.

If you compare two good crop years of 1986 and 1987 to the drought year of 1983, you see nationally an average of 119 bushels per acre to 81 bushels per acre, respectively. In Nebraska, the yield comparison shows a 128-bushel yield in 1986 and 131 bushel yield in 1987, but only a 97-bushel yield in 1983.

You can see that Nebraska irrigation paid off in yield since the average yield was between 24 to 26 percent below normal as compared to a 32-percent reduction nationwide. But at what cost?

If corn yields were to be reduced for an irrigated farmer from 135 bushels to 110 bushels, the cost per bushel increases from $2.48 per bushel to $3.15 per bushel, if you include the increased cost of irrigation due to the drought of about $30 per acre. Thus an 18-percent loss in production is turned into a 27-percent loss in income per bushel for the irrigated farmer.

Several points I wish you to consider with respect to irrigation: First, the drought will stress both dryland and irrigated crops reducing yields; second, irrigated farmers have additional costs associated with longer than normal and more intensive than normal irrigation; and third, most producers will not sell their 1987 or their 1988 corn for prices near the target price of $2.93 per bushel. These farmers will have drastically lower incomes as a result.

This bill is not just a drought bill but, in fact, it is a 1988 disaster bill, including natural disasters in 1988. I am extremely glad to see that farmers who suffer 1988 crop production losses in excess of 35 percent as a result of drought, floods, or other natural disasters will be covered.

On July 13, 1988, a hailstorm devastated much of Keith County in my district. Approximately 8,000 acres of corn received between 20 to 100 percent crop damage. In addition, 4,500 acres of beans, 2,500 acres of wheat, and about 1,000 acres of oats were damaged or completely destroyed. These farmers now have hope of surviving such devastation just like their brethren suffering from the drought.

I and my colleague, Mr. STENHOLM of Texas, testified before the House Committee on Rules requesting that an amendment expanding disaster assistance to producers of program commodities impacted by natural disasters in 1987. Realizing the importance of a responsible approach, this amendment would be limited in cost to $40 million, sticking to the original intent and number proposed in the bill.

The amendment to be offered by Mr. STENHOLM and myself will assist producers in 1,100 counties in 31 States of the Nation. This amendment corrects past and present inequities in assisting people faced with devastation due to natural disasters.

I am pleased that we have been given the opportunity to offer this amendment on the House floor today that would allow farmers of all program crops damaged in 1987 to be eligible for assistance. Although I understood that this issue would be taken care of in the rule for H.R. 5015, it will be addressed and will be offered for the full House to consider.

Farmers in the Scotts Bluff, NE county area were hit with a devastating hailstorm in August 1987. This hailstorm damaged a strip of land 20 to 25 miles long and 12 miles wide. That's almost 300 square miles of farmland, 192,000 acres. A storm of similar destruction would have wiped out every acre of farmland in Rhode Island had it occurred there.

The physical damage to Scotts Bluff County crops has been estimated to be around $30 million. This has been a terrible loss of income to the regional economy, affecting not only farmers but many area businesses as well.

Two out of every three farmers in Scotts Bluff County have suffered significant yield loss in 1987 due to hail damage. Estimates indicate that only 10 percent of the total crop acres in Scotts Bluff County were unaffected.

These crop losses in Scotts Bluff County were unprecedented. The beet harvest was down an estimated 48 percent, bean production was down an estimated 85 percent, corn producers only harvested approximately 38 percent of their normal crop, and over one-third of the normal wheat production was lost. In total, over 55 percent of the total crops were lost to this hail storm.

In Scotts Bluff County, 750 farmers lost producton due to the hail with 25 producers losing their entire crop production. Additionally, 385 farmers lost one-half or more of their crops.

While farmers suffered considerable losses, State officials estimate the total cost to repair bridges, roads, and other public facilities to be $300,000. In addition, $1.6 million in damages were inflicted on private homes and other structures as a result of the hail; 343 buildings were damaged by the storm.

Despite the severe and unprecedented damage, no assistance was provided producers without crop insurance. Only 15 percent of the storm stricken crops were insured in1987. With the adoption of this amendment, at least some of these producers will receive the help they so desperately need and so rightfully deserve.

Another important point I want to share with my colleagues is the Federal Crop Insurance provision. I am delighted to see that those farmers who have afforded themselves of the opportunity to buy crop insurance will be rewarded for doing so.

Farmers who suffer crop losses who have purchased crop insurance will be allowed to keep all of their insurance payments. In addition, they will be eligible to receive disaster payments up to 100 percent of their usual expected income. This is very significant, and its impact should not be viewed lightly.

This is the kind of message we need to send to farmers—that they should buy crop insurance and protect themselves from devastating crop losses. Farmers, in effect, can pay for their crop losses over several years instead of a total payment during the same year the crop is lost.

We are all gratified that this bill is not a budget buster. The Agriculture Committee has brought before this Chamber a bill that costs less than the anticipated spending levels for agriculture this year. In fact, passage of this bill will save the American taxpayer nearly $2 billion.

It is estimated by the Congressional Budget Office [CBO] that savings resulting earlier anticipated CCC outlays for agricultural commodity programs, that over $7.5 billion will not be needed. However, realizing the need to support agriculture through this drought, the committee has provided a bill costing only $5.8 billion as estimated by the CBO.

I understand the problems of our dairy farmers, and I want to assure them that no matter whatever the final version of this bill may be, they will be helped. Virtually every livestock producer who suffers a loss of his own feed will be entitled to feed assistance. Dairy farmers have every right to expect to be treated fairly.

The drought has already significantly increased feed grains and forage prices. As feed availability tightens and prices continue to rise, both beef and dairy farmers may be forced to cull some of the lower producing and older cows from their herds unless something is done to offset the increased costs.

Despite the differences of opinion between the President and members of the House Committee on Agriculture on programs necessary to assist our Nation's farmers and ranchers, I believe all parties may be proud and satisfied with this bill. I have continued my efforts to improve this bill by meeting with Secretary Lyng on Tuesday, July 26, and by working with the House Rules Committee in allowing my suggestions and amendments to be included during discussions of H.R. 5015.

Nebraskans, as well other American producers hurt by this drought, may rest assured that I am continuing my efforts for integrity, equity, and responsibility in this disaster relief legislation. I am confident that assistance will soon be on the way.

I wish to commend my colleagues for their quick response to the drought situation across the United States. I am certain that many agree on the urgency and need for this legislation.

Mr. Chairman, I urge my colleagues to support H.R. 5015.

Mr. de la GARZA. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Connecticut [Mr. Gejdenson].

Mr. GEJDENSON. Mr. Chairman, I rise today to express my strong support for H.R. 5015, the Drought Assistance Act and more specifically the provisions included to temporarily increase the dairy price support for milk by 50 cents per hundredweight as of October 1, 1988, to offset the drastic increase in the feed grain costs of dairy farmers.

Although the nightly news reports of this year's devastating drought focus on the hard hit Midwestern States, the impact will be felt by farmers all over the country. In my home State of Connecticut, the expected increases in the price of feed grain coming from the drought stricken regions will cause dairy farmers severe financial hardship unless some measure of relief is sought. It is estimated that a 15-percent increase in feed prices is equivalent to a 50-cent-per-hundredweight reduction in the price support. In Connecticut the current rise in dairy feed expenses, expected to be more than 30 percent, could boost production costs for an average 60-cow herd by between $15,000-$20,000 annually. And because the dairy price is established by the Congress, the hike in feed costs cannot be automatically passed on to the consumers.

Some may be concerned that this provision is an attempt to open up the farm bill of 1985 and make sweeping changes in the Dairy Program. Let me assure you that this provision is strictly a drought related measure and is not a permanent increase in dairy price supports. The proposed price increase is to last only for the duration of the drought. The language of the provision states that on July 1, 1989, the Secretary of Agriculture shall reduce the support price back down to $10.60 if purchases are expected to exceed 5 billion pounds for calendar year 1989.

In addition, market prices are expected to exceed $11.10 this fall, above the price support level, so this provision would not alter the supply and demand conditions. This provision is intended to provide temporary relief for dairy families during the spring "flushs" period when market prices generally fall.

This provision is important not only for dairy farmers but for every American consumer who depends on a healthy dairy industry.

Since the drought began, we have seen a decline in the dairy cow numbers with farmers culling their herds because they cannot afford to feed them. If dairy farmers continue to be unable to cover the cost of their feed, we will see further culling and the departure of many dairymen from the industry. This will mean severe shortages in milk. Right now there are no milk surpluses, in fact there are shortages. The USDA has said that the reduction in CCC purchases will mean that they will not even have sufficient supplies to support distribution through the Temporary Food Assistance Program which has supplied needed food to the elderly and the poor. In addition, if we do not provide this minimal level of support for our Nation's dairy industry we will see severe milk shortages and a drastic increase in consumer milk prices in the near future.

On behalf of the remaining 389 dairy families in the State of Connecticut and consumers who do not want a long-term increase in milk prices I strongly encourage my colleagues to support this bill and to oppose any and all attempts to eliminate or weaken the dairy provisions.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from North Carolina [Mr. Lancaster].

Mr. LANCASTER. Mr. Chairman, I rise in strong support of H.R. 5015, the Drought Assistance Act of 1988. H.R. 5015 will provide the drought and natural disaster relief that is so desperately needed by our Nation's farmers and ranchers.

Mr. Chairman, as reported by the committee, the bill includes provisions to ensure that agricultural producers who suffer losses in 1988 due to natural disasters other than drought, such as hail or flood, will be eligible for disaster payments. Although the primary purpose of the bill is to provide relief for producers who are adversely affected by the drought and hot weather in 1988, the bill is also meant to protect producers who suffer crop losses from other natural disaster conditions.

Moreover, the purpose of the bill is to provide equal treatment for all agricultural producers that experience severe losses due to natural disaster in 1988. It cannot be justified why some farmers and ranchers should be protected from the effects of one type of natural disaster, while in the same year others who may have suffered just as much from another type of natural disaster will receive nothing. Fundamental fairness requires that all producers be treated equally.

However, this is not just an issue of equity or fairness. It also recognizes the fact that drought conditions are often followed by heavy rains, hail, and flooding. It would be shortsighted for the House to only authorize relief for one type of natural disaster knowing that there will be a need for a broader relief package later this year. In its reported bill, the committee takes a flexible and forward-looking approach by authorizing a disaster relief program that recognizes what the future may hold.

As amended, the bill will ease the administrative burdens of the Secretary of Agriculture in implementing the Disaster Program. In some areas of the country, agricultural producers have been severely hurt by natural disasters but remain relatively unaffected by the drought. In other areas, crop production may have been damaged by both drought and some other natural disaster. Administering a drought-only program would prove to be a difficult task for the Secretary. The bill will allow the Secretary to provide the same relief for all natural disaster losses without regard to the specific type of disaster. The Secretary will not be forced to engage in a lengthy process of determining how much of a producer's loss was due to drought and how much was due to some other type of natural disaster.

Mr. Chairman, on June 9, 1988, severe thunderstorms developed in certain areas within North Carolina. High winds and hail caused heavy damage to crops in selected areas. Some farmers may well suffer a complete loss due to hail damage. Under the provisions of the bill, some of these farmers will be eligible for disaster assistance. I believe this type of equity among agricultural producers is very important to the integrity of this legislation. I urge my colleagues to vote in support of this important bill. It will provide fair and equitable relief for our Nation's farmers that have been forced to suffer the consequences of natural disasters in 1988.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. Oxley].

Mr. OXLEY. Mr. Chairman, the worst drought in 50 years is afflicting much of our country. Although it is too early to determine the total effects of the drought, it is safe to say that many individuals and businesses will be badly hurt.

I represent nine counties that were some of the hardest hit in the State of Ohio. Within the past month, I have visited farms in every county of my district and observed first hand the devastation in the countryside.

On the Darel Hathaway Farm in Knox County, I saw cornfields that were knee high with little or no chance of a grain harvest. On the Alvin Brown Dairy Farm in Auglaize County, oats were being cut for silage, trying to salvage for hungry dairy cows what little green growth had taken place. Corn stands on this farm were spotty in fields visited and only 3 to 5 inches tall. Seeds uncovered lay ungerminated in the dry soil. District-wide forage losses are estimated in the range of 65 to 85 percent followed closely by oats which are estimated at a 75 percent loss.

I commend the House Agricultural Committee for their efforts to make this bill equitable for all types of farmers. This legislation replaces current livestock assistance programs with broader assistance to include most types of livestock producers. The bill also includes disaster payments to any producer of annual commercial crops who loses 35 percent of their 1988 crop due to the drought as well as supplemental assistance to those farmers whose crop losses exceed 75 percent. These two major provisions and others included in the bill attempt to make this legislation fair to all farmers devastated by this terrible act of nature.

After seeing these conditions and listening carefully to the plight of the farmers without forage to feed animals and no prospect of a respectable grain yield, I fully support legislation that will provide Government assistance within the current budget constraints. The bulk of the money available for drought relief will come from savings in Federal deficiency payments, fewer grain loans, and smaller purchases of farm products no longer in surplus.

Despite the drought and some expected increases in food prices this year and the next, American consumers will eat better and spend less than 15 percent of their disposable income on food, the lowest in our history and far less than in most other countries.

While this assistance is generous, we cannot hope to cover all the losses suffered by some farmers. This is only meant to show our committment to those producers who have amply fed this Nation.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I have sat, and I have listened to the debate, and I think people from the committee and everyone else makes a very good point. It is a bill that is needed, it is good drought assistance, there is a real need, a need to be met with real relief.

Given that premise for this bill, how in the name of decency did section 423 get into this bill? How in the world did section 423 find its way into this bill?

Section 423 is a dam project that deals with a temperature curtain so that we can produce more fish eggs. Now I cannot say that that is not a good project in some other bill, but it certainly is not drought assistance. We certainly are not helping the farmers of this Nation get drought assistance with section 423 down in this bill.

It was not even in the jurisdiction of the gentleman's committee. That is a proposal that should have gone to the Committee on Public Works and Transportation. It is in their bailiwick, and yet it got stuck down in this bill.

Now wgt ub the world when we have a drought assistance bill and we are trying to help the farmers of this country do we have to put that kind of pork garbage down in this bill? Why is it in there? Can anybody tell me what in the world section 423 is doing in a drought assistance bill? Is there anybody on the floor, anybody on the committee, that can tell me what in the world that provision is in there for?

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I gladly yield to the gentleman from Texas, the chairman of the committee.

Mr. DE LA GARZA. First I would like to advise the gentleman that the committee of jurisdiction agreed to our handling this legislation and expressed no objection.

Mr. WALKER. Oh, wonderful. That makes it all the better.

Mr. DE LA GARZA. Second, I would like to inform the gentleman that drought, an act of God that causes lack of water, of moisture, and temperature, is an integral part of providing assistance.

Mr. WALKER. I want to thank the gentleman from Texas [Mr. DE LA GARZA] for his point, but let me say to the gentleman——

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I will be glad to yield; just let me make my point.

Let me say to the gentleman that the idea behind spending this money is to help farmers in this country that need some help because they have lost their crops. We know what the purpose behind the bill is. That is what everybody is getting up here talking about, and now we get section 423 down in the bill that has absolutely nothing to do with that.

It is a piece of garbage, it is pork that was buried in the bill, and there is no reason for it there.

Mr. Chairman, I ask unanimous consent that section 423 be removed from the bill.

The CHAIRMAN. That request is not in order under the rule.

Mr. MILLER of California. Mr. Chairman, I object.

Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, the gentleman from California [Mr. MILLER] has objected, so we know that there is at least one gentleman on the floor who thinks that 5 billion dollars' worth of pork is not a good idea to have in the bill.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

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Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I rise in support of this legislation.

I certainly appreciate and applaud the speed and the seriousness with which the Agriculture Committee has brought forth this Disaster Relief Program. It is critical that our farmers know where they stand, at least with the Government program, if they cannot know where they stand with the weather.

Mr. Chairman, I am concerned, however, that the committee had difficulty finally arriving at an agreement on how to let our farmers, our livestock producers who do not grow their own feed, be eligible for the Emergency Feed Program. I am very concerned about this. We have a number of smaller operations in my district and in our State who simply will not be eligible unless we are able to work out with the Senate a provision on this basis. I certainly would urge the committee to do so at the next stage of consideration.

I am also concerned, Mr. Chairman, with how the Department of Agriculture implements the program and hope they will take to heart a number of suggestions we are making to them from our own farmers on how to determine the normal yields. There is great concern that the records in our ASCS offices simply do not reflect anywhere near what is the true and accurate historic yields.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, today, we in the U.S. House of Representatives are considering H.R. 5015, the Drought Assistance Act 1988. It is vital that we enact H.R. 5015. It is vital not only to the farmers and those directly related to the farming industry, but to our Nation as a whole.

We have waited for too long in the consideration of legislation designed to offer relief to the victims of the horrible drought that has in fact besieged our country. We must not wait any longer. To further postpone this crucial legislation would only complicate the injuries that have been inflicted upon our country. Further neglect of this legislation will be a failure of this body of Congress.

Not everyone may feel the direct impact of the drought, but consider this; Should legislation dealing with the drought not be passed, inevitably, the commodity will suffer, consumer prices will soar, and the economy of the United States will ultimately be the greatest casualty.

To ensure that our great Nation is not additionally crippled by the drought from which it is presently suffering, I urge immediate passage of H.R. 5015. Approval of this bill would set a veritable precedent should the United States ever face calamitous conditions again.

Mr. MADIGAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise in support of the committee's bill providing emergency relief for our drought-stricken farmers. This bill includes important provisions to help dairy producers to survive a current crisis resulting from dramatically higher feed grain prices.

The dairy provisions in this legislation respond to the crippling effects of the drought on dairy producers by temporarily increasing the per-hundredweight support price level from $10.60 to $11.10. If by July 1989 estimated milk purchases exceed 5 billion pounds, the support price will return to its current level as established by the 1985 farm bill.

Many of the State of Maine's 750 dairy farm operators feel they are on the edge of going out of business and may have to quit farming altogether. I had an opportunity last week to meet with a group of producers in my State who told me the situation is now critical. Over the past 3 months, feed prices have gone up by over 35 percent; their feed normally accounts for about one-third of total operating costs. The price of the grain, arriving mostly from the drought-damaged Midwestern States, has climbed at an alarming rate.

For fluid milk producers in the Northeast, smaller sized operators already struggling against the reality of tight margins, the cost of feed is now dangerously high. My colleague, Congressman JEFFORDS, has pointed out the fact that every increase of 15 percent in feed prices produces an impact on farmers equivalent to a 50-cent price cut. These producers clearly need our help during this crisis.

By passing this emergency legislation, we will give dairy farmers in Maine an opportunity to stay in business. However, as with farmers throughout the Northeast, producers in Maine are frustrated with the inefficient and unfair results of our dairy policies.

Dairy farms in my region are comprised largely of 60-cow herds used for fluid milk production. This is the kind of traditional farming we are carelessly destroying by establishing agriculture policies which reward production and induce corporate-style farm operations and conglomerates. I find it discouraging, indeed, to accept the loss of family farms in Maine when we are spending $26 billion a year on our farm programs.

In 1987, Northeast dairy farmers produced less than 3 percent of the national dairy surplus, compared to 56 percent for the Midwest region and over 40 percent in the West. The simple fact is we produce as much milk as we consume in our region while corporate-style farms in other regions gorge on the Federal subsidy trough. It is clear to me the dairy program isn't working well enough. In recent years, whenever Congress has opted to lower the nationally set support price, more farmers in the State of Maine, including good and viable operators, are forced to quit. And yet, total production has remained high and surplus levels have mostly continued. That is not fair.

I have the same concerns about this program as with the other USDA major commodity programs which reward big volume production and hinder family farm operations which rely on farm-generated income. As things stand, Maine dairy farmers get little but anguish from the dairy program and are forced to suffer the consequences of national overproduction and legitimate concerns about the total cost of this program.

While this is not the time to rewrite and revise the dairy program, this is an issue which we must return to in a fair way during the next session of Congress when we work to develop the next major farm bill. We surely need to continue Federal programs for farmers, but we must work to achieve a far greater level of efficiency and fairness for the sake of the taxpayers.

In closing, Mr. Chairman, I urge my colleagues to support this legislation in response to the effects of the drought, and to support key provisions in this bill directed at the dairy industry and the temporary effects of higher grain prices.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the chairman for yielding this time to me.

Mr. Chairman, I rise in support of the Drought Assistance Act of 1988. By all accounts, my State of North Dakota has probably been the hardest hit by this drought, and this bill will provide a good measure of relief.

In North Dakota, which is, in the best of times a semiarid climate, the main crops are wheat and barley which are planted in the spring. With virtually no precipitation since last August, the wheat and barley came up this spring, and then withered in 100-degree heat that lasted for days on end. Some farmers, the lucky ones, will harvest half a crop. Most will get only a few bushels, and many will have no crop at all.

I think it is also important to emphasize another point about where the money is going to come from to pay for this drought relief. Because the drought has driven up commodity prices considerably, Government will save billions of dollars in payments that were scheduled to be paid next year. In fact we are already saving billions in the current fiscal year because farmers are putting less grain under loan to the Government and because we are selling at good prices grain that the Government acquired in previous years.

But farmers were counting on those payments, and had already figured them into their budgets. Now, in addition to having no Government payments due to higher prices, farmers have no grain to sell to take advantage of the higher prices. To make matters worse, crop insurance was available only at the lower prices anticipated earlier, so the various programs provided no way for a farmer to insure his income. This bill will simply take some of the money we've already budgeted and send it back in the form of disaster payments to try to help farmers through this crisis.

Chairman DE LA GARZA and Mr. MADIGAN, with the members of the Agriculture Committee, have done an excellent job of putting together this bill. They've been working under a lot of pressure to get this done quickly, yet they have managed to craft a bill that is fair and responsible and will help our agricultural producers.

I've got an amendment today to fine tune one part of the bill, but in general the committee has done an excellent job of drafting a payment formula that will get the assistance to the people who need it, in a fair and equitable manner.

This bill may not save everyone. We may still lose some farmers in my State because of this drought, but I think this bill is a responsible attempt to provide a bridge into what are hopefully better times ahead.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, early in June, the farmers in my district received an unpleasant reminder in the mail. This reminder was a price support cut implemented by the Secretary of Agriculture in January 1988. Although the cut was announced in January, the first checks reflecting their cut were not received until June.

This cut is part of the 1985 farm bill. The 1985 farm bill based its cuts on the premise that feed grain costs, which make up about 25 to 30 percent of a farmer's total costs, would go down. Unfortunately, June was a month for another unpleasant reminder. Congress can legislate till the cows come home, but we can't make it rain.

We are experiencing one of the most severe droughts in history. What makes this situation even more disastrous is that it is nationwide. Where before assistance could be directed from one region to another, no assistance is available. And now, just when our farmers are feeling the crunch of the price support cut, feed grain is becoming scarce, and the price of the available grain is rising. The effect on the individual farm budget is devastating.

For many years, the dairy industry has been largely taken for granted. Milk on our grocery store shelves is low priced and always available. Surpluses are constantly publicized and proposals to reduce these surpluses are a constant political battle. Now, with surpluses growing smaller, other problems arise. Those surpluses used to feed the hungry are no longer available and the situation will grow worse. A lack of surplus is a hardship, a shortage would be devastating.

Last year, Congress legislated a herd buy-out program in order to reduce surpluses. Now, with surpluses reduced, the selling continues. This time our farmers cannot afford to feed their herds. In Kindrin, OH, an independent livestock market 80 miles from my district is witnessing this selloff. In the last few weeks, rather than the usual 140 head sold, they have seen 870 head of cattle sold. Herds which are already reduced are being reduced even further. Once sold, these herds cannot be rebuilt for several years.

This amendment does not give a windfall to farmers. It does not even make them whole. It can only lessen the impact of this dire situation. Congress had provided money to help farmers through commodity purchases and programs. This amendment merely takes the money not spent due to the drought and redirects it to help farmers through the next few critical months. For many farms, it will not be enough. But for some, it may mean survival through another season. For the country, it is a sound investment to enable the market to recover from the far-reaching effects of this drought. I urge my colleagues to support this amendment.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I rise in support of H.R. 5015.

Our Pennsylvania farmers have suffered severe losses following the recent national drought.

Each of the 66 counties in the Commonwealth of Pennsylvania has or will be designated a drought disaster area. The corn yield statewide is down over 50 percent, the hay yield in my district is a 100-percent loss, and over half of all Christmas trees under 10 years old have been lost.

The drought of 1988 has been one of the greatest natural disasters in my lifetime, and I am pleased that Chairman DE LA GARZA, ranking minority member MADIGAN, and the full Agriculture Committee have acted with such speed in reporting out H.R. 5015.

Although I am very concerned about the drought, I am equally concerned that our approach to alleviating the hardship of the drought on the American farmer will not present a case of where the treatment is worse than the disease.

Any drought legislation should meet at least the following 10 criteria:

First. It should not unduly increase the Federal deficit.

Second. It should be a comprehensive program that does not merely provide a Band-Aid for a severe wound, but should provide comprehensive relief, and should help to reduce hardships in times of future drought, by providing money for research into drought resistant plants and animals.

Third. It should minimize impact on higher food prices.

Fourth. It should not just offer the farmer an opportunity to increase his debt and to restructure existing debt, but should provide some measure of debt relief.

Fifth. It should use existing assets and programs in a more efficient manner rather than immediately creating new and more expensive programs.

Sixth. It should be cost efficient.

Seventh. It should favor the family farmer over large agricorporations.

Eighth. It should offer immediate relief instead of some future benefit.

Ninth. It should be easily and efficiently administered.

Tenth. It should be a bill that the administration will be willing to support and sign, so that unnecessary delays will not be incurred in the redrafting of legislation.

Mr. Chairman, I am not all sure how many of these criteria that H.R. 5015 meets, or that it is the best and most reasonable approach to the problem of the drought. I am sure, however, that the drought is a national tragedy, and that the people of this great country have the wherewithal and desire to attack this problem together.

It is with the certain knowledge that H.R. 5015 is superior to no response at all that I have decided to support it. I hope that it is the most reasonable and appropriate response to the drought.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to our colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I urge support for this bill, and especially the provision that I coauthored with the chairman on assisting the farmworkers in housing and drought relief.

Mr. HAYES of Illinois. Mr Chairman, I would like to express my concerns about the crisis currently being faced by our Nation's farmers. The drought has had an extremely adverse effect on farmers and rural businesses. I rise today to express my support for H.R. 5015, the Drought Assistance Act of 1988, which I understand is scheduled to be considered on the House floor tomorrow. I regret that due to other pressing matters that I will be unable to cast my vote in support of this much-needed legislation. I would also like to take this time to encourage the support of my colleagues regarding this bill.

Today, however, I would like to focus my comments on the anticipated increase in the the cost of food products as a result of the drought. I repeat, I am very concerned about our Nation's family farmers and am fully aware and in full support of the need for assistance during this very critical time. But, to stand by and allow big business to take advantage of the consumer by raising, to exorbitant heights, the price of food products disturbs me greatly.

We have already begun to see some increase in the cost of certain foods, and I really have no answers as to why. Are these increases in response to some of the food shortages that we might suffer from 4 to 6 months from now? We must realize that these increases in the cost of food are not passed on to the farmer, who as we know should have a better return on the sale of his or her products. Those increases are used to line the pockets of the fat cats in corporate America.

Those that suffer the most, of course, are those people who can least afford an increase. Our low-income consumers, some of whom are food stamp recipients, never seem to get a break. I have already heard from my constituents—they cannot afford the increases that we are gearing up for and I fear that we will likely be forced to accept.

I was pleased to hear that the Reagan administration has set up a task force to take a close look at the issue of price gouging as an effect of the drought crisis. I look forward to closely reviewing their findings.

Mr. Chairman, I just wanted to take this time to express my concern about those in our society who really cannot afford to be taken advantage of again and again by the big businessmen who will likely benefit from such outrageous increases in our food market. I am worried that these increases, in some instances, will merely be an attempt to take advantage of our consumers in light of the drought crisis.

It is my hope that we in the Congress not only express concern for the family farmer, but that we also show our concern for the consumer and particularly for those who are poor and who can least afford to bear the burden of these increases.

Mr. McDADE. Mr. Chairman, I rise today in strong support of the provisions in the Drought Assistance Act that will increase for 9 months the dairy support price for milk by 50 cents per hundredweight, effective September 1, 1988. I believe this is an important step to help our Nation's dairy producers, one of the most efficient segments of our society, cope with drastic increases in feed costs brought on by hot weather and drought conditions.

Dairy farmers in northeastern Pennsylvania are facing feed price expenses of about 40 percent, and the average 52-cow dairy farmer in Pennsylvania will have to pay $8,000 more this year as a result of the increases. These are severe conditions that could drive many dairy producers out of business. A 50-cent increase in the price support will only partially offset these increased costs.

The price support increase is necessary because the bill only provides emergency feed assistance to farmers who grow their animals' feed. Dairy farmers who buy a large share of their feed will not be eligible for assistance. For those who are eligible, the average size dairy farmer will receive about $5,000 in feed assistance to make up for an average feed cost increase of $15,000 to $20,000.

The drought is already taking a significant toll on dairy farmers. Feed is the greatest operating expense of a dairy farm. When feed prices skyrocket, as they have because of the drought, the effect on dairy farm income is devastating. Each 15-percent increase in feed costs is equivalent to a 50-cent cut in the support price. In effect, the farmers who are facing a 30-percent increase in feed costs are feeling the effect of a comparative drop of one dollar in the dairy support level.

We enjoy in this country an abundant and affordable food supply, thanks to an industrious and productive American farm economy. I believe it is our obligation to protect that food supply for the best interests of our consumers and the overall economy. If we allow dairy producers to go out of business, we could find ourselves in a position of fewer dairy operations to meet consumer needs. The consequence will be higher prices and the liquidation of herds that would take many years to rebuild.

We need to send a signal to our dairy farmers that Congress will help them through a rough period. The dairy provisions offer a helping hand to dairy farmers, and a modest one at that. The committee's provisions are not excessive. Dairy producers in my district tell me that a much greater increase in the support level would be necessary to fully offset the increased feed costs.

I urge my colleagues, particularly those who represent urban districts, to support this measure. Without a large dairy production capacity, consumers stand the most to lose in the form of higher prices and less abundant supplies.

Mr. FRENZEL. Mr. Chairman, If I were structuring a drought relief bill, I probably would not create a bill like this. However, this is a real emergency. There is no alternative to this bill.

If we want to help people who are suffering through no fault of their own, we can do so through this bill. Even if it is not perfect, even if it will cost from $5 to $8 billion, I am obliged to help provide this needed relief.

I shall vote for the bill.

Mr. BOULTER. Mr. Chairman, the breadbasket and very lifeline of this country, the greatest food and fiber producing nation on the face of the Earth, has been ravaged in recent months by a drought, the likes of which it has not seen in 50 years. Thankfully, the U.S. consumer will not suffer. We have on hand supplies of food and fiber that are adequate enough to see us through this crisis—more than adequate, in fact, and we will see only insignificant rises in food costs. Truly then, it is the producer of agricultural products, the American farmer and rancher, who will suffer. As we all know, rain, not government, will provide a solution to the drought. However, I think we all recognize that there are certain steps we can take to help mitigate the effects of a natural disaster such as this.

Therefore, Mr. Chairman, let me first commend the chairman and members of the House Committee on Agriculture for their expeditious consideration and passage of this legislation. I would urge that the full House do the same today.

On balance, this bill is responsible, short-term in nature, as it should be, and it rightfully shows compassion, targeted to those who truly need it. Deservedly, it also assures that those producers who suffer from drought-related afflictions, such as disease and insect infestations aggravated by heat and moisture stress, are covered, provided they can show the qualifying losses. Such a situation does exist in my congressional district, where wheat farmers in some areas have suffered tremendously low yields due to insects and disease, further exacerbated by drought conditions in the early spring. The drought has also pushed commodity prices up so high that these farmers will receive only a fraction of their expected deficiency payment. For the producer in that predicament, a true disaster has occurred, and it is only right that he or she be included by this legislation.

Deservedly so, the bill also shows compassion to my constituent Texas southern plains cotton farmers, many of whom were wiped out last year by the most horrifying hailstorm to hit that part of the country in recent times. True, the affected area is not geographically large, and that is what prevented them from receiving assistance last year. But to that producer who suffered a loss high enough to qualify him for assistance under this bill, he has truly experienced a disaster, and again is deserving of our help and compassion. I want to express my thanks to my colleagues on the committee for recognizing that good, common sense and flexibility must be exercised when formulating legislation of this nature.

Finally, Mr. Chairman, a great deal of work has been done in the conservation of our soil and water resources since the Dust Bowl days, and it is for this reason that the consequences of this drought to the land will be minimal. In large part, we owe the continued productivity our soil to those who have dedicated their life and work to conservation, and to those producers who wisely employ conservation practices.

Mr. Chairman, I urge swift and complete passage of H.R. 5015, as reported by the House of Representatives' Committee on Agriculture.

Mr. CLEMENT. Mr. Chairman, I rise in strong support of the Drought Assistance Act of 1988 which will provide aid for the drought-stricken farmers around the country. Nearly all areas have been affected and we all share many of the heartaching stories of farmers who have been buffeted by years of poor prices, poor crops, and scorching heat. Even urban folks have felt the effects of the drought. At one point during the month of June Nashville was the driest city in the Nation while Memphis was third and Chattanooga fourth.

I recently toured Robertson County, TN, and saw first hand the devastation that the drought has inflicted on the farmers of my district. Ninety percent of Robertson County's pastures are gone and soil conditions are in danger of suffering long-term damage. Many farmers have taken their cattle to market due to the lack of viable pasture land and many other farmers have already begun feeding hay that normally is not used until late fall. And, we have also seen feed prices skyrocket as a result of the hay shortage, and beef prices drop as farmers go to market.

This week the Palmer Drought Severity Index reveals that Nashville and middle Tennessee have a reading of −4.5, which indicates severe drought. Under normal rain conditions my district should have had 15.44 inches of rain fall since January. This year we are presently down by 14.62 inches. I was informed this indicates we have received only half of the normal rain fall as we move toward our dry season. Thus far, the farmers of my district have suffered a loss of 70 percent of their hay and 50 percent of their corn crops. I know the situation I have outlined in my district is not unlike many parts of the country. There are thousands of like stories to be told. The time to act is upon us.

The Agriculture Committee's disaster assistance package is an important first step to ensure the continued solvency of our farms.

I would like to extend my thanks to Chairman DE LA GARZA for expeditiously moving this legislation through the Agriculture Committee. I would also like to recognize Congressman ED JONES for his work on the Agriculture Committee. Mr. JONES has always ensured that Tennessee's agriculture interests were ably represented. With respect to this legislation, Representative JONES' important role is evident. Certainly, we will all miss his leadership in the Tennessee delegation and in the House as a whole.

Mr. SENSENBRENNER. Mr. Chairman, We are all aware of the devastating effects of the current drought. Lack of sufficient rain and uncommonly high temperatures have conspired to create another Dust Bowl. Thanks to God, the situation may not have gone that far. However, the effect is far from over. The statistics continue to roll in and are worse every day. Headlines proclaim "Feed Use of Corn Wheat, Oats and Soybean Meal Down 8 Percent". "Dairy Production Down," "Pasture Conditions in Wisconsin 29 Percent of Normal." What American farmers, dairymen, ranchers, and rural communities are suffering now will undoubtedly be felt by the consumer in the near future and by farmers and dairymen for the remainder of the decade.

The stituation in Wisconsin is particularly acute. We are the Nation's leading dairy State. For years we have been the leading milk, butter, cheese, dry milk, and condensed milk producer. We produce 55 percent of the Nation's blue cheese, 94 percent of the sweetened skim milk, 87 percent of the muenster, 34 percent of all cheese and 18 percent of the milk.

Mr. Chairman, the combined effects of the drought have hit dairymen, perhaps harder than any other farming sector. Diminished hay supplies and excessive heat stress on cows has knocked milk production way back. Wisconsin is one of only four States in the Nation to have all of our counties declared eligible for emergency drought assistance by Secretary of Agriculture Lyng. Wisconsin needs the dairy provisions of the drought relief package.

Several weeks ago I wrote to Chairman DE LA GARZA of the Agriculture Committee expressing my concerns and urging emergency assistance to our farmers and dairymen. The committee spent 3 weeks carefully considering drought relief and I was hopeful for the package that was finally agreed upon.

In this relief package the committee wisely provided for a temporary increase of the support price for milk. I also limited emergency feed assistance to only those who produce their own feed crops. However, over 90 percent of Wisconsin's dairy farmers grow their own feed.

Mr. Chairman, feed is the dairy farmer's greatest expense. The drought has caused prices for forages and grains to soar, and unless the dairy farmer receives a higher price he will not be able to meet costs. The result will be widespread shortages and dramatically rising costs to the dairy consumer.

Mr. Chairman, I am all for spending within our means. The drought package and its dairy provisions represent modest assistance to an industry in dire need. The Congress has the responsibility to assure the American family does not experience sharply higher consumer prices. As you know, dairy products account for the largest share of consumer food purchases.

Mr. SHUMWAY. Mr. Chairman, for the second year in a row, significant parts of my congressional district are experiencing a critical water shortage.

This year the drought conditions are quite severe and causing considerable hardships for many of my constituents. Farmers are unable to irrigate their crops and risk losing their entire harvests. Residential water users face the prospect of water rationing and water meters. The effects of this drought will mean the loss of millions of dollars to the local economies. And it will also exacerbate the problems of an already depleted ground water supply in many areas.

Mr. Chairman, I commend the House and the committees involved in preparing this legislation, and for the expeditious manner in which it has been brought to the floor for consideration. And while it is by no means a perfect bill, I believe the drought situation throughout the entire Nation is desperate enough that H.R. 5015 should be passed today.

Mr. Chairman, I specifically support the provisions in this bill that deal with the Bureau of Reclamation's ability to respond to the severe impacts of the drought. On the whole, I believe this bill gives the Secretary of the Interior the flexibility he needs to help alleviate and mitigate the problems we are presently facing in my area of California.

The bill, for instance, contains a provision whereby the Bureau of Reclamation is to undertake expedited evaluations and studies of potential facilities needed to prevent recurrence of the current drought conditions, including new water supply projects.

The Bureau of Reclamation at my request has been working on an informal analysis of how the long envisioned and already authorized Auburn Dam could have helped alleviate the current drought conditions in northern California had it been completed prior to the 1986 flood. I believe this new study authority in H.R. 5015 is further justification for the Bureau to continue their efforts in this regard, and to make specific recommendations to the Congress on the need for a long term Auburn Dam water supply to meet future area water needs and avoid recurrence of current drought conditions. I believe this authority also could and should be used by the Bureau to investigate specific non-Federal cost sharing partnership arrangements which are needed to complete this important project.

I would add, Mr. Chairman, that the need for flood control in Sacramento has prompted some officials from that area to call for a dry dam which would provide no water for the area. I strongly believe that the drought of 1988 demonstrates vividly the folly of this dry dam idea. However, in light of this dry dam proposal, I believe the Bureau of Reclamation should use the investigative authority under this bill to demonstrate if and how a dry dam will only exacerbate future drought hardships as area water needs increase.

I also support the authority this bill gives the Secretary of the Interior to contract surplus CVP water for drought relief purposes without applying the acreage limitations of the Reclamation Reform Act. This authority is generally consistent with the objective of legislation I introduced earlier this year, H.R. 4583, the New Melones Drought Relief Act.

The need for this authority became clear in my district when the Bureau explained that it could not even enter into temporary drought relief contracts without applying the long-term Reclamation Reform Act restrictions—particularly the acreage limitation restriction. This provision would mean area farmers would have to sell off parts of their family farms just to get temporary drought relief.

While I believe this temporary drought-relief exemption from the acreage limitation provisions is necessary, I am pleased to note that the Bureau of Reclamation, South San Joaquin Irrigation District and the Oakdale Irrigation District have agreed to an arrangement reallocating the two districts' water rights to allow for increases in dry or drought years.

And finally, Mr. Chairman, this bill contains a provision which I very much support, and which has passed the House previously. This provision fixes a flaw in existing reclamation law whereby the New Malones project water which by rights belongs to, and is allocated to, the Oakdale Irrigation District and the South San Joaquin Irrigation District reverts back to the Bureau of Reclamation after each calendar year if not used.

Mr. Chairman, from an operational or resource management standpoint, this "use it or lose it" water policy makes absolutely no sense. This provision corrects this situation by simply allowing these two water districts to carry over storage in New Melones reservoir of their allocated but unused water—which again by water rights law belongs to them—so that in drought years, they are able to use this water to meet their needs.

Mr. Chairman, this provision promotes water conservation and efficiency in operation, an objective which all Members should support. And I would like to thank my good friend from the San Joaquin Valley, Mr. COELHO, for his efforts in this regard.

Mr. LIGHTFOOT. Mr. Chairman, I want to take this opportunity to thank and commend the members of the House Agriculture Committee for their timely and cooperative efforts in bringing H.R. 5015, the Drought Assistance Act of 1988, to the House floor so quickly.

It was no easy task to compile a package of drought relief measures in a bipartisan, prompt manner. This package contains assistance for most of those producers affected by the devastating drought we've experienced this year.

I strongly support this measure because of the assistance it provides to livestock and crop producers alike. I've heard from hundreds of farmers in my district who have been hurt by lack of feed and forage and loss of crops.

In particular, I'm pleased the committee agreed to expand livestock emergency feed assistance, to reimburse producers who face crop losses of more than 35 percent, to provide transportation assistance for feed, to expand water-related assistance, to expand assistance programs for small businesses affected by the drought, and to allow flexibility in repayment of farmer-owned reserve loans, among other provisions.

I was disappointed that we are still unable to permit producers to graze their conservation reserve program [CRP] acres. I also wish the committee would have included language in the bill to provide more specific assistance to rural residents facing water shortages. I also believe more attention should have been given to specifying available assistance for rural small businesses affected by business losses due to the drought.

In spite of these concerns, however, the committee in my view has done an excellent job of meeting the needs of farmers hurt by drought conditions, and I lend my wholehearted support to the bill. I am hopeful that swift agreement can be reached with the other body so we can speed this assistance to our producers.

Mr. MILLER of California. Mr. Chairman, I wish to highlight one of the sections of the drought assistance bill presently under consideration.

This section would provide the Secretary of the Interior with greater flexibility to make water available from Bureau of Reclamation projects to areas where it is most needed to alleviate drought impacts. These are emergency authorities which the Secretary does not now have.

The provisions relating to the Bureau of Reclamation actually originated in the House Interior Committee. My Subcommittee on Water and Power Resources held hearings on the Federal response to the drought on May 24. One of the purposes of the hearing was to determine whether the Federal agencies were taking all of the steps necessary to avoid repeating the mistakes made during the 1976–77 drought.

What we learned at that hearing was the Interior Department was evaluating the need for legislation and that it could well be evaluating its legislative needs long after Congress adjourns. Postponing enactment of emergency authorities for the Interior Department until next year would lead to mistakes similar to those made in 1976–77.

Accordingly, we included emergency authorities for the Secretary to respond to the drought in one of our committee bills, S. 795. The language included in S. 795 has also been included in this drought bill. The language in both bills was patterned after H.R.

4628, introduced by Congressman TONY COELHO.

This language gives the Interior Department flexibility to make available water from its projects to water users, including those who may or may not presently be receiving water from such projects. This includes municipalities, irrigators who are not Bureau contractors, and fish and wildlife. We fully expect that the Secretary will establish priorities for determining where the water goes and will make every effort to provide water to those uses most likely to suffer permanent or irreparable losses from the drought.

What this means is that water will go first to the most vulnerable users, such as orchards, perennial crops, fish and wildlife—uses which will not recover at all or readily from the impacts of a drought.

One final note on fish and wildlife. We have heard a great deal about agricultural losses from the drought. These are real. But we should not forget that the drought-caused losses of fish and wildlife are massive and require our attention as well.

The Fish and Wildlife Service has just reported massive declines in duck populations, noting that in the drought stricken areas populations are at their smallest numbers ever. The drought has destroyed food and habitat, with the result that birds are not breeding and many are dying. Similarly, massive fish kills are being reported throughout the country.

We are witnessing a wildlife tragedy of great proportion. There may not be a great deal that we can do, but certainly our Federal water projects can and should be operated in such a way as to minimize wildlife losses. The provisions relating to the Bureau of Reclamation provide a small step in that direction.

Mr. Chairman, I appreciate the opportunity to highlight this provision of the drought bill.

Mr. GEPHARDT. Mr. Chairman, I rise in support of H.R. 5015. The chairman and the members of the House Agriculture Committee have worked hard to respond to the problems facing our farmers. Their effort deserves our support.

Of particular controversy today is the question of dairy price supports, and I want to add my voice in support of the committee's action. In canceling the dairy price cut that would otherwise occur on January 1, 1989, and increasing the support level modestly, the committee has provided some needed relief for our dairy farmers, who have seen feed prices increase 30 or 40 percent as a result of the drought.

After years of hard times, thousands of our producers have gone out of business, and many others who have fought to stay in business remain hard-pressed. They are on the edge.

Our farmers need the opportunity to earn a fair return. By raising producer prices, the committee has taken the right direction. I urge my colleagues to oppose the Olin-Roberts amendment and stand up for our farmers.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of the Drought Assistance Act of 1988. I am a cosponsor of this bill and have worked with the Drought Task Force of the House and Senate Agriculture Committees to ensure expeditious consideration of this critical proposal.

I recently completed a tour of every county in my district during which time I met with hundreds of farmers and their families and I am painfully aware of the effects high temperatures and lack of sufficient rain are having on our agricultural producers. There is no doubt that the drought our farmers are experiencing is among the worst in our Nation's history. Farmers will need help to recover and the bill before us today authorizes disaster assistance payments to farmers who lose more than 35 percent of their crops due to drought or other natural disasters in fiscal year 1988, and additional payments for those whose crop losses exceed 75 percent of expected production. It also relieves farmers whose crops are damaged from their obligation to repay certain income support payments that were provided in advance. This proposal has been crafted to efficiently and equitably protect farm income while ensuring the economic health of drought-affected rural communities.

The farmers in my district have expressed concern over the repayment of Farmers Home Administration [FmHA] loans. Because of this, I worked to include language in this proposal which directs FmHA and the Farm Credit System to exercise forbearance in collecting payments from farmers hurt by the drought, and to expedite the use of credit relief measures available under existing law. The measure also requires FmHA to make 1989 farm operating loans available to farmers hurt by the drought, provide loan guarantees that will allow farmers to stretch out payments on existing loans and establish a new FmHA Loan Guarantee Program to assist rural businesses.

The immediate need for livestock producers in my district is a supply of hay and grain feed. The farmers in my district cannot grow enough hay to feed their herds and have already begun to use what would be considered their winter feed supplies. Because of this I have worked to include essential language in this bill to help livestock producers obtain sufficient feed.

This measure establishes an expanded feed assistance program open to those whose feed crops have been destroyed and provides additional types of emergency livestock assistance. The new program would be open to producers eligible for the existing emergency feed and emergency feed assistance programs, and to other producers in areas where the USDA determines a "livestock emergency" exists because of feed shortages. This assistance includes: Reimbursement for up to 50 percent of the cost of replacement feed purchased during the duration of the feed emergency; sale of CCC-owned feed at 50 percent of the average market price for the commodity, or in 1988 only, 75 percent of the price support loan rate; donation of CCC-owned feed to producers who are financially unable to purchase it, even at a discount, or to participate in other aspects of the assistance program; payment of up to 50 percent of the cost of transporting and handling feed purchased or donated from CCC stocks, of transporting hay and forage from locations outside the area where the producer would normally obtain it, or of transporting livestock to available grazing locations; payment of up to 50 percent of the cost of installing pipelines, building or deepening wells, or developing springs or seeps to provide water supplies.

Many individuals in my district have also voiced their strong concerns over the soybean crop. Because of this, I have worked to include language in the bill to allow for greater flexibility in soybean production. This is particularly important to businesses that depend on the continued availability of soybeans for their production and to our farmers who cannot afford to lose a major share of the world market to foreign competitors.

For the 1989 crop year, the bill permits farmers to plant soybeans or sunflowers on 10 to 25 percent of their acreage that normally would be planted with wheat, feed grains, cotton, or rice. The measure specifies that planting soybeans or sunflowers under this provision would not reduce the farmers's acreage base—the amount of land planted with a particular crop in past years, which is used to calculate eligibility for price support loans and other farm programs—for the crops planted previously. The bill requires that if the price of cottonseed or cottonseed products is adversely affected by the increased planting of soybeans and sunflowers, USDA must support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or other appropriate means.

Finally, the bill includes provisions to encourage conservation measures on lands stressed by the drought; authorizes Agriculture Department grants, loans, and other assistance to rural communities with water supply problems caused by the drought, and creates a new weather information system intended to help reduce losses from future natural disasters.

In closing, Mr. Chairman, I petition my colleagues to join with me in fully supporting this legislation. Its immediate implementation is essential to the future of the American farmer who is the backbone of our Nation. The drought which has hit our farmers has been described as one of the worst in U.S. history—more severe than even the drought in the mid-1930's that created the "Dust Bowl." Before us is a good, compassionate bill with constructive, thoughtful programs to protect farm income and assure a continued adequate supply of food for American consumers. It deserves to be passed without prejudice and sent to the President with all possible speed.

Mr. DURBIN. Mr. Chairman, I support the drought assistance package that we are considering today. This bill addresses a great need in rural America. By providing disaster payments to partially compensate farmers for their proven losses due to the drought, the bill offers a measure of stability to the farm economy, which will otherwise see thousands of farmers unable to pay their bills and hold out for another year.

However, there is a provision in this bill which is inconsistent with Federal health policy and Federal agricultural policy. The language I am concerned about is the provision which gives disaster assistance tobacco farmers while exempting those relief payments from the no-net-cost requirements of the Federal Tobacco Program.

Under current law, the Tobacco Price Support Program includes a requirement that tobacco growers pay an annual assessment in order to cover the costs of the program. However, this drought bill violate the no-net-cost requirement by providing $150 million in relief payments to tobacco farmers without requiring those payments to be funded through the no-net-cost program. The effect of this provision is that taxpayers will be paying tobacco farmers for reductions they have experienced in a crop that has been linked with death and disease.

Not only does this provision violate the funding requirements of the Tobacco Program, but it also violates the basic health goals of our Nation.

There is a clear inconsistency in our Government's policies when we acknowledge that cigarette smoking is the single most preventable cause of death in the United States and allocate Federal tax dollars both for scientific research and public education about the health hazards of smoking, while at the same time we provide Federal assistance and tax dollars to support the production of tobacco.

Approximately $22 billion annually is spent on health care for smoking-related disease, including $4.2 billion through Medicare and Medicaid, $210 million through the Department of Defense, and $400 million through the Veterans' Administration. We are now proposing to spend $150 million to compensate farmers for lower yields in the tobacco crop that is responsible for these health costs. There is a clear contradiction in this action.

Although I support the drought relief bill, I cannot support the tobacco-promoting portion of the bill, and I hope that in the future we will carefully rethink our policies concerning tobacco and stop subsidizing this deadly crop.

Mr. KANJORSKI. Mr. Chairman, I rise today to commend Chairman DE LA GARZA and the Agriculture Committee for their hard work in carefully crafting a drought-relief measure to assist farmers and rural communities in coping with this terrible drought. The farmers of our Nation need and deserve the help of the Federal Government, and I believe this bill goes a long way toward doing just that.

This drought has spread well beyond the Midwest, Mr. Chairman. It has swept into and devastated the agricultural production of many States in the East, including my home State of Pennsylvania. Our entire Nation is, as they say, in this boat together.

In Pennsylvania, much of the agricultural industry has been jeopardized: our dairy, poultry and livestock, fruit and vegetable, Christmas tree, and other producers have been hard hit by this drought. Through no fault of their own, their crops have been so severely damaged that there is no hope of harvesting enough this season to make ends meet, and to keep food on the tables of their families through to the next harvest. It is important that we, at the very least, provide a safety-net for these growers so they can recover from this serious setback.

I would again like to commend the entire committee for its swift and equitable efforts to resolve this crisis. They have reported a good bill, a bill that is deficit-neutral, and a bill that will go a long way toward easing the difficulties of America's agricultural producers. Mr. Chairman, H.R. 5015 is a necessary piece of legislation, and I urge its passage.

Mr. SKELTON. Mr. Chairman, I am pleased to rise today as an original cosponsor and supporter of H.R. 5015, legislation which provides a minimal safety net to American farmers and producers severely affected by the drought of 1988.

While Congress certainly cannot legislate rain, which is exactly what our farmers need most, the House and Senate can address this issue, which crosses State, regional, and party lines.

The bill we debate today authorizes disaster assistance payments to farmers who lose more than 35 percent of their crops due to drought or other national disasters in 1988 and make additional payments to those whose crop losses exceed 75 percent of expected production. It also relieves farmers whose crops are damaged from their obligation to repay certain income support payments that were provided in advance.

This program, which is designed to be implemented on a producer-by-producer basis, is not a nationwide handout to farmers, but it is a fair and equitable response to the agricultural disaster of 1988. As chairman of the Congressional Rural Caucus, I am pleased to join with members of the Agriculture Committee in voting for this evenhanded and balanced solution which will provide much needed short-term help to Missouri farmers.

Next up for H.R. 5015 is action on its companion in the Senate. I urge my colleagues on the other side of the Capitol to work quickly and approve this legislation that is of great importance to millions of rural America's across our country.

Mr. TRAFICANT. Mr. Chairman, today we are considering a very serious piece of legislation: H.R. 5015, the Drought Assistance Act. I would like to offer my full support to this bill in an effort to come to the aid of farmers in my State of Ohio and across the country who are weathering the severe drought conditions.

Not since the 1930's Dust Bowl crisis have we seen the dry conditions as they exist now. The lack of rain has killed crops and livestock and I don't believe that much hope is in sight for this year's crops, even if it rains for 2 days straight. The fact is that for 1988, corn production is targeted to be 26 percent less than last year, followed by barley 45 percent less, oats 32 percent less, wheat and soybeans 13 percent less pending normal rainfall for the rest of the season. The last few weeks of scattered rain over the Midwest has helped alleviate the bad conditions only slightly; much more is needed to get farmers back on their feet.

But since rain is not our's upon request, I stand here today before the House in support of the legislation which has been carefully crafted by the Agriculture Committee. H.R. 5015 would authorize disaster payments to farmers who have suffered over 35 percent crop loss, as well as additional payments to those who have lost over 75 percent of expected production. The bill also helps livestock producers obtain sufficient feed, in addition to increasing the dairy support price by 50 cents. I favor these provisions and must say that they are crucial now for America's farmers.

H.R. 5015 is a food bill because it targets those in dire need and prevents the possible extinction of the family farm. We all realize the role the farmer plays in providing for America's traditionally healthy harvest. We are all too often ready to send foreign aid abroad; let's provide humanitarian aid to our own farmers today. I urge my colleagues to support H.R. 5015.

Mr. ROGERS. Mr. Chairman, I rise today in strong support for the Drought Assistance Act of 1988, H.R. 5015.

I deeply regret that obligations in my district have forced me to return home before the final vote on this bill today. But I do not want to leave town without voicing my strong support for this essential, urgently needed legislation.

While final statistics are still being developed, there's no question but that farmers in my district have been seriously harmed as a result of this worst drought that our country has seen in 30 years. Statewide farm income has been cut by hundreds of millions of dollars in Kentucky alone, causing severe hardship not just for farm families, but for the other businesses in the farm economy, and entire communities that rely on the well-being of the farm economy.

As of the earlier part of this month, row crops, such as corn, were hit the worst in Kentucky. Sixty-eight percent of our tobacco crop was rated as either very poor or poor. Beef producers were hit hard as their feed costs went up and the price of beef went down. Today, I'm told that calf prices are about $75 per hundredweight, compared to about $90 just this last April. And our dairy producers are also hurting, with declining production in many cases and feed costs that have shot up as much as 30 percent.

For all these reasons, I can certainly attest to the urgent need for this drought assistance bill, which will help our farmers stay in business and prevent massive disruption throughout the rural portions of our country. It will allow payments to farmers who lose more than 35 percent of their crops as a result of the drought or other natural disasters. It will allow tobacco growers who lose more than 35 percent of their crop eligible for disaster payments equal to 65 percent of the loan rate or market price. It will eliminate the 50 cent price cut for dairy. It will provide severely needed assistance to beef and other livestock producers who grow their own crops, including reduced prices on CCC feed stocks or USDA assistance on the purchase of feed.

Of course, the bill is not yet perfect. I am especially concerned about our beef producers, who have suffered severely from the drought and I will continue to press for a provision in conference which would extend drought assistance to beef producers who do not grow their own feed.

In addition, I will support the amendment to ensure that the assistance in this bill is directed toward smaller farmers, rather than those with millions of dollars in income.

But first and foremost, I would like to urge my colleagues to join with me in supporting this important legislation.

Mr. DAUB. Mr. Chairman, I am pleased to see how quickly the House is responding to the worst drought in 50 years. Thirty States have Federal emergency status. Some grain producing areas may lose up to three-fourths of the normal harvest. The ugly specter of the thirties' Dust Bowl looms once again.

Livestock liquidation is being forced by the higher costs of feed and thirsty crops buckle under heat stress, severely stunting their growth.

This drought has turned the program arithmetic of the 1985 farm bill on its head. When that bill was written, we were looking at mountains of grain that needed to be moved. In just one summer of drought, the farm policy of surplus management seems in tatters and wholly unsuited to the low and lost production caused by the drought.

This bill adjusts our policies to assist those grain and livestock producers whose livelihoods are threatened.

For livestock producers, this bill authorizes for eligible areas donations of CCC stocks, reimbursements of up to 50 percent of transportation and handling expenses and feed costs, hay transportation assistance—up to $50 per ton or 20 pounds per animal daily—and livestock transportation assistance—$24 per eligible head. Such assistance may not exceed $50,000 per producer.

For crop producers, the bill authorizes disaster payments up to $100,000 for farmers who lose more than 35 percent of their crops and forgives repayment of advanced deficiency payments on losses between 65 and 100 percent of production.

This is a measured, humane response to the extreme conditions facing the farmers across much of the Nation. I am confident that the House will overwhelmingly adopt it.

Mr. ECKART. Mr. Chairman, I want to take this opportunity to enthusiastically support H.R. 5015, the Drought Assistance Act of 1988. This legislation is a responsible approach to providing assistance to our Nation's farmers who have been hard hit by the drought.

The Agriculture Committee worked hard to create a drought-relief bill to help our Nation's agricultural and agribusiness communities. It eloquently provides assistance to both program and nonprogram crop producers and provides for essential crop loss payments. Furthermore, it will provide assistance to our tree farmers, nurseries and other noncommodity producers. I am especially pleased that Congress has demonstrated a strong commitment to our Nation's dairy producers in this crucial legislation.

Mr. Chairman, like so many of my colleagues who represent agricultural and rural areas, I have heard from many dairy farmers and local county extension agents in northeast Ohio. During these conversations the need for additional assistance to the dairy farmer was stressed over and over. Not only has the drought had an impact on milk production, but it has also had an impact on the availability and increased costs of feed. In northeast Ohio many of the dairy farms are 40 to 60 head herds and many of these farmers do not grow their own feed. Without the improved dairy price support provisions included in this bill, these dairy farmers would not be eligible for assistance under H.R. 5015.

Feed is one of the dairy farmer's greatest operating expenses and the drought has already caused feed prices to rise. Without an increased price support, many of the dairy farmers in northeast Ohio will be forced to liquidate their herds and leave the dairy industry. For the dairy farmers in northeast Ohio and across the Nation, assistance is therefore essential.

Furthermore, the committee's dairy provision will support dairy farm prices through the coming months. Especially important is the support it will provide the dairy farmer next spring—when demand for the Nation's milk supply is the greatest. This legislation will also help protect consumers as high feed prices and herd liquidations could lead to shortages and higher prices.

Mr. Chairman, we cannot allow our dairy farmers to liquidate their herds because of the inadequate availability or affordability of feed. We must continue to support our farmers by supporting the dairy price support provisions included in the 1988 drought assistance bill.

I am also pleased that certain provisions of this legislation will be made available to other nonprogram crops and nurseries which are of vital importance in northeast Ohio.

This is a good bill and deserves all our support.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 5015, the drought assistance legislation as reported by the House Agriculture Committee, and in opposition to any amendments which would weaken or dilute the committee's positions. I thank the distinguished committee chairman, the gentleman from Texas, Mr. DE LA GARZA, and the ranking Republican member, Mr. MADIGAN, for their diligent efforts to bring this legislation before the Congress in such an expeditious fashion. In addition, I would also like to comment the gentleman from Vermont, Mr. JEFFORDS, for his leadership in attempt to balance the competing interests of agricultural producers throughout the Nation.

Mr. Chairman, the drought of 1988 is the worst agricultural disaster since the Dust Bowl days of the 1930's Great Depression. It has placed a severe strain on our national capacity to produce agricultural commodities, threatening our farmers' fundamental mission and purpose. Our Nation must provide a sufficient agricultural capacity, and accordingly, Congress must pursue policies which maximize our productive potential.

This premise is evident in dairy farm production. Over the last 5 years, Mr. Chairman, the Federal support price for dairy commodities has fallen by almost 20 percent. During this same period, northeast dairy farms have been going out of business at the astounding rate of almost 75 per month. In just New York marketing area, we lost 2,168, or 6 percent of all New York dairy farms, in 1987 alone. To a large extent, this result represents the legitimate intent of Federal farm policies. However, in the face of the drought, and the consequent tightening in national milk supplies, it is time for an adjustment in Federal policy to fulfill our mandate of providing an adequate, affordable supply of fresh milk.

For this reason, I am a strong supporter of the provision which will provide a temporary, emergency increase in the Federal milk support price. The drought has precipitated a dramatic increase in dairy farmers' feed costs. Those who know the dairy business know all too well that feed costs have a direct effect on the farmer's bottom line, accounting for about 30 percent of the overall costs of milk production. It is estimated that the average 60 cow family dairy farm will feed cost increases along the magnitude of $15,000 to $20,000 next year.

Mr. JEFFORDS has sponsored a provision, which has been approved by both the full Agriculture Committee, and the Subcommittee on Livestock, Dairy, and Poultry, that will provide a short-term price increase to help dairy farmers struggling to stay in business. This is not a handout, or an unwarranted government subsidy. Rather, it is a legitimate attempt to help dairymen on the fringe of extinction hold the line against drought induced price increases.

Alternatively, without a higher price support, we face the potential for dramatic reductions in capacity and the dire prospect of higher consumer costs. In the worst case scenario, according to the Congressional Budget Office, higher support payments could cost the Federal Government almost $150 million. However, without a higher support price, a significant reduction in supply could cost American consumers over $8 billion in higher milk prices. It is worth it, therefore, for the Federal Government to purchase a $150 million insurance policy in order to ensure adequate milk supplies and protect consumers from the devastating inflationary blow of an $8 billion loss.

This is just one area in which a flexible management response is required in Federal farm policy as a result of the current natural disaster. Another change will allow farmers suffering severe crop loss to qualify for low-interest disaster loans regardless of participation in Federal crop insurance programs. This beneficial change will allow farmers throughout the country to obtain relief from the blight of drought and other natural calamities. I was particularly pleased with the committee's willingness to accept this provision which will assist farmers in the fertile black dirt region of my own congressional district, who were recently struck down for the second year in a row by a massive hailstorm and tornado on July 14, 1988. Such a revision will benefit farmers throughout our Nation who are periodically severe burden with losses resulting from nature's devastator.

In exchange for the assistance, which will be offered on a temporary, one-time basis, farmers will be required to purchase Federal crop insurance for two subsequent crop years. This is a balanced compromise which will afford onion farmers and other black dirt growers with assistance they desperately need, while at the same time ensuring adequate preparation against future freaks of nature resulting in economic calamity.

In summary, Mr. Chairman, the Drought Assistance Act enhances our Government's flexibility in response to pressing needs brought about by nature's variant fluctuations. This legislation will provide urgently needed relief to our Nation's diligent, hard-working farmers. Our experience will the best interests of consumers and our country as a whole. For these reasons, I urge my colleagues to support H.R. 5015 without any weakening amendments.

Mr. BRUCE. Mr. Chairman, my district, the 19th Congressional District of Illinois, is currently facing what is thought by many to be the most devastating drought ever in the Midwest. As I drove throughout southeastern Illinois the corn, soybeans, and hay were stunted and damaged by heat and lack of moisture. Many long-term effects that are just now beginning to surface will stay with rural America for several years to come. Farmers in several of the counties in my district are just now on better financial ground after a previous severe drought in 1983, which was highly localized, but still very damaging to the producers and rural economies of my district. I firmly believe that the Drought Relief Assistance Act will provide many farmers with stabilizing crop and feed assistance in this crisis.

Implementation of this legislation will provide feed assistance to livestock producers and disaster payments to crop producers with minimum income protection for crop producers who suffer losses in excess of 75 percent. Payment limitations for disaster assistance cannot exceed $50,000 in benefits for livestock producers and $100,000 for participating in both the livestock assistance and crop disaster assistance programs. In addition I strongly encourage the USDA to utilize its resources in providing the most assistance possible through the FmHA loan programs to both producers and rural businesses affected by the drought.

I commend my colleagues on the Agriculture Committee for staying within current budgetary guidelines by limiting spending to the amount saved on deficiency payments because of higher crop prices. Assistance to drought stricken producers will come at a time when it will be needed the most and provide much needed support to enable producers to plant and cultivate a crop next year.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Tennessee [Mr. Jones], chairman of the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture.

(Mr. JONES of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman very much for this opportunity.

Mr. Chairman, I say to this House that the gentleman from Illinois [Mr. Madigan] and the gentleman from Texas [Mr. de la Garza] have done a very wonderful job in putting together a piece of legislation that is most important to this country. I want at this time to commend the task force, who did an awful lot of good hard work both night and day, to make this piece of legislation possible.

H.R. 5015 is badly needed. We do need to move it expeditiously.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to the gentleman from South Dakota [Mr. Johnson], a distinguished member of our committee.

(Mr. JOHNSON of South Dakota asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, as a member of the Drought Task Force, I want to commend the chairman, the gentleman from Texas [Mr. de la Garza], and the ranking member, the gentleman from Illinois [Mr. Madigan] for putting this bill together. It has been no small task bringing together Republicans and Democrats, the House and the Senate, the administration and Congress, the various commodity groups, the various regions of the country.

Inevitably, the end product is a compromise. It may not be perfect from every perspective, but nonetheless, it is a positive, constructive effort.

We have an opportunity here to use the savings that we have from the reduced Government exposure deficiency payments for the drought crisis facing this country.

The 1985 farm bill was designed to bring down market prices in an effort to restore our export market and in an effort to get rid of our crop surpluses. In so doing, it created a deficiency payment, the gap, the difference between those low market prices and something approximating the cost of production. Because market prices are now higher, our exposure to those deficiency payments are smaller by the tune of about $8 billion. A portion of that can be used for the drought. We have got to, we should use that to make sure that family agriculture does remain for next year, and hopefully a better year.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Texas [Mr. Chapman], who has been of tremendous assistance to us as we worked on this legislation.

Mr. CHAPMAN. Mr. Chairman, I am pleased as an original cosponsor to rise in strong support of H.R. 5015, the Drought Assistance Act of 1988. This legislation addresses many of the critical needs of agriculture producers in east Texas and across the Nation who have been devastated by the most severe drought in years.

I would like to commend the distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. de la Garza] for his attention to this national problem and I applaud the cooperation that has been demonstrated by his committee in order to bring this bill to the floor in such an expeditious manner.

This is a bipartisan drought and it demands bipartisan solutions.

I am proud that I could play a constructive part in developing solutions that provide the kind of relief the agriculture producers in east Texas and our Nation need.

Most of the counties in my district in east Texas have qualified for some type of emergency drought assistance and all segments of the agriculture community need relief to help them stay in business: livestock and poultry producers, dairymen, crop producers, tree farmers, and rural businesses who serve the agriculture community. This bill offers all of them some much needed emergency assistance.

SPECIFIC ASSISTANCE TO LIVESTOCK PRODUCERS

In particular, I would like to express my strong support for a provision in this bill which will directly benefit our livestock producers.

Section 103 directs the Secretary of Agriculture to implement an emergency forage program for established pasture damaged by the drought. Under this program, the USDA will share up to 50 percent of the cost to owners to obtain seed, plant and fertilize pasture land.

Currently, farmers are not only faced with decreasing supplies of available feed but this is coupled with soaring prices for purchased feed.

A cost-sharing program for overseeding or interseeding of forage crops should assist a large majority of producers across the counrty to meet their fall and early spring feed needs; as well as assist the seed dealers, the fertilizer industry and the custom farmers.

We should not pass up the opportunity to help a large portion of our farmers reseed their pasture land to provide a feed source for cows, help prevent soil erosion, prevent hay wars due to the scarce supply of quality hay, and save money by preventing the purchase of expensive hay.

DAIRY PROVISIONS

Additionally, I fully support forestalling the scheduled January 1, 1989, reduction in dairy support price because of the hardship imposed on dairy farmers due to the drought.

I represent the largest milk-producing area in the southwest and I believe more must be done to ensure these dairy farm families have the ability to meet drought induced cost increases. Higher feed prices due to the drought have resulted in drastic increases in dairy farm operating cost.

The proposed 50-cent increase in dairy support price is needed to prevent otherwise necessary pressure to reduce dairy herds. This would result in massive losses in milk production and create additional downward pressure on beef cattle prices.

We should not pass legislation which hurts beef cattle producers in any way. Yet, we cannot risk the potential loss of dairy farm operations in our Nation.

I urge the passage of this emergency drought assistance bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 30 seconds to our distinguished colleague, the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I rise to commend the members of the House Agriculture Committee for their expeditious work on this bill. The committee was able to reach compromises to address the many individual agricultural interests, and this legislation will provide direct assistance to the majority of needy farmers.

However, an amendment which was narrowly adopted by the committee provides that livestock producers who purchase all of their feed will not receive drought relief. Farmers, including hog and poultry producers, who purchase all of their feed also need to receive drought relief. The current high costs of grain are prohibitive to many livestock producers who are finding that it is more cost effective to sell their stocks now rather than continuing to feed them.

I am concerned that this stock liquidation may force many of these farmers out of business. It is my understanding that the Senate version will extend drought relief to all livestock producers and I am hopeful that this provision will be addressed in conference.

However, except for this provision, this legislation will provide assistance to the majority of crop and livestock producers. This bill addresses program and nonprogram crops damaged by the drought. The committee also included a provision to give sufficient assistance to farmers who have lost over 75 percent of their crops to ensure that farmers who have suffered almost a complete loss will be able to continue farming next year. Having met with farmers throughout my district, I believe that many Indiana farmers have lost the majority of their crops and will need this additional assistance.

I wish to urge all Members to support final passage of this bill.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have many times stated that legislation is the art of the possible. This package is what is possible this day, this hour, this minute.

I hope the House will consider it, deliberate as is necessary, and then allow us to move on with the legislation so that we might be of assistance to those in need.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill, as modified by the amendments printed in section 2 of House Resolution 504, shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 5015

SECTION 1. SHORT TITLE

That this Act may be cited as the "Disaster Assistance Act of 1988".

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TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 101. EMERGENCY FEED AND RELATED ASSISTANCE.

(a) The Agricultural Act of 1949 is amended by adding at the end thereof the following new title:

"TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'.

"DEFINITIONS

"SEC. 602. As used in this title:

"(1) The term 'livestock producer' means—

"(A) an established producer or husbander of livestock or a dairy producer who is a citizen of, or legal resident alien in, the United States; or

"(B) a farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production or husbandry, or dairy production.

"(2) The term 'livestock' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

"(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

"(B) are purchased as part of a normal operation and not to obtain additional benefits under this title.

"(3) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"(4) The term 'feed', for the purposes of emergency feed assistance, means any type of feed (including feed grain, wheat, oilseed meal, premixes or mixed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that—

"(A) best suits the livestock producer's operation; and

"(B) is consistent with acceptable feed practices.

"EMERGENCY LIVESTOCK ASSISTANCE

"SEC. 603. The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock in any State or area of a State where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, the Secretary determines that a livestock emergency exists.

"DETERMINATION OF NEED FOR ASSISTANCE

"SEC. 604. (a)(1) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in the State, or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this title.

"(2) The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include recommendations to the Secretary of those options that will most fully use feed available through local sources, to the extent feasible.

"(b) The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

"(c) The Secretary shall act on requests for determinations under subsection (a), and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action and provide for appropriate notification procedures.

"(d) Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program prior to the effective date of this title shall continue to be eligible for such programs and may be eligible for other programs under this title for such drought or related condition. As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program and the emergency feed assistance program, or in section 607 should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

"ELIGIBLE PRODUCERS

"SEC. 605. (a)(1) If the Secretary determines that a livestock emergency exists in a State, county, or area, subject to the limitation on benefits provided in section 609, qualifying livestock producers located in such State, county, or area shall be eligible (under application procedures established by the Secretary) for emergency fee assistance under this title in accordance with this subsection.

"(2) For the purposes of this subsection, a "qualifying livestock producer" is a livestock producer who has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the livestock emergency and, as a result, does not have sufficient feed that has adequate nutritive value and is suitable for each of such producer's particular types of livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 604) for the estimated duration of the emergency.

"(3) Each qualifying producer shall be eligible for emergency feed assistance under the programs specified in section 606(a) that are made available where the producer is located in quantities sufficient to meet such feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

"(b) Each livestock producer in such State, county, or area, regardless of whether the producer qualifies for assistance under subsection (a), shall be eligible for emergency assistance under the programs specified in section 607 that are made available where the producer is located.

"(c) Any livestock producer, located in a county or area in which benefits under the emergency feed program or the emergency feed assistance program were available due to the drought or related condition in 1988 prior to the effective date of this title, who qualifies for assistance under such pre-existing programs shall be eligible for assistance for such drought or related conditions as prescribed in subsection (a) or, at the producer's option, for assistance under such pre-existing programs.

"ASSISTANCE PROGRAMS

"SEC. 606. (a) The following assistance programs may be made available by the Secretary under this title, subject to the limitations on benefits under sections 605(a) and 609, to livestock producers:

"(1) The donation of feed grain held by the Commodity Credit Corporation to producers who are financially unable to purchase feed under paragraph (2) or to participate in any other program authorized under this subsection.

"(2) The sale of feed grain held by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

"(A) with respect to such assistance provided for drought or related conditions in 1988, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

"(B) with respect to such assistance provided by any other livestock emergency, 50 percent of the average market price in the county or area involved, as determined by the Secretary.

"(3) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent of such expenses, by a producer in connection with feed grain donations or sales under paragraphs (1) and (2).

"(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by a producer for the producer's livestock during the duration of the livestock emergency.

"(5) Hay and forage transportation assistance to producers of not to exceed 50 percent of the cost of transporting hay or forage purchased from a point of origin beyond a producer's normal trade area to the livestock, subject to the following limitations:

"(A) The transportation assistance may not exceed $50 per ton of eligible hay or forage ($12.50 for silage).

"(B) The quantity of eligible hay and forage for each producer may not exceed the lesser of—

"(i) 20 pounds per day per eligible animal unit; or

"(ii) the quantity of additional feed needed by the producer for the duration of the livestock emergency.

"(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, except that such assistance may not exceed the lesser of—

"(A) $24 per head of a producer's eligible livestock; or

"(B) the local cost of the quantity of additional feed needed by the producer for the eligible livestock for duration of the livestock emergency.

"(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned or controlled by the Commodity Credit Corporation.

"(c) In providing assistance under paragraph (2) or (4) of subsection (a), the Secretary may make in-kind payments or reimbursements through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with rules prescribed by the Secretary.

"(d) No payment or benefit provided under this section shall be payable or due until such time as a completed application therefor has been approved.

"(e) A person eligible to receive a payment or benefit under this section with respect to a livestock emergency caused by the drought or related condition in 1988 shall make application for such payment or benefit not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

"ADDITIONAL ASSISTANCE

"SEC. 607. (a) In addition to the assistance provided under section 606, if the Secretary determines that the livestock emergency in a State, county, or area also requires the provision of the assistance described in subsection (b), the Secretary shall provide such assistance.

"(b) Special assistance under this section includes—

"(1) the donation of feed held by the Commodity Credit Corporation for use in feeding livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary, by regulation, shall prescribe;

"(2) subject to the limitation on benefits under section 609, reimbursement of not to exceed 50 percent of the cost of—

"(A) installing pipelines (if that is the least expensive method) or other facilities, including tanks or troughs, for livestock water;

"(B) construction or deepening of wells for livestock water; or

"(C) developing springs or seeps for livestock water, as appropriate in drought areas to facilitate more efficient and better-distributed grazing on land normally used for grazing. Such cost-share assistance may not be made available to provide water for wildlife or recreational livestock, dry lot feeding, or barns or corrals, or to acquire pumping equipment;

"(3) subject to the limitation on benefits under section 609, reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

"(4) making commodities available from the Commodity Credit Corporation to livestock producers through the use of a catalog in lots of a size that it is economically feasible for a small producer to obtain by means of certificate exchanges.

"USE OF THE COMMODITY CREDIT CORPORATION

"SEC. 608. The Secretary shall carry out this title through use of the funds, facilities, and authorities of the Commodity Credit Corporation.

"BENEFITS LIMITATION

"SEC. 609. (a) For each livestock emergency, the total amount of benefits that a person receives under one or more of the programs established under sections 606, 607(b)(2), and 607(b)(3) of this title may not exceed $50,000.

"(b) The Secretary shall issue regulations—

"(1) defining the term 'person', which shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985, or successor statute; and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

Such regulations shall provide that the term 'person' does not include any cooperative association of producers with respect to benefits due to members of the association.

"(c) No person may receive benefits under this title attributable to lost production of a feed commodity due to the drought or related condition in 1988 to the extent that such person receives a disaster payment on such lost production.

"(d) Each person otherwise eligible for a livestock emergency benefit under this title for the drought or related condition in 1988 shall be subject to the combined payment and benefits limitation established under section 310(d) of the Drought Assistance Act of 1988.

"ADMINISTRATION

"SEC. 610. (a) The Secretary shall issue regulations to carry out this title.

"(b) Such regulations shall establish procedures to ensure that the request for assistance by a Governor or county committee under section 604, and individual applications of livestock producers under section 605 for assistance, are processed and decisions thereon are made as quickly as practicable.

"(c) For purposes of this title, indigenous plants available to a livestock producer but not normally consumed by livestock as feed, such as cactus, may not be considered as feed on hand for such producers.

"PENALTIES

"SEC. 611. A person that disposes of any feed made available to a livestock producer under this title other than as authorized by the Secretary shall be (1) subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and (2) guilty of a misdemeanor and, on conviction thereof, subject to a fine of not more than $1,000, or imprisonment for not more than one year, or both.".

(b)(1) Section 1105 of the Food and Agriculture Act of 1977 is repealed.

(2) Section 407 of the Agricultural Act of 1949 is amended by striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

(3) Section 421 of the Agricultural Act of 1949 is repealed.

(4) Public Law 86-299 (73 Stat. 574), as amended, is repealed.

(c)(1) This section and the amendments made by this section shall become effective 15 days after the date of the enactment of this Act.

(2) The provisions of section 604(d), 605(c), 606(a)(2)(A), 606(e), 609(c), and 609(d) of the Agricultural Act of 1949, as added by subsection (a), shall apply only with respect to any livestock emergency caused by the drought or related condition in 1988.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS.

"(a) PRICE SUPPORT LEVEL.—Section 201(d)(1)(C) of the Agricultural Act (7 U.S.C. 1446(d)(1)(C)) is amended by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) During the period beginning on October 1, 1987, and ending on December 31, 1987, the price of milk shall be supported at a rate equal to $11.10 per hundredweight for milk containing 3.67 percent milkfat.

"(iii) During the period beginning on January 1, 1988, and ending on September 30, 1988, the price of milk shall be supported at a rate equal to $10.60 per hundredweight for milk containing 3.67 percent milkfat.

"(iv) Except as provided in subparagraph (D), during the period beginning on October 1, 1988, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to $11.10 per hundredweight for milk containing 3.67 percent milkfat.".

(b) AUTHORIZATION FOR REDUCTION IN SUPPORT.—Section 201(d)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)) is amended by striking out clause (i) and inserting in lieu thereof the following:

"(i) Subject to clause (ii), if the level of purchases of milk and the products of milk under this subsection (less sales under section 407 for unrestricted use), as estimated by the Secretary on July 1, 1989, for calendar year 1989, or as estimated by the Secretary on January 1, 1990, for calendar year 1990, will exceed 5,000,000,000 pounds (milk equivalent), the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on and after each such date for the remainder of such calendar year.".

SEC. 103. EMERGENCY FORAGE PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for overseeding and interseeding and fertilization of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying.

(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, equipment rental, hired planting, and fertilizer on overseeded pasture.

(c) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

SEC. 104. EMERGENCY NITRATE TESTING OF CORN SILAGE.

The Secretary of Agriculture shall provide for emergency nitrate testing of corn silage damaged by drought or a related condition in 1988, to provide reliable information on the suitability of such corn silage for livestock feed. The Secretary shall provide for such testing at the county offices of the Agricultural Stabilization and Conservation Service, using the funds, facilities, and authorities of the Commodity Credit Corporation.

TITLE II—EMERGENCY CROP LOSS ASSISTANCE

Subtitle A—Annual Crops

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—(1)(A) Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of drought or related condition, hail, flood, or other natural disaster in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest plus the acreage prevented from being so planted (because of drought or related condition, hail, flood, or other natural disaster in 1988, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for the deficiency in production below 65 percent for the crop.

(B) Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1987 crop of upland cotton, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of hail or related condition in 1987, the total quantity of the 1987 crop of upland cotton that such producers are able to harvest on the farm is less than the result of multiplying 25 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted to upland cotton for harvest for the crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for the deficiency in production below 65 percent for the crop. As a condition of receiving a disaster payment for a loss of production under this subparagraph, the producers on a farm shall refund the 1987 deficiency payment made on the units of production on which such disaster payments will be made, in accordance with paragraph (3).

(2)(A) Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 206.

(3) The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) Effective only for the 1988 crops of wheat and feed grains, in the case of producers on a farm who elected after March 11, 1988, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107D(c) (1)(C) or 105C(c)(1) (B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c) (1)(C) or 1444e(c) (1)(B)), the Secretary shall allow such producers to elect (within 30 days after the date of the enactment of this Act) whether to receive disaster payments in accordance with this subsection in lieu of payments under such section.

(b) ADVANCE DEFICIENCY PAYMENTS.—(1) This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, or rice.

(2)(A) Subject to subparagraph (B), if because of drought or related condition, hail, flood, or other natural disaster in 1988 the total quantity of the 1988 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest plus the acreage prevented from being so planted (because of such natural disaster, as determined by the Secretary) for such crop (hereinafter referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

(B) The Secretary shall establish procedures relating to the waiver of repayment of advance deficiency payments provided for under subparagraph (A), under which producers on a farm that do not enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207, shall not be eligible to obtain such a waiver.

(3) The Secretary shall allow producers on a farm that elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1988 crop under section 107C of such Act, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of drought or related condition, hail, flood, or other natural disaster in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers, subject to the limitations in subsection (c), at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for the deficiency in production below 65 percent for the crop.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to 1988 acreage that producers on a farm were prevented from planting to the commodity for harvest because of drought or related condition, hail, flood, or other natural disaster in 1988, as determined by the Secretary. Such acreage may not exceed—

(1) except as provided in paragraph (2), a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted to the commodity for harvest in 1988; or

(2) 125 percent of the 1987 planted and prevented planted acreage established under paragraph (1) (if the producers can establish under this paragraph, to the satisfaction of the Secretary, that they intended to plant acreage on the farm to the commodity for harvest in 1988 in a quantity greater than the quantity established for 1987) minus acreage actually planted to the commodity for harvest in 1988. The producers may establish 1988 planting intentions only through appropriate documentation (such as seed or fertilizer purchase receipts, or valid real estate, partnership, or other business contracts) of transactions conducted prior to June 30, 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—(1) The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation percentage established for the crop under the Agricultural Act of 1949.

(2) Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent provided under section 206.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—(1) Effective only for the 1988 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of drought or related condition, hail, flood, or other natural disaster in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary (except as provided in subsection (c)) shall make a disaster payment available to such producers at a rate equal to the applicable payment rate, as determined by the Secretary under paragraph (2), for the deficiency in production below 65 percent for the crop, or (in the case of a crop of burley tobacco or flue-cured tobacco) for such deficiency in production below 65 percent of the farm's effective quota for the 1988 crop.

(2) For purposes of paragraph (1), the payment rate for a commodity shall be equal to 65 percent of—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as appropriate;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 204(a)(2); and

(C) for sugar beets and sugarcane, a rate determined by the Secretary to be fair and reasonable in relation to the level of price support that is established for the 1988 crops of sugar beets and sugarcane, and, insofar as is practicable, such rate shall reflect no less return to the producer than under the 1988 price support levels.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to 1988 acreage that producers on a farm were prevented from planting to the commodity of harvest because of drought or related condition, hail, flood, or other natural disaster in 1988, as determined by the Secretary. Such acreage may not exceed—

(1) except as provided in paragraph (2), a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producer) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1988; or

(2) 125 percent of the 1987 planted and prevented planting acreage established under paragraph (1) (if the producers can establish under this paragraph, to the satisfaction of the Secretary, that they intended to plant acreage on the farm to the commodity for harvest in 1988 in a quantity greater than the quantity established for 1987) minus acreage actually planted to the commodity for harvest in 1988. The producers may establish 1988 planting intentions only through appropriate documentation (such as seed or fertilizer purchase receipts, or valid real estate, partnership, or oher business contracts) of transactions conducted prior to June 30, 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers and increased quotas for the 1988 crops of tobacco.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent provided under section 206.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

(1) the amount of undermarketings of quota tobacco from a farm for the 1988 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

SEC. 204. SOYBEANS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—(1) Effective only for the 1988 crops of soybeans and nonprogram crops, if the Secretary determines that, because of drought or related condition, hail, flood, or other natural disaster in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the country average yield (for soybeans) or the yield determined under subsection (d)(2) (for nonprogram crops), as established by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary (except as provided in subsection (c)) shall make a disaster payment available to such producers at a rate equal to the applicable payment rate, as determined by the Secretary under paragraph (2), for the deficiency in production below 65 percent for the crop.

(2) For purposes of paragraph (1), the payment rate for a commodity shall equal 65 percent of the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3)(A) The Secretary shall make disaster payments under subsection (a) on a crop by crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) For the purposes of determining the payment rates on a crop by crop basis, the Secretary shall consider as separate crops, and develop separate payment rates insofar as is practicable for, different varieties or end uses of the same commodity for which there is a significant difference in the economic value in the market.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to 1988 acreage that producers on a farm were prevented from planting to the commodity for harvest because of drought or related condition, hail, flood, or other natural disaster in 1988, as determined by the Secretary. Such acreage may not exceed—

(1) except as provided in paragraph (2), a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producer) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1988; or

(2) 125 percent of the 1987 planted and prevented planting acreage established under paragraph (1) (if the producers can establish under this paragraph, to the satisfaction of the Secretary, that they intended to plant acreage on the farm to the commodity for harvest in 1988 in a quantity greater than the quantity established for 1987) minus acreage actually planted to the commodity for harvest in 1988. The producers may establish 1988 planting intentions only through appropriate documentation (such as seed or fertilizer purchase receipts, or valid real estate, partnership, or other business contracts) of transactions conducted prior to June 30, 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers.

(c) Limitation.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent provided under section 206.

(d) Special rules for nonprogram crops.—(1) As used in this section, the term "nonprogram crop" means all crops (including sweet potatoes) for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1988, and other commercial crops (including sweet potatoes) for which such insurance was not available for crop year 1988, except that such term shall not include a crop covered under section 201, 202, or 203, or soybeans.

(2) The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops. The yield for a farm shall be based on proven yields, if the producers on the farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least one of the immediately preceding three crop years. If such data do not exist for any of the three preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity.

SEC. 205. PAYMENTS TO PRODUCERS WITH EXTREMELY LOW PRODUCTION.

Producers on a farm eligible for a payment on a 1988 crop under section 201, 202, 203, or 204 shall be eligible for a supplemental payment on the crop if they suffer a loss of production on the crop such that the quantity of the crop they are able to harvest is less than 25 percent of a quantity equal to the applicable yield times the eligible acreage under such section. The supplemental payment shall apply to the deficiency in production below 25 percent of such quantity determined by multiplying yield by acreage. For each unit of such deficiency in production, the supplemental payment rate shall be 30 percent of the payment rate determined in accordance with section 201, 202, 203, or 204, as appropriate.

SEC. 206. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1988 crop of a commodity under the Federal Crop Insurance Act, the Secretary of Agriculture shall reduce the amount of payments made available under this subtitle for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for such crop, by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 201, the eligible acreage established under sections 201(a)(1) and 201(a)(2)(A)), by

(3)(A) in the case of producers who participated in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1988 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the loan level established for the 1988 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the national average price support level established for the 1988 crop of the commodity (or in the case of producers of a type of tobacco for which there is no price support level, the price determined in accordance with subparagraph (D)); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 204(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 207. CROP INSURANCE COVERAGE FOR THE 1989 AND 1990 CROPS.

(a) REQUIREMENT.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to drought or related condition, hail, flood, or other natural disaster in 1988, or forgiveness of the repayment of advance deficiency payments under section 201(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1989 and 1990 crops of the commodity for which such payments, loans, or forgiveness are sought.

(b) Limitations.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) if crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought, or if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1988 crop in the county in which the producers are located; or

(2) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought.

(c) Implementation.—(1) The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) and located in the counties in which the assistance programs provided for under sections 201 through 205 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under subsection (a).

(2) Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

(3) The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) Repayment of Benefits.—Each producer subject to the requirements under this section shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay, and (notwithstanding any other provision of law) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section, at any time (prior to the end of the 1990 crop year for the commodity involved) that the crop insurance coverage required of the producer under this section is cancelled by the producer.

SEC. 209. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of the enactment of this Act, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may prove 1988 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 210. PAYMENT LIMITATIONS.

(a) Limitation.—Subject to subsections (b) and (c), the total amount of payments that a person receives under one or more of the programs established under this subtitle may not exceed $100,000.

(b) No double benefits.—No person may receive disaster payments attributable to lost production of a commodity due to the drought or related conditions in 1988 under this subtitle to the extent that such person receives a livestock emergency benefit on such lost production under section 606 of the Agricultural Act of 1949.

(c) Combined limitation.—No person may receive any payment under this subtitle or benefit under section 606, 607(b)(2), or 607(b)(3) of the Agricultural Act of 1949 for livestock emergency losses suffered due to the drought or related conditions in 1988 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000. If a producer is subject to the preceding sentence, the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949) whether to receive the $100,000 in such payments, or such livestock emergency benefits, or a combination of payments and benefits specified by the person.

(d) Regulations.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

Subtitle B—Forest Crops

SEC. 211. ELIGIBILITY.

(a) Drought Loss.—(1) Subject to the limitation in paragraph (2), the Secretary of Agriculture shall provide assistance, as specified in section 212, to eligible tree farmers that planted tree seedlings in 1987 or 1988 for commercial purposes but lost such seedlings as a result of the drought or related condition in 1988, as determined by the Secretary.

(2) An eligible tree farmer shall be eligible for assistance under paragraph (1) if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

(b) Wildfire Loss.—The Secretary shall provide assistance, as specified in section 212, to eligible tree farmers that suffer destruction of 10 percent or more of their timber stand due to wildfire in 1988.

SEC. 212. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 211 shall consist of either—

(1) reimbursement of 65 percent of the cost of reestablishing the stand damaged by the drought or related condition, or wildfire; or

(2) sufficient tree seedlings to reestablish the stand, as determined by the Secretary.

SEC. 213. LIMITATION ON ASSISTANCE.

(a) Limitation.—No person may receive an amount in excess of $25,000, or an equivalent value in tree seedlings, under this subtitle.

(b) Regulations.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 214. DEFINITION.

As used in this subtitle, the term "eligible tree farmers" means—

(1) landowners who are eligible for cost sharing under the forestry incentives program authorized under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103); or

(2) producers of Christmas trees, as defined by the Secretary of Agriculture, who own 1,000 acres or less of private forest land.

Subtitle C—Administrative Provisions

SEC. 221. TIMING AND MANNER OF ASSISTANCE.

(a) Timing of Assistance.—(1)(A) Subject to subparagraph (B), the Secretary of Agriculture shall make disaster assistance available under this title as soon as practicable after the date of the enactment of this Act.

(B) Notwithstanding any other provision of law or of this Act, no payment or benefit provided under this title shall be payable or due until such time as a completed application therefore has been approved.

(2) A person eligible to receive payments under subtitle A shall make application for such payments not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

(b) Manner.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 222. USE OF COMMODITY CREDIT CORPORATION.

The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

SEC. 223. EFFECTIVE DATE AND REGULATIONS.

(a) Effective Date.—The provisions of this title shall become effective 15 days after the date of the enactment of this Act.

(b) Regulations.—The Secretary of Agriculture shall issue or, as appropriate, amend regulations to implement the provisions of this title as soon as practicable, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subtitle D—Sense of Congress

SEC. 231. PURPOSE OF DISASTER PAYMENTS.

It is the sense of Congress that drought-assistanced disaster payments made to producers under subtitle A are intended to preserve each producer's livelihood and farming operation, to enable the producer to meet preexisting commitments and obligations, to protect the infrastructure of the United States agricultural production input, supply, marketing, and distribution systems, and to preserve the vitality and financial health of rural communities.

TITLE III—OTHER EMERGENCY PROVISIONS

Subtitle A—Commodity Stock Adjustment

Sec. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED OIL.

(a) Planting of Soybeans and Sunflowers on Permitted Acres.—Effective for the 1989 crops, section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, effective for the 1989 crop year, the Secretary shall permit producers on a farm to plant soybeans or sunflowers on a portion (not less than 10 percent nor more than 25 percent) of the farmer's 1989 wheat, feed grain, upland cotton, and rice permitted acreage, as determined by the Secretary. For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans or sunflowers are planted under this paragraph shall be taken into account as if such acreage had been planted to the program crop for which soybeans or sunflowers are substituted.

(2) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans or sunflowers under paragraph (1), and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) Cottonseed and Sunflower Seed Oil.—(1) The Secretary of Agriculture shall determine if the price of cottonseed or cottonseed products is adversely affected by the amendment made by subsection (a). If the Secretary determines that any such price has been adversely affected, the Secretary shall support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or any other form of assistance, as necessary to offset such adverse effect.

(2)(A) Effective for the fiscal years ending September 30, 1989, and September 30, 1990, the Secretary of Agriculture shall use funds available under section 32 of Public Law 320, Seventy-Fourth Congress (7 U.S.C 612c), to purchase sunflower seed oil and cottonseed oil to facilitate additional export sales of sunflower seed oil and cottonseed oil at competitive prices, as necessary and appropriate to enable United States producers to compete with other countries in world markets. Funds may be made available under this subparagraph only to the extent authorized in advance in appropriations Act; and such funds shall be in addition to funds made available for the purchase of sunflower seed oil under section 637 of the rural development, agriculture, and related agencies appropriations in section 101(k) of Public Law 100-202 (101 Stat. 1329-357).

(B) To the extent practicable, facilitation of cottonseed oil exports shall be accomplished through the use of authorities available to the Secretary other than the authority granted in subparagraph (A).

(3) Except as otherwise provided in paragraph (2)(A), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

SEC. 302. OATS.

(a) Farm Acreage Bases.—Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this Act, effective for each of the 1989 and 1990 crops, if the acreage limitation percentage established for the 1989 or 1990 crop of feed grains under section 105C(f) is 12.5 percent or less, the Secretary shall permit producers on a farm to designate any portion of the farm acreage base (excluding any portion designated as soybean acreage base) for the crop year as acreage base established for oats. For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm that is designated as oats base under this paragraph and planted to oats for harvest in 1989 or 1990 shall be taken into account as if such acreage had been planted to the program crop for which oats are substituted.

"(2) The Secretary shall not make program benefits other than benefits available under the program established for oats available to producers with respect to acreage planted to oats under paragraph (1), and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) Sense of Congress.—It is the sense of Congress that if the acreage limitation requirement established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 is more than 12.5 percent, the Secretary of Agriculture should establish the lowest possible acreage limitation requirement for such crop of oats under section 105C(f) if market imbalances for barly and oats exist.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

Effective for the 1988 marketing year for wheat or feed grains, once the market price described in clause (5) of the third sentence of subsection (b) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) has been reached at any time during such marketing year with respect to such commodity, producers may repay loans made under section 110 for such commodity (including unearned storage payments and accrued interest) during the remainder of such marketing year without penalty repayment of accrued storage charges or other established penalty, as provided for under clause (4) of the third sentence of subsection (b) of section 110, regardless of the then current market price.

SEC. 304. TOBACCO AND PEANUTS.

(a) Transfer Authority.—(1) Section 319 of the Agricultural Adjustment Act of 1938 (7. U.S.C. 1314e) is amended by adding at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

"(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

"(B) the farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

"(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(2) Section 358a(k)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358a(k)(1)), as effective for the 1986 through 1990 crops of peanuts, is amended by adding at the end thereof the following: "Whenever a fall transfer or a transfer after the normal planting season is permitted by this section, such transfer may be made, in accordance with regulations issued by the Secretary, to any other farm in the same State as the transferring farm if, as a result of a natural disaster, the expected production of peanuts on the transferring farm is less than 80 percent of the farm's poundage quota for the year. In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.".

(b) Quota Adjustment.—Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, if a producer has produced tobacco in an amount less than the producer's farm marketing quota for two or more consecutive crops due to a natural disaster, the Secretary shall adjust the producer's marketing quota for the next crop by adding the accumulated undermarketings of the basic quota for each previous crop, including undermarketings of leased quota, to the producer's basic quota for that crop.".

Subtitle B—Disaster Credit and Forbearance

SEC. 311. EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act (subject to the person's compliance with the requirements of section 207 of this Act), if such eligibility is the result of damage to an annual crop planted for harvest in 1988.

SEC. 312. 1989 FARM OPERATING LOANS.

(a) Direct Credit.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or ensured under subtitle B of the Consolidated Farm and Rural Development Act for 1989 crop production are made available to farmers and ranchers suffering major losses due to drought or related conditions, hail, flood, or other natural disaster in 1988, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

(b) Loan Guarantees.—(1) Notwithstanding any other provision of law, the Secretary of Agriculture shall make available in the fiscal year ending September 30, 1989, guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act, to refinance and reamortize 1988 operating loans, or 1988 or 1989 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of drought or related conditions, hail, flood, or other natural disaster in 1988.

(2) Each fiscal year 1989 guaranteed loan for 1988 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

(3) Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title II of this Act shall be deemed eligible to have guaranteed in accordance with this subsection loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1988 or 1989, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the

person must otherwise be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1988 or 1989 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment, and must otherwise meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

(c) For purposes of providing the insured and guaranteed loans in accordance with this section, in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years 1988 or 1989 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act to meet the needs resulting from natural disasters: *Provided*, That funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.

SEC. 313. FORBEARANCE AND RESTRUCTURING FOR FARM LOANS.

(a) Farmers Home Administration.—It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought or related conditions, hail, flood, or other natural disaster in 1988—

(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act outstanding for such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and similar provisions of law for such farmers and ranchers; and

(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.

(b) Farm Credit Administration.—It further is the sense of Congress that the Farm Credit Administration should in its oversight of Farm Credit System institutions, with respect to farmers and ranchers who suffer major losses due to drought or related conditions, hail, flood, or other natural disaster in 1988—

(1) ensure that Farm Credit System institutions exercise forbearance in the collection of principal and interest on loans outstanding to such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and related provisions of law for such farmers and ranchers; and

(3) encourage other lenders participating with Farm Credit System institutions in mutual loan agreements to exercise forbearance before declaring loans to such farmers and ranchers in default.

Subtitle C—Conservation Assistance

SEC. 321. NEW CONSERVATION MEASURES.

(a) In General.—(1) In the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and harvests hay during the 1988 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary may not reduce the amount of rental payments made to such owner or operator as the result of such harvesting to the extent that the owner or operator—

(A) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(B) pays the costs of carrying out such practices.

(2) The amount of the reduction prohibited under paragraph (1) shall equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices.

(b) Conservation Practices.—For purposes of subsection (a), the term "conservation practices" includes—

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 322. VEGETATIVE COVER: RESERVE ENTRY.

(a) Vegetative Cover.—(1) In the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et. seq.) and has suffered substantial loss in vegetative cover on the land subject to such contract due to drought or related condition, hail, flood, or other natural disaster in 1988, the Secretary of Agriculture may enter into a cost-sharing agreement with the owner or operator to provide for the reestablishment of such cover. The Secretary's share of costs under an agreement may not exceed 50 percent.

(2) Activities undertaken under a cost-share agreement, as provided for in paragraph (1), shall be consistent with the approved conservation plan for the owner or operator prepared in accordance with section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832).

(3) The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

(b) Reserve Entry.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(g) For purposes of determining the eligibility of land to be placed in the conservation reserve program established under this subtitle, land shall be considered to have been planted to an agricultural commodity for harvest during a crop year, and to have been in cropland use, if an action of the Secretary prevented the land from being planted to a commodity for harvest during the crop year.".

SEC. 323. CONSERVATION RESERVE ENHANCEMENT PROGRAMS.

Effective beginning with the 1988 crop year, subsection (f) of section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987, shall not be applicable to payments received by a State or local governmental entity in connection with agreements entered into under a special conservation reserve enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to State or local governmental entities that the Secretary determines will advance the purposes of this subtitle.".

Subtitle D—Rural Businesses

SEC. 331. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.

(a) Loan Guarantees.—The Secretary of Agriculture shall guarantee loans made in rural areas to public, private, or cooperative organizations, to Indian Tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist them in alleviating distress caused to such entities, directly or indirectly, by the drought or related conditions, hail, flood, or other natural disaster in 1988, and shall guarantee loans made in rural areas to such entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988.

(b) Eligible Loans.—Loans that may be guaranteed under this section are loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency.

(c) Lending Limits.—(1) No guarantee under this section may exceed 90 percent of the principal amount of the loan and guarantees made on loans to any eligible borrower may not exceed $500,000.

(2) The total amount of loan guarantees that may be made under this section shall not exceed $200,000,000.

(d) The Secretary shall use the Rural Development Insurance Fund established under Section 309A of the Consolidated Farm and Rural Development Act for the purposes of discharging the Secretary's obligations under this section.

SEC. 332. SURVEY OF AGRIBUSINESS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall—

(1) conduct a survey of rural businesses and enterprises, including grain handling and storage facilities, in the United States whose activities involve or are directly related to the production, processing, or marketing of agricultural commodities or products, or to servicing the business and home needs of United States farmers and ranchers, to determine the extent that such businesses are being adversely affected, directly or indirectly, by drought or related conditions, hail, flood, or other natural disaster in 1988; and

(2) submit a report describing the results of such survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle E—Administration

SEC. 341. PAPERWORK SIMPLIFICATION.

In implementing the disaster assistance provided by titles I and II, and this title, the Secretary of Agriculture, insofar as is practicable, shall streamline and simplify any paperwork necessary for eligible persons to make application for and receive such disaster assistance, including those producers applying for assistance under the Farmers Home Administration guaranteed loan programs, and shall provide for expedited procedures related to the delivery of such disaster assistance.

Subtitle F—Agricultural Exports

SEC. 351. SENSE OF CONGRESS.

(a) Findings.—Congress finds that—

(1) the disastrous drought of 1988 is causing substantial agricultural crop losses and is putting an enormous financial burden on United States farmers and their families;

(2) the Food Security Act of 1985 recognized that agricultural export markets are extremely important in ensuring the economic recovery and future success of United States farmers, their families, and rural communities;

(3) United States agricultural exports make a substantial contribution to reducing our Nation's international trade deficit;

(4) imposing embargoes on, or taking other steps to reduce the levels of, the exports of agricultural commodities or products in wake of the drought will undermine the gains made since 1985 in securing markets for United States agricultural commodities and products abroad, by allowing foreign competitors opportunity to move into our international markets; and

(5) imposing embargoes on, or taking other steps to reduce the levels of, exports of agricultural commodities and products would jeopardize the progress in strengthening our agricultural export markets made by export assistance programs such as the export enhancement program and the targeted export assistance program.

(b) Sense of Congress.—It is the sense of Congress that the Government should not take any action that (1) will further exacerbate the already disastrous circumstances for United States agriculture resulting from the drought by imposing, or facilitating the imposition of, embargoes or other limitations that reduce exports of agricultural commodities and products, or (2) otherwise jeopardize United States foreign agricultural markets or give our trading partners reason to believe United States farmers have become unreliable suppliers of agricultural commodities and products.

Subtitle G—Food Prices

SEC. 361. SENSE OF CONGRESS.

(a) Findings.—Congress finds that—

(1) the disastrous drought of 1988 is causing substantial agricultural crop losses and is placing enormous financial burdens on livestock, poultry, and dairy producers;

(2) in spite of the effects of the drought, the United States continue to have ample supplies of grain for human and animal consumption through the upcoming crop year;

(3) the Department of Agriculture projects that even if the drought continues, food prices are not expected to increase significantly due to the drought; and

(4) in view of these circumstances, no person in the United States should have to pay unwarranted, unjustified, or excessive food prices and that higher food prices, irrespective of their cause, affect those least able to pay the most.

(b) Sense of Congress.—It is the sense of Congress that the Department of Agriculture, in cooperation with other Federal agencies and State and local agencies where appropriate, should monitor, study, and report to Congress about food price increases at wholesale and retail levels during the coming months, to ensure that no unwarranted food price increases are implemented and that any necessary increases are commensurate with commodity price increases resulting from the drought.

TITLE IV—WATER-RELATED ASSISTANCE

Subtitle A—Water Management for Rural Areas

SEC. 401. WATER MANAGEMENT FOR RURAL AREAS.

(a) In General.—The Secretary of Agriculture, directly or in coordination with any other Federal agency, entity, corporation, department, unit of State or local government, cooperative, confederation, individual, public or private organization, or university, may—

(1) conduct research and demonstration projects;

(2) provide technical assistance and extension services;

(3) make grants, loans, and loan guarantees; and

(4) provide other forms of assistance,

for the purposes of helping rural areas make better and more efficient use of water resources and alleviating problems arising in such areas from droughts or lack of water.

(b) Activities.—The Secretary may provide assistance under this section for the promotion or establishment of irrigation, watershed protection, and other water management and drought management activities, including water transmission, application, and activation.

(c) Cooperation.—In implementing this section, the Secretary—

(1) should address the general, special, and unique problems of water management existing in rural areas;

(2) may take action independently or in cooperation with Federal, State, public, or private agencies and organizations; and

(3) shall cooperate with—

(A) cooperatives, public or private organizations, confederations, authorities, or other entities (including entities that may be organized under multiple State agreements or compacts and entities created under State law) to carry out projects authorized under this section; and

(B) water, watershed, and sewer authorities, rural electric cooperatives, Federal agencies, and other State or local governments or agencies.

(d) Regulations.—(1) The Secretary shall issue regulations to carry out this section.

(2) Such regulations shall—

(A) specify the terms and conditions that the entities described in subsections (a) and (c) must meet in order to participate in programs carried out under this section;

(B) establish a procedure under which entities described in subsections (a) and (c) may apply for assistance under this section; and

(C) provide for cooperation between such entities and other Federal, State, or local agencies for the purposes of carrying out the provisions of this section.

(e) Definition.—As used in this section, the term "university" means—

(i) a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

(2) a land grant university established under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.);

(3) the Tuskegee Institute; and

(4) any other support research organization.

(f) Funding.—(1) There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section.

(2) The Secretary may accept funds from non-Federal sources to carry out the activities authorized by this section.

(g) No Waivers.—Nothing in this section shall authorize the waiver of a cost-share requirement under a program established under any other provision of law.

Subtitle B—Emergency Drought Authority

Part I—Reclamation States Drought Assistance

SEC. 411. SHORT TITLE.

This part may be cited as the "Reclamation States Drought Assistance Act of 1988".

SEC. 412. ASSISTANCE DURING DROUGHT.

The Secretary of the Interior, acting under the authorities of the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof) and other appropriate authorities of the Secretary shall—

(1)(A) perform studies to identify opportunities to augment, make use of, or conserve water supplies available to Federal reclamation projects; and

(B) consistent with existing contractual arrangements and State law, and without further authorization, undertake construction, management, and conservation activities that will mitigate or can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, or 1989, which construction shall be completed by November 30, 1989;

(2) assist willing buyers in their purchase of available water supplies from willing sellers and redistribute such water based upon priorities to be determined by the Secretary within the constraints of State water laws, with the objective of minimizing losses and damages resulting from drought conditions in 1987, 1988, and 1989; and

(3) undertake expedited evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of the current drought and make recommendations to the President and Congress evaluating potential activities, including (but not limited to) water supply facilities and fish and wildlife protection measures.

SEC. 413. PURCHASE OF WATER.

(a) Price.—Payments for project water acquired for project purposes from willing sellers shall be at a negotiated price but shall not confer any undue benefit or profit to any person or persons, as determined by the Secretary of the Interior. The Secretary may defer water payments where project water is made available by conversion or other means and the contractor does not take delivery in order to make water available for other projects.

(b) Recovery of Costs of Acquiring and Delivering Water.—Purchases of water acquired under subsection (a) shall be made at a price, determined by the Secretary, sufficient to recover the costs of the United States in providing such water.

SEC. 414. AVAILABILITY OF SURPLUS WATER ON A TEMPORARY BASIS.

(a) General Authority.—The Secretary of the Interior may make available, by contract, surplus water at existing Federal reclamation projects to water users and others, on a temporary basis to mitigate losses and damages resulting from drought conditions in 1987, 1988, and 1989.

(b) Surplus Water.—As used in this section, the term "surplus water" means any water made available through a Federal Reclamation project that is not under contract or that is under contract but not being used.

(c) Contracts.—Any contract signed pursuant to this section—

(1) shall provide that the price for the use of such water shall be at least sufficient to recover all Federal operation and maintenance costs;

(2) may provide that the ownership limitations of Federal reclamation law shall not apply to lands that receive such water; and

(3) shall provide that the contract shall terminate no later than December 31, 1989.

(d) Fish and Wildlife.—The Secretary may make available surplus water for the purposes of protecting fish and wildlife resources, including mitigating losses that occur as a result of drought conditions.

SEC. 415. DEFERRED PAYMENTS.

The Secretary of the Interior may defer, without penalty, the 1988 and 1989 payments of any installment of charges owed to the United States by irrigators as the Secretary deems necessary because of financial hardship caused by extreme drought conditions. Any deferment shall be recovered and such recovery may be accomplished by extending the repayment period under the contracting entities' existing contracts with the United States.

SEC. 416. REPROGRAMMING AUTHORITY.

The Secretary of the Interior may request reprogramming of funds previously made available to the Secretary to initiate and carry out the emergency drought measures provided for in this subtitle.

SEC. 417. EMERGENCY LOAN PROGRAM.

(a) General Authority.—The Secretary of the Interior may make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water, that can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, and 1989. Such loans may be made available under terms and conditions that the Secretary deems appropriate. Section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293; 43 U.S.C. 390cc) shall not apply to any contract to repay such loan.

(b) Authorization of Appropriations.—There are authorized to be appropriated $25,000,000 for the purposes of carrying out this section.

SEC. 418. INTERAGENCY COORDINATION.

The program established by this part, to the extent practicable, shall be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary of the Interior shall consult with the heads of all other Federal agencies performing relief functions under other Federal authorities, and such agency heads shall provide the Secretary with information and records as the Secretary deems necessary for the administration of this part.

SEC. 419. REPORT.

Not later than March 1, 1990, the Secretary of the Interior shall submit to the President and Congress—

(1) a complete report on expenditures and accomplishments under this part; and

(2) legislative recommendations for a national plan responding to droughts and drought-related problems in the Reclamation States.

SEC. 420. INITIATION AND DEADLINE OF EMERGENCY DROUGHT PROGRAM.

(a) Limitation.—The programs and authorities established under this part shall become operative in any Reclamation State only after—

(1) the Governor of that State has declared a drought emergency; and

(2) that State is declared eligible for Federal disaster relief by the President.

(b) Termination.—The programs and authorities established under this part shall terminate on December 31, 1989, unless otherwise specifically stated.

Part II—Water Projects

SEC. 421. WARREN ACT AMENDMENTS.

(a) Excess Storage and Carrying Capacity.—The first sentence of the first section of the Act of February 21, 1911 (43 U.S.C. 523; commonly known as the "Warren Act"), is amended by—

(1) striking out "lands to be irrigated under any project" and inserting in lieu thereof "water users then entitled to the delivery of water from a Federal reclamation project";

(2) striking out "lands and entrymen under the project," and inserting in lieu thereof "users of the Federal reclamation project, including fish and wildlife purposes," and

(3) inserting before the final period ", municipal, industrial, domestic, or miscellaneous purposes, including fish and wildlife purposes".

(b) Limitation.—The second proviso in section 2 of such Art (43 U.S.C. 524) is amended by—

(1) inserting "for irrigation uses" after "furnished"; and

(2) striking out "one hundred and sixty acres" and inserting in lieu thereof "that landowner's ownership entitlement under Federal reclamation law".

SEC. 422. CARRYOVER STORAGE AND SURPLUS WATER, NEW MELONES UNIT, CENTRAL VALLEY PROJECT, CALIFORNIA.

The first undesignated paragraph under the heading "San Joaquin River Basin" in section 203 of the Flood Control Act of 1962 (Public Law 87-874, 76 Stat. 1191) is amended by inserting before the last period the following: ": *And provided further*, That the Secretary of the Interior may make available unallocated carryover storage from the New Melones project to the Oakdale and South San Joaquin irrigation districts during drought emergency conditions".

SEC. 423. CENTRAL VALLEY PROJECT WATER RELEASE.

The Secretary of the Interior is authorized to install a temperature control curtain as a demonstration project at Shasta Dam, Central Valley project, California at a cost not to exceed $5,000,000. The purpose of the demonstration project is to determine the effectiveness of the temperature control curtain in controlling the temperature of water releases from Shasta Dam, so as to protect and enhance anadromous fisheries in the Sacramento River and San Francisco Bay/Sacramento-San Joaquin Delta and Estuary. The cost of conducting the demonstration project including necessary studies, construction, and installation of the temperature control curtain, and its operation and maintenance, shall be nonreimbursable. Any increase in power costs resulting from bypass releases for temperature control purposes shall also be nonreimbursable.

Part III—Authorization

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

TITLE V—NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM

SEC. 501. SHORT TITLE.

This title may be cited as the "National Agricultural Weather Information System Act of 1988."

SEC. 502. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) a major cause of variability and losses in agricultural production is weather and climate factors;

(2) extreme weather conditions, such as drought, appear to be becoming more frequent, and further climate changes are likely;

(3) Congress has repeatedly assumed responsibility for emergency aid to producers who suffer losses due to weather;

(4) it would be prudent and cost-effective to prevent or reduce these losses through better use of weather and climate information; and

(5) current agricultural weather and climate information and its delivery to agricultural producers does not appear to be adequate.

(b) Purposes.—The purposes of this title are to—

(1) provide an operational weather forecasting and observation system aimed at meeting the site-specific, short-term, and long-term forecasting needs of agricultural producers;

(2) bring about the collection, organization, and dissemination of weather and climate information relevant to agricultural producers;

(3) provide for research and education on agricultural weather and climate, aimed at improving the quality and quantity of weather and climate information available to agricultural producers; and

(4) facilitate greater private participation in providing agricultural weather and climate information.

SEC. 503. AGRICULTURAL WEATHER AND CLIMATOLOGY OFFICE.

(a) Establishment of the Office and Administration of the System.—The Secretary of Agriculture shall establish in the Department of Agriculture an Agricultural Weather and Climatology Office to plan and administer a National Agricultural Weather Information System. The System shall be comprised of the activities of the Office described in this section and the activities of the State agricultural weather information systems described in section 506(b)(1). The Secretary, acting through the Office, may—

(1) enter into contracts with the National Weather Service for operational weather forecasting and observation;

(2) obtain standardized weather observation data collected through State weather information systems;

(3) provide, through the Cooperative State Research Service, competitive grants under section 505 for research in atmospheric sciences and climatology;

(4) provide grants to eligible States under section 506 to plan and administer State agricultural weather information systems;

(5) coordinate the activities of the office with the weather and climate research activities of the Cooperative State Research Service, the National Sciences Foundation Atmospheric Services Program, and the National Climate Program; and

(6) encourage private sector participation in the National Agricultural Weather Information System.

(b) Appointment of Director.—The Secretary shall appoint a Director to manage the activities of the Agricultural Weather and Climatology Office.

SEC. 504. AGRICULTURAL WEATHER AND CLIMATOLOGY ADVISORY BOARD.

(a) ADVISORY BOARD.—(1) The Secretary of Agriculture shall establish the Agricultural Weather and Climatology Advisory Board to advise the Director of the Agricultural Weather and Climatology Office with respect to carrying out this title.

(2) The Board shall have nine members, appointed by the Secretary in consultation with the Director of the National Weather Service. The Board shall have two members from each of the four Cooperative Extension Service Regions. Of the two members from each region, one shall be an agricultural producer and one shall be an agricultural or atmospheric scientist. The ninth member of the Board shall be appointed from among individuals who are engaged in providing private meteorology services.

(3) The Board shall elect a Chair from among its members.

(4) Each Board member shall be appointed for a three-year term, except that to ensure that members of the Board serve staggered terms, the Secretary shall appoint three of the original members of the Board to appointments for one year, and three of the original members to appointments for two years.

(5) The Board shall meet not less than twice annually.

(6) Members of the Board shall serve without compensation, but while away from their homes or regular places of business in the performance of services for the Board, shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as individuals employed in Government service allowed travel expenses under section 5703 of title 5, United States Code.

(b) EXEMPTION FROM TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 14(a)(2)) shall not apply with respect to the Board.

SEC. 505. COMPETITIVE GRANTS PROGRAM.

(a) GRANTS.—With funds allocated to carry out this section, the Secretary of Agriculture may make grants, on a competitive basis, to State agriculture experiment station, colleges and universities, other research institutions and organizations, Federal agencies, private organizations and corporations, and individuals to carry out research in all aspects of atmospheric sciences and climatology that can be shown to be important in both a basic and developmental way to understanding and forecasting weather.

(b) PRIORITY.—In selecting among applications for grants under subsection (a), the Secretary shall give priority to proposals that emphasize—

(1) techniques and processes that relate to weather-induced agricultural losses, and to improving the forecasting of weather extremes such as drought, floods, freezes, and storms well in advance of their actual occurrence;

(2) improvement of site-specific weather data collection and forecasting; or

(3) the effect of weather on economic and environmental costs in agricultural production.

SEC. 506. STATE AGRICULTURAL WEATHER INFORMATION SYSTEMS.

(a) GRANTS.—(1) With funds allocated to carry out this section, the Secretary of Agriculture shall make grants to not fewer than ten eligible States to plan and administer, in cooperation with the Director of the Agricultural Weather and Climatology Office and the Administrator of the Extension Service, State agricultural weather information systems.

(2) For purposes of selecting among applications submitted by States, the Secretary shall take into consideration the recommendations of the Board, and consult with the Director.

(b) ELIGIBILITY TO RECEIVE GRANTS.—In order for a State to be eligible to receive a grant under subsection (a), the chief executive officer of a State shall submit to the Secretary an application that contains—

(1) assurances that the State will expend such grant to plan and administer a State agricultural weather information system that will—

(A) collect observational weather data throughout the State and provide such data to the Agricultural Weather and Climatology Office; and

(B) develop methods for packaging information received from the National Agricultural Weather Information System for use by producers (with State extension services and the private sector to serve as the primary conduit of agricultural weather forecasts and climatic information to producers); and

(2) other assurances and information as the Secretary may require by regulation.

SEC. 507. FUNDING.

(a) ALLOCATION OF FUNDS.—Twenty percent of the funds appropriated for a fiscal year to carry this title shall be used for contracts with the National Weather Service entered into under section 503(a). Twenty percent of such funds shall be used by the Cooperative State Research Program for a competitive grants program under section 505. Thirty percent of the funds shall be divided equally between the participating States under section 506. The remaining funds shall be allocated for use by the Agricultural Weather and Climatology Office and the Cooperative Extension Service in carrying out this title.

(b) LIMITATIONS ON USE OF FUNDS.—Funds provided under the authority of this title shall not be used for the construction of facilities. Each State or agency receiving funds may not use more than 30 percent of such funds for purchases of equipment.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $5,000,000 in each of the fiscal years ending September 30, 1989, and September 30, 1990, to carry out this title.

The CHAIRMAN. No amendments to said substitute, as modified, are in order except the amendments printed in House Report 100-805. Said amendments shall be considered only in the order and manner specified and shall be considered as having been read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

The Chair will announce the number of the amendment made in order by the rule in order to give notice to the Committee of the Whole as to the order of recognition.

It is now in order to consider amendment No. 1 printed in House Report 100-805.

AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. Chairman, I offer amendments en bloc made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DE LA GARZA:

Section 103 of the Disaster Assistance Act of 1988 is amended by—

(1) striking subsection (a) and inserting in lieu thereof the following:

(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may only be provided to such owners and operators when—

(1) the forage crop will not regenerate naturally;

(2) reseeding is the most cost effective method to reestablish the forage crop; and

(3) reseeding is not undertaken to simply improve the forage crop damaged by the drought.

(2) striking subsection (b) and inserting in lieu thereof the following:

(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer and other inputs on reseeded pasture.

H.R. 5015 is amended by adding at the end thereof the following:

TITLE VI—MIGRANT OR SEASONAL FARMWORKER ASSISTANCE

SEC. 601. EMERGENCY ASSISTANCE PAYMENTS TO MIGRANT FARMWORKER HOUSEHOLDS.

(a) EXCLUSION OF ASSISTANCE.—Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by—

(1) striking out "(E)" and inserting in lieu thereof "(F)";

(2) striking out "(F)" and inserting in lieu thereof "(G)"; and

(3) adding the following new subparagraph:

"(E) emergency housing assistance for migrant or seasonal farmworker households;".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

H.R. 5015 is amended by adding at the end thereof the following:

TITLE VI—MIGRANT OR SEASONAL FARMWORKER ASSISTANCE

SEC. 601. MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS.

(a) CERTIFICATION.—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by—

(1) striking out "and (2)" and inserting "(2)"; and

(2) inserting before the period at the end thereof the following:

", and (3) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the food stamp program after previous participation in such program".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

H.R. 5015 is amended by adding at the end of the bill the following new title:

TITLE VI—LIMIT ON OUTLAYS

SEC. 601. LIMIT ON OUTLAYS.

Notwithstanding any other provision of this Act, outlays by the Commodity Credit Corporation during the fiscal year ending September 30, 1989, to meet obligations incurred to carry out the purposes of this Act shall not exceed $6,900,000,000. Any additional funds obligated under this Act, but not disbursed, during such fiscal year shall be disbursed as soon as practicable after September 30, 1989.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, the amendments offered en bloc are two dealing with seasonal and/or migrant workers. The amendments would first provide a waiver on housing so that those migrant workers or seasonal workers who are suffering because of the drought may be assisted under the expedited service process.

What happens is that if the workers are out in Indiana or Ohio in the migrant stream and someone offers them housing, our amendments would stipulate that that housing would not be counted as income in order to receive food stamps which they would otherwise qualify for under expedited services, which means that they could receive the food stamps immediately.

The other food stamp amendment is consistent with the first. Under the present law a worker's allotment of food stamps is prorated for the balance of the month, 10 days or 15 days.

We stipulate that the food stamps not be prorated, but rather that the full allotment for that month be given to the persons in need.

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The next amendment is one to correct an amendment offered by the distinguished gentleman from Alabama [Mr. HARRIS] because we found out that the cost would be excessive. The original amendment was not intended to have the excessive cost. This amendment would bring the bill under the spending level which we are working with.

The other amendment would bring the total bill in line with the information we received today from OMB and reduce the outlay from $6.9 billion to $5.8 billion so that we may lower the cost of the bill. That is the thrust of the amendments.

Mr. Chairman, this amendment would exclude from income for food stamp purposes emergency housing assistance paid to a third party on behalf of a migrant or seasonal farmworker household.

I am advised that in a number of States this assistance is not tied to any special amount earmarked for shelter, and when granted, it is included as income which: First, disqualifies many migrant households from expedited service; and second, more importantly, greatly reduces the amount of food stamp benefits.

This assistance in the form of a vendor payment is not cash in hand to the migrant worker. He has no discretion over its use. While housing is obviously important to the farmworker household, the need for adequate food is paramount for him and his family. It is important that during this period when many migrant and seasonal farmworkers have arrived in a State where because of the drought there is no immediate job or less work than anticipated that he is able to take care of his and his family's food needs with as much assistance as possible from the Food Stamp Program.

I want to make clear that this amendment is applicable only to emergency assistance for housing for migrant or seasonal farmworkers while in the job stream. It does not affect vendor payments for gas or auto repair to get the migrant back home or to another area of employment. I understand that such payments are not a part of normal emergency grants and that they would be excluded from income in accordance with current regulations (273.9(c)(1)(iv)(B)).

The Congressional Budget Office advises that this amendment has no significant cost (less than $500,000).

I urge my colleagues to give their favorable approval to this amendment.

This amendment, which is cosponsored by Chairman LEON PANETTA of the Domestic Marketing, Consumer Relations and Nutrition Subcommittee, would prohibit prorating first-month benefits for migrant and seasonal farmworkers when they are being recertified for food stamps, as long as they meet recertification requirements within the 30 days after their prior certification period ends.

Food stamp households sometimes experience a temporary interruption in benefits when they cannot complete recertification requirements before the end of their certification periods. Such interruptions can be caused by numerous reasons such as loss of documents by the Postal Service, lack of the appropriate documents at the appropriate times, State agency error, or movement from one food stamp project to another.

Under current law, regardless of the cause for the delayed reapplication process, the household's benefits are pro-rated from the date of reapplication. This amendment would disallow pro-rating for eligible migrant and seasonal farmworker households who participated in the Food Stamp Program in the previous 30 days and allow them to receive a full month's benefits in the month they reapply.

This amendment was approved by the Committee on Agriculture during consideration of H.R. 4060, the Emergency Hunger Relief Act of 1988. However, due to the serious impact on employment caused by the drought, it is imperative that this amendment be enacted promptly. The Congressional Budget Office does not score a cost to this provision.

I urge my colleagues to assist our migrant and seasonal work force through adoption of this amendment.

MODIFICATION TO AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. Chairman, I ask unanimous consent to offer that amendment which lowers the $6.9 billion and insert in lieu thereof $5.8 billion in the "limit on outlays" amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendments en bloc offered by Mr. DE LA GARZA: In title VI, entitled "Limit on Outlays," strike out "$6,900,000,000" and insert in lieu thereof "$5,800,000,000".

Mr. MADIGAN. Mr. Chairman, reserving the right to object, under my reservation of objection, I yield to the gentleman from Texas [Mr. DE LA GARZA] to explain to the Committee of the Whole exactly what he is doing to the Harris amendment that is a part of the bill.

Mr. DE LA GARZA. Mr. Chairman, there were two Harris amendments: the original amendment which had "may" and the subsequent amendment which would make it "shall." Actually, Mr. Chairman, Judge HARRIS introduced the "shall" to comply with the Secretary of Agriculture that he not be giving too much leeway. I might add, though, that the purpose of the amendment is to provide assistance in seeding foraged land so that we are compatible with good order and to refurbish land that has been foraged or has been grazed.

What this amendment would do is to limit the assistance for the reseeding assistance under the emergency forage crop that will not regenerate itself, its own seed, and by using the definition of where reseeding is not being used, simply to provide a new crop, this would bring us from a projected $1.2 billion down to $125 million, as we are informed by the Department of Agriculture.

Mr. MADIGAN. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Texas to tell me if, in summary, the consequence of this unanimous-consent request is to reduce the expenditures that otherwise would occur because of the Harris amendment by about $900 million?

Mr. DE LA GARZA. The gentleman is correct.

Mr. MADIGAN. Mr. Chairman, further reserving the right to object, I yield further to the gentleman to be advised as to whether or not the further implication of his request is to reduce the overall expenditures of the bill by some $900 million to $1 billion?

Mr. DE LA GARZA. Mr. Chairman, the gentleman is correct, from $6.9 billion to $5.8 billion.

Mr. MADIGAN. Mr. Chairman. I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

Mr. PANETTA. Mr. Chairman will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to speak very briefly to that part of the en bloc amendment that relates to assistance to migrant workers, One of the groups that has been truly devastated by the drought are those who harvest our crops, the migrants and farmworkers in this country. The problem we have had is that migrant workers, thousands of them who came up from Florida and Texas every year to pick crops every year, are finding themselves without work as a result of the impact of the drought. They are now stranded largely without income waiting to see if work will become available.

Mr. Chairman, the problem is they urgently need assistance. We have an amendment that is part of the hunger-relief amendment that is being incorporated here that basically targets the migrant worker by allowing them, instead of getting their assistance prorated if they have to reapply for assistance to allow them to get 30 days of assistance. This is, as I said, a provision that is contained in the hunger-relief bill.

Mr. Chairman, the other relates to the housing assistance where emergency housing assistance is provided. It should not be included as income for those migrant workers and therefore, they will not be penalized for the housing assistance that may be necessary because of the situation developed by the drought. This is an essential element that tries to help people in the process, and I would urge its adoption.

Specifically, let me now address the amendment on food stamps:

I rise in support of the amendment which my distinguished chairman, the gentleman from Texas, and I are offering to provide some urgently needed assistance to a group which has been devastated by the drought. These are the people who harvest our crops, migrants and farmworkers.

Thousands of migrant workers who have come up from Florida and Texas as they do every year to pick the crops find themselves without work because there is far less to harvest this year because of the drought. Now they are stranded without income, waiting to see if work comes available.

Most of the bill before us today deals with urgently needed assistance to American farmers. What this amendment is designed to do is to provide some emergency relief through the Food Stamp Program to those who harvest our crops.

Food stamp households sometimes experience a temporary interruption in benefits due to a variety of reasons related to the termination of their certification period or when they move from one food stamp project area to another and must reapply in the new project area. Under current law, regardless of the cause for the delayed reapplication process, the household's benefits are prorated from the date of reapplication. This provision has particularly disadvantaged migrant farmworkers who experience a gap in benefits when they leave their home State to travel to their jobsite in another State. Because of the current drought situation, both farmworkers and migrants are experiencing severe hardship since earnings which they had anticipated are not available due to the decline in demand for farm labor.

Our amendment will allow migrant and farmworker households who previously participated in the Food Stamp Program in the previous 30 days, to receive a full month's benefits if found eligible in the month they reapply.

The same provision is included in the Emergency Hunger Relief Act of 1988 which the Committee on Agriculture approved this month. The only difference between the provision in that legislation and this amendment is that H.R. 4060 makes this provision effective on October 1, the start of the new fiscal year, while this amendment makes it effective upon enactment. The cost in the current fiscal year would be substantially less than $500,000.

The Agriculture Committee hopes to bring the Emergency Hunger Relief Act to the floor of the House before the August district work period begins. What we will present to you is a bipartisan measure which will get nutrition assistance to low-income Americans who depend on the food stamp and temporary emergency food assistance [TEFAP] programs as quickly as possible without increasing the administrative complexity of the programs.

In addition to the migrant farmworker provision which I have described, H.R. 4060 will—

First, extend for 1 year the Temporary Emergency Food Assistance Program [TEFAP];

Second, require the U.S. Department of Agriculture to purchase 110 million dollars' worth of commodities to distribute to the needy to compensate for the reduced availability of cheese and other commodities in recent months;

Third, increase monthly basic foods stamp benefits for each recipient above the normal inflation adjustment by an average of 70 cents in fiscal year 1989 and $2.25 in fiscal year 1990, resulting in an overall increase of about $3 per recipient;

Fourth, provide additional information to the needy about food stamps and reduce unnecessary paperwork for applicants;

Fifth, reduce barriers to participation in the Food Stamp Program for farmers, the elderly, and the disabled;

Sixth, improve the efficiency of the Food Stamp Program by establishing an error rate of 6 percent as an objective for administrative improvement and targeting sanctions for errors on States with the highest rates of incorrect payments, expanding the definition of error to include underpayments as well as overpayments, eliminating sanctions for States whose performance is better than average, rewarding States which reduce erroneous payments below 6 percent, and ensuring that States sanctions are enforced; and

Seventh, provide a contingency clause so that if budget sequestration takes place, the provisions of this bill having a cost impact above the CBO baseline for the fiscal years 1989-91, covered by the concurrent resolution on the budget for fiscal year 1989 (H. Con. Res. 268) will not be implemented.

I urge your support of the de la Garza-Panetta amendment to provide immediate assistance to migrants and farmworkers and their families.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of this amendment to expedite the eligibility of indigent, migrant farmworkers for food stamps. I commend the chairman of the committee, Mr. DE LA GARZA, and the subcommittee chairman, Mr. PANETTA, for supporting this important amendment.

I also want to note that this amendment is supported by a wide range of organizations which represent farmworkers throughout the United States, including the Farmworkers Justice Fund, the National Council of La Raza, the Association of Farmworker Opportunity Programs, and the U.S. Catholic Conference, the United Farmworkers of California and Texas, the Farm Labor Organizing Committee of Ohio and Michigan, the East Coast Farmworkers Support Network, the American Friends Service Committee, and CATA, which represents Puerto Rican farmworkers in the United States.

The legislation before us today is intended to assist the victims of drought who are suffering economically as a result of agricultural losses. This is a national calamity, and it deserves a national response from the Congress.

We need to respond to the economic needs of farmers and those in farm-related businesses.

But let us not, in our haste, ignore the urgent needs of the most vulnerable drought victims: America's farmworkers.

Across this Nation, in Ohio, in Michigan, in the Farm Belt, in the Southwest, there are thousands of homeless, jobless and stranded farmworkers—many of them children—who are special drought victims.

They can't lose their farms: They own no farms.

They can't lose their housing: They have no housing.

They can't lose their unemployment benefits and their health care coverage. They have none.

And in addition to homelessness and destitution, they face another urgent crisis: Malnutrition.

That is something we can do something about today, in this legislation.

That is what this amendment is about.

This special plight of farmworkers may sound familiar, because the Congress in 1982 enacted special rules to expedite the processing of food stamp benefits to migrant farmworkers.

But the Reagan administration issued regulations last fall which severely underminded that law, leaving thousands of farmworkers stranded without the ability to secure the food stamps they and their children desperately require, and for which they are eligible.

Those regulations say that vendor payments—like emergency housing for destitute farmworkers—count as income and can deprive them of eligibility for food stamps.

As a result, thousands of farmworkers must choose: Shall they endure homelessness to qualify for food stamps, or nutritional deprivation in return for temporary shelter?

Is that what this Congress intended?

Is that justice for farmworkers?

I am reminded of the proposed regulations by the Reagan administration to deny supplemental security income benefits to the elderly who own a car or their home.

Those regulations were withdrawn because of protests from elderly groups and their supporters in the Congress.

I remember the refusal of the Reagan administration, year after year, to require sanitation facilities and clean drinking water for farmworkers.

Finally, the courts and Congress rose up to demand that the rules finally be issued.

I recall the proposal of Governor Reagan to reduce food stamp allocations to a pregnant woman because she was providing "housing" for her baby.

The courts threw out that twisted logic.

Now, in 1988, the Reagan administration tells us that the poor family of a migrant worker must choose between rudimentary housing and food.

Between homelessness and starvation.

Is it possible that we are describing America in 1988?

Sadly, it is all true.

This amendment will restore the original intent of the Congress' action in 1982 by excluding emergency housing assistance to destitute migrant and seasonal farmworkers such as housing from designation as food stamp income.

And it should also be noted that, under the law, such emergency allocations as fuel, car repairs and transportation home must be excluded as well.

This amendment deserves the support of every Member in this Chamber.

This amendment will also assure that migrant farmworkers will receive food stamps for their entire month in which they apply, with any overpayments being subsequently deducted. This will assure that a destitute farmworker family is able to buy necessary food immediately rather than await the start of a new month.

Mr. Chairman, throughout this country, there may be 50,000 farmworkers or more who are stranded by drought, without crops to pick and therefore, without an ability to support themselves or to return to their homes.

I want to commend Chairman DE LA GARZA for taking the initiative of writing to Secretary of Labor McLaughlin, requesting that she utilize the national activities account to direct emergency transportation and financial support to farmworkers, and I call on Secretary McLaughlin to act immediately.

Mr. Chairman, if anyone doubts the emergency nature of this amendment, or its appropriateness to the drought relief bill, let us recall this fact.

A field which is not harvested this year will spring back again with next year's rain.

A farmworker family decimated by impoverishment, a child deprived of adequate nutrition, a pregnant mother denied basic foods—these drought victims cannot recover with a rainfall.

They will bear the scars of the drought of 1988 for a lifetime.

For Amelia Chavez, a single mother of two stranded in Liberty Center, OH; for the six members of Aurora Ruiz' family in Texas' Rio Grande Valley; for Frank McQueen, a migrant fruit picker in the Midwest—for these drought victims who have no voice to speak for them except this Congress, let us pass this amendment.

Even in good times, these farmworkers—who pick the crops and provide all of us with our food—live close to poverty and despair.

Now, when the skies are clear and the fields are dry, can we in good conscience tolerate any obstacles which prevent them from receiving the food assistance they so desperately need, and which we—by this vote—can provide them?

I urge a "yes" vote on this amendment.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, migrant farmworkers across the country are finding it impossible to get work because of the current drought situation. Migrant farmworkers are finding only part-time work or none at all. Many are not able to afford adequate food or housing.

I rise in strong support of this amendment which I have coauthored with Chairman DE LA GARZA which prevents a decrease in benefits when migrant or seasonal farmworker households cannot complete recertification requirements before the end of their certification period. Currently, migrant workers benefits are reduced during the first month after recertification if there is a delay in the recertification requirements. Many things can cause delays in recertification, and the effects of reduced benefits can be harmful, particularly at this time. This amendment would prohibit prorating first-month benefits for migrant and seasonal farmworkers when they are being recertified for food stamps, as long as they meet recertification requirements within the 30 days after their prior certification period ends. It in effect gives them a short grace period.

I want to commend the chairman for pushing this initiative in this area. It is important during this drought that seasonal workers receive a continuing flow of benefits. I urge my colleagues to vote for its approval.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask the chairman if it is correct that on the second item of assistance in his amendment, that item relating to housing for migrant workers, that that provision applies only to this drought emergency?

Mr. DE LA GARZA. Reclaiming my time, we have a correcting amendment that would ask that it apply to workers in the job stream, to migrants in the job stream. This will continue as a part of permanent law in that area of food stamps.

Mr. MADIGAN. Mr. Chairman, I am talking about the housing provision.

Mr. DE LA GARZA. Mr. Chairman, the gentleman is correct, if emergency housing is provided by third parties to migrants in the job stream, it will not be counted against their income for expedited service if they otherwise qualify.

Mr. MADIGAN. But is it correct that that only applies in an emergency?

Mr. DE LA GARZA. The gentleman is correct.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman.

Mr. GONZALEZ. Mr. Chairman, first, I want to compliment the gentleman from Texas [Mr. DE LA GARZA] on a very good achievement here.

Mr. Chairman, what about the unemployed who, as a result of these drastic conditions, have had to go back to their home States, for instance, those migrant workers in Texas that have gone up to the Midwest and now find themselves unemployed? Do we have anything here with respect to unemployment compensation?

Mr. DE LA GARZA. Mr. Chairman, I would inform the gentleman that that is not within the jurisdiction of this committee, but they would be covered under the normal food stamp and temporary food assistance programs in their home base, but we have, and are, trying to work an amendment where they would receive assistance, monetary assistance, through the Job Training Program Act, and our distinguished colleague, the gentleman from California [Mr. MARTINEZ], who is chairman of the subcommittee, and the distinguished chairman of the full committee, the gentleman from California [Mr. HAWKINS], hopefully will be working on that collateral legislation.

MODIFICATION TO AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, in regard to the assistance for the migrant seasonal worker, farmworker, I said that if they would be in the job stream; and ask unanimous consent to add those words to the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendments en bloc offered by Mr. DE LA GARZA: Modify the amendment concerning emergency housing assistance for migrant or seasonal farmworker households by inserting before the semicolon at the end of new subparagraph (E) "during the period such households are in the jobstream".

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The modification is agreed to.

The text of the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. DE LA GARZA] is as follows:

Section 103 of the Disaster Assistance Act of 1988 is amended by—

(1) striking subsection (a) and inserting in lieu thereof the following:

(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may only be provided to such owners and operators when—

(1) the forage crop will not regenerate naturally;

(2) reseeding is the most cost effective method to reestablish the forage crop; and

(3) reseeding is not undertaken to simply improve the forage crop damaged by the drought.

(2) striking subsection (b) and inserting in lieu thereof the following:

(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer and other inputs on reseeded pasture.

H.R. 5015 is amended by adding at the end thereof the following:

TITLE VI—MIGRANT OR SEASONAL FARMWORKER ASSISTANCE

SEC. 601. EMERGENCY ASSISTANCE PAYMENTS TO MIGRANT FARMWORKER HOUSEHOLDS.

(a) EXCLUSION OF ASSISTANCE.—Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by—

(1) striking out "(E)" and inserting in lieu thereof "(F)";

(2) striking out "(F)" and inserting in lieu thereof "(G)"; and

(3) adding the following new subparagraph:

"(E) emergency housing assistance for migrant or seasonal farmworker households during the period such households are in the jobstream.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

H.R. 5015 is amended by adding at the end thereof the following:

TITLE VI—MIGRANT OR SEASONAL FARMWORKER ASSISTANCE

SEC. 601. MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS.

(a) CERTIFICATION.—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by—

(1) striking out "and 2" and inserting "(2)"; and

(2) inserting before the period at the end thereof the following:

", and (3) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the food stamp program after previous participation in such program".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

H.R. 5015 is amended by adding at the end of the bill the following new title:

TITLE VI—LIMIT ON OUTLAYS

SEC. 601. LIMIT ON OUTLAYS.

Notwithstanding any other provision of this Act, outlays by the Commodity Credit Corporation during the fiscal year ending September 30, 1989, to meet obligations incurred to carry out the purposes of this Act shall not exceed $5,800,000,000. Any additional funds obligated under this Act, but not disbursed, during such fiscal year shall be disbursed as soon as practicable after September 30, 1989.

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition to the amendments en bloc?

If not, the question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments en bloc, as modified, were agreed to.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROBERTS: Section 102 is amended to read as follows:

SEC. 102. DAIRY PRICE SUPPORTS.

Section 201(d)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)) is amended by striking out "if for any of the calendar years 1988, 1989, and 1990" and inserting in lieu thereof "if for either of the calendar years 1988 and 1990".

The CHAIRMAN. The gentleman from Kansas [Mr. ROBERTS] will be recognized for 15 minutes and the gentleman from Texas [Mr. STENHOLM] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I would inform the Members that the amendment is very simple in nature. This amendment simply takes the bill back to the original package, the original drought relief package, that was considered in the House Committee on Agriculture.

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. OLIN], the coauthor of this amendment.

Mr. OLIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman. I appreciate the gentleman offering this amendment which is also cosponsored by me.

On this dairy question the real gut issue here is not the issue of whether there is enough support in this bill in drought assistance for dairymen. There probably is not enough support. I do not think the cattlemen and the hog producers and anybody else really is getting the support they feel they need. That is not the issue. Certainly the dairymen in this bill are treated as fairly as anybody else, but the real issue is this: Is the so-called crisis in the dairy, which there is a crisis in dairy, dairymen are having a tough time, is that sufficiently severe so that we really have got a collapse of production on our hands and we have got to take unusual action? Is that really that severe? Is the production level in jeopardy to the point where the Nation is at risk?

Mr. Chairman, of course, if that were the case, we probably would want to change all kinds of policies, but if it is not the case, we probably ought to stay with the dairy policies that we have developed over the last 5 years and that now is working now with regard to the crisis, the so-called question of crisis, in production.

□ 1315

When the committee dealt with this thing about 2 weeks ago, right before the recess that was in July, we asked the Department of Agriculture to revisit all of their numbers, all of the pertinent numbers with regard to slaughter rate, with regard to feed prices, every conceivable aspect.

Also during that week there was convened by the Milk Industry Foundation a panel of agricultural economists. They included experts from the University of Wisconsin, Ohio and Cornell University, and we got their material back. What that said to us was this: There is nothing in the data with regard to animal slaughter that would indicate that there is any kind of a collapse going on. The agricultural economists said a massive selloff of the Nation's dairy herds is not indicated. It is not occurring and it is not indicated. And they said that the combination of higher market prices and feed assistance will keep dairy farmers whole.

I am not trying to maintain that they are as whole as they would like to be. They are not, but neither is anybody else that has suffered a drought.

I do not want to get wrapped up in all of the figures deeply, but I quoted from numbers that the USDA gave us of the slaughter rate for each week this year. The gentleman from Vermont [Mr. JEFFORDS] talked about one week in May where the slaughter was higher than it was the year before, and it was 19 percent higher.

But what he failed to notice was that the next week, the week of June 4, the slaughter was 22 percent lower. So when we look at this thing on a year to date basis, it is very clear that the slaughter of dairy animals is reasonably robust. But it is lower than it was last year, it is lower than the year before, lower than the year before that.

The other question that was raised was with regard to the CCC stocks. We had a visitation here about 20 minutes ago by the Assistant Secretary of Agriculture and his staff with regard to these issues. He pointed out this issue with regard to the dairy slaughter and he said that on the issue of the stocks being gone, they are not gone. The gentleman from Vermont referred to a letter he got from a Mr. Brody that was talking about what the state of uncommitted stocks was and how he was communicating with the schools and the other people. The facts are, as I said earlier this day, the Department of Agriculture has bought 7.8 billion pounds of milk products. They still have on hand 5.8 billion pounds of milk products, butter, cheese, and nonfat dry milk. They have amounts on hand in excess of what is committed for these various uses.

Mr. STENHOLM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong opposition to the Olin-Roberts amendment. I believe that the committee, after many weeks of deliberation, the task force also analyzing where we are, has come up with the proper response in H.R. 5015.

I would not quarrel and certainly not take issue at all with any of the facts and figures the gentleman from Virginia has used. My only point to the House is that we can take all of the projections of all of the analysts and all of the experts, and the truth of the matter today is we do not know what the effect of the drought is going to be on the dairy industry, and we will not know until later this year. And yet we have to act today, and the reason the committee included a 50-cent increase is the belief that we need to send some message to those dairymen who may, otherwise be going out of business because of the drought, to stay in business until next year.

The question of cow numbers, everyone is circulating all kinds of letters, and so forth. Unfortunately, it is kind of like Will Rogers once observed. It ain't people's ignorance that bothers me so much, it's them knowing so much that ain't so which is the problem, and the problem with these numbers is that we are comparing apples and oranges instead of apples and apples. When we compare July 1 to January 1, that does not tell us anything about the effect of the drought, because the drought did not begin to occur in serious proportions until about July 1.

For those who may be concerned about the statement that the Secretary of Agriculture sent to the Speaker in which he says we do not expect milk shortages next year, notice the key word "expect." What Members of this body need to understand is if the Department is correct, and let us for a moment assume that the Secretary is correct, there will be zero cheese available during all of fiscal 1989 and zero on hand at the end of fiscal year 1989 to meet any emergency food shortages by anybody in this country. There will also be zero supplies of nonfat dry milk to meet unallocated needs at the end of fiscal 1989.

Maybe that is good and maybe that is bad. But we need to understand that we are getting awfully close in some of these areas of food and nutrition and hunger programs of having to make some tough decisions.

If the Department is correct there will be zero. If they are incorrect, we are going to have to get into school lunchroom programs and other areas.

Mr. ROBERTS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank the gentleman from Kansas for yielding time to me, and I commend him and the gentleman from Virginia and others on the Agriculture Committee. I think it is impressive and ought to be noted that Agriculture Committee members, who are under great pressure to kind of usually be supportive on these issues, that it is members of the Agriculture Committee who are taking the lead and objecting to what is an overreach.

We worked out an agreement some time ago. We had the whole herd buy out in which we used Federal funds to reduce competition in the dairy industry so we could help get the price up. The exchange for that was going to be some support price reductions.

As a result of the drought, it is virtually unanimously agreed upon that the next reduction, the 50-cent-per-hundredweight reduction, will be foregone, so no one is suggesting that the dairy farmers be ignored. The question is whether we go beyond that and convert what would have been a 50-cent-a-hundredweight reduction into an increase. The facts simply do not justify that.

This is an effort, in my judgment, as I said, to overreach. It has negative budgetary implications, and it singles out one group for extra aid that will generate requests to do the same.

One argument I want to deal with because people say when you do this you are going to cut your surplus foods for distribution in all of these programs. I am in favor of helping the hungry. I am in favor of helping those in need. I wish some of my colleagues on the Agriculture Committee were in favor of helping the homeless and the hungry other than by simply subsidizing agriculture and getting the excess. It is an inefficient way to do it. We should make a decision, yes, we can afford so much resources to help those in need and allocate them in a sensible way. To justify what would otherwise be an inefficient and unjustifiable subsidy system, maybe it is and maybe it is not, but to justify a subsidy system because a byproduct of it will be some surplus to distribute to the needy is a bad way to make public policy. That is a way that will lead to excess subsidy and bad economics.

So what we ought to do is to make agricultural policy sensible, and then if we decide that we have extra needs, to help the needy, and we do it that way. This extra 50 cents is an overreach, and the amendment should be adopted.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I think it is important that we get down to the real issue that Members have to face here in terms of potential loss. All we are offering here is a very cheap insurance policy to make sure that we do not have shortages in nutrition programs next year and we do not have escalating prices.

All we are using is 3 percent of the bill, $150 million, less than half of what the dairy savings are because of the drought to do this.

I remind Members that it is our responsibility, nobody else's responsibility, not the administration's or anyone that we bring adequate supplies of milk to the United States. No one knows, as the gentleman from Texas said, what is going to happen. I do not know what is going to happen, but what I do know is that if we are right and Olin is wrong, then we have an awful mess and Members are going to have to explain it because it is our responsibility.

Different people have different motives on these bills. The administration has been trying to do away with the price support programs since they got in here. They would like to see it gone. The gentleman from Virginia and his farmers are protected. They have an above order price. We gave them a 70 cent insurance in trade for their support in the 1985 farm bill. His farmers will not be hurt; they will be helped by shortages.

But let us take a look at what the rest of the country has to deal with. Right now we do have shortages, we have no TEFAP Program, we are having shortages in the School Lunch Program up to $200 million. Members are going to have to go home and answer that when they go home in October and their school officials call and other people call and say why, why did you vote to have that happen again next year. What Members want to do is to be able to say I voted to protect us from that happening next year.

So I just implore Members to take a look at what we are asking them to do here, which is nothing but giving some minimal assurances to the dairy farmers, giving them a signal to stay in business. Do not let us become short of dairy products next year, that is all.

If we are right and we do spend $150 million, where is that going to go? It is not going to be wasted. It is going to go for the poor.

So vote against the Olin amendment.

Mr. ROBERTS. Mr. Chairman, I yield 2 minutes to my colleague and friend, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, our dairymen are in trouble, our livestock folks are in trouble, our wheat, corn, cotton, and rice farmers are in trouble, and we are going to try to do our best for all of these.

But my problem with the dairy provision in the bill, and the reason why I support the Olin amendment is that it seems to me that the provision treats dairy preferentially to what it treats livestock producers, and frankly what it treats other producers as well. Livestock producers get the emergency feed assistance. So does dairy, but in addition to that dairy will be allowed an increase in the support price regardless of whether or not that dairy producer is in a disaster area. That does not seem fair to me. It seems that we are giving a preferential treatment to one class of agriculture at the expense of other classes of agriculture.

I wish we could have devised a dairy formula to help those people that were hurting in those parts of the country, but this price support increase will help folks who are not even subject to a disaster at all. I do not think it is fair to other segments of agriculture.

Second, it strikes me this amendment sets kind of a bad precedent. The intent of the farm bill is to protect people from low prices, and Congress and this committee have objected repeatedly to the Department of Agriculture's actions which have lowered grain prices.

Now we have seen grain prices go up, and it is strange, all of these people who are in there arguing for higher prices are now saying, "Aha, we have to be protected against those higher prices." What they are really saying is we want lower grain prices. I cannot intellectually argue that. I am for higher prices for my farmers, and we do our best to protect folks against the vagaries of a drought. But the dairy provisions, by providing the additional 50 cents right now seems to say to dairy farmers we are going to give you special protection from those higher grain prices even if you are not in a disaster area.

That again does not seem right to the livestock producers who are not in disaster areas or to other crop producers.

So I understand the good faith intention of this amendment and the bill, and the Stenholm provision because the gentleman from Texas [Mr. STENHOLM] has worked so hard on this thing. But I intend to support the Olin amendment.

☐ 1330

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in strong opposition to the Olin-Roberts amendment. I represent thousands of dairy farmers in western Kentucky. These dairy farmers have been severely damaged this year by the drought.

Passage of an amendment to freeze the dairy support price would have a negative impact on the price of dairy products throughout this country. This amendment is ill-conceived and is not within the best interests of the goals of this legislation.

Dairy farmers need the 50-cent increase to cover the rising production costs. This increase would primarily cover feed costs which have jumped 30 to 45 percent due to the drought.

Mr. Chairman, I urge my colleagues to oppose this amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. I thank the gentleman for yielding.

Mr. Chairman, let me say first of all that I rise today in opposition to the Olin amendment. I think I want to speak to those Members of this body from the metropolitan area because I think when we look, a year from now down the road, which seems like a long time, they are going to be coming back to us and questioning the cost, the escalation of dairy products.

Last week I spent some time on one of my largest dairy farmers which is just a short way outside of Washington in Howard County. I walked through the corn crops and looked at what is really the lifeline of that dairy farm, the feed for next year. There is not much there. I think if we pass this amendment today we are going to jeopardize once again those individuals, those families, those second generation, third generation, fourth generation dairy farmers who are trying to eke out a living, and especially in the metropolitan areas where those farms are being gobbled up day after day by developers.

We do not need to add another nail in the coffin of those farmers.

Mr. ROBERTS. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN pro tempore (Mr. SWIFT). The gentleman from Kansas [Mr. ROBERTS] has 6 minutes remaining, and the gentleman from Texas [Mr. STENHOLM] has 10 minutes remaining.

Mr. ROBERTS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I want to stress, as my colleague from Kansas has stressed, that everybody on the Committee on Agriculture has worked long and hard to put together a bill to help our hard-pressed farmers and stockmen. And that effort also includes the dairy producer. He is not left out.

We all agreed in committee that the proposed 50 cents cut in the dairy price support program for January 1 of next year should not take place. That is a 50-cent increase right there.

We are all agreed that the dairy producer will receive emergency feed assistance programs, haying and grazing benefits, all of the regular assistance that has been provided all of our livestock producers, our pork producers, our poultry producers, our beef producers, all hit hard by the drought. No question about that.

What we do not agree on is the need for a farm program price support increase at this time for only one segment of agriculture and that is dairy.

As I have said, we have already provided the dairy producers the same assistance we provide all other livestock producers. If we increase the milk price support it can conceivably encourage the overproduction of milk. If Mr. JEFFORDS is wrong, and I hope he is, it can actually lead to the overproduction of milk and a second dairy cow buildup in the dairy herds of America.

That will again lead to calls for another diversion, another buyout program.

Now my colleagues, we have been down that road once before. It is one thing to assist all of agriculture; it is another thing to assist one segment to the detriment of another segment of agriculture. That is not fair and it is not right.

By increasing the dairy support price on a national basis, regardless of drought damage, we are in fact rewriting and changing the farm bill for only one commodity. And I submit to you that the producers of other crops, wheat, corn, cotton producers, they did not ask for any increase in their target price or their price supports. This is a bad precedent and wrongheaded.

Does this mean every time, as my colleague from Kansas has pointed out, that we see an increase in the grain price that Congress should increase the dairy support price? Should other consumers of grain, those in the cattle business, the swine, the sheep and poultry business, be asked to pay more for those same available grain supplies without any similar subsidy? That is not fair.

Now the proponents of this bill and more particularly Mr. JEFFORDS, warned this body of possible milk shortages. No one wants to see that happen. I do not want to see it happen. I pray that it does not happen.

But the USDA states that the latest figures show that that is simply not the case. We have ample supplies. And if you do not believe it go to room 219 and talk to the USDA. They are sitting over there anxious to talk to colleagues who are worried about the milk shortage.

Finally my colleagues, the administration has now experienced strong reservations about this price support increase and to date this relief package has been on a fast and bipartisan track. The original drought package contains assistance to dairy. Do not be misled. It freezes the current price support from the 50-cent drop scheduled in January, it provides the same assistance to dairy producers that everybody else gets.

Olin-Roberts will return us to that package. It is the best way to provide fair, fair drought relief.

I urge my colleagues' support.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding.

Mr. Chairman, we hear much on the floor of Congress that we must be concerned about the increase of food prices. Yes we are concerned about the price of food to the consumers.

But are we concerned that last year, a ton of hay which cost $50 is now costing farmers $150? Are we concerned that the average dairy farmers' feed costs next year are going to increase by some $15,000? This is the same farmer whose profit margins are only $10,000 to $15,000 annually. Are we concerned about this? Are we concerned about the dairy farmer who has to pay 1988 production costs but is getting a 1977 wage? The defense contractors would not stand for that. The transportation contractors are not putting up with that. Labor is not putting up with that. Even the proponents of the foreign aid bill which we passed in this House, are not putting up with that. They got a 6-percent increase this year.

Remember what we have done to the dairy farmers? In 1980 we had a support price of $13.60 per hundredweight. The antidairy forces in Congress have cut, cut, cut down that level to $10.60.

What other sector of the economy has Congress done that to?

But my personal concern is this: Our opposition is using the old strategy of divide and conquer. We in Agriculture are in the minority. Yet who is here on the floor fighting the dairy farmer? It is our good friends from Kansas and Virginia who are on the Committee on Agriculture. People who represent agriculture. Lets stand united. Lets not argue with each other—those of us representing agriculture cannot allow our opponents to pick us apart. We do not have the luxury of arguing with each other.

A vote for our dairy farmers is a vote for a better America.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, in writing this legislation, one of the main concerns was to take the money that would have been used for commodity program payments, and plow it back into disaster relief for farmers devastated by the drought.

Our goal was not to give one type of farmer more relief than another type of farmer but rather to distribute aid fairly and evenly across the board to all types of farmers—including dairy farmers.

According to a study done by the ASCS to determine the effects of the drought thus far, the cost of the dairy program will drop $400 million this year. The drought has reduced production, thereby reducing government purchases.

So even with the proposed increase in the drought relief bill, the dairy program will save $317 million in the next 2 years.

Forbidding this price increase would result only in forcing dairy farmers out of business, future milk shortages and increased prices to American consumers.

I urge my colleagues to defeat this amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 5015, the drought assistance legislation as reported by the House Agriculture Committee, and in opposition to any amendments which would weaken or dilute the committee's positions. I thank the distinguished committee chairman, the gentleman from Texas, Mr. DE LA GARZA, and the ranking Republican member, Mr. MADIGAN, for their diligent efforts to bring this legislation before the Congress in such an expeditious fashion. In addition, I would also like to commend the gentleman from Vermont, Mr. JEFFORDS, for his leadership in attempt to balance the competing interests of agricultural producers throughout the Nation.

Mr. Chairman, the drought of 1988 is the worst agricultural disaster since the dustbowl days of the 1930's Great Depression. It has placed a severe strain on our national capacity to produce agricultural commodities, threatening our farmers' fundamental mission and purpose. Our Nation must provide a sufficient agricultural capacity, and accordingly, Congress must pursue policies which maximize our productive potential.

This premise is evident in dairy farm production. Over the last 5 years, Mr. Chairman, the Federal support price for dairy commodities has fallen by almost 20 percent. During this same period, northeast dairy farms have been going out of business at the astounding rate of almost 75 per month. In just the New York marketing area, we lost 2,168, or 6 percent of all New York dairy farms, in 1987 alone. To a large extent, this result represents the legitimate intent of Federal farm policies. However, in the face of the drought, and the consequent tightening in national milk supplies, it is time for an adjustment in Federal policy to fulfill our mandate of providing an adequate, affordable supply of fresh milk.

For this reason, I am a strong supporter of the provision which will provide a temporary, emergency increase in the Federal milk support price. The drought has precipitated a dramatic increase in dairy farmers' feed costs. Those who know the dairy business know all too well that feed costs have a direct effect on the farmer's bottom line, accounting for about 30 percent of the overall costs of milk production. It is estimated that the average 60-cow family dairy farm will have feed cost increases along the magnitude of $15,000 to $20,000 next year.

Mr. JEFFORDS has sponsored a provision, which has been approved by both the full Agriculture Committee, and the Subcommittee on Livestock, Dairy and Poultry, that will provide a short-term price increase to help dairy farmers struggling to stay in business. This is not a hand-out, or an unwarranted government subsidy. Rather, it is a legitimate attempt to help dairymen on the fringe of extinction hold the line against drought-induced price increases.

Alternatively, without a higher price support, we face the potential for dramatic reductions in capacity and the dire prospect of higher consumer costs. In the worst case scenario, according to the Congressional Budget Office, higher support payments could cost the Federal Government almost $150 million. However, without a higher support price, a significant reduction in supply could cost American consumers over $8 billion in higher milk prices. It is worth it, therefore, for the Federal Government to purchase a $150 million insurance policy in order to ensure adequate milk supplies and protect consumers from the devastating, inflationary blow of an $8 billion loss.

This is just one area in which a flexible management response is required in Federal farm policy as a result of the current natural disaster. Another change will allow farmers suffering severe crop loss to qualify for low-interest disaster loans regardless of participation in Federal crop insurance programs. This beneficial change will allow farmers throughout the country to obtain relief from the blight of drought and other natural calamities. I was particularly pleased with the committee's willingness to accept this provision which will assist farmers in the fertile "black dirt" region of my own congressional district, who were recently struck down for the second year in a row by a massive hail storm and tornado on July 14, 1988. Such a provision will benefit farmers throughout our Nation who are periodically severely burdened with losses resulting from nature's devastation.

In exchange for the assistance, which will be offered on a temporary, one-time basis, farmers will be required to purchase Federal crop insurance for 2 subsequent crop years. This is a balanced compromise which will afford onion farmers and other "black dirt" growers with assistance they desperately need, while at the same time ensuring adequate preparation against future freaks of nature resulting in economic calamity.

In summary, Mr. Chairman, the Drought Assistance Act enhances our Government's flexibility in response to pressing needs brought about by nature's variant fluctuations. This legislation will provide urgently needed relief to our Nation's diligent, hard-working farmers. Our experience will demonstrate that a healthy agricultural economy coincides with the best interests of consumers and our country as a whole. For these reasons, I urge my colleagues to support H.R. 5015 without any weakening amendments.

Mr. STENHOLM. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore. The gentleman from Kansas [Mr. ROBERTS] has 2 minutes remaining and the gentleman from Texas [Mr. STENHOLM] has 7 minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from New York, [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, during the rule debate, Mr. OLIN said the dairy portions of the committee bill have nothing to do with the drought. Nothing could be further from the truth. Thirty to 50 percent of the cost of producing milk is grain prices. When those grain prices are up 100 percent, 200 percent, 300 percent, you quickly appreciate that disaster is imminent if you keep price levels stable.

Then Mr. OLIN said that the cries of crisis in the dairy community are phony and fabricated. I cannot believe I heard him say that. All he has to do is come to dairyland America and I invite him to do so and he will find out they are not phony or fabricated. They are going out of business left and right.

I wear my sentiments on my sleeve when it comes to the dairy farmers of America. But I am not even going to address their needs.

I am talking about the consumers of America. What happens if we do not have the rich, wholesome, affordable supply of milk that they need? You know what happens? The price on the shelf goes up, up, up; consumers take it on the chin.

What happens to our food and nutrition programs? What happens to the free distribution of food to the low income Americans? They all go by the boards.

What happens to the school kids of America? They suffer.

Congress has a mandate. Our mandate is to maintain an adequate supply of rich, wholesome, affordable milk. I say we have an opportunity to live up to that mandate. I say vote "no" on Olin.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota, [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, this drought is merciless. If Minnesota does not get anymore rain this year, half the dairy farmers of the State of Minnesota will be in serious trouble. We have already lost 8,500 dairy farmers in the last 6 years. That is 30 percent.

If we do not get anymore help this year, 9,000 of Minnesota's dairy farmers, already in financial trouble, will likely be on the brink of financial ruin.

The cost of feed is going up for dairy farmers. Because of this drought, feed costs are up 30 percent to 45 percent; hay, up $80 per ton. That is $1.50 per bale.

Corn is already up $1.20 a bushel it will very likely go up another 50 cents a bushel later this year.

Dairy farmers in Minnesota have already lost a billion dollars because of the legislated price cuts. There is no windfall to dairy farmers in this bill. They have already paid through the nose. They are hurting, and the drought has made it worse. The provisions in this bill won't get them to the breakeven point on feed cost.

What will this relief do to the supermarket price of milk? Maybe it will go up a penny a quart; possibly four cents a gallon.

Consumers are not going to be hurt by this assistance, this little bit of assistance we are providing for dairy farmers here. All we are trying to do is keep them from going further downhill.

If we lose these small family-sized dairy farmers, you will concentrate power, economic power in a handful of large corporate, 5,000-cow dairy farmers and then watch what happens to the price of milk.

Vote "no" on the Olin amendment.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. I thank the gentleman for yielding.

I think you need to put this whole thing into perspective and really have an understanding of the severity of the drought, as my colleague from Minnesota just stated.

You know, I have one of the largest dairy districts in the United States and one of the largest dairy counties. In the last 2 weekends I drove 600 miles in that area. You have to understand that these dairy farmers put up corn silage as more than half of their ration. And in 600 miles of driving I did not see 10 percent of the cornfields that will make silage.

The hay quality is low. These are dairy farmers of 45- to 60-cow herds, family type farms. They are not going to have adequate feed to maintain those herds.

As the gentleman from Virginia said, the dairy selloff is not that severe.

Let me tell you, these farmers are now using feed stocks normally used in December, and by December they will not have feed or they will have to go many miles to find feed because of the extensiveness of this drought. Because this corn silage is not going to be there, the hay quality is low; it is going to double and triple their costs in concentrates, protein meal to maintain quality production.

A lactating dairy cow needs a whole different quality of feed than a beef cow that is being wintered or any other class of livestock for that matter.

I urge a "no" on the Olin amendment.

I think what the gentleman from Vermont in this bill has done, that is Mr. Jeffords, is to recognize what is going to happen and what can happen in the dairy industry and how that extrapolates into what would happen with consumer prices and consumer availability of good quality, wholesome dairy products.

I urge you on behalf of the people of this country, consumers and dairy farmers alike, that this bill does not treat dairy farmers any differently than any other class.

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If anything, Mr. Chairman, the dairy farmers need every bit of this, and my dairy farmers will tell us that even this is inadequate.

The CHAIRMAN pro tempore (Mr. Swift). The Chair will state that the gentleman from Kansas [Mr. Roberts] has 2 minutes remaining, and the gentleman from Texas [Mr. Stenholm] has 3 minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. Ridge].

Mr. RIDGE. Mr. Chairman, I rise in opposition to the Olin amendment.

I would like to put this in perspective for my colleagues and for the Members particularly from the areas of Ohio, Pennsylvania, New York, and the Northeast United States. Most of our dairy farmers have 40 to 60 head of cattle, and as my colleague, the gentleman from New York [Mr. Boehlert], mentioned, 30 to 40 percent of the cost of producing milk has to do with grain and feed prices. With no rain, there is very little feed. With less feed, the price goes up. The milk production is stable, but the cost of production continues to go up. It is a very, very real crisis with family farmers who have endorsed a $3 reduction in price support over these past few years.

All we are asking the Members to do is to agree to raise the support price 50 cents for a 9-month period. It is not going to cost the Federal Government any more. There are no new dollars invested in this. The funds used are those saved as a result of the reduction of surplus commodity purchases. It is just 50 cents for a 9-month period, no longer. In July 1989, if the surplus is excessive, there will be another reduction of 50 cents per hundredweight.

For those who are worried about the livestock market, let me tell them that in the auctions around Ohio and northwestern Pennsylvania cattle are being sold in record numbers. So if Members are worried about beef and if they are worried about the livestock industry, they ought to support this 50 cents adjustment. It will help keep them out of the market place. It is no windfall, and it does not make them whole. It just alleviates some of the hardship and pain.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. Jones].

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman from Texas [Mr. Stenholm] for yielding this time to me.

I rise in strong opposition to the Olin amendment.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Martin].

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Houghton].

Mr. HOUGHTON. Mr. Chairman, I rise in strong support of the bill and in opposition to the Olin-Roberts amendment.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. Schuette].

Mr. SCHUETTE. Mr. Chairman, I rise in opposition to the Olin-Roberts amendment.

Mr. STENHOLM. Mr. Chairman, I yield the remaining time on our side to the gentleman from Wisconsin [Mr. Obey].

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. Obey] is recognized for 2 minutes.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, it has been implied that somehow dairy farmers are asking for preferential treatment under the committee bill. That is absolute baloney.

Fact No. 1: Grain farmers get disaster payments pegged at 65 percent of the targeted price if they have a crop failure, and they get that money even if they do not grow one acre's worth of grain. Dairy farmers get absolutely no reimbursement if they wind up with lower production, if they cannot afford to feed their cows.

Fact No. 2: Grain prices are going up in this country, but the support price for milk has gone down $3 per hundredweight in the last 8 years.

The Olin-Roberts amendment pretends that they would take us back to the intent of the farm bill passed by the Congress a number of years ago.

Fact No. 3: The dairy farmers are consumers of feed. They are not just producers, they are also consumers. The cost for the average dairy farmer who has 60 cows is going to rise by about $12,000 to $15,000. All the committee bill does is to reimburse that dairy farmer for about $3,000 of that cost.

All we are doing is saying that we should give them a partial reimbursement for the loss that they have already incurred.

Fact No. 4: The committee bill leaves dairy farmers still more than 50 cents per hundredweight below where we thought they would be when the farm bill was passed a number of years ago because of the rapid escalation of feed costs to dairy farmers.

The Olin-Roberts amendment would take them down to more than $1 below where the Congress intended them to go. If we wanted to return to the true intent of the farm bill of 3 or 4 years ago, we would have not a 50-cent-per-hundredweight increase in this bill, we would have more than a dollar. We are asking for just a tiny portion of that amount.

Mr. Chairman, I ask, in the name of equity, that Members vote against the Olin amendment.

Mr. ROBERTS. Mr. Chairman, to close debate, I yield my remaining 2 minutes to my friend and colleague, the gentleman from Oregon [Mr. Robert F. Smith].

Mr. ROBERT F. SMITH. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, it is fascinating how we look at the facts, is it not? There is no member that I know of in the Agriculture Committee who wants to treat dairy unfairly. We are not treating dairy unfairly in this bill and in this amendment.

Let us remember that the committee print has in it already a forgiveness of the planned 50-cent reduction of January 1, 1989. That is in the farm bill. We have intercepted the farm bill. We have already given dairy in the print a 50-cent increase by not allowing the decrease.

Second, where in the world in this amendment is there a denial for those people in dairy who produce crops and are in a drought? Where is there anything that would deny them assistance? Nowhere, because this bill provides, as it does for anybody else in a drought region, up to $100,000 if you produce crops, and that includes dairy. So Members should not believe that we are denying dairy by voting for Olin-Roberts.

What we are discussing is a 50-cent increase that is in the bill now. It has to be taken out. It goes into effect in October. That, I say to my friends, separates dairy from all the rest of the commodities in America. We have to admit that.

Now the question we have to decide is, Should we separate dairy from all the rest of the commodities? May I point out to the Members that dairy receives the increase, whether they are in a drought area or whether they are not in a drought area. Therefore, it applies totally differently than the idea behind the bill that is brought before us by the Agriculture Committee.

Now, those people who are in the livestock business, be they in beef cattle, poultry, swine, goats, or even catfish, are not treated any differently. No one is asking for an increase in the support price, even though they cannot get it. We are treating dairy separately. We do have benefits in this bill with the passage of Olin-Roberts. It is the right thing to do to conform with the drought bill that came forward from the Agriculture Committee, which is a fine product and which should be supported.

The CHAIRMAN pro tempore. All time for debate has expired. It is now in order to consider the substitute amendment printed as No. 3 in House Report 100-805.

For what purpose does the gentleman from Minnesota [Mr. Penny] rise?

AMENDMENT OFFERED BY MR. PENNY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ROBERTS

Mr. PENNY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Penny as a substitute for the amendment offered by Mr. Roberts: Strike section 102 and insert the following:

SEC. 102. ASSISTANCE FOR DAIRY FARMERS.

(a) Fiscal Year 1989 Generally.—Section 201(d)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)) is amended by striking out "if for any of the calendar years 1988, 1989, and 1990" and inserting in lieu thereof "if for each of the calendar years 1988 and 1990".

(b) Temporary Increase in Price Support.—Notwithstanding section 201(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)), the rate of price support for milk in effect under such section immediately before April 1, 1989, shall be increased by 50 cents throughout the period beginning on April 1, 1989, and ending on June 30, 1989.

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. Penny] is recognized for 15 minutes.

Mr. PENNY. Mr. Chairman, I ask unanimous consent that the time be evenly divided between myself and the gentleman from Wisconsin [Mr. Gunderson].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ROBERTS. Mr. Chairman, reserving the right to object, is the gentleman making a request to divide his time or to divide the full time?

Mr. PENNY. Mr. Chairman, if the gentleman will yield, I am asking unanimous consent to divide my 15 minutes evenly between myself and the gentleman from Wisconsin [Mr. Gunderson]. I understand that under the rule there is another 15 minutes that will be allocated to the opponents of the amendment.

Mr. ROBERTS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. OLIN. Mr. Chairman, reserving the right to object, would the Chair explain again to me how the 30 minutes on this substitute is being allocated?

The CHAIRMAN pro tempore. There is a total of 30 minutes to be divided between the proponents of the substitute and the opponents of the substitute. The unanimous-consent request is that the proponents of the substitute who have 15 minutes be allowed to divide their 15 minutes in half between the gentleman from Minnesota [Mr. Penny] and the gentleman from Wisconsin [Mr. Gunderson].

Mr. OLIN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OLIN. Mr. Chairman, I rise in opposition to the substitute, and I request 15 minutes.

The CHAIRMAN pro tempore. The gentleman from Virginia [Mr. Olin] will be recognized for 15 minutes.

The Chair now recognizes the gentleman from Minnesota [Mr. Penny].

Mr. PENNY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the debate so far there have been good points made on both sides of the issue. There is a middle ground, and that is the purpose of the Penny-Gunderson substitute.

It has been pointed out anything in this bill ought to be targeted as drought relief. The argument against a 9-month increase in the price support is that it is too long, and that it goes beyond drought relief. We would target that price increase for a 3-month timeframe only, and it would be the spring period next year when feed costs and feed shortages would be the most critical and when farmers need that added income to make up for those higher costs. It would automatically go down at the end of the 3-month period. There would be no trigger to knock it down. It would automatically come down. In that way we would send a signal to producers that we are simply trying to help them get through the effects of the drought, and it would not send a signal to dairy producers to increase production because they would know that it is on and it is off automatically, and only for that time period when those feed costs could be the most extreme.

We have also heard some objection that this treats one commodity differently than others. I think again by narrowing it down to those 3 months, we are making it clear that this is drought relief that is no different in its effect than the drought relief that will be provided to other commodities in this bill. We are not trying to raise the price support level for any extended period of time; we are just using the price support increase as a way for dealing with the effects of the drought for dairy farmers during that critical period.

Dairy farmers have already experienced a 27-percent increase in feed costs, and the expectation is that it will go higher, particularly during the spring period next year. A 10- to 15-percent increase in feed costs translates into a 50-cent-per-hundredweight reduction in the dairy price support, so even with this modest assistance, we are going to come far short of making up for the effects of this drought on dairy producers.

Mr. Chairman, there is a middle ground. There have been strong arguments made on both sides of the issue, but we feel that this targeted substitute takes care of the critical needs of dairy producers without violating the intent of this legislation to be simply a drought relief measure.

Mr. Chairman, I ask for adoption of the amendment.

Mr. OLIN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I sort of hated to hear the comments of the gentleman from New York with regard to the situation in dairy. I do not think that any Member of this House is unaware of the difficulties of farmers, dairy included, and none of us is approaching this subject in any way except to try to do the fair thing. We are trying to treat all aspects of agriculture as reasonably and equitably in terms of consistency as we possibly can. So the things I have been talking about are not directed at trying to hurt the dairy industry or trying to take something away from the dairy industry. I am just trying to make common sense given the situation that we have.

Mr. Chairman, in the drought relief bill there is not any segment of agriculture that is asking for or getting a price increase on its product, and that is what this amendment offered by the gentleman from Wisconsin [Mr. GUNDERSON] and the gentleman from Minnesota [Mr. PENNY] says they want, a 50-cent price increase, an increase in their prices. Hog producers and hog feeders are not getting that, cattlemen are not getting that, and wheat and corn farmers are not getting that. They are not getting an increase in their prices; what they are getting is some relief from the cost elements on the crops they are creating themselves. They are getting some relief on the crop that they do not have; they are not getting a price increase.

The dairyman is getting compensation for the feed that he has lost, that he would have grown and used himself. He is getting paid for the forage he would have grown and used himself. He is getting essentially the same thing that other elements of agriculture are getting, and I think that is really what we need to recognize.

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And, Mr. Chairman, we have been spending for 5 years trying to get rid of the dairy surpluses that were generated in the late seventies and early eighties. We are just about there.

We are experiencing the situation which develops when one no longer has an excess of surplus. And of course the emergency feeding program was a program to use up the surplus, the TEFAP program, and we had great success. In the last 3 or 4 years we have used up the surplus. When my colleagues find out that we do not have much nonfat dry milk anymore, it is because we chose to sell it at a profit, and we are doing the same thing with cheese. We do it more with butter, but we cannot get rid of all the butter. The market is not that big.

So we are experiencing the situation of getting down to the point where supply and demand are fairly well in balance. The matter is responding to this. The prices are going up. The drought is part of this, but it is also a fact that supply and demand are getting pretty well balanced and people are willing to try price increases. And that is working.

I will continue in a moment, Mr. Chairman. That is all for now.

The CHAIRMAN pro tempore (Mr. SWIFT). The gentleman from Wisconsin [Mr. GUNDERSON] is recognized for 7½ minutes.

Mr. GUNDERSON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the drought assistance package as reported by the House Agriculture Committee, and in strong support of the dairy provisions in the bill. The committee has done an admirable job in crafting a bill which is fair to farmers, fair to consumers, and fair to taxpayers. As currently written, the bill is balanced, and will give all sectors of the farm economy a fighting chance to weather the drought.

The tragedy of the drought has become a familiar image in the news in recent weeks. Footage of wasted crops and farmers standing amid ankle-high corn have been testimony to the hardships created by these extraordinary weather conditions. The drought's effect on dairy farmers has been less visible than its effect on grain farmers, but no less devastating. Grain is a dairy producer's biggest expense, and the price of feed grain has jumped as much as 30 percent in recent months. Dairy farmers themselves have had to absorb the increase in a year when their incomes were not expected to be strong even before the dry spell hit. Now, without quick action by Congress, they face a disastrous 1988 and a future that is uncertain, at best.

Most dairy farmers are true small businessmen, especially in the Northeast where farms average 50 to 75 cows. Feed grain represents nearly one-third of the overall cost of dairy production, and producers have no control over grain costs. The recent increase will directly cut an average-sized farm's 1988 income by $15,000 to $20,000, which was all some operations hoped to net this year in the first place. Farmers facing negative net incomes this year will have a hard choice to face next year of whether they and their families can afford to continue in the dairy business.

A massive displacement of dairy production capacity must be prevented, and the modest price support provisions in the bill are an inexpensive way to do that. Cuts in the price support along with the whole-herd buyout program have already had their intended effect of reducing dairy capacity nationwide. Dairy farmers still in business have seen the support price of their product reduced by $3 since 1984—giving them 50 cents of that back for 9 months to help partially offset the run-up in their grain costs is not unreasonable, especially if it maintains a stable dairy supply at stable prices.

Dairy prices traditionally have had a significant effect on the overall inflation rate and, as the gentleman from Vermont mentioned earlier, a 20-percent increase in consumer prices would cost families about $8 billion.

Neglecting the concerns of dairy farmers in this drought assistance act would be pennywise and pound-foolish, and consumers will end up footing the bill for years to come. I urge my colleagues to support the reasonable dairy provisions in the drought assistance bill.

Mr. OLIN. Mr. Chairman, I yield 3¼ minutes to the gentleman from Kansas [Mr. ROBERTS], coauthor of the original amendment.

Mr. ROBERTS. Mr. Chairman, I want all my dairy colleagues to please pay attention, if they will. I did not read a paragraph in my first statement that I should have, and it said, "Let me say at the outset I do not doubt the sincerity of my colleagues representing dairy. This issue is not without strong advocates and very strong feelings due to the real adversity that we face in farm country. Nevertheless, I feel the Gunderson-Penny substitute to be the wrong approach."

Now I said that because I thought it was obvious. Let us debate this without rancor. I sympathize with my friends, the gentleman from New York [Mr. MARTIN], the gentleman from Wisconsin [Mr. ROTH], the gentleman from Pennsylvania [Mr. RIDGE], my good friend, the gentleman from New York [Mr. BOEHLERT]. The gentleman from New York [Mr. MARTIN] has come to me and said, "You know we're talking farm families here," as if he has to tell me, representing 58 counties out on the prairie, that I do not represent farm families. Anybody from high-risk agriculture on the high plains knows we burn up every year.

Mr. Chairman, of course we recognize it is farm families who are suffering the trauma, and the pain and the adversity, and that is why this committee has worked as a team, as a family. And I said before that the spokesmen for dairy are articulate and persuasive, but in this particular instance they are wrong. There is something about one portion of agriculture trying to address a problem that is fine except if it comes at the expense of another portion of agriculture, and that is what is happening here. We went along. We went along on the House Committee on Agriculture. Some of us with our noses held and heels are dragging with the diversion program and a whole herd buyout of last year, and do my colleagues know what then occurred in Dodge City, KS, in terms of the cattle market? We were devastated, devastated, and we were promised at that particular time that we were not going to go down that road again. This is the first step. This is the first step.

Let me tell my colleagues that in terms of fairness this support price is on a national basis, not only Wisconsin, not only New York. I wish we could target it. I wish I could give my colleagues that 50-cent increase as well as the 50-cent increase that they are going to get in terms of January, but that is not possible. Everybody then will receive a dairy support price increase.

Now, how is that fair to all of the other livestock producers who do not receive a price support increase when they have to undergo the same feed costs? The gentlewoman from Connecticut [Mrs. JOHNSON] has just said she has to suffer the increased feed costs due to increased grain prices. I thought that was what we were trying to achieve in the farm bill. Does this mean every time we have an increase in the grain price that we are going to have to go and raise the dairy support price again? That is not fair. That is not equitable.

I would simply say in closing that to the issue of fairness, to the issue of equity, to the issue of a balanced program, the cleanest way to do it, the best way to do it, go back to the original committee proposal. Do not increase the dairy support price. If we want to do that, let us do it in the farm bill.

If we want to make these changes for dairy, we can do it in an emergency dairy farm bill. I will help my colleagues. I will be the first one out—well, maybe not the first one, but the second or third one.

Mr. Chairman, let us not go down this road. Support Olin-Roberts. Vote against the Gunderson-Penny proposal.

Mr. OLIN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, I rise to urge my colleagues to support the Penny-Gunderson substitute and then to support the committee language on dairy price supports.

Dairy farmers in my district and across the Nation have been hard hit by the combination of skyrocketing feed costs and dropping milk prices. For New York dairy farmers feed costs comprise 25 to 35 percent of their costs. They have no alternative but to buy feed despite prices which are 30 to 100 percent higher than last year. At the same time the price they are getting for their milk is 70 cents per hundredweight lower than last year.

Many of us would have preferred a targeted feed assistance program which included help for dairy farmers who buy their feed. Such a provision was originally in the House bill and is being considered in the other body.

But our decision today is whether dairy farmers across the Nation who are being severely injured by the higher feed costs deserve to be included in the relief offered by this bill. The answer must be yes. As with other portions of the bill, the dairy price support provisions are targeted to provide short-term assistance. They will provide a "bridge" to help dairy farmers survive until next year's feed crops are in and feed costs return to normal. At that time the 1985 farm bill's mechanisms will go back in place. This assistance is a one-time measure; it will not impair the progress we have made toward bringing our milk supply into balance.

Mr. Chairman, I urge my colleagues to join me in supporting the Penny-Gunderson substitute and the committee bill.

Mr. OLIN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would like to talk for a minute about the proposed substitute amendment. It is the darnedest amendment that I have ever heard of with all due respect to my colleagues.

What this amendment would do is increase the support price for milk during the second quarter next year for 3 months. This amendment would raise the support price at a time when there is the most surplus milk on the market from the spring flush period. Since the Government is required to buy all of the milk product that is offered to it, it would then have to pay higher prices at a time when it buys most of its surplus. And this is just the same as the retailer who expects to make all of his profit in the Christmas season.

Mr. Chairman, the amendment turns Uncle Sam into a Father Christmas. But think of it. We are not talking about fluid milk here. We are talking about the output from manufacturing plants, its butter, cheese, and nonfat dry milk. When I find out, if I am a businessman and these are the people that are going to get this money, that I am going to get 50 cents more a hundredweight than the equivalent of that in a 3-month period, I am going to start working on that right now. I am going to buy a few warehouses, I am going to up my production, I am going to put that stuff in the warehouse, and, come April 1 next year, I am going to dump it.

And I am telling my colleagues that this amendment is a dilly. My colleagues cannot imagine the games that are going to be played with this thing. It is unreal. And do not tell me that these manufacturers would not do it.

I do not know whether any of that money is going to get to the farmers. I rather doubt it. It will sure as the dickens get to the milk product manufacturers. That is where it will get. The Government support price, the price paid to manufacturing plants for butter, cheese, and nonfat dry milk, that is what it is. That extra 50 cents is going to go right into their pockets.

Now, where is the help to agriculture? I will be darned if I can figure it out. I just cannot figure it out. Talk about stability. This is going to be about the most unstabling thing that my colleagues have ever heard of. I cannot imagine.

Given a businessman being told that here we are, we are almost 1 year to 9 months, at least, in advance of the time. If he can produce the maximum of his product during that 3-month period, we are going to give him more money for it. Who else in agriculture is going to have that bonanza? Mr. Chairman, it is unreal.

So, my colleagues, that about this amendment. It is before us, the substitute. My colleagues could not possibly, if they thought about it very long, vote for this substitute, and I hope they will take that seriously.

It is a strange thing that is happening here. It is a strange, strange thing and we are trying to have a stable policy for agriculture and dairy.

Mr. GUNDERSON. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Chairman, I thank the gentleman for yielding this time to me.

I basically rise with some trepidation to face the giant and awesome task put together by the House Committee on Agriculture. I really find myself in great admiration of what they have done, however I rise in support of the Penny-Gunderson amendment.

As a former dairy farmer and one who hopes to retire someday back on a dairy farm again with dairy cattle, of which I have none at the present time, I am well aware of the fact that it takes a long time to rebuild a dairy herd. I do not know about other districts in this country, but my dairy herd people have been hurt badly. They have already sold off hundreds of cattle, and it takes 4 or 5 years to reproduce as opposed to 1 year for replacing a hog farm, chicken farm that you can replace in months and years. Dairy is much more difficult to determine the cost of a loss in 1 bad year, and, therefore, for a short and minimal period of support-price increase I think even though the balance of the bill is to be admired that it does not overwhelm that delicate balance, and I think it makes a major effort toward fairness to a particular industry. I think it really needs it.

So, therefore, I would ask my colleagues to vote in support of this very minimal amendment, but I think it has a great effect for the dairy industry.

Mr. OLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I thank the gentleman from Virginia [Mr. OLIN] for yielding this time to me. I rise in opposition to the Penny-Guanderson amendment. I rise in support of the Olin-Roberts amendment and I do so for a number of reasons.

First, Mr. Chairman, the cost involved with the Penny-Gunderson amendment is almost $145 million more than the Olin-Roberts alternative.

Second, I think it is important for us to recognize that even with the Olin-Roberts amendment we are doing something very important for dairy farmers in this country. We are going to eliminate the 50-cent price cut that would otherwise have taken affect on January 1. In addition, the Olin-Roberts amendment would treat dairy farmers just like all other livestock producers in this country. They would be eligible for feed assistance. So, we are doing something for the dairy farmers in this country.

The third reason, I would point out, Mr. Chairman, is that cow slaughter in this country today is not up as some have suggested because of the drought. In fact, it is down by 5½ percent compared to last year.

Furthermore, the Penny-Gunderson approach is not targeted. What we are saying to all dairy farmers in this country is, "Whether you have suffered because of the drought or not, you're going to get some kind of assistance." As far as I am concerned, we cannot afford a windfall to those dairy farmers in parts of the country that have not suffered the drought. Mr. Chairman, this is a fatal flaw in the Penny-Gunderson amendment. If for no other reason we should vote against it because of that.

Finally, when we increase the support level, we are encouraging additional production just at the time when we are finally getting supply and demand into some kind of balance.

I think we are sending the wrong signal to dairy farmers all over the country and I urge my colleages to support the Olin-Roberts amendment and keep in mind as you do that, that we are helping dairy farmers in this country even with the Olin-Roberts amendment.

□ 1415

Mr. GUNDERSON. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Chairman, I rise in strong opposition to the Olin-Roberts amendment.

With respect to the comments of my good friend and colleague, the gentleman from Dodge City, KS [Mr. ROBERTS] made relative to an increase in the price support, I want to point out that over the course of the last 7 years the price support for milk has been driven down $3 by the Congress and the administration.

Now, even Matt, Kitty, and Doc would understand that this is not an increase in the price support. It amounts to an overall drastic decrease of about $2.50 if we are unsuccessful in beating Olin and Roberts.

Mr. Chairman, there is no dairy surplus. That milk is needed for our nutrition programs. If the idea of the Congress and the administration is to economically execute more dairy businesses and their families and properties, sooner or later the milk price is going to be higher than a woodpecker's nest and you people are going to be coming back with a program to subsidize milk to lower the price to the consumer.

Do the right thing and oppose Olin.

Mr. GUNDERSON. Mr. Chairman, I yield 1 minute to my distinguished colleague on the Agriculture Committee, the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, the legislation before us is extremely important and we cannot risk holding up this legislation any longer. While it is true that final drought impact for most producers will not be felt until harvest over the next 2 or 3 months, a significant section of the bill which was extremely important was eliminated in committee. Without this provision, which would have extended emergency feed assistance to livestock producers who purchase all or the bulk of their feed, thousands of livestock producers who need feed assistance now are left with no help whatsoever.

This legislation, in its current form, provides help for every affected crop producer in the farm sector and it helps livestock producers who grow their own feed and suffer a loss.

However, this legislation does nothing, I repeat, nothing, for the livestock producer who buys all or most of his feed. These producers have suffered a dramatic increase of between 30 and 200 percent for feed costs for which they have not budgeted. The drought drove prices up so fast that no one anticipated such extreme shortages of feed and price changes.

While I support this legislation, it is a great shame that we are not providing any help for this group of livestock producers. Consequently, we have before us a dairy price support increase, intended, I suppose, to assist those who largely buy most of their feed. But so do many pork producers and poultry and other livestock producers.

Therefore, I must support the Penny-Gunderson substitute amendment for the current price increase as in the present bill. It will not send the message of a permanent price increase for dairy, irrespective of whether a producer has been directly affected by the drought or not. The Penny amendment will provide a temporary price increase next spring when the real effect of feed shortages will be felt.

I urge support of the Penny amendment. It is a compromise option at this point which provides unquestionably needed assistance without a permanent change in dairy price supports.

Mr. GUNDERSON. Mr. Chairman, I yield 30 seconds to my distinguished colleague and neighbor, the gentlewoman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, two previous speakers from Kansas have said that they support the Olin Roberts amendment in order to prevent a windfall in the dairy area. If you want to see a windfall, I advise you to simply look at Kansas. Wheat growers in Kansas towns that have been declared disaster areas will be able to keep their deficiency payments even if they themselves have suffered no crop damage whatsoever.

If you are concerned about windfalls, look in your own backyards, because that is where the biggest windfall is going to occur.

Mr. GUNDERSON. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I would like to know when we in this House are going to begin to realize where milk really comes from. Milk does not come from supermarkets or corner stores. They are simply transfer agents. Milk comes from cows and farmers tend to and milk those cows. If we do not hear and heed their cries of anguish, if we do not respond to their real crisis, we are all going to suffer.

Mr. GUNDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I just want to thank the gentleman from Virginia for having yielded to me earlier. I have requested an opportunity to speak, but not at the point in the debate at which the gentleman yielded to me. I do want to thank the gentleman for his courtesy and generosity.

Mr. Chairman, I rise in support of the Gunderson-Penny amendment. When we started work on this drought relief package weeks ago, we stated that our final legislative product would treat all commodities and producers fairly and equitably. Some colleagues have taken a position today that pits commodity groups against each other; it is clear to me that that approach will not work and will only create more significant credibility problems for agriculture in the future.

I would have preferred that the bill we reported from the committee would have contained provisions similar to those in the Senate bill providing emergency feed assistance to those livestock producers who do not grow their own feed. Recognizing that such assistance is not available in this bill, however, it is critically important that we distinguish the unique nature of the dairy industry. I do believe there exists a legitimate need to address the need to help dairy producers through the critical spring months of next year, and for that reason, I support the Gunderson-Penny substitute. It is a compromise which does provide relief to dairy producers while protecting the integrity of the 1985 farm bill.

Dairy farmers do harvest twice a day, every day of the year.

There are different factors that go into determining fairness for dairy than for other commodities, because you do not just hatch cows that give milk when you want them to give milk. Herds have to be sustained in order to ensure a reliable supply.

The ultimate end product here, legislatively speaking, will come at conference and we will have an opportunity to vote on the ultimate package at that time. I am hopeful that some improvements can be made in conference; however, in the meantime we do not know what the end result will be so we must act here as though this product is the end result.

I supported in committee the amendment of the gentleman from Minnesota [Mr. STANGELAND] that would have provided assistance to those who do not grow their own feed. That would have helped all livestock producers, including dairy. But that position did not prevail, so here is where we are and the Gunderson-Penny amendment is our opportunity to help dairy at its most critical juncture, without threatening the integrity of existing law. It is my hope that the conference report will contain provisions of assistance to all drought affected farmers, including those who do not grow their own feed.

Mr. GUNDERSON. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from New York [Mr. STRATTON].

Mr. STRATTON. Mr. Chairman, I support the bill of my friend, the gentleman from Vermont [Mr. JEFFORDS]. I know as a long-time Member from New York dairy areas that the Jeffords legislation has always been well-thought out and very helpful to our New York dairy farmers.

Mr. Chairman, at the same time I oppose the amendment of my distinguished friend and neighbor, the gentleman from Schenectady, NY, for some years, who now represents Virginia in this body.

Mr. GUNDERSON. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I have seen and heard many occasions during the past couple of months when elected officials have met with farmers and said, sadly, "We can't bring you rain."

Many of the farmers have concluded that it is probably a good thing, because if Congress was in charge of bringing rain, given the history of our dairy policy, we would give them a drought 1 year and a flood the next.

But what we can do for them this year at this time when they are suffering, and this is for drought and non-drought counties, is provide a little bit of relief.

I urge my colleagues to support this Gunderson-Penny amendment.

Mr. GUNDERSON. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I just want the Members to know that I do support the Penny amendment. It is not all that I would like to see. It is not enough in my mind or good enough in the signal that it sends, but I think it does do most of what needs to be done and certainly far better than the OLIN amendment.

I would also like to point out that I am sorry that the producers of beef and hogs and all did not get what they wanted. I voted in favor of what they wanted and I was happy when the Secretary of Agriculture under existing law spent $50 million supporting the price of beef. I think that is the way it should be done; but the dairy farmers need help now. That is what it is all about, because you cannot turn around a problem that goes down hill. You cannot turn it around. It takes 2 to 3 years to do that: so once we start on this slide, if we do not turn around and correct it now, it will be impossible to do it later.

Mr. PENNY. Mr. Chairman, I yield 15 second to my colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. For the record, Mr. Chairman, I think all the Members need to know that the entire dairy function that we are debating, the cost estimated by the CBO is $285 million.

Now, $170 million of that everybody agrees to, that is the freeze.

What we are debating has been the 50-cent increase. In the bill it costs $115 million. This amendment cuts it by $30 to $50 million in cost.

Mr. OLIN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in opposition to the Penny-Gunderson amendment to H.R. 5015 and in strong support of the Olin-Roberts amendment. I think it is ourtrageous that this House would be considering changes in basic farm law in any emergency drought assistance bill and changes, my colleagues, that only benefit dairy farmers. As the Washington Post said this week, "let's not milk the drought!"

If Congress is going to enact changes in basic farm law, as we did in 1985, let us do it in a deliberate and responsible way. If Congress is going to enact changes in basic farm law, let us craft a piece of legislation that benefits all farmers—not just dairy farmers. If Congress is going to enact changes in basic farm law, let us not forget the consumer or the taxpayer.

The Penny-Gunderson amendment is no better than the provision which is already in the bill because both mandate a 50-cent increase in the dairy price support. The only difference is that the amendment delays the timetable for the increase. The House should overwhelmingly support the Olin-Roberts amendment since it strikes the dairy price increase provision of the bill. My colleagues, this is not the proper time or legislation vehicle to accomplish changes in farm law.

Mr. Chairman, let us not take advantage of a desperate and serious national catastrophe and, in return, penalize the consumer and taxpayer.

Mr. OLIN. Mr. Chairman, to close debate on this side, I yield the balance of my time to the gentleman from Massachusetts [Mr. FRANK].

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 3¾ minutes.

Mr. FRANK. Mr. Chairman, I hope that the substitute is defeated. We are told it is a halfway point. Maybe it is a three-quarter-way point or a 40-percent point.

It is a compromise point between right and wrong. The best thing to do is not to compromise.

Members have said, well, the dairy price support has been coming down in the past few years. Yes. It has been coming down from a price that almost everybody in here agreed was insupportably high. People agreed that we had made mistakes and it was way too high. It has come down in part because we made an agreement through legislation, the whole herd buy out.

I do not know of many precedents for the Federal Government using Federal funds to diminish competition so the people remaining in business would do better. That was the whole herd buy out. We used Federal funds to buy up some of the dairy cattle so that the remaining people in the business would do better.

Part of the deal was that there would be a set of continued reductions in the support price as part of that.

Now, the cows have all been bought out. None of the ones that have been bought out are going to go back into production. We talk about irreversibility, the whole herd buy out was pretty irreversible.

The dairy farmers having had the benefit of that now are saying we should reverse it some.

There was agreement in the committee and virtual unanimity on the floor that the currently scheduled 50-cent reduction, which is a reduction that was agreed upon in return for a benefit already conferred, the whole herd buy out, that that should be canceled.

The question is whether we should not only cancel the reductions, but allow an increase back to what had previously been agreed to be too high a level.

Now, the people on behalf of dairy farmers wanted the full 50 cents. They counted the votes and they saw they did not have that, so they want a compromise, but it is still a compromise that costs more than it ought to.

Yes, I understand that dairy farmers have suffered some in the drought and that is why I agreed that we should cancel the 50-cent scheduled reduction; but we come to a fundamental problem here, which is one segment of American agriculture saying in effect, "insulate us to a very great extent from the normal course of the economy."

I have to note that it comes from people who are often the great exemplars of holding down the budget spending, of free enterprise, of standing on your own two feet.

We have here, and the gentleman from Kansas said he would not doubt people's sincerity, and I would not disagree with the gentleman from Kansas, but consistency seems to be in less supply here than sincerity. We hear from some of the great budget cutters, Gramm-Rudmanites, et cetera, and from those who say that we must let the free market economy take its place, that we not only should cancel the 50 cents, which all of us agree to, we are canceling the 50 cents which we should have been getting as a result of the whole herd buy out, but we should go further and confer on them a particular windfall, and we heard the kind of problems they get into.

They said, "Well, but cattle got this and this one got that." That is the upward spiral that we get, continuing the policy of saying—and it comes I think with particular ill-grace from some of our conservative friends who are the great exemplars of cutting the budget and free enterprise, but not for us, not for the people we represent, not for our industry.

□ 1430

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman.

Mr. CARPER. Mr. Chairman, I would like to identify myself with the remarks of my free-market friend, the gentleman from Massachusetts [Mr. Frank].

The Olin-Roberts amendment would strike the provisions of this drought assistance bill which: First, cancels a 50-cent reduction in the dairy support price which would occur on January 1, 1989, if dairy surpluses exceed 5 billion pounds; second, increases the support price by 50 cents effective October 1 of this year—up to $11.10 per 100 pounds—through December 31, 1990; and third, would rescind the 50-cent increase in July 1989 if estimated dairy surpluses exceed 5 billion pounds.

The Agriculture Committee had originally agreed to freeze current dairy price supports thus exempting dairymen from a mandated 50-cent price cut on January 1.

The main argument against the 50-cent increase is that it represents preferential treatment for dairy farmers, being the only ones in for a price support increase. It is unfair that they should get the benefit when other livestock farmers who will have to compete with dairy farmers to purchase the same feed supplies do not have the same assistance.

The increase would increase market prices for dairy products at the same time that food costs would already be rising because of the drought. It would also exacerbate dairy surpluses that are just beginning to come under control. Finally, the increase represents a substantive change in farm policy that has no place in this drought relief legislation.

For these reasons, I cannot support the Penny-Gunderson substitute, but I do enthusiastically support the Olin-Roberts amendment and urge its adoption.

Mr. FRANK. Mr. Chairman, reclaiming my time, I would point out again that we were told, "Well, but what about the surplus commodities?" I welcome the concern we get from some of our colleagues for the needy. We do not hear it from some of them, and from some of them we do, and from some of them we hear it only when this bill comes up.

The sensible way to do it is to see what the needy need and work for it, not to have an inefficient, oversubsidized program, and then give the needy the leavings. We should continue with the path of the gentleman from Virginia [Mr. Olin] and the gentleman from Kansas [Mr. Roberts].

Mr. PENNY. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, livestock producers have understandably expessed concern that if we raise the price of pork for too long a period, it may lead to overproduction, and it may lead to a herd buyout that could drive down livestock prices. I understand that. That is why we are targeting this to 3 months only. If we do not provide some assistance for a few months, we may see a precipitous sellout of dairy herds in the coming months, and that will drive down livestock prices.

Mr. Chairman, I yield the balance of my time, the 3 minutes remaining to the gentleman from Wisconsin [Mr. Gunderson] to close debate.

Mr. GUNDERSON. Mr. Chairman, let us understand what we are doing here today. What we are trying to do is provide stability to agriculture to the best of our ability. Let us understand that the reason this amendment is in front of us is because dairy, unlike other agricultural commodities in this bill, is not going to get disaster payments for a lack of production that is caused by the drought. The reality in Wisconsin, last month, we had 30,000 less dairy cows than last year, the lowest number of dairy cows in 71 years.

Mr. Chairman, there is a real problem out there, and we had better understand that. The reality is that a typical family farmer in Wisconsin is seeing his feed costs go up 50 percent, his production going down one-third. We are not even talking about the production side here. What we are trying to do is provide some temporary assistance to dairy, and everybody talks about the January 1 price cut that is being waived, but that is not everything. Anybody who understands dairy knows that the market is going to be above that. They are not giving us anything there.

What we are trying to do in the substitute is to establish a proper middle ground between the bill, which has an 8-month increase, and Olin-Roberts, which does nothing.

Next spring in the second quarter of 1989, April, May and June, when there is no fresh pasture, no fresh alfalfa, when there is no corn left, we need some temporary assistance for our dairy farmers to survive, and those of us in the livestock industry, if we do not want those dairy cows to go to market, if we do not want our red-meat prices going down, then vote for this amendment to give us the temporary assistance so we can survive.

Mr. Chairman, this amendment will cut the cost of the Jeffords provision by approximately 50 to 70 percent. It is a defensible compromise. It is short-term temporary assistance. It provides true drought assistance, not changes to the farm bill. It is cost-saving. It is good public policy. I encourage all of my colleagues on both sides to support the Gunderson-Penny compromise.

The CHAIRMAN pro tempore. (Mr. Swift). The question is on the amendment offered by the gentleman from Minnesota [Mr. Penny] as a substitute for the amendment offered by the gentleman from Kansas [Mr. Roberts].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 155, not voting 30, as follows:

[Roll No. 247]

AYES—246

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Bates
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Bonker
Bosco
Boucher
Boxer
Brooks
Bruce
Bryant
Buechner
Burton
Bustamante
Byron
Campbell
Cardin
Carr

Chapman
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Conyers
Cooper
Craig
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Downey
Dyson
Eckart
Emerson
English
Erdreich
Espy
Evans
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grandy
Gray (PA)
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefner
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowry (WA)
Lukens, Donald
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Mfume
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (UT)
Oxley
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Price
Quillen
Rahall
Rangel
Ravenel
Regula
Ridge
Ritter
Robinson
Rodino
Rose
Rostenkowski
Roth
Rowland (GA)
Sabo
Saiki
Savage
Sawyer
Schneider
Schuette
Sensenbrenner
Sikorski
Skaggs
Skelton
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solomon
St Germain
Stallings
Stangeland
Stenholm
Stokes
Stratton
Sweeney
Swift
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Upton
Vento
Volkmer
Watkins
Weber
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wylie
Yatron
Young (AK)

NOES—155

Andrews
Archer
Armey
AuCoin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bereuter
Bilirakis
Bliley
Borski
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bunning
Callahan
Carper
Chandler
Cheney
Clarke
Coble
Collins
Conte
Coughlin
Courter
Coyne
Crane
Dannemeyer
Darden
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Donnelly
Dornan (CA)
Dreier
Durbin
Dwyer
Edwards (CA)
Edwards (OK)
Fascell
Fawell
Fields
Ford (MI)
Frank
Gallegly
Gallo
Gibbons
Glickman
Gradison
Grant
Green
Gregg
Guarini
Hall (OH)
Hefley
Henry
Herger
Hunter
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Kennedy
Kennelly
Kolbe
Konnyu
Kyl
Lagomarsino
Lehman (CA)
Lehman (FL)
Lewis (GA)
Livingston
Lowery (CA)
Lujan
Luken, Thomas
Lungren
Madigan
Markey
McCandless
McCurdy
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (WA)
Moorhead
Morella
Nelson
Nielson
Olin
Owens (NY)
Packard
Pashayan
Payne
Pickett
Pickle
Porter
Pursell
Ray
Rhodes
Richardson
Rinaldo
Roberts
Roukema
Roybal
Russo
Saxton
Schaefer
Scheuer
Schroeder
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Slattery
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solarz
Spratt
Staggers
Studds
Stump
Sundquist
Swindall
Synar
Thomas (CA)
Valentine
Visclosky
Vucanovich
Walgren
Walker
Waxman
Weiss
Weldon
Wheat
Whittaker
Wolf
Wyden
Yates
Young (FL)

NOT VOTING—30

Biaggi
Boland
Boulter
Chappell
Coleman (TX)
Combest
Daub
Davis (IL)
Dymally
Early
Ford (TN)
Gray (IL)
Hansen
Hayes (IL)
Jontz
Kemp
Kostmayer
Mack
MacKay
Mavroules
Mica
Roe
Rogers
Rowland (CT)
Schulze
Smith (FL)
Spence
Stark
Torricelli
Vander Jagt

□ 1455

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Boulter against.

Mr. Dymally for, with Mr. Combest against.

Mr. Schulze for, with Mr. Jontz against.

Messrs. BEILENSON. AuCOIN, and WHEAT changed their vote from "aye" to "no."

Mrs. BYRON, Mrs. SMITH of Nebraska, and Messrs. PEPPER, GILMAN, McMILLEN of Maryland, BILBRAY, JOHNSON of South Dakota, WATKINS, and MILLER of Ohio changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. JEFFORDS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. Swift). The gentleman will state it.

Mr. JEFFORDS. Mr. Chairman, it is my understanding that the situation is now that if Members favor the bill as it stands they would vote "no"; if they favor the amendment with the substitute passed with respect to the Olin amendment, they would vote "yes." Is that correct?

□ 1500

The CHAIRMAN pro tempore (Mr. Swift). The gentleman from Vermont is not stating a parliamentary inquiry. The Chair will state the question.

The committee has adopted the substitute. The vote now comes on the amendment offered by the gentleman from Kansas [Mr. Roberts] as amended by the substitute offered by the gentleman from Minnesota [Mr. Penny].

The question is on the amendment offered by the gentleman from Kansas [Mr. Roberts], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORD VOTE

Mr. FRANK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 181, not voting 33, as follows:

[Roll No. 248]

AYES—217

Andrews
Archer
Armey
Atkins
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bereuter
Berman
Bilirakis
Bliley
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Buechner
Bunning
Callahan
Campbell
Cardin
Carper
Chandler
Cheney
Clarke
Clement
Coats
Coble
Coleman (MO)
Conte
Cooper
Coughlin
Coyne
Craig
Dannemeyer
Darden
Davis (MI)
de la Garza
DeLay
Dellums
DeWine
Dickinson
DioGuardi
Donnelly
Dornan (CA)
Dreier
Durbin
Dwyer
Edwards (CA)
Edwards (OK)
English
Erdreich
Fascell
Fawell
Fields
Flippo
Florio
Frank
Frenzel
Gallegly
Gallo
Gibbons
Gingrich
Glickman
Gradison
Grandy
Grant
Green
Gregg
Guarini
Hall (OH)
Hamilton
Harris
Hastert
Henry
Herger
Hiler
Hopkins
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Jones (TN)
Kennedy
Kennelly
Kolbe
Kyl
Lagomarsino
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Markey
Marlenee
Mazzoli
McCloskey
McCurdy
McGrath
McMillan (NC)
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Moakley
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Nelson
Nichols
Nielson
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pickett
Pickle
Porter
Pursell
Ravenel
Ray
Rhodes
Rinaldo
Ritter
Roberts
Roukema
Russo
Sabo
Sawyer
Saxton
Schaefer
Scheuer
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky

Skaggs
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solarz
Spratt
St Germain
Staggers
Stallings
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tauke
Thomas (CA)
Torres
Valentine
Visclosky
Vucanovich
Walgren
Walker
Waxman
Weiss
Wheat
Whittaker
Wise
Wolf
Wortley
Wyden
Yates
Young (FL)

NOES—181

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
AuCoin
Baker
Bennett
Bentley
Bevill
Bilbray
Boehlert
Boggs
Bonior
Bonker
Boxer
Bruce
Bryant
Burton
Bustamante
Byron
Carr
Chapman
Clay
Clinger
Coelho
Collins
Conyers
Courter
Crane
Crockett
DeFazio
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Downey
Dyson
Eckart
Emerson
Espy
Evans
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gonzalez
Goodling
Gordon
Gray (PA)
Gunderson
Hall (TX)
Hammerschmidt
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kildee
Kleczka
Kolter
Konnyu
LaFalce
Lancaster
Latta
Leath (TX)
Leland
Lewis (FL)
Lipinski
Manton
Martin (NY)
Martinez
Matsui
McCandless
McCollum
McCrery
McDade
McEwen
McHugh
McMillen (MD)
Miller (OH)
Mineta
Molinari
Mollohan
Moody
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Oxley
Parris
Pepper
Perkins
Petri
Price
Quillen
Rahall
Rangel
Regula
Richardson
Ridge
Robinson
Rodino
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Saiki
Savage
Schneider
Schroeder
Schuette
Sensenbrenner
Sikorski
Skelton
Slaughter (NY)
Smith (IA)
Snowe
Solomon
Stangeland
Stenholm
Stokes
Stratton
Tallon
Tauzin
Taylor
Thomas (GA)
Towns
Traficant
Traxler
Udall
Upton
Vento
Volkmer
Watkins
Weber
Whitten
Williams
Wilson
Wolpe
Wylie
Yatron
Young (AK)

NOT VOTING—33

Biaggi
Boland
Boulter
Chappell
Coleman (TX)
Combest
Daub
Davis (IL)
Dymally
Early
Ford (TN)
Frost
Gray (IL)
Hansen
Hayes (IL)
Jontz
Kemp
Kostmayer
Mack
MacKay
Martin (IL)
Mavroules
Mica
Roe
Rogers
Rowland (CT)
Schulze
Smith (FL)
Spence
Stark
Torricelli
Vander Jagt
Weldon

□ 1517

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Boulter against.

Mr. Combest for, with Mr. Jontz against.

Mr. Weldon for, with Mr. Dymally against.

Mr. MOLLOHAN and Mr. RAHALL changed their vote from "aye" to "no."

Messrs. DELLUMS, JONES of Tennessee, and OWENS of New York changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SCHUETTE

Mr. SCHUETTE. Mr. Chairman, I offer amendment No. 4 made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUETTE:

At the end of Section 206 insert the following new sections and redesignate subsequent sections:

SEC. 207. ACTUARIAL DATA, COMMUNICATIONS AND EDUCATION.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1509), is amended by adding the following new subsections:

(j) To accumulate sufficient actuarial data and thereafter it shall provide crop insurance that meets the differentiating needs of dry edible beans, by type, commencing with the 1989 crop year.

(k) As well as directed, to improve—

(1) the dissemination of information to producers on the availability of crop insurance, utilizing existing United States Department of Agriculture education facilities and producer financial and crop program support personnel;

(2) the training requirements of crop insurance agents who sell and service crop insurance coverage;

(3) the incentives to increase the sales of crop insurance through such delivery systems as are being utilized in accordance with sections 507(c) and 508(e);

(4) the crop insurance agency referral system to producers seeking information or insurance coverage;

(5) the cooperation between federal and state agencies relating to the crop insurance program; and

(6) the utilization of financial and educational computer programs available in federal and State agencies to foster the use of crop insurance as a uniform input of costs of production of agricultural commodities for purposes of disaster risk management.

SEC. 208. RESEARCH.

The Comptroller General of the United States shall conduct a study in consultation with the Manager of the Federal Crop Insurance Corporation, that provides an analysis, with accompanying recommendations, concerning—

(a) how the Federal Crop Insurance Corporation can effectively expand crop insurance sales to producers, especially family farmers and the more efficient producers of agricultural commodities insured by the Corporation;

(b) the extent to which yield trends from crop reporting districts, counties and the state, regional geographic yields, and other factors might be used to increase the reliability of existing factors to determine producers' transitional yields and to promote the participation of more efficient producers;

(c) what effects the requirements of the provisions governing Highly Erodible Land Conservation and Wetland Conservation as authorized by Title XII of the Food Security Act of 1985 may have on the sale of crop insurance in future years;

(d) whether the Federal Crop Insurance Corporation should be given the authority to waive denial of crop insurance availability to producers who have been denied such availability as the result of violations of the terms and conditions of conservation programs that are conducted by the United States Department of Agriculture under the authority of Title XII of the Food Security Act of 1985; and

(e) how best, and at what time intervals, if at all, to shift the risk bearing cost of federal crop insurance programs to the private sector.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. SCHUETTE] will be recognized for 10 minutes.

Mr. SCHUETTE. Mr. Chairman, in order for the House to complete its work on this important drought assistance bill in a timely manner, I will be brief in my comments on my amendment to help improve and offer the crop insurance system more viable alternatives for farmers in America.

In the interest of time, I will yield first to the gentleman from Texas [Mr. DE LA GARZA], chairman of the Agriculture Committee.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding to me.

We have no objection to the gentleman's amendment on this side and would endorse the amendment.

Mr. Chairman, I wonder if I might impose upon the gentleman for a minute, though, in order that I might be able to clarify an issue of jurisdiction unrelated to this amendment but to satisfy the needs of our committee in relation to another committee.

Mr. SCHUETTE. I am happy to continue yielding to the distinguished gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, the gentleman from California [Mr. BROWN] in behalf of the Committee on Science, Space, and Technology, would like to engage in a colloquy.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SCHUETTE. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I thank the distinguished chairman of the committee, and I thank the gentleman for yielding.

First, Mr. Chairman, I want to commend the chairman of the committee for his leadership in bringing this bill to the floor. As the gentleman knows, there is an amendment in the bill which I offered establishing a National Agriculture Weather Information System within the Department of Agriculture.

Mr. Chairman, as we know, the National Weather Service, part of the National Oceanic and Atmospheric Administration, is responsible for weather forecasts and weather information for all users, including agricultural users. These NOAA programs are within the jurisdiction of the Committee on Science, Space, and Technology. Do the provisions in this act conflict with the programs of the National Weather Service?

Mr. DE LA GARZA. No, they do not. The act recognizes that the National Weather Service will provide weather forecasts and observations to the Department of Agriculture. The act is intended to improve the Department's internal capability to assess and disseminate weather information provided to it by the National Weather Service and other sources. The act is intended to complement, not to compete with or replace, the present agricultural weather services offered by the National Weather Service.

Mr. BROWN of California. The act requires USDA to spend 20 percent of its appropriated funds to purchase weather services and observation information from the National Weather Service. Does the chairman acknowledge the jurisdiction of the Science, Space, and Technology Committee, over authorizations for National Weather Service activities?

Mr. DE LA GARZA. The committee certainly recognizes the jurisdictional interests of the Committee on Science, Space, and Technology with respect to the weather forecast services of the National Weather Service, including its agricultural weather service programs. The act is intended to give the Department of Agriculture greater resources to purchase the weather information it needs from third parties, including the National Weather Service.

Mr. BROWN of California. I thank the gentleman from Texas for his remarks. I have no objection to these provisions.

Mr. SCHUETTE. Mr. Chairman, first of all, I want to commend the distinguished chairman of the Agriculture Committee and the distinguished ranking member—indeed all my colleagues on the Agriculture Committee for their excellent work on this much needed drought legislation.

I want to urge all my colleagues to support this important legislation to assist the farm community and rural America who are suffering from this disastrous drought. The American people want this bill, and all of rural America needs this bill. I hope that we can move forward expeditiously and pass this legislation to provide assistance to affected farmers, their families and communities.

Regarding my amendment, I will be very brief because my amendment should not be controversial. It is identical to a bill I introduced in June, H.R. 4911, and it has been characterized to me as "perfecting" in nature to an amendment offered in committee by my friends and colleagues, the gentleman from Illinois [Mr. MADIGAN], the ranking minority member of the committee, the gentleman from Tennessee [Mr. JONES], who is the chairman of the subcommittee, and the gentleman from California [Mr. PANETTA]. More specifically, section 206 of this bill contains a requirement that farmers receiving a disaster payment under this act "must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1989 and 1990 crops of the commodity for which such payments, loans, or forgiveness are sought."

What this means, Mr. Chairman, is that any producer qualifying for and receiving assistance under this bill must sign up for Federal crop insurance in 1989 and 1990, provided it is available, does not exceed the sum of the disaster payment by more than 25 percent, and carries a premium cost of no higher than 125 percent of the average premium for the commodity in his or her county. While I recognize the intentions of the authors of the amendment, I was opposed to this amendment in committee because the crop insurance program isn't working as well as it should be. In effect, we would be compelling farmers to participate in a program which could be working better, both from the standpoint of its usefulness as a risk management tool, and its economic effectiveness.

The most obvious indication of the programs shortcomings is that it suffers from unquestionably low participation rates. In 1987, only about a quarter of the planted acres—24.9 percent—in the United States are covered by crop insurance. In my own State of Michigan and States like Illinois and Oklahoma, only about 1 in 20 eligible acres are insured in the program. In other States such as Kansas, Missouri, Iowa, and Texas, participation rates are down around only 1 in 10 eligible acres. For States like Ohio, participation rates are even lower, down at 2.5 percent of eligible acres.

From this experience with the program, it is clear that farmers do not look at Federal Crop Insurance Corporation as "the good hands people" for protecting their acreage against catastrophic losses. There are a number of reasons for this. After more than 6 months of research by my staff talking to farmers, and consulting experts in and out of the Government has indicated that some of the most important factors include: Climate, costly premiums, limited coverage, insufficient educational efforts on the part of the FCIC, and rate structure problems.

Mr. Chairman, I want to point out to my colleagues that just a few weeks ago, the General Accounting Office published a report on why participation rates in crop insurance were so low. All of the factors I mentioned were enumerated in the report, and the GAO made two main recommendations to deal with low participation rates on page 3 of the report:

> Increase the emphasis on educating farmers and insurance agents about crop insurance; and
>
> Conduct a statistically sound nationwide study to determine which of the major factors influencing participation could or should be addressed * * * designed to obtain information on the kinds of changes needed to achieve more participation.

That is precisely what my amendment is designed to accomplish as an add-on to the Madigan/Jones/Panetta committee language. It is composed of three parts: Improved actuarial data—to help with the premium problem and the problem of insuring by the least common denominator variety of the same commodity; enhanced educational efforts for farmers and the agents and other components of the delivery system.

The crux of the issue is that if we are going to require farmers to sign up for crop insurance during 1989 and 1990 if they receive a disaster payment, we should be compelling them to participate in the best program we have to offer. It gives the FCIC about a year to improve the system. It is a good amendment, one that I believe all of my colleagues can support.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. SCHUETTE. Mr. Chairman, I am happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have had an opportunity to review the gentleman's amendment on this side, and we think it is a beneficial amendment. We have no objection to it.

Mr. SCHUETTE. Mr. Chairman, I thank the gentleman from Illinois, and I thank the committee for its indulgence.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there any Member who is opposed to the amendment?

If not, the question is on the amendment offered by the gentleman from Michigan [Mr. SCHUETTE].

The amendment was agreed to.

The CHAIRMAN. The next amendment in order is Amendment No. 5 by Mr. SCHUMER or his designee.

AMENDMENT OFFERED BY MR. SCHUMER

The SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUMER: Section 210 is amended by inserting at the end thereof the following new subsection:

(e) GROSS REVENUE LIMITATION.—No person may receive any payment under this subtitle or benefit under section 606 of the Agricultural Act of 1949 if such person's estimated gross revenues from farming operations for the 1988 calendar year would be in excess of $2,000,000.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that the amendment be modified as follows:—and this has been cleared with both the chairman of the committee and

the ranking member of the committee—after the word, "revenues," add the words, "as determined by the Secretary," and at the end of the amendment, add the following sentence: "This will not affect any person not entitled to drought relief under this bill."

The CHAIRMAN. Before we proceed, the Chair would prefer that the Clerk first report the modified amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER, as modified:

Strike out text to be inserted by the amendment offered by Mr. SCHUMER and insert in lieu thereof the following:

"(e) GROSS REVENUE LIMITATION.—No person may receive any payment under this subtitle or benefit under section 606 of the Agricultural Act of 1949 if such person's estimated gross revenues as determined by the Secretary from farming operations for the 1988 calendar year would be in excess of $2,000,000. This will not affect any person not entitled to drought relief under this bill."

The CHAIRMAN. Is there objection to the modification?

Mr. DE LA GARZA. Mr. Chairman, reserving the right to object, with the modification to the amendment, we would have no objection to the amendment on this side.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The CHAIRMAN. The amendment is so modified.

Mr. SCHUMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I describe this amendment, I would like to thank the committee, its chairman, and its ranking member for the hard work and for the cooperation they have put into this amendment and into this important and timely bill.

I am committed to helping the family farmer in this time of crisis. I represent a district, of course, that does not have any farms, but I think all of us from one end of the country to the other agree that there is a real problem in our rural areas, and that we ought to do what we can to help.

The purpose of this amendment, however, is that we should limit our aid to those who need help. What it does, very simply, is it says that if any of those persons, generally giant agribusiness concerns, make more than $2 million of revenue this year, they should not be eligible for relief, that the money for emergency drought assistance should go to the people who need the help, not the giant farmers who maybe are having a bad year, but even in this year, if they make $2 million, they are not doing too poorly.

I might add, Mr. Chairman, that this represents a minuscule percentage of the Nation's farmers. Only 1.3 percent of all farmers even make $500,000 in a normal year, and this, of course, is limited to $2 million, so it has to be much less than 1 percent of all the farmers in the country.

Again, to get the kind of coalition that is needed on these kinds of bills, I think my constituents, constituents in urban and suburban areas, have to be convinced, as this bill and this amendment helps to convince us, that we are giving the money to the people who need help. As far as the poor farmers and also the middle-income farmers are concerned, I think it is well understood that given a drought or some other natural emergency, we do not want to put farmers out of business in a bad year when they might bounce back as farmers and produce the food in the next year. Then again, if it is a huge business or a large business, in this case a $2 million business, I do not see, given our priorities and given our budget contingencies, that we have to do this.

So what this does is direct the money to those in need and only those in need. We do not put a cap on those who are eligible. We will find ourselves bailing out the very wealthy again and again. There are needy people in all parts of the country, as well as on our farms, and this is consistent with what we have been doing in our budget in a bipartisan fashion for the last several years, which is trying to direct aid at the people who need help.

Again, Mr. Chairman, I want to thank the committee chairman and the ranking member for their help and cooperation on this bill.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am not going to oppose the amendment. I think it is roughly identical to what is in the bill in the Senate.

However, this is what worries me a little bit. A person, notwithstanding his gross income, can still get deficiency payments from the government, so one can be an operator with $2 million in gross sales and still be eligible to up to $150,000, based on the Huckaby language.

So what would happen if we got somebody there, let us say, at the $2 million level, who, if they went through this drought, got maybe that $50,000 or $100,000, which may be the difference between bankruptcy or not?

What concerns me a little bit is the absolute inflexibility in the event that the Secretary would find that that disaster relief, limited to $100,000, may be the difference in saving the guy. There may be only 10 people in the entire United States, or 20 people, but he is entitled to that deficiency payment, and what the gentleman is saying is that he is not entitled to the drought relief.

Mr. SCHUMER. That is correct.

Mr. GLICKMAN. I am concerned that the gentleman has not put anything in there that provides that itsy-bitsy amount of discretion on the part of the Secretary to deal with the man or the company that may be going into bankruptcy as a result of this.

□ 1530

Mr. SCHUMER. Well, I would be happy to in the future work with the gentleman on that particular issue.

I would say this again. In the scheme of priorities and things, yes, we have thousands, tens of thousands, of businesses go bankrupt all the time, and we understand the needs in agriculture. But it seems to me, if someone is big enough, they ought to be preparing for themselves to survive the bumps.

Mr. GLICKMAN. Mr. Chairman, using that same logic, then the gentleman ought to have some sort of test so anybody who has $2 million worth of sales ought to get no payments from the Government of any sort whatsoever. We do not have that under current law.

Mr. SCHUMER. And, working with the gentleman from Louisiana, he thought that this amendment might do that, and that is why we added that sentence. That is not my intent on this bill.

Mr. GLICKMAN. OK.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman for yielding to me. I want him to know that I will join in support of his amendment, but let me ask this:

Do I understand the amendment only deals with gross sales and not with net increase?

Mr. SCHUMER. The gentleman is correct.

Mr. BROWN of Colorado. So, it is possible that someone can have $2 million in sales or more and have a net loss and be excluded from this assistance.

Mr. SCHUMER. The gentleman is correct.

Mr. BROWN of Colorado. Mr. Chairman, I just would observe that the individual—to the gentleman—that probably what we ought to get at is the net income of the individual involved, not gross sales.

And I must say frankly that my own view of this would be that a $2 million limit hardly narrows it down to the poverty stricken. If our intention is to target income, we probably ought to set the limit a lot less than $12 million.

Mr. SCHUMER. Mr. Chairman, reclaiming my time, I would certainly agree with the gentleman from Colorado. I would like to see it be a lot lower.

I went to the Rules Committee and asked for a $1 million limit. They granted a $2 million limit. But I think this does send a message and sends a signal that we are going to start limiting the very well-to-do.

In terms of the point about net income, that would be preferable. I was told that mechanically that was virtually impossible to do. That is another reason the limit is higher, to err on the side of caution.

Mr. Chairman, I thank the gentleman for his support.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I would like to engage the gentleman in a colloquy, if I might, to clarify several issues here.

The basic bill limits the payment to any person to $100,000. The Department of Agriculture has indicated that they will use the new, more strict, definite definition of a person.

What about farmers, this large farmer who does not have a drought, who is not engaged in the drought at all, but just might happen to be in the Government program, and, if he is in the Government program, it is a real bonanza for him because here he is laying out a significant portion of this land and maxing out at $50,000.

Would the gentleman's amendment have any impact on this person?

Mr. SCHUMER. No; as I discussed with the gentleman before, it does not intend to have any impact on that.

Mr. HUCKABY. OK.

What about the farmer who has income in excess of $2 million, but he derives the bulk of his income from nonprogrammed crops? Say cattle, or citrus or various other things, and his programmed crops, gross income, let us say, is only $100,000. Would he be eligible to receive assistance if he met all the other criteria in the drought?

Mr. SCHUMER. Mr. Chairman, if I understand the question of the gentleman from Louisiana, if his total income was above $2 million, the assistance he would receive unrelated to drought would stay the same, but he would not be able to receive drought assistance.

Mr. HUCKABY. He would not be able to receive drought assistance in your plan here even though his programmed crops were significantly below $2 million.

What is your intention? How are we going to go about determining if someone's gross income is more than $2 million?

Mr. SCHUMER. Mr. Chairman, that is one of the reasons I agree with the gentleman's suggestion where it says, "determined by the Secretary." It would be the Secretary who has to make regulations.

And let me say to the gentleman from Louisiana, as I said I would, that, if within the conference and, as was mentioned by the gentleman from Kansas, the Senate has or will have, I believe, Senator BOSCHWITZ's similar language although we arrived at these independently. If we have to write in some language to help in this determination on this side, I would not object to it going absolutely outside of——

Mr. HUCKABY. One final comment, Mr. Chairman.

As I understand it, it is the intent of the gentleman from New York [Mr. SCHUMER] that that applies only to the crop year 1988, not in future years as far as drought or anything else.

Mr. SCHUMER. The gentleman is correct.

Mr. HUCKABY. Only for the drought in 1988.

Mr. SCHUMER. Only affects this bill which is 1988.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman from New York [Mr. SCHUMER].

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I want to express my appreciation to the gentleman from New York [Mr. SCHUMER], my friend, for taking this leave. He does a very important service, and I was struck. A number of the members of the Committee on Agriculture have been asking him so much technical questions, which he has answered quite well, but I would suggest to my friends on the Committee on Agriculture that there is an even better way they can go, and that is they can do some of these things themselves.

Mr. Chairman, the gentleman from New York did a very good job taking this on, but it should not have had to wait for the gentleman from New York. This is the kind of sensible targeting that ought to be built into the programs, and many of us would like to be even more enthusiastic about agricultural programs if they were somewhat more targeted.

So, I admire the initiative of the gentleman from New York, and I think with the resources available to a Member not on the committee that he has done a superb job. I think the committee could do an even better job, and I would hope they would begin to build into these programs on a more regular basis this sort of consideration for the budget.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for his kind words.

Mr. Chairman, I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman, and, responding in part to the gentleman from Massachusetts [Mr. FRANK], my colleague, I think the idea of targeting would be more attractive for more Members on the floor on supporting farm programs if they felt that by that targeting the program was getting at the people who needed the relief.

My difficulty comes, as it did for the gentleman from Colorado——

The CHAIRMAN. The Chair would inquire if there is any Member who is opposed to the amendment.

Mr. MARLENEE. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. Is the gentleman from Montana [Mr. MARLENEE] seeking the 10 minutes available under the rule?

Mr. MARLENEE. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] is recognized for 10 minutes.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Chairman, I appreciate the gentleman from Montana yielding this time to me because I have got a question to ask the gentleman from New York [Mr. SCHUMER] basically about how this would affect the feed assistance to the hog producers, cattle and chicken growers, and so forth.

The gentleman is leading with a gross figure and not a net.

Mr. SCHUMER. The gentleman is correct.

Mr. WATKINS. And a number of these people are going to be losing a lot with increased feed costs and all. Does this affect the feed Assistance Program to the cattlemen and to the hog people and to the poultry people and, I guess, to the dairy people? Would it, Mr. Chairman?

Mr. SCHUMER. Mr. Chairman, I would say to the gentleman from Oklahoma that, yes, it does affect them, although only a very small number of farms, again estimated at less than half of 1 percent that have gross revenues of above $2 million.

Mr. WATKINS. To the gentleman from Montana [Mr. MARLENEE] I have got a little concern about it because some of these people employ several thousands of people, and their income level may not be as high, but they are paying jobs. And I was just kind of wondering how this might overall affect it so the chairman and others might help clarify this and save a lot of people from losing, a lot of unemployment and losing their jobs, and so forth, that are having to buy feed, and the Feed Assistance Program would be affected, if I understand that correctly.

Mr. MARLENEE. Mr. Chairman, reclaiming my time, I think the gentleman from Oklahoma [Mr. WATKINS] makes an excellent point. I view this as a mischievous amendment, and I understand the intent of the gentleman from New York [Mr. SCHUMER], but I think we had better look very carefully at this amendment and reject it or at least put it off. It deals with a calendar year instead of the fiscal year. There are a lot of producers who are on a fiscal year that does not correspond with the calendar year. I do not know how we will ever sort that out with this particular amendment. It deals with gross revenue instead of new revenue.

Mr. Chairman, I think the net revenue is the figure that we really need to address in this. It does not deal with held-over income. We have a situation right now in agriculture where the market price has gone up, where we have farmer-owned reserves, and that was a good program. The farmer-owned reserves are forced on the market. If the individual does not put those farmer-owned reserves on the market, he is penalized. He had to pay interest. There is no storage on those farmer-owned reserves, and, as a result of this, we have bunched income that could come into this calendar year and put some very nominal producers over the limit with regard to drought and disaster.

Mr. Chairman, I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding to me, and I would ask if the gentleman from New York [Mr. SCHUMER] would respond to a question I had planned on asking on his time.

Mr. Chairman, my understanding is that the amendment, as it was originally drafted, has been amended with the insertion of the language "as determined by the Secretary" in terms of determining what the $2 million of gross revenue is.

Mr. SCHUMER. The gentleman is correct.

Mr. THOMAS of California. My question is: Is it the gentleman's understanding that what that probably entails is the Secretary taking into consideration, for example, some of the items as mentioned by the gentleman from Montana [Mr. MARLENEE], a calendar year versus a fiscal year differential, an income flow differential, so that when you have in the bill or in the amendment $2 million of gross income, gross income would not necessarily be what the Internal Revenue Service would define as gross income, but what the Secretary of Agriculture determines to be an appropriate amount roughly equivalent to the desired effect?

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from New York [Mr. SCHUMER] momentarily.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding to me.

Yes, first let me say, which I did not mention in my remarks, that we have gone over this with the USDA, and they support the amendment, as does, of course, as I mentioned, the Senate, Senator BOSCHWITZ, the Senator from Minnesota that introduced it. The committee asked that this be put in for the purposes the gentleman states, that there are differences in the way farms work, and the crew income and all of that, and the intent of this amendment is not to just dragnet and knock as many people out as possible by hook or by crook. It is simply to settle——

Mr. MARLENEE. Mr. Chairman, reclaiming my time——

Mr. THOMAS of California. Mr. Chairman, may I respond just briefly?

Mr. MARLENEE. Mr. Chairman, I yield to the gentleman from California just briefly.

Mr. THOMAS of California. Mr. Chairman, if that is the case, then why do we not strike gross income out and have income and let the Secretary determine what is or is not appropriate in terms of someone benefiting beyond what is appropriate? It is the gross and the net argument that seems to be the problem. Strike it out.

Mr. SCHUMER. Mr. Chairman, if the gentleman will continue to yield so I might answer the question——

Mr. MARLENEE. I yield very briefly to the gentleman from New York.

Mr. SCHUMER. Yes, Mr. Chairman, we explored that, and we were told by USDA and others that net income would make it even more impossible to do it the way the gentleman is talking about, and that is why we left gross income in.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding, and I would like to ask the gentleman from New York to make sure that I understand his intent.

Is it the intent of the gentleman from New York that the regulations that have been devised would be so tight that every producer would have to wait until April 15, perhaps of 1989, before gross income was defined? Would he envision the Secretary devising regulations that would allow those clearly under $2 million to go ahead and proceed and only those that might be miscategorized would be affected?

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from New York very briefly.

Mr. SCHUMER. Well, I will answer it very briefly.

The answer is "Yes."

Mr. MARLENEE. Mr. Chairman, I think my colleague from Texas makes an excellent point, that if this were interpreted wrong, that producers would be forced to wait until after the first of the year, and again I emphasize that this is a mischievous amendment. It does not deal with the realities of management on agricultural operations, and I would urge its rejection.

Mr. CONTE. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York, and want to commend him for his outstanding work in this issue.

They're coming out of the walls, Mr. Chairman.

The drought that has so badly devastated so many in the Midwest is now being used as an excuse to pad the pockets of industrial farmers around the country. What a pity.

I have worked with this young warrior from New York for several years in an effort to reduce the fat in our agricultural programs. In fact, while I commend the gentleman for his efforts, I don't believe he goes far enough.

There are some farmers who have been hurt badly by this drought. But, Mr. Chairman, there are some who haven't. There are some who will reap huge profits as a result of increased food prices. Farm profits are up, Mr. Chairman. Food exports are up. Food prices are up. So it's up to us to bring these prices down.

The Department of Agriculture is drowning in waste and abuse.

This amendment is a reasonable, responsible, pragmatic approach to a national problem. It's a good step. It's an important step. But it's only a step on a long, long journey that we must undergo to eliminate these excesses.

I urge your support of the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment as modified, offered by the gentleman from New York [Mr. SCHUMER].

The amendment, as modified, was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I would like to make a unanimous-consent request. If I might paraphrase a problem, we need a correcting amendment to the bill in order to place a cap to what is known as the Combest amendment. It is my understanding that under the rule that cannot be done in the Committee, but must be done in the House.

The CHAIRMAN. The gentleman is correct.

□ 1545

Mr. DE LA GARZA. Mr. Chairman, for that reason, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr.

Derrick] having assumed the chair, Mr. Obey, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes, had come to no resolution thereon.

PERMISSION TO OFFER ADDITIONAL AMENDMENT TO H.R. 5015, DISASTER ASSISTANCE ACT OF 1988

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole resumes its sitting on H.R. 5015, I be permitted to offer an amendment that freezes the cost of the 1987 crop loss provisions at $40 million, the amount currently assumed in H.R. 5015, for all program crops and that the debate on the amendment be not more than 10 minutes, and that no amendments be allowed.

A copy of this amendment is at the desk. I have cleared this with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Reserving the right to object, Mr. Speaker, I do so for the purpose of clarifying under my reservation that it is the intent of the gentleman from Texas [Mr. Stenholm] not only to cap this provision already in the bill at $40 million, but to also say that this provision that relates to 1987 losses be broader than it is in the bill so that it would apply to losses on all crops and not just to the upland cotton crops; is that correct?

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, that is entirely correct.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HUCKABY. Reserving the right to object, Mr. Speaker, I would like to inquire of the gentleman from Texas, since this is a 1987 and 1988 disaster, is it the gentleman's intent to make it for all crops? Can one be eligible not only for drought, but for hail damage, as well as flood damage?

Mr. STENHOLM. If the gentleman will yield, it is for hail, drought-related damage, all program crops.

Mr. HUCKABY. Mr. Speaker, further reserving the right to object, on program crops only, but from any nature-inflicted damage?

Mr. STENHOLM. The gentleman is correct.

Mr. HUCKABY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISASTER ASSISTANCE ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 504 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5015.

□ 1547

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes, with Mr. Obey in the chair.

The CLERK read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 5 had been disposed of.

Pursuant to the order of the House, earlier today, it is now in order to consider an amendment to be offered by the gentleman from Texas [Mr. Stenholm].

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stenholm: Section 201(a)(1)(B) of H.R. 5015 is amended by—

(1) striking out "upland cotton" the first place it appears and inserting in lieu thereof "wheat, feed grains, upland cotton, or rice";

(2) striking out "hail or related condition" and inserting in lieu thereof "natural disaster";

(3) striking out "upland cotton" the second place and third place those words appear and inserting in lieu thereof in each case "such commodity"; and

(4) adding at the end thereof the following: "Notwithstanding any other provision of this Act, outlays for payments under this subparagraph may not exceed $40,000,000.".

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from Texas [Mr. Stenholm] will be recognized for 5 minutes and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. Mr. Chairman, briefly, the amendment speaks for itself. Inadvertently, the bill as it was reported from the committee had cotton only. It was not the intent of the committee to narrowly define this amendment to cotton only. It was meant to include the program crops as outlined, and also in keeping with the spirit of meeting the budget considerations, we do not wish this to be an open-ended budget cost. We wish to cap it at the amount assumed currently in the bill.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the chairman, the gentleman from Texas.

Mr. de la GARZA. Mr. Chairman, I thank the gentleman for yielding to me, and state that we have no objection on this side.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, because there are so many people who have airplanes and hope to leave in the next few minutes, we will not object to the gentleman's amendment.

Mr. STENHOLM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Is there any Member opposed to the amendment who wishes time?

If not, the question is on the amendment offered by the gentleman from Texas [Mr. Stenholm].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 6 is now in order.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dorgan of North Dakota: At the end of subtitle A of title II insert the following new section:

SEC. 211. DE MINIMIS YIELDS.

The Secretary of Agriculture shall determine a de minimis yield for each crop eligible for disaster payments under this subtitle. The de minimis yield shall be set at a level that will minimize any incentive provided by the prospect of disaster payments to abandon crops that have a value that exceeds the cost of harvesting. In no case shall the de minimis yield be less than the amount of production which, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary. Any producer whose actual yield for a crop is equal to or less than the de minimis yield for such crop shall be considered as having an actual yield of zero for the purpose of calculating any disaster payments for such crop under this subtitle.

The CHAIRMAN. The gentleman from North Dakota [Mr. Dorgan] will be recognized for 10 minutes and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. Mr. Chairman, my amendment fine tunes a certain portion of the formula the Department of Agriculture will use to calculate disaster payments for farmers.

The Agriculture Committee has carefully drafted a formula which targets assistance to the people who most need it, and I commend them for their work. Basically, the formula says that if a farmer's yield falls below 65 percent of his normal yield, we will provide a disaster payment on each bushel between that 65 percent level and the farmer's actual yield.

My amendment deals with those producers who have negligible yields, but not quite a complete wipeout. For every crop, there is a yield level below which it does not pay to harvest the crop. My amendment says that if a farmer has a yield below that break-even, or de minimis, level, it is for all practical purposes a complete loss, and that the Department of Agriculture should treat it as such.

Let me give you a concrete example. For wheat, the break-even yield is about three bushels per acre. In other words, if there are less than 3 bushels per acre, it doesn't pay to harvest the crop. So if a farmer has an actual yield of 2 bushels, my amendment would require the Department of Agriculture to "zero that out," treat it as a complete loss when they calculate the disaster payment.

This would translate into about an additional $8 or $10 per acre for some of the hardest hit producers in my State. That may not sound like a lot to some of you, but for folks out there hanging on by their fingertips, that amount can make a real difference.

Without this amendment, the formula would say that the farmer would be considered to have harvested those 2 bushels, even though the farmer is not likely to harvest them because it does not pay to do so. Again, a crop below the break-even yield is as good as a complete loss, so we shouldn't reduce the farmers disaster payment by 2 bushels he can't even afford to harvest.

Earlier this week, the President wrote to the Agriculture Committee and asked them to not "make farmers do unreasonable things." For the farmer who has 1 or 2 bushels of grain in his field, mixed in with a good bunch of weeds, and weeds always manage to grow, even in a drought, we don't want to create a situation where the farmer plows that up in order to convince USDA that the field was a complete loss. If there is a marginal feed value to that residue, however little, let's not inadvertently encourage farmers to destroy it in order to make sure they get a disaster payment on those last few bushels.

A little while ago we had an extensive debate on the dairy provisions of this bill, concerning the milk prices and the high cost of feed facing dairy producers. We don't want to make the feed shortage worse by creating a situation that, unintentionally, might encourage farmers to destroy small amounts of feed left in their fields.

This amendment will help us to avoid that problem, and it will ensure fair treatment to those who have, for all practical purposes, a complete loss.

I want to repeat my appreciation for my colleagues on the Agriculture Committee for the long hours of hard work they have put in on this bill, and for bringing it to the floor in an expeditious manner. Passage of this bill will signal to farmers that help is on the way, it will give them and their creditors a clear idea of what assistance they can count on, and it will hopefully construct a bridge which will carry our producer over into next year when they can plant another crop and hope for better prices and better times.

I urge my colleagues to support my amendment and the bill.

Mr. JOHNSON of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Mr. Chairman, I simply want to commend the gentleman from North Dakota for a commonsense amendment. It is true that payments to producers are based on actual yields, and that is the way it should be, but it makes no sense at all, it is my understanding from the amendment, to require someone to spend $10 an acre to harvest a $4 payment; so I think it makes a great deal of commonsense and this is what we need more of. I commend the gentleman for this amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I support the gentleman's commonsense amendment.

I wonder if the gentleman thinks that the Secretary will have a uniform de minimis yield that he would apply to each crop standard or nationwide, or does the author foresee a State-by-State intent?

Mr. DORGAN of North Dakota. My amendment does not intend to instruct the Secretary on that. We would leave that to the Secretary's discretion and hope that this amendment will simply represent authority to do the right thing in a way that is fair to every part of the country; but the amendment does not attempt to tell the Secretary exactly what that formula ought to be State by State.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I rise in support of the gentleman's amendment and congratulate the gentleman on the amendment.

As I understand it, the gentleman's language will allow the Secretary the flexibility to provide the incentives to producers, encouraging them not to allow further damage to occur merely for the purposes of getting or obtaining a larger deficiency payment; is that correct?

Mr. DORGAN of North Dakota. That is correct.

Mr. MARLENEE. Mr. Chairman, if the gentleman will yield further, I think this amendment is sorely needed because some of the actions that we have taken in committee actually result in the fact that the person who goes out there and makes every effort to harvest say 10 bushels of wheat or 33 bushels of corn, somewhere in that area, receives a lower overall income from disaster and Federal crop insurance than the person who zeroes out his production and goes in for the full disaster payment and the full Federal crop insurance payment.

I think it is absolutely necessary that we address this, and the gentleman's amendment, which I support, goes a small way toward correcting that.

Mr. DORGAN of North Dakota. Mr. Chairman, let me make one final point, and then yield back my time.

This also makes sense from a feed standpoint. If you have a farmer with two bushels of oats out there that it does not pay to combine and a field that is also full of pigeon grass, I would not want the farmer to disc that under quickly in order to try to convince somebody that it is a total loss. If the formula allows them to determine that to be a total loss, they might also come back and cut that for feed later, and that would make good sense from a feed standpoint.

So this makes sense from a number of different directions and I think will help those producers who are hurt the most in this disaster.

Mr. Chairman, I would urge favorable consideration by the committee.

The **CHAIRMAN.** Is there any Member opposed to the amendment?

If not, the question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The amendment was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Mississippi [Mr. ESPY] to clear up a definition in the livestock section in the bill.

Mr. Chairman, I yield to the distinguished gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding to me, and I would like to commend the chairman and the other members of the Agriculture Committee for their diligent work in preparing this legislation that will assist farmers during this drought.

Mr. Chairman, I am in support of H.R. 5015.

I would like to take this opportunity to speak on behalf of the farm-raised catfish farmers. This industry is extremely important to my district, as well as to some of the other congressional districts in the southeastern part of this Nation, as it produces more than 90 percent of the farm-raised catfish in this country. It is the only agricultural entity that is vertically integrated from the farmer to the consumer and provides much needed employment from the farm through the value-added processing.

Catfish farmers are sustaining stress, as other agricultural interests, in obtaining the necessary funding to insure sufficient funds to offset their increased feeding costs. Under section 605 of the original bill, these farmers were included in this assistance package. An amendment was offered that inadvertently disqualified these farmers from receiving any assistance for relief. They are in a unique position, due to the fact that they do not grow their own feed. However, corn and soybean meal make up approximately 75 percent of the total ration in catfish feed.

Mr. DE LA GARZA. Mr. Chairman, I concur with the gentleman's comments. The drought bill contains provisions to assist catfish farmers by defining fish used for food as a livestock, however, catfish farmers are omitted from participation because they do not grow their own feed. It is my understanding that the Senate bill still contains provisions that will allow feed assistance to catfish farmers.

Mr. ESPY. Mr. Chairman, if the gentleman will yield further, that is correct. This bill is included in the Senate bill.

I appreciate the sensitivity of the chairman to the unique situation of farm-raised catfish producers, and the gentleman's guidance and leadership during this very difficult time for our Nation's farmers. I would urge continued interest in the special plight of catfish farmers, and I am certain that this issue will be addressed in the conference with the Senate.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman, and I can assure my colleague, the gentleman from Mississippi, that I will keep in mind his urging and do all that I can, and I am sure that the committee can, to have the interests of our catfish farmers included in the conference to some extent, that will allow some degree of assistance.

Mr. ESPY. Mr. Chairman, I appreciate the gentleman's willingness to enter into this colloquy on this important matter.

The CHAIRMAN. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1600

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. OBEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes, pursuant to House Resolution 504, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ARMEY. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARMEY moves to recommit the bill, H.R. 5015, to the Committee on Agriculture with the following instructions:

1. Strike section 423, page 70, line 15 through line 7, page 71; and

2. Report back forthwith the bill, as amended, to the House of Representatives.

The SPEAKER. The gentleman from Texas [Mr. ARMEY] is recognized for 5 minutes in support of his motion to recommit.

Mr. ARMEY. Mr. Speaker, I will not take the 5 minutes.

Mr. Speaker, this section concerning which I have asked to make instructions has already been discussed on the floor very briefly. It is a section relating to the Shasta Dam water temperature control provisions. I object to inclusion of such provisions in this bill. I believe it is not in place to have such provisions for the expenditure of taxpayer money in a bill on drought relief and, therefore, I would ask the House to vote instructions to recommit and remove those provisions.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Does the gentleman from Texas [Mr. DE LA GARZA] desire to be heard on the motion to recommit?

Mr. DE LA GARZA. Mr. Speaker, I urge the Members to vote "no" on the motion to recommit.

A drought, Mr. Speaker, is a very complex phenomenon, and it impacts many things in many places in many ways, but for a more broad definition, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I would hope that we would understand what we are addressing here today. We are about to spend somewhere between $5 and $8 billion to try to hold various farmers and farm communities harmless from the impacts of the drought.

The drought affects many people. In the State of California, it happens to affect a $100 million commercial natural resource of the salmon fishery, and because of the drought, the water temperature in the river is rising to a point that there will be no spawning.

Mr. Speaker, this is a one-time effort to pump cold water out of the bottom of Shasta Dam to put it into the Sacramento River so we can try to save the salmon fishery. That is the impact of the drought in the State of California.

Others have drought because they have lost grain or they are having problems with milk production, and we are trying to do that. That is what this is addressed to. It is endorsed by the administration.

Mr. Speaker, the Corps of Engineers is already working on it to try to save a very vital natural resource that has huge commercial impact in the northern part of the State of California. I hope that the same people who are concerned about their communities would be concerned about these other communities.

It is not in my district. I am trying to think of whose district this is, but it is in the northern part of the State.

Mr. Speaker, I would just hope that the Members would reject this motion to recommit and understand that the drought has caused severe economic dislocation in other areas other than just in the farming.

Mr. DE LA GARZA. Mr. Speaker, reclaiming my time, I thank the gentleman for his explanation.

Mr. Speaker, I urge the Members to vote "no."

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKART. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 29, not voting 34, as follows:

[Roll No. 249]

YEAS—368

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Craig
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frenzel
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—29

Archer
Armey
Badham
Bates
Beilenson
Brown (CO)
Cheney
Coughlin
Crane
Dannemeyer
DeLay
Dreier
Fawell
Frank
Gallegly
Gibbons
Ireland
Kolbe
Konnyu
Kyl
Lungren
McCandless
Moorhead
Nielson
Russo
Scheuer
Shays
Smith, Robert (NH)
Stump

NOT VOTING—34

Biaggi
Boland
Boulter
Chappell
Coleman (TX)
Combest
Daub
Dymally
Early
Ford (TN)
Frost
Gray (IL)
Hansen
Hawkins
Hayes (IL)
Jontz
Kemp
Kostmayer
Mack
MacKay
Mavroules
Mica
Roe
Rogers
Rowland (CT)
Schulze
Smith (FL)
Spence
Stark
Taylor
Torricelli
Vander Jagt
Walker
Weldon

□ 1629

The Clerk announced the following pair:

On this vote:

Mr. Hayes of Illinois for, with Mr. Walker against.

Mr. SMITH of New Hampshire changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5015, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5015, DISASTER ASSISTANCE ACT OF 1988

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 5015) the Disaster Assistance Act of 1988, the Clerk may be authorized to make technical corrections in section numbers, punctuations, and cross-references in the committee amendment in the nature of a substitute, as modified, and amended, and adopted by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3660

Mr. WHITTAKER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3660.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 334

Mr. RINALDO. Mr. Speaker, due to a clerical error, Representative McCRERY was inadvertently included as a cosponsor of House Concurrent Resolution 334. I ask unanimous consent that his name be removed as a cosponsor of this resolution.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, because of an extended bout with kidney stones I was unavoidably absent from the floor during a number of recorded votes in recent weeks. Had I been present, I would have voted as follows:

On rollcall 131, I would have voted "aye."

On rollcall 132: "no."

On rollcall 133: "no."

On rollcall 135: "aye."

On rollcall 136, I paired my vote in opposition.

On rollcall 137, I paired my vote in support.

On rollcall 138, I would have voted "aye."

On rollcall 139: "aye."

On rollcall 140: "no."

On rollcall 141: "no."

On rollcall 142: "no."

On rollcall 143: "no."

On rollcall 144: "no."

On rollcall 145: "no."

On rollcall 146: "no."

On rollcall 147: "no."

On rollcall 148: "aye."

On rollcall 150, I paired my vote in support.

On rollcall 151, I would have voted "aye."

On rollcall 152: "aye."

On rollcall 153: "aye."

On rollcall 154: "aye."

On rollcall 155: "aye."

On rollcall 157: "no."

On rollcall 158: "aye."

On rollcall 159: "aye."

On rollcall 160: "aye."

On rollcall 161: "aye."

On rollcall 162: "aye."

On rollcall 163: "aye."

On rollcall 164: "aye."

On rollcall 165: "no."

On rollcall 166: "no."

On rollcall 167: "aye."

On rollcall 202: "no."

On rollcall 203: "no."

On rollcall 204: "no."

On rollcall 205: "no."

On rollcall 206: "aye."

On rollcall 207: "aye."

On rollcall 208: "aye."

On rollcall 209: "aye."

On rollcall 210: "aye."

On rollcall 211: "aye."

On rollcall 212: "no."

On rollcall 213: "no."

On rollcall 214: "no"

On rollcall 215: "no"

On rollcall 216: "aye."

And finally, on rollcall 217, I would have voted "no."

Mr. Speaker, I ask unanimous consent that my statement of personal explanation on these individual votes appear in the permanent RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from New York?

There was no objection.

REREFERRAL OF HOUSE CONCURRENT RESOLUTION 316 TO COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. **ROSTENKOWSKI**. Mr. Speaker, I ask unanimous consent that the concurrent resolution (H. Con. Res. 316) to express deep concern that the Japanese Ministry of Transport has imposed unreasonable and unjustifiable obstacles which have precluded Federal Express from implementing its small-package express service between the United States and Japan pursuant to the 1985 Memorandum of Understanding between the United States and Japan be rereferred to the Committee on Public Works and Transportation.

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois?

There was no objection.

HEARING AID COMPATIBILITY ACT OF 1988

Mr. **MARKEY**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2213) to require certain telephones to be hearing aid compatible, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Hearing Aid Compatibility Act of 1988".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology and medical science, hearing-impaired persons should have equal access to the national telecommunications network;

(2) present technology provides effective coupling of telephones to hearing aids by some severely hearing-impaired persons for communicating by voice telephone;

(3) anticipated improvements in both telephone and hearing aid technologies promise greater access in the future; and

(4) universal telephone service for hearing-impaired persons will lead to greater employment opportunities and increased productivity.

HEARING AID COMPATIBILITY REQUIREMENTS

SEC. 3. (a) Subsection (b) of section 710 of the Communications Act of 1934 (47 U.S.C. 610) is amended to read as follows:

(b)(1) Except as provided in paragraphs (2) and (3), the Commission shall require that—

"(A) all essential telephones, and

"(B) all telephones manufactured in the United States (other than for export) more than one year after the date of enactment of the Hearing Aid Compatibility Act of 1988 or imported for use in the United States more than one year after such date, provided internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility.

"(2)(A) The initial regulations prescribed by the Commission under paragraph (1) of this subsection after the date of enactment of the Hearing Aid Compatibility Act of 1988 shall exempt from the requirements established pursuant to paragrpah (1)(B) of this subsection only—

"(i) telephones used with public mobile services;

"(ii) telephones used with private radio services;

"(iii) cordless telephones; and

"(iv) secure telephones.

(B) The exemption provided by such regulations for cordless telephones shall not apply with respect to cordless telephones manufactured or imported more than three years after the date of enactment of the Hearing Aid Compatibility Act of 1988.

"(C) The Commission shall periodically assess the appropriateness of continuing in effect the exemptions provided by such regulations for telephones used with public mobile services and telephones used with private radio services. The Commission shall revoke or otherwise limit any such exemption if the Commission determines that—

"(i) such revocation or limitation is in the public interest;

"(ii) continuation of the exemption without such revocation or limitation would have an adverse effect on hearing-impaired individuals;

"(iii) compliance with the requirements of paragraph (1)(B) is technologically feasible for the telephones to which the exemption applies; and

"(iv) compliance with the requirements of paragraph (1)(B) would not increase costs to such an extent that the telephones to which the exemption applies could not be successfully marketed.

"(3) The Commission may, upon the application of any interested person, initiate a proceeding to waive the requirements of paragraph (1)(B) of this subsection with respect to new telephones, or telephones associated with a new technology or service. The Commission shall not grant such a waiver unless the Commission determines, on the basis of evidence in the record of such proceeding, that such telephones, or such technology or service, are in the public interest, and that (A) compliance with the requirements of paragraph (1)(B) is technologically infeasible, or (B) compliance with such requirements would increase the costs of the telephones, or of the technology or service, to such an extent that such telephones, technology, or service could not be successfully marketed. In any proceeding under this paragraph to grant a waiver from the requirements of paragraph (1)(B), the Commission shall consider the effect on hearing-impaired individuals of granting the waiver. The Commission shall periodically review and determine the continuing need for any waiver granted pursuant to this paragraph.

"(4) For purposes of this subsection—

"(A) the term 'essential telephones' means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids;

"(B) the term 'public mobile services' means air-to-ground radiotelephone services, cellular radio telecommunications services, offshore radio, rural radio service, public land mobile telephone service, and other common carrier radio communication services covered by part 22 of title 47 of the Code of Federal Regulations;

"(C) the term 'private radio services' means private land mobile radio services and other communications services characterized by the Commission in its rules as private radio services; and

"(D) the term 'secure telephones' means telephones that are approved by the United States Government for the transmission of classified or sensitive voice communications.".

(b) Section 710(f) of the Communications Act of 1934 (47 U.S.C. 610(f)) is amended by striking out the second sentence and inserting in lieu thereof the following: "The Commission shall complete rulemaking actions required to implement the amendments made by the Hearing Aid Compatibility Act of 1988 within nine months after the date of enactment of such Act. Thereafter, the

Commission shall periodically review the regulations established pursuant to this section.".

Mr. RINALDO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I will yield to the gentleman from Massachusetts, the chairman of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce, for the purpose of explaining the Senate amendment to H.R. 2213.

Mr. Speaker, but, before I yield, I would like to commend the gentleman from Massachusetts for his leadership on this issue and his cooperation in fashioning a bipartisan compromise on this bill. I fully support telephone compatibility with hearing aids; in fact, the gentleman from Massachusetts and I jointly introduced the substitute amendment to H.R. 2213 which passed the House. This bill was the result of constructive, bipartisan efforts, and I thank the gentleman for all his work on the Hearing Aid Compatibility Act.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, the Senate amendment to H.R. 2213 is minor in nature and consistent with the intent and objectives of the Hearing Aid Compatibility Act as passed by this body.

The Senate language explicitly empowers the FCC to revoke or limit exemptions of certain services permitted under this act. The bill as passed by the Chamber had implied this FCC authority.

In addition, the Senate version replaces the words "terminal equipment" with the words "telephones or new telephones" in section 3, paragraph 3 of this act, which gives the Commission authority to grant a waiver for telephones associated with a new technology or service.

I strongly recommend that this language be accepted.

I thank the gentleman from New Jersey and all the minority for the help they gave us in passing this bill.

Mr. RINALDO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2213.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, I ask for this time and for the purpose of receiving the schedule for the balance of the day and for next week.

At this time I would be glad to yield to the distinguished majority leader for the schedule of the balance of the day and next week.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican whip for yielding.

Mr. Speaker, we have completed the legislative program for today and tomorrow, as previously announced, the House will not be in session.

We will convene at noon on Monday, August 1, consider the Consent Calendar and three suspensions under the suspension of the rules.

Recorded votes on suspensions will be postponed until Tuesday, August 2. The suspensions are:

H.R. 4310, Record Rental Amendment Act extension;

S. 2385, to agree to Senate amendments to the Community and Migrant Health Centers Amendments of 1988; and

H.R. 4699, Computer Matching and Privacy Protection Act 1988.

On Tuesday, August 2, the House meets at noon to consider the private calendar and H.R. 1414, the Price-Anderson Amendments Act, 1 hour of debate in the House.

Then we will, as I have said, consider any recorded votes ordered on suspensions postponed from Monday, August 1.

On Wednesday, August 3, the House will meet at 10 a.m. to consider the House Resolution 499, a privileged resolution impeaching Judge Alcee L. Hastings, U.S. judge, and H.R. 4352, the Omnibus McKinney Homeless Assistance Act, subject to a rule.

Members should be advised that in all probability we will call up the conference report on the Japanese-American relocation.

Mr. LOTT. If the gentleman will yield, I did not quite understand. You do expect the Japanese internment conference report on Wednesday, August 3?

Mr. FOLEY. August 3, Wednesday, following the impeachment resolution.

Mr. LOTT. And before the homeless bill?

Mr. FOLEY. Yes.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. If I may reclaim my time.

Mr. FOLEY. If the gentleman will allow me to complete the schedule and then I would be happy to respond to any questions.

On Thursday, August 4, the House will meet at 10 a.m. and consider H.R. 4333, Miscellaneous Revenue Act of 1988 subject to a rule. On Friday, August 5, the House will not be in session. Of course conference reports may be brought up an at any time and any further program may be announced later.

Mr. LOTT. If the gentleman will allow me to ask a couple of questions. One of them: We had thought earlier that perhaps the so-called 48-hour bill out of the Intelligence Committee would come up next week, possibly on Wednesday. It is not on the schedule now. Mr. Speaker, does the gentleman have any information on when that bill may come up?

Mr. FOLEY. I think it is likely that the bill will be scheduled as one of the early matters for consideration when we return in September.

Mr. LOTT. We certainly appreciate that information and the gentleman's consideration as to when that legislation will be scheduled.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the distinguished majority leader if he can gave us some idea of the potential scheduling of the Canadian Free Trade Agreement which the gentleman himself introduced recently. There is some urgency about it but there are a large number of committees to coordinate. I would be obliged to him if he could tell us when that might come up.

Mr. FOLEY. If the gentleman will yield further, responding to the gentleman, we will be scheduling the legislation either on the 10th or 11th of August or the week of return after the recess. It will be scheduled either the week of August 8, 9, 10, or 11, or on August 10 or 11, or on the week we return. It will be very promply scheduled for consideration by the House.

Mr. LOTT. I thank the gentleman.

Mr. Speaker, I yield the balance of my time.

ADJOURNMENT TO MONDAY, AUGUST 1, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. McMillen of Maryland). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FLAWS IN AMERICA'S HEALTH CARE SYSTEM

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, just yesterday the Wall Street Journal had an interesting article on some of the gross and painful flaws in the American health care system. Our health care system is probably, for most people most of the time, the best in the world. But for a couple of hundred thousand people who are seriously injured or who die as a result of physician error and inadequate hospital care, the system is a failure.

Let me just read one paragraph from this Wall Street Journal article. "The problems" of our health care system "are manifold: Bad diagnosis. Unnecessary surgery. Overprescribing or misprescribing drugs. High rates of hospital infection. Lab-test errors. Faulty medical devices. Alcoholic or drug-addicted doctors."

Mr. Speaker, for the 5 or 6 percent of people in our hospitals who pick up serious infections, what we call nosocomial infections from the hospital that they did not bring in, this is a pretty poor health care system. For the 20,000 patients in our society who have mentally incompetent, alcoholic or drug addicted doctors, it is a painfully inadequate health care system.

Overhauling the health care system is going to be one of the major priorities of the next administration, and Congress ought to get its act together and help in that job.

The Wall Street Journal article I referred to follows:

HEALTH HAZARDS: HOW MEDICAL ADVANCES OFTEN WORSEN ILLNESSES AND EVEN CAUSE DEATH

(By Alan L. Otten)

Medical literature now calls them "adverse medical outcomes," "potentially compensable events," even "therapeutic misadventures." The traditional term is "iatrogenic." By any name, though, the problem is critical: injury and illness caused by doctors, nurses, hospitals, labs and other health-care providers.

Unquestionably, American medicine daily accomplishes new miracles—saving lives that never before could have been saved, repairing damage that never before could have been repaired, successfully treating illnesses and accidents that never before could have been treated. But along with the miracles come mishaps, sometimes fatal. And the problem may be growing.

"When we review all admissions at a particular hospital, somewhere between 1% and 5% of the patients will have had an occurrence involving poor or questionable care," say Joyce Craddick, a pediatric cardiologist who heads Medical Management Analysis International Inc., a medical risk-management firm. "Some may be minor, but some result in death."

MANIFOLD PROBLEMS

The problems are manifold: Bad diagnoses. Unnecessary surgery. Overprescribing or misprescribing drugs. High rates of hospital infection. Lab-test errors. Faulty medical devices. Alcoholic or drug-addicted doctors.

"Unless you abolutely need them, doctors are good people to stay away from and hospitals very good places to stay out of," says Eugene Robin, a Stanford professor of medicine and frequent critic of his own profession.

DISAGREEING WITHOUT BEING DISAGREEABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Brooks] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, as a Member of this body for over three decades, I cannot permit an exchange that occurred during yesterday's special orders to go unchallenged. Two Members of the minority took the floor to offer what they billed as an "analysis" of Governor Dukakis' acceptance speech at last week's Democratic National Convention. As might be expected, they found little that they agreed with in the speech or the other proceedings of the convention.

Now, I have no quarrel with the use of a special order for a partisan political dialog of this nature. I am sure that we will see a great deal of political rhetoric coming from both sides of the aisle between now and the end of this session of Congress. Political speeches come with the territory. They are sometimes entertaining and can even on rare occasions be enlightening. There's no harm in them.

What I do object to, in the strongest possible terms, is the intemperate, unfair, and utterly inappropriate personal references that one of those Members resorted to with regard to several participants in last week's convention activities, including the treasurer of the State of Texas, a Member of the other body, and even members of Governor Dukakis' family.

Mr. Speaker, there's an expression, which is probably as old as politics itself, about "disagreeing without being disagreeable." Every day we are in session, the Members of this body engage in vigorous and sometimes heated debate on important matters of public policy. We fight hard because we believe deeply that our own viewpoint is correct.

In my opinion, however, what went on yesterday goes beyond just being disagreeable. References to a person's past medical problems or to the personal lives of other individuals—especially if they are in the public eye only because of their relationship to somebody else—have no place on the floor of this House. They constitute an abuse of the privilege of speaking under special orders. Such personal attacks are an affront to the dignity and decorum of this body, and I would hope that we would all commit to conducting ourselves on the floor only in a way that lends honor and respect to this House.

□ 1645

REGARDING OCTAVE CHANUTE'S AVIATION EXPERIMENTS IN GARY, IN

The SPEAKER pro tempore (Mr. McMillen of Maryland). Under a previous order of the House, the gentleman from Indiana [Mr. Visclosky] is recognized for 5 minutes.

Mr. VISCLOSKY. Mr. Speaker, the recently released Chicago Airport capacity study hailed the airport in Gary, IN, as the most promising site for a third major airport in the Chicago area. Compared to 14 other sites, the Gary location was praised for its potential economic impact, market accessibility, and political backing.

Many aviation experts have been surprised to learn that Gary possesses a facility with the potential to play a vital role in the future of American aviation. Observers may be more surprised, however, to learn that Gary played a significant role in the early history of aviation.

The phrase "history of aviation" instantly calls to mind the names of Wilbur and Orville Wright. Before them, however, came Octave Chanute, an aviation pioneer who worked in what is now Indiana's First District.

Chanute performed most of his flight experiments along the sand dunes on the southern tip of Lake Michigan in Miller, a community in Gary, IN. It was here that he developed the glider which was to be an important model for the Wright brothers. Chanute chose Gary as the ideal site for his experimentation for several reasons. According to Chanute "the soft sand was a great advantage to the safety of his flights." Additionally, he valued the fact that the location was near Lake Michigan, which he felt provided additional safety for experimental flights.

Octave Chanute, who began his actual flight experimentation at the age of 60, should be credited greatly with the development of modern man's easy access to flight, just as the Wright brothers credited him for his careful experimentation and advice.

Chanute's great concern as an aviation pioneer was not instant success. Rather, he dedicated himself to designing stable aircraft and ensuring safe flight. With this in mind, he carefully chose Gary, IN, as an ideal site.

Today, of course, it is no longer necessary to plan an airport's location on the basis of an area's abundance of sandy dunes. However, as plans continue for a third major airport in Gary, Chanute's dream of conquering the air takes on renewed significance.

Chanute thoughtfully chose Gary, IN, as the site for his flight camp because he realized the many benefits of its location, and he saw the many opportunities it provided. Nearly a century later and with a nostalgic glance back into aviation's history, today's airport planners should consider Gary the ideal sight for Chicago's third major airport. It will be, just as Chanute's research was, a great benefit not only to northwest Indiana, but to all aviation as well.

COIN DESIGNER SUGGESTS THAT WE LEAVE COINS ALONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, should Congress decide what designs should appear on coins? Proposed legislation in both the House and Senate allude to themes of designs which should be displayed on coins in the event that coin designs are changed. I have voiced loudly my opinion that coin design changes are unnecessary and wasteful. I also strongly question the ability of the Congress to choose appropriate, artistic themes for designs.

Designing coins is an art which requires creativity as well as technical expertise. The designs are struck into metal. This creates the need for a design which will remain clear and strong after the impact of the die, the attachment to minting equipment which actually stamps the design. The type of metal used in a coin must also be taken into consideration, since metals differ in characteristics such as malleability.

The process of minting a coin with a new design is long, complex, and potentially very expensive. One does not simply redesign the die and expect it to work immediately. Trial and error is the only method to achieve the desired result. Mint Director Donna Pope explained this process during Senate hearings on coin design changes earlier this year. To give an idea of the number of dies which might be needed, Mrs. Pope points out that minting pennies will require the use of over 27,000 dies this year, with each die costing around $35.

Mrs. Pope continues:

To operate efficiently and cost effectively, it will be necessary for a new coin design to achieve a long die life. Coin presses must be shut off to change a die; low die life will reduce coin production rates, in addition to the die cost. The production of coin dies is a lengthy and expensive process.

Once art work is selected, clay and plaster models must be hand sculpted, the design must be reduced to a master hub, master dies are then prepared, and finally trial strike dies are produced. Finding the right combination of relief, crown, and sharpness of detail is not an exact science. If the trial strike fails, this process must be repeated until successful. After a successful trial strike, a larger number of dies are tested in a limited production run. If the die life is unacceptable, the process may have to be repeated.

Obviously, a large margin for error is needed in planning a coin design change. Requiring that certain themes be included in design changes would further complicate a proposal which already has the potential to be tremendously costly. This concern is shared by others in the field of designing coins. Mr. Marcel Jovine, president of the National Sculpture Society, fears that current proposals for themes on coins will be very difficult to use. I would like to share with my colleagues a letter from Mr. Jovine to the editor of Coin World, a numismatic publication. This expert on designing coins sees real problems with the proposals for coin design changes. I hope that my fellow Members will take heed.

[From Coin World, June 22, 1988]

NO ART BY COMMITTEE

(By Marcel Jovine, President, National Sculpture Society)

As a sculptor and medalist and also as the proud winner of the competition for the design of the $5 gold coin honoring the Bicentennial of the Constitution and the reverse of the $5 gold coin honoring the American Olympic athletes, I have been following with great interest the various proposals, debates, discussions on the redesign of the U.S. coins.

On the front page of the *Coin World* issue of June 8th, an article by your Washington correspondent, Mary Youry, reports an amendment by Sen. [Alan] Cranston, D-Calif., which suggests that the Secretary of the Treasury consider constitutional concepts such as:

Freedom of speech and assembly, freedom of the press, right to due process of law, right to trial by jury, right to protection under the law, right to vote, and separation of powers, including independence of the judiciary.

These are suggested appropriate design themes.

In addition, an amendment offered by Sen. Phil Gramm, R-Texas, adds to the list:

Freedom of religion, limited government, sanctity of private property, freedom of economic enterprise including the right to engage in interstate commerce, federal system of government including the rights of states, and the right to bear arms.

These are additional topics to be considered.

I would propose that both senators sit at a drawing board and put down on paper in graphic form, their proposed concepts for a coin design in a strong, unmistakable image, simple and direct, to the point, and all to fit within the small diameter circle of a coin (how about a dime?).

When lawyers and politicians become designers, I hate to think of what the new coins will look like.

Sen. Gramm: How would you design a "nickel" with the right to bear arms? I would be most interested in seeing a rough sketch of your interpretation.

If all this is an indication of things to come, I am inclined to propose that we leave our coins as they are. May I make my suggestion? Let's place an elephant on one of the coins, not as an emblem of the Republican Party but as an emblem of the results of design by committee. Or how about a platypus?

MARCEL JOVINE,
President, National Sculpture Society.

INTRODUCTION OF A BILL TO REVISE NONFAMILY RELATED IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I am today introducing, along with the Honorable ROMANO L. MAZZOLI, legislation to revise portions of our system of legal immigration, increase the level of immigration and create an independent category for so-called new seed immigration.

I should state at the outset that I do not propose any changes to our system of family reunification.

Last Congress, the Immigration Reform and Control Act addressed the issue of undocumented aliens entering the country. As the chairman of the bipartisan, blue-ribbon Select Commission on Immigration and Refugee Policy, Farther Hesburgh stated:

We had to close the back door on illegal immigration in order to keep the front door open for legal immigration. It is now time to ensure that the front door is "kept open" by taking this necessary second step toward achieving the goal of comprehensive immigration reform.

The cornerstone of our immigration policy is family reunification and I have been a strong advocate of maintaining the ability of U.S. citizens and permanent residents to have their loved ones join them in the United States. My support of this laudable objective is unwavering.

The principle of family unity must remain the primary basis of our immigration policy. My philosophy in this regard stems from my own immigrant heritage and the proud immigrant tradition of this country. That tradition has served this country well, and in the words of the Select Commission:

The reunification of families serves the national interest not only through the humaneness of the policy itself, but also through the promotion of the public order and well-being of the Nation. Psychologically and socially, the reunion of family members with their close relatives promotes the health and welfare of the United States.

Many have recognized that the United States has the ability to sustain increased levels of immigration so long as everyone has an equal opportunity to immigrate. For this reason, my bill will increase the annual level of immigration and insure that close family members of U.S. citizens will continue to be exempt from numerical ceilings.

To encourage new seed or nonfamily immigration, my bill creates a new independent category with 150,000 annual visas encompassing three categories of intending immigrants: First, those of exceptional ability and members of the professions: 50,000 visas; second, skilled and unskilled workers, investors and retirees: 50,000 visas; and third, new seed immigrants based on a point system: 50,000 visas.

I should add that the concepts embodied in my bill relating to family reunification, numerical exemption for immediate relatives and the creation of an independent category were all supported by the Select Commission on Immigration and Refugee Policy on which I served.

My bill also provides flexibility in the number of independent visas available by establishing a National Commission on Independent Immigration which will review the impact of immigration under this new category and recommend levels of admissions based on labor market conditions and other economic indicators.

In order to advance the fundamental and important objective of family unity, my bill also provides 800,000 visas for the close family membrs of legalized aliens. I would note that the House has already expressed its support for the unification of families or persons who benefited from legalization by passing legislation to prevent the deportation of these family members from this country. In fairness to those second preference immigrants already qualified and registered, my bill also provides 200,000 visas over a 2-year period to clear backlogs in that category.

Finally, the bill extends the program established in the 1986 Immigration Reform and Control Act which allows additional immigrant visas for countries disadvantaged by the 1965 immigration law repealing national origins.

In summary, the bill retains existing law with respect to the principles of family reunification, but at the same time acknowledges the need for expanding the opportunities for immigration by the so-called new seed.

Mr. Speaker, during consideration of the landmark 1986 immigration bill, I stated that before any changes could be made to our system of legal immigration, we had to consider the impact of the 1986 legislation and the legalization program established under it. The Senate has already passed its comprehensive revisions of that system by an overwhelming margin. The Immigration Subcommittee, so ably chaired by the distinguished gentleman from Kentucky [Mr. MAZZOLI], has already held several days of hearings during this Congress on the subject of legal immigration. It is expected that the Judiciary Committee and the Immigration Subcommittee, will review this proposal and proceed to markup in an expeditious fashion.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last Thursday I spoke out on the occasion of my introduction of a bill that would impose a 100-percent tax on the less than 1 year stock turnover or transaction, pointing out that we are living in a very, very frenetic way and have apparently not slackened those forces that contributed mightily to the stock prices last October 19.

I also pointed out as an example that we have had such hot speculative turnovers reflected in these speculative acquisitions and rapid turnovers to the point where even Treasury M bonds are being held on an average of only 20 days, about 20 days on an average. This is an awfully frenetic and explosive type of activity that ought to be controlled. So, therefore, a 100-percent tax on less than 1 year transactions in that area of activity would, I think, settle that. I think that would cure the matter.

So I introduced the legislation. I discussed some of the aspects of it very briefly. However, in previous remarks I pointed out the overarching situation and environment which have led to what I consider to be a very precarious situation. This morning the Chairman of the Federal Reserve Board, Mr. Greenspan, made his appearance with respect to monetary policy in his report that he occasionally gives to the Congress when he comes here. He had appeared before the Senate committee earlier, so his presentation today was exactly, almost word for word, what he had given the Senate.

However, he read his statement, and then I listened to his summary that he presented to the Subcommittee on Monetary Policy. Incidentally, I do not belong as a member of the subcommittee, but as a courtesy we had all been invited as members of the Banking Committee, and as the ranking member of the Banking Committee, I have the option of sitting in, and I did. And I was more than ever troubled by what appears to be the psychology among the people in power, the regulators as well as the administrative branch of our Government, and perhaps even to some extent reflected in our own deliberations in an election year, and that is that we can whistle past the graveyard until November, believing that things should hold together until November.

This morning the chairman remarked in addition to his prepared text. He had some contradictory statements. In his oral ad hoc or sidebar remarks, he said that whoever came into power this next year, meaning after November, was going to have a real, real problem, a headache.

Now, what did he mean by that? What kind of a headache? Why is the problem now any less or more severe, or why should it be of concern to us less than what he anticipates as something that is inevitably happening come this next year?

The Congress, as I have been saying since I arrived in the Congress 27½ years ago, has since 1923 not exerted its proper jurisdiction over the Federal Reserve Board. As a matter of fact, the Federal Reserve Board, as it now is and has conducted its business mostly since 1923, when the so-called Federal Open Market Committee was more or less created by indirection and which in effect controls the fiscal and monetary—which means economic—well-being of our country and its destiny, has no accountability because the Federal Reserve Board is not a Federal agency, believe it or not. It was created by the Congress, but in operation it is not accountable to either the Congress or the executive branch, even though the President can, through his appointing power, to some extent exert some kind of control.

It is like the President's power in appointing a member of the Supreme Court. To what extent can he control the thrust of activities of the Court if a President happens to have, through tenure, enough power to have appointed a substantial number of a majority of either the Court or the Federal Reserve Board?

That sounds incredible to many of my colleagues when I say this, and especially to many of my fellow citizens throughout the country. But it is true.

I have been privileged to serve on the Banking Committee since I came here, as I said, about 27½ years ago, and I can say that I have watched a total of about eight Chairmen of the Federal Reserve Board. That in itself speaks something, because just between the middle 1960's and the 1970's we had quite a bit of flux in that area. We had a succession of Chairmen of the Federal Reserve Board, especially in the late 1970's.

Now, if we look at the history of the chairmanship and at the tenure of Chairmen since the enactment of the Federal Reserve Act in 1913, we will see that there was a lot more stability in that tenure. Now, why has this situation arisen where a body of men, all coming from one highly selective area of American society, that is, the banking industry, which in turn is actually really in the control of the seven, eight, or nine biggest financial institutions in the country?

Mr. Speaker, I do not have any kind of a prejudice against the rich or against power as exerted by human beings as long as there is accountability, because the long train of history of human existence shows that where there is power and no accountability you inevitably have a corruption of that power. I think that we are now wallowing in very serious problems, some of which now are beyond our control, and that includes this powerful agency known as the Federal Reserve Board.

From the statement that was presented in writing today and the contradictory terms the Chairman was using on the other hand, yes; the Fed can control aggregates, what they call aggregates.

Now, that is one trouble with this subject matter. So many people consider it like mathematics, that it is something esoteric, something beyond the ken of the average citizen. And that is such a mistake, because if it is indeed that, then we have lost all hope for our democratic participatory system of doing things and our long, proud boast that the basic principle of America has been that we, the people, know and have the discipline sufficiently to govern our own selves and we do not have to have a master set of leaders to tell us what is best for us, that in the long run the people through their elected agents know what is best for themselves, as contradistinguished from what a unitary or an oligarchic select power can do in the short run or in a given instance.

□ 1700

Now our system has up to now provided and did so up until this hallowed, sacrosanct institution became so hallowed, and so sacrosanct and so removed from control that it is not accountable to Congress or a President. The Open Market Committee can through its secret deliberations, and they do not publish what they did until from 2 to 3 months after the decisions have been made. They have the power to decide whether or not an administration can fall or rise just simply because through their control of such things as the purchase of Treasury yields and such things as Treasury bills and the determination of interest rates thereon can determine the rise or fall.

Now this used to happen in Britain until after the war when this kind of power was taken from the Exchequer, and it was then under some control and accountability. But entire governments used to be caused to fall or rise by the decisions made by a handful of men in the Exchequer.

Now we still have not reformed. In order to conform to the American tradition of having an accountability for power given so that today with this growth of unaccountable power and in a highly complex and shortened or contracted world we now find that even the Federal Reserve Board can no longer determine for itself and within itself such things as interest rates because we have external forces now that impact on us to such an extent that, not having any control over these external forces, we are at the mercy of these forces that may or may not be in consonance with the national best interest, the greatest interest of the greatest number, so that I pointed out that last week that the buyers and the sellers of what we call the stock futures—now all of these ventures and manipulations are fairly recent growth.

I spoke on the subject matter over 15 years ago because it was obvious that we were beginning to emerge into an area in which there would be a lot of instability. Now in financial transactions, whether domestic or international, instability is the big enemy. So, when you have these wildly fluctuating interest rates and particularly at a time when a good chunk of our country's economy is dragging, if not in a depressed state, such as in my area in the Southwest, the volatility of the interest rate can be that gasoline thrown on that flame. It is just that detrimental.

Just 8 or 9 days ago there was an announcement that the prime interest rate had been increased, I believe, by about one-half of 1 percent, if not a little bit more, and it has an immediate and a catastrophic effect on those efforts being made to try to keep some kind of normalcy or at least some kind of an effort to prevent a serious deterioration and a real crisis so that this morning, when the Chairman of the Federal Reserve Board says on the one hand, "Well, we had to do something," meaning jacking up interest rates because of the heated economy, inflation, well, I do not know where these great economists and financial panjandrums go to determine that inflation has been controlled.

If we are talking about rents and house payments, who among my colleagues can report anything but gradual and sustained increases in this element that is one of the three vital needs in human existence, shelter?

Food: I go to the grocery store. I do not see any deflation in grocery prices. As a matter of fact, here in Washington, at least up on the Hill, you still have to pay more than 40 cents for just one apple or one orange of any consequence, but more for vital staples. There has been no deflation in that inflation rate.

So, what are we talking about? If the basic cost of living is still inflated, what was the price index 10 years ago, 15 years ago compared to today?

Well, the economists would not talk about that because they cannot make the case for this illusory well-being that is supposed to be permeating our country, but the facts and the statistics are what we have to go by if we are going to cut through to the illusion.

Mr. Speaker, the facts and the statistics show that while we have not controlled the cost of living, the average wage earner has been steadily losing 6 percent of his wage net earnings, especially during the last 4 years and continuing downward as I am talking here today. Six percent for the average wage earner in our country.

So what is it we have won? We have lost a million manufacturing jobs in just 5 years. That is the real instrument that had enabled our impoverished minorities from the South to move up and work in the steel mills in Gary which are now today the Rust Belt, the producing and the stoking of the engines of production of manufacturing since 3½ years ago. We are now an importing Nation. We are no longer a producing Nation, and that is what is reflected in this loss of 1 million manufacturing jobs.

Yes; the administration and its sophists, apologist economists say that we have more jobs than ever available, but where are they? Which ones are they?

And we have now become inured to accepting a 6- to 6½-percent unemployment rate. That is considered normal. Well, just 10 years ago we would have considered that so abnormal that we in the Congress structured programs for work study, for retraining, job retraining programs, but all of those have been abandoned. They practically have been liquidated.

So where are we in real terms of economic well-being?

Plus, the crisis in our financial institutions. I had intended to be an observer this morning when the Chairman came over, but, after he mentioned that, well, there were two things he did not want to talk about. One was taxes, and the other was the financial institutional crisis other than that everyone that he meets regularly with were the regulators. That is the Chairman of the Federal Home Loan Bank Board, the Chairman of the Federal Deposit Insurance Corporation.

So what I did say is, "Well, I think you ought to know that you've got to think, and the Congress has got to, and I think the sooner, the better. Think and talk about taxes and Texas." And I said, "Mr. Chairman, if you met with these regulators and they tell you what the truth is, then they will explain why they came up, the Home Loan Bank Board Chairman did, and so did the FDIC Chairman, but particularly the Home Lone Bank Board chairman."

And the night before he was going to testify before a committee he upped the size of the home of the depressed conditions of the savings and loan institutions. In Texas alone he had to revise upward twice over, 100 percent. In the case of the national he revised it from 23 billion to 24 billion. But even then it is in bad and dire need of revision.

In Texas alone it is going to take almost $40 billion if the situation is going to be addressed, if we are to preserve the system of deposit insurance as a concept and as a program.

Now I do not think the Congress is going to allow that to go under, but let me tell you now, the insurance fund is broke. In Texas alone there is not enough money to take care of those institutions that are dead, stone dead, but have been put together. They have been stitched together, all of these corpses, and apparently rescued by FSLIC by what? By an illusory plan saying that at least they will try to keep them as viable institutions, but they are losing money. Those that they put under management confinement are losing money.

In the meanwhile there are some of these managers that are earning as much as $100,000 a month, and they are not turning those institutions around.

Mr. Speaker, I am worried about the depositors. I am worried about the average little wage earner, that home owner, that family that depends on the fixed income but who manages to save a little, puts it in these institutions with the assurance that their deposits, if they are not over $100,000, are protected. I think we have got to face reality as much as we like to say otherwise, and that is that they are exposed and that sooner or later this Congress is going to have to move in and save this crumbled institutional situation.

Now, on top of that, it goes to that which I have been solely concentrated to on top of education generally since I found myself involved in politics 35 years ago first serving on the local city council of San Antonio and then 5 years in the State Senate of Texas. And that is home ownership.

The State of Texas, for instance, one of the proudest things of this great Lone Star State is that even at the time it was the Republic of Texas for 10 years, 1836 to 1846, and the treasury was broke in the State's capital, they did not even have $50. And that was the ever-present threat of Mexican cannons coming across and reinvading. But even with that they would not let the land speculators, even by the great leaders such as Stephen F. Austin, sell away that heritage of eminent domain, of public land. So, in the words of the first president of the Republic of Texas, or the second one, Mirabeau Lamar, he said, "No, we will set these lands aside in trust for all your generations so that they can acquire education from the lowest to the highest grades."

And they did, and even the Constitution of 1875 in Reconstruction provided for the homestead exemption. It provided for this vast trust fund of these public lands.

But those were men who cared. Those were men who had principles. Those were men who gave priority to those principles.

But then through the years and with the discovery of oil on these public domains what has happened? So that as of the last session of the legislature, just less than 1½ years ago, the State legislature jacked up the tuition fees of State-supported colleges and universities 300 percent.

When I was on the State senate and the attempt was made to jack it up, I filibustered every one of the attempts, thre in all, and kept them from raising those tuition rates. I had not been in the Congress 1 year before they jacked them up 50 percent.

Now why? Because the history shows that these were the key elements of progress. We are talking now about the quandary we are in in defense.

But why? Up until recently the President was talking very harshly about Soviet socialist republics being the empire of evil and the No. 1 emeny and all of our defense posturing was based on that being an inveterate enemy.

□ 1715

Now, all of a sudden, no, perhaps not, but we have got a budget and we are taxing the American people and taxpayers $315 billion for a defense budget, but that budget is predicated on a 1947 Europe where we still have 320,000 troops stationed permanently in a world that has gone forever from what it was in 1947 and 1948.

In the meanwhile, those countries in Europe, as I have reported in prior speeches, have gotten together based on their plans of 1947, the creation of NATO, the creation at the Treaty of Rome and the conference of Rome of what they visualized, and it looks like it will come into being in about 3 years, a United States of Europe. They have now developed, as I have been the only one in the Congress to report, the European monetary system, the European currency system, which is now in place. The European currency unit is worth $1.25. It is used interchangeably. You travel through most of those countries today and where you used to have a passport to go from Belgium or over to France, today, no. Now if a student wants a scholarship to go study in Italy from France or Belgium, Brussels or Berlin, he can get a stipend through the European Community of about some 5,000 ECU's which means 5,000 times one and a quarter dollars.

So where are we? Are we considering these things? What impact does that have on us?

Well, the immediate impact has been, ironically, that we are back in the old mercantile system where Britain, the mother country, was holding the Colonies as a raw producer of materials, would not let them manufacture anything. If a colonist wanted to set up a little mill or do some manufacturing, they were prohibited. This was one of the basic reasons for the Revolution.

Well, today that is where we are, plus the added danger that the only thing that has been keeping the Reagan economy going, which they inappropriately call prosperity, on borrowed money from these investors who now have invested just in our own Government securities over 30 percent.

Is that good, I must ask my colleagues? I do not think so. As much as some defend it, I think when a country and its people loses control of its own economic destinies, we are in trouble.

But how did that come into being? It came into being because by attrition certain things happened where we lapsed. One of those was for instance in the development of this tremendous military industrial complex that President Eisenhower so much warned us about to the point where today in the New York Times on this Thursday, July 28, on page A-20, there is an article, "Honesty Called Impossible In Pentagon Bidding System." David Packard, former Deputy Secretary of Defense, talking with R. James Woolsey, former Under Secretary of the Navy, testifying before the Armed Services Committee which is investigating purported irregularities in defense procurement.

Well, what has that got to do with the economic and the financial and the fiscal structure? Well, it has everything. It is all interconnected. If the Congress allows those safeguards that had been built up during time of war and in the postwar period of the so-called cold war era in which Government procurement was beginning to inordinately increase in defense procurement and those watchdogs, such as the Renegotiation Board, were allowed to be fueled by these very interests but always had fought against that cop on the corner, so to speak, should we be surprised that we have these scandals?

I think it is horrendous when we have these former powerful national leaders, great administrators of defense, but who themselves are in the defense industrial business, come and tell us, "Why, you can't have honesty. It is impossible in the Pentagon bidding system."

That is nonsense, just as it is nonsense for the Chairman of the Federal Reserve Board to come and tell us this morning that maybe everything could hold together if we could use Rambo legislation, which is what I call it, such as Gramm-Rudman, which has never worked, will not work, cannot work, and probably never was intended reasonably to work.

As I pointed out in my remarks, in the first so-called reduction in the debt scheduled the first after the March 15 deadline date of that first quarter, we were supposed to have cut $15 billion, but I pointed out, wait awhile. You might have decreased the debt $15 billion technically, but today on March 14 you had to pay $30 billion more in interest to service that debt. So how are you ever going to reduce it? If you reduce $15 billion, but you have to pay $30 billion more, that leaves you a $15 billion deficiency, and growing, because interest rates are compounded.

Now, why is that? Well, I have been saying since I came to the Congress, I asked one question of every single Federal Reserve Board Chairman, "Why is it that President Roosevelt at the height of a World War never had to pay more than 2-percent interest, even though the Government was borrowing like never before in its history, and where we were using 46½ percent of our gross national product on the Federal level for the prosecution and eventual winning, at least the hot aspects of the war"; because by way of parenthesis let me say that my thesis is that World War II has not ended. We have 320,000 troops in Germany alone permanently. We have over 45,000 in Korea and we are beginning to see in Korea there are manifestations where they want to reunify North and South Korea and they do not want Americans around.

Now, are we going to face the reality of the world today? I do not know. All I know is that I have been saying by way of parenthesis that World War II has not ended. There is no peace treaty yet to end World War II, but yet when you read what is being said and done and written in such countries as Germany, in such countries as the middle European countries, they talk about someday having a peace treaty in which, for instance, in the case of Germany they can negotiate the return of two provinces if they reunify the Fatherland, which is the underlying passion, and which I myself have said for years we must anticipate, and by anticipating have an orderly way to bring about in accordance with our own best national interests.

Are we going to have the same thing happen in West Germany as it is happening now in Korea, where we are looked upon as occupiers?

Now, I know it seems to me incredible, and I have said so time after time ad nauseam since this administration's involvement in a military way from the beginning, never giving diplomacy a chance in Central and South America, because there, there is no question about it, anybody who knows the area, anybody who has been in contact with the spokesmen for the people in that area will tell you that even in Honduras, in which we are in occupation, as I said here in open debate about 10 days ago, we are occupying Honduras, but we have had violence against our soldiers. We have had manifestations of violence against our Embassy, and when you talk to the upper middle class, they say, "Look, really, we didn't ask for this presence."

What are the Europeans saying? Well, if we read the publications, for instance, of the European community, here is a statement of the former Prime Minister, Laurent Fabius of France. He says that at that time, meaning 1949 and the birth of NATO, because that was when the NATO Treaty was signed, and I am quoting:

> It was by no means clear that the American military role would ever go beyond providing naval support and strategic bombing capability. American troop deployment was justified as an interim measure until the Europeans could fend for themselves. Yet today there are 320,000 American troops permanently stationed in Europe.

Who is this man? This is one of the high officials of the European community, who was also Prime Minister for one of the member countries.

Now, we do not debate that. We do not have reports about that. We are still in our cocoon, conditioned by a world perception of a 1947 world.

With respect to Central and South America, I see that in the Congress and out of the Congress among our executive leaders, such as the Undersecretary of State for Latin American Affairs, there seems to be an unbelievable astounding for this age ignorance of the culture, the history and what is going on in those countries. There have been tremendous changes and metamorphosis in these countries south of the border.

Are we going to wait until these crises develop where we are going to be acting out of a reaction that is not good?

Now, I think that all these things that I have discussed, an ex-Secretary of Defense coming and saying, "Well, you know, it is really impossible to have strict honesty."

Well, that is unbelievable. That is like the Federal Reserve Board when obviously we had something go wrong some time ago and I raised the issue about the leakage that was supposed to have been coming out of the Open Market Committee by virtue of which a bank or two in New York had made unearned and tremendous profits.

So, after 1 year of imposing on the chairman of the committee, we finally got the chairman to say, "All right, we'll look into it."

Now, my colleagues, the Federal Reserve Board does not have an inspector general. When we have introduced an audit bill so that the Congress will have an audit of the Federal Reserve Board, and we have been introducing one, at least I have, for 25 years, you would think that we had insulted their names and mothers and everything else; yet when we had this rather scandalous situation, and I raised the issue, finally they said, "Well, we will have an in-House look into it in the committee."

They did, and they hired an attorney, but that attorney was the attorney for one of the banks involved. Finally, it took almost another year before we managed to say, "Well, what was the result of your review or study?"

In the meanwhile, the member of the Open Market Committee who had been more or less the one targeted as the source of the leak died. So here comes a report. I had that report printed in the RECORD and it was astounding. They admitted to the fact that information had in fact been leaked, but it was a mistake, a mistake had been made. It was not any conscious premeditated mistake.

Well, this kind of thing is to be expected and worse, because none of us in human existence are so strong that we can stand on accountable power without soon being corrupted. There is no way we can escape it. Even some of us who have minimal power in these political offices have to be on guard to constantly guard against the tendency to feel that we are superior just merely because we have been elected, that we have to be accountable, that we have to give reasons and try to report those reasons back for the voters, even when the people 2,000 miles away, the constituents, are unaware of these transactions.

□ 1730

Mr. Speaker, this is one reason that since I came to the Congress I have used what we call this convenience and privilege known as special orders, because it is on the record. It is not what I am saying now that I thought I said 20-25 years ago. The record is there, and it is very disturbing to me, because there is no man that has a higher sense of gratitude to this great country and its system without which the likes of me would have never been elected to anything and, yet, I have had the privilege to serve from the lowest to the highest representative legislative bodies in our system. I am grateful, and I am very, very jealous of making sure that I, in my time, do not diminish one iota this opportunity to those that will follow us. Yet, I am afraid we have.

I wanted to point out that other article in today's paper which is related because of the misconceptions as to what it is our system is about.

I doubt seriously that any American we meet today out of the context of this political business would say that the President was not superior to the other branches of the Government. If that is the case, then our system is not operating. In the New York Times, again today, on page A-12, it says "President Is Said To Order CIA To Press Actions To Oust Noriega." That was a frong-page story just a day or two ago in the Washington Post. That is supposed to be covert action. What is it that has confused our councils in the highest in our country? I think it is a higher power that in its ultimate justice says, "You have not been working justice. You will be judged as you have judged, and you must, even though you may not think so, eventually account."

What do we mean by covert action if it is reported on the front page of the newspapers? It is not covert action. It is overt-covert, if there is such a thing. What is it that has led us to this great, great obsession with Central America, Nicaragua, that has led our Presidents to violate our laws both national as well as international, his subalterns to do the same thing and violate our Constitution and try to steal our Constitution from us? I think the most awesome thing I have seen in recent history was Colonel North testifying before that joint congressional committee saying, "My highest responsibility, my main responsibility, my sole responsibility is to the Commander in Chief." He surely did not remember the oath of office he took as an officer of our services. That oath of office is the same as we take, and that is, first and foremost, to defend and protect the Constitution of the United States against all its enemies, both foreign as well as domestic, not to the President, but to the Constitution. Yet, I do not think anybody made note of that, to me, most tragic, saddening, significant development.

Today what are these covert operations? We want to knock out Noriega because he is a nasty character. I was one of two Members who voted against the resolution passed by this great body in February, I believe, in which I call these King Canute resolutions; the mighty House says, "Thou shalt not," somewhere, some other country, some people somewhere else. We became the laughingstock of the parliamentay world.

I remember another resolution we had before, after the death, the killing, of an American soldier in East Germany, and we had a hasty resolution saying, "We demand an apology within 30 days and, if not, the ouster of the Russian Ambassador." Even the State Department had to say, "Hey, no, look, we do not want that." Yet, the House passed it overwhelmingly.

Mr. Speaker, how far do we go in kind of sticking our heads in the sand and hoping problems disappear?

The United States is a great country. We have great leaders, if the people choose them, and if they are understood by the people, and if the leaders do not lead as we have not had them, then it follows that the people must push.

We are in a position of leadership here, as finite as we may be, 1/435 of a body, but it is still a highly, highly powerful and significant office, because in one of those sacred segments of America known as a congressional district, those good citizens have said, "We select you to be our voice and our vote in our national policymaking body, and we want you to raise that voice and register that vote untrammeled, unintimidated with favor and privilege to none." However, we live in a day and time when we are very privileged and we demand privileges and we expect privileges, if not cynosures.

Mr. Speaker, I say that the time has come, and my advice, as I say, to the privileged orders is that we have to take a look at the specifics. I have offered specific legislation such as the one at the beginning of today's discussion I referred to known as H.R. 4959. I believe that if I could somehow be endowed with that great ability through some magic fairy's wand to penetrate the level of consciousness of the majority of my colleagues, they would not adjourn today. They would stay here and say, "We had better look into this. Are these facts? If so, it is an emergency. We had better do something about it."

Are we having this high, volatile, explosively, potentially speculative fever in these high altars and sanctums of finance uncontrolled, running amok, heedless disregard to the public interest? Then we had better look at it.

Mr. Speaker, I ask that all of these two previous articles I referred to be placed in the RECORD at this point, and also another article today in the New York Times, page A-4, and it is amazing how these things kind of wind together. It says, "Brussels Journal: European With Mission: A More Perfect Union. When Jacques Delors sets off on his vacation this summer, he plans to take with him history books explaining how 13 squabbling colonies became the United States of America. Like a chess player, the president of the European Community's Commission advances one piece at a time, but beneath a cool and even shy exterior lurks a passionate visionary."

What is that—that by 1992 every piece will be in place for the United States of Europe, and as in the case of our own time-honored basic heritages, we are the Nation that developed the educational system which today is in danger.

Mr. Speaker, if Russia is an enemy, I have always said then we ought to study how. What did they do? How did they come out of serfdom in 50 years to the point where they can challenge us and take supremacy in such things as oil production and space exploration?

I tell the Members that I think one reason was they started a 17-year plan in 1940 to provide education opportunity for every Russian of all ages, young, old, middle-aged, worker, peasant or what-have-you, to go to school as far as his ambition and ability would conduct him. Immediately, the demand was so great they had to start a corollary 5-year program to build classroom space. The 17-year plan ended when? In 1957 when they put up Sputnik in October. They got that from us. They studied how America had developed ever since the last century's great educational leader we had, Horace Mann, who advocated that we have what Jefferson said was indispensible in a democracy, an informed and knowledgeable citizenry.

Who are we today? Today we have reduced every single incentive for a student that does not have the economic ability to go and stay in college gone, the programs we structured. I was coauthor of every one of them, the Elementary, Secondary School Act of 1965, the Higher Education Act of 1965, all of the other corollary programs, the Pell grants, and before that, the student loan-grants and all. I am coauthor of every one of those even though I have never belonged to the Committee on Education and Labor.

Mr. Speaker, if anybody ever says that government does not work, let me show the Members. We used to have a dropout rate in 1964, the year we passed the Economic Opportunity Act, the War on Poverty, the dropout rate among high-school students, Mexican-American youth, just that segment, in San Antonio was 80 percent. We passed those programs, we provided the other constellation programs such as neighborhood work-study, and we gave employment to those kids so they would not have to go out of high school and help support the family, and they stayed in. Then we had the other programs which helped them stay in college if they got to college and wanted to go to college, and they did.

In less than 8½ years the dropout rate had been turned around from 80 percent to less than 20 percent. Ever since, we have had a decline in these programs. Just within the last 3 years, that dropout rate has again gone up to almost 40 percent.

If any of the Members, my colleagues, have any questions, send them to me, and I will give them the statistics in this district that I have had the honor to represent as a laboratory.

Mr. Speaker, with that, I would like to offer that article on the "European with a Mission," also the one, "Honesty Called 'Impossible' In Pentagon

Bidding System," and one that appeared on July 12 in the Dallas Morning News on page 20, "U.S. Deficits Pulling Down World Economies, Could Cause Crash."

[From the New York Times, July 28, 1988]

BRUSSELS JOURNAL: EUROPEAN WITH MISSION: A MORE PERFECT UNION

(By James M. Markham)

BRUSSELS, July 27.—When Jacques Delors sets off on his vacation this summer, he plans to take with him history books explaining how 13 squabbling colonies became the United States of America. Like a chess player, the president of the European Community's commission advances one piece at a time, but beneath a cool and even shy exterior lurks a passionate visionary.

At their meeting in Hanover, West Germany, last month, the 12 leaders of the European Community paid the Frenchman a tribute, naming him to a second four-year term at the head of the organization's Brussels-based executive. Only Walter Hallstein of West Germany, the commission's first president, served a comparable stretch in office.

This has been a year of giddy successes for the European Community and for the 63-year-old Mr. Delors, a former French Finance Minister. At a gathering here in February, the 12 members finally agreed to cut their bloated system of agricultural subsidies, opening the way to the creation of a single market by the end of 1992.

Last month, community finance ministers adopted measures that will end all restrictions on the flow of capital in the trading bloc. And at Hanover, Mr. Delors, a Socialist, was put at the head of a committee of central bankers and other experts that next year will furnish what will amount to a blueprint for creating a European central bank.

HIS STATURE IS SOARING

As the European Community rediscovers an élan it has not known since the 1960's, Mr. Delors's stature is soaring. "There is a group of true believers who are persuaded that Delors is going to turn into another Jean Monnet," a diplomat said.

Like Mr. Monnet and Robert Schuman, two Frenchmen who laid the groundwork for Western European cooperation in the uncertain and hungry postwar years, Mr. Delors is convinced that political unity will come about only when economic union is completed.

But he is also a good enough politician to know that talking too much about political union can be counterproductive, particularly in member countries like Britain, Denmark and Ireland where concerns about surrendering national sovereignty run deep. This month he gave a speech to the European Parliament in Strasbourg saying the time was ripe to think about "a germ of a European government," but has dropped the theme for the moment.

"I put the milk on the fire like a good housewife," Mr. Delors said, retrieving a metaphor as humble as his own origins—his father was a low-level bank employee. "But I have to make sure that the fire does not go out, and the milk does not boil over."

A VERY EMOTIONAL MAN

A short, neat figure with a mellifluous voice, Mr. Delors has a habit of suddenly leaning forward in a leather chair in his 13th-floor office and making a point with a fervent intensity. A colleague calls him "a very emotional man, capable of great gloom when things are going wrong and elation when they are going right."

Yet a streak of austerity makes him shun grandstanding. "One will be judged tomorrow by what one does, not by what one says or believes," he said. "It is more important in this job to rally and convince than to shine. If you become charismatic, you bother the governments."

One politician Mr. Delors has thoroughly rallied and convinced is Chancellor Helmut Kohl of West Germany, who for the first six months of 1988 held the rotating community presidency. The towering West German Chancellor and the diminutive Frenchman were a skillful team at Brussels and Hanover, and Mr. Kohl was an enthusiastic champion of a second Delors term.

But another key to the recent breakthroughs has been Lord Cockfield, a 71-year-old British Conservative who for the last four years has been the commissioner in charge of outlining and then pushing through measures that will, bit by bit, eliminate all barriers to trade within the community over the next five years.

It is a strange alliance—the intense French Socialist and the bluff British Tory—but it has worked. In conversation, Mr. Delors ritually repeats that "Lord Cockfield and I" did this or that, so that the formulation almost becomes a variant of the first person plural.

THATCHER MAKES A CHANGE

Prime Minister Margaret Thatcher rebuked Lord Cockfield this week for going native in Brussels, declining to nominate him for a second term as one of Britain's two commissioners in Mr. Delors's 17-member cabinet. Mrs. Thatcher named instead Leon Brittan, a 49-year-old former trade minister.

The snub to Lord Cockfield means a distressing loss to Mr. Delors, who must now decide whether to give the important single-market portfolio to Mr. Brittan or to turn to another community country and candidate.

Navigating around Mrs. Thatcher is a fine art in Brussels, and Mr. Delors only rarely permits himself an on-the-record jab in her direction. He grumbled in a recent interview with Le Monde that "certain countries" had made their choice of commissioners without consulting him, and suggested that the next commission president should be given a selection of two or three names rather than be presented with a fait accompli.

There has been no love lost between the British Prime Minister and the French commission president since Mrs. Thatcher forgot to allow him to make an opening presentation at a joint news conference after a London summit gathering in 1986.

The fuming Frenchman remained mute after she steered a reporter's question to him, prompting her to joke archly, "Oh, Mr. Delors, I didn't know you were the strong, silent type."

THE TWO FATHERLANDS

Such indignities are the price of a job whose power hinges on an ability to persuade and build coalitions. But Mr. Delors's political horizons are not limited—if that is the right word—to Europe; he remains a prominent personality on President François Mitterrand's Socialist bench.

Pragmatic Socialists are much in demand in Paris. For the moment one of them, Michel Rocard, is France's Prime Minister, but should he falter many believe that President Mitterrand might well summon Mr. Delors from Brussels to take up the job.

"I always say that we Europeans will always have two fatherlands," said Mr. Delors, a federalist who may one day be regarded as a founding father.

"One is Europe, and the other is our own country. It is unified in diversity—this Europe. And it is its diversity that will permit it to survive this experiment."

[From the New York Times, July 28, 1988]

HONESTY CALLED "IMPOSSIBLE" IN PENTAGON BIDDING SYSTEM

(By Richard Halloran)

WASHINGTON, July 27.—David Packard, the industrialist who headed the President's Blue Ribbon Commission on Defense Management two years ago, asserted today that the Reagan Administration, Congress and the Defense Department "have created an environment in which honest and efficient military acquisition is impossible to implement."

In an appearance before the Senate Armed Services Committee, Mr. Packard, who was Deputy Secretary of Defense in the Nixon Administration, said a "misplaced emphasis on competition in recent years" has driven arms makers to submit bids too low in price and too short in delivery time, just to win contracts.

Mr. Packard, a founder of the Hewlett-Packard electronics company, has long advocated that the arms industry police itself, and today he criticized the current investigation of reports of widespread fraud in Pentagon procurement.

Mr. Packard contended that the overall procurement problems were largely the result of the Reagan Administration's failure to put into practice many recommendations of what was informally known as the Packard Commission.

SEVERAL RECOMMENDATIONS

The panel's report, submitted in February 1986, recommended, among that other things, the defining of a coherent military strategy, adopting a two-year military budget and multi-year procurement of weapons to bring stability to production, and ending the system under which members of Congress press the military to order unneeded equipment in order to create jobs in their Congressional districts.

The commission recommended that a new position, Under Secretary for Acquisition, be established in the Pentagon, and that the Chairman of the Joint Chiefs of Staff seek to end the duplication of arms and equipment by the four services.

Today, Mr. Packard testified that even though President Reagan had promised quick action, none of those particular recommendations had been followed.

Another member of the Packard Commission, R. James Woolsey, told the committee that "the relationship between the D.O.D. and industry now has most of the negative features of both highly regulated utilities and perfectly competitive markets, with few of the advantages of either."

"It produces almost none of the stability enjoyed by most regulated utilities and very little of the positive incentives to lower cost and increase creativity that are the hallmarks of competition," said Mr. Woolsey, who was Under Secretary of the Navy during the Carter Administration.

On the current investigation into possible fraud and bribery in military procurement, Mr. Packard said, "It is very important not to overreact."

ONE COMPANY'S CASE

He cited the example of one company, Varian Associates, that he said "was accused of buying information from a consultant that enabled the division to underbid the competitors.

"It is difficult to see that any real damage was done in this case," Mr. Packard contended. "The Defense Department got a better price on the contract, and no one has charged that Varian was not qualified to do the job." But he added that anyone accused of illegality should be tried in court

He also said that "using information obtained by wire tapping offices in the Defense Department and the defense industry for instant debarment and other punitive action against contractors was going in the wrong direction." Such actions he said, would be expected only in "a police state."

Mr. Packard asserted that the procurement system had broken down for two reasons.

One, he said, was "the attempt by the Congress to impose competition in a situation in which real competition in the conventional sense is virtually impossible to achieve."

The other was trying "to impose competition by a myriad of unrealistic rules and regulations."

He pointed to a procurement practice in which the Pentagon permits repeated bids down to the "best and final offer." Mr. Packard said that process amounts to "operating military acquisition like an Iranian bazaar."

In that process, a company negotiates with a contracting officer in the Pentagon until the company is ready to submit its "best and final offer." But further negotiations sometimes produce a "best and revised final offer."

It is those repeated "final offers" that Secretary of Defense Frank C. Carlucci is seeking to restrict, but not eliminate by requiring the approval of a senior Pentagon executive, not just a contracting officer.

As for competition on some big programs, Mr. Packard declared, much of it had been "tons of paperwork describing how the bidder would meet a bunch of 'Mickey Mouse' requirements that have absolutely nothing to do with doing the job right."

"One could do as good a job," he asserted, "In awarding the major contracts by putting the names of qualified bidders on the wall and throwing darts."

[From the Dallas Morning News, July 12, 1988]

U.S. Deficits Pulling Down World Economies, Could Cause Crash

(By Brendan Boyd)

A digest of investment opinion from the world's leading financial advisers:

"There is something seriously wrong with the world economy," according to a message delivered by 33 economists from 13 countries meeting at the Institute for International Economies in Washington, D.C. "If corrective measures aren't taken soon and in adequate degree, a crash of the markets far greater than that which occurred last fall could occur. Global economies are suffering from many major imbalances, which take different forms in different parts of the world. But the U.S deficits lie at the heart of the matter."

"Taking Stock, a concise, equity-oriented newsletter (1400 Temple Building, Rochester, N.Y. 14604), is also cautious, but hopeful, too. "We're in a bear market, but should use it as an opportunity to shape our portfolio for the next bull market as undervalued, bargain-priced stocks emerge." Of the 28 closed positions in its long-term value portfolio, 26 rose, one fell and one remained unchanged. The average pick rose 57.2 percent. Recent favorites: Beverly Enterprises, Chi-Chi's, Coast S&L, Emerson Radio, Fedders.

Copper stocks will experience big earning jumps this year due to the rapid rise in copper prices, says Harry Laubscher of Tucker, Anthony & R.L. Day. "For 200 years, the copper cycle has worked very well in determining copper prices. They're still far below 1980's record of $1.40 a pound. The cycle indicates prices should peak sometime before mid-1989." Laubscher's favorite copper stocks: AMAX, Asarco, Inco, Magma, Newmont Mining, Phelps Dodge.

Ralph Seger of the National Association of Investment Clubs' Securities Review Committee has assembled a six-stock portfolio that gives investors two dividend checks a month year-round. The portfolio recently yielded 6.9 percent and has the potential for both market appreciation and future dividend growth. Seger's "double-check-a-month" portfolio; Iowa Resources, Pacific Lighting, Property Capital Trust, Exxon, Servicemaster L.P., New Plan Realty Trust.

Since the stock market crash, municipal bonds have outdistanced most other segments of the bond market. Yet yields still remain attractive. They're hovering around 90 percent of yields on taxable government bonds. "What's more, you aren't giving up that much in quality to get these high rates," says John DeJong of the National Securities Tax-Exempt Fund. "For investors seeking good yielding but low-risk investments, it's a powerful combination."

Only seven mutual funds have beaten the stock market in each of the 21 10-year periods since 1958: American Mutual, Investment Company of America, Washington Mutual, Fidelity, Guardian Mutual, Over The Counter Securities, Templeton Growth. These funds have some common characteristic, says Mutual Fund News Service in San Francisco. "They invest in high-quality companies, rely heavily on intensive in-house research, and their managements have shown little turnover."

Many academic studies have shown that following the stock purchases of corporate insiders historically has been a key to beating the market. But that strategy seems to be waning, reports the *Hulbert Financial Digest* (643 South Carolina Ave. S.E., Washington, D.C. 20003). "One of the best insider portfolios, compiled by The Insiders (3471 N. Federal Highway, Fort Lauderdale, Fla. 33306), has gained just 17.4 percent over the past three years, vs. the general market's 64.3 percent. Other such portfolios have fared equally poorly."

[From the New York Times, July 28, 1988]

President Is Said To Order CIA To Press Actions To Oust Noriega

(By Stephen Engelbert)

Washington, July 27.—President Reagan has ordered the Central Intelligence Agency to pursue additional covert actions aimed at ousting Gen. Manuel Antonio Noriega, the Panamanian leader, Administration officials said today.

One Administration official said the agency had drawn up a timetable of steps designed to increase the pressure on General Noriega.

Another official indicated that the measures included plans to further harm Panama's economy, funnel assistance to the civilian opposition and bolster dissident military officers who could eventually topple General Noriega. Also included were plans for "psychological warfare," like the sabotaging of Government broadcasts.

The officials said the actions stopped short of a direct military challenge.

DOUBTS RAISED ABOUT SUCCESS

The officials were elaborating on a report today in The Washington Post that said President Reagan had signed the order, called a finding, that authorizes the new C.I.A. actions.

Several Administration officials cautioned that the prospects for success in toppling General Noriega remained questionable at best. They said that although the economy had been severely damaged by American sanctions, General Noriega remains entrenched.

For the last six months, the Administration has been engaged in efforts to pressure General Noriega into giving up power. With the State Department calling for the most confrontational steps, the Administration imposed strict economic sanctions and then sent emissaries to negotiate terms.

Those talks collapsed, leaving the internal opposition demoralized. Some opposition figures were convinced that the United States had given up on influencing events. According to an American with ties to the opposition, senior leaders in the movement were heartened several weeks ago when they were told of the planned C.I.A. actions.

The Administration and Congress immediately blamed each other for disclosure of the operation.

At a photo opportunity today, President Reagan was asked whether he was angry at Congress for disclosing the C.I.A.'s plans. "I'm usually angry at Congress, yes," he replied.

Although he said he could not discuss the C.I.A. program, President Reagan said of General Noriega: "Certainly he's not good for Panama, not good for our relations."

But Senator David Boren, the Oklahoma Democrat who is chairman of the Senate Intelligence Committee, said the information published by The Washington Post, which was attributed to Administration and Congressional officials, had clearly come from within the Administration.

"It was not even subtly done," Senator Boren said. "It was so heavyhanded and the items leaked so obviously came from the Administration." He said several items included in The Post's article—such as the assertion that President Reagan personally informed Eric Delvalle the Panamanian President recognized by the Administration—were not included in the Administration's briefing.

A State Department spokesman confirmed today that President Reagan had spoken with Mr. Delvalle earlier this month.

Senator Boren said he could not say if there was any political motivation, but added: "I don't view this as a breach of faith with the intelligence community, the professionals. The leak did not come from them."

Senator Alfonse D'Amato, Republican of New York, said he was unsure if the disclosure of the plans was spurred by a desire by Administration officials to help the campaign of Vice President Bush, who has been attacked by Democrats for not doing enough about General Noriega. But he said, "It could have been done for political reasons, and if it was, it really makes no sense."

AMERICA IS NOT ALL WRONG

The SPEAKER pro tempore (Mr. McMillen of Maryland). Under a previous order of the House, the gentlewoman from Maryland [Mrs. Bentley] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, over the years, we have been hearing about what is right with America and what is wrong—just what we need to do better to compete with the Pacific Rim countries and more specifically with Japan.

Generally we are told to learn to appreciate the knowledge brought to this country by Japan, and their know how in managing companies. More specifically we have been told they are transferring technology to us—which will ultimately help us.

I would like to change this perception just a bit. The story is more than a country bringing us technology, it is one of foreign firms buying our real estate and companies.

Today the New York Times carried a story that the "Japanese Widen U.S. Merger Role.

It spelled out how Normura Securities Co. is buying a stake in one of the hottest merger and acquisition firms. The article stated this "is a sure sign that a Japanese spree of buying American companies is just beginning."

If further stated that Normura's investment in a United States partner "could give many of Japan's biggest industrial groups a pipeline for buying American and European enterprises."

The implication in what we are hearing is the Americans need help in learning how to run their firms, and for the foreign investors to help us get on our feet.

According to at least one Japanese executive, this is not true. I would like to submit a story from the Wall Street Journal:

[From the Wall Street Journal, July 26, 1988]

Japanese Executive Defies Convention In Preferring U.S. Management Style

(By Michael R. Sesit)

In 1960 when Yoshihisa Masuda asked to visit some USG Corp. mills to compare their operations with those of his company in Japan, the U.S. building materials maker said no.

Today, USG's doors are open to the 59-year-old president of Settsu Corp.—following the paperboard maker's acquisition of a 9.6% stake in USG last week. The $35.5 million friendly purchase makes Settsu one of the largest shareholders in the Chicago-based concern.

While much of American industry seeks lessons from Japan these days, the last thing Mr. Masuda thinks U.S. copmpanies should do is emulate Japanese management techniques. Referring to himself as a "black sheep" and relishing the characterization, Mr. Masuda contends that senior Japanese management is lazy—some top executives he even described as "cry babies"—and believes the Tokyo stock market is overvalued and the U.S.'s undervalued.

At the same time, be holds an abiding respect for American enterprise, much of that impression reinforced by watching Hollywood movies. Two weeks ago, Mr. Masuda had his Japanese employees watch "Hoosiers," a film about a small-town Indiana basketball team in which an initially strife-ridden group of players eventually wins the state championship.

"I want to teach my employees about the strength of the U.S." he says. The film shows "that when individuals have different personalities, they achieve some unity with the same object or value and that becomes a very strong power."

Now with about $100 million of American assets, Settsu's USG investigation fits most others it has made in the U.S.; taking friendly stakes in related industries. Settsu, says, Mr. Masuda and its investment bankers, is still on the prowl for U.S. companies in need of a friendly minority shareholder.

"You're looking at the Japanese Warren Buffett," says W. Barnes Hauptfuhrer, a Charlotte, N.C.-based managing director at First Union Corp., who advised Settsu on the USG transaction. (Mr. Buffett, Berkshire Hathaway's chairman, is known for making very long-term, value-oriented, friendly investments.) "He has the ability to be a significant factor in the American takeover game."

Another part of Mr. Masuda's strategy is to offset the cyclical nature of the paper business with investments in equity and debt instruments. In recent months, Settsu has borrowed about $300 million in the Euromarkets and invested the funds in a variety of instruments, including ones denominated in dollars, Swiss francs, West German marks and British pounds.

While other Japanese companies play similar games, their top managements aren't as spunky, Mr. Masuda contends. Japanese corporations often place large chunks of their stock with related or friendly companies. At the same time, they generally have access to low-cost funds and rarely have problems with normally docile labor unions.

In this environment, Mr. Masuda says, Japanese top management is becoming lazy, ignoring its shareholders and losing its "entrepreneurialism." Instead of responding to change, Japanese management "resorts to procrastination, which simply leads to friction between Japan and other countries," he says.

In his own industry, Mr. Masuda says "there is almost no top management . . . that has profound foresight. If something goes wrong, they go cry to the government and engage in cartel-like activities."

His personal tastes include fine wines and Western art. Though not purchased for investment purposes, Mr. Masuda concedes that the value of his paintings by Chagall, Monet, Utrillo and Miro outperformed his U.S. Treasury holdings, on which he had hefty currency losses.

In some ways, the free spirit remains decidedly Japanese. Asked if he'd ever consider a hostile takeover in the U.S., he quickly responds: "Absolutely not."

Nonetheless, Mr. Masuda says: "I feel much more comfortable in the U.S. because I feel free to speak out." At a gathering of U.S. analysts a few years ago, he was told he was unpopular in Japan. "It made me so happy to hear that," said Mr. Masuda. "It doesn't matter that I was popular or not. The fact that they knew me is what counted."

Mr. Speaker, that indeed is the real America. The one of innovation, creativity, and freedom. With our vast resources and the tremendous field of American talent developed from the mixing and the many nationalities and races that make up the great United States of America, we can do anything. The Sun has not set on America. We are still on our way up.

□ 1745

DELIBERATELY DECEPTIVE DEMOCRATS AND THE DECAY OF AMERICAN SELF-GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. Gingrich] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, the topic of my talk this evening is Deliberately Deceptive Democrats and the Decay of American Self-Government. It is the first of a series of talks that I intend to do over the next few weeks, and I will send a Dear Colleague letter to all of my Democratic colleagues next week, along with the gentleman from Pennsylvania [Mr. Walker] and some other folks outlining a series of topics and offering to set up an opportunity for Democrats to come over who would like to debate and to discuss some of the things that we are going to outline.

I think it is important, as the gentleman from Texas said earlier this evening, to disagree without being disagreeable. I think it is important in a legislative body for colleagues to be able to work together.

But I also think that there are a few other ground rules that are important, that while we can always disagree without being disagreeable, true collegiality works only within a bipartisan vision of the world and true collegiality works only within the common rules and common facts.

The reality is that self-government relies upon certain basic elements of honesty, certain basic elements of telling the truth, certain basic elements of common facts, and that self-government requires a systematic willingness to have a debate and a dialog in a way that those watching the debate and the dialog can count on both sides sticking to relatively straightforward facts and engaging in relatively straightforward debate.

My assertion this evening and in the weeks to come is that there is a process of deliberate deception by the Democratic Party in Atlanta and nationally, that that process of deliberate deception is based upon some very profound insights.

Maybe the easiest shorthand is to look at the greatest lesson of the 1984 elections from the standpoint of liberals. Walter Mondale was an honest liberal. He got 41 percent of the vote. For 3½ years, the Democratic Party studied Walter Mondale's defeat. It came to the conclusion, I believe, that it is impossible in America today to be an honest liberal and win a Presidential election, that when you look at the results of 1968 when Hubert Humphrey got 43 percent, the results of 1972 when George McGovern got 38 percent, the results of 1980 when EDWARD KENNEDY lost in the primaries and then Jimmy Carter got 41 percent, the result of 1984 when Walter Mondale stood proudly in San Francisco and promised to raise taxes and said I am a liberal, and the country said yes, you are, and he got 41 percent, that the reality was that you could not be an honest liberal Presidential candidate and win in America.

Looking at the words "honest liberal," tragically for the process of self-government, the Democracts decided to give up the wrong word. They remained liberal. They should have, under the theory of the process of feedback from the voters, the process of feedback from voting patterns, they should have shifted and dropped the liberalism, but they could not because the fact is the driving dynamic activist wing of the Democratic Party is the left wing, just as in Britain the driving, dynamic, activist wing of the Labor Party is the left wing.

So Democrats were trapped by a left wing that would not allow it to move toward the center, so it decided to do something different.

One of the most useful articles explaining that is an article in the New Republic by Fred Barnes on pages 10 through 12 entitled "Together Again," from Atlanta. It was fascinating.

He said the following:

> The key is controlling the story line. Democrats are bad at this. They usually lose control and let the story line become unattractive: Disunity in 1968 and 1980, unbridled leftism in 1972, political clumsiness in 1984. In Atlanta they kept control.
>
> The biggest fear among Democrats was they'd come off on TV as weirdoes doomsayers, or tax-and-spend liberals, or as folks so caught up in ideological squabbling that they couldn't be trusted to run the government. Democratic national chairman, Paul Kirk and strategists in the Dukakis camp were desperate for the party to appear normal, optimistic, moderate and united.

Let's repeat that one section because it is so important:

> Desperate for the party to appear normal, optimistic, moderate and united.

It does not say for the party to become normal, optimistic, moderate, and united, it does not say for the party to learn the lesson of moderation, of normalcy, but for it to appear.

Mr. Barnes goes on to quote a leading Democrat as saying: "Politics is the art of appearance."

Barnes then goes on and is reported to say, "I'd always heard politics was the art of compromise or the art of the possible, but never mind."

But I want to stop on that point because we should mind. Politics is not the art of appearance unless our cynicism and our machinations are going to be so destructive the gap between who we really are and who we pretend to be is going to be so great that in fact we destroy the process of self-government because the voters cannot figure out what is going on.

Let me go on again to quote from Mr. Barnes:

> This time, Democrats were on their best behavior. They were well dressed. They were straight. "I'm part of the Berkeley crowd," a young Dukakis worker from the University of California said, "but I guess I shouldn't say that. This is a moderate campaign."

Notice he did not say he should move away from Berkeley, he did not say he should give up the values we associate with Berkeley. He did not say he should quit being a liberal. He simply said he should not tell us. That is, the appearance is more important; the deliberate deception by the Democrats was systemic.

Mr. Barnes goes on to say:

> Democrats cleaned up their language and leached their speeches and platform. The L-word, liberal, was all but banned.
>
> Dukakis has long shunned it. Teddy Kennedy didn't use it. Jesse Jackson did, but negatively. In his address—a collection of greatest hits from his stump speeches—he trashed "boundless liberalism." Everyone agreed that the party's liberal wing is no longer. It's now "the progressive wing." And for good reason. The word "liberal" is a killer.

□ 1800

Democrats "have finally learned that you can be a liberal but you can't say you are a liberal" said Dan McClung, a LLOYD BENSTEN adviser.

I think there are two things to notice here. The first is, and I think Mr. McClung was inadvisably honest about the deception, and notice how he said it. He did not say Democrats have learned that liberalism in fact is not acceptable to the American people and therefore Democrats should be less liberal. He said, and this is a very specific quote and I would of course in the future weeks look forward by any Democrat who wants to call Mr. McClung and see if he really meant this: "Democrats have finally learned that you can be a liberal but you can't say you are a liberal."

Notice also this is a LLOYD BENTSEN adviser. This is not a Jesse Jackson adviser. He is not even a Mike Dukakis advisor. This is the advisor of the supposedly conservative Senator and it may tell us a lot about the Senator's conservatism.

My question is this: In all the rest of America, if somebody says to you, "I'm really something but I am going to tell you I am not," we have clear simple language for that.

Tragically in modern government we have come to accept a kind of politics so sallow, so cynical, so destructive that we simply tolerate words being misused consistently. Let me say this is not just a narrow partisan issue. This is not just a question about what is happening in the world and why are politicians who want to ride in big limousines and neat offices fighting with each other? This goes to the heart of a free society.

George Orwell in a brilliant essay called "Politics in the English Language," made the point that if you cannot say it you cannot think it, that words matter, that the ideas that are expressed matter. A man who says to you or a woman says to you, "I am really a liberal but I am now going to tell you I am not liberal because if you know I'm a liberal you'll vote against me, therefore I'm going to pretend not to be liberal so you will vote for me. But, by the way, once you vote for me I will go back to being liberal," that person is debasing and undermining the entire process of self-government.

Now for people who want to understand how dangerous undermining the process of self-government and the power of words is, let me suggest they look to a separate article in the New Republic this week on page 16 by Johnathan Brent, entitled "Political Perversity in Chicago, Why the Sudden Outburst of Race Hatred." That article is a frightening study of the rise of antisemitism among liberal politicians in Chicago.

And I say that because unless we are willing to fight over the meaning of words people will get away with saying the most outrageous falsehoods. Over the next few weeks we will talk about some outrageous falsehoods.

Let me carry on a little further.

Mr. Barnes goes on to say:

> Another word that vanished at the convention was "spending." I didn't hear a single person advocate more domestic spending though they talked about new programs for health care, child care, education, etc. But these are spending programs, they are investments. It is time to invest in the education and care of our children, said Carter. The plan for the convention was the same as the plan for Dukakis' campaign, avoid specifics or you will be vulnerable to Republican attacks. Speaker after speaker followed that. The keynoter, Texas State treasurer Ann Richards boldly came out in favor of social security, rural electrification and Federal insurance of bank deposits, three programs passed during the New Deal. She shied away from programs proposed in the last 50 years. One of the saving graces of Democrats is that we are candid, she insisted, we are straight-talking we tell people what we think.

Now notice in the context of everything else in that article, how fundamentally misleading that statement is. while deliberately avoiding candor, they claim to be candid.

Now I will come back to that because the deliberate deception by the national Democrats is a very systematic effort done with an amazing level of boldness, maybe epitomized most of all by Edward Kennedy's speech.

But Barnes goes on to say in the New Republic:

> The platform was a masterpiece of purposeful fuzziness. Jackson wanted to be specific and emphatic and liberal. Oops, I mean progressive. Poll after poll showed the delegates, even the majority Dukakis contingent agreed with Jackson on specifics. They want higher taxes for the rich, a declaration of no-first-use of nukes, a military spending freeze, and Palestinian self-determination. CNN found that 84 percent favor higher taxes for the wealthy, 70 percent are for a Palestinian homeland, and 89 percent want to cut Pentagon spending. But they bit the bullet and voted moderate for Mike. Representative Ed Markey of Massachusetts, a fervent advocate of no-first-use who nevertheless opposed Jackson's plank said Dukakis' heart was with no-first-users but as President he would need flexibility. Actually it is as a candidate that he needs flexibility to avoid being painted a nuclear disarmer.

Now notice this, the lesson the labor party in Britain learned from Neil Kinnock's campaign was that when Kinnock admitted he would not defend Britain, his whole campaign disintegrated.

Kinnock ended up actually explaining at one point, as a left-wing British politician, that the Russians would never invade Britain because they would fight a guerrilla war like Afghanistan.

Frankly, the average Briton looking at their neighborhood and their homes, thinking about the amount of bloodshed in Afghanistan, decided that was pretty crazy.

From that day on, Kinnock never recovered. The British Labor Party was lampooned. In fact, the Conservative Party under Margaret Thatcher actually ran a full-page ad that showed soldiers with their hands up in surrender and labeled under it "British labor defense policy."

Now clearly given Dukakis' devastatingly leftwing unilateral disarmament positions, as outlined in an article we will deal with next week, by Jim Schlesinger, a former Democrat and Republican appointee, who both Jimmy Carter and Gerald Ford and Richard Nixon all used and who largely is regarded as an expert wrote that it is "just amazing that in its devastating assault on Dukakis' simple-minded unilateral foreign policy disarmament position, it is clear that Dukakis and his strategists know that if they are candid about how much they would disarm America, they will never get to be President so they won't get to disarm us." That is why Barnes makes the point: "It is as a candidate that he needs flexibility to avoid being painted a nuclear disarmer." The danger of course is what if he gets to be President? What if as President Dukakis he listens to the 84 percent who favor higher taxes? He listens to the 70 percent of Democrats who are for a Palestinian homeland? He listens to the 89 percent of Democrats who want to cut Pentagon spending, if he listens to people who share with his heart, to quote a Massachusetts Democrat, his commitment to no-first-use, that is not defending Western Europe?

Now the reason I suggest all this be looked at carefully is that we to be honest about what is going on.

Ted Barnes is honest about it. He says, and I quote:

> Democrats have learned a painful lesson. Left to their own devices, they will lose control of the storyline and wind up losing the election. So liberals were willing to masquerade as moderates. That, of course, is what liberals think Dukakis is doing. This is called pragmatism. Everybody understood the game and played by the rules, said Ray Strother, a media consultant who advises Bentsen. There was not a conspiracy but everybody understood that you had to tiptoe in the dark.

> Now there are two terms here that the American voters need to focus on because they are so terribly destructive of self-government. The word "masquerade" and the concept of tiptoeing in the dark.

What is Mr. Barnes suggesting? I think he is suggesting something very simple and straightforward, that liberal Democrats having learned they could not win if they were honest with the American people, decided to put on a mask. And I would suggest that if you would analyze why Dukakis is so far ahead in the polls the week after the convention it is very simple, he masqueraded as a person he systematically is not, his party masqueraded as a party it systematically is not and therefore they pretended to be people who would be very electable if in fact they were what they pretended to be.

But what Mr. Barnes is asserting in the New Republic, hardly a rightwing publication, is that in fact "liberals were willing to masquerade as moderates."

And he quotes a Democratic consultant as saying, "There wasn't a conspiracy but everybody understood that you had to tiptoe in the dark."

Now what do they mean "you have to tiptoe in the dark"? I think they meant quite simply that they arrived in Atlanta as Democrats desperate to win, willing to systematically misinform and deceive the American people, that they were hoping that they could keep the masks on at least until November.

Let me suggest a couple of other areas that they have masked and you can begin to understand why it is so important.

I want to put in the Record or read into the Record an article from Congress Today, which is a daily review of the U.S. Congress. This particular article had information which can be expanded by calling Liz Hamel at (202) 479-7070.

I give that background because I am going to say some things here that I think are pretty strong and have to be looked at.

I quote from an article entitled "Congressional Capers, CBO: The propaganda arm of the House leadership?"

The article is as follows:

> The Congressional Budget Office (CBO) was created to serve as Congress's fiscal umpire when it comes to keeping the official score on the budget effects of congressional legislation. CBO is supposed to provide Congress with factual, straightforward analyses of pending legislation, proposals and even concepts for affecting the nation's laws.

> But an embarrassing incident at the CBO suggests that it is now being used by the expanding empire of the House Democratic Leadership.

> The CBO was recently asked to assess the impact of a minimum wage bill (H.R. 1834) that is pending in the House. The Democrats have been pushing hard for an election-year vote on the bill that has been opposed by many on the grounds that it destroys jobs and hurts younger workers.

> When CBO issued their first report they concluded that the minimum wage would push up consumer prices and cause the loss of as many as 500,000 jobs. When the Democrat-controlled Education and Labor Committee received this report they sent it back to CBO and asked for a second report. If the report was made public it would have obviously been a slap in the face to the bill's liberal sponsors and might have swayed several votes in the House.

> It is obvious the committee Democrats are 'stonewalling' the issue. But more importantly, they are tampering with reports that are the basis of Congress's deliberations on public policy. The Democrat-controlled House is abusing their power by bullying a non-partisan, non-political federal organization.

> The Democrats are not interested in the hard facts—the only thing they're interested in is ramming through their legislation with brute force, no matter who gets hurt. It appears that reality doesn't matter; only the political desires of the Democrats count. This just serves to reinforce the argument that their agenda is based on deception.

> "CBO is supposed to give us the facts, says Representative Tom Petri (R-WI). It is not supposed to be a propaganda arm of the House leadership."

> The Democrats are once again showing the arrogance they have acquired over the thirty-some years they have run the House. It is time the voters tell them they have had enough, that it is time for a change.

Now if people want to find out more details about what happened with the Congressional Budget Office and why it was pushed to change its report, they might call Liz Hamel at (202) 479-7070.

Now I lay that out because there are real issues at stake. This is not just a game, as I said earlier, to see who gets the limousine. One of the questions at stake is what happens to the real human beings if we are misinformed and deceived about public policy? Let us take the example of the Congressional Budget Office. What it said was that a bill which the Democrats would like to pass would probably cost the unemployment, the loss of jobs of 500,000 people. Most of those 500,000 people would be poor and most of them frankly would probably be black. So it is, in effect, a black teenage unemployment bill, a bill that according to the Congressional Budget Office would destroy jobs for inner-city black teenagers.

Now that is very important information. That is a very important part of the debate over public policy. That information deserves to be argued out on its merits.

But what happened in the case of the Congressional Budget Office report, as part of this process of deliberate deception, was the Budget Office was told "change your report, don't bring out a report which embarrasses us." But the process of changing reports goes on and goes on; the deliberate deception goes on and goes on.

Let me read, if I might, from the Wall Street Journal today an editorial entitled "Wrightwash III At the Direction" because I think again it raises the point of why deliberate deceptions are destructive of self-government, why we are involved in a very difficult time and why we have to confront this issue of how are we going to get honesty, how are we going to get accountability, and how are we going to deal with the problems of deliberate deception?

I quote from the Wall Street Journal:

> Special prosecutors are all the rage in Washington. But let's imagine one with certain limitations. Imagine that he is just an ordinary civil lawyer with no prosecutorial experience. Let's say he is a fundraiser, he is a national conventional delegate for the political party whose highest ranking office holder he has to investigate. What he can look into has been narrowly circumscribed by the officeholder's closest associates. Finally he's supplied with a paltry budget, only $300,000.

Of course, we have just described Chicago lawyer Richard Phelan, appointed by the House Ethics Committee to investigate the ethical misconduct charges against Speaker Jim Wright.

□ 1815

We assure Mr. Phelan is a nice man but his name last appeared in the papers after he raised $100,000 for Democratic Senator Paul Simon's Presidential campaign.

> The first is typically as tenacious as a junkyard dog, with millions of taxpayer dollars to spend. The second is a good friend without much cash or independence.
>
> Indeed, Ethics Committee Chairman Julian C. Dixon (D., Calif) made it clear in announcing Mr. Phelan's appointment that the counsel "will work at the direction of the committee," does not have the power to subpoena witnesses on his own, and "cannot go beyond" the six areas the committee mentioned when it voted to investigate the Speaker on June 9 after his novel money-making ventures had drawn some interest from the press and the political opposition.
>
> Thus, when Mr. Phelan checks into the Speaker's 55 percent royalties for a paste-up book, "Reflections of a Public Man," he can ask if campaign contributions were diverted into the project or whether a Wright aide spent government time assembling the book. But issues of somewhat more significance, such as whether sales of the book were a way of lining the Speaker's pockets with cash from lobbyists—which would clearly violate House rules—are outside Mr. Phelan's brief.
>
> Nor, it seems, will he determine whether the Speaker failed to comply with the same financial-disclosure rules that sent Republican Congressman George Hansen to jail a few years ago. For seven years, records now show, Mr. Wright failed to list the underlying assets of Malightco, a partnership with Fort Worth developer George Mallick. A major Malightco venture apparently was the sale of uncut gemstones, which like the Speaker's book have a highly subjective value. The Ethics Committee doesn't think this is worth Mr. Phelan's attention.
>
> Contrast those narrow bounds with the way independent counsel roam freely over every aspect of executive-branch targets. Alexia Morrison has spent $1 million so far investigating Theodore Olson, an obscure former Justice Department official. James McKay spent $1.7 million digging the dry hole against Ed Meese. Lawrence Walsh has spent $5 million on the Iran-Contra probe and the meter is still running.
>
> As for the scope of investigation, Mr. McKay was originally appointed to investigate Lyn Nofziger for lobbying. This led to Wedtech, then to Franklyn Chinn, then to E. Robert Wallach—whose memos led to Edwin Meese. By the time the Meese saga reached its denouement. Mr. McKay and his staff had fruitlessly combed through eight years of the Attorney General's financial records, coming up with some mistakes in his tax returns.
>
> Even noted liberals are beginning to chafe. Common Cause's Archibald Cox wants the Ethics Committee to "publicly commit itself" to ensuring the counsel's authority and independence, noting that the "committee has run into serious problems in the past when this was omitted." Indeed, two outside counsel hired for the Abscam and Koreagate probes resigned in protest after the committee ignored their recommendations. But the committee crossed the "authority and independence" bridge some time ago.
>
> In short, the public probably won't learn much more about such interesting questions as whether or not the loose gemstones handled by Jim Wright's partnership with Mr. Mallick were marketed the same way as his $5.96, 117-page pulp classic. Messrs. Wright and Mallick wouldn't tell us who bought the gemstones and for how much and Mr. Phelan, given the committee constraints, is unlikely to ask.
>
> But the public will probably understand one thing better after this exercise. The special-prosecutor fad was and is part of a game of hardball politics. It doesn't have much to do with ethics.

Now the Wall Street Journal is exactly correct. The ethics committee effort so far is a joke. It is a tragic, false assault on the process of self-government. The ethics committee effort so far, I think, has been fundamentally wrong. I think it is tainted in its current form. I think its membership has to be remade, and I think that the way in which they have met the Common Cause challenge is wrong. I think it is probably going to be essential that we recognize that the committe cannot do its job or would not do its job, and we have to seek new directions for an investigation of the Speaker.

But it goes deeper. We are in an era when the left understands that it can only survive by doing two things, by smearing its opponents and trying to drive them out of politics, and, second, by consciously and deliberately, to use Mr. Barnes' word, "masquerading" and not being honest and accurate about its own intentions and what it is doing.

Now these are strong words, and I expect over the next 3 or 4 weeks to have several opportunities, and I would be glad to come onto the floor on Monday, Tuesday, Wednesday, or Thursday of next week and debate any of my Democratic colleagues who think what I am saying is too strong.

But I warn them that before they think that this is a light matter or simply politics, they should read the editorials in which the New York Times and the Washington Post described the destruction of Ray Donovan, Secretary of Labor. They should read the judge's statement in which he said that a New York City politician who was a district attorney destroyed the reputation of a decent man with a case that the judge said should never have been brought to trial.

Mr. Speaker, they should read the analysis by people like Norman Podhoretz, the editor of a major publication. Podhoretz described what had been done to Robert Bork. Judge Bork was an elegant legal scholar at Yale, a man widely respected in his profesion, a man who was systematically lied about and smeared in order to defeat him by the left.

They should look at exactly what was said about George Bush last week. Now I was not originally a Bush supporter. I was a Jack Kemp supporter. I do not hold an automatic affection for George Bush. He has been an able Vice President, but I would not automatically rush to his defense, and, frankly, during the primaries we did all we could, those of us who are for Jack Kemp, to stop George Bush. But I was appalled at the viciousness, the savagery, the personal smears that were undertaken that were aimed at Bush as a person, not a discussion about ideas, not a discussion about issues, and I must say I found it peculiarly offensive for Edward Kennedy to be asking where was George Bush.

I think over the next few weeks there will be some very interesting and amusing answers to Mr. Kennedy, but, when my colleagues look at all that and they start analyzing, for example, the Democratic platform, start analyzing the various speeches, once they discover, just as they will discover, if they read the article on anti-Semitism in Chicago in the New Republic, and they discover again and again the politics which systematically misinforms the citizens, the politics which uses facts which are not factual, a politics which uses assertions that are not true, a politics which says things that simply are deliberate efforts, first of all, as I said, to put a mask on the left so it does not appear accurately to be what it is, and, second, to smear attack and drive from politics those who are not on the left.

Now let me give you another example of this pattern from the Detroit News, July 15, an editorial entitled, "The Mugging of Clark Durant":

> Last week U.S. Congressman Bruce Morrison, accused Detroit lawyer W. Clark Durant, chairman of the federal Legal Services Corp., of using taxpayer money for personal and political business. Congress has an obligation to oversee the use of taxpayer funds. But considering the picayune and unsubstantiated nature of the charges, it seems obvious that what's really going on here is an attempt to mug a political opponent.
>
> Rep. Morrison, who is a member of the Judiciary subcommittee that oversees Legal Services, asserted that Mr. Durant had charged unauthorized phone calls to the Legal Services Corp. He cited nine—count 'em, nine—calls to the office of Rep. Jack Kemp, whose presidential campaign Mr. Durant was involved in. He also accused Mr. Durant of charging some trips to Legal Services for which no documentation could be found.
>
> "He's faithless to his duty," thundered Rep. Morrison. "He's been undermining the Legal Services Corp. by personal and political activities . . . at the expense of taxpayers."
>
> Those are strong words. One would have expected Rep. Morrison to at least give Mr. Durant a chance to respond before administering his highly public mugging. The congressman apparently didn't even take the time to check out some of his suspicions, however. One of his claims was that Mr. Durant used his Legal Services credit card to make unauthorized phone calls to the Federal Railway Administration (FRA). Because Mr. Durant is the trustee of a small railroad in Michigan, Rep. Morrison evidently leaped to the conclusion that he was using taxpayer money for personal business.
>
> If Mr. Morrison had first called FRA Administrator John Reilly, however, he would have learned that the latter had been deeply involved in Legal Services affairs in his prior position as a congressional staffer. Mr. Reilly confirms that Mr. Durant called on a number of occasions to seek his advice on Legal Services matters. We can't see anything wrong with that.
>
> Since taking over the chairmanship of Legal Services in 1984, Mr. Durant has regularly flown to Washington two or three times a month for staff and board meetings. A number of expense vouchers for such trips, adding up to several thousand dollars, now can't be found. A Morrison staffer implies that Mr. Durant may have been billing Legal Services for political junkets unrelated to Legal Services.
>
> But there's no proof of that, and if Mr. Durant was trying to chisel the taxpayer, he was doing a mighty poor job of it. For one thing, he receives no pay as Legal Services chairman. His expenses have been lower than a number of other board members. In fact, the Legal Services staff says he is owed thousands for back expenses that were never claimed or processed.
>
> It's probable that Mr. Durant was chosen for public torment because he has been openly campaigning to reform Legal Services and reduce its budget to $250 million a year from $305 million. Rep. Morrison, a former activist in the Legal Services Corp. himself, fiercely resists cuts in his pet agency—even as he complains about the "Reagan" budget deficit. He also opposes Mr. Durant's proposals to allow paralegals to carry on some of Legal Service's more mundane activities, such as landlord-tenant disputes or divorces, at lower cost.
>
> In a courageous speech to the American Bar Association last year, Mr. Durant called on the legal profession to break up the legal "cartel" it has imposed on American society—resulting in high fees that the poor can least afford.
>
> Mr. Durant, a successful lawyer, political activist and family man, may have made some errors in the crush of daily events. He has promised to repay Legal Services if any are discovered. Rep. Morrison should have better things to do than to flyspeck people with whom he has political differences. No wonder it's so hard to get decent people to go to work in government.

Mr. Speaker, I doubt if there is a Member of the U.S. House of Representatives who has not by accident made political phone calls. I think that that is almost certainly true. Every Member of the House runs for reelection. Every Member of the House makes dozens and dozens of calls every week. And I would bet you that, if one were to check carefully the records, one would be shocked to discover how often Mr. Durant made fewer calls than anybody else.

But I am not going to defend that. The point is this:

If one is a conservative or a moderate and wants to reform the machine, he can be smeared, he can be attacked, he can be beaten up psychologically, he can be hounded. Look at the difference in scale that the Wall Street Journal reported. If it was somebody who was for Ronald Reagan, we might spend a million dollars investigating him. If it was somebody who was for Ronald Reagan, we might spend years and up to $5 million in investigating him, but, oh, if it is corruption on the left, if it is problems on the left, if it is the Democratic Party that is involved, we should not go too fast, we should not dig too deep.

Now I think that enough is enough. I think that it was frankly a little weird that the Democratic Party replaced red, white and blue with cranberry, eggshell and azure, but that is their right. If the modern left wing Democrats think that red, white, and blue are too old fashioned, that, as the designer from Hollywood apparently said, "Those just aren't in colors anymore," and they want to give up red, white, and blue as their party and accept cranberry, azure, and eggshell colors, then I am looking forward this fall to the opportunity of asking my opponent when he went to the Democratic Convention if he truly thought that cranberry, azure, and eggshell should replace red, white, and blue, if he truly thought that represented the kind of foreign policy and attitude toward America that the Democrats have now taken. Now that will be fun, but that is a minor thing.

I thought it was bizarre that Michael Dukakis who, as Governor, vetoed the American Pledge of Allegiance in 1977, ended his acceptance speech with a foreign pledge of allegience that is 2,500 years old. I thought that was a little bit strange, but again, if one is cosmopolitan, and from Brookline, has been at Harvard and is living in that little strange triangle of Cape Cod, and Brookline and Boston, maybe a foreign pledge of allegiance makes more sense, and Michael Dukakis felt more comfortable with that foreign pledge of allegience. I understand that. I do not have any objections if the Democrats want to get up and say openly, "Ah, we're going to in fact eliminate the home mortgage deduction, and that is how we are going to get more taxes out of working Americans to transfer American bureaucracy."

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Apparently that was seriously discussed by the Platform Committee. I think they ought to explain that, because it is the Democrats who only 6 months ago placed the first limits on home loan writeoffs, that they are apparently favoring a new assault on homeowners in 1989. That is one of the secret tax increases they do not want to tell us about.

I do not object to that. What I object to is the fact that the modern left has learned the hard way that it cannot go out and be candid and tell the truth about what it intends to do.

Now, notice, for example, the trickette that they are running. For the first time in American history we have had two candidates for Vice President. We have a positional nominee in LLOYD BENTSEN and we have a spiritual Vice President nominee in Jesse Jackson. Both are going to get airplanes. Jesse Jackson gets more TV time. LLOYD BENTSEN gets to spend more time raising money.

That is fine. If they want to run a trickette, it is an interesting gimmick. It makes perfect sense.

But it is legitimate to ask the question, who gets to pick the Supreme Court Judges and what kind of judges will they be? Will they in fact be as far to the left as Mike Dukakis's campaign manager? Are they going to be as far to the left as Lawrence Tribe? Are they going to represent the values of those who savaged and smeared Robert Bork? Are they going to be antivoluntary school prayer, proabortion, people who do not believe in private property, people who do not believe in the constitutional conservatism of Ronald Reagan? They ought to tell us that.

Furthermore, how can they possibly tell us they care about ethics and deliberately exploit the loophole of spending on the Senate race for Senator Bentsen the money which they are illegally prevented from spending on the Presidential race?

Let me make this very clear. I personally believe the major reason Lloyd Bentsen was chosen was to be able to use a loophole of financing through his Senate campaign to purchase the State of Texas, that it is their intention to spend $20 million or $30 million registering voters, identifying voters, buying advertising, all in the name of the Senate campaign, none of which George Bush will be able to match under the legal limits of the Presidential campaign.

Now, I think that is an outrage. I think there is a simple way for them to prove they are ethical. They can refuse to do it, but they will not. They have already made clear that they intend to do everything they can to buy the State of Texas, and I think that has to be focused on because it is wrong.

They also need to make clear the fact that in the age of television, just a Walter Mondale could not run around America in 1984 and successfully tell every interest group what they wanted to hear, you cannot have a schizophrenic campaign which is left wing when Jesse Jackson is on the platform, but is going to somehow be moderate when Lloyd Bentsen is on the platform.

Now, which party is it? Is it a party which is honestly going to raise taxes?

Again, let me read into the Record the percentages of the delegates who were naively innocently honest.

Eighty-four percent favor higher taxes.

Now, that is the modern Democratic Party. That is the leftwing party of Walter Mondale.

So if you want a tax increase, vote for Dukakis.

Seventy percent are for a Palestinean homeland. That is a fairly straight number. If you think that Israel is too powerful, if you think that Israel's survival is not important, you have a Democratic Party eagerly ready.

It is important to remember that at the State level where they were not able to put the mask on, and they did not have the masked Michael Dukakis version of liberalism, at the State level there were eight States in which the Democrats openly came out for a Palestinean homeland. That is understandable.

Eighty-nine percent want to cut Pentagon spending. Well, that makes sense. If I were to say to you, imagine that a George McGovern Massachusetts liberal who spent a lot of time at Harvard, who has almost never been out of the country, who has never visited the major airbase in his home State, who has no real understanding of military affairs, was now going to appear and become the Democratic nominee for President, you would say, well, that makes sense, 89 percent want to cut defense.

After all, Massachusetts liberals are very antidefense. Massachusetts liberals are people who do not believe we need a Pentagon. Massachusetts liberals have a long tradition of being willing to cut spending on defense. That makes sense.

In fact, if you read, as I shall bring up next week, Jim Schlesinger's letter to Mike Dukakis, you look at the worries that former Secretary of Defense Schlesinger raises, you can appreciate why we have such difficulties and why we are so concerned in dealing with unilateral disarmament on the left.

But the fact is they do not want to be candid. They do not want to tell the American people the truth. They do not want to come out in the open, because they know if they are honest about what they intend to do, if they were to come honestly to the South and to the Mountain States and to the Midwest, or for that matter to California, which defeated Rose Bird 2 years ago and say, "Yes, we sure are going to appoint liberals to the Supreme Court," they would lose a lot of votes.

If they were to come out openly and candidly and say what Mr. Dukakis has said, which is maybe we ought to consider legalizing drugs, which he said in the San Diego Union Leader in May, they would lose votes.

If they were to come out and be candid and go to all those military bases and go to all those military plants that produce bombers, that produce weapons, that produce equipment and say, "Yes, we are going to lay you off," they would lose votes.

It is fascinating, and we are going to spend several days on the absolutely phony claim of a Massachusetts miracle, but when you study carefully, as people at MIT and Harvard have studied it, you discover that Dukakis has been claiming credit for jobs in Massachusetts which came directly from defense spending, which he opposes; so on the one hand he puts on the mask and says, "Oh, you should vote for me because in fact I will bring you prosperity."

On the other hand he puts on a mask and says, "By the way, don't look carefully at how many of those jobs I would kill if I were in charge as President."

I think that it is very, very important that we recognize they cannot have it both ways.

Now, I want to say one other thing this evening and then I will stop until next week. This is not just about politics as usual. Jimmy Carter was an absolute disaster to the United States. We tend to forget now because it has been 8 years and it is a long time ago. I hesitate saying this as a Congressman from Georgia, but it has to be said. Four years of Carter and a Democratic Senate and a Democratic House were extraordinarily destructive and debilitating for America. Four years that ended up with 21-percent interest rates—does anyone want to go back to 21-percent interest rates? Four years that ended up with 13-percent inflation; 4 years that ended with the relative collapse of America into a period in which we literally were killing jobs, becoming unable to compete, decaying rapidly; 4 years of raising taxes, of pushing working Americans harder and harder so that they had less and less to spend in take-home pay; 4 years of the kind of decay which was frightening.

But it was more than just the economy. It was a welfare state that was crippling us.

Remember the Carter drug adviser who was fired because it turned out he had been prescribing illegal drugs for people who were drug addicts?

Remember, the whole sense of confusion about values, about basic honesty?

Remember the Russian invasion of Afghanistan, the Communist takeover of Nicaragua, giving up the Panama Canal?

It is interesting, for example, that while Bentsen runs around talking about Noriega, Bentsen voted in favor of giving the Panamanian dictatorship the Canal.

It is interesting to notice how all these things come back together.

And yet I would suggest that Jimmy Carter is as much stronger, as much firmer, as much clearer than Mike Dukakis in defense and foreign policy as the U.S. Naval Academy is over Swarthmore.

If you look at where Dukakis went to school and the Dukakis experience base, how little Dukakis has traveled, how little he understands foreign policy, it is genuinely terrifying to anyone who really understands and studies the Soviet Union to imagine a man of this limited background in the Oval Office.

Furthermore, the problems, of ethics in the U.S. Congress are real. The problems of a Congress in which the Democrats have held control for 34 years are real. The problems of a Congress which is so arrogant now that it secretly passes pay raises for itself are real.

If you look at the official published reports in this Congress about Members of this House who have had violations of ethics as determined by this Congress, one, a convicted felon, another who misreported $2 million worth of assets, and then you look at how they beat up on a fine man like Clark Durant, you can understand why some of us are frightened.

This is more than just politics as usual. The challenge to the Republican Party, frankly, is to have the courage of its indignation, to have the courage of the people who will be harmed.

When the Democratic leadership tells the Congressional Budget Office to rewrite a report that says that 500,000 people will be put out of work, that does not mean that 500,000 people will not be put out of work. It just means that the left wing Democratic machine will not have to be honest about it.

We have an obligation to those 500,000 people to insist on honesty in the Congress, because those people are going to be hurt if we are not honest in the Congress.

This is not just some game. This is not some high school student body. This is the Congress of the United States. If we are not willing to insist on basic honesty in the Congress, there cannot be any self-government.

If we are not willing in the Presidential campaign to insist on some basic honesty, there cannot be any self-government.

If all our choices disintegrate into a cynical choice between two equally dishonest, two equally smearing, two equally distorted, two equally uninformed sets of politicians, we have no future.

So my challenge to Republicans and Democrats alike is simple. Over the next few weeks we should set aside time every evening, and both parties ought to come out here and we ought to talk about it face to face, because the truth is while any party can get up by itself in its own convention and put on what Fred Barnes called a masquerade, while any party can avoid talking about its policies and its record and can distort the other side's policies and records in a one-sided setting, on the floor of the House we have a chance to debate not just for an hour, not just for 90 minutes, but we have a chance to get everything out in the open.

I am prepared to come next week and defend everything I said today. I will be prepared next week to bring new information, to bring new material, to lay out a series of cases, to deal with, for example, the charges made in the Reader's Digest July issue, in an article entitled "Getting Away With Murder," which is an amazing report in the Reader's Digest of Governor Dukakis and what leftwing policies of letting murderers get out on weekends is like and what it does to people.

I will be prepared to talk about the so-called Massachusetts miracle and the way in which Dukakis has systematically distorted it and systematically misled the American people.

I will be prepared to take former Secretary of Defense Schlesinger's letter to Dukakis and outline step by step the extraordinary level of apparent ignorance of our foreign policy; the fact that I suspect, and we will know in the next few weeks, and again I would urge my Democratic friends to come out and inform me if this is wrong, but my guess is from what I have seen so far, that this is the least traveled, the least experienced in foreign policy candidate for President in modern times.

So step by step over the next few weeks we are going to look at the Ethics Committee. We are going to look at the investigation of the Speaker. We are going to look at the standards that Congress applies to itself and the standards it applies to everyone else. We are going to look at the various phony charges made by people like Ted Kennedy at the convention.

We are going to look at the record, the facts and the reality. We are going to lay the case out, the deliberately deceptive liberals running a deliberately deceptive campaign are in fact involved in the decay of American self-government.

It was once true that the head of a machine in Philadelphia said that he did not mind wrecking the system as long as he owned the wreckage.

We learned the hard way under Jimmy Carter's 4 years that the wreckage can be very painful to human beings, the unemployment, the inflation, the interest rates, the whole crisis of the Afghan invasion by the Soviet Union, the loss of Nicaragua to communism. That is a very severe wreckage indeed.

So I look forward starting on Monday to any of our friends on the Democratic side who would like to come out, who would like to talk about and defend the kind of process which is so ably and intriguingly described in the New Republic this week.

I think we need to focus on things like the rise of anti-Semitism in Chicago. We need to focus on what happens in a free society when politicians are allowed, as the Reader's Digest put it, to get away with murder and the politicians are allowed to get away with masquerades, when the politicians are allowed to attempt to get away with deliberate deception.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Jontz (at the request of Mr. Foley), after 12:30 p.m. today, on account of a death in the family.

Mr. Yates (at the request of Mr. Foley), after 12:30 p.m. today, on account of illness in the family.

Mr. Rowland of Connecticut (at the request of Mr. Michel), for today, on account of the birth of his baby girl.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Ridge) to revise and extend their remarks and include extraneous material:)

Mr. Gingrich, for 60 minutes, on August 1.

Mr. Dannemeyer, for 60 minutes, on August 2.

Mr. Dannemeyer, for 60 minutes, on August 3.

Mr. Dannemeyer, for 60 minutes, on August 4.

Mr. McEwen, for 60 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Brooks, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, on August 4.

(The following Member (at the request of Mr. Gonzalez) to revise and extend his remarks and to include extraneous matter:)

Mr. Frank, for 60 minutes, on August 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Conte, prior to vote on Schumer amendment, on H.R. 5015 in Committee of the Whole, today.

(The following Members (at the request of Mr. Ridge) and to include extraneous matter:)

Mr. Shays.
Mr. Crane.
Mr. Herger.
Mr. Fish.
Mr. Hyde.
Mr. Gallo.
Mr. Fields.
Mr. Solomon.
Mrs. Morella.
Mrs. Johnson of Connecticut.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Biaggi.
Mr. Rangel.
Mr. Rodino.
Mr. Roe.

Mr. Berman in two instances.
Mr. Stokes in two instances.
Mr. Weiss.
Mr. Dorgan of North Dakota.
Mr. Bennett.
Mr. Moakley in two instances.
Mr. Barnard.
Mr. Fazio.
Mr. Scheuer.
Mr. Borski.
Mr. Lantos.
Mr. Ackerman.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 475. Joint resolution to designate October 1988 as "Polish American Heritage Month."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 90. Joint resolution to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until Monday, August 1, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4089. A letter from the Director, the Office of Management and Budget, transmitting the supplementary summary of the 1989 Budget, pursuant to 31 U.S.C. 1106(a)(1) (H. Doc No. 100-217); to the Committee on Appropriations and ordered to be printed.

4090. A letter from the Secretary of Education, transmitting a copy of final funding priority under the law-related Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4091. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 8-88 concerning the Department of the Navy's proposed lease of defense articles to Colombia, pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

4092. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles and services estimated to cost $60 million (Transmittal No. 88-40), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4093. A letter from the Administrator, Agency for International Development, transmitting the 1987 annual report, "Progress is Conserving Tropical Forests and Biological Diversity in Developing Countries," pursuant to 22 U.S.C. 2151p-1; to the Committee on Foreign Affairs.

4094. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting the 1987 annual report on the activities and operations of the Department's Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

4095. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting a draft of proposed legislation to establish the Panama Canal Commission Compensation Fund to provide for accumulation of funds to meet the Panama Canal Commission's obligations under the Federal Employees' Compensation Act, chapter 81 of title 5, United States Code, and for other purposes; to the Committee on Merchant Marine and Fisheries.

4096. A letter from the Executive Secretary, Office of the Secretary, Department of Defense, transmitting the report on Department of Defense procurement from small and other business firms for October 1987 through May 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4352. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; with an amendment (Rept. 100-718, Pt. 3). Ordered to be printed.

Mr. BENNETT: Committee on Armed Services. H.R. 4665. A bill to allow the obsolete submarine ex-Growler (ex-SSG-577) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable 60-day congressional review period (Rpt. 100-806). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3133. A bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes; with an amendment (Rept. 100-807). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4123. A bill to authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1989, 1990, and 1991; referred to the Committee on Agriculture for a period ending not later than September 16, 1988, for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X (Rept. 100-808, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ACKERMAN (for himself, Mrs. Morella, Ms. Oakar, Mr. Myers of Indiana, and Mr. Leland):

H.R. 5102. A bill to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals; to the Committee on Post Office and Civil Service.

By Mr. ANTHONY:

H.R. 5103. A bill to amend the Agricultural Act of 1949 to allow producers to devote acreage conservation reserve acreage to water storage for irrigation; to the Committee on Agriculture.

By Mr. BROOKS (by request):

H.R. 5104. A bill to improve the efficiency and effectiveness of the management and disposal of Federal real and personal property; to the Committee on Government Operations.

By Mr. CLAY:

H.R. 5105. A bill to establish an Equal Employment Opportunity Appeals Board in the Library of Congress; to the Committee on House Administration.

By Mr. HOCHBRUECKNER (for himself, Mr. Bennett, Mrs. Boxer, and Mr. Olin):

H.R. 5106. A bill to amend title 10, United States Code, to prohibit the use of certain inside information in the award of any contract with the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Lagomarsino, and Mrs. Collins):

H.R. 5107. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for a portion of the wages paid to employees allowed to shift their hours of employment or to work at home in order to reduce their child care needs; to the Committee on Ways and Means.

By Mr. KENNEDY:

H.R. 5108. A bill to authorize the Cambridge Redevelopment Authority to acquire and redevelop land within the Kendall Square urban renewal project area for housing and accessory uses and to direct the Secretary of Transportation to reconvey certain disposable real property in the project area to the Cambridge Redevelopment Authority for such purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LaFALCE:

H.R. 5109. A bill to amend the Truth in Lending Act to establish disclosure and notification requirements for transfer of the servicing of mortgage loans, to establish requirements for the administration of escrow accounts for payments of taxes and insurance with respect to property securing any mortgage loan, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FOLEY:

H.R. 5110. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, Education and Labor, Veterans' Affairs, and Ways and Means.

By Mr. LaFALCE:

H.R. 5111. A bill to amend the Real Estate Settlement Procedures Act of 1974 to establish disclosure and notification requirements for transfers of the servicing of mortgage loans, to establish requirements for the administration of escrow accounts for payment of taxes and insurance with respect to property securing any mortgage loan, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LANTOS (for himself, Mr. Frank, Mr. DioGuardi, and Mr. Nielson of Utah):

H.R. 5112. A bill to modify the authority of the Equal Employment Opportunity Commission to investigate and determine discrimination claims made by Federal employees against the Federal Government, and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. THOMAS A. LUKEN (for himself, Mr. Whittaker, and Mr. Bates):

H.R. 5113. A bill to provide that the advertising and promotion of tobacco products and the sale of tobacco products in vending machines violates the Federal Trade Commission Act, to amend the Federal Trade Commission Act to authorize a continuing study of tobacco smoke, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MONTGOMERY (for himself, Mr. Hammerschmidt, Mr. Solomon, and Mr. McEwen):

H.R. 5114. A bill to amend title 38, United States Code, to improve programs for the recruitment and retention of health-care personnel of the Veterans' Administration, to extend certain expiring programs of the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RODINO (for himself and Mr. Mazzoli):

H.R. 5115. A bill to amend the Immigration and Nationality Act to revise the numerical limitation and preference system for admission of independent immigrants, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHULZE:

H.R. 5116. A bill to require the Administrator of the Environmental Protection Agency to promptly commence remedial action at the Paoli Railyard Superfund site in Paoli, PA; to the Committee on Energy and Commerce.

By Mr. STUDDS:

H.R. 5117. A bill to require that plastic ring carrier devices be degradable; jointly, to the Committee on Energy and Commerce and Merchant Marine and Fisheries.

By Mr. BIAGGI:

H.R. 5118. A bill to amend section 311 the Older Americans Act of 1965 to require the Secretary of Agriculture to provide assistance for two meals served daily per person; to the Committee on Education and Labor.

By Mrs. ROUKEMA:

H. Con. Res. 342. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on residential mortgages should not be altered; to the Committee on Ways and Means.

By Mr. DORNAN of California (for himself, Mr. Wolf, Mr. Lantos, Mr. Hall of Ohio, Mr. Smith of New Jersey, Mr. Crane, Mr. Porter, Mr. Applegate, Mr. Atkins, Mr. Bateman, Mr. Bereuter, Mr. Bilirakis, Mr. Bonker, Mr. Boulter, Mr. Broomfield, Mr. Brown of California, Mr. Burton of Indiana, Mr. Carper, Mr. Coelho, Mrs. Collins, Mr. Coyne, Mr. DioGuardi, Mr. Dreier of California, Mr. Dwyer of New Jersey, Mr. Fazio, Mr. Feighan, Mr. Fields, Mr. Gray of Pennsylvania, Mr. Green, Mr. Henry, Mr. Horton, Mr. Hughes, Mr. Hyde, Mr. Inhofe, Mr. Kasich, Mr. Kemp, Mr. Kolter, Mr. Konnyu, Mr. Levin of Michigan, Mr. Lipinski, Mr. Donald E. Lukens, Mrs. Martin of Illinois, Mr. Manton, Mr. Martinez, Mr. McCurdy, Mr. McGrath, Mr. Miller of Washington, Mr. Moorhead, Mrs. Morella, Mr. Mrazek, Mr. Murphy, Ms. Pelosi, Mr. Pursell, Mr. Rinaldo, Mr. Ritter, Mr. Rose, Mr. Saxton, Mr. Schaefer, Mr. Scheuer, Miss Schneider, Mr. Solomon, Mr. Traficant, Mr. Visclosky, Mr. Walgren, Mr. Weber, Mr. Weiss, Mr. Wolpe, and Mr. Wortley):

H. Res. 505. Resolution condemning the systematic violation of international recognized human rights by the Government of Romania; to the Committee on Foreign Affairs.

By Mr. MOLINARI:

H. Res. 506. Resolution requiring rendition of the Pledge of Allegiance to the Flag in the House of Representatives on each legislative day; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

457. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to social security and related programs for State and local public employees; to the Committee on Ways and Means.

458. Also, memorial of the Legislature of the State of Louisiana, relative to the fiscal integrity of State and local governments; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 458: Mr. Richardson.

H.R. 639: Mr. Studds.

H.R. 1028: Mr. Combest, Mr. Courter, Mr. Quillen, Mr. Hayes of Louisiana, Mr. Sweeney, Mr. Mavroules, and Mr. Price of North Carolina.

H.R. 1443: Mrs. Roukema and Ms. Snowe.

H.R. 1580: Mr. Andrews and Mr. Wyden.

H.R. 1700: Mr. Fauntroy.

H.R. 1921: Mr. Stangeland.

H.R. 2039: Mr. McEwen, Mr. Baker, Mr. Holloway, Mr. Packard, Mr. Ridge, and Mr. McCrery.

H.R. 2532: Mr. Ortiz.

H.R. 2727: Mr. MacKay.

H.R. 2828: Mr. Wolpe, Mr. Levine of California, Mr. Quillen, Mr. Ortiz, and Mr. DeFazio.

H.R. 2926: Mr. Foglietta.

H.R. 2940: Mr. Rose.

H.R. 2999: Mr. Henry, Mr. Swift, Mr. McHugh, Mr. Owens of Utah, Mr. Pursell, Mr. Akaka, and Mr. Jenkins.

H.R. 3112: Mr. Roe, Mr. Dwyer of New Jersey, and Mr. Coyne.

H.R. 3454: Mr. Leath of Texas and Mr. Manton.

H.R. 3478: Mr. Smith of New Jersey.

H.R. 3612: Mr. Eckart.

H.R. 3654: Mr. Bustamante, Mr. Emerson, Mr. Dymally, Mr. Gunderson, Mr. Hansen, and Mr. Erdreich.

H.R. 3754: Mr. Holloway, Mr. Packard, and Mr. Baker.

H.R. 3769: Mr. Weiss.

H.R. 3784: Mr. Slattery and Mr. Richardson.

H.R. 3900: Mr. Baker and Mr. Holloway.

H.R. 3919: Mr. Lowry of Washington and Mr. Torricelli.

H.R. 3940: Mr. Towns.

H.R. 4011: Mr. Bateman and Mr. Weber.

H.R. 4060: Mr. Stallings, Mr. Dymally, Mr. Sabo, Mr. Thomas A. Luken, Mr. Johnson of South Dakota, Mr. Bosco, and Mr. Boucher.

H.R. 4115: Mr. Herger.

H.R. 4156: Mr. Shays, Mr. Skelton, and Mr. Lowery of California.

H.R. 4189: Mr. Gilman, Mr. Martinez, and Mr. Akaka.

H.R. 4257: Mr. Price of North Carolina, Mr. Broomfield, Mr. Konnyu, Mr. Kolbe, Mr. Bilirakis, Mr. Clinger, Mr. Ireland, Mr. Traxler, Mr. Bates, Mr. Wylie, Mr. Mica, and Mr. Payne.

H.R. 4277: Mr. Conte, Mr. Shumway, Mr. Henry, Mr. Spratt, Mr. Smith of Florida, Mr. Buechner, Mr. Mack, Mr. Davis of Illinois, Mr. Lancaster, and Mr. Burton of Indiana.

H.R. 4317: Mr. Hammerschmidt, Mr. Sundquist, and Mr. Porter.

H.R. 4438: Mr. DeFazio, Mr. Marlenee, Mr. Evans, Mr. Mfume, and Mrs. Morella.

H.R. 4463: Mr. Ballenger.

H.R. 4526: Mr. Slaughter of Virginia, Mr. Wolf, Mr. Clement, Mr. Schuette, and Mr. Ritter.

H.R. 4531: Mr. Shumway.

H.R. 4543: Mr. Lowry of Washington.

H.R. 4718: Mr. Atkins, Mr. Chapman, and Mr. Bonior of Michigan.

H.R. 4719: Mr. Horton, Mr. Walker, Mr. Conyers, Mrs. Collins, Mr. English, Mr. Neal, Mr. Barnard, Mr. Lantos, Mr. Wise, Mr. Owens of New York, Mr. Towns, Mr. Spratt, Mr. Kolter, Mr. Erdreich, Mr. Kleczka, Mr. Bustamante, Mr. Martinez, Mr. Sawyer, Mr. Grant, Mr. Clinger, Mr. McCandless, Mr. Craig, Mr. Nielson of Utah, Mr. DioGuardi, Mr. Lightfoot, Mr. Boulter, Mr. Donald E. Lukens, Mr. Houghton, Mr. Hastert, Mr. Kyl, Mr. Inhofe, and Mr. Shays.

H.R. 4734: Mr. Dornan of California, Mr. Burton of Indiana, Mr. Lagomarsino, Mr. Wortley, Mr. Neal, Mr. Lewis of Florida, Mr. Shumway, Mr. Roe, Mr. Lantos, Mr. Towns, and Mrs. Bentley.

H.R. 4758: Mr. McCrery and Mr. Borski.

H.R. 4860: Mr. Traxler, Mr. Fauntroy, Mrs. Collins, Mr. Neal, Mr. Biaggi, Mr. Lagomarsino, Mr. Dwyer of New Jersey, Mr. Rangel, Mr. Fazio, Mr. Garcia, Mr. de Lugo, and Mr. Owens of New York.

H.R. 4866: Mr. Frost, Mr. Wolpe, Mr. Derrick, Mr. Atkins, Mr. Owens of New York, Mr. Levin of Michigan, Mr. Dellums, and Mr. Kennedy.

H.R. 4869: Mr. Bevill.

H.R. 4870: Mr. Kastenmeier, Mr. Levine of California, Mr. Panetta, Mr. Wolf, Mr. Swift, Mr. Torricelli, Mrs. Bentley, and Mr. Martinez.

H.R. 4902: Mr. Bryant and Mr. Mavroules.

H.R. 4921: Mr. Martinez.

H.R. 4929: Mrs. Johnson of Connecticut, Mr. Emerson, and Mr. Herger.

H.R. 4941: Mr. Pepper, Mr. Towns, Mr. Kanjorski, Mr. Murphy, and Mr. Frank.

H.R. 4942: Mr. Murphy.

H.R. 4955: Mr. Akaka and Mr. McMillan of North Carolina.

H.R. 4958: Mr. Dyson, Mr. Fazio, Mr. Buechner, Mr. Atkins, Mr. Edwards of Oklahoma, Mr. Kennedy, Mr. Martinez, and Mr. Eckart.

H.R. 4987: Mr. Kolter.

H.R. 4992: Mr. Ackerman, Mr. Towns, Mr. Lewis of Georgia, Mrs. Meyers of Kansas, Mr. Dwyer of New Jersey, Mr. Roe, Mr. Wolf, Mr. Atkins, Mr. Bartlett, and Mr. Martinez.

H.R. 5001: Mr. Atkins, Mr. Courter, Mr. Petri, Mrs. Johnson of Connecticut, and Mr. Lagomarsino.

H.R. 5003: Ms. Pelosi, Mrs. Collins, Ms. Oakar, and Mr. Dyson.

H.R. 5031: Mr. Parris.

H.R. 5036: Mr. Owens of New York, Mr. Fauntroy, Mr. Roe, and Mr. Dellums.

H.R. 5050: Mr. Studds, Mr. Bates, Mr. Traficant, Mrs. Saiki, Mr. Levin of Michigan, Mr. de Lugo, Mr. Pepper, Mr. Fazio, Mr. Bereuter, Mr. McGrath, Mr. Bevill, Mr. Bruce, and Mrs. Bentley.

H.R. 5068: Mrs. Bentley, Ms. Kaptur, Mr. Atkins, and Mr. Dellums.

H.J. Res. 138: Mr. Applegate, Mr. Gallo, Mr. Ireland, Mr. Murphy, Mr. Vander Jagt, Mr. Sawyer, Mr. Lewis of Florida, Mr. Dicks, and Mr. Smith of New Jersey.

H.J. Res. 139: Mr. Towns and Mr. Bruce.

H.J. Res. 140: Mr. Alexander, Mr. Coats, Mr. Dingell, Mr. Fawell, Mr. Gallo, and Mr. Hutto.

H.J. Res. 409: Ms. Pelosi.

H.J. Res. 449: Mr. Foley, Mr. Eckart, Mr. Shays, Mr. Mineta, Mr. English, Mr. DioGuardi, Mr. Solarz, Mr. MacKay, Mr. Darden, Mr. Armey, Mr. Lightfoot, Mr. Torricelli, Mr. Rowland of Georgia, Mr. Coleman of Texas, Mr. Hammerschmidt, Mr. Dorgan of North Dakota, Mr. Crockett, Mr. Mazzoli, Mr. Scheuer, Mr. Manton, Mr. Moody, Mr. Gradison, Mr. Lewis of California, and Mr. Kleczka.

H.J. Res. 458: Mr. Courter and Mr. Lehman of California.

H.J. Res. 516: Mr. Bennett, Mrs. Meyers of Kansas, Mr. Atkins, and Mr. Hughes.

H.J. Res. 518: Mr. DioGuardi, Mr. Schuette, Mr. Skelton, Mr. Kolter, Mr. Sikorski, Mr. Miller of Washington, Mr. Shaw, Mr. Shays, Mr. Atkins, Mr. Hughes, and Mr. Thomas A. Luken.

H.J. Res. 540: Mr. Pickle, Mr. Hansen, Mr. Traxler, Mr. Lewis of California, Mr. Young of Florida, Mr. Coyne, Mr. Jontz, and Mr. Hutto.

H.J. Res. 565: Mrs. Bentley, Mr. Holloway, Mr. Young of Florida, Mr. Sikorski, Mr. Yatron, Mr. Foley, Mr. de Lugo, Mr. Yates, Mr. Ackerman, and Mr. Sharp.

H.J. Res. 570: Mr. Chappell, Mr. Conyers, Mr. Crockett, Mr. Darden, Mr. Dyson, Mr. Espy, Mr. Bustamante, Mr. Dicks, Mr. Erdreich, and Mr. de la Garza.

H.J. Res. 576: Mr. Bryant, Mr. Chandler, Mr. Crockett, Mr. Daub, Mr. Early, Mr. Gilman, Mr. Goodling, Mr. Hall of Texas, Mr. Kennedy, Mr. Mazzoli, Mr. McDade, Mr. Tauke, Mr. Taylor, and Mr. Young of Florida.

H.J. Res. 583: Mr. Yatron, Mrs. Collins, Mr. Martinez, and Mr. Mineta.

H.J. Res. 584: Mr. Lagomarsino, Mr. Lehman of California, Mr. de Lugo, Mr. Biaggi, Mr. Campbell, Mr. Shaw, Mr. Bustamante, Mr. Bevill, Mr. Thomas A. Luken, and Mr. Young of Florida.

H.J. Res. 591: Mr. Dornan of California, Mr. Garcia, Mr. Schaefer, Mr. Dreier of California, Mr. Ackerman, Mr. Brooks, Mr. Hyde, Mr. Ireland, Mr. Levin of Michigan, Mr. Kasich, Mr. Kostmayer, Mr. Markey, Mr. Martin of New York, Mr. Olin, Mr. Quillen, Mr. Scheuer, Mr. Wortley, Mr. Flippo, Mr. Weber, Mr. Wilson, Mrs. Boxer, Mr. Bustamante, Mr. Emerson, Mr. Dyson, Mr. Wyden, Mr. Fauntroy, Mr. Bosco, Mr. Coats, Mr. Hubbard, Mr. Watkins, Mr. Anthony, Mr. Barnard, Mr. Bilbray, Mr. Bryant, Mr. Darden, Mr. Dingell, Mr. Dowdy of Mississippi, Mr. Eckart, Mr. English, Mr. Hall of Texas, Mr. Hefner, Mr. Lent, Mr. Lott, Mr. Montgomery, Mr. Stenholm, and Mr. Whittaker.

H.J. Res. 592: Mr. Pickett, Mr. Ravenel, Mr. Robinson, Mr. McCrery, Mr. Rose, Mr. Schuette, Mr. Skelton, Mr. Slaughter of Virginia, Mr. Weldon, Mr. Kleczka, Mr. Jacobs, Mr. Jontz, Mr. Hyde, Mr. Hutto, Mr. Wyden, Mr. Wise, Mr. Wilson, Mr. Waxman, Mr. Sunia, Mr. Stenholm, Mr. Stark, Mr. Stangeland, Mr. MacKay, and Mr. Spratt.

H.J. Res. 598: Mr. Yatron, Mr. Young of Alaska, Mr. Bryant, Mr. Cooper, Mr. Weber, Mr. Gunderson, Mr. Richardson, Mr. Clarke, Mr. Durbin, Mr. Kildee, Mr. Foglietta, Mr. Young of Florida, Mr. Goodling, Mrs. Morella, and Mr. Erdreich.

H.J. Res. 602: Mr. Visclosky, Mr. Wise, Mr. Kolter, Mr. McMillen of Maryland, Mr. Wortley, Mr. Konnyu, Mr. McHugh, Mr. Lagomarsino, and Mr. Nielson of Utah.

H.J. Res. 603: Mr. Fazio, Mr. Hamilton, Mr. Johnson of South Dakota, Mr. Cardin, Mrs. Morella, Mr. Stokes, Mr. Young of Florida, Mr. Bevill, Mr. Manton, Mr. Roberts, and Mr. Hochbrueckner.

H.J. Res. 610: Mr. Madigan, Mr. Lehman of California, Mr. Hefner, Mr. Skeen, and Mr. Valentine.

H.J. Res. 613: Mr. Blaz, Mr. Garcia, Mr. McDade, Mr. Evans, Mr. Levin of Michigan, Mr. Badham, Mr. Mack, Mr. Foglietta, Mr. Ritter, Mrs. Meyers of Kansas, Mr. Parris, Mr. Thomas A. Luken, Mr. Chandler, Mr. Weiss, Mr. Berman, Mr. Young of Florida, Mr. Matsui, Mr. Yatron, Mr. Hatcher, Mr. Donnelly, and Mr. Towns.

H. Con. Res. 61: Mr. Biaggi, Mr. Brown of California, Mr. Clarke, Mr. Coleman of Missouri, Mr. Edwards of Oklahoma, Mr. Fazio, Mr. Horton, Mr. Rangel, Mr. Richardson, Mr. Robinson, Mr. Sawyer, Mr. Shays, Mr. Skelton, Mr. Wheat, Mr. Wise, Mr. Lantos, Mr. Ravenel, Mr. Bates, Mr. Ireland, Mr. Rose, Mr. Lehman of Florida, and Ms. Kaptur.

H. Con. Res. 256: Mr. DioGuardi.

H. Con. Res. 284: Mr. Bartlett, Mr. Crane, Mr. DeLay, Mr. Marlenee, and Mr. Schaefer.

H. Con. Res. 295: Mr. Lungren.

H. Con. Res. 310: Mr. de Lugo, Mr. Torricelli, Mr. Smith of New Hampshire, Mr. Owens of New York, and Mr. Stokes.

H. Con. Res. 316: Mr. Lipinski.

H. Con. Res. 329: Ms. Pelosi, Mrs. Collins, Mr. Biaggi, Mr. Matsui, Mr. Hochbrueckner, Mr. Dwyer of New Jersey, Mr. Miller of California, Mr. Hoyer, and Mr. Skaggs.

H. Con. Res. 330: Mr. Holloway.

H. Con. Res. 334: Mr. Neal, Mr. Barton of Texas, Mr. Boulter, Mr. Kolter, Mr. Marlenee, Mr. Herger, Mr. Swindall, Mr. Eckart, and Mr. Rahall.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3660: Mr. Whittaker.

H. Con. Res. 334: Mr. McCrery.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

221. The SPEAKER presented a petition of Leland Erickson, R. 1, Box 223, Lake Park, MN, relative to the Agricultural Act of 1987; to the Committee on Agriculture.

EXTENSIONS OF REMARKS

INTELLIGENCE OVERSIGHT BILL AND 48-HOUR NOTICE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. HYDE. Mr. Speaker, at the beginning of August, the House will be voting on the Intelligence Oversight Act of 1988. In reaction to the Iran-Contra episode, this bill would impose mandatory notification to Congress within 48 hours of Presidential approval for a covert action. To help foster an intelligent debate on this serious subject, I would like to submit for the RECORD, in two installments, some publications on issues raised by the bill. Today I am presenting two articles. One, by Representative DICK CHENEY, focuses on the constitutional issues involved. A second, by Representative DAN LUNGREN, addresses operational considerations by discussing circumstances that have prompted CIA to invoke exceptions to normal notification practices. Both these Members sit on the House Permanent Select Committee on Intelligence, which held hearings on the bill.

The articles follow:

[From the Wall Street Journal, May 8, 1988]

COVERT OPERATIONS: WHO'S IN CHARGE?

(By Dick Cheney)

There is a consensus in Washington after Iran-Contra that the process for managing legislative relations on covert operations could be improved. The consensus quickly breaks down, however, as people begin putting forward concrete suggestions.

A bill, already passed by the Senate and moving forward in the House, would require the president under all conditions, with no exceptions, to notify Congress of covert operations within 48 hours of their start. It is a typical example of "never again" thinking by Congress. To make sure the last disaster will never again repeat itself, Congress is willing to deprive future presidents of all possible discretion under conditions Congress cannot possibly foresee.

At the heart of the dispute over this bill is a deeper one over the scope of the president's inherent constitutional power. I believe the president has the authority, without statute, to use the resources placed at his disposal to protect American lives abroad and to serve other important foreign-policy objectives short of war.

Congress does have the power, however, to control the money and material resources available to the president for covert actions. Because Congress arguably cannot properly fulfill its legislative function on future money bills without information, some kind of a reporting requirement can be understood as a logical extension of a legitimate legislative power.

LIMITING THE MONEY POWER

The constitutional question is: What are the limits to what Congress may demand as an adjunct of its appropriations power? Broadly speaking, Congress may not use that it would be unconstitutional for it to achieve directly. It could not place a condition on the salaries of judges, for example, to prohibit the judges from spending any time to reach a particular constitutional conclusion. In the same way, Congress could not use its clearly constitutional powers over executive-branch resources and procedures to invade an inherently presidential power.

How does this reasoning apply to the proposed 48-hour rule? In 1980, Congress revised the intelligence oversight law to require the president to notify the House and Senate intelligence committees before beginning any significant, anticipated intelligence activity. It justified the requirement on its need for information to fulfill its legislative power to appropriate money.

There is a line of Supreme Court cases, dating back to 1821, upholding Congress's implied power to demand information. But what happens if the power to demand information confronts another implied power held by another branch that is equally well grounded on a constitutional foundation? That was the issue in the executive-privilege case of *U.S. v. Nixon*. In that case, we learned that the decision in any particular case must rest on the competing claims of the two branches at odds with each other. That is how I think the 48-hour rule must be considered.

The 48-hour bill recognizes the president's inherent power to initiate a covert action—as long as that action is limited to resources already available to the president. If Congress ever tries to insist on advance approval, that would surely be overturned as a legislative veto.

But if the president has the inherent power to initiate covert actions, then the same rule that gives Congress the implied power to demand information also gives the president the implied powers he may need to put his acknowledged power into effect. In virtually all cases there is no conflict between the president's power to initiate an action and requiring the president to notify the intelligence committees (or a smaller group of leaders) of that operation in advance. In a very few rare circumstances, however, there can be direct conflict.

One good example was the Carter administration's decisions to withhold notification of some Iran hostage rescue operations. In one case, notification was withheld for about three months until six Americans could be smuggled out of the Canadian Embassy in Tehran. In fact, Canada made withholding notification a condition of its participation.

The Iranian hostage examples show that when notification has to be withheld may depend not on how much time has elapsed, but on the character of the operation. There is no question that when other governments place specific security requirements on cooperating with the U.S., the no-exceptions aspect of the 48-hour rule would be equivalent to denying the president his inherent power to act.

What is the constitutional justification for the proposed bill? The best argument, to quote the Senate Intelligence Committee, is that notification is needed "to provide Congress with an opportunity to exercise its responsibilities under the Constitution." The problem is that there is no legislative power that requires notification under all conditions during any precisely specified time period. All Congress needs to know is whether to continue funding ongoing operations.

Who should have the power to decide that notification would make action impossible? In the rare situation in which a president believes he must delay notification as a necessary adjunct to fulfilling his constitutional mandate, that decision must rest with the president. The president obviously cannot consult with Congress about whether to consult.

You could argue that failure to notify might, in the extreme, deprive Congress of this power. Iran-Contra was such an extreme. But the price of assuring notification within a specific time period is to make some potentially life-saving operations impossible. On the scale of risks, there is more reason to be concerned about depriving the president of his ability to act than about Congress's alleged inability to respond. Congress eventually will find out about decisions of any consequence. When that happens, it has the political tools to take retribution. President Reagan learned this dramatically. It is a lesson no future president is likely to forget.

The current approach certainly does have some problems. We have seen that it too often breeds frustration and mistrust in both the legislative and executive branches. This is not a one-sided problem. Congress had every reason to be angry about the way the National Security Council staff deceived us about the Contra resupply effort. But the president has just as much cause to be angry about the way the speaker and the Rules Committee use their scheduling power to delay, prevent or structure floor votes, about the way members can unilaterally decide that a previously covert operation is ripe for public debate, and about the incessant problem of leaks. Each side has good reason to think the other has contributed to a breakdown of comity.

What we need is a modified set of procedures that will permit each side to recognize the other's appropriate constitutional role. In this spirit, I offer the following as a framework for amending the Intelligence Oversight Act.

(1) The president should retain the constitutional power to initiate a covert action, even if some members of Congress consider the operation controversial.

(2) Requiring notification within 48 hours can be accepted in general, but only if there is an escape clause for the president to invoke unilaterally in exceptional circumstances.

Congress also needs to take steps to improve its own ability to protect secrets. Current procedures almost require an operation's cover to be blown before the operation can be discussed outside of committee. If Congress had adequate security laws and procedures, with stiff penalties for viola-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tions, the end result probably would be more frank discussion, not less.

As long as Congress is considering disclosure, let me make one more modest proposal. The U.S. needs only one secretary of state. No member of Congress ever should take it upon himself to negotiate with a foreign government. Fact finding is an acceptable part of a legislator's job. Negotiating is not. All discussions that even might turn into negotiation, therefore, ought to be held only within a context of regular State Department communication and guidance.

A 48-HOUR RULE FOR CONGRESS

To help restore a proper respect for the separation of powers, it might be a good idea to apply something like the 48-hour rule in reverse. Members of Congress should be required to submit written reports to the State Department describing any communications they have with a foreign government within 48 hours after they occur.

Whether or not this proposal is accepted by Congress, it points to an important underlying issue. Legislative-executive relations did break down during the Iran-Contra affair. Congress made the president pay a stiff price for that breakdown, and the president has taken several important steps to improve procedures on his end of Pennsylvania Avenue. But the real problems are two-way. We in Congress ought to look at what we can do to improve our own behavior.

The 48-hour bill would "get back" at President Reagan by tying the hands of all future presidents. That approach will achieve nothing useful. The better way is with procedures that encourage each branch to respect the other's proper role. Comity comes through hard work on a daily basis. But the first step must be mutual respect.

(Rep. Cheney (R. Wyo.) is a member of the House Intelligence Committee and was the ranking minority member of the House Committee to Investigate Covert Arms Transactions with Iran.

[From the Sacramento Bee, May 20, 1988]

COVERT ACTION: A WISE SILENCE IF LIVES ARE SAVED

(By Dan Lungren)

Congress is at its worst when it passes laws that sound good, but that pose monumental difficulties for the average citizen—or, in the case at hand, for the American accused of being a "spy" who fervently hopes to "come in from the cold" in one unbloodied, untortured piece.

The House of Representatives is considering whether to follow the Senate's lead in approving "48-hour" legislation. This bill would require, without exception, that Congress be notified within two days of presidential approval for initiation of any covert action. Perhaps understandably, it is motivated by congressionial pique over Iran-Contra, in which notice was not given until the ongoing action came to light 11 months later.

However, Congress has not objected previously when notification was significantly delayed. Those occasions, three in number, occurred during the Carter administration and also involved attempts to rescue U.S. citizens held hostage. Adm. Stansfield Turner, then CIA director, has since testified that, in good conscience, he could not have revealed the plans to anyone not actively helping with those operations. He told our committee that a security leak could have snuffed out the lives of people already in extreme danger.

To understand what this means in true life-and-death, terms, let us put ourselves in the place of one of those in such danger.

In November 1979, Iranian radicals seized the American Embassy in Tehran and held its staff of 52 hostages for over a year. But, unknown to the Iranians, to the world press or to Congress, six Americans had escaped to the nearby Canadian Embassy, where they were hidden and protected despite considerable risk to Canadian diplomats and staff. The Shiite radicals had amply demonstrated their willingness to ignore diplomatic immunity and international law, and they were proceeding to excute tens of thousands of Iranians suspected of ideological shortcomings. The hostage crisis dragged on, America agonized over the well-publicized suffering of its citizens at the Tehran embassy, and an already struggling president ran out of credibility.

Now, let us suppose you are an experienced agent assigned to the Near East division of CIA's Directorate of Operations—"Mr. Bond." we will call you. Fluent in Farsi and knowledgeable about Iranian sites and customs, you volunteer to facilitate by dangerous covert means that which cannot be done openly—to extract the six hostages trapped in the Canadian Embassy. A presidential "finding" approving this action is signed but withheld from Congress. For the next three months you train for the mission—coordinating with the Canadians, memorizing the details, familiarizing yourself with the equipment, immersing yourself in a new West German identity, and acquiring the necessary passport and other documentation.

Then you take the plunge. You enter enemy territory without diplomatic immunity, knowing the radical Iranians would relish nothing more than to capture, parade before the world, interrogate and even execute a Yankee spy. You stay there a full week, even going so far as to survey operations at Tehran's Mehrebad airport. Finally, you rendezvous with the six Americans, also provided with forged identity papers, and boldly prepare to board an international flight. But a suspicious customs inspector questions one of your colleagues about why his passport shows only the middle initial "H.," whereas German passports always include the full name. You freeze inside, the lives of the entire party in the balance, but your colleague glibly extemporizes, "yes, you will notice I was born in 1935. I am ashamed of my middle name—Hitler." The dissembling works. The customs agent relents. You board the aircraft. Soon it takes off, and later you are safely beyond Iranian control.

This is a true story. And our Mr. Bond was ever so grateful that as he stood before the customs agent, CIA Director Turner already had determined not to tell anyone of this covert action before this group was safely on its way home. The slightest inkling of a possible U.S. operation would have placed already suspicious Iranian security forces on high alert. The Hitler explanation probably would not have satisfied them, if indeed our agent had even managed to survive the previous seven days inside Iran. Our agent must thank God for Turner's adherence to a strict need-to-know principle, and for his interpretation of a timely fashion to allow for a 3½-month delay.

And consider the true case of another agent, "Ms. Bond," let's call her. Despite the successful extraction of six hostages sheltered by Canada, the plight of many others remaining captive in the U.S. Embassy is unsolved. A military rescue mission is being considered, but U.S. aircraft would have to be refueled, and engineers are uncertain whether the desert floor in remote areas of Iran could support the weight of such aircraft. Ms. Bond volunteers to fly a light plane into Iran collect core samples of earth and return them to engineers for analysis. Despite known Iranian possession of U.S. Hawk radars and surface-to-air missiles, the mission is accomplished undetected, and engineers examining the samples determine that the site can serve as a refueling stop. Congress is not notified of Ms. Bond's mission. Similarly, Congress is not told of the subsequent failed Desert I rescue until after the fact, even though a full six months filled with feverish plans and preparations elapse after the initial decision to send Ms. Bond's team into Iran.

Put yourself in Ms. Bond's place. As you violated Iranian borders and flew deep into its territory in a light plane, wouldn't you be somewhat comforted by the fact that as few people as possible had been told of this mission? And think of those on the ground in Iran who risked their lives to provide the information and support necessary to plan and execute the rescue mission. Didn't we owe it to them to prevent, insofar as possible, the potential for a stray comment that would tip off the Iranians? Consider the hostages themselves, held in captivity for a full year by hostile fanatics. The merest hint of a U.S. military initiative could have prompted retaliation against them. Or at least have triggered, as eventually happened when the rescue failed, an Iranian decision to scatter them rendering a rescue mission impossible and also depriving hostages of the companionship of fellow Americans. Last, consider the safety of U.S. military personnel who volunteered for Desert 1, some of whom in fact paid the highest price. Consider those who loved them.

Other than with the Iran-Contra initiative, these are the only three occasions on which Congress was not notified, either immediately after or even before presidential approval of a planned covert action. Three out of four of these rare exceptions met with overwhelming congressional approval. All four involved attempts to free U.S. citizens held hostage, a problem that continues to exist and whose recurrence we can regrettably but confidently predict. So when the House debates the 48-hour legislation, we ought to put ourselves in the place of those hostages. Or perhaps we can even imagine, if just for a moment, that we are the true-to-life Agent 007 setting out to rescue the hostages.

(Rep. Dan Lungren, R-Long Beach, is a member of the House Permanent Select Committee on Intelligence.)

IN MEMORY OF RICHARD COX

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. HALL of Texas. Mr. Speaker, it is with a heavy heart that I acknowledge the death of my good friend, Richard Cox.

Mr. Cox was a pioneer McAllen attorney and a longtime civic leader who was 93 when he died on June 20, 1988, in McAllen. He was one of the finest men I have ever known—a true gentleman—whom I have long admired for his integrity and sense of public service.

After graduating from the University of Texas Law School, he became active in local McAllen politics and was not only a great and giving civic leader, but was an avid rotarian and was selected as a "Rotary Paul Harris Fellow."

He was always active in the Hidalgo County, TX and American Bar Associations, and served as a partner in the McAllen firm of Cox and Patterson, where he continued to practice law until his retirement at the age of 90.

He was a great leader, a loving family man, and one who either had—or took the time—to help every person who came his way.

My heartfelt sympathies go especially to his daughter, Dorothy Kiesler, who is my good friend and neighbor in my hometown of Rockwall. My wife and I took a worldwide trip with Mr. Cox and Dorothy back in the 1970's. We had many visits during the 3-week tour—and I was privileged to keep up with him by telephone and letter since that trip.

I will never forget Richard Cox, a man who made a lasting mark not only on me, but on those he served and those he loved.

PRUDENTIAL EXPLORES BONDING NEEDS OF SMALL AND MINORITY CONTRACTORS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FLORIO. Mr. Speaker, several weeks ago, the subcommittee I chair held a hearing on the problems minority contractors often face in securing surety bonding, a prerequisite for bidding on many construction projects. The difficulty in securing surety bonding is a significant impediment to the economic progress of many minority contractors.

I was pleased to hear from the Prudential that the Prudential Foundation has awarded a research grant to a university to "suggest methods of improving bonding accessibility for small and minority contractors." I am glad Prudential is trying to find solutions to this problem. For the benefit of my colleagues, the information from Prudential follows:

NEWARK, NJ, *July 13, 1988.*

Hon. JAMES J. FLORIO,
Federal Building, Camden, NJ.

DEAR JIM: I read with interest a July 1, article in the Star Ledger titled "Minority contractors, underwriters clash on issuance of surety bonds". This article reported on the testimony of Ham Bowser, a local contractor and president of the National Association of Minority Contractors, before your House Energy and Commerce Subcommittee. Knowing of your interest and leadership in this area, I am forwarding, for your information, a copy of the Prudential Foundation initiated Request for Proposal (RFP) titled "Surety and Small and Minority Contractors".

The purpose of this project is to explore problems and solutions surrounding bonding for small and minority contractors. This RFP was released nationally. Our decision was to award a research grant to Georgia State University-Center for Risk Management Insurance Research.

I would be pleased to keep you informed of our progress.

Sincerely,

———.

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SURETY AND SMALL AND MINORITY CONTRACTORS

OVERVIEW: A REQUEST FOR PROPOSAL (RFP)

The Prudential Foundation announces a major initiative, "Surety and its relationship with Small and Minority Contractors". This program will be implemented to fully explore the issues, needs, availability and application of bonding for small and minority contractors. Our grant will assist with the necessary research and subsequent recommendations that will enable small and minority contractors to build capacity and concurrently obtain or increase their ability to obtain various business related bonds.

This initiative will be aimed at selected institutions of higher education and/or other appropriate research or survey authorities that will be able to deliver findings as well as suggest methods of improving bonding accessibility for small and minority contractors. The overall goal is a basic one, namely, to enable small and minority contractors to develop a progressive bonding track record, thus graduating into larger or mainstream construction projects which are currently dominated by majority and large contracting firms.

BACKGROUND

Ongoing developments in the contracting/construction business seem to indicate that most small and minority contractors continue to find it difficult and often impossible to secure performance and other related bonding necessary for inclusion into the mainstream of the construction industry.

A lack of net worth and asset base is often cited as the reason for not being able to obtain the necessary bonding, but profitability and asset size are related to the size and scope of a firm's contracts. Bonding at small levels, or none at all, restricts a company's growth potential.

Small and minority contractors have cited numerous reasons and accusations as to why they are unable to expand their respective business and participate in large scale projects. Some of those citations include:

Established small and minority contractors are being held to different standards than their majority counterparts.

Small and minority contractors are treated as a "class" without differentiation.

There is a close fraternity among the players in the surety industry that operates to screen out some small and minority contractors.

Minority contractors performing under a general contractor's performance bond are prevented from developing a meaningful record of performance.

These and similar comments have been raised publicly and privately over the years. Unfortunately, we are still far from being able to take initiatives that will lead to action which will change the outlook for small and minority contractors.

OBJECTIVES

Research and develop specific data that will provide statistical information on the surety industry, especially as it pertains to small and minority contractors. The question of "accessibility" should be thoroughly explored.

Perceived as well as actual problems should be identified and explored in a manner that invites creative solutions.

A comprehensive plan of action should be developed that addresses solutions. Those solutions should focus on increasing capacity, track records and participation of more small and minority contractors in the bid and contract award process.

Potential participants in the multi-faceted field of surety and its relationship to small/minority contractors should be identified.

The final report generated in response of this RFP should be of publishable quality.

Although initial research may be privately conducted, there will more than likely be a time when a more "public" discussion may be a necessary part of the overall process. Discussions among contractors, surety companies and underwriters, academics and governmental officials will certainly enhance the knowledge base as well as contribute to the potential solutions of certain problems.

ELIGIBILITY

Applicant must be a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code. A copy of the applicant's IRS determination letter should be submitted with your proposal.

Since awards will be made primarily on the basis of written grant proposals, the quality, clarity, and completeness of the proposal is crucial. Some of the more salient factors in your proposal that will be reviewed are:

Overall potential of the project to have a significant impact on the surety industry.

Quality of project plan, including investigation strategies for launching the project.

Overall thoroughness of the applicant's understanding of the surety industry and its current status.

Assessment of local community resources and needs to which the proposed project would relate.

Contacts with existing sureties.

Qualifications of professional staff and organizational capacity to effectively manage and carry out the project.

Contacts with local insurance professionals, academic experts, and other resource persons who could provide assistance to the project.

Whether the project schedule and budget are realistic.

APPLICATION PROCEDURES

Interested organizations should send letters of intent to The Prudential Foundation, including descriptive material concerning your organization and its activities. Budgets, may or may not be part of the initial letter of interest, but will be required, in detail, once the Prudential Foundation has expressed an interest to explore further.

Letters of interest, must be postmarked by December 15, 1987. Complete proposal and budget should be postmarked not later than 01/15/88. A grant award decision will be made by February 29, 1988. Completion of project should occur not later than August 31, 1988.

Letters and outlines should be sent to:

James M. Frangos, Program Officer, The Prudential Foundation, 15 Prudential Plaza, Newark, NJ 07101.

ARMS CONTROL SHOULD BE A TOP PRIORITY FOR NEXT ADMINISTRATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. WEISS. Mr. Speaker, I want to call the attention of my colleagues to a special event occurring in my district on Thursday afternoon, August 4. The student government of Lehman College, with the active help of local peace groups and neighborhood associations, is presenting a Hiroshima-Nagasaki Memorial Program to commemorate the tragedy of the bombing of those two cities and to celebrate the ongoing struggle for nuclear arms control. Because of the importance of this event, I wanted to share with my colleagues my message to those gathered for the program.

It was 43 years ago that the United States became the first and only nation to use an atomic weapon against another nation. Anyone who has seen pictures of the devastation of the once-beautiful cities of Hiroshima and Nagasaki knows how important it is that atomic or nuclear weapons are never used again. In 1947, I witnessed this devastation myself while assigned to Japan as a member of the U.S. Army. One could not help but be profoundly moved upon seeing a once thriving city turned to dust and shadows. And one cannot help but realize the insanity of the policy of the world's superpowers basing their national defense on use of nuclear weapons after having such an experience.

The memory of those killed and injured at Hiroshima and Nagasaki fill our hearts as we remember their pain and suffering, but today's gathering is more than a memorial service. We are reminded today that there is work that remains to be done to ensure that nuclear weapons are never used again. It is hard work that we all must do together if we are to be successful. It is the work to secure meaningful and verifiable arms control agreements which enhance the security and stability of our Nation and our planet.

One prime goal we can work toward is a Comprehensive Test Ban Treaty. Such a treaty has been an objective of every President from Dwight Eisenhower through Jimmy Carter, and will be an objective of our next President, Michael Dukakis. Rather than eliminating weapons on a piecemeal basis, while allowing their replacement with other, equally dangerous substitutes, a Comprehensive Test Ban Treaty would eliminate the ability of either side to develop any new destabilizing weapons. It thereby creates one of the best opportunities we have to slow the nuclear arms race.

Equally important is continued progress toward a START agreement. I applaud President Reagan's success in negotiating the INF Treaty, but that is only a beginning. With a new Soviet leader who is amenable to arms control proposals, we have a historic opportunity to reduce the nuclear arsenals of the two superpowers. We need to do everything possible to encourage a positive outcome in the ongoing strategic arms negotiations in Geneva. A START agreement, which would reduce strategic arms by 50 percent, would contribute significantly to global stability. Our sustained and active involvement is essential to speed its attainment.

We must not overlook the question of short-range nuclear forces—nuclear weapons with ranges shorter than the weapons covered by the INF Treaty. Short-range nuclear weapons pose a unique threat to stability in Europe as they are located in the front lines of battle and as their use could spark a quick escalation to an all-out nuclear war. It is important that reductions in these systems be negotiated sooner, rather than later.

We must have conventional arms control as well, in order to prevent potential conflicts from escalating quickly to the nuclear level. We need to seek verifiable reductions in conventional arms that will enhance stability in Europe. Success will not come without hard work in this area either.

Finally, we must completely rethink our long-term defense strategy. We need to reassess our reliance on nuclear weapons and the NATO strategy that continues to call for the early use of these weapons in the event of a conflict. This strategy is fundamentally flawed: we cannot use nuclear weapons to our advantage because their use would inevitably result in the destruction of what we want to defend. We ought to base our defense strategy on the premise that we will never initiate the use of nuclear weapons. No first use in a sensible policy, but to convince strategic planners to adopt it will take hard work.

How can we accomplish all these tasks? We must continue to educate and organize the public to mobilize around disarmament issues. We must continue to apply strong pressure on the administration to fulfill the demand of the American public for arms control agreements. And now more than ever, we must begin to look beyond the Reagan administration to the next Presidency. Regardless of which party captures the White House, we must ensure that arms control is a central goal of the next administration.

Mr. Speaker, my friends at this gathering can play an important role in restoring sanity and security to our Nation and planet. I salute all who organized and took part in the program today, including my friend and constituent Florence Gold who has worked so many years for the goals I have outlined. I look forward to working with each and every one of them as we continue the struggle for a more secure future for all the peoples of our world.

ADEQUATE NUTRITION FOR OUR ELDERLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BIAGGI. Mr. Speaker, today I am introducing a bill which would provide first time Federal reimbursement to senior nutrition providers under the Older Americans Act who offer two meals a day, each meeting one third the minimum dietary allowance required by law.

As an original member of the House Select Committee on Aging, I believe that this is a very important bill to thousands of seniors who participate in the senior nutrition programs throughout the country. Eligibility for USDA commodities or cash in lieu of commodities, is contained in the Older Americans Act, which was reauthorized and signed into law in November 1987. The Older Americans Act also establishes the meals requirements as stated in title III C (1) and (2).

Section 331 says:

> The Commissioner shall carry out a program for making grants to states under State plans approved under Section 307 for the establishment and operation of nutrition projects . . . . (1) which, 5 or more days per week provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one third of the daily recommended allowances as established by the Food and Nutrition Board of the National Academy of Sciences National Research Council.

Yet, reality is that nutrition directors are finding it difficult to obtain reimbursement for a second meal despite its importance to their clients.

My bill seeks to correct this.

This legislation is consistent with the revisions made in the USDA Elderly Feeding Program by the 1987 amendments. Prior to 1987, the program was forced to reduce its rate of reimbursement because meal demands exceeded available funds. The problem was resolved in 1987 in the reauthorization when Congress agreed to set the reimbursement rate at an average of 56.76 cents per meal no matter how many meals were served. My bill would seek to build on this more secure funding base by allowing for second meal reimbursement.

The elderly we will help with this bill are among our neediest and most vulnerable. The typical meal served at a nutrition site project or in a home delivered situation usually far exceeds the minimum requirement, consisting of 3 ounces of meat, one-half cup vegetable, one-half cup fruit or juice, a starch, 8 ounces of milk, a serving of butter and one-half cup of dessert. Two such meals are excessive for an older person to eat. If the intent of the Older Americans Act is to provide safe, nutritious, and appetizing meals to our needy senior population, then this can surely be accomplished by allowing two meals that meet a combined nutritional quality of two-thirds the RDA. What would be reimbursed under this bill would be snacks or food packages for weekends and holidays which are not presently taken care of under the existing program.

We have learned that providing adequate nutrition to elderly people can help keep them out of nursing homes. We have a responsibility to continue to allow seniors to remain independent for as long as possible.

TRIBUTE TO JOE COUGHLIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Mr. Joe Coughlin. Joe has recently been promoted to the position of tactical manager for the southern California region within corporate communications of Pacific Bell. Joe's accomplishments with Pacific Bell have helped him rise quickly to this important position. In this capacity, Joe assists in the development, design, and implementation of key company strategies concerning stockholder management.

In addition to being a successful businessman, Joe is involved with a number of community organizations, including the Van Nuys Kiwanis, the Valley Industry and Commerce Association [VICA], the Los Angeles Chapter of the National Council on Aging, and the San Fernando Branch of the NAACP.

Joe is especially committed to helping youths stay in school. Realizing the importance of education, he has developed several pilot projects to reduce the high school dropout rate. He has created scholarships for college bound minority students to reduce the increasing cost of education.

As an organizer for the San Fernando High School alumni game, Joe helped raise $40,000 for the school's CARE Program.

It is my distinct honor and pleasure to ask my colleagues to join me in honoring Mr. Joe Coughlin, an outstanding member of our community.

BOBCAT, AMERICA'S BEST

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, in the dizzying world of international trade where fast deals and high-tech glitter capture the deadlines, most of the long-term success is still measured by a timeless truth. That truth is in building the very finest product and marketing it around the world at the most competitive price.

Fortune magazine analyzed what is necessary for American producers to succeed in international trade and they pointed to some specific examples in the United States that represented what they said were, "America's Best" products. One of those products I'm proud to say is manufactured in the small, southeastern North Dakota community of Gwinner, ND.

It is manufactured by good men and women working hard together to produce the finest quality product possible. The Melroe Bobcat Skidsteer Loader has nearly 50 percent of the world market in skidsteer loaders. Why? I'm convinced it's because they've never sacrificed product quality, and they know their market. They produce an excellent product and market it with great skill.

I toured the plant again recently and in this small town I saw a state-of-the-art manufacturing plant with the robotics, the engineering and the manufacturing techiques that rank with the best plants in the world. That manufacturing plant is operated by men and women dedicated to quality. That dedication has achieved the title "America's Best" for a product produced by these men and women in the small, but busy community of Gwinner, ND.

This success story can be repeated all across this country. America has the strength and determination to rebuild its capability of producing the finest products in the world. If the experience in Gwinner is an example, and I believe it is, the recipe is cooperation between management and labor and a commitment to quality by people who have pride in what they do.

Congratulations to the workers and managers at Melroe.

ENERGY AND ANWR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. YOUNG of Alaska. Mr. Speaker, many of our Colleagues are aware of our energy dependence upon other nations, and the fact that the picture is not looking any brighter for the foreseeable future. Nevertheless, legislation before the Congress to open to environmentally-sound oil and gas leasing the Coastal Plain of the Arctic National Wildlife Refuge in my district—the State of Alaska—is the bright spot in terms of responding to this growing international threat. Today I submit for the RECORD an article from the Rocky Mountain News, Denver, CO, which underscores the need for prompt action by the Congress on this subject. Because of the vast support nationwide for this legislation, I will do this daily:

[From the Denver (CO) Rocky Mountain News, Mar. 11, 1987]

DRILLING NEEDN'T RUIN ENVIRONMENT

In 1968 oil wildcatters struck it rich at Prudhoe Bay, Alaska, discovering the largest oil field ever found in the United States. Environmental activists, trying to halt development of the field and the Trans-Alaska Pipeline needed to bring the oil to market, said the two projects would damage the area's plants and wildlife, especially its caribou herd.

The environmentalists succeeded in blocking the pipeline until the 1973-74 Arab oil embargo convinced Congress that unlocking Prudhoe Bay was essential to national security. The pipeline, started in 1974, now permits Prudhoe and two nearby fields to flow 20 percent of U.S. oil production.

And the caribou? The Central Arctic Caribou Herd, which was "threatened" by development, numbered 3,000 two decades ago. According to the Interior Department, it now numbers 13,000, many of which placidly migrate under the pipeline.

Between Prudhoe Bay and Canada's large Beaufort Sea and Mackenzie Delta oil fields lies a small part of the Arctic National Wildlife Refuge—1.5 million acres out of 19 million acres. Government and private geologists say the area is the most promising place to look for oil in the nation. It may contain more oil than Prudhoe Bay.

Still fighting any development, environmentalists say that searching for oil on any part of the refuge will be destructive to the 180,000 caribou of the Porcupine Herd, which spends about two months a year there. It is up to Congress to do its national duty once more.

In 1980, Congress called for a study: Should the probable oil field, known as "1002 area," be set aside as wilderness or produce petroleum for the whole country? Late last year the Interior Department said 1002 is "the most outstanding oil and gas frontier remaining in the United States and could contribute substantially to our domestic energy supplies."

The department sensibly recommended development of the field under careful guidelines to protect the environment.

Prudhoe Bay has proved that caribou can co-exist, even flourish, alongside environmentally sensitive oil extraction. With a population explosion of caribou taking place in North America—there are 2 million more of them than 30 years ago—it would be irresponsible for Congress to fall for the environmentalists' line.

Because of lower oil prices orchestrated by Saudi Arabia, production has fallen sharply in this country, imports are up and we soon will be vulnerable to new price-gouging by OPEC. It takes 10 years to develop an Arctic oil field, and the time to start on 1002 is now.

PATSY RABINOWITZ NASHER LEAVES A LEGACY OF BEAUTY AND HUMANITY

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BRYANT. Mr. Speaker, intelligent and intuitive about art and sensitive to the needs of her community, Patsy Rabinowitz Nasher, with her husband Raymond Nasher, built one of the most outstanding private art collections in the world and contributed mightily to the well-being of her community.

Tragically, on July 1, at the all too young age of 59, Patsy Nasher succumbed to cancer after a valiant 12-year struggle that never slowed her devotion to art or humanity.

Patsy Nasher enriched not only Dallas, TX, but the world in which she lived. And all of us who were privileged to know or come in contact with her or the passions that inspired her are poorer for her passing.

The Dallas Morning News editorially extolled her as a "buyer with taste, intelligence and a dash of daring who knows how to spot talent, how to nurture it, how to display it, how to protect it. And, as a result, the history of art is changed for the better."

Important as art was in the life of this lovely woman, it wasn't the only thing. There was, of course, the family she dearly loved—her husband Raymond and her daughters, Andrea, Joan, and Nancy. There was Dallas, her hometown where she was valedictorian of Highland Park High School at 14 and graduated from Hockaday Junior College and attended Southern Methodist University.

And there was her commitment to justice, equality, and community. She was a founder of the Martin Luther King, Jr. Community Center and Neighborhood Housing Services of Dallas.

Her civic contributions were legion. The Dallas Museum of Art, the Dallas Symphony Orchestra League, the USA Film Festival, the Fort Worth Museum of Art, and the Museum of Art at Smith College, from which she graduated magna cum laude—all these and more felt her fine and generous touch and, perhaps equally important, her energy and inspiration.

Those of us who have taken the opportunity to visit the 70 imposing works in the exhibit, "A Century of Modern Sculpture: The Patsy and Raymond Nasher Collection," at the Dallas Museum of Art or the National Gallery in Washington, DC—a collection that has recently traveled to Madrid, Spain, and Florence, Italy to delight international audiences—have had a memorable glimpse of the phenomenal Nasher art collection, meticulously built even as Patsy battled cancer.

Picasso, Matise, Brancussi, Giacometti, Gabo, Ernst, Moore, Dubuffet, Smith, Segal. All of these and more are represented in the sculpture exhibit Patsy and Raymond Nasher have shared so generously with the world, but Patsy's aesthetic taste was eclectic. From pre-Columbian, which she began collecting in the 1950's, to Indonesian, which she was collecting in her final months. From the renowned artists to the obscure, but inevitably surpremely talented.

As the Dallas Times Herald editorialized, "Patsy Nasher will be remembered for many things—for the portrait Andy Warhol did of her, for her great gift of friendship, for the sense of adventure that marked her aesthetic choices, for the ethical values she honored in all her actions and imparted to her daughters, Andrea, Joan and Nancy Nasher."

Our Nation will miss Patsy Nasher and her vast contributions, as will her legion of friends, neighbors, and admirers in Dallas, and the art world as a whole.

But we will remember her every time we visit the Martin Luther King Center and every time I admire a fine painting or sculpture. Patsy Nasher taught us all to appreciate better the beauty around us and to work ever harder to make the world a better place for all people.

THE JOSEPH PATRICK DOHERTY CASE

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FISH. Mr. Speaker, I think many of my colleagues may be interested in the following letter written by the American Civil Liberties Union to the Attorney General expressing their concerns about the Joseph Patrick Doherty case.

As my colleagues know, Attorney General Meese recently decided to extradite him to the United Kingdom rather than his country of choice the Republic of Ireland.

American Civil Liberties Union Foundation,
Washington, DC, July 14, 1988.

U.S. Attorney General,
U.S. Department of Justice,
Washington, DC.

Dear Mr. Meese: The American Civil Liberties Union writes to protest your recent order to deport Joseph Patrick Doherty to the United Kingdom of Great Britain. Your decision represents a sharp break with precedent and denies Mr. Doherty due process of the law. We urge you to reconsider your order. Further, Mr. Doherty's deportation proceedings should be reopened for consideration of his political asylum claims.

More than three years ago, Judge Sprizzo ruled that Mr. Doherty could not be extradited to the United Kingdom under the treaty then in effect. Mr. Doherty has never been charged with committing a crime in the United States. Yet, he remains imprisoned while the Justice Department tries to deport him to the United Kingdom in direct conflict with the federal court's order.

After the federal court of appeals affirmed the district court's dismissal of the government's action for declaratory review of the extradition decision, Mr. Doherty agreed to be deported to the Republic of Ireland. However, the Immigration and Naturalization Service (INS) objects to his deportation to Ireland on the ground that it would be "prejudicial to the interests of the United States".

Section 243(a) of the Immigration and Nationality Act, 8 U.S.C. §1253(a), authorizes an alien, found to be deportable, to designate the country of deportation. This is a substantive right which the Attorney General has never before denied to anyone on the ground that deportation to that country would be prejudicial to the United States. The immigration judge and two Board of Immigration Appeals (BIA) decisions upheld Mr. Doherty's right to be deported to the Republic of Ireland despite the INS's assertion. In light of the consistent rulings by the federal courts and the immigration officials, your reversal of the BIA decision raises serious concerns that Mr. Doherty's rights have been infringed by an arbitrary use of your discretionary powers.

In making your determination, you rely on the INS affidavit that was previously rejected by the BIA as untimely. This affidavit came almost six months after the INS first contended that deportation to Ireland would be prejudicial. The INS failed to show that it could not have obtained the affidavit before the immigration judge made his initial determination as the governing regulations require. Your consideration of the belated affidavit does not explain why the INS's delay should now be overlooked. Instead, you state the remarkable proposition that the Attorney General need not follow regulations concerning procedure. This statement is cause for great concern. It suggests that the Attorney General may avoid due process and encourages the INS to withhold its evidence from the immigration judge, secure in the belief that it may later be submitted in a forum not bound by any regulations.

In addition, given that the substance of the INS affidavit was considered by the immigration judge, your decision should have addressed how the BIA erred in concluding that the claim of prejudice to U.S. interests is remote. Your memorandum also does not explain how deporting Mr. Doherty to Ireland would be more prejudicial than previous cases involving individuals sought by the United Kingdom as "terrorists." These individuals were nevertheless deported to the Republic of Ireland with no apparent prejudice to the United States. Absent any reason for distinguishing Mr. Doherty, your conclusion is arbitrary.

The Attorney General, the chief law enforcement officer, is responsible for ensuring that the U.S. laws are evenly applied. However, it appears that the legal rights of Mr. Doherty have been circumvented. The adjudication of individual cases involving the liberty of persons in the United States should respect the due process rights of the individual and not simply give way to appease foreign governments. The ACLU urges you to reconsider your decision. Mr. Doherty's deportation proceedings should be reopened for full and fair consideration of his political asylum claim.

Sincerely,

Morton H. Halperin,
Director, Washington Office.
Lucas Guttentag,
National Litigation Coordinator,
Immigration Task Force.

A SAD ANNIVERSARY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. PORTER. Mr. Speaker, last week marked the sad occasion of the 14th anniversary of the invasion of the Republic of Cyprus by Turkey. Despite the efforts of the United Nations and freedom-loving countries around the world, Cyprus today remains divided and occupied by more than 35,000 Turkish troops. On this sad anniversary, we must recommit ourselves as representatives of the American people to ensure that all efforts are being made to promote peace and restore the sovereignty of that island nation.

In the past, Turkey has stated that it will not remove its troops from Cyprus unless and until the security of the Turkish Cypriots is guaranteed. However, it is difficult to ascertain a security interest that necessitates the continued presence of more than 30,000 heavily armed troops on Cyprus, particularly given the geographic proximity of Turkey to Cyprus and the resulting ability to airlift troops almost immediately.

Nevertheless, I do not believe there will be a settlement to the Cyprus dispute unless and until the Turkish community's security concerns are addressed. It is for this reason that I strongly support Cyprus President Vassiliou's call for the total demilitarization of the Republic of Cyprus. Under this plan, Turkey would remove its troops and settlers from Cyprus, in return for the disbanding of the Cyprus National Guard and the removal of all troops under the 1960 Treaty of Alliance—Greek and Turkish contingents. The only forces left on the Republic of Cyprus would be a U.N. peacekeeping force and small Greek Cypriot—Turkish Cypriot police force. These, given Turkey's geographic advantages, a demilitarized Cyprus would eliminate any threat, real or perceived, to the security of Turkey or the Turkish Cypriots.

We all have been disappointed before over the failure of efforts to bring about a peaceful resolution of this conflict. However, I truly believe we now have reason for hope. The recent series of meetings between Greek Prime Minister Papandreou and Turkish Prime Minister Ozal seem to indicate an eagerness on the part of both leaders to restore relations between those two countries. Prime Minister Ozal must recognize that efforts in this regard will fail unless Turkey removes its occupation forces and illegal settlers from Cyprus. In light of our security interests and, more importantly, our dedication to liberty and democracy, I urge my colleagues to join me in encouraging Turkey to respond favorably to President Vassilious's peace initiative.

THE CONTINUING PLIGHT OF THE SOVIET CHRISTIANS AND THE PROBLEMS OF VIKTOR WALTER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. LANTOS. Mr. Speaker, as you know this year marks the 1,000th anniversary of the introduction of Christianity to Kievan Rus. Unfortunately the Soviet Christians will not be celebrating this year wholeheartedly. Even in this day and age when we have all come so far in our recognition of people's basic human rights, the Soviets do not permit religious freedom. Presently we are aware of at least 219 people who are imprisoned for their religious beliefs and practices.

Ironically, the Soviet Union is a signatory to the Helsinki accords, the International Covenents on Human Rights, and the United Nations Universal Declaration of Human Rights. It even guarantees religious freedom in its own constitution. So why then do Soviet actions not correspond to their words? Although the summit meetings between President Reagan and Secretary Gorbachev have brought a promising future to the relationship between our countries, Mr. Gorbachev's policies of glasnost and perestroika have failed to bring any significant change to the plight of the Soviet Christians. Prisons and psychiactric hospitals are presently homes for many of these criminals who have done nothing more than teach their religion to the young or distribute Bibles. Many of these Christians will spend more time in prison than people convicted of violent crimes because they refuse to sign statements retracting their beliefs.

Mr. Speaker, I would like to bring to the attention of my colleagues one particular individual whom I have adopted through the Soviet Christian Adoption Program [SCAP] which is part of a program involving 28 members of the Congressional Human Rights Caucus. Viktor Samuilovich Walter, a Pentecostal pastor of the unregistered church in Chuguyevka, was sentenced to a 5-year prison term for violating laws regulating the separation of church and school, of anti-Soviet slander and conducting illegal religious services. Viktor's conviction came after he removed his seven children from a Soviet school where they were persecuted because of their religion and their German background. Viktor and his family have long sought emigration to Germany.

Mr. Speaker, I call on my colleagues to join me in recognizing Viktor and the rest of the Christian community's right to religious freedom. The Soviet Government should release Viktor from prison as soon as possible and acknowledge and grant his application for emigration.

THE ATTORNEY GENERAL'S RECORD AGAINST PORNOGRAPHY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. HYDE. Mr. Speaker, Attorney General Meese has presided over the greatest Federal offensive against obscenity and child pornography in our Nation's history. When President Reagan instructed William French Smith to assembly the Attorney General's Commission on Pornography, many people hoped—and many more feared—that the Commission would simply whitewash the obscenity industry. Instead, the Commission stripped away many of the myths and misconceptions about the industry and exposed its roots—sunk deep in organized crime. For its forthrightness, the Commission received an avalanche of hostile criticism in the press, even before its final report was released in July 1986. Every bit of that criticism was transferred to Ed Meese when he set forth a seven-point plan for the enforcement of Federal obscenity and child pornography laws and made these a top criminal justice priority. At the heart of that plan was the National Obscenity Enforcement Unit of the Justice Department's Criminal Division.

But Ed Meese is a man unfazed by the kind of criticism which is motivated simply by political concerns. When he sets a course he feels is right, he stays on it. And his efforts in obscenity and child pornography law enforcement have yielded astonishing results.

Through the spearheading efforts of the National Obscenity Enforcement Unit, the Justice Department has obtained the first Federal conviction against "dial-a-porn" companies, shutting down 38 telephone lines in 12 cities, pioneered the use of the Federal Racketeer Influenced and Corrupt Organizations [RICO] statute in obscenity cases, indicted nearly 250 individuals for violation of child pornography laws, increased obscenity prosecutitions by 800 percent in a single year, including the racketeering indictment of Reuben Sturman, identified by the Attorney General's Commission on Pornography as perhaps the world's largest distributor of obscenity, obtained the first Federal obscenity indictment in Los Angeles in a decade, with a guilty verdict in that case coming down just days ago, and recently announced the indictment of 20 corporations for distributing obscenity through the mails, which companies are believed to comprise as much as three-fourths of all such distributions in the Nation. Furthermore, a vital piece of legislation drafted by the Justice Department—the Child Protection and Obscenity Enforcement Act—now boasts over 260 congressional sponsors.

To date more than 25 States have held or agreed to gather their Federal, State, and local prosecutors and law enforcement officials for training seminars by the unit and U.S. attorneys on the prosecution of obscenity and child pornography violations. Several thousand key investigators, prosecutors, and law enforcement officials around the country have already been trained by the unit, enabling them to carry on at the State and local level the pioneering work that has come out of Ed Meese's Justice Department. This coordinated national effort will be indispensable to solving the huge obscenity and child pornography problem in America. Indeed, State prosecutions are also up substantially in areas where these important seminars have been held.

And none of this would have been possible without the foresight and courageous determination of Attorney General Edwin Meese. I want to honor and thank Mr. Meese for his refusal to compromise in this area when many people in this town—even many conservatives—would just as soon he let this issue be swept under the rug. But I want to tell you that the victims of obscenity and the sexually abused children did not want this issue to just go away. To them, business as usual was a living hell. But the work that Ed Meese made possible will produce a lasting legacy of hope that this industry, which preys on the most destructive and degrading lusts of which man is capable, will someday soon be crippled by competent, concentrated, and responsible prosecution.

TRIBUTE TO MAYOR JOHN R. BRIGGS, JR.

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. HALL of Texas. Mr. Speaker, the city of Terrell, TX, recently saw the reigns of local government pass from the hands of Mayor John Briggs, one of the finest civic leaders I have ever known, and into the hands of a gracious winner, the newly elected Mayor Don Lindsey. After 7 years as mayor, John R. Briggs, Jr., will return to private life after serving the city wholeheartedly and very effectively.

The race between these two leaders, along with the transition after the election, should be a textbook for all who vie for public office. Both Mayor Briggs and Mayor Lindsey evidenced the high degree of ethics and public service so often lacking both during and after an election. Don Lindsey's first act as mayor was to present Mayor Briggs with a plaque commemorating his contributions to the city for 7 years; his second act was to present John with a "Key to the City;" and Mayor Lindsey's third act was to appoint John as chairman of a newly created city of Terrell Legislative Committee.

Mayor Briggs will long be remembered and appreciated for the many accomplishments his tenure brought to the city of Terrell—the construction of a new public library, improvements at the water and wastewater treatment plants, the implementation of several Community block grant programs to aid the poorer sections of town, numerous airport projects, police, and fire department improvements.

For the past 7 years, Mayor Briggs has been synonymous with the city of Terrell—always there at council meetings, public hearings, workshops, special events, city festivals and other special occasions. His wife, Marion, has been almost as active as he has, supporting her husband and striking out on her own to represent the city at various functions.

I want to express my appreciation to Mayor Briggs for the years of dedicated service he has given to the city of Terrell, and offer both John and Marion the best as they continue to serve their beloved city as private citizens, and to congratulate Mayor Lindsey and his fine family—and to pledge my continued support and assistance to the city council, to the Terrell Chamber of Commerce—and to the wonderful citizens we all are proud to represent.

As we adjourn the House of Representatives at the end of this legislative day—we do so in honor of Mayor and Mrs. John Briggs.

MEDICAL PROCEDURES: NECESSARY OR NOT?

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FLORIO. Mr. Speaker, I would like to draw the attention of my colleagues to two articles dated July 26, 1988, one from the New York Times and the other from the Washington Post which illustrate a tragic flaw in our medical reimbursement system. The articles "Costly Procedures Under Scrutiny" and "Heart Bypass Operations Frequently Performed When They're Not Needed, A Study Concludes" urge us to take a look at the growing numbers of medical and surgical procedures being performed and ask if they are necessary.

The people of this Nation rely on their doctors—this trust is based on the Norman Rockwell image of the family doctor who always had a white coat, a friendly smile and a sincere concern for your welfare. Yet we are faced with studies that question the appropriateness of operations that are being performed on people just like you and I. Dr. John Ring, chairman of the American Medical Association, supports further studies on the rising number of costly medical and surgical procedures being performed as a means of generating changes in the standard of care.

We, in Congress, have an obligation to protect patients from unnecessary medical procedures. I believe that the Norman Rockwell doctor is a part of our modern-day society and I believe by protecting patients from unnecessary and costly procedures we will protect the integrity of the medical profession.

[From the New York Times, July 26, 1988]

COSTLY PROCEDURES UNDER SCRUTINY

(By Milt Freudenheim)

Congressional experts and private insurers are taking a hard look at new studies indicating that questionable or unnecessary medical and surgical procedures ordered by physicians may be adding significantly to health care costs.

"The rate of increase in the volume of physicians' services has been just awesome," said Paul B. Ginsburg, executive director of the Physician Payment Review Commission established by Congress. He added that the growth in health care costs associated with the growth in these services was a "major worry in Washington."

A new study for the Federal Medicare administration found steep increases in the number of lens implants for cataracts, certain expensive diagnostic operations and some tests in doctors' offices.

A second report, in the Journal of the American Medical Association last week, suggests that as many as 44 percent of heart bypass operations may not be medically appropriate; the patient might have been as well or better off without them.

Americans will spend $541.7 billion on health care this year, of which $110.7 billion will pay for physicians' services. Medicare, which insures the elderly and disabled, will pay physicians $24.9 billion, according to Federal estimates.

Medicare payments to doctors have risen more than 15 percent a year for a decade. Physicians and other experts attribute the increases at least partly to costly new medical technology, the needs of a growing number of elderly people, doctors' fear of malpractice lawsuits, and the things that some doctors do simply to make more money.

In a new study for the Government reported this month, the Center for Health Economics Research reviewed all Medicare claims in Alabama, Connecticut, Washington and Wisconsin. The center found the amount that Medicare spent per beneficiary was 30 percent higher in 1986 than it was three years earlier, despite a freeze on Medicare payments for physicians' fees in effect during most of that period.

The kinds and numbers of medical and surgical procedures made the difference, suggested Janet B. Mitchell, president of the research center, a nonprofit group in Needham, Mass. The number of cataract operations rose 50 percent, for example, and the price per operation went up 61 percent as more operations included lens implants. In diagnostic surgery, cardiac catheterization (tubes inserted to make angiograms, or X-rays, of heart arteries) increased in number by 85 percent, and colonoscopies (exploring for growths in the colon) increased more than 120 percent.

The number of coronary bypass procedures grew 19 percent, even though there has been persistent debate about the operation's usefulness.

In a review of records of patients who had heart bypass surgery at three hospitals in Western states, researchers at the Rand Corporation and the University of California at Los Angeles concluded that 14 percent of the operations had been "inappropriate" and 30 percent had been done "for equivocal reasons."

The studies at Rand, and a similar survey that described the "unwarranted implantation" of cardiac pacemakers in Philadelphia, are of interest to employers, which paid much of the $42.5 billion that doctors received from private insurance last year. "The area of 'appropriateness' is the next great challenge for the United States health system," said Willis B. Goldbeck, president of the Washington Business Group on Health, an employers association.

He favors establishing standards for some procedures and publishing national data that would name the doctors following the standards—as a guide for insurers.

The American Medical Association has expressed support for the new research efforts. "More studies like this will generate changes in standards of care," said Dr. John J. Ring, a family physician and chairman of the A.M.A. trustees. But he cautioned that "determining the necessity or non-necessity of procedures is difficult."

Jacqueline B. Kosecoff, an associate professor of medicine at U.C.L.A. and a member of the Rand group, said its research had shown that "a substantial proportion of procedures are being performed for reasons that are clearly inappropriate."

An earlier Rand-U.C.L.A. study found "inappropriateness" in nearly one-third of the cases of carotid endarterectomy, which is a technique for unblockings arteries supplying blood to the brain. The Rand criteria for performing carotid endarterectomies were recently adopted by Blue Shield of California, along with guidelines for angiography developed by the American College of Cardiology.

"Henceforth, to be eligible for payment, physicans will be required to obtain a second opinion and get prior approval from Blue Shield," which plans to use the guidelines, said Ralph W. Schaffarzick, medical director of the California insurer.

[From the Washington Post, July 26, 1988]

HEART BYPASS OPERATIONS FREQUENTLY PERFORMED WHEN THEY'RE NOT NEEDED, A STUDY CONCLUDES

Nearly half of the patients who had heart-bypass operations in three hospitals either should not have had the procedures or could have done without them, a new study says.

Eliminating unnecessary coronary bypass operations could lead to reduced health care costs and improved patient care, said the study, published in Friday's edition of the Journal of the American Medical Association.

Only 56 percent of the 386 coronary bypass operations performed in the three randomly chosen hospitals from a western state in 1979, 1980 and 1982 were clearly justified, meaning the benefits outweighted the risks, the study said.

Ann Shoben, a spokeswoman for Rand Corp., whose researchers did the study, declined to identify the hospitals.

The study found that 14 percent of the operations were performed for inappropriate reasons and 30 percent for equivocal reasons, meaning they could be argued either way.

Bypass operations, first performed 20 years ago, numbered about 230,000 last year in the United States at an estimated cost of $6 billion, according to national figures. This is more than double the number performed in 1980.

The study "certainly points up some problem areas as we sit here watching the cost of health care rise so quickly," said Dr. Constance Monroe Winslow, who conducted the study with four colleagues at the University of California-Los Angeles Center for the Health Sciences.

While doctors may disagree on whether bypass surgery should be performed in the equivocal cases, the authors concluded that "few would argue with the proposition that the services should go first of all to patients with clearly appropriate reasons for their use.

"When confronted with scarce resources, planners may wish to use this type of information to help make difficult allocation decisions."

A typical bypass operation can cost about $30,000.

In the surgical procedure, doctors take a vein from somewhere else in the body and use it to reroute blood around a blockage in the coronary arteries.

The authors cautioned that although the study is representative of patient undergoing bypass surgery in western states, "further work is needed to generalize these results to the rest of the United States."

Dr. Jack Copeland, a University of Arizona heart surgeon who heads the school's nationally known heart-transplant program, said, "I'm not aware of too many instances where there has been an abuse of this kind of surgery."

IRENE FERGUSON

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. WEISS. Mr. Speaker, I rise to honor Mrs. Irene Ferguson on her 100th birthday, Sunday, July 31, 1988. This occasion is a time for both celebration and reflection, and Mrs. Ferguson has great cause to be joyous and proud.

Mrs. Ferguson has been a New Yorker all her life. Born into a family that for generations has been active in the Democratic Party, she herself has worked all her life for a variety of the party's causes. An ardent Roosevelt supporter, Mrs. Ferguson was active in the fight for economic and social reforms in the 1930's and 1940's. She was also a determined campaigner for many local Democratic candidates. Throughout her life, she has been a loyal member of the Women's Democratic Club and has worked very hard for the "Tackamuck Club," a Democratic club in the Bronx, where she resides. In addition to these accomplishments, Mrs. Ferguson served as an inspector for the election board in her area for several years.

Her tireless energy and enthusiasm has gained her the admiration of many in her community. Those who have had the opportunity to come to know Mrs. Ferguson love her for her warmth and her giving nature. I join with her friends and family in wishing Irene Ferguson a very healthy and happy birthday.

A TRIBUTE TO NELSON MANDELA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BIAGGI. Mr. Speaker, I rise today to honor Mr. Nelson Mandela, a man who exemplifies the struggle for basic human rights not only for black South Africans but for all human beings. Ever since August 5, 1962, Nelson Mandela has been imprisoned for "committing crimes" that in reality were acts of democracy. He believes that blacks in South Africa deserve the same basic rights to which white South Africans are privileged. He believes that apartheid, "a policy of segregation and political and economic discrimination against non-European groups in the Republic of South Africa," should be banned from this country. In theory, many individuals would support the idea of ending apartheid in South Africa, but not many individuals would make ending this racist system a lifelong struggle. A struggle that survives as long as apartheid exists. Nelson Mandela embodies this struglge.

Mr. Mandela has chosen to lead the life of a prisoner in order to free the oppressed people of South Africa. I commend a man who would devote his entire existence to this cause. As a Member of Congress, I feel it is my responsibility to help end apartheid in South Africa. That is why I was proud to have cosponsored the Anti-Apartheid Act of 1986 and to be a cosponsor of Congressman DELLUM's bill, H.R. 1580, legislation which would impose greater economic sanctions upon South Africa. I believe that these sanctions would provide an effective measure for the United States to pressure South Africa to abandon its racist form of government.

While supporting the imposition of greater economic sanctions on South Africa is my way of peacefully aiding in the struggle, Nelson Mandela has always opted for peaceful means during his struggle. Despite all the cruelty and suffering to which he has been subjected, he has maintained his integrity and his commitment to nonviolent means of achieving change.

We can all only hope that one day in the near future Nelson Mandela's dream becomes a reality. That black people in South Africa are granted the rights to which they so desperately deserve. Until then, I pay tribute to Nelson Mandela, a man who is an inspiration to us all.

TRIBUTE TO JOSE DeSOSA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and member of my community, Jose DeSosa, for his exemplary contributions toward the advancement of civil rights for all.

Jose has positively affected the lives of many throughout his years as an activist for equality and social justice. At present, he is president of the California State Conference of the National Association for the Advancement of Colored People [NAACP], a position that he has held since December 1978.

Jose has served the Los Angeles Unified School District and other community organizations as the chairman of the community advisory council and the coordinator of area chairpersons. He continues to work diligently with the many school districts to improve the quality of education for all.

Jose is the recipient of numerous awards and honors. Some of his most outstanding honors are: Honorary degree of humane letters from the San Fernando Valley College of Law; Outstanding Young Man as prescribed by the California Jaycees, and several community service awards.

Few people have given of their time and energy as selflessly as Jose. I invite my colleagues to join me in honoring Mr. Jose DeSosa.

CITIZEN BEE COMPETITION

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, it is with great pride and pleasure that I bring to the attention of my colleagues a significant accomplishment of one of my young constituents. Joe Padanilum, a student at Century High School in Bismarck, ND, was recently in Washington, DC, competing in the national finals of the Close Up Citizen Bee. Although he was not crowned champion, I am very proud of the tremendous amount of time and effort he put into preparing for the competition and learning about the history and culture of the American people.

Social studies and citizenship education are crucial to maintaining our freedom and democracy, and it is vital for young people to know American history and have an appreciation for our pluralistic society. I want to take this opportunity to acknowledge the support provided to the Citizen Bee in my district by the North Dakota Department of Public Instruction and Northwestern Bell. Their support enabled Joe and many other young people in my district to compete in the Close Up Citizen Bee and learn more about our great country.

When Joe returned to his hometown, Bismarck, I am sure he shared his experiences in Washington with many of his friends, and I hope they too will have a chance to visit the Nation's Capital as Citizen Bee participants or just as citizens interested in learning more about our Government.

FEDERAL COURT RULES FAVOR SALVADORAN REFUGEES

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. MOAKLEY. Mr. Speaker, recent Federal district court ruling in Los Angeles found the Immigration and Naturalization Service had been coercing Salvadoran aliens into signing forms saying they were being deported voluntarily, waiving the rights to apply for asylum in this country. The decision in this case sets a precedent by granting Salvadorans seeking asylum particular rights which are reasonable in light of the court's determination that the INS practices had impaired our Nation's ability to fulfill its commitment under the 1980 Refugee Act to grant asylum to those persons fleeing persecution. It is possible that we may see a surge in asylum requests coming from Salvadoran nationals because well-documented instances of the persecution of dissidents and their families have increased since last March's election successes of the ultra-rightest ARENA party. In order for the Members to keep abreast of this issue, I would like to insert into the RECORD an article which recently appeared in the Washington Report on the Hemisphere, a biweekly publication of the Washignton-based Council on Hemispheric Affairs [COHA]. I encourage my colleagues to read this timely report authored by COHA research associate Orsinger.

FEDERAL COURT RULES IN FAVOR OF SALVADORAN REFUGEES

(By Christopher Orsinger)

A federal district court judge on April 20 ordered the U.S. Immigration and Naturalization Service (INS) to stop coercing Salvadorans into signing voluntary departure forms. Judge David Kenyon issued the ruling in a suit brought by a number of civil and immigration rights organizations on behalf of all Salvadorans detained in this country pending deportation.

Undocmented Salvadoran witnesses testified that INS officials physically forced them to sign papers saying they were being deported voluntarily, thus voiding their right to a hearing before an immigration judge. The agents allegedly used a variety of measures to persuade the Salvadorans, including isolation, shouting, threatening to separate families, physically transferring them away from lawyers and preventing visits by attorneys or relatives.

Kenyon ordered the INS to cease the use of "threats, intimidation, deceit, and misrepresentations to pressure detained Central Americans" to return to their countries. In his written decision, the federal judge detailed the rights to be accorded Salvadorans: INS officials must give them oral notice of their rights in Spanish and English, including the option to have a lawyer and apply for asylum. Detained Salvadorans are also to have access to lawyers, telephones, writing materials, typewriters, and accurate lists of free legal services. In addition, a Salvadoran detainee may not be transferred for seven days from the area in which he or she was apprehended, to allow time to consult with lawyers.

Government lawyers argued that many Salvadorans seeking asylum were actually "economic refugees," and had falsely claimed that they were persecuted in El Salvador for their political beliefs. Previously, the administration had held that applicants must show that persecution was likely, but the Supreme Court ruled in 1987 that asylum applicants need only demonstrate that "persecution is a reasonable possibility."

In a sharp rebuke to existing practice, Judge Kenyon wrote, "The impression of the INS agents and officials that Salvadorans come to the United States solely for economic gain reflects a lack of sensitivity and understanding, and derives from ignorance on the part of INS agent as to the complex motivations and situations of those who have fled El Salvador."

After the 1980 Refugee Act established asylum procedures for aliens who faced persecution in their home country, a glut of requests began to be filed starting in 1982. By 1984, the INS faced a backlog of 165,000 asylum applications, of which 13,501 were from Salvadorans. The agency then streamlined procedures and hired extra staff to handle the huge number of cases.

The percentage of Salvadoran asylum requests approved has consistently been below 5 percent. Critics have argued that the much higher rates of approval for applicants from eastern Europe arises from the bias against political asylum applicants from nations with which the United States maintains close ties. "The Reagan administration is more generous with granting asylum to nationals from communist countries," said Dave Simcox, director of the Washington-based Center for Immigration Studies. "This is subverting the intent of the 1980 Refugee Act." Simcox asserted, "The administration's political myopia threatens the integrity of the asylum process."

Since the Kenyon ruling applies specially to Salvadorans, its impact on refugees seeking asylum from other nations, such as Guatemala and Haiti, is unclear. Simcox noted, however, that "logic would suggest it should apply to other areas as well."

CENTENNIAL CELEBRATION IN WOODRUFF

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. ROTH. Mr. Speaker, for any community in America, a centennial celebration is a memorable event. This weekend the town of Woodruff, WI, is celebrating this very special occasion.

Originally established as a logging site, the town has become a significant recreation and resort area. Woodruff has been called a model rural community and has hosted such notable figures as President Dwight D. Eisenhower. In spite of its development and growth in the last 100 years, Woodruff has never lost sight of the character and charm that make it unique.

The original settlers of Woodruff were Canadians, Scandinavians, Irishmen, and Scots. Drawn by the timber industry in northern Wisconsin, these men and women led rugged lives. They came to town on weekends for supplies and leisure and spent the rest of the week at the logging sites.

Thus Woodruff was shaped to accommodate the needs of these basic lifestyles. In 1893 there was only a small general store owned by Ole Swanson and Frank Markee. Soon after Markee would become the first postmaster and Swanson would build the first hotel. Aside from a few saloons, this was all the town of Woodruff seemed to need.

In 1901 the State fish hatchery was established in Woodruff. This addition is significant to the town's development in more than one way. First, it shows that the people of Woodruff were very early to realize the importance of fish preservation and wildlife appreciation in general. Also, the fish hatchery represents a gradual shift away from the sole dependency on the timber industry.

The fishing business continued to grow in the early 1900's creating a substantial tourism trade for the small community. Appropriately, the railroads named their lines to northern Wisconsin, the "Fisherman's Special" and the "Northwoods Hiawatha." Woodruff quickly expanded into a full-time resort and recreation area.

Tourism was not the only industry to benefit from the railroad. Logging companies also took advantage of the rapidly expanding railroads. As early as 1889 the Chicago, Milwaukee, and St. Paul tracks were laid to Woodruff. In 1895 they were extended from Woodruff to Wisconsin to cover the booming timber industry.

Thus the early growth of Woodruff is largely due to its immediate access to the railway. The logging business remained good through the early 1930's, but by 1937 most of the timber suitable for sawlogs was already cut. When the abandonment of branch lines started in 1943, Woodruff had to seek a new trade.

The transition from the timber industry to the tourism industry was a smooth one. The fishing and summer recreation business that had been growing since the turn of the century now came into full swing. The natural beauty of the area which was once harvested to produce income, was now producing income by being preserved.

As Woodruff continued to develop it never lost its adventurous attitude. The rugged individuals that settled the town passed their pioneering spirit down through the generations. Perhaps the best example of this spirit was evident in Dr. Kate Pelham Newcomb, affectionately known as "Dr. Kate."

Dr. Kate served the Lakeland area for over 30 years, often traveling by snowshoe or snowmobile to reach her patients. Covering up to 100 miles in a day she battled her way through the bitter elements just to get to the nearest hospitals. Her dedication and courage have earned her nationwide recognition as a medical legend.

In 1952 the students of the Arbor Vitae-Woodruff High School collected 1 million pennies in order to complete a hospital built in Dr. Kate's honor. The hospital was eventually completed in 1954 and Dr. Kate became the first chief of staff. She served at the hospital in Woodruff until her death in 1956.

Today the hospital has 109 beds and employs 350 people. It remains, however, a statement to the heroic efforts of one person who devoted her life to helping her community. She is truly deserving of this recognition, and truly suited to her fond nickname, "the angel on snowshoes."

Woodruff is still very closely linked to its beginnings 100 years ago. While most cities and towns are rushing aimlessly toward their future, Woodruff has taken time to preserve its past. The community is rich with natural beauty and overflowing with historical interest. A treasure hidden in the Northwoods, Woodruff is in no hurry to give itself away. Thus, this is not the story of a small town getting bigger; it is the story of a small town getting better.

On behalf of the Congress of the United States, I extend congratulations to the town of Woodruff, the citizens who make it their home, and the thousands of visitors who enjoy its unique charm, on this its 100th anniversary.

A TRIBUTE TO LT. GEN. BURTON D. PATRICK UPON HIS RETIREMENT, JULY 31, 1988, FROM THE U.S. ARMY

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BARNARD. Mr. Speaker, a great American and a distinguished son of Georgia is retiring from the U.S. Army on July 31, 1988, after 31 years of service to his country. Lt. Gen. Burton D. Patrick, a native of Fickling, is culminating his outstanding career with the completion of a tour of duty as the commanding general of the Combined Field Army, consisting of soldiers from the Republic of Korea and the United States.

General Patrick's career included wartime service in Vietnam with the First Cavalry Division and military advisor to the Vietnamese Army. He has also served in overseas assignments in Korea and Hawaii.

A preeminent tactician, General Patrick is also a true leader who respects and appreciates the American soldier. His early years with soldiers included command at the company and battalion level. He subsequently commanded at the brigade level in Hawaii, and served as Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, DC.

In June 1985 he became commanding general of the famed 101st Airborne Division (Air Assault), Fort Campbell, KY. In June 1987, General Patrick became commanding general, Combined Field Army, Republic of Korea. He was promoted to lieutenant general on May 27, 1988.

The general's awards include the Silver Star, the Defense Superior Medal, the Legion of Merit (with Oak Leaf Cluster), the Bronze Star Medal with "V" Device (with four Oak Leaf Clusters), the Meritorious Service Medal (with Oak Leaf Cluster), several Air Medals, and the Army Commendation Medal (with two Oak Leaf Clusters). General Patrick is authorized to wear the Combat Infantryman Badge, the Parachutist Badge, the Ranger Tab, and the Army General Staff Identification Badge.

He is married to the former Patricia D. Compton. They have one child; Burton, Jr.

GUILD OPTICIAN OF THE YEAR

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. GALLO. Mr. Speaker, I am very proud of my constituents, many of whom make outstanding contributions in their professional fields of interest and rise to positions of national leadership through hard work, dedication and determination.

James Leo Kymer II of East Hanover, president of the New Jersey State Society of Opticians, has been named Guild Optician of the Year by the National Guild of Prescription Opticians of America.

In his chosen profession, he is held in high esteem. He has seen a great many changes, most of them improvements, in the technology that is the foundation of his life's work.

This new technology has enabled him to assist a greater number of people, saving the eyesight of individuals who would have had very few options in years past.

Mr. Kymer has found the time to enrich his profession, by sharing expertise with colleagues and serving in a number of professional organizations, including director of the Better Vision Institute.

He has served his community as a member of the East Hanover Board of Education for 6 years, including a term as its president.

In all of these ways, James Kymer II has distinguished himself as a leader within his chosen profession and deserves our recognition. He has set an example for others to follow.

To those people who know James Kymer he is more than a member of his chosen profession. He is a friend who goes the extra mile.

He is a man who treats his customers as unique individuals and not as names on a chart.

He is a man who has learned that when you care about people, you'll get back tenfold.

There are many men and women who approach their lives and their chosen professions with the positive attitude of James Kymer, and I believe that the 11th Congressional District of New Jersey has more than its share of positive thinkers.

From time to time, we each need to be reminded that there is power in positive thinking. There is a reward for caring. There is virtue in patience.

As I read a recent newspaper article on Mr. Kymer, under the heading Jerseyan of the Week, I was reminded of all of these things.

As we debate the pressing issues of the day in Congress, it is easy to become cynical about the shortcomings of human nature. I just wanted to share this breath of fresh air with my colleagues in the House so that we will all remember the value of service as we do the people's business today.

TRIBUTE TO WILLIAM SALLER ON HIS RETIREMENT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. RODINO. Mr. Speaker, it is a great personal pleasure to extend my congratulations to my friend William Saller on the occasion of his retirement after more than 39 years with the Public Service Electric and Gas Co. in Newark, NJ. As vice president—governmental affairs, Bill has been an effective advocate and those of us who worked with him have valued his expertise and his commitment.

Bill began his career as an engineer and earned his BA in electric engineering at the Newark College of Engineering and his master's degree from Columbia University. After beginning his employment with public service, he worked for many years in the electric transmission and distribution division before joining the governmental affairs department. He became vice president in 1977.

But Bill is truly a man for all seasons. While enjoying a successful career, he also devoted his considerable talents and boundless energy to public service. He was a committeeman for the township of Cinnaminson and served as mayor in 1965. From 1975–77, Bill was a member of the Bridgewater Township Council and its president in 1976. He is also a past president of the Somerset Rotary Club.

On August 2, Bill Saller will be honored by his many friends in New Jersey with a special retirement celebration. I want to join in paying tribute to this outstanding individual and to wish Bill a very happy and healthy retirement.

WORKERS SUE RAIDER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FLORIO. Mr. Speaker, many Members have become greatly concerned with the wave of hostile corporate takeovers, often initiated by fast-buck takeover artists. In many cases, the workers of the target company end up the victims of the Wall Street power play.

But sometimes the workers fight back. I wanted to share with my colleagues an article from the July 25 Philadelphia Inquirer which describes how the workers at one takeover target are suing the raider. The article follows:

WORKERS SUE WOULD-BE RAIDER OVER LOST JOBS

(By Jane M. Von Bergen)

It's the classic Wall Street story: A predator company stalks a likely target, quietly buying up stock. Alarms sound. Desperate to raise money to buy back the stock, management adopts a slash-and-burn strategy—lay off workers, close plants, get lean, get mean.

To corporate raiders, it's high business drama.

To Elizabeth and Norman Kephart, who fell in love on the Owens-Corning, Fiberglass assembly line and had been married a week when they learned their Barrington plant would shut down, the drama is a tragedy, titled "The End of the American Dream."

Last week, Elizabeth Kephart and other union members did what no workers have done before. They sued Wickes Companies Inc., the corporate predator whose failed raid on Owens-Corning cost them their jobs, they say.

"This case is unprecedented," their lawyer said. "This is the first time the workers have said 'no' to Wall Street.

"You have these companies like Wickes basically shaking down Owens-Corning," said Philadelphia lawyer Allan Kanner, who filed the class action suit Monday in Superior Court in Camden. "They don't give a . . . what they are doing in places like Barrington and Berlin, because they never drive their BMW's down there anyway.

"This is pure worker vs. Wall Street yuppie warrior."

Kephart, her husband and her father all worked for Owens-Corning in Barrington, where nearly 800 people lost their jobs when the Toledo, Ohio, company cut costs to stave off Wickes.

"I figured I'd only have to work for a couple of years and then we could start a family," said Elizabeth Kephart, 26, of Runnemede. "But it turned out that neither of us were working and we couldn't afford to."

Norman Kephart can't find a job. Elizabeth Kephart upholsters chairs for half of what she made at Owens-Corning. She's two months pregnant and without medical benefits.

Delbert Walsh, president of Glass, Molders, Pottery, Plastics and Allied Workers International Local 252, remembers well the day 29 years ago that an interviewer promised him a lifetime of security at Owens-Corning Fiberglas.

"He told me, 'If you can stand shift work and you don't mind a dirty, dusty environment, you'll have lifetime employment here,'" Walsh recalled. He used to make $35,000 a year, now he earns $21,000 and considers himself lucky to be one of the 30 forklift drivers around the Barrington plant, now an Owens-Corning warehouse full of fiberglass insulation.

"I'd like to hurt Wickes as much as they hurt us," he said about the suit, which seeks to give the disenfranchised workers the $30 million that Wickes made on the failed raid, "But Wickes can lose $30 million and not notice it.

"What do I want?," he asked, nursing an iced tea at the kitchen table of his Laurel Springs home, "Justice, maybe, it might show me the system can work for me as much as it can work for Wickes."

In 1985, Owens-Corning reported income of $131.2 million in revenues of $3.3 billion and had projected revenues of $3.6 billion for 1986.

In July 1986, Wickes began to buy stock in Owens-Corning both in its own name and through its investment banking firm, Bear, Stearns & Co. Wickes' conglomerate business ranges from manufacturing parts for airplanes to making carpets and wall coverings. Wickes also owns a chain of home improvement and furniture stores. Last year, it had $3.5 billion in sales.

"In 1986, we were involved in lumber and building materials, and fiberglass is a building material. We thought it would be a good fit," said Wickes director of shareholder relations. Ann Julsen. She said it was against company policy to comment on litigation.

Federal securities and anti-trust laws require buying companies to notify federal agencies and others when it acquires five percent of a company's stock in order to alert stockholders and company managers to possible takeover bids.

But under its own name and through Bear, Stearns, Wickes acquired well over 5 percent, of $15 milling worth of stock, before notifing the regulatory agencies, according to a suit by the government. On Aug. 6, 1986, it announced its intention to acquire Owens-Corning. On Aug. 12, it notified the regulatory agencies.

Meanwhilte, the stock price soared from $49.50 a share to $74, upping the amount Owens-Corning needed to raise to buy it out. By Sept. 2, 1986, Wickes sold its Owens-Corning stock, making $30 million on the deal. Wickes paid a civil penalty of $300,000 in connection with the Bear, Stearns acquisition of Owens-Corning stock on March 23, 1988.

It was that payment, lawyer Kanner said, that gives him the legal basis for the suit.

A common-law principle in New Jersey, Kanner pointed out, forbids the unlawful interference with prospective economic advantage—the advantage employees have in continuing their employment.

If Wickes had gone about its takeover attempt according to the rules, Kanner said, it would have been difficult for the workers, but there would be no grounds for a lawsuit in that case, "under New Jersey common-law, it's the rule of tough noogies," Kanner explained.

But Wickes he said, didn't follow the rules as evidenced by the penalty it paid in March. "If someone breaks the law, then tough noogies on them. Why should they get the cheese?" Kanner asked. "You shouldn't get a benefit from being a scuzzball."

Novel, but strained, is how Columbia University law professor Louis Lowenstein, an acknowledged expert in corporate takeovers, described Kanner's legal theory.

Lowenstein said shareholders, not workers, are protected by federal notification laws, so workers cannot say they were wronged by a company's failure to notify its stock ownership on time.

"It's a very tenuous claim. It assumes that the jobs would not have been threatened but for Wickes," he said. Had Wickes taken over the facility and then closed it, the union may have had a basis to sue Wickes for labor contract violations.

Whether the 31-year-old Barrington plant would still be open today but for Wickes takeover bid remains an open question, said Bradford Oelman, vice president for corporate relations for Owens-Corning. The market is oversupplied with insulation, and two other insulation manufacturers are nearby.

"We sure wouldn't have closed Barrington when we did if it weren't for the takeover," he said.

Despite the number of workers affected by plant closings, Rutgers University law school professor Patrick Ryan said he has not heard of a case similar to the one filed in Camden last week.

"The workers are usually left out in the cold," said Ryan, who focuses on the social consequences of corporate mergers. "That's one of the problems with the whole mess."

Delbert Walsh knows the problem well. He's been to Washington to testify before the Banking Committee chaired by Sen. William Proxmire (D., Wisc.) on the effects of corporate mergers on the factory workers.

Walsh, 49 recalled fellow union member Frank Pfleuger, who, after years of working as a quality control inspector, was forced to return to the rigors of the assembly line—an assembly line that moved so fast that "If you had dust on your nose, you couldn't stop to wipe it off," Walsh said. Pfleuger died of a heart attack as he worked the line. "He couldn't take it."

"You watch these people on television," Walsh said, sporting his "Made in the U.S.A" T-shirt. "Ivan Boesky and these others. They don't care. They say, 'Let them go out and get another job.' But the jobs just aren't there."

NELSON MANDELA'S 70TH BIRTHDAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. WEISS. Mr. Speaker, on July 18, 1988, Nelson Mandela turned 70 years old. It is cruel irony that a man who had dedicated his life to the ideals of freedom and equality had to spend his 70th birthday behind bars. What's more, it is not the first time that Mandela has celebrated his birthday from Pollsmoor Prison in Capetown. Instead, as is well known, Nelson Mandela has watched from a series of cells throughout South Africa nearly 26 years of his life pass, serving a life sentence for allegedly committing treason.

But Nelson Mandela has not allowed a quarter century of imprisonment halt his work to bring an end to the racist system of apartheid. To the contrary, Mandela has been for decades among the most vociferous critics of the South African Government. Relaying messages to the public by way of his wife and his children—themselves crusaders for the cause of justice in South Africa—Mandela has been the voice of the oppressed black peoples of South Africa. Though Mandela's words have oftentimes been censored, his ideas resound in the minds of people all the world over.

The South African Government's efforts to remove Mandela from the public eye have been thoroughly frustrated by his undying resolve to resist a system which is inherently unjust. He has not relented in his pursuit of what he described at his trial in 1962, as "the ideal of a democratic and free society in which all peoples live together in harmony and with equal opportunities." Nelson Mandela's tireless opposition to the South African Government's brutal repression of the black majority have made him a universal symbol of resistance and determination.

Several times over the past few years, the Botha government has offered to release Mandela in exchange for his renouncing a number of his beliefs. However, Mandela has been unwilling to accept his freedom at the expense of his principles. He has rejected the offers time and time again, insisting that he will accept no less than his unconditional release. He has refused to compromise on the issue of fundamental human rights for all people in South Africa. Nelson Mandela has decided that his own imprisonment is a price he was willing to pay for success in the larger struggle against repression and racism in South Africa.

As we celebrate the birthday of Nelson Mandela, I hope that the occasion leads to a renewal of efforts to bring about the end of the apartheid system in South Africa. It is the moral responsibility of the United States and the other nations of the free world to let the South African Government know that it cannot continue its brutal repression of the black majority.

I strongly believe that the United States should not contribute, economically or politically, to the preservation of the apartheid system. That is why I am an original cosponsor of H.R. 1580, a bill to strengthen current economic sanctions against South Africa. It is my fervent hope that the Congress of the United States will pass this measure in the near future. Such an action would be an appropriate, and moral, way to celebrate the birthday of Nelson Mandela.

PERSONAL EXPLANATION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. PEPPER. Mr. Speaker, on Tuesday, July 26 my flight was delayed and I was unable to record my votes on two measures the House considered: (1) H.R. 4741, the Veterans' Compensation Amendments of 1988, Rollcall No. 237 and (2) S. 328, the Prompt Payment Act Amendments of 1987, Rollcall No. 238. Had I been present I would have voted "aye" on both measures.

RELIGIOUS LEADERS CONDEMN CAPITAL PUNISHMENT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. CLAY. Mr. Speaker, why is it necessary to kill people who kill people to prove to people that killing people is wrong? That is precisely what those who support attaching a death penalty amendment to drug abuse legislation recommend. Mr. Speaker, every major religion in this country has gone on record in opposition to the use of capital punishment.

The U.S. Catholic Conference—the corporate title is the Catholic Bishops of America—in 1974 and again in 1980 declared their abhorrence to the death penalty. Meeting in November 1980, the bishops issued a 3,500 work position paper stating their position on capital punishment was a "manifestation of our belief in the unique worth and dignity of each person, a creature made in the image and likeness of God." They admit that society not only has a right but also a need to punish those who violate the law. Citing necessity to protect the public from dangerous persons, they insist such needs, "neither require nor justify taking the life of the criminal, even in cases of murder." There seems to be no middle ground for Catholics on this basic question of morality according to American Catholic bishops.

The Bishops stated:

> We believe that in the conditions of contemporary American Society, the legitimate purposes of punishment do not justify the imposition of the death penalty. In the first place we note that infliction of the death peanlty extinguishes possibilities for reform and rehabilitation. Second, the imposition of capital punishment involves the possibility of mistake. Third, the legal imposition of capital punishment in our society involves long unavoidable delays. Delay also diminishes the effectiveness of capital punishment as a deterrent. Fourth, we believe that the actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to witness or to perform the execution. Fifth, in the present situation of dispute over the justifiability of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion. Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner.

Bishop Edward D. Head, of Buffalo, who assisted in drafting the position paper for the conference said:

> Our statement was grounded in the belief that the taking of life should not be answered by more violence in the taking of (more) life.

The leadership of the American Catholic Church is unalterably opposed to capital punishment. The same as members of other denominations, there is no possible equivocation for Catholics on this basic question of morality. Their November 1980 resolution condemning the death penalty, passed by a vote of 145 to 31 with 14 not voting.

FEDERAL EMPLOYEES HEALTH BENEFITS AMENDMENTS ACT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. ACKERMAN. Mr. Speaker, today I am introducing the Federal Employees Health Benefits Amendments Act of 1988—an important step in protecting the Federal Employees' Health Benefits Program [FEHBP] enrollees from unscrupulous health care providers while, at the same time, improving benefits under the program.

Under current law, the Office of Personnel Management [OPM] does not have the authority to bar fraudulent health care practitioners from participating in FEHBP. It is important that OPM have this authority in order to protect beneficiaries from incompetent health care providers and to protect FEHBP from the consequences of financial misconduct. Title I of the act provides OPM with the ability to exclude from participation in FEHBP any health care provider who submits fraudulent claims, has been convicted of financial misconduct, or has had his or her license suspended. This provision is similar to the Medicare and Medicaid Patient and Program Protection Act which was enacted into law in 1987.

In addition, under current law, there is no requirement that FEHBP contracts provide continuation of health insurance coverage to enrollees who were terminated from Federal service or who voluntarily left Government employment. This right was afforded to private sector employees under title X of the Consolidated Omnibus Reconciliation Act of 1985. Title II of Federal Employees Health Benefits Amendments Act provides Federal workers with the same rights as their counterparts in private industry. Federal employees who decide to leave Federal employment or who are terminated would be entitled to 18 months of extended insurance coverage and certain of their family members would be entitled to 36 months of extended coverage. As is the case with private sector employees Federal beneficiaries would be required to pay the total premium at the group rate. The beneficiaries would be charged an additional 2 percent to cover OPM's administrative expenses.

Mr. Speaker, the Subcommittee on Compensation and Employee Benefits is currently reviewing the status of FEHBP and I believe that this legislation is an important first step to improve the program.

THE PACIFIC FORUM

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. SCHEUER. Mr. Speaker, it is a pleasure to join Senator INOUYE in submitting a concurrent resolution to recognize the contributions of the Pacific Forum to peace, economic progress, and security in the Asia-Pacific region.

Established in 1975 in the State of Hawaii, the Pacific Forum has become a valuable resource on Asia-Pacific issues. An independent nonprofit institution, the Pacific Forum has brought together influential leaders from Asian and Pacific nations to work toward the resolution of international problems of mutual concern.

On January 9-11 of this year, six other Congressmen and I participated in the fourth Pacific Parliamentary Caucus, sponsored by the Pacific Forum and the Atlantic Council.

The caucus brought together Members of Congress and Parliamentarians from a wide variety of perspectives, enhancing problem-solving between the United States and our partners across the Pacific. Trade, especially improved access to Asian markets, and strategic relations were at the forefront of our discussions.

I commend the Pacific Forum for their exemplary contribution to furthering dialog on economic and strategic issues of vital interest to the United States, and I recommend that members of the House and Senate avail themselves of the expertise provided by the Pacific Forum on Asia-Pacific affairs.

The concurrent resolution follows:

> H. CON. RES. —
>
> Whereas a unique private initiative known as the Pacific Forum was established in Hawaii in 1975 to improve dialogue among the nations of the Asia-Pacific region and to enhance political and economic progress in the region through an environment of stability and security;
>
> Whereas the Pacific Forum is an independent nonprofit institution that has generated its own financial support during its more than 13 years of existence;
>
> Whereas the Pacific Forum has conducted a variety of studies, assessments, and seminars on a range of policy issues vital to the public interest;
>
> Whereas the Pacific Forum brings together influential leaders of business, academia, and government of the Pacific nations to work toward the resolution of international problems of mutual concern to the various nations;
>
> Whereas the Pacific Forum has organized the Pacific Parliamentary Caucus, which brings together under private auspices congressional and foreign parliamentary leaders for informal consultations and debate on vital issues of international policy;
>
> Whereas the Pacific Forum seeks to convert ideas into better public policies;
>
> Whereas the Pacific Forum is performing a unique public service in the Asia-Pacific

region by contributing to a greater and more sophisticated understanding of complex issues and problems that are sources of friction between nations;

Whereas, because of its record for incisiveness and practical recommendations on issues of public policy, the Pacific Forum has come to be highly respected throughout the Asia-Pacific region;

Whereas, if private initiatives similar to the Pacific Forum had been created at an earlier date, some crises resulting from differences between nations might have been averted; and

Whereas the Congress should recognize the unique abilities of the Pacific Forum and utilize them whenever practical: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Pacific Forum should be commended and congratulated for its contributions to the foundations of peace, economic progress, and security in the Asia-Pacific region;

(2) the abilities of the Pacific Forum should be utilized by the appropriate committees of the Congress whenever it would be useful and in the best public interest to do so; and

(3) particular consideration should be given by the committees of the Congress whose jurisdictions include matters regarding relations between the United States and the nations of the Asia-Pacific region to utilizing the Pacific Parliamentary Caucus established by the Pacific Forum.

SINGING THE PRAISES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FLORIO. Mr. Speaker, you can get by with a little help from your friends. But when you are mentally and physically handicapped, you need more than just a little help from your friends. It takes compassion and a little fiscal muscle to help these individuals achieve their fullest potential.

Fortunately, in New Jersey, a duo from the musical world's history books is doing more than its share to brighten the lives of the disabled. Lending their vocal chords to the cause of the disabled, the Dovells are bringing sunshine into the lives of New Jersey's mentally and physically handicapped.

Jerry Cross and Mark Stevens, who make up the Dovells, spent years racking up a successful string of popular hits. But the passage of time has brought them greater achievement by way of helping others in their community.

They already have millions of miles between them in the pursuit of the hit single. However, they have also contributed much to the disabled and to the happiness of many children in New Jersey.

Indeed, they are a special part of the Special Olympics, the event that brings together the disabled to compete for prizes and to strive for success.

Only recently, the Dovells dug in deep and helped in the groundbreaking of a new recreational park in Camden County. Designed especially for the disabled, the park will be called Challenge Grove because of the positive growth that those who worked on it and those who will play in it have gained and will gain.

The following article from the Camden Courier-Post not only traces the careers of the Dovells but also explains how these two singers from the sixties have been making differences in the lives of the disabled in the seventies, the eighties, and beyond:

[From the Camden (NJ) Courier-Post, July 8, 1988]

DOVELLS HELPING DISABLED

ATLANTIC CITY (AP).—Where Jerry Gross and Mark Stevens, The Dovells, once thought only of being successful showmen, their purpose now also is to urge audiences to get involved in helping the Special Olympics.

Gross and Stevens were skiing in the Poconos 11 years ago when they came across a group of mentally and physically disabled athletes practicing for the Special Olympics.

The accomplished skiers became volunteers helping the trainers before organizing and emceeing a 25-hour dance marathon in 1985, raising $140,000 for the program.

From their office in Cherry Hill, the two men, who are performing at the Atlantic Hotel and Casino through tonight, are making plans to build a training center in the state of the Olympians.

Also, they recently broke ground for a 2½-acre park in Cherry Hill—to be named Challenge Grove—that will be specially designed for the physically and mentally disabled.

Gross said efforts in North Jersey to raise money and recruit volunteers have been successful but southern New Jersey lags. They hope to change that situation.

"We want to bring awareness to the powers-that-be, the large corporations, that now is the time to start being a contributor to the Special Olympics," Gross said.

Before diving into their work for the Special Olympics, Gross and Stevens, primarily were looking after their careers as the Dovells.

Formed in 1960 by the two junior high school pals and Len Barry, Danny Brooks and Arnie Satin, the group had its first hits in 1961 with "The Bristol Stomp." The following year, The Dovells were voted the No. 1 pop group by Cashbox and Billboard, Gross said.

By 1964, the group had its last hit, "You Can't Sit Down," just as groups like the Beatles and the Rolling Stones were gaining in popularity. The group then dissolved and Gross and Stevens, then only 22 years old, started to change direction.

"The British Invasion had come in but we were still perceived to be a current act," Gross said. "We know that Herman's Hermits and the Beatles weren't going to work nightclubs, so that's the direction we took."

By traveling with "Dick Clark's Caravan of Stars," in which they played alongside Fabian and Frankie Avalon, and performing around the world, Gross and Stevens gained the experience they needed, Gross said.

"We were one of the first white acts to travel with black acts," he said. "We were thrown in towns at a time when it wasn't cool to ride with James Brown and a few of our buses were shot at. There were also times when we were in the wrong place, when people would tell us this dressing room is for blacks only.

Gross and Stevens have remained popular in Philadelphia, Gross said, by singing the praises of a local jewelry store to the tune of '50's and '60's songs in commericals that have run for the past eight years.

Last month the Special Olympic summer games opened with a special song written and sung by The Dovells.

BLAIR HIGH SCHOOL TEAM SHOOTS FOR SUPERCOMPUTER PRIZE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mrs. MORELLA. Mr. Speaker, our Nation's future competitiveness depends on its scientific prowess. The key to continued scientific excellence lies of course with our young people. As a member of the Science, Space, and Technology Committee, I have worked to promote science education and cooperative efforts between government, academia, and industry.

I am pleased to report that a group of students from Montgomery Blair High School in Silver Spring is presently participating in an excellent example of a science education project that involves cooperation between government, academia, and industry. The Blair team is among the four finalists in "SuperQuest", a nationwide computer competition sponsored by ETA, the supercomputer branch of Control Data Corp. The victorious team's school will win the first million dollar supercomputer ever installed in a high school. This contest, and the Blair team's efforts to win it, are described in an article in the June 10 Suburban Record. I would like to share this instructive article with my colleagues.

BLAIR TEAM SHOOTS FOR SUPERCOMPUTER PRIZE

(By Ann Rose)

Montgomery Blair's math-science magnet coordinator lies awake nights imagining what winning the first million dollar supercomputer ever installed in a high school would do for his three-year-old program.

Mike Haney thinks the high-minority school in Silver Spring has an excellent chance this summer of making that dream come true.

A team of Blair magnet students and one from Thomas Jefferson High School for Science and Technology in Fairfax County, Virginia, are among the four finalists in "SuperQuest", a nationwide computer competition sponsored by ETA, the supercomputer branch of Control Data Corporation.

On August 12, one team really will win an ETA 10-P supercomputer installed at its school. Only about 300 such powerful computers exist in the world, Haney said. The only ones he knows of in the Washington area are at the weather service, NASA and the Bureau of Standards.

The four teams were selected from a field of nearly 1,500 on the basis of individual problems they designed to require the vastly increased speed and capability of a supercomputer over a conventional computer. They will spend the summer at ETA headquarters in Minnesota receiving extensive training on the supercomputers and working with mentors. Each team member will also receive a $3,000 stipend and a personal computer from ETA.

The Blair team is composed of three juniors and a sophomore within the math/science/computer science magnet that has drawn 220 highly gifted ninth to eleventh graders from all parts of Montgomery County. There are no seniors because the magnet has not existed long enough to have a senior class. Team member are juniors Sven Khatri, Dan Mall and Howard Gobioff and sophomore Maneesh Agrawala.

On June 27 they will travel to St. Paul with computer science teacher Mary Ellen Verona for seven weeks of training and work on their projects. They will live on the campus of Macalester College, with all expenses paid by ETA. Verona will receive a $7,000 stipend and a $3,000 grant toward graduate school.

At the end of the seven weeks, each of the four teams will give a presentation to an ETA panel, headed by Ken Wilson, a Nobel laureate in physics from Cornell, describing their progress in training and in initiating work on the problems. The winner will be selected on the basis of the individual team members' work during the summer.

Each of the finalist teams will also receive a $50,000 Cyber 910 graphics workstation for the school. Haney explained that this machine is used to model three dimensional graphics in preparing problems for the supercomputer.

In addition to Thomas Jefferson, which is a school entirely for gifted science and technology students throughout northern Virginia, the other finalists are James Logan High School in Union City, California near San Francisco, and North Florida Christian School in Tallahassee, Florida.

BLAIR TEAR

At a press conference Tuesday, Blair team members described their winning proposals, which will also serve as senior projects for the juniors on the team.

MANEESH AGRAWALA

Fifteen-year-old sophomore Maneesh Agrawala said his protein modeling project in biochemistry involves studying how proteins are put together. Using the supercomputer, he will simulate the energy reactions when the molecules that go into proteins are brought close together. On the school computer he said he would run maybe two molecules at a time. On the supercomputer he can run hundreds or thousands.

Agrawala, whose father is a professor of computer science at the University of Maryland, lives near Burtonsville and travels an hour each way by bus to attend the Blair magnet. He want to Fairland Elementary and to the Takoma Park Intermediate magnet.

DAN MALL

Dan Mall, who worked last summer at the Naval Surface Weapons Lab in White Oak, will study why water flows more readily over the skins of dolphins than over the hulls of sea vessels. The ultimate purpose, he said, would be to modify the surface structure of ship hulls to allow them to go faster or use smaller engines. Blair's MacIntosh computers do not have enough memory to mode Dan's detailed data.

Dan said he took his first computer class in the fifth grade at Brookhaven Elementary. Having computers in elementary schools is very important, he thinks.

SVEN KHATRI

Using land satellite data, Sven Khatri's project plots the growth of cities against time, analyzing satellite images of the emerging megalopolis from Washington to Boston. Although he said there are many variables, he hopes to develop an equation that generalizes as much as possible about how a city grows. Does it split into regions or satellite cities? Which areas develop into suburbs? Is growth exponential with time?

Khatri said his findings would be useful to urban planners and to land investors.

HOWARD GOBIOFF

Both Khatri and Howard Gobioff went to Georgian Park Elementary. All three juniors went to Lee Intermediate in Silver Spring.

Gobioff said he got the idea for his "N-Body Gravitational Simulation" from an article in Scientific American. Using the supercomputer, he plans to explore what happens when four bodies in space (two binary systems) approach collision. The magazine article described the mutual gravitational attraction among three bodies; with the supercomputer Gobioff can handle four.

SHARING THE BENEFITS

When the Blair team wins—they don't like to think in terms of "if"—they expect their supercomputer to benefit the school, the school system and, indeed, their competitors as well

Win or lose, said Haney, the team members and their teacher will learn to use the supercomputer, then come back and teach the next generation of students. "It's really win-win," he admitted.

POLICE CHIEF FRANK KESSLER TO RETIRE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. DORNAN of California. Mr. Speaker, my hometown of Garden Grove, CA, is about to lose a dedicated public servant who, for 12 years, has dedicated his life to protecting the lives and property of the people of Garden Grove. On August 2, 1988, Garden Grove Police Chief Frank Kessler will retire after 34 years as a law enforcement professional.

In a community that has witnessed rapid growth and development during the last two decades, Chief Kessler has been a pillar of stability, maintaining law and order while introducing innovative law enforcement programs to keep pace with a changing community. During his 12-year service, Chief Kessler introduced team policing, differential police response, directed patrol, a computerized scheduling system for manpower allocation, computer aided dispatching, computerized/management of information systems, a vehicle tracking system, and landtrack, a highly successful crime analysis system.

Mr. Speaker, I, along with the people of Garden Grove, will miss Chief Kessler for not only his professional contribution, but for his personal dedication to making our community a better place to live.

On behalf of the citizens of California's 38th Congressional District, I would like to wish Chief Kessler best wishes for a happy and enjoyable retirement.

TRIBUTE TO IRVINE G. FINCH

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. HERGER. Mr. Speaker, today I would like to pay tribute to Mr. Irvine G. Finch, of Orland, CA, who passed away on June 2. California has bred many great men in her time, and Irvine Finch was certainly one of them.

Irvine Finch lived in Orland all his life on the land he farmed and loved. He was a great friend to California agriculture, having served in the Glenn County Farm Bureau, the Glenn-Tehama Pure Seed League, and the Western Grain Marketing Association. He belonged to the California Farm Bureau Federation, and was a past president of the Glenn County Chamber of Commerce. Clearly, California agriculture knew no better friend than Irvine Finch.

Mr. Speaker, Irvine Finch was so well respected that this past April he was honored at the opening of the Irvine Finch River Access Park on the Sacramento River, adjacent to the Gianella Bridge, a historic structure for which he was a strong proponent.

Mr. Speaker, America needs more men like Irvine Finch. Irvine Finch was a community leader and a loving husband and father. He was truly a pillar in his community. He was looked up to, listened to, and he was a leader. We are all the poorer for his unfortunate passing.

Mr. Speaker, today I pay tribute to Irvine Finch, and offer my condolences to his family, particularly his wife Yvonne. He will be missed for his statesmanship, but even more so will he be missed for the kind of man he was.

NELSON MANDELA DAY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. WALGREN. Mr. Speaker, in June 1964, the South African Supreme Court sentenced Nelson Mandela, a lawyer and a leader of the African National Congress [ANC], to life in prison on charges of sabotage and conspiracy to overthrow the Government of South Africa. On his 70th birthday, 24 years later, Nelson Mandela remains one of the most prominent figures in the black nationalist struggle against South Africa's white minority rule.

One of the enduring principles upon which our Nation was founded is the conviction that all persons are created equal and are entitled to equal rights and protections under the law. The apartheid system is anathema to this principle. It deprives millions of people their fundamental human rights based purely on the color of their skin. Inspired by Mohandas K. Gandhi, Nelson Mandela has dedicated his life to the nonviolent struggle to end apartheid.

Nelson Mandela's 70th birthday gives us opportunity to reflect on what he, his family, and thousands of South Africans have struggled and suffered over a lifetime to achieve—the hope for a free and democratic South Africa. Despite his isolation, Mr. Mandela's suffering and determination is a symbol of hope that 1 day all South Africans will enjoy the right to live where they choose, travel where they please, attend the same schools, and vote for representation in the legislature and for national leadership. In Nelson Mandela's words, "South Africa belongs to all its people."

RECLAIMING OUR SHORES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FLORIO. Mr. Speaker, for the last few weeks, beachgoers in New Jersey and New York have had to contend with all sorts of medical waste washing up on our shores. From blood vials infected with the AIDS virus and the hepatitis B virus to used syringes and redbags, medical waste is fast becoming the season's "catch" at our shores.

This is not a problem that's unique to New York and New Jersey nor is it a problem that developed this year. Last year, New Jersey beaches were closed 15 days as tons of medical waste washed ashore. Similar sightings of medical waste are being reported up and down the Atlantic coast.

Medical waste on our beaches assaults our senses. But it is also a serious hazard to public health and to our environment. It is a problem that is also having a significant impact on our tourist industry. Vacationers are deciding that they won't bother with the Jersey shore this summer. On a recent Fourth of July weekend, you could walk through any of the beach towns of New York and New Jersey and find that business was down, that "Vacancy" and "For Rent" signs had cropped up all over.

Mr. Speaker, "This is war." A war to save our beaches. Our shore means a lot to New Jersey, whether you are talking about aesthetics, recreation, or economics. The assault on our shore, whether it is from medical waste, swage sludge, or other contaminants that make swimming dangerous, must be stopped.

I am today introducing legislation that will go a long way toward resolving this dangerous problem. The New Jersey-New York Medical Waste Tracking Act of 1988 creates a demonstration program for these two States and directs the Environmental Protection Agency to establish a tracking system for medical waste within 9 months. This tracking system would ensure that those who generate, treat, store, transport and dispose of medical waste are held accountable to safe standards of conduct. The tracking system will help better manage medical waste and guarantee that the waste is ending up in legitimate treatment or disposal facilities and not in our oceans.

In addition, my bill provides for onsite inspections and permits the EPA to impose civil and criminal penalties on violators. No longer will dumpers of blood vials and syringes go scott free.

Because a large part of the problem we are facing stems from the lack of proper treatment and disposal of the medical waste, my bill directs the EPA to spend 12 months studying the current treatment and disposal practices being used for medical waste in New York and New Jersey. At the end of the 12 months, EPA must submit a report to the Congress with recommendations for improving this system.

My legislation is similar to a bill introduced by Senators LAUTENBERG, BRADLEY, MOYNIHAN, and D'AMATO. I am pleased to have the support of a number of Members of the New Jersey and New York delegations including Congressmen LENT, SAXTON, ROE, HUGHES, CHRIS SMITH, GALLO, ACKERMAN, MANTON, GUARINI, HOCKBRUECKNER, DWYER, ROUKEMA, GREEN, and MCHUGH. I urge the support of my colleagues for this important measure.

H.R. 4675, TO AMEND THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973 TO EXTEND THROUGH THE FISCAL YEAR 1989 THE AUTHORITY CONTAINED IN SUCH ACT RELATED TO DRUG ABUSE PREVENTION ACTIVITIES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 4675, which estends the authorization of appropriations for drug abuse prevention activities of the ACTION agency for 1 year, at such sums as may be necessary. The bill brings the drug abuse prevention program in line with the reauthorization cycle of the remaining activities in title I of the Domestic Volunteer Service Act of 1973. I commend Congressman MAJOR OWENS for introducing this legislation and bringing it to the floor of the House of Representatives today.

The drug prevention program administered by ACTION—referred to as the ACTION Drug Alliance—was authorized under the Anti-Drug Abuse Act of 1986 and funded through the Omnibus Drug Supplemental Appropriations Act of 1987. The program was authorized to be appropriated $5.5 million for fiscal years 1987 and 1988 and was appropriated $3 million in fiscal year 1987 and $1,550,000 in fiscal year 1988.

The Drug-Alliance awards grants to nonprofit community-based organizations, such as schools and parents groups which utilize volunteers to promote drug prevention and education programs. The grants which are funded on a 1 year, nonrenewable basis, are aimed toward projects that plan for the continuation of activities and self-sufficiency at the completion of the grant program.

Mr. Speaker, drug abuse continues unabated in America, and if anything drugs are more potent, more available, and lower in price than ever before. Cocaine abuse in America has reached epidemic proportions, and its victims cut across all socioeconomic sectors of American society. As long as production of narcotics continues at its current rate or higher, we must establish and operate effective drug abuse education programs which will deter America's young people from destroying themselves through drug use. I strongly support passage of H.R. 4675, because it will help educate people to the dangers of drug abuse, hopefully thereby discouraging them from becoming drug users.

TRIBUTE TO NORMAN JOHNSON

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to Norman Johnson, a great friend of veterans, on the occasion of his retirement.

Norman Johnson has worked at the Veterans' Administration facility at Broad and Cherry Streets in Philadelphia for 35 years. For several of those years, Norman was supervisor of the social work service of the outpatient clinic.

Norman is well known and liked by his colleagues at the VA and by the veterans with whom he has worked. But his efforts are especially appreciated by one group of veterans.

Norman is perhaps best known for his endeavors on behalf of Vietnam veterans. He founded and worked with the Vietnam veterans combat group for vets with post traumatic stress.

Upon their return from Vietnam, veterans were all too frequently treated with disdain. Dedicated, understanding people like Norman Johnson were their only hope.

Mr. Speaker, I believe that we have a very serious obligation to our veterans. At the same time, we also owe a debt of gratitude to the men and women who work to ease veterans' transition from active service to civilian life.

I commend Norman Johnson for his excellent work with veterans. I hope his retirement is as productive and satisfying as his career.

JUDGE HAROLD CLARK

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BENNETT. Mr. Speaker, On July 22 Judge Harold Clark, president of the U.S. People to People Program, died in surgery in a heart operation in his hometown of Jacksonville, FL. I never knew a finer person than Judge Clark. He was a dynamic achiever for the benefit of all of us, forever young, forever improving things, forever an optimist.

He, as a Naval officer in World War II, heroicly participated in four landings in Italy, France, and Sicily. He was an able lawyer for 46 years and an able judge for 12 years. He was president of the Jacksonville Bar Association and chairman of the National Conference of Probate Judges. I had the honor of making remarks at his memorial service, but my purpose today in speaking, primarily, is to include in the RECORD at this point the beautiful tribute paid to him by his son, Robin Clark, formerly a page in the House and now an able newspaper editor. It reads as follows:

What can we learn from this man who made so many friends and contributed so much.

He was a different kind of lawyer. In a litigious society, He sought to avoid litigation.

Last week, from his hospital bed, he was working to set up a mediation program in Jacksonville to resolve differences out of court.

In Florida law, the Supreme Court's rules of probate and guardianship were largely written by Harold. Again, he designed them to help solve problems and avoid confrontation.

He helped reorganize Florida's court structure. He participated in dozens of programs, organizations and meetings to improve the practice of law and the conduct of lawyers and judges.

He showed us how to improve the legal system.

What can we do about our community? Harold showed us. He showed us through his work with the Boy Scouts, where he was a distinguished Eagle. He lived the Rotary Club's four-way test, which asks us to cosider "Is this fair to all concerned." And he became a Paul Harris fellow.

What can we do about world peace? What can one person do in such a large and troubled world? He did something.

When a reporter asked him what he was going to do when he retired. He said "I am going to work for world peace".

He traveled, much like any other tourist, he saw the sights and he took pictures. But he went with the purpose of making friends and building understanding wherever he went.

He extended his hand to the Chinese and the Yugoslavs and the Hungarians. He went to Romania and Chechoslovakia, to Italy, France and England, and to Jamacia and the Dominican Republic.

While visiting these places and others, He rose to head an International organization, founded by Dwight D. Eisenhower, and dedicated to international friendship—people to people.

His leadership role took him around the nation and around the world. Next Month, he was to have conducted People to People's Biannual conference in Hong Kong.

He was doing something about peace.

To us, he leaves his example of hope for a better world, and his determination to make it one, at home, in the community and abroad.

I also include hereunder the news story of this death as it appeared in the Florida Times-Union under date of July 23, 1988.

RETIRED JUDGE HAROLD R. CLARK DIES AT 69

Retired Circuit Judge Harold R. Clark, who served 12 years on the Jacksonville bench, died yesterday following a brief illness. He was 69.

Memorial services will be at 4 p.m. tomorrow at the First Christian Church, Disciples of Chirst, 11924 San Jose Blvd. in Mandarin.

"He will be sorely missed," Chief Circuit Judge John E. Santora Jr. said last night.

"He had agreed to come back as a retired judge to handle mediation and arbitration cases for me next month," Santora said. "When he had his heart attack Sunday, one of the first things he did was have his wife call me and tell me that I should not worry, he would be there to serve next month."

Judge Clark, a lifelong resident of Jacksonville, attended local schools and graduated from the John B. Stetson College of Law in 1942.

During World War II, he served in the Navy and participated in four landings in Sicily, Italy, and France. He was a lieutenant commander in the Navy Reserve.

Following the war, he practiced law in Jacksonville until 1971, when Gov. Reubin Askew appointed him to the County Judge's Court. Two years later, he was elected to the Fourth Judicial Circuit, where he served until 1984 when he did not seek re-election.

Judge Clark was the national president of People to People International, which promotes international friendship through personal contacts.

He was a former president of the Jacksonville Bar Association, the Jacksonville Historical Society, the Jacksonville chapter of the Sons of the American Revolution, the Church Alliance of Greater Jacksonville, the Rotary Club of South Jacksonville and the Stetson University Alumni Association.

Judge Clark was a former chairman of the Conference of Circuit Judges of Florida, the Conference of the National College of Probate Judges and the Probate and Guardianship Rules Committee of the Florida Bar.

He was a member of the American Bar Association and the American Judicature Society.

He became an Eagle Scout with Bronze Palm in 1930 and he was given the Distinguished Eagle Award by the National Court of Honor of the Boy Scouts of America in 1975.

Judge Clark was a member of the First Christian Church of Jacksonville, where he had served twice as a chairman of the board and was a Sunday school teacher and choir member.

Survivors include his wife, Vivian Armington Clark; a son, Harold R. Clark Jr.; a daughter, Christine A. Clark, all of Jacksonville; and two brothers, David C. Clark of Birmingham, Mich., and William W. Clark of Tryon, N.C.

Hardage-Giddens Guardian Chapel, 4115 Hendricks Ave., is in charge of arrangements.

TRIBUTE TO THE GUARDIA LOMBARDI SOCIETY

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. DioGUARDI. Mr. Speaker, I rise today to pay tribute to the Guardia Lombardi Society, which will celebrate its 50th anniversary of its first meeting on August 6, 1988, in Mount Vernon, NY.

The Guardia Lombardi Society began as the dream of one man, Joe DiMarino. His dream was to create a haven for the immigrants of the town of Guardia Lombardi in Italy to come to and share their thoughts and goals. Membership increased rapidly until World War II when many of the members were called to serve. The group struggled to stay together and finally, after the end of the war, plans were begun to construct a building to house the club. After many years of financial problems the clubhouse was constructed in 1963, mostly by the club's own members.

In the 50 years of its existence, the Guardia Lombardi Society has aided not only its members but also the community. An example of the dedication to improving the community is the scholarship fund, created in 1985 for the members' children and relatives who were entering college.

The club has been persevering in its goals to aid its members. Their pride and strength are shown in the loyalty of the members through 50 years. I congratulate the Guardia Lombardi Society and its members, who share and celebrate our Italian heritage, on 50 years of success.

STRATEGY TO EXPAND ECONOMIC OPPORTUNITY TO ALL PEOPLE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. FIELDS. Mr. Speaker, if the Republican Party is going to become this country's majority party it must broaden its base by reaching out to minorities and others left behind by the current economic expansion. One of our colleagues, Congressman JACK KEMP, has been at the forefront of efforts to meet this challenge by addressing the needs and aspirations of the poor and minorities.

I would like to call my colleagues' attention to a letter written by Congressman KEMP for the Black Republican Convention Leadership Breakfast held during the Texas State Republican Convention in June. In the letter, Congressman KEMP outlines an agenda which could serve as the foundation for a comprehensive strategy to expand economic opportunity to all people. The letter follows:

Dear Guale:

While I am unable to be with you because of a previous commitment on behalf of Vice President Bush in Colorado, I want you to know how important I believe the efforts of the Texas Republicans are to recognize the contributions blacks have made to our Republican Party and our country's future.

I'm proud to announce to you today at this Leadership Breakfast my plans to work for a plank in the Republican Platform in New Orleans calling for a "new war on poverty." As I wrote in a recent article for the *New York Times*, we should commit ourselves and our Party to full employment without inflation for all Americans. We can't put America to work unless we put Black America to work.

I believe that all Americans, black and white, share similar hopes and dreams. The American dream really is colorblind. We all want our families to be a strong and stable foundation in our lives. We want to raise our children in our own homes, in safe neighborhoods free from drugs and crime. We all want to have an "equal opportunity" at climbing the ladder of economic success. And, we all strive to give our children a better future in a nation of human rights, equal rights, civil rights, and voting rights for all people.

The Republican Party, led by Vice President Bush, can win the votes and loyalty of blacks and other minorities by proposing a comprehensive strategy to achieve these goals. In my opinion, the next phase of the civil rights revolution must expand economic and social opportunity to all people, particularly those left behind by the recent expansion of our economy.

Our first challenge is to create jobs and minority entrepreneurs in those stubborn pockets of urban and rural poverty that have been passed over by stronger growth and propserity. We need to establish enterprise zones that provide incentives to entrepreneurs and small business people to invest in poor areas. It is a simple fact that you can't have employees without employers. By creating jobs in the inner cities, enterprise zones can help the poor firmly plant their feet on the ladder of upward mobility and opportunity.

Yet, the House Democratic leadership refuses to consider enterprise zone legislation. The Republican Party must make passage of enterprise zone legislation a top priority on its agenda, and I am pleased that our candidate, George Bush, has strongly endorsed enactment of enterprise zones.

Home ownership is at the heart of the American dream. Yet, thousands of Americans are trapped in public housing projects plagued by crime, drug abuse, and vandalism. We should promote home and property ownership for the poor as a way of empowering the poor. Where tenants have been empowered to manage their own projects, and even to purchase at a large discount their units from public housing authorities, projects have been transformed into proud neighborhoods in which people can safely raise their families. We need a national commitment to make tenant management and urban homesteading work so that renters can become homeowners.

Americans have always regarded education as an essential key to a better future. Republicans must expand the limited educational choices facing many inner city minorities by proposing higher funding for magnet schools. Magnet schools increase choices, involve parents in their children's education, and dramatically improve the quality and standards of our school systems. They offer every school child equal access to high-quality education, and here again our candidate for President has pledged to be the "Education President."

Our fundamental goal really must be to strengthen the family. Our family should be a foundation that offers stability and hope, teaches us moral values, and helps us reach our highest aspirations and dreams. We must establish as one of our goals the doubling of the personal exemption for children. This action would help relieve the tremendous costs of raising children and force our national tax policy to reflect the fact that children are our greatest human resource.

Another positive Republican initiative to help families raise children would be to change the existing child care tax credit into a universal credit available to all families with pre-school children. This would help all families, whether the mother chooses to work outside the home or at home. We must reject the trend toward government-sponsored day care. Child care policies should be judged on the basis of whether they strengthen the family and whether they give parents the ultimate right to choose who takes care of their children.

This agenda really is just the beginning. But by offering all Americans a "progressive conservative" vision for a better future, Republicans can broaden the base of the party and make it what Abraham Lincoln meant it to be—a party pledged to moving all people forward and leaving no one behind.

Once again, Guale, my best wishes for a successful leadership breakfast and convention. I look forward to working with all of you to help make Vice-President George Bush the next President of the United States and the Republican Party a Lincoln Party.

Sincerely,

JACK KEMP,
Member of Congress.

TAX RELIEF FOR FISHERMEN AND FARMERS

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BRENNAN. Mr. Speaker, thanks to the Ways and Means Committee, help is on the way for our Nation's fishermen and farmers.

The committee recently finished marking up the bill making technical corrections to the Tax Reform Act of 1986. That act had created a problem for fishermen and other off-highway users of diesel fuel. Although officially exempt from the highway trust fund tax, they had to begin paying the tax at the pump, and then applying for a refund from the IRS.

I've talked with fishermen about the serious cash flow problems and unnecessary burdensome paperwork this is causing. This is exactly the type of problem that deserves a quick fix from Congress.

I am especially pleased that the corrections bill includes a provision contained in my legislation, H.R. 4444, specifically exempting fishermen who buy fuel from marine retailers for their boats.

I commend the committee members for their common sense and timely action and ask that this bill be brought to the floor as soon as possible.

CAPTIVE NATIONS WEEK

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, Captive Nations Week is a week dedicated to bringing attention to the people throughout the world under the oppression of communism. It should serve as a reminder of our commitment to assisting those who have been so heartlessly denied their basic human rights.

As Americans, we are greatly indebted to those who have emigrated to the United States from the captive nations. Indeed, they have much to teach us about freedom. We should learn from those who treat genuine freedom, which we often take for granted, as a precious right.

These fine emigrants are admirable examples of courage and determination and have brought about a remarkable cultural expansion in our country. They have enriched us with their many traditions and have passed on to us an appreciation for the history of their motherland.

We should recall, especially this week, that the principles upon which our nations were founded—freedom and democracy—are the principles upon which oppressed people of captive nations base their struggle.

Let us respond to the not-so-silent cry of these oppressed people and do our best to give them what they so desperately want and need—freedom. For it is only in a nation where the people, through a representative government, rule themselves, that the guarantee of complete freedom, is achieved.

I look forward to the day when people oppressed by communism throughout the world can live without fear in their freed homelands. Let us join them in solidarity and fight harder, stand stronger and strive so that no nation will be denied what every nation should possess—freedom.

TRIBUTE TO A FURNITURE PIONEER: J.E. BROYHILL

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. BALLENGER. Mr. Speaker, it is with great respect and admiration that I rise today to pay tribute to a Southern gentleman whose influence as a Christian man, dedicated father, civic leader, industrial magnate, and philanthropist will be felt for many years beyond the passage of his time. Mr. James Edgar Broyhill of Lenoir, NC was 96 years old when he died July 1, 1988.

Donna and I would like to extend our personal sympathy to the family of J.E. Broyhill, especially to his son and former Member of Congress, Senator Jim Broyhill and to his wife, Mrs. Satie Broyhill whose friendship we have been fortunate to cultivate over the years. I know many of my colleagues in the House worked closely with and respected the fine work of Senator Broyhill and share my sentiments.

I would like to share some insight into Mr. Broyhill and touch on a few of his remarkable accomplishments. It is a history of which anyone would be proud.

J.E. Broyhill was born of humble beginnings in rural North Carolina where he learned farming, logging, lumbering, and blacksmithing. With a sixth grade education at age 21, J.E. entered Appalachian Training School in Boone, NC. He earned money for his tuition through odd jobs. He was a man accustomed to making his own way. It was these early days of his life that molded his strong moral character.

J.E. Broyhill married Satie Hunt, and together they raised four children, Allene, Paul, James, and Bettie. J.E. was most assuredly the patriarch of the family, but Satie promoted the close family cohesiveness.

In the biography of J.E. Broyhill, Anvil of Adversity, written by his son-in-law, the late William E. Stevens, Jr., J.E. remarked "God forges us on an anvil of adversity for a purpose known only to Him. That is the way He prepares us for life." J.E. Broyhill, a man with little formal education and no money, parlayed a small family operation in the basement of his white frame house into one of the industry's leading furniture manufacturers, consisting of 19 plants and 7,000 employees.

J.E. Broyhill was considered one of the industrial giants of his time serving on the Advisory Committee of the War Production Board and as chairman of the Furniture Advisory Committee of the Office of Price Administration during World War II. J.E.'s tenure as president of the Southern Furniture Manufacturers Association [SFMA] during the war years 1943 through 1946, was quite significant because it is one of the longest tenures of any president of the SFMA.

The SFMA bestowed several honors on Mr. Broyhill, including the James T. Ryan Award for his distinguished service to the furniture industry. The Board of Governors of the American Furniture Mart named him "Man of the Year" for industrial, civic, and social service. He served as director of the National Association of Manufacturers and on the SFMA board of directors.

J.E. Broyhill's energies and talents were not only directed at Broyhill Furniture Industries, but were channeled into the Lenoir community and church as well. The Broyhills have been faithful members at First Baptist Church of Lenoir. A Baptist home for children in western North Carolina is named in his honor, the Broyhill Home for Children. In 1966, J.E. was honored for his 50 years as a Mason.

As founder of the Broyhill Educational Foundation, its purpose being to further the cause of education among the underprivileged, incude ministerial aspirants, he has made significant contributions to civic, educational, and religious institutions. It is now a multimillion dollar charitable corporation.

J.E. Broyhill had a keen interest in politics, devoting a great deal of his personal time to advance conservative American principles and Republican candidates in local, State, and national elections. A staunch Republican, he was a member of the Republican National Committee for over 20 years as well as the North Carolina representative to the finance committee. He served as a delegate to the Republican National Convention eight times and was elected Republican National Committeeman from North Carolina for many years.

J.E. developed lasting friendships with many political figures including former Presidents Dwight D. Eisenhower and Richard Nixon, and former Senators Robert Taft, Jr., Kenneth Wherry, and Barry Goldwater. J.E.'s political involvement threw him in the realm of political circles, and naturally he made aquaintances with notables on both sides of the aisle.

In the late 1960's, over 500 industrialists, Republican allies, family members, and friends gathered to show their gratitude and pay tribute to J.E. Broyhill. Notables such as Eisenhower, Nixon, and Goldwater recognized J.E.'s accomplishments. I would like to end with comments made by his son, Paul Broyhill:

> My father is at heart a humble man. He is proud of what he's accomplished, but he doesn't think that he is more brilliant than anybody else, or more talented. He doesn't believe that there are supermen with some kind of God-given ability to succeed where other people can't. He believes strongly that most people have an innate ability which can come to the fore if given the chance. He says that if he could come up out of the red-clay farms of Wilkes County to achieve the success he has, why, a lot of other people can do the same.

NELSON MANDELA'S 70TH BIRTHDAY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. ROE. Mr. Speaker, it is with both admiration and sadness that I rise today to pay tribute to Nelson Mandela, who stands as an inspiration to people where ever the battle for basic human rights and dignity is fought. I feel admiration because of Nelson Mandela's unceasing struggle to rid his country, South Africa, of its terrible system of apartheid, and sadness because during this month, when he has reached his 70th birthday, he is still in a South African prison because he has the courage to pursue his struggle.

Mr. Speaker, 1988 marks 26 years that Nelson Mandela has been confined to prison beause he has sought to end apartheid, a repressive system which robs people of their freedom and human dignity. But even though Nelson Mandela is in a South African prison, the dream of freedom and an end to apartheid is very much alive among the oppressed people of South Africa, and among the people of the world.

There is ample evidence of that here in the House where we will soon be considering H.R. 1580, the South Africa sanctions bill. While passage of this bill will not end apartheid, passage would send a message that the American people truly believe in each and every human being's inalienable right to be free. Passage would also be a tribute to Nelson Mandela and his continued struggle.

Mr. Speaker, as a people who prize their freedom, I believe Americans understand the importance of the fight to end apartheid in South Africa. They understand that as long as any one group of people is oppressed; as long as someone like Nelson Mandela is a political prisoner; as long as there is press censorship and people are prohibited from speaking freely, then truly none of us are free.

CHILEAN PRIVATIZATION GROWS APACE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. CRANE. Mr. Speaker, Chile must be commended for her great efforts in redistributing wealth to her people. When the Communist dictator Allende subverted Chile's proud Constitution by expropriating private property, he threatened to give a new class of party functionaries control over the means of production at the expense of the people. The current Government, on the other hand, has stopped this theft of property and has denationalized many industries by privatizing them. Hernan Buchi, Minister of Finance, has spearheaded this effort by providing workers with tax and fiscal incentives to buy shares of stock from their companies.

Today hundreds of thousands of working men and women have been given an opportunity to own capital. These workers now have more of an opportunity to determine their own economic destinies. Karl Marx would certainly have been pleased with this result, but at the same time dismayed by the fact that it was a conservative government and not a Communist government that had the wisdom to provide its people with an opportunity to achieve economic power. Privatization has been so successful that the Socialist Party knows that it would be political suicide to advocate wholesale renationalization of Chile's industries. Both the conservatives and the people have won a great victory.

I would like to invite my colleagues to read this fine article, "Chilean Privatisation Grows Apace." This article clearly describes Chile's successful program of privatization.

CHILEAN PRIVATISATION GROWS APACE

> Privatisation of government-owned enterprises, often the subject of much discussion and little action in Latin America, is a reality in Chile. A new significant transaction is recorded almost daily.
>
> Privatisation began shortly after the current government took power in September 1973 but suffered a setback in 1982-1983 when the government intervened in many companies, including almost the entire financial sector. The massive intervention was forced because of a severe domestic recession caused by the cutoff of foreign funds at the same time as Chile's terms of trade worsened.
>
> Today, Chile's policy of privatisation has more than recovered from the state interventions.
>
> Both foreign capital as well as "popular capitalism", in which workers are encouraged by market, tax and fiscal incentives to buy shares, are fueling privatisation.
>
> "What we feel is that for the future, for the stability of the policies, it is important for the general population to perceive that they are members of the club of owners," said Hernán Büchi, minister of finance.
>
> "Popular capitalism has made workers and unions big defenders of privatisation," added Cristián Larroulet, chief of cabinet for the finance ministry. As a result of the policies, the number of shareholders in the 50 largest Chilean companies increased to 148,814 by 1986, from 114,881 in 1983. This number will reach 200,000 this year, said Larroulet.
>
> The numbers reflect real ownership and shareholding, not just window-dressing, according to figures provided by the official. Soquimich, a nitrates producer that had been in state hands, now has 99.4% of its workers as shareholders.
>
> Compañia de Acero del Pacifico (CAP) has 35.2% of its workers as shareholders, with stockholding workers representing 37.1% of total shareholders. Larroulet said the union leader for CAP, as the iron ore pellet-maker is known, has become a big defender of privatisation. Workers at the company, one of Chile's largest, have started asking management shareholders-type questions about the company's investment plans. The workers-turned-shareholders have also asked if they can be kept posted about the stock's behaviour on the Bolsa in Santiago without their having to wait and read the newspaper a day later, according to CAP management.
>
> The effort to have the maximum number of workers as shareholders is succeeding, according to Larroulet, who said 20% to 30% of the shares of companies being returned to private ownership were ending up in the

hands of workers. In the case of the banks intervention in 1983, shares sold through popular capitalism have resulted in 47,000 new stockholders. The rules, designed to prevent concentration, prohibit any one individual from buying back or holding more than 2.5% of shares of the banks returned to the private sector.

In the new popular capitalism the "workers have significant input. They usually have one director", said Larroulet. With the diffusion of ownership, including significant portions in the hands of workers, "tomorrow it will be more difficult for them to support new state takeover" of the companies, he added.

The privatisation using purchases by both workers and private capital is evident at Empresa Nacional de Electricidad, the electricity holding company known as Endesa. "We are selling distributors (of electricity) to the private sector; also, small size generators are sold to the private sector," said Agustin Leon, manager of finance for Endesa. The break-off criterion for sale of a generating plant is about 50,000 Kw. Thus a generating plant of 35,040 Kw called Pilmaiquén has been sold to a subsidiary of Bankers Trust Company while in the distribution area, Security Pacific National Bank has taken a 10% interest in Chilectra Metropolitana, the largest distributor of electricity in Chile. Büchi pointed out that the foreign participation under Chile's debt conversion programme was important for privatisation: "I think one of the important factors was the participating foreigners as purchasers. They were not the only ones, but they were bidders. When you have a new bidder, it makes the price go higher," said Büchi.

In the popular capitalism side of returning part of the assets of the electricity holding company to the private sector, Endesa began selling 30 percent of its shares to the public in July. The sell-off began with a preferential offering to 4,000 Endesa workers, who have until mid-September to decide. In total, investment bank advisers to Endesa estimated the company would raise about US$167 million with the stock sale and would end up with 50,000 new small private shareholders.

The sell-off of distributing companies and smaller generating facilities to private companies, including foreign banks, combined with the stock sale to the workers and other small investors would "help us finance new projects," noted Leon. "It helps our finances and helps get the private sector in the business," he added.

One of Chile's most important privatisation programmes is in pensions. It was started six years ago to replace a hotch-potch of government-run plans. A total of about 2.3 million Chilean workers are in the new private plans, with only 500,000 workers in the earlier plans, according to Juan Ariztia, superintendent of the Administradoras de Fondos de Pensiones (AFPs).

Under the privately-run pension funds, each worker contributes 10 percent of his salary for retirement and between 3 percent and 4 percent for disability. Under the new AFP system, each worker has his own account that grows with his contributions over the years. One merit of the plan is that it avoids the shortcoming of numerous social security and retirement plans in both industrialised countries where benefits are not related to contributions. A worker can contribute to a plan for years but at retirement he receives less than he would if he had put the same contributions in a savings account.

There is what Ariztia called a "rigid law" to ensure that the rapidly accumulated funds were prudently invested. For example, no more than 50 percent of the funds can be invested in government bonds and the bonds must be diversified. Investments in common stocks are limited to 30 percent of the funds.

Ariztia complained that there was only one privatisation related to the funds that has not taken place. This was a private rating commission. Currently, the AFPs rely upon a government-supervised rating commission to judge the investments.

"We were waiting for S&P to appear, but they didn't. Thus the rating commission was created," said Ariztia. While he was happy with the performance of the commission, on philosophical grounds, he said: "We hope this commission will be short-lived and will be taken over by a S&P-type company."

The AFPs are also an important provider of investment funds for the economy, noted Francisco Garcés, international director of the central bank. Garcés estimated the AFPs already had developed a pool of US$2.5 billion of funds for investment. A significant amount in an economy with a GDP estimated to be below US$20 billion.

IN HONOR OF FORMER TEXAS GOV. ORAN M. ROBERTS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. PICKLE. Mr. Speaker, Ambassador Edward Clark has been known for over 60 years of public service to the great State of Texas and the Nation. His commitment to the very highest principles of good government are reflected in his longstanding interest in American history and, in particular, the rich history of Texas.

Ambassador Clark recently set out to document the accomplishment and contributions of early Texas Governor, Oran M. Roberts, recognized as one of the great citizens of San Augustine County in Texas, which is also proud to claim the Ambassador as his native son. In his recitation of the accomplishments, it is clear that Governor Roberts was truly one of the outstanding sons of Texas.

Mr. Speaker, I would like to share with my colleagues Ambassador Clark's account of the life of Gov. Oran M. Roberts, as published in the Sabine County Reporter.

GOV. ORAN M. ROBERTS

That no memorial has been established for Governor Oran M. Roberts at The University of Texas School of Law is highly conspicuous omission.

Governor Roberts was one of the first two professors employed for the law School; he gave his personal library to serve at the cornerstone of the law school's library; as Governor he presided at the creation of The University of Texas and appointed its first board or regents; and he had one of the most distinguished—indeed, brilliant—careers in law and public service of any 19th century Texan.

His life of service in law, government, and education enriched the Texas of his day and its benefits continue in the 20th Century, but it did not leave either him or his progeny wealthy. After the creation of 21 chairs, 55 professorships, and numerous fellowships, and scholarships, no memorial has been established to honor or remember him.

Oran Milo Roberts was born July 11, 1815, in Lawrence District, South Carolina. He moved with his parents to Alabama, where he graduated from the University of Alabama in 1835. He studied law under the supervision of practicing attorneys, and in 1837 he was licensed to practice law. In 1841 he moved to Texas and settled in San Augustine, sometimes called the "Athens of Texas," and one of the political and legal centers of early Texas. He was licensed to practice in Texas in early 1842, and by 1844 President Sam Houston appointed him a District Attorney.

In 1846, Governor James Pinckney Henderson appointed him District Judge, and in this office his challenge was to expound lucidly legal principles out of the confusion and complexity of a legal systems emerging on a frontier from a melding of Anglo-American and Spanish jurisprudence.

After another brief period in private practice, he was elected one of three Associate Justices of the Texas Supreme Court in February 1857, a position he held until 1862. During this period he served as the President of the Secession Convention of Texas, which had declared Texas independent of the United States.

In 1862, he resigned his position as Justice to organize the 11th Regiment of Texas Infantry. His health was preventing his usefulness as an officer, and, when it became known that he would be leaving the confederate army, his name was put forward as a candidate for Chief Justice of the Texas Supreme Court. His service continued from August 1864 to April 1865, when all officers were ousted from the Confederate state government.

He was chosen a delegate to the Constitutional Convention of 1866, where he declined the Presidency of the convention but accepted the chairmanship of the Committee on the Judiciary.

He was elected U.S. Senator by the Texas Legislature and traveled to Washington, where he was not allowed to take his seat but nevertheless was able to transact business for the State with President Johnson and members of the cabinet. After the end of Reconstruction, Governor Richard Coke appointed him Chief Justice of the Texas Supreme Court, where he served from 1874 to 1878. In 1878, he was nominated as the candidate for Governor by the Democratic state convention and elected.

From the beginning of his administration, Governor Roberts made the establishment of The University of Texas a priority of his administration. Facing opposition to the creation of The University, Roberts was able to succeed only through persistence and hard work. Robert R. Coons, in his thesis, "The Life and Educational Services of Governor Oran Milo Roberts" (1920), observed:

"Although supported by only a few friends, * * * the 'Old Alcalde' was successful in the establishment of the University of Texas, and may be rightly called the 'Father' of that institution."

After his service as Governor, Roberts was called upon by the Regents to serve as one of the first two professors of law. He taught the first class at The University of Texas on September 15, 1883, and continued to serve as a Professor until 1893.

His services to the law school did not end with his retirement, for he left his library of 344 volumes, including 225 on law, to The University of Texas. These volumes formed the cornerstone of the UT Law Library.

Governor Roberts was also the founder of the Texas State Historical Association. He died in 1898.

FLEXIBILITY IN THE WORKPLACE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mrs. JOHNSON of Connecticut. Mr. Speaker, the question of what public policy will best ensure proper care for our children and foster the development of strong, healthy families is a question that concerns us all.

I have long fought for legislation both to expand the supply of quality child care and enable working-poor families to pay for it. I believe that my Child Care Act (H.R. 1572) and Child Care Services Improvement Act (H.R. 4002) go far to accomplish those goals. But working families need more than even the highest quality, most accessible, 9-to-5, 5-day-a-week child care can provide. They need time to be together.

Today I will introduce the Day Care Reduction Tax Credit—legislation modeled on the targeted jobs tax credit—that will give employees the flexibility they need to manage their work and their parenting responsibilities by significantly reducing the hours of day care their children need.

Known as the Day Care Reduction Tax Credit Act of 1988, this legislation offers employers a $2,000 tax credit for adopting policies that enable workers to reduce the need for outside child care by at least 20 percent. It will give employers an incentive to adjust to the fact that many workers have important parenting responsibilities—just as they have already adapted the workplace to safety and environmental concerns. It will empower employees to bargain for policies that respond to real pressures in their lives.

Make no mistake, the demand for child care is here to stay. More than half of mothers with children under age 1 now work. But only 5 percent of all employers have any kind of child care policy at all. Employees should be given leverage to bargain for bold modifications in their schedules. This new tax credit will give them that power.

We must go beyond efforts to augment and improve child care and address the workplace realities that drive parents' demand for child care. The best day care in the world will not help families if the structure of the workplace drives them apart. Business cannot be productive if its work force is distracted by other, equally compelling responsibilities.

Flexibility in the workplace is in the best interest of parents, of children, and of business as well. Let's expand the supply of day care, as many proposals do, but let's also reduce demand. Real child-care reform must look beyond the limits of the all-day, 5-day workweek. Flextime is not enough. Bold schedule modifications can be adopted without reducing productivity, but unless we empower employees to negotiate such significant accommodations, fewer families will be strong, healthy, and secure.

PUBLIC SERVICE SCHOLARSHIP ESSAY

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. SHAYS. Mr. Speaker, I am pleased to submit for the RECORD an essay written by one of my constituents, Justin Daniels, of New Canaan. Justin, a senior at Harvard College, has been chosen to receive a public service scholarship awarded by the Public Employees Roundtable. Along with a distinguished academic record, Justin was selected for his persuasive essay that describes his motivation for choosing a career in public service.

In his essay, Justin recounts the immeasurable rewards of helping real people with real needs. His words reflect his growing realization that values and ideals can be incorporated into programs that embody the true purpose of Government.

I commend the Public Employees Roundtable for its efforts in helping students like Justin Daniels pursue worthy careers in public service. And I applaud Justin's commitment to directing his talents toward the needs of society.

The essay follows:

PUBLIC SERVICE SCHOLARSHIP ESSAY

(By Justin Daniels)

Probably the best way to convey the reasons why I have decided to pursue a career in government is to describe an experience I had one summer that made all the difference. Like many students my age, I look back on my freshman year at college as a major turning point in my life and development. During that time, I was forced to deal with many of the obvious changes and challenges a young student must face upon moving away from home and friends, and being dropped into an entirely new intellectual environment. Yet the most important experience, and from which I grew the most, did not occur during the academic year itself. Immediatley following the completion of my final exams in May, I flew home to Connecticut to begin work at the Antitrust Bureau of the Attorney General's office in New York City. Although I commuted into the city that first day completely unaware of what to expect from the job, I left at the end of the summer a different person. Not only was the work more interesting and fulfilling than I could have ever imagined, it was the people in the office, and the work which they gave to me, that made the summer the most important in my life and helped me to decide to make government my career.

The Antitrust Bureau for the Attorney General of New York runs out of New York City and handles all of the antitrust-related cases that are taken by the people of New York. The work is immense yet the office is small, consisting of approximately twenty lawyers and administrators. The first thing that struck me when I began working in the office was the commitment and dedication of the Bureau. Early on, I discovered that these lawyers came out of the best law schools in the country yet decided to pursue a career in public service. At first, I could not understand why so many highly talented men and women gave up the potentially financially rewarding opportunities their degrees and backgrounds afforded them for a job working for the State of New York. I soon realized my ignorance and shortsightedness when I saw that the rewards that these individuals found from the work itself far outweighed any material benefit.

Yet it was the work that I myself was responsible for that made the summer so invaluable. On one of the cases, involving collusion in the milk industry, the judge found the defendants guilty and ordered them to pay the State of New York almost 7 million dollars in fines and damages. The judge, however, also declared that the monies furthermore would be used for "nutrition-related purposes" in the primary and secondary schools in the eleven lower counties of New York State. Under the auspicies of two of the lawyers who worked on the case, I went about researching and compiling nutrition programs and information for which the money may be used. I also helped to develop a plan to help distribute the funds to the schools. The largest recipients were the New York City Board of Education and the Archdiocese of New York. While I of course never had any final responsibility for the work regarding this matter, for the most part I was left on my own to go about my job as best I saw fit.

Along with the adventure came many mistakes and embarrassments. One major aspect of the work of which I was entirely ignorant concerned all of the politics and infighting that went on over the uses of monies created by the court order. Many times I forgot who I was dealing with, and acted overconfident with administrators as if our office was operating from a position of complete authority. Yet given the setbacks, the project was a collective success for the office and a personal satisfaction for myself. I think the most memorable day at the job was when an elderly rabbi from a small Hebrew school in Brooklyn came in with questions about the program. That afternoon, I sat down with the gentleman and explained as best I could what the fund was to be used for and how it could help his small school. Even though the share of the trust which he would eventually receive was negligible compared to the millions going to the New York City Board of Education, my discussion with the rabbi meant more to me than all of the phone calls and letters to the administrators in New York. I went home that day not only confident in the program and its opportunities, but proud by the fact that I was actually playing a part and helping someone. Although I had a small role in the distribution of the nutrition fund, I was part of a team working for the people with real needs. I learned that this is what government could be in the hands of dedicated and caring people.

My experiences led directly to my decision to choose government as a career. Before the summer, most of what I thought government to be was limited to politics: elections and debate over issues. Yet from my work with the Antitrust Bureau, I learned some of the true purposes of government. While my interest in government and public service are reflected in my scholastic program, academia means nothing if it cannot be translated into the real world. When agencies are founded, certain values and ideals are incorporated into them. In practice, however, government runs into problems of bureaucracy and inefficiency. Can these values be upheld given the inherent flaws of a government agency? I think they can. To watch lawyers work with such dedication for the state while making a difference in the lives of others, I have faith that

I as well can bring my ideas and energy into government and succeed. Although in the long run, society benefited minimally from my work, the personal rewards were immeasurable. My only hope is that sometime in the future, working in government, I will be able to make an even greater difference for society. Through government, I shall pursue this goal.

CBS OWES AMERICA'S VETERANS AN APOLOGY!

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. SOLOMON. Mr. Speaker, as the ranking member of the House Veterans' Affairs Committee, I must say that I am appalled at the misrepresentation of America's veterans by CBS-TV on two separate occasions in June of this year.

CBS depicts Vietnam veterans as having extremely high instances of posttraumatic stress disorders [PTSD], abnormally high suicide rates, as well as disproportionate homelessness among these veterans.

I feel that this is a great injustice to those who have served our country, and that CBS acted unprofessionally in airing such unsupported claims.

Today I am inserting into the RECORD a letter to the president of CBS from VA Administrator Tom Turnage, condemning CBS for their glaring lack of accuracy and objectivity.

JULY 15, 1988.

Mr. Howard Stringer,
President, CBS News,
New York, NY.

DEAR MR. STRINGER: The motives of your recent broadcast on Post-Traumatic Stress Disorder—"The Wall Within" and "60 Minutes"—are unclear to me. But because they painted such a distorted picture of Vietnam veterans and this Agency's genuine commitment to their needs, I must condemn CBS for its glaring lack of accuracy and objectivity.

I would have applauded any honest attempt to portray the largely successful readjustment of the vast majority of Vietnam veterans and of the many effective efforts to help those who have had difficulty. However, by your unfounded exaggeration and by presenting several of the most unfortunate individuals you find, CBS left no doubt you intended to have the public believe, "There are your veterans of Vietnam." There is absolutely no justification for CBS to leave such an impression on the American public.

Let me address the most glaring errors first: vast numbers of PTSD cases, "abnormally high" suicide rates, and a disproportionate homelessness problem. And the fact that, at best, you depicted the VA as a grudging obstacle to the real needs of even the most severely disturbed Vietnam veterans.

Yes, our Vet Centers have seen over 500,000 Vietnam Era veterans with about one-third of them meeting the accepted diagnostic criteria of PTSD. Most studies to date have indicated that the percentage of Vietnam veterans with PTSD is not above 25 percent. Your anecdotal reports can hardly be the basis for concluding that hundreds of thousands more Vietnam veterans manifest the disease or its symptoms and have further avoided contact with out outreach program.

Also regrettable is CBS' perpetuation of myths about suicide among Vietnam veterans. Dan Rather stated that "There have been between 26,000 and 100,000 suicides, depending on what reputable source you believe in." Nothing we are aware of that is reasonably "reputable"—including a mortality study we ourselves did—would confirm exaggerated numbers of Vietnam veteran suicides. CBS obviously never took the time to examine the normal rates of suicide in the general population since 1964, when the Vietnam Era began. It is clear that if there had been double to quadruple the number of expected suicides among Vietnam veterans, the total U.S. rates would have been drastically affected. That simply did not happen.

In stating that "one out of three homeless men is a Vietnam veteran," CBS has again been careless with data. Estimates of the numbers of American homeless persons vary widely, but the VA does not dispute the general belief that one-third of homeless men are veterans—veterans of all periods of service. That is reasonable given the fact that about 45 percent of adult males in the general population are veterans. However, there are no indications Vietnam veterans are over-represented among the homeless.

And, I must assume the intended tone of your programs was not inconsistent with the tone of Mr. Rather's June 1 interview with UPI. That is, to leave the impression that the VA has been institutionally opposed to programs to help and serve veterans of the Vietnam Era. Neither the record nor our present activities support Mr. Rather's assertion that "the Veterans Administration had to be forced to help these vets."

The issue of alleged VA moves to "close" Vet Centers has been vastly misrepresented by the media and again by "60 Minutes." In 1987, the VA appropriately prepared to comply with a law passed by Congress that would have required us to convert the readjustment counseling program to one primarily operated within VA medical facilities. As "60 Minutes" later correctly pointed out, Congress has now repealed that provision.

We now fund and operate 188 of these "storefront" centers and, in addition, will provide more than $5 million this year for fee-basis counseling. It is a fact that every Vet Center counselor is a VA employee and that every dollar—nearly $300 million since the first year of the program—has come from the VA budget. You also obscured the fact that the American Lake, Washington, specialized PTSD unit you portrayed is a successful VA program operating on the grounds of a VA medical center.

Finally, and most significantly, is your patent destruction of an image most Vietnam veterans have struggled hard to attain. That is, that they are well-adapted, successful, functioning members of our society, not "walking time bombs" ready to inflict harm on themselves, their families, and the innocent.

Your programs resorted to perpetuating mythological stereotypes that ill-serve veterans and the public. No matter what noble purpose CBS had for these broadcasts, your misguided decision to present them as you did deserves the harshest possible criticism.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

INADEQUATE REPRESENTATION FOR DEATH ROW APPEALS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1988

Mr. CONYERS. Mr. Speaker, I would like to insert for the record the following article. The problem of inadequate legal representation for persons on death row is particularly important at this time, with the House vote on the omnibus drug bill and the death penalty for drug kingpins expected in 2 weeks.

The article describes the problems of the inaccessibility and inferior quality of legal aid available to prisoners on death row. While State courts appoint lawyers for indigent defendants, there is no legal representation granted once the case is appealed to the Federal level. Several programs have been created to help remedy this situation. The American Bar Association established the post conviction representation project to solicit the aid of pro bono lawyers in defending death row convicts, and the Administrative Office of U.S. Courts has established death penalty resource centes to provide technical assistance to lawyers defending clients in capital punishment cases. Programs such as these, however, facilitate legal representation for only a small percentage of those on death row.

As the article describes, the legal process is far from equitable for the majority of defendants. In introducing H.R. 4442, the Racial Justice Act, I propose to redress the racial bias in the criminal justice system which results in a disproportionate number of blacks on death row. The bill requires the appointment of counsel for indigent defendants. But unless more competent and capable lawyers come to appreciate the need for their services and take on some of these cases, fairness in the process will not prevail.

If the drug bill that is brought to the floor includes a provision to impose a death penalty, I will be prepared to offer an amendment to ensure that those defendants who receive such a sentence are provided counsel, if they cannot afford it, at the appellate level.

[From the Washington Post, July 24, 1988]

LAWYERS SCRAMBLE TO FILL VOID IN DEATH ROW APPEALS

(By Saundra Torry)

Tucson lawyer Carla Ryan got her new client the Monday before Memorial Day, 1985. In seven days, he was scheduled to die.

Like so many death row inmates, Scott Clabourne was broke and all but forgotten. He had critical appeals left to file, but no lawyer to file them.

Ryan learned of the case by chance, and as the holiday weekend loomed, she rushed to Phoenix in her battered Volkswagen to seek a postponement of the execution. She lost. Back in Tucson, she tried another legal maneuver. She lost. Next, she turned to the federal court. No go there. By then it was 4 p.m. Friday, there was no answer at the state Supreme Court and Clabourne was scheduled to die at 12:01 a.m. Tuesday.

She wangled the phone number of a state Supreme Court justice. On Saturday, he held a hearing in his living room, and Ryan won a postponement. Now, two years later, Clabourne is still on death row, and his execution will wait while he gets a full appeal.

Ryan was appalled by the chaos that could have sent Clabourne to the gas chamber. "I don't know what would have happened without that phone number," she said. Chaos, say many who handle death row cases, seems to be the norm.

There is nothing unusual about prisoners on death row—most of whom are indigent—with important appeals still open to them but no legal representation.

"We do not know of anybody yet executed without a lawyer . . . but many think it's just a matter of time," and criminal justice consultant Robert Spangenberg.

Last month, the 100th execution in the nation since 1977 was carried out. In May, there were 2,048 inmates on death rows in the United States, and at least 250 inmates are added each year, according to the NAACP Legal Defense and Education Fund Inc. A shortage of lawyers for these complex cases already plagues states such as Florida, Texas, Alabama and Mississippi, according to some experts. And they predict that states such as Arizona, California, Illinois and Pennsylvania may be on the brink of similiar crises.

Concern is not confined to foes of the death penalty. "It has nothing to do with whether you are for or against capital punishment," said former Alabama governor Albert P. Brewer, a death penalty advocate who heads a state committee struggling with the problem. "If you are for the proper administration of justice, this issue begs support as much as any I have known."

Solutions are being sought on various fronts, and the issue will reach the Supreme Court in the fall.

The 4th U.S. Circuit Court of Appeals ruled last month in a case brought by a Virginia death row inmate that the state must provide lawyers for condemned prisoners in their special appeals in state courts. The ruling could have far broader impact because Virginia plans to seek Supreme Court review.

This month, the Senate approved a provision requiring federal judges to appoint lawyers for death penalty inmates who seek review of their convictions or sentences in the federal court system, but the fate of the bill is uncertain in the House.

The American Bar Association has mounted its own campaign to recruit lawyers, and 367 have volunteered in response to a letter sent by former attorney general Benjamin R. Civiletti, according to the association's Esther Lardent.

Some said the crisis has reached its zenith in Texas, with the second largest death row in the nation, and until last year, no system to determine who had lawyers and who did not. Last August, lawyer Robert McGlasson helped found a capital punishment project at the University of Texas at Austin and began recruiting lawyers.

In his first visit to death row, McGlasson found a prisoner with an execution set in seven days. The inmate was not sure whether he had a lawyer and did not know he was scheduled to die. "What a ludicrous way to handle a death penalty system," McGlasson said.

Still, some say there is no crisis. Robert S. Walt, who oversees death penalty cases for the Texas attorney general, said there has never been an execution in Texas in which the inmate wanted a lawyer but did not have one. Further, he argued the recruitment project has served only "to jam up the system" with its penchant for recruiting lawyers at "the last minute."

McGlasson countered: "Sure, everyone had lawyers. . . . But many people went until two or three days before execution without one . . . and then a lawyer on a shoestring threw something together and tried to get a stay. . . . That is not how the system should work."

The public perceives that these appeals only delay the inevitable, experts said, but often, glaring errors that force reversal of a death sentence are discovered. According to Legal Defense and Education Fund statistics, 41 percent of the cases that have been reviewed by federal courts have been reversed and sent back for further proceedings.

"I think that when people . . . learn of the error rate, that this is not technicalities or lawyers dancing on the head of a pin . . . fair-minded people are supportive of the process," Civiletti said. "In this country, we don't put people to death unfairly or precipitously or erroneously."

Under a 1932 Supreme Court ruling, a criminal defendant who is indigent and facing a possible death sentence is guaranteed a court-appointed attorney, paid for by the state, for trial and for automatic appeals to the state's highest court.

But after that, inmates—including those condemned to death—are on their own. They must either forgo further appeals or try to maneuver themselves through the complex system, filing what are known as writs of habeas corpus. In these proceedings, an inmate may seek reversal of his conviction or sentence based on grave violations of constitutional rights.

So far, disasters have been averted by a collection of strange bedfellows. There are the $14,000-a-year idealists such as McGlasson, who do death penalty work full time, and the $200-an-hour partners from prestigious firms, such as the group that swooped into Tallahassee, Fla., by private jet a few years ago to handle a last-minute plea.

Many of the volunteer lawyers are civil experts who have seldom, if ever, handled a criminal case before. Manhattan lawyer Robert E. Gerber has among his clients the Museum of Modern Art and the Wendy's International hamburger chain. A few years ago he added Eligaah Jacobs, a Florida death row inmate for whom he has won a new sentencing trial.

Other lawyers, such as Seth P. Waxman, are more familiar with defendants charged with white-color crime than those charged with murder. But Waxman, of the D.C. firm of Miller, Cassidy, Larroca & Lewin, has taken to the work with such passion that he now recruits lawyers from other large D.C. firms.

All of the volunteer lawyers, no matter what their backgrounds, now have a common bond: deadline dashes through the court system with their client's life at stake.

Robert Waterhouse, convicted of murdering a Florida woman, was sentenced to die in Florida's electric chair on March 19, 1985. Stephen Bright of the Southern Prisoners Defense Committee took on the case with seven days to go when a Florida volunteer group could find no one else. He won a stay of execution. Then the state appealed, and Bright and his colleagues spent the weekend in their Atlanta office, scrambling to prepare an appeal.

"We worked till 2 a.m., and then I drove straight to the Florida Supreme Court, with no time for error, shaved, changed into a suit . . . and argued the case," Bright said. The court affirmed the stay of execution, and later Waterhouse's sentence was reversed because the jury had not had an opportunity to hear about his turbulent childhood. He is awaiting a new sentencing trial.

For years, said D.C. lawyer Russell F. Canan, who once worked with Bright, a few lawyers have been "running around the country like an ambulance corps, trying to find the worst cases and heal the wounded bodies. It's nothing more than legal triage."

In recent years, more lawyers have joined up, but the demand still outstrips the supply.

In October 1986, overwhelmed Florida lawyers were so desperate to find a lawyer for an inmate scheduled to die in 12 days that they sent someone to Manhattan to peddle the case from firm to firm. Jay Topkis, a partner in a major New York firm, agreed to help, and Jon Kaplon, a young associate who had joined the firm two days before, suddenly found 12 big file boxes in his office.

Four days later, Kaplon and his colleagues prevailed before the Florida Supreme Court. The man's sentence was reversed and he now awaits a new sentencing trial.

While these execution-eve postponements are won—or lost—quickly in the courts, the subsequent legal battles go on for years and involve some of the most intense, arcane and expensive legal combat in the nation. Some lawyers who practice alone or in small firms have taken on cases, but the time required is enormous. James E. Coleman Jr., of Wilmer, Cutler & Pickering, one of the District's largest firms, said the firm has put 13,500 hours into the representation of serial killer Theodore Bundy. If the firm were billing for its time, the fees would run about $1.1 million, Coleman said, and the case is far from over.

Another deterrent for some firms is the fear of political backlash. When McGlasson needs a lawyer in Texas, he usually calls Boston, New York or Denver, though some major Texas firms have taken on cases. Four volunteers from Cedar Rapids, Iowa, represented Edward Byrne, who was executed in Louisiana on June 14, the 100th inmate to be executed since 1977.

"Essentially, it is politically unpopular for Louisiana lawyers to take on these cases," said Susan Reesor of the Louisiana Capital Defense Project. "A lawyer in a small town is really stepping out on a limb." Of the 57 lawyers representing death row inmates there, 26 are from Louisiana, she said.

Some local lawyers do take on cases, and their numbers are growing, in part because of the American Bar Association's recruitment drive at major firms, Lardent said.

The southern states were the first to feel the brunt of the lawyer shortage because some of them rushed to pass new statutes immediately after the Supreme Court overturned the nation's death penalty laws in 1972. Thus, their inmates have moved through the appeals process to the point where counsel is no longer guaranteed.

Florida, which passed its law in 1972, started the only state agency in the nation to represent death row inmates in those special appeals. But the office has become the center of turmoil. A state investigation is under way into allegations of misconduct, while the agency director says that his office is the victim of a vendetta born of too much success in stopping executions.

Now, inmates in a second wave of states, whose death penalty laws are newer, are moving to the stage where they lose their court-appointed lawyers, as well.

Waxman, who heads for the telephone whenever the American Bar Association calls for a D.C. volunteer, said perhaps 20 private lawyers in the nation were doing this type of work when he took his first case in 1979. "Now there are hundreds," he said. "But we are getting further and further behind. There has to be some real system to find competent lawyers. The kind of phone calls Seth Waxman is making is not even a finger in the dike."

STATES FACING CRISIS—LACK OF LAWYERS IN DEATH ROW CASES

Lawyer Interest in Cases—Former attorney general Benjamin R. Civiletti, who chairs the American Bar Association's Section of Litigation, sent letters to the section's approximately 50,000 members asking them to volunteer to represent death row inmates in seeking reviews of their convictions and sentences. The response: 367 volunteered to take a case and 797 sought more information.

Source: American Bar Association's Postconviction Death Penalty Representation Project.

State and Number, on Death Row:

Alabama	91
Arizona	82
California	214
Florida	283
Illinois	111
Mississippi	51
Pennsylvania	96
Texas	259

Source: Legal experts; NAACP Legal Defense and Education Fund (death row figures as of May 1).

SENATE—*Friday, July 29, 1988*

The Senate met at 9 a.m., and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.*—Romans 13:1. *For promotion cometh neither from the east, nor from the west, nor from the south. But God is the judge: He putteth down one, and setteth up another.*—Psalm 75:6, 7.

God of our fathers, Lord of history and Ruler of the nations, sensitize leadership to its accountability to Thee as well as to the people—their families and themselves. Encourage them in their commitment to truth and justice. Imbue them with a healthy flash point against sin. Strengthen their determination to fulfill their finest expectations. Inspire them with the will to persevere in the right.

In Jesus' name, whose purity of life prevailed despite every obstacle and antagonist. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 29, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **SANFORD** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADERS' TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of both leaders be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

IMPLICATIONS OF 10 TOP BANKS ALL JAPANESE—UNITED STATES OUT OF TOP 25

Mr. PROXMIRE. Is America becoming a second rate financial power? A few years ago most of the world's biggest banks were American. Today all 10 of the 10 biggest banks in the world are Japanese. The latest shocker is that the biggest American bank ranks only 28th in size in the world. Does this signal an American economic decline? Absolutely not. In banking size does not mean efficiency. Size does not mean profitability. Size does not mean advantage in international finance. Size simply means that one banking unit has more deposits. It has more branches controlled by a central management. The management of the biggest bank can make more loans, buy more securities. But does a huge Japanese bank provide more safety and security to its depositors than a smaller—even a much smaller United States bank? No. The overwhelming majority of depositors in U.S. banks are insured. Since the advent of deposit insurance more than 50 years ago virtually no depositors in American banks have lost a nickel. Congress has pledged the full faith and credit of the U.S. Government behind federally insured deposits.

Do smaller American banks provide for the credit needs of American households and American business as fully and efficiently as the huge Japanese banks? There is every reason to believe that American banks provide far better for the needs of American business and households than the mega banks of Japan and other countries. Here is why: The United States is the only country in the world that has literally thousands of independently owned and competing banks providing credit in communities throughout the Nation. Japan has something like 140 banks. We have 14,000, literally 100 times as many. In Japan as in most other countries the 10 largest banks do far-and-away most of the nation's banking business. In the United States the top 10 banks do less than 30 percent of the country's banking business. In fact, it is exactly because of the presence of community banks throughout our country that small business has thrived so remarkably in America compared to other countries. Think of it. In this decade—the 1980's American business firms that employ more than 500 persons have actually declined in the number of persons they employ. All of the gain of 10 million American jobs in this period has been in businesses that employ less than 500 persons! The great majority of these small businesses rely on the smaller banks—often neighborhood banks for their financing. Indeed, more than half of the new jobs in America in this decade have come from firms that employ fewer than 50 persons. Recent studies show that small, independent banks make more than 90 percent of their business loans to small business. Our biggest money center banks make less than 10 percent of their business loans to small business. Anyone who has ever operated a successful small business will tell you that the personal interest taken by relatively small locally owned community banks has been crucial in small business success. It is not only the credit made available by the independent banks. It is the advice by experienced local bankers on such critical matters as investment in plant and facilities, the installation of cost accounting systems, setting prices and the reduction of operating cost. The quality of these decisions has made a real difference in the competitiveness and productivity of American business. Locally owned, independent banks take a far stronger and more persistent interest in local business and have a much stronger commitment to the local community.

Now why have the Japanese and other banks in the world grown so much more rapidly and why are they now bigger—much bigger than our biggest banks? One answer, as I have said, is that the United States has literally 100 times as many banks as Japan. Our gross national product is only about two and one half times bigger

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

than the Japanese. Simple arithmetic would suggest that the Japanese banks would be on the average about 40 times bigger than the American banks. But in addition the Japanese savings rate is roughly five times bigger in relation to earnings than the American savings rate. Earnings of the Japanese are today roughly comparable with American per capita earnings. So with far fewer banks and far more in savings is it any wonder that the Japanese banks are bigger? Third, the Japanese stress deposit growth—in other words size—above all else. American bankers stress profitability. Result: the Japanese banks in 1986—the last comparable year—enjoyed a return of 0.2 percent on their assets. American banks profitability was approximately three times as high with a return of 0.58 percent on assets. Since profitability is the best indicator of efficiency, it follows that the smaller U.S. banks are more efficient than the bigger Japanese banks.

Roughly half of the gain in the size of the Japanese banks can be explained in terms of the drastic increase in the value of the yen compared to the dollar in the past couple of years. The remainder of the difference is the result of the much greater emphasis the Japanese place on size rather than profitability. The rate of growth of Japanese banks is unlikely to continue. As the American Banker observed on July 19:

> With the fiscal year beginning this April, however, the top Japanese banks have formally dedicated themselves to improving profitability, each making an announcement to that effect. The shift is prompted in large measure by the upcoming capital guidelines, which will require banks to increase their capital levels to 8 percent of assets by 1992. Of that 8 percent, half must be comprised of shareholder's equity, retained earnings, and noncumulative perpetual preferred stock * * *. Analysts say the Japanese will have to ease asset growth and generate more earnings in order to meet the required ratios in 4 years * * *.

Old habits die hard. The Japanese will probably continue to lead the world in size, just as their sumo wrestlers with their huge, soft bellies and their massive coats of body fat lead the world in visible flab. But American banks will do well to continue to compete so they stay leaner and meaner rather than fatter and softer.

DROUGHT ASSISTANCE ACT

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the passage of S. 2631 be vitiated, that the Senate proceed to the consideration of H.R. 5015, that all after the enacting clause of H.R. 5015 be stricken, and the Senate bill, as amended, be inserted in lieu thereof, the bill be advanced to third reading and put before the Senate for passage.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5015), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to.

Mr. BYRD. Mr. President, I withdraw that portion that requires the Chair to name the conferees. I will withdraw that part for now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Republican leader.

MIDDLE EAST NO PLACE FOR "PRIVATE DIPLOMACY"

Mr. DOLE. Mr. President, every citizen of this country shares a deep concern over the fate of innocent Americans held hostage in Lebanon; and a gnawing frustration that we have so far been unable to effect their release. All of us agree that winning their release is a high national priority.

But, as we have already seen, there are right ways, and wrong ways, to go about it. Trading arms for hostages was the wrong way. It was a mistake; it should not have been done. We have learned that lesson.

Now, I hope, we can all take heed of this lesson, too: Now is not the time, and the Middle East is not the place, for free-lancing "private diplomacy."

Rev. Jesse Jackson has indicated his intention to try to engage in such "private diplomacy" to win the hostages' release. This is a free country, and Reverend Jackson has the right to travel where he wishes, and talk to whom he wishes.

But I really hope he will reconsider his decision to inject himself into the delicate situation that now exists in the Middle East and the Persian Gulf.

The region is in flux—critical flux. Even while the gulf war continues, we may be in sight of a breakthrough toward a ceasefire. If it happens, no one knows for certain what new opportunities or, for that matter, dangers that will bring. Lebanon remains in bloody turmoil, with many contending factions, and several outside powers, fighting for control of small pieces of land, and grappling over the political future of that country.

Any false move now, no matter how well motivated, could endanger the lives of the hostages. Any ill-coordinated initiative now, no matter how well motivated, could disrupt contacts, or the prospect for contacts, which could really lead to the release of the hostages.

So I hope that, if we—Reverend Jackson, or any of us—if we err at all, it will be on the side of caution. If we act at all, it will be in a way that is fully coordinated with the policies and efforts being undertaken by our Government.

We owe that to the hostages.

I understand it has been reported that the Iranian Foreign Minister will not be meeting with Reverend Jackson on the basis this was not a hostage meeting; it was a meeting on a ceasefire.

DISTURBING NOISES FROM MANILA

Mr. DOLE. Mr. President, the July 27 Washington Post contains a very disturbing report from Manila on talks with the Philippine Government over the future of American military facilities at Clark and Subic Bay—facilities governed under a treaty that will expire in 1991.

Judging by the Post account, the Philippine Government is edging toward a dangerous game of brinksmanship and bluff in these delicate negotiations. It has unilaterally suspended the talks, because—according to the Philippine Foreign Minister—"our positions are so far apart that I don't know if we can resume."

Even more disturbing, some Philippine political figures seem to be engaged in a game of legislative blackmail, to squeeze more money out of Uncle Sam. The Philippine senate has already passed legislation to ban the storage of nuclear weapons on Philippine soil, and to prohibit port calls by nuclear-powered vessels, including submarines—provisions that are totally inconsistent with the policies under which we do, and must, operate at Clark and Subic.

Now, according to the Post story, the Speaker of the Philippine House of Representatives has threatened house passage of the same bill, unless the Philippines gets what he called favorable conditions in the current talks. In other words, we pay up; or we pack up.

Mr. President, no one in this country disputes that the Philippine Government has the sovereign right to do what it wants on its own territory—consistent, of course, with any binding obligations it has undertaken.

No one here should jump to any conclusions about the future of the talks, or overreact to spasms of bluff and bluster from the Philippine side. The talks inevitably will be subject to twists and turns.

Certainly, no one has any desire to inject any new complicating elements into the equation of these delicate negotiations. The Philippine side is doing more than enough, already, to make tough talks even tougher.

But, Mr. President, I hope the message goes out loud and clear to Manila; common sense, moderation in action and speech, dealing in good faith rather than posturing with bluff and bluster—all of those are requirements for both sides in any negotiation, not just one side.

While no one here has any desire or intention to do any one of the negative things just mentioned, let Manila know this: There are plenty of people here who know how to play hard ball, if that is what it takes.

We need bases in the Pacific, to meet our security commitments and keep America's western flank safe. But the Philippines needs those bases, too, just as every free nation in the Pacific needs them.

They are not some favor the Philippines does for us; they are vital installations, from which the United States carries out essential military operations, in defense of America, the Philippines itself, and the entire free world.

Mr. President, the Philippines is a free nation; it has a President, and a bicameral parliament, just as we do. President Aquino is free to act as she sees fit; and the members of the Philippine Parliament have that same right.

But so do we.

We value our friendship with the Philippines. We support President Aquino in her efforts to lead the Philippines into a more stable and prosperous future. We value the military facilities we have, and want to keep them.

But we will not be blackmailed. We will not be bullied and bluffed.

I hope that message is received and understood in the Philippines; and these critical negotiations can get back on track in a businesslike, mutually beneficial way.

Mr. President, I ask unanimous consent that the article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TALKS ON PHILIPPINE BASES SUSPENDED AS MANILA REJECTS LATEST U.S. OFFER

(By Gregg Jones)

MANILA, July 26.—Citing serious differences with the United States on compensation for use of Clark Air Base and Subic Bay Naval Base, the Philippines today suspended talks on the final two years of a U.S. base lease for the two key bases.

Philippine Foreign Minister Raul Manglapus, emerging from a meeting with President Corazon Aquino today, gave a bleak assessment of the status of the talks, which by many accounts have reached a crucial juncture after four months of delicate negotiations.

"Right now, our positions are so far part that I don't know if we can resume," Manglapus said.

Asked about Aquino's reaction, Manglapus replied: "She understands this is part of the negotations. I think she realizes that our position is a reasonable one, and we should stick by it."

U.S. embassy officials here played down the significance of the Philippine action, calling the move "a temporary break."

[The Associated Press reported that the State Department said it expects to resume negotiations and reach an accord on the bases.

["The talks have been temporarily broken off," said Charles Redman, a State Department spokesman. "We do expect them to resume again. . . . I don't know exactly when."

[Redman said "there have been any number of breaks" in the talks which began in April.]

An embassy official here also said she expects talks to resume shortly. "'We don't consider the talks suspended," said embassy spokeswoman Mary Carlin Yates.

Aquino spokesman Teodoro Benigno also sounded a hopeful note saying "All Bases negotiations are like that. They have their ups and downs. . . . I don't think this is the end of the line."

U.S. officials have said their current offer of a compensation package worth about $500 million annually for use of the bases is their latest and final one and that Manila will have to accept or reject it.

"The next 24 to 48 hours are critical," according to one source involved in the talks. "This is it."

Now Philippine officials reportedly feel that the American negotiators are reneging on commitments Shultz made during his visit, according to a source close to the talks.

The current negotiations are part of a regularly scheduled five-year review of the U.S. bases treaty. The discussions cover administrative and other details not specified in the treaty, including the level of American foreign aid linked to use of the bases.

The review, both sides agree, will determine the tenor of negotiations expected to begin next year on the future of the U.S. facilties, which are covered by a 41-year lease that expires in 1991.

The two key issues that have stalled discussion are compensation and nuclear weapons, according to sources close to the talks. Manila is pressing for flexibility in the rigid American policy of refusing to confirm or deny the presence of nuclear weapons at U.S. military bases. American negotiators have said there can be no compromise on the issue.

A provision in the Philippine constitution, ratified in 1987, provides for a ban on nuclear weapons in the country, "consistent with the national interest." The Philippine Senate last month passed a bill that would not only ban nuclear weapons from the U.S. bases but would also prohibit port calls by nuclear-powered ships and submarines.

House of Representatives Speaker Ramon Mitra indicated during Shultz's visit that the lower house would reject the nuclear ban if the Philippines get "favorable conditions" in the current negotiations. Mitra has specifically cited compensation as one of the criteria lower house legislators will examine.

Thus far, Manila has rejected U.S. compensation offers as inadequate. A spokeswoman for Philippine negotiators said her government had asked the United States to provide more than $1 billion annually in compensation for the bases, a figure American officials privately dismiss as unrealistic.

The U.S. has offered a financial package that reportedly would double or triple the current $180 million a year provided to the Philippines for "unhampered use" of the two bases. American negotiators have repeatedly cited budgetary constraints as severe limits on the United States' ability to meet Philippine expectations.

In an effort to help satisfy Manila's demands, Shultz and Manglapus had agreed to explore other forms of compensation beyond the current package providing the country with economic development grants, military sales credits and military assistance grants.

If the two sides fail to reach an agreement in the current treaty review process, the issue of compensation in the final two years of the lease would be an open question. Under the current executive agreement signed in 1984, President Reagan made a pledge to provide the Philippines with $180 million in annual compensation.

TRIBUTE TO LINDA PEEK

Mr. DOLE. Mr. President, I will just take a moment to pay tribute to a member of the distinguished majority leader's office who I understand is leaving his staff today. I am talking about Linda Peek, Senator BYRD's hardworking national press secretary, who will soon be joining the private sector.

No doubt about it, if you work for ROBERT BYRD, you better be hardworking because he realizes, as I do, that Senate leadership is serious business.

For the past 5 years, Linda has more than met the challenge. She has been a loyal and dedicated staff member for the majority leader, as well as doubling as the Democratic policy communications director. It is not an easy job. The hours here are long and unpredictable, the issues complex, the pressure great, and the media inquiries never ending. But she met the 24-hour per day task head-on and earned a reputation for excellence and fair play.

Linda Peek was always courteous and helpful to me and my staff, and I just want to tell the distinguished majority leader that we appreciate her cooperation. I know my good friend from West Virginia will miss not only her expertise and trust counsel but also her daily presence in the leader's office. I am not telling the majority leader anything he does not already know. She will be tough to replace.

Mr. President, I would like to extend my best wishes and the best wishes of all my colleagues on this side to Linda

Peek as she moves on to her next career challenge.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his very gracious remarks concerning Miss Linda Peek. I very much appreciate his comments. I am sure that Linda will deeply appreciate them likewise.

RECENT REMARKS BY AN AMERICAN BUSINESS HERO

Mr. BYRD. Mr. President, on July 11, I was privileged to host a luncheon here in the Russell Senate Office Building for participants in the 25th Annual National Youth Science Camp.

Throughout its quarter-century life, the National Youth Science Camp has been held at the Pocahontas County, WV, 4-H Camp, located in Bartow, WV. The camp is composed of two students from each state selected by the 50 Governors. This year's campers were all 1988 high school graduates, and were selected to participate in this program on the basis of their high academic achievement, strong leadership skills, and their interest in pursuing careers in science or mathematics.

As in the past, this year's campers were definitely among the cream of our Nation's high school graduates. Included among the 1988 campers were 25 valedictorians, six salutatorians, and 15 honorarians. Twenty-eight were national merit scholars and nine were national merit commended students. Seventy-eight of the campers were members of the National Honor Society, while eight belonged to the Beta Club and 15 to Mu Alpha Theta Honor Societies. Five were Robert C. Byrd Scholars.

While guests at the Russell Building luncheon, the National Youth Science Campers were rewarded by an outstanding address by Lee Iacocca, chairman of the board, president, and chief executive officer of the Chrysler Corp.

Subsequent to his guidance of the Chrysler Corp. back to economic strength and renewed competitiveness, Mr. Iacocca won a well-deserved national acclaim. At the luncheon, he delivered a challenging and enjoyable address that I would like to share with all of our colleagues.

Mr. President, I ask unanimous consent that Mr. Iacocca's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PREPARED REMARKS BY L.A. IACOCCA

Thank you, Senator. I appreciate that introduction.

Well, I never thought I'd get to speak in Washington in an election year. Especially since I'm not running.

By the way, not a lot of people know this, but actually, I have run for office—twice. I was in the ninth grade.

My first term I won by a landslide. Then, wouldn't you know, I got cocky and overconfident and lost my re-election bid. It was a terrible blow because I had given up the tenor saxophone to be class president. I'll tell you, after that, I learned a lesson for life: stay out of politics—it cuts into your fun!

Of course, I wouldn't give that advice to everybody. Not to Senator Byrd, for example. He's been in politics all his life, and maybe you don't know this, but he's still one of the best "old timey" fiddle players in all of West Virginia. There's also nobody more dedicated to seeing that people like you get the best possible education that we can give you. That's why you're here today . . . and that's why I am, too.

Senator Byrd is a true believer in the importance of education.

He put himself through law school at night when he was a member of Congress. I understand that he used to put his lawbooks on his steering wheel to read as he traveled to West Virginia to work with his constituents.

But, I'm here today because you invited me. I thought it was Senator Byrd, but he tells me it was, in fact, you wonderful kids. I'm really honored. And I mean that. But I'm not so sure I'm that deserving.

You see, the lowest grade I ever got in college was in freshman physics. I tried every trick in the book. I even befriended my professor and got him to tutor me, and still I managed only a D! Now, I think the guy would turn over in his grave if he knew I was talking to a whole room full of science whiz kids right now.

Eventually, I did get back on track (my father made sure of that), and I picked up not one—but two—engineering degrees. After I got into business, though, I learned pretty fast that I was better at selling cars, than building them. So I got out of engineering and into marketing.

To tell you the truth, I never figured on getting back into, but little did I know. It turns out, of all the things I need to understand right now, technology's right at the very top of my list.

There's a lot of hoopla about "high-tech" places like Boston and Southern California, but if you want to see high tech in action, come to Detroit some time. At Chrysler, we spend nearly a billion dollars a year developing new cars and trucks, and then another billion or so buying robots and computers to help our people build them.

And guess who gets to make the really expensive technology calls? I do. The guy with the "D" in physics! Maybe I don't practice engineering, but I use it every day. And I use the analytical thinking that was sharpened in my math classes back at Allentown High, Lehigh and Princeton. I'm a manager who's known as a salesman, but I run a business that's about as "high tech" as you can get.

Now, you're very, very smart kids, the 100 best in science and math we have in this country right now, they tell me. (Congratulations on that, by the way.) I'm sure that you already know the importance of technology. So, I can save that speech for somebody else. But I just want to start off today by making sure that you understand where science and technology are put to work—and it's in places like Detroit and Pittsburgh and Youngstown, America's factory towns!

This country's future (and yours) doesn't just depend on how good our science is; it really depends on how we put that science to work. And since you're the top 100 this year, you'll be the ones who have to put science to work—you'll be the leaders.

I know all of you are looking forward to college, and I know you'll all get straight A's. But (and this is a big, important but) there's something you're not going to learn in college. I never had a class in it. None of the senators have ever studied it. Ask you parents sometime, and they'll tell you they didn't have a class in it, either. Yet, along with your science, it's going to be the most important skill you'll need to develop. It's called leadership.

For one reason or another someone was good to you and gave you lots of smarts. And you've put them to good use . . . so far. Terrific. But don't let it go to your head. Because you're going to pay for this gift you've been given. Some day, you'll have to carry a lot bigger load because of your gift. You're going to have to lead.

And the sad fact is, you're coming of age in a country that has a plate full of problems. The senators will tell you that here in Washington they've even begun asking an awful, awful question that has never had to be asked before—and I mean never! And the question is simple: "Can America really compete in today's world?"

One reason that question is asked is because there aren't enough kids like you—not in America, anyway. You don't have much in the way of back-up help from your classmates. Granted, you're the cream, but let me tell you, the rest of the crop is not very good.

This really hit me last month, when I picked up a New York Times. I saw a front-page that just scared me. And it should scare you, too.

Right under the famous box that says "All the News That's Fit to Print" was a story on math education. It said a new study out shows almost every high school student can now handle simple arithmetic.

This is news? Man bites dog, that's news! But the fact that our high school kids can figure out that three nickels and one dime make a quarter is not news?

And it gets worse. The study also found (get this) that no progress has been made on teaching kids more complicated mental tasks—stuff they need to know to hold a job. Half our nation's 17-year-olds can't solve math problems at a junior high level. They can't take 87 percent of 10 and figure out if the answer is less than 10, greater than 10, or equal to 10.

And don't think these kids grow any smarter when it comes to science. Our own government compared our teenagers to kids in a number of other countries. And the results stink.

American ninth graders ranked 15th in a field of 17 nations. Our twelfth grade chemistry students placed third from last, and our twelfth grade biology kids finished dead last. Botany I wouldn't mind—but hell, biology is life. I think a tree-stump could have scored better.

The sad truth is, while these twelfth graders may not be geniuses, actually they're several notches above the average Johnny. You see, by twelfth grade, a quarter of our teenagers (your peers) have dropped out, and I don't know too many who drop back in.

They say (now, this is a bit much, but I gotta believe it) drop-out rates would be higher yet, but teenagers like to stay in school long enough to take—listen to this—driver's ed! And you know, they tell that to me with a straight face!

I'll tell you, there's nothing funny knowing that when a Japanese teenager finishes twelfth grade (and 90 percent or more do), they have the equivalent of three more years than our kids.

There's nothing funny knowing that the average Japanese high school graduate knows as much as our average U.S. college graduate. And there's nothing funny about dumping one million untrained kids into our workforce every year.

Now, these are horrible statistics for our country, and I think you understand that, but it cuts even closer to the bone. Because they're horrible for you and me, too.

Just stop and think, for a minute. Your time will come, and very soon, when you're at the mercy of these kids in the middle and the bottom. These folks will be our policemen . . . firemen . . . nurses . . . teachers . . . lab technicians . . . and our assembly workers.

Maybe you'll go out and design the best computer in the world. But if your company can't find people smart enough to build it at the quality levels of the rest of the world (and service it—I might add), it doesn't matter what you do. No matter how good your technology is, your co-workers will wipe you out.

I've been in business 40 years now, and, believe me, I've been at the mercy of lots of people. Take my suppliers. They sell me the steel, and the rubber and the glass that goes into a car. But do you know which, of my thousands of suppliers, is my most important one of all? Our schools. After all, they supply my workforce. But tell me, how am I supposed to compete when 50 percent of the kids they send over can't do math? If even a handful of my other suppliers sent me half defective parts, I'd lose my shirt—overnight.

And don't forget, we need to be *world* competitive these days. I compete with a lot of foreigners. So I was a little curious, about which countries were beating our ninth graders in science.

I looked it up, and there's something pretty revealing about the list. It turns out that only Hong Kong and the Philippines did worse. Well, thank God they don't sell cars here. But of the countries that beat our kids, half of them *do* sell cars here.

Remember my mentioning the billions of dollars we're spending at Chrysler on robots and lasers and all the other exotic technology? Well, my competitors in all those countries that beat us in ninth grade science have all the same tools. The only difference is the people who use them.

Believe me, we're running a big risk if our bottom and middle don't start improving. It won't just be their jobs that will be washed out, it could be your careers, too. As future leaders, you can't hide and let the other guy worry about it. This problem will surely drop into your lap.

I know. It's already dropped into mine. You see, I come from a pretty tough city. A lot of people will tell you that it's not a very smart thing to build a brand new plant in the inner city any more. They say find a green field in Timbuktu or some place. But I say you put a plant where people need jobs, and they're needed the most right now in the inner city of Detroit.

So a year or so ago, when it came time to pick a site to build a modern and efficient plant, we picked the east side of Detroit. Chrysler's investing millions of dollars. It will be as high tech as any plant in the world: robots . . . lasers . . . computers . . . you name it.

But the robots won't run the plant. People will. And I'll tell you what scares me. The high school just down the road from our new plant doesn't have a 10 percent drop out rate like in Japan. It doesn't have a 25 percent rate, which is average in our country. It has a 50 percent drop out rate. Half the neighborhood kids never finish school.

So it doesn't just matter what my bright people do. They can design a car that blows you away. But if I get people in a plant who can't build a perfect car, we all go down the tubes—together.

As future leaders, I hope you think about these things when you ask yourself: "What am I responsible for? What kind of problems should I solve?"

By the way, when you ask yourself those questions, I hope you start thinking about another growing problem. I hate to tell you, but this could screw up your careers, too.

It's hard to believe when I see your enthusiasm, but in this high-tech society of ours, we've got a dwindling interest in science. I don't think we have to be fanatical about science, like it was a religion or something. But I do feel science could attract a lot more attention than its's been getting lately.

After all, most of your high school classmates didn't bother to take even a year of physics or chemistry. Less than one in ten takes calculus. And today, the pool of high school science teachers is drying up so fast, the job is increasingly going to the football coach. (He may know something about immovable objects meeting irresistible forces, but I don't know how much he knows about mixing chemicals in the lab!)

Things aren't too much better on the college campuses, either. Just when we need to catch up and produce more engineers, 10 percent of our engineering and science faculty positions are vacant.

And it seems all of this is coming just as America's science and technology are no longer years ahead of everybody else's. For the longest time, even up through the mid-60s, more than 75 percent of the world's technology was generated right here in the U.S. But today, they estimate, we generate only about 50 percent.

At 50 percent, we're still developing half the world's technology. That still puts us way ahead of Japan, or Germany, or Russia or any other country on Earth. It's the *trend* that I don't like. I don't want to see it drop to 25 percent.

If you kids want to be leaders, truly leaders, then I think your challenge is to stop the decline of American science. You have to spark enough interest in science to keep us at least at 50 percent. You have to help us keep our grip.

And when you figure out how you're going to do that, you better also do some figuring about what kinds of technology we should be serving up. Because let me warn you, that's another big problem that could mess up your careers. You could work 12 hours a day, seven days a week, but if you focus on discovering how porcupines make love, what good is it?

I know that a lot of you may choose to lock yourself in a lab to find the secrets of the human cell. You may spend the rest of your life doing basic research. That's terrific, because we have a lot of disease that needs to be wiped out, and the Lord willing, you people will be the ones to do it.

But I hope that some of you realize that American industry needs your talents, too. Of course, not many people are going to advise you to go out and get your hands dirty, and make something to help this country become more productive. Only uneducated fools would have anything to do with factories, right?

If you're really a genius, you should go to work on Star Wars. That's what they tell you. Right now, I understand that we have 23,000 of the finest scientific minds in America at Hughes Aircraft working on Star Wars and other classified projects.

Now, I'm not crazy enough to get into that debate here today. But as a businessman, I've gotta ask a question: What are the Japanese doing with 23,000 of their finest minds?

The answer is simple: they're working on sharper TV pictures, graphite golf clubs, and electronic instrument panels for cars. Our best and brightest put the results of their work into missile silos, while the Japanese bring good things to life for the enjoyment of American consumers. It's a brain drain that, frankly, boggles my mind.

And when we do come up with something that could help us compete, we always seem to stop short of putting our creations to work. Americans developed the VCR, for example, Americans developed the robot. Americans (with the help of Europeans) developed continuous casting of steel.

But today, not one VCR is produced in the U.S. Japan has twice as many robots as we do (though we're starting to use a lot more in Michigan). And more than 90 percent of Japanese steel mills employ continuous casting, while we're at 60 percent.

We always seem to take our eye off the ball. You kids weren't around for Sputnik. But I can remember how one day back in the late '50s this country looked into the sky, and saw a little basketball of Russian steel orbiting around mother Earth. And it sent us right into shock.

We suddenly made up our minds to catch up. We made a national commitment. We pulled our smartest people together, and gave them money, and gave them a challenge. And we never stopped looking up until we put a man on the moon. It's something we were all very proud of, and rightly so.

But as we were looking up, boats filled with VCRs, and cars, and steel started coming over by sea. I'm a little ashamed of this, but as we kept looking up, more and more boats came over. By the time we stepped on the moon, we had started to lose touch with what was happening here on Earth.

We had won the space race all right, but we were losing the race to keep America's place in the world economic order. We had led the world into a new era, one beyond our wildest dreams. But as we did it, we forgot to look at our real problems, and to commit our greatest minds to solving them.

I hope you kids don't make the same mistake. Maybe Star Wars is a smart thing to do—I just don't know. But let's not forget about something at least as important—and that's America's competitiveness. That deserves our best brains because if America can't compete economically in this world, then nothing (and I mean nothing) else will matter anyway. In the history of man—no country was ever a strong military power without economic power to back it up.

Now, while we recognize these problems, let's not forget we have a lot going for us, too.

We can all be proud that we've turned out more Nobel Prize winners in medicine and physics in the past 25 years than all the other countries combined. We can all be proud that we still develop half of the world's technology. And we can all be proud—very proud—of our great universities.

They must be good because the brightest kids from all over the world still flock to them. Do you know that 40 percent of the doctorates in engineering awarded in the United States go to foreign students?

Obviously, they think there's something to learn here. Our America is still the model for everybody else. They copy us (not the bad things, but the good). They want what we have here. That's terrific, but we've got to do more than teach them . . . we have to be more than a model of "the good life" they all want . . . we have to be able to compete with them.

That's the thought I want to end on today. Right now your futures look great. You're all at the head of the class. You're here because a lot of people, including Senator Byrd, including me, want the best for every one of you. We know how much you can contribute. But if some of your talents aren't used to help us build better cars and refrigerators and, yea, maybe even toothpaste, then the dream is over. For all of us.

So, don't let that happen, okay?

I'm honored that you asked me to come. The Lord willing, I know we'll be hearing a lot from you in the years to come. I'll try to track your careers 20 years from now! Good luck and godspeed to all of you.

SENATOR ROBERT C. BYRD OF WEST VIRGINIA

Mr. HEINZ. Mr. President, as every Senator knows, at the close of the 100th Congress, the distinguished majority leader, Senator Robert C. Byrd, will conclude his 12th and final year as the Democratic leader. And at that moment the Senate will mark the end of an exceptional era. Happily for us all this occasion in no way marks or signals the end of Senator Robert Byrd's remarkable service to the Senate and the country. We know that our distinguished friend and colleague from West Virginia will be with us next year and bring to his responsibilities in the 101st—and I suspect many more Congresses—the same qualities of leadership, perseverance, integrity that we have seen characterize not just his years of service as Democratic leader but his entire career in public service.

Mr. President, it is a matter of record that, during his long, distinguished career in the Senate, Senator Byrd has served on a variety of influential committees and positions—the Committees of Appropriations, Judiciary, Rules and Administration. He has held such key leadership positions as Secretary of the Democratic Conference, majority whip, and of course since 1976 Senator Byrd can rightfully and proudly number many significant achievements during his tenure as majority leader.

In my view his sucesses in this, the 100th Congress—and by the way we are by no means near completing our work yet—must surely rank among the most accomplished and will be hard for any future successor to surpass. I predict that history will mark the legislative successes of this Congress—among the passage of the INF Treaty, the catastrophic health bill, and the Civil Rights Restoration Act, together with the expeditious action, timely handling of the drought relief bill as recently as yesterday and the appropriations bills that we have seen come on the floor with remarkable rapidity this year—as the notable among the many productive Congresses during Senator Byrd's remarkable tenure as leader.

Above all, those who appreciate and follow such matters will especially value, as we his colleagues do, Bob Byrd's meticulous attention to detail, his unsurpassed knowledge of the rules and traditions of the Senate, and his special and utterly dedicated fidelity to the integrity of the legislative process and the reputation of this institution.

His extraordinary mastery of how the Senate operates has, of course, made him a legislator non pareil. His deep understanding of the Senate's history, of its unique role in the balance of powers, and of the responsibility of the Senate to change as the times demand have shown him not only to be a leader, but a stateman as well. And all of us—and it is true of every single Senator I know, as well as our staffs, have learned enormously from him. We have had our experiences in this institution enriched by him, by his great knowledge, by his skillful employment of his remarkable intellectual endowment and his accumulated wisdom for the benefit of this body and the Nation.

Mr. President, we rightly honor Bob Byrd as an outstanding Senator and Democratic leader. But it would be a serious oversight to overlook the man himself for he is a very special and unique human being. Bob Byrd is first and foremost a gentleman. He is a man of infinite consideration and patience, and of special importance in our line of endeavor, a man whose word is always good.

Having worked with him in this body nearly 12 years now I can attest to the fact that he can be a powerful opponent or a resourceful, dependable ally. Let me assure you, Mr. President, I have always preferred the latter.

Mr. President, it has been my distinguished privilege to know and serve with Bob Byrd in this Senate, to work with him on a variety of important issues affecting our States and the Nation. I look forward to serving with, God willing for both of us, for many years to come, and I would like to join my many colleagues and his many admirers and friends in thanking Bob Byrd for his service to this country and the Senate, and for the splendid example he has set for us all.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

SENATOR HEINZ' STATEMENT

Mr. BYRD. Mr. President, I thank my friend and distinguished Senator from Pennsylvania, Mr. Heinz, for his very gracious and overly charitable, highly complimentary remarks.

I treasure my association with Senator Heinz. We represent States that have common problems, similar problems, people who are much alike, industries that are alike, steel, coal, and glass. And we see our problems, and we see things much alike.

The Senator has gone out of his way and spent time on preparing that statement. I know of nothing that gives me greater comfort and satisfaction than to have the respect of my peers, and to hear kind words stated. I am deeply grateful for our Senator's comments. I treasure his friendship. I cherish the opportunity to serve with him, and I look forward to our continued service together.

I thank my friend.

I yield the floor.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BAILEY IZARD: HE WAS BADLY TREATED BUT GREATLY ADMIRED

Mr. ADAMS. Mr. President, even though all of us who serve in the U.S. Senate are honorable human beings who attempt to treat people fairly, I suspect that from time to time we make errors in judgment that make life more difficult for folks. That is just human nature; it is perfectly natural.

What is not natural, however, is the fact that every Democratic Senator—and I suspect a few Republicans from time to time—have consistently made life more difficult for one individual: Bailey Izard, one of the fine young men who works in our cloakroom.

It is not that we do not like Bailey—he has a fine intellect and a great sense of humor. It is not that Bailey is not nice to us—he is perhaps the most considerate person I have ever met. Rather, the problem is that Bailey has, through some accident of fate, drawn the worst job in the Senate, and perhaps in the world: in addition to answering the normal unanswerable questions which flow into the cloakroom ("will there be any more votes today?", "what time will we get out?", "what will we do tomorrow?", "what is the meaning of life?"), it is Bailey's duty to schedule Senators to preside over the Senate.

Most people might not think that that is a difficult way to make a living; after all, it looks like a better job than most. But looks can be deceiving.

The truth is that every Senator is busy, every Senator has a schedule which is constantly changing, and every Senator has—at least once—decided that the best way to resolve a scheduling conflict is to "politely ask", usually about 5 minutes before they are scheduled to begin their assigned duty, to have their presiding time changed. It is Bailey Izard's job to deal with those "polite requests".

He has done that job with skill, with patience, with diplomacy, with cunning, and—when needed—with a vocabulary which staggers the imagination. Now I understand that he has decided to leave us and go on to business school. I certainly wish him the best but I can not imagine what skills he will learn there that he does not already know as a result of working here.

In any event, on behalf of my colleagues and on behalf of my staff—particularly Sara Johnson and Bob Seltzer who have had more than one occasion to make outrageous requests on my behalf—I want to thank Bailey for his patience, his dedication, his understanding, and his friendship. I wish him well.

RETIREMENT OF LT. GEN. WILLIAM E. ODOM, U.S. ARMY

Mr. BOREN. Mr. President, on Tuesday, July 26, 1988, the U.S. Army, with full military honors, retired an outstanding soldier, an exceptional public servant, and a truly brilliant scholar-general, Lt. Gen. William E. Odom. In my Intelligence Committee duties in recent years, I have had frequent opportunity to see at first hand the exceptional intelligence, devotion to country and duty, candor, and high moral courage of this officer. His unique accomplishments in the intelligence and national security strategy disciplines have earned him great respect from his professional colleagues and many Members of the U.S. Senate and House of Representatives.

During the retirement ceremonies the Honorable Frank Carlucci, Secretary of Defense, and Gen. Carl Vuono, Chief of Staff, U.S. Army, paid glowing tribute to Lieutenant General Odom's service to his country. I ask unanimous consent that Secretary Carlucci's and General Vuono's description of this dynamic military intelligence officer be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SECRETARY CARLUCCI: RETIREMENT OF GENERAL ODOM

Members of Congress, General Odom, Mrs. Odom, other distinguished guests, and ladies and gentleman.

One of the sources of greatest personal satisfaction I have had as Secretary of Defense is meeting with the officers and enlisted personnel, and the dedicated civilians who man this Nation's defenses and support our forces in the field. And therefore, as a first order of business, I want to convey to the dedicated professionals of the National Security Agency, which General Bill Odom has commanded for the past three years, my most sincere respect, gratitude and appreciation for the service you as an agency are performing for our Nation.

Today, from the Persian Gulf to Central America, from the DMZ of Korea to the inner-German border, from our strategic forces and our ships at sea to the negotiating tables of Geneva, NSA stands quietly in support of America's security interests. The superb manner in which NSA is meeting these professional challenges stands in testimony to the leadership of General Odom.

Later this week I will depart for my second trip to the Soviet Union within two months. My trip is as clear an indication as any that our relations with the Soviet Union are changing, are changing rapidly, and, hopefully, are changing for the better. As we assess our relationship with a newly emergent character of the Soviet Union. I have often said that we must rely on Soviet actions, not merely their words and promises, as the truest measure of meaningful change. Thus, by having as clear and timely a description of Soviet actions, and as comprehensive an assessment of their context and meaning as possible, the national security posture of our Nation at this very critical stage is enhanced. Ultimately, it would be far more dangerous for us to underestimate Soviet capabilities and intentions than it would be to underappreciate the opportunity for meaningful dialogue.

We must remain aware, then, of this critical balance between the natural idealism of our Nation, an idealism that would always see the possibility of meaningful change in any adversary, and the reality of a Soviet military establishment that produces enough tanks to outfit a new armored division every month and a new submarine every 37 days.

And no one has been more aware of this tenuous balance than General Bill Odom. He has given a lifetime of service to his Nation and his army as a soldier, a scholar and a leader. Few military officers have had the depth of understanding of our potential adversary as Bill Odom, an understanding developed by years of experience, brilliant scholarship, and his unique ability to match theory with reality. General Odom was one of those outstanding people we meet so infrequently who could simultaneously pursue seemingly disparate vocations. He proved beyond question that one can truly be a scholar and a soldier. By combining a keen appreciation for the public argument and an insightful grasp of the issues, he was an articulate spokesman for the most critical and sensitive issues facing the Nation. General Odom is one of America's first national security scientists. He embodied in his career a clear apppreciation for the fact that national security is a body of knowledge that includes not only military matters, but the vast dimensions of political, economic, social and scientific thinking as well.

And so today is a bittersweet occasion. We honor General Odom for his lifetime of service to the Army and the Nation. But it is reassuring for us to know that Bill Odom's ceaseless quest for knowledge and excellence is today being passed on. And we are reminded by General Odom's career of the demands on each of us for outstanding professional performance, the relentless pursuit of knowledge, and the highest standards of commitment.

To Bill and Anne Odom, we wish you the very best for a very happy future. On behalf of a grateful Nation, I wish you the very best for every success and happiness. Thank you.

REMARKS OF GEN. CARL E. VUONO

Mr. Secretary, distinguished guests, many friends of Bill and Anne's, fellow soldiers:

We welcome all of you to this very special ceremony as we recognize and bid our farewells to the Odoms, a family that has contributed so much to the Army and to our nation. I want to pause now and offer a hearty welcome to 2nd Lieutenant Mark Odom, who on Monday will join the 505th Airborne Infantry Regiment, 82nd Airborne Division, where we wish him the best of luck in his future Army career. And we know your parents are delighted to have you with them this afternoon.

Now this gathering of friends and associates of Bill and Anne's reflects a breadth and stature of the great soldier we salute today. And you know, when we have retirements there are mixed emotions. Some sadness—nostalgia—is inevitable when friends, colleagues and comrades in arms say goodbye. Offsetting that sadness today is a sense of pride. Pride in the accomplishments of the Odoms.

I have a letter here I'd like to read to Bill from the Chairman of the Joint Chiefs.

"DEAR BILL: I want you to know personally how much value I've placed on your exceptionally wise counsel and many accomplishments as Director of the NSA. During the past three years we have not wanted for crisis and in every case, you and the agency have come through with most timely and appropriate support. Your personal efforts have contributed directly to successful operation of our military forces around the world. Your astute leadership has helped to achieve significant and lasting benefits to the security of the United States during extremely critical times in our nation's history.

"Your distinguished tour at the helm of NSA culminates a 34-year Army career with many successes. Throughout much of your military experience you have been at the forefront of US military intelligence activities, while demonstrating keen awareness of the mindset and intentions of those who would represent a threat to America's ideals and interests.

"Bill, you leave a most impressive legacy and I can say without any hesitation the Joint Chiefs of Staff, the Department of Defense, and the United States are better off for having had you at NSA. Please accept my personal appreciation for assisting me in providing the best military advice to the President and the Secretary of Defense.

"Shirley and I wish you and Ann the very best for continued success in the future. Please know that while an absence from Washington prevents us from attending your retirement ceremony on Tuesday, we will be with you in spirit and thought.

"Warmest Regards,

WILLIAM J. CROWE,

Chairman, Joint Chiefs of Staff."

Bill, I want you to know that all of us have the greatest respect for you from the time you graduated from the Military Academy in 1954. Now the award citation just read mentions the specifics of your most recent accomplishments, which are many. But for a few moments this afternoon I want to focus more generally on the four soldierly values that I believe have characterized your service: commitment, confidence, candor, and courage.

Commitment: Bill Odom has dedicated his life to serving soldiers and his country. He has striven for excellence in all that he has done. Early in his career he developed a deep and enduring commitment to our nation's security. A noted scholar, he has made a career of teaching others about national security issues, sharing his knowledge and insights with all ranks from cadet to general officer. Those who have learned from him (and there are many of us in and out of uniform) have great admiration for his selflessness in the service of his country.

Confidence: By any measure, Bill is one of our most confident leaders. He's a widely recognized expert on the Soviet Union and is the Army's and the military's foremost authority on the Soviet military. More than anyone in the Army in the last ten years Bill has greatly enhanced our understanding of the Soviet military.

Candor: Throughout his career Bill has been frank and open in all his dealings with others, whether they be senior or subordinate. Wherever he has served he has energetically pursued policies and made recommendations based on what he considered best for our nation, not what may have been merely convenient to him or others.

And finally, *Courage:* In a calling that places a premium on moral courage, Bill Odom has clearly been a leader with qualities of determination and fortitude. Time after time he stood firmly with his convictions against many who, in spite of their best intentions, opposed his views. We're a better nation and a better Army because of Bill's courage.

In short, Bill Odom has excelled as a soldier, a scholar, and a statesman, an accomplishment matched by few in our army's history.

And a special word of thanks to Anne who has been at Bill's side for many years throughout his career and who has made a major contribution to our soldiers and to our Army. She joined with Bill long ago in the pursuit of his professional and intellectual interests about the Soviet Union. And whether entertaining Military Academy cadets or conversing with Soviet diplomats, Anne Odom represents all that is noble and worthy in an Army wife. She has steadfastly supported her husband and her service has been equally selfless. So Anne, we thank you very much this afternoon.

So, to Bill and Anne on behalf of a grateful Army and Nation, thank you for a lifetime of superb service to your country. Soldiers, civilians, and families throughout the Army, as well as countless others that you've touched along the way have benefited from your work. You leave a rich legacy in which you can be justifiably proud.

So as you embark upon new and exciting challenges all of us in uniform and out wish you both the very best, God speed, and good luck.

TRIBUTE TO McAULIFFE FELLOWSHIP WINNER DONALD W. POTTLE

Mr. KENNEDY. Mr. President, we all recognize the importance of excellent teachers who are dedicated to the educational development of our Nation's youth. Our schools will never be any better than the teachers who work in them. The Congress has recognized this and we have created the **Christa McAuliffe Fellowship Program** in order to honor the New Hampshire schoolteacher who perished in the tragic *Challenger* shuttle explosion in 1986. The McAuliffee fellowship program recognizes the outstanding effort of a small number of teachers and awards them with a year-long research grant.

Donald W. Pottle, a 19-year teacher of biology and human physiology at Shrewsbury High School in Shrewsbury, MA, was awarded a McAuliffe fellowship for 1989 at award ceremonies held this past May. Mr. Pottle received the fellowship in recognition of his outstanding performance in teaching and for producing a scientific project that received recognition from the National Aeronautics and Space Administration.

A graduate of Rutgers University and the University of New Hampshire, Mr. Pottle was chosen as the Massachusetts Outstanding Biology Teacher in 1982 and the Massachusetts Teacher of the Year in 1983. Mr. Pottle plans to use his grant to write and publish a book, "Project Hotline."

I am grateful for the efforts of Mr. Pottle and other teachers like him who have made a life-long commitment to excellence in education. I extend to him my congratulations and best wishes.

TRIBUTE TO McAULIFFE FELLOWSHIP WINNER JAY HOWARD SUGARMAN

Mr. KENNEDY. Mr. President, we all recognize the importance of excellent teachers who are dedicated to the educational development of our Nation's youth. Our schools will never be any better than the teachers who work in them. The Congress has recognized this and we have created the **Christa McAuliffe Fellowship Program** in order to honor the New Hampshire schoolteacher who perished in the tragic *Challenger* shuttle explosion in 1986. The McAuliffe Fellowship Program recognizes the outstanding effort of a small number of teachers and awards them with a year-long research grant.

Jay Howard Sugarman, a fourth grade teacher at the Runkle School in Brookline, MA, for the last 9 years, was awarded a McAuliffe fellowship for 1989 at award ceremonies held this past May. Mr. Sugarman received the fellowship in recognition of his outstanding performance in teaching and for his work on the Brookline educational journal, Reflections, of which he is founder, publisher, and managing editor.

Mr. Sugarman has a bachelor's and master's degree from the University of Chicago, as well as a doctorate in education from Boston University. Mr. Sugarman will use his McAuliffe fellowship to take a year-long sabbatical, during which time he will be a member of the teacher assessment project research team at Standford University.

I am grateful for the efforts of Mr. Sugarman and other teachers like him who have made a life-long commitment to excellence in education. I extend to him my congratulations and best wishes.

U.S. CIVIL RIGHTS COMMISSION HEARINGS ON INDIAN CIVIL RIGHTS ACT ENFORCEMENT

Mr. HATCH. Mr. President, recently I have been following a series of hearings being conducted by the U.S. Civil Rights Commission regarding the enforcement of the Indian Civil Rights Act of 1968. Congress enacted that act following extensive Judiciary Committee hearings, chaired by the late Senator Sam Ervin. Ten years later, in 1978, the Supreme Court, in *Santa Clara Pueblo* v. *Martinez,* 436 U.S. 49, held that claims under the Indian Civil Rights Act were reviewable only in tribal forums and no longer, except for writs of habeas corpus, in the Federal courts. In doing so, the Court stated that if it were determined that tribal forums were not applying the act, Congress was certainly within its power to amend the act to provide additional remedies.

Put simply, what the Commission has been attempting to do through its hearings is to examine whether the Indian Civil Rights Act is being adequately enforced in the 10 years following the Martinez decision. Its factfinding has been comprehensive, with well in excess of a thousand pages of testimony developed from hearings in South Dakota, Arizona, Oregon, and Washington, DC, to say nothing of the thousands of pages of documents it has gathered in its factfinding capacity.

The Commission's interest is in the rights of individual American Indians vis-a-vis their tribal governments. That, after all, is the purpose of the Indian Civil Rights Act, to restrain tribal governments from abridging certain basic rights, many of which are contained in the Bill of Rights. The Commission is on record in numerous places as favoring strong and independent tribal judiciaries. The Commission has also stated that without such courts, enforcement of the act is rarely permitted to flourish.

During floor debate on the Commerce, Justice, State appropriations bill, language was included to prevent the Commission from expending fiscal year 1989 funds to enforce subpoenas against tribal officials. During debate on the bill, it was stated that "many Indian leaders have become convinced" that the Commission's investigation "is designed to establish that the governments of Indian tribes, and particularly the courts of Indian tribes, cannot be entrusted to protect the rights of Indian tribal members."

I do not think the Commission's investigation is designed to do anything except determine whether, in fact, the act is being enforced by tribal governments. If the Commission's factfinding is establishing that certain tribal governments are not enforcing the act, then that is something we need to know.

The Commission has begun to release some of the transcripts of its exhaustive hearings on the issue. These transcripts speak for themselves and should be read by all of my colleagues for the evidence they contain. Are the basic rights of the American Indian, or for that matter, the basic rights of non-Indians living on reservations, being adequately safeguarded or aren't they?

Finally, during the floor debate on this matter, a letter from the Navajo Tribe's attorney general, which was highly critical of the Commission's attempts to gather information, was included in the RECORD. In order to present a balanced picture in this regard, I will ask unanimous consent that a copy of a letter from William B. Allen, Chairman of the Commission's Subcommittee on Enforcement of the Indian Civil Rights Act, to the Navajo Nation chief justice, Tom Tso, be inserted in the RECORD immediately following my comments.

Mr. President, native Americans are American citizens. The factfinding that is being conducted by the Commission is of vital importance to them and to the Members of Congress as we fulfill our oversight role. If there are violations of this act with respect to individual citizens, then these efforts on the part of the Commission must not be impeded. I hope that the conference committee on this bill will see fit to remove this troublesome language.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, July 18, 1988.

Hon. TOM TSO,
Chief Justice of Navajo Nation,
Window Rock, AZ.

DEAR CHIEF JUSTICE TSO: I am in receipt of your letter dated July 6, delivered to the Commission by overnight express on July 12, in which you refused my written invitation of June 29 to appear and give testimony at the Commission's hearing on July 20. I am pleased that you have since reconsidered. Still, I wish to answer the legitimate concerns in your July 6 letter. For I firmly believe that your disinclination to appear was based on a misapprehension of the scope and jurisdiction of our hearings.

As Commission staff has explained to you, no questions will be asked of you that will require you to violate the American Bar Association Code of Judicial Ethics. As they have further explained to you, you will not be asked to comment on pending cases or render advisory opinions. To the contrary, the only areas that the Commission wishes to explore with you are the areas of the independence of the Navajo Nation judiciary, both historically and presently, and the administration of justice insofar as it does not involve pending litigation or require that you render advisory opinions.

As you know, Commission staff volunteered to provide you with written questions in advance of the hearing, and to ask additional questions during the hearing only as necessary to clarify your responses to the written questions. You also are aware that Commission staff volunteered to place you first on the agenda so that you would not inadvertently hear the testimony of others that might be inappropriate of you as a sitting judge to hear. In sum, I think it clear that Commission staff has fully explained the areas that we intend to explore with you, has made every effort to facilitate your appearance, and has made it evident that the dignity of your office as Chief Justice would be fully respected. Indeed, I would think that in light of these explanations, you would, as Chief Justice of the Navajo Nation, relish the opportunity to provide testimony before the Commission.

While the information your office has previously supplied to Commission staff has been helpful, questions remain which we wish to explore with you. Commission staff has received allegations that the independence of the judiciary of the Navajo Nation has been recently threatened. Clearly, it is in the interest of the Navajo Nation's judiciary that the Commission on Civil Rights requested that you appear to provide us with testimony. It is precisely the independence of tribal judiciaries that has been a principal interest of the Commission's Subcommittee on Enforcement of the Indian Civil Rights Act. Indeed, with strong and independent judiciaries, enforcement of the ICRA flourishes.

I trust that my comments respond to your concerns. I look forward to seeing you on July 20, and believe that you will leave the hearing pleased with the result.

Sincerely,

WILLIAM B. ALLEN,
ICRA Subcommittee Chairman.

BICENTENNIAL MINUTE

JULY 23, 1973: WATERGATE COMMITTEE SUBPOENAS NIXON TAPES

Mr. DOLE. Mr. President, 15 years ago this week, on July 23, 1973, the Senate Select Committee on Presidential Campaign Activities, known as the Watergate Committee, subpoenaed audio tapes of Oval Office conversations that President Richard Nixon had previously refused to release. This action set up a constitutional confrontation over separation of powers between the executive and legislative branches that was ultimately resolved only after the Supreme Court ordered the President to turn the tapes over to the Watergate special prosecutor.

President Nixon cited executive privilege as his legal justification for withholding the evidence. Committee Chairman Sam Ervin countered that executive privilege could not be invoked when dealing with possible criminal activities. Mr. Nixon claimed that "inseparably interspersed in the tapes are a great many very frank and very private comments wholly extraneous to the committee's inquiry." He also stated that nothing on the tapes would indicate his complicity in the coverup.

Considering it a most logical and necessary step, the committee wasted no time in issuing the subpoena, which was served by 6 o'clock that evening. Even the staunchest defenders of the White House agreed with the action taken. Senator Howard Baker, committee vice chairman, contended that the tapes contained material "essential, if not vital, to the full inquiry mandated and required to this committee," though he did try unsuccessfully to suggest an alternate route for ascertaining the evidence.

That afternoon, in an impassioned address, Senator Ervin told the Senate, "the Watergate tragedy is the greatest tragedy this country has ever suffered." And the drama continued to unfold. The months to come would bring the resignation of an Attorney General, a Vice President, and—for the only time in American history—a President of the United States.

CONCLUSION ON MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to consider the nomination of Timothy Lathrop Towell, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

The clerk will report the nomination.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Timothy Lathrop Towell, of Ohio, a career member of the Senior Foreign Service, class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on the nomination.

The question is, will the Senate advise and consent to the nomination of Timothy Lathrop Towell, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON I announce that the Senator from Washington [Mr. Adams], the Senator from Texas [Mr. Bentsen], the Senator from Florida [Mr. Chiles], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kerry], the Senator from Michigan [Mr. Levin], the Senator from Nevada [Mr. Reid], and the Senator from Michigan [Mr. Riegle], are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden], is absent because of illness.

Mr. SIMPSON I announce that the Senator from Rhode Island [Mr. Chafee], the Senator from Arizona [Mr. McCain], and the Senator from Oregon [Mr. Packwood] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—88

Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pell
Pressler
Proxmire
Pryor
Quayle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—12

Adams
Bentsen
Biden
Chafee
Chiles
Gore
Kerry
Levin
McCain
Packwood
Reid
Riegle

So the nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is laid on the table and the President will be notified of the confirmation of the nominee.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

The ACTING PRESIDENT pro tempore. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BYRD. Mr. President, Senators will note on page 2 of the calendar for today the names of Senators who have amendments. If those Senators will come to the floor and call up their amendments, it is conceivable that the Senate could complete its business on this bill by early afternoon. But that will depend upon Senators getting to the floor and calling up their amendments.

They are Senators Bingaman, Bond, Boren, Bumpers, Byrd, Burdick, Cohen, DeConcini, Domenici, Dole, Exon, Ford, Gramm, Hatch, Hecht, Heflin, Kennedy, Kerry, Leahy, Melcher, Metzenbaum, Quayle, and Stevens.

This is a very nice opportunity right now for some Senator to call up his amendment.

Mr. President, I suggest that our respective Cloakrooms—I say this to my friend, Senator Dole—notify Senators that if they are not going to come over and call up their amendments, then we ought to go to third reading.

I yield the floor.

AMENDMENT NO. 2754

(Purpose: To provide that certain amounts appropriated for competitive agricultural research grants be used for research on human nutrition)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the committee amendment will be set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. Bingaman] proposes an amendment numbered 2754.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 2, insert ", of which $2,000,000 shall be used for research concerning human nutrition" after "expenses".

Mr. BINGAMAN. Mr. President, this is an amendment to assure continued support for the Department of Agriculture's program of competitive research grants on human nutrition.

Congress has funded nutrition research grants for more than a decade as part of the Competitive Research Grant Program within the USDA's Cooperative State Research Service. Unfortunately, and despite the great need to encourage nutrition-related research, these grants soon may not be available unless we adopt this amendment. This is because neither the House-passed version of the Department of Agriculture appropriation bill nor the committee's recommendation includes human nutrition research within the broader Research Grant Program.

This amendment does not take funding from any of the programs under the bill, it simply directs that of the nearly $41,000,000 set aside for the Competitive Research Grant Program, $2 million be earmarked for competitive research grants on human nutrition.

The Cooperative State Research Service, which is USDA's link to our universities' scientists and researchers, has provided grants throughout this country to conduct important research on human nutrition. We have learned much about the nutritional quality of our food supply since this program began, but there is much more we could, and must, learn about the relationship between diet and disease.

Competitive grants on human nutrition support basic research—often on a biochemical or molecular basis—to increase our understanding of the need for various nutrients. The research is directed at defining the nutritional requirements necessary to maximize health and fitness.

This type of research is supported nowhere else in the Federal Government, and to allow its termination would be shameful. As a nation, we are committed to restoring and maintaining our competitive edge in the world economy. We are pushing for more high technology and research development. We are demanding excellence in education. We are tackling our domestic deficit. We are reevaluating our export and trade policies.

But if we truly are to be competitive, we cannot neglect our most important asset: the American people. Human resources and an investment in our people will determine how this country fares as a world leader. Fundamental to this investment is the responsibility to help our citizens lead healthier lives. But all efforts at health promotion and disease prevention will be wasted if we do not first understand our nutritional needs and change our diets accordingly.

I am not advocating large grants to a few institutions. These are small grants to individual researchers throughout the country. For example, the 1986 and 1987 recipients were located in 20 States, and the average award was probably not more than $100,000.

The recipients are selected based upon their proposals, which are evaluated by prominent nutrition scientists from outside the Department of Agriculture. This objective review mechanism assures that only the highest quality research is supported.

The competitive research grants on human nutrition are investments in our future and, I believe, are vital to the health and well being of all Americans. I urge the adoption of this amendment, and I thank the chairman of the Subcommittee on Agriculture Appropriations for his assistance.

Mr. President, I believe this amendment is acceptable to both the majority and minority and I urge my colleagues to support it.

Mr. BURDICK. Mr. President, the purpose of this amendment is to stipulate that $2,000,000 of the $40,842,000 in the bill for competitive research grants be for human nutrition.

Neither the House nor the Senate funds human nutrition competitive research grants. $2,377,000 was provided in 1988 and the President requested $3,000,000. The effect of the amendment will be to move money from competitive research grants from plant science, animal science, biotechnology, and stratospheric ozone.

We can accept the amendment. We had intended to work on this proposition in conference anyway. The amendment does not cost, so we accept the amendment.

Mr. COCHRAN. Mr. President, as I understand the amendment of the Senator from New Mexico, there is no new appropriated money to be added to the bill. This is a suggestion that a certain amount of the $40 million account for competitive grants be used for research in the human nutrition area. There are many other areas of activity and research that are funded in this account. This would be one of many others that would be subject to this kind of research.

We have no objection to the amendment and recommend that it be approved.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New Mexico [Mr. BINGAMAN].

The amendment (No. 2754) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT, PAGE 69, LINES 4-8

Mr. BUMPERS. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. CONRAD). The pending business is the one excepted committee amendment to the bill.

Mr. BUMPERS. Mr. President, perhaps the Senator from Indiana wishes to be heard on this but, at this point, I ask that the excepted committee amendment be agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the excepted committee amendment.

The excepted committee amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the excepted committee amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are moving along quite nicely here. We have taken up two amendments now and dealt with them in a matter of a few minutes. We have only 32 more to go.

We hope we can complete action on these amendments and move to final passage of the bill by noon. I think we can achieve that goal if Senators who do have amendments will come to the floor and offer those amendments.

I see no Senators here who are prepared to offer an amendment now, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, as a member of the Appropriations Committee, I realize the difficulties my colleagues, Senator COCHRAN and Senator BURDICK, have faced to provide appropriate funding for priority projects under the current budget limitations. One such priority, Mr. President, is the Southern Plains Range Research Station in Woodward, OK. This Agriculture Research Service facility is working to improve the efficiency of ranching operations and other cattle management techniques. As you know, this type of research is vital to Oklahoma and surrounding States.

The fiscal year 1989 budget level for the Woodward Station is $724,000. The agriculture appropriations bill passed by the House on June 16, 1988, included an additional $300,000 for the replacement of out-of-date equipment and for improvements to existing facilities. As I have indicated to my colleagues on the Agriculture Subcommittee, these funds are vital to the continued success of the Woodward Station's programs.

Therefore, when the conference committee convenes on H.R. 4784, I would request that the additional $300,000 for the Woodward Station contained in the House version of the bill be given priority consideration. I thank my colleagues for their assistance in this matter.

Mr. BOREN. Mr. President, I too understand the hard choices that are faced by the distinguished members of the Appropriations Committee. However, I must agree with my colleague from Oklahoma, Senator NICKLES, that the Southern Plains Range Research Station in Woodward, OK, should be a high priority for funding. Ranching is a very important industry to Oklahoma and to the Nation; this type of research is vital to our efforts to keep the American beef industry competitive.

The House of Representatives has seen fit to add $300,000 to their agricultural appropriations bill for new equipment and other improvements to the Woodward facility. I hope the conference committee for H.R. 4784 gives this funding their highest consideration. I thank the chair and my colleagues.

Mr. COCHRAN. Mr. President, I thank my colleagues from Oklahoma for their comments on the Southern Plains Range Research Station. I appreciate their interest in obtaining additional funding for this research. We have not been able to accommodate them at this stage of the bill's consideration, but we will keep in mind the strong support of the Senators from Oklahoma for this when we go to conference.

Mr. BURDICK. Mr. President, I also thank the Senators from Oklahoma for their comments. I commend their commitment not only to their State and this project, but also their foresight and courtesy in not pressing for the funding on this bill. The Agriculture Research Service provides much needed information to our farmers and ranchers. I would like to assure the Senators that their proposal will be given every possible consideration in conference.

Mr. CHILES. Mr. President, Senate Budget Committee scoring of the Agriculture appropriations bill as reported by the full Appropriations Committee shows that the bill is under its 302(b) budget authority allocation by $240 million and under its outlay target less than $1 million. I commend the distinguished chairman of the subcommittee, Senator Burdick, and the ranking minority member, Senator Cochran, for his efforts to stay within our 302(b) allocations in crafting this bill. I would like to point out that the bill does exceed the spending cap established for international affairs programs by more than $50 million.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Agriculture appropriations bill, and I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4784—AGRICULTURE—SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) BILL SUMMARY:		
H.R. 4784, Senate reported (new BA and outlays)	34.4	26.0
Enacted to date	.4	3.4
Adjustment to conform mandatory programs to resolutions assumptions	.8	.8
Bill total	35.7	29.8
Subcommittee 302(b) allocation	35.9	29.8
Difference	−.2	−(1)
SUMMIT CAP SUMMARY		
International affairs spending in bill	1.1	1.1
Allocation under international affairs cap	1.0	1.1
Difference	+.1	+.1
Domestic discretionary spending in bill	13.8	8.1
Allocation under domestic cap	14.1	8.2
Difference	−.3	−.1

[1] Less than $50 million.

Source: Prepared by Senate Budget Committee Staff.

Note.—Details may not add to totals due to rounding.

Mr. BYRD. Mr. President, time is wasting and Senators should be taking advantage of the opportunity to call up their amendments.

I ask unanimous consent that if no amendments are called up in the next 5 minutes, the bill go to third reading.

The **PRESIDING OFFICER.** Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

AMENDMENT NO. 2755

(Purpose: To increase the amount of funds made available for grants and contracts for development of drugs for rare diseases and conditions, with an offset)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislation clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum] for himself, Mrs. Kassebaum, and Mr. Hatch, proposes an amendment numbered 2755.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 69, between lines 8 and 9, insert the following:

For purposes of making grants and entering into contracts for the development of drugs for rare diseases and conditions under section 5 of the Orphan Drug Act (21 U.S.C. 360ee), $3,400,000 shall be made available, in addition to any other funds made available under this Act, to be derived by transfer of funds made available by this Act to the Commodity Futures Trading Commission to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Mr. METZENBAUM. Mr. President, I rise with an amendment to increase the funding for orphan drugs. The Federal Government spends billions of dollars every year on thousands of different programs from student loans to star wars. Everyone agrees that we spend far too much on some programs and far too little on others.

No one seems to agree, however, on which programs are worthy and which are worthless.

There is at least one program that enjoys the support of Members on both sides of the aisle.

This amendment which I had sent to the desk in behalf of myself, Senator Hatch and Senator Kassebaum reflects the fact that it has broad-based support on all sides of the philosophical as well as political spectrum. It is support for the orphan drug program.

Mr. President, at this time I ask unanimous consent to insert in the Record an article by James J. Kilpatrick, the respected conservative columnist in which he talks about Congress' unpretentious program for orphaned drugs, an article dated April 26, 1988.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 26, 1988]

CONGRESS' UNPRETENTIOUS PROGRAM FOR ORPHAN DRUGS

(By James J. Kilpatrick)

Long question: What do a couple of liberal Democratic senators, Howard Metzenbaum and Edward Kennedy, have in common with two conservative Republican senators, Orrin Hatch and Nancy Kassebaum? Short answer: not much.

But hold on. This unlikely quartet teamed up the other day to complete reenactment of one of the best federal acts of recent years. This is the Orphan Drug Act of 1983. You may be properly grateful if you've never heard of it.

A moment's digression: In our business, the news business, we write mostly of the bad things in our society—wars abroad, drug abuse at home, the events that Gibbon termed the crimes, follies and misfortunes of mankind. It was ever thus; and as long as bad is more novel than good, it will stay that way. But the unfortunate result is that good things get crowded out of the news. We feed on controversy and we yawn at serenity. Passage of H.R. 3459 on March 31 didn't make even a ripple in the day's news.

The reauthorization bill, sponsored chiefly in the House by Rep. Henry Waxman of California, continues for three years a modest program of federal grants for orphan drug research. It expands the scope of the program to include research on orphan medical foods and devices.

The whole idea is to encourage development of pharmaceutical products that will benefit those who suffer from afflictions most of us have never heard of. Example: postanoxic myoclonus. It is a terrible disease, characterized by uncontrollable jerking and muscle contractions. It is believed that only 2,000 persons in the United States suffer from these fearful spasms. Because of the act, a drug has been developed that promises relief.

The law provides incentives to drug manufacturers that otherwise would have no reason to interest themselves in such products. Amazingly, medical science has identified an estimated 5,000 rare diseases. By definition, these are diseases that hit no more than 200,000 persons. Roughly 8 million Americans, half of them children, suffer from their effects.

If a manufacturer develops a product useful in their treatment, the company may obtain a seven-year exclusive license for its sale. In addition, the law provides tax credits equal to one-half the cost of clinical testing. The law is an excellent example of cooperation between the federal government and the private sector. This is the kind of thing the states could not do; without the incentives, it is the kind of thing that private enterprise could not be expected to do. Companies are not in business to produce profitless products.

When the Orphan Drug Act was passed in 1983, only 34 drugs were on the market for treating these afflictions. Today, 183 orphan drugs have been designated for testing, and another 24 have been approved for marketing.

An estimated 50,000 paraplegics suffer from kidney infections caused by the constant buildup of ammonia in their urine. A related disease, known as absorptive hypercalciuria, leads to painful kidney stones. Under the orphan drug program, a product was developed from sodium cellulose phosphate that may be useful in certain cases.

Some of the benefits will go to victims of AIDS who are vulnerable to a fatal form of pneumonia. As many as 60 percent of AIDS patients die as a result. An orphan drug may prolong their lives. Other new drugs treat leprosy, rare gallstones, spasticity, neuroblastoma and testicular cancer. A drug called Mazindol has been developed for the treatment of Duchenne muscular dystrophy. Yet another drug will treat anemia associated with end-stage renal disease.

As a general proposition, conservatives are wary of partnership with government. Bureaucracy has a way of suffocating innovation. Drug manufacturers historically have chafed at the long delays and the monumental costs associated with approval of a new drug for widespread prescription. The quiet and unpretentious program of orphan drugs has provided a heartening exception to the general rule. This program is working exactly as it was intended to work.

Mr. METZENBAUM. In the United States, we know of more than 5,000 different rare diseases that afflict over 8 million Americans—over half of these attack our children.

While we all are aware of Government sponsored research in the battle against cancer, heart disease, AIDS, Alzheimer's disease and others, we do not hear much about the fight against diseases that strike relatively few people.

That is what the Orphan Drug Program is all about.

It gains its title as an orphan drug because there is no one who wants to provide the parentage for it. The drug companies cannot make enough money in manufacturing, producing or doing the research with respect to the drug, and so it sits out there. The illness is there. The problem is there. People are dying from it. People are suffering from these rare illnesses, and the fact is that there is no one who is there to do the research in order to come up with the answer for some of these drugs.

This amendment will put some of the Nation's most talented minds to work on the maladies that we do not hear about every day. What kind of illnesses are these? Illnesses some have heard of if it happened to strike a member of their family or close friend. But otherwise, many people do not know about them.

They have names like Tourette syndrome, cystinosis, Wilson's disease, Marfan syndrome, leukodystrophy, and thousands more.

Mr. President, I ask unanimous consent at this point that I may insert in the RECORD a list of over 50 organizations that support this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMBER ORGANIZATIONS

Acoustic Neuroma Association; American Narcolepsy Association; American Porphyrial Foundation; Amyotrophic Lateral Sclerosis Association; Association of Brain Tumor Research; Association for Glycogen Storage Disease; Benign Essential Blepharospasm Research Foundation, Inc.; Cornelia de Lange Syndrome Foundation, Inc.; Cystinosis Foundation, Inc.; Dizziness and Balance Disorders Association; Dysautonomia Foundation, Inc.; Dystonia Medical Research Foundation, Inc.; Dystrophic Epidermolysis Bullosa Research Association; Ehlers-Danlos National Foundation; Epilepsy Foundation of America; Families of Spinal Muscular Atrophy; F.I.R.S.T.; Friedreich's Ataxia Group in America; Guillain-Barre Syndrome Support Group International; Hemochromatosis Research Foundation, Inc.; Hereditary Disease Foundation; Huntington's Disease Society of America, Inc.; Immune Deficiency Foundation; International Joseph Diseases Foundation; International Rett Syndrome Association, Inc.; Interstitial Cystitis Association of America, Inc.

Jaw Joints & Allied Musculo-Skeletal Disorders Foundation, Inc.; Lowe's Syndrome Foundation, Inc.; Lupus Foundation of America, Inc.; Malignant Hyperthermia Association of the United States; Meniere's Foundation; Mucopolysaccharidoses Research Funding Center, Inc.; Narcolepsy Network; National Addison's Disease Foundation; National Association for Sickle Cell Disease, Inc.; National Ataxia Foundation; National Congenital Port Wine Stain Foundation; National Foundation for Ectodermal Dysplasias; National Foundation for Peroneal Muscular Atrophy; National Gaucher Foundation; National Hydrocephalus Foundation; National Marfan Foundation; National M.P.S. Society, Inc.; National Multiple Sclerosis Society; National Neurofibromatosis Foundation, Inc.; National Organization for Parents of Williams; National Retinitis Pigmentosa Foundation; National Tay-Sachs & Allied Diseases Association; National Tuberous Sclerosis Association, Inc.; National Vitiligo Foundation, Inc.; Osteogenesis Imperfecta-NCA, Inc.; Paget's Disease Foundation, Inc.; Paralyzed Veterans of America; Parkinson's Disease Foundation, Inc.; Parkinson's Educatonal Program (PEP-USA); Polycystic Kidney Research Foundation; Prader-Willi Syndrome Association; Reflex Sympathetic Distrophy Syndrome Association; Sarcoidosis Family Aid & Research Foundation; Scleroderma Info Exchange; Scleroderma Foundation, Inc.; Sjogren's Syndrome Foundation, Inc.; Tourette Syndrome Association, Inc.; United Leukodystrophy Foundation, Inc.; United Parkinson Foundation; Williams Syndrome Association; Wilson's Disease Association.

Mr. METZENBAUM. Let me just mention a few of them: The National Tuberous Sclerosis Association, Inc.; the National Vitiligo Foundation, Inc.; the Hereditary Disease Foundation; the Huntington's Disease Society of America, Inc.; the International Rett Syndrome Association, Inc.; Lowe's Syndrome Association, Inc.; Lupus Foundation of America, Inc. I mention some of those only to indicate that most people have never heard of these illnesses, but let one of those illnesses affect a loved one in your family, and you will say, "Spend whatever you need in order to find the answer, to do the research." And I think this amendment actually does not go far enough. There was $12 million authorized for orphan drug research. This amendment with the amount in the bill, which is $4.6 million, would only get us up to two-thirds of the amount authorized, $8 million. I must confess publicly that I am not certain that I am doing the right thing in not asking for the entire amount that has been authorized.

Americans who suffer from rare diseases also suffer from a harsh economic reality.

No pharmaceutical company will make an investment to research and develop a cure for a rare disease when they cannot recover that investment. And I am not here faulting the pharmaceutical companies. They are business organizations, and it is understandable that they are not prepared to spend shareholders' money for the purpose of developing an answer for some rare disease when they know they have to lose money on it because there are not that many people that might be potential purchasers of the drug, drugs that treat rare diseases do not turn a profit. And therefore they do not get developed.

In 1983 we began to change all of that, Congress passed the Orphan Drug Act. The law is twofold. First, it gives drug companies a tax credit to offset costs of research and development. Second, it sets up a special grant program to fund rare disease research.

The grant program was authorized at a modest $4 million a year.

Yet even that small amount was never fully appropriated.

Since 1984, I have offered amendments in an attempt to bring the grant program up to its full authorization.

We have money for everything under the Sun but for those who have maladies, and do not have powerful lobbyists here to speak up for them, we never have the dollars available.

We made some changes in the orphan drug law this year, and the grant program has been authorized at $12 million for fiscal year 1989.

In this bill, the program is funded at $4.6 million.

Our amendment will add $3.4 million to that total—still far short of the amount authorized. This relatively minor increase, Mr. President, would still bring it up only to two-thirds of the total amount that has been authorized, and could make a major difference; maybe even the difference between life and death.

This year the FDA, the Food and Drug Administration, Orphan Products Board, received 77 excellent grant applications. But they only have enough money to fund 15, about 20 percent of the total number of applications which have been made. Our $3.4 million amendment will fund 35 more programs next year. Researchers are anxious to begin work on these terrible disorders but they must have our help, and the 8 million Americans who are suffering from rare diseases today also need our help.

I urge my colleagues to provide it by adopting the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BURDICK. Mr. President, the purpose of this amendment is to add $3.4 million to FDA for the purpose of increasing orphan products, grants and contracts. Bear in mind we have provided FDA with the request for its activities which include $6,800,000 for orphan product development activities. Of this amount, $4,700,000 is for grants and contracts. We have provided in this bill more than we provided in the 1988 budget. So I think we have not been unaware of the need for this appropriation.

Mr. President, I do not have an argument with the Senator from Ohio wanting to increase funding for the orphan products for the FDA but we do have a problem with the Senator's amendment, not because it increases the amount of money for the Food and Drug Administration, but because it takes away from the Commodity Futures Trading Commission.

I think we all are aware of the rapid growth of the commodities trading in this country which remains open to increased charges for fraud and boilerroom activities. And I think that we have treated the orphan drug matter as well and better than last year, and therefore reluctantly I must oppose the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. COCHRAN. Mr. President, this is a troubling amendment. It adds money for a very popular program and a very worthwhile program. We are confronted with a dilemma because we are at the limit of the allocation for our appropriations subcommittees. If any new money is added to any account there has to be a corresponding subtraction or a diminution in the amount allocated to some other program. The Senator from Ohio makes a very strong and compelling argument for the merits of adding money to the Orphan Drug Program. But what about the need for funds in the other account that he is lowering by this same amendment?

We can remember last year when we were confronted with a serious drop in the value of markets: the Securities and Exchange Commission, the Commodity Futures Trading Commission, and other agencies of our Government got together to try to determine what could be done, what needed to be done, to help protect investors, those who depend upon the stability of markets, from any kind of precipitate decline in values or abuse of those markets by speculators.

A great deal of money in this account for the Commodity Futures Trading Commission carries out mandates of Congress to help protect this important sector of our economy.

I think it would be unfortunate if we were called upon today in the Senate to approve a cut in funding for that agency, and that is one thing the Senator from Ohio seeks to do with this amendment. That is bad, and I hope the Senate will reject it.

I am in favor of adding as much money as we can to the orphan drug research program. I think we should fund it to the maximum extent possible.

There is in this bill an increase in funding for the FDA's activities this year. The AIDS research program is one that is demanding additional attention. The FDA is constantly under pressure to speed up its review process over drug applications for licensing the sale of drugs in this country. They have been criticized for being too slow.

A lot of money in their account is devoted to trying to improve the efficiency of the review process, while still safeguarding the health and wellbeing of those who buy these drugs under the assumption that they are safe, have been carefully reviewed, and will do what the manufacturers say they will do.

I am suggesting to the Senator from Ohio, therefore, that he consider modifying his amendment. Let us suggest to the FDA that they spend additional money from their account for grants in this orphan drug research program, but let us not say in the same amendment that we take it away from any other agency. Let us let the Food and Drug Administration establish these priorities. They are the experts in this area; we are not.

If we, on the floor of the Senate, start picking and choosing among various activities of the FDA and say that the health and wellbeing of American citizens are better served by $2 million more in one aspect of their operation than another, we are making a big mistake. We are holding ourselves out as greater experts in this area than the Food and Drug Administration, and I do not think there is a basis for that argument.

So I hope that the amendment will be modified to direct the Food and Drug Administration to spend the additional amount for this program, but to allow the Food and Drug Administration to decide, from its appropriated funds, where to secure the funds.

Mr. HATCH. Mr. President, I do not intend to take much time on this. Perhaps I should yield to the distinguished Senator from Ohio to comment about the suggestion by the distinguished Senator from Mississippi.

Mr. METZENBAUM. I will just respond, Mr. President, to my colleague from Mississippi, that that would not be a satisfactory solution.

In this legislation, the Commodity Futures Trading Corporation is getting an increase—a modest one, I will admit—in the $25 million or so that they are presently getting. There would be another million dollars added.

Here is a program authorized by the committee at $12 million. We are not asking to go to the entire $12 million, but only two-thirds of that amount, which is $8 million.

Frankly, I have difficulty in comprehending how we can stand here and argue against full funding. We ought to be going to $12 million for orphan drug research. They are making headway where the research dollars are spent. I think it is the right thing to do.

I yield to the Senator from Utah.

Mr. HATCH. Mr. President, I appreciate the managers of this bill and the effective way they are managing this piece of legislation, but I rise in total support of the position of the distinguished Senator from Ohio.

As one of the principal architects of the orphan drug bill, the original orphan drug bill and every one we have had since, I have to say that there have been very few pieces of legislation that have been as cost conscious as that which have had that much success.

Literally, we are approaching 200 orphan drugs that, prior to this bill, never had a chance of even being considered—just dreamed about by those people in those small groups of afflicted who need help. It has been one of the finest pieces of legislation in the history of this country.

This limited amount of money that the distinguished Senator from Ohio is requesting be transferred from the CFTC, I think, can be handled and can be done. I think the benefits would be so monumental from that amount of money that I hope the two managers of the bill will accept it.

In all my time here, I do not know of any piece of legislation that has worked as well, unless it was the Job Training Partnership Act, which also came out of our committee. Both have had astounding success and helped those who need help and cannot help themselves; and both of them, it seems to me, constitute the type of legislation that all legislators can be very proud of.

I encourage the managers to accept this, and if they do not, I encourage our colleagues to vote for it; because I think it is a small transfer that has monumental implications and tremendous benefits to the people in this society who cannot help themselves and need the blessings that will come from this type of research.

Mr. BURDICK. Mr. President, I think the record should show, before we conclude this debate, that in this budget FDA has an increase of $56 million.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM. Mr. President, do I correctly understand the managers of the bill to indicate that the FDA has a total allocation of 500-some-odd-million dollars, which includes a $56 million increase, and that the managers of the bill are suggesting that we specifically direct the FDA to provide, out of their funds, $8 million in research grants? Is that what is being suggested? I am not indicating that that is acceptable.

Mr. HATCH. Mr. President, I want to again compliment the managers of this bill. They have done what really is monumental legislation with regard to the FDA revitalization, but that is where the extra money basically goes.

We are trying to revitalize the FDA, coordinate it, get it out of the 23 separate buildings in this town, get it to the state of the art, and the two managers of this bill have been singularly joint leaders in this process, and I compliment them.

However, what the distinguished Senator from Ohio is asking for is little enough. It would benefit the people of this country tremendously, and I hope the managers will consider this. I feel strongly about it. Yet, I have to say that I am tremendously pleased with what the managers of the bill and the other members of the committee have done to revitalize the FDA, which is an important research and regulatory agency in this country today.

Mr. COCHRAN. Mr. President, before responding to the inquiry of the Senator from Ohio, let me first thank the distinguished Senator from Utah for his kind comments about the efforts of this committee to appropriate additional funds for the Food and Drug Administration.

This year we have appropriated in this bill $534 million for the activities of the Food and Drug Administration for the next fiscal year.

Compare that with last year's appropriation of $477.5 million.

We have included in this legislation additional funds of about $56 million for use by the Food and Drug Administration for this next year.

I am hoping that the Senator from Ohio will agree to modify his amendment to provide that the additional funds he is seeking for this grant program, this orphan drug research program, be spent from within the funds available to the Food and Drug Administration.

We could take that suggestion to conference. The House has added funds for the same research program. Their figure, I think, is $7 million for this program. We can try to work out an acceptable agreement with the House conferees on the amount for the grant program in conference, and we would be armed with the compelling arguments that the Senator from Ohio has made. The distinguished Senator is a former chairman of the Labor and Human Resources Committee and has worked very closely with legislation authorizing the Food and Drug Administration's programs and conducting oversight of their activities.

I think that is the best solution to the problem we face this morning, and I hope Senators can agree to that.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my friend and colleague from Mississippi in his remarks.

Let me just point out that the FDA budget is $481 million appropriated for this next year. That is 2 percent less than the administration requested.

In addition, I again compliment my colleagues on this committee for the work that they have done to revitalize FDA in this bill which has added additional funds, but the real basic needs for FDA are so monumental and so important to our society that to cut the FDA funds, to take any moneys from that $481 million would be very detrimental, it seems to me, to the overall functioning of FDA.

If I had my way and was not a fiscal conservative, I would like to add a lot more money to the FDA total budget. But we have to live within our means and we have to prioritize.

Let me just say this to you: This provision to strengthen the Orphan Drug Act basically benefits so many people because not only will it go toward safe and effective orphan drugs but also medical devices, and that is a very, very important step forward, and this amount of money really is needed to accomplish this end.

There is enough money, it seems to us, in the CFTC to transfer these funds for the purpose of augmenting and helping in the progress of the orphan drug bill.

So, I would have to be against taking further funds from the FDA and appropriating them for the orphan drug bill because I think the FDA has been cut back anyway below even what this administration, which is a fiscally responsible administration, had requested and suggested.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, this amendment continues to trouble the managers of the bill. We have tried to discuss options available to the Senate this morning in taking funds from other accounts or in reducing the amount that would come from the Commodity Futures Trading Commission account to try to help fund some additional research grant activity in the Food and Drug Administration.

We all agree that we would like to put more money in that function. That is not the issue. The issue is where the money comes from to provide additional funds.

We are at a point now where the managers are suggesting that the additional funds come from within the Food and Drug Administration's overall activities. For activities of the FDA for next year, $534 million is appropriated by this bill. Last year they had $477 million. This is an additional $57 million.

So I intend to send an amendment to the desk—it is being drafted now—to modify the amendment of the Senator from Ohio to say that the additional grant activity will be funded from within available funds rather than taking money from the Commodity Futures Trading Commission to provide the additional funds for the grant program.

That will be the amendment that will be before the Senate, and I hope the Senate will agree to this second-degree amendment and we can resolve the issue in that way.

I understand that there are other suggestions. We have looked at other options, but we are recommending the method contained in my amendment. We are prepared to recommend that to the Senate, and we hope the Senate will agree to it.

Mr. BURDICK. Mr. President, if there is no one who wishes to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am happy to announce to the Senate that in the last few minutes, while the amendment I described was being drafted and prepared for sending to the desk, we were able to develop a proposal that we are willing to recommend to the Senate now.

The amendment of the Senator from Ohio originally called for $3.4 million of additional funds for this grant program at FDA. We are now prepared to recommend to the Senate that we provide an additional $3 million for the grant program, that $2 million be spent from within available funds to the Food and Drug Administration from this bill, and that an additional $1 million be provided from the account of the Commodity Futures Trading Commission.

If I could ask unanimous consent or if the Senator from Ohio could ask that his amendment be so modified, I do not think there would be an objection to it.

Mr. METZENBAUM. Mr. President, my understanding under the rules is that the Senator from Ohio has a right to modify his amendment. Under those circumstances, I send a modification to the desk.

The PRESIDING OFFICER. It will require unanimous consent.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may be permitted to offer a modification to my original amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I send a modification to my original amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum] proposes his amendment numbered 2755, as modified.

Mr. METZENBAUM. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 69, between lines 8 and 9, insert the following:

For purposes of making grants and entering into contracts for the development of drugs for rare diseases and conditions under section 5 of the Orphan Drug Act (21 U.S.C. 360ee), $3,000,000 shall be made available, in addition to any other funds made available under this Act, to be derived by transfer of $1,000,000 of funds made available by this Act to the Commodity Futures Trading Commission to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), and $2,000,000 made available by this Act to the Food and Drug Administration.

Mr. METZENBAUM. Mr. President, I believe we are ready to act in connection with this amendment. I think we worked out an amicable solution to it, with $1 million coming from the Commodity Futures Trading Corporation and $2 million coming from the already allocated funds of the Food and Drug Administration.

Mr. HATCH. Mr. President, I think this is a good compromise, but I am very concerned about $2 million coming out of the FDA. But we do have an agreement, as I understand it, for all concerned to work hard to see if we can find that money elsewhere in the appropriations process or in this particular bill. I just hope that we can, because I think that it will cut into the revitalization program or at least will cut into other essential programs that FDA has.

I think FDA is underfunded as it is, but the orphan drug bill is so important that I have to concede to go along with my colleague from Ohio.

I wish to thank the managers of the bill.

Mr. COCHRAN. Mr. President, I thank the distinguished Senators from Ohio and Utah for working with the managers of the bill in the way they have. We will have this under discussion in conference with the House. We will have some opportunities to further refine this portion of the bill. We will consult with these distinguished Senators as we proceed in conference with the House to try to ensure that the Senate's position is reflected by the conference report.

We recommend that the amendment, as modified, be accepted by the Senate.

Mr. BURDICK. We agree on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2755), as modified, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, let me publicly express my appreciation to the managers of the bill, Senator Burdick and Senator Cochran, and also for the wholehearted support and efforts in bringing about the solution to Senator Hatch. I also wish to thank the Senator from Kansas, Senator Kassebaum, who supported the amendment.

AMENDMENT NO. 2756

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. Hatch], for himself, Mr. Kennedy, Mr. Inouye, and Mr. Cranston, proposes an amendment numbered 2756.

At the end of the bill insert the following:

It is the Sense of the Senate that of the amounts made available to the Office of the Assistant Secretary for Health by the matter under the title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989, $5,500,000 shall be made available to the Food and Drug Administration for increased inspection of our nation's blood banks.

Mr. HATCH. Mr. President, adequate inspection of the blood supply has always been a critical function of the Food and Drug Administration. Today, with the advent of the AIDS epidemic, that responsibility is more critical than ever before.

But FDA, as I have been pointing out here in this prior debate, it does need resources to match its duties to safeguard the supply of blood to the Nation's hospitals, emergency rooms, and patients. This amendment addresses, it seems to me, the critical need in a very good way.

It is only a sense-of-the Senate resolution but it gives authority to the Secretary of HHS to provide the needed $5.5 million to the FDA to carry out this vital duty.

But that is, I think, a pretty important sense-of-the-Senate resolution. I would hope the managers of this bill will take this sense-of-the-Senate amendment because I think this is an absolutely crucial amendment at this particular time and it is absolutely crucial that we get that $5.5 million to the FDA, and I think as soon as we possibly can.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. We are ready to accept the amendment on this side.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. The Senator from Utah makes a point that needs to be made, and it is that additional efforts should be made by the Food and Drug Administration and other agencies of the Federal Government to assure a safe and healthy supply of blood. This is a problem that needs attention and this amendment will help direct additional attention to this problem.

We recommend the amendment be agreed to.

Mr. HATCH. I thank the managers of the bill. This happens to be a Kennedy-Hatch-Inouye-Cranston amendment and I want to thank Senator Kennedy for his leadership in this matter and the other Senators, Inouye and Cranston, as well. I want to thank the managers of the bill for their kindness in considering this very, very crucial amendment.

I urge the approval of the amendment.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2756) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2757

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2757.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

Notwithstanding any other provisions of law, the Secretary of Agriculture is directed to convey by quitclaim deed and without consideration to the University of Alaska all the right, title, and interest of the United States in and to

(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres, including improvements thereon, located at Palmer and Matanuska, Alaska, all of which have been utilized for university purposes since October 3, 1967, and

(2) the lands of the University of Alaska Fur Farm Experiment Station consisting of approximately 37 acres, including improvements thereon, located at Petersburg, Alaska, all of which have been utilized for university purposes since May 17, 1938.

Mr. STEVENS. Mr. President, this amendment has already been discussed with the managers on both sides of the aisle and I understand that it is acceptable. The amendment is a simple one. It deals with restrictions that exist on land in Alaska that is being used by the University of Alaska.

The Alaska Agricultural Experiment Station was conveyed to the University of Alaska by the Secretary of Agriculture in 1966 pursuant to Public Law 89-620 (80 Stat. 871). Both the authorizing statute and the quitclaim deed required the university to use the land for "public purposes."

At the time the land was conveyed over 20 years ago, it was located in a rural setting which was ideal for agricultural research. Since that time the city of Palmer has grown up around the parcel and the land now lies in the flight path of the Palmer Airport.

The land can no longer be used for agricultural research because of its urban location, so the university has relocated its research station to a 1,000-acre parcel in a more remote location about 10 miles away.

The university would like to sell the original 15-acre tract and use the proceeds to fund agricultural research projects on the new site, however, it cannot sell the land given the current "public purposes" deed restriction.

The amendment would require the Secretary of Agriculture to issue a new quitclaim deed to the university which would not contain the public purposes restriction. The proposal has no budget impact. The university already owns the land, so the amendment would not affect land assets currently held by the United States either.

The same provision would apply to land that the university previously used as a fur farm experiment station.

The Alaska Fur Farm Experiment Station was conveyed to the University of Alaska by Congress in 1938 pursuant to Public Law 75-524. The authorizing statute indicated that the land was "for use as the site of a fur farm experiment station."

The university no longer operates a fur farm on the site. The Department of Agriculture currently leases the land for $1 per year for use as a nursery. Technically, the lease is a violation of the statute which required the land to be used as a fur farm.

The amendment would require the Secretary of Agriculture to issue a new quitclaim deed to the university which would not restrict use of the land. This would make the Department of Agriculture's lease "legal" and would give the university more flexibility in its use of the land.

I ask that this amendment be adopted in order to remove these restrictions. They served their purpose for many years but are now outdated as far as the operation of our university.

The PRESIDING OFFICER. Is there further discussion on the amendment? The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as I understand it, this amendment removes some restrictions on certain lands in Alaska conveyed by the Secretary of Agriculture for an agricultural experimental station and a fur farm. We have reviewed the amendment, which would require the Secretary of Agriculture to issue a new deed. We find no objection to the amendment and recommend that the Senate approve it.

Mr. BYRD. Mr. President, we have gone over the amendment on this side and we have no objection to it.

The PRESIDING OFFICER (Mr. SHELBY). The question is on agreeing to the amendment.

The amendment (No. 2757) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2758

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2758.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

GENERAL PROVISIONS.

SEC. . When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or progarms funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

Mr. STEVENS. Mr. President, this was discussed generally with the managers of the bill. It is identical to amendments I have been offering to each appropriation bill. It is my feeling that the taxpayers of the United States ought to be informed when Federal money is used on programs or projects by the individual States or cities or private parties and that the amount of the Federal money involved in projects or programs ought to be fully disclosed.

I think that helps carry out the intent of Congress in terms of demonstrating Federal awareness and interest in these projects but it also will reduce the demands on us for Federal funding for some programs if people realize there are already Federal funds in these projects that are going on in the private sector in individual States and cities.

This amendment has been adopted so far in three other appropriation bills this year.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. I would like to ask the Senator from Alaska if he contacted the Agriculture Department on this?

Mr. STEVENS. No; I have not. I have not. In the past it was the policy of the Department of Agriculture but it does not appear to be the Department's policy now. We have similar proposals, as I said, that have been adopted in HHS, Commerce, Labor, and Interior.

Mr. COCHRAN. If the Senator would yield, I can say that we had contacted the Department of Agriculture and asked for their reaction to this amendment. They have no objection to it.

Mr. BURDICK. Do you know of any Department objection?

Mr. STEVENS. I have had no Department objection to it. As a matter of fact, it does not put any burden on the Federal Government. It does put a burden on the grantees that use Federal funds in programs or projects in the private sector, in the State or local sectors. It does not decrease any funds and it really is not a serious burden.

If the Senator will remember, in the old days we would drive down the highway and we would see signs: "Your Tax Dollars at Work." And it would say how much is State and how much is Federal money. That does not happen anymore and I find in our State we very often get inquiries from people who say: Why do you not get some Federal moneys for this or that? And we look into it and it is Federal money.

I think we ought to have this disclosure of the use of taxpayers' dollars so people will know, generally, what their dollars are being used for.

Mr. BURDICK. We have no objection on this side to the Senator's amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this would require the disclosure and notification of the extent of Federal participation in grants, programs and projects. We think it is a good amendment and recommend the Senate agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2758) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the two managers of the bill for their courtesy and I thank the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are making good progress in handling of amendments to this bill. It is now 10 minutes after 11. We still think we can meet a target of finishing this bill around noon. We hope we can.

There are some Senators who indicated that they wanted to call up amendments and we would urge them to do so. We had understood that at about 11 o'clock this morning we would be able to take up an amendment involving the Farm Credit Administration Act that was going to be offered by both Senators from Arkansas, Mr. Bumpers and Mr. Pryor.

We had understood there would be a 30-minute time agreement, equally divided on that amendment. We could take that amendment up or we could go to another amendment.

While we are awaiting the arrival of Senators with amendments, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD. Mr. President, we are wasting a lot of time waiting on Senators to come over to call up their amendments. Committees are meeting and so on. It just seems to me like the tail is wagging the dog. They are off to committee meetings, and Senators are waiting and marking time.

So I am going to suggest the absence of a quorum and ask that it be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 24]

Burdick
Byrd
Karnes
Pryor
Shelby
Stennis

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from Texas [Mr. Bentsen], the Senator from New Jersey [Mr. Bradley], the Senator from Tennessee [Mr. Gore], the Senator from Hawaii [Mr. Inouye], the Senator from Massachusetts [Mr. Kerry], the Senator from Michigan [Mr. Levin], the Senator from Nevada [Mr. Reid], and the Senator for Michigan [Mr. Riegle], are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. Chafee] and the Senator from Arizona [Mr. McCain], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 20, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—68

Baucus
Bingaman
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Johnston
Karnes
Kassebaum
Kennedy
Lautenberg
Leahy
Lugar
Matsunaga
McClure
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Wirth

NAYS—20

Armstrong
Bond
D'Amato
Evans
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
Kasten
McConnell
Murkowski
Nickles
Quayle
Specter
Symms
Wallop
Weicker
Wilson

NOT VOTING—12

Adams
Bentsen
Biden
Bradley
Chafee
Gore
Inouye
Kerry
Levin
McCain
Reid
Riegle

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, if I could have the attention of Senators, I think it would be reasonable to believe that the Senate could have finished work on this bill today by 2 o'clock and we could all leave the Chamber. But we cannot get Senators over to call up their amendments. So there will be objections to committees meeting the rest of the afternoon.

There is no point in having committee meetings when we cannot get Senators over here to the parent body. That is the tail wagging the dog. So there will not be any more committees meeting.

If Senators could call up their amendments, we could finish action on this bill fairly soon this afternoon.

I thank all Senators.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2759

(Purpose: To increase the amount made available for the Special Supplemental Food Program for women, infants, and children [WIC], with an offset)

Mr. DeCONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arizona (Mr. DeConcini), for himself, Mr. Chafee, Mr. Bradley, Mr. Bumpers, Mr. Cohen, Mr. Conrad, Mr. Danforth, Mr. Daschle, Mr. McCain, Mr. Dodd, Mr. Heinz, Mr. Hollings, Mr. Johnston, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Matsunaga, Mr. Moy-

NIHAN, Mr. RIEGLE, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. STAFFORD, Mr. WEICKER, and Mr. D'AMATO, proposes an amendment numbered 2759.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) There is appropriated $30,825,000 for necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), to remain available through September 30, 1990.

(b) Notwithstanding any other provision of this Act, in addition to the reduction required under section 643, each appropriation item made available under this Act shall be reduced by 0.7 percent of the original item, rounded to the nearest thousands of dollars, except for programs scored as mandatory during fiscal year 1989 and amounts made available for Public Law 480, the Farmers' Home Administration, the Rural Electrification Administration, the conservation reserve program, the commodity supplemental food program, and the supplemental food program for women, infants, and children.

(c) Section 643 shall not apply to the amount made available by subsection (a).

Mr. DECONCINI. Mr. President, on behalf of 26 of my colleagues here and in particular the original cosponsor, the Senator from Rhode Island, Senator CHAFEE, I am offering today an amendment to restore a measure of what we consider sanity and compassion back into the agriculture appropriation bill for fiscal year 1989. This amendment simply requests that Congress not breach its promise to protect America's most vital resources, its children.

Mr. President, this amendment is simply one of priorities. It asks that the Senate keep its word to the over 4 million unserved yet eligible women, infants, and children who make up the most vulnerable and needy in America today, those truly America's poor.

I am quite frankly sick about the reduction in the WIC Program this year. It is not my intention to criticize or discount the efforts of any of my colleagues on the Appropriations Committee.

The budget summit constraints upon each of the subcommittee chairmen necessitated severe cuts in many programs. For the most part, I commend each committee chairperson for meeting his challenge head on and delivering bills that conform with the subcommittee's allocation.

Senator BURDICK is certainly no exception to this. He has been a strong supporter of the WIC Program over the years and he has had a difficult bill to manage.

Also the Senator from Mississippi, Senator COCHRAN, has been a strong supporter.

However, there is a real problem here that we have to bring to the floor and we have to resolve. A health drought is consuming the children in our Nation today and the strength of the future of this great Nation. It is a problem that must be addressed and we must do something about it, and that is what this amendment is all about.

Therefore, I am compelled, notwithstanding my greatest respect for the chairman and the ranking member and my compliments to them for putting together a fine bill, to raise this issue again and to let the Senate, hopefully, work its will and, hopefully, pass this modest amendment.

I firmly believe that if we fail today to substantially increase appropriations for WIC, we will have breached the spirit, if not the letter, of our commitment to maintain a social safety net for the poor and disadvantaged.

In practical terms, we as a nation will be spending as much as three times more for medical costs down the line if we do not spend a little over a dollar each day to assure proper nutrition for poor and high-risk pregnant women and their infants.

These costs will not occur at some unknown point in the future. These are real costs that will, not might occur within this year.

A study conducted by the Missouri Department of Health found that for every dollar spent on the prenatal component of WIC, about 49 cents in Medicaid costs were saved during the first 45 days after birth. In addition, a Harvard Public Health School study found that every WIC dollar spent on the prenatal component saves another $3 in hospitalization costs.

Quite frankly, WIC is an investment we really cannot afford not to make. Without additional WIC appropriations, Federal Medicaid appropriations will be much higher than they would be with this appropriation and more States and local governments will have to raise additional revenues to offset budget-busting indigent medical care costs that will occur this year and beyond if we fail to adopt this amendment.

I have heard some say the WIC doesn't deserve a substantial increase this year because it received a large increase last year.

However, those who espouse that opinion are in the minority.

Nearly 60 Senators joined me in sending a letter to the subcommittee chairman supporting an increase of as much as $150 million over current services for WIC, the amount included in the final budget resolution. Sixty Members believe there should be an increase for WIC, and they believe it should be as much or more than the $100 million over current services which was added in last year's Agriculture appropriations bill

In addition, I think it should be noted here that substantial growth in WIC since 1979 was indispensible to just get to the point where we are today. According to the U.S. Department of Agriculture, only 26.8 percent of those pregnant women, infants, and children who were eligible for WIC were served in 1979. Ten years later, WIC still serves less than half of those eligible, and the number of eligible continues to grow faster than WIC appropriations. According to the Center for Budget Policies and Priorities, the number of poor children age 5 or under who live in poverty has grown by 1.4 million since 1979.

In addition, we would note that the current services level to which we are referring was developed by the Congressional Budget Office [CBO] last winter and was based on CBO's forecasts at that time. The current services estimate does not reflect the effects of the drought, which will raise food prices for WIC food items such as cereal—and thereby significantly increase the cost of providing WIC for each participant above that estimated by CBO last winter. If WIC food costs simply rise by 1 percentage point more than CBO had forecast—which is likely—the entire $14 million increment above current services will disappear—and the WIC funding level for fiscal year 1989 will actually be below, not above, current services levels.

Mr. President, I ask unanimous consent that the letter to Senator BURDICK, dated June 7, 1988, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 7, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, Senate Dirksen Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As the Agriculture Subcommittee prepares to consider the appropriations for FY 1989, we urge the Subcommittee to appropriate $2.024 billion for the WIC program (the Special Supplemental Food Program for Women, Infants and Children). This is the amount ($150 million over the CBO current services level for FY 1989) assumed in the conference agreement on the FY 1989 Budget Resolution for the WIC program.

This increase is assumed in the budget to enable WIC to reach more low-income pregnant women, infants and children who are certified as "at nutritional risk". This highly effective program still reaches less than half of those eligible due to funding restrictions.

While we recognize the need to reduce the federal deficit, there is a growing consensus on the need to invest in preventive, cost-effective and highly successful programs like

WIC. Last fall, the Committee for Economic Development, a distinguished organization representing over 200 of the nation's leading corporate executives and educators, issued a report calling for increased investments in early childhood intervention programs for poor children, including the WIC program. The report, Children in Need: Investment Strategies for the Educationally Disadvantaged, notes that WIC produces a "reduction in infant mortality and low birthweight infants." The report calls on the nation to accord "the highest priority to early and sustained intervention in the lives of disadvantaged children."

The preventive and cost-effective nature of the WIC program has been demonstrated clearly in a number of evaluations. WIC has a marked success rate in reducing infant mortality, low weight births and premature births, and improves the cognitive and physical development of young children. In addition, every dollar spent on the prenatal component of WIC averts Medicaid and hospitalization costs.

As you are aware, the House Appropriations Committee recently approved its version of the FY 1989 Agriculture Appropriations bill, which includes an increase of just $53 million over current services for WIC—about one-third of the increase envisioned in the budget resolution. We understand that the House Subcommittee had a very tight preliminary 302(b) allocation, limiting funds available for increases in WIC. Moreover, the House Appropriations Committee apparently must reduce the 302(b) allocations by a total of approximately $2.0 billion in budget authority to comply with the budget conference agreement.

The Senate Agriculture Subcommittee's allocation, on the other hand, appears to be significantly higher than the original House Subcommittee allocation—in the range of $700 million to $1 billion higher in both budget authority and outlays. We are hopeful that this larger allocation will allow the Senate Agriculture Subcommittee to provide the most or all of the full $150 million increase over current services assumed in the budget agreement.

Last year, a number of us wrote to you expressing strong bipartisan support for increased funding for the WIC program. We commend you for your responsiveness to our concerns and your continuing strong support for the program.

Despite the progress that has been made in WIC in recent years, however, the unmet need for WIC nutrition benefits remains so large that we believe the further expansion envisioned in the bipartisan budget resolution is both appropriate and necessary. As strong supporters of the WIC program, we hope that the Subcommittee will provide the full amount assumed in the conference agreement in the budget resolution. We believe that investing in the WIC program is one of the most effective and useful ways to utilize scarce federal resources.

Sincerely,

SENATOR DENNIS DECONCINI
(With 58 Senators' Signatures).

Mr. DECONCINI. Mr. President, in 2 days 59 Senators signed this letter, and two others, Senator MATSUNAGA and Senator CONRAD, indicated they would have signed the letter after it had been sent. That effort in itself underscores the vast support for this program and its continued growth. This increase is not just for the sake of an increase. This program is the model, not a model, for what the Federal Government can achieve in long-term savings when it invests money in cost-effective, targeted and preventive programs for its children.

The success of this program speaks better than the Senators, including this Senator, who signed this letter. When the esteemed Senator from Minnesota, Senator Hubert Humphrey, introduced the first WIC bill, he knew that it was among the wisest investments a nation could make in its people. Shortly before his death, our colleague, friend, and mentor summarized the philosophy behind the program; he said:

> Improving the nutrition of pregnant women and children is the surest and most direct way to protect the future of these individuals as well as that of the nation.

Today, the seed which Senator Hubert Humphrey sowed has borne the fruit of which this great American so eloquently spoke. Study after study has indicated that WIC makes a significant contribution to the health of pregnant women and young children and that the program is cost-effective. Now, it is not this Senator's intention to consume the next few hours reiterating the results of each of the studies completed to date. I will instead only cite the findings of one more of the leading researchers in the area of pediatrics. Dr. David Rush, of the Albert Einstein Medical School, is one of the Nation's leading researchers in pediatrics. Dr. Rush conducted an extensive medical evaluation of WIC. This study, conducted over a number of years, represents one of the most comprehensive evaluations ever conducted of a Federal social program. This study found that WIC reduces fetal deaths, reduces prematurity, increases head circumference—which reflects brain growth—in infants born to WIC mothers, improves children's cognitive abilities, increases the number of pregnant women seeking prenatal care early in their pregnancies, and improves diets of participants. More importantly, these results also showed those at greatest risk, minority women and women with less education, and children who are very poor, short, black, or in female-headed families, derived the greatest benefit from WIC.

I must say there are many, many reports along this line that I could submit for the RECORD to indicate how the infant mortality rate goes up, the infant problems after birth are exaggerated, and there is even brain damage which results from the lack of good nutrition.

Mr. President, I ask unanimous consent that an editorial from the New York Times dated June 24 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 24, 1988]

WHEN CONGRESS TAKES CARE OF KIDS

Unmet needs of America's poor children grow more manifest each year, yet it is unrealistic to expect big funding increases for child welfare in an era of huge budget deficits. But Washington dares not overlook the need for steady if small increases. Even modest new investments offer long-term payoffs of increased productivity and reduced crime and dependence.

Congress applies that lesson unevenly in the 1989 Federal budget. The Senate and House Appropriations subcommittees have voted modest increases in the block grant for prenatal services to low-income women. And Head Start, the preschool program that helps guarantee later school success, would receive an additional $44 million.

Even now, Head Start serves barely 20 percent of eligible children, and the increase isn't enough to cover inflation. The Senate did have the good sense, however, to add $20 million for a new initiative: establishing up to two dozen comprehensive child development centers. They would provide intensive health and other services to children in poor families from birth to kindergarten. Such concern for young children, however, has not loosened purse strings sufficiently for WIC, the program of aid for women, infants and children. WIC offers supplemental food to those vulnerable to malnutrition, helping to reduce infant mortality and increase birth weight. Though WIC's success is well demonstrated, four million eligible remain unserved.

Earlier this month, 59 senators urged that an additional $150 million over inflation be provided to fund WIC next year. But the House of Representatives finally allocated only about $33 million more than inflation. The Senate Appropriations Committee approved only $15 million more than inflation, barely enough to add 30,000 more women and babies to WIC's rolls.

As this program moves to a full Senate vote, a few senators will offer an amendment to increase WIC funding by up to $60 million. Senators who have voted prudent increases in other early-childhood programs ought to see the wisdom of similar help for WIC.

Mr. DECONCINI. Mr. President, the essence of this editorial is that Congress takes care of kids, it takes some "prudent" action toward children. This is not just an emotional pitch, although it is hard to get away from that when you are talking about feeding poor children and pregnant women.

The editorial, I believe, correctly articulates that "Washington dares not overlook the need for steady if small increases" in this particular program. The editorial specifically refers to Federal appropriations for Head Start and for WIC. It further states that "even modest new investment offer long-term pay-offs of increased productivity and reduced crime and dependence."

Mr. President, I again ask unanimous consent that the following letters from the national and international hunger and nutritional organizations, specifically the American Dietetic Association, National Association of WIC Directors, Results, Food Research and Action Center, American Medical Student Association Foundation, Public for Food and Health Policy Voice, and the March of Dimes, be printed in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN DIETETIC ASSOCIATION,
DIVISION OF GOVERNMENT AFFAIRS,
Washington, DC, May 26, 1988.

Hon. DENNIS DECONCINI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: The American Dietetic Association (ADA) believes it is essential that legislation governing child nutrition programs be continued, enhanced and available to all children, regardless of economic status. These programs have been shown to be directly related to improvements in dietary intake and nutritional health.

As a member of the Senate Committee on Appropriations, your decision will have a direct impact on the number of needy individuals served by the Special Supplemental Foods Program for Women, Infants, and Children (WIC). The Association urges you to support appropriations for the WIC program of at least $150 million over current services.

An increase of $150 million over current services is a moderate request considering the need to expand participation in the program. Nationally, the WIC program currently serves only about 45 percent of eligible women, infants, and children. The goal of the WIC Food For Life resolutions (S.J. Res. 99 and H.J. Res. 192) to provide appropriations for FY 1989 "sufficient to enable 55 percent of eligible women, infants, and children to be served" cannot be achieved without this requested appropriation level. ADA is a supporter of the Resolutions. Additionally, the WIC program has been shown to be effective in promoting good nutrition, reducing low birth weight, and saving three dollars in future health care costs for every dollar spent by the program.

Please feel free to contact the ADA Washington office for more information. Your efforts to support this beneficial, cost-effective program are appreciated.

Sincerely,

PATTI R. BLUMER,
Assistant Executive Director for Government Affairs.

NATIONAL ASSOCIATION OF WIC DIRECTORS,
June 13, 1988.

Senator DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the National Association of WIC Directors, we are writing to express our grave disappointment with the Senate Subcommittee FY 1989 appropriation level for the WIC program, and to seek your support for efforts to increase the appropriation during full Committee consideration.

The Senate Agriculture Subcommittee bill provides an increase over the amount needed to maintain the current caseload by $53 million. As you know, the final congressional budget resolution for FY 1989 called for an increase of $150 million over inflation. We also understand that a bipartisan majority of the Senate, including 13 members of the Appropriations Committee, sent a letter to Chairman Burdick supporting the $150 million increase.

We are particularly concerned about the Senate appropriation level for WIC in light of action taken by the full House Appropriations Committee last week. We understand that the original FY 1989 agricultural appropriations bill provided $53 million over current services—roughly one-third of the budget resolution level—but that the Subcommittee had to reduce its overfall funding, and lowered the increase for WIC to $33 million over current services. If, as usual, the conference on the House and Senate appropriations bills splits the difference on WIC, this would leave the final funding level $10 million below the Senate Subcommittee level.

There is widespread recognition of the tremendous success WIC has had in reducing infant mortality, low birth weight babies and other health problems. Moreover, as you know, WIC helps solve the critical problems in a highly cost-effective manner. Despite this accomplishment, the program continues to serve less than half of those eligible pregnant women, infants and children due to funding restrictions.

There is also widespread bipartisan support to invest additional federal resources in the WIC program. We urge you to work with Chairman Burdick and other members of the full Appropriations Committee to increase the WIC appropriation beyond the Subcommittee level.

Sincerely,

LOREN BELL,
President, National Association of WIC Directors.

ALICE LENIHAM,
Vice President, National Association of WIC Directors.

GENERATING POLITICAL WILL TO END HUNGER
JUNE 16, 1988.

Attn: Tim Gearan.
Senator DENNIS DECONCINI,
SH-328 Hart Building, Washington DC.

DEAR SENATOR DECONCINI: In the capital of our nation, the wealthiest country in the world, infants are dying at rates higher than in Cuba. Pregnant women in the United States are unable to maintain nutritional levels essential to their own sustenance and to the development of their growing fetuses. In our country healthy children are not achieving their full potential because they lack essential food stuffs required for proper neurological development.

Our children's future is our future, as a society, as a nation, and as a species. As citizens of the wealthiest country on the planet, we must ensure that our children are kept healthy and thus well fed.

As you know, the Special Supplemental Food Program for Women, Infants and Children (WIC) is committed to the goal of maintaining the health and well being of low-income women, new mothers, infants and pre-school children at nutritional risk. It provides essential food products and nutrition counseling to those who are economically needy (with an income no greater than 185 percent of poverty level) and medically determined to be undernourished. Equally important, the program is financially savvy. Each dollar spent on the WIC prenatal component potentially saves three dollars in health care and hospital costs, according to a Harvard School of Public Health study.

With a program as economically and socially effective as WIC, it is unconscionable that only 47 percent of those needing its services are able to receive them. More than four million people drastically need the food services of WIC but, because of inadequate funding, are unable to receive them.

This year the Senate Appropriations Committee has the opportunity to help WIC reach those women, infants and young children who need its nutritional support. We ask that you support any amendment to increase WIC funding to the level allowed by the Budget resolution of $150 million over current services. This represents only a four percent increase in its funding, but a significant step towards ending unnecessary tragedies a non-nutritional diet poses to mothers and small children in our country.

Thank you for your consideration.

SAM HARRIS,
Executive Director.

FOOD RESEARCH AND ACTION CENTER,
June 15, 1988.

Hon. DENNIS DECONCINI,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I am writing to urge your support for $2.024 billion for the Special Supplemental Food Program for Women, Infants and Children during your committee's markup of the Fiscal year 1989 appropriations bill for the Department of Agriculture. This is the amount assumed in the conference agreement on the FY 1989 Budget Resolution for the WIC Program.

The WIC Program was designed to safeguard the health and nutritional well-being of our nation's women, infants and children during critical growth periods. Recent studies by USDA, the Harvard School of Public Health, and the Missouri Department of Public Health have documented that WIC reduces the incidence of fetal death, low birthweight and premature birth, improves cognitive development, and significantly averts hospitalization and Medicaid costs. WIC participation is also associated with an improved dietary intake of protein, calories and other nutrients often inadequate in the diets of low-income women and young children.

The WIC Program currently serves approximately 3.5 million women, infants and children, less than half of those eligible. An increase above inflation of $150 million, for a total of $2.024 billion, will allow 300,000 more participants to be added to the program. As you are aware, the Senate Agriculture Appropriations Subcommittee included only $53 million in new money for supplemental nutrition for women and young children in their markup on June 9. This amount is only about one-third of the increase envisioned in the budget resolution, which means 200,000 people will not be able to be added to this vital nutrition program.

The House Appropriations Committee recently approved its version of the FY 1989 Agriculture Appropriations bill, which includes an increase of just $33 million over current services for WIC. This amount will allow for only 60,000 new WIC participants. If in conference, the House and Senate split the difference, the increase would be only $43 million above current services—less than the Senate Subcommittee's original number.

The Senate Agriculture Subcommittee's allocation, on the other hand, appears to be significantly higher than the original House Subcommittee allocation—in the range of $700 million to $1 billion higher in both budget authority and outlays. This larger allocation will allow the Senate Appropriations Committee to provide the most or all of the full $150 million increase over current services assumed in the budget agreement.

We urge you to support the full $2.024 billion for WIC assumed in the conference agreement in the budget resolution. Thank you for your consideration.

Sincerely,

ROBERT J. FERSH,
Executive Director.

THE AMERICAN MEDICAL STUDENT ASSOCIATION/FOUNDATION,
Reston, VA, June 15, 1988.

Hon. DENNIS DECONCINI,
Hart Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: The American Medical Student Association (AMSA) represents over 28,000 members at 148 medical schools throughout the United States. On behalf of AMSA, we would like to make a plead for your assistance in securing a $150 million increase in apppropriations for the Special Supplemental Food Program for Women, Infants and Children (WIC).

WIC is an effective solution to the problem of increasing infant mortality in America. Low birth weight is the factor most commonly associated with infant mortality, and a study sponsored by the USDA has shown that enrollment in WIC correlates directly with decreased incidences of low birth weight newborns and fetal deaths. In addition, a study conducted by the Missouri Department of Health demonstrated that participation in WIC decreases medical costs in the first 45 days of life: for every 1.00 dollar invested in WIC, 3.00 dollars of medical costs are saved.

At the current level of funding, WIC reaches 3.4 million at-risk children and pregnant women. Unfortunately, current WIC recipients represent less than one-half of the number of eligible children and pregnant women. If the FY 89 appropriations for WIC are increased by $150 million, an additional 300,000 recipients will be able to enter into this worthly and cost-effective program.

The United States of America has one of the highest infant mortality rates of any developed nation in the world. Please help to change this disgrace by increasing funds for WIC.

Sincerely,

CINDY OSMAN, M.D.,
National President.

PUBLIC VOICE FOR FOOD AND HEALTH POLICY,
Washington, DC, June 8, 1988.

DEAR SENATOR: Public Voice for Food and Health Policy, a nonprofit consumer research, education and advocacy organization concerned with food and nutrition issues, urges you to increase WIC funding by $150 million dollars above inflation.

Each year in the United States, approximately 40,000 infants die before reaching their first birthday. After decades of consistent and rapid improvement in national infant mortality rates, progress has come to a virtual standstill in recent years. Moreover, 17 other industrial countries have fewer infant deaths each year than the U.S.

WIC effectively reduces low birthweight; a major cause of infant mortality and physical and mental disabilities. Low birthweight births involve serious economic as well as social costs to our nation. Each low birthweight infant costs as estimated $13,616 (1984 dollars) for initial hospitalization; 92% of these infants survive and, on an average, require $1,025 of additional hospital care during their first year of life. In addition almost 20% of the low birthweight babies suffer long term physical or mental disabilities, which will require, on an average, an additional $1,405 in medical care alone for each subsequent year of life.

We urge you to increase WIC funding by $150 million dollars above inflation. It seems a small price to pay to improve the quality of life for 300,000 impoverished young Americans and their mothers and to continue to save lives and millions of dollars in medical expenditures.

Sincerely,

ELLEN HAAS,
Executive Director.
DIANE HEIMAN,
Esquire, *Director of Government Affairs.*

MARCH OF DIMES BIRTH DEFECTS FOUNDATION, NATIONAL PUBLIC AFFAIRS OFFICE,
Washington DC, July 6, 1988.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN DECONCINI: The March of Dimes Birth Defects Foundation urges you to support the proposed DeConcini-Chafee amendment to the Agriculture Appropriations bill. The amendment would increase funding for the WIC program (Supplemental Food Program for Women, Infants, and Children.)

WIC is widely acclaimed and supported for its effectiveness in reducing low birthweight and infant mortality, and for improving maternal and child health. The program is cost-effective: every $1 invested in the prenatal component of WIC saves as much as $3 in hospital costs. The savings in human terms from reducing the tragedy of infant death and from improving maternal and child health are immeasurable. Sadly, WIC reaches less than half of the low-income pregnant women and young children who are at nutritional risk.

Investing in mothers and children is one of the most effective ways to improve their health and reduce future medical costs.

Sincerely,

ANNE HARRISON-CLARK,
Vice President for Public Affairs.

Mr. DECONCINI. Mr. President, I note also for the RECORD that this amendment is supported by the following organizations:

American Academy of Pediatrics.
American College of Nurse Midwives.
American Dietetic Association.
American Home Economics Association.
American Jewish Committee.
American Nurses' Association.
American Public Health Association.
Association of State and Territorial Health Officers.
Bread for the World.
Catholic Charities (USA).
Center on Budget and Policy Priorities.
Children's Defense Fund.
Child Welfare League.
Church Women United.
Consumer Federation of America.
Consumer's Union.
Council of Jewish Federations.
Food Research and Action Center.
Friends Committee on National Legislation.
Gray Panthers.
Interfaith Foundation for Economic Justice.
Jesuit Social Ministries, National Office.
Lutheran Office of Government Affairs.
National Association of Social Workers.
National Congress of American Indians.
National Council of Churches of Christ in the U.S.
National Farmers Union.
National Perinatal Association.
NETWORK—A Catholic Social Justice Lobby.
Parent Care.
Physician Task Force on Hunger in America.
Presbyterian Church (USA).
Public Voice.
Results.
Southern Governor's Association.
Southern Perinatal Association.
The Association of Junior Leagues, Inc.
The National PTA.
The Unitarian Universalist Association of Congregations in North America.
Union of American Hebrew Congregations.
United Church of Christ Office of Church in Society.
United States Catholic Conference.
U.S. Conference of Local Health Officers.
U.S. Conference of Mayors.

Mr. President, this amendment simply adds approximately $31 million more than the amount in the bill as passed by the Appropriations Committee. The offset is required to increase those served by WIC by a meager 1.5 percent to about 48.5 percent of those eligible. So even if my amendment passes, we will still fall short of our goal to serve at least 50 percent of those who are eligible.

The proposed cut specifically is an across-the-board cut in most discretionary spending in the bill. I realize that is difficult, Mr. President. I do not stand here with any joy and satisfaction of cutting anything. The proposed cut does exempt all appropriations in the bill for the Farmers' Home Administration, Rural Electrification Administration and Conservation Reserve Program accounts, Public Law 480, Food for Peace, the Commodity Food Supplemental Program, any drought assistance funding, and the WIC Program itself.

Other than that, my cosponsors and I recognize the seven-tenths of 1 percent cut is something that nobody would like to do. But I think it is important, Mr. President, that we face this and make a priority. There are so many priorities in this bill, but to me the capability of this country to administer nutrition and food to infants, young children, and pregnant women has to be No. 1.

The bottom line is that the WIC Program must have some increase, however small. Without this added money, we are risking taking food from the mouths of women and children currently in the program. I cannot stress enough that we cannot afford to take this risk—such a decision would be very much penny wise and pound foolish.

We are only asking that we make small progress this year toward our previous goal to serve almost one out of two eligible pregnant women, infants, and children. Unfortunately, the amount required to meet the 50-percent goal is nearly three times what we have asked for in this amendment. We all know that large of an increase, despite its merit, does not appear to have the necessary support, although I would not hesitate to try to offer that, quite frankly.

I have worked with a number of Members here, including the ranking member and the chairman of the subcommittee, with the hopes of trying to get to 50 percent, but we were unable to do that.

With the support of our colleagues here, with the almost 60 Senators who signed the letter indicating this, I hope that they are prepared to join me and Senator CHAFEE to come forward and make a modest increase and demonstrate that, though we cannot supply even 50 percent, we are willing to make this a top priority.

So, once again, I thank Chairman BURDICK and Senator COCHRAN and their staffs, especially Rocky Kuhn for his invaluable expertise in this effort. Though they have not been able to agree and totally accommodate this Senator, they have certainly done everything they can do facilitate this.

I also wish to thank Tim Gearan in my office who has worked tirelessly to put this together.

I hope, Mr. President, that we could have a vote on this in a short time. Senator CHAFEE will be here shortly. I would like to hold the vote, if possible, until he can get here. He has been a strong moving force in this area.

Mr. DASCHLE. Mr. President, I rise in support of the amendment.

Mr. President, I represent a highly agricultural State. Many of the programs and projects that would be cut under this amendment would have either direct of indirect benefits for farmers in my State. Still, I think it is a very important amendment, and I strongly support it.

WIC is one of the great success stories in this history of Federal health and nutrition programs. Several of my distinguished colleagues have already described the growing body of evidence that supports this assertion.

Let me just emphasize a few of what I consider to be the most dramatic findings:

The WIC Program reduces infant mortality. One study found that participation in the program contributed to a reduction in the fetal death rate of over 20 percent. Over 20 percent.

A study by the Harvard School of Public Health found that WIC reduces the incidence of low birthweight, a finding that was later confirmed by the General Accounting Office. GAO found that when low income pregnant women participate in this program, the number of low birthweight babies is reduced from 16 to 20 percent.

The cost-saving consequences of such effects are equally dramatic. One oft-cited study found that for each dollar spent on the prenatal component of WIC, we save $3 in hospitalization costs. A different study found that every dollar spent on the prenatal component saved 50 cents in Federal Medicaid costs during the first 45 days alone.

Clearly this is a cost-effective program. If only a fraction of Federal programs enjoyed the cost-benefit ratio of this one, we would not have the deficit problem that we have today.

But far, far more important than its cost effectiveness, far more important than the Medicaid dollars that the WIC Program saves, is what it saves in terms of the human potential that might be otherwise lost. We are talking here about the lives and well-being of young children; we are talking about their ability to thrive physically and develop mentally. Scientific studies and cost-benefit ratios do not capture such things. But we cannot in good conscience as legislators neglect them.

Mr. President, I would like to conclude by commending my distinguished colleague from North Dakota, who chairs the subcommittee and has been such a leader in the area of agriculture. I would likewise commend the Senator from Mississippi, the ranking minority member, and the many other Senators who worked so hard in crafting an excellent appropriations package. They have done an outstanding job, working under difficult budgetary constraints. I do not believe that we should here attempt to make major changes in the excellent package that is before us. But I do believe that this modest change is warranted. I urge my colleagues to support this increase in the appropriation for the WIC Program.

The amendment offered by the Senator from Arizona is an excellent amendment.

We cannot be rewriting the entire agriculture appropriation bill on the floor. Certainly, the distinguished Senator from North Dakota and the distinguished ranking member from Mississippi have done an excellent job in putting together what is a very difficult appropriation bill under tight budgetary constraints.

But the fact is that this recommends a very moderate change. It recognizes a program that perhaps has more impact on children than anything else we do in the budget. It recognizes not only its effectiveness with children, but the tremendous amount of efficiency we save in taxpayer dollars in the long run by investing in WIC at the appropriate time.

Study after study have indicated that each dollar spent on prenatal components of WIC saves $3 in hospitalization costs. Studies have shown that every dollar spent on prenatal components saves 50 cents in Federal Medicaid costs during the first 45 days alone.

So while we may be committing to a significant additional amount of money in this regard, the money that we save in long-term costs, both in hospitalization and Medicare and Medicaid, makes a very compelling case for this amendment.

So I compliment the author of the amendment, the Senator from Arizona, and I certainly commend our ranking member and the chairman for the work they have done in trying to work out something in resolving this matter.

I hope that the Senate will see fit to adopt the amendment at the appropriate time.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BURDICK. Mr. President, the argument has been made that in order to provide expansions of WIC Program participation, it is necessary to increase the program by $150 million over current services. And I think everyone should know that there is an increase asked for of $150 million. This amount is $222 million over the 1988 appropriated level.

As a result of committee action, the WIC increase over the 1988 appropriated level is $86 million, or only $14 million over the 1989 revised baseline. It should be noted, however, that the dramatic savings of potentially $200 to $275 million to the WIC Program as a result of the infant formula rebates is not a part of the "current services" argument.

When looking to current services to justify a greater increase for the WIC Program than the committee was able to provide perhaps we should look to other programs funded by the Subcommittee on Agriculture, Rural Development and Related Agencies to see how they fare.

The Animal and Plant Health Inspection Service is responsible for detecting and erradicating disease and pests that threaten our livestock and crops. The recommended 1989 appropriation for APHIS is $321 million, $24 million less than the CBO current services baseline.

The Cooperative State Research Service is the Federal coordinating agency for research in agriculture at universities and land-grant institutions throughout the country. Funding for CSRS in 1989 is recommended at $299 million, almost $17 million less than current services.

The Food Safety and Inspection Service assures that meat and poultry is safe for the American consumer. The FSIS 1989 appropriation of $397 million, is $8 million less than needed to support current services.

Rural water and waste disposal grants provide low income rural communities with resources for protecting their water systems from contamination. Funding in 1989 is recommended at $107 million, over $6 million less than needed to support current services.

Watershed and flood prevention operations conducted by the Soil Conservation Service are recommended at $168 million; this is almost $5 million less than needed to maintain current services.

The Food and Drug Administration has primary authority over the approval and safety of medical devices, medications, foods, and many other products. Its activities in 1989 are recommended for funding at $483 million (not including AIDS-related activities). This is over $17 million less than necessary to support current services.

Food and Nutrition Service commodity programs for the elderly and Indians living on reservations are proposed at $195 million in 1989; this is over $6 million less than current services.

If any argument is to be made to justify a program increase based on current services, it is my hope that Senators will recognize that most programs have already endured cuts below current services for 1989. Serious attention must be given to the consequences of any further proposed across-the-board reduction. Essential services of USDA, FDA, and CFTC could be in jeopardy.

I would be reluctant to impose another reduction in domestic discretionary programs. Asking agencies to absorb pay increases and then impose a 2-percent cut on program levels, in my view, is enough.

Whether we look to the WIC Program or any other single program, I ask for consideration of what this really will mean to these other programs.

Mr. President, these are all good programs. It is hard for me to make any argument against any one of them, but we have to have a balance here. By cutting these programs beyond the 2 percent already cut, they do great jeopardy to these other programs.

For that reason I cannot support the amendment.

The PRESIDING OFFICER (Mr. Conrad). Is there further debate on the amendment?

The Senator from Mississippi?

Mr. COCHRAN. Mr. President, I think the chairman of the subcommittee has articulated exactly why we cannot accept this amendment. The WIC Program is a very important program, very beneficial to a lot of poor families, infants, and pregnant women. It has saved a lot of lives, a lot of health expenses. It is a very important program in my State. We probably have a greater per capita participation in this program in my State than any other State in the Union.

And that is why the appropriations record, year in and year out, will show this program is funded in a very generous way, not just because I support it but because all the members of the subcommittee support it. If you will look at the WIC Program funding levels over the past 10 years, you will see giant increases in the amount of money made available in this program.

WIC participation has grown by 79 percent since 1980. During that time, program funding has increased by almost 70 percent in real terms. Find another Government program if you can, Mr. President, where the funding has increased as dramatically as they have in the women, infants, and children feeding program.

In 1979, just to put this in perspective, the amount of money available for this program was $569.5 million. Last year the funding level was $1.8 billion. Over that period of time we have ratcheted up the amount of money available for this program each year.

Each year the Senate has been higher in its recommended level of funding than the other body and in conference we have been able to convince the other body, which is usually very generous with programs of this kind, to increase the funding for this program. It is a little difficult for this Senator, therefore, to embrace an amendment that suggests that this subcommittee is somehow shortchanging the WIC Program; that is just not true.

This program has been very generously funded over the last several years, and that continues to be the case under the chairmanship of Senator Burdick. I would suggest that we take a look at what is being requested by the Senator from Arizona. I have a great amount of respect for him. I know his heart is in the right place. But I think the dollars are just out of line and I think you ought to know why we feel very strongly about it.

Every program in the agriculture appropriations bill is having to be cut by 2 percent from the amount approved in the subcommittee and the full Committee on Appropriations because we added up the totals and CBO looked at it and said you are over the allocation, you are over the amount that you can spend. You have been too generous with all of these programs. So we had to accept a 2-percent across-the-board cut for all of the programs.

Now, the Senator from Arizona comes to the full Senate today and says we should make one exception to that for the WIC Program. We should reinstate the amount by which that program is reduced, under the 2-percent across-the-board cut, and go further and cut all of the other programs in the bill by an additional .7 percent so that we have a 2.7-percent across-the-board cut for all of the programs in this bill. And no reduction of any amount for the WIC Program.

I say to you—as popular as this program is, as important as it is, we all agree on that—that is not fair.

That is not fair to the farmers, the people we tried to benefit in the drought relief bill we passed just yesterday. It is not fair to the consumers who are having to trust the inspection service to help ensure that food is safe and healthy. It is not fair to many other beneficiaries of the Food Stamp Program.

What about the elderly feeding program recipients? Are you going to tell them you have to take a 2.7-percent cut because there are a couple of Senators who want to show that they are more supportive of the WIC Program than anybody else in the Senate?

I do not know why we have to accept an amendment like this—and I support the Senator from North Dakota's decision—because it is a popular program. I do not think we ought to accept it. If we start accepting this amendment, if we start accepting other amendments like this, we are going to be here all afternoon accepting all kinds of add-ons and when we get to conference the Senate is not going to have any leverage at all. They are going to laugh at us on the other side. There was no discipline in the Senate.

I suggest that we need to show some discipline right now, recognize the reality of the budget process, the fact that we do not have unlimited resources to give out to every worthwhile program that we can find that comes under the jurisdiction of this bill. I hope Senators will reject this amendment and at the appropriate time, after other Senators have had a chance to speak on it, I am going to recommend to the chairman that we move to table it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Maine.

Mr. COHEN. Could I inquire from the sponsor of the amendment as to how long he would anticipate we might await the arrival of Senator Chafee in order to continue the debate? I have an amendment dealing with the WIC Program which I believe is not controversial, does not add any money to the program, and if we are going to delay a substantial period of time, whether the sponsor might consider laying aside the amendment so we can deal with the one that I have at the moment?

Mr. DECONCINI. If the Senator from Maine would yield, I have no objection to that. There is another Senator here who wants to speak to the amendment and if Mr. CHAFEE is not here after that time, I have no objection to laying it aside, if that is the desire of the chairman.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I rise to support the amendment to restore the original recommendation for funding the supplemental program for women and infant children. As you know, I have the honor to serve on the National Commission to Prevent Infant Mortality. This position has enabled me to talk to hundreds of families and child health experts from around the country about one of the Federal Government's wisest investments, the WIC Program.

Every day that we allow pregnant women or young children to go without adequate nutrition this country pays a tragically high price, not only in added health costs, but lost lives. It has been demonstrated to me over and over again that the WIC Program is one of the most effective of all Federal programs in reducing infant low birth weight, premature births, and anemia. Unfortunately, Mr. President, this program is not reaching everyone that is eligible in the population.

In devising the budget resolution for 1989, we worked hard to secure a $150-million increase above current services for WIC. This level would have enabled the program to reach an additional 300,000 low-income pregnant women and young children. The Agriculture appropriations subcommittee provided for a $53 million-appropriations above current services, but that figure was reduced further when the committee applied a 2-percent across-the-board cut in the appropriations measure.

By restoring funding to the subcommittee's recommendations, we still would be neglecting thousands of eligible persons, but we at least would be helping those women and children already on the program to be able to afford the expected increases in food prices.

Mr. President, in the past, I have and I will continue to encourage this body not only to recognize the cost effectiveness of the WIC Program, but to recognize our moral responsibility to offer our children a full life and the ability to be able to sustain that life.

Mr. President, I do not minimize the difficulty of the subcommittee in working on this appropriations, and certainly not the ranking member and the chairman, because I know that they are concerned about this program, and I know they have been strong supporters, as the Senate has been, of the program in the past.

I know, Mr. President, that this subcommittee had difficulty in getting its 302(b) allocation and that, again, put the subcommittee in a problem of being able to support this.

I think if we look at this, we will see today that less than 47 percent of the eligible women and children are covered by WIC. No matter what we want to say about ourselves, how much we supported this program over the years, and the Senator from Florida has been one, we are not doing a heck of a lot if we are only covering 47 percent of what we know is one of the most effective, efficient programs of trying to take care of diseases and trying to take care of malnutrition, trying to take care of women who are pregnant and their infants to see they have a decent life.

Forty thousand children die in this country every year before their first birthday. Mr. President, we rank 19th among the list of civilized nations in regard to how we take care of our children. If a baby is born in Hong Kong or Singapore, it has a better chance of reaching its first birthday than if it is born in the United States of America. Singapore and Hong Kong, teeming countries. Japan has twice the infant mortality. They have a better rate than we do of infant mortality.

Why is that? Is it because our medicine is bad? No; it is the best in the world. It is because we do not place the emphasis of trying to take care of a mother and take care of that child prior to the birth and within that first year after birth. We do not make a national priority out of children in this country. That is why we are only supporting 47 percent of the people who are actually eligible for this today.

That is a crime. That is a tragedy. That speaks to all of us. That does not speak to the chairman or ranking member of this committee. It is an indictment against, basically, this country that we have not made children the priority in this country that we should make them. We will make funds available for other things, and we do.

Should we cut everything else across the board to take care of this? I have programs in there. I care about my elderly people. I care about their feeding program, but I say, yes, let us put children first in this country for a change. Let us see if we can make a national priority that we are going to take care of those who cannot take care of themselves.

In restoring this, what we will be doing is literally keeping them even. What we started off in our debate of the Budget Committee is what we said we were going to do. We simply would be allowing enough so that when the infant formula, which has already gone up, is up, they will be able to pay the difference for that infant formula. That is all we are doing. We are just running in place when we do this.

I know that it is difficult; I know that it makes it difficult, but we have talked about a nutrition bill.

We had a debate just 2 days ago. We also beat our chest and said, "We passed a big nutrition bill." At the same time, we are allowing this program to actually go down.

We talked about a drought relief bill. We passed that, and that is important. It is important because there are farmers out there who are hurting.

There are children in this country, Mr. President, who are hurting. There are pregnant women in this country who are hurting. Fifty-three percent of the eligible children and the eligible pregnant women in this country are not getting sufficient nutrition and are not able to qualify for this program.

Again, we rank 19 among the countries in infant mortality. With our resources in this country, with our abilities that we have, that is a national disgrace in this country. It is because we are not taking care of the needs at the front end. We are not seeing they have proper nutrition.

What is the reason for those 40,000 deaths a year? It is low birth weight. If a baby is born below 5 pounds, the odds of having problems begin to build astronomically. When you get them below 2, 2½, 3 pounds, then you have all different problems.

Mr. President, the average cost is about $400,000 when you put a baby in a prenatal setting, a neonatal facility where you are keeping them in all of the technology and all of the tubes. For $400 a year, we can take care of that mother and that child all the way up to the delivery time, as opposed to $400,000.

That is part of what WIC does. That is why it is so cost-efficient. We are saving money; we are saving lives; we are saving heartbreak; we are saving children from major disabilities, once they go through that process, by simply seeing that the mothers eat right at the front end of that program. If that baby weighs above 5 pounds, it is healthy to start with to start off life. It has the brain cells; it has the brain matter. That baby can be a productive citizen for this country.

We are talking about skimping money on this program. We ought to be talking about funding 100 percent of this program, and we ought to be talking about where we get the money for it.

Mr. President, I know this is difficult to do, but I know we have to put our priorities in the right place. I certainly support the amendment, and I hope the Senate will support it.

The PRESIDING OFFICER. Is there further debate? The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I rise in support of the amendment. I have been on the floor only a brief period of time and just heard Senator CHILES' remarks. I would like to associate myself with them. I think Senator CHILES probably said it all, but that will not stop this Senator from saying a little more. There are some who want to conclude the debate to move ahead to other matters, like adjournment today. My statement will be very brief.

When the distinguished Senator from Florida talks about a national disgrace, that is certainly true with the limited funds available for women, infants and children. Unfortunately, as we take a look at our budgeting process generally, there are many national disgraces both as to the programs we appropriate funds and not appropriate funds.

The budgeting process is extraordinarily difficult. I have the opportunity to serve on the Agriculture Subcommittee of Appropriations, and I commend the distinguished Senator from North Dakota and the distinguished Senator from Mississippi for the outstanding job that they have done on management, as it is a matter of the assessment of priorities. We did not even have enough money in WIC before we started the juggling the figures, It seems intolerable, to this Senator, that we cut to meet the difficulties of budget constraints by reducing WIC funding $39 million.

The restoration of $31 million that this amendment proposes is minimal. It proposes seven-tenths of 1-percent cut across the board in other discretionary programs. These programs are good programs that will receive that cut, but on the balance of priorities, it seems to this Senator a very strong case has been made out for this amendment, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate? The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I rise to join my colleague from Arizona in offering this amendment to increase funding for the WIC Program. Joining us as cosponsors are Senators DANFORTH, LEAHY, STAFFORD, HOLLINGS, JOHNSTON, DASCHLE, BRADLEY, COHEN, KENNEDY, BUMPERS, SASSER, MOYNIHAN, HEINZ, CONRAD, RIEGLE, KERRY, WEICKER, and MATSUNAGA.

We propose to increase the WIC funding level in the bill as it currently stands by $30 million, thus permitting a modest amount of growth in the program. The increased cost would be offset by an equivalent reduction in the discretionary spending portion of the bill—a percentage reduction amounting to seven-tenths of 1 percent.

I know that many of my colleagues are concerned about the continuing drought in the Midwest, and so I want to emphasize that this percentage reduction would not affect drought relief programs. Nor would it affect the mandatory spending portions of the bill, such as farm price supports and direct payments to farmers. Similarly, it would not affect other mandatory spending programs such as food stamps and child nutrition.

The need for this amendment is clear. First and most immediate is the fact that the bill before us today falls far short of what Congress intended for the WIC Program in the congressional budget resolution. Where the budget envisioned an increase of $150 million for WIC, the pending measure provides an increase of only $14 million. We propose to raise the figure to $44 million, thus bringing us a small measure closer to what was intended in the budget.

This year, as in past years, Congress has clearly distinguished WIC as a priority in the budget, in recognition of its singular effectiveness. A consensus is growing that WIC is one of the most effective Federal programs in operation: For example, long-range studies have shown that every $1 invested in WIC saves $3 in long-term health care costs. At its current funding level, however, the WIC Program can serve less than half of the women, infants, and children who are poor and at nutritional risk.

This represents a considerable missed opportunity, considering WIC's proven effectiveness in averting long-term health and developmental problems in an especially vulnerable population. If we have learned anything about Federal programs over the last decade or so, we have learned that the WIC Program works.

Recognizing that there is much to be gained by expanding WIC to reach more of the eligible population, Congress has, in the past several years, attempted with some success to make small but steady increases in WIC funding.

This year was no different. We adopted a budget which assumed an increase for WIC of $150 million above the current services—or inflation adjusted—level. This amount would be enough to bring WIC's services to an additional 300,000 women, infants, and children.

This intent that WIC funding be increased was recently reaffirmed in a letter to the Appropriations Committee. That letter, signed by 59 Senators, asked the Appropriations Committee to appropriate the full $150 million that was envisioned in the budget resolution.

Unfortunately, the bill before us today is a long way from that mark. It funds WIC at a level of only $14 million above current services. Given the impact that the drought is expected to have on the major components of the WIC food package—such as cereal and dairy products—that is likely to turn out to be no increase at all.

The amendment has the endorsement and full support of more than 50 organizations, including the Childrens Defense Fund, the March of Dimes, the American Academy of Pediatrics, and the Child Welfare League.

In this body, we talk a great deal about setting priorities. Let us not forget that, in addition to setting priorities, we also need to act on them.

We set a priority in the budget resolution; we said we would increase funding for WIC. In so doing, we implied that we would make the hard choices necessary to do so, since Federal resources are not infinite.

Now, in the appropriations process, is the time to act on the priority we set in the budget resolution. Here, in this amendment, is the opportunity to fulfill a small measure of a goal that we, as a body, have set for ourselves.

I might also add that a majority of the Members of this body have cosponsored a resolution calling for annual increases in WIC. The increase we are proposing today is a mere fraction of the annual increase that resolution calls for—less than one-third. I too have cosponsored the resolution, and I say it is time we do something around here besides resolving to do X, Y, or Z. Let's make good on our resolve.

Increasing funding for WIC is the right thing to do—not only from the humanitarian point of view, but also from the most hardnosed, cost-versus-benefit point of view. WIC is one Federal program that saves more than it spends, and deserves every bit of support we can give it.

In summary, Mr. President, this is a very modest increase in the WIC Program.

The WIC Program is one of those programs that has been proven to be cost effective. That is what this administration constantly is talking about. Where can we invest our money? Where can we receive the greatest return on the dollar invested? With these modest investments it is estimated $1 in WIC saves $3 in the long term for health care costs for these low-income mothers, and also for their children. We are trying to have these children come into the world born healthy and remain healthy. Unfortunately we adopted a budget that provided for an increase in WIC of $150 million but we have come nowhere close to that under this legislation. So this comes somewhat up toward that with a total increase of $30 million as provided in here. Under this we would be able to care for some 300,000 women, infants and children.

I note this amendment has the endorsement and full support of more than 50 organizations including the Children's Defense Fund, the March of Dimes, the American Academy of Pediatrics and the Child Welfare League.

I thank the Chair.

Mr. HEINZ. Mr. President, I am pleased to join Senator CHAFEE, Senator DECONCINI, and several other colleagues in offering an amendment to increase funding for the special supplemental food program for women, infants, and children—or WIC—by $38 million. I want to add that this increase only restores WIC to where it had been prior to full committee markup, when discretionary spending in this appropriation was reduced by 2 percent.

The facts speak for themselves: WIC reduces infant mortality, low-birth weight, and premature births. Providing food packages and baby formula for pregnant women and children, WIC is a vital component of prenatal care for many low-income families. Recent research by the centers for disease control has also demonstrated the feeding program's contribution to a sharp drop in anemia among participating children.

Several months ago I visited Hahnemann Hospital in Philadelphia, where low-birth weight babies are treated in specialized intensive care units. A simple check up and good nutrition might have prevented the need for these infants to spend weeks in intensive care. The Institute of Medicine has calculated that a $1 investment can on average save over $3 in the medical costs of neonatal intensive care. This $39 million amendment might thus save over $100 million in medical costs. That is a wise investment.

Mr. President, the level approved by the committee for WIC is far lower than the $150 million increase which was assumed in the budget resolution. And that increase has become all the more important in light of recent developments. Yesterday, Mr. President, we passed a drought bill. We did so in recognition of the terrible difficulties our farmers and our agricultural sector now face. What we need to do today is pass legislation to assist those who will feel the after-shock of this drought, namely the poor and the needy who are facing dramatically higher food prices.

While passage of the Chafee amendment is absolutely essential for the health and well-being of our young, I hope the conference committee on this bill will do even better. We have voted on several occasions to make WIC a top priority. The conferees should give this program the full support it deserves.

In my home State of Pennsylvania, 179,000 mothers and children benefit from this special feeding program. Yet, an equal number are not helped because WIC funds can only be stretched so far. According to the archdiocese of Philadelphia, many children who are eligible for WIC, but are no longer infants per se, simply cannot get full benefit from the program.

For this reason, I strongly support the amendment of the Senator from Rhode Island and the Senator from Arizona, and I urge its adoption.

Mr. KENNEDY. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Arizona. I am pleased to be a cosponsor of this important amendment.

There are very few Federal programs that we know for a fact help poor children and save the taxpayers money—WIC, the special supplemental food program for women, infants and children, is one such program. We simply must provide more resources to these types of programs.

A study conducted in my own State of Massachusetts, found that for each dollar spent on the prenatal component of WIC, $3 in short-term hospital costs are saved. Those numbers represent the type of high-yield investment that will allow us to help our most vulnerable citizens in a fiscally responsible way. I find it appalling that, even given the cost effectiveness of WIC, this program still reaches only 44 percent of those who are eligible.

What are the costs of our shameful abdication of responsibility? Today in America one of every four children is poor.

Recently we have seen an increase in the incidence of low birthweight babies and prematurity in this Nation. Ironically, we have also seen a decrease in the number of women who receive early prenatal care. Stunted growth and malnutrition are among the greatest enemies of poor American children.

We know that early prenatal, maternal, and pediatric health are directly related to nutrition and we know that WIC provides nutritional supplements to at-risk women and children. Why then are so few of the eligible recipients benefiting from the program?

As I have said before, the question is not "Can we afford to make the investment." The question is "Can we afford not to make the investment." My answer is no.

America's children are America's future. Every investment in our children is an investment in our future.

When one considers that fact it becomes clear that the Senate should not only accept the DeConcini amendment, but it should move toward a funding level for the WIC Program that would allow full coverage for all eligible recipients.

I commend my distinguished colleage for offering this amendment and I strongly urge my colleagues to vote in favor of the amendment. A vote for the DeConcini amendment is a vote for healthier American children and a brighter American future.

Mr. KERRY. Mr. President, I rise today in support of the DeConcini amendment to increase funding for the WIC Program by an across-the-board cut of seven-tenths of 1 percent in the agriculture appropriations bill. This legislation would provide an additional $3 million for the WIC Program helping to offset the effects of a 2-percent across-the-board-cut during full Appropriations Committee markup. I am pleased to be a cosponsor of this important amendment and would like to commend Senator DECONCINI for his long term commitment to this vital program.

As a nation we should be ashamed and embarrassed about the current level of infant mortality in our country. A generation ago the United States ranked 6th among the top 20 industrialized nations with one of the lowest infant mortality rates. Currently we are ranked 19th with one of the highest infant mortality rates of all industrialized nations. This is an outrage. Washington DC, the capital of our Nation, has a higher infant mortality rate—both in numbers and percentages—than Costa Rica, Cuba, or Tobago.

This situation exists in spite of the fact that we know the major cause of infant mortality and we know how to prevent it. It exists even though the solution to this problem is more cost efficient than inaction, and would save valuable resources and taxpayers money.

The leading cause of infant mortality is low birth weight, which is primarily caused by inadequate nutrition and poor prenatal care. WIC is our main weapon in the fight against infant mortality because it provides mothers and infants with the necessary and proper nutrition and medical care.

Unfortunately the WIC Program serves only 40 percent of the eligible 8 million women and infants who qualify for this program. Yet, every dollar spent for prenatal care can save $3 in the first year of life by reducing the need for hospital stays and medical treatment. Further, each WIC dollar expended will eliminate $11 in long-term medical expenses because fewer children will be born with permanent health problems.

We cannot afford to inadequately fund the WIC Program. The cost in terms of human life and human potential is too great. In addition, by passing this amendment we can avoid costly and prohibitive medical and social service expenses.

Mr. President, I would like to urge my colleagues, on behalf of the next generation of Americans, to support this amendment. Not only because it is the compassionate and caring thing to do, but because it is a sound investment in the future of our Nation.

Mr. HOLLINGS. Mr. President, I am pleased to rise today to cosponsor this amendment to boost funding for the Women, Infants, and Children feeding program in the fiscal year 1989 Agriculture Appropriations bill. At $38 million, this is a modest and prudent increase. It will enable us to serve approximately 105,000 additional pregnant women, infants, and children.

And we are paying for it the right way: through an across-the-board cut of 0.7 percent in the discretionary spending accounts of the bill. All mandatory spending within the bill, as well as the Farmers' Home Administration, the Rural Electrification Administration, the Conservation Reserve Program, drought assistance, and Food for Peace, would be exempt from the reduction, as would the WIC Program itself.

Mr. President, America may have lost the larger war on poverty, but the WIC Program is one battle we have won—and continue to win every day. WIC is the single most effective program in our antipoverty arsenal. Medical researchers tell us that WIC markedly reduces infant mortality, low birth weight, premature births, and anemia. WIC increases infants' head size, which usually corresponds to brain size and intellectual capacity. What is more, study after study indicates that each dollar spent on the prenatal component of WIC saves up to $3 in hospital costs—primarily savings on the extraordinary expenses associated with premature and low-birth-weight babies.

That is the good news. The bad news is that a large percentage of eligible women and infants are not being reached by this exceptional program. Due in large measure to the penny-wise, pound-foolish scrimping of recent years, only 32 percent of eligible low-income children and only half of all eligible pregnant women in the highest risk categories are now participating in the WIC Program. The Department of Agriculture reports that 7.45 million Americans qualify for WIC because they are both low income and at nutritional risk. But, because of limited funding, only 3.5 million are enrolled.

Mr. President, the fact is that this shortfall stands to grow even more acute in the year ahead as a result of the drought now blighting much of the United States. The congressional budget resolution for fiscal year 1989 assumed an increase of $150 million for WIC above the current services level. The intention was that this increase would enable the program to reach an additional 300,000 low-income and pregnant women and infants who are eligible but unserved. Regrettably, during full committee consideration of the Agriculture appropriations bill, that increase was slashed by $136 million, allowing only a paltry $14 million increase in WIC spending. Now the drought threatens to consume that $14 million and more in higher prices for WIC food items such as cereal. If WIC food costs rise by only 1 percentage point more than the Congressional Budget Office had earlier forecast, the entire $14 million increment will be swallowed up; the WIC funding level for fiscal year 1989 will actually drop below current services levels.

The real shame is that this chipping away at WIC comes at a time of rising infant mortality rates and a marked increase in the number of children living in poverty. In 1986, the poverty rate for all Americans was 14 percent; for children under age 6 it was 22 percent. For minority children, the poverty rates are even worse. In 1986, 46 percent of black children under age 6 were living in poverty, as were 41 percent of young Hispanic children.

Mr. President, I urge my colleagues to support this important amendment. It is the bare minimum we must do. The people of our Nation are humane and caring—especially to those too young to help themselves. Americans have a tough-minded appreciation for the short- and long-term costs of depriving infants and unborn babies of essential nutrition. Surely, as we continue to make difficult budget and policy choices, we can agree on one bedrock principle of civilized life: Above all, do not cheat the children.

Mr. SASSER. Mr. President, since its inception in 1972, the Supplemental Food Program for Women, Infants, and Children has been one of the Federal Government's great success stories. The WIC Program has reduced infant mortality, low birth weight, premature births, anemia, and other conditions that threaten child health. But despite its extraordinary track record, WIC still reaches fewer than half of those who are eligible.

In order to expand the program to reach those persons, the budget resolution assumed that there would be an increase for WIC in fiscal year 1989 of $150 million over current services levels. Despite the increase called for in the budget resolution, this bill includes only a $14-million increase over current services levels, or $136 million below what was assumed in the budget resolution. This amendment would restore a portion of that increase.

Although this amendment would make a less than 1 percent across-the-board cut in agricultural programs in order to fund this increase, it would exempt from the cut our most important programs, including the FHA, REA, and the Commodity Supplement Food Program.

Mr. President, yesterday we unanimously approved the spending of billions of dollars to combat the effects of the drought and keep our farm economy strong. But Mr. President, there remain millions of low-income women and children who cannot afford the food produced on those farms. This amendment will allow the WIC Program to continue its modest expansion so that some of those needy millions can be reached. I urge my colleagues to support the amendment.

Mr. JOHNSTON. Mr. President, I am pleased to join with my colleagues from Arizona and elsewhere in offering this badly needed increase for the women, infants, and children [WIC] feeding program.

While I am not at all happy with the manner in which we are compelled to fund this increase, I do believe that this program is of a sufficiently high priority that we must provide for an increase above the committee-approved levels.

It is true that the amount provided, in total dollars, is above the amount appropriated last year. However, this increase is only $15 million above the dated current services level which does not reflect the increases most expect in food prices as a result of the drought. This increase may well mean that there is no increase above what the real current services level will be and that in fact there will be no increase whatsoever in the level of participation in this program. In some areas, the funding level provided in the committee bill may not even be sufficient to prevent women, infants, and children currently being served through WIC from being removed from the program.

Why is an increase in participation so important?

Consider these facts.

WIC is one of the most successful and cost-effective programs funded by the Federal Government. Study after study has demonstrated that the supplemental nutrition assistance provided to needy, at risk pregnant women, infants, and children under the age of 5 reduces infant mortality, low birth weights among newborns, premature births, anemia and many other conditions which threaten child health, and improves cognitive development in children. For every dollar we spend on WIC for achieving these improvements, we save an estimated $3 in later hospitalization costs.

Despite this record, WIC reaches less than half of those women, infants, and children who meet the income, health, and other criteria for it because of funding limits. In numbers, this means WIC now reaches 3.5 million of the 7.45 million eligible women and children.

This fall we are all going to hear a lot about the need to fight crime, to reduce dependence on welfare, and to increase productivity to improve our economy.

It seems to me that there is no better way to attack these problems than to start to make a modest dent, such as proposed by this amendment, in the underlying causes of these problems. By helping to prevent health problems in needy children, clearly WIC helps set the stage for children better able to learn and become productive, nondependent members of our society.

This amendment will provide $38 million more than the committee has provided for WIC, and if adopted would mean that a few more needy women, infants, and children could be reached.

This is roughly about one-third of the increase assumed for WIC in the budget resolution and only slightly more than was recommended by the House, despite the fact that the Agriculture Subcommittee's 302(b) allocation in the Senate was almost $1 billion more than the allocation for the Agriculture Subcommittee in the House. It seems to me that this is a very small step but one we must take to demonstrate our commitment to making steady, albeit modest, progress in meeting the needs of an especially vulnerable and needy group in our society who cannot meet those needs themselves.

I believe this is a worthy amendment and I urge the Senate to adopt it.

Mr. COHEN. Mr. President, I am pleased to join Senator DeConcini, Senator Chafee, and others as a cosponsor of an amendment to increase appropriations for the Special Supplemental Food Program for Women, Infants, and Children—better known as the "WIC" program.

WIC provides supplemental health and nutrition care, including specified nutritious foods, to women, infants, and children from families with inadequate income and who have been determined to be at risk of suffering from malnutrition. WIC program food packages are designed to make up for what has been found lacking in the diet of those the program serves. The foods made available through WIC include iron-fortified infant formula, infant cereal, milk, cheese, eggs, iron-fortified breakfast cereal, fruit or vegetable juice which contains vitamin C, dry beans and peas, and peanut butter.

The benefits of the WIC program are well known and well documented. Medical research has shown WIC to have marked success in reducing infant mortality, in reducing the frequency with which infants suffer the problems associated with low birthweight or premature birth, and in improving the mental and physical development of young children. Studies have also found that each dollar spent on the prenatal component of WIC saves $3 in hospital costs. It makes good sense to invest in this cost-effective program that works so well at meeting such a vital need.

Unfortunately, current WIC funding is sufficient to serve less than half of the needy women, infants, and children eligible. The U.S. Department of Agriculture estimates that some 4 million of those meeting WIC eligibility criteria are left unserved.

The amendment now before the Senate would increase WIC funding by approximately $31 million above the level recommended by the Appropriations Committee. This increase would be offset by a modest across-the-board cut of seven-tenths of 1 percent in other discretionary spending accounts in the Agriculture appropriations bill. This across-the-board cut would not touch the entitlement spending within the bill, such as that for Food Stamps and School Lunch. Neither would it affect the Commodity Supplement Food Program, WIC itself, the Farmers' Home Administration, the Rural Electrification Administration, the Conservation Reserve Program, any drought assistance programs, or the Food for Peace Program.

This modest increase will allow the WIC program to serve tens of thousands of additional needy women and children. It will give us a chance to salvage children from the danger of growth stunted by a lack of timely sustenance. I hope that the Senate will adopt it.

Mr. WEICKER. Mr. President, I rise today in strong support of the amendment offered by myself and 19 of my colleagues to add approximately $31 million to the Special Supplemental Food Program for Women, Infants, and Children. This measure seeks to restore the WIC funding level to an amount just below the figure arrived at by the Appropriations Committee before the 2-percent, across-the-board cut.

I would like to begin by quoting briefly from the Surgeon General's Report on Nutrition and Health, which was released Wednesday after a full 4 years of research. While it gives special attention to the dangers of eating too much, the report also addresses the hunger and malnutrition which continue to plague our Nation in the midst of plenty. In particular, it points to the need for children, adolescents, and women of childbearing age to consume foods rich in iron, and notes that this is an issue of special concern for low-income families. In his introductory message, Surgeon General Koop comments:

> The apparently sizable numbers of people resorting to the use of soup kitchens and related food facilities, as well as the possible role of poor diet as a contributor to the higher infant mortality rates associated with inadequate income, suggest the need for better monitoring of the nature and extent of the problem and for sustained efforts to correct the underlying causes of diminished health due to inadequate or inappropriate diets.

Mr. President, the overall thrust of the Surgeon General's Report on Nutrition and Health is clear. Good nutrition is the best preventive medicine any of us can practice. But good nutrition is not just a matter of choice, it is also one of knowing what to eat and having the wherewithal to buy it. The WIC supplemental food program represents just the sort of "sustained effort" of which Dr. Koop writes. For some 16 years now, it has made selected foods rich in specific nutrients such as iron and calcium, nutrition education, and health care referrals available to those who need it most—low-income, nutritionally at-risk women before and after they give birth and low-income children up to the age of 5.

This is a program with a proven track record. Study after study—including a 5-year evaluation by the U.S. Department of Agriculture—has shown that WIC mothers are more likely to carry their babies to term, and see them born healthy. Low birthweight and infant mortality, the incidence of which is scandalously high among minority Americans, are much less likely to occur when the expectant mother and newborn child receive benefits through the WIC program. WIC children are also more likely to be getting the immunizations and checkups so necessary to a healthy start in life.

Data on pediatric nutrition developed by the Centers for Disease Control and described in an article in last September's Journal of the American Medical Association demonstrated that childhood anemia had declined by two-thirds over a 10-year period and that the WIC program had contributed to that decline.

The tangible benefits of the WIC program can also be measured in lower health care costs. Researchers at the Harvard University School of Public Health found that for every dollar spent on WIC for prenatal care and nutritious foods, up to $3 in hospital costs could be saved. An evaluation by the State of Missouri found that each WIC dollar saved 83 cents in Medicaid costs in just the first 30 days after birth.

My State of Connecticut has recognized the importance of the WIC program and its ability to target assistance to those at nutritional risk by expanding a pilot project through which WIC participants receive coupons for fresh fruit and vegetables from farmer's markets. These coupons further supplement the commodities received through WIC. The project was so successful in the Hartford area that it has been expanded to 12 locations across the State.

Without question, projects such as the one in Connecticut and the WIC farmers' market projects authorized in the Hunger Prevention Act passed by the Senate help better the diets of WIC recipients. Unfortunately, however, they are of no help at all to the roughly 4 million women and children who are eligible for WIC but shut out from assistance because of insufficient funds. WIC is serving less than half of the pregnant women and children eligible for its services.

As a result, Mr. President, babies are dying and going without food not just in Ethiopia and Cambodia, but in Hartford and New Haven, CT, too. Infant mortality rates among minorities in my State are twice that of the white population. A Child Hunger Identification Project conducted by the Connecticut Association of Human Services found that one-fourth of the children in New Haven, CT, are hungry or on the verge of it. These statistics are not acceptable. This is a nation which has always prided itself on the ability to pass to the next generation of life less hardship and more opportunity. Yet we are reneging on this commitment and will do so to an even greater extent if we fail to fund the WIC program at the higher level.

Mr. President, I urge my colleagues to support this amendment and restore the moneys to this vital program.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. If the Senator will withhold for one moment, the Senate will be in order.

The Senator from Arizona.

Mr. DeCONCINI. Mr. President I know people want to vote. I am interested in moving ahead on this.

Mr. President, I appreciate the strong stand of the Senator from Mississippi on this position. He has tried to paint a picture here that this program is the biggest spender and the biggest one in all the agriculture subcommittee. I think it is important that first of all there are a number of very large agriculture programs that are exempt from this amendment. He mentioned that. That could have left the impression they were included. The Farmers Home Administration, Rural Electrification Administration, the Conservation Reserve Program, any Drought Assistance Program are exempt. Further, Public Law 480, the Food for Peace Program, is exempt as well as the WIC Program, and the Commodity Supplemental Food Program is exempt.

Those programs are not going to take this small cut. So I think it is important that people do not get led down the street that we are taking money from the elderly or from the Food for Peace Program.

What is important here is, as the Senator from Mississippi said, this has grown. There is no question about it. But the distinguished Senator from Florida, the chairman of the Budget Committee who came on this floor and fought as part of his responsibility to get an allocation in the budget of $150 million over current services; we did not make it, did we? We did not make it at all. We made it by including a meager $14 million over current services.

The subcommittee allocation, which goes to each subcommittee, known as the 302(b) allocation, allocated close to $1 billion over the House Agriculture Subcommittee to this committee, and close to $700 million in outlays alone. How much did the WIC grow? Did it skyrocket and grow so much? It got $14 million out of that $1 billion over what the House had. Is that where we want to be on a program that deals with infants? I do not think so.

Despite this, the subcommittee would increase the WIC Program by $53 million over current services, or nearly $100 million less than assumed by the resolution. So as to the budget resolution, we really have already gone on record with $150 million over current services. That is what we ought to be doing here.

So this Senator is not here in order to discredit the distinguished chairman. He has been a leader. He has worked so hard on this thing; the same with the ranking member. But let us make it clear. We are talking about priorities here. We are talking about what is the most important part. I also have things in this bill that are very, very important to some of my constituents. I hate to see them take a even small, minor cut.

I am prepared to tell them or anyone else that this program for women and infant children is a priority. We are talking about raising it less than 2 percent; adding less than 2 percent.

Mr. CHILES. Will the Senator yield?

Mr. DeCONCINI. I am glad to yield to the Senator.

Mr. CHILES. I was sort of off the floor. I heard something. I just wanted to make sure I understand. Did I hear the Senator from Arizona say that Food for Peace and the Public Law 480 Program was exempt from the 2-percent cut, and the WIC cut would apply?

Mr. DeCONCINI. Yes. The Public Law 480 Program was exempt from the 2-percent cut in committee, but WIC was not.

Mr. CHILES. Public Law 480 was exempt?

Mr. DeCONCINI. Yes. But, under the DeConcini-Chafee amendment, Public Law 480 is exempt as would the WIC Program be exempt.

Mr. CHILES. So the purpose of this amendment is to exempt the WIC Program?

Mr. DeCONCINI. Yes. The purpose of the amendment is to exempt the WIC Program from the 2-percent cut, from the across-the-board cut.

Mr. CHILES. That is right. It would be held in the same status as Public Law 480?

Mr. DeCONCINI. That is correct. The Senator from Florida is correct.

Mr. CHILES. That would mean we would be treating infant children and pregnant women in this country the same way that we would be treating people overseas that we are sending food for?

Mr. DeCONCINI. The Senator is correct.

Mr. CHILES. Does the Senator from Arizona see anything basically unfair about that?

Mr. DeCONCINI. The Senator from Arizona feels if there is any priority in this Nation, we all have priorities, and something this country can do overseas as well as here is feed people and grant nutrition. So this Senator, along with the Senator from Rhode Island, decided we are not going to take it away from underdeveloped nations overseas. It is very important to assist the hungry abroad, and we have that abundance of food. However, certainly we can also exempt the WIC Program.

Mr. CHILES. Certainly.

Mr. DeCONCINI. What the Senator points out is correct.

Mr. CHILES. Certainly we can see to it that childern that are malnourished in this country and pregnant women are treated as well as we are treating our overseas friends that we are going to send some food to.

Mr. DeCONCINI. I thank the Senator from Florida for underlining that point. I think it is very important. If you had to make a priority, I would take American children first. I do not want to do that.

Mr. CHILES. I would not.

Mr. DeCONCINI. I do not want to do that. I want to include all children. After all, the Food for Peace Program is primarily for starving children.

Mr. CHILES. I thank the Senator.

Mr. LEAHY. Will the Senator yield further?

Mr. DeCONCINI. I am glad to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask the Senator. I think we both agree that the United States is the wealthiest and most powerful Nation on Earth. Does this not really become a moral issue as much as a budgetary issue? As the Senator from Florida has pointed out, we want to do this to help the less fortunate abroad. Is it not also as much a moral issue as anything else to help them here in this country?

Mr. DeCONCINI. Let me respond to the Senator from Vermont. He has taken the lead on moral issues involving child and elderly nutrition for many years here. And, he is basically saying what I really believe in my heart and my soul. We are talking about a moral principle here. It is not my intention to bring despair to anybody who might be against this for any reason. It is not immoral on their part at all. It is a matter of budget priorities for some people as they consider fairness. But I agree with the Senator from Vermont. What can this country do? Actually, as the Senator from Florida pointed out, and I would like to reiterate to the Senator from Vermont, that even if this modest increase passes, we will still be feeding less than half of these children and women. So we still have a moral obligation to try to climb up that ladder and do something for those people.

Mr. LEAHY. If the Senator will yield further, that makes me think back a few years ago when the distinguished Senator from Oklahoma, Mr. BELLMON, was here, who was the ranking member on the Budget Committee. I do not know of anybody I respected more around here than Henry Bellmon as a very good, conscientious Senator. Republicans and Democrats thought the world of him. He looked at budgetary issues. I talked to him about WIC. He said in Oklahoma they had just really a small role on WIC, and he questioned the efficacy.

We went to Vermont and spent 2 or 3 days and talked to the WIC receivers. I remember one of the people testifying. This is back, I would say, 9 or 10 years ago. He told us how the pediatricians used to treat cases of malnutrition. Then Vermont got heavily involved in this. We had on a per capita basis one of the highest enrollments. None of them ever saw a malnutrition case again. We had women who came in and testified, and would have poignant testimony: Had it not been for this, she would have considered having an abortion. It came right down to that, basically. She had a good start and a healthy child.

We went to two or three cities, walked around, just talked to people, and dropped into these places.

I went a couple of weeks later to Oklahoma with Senator Bellmon. He read the riot act to people there. He said: "Get them lined up for WIC. Get this program working. Make it work."

It is an infinitesimal amount of the overall budget, but the good it does, starting especially with pregnant mothers before a child is even born; the good it does for generations to come. We use metaphors here all the time, but if there is a case where we start with a real foundation, it is in the WIC Program.

I am proud to support the Senator in his amendment.

Mr. DECONCINI. I thank the Senator from Vermont for those words and particularly for an example of the real human beings involved in this amendment.

This is not an administrative nightmare or an administrative giveaway.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. FORD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I am ready to vote.

Mr. BURDICK. Mr. President, before this debate concludes, I think some salient facts should be made part of the RECORD.

This bill contains $1,927,362,000 for the WIC Program. This amount is a $125 million increase over 1988. That is what the committee did. The 2-percent cut reduced the appropriation by $38,500,000. Nevertheless, the increase in this bill over last year is still $86,500,000.

This is a very difficult situation, of course. But, remember, there are very good programs that are going to be slashed by this amendment, also. For example, what is going to happen to the Food Safety Inspection Service? It will take quite a wallop.

I urge, as I did before, that I think we have done the best we could in the committee. We tried to put in $125 million, and it was cut by 2 percent. We still come up with $86 million over the previous year. I think we have done the best we could.

Mr. COCHRAN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Office of the Secretary of the Department of Agriculture, together with a table showing the appropriations for this account.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, June 27, 1988.

Hon. THAD COCHRAN,
Ranking Minority Member, Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: The United States Department of Agriculture objects to amending the Senate Agriculture Appropriations Bill to increase the fiscal year 1989 appropriation for the Special Supplemental Food Program for Women, Infants and Children [WIC] and indiscriminately reducing fund for other discretionary accounts.

Many are unaware that WIC State agencies have achieved substantial savings through infant formula rebate systems. We estimate these savings will be between $200 million and $275 million in fiscal year 1989. As a result, States can serve significantly greater numbers of eligible women, infants, and children with the appropriation we have requested. In fact, the level of expected savings is so great Congress recently authorized States to carry over 5 percent of their WIC food funds from one fiscal year to the next.

Since 1980, WIC funding has increased 143 percent. On the other hand, funding levels for other Department of Agriculture discretionary accounts have been developed in a frugal environment. With a few exceptions, such as administrative funding for the Temporary Emergency Food Assistance Program, reductions in these accounts are likely to have a significant deleterious effect.

Sincerely,

JOHN W. BODE,
Assistant Secretary,
Food and Consumer Services.

WIC

Fiscal year	Appropriation	Increase
1979	$569,500,000	
1980	758,000,000	$188,500,000
1981	927,000,000	169,000,000
1982	934,100,000	7,000,000
1983	1,193,300,000	259,000,000
1984	1,400,000,000	207,000,000
1985	1,500,000,000	100,000,000
1986	1,580,000,000	80,000,000
1987	1,663,500,000	83,500,000
1988	1,802,363,000	139,000,000
1989 proposed	1,927,362,000	125,000,000

Mr. COCHRAN. Mr. President, the salient part of this letter shows that since 1980, WIC funding has increased 143 percent. There is no other program funded under this bill that has been treated as generously as this program in the past, nor has one been treated as generously in the past as this bill treats the program this year. I hope Senators will vote against the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2760

(Purpose: To require State agencies to evaluate and implement certain cost containment procedures for acquiring infant formula and other foods that are necessary to carry out the WIC Program)

Mr. BURDICK. Mr. President, this amendment requires States participating in the WIC Program to examine the feasibility of implementing cost-containment procedures for infant formula and other WIC foods.

Where such procedures would lower costs and enable more eligible persons to be served, without interfering with the delivery of nutritious foods to recipients, States are to implement such procedures.

States must submit to the Department of Agriculture as part of their annual operation plans, an analysis of the feasibility of cost-containment procedures and plans for implementing them where appropriate.

Mr. President, I ask unanimous consent to submit the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, reserving the right to object, I have talked to the distinguished chairman of the subcommittee, and I understand that if this modifying amendment is accepted, the committee will not oppose the amendment.

Is that a fair question to ask the chairman?

Mr. BURDICK. That is a fair question. I will not oppose the amendment.

Mr. DECONCINI. Mr. President, I have no objection to the modification offered by the Senator from North Dakota.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK) proposes an amendment numbered 2760 to amendment numbered 2759.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Following the matter proposed, insert:

(d) Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of clause (viii);

(B) by striking out the period at the end of clause (ix) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(x) a description of the feasibility and types of cost containment procedures described in section 3 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) (including infant formula rebates) implemented to acquire infant formula and other foods that are necessary to carry out this section."; and

(2) by adding at the end thereof the following new paragraph:

"(17) A State agency shall examine the feasibility of implementing the procedures referred to in paragraph (1)(x). If the State agency determines that such a procedure would lower costs and enable more eligible persons to be served (without interference with the delivery of nutritious foods to recipients), the State agency shall implement such procedure.".

Mr. DECONCINI. Mr. President, I thank the distinguished chairman again for his leadership in the WIC Program, and I thank him for this modification which helps conform and tighten the purchasing of food but permits the full funding of the Chafee-DeConcini amendment. I thank the Senator for his effort.

Mr. President, I also want a rollcall vote. I think this is a paramount issue. I hope it is unanimous, but, in any event, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The second-degree amendment (No. 2760) was agreed to.

Mr. HARKIN. Mr. President, I rise to express my support for the amendment offered by Senator DECONCINI to restore $30.825 million of the $39 million that was cut from WIC funding. The budget resolution for fiscal year 1989 called for spending $150 million for WIC above the current services level. This bill provides only $14 million over current services. Hence we are far from the $150 million originally envisioned as a level that would have allowed adding 300,000 additional participants. It is therefore necessary at least to restore a part of the amounts that were removed by the across-the-board cuts of funding under the agriculture appropriations bill.

We are all familiar with the facts on the WIC Program. The program is indeed a money-saving program that constitutes one of the most efficient areas of Federal expenditures. The WIC Program provides only the additional nutritional supplements necessary to bring women, infants, and children who are poor and nutritionally at risk to a minimum nutritional balance. In so doing, the program spends only $32 per month per participant for commodities that meet these specific needs. Money spent on the WIC Program prevents more costly future expenditures on health care. It is a sound and prudent investment fiscally.

More important, however, the WIC Program is an investment in our people that pays dividends year after year in the form of improved health, productivity and quality of life. As a nation, we all benefit when our citizens are able to achieve their maximum potential unhindered by inadequate nutrition. Inadequate nutrition in the early stages of life creates an irreversible impediment to a full, productive life and stacks the odds even further against escape from poverty.

The amendment is especially important because WIC is now serving only 47 percent of those eligible. There are far too many who need this help but do not receive it.

I regret that the amendment requires some reduction in other programs that are also important. I just think that when making the tough decision on priorities reflected in the amendment, we must place priority on our young people and the brighter futures they can have through the WIC Program. Mr. President, I also wish to express my support for Senator BURDICK's amendment calling for competitive bidding or other cost containment measures in the special Supplemental Feeding Program for Women, Infants and Children [WIC].

Last year the Subcommittee on Nutrition, which I chair, held hearings on this issue. I later offered the amendments to the Commodity Distribution Improvements Act which enabled States to utilize the savings realized from these cost containment programs to expand WIC participation.

Mr. President, until these WIC amendments were passed earlier this year, there was a disincentive to States to purchase WIC commodities at the cheapest possible price.

According to a GAO report I just received, and which will be released shortly, if all States implemented competitive bidding or otherwise negotiated special pricing on WIC commodities, almost 1 million additional women, infants, and children could be added to the WIC rolls at no increase in cost to the Federal Government. Indeed, I commend Senator BURDICK for his amendment and urge my colleagues to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Maine [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from Nevada [Mr. REID], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], and the Senator from Michigan [Mr. LEVIN] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 4, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—87

Adams
Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor

Quayle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—4

Cochran
Helms
McClure
Symms

NOT VOTING—9

Bentsen
Biden
Bradley
Gore
Kerry
Levin
McCain
Reid
Riegle

So, the amendment (No. 2759), as amended, was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2761

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. MCCONNELL, and Mr. EXON, proposes an amendment numbered 2761.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . Section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) is amended by—

"(1) in subsection (a)(1), striking out "Except as provided in paragraph (2)," and inserting in lieu thereof "Except as provided in paragraphs (2) and (3),",

"(2) adding at the end of subsection (a) the following new paragraph:

"(3) PERIODIC PURCHASES.—(A) Notwithstanding any other provision of this section, the Financial Assistance Corporation shall establish a program under which System institutions shall purchase, as debt obligations are issued under section 6.26(a), stock of the Corporation in amounts described in this paragraph.

"(B) The program shall provide, with respect to each issuance of debt obligations under section 6.26(a), that each System institution originally required to purchase stock under paragraph (1), or the successor thereto, shall purchase Corporation stock in an amount determined by multiplying the amount of stock such institution was originally required to purchase under that paragraph by a percentage equal to the percentage which the amount of the issuance bears to $4,000,000,000.

"(C) The Financial Assistance Corporation shall promptly rescind purchases of stock of the Corporation made under paragraph (1) or (2) by System institutions and refund to such institutions, or their successors, the purchase price for the stock, except that, with respect to each issuance of debt obligations that occurs before October 1, 1988, the Corporation shall deduct from any refund due any System institution, and retain, the amount payable by such institution.

"(3) in subsection (c)—

"(a) striking out "Within" and inserting in lieu thereof "(1) Within",

"(b) striking out "(1) the" and inserting in lieu thereof "(A) the", and

"(c) striking out "(2) in the case" and inserting in lieu thereof "(B) in the case", and

"(4) adding at the end thereof the following new paragraph:

"(2) Not later than 15 days before each issuance of debt obligations under section 6.26(a) occurring after September 30, 1988, the Financial Assistance Corporation shall notify each System institution required to purchase Corporation stock under subsection (a)(3) of the amount of the stock it is required to purchase."

Mr. BUMPERS. Mr. President, I offer this amendment on behalf of myself, Senator KASSEBAUM, Senator MCCONNELL, Senator EXON, and Senator PRYOR.

There is a 40-minute time agreement on this amendment, I know that a lot of Senators have planes to catch, so I will describe this amendment as briefly as I can. It is a little bit complicated, but I plead for your attention so that we can maybe yield back some time at the end of the debate.

In 1987, the Congress passed a bill which was effectively a bailout of the Farm Credit System. I supported the bill, but I believe the assessment provision has been operated in an inequitable manner. I, and the other cosponsors want to amend this one section and arguments that we are trying to undo the entire bill is without merit.

Under the Agricultural Credit Act of 1987 we set up the Financial Assistance Corporation and provided that this Corporation shall have the right to issue up to $4 billion worth of bonds to assist those associations in trouble. We also created a trust fund using system assessments which equalled 4.43 percent of the $4 billion borrowing limit. Associations were assessed their surplus funds that exceeded an amount equal to 13 percent of their assets. Associations were told "you can shelter some of your surplus; the balance will have to be sent to this trust fund."

Now let me give you an example as to why I am on the floor and why this amendment is important to 142 associations in America.

We have a little successful PCA called the Delta PCA down in southeast Arkansas. They had about a $3.4 million surplus. Under this law, this association was forced to give $2.5 million of that amount to the trust fund. It represented 72 percent of their surplus.

Now, this little PCA has all their money loaned out to the farmers like they are supposed to have. And so when the payment deadline came they literally had to go borrow the money to send it in to this trust fund.

It is my impression that the Delta PCA is one of the healthiest, soundest managed little PCA's in America, and there is a distinct possibility that they will have to liquidate and fold up unless this amendment passes.

Now, I can tell you that Senators MCCONNELL, KASSEBAUM, and EXON and a whole host of other Senators have associations in the same boat.

I again want to stress that we are not trying to undo the 1987 act. We affirm that all of these assessed associations have an obligation to help bail out the system and we do not object to any of the associations being required to send in this amount of surplus if the corporation does in fact wind up issuing $4 billion worth of bonds. But they are not ever going to issue that much.

Last week they borrowed FAC issued $450 million. We are happy to put up our share, as required under the rules, regulations, and laws, of $450 million, and if they borrow another billion dollars next week we will put more money in the trust fund to back up that billion dollars. But what has happened is they have made every assessed association in America contribute the full amount to the trust fund which now sits in a bank, totaling $177 million. This is the amount that would be required to back up a total $4 billion in bond issues and they have only issued a little over 10 percent of that amount.

So what we object to, Mr. President, is the requirement that associations be forced to make a 100-percent contribution based on a $4 billion bond issue when they have only issued $450 million.

We are not trying to renege. We understand that all associations are in this together. And we will pay our share.

If they issue $4 billion we will pay our full share of that. But all we are saying is: Do not make us pay it all on the front end when you are not likely to ever issue that amount.

We have created this big trust fund and it is drawing interest while our little PCA in Arkansas, and others in the country, are threatened with liquidation.

I want to make this point crystal clear, Mr. President. We are willing to do whatever we have to do but we must recognize that the 1987 Agricultural Credit Act was infallable and perfect. We sit in this Chamber, as U.S. Senators, trying to do justice, correct errors, redress injustices and wrongs that we do in this body. We made a mistake in 1987 by allowing associations to be assessed 4.43 percent against $4 billion, and this is jeopardizing good, fine, soundly managed associations all across America.

We also have a provision in this amendment that says we will contribute our share, even if associations merge with somebody else. They will still be obligated to contribute their share that they owed as of December 31, 1986.

Mr. President, I yield the floor and reserve the balance of my time.

The PRESIDING OFFICER (Mr. BREAUX). Who yields time?

Mr. COCHRAN. Mr. President, may I inquire of the Chair how much time we have in opposition to the amendment?

The PRESIDING OFFICER. The Chair will inform the Senator from Mississippi there is 15 minutes in opposition.

Mr. BUMPERS. Mr. President, the Senator understood it was 40 minutes, equally divided. I had 30 minutes on the amendment dealing with contact lenses, which was the excepted committee amendment, and 40 minutes on this one.

The PRESIDING OFFICER. The Chair will observe that the agreement that was placed on the calendar indicated 30 minutes to be equally divided. That could be modified by unanimous consent.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the agreement be modified to show 40 minutes, equally divided.

Mr. BUMPERS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield 10 minutes to the distinguished Senator from Indiana, Mr. LUGAR.

Mr. LUGAR. Mr. President, the amendment that we considered today by the distinguished Senator from Arkansas is a critical amendment with regard to the future of the Farm Credit System. I cannot overemphasize that. I shall not overdramatize it. It just is so. The problem is that the administration initially insisted that all of the reserves of the system be utilized to save itself.

Mr. President, last year the Farm Credit System was in jeopardy in total. The distinguished Member who was in the chair now recalls the discussions around the table, as month by month we noted the potential failures, not only of individual units, but of the entire system. And there were many who felt that it might very well fail, simply because there are, sometimes, institutions in our society that are so badly mismanaged, that become so inept, so calcified in their operations, they are simply doomed to failure and they are replaced by other methods.

The will of the Senate was to try to resurrect that system by making it possible for it to borrow money; by making it possible for it to bring units together in merger. And, as a very minimal part of that recapitalization, all of the units of the system were asked to contribute 13 percent, 13 percent of their reserves to keep all the rest. And they have. But to put 13 percent in the kitty of the existing surpluses; that was $1.45 billion total surplus for the whole system in 1986; $1.35 billion in 1987. That amount was out there.

We are talking today, Mr. President, about not only reneging but simply putting it all back where it was. The elements in the system have decided they would really rather not contribute to their own success. They would rather the rest of the United States of America bail them out. They simply keep their money, keep their reserves, every penny of it.

That will not do, Mr. President. We are talking today about not only good faith but about whether the whole system is really worth the support of the U.S. Senate if, in fact, having gotten the cure, having taxpayers behind them, having the full $4 billion reserve to bail them out, they want their money back. And if this amendment passes, they get their money back. They are home free.

Mr. President, let me just say that to say the least the Secretary of the Treasury is upset about this development. He has written a letter which barely allows the paper to exist after the scorching situation, as he describes it. Because, as he points out, this is not only totally reneging, this is not the deal at all.

The Treasury came into this situation with the thought that those who were in trouble would at least with 13 percent of their reserves try to help themselves. To say the least, the Treasury takes a very dim view of the amendment.

I would hope, Mr. President, the Treasury would continue to press that situation in behalf of the taxpayers, in behalf of all the rest of the citizens of the United States who do not have such favorable treatments.

In fact, the Bumpers amendment is not justified on the facts. It is a meat axe approach on the part of the whole system which was prompted by the constituents of the distinguished Senator in the Delta Association, and the Delta Association has a problem that could have been relieved by the St. Louis district but the Delta Association could not, apparently, convince the other members of the district to go along to help them in their situation.

Delta did pay an abnormally large assessment and that is true of several associations. My figures show that three associations, in fact, paid amounts equal to 70 percent of the surplus and they have a legitimate complaint. They did not pay 13, they paid 70. There were three such entities in the United States of America that did this and 13 paid over 65 percent; 9 paid between 60 and 65 percent.

They have been abnormally hit and, Mr. President, we recognize that and the district banks have the ability to remedy it.

It is no fault of the distinguished Senator from Arkansas, or both the distinguished Senators from Arkansas, that that St. Louis district has not come at least in some cooperation. In fact, it would be very well worthwhile, Mr. President, for oversight hearings to try to find out what is going on in that St. Louis district and why people out there are prepared to gum up the whole works; hopefully, I suppose, with the thought that Congress will not notice and, having been saved, nobody will pay any attention. They can go about their works and bring to the floor of the Senate, now, the distinguished Senator from Arkansas who wants not only relief for Delta and for two or three other instances, perhaps, in his constituency, but in fact return of everything, all the reserves; all the pledges made by everybody in the system home free.

Mr. President, I simply reiterate that not only is it unfair, not only does it unravel the whole agreement, but it simply is going to lead, in my judgment, to a severe lack of confidence on the part of this body in the Farm Credit System in the way that it is managed and what appears to be, Mr. President, a situation of let the good times roll.

But things are not very good out there for the Farm Credit System. Loans, as a matter of fact, are shrinking. There is other competition coming in and, before long, Mr. President, my guess is before the Agriculture Committee, we are going to see these same people again and they are going to say, "Farm credit is in trouble; bail us out; you can't let us fall because we are the people who prop up the farmers."

Mr. President, I am just going to say as one who took a leading role in trying to craft this legislation that patience runs thin with people who want it all, every bit of it, every bit of reserve back, all $177 million, all 13 percent. And they want the rest of us in the United States of America to bail them out, to keep them going, regardless of how they mismanage their affairs, regardless in the St. Louis district there is no compassion for Delta.

Mr. President, not only do I oppose this amendment, I simply hope this debate sends a strong signal to the Farm Credit System that there is not only disapproval of the Bumpers amendment, but there is disapproval of the St. Louis District, disapproval of all of those who think they can simply go back to their old ways and that we will pick up whatever the pieces may be. I have news for them, Mr. President. There are new possibilities for agriculture credit, and we adopted in that same reform bill the possibility for agriculture credit through secondary holdings of banks and that is going to be a way farmers can get credit. Perhaps we should in the agriculture committee begin to look arduously at how we do this in the fully private system without Federal money propping up people who are not prepared to pay their share.

I hope, Mr. President, that having made this point, the distinguished Senator from Arkansas will withdraw the amendment and will go back to St. Louis. I will pledge to go with him to that district and say, "Listen, folks, you are on thin ice. Repent, reform before it is too late." But to offer an amendment that unravels the whole thing, Mr. President, I think is unjustified. I am hopeful the amendment will be defeated.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Arkansas controls 13 minutes, 15 seconds.

Mr. BUMPERS. Mr. President, if my colleague will indulge me for a moment, in response to what the Senator said, one, you talk about repenting and shaping up. You do not say that to the best run PCA in America. You do not say that to the the PCA's that are soundly managed.

No. 2, I know he did not intend to misrepresent it, but if these associations were only required to put up 13 percent of their surplus, I would not be here today. The formula does not work that way. Here is the way the formula works:

A certain amount of surplus can be sheltered. You take 13 percent of your total assets, and if you have $1 million in assets, you shelter $130,000. That is 13 percent. But that is all of your surplus that you can retain. If you have a $500,000 surplus, you have to cough up $370,000.

The little PCA I alluded to a while ago has put up 72 percent of their surplus. If, as the Senator said, they were only putting up 13 percent of their surplus, I would not be here today. In all fairness, and this is not meant to be derogatory at all, if I were from Indiana, I would not be here today. Indiana's PAC is in pretty good shape. They had $135 million in surplus in the Central PCA in the Louisville District. They are sheltering $131 million, and they only had to pay in $4 million or 3 percent.

My little old PCA down in Arkansas, with $6 million or $7 million in total assets, paid almost as much into the fund as the Central PCA which covers Indiana. I have always thought that if I voted for Indiana enough, maybe someday they wuld try to help Arkansas. That is the reason I am here today. We ought to be fair regardless of where we are from. Let these people pay in installments. As bonds are issued, let them pay in their contribution. If I went to the bank and the bank said, "I will loan you a million dollars," and I said, "I do not need a million dollars: I need $100,000 a month," and they say, "Well, that is fine. We will let you have $100,000 a month, but we want you to start paying interest on $1 million right now," why, you would turn around and say, "Thanks a lot but no thanks." That is precisely the case in point.

I yield to my distinguished colleague from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, I thank my distinguished colleague from Arkansas for yielding to me at this time.

I think we do need to clarify the situation which exists in this amendment. One, let us talk about what this amendment does and what it does not do. I think that is the first thing we should establish.

This amendment offered by Senator BUMPERS and myself, Mrs. KASSEBAUM, Senator MCCONNELL, Senator EXON does not affect the assessment formula. It does not even touch that formula. It will not change the amount of money that can be collected by the System. Perhaps most importantly, it does not alter the concept that the System itself will be responsible for its own rescue.

I dare say, in reply to my distinguished friend from Indiana, Mr. President, that there is not one PCA, not one Federal land bank, not one loaning institution out there across the width and breadth of this great country of ours that does not recognize its obligation to the entire System.

That is not the point. It is the fact that this obligation has been basically assessed in an unjustifiable and inequitable way.

The Senator from Indiana says all of these lending institutions are going to be home free after this amendment. That is not correct, Mr. President. I say that in great respect and friendship and admiration of my friend from Indiana. Each of these lending institutions will continue paying their fair share, but only when that fair share is needed.

This legislation was never intended, Mr. President, to be a part of closing the doors, forcing liquidation of any production credit association in America or any loaning institution in America.

The distinguished Senator from Indiana says, "Well, there is relief; there is administrative relief. You can go to St. Louis and you can have some hokus-pokus waved over the problem and you will get relief."

Let me say, Mr. President, in all due respect, in answering my friend from Indiana, administrative relief is only so good as the administration that wants to grant that relief.

I have talked to our friend, Secretary Lyng, about this particular problem. I have talked to our friend, Mr. Frank Naylor, the head of the Farm Credit Administration, about this problem. I have talked to the individual members of our Senate and House Agriculture Committees in Washington, DC, about this problem.

Mr. President, the only reason that this amendment is here today on the floor of the Senate is that administrative relief for the Delta PCA, or for the other institutions across America, was not forthcoming. Therefore, it is incumbent upon us, it is our duty representing not only our States but also the agriculture community of this country, that we bring this amendment to the floor, that we clear up those inequities and that we say, once and for all, there will be no unfairness in the Agricultural Credit Act of 1987.

I look at this very similarly to the technical corrections amendment that we might pass through the Finance Committee.

I think it is just. I think it is fair, and I certainly hope, Mr. President, our colleagues will look favorably upon this piece of legislation now before the Senate.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I yield to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I would like to lend my enthusiastic support to this amendment. It deals with an obviously unintended consequence of the farm credit legislation, which was signed into law earlier this year by the President, and I commend my colleagues for addressing this very important issue.

The Agricultural Credit Act of 1987 was landmark legislation in that it provided a Federal safety net for the Farm Credit System along with an infusion of low-cost funds to troubled System institutions. Restructuring of the System was also directed to increase operating efficiencies.

In helping to keep struggling Farm Credit System institutions afloat, we also provided crucial support to farmer/borrowers who rely on the System for operating loans and long-term real estate financing. All of this was accomplished at minimal exposure to the Treasury and the taxpayer.

An integral element of the act was the self-help feature required of the System. Through a one-time assessment of healthy System institutions, a Financial Assistance Trust Fund was established. I strongly support this self-help concept, which was an important factor in keeping the act "off-budget."

Under the formula which was utilized to fund the trust fund, Production Credit Associations [PCA's] were assessed about $177 million. This amounts to 4.43 percent of the $4-billion trust fund created by the law. The unfortunate and unintended result of this assessment, however, was the hardship imposed on some associations.

Several examples of the effect of the assessment on associations have been cited. Let me use the South Central Kansas PCA as another example. Prior to the assessment, this was a healthy, profitable, efficient association. However, this association was assessed $4,514,000 under the formula. Funds for the assessment had to be borrowed. For an association with a total loan volume of approximately $9,000,000, this was an enormous increase in their cost of funds which will have to be passed on to borrowers.

According to statistics from the association, the rate which they are required to charge their borrowers just to meet operating expenses jumped from 8.25 percent before the assessment to 15.25 percent after the assessment. I do not have to tell my colleagues how farmers will feel about borrowing their operating funds at 15.25 percent. There is obviously no way the South Central Kansas PCA can compete in the marketplace if they are forced to charge these rates.

It seems to me that this runs completely counter to the intent of the Agricultural Credit Act. The goal of the act was to enable System institutions to compete, not to be forced into liquidation.

This amendment is a reasonable way to remedy the situation without altering the formula under which PCA's contribute to the trust fund. It would merely allow an association to contribute as assistance is granted to the System, in the identical proportion to the original assessment. Rather than a huge lump up front, associations will have the use of their funds until such time as further assistance is needed by the System.

Let me stress that this amendment does not in any way represent an effort by PCA's to back out of their part of the self-help portion of the law. Instead, it will allow them to remain competitive in providing essential credit services to their borrowers. At the same time, it maintains their commitment to helping with the Farm Credit System's restructuring and recovery.

I know that this amendment will benefit PCA's in many of my colleagues' States. Passage of this amendment is crucial to the health of these associations, and I urge that it be given quick approval by the Senate.

Mr. President, let me repeat that I am a strong supporter of the self-help mechanism which is an integral part of the Agricultural Credit Act.

I certainly think the forceful argument of the Senator from Indiana [Mr. LUGAR], is one which we can all sympathize with. It is difficult to find a fair comparison, but if I may I will again just cite an example which I think is an illustration of the problems we face.

The South Central Kansas PCA is such an example. Prior to the assessment this was a healthy, profitable association. However, it was assessed $4,514,000 under the formula. Funds for the assessment had to be passed on to the borrowers. For an association with a total loan volume of approximately $9 million, this was an enormous increase in their cost of funds which will have to be passed on to borrowers. For those farmers who are borrowers in that association, just to meet operating expenses, it went from 8.25 percent before the assessment to 15.25 percent after the assessment.

I think this shows, Mr. President, the unintended results of the legislation. I believe that the Bumpers amendment provides a way to address this. I think it does not seriously disrupt the formula that was evolved at a time of the Agriculture Credit Act.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator controls approximately 10 minutes.

Mr. COCHRAN. How much time remains for the proponents?

The PRESIDING OFFICER. Four and a half minutes remain to the Senator from Arkansas.

Mr. COCHRAN. Mr. President, I think the distinguished Senator from Indiana has explained very clearly the problem of agreeing to this amendment on this bill. First and foremost, this is obviously a change in the law that is being asked for in the amendment offered by the Senator from Arkansas and others.

We are involved in an appropriations process today, trying to appropriate money for the funding of the Department of Agriculture and related agencies. There may be a need for a technical corrections bill to the Farm Credit Act that was passed last year. But the floor of the Senate and the appropriations bill for the Department of Agriculture is not the appropriate vehicle for that technical corrections bill.

My very good friend from Arkansas points out that this is kind of like the Finance Committee technical corrections bill. I suggest if we had any technical corrections to be made to any tax laws of the United States, he or the leadership of the Finance Committee would be here on the floor strenuously objecting to any such changes. As a matter of fact, he and I have been working very hard—he is on the Finance Committee—to try to repeal the diesel fuel provisions where farmers have to pay in advance taxes they do not even owe. The towboat and barge industry that operates on the Mississippi River between our two States is having to pay gigantic sums of money into the Federal Treasury that they do not even owe. They are exempted under the tax laws from having to pay what amounts to highway taxes. But we cannot get the Finance Committee to change that.

In this bill, we have expressed our strong concern through the amendment of the Senator from Nebraska, Senator KARNES, that that ought to be changed. But that is about all we have been able to accomplish because of the resistance of the Finance Committee. Here we are with the Agriculture Committee having the Jurisdiction of this legislation and this legislative subject. They understandably resist this change in the law being made without their approval. They have that responsibility.

So that is the situation we are in. I sympathize with the problem that the delta PCA has. I am sure there are other PCA's that would like to change this around. I hope we can get an adjustment made in the law that will make that program a lot more equitable and fair. If that is possible, we ought to try to do it.

Mr. BOSCHWITZ addressed the Chair.

Mr. COCHRAN. Does the Senator from Minnesota oppose the amendment?

Mr. President, I yield the Senator such time as he may consume.

Mr. BOSCHWITZ. Mr. President, I rise today in opposition to the amendment offered by Senator BUMPERS.

Throughout the debate on the farm credit bill last year, I stood firm in my belief that the Farm Credit System should be required to provide some "self-help" first before taxpayer dollars would be put at risk. The bill required a one-time assessment on Farm Credit System banks and associations based on the surplus that was available at year-end 1986. Furthermore, a cushion was allowed in order to protect the capital levels of the institutions. Banks were required to contribute the amount that surplus exceeded 5 percent of assets and associations were required to contribute the amount that surplus exceeded 13 percent of assets.

At year-end 1986 the surplus of the Farm Credit System amounted to $1.45 billion. The mandatory assessment resulted in the system contributing only $177 million. This $177 million has been paid into a trust fund which is controlled by the Financial Assistance Corporation.

This amendment will significantly alter the Agricultural Credit Act of 1987 just signed into law in January of this year. My colleagues on the Senate Agricultural Credit Subcommittee and I spent most of last year working on this legislation to provide financial assistance to the Farm Credit System [FCS] and its borrowers. Overall, I believe we arrived at a well balanced package that would make up to $4 billion worth of financial assistance available to FCS and its borrowers.

The amendment proposed by Senators BUMPERS, PRYOR, KASSEBAUM, and MCCONNELL would essentially relieve the Farm Credit System of providing self-help. I object to that, Mr. President. We are asking the Farm Credit System to contribute approximately 4½ percent of their available capital at the end of 1986.

It is my understanding that under the amendment, all assessments collected would be returned to FCS institutions. Institutions would then be assessed on an installment basis depending upon the amount of bonds issued to raise the funds necessary to provide assistance to FCS institutions.

At this point I would like to add that one of the principal people who helped us work through farm credit legislation last year was Doug Symms, who is with the St. Louis Farm Credit District.

While it is true that the farm credit law provides the authority for up to $4 billion in bonds backed by the Government to be issued, it does not mean that if less than $4 billion is needed, some portion of the mandatory one-time assessment would be returned to FCS institutions who contributed. The assessment funds would serve as an initial protection to taxpayers from defaults on the bonds issued. The funds from the assessment would be hit first in the event there was a default on interest payments or final payments on the bonds.

Each Farm Credit District was authorized to reallocate the assessment among the institutions within the district. This provision was included to allow the district to reallocate assessments to equitably reflect the ability of each institution to make payments. The reallocation was subject to the unanimous consent of the affected institutions within the district. The Texas District took advantage of this reallocation authority.

The mandatory assessment required a modest contribution from Farm Credit System institutions. Let me just briefly outline some of the benefits that have accrued to the System as a result of passage of the 1987 Act. The spread between Farm Credit bonds and comparable Treasury securities has been reduced which means FCS costs of borrowing money from the capital markets has been lowered. As I recall, the most recent spread between Farm Credit bonds and comparable Treasury securities is about 32 hundredths of 1 percent.

The 1987 Act also returned assessments to FCS institutions which were required under the 1985 Amendments. Contributing banks under the voluntary loss-sharing agreements were relieved of their obligation to pay receiving banks about $415 million due in the third quarter of 1986. In addition, borrower stock was guaranteed to be redeemed at par value. Furthermore, federal assistance funds are now in place to cover financial difficulties of FCS institutions, of particular importance is the availability of these funds for the Jackson Federal Land Bank. If funds were not available these losses would have to be paid off by other system banks through the triggering of joint and several liability. We had a well-balanced bill and a fair bill.

I must also add that the administration has indicated strong opposition to this amendment. During debate on the farm credit bill last year the administration recommended that the Farm Credit System be required to utilize all its surplus first before any taxpayer dollars were put at risk. We worked with the administration quite closely in crafting the farm credit bill and I do not want to undermine their support for the compromise by the adoption of this amendment. I share their belief that self-help was an essential component of the bill.

In a letter to Senator LUGAR, Secretary Baker indicates that the farm credit law was a carefully crafted compromise and took into acocunt "the responsibilities of cooperative members of a cooperative system to utilize a reasonable amount of their own resources for self-help."

The mandatory one-time assessment was an integral part of the farm credit assistance package. I do not believe that a change of this significance should be attached to an appropriations bill. The Agriculture Credit Subcommittee, of which I am the ranking minority member, has not held hearings on this proposed amendment. I must say that the assessment was discussed thoroughly last year as part of the debate on the farm credit bill. I do not believe that we should be opening up debate on the farm credit bill at this point.

I hope the Senate will reject this amendment.

Mr. COCHRAN. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 45 seconds to the Senator from Mississippi and 4½ minutes to the Sentor from Arkansas.

Mr. COCHRAN. I yield the remainder of my time to the Senator form Nebraska [Mr. KARNES].

Mr. KARNES. Mr. President, in the brief period of time I have, I should like to point out the impact this will have on the markets.

Right now these bonds have been selling at a very favorable rate because of the financial package that has been put together in Congress. They were selling 120 basis points off Treasury and now are selling about 150 points off Treasury. Why? Because of this fund that has been established, this $177 million we talk about.

If we are going to adopt the Bumpers amendment, which I oppose, this $177 million will be returned, and what would we have? We would have 5 percent of the total bonds outstanding, which would come to about $20 million. This would have a dramatically negative impact on the Farm Credit System bonds around the country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Mr. President, how much time does the Senator from Kentucky wish?

Mr. McCONNELL. Two minutes.

Mr. BUMPERS. I yield 2 minutes to the Senator.

Mr. McCONNELL. I thank my friend from Arkansas for yielding.

Mr. President, I rise today as a cosponsor of the amendment offered by the distinguished Senators from Arkansas, Senator PRYOR and Senator BUMPERS. This amendment addresses a serious situation which has arisen as a result of the implementation of certain provisions of the Agricultural Credit Act of 1987.

That legislation called for the System to contribute to its own assistance. A one-time assessment was imposed on surplus unallocated retained earnings of farm credit associations in excess of 13 percent of their assets, the theory of this provision being that certain institutions prospered as a result of their affiliation with the Farm Credit System. Before the taxpayer should be asked to provide financial resources the System should first help itself.

In principle I agree with this approach. The System is a cooperative, and when the System prospers, every member prospers. But when the System is troubled everyone must pull together to help. Additionally, the self-help approach allows the bulk of the financial assistance to remain off-budget.

However, for some associations, this assessment has proven to be excessively burdensome. The Agriculture Credit Act allowed for these assessments to be redistributed within a district if everyone agreed to the rearrangement. But this plan requires some associations to vote to increase the assessment on themselves, something which in many districts has not happened.

I believe that it was the intent of this legislation to help the Farm credit System work its way back into viability. It was not the intent of this legislation to force some institutions into nonviability. In Kentucky, this is exactly what has happened. As a result of the assessment, two production credit associations in Kentucky have been forced into the red. Higher interest rates and decreased customer services have followed. In one case, a formerly healthy institution may become a recipient of assistance.

Senators BUMPER and PRYOR have proposed a reasonable solution to this problem. The amendment before us calls for healthy institutions to contribute to the System only when bonds are issued to raise funds for System assistance. This "pay as you go" concept remains true to the belief that the System should help itself, but it allows associations to pay only as the money is needed. CBO has indicated this will not jeopardize the off-budget nature of the Agricultural Credit Act of 1987, and has no budget impact.

I hope my colleagues will empathize with the desperate situation many Farm Credit System institutions now find themselves in. I know in Kentucky, the directors and officers of the associations affected by the assessments were good managers. They were cautious and prudent during the expansion of the late 1970's and early 1980's and as a result were not as severely impacted by the downturn in agriculture experienced this decade. They ran a good shop, and now, because of actions in Washington, they are faced with nonviability. They, understandably, feel penalized for their success.

The Pryor/Bumpers plan is a reasonable response to this serious situation. I thank the two Senators from Arkansas for their leadership with this issue, and I urge the adoption of this amendment.

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes remaining.

Mr. BUMPERS. Mr. President, I applaud the efforts of the Senator from Indiana; the Senator from Oklahoma [Mr. BOREN]; the chairman of the Agriculture Committee, Senator LEAHY; and all others who put the Agricultural Credit Act together in 1987. I voted for it, and I voted for it enthusiastically. But if I had known that it was going to hurt so many innocent people without helping anybody else, I would not have voted for it.

It is a small matter. It is not one of the larger issues in the U.S. Senate. But we will never have the opportunity to vote for an amendment that helps so many people without hurting anybody else.

The Senator from Nebraska has said that these bonds have a favorable rate. They have a favorable rate, but it is not because of the trust fund. It is because they are guaranteed by the U.S. Government.

When we passed the Agricultural Credit Act, not one soul in this body intended to punish some of the best-run associations in America. What is wrong with allowing these associations to pay their pro rata share on an installment basis? We ask not one favor in this amendment. All we ask for is simple justice, simple fairness.

I said earlier that if I were from Indiana, I probably would not vote for this. I was interested in the statement of the Senator from Minnesota. If I were from Minnesota, I would not be for this either. They have not paid one thin dime into the trust fund, so what does he have to lose? What does anybody here have to lose when they come from a State where they are not hurt? They do not have anything to get hurt with.

Mr. President, I sincerely hope that my colleagues will understand. We were closed out on the farm credit technical corrections bill. We did not have a chance. We either provided relief for these people now, or a lot of them are going to go down the tube needlessly, unfairly, and unjustly. So I plead with my colleagues to support this amendment.

I yield back the remainder of my time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. May I have 1 minute on the bill?

The PRESIDING OFFICER. Under the time agreement, all time has expired.

Mr. LEAHY. Mr. President, I ask unanimous consent that I may proceed for 1½ minutes.

Mr. BUMPERS. What was the request?

Mr. LEAHY. That I be permitted to proceed for 1½ minutes, in opposition to the amendment.

Mr. BUMPERS. I have no objection.

The PRESIDING OFFICER. The Senator is recognized, without objection.

Mr. LEAHY. Mr. President, I have a great deal of sympathy and enormous respect for the Senator from Arkansas, and I hate to have to oppose him on anything. It is very rare that I do.

This amendment would undermine one of the fundamental compromises reached in the Farm Credit Act of last year. Legislation in not what any one of us individually would have written, but it is resolved by a great deal of compromise.

The Farm Credit System is a cooperative system owned by its farmer borrowers. We made provision in the legislation for the associations in the district to cooperatively work out a redistribution of the one-time assessment. The St. Louis District, which includes the Delta PCA, did not agree to redistribute the assessment.

I would not want to see us reopen the Farm Credit Act on this item because, if we did, I could think of at least 20 more.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. LEAHY. I yield back the 30 seconds.

Would it be in order, Mr. President, to make a motion to table?

The PRESIDING OFFICER. That motion is in order.

Mr. LEAHY. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENSTEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], would vote "nay."

Mr. SIMPSON. I announce that the Senator for Arizona [Mr. MCCAIN], the Senator from Connecticut [Mr. WEICKER], and the Senator from California [Mr. WILSON], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 43, nays 45, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—43

Armstrong
Bond
Boschwitz
Breaux
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heinz
Humphrey
Karnes
Kasten
Kennedy
Leahy
Lugar
McClure
Moynihan
Murkowski
Nunn
Packwood
Pressler
Proxmire
Quayle
Rudman
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Trible
Wallop

NAYS—45

Adams
Baucus
Bingaman
Boren
Bumpers
Burdick

Byrd
Chiles
Conrad
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Lautenberg
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Nickles
Pell
Pryor
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Thurmond
Warner
Wirth

NOT VOTING—12

Bentsen
Biden
Bradley
Gore
Kerry
Levin
McCain
Reid
Riegle
Simon
Weicker
Wilson

So the motion to lay on the table amendment No. 2761 was rejected.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment offered by the Senator from Arkansas [Mr. BUMPERS].

The amendment (No. 2761) was agreed to.

AMENDMENT NO. 2762

(Purpose: To improve the compliance of vendors with the requirements of the WIC program)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself, Mr. DOLE, and Mr. MCCAIN, proposes an amendment numbered 2762.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . Not later than January 1, 1989, the Secretary of Agriculture shall issue interim final regulations that shall improve the performance of State agencies in managing vendors participating in the special supplemental program authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). None of the funds made available by this Act may be used to carry out such special supplemental program in States that are not in compliance with such regulations. The regulations promulgated by the Secretary shall—

(1) develop techniques and criteria to identify vendors at high risk for abusing such program, and require State agencies to use such techniques and criteria to identify high risk vendors;

(2) require State agencies to perform compliance activities, including compliance purchases periodically for all vendors identified at high risk, and for a random sample of other vendors, to determine whether the vendors are overcharging such program or violating other requirements of such program;

(3) develop and require State agencies to apply specific sanctions for vendors found to be violating such program requirements, including mandatory disqualification or termination for serious abuses such as systematically overcharging such program; and

(4) establish a standardized appeal process to be used by State agencies as part of the process of disqualifying vendors from participation in such program.

Mr. COHEN. Mr. President, my amendment directs the Department of Agriculture to take steps, quickly and decisively, to put a stop to abuse of the WIC Program by merchants who sell WIC food.

Two weeks ago, the Inspector General of the U.S. Department of Agriculture issued a report that revealed a level of abuse in the Special Supplemental Food Program for Women, Infants, and Children—better known as the "WIC" Program—that is truly alarming. According to that report, an audit of the WIC Program in seven States showed a high incidence of abuse by 82 of 107 retail food vendors reviewed. The audit showed that the 82 vendors found to be abusing the program overcharged WIC by an average of 28.5 percent over the actual price of food purchased. One of the vendors included in the audit inflated reimbursement requests for a sampling of food vouchers by an average of 62 percent.

The seven States included in the audit account for about 20 percent of WIC expenditures. The 107 vendors reviewed were primarily nonchain-type stores located in major metropolitan areas. Computer analyses of WIC food vouchers redeemed by the vendors showed irregular pricing patterns which led the auditors to suspect abuse.

Although the results of this audit cannot be assumed to represent the incidence or cost of WIC abuse nationwide, neither can we afford to take its findings lightly. This Senate is struggling to find funding for the WIC Program sufficient to serve even half of the low-income pregnant women, infants, and young children eligible for its benefits. Vendor overcharging virtually takes food from the mouths of poor pregnant women, infants, and children.

In administering the WIC Program, States have considerable latitude and there are considerable differences in the efforts States make to minimize WIC Program abuse by vendors. I believe that there are steps that all the States should be taking to prevent vendor abuse of WIC. This amendment directs the Food and Nutrition Service of USDA to develop and provide to the States techniques and standards which would help the States identify, catch, and punish vendors who abuse the WIC Program. It would direct the Food and Nutrition Service to:

Develop techniques and criteria to identify vendors at high risk for abusing the WIC Program, and require State agencies to use these techniques and criteria to identify high risk vendors;

Require State agencies to perform "compliance purchases" periodically for all vendors identified at high risk, as well as for a random sample of other vendors to determine whether the vendors are overcharging the WIC Program or violating other regulatory requirements of the WIC Program;

Develop and require State agencies to apply specific sanctions for vendors found to be violating WIC Program regulatory requirements, including mandatory disqualification or termination for serious abuses such as systematically overcharging the WIC Program; and

Codify a standardized appeal process to be used by State agencies as part of their disqualification process.

The amendment I am offering today seeks to reclaim from the pockets of unscrupulous merchants the precious resources we need to give our most vulnerable children a chance to grow and to flourish. WIC is universally recognized as a veritable lifesaver and as amply repaying our investment in it. We cannot afford—and certainly, malnourished infants and children cannot afford—to be cheated of its benefits.

I believe this amendment enjoys the support of the managers of the bill. Senator DOLE and Senator MCCAIN are cosponsors of the amendment. I ask that it be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Maine?

Mr. COCHRAN. Mr. President, we have reviewed the amendment. We think it makes some important changes in the direction that is being given to the inspector general in this area. We recommend the amendment be approved.

Mr. BURDICK. Mr. President, I concur with the statement of my colleague and ask that the amendment be approved.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2762) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, there was an amendment previously agreed to offered by Senators HATCH, KENNEDY, INOUYE, and CRANSTON, amendment No. 2756. I ask unanimous consent that the Senator from California, Senator WILSON, be added as a cosponsor to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2763

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 2763.

At the appropriate place in the bill insert the following:

"SEC. . None of the funds made available in this or any other act shall be used to implement the sugar quota increase announced by the Secretary of Agriculture and the United States Trade Representative on July 22, 1988, until the Secretary certifies to the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture, based on the August 12, 1988, Crop Report or subsequent reports, that such action will not result in forfeiture of domestically produced sugar to the Commodity Credit Corporation.

Mr. EXON. Mr. President, I rise to offer an amendment to the agriculture appropriations bill regarding sugar. This amendment requires the Secretary to certify that the recently announced quota increase will not result in the forfeiture of domestically produced sugar to the Commodity Credit Corporation.

Earlier this month the Secretary of Agriculture and the U.S. Trade Representative announced a 300,000-ton increase in the sugar import quota. I am not convinced we need it and I certainly do not believe it is in the best interest of sugar beet or cane growers.

The price of raw sugar during the last few weeks has exceeded the established market stabilization price by about 2 cents. That is good news for sugar beet growers. But now the Secretary of Agriculture and the U.S. Trade Representative have come along with a quota increase which threatens to eliminate any gains that domestic sugar producers could expect.

The quota increase concerns me for another reason that I am sure many of my colleagues here are concerned about as well. That is the adverse impact this quota increase could have on the budget. Increased imports could result in the forfeiture of domestically produced sugar to the CCC. If forfeitures occur, it is going to cost the Federal Government—and we all know about Uncle Sam's fiscal condition.

If every additional pound of sugar allowed into the United States under this quota resulted in a corresponding forfeiture of domestically produced sugar, we could expect increased outlays of over $100 million. That amount would have to be made up by a reimbursement from the Federal Government to the CCC at some point in the future. It is impossible to know at this time how much sugar would be forfeited, but the point is—thie quota increase could result in increased outlays by the CCC. It will not show up sometime and could affect some future Gramm-Rudman snapshot. The potential for budget exposure is out there.

I am sure there are those within the administration who will tell us that this will never happern. Indeed, the 1985 farm bill requires that the Secretary do everything he can to avoid sugar forfeitures. But I am not convinced the administration is committed to that goal.

Over a year ago our own Trade Representative made a few remarks about U.S. sugar production.

I ask unanimous consent that an article in the Journal of Commerce dated Wednesday, January 14, 1987 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. A 1987 article in the Journal of Commerce says the aim of the administration's efforts would be the eventual phasing out of sugar production in the United States. I cannot stand for that. I do not believe the U.S. Senate can stand for that. I know that Nebraska sugar beet growers cannot stand for that. But an ill-conceived increase in import quotas would certainly be a step in that direction.

I am not convinced this increase in imported sugar is needed. Part of the reason prices for raw sugar have risen is the drought and its impact on sugar production. Unfortunately, I do not believe the Secretary or the U.S. Trade Representative have a very good handle on the impact of the drought on domestic sugar production.

Mr. COCHRAN. Mr. President, if the Senator will yield, we are prepared to recommend to the Senate that his amendment be agreed to.

Mr. EXON. I appreciate that very much. I think that, with the good word that we have just had from the ranking member and manager of the bill, I would simply say that I hope that a thorough study of this will be made. The next crop report is due out of the USDA on August 12 and the Secretary ought to have the benefit of that information before he takes any action which could increase sugar forefeitures to the CCC.

My amendment takes all of these concerns into account. It simply says that none of the funds made available in the agriculture appropriations bill can be used to implement this quota increase until the Secretary of Agriculture certifies that it will not result in increased forfeitures of domestic sugar to the CCC.

In light of the policy objectives our Trade Representative and the Secretary have followed, I believe this amendment makes a good deal of sense and I urge its immediate adoption.

With the good news that I just heard from my friend and colleague from Mississippi, certainly I think there is no need to have a rollcall vote on this. I have never been one who believes we should have rollcall votes for the sake of having rollcall votes.

If both sides agree, it would be perfectly acceptable to have a voice vote.

EXHIBIT 1

WHITE HOUSE PROPOSES SUGAR PRICE SUPPORT CUT

(By Canute James)

KINGSTON, JAMAICA—The Reagan administration soon will begin efforts aimed at reducing price supports for U.S. sugar producers.

Clayton Yeutter, the U.S. Trade Representative, said here that the administration planned to propose legislation to cut the price support by a half over five years.

Mr. Yeutter said it was proposed that producers would be compensated with cash payments to offset their losses.

The trade representative is in Jamaica with a delegation of congressmen from the Ways and Means Subcommittee on Oversight, which is studying the impact of the Caribbean Basin Initiative. Mr. Yeutter indicated that the largest payments to the U.S. sugar producers would be made in the final year of the reductions.

He said the aim of the administration's efforts would be the eventual phasing out of sugar production in the United States.

Mr. Yeutter did not say when the legislation would be presented, but indicated that getting it passed could be difficult as he was anticipating political opposition to proposals.

"The odds are slim if you appraise them on the basis of past experience." Under the price support system, producers get about 18 cents for each pound of sugar. The system, and cutbacks in U.S. import quotas, have been attacked by Caribbean sugar exporters that previously had a slice of the U.S. market.

"I do not like the present sugar policy," Mr. Yeutter said at a press conference here. "It is worse today than it was in the 1970s. It should be changed and phased out over time, but this would not be easy."

He reported that the cost of the cash compensation for domestic sugar producers had not yet been worked out, but it was likely to amount to many billions of dollars.

"Hopefully the marginal producers would drop out, leading to reduced production," Mr. Yeutter explained. With reduced domestic output there would be a larger U.S. market for imports from traditional suppliers, he said.

The trade representatives said that if there was no change in the price support system, then U.S. import quotas would again be cut for supplies in 1989.

"The only other thing that will lead to an increase in quotas is very bad weather in the United States.

He claimed that there was increasing recognition in the United States that high price supports for sugar did not make good economic sense.

Sugar producers hoping for increased access to the United States should not be overly optimistic, the trade representative warned.

Sugar is losing its market share to sweetners. "Sugar will never regain the market share of 20 years ago."

He told the press conference that the Reagan administration was also trying to get changes in the trade in sugar through international trade talks, which would be aimed at a reduction in production by developed countries and increased market opportunities for developing countries.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the Secretary of Agriculture is required by law to administer the Sugar Program at no net cost, no net cost to the taxpayer. This amendment is really not needed in terms of holding down the costs, but it does require a report by the Secretary to the appropriate committees of the Congress on the way the program is being implemented.

The Secretary is able to comply with that and we recommend the amendment be approved.

Mr. EXON. I ask that Senator McClure from Idaho be added as a cosponsor to the amendment; and also the Senator from Lousiusiana [Mr. Breaux].

The PRESIDING OFFICER (Mr. Pryor). Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. BURDICK. Mr. President, the purpose of this legislation is it prohibits the Secretary from implementing the increase in the sugar quota unless he certifies to the Agriculture Committee that such action will not increase forfeitures of domestically produced sugar to the CCC.

I think it is an excellent amendment, and we support it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KARNES. I compliment the distinguished Senator from Nebraska and ask to be added as a cosponsor.

The PRESIDING OFFICER. Without objection.

Mr. EXON. I thank my colleague from Nebraska. I believe we probably could proceed to a vote at this time; if I could make that suggestion to the Chair.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2763) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KARNES. Mr. President, I ask unanimous consent that I be allowed to call up one of Senator Dole's amendments listed on the unanimous-consent agreement that would improve the provision of funds to certain trade centers.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2764

(Purpose: To improve the provision of funds to certain trade centers)

Mr. KARNES. On behalf of myself and Senator Dole, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. Karnes], for himself, Mr. Dole, Mr. Wallop, and Mr. Simpson proposes an amendment numbered 2764.

Mr. KARNES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 1, after "3292)", insert the following: ": *Provided*, That the Secretary of Agriculture shall provide $2,500,000 to the Mid America World Trade Center, using funds appropriated for fiscal year 1988, to enhance the exportation of agricultural and related products and other manufactured products, to remain available until expended".

At the appropriate place, insert the following new

Sec. . Section 1458A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292) is amended—

(1) by amending the section heading to read as follows: "grants to states and regional organizations for trade centers";

(2) in the first sentence of subsection (a)—

(A) by inserting "and accredited, private sector world trade centers organized on a multi-State regional basis" after "States";

(B) by inserting "and such regional trade centers" after "international trade development centers" both places it appears; and

(C) in the first sentence of subsection (a), by inserting before the period the following: "and other products produced or manufactured in a region".

(3) in the second sentence of subsection (a), by striking out "State" and all that follows through "government)" and inserting in lieu thereof "non-Federal funding"; and

(4) in subsection (b)—

(A) by inserting "and regional trade centers described in subsection (a)" after "States"; and

(b) by inserting "and regional trade centers described in subsection (a)" after "international trade development centers".

Mr. KARNES. Mr. President, on behalf of the distinguished, Republican leader, Mr. Dole, the Senator from Wyoming, Mr. Wallop, and myself, I am offering this amendment as a technical correction to the 1985 farm bill language for international trade centers. This amendment has been cleared by both floor managers and by the Department of Agriculture.

The reason for this amendment is that $2.5 million was provided in last year's continuing resolution for the Mid-America World Trade Center. However, due to language in the 1985 farm bill, the Department of Agriculture is prohibited from actually delivering the already appropriated funds directly to the trade center.

The Mid-American World Trade Center was initiated to enhance export activities for States in the Midwest region. Another function is to attract business to States including Wyoming, Oklahoma, Nebraska, Colorado, North and South Dakota and, of course, Kansas.

Mr. President, the Mid-America World Trade Center located in Wichita, KS, has been in existence for a year and a half. Its agricultural export focus has found great receptivity among ag America. This appropriation can thus be truly charcterized as seed money, although the seeds for export enhancement have been planted previously and this finding will, indeed, assist in assuring the center's growth and service to the vitally important ag economies of these Midwestern States.

Within 5 years the center plans to be self-funding and self-supporting on the basis of fees from its member States and member industries.

A trade center in this region is greatly needed to provide increased momentum into export development for the Midwestern region. Many small businesses and farmers have no idea how to market their products abroad, and the trade center lends its expertise and will help finalize export opportunities with foreign countries and industries located in those countries, particularly in the Far East.

Mr. President, I note with some enthusiasm the agreement that has just been struck with Japan and Korea dealing with beef and the trade that is directed to that part of the world. That is an important opportunity for those of us who are interested in this trade center to additionally educate midwesterners to take advantage of export opportunities.

Let me just cite the value added and processed products of the Midwest that will be benefited by this trade center. We have a long-term goal with this trade center to enhance, to a measurable degree, the exportation of agricultural products, including processed byproducts, and products and services of industries that are an integral part of these Midwestern States.

Mr. President, similar language was passed by the Senate in the omnibus trade bill. The language was dropped in conference after the $2.5 million was appropriated in the fiscal year 1988 agricultural appropriations bill last year. This would seem to have eliminated the necessity for amending this authorizing language, but as it turns out, as I mentioned earlier, the Department of Agriculture had some legal obstacles to overcome in order to deliver the funds where they were intended.

This amendment accomplishes that goal and directs those funds to the Mid-America World Trade Center that had been approved last year.

Mr. President, that concludes my remarks. I ask that the Senator from Wyoming, Mr. SIMPSON, be added as a cosponsor of this amendment.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. BURDICK. Mr. President, in 1988, $2,500,000 was made available for the Mid-America World Trade Center in Kansas. Since it is a private entity, USDA said it could not give the money directly to the center. USDA offered to give the money to the Governor of Kansas for him to give to the center. The Governor apparently refused saying he does not want the money. USDA offered to give the money to the land grant university in Kansas which was willing to take the money, but wanted a percentage of it for administrative expenses. Some also feel that if the money goes through the State of Kansas, it would look like a single State project instead of the regional project it is designed to be.

I think the amendment is supportable, and I suggest it be adopted.

Mr. COCHRAN. Mr. President, the trade center amendment offered by the distinguished Senator from Nebraska and Senators DOLE and WALLOP will make funds available that were appropriated last year to be used for this important center during the next fiscal year.

The Department of Agriculture has been consulted about this amendment and says that it has no objection to the adoption of it. We recommend that it be approved.

The PRESIDING OFFICER. Is there further debate on the amendment? Does the Senator from Nebraska seek recognition?

Mr. KARNES. I urge the adoption of the amendment, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2764) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. I move to lay that motion on the table.

The PRESIDING OFFICER. The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, it is my understanding that the fiscal year 1989 agriculture appropriations bill contains up to $3,000,000 for the Food and Drug Administration to support a demonstration project in biotechnology.

Mr. BURDICK. That is correct.

Mr. BUMPERS. Mr. President, I understand that the entire $3,000,000 is to be used at the National Center for Toxicological Research for the critically important demonstration project to enhance U.S. competitiveness in biotechnology. I also understand that these funds will be used to begin efforts required to renovate the vacant space at NCTR, including such activities as: Determining the mix of general use and private laboratory space required; specifying the types of equipment that would be utilized by the largest number of potential users of this space; performing the architectural and engineering work required to design the finished facility; and developing other infrastructure required for the finished facility.

Mr. BURDICK. The Senator's understanding on these points is correct.

Mr. BUMPERS. Mr. President, it is also my understanding that the rapid development of this demonstration project could be very important to U.S. competitiveness. I would like the record to indicate the committee's strong interest in this undertaking and to ask that the Department of Health and Human Services devote the necessary resources to guarantee the expedited review and approval of all proposed contracts and other documents in order to minimize time delays associated with this project and to assure that all proper procedures are accomplished within the minimum length of time.

Mr. BURDICK. The Senator has accurately described the committee's interest in this important project.

Mr. HATCH. Mr. President, as the original author of this provision, I agree with the discussion of my two colleagues. This demonstration program is an exciting new way to achieve an expended, public and private sector partnership in the biotechnology arena.

Mr. DURENBERGER. Mr. President, in reviewing the committee report accompanying the fiscal year 1989 agriculture and related agencies appropriations bill, I noticed that a number of earmarkings contained in the House report were deleted. While I cannot speak for other Members of the Senate whose projects were not contained in the Senate report, I do feel a need to express my concern for the impact the committee's action will have on a number of important projects in Minnesota.

As the distinguished chairman may recall, the projects in question were the subject of a conversation between the chairman and the Governor of Minnesota shortly after the subcommittee markup and before the full committee markup. Acting at the Governors request, Senator BOSCHWITZ joined me in following up on that meeting by drafting and handing the chairman, a letter outlining the States request. Although the Governor's request was slightly tardy, we were all disappointed to find that the committee was unable to accommodate our projects.

These projects are not budget busters or academic pork. The combined cost of all nine projects is $200,000, and I can assure my colleagues that each one will produce extremely important benefits for farmers and consumers all across the Nation. I wonder if the distinguished chairman and ranking member could comment on the import of the committees decision not to earmark funds for these projects in the Senate bill.

Mr. President, I ask unanimous consent that a description of these projects be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Proposer	Project
Agricultural Experiment Station, University of Minnesota.	Costs and benefits of pelletizing soybean meal for export.
CENEX-Land O'Lakes....	Soybean oil as a herbicide additive and grain dust suppressant.
Moorhead State University and American Crystal Sugar.	Methods to make sugarbeet molasses suitable for human consumption.
Dept. of Food Science and Nutrition, University of Minnesota.	Effect of sugarbeet fiber on human physiology.
Dept. of Food Science and Nutrition, University of Minnesota.	Feasibility of using plastic films containing biodegradable cornstarch as food containers.
Minnesota Wheat Research and Promotion Council.	Evaluation of Hard Red Spring Wheat flour and gluten as more effective binder in fish feed products.
Gray Freshwater Biological Institute, University of Minnesota.	Deriving a substance used in the production of non-corrosive deicers from agricultural waste residues such as corn cobs.
Science & Technology Resource Center, Southwest State University.	Testing improved means of controlling bacterial contamination in the fermentation of alcohol derived from corn.
Soil Science Department, University of Minnesota.	Biodegradability of cornstarch incorporated plastic films.

Mr. BURDICK. Mr. President, I thank my good friend and neighbor for bringing this to the committee's attention. Let me first state that the House position on these projects speaks loudly to their merits. The absence of a specific earmark in the Senate bill should not be viewed as a negative act. Rather, I would hope the Senator would view the committee's action as the result of many requests and little resources. Because these projects are contained in the House report, they will receive very serious attention in the ensuing House-Senate conference on this bill.

Mr. BOSCHWITZ. Mr. President, does the distinguished ranking member of the subcommittee care to comment on the colloquy entered into between the chairman and the distinguished senior Senator from Minnesota? As a strong supporter of these projects, it was my strongest hope that the committee would be able to fund these important activities. I certainly hope the absence of funds does not represent the committee's position on the merits of these projects.

Mr. COCHRAN. Mr. President, let me assure both of my good friends from Minnesota that the committee's action should not be viewed as a negative statement on the merits of these projects. Quite frankly, the committee had so many requests for funding projects that were meritorious we could not approve all of them. These projects will be addressed in conference, and the fact that the two distinguished Senators from Minnesota support the projects, will carry great weight with me in conference.

Mr. DURENBERGER. I thank my good friends from North Dakota and Mississippi for their comments on these projects. It is reassuring to know that they know of these projects and view them favorably.

Mr. BOSCHWITZ. Mr. President, let me add my words of thanks to those of my colleague. The chairman and ranking member should be commended for the excellent work they have done on this bill. I look forward to similar good works in conference.

Mr. BURDICK. Mr. President, I thank both of my colleagues for their patience and understanding. It is my hope that we may be able to come back from conference with a more responsive bill.

Mr. COCHRAN. Mr. President, I share the chairman's feelings, and thank my two friends for their willingness to work with the committee.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2765

(Purpose: To prohibit the appropriation of funds for the planning and construction of certain new projects unless a feasibility study has been completed)

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself and Mr. Boschwitz and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Bond), for himself and Mr. Boschwitz, proposes an amendment numbered 2765.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 23, strike out the period and insert in lieu thereof a colon and the following: "*Provided, further,* That no funds shall be appropriated for the planning and construction of new projects, as determined by the Secretary of Agriculture, for which no feasibility study has been completed: *Provided, further,* That of the amounts made available under this heading, $3,450,000 shall be made available for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)).".

Mr. BOND. Mr. President, this is a very simple amendment, and I hope it can be agreed to on both sides. Essentially, I am reducing the amount of funding in the building facilities account and transferring it to the higher education under the Cooperative State Research Service [CSRS].

I have had the opportunity to meet and talk with students in the National Needs Graduate Fellowship Program. I am impressed by what they have and are doing for the agricultural future of this country.

When I approached the agriculture appropriations bill, it was with some degree of trepidation. I was hoping there would be sufficient funds available to increase the national needs program. In discussions with colleagues, I soon discovered there was not much room to maneuver.

I set about looking through the bill to see if there was room to transfer. Senator Leahy has indicated he wants to transfer funds from the Agricultural Research Service [ARS] so I could not tap that fund. Extension, food safety, for foreign agriculture service, we checked all those. Then I checked more closely the buildings and facilities account. This account traditionally provides funds for three distinct phases of a project.

The first phase is a feasibility study which gives the committee and Congress an opportunity to review whether the project is necessary, and if it is a high enough priority to use tax dollars to fund it.

This is clearly our way of ensuring that we do not finance any redundant boondoggles. In this bill, there are six new feasibility studies that are funded. Each of these is funded at $50,000. The second phase is the planning phase. Here the committee reviews feasibility studies and determines projects are, indeed, worth pursuing, and provides funds for preconstruction activities.

Again, there are several projects in that category. The final phase is actually construction. The bill provides construction moneys for several projects. For example, there are dollars to rebuild a maple research laboratory which was damaged by fire, a biocontainment research center at the University of Georgia, and numerous others. However, I note, Mr. President, three projects were receiving appropriations for all three phases at once. In discussing this issue with the U.S. Department of Agriculture, I discovered that they did not know anything about these projects. Therefore, it seemed fair to strike the dollars for planning and construction yet leave $50,000 for the feasibility studies for each of these projects.

Mr. President, it certainly seems reasonable to me that we allow the subcommittee and the new administration the opportunity to see feasibility studies on these proposals before we agree to build them, particularly during these tough budget times. My amendment would reduce the buildings and facilities account by $11,500,000. These funds would be transferred to the national needs program on a spend-out basis which would add a total of $3,450,000 to the program.

Mr. President, in 1984, Congress funded USDA's National Needs Graduate Fellowship Program to help meet the Nation's needs for the development of professional and scientific expertise in food and agriculture sciences. Specifically, they included four main areas—biotechnology, food science and human nutrition, food and agricultural marketing and agricultural engineering. The USDA national needs is the only program directed exclusively to the development of professional and scientific expertise in the food and agricultural sciences. All U.S. colleges and universities that confer a graduate degree in one or more of the targeted food and agricultural sciences are eligible to participate. Ninety percent of the original earmark of $5 million went to doctoral fellows; 10 percent went to masters fellows.

By 1988, the funding has decreased to $2.8 million. This support was limited to doctoral fellows in two targeted areas: biotechnology and food science and nutrition. Only 21 of 120 proposals were accepted. Twenty-one proposals will support 3 years training for 58 doctoral fellows in 17 institutions in 15 States. In the past, the Senate has supported increased funding for this program only to have it eliminated by the House in conference.

This gives the Senate a chance to send a very clear signal of our support for this program and our support for the development of scientific and technical knowledge in agriculture. This is vitally important, not only to agriculture but to the future of our Nation.

I believe based on my discussion with many of my colleagues that there is a great deal of support for the development of new technology in the agriculture sciences. We must remember that quality researchers lead to quality research. My amendment recognizes this fact and provides an efficient, and I think fair, way to increase the much-needed investment in our future.

I hope it can be accepted by both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BURDICK. Mr. President, does the Senator have a list of the projects that would be affected by this? I have not seen the amendment, by the way.

Mr. BOND. I apologize, We will provide the Senator a copy of the amendment. The projects for which there have been no feasibility studies done, according to the USDA, are the Institute for Earth System Science, University of North Dakota; the Industrial Agricultural and Communications Center in North Dakota State University; and the Northern Biostress Laboratory at South Dakota University.

Mr. BURDICK. As I understand it, it also includes a building in Iowa, and also a building in Vermont, in addition to those the Senator mentioned?

Mr. BOND. In our amendment, we provide for secretarial discretion because, as I mention in my remarks, the research laboratory in Vermont is a replacement for a burned-out facility. The Secretary of Agriculture supports that facility because it has been utilized in the past. It is not new construction. There is secretarial discretion in the amendment which would allow him to fund that, or any of the other projects, if the feasibility study is warranted.

Mr. LEAHY. Mr. President, if the Senator will yield for just a moment, the amendment sounds better all the time. I just thought I would mention that—talking about Vermont.

Mr. BURDICK. Mr. President, I am going to move to table the amendment when all have spoken.

Mr. BOND. Mr. President, might I address a question to the manager of the bill?

Mr. BURDICK. Yes.

Mr. BOND. Is it not the practice to conduct feasibility studies before one enters into projects?

Mr. BURDICK. That is correct.

Mr. BOND. I call to the manager's attention the fact that I have——

Mr. BURDICK. That is not an absolute rule. Sometimes it happens and sometimes it does not.

Mr. BOND. What is the purpose for having feasibility studies may I inquire of the manager?

Mr. BURDICK. Sometimes it is not required.

Mr. BOND. The USDA has no knowledge of these programs, and does not support funding for them in the absence of a feasibility study. I might ask since we have had no discussion on these or no feasibility studies, why are they not warranted?

Mr. BURDICK. The reason is they have been approved by the committee. That is why. They have been approved and ready to go.

Mr. BOND. They have not yet been approved by this body. I am inquiring as to what the feasibility of them is, why they qualify, since the USDA does not support them. We have had no feasibility studies. On what basis should we go ahead with the funding? I would like to find out. That is why I say we should leave feasibility studies in for them. Why are they needed?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LEAHY. Mr. President, could that be withheld just a moment?

Mr. President, I do not know if this is going to be at all a protracted matter as the managers and proponent work this out. I have an amendment that has been cleared on both sides regarding the bill. If the Members are going to take a few minutes to work this out, and if the distinguished Senator from Missouri is agreeable, I could ask the managers or I could ask unanimous consent to temporarily lay aside the amendment of the Senator from Missouri and just bring up mine. If mine turns out not to be cleared, I will be willing to pull it back out.

Mr. BOND. I have no objection, Mr. President.

Mr. COCHRAN. Mr. President, we have no objection. We ask unanimous consent that the Bond amendment be temporarily laid aside and that the Senator from Vermont be permitted to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2766

(Purpose: To amend H.R. 4784 by making appropriations for child nutrition, the Temporary Emergency Food Assistance Program, food stamps and for other purposes)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2766.

Mr. LEAHY. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, on line 16, strike "$4,573,816,000," and insert in lieu thereof "$4,590,816,000," and, on line 18, strike "$480,544,000" and insert in lieu thereof "$497,544,000".

On page 60, on line 15, strike "$13,412,955,000:" and insert in lieu thereof "$13,598,955,000:".

On page 61, after line 17, insert a new paragraph to read as follows:

"For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988 (S. 2560), $40,000,000.".

On page 61, after line 24, insert a new paragraph to read as follows:

"For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $145,000,000.".

Mr. LEAHY. Mr. President, this amendment to H.R. 4784 makes appropriations for the Hunger Prevention Act of 1988 which we passed this week by a vote of 90 to 7.

That bill represents the determination of the Senate to take a stand on hunger and to improve the nutritional health of millions of needy Americans.

This amendment fulfills that commitment to the elderly, the disabled, millions of needy children and other hungry Americans. Over 65 percent of the benefits of the Hunger Prevention Act of 1988 go to children or the elderly.

This amendment provides appropriations for the important child nutrition improvements we made in the school breakfast, summer feeding and child care food programs. The nutritional health of America's children is a vital priority of Congress.

We have made it clear from the beginning that the TEFAP and soup kitchen purchases of additional commodities are mandatory under the "Hunger Prevention Act." Our report on that bill emphasizes the legal right of States to receive those commodities and the legal duty on the Secretary to provide those commodities. My floor statement on the bill and the report makes it clear that States could legally enforce that duty in the courts. This point was also made clear in committee.

This amendment will avoid the need for litigation since it provides funding for the purchase of $145,000,000 worth of high protein commodities to supplement the surplus flour, cornmeal, and butter which will continue to be distributed through TEFAP. TEFAP has become a vital lifeline to millions of Americans who often have to stand in long lines to get these commodities.

This amendment will also avoid litigation regarding the required $40 million purchase of commodities for soup kitchens and other congregate meal sites. I want to emphasize that these appropriations in no way undercut the entitlement nature of both of those additional commodity programs.

This amendment will also provide the appropriations needed to make the required improvements in the Food Stamp Program set forth in the Hunger Prevention Act.

The drought which we discussed yesterday on the floor is already driving up retail food prices and it is imperative that we assist those most in need in purchasing an adequate diet.

America has a moral responsibility to feed the hungry and these appropriations fulfill that important commitment.

Mr. COCHRAN. Mr. President, the Congressional Budget Office has reviewed this amendment. They tell us there is no cost added to the bill by this amendment. It seems to me it is a good amendment. For my part, for this side of the aisle, I recommend it be approved.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Vermont [Mr. LEAHY].

The amendment (No. 2766) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. I thank the Chair. I thank the distinguished Senator from Missouri for allowing me to step in.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, it is not hard to observe that on a Friday afternoon not a damn thing is happening on the floor of the Senate. It is also not hard to observe that the majority leader has in the past suggested that the Chair when he found an absence of action would put the question and have third reading.

I do not know what has happened to the standards and qualities that the majority once suggested that we have, but I would suggest that the Chair put the question. There is nothing going on.

We have a bill here in front of us which deserves to go down in defeat because of the overspending that is in there, the pork that is in there. But we cannot even do that unless the Chair would permit the vote on that.

Mr. BOND. If thing is pending I urge my amendment be agreed to.

Mr. WALLOP. The standard is that we really ought to have a question.

The PRESIDING OFFICER. The Chair wishes to advise the distinguished and learned Senator from Wyoming that the Chair has attempted to put the question on one or two occasions, as the Senator from Missouri will attest to, and other proper and intervening motions and those seeking recognition took place.

I would simply advise the Senator from Wyoming that it is not the Chair that is delaying this at all.

Mr. WALLOP. Mr. President, the Senator from Wyoming has no wish to blame the current occupant of the Chair, only the procedure which is going on in the Senate right now, one-sided, unfair wholly political, and basically not devoted to the farmers of America but to certain political agendas.

I realize the Chair itself is not responsible for that, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is very nonpolitical.

The Chair recognizes the Senator from North Dakota.

Mr. BURDICK. I move to table the amendment.

The PRESIDING OFFICER. Did the Chair hear the Senator from Wyoming suggest the absence of a quorum?

Mr. COCHRAN. Will the Senator withhold that?

Mr. WALLOP. The Senator did, but at the same time, the Senator from North Dakota was recognized. The Senator from Wyoming would withdraw that.

The PRESIDING OFFICER. The Senator from North Dakota seeks recognition. The Chair recognizes him.

Mr. BURDICK. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The amendment of the Senator from Missouri.

(Putting the question.)

The PRESIDING OFFICER. The Chair is unable to determine the proper division of the vote, and to bring the matter to a proper head, the Chair will rule that the ayes appear to have it, the ayes do have it, and the motion to table is agreed to.

So the motion to lay on the table Amendment No. 2765 was agreed to.

Mr. WALLOP. Third reading.

The PRESIDING OFFICER. Are there further amendments on the measure before us?

If not, we will proceed to third reading.

The bill was read the third time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Mr. BURDICK. Mr. President, on behalf of Senator HELFIN I offer an amendment on page 12, line 19 to the bill.

The PRESIDING OFFICER. Is there objection to offering the amendment?

Mr. WALLOP. I object.

The PRESIDING OFFICER. The Senator from Wyoming objects.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the situation on this bill?

The PRESIDING OFFICER. The Chair advises the bill has been read for the third time.

Mr. BYRD. Mr. President, I think there were other Senators who had amendments, am I correct?

Does the Senator from Montana have an amendment?

Mr. MELCHER. Mr. President, if the majority leader will yield, the answer to that is, yes, there are other amendments.

Mr. BYRD. Mr. President, I ask unanimous consent that the third reading be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object, if the majority leader will yield for the moment, we sat here for the better part of a half-hour on Friday afternoon with nobody doing anything. The bill was read for the third time.

It strikes the Senator from Wyoming as though people have had their opportunity. It is abuse of the time of the rest of the Senate for people to sit in their offices or sit wherever they are.

The Senator from Wyoming would be quite happy to yield if he would get a time agreement on those, otherwise I would feel constrained to object.

Mr. BYRD. The Senator may object if he wishes. I will move, if he objects, but I hope the Senator will not object.

Mr. President, I welcome, in a way, the remarks of the distinguished Senator. If anyone around here has had their patience tried time and time and time and time and time again in this Senate, it is I. I have tried hard today to get Senators to come over and offer their amendments. I have had to move that the Sergeant at Arms be requested to call Senators in. So I welcome and thank the Senator for the position he is taking and the assistance he is trying to render.

But I hesitate to cut off Senators who are here and who want to call up their amendment. I believe that the amendment by Mr. BOND was pending. Was the amendment by Mr. BOND pending when the Chair sought third reading?

The PRESIDING OFFICER. The amendment by Mr. BOND has been tabled.

Mr. WALLOP. Will the majority leader yield further?

Mr. BYRD. Yes.

Mr. WALLOP. I shall not object, because I realize that the Senator could simply move us to do it and then we would take 15 more minutes.

But I would just remind the majority leader that on a number of other occasions this year, when a vast number of amendments that were remaining were Republican, the Chair was instructed, as I recall, to put the question if there was not somebody here actively on the floor.

I made that suggestion to the occupant of the chair, and the Chair, quite correctly, did put the question. It just would seem to me that there is some level of consideration that might be offered to the rest of the Senate by those who have these amendments outstanding.

So I remove my objection.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. If the leader will yield, I want to thank the Senator also for removing the objection. I did not have an amendment but, just to show how sometimes these things happen, Senator KERRY had an important amendment to offer. He has an illness in the family. He had to leave. I was notified to come over here to offer the amendment on his behalf. It is something I am very interested in.

We were just working on the figures on the amendment when I heard the third reading. So there was not any kind of delay whatsoever.

Mr. WALLOP. Mr. President, once again reserving the right to object, let me point out to the majority leader that, consistent with the consent agreement he offered that the Senate proceed to third reading without any intervening debate, action, or motion, a motion, with the majority leader's own consent agreement, would not be in order.

Mr. BYRD. Well, a motion to go to third reading is debatable. I hope the Senator would not object. As a matter of fact, I thought I heard him say he would not object.

Mr. WALLOP. But if the majority leader will yield, in point of fact it would be debatable under ordinary circumstances. But the majority leader's own consent agreement precludes that.

Mr. BYRD. Yes, when the amendments have been disposed of; upon the disposition of the aforementioned amendments, the Chair is to go to third reading.

Mr. WALLOP. Well, they have been disposed of if they have not been offered by the time of third reading; is that not the case?

Mr. BYRD. Suppose the Senator one day has an amendment and, for some reason he cannot get to the floor. And I am not attempting to make excuses for Senators whose names are on the list and who have not been overly eager, apparently, to come to the floor. But, at the same time, we have been able to get amendments up.

But, suppose the Senator from Wyoming one day has an amendment and for some good reason cannot come to the floor and the Chair puts the question on third reading and the majority leader comes over and attempts, out of fairness and comity to the Senator from Wyoming, to vitiate the third reading? I am sure the distinguished Senator from Wyoming would appreciate that action on the part of the majority leader.

Mr. WALLOP. The Senator from Wyoming would appreciate it, but he would certainly understand that the ship moves, or at least it ought to.

I again just point out that the standard seems remarkably double.

Mr. BYRD. There is no double standard.

Mr. WALLOP. The standard seems remarkably unfair. I would say the consideration of those who have these amendments and have not offered them is wholly and totally lacking to the rest of the Senate.

With that, I withdraw my objection with the complaint that it is a double standard and I think it has been unfairly applied.

Mr. BYRD. Well, it is not a double standard. As far as I am concerned, I try to play the thing right straight across the board, evenly balanced, treating everybody the same.

I do appreciate the Senator's withdrawal of his objection.

Mr. EXON. Mr. President, reserving the right to object, and I shall not object, the Senator from Nebraska was in the chair at the time that this question arose. I have served in the Senate under the excellent leadership of Senator BYRD for a long, long time. I took my initial instructions from him as a Presiding Officer when I first came here and I have always lived up to that.

Senator BYRD has always advised me that the Presiding Officer must lean over backward to be fair to all parties on the floor. I have always done that.

I thank my friend from West Virginia, the majority leader, for the patience that he has shown over the years to all of us who complicate his job very much.

I just want the record to show that third reading was in order at that time. There were a few Senators on the floor at the time when the Presiding Officer, then the Senator from Nebraska, asked if there were further amendments in anticipation of going to third reading. Frankly, as the Presiding Officer at the time, I was surprised that someone did not object or at that time put in a call for a quorum if, indeed, it was known that other amendments were forthcoming.

The Presiding Officer at that time had no way of knowing whether additional amendments were pending or not. I would simply say that I, as the Presiding Officer at that time, followed the rules that were laid down to me by the majority leader. I think he has always been fair. I think all of us who assume the chair try to be fair and reasonable.

I hope that, in view of the fact that there are people who have additional amendments, that they would please get over here and get them offered so we might proceed.

I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

Mr. MELCHER. Mr. President, first of all, I wish to thank the majority leader.

I also want to note for my friend from Wyoming that I have amendments. They are on the list. I was right out there, 20 feet from that corner, and expected, when there was a lull, to offer the amendments. I came in here to find out if there was such a lull, and indeed there is.

AMENDMENT NO. 2767

(Purpose: To provide an appropriation of $50,000 within the amount provided for the Agriculture Research Service for a feasibility study of a plant growth center at the Montana State University)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 2767.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 6, after the colon insert the following: "*Provided further*, Of the funds made available in this Act for the Agriculture Research Service, $50,000 is provided for a feasibility study of a plant growth center at Montana State University:".

Mr. MELCHER. Mr. President, this is an important amendment, but a very small amount of money. It relates to $50,000 for a feasibility study of a plant growth facility at Montana State University.

This is a facility that is needed to determine, through research, various methods of controlling noxious weeds. It is a very meritorious program that has been envisioned. It has the full blessing of the Department of Agriculture.

This $50,000 would make sure that it proceeded in the feasibility study during the next year. I ask the managers of the bill whether or not they could accept it.

Mr. COCHRAN. Mr. President, we reviewed the amendment and recommend that it be accepted by the Senate.

Mr. **BURDICK**. Mr. President, we have no objection on this side to proceeding with a vote.

The **PRESIDING OFFICER**. If there is no further debate, the question is on agreeing to the amendment of the Senator from Montana [Mr. MELCHER].

The amendment (No. 2767) was agreed to.

Mr. **COCHRAN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **BURDICK**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2768

(Purpose: To earmark funds within the Soil Conservation Service for the University of Oklahoma to enable the university to continue certain satellite programs)

Mr. **BOREN**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] for himself and Mr. NICKLES proposes an amendment numbered 2768.

Mr. **BOREN**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 48, in line 10, strike the period and insert in lieu thereof the following: ": *Provided further*, That $500,000 shall be available for the University of Oklahoma to refine and extend a program for integrating data from multiple satellite systems for the purpose of establishing a system of providing continuous, timely, and accurate assessments of the extent and impact of drought and other weather related conditions within the United States.".

Mr. **BOREN**. Mr. President, my amendment simply earmarks funds, in the amount of $500,000, available for conservation operations within the Soil Conservation Service for a remote sensing project at the University of Oklahoma.

Remote sensing technology can be utilized to a much greater extent to give us more complete information on soil condition. We already have the remote sensing satellites that are capable of taking high quality photographs that can reveal the amount of moisture remaining in the soil.

In light of the record drought that our Nation is experiencing this year, complete information on soil condition is now more important than ever. Conservation efforts would only gain from the data put forth from this system.

In addition to information on soil moisture, the system could provide time series photographs showing patterns of wind and water erosion. High resolution photographs could give accurate and continuously updated information on the condition of our shelter belts.

This system could open the door to completely new methods of conservation and drought management.

The funds would be used for data integration, processing, and interpretation, as well as the development of models and calibration of the system.

The University of Oklahoma has nationally recognized credentials in meteorology, has been designated as a cooperative institution for applied remote sensing, and has sophisticated remote sensing computer processing groups. Norman, OK, the home of Oklahoma University, has been named as the site for the future Eosat Landsat receiving station.

The **PRESIDING OFFICER**. Is there further debate?

Mr. **BOREN**. Mr. President, this amendment has been cleared on both sides of the aisle and I would ask for its adoption.

The **PRESIDING OFFICER**. The Senator from Mississippi.

Mr. **COCHRAN**. Mr. President, we have reviewed the amendment of the Senator from Oklahoma and recommend that it be approved.

The **PRESIDING OFFICER**. The Senator from North Dakota.

Mr. **BURDICK**. Mr. President, we approve the amendment on this side of the aisle.

The **PRESIDING OFFICER**. Is there further debate on this amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2768) was agreed to.

Mr. **BOREN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **COCHRAN**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2769

Mr. **HEFLIN**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 2769.

Mr. **HEFLIN**. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 19, insert before the period: "*Provided further*, That the Secretary of Agriculture shall make available $300,000 to Auburn University to enable such university to develop water management research planning and programming in connection with section 322 of the Drought Assistance Act of 1988, for the purpose of alleviating the effect of the adverse weather conditions".

Mr. **HEFLIN**. Mr. President, this amendment has been cleared on both sides. In the drought assistance bill we have a program that is outlined pertaining to water management and to try to endeavor to develop plans with rural water authorities to assist in better water management. This would make an appropriation to carry out the research planning and program in connection with that section 322 of the Drought Assistance Act of 1988, for the purpose of alleviating the effect of adverse weather conditions.

It would make this available to Alabama University.

The **PRESIDING OFFICER**. The Senator from Mississippi.

Mr. **COCHRAN**. Mr. President, we have looked at this amendment of the Senator from Alabama. It is a program that is authorized and we recommend the amendment be approved.

The **PRESIDING OFFICER**. The Senator from North Dakota.

Mr. **BURDICK**. We approve it on this side.

The **PRESIDING OFFICER** (Mr. WIRTH). Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2769) was agreed to.

Mr. **HEFLIN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **COCHRAN**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2770

(Purpose: To fund the International Livestock Program)

The **PRESIDING OFFICER**. The Senator from Mississippi.

Mr. **COCHRAN**. Mr. President, the Senator from Kansas who is listed on the agreement as having an amendment to provide $100,000 transferred to the International Livestock Program. I ask unanimous consent I may be permitted to send an amendment to the desk in behalf of the Senator from Kansas.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. DOLE and Mrs. KASSEBAUM, proposes an amendment numbered 2770.

Mr. **COCHRAN**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

SEC.   . There is hereby transferred $100,000 from the working capital fund within USDA to support the International Livestock Program at Kansas State University to be administered through the Cooperative State Research Service, such funds to come from those already available to the Cooperative State Research Service.

Mr. DOLE. Mr. President, this amendment would provide $100,000 in funding for the International Livestock Program at Kansas State University in Manhattan, KS. This minimal level of funding will ensure that the International Livestock Program continues the momentum that the new program has gained since its inception 3 years ago.

Congress has funded this initiative at this level during the past 2 years. The program has been administered by the Cooperative State Research Service [CSRS].

The International Livestock Program parallels the well respected International Grains Program [IGP], also at Kansas State. Similar in concept to the IGP, KSU brings in trade teams to review livestock, related technologies, embryo transplants, nutrition, veterinary medicine, and review ongoing research efforts.

During the past 2 years the program has fulfilled an important niche in supplying specialty markets of livestock and livestock products to foreign markets. This is an important ingredient in building long-term market share and improving relationships with foreign buyers. In addition the program has helped foreign nations interested in U.S. livestock markets develop their management skills.

Mr. President, we often note that as nations develop their economies they also develop their diets. This usually means they buy more meat and livestock products as they upgrade their standard of living. Certainly the International Livestock Program will help us lay a basic framework for meeting this increasing demand. I urge my colleagues to support this important initiative.

Mr. COCHRAN. Mr. President, this amendment, as I stated, provides $100,000 in funding for the International Livestock Program. We ask that the Senate favorably consider the amendment.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2770) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2771

(Purpose: To make funds available for the control of noxious weeds on Federal lands)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] for himself and Mr. MCCLURE, proposes an amendment numbered 2771.

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That $3½ million shall be made available for payment to the Secretary of Agriculture to establish and implement a program for the research, management, and control of noxious weeds on federal lands."

Mr. MELCHER. Mr. President, the money that is appropriated for Agricultural Research Service, which I believe is around $560 million, this amendment would earmark $3.5 million to be available to control noxious weeds on Federal lands.

I have in mind specifically leafy spurge and spotted knapweed, which has spread on national forest lands to the extent of untold millions of acres involved. And when that happens there is less productivity for livestock or wildlife because of the damage done by these noxious weeds.

In addition, the weeds do not just stay on national forest lands. They are spread on private lands and on State lands.

To the extent that private and State funds are available, these noxious weeds are sought to be brought under control. Those private and State moneys available to control these specific noxious weeds are limited but there are none available as it exists now for the National Forest System to have an active program of attempting to control these weeds.

This amount is a very small amount. As I understand the spending out of agricultural research funds, there is probably only 80 percent spent in any 12-month period. So, of course, what would be spent out of this $3.5 million would be a very small amount. All that it does is make a start on having effective weed control.

I know that there is some money in there for weed control but the fact is that it is so precious little that dwindles down to the Forest Service, and particularly in the West, that very little is done.

So, I am merely asking the managers of the bill to accept a very prudent, small earmarking for control of noxious weeds on national lands.

Mr. BURDICK. Will the Senator yield?

Mr. MELCHER. I would be delighted to yield.

Mr. BURDICK. Is the Senator aware that there is $1 million in the bill for that purpose now?

Mr. MELCHER. That there is $1 million?

Mr. BURDICK. Yes.

Mr. MELCHER. Yes, I am aware of that. It is a very small amount and there is another very small amount. Not nearly enough.

Let me point out that what is spent by State and private entities in trying to control these noxious weeds amounts to 100 times this amount. But where they are surrounded or bordered by national forest lands it is very difficult to have any type of control without some input from the Federal level.

I ask that this amendment be accepted and be available for what I feel is a very necessary step.

By the way, Mr. President, I ask unanimous consent that Senator MCCLURE be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Is there any further debate on this amendment? The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not know that Senators are aware of it, but the Senator from North Dakota, the manager of the bill, pointed out that $1 million is already in the bill for leafy spurge.

There is other money in the bill as well to do research dealing with noxious weeds. I am advised that in other programs some $14 million will be spent next year in trying to deal with these problems. So this request that $3.5 million be made available to implement a program is really not necessary. The program has been implemented and is being funded. There are research centers being constructed for weed research. There is a genuine effort being made by the department with funding to deal with these serious problems.

If I understood the manager of the bill, he does not support the amendment. I want to be sure I have my signals correct, though, as to whether he supports the amendment or opposes the amendment.

Mr. MELCHER. Will the Senator yield?

Mr. COCHRAN. I will be happy to yield.

Mr. MELCHER. I wonder if the managers of the bill will be willing to include in final report language in the statement of managers the Senator mentioned the $1 million for leafy spurge and noxious weed, that at least $3 million be available out of the 360 for control, specific control of leafy spurge and spotted knapweed.

Mr. COCHRAN. As I understand the inquiry of the Senator from Montana, he urges that we include in the statement of managers a direction to the Department of Agriculture that this amount be spent for leafy spurge or noxious weed.

Mr. MELCHER. Leafy spurge and spotted knapweed. With about 30 million acres of national forest lands now inundated with these two weeds, it is fast getting out of hand. This is merely a start to attempt to get some control.

Mr. COCHRAN. For my part, Mr. President, I would be happy to urge in conference that that kind of statement be included in the statement of managers. There are two other managers on the House side who would be involved. I cannot speak for them, but I would recommed to Senator Burdick that we go along with the Senator's request if he would withdraw his amendment in exchange for that commitment.

Mr. MELCHER. I thank the distinguished Senator from Mississippi. I merely ask the same question of my friend and chairman of the subcommittee, the Senator from North Dakota.

Mr. BURDICK. Does the suggestion meet with your approval?

Mr. MELCHER. Yes, it does.

Mr. BURDICK. It meets with mine.

Mr. MELCHER. I thank the managers of the bill for their graciousness. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment was withdrawn.

AMENDMENT NO. 2772

(Purpose: To make funds available for the Israel-United States Binational Agricultural Research and Development Fund)

Mr. MELCHER. Mr. President, on behalf of myself, Mr. McConnell, and Mr. Leahy, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. Melcher], for himself, Mr. McConnell, and Mr. Leahy proposes an amendment numbered 2772.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: *"Provided further,* That $5,000,000 shall be made available for payment to the Israel-United States Binational Agricultural Research and Development Fund as authorized by section 1458 of the Food and Agriculture Act of 1977, to remain available until expended."

Mr. MELCHER. Mr. President, this amendment would provide $5 million for the Binational Agricultural Research and Development Fund, established a decade ago by an agreement between the United States and the Government of Israel. It is more simply known as the BARD Fund.

I believe this funding for BARD is essential to the continued success of this highly cost-effective program. In 1978, BARD was established to enable scientists from these two nations to join forces in expanding agricultural know-how and productivity. Since that time, many outstanding low-cost agricultural research programs have been carried out between the two countries.

I must explain that research projects under BARD generally extend 2 to 3 years in length. Each research grant is for approximately $50,000 per year. Half of this research is actually conducted in the United States. The other half is done in Israel.

BARD is a unique program in that the funds that have been provided by each country make up the fund, and the agricultural costs under the program are financed by the interest from the principle.

Under BARD we have had some very cost-effective research programs during the past decade. Because of those research funds, research has resulted in a return on investment of something like 500 percent. It has been an extremely successful program, and I would merely earmark in the Agricultural Research Service $5 million to bolster this fund. It would be matched by $5 million from the Israeli Government. I hope the amendment can be accepted.

Since 1978, BARD-sponsored research has produced important findings in a wide range of areas, from agricultural engineering to animal production, from soil science to field crops, and from irrigation to pest control. At a time when many of our Nation's farms have been stricken by drought, BARD research in the area of water and soil conservation methods also should be emphasized.

Although farmers worldwide are able to share in the benefits resulting from BARD, a team of independent economists recently calculated the value of a small number of BARD-sponsored projects to just the United States and Israel. Looking at the top 5 out of a total of 435 BARD projects—relating to cotton management, salinity in pecans, solarization of vegetables, storage of ornamentals, and pecan aphid control—they determined that these projects have yielded $517 million and $100 million in benefits to our Nation and to Israel, respectively.

Mr. President, as I said before, because the BARD fund is an endowment, established with equal contributions from the two member nations, only the interest on the principle is available to support agricultural research projects. Unfortunately, a combination of factors, including, devaluation of the dollar, declining interest rates, and rising research costs, have undermined BARD's funding power. As a first installment toward restoring the BARD fund, my amendment would provide $5 million for the program. In each of the next 2 years, I plan to again seek appropriations of this amount for BARD, to provide a total of $15 million in additional funds for the program. With equal contributions from Israel, which that nation's Ambassador has indicated Israel would provide, the BARD fund would increase from its current level of $110 million to $140 million.

Mr. President, I ask unanimous consent that the following be printed in the Record: A letter from Ambassador Moshe Arad, expressing his government's desire and intention to match U.S. funding for BARD, the Executive Summary of the recent report evaluating BARD projects, and a letter from James Welsh of Montana State University.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE ECONOMIC IMPACTS OF BARD RESEARCH ON THE UNITED STATES

(By Richard E. Just and Mark Phillips, University of Maryland and David Zilberman and Douglas Parker, University of California)

EXECUTIVE SUMMARY

This report evaluates research funding by the United States-Israeli Bi-national Agricultural Research and Development (BARD) fund. BARD as a research funding agency uniquely emphasizes scientific exchange and cross fertilization of ideas as a means of scientific advancement. This approach has been successful. Of 208 projects that were completed and could be analyzed, 20 projects were identified with some degree of actual commercial application in the United States, some of which have generated substantial benefits already. Another twenty-three projects have some promising potential for creating benefits to United States agriculture. The five most successful projects with commercialization to date are on cotton management, salinity in pecans, solarization in vegetables, storage of ornamentals, and pecan aphid control. Those five projects have an estimated net present value of benefits (adjusted for BARD's share in supporting the associated research) of $521 million discounted to 1979 when the U.S. funds were provided to BARD. In addition, BARD finances a large amount of postdoctoral education, graduate student support, international travel (which is a measure of cross fertilization and scientific exchange between the countries), and permanent equipment. Altogether, more than one-third of BARD financing goes to items that provide important benefits beyond the direct economic benefits of BARD funded research. Finally, BARD projects tends to produce research of substantial scientific interest as measured by publications in scientific journals.

Compared to other agricultural research funding sources in the U.S., BARD has stressed research concerning fruits, nuts, vegetables, fish, dairy, and poultry with relatively less emphasis on forage, beef, swine, and field crops other than cotton. This emphasis is explained by the tendency of a bi-national organization to fund reseach on products grown in both countries. As a result, BARD projects tend to benefit high-value rather than high-volume agricultural production activities in the United States. Because high-value products tend to have more elastic demand than high-volume products, the benefits of new technology tend to accrue more to farmers rather than to consumers. Examples are fruits, vegetables, and ornamentals.

BARD innovations tend to be biological, managerial, and agronomic rather than mechanical and chemical; thus, they tend to be divisible and applicable to small scale agriculture. In terms of specific research areas, BARD has emphasized pest and disease control, salinity, biological efficiency, production management, and quality maintenance and storage. This emphasis follows from the severe resource constraints and hot climate in Israel, its intensive agriculture which makes problems of pest and disease control more severe, and the higher elasticity of demand faced by Israel as a small country.

BARD has funded some project areas which have been funded relatively little by other sources. Some of these areas—aquaculture and other emerging industries, biotechnology, and nonchemical control of diseases and pests—are widely perceived to be major areas of the future. BARD funding seems to adapt promising new areas of research more effectively than other funding sources because the research funds are more liquid and not allocated through a large agency with long-standing lines of bureaucratic interest.

BARD has placed relatively less and declining emphasis on improved products, marketing, statistics, nutrition and health, rural welfare, rural development, and agricultural economics in general. Overall, the allocation of research funds by BARD tends to emphasize the production sciences and neglect the social sciences. The reason for inequity of research funding among fields is not an inequity of acceptance rates but rather an uneven representation of fields in the research proposals received. BARD needs to do a better job of selling itself to the reseach community. Calls for proposals in professional newsletters can improve awareness and symposia involving top researchers from both countries could develop the contacts between scientists needed to facilitate formulation of proposals.

On the basis of a comparison of productivity to funding, some revision of areas of emphasis appears to be warranted. For example, innovations applicable beyond the farm gate have proven to be valuable while receiving little funding. Potential returns to innovations developed on plant protection and aquaculture are also high relative to funding. On the other hand, large amounts of funds have been allocated to projects in animal production and protection (mostly dairy and poultry) and agricultural engineering with relatively small economic returns of potential. An analysis of the results suggest several criteria—demand elasticity, divisibility, breadth of regional applicability, cost reduction versus production enhancement, and flexibility of production facilities that cannot adopt—that can guide future funding to improve the economic return and equity.

BARD funding tends to be skewed more toward those states with a combination of product similarities and high-quality research institutions—California, Florida, and Texas. However, these states have tended to produce relatively more valuable results compared to the share of funds received. Over the lifetime of BARD, the USDA has received 25 percent of U.S. BARD funding. The only fields besides agricultural engineering in which the USDA is not the dominant recipient of BARD funds are the two seemingly underemphasized fields of agricultural economics and post harvest and food research and one of the two fields (aquaculture) that appears to be of greater future potential. One explanation for the heavy USDA funding is the close association of BARD and the USDA and the increased awareness it provides. On the other hand, the USDA funding is primarily to the Agricultural Reseach Service which tends to increase the production orientation and the de-emphasis of social science.

MONTANA STATE UNIVERSITY,
Bozeman, MT, July 8, 1988.

Senator JOHN MELCHER,
SH-730 Hart Senate Office Building,
Washington, DC.

DEAR JOHN: I believe you have been contacted recently by Yair Guron, BARD, relative to support for that program. I currently serve on the Technical Advisory Committee for BARD and fully support its activities. Montana State University has three cooperative research programs with Israeli scientific counterparts and we find the program to be quite beneficial. We do have the opportunity through BARD activities to address issues of mutual interest in the agricultural area. I would certainly feel that support of this activity was appropriate. If you have any questions, please give me a call.

Sincerely,

JAMES R. WELSH,
Dean and Director.

EMBASSY OF ISRAEL,
Washington, DC, July 12, 1988.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, DC.

DEAR SENATOR MELCHER: It gives me great pleasure to learn that you have expressed appreciation for the work of the Binational Agricultural Research and Development Fund (BARD), and share our interest in increasing its endowment.

The establishment of BARD, ten years ago, was directly related to the drought in California and stimulated by it. Its achievements since 1978 have been remarkable. An independent evaluation of BARD, conducted by an internationally recognized group of economists and made available this week, suggests that the contribution of the top five projects supported by BARD (in terms of "net present value" discounted to 1979) exceeds $521 million. The net value of the other 430 BARD projects is also considerable. Thus, the contribution of BARD to the U.S. economy (and, of course, the Israel economy) shows a vast return on the $110 million endowment existing at present, and on the $78 million of accrued interest actually used to finance the research.

The success of BARD has attracted an ever growing number of proposals submitted for its consideration. On the other hand, the decline in the value of the dollar has reduced the real income from its endowment. As a result, the grants these days tend to be too small and also many excellent proposals are rejected because of a lack of funds. Those rejected proposals represent missed opportunities for the development of agriculture in the U.S. and Israel.

The cooperation between the U.S. and Israel in BARD is unique. The $110 million endowment is based on a contribution of $55 million by each country. The research is financed from the interest on the endowment. One half of the budget is allocated to U.S. laboratories, and the other half to collaborating Israeli laboratories. The Administration is lean and responsive. This is the reason why the BARD concept is now being emulated by others.

On the 10th anniversary of BARD it is our strong desire to enlarge its endowment, if possible by $30 to $40 million. Should Congress see its way to appropriate funds for this purpose, the Israeli Ministry of Finance will match such funds up to the sum of $15 million, and would also contemplate contributing $20 million, on a matching fund base, should Congress see its way to take a parallel step.

We are sure that an increase of this kind will continue to enhance the contribution of BARD to agricultural development, to the mutual benefit of both our countries.

It gives me great pleasure to enclose herewith a brochure issued for the 10th anniversary of BARD.

Sincerely,

MOSHE ARAD,
Ambassador.

Mr. MELCHER. Mr. President, as my good friend and chairman of the pending measure, Mr. BURDICK, knows, past appropriations to the BARD fund have been provided through Foreign Assistance Appropriation Acts. The Congress took this funding route first in 1978, when BARD was established, and then again in 1984. However, in light of the agricultural nature of this program, I think it makes far more sense to pursue funding through the agricultural appropriations measure. Recently, during debate on the foreign operations bill, I voiced my views on this matter to the chairman of the Foreign Operations Subcommittee, the Senator from Hawaii [Mr. INOUYE].

To keep my amendment budget neutral I am proposing that a $5 million offset be taken from the Agricultural Research Services' proposed fiscal year 1989 budget of $561 million. ARS has been provided an increase of over $20 million for fiscal year 1989, and thus the offset in this amendment represents less than 1 percent of the ARS proposed appropriation. I want to also emphasize that half of the appropriation I am requesting for BARD would go toward funding agricultural research efforts in the United States carried out under this program.

Mr. President, over the last decade BARD has proven to be a cost-effective program, a model of binational cooperation, and a source of numerous and valuable agricultural research breakthroughs. This amendment would help ensure that BARD's next 10 years are as successful as its first.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. COCHRAN. Mr. President, one concern that the managers have is that this amendment is offered to this bill. This is a foreign operations jurisdictional matter, in our judgment, and ought to be taken up when we take up the appropriations for foreign operations.

Having said that, the amendment is drawn and drafted in such a way that funds would be diverted, as I understand it, from the Agriculture Research Service to fund a joint United States-Israel Bilateral Agriculture Research and Development Program. If I understand this correctly, this means that funds that have previously been appropriated for ARS in this bill will be cut by $5 million. This would include threatening some jobs at other research facilities around the country.

I have a letter from the Office of the Secretary at the Department of Agriculture signed by Orville Bentley. I want to read a portion of the letter:

> To cite but a few examples of the magnitude of the reductions in those programs which would be imperiled by the adoption of the amendment, we would point out, for instance, that we currently employ 319 people at the National Animal Disease Center in Ames, Iowa. These jobs, along with an annual operating budget of $17.9 million could be eliminated. The Beltsville (Maryland) Agricultural Research Center would also be imperiled by drastic budget cuts, as would the Meat Animal Research Center in Clay Center, Nebraska. Smaller locations would also suffer, such as those in Montana where we employ 30 people with an annual operating budget of $3.5 million. ARS is currently expending approximately $20.4 million for non-food research at our laboratory in Peoria, Illinois. Acceptance of the amendment to transfer $15 million from ARS to CSRS could, as an example, eliminate most of the 319 jobs at Peoria and virtually end our research program at that important laboratory.

Mr. President, I ask unanimous consent that the entire text of this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 28, 1988.

Hon. THAD COCHRAN,
Ranking Minority Member, Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: The U.S. Department of Agriculture (USDA) has just been made aware of a series of amendments proposed to be offered to the Fiscal Year 1989 Appropriations Bill for USDA now pending before the Senate. We are advised that one amendment seeks to shift $20 million from the Agricultural Research Service (ARS) to a joint United States-Israel Bilateral Agricultural Research and Development Program (BARD). A second proposed amendment would shift $15 million from ARS to the Cooperative State Research Service (CSRS) for research on non-food crops.

USDA has long supported the BARD program as a way to assist Israel to become more self-sufficient in agriculture. Currently under this program, research projects are funded by interest earned on a capital account held in an Israeli financial institution. Additionally, the BARD agreement requires the government of Israel to match any U.S. contribution to the capital account. That capital account currently contains $110 million, with $55 million coming from the U.S. It is simply not prudent to eliminate $20 million of ongoing research programs of direct value to U.S. farmers and initiate at most, less than $3 million (supported by additional interest from the capital account) of new programs primarily benefiting one sector of the agricultural community. However, should the Senate accept the amendment, we would be compelled to make drastic reductions in certain ongoing ARS research programs.

Specifically, we would be forced to close facilities, eliminate research programs of vital national importance to the United States, and to fire hundreds of scientists and support personnel.

To cite but a few examples of the magnitude of the reductions in those programs which would be imperiled by the adoption of the amendment, we would point out, for instance, that we currently employ 319 people at the National Animal Disease Center in Ames, Iowa. These jobs, along with an annual operating budget of $17.9 million could be eliminated. The Beltsville (Maryland) Agricultural Research Center would also be imperiled by drastic budget cuts, as would the Meat Animal Research Center in Clay Center, Nebraska. Smaller locations would also suffer, such as those in Montana where we employ 30 people with an annual operating budget of $3.5 million.

ARS is currently expending approximately $20.4 million for non-food research at our laboratory in Peoria, Illinois. Acceptance of the amendment to transfer $15 million from ARS to CSRS could, as an example, eliminate most of the 319 jobs at Peoria and virtually end our research program at that important laboratory.

We must stress to you that we are very serious in saying to you that deep cuts in the budget of the Agricultural Research Service will cripple our ability to perform the research so vitally needed by American farmers and ranchers to remain competitive in world markets. American consumers would also suffer in that research programs designed to maintain the quality and safety of American food could be crippled by such reductions.

We urge you to reject these amendments.

Sincerely,

ORVILLE G. BENTLEY,
Assistant Secretary, Science and Education.

Mr. COCHRAN. Mr. President, I do not know what the intention of the manager of the bill is, the chairman of the subcommittee. It may be that we could encourage the more generous funding of this research and development program. I support the program. I think it is a good program. But whether or not we ought to divert money from other good programs to this good program is a question that looms large in the mind of this Senator right now.

I express these concerns because I think the Senator ought to be aware of the situation as seen by the Department of Agriculture.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURDICK. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. BURDICK. Does the Senator realize that he proposes to reduce U.S. research by $5 million, while only increasing BARD research by $300,000 and only the interest on the $5 million will be used?

Mr. MELCHER. Yes. I am very much familiar with the nature of the BARD research fund, which is one composed of matching funds. Contributions to the fund are both governments. Only the interest is utilized for the agricultural research. The principal is merely put in the fund, invested in Government securities and then the interest itself is used to award research grants. This program is unique among our research efforts, and it is one that has paid off extremely well over the past 10 years.

Mr. BURDICK. That is the precise point I am making. They will only use the interest, whereas we will be deprived of the $5 million.

Mr. MELCHER. The Israelis will also be deprived of the $5 million they add to the fund.

Mr. BURDICK. We will be deprived.

Mr. MELCHER. Both sides will be because it is only the interest that is used, but you still have your money. It is like putting the money in the bank, and I think I have adequately described it. It is an endowment.

Mr. BURDICK. But U.S. research will be reduced by $5 million right now.

Mr. MELCHER. For the current year, for the coming year.

Mr. BURDICK. For every year.

Mr. MELCHER. Well, not every year because you would only renew this fund occasionally.

Mr. BURDICK. Is this a 1-year bill?

Mr. MELCHER. The BARD Program, itself, goes on indefinitely. This $5 million is only for fiscal year 1989 to be matched by $5 million from Israel.

Might I ask the distinguished Senator from Mississippi for a copy of the letter? I have never seen it.

Mr. President, this is the first I have seen of this letter referred to dated July 28 and signed by Orville Bentley, Assistant Secretary of Science and Education.

While I read it, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have just read the letter from the Assistant Secretary of Science and Education. I can understand how it upsets the managers of the bill to have an amendment offered in light of this letter.

Therefore, I am going to modify my amendment to change it to just 50 percent of the $5 million—making it $2.5 million—to see whether that amount would be agreeable. I do this because I am sure the BARD Program needs to continue as successfully as possible. It is true that the money is invested in a fund and only the interest from that fund is used annually for agricultural research, but it is necessary to build up the fund a little because of the effect of the deregulation of the dollar on the fund. That makes less research available for each year.

I ask if the managers will accept my modified amendment.

The PRESIDING OFFICER. The Senator from Montana will have to ask unanimous consent to change the amendment in that fashion.

Mr. MELCHER. I ask unanimous consent to modify my amendment from $5 million to $2½ million.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2772), as modified, is as follows:

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That $2,500,000 shall be made available for payment to the Israel-United States Binational Agricultural Research and Development Fund as authorized by section 1458 of the Food and Agriculture Act of 1977, to remain available until expended.

Mr. COCHRAN. Mr. President, I wish to express my thanks to the Senator from Montana for modifying his amendment. With that modification, we are prepared to recommend the amendment be agreed to.

Mr. BURDICK. We will support the modification of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment of the Senator from Montana [Mr. MELCHER].

The amendment (No. 2772), as modified, was agreed to.

The PRESIDING OFFICER. The Chair is prepared to go to third reading of the bill.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, my understanding is Senator GRAMM might have an amendment. He is listed here. He is on the floor. Rather than go to third reading, which would cut off that amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2773

(Purpose: To prohibit the earmarking of funds made available for the Cooperative State Research Service)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2773.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 12, by striking out the period and inserting in lieu thereof a colon and the following: "*Provided*, That the earmarking concerning competitive research grants contained under the heading Cooperative State Research Service of the Senate report accompanying H.R. 4784 (Senate Report 100-389), shall not be binding on the Cooperative State Research Service.".

Mr. GRAMM. Mr. President, this amendment is a very simple amendment. Under this appropriation bill, cooperative State research service funds are broken into two categories: One category is a special research grant category whereby designation is made by institution. The second catetory is supposed to be competitive research grants where you have peer review, and where a determination is made by scientific panels as to what research makes sense; therefore, our research moneys are allocated based on that peer review.

Mr. President, unfortunately, funding for this category has already been reduced. Funding, which is $40,842,000, is $13.6 million less than the budget estimated and $1.5 million less than what was available last year. Yet, with this reduction in funds, this bill designates almost $10 million of that $40 million to go to a handful of universities.

Mr. President, all this amendment says is that the earmarkings in this bill shall not be binding. They represent the suggestions of the committee. If the Committee on Appropriations has special expertise in animal science, biotechnology, and other areas, then we would assume that the peer review would bear out these priorities. If not, they are not bound by these priorities.

I think we will all find ourselves in a position where, if we are going to let politics dictate the allocation of funds in areas that are supposed to be determined on a competitive basis with scientific peer review, all of our State universities will be pounding on our heads saying allocate some money to the University of Texas or Texas A&M. The whole idea of this program was to have peer review to let merit allocate funds.

All I am saying here is that the earmarks in the bill on competitive grants are not binding. If the peer review committees conclude that the funds could benefit the taxpayer by going somewhere else, they would not be bound by these earmarkings.

I hope my colleagues will accept the amendment.

Mr. COCHRAN. Mr. President, I am sympathetic with the amendment offered by the Senator from Texas. I think he has a good amendment.

As I understand it—to be sure I understand it—the earmarking that he is talking about is competitive research grant money, funds that are appropriated to the cooperative State research service for competitive research grants. That is a special account where universities and other research institutions compete for available grant funds for research projects.

I think he has a good amendment and it should be approved. I point out, however, that there is another program of special research grants that are earmarked in this bill and traditionally have been earmarked by Congress, and it is research done under the auspices of the cooperative State research service. That would not be changed and that would not be disturbed under this amendment, with the language I read that is before me.

I think it is a good amendment, and I recommend that it be approved.

Mr. BUMPERS. Mr. President, if the Senator from Texas is willing to take the suggestion of the Senator from Mississippi, that will be fine with me. But unless we can move it into the special research grants category, I would have to strenuously oppose the amendment of the Senator from Texas.

It is true that these are earmarked grants, and nobody around here ever likes them unless they happen to be going to their particular States.

In the case of the food safety consortium grant, Kansas State University, Iowa State University, and the University of Arkansas have worked as a team for some time to develop a good research consortium to study food-borne contaminants—not just salmonella, but all food-borne contaminants so as to improve detection methods and methods of prevention. They put a lot of time and talent into the fact that someday they will get a grant like this that will help them perform a real service for the country.

The other research grant I am concerned about—there are others, and I am just speaking for myself—deals with alternative pest control. EPA has already started telling farmers, "If you farm in a watershed area where endangered species may be located, you will not be allowed to use herbicides and pesticides." Every farmer in the country wonders, if that rule is finally implemented, how they are going to live on yields of from one-third to one-half of what they have become accustomed to.

I understand this, and I am on the side of EPA about trying to stop those chemicals that poison people; and I am on the side of farmers who like to use herbicides and pesticides. But the truth of the matter is that we need a crash program to provide research for effective alternatives. We have a team of world class scientists in the area of alternative pest control at the University of Arkansas.

The reason I am interested in this is that I am an Arkansan, and I went to the University of Arkansas and talked with these scientists. I looked through their laboratories. I let them demonstrate for me what they have done.

If you want to try to help the farm communities of this country in developing alternatives to herbicides and pesticides, you will be hot for this research proposal. It does not involve very much money, but it involves vital research. If you want to move that out of the competitive grants category and put it into the special grants category, which the Senator from Mississippi has suggested and make up the lost competitive grants funds from unobligated ARS funds, I have no quarrel with that. You are talking about shifting a total of $7.5 million from ARS, and the Agricultural Research Service has about $510 million to play with. So you are not talking about very much money from ARS. You are talking about grants that would perform a real service to the farmers of this country and the American people.

Mr. President, I hope we can work something out on this, because these schools are geared up in anticipation of these grants.

Mr. GRAMM. Mr. President, I do not doubt that the research projects we are talking about are important. But I remind my colleagues that this is supposed to be competitive research money, so that every university in the country would have an opportunity to compete. We are supposed to allow people who are the technical experts in each of these areas assess the research proposals from every State university, every private university, every research corporation in America, and assess them on their individual merits.

If funds in another category were to be earmarked, such as in the special research grant area, where funds are designated by Congress, that is one thing. But what we are doing here is that we are going into an area where we are supposed to have technical peer review, and we are making political decisions, and I think that is wrong. I think it undercuts our whole research program.

I have a letter here sent to Senator Thurmond by the president of Clemson University that outlines exactly why this is a problem and why this is unfair.

What we have here is the earmarking of about one-fourth of all the funds available, so that Clemson University, the University of Kentucky, the University of Wyoming, the University of North Dakota, and Texas A&M do not have an opportunity to compete for those funds.

It may be that the few universities—less than a half dozen—selected by this committee are the best to do this research, but maybe they are not. This is supposed to be competitive research, with peer group review, and I think we should let the research be assessed not by lawyers, not by economists, but by people who are scientists in the agricultural area. That is how it is supposed to be.

Mr. President, I ask unanimous consent that the letter from Max Lennon, president of Clemson University, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Clemson University Centennial,
1889-1989
Clemson, SC, July 19, 1988.

Hon. Strom Thurmond,
Russell Senate Office Building,
Washington, DC.

Dear Senator Thurmond: As mentioned in my letter of June 14, 1988, I am extremely concerned about dilution of the effectiveness of the competitive research grant program in the U.S. Department of Agriculture budget. Currently, the Senate version of the budget bill includes approximately $41 million for this important program. For the first time in the history of the competitive research grants program, approximately $12 million is currently earmarked for specific state programs, programs in institutions, or consortiums of institutions. The House version of the competitive research grants program recommends less than $30 million with no earmarked funds in the competitive grants area.

As the co-chairman of the USDA Research Policy Advisory Committee, I have actively solicited support from members of this committee, which represents states from across the nation, to work with their congressional delegation members to support the Senate funding recommendation—$41 million—with no earmarked funds. While a higher funding level can be readily justified, the $41 million level will provide opportunities for critical research to be accomplished. Our major concern is that if $12 million is earmarked this year, what might happen in the future. I note, with interest, that the Armed Services Conference report on the University Research Initiative finding took a strong position in favor of competitive research grants and deleted earmarking of research funds.

I respectfully solicit your support of a conference report for the USDA Competitive Research Grants Program at a funding level of $41 million with no earmarked funds.

Sincerely,

Max Lennon,
President.

Mr. GRAMM. Mr. President, I ask unanimous consent that the names of Senator Kasten and Senator Wallop be added as cosponsors of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I am prepared to yield the floor.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ARMSTRONG. Mr. President, I want to register my concerns with the earmarking of competitive biotechnology research grants at the Cooperative State Research Service in the committee report for the Agriculture appropriations bill.

The competitive grants have always been just that—competitive grants that schools vie for and are awarded by the review of their peers depending on the merits of the research proposal. This year's agriculture appropriations committee report, however, portends to decide who the recipients will be by earmarking 40 percent of the funds to specific institutions for specific projects.

In Colorado, Colorado State University feels it is important for its scientists to have an opportunity to compete for funds in this research area important for Colorado.

Mr. President, I urge House and Senate conferees to reach an agreement to keep the grants competitive.

Mr. KASTEN. Mr. President, I rise in support of the Gramm amendment to the Agriculture appropriation bill. This amendment seeks to remove the earmarks in the Cooperative State Research Service competitive Research Grant Program, making them instead suggestions to CSRS as to congressional priorities.

It is past time this subject was raised, and I commend the Senator from Texas for doing so. I am fortunate to represent a State blessed with one of the premier universities in the country—the University of Wisconsin. Any program of research, especially agricultural research, that awards grants based on a competitive process of peer review is to the advantage of schools like UW. I say with complete confidence that competitive research programs are also to the advantage of the country as a whole; simply put, they lead to better research and better use of the tax dollars spent for that purpose.

I have received many letters from responsible scientists across the country protesting the earmarks that have found their way into the CSRS Competitive Research Grants Program. I will ask that several of these be included in the RECORD at the conclusion of my statement.

Mr. President, I believe we should be doing much more in the way of competitive research grants, not less. The Gramm amendment points us in the right direction. I urge my colleagues to support this amendment.

I ask that the letters to which I referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 20, 1988.

Senator ROBERT W. KASTEN, Jr.,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: This year the USDA competitive grants program has had several projects earmarked for funding by members of Congress. The result has been that one fourth of the funds intended to fund research based on competitively selected proposals may be spent on proposals judged on their usefulness to a narrow political constituency rather than the broad constituency of the country as a whole.

Most of the money used to fund the Agricultural Experiments Stations in each state is used for state related agricultural problems. The competitive grants program is one of the few programs to fund research useful to the country as a whole though not giving any special advantage to one region over another.

The competitive grants program at USDA has had a history of difficulties since its inception in 1977. Although the amount of money spent on competitive grants in USDA is low, it has somehow been seen as an expendable program. At present many of the awards are insufficient to support even one graduate student. Reductions in funding of the program will mean drastically reduced numbers of grants or grants so small that their usefulness is dramatically curtailed.

If the current earmarking scheme is successful, there will undoubtably be tremendous pressure next year for the many worthy agriculturally related causes that are currently unfunded. I believe this will spell the end of a productive, if modest in size, competitive research program within USDA. This is equivalent to eating the seed corn. It gives some relief to the hunger in the short term, but reduces our capability to feed ourselves in the long term.

I strongly urge that the appropriation for the USDA competitive grants program be free of noncompetitive, earmarked programs so that the original intent of the competitive grants program can be fulfilled.

Sincerely yours,

THOMAS D. SHARKEY,
Associate Professor of Botany,
University of Wisconsin-Madison.

MICHIGAN STATE UNIVERSITY,
East Lansing, MI, July 21, 1988.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senator, Capitol Building, Washington, DC.

DEAR SENATOR KASTEN: If the United States is to maintain its competitive position in the world with respect to agricultural production, it is imperative that we conduct basic research as it relates to agriculture. In 1977, the Congress authorized a small program, known as the competitive research grants program, within the Department of Agriculture to support such research. An important aspect of this successful program was that the research is peer reviewed, or at least has been peer reviewed up until now. Experience over a long period of time here in the United States shows that peer review is the best method to identify the most meritorious research projects.

Congressional "earmarks" which are known to the public as "pork barrel" are a disastrous way to identify worthwhile research projects. No serious scientist who has the interests of science at heart as opposed to the interests of his or her research project, institution, or state supports the earmarking approach.

The situation right now for the proposed funding of the Competitive Grants Program is that 25% of the funds have been "earmarked" for specific projects. This approach spells the doom of this important Federal program that supports basic research as it relates to agriculture (e.g. research on photosynthesis, nitrogen fixation, the effect of stress on plants, nutrition). As a basic plant scientist of Michigan State University, I oppose this change in the Competitive Grants program. I urge you to restore the funds for this program and to eliminate the earmarking aspect of the appropriations for the Competitive Research Grants office of the USDA.

Sincerely,

JONATHAN WALTON, Ph.D.,
Assistant Professor.

UNIVERSITY OF MISSOURI-COLUMBIA,
Columbia, MO, July 20, 1988.

Hon. ROBERT W. KASTEN, Jr.,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I am an investigator currently funded by a research grant from the USDA competitive grants program. I also hold grants from the National Institutes of Health and have had continuous federal support for my research since I started my academic career in 1970. In a recent issue of Science I gathered that the USDA budget for its grants program is again being threatened. In this instance it appears that a certain number of "specific" research, i.e. pork barrel, projects will draw off funds from the normally peer reviewed grants. Should this happen it will spell the demise of what has been a pioneering and highly successful endeavor by the USDA.

For years basic scientists such as myself encouraged the USDA to establish a competitive grants program. We saw the success of the NIH system and saw how poorly USDA research funds were used. Monies were doled out year after year to individuals and institutions who often had no right to be doing the work. The process encouraged low quality, poorly innovative research and was wasteful of funds. Even now the amount of money placed in competitive grants is pitifully small. Only about one in five to seven projects gets funded and many meritorious applications are never supported. If the plans for insertion of the pet projects materialize, certain institutions may benefit but these may not be the best or most worthy. Overall the support of agricultural research will receive another blow.

I, therefore, plead with members of the Appropriations Committees to support peer-reviewed research sponsored by the USDA and to reject further attempts to tinker with the limited funding that is available. The development of biotechnology depends upon creative research. The worthiness of such research should be judged by peer review and not by narrow political considerations.

Sincerely,

R. MICHAEL ROBERTS,
Professor of Animal Science and Biochemistry.

UNIVERSITY OF MINNESOTA,
St. Paul, MN, July 20, 1988.

Hon. ROBERT W. KASTEN,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR KASTEN: We wish to express our strong objections to recent proposals that would weaken the USDA Competitive Grants program by earmarking a portion of the funds appropriated for this program (Science, 1 July, p. 21). In 1977 Congress established the USDA Competitive Grants program that has since helped to stimulate a strong national research effort in basic agricultural research. This program, however, has never been funded adequately and is able to support only about 15% of its applications. The actual awards are made at levels of funding sharply reduced from those requested and needed to effectively carry out the research. This program has started to meet an important need in American agriculture research. The recent burst of scientific accomplishments in this area clearly demonstrates the effectiveness of this program.

As members of the Midwest Plant Biotechnology Consortium, it was our understanding at the time the Consortium was formed that funding for the Consortium would be new funding and not come out of any existing competitive grant program. We are urging Dr. Harvey Drucker, the Consortium's Director, to not accept funding for the Consortium if it has been diverted from the USDA Competitive Grants program.

Taking this action saddens us because we consider the concept of cooperation among industry, government, and universities envisioned by the Midwest Biotechnology Consortium to be an important new idea in this country's efforts to make its industry more competitive. We commend Congress for attempting to facilitate university-industry interactions, but this absolutely should not be done at the expense of the outstandingly successful USDA Competitive Grants program.

Sincerely,

IRWIN RUBENSTEIN,
Director,

On behalf of the University of Minnesota members of the Midwest Plant Biotechnology Consortium: Dr. Anath Das, Dr. Janet L. Schottel, Dr. Judith Berman, Dr. J. Stephan Gantt, Dr. Neil E. Olszewski, Dr. Paul A. Lefebvre, Dr. Robert E. Pruitt, Dr. Irwin Rubenstein, Dr. Carolyn D. Silflow, Dr. D. Peter Snustad, Dr. Mark L. Brenner, Dr. Alan G. Smith, and Dr. Robert Brambl.

NORTH CAROLINA STATE UNIVERSITY,
Raleigh, NC, July 18, 1988.

Senator ROBERT W. KASTEN,
Senate Committee on Appropriations, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I was startled to read in Science magazine for 1 July that a badly needed competitive research grants program within the USDA is endangered because Congress has seen fit to allocate its funds for regional projects.

As you know, the fact that the we fund a great deal of our basic science research though a competitive grant system in an important reason for the overall strength of science and technology in this country. We have not used the competitive system to fund research in plant biology and agriculture to nearly the same extent that we have used it to fund medical research. However, I maintain that real future progress in our agricultural industry will depend critically on the degree to which the federal government supports high quality basic and applied research in universities through competitive mechanisms based on national peer review procedures. At present, the revolution in genetic engineering (funded largely by competitive grants from NIH to medical researchers) has overtaken us—has caught us with too little basic knowledge. For example, simple ignorance of many aspects of plant biology is still a major limitation in many plant improvment programs. However, it is highly unlikely that private industry will create the public knowledge base which is so essential a common resource. The situation is a classic one, one in which a relatively small federal investment (compared to NASA's budget or even that of the NIH) would provide the groundwork our agricultural biotechnology industry needs to become and remain competitive over the next 10 or 15 years.

As desperately needed as it has always been, the USDA Competitive Research Grants program has never been large enough to do its job properly. It is miniscule when compared to the need for its product, or when compared to the budgets of other agencies. We could productively use a ten fold increase in funding over the next five years rather than the decrease currently under consideration. What we need is an "NIH" for agriculture, with a vigorous grants program based on scientific competition and sustaining research and training in universities across the country; what we do not need is a plethora of regional projects competing with one another on a political rather than a scientific basis.

Sincerely,

WILLIAM F. THOMPSON,
University Research Professor of Botany and Genetics.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Is there further debate on the amendment? The Chair hears none.

The question is on agreeing to the amendment.

The amendment (No. 2773) was agreed to.

Mr. **GRAMM**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **GARN**. I move to lay that motion on the table.

The **PRESIDING OFFICER**. The Senator from Mississippi.

Mr. **COCHRAN**. Mr. President, as part of the discussion between the Senators from Arkansas and Texas we have agreed to accept the amendment of the Senator from Texas and also a companion amendment on the same subject to be offered by the Senator from Vermont, Mr. LEAHY.

I ask unanimous consent that that amendment be offered and that I be permitted to offer that in behalf of the Senator from Vermont.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 2774

(Purpose: To change the allocation of funds within the competitive grants program of the Cooperative State Research Service)

Mr. **COCHRAN**. Mr. President, I send the amendment to the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for Senator LEAHY Mr. HARKIN, and Mr. BUMPERS proposes an amendment numbered 2774.

Mr. **COCHRAN**. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike out "$559,157,000" and insert in lieu thereof "$551,657,000".

On page 12, line 19, before the period, insert the following: ": *Provided further*, That the Secretary of Agriculture shall carry out each of the programs and activities described in the matter under the heading 'Agricultural Research Service' of the Senate report accompanying H.R. 4784 (Senate Report 100-389), in the amounts provided under such matter".

On page 14, lines 23 through 25, strike out "$24,256,000" and all that follows through "4501)" and insert in lieu thereof the following: "$32,506,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 4501), including special research grants (in lieu of competitive research grants) of not less than $2,000,000 for an animal science food safety consortium, $2,500,000 for a biotechnology midwest consortium, $2,000,000 for alternative pest control, and $1,750,000 for a biotechnology Iowa consortium".

On page 15, line 1, strike out "$40,842,000" and insert in lieu thereof "$41,842,000".

On page 16, line 12, strike out "$306,170,000" and insert in lieu thereof "$315,420,000".

Mr. **COCHRAN**. Mr. President, this amendment is cosponsored by the Senator from Iowa, Mr. HARKIN, and the Senator from Arkansas, Mr. BUMPERS.

It seeks to transfer funds from the competitive grants programs of ARS to the special grants program.

We hope that we can work out a satisfactory solution and be sure that these programs are all adequately funded when we go to the conference with the House.

We would recommend that this amendment be agreed to.

Mr. **LEAHY**. Mr. President, the integrity of the Competitive Research Grants Program at the U.S. Department of Agriculture must be protected. This amendment would increase funds available for biotechnology research by moving certain earmarked projects from the Competitive Grants Program in the Cooperative State Research Service [CSRS] to the Special Research Grants Program, also in CSRS.

In this Congress we have spoken at great length about the need to be competitive. I know that I have discussed the importance of remaining competitive in agricultural biotechnology by funding innovative research in laboratories across our country.

This year the Federal Government will spend over $2.72 billion on biotechnology research but little of this great sum is invested in agricultural biotechnology. The U.S. Department of Agriculture spends only $80 million annually on biotechnology.

More agricultural biotechnology research is needed. When the skies failed to shed needed rain, our crops withered and died. Yesterday we responded to the drought and its devastating effect on America. To avoid future disasters, we must develop crops able to withstand harsh climates and biotechnology promises to provide drought resistant crops if proper research investments are made today.

This amendment increases agricultural biotechnology research by redirecting $7.5 million from the general research account of the Agricultural Research Service to fund special projects provided for in the committee's report while at the same time restoring needed funds to the U.S. Department of Agriculture's Competitive Grants Program. My intention is that $8.25 million be made available for competitive grants in plant and animal biotechnology research and $1 million for nutrition research.

Recent studies in agricultural research show that grants awarded competitively are more likely to ensure that our public dollars are invested in high-quality research to benefit all Americans. For example, a recent National Research Council study on agricultural biotechnology stressed the contribution of competitively awarded grants to the development of agricultural biotechnology.

Critics of competitive grants argue that the top 20 universities receive the bulk of research dollars year after year. While I strongly support competitive grants, I must stress the need for the U.S. Department of Agriculture to determine guidelines for the competitive grants program to ensure a reasonable distribution of funds. Similar sized institutions should compete with one another, and no one institution should receive too great a share of the funding available.

I will be sending a letter to the Department next week asking that guidelines be developed to balance the benefits of competitively awarded grants with the need to provide support for a diversity of universities. The foundation of our agricultural system—the land grant complex which includes big and small universities across the country, must be preserved.

Mr. President, the present level of funds available for biotechnology at the U.S. Department of Agriculture is too low to ensure America's leadership. Congress must send a clear signal that competitively awarded, innovative research projects in biotechnology must be a priority.

Mr. HARKIN. Mr. President, I am pleased to be a cosponsor of the amendment offered for the Senator from Vermont, the chairman of the Agriculture Committee. I believe that the amendment solves a significant problem in the way the bill currently deals with research funding.

Many members of the scientific community throughout the country and in my home State of Iowa are very concerned about the integrity of the competitive grants program. The amendment addresses this concern by shifting a number of specific research projects from the competitive grant programs and instead lists them as special grants. It does so without reducing the sums available under the competitive grants in the bill. In fact, it adds $1 million for competitive grants to partially cover the allocation for human nutrition competitive grants provided for earlier. This is an area of research that I believe is extremely important.

I note that one of those special projects concerning the recovery of fermentation byproducts is of great importance to the entire Corn Belt. Many new products can now be produced through fermentation. For example, Kodak has developed a material which acts as a catalyst to make snow. This material is created through a fermentation process using large quantities of corn. However, the waste produced by this process is very considerable. Fortunately, in this case, the waste from this particular plant can be handled. But, what about the next plant? What about a similar plant producing some other nonfood product in some other city?

I see the use of such nonfood products as one of the ways to bring economic diversification and growth to our agricultural areas. But, if we are to significantly expand the use of nonfood products using fermentation, we are going to have to reduce the cost of dealing with the waste from the process. Thus, we need to provide a greater focus on this whole area.

Mr. President, I again note my support for the Leahy amendment and I urge its adoption.

The PRESIDING OFFICER. Is there further discussion of the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2774) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without question, it is so ordered.

AMENDMENT NO. 2775

(Purpose: To provide funding for the farmers' market coupon demonstration project)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment offered by the Senator from Iowa?

Mr. HARKIN. I am offering it on behalf of Senator KERRY.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] on behalf of Mr. KERRY proposes an amendment numbered 2775.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, lines 23 and 24, strike out "$1,927,362,000 to remain available through September 30, 1990" and insert in lieu thereof "1,929,362,000 to remain available through September 30, 1990, of which not less that $2,000,000 shall be used to carry out the farmers' market coupon demonstration project".

On page 61, line 21, strike out "$50,000,000" and insert in lieu thereof "$47,280,000, *provided*, that no State shall receive less in Temporary Emergency Food Assistance Program administrative funds than it would have received had the appropriation remained at $50,000,000 and further provided that the Secretary of Agriculture make an assessment by May 1, 1989, as to whether there will be sufficient funds to cover all the State's needs for administrative funds and if the Secretary determines there will be insufficient funds the Secretary shall advise where such funds can be obtained."

Mr. HARKIN. Mr. President, I rise to offer an amendment on behalf of Senator KERRY that would allow participants in the Supplemental Food Program for Women, Infants and Children [WIC] to purchase food from farmers' markets.

The WIC Farmers Market Program has been adopted by the Senate as part of the Hunger Prevention Act of 1988. That bill authorized $2 million for this program for fiscal year 1989. This amendment simply makes a transfer from funds appropriated in the bill for administrative funds for the Temporary Emergency Food Assistance Program [TEFAP].

As we know, the quantity of TEFAP commodities distributed is declining from as much as $1 billion worth in recent years to about $260 million worth in fiscal year 1989. However, the amount of TEFAP administrative funds appropriated has decreased by only $1 million. The decrease in quantity of distributed TEFAP commodities means that funds are available in the TEFAP administrative account to fund the WIC Farmers Market Program in fiscal year 1989.

The provisions of the WIC Program authorize 10 States to participate in pilot projects, and would require them to share a significant proportion of the expenses. This program is already completely State-funded and operational in four States, namely, Iowa, Connecticut, Massachusetts, and Vermont. Although restricted to specific geographic areas in each State, this program shows enough promise to warrant several pilot projects at the Federal level.

Under the program, participating States issue coupons to WIC participants to be redeemed only at farmers markets for fresh, nutritious, unprepared food. The advantages to this program are four-fold:

First, WIC recipients are introduced to healthy, fresh, homegrown produce;

Second, farmers markets receive additional customers;

Third, all money from this program goes directly to farmers. No new structure is required to administer the program; and

Fourth, Federal dollars of $3.5 million would: purchase $5 million worth of produce for WIC Program participants and many States are interested in this program and would like to see the results of these pilot projects before pursuing plans of their own. This money would ensure distribution of this information to interested States.

Mr. President, in summary, this amendment provides for funding for the WIC Farmers Market Program that we approved in the hunger bill that we passed here just a few days ago. It provides that people who get these chits under the WIC Program can only use them at farmers markets to buy fresh fruits and vegetables and things like that at farmers markets.

This provides for $2 million to come out of the TEFAP administrative fund, but only if there is a surplus in the TEFAP administrative fund to fund it. If the Secretary determines by May 1, 1989, that there will be insufficient funds, then it will not kick in, but whatever funds would be there that will not be needed for the TEFAP administrative fund then will be used to fund the WIC Farmers Market Program.

Mr. COCHRAN. Mr. President, we have reviewed the amendment and congratulate the Senator for working out an acceptable compromise on the issue of where the money would come from for this program. We recommend the amendment be agreed to.

Mr. BURDICK. Mr. President, I will not oppose this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2775) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I rise in support of the agriculture and rural development appropriations bill reported by the Senate Appropriations Committee.

This bill provides some $44.3 billion in budget authority and $25.9 billion in new outlays for Department of Agriculture farm income stabilization programs, agricultural production, processing, and marketing programs, rural development assistance programs, conservation programs, domestic food programs, international assistance programs, as well as farm credit and related agencies programs.

I commend the subcommittee chairman, the Senator from North Dakota, and the ranking minority member, my good friend from Mississippi, for producing a bill within the subcommittee's section 302(b) allocation.

I am concerned, however, that the bill is not consistent with the budget summit agreement. Let me explain. The bill exceeds the summit cap for international affairs by some $70 million in both budget authority and outlays for Public Law 480 spending.

The bill, on the other hand, is under the summit cap for domestic discretionary spending by some $300 million in budget authority and some $70 million in outlays.

I appreciate the subcommittee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep spending within the budget.

I know it was very difficult for the subcommittee members to keep this bill within the budget allocation. I, therefore, strongly urge my colleagues to oppose any amendments that would increase budget authority or outlays in the bill.

MODIFICATION TO AMENDMENT NO. 2770

Mr. COCHRAN. Mr. President, I ask unanimous consent that an amendment which was offered earlier today by Senator DOLE and agreed to, be modified by striking the last two lines of that amendment. It is a technical modification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2770), as modified, is as follows:

At the appropriate place add the following:

SEC. There is hereby transferred $100,000 from the working capital fund within USDA to support the International Livestock Program at Kansas State University to be administered through the Cooperative State Research Service.

Mr. SASSER. Mr. President, I would like to commend my distinguished colleague from North Dakota for his efforts in bringing this agricultural appropriations bill together. He and his staff have worked diligently and, I believe, have addressed many of the pressing needs we see in rural America today.

I am pleased that this legislation will restore the cuts in funding which the administration had called for in the areas of the Farmers Home Administration rural development loans and grants; the Extension Service, and the Rural Electrification Administration. For while this administration boasts of 7 years of economic growth and development, those of us from States with large rural populations know that these communities are facing faltering economies and high unemployment rates. As we plan for continued growth in America, these communities must remain priorities for developmental assistance.

Also, we earlier made a commitment to the Women, Infants and Children Nutrition Program. My colleagues are well aware of the success of this program around the country. The additional funds which were made available for the WIC Program will continue to provide results in terms of healthy children and lower health and welfare costs in the future. I am pleased that the Senate has supported the necessary funding for this most important program.

Mr. President, I am also pleased that we have included funding in this bill for water quality research and education. The Senate bill provides $11 million for research and education through the Agricultural Research Service, the cooperative State research service, and the Extension Service. Unfortunately, the House of Representatives has included less funding for water quality in their appropriations bill, and I would encourage that the Senate insist on its level of funding.

Water quality is an issue of great concern across the country. And studies are showing that nonpoint source pollution from agricultural runoff is one of the leading causes of poor quality in our surface and ground water. It will be imperative that future studies determine how we can prevent this extensive runoff and educate our farmers on better management practices to protect our water supplies.

It is my hope that the agencies receiving these funds will move forward quickly with water quality research. The results of this research should lead to improved management practices which can be implemented on farms across the Nation. I believe this funding is the type of investment which provides unlimited returns. We cannot overestimate the value of protecting our water supplies, and I am pleased that we are making this initial commitment to future water quality.

Mr. President, I again would like to commend the managers of the bill, and I urge its passage.

CONTACT LENS PROVISION

Mr. HATCH. Mr. President, I rise in support of the contact lens provision in the agriculture appropriations bill. The issue before us, the reclassification of certain contact lenses, is one that warrants our attention today.

Mr. President, contact lenses should not be maintained as class III medical devices as regulated through the Food, Drug and Cosmetic Act. Class III is the highest, and most expensive, level of regulation under this act. Its primary purpose is to ensure that new medical devices are entirely safe and effective before they can be marketed. Its use is for only the most sophisticated life-supporting devices, like heart valves, pacemakers, and anesthesia machines, or for those which presented unreasonable risk.

Since the enactment of this law, contact lenses have been trapped in a regulatory maze, unable to break through the administrative burden imposed by being a class III medical device. In 1982, when the Food and Drug Administration proposed to reclassify nonhydrophilic contact lenses as a class II device, the proposal had to be dropped. This proposal was not dropped because FDA feared the safety of contact lenses. Rather, the proposal was dropped because of quirks in our Federal law. The FDA could not put forward the data demonstrating the safety of the nonhydrophilic contact lenses.

Mr. President, the amendment included in this bill doesn't end FDA's authority to ensure that contact lenses are safe. As a matter of fact, it merely proposes that if the Secretary of HHS decides that they should be a class I, II or III device, within 1 year, then they will be automatically classified as a class II device.

Now, I want to assure my colleagues that class II still requires FDA oversight. In fact, the class II regulation embodied in current law under section 513(a)(1)(B) requires that—

> a device which cannot be classified as a class I device because the controls * * * by themselves * * * is (sic) insufficient to provide reasonable assurance of the safety and

effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which it is therefore necessary to establish for the device a performance standard * * * to provide reasonable assurance of its safety and effectiveness.

There are many class II devices that must still show they are safe and effective. Just recently the FDA has determined that devices such as the extraocular orbital implant should be in class II. This device is a nonabsorbable device intended to be implanted during scleral surgery for buckling or building up the floor of the eye, usually in conjunction with retinal reattachment. Another class II device, the ophthalmis laser, is an AC-powered device used to coagulate or cut tissues of the eye orbit by laser beam.

Mr. President, the real issue before us is not the safety of these lenses. Rather, this is a small business problem. I am pleased to join my colleague, from Arkansas, and chairman of the Small Business Committee on this issue. He agrees that this regulatory trap created for contact lenses is an unnatural marketplace barrier which is forcing small manufacturers out of the marketplace. We need to encourage competition, develop more jobs and decrease costs. There is no scientific proof that contact lenses cause harm; many million are worn every day without adverse effects.

I thank my colleagues for including this amendment in the committee bill.

TOO EXPENSIVE, DESPITE CHANGES

Mr. PELL. Mr. President, we have made many improvements in the Agriculture appropriations bill, including earmarking more funds for nutrition programs to assist those who need it most, but the measure remains too expensive and too ineffective for me to support.

Clearly we must act to protect farmers, who need help recovering from both hard economic times and drought. This bill, however, only repeats the mistakes of the past by continuing enormous farm subsidies that reward the wealthy, at great cost to the taxpayers and consumers, and do little for those who need help the most.

We did not make enough changes, unfortunately, to cut this expensive bill down to size or to make it an effective vehicle to aid the Nation's farmers. For that reason, after considerable reflection and looking at our budget situation, I decided I could not support final passage of the Agriculture appropriations bill in its current form.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. Baucus], the Senator from Texas [Mr. Bentsen], the Senator from New Jersey [Mr. Bradley], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Massachusetts [Mr. Kerry], the Senator from Michigan [Mr. Levin], the Senator from Nevada [Mr. Reid], the Senator from Michigan [Mr. Riegle] and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. Armstrong], the Senator from Rhode Island [Mr. Chafee], the Senator from Minnesota [Mr. Durenberger], the Senator from Arizona [Mr. McCain], the Senator from Connecticut [Mr. Weicker] and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut [Mr. Weicker] and the Senator from California [Mr. Wilson] would each vote "yea."

The PRESIDING OFFICER (Mr. Glenn). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 8, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—74

Adams
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Lautenberg
Leahy
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Wirth

NAYS—8

Garn
Helms
Humphrey
Pell
Proxmire
Roth
Rudman
Symms

NOT VOTING—18

Armstrong
Baucus
Bentsen
Biden
Bradley
Chafee
Dodd
Durenberger
Gore
Kennedy
Kerry
Levin
McCain
Reid
Riegle
Simon
Weicker
Wilson

So the bill (H.R. 4784), as amended, was passed.

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, I move that the Senate insist upon its amendments to H.R. 4784 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Glenn) appointed Mr. Burdick, Mr. Stennis, Mr. Chiles, Mr. Sasser, Mr. Bumpers, Mr. Harkin, Mr. Inouye, Mr. Cochran, Mr. McClure, Mr. Kasten, Mr. Specter, Mr. Grassley, and Mr. Hatfield conferees on the part of the Senate.

Mr. BURDICK. Mr. President, again, I want to thank Senator Cochran for his help on managing this bill and seeing it through to final passage. His guidance is most helpful and I could not ask for a more cooperative and informed ranking member.

I would also like to say a special thank you to the committee staff who has worked so long and hard on this bill. Rocky Kuhn, Debbie Dawson, and Connie Gleason for the majority and Irma Hanneman and Judee Klepec for the minority have all worked very hard, and without their expertise, we would not have been able to complete the task.

Mr. BYRD. Mr. President, I know that several Senators want to speak on various and sundry matters.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 5 o'clock p.m. today and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Parliamentary inquiry, Mr. President. I understand the majority leader plans to bring up the housing bill on Monday.

Mr. BYRD. Yes.

Mr. THURMOND. The Judiciary Committee has not even considered that bill. Does the majority leader want it brought up without getting the benefit of the committee action on it?

Mr. BYRD. May I say to my distinguished friend, I have no personal wishes in the matter at all. It is just that the Senators on my side have indicated they want to take up the House bill. I am trying to expedite the business of the Senate. I have no personal feelings about it one way or the other.

Mr. THURMOND. Mr. President, if any Senator can say he wants something brought up, then the committees have no function here.

Mr. BYRD. I do not run into that situation often, but this is a bill that has passed the House. I do not know of anything else we can take up on Monday, unless it is minimum wage. I thought it would be better to take up the fair housing bill at this time than minimum wage.

Mr. THURMOND. Mr. President, I want to say I wrote the distinguished majority leader and the distinguished Republican leader letters and suggested that there be no delay, but that we refer it to the committee, say, for 5 days, or a certain number of days, and have a time limit on it, and it would automatically come back and there would be no delays.

If that had been done, the bill would probably be ready to start on Monday. It has not even come to the committee. We would like to take a look at it and see what is in it and make some recommendations. Maybe it can be taken up later in the week or the following week.

Mr. BYRD. Mr. President, I certainly always want to accommodate the distinguished Senator from South Carolina. He is always a gentleman and has always been so courteous to me.

The problem is I have nothing else I can go to other than mimimum wage or a bill of Senator HELMS and Senator SANFORD.

I would take up the defense appropriations bill Monday, but the problem there is we keep hearing that the President may veto the DOD authorization bill. I do not want to take up the DOD appropriations bill Monday, because the President has until midnight next Friday to make up his mind on the DOD authorization bill.

I do not want to take that appropriations bill up until we know what the President is going to do on that DOD authorization bill. We do not know what he is going to do on the plant-closing bill until midnight Wednesday. Once we get by midnight Wednesday, if he vetos that bill, we will try to override it, and then I can go to the trade legislation. But I cannot go to that now because I want to find out what he is going to do on plant closing.

So that leaves me no alternative but to go to fair housing, and our time is running out. We only have 2 more weeks until we are out for the Republican Convention. Then I hope we can finish our work perhaps by September 30 or no later than October 8. So we do not have much time. So I am in a position where I have to go with the very first opportunity, if we are going to get these matters taken care of.

So that is the situation I am in.

Mr. THURMOND. Mr. President, why should this bill be exempted from going to a committee? It is a very complex bill. It carries a lot of long-reaching decisions in it. Why should that be exempt from going to committee like any other important piece of legislation, even if you do not reach it this year?

Mr. BYRD. It is not a new thing. It will not be setting a new precedent by any means. The Senator knows that. I have explained my situation on that. If I have other work I can do, I would certainly go to it. I am more interested in getting the fair housing before we go out but next week we have a few days there which constitute a window in which I think we ought to move to something that is going to have to move before a veto.

Mr. THURMOND. Mr. President, I would suggest if the Senator does not have anything else to go to on Monday, Tuesday, or Wednesday maybe we can move to the textile bill. In the meantime—instead of having it back by Thursday of next week—send it to Judiciary. In other words, give us Monday, Tuesday, Wednesday, 3 days to consider the bill and get it back to the Senate. Fix a deadline so there cannot be any delay. In the meantime, we can go to the textile bill, and act on that because we plan to go to it anyway I understand this year. I hope we will. I urge the majority leader to go to it.

Mr. BYRD. I want to.

Mr. THURMOND. I want to see the textile bill considered. Could we take that up Monday, then give us until Thursday on this fair housing bill, give us a chance to consider it, and get it back to the Senate by, say, Thursday or Friday?

Mr. BYRD. I cannot go to the textile because I want to do that trade bill before I do the textile bill.

Mr. THURMOND. We can go to the trade bill.

Mr. BYRD. I have explained why I cannot go to the trade bill. I cannot do that until I know what the President is going to do on the plant-closing bill. As soon as he shows his hand on that bill, then we will go to the trade bill.

Mr. THURMOND. I just want to say if we start that procedure around here when you have a bill that is as far reaching as this housing bill is—and it is far reaching, and I want to study it. I may vote for it. It depends on the shape it is in. But it seems to me we should not try to shortcut the committees and say, well, time is short; we do not have anything else to take up on the floor; and therefore we have to take this up. I really do not think that is a good excuse.

Mr. BYRD. I am sorry the Senator does not think it is a good excuse. I do not offer it as an excuse. I offered it as the reasons why I am constrained to do that. I certainly appreciate the Senator's feelings about this. It is no excuse. That is just the situation. I have tried to outline it. I tried to look down the road and take all of these matters into consideration, when we ought to do this bill, that bill, and the other bill; and I have explained why I cannot go to those other bills at this time.

Mr. THURMOND. I will not object to it coming up if it has been to the committee even 2 days where we can consider it and get it back. But I think we have to object to it coming up until that has been done, because in the first place this bill ought to have the consideration of the Judiciary Committee. It is an important bill. In the next place, I think we set the precedent here when some important bill is exempted from going to committee simply because we have no other piece of business to bring up. That is not a very good excuse. I really feel it ought to go to the committee for some consideration.

Mr. BYRD. I have nothing to do with it not going to the committee. I have nothing to do with that.

Mr. THURMOND. It has been here several days, has it not? It should have been referred to the committee before now.

Mr. BYRD. I have absolutely nothing to do with that. That was not my fault.

Mr. THURMOND. Who requested it be held at the desk?

Mr. BYRD. Mr. President, I would be glad to talk with the Senator and discuss this with him until the shades of the evening are falling. I have laid out the situation the best I know how. I see no other alternative but to proceed as I have suggested. It will not be setting a precedent. We certainly have taken measures up on this floor before without their having been to a Senate committee.

Mr. THURMOND. Mr. President, I state again it is not my idea to delay at all. I want the committee to have a chance to look at it like any other committee ought to have a chance to look at any other bill. The Finance Committee has to consider a trade bill. The Commerce Committee has to consider their bills. It seems to me this housing bill is very important and it ought to have consideration by the committee for at least 2 or 3 days, and then there will be no effort to delay. It will automatically come back, and we can see if we cannot work that out.

Mr. **BYRD**. I have told the Senator where I stand. If he wishes to discuss with the chairman of the Judiciary Committee who is ill, or the ranking member, why the bill has not come before the committee, he can do that. I have no alternative however but to proceed. The Senator can object if he wishes to. That is my intention on Monday—to go to that bill.

Mr. **THURMOND**. Mr. President, I might say the staffs are working now trying to iron out a few things here but we hope we get it to the committee so we could take some action on it. I will be glad to yield to the distinguished Senator from Missouri.

Mr. **DANFORTH**. I just wanted the floor.

The **PRESIDING OFFICER**. The Senator from Missouri is recognized.

Mr. **THURMOND**. Mr. President, I would have to file objection to taking the bill up on Monday until the committees have some consideration of it.

DRUGS ON OUR HIGHWAY

Mr. **DANFORTH**. Mr. President, on July 23, a Gray Line busdriver was arrested for drug abuse on the Garden State Parkway near Egg Harbor, NJ. State police were called in to investigate after the busdriver veered off the road into the woods uprooting several trees.

It was reported that people on the bus said they watched the busdriver stop to take some kind of drug shortly before the accident. Apparently the police found cocaine in the busdriver's possession, and charged her with possession of drugs and driving under the influence.

The busdriver had been taking a church group to Atlantic City. Three of the forty-three passengers who had placed their trust in that driver were seriously injured, one in critical condition. They were lucky. No one was killed.

This was not an isolated incident. Last April, the driver of a double decker tourist bus drove into a George Washington Parkway bridge in Alexandria, VA, killing 1 person and injuring 32 passengers. That driver tested positive for cocaine, valium, and marijuana.

These accidents represent just the tip of the iceberg of the drug problem in the motor carrier industry, which includes both truck and bus drivers.

During a November 1983 strike, Greyhound Buslines took applications from a group of experienced intercity busdrivers. They found that 30 percent of the applicants' urine samples tested positive for marijuana.

A 1986 Insurance Institute for Highway Safety study conducted at a Tennessee truck stop found that 30 percent of a random sample of 300 truckdrivers tested positive for drugs "with the potential for abuse."

A 1987 California investigation of truck stops resulted in drug arrests of 130 people, including 26 drivers of the 80,000 pound trucks that share our highways.

On May 19, a truckdriver rammed more than two-dozen vehicles on a Los Angeles freeway, but miraculously caused only minor injuries. Police found amphetamines, a hypodermic syringe, and a partly smoked marijuana cigarette in his cab.

Movers News, the publication of the moving and storage industry, editorialized this month that the CB and truck stop are becoming a growing part of the drug trafficking network in this country. Witnesses before the Commerce Committee testified to this as early as July 1986.

The drivers themselves recognize there is a problem. The 1986 Annual Motor Carrier Safety Survey of commercial drivers revealed that 40 percent of them believe at least half of their colleagues sometimes drive under the influence of drugs.

The 1987 Motor Carrier Safety Survey found that 73 percent of commercial drivers now support mandatory random alcohol drug testing of all commercial motor vehicle drivers. Drivers of trucks and buses know that their lives are at stake. They want action.

The Senate has acted. Last October, the Senate passed, by a vote of 83 to 7, an amendment to a consumer aviation bill, H.R. 3051, calling for random drug and alcohol testing legislation for safety-related transportation workers.

The House conferees on H.R. 3051 refuse to be a part of the solution. In fact, they have become a part of the problem. Since last October, we have waited for the House to act.

These conferees do not speak for their fellow House Members. On June 15, the House passed a nonbinding resolution by a vote of 377 to 27, instructing the conferees to concur with the Senate's drug testing amendment.

Congress is about to be given another chance. The Senate's omnibus drug abuse prevention initiative for 1988 will contain the same random testing provisions that the Senate adopted by a vote of 83 to 7, and the House supported by a vote of 377 to 27.

I will continue to do everything within my power to see enactment of legislation requiring mandatory random drug testing in the transportation industry. The clock is running out on the 100th Congress. In the meantime, innocent people are dying unnecessarily.

LABOR, HHS, EDUCATION APPROPRIATIONS BILL

Mr. **HATCH**. Mr. President, I would like to take this opportunity to thank Senator CHILES, Senator WEICKER, and the other members of the Appropriations Committee for their dedication and work in bringing the Labor, HHS, Education and related agencies appropriations bill to the floor. They worked long and hard on the original bill and accommodated the amendments of many Members before passage.

I would like to acknowledge the special contribution that Senator CHILES has made to this process during his tenure as chairman of the Appropriations Subcommittee. He will be missed by all of us in the Senate and particularly by those most affected by the work of the Labor, HHS, Education and Related Agencies Appropriations Subcommittee's work. His willingness to listen and balance competing concerns in a fair and equitable manner and his strong representation of the Senate's positions in conferences with the House of Representatives will be remembered.

Mr. President, there is no other appropriation bill that touches as many people as does this one. When we completed our work on this bill it reflected our best effort to address a range of problems from the need to improve the quality of education and ensure access to postsecondary education, to basic health research and social services, to the delivery of health care, to protecting the American worker, and to helping the disabled and disadvantaged in America, The Labor, HHS, Education appropriations bill is truly helping to build a better educated and healthier nation.

I am particularly pleased to note that this appropriations bill provides funds for a program to support health services in the home. This program will provide funds to support grants to the States for demonstration projects. These projects will identify and assist individuals who could avoid costly institutionalization if home health services were made available to them. I would like to thank personally the members of the Appropriations Committee for their support of this program on behalf of those who will benefit from the funding of these home health programs. They will allow many more people to remain in their homes and aid family members in providing care to their loved ones in their home. I would ask that the conferees retain this provision in the final bill.

Also of major importance to me is this bill's funding of education programs. With the appropriations from this bill, the newly authorized Hawkins-Stafford elementary and Secondary School Improvement Amendments of 1988 will be put into operation. All of us who worked on that legislation hope that the changes in our Nation's elementary and secondary education programs therein enacted will enhance the quality of education offered throughout our country and particularly for the educationally and economically disadvantaged. Also funded by this bill are the Federal student financial aid programs without which so many young and not-so-young people would be denied access to a variety of postsecondary educational programs. We will all benefit from improving the quality of and ensuring access to education. These are well-established responsibilities of the Federal Government to supplement the activities of States and local governments. I wholeheartedly support them. Investing in education is, I believe, an investment in our national strengh and security.

SENATE RESOLUTION ON THE LABOR, HHS, EDUCATION APPROPRIATIONS BILL

Mr. KENNEDY. Mr. President, on Wednesday evening I offered a sense-of-the-Senate resolution to the Labor, HHS, Education appropriations bill that was accepted by voice vote. This resolution expressed the sense of the Senate that the Senate conferees on the Labor, HHS, Education Appropriations Act should make available $39.8 billion in budget authority for domestic discretionary programs. Our intention was to encourage the appropriations conferees to accept the spending level specified in the House 302(b) allocation and included in the Senate-passed budget resolution.

I understand that there is some concern about the wording of this resolution because it did not specifically refer to discretionary budget authority.

Mr. President, I am certain that our intent was quite clear and have been assured that there was no doubt about what we were trying to accomplish. However, to make absolutely certain that there is no doubt, I would like to have the resolution reprinted in the Record with a specific reference to discretionary budget authority.

It is the Sense of the Senate that the Senate Conferees on this Act should in the Conference Report on this Act make available amounts equal to $39,800,000,000 in discretionary budget authority.

Mr. President, this resolution was accepted by voice vote on Wednesday night. I ask unanimous consent that a copy of the resolution be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 79, between lines 21 and 22, insert the following:

Sec. . It is the sense of the Senate that the Senate conferees on this Act should in the conference report on this Act appropriate and make available amounts equal to $39,800,000,000 in discretionary budget authority.

WCAU-TV'S 40TH ANNIVERSARY

Mr. SPECTER. Mr. President, on May 23, 1948, WCAU-TV inaugurated its first day of service to Philadelphia, PA, and the Delaware Valley with its first day of scheduled programming. Following more than 17 years of testing, the station signed on with a test pattern in March of that year and continued shakedown programming, including broadcasts of the Philadelphia Orchestra, in the following months. During its first full week, WCAU-TV logged 29 hours of programming, reaching the 35,000 television sets then in use in the Philadelphia area. Within 8 months, WCAU's schedule had grown to 55 hours a week. And today, as WCAU-TV celebrates 40 years of programming to Philadelphia, channel 10 broadcasts round the clock, 7 days a week.

WCAU-TV signed on just in time to bring Philadelphia their first television news coverage of both the 1948 nominating conventions held in the Philadelphia Civic Center. Gov. Thomas Dewey was named to run against President Harry S Truman.

In April, 1988, WCAU continued its proud tradition of live coverage of political activities by bringing the debate between Democratic candidates Michael Dukakis and Jesse Jackson to viewers throughout the Delaware Valley and, through cable linkage, to viewers across the Nation. Channel 10 provided on-the-scene coverage of the Democratic Convention in Atlanta and will be covering the Republican Convention in New Orleans live as well.

WCAU-TV became the first station to join Columbia Broadcasting System's TV network in 1948, and, in 1958, CBS, Inc., acquired both WCAU-TV and its sister radio station, WCAU Radio.

Since 1952, WCAU-TV has beamed news and entertainment to Philadelphia from its uniquely designed building at City Line Avenue and Monument Road. When it first opened its doors, the building was hailed as the world's most complete radio and television center.

For 40 years, WCAU-TV has served the viewers of the Delaware Valley well, beinging them a wealth of entertainment, news and public service programming. Channel 10's celebration of the bicentennial of the Constitution, "We the People," in 1987, is illustrative of its commitment to saluting and preserving the great historic heritage of the Philadelphia area. Recent community involvements include stationwide participation in "A World of Difference" and the "Call for Action" programs.

It is altogether fitting, then, that the U.S. Senate take note of the 40th anniversary of WCAU-TV, recognize its contributions to the civic and community life of the Philadelphia area and wish it continuing success in the decades ahead.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DeConcini). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 5015

Mr. BYRD. Mr. President, I ask that the Chair appoint conferees on H.R. 5015, the drought relief bill.

The Presiding Officer appointed Mr. Leahy, Mr. Melcher, Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Dole, Mr. Cochran, and Mr. Boschwitz; and, from the Committee on Energy and Natural Resources, only for the consideration of the Bureau of Reclamation provisions, Mr. Johnston, Mr. Bradley, Mr. Bingaman, Mr. McClure, and Mr. Wallop conferees on the part of the Senate.

Mr. BYRD. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I think there is an omission on the Republican side. I think it is five to four. Senator Lugar should be added. It should be Mr. Lugar, Mr. Dole, Mr. Cochran, and Mr. Boschwitz.

The PRESIDING OFFICER. Without objection, it is so modified.

REVISED DEFERRALS OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, and the Committee on Armed Services:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two revised deferrals of budget authority now totaling $610,581,549.

The deferrals affect programs in the Department of Defense—Civil and Funds Appropriated to the President.

The details of these deferrals are contained in the attached report.

Ronald Reagan.

The White House, *July 29, 1988.*

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 1860) entitled the "Federal Land Exchange Facilitation Act of 1987," and that the House agrees to the amendment of the Senate to the text of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3964. An act to establish a National Park System Review Board, and for other purposes;

H.R. 4675. An act to amend the Domestic Volunteer Service Act of 1973 to extend through the fiscal year 1989 the authority contained in such Act related to drug abuse prevention activities;

H.R. 4676. An act to amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such Act; and

H.R. 4694. An act to amend the Perishable Agricultural Commodities Act to increase the statutory ceilings on license fees.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3964. An act to establish a National Park System Review Board, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4694. An act to amend the Perishable Agriculture Commodities Act to increase the statutory ceilings on license fees; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar.

H.R. 4675. An act to amend the Domestic Volunteer Service Act of 1973 to extend through the fiscal year 1989 the authority contained in such Act related to drug abuse prevention activities.

H.R. 4676. An act to amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such Act.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3652. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend section 5131 of title 31, United States Code, to eliminate the General Services Administration's statutory responsibilities concerning the repair and improvement of the United States Mint at Philadelphia, Pennsylvania; to the Committee on Environment and Public Works.

EC-3653. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Monetary Policy Report of the Board; to the Committee on Banking, Housing, and Urban Affairs.

EC-3654. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the Nez Perce National Forest Plan; to the Committee on Energy and Natural Resources.

EC-3655. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the boundary description and classification of the Saline Bayou Wild and Scenic River within the Kisatchie National Forest, Louisiana; to the Committee on Energy and Natural Resources.

EC-3656. A communication from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to permit exchange of coal in lands within Congressionally Designated Areas administered by the Secretary of the Interior; to the Committee on Energy and Natural Resources.

EC-3657. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, notice of the deferment of the first payment due from the Uintah Water Conservancy District on the Jensen Unit, Central Utah Project, Utah; to the Committee on Energy and Natural Resources.

EC-3658. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Summary of Expenditures of Rebates from the DOE Low-Level Radioactive Waste Surcharge Escrow Account for Calendar Year 1987"; to the Committee on Energy and Natural Resources.

EC-3659. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report under the Public Utility Regulatory Policies Act, dated June 1988; to the Committee on Energy and Natural Resources.

EC-3660. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the Outer Continental Shelf Oil and Gas Leasing and Production Program for fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-3661. A communication from the Administrator of the Agency for Toxic Substances and Disease Registry, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report entitled "The Nature and Extent of Lead Poisoning in Children in the United States: A Report to Congress"; to the Committee on Environment and Public Works.

EC-3662. A communication from the Secretary of Labor, transmitting, pursuant to law, a quarterly report on the Expenditure and Need for Worker Adjustment Assistance Training Funds under the Trade Act of 1974; to the Committee on Finance.

EC-3663. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the more efficient transportation abroad of government-financed passengers and property by non-certified air carriers, and for other purposes; to the Committee on Foreign Relations.

EC-3664. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice that the Acting Secretary of State has certified that it is in the national interest of the United States to make certain funds available for activities in Mozambique; to the Committee on Foreign Relations.

EC-3665. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to July 21, 1988; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROCKEFELLER:

S. 2668. A bill to reduce temporarily the duty on 1,6-hexamethylene diisocyanate; to the Committee on Finance.

By Mr. BOREN (for himself, Mr. DURENBERGER, Mr. DANFORTH, Mr. PRYOR, Mr. BAUCUS, Mr. DASCHLE, Mr. LUGAR, Mr. LEAHY, Mr. COCHRAN, Mr. SYMMS, Mr. PRESSLER, Mrs. KASSEBAUM, Mr. GRASSLEY, and Mr. BOSCHWITZ):

S. 2669. A bill to amend section 1388 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. KERRY, and Mr. DASCHLE):

S. 2670. A bill to exclude Agent Orange settlement payments from countable income and resources under Federal means-tested programs; to the Committee on Veterans Affairs.

By Mr. MELCHER:

S. 2671. A bill to amend title XVIII of the Social Security Act to provide grants to States for long-term care assistance programs, and for other purposes; to the Committee on Finance.

By Mr. SANFORD:

S. 2672. A bill to provide Federal recognition for the Lumbee Tribe of North Carolina; to the Select Committee on Indian Affairs.

By Mr. THURMOND:

S. 2673. A bill to provide for the relief of Ibrahim Hakki Demircan; to the Committee on Judicary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURDICK (for himself and Mr. STAFFORD):

S. Res. 454. A resolution increasing the limitation on expenditures by the Committee on Environment and Public Works for the procurement of consultants with funds transferred from administrative expenses at no additional increase to authorized budget; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself, Mr. DURENBERGER, Mr. DANFORTH, Mr. Pryor, Mr. Baucus, Mr. Daschle, Mr. Lugar, Mr. Leahy, Mr. Cochran, Mr. Conrad, Mr. Symms, Mr. Pressler, Mrs. Kassebaum, Mr. Grassley, and Mr. Boschwitz):

S. 2669. A bill to amend section 1388 of the Internal Revenue Code of 1986; to the Committee on Finance.

SALE OF CERTAIN ASSETS BY COOPERATIVES

● Mr. BOREN. Mr. President, in recent years there have been an increasing number of disputes between farmer cooperatives and the Internal Revenue Service over the proper Federal income tax treatment of gain or loss resulting from the sale of assets used by cooperatives in their patronage operations. The issue in controversy is whether gains or losses from such dispositions should be considered to be derived from patronage or nonpatronage sources. This distinction is important because gain from patronage sources is eligible to be distributed to patrons as a patronage dividend which is deductible to a cooperative—and taxable to the patrons. Nonpatronage sourced income is taxable to a nonexempt agricultural cooperative whether or not it is distributed to the farmer patrons.

Over the years, agricultural cooperatives have taken different approaches toward the classification of gain or loss from the sale of assets used in the patronage operation. Some cooperatives have treated this gain or loss as patronage sourced on the ground that the assets sold were "directly related to" or "actually facilitated" the marketing, purchasing, or service activities of the cooperative. Other cooperatives have treated gain or loss from the sale of assets used in the patronage operation as nonpatronage sourced in reliance on a Treasury regulation.

Recent court decisions have consistently applied a "directly related/actually facilitaties" test in distinguishing between patronage and nonpatronage income. Notwithstanding these decisions the IRS has continued to assert deficiencies in such cases based on a Treasury regulation.

Today I join with my colleague from Minnesota, Senator Durenberger, as well as Senator Danforth, Senator Pryor, Senator Baucus, Senator Daschle, Senator Lugar, Senator Leahy, Senator Cochran, Senator Conrad, Senator Symms, Senator Pressler, Senator Kassebaum, and Senator Grassley, in introducing legislation that would permit cooperatives to elect ordinary patronage sourced treatment for gain or loss from the disposition of any asset provided that the asset was used by the organization to facilitate the conduct of business done with or for patrons. The election would apply indefinitely, unless revoked. If revoked, a new election could not be made for 3 years. Cooperatives making the election for taxable years beginning prior to 1989 could also elect treatment for all prior taxable years.

The proposed legislation would put an end to this controversy and avoid continuing audit disputes and court proceedings that are burdensome for farmer cooperatives and consume U.S. tax dollars in enforcement activity.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2669

Section 1388 of the I.R.C. of 1986 shall be amended by redesignating subsection (k) as subsection (l), and by adding a new subsection (k), as follows:

(k) Treatment of Gains or Losses on the Disposition of Certain Assets.—For purposes of this title, in the case of any organization to which part I of this subchapter applies—

(1) In general.—An organization may elect to include gain or loss from the sale or other disposition of any asset (including a security within the meaning of section 1236(c)) as ordinary income or loss and to include such gain or loss in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons.

(2) Period to which election applies.—An election under paragraph (1) which is filed with the return for a taxable year beginning before December 31, 1988, shall apply to such year and subsequent years, and shall be effective, if the notice of election so provides, for all taxable years for which the period of limitation on assessment and collection under section 6501 has not yet run and for other taxable years where the treatment of gains or losses on assets described in this section affects the organization's tax liability in such open years. An election filed with the return for years beginning after December 31, 1988 shall be effective for taxable years beginning after such notice is filed.

(3) Termination of election.—An election under paragraph (1) may be terminated by filing a notice of revocation. Such revocation shall be effective for taxable years beginning after the notice of revocation is filed.

(4) Election after termination.—If a taxpayer has made an election under paragraph (1) and such election has been terminated under paragraph (3), such taxpayer shall not be eligible to make an election under paragraph (1) for any taxable year before its third taxable year which begins after the first taxable year for which such revocation is effective, unless the Secretary consents to such election.

(5) No inference.—Nothing in this subsection shall be construed to infer that a change in the law is intended for organizations not having in effect an election under paragraph (1). Such gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted.●

● Mr. DURENBERGER. Mr. President, I am pleased to join the distinguished Senator from Oklahoma, Senator Boren, in introducing legislation that would provide the Nation's farmer cooperatives a safe harbor regarding the tax treatment of gain or loss from the sale of cooperative property.

Under current law, cooperatives are allowed a deduction for patronage dividends paid to patrons out of income or earnings resulting from business done with or for patrons. However, in many cases it is not clear whether gain or loss from the sale or disposition of cooperative property is patronage sourced. The Internal Revenue Service has, in the past, taken conflicting positions on the characterization of such income. This has led to time-consuming and expensive litigation between the Service and many of the Nation's cooperatives.

The legislation we are introducing today would resolve this ongoing conflict. It would permit cooperatives to elect patronage-sourced treatment for gain or loss from the disposition of any asset, provided the cooperative can demonstrate that, as a matter of fact, the asset was used by the organization to facilitate the conduct of business done with or for patrons. It is important to note that the elective feature of this legislation will permit cooperatives to gain assurance that the actually facilitates test of the statute will govern their determination of patronage sourced gain or loss from the disposition of any asset. In order not to disturb legitimate industry practices, cooperatives that wish to continue relying on Treasury regulations may do so by not taking advantage of the election.

Finally, Mr. President, I would note that the legislation's requirement that a facilitative relationship exist between the historical use of the asset and the conduct of the cooperative's activities with or for its member patrons, protests the Government's legitimate interest in assuring that the statutory tax benefits enjoyed by cooperatives are not abused.

I encourage my colleagues to join this bipartisan effort to resolve this problem.●

By Mr. MOYNIHAN (for himself, Mr. Kerry, and Mr. Daschle):

S. 2670. A bill to exclude agent orange settlement payments from countable income and resources under Federal means tested programs; to the Committee on Veterans' Affairs.

AGENT ORANGE SETTLEMENT PAYMENTS

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to prevent disabled veterans and their survivors from losing Federal public assistance benefits if they are recipients of settlement payments in the litigation against the manufacturers of agent orange.

As announced by a Federal district court in Brooklyn on July 5, totally disabled Vietnam veterans who were exposed to the highly toxic herbicide agent orange will begin receiving payments early next year from the settlement of a suit against the chemical's makers.

Just last month, a U.S. Supreme Court ruling cleared the last legal obstacle to the 1984 settlement agreement. Under the agreement, the chemical companies agreed to pay $180 million to settle all claims while admitting no liability for any injuries or deaths cause by the use agent orange. To receive payments, a veteran must be totally disabled, must show exposure to agent orange in Vietnam, and show that the disability was not caused by another injury. Payments will also be made to the families of veterans whose deaths are linked to agent orange.

Mr. President, based on court estimates, an eligible veteran will receive an average disability settlement payment of about $5,700. An eligible survivor will receive an average death payment of about $1,800. Of the 250,000 veterans who have filed preliminary claims, about 40,000 to 60,000 may be eligible for payments.

Without a change in the law, these settlement payments will be counted as income for purposes of determining eligibility for and benefit amounts under Federal programs such as veterans pensions, supplemental security income, AFDC, and food stamps. My bill would change the law so that disabled veterans and their family members who receive Federal assistance benefits would not lose their benefits or have them reduced by reason of receiving these very modest agent orange settlement payments.

Mr. President, it seems to me but a small gesture for the Nation to make on behalf of the most vulnerable among our honorable Vietnam veterans.●

By Mr. MELCHER:

S. 2671. A bill to amend title XVIII of the Social Security Act to provide grants to States for long-term care assistance programs, and for other purposes; to the Committee on Finance.

HELPING EXPAND ACCESS TO LONG-TERM HEALTH CARE ACT

● Mr. MELCHER. Mr. President, I rise today to offer legislation that will greatly expand the Medicare Program to provide needed long-term care services for elderly and disabled Americans. My bill, the Helping Expand Access to Long-Term Health Care Act (the HEALTH Care Act), provides a range of home and adult day health services to chronically ill Medicare beneficiaries. The HEALTH Care Act is an important step toward building a comprehensive, affordable long-term care program for chronically ill Americans of all ages.

As we are all keenly aware, many chronically ill older Americans find they have very limited access to needed long-term care services outside of nursing homes or other institutional settings. Either those services are not available in their communities, or, because of their high cost, they are not affordable for many Medicare-eligible persons. However, we do not need polling data to tell us that the elderly prefer to be cared for in their homes and communities. This Nation's citizens have always placed a premium on independence, so it is not surprising that they continually stress the importance of alternatives to nursing homes and other types institutional care.

Unfortunately, Federal support of home- and community-based services is almost nonexistent. What little is available tends to be very fragmented and poorly coordinated, coming from a variety of funding sources and administrative agencies. Further, certain States are very active in the provision of home- and community-based services, while others are not. The Medicare Program is designed to cover the health care costs of acute, shortterm illness, so it offers little or no protection against the costs of chronic, long-term illness.

The responsibility for administering and providing the limited long-term care services we now have falls almost entirely on the shoulders of the States. For example, the State-administered Medicaid Program provides the bulk of publicly funded long-term care services through its nursing home coverage and 2176 home- and community-based care waivers. Other State-run long-term care programs include Supplemental Security Income, Social Services Block Grant and the Older Americans Act.

My bill takes advantage of States' expertise and experience in designing and managing long-term care programs. The Federal Government would cover the costs of the new program, but leave its administration to the individual State. States would be given a general framework under which to design their programs with a specified minimum level of services. This approach gives the States the flexibility to tailor the expanded benefits program to fit the unique needs of their Medicare populations and to utilize any home care or adult day care programs they may already have. A case management system would be in place to ensure that beneficiaries are receiving appropriate levels of care. The administrative approach behind my bill can be easily expanded to cover the costs of long-term nursing home costs once the Congress develops an acceptable financing mechanism.

My bill would create a new "Part C" of Medicare, and would be available to all those eligible for Medicare. Eligible beneficiaries would be those who are chronically ill and functionally impaired. In other words, those needing assistance with two or more activities of daily living such as eating, bathing, or dressing. Those who are cognitively impaired—persons with Alzheimer's or Parkinson's disease or other neurological disorders—would also be eligible.

The HEALTH Care Act would be financed through a combination of copayments and the elimination of the $45,000 cap on wages subject to the Medicare payroll tax. Revenue collected by the elimination of the payroll tax cap would be placed into the federal long-term care assistance trust fund. The home care benefit would be subject to a $5-per-service copayment. To ensure appropriations of care, the maximum cost of home care services rendered in a calendar year would be equal to 65 percent of the average annual cost of services furnished by a skilled nursing facility in the State. The adult day care benefit would provide coverage for a maximum of 125 days per year with a $5-per-service copayment. For both the home care and adult day health care, those whose incomes are equal to or less than 200 percent of the poverty line would be liable for no copayments. Under the respite care benefit, those persons living with an unpaid caregiver who need assistance with one or more activities of daily living would be eligible for services up to $2,000 per year, with a 25-percent copayment.

The new program would be financed through a Federal-State match, similar to Medicaid. The Secretary of the Department of Health and Human Services would determine how much it would cost to provide the new program on a State-by-State basis. Each State would be required to maintain its current level of expenditures on noninstitutional long-term care for the Medicare-eligible population, and the Federal Government would pay for the rest.

States currently active in the provision of these services to their Medicare-eligible populations would be recognized under this formula. No State would have to finance more than 25 percent of cost of the new long-term care program. For example, if the new long-term care Federal-State formula determined that a particular State would have to finance more than 40 percent of program costs, that State would have to contribute only 25 percent of costs, and the Federal Government would pick up the rest. The money that the State saved would then be spent on expanding other health care services to medically underserved populations, including maternal and child health programs, as well as the elderly. Conversely, if a State is currently spending little or no funds on noninstitutional long-term care services and the formula determines that the State would contribute less than 5 percent of program costs, the State would be required to finance at least 5 percent of the costs of the new program.

If the State could provide the mandated benefits that met quality requirements, it could keep the excess revenue to either expand its benefits or reduce its costs. If the State spent more than was allocated to meet minimum requirements, the State would be required to raise its percentage contribution to 50 percent of the program costs which exceeded the projected costs of the new benefit for the following year. This would provide a further incentive for the States to control costs.

This legislation also contains several provisions relating to quality assurance. It would extend the quality assurance mechanisms already in place for Medicare-certified home health agencies that were included in the Omnibus Budget Reconciliation Act of 1987. If the Federal Government determines that a State's program is not in compliance with quality and minimum service level standards, the State's percentage contribution of program costs would be increased. Further, this legislation recognizes that the rapid expansion of home and community-based services that would result with its implementation could prove overly burdensome to some States. For this reason, Federal standards for providing minimum benefits would not be as strongly enforced in the early years of implementation. However, the quality standards would be strictly enforced in all situations.

Although the Congressional Budget Office has not yet determined the cost of this new benefit, rough estimates by the Aging Committee indicate that its costs would be similar to, and possibly less than, the CBO estimated 5-year $25 billion price tag of the Pepper/Roybal long-term care legislation. The revenue generated by the elimination of the payroll tax cap under that legislation would have generated $30.6 billion over the 5-year period, 1988-92.

I believe this legislation achieves several significant goals. First, it provides vitally needed services to our frail elderly and disabled populations. It includes a financing and administrative mechanism that gives States the inventive to provide those services and control costs. The HEALTH Care Act also requires that the program be financed by all generations—Medicare beneficiaries through copayments and the working population through a payroll tax. Finally, it endeavors to combine the current administrative and financing patchwork of long-term care services into one funding source under the jurisdiction of a single State agency.

Those on the State and local levels—State human service and Medicaid departments, and State and area agencies on aging to name but a few—have developed a body of knowledge that we at the Federal level cannot match. By relying on their expertise and experience, we can better ensure that our Nation's elderly and disabled get the quality home- and community-based care they deserve. Area agencies on aging, for example, would likely be called upon to utilize their case management abilities.

While this legislation is an incremental step toward providing comprehensive long-term care coverage, we still have a long way to go. Americans of all ages need access to affordable long-term care, including nursing home care. Twenty States' Medicaid programs lack a medically needy program for nursing home care for the elderly. Low-income elderly need greater protection against high out-of-pocket health care costs. However, the HEALTH Care Act provides a solid starting point.

I look forward to working with the various States and aging advocacy organizations to refine and perfect this legislation. A number of these organizations have written letters of commendation and support for this initiative. These include letters from the American Association of Retired Persons, the National Council of Senior Citizens, the Villers Foundation, the National Association for Home Care, the National Association of State Units on Aging and the National Council on the Aging. I ask unanimous consent that these letters be included in the RECORD after my statement. I urge my colleagues to join me in cosponsoring this legislation that will help millions of chronically ill Medicare beneficiaries.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
Washington, DC, July 29, 1988.

Hon. JOHN MELCHER,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATOR MELCHER: On behalf of the American Association of Retired Persons (AARP) I want to take this opportunity to commend and thank you for your leadership in introducing your home care bill. Expanding Medicare coverage for a range of home and community-based services is an essential first step toward addressing the critical needs of elderly and disabled Americans in an effort to improve the equality of life for these vulnerable populations. The Association also appreciates the effort you and your staff have made to involve us in the development of your bill.

As you know, we remain committed to expanding Medicare coverage for nursing home services, as well as addressing the long-term care needs of younger persons not currently covered under the Medicare program.

AARP is pleased that your proposal recognizes the critical role that states must play in administering any long-term care program. We also appreciate your continuing efforts to improve coverage for adult day care services. We look forward to continuing to work with you and your staff to develop meaningful and responsible federal policy which will provide long-term care to our nation's frail individuals.

Sincerely,

HORACE B. DEETS.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, July 28, 1988.

Hon. JOHN MELCHER,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR JOHN: It gives me great pleasure to send you this letter regarding your Medicare long-term home care bill, the Helping Expand Access to Long-Term Care Act (the HEALTH Care Act.)

The need for long-term care protection can no longer be ignored. Americans of all ages are suffering under the weight of the cost of long-term care services, in both financial and emotional terms. Your concern for the welfare and protection of Americans in need, as well as your instincts for finding creative solutions to difficult problems, is evidenced in introduction of your HEALTH Care Act.

Your bill, which will provide needed home care, adult day care, and respite care immediately, and which eventually will be expanded to include long-term nursing home care, will help begin a serious dialogue on how the long-term care problem should best be addressed. You are completely right in recognizing that we need to be creative and not bound by current structures in designing a long-term care program. Further, you recognize the need to make long-term care services affordable to all Americans, including those with low incomes. And you give high priority to providing the kind of care Americans prefer most—home care.

We look forward to working with you to develop ways to address the long-term care needs of children and the disabled non-elderly, and to address the critical problem of long-term nursing home care. We appreciate your leadership and commitment to solving the problems of needy Americans and the opportunity to comment on your bill.

Sincerely,

JACOB CLAYMAN,
President.

THE VILLERS ADVOCACY ASSOCIATES,
Washington, DC, July 29, 1988.

Hon. JOHN MELCHER,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Your efforts to address the long-term care needs of older Americans through the introduction of the HEALTH Care Act are to be commended. It would help millions of older Americans who suffer from chronic conditions that limit their ability to function on their own.

Most of the help needed is nonmedical, yet the cost is staggering. Nursing home costs are the largest burden, averaging about $25,000 a year. But home care costs can be almost as devastating. More than half of all elders living alone would impoverish themselves after only three months of five-day-a-week home care.

While it is true that no long-term care solution can be truly complete without eventually dealing with the cost of nursing home care, your bill represents an important and thoughtful beginning to the crafting of such a solution. We are impressed with several aspects of your bill:

The broad range of home- and community-based benefits to be included in the program;

The social insurance nature of the program, with participation defined broadly; and

The emphasis on state administration, which draws on the experience and expertise of the entities that have been in charge of delivering most of the formal long-term care in this country.

We are particularly pleased with your decision to protect from cost-sharing those with incomes under 200 percent of the poverty line. For this group, even the modest copayments specified could become an intolerable burden. If a person has a budget of $210 a week or less, as these individuals do, there is no slack in the budget to pay a new fee. In fact, the 200 percent line is the approximate level at which people in some states now qualify for home- and community-based services under a Medicaid waiver program, with no copayment. To impose such payments on that group for the first time would be indefensible.

We look forward to working with you for the rest of this year, and during the 101st Congress, to sharpen the questions, advance the debate, and begin to refine the solutions needed to address the complex and costly problem of long term care. Your commitment to these priority tasks, in part evidenced by your introduction of the Health Care Act, is greatly appreciated.

Thank you again for your leadership.

Sincerely,

EDWARD F. HOWARD,
Public Policy Coordinator.

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, DC, July 28, 1988.

Hon. JOHN MELCHER,
Chairman, Senate Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The National Association for Home Care is the nation's largest professional organization representing the interests of nearly 6,000 home care provider organizations, homemaker-home health aide organizations and hospices. On behalf of our member organizations and the millions of Medicare beneficiaries they serve, we would like to commend you on the introduction of your long-term home care bill.

The fundamental health care need of elderly Americans is coverage of costly care needed for chronic conditions. Currently, 80 percent of the cost of all catastrophic conditions. Currently, 80 percent of the cost of all catastrophic illnesses relates to long-term care and there is very little in the way of help from the Federal government. The cost of a long-term illness is enough to bankrupt even the wealthiest Americans. Your bill would go a long way in helping the elderly and their families.

We particularly applaud your focus on home care. Home care keeps families together. There is no more important social value than the support for solidarity of the American family. Home care is preferred by Americans over nursing home care by a margin of 80 percent; the elderly prefer it by a margin of better than 90 percent. Home care serves to keep the elderly independent. It prevents or postpones the need for institutionalization. Home care improves the quality of life. And, home care is usually more cost-effective.

We are eager to work with you and your staff in further refining this bill and in ensuring that meaningful long-term care legislation is enacted. We commend you for your leadership in this area and for your continuing concern for the nation's elderly.

Sincerely,

VAL J. HALAMANDARIS,
President.

NATIONAL ASSOCIATION OF
STATE UNITS ON AGING,
Washington, DC, July 29, 1988.

Hon. JOHN MELCHER,
Chairman, Senate Special Committee on Aging, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MELCHER: The National Association of State Units on Aging strongly applauds your introduction of the Health Care Act of 1988. Meeting the long term care needs of a rapidly aging population is one of the greatest challenges facing the nation. Our current approach which relies primarily on care in institutions and which impoverishes older people and their families, fails to provide care in the setting most preferred by older consumers—in their own homes. Your legislative initiative addresses this challenge and is directly responsive to the preferences of older Americans.

As articulated in NASUA's recently adopted federal long term care reform proposal, we believe that there are certain principles that must undergird any federal initiative in this area. We are very pleased that your bill reflects many of these important considerations, including:

Investing the first federal dollar of a new long term care program in home and community services to overcome the bias in current federal financing mechanisms toward institutional care,

Basing eligibility for benefits on limitations in functional capacity rather than medical diagnosis or physician prescription,

Giving case management agencies, rather than service providers responsibility for determining the amount and type of services that will be authorized for individual care plans to avoid any financial conflict of interest,

Assigning state government program management responsibilities to build upon long term care systems development work already underway, and

Protecting the out of pocket expenditures of low income consumers.

We look forward to working with you in the months ahead in this critical policy arena. Once again, thank you for your leadership on this critical issue.

Sincerely,

DANIEL A. QUIRK,
Executive Director.

THE NATIONAL COUNCIL
ON THE AGING, INC.,
Washington, DC, July 29, 1988.

Hon. JOHN MELCHER,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATOR MELCHER: Thank you for the opportunity to review your legislation, "Helping Expand Access to Long-Term Care Act of 1988." The National Council on the Aging agrees with you that the creation of a long-term benefit under Medicare must be a top Congressional priority. We also agree that the Health Care Act can be an important step toward building a comprehensive and affordable program of long-term care for chronically-ill Americans of all ages.

NCOA supports provisions of the Health Care Act creating case management systems separate from providers under the proposed service program. We also support your intention to utilize the experience of state and community programs already providing services under Medicaid and other authorities.

The basic social insurance financing of the bill—through lifting the $45,000 cap on wages subject to the Medicare payroll tax—is the appropriate financing mechanism. The co-payment charge of $5.00 per service, with protection for persons below 200 percent poverty, appears to be a reasonable standard.

Finally, we are gratified that the proposed Health Care Act would provide up to 125 days per year of adult day care services as a regular long-term care benefit under Medicare.

NCOA supports the introduction of your legislation and is prepared to work with you, your staff, and cosponsors in the further development and design of the bill. We are anxious to share with you our further comments on the Health Care Act at an early hearing.

Sincerely,

DONALD REILLY,
Senior Vice President.●

By Mr. SANFORD:

S. 2672. A bill to provide Federal recognition for the Lumbee Tribe of North Carolina; to the Select Committee on Indian Affairs.

LUMBEE RECOGNITION ACT

Mr. SANFORD. Mr. President, 100 years ago the tribal leaders in southeastern North Carolina asked Congress to formally acknowledge their special heritage as native Americans. On this, the centennial of that first request, it is with great enthusiasm that I am introducing the Lumbee Recognition Act which will extend Federal recognition to the Lumbee Indians.

Last December, the Lumbee Indians came to Washington and filed a fully documented petition for Federal acknowledgement with the Bureau of Indian Affairs. However, I feel it necessary to circumvent the usual recognition process for several reasons:

First, due to the backlog of petitions at BIA, recognition of the Lumbee petition could be up to 10 years away. Such a delay makes it unlikely that tribal members whose expertise was so vital to the completion of the petition will be available for consultation when the BIA begins its consideration;

Second, the extraordinary administrative burden and cost, estimated at $150,000, of processing the Lumbee petition can be avoided; and

Third, the strong possibility that the Lumbee Tribe may fall outside the scope of the administrative process due to the 1956 Lumbee Act.

In drafting this legislation, I have kept in mind both budgetary restraints and the immediate needs of other federally recognized tribes. The Lumbee Recognition Act appropriates no new money and states that the Lumbee Indians will receive BIA services only after Congress has appropriated the necessary funds.

In closing, Mr. President, I would like to give special recognition to Congressman Charlie Rose of North Carolina, who has introduced this legislation in the U.S. House of Representatives and to Mrs. Arlinda Locklear, attorney for the Lumbee Tribe, for their contributions to this very important bill. I call on my colleagues to support this effort to extend to the Lumbee Indians the status they deserve as a federally recognized tribe.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. Cranston, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 402

At the request of Mr. Evans, the name of the Senator from Nebraska [Mr. Exon] was added as a cosponsor of S. 402, a bill to provide that during a 2-year period each item of any joint resolution making continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate joint resolution for presentation to the President.

S. 570

At the request of Mr. Baucus, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 570, a bill to reduce atmospheric pollution to protect the stratosphere from ozone depletion, and for other purposes.

S. 571

At the request of Mr. Baucus, the name of the Senator from Maryland [Ms. Mukulski] was added as cosponsor of S. 571. a bill to reduce atmospheric pollution to protect the strastosphere from ozone depletion, and for other purposes.

S. 702

At the request of Mr. Simon, the name of the Senator from Massachusetts [Mr. Kerry] was added as cosponsor of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 1742

At the request of Mr. Domenici, the names of the Senator from Iowa [Mr. Grassley] and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1742, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 1966

At the request of Mr. Chiles, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 1966, a bill to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes.

S. 2011

At the reqeust of Mr. Cranston, the name of the Senator from Rhode Island [Mr. Pell] was added as cosponsor of S. 2011, a bill to increase the rate of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2061

At the request of Mr. Cranston, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of S. 2061, a bill to establish national standards for voter registration for elections for Federal office, and for other purposes.

S. 2179

At the request of Mr. Ford, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 2179, a bill to amend the Petroleum Marketing Practices Act.

S. 2199

At the request of Mr. Chafee, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2351

At the request of Mr. Domenici, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 2351, a bill to amend Internal Revenue Code of 1986 to repeal the capitalization rules for freelance writers, artists, and photographers.

S. 2450

At the request of Mr. Chiles, the name of the Senator from Missouri [Mr. Danforth] was added as a cosponsor of S. 2450, a bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools.

S. 2469

At the request of Mr. Heinz, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 2469, a bill to amend chapters 83 and 84 of title 5, United States Code, to expedite the processing of retirement applications of Federal employees, and for other purposes.

S. 2626

At the request of Mr. Moynihan, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 2626, a bill to amend section 530 of the Revenue Act of 1978 to clarify the Federal income and employment tax treatment of providers of technical services through third party arrangements, and for other purposes.

S. 2642

At the request of Mr. Pell, the name of the Senator from Virginia [Mr. Trible] was added as a cosponsor of S. 2642, a bill to amend the Elementary and Secondary Education Act of 1965 to provide for national geography studies centers.

SENATE JOINT RESOLUTION 149

At the request of Mr. Helms, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 280

At the request of Mr. Hatch, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. Weicker, the names of the Senator from California [Mr. Cranston], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to designate the day of September 14, 1988, as "National Medical Research Day."

SENATE JOINT RESOLUTION 346

At the request of Mr. Lautenberg, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 347

At the request of Mr. Kennedy, the names of the Senator from Maine [Mr. Mitchell] and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of Senate Joint Resolution 347, a joint resolution in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.

SENATE JOINT RESOLUTION 350

At the request of Mr. Simon, the names of the Senator from Nebraska [Mr. Exon], the Senator from New Jersey [Mr. Lautenberg], the Senator from Hawaii [Mr. Matsunaga], the Senator from Ohio [Mr. Glenn], the Senator from Connecticut [Mr. Dodd], the Senator from Minnesota [Mr. Durenberger], the Senator from California [Mr. Wilson], the Senator from South Carolina [Mr. Thurmond], the Senator from Arizona [Mr. DeConcini], and the Senator from Maryland [Ms. Mikulski] were added as cosponsors of Senate Joint Resolution 350, a joint resolution designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DeConcini, the names of the Senator from Idaho [Mr. McClure] and the Senator from Rhode Island [Mr. Chafee] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE RESOLUTION 454—RELATING THE PROCUREMENT OF CONSULTANTS BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURDICK (for himself and Mr. Stafford) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 454

Resolved, That section 10(b)(1) of Senate Resolution 381, of the 100th Congress, agreed to February 26, 1988, is amended by striking "$8,000.00" and inserting in lieu thereof "$11,000.00", and by reducing administrative expenses from $147,412.00 to $144,412.00 as disclosed in Senate Report 100-287.

AMENDMENTS SUBMITTED

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

BINGAMAN AMENDMENT NO. 2754

Mr. BINGAMAN proposed an amendment to the bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes; as follows:

On page 15, line 2, insert ", of which $2,000,000 shall be used for research concerning human nutrition" after "expenses".

METZENBAUM (AND OTHERS) AMENDMENT NO. 2755

Mr. METZENBAUM (for himself, Mrs. Kassebaum, and Mr. Hatch) proposed an amendment, which was subsequently modified, to the bill (H.R. 4784), supra; as follows:

On page 69, between lines 8 and 9, insert the following:

For purposes of making grants and entering into contracts for the development of drugs for rare diseases and conditions under section 5 of the Orphan Drug Act (21 U.S.C. 360ee), $3,000,000 shall be made available, in addition to any other funds made available under this Act, to be derived by transfer of $1,000,000 of funds made available by this Act to the Commodity Futures Trading Commission to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), and $2,000,000 made available by this Act to the Food and Drug Administration.

HATCH (AND OTHERS) AMENDMENT NO. 2756

Mr. HATCH (for himself, Mr. Kennedy, Mr. Inouye, Mr. Cranston, and Mr. Wilson) proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the end of the bill insert the following: It is the sense of the Senate that of the amounts made available to the Office of the Assistant Secretary for Health by the matter under title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989, $5,500,000 shall be made available to the Food and Drug Administration for increased inspection of our Nation's blood banks.

STEVENS AMENDMENT NO. 2757

Mr. STEVENS proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the appropriate place, insert:

Notwithstanding any other provisions of law, the Secretary of Agriculture is directed to convey by quitclaim deed and without consideration to the University of Alaska all the right, title, and interest of the United States in and to—

(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres, including improvements thereon, located at Palmer and Matanuska, Alaska, all of which have been utilized for university purposes since October 3, 1967, and

(2) the lands of the University of Alaska Fur Farm Experiment Station, consisting of approximately 37 acres, including improvements thereon, located at Petersburg, Alaska, all of which have been utilized for university purposes since May 17, 1938.

STEVENS AMENDMENT NO. 2758

MR. STEVENS proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the appropriate place, insert:

GENERAL PROVISIONS

Sec. . When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

DeCONCINI (AND OTHERS) AMENDMENT NO. 2759

Mr. DeConcini (for himself, Mr. Chafee, Mr. Bradley, Mr. Bumpers, Mr. Cohen, Mr. Conrad, Mr. Danforth, Mr. Daschle, Mr. McCain, Mr. Dodd, Mr. Heinz, Mr. Hollings, Mr. Johnston, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Matsunaga, Mr. Moynihan, Mr. Riegle, Mr. Sasser, Mr. Shelby, Mr. Simon, Mr. Specter, Mr. Stafford, Mr. Weicker, Mr. D'Amato, and Mr. Chiles) proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the appropriate place, insert the following new section:

Sec. . (a) There is appropriated $30,825,000 for necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), to remain available through September 30, 1990.

(b) Notwithstanding any other provision of this Act, in addition to the reduction required under section 643, each appropriation item made available under this Act shall be reduced by .7 percent of the original item, rounded to the nearest thousands of dollars, except for programs scored as mandatory during fiscal year 1989 and amounts made available for Public Law 480, the Farmers' Home Administration, the Rural Electrification Administration, the conservation reserve program, the commodity supplemental food program, and the supplemental food program for women, infants, and children.

(c) Section 643 shall not apply to the amount made available by subsection (a).

BURDICK AMENDMENT NO. 2760

Mr. BURDICK proposed an amendment to amendment No. 2759 proposed by Mr. DeConcini (and others) to the bill (H.R. 4784), supra; as follows:

Following the matter proposed, insert:

(d) Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of clause (viii);

(B) by striking out the period at the end of clause (ix) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(x) a description of the feasibility and types of cost containment procedures described in section 3 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) (including infant formula rebates) implemented to acquire infant formula, and other foods that are necessary to carry out this section."; and

(2) by adding at the end thereof the following new paragraph:

"(17) A State agency shall examine the feasibility of implementing the procedures referred to in paragraph (1)(x). If the State agency determines that such a procedure would lower costs and enable more eligible persons to be served (without interference with the delivery of nutritious foods to recipients), the State agency shall implement such procedure.".

BUMPERS (AND OTHERS) AMENDMENT NO. 2761

Mr. BUMPERS (for himself, Mr. Pryor, Mrs. Kassebaum, Mr. McConnell, and Mr. Exon) proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the appropriate place in the bill, add the following:

Sec. . Section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) is amended by—

(1) in subsection (a)(1), striking out "Except as provided in paragraph (2)," and inserting in lieu thereof "Except as provided in paragraphs (2) and (3),",

(2) adding at the end of subsection (a) the following new paragraph:

"(3) Periodic purchases.—(A) Notwithstanding any other provision of this section, the Financial Assistance Corporation shall establish a program under which System institutions shall purchase, as debt obligations are issued under section 6.26(a), stock of the Corporation in amounts described in this paragraph.

"(B) The program shall provide, with respect to each issuance of debt obligations under section 6.26(a), that each System institution originally required to purchase stock under paragraph (1), or the successor thereto, shall purchase Corporation stock in an amount determined by multiplying the amount of stock such institution was originally required to purchase under that paragraph by a percentage equal to the percentage which the amount of the issuance bears to $4,000,000,000.

"(C) The Financial Assistance Corporation shall promptly rescind purchases of stock of the Corporation made under paragraph (1) or (2) by System institutions and refund to such institutions, or their successors, the purchase price for the stock, except that, with respect to each issuance of debt obligations that occurs before October 1, 1988, the Corporation shall deduct from any refund due any System institution, and retain, the amount payable by such institution.".

(3) in subsection (c)—

(a) striking out "Within" and inserting in lieu thereof "(1) Within",

(b) striking out "(1) the" and inserting in lieu thereof "(A) the", and

(c) striking out "(2) in the case" and inserting in lieu thereof "(B) in the case", and

(4) adding at the end thereof the following new paragraph:

"(2) Not later than 15 days before each issuance of debt obligations under section 6.26(a) occurring after September 30, 1988, the Financial Assistance Corporation shall notify each System institution required to purchase Corporation stock under subsection (a)(3) of the amount of the stock it is required to purchase.".

COHEN (AND OTHERS) AMENDMENT NO. 2762

Mr. COHEN (for himself, Mr. Dole, and Mr. McCain) proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the appropriate place, insert the following new section:

Sec. —. Not later than January 1, 1989, the Secretary of Agriculture shall issue interim final regulations that shall improve the performance of State agencies in managing vendors participating in the special supplemental program authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). None of the funds made available by this Act may be used to carry out such special supplemental program in States that are not in compliance with such regulations. The regulations promulgated by the Secretary shall—

(1) develop techniques and criteria to identify vendors at high risk for abusing such program, and require State agencies to use such techniques and criteria to identify high risk vendors;

(2) require State agencies to perform compliance activities, including compliance purchases periodically for all vendors identified at high risk, and for a random sample of other vendors, to determine whether the vendors are overcharging such program or violating other requirements of such program;

(3) develop and require State agencies to apply specific sanctions for vendors found to be violating such program requirements, including mandatory disqualification or termination for serious abuses such as systematically overcharging such program; and

(4) establish a standardized appeal process to be used by State agencies as part of the process of disqualifying vendors from participation in such program.

EXON (AND OTHERS) AMENDMENT NO. 2763

Mr. EXON (for himself, Mr. McClure, Mr. Breaux, and Mr. Karnes) proposed an amendment to the bill (H.R. 4784), supra; as follows:

At the appropriate place in the bill insert the following:

Sec. —. None of the funds made available in the this act or any other act shall be used to implement the sugar quota increase announced by the Secretary of Agriculture and the United States Trade Representative on July 22, 1988, until the Secretary certifies to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture, based on the August 12, 1988, Crop Report or subsequent reports, that such action will not result in forfeiture of domestically produced sugar to the Commodity Credit Corporation.

KARNES (AND OTHERS) AMENDMENT NO. 2764

Mr. KARNES (for himself, Mr. Dole, Mr. Wallop, and Mr. Simpson) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 16, line 1, after "3292)", insert the following: ": *Provided*, That the Secretary of Agriculture shall provide $2,500,000 to the Mid America World Trade Center, using funds appropriated for fiscal year 1988, to enhance the exportation of agricultural and related products and other manufactured products, to remain available until expended".

At the appropriate place, insert the following new section:

Sec. —. Section 1458A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292) is amended—

(1) by amending the section heading to read as follows: "grants to states and regional organizations for trade centers";

(2) in the first sentence of subsection (a)—

(A) by inserting "and accredited, private sector world trade centers organized on a multi-State regional basis" after "States";

(B) by inserting "and such regional trade centers" after "international trade development centers" both places it appears; and

(C) in the first sentence of subsection (a), by inserting before the period the following: "and other products produced or manufactured in a region".

(3) in the second sentence of subsection (a), by striking out "State" and all that follows through "government)" and inserting in lieu thereof "non-Federal funding"; and

(4) in subsection (b)—

(A) by inserting "and regional trade centers described in subsection (a)" after "States"; and

(B) by inserting "and regional trade centers described in subsection (a)" after "international trade development centers".

BOND (AND BOSCHWITZ) AMENDMENT NO. 2765

Mr. BOND (for himself and Mr. Boschwitz) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 13, line 23, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That no funds shall be appropriated for the planning and construction of new projects, as determined by the Secretary of Agriculture, for which no feasibility study has been completed: *Provided further*, That of the amounts made available under this heading, $3,450,000 shall be made available for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)).".

LEAHY (AND OTHERS) AMENDMENT NO. 2766

Mr. LEAHY (for himself, Mr. Lugar, and Mr. Chiles) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 57, on line 16, strike "$4,573,816,000," and insert in lieu thereof "$4,590,816,000," and, on line 18, strike "$480,544,000" and insert in lieu thereof "$497,544,000".

On page 60, on line 15, strike "$13,412,955,000:" and insert in lieu thereof "$13,598,955,000:".

On page 61, after line 17, insert a new paragraph to read as follows:

"For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988 (S. 2560), $40,000,000.".

On page 61, after line 24, insert a new paragraph to read as follows:

"For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $145,000,000.".

MELCHER AMENDMENT NO. 2767

Mr. MELCHER proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 12, line 6, after the colon insert the following: "*Provided further*, Of the funds made available in this Act for the Agriculture Research Service, $50,000 is provided for a feasibility study of a plant growth center at Montana State University:".

BOREN (AND NICKLES) AMENDMENT NO. 2768

Mr. BOREN (for himself and Mr. Nickles) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 48, in line 10, strike the period and insert in lieu thereof the following:

": *Provided further,* That $500,000 shall be available for the University of Oklahoma to refine and extend a program for integrating data from multiple satellite systems for the purpose of establishing a system of providing continuous, timely, and accurate assessments of the extent and impact of drought and other weather related conditions within the United States.".

HEFLIN AMENDMENT NO. 2769

Mr. HEFLIN proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 12, line 19, insert before the period

: "*Provided further,* That the Secretary of Agriculture shall make available $300,000 to Auburn University to enable such university to develop water management research planning and programming in connection with section 322 of the Drought Assistance Act of 1988, for the purpose of alleviating the effect of the adverse weather conditions".

DOLE (AND KASSEBAUM) AMENDMENT NO. 2770

Mr. COCHRAN (for Mr. Dole, for himself and Mrs. Kassebaum) proposed an amendment, which was subsequently modified by unanimous consent, to the bill (H.R. 4784), supra; as follows:

At the appropriate place add the following:

Sec. . There is hereby transferred $100,000 from the working capital fund within USDA to support the International Livestock Program at Kansas State University to be administered through the Cooperative State Research Service.

MELCHER (AND McCLURE) AMENDMENT NO. 2771

Mr. MELCHER (for himself and Mr. McClure) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: "*Provided further,* That $3,500,000 shall be made available for payment to the Secretary of Agriculture to establish and implement a program for the research, management, and control of noxious weeds on federal lands.".

MELCHER (AND OTHERS) AMENDMENT NO. 2772

Mr. MELCHER (for himself and Mr. McConnell, and Mr. Leahy) proposed an amendment, which was subsequently modified, to the bill (H.R. 4784), supra; as follows:

On page 12, line 19, strike out the period and insert in lieu thereof a colon and the following: "*Provided further,* That $2,500,000 shall be made available for payment to the Israel-United States Binational Agricultural Research and Development Fund as authorized by section 1458 of the Food and Agriculture Act of 1977, to remain available until expended.

GRAMM (AND OTHERS) AMENDMENT NO. 2773

Mr. GRAMM (for himself, Mr. Kasten, Mr. Wallop, and Mr. Graham) proposed an amendment to the bill (H.R. 4784) supra; as follows:

On page 16, line 12, by striking out the period and inserting in lieu thereof a colon and the following "*Provided,* That the earmarking concerning competitive research grants contained under the heading Cooperative State Research Service" of the Senate report accompanying H.R. 4784 (Senate Report 100-389), shall not be binding on the Cooperative State Research Service.".

LEAHY (AND OTHERS) AMENDMENT NO. 2774

Mr. COCHRAN (for Mr. Leahy, for himself, Mr. Harkin, and Mr. Bumpers) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 11, line 5, strike out "$559,157,000" and insert in lieu thereof "$551,657,000".

On page 12, line 19, before the period, insert the following: ": *Provided further,* That the Secretary of Agriculture shall carry out each of the programs and activities described in the matter under the heading 'Agricultural Research Service' of the Senate report accompanying H.R. 4784 (Senate Report 100-389), in the amounts provided under such matter".

On page 14, lines 23 through 25, strike out "$24,256,000" and all that follows through "4501)" and insert thereof the following: "$32,506,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 4501), including special research grants (in lieu of competitive research grants) of not less that $2,000,000 for an animal science food safety consortum, $2,500,000 for a biotechnology midwest consortium, $2,000,000 for alternative test control, and $1,750,000 for a biotechnology Iowa consortium".

On page 15, line 1, strike out "$40,842,000" and insert in lieu thereof "$41,842,000".

On page 16, line 12, strike out "$306,170,000" and insert in lieu thereof "$315,420,000".

KERRY AMENDMENT NO. 2775

Mr. HARKIN (for Mr. Kerry) proposed an amendment to the bill (H.R. 4784), supra; as follows:

On page 59, lines 23 and 24, strike out "$1,927,362,000 to remain available through September 30, 1990" and insert in lieu thereof "1,929,362,000 to remain available through September 30, 1990, of which not less that $2,000,000 shall be used to carry out the farmers' market coupon demonstration project".

On page 61, line 21 strike out "$50,000,000" and insert in lieu thereof "$47,280,000 provided that no State shall receive less in Temporary Emergency Food Assistance Program administrative funds than it would have received had the appropriation remained at $50,000,000 and further provided that the Secretary of Agriculture make an assessment by May 1, 1989, as to whether there will be sufficient funds to cover all the States' needs for administrative funds and if the Secretary determines there will be insufficient funds the Secretary shall advise where such funds can be obtained."

COMMUNITY AND MIGRANT HEALTH CENTERS AMENDMENTS

KENNEDY AMENDMENT NO. 2776

Mr. BYRD (for Mr. Kennedy) proposed an amendment to the amendment of the House to the bill (S. 2385) to amend title III of the Public Health Service Act to revise and extend the programs of assistance for primary health care and the program of health services for the homeless, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the House Amendment to S. 2385 insert the following:

SECTION 1. SHORT TITLE, REFERENCE TO ACT.

(a) Short Title.—This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

(b) Reference.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. MIGRANT HEALTH CENTERS.

(a) Addition of Patient Case Management Services to List of Provided Services.—Section 329(a)(1) (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and " at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) Addition of Appropriate Health Needs to List of Supplemental Health Services.—Section 329(a)(7) (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and " at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) Procedures for Alteration of Determination of High Impact Area.—Section 329(d)(1)(A) (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)"; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such determination and a reasonable opportunity to offer information with respect to such determination.".

(d) Requirement of Fees Consistent With Locally Prevailing Rates.—Section 329(f)(3)(F)(i) (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion and Construction of Centers.—

(1) Section 329 (42 U.S.C. 254b) is amended—

(A) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(D) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(E) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(F) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 329(f) (42 U.S.C. 254b(f)) is amended by adding at the end the following:

"(7) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a migrant health center or a migrant health program only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) Amount of Grants for Costs of Operation.—

(1) Section 329(d)(4)(A)(i) (42 U.S.C. 254b(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 329(d)(4)(B) (42 U.S.C. 254b(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) Administration of Programs.—Section 329 (42 U.S.C. 254b) is amended by adding at the end the following:

"(i) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

(h) Authorization of Appropriations.—Section 329(h) (42 U.S.C. 254b(h)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $48,500,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,000,000 for fiscal year 1990, and $2,500,000 for fiscal year 1991.

"(B) The Secretary may make grants to migrant health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) Addition of Patient Case Management Services to List of Provided Services.—Section 330(a)(1) (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) Addition of Appropriate Health Needs to List of Supplemental Health Services.—Section 330(b)(2) (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and " at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) Requirement of Notice and Comment With Respect to Regulations on Medically Underserved Populations.—Section 330(b)(4) (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) Requirement of Fees Consistent With Locally Prevailing Rates.—Section 330(e)(3)(F)(i) (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion and Construction of Centers.—

(1) Section 330 (42 U.S.C. 254c) is amended—

(A) in the second sentence of subsection (c)(1), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(D) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 330(e) (42 U.S.C. 254c(e)) is amended by adding at the end the following:

"(6) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a community health center only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) Amount of Grants for Costs of Operation.—

(1) Section 330(d)(4)(A)(i) (42 U.S.C. 254c(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 330(d)(4)(B) (42 U.S.C. 254c(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) Administration of Programs.—Section 330 (42 U.S.C. 254c) is amended by adding at the end the following:

"(j) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

(h) Authorization of Appropriations.—Section 330(g) (42 U.S.C. 254c(g)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $440,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $35,000,000 for fiscal year 1991.

"(B) The Secretary may make grants to community health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

ADDITIONAL STATEMENTS

CHILDREN'S HOUSE AT THE NATIONAL INSTITUTES OF HEALTH

● Mr. WEICKER. Mr. President, I rise today to make note of an event of great importance that will occur this morning, Friday, July 29, on the campus of the National Institutes of Health. Today, construction will begin on the Children's Inn at NIH which will provide housing for as many as 36 families whose children are involved in research-related treatment of cancer and other diseases at NIH's Clinical Center.

The Clinical Center is a hospital clinical care facility for patients participating in biomedical research projects. Children come to the Clinical Center in search of cures for cancer, heart disease, genetic problems, and rare, difficult to diagnose or difficult to treat illnesses. Their stays may be as short as one evening and as long as 6 months.

The Children's Inn will serve as a temporary home for these seriously ill children who arrive in Bethesda, seeking care under a research protocol because they are unable to find successful treatment in their own communities. It is simply humane to provide housing to these children and their families instead of forcing them to be separated from one another and to find lodging in local hotels.

The Children's Inn is a result of a joint effort between industry, government, and private citizens. Merck & Co. has donated $2.3 million for the construction of the facility; NIH has donated 2 acres of its campus as a site for the facility; and the funds to operate and furnish the inn are being raised by a private sector board. I want to commend the NIH, the honorary cochairmen of that private board—the Speaker of the House, Jim Wright, and his wife, Betty, and Congressmen Peter Rodino and Silvio Conte, and Merck & Co., for making the groundbreaking that will occur this coming Friday a possibility. It is an example of the best that a joint effort between private citizens, government, and industry can bring about—peace of mind and comfort for seriously ill children and their families.●

RETIREMENT OF JACK B. HOEY

● Mr. HEINZ. Mr. President, I rise today to acknowledge the contributions made by Jack B. Hoey, who recently retired as president of the People's Natural Gas Co. in Pittsburgh, PA.

Jack Hoey retired after 39 years with Peoples Gas, the last 10 as president. During his tenure with Peoples, which began in 1949, he held executive positions in five company divisions and the Pittsburgh General Office. He was appointed general sales manager in 1968, elected vice president of marketing in 1973, and executive vice president in 1976. He also served as chairman of the board of directors for Peoples.

As president, Jack Hoey led the utility through a difficult transition period—from energy shortages, declining industrial sales, and increased government regulation to a period of abundant gas supply, new market ventures, and moderating gas prices.

His colleagues in the gas industry have recognized his leadership on numerous occasions, including electing him chairman of the American Gas Association's Industry Communications Committee and selecting him as the recipient of AGA's 1987 Marketing Executive of the Year Award.

He has been active in a number of economic development organizations in my State including the Pennsylvania Chamber of Commerce, Penn's Southwest Association, the Regional Industrial Development Corporation of Southwestern Pennsylvania, and the Pennsylvania Economy League. As a result of his efforts and others', southwestern Pennsylvania is a better place to find a job, start a business, and raise a family.

Mr. President, Jack Hoey's achievements in his field have been outstanding. I wish him the very best in his retirement.●

JOSHUA NEILSON

● Mr. HATCH. Mr. President, on May 15, 1986, Joshua Neilson, a 9-year-old Scout from Enoch, UT, at great risk to his own safety, made a heroic effort to rescue a 2-year-old girl from a drainage ditch near his home. The little girl was rescued at the peril of Josh's own life. The swifty moving current in the drainage ditch plus the elevation drop made the rescue extremely difficult. Josh had to run through shoulder-high sagebrush, scale two barbed wire fences, and travel nearly a half mile before he was able to straddle the ditch and pull the frightened girl from the icy water.

Since this brave rescue, a 2-year struggle has ensued to obtain recognition for the heroic effort of this young Scout. Upon learning of this incident, Josh's scoutmaster began the process to get Josh an appropriate award. Delays came in getting the necessary eyewitness statements, local cooperation, and just plain human error. Unfortunately, the application was not received in time and could not be considered.

Inquiries were made periodically, but to no avail. The promised recognition for his selfless heroic efforts seemed to have been forgotten. While he had never sought, and while rescuing Mandy obviously never considered, public recognition, having been told that his efforts would be recognized, Josh wondered, as any 9-year-old would, why the promised recognition was not forthcoming. Finally, Josh just quit asking. The message, unfortunately, appeared all too clear—if a young person does something bad, the adult world jumps on you with both feet; however, do something unselfish and heroic, and the world ignores your efforts.

In January 1988, a dynamic scout leader, Mickie Kropf, heard of the situation and the lack of recognition for Josh. Having worked with young people for many years, she knew all too well the disappointment young people feel when good efforts go unnoticed. Why? Why, she demanded, was no recognition given to this young man? Why was he not afforded at least an answer? Why was no answer given to the telephone inquiries? Why did everyone wait until Josh stopped asking about his award? Why are we sending these messages to our youth?

The questions hit a nerve at the parks council headquarters, and they too began to ask why. Research quickly uncovered the problem. The advancement committee had tabled any further action due to the delay in receiving the application. Clearly, further action should have been forthcoming, but nothing happened.

The Utah National Parks Council of the Boy Scouts of America quickly approved and inscribed a beautiful Certificate of Merit Award for Josh. This award was presented to him on February 4, 1988, at the Scouter Recognition Night for the Cedar Breaks Council. Mr. Rees A. Falkner, Scout Executive for the Utah National Parks Council, personally drove 200 miles to present the award to Josh. Mr. Falkner, in his presentation remarks to Josh, apologized for the delay and failure to immediately recognize Josh for his actions. Mr. Falkner praised Josh for his unselfish attitude and his patience in waiting such a long time for any type of recognition.

Mandy, the little girl that Josh rescued, attended the ceremony and repeated the statement she has made many times since the rescue—"When grow up, I'm going to marry Josh."

Young people like Josh are the hope of our future. Their extraordinary efforts must be recognized. We need to send them the message that the good they do is important. We need to recognize their accomplishments and potential and let them know we care. Let us see more than just the negative. Let our youth hear that we see the good and that we like what we see. Let them hear it now. Thank you Josh. You are an example to everyone.●

AN ENLIGHTENED VIEW ON THE COMPUTER CHIP SHORTAGE

Mr. WILSON. Mr. President, if this body has been united on one vital international trade issue, we have been united in taking to task the Japanese Government for its market practices that shut out United States semiconductor manufacturers for their unfair, predatory marketing practices in the United States and around the world.

When the United States signed a semiconductor agreement with Japan in 1986, we all hoped that the unfair Japanese practices would end, but they did not. When, after the Senate unanimously adopted a resolution I offered last summer urging retaliation for violations of that agreement and after the President responded by retaliating, we again all hoped that the unfair Japanese practices would end, but they did not.

While the dumping by Japanese chip companies has ended in the United States and foreign markets, United States chipmakers still do not have fair market access in Japan.

Yet, Mr. President, Japan, and some in the United States, have urged that the President lift all remaining sanctions against Japan and repudiate the safeguard provisions in the semiconductor agreement because they claim that this agreement has caused the existing shortage of DRAM chips—a basic memory component of computers, both large and small.

Mr. President, the semiconductor agreement has not caused a shortage of DRAM's. The shortage has been caused by market contrivances orchestrated by Japanese companies in the past that drove United States chipmakers out of the market, by present contrivances, and by normal business cycles within the semiconductor industry and among its customers.

In a very perceptive article that appeared in the June 21 edition of the Wall Street Journal, Prof. David B. Yoffie of Harvard's Business School responds to the false claims that have been made against the semiconductor agreement and explains some of the reasons why the market is today experiencing a DRAM shortage.

One factor not mentioned by Professor Yoffie concerns some relatively recent attempts by Japanese chip companies to force tie-in arrangements between its DRAM's and other products. The reason that Professor Yoffie might not have mentioned these attempts in his article is that they are not generally known to the public and details about them are not available as is true with most attempts to violate our antitrust laws—if not its letter, then its spirit. I wrote to Japan's Ambassador to the United States some time ago about these anticompetitive actions by Japanese companies and have not received a reply.

Mr. President, I ask that Professor Yoffie's article and my letter to Ambassador Matsunaga appear in the Record at this point.

The material is as follows:

[From the Wall Street Journal, June 21, 1988]

Chip Shortage: Don't Blame the Pact

(By David B. Yoffie)

The prices of DRAMs (dynamic random-access memories) have skyrocketed in recent months. Shortages of these critical commodity semiconductors thus have been fattening the pockets of Japanese chip makers and hurting American electronics manufacturers. The prevailing opinion in the press is that a misguided trade policy is the cause: The U.S.-Japan Semiconductor Agreement of 1986 is just another foolish example of the U.S. government meddling with the market.

But the semiconductor agreement is not to blame. DRAMs are scarce partly because of normal industry cycles and partly because the U.S. hasn't been vigilant enough with its trade policy. Blaming today's problem on the semiconductor pact would send the worst possible signal to our trading partners, and doom the U.S. to further dependence on Japan for other critical products.

Higher DRAM prices should come as no surprise to veteran industry watchers. Semiconductors have a long history of booms and busts. Since it can take up to 18 months to bring new chip capacity on line, supply has always been low in catching up to demand during periods of expansion. Thus, when video games were the rage in the late 1970's, spot shortages were common for certain chips. When personal-computer sales exploded a few years later, some chips were again hard to find.

Origins of the present shortages and exorbitant prices can be traced to the PC boom. Flush with overcapacity, Japanese firms dumped DRAMs in world markets in the early 1980s, and then in 1984-85 attacked another memory product called Eproms (erasable programmable read-only memories). All large firms in this industry want to make products like DRAMs and Eproms because producing these high-volume chips helps drive a firm down a very steep "experience curve." Skills learned manufacturing DRAMs and Eproms are quickly transferred to lower-volume, higher-value-added devices. By 1985, however, all but two American chip makers had to abandon the DRAM market. Large, vertically integrated Japanese firms, able to subsidize memory-chip sales with profits from other lucrative lines, make it impossible for most American companies to survive in this business.

It was this predatory behavior in DRAM and Eproms, as well as Japan's systematic denial of market access for American firms, that led the U.S. government to sign the semiconductor pact. In negotiating a worldwide end to the dumping, the government rightly decided to forgo the other options under U.S. trade law, including imposing tariffs or quotas on chips coming into the U.S. Those alternatives might have resulted in immediate shortages or forced domestic consumers to pay higher prices while foreign and multinational consumers could buy dumped products. Either situation could cause American firms to be less competitive in world markets.

The trade agreement just required individual Japanese companies to set prices consistent with fair market value based on their manufacturing costs, and Japanese industry to improve market access for foreign semiconductors. Even when President Reagan retaliated against violations of these commitments last spring, he raised tariffs on $300 million of widely available end-products rather than risk disruption of the semiconductor supply.

If U.S. trade policy has done nothing to distort a normal market in key components from Japan, why do we have such shortages and high prices today? Three reasons: the normal industry cycle—no one anticipated the latest explosion in demand; technical problems, readily admitted by the Japanese, in bringing new capacity on line; and a textbook case of the negative consequences of dumping.

Any economist will tell you that we shouldn't complain about foreigners dumping, because consumers benefit. The one exception is if foreign firms can put domestic firms out of business, and then raise prices. If it is costly to re-enter the business (like it is to restart DRAM production), foreign films can gain monopoly profits at the consumer's expense.

Japanese dumping in DRAMs reached new levels—some firms were pricing at less than half of cost—while the world semiconductor industry was in the midst of its worst-ever slump. Although Japanese manufacturers lost as much money as U.S. companies (at least $2 billion over 1985 and 1986), the smaller American firms couldn't sustain the losses without dramatic cutbacks. As a result, most U.S. suppliers withdrew from DRAMs. This has meant that American computer companies must depend on a handful of their Japanese competitors to supply virtually all of these critical components.

Some commentators have maintained that U.S. companies would have withdrawn from DRAM production in any case, in favor of customized chips. Not only do the learning-curve costs cited earlier belie that analysis, but the experience with high-volume Eprom production is instructive as well. There are no shortages of Eproms largely because the U.S. government prevented its domestic industry from being decimated. While Japanese firms had been cutting DRAM prices for several years, Japan did not have a major presence in Eproms until 1983. Once the U.S. industry filed Eprom dumping suits, it took only 10 months for Washington to start setting fair market values. The market is competitive and supplies adequate today.

Rather than signaling a bankrupt trade policy, today's shortages in DRAMs should remind us that dumped products in an industry like semiconductors usually lead to higher prices and limited availability if domestic suppliers are allowed to be destroyed. We need a healthy, well-balanced merchant industry to avoid future disruptions in supply. This may require a more active trade policy—not less.

For our semiconductor industry to survive and prosper in the long run, the second part of the 1986 accord regarding improved market access to Japan must be implemented. Last year, Japan had the largest semiconductor market in the world. American semiconductor firms, however, are still not getting an even chance in Japan. Despite the trade agreement, a 40 percent appreciation in the yen, and increased selling efforts by all large American firms, the U.S. share of the Japanese market hasn't measurably improved.

Exclusion from that market can cause dependence on Japanese suppliers only to grow. Timely, effective trade policy is part of the solution, not the problem.

U.S. SENATE,
Washington, DC, March 21, 1988.

His Excellency NOBUO MATSUNAGA,
Ambassador, Embassy of Japan,
Washington, DC.

DEAR MR. AMBASSADOR; I want to express my outrage at the new round of predatory commercial practices being undertaken by Japanese semiconductor manufacturers.

As you know, there is a significant shortage of 256K and 1-megabit DRAMs for use by American computer companies. Some have blamed this shortage on the semiconductor agreement between our two countries. However, there is an abundance of evidence indicating that the shortage is contrived. While Japanese firms appear to face no DRAM shortages from their domestic supplies, those same suppliers are withholding product from U.S. companies unwilling to "cooperate". Apparently in the parlance of Japanese semiconductor manufacturers, "cooperation" means capitulation to commercial as well as political demands far beyond the scope of normal business practices. As this goes on, the financial health of these firms is threatened, as are the jobs of their employees.

In recent days I have received a number of disturbing reports form California companies. In sum they paint a clear picture of a concerted effort to use DRAM shortages to weaken U.S. support for the semiconductor trade agreement, as well as to blackmail our companies to buy Japanese components even when good business sense indicates otherwise. Among those reports are the following examples:

One U.S. computer company has been offered DRAMs, but only if it is willing transfer proprietary technology to the Japanese DRAM manufacturer.

Another U.S. firm has had its DRAM shipments cancelled within hours of the termination of talks on a completely unrelated business arrangement that did not conclude as the Japanese firm desired.

A third instance involves a U.S. computer firm that has been told that its future DRAM supply will hinge on whether its purchases ASICs from the Japanese memory supplier.

Still another example, similar in nature, involves the tieing of DRAM availability to the American company's purchase of a full product line from the Japanese supplier.

Understandably, victims of these actions are unwilling to go public with these experiences, as they fear that to do so would open them to even more restrictive DRAM availability and commercial arm-twisting.

Beyond these private anti-competitive actions, I have been told that MITI officials recently approached U.S. chip makers, separately, with their own blackmail offer: If the U.S. company will ask for a lifting of the existing sanctions on Japan for its failure to abide by the semiconductor market-opening agreement it entered into with the U.S., that U.S. company will be granted a guaranteed increased share of the Japanese market. This divide-and-conquer tactic is insulting, as well as incredibly naive. It also makes clear that MITI does have an ability to pry open the Japanese market, despite protestations to the contrary.

This two-faced approach undermines the spirit and letter of the U.S.-Japan semiconductor agreement that you, yourself, signed only 18 months ago. Furthermore, it is an affront to those who have worked so hard to improve bilateral economic relations.

Mr. Ambassador, it saddens me that while the Congress is considering omnibus trade legislation, and while those of us in the Congress who support free trade are pressing for a non-protectionist bill, Japan is following the too-well-beaten path of protected home markets and concerted anticompetitive behavior. Those of us who seek expanded trade between our two countries as a means of redressing the present trade imbalances cannot continue to pursue this end if Japan is unwilling to join with us, both in its announced policies and in fact.

In light of the contrived DRAM shortage, the related arm twisting, and the secret deals unsuccessfully proposed by MITI, I will urge my government to increase existing sanctions unless the practices I have outlined come to an immediate end and the artificial constraints on DRAM production and shipments are removed.

Sincerely yours,

PETE WILSON.

BUSH CHILD CARE PLAN

● Mr. KARNES. Mr. President, on July 24 the Vice President delivered an important address at the annual convention of the National Federation of Business and Professional Women's Clubs. This speech is significant because it should dispel any false rumors being circulated by the media and the Democratic opposition that there is a gender gap in the Republican Party or the Vice President is not attuned to women's issues. It is also significant because Mr. BUSH addresses one of the major concerns of American women and families—child care—and offers his own strategy for alleviating that concern—the "Children's Tax Credit."

The Vice President bases his child care proposal on three principles: Namely, that we must help families, not bureaucrats, by ensuring parents the broadcast range of choices from which to choose day care for their children; we must help low-income working families who face the greatest burden in providing child care; and leadership is the key to implementing affordable, quality child care.

The Bush plan for child care calls for the creation of a new refundable tax credit—the Children's Tax Credit—of up to $1,000 for each child under the age of 4. This recognizes the increased costs facing families with children. Implementation would be tied to the earned income tax credit. The credit would phase out as the taxpayer's income rises. Families with very low incomes would become eligible immediately. The new tax credit would be phased in from very low annual income levels to $16,000 to $20,000 over the first 4 years. It would also be made available to families with incomes exceeding $20,000 as Gramm-Rudman budgetary goals permit.

The existing dependent care tax credit would be maintained, but would also be made refundable. This credit has been available primarily to upper income families where both parents are employed. With this change, the credit would assist low income families, whether or not the parents work and earn enough to pay taxes. A family would be able to take the greater of the two credits.

The Vice President also believes that the Federal Government should be a model for employers everywhere to emulate. He proposed mandating federally sponsored day care services in every department and agency.

I congratulate the Vice President on the direction and timeliness of his child care plan. I am pleased that he emphasizes family needs and parental preference. His proposal permits parents choice in the kind of day care they deem best for their children, and does not penalize them if a parent chooses to stay at home with the children and forego the additional income from a job. I am also pleased that he strongly opposes a Federal day care bureaucracy with Federal standard setting—the approach favored by supporters of the ABC bill.

The principles espoused by Mr. Bush are also at the heart of the Wallop-Holloway bill, S. 2817, which I cosponsor. This bill is similar to the Bush plan in that it would allow a refundable tax credit for young children and would also provide for a $400-tax credit for each qualified dependent, with the amount of the credit reduced as family income increases. I am also planning to introduce my own proposal at a later date. I suspect it will incorporate many ideas similar to those advanced by Vice President Bush, Wallop-Holloway and others based on pro-family principles.

Mr. President, I urge my colleagues to read the Vice President's excellent speech. Accordingly I ask that excerpts of Mr. Bush's remarks be entered into the Record.

The excerpts follow:

Excerpts of Remarks by Vice President George Bush

For almost 70 years, the National Federation of Business and Professional Women's Clubs has been working for full participation, for equal opportunity, and for economic self-sufficiency for working women. But how the environment in which that work takes place has changed! Maybe BPW's founders wouldn't have predicted it in 1919—but today, working women are the backbone of the American economy.

As I travel across the country the next few months, I will focus on peace and prosperity. Today, I'd like to talk about America's growing prosperity from a different perspective . . . one that I believe many of you are especially concerned about. As you well know, the American work force has undergone a revolution in these past few decades, and the entry of women has been the principal feature of that revolution.

Your own testimony to the Republican Platform Committee said it best: "We are experiencing the greatest change in the American economy since the industrial revolution."

In determining how to adapt to the changes happening every day, there are two key questions. First, what forces are creating and driving change? And second, what principles, what values, shall guide our response?

Let's examine the answers to those two questions.

First, what is the nature of the change?

America, I'm proud to say, is in the midst of a period of economic growth unprecedented in postwar history. The great American job creating machine has churned out 17 million new jobs since 1982—and they're good jobs. Eighty percent of those created last year were in higher-paying skilled categories where the average income was $26,000.

And the job boom cuts across all categories. White employment up 2.4% a year—black employment up 4.7% annually—Hispanic employment up 6.8%. And two-thirds of all new jobs created since 1980 have gone to women.

From 1980 to 1985, the number of women-owned businesses increased by over 47% . . . income for women-owned businesses increased three times as fast as that for men-owned businesses.

So when we talk about the recovery, we're talking about an achievement we've all shared in.

The expanded role for women in the work force is dramatic. It is the single most important demographic change in the second half of the twentieth century. But, some things don't change. Women work for the same reasons men do: to support themselves and their families, and to seize the golden promise of opportunity.

It's clear, too, most women work due to economic necessity. 60% of the women in the civilian work force are providing the sole or critical support for their families. Many women choose to start their own businesses, and for the same reasons men do. And, this has not just been good for women. Our economy could not have grown as fast as it has without women. Moreover, when we look ahead, our economy will not be able to fill the jobs that will be created without the continued growing participation by women.

Whatever the reasons for the expanding role of women in the work force, the net effect is the same: increasingly, women and men must fill more than one role in our society. More and more Americans have both jobs and family competing for their time. And for growing numbers of Americans, "family" means not only children, but parents as well.

That brings us to my second question—what values should guide us in meeting these new challenges? What are the principles upon which we can draw in designing a federal policy that responds—with creativity and compassion—to a changing world?

I believe there are several:

First, and most important, is the concept of opportunity. The goal of federal policy in every area should be to give people the opportunity to make their lives more productive, happy and fulfilling.

Maybe we can't guarantee the result, but every American deserves an equal chance at the starting gate of life and help in overcoming hurdles.

My second principle is that it is not enough for this generation to just worry about today; we have a responsibility as well to work for a better tomorrow. The way to do that is clear: we must invest in our children.

My third principle is that government—by itself—will not solve America's problems and guarantee opportunity. You understand. You've worked hard, you've fought and laughed; you've sacificed and dreamed.

That's why we have worked hard in these last eight years to reduce the tax burden on average Americans. A typical American family now pays $2,200 less in federal income tax than it would have under the Democrats.

And the burden has been reduced for low- and middle-income Americans. Those earning less than $50,000 have seen their share of the nation's income tax burden drop by almost one-third, while those earning more than $100,000 carry twice as much of the load as they did when we took office.

Some argue that my approach—which quite frankly takes a mistrustful view of big government institutions—lacks compassion. But what's more compassionate than rolling back the tide of joblessness to its lowest ebb in 14 years? Or saving a family from the ravages of 12% inflation or interest rates at 21%.

Some say that holding the line on taxes shows callous disregard for the needs of average, everyday Americans. But I've been all over this country, and I haven't met a working man or woman yet who thinks they're undertaxed.

The fact is that our policies of lower taxes and greater opportunity have resulted in the longest peacetime economic recovery in our history.

Democrats talk vaguely about "good jobs at good wages"—but that's exactly what our policies have delivered.

Have we finished our work? No. Is economic opportunity sprouting in every single corner of America? No. Will we rest until it is? No. But do we really want to turn back to policies that didn't work? To high inflation, high interest rates, and high unemployment? No. No way.

But more remains to be done. I remember the green buttons that were worn not so long ago. "59 cents," they read, because that's how much women were paid for every dollar earned by a man.

Today women working full-time earn 70 cents for every dollar earned by men.

There is only one amount that women should earn for every dollar earned by a man: and that is one dollar.

Equal pay for equal work is not a slogan, not an opinion, not an interesting idea. It is a right. It's a right to be safeguarded by vigorously enforcing existing laws—and that's something I have pledged to do.

One reason, perhaps the principal one, for the gap between women's pay men's pay is that, historically, women have been segregated in traditionally lower paying occupations. That's changing, too.

The Federal Bureau of Labor Statistics lumps all jobs into six broad categories. Between 1972 and 1987, the number of women in the three highest paying categories has skyrocketed—dwarfing the rise in lower paying categories.

And you can bet that this trend will continue. Today, fully half of those enrolled in our country's institutions of higher education are women. A third of all graduate students in M.B.A. programs are women. But the reality is that the majority of working women—the substantial majority—are still working in lower-paying jobs.

The number of families headed by women has grown sharply—sixfold in the last three decades. And the majority of women who head households—some 61%—are in the work force.

These are not just statistics. They are lives. Greatly challenged lives. And they demand our attention.

I've travelled quite a bit in the past year. I've spent time in the kitchens of rural Illinois, and the classrooms of East Los Angeles. I've spoken with young entrepreneurs in Florida, truckers in New Hampshire, and struggling families in my home state of Texas. You see parents who have to drive too far to find the child care they want; and those who want it but can't afford it.

I have spent time discussing the child care issue with mothers and fathers, employers and employees, liberals and conservatives. There are wide differences of opinion about the right approach. What came through clearly is that the single most important issue arising from the changes in our work force is child care.

Years ago, some may have viewed child care as a special and limited need. As recently as 1960, only 19% of women with children under six years old were working. By 1985, that number was 54%.

Today, over 70% of women in the primary family building years, ages 25 to 44, are working. That number is expected to reach 80%—four out of five—by 1995.

So today, child care is nothing short of a family necessity. And, because of that clear truth, I am proposing today a set of policies that enables families—not government—to decide the right approach for themselves.

My philosophy with respect to child care is to put the choices in the hands of the parents, and not in the hands of the state.

A letter from a mother to the *Washington Post* tells a heart wrenching story.

The mother wrote, ". . . we believe we know better than anyone else—the state, the county, the federal government—what our children need to thrive . . . Now, in the name of protecting children, the state law has thrown me back into the pool of anguished parents searching for good day care, while a superbly competent day care provider is forbidden to care for children."

Something is wrong here. Of course we must insist on the highest quality child care. But, the government should be encouraging flexibility, not clamping down on parental choice. The government should be expanding options, not restricting availability.

This mother is saying let her decide. The Democrat proposal denies her that right. There is no one-size-fits-all solution to raising our children.

Parents work during the day and at night, swing shifts and part-time. Some parents want caregivers to be relatives or neighbors or at school or at church. Or, they want only after school child care or care for special children. They want caregivers to share their values. The Democrat approach would not provide these options.

I will build a policy around parental choice. Particularly, we must find a way to put a greater range of choices in the hands of low income parents—because they face the greatest difficulty in meeting the demands of work and family.

As businesswomen, I don't need to tell you that child care is a significant business expense. But for very low income workers, child care can eat up a disproportionate share of their income.

Today, I would like to propose to you one means of creating greater choice, while targeting our resources at those who need them most. I propose that we create the "Children's Tax Credit," a new, refundable tax credit of up to $1000 per child under age 4, to recognize the increased costs of families with children. Implementation could be tied to the earned income tax credit. The tax credit would phase out as income rises.

Because low-income working couples face the greatest needs, families with very low incomes would be eligible immediately. To accommodate national budget goals, this new tax credit would be phased in from very low income levels in annual household income to somewhat higher levels over the first four years. And, it would be phased higher as budgetary goals allow.

I would also maintain the existing dependent care tax credit, and take an additional important step to make it refundable. Too many low-income families go without the assistance we have made available to upper income families because they do not earn enough to pay taxes. A family could take the greater credit—the Children's Tax Credit or the refundable dependent care credit.

There are other steps we could take to help. I would encourage more employer sponsored child care, using the federal government as a model.

We should establish a federal reinsurance revolving pool to reduce obstacles presented by lack of available liability insurance to employers. I would encourage employer sponsored child care, flexible work schedules and benefit plans which allow workers to choose the benefits they need. Employers must demonstrate more flexibility and sensitivity to family needs.

Employers have a major role in helping parents find needed child care, but I do not believe in give-aways of taxpayer dollars to get business to recognize what it already knows: that it must provide assistance for more and better child care. Workers demand it; productivity demands it; a business's bottom line demands it.

Let me give you an example of one employer. At the Department of Transportation, under the leadership of former Secretary Elizabeth Dole, a private, non-profit day care facility was started—DOT Day Care, Inc. DOT put up the money to renovate the space, and a committee of volunteers raised the money to pay for initial expenses.

Today, DOT Day Care is up and running, getting ready to provide infant care. Secretary Dole's findings were the same as those of companies who have engaged in similar efforts: worker productivity improved and absenteeism declined.

Finally, the states and the federal government ought to provide additional resources to specifically address the needs of all working parents for a broader range of choices and higher quality child care. Many states and localities are addressing quality and availability of care, but many more must catch up.

Federal resources could provide seed money for innovative program design in sick child care, and before- and after-school care. And, I am committed to building the Head Start Program to a level where all eligible 4-year olds attend class.

I've heard it said that there are only two lasting bequests we can hope to leave to our children: one is roots; and the other, wings.

We can talk about economic growth, but the key to future economic growth is the education we give our children. The key to our competitiveness is the minds of our children. We can talk about values in our society, but our society's values will be those we instill in our children today.

One important way to guarantee good values is to encourage good teachers. I would, as President, encourage greater rewards for teachers, and greater respect for teachers—from students, and from society.

Before closing, I want to acknowledge the importance of small business to America's growing prosperity.

Many of you work in, or are the owners of, small businesses—the creators of most of the new jobs in America. You realize the importance of education in training the workers of tomorrow. You probably also realize something else. Conditions are not equal for owners of small businesses who happen to be women.

Some women-owned businesses have extraordinary difficulty getting credit. I think credit decisions should be based on merit, not on gender.

I believe that change is inevitable and exciting. Government must not mandate how society responds. Lets give people the tools to make better choices in the changing society. Lets give people the opportunity for a better life.

The opportunity for a better life. That means the freedom to choose, and the skills to grow.

The opportunity for a better life, that's what drew people to America centuries ago. That's what drew Coronado to New Mexico in 1540. It's what drew the Irish and Germans to New York in 1840. It's what I fought for in 1944. It's what draws the Vietnamese and the Koreans, the West Africans and the Central Americans to this great country today.

The opportunity for a better life. That's what stirs us all: the young student burning the midnight oil, the entrepreneur risking it all on new venture, the auto worker striving to improve productivity, the young mother supporting her family.

The opportunity to make a better life . . . a better America . . . that's what's drawing women into the work force. That's what motivates my concern about child care and education. And that's what will drive me if I am elected President.

Thank you very much.●

NATIONAL DRIVE FOR LIFE WEEKEND

● Mr. CHAFEE. Mr. President, today I am pleased to join my colleague from Illinois, Senator SIMON, in cosponsoring Senate Joint Resolution 350, to designate September 3-5, 1988 as National Drive for Life Weekend.

Drunk driving is an American tragedy. Too often, I pick up the newspaper and read about the suffering caused by drunk drivers: the tremendous loss of human potential, the promising lives cut short, and the families torn apart by senseless tragedy. Alcohol abuse has become an increasing problem in this country. The costs of this abuse are clearly magnified on our roads. When operators of cars, trucks or buses drink and drive, they endanger not only their own lives, but the lives of passengers entrusted to their care, other motorists and even innocent bystanders.

Drunk driving is responsible for the death of 23,000 people annually, or one person every 22 minutes. Numbers alone, however—even numbers of this magnitude—do not begin to tell the story of the suffering and loss caused by drunk driving every day. That is why we need to take effective action now. Mothers Against Drunk Driving [MADD], a group born out of personal experience, is an extraordinary example of what ordinary citizens can do if they care to act. In the last several years, MADD has been one of the most important and effective forces in the twin fights to raise consciousness about drunk driving and to reduce the number of alcohol-related accidents on our streets and highways.

Drunk driving affects individuals from all age groups and economic backgrounds. That is why I joined with my colleague, Senator PELL and 97 other Senators in urging Surgeon General C. Everett Koop to declare drunk driving a "national crisis." It is time to bring every Federal effort possible to bear on the problem of drunk driving.

As one step toward the eradication of this hazard, I urge all Americans to observe Drive for Life Day on September 3, 1988 by not drinking and driving, and to support the month-long Drive for Life campaign sponsored by Mothers Against Drunk Driving. Beyond that, each one of us should make a personal effort to prevent our friends and relatives from needlessly endangering their own lives and those of others by drinking and driving. Concerned citizens can make a difference.●

THE MINIMUM WAGE

● Mr. **KASTEN**. Mr. President, the debate over proposals to increase the minimum wage has quite rightly focused on the issue of whether the minimum wage hikes would slow down or stop employment growth.

But there is another important question to be asked: Does the increased minimum wage really help the people we are trying to help?

According to a new study by the Urban Institute, a minimum wage hike might not help the working poor. Researcher Ronald B. Mincy has discovered that 85 percent of workers who earn the minimum wage—or less—are not members of poor families.

I ask that the full text of the Urban Institute's report of Mincy's findings, published as part of the Urban Institute's Policy and Research Report of summer 1988, be included in the RECORD.

The text follows:

INCREASING THE MINIMUM WAGE: A RISKY WAY TO REDUCE POVERTY

One of the strategies now being considered by the Congress to reduce poverty is legislation to increase the minimum wage, currently set at $3.35 per hour. This rate has not been raised by Congress since 1981. In the same period, the poverty line for a family of four has risen 20 percent, from $9,287 to $11,203.

How effective would a higher minimum wage be in reducing the number of families in poverty and in closing the poverty gap (the discrepancy between the income of a family of four and the official poverty threshold for a family of that size)?

According to Ronald Mincy, an Urban Institute researcher who recently addressed this issue, such a strategy could result in substantial reductions on both fronts. But, warns Mincy, using this tool to achieve such results may entail trading in short-term gains for serious long-term losses. He warns that there is a "disemployment" factor (the loss of jobs by some low-wage earners) associated with increasing the minimum wage that could severely curtail the future earning power of today's teenagers, the next generation of adult workers.

Mincy's conclusions and his concerns are the result of a study he is conducting to expand and update an analysis of this problem by former Institute researcher Terrence Kelly, published in 1976. The study by Kelly and more recent evidence suggest that because of the difficulty of targetting minimum wage increases to low-income families, the minimum wages is not a very effective tool for moving families out of poverty.

Mincy disagrees. Citing changes in the demographic characteristcs of the poor and the working poor in recent years, he suggests that raising the minimum wage by $1.00 per hour (to $4.35), accompanied by full coverage and compliance, could simultaneously reduce the poverty gap of $8 billion by about $1 billion (a 13 percent reduction) and also remove 200,000 families, or 9 percent of the total of low-wage working families, from poverty. The reduction would be 3 to 4 percent less if compliance and coverage were unchanged from present levels.

These conclusions are based on simulations Mincy conducted to determine the potential effects of some current minimum-wage proposals on the poverty gap among families with low-wage family members. Mincy also found that the long-term erosion in the real value of the minimum wage is even more striking than the short-term inflation-driven decline of the past seven years.

In 1968 a full-time, full-year minimum wage worker received an income 7 percent below the poverty level for a family of four. Six years later, in 1974, the minimum-wage income was 21 percent below this poverty level and the decline has continued, bringing the current real income level to 61 percent below the poverty level.

Some observers suggested that the gap can be remedied by indexing the minimum wage to average hourly earnings. Mincy points out that in a period when average real wages of all workers decline or stagnate—as in recent years—the minimum-wage workers whom are least able to afford a decreased income would suffer rather than benefit from indexing.

SEVERAL FACTORS TEMPER IMPACT OF WAGE INCREASE

In his attempt to determine the potential impact of an increase in the minimum wage on the number of families in poverty and on the poverty gap, Mincy looked at many selected factors, including the hours of work per week and the sex, race, age, and family characteristics of low-wage earners. He also took into account the degree to which low-wage workers are covered by the minimum wage and the amount of employer compliance with the law. In 1985 more than 73 million American workers were covered by this law, but many other workers, especially in the retail trade and service areas, were not included and thus would not be helped by the contemplated increase.

Mincy's analysis revealed several key limitations in the use of a minimum-wage increase to reduce poverty. Most important, he found that 85 percent of workers who earn the minimum wage or less are not members of poor families. Some are dual-earner families with few children; others are teenagers in nonpoor families or are workers without dependents or partners. Thus an increase in the minimum wage would benefit families that are not necessarily poor.

Mincy also found that a poor family with more than one low-wage earner would benefit more from a minimum wage increase than families with only one such earner. However, 86 percent of all low-wage workers in poor families are the sole low-wage family members, according to the analysis.

Another important limitation that emerges from the data is the large share of total employment that is not covered by minimum-wage requirements. Seventy-seven percent of all workers who earned less than $4.35 per hour, and sixty-nine percent of all workers in poor families who earned below $4.35, are employed in the retail and service trades, which in many cases are exempted from the minimum wage requirements. Thus, unless coverage is extended to these sectors, these workers will not benefit from a minimum-wage increase.

TEENAGE WORKERS COULD BE ADVERSELY AFFECTED

A unique feature of Mincy's study was that he built into the simulation the possibility of "disemployment" of some low-wage earners because employers are not willing or able to pay the higher rates. He found that those who would experience the greatest disemployment effects—teenage workers—make the smallest contribution to the family income and hence this adverse consequence would detract little from the intended overall effect. Teenagers work fewer hours and fewer weeks in a year than do adults. Thus, should the teenage family member lose a job because of an increase in the minimum wage, this loss would not greatly affect the family's chances of moving out of poverty.

What might be significantly altered, however, is the teenager's ability as an adult to secure a job that could lift him or her out of poverty. Teenagers who lack the opportunity to acquire an employment history today may end up as tomorrow's disadvantaged workers, according to Mincy. This unentended future effect of an otherwise promising tool to help families out of poverty is especially important to consider given the high unemployment rates among already disadvantaged youth in the inner city areas. If true, it may mean that increasing the minimum wage will result in exchanging a short-term gain—lifting some poor families out of poverty today—for a long-term loss—jeopardizing the ability of their teenage children to secure adequately paying jobs in the future.●

IMMIGRATION REFORM: HOW IT IS WORKING

Mr. **SIMON**. Mr. President, last month I held a forum on immigration issues that are facing the State of Illinois. Coordinated with the city of Chicago's Immigration Reform and Control Act unit, the forum gave me a very good opportunity to hear directly from community leaders and individuals who for the past year have worked with the Immigration and Naturalization Service to make the legalization program work. I learned a great deal, both positive and negative, about how the Immigration Reform and Control Act is affecting the lives of immigrants, their families and all of our communities.

I believe the testimony I received that day will be instructive to my colleagues. Many of the same situations are occurring in their States. Right now we are at a midpoint between the first stage of legalization and the second stage. Over 1.5 million individuals applied for temporary legal status nationwide. In the next 30 months, they will have to apply for permanent resident status or else they will lose their legal status in the United States and become undocumented once again. As the Immigration and Naturalization Service promulgates its regulations to implement the second stage of legalization, I hope my colleagues will find this testimony useful so that we may all learn from the experiences of the first stage and guarantee that the maximum number of eligible aliens will apply in the second.

As a member of the Immigration and Refugee Affairs Subcommittee, I remain committed to a fair and generous legalization program as intended by Congress. My staff has had some success in working out a number of cases with the INS to protect the unity and integrity of family units in the United States. However, I continue to look for legislative solutions where administrative and regulatory answers fall short.

I encourage my colleagues to review the statements from the wide range of individuals and organizations I heard from in Chicago. Now is a critical time for the Immigration Reform and Control Act. We must ensure that our congressional efforts, the work of the Immigration and Naturalization Service and the activities of the immigrant communities go forward hand in hand to the benefit of the entire Nation.

I ask that the testimony be printed in the RECORD.

The material follows:

TESTIMONY OF CARLOS HEREDIA, DIRECTOR, POR UN BARRIO MEJOR

Good afternoon Senator Simon. My name is Carlos Heredia. I am Director of Por un Barrio Mejor, a community based organization that provides a variety of services to the Hispanic community in the Little Village area of Chicago. I am also a member of the Mayor's Advisory Commission on Latino Affairs (MACLA), which serves as an advisory body to the government of the City of Chicago on issues of concern to the Latino community. I am speaking today as a representative of these two organizations to express to you general concerns regarding implementation of the legalization program and how it and immigration policies impact our community.

The testimony that will be presented to you will touch upon the various specific issues regarding the second stage of the legalization program. These issues are of outmost importance to our community. The legalization program and its success, or potential failure, is critical to where Hispanics will be as members of the community of this country for decades to come. Immigrant workers are the foundation of the Hispanic community in the United States. As such, it becomes inevitable that immigration policies dictate where our community is going and how it is treated, since the Hispanic community is the single largest group affected by current policies.

What I want to emphasize to you is that immigration policy has to be viewed from the context of how it affects a community at large. In our eyes, there is no distinction between an undocumented or legalized worker. We are all one people and demand to be treated with dignity and respect. The testimonies that follow discuss in detail the various concerns of the second stage of the legalization program, from the point of view of ensuring that legalization becomes the vehicle to integrate millions of immigrant workers into the real American society, away from the shadows and free of the fear that their stay in this country can end the very next day.

Senator Simon, what we are asking is that you become directly involved in the implementation process, using your influence to demand that policies implemented by the Immigration Service reflect the human needs of a community. In making this request, I speak not only on behalf of the Hispanic community, but all other immigrant and refugee communities. We share common problems and aspirations with these other communities and firmly assert our mutual interests in making this request to you. You have shown an awareness and sensitivity to the problems of our communities. We commend you for that and urge you to become a committed advocate for our ongoing needs. The recommendations that will be made to you regarding implementation of the second stage of the legalization program are vital to our community. Your work in addressing these concerns will in many ways dictate the future of the Hispanic and other immigrant communities in this country. Thank you.

TESTIMONY OF CECILIA MUÑOZ, CATHOLIC CHARITIES

I would like to thank Senator Simon and his staff for the opportunity to speak today. I am Cecilia Muñoz, of Catholic Charities and the CCIP, and I will be outlining the issues which the QDEs still confront as we continue to implement Phase I of IRCA.

Though the deadline for Legalization applications to be filed is past, Phase I of Legalization is far from over. In fact, I would venture to say that the role of the QDEs is even more vital now, because the verdict is still out for the majority of Legalization applicants. If we were set up as QDEs to maximize the number of immigrants who would benefit from Legalization, then our task is clearly not finished until all of them have safely attained Temporary, then Permanent Residence. We have a long way to go.

Of the 126,000 Legalization applications filed in the Chicago area, less than half have received their temporary residence cards. The 70,000 which remain have yet to be adjudicated by the Regional Processing Facility (RPF) in Lincoln, Nebraska. The QDEs' experience with Lincoln has shown us that, even 14 months after the beginning of Legalization, the process still has major flaws which need to be ironed out. We get RPF responses that are sent to the wrong place, requests for more information that fail to outline what information is needed, and worse, requests for information which, according to our records, was already included in the original file.

When we faced these sorts of bureaucratic difficulties at the local Legalization offices, at least we had direct contact with the INS officials involved so that we could discuss, and hopefully resolve the problems. Unfortunately, QDEs do not have access to the RPF, which refuses to accept phone calls from applicants or their representatives. We have no contact other than through the mail, which to date has not yielded any resolution to the problems we've encountered with the RPF. The people who lose out in the end are, of course, the applicants.

There are also a number of ways in which the adjudication process at Lincoln is inconsistent with the intent of Congress to implement IRCA in a generous fashion. For example, Catholic Charities is currently working on two appeals for clients who left the country for more than 45 days due to a death in the immediate family in Mexico. Though they went home for a family emergency, and did not relinquish their residences or jobs in the United States, Lincoln has determined that they broke the continuous residence requirement.

In addition, applicants who were supported by common-law spouses or other family members are being asked for more information or denied, a problem which has the potential for disqualifying large numbers of undocumented immigrants who have survived here for years by relying on their family networks instead of on public aid. From our point of view, these people have fulfilled the requirements of continuous residence and financial responsibility, and deserve the right to stay and work legally if this law is to be implemented fairly.

While the QDEs who will be active through Phase II are responding to these kinds of denials and filing appeals, we are concerned for those applicants who heeded the INS' advice and filed on their own. Many may not realize that they are being denied on issues which have yet to be resolved, or that they have the right to appeal if they are denied. Our concern is borne out by the statistics; less than half of those denied have filed appeals. It is possible that a significant number of the people who came this far may not obtain Permanent Residence simply out of a lack of proper information about their right to appeal.

The danger of losing Legalization applicants before they safely reach permanent residence stands to increase dramatically in Phase II of the process. The main problem is simply that many of the newly legalized do not realize that the process is not over. They were never informed that their I-688, or Temporary Residence card, expires, or that when it does, they revert back to undocumented status. Many do not realize that they must fulfill the English language and Civics requirements or even that they have a second application process to go through.

Clearly, public information needs to be a top priority in order to ensure that all of the people who made it through Phase I reach Permanent Residence safely. As QDEs continue to grapple with implementation problems originating at the Lincoln RPF we face the reality that we have no financial or legal agreement with the INS for public information or any other aspect of Phase II. Our work is far from over, yet we lack the support to perform all of the tasks so vital to ensuring that legal status be a permanent reality for the newly Legalized.

We ask Senator Simon for his continued support as we resolve the many issues still surrounding Phase I and prepare for Phase II. Certainly his position on the Immigration Subcommittee provides a good opportunity for monitoring the INS' efforts to adjudicate the remaining applications according to to intent of Congress, and to move quickly and efficiently into Phase II. We ask for the Senator's support with the following Phase II priorities: emphasizing aggressive bilingual public information to all applicants, providing for an official role for immigrant service agencies in the application process, and establishing a greater degree of contact between these groups and the INS to ensure fair implementation of the next stage of IRCA.

Thank you for the opportunity to speak, and for your attention to these issues.

TESTIMONY OF DAVID MARSHAL—CHICAGO COMMITTEE ON IMMIGRANT PROTECTION

The Chicago Committee on Immigrant Protection (CCIP) welcomes the opportunity to speak out on issues surrounding phase II of the Immigration Reform and Control Act (IRCA). As you may already be aware—Senator Simon—the CCIP, as a coalition, works with and represents many of the organizations present at todays' forum. We have worked closely with your office on immigration issues ranging from family unity to extension of the legalization program and we anticipate your support and leadership advocating on behalf of the hundreds of thousands immigrants and refugees currently residing in Illinois.

My role today is to voice the CCIP's concern about some specific issues which may have a negative impact on the number of individuals who legalized under the recent program who actually make it to legal permanent residence. Specifically, the direct mail procedure that the Immigration Service has proposed presents some major obstacles to the ultimate success of the legalization program: (1) by just notifying temporary residents via the mails of the requirements for obtaining permanent residence, and not mounting a well funded, high profile PR campaign, many temporary legal residents may fall into undocumented status by November of 1989. This point is especially valid when we consider that many of the QDE's and immigrant legal assistance agencies, themselves, have a hard time maintaining contact with their often transient immigrant clients; (2) by closing the vast majority of legalization offices and at the same time requiring all applications to be submitted via the mails to the Lincoln, Nebraska Regional Processing Facility, the INS is eliminating the 'vital' human link that they themselves worked hard to establish at the temporary residence stage; (3) the temporary residents' lack of familiarity with American government processes as well as their lack of English language proficiency and literacy makes the mail-in system particularly ill-suited for this population; and (4) given that temporary residents have only 12 months to apply for permanent residence and that there is no receipt issued upon submittal of the application it is more than likely that a number of applications may get lost without the applicants having any knowledge of the status of their case. We are particularly alarmed by this issue because it was only several months ago that the INS notified Chicago area QDE's that they had lost 12,000 cases at their Lincoln RPF and needed our assistance to determine who the applicants were.

The issues that I have presented are serious ones and yet—interestingly enough—they could be solved administratively by the INS itself. Simply put, the INS should give temporary residents the opportunity to apply either via the mails or in person at the LO through at which they had initially filed their legalization application. Presently the INS is embarking on several large scale cost-cutting measures which will have an enormous impact on the ultimate success of the legalization program. Considering that over 125,000 individuals applied through the four Chicago area legalization offices and that total fee revenues far outpaced expenses for the legalization program in the northern region, we feel it appropriate to request of the INS that the Legalization offices be kept open for not only permanent residence interviews but that they both distribute and accept permanent residence applications.

TESTIMONY BY GALEN CAREY, MIDWEST REGIONAL DIRECTOR, WORLD RELIEF

Thank you for the privilege of testifying on this important subject. In the past year World Relief has filed applictions for legalization on behalf of over 14,000 immigrants from 46 countries, including nearly 3,000 here in Illinois. We have provided information and counseling to over 60,000 others. Allow me to highlight the following issues regarding the second stage of the legalization program:

1. *Public Education.* Although IRCA mandated an extensive public education campaign to inform eligible immigrants of the opportunity for legalization, the actual efforts were inadequate. In particular, changes in regulations and eligibility criteria were inadequately publicized, resulting in many immigrants incorrectly believing that they did not qualify and therefore losing the opportunity to gain legal immigration status. World Relief and other private voluntary agencies conducted extensive public education activities but with little or no federal support.

World Relief is concerned that the failures of public education efforts in the first stage may be repeated in the second. The fact that legalization is a two-stage process has not been adequately publicized. Surveys show that as many as 85 percent of the newly legalized population are unaware of the second-step requirements. (Soruce: National Association of Latino Elected and Appointed Officials) If these people do not apply for permanent residency, they will lose their legal status and the intent of the law will have been frustrated.

The experience of the past year has shown that written communications from the INS are inadequate and confusing to many legalization applicants. For example, when applicants whose cases were approved received letters of congratulations from the INS urging them to tell their friends about the program, many called or visited our offices, concerned and confused about the status of their own cases. The most productive and cost-effective public education efforts have been those conducted by community organizations and private voluntary agencies who work directly with immigrants.

World Relief therefore recommends that the INS be mandated by Congress to conduct an extensive and timely public education campaign for Stage 2 of the legalization program, and that at least 50 percent of the public education budget be designated for local campaigns by QDE's and other community organizations.

2. *Application by mail.* There are many problems inherent in the proposed mail-in procedure for permanent residency applications. A certain percentage of the applications will undoubtedly be lost, and the applicants will have no proof of filing, as would be the case with an in-person filing.

World Relief recommends that the INS accept applications in person at its Legalization Offices, as an option for applicants who choose not to risk filing by mail.

3. *Interviews without A-files.* Under the proposed system, applicants' files will be kept in a central office with selected data keypunched onto the INS computer. Local INS personnel will conduct the permanent residency interviews and a final decision will be made without the applicant's file. There is significant room for both technical and human error to occur.

World Relief recommends that in cases where the local office intends to deny an application, they be required to obtain and review the applicant's actual file before proceeding with the denial.

4. *Use of INS District Offices.* Use of District Offices may be necesary in some parts of the country as a cost-saving measure. However, World Relief has strong concern that this move may compromise client confidentiality.

World Relief recommends that strict guidelines on District Office involvement be established to prevent breaches of confidentiality. For example, all legalization staff should be employed exclusively by the legalization division, and legalization interviews should be conducted in a secure area of the office.

5. *ESL/Civics requirement.* Proficiency in English language and knowledge of U.S. history and government has never been a requirement for permanent residency. In the current conduct of naturalization interviews, excessive latitude is given to individual examiners, leading to gross abuses and inconsistencies. World Relief supports a fair and generous interpretation of the English/civics requirement. In particular, we recommend:

a. In view of the expected backlog both in INS processing and in availability of ESL/civics classes, that no restriction be placed on the amount of time elapsed between receipt of a "successfully pursuing" certificate and date of application for permanent residency.

b. That the Federal Textbook on Citizenship not be used to test English language proficiency. The Textbook is too detailed and advanced, and contains extraneous material not relevant to an accurate test of an applicant's "minimal understanding of ordinary English." (245 a.l(t)

c. That a list of 100 suitable study and test questions be distributed to applicants and used by INS examiners to test English knowledge. This is a fair and consistent means to test an applicant's understanding of ordinary English.

d. That the test of civics/history knowledge be available in the applicant's native language. This is a discrete area of knowledge and should not be confused with knowledge of English. Again, a list of 100 objective test questions should be developed and distributed in the major languages. By using objective true/false or multiple choice of questions, the test may be graded in any language. Applicants should have the option of taking the test orally or in writing.

e. That state educational agencies, rather than the INS, conduct any on-site monitoring of classes. Fear of INS enforcement could have a strong negative impact on students and the community agencies which serve them. Further, the INS does not have the technical capacity to evaluate educational programs. Any information required by the INS should be secured through offsite review of curricular materials or meetings with agency administrators.

6. *Registry date.* Over the past year World Relief has counseled many immigrants with impeccable credentials as law-abiding, hardworking, and highly desirable members of their communities. These people have made inestimable contributions to the economic, social and cultural vitality of our nation. However, our current law excludes them from the rights and opportunities of citizen-

ship. This exclusion is indefensible on either moral or economic grounds.

World Relief therefore recommends that the registry date be advanced to November 6, 1986, so that those who have established residency in the United States as of that date, will be eligible to apply for permanent resident status. The registry process is administratively much more efficient than the two-stage legalization process, and would extend the benefits of legalization on a broader and more equitable scale.

Thank you very much for the opportunity to testify.

TESTIMONY OF MARCELO GAETE, COMITE LATINO

Good afternoon, my name is Marcelo Gaete, I am an organizer with Comite Latino, a community based organization in Chicago's northeast. I welcome the opportunity to express our concern about the impact of the Immigration Reform and Control Act on the immigrant family. In particular today I will discuss the consequences because of IRCA's inability to address Family Unity, the communal tension created by it, and the non-solutions presented by INS.

Historically the preservation of Family Unity has been a standard of U.S. immigration law and policy. Since 1965 with the establishment of the current preference system this practice has been a tangible reality. Under this system the principle applicant for visa, refugee and asylum status is allowed to include his or her immediate family; spouse and minor children.

Yet, under IRCA family unity is not a priority. The law threatens the composition and unity of immigrant families by not providing for a derivative status for spouse and children of IRCA applicants. What IRCA created was a system where an individual (irregardless of family realities) must meet INS regulation for IRCA. That is, all are measured by the same stick. Therefore, homemakers, children, and handicapped family members are placed at a disadvantage. This disadvantage, because of the strict documentation requirements, has turned into a real source of family division by the laws failure to explicitly allow for family unity. Also it is fair to assume that a vast number of families applying will remain together, yet, we must understand that this individualized system of legalization is a two year process where the result will not be seen for some time. But, the mechanism is there which can in the process divide families in two.

Additionally, IRCA by forcing individualized legalization divided a vast number of families into documented and undocumented, where one or more family member is in the process of obtaining amnesty, but the rest of the family did not because they absolutely have no possibility of legalizing family members who either arrived after January 1, 1982, have no documentation to prove their case, left the country for over the arbitary 180 days, or could be seen as a potential public charge. So, then families can be divided by the legalization process itself and by the exclusion of family consideration in IRCA system of individualized process of legalization.

As a direct consequence of IRCA's inability to address family unity we have experienced confusion, tension, fear of applying, and limbo families (half documented and half not). As an applicant commented, "I welcome this opportunity to live in peace, to be able to work and fully participate in society. I welcome the opportunity to be able to kiss my children good-bye each morning assured that I will not be deported. I am glad to finally use my real name. But, my joy is not complete, my wife does not qualify for amnesty. Now, it is her who could be deported. She could be apprehended in a raid at the supermarket, at home, anywhere. She is a prisoner of fear." This individual story is only one of many half legalized families.

A family can eventually be "reunited" once the family member obtaining legalization becomes a permanent resident or citizen by applying with the preference visa system. But, currently the backlog for grant visas for Mexico is about ten years behind. By then many minors will be adults, thus making it harder, or more drastically, they could be deported by INS.

So what are they obtaining? Well, some believe Mr. Moyer offered a real solution by offering the Indefinite Voluntary Departure solution for immediate family members who don't qualify under IRCA. But, is this a real solution? No. Under this process individuals present themselves to the mercy of INS without the protection offered by IRCA, and arbitrarily are granted or denied the status. This status can be revoked at any time, may or may not offer work authorization. But, more important, a person applying for this status if denied, may be placed immediately under a deportation proceeding. This an administrated non-solution granting a recognized status but not legal recognition.

What the immigrant family needs is not an IVD status, what it really needs is your tangible help, Senator Simon. It needs your proven leadership. It needs a legislative solution. For this present crisis in the family unity of immigrants will only be solved, remedied by such. Immigrant divided families need a bill which will expand the IRCA legalization program to grant derivative status to the spouses and minor children of IRCA-eligible aliens.

Families need a more equitable, just, and human system.

Thank you for your interest and concern.

TESTIMONY OF CARLOS ARANGO, DIRECTOR, MIDWEST COALITION IN DEFENSE OF IMMIGRANTS

My name is Carlos Arango. I am the Director of the Midwest Coalition in Defense of Immigrants. Our organization has been active for over a decade in a struggle to defend and expand the rights to immigrant workers. We have been very involved during the legalization process of IRCA, assisting people in the community with specific cases and attempting to create greater awareness of the potential problems with the way the law has been implemented. In our opinion, there has been a failure on the part of the INS to implement the legalization program as it was designed by Congress. Congress clearly indicated that legalization is a generous entitlement, that the largest number of people should be granted the opportunity to legalize. We feel very strongly that in its implementation of the program, the INS so far has fallen far short of the intent of Congress. A clear example of this situation is that after INS implemented its regulations for the first stage of legalization, a number of lawsuits were filed challenging the restrictive way in which INS interpreted the requirements for legalization.

This litigation has been going on for over a year, and a number of important decisions have been handed down by the Courts. It is extremely important to note that all of the decisions have been against the INS and in favor of a more generous interpretation of the law. It is clear that the Courts agree that the legalization program is a means of allowing the largest group of people the opportunity to legalize and that obstacles to accomplish this should be removed.

Senator Simon, the decisions by the Courts in the cases against INS are extremely important and need to be kept in mind at this point in time. We need to understand that the INS has not to date demonstrated the same interest and commitment to the legalization process that Congress mandated. As the INS prepares to implement regulations for the second step in the legalization process, it is crucial that they be reminded of their mistakes of the past. Those mistakes can not be repeated. If they are, the legalization program stands to become no more than a farce and a trap for millions of immigrant workers in this country. These immigrant workers have made contributions to this country that entitle them to much better treatment than that. Thank you.

STATEMENT OF DUONG VAN TRAN, DIRECTOR OF THE IMMIGRANT AND REFUGEE ACCESS CENTER OF TRUMAN COLLEGE, CITY COLLEGES OF CHICAGO

I would like to thank Senator Simon and the Chicago Commission on Human Relations (CCHR) for giving me this opportunity to be a part of this public forum, and to express some observations on the eductional issues of the second stage of legalization at this time when regulations and plans are being prepared by the Immigration and Naturalization Services (INS) and other related federal and state agencies. These regulations and plans will affect thousands of immigrants who obtained legal temporary resident status under the Immigration Reform and Control Act (IRCA).

I want to make it clear that the following observations are mine and should not be understood as those of the Chancellor of the City Colleges, the President of Truman College or their primary staff.

Concerns for availability of classes: Current INS figures indicate that more than 126,000 individuals in Illinois have applied for legal temporary residency under Phase I of IRCA. While estimates from the Illinois Department of Public Aid—which administers the State Legalization Impact Assistance Grant (SLIAG) program in Illinois—indicate that approximately 45% of this total will desire educational services under Phase II of IRCA, figures compiled by some community-based organizations (CBOs) placed this figure at a much higher level, close to 85%. Regardless of which figure proves to be more accurate—a fact that will not become clear until well into the time frame for Phase II—the fact remains that a tremendous number of persons will be seeking admission to a limited number of available English as a Second Language (ESL)/civics courses in our state.

We are concerned about the problem that oversubscription pose to newly legalized residents of Illinois. Due to the potential for limited availability of classes, many of those seeking an adjustment to permanent residence status may be unable to successfully complete the thirty of the sixty hours of instruction mandated for certification of "successful pursuit" before the eighteen months alloted for Phase II processing are up. Therefore, we ask your help in three ways:

(1) That you encourage INS to clarify and finalize Phase II regulations as quickly as possible so that ESL/civics programs can be set up in accordance with these regulations.

(2) That you encourage the U.S. Department of Health and Human Services (HHS) to expenditiously approve state applications for SLIAG funding so that they can disburse the money necessary to implement educational programs under Phase II.

(3) That you encourage planners here in Illinois to fund as many educational programs as possible and thereby make ESL/civics classes available to all applicants upon demand.

Concerns for services in rural areas: Here in Illinois, as in other states which much administer SLIAG programs both in major urban centers and large rural areas. We are concerned that the newly legalized in the rural downstate areas have not been and will not be, despite INS best efforts, adequately served. Legalization office services have been lacking downstate; as Phase II regulations come into play and rural and migrant applicants require educational services to meet permanent residency requirements, a similar inadequacy will arise. This problem stems not only from a lack of educational institutions and community-based organizations which could provide SLIAG Phase II services in rural areas but also from the fact that rural and migrant applicants have low educational and literacy skills levels, having had little or no access to educational programs of any type. These applicants in rural areas will not be able to obtain "affidavits of successfully pursuit" for the ESL/civics courses, and will be required to take the citizenship tests in order to obtain permanent residency. The fear that they may fail the test twice—and therefore possibly loose their legal status—will make it more difficult for these people to prepare and to pass the citizenship exam.

Concerns for appropriate citizenship tests: One of the goals of the legalization program is to prepare the eligible aliens to function fully and positively as new Americans. The more broadly participatory this program is made, the better integrated these new residents will be. To this end, we encourage you and your colleagues, when a policy-making opportunity arises, to reconsider one aspect of Legalization—Phase II, and of the citizenship process itself: the question of how and by whom citizenship tests are given.

In the contexts of Legalization—Phase II, the question of how the tests are given needs attention.

First, we advocate that the literacy portion of the exam be standardized according to guidelines that truly measure an applicant's literacy in areas related to survival and employment, not just his ability to read or spell domain-specific vocabulary from such fields as governmental organization, constitutional law, and American history. Concepts and facts such as these are important to residents of this country and should be evaluated as such—as concepts and facts—not as spelling words. Therefore, we advocate also the standardization of the history and civics content of the legalization/citizenship exam for both applicants for citizenship and applicants for permanent residency. A list of 100 questions, drawn up by an educational institution for INS, could be distributed to educational institutions for curriculum planning, translated into the language of legalization and naturalization applicants and given to INS examiners as a basis for testing. This would insure the identification, study and testing of the relevant concepts and facts needed by every resident of the United States.

Ultimately, the responsibility for certifying applicants should be transferred from INS to America's educational institutions. This would have several advantages:

First, INS would be freed from the burden of monitoring educational programs and administering tests—tasks outside the realm of its responsibility and expertise;

Second, through officially recognized access to American educational institutions, the newly-legalized and the naturalization applicant would be better mainstreamed into American life and thought.

Finally, education and testing for legalization and citizenship could be left in the hands of those educational theorists and practitioners who best understand this complex process and the variables that affect it.

Concerns for appropriate monitoring of ESL/Citizenship classes: My professional experience as an educator indicates that successful learning requires, among other things, a partnership between (1) the students themselves, and (2) their teachers and the educational agencies that plan and monitor the learning process.

In light of this, I am concerned that the proposed regulations which allow INS to monitor non-SLIAG funded ESL/citizenship classes for temporary residents will (1) negatively affect the learning milieu, that is the willingness and the ability to learn of the students due to their "institutionalized" fear of INS, (2) provide no guarantee of the quality of education for these temporary residents due to the lack of expertise of INS regarding curriculum testing and teaching, (3) create inconsistency between SLIAG-funded and non-SLIAG-funded classes in the nation, and (4) generate more confusion and misunderstanding on the part of the new Americans about the fairness and consistency of the American naturalization system.

Therefore, I urge you to advise the INS to ask federal or state educational agencies which are equipped with unquestionable professional expertise to monitor the English/citizenship classes for legal temporary residents.

Legalization is an American program: The newly legalized immigrants are new Americans. The IRCA/Legalization Program is an American program, conceived by Americans for new Americans. This American program requires the participation of American organizations at all levels of all sectors of American life. I appreciate Senator Simon and the CCHR/IRCA Unit for organizing this public forum. Illinois should set an example in effectively implementing this American program, which should involve the active participation and cooperation of the legalization applicants themselves, U.S. and state legislators, INS, HHS and other federal agencies, IDPA, the Illinois State Board of Education (ISBE) and other state organizations, CCHR and other city departments, social services agencies, community-based organizations, and all educational institutions which include, of course, the City Colleges of Chicago.

In Illinois, IDPA/Naturalization Section, ISBE, CCHR and the Chicago Committee on Immigrant Protection have done an impressive job in planning for legalization programs—Phase II, and in conducting various public forums with community-based organizations similar to this one. We urge you to take actions to see that INS regulations be expedited, and federal SLIAG funding be approved at an appropriate level for Illinois so that the rights of the newly legalized residents will be protected and the welfare of Illinois residents will not be negatively affected by the bureaucratic delay of the federal government.

I am optimistic that meeting the challenges in the second stage of legalization will give us valuable lessons in planning for future American immigration and naturalization policies.

Thank you.

Sheila Brady, Program Director

I would like to make some comments on the educational component of the second phase of the legalization procedure.

The proposed regulations stipulate that the Immigration and Naturalization Service (INS) has the responsibility for monitoring the English as a Second Language (ESL) and Civics programs to be provided for new immigrants. To our knowledge, the INS is not an educational agency, has not run educational programs, and has no expertise in this area. As such, it does not appear to be the appropriate body to assure a quality educational program.

There is a second problem which I will delineate. Research shows that the best providers of educational services in immigrant communities are community based organizations (CBO's). These organizations function in the heart of the community; they are convenient; they provide a caring atmosphere and personalized learning; they fulfill multiple needs; they have the confidence of the people.

In the eyes of the people, the CBO's are their friends; however, the INS is the enemy, no matter what one's immigration status. The INS is the arm of the government which raids factories, herds people together for deportation, imprisons children, and breaks up families. If CBO's offer educational services with the INS as the monitoring agent, many immigrants would not feel comfortable in attending; and under these circumstances, many CBO's will not be willing to offer the educational services needed for these communities.

One recommendation, and it has been echoed across the country, is that the monitoring function for the educational program be subcontracted to other entities—state educational agencies or primary contractors. This would be an adaptation that would help to assure quality education. People must feel "confianza" or trust in an organization to come to it for learning. I think it is the idea of Congress to welcome these new immigrants and to offer them the opportunity to integrate themselves into this culture in an atmosphere free from fear and intimidation.

Next, I would like to speak to the content and testing components of the ESL/Civics program. Because the period allotted by law is really very short for learning a second language, we approve the regulation that candidates may qualify by showing they have completed 30 hours of a 60-hour course in a recognized program. We also agree with the criteria for language achievement of Section 245 a.1(t): "Minimal understanding of ordinary English means an applicant can satisfy basic survival needs and routine social demands. The person can handle jobs that involve following simple oral and very basic written communication." Many applicants will far exceed these minimal requirements. But since much of the immigrant community is older, and has not had the opportunity to pursue education or perhaps even to become literate in their own language, we feel that the interpretation of this requirement is realistic and enlightened.

We find a contradiction, however, between the laudable attitude evident in the definition of minimal English knowledge and the requirements for literacy and citizenship tests outlined in Section 245a.3(b)(4)(iii) A and B: "An applicant's ability to read and write English shall be tested by excerpts from one or more parts of the Federal Textbooks on Citizenship"; and with regard to civics testing, "The test of a petitioner's knowledge and understanding of the history and form of government of the United States shall be given in the English language. The scope of the testing shall be limited to subject matter covered in the revised (1987) Federal Textbooks on Citizenship and to the review questions provided at the end of each chapter."

First—the history and form of government of the United States are far too complex to be answered in minimal English. Second—the area of testing—any part of the Federal Textbooks on Citizenship—is far too broad. I doubt that any of us here today could respond to every section of these texts, and certainly not in a foreign language. Too, these texts are written at a high educational level which will not have been reached by many of the applicants.

We feel that if these regulations are not amended, there will be great possibilities for abuse and, at best, great inequities in testing. We suggest that testing in civics be done in an applicant's native language, and further—that a basic curriculum be offered in U.S. history and government in a format accessible for study, perhaps 50 questions and answers signaling that information most essential to understand this country and the functioning of its democratic system. Again, this basic knowledge would be exceeded by most, but would offer the base line concepts which every new immigrant, at any educational level, must know.

TESTIMONY OF RICHARD REEDER, EXECUTIVE DIRECTOR, POLISH WELFARE ASSOCIATION, CHICAGO, IL

First of all, speaking on behalf of the Polish immigrant community whom my agency serves, I want to thank Senator Simon for his sponsorship in the Senate of the bill that was recently enacted that allows Polish nationals to adjust from their Extended Voluntary Departure status to the status of temporary resident. Since late March of this year, more than 650 people made this adjustment in the Chicago area alone.

During the first phase of the legalization program, more than 6,600 Poles became legalized in the Chicago metropolitan area. Poles, to a much greater degree than Hispanics, utilized the Qualified Designated Entities (Q.D.E.s). The two Polish Q.D.E.s, the Polish Welfare Association and the Polish American Congress, legalized about 3,600 people. When you count the Poles that were legalized by the Chicago affiliates of national organizations—Catholic Charities, Travelers and Immigrants Aid, and World Relief—the number rises above 4,000 total. Thus more than 60 percent of the Polish filings in the Chicago area were through Q.D.E.s.

What this represents is a tremendous trust between the legalization applicants and their community organizations. People feel a sense of connectedness with these organizations.

The Polish Welfare Association received a grant from the Joyce Foundation to determine our legalization clients needs and interests regarding the second phase of IRCA. Polish Welfare sent out 1,000 surveys to legalization clients. 526 people responded. Some of the results of this survey are as follows:

18 percent of the respondents rated their English speaking ability as good. 36 percent rated themselves as fair; and 46 percent rated themselves as poor.

85 percent of the respondents marked that they need the second phase classes to be scheduled for evenings and/or Saturdays.

98 percent of the respondents rated their knowledge of American government and American history as poor.

78 percent of the respondents expressed a preference for the American history and government component of the second phase class to be taught in Polish.

On June 21, 1988 Polish Welfare began a second phase class. Although we do not have a formal contract with the State, we wanted go get our clients enrolled in a course of study as quickly as possible. Our teacher's qualifications for the class and the curriculum are consistent with the recommendations of the INS consultant's report for second phase. We will be beginning a second class in two weeks.

We are hoping that Mr. A.D. Moyer, the INS District Director, will allow these hours to count as part of our clients total hours in their certified course of study.

Once again, I want to thank you, Senator Simon for your support and interest in the plight of not just Polish, but all immigrants, to our great nation.

Respectfully submitted.

TESTIMONY OF CHICAGO METROPOLITAN SANCTUARY ALLIANCE

Thank you for this opportunity to present written testimony regarding the second stage of the legalization process.

There are an estimated 80,000 Central Americans living in Chicago. The vast majority of them are undocumented, having arrived after the cutoff date of 1982. Within the legalization process, their needs are not being addressed.

Asylum rates for Guatemalans, despite the Guatemalan government's abysmal record on human rights, was 3.6 percent in FY 1987. The acceptance rate for asylum seekers from El Salvador was 3.7 percent. We have received no assurance that rates have gone up since then, despite the worsening human rights situation in both countries.

The Reagan's administration's policy in El Salvador has resulted in a vacuum of power in the political center in recent months, and the increasing polarization has resulted in a rise in death squad activities. The Sanctuary Alliance telex network receives alerts about disappearances, tortures and beatings on a constant basis. Eight years and $3 billion tax dollars in aid to the Salvadoran military has only put us in danger of creating another situation like we endured in the early 'eighties, where entire populaces suffered unendurable abuses of their right to life and freedom.

The Guatemalan military, on the other hand, continues to move displaced peasants into development poles and re-education camps. Given food, light and huts in a "model village", the peasants must participate with the Army in "civil patrols" and engage in a campaign aimed at re-orienting the hearts and minds of the peasants toward respect for the military and fear of the "subversivos": those teachers, clerics, health workers and union organizers who have worked for human rights in one of the poorest nations of the Western hemisphere. The Guatemalan refugees living in Mexico will not return to their homeland until the model villages system is erased. Despite their lack of food, clothing and housing in Mexico, they are fearful that life in those villages will destroy their culture and deny them any hope for their ability to create their own destiny.

Thousands of towns in Guatemala are organized into "communities of resistance" which are in constant flight through the mountainous countryside. They have been doing their own health work, teaching their own children, and avoiding the army for years, and their numbers are increasing. In the cities, union organizing is being repressed and an opposition paper was recently shut down because of death threats against the publishers. Mayor Young of Atlanta has decided against training Guatemalan police, after having considered the human rights record of the country.

This is a short background on the situation in Guatemala and El Salvador. While the situation is not as desperate as it was in the early 'eighties, abuse of human rights is on the rise. It is the feeling of the Chicago Metropolitan Sanctuary Alliance, then, that this is not the time for refugees from Central America to be deported. On the contrary, both Guatemalans and Salvadorans must be granted asylum until such time as there is peace and stability in their homelands.

Your support for the Moakley-DeConcini bill indicates sensitivity to the plight of Salvadorans, and yet Moakley-DeConcini does not go far enough; it sets up requirements that asylum-seekers from other countries do not have to meet.

Perhaps our main objection to Moakley-DeConcini, however, is that it does not address the needs of Guatemalans living in exile in this country. Guatemala has always maintained a more hidden war, supported with far fewer U.S. tax dollars than El Salvador's civil war, but it has been no less devastating to the 440 Indian villages which have been wiped off the map, the 200,000 orphaned children, and the families of the 100,000 who have been killed or "disappeared". We urge you from your position of leadership in the Senate to take strong steps toward the granting of Extended Voluntary Departure to Guatemalans.

Threats to I.N.S. raids will not encourage Guatemalans to return to their homeland—their lives are threatened to a greater extent in Guatemala than they are threatened here by the I.N.S. What will encourage them to return home is peace in their country. In the meantime, they need protection under the law, not harassment by it.

The Supreme Court ruled in 1987 that applicants for asylum need show only that "persecution is a reasonable possibility", not that it is likely. Based on what we know of the random and indiscriminate violence in their country, most Guatemalans are refugees under this ruling, qualified for that protection under the law.

We rejoice with those who have made it to the second stage of legalization. We ask you to remember those who were left out of the first stage and will continue to be condemned to life in the world's shadows unless we can open our hearts to them in that American tradition of generosity and concern for human rights.

As a community of faith, we ask that God's blessings be on your work as you consider those who have been deprived their rightful place in the world.

Sincerely,

Rev. Paula R. Bidle.

NEW JERSEY TOURNAMENT OF CHAMPIONS

● Mr. LAUTENBERG. Mr. President, I rise to honor the New Jersey Tournament of Champions. Founded in 1972, this organization promotes athletic competitions for special education children and is the only program of its kind in the United States.

The New Jersey Tournament of Champions' philosophy is to provide meaningful athletic competition with the belief that through athletics, development of physical skills and cognitive skills can contribute to a positive self-image, thus, enabling the young person to experience a more fulfilling life.

By encouraging participation in athletics; learning disabled, as well as orthopedically handicapped children have an opportunity to compete in an area that many have never experienced success in before. This participation enables them to explore, learn to win, and to compete even without winning.

The children are able to use their potential by emphasizing their ability, not their disability. The program also involves family members and is a meaningful way for them to encourage their children to experience a new challenge, thus enriching all their lives.

I commend these outstanding young people for their courage, determination, and sportsmanship. Their parents, teachers, and coaches deserve recognition as well for their encouragement and guidance.

Congratulations to the many individuals who have worked tirelessly for this worthwhile program. I extend my warmest wishes for the continued success of the New Jersey Tournament of Champions and to the fine young people whom this worthwhile program has benefited.●

DEFENSE BILL VETO STRATEGY

● Mr. KASTEN. Mr. President, 2 weeks ago we had an informative floor debate regarding the Defense Authorization Conference. I think the result of this conference is a substantial incentive for the President to veto the authorization.

The issues in dispute include arms control, reductions to strategic defense initiative funding, and what many consider a misguided approach to strategic modernization.

This week the Washinton Times featured an article by Ambassador Kenneth Adelman providing an excellent argument for a Presidential veto of this measure.

I request that this article be entered into the Record.

The article follows:

Defense Bill Veto Strategy

If Ronald Reagan doesn't want the Dukakis administration to begin now, while he's still in office, he should veto the defense authorization bill pronto. And if Mr. Reagan wants a Bush administration later, he should blast this bill as embodying Michael Dukakis' views more than his. A rousing veto message would catapult defense into a major campaign issue, which it should be.

The politics here are clear. So as not to offend, Democrats decided not to inform. They crafted a party platform pallid if not pap, with its sing-song advice that we "neither police the world nor retreat from it" and be "neither gun-shy nor trigger-happy." Polonius sounded wiser.

These Democratic defense ditties disguised their real defense designs, which became plain in this bill.

That's why 19 out of 21 Republicans on the House Armed Services Committee, along with most Republicans on that Senate committee, assailed the legislation. And that's why the Republican Platform Committee would be left high and dry—having no differences to draw with Democrats on defense—if Mr. Reagan lets the bill become law.

The mertis here are clear, too. This bill again slashes overall defense spending, by 2 percent after inflation. It's Washington's best-kept secret that the U.S. defense budget actually declined four out of the eight Reagan years. Dukakis delegates defeated a call for defense cuts in Atlanta, but his alies did just that when given the opportunity in Washington.

The Strategic Defense Initiative also is on the butcher block, cut for the first time below last year's level. House Democrats bragged how they "dramatically rewrote the SDI, slashing funds for space-based defenses" and left "by far the smallest increase [overall] since the SDI program began." They echo Michael Dukakis by boasting. "In essence, that takes the stars out of 'star wars.'"

This chain-saw massacre of SDI—along with defunding its promising spaced-based interceptor research from the $300 million requested to $85 million—should be enough to send Mr. Reagan into orbit.

More damage is done to prime strategic programs. These restrictions could, in the words of Defense Secretary Frank Carlucci, "delay the deployment of a survivable Peacekeeper ICBM"—a missile Mr. Dukakis deeply dislikes and Mr. Reagan proudly promotes—and leave "us without any viable mobile ICBM program" at all.

Finally, the bill mandates a study on how to ban tests of missiles in a depressed trajectory. Then it slaps on a moratorium for such tests, without waiting for the study results or for the president to propose this notion, if sensible and verifiable, to the Soviets.

Its bad enough for Congress to accept an arms control offer by the Soviets, as on nuclear testing. It's worse for Congress to make its own offer to the Russians. Doing so, as Mr. Carlucci writes, "constitutes congressional interference with the constitutional responsibility of the executive branch to conduct foreign policy."

This bill broadcasts what the Democrats hid from view in Atlanta: a desire for unilateral defense cuts. This hurts. It hurts our future security, and it hurts our negotiations in Geneva. As Armed Services Committee member Sen. Pete Wilson, California Republican, said on the Senate floor, "The Soviets were able to gain more favorable concessions from the defense authorization bill this year than they've been able to get in Geneva over the last eight years."

The argument can and will be made that if Mr. Reagan vetoes this bill, defense cuts could get worse in later legislation. That could be true and may fall on receptive ears.

Long accused of being trigger-happy, Mr. Reagan has actually been gun-shy about drawing the veto. He vetoed fewer bills in his first four years than President Ford vetoed in two; Mr. Reagan has vetoed about half the number Dwight Eisenhower vetoed during his presidency.

Should Democrats threaten, or even go ahead and make deeper defense cuts after Mr. Reagan's veto, the president should stand tall and say, "Go ahead, make my day!" For that would make their true antidefense plans even plainer.

Then Vice President George Bush would have the clear-cut defense issue he needs. Then Mr. Reagan could leave office, as he entered it, proud that he, at least, did everything in his power to make America stronger.●

SCHOLARLY SUPPORT FOR AN INDEPENDENT BOARD OF VETERANS' APPEALS

● Mr. MURKOWSKI. Mr. President, on July 11, the Senate engaged in what I believe was a fresh and lively debate on the issue of judicial review of Veterans' Administration decisions.

As my colleagues recall, I offered an amendment in the course of that debate which sought a compromise on this divisive issue. That amendment—based on S. 2292, The Veterans' Judicial Review Act, which I introduced in April of this year—would effectively create an independent Board of Veterans' Appeals to deal with factual issues in claims for benefits, and, at the same time, provide rigorous review in the U.S. Courts of Appeals of VA rules and regulations.

While not adopted, I believe the substantial support demonstrated for my amendment sent a message to the House that, after a decade of disagreement, compromise was indeed possible. My belief was reinforced when, 2 days later, House Veterans' Affairs Committee Chairman Montgomery and Ranking Minority Member Solomon introduced—at the request of the American Legion—H.R. 5039, a bill which takes the same approach as S. 2292: review of VA rules and regulations in Federal courts, review of facts in an independent Board of Veterans' Appeals. I look forward to the results of the House committee's work on this important legislation.

In the course of my work on this compromise, Mr. President, I have always felt that the approach of S. 2292 makes good practical sense: It lets lawyers and courts do what they do best—argue and decide issues of law—and lets an executive agency do what it does best—decide hundreds of thousands of factual cases arising under a very special benefits program. I was pleased that this approach enjoyed the support of the Disabled American Veterans, the Veterans of Foreign Wars, and the American Legion.

I was also pleased with the support S. 2292 received from the legal community, particularly the Judicial Conference of the United States, which speaks for the Federal bench, and Prof. Jerry Mashaw of Yale Law School. These experts concluded that it makes more sense to focus on full utilization of the administrative process rather than simply shifting a large number of cases into the Federal court system. Our goal, after all, should not be procedure for its own sake, but fair decisions for our veterans. Along with these legal scholars, I believe that an independent Board of Veterans' Appeals is a way to reach that goal.

Subsequent to our debate, it appears that other legal scholars are voicing opinions on this important issue.

Today I would like to share with my colleagues a particularly thoughtful piece from the legal community, an article from the spring 1988 issue of the Administrative Law News, a publication of the Administrative Law Section of the American Bar Association. The author is one of the leading legal scholars in the area of Federal disability programs, President Paul R. Verkuil of the College of William and Mary.

In this article, President Verkuil discusses "[t]he question of how best to handle review of disability cases," with particular focus on the VA system. Describing the VA disability program as "an informal, non-adversary system that decides large numbers of cases at low cost," he observes that "it has not been shown to be seriously deficient or error prone." His conclusion as to the place to start echoes the approach of S. 2292:

> An independent, presidentially appointed Article I VA disability court (a reformed BVA, in other words) could do much to improve [the] administrative process, without at the same time burdening the judicial process. On the record administrative appeals with well reasoned opinions could resolve most disputes and focus legal issues for judicial resolution. In this setting, explicit court of appeals review only of legal and constitutional claims would be an adequate and unburdensome first step, since some of that occurs now anyway.

Coming from a scholar such as President Verkuil, I think the idea of an independent Board of Veterans' Appeals is worth considering, particularly if we go to conference on judicial review this Congress. I urge my colleagues to read this important analysis.

Mr. President, I ask that President Verkuil's article be printed in the RECORD.

The article follows:

WHICH ALTERNATIVE?

(By Paul R. Verkuil)

The question of how best to handle review of disability cases casts a broad shadow. At one extreme, it touches on the question of what the courts do best, since if the judiciary devotes time to disability matters it cannot devote time (or cannot devote as much time) to other matters to which it may be better suited. This is the concern of Justice Scalia (expressed to the ABA in February 1987) which has recently been echoed by Judge Breyer (in testimony on April 28, 1988, before the Senate Committee on Veterans Affairs). At the other extreme, it implicates the issue of how well the administrative process decides the matter in the first instance. Indeed, it is that question which should interest us because this Section should live by the credo that getting it right initially is a far superior process to correcting errors in review. We also have an investment in the discussion over whether review by specialized administrative courts might be preferable to review by the generalized federal system.

WHAT HAVE WE LEARNED?

About ten years ago, I participated in a detailed study of the Social Security disability process led by Professor Jerry Mashaw. It was a bottom-up study with empirical and social science components that taught us how disability decisions were actually made. A big problem then (as it is now) was inconsistency between and among administrative law judges in reviewing state disability determinations. Consistency (or uniformity) of result was the elusive goal. Only after achieving uniformity could one approach the question of accuracy, the getting-it-right-the-first-time standard to which effective decision systems aspire. The study suggested earlier face-to-face decisions at the state level, more claimant representation (legal or nonlegal) and the selected use of ALJ panels to overcome the inconsistency inherent in single judge decisions. Mashaw later elaborated on these questions in Bureaucratic Justice (Yale 1983), where he tried to present a system that would "give bureaucracy a human face."

A few years later, I was privileged to be a member of the Council on the Role of the Courts, which sought to formulate an a priori answer to the difficult question of what kinds of cases are best suited to resolution by the courts. The Council approached this answer by cataloging the strengths and weaknesses of the courts as decisional bodies and identifying the kinds of cases that would most benefit from resolution by them. Among its findings were that public benefit cases with repetitive fact situations "not calling for particularized consideration of legal issues in each case" were contraindicated for judicial resolution.

In light of these considerations, the current debate over judicial review of Veterans Administration disability claims deserves our close attention. The VA disability system has long been one of the few government programs administered largely outside the purview of the judicial system. Many would like to keep it that way. But given the push for judicial intervention generally, led in substantial measure by the ABA itself, and the fact that Social Security disability claims are reviewed in the federal courts, it is not surprising that the moment of truth for unreviewed VA cases may be at hand. Before rushing to join that bandwagon, however, this Section should explore the alternatives.

The VA disability program is an informal, non-adversary system that decides large numbers of cases at low cost. Because it is a system free from judicial oversight, it has generated suspicion. Nevertheless, it has not been shown to be seriously deficient or error prone. Claimants are represented (albeit not usually by lawyers but by veterans claims representatives) and the initial decision maker consists of a panel (rating board) with medical and legal expertise. As mentioned above, these are the characteristics (early face-to-face consideration, with representation, and with decisions made by a panel) that were urged as improvements to the Social Security disability process. Claimants are entitled to appeal rating board decisions to the Board of Veterans Appeals (BVA), which also has medical and technical as well as legal expertise. Under current law, the BVA is the last stop, and that abrupt end frustrates some claimants and their representatives.

AN INDEPENDENT BVA?

But the alternative need not be automatic judicial review. Reform of the BVA itself may be a sensible first step. As presently constituted, the BVA is of limited utility to the administrative process. Its decisions are not published and are of no real precedential value. Thus neither claimants nor the rating boards themselves can learn from their errors. The corrective as well as psychological benefits of administrative review are lost in this setting. An independent presidentially appointed Article I VA disability court (a reformed BVA, in other words) could do much to improve this administrative process, without at the same time burdening the judicial process. On the record administrative appeals with well reasoned opinions could resolve most disputes and focus legal issues for judicial resolution. In this setting, explicit court of appeals review only of legal and constitutional claims would be an adequate and unburdensome first step, since some of that occurs now anyway.

Even if the move to BVA independence does not solve all problems of accuracy, consistency and fairness in the award of VA disability benefits, this is still the place to start. There have been no detailed studies showing the VA to be a deficient bureaucracy, and if its shortcomings can be addressed in a relatively modest fashion, that option should be exercised first and its effects monitored. A rush to district court review of facts, as in the SSA disability situation, could burden the courts with cases that are by and large ideally suited for administrative resolution. At this juncture, to do more could have negative consequences for the administrative and the judicial processes. At the same time, a careful empirical study of the VA disability process, similar in scope to the SSA disability study mentioned earlier, should be commissioned. Such a study would go a long way towards understanding the strengths as well as the weaknesses of the informal VA decision process now in place.

A further advantage of experimenting with an independent VA disability court is that it could lead to a more broadly conceived federal disability court down the road. That is too important an opportunity to ignore. The problem with changing the current system of judicial review for the

SSA disability cases is the perception, whether accurate or not, that administrative justice is second class justice. If a disability decision system such as the VA's can be designed to counter that impression, it could well overcome objections to broader applications in the future. The notion that accurate and fair decisions can only be achieved in the federal court is a perilous and costly one in our system. The Section of Administrative Law should be encouraging the ABA, the Veterans Administration, and the Congress to rethink how the administrative process can be made to work most effectively in the disability benefits context.●

ORDER TO PLACE CERTAIN MEASURES ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that, when the Senate receives from the House H.R. 4675, to extend drug abuse prevention activities under the Domestic Volunteer Service Act, and H.R. 4676, to extend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986, both bills be placed on the calendar.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar orders on the Executive Calendar have been cleared on his side: On page 3, under Department of Housing and Urban Development, Calendar Orders Nos. 774 and 775; on page 6, under the Judiciary, Calendar Order No. 797; and on page 8, under Export-Import Bank of the United States, Calendar Order No. 809.

Mr. DOLE. Yes, those have been cleared on this side.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations; that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table, and that the President be immediately notified of the confirmation of the nominees.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Timothy L. Coyle, of California, to be an Assistant Secretary of Housing and Urban Development, vice Stephen May, resigned.

Jack R. Stokvis, of New York, to be an Assistant Secretary of Housing and Urban Development, vice Alfred Clinton Moran, resigned.

THE JUDICIARY

John O. Colvin, of Virginia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office, vice Samuel B. Sterrett, retired.

EXPORT-IMPORT BANK OF THE UNITED STATES

Richard C. Houseworth, of Arizona, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term of 4 years expiring January 20, 1991, vice Richard W. Heldridge, resigned.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, if the Republican leader has no objection, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 843 on the Calendar of Business.

Mr. DOLE. I have no objection.

DESIGNATING THE "MARTIN LUTHER KING, JR., FEDERAL BUILDING"

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3811) to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, as the "Martin Luther King, Jr., Federal Building".

There being no objection, the Senate proceeded to consider the bill.

The **PRESIDING OFFICER.** The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read a third time.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 3811) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMUNITY AND MIGRANT HEALTH CENTERS AMENDMENTS

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2385.

The Presiding Officer laid before the Senate the amendments of the House of Representatives.

Resolved, That the bill from the Senate (S. 2385) entitled "An Act to amend title III of the Public Health Service Act to revise and extend the programs of assistance for primary health care and the program of health services for the homeless, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

SEC. 2. MIGRANT HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 329(a)(1) of the Public Health Service Act (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 329(a)(7) of the Public Health Service Act (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and" at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) PROCEDURES FOR ALTERATION OF DETERMINATION OF HIGH IMPACT AREA.—Section 329(d)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such termination and a reasonable opportunity to offer information with respect to such termination.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section 329(f)(3)(F)(i) of the Public Health Service Act (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) AUTHORITY WITH RESPECT TO EXPANSION OF CENTERS.—Section 329 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(2) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(3) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(4) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(5) in subsection (d)(2), by striking "acquiring and modernizing" and inserting

"acquiring, expanding, and modernizing"; and

(6) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(f) Authorization of Appropriations.—Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $46,000,000 for fiscal year 1989, $48,000,000 for fiscal year 1990, and $50,000,000 for fiscal year 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,100,000 for fiscal year 1989, $1,200,000 for fiscal year 1990, and $1,300,000 for fiscal year 1991.

"(B) The Secretary may make grants to migrant health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) Addition of Patient Case Management Services to List of Provided Services.—Section 330(a)(1) of the Public Health Services Act (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) Addition of Appropriate Health Needs to List of Supplemental Health Services.—Section 330(b)(2) of the Public Health Service Act (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) Requirement of Notice and Comment With Respect to Regulations on Medically Underserved Populations.—Section 330(b)(4) of the Public Health Service Act (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) Requirement of Fees Consistent With Locally Prevailng Rates.—Section 330(e)(3)(F)(i) of the Public Health Service Act (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or changes and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion of Centers.—Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended—

(1) in the second sentence of subsection (c)(1), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(2) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(3) in subsection (d)(2), by striking "acquiring and modernizing" and inserting "acquiring, expanding, and modernizing"; and

(4) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(f) Authorization of Appropriations.—Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $408,000,000 for fiscal year 1989, $423,000,000 for fiscal year 1990, and $437,000,000 for fiscal year 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $19,400,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.

"(B) The Secretary may make grants to community health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

Amend the title so as to read: "An Act to amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers.".

Mr. BYRD. Mr. President, I move the Senate concur in the House amendment with an amendment by Mr. Kennedy, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Kennedy, proposes an amendment numbered 2776.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House Amendment to S. 2385 insert the following:

SECTION 1. SHORT TITLE, REFERENCE TO ACT.

(a) Short Title.—This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

(b) Reference.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. MIGRANT HEALTH CENTERS.

(a) Addition of Patient Case Management Services to List of Provided Services.—Section 329(a)(1) (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and " at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) Addition of Appropriate Health Needs to List of Supplemental Health Services.—Section 329(a)(7) (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and " at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) Procedures for Alteration of Determination of High Impact Area.—Section 329(d)(1)(A) (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)"; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such determination and a reasonable opportunity to offer information with respect to such determination.".

(d) Requirement of Fees Consistent With Locally Prevailing Rates.—Section 329(f)(3)(F)(i) (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion and Construction of Centers.—

(1) Section 329 (42 U.S.C. 254b) is amended—

(A) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(D) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(E) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(F) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 329(f) (42 U.S.C. 254b(f)) is amended by adding at the end the following:

"(7) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a migrant health center or a migrant health program only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) Amount of Grants for Costs of Operation.—

(1) Section 329(d)(4)(A)(i) (42 U.S.C. 254b(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 329(d)(4)(B) (42 U.S.C. 254b(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) Administration of Programs.—Section 329 (42 U.S.C. 254b) is amended by adding at the end the following:

"(i) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resouces and Services Administration.".

(h) Authorization of Appropriations.—Section 329(h) (42 U.S.C. 254b(h)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $48,500,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,000,000 for fiscal year 1990, and $2,500,000 for fiscal year 1991.

"(B) The Secretary may make grants to migrant health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) Addition of Patient Case Management Services to List of Provided Services.—Section 330(a)(1) (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) Addition of Appropriate Health Needs to List of Supplemental Health Services.—Section 330(b)(2) (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and " at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) Requirement of Notice and Comment With Respect to Regulations on Medically Underserved Populations.—Section 330(b)(4) (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) Requirement of Fees Consistent With Locally Prevailing Rates.—Section 330(e)(3)(F)(i) (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion and Construction of Centers.—

(1) Section 330 (42 U.S.C. 254c) is amended—

(A) in the second sentence of subsection (c)(1), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(D) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 330(e) (42 U.S.C. 254c(e)) is amended by adding at the end the following:

"(6) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a community health center only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) Amount of Grants for Costs of Operation.—

(1) Section 330(d)(4)(A)(i) (42 U.S.C. 254c(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 330(d)(4)(B) (42 U.S.C. 254c(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) Administration of Programs.—Section 330 (42 U.S.C. 254c) is amended by adding at the end the following:

"(j) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resouces and Services Administration.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) (42 U.S.C. 254c(g)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $440,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $35,000,000 for fiscal year 1991.

"(B) The Secretary may make grants to community health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

Mr. KENNEDY. Mr. President, I am pleased to offer this amendment to S. 2385, the Family Health Services Amendments of 1988. This legislation reauthorizes the Community and Migrant Health Centers Program. This legislation will provide access to medical care for many of our Nation's poor and low-income citizens. It has already received the support of my colleagues in the Senate and House of Representatives. The amendment I offer today resolves the minor differences between the reauthorization bills introduced on the House and Senate sides.

The Community and Migrant Health Centers have made a significant contribution to the health status of low-income families in a high quality and cost effective manner. Started 23 years ago, as a small demonstration project of neighborhood health centers, the program has grown over the past 20 years into a network of 800 comprehensive primary care health centers, serving nearly 6 million underserved Americans in 50 States, Puerto Rico, and the District of Columbia. There are 120 community health centers in the six-State New England area that have been successful in reducing the rate of hospitalization by up to 50 percent in some cases, while also decreasing their average cost per medical encounter by 14 percent. These centers receive their primary funding under the Migrant and Community Health Centers Program, and also receive support from the National Health Service Corps, Black Lung Disease Program, Maternal and Child Health Block Grant Program, and Urban Indian Health Programs.

At a time when these centers are being asked to provide more services for many national needs, Federal support has diminished. Additional services are needed by pregnant women at high risk of delivering premature or low-birthweight babies, for individuals infected with the AIDS virus, and for a growing number of homeless individuals and families. In fiscal year 1987, community health centers received $420 million in funding, but in fiscal year 1988, support was cut to $395 million. In the decade of the 1980's, the number of families living in poverty or without health insurance has grown steadily and the number of elderly who cannot afford the high costs of medical care has increased. For millions of our most vulnerable citizens, migrant and community health centers are their only potential source of affordable health care. But despite an impressive track record of achievements, because of limited funding, Migrant and Community Health Centers still serve less than one-fourth of the country's 25 million medically underserved residents.

S. 2385 will provide an authorization of $48.5 million for migrant health centers and $440 million for community health centers in fiscal year 1989. Additional authorizations of $1.5 million for migrant health centers and $25 million for community health centers in fiscal year 1989 are provided for the provision of services for the reduction of the incidence of infant mortality.

Changes in current law contained in this bill address the problem of facilities construction and acquisition and administration of the community health center problem. Current law authorizes the Secretary to assist community and migrant health centers in developing medical care facilities that are appropriate for the type and volume of services to be offered by the centers. The Secretary is allowed to make grants for the aquisition or modernization of existing buildings. This authority has proven to be inadequate because it does not provide for the expansion of existing buildings or for the construction of new buildings in those limited circumstances where there are no medical care facilities in the area to be served by the center—or the existing medical care facilities are not available for acquisition—and other existing buildings cannot be modified to serve as medical care facilities.

The bill, as amended, would provide new authority to the Secretary to make grants for the expansion of existing buildings and for the construction of new buildings in certain limited circumstances. The Secretary could make a grant for construction if the Secretary determines that (1) a particular center would not have appropriate medical care facilities by acquiring, modernizing, or expanding the existing buildings in the area in which the center needs to be located, and (2) the center has made reasonable efforts to raise the necessary construction funds from other public and private sources. It is expected that this new construction authority will be needed in few cases, but that in those cases it will be essential if health care services are to be provided.

The bill, as amended, contains a Senate provision requiring that grant and contract decisions be made by the central office of the Health Resources and Services Administration. This provision is intended to assure that final grant and contract decisions are made in the central office. The regional offices would continue to perform their current functions, except that they would make recommendations for final action to the central office of the Health Resources and Services Administration.

In conclusion, I wish to express my appreciation to Senator HATCH and the other members of the Committee on Labor and Human Resources and to the members of the Health and Environment Subcommittee and their staffs for their hard work on this legislation. S. 2385 continues Federal support for public health programs of proven effectiveness that are directed to needy populations. I urge quick and favorable consideration of this important legislation.

Mr. HATCH. Mr. President, I am pleased to join Senator KENNEDY in supporting S. 2385, the Community and Migrant Health Centers Amendments of 1988. This measure reauthorizes some of the most important programs in the Public Health Service for providing access to health care for our medically underserved. In addition to providing for significant increases in the authorization levels for community health centers, migrant health centers and other programs, this legislation makes several important changes to increase our efforts to combat infant mortality and to improve access to health care in frontier areas.

Community Health Centers [CHC], Migrant Health Centers [MHC], along with the National Health Service Corps, are the principal Federal health service programs for medically underserved populations and medically underserved areas of the country. During fiscal year 1988, 540 CHC's will provide primary care services to approximately 5.25 million medically underserved persons; 117 MHC's will provide care to approximately 470,000 migrant and seasonal farmworkers and their families. Of those served by CHC's and MHC's, it is estimated that 60 percent are poor, 58 percent lack any form of health insurance, over one-third are children under the age of 14, and over one-third are women of child-bearing age.

Both the CHC and MHC programs make signifiant contributions in the fight to reduce infant mortality in the United States. Sadly, though, infant mortality continues to be a problem in this country, but it is one that can be prevented if we do a better job of coordinating services as well as providing prenatal and perinatal care to women. The good news is that the United States is first in the world in birth weight specific infant survival rates. Yet, at the same time, our Nation ranks 17th in the world in its overall infant mortality rate.

So how can we explain those two conflicting facts? First, we have the best health care system in the world. An infant born in a hospital in this country has a better chance of survival, whatever its birth weight, than it would if born anywhere else in the world. But, we also have too many babies born prematurely and at low birth weights. The simple fact is that a baby born at a low birth weight is not as likely to survive as one born at a normal weight. In fact, two-thirds of all infant mortality can be attributed to those infants born at low birth weight.

Fortunately, low birth weight is largely preventable by providing proper nutrition and prenatal care and, at the same time, decreasing alcohol abuse, drug use, tobacco use, and the number of teenage pregnancies.

The Community and Migrant Health Centers Amendments of 1988, S. 2385, addresses several of these issues. It establishes a new program to coordinate with other prevention efforts—prevention efforts which can reduce the number of low birth weight babies in this country.

It also provides increased funding for Community Health Centers and Migrant Health Centers which provide prenatal and perinatal care to women. This provision is similar to legislation introduced by Senators KENNEDY, QUAYLE, and myself which passed the Senate earlier in this Congress.

S. 2385 is especially important to my home State of Utah, where the rate of decrease in its infant mortality rate has slowed. The legislation specifically targets resources for those States which have suffered recent increases or which have infant mortality rates higher than the national average.

In addition, this bill recognizes that some areas of our country—frontier areas—have health care problems which are different from urban or rural areas. Frontier areas account for 45 percent of the total land mass of the United States. An estimated 3 million individuals, or 1 percent of the total population, reside in frontier areas, yet less than one-tenth of 1 percent of the total physicians service these areas.

This bill will increase the availability of health care provided through Community Health Centers for these areas of the United States which have fewer than six people per square mile, areas where many health needs are currently being left unaddressed. Again, this measure has particular significance to my home State of Utah where a large portion of the State qualifies as a frontier area.

It has been a pleasure to work with Senator KENNEDY and Senator QUAYLE on this legislation, and I look forward to its expeditious enactment. Infant mortality is a health problem that affects our entire Nation, but it is one problem for which the cure already exists.

It is my hope that S. 2385 will help us achieve an objective we all share—the health birth of babies who will be the next generation of Americans. In addition, by continuing our support for the community health centers and migrant health centers in this country, I hope we can continue to improve access to the medically underserved of our Nation.

I would like to make one technical point before we vote on this legislation. The provision on other operation funding includes Federal or non-Federal resources of a restriced or nonrestricted nature which are available to be expended for current operating expenses of the CHC's and MHC's. My understanding is that this legislation in its current form is now acceptable to both the House and the administration. I urge my colleagues to support this important health legislation.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment with the amendment I have sent to the desk.

The motion was agreed to.

S. 2631 PLACED IN SUBJECTS ON THE TABLE

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2631, the Senate drought relief bill, be placed in the Subjects on the Table section on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY

ORDER FOR ADJOURNMENT UNTIL NOON ON MONDAY, AUGUST 1, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders under the standing order on Monday next there be a period for morning business to extend to the hour of 12:30 p.m., that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO MOTIONS OR RESOLUTIONS OVER, UNDER THE RULE, TO COME OVER ON MONDAY; NEXT WAIVE CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over on Monday, and the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the able Republican leader have any further business he would like to transact or any further statements he would like to make?

Mr. DOLE. Only to congratulate the majority leader. I think, if we look back on this week, three appropriations bills, endangered species and child nutrition and the drought legislation, which is very important—it has been an exceptional week and I congratulate the majority leader.

Mr. BYRD. Mr. President, I congratulate the distinguished Republican leader likewise. He shares the responsibility for advancing the program here. He carries his responsibility fully and I could not do this without the cooperation and full support of the Republican leader and I have had that cooperation and full support and I thank him.

On behalf of the Senate I think I would say, on behalf of the administration, that the White House is fortunate to have a leader like ROBERT DOLE. I find it enjoyable to work with him.

ADJOURNMENT UNTIL MONDAY, AUGUST 1, 1988

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously en-

tered, that the Senate stand in adjournment until the hour of 12 noon on Monday.

The motion was agreed to, and at 5 p.m., the Senate adjourned until 12 noon, Monday, August 1, 1988.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 29, 1988:

DEPARTMENT OF STATE

TIMOTHY LATHROP TOWELL, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS ONE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TIMOTHY L. COYLE, OF CALIFORNIA, TO BE AN ASSISTANT SECETARY OF HOUSING AND URBAN DEVELOPMENT.

JACK R. STOKVIS, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

EXPORT-IMPORT BANK OF THE UNITED STATES

RICHARD C. HOUSEWORTH, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM OF 4 YEARS EXPIRING JANUARY 20, 1991.

THE JUDICIARY

JOHN O. COLVIN, OF VIRGINIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, August 1, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, gracious God, of our responsibility to heal the hurts of our world and to help people everywhere. May we take the bread of life that each of us has received, our simple gift, and place that small gift before You to be blessed and to grow for the benefit of all. Keep away, O God, those excuses that keep us from sharing the spiritual bread of life with the lonely, the sick, the forgotten, the needy of every place or background. May Your spirit multiply our weak efforts to become a strong witness to Your love to us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, as the "Martin Luther King, Jr. Federal Building"; and

H.R. 4726. An act to designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building".

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2385) entitled "An Act to amend title III of the Public Health Service Act to revise and extend the programs of assistance for primary health care and the program of health services for the homeless, and for other purposes," with an amendment.

The message also announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 141. Joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day";

S.J. Res. 169. Joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi;

S.J. Res. 248. Joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week";

S.J. Res. 261 Joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month";

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week";

S.J. Res. 272. Joint resolution to designate November 1988, as "National Diabetes Month";

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day";

S.J. Res. 289. Joint resolution to designate the month of November 1988 as "National Hospice Month";

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week";

S.J. Res. 294. Joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day";

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day";

S.J. Res. 298. Joint resolution designating September 1988 as "National Library Card Sign-Up Month";

S.J. Res. 302. Joint resolution to designate October 1988 as "National Down Syndrome Month";

S.J. Res. 303. Joint resolution to designate the month of October 1988 as "National Lupus Awareness Month";

S.J. Res. 306. Joint resolution designating the day of August 7, 1988, as "National Lighthouse Day";

S.J. Res. 312. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week";

S.J. Res. 315. Joint resolution designating 1989 as "Year of the Young Reader";

S.J. Res. 319. Joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week";

S.J. Res. 320. Joint resolution to commemorate the 50th anniversary of the passage of the Federal Food, Drug and Cosmetic Act;

S.J. Res. 322. Joint resolution to designate the week of September 23-30, 1988, as "National American Indian Heritage Week";

S.J. Res. 324. Joint resolution to designate February 1989 as "America Loves Its Kids Month";

S.J. Res. 325. Joint resolution designating the third week in May 1989 as "National Tourism Week";

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day";

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week";

S.J. Res. 330. Joint resolution to provide for designation of September 16, 1988, as "National POW/MIA Recognition Day";

S.J. Res. 332. Joint resolution to designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week";

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week";

S.J. Res. 335. Joint resolution to designate the last full week of October, October 23 through October 29, 1988, as "National Adult Immunization Awareness Week";

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day";

S.J. Res. 342. Joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week"; and

S.J. Res. 345. Joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled".

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar.

The Clerk will call the eligible bill on the Consent Calendar.

JOHN W. BRICKER BUILDING

The Clerk called the bill (H.R. 4410) to designate the Federal Building at Spring and High Streets in Columbus, OH, as the "John W. Bricker Building."

There being no objection, the Clerk read the bill as follows:

H.R. 4410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building located at 200 North High Street, Columbus, Ohio, is designated as the "John W. Bricker Building".

SEC. 2. REFERENCE

Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John W. Bricker Building."

With the following committee amendment:

Strike out all after the enacting clause and insert:

H.R. 4410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building located at 200 North High Street, Columbus, Ohio, shall be known and designated as the "John W. Bricker Federal Building."

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John W. Bricker Federal Building."

The committee amendment was agreed to.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building at Spring and High Streets in Columbus, OH, as the 'John W. Bricker Federal Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BUECHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *July 29, 1988.*

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received form the White House at 2:45 p.m. on Friday, July 29, 1988 and said to contain a message transmitting two revised deferrals of budget authority now totalling $610,581,549.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

REVISED DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-219)

The **SPEAKER** laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of Friday, July 29, 1988, at page S 10411.)

CONGRATULATIONS TO WALTER REED ARMY MEDICAL HOSPITAL AND BETHESDA NAVAL HOSPITAL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I just wanted to take the well to congratulate the leadership at Walter Reed Army Medical Hospital and Bethesda Naval Hospital. I think what they did this weekend was something terribly compassionate.

Mr. Speaker, I would hope that medical faculties all over the country would do the same. They agreed this weekend to allow their psychiatric residents to go into the homeless shelters in the District of Columbia, to give them credit for that, and to help the District provide the mental health services that are so desperately needed by many in those shelters, but which no area can really afford to do adequately.

I think it is a wonderful opportunity to show how the military and the community are working together in this area. I hope that medical schools all over the country would do the same thing in the homeless shelters in their communities.

IT IS TIME TO GET A HANDLE ON PRIVATE FOREIGN POLICY

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOMFIELD. Mr. Speaker, former Democratic Presidential hopeful Jesse Jackson has apparently decided to seek personal negotiations with Iran on the subject of American hostages in Lebanon. The administration has justifiably reacted cautiously.

It is an easy thing for someone who would like to be President to try to get a better deal than the President can. But foreign governments can easily use this as an opportunity to gain political advantage against the United States.

The fact remains that, under the Constitution, the President is the sole official representative of the United States for purposes of conducting foreign policy.

An equally disturbing trend is Members of Congress negotiating directly with foreign leaders over legislation on foreign affairs.

Mr. Speaker, the Logan Act (18 U.S.C. 953) forbids U.S. citizens from attempting to influence the conduct of foreign governments in their relations with the United States. The Act, first adopted in 1799, has never been successfully applied.

In light of all the instances we've had around here of private diplomacy, perhaps it is time to renew the Logan Act. A way must be found to prevent U.S. citizens—be they Presidential hopefuls, Members of Congress, or others—from pursuing private diplomacy against the policies of the administration and the interests of the Nation.

5. LOGAN ACT—PRIVATE CORRESPONDENCE WITH FOREIGN GOVERNMENTS

Partial text of Public Law 80-772 [H.R. 3190], 62 Stat. 744; 18 U.S.C. 953, approved June 25, 1948 (original legislation approved Jan. 30, 1799, 1 Stat. 613)

An Act to revise, codify, and enact into positive law, Title 18 of the United States Code, entitled "Crimes and Criminal Procedure"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title 18 of the United States Code, entitled "Crimes and Criminal Procedure", is hereby revised, codified, and enacted into positive law, and may be cited as "Title 18, U.S.C., §——", as follows:

* * * * *

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, August 2, 1988.

RECORD RENTAL AMENDMENT EXTENSION

Mr. KASTENMEIR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4310), to extend for an additional 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings, as amended.

The Clerk read as follows:

H.R. 4310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RECORD RENTAL AMENDMENT.

Section 4(c) of the Record Rental Amendment of 1984 (17 U.S.C. 109 note) is amended by striking out "five" and inserting in lieu thereof "ten".

SEC. 2. TECHNICAL AMENDMENTS.

Section 109(d) of title 17, United States Code, is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(2) by striking out "copyright" and inserting in lieu thereof "copyright".

The **SPEAKER**. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Record Rental Amendment Act of 1984 made a significant, but limited, exception to the first sale doctrine of copyright law. H.R. 4310 extends the 5-year sunset provision in that act for another 5 years.

In 1984, the Congress determined that this law was needed because people were renting records for a day, copying them, and returning them, thereby unfairly depriving the copyright holder of any royalty on a sale of that record. To remedy this situation, the Congress approved a narrow exception to the first sale doctrine to prohibit the rental of records.

The Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which I chair, held a hearing earlier this year on how that law has been working. The evidence shows that the law has been working as intended, and continues to be justified. While the condition of records—especially those that are rented—may deteriorate rapidly, with a corresponding deterioration in the quality of a copy, this is not true with compact disks, which have become a major market force since the law was enacted in 1984. The advent of the compact disk has therefore made the act even more justified.

The technology in this area is rapidly changing, and certain questions were raised at our hearing about the application of the law to that technology. H.R. 4310 extends the act for 5 years, so that Congress may continue to review this issue.

The Register of Copyrights and the Recording Industry Association of America strongly advocate extension of the Act.

To conclude, I believe that the Record Rental Amendment Act of 1984 is a sound law, that it has worked well, and that it deserves extension. I urge my colleagues to vote to suspend the rules and vote in favor of H.R. 4310.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I speak in support of H.R. 4310, which extends the 5-year sunset provision of the Record Rental Act of 1984—which expires in 1989—by another 5 years.

Prior to the enactment of this legislation, record rental stores made it possible to rent an album for a modest fee, buy a tape on which to copy the album at home, and then return the record to the rental store. Record rental stores existed to derive a commercial profit from the practice of home taping. The result was displaced sales and lost royalties.

The practice of record renting exacts a heavy toll on both the retail marketplace as we know it and the creators and copyright owners whose efforts give birth to the wide array of music available today.

Reenactment of the Record Rental Amendment of 1984 for an additional 5-year period as provided for in H.R. 4310, will continue to protect legitimate record retailers from the unfair competition represented by record rental stores; and will ensure that creators and copyright owners will be compensated for the commercial exploitation of their creative property. It would prohibit commercial record rentals unless otherwise authorized by the copyright owners of the sound recording. The law applies only to commercial rentals and provides for the exemption of nonprofit libraries and educational uses.

The Record Rental Act, which is without opposition, has worked well during its first 5 years and in the interest of fairness and an effective copyright law should be extended as contemplated by H.R. 4310.

I also want to thank Virginia Sloan and Joseph Wolfe whose service on the subcommittee staff is invaluable.

I urge all Members to support prompt enactment.

Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER**. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4310, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to extend for an additional 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings, and for other purposes.".

A motion to reconsider was laid on the table.

☐ 1215

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FAMILY HEALTH SERVICES AMENDMENTS ACT OF 1988

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 2385) to amend title III of the Public Health Service Act to revise and extend the programs of assistance for primary health care and the program of health services for the homeless, and for other purposes.

The Clerk read as follows:

Senate amendment to House amendments: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE, REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. MIGRANT HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 329(a)(1) (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 329(a)(7) (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and" at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) PROCEDURES FOR ALTERATION OF DETERMINATION OF HIGH IMPACT AREA.—Section 329(d)(1)(A) (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)"; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such determination and a reasonable opportunity to offer information with respect to such determination.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section

329(f)(3)(F)(i) (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion and Construction of Centers.—

(1) Section 329 (42 U.S.C. 254b) is amended—

(A) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(D) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(E) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(F) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 329(f) (42 U.S.C. 254b(f)) is amended by adding at the end the following:

"(7) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a migrant health center or a migrant health program only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) Amount of Grants for Costs of Operation.—

(1) Section 329(d)(4)(A)(i) (42 U.S.C. 254b(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 329(d)(4)(B) (42 U.S.C. 254b(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) Administration of Programs.—Section 329 (42 U.S.C. 254b) is amended by adding at the end the following:

"(i) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

(h) Authorization of Appropriations.—Section 329(h) (42 U.S.C. 254b(h)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $48,500,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,000,000 for fiscal year 1990, and $2,500,000 for fiscal year 1991.

"(B) The Secretary may make grants to migrant health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) Addition of Patient Case Management Services to List of Provided Services.—Section 330(a)(1) (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) Addition of Appropriate Health Needs to List of Supplemental Health Services.—Section 330(b)(2) (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) Requirement of Notice and Comment With Respect to Regulations on Medically Underserved Populations.—Section 330(b)(4) (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) Requirement of Fees Consistent With Locally Prevailing Rates.—Section 330(e)(3)(F)(i) (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) Authority With Respect to Expansion and Construction of Centers.—

(1) Section 330 (42 U.S.C. 254c) is amended—

(A) in the second sentence of subsection (c)(1), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(D) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 330(e) (42 U.S.C. 254c(e)) is amended by adding at the end the following:

"(6) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a community health center only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) Amount of Grants for Costs of Operation.—

(1) Section 330(d)(4)(A)(i) (42 U.S.C. 254c(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 330(d)(4)(B) (42 U.S.C. 254c(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) Administration of Programs.—Section 330 (42 U.S.C. 254c) is amended by adding at the end the following:

"(j) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

(h) Authorization of Appropriations.—Section 330(g) (42 U.S.C. 254c(g)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $440,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $35,000,000 for fiscal year 1991.

"(B) The Secretary may make grants to community health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER. Is a second demanded?

Mr. TAUKE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. TAUKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House is S. 2385, as amended, the Community and Migrant Health Center Amendments of 1988.

Allow me to give a brief legislative history of this bill.

The Senate passed S. 2385 on June 13, 1988. On June 28, 1988, the House passed a similar bill, H.R. 4503, by voice vote. Subsequently, the House amended S. 2385 with the text of H.R. 4503 and sent S. 2385, as amended, to the Senate with a request for a conference. The Senate took no further action on the bill, but did ask for a meeting. In meeting with members of the Senate Labor and Human Resources Committee, the House appointed conferees were able to resolve all differences with bipartisan support in both the House and the Senate. Rather than proceed with a conference committee, the House conference agreed to bring the bill back to the House on the Suspension Calendar.

On Friday, July 29, 1988, the Senate amended the House amendment to S. 2385 by voice vote. The Senate amendment before us represents the bipartisan agreement worked out by the House conferees.

Mr. Speaker, the Community and Migrant Health Centers programs are the centerpiece of our Nation's effort to provide primary health care to medically underserved areas. In conjunction with the National Health Service Corps, these two programs are carefully targeted to reach the most vulnerable citizens who have little or no access to reasonably priced primary health care services.

In addition to this basic role, it is the Community and Migrant Health Centers that the Congress has looked to when there has been a crisis with health care delivery. When unemployment was high and people lost their health insurance in 1983, when the numbers of homeless people began to rise, and when we saw little improvement in infant mortality rates, the Congress provided funds to Community and Migrant Health Centers to address the new health care needs.

Now with the number of uninsured individuals and families rising to record levels, I believe it is imperative that we maintain and expand these two programs.

S. 2385, as amended, provides the necessary authorizations for fiscal years 1989–91 for grants to the Community and Migrant Health Centers as well as for the continuation of the infant mortality initiative through the centers which was begun last year.

In resolving the differences between the House and the Senate bills, the House conferees agreed to accept two provisions from the Senate bill that I want to explain.

This bill, as amended, contains a Senate provision requiring that grant and contact decisions be made by the central office of the Health Resources and Services Administration [HRSA]. This provision is intended to assure that final grant contract decisions are made in HRSA's central office. By retaining this authority in the awarding of grants and contracts, and by monitoring the implementation of those grants and contracts, the central office can assure that national program goals and requirements are consistently followed by all 10 HHS regions.

The regional offices would continue to perform their current functions including working closely with health centers and their communities and with State and local governments. Regional offices are in the best position to assure that all interested and responsible parties are coordinated, and that local needs are being met. Under the bill, as amended, the only major difference for the regional offices would be that they would not make the final decisions on grants and contracts, but instead would make recommendations to the central office of HRSA.

The other provision involves the authority to construct new facilities for Community and Migrant Health Centers.

Current law authorizes the Secretary to assist Community and Migrant Health Centers in developing medical care facilities that are appropriate for the type and volume of services that are offered by the centers. In carrying out this authority, the Secretary is allowed to make grants for the acquisition or modernization of existing buildings. This authority has proven to be inadequate because it does not provide for the expansion of existing buildings or for the construction of new buildings in those limited circumstances where there are no medical care facilities in the area to be served by the center—or the existing medical care facilities are not available for acquisition—and other existing buildings cannot be modified to serve as medical care facilities.

The bill, as amended, would provide new authority to the Secretary to make grants for the expansion of existing buildings and for the construction of new buildings in certain limited circumstances. The Secretary could make a grant for construction if the Secretary determines that: First, a particular center would not have appropriate medical care facilities by acquiring, modernizing, or expanding the existing buildings in the area in which the center needs to be located; and second, the center has made reasonable efforts to raise the necessary construction funds from other public and private sources. It is expected that this new construction authority will be needed in few cases, but that in those cases, it will be essential for health care services to be provided.

This bill has strong bipartisan support. I urge all Members to join in supporting this important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the Subcommittee on Health and the Environment in supporting the reauthorization of the Community and Migrant Health Centers programs and the grant program to reduce infant mortality. The version of the bill before us today will enhance the operations of the health centers and improve the prevention-oriented, primary care services provided to otherwise medically underserved populations. The number of people in this country who have no health insurance is too high. It's an unfortunate fact that in rural areas the rate of uninsurance is even higher—15 percent higher in fact. The Federal programs reauthorized by this bill are the only Federal programs designed to help the rural uninsured. This bill represents a compromise that has been worked out with the Senate. It was passed in the Senate by unanimous consent on Friday, July 29.

The Migrant and Community Health Centers programs are the primary Federal programs designed to assure that health care is provided to medically underserved areas of the country, particularly to our rural States, and to medically underserved populations. In fiscal year 1988, these programs served an estimated 5.25 million urban and rural residents and 470,000 migrant and seasonal farm workers.

In addition to reauthorizing these programs, the bill establishes a separate initiative to reduce the incidence of infant mortality. Both community health centers and migrant health centers will be eligible for these grants and the Secretary is instructed to give priority to those areas in which there is a substantial incidence of infant mortality or there is a significant increase in the incidence of infant mortality.

These programs deserve our support. Currently, there are approximately 37 million uninsured Americans. These programs represent a credible and important effort to ensure that these individuals receive adequate health care. As the founder and cochairman of the House rural health care coalition and as a member of the National Commission to Prevent Infant Mortality, I am keenly aware of the vital role these programs play in meeting the health care needs of rural Americans and of pregnant women and children. For these reasons, I urge my colleagues to join me in supporting this bill.

Madam Speaker, I yield back the balance of my time.

Mr. WAXMAN. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mrs. SCHROEDER). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendment to the House amendments to S. 2385.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments to S. 2385 was concurred in.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION REGARDING IMPEACHMENT OF ALCEE L. HASTINGS

Mr. EDWARD of California, from the Committee on the Judiciary, submitted a privileged report (Rept. No. 100-810) on the resolution (H. Res. 499) impeaching Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida, for high crimes and misdemeanors, which was referred to the House Calendar and ordered to be printed.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

Mr. ENGLISH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4699) to amend title 5, United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish data integrity boards within Federal agencies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied either (A) by verification in accordance with the requirements governing such Federal benefit program, or (B) by verification in accordance with the requirements of paragraph (2).

"(2) Independent verification required by paragraph (1)(B) shall include independent investigation and confirmation of—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use,

"(C) the period or periods when the individual actually had such asset or income, and

"(D) any other information used as a basis for an adverse action against an individual.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, until 60 days after such individual receives a notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings. Such opportunity may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the 60-day notice period required by such paragraph.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4) A Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. The Board may waive the requirements of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Notice of the appeal must be provided to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement investigations.".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed to produce background checks for security clearances of Federal personnel or for foreign counterintelligence purposes;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or any agent thereof, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to and oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552a(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL" in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 6, 7, and 8 of this Act shall take effect upon enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCANDLESS. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from California [Mr. McCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the purpose of the Computer Matching and Privacy Protection Act of 1988 (H.R. 4699) is to regulate the use of computer matching conducted by Federal agencies or using Federal records subject to the Privacy Act of 1974.

Computer matching is an audit technique used to compare different lists in order to determine if the same individual is on both lists. Matching is typically used to establish or verify eligibility for benefit programs, to recover delinquent debts, or for similar activities. The goals of computer matching programs are certainly admirable.

But in the last few year, it has become clear that matching can be overused or misapplied. The first congressional review of computer matching was done in 1982 by Senator WILLIAM COHEN. Those hearings, and additional hearings held by Senator COHEN and by the Subcommittee on Government Information which I chair, have demonstrated that some regulation of the matching process is needed.

That is what H.R. 4699 does. It regulates the way in which Federal computer matching is conducted by adding a few new requirements to the privacy Act of 1974. The bill establishes a uniform administrative process, requires verification of data, and sets due process standards to protect the rights of individuals affected by matching.

Many of the provisions of H.R. 4699 will be familiar. The due process and verification provisions are similar to exisiting requirements that were passed in 1982 as part of the Deficit Reduction Act. H.R. 4699 makes these rules uniform by extending them to all matching programs involving Federal agencies or Federal records.

In addition, the bill establishes an administrative process for the approval of computer matches. H.R. 4699 provides that computer matching involving Federal data can be conducted only pursunt to matching agreements entered into by the agency providing data and the agency receiving data. Matching agreements must specify the purpose and legal authority for the matching program, describe the nature of the match and the expected results, include procedures for notifying individuals affected by the match and for verifying information, and describe how the records will be protected.

The bill also requires each Federal agency involved in a matching program to establish a Data Integrity Board composed of senior agency officials. The Boards will generally oversee the use of computer matching by agencies. This will include reviewing and approving matching agreements, programs, and activities; evaluating compliance of matching programs with applicable requirements; reviewing the continued justification for matching; and providing guidance.

The bill also requires that information resulting from matching programs be independently verified before adverse action can be taken. Individuals must be given notice and an opportunity to contest findings resulting from a match.

Finally, the bill gives OMB oversight responsibilities for issuing uniform guidance to agencies. This is consistent with existent OMB functions under the Privacy Act. The bill also makes a few minor and technical changes in existing Privacy Act requirements.

There is one small change in the bill as reported by the committee. We discovered a problem with the effect of the legislation on certain tax refund offset programs. The amendment makes it clear that these programs can continue without interference.

Madam Speaker, H.R. 4699 is a carefully crafted and well-balanced bill. It will accomplish its purpose simply and without any complex regulations or bureaucracy. It will regulate computer matching but allow matching to continue to be available in the fight against waste, fraud, and abuse.

A companion bill (S. 496) passed the Senate last year without dissent. Senator COHEN deserves much of the credit for this legislation. We took his bill and made some modest improvements. H.R. 4699 passed the Government Operations Committee in June of this year without dissent. I urge my colleagues to support the bill.

□ 1230

Madam Speaker, I reserve the balance of my time.

Mr. McCANDLESS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman from Oklahoma has done an excellent job explaining the bill. I will not be redundant.

Computer matching is a valuable management tool. It enables agency managers to discover—and correct—abuses in Government programs. These abuses typically cost the Government money. We must, therefore, use this tool to safeguard the integrity of Government programs.

Like any tool, however, computer matching must be used properly. H.R. 4699 is designated to standardize the rules regarding computer matching. The procedures established by the bill will help prevent the tool itself from being misused. These procedures are reasonable.

I'd like to take this opportunity to express my appreciation to Subcommittee Chairman ENGLISH. Both sides of the aisle worked closely on this legislation. While the subcommittee considered the bill, several issues developed that needed attention, and together we were able to resolve the "glitches."

As a result the final product is a good one. As evidence of this, H.R. 4699 passed both subcommittee and full committee without dissent.

Madam Speaker, I recommend that the House pass H.R. 4699.

Madam Speaker, I have no requests for time and I, therefore, yield back the balance of my time.

Mr. ENGLISH. Madam Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 4699, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ENGLISH. Madam Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideraton of the Senate bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. McCANDLESS. Madam Speaker, reserving the right to object, I will not object. I feel that the action being requested by the gentleman from Oklahoma [Mr. ENGLISH] is a good one and I recommend it to the body.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1987".

SEC. 2. MATCHING AGREEMENTS.

(a) IN GENERAL.—Subsection (b) of section 552a of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (11),

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(13) to a recipient agency or non-Federal matching entity pursuant to a written matching agreement under subsection (o) of this section.".

(b) MATCHING PROGRAMS.—Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—Prior to disclosing any record which is contained in a system of records to a recipient agency or non-Federal matching entity for use in a computer matching program, a source agency and the recipient agency or non-Federal matching entity shall enter into a written agreement specifying—

"(1) the justification, purpose, and legal authority for conducting the program;

"(2) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(3) procedures for notifying upon application and periodically thereafter—

"(A) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(B) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, and holders may be subject to verification through matching programs;

"(4) procedures for verifying information produced in such matching program as required by subsection (p);

"(5) procedures for retention and destruction of records created by such matching program;

"(6) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(7) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal matching entity, unless authorized by the source agency with the terms of the authorization;

"(8) procedures governing the use of the records provided by the source agency for use in a matching program including procedures governing return to the source agency or destruction of the records used in such program; and

"(9) information on assessments that have been made on the accuracy of the records that will be used in such matching program.

"(p) Verification and Opportunity To Contest Findings.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal matching entity, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until such agency or entity has independently verified such information. Subject to the requirements of this subsection, such independent verification may be satisfied by verification requirements governing such Federal benefit program.

"(2) Independent verification required by paragraph (1) shall include verification of—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal matching entity, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, until such individual has been notified by such agency or entity of its findings and has been given an opportunity to contest such findings. Such opportunity may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program.

"(q) Sanctions.—Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal matching entity for a matching program if such source agency has reason to believe that the requirements of subsection (p) and any matching agreement entered into pursuant to subsection (o) are not being met by such recipient agency or entity.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) Notice in Federal Register.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal matching entity, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) Report to Congress and Office of Management and Budget.—

(1) In general.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended by striking out "system of records" and inserting in lieu thereof "system of records or matching program".

(2) Clerical amendment.—The heading of such subsection (r) is amended by inserting "or Programs" after "Systems".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) Data Integrity Boards.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, including any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairperson of the Data Integrity Board.

"(3) Each Data Integrity Board shall perform the following functions:

"(A) review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, and agency agreements, and assess the cost-benefits of such programs;

"(C) review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures and for compliance with applicable laws, regulations, and agency agreements, and assess the cost-benefits of such programs;

"(D) compile an annual report to the head of the agency and the Office of Management and Budget on the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board; and

"(iii) the matching of records as a source agency or recipient agency under programs not covered by this section or described in subparagraphs (A) through (E) of subsection (a)(8);

"(E) serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) provide interpretation and guidance to agency components and personnel on the requirements of this section with respect to matching programs;

"(G) review agency recordkeeping and disposal policies and practices with regard to matching programs to assure compliance with this section; and

"(H) review and coordinate privacy training programs for the agency's personnel.

"(4) Each Data Integrity Board shall maintain such staff as necessary to carry out its functions specified by this subsection. Such staff shall include persons designated by the head of the agency as responsible for implementation of this section.

"(5) The Director of the Office of Management and Budget shall annually consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D).".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with a set of non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements, by applicants, recipients, beneficiaries, or participants for, or providers of services with respect to, financial assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with a set of non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which cannot be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed by a source agency in which no records are matched outside such source agency or any component thereof, unless those matches involve a comparison of the source agency's personnel or payroll records with the records of a federal benefit program administered by that agency;

"(iv) matches performed subsequent to the initiation of a specific law enforcement investigation by an agency or component thereof, which performs as its principal function any activity pertaining to the enforcement of criminal laws, for the purpose of gathering evidence for a prospective law enforcement proceeding against named individuals;

"(v) matches of tax information pursuant to section 6103(d) of the Internal Revenue Code of 1986; or

"(vi) matches performed to produce background checks for security clearance of Federal personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal entity' means any State or local government, or agency thereof, partnership, corporation, association, or public or private organization receiving records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency or any State or local government, or agency thereof, which discloses records contained in a system of records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered by the Federal Government, or any agent thereof, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

MOTION OFFERED BY MR. ENGLISH

Mr. ENGLISH. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. ENGLISH moves to strike all after the enacting clause of the Senate bill (S. 496) and insert in lieu thereof the provisions of H.R. 4699, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4699) was laid on the table.

GENERAL LEAVE

Mr. ENGLISH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on the bill, H.R. 4699, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Madam Speaker, as I have over the course of a few years and with due respect and with all respect, I have addressed the House and my colleagues under the general rubric of "My Advice to the Privileged Orders." I evoked the memory of a great American revolutionary patriot Joel Barlow who was one, if not the, chaplain, for George Washington's armies.

But on top of that he was a great pamphleteer, the equal in my book to Tom Paine, as well as a poet, a versist, who wrote great tracts such as his Columbiad in which he anticipated what turned out to be the great internal struggle that divided our countries in such a bloody civil war as the Civil War of 120 years ago.

In these appeals to my colleagues, I have arranged what I considered to be the vital issues confronting us as legislators as well as just plain ordinary American citizens.

I have offered, to each one of the criticisms that I have made, a series of recommended legislative acts or resolutions.

In the course of this role—and it is one that actually while making use of this great privilege known as special orders which as the rules provide enable a Member of a numerous body an opportunity to extend after all legislative business has been completed or any previous special orders approved to extend over issues that during limited debate, which is a necessity in the course of conducting the business of a multiple body such as the 435 Members of the U.S. House of Representatives, you must have a limitation on debate.

So, these special orders provide a Member, after asking for unanimous consent, to address the House up to 1 hour.

During the course of these presentations and particularly during the advent of the Reagan administration, I have expressed profound concern as to the constitutional viability of our system if it is to endure and perdure in the time honored and accepted tradition that we have inherited where we have three organs of government, the basic organs of government that are equal, separate, and independent. We reached the day and time when through a concourse of events the societal development throughout the world in the era of electronic instantaneous communication, in an era in which transportation has shrunken the size of this globe, and an era in which by almost acceptance we have almost imperceptively accepted the doctrine that we must have a supreme commander, that we have to have some unitary power, in this case the office of the Presidency, which will override, will be supreme to and exceeding in power that of the other branches of government including that which article I of the Constitution places as the first and foremost, which is the Congress of the United States, or the elected representatives of the people.

So, that what I am going to discuss now is a continuation of something I touched upon last week and the week before last and one which, in 1981, particularly in 1982, with the Reagan's announced plans from its very inception through Alexander Haig who was Secretary of State at the time that Central America in particular, Latin America in general, would be the first and foremost order of priority, that the administration in the words of Secretary Haig, considered this the site of an East-West confrontation; that incursions were being made of a Communist nature if not inspired certainly invoked in the name of Marxist/Leninists and with the supposed help and the accused help of Cuban Communists or even Russian or Soviet.

The history of this now seems ancient history but I can recall when in 1981 I took the floor and announced that plans were in the making for an actual invasion of Nicaragua. In 1982 we had one of the most unusual and infrequent secret sessions of the House of Representatives supposedly to receive a briefing from the CIA. I refused to attend on the basis that there would be nothing told this Congress that could not be afforded to have been reported to all of the American people, and in the words I used on the House floor in considering the motion to adjourn in camera—that is in secret session—I said that we should open the doors and all the windows and invite general America because the CIA was not about to tell us the real facts which it had for some time obscured and hidden and not reported either to the Congress, and in some cases, to the President.

Last week the Washington Post had a headline. About a day or so later, the New York Times reported the same contents of that headline or front page story in an inside page, to the effect that the President sanctioned and had approved a covert action against General Noriega.

Well, that intrigued me. In the first place, how can anything be covert if it is on the front page of the leading Northeast newspaper of our country? Certainly there is something wrong.

□ 1245

But this has been the whole dreary subject, the whole dreary record this has been ever since the inception of the obsession of this administration with Central America on an ideological basis, apparently and ostensibly guided by such people as the then Ambassador to the United Nations, a rather malevolent woman, in my book, named Jeane Kirkpatrick, who immediately, upon her assumption of that post at our U.N. legation in New York, traumatized it by firing all of the experienced diplomats, some of whom had been there for years, and instead named ideologues and clones, including the one who is there now, of all things—and it is unbelievable to me—the Deputy Secretary of State for Inter-American or Latin American affairs, Elliot Abrams. Even though he had no background whatsoever and no preparation whatsoever, Kirkpatrick brought him in, strictly on an ideological basis, because he happened to be the son-in-law of Norman Podhoretz, who happened to be the editor of the Commentary and the man who brought Jeane Kirkpatrick to President Reagan's attention to begin with.

Now, this is the man who is sitting in this awesome position, and I think this dreary record, this record of bankruptcy of our country and of this administration's use of power in Latin America should be sufficient to cause us, especially those of us in the Congress, to ask, just where are we? Where are we heading? Where have we been? What have we wrought? What disasters have we now made or are now in the process of making? What happened to bring about this notice that the President was going to sanction some kind of covert action against Noriega?

In the first place, just going into a little bit of history, going back to 1981, this administration and some components of our armed forces decided, after the 1980 failure of the rescue of the hostages in Iran, with the disaster in the desert, that the military would have to develop its own equivalent of the CIA, because as is always the case, when the military, through some consequence, fails, there is always somebody to be blamed. Kaiser Wilhelm's great German Army of World War I, was not supposed to be defeated by anybody; it was invincible, so when it lost, it was blamed on treason. They said somebody had betrayed the German Volk and the great Wehrmacht, because there was no army on the face of the globe that could match the Wehrmacht.

When Hitler raised his armies and they suffered defeat, none of the generals ever said it was anything but miscalculation on the part of Hitler—and this they said afterwards—and those who were loyal to Hitler blamed it on treason against him, and this time they blamed the Jews. The said the international Jews were to blame.

But in our case the idea became rooted in the minds of some men, and that happened to be men such as Gen. Richard Secord. Colonel North was there on the Turkish border, and Secord was one of those who was coordinating that fateful disaster.

So it had to be the fact that the CIA had either refused or had been unable to give them the necessary intelligence they needed for that very intricate operation. Those are imponderables, as to what would have happened. If it had succeeded, if the helicopter had not run into a C-130, we do not know what would have happened. No one will ever know.

But these are the things we ought to be looking at. The thing we ought to be looking at is what happened since then within the intricacies of these defense components or compartments. With the advent of the Reagan administration, we have acted with vengeance, and I can sum up simply what has happened. From the very beginning of the Reagan administration, built into it since 1981, in the inner recesses, the inner sanctums, we have had such things as the Department of the Army, just as in one case, with secret teams, accountable really to nobody but themselves and maybe one select member of the Joint Chiefs, who might have said, "Well, we do have to have a special intelligence assistance operation." So they created ISA, the intelligence support activity. But at no time was there any attempt made to even advise some of the structural hierarchy in command in the Army, much less coordinate with such intelligence agencies as the CIA.

Also it is a coincidence that beginning in 1981, we will remember that in Panama the head of state was General Torrijos, and he died along about May or June 1981 in a still mysterious helicopter crash. Next in command was his intelligence chief, Gen. Manuel Antonio Noriega. Now, there are those who say certain things about that, and Jeane Kirkpatrick called General Torrijos a Castroite. So obviously, something was happening. In our intelligence agencies there is nothing indicated but what Torrijos was considered maybe not acceptable. As a matter of fact, he died and Noriega came into power. Soon after that there was a struggle. but there was some distrust of Noriega.

So the special operations team within the Army—and we have the Army Intelligence No. 470 in Panama—made an attempt to then conduct surveillance on Noriega. Well, that was covert action. But at no time was this ever coordinated with the CIA, who in the meanwhile for years had used Noriega as their special agent or sort of a man who would advise them of things that pleased the CIA to know or things that at least they were anxious to know.

So without the quick readiness team or the ISA component advising anybody, they invaded Noriega's home, planted bugs, and conducted surveillance illegally, never once advising the CIA, who in the meanwhile had a very close relationship with Noriega. As a matter of fact, the CIA had had Noriega on a payroll the equivalent of the salary that we pay our President, $200,000. Noriega collected the measly, paltry sum that Panama pays, and he had three or four luxurious homes, yachts, and everything that a prince would have. But all of that was with the connivance and the cheek-by-jowl association with the CIA.

In the meanwhile, not having found anything really in any way damaging or of any real intelligence purpose, the Army made a decision, those who knew, because, remember, even to this day there are such things as dummy companies or corporations set up by active duty members of these covert organizations within the Department of the Army who have been able to shorcut the usual budgetary system where there is no accountability to the head man in that particular division, so that the commander in chief of that division or the commanding officer may be totally ignorant of all of this. And so is the Congress, because it is done in such a way that there are what they call black budgetary jobs. They are not on record where we can trace them, unless it is done as one gentleman by the name of Steven Emerson has done in a recently published book entitled "Secret Warriors." And because I think it is important, I am going to refer to that and extract some excerpts from this publication. The main thing is, as he points out, the Army's compartments or intelligence branches were never told of the CIA's relationship with Noriega, and vice versa.

Why is it that after he was supposed to have disappeared at the beginning of this year, 1988, he is still in power? Could this have something to do with it? Why is it that there is very little discussion and the pertinent committees in our Congress have not taken note of the fact that our old friend, Tongsun Park, of all people, is back in the District of Columbia? And in what role? He is the agent for Noriega of Panama. And they were going down last December to have a private meeting, together with ex-Admiral Murphy, with Mr. Noriega.

Now, it is obvious to anybody that has known anything from reading what is printed in Spanish in Latin America, Central America, South America, and in offshore areas that down there—and this is something that we Americans just do not realize—there are two governments. We cannot expect a man like Noriega, who has been dealing in this cheek-by-jowl relationship with the CIA, to think that some emissary like Abrams is representing the United States Government, because down there south of the border, beginning with Mexico, the CIA is considered the other United States Government, and the one with more credence and more power than, say, the Ambassador. And why should they not? They know well that the Ambassador is unaware of things. In El Salvador, for instance, I think that we and the proper committees of this House of this Congress have a bounden obligation to look into what I am about to say, and that is that a plot to kill our Ambassador in 1984, in San Salvador, the capital, was foiled only because the would-be assassin's bomb, the bottled bomb or whatever we might want to call it, exploded and hurt him. Incredibly, that man was flown in a Department of Defense plane to my district, to Fort Sam Houston, to the Brooke Army Medical Center, where he received treatment for I forget how many weeks, with a bill of $78,000 that the American taxpayer picked up.

□ 1300

This was a guy that was out to kill our Ambassador; Pinkerton was our Ambassador's nane at the time. But it happened to be that he was a crony of D'Aubuisson, the guy that is now in control, the darling of our right-wingers in and out of Congress, a great personal friend of my colleague, the gentleman from New York, more recently a candidate for the nomination of the Presidency in the Republican Party, also widely known and since the assassination of the archbishop of Salvador as the head of the death squads, and still is.

How can that be? The only reason is this dichotomy in our Government, the absolute, run-amuck and runaway components who in the name of patriotism, in the name of defending our national interests, are betraying the Constitution.

Mr. Speaker, I say Congress has a responsibility. I say Congress has a responsibility to look behind these things. How can we tolerate such attempts on our Ambassadors and the look the other way because it was inconvenient for the powers we have been playing with in El Salvador who are not back in control?

But more recently, what about the plot to kidnap our present Ambassador Corr? Same thing. Nobody is talking about that. That is more recent because the plot again was engineered by those belonging to the military death-squad minded members who now boast contol in El Salvador.

How can that be? I have said since 1982, and the assassination of the archbishop of El Salvador and the murder of five American nuns plus other Americans that all the handiwork of these death squads, the death squads and the people who murdered the archbishop of El Salvador, were working in collaboration with the CIA. Does the mean the CIA knew they were going to assassinate? Maybe they did not know, but they sure had good reason to find out because they were working cheek by jowl with the very assassins of that archbishop as well as with the murderer of the nuns.

How long? How long, my colleagues, will you continue in heedless disregard of what is happening that will impact our future generations to our grandchildren and great-grandchildren in a way that will make us appear really enemies to the millions now south of the border when they wake up and those teeming masses that have been oppressed and suppressed with our help as in Nicaragua with the dictator Somoza? Wake up? They have.

Let me advise my colleague that this is another world. It is not the World of Calvin Coolidge, and the gunboat diplomacy, and the sending of the Marines and the occupations of these countries for year after year until we impose our will. That day is gone, gone forever, thank goodness, for our own sake.

But why? Is it necessary? Was it necessary for Alexander Haig to have proclaimed what he did? I do not think so without at least the United States, as I advocated.

The last year that President Carter was in power, because Carter's presidency that that last year was headed that way, I was saying, "We still have a little time, not much, for the United States to exert its moral, suasive power through the organizations that we ourselves have helped found, but, if we through silence or through omission waive that leadership, something is going to rush into that vacuum."

The House passed this resolution just a matter of a week or so ago. I was one of those that argued against it, voted against it, not because there was any particular political alliance, but because it was something that was going full force with that which we had accepted which was the Arias peace plan.

Just yesterday there were news stories that every one of those surrounding countries disagreed with the United States and its condemnation of the actions taken by the Nicaraguan Government in expelling our Ambassador. As a matter of fact, the record shows that the Nicaraguan regime has been awfully patient, for while we had an Ambassador there proclaiming to the world under international law that we recognize that country as the duly elected government of that country, we were subverting, we were doing everything in our power, both through undercover as well as overt actions, in arming a group illegally in the neighboring country of Honduras in order to invade and destroy that governing body.

But, going back to Panama, because this is where the action is right now—as a matter of fact, I am afraid that there is far more than just covert actions in the making.

Mr. Speaker, I received information some 12 days ago that a good consignment of body bags and coffins had arrived in a military plane to Panama. Now mind you this was right before the announcement that the President had okayed some kind of covert action against Noriega or Panama, whatever you want. The funny thing is that, if this was a leak or a balloon floated up to see how soon it would be shot down, the ones who shot it down instantaneously were the decedents in Panama. Those who are in Panama, they are not hiding out in Miami or wherever, they are in Panama opposing Noriega.

And they said, "Hey, look, this is not the way to do it because all you're doing is solidifying the Panamanian resistance to Yankee domination behind Noriega."

Mr. Speaker, this is what I have argued ever since Castro. Anybody throughout Latin America will tell you that we were more responsible for making Castro have whatever power he has developed more than Castro himself. I remember in 1981 General Haig was blaming Castro for the Salvadoran revolution. The Havana radio was quoting Castro as saying, "Gee, thanks for the compliment. I wish I had something to do with it. I've never met the leaders of the so-called revolutionary groups because there are five different groups in El Salvador."

And this is a thing that I think is resented the most of all throughout the region, the Nicaraguan revolution. The Nicaraguan revolution was indigenous, it was native, it has been in the making for four decades. Castro nor Russia had anything to do with the conquest of the Nicaraguan revolution.

But, when we became determined to undo the junta and those who triumphed, when we gave aid and comfort to those that wanted the leadership and did not get it, it is like if some country, such as France, had given aid and comfort to Benedict Arnold. Same thing. These are revolutions that come seething, burgeoning, from the midst of the people. There is no evidence to show that they have been diverted either. In Panama is the issue ideological? Is anybody saying that it was a Communist that put Noriega in power?

So it is about time, my colleagues, we start examining these things. I said in 1982, when it became first reported that there was such a group as what later was denominated as the rebels of the Contras that it was an absurdity. If you have a revolution, if you have an attempt to try to gain the will of the people behind your movement to disestablish an unpopular regime, you do not hide out in a neighboring country. You are working inside of that country like the Sandinistas did. The Sandinistas did not go to Mexico, or go to Honduras or go to El Salvador. They fought the revolution against Somoza right there. And they got, obviously, the hearts, and the minds and the support of the majority of the Nicaraguans, as I am absolutely confident they do even today.

Now, if we want to deceive ourselves, that is one thing. If we want to look at the facts as they are and present themselves, that is another. What I pointed out was that, even if we succeeded in giving enough arms, and material help and even personnel, which we have given to the Contras, and they were able to physically knock out the present heads of the Nicaraguan Government, they would never be able to govern Nicaragua. Only the United States coming in, and occupying and sitting on that country will we hold it, but, even then, I will advise my colleagues that we will have guerrilla war forever and a day, not isolated to Panama, but all up and down that isthmus and down below.

We hear all this talk about, "Well, if the Nicaraguan Sandinistas get Mig's, we will invade." Well, just go across and down to South America; go to Peru. They have over 20 Mig's there. They have more Russian personnel, five times more Russian personnel, in Peru than they have in Nicaragaua.

My colleagues know that it is about time we start realizing that, like in the case of Southeast Asia where our perception was almost of people that were subspecies, we better start changing our opinion also about Latin Americans because that is the view. I have heard the debates here talking as if these are subspecies, unthinking people. They may be poor, they may be ignorant, but they are not dumb. Not any more than the German people after World War I, subjugated, flagellated with peace treaties that were absolutely impossible to fulfill.

I remember. I was 14 years of age seeing pictures of emaciated, blond German mothers lined up with little children clutching to their apron strings, and it said, "German mother in line to receive milk." Then there was another picture of men leaning their heads on an iron rail, and it said, "Homeless, unemployed German men sleeping in a railroad station."

Then what happened? Germany was a scientific marvel in the later period. It was cultured, the most cultured in the world. How could a Hitler have taken root? Well, when you have people that are down and out and nobody seems to give a hoot, and, if the devil incarnate with pitchfork, and tail and horns came and said, "I've got milk for your children, I've got bread for your empty stomachs," they will follow him. It is that simple.

If the Communists, so-called Marxist-Leninists or whatever are the ones who happen to say, "Well, we want to relieve you of your problems," and everybody else is more interested in trying to put somebody in there that will continue the largesses, should we be surprised if all of a sudden there is a revolution? I do not think so.

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It seems like some self-evident factual situation there. The proof of the pudding there is in the elections in Nicaragua in November 1984. All the parties had candidates, the Marxists, Leninists, the Socialist-Labor, Socialists, and, I mean all kinds. It defies my own mind to understand it. All put together, Communists, Marxists, Leninists, Marxists-Leninists, Socialists-Labor, or Socialists, all put together did not even get 6 percent of the vote.

Mr. Speaker, who is in the Sandinista government? Ortega who happens to be president? He is just the president. But those surrounding him are some of the most cultured men you will find in the whole world. D'Escoto—another priest. These are priests. They were in the junta. These are not wild-eyed revolutionary Marxists-Leninists.

If we are going to take this as an indication of where we should go in to destabilize the government, then we ought to go to Europe and start with France where they have a couple of Communists in their cabinet. But that is different. What is different? Our concept, our perception of the Latin Americans south of the border with a European Frenchman or an Italian Communist, where they do have quite a number.

Mr. Speaker, we have to get back to this, but most disturbing to me is the way we have permitted the labyrinth of secret power groups, all of them with the power to involve our country in the most delicate of situations over night, so secret that even their own commanders are not aware of it. Is that good for us? Is it good for the national interest? I do not think so.

Panama—way back in the late 1960's, I was chairman, in 1969, of the Subcommittee on International Finance, and I soon began to be intrigued with the growth, particularly in Panama, of a similar institutional set up as a secret Swiss account system of Switzerland, except I called it the Latin dollar market. At that time everybody was thinking about a Eurodollar market.

I tried to get some statistics through an assistant from the Federal Reserve Board. I got some, but I could not get a complete collection. I was astonished when I discovered that in Panama, as exists today, there is the most elaborate set up for most of our big corporations and other countries' corporations to launder their money and escape taxation than anything the Swiss secret accounts could account for.

In 1970 that Latin dollar market, in my estimate, had reached the point of more than $30 billion, so we can imagine what it would be today, and on the Eurodollar market was estimated to be at the same time less than $100 billion. This may be the reason why there was such second thinking about what to do about it.

Mr. Speaker, what does Noriega know that he probably is using on such leaders as our Vice President of the United States GEORGE BUSH? Because of its secrecy provisions and free-wheeling laws governing the creation of corporations, Panama is used by many foreign countries and individuals to launder money and hide identities of agents through bogus corporations.

I am quoting from the book: "Later in 1985 and 1986, former General Richard Secord and his business partner Albert Hakim," the great gun runner; he is a gun salesman, munitions salesman, and he has no real nationality.

There is an old Latin proverb that says, "The only nationality is the Pecunia, the money, where the money is." That is Mr. ex-General Secord's partner.

They set up a series of dummy companies to hide their covert operations in support of the resupply to the Contras in Panama. Do any of my colleagues think that Gen. Manuel Antonio Noriega does not have all of those facts and is in a position, where, if anything happens to him or does not, they can get advertised to the great embarrassment of some of our national leaders? I think that the whole sorry history originating with these blinded ideologues, so confused, so destructive, in my opinion, of the Nation's best interest, because when we go out to deceive and entangle in deception and in waves of conspiracies, in so doing, subvert the regular processes, particularly our charter of freedom the Constitution of our country. We cannot expect good to come from evil. It never has happened, and it never will.

"As early as 1981, various schemes, some ill-conceived, had been developed to keep tabs on Noriega. That year, for instance, senior officials of the Army's Intelligence and Security Command had agreed to provide Noriega with equipment including cameras and projectors for a new private movie theater so he could entertain his business connections. Although presents to heads of state in countries where major military bases are located are not unusual, the estimated value of the gifts to Noriega from our Army was $85,000" and was not considered business-as-usual.

A plan was hatched by INSCOM, and that is the Army's Intelligence Security Command agents to place a bug in the movie equipment thus relaying to American agents anything shown on Noriega's new projectors. The scheme drew objections of other intelligence officials, that is, within the

Army, however, and was never implemented. Still, Army officials continued to devise new operations in search for the right opportunity to institute them against Noriega, et cetera, et cetera.

Mr. Speaker, in conclusion, not only in this area but even in case of some of the intelligence operations that have been devised perhaps with good intention—but how can it be good if even in trying to carry out these things the very heads that our Defense Department has set up in an orderly procedure to lead these departments are themselves ignorant of what is going on, their command subverted, their leadership ignored or subverted?

I say it is time that we in Congress not only take a look into this instanter but follow through and take meaningful action.

WHO PAYS THE COST FOR OUR FAILURES?

The SPEAKER pro tempore (Mr. Bennett). Under a previous order of the House the gentleman from Georgia [Mr. Gingrich] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to speak today on the topic of the human cost of Democratic failures.

Mr. Speaker, a number of my colleagues, I think, are surprised sometimes by the intensity with which I pursue certain ideas or raise certain issues, and it seems to me on the day after the showing of "The Killing Fields" that it might be useful to talk about the reality of power in Washington and the world, the fact that this is not just a debating society, and that there are real human consequences that we have to take very, very seriously.

Four years ago in May 1984, three Members of the House, of which I was one, read into the Record an essay by Frank Gregorsky, entitled "What Is the Matter With the Democratic Foreign Policy," and it raised a fuss, because we cited specific quotes and the gap between what people said what happened and what really happened.

I am not going to cite specific individuals and go back through that difficulty, but I must say the series of liberal Democrats making predictions about what would happen in South Vietnam and Cambodia, because I think that every American who saw "The Killing Fields" and every American who is familiar with what happened in the massacre of Cambodians, the imprisonment of South Vietnamese, ought to go back and look at what was predicted would happen and ought to look carefully at the difference between the realities that we have learned the hard way and the occasional hopes of those who seem to be engaged in self-deception.

This is important in 1988, because I think that the issue of ethics in the House and the issue of the election this fall both relate to this question. Who pays the price when Republicans fail to insist on a clear-cut debate? Who pays the price when liberal Democrats are allowed to deceive themselves? This comes up on the issue of crime and the question of Governor Dukakis' furlough program for murderers, and Mrs. Barnes, the woman who was raped in Maryland by one of the murderers that Michael Dukakis had allowed to have a weekend furlough, can testify as can her husband who was tortured by that same murderer, that they paid the price of a self-deceiving program which believed that they could furlough murderers and not put people at risk. Who paid the price?

Mr. Speaker, if, in fact, today we were to pass a bill that would guarantee that more black teenagers would be unemployed, no one in Congress would pay that price. But the Congressional Budget Office in a report which has been censored said that the price would be paid by 500,000 black teenagers who would be put out of work by the U.S. Congress. They would pay the price, because they would not be able to find a job. Who pays the price when we allow unethical behavior to occur in the Congress? I would suggest that every citizen in the United States pays that price, because unethical behavior on the part of elected officials is a threat to all of us. It is a threat to our entire process of self-government.

Let us look for just a minute at who paid the price in Cambodia, because "The Killing Fields" is a movie of sickening massacres, of brutal atrocities, and on the left there is sort of a cheerful attitude that says, "Well, those things just happen," and part of my argument is that that is not true, that the world is tough, that there are real dangers, that both in the world market economically and in dealing with dictatorships and Communist dictatorships, in particular, in the world, in terms of military and terrorist power that takes a very realistic, very thoughtful and very well educated approach and an approach that is willing to learn from reality.

Let me cite several liberal Democrats and their projections of what would happen in Southeast Asia. One of them said on June 2, 1970, "And we further believe that when it becomes unmistakably clear that America intends to end its involvement in Vietnam, all contending political factions in South Vietnam will have incentive to make the accommodations necessary for negotiating a political compromise," in other words, if the Americans will get out, everybody will get together, and the wording is perfect: "The accommodations necessary for negotiating a political compromise."

When America got out, is that what happened? Were there any accommodations? Was there any negotiation? Was there any compromise? The answer is no. The North Vietnamese Communist army imposed a military dictatorship, locked up the pro-America South Vietnamese and acted so horribly that 3 million people fled their country as boat people, and 1½ million died in the process. Just plain wrong.

Mr. Speaker, by the way, the same quotes from the same Member can be found today explaining how American weakness will lead Nicaragua Communists to be reasonable. Another liberal Democrat said on March 12, 1975, "If we really want to help the people of Cambodia and the people of South Vietnam, is it not wiser to end the killing? Since most credited analysts of foreign policy admit that the Lon Nol regime cannot survive, won't the granting of further aid only prolong the fighting and the killing?"

Anyone who has ever seen "The Killing Fields" or read the book should read that quote which suggests that if only America will get out, the killing will stop. In fact, of course, once the only democracy strong enough to stop the killing had left, what we ended up with was a massacre of over 1 million Cambodians.

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Mr. Gregorsky went on to say:

> One radical Democrat went so far as to blame the U.S. military for part of the 1968 Hue massacre, a crime of particular viciousness usually ascribed to Communist forces even by antiwar historians:

And he goes on to quote many are saying:

> There is some question as to how many people actually suffer if South Vietnam came under Communist administration. The example is often cited of Hue, which after having been occupied by the North Vietnamese was found to have mass graves with many bodies in them. We had assumed these people had been shot by the North Vietnamese, although a story has surfaced to the effect that our bombing and razing of a great portion of Hue resulted in many deaths and that these victims, too, were buried in the same open trenches.
>
> There is no absolute certainty that there would be a bloodbath. As I have noted, it appears there is a possibility that some of the people buried in the trenches at Hue may well have been killed by American bombs, so many deaths may not be clear evidence in themselves that a bloodbath would ensue.

In other words, this particular liberal Democrat had to blame America for the bodies which virtually every historian agreed were the deliberate acts of the Communists in Hue.

> Perhaps the programmed drownings of boat people later in the decade would meet the radical Democrat's legal definition of bloodbath. It's a fair question for the institutional leader of radical Democrats on foreign policy.

> In the radical worldview, there is no crime by a Communist army or government that can't either be trivialized or blamed on America. There can be no "absolute certainty" that the next Communist regime will do whatever all the others have done in varying degrees.

Mr. Gregorsky goes on to quote another liberal Democrat who said about Cambodia on March 12, 1975:

> President Ford has tried to make this an issue by charging Congress with abandoning an ally. I say that calling the Lon Nol regime an ally is to debase the meaning of the word as it applies to our true allies. We have no defense commitment to Cambodia, and none is claimed by the President. . . . The greatest gift our country can give to the Cambodian people is not guns but peace. And the best way to accomplish that goal is by ending military aid now.

There is a continuing pattern among liberal Democrats of seeing only the United States as dangerous, of arguing that if only we will withdraw, everything will work out, arguing that the only kind of violence that occurs because of the United States. And the liberal Democrats, in fact, use almost exactly the same words today in Nicaragua that they used in Cambodia. Yet the record of The Killing Fields is clearly that real human beings in Cambodia, the estimate is a million, are killed not by America, not by freedom, not by democracy, not by the Pentagon. They were killed by an absolutely outrageous Communist government which was willing to massacre its own people.

Mr. Gregorsky argued in his paper on whatever happened to the Democrats on foreign policy that in fact there is a very clear pattern of behavior, that that pattern of behavior is something that occurs over and over again with liberal Democrats, and that has a tremendous impact on the world at large. That we have to look carefully at the way in which liberal Democrats see the world, and that you can apply that test over and over again.

This is Mr. Gregorsky's argument, and I would suggest it can be applied to Michael Dukakis, it can be applied to the Democratic platform, it can be applied to the Democratic Convention of 2 weeks ago. This is the test of how the liberal Democrats or radical Democrats see the world:

> Taken together, the votes, the speeches, the choice of villains, the terms stressed or ignored, show this view of the world:
>
> (1) There are no evil ideologies or governing systems in the world except for South Africa. Communists are at heart reformers who are too rough in their means. They're not inherently bad, but the U.S. is so clumsy and paranoid in its dealings with Communists that we facilitate or give them excuses for their excesses.
>
> (2) Left-wing totalitarianism is caused by right-wing authoritarianism, and the U.S. makes both worse. We finance the rightists, and make the leftists worse by not competing with the Soviets to finance them. There's always hope that Nicaragua, Vietnam, the U.S.S.R., Cuba, Angola, et al, will behave, if we only treat them as sincere and respectable nations run by people not that different from Americans.
>
> (3) Foreign-policy conflicts are worse off when America plays world policeman. The lesson of Vietnam is that we can't impose our will anywhere; neither can the Soviets, in the long-term. What Presidents sometimes say are "vital interests" are not worth fighting for in any event. To ease world tension the U.S. should maintain a low profile in whatever area it wants to keep influence in.
>
> (4) American military force is only proper to defend the U.S. and (perhaps) a few of its democratic allies from an attack that has already commenced. Threatening force to prevent a feared attack is too risky in almost all circumstances. Force never really settles anything, and if it does, it should not. Even when a victory for freedom is quick and relatively cheap, as in Grenada, it's still wrong, evil, a violation of some principle (usually labeled "noninterventionism").
>
> (5) Political negotiations and military force have nothing to do with each other: Clausewitz, U.S. Grant and Henry Kissinger were wrong. In fact negotiating and force are mutually exclusive. Presidents who subsidize or threaten force prove that they don't want to negotiate. Members of Congress and peace activities who forswear force make the best negotiators because the other side knows no harm will come to them from the U.S.
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> (This worldview is called "Radical" because it's thoroughgoing, comprehensive, fixated on 10% of recent history to the permanent exclusion of the other 90%, and different from anything elective U.S. politics has known in the postwar era. It's not a perfect world but seems more accurate, or at least more neutral than "leftists" or "isolationist." After all, Democrats entering national politics in the 1970's tend not to be statist on price controls, nationalization or starting new programs. And they favor foreign aid and the alliance with Israel.)
>
> Attempts by Democrats at sketching a comprehensive foreign policy ought to be measured by those five postulates. Try it with George McGovern's 1972 convention acceptance speech, or President Jimmy Carter's Notre Dame speech in May 1977.

I would suggest try it with Michael Dukakis and, as I will prove in the next few minutes, you find again and again that Michael Dukakis meets every single one of the tests that Gregorsky sets forth for a radical, or I would just say a liberal Democrat's view of the world, that again and again Dukakis comes out in favor of weakness.

Let me cite, for example, as proof of that, Georgie Anne Geyer's article entitled "An Edge in Foreign Affairs" from last week. She says of Dukakis:

> His resistance to using American power would be so stubborn that he would surely not get us into an Iran-Contra mess.
>
> But virtually every good analyst who has studied him comes quickly to the question of whether he would get the United States into anything at all. "Dukakis sounds coherent when he speaks about foreign affairs," a comprehensive recent article in U.S. News & World Report analyzed recently. "The problem is that his slavish devotion to multilateral action can produce no action at all."
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> One of those still suffering from the scars of the Vietnam War, Mr. Dukakis would not have gone unilaterally into the Persian Gulf, but would have waited for allies who never came; would not have stood up in any way to the Sandinistas in Nicaragua; and still will not admit that it was in great part the renewed American military strength that has brought the Gorbachev-era changes in the Soviet Union.
>
> He has said he might act unilaterally if one country actually "invades" another, but one of the most obvious truths of the post-World War II period is that Marxist movements in countries do not invade across borders. They subvert, organize and take over from within.
>
> The problem is that Mr. Dukakis has virtually no foreign policy experience—and he seems to have little real interest in it. These factors would make him even more vulnerable and deferring than he already is to compelling pleaders like Mr. Jackson and his radical foreign policy agenda. Almost surely we would have a foreign policy even more at the service of special interests than we have now.
>
> Frankly, the Dukakis people speak as though America is not really quite in the world. In his acceptance speech, Mr. Dukakis said, "This election is not about Sandinistas but about creating jobs." But this singularly internalized vision is utterly untenable—and it is dangerous in today's high integrated world, where what happens economically in South Korea, or Japan, or Nicaragua reverberates immediately, even in the grocery stores and factories of Sioux City.
>
> These are going to be crucial years for the United States, and every national problem will be solved in great part in some other country. Paradoxically, it is "conservative" or "moderate" George Bush who would deal most openly and constructively with that world. It is a George Bush constantly fighting that old "wimp" image who would not respond to that world but lead in it.

The point of Georgie Anne Geyer's column is this: How can we talk about the American economy and not talk about the number of bonds sold in New York to the Japanese; how can we talk about the American economy and not talk about the flow of oil from the Middle East; how can we talk about the American economy and not have some sense of the hundreds of millions of dollars we ship overseas, the degree to which our farmers depend on exports, the importance of our being able to deal in a world economy; and the reality that military force, whether it is a terrorist kidnaping of an American somewhere or blowing up an airplane, whether it is the Iranians closing the Persian Gulf, whether it is the Soviets destabilizing some place in the world, that military force is a threat to our prosperity every day. Yet the evidence is both in Gregorsky's paper and in Dukakis' speeches and in the Democratic platform that the liberal Democratic world view of blaming America first is very real and very powerful.

Let me carry it a stage further and quote from an article entitled "Schlesinger Brands Dukakis as 'Viscerally Anti-Military.'" This is from the

Washington Times of July 27. It makes the point, and I quote:

> Democratic presidential nominee Michael Dukakis has imperiled America's defense against nuclear attack by preventing Massachusetts from participating in an emergency communications network, according to former Defense Secretary James R. Schlesinger.
>
> Mr. Schlesinger, who held top Cabinet positions in Democratic and Republican administrations, also pointedly questioned Mr. Dukakis' commitment to national security and his understanding of strategic defense issues.
>
> "His actions in the 10 years he has been governor of Massachusetts and his campaign statements so far make me wonder if he isn't viscerally anti-military," Mr. Schlesinger, who was CIA director and secretary of defense for Presidents Nixon and Ford and energy secretary for President Carter, said in an interview this week.
>
> He said Mr. Dukakis prevented the construction of radio towers in Massachusetts as part of the communications network known as Ground Wave Emergency Network.
>
> Mr. Schlesinger pointed out that the network warns of a nuclear attack and flashes presidential orders to the Strategic Air Command and the North American Aerospace Command in the event of such an attack.
>
> "The special feature of Massachusetts in this whole thing is that, because of Gov. Dukakis' opposition to those radio towers, elements of our strategic force might have trouble receiving their orders if they happen to be situated in New England when a nuclear attack is launched against us," Mr. Schlesinger said.
>
> He also criticized Mr. Dukakis for supporting a ban on all test flights of new missiles.
>
> Mr. Schlesinger suggested, too, that the Democratic nominee confused strategic defense with strategic offense.
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> In objecting to the building of the emergency network's radio towers in his state, he noted, Mr. Dukakis argued in a letter to the Air Force that such a system might encourage "the mistaken belief that nuclear war can be kept under control once it began, thus making national leaders more inclined to let one begin."
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> In dismissing that line of reasoning, Mr. Schlesinger said Mr. Dukakis apparently doesn't understand that "in order to have an effective deterrent, we have to close off the other side's opportunities to neutralize our deterrent with carefully calculated attacks on us.
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> Making a similar point in an open letter to Mr. Dukakis in the Aug. 1 issue of Time magazine, Mr. Schlesinger wrote: "Governor, what deters war is the completeness and integrity of the U.S. deterrent, and secure communications enhance our deterrent. You seem to suggest that the way to deter war is to be unprepared to respond."

Mr. Schlesinger also raised questions both in his Time magazine article and his interview about whether or not Mr. Dukakis "understands both the costs and the foreign policy ramifications of calling for 'conventional defense initiative.'"

The point I want to make is twofold about Mr. Dukakis and the issue of defense and foreign policy. First of all, the Time magazine article by Schlesinger entitled "Your Record Is Not Reassuring" is worth reading by every American citizen before they vote. But I think it raises two questions. The first is here we have a Governor who looks at American national security interests, he looked at a program which has been approved by Republicans and Democrats, in the U.S. Senate, it has been approved by Republicans and Democrats in the U.S. House, it has been signed by the President, it has been recommended by the Joint Chiefs of Staff, and as a Governor he imposes himself to block the program.

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I do not know that America needs 50 different defense policies with each Governor picking the parts they like. Yet both on National Guard issues and much, much, much more importantly, on this issue of the emergency communications network, Governor Dukakis was willing to put his judgment and his knowledge of defense higher than the knowledge either of the Senate Democrats, of the Republicans and Democrats in the Senate and the House, or of the President, or of the Secretary of Defense or of the Joint Chiefs of Staff.

Now I would suggest that if as Governor he thought he knew more than all of those people about defense, it is hard to imagine, as President, how willfully he will act in disarming America unilaterally.

But second, Mr. Schlesinger raises a fundamental question for the fall campaign, because we are not electing just a super-Governor in charge of domestic policy, sort of the Prince of Pork; we are electing the President of the United States, the leader of the free world, the person who will be in the Oval Office next to the nuclear button.

The evidence seems to be fairly consistent that Mr. Dukakis' world view is remarkably liberal, that he is in many ways a unilateral disarmer and that he does not understand the implication of his proposals; that in fact it is quite clear that his proposals would be far more expensive than he thinks they would be and they would be militarily far less effective.

Again, I would suggest the open letter by former Secretary of Defense James Schlesinger in Time magazine on August 1 as a clear explanation of that.

But I thought as an example of how Dukakis could be wrong, as Schlesinger suggests he was, on the reasoning behind his opposition to the Ground Wave Emergency Network, that there is a pattern that comes through over and over again when you listen to Dukakis talk awhile. And that is he is clearly a very, very smart man. There are many, many very smart men in Massachusetts and he is one of them. He clearly has very, very smart advisers. But there is a danger that the last really smart President we had, Jimmy Carter, ran into over and over again. And that is if you are smart enough, you think you know more than you know. There could be nothing more dangerous than a President not knowing that there are limitations to your knowledge.

I thought it was sort of cute the other day in the Washington Post, there was a brief article—this was July 27 on page 8—about Dukakis' knowledge of the Washington subway. It said the following:

> Dukakis, who likes to exhibit his knowledge of obscure subjects, couldn't resist the temptation to expound on the Washington subway. "Don't forget", he said, "that Farragut North on the red line is the closest stop to the White House. I have already checked it out. There are three Metro stops, McPherson Square, Farragut West on the blue and orange lines and Metro Center closer to the White House than Farragut North and McPherson is the closest, just two blocks away.

Now the reason that I mention that, and I will yield to my good friend from Massachusetts, is I thought it was interesting not that—I do not expect the Governor of Massachusetts to know which Metro stop to get off at. I do not think it is frankly very relevant whether or not he knows it. But as a man who will be in the Oval Office in a crisis, making decisions about nuclear war, making decisions that may involve the question of causing a depression in the economy, I thought it fascinating he said this exact quote, "Don't forget that Farragut North on the red line is the closest stop to the White House. I have already checked it out." Well, a man that certain that he always knows is a man who often will not know.

When you are in the White House as the President, not knowing can have extraordinary complications, far worse than walking two blocks to the White House from Farragut North. I will be glad to yield to my friend.

Mr. FRANK. I thank the gentleman for yielding. I had a couple of questions. The gentleman invited us last week if we had some questions to join him.

Mr. GINGRICH. Yes.

Mr. FRANK. I must begin by saying some of what he discusses is of some moment. I think he, just in the previous minute or two, has trivialized the issues enormously. Of course, the same thing can be said of instances when Ronald Reagan and everybody else has been sure of some small fact and been wrong. I think only the gentleman from Georgia would think it worth mentioning.

I want to ask him, though, because last week he was talking about the principle of imputing to the Presidential candidate the views of those around him.

Now I noted that John Sununu, my neighboring Governor of New Hampshire is on the list of possible Vice Presidential candidates of GEORGE BUSH. He may not be picked and I would be heavily against it myself if betting were legal. But he is on GEORGE BUSH's list. John Sununu is the only Governor who refused to repudiate the U.N. resolution that Zionism is racism. He said he was doing it because he wanted to participate in some, I thought, rather ill-advised peace effort. I share the gentleman from Georgia's skepticism that Governors ought to have a significant role in foreign policy. One of Sununu's Republican predecessors, as the gentleman knows, Melvin Thompson, thought that. But I would be interested in the gentleman from Georgia's reaction. I was very disappointed; John Sununu has the right to any view he wants but for GEORGE BUSH to say that he is considering John Sununu for Vice President—he is on the list, he is Vice Presidential material, he has gotten a financial disclosure from from him—I would hope that the fact that he would not repudiate the Zionism-is-racism resolution would have kept him off the list. John Sununu was approached, he is a key surrogate. Under the principle the gentleman from Georgia is suggesting, having as one of your Vice Presidential possibilities a man who would not repudiate the Zionism-is-racism resolution when every other sitting Governor at the time I believe did, that bothers me very much. I would be interested in the gentleman's response.

Mr. GINGRICH. I think the gentleman raises a good issue. First of all, John Sununu is a good friend of mine and I know that the gentleman knows him well. Clearly that would be an issue that, were he to get the Vice Presidential nomination, he would have to deal with very directly. And I think that the Republican Convention would insist that he deal with it directly. I would suggest, though, to my good friend that it ill-behooves him, at a time when Jesse Jackson has been relatively tolerant of remarkable antisemitic comments in Chicago, nobody has suggested that Governor Dukakis, for example, should insist that Jackson repudiate all of the various statements in his home political base which have been overtly antisemitic in the last few weeks. There is an essay as recently as I believe yesterday's New York Times in which Anthony Lewis calls on Jesse Jackson to speak out.

And I would just say that clearly all of us in both parties have to be aggressively concerned about Zionism and racism and the degree to which we have seen the emergence of a virulent anti-semitism across the planet.

I yield to the gentleman.

Mr. FRANK. I would take exception to the gentleman's getting into the "behooving" business with regard to me. I feel very "well-behooved."

Mr. GINGRICH. I stand reprimanded and I apologize for any "behooving."

Mr. FRANK. I think that Jesse Jackson should repudiate the anti-semitism in Chicago. I have been critical of it. But the fact is that Michael Dukakis is not considering any of those Chicago people for Vice President. And the fact is that GEORGE BUSH is considering John Sununu for Vice President despite the fact that he has refused to say that Zionism is not racism.

My point is this: The gentleman's principle of imputing to a Presidential candidate, GEORGE BUSH has also paid tribute to Pat Robertson, he has enlisted Pat Robertson as one of his surrogates. I do not think GEORGE BUSH thinks you can tell a hurricane to go away. I do not think he thinks that "rain, rain, go away" is a serious statement as Pat Robertson does, apparently. The principle the gentleman is adumbrating of imputing the views to the candidate, I think the gentleman does it because Michael Dukakis has not said things that the gentleman feels he can take advantage of, so he finds a whole range of other things. The point is you can do that with any Presidential candidate. And if BUSH is going to be held responsible for Sununu refusing to repudiate Zionism-is-racism but he is still a Vice Presidential candidate, or he is going to embrace Pat Robertson, I think we get off the point.

Mr. GINGRICH. Let me say two things. First of all, Jesse Jackson I believe was at one point on the Dukakis list of potential Vice Presidential candidates. It is certainly fair to say that nobody has ever asked him to repudiate having embraced Arafat, to repudiate having embraced Castro. In fact, Jesse Jackson——

Mr. FRANK. If the gentleman will yield, people have asked him to repudiate that. That is the reason why I and a lot of other people thought he should not have been Vice President and said so. Of course people said he should be asked to change some of those positions.

Mr. GINGRICH. And I would simply say that were Sununu to be nominated for Vice President, he would have to answer those questions. But let me carry this further because I would like to, knowing of the gentleman's wit and speed of thought, I want to get his reaction to this. There is an essay by Charles Krauthammer, I am sure the gentleman saw the other day, entitled "That Speech Wasn't So Great."

Mr. FRANK. If the gentleman would yield, I do want to say this, this is the first time I have seen someone edit a special order rather than deliver it.

Mr. GINGRICH. Well, one does what one has to do.

Mr. FRANK. It is a collection of essays as edited by the gentleman from Georgia.

Mr. GINGRICH. The fact is there are so many fine columnists who have been saying so many interesting things recently that I simply wished to share with my colleagues a potpourri, if you will, of opportunities here.

Krauthammer, in an essay talking about Dukakis' acceptance speech, made a point which Fred Barnes, made at great length and I talked about last Thursday. I will just read one sentence because it is part of why we look to the people around Dukakis to explain to us what Dukakis stands for.

And he says this, now quoting from Krauthammer, "His acceptance speech is now the textbook example of how a liberal delivers a Reagan-era speech in disguise."

Now I would just say, I am frankly intrigued with the degree to which the L-word disappeared, the degree to which tax increases became sort of distant shimmering mirages, the degree to which what you had was a convention where the delegates were clearly much further to the left than the image. I will be glad to yield.

Mr. FRANK. As the gentleman knows, the delegates to the Republican Convention will be further to the right than the image because in American politics there is a self-selecting principle that those who participate most actively in the selection processes tend to be on the Democratic side further to the left and on the Republican side further to the right than the candidates generally are. It is also the case, I would say, by the way, to the gentleman, be a little skeptical of some of those polls. I know I refuse to answer them. My guess is that among those who answered, you did not get a random sample. But the point I want to return to is—and the gentleman has every right to quote all those people and do a kind of lazy man's special order—but the point is this: I think we are hearing about what this delegate thought and that delegate thought. Implicit in that is that there are not statements that the Governor himself made that the gentleman can criticize. The gentleman regrets the fact that Dukakis has not called for a tax increase.

I can tell the gentleman when I engaged Michael Dukakis as a chief executive, my objection was precisely that he would not go for tax increases when I thought they were necessary. His reluctance to deal with tax increases is not a pose recently taken on. It was because, as the gentleman knows I am more sympathetic to tax increases in some circumstances than others are, Michael Dukakis' failure, refusal to do what I thought was necessary was the cause of my having a pretty serious political break with him. So I would dispute the notion that somehow this is a pose only for this convention. I think it is fairly consistent with his political career.

Mr. GINGRICH. Let me ask the gentleman then, and I guess this is part of the same pattern. Dukakis said, and this is from the Wall Street Journal, and I must say that maybe it is, because I was once a history teacher, that is apparently different from being a lawyer or other kinds of professions that you get here, I have always thought that actually quoting directly from the sources was a pretty good idea.

Mr. FRANK. If the gentleman will yield, these are not the sources. Georgie Anne Geyer is not—she is a source of what Georgie Anne Geyer thinks. She is not the source of what Dukakis thinks. These are not sources—I take that back. They are sources, but they are, as the gentleman knows, secondary, and indeed in some cases when we get Time magazine quoting James Schlesinger on Michael Dukakis, tertiary sources.

Mr. GINGRICH. It was an unedited one page letter by Schlesinger.

Mr. FRANK. I apologize; secondary source.

Mr. GINGRICH. Yes. Thank you. So now today we have David Rodgers in the Wall Street Journal, and I want to read from it and then ask my friend a question. He says, "In his sharpest language yet the Democratic presidential candidate compared the Reagan administration to a rotting fish and portrayed himself as a career public servant who could draw better quality people to Government. His more passionate references to scandal in the Justice Department and Pentagon touched a chord in his audiences and in him. The Governor appeared to be playing on the response from the crowds but the same themes have been ingrained in his political history as a suburban reformer. And although his main target remains the GOP rival, Vice President GEORGE BUSH, he showed a greater willingness to fault Mr. Reagan as the 'guy at the top' who must be held accountable for breakdowns in Government ethics such as the Pentagon procurement scandal." Now this is quoting Dukakis, "There is on old Greek saying: A fish rots from the head first. You know, it starts at the top. 1989 is the time to inspire and bring people into the Government," he said later in a brief inteview, "You have got to be somebody who turns people on the public service. I do that."

Now I just want to ask one thing. Now is not there—and I know this is not a Greek term—but is not there a certain amount of chutzpah in a Governor who is refusing to release 200 documents on the New Braintree Prison scandal, running around saying that he will make the Oval Office a center of ethics? Is that sort of a really nice political ploy?

Mr. FRANK. Not even close. If the gentleman would yield to me.

Mr. GINGRICH. I would be glad to yield.

Mr. FRANK. In the first place, I have had differences with Michael Dukakis. He is entitled, based on his record, to talk about an emphasis on morality. I have met few—in fact, in his first term he got into some difficulty I think because he was excessively rigid. There is occasionally an employee of his, as with anybody, who has misbehaved. But he has on the whole an extraordinary record of integrity. There are areas where I would find it harder to defend him on some cases where I disagree. On integrity he is absolutely unassailable. As far as New Braintree is concerned, he is criticized because he wants to build a maximum security prison. You really cannot have it both ways. You cannot portray him as being soft on crime—I think inaccurately—and then criticize him because he is trying to build a new maximum security prison. As the gentleman knows, no one wants a maximum security prison nearby.

There is no New Braintree scandal. No one has alleged, with any degree of substance, any impropriety. The people in the small town do not want a prison, nobody wants a prison. He is trying to build one.

Mr. GINGRICH. Let me reclaim for a moment and I will yield again. It is my understanding that first of all, part of the New Braintree scandal is that two men bought a piece of property for $3 million. Dukakis attempted to get them $10 million for the property from the State; that a local newspaper has filed a lawsuit to force the Governor to release these documents, and that there are some 200 documents which the Governor claims executive privilege on and is refusing to release. Now that is my understanding of the situation.

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Mr. FRANK. Mr. Speaker, let me tell the gentleman this: Some of the documents, as I understand it, that are not being released, have to do with negotiations with people in the town who are willing to step forward and try to help bring the prison there, and they are afraid of the obloquy that will fall upon them from their neighbors. The argument that the State will give them more money is simply not there. The Governor has said he had no knowledge, and no one has contradicted it, about who bought the property and when. These things will be decided in court if there is a dispute about the property.

The 200 documents do not go to any allegation. This is simply a made-up story. There is nothing there. The problem is with the people in the town. This is a tough Governor who wants to build a prison. People do not like prisons. So if it was not that he was building a prison, they would attack him for being soft on crime.

Mr. GINGRICH. No, no.

Mr. FRANK. The 200 documents deal in part, as I understand it, with negotiations about putting the prison there, not covering up any scandal.

Mr. GINGRICH. But as I understand it—and I spent an hour with one of your radio show hosts talking about this, and he was very excited about it——

Mr. FRANK. And he is a man who very much dislikes the Governor.

Mr. GINGRICH. And I talked with people who got the records.

Mr. FRANK. And these are people in the town no doubt who are against the prison. If the gentleman wants to appear as the man who is going to help stop a maximum security prison in Massachusetts, he is entitled to, but he should just not be tough on crime in the same sentence.

Mr. GINGRICH. I do not understand how the gentleman can defend the motion that this Governor who is going to make ethics the center of his oval office will not release 200 documents.

Mr. FRANK. The reason, if the gentleman will yield to me further, is that the documents in question are not relevant to any scandal, but they are documents that deal with private negotiations with private citizens. That is some part of the documents. And I think if a private citizen, not a governmental official, enters into some conversation that says, "Well, my neighbors don't want the jail, but maybe we can make it easier," I do not think it is covering up a scandal to say to them, "We will give you some confidentiality in these discussions."

I understand that those are among the documents being asked for, and I repeat that there is an allusion to a scandal that I believe is nonexistent. There have been people who have been upset about this for well over 1 year or 2 years. They have not produced a shred of evidence that any law enforcement official, Federal or State, wants to look at. As we know, the Justice Department could do something about it, and it would be a crime for a Governor to do that. It would violate Federal law, and I do not see any sign that the Justice Department thinks there is anything to be done about it, and I agree with them.

Mr. GINGRICH. So the gentleman is saying that on the surface the fact that the Governor refuses to release 200 documents, even though a newspaper has filed for them, does not in any sense limit his ability to run around parading his ethics?

Mr. FRANK. Not every document that every newspaper thinks ought to be public should be public, and a public official should be prepared to say from time to time to a newspaper that certain documents need not be made public, because sometimes they are doing the right thing.

Mr. GINGRICH. Since the gentleman is a brilliant elucidator of rationales for Dukakis, let me ask him this, because I am intrigued by it: It is clear that BENTSEN will have a unique opportunity in Texas, since he is able, through his Senate campaign, to spend millions of dollars on voter registration drives, name identification campaigns, turn-out-the-vote, et cetera, which technically the Dukakis-Bentsen ticket could not spend because of the spending limit. So it is clear that in the one State of Texas the Dukakis-Bentsen ticket is going to have sort of a second layer effect of having things happen.

As somebody who has thoughts about reforming the House, does that not sort of bother the gentleman a little bit?

Mr. FRANK. It does. A lot of these inequities do. That is one reason why I would like to extend the principle of public financing. I think when we have these kinds of privately raised funds, problems arise and there are inequities. That particular one is a quirk that no one thought about, and I would think it ought to be changed.

Could I ask the gentleman a question now?

Mr. GINGRICH. Sure.

Mr. FRANK. There is one thing that has puzzled me. The gentleman has in the past been very critical on another subject, the House Ethics Committee. I am wondering about this: The House Ethics Committee, as the gentleman knows, is composed of 6 Democrats and 6 Republicans. The 6 Republicans are appointed by the minority leadership, as I understand it. Now, it is also my understanding that there was unanimity—at least I have not seen any dissent—in the case of the Speaker, and the terms. But the gentleman, it seemed to me, was harshly critical of his 6 Republican colleagues. And I would say, by implication of the leadership that appointed them, at least no one else was disappointed.

Has the gentleman complained to his 6 Republican colleagues? Has the gentleman told them about how disappointed he is with these Republicans and their attempts to carry out their responsibilities, as the gentleman sees it?

Mr. GINGRICH. I have talked to several of them personally, and it is my hope that it can be done within the proprieties. As the gentleman knows, there is a fairly obscure gray area here in terms of what they do and what they feel comfortable talking about what they have discussed in the committee.

Mr. FRANK. But the gentleman sees no gray area here, does he?

Mr. GINGRICH. No.

Mr. FRANK. The gentleman sees gray only when he shaves in the morning, but the rest of the day he sees things in sharp contrast.

Mr. GINGRICH. Yes.

Mr. FRANK. Clearly, the gentleman could tell them how disappointed he is. That criticism that the gentleman makes of the Ethics Committee applies fully to all 12 members, the 6 Republicans as well as the 6 Democrats.

Mr. GINGRICH. I would say to the gentleman two things, since he raised the question. The first is that I have been communicating with my colleagues on the Ethics Committee, both the Republicans and the Democrats. I have sent them a fairly strong letter. I have talked to them in private. I have indicated my concerns about what I thought about the limitations, much more than my concern about Mr. Phelan, who does seem to have a pretty good record.

Mr. FRANK. So the identity of the counsel is no longer an issue?

Mr. GINGRICH. Yes, it seems to me he is a reasonably competent guy.

Mr. FRANK. I appreciate the gentleman's acknowledging that.

Mr. GINGRICH. Yes. The question now is one concerning the terms of the engagement. I have some lawyers looking into that, because I am not a lawyer.

Mr. FRANK. If the gentleman will yield, my understanding is that the chairman of the committee, the gentleman from California [Mr. DIXON], has said, with specific reference to whether he could look into the book sales, that he clearly could. I assume if what the chairman has already said is true, then the gentleman would have no problem with either the terms of reference or with the choice of counsel.

Mr. GINGRICH. No; I have sent a series of letters that I frankly had some attorneys draft, because I am not an attorney, and I said: "What is it a person thoroughly investigating someone should be able to look at?" And we have sent a letter to all the members of the committee. I would hope sometime this week to receive an answer.

The letter raises a series of those kinds of questions. There is the subpoena power and other kinds of power, including reporting power. We adopted, as the gentleman knows, some language from Common Cause. It was Common Cause that felt rather strongly that the independent counsel had to ultimately have the right to report publicly, even though in disagreement with the committee. I think one could make a good argument either way on that. I am not hung up on that. I am looking forward to a response from the committee.

Mr. FRANK. If I am correct then, at this point, the identity of the counsel and the terms seem to be on the way to getting satisfied?

Mr. GINGRICH. Yes.

Mr. FRANK. I would say that I think they ought to be. And I think there is a danger of the elephant stick being used here. That is when we see a gentleman carrying around a stick, and we ask, "What is that for?" And he says, "It's to keep the elephants off the Capitol grounds."

Then we say, "There are no elephants," and the answer is, "Well, the stick works."

I hope we are not going to have a situation where people will take credit for things not having happened that never would happen in the first place. I think that the 12 bipartisan members of the Ethics Committee have been serious about it. I admire them for taking that job. It is a job I would not like, and neither the gentleman nor I think that people should do it, that it should not be done in the House. But that is no criticism of the Members who do it.

Mr. GINGRICH. No; it is a very tough job. And I would say on balance that this is the most difficult investigation that I think the Ethics Committee has ever taken on, because of the sheer power of the Speaker and the legitimate importance of the speakership, without regard to personalities.

Mr. FRANK. Yes.

Mr. GINGRICH. It is a very, very demanding assignment, and I think that the committee on both sides has had to wrestle with it in very serious ways. So, I do think they have to follow very tough standards on this, and I think they have to come closer to following the Common Cause model.

Mr. FRANK. It seems to me at this point that they are doing it well, and I must be honest with the gentleman, I think he jumped the gun criticizing them, because it does not appear to me that the criticisms are going to turn out to be valid.

Mr. GINGRICH. I think we ought to wait and see. I was responding to the initial reports, which, as the gentleman knows, gave a much more limited mandate.

Mr. FRANK. They were in the newspapers.

Mr. GINGRICH. Yes.

Mr. FRANK. Maybe somebody should not have released the documents to the newspapers so prematurely.

Mr. GINGRICH, No, they were apparently the quotes that were given.

Mr. FRANK. I read about the gentleman being critical of Mr. Phelan, whom he now acknowledges will do a reasonable job, and I think he will do a reasonable job.

I think people ought to understand—and I do not think everybody watching this understands fully the arcana, Mr. Speaker, and it is our responsibility to elucidate it for them—that the Ethics Committee is fully bipartisan, with six Republicans and six Democrats, six Democrats chosen by the majority and six Republicans chosen by the minority. If the Ethics Committee were to have voted 8 to 4, with only two Republicans joining the six Democrats, I think people would be more nervous. But since every decision to date has been unanimous, that in and of itself, given the quality of the people on both sides, gives the people some assurance.

Mr. GINGRICH. I would assure the gentleman that one reason I felt comfortable filing the charges originally is precisely that I thought the chairman of the committee would feel it incumbent to try to get a unanimous position over and over again precisely to avoid that kind of an appearance, and so far I think Chairman DIXON has done a pretty darned good job. I might want to be a little tougher, I might want a few nuances in terms of the agreement with the attorney, but overall we see clearly a dramatic change from, say, ½ years ago. They have become much tougher than they were.

Mr. FRANK. We should be clear that, of course, ½ years they were not investigating this particular Speaker.

Mr. GINGRICH. No.

Mr. FRANK. The gentleman is referring to investigations in general. I understand that the gentleman was not trying to mislead anyone, but not everyone understands this.

Mr. GINGRICH. I think this is a fair comment, and the gentleman may or may not want to respond. If we were to look at it as sort of a curve in the reports over the last year, looking at the intensity and the firmness of that committee, I think that some of us who have spoken out and who have offered resolutions would be surprised. As we know, the gentleman from Pennsylvania [Mr. WALKER] at one point offered a resolution and forced a vote on the floor. So I think there has been a steady toughening, and if the standard that applied by the spring had been applied a year ago, that initial report would probably have been very different.

Mr. FRANK. I think that is true, but I do not think it is true only of the Ethics Committee. I think we ought to make this point. I made it yesterday in a show. People said, "Oh, look at 25 years ago when House standards deteriorated." I do not think that is true. I think people today are being called to account for things that they would do routinely 25 years ago, both in the executive and legislative branches. I do not say that critically. I think we have a ways to go on standards.

But I think there has been a general evolution—and I think this is positive—toward tougher standards. I think people who served the executive and legislative branches 20 to 25 years ago would be surprised at the extent to which the standards are higher now than they were then. And they should get even higher.

Mr. GINGRICH. And we are living in a world of change. I look forward to working with the gentleman on a couple of serious reform proposals in the future.

I want to put in one last section from my edited version.

Mr. FRANK. The gentleman may continue with his presentation.

Mr. GINGRICH. I am delighted to have my colleague join me.

I just want to quote one last section from this morning's Wall Street Journal, the editorial by Mark Helprin entitled "Dukakis and Deweyism." He continues to explain the same general pattern about what the liberal Democrats are doing this year. He says as follows:

> The first mistake was for the Democrats to imagine that Jimmy Carter has already prevailed in his grim battle with history. After eight years of Ronald Reagan, a dozen new or incipient democracies in South America, the Philippines, and South Korea; after Russian or proxy withdrawal in process in Afghanistan, Angola and Cambodia, the winding down of the Iran-Iraq War, half-a-dozen treaties and summits with a marvelously chastened Soviet Union; after the longest peacetime economic expansion in American history, record employment and a two-point drop in the unemployment rate, a significant drop in the crime rate, a 12-point drop in the prime rate, and a 10-point drop in the rate of inflation, not to mention tax reform and an economy that has succeeded in making the stock market crash almost inconsequential, the Democrats trotted out Jimmy Carter to say "I told you so,"
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> That they could ignore such strong and fundamental evidence of both peace and prosperity is simply a sign that they look to other criteria in assessing the state of the union—primarily the deficit and various overmanaged and overcooked D.C. scandals. They have to, because it's hard to run against peace and prosperity.
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> Sen. Edward Kennedy said that "we" (meaning, as far as I can tell, he) cannot take four more years of what we've had for the past eight. Certainly four more years of economic growth, high employment, low inflation and peace would be a further blow to the party that has been chasing the sleigh through eight years of bright moonlight and fast horses. The common wisdom is that voters vote their pocketbooks. This is just an ungracious way of saying that the voters vote the fundamentals.

Then, further in the editorial, Mr. Helprin says this:

> The third great flaw in the flawless convention is the very structure of the Democratic ticket. In pursuit of the presidency, the Democrats have mounted a chariot that has three wheels. The left wheel is Mr. Jackson, the right wheel is Lloyd Bentsen, and the middle wheel is Mr. Dukakis. The middle wheel currently is not touching the ground because the moment it makes contact one of the other two wheels will have to lift, and one wing of the coalition will disappear into the night.
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> The candidate himself speaks with such glorious vagueness that he probably deserves to carry California. In 1968 I drove across the Golden Gate with a hitchhiker who joyfully told me that she went to an alternative school. When I asked her what she studied, she was unable to tell me. I pressed, however, until in exasperation she said, "Like, it doesn't matter what we study. Like, the point is, man, it's an alternative school!"
>
> That the candidate hesitates to speak substantively merely illustrates that his party is now living a lie best exemplified by the fact of Mr. Jackson and Mr. Bentsen campaigning for the same slate. Perhaps the idea behind this approach is that those who want Mr. Dukakis to be like Mr. Bentsen will look at Mr. Bentsen and think that it is so, and those who want Mr. Dukakis to be like Mr. Jackson will look at Mr. Jackson and think that it is so. But what if those who want Mr. Dukakis to be like Mr. Bentsen look at Mr. Jackson and think that Mr. Dukakis is like him? And what if those who want Mr. Dukakis to be like Mr. Jackson look at Mr. Bentsen and think that Mr. Dukakis is like him?
>
> My feeling is that if you want to conceal your positions you had better not craft yourself into a riddle, for a riddle invites continual probing. Anyone who lives in Massachusetts, reads the newspapers carefully, or takes what Ronald Reagan says at face value knows that Michael Dukakis is a liberal. He dares not be specific about foreign affairs because this is where his liberalism is most apparent.
>
> If one of the wheels comes off the chariot and the center wheel must touch down, the nation will see a man to the left of Walter Mondale, far to the left of Jimmy Carter, and not too far to the right of George McGovern. Wherein lies the invincibility of that? Especially since the voters do not enjoy hide-and-seek, and may look askance at the many liberals who assume an air of offended innocence and righteous indignation should anyone describe their candidate with the L word.
>
> Democratic strategy, at least as it appeared in the convention, is predicated upon the central premise that everyone is as fed up with the Republicans as are the Democratic strategists themselves. This is less a strategy than it is a hope, the very hope, perhaps, that has driven forth all the confident predictions. To return to the starting point, Mr. Dukakis "is tough and bright, and if the election were held today he would win." Well, perhaps he might. But then again, he might not. July was a dangerous time for certainties. Were Gov. Dewey with us now, he probably would endorse this point of view.

□ 1415

Now my closing points are very simple.

First, Governor Dukakis and the campaign that he represents is very, very liberal. Second, in foreign policy that liberalism proved to be a disaster, a disaster for the people of Cambodia, as shown last night in "The Killing Fields," a disaster for the people of

Nicaragua, a disaster for the people of Angola, a disaster for the people of Afghanistan, and the list goes on and on, and the human tragedies get deeper and deeper. In domestic policy the liberal welfare state unionized bureaucracy that Dukakis represents, the vision that the only way to solve problems is to raise taxes, to hire more bureaucrats to set up more government programs, has been a disaster.

Mr. Speaker, do we truly want to go back to Jimmy Carter's legacy, to a world of 13 percent inflation, 21 percent interest rates, a world of the collapsing dollar, the collapsing economy, collapsing jobs? Do we truly want to set up once again a world in which welfare pays more than work, a world in which criminals get off easier than policemen fill out forms, a world in which very leftwing judges get appointed to the Supreme Court? I do not think so.

And so there are two closing messages. The first is that the central reality of the fall campaign is that very smart liberal Democrats know they cannot possibly tell the truth because, if they do, they will lose. And so, knowing that, Walter Mondale was an honest liberal and as an honest liberal he only carried one State. But he studied those two words and gave up the word "honest" in order to keep the word "liberal." And so we are going to have a consistent process of deception, disguise, and masquerades, to use words that appear over and over again in columns describing the Democratic platform and the Democratic Convention.

The second is that, if the Republicans fail to have the courage to insist on the truth—notice I do not think it is necessary to attack. I think all that must be done is to insist again, and again and again on defining the truth.

The truth is Governor Dukakis vetoed the American Pledge of Allegiance. The truth is Governor Dukakis has a murderers' furlough program which lets murderers out who were in prison for lifetime without parole, and some of those murders did very, very bad things after Dukakis let them out for the weekend. The truth is Governor Dukakis has raised taxes again and again, and Governor Dukakis will raise taxes as President. The truth is the Democratic platform, vague as it is, has dozens and dozens of increased Federal programs with increased bureaucracies to be unionized and, therefore, is one more step toward a bigger liberal welfare state. The truth is that on foreign policy Governor Dukakis wavers from incredible levels of ignorance, to a passionate commitment, to a leftwing world view that simply fails and that believes that unilateral disarmament is adequate.

If the Republicans will remember, it is the 500,000 black teenagers who will be unemployed if we passed a bill that kills their jobs. They will suffer. That is the people around the world who will be in misery. Many of them will be murdered if America is too weak. They will suffer. We risk a worldwide depression if we have a liberal Democrat who does not understand the world market and who breaks up the whole process by which we have been creating jobs.

Mr. Speaker, all of these dangers are real, and it seems to me it is a challenge to George Bush and a challenge to the Republican Party to have the courage to insist on the truth, to have the courage of all those people who will suffer if in fact we allow someone to deceptively slide into the White House.

ETHICS IN CONGRESS

The **SPEAKER** pro tempore (Mr. Bennett). Under a previous order of the House, the gentleman from Massachusetts [Mr. Frank] is recognized for 60 minutes.

Mr. **FRANK**. Mr. Speaker, it will not be long I say in deference to the patience and the courtesy always shown to our colleagues. I just want to talk a little bit about the ethics issue that has been raised in general.

There is an institutional problem with regard to the legislative body concerning rules that apply elsewhere and not to us, and I think it ought to be addressed. It is not, however, a partisan problem, and I think that ought to be corrected. The short point is that we have rules here about what we can say about the Senate, so let me be very factual and precise.

From 1981 through the end of 1986, when the Republican Party controlled the U.S. Senate as a consequence of three separate elections, not one piece of legislation was passed by the Senate which changed a tradition of not covering Congress under various rules. When the Republicans took over the Senate, Congress was not covered by the minimum wage law. When they left, they had passed no legislation on that subject. When the Republicans took over the Senate, Congress was exempted from the civil rights law. When they left, they had passed no legislation on that subject, and I am not talking about a bill that passed the Senate and did not pass the House.

The factual statement I make is that during the 6 years under the majority leadership of the Senator from Tennessee and the Senator from Kansas, elected majority leaders, not one piece of legislation passed the U.S. Senate which covered the Congress under rules involving occupational safety and health, fair labor standards, civil rights, et cetera.

Yes, there is an institutional problem. It goes back, and this is not justification, it is an explanation. It goes back to Elizabethan days, Elizabeth I. It goes back to the fight for liberty for the members of the House of Commons, and in that period when the House of Commons was evolving, the monarchs were forced by traditions to abide by votes in the House of Commons, so they used other methods. For instance, they would prevent the House of Commons from assembly, or they would penalize people for what they said in the House subsequently. Two specific provisions of the U.S. Constitution deal directly with that. The provision that says Members of Congress cannot be arrested except for high crimes or misdemeanors, a phrase I must say I never understood, why it is a high crime and a misdemeanor. Seems to me it should have been a crime and a high misdemeanor, but I think even James Madison probably felt tired at 2 o'clock in the morning. He was doing a little drafting and made a little mistake, and he did not have the staff to do technical and conforming changes the way we do. We are smarter. And we have got a lot of smart people on our staffs to protect us. But the Constitution said we cannot be arrested on our way to work. It also says we may not be called into court elsewhere for something we say here.

Now people looking at those will say why are they in the Constitution, and they seem a little peculiar, and they are there because of the constitutional history of Great Britain during the period when the House of Commons was evolving. We have taken that principle too far. I think it is a mistake that we are exempted from all of these provisions, but people should understand the rule. It is not some latter-day plot to exempt us. It is part of the tradition that said do not allow the executive branch enforcement powers over the legislative branch, or the executive branch will use that to interfere with the legislative autonomy. That is why we had that provision about us not being arrested on the way to work or not being suable for libel or slander.

Now I think it is possible to deal with the problem that would arise if there was too much executive control over the legislative without continuing to exempt us. The answer is in a lot of these areas that we should set up our own mechanism. I think we ought to be covered under the civil rights laws. I think we ought to be covered under the minimum wage laws. We ought to be covered under part of the Ethics in Government Act that deals with post-employment lobbying. And my subcommittee has reported out a bill to that effect, but in some cases the answer will be not to have the regular administrators do it. I think it is fair to say it is an unfair burden on the head of the OSHA to say that the

OSHA inspector should be inspecting the office of the subcommittee chairmen of the Appropriations Committee that votes OSHA's money. I think that is a conflict of interest that we can avoid by some other form of enforcement.

But the point is that this institutional problem is laziness and convenience on the part of Congress. The original reason we were exempted had to do with people wanting to be independent from Queen Elizabeth and King James I. It is convenient. And I think we are guilty as an institution of preferring our convenience. But the notion that it is partisan is simply flatly untrue.

You will hear our Republican colleagues today say, "Oh, look at the Democrats in Congress." They point to the record of Ed Meese's insensitivities, and privately most of the Republicans will admit that the man was a disaster from the ethical standpoint. The cheer that was heard a few weeks ago from the Republican Cloakroom was the announcement that Ed Meese had resigned, and then they came out here and defended him. Michael Deaver and Lyn Nofziger, high-ranking officials of the President, any key executive, one, or two or three, but this administration has had an enormous number of people convicted.

Well, the Republicans' answer has been, "Oh, well, you Democrats won't cover yourselves under the law," but the fact is it is Congress as an institution that has been lax here.

We are making progress. We had a situation a couple years ago when the employees of the restaurants here sought to be allowed to bargain collectively and form a union which many of us thought was right, and they now have that right. They have it because of a fight we had in the Democratic Caucus because I and the gentleman from Missouri [Mr. CLAY] and the gentleman from California [Mr. EDWARDS] approached some of our Republican colleagues and said, "Hey, come on. Let's help these people in the restaurants get the right to a union," and we were told on that side of the aisle by several people, "No, we are not for that union stuff."

So it was Democrats who put through that change. We should do more of it.

But the argument that it is partisan is nonsense, and I want to repeat. We had 6 years of Republican control of the U.S. Senate, from January 1981 through December 1986. For those 6 years the Republicans controlled the Senate. One did not hear my colleagues in the House very vocally on the subject of why Congress should be covered under that legislation then, many of them, because they could not make the criticism without attacking their brethren and sisters across the Hall. The fact is that the Republicans controlled the Senate for 6 years and did not—to my knowledge they did not even consider more than one or two pieces and then not seriously, and it is certainly a fact that at no point in the 6 years in which Howard Baker and ROBERT DOLE were the majority leaders, in the 6 years that the Republicans controlled the Senate, there was not one instance of changes legislatively that covered Congress.

One of the issues that they raised was: what about the independent counsel? How come that does not apply to Congress?

Well, on one level it does. The Attorney General under the independent counsel law in 1982 and now can appoint an independent counsel any time he thinks there is a conflict of interest. In other words, the Reagan Justice Department has for 8 years had the right to appoint independent counsel for a Member of Congress any time that Justice Department thought it was called for, and do my colleagues know how many times they did it. Zero.

In fact, in one case our colleague from down in the Bronx, the gentleman from New York [Mr. BIAGGI], asked the Justice Department to appoint an independent counsel because he thought there would be a conflict of interest, and the Justice Department refused.

Mr. Meese did not refuse because by the time Mr. Meese got around to quitting he was involved in so much trouble that he could not do one-half of the things in the Justice Department. So he had to absent himself from that decision, but the only time we have on record that anybody asked for an independent counsel to be appointed to cover a Member of Congress, the Justice Department refused.

In 1982, when the Republicans controlled the Senate, the independent counsel law was reenacted. In was reenacted by a Republican Senate and a Democratic House. If there was a strong feeling on the part of Republicans that the independent counselor should have been mandatorily applied to Members of Congress, it now applies at the discretion, the unfettered discretion, of the Justice Department. Any time an Attorney General wants to appoint an independent counsel for a Member of Congress, he has got the right to do it, and no one can stop him, and this Justice Department has refused to do it. In 1982, if anyone had wanted to make that mandatory, an amendment was in order, and the fact is that the Republican Senate enacted the independent counsel law, the law that Mr. Deaver was convicted under, the law that Mr. Nofziger was convicted under, the law that North and Poindexter are being tried under. All of those current prosecutions stem from the 1982 law. That is a 1982 law that was passed by a Democratic House and a Republican Senate that allowed independent counsel to be appointed in a discretionary, but not mandatory, fashion from Members of Congress, and there was no change.

So, to the argument that somehow the Democrats in Congress do not want to cover Congress under these laws, the answer is: it is an institutional problem here that I think we are beginning to address, but, when the Republicans controlled the Senate for 6 full years until very recently, they did not address it at all. And we will have made more progress at the end of this Congress with Democratic control of both Houses in applying some laws to us that should be applied to us than we had during the 6 years when the Republicans controlled the Senate.

And the second point I want to make, and I appreciate the gentleman from Georgia [Mr. GINGRICH] acknowledging that it appears from our colloquy that his criticisms that he had previously voiced to the Ethics Committee with regard to Speaker WRIGHT have been met. I think that whenever valid—he obviously thinks they were valid at some point, but the key is that he to me does not seem to have any criticism, and people ought to understand that.

Mr. Speaker, the Ethics Committee is six Democrats and six Republicans. Every action they take with regard to the Speaker will be taken by six Democrats and six Republicans, and the six Republicans are appointed by the minority leader.

It is also the case, and we have heard people say, "Well, what about independent counsel?" I think the record is very clear. There is not a scintilla of evidence that the Speaker, with all the charges and all the political scapegoating that is trying to be done, and I think it is political scapegoating, JIM WRIGHT stands convicted in the minds of some as being too effective. No one has even suggested a violation of the law because the Justice Department controlled by Ronald Reagan and the Speaker cannot be their favorite politician. There are too many of us here who would contest him for the right to be the least favorite politician, but no one would suggest he is the favored one. At no point has the Justice Department ever suggested that there should be an investigation of the Speaker either directly or by independent counsel, and in this case we are entitled to draw inferences from the absence of action given this political climate, given the anger that many in the administration feel about what they think of unfair political charges. The fact is that not a single investigation has even apparently gotten anywhere is proof. There is no evidence, not a scintilla of evidence, of any violation at all of the law, and, as far as the ethics are concerned, we have a much tougher ethics rule for Congress, and now let me make this point, than they have in the administration.

□ 1430

You have an independent counsel, a high-ranking administration official, because there is a conflict of interest. Ed Meese cannot investigate Mike Deaver. He cannot investigate Lyn Nofziger and he certainly cannot investigate Oliver North or himself.

As far as Congress is concerned, we believe that in general the Justice Department is free to investigate us, but if the Justice Department thinks there is a conflict, if the President thinks there is a conflict, they can appoint an independent counsel; but then let us look at what happens when we are dealing not with law violations, but ethics violations.

What if the allegation is that someone has violated, not a criminal statute where the Justice Department comes into play?

Let us remember the Justice Department has said that there is no basis whatsoever for any look at the Speaker, not by an independent counsel, not by a dependent counsel, not by a dangling participle. There is just nothing, nowhere.

Then the question comes for ethics. Well, if there is an allegation that a member of the executive branch has violated the ethics rules, he or she is investigated by the Office of Government Ethics, which is appointed by the President and the President alone.

In the House, an allegation of violation of ethics is investigated by six Republicans picked by the minority leader and six Democrats picked by the Speaker.

In other words, when it comes to ethics violations, not criminal violations, we are subject to a fully bipartisan investigation, the majority and the minority getting a 50-50 deal. In the executive branch, it is 100 percent their own. The Office of Government Ethics is entirely controlled by the President.

So for those who think there is some imbalance here, the imbalance favors the Executive.

Just to summarize, if there is a criminal violation in the executive branch, the independent counsel comes into play because there is obviously a conflict.

In the legislative branch, we believe that the Attorney General is free to investigate here and prosecute, as he has, but if the Attorney General thinks there is a conflict, he is free to appoint an independent counsel, and the only instance where a Member of Congress asked for an independent counsel, the Justice Department wrote—look, this is the Reagan Justice Department. Do you know what they wrote? They said there is no conflict of interest.

It is hypocritical in the extreme to argue that there must be an independent counsel mandatorily applied to Members of Congress and then to refuse to appoint one even when asked, on the grounds there is no conflict of interest.

So at the criminal level, we are I think on equal footing. Each of us can be investigated for criminal violations by an independent entity, because the Justice Department is independent vis-a-vis the Congress and can call on an independent counsel in those rare instances when it feels they may not be, and an independent counsel does, or the Justice Department or other executive branch people.

For ethics violations, we are under harsher scrutiny because the administration's ethical violations go to the Office of Government Ethics, a Ronald Reagan appointee investigating another Ronald Reagan appointee, and that is not necessarily going to mean that you will have someone who cannot do the job. The current incumbnet, Judge Nebeker seems to be a very decent and committed individual, but he is a Reagan appointee investigating other Reagan appointees or passing on their allegations.

Here we have the situation much tougher than the executive branch. We are subject to investigation by six Democrats and six Republicans. I think it would probably be better to get it totally independent, but the fact is if you look at ethics violations, we are under a tougher standard than the executive branch, because there the one under the Presidency appoints someone to investigate his own appointees. Here it is 50 percent the majority and 50 percent the minority.

So I would just summarize, Mr. Speaker, by saying we have an institutional problem. We should do a better job of covering ourselves under the laws, but the suggestion that it is partisan is nonsense. When the Republicans controlled the Senate, they did not try to change any of those things about which they are now complaining, and since my colleague, the gentleman from Georgia, feels this is an appropriate forum to debate the Presidential election, I would just say to the Vice President if he plans to make an issue of the fact that Congress has not covered itself under some of these laws, I assume he is not going to select as his Vice President either Mr. DOLE or Mr. Baker or Mr. KEMP, because I checked the record and none of them, to my knowledge, have filed and fought for pieces of legislation to change that.

There is an institutional problem here that ought to be addressed. Attempting to make it a partisan problem is a grave error.

Similarly, criticizing the Ethics Committee—and I was glad the gentleman from Georgia seems now to be supprotive of the path that the Ethics Committee is taking, he says he has a couple questions to be answered, a question nuances, he says. I am glad to see that we are basically in accord here, as I interpret what he said, because I think they will turn out to be doing and that they always have intended to do what he suggested.

The Ethics Committee in the House is bipartisan. It is six Democrats and six Republicans and the criticism of them is either uninformed or motivated in the most partisan sense, or both.

We have worked to do in improving institutionally the situation of the rules which apply to us, but the kind of effort to make this partisan lacks any informational basis and is not going to help at all.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FRANK, for 60 minutes, on August 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCANDLESS) and to include extraneous matter:)

Mr. HYDE.

Mr. LENT in two instances.

Mr. RITTER.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. SKELTON.

Mr. DINGELL.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. GRAY of Pennsylvania.

Mr. STOKES in two instances.

Mr. LANTOS in two instances.

Mr. FLORIO.

Mr. STARK.

Mr. EDWARDS of California.

SENATE JOINT RESOLUTIONS REFERRED

Joint Resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 141. Joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 169. Joint Resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi; to the Committee on Post Office and Civil Service.

S.J. Res. 248. Joint Resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 261. Joint Resolution designating the month of November 1988 as "National Alzheimer's Disease Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 272. Joint resolution to designate November 1988, as "National Diabetes Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 273. Joint Resolution designating October 6, 1988, as "German-American Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 289. Joint resolution to designate the month of November 1988 as "National Hospice Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 294. Joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 298. Joint resolution designating September 1988 as "National Library Card Sign-Up Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 302. Joint resolution to designate October 1988 as "National Down Syndrome Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 303. Joint resolution to designate the month of October 1988 as "National Lupus Awareness Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 306. Joint resolution designating the day of August 7, 1989, as "National Lighthouse Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 315. Joint resolution designating 1989 as "Year of the Young Reader"; to the Committee on Post Office and Civil Service.

S.J. Res. 319. Joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 322. Joint resolution to designate the week of September 23-30, 1988, as "National American Indian Heritage Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 324. Joint resolution to designate February 1989 as "America Loves Its Kids Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 325. Joint resolution designating the third week in May 1989 as "National Tourism Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 332. Joint resolution to designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 335. Joint resolution to designate the last full week of October, October 23 through October 29, 1988, as "National Adult Immunization Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 342. Joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 345. Joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. FRANK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Tuesday, August 2, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4097. A letter from the Secretary of Education, transmitting a copy of Final Regulations—Handicapped Special Studies Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4098. A letter from the Secretary of Energy, transmitting the annual report summarizing progress by State authorities and nonregulated utilities in complying with the statute's requirements related to their consideration of 11 ratemaking and regulatory policy standards, covering the period January 1, 1987, through December 31, 1987, pursuant to Public Law 95-617, section 116, section 309(b); to the Committee on Energy and Commerce.

4099. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance to Israel for defense articles and services (Transmittal No. 88-46), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4100. A communication from the President of the United States, transmitting a bimonthly report on progress toward a negotiated solution of the Cyprus question, including a copy of the semiannual report of the U.N. Secretary General, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

4101. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's annual report for fiscal year 1987 on the actions taken to increase competition for contracts, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

4102. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4103. A letter from the Benefits Supervisor, Farm Credit Services, transmitting a copy of the audited financial statements of the retirement plan for the employees of the seventh farm credit district for the year ending December 31, 1987, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4104. A letter from the Assistant Secretary for Administration, U.S. Department of Transportation, transmitting notification of a proposed altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4105. A letter from the Director, Congressional Relations, CloseUp Foundation, transmitting the semiannual report on the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives, covering the period January 1, 1988 through June 30, 1988, pursuant to Public Law 100-158, section 3(b) (100 Stat. 897); to the Committee on House Administration.

4106. A letter from the Administrator, Federal Aviation Administration, transmitting the seventh edition of the national airspace system plan, pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Public Works and Transportation.

4107. A letter from the Secretary, Department of Commerce, transmitting a draft of proposed legislation to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish Thomas A. Edison Prizes, with the objective of encouraging residents of the United States to develop innovative technologies that could improve the quality of life in this Nation and the world; to the Committee on Science, Space, and Technology.

4108. A letter from the Administrator, Agency for International Development, transmitting an interim report on the origin, contents, destination and disposition of humanitarian goods and supplies transported by the Department of Defense covering October 1, 1987 through March 31, 1988, pursuant to 10 U.S.C. 402 note; jointly, to the Committees on Armed Services and Foreign Affairs.

4109. A letter from the Secretary, Department of Commerce, transmitting a draft of proposed legislation to provide that contracts for the construction or repair vessels of the National Oceanic and Atmospheric Administration are subject to the provisions of the Walsh-Healey Act, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on the Judiciary. House Resolution 499. Resolution impeaching Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida, for high crimes and misdemeanors; with an amendment (Rept. 100-810). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4526. A bill to provide for the addition of approximately 600 acres to the Manassas National Battlefield Park; with an amendment; referred to the Committee on Public Works and Transportation for a period ending not later than August 5, 1988, for consideration of section 4 of the amendment recommended by the Committee on Interior and Insular Affairs and falls within the jurisdiction of that committee pursuant to clause 1(p), rule X (Rept. 100-809, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

H.R. 3680. Referral to the Committee on Agriculture extended for a period ending not later than August 11, 1988.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLORIO (for himself, Mr. Lent, Mr. Roe, Mr. Saxton, Mr. Hughes, Mr. Dwyer of New Jersey, Mr. Guarini, Mr. Gallo, Mr. Smith of New Jersey, Mrs. Roukema, Mr. Green, Mr. Ackerman, Mr. Manton, Mr. Hochbrueckner, and Mr. McHugh):

H.R. 5119. A bill to amend the Solid Waste Disposal Act to provide for the control of medical waste in order to protect human health and the environment; to the Committee on Energy and Commerce.

By Mr. ROE (for himself and Mr. Walgren):

H.R. 5120. A bill to provide for a system of standardization of measurement of bolts to increase bolt quality and reduce the danger of substandard bolt failure, and for other purposes; to the Committee on Science, Space, and Technology.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1095: Mr. Herger and Mr. Edwards of Oklahoma.

H.R. 2246: Mr. Durbin.

H.R. 2632: Mr. Weber, Mr. Campbell, Mr. Gilman, Mr. Porter, Mr. Scheuer, Mr. Dyson, Mr. Sabo, Mr. Dellums, Mr. Stark, and Ms. Pelosi.

H.R. 3132: Mr. Green and Mr. Manton.

H.R. 3814: Mr. Jacobs.

H.R. 3999: Mr. McEwen.

H.R. 4277: Mr. Wolpe.

H.R. 4297: Ms. Slaughter of New York, Mr. Rahall, and Mr. Staggers.

H.R. 4325: Mr. Bevill, Mr. Edwards of California, Mrs. Morella, Mr. Borski, and Mr. Kennedy.

H.R. 4396: Mr. Bevill, Mr. Hatcher, Mr. Brown of Colorado, Mr. Torricelli, and Mr. Evans.

H.R. 4454: Mr. Boehlert.

H.R. 4479: Mr. Fauntroy, Mr. Fuster, Mr. Gejdenson, and Mr. Bonker.

H.R. 4910: Mr. Robinson, Mr. Manton, Mr. Gordon, Mr. Bevill, Mr. Chapman, and Mr. Badham.

H.R. 4977: Mr. Mack.

H.R. 4989: Mr. Eckart.

H.R. 5000: Ms. Pelosi, Mr. Atkins, Mr. Dellums, Ms. Oakar, and Mr. Fazio.

H.R. 5001: Mrs. Martin of Illinois.

H.R. 5010: Mr. Foley.

H.J. Res. 330: Mr. Hastert and Mr. Nowak.

H.J. Res. 464: Mr. Clarke, Mr. Burton of Indiana, Mr. Lowery of California, Mr. Bruce, Mrs. Byron, Mr. Montgomery, Mr. Borski, Mr. Frank, Mr. Hamilton, and Ms. Slaughter of New York.

H.J. Res. 488: Mr. Whittaker, Mr. Miller of California, and Mr. Coyne.

H.J. Res. 509: Mr. Young of Florida.

H.J. Res. 524: Mr. Clarke and Mr. Sweeney.

H.J. Res. 540: Mr. Andrews, Mr. Manton, Mr. Wilson, and Mr. Emerson.

H.J. Res. 574: Mr. Hall of Ohio, Mr. Berman, Mr. Atkins, and Mr. Fazio.

H.J. Res. 585: Mr. Annunzio, Mr. Borski, Mr. de la Garza, Mr. Dowdy of Mississippi, Mr. Espy, Mr. Ford of Tennessee, Mr. Garcia, Mr. Hayes of Louisiana, Mr. Hefner, Mrs. Lloyd, Mr. McEwen, Mr. Owens of New York, Mr. Waxman, and Mr. Gordon.

H.J. Res. 619: Mr. de Lugo, Mr. Biaggi, Mr. Berman, Mr. Matsui, Mr. Scheuer, Mr. Sawyer, Mr. Lehman of Florida, Mr. Fauntroy, Mr. Bryant, Mr. Lewis of Georgia, Ms. Pelosi, Mr. Dwyer of New Jersey, Mr. Kleczka, Mrs. Collins, Mr. Hall of Ohio, Ms. Oakar, Mr. Mineta, Mr. Wise, Mr. Brennan, Mr. Thomas A. Luken, Mrs. Lloyd, Mr. Weldon, Mr. Stokes, Mr. Fazio, Mr. Wheat, Mr. Hughes, Mr. Skaggs, Mrs. Kennelly, and Mr. Weiss.

H. Con. Res. 326: Mr. Conyers, Mr. Swindall, Mr. Badham, Mr. Nielson of Utah, Mr. Lancaster, Mr. Donald E. Lukens, Mr. Combest, and Mrs. Bentley.

SENATE—*Monday, August 1, 1988*

The Senate met at 12 noon and was called to order by the Honorable George J. Mitchell, Deputy President pro tempore, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

But I trusted in Thee, O Lord: I said, Thou art my God. My times are in Thy hand . . .—Psalm 31:14, 15.

As we begin this week, gracious God, our sovereign Lord, we pray for Thy righteousness to overrule in all our affairs—public, personal and family. Imbue us with the desire to start each day with a few quiet moments alone with Thee. Make us wise in waiting upon Thee for the sense of Thy presence—looking to Thee for guidance in all things—depending upon Thee for wisdom and strength to accomplish all that we ought. Give us trust in Thee in our inadequacy—love for Thee, each other, spouse and children. Help us to make this week productive in Thy will. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The DEPUTY PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate will go to the fair housing bill today. I do not know how much time that bill will require. I would hope that it could be disposed of today and tomorrow.

At a point very early toward midweek, there will be the supplemental appropriations bill. The President will make his decision on the plant closing bill no later than midnight Wednesday. If he should sign that bill or let it become law without his signature, then I would hope that the next day the Senate could proceed to the consideration of the trade bill. If he should veto the bill, then I would hope the next day the Senate could proceed to attempt to override the veto. That will be followed then by the trade bill.

Before the week is out, if the Senate is able to dispose of the aforementioned measures, or at least beginning early next week, the Senate should be on the Department of Defense appropriations bill. We do not know yet what the President's intention will be on that bill. There is some speculation that has surfaced to the effect that he may veto that bill. So there would be the problem of attempted override on that bill as well, the DOD authorization bill. In any event, the Senate would proceed at some point to take up the DOD appropriations bill.

On the supplemental appropriations bill, there may be an effort to attach Contra aid legislation. I have had a group of Democrats of all viewpoints and inclinations meeting in the effort to develop an approach that would be a unified approach, a fairly unified approach on the part of the Democrats, liberals, conservatives, moderates, whatever we may wish to term ourselves. And then it would be my hope that if we can do that, we would then go to the Republican leadership and see if there could be a bipartisan approach here. I feel it may be possible to have a bipartisan approach to deal with this matter and to put it to rest for a while.

So we are working toward that end. We are not at liberty to discuss details yet because the working group that I have put together has not finally made a decision beyond a tentative one. We have not seen the language that results from the last meeting. I hope to have another meeting today. I still believe that we can develop legislation that will allow Democrats and Republicans to join together in dealing with the Contra aid matter. I hope we can do that soon.

Mr. President, beyond what I have said, we have this week and 4 days of next week. It would be my desire to follow the trade bill, taking into consideration measures I have already mentioned and whether or not they are completed—DOD appropriations, for example—I would like to follow at some point rather early after action on the trade bill with the textile bill. Of course, on the Canada-United States trade agreement, the joint leadership of the two Houses has assured the administration that we would take up that measure before adjourning sine die.

It seems to me once the trade bill is disposed of and at some point the textile bill, we ought to go to the Canada-United States trade legislation.

Mr. President, as of last Friday, the Senate had completed action on 12 of the 13 general appropriations bills, which I think is a record that would go back a long way; 12 of the 13 appropriations bills completed prior to August 1 in the Senate. There has been some difficulty with the conferences between the two Houses on appropriations bills. Until all of the bills have been passed and all of the bills can go to conference and there can be an overall grasp of the work of the two Houses on those bills, it would be impossible to determine what new allocations or reallocations would have to be made between and among the bills. But the Defense appropriations bill has its own numbers.

So now that the other 12 bills have been sent to conference, there is no need for further delay, it seems to me. The conferences ought to go to work, in view of the fact the defense bill has its own numbers, and we ought to begin to send those several appropriations bills down to the White House individually.

That is the goal which both the Republican leader and I and the Speaker and I have said very early on in this session; it was our intention to send those separate bills down to the President. So both Houses have acted expeditiously. I hope that the conferences can begin now to work on the several bills and we can begin to see the conference reports come back through the two Houses and those bills start going to the President. One has already gone down to the President. The energy-water appropriation bill has been signed into law. So there is no need now, Mr. President, for further delay in the conferences on those measures.

I would welcome any further suggestions or comments or observations by the distinguished Republican leader as to the program that I have attempted to outline as we go into the second of the 3 weeks that will occur before the next break.

Mr. DOLE. If the majority leader will yield—

Mr. BYRD. Yes, I will be happy to yield.

Mr. DOLE. First, I compliment the majority leader and all members of the Appropriations Committee for doing what has not been done around this place for I do not know how long, complete 12 out of 13, and certainly they are going to have the 13th up very soon.

I think the majority leader is correct. Hopefully, we can get on with our conferences, get these bills down to the White House in case there are vetoes and give us some time because, as I looked at my calendar while the majority leader was speaking, if, in fact, there would be sine die adjournment by September 30, we would have 27 legislative days remaining—27. And if it is a week later, it is 32 or 33, depending on whether or not there would be a Saturday session, or it could even be a week after that. But, in any event, there are not many days left. Fortunately, there are not many items remaining that have to be dealt with.

I have gone over a must list that the majority leader gave me several weeks ago which has DOD appropriations, trade bill, textiles, Canadian-United States trade agreement, minimum wage, Contra aid, parental leave, drug bill, fair housing. We will do fair housing today. I hope we will be able to consent to go to that following morning business. And it may be that if in fact there can be some agreement reached on Contra aid, that may be disposed of on the supplemental, and perhaps the trade bill this week. So if we can continue that momentum, hopefully most of these items can be achieved.

But I would indicate that there is a Republican leadership meeting tomorrow morning with the President. I think the purpose of that may be to discuss plant closing and the DOD authorization. I would hope on plant closing the President could maybe let that become law without his signature. We made changes in the Senate. They were not major changes but they were changes, perhaps indicating to us that he would be willing to swallow what is left of the plant closing bill even though he does not like it if we would all work together to get a trade bill done. I think we would be willing to do that. Certainly Congress is ready to go on the trade bill. And on the DOD authorization, I am just not certain what the President will do. I am not certain on the other, but I do know we are going to discuss those tomorrow.

Mr. BYRD. Mr. President, I thank the Republican leader for his comments. They are hopeful and I think generally optimistic and upbeat, and I find them to be very satisfactory. I thank him for his excellent cooperation and for the work that he had done to help move the program along. But for his cooperation and great support and help and leadership, the Senate would not have completed action on 12 appropriation bills so early.

RECOGNITION OF THE REPUBLICAN LEADER

The DEPUTY PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. DOLE. Mr. President, I reserve my time.

MORNING BUSINESS

The DEPUTY PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

NOISE POLLUTION IS SWEEPING OVER AMERICA

Mr. PROXMIRE. Mr. President, Russell Baker has done it again. This time he has written a paean—a song of joy and triumph to "the greatest thing in the world"—"Noise." As Baker writes recently in the New York Times, look around for what is coming on in our political as well as our cultural world: This is the age of noise: Raucous, shouting, yelling, unrelieved noise. Oh, sure there are a few Members of the Congress, city councils, and other legislative bodies who talk quietly and rely on the merit of their argument. But anyone who wants to make it big and make it in a hurry has to shout, pound the table, and above all interrupt. Rudeness is in and in big. Tune in on any of the really smash hit TV shows—Morton Downey, Junior, the McLaughlin Report and what do you get? You get pure, uninterrupted interruptions. Rudeness is becoming a fine art. The rule is never start talking unless you are butting in on another speaker, and never stop talking just because someone else is talking. It is no fun if one panelist is speaking all by himself. Interrupt and you begin to get some action. If two speakers interrupt a third speaker simultaneously, and all three keep talking, then you have the supreme thrill. It is like a grand slam bases loaded homer in baseball or an 80 yard pass in football. But why? One answer: With three people all talking at once, it is impossible to hear a coherent word, let alone a coherent sentence. You cannot think. But ah—there is something better than thought, much better. You can hear. And, oh, what you can hear. You hear pure, unadulterated noise. It is almost as blissful as slam, bang rock music. It is loud. It is swept up on the excitement of three contestants all shouting at each other.

This TV panel noise show is not confined to odd ball panel shows on TV. Gradually, more and more public speakers are catching on to this new rock and roll type of oratory. They are finding it is a real winner. Content is nothing. People can read content. It does not matter whether the speaker is logical or ridiculous. What matters is the loudness, the decibels. Does the speaker really get your attention? Does he slam his fist on the table? Does he stamp and shout? Does his voice range from a roar to a screech and back to a roar? Does he get really physical? Does he throw his body into it? Does he flail the air with his fists? Does he slap his hands together and keep shouting? If he does all these things, the press will call him charismatic. More and more people will come to see him and hear his noise.

Where did this disjointed, distracting noise come from? Why is it polluting our politics as well as our culture? The answer is becoming obvious. More and more people want speakers to entertain them. Whenever hot emotion and cold reasoning clash, hot emotion wins every time. For most of us it is far easier to feel than it is to think. But this has always been true. What has made this present generation so susceptible to the sheer power of noise? Is it the prevalence of rock and roll as the prevailing musical idiom for the past 20 years or so? Maybe, in part. But there is also the rise of the emotion rousing TV ministry. Television has only slowly and gradually wormed its way away from quiet, gentle persuasion and now is bursting its way to the shouting of fusillades of insults. The advent of mechanical amplifiers should have discouraged the shouting, yelling speaker. After all, the microphone and public address systems permit whispers to penetrate to the farthest reaches of huge auditoriums. Radio and television brings voices soft and gentle as well as loud and raucous across thousands of miles into millions of homes and cars and wherever people meet. Soft words come through with the same clarity as screaming shouts. So why aren't the gentle, quiet whispers as potent as the baying, bellowing, clamor?

Is the answer that the age of rock and roll has so corrupted our generation with noise that only the loudest shouters can win? Here is the way Russell Baker put it in the good gray New York Times on July 27th:

> Anybody who acts as though politics were an argument instead of an assault is too far behind the times to be rescued. Here are some slogans that the most successful crowd pleasers in America have nailed on the back of their skulls:
>
> 1. make heat, not light
> 2. straight shouters always win
> 3. bawling, baying, bellowing, clamor, commotion, din, hollering, hubbub, outcry, racket, roars, screams, shouts, tumult and yells are golden.

None of this has really come as yet to the slow, sleepy, gentle and gentlemanly conversations we carry on here in the U.S. Senate. But the kind of people who will win election to the Senate in the future are likely to be the redhot shouters. I can just imagine this place 20 or 30 years from now—let's say in 2010. The Senate will look exactly the way it looks today. The Senate day will start very differently. The Senate Chaplain will deliver a rock and roll shouting, crowd pleasing morning prayer. The majority and minority leader will then set the pace with a drum beat of table-pounding, shrill, rousing rhetoric. And the Senate will be off to another day of screeching, yelling, desk pounding noise.

Result: this body will move from an ignored TV channel that no one watches to prime time and big time on the networks, the bawling, baying, bellowing, clamor and commotion of the U.S. Senate will be on the air, while the Nation listens in fascination. On the other hand, maybe the Senate will quiet down and do its work for a change.

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 1158

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of morning business, the Senate proceed to the consideration of Calendar Order No. 786, H.R. 1158.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

After the oration of the distinguished Senator from Wisconsin relating to noise, I will deliver this speech in just a little above a whisper if that is all right.

(The remarks of Mr. PYROR are found in today's RECORD under statements on Introduced Bills and Joint Resolutions.)

BIPARTISAN APPROACH TO CONTRA AID

Mr. DOLE. Mr. President, I read with interest in this morning's Washington Post that some of our friends on the other side of the aisle are working on legislation that would permit renewed delivery of aid—apparently including some lethal aid—to the democratic resistance in Nicaragua, the so-called Contras.

On many, many occasions, I have made the point that we have sustained a Contra aid program only because of the bipartisan support we have had in the past. So I—and I am certain all of the Republican supporters of this program—welcome this new interest among our democratic colleagues.

We have so far seen none of the details of what our friends are working on. And, of course, I have already offered a package which we think meets the minimum standards necessary to maintain the Contras, both as a political force and, potentially, as a credible military force should negotiations ultimately fail because of Sandinista intransigence.

Until we do see what the other side might be contemplating, it would be premature to say anything in detail. But let me make just two brief points, which may be of some help to the Senators and staff working on the Democratic package.

First, legislation—especially legislation designed to forestall the need for any more congressional action in this administration—must provide enough aid to do the job. I see references into today's Post to "$18 million" in undelivered lethal aid. That figure is not consistent with the figures we have from the administration. We have already asked the administration to give us as much detail as possible on what does exist in this "undelivered" category.

Everything we have seen to date, though, suggests that the amounts of what would be truly needed should the Sandinistas launch new attacks are just not available in this "undelivered" category. So we need to be careful about the amounts, and not leave the impression that we have met the need, when in fact we have fallen short.

Second, to be credible, any legislation must insure that authorized aid is really available and can be delivered. I underscore "can be delivered". There may be more than one way to accomplish that—but, obviously, it is of no value whatsoever to authorize assistance, and then to see it rot away in warehouses, because we do not have the means to get it to the Contras' fighting forces.

Mr. President, the Sandinistas have shown their true stripes these past few weeks. I am glad that fact is sinking in on both sides of the aisle, and in both Houses of Congress.

Our fundamental policy is to try to achieve our goals through negotiations, not a continuation of the war. The President wants that; Republicans want it and the Democrats want that. But if that policy is to have any chance of success, we must sustain the Contras as an effective force—as leverage over the Sandinistas. We must enact legislation to keep them in the field, to maintain them as a credible presence at the bargaining table.

The best way to do that is through bipartisan legislation, enjoying wide congressional support.

So, in conclusion, let me again welcome our Democratic friends on board this effort. And let me say that we are most eager to hear what they have in mind, and to work with them to enact legislation that will do the job—that will accomplish America's goals, of peace and freedom in Central America.

BICENTENNIAL MINUTE

AUGUST 1, 1876: SECRETARY OF WAR WILLIAM BELKNAP IS ACQUITTED

Mr. DOLE. Mr. President, from time to time I have included in the RECORD what I call bicentennial minutes. I today call attention to my colleagues that it was 112 years ago today, on August 1, 1876, after a bitter and prolonged trial, the Senate acquitted Secretary of War William Belknap, the only Cabinet member ever impeached by the House.

Despite this outcome, almost no one believed Belknap innocent. Rather, he escaped conviction on a technicality. In February 1876, just as the Whiskey Ring Scandal was breaking, further tarnishing the already sullied second administration of President Ulysses Grant, the House of Representatives launched an investigation into widespread charges of corruption within the War Department. On the morning of March 2, 1876, after an insider tipped him off, Belknap rushed to the White House and thrust a hastily scribbled letter of resignation into the hands of President Grant, who accepted it with regret and surprise. Belknap had good reason for haste: The House committee was about to reveal that the Secretary of War had accepted at least $20,000 in pay-offs from a scheme, involving a trading post in Oklahoma territory, hatched by his late wife and perpetuated by his current wife, the sister of his late wife.

By resigning, Belknap hoped to avoid impeachment by the House and trial in the Senate, at which the sordid dealings of his wives, leading belles of the Capitol, would surely be revealed. But his bold move did not work. While timely resignation had derailed impeachment initiatives against suspect officials in the past, House Members, outraged by the Secretary's deviousness, proceeded with a motion for his impeachment on the afternoon he resigned.

Belknap's Senate trail in the summer of 1876 proved to be the gaudy spectacle he feared. After 2 months of damning testimony, however, the Senate voted to acquit the former Secretary of War. Senators reached this verdict not because they believed him innocent—the evidence to the contrary was overwhelming—but because they concluded that the Senate lacked jurisdiction over an individual no longer in office.

U.S. FOREIGN POLICY FOR CENTRAL AMERICA

Mr. SANFORD. Mr. President, the Sandinistas have given signs that they might be abandoning the Arias peace plan, and in all likelihood the Congress will vote additional assistance of some kind to the Contras.

In doing so, we need to keep three points in mind, and we need to clarify, for ourselves at least, what our foreign policy is. If American policy is clear, and our actions within that policy, then whatever we do will have a better chance of success.

The policy of the United States must encourage the Central American countries to achieve stability, to embrace a democratic form of government, and to observe human rights. This cannot be done by force. We have learned that. Instead, it must be done by internal reform and initiatives for economic development founded on education and freedom.

To implement this United States policy we must be prepared to help Central Americans implement their plans for economic, political, social, and human development. It is obvious that we cannot dictate to them what form their governments will take. We can encourage only. It is also true that we cannot successfully design a plan for their development. We can encourage only. When the Arias peace plan is implemented by whatever countries ultimately join, the United States must be prepared to help those countries achieve stability through development. We should be thinking now of how we might go about this, and we should be encouraging them to get their blueprints for development ready.

All of that should be a creative and productive United States foreign policy for Central America.

This foreign policy is a highway. Like some highways, this one is filled with potholes and barricades. Skillful execution of foreign policy demands that we evade, bypass, remove or correct all these barriers without forgetting that our objective is continued progress down the highway.

So, remembering what we hope to accomplish, reminding ourselves of our underlying foreign policy, how do we handle what we perceive to be action by the Sandinistas that threatens our goals for Central America?

The first of three points we need to keep in mind is that no one in Central America wants to be told by the United States what they must do. We can already see that in the forthcoming meeting of our Secretary of State with four Foreign Ministers of Costa Rica, Guatemala, Honduras, and El Salvador. They are not inclined to condemn Nicaragua in the language of a communique predrafted in Washington. We must confer with them and respect their advice.

Second, we cannot abandon the Contras to the point that their lives are endangered. If a ceasefire is to be accommodated, their views and their safety cannot be dismissed.

Third, military action in El Salvador and Nicaragua, whether by the left or the right, as anywhere else in Central America, is not the ultimate way to success, peace, and a better future.

Whatever is done in additional aid for the Contras, we need to understand that we are dealing with one of the barricades, not with the basic foreign policy. We can do better with our diplomatic efforts than we have in the past. Progress by their neighbors can better bring the Sandinistas and the contending forces in El Salvador into the economic ball game, even if it is started without them. The appeal of being a part of a broad economic development cannot be ignored by Nicaragua nor by other regional dissident groups. It is the common bond and it is the way they can achieve peace, growth, self-respect, and the promise of prosperity.

Our foreign policy mandates that we encourage all of them.

Mr. FOWLER. Mr. President, I ask unanimous consent that I may be allowed to speak for 10 minutes in morning business.

The PRESIDING OFFICER (Mr. LEVIN). Without objection it is so ordered.

NATIONAL ENERGY POLICY ACT OF 1988

Mr. FOWLER. Mr. President, this morning I rise in support of the National Energy Policy Act of 1988, introduced on Friday by the distinguished Senator from Colorado [Mr. WIRTH], and by the chairman of the Committee on Energy and Natural Resources, the Senator from Louisiana [Mr. JOHNSTON], and which I am proud to cosponsor.

Mr. President, I have now served in the Congress for over a decade. In that time, I have seen much legislation directed at the challenges that confront this Nation. But during that time I have also seen many issues of long term importance go unaddressed.

I fear our children may look back and say that one of the greatest failures of government—at least during the time I served—was our failure to adopt a sound and comprehensive strategy for meeting their energy needs.

And I want to make it clear that I am not talking about any remote, abstract future generations. I am talking about children already in our schools, already in our day care centers, the pages here in the Chamber of the U.S. Senate. I am talking about my daughter. I am talking about your son.

In the decade I have held Federal office, we have not moved closer to effecting a sustainable long-term energy policy. In fact, we have witnessed the decline of the conservation ethic. We have forms of energy developed in the 1970's to lead us toward energy security. We have actually increased our oil consumption by over a million barrels a day in the 1980's.

I share the concern of many of my colleagues about this apparent regression in policy. That is why last year I introduced the Renewable Energy and Energy Conservation Act of 1987, which seeks to revive our research and development in conservation, solar energy, wind, geothermal, biomass, and hydropower.

Our failure to achieve a comprehensive energy plan is contributing to an even more comprehensive problem. That is the global warming caused by the burning of fossil fuels and by other manmade emissions, the greenhouse effect. This prospect was raised in the 1970's, at the time of our greatest advances in renewable energy and conservation research.

Since then, a government more attuned to its own rhetoric than to reality dismissed the greenhouse effect as just another gloom and doom theory. But now scientists have documented the increased carbon dioxide levels and the resulting increases in global temperature. Unfortunately, we are no longer talking about a theory. The greenhouse effect is established scientific fact.

Our planet has already warmed by over half a degree Celsuis in the last 100 years, since the beginning of large scale industrial emissions and the advent of the automotive age. We are committed to an increase in global temperature between 1.5 and 4.5 degrees Celsius in the next three or four decades—that is if we take immediate steps to drastically reduce carbon emissions and other contributing factors.

That may not sound very alarming to the untrained ear until you consider that only 5 to 8 degrees separate us from the last ice age. A 1.5 degree warming would constitute the widest swing in the temperature range in the last 10,000 years.

We know that global warming is occurring. We know it is of a magnitude that can have serious consequences. The only thing we cannot say for sure at present is exactly what those consequences will be.

What we can expect with some degree of certainty is a melting of the ice caps and rising sea levels. That will affect more than just investments in waterfront property. On the coast of Georgia, my State, I can foresee dramatic impacts—on the coastal islands, the fisheries, the beaches, the marshes, the harbors—from a change in sea level.

We can also anticipate that may plant and animal species will have difficulty adjusting to the climate changes, that with human development restricting the natural paths of migration, that the survival of many species will be threatened.

And this year's drought, though it cannot be definitively linked to the pattern of global warming, serves as a strong warning—a strong warning of the dangers posed to agricultural production by changes in temperature and the resulting changes in rainfall.

It ought to make us realize how many of the major decisions we have made in the last decade—and are making today—how many of the largest investments of our resources are based on projected weather patterns.

That is true of where we plant our crops, of how many powerplants we build and how big we build them. Global warming of one degree could also undermine the decisions we make today on irrigation, hydropower, forest management, coastal planning, the structural design of much of our infrastructure of roads, bridges, and buildings. I could go on and on.

What have we done about it—in the 10 years or so that this problem has loomed before us as a serious prospect? The answer is that we have more methane, nitrous gases, ozone and chlorofluorocarbons—all pollutants that contribute to the heating effect—in the atmosphere than ever before. The principal culprit; carbon emissions, have increased by 100 million tons a year.

The bill that I rise in support of is only the beginning of a comprehensive approach to this greenhouse effect and the many other challenges we face in terms of our energy use.

This legislation addresses both ends of the global warming problem—which is caused both by what we produce and also by what we destroy.

This bill calls for a comprehensive plan to meet our energy needs, taking into account the need to reduce air pollution from energy production. We already know how to develop many energy sources that do not have these negative environmental consequences—if we have the will to do it. This legislation incorporates the bill I introduced last year to foster research and development in conservation, which still, of course, is the cheapest way to meet energy demands, and renewable energy technologies which offer the safest and most reliable ways to produce energy.

Our legislation also recognizes that we must protect our forests—because trees, which convert carbon dioxide back into oxygen, are the greatest natural buffer against the carbon dioxide buildup that is responsible for the greenhouse effect.

This legislation calls for better management of our own forests. The Tongass National Forest in Alaska is a fine case in point. Many of our national forests are being destroyed, through the incentive of Government subsidies, at a net economic loss to the taxpayers. This is bad fiscal policy. It is bad forestry policy. It is bad environmental policy.

And our environment does not recognize political boundaries. That is why we must attempt to influence forestry policy in other countries, especially in tropical forests where the greatest carbon fixing occurs. Edward Goldsmith of the Ecologist has long led the fight for public awareness that all nations rely on these tropical regions not only to maintain our atmosphere but also to maintain our health.

But in the last decade we have seen millions of acres of tropical forest cleared for farms whose soil deteriorates rapidly and can support cultivation for only a few years. Land that was cleared in this way 10 years ago is already exhausted.

Yet forests in Latin America, the Amazon and Zaire Basins and Southeast Asia have been diminished by almost half their original range. Some forests in Central America, Southeast Asia, and West Africa have been cut back by over 90 percent.

This bill addresses the crying need for international cooperation in preserving the world's forests—which is necessary to prevent potentially disastrous changes in climate, and of course for many other reasons.

Inevitably some will say that we need to wait and study this warming problem. But let me tell you the scientists who have been studying it for years have already made it clear that the greatest risk comes from our doing nothing, and that the danger cannot be diverted by acting alone. We are not used to hearing that in this country, but it is not in the power of the United States of America alone to reverse the trend toward increased fossil fuel emissions and global warming. We do have to have a clear national consensus of our own before we can move on to increased international cooperation.

This is where the United States should assert its world leadership—for the good of all nations. Better than anything else, that sense of responsibility defines America.

I compliment Senator WIRTH and Senator JOHNSTON especially on this initiative. It represents the first step toward living up to that high goal we have set for ourselves as a leader of nations.

I urge the rest of my colleagues here in the Senate to support this comprehensive solution, which will start us on the path to a sound energy policy and will help rescue our future from the grim prospects of global warming and the greenhouse effect if we continue to do nothing.

I thank the President and my colleagues and yield back the remainder of my time.

WHAT'S THE REAL STORY ABOUT HUNGER IN AMERICA?

Mr. HELMS. Mr. President, in reflecting upon last week's Senate approval of the Hunger Prevention Act of 1988, it occurs to me that I should make clear why I felt obliged to vote against this legislation.

No one enjoys the risk of appearing to oppose efforts to help the truly needy of our society. However, there comes a time when a line must be drawn between truth and the "hunger reports" that use hit-and-run techniques, making outlandish claims of widespread hunger without documented foundation for the rhetoric.

Mr. President, this is the political season, a time when so many refer to a new "War on Hunger" brought about by "drastic cuts in Federal nutrition assistance under the Reagan administration." This is cruel nonsense when the truth is that spending for USDA food assistance programs has risen from $14 billion in 1980 to over $20 billion in 1988. An increase of 44 percent since 1980, Mr. President—hardly a "drastic cut."

This one statistic alone unmasks the distortion claiming that there has been a reduction in the commitment to the needy. One of the most often proclaimed signs of "overwhelming hunger" is the skyrocketing growth of food banks. These food banks distribute surplus Government commodities, along with other foods donated from supermarkets. However, the truth is that there is only a contrived correlation between the increasing number of food banks in our country and "increased hunger." The food is free. And while a lot of people like to receive free food, it doesn't mean that they are necessarily hungry. To the contrary, it means that when something is free—be it food or anything else—there'll always be a booming market for it.

In addition, many advocates of increased welfare spending are reluctant to consider the problems which cause poverty—problems such as drug use, the erosion of family principles and responsibilities, out-of-wedlock pregnancies, and long-term welfare dependency. These are the areas which must ultimately be addressed if there is ever to be any hope of achieving true changes, by helping the needy to help themselves. There is the impression that being poor means going to bed hungry every night, an impression that simply is not accurate.

Mr. President, I believe Congress is launching a dangerous trend by continually enacting the kind of legislation that merely throws more money at welfare programs instead of trying to get to the root of the problem. Of course there are professional welfare lobbyists who constantly demand more and more tax money for existing programs, instead of seeking solutions to the deeper and often-ignored problems that are the root cause of poverty.

Mr. President, I have read many of the so-called "hunger reports." But I have also read reports which dispute the claims of rampant hunger in our Nation. In particular, I found an article by Carolyn Lochhead, which appeared this past June in Insight magazine, to be of particular relevance. Those reading the article may wonder how a sociologist, posing as a homeless man, can gain 4 pounds in 5 days by going to charitable feeding sites—in areas labeled as some of the "hungriest" in America.

Americans have demonstrated time and time again that they are sensitive to the plight of the less fortunate and that they are willing to lend a helping hand. Isn't it time for Congress to focus its attention on efforts to streamline our present programs, and, thereby get the most out of the money we are spending?

Mr. President, I ask unanimous consent that the article by Carolyn Lochhead be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered printed in the RECORD, as follows:

HOW HUNGRY? HOW MANY?

(By Carolyn Lochhead)

(Summary: In what seems a strange ebb and flow, the hunger that gripped the nation in the Sixties, but was pronounced satisfied in the Seventies, has returned. So says a vocal group of academicians and activists, who point to soup kitchens and other growing evidence. Their detractors caution that the danger is in hunger's definition, which should be closely examined, barring a rush to ill-conceived policies.)

The declaration came in 1979. Hunger had been conquered in America, said the Field Foundation, whose reports of widespread hunger in the 1960s had inspired not only a blossoming of the federal food stamp program but dozens of other nutrition efforts—from Meals on Wheels for the elderly to the federal supplemental food program for poor women, infants and children.

Nine years later, another message is heard. It comes from network newscasts and television docudramas, from Washington activists and Harvard professors, from senators and representatives, from testimony in hearings on Capitol Hill: Hunger in America is back, with a vengeance.

Hunger, it is said, is epidemic—widespread, chronic and growing. Robert Fersh, executive director of the Food Research and Action Center, a hunger activist group, told the House Select Committee on Hunger that there are "unconscionable levels of hunger in our country today" and that its "continuing growth" is "irrefutable."

The Food and Nutrition Service, the arm of the Department of Agriculture that administers the food stamp program, is under attack. Activists lay the blame for this hunger epidemic squarely on the Reagan administration, charging that the White House has slashed spending on food programs and ripped apart the safety net, forcing hungry people off the food stamp rolls and into lines at soup kitchens.

Larry Brown, who heads a group called the Physician Task Force on Hunger in America, based at the Harvard University School of Public Health, has said he has "uncovered overwhelming evidence that this hunger [is] a man-made epidemic created and spread by government policies." Emotions run high as reports of empty refrigerators and stunted children stream into Washington. Patrick J. Leahy, chairman of the Senate Agriculture, Nutrition and Forestry Committee, likens conditions in parts of the United States to those in parts of the Third World.

That such a shocking turnabout in nutritional status has occurred, however, is very much a matter of dispute. Many medical experts point to evidence of improving nutrition in the United States and say that raising a hunger alarm could seriously misguide public health policies. "A lot of what the activists are calling hunger is just absolute rubbish," says George Graham, professor of nutrition and pediatrics at Johns Hopkins University. Many of the hunger lobbyists, he says, "are irresponsible people making irresponsible claims."

Others accuse activists of seeking a rationale for higher spending on existing federal welfare programs, thus avoiding difficult decisions on such pressing problems as drug use, out-of-wedlock births, illiteracy and welfare dependency. "To focus on hunger leads us away from what to me are the really serious needs of the poor today," says Dan McMurry, a sociology professor at Middle Tennessee State University, who says his research has turned up scant evidence of unmet food needs.

By common consent among activists and their critics, the leading source of the new attention on hunger is Brown, the best known of the hunger activists. HIs estimate of 20 million hungry people in the United States is frequently cited. A professor of nutrition policy, Brown has written prolifically, including a 1987 book called "Living Hungry in America." He also produced a widely publicized 1986 document listing the nation's 150 "hungriest counties," those where Brown says hunger is most severe.

Yet much of his work has come under attack for its purported methodological weakness. The General Accounting Office, which reviewed the report on hunger in the counties, found problems "sufficient to vitiate the overall integrity and credibility of the report." The study reached its results by finding the proportion of poor people in each county who were not using food stamps. These people, the report concluded, were hungry. Eureka County, Nev., came out as the hungriest county in the nation, largely because there are 2,000 people living there and only two of them used food stamps, even though incomes are generally low.

"They just drew their conclusions from statistics," says Jackie Cheney, the local head of eligibility and payments for the Nevada State Welfare Division. One of the county's main industries is ranching, she says; while incomes are low, the ranchers often raise their own food. They also provide room and board to their hired hands.

Moreover, Cheney says the mentality of county residents "is such that they'd rather die than accept any kind of welfare at all. Any programs we've tried to administer—not only state welfare but weatherization, fuel assistance and all that—if they think it's associated with welfare at all, they don't want anything to do with it. They take care of their own. That's the way they think."

The Physician Task Force stands by its claim. Research director Deborah Allen suggests that the welfare office may be ignoring need in the county. "Perhaps they haven't looked," she says. "It doesn't seem to me that there's no need." County Commissioner LeRoy Etchegaray insists, "Nobody seems hungry here. We're all fine."

Under fire and concerned about whether it was missing cases of hunger, the welfare staff examined its outreach efforts, including "itinerate runs" made by social workers—long drives over county back roads to find isolated families in need. Cheney says the staff concluded that everyone who wanted food stamps was getting them.

Brown's estimate of 20 million hungry Americans—one in 12 persons—is no less controversial. Critics call it grossly exaggerated. Again, nonparticipation in the food stamp program by eligible people serves as the standard for determining hunger. John Bode, assistant secretary of agriculture for food and consumer services, says the figure is "groundless." Even some hunger activists concede privately that the number may be overblown. Bode says such calculations would also yield 18 million hungry people in the late 1970s, when Brown says hunger was eliminated.

Nonetheless, as Brown often stresses in his book, the figure was broadcast on all the major network news programs, and Brown himself appeared frequently on television. His figure continues to be cited widely, as is his other work. He consulted with NBC on a prime-time drama last year called "A Place at the Table," which showed children giving brown-bag lunches to hungry classmates. NBC provided information supplements—drawn largely from activist literature—for public schools, encouraging teachers and parents to take action against hunger. But the special, critics say, did not mention the $3.7 billion National School Lunch Program, which feeds 24 million children in 95 percent of the nation's schools. An NBC spokesman said it was not "germane" to the issue.

Brown's research also inspired Hands Across America, a May 1986 charity event that netted $15 million to feed hungry Americans, once organizers paid $14 million in costs. The event was sponsored by USA for Africa, the celebrity group that raised money for famine relief in Ethiopia.

Aside from Brown's work, activists cite other reports as evidence of epidemic hunger. One is a U.S. Conference of Mayors survey showing an 18 percent rise in emergency food demand last year. "Unfortunately, the data presented are of unknown and suspect quality," wrote Peter Rossi, a University of Massachusetts demographer. "The prudent assessor must simply set aside the report as a credible document."

Roundly criticized as well was a study released by Congress' Joint Economic Committee, purportedly showing that most new jobs pay poverty wages. It is often cited as evidence of growing hunger.

Activists defend their numbers. "I don't think anyone really knows exactly how many people are hungry," says Fersh. "The bottom line is that there clearly are millions of people hungry in America. . . . Sophisticated academics can always attach methodologies, but as you get close to the reality, there's a unanimity of opinion as to what's real. Sometimes if it looks and feels like hunger, it really is."

The crux of the debate, in the view of those conducting it, boils down to a matter of definition. Everyone experiences hunger; it is an extremely subjective, and now highly politicized, term. Dr. Daniel Miller, a medical epidemiologist in the Nutrition Division at the Centers for Disease Control, says the definitional problem poses a real barrier to getting a fix on hunger's extent. "It's difficult to talk about trends when you're not even necessarily talking about the same thing over time," says Miller.

"We've grappled with the hunger issue for several years," he says. "How do you quantify it? What's a valid method of objectifying it, so that we can measure it and compare communities over time?"

At one end of the spectrum are those who see hunger as undernutrition, which yields such measurable evidence as thinness. Closer to the middle are those whose measure is the adequacy of the number of calories consumed over some period of time. Others define a hungry person as "someone who says they're hungry," says Miller. "There are groups that say that is a legitimate enough defnition of hunger."

Another frequently used definition is someone who, simply, is poor. By this description poverty is hunger. "The outward appearance to the world is that everything is rosy," says Philip Warth Jr., president of Second Harvest, one of the nation's largest food banks. "But the reality is that if you simply look at the income figures, you see that they cannot possibly afford food, clothing and shelter for themselves."

Activists often point to the growth of soup kitchens and food banks as clear indication of widespread hunger. "The preponderance of evidence is quite strong," says Robert Greenstein, director of the Center on Budget and Policy Priorities and chief of the Food and Nutrition Service during the Carter presidency. "There are so many studies showing increased requests for emergency food aid . . . that it is very hard to look at all that and not become persuaded that the problem has grown worse."

No one disputes that there are people in America who experience hunger. The debate is over hunger's frequency, its extent, its causes and, most important, whether the massive federal safety net—particularly the food stamp program—has been so damaged that it no longer meets the most basic of human needs.

DATA EAT AWAY AT REPORTS OF WIDESPREAD HUNGER

(Summary: Activists claim that the problem of hunger in America is getting worse, but nutrition statistics tell another story. The figures show that anemia among children is declining and that more poor children are obese than are underweight. Meanwhile, the activists point to the growth of food banks as evidence that more are hungry than ever before. Most elusive is agreement on defining hunger)

Activist Larry Brown of the Physician Task Force on Hunger in America tells in a recent book of his extensive and highly publicized travels around the country, during which he opened the refrigerators of the poor and asked them what they ate, whether they went to bed hungry or went without food so that their children could eat. Brown's conclusion was that hunger is epidemic: And he went much further. He said he "verified reports of Americans suffering from severe malnutrition, . . . adults and children literally dying from starvation [and] suffering severe wasting."

No measures of hunger exist. But the health statistic commonly connected with nutrition—anemia, underweight and infant mortality, for example—do not seem to support his claims.

Since 1973, the Nutrition Division of the Centers for Disease Control in Atlanta has operated the Pediatric Nutrition Surveillance System, which collects data on participants in the Women, Infants and Children federal food program. By following participants, the system tracks those at highest risk of malnutrition, although analysts caution that it is missing poor children who do not get into the WIC program. Nonetheless, by general agreement it is the best continuous survey available.

The most striking result from the data over the past 10 years is the steady, sharp decline in child anemia, one of the health statistics most closely related to nutrition. Dr. Ray Yip, a medical epidemiologist at the Centers for Disease Control, says that among poor children, anemia is down 50 percent, although its prevalence is still twice as high as among wealthy children. Moreover, anemia rates among children visiting WIC clinics for the first time, whose health would not have been affected by the program, showed similar declines, although their anemia rates were higher than among the food program participants.

While poor children's anemia problems remain quite serious, says Yip, "there's something happening to the iron nutrition in the U.S. that's making things better, at least for low-income children."

The WIC data also track children's weight in relation to their height, and from this it is possible to compare the incidence of underweight or obesity with that in the population as a whole. To make the comparison, the general population is broken down according to percentiles. If a person is in the 5th percentile, his weight relative to height is lower than 95 percent of the population's; this weight-to-height ratio is defined as the cutoff point describing those who are seriously underweight. Likewise, if one is in the 95th percentile, only 5 percent of people are heavier relative to their height, and this is the cutoff point for those who are described as seriously obese. Ratios for children in the Women, Infants and Children program are then compared against these standards.

The data show that the incidence of obesity is almost twice as high as the incidence of underweight among children in the federal food program, and that underweight is actually less common among these poor children than in the population as a whole. The percentage of poor children considered underweight has fallen from 4.2 percent in 1974 to 3.9 percent in 1987, a possibly insignificant decline but nonetheless below the rate for the population as a whole. Broken down by race, 3 percent of white children in the federal program are below the 5th percentile, while 4.1 percent of blacks and 6.5 percent of Hispanics are below that level.

Obesity rates of children in the federal food program, by contrast, are well above normal distribution: 6.8 percent of whites, 9.2 percent of blacks and 10.7 of Hispanics come in above the 95th percentile. "Obesity is becoming a shattering problem in this country," says George Graham, professor of human nutrition and pediatrics at Johns Hopkins University. Obesity is extremely prevalent among poor women. The cause, says Graham, is not higher caloric intake; middle-class women do eat better, but they also exercise more. Furthermore, insufficient protein consumption does not, as is commonly believed, cause obesity, says Graham. "If you're not getting enough protein, you do not [necessarily] get obese. It's a terrible fraud to let these people believe that that's their problem."

Hunger activists often suggest that diet is the main influence on the nation's health statistics. Robert Greenstein, director of the Center on Budget and Policy Priorities, cites hospital reports showing increasing numbers of children with nutritional problems. Brown, referring to health statistics in his book, says, "What it all comes down to is food."

Others think the matter is more complicated. The Centers for Disease Control list four categories of risk that can lead to the failure of a child to achieve or maintain normal growth: organic disease, such as heart disease; prenatal factors influenced by behavior, such as intrauterine growth retardation that may result from maternal cigarette smoking or alcohol use; home and environmental factors, such as maternal inexperience or a "disturbed mother-child interaction", and program participation factors. Examples of the latter "that have been suggested but as yet have to be confirmed," according to the centers, include inadequate coverage of high-risk people by programs such as WIC or food stamps.

"We've seen a lot of children with fetal alcohol syndrome that just never grow up after birth," says Dr. Daniel Miller, a Centers for Disease Control medical epidemiologist. Some malnourished children are victims of unwitting teenage mothers, others of child abuse and neglect. Miller says causes also include "a whole group of chronic illnesses that would predispose a child to not growing well to begin with."

As activists say, some children are admitted to American hospitals with undernutrition. "There's no question about that," says Dr. Fern Hauck, also a medical epidemiologist at CDC. "But again, what is the cause? A lot of the kids that get admitted to the hospital are not admitted necessarily because of lack of food."

Research under way at the centers may soon shed more light on malnutrition and answer many questions about its causes. "We want to be able to separate out people truly lacking food from those undernourished for other reasons," says Hauck.

"You can't look at trends if you don't know what you're comparing, and that's been the difficulty with a lot of the previous surveys," she says. "Questions such as, 'Do you send your child to bed hungry at night?' That's a difficult question. It's certainly more emotional and poignant, but it doesn't really tell the whole story. What does that mean? Maybe they're hungry because they got 2,500 calories when they're used to getting 3,000. It doesn't necessarily mean they're undernourished. It could mean that. That's why we want to use an outcome that's measurable, as opposed to saying 25 percent said they were hungry. Is that valid? You just don't know."

Infant mortality rates are probably the most troubling of the health indicators. Brown calls them "a ghastly manifestation of an epidemic of hunger." The United States ranks 18th among industrialized countries in infant mortality, and the rate of infant death among blacks is almost double that of whites, the component that makes the United States rank so poorly overall. Furthermore, the rate of decline in U.S. infant mortality has slowed sharply in recent years. Both facts, activists contend, are proof of growing hunger.

Again, however, interpretation of the statistics is a subject of dispute. Advances in medicine's ability to save infants of extremely low birth weight were primarily responsible for the rapid decline in infant mortality during the 1970s, according to Joel C. Kleinman, director of the Division of Analysis at the National Center for Health Statistics. In the 1980s, that ability may be approaching its limits. Hunger activists reply that were it not for medical advances, the infant mortality rate would probably be rising, given rampant hunger. "We think the progress is being slowed by the fact that there are increasing numbers of mothers and kids who don't get the nutrition they need," says Robert Fersh of the Food Research and Action Center, one of the leading hunger activist lobbies.

The leading cause of infant mortality in the United States is low birth weight, which maternal nutrition can influence. But during the rapid decline in infant mortality in the 1970s and its slowdown in the 1980s, there was very little change in the proportion of infants of low birth weight. This makes it unlikely, says Kleinman, that food had much to do with either the 1970s decline or the 1980s slowdown.

As with other health problems, many other factors influence low birth weight—maternal smoking, for example. Single mothers, for reasons that are unclear are more likely to deliver underweight babies. Kleinman finds little convincing evidence that maternal nutrition is strongly related to the incidence of very low birth weight in the United States. While malnutrition is the leading cause of low birth weight in poor nations, adds Graham, premature birth is primarily to blame in the United States, and it has little to do with food.

In analyzing health data, experts caution that rates of decline inevitably slow as they approach zero, a statistical truism unrelated to nutrition. Furthermore, the inclusion of disproportionate shares of recent immigrants, who often do show signs of malnutrition, skews many health surveys.

Perhaps most important, Graham warns that using the terms "stunting" and "wasting," as Brown and others frequently have, to refer to American children who fall below the 5th percentile in height for age and weight for height is "totally inappropriate." Stunting and wasting commonly refer to the effects of severe malnutrition in very poor nations, instances of which are extremely rare in the United States. Moreover, by definition, 5 percent of all children fall below the 5th percentile. By the activists' use of the term, Asians are the most stunted group in the United States.

In his book, Brown describes widespread hunger in El Paso, Texas. Upon hearing of Brown's work, Dr. Laurance N. Nickey, director of the El Paso City/County Health District, polled all the pediatricians in El Paso, including those at R.E. Thomason General Hospital, which cares for indigents, to see if they had found cases of undernutrition. He says none of the pediatricians could recall ever having seen an undernourished child, except as an effect of chronic disease.

Dr. William J. Nelson, president of the El Paso County Medical Society and a professor at Texas Tech University, which runs Thomason General, says that while some recent illegal immigrants may be experiencing undernutrition, it is usually temporary.

If there are chronically hungry people in El Paso, "they've escaped the system totally, and where they are, I don't know," says Nickey. "I'd lke to find out." He says El Paso has a plethora of public and private health and welfare agencies that offer aid and are staffed with dozens of social workers. "If there are people that are going hungry in this community, we would like to know who they are so that we can extent our help," he says. "It's as simple as that. And we will extend it, period. Now we do have some problems with water and sewage out this way, and if they'd like to lobby for that, we'd be happy to have them send some money down this way."

Private charities such as food banks, says Nickey, are part of the system that ensures that the needy will not go hungry. Yet it is the spectacular growth of food banks and soup kitchens since 1981 that hunger activists point to as hunger's clearest symptom, overwhelming medical evidence. Food bank growth has skyrocketed, beginning with the 1981–82 recession and continuing ever since. "It's no accident," says Fersh. "It's not just some unrelated event that we have reports of tremendous increases of people going to soup kitchens and food pantries throughout this country. One has to be, I think, obtuse or frankly into complete denial not to see that there's some correlation."

Food banks distribute surplus government and supermarket food to the poor. Supermarkets donate tons of food annually—dented canned goods, for example, or produce and dairy products that are close to their pull dates. The federal government has donated the equivalent of 20 percent of all processed cheese sales in the nation. Second Harvest, one of the nation's largest food banks, now distributes 387 million pounds of food a year.

No serious studies of the food banks' clientele have been undertaken that would prove or disprove a link between food bank growth and hunger. Richard Freeman, a Harvard economist affiliated with the National Bureau of Economic Research, says looking at the growth in food banks would lead one to believe hunger has grown. The problem, he says, is that this is not a real measure of hunger, because these people are obviously getting some food.

As people grow poorer, they economize. If state welfare benefits have not kept up with the cost of living, for example, recipients may turn to private charities to supplement their food budgets. The catch, says Freeman, is that if a food bank "has a lot of food to provide that's free, and people are getting poorer, they will go and make use of it. That doesn't mean they're really hungry. It means they're poor. If I announce that we're going to have free cheese tomorrow, a lot of people will stand in line and get free cheese. They may not be hungry people, they may just be poor people, for whom that cheese will save them money that they otherwise would use in the store, and permit them to live their lives a little bit better."

Unclear too is whether demand alone has sparked food bank growth. Tax code changes affecting food donations, as well as the growing popularity of volunteer work and a reawakening of private charity in general, may have had some influence. Moreover, say critics of the hunger lobbies, private charity is not inherently inferior to government programs. Fersh disagrees. He says the food bank system "is really inefficient. The whole thing could be eliminated if the food stamp program were adequate."

Dan McMurry, a Middle Tennessee State University sociology professor, has roamed the country investigating hunger, often posing as a homeless man. He found that in Nashville, charitable organizations serve 41 groups meals each day. "I gained 4 pounds in five days just wandering around trying to find out what services were available," McMurry says. "There's a world of food out there."

He found many problems other than hunger, such as illiteracy and skill obsolescence. "But that's a different agenda," he says. "That's not hunger. So we need to talk about that. To continue calling these individuals hungry after they are sufficiently fed is to ignore their other pressing and much more important needs."

TRYING TO DIGEST THE FULL IMPACT OF FOOD STAMPS

(Summary: One in seven Americans gets food stamps. As the nation's main defense against hunger, they are available to anyone who is poor. But many people in need are not getting them, according to some hunger activities and congressmen, who say that cuts by the Reagan administration have led to widespread hunger. The White House and many experts deny that federal changes have had such an effect)

The food stamp program, the largest of 13 federal nutrition efforts that this year will cost more than $20 billion, is the first line of defense against hunger in the United States. Food stamps reach one in seven Americans during the course of a year. They are available to anyone who is poor, one does not have to be a parent, or old, or unemployed to get them. They are pegged to food costs, and unlike most welfare programs, the benefit is entirely federally funded.

Hunger has breached that defense, propelled by a Reagan administration onslaught, say activists—and increasingly, congressmen. "We discovered an epidemic born out of political ideology and government policy," writes Larry Brown, a leading hunger activist, "a man-made disease caused by leaders who . . . purposely dismantled programs that had been successful at preventing widespread hunger in our nation for years. . . . Families who had been living on the economic margins fell through the tattered safety net and landed in the soup kitchens of America."

Brown and others contend that the administration slashed spending on food programs and continues to erect roadblocks to cut the poor off from food stamps and other programs. The administration vehemently denies these charges.

In 1981 and 1982 the White House did spearhead changes in food programs that resulted in a drop in food stamp spending—from $10.3 billion in 1981 to $10.1 billion in 1982. In 1983, spending rose to $11.8 billion as a result of the recession. Today, food spending after adjusting for inflation is up 8.5 percent since 1982, the first fiscal year influenced by the Reagan administration.

The White House denies that these changes had much effect on most food stamp recipients, and many experts agree. For example, the administration limited eligibility for food stamps to people with gross incomes at or below 130 percent of the official poverty line. In the past, people with higher gross incomes could use large expense deductions to make themselves eligibile on the basis of net income. The Food and Nutrition Service at the Department of Agriculture, which runs the programs, maintains that the change helped target food stamps to the poorest households.

An Urban Institute study of the 1981 and 1982 food stamp changes found that their effect on recipients was much smaller than had been thought. It said its findings were "in direct conflict with other analyses that have implied a far more dramatic and negative effect on food stamp recipients."

Maurice MacDonald, a food stamp expert affiliated with the Institute for Research on Poverty, a leading poverty research group at the University of Wisconsin, sees no basis for claims that the food stamp program was slashed. Such claims, he says, use as their basis projected spending increases by the Carter administration, which had also wanted to expand several of the child nutrition programs. The Reagan administration halted that expansion.

The administration did sharply reduce food subsidies under the National School Lunch Program to children from upper- and middle-income homes, most of whom must now pay the full cost of their school meals. The federal government still spends about $500 million a year subsidizing school lunches for children whose family income is above 185 percent of the poverty level, or about $20,000 for a family of four. And it continues to fully or partly subsidize lunches for poor children.

These two changes, limiting eligibility in the food stamp and school lunch programs, constitute the substance of the cuts in 1981-82. Other programs have expanded sharply, particularly the nutrition program called Women, Infants and Children. Annual spending is up from some $948 million in 1982 to nearly $1.7 billion this year. The program serves one out of four babies born in the United States.

In 1981, the Reagan administration also began giving away to the poor and to charitable groups the government's mountainous stocks of surplus farm products, particularly cheese. These stocks had accumulated as a result of subsidizing producers and were costing millions to store. The move sparked sharp attacks. Many contended that the giveaways were Ronald Reagan's equivalent of Marie-Antoinette's legendary statement, "Let them eat cake."

Critics also complained that cheese is high in fat. Yet the giveaways became so popular that in 1983 Congress decided to require them. Now the stocks have run low, and some activists say the giveaways are one of the most important bulwarks against hunger and that the government should start buying commodities to distribute.

The main quarrel, however, is with the food stamp program. Activists say participation is too low. Robert Fersh, executive director of the Food Research and Action Center, says the administration has erected bureaucratic barriers that deny food stamps to eligible people, causing them to go hungry. Yet food stamp participation has remained stable since the late 1970s. Sixty percent of eligible households and 67 percent of eligible individuals get food stamps—much higher than the approximately 50 percent participation of the mid-1970s. The jump followed a Carter administration rule change making participation easier.

Still, asks Philip Warth Jr., presidnet of Second Harvest, a large food bank network, "Who's doing anything to see that the other 35 percent is being served?" For example, most agree that, like other government paperwork, food stamp forms are long, complex and difficult to understand. Applicants can get help filing them out, but the Reagan administration has come under heavy fire for ending a national program that required states to try to get more people to enroll. Nonetheless, when the program ended, participation rates held steady. Many experts believe that the food stamp program is widely available and very well-known—in fact, probably the best-known of all welfare programs.

Activists point out, however, that the government penalizes states that issue food stamps to ineligible people but does not penalize states for underissuing stamps. The result, Fersh says, is that when in doubt about eligibility, states play it safe, delaying or denying benefits to people for fear of sanctions by the federal government if they grant them erroneously.

John Bode, chief of the Food and Nutrition Service, calls the charge a red herring and says states with the highest rates of overissuance also have the highest rates of underissuance. The underpayment error rate is about 8.1 percent, says Bode. Overpayment costs are about $900 million annually, he says.

Full participation is in any event unlikely. Some people feel stigmatized using food stamps. More significant, because benefits decline as a person's income rises toward the eligibility cutoff, the more income a person has, the less likely he is to go to the trouble of obtaining the stamps. For example, someone entitled to $100 a month in food stamps in far more likely to participate in the program than someone entitled to just $10 a month.

Moreover, some people do not report all their income or assets and so appear eligible even though they are not. Sometimes looking at income figures underestimates assets; an elderly person with little income may have a large savings account, for example. Activists argue that these asset limits should be raised.

They also sharply criticize what they say is a woefully inadequate level of benefits, a level that permits people to go hungry. Food bank operators confirm widespread complaints that stamps do not last through the end of the month, when demand for food bank assistance rises sharply. But food stamps have never, since their inception, been intended to pay for an entire month's food, except for those households that have no other income. Poor households have always been expected to spend 30 percent of their own income on food.

Still, activists argue, the benefits are too low. Since the 1970s, benefits have been based on the Thrifty Food Plan, a model food budget that the administration argues is adequate. "My feeling is that the benefit levels are not adequate, but that's a judgment call," Robert Greenstein, a Carter administration chief of the Food and Nutrition Service and now director of the Center on Budget and Policy Priorities.

Adds Fersh of the Food and Research and Action Center. "I am not one of those people who will tell you that food stamps should last throughout the month for everybody. There is a misconception about that among the public. But that alone does not argue [food stamp benefits are] sufficient, given the demands on people's income. When you look at income levels, one would understand very easily that people living at those levels would be at risk of hunger."

Benefits from many cash welfare programs, such as Aid to Families with Dependent Children and unemployment insurance, in which benefits are set and funded in part by the states, have fallen sharply since the mid-1970s.

Housing costs for the poor in many parts of the country have risen. The number of poor Americans increased sharply during the 1982-83 recession, and while the poverty rate has been falling ever since, its decline has been slower than in past recoveries.

All of these things combined have "squeezed the amount of income that low-income families have available for food purchases," says Greenstein. Looked at this way, hunger is part of the broader question of how to address poverty.

Food stamps are essentially an income transfer. They allow poor people to use money they would normally spend on food for other needs. Some social policy analysts argue for converting the food stamp program to cash assistance, so that the poor could decide for themselves how to spend their money. The idea so far has little political appeal; however paternalistic, giving food to the poor is far more attractive, in the eyes of many, than giving cash, even if the effect is the same.

Food stamps are, therefore, part of the wider and more perplexing question of how the federal government can best address poverty. The debate under way is over whether to increase spending on that system or to change it and, if so, how.

For now, the views of the activists on expanding the food stamp program in order to combat poverty are finding a receptive audience in political circles. Sen. Patrick J. Leahy, the Vermont Democrat who heads the Agriculture, Nutrition and Forestry Committee, says he intends "to begin an effort, not just for this year but into the next Congress and the next", to "focus attention on the hunger in America. We have a moral obligation to find the solutions." The House and Senate budget conference recently agreed to a $1.4 billion increase in federal food programs over the next three years.

But targeting the programs for increases on grounds of widespread hunger amounts to a failure to address more difficult questions on overall welfare policy, in the view of some. Says Sheldon Danziger, director of the Institute of Research on Poverty, "What we've learned is that even with a healthy economy there are a variety of groups that are quite vulnerable and that a whole range of policies needs to be considered if we're going to significantly reduce their poverty rates.

"It's a very different thing to talk about what to do for children living in female headed families, for whom you have to talk about welfare reform, workfare reform, child support reform, education reform, family planning," for example, than it is to decide how to help the elderly or the working poor. "I do not believe," he says, "that the answer is to be found in expanding a single existing program."

THE SUPERCONDUCTING SUPER COLLIDER IN ILLINOIS

Mr. DIXON. Mr. President, for a long time here in the Congress, there have been discussions about investing a substantial amount of money in a new superconducting super collider, a thing that many of us believe would be a very fine investment by the United States in the future of this country's progress, in space, in science, in medical care, and in many other important undertakings.

I am pleased to note, Mr. President, first of all, that my State, the State of

Illinois, is one of seven finalist States under consideration by the Department of Energy in connection with the establishment of a superconducting super collider in one of the States in this great country, and I think it entirely appropriate, Mr. President, not only that we be one of seven finalists, but because of the presence of Fermilab in the State of Illinois, Mr. President, I think it is entirely appropriate and in the interests of this country that the superconducting super collider be located at Fermilab in my State.

I want to call the attention, Mr. President, of my colleagues in the Congress and particularly those in the U.S. Senate, to a very fine article that appeared today in the Chicago Tribune. This acticle was written by Mr. Jon Van, the science writer for the Chicago Tribune. It is entitled "In Making Beams, Fermilab Shines; Proton Creation Puts Facility Ahead in International Horse Race."

Mr. President, I would like to read from this article. It says:

> Physicists at Fermilab have pulled into first place in an international scientific race of subatomic dimensions by producing the world's brightest beam of protons racing around a 4-mile track.
>
> The Tevatron physics machine at the laboratory near west suburban Batavia established itself as the world's most powerful atom smasher, jubilant scientists said. It beat the old record, held by Europeans at a physics center near Geneva, by 25 percent on Friday and eventually could produce proton beams up to twice as bright as anything physicists have seen.

Mr. President, I ask unanimous consent that the article be reproduced in the CONGRESSIONAL RECORD in full.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN MAKING BEAMS, FERMILAB SHINES—PROTON CERATION PUTS FACILITY AHEAD IN "INTERNATIONAL HORSE RACE"

(By Jon Van)

Physicists at Fermilab have pulled into first place in an international scientific race of subatomic dimensions by producing the world's brightest beam of protons racing around a 4-mile track.

The Tevatron physics machine at the laboratory near west suburban Batavia established itself as the world's most powerful atom smasher, jubilant scientists said. It beat the old record, held by Europeans at a physics center near Geneva, by 25 percent on Friday and eventually could produce proton beams up to twice as bright as anything physicists have seen.

"It's a real international horse race, and we're really pulling ahead," said David Finley, head of Tevatron at Fermilab.

Brightness in this context means that the scientists are able to pack protons, the key components from the nucleus of an atom, into a dense and extremely narrow beam. They also do this with negatively charged protons of antimatter—a tricky process because antimatter protons disintegrate at once if they touch any sort of regular matter.

The two beams are spun in opposite directions around Fermilab's 4-mile Tevatron track 55,000 times a second, suspended within a strong magnetic field until they are smashed into each other. The collisions break the protons and antiprotons into even smaller elementary components, providing clues as to what particles actually make up atomic components.

Extremely powerful magnets are used to concentrate the protons and antiprotons. Keeping them within a space less than one two-thousandths of an inch across as they hurl around the ring is an exquisitely difficult feat.

"If anything goes wrong, it just shuts down and you have to start all over again," Finley said.

A lot of things can go wrong. The magnets operate about 4 degrees above absolute zero and require an elaborate cooling system using liquid nitrogen and liquid helium.

"If one water pump fails or the air conditioning breaks or someone just bumps one component while this is operating, it can cause a shutdown," said Finley.

By packing the beams with more and more protons and antiprotons, scientists increase the chances that experimental colisions will produce the rare events that give them fresh insights into elementary particles.

Scientists theorize that all of nature is built with just a few kinds of particles they call hadrons and leptons. Of specific interest now are a class of hadrons called quarks. Physicists think there are six kinds of quarks, but they have been able to identify only five. Part of the international competition is to be first to find the sixth.

Another aspect of this contest is to better understand the forces of nature such as gravity, electromagnetism, the weak force governing radioactivity and the strong force that holds atoms together. Looking for evidence of particles that moderate these forces is another goal of the work at Fermilab and at CERN, the European center for nuclear research in Geneva.

The atom smasher in Geneva is being upgraded to produce brighter and better beams to try to keep pace with Fermilab, Finley said. "So for the next six months, we really are faced with very vigorous competition to stay No. 1."

The Geneva center has led the world in this competition for most of this decade, in large part because equipment at Fermilab was not working while scientists tried to make it more powerful.

Friday's achievement was a key step in proving that Tevatron can operate as designed, making the long downtime for improvements seem worthwhile to researchers.

Mr. DIXON. I simply want to say in conclusion, Mr. President, that I have had the distinct privilege over a period of years of inviting colleagues of mine in the U.S. Senate to tour Fermilab and my distinguished colleague on the House side, Representative LYNN MARTIN, the distinguished Congressperson from Rockford, IL, who is, as you know, a Republican leader in the House, has also had the privilege of bringing Members from the House out to Illinois to look at Fermilab.

It is a tremendous institution, Mr. President. Out in the middle of a rural area, in close proximity to Chicago, IL, which as you know has two great airports, all the fine universities and scientific personnel that we have in the area; and so, Mr. President, Fermilab is especially well suited to be the site for the superconducting super collider. And, Mr. President, as the Secretary of Energy and this administration are beginning to take the final look at the location for the superconducting super collider, I would recommend, Mr. President, to the attention of the Secretary of Energy and others in the administration and those in the Congress in both Houses who will make those final important decisions, the examination of this article which shows that Fermilab, today, leads in the world, Mr. President. Fermilab, today, has all the land, all of the necessary equipment, all of the proximity to a great urban center and universities and the transportation facilities and other important considerations that make it the appropriate home for the superconducting super collider.

NEW JERSEY BLUEBERRIES

Mr. LAUTENBERG. Mr. President, today Senator BRADLEY and I are pleased to be able to share a tray of freshly picked New Jersey blueberries with each of our Senate colleagues.

We in New Jersey are proud of our blueberries. Our State's blueberry farmers produce about 40 million pounds of these berries annually, which generate over $30 million for the State's economy. And blueberry producers do it all on their own—without the benefit of Government subsidies.

Blueberries offer a combination of great taste, nutrition, and versatility. They can be eaten at any time of day: alone, on cereals and ice cream, and in muffins, waffles, pies, and cobblers.

They also have quite a history. The wild blueberry has existed for over 13,000 years and has been used not only for food, but as medicine.

The wild blueberry plant, though, was tamed and cultivated in the Garden State—New Jersey—in 1906. Through breeding and crossbreeding the best of the New Jersey's berries, Elizabeth White and Frederick Coville developed berries that were large, sweet and hardy. Their work led to the first commercial harvesting of what is now New Jersey's second most profitable fruit crop. New Jersey is now first in the Nation in the production of fresh cultivated blueberries.

One reason for New Jersey's success in the blueberry market is the research conducted by the Rutgers University Center for Cranberry and Blueberry Research. Research performed at the center has helped improve efficiency in blueberry production, and also enhanced the quality of the berries themselves.

I have been working hard to provide adequate funding for the Rutgers

Center and last year succeeding in increasing funding from $90,000 to $260,000. This year, I am hopeful that Congress will approve a further increase of almost $500,000. With these additional resources, the facility should become a truly national center.

I would like to thank the New Jersey Blueberry Association and the Jersey Fresh Program for their assistance in organizing this promotion.

PROF. HERBERT ROSS BROWN

Mr. COHEN. Mr. President, I would like to take this opportunity to honor Prof. Herbert Ross Brown, a resident of Brunswick, ME, and distinguished member of the faculty at my alma mater, Bowdoin College, who passed away on July 26. Professor Brown was a legend on the Bowdoin campus, revered as a teacher and respected as a leading member of the Brunswick community. All of us who have ever been associated with Bowdoin College will miss him dearly.

As an author, editor, and literary historian, Herbert Ross Brown was honored on countless occasions. He received the Bowdoin Alumni Council's Award for special service and devotion to the college, and was awarded honorary degrees by Bowdoin, Lafayette College, Bucknell University, and the University of Maine. He authored a variety of works and served for 40 years as the managing editor of New England Quarterly, a prestigious review of New England life and letters.

Professor Brown was widely known for the active role he played in both town and State affairs. The Maine Senate passed a resolution in 1965 commending him for his "outstanding contribution to welfare and progress in the State." In 1971 he was named "Citizen of the Year" by the Brunswick Area Chamber of Commerce, and he was later honored by the Maine State Commission on the Arts and Humanities for his outstanding cultural contributions.

Professor Brown was a man who rarely missed a class during his long career at Bowdoin. In 1971, with casts on both legs, he delivered his Shakespeare lectures from the living room of his house. Impressed and delighted by his enthusiastic approach to teaching, the campus newspaper, the Bowdoin Orient, commented, "we've never known a finer man, a more dedicated teacher."

My friend, A. Leroy Greason, Bowdoin's very capable president, has described Professor Brown's special presence at the college:

> In the course of his long career at Bowdoin, there were few roles that Herbert Ross Brown did not fill—and fill with distinction. He was not only a scholar and teacher of considerable fame, but on all great occasions he was the voice and the pen of the college. No one has served Bowdoin better.

Herbert Ross Brown was a tireless educator, a model citizen and an inspiration to all of those who were fortunate enough to work with him. While we are saddened that he is no longer with us, we are confident that his influence on the college and community will be felt for years to come.

Mr. BRADLEY. Mr. President, blueberry season is upon us once again in New Jersey. Over the next few weeks, people across the country will begin to enjoy these plump, tasty morsels, which will be used to complement pies and muffins, or will just be eaten by the handful. And while today bueberries are grown around the country—Michigan, North Carolina, Florida, Oregon, and elsewhere—I remind my colleagues that it was in New Jersey that the cultivated blueberry was first developed.

The year was 1906 when Elizabeth White pioneered the cultivation of blueberries in the heart of the New Jersey pinelands. She turned to local farmers and woodsmen to locate the best wild blueberry cuttings, and she honored their efforts by naming many of the cultivated hybrids after the New Jerseyans who discovered them. According to Miss White, the keystone of the cultivated blueberry was the Rubel, named for Rube Leek of Chatsworth, NJ.

Today's blueberries, which are so enjoyed by all Americans, developed through the crossbreeding of these original varieties. It is with great pride that I hold up the cultivated blueberry as a true fruit of New Jersey industry and initiative.

Mr. President, Senator LAUTENBERG and I will be sending around to our colleagues today some of these fine New Jersey blueberries. I wish them good eating.

UNITED STATES-INDO RELATIONSHIP IN THE COMING YEARS

Mr. HATFIELD. Mr. President, shortly before our last recess, the Senate passed the foreign operations appropriations bill, H.R. 4637.

Today I want to introduce into the RECORD a letter which I received from Ambassador Kaul, the Ambassador of India, which represents his Government's viewpoint on some of the committee's report language which accompanied the foreign operations bill. In addition, I want to bring to the attention of my colleagues an important speech which Prime Minister, Rajiv Gandhi delivered June 9, 1988, on the subject of nuclear disarmament and nonproliferation. I feel the Ambassador's letter, and Prime Minister Gandhi's speech shed valuable light on the political dynamics of South Asia, on the nuclear and security questions involved in that region, on India's relationship with Pakistan, and most important, this material allows each Senator the opportunity to evaluate India's positions on these important subjects as he or she evaluates United States foreign policy in that area of the world.

India's 800 million people and its government are major players in the global effort to bring and maintain world peace without such a peace being built on the shaky and completely untrustworthy foundation of nuclear weapons, and the United States must respect that fact.

The United States-Indo relationship will take on greater and greater significance in the coming years, and I am hopeful the next administration and the 101st Congress will give it the attention it deserves. I ask unanimous consent that both the letter and the speech to which I referred appear in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMBASSADOR OF INDIA,
Washington, DC, July 12, 1988.

Hon. MARK O. HATFIELD,
U.S. Senate, Washington, DC.

MY DEAR SENATOR HATFIELD: I have seen the references to India in the Committee Report accompanying the Senate Foreign Operations Export Financing and Related Program Approriations Bill for FY 89, No. HR 4637, which passed the Senate on 7th July, 1988. It is unfortunate that these references were made, as they do convey a one-sided and inaccurate view of India's policies. I am aware of your interest both in India and in promoting better Indo-US relations, and therefore would like to place our views on these references before you for your information:

(i) India has never believed that nuclear weapons proliferation can be ensured by adopting a regional approach. Proponents of the "regional" approach for South Asia ignore the threat created by the presence of nuclear weapons on our northern borders, particularly the fact that these are subject to *no* restraints whatsoever. No nuclear weapon has yet been invented which observes strict national or even regional boundaries while detonating. Therefore, we believe in a comprehensive approach to this problem.

As an indication of the seriousness with which we view the issue of nuclear weapons proliferation, our Prime Minister recently proposed at the United Nations a broad and attainable action plan with the objective of creating a nuclear weapons-free world by 2010 AD. This plan endeavours to address the concerns that both our countries have on this important subject, as well as on other disarmament issues. It is our hope that this proposal will be studied seriously, so that there is some forward movement in our respective efforts to attain a common objective. I enclose the proposal for your ready reference.

India's bonafides on nuclear proliferation, which have been questioned in the Committee's report, are impeccable. We were one of the original sponsors of the NPT, which we did not sign because it did not devolve equal responsibility for non proliferation on nuclear weapon States. Since its inception, we have cooperated actively with other countries in the IAEE. In fact, we are on the Board of Governors of the IAEA.

Our commitment to a global approach made us join like-minded countries from five continents in the Six Nation Initiative for Disarmament, the first Summit meeting of which was held in India in 1985. Any desire to make us now adopt a piecemeal approach to this issue is therefore unrealistic. Our position is based on the principle of recognizing the equal responsibility of all countries in confronting nuclear weapons proliferation—be these nuclear-weapon or nuclear-threshold or completely non nuclear States.

In the case of India, specifically, since our peaceful nuclear explosion in 1974, we have not conducted another such experiment. This speaks louder than words of our commitment to restraint. Such demonstrated restraint should be compared with the behaviour of the only other nuclear capable country in our region, Pakistan, which has been indicted by courts in your country of conscious violations of your Export Control Laws in its quest for a nuclear weapon. Further, it is a fact that while India's nuclear programme is open and managed by civilians, who are accountable to our Parliament, there is no such accountability on the part of Pakistan's nuclear programme, which is both clandestine and run by its military.

(ii) You may like to glance at the following table with reference to the Committee's concern on "the continuing military backup in India":

	Defence budget/ central budget (percent)	Foreign aid/ central budget (percent)	Military expenditure/ GNP (percent)	Per capita military expenditure
	(a)	(b)	(c)	(d)
India	15.6	7.0	3.81 (59)	$9 (111)
Pakistan	33.6	16.7	6.36 (36)	23 (84)

(a=CIA World Fact book pages 114, 191).
(b=Current estimates of national budget statistics).
(c=ACDA 1987 World Military Expenditure Arms Transfers).
(Figures in parentheses are world ranking by each variable).

Any expression of concern on India's defence expenditure should have taken into account the following facts:

That this expenditure is for the defence of a democracy of 800 million people; that it seeks to cater to India's legitimate defence needs through a long-standing programme of self-reliance; that geographically, India is the largest country in South Asia; and that foreign aid accounts for only 7 percent of India's budget resource mobilization. What is important is not the quantum of expenditure, but the percentage of national resources being spent on defence.

Further, India does not have any hegemonistic designs on her neighbors in South Asia. In 1985, at the First Summit of the South Asian Association of Regional Cooperation, our Prime Minister declared our commitment to the sovereignty and equality of our neighbours. However, you will appreciate that our Government has to assess our defence needs against the background of the wars our country has been forced to fight since we attained Independence in 1947, of the long land and sea borders we possess with as many as seven neighbours, of the security requirements of our far-flung island territories, of the extensive economic zone off our shores. These are legitimate inputs into defence planning, and voters in India expect their elected Government to defend these interests.

(iii) The reference to the introduction of "nuclear submarines" into our navy is factually misleading. What we have done is *lease* one nuclear powered submarine from the USSR into our Navy, which will be returned to the Soviet Union on completion of its 4 year lease. This training submarine does not carry nuclear weapons. Under the NPT, to which the USSR is a signatory, the transfer of nuclear propulsion technology is not banned to a non-NPT signatory. Any proliferation concerns have been met by sealing the reactor unit, and transporting the spent fuel back to the USSR under safeguards. The rationale for our going in for nuclear propulsion technology is the same as that advanced by other countries with extremely long coastlines—after all, we have island territories and a coastline of 7,000 kms to patrol and defend.

(iv) Similarly, we have given assurances that the surface to surface missile we recently testified is not for carrying nuclear warheads as we do not possess the same. The test should be seen against the background of our longstanding space and missile programme, which has been built indigenously by our large pool of skilled scientists—a pool surpassed only by your country and the USSR. This programme is open, and does not pose a threat to any of our neighbours.

I look forward to hearing from you.

Yours sincerely,

P.K. KAUL.

PRIME MINISTER RAJIV GANDHI'S ADDRESS TO THE THIRD SPECIAL SESSION ON DISARMAMENT OF THE UNITED NATIONS GENERAL ASSEMBLY

Mr. President, May I begin by extending to you our warmest felicitations of your election as President of this vitally important Special Session of the General Assembly? Our deliberations will benefit greatly from the wealth of your experience and your deep understanding of the issues before us.

2. We are approaching the close of the twentieth century. It has been the most bloodstained century in history. Fifty eight million perished in two World Wars. Forty million more have died in other conflicts. In the last nine decades, the ravenous machines of war have devoured nearly one hundred million people. The appetite of these monstrous machines grows on what they feed. Nuclear war will not mean the death of a hundred million people. Or even a thousand million people. It will mean the extinction of four thousand million, the end of life as we know it on our planet Earth. We come to the United Nations to seek your support. We seek your support to put a stop to this madness.

3. Humanity is at a crossroads. One road will take us like lemmings to our own suicide. That is the path indicated by doctrines of nuclear deterrence, deriving from traditional concepts of the balance of power. The other road will give us another chance. That is the path signposted by the doctrine of peaceful coexistence, deriving from the imperative values of nonviolence, tolerance and compassion.

4. In consequence of doctrines of deterrence, international relations have been gravely militarized. Astronomical sums are being invested in ways of dealing death. Ever new means of destruction continue to be invented. The best of our scientific talent and the bulk of our technological resources are devoted to maintaining and upgrading this threats and violence have become pervasive.

5. For a hundred years after the Congress of Vienna, Europe knew an uncertain peace based on a balance of power. When the balance was tilted—or, more accurately, when the balance was perceived to have tilted—Europe was plunged into an orgy of destruction, the like of which had never been known before and which spread to engulf much of the world. The unsettled disputes of the First World War led to the Second.

6. Humankind survived because, by today's standards, the power to destroy which was then available was a limited power. We now have what we did not then have: the power to ensure the genocide of the human race. Technology has now rendered obsolete the calculations of war and peace on which were constructed the always dubious theories of the balance of power.

7. It is a dangerous delusion to believe that nuclear weapons have brought us peace. it is true that, in the past four decades, parts of the world have experienced an absence of war. But a mere absence of war is not a durable peace. The balance of nuclear terror rests on the retention and augmentation of nuclear armouries. There can be no ironclad guarantee against the use of weapons of mass destruction. They have been used in the past. They could be used in the future. And, in this nuclear age, the insane logic of mutually assured destruction will ensure that nothing survives, that none lives to tell the tale, that there is no one left to understand what went wrong and why. Peace which rests on the search for a parity of power is a precarious peace. If we can understand what went wrong with such attempts in the past, we may yet be able to escape the catastrophe presaged by doctrines of nuclear deterrence.

8. There is a further problem with deterrence. The doctrine is based on the assumption that international relations are frozen on a permanently hostile basis. Deterrence needs an enemy, even if one has to be invented. Nuclear deterrence is the ultimate expression of the philosophy of terrorism: holding humanity hostage to the presumed security needs of the few.

9. There are those who argue that since the consequences of nuclear war are widely known and well understood, nuclear war just cannot happen. Neither experience nor logic can sustain such dangerous complacency. History is full of miscalculations. Perception are often totally at variance with reality. A madman's fantasy could unleash the end. An accident could trigger a chain reaction which inexorably leads to doom. Indeed, the advance of technology has so reduced the time for decisions that, once activated, computers programmed for Armageddon, pre-empt human intervention and all hope of survival. There is, therefore, no comfort in the claim of the proponents of nuclear deterrence that everyone can be saved by ensuring that in the event of conflict, everyone will surely die.

10. The champions of nuclear deterrence argue that nuclear weapons have been invented and, therefore, cannot be eliminated. We do not agree. We have an international convention eliminating biological weapons by prohibiting their use in war. We are working on similarly eliminating chemical weapons. There is no reason in principle why nuclear weapons too cannot be so eliminated. All it requires is the affirmation of certain basic moral values and the assertion of the required practical will, underpinned

by treaties and institutions which insure against nuclear delinquency.

11. The past few years have seen the emergence of a new danger: the extension of the nuclear arms race into outer space. The ambition of creating impenetrable defences against nuclear weapons has merely escalated the arms race and complicated the process of disarmament. This has happened in spite of the grave doubts expressed by leading scientists about its very feasibility. Even the attempt to build a partial shield against nuclear missiles increases the risk of nuclear war. History shows that there is no shield that has not been penetrated by a superior weapon, not any weapon for which a superior shield has not been found. Societies get caught in a multiple helix of escalation in chasing this chimera, expending vast resources for an illusory security while increasing the risk of certain extinction.

12. The new weapons being developed for defence against nuclear weapons are part of a much wider qualitative arms race. The development of the so-called "third generation nuclear weapons" has opened up ominous prospects of their being used for selective and discriminate military operations. There is nothing more dangerous than the illusion of limited nuclear war. It desensitizes inhibitions about the use of nuclear weapons. That could lead, in next to no time, to the outbreak of full-fledged nuclear war.

13. There are no technological solutions to the problems of world security. Security can only come from our asserting effective political control over this self-propelled technological arms race.

14. We cannot accept the logic that a few nations have the right to pursue their security by threatening the survival of humankind. It is not only those who live by the nuclear sword who, by design or default, shall one day perish by it. All humanity will perish.

15. Nor is it acceptable that those who possess nuclear weapons are freed of all controls while those without nuclear weapons are policed against their production. History is full of such prejudices paraded as iron laws: that men are superior to women; that the white races are superior to the coloured: that colonialism is a civilising mission; that those who possess nuclear weapons are responsible powers and those who do not are not.

16. Alas, nuclear weapons are not the only weapons of mass destruction. New knowledge is being generated in the life sciences. Military applications of these developments could rapidly undermine the existing convention against the military use of biological weapons. The ambit of our concern must extend to all means of mass annihilation.

17. New technologies have also dramatically expanded the scope and intensity of conventional warfare. The physical destruction which can be carried out by full-scale conventional war would be enormous, far exceeding anything known in the past. Even if humankind is spared the agony of a nuclear winter, civilisation and civil life as we know it would be irretrievably disrupted. The range, precision and lethality of conventional weapons is being vastly increased. Some of these weapons are moving from being "smart" to becoming "intelligent". Such diabolical technologies generate their own pressures for early use, thus increasing the risk of the outbreak of war. Most of these technologies are at the command of the military blocs. This immensely increases their capacity for interference, intervention and coercive diplomacy.

18. Those who do not belong to the military blocs would much rather stay out of the race. We do not want to accumulate arms. We do not want to augment our capacity to kill. But the system, like a whirlpool, sucks us into its vortex. We are compelled to divert resources from development to defence to respond to the arsenals which are constructed as a sideshow to great power rivalries. As the nature and sophistication of threats to our security increase, we are forced to incur huge expenditure on raising the threshold of our defences.

19. There is another danger that is even worse. Left to ourselves, we would not want to touch nuclear weapons. But when tactical considerations, in the passing play of great power rivalries, are allowed to take precedence over the imperatives of nuclear nonproliferation, with what leeway are we left?

20. Even the mightiest military powers realise that they cannot continue the present arms race without inviting economic calamity. The continuing arms race has imposed a great burden on national economies and the global economy. It is no longer only the developing countries who are urging disarmament to channel resources to development. Even the richest are beginning to realise that they cannot afford the current levels of the military burden they have imposed upon themselves. A genuine process of disarmament, leading to a substantial reduction in military expenditure, is bound to promote the prosperity of all nations of the globe. Disarmament accompanied by coexistence will open up opportunities for all countries, whatever their socio-economic systems, whatever their levels of development.

21. The technological revolutions of our century have created unparalleled wealth. They have endowed the fortunate with high levels of mass consumption and widespread social welfare. In fact, there is plenty for everyone, provided distribution is made more equitable. Yet, the possibility of fulfilling the basic needs of nutrition and shelter, education and health remains beyond the reach of vast millions of people in the developing world because resources which could give fulfillment in life are pre-empted for death.

22. The root causes of global insecurity reach far below the calculus of military parity. They are related to the instability spawned by widespread poverty, squalor, hunger, disease and illiteracy. They are connected to the degradation of the environment. They are enmeshed in the inequity and injustice of the present world order. The effort to promote security for all must be underpinned by the effort to promote opportunity for all and equitable access to achievement. Comprehensive global security must rest on a new, more just more honourable world order.

23. When the General Assembly met here last in Special Session to consider questions of disarmament, the outlook was grim. The new cold war had been revived with full force. A new programme of nuclear armament had been set in motion. As a result, during the years that followed, fear and suspicion cast a long shadow over all disarmament negotiations. Humankind was approaching the precipice of nuclear disaster.

24. Today, there is a new hope for survival and for peace. There is a perceptible movement away from the precipice. Dialogue has been resumed. Trust is in the air.

25. How has this transformation occurred? We pay tribute to the sagacity of the American and Soviet leaderships. They have seen the folly of nuclear escalation. They have started tracing the outlines of a pattern of disarmament. At the same time, we must recognise the role of countless men and women all over the world, citizens of the non-nuclear weapon States as much as of the nuclear weapon States. With courage, dedication and perseverance they kept the candle burning in the enveloping darkness. The Six-Nation Initiative voiced the hopes and aspirations of these many millions. At a time when relations between the two major nuclear weapon States dipped to their nadir, the Six Nations—Argentina, Greece, India, Mexico, Sweden and Tanzania—refocussed world attention on the imperative of nuclear disarmament. The Appeal of May 1984, issued by Indira Gandhi, Olof Palme and their colleagues, struck a responsive chord. Negotiations stalled for years begain inching forward. The process begun in Geneva has led to Reykjavik, Washington and Moscow.

26. We have all welcomed the ratification of the INF Treaty concluded between General Secretary Gorbachev and President Reagan. It is an important step in the right direction. Its great value lies in its bold departure from nuclear arms limitation to nuclear disarmament. We hope there will be agreement soon to reduce strategic nuclear arsenals by 50 percent. The process would be carried forward to the total elimination of nuclear weapons. Only then will we be able to look back and say that the INF Treaty was a truly historic beginning.

27. India believes it is possible for the human race to survive the second millenium. India believes it is also possible to ensure peace, security and survival into the third millenium and beyond. The way lies through concerted action. We urge the international community to immediately undertake negotiations with a view to adopting a time-bound Action Plan to usher in a world order free of nuclear weapons and rooted in nonviolance.

28. We have submitted such an Action Plan to this Special Session on Disarmament of the United Nations General Assembly. Our Plan calls upon the international community to negotiate a binding commitment to general and complete disarmament. This commitment must be total. It must be without reservation.

29. The heart of our Action Plan is the elimination of all nuclear weapons, in three stages, over the next twenty-two years, beginning now. We put this plan to the United Nations as a programme to be launched at once.

30. While nuclear disarmament constitutes the centrepiece of each stage of the Plan, this is buttressed by collateral and other measures to further the process of disarmament. We have made proposals for banning other weapons of mass destruction. We have suggested steps for precluding the development of new weapons sysems based on emerging technologies. We have addressed ourselves to the task of reducing conventional arms of forces to the minimum levels required for defensive purposes. We have outlined ideas for the conduct of international relations in a world free of nuclear weapons.

31. The essential features of the Action Plan are:

First, there should be a binding commitment by all nations to eliminating nuclear weapons, in stages, by the year 2010 at the latest.

Second, all nuclear weapon States must participate in the process of nuclear disarmament. All other countries must also be part of the process.

Third, to demonstrate good faith and build the required confidence, there must be tangible progress at each stage towards the common goal.

Fourth, changes are required in doctrines, policies and institutions to sustain a world free of nuclear weapons. Negotiations should be undertaken to establish a Comprehensive Global Security System under the aegis of the United Nations.

32. We propose simultaneous negotiations on a series of integrally related measures. But we do recognize the need for flexibility in the staging of some of these measures.

33. In Stage-1, the INF Treaty must be followed by a fifty percent cut in Soviet and U.S. strategic arsenals. All production of nuclear weapons and weapons grade fissionable material must cease immediately. A moratorium on the testing of nuclear weapons must be undertaken with immediate effect to set the stage for negotiations on a Comprehensive Test Ban Treaty.

34. It is already widely accepted that a nuclear war cannot be won and must not be fought. Yet, the right is reserved to resort to nuclear war. This is incompatible with a binding commitment to the elimination of nuclear weapons. Therefore, we propose that all nuclear weapons be leached of legitimacy by negotiating an international convention which outlaws the threat of use of such weapons. Such a convention will reinforce the process of nuclear disarmament.

35. Corresponding to such a commitment by the nuclear weapon States, those nations which are capable of crossing the nuclear threshold must solemnly undertake to restrain themselves. This must be accomplished by strict measures to end all covert and overt assistance to those seeking to acquire nuclear weapons.

36. We propose that negotiations must commence in the first stage itself for a new Treaty to replace the NPT, which expires in 1995. This new Treaty should give legal effect to the binding commitment of nuclear weapon States to eliminate all nuclear weapons by the year 2010, and of all non-nuclear weapon States to not cross the nuclear weapons threshold.

37. International law already bans the use of biological weapons. Similar action must be taken to ban chemical and radiological weapons.

38. The international community has unanimously recognized outer space as the common heritage of mankind. We must expand international cooperation in the peaceful uses of outer space. The essential pre-requisite for this is that outer space be kept free of all weapons. Instead, there are plans for developing, testing, and deploying space weapons systems. The nuclear arms race cannot be ended and reversed without a moratorium on such activity. It should be followed by an agreement to forestall the militarisation of outer space. This is also an indispensable condition for attaining the goal of comprehensive global security based on a nonviolent world order free of nuclear weapons.

39. The very momentum of developments in military technology is dragging the arms race out of political control. The race cannot be restrained without restraining the development of such technology. We need a system which fosters technological development but interdicts its application to military purposes. The arms control approach has focused on the quantitative growth of arsenals. The disarmament approach must devise arrangements for controlling the continuous qualitative upgradation of nuclear and conventional weapons. To achieve this purpose, the essential requirement is increased transparency in research and development in frontier technologies with potential military applications. This requires a systematic monitoring of such developments, as assessment of their implication for international security, and widespread dissemination of the information obtained. There is also need for greater international cooperation in research into new and emerging technologies for these technologies to open on new vistas of human achievement. Here let us recall the vision of an open world voiced by one of the most remarkable scientists of our time, Niels Bohr. In his Open Letter to the United Nations on 9 June 1950, thirty eight years ago today, he said:

"The very fact that knowledge itself is a basis for civilisation points directly to openness as the way to overcome the present crisis."

40. By the closing years of the century there must be a single integrated multilateral verification system to ensure that no new nuclear weapons are produced anywhere in the world. Such a system would also help in verifying compliance with the collateral and other disarmament measures envisaged by the Action Plan. It would serve as an early warning system to guard against violations of solemn international treaties and conventions.

41. Beyond a point, nuclear disarmament itself would depend upon progress in the reduction of conventional armaments and forces. Therefore, a key task before the international community is to ensure security at lower levels of conventional defence. Reductions must, of course, begin in areas where the bulk of the world's conventional arms and forces are concentrated. However, other countries should also join the process without much delay. This requires a basic restructuring of armed forces to serve defence purposes only. Our objective should be nothing less than a general reduction of conventional arms across the globe to levels dictated by minimum needs of defence. The process would require a substantial reduction in offensive military capabilities as well as confidence-building measures to preclude surprise attacks. The United Nations needs to evolve by consensus a new strategic doctrine of non-provocative defense.

42. The plan for radical and comprehensive disarmament must be pursued along with efforts to create a new system of comprehensive global security. The components of such a system must be mutually supportive. Participation in it must be universal.

43. The structure of such a system should be firmly based on nonviolence. When we eliminate nuclear weapons and reduce conventional forces to minimum defensive levels, the establishment of a non-violent world order is the only way of not relapsing into the irrationalities of the past. It is the only way of precluding the recommencement of an armaments spiral. Nonviolence in international relations cannot be considered a Utopian goal. It is the only available basis for civilised survival, for the maintenance of peace through peaceful coexistence, for a new, just, equitable and democratic world order. As Mahatma Gandhi said in the aftermath of the first use of nuclear weapons:

"The moral to be legitimately drawn from the supreme tragedy of the bomb is that it will not be destroyed by counterbombs, even as violence cannot be destroyed by counterviolence. Mankind has to get out of violence only through nonviolence."

44. The new structure of international relations must be based on respect for various ideologies, on the right to pursue different socio-economic systems, and the celebration of diversity. Happily, this is already beginning to happen. Post-War bipolarity is giving way to a growing realization of the need for coexistence. The high rhetoric of the system of military alliances is gradually yielding to the viewpoint of the Nonaligned Movement.

45. Nonalignment is founded on the desire of nations for freedom of action. It stands for national independence and self-reliance. Nonalignment is a refusal to be drawn into the barren rivalries and dangerous confrontations of others. It is an affirmation of the need for self-confident cooperation among all countries, irrespective of differences in social and economic systems. Nonalignment is synonymous with peaceful coexistence. As Jawaharlal Neru said:

"The alternative to co-existence is co-destruction."

46. Therefore, the new structure of international relations to sustain a world beyond nuclear weapons will have to be based on the principles of coexistence, the non-use of force, non-intervention in the internal affairs of other countries, and the right of every State to pursue its own path of development. These principles are enshrined in the Charter of the United Nations, but they have been frequently violated. We must apply our minds to bringing about the institutional changes required to ensure their observance. The strengthening of the United Nations system is essential for comprehensive global security. We must resurrect the original vision of the United Nations. We must bring the United Nations Organization in line with the requirements of the new world order.

47. The battle for peace, disarmament and development must be waged both within this Assembly and outside by the people of the world. This battle should be waged in cooperation with scientists, strategic thinkers and leaders of peace movements who have repeatedly demonstrated their commitment to these ideals. We, therefore, seek their cooperation in securing the commitment of all nations and all people to the goal of a nonviolent world order free of nuclear weapons.

48. The ultimate power to bring about change rests with the people. It is not the power of weapons or economic strength which will determine the shape of the world beyond nuclear weapons. That will be determined in the minds and hearts of thinking men and women around the world. For, as the Dhammapada of the Buddha teaches us:

"Our life is shaped by our mind; We become what we think.

"Suffering follows an evil thought As the wheels of a cart follow the oxen that draw it.

"Joy follows an evil thought Like a shadow that never leaves.

"For hatred can never put an end to hatred; Love alone can.

"This is the unalterable law."

Thank You.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has now expired.

FAIR HOUSING AMENDMENTS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 1158 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1158) to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

The Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2777

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself, Mr. SPECTER, and Mr. HATCH, proposes an amendment numbered 2777.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under Amendments Submitted.)

Mr. KENNEDY. Mr. President, I want to commend the majority leader for bringing before the Senate today this landmark civil rights legislation.

Twenty years ago, in the wake of the assassination of Dr. Martin Luther King, Congress enacted into law the promise of fair housing for all Americans. But the Fair Housing Act we passed in 1968 has proved to be an empty promise because the legislation lacked an effective enforcement mechanism. For two decades, fair housing in America has been a right without a remedy.

Housing discrimination exists in America today, and it exists in epidemic proportions. The Department of Housing and Urban Development estimates that nearly 2 million incidents of racial discrimination alone occur each year. One HUD survey found that a black American can expect to encounter discrimination 72 percent of the time in seeking rental housing and 48 percent of the time when seeking to buy a home.

Other studies confirm that residential segregation continues to exist throughout the United States.

In some respects, housing discrimination is the most invidious form of bigotry. It isolates racial and ethnic minorities and perpetuates the ignorance that is the core of bigotry. And discrimination in housing hampers progress to achieve equality in other vital areas as well.

Residential segregation is the primary obstacle to meaningful school integration. And as businesses move away from the urban core, housing discrimination prevents its victims from following jobs to the suburbs, impeding efforts to reduce minority unemployment.

The existing fair housing law is a toothless tiger. It recognizes a fundamental right; but it fails to provide a meaningful remedy.

Under existing law, HUD may respond to complaints of housing discrimination only by "conference, conciliation and persuasion." But because HUD lacks real power to enforce the law, would-be violators have little incentive to obey it.

The Fair Housing Amendments Act of 1988 will put real teeth into the fair housing laws by giving HUD real enforcement authority.

HUD would be empowered to investigate complaints of housing discrimination, and to attempt to effect voluntary conciliation of the parties. Where a complaint is found to have merit, HUD is required to initiate proceedings to obtain full redress for the victims.

In the key compromise in this legislation, the complainant and the parties to an enforcement proceeding could elect to have it heard in Federal Court. If no election is made, the case will be heard by an administrative law judge in the Department of Housing and Urban Development, who can award actual damages, injunctive and equitable relief, attorneys' fees, and civil penalties of up to $50,000 for repeat offenders.

HUD's decision in such a case would be subject to review by the Federal court of appeals. Similar remedies, as well as punitive damages, are available if the Government's enforcement proceeding is heard in Federal Court.

The provisions in existing law relating to private fair housing enforcement actions are also strengthened.

The statute of limitations for housing discrimination cases is lengthened to 2 years, and the limit on punitive damages is removed.

The bill continues the feature of existing law that places reliance on State and local fair housing agencies which provide rights and remedies substantially equivalent to those provided under Federal law.

When HUD receives a complaint within the jurisdiction of such an agency, it is required to refer it to the State or local agency. The bill provides a 40-month transition period, which may be lengthened by the Secretary for an additional 8 months in exceptional circumstances, for agencies to bring their laws and procedures into line with the strengthened measures in the bill.

Housing discrimination also harms two other groups in our society whose interests were not recognized by the 1968 law: persons with handicaps and families with children.

More than 30 million Americans have disabilities of some kind. They face prejudice in housing, both because of the unenlightened attitude of some toward those with disabilities, and because of unwillingness to permit handicapped persons to make reasonable modifications in dwellings to meet their special needs. As a result, they are often prevented from being fully integrated into our society.

The Fair Housing Amendments Act of 1988 will ban housing discrimination against the handicapped. It recognizes that discrimination can take many forms, including a failure to permit handicapped persons to make modifications to housing to enable them to have full enjoyment of the premises, and a failure to make reasonable accommodations to meet the needs of the handicapped.

Similarly, because it is often far less expensive to provide for accessible and adaptable housing before the housing is built, the bill creates minimal requirements for the construction of new dwellings.

Families with children also face serious discrimination in housing. A HUD-funded study found that one-fourth of the rental units in the country barred families with children.

By reducing the availability of housing for families, this discrimination drives up its cost and imposes a heavy burden on those least able to afford it.

The bill would ban this form of discrimination, while protecting the legitimate interest of older Americans to live in retirement-type communities.

A broad coalition of groups, including the American Association of Retired Persons, the Children's Defense Fund, and the United States Catholic Conference have endorsed this bill, and have been particularly helpful in formulating these provisions.

On behalf of myself, and Senator SPECTER, and Senator HATCH I have just sent up an amendment in the nature of a substitute, which makes a few modest changes in H.R. 1158.

I ask unanimous consent that a memorandum describing the Kennedy-

Specter substitute be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 1, 1988.

DEAR COLLEAGUE: Today, when the Senate takes up H.R. 1158, the Fair Housing Amendments Act of 1988, we will offer an amendment in the nature of a substitute which makes certain modest modifications to the bill that passed the House last month by a vote of 376-23. A summary and a memorandum describing the changes are enclosed.

The fair housing bill is surely one of the most significant civil rights measures of the past twenty years. It will dramatically strengthen the enforcement remedies for housing discrimination, and it will extend coverage to the handicapped and to families with children.

We believe that H.R. 1158, as amended by the substitute, will command broad bipartisan support within the Senate. We are advised that this morning, President Reagan and Department of Housing and Urban Development Secretary Samuel R. Pierce, Jr. will issue unequivocal endorsement of the bill with the changes made by the substitute amendment, and that they will express opposition to other amendments.

If you have any questions about the substitute, or if you wish to cosponsor it, please let us know, or have your staff call Jeff Blattner (4-7878) of Senator Kennedy's staff or Steve Hilton of Senator Specter's staff (4-6791).

Thanks for your consideration.

With kind regards.

Sincerely,

TED KENNEDY.
ARLEN SPECTER.

SUMMARY OF CHANGES MADE BY THE KENNEDY-SPECTER SUBSTITUTE

The amendments made by the substitute are in eight areas:

(1) The provision regarding restoring modifications made by handicapped persons is clarified;

(2) Language is added to the section on adaptability and accessibility requirements for certain new multifamily dwellings to encourage state and local governments to review for compliance with these requirements when they review and approve building plans and construction;

(3) A technical amendment is made to the bill's language providing for a transition period for state and local fair housing agencies to make it clear that agencies given interim certifications of HUD are covered by the provision;

(4) The authority to litigate fair housing cases is consolidated in the Justice Department, while it is made clear that the Department is required to bring cases authorized by the Secretary under the bill's provisions regarding prompt judicial action and regarding federal court enforcement of cases in which a party to an administrative proceeding elects to have the charge heard in federal court;

(5) Technical amendments are made to the bill's provisions giving parties to administrative proceedings the right to have charges arising out of those proceedings heard in federal court;

(6) The exemption for housing for older persons from the bill's provisions banning discrimination on the basis of familial status are modified;

(7) A provision is added to the housing for older persons exemption to make it clear that occupants of housing that currently excludes children will not be taken into account in applying the requirements for the exemption, so long as future occupants meet the requirements; and

(8) The bill's provision regarding familial status is clarified to confirm that pregnant women and persons adopting minor children and covered by the provision.

MEMORANDUM OF SENATORS KENNEDY AND SPECTER REGARDING THEIR SUBSTITUTE AMENDMENT

The amendment in the nature of a substitute (the "Substitute") is identical to H.R. 1158 as passed by the House of Representatives on June 29, 1988 by a vote of 376-23, with the exception of certain modest changes discussed in this Memorandum. These modifications are set forth below.

CLARIFICATION TO PROVISION REGARDING RESTORING MODIFICATIONS

The Substitute modifies language adopted on the House floor to make it clear, that, under section 810(f)(3)(A), discrimination on the basis of handicap includes a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. This change is being made to make it clear that a landlord may not condition permission for a modification on the renter agreeing to restore the interior of the premises to its prior condition (reasonable wear and tear excepted), where it is unreasonable to do so.

ENFORCEMENT BY STATE AND LOCAL AGENCIES OF THE ACCESSIBILITY AND ADAPTABILITY REQUIREMENTS FOR CERTAIN NEW MULTIFAMILY DWELLINGS

The Substitute incorporates a series of provisions designed to encourage enforcement by the States and local governments of the provisions of the bill regarding adaptability and accessibility requirements for new housing. It provides that where a State or locality incorporates the new construction requirements into its laws, compliance with those laws suffices for the purpose of compliance with those provisions of the Fair Housing Act.

And States and localities are encouraged, but not required, to incorporate into their existing procedures for reviewing and approving new construction, procedures for determining whether the new construction requirements are met. The Secretary is required to provide technical assistance to States and localities, and to private individuals, to assist them in interpreting the new construction requirements.

The Substitute also makes it clear that the bill is not requiring any kind of "Federal Building Code." HUD may not require prior review or approval of the design, plans or construction of covered dwellings. The bill simply imposes certain minimal requirements for covered dwellings.

Nothing in the Substitute will affect or limit the authority or responsibility of the Secretary or of a State or local fair housing agency to perform any enforcement activity under the Act.

Determinations by a State or local government under sections 804(f)(5) (A) and (B) are not to be treated as conclusive in enforcement proceedings under the Act.

TRANSITION PERIOD FOR STATE AND LOCAL AGENCIES WITH INTERIM CERTIFICATIONS

HUD's regulations for the recognition of State and local fair housing laws provide for the referral of complaints to agencies in two situations. In the first, States and localities are formally recognized as substantially equivalent. In the second, States and localities are recognized for interim referral of complaints. (28 CFR 115.11). The second category permits HUD to refer cases to States and localities with strong fair housing laws, pending a formal review of the State or local agency's enforcement performance.

Under the language of H.R. 1158, States and local agencies certified by the Secretary would be grandfathered in to the referral process under the amendments for up to 48 months. However, it appears based on the use of the word "certified" and the language in the House Report on the number of agencies that interim agencies would not be considered "certified". As a result, two states (Ohio and Georgia) and two localities (St. Joseph, Missouri and Albany, New York) would not be eligible to process cases or receive assistance.

The technical amendment incorporated into the Substitute would assure that these four agencies would not lose their status with enactment of the Fair Housing Amendment of 1988, provided that they are not later denied recognition under 28 CFR 115.7.

LITIGATION AUTHORITY

The Substitute consolidates in the Justice Department the authority to represent the federal government in each of the enforcement actions contemplated under the Act. Under section 810(e)(1) of the Substitute, if the Secretary concludes at any time following the filing of an administrative complaint that prompt judicial action is necessary to carry out the purposes of the title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General is required to promptly commence and maintain such an action.

Section 810(g)(1) of the Substitute makes clear that the Secretary's determination whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur must be based on the facts of the case.

Section 812(o) of the Substitute provides that when an election is made under section 812(a) to have the Secretary's charge litigated in federal court, the Secretary is required to authorize, and not later than 30 days after the election is made the Attorney General is required to commence and maintain, a civil action in federal court.

TECHNICAL AMENDMENTS TO THE ADMINISTRATIVE ENFORCEMENT PROVISIONS

The Substitute contains four technical changes to the provisions in the bill relating to the administrative enforcement of the Fair Housing Act and permitting persons in the administrative process to elect to have the Secretary's claims against a respondent litigated in federal court.

These changes have been agreed to by all parties to the original agreement that gave rise to the Fish-Edwards amendment in the

House, including the National Association of Realtors.

The first change modifies Section 812(a) to make it clear that only those aggrieved persons on whose behalf the complaint was filed, as well as a complainant and a respondent, may make the election provided for in that section.

The second change makes it clear that the effect of the election is to have the claims asserted in the Secretary's charge litigated in federal court. The election itself does not operate to preclude or terminate federal court litigation brought by private parties raising the same issues.

The third change clarifies that, when the Secretary issues a charge under section 810, section 810(h) requires that notice be given to each respondent named in the charge, and to each aggrieved person on whose behalf the complaint was filed.

The fourth change confirms that if the Secretary fails to complete the review of the administrative law judge's finding, conclusion or order within the 30 days provided in section 812(h), the finding, conclusion, or order becomes final.

MODIFICATIONS TO THE PROVISIONS REGARDING DISCRIMINATION AGAINST FAMILIES WITH CHILDREN

Housing for older persons

The Substitute provides that the provisions regarding discrimination on the basis of familial status do not apply with respect to "housing for older persons."

"Housing for older persons" is defined as housing that falls into any of the following three categories:

First, housing provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program). This means, for example, that federally assisted housing for the elderly need not admit families with children.

Second, housing intended for, and solely occupied by, persons 62 years of age or older. If all of the persons occupying the housing in question are 62 or older, then the housing in question is not covered by the families-with-children provision, regardless of what other features the housing may have.

And third, housing intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following three factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

This third exemption is for housing communities intended and operated for occupancy by at least one person 55 or older per unit. The Secretary is required, within 180 days of enactment of the Act, to issue regulations, which require at least three conditions to be met in determining whether housing qualifies under this exemption.

The first of these three factors requires that the housing in question provide significant facilities and services specifically designed to meet the physical or social needs of older persons. The Secretary may provide in the regulations, however, that where it is impracticable to provide such facilities and services, the exemption may nevertheless may be available in those unusual circumstances where housing without such facilities and services provides important housing opportunities for older persons.

The second factor requires that at least 80% of the units are occupied by at least one person 55 years of age or older per unit.

And the third factor requires the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. In essence, this means that the housing in question must, in its marketing to the public and in its internal operations, hold itself out as housing for persons aged 55 or older.

Transition rule

The Substitute contains a transition provision to ensure that the interests of current residents of housing that excludes children will not be unduly disturbed by passage of the bill. It provides that housing shall not fail to meet the requirements for housing for older persons under the bill by reason either of (1) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections 807(b)(2) (B) or (C), provided that new occupants of such housing meet the age requirements of the bill; or (2) unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of the bill.

In essence, this means that current residents whose presence in a community would otherwise cause the community to fall outside the exemptions provided in the Substitute are not counted in calculating whether these exemptions apply, if the community applies the age requirements to all persons moving in after the passage of the Act. So communities with age restrictions of less than 55 (or 62) will not be placed to the choice of either forcing out persons below those ages, or taking families with children, so long as future occupants meet the age requirements.

Similarly, vacant units need not be counted, so long as they are reserved for occupancy by persons who meet the age requirements of the bill.

Coverage for pregnant women and adopting parents

The Substitute provides that "The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years."

The Substitute thus confirms that the protections against discrimination on the basis of familial status afforded by the bill apply to pregnant women. In addition, the Substitute makes clear that these protections also apply to persons who are in the process of adopting a minor child.

Because concerns were raised that the Act, as written, does not explicitly protect pregnant women from discrimination in housing, and does not protect individuals in the process of adopting a child, we have included language to make it perfectly clear that under the Fair Housing Act, discrimination against pregnant women and persons in the process of adopting a child is prohibited.

The Fair Housing Act prohibits discrimination on the basis of sex, and Congress has repeatedly made clear that sex discrimination includes discrimination on the basis of pregnancy. For example, both Titles VII and Title IX prohibit discrimination on the basis of pregnancy, as an aspect of prohibited sex discrimination. And, therefore, the Fair Housing Act currently forbids discrimination on the basis of pregnancy.

However, to eliminate any question that the Fair Housing Act contains protections against discrimination on the grounds that familial status will be achieved, through the birth of a child or through adoption, explicit language has been added which provides that the protections against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any child under the age of eighteen.

Mr. KENNEDY. The changes in the substitute are the result of negotiations between supporters of the bill and the Department of Housing and Urban Development. I am advised that President Reagan and HUD Secretary Samuel Pierce, Jr., are endorsing the substitute today, and I am pleased to have their support for this landmark civil rights measure.

I also want to express my thanks to enlightened elements of the business community, including the National Association of Realtors, the National Association of Home Builders, and the American Institute of Architects, for their support for the bill, and for the constructive approach they have taken in our efforts to enact this vital legislation.

I want also to pay special tribute to the civil rights community for their tireless efforts for the bill, and for their ability to work with all interested persons to develop the strongest, best fair housing legislation possible.

Eight years ago, the Senate fell six votes short of ending a filibuster that blocked fair housing legislation. That inpasse has continued ever since, but now the logjam is breaking and we are about to enact meaningful fair housing legislation into law.

Make no mistake about it—this is the most comprehensive civil rights legislation the Congress has considered in 20 years. I urge my colleagues to support it.

I ask unanimous consent as well that the letter from Mr. Samuel R. Pierce, Jr., Secretary of HUD, in support of the legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, August 1, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: During my confirmation hearing on January 13, 1981, I pledged to work with the Senate to strengthen Federal Fair Housing law. I repeated that pledge in testimony on S. 558 before you and Senator Specter on March 31 of last year. Throughout the past seven and one half years it has been gratifying to work with you in my efforts to keep that pledge. President Reagan and Vice President Bush have shared in that pledge and supported the struggle for this essential Civil Rights legislation. I am pleased at the rapid response to the Presidents' call for new civil rights legislation to strengthen the Fair Housing Act in his Legislative Message at the beginning of this session of Congress. The Administration has submitted legislation to accomplish this goal in the 98th, 99th and 100th Congresses.

Today, the Senate begins debate on the Fair Housing Amendments Act of 1988: historic legislation crowning a ten year effort. In the last few weeks, I have worked happily with you, other Senators, The Vice President, the Department of Justice and major civil rights organizations to strengthen the bill.

The product of this effort is your substitute to HR 1158 which clearly protects the proper role of the Executive branch in commencing enforcement proceedings, provides a broad range of housing choices for older Americans, encourages cooperation among local, state and federal governments in guaranteeing housing usable by the handicapped, and centralizes fair housing litigation at the Department of Justice.

Your substitute has the full support of the Administration. Prompt passage without the offering of amendments not agreed to by the Administration and the sponsors is essential. I encourage all Senators to join as cosponsors and to support final passage. The substitute to be offered by Senator Kennedy, Senator Specter and others is critical to putting the federal government on the offensive against discrimination in housing.

Very sincerely yours,

SAMUEL R. PIERCE, Jr.

Mr. THURMOND. Mr. President, I want to say, in the beginning, that this is a very important piece of legislation. It is a rather complex piece of legislation and that, as ranking member on the Judiciary Committee, I felt it should go to the Judiciary Committee. I so made the request to the majority leader and the minority leader of the Senate and stated in my letters to them that the Judiciary Committee should be allowed to consider it for a few days, and then let it automatically come back to the Senate so there would be no delay.

That was not done and today, when we consider this matter, the Senate will not have the benefit of the recommendations and consideration of the Judiciary Committee.

I think that is bad for two reasons. The first is this bill deserves the consideration of the Judiciary Committee, and its thinking. The second is to establish a precedent for a very important piece of legislation to be put right on the calendar without going to the appropriate committee is a great mistake.

This gives an excuse to many other Senators to take up anything they want to without having it considered by the Judiciary Committee.

Since the bill was not sent to the Judiciary Committee, then we are going to do the best we can to handle it on the floor.

The distinguished Senator from Massachusetts is handling the bill on the floor, and he has handed to us a very thick substitute which we will study. But after the opening statements, we might have to take some time to complete the study of that substitute before we can go forward.

I wanted to make that statement in the beginning so if there is any delay, it is not an intentional delay but a necessary delay for us to get acquainted with this thick substitute that has been handed to us by the distinguished Senator from Massachusetts, the manager of the bill.

Mr. President, today, we begin consideration of the Fair Housing Amendments Act of 1988 as recently passed by the House.

It is our declared national policy that housing be available to all persons regardless of their race, color, religion, sex or national origin. The Federal Fair Housing Laws should indeed protect all Americans from discrimination in housing practices and should not favor any one person or group of persons over another person or group on the basis of race, color, religion, sex, or national origin.

Currently, the Department of Housing and Urban Development has broad authority in conducting investigations of a complaint alleging injury from a discriminating housing practice. A substantial number of complaints are referred to a State or local fair housing enforcement agency with jurisdiction over the area where the discriminatory act is alleged to have occurred. This referral is done where HUD has recognized the State or local agency as administering a law which is substantially equivalent to the Federal Fair Housing Law.

For example, in fiscal year 1987, HUD received 4,699 housing discrimination complaints. Of that number, 3,388 complaints—more than 72 percent of the number received—were referred to State and local fair housing agencies. The State and local agencies were quite successful in closing complaints, reaching conciliation agreements and obtaining monetary relief for victims of discrimination.

Of those complaints retained by HUD, the investigators have power to subpoena the appearance of persons and evidentiary materials as may be reasonably necessary to further the investigation. Also, the investigators may issue interrogatories to a respondent.

If a complaint has merit, HUD attempts to resolve the discriminatory housing practice by informal methods of conference, conciliation and persuasion.

Additionally, HUD may presently refer any case to the Attorney General for court action which involves a "pattern and practice" of housing discrimination or denies fair housing rights to a group of persons.

Mr. President, the legislation now before us establishes an administrative procedure for the adjudication of complaints which are not resolved by the Secretary of HUD. A similar legislative proposal has been introduced here in the Senate which would allow administrative law judges to adjudicate fair housing complaints.

I expressed my deep concern that the Administrative Law Judge procedures established in this bill were conspicuously structured and probably would not survive constitutional scrutiny based on the seventh amendment right to a jury trial. The Office of Legal Counsel at the Department of Justice supported this view and stated in a memorandum that such procedure "is and would likely be declared unconstitutional on article III and seventh amendment grounds."

I was pleased to learn that the House reached what appears to be a workable compromise in addressing this serious constitutional issue. Litigants involved in alleged fair housing complaints would, under this proposal, have the right to elect a jury trial once HUD makes a discrimination "charge."

And on that right, Mr. President, I might state that I conferred with the ranking member of the Judiciary Committee in the House and urged that this action be taken to provide that one could have a jury trial, if desired.

Although this compromise creates a new bureaucratic system of administrative law judges, the legislation no longer denies claimants or respondents their seventh amendment right to trial by jury.

Mr. President, it is illegal to practice housing discrimination based on race, color, religion, sex, or national origin. The Congress is now attempting to strengthen the ban against discriminatory housing practices and I support these efforts. Federal fair housing laws should protect all Americans from discrimination in housing.

While I share the objectives of my colleagues to prohibit discrimination in housing, there are provisions of this legislation as passed by the House which should be addressed here in the Senate.

The Senate should carefully consider the addition of "familial status" as a protected class under the Fair Housing Act and its impact on retirement communities as well as adult housing communities.

There is language in this proposal which requires that, 30 months after enactment, all units in certain multifamily buildings must comply with a wide variety of structural and design requirements. There have been no hearings on this provision in the House or the Senate and we should determine if there is a demonstrated need for such sweeping regulation of all new multifamily housing construction.

Mr. President, we have an opportunity to provide for effective enforcement provisions under the Fair Housing Act. However, we have an obligation here in the Senate to address serious concerns in this legislation as passed by the House.

I look forward to the debate on this measure and amendments to clarify its scope.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am pleased to join with the distinguished Senator from Massachusetts, Senator KENNEDY, in pressing for legislation on housing and the substitute which is offered today.

Mr. President, this legislation advances two important goals in our society—housing and equality. The three key material components for sharing in the American dream are a good education, a good job, and decent housing.

The legislation on fair housing was adopted as a fundamental civil right back in 1968, but this legislation, Mr. President, provides an effective remedy. Without an effective remedy, a right is relatively meaningless. It is fine to have a right on the books and to be articulated in the law, but unless there is an effective remedy, the right is relatively meaningless. This legislation today provides for an effective remedy.

Mr. President, there has been a longstanding Federal commitment to adequate housing. Legislation on the National Housing Act, first passed in 1934, and amended in 1948, and extensive Federal funding has been granted for housing in this country because of its great importance.

I recall the vast sums of money which were put into the city of Philadelphia in the 1960's when I was district attorney there and the investigations which we conducted to try to root out fraud and corruption to make sure that the extensive Federal funding was adequately used. I recall the funding for rehabilitation of housing for new walls where stucco was placed over the old walls and where massive efforts were made to root out that type of corruption so that the Federal funding could be utilized to provide decent housing.

Mr. President, the Civil Rights Act of 1964 and the Voting Rights Act of 1965 were landmark legislative achievements to provide for civil rights in this country.

In the 2 years following 1965, major efforts were made to have the Civil Rights Act applied to housing. It was only the assassination of Dr. Martin Luther King in April of 1968 that impetus was given for a Fair Housing Act, but regrettably, Mr. President, the right which was established at that time did not have a remedy which could lead to the effectuation of that right. Senator KENNEDY has already noted the legislative efforts which followed in 1979 and 1980, and the reference to the report of the Fair Housing Amendments Act of 1980 noted at page 10 that "The committee, referring to the Judiciary Committee," believes that the present remedies available under title VIII of the Fair Housing Act have been shown to be inadequate and insufficient to provide the American people with an efficient, open fair housing policy.

That legislation was defeated, Mr. President, in 1980. After the election of 1980, a lameduck session was held and there was not sufficient support to pass that legislation.

Mr. President, the underlying evidence of discriminatory practices has been established in a study of the greater Washington area in 1986 conducted by the Regional Fair Housing Consortium. There were black and white testers sent to 266 rental properties in the area having a black population of 20-percent less than the overall city population, and the study found that 53 percent of the time white individuals were treated more favorably.

Testimony presented on January 27 of this year in hearings before the Banking, Housing, and Urban Affairs Subcommittee on housing and urban affairs presented by Mr. Douglas S. Massey, director of the Population Research Center from the University of Chicago, found that "in 60 American metropolitan areas black segregation was highest in the larger metropolitan areas containing a high concentration of blacks," and the study found that "the process of black suburbanization appears retarded when compared with other minority groups as the average percentage of blacks living in the examined suburbs was 28 percent as opposed to 48 percent of Hispanics and 58 percent of Asians." The study went on to point out that" even when segregation levels were measured directly against categories of income, education, and occupation, black segregation remained high across all levels of socio-economic status."

Mr. President, I ask unanimous consent that at the conclusion of my statement the summary of findings of four fair-housing studies appear.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. I believe that is a summary statement of the evidentiary base to show that discrimination does exist, although I think none would deny that as a matter of fact.

Mr. President, there have been extensive hearings on this legislation although not the precise substitute which is to be offered today, but hearings were held in the Judiciary Committee on March 31, April 2, April 7, April 9, June 9, and July 1, 1987. My distinguished colleague from South Carolina, the ranking member of the Judiciary Committee, has made the comment about the desirability or necessity for such hearings. I concur with that as an appropriate course, but I would point out that we have had extensive hearings on this subject generally, although again, as I say, not on the specific substitute which is being offered today. But those hearings were close enough, Mr. President, to give an adequate opportunity for comments to be expressed on this subject. There have been extensive discussions among interested parties, and I join Senator KENNEDY in complimenting the National Association of Realtors, the National Association of Home Builders, and the National Association of Architects for lending their support to this substitute legislation, along with many interested Senators and the civil rights groups as well as the Department of Housing and Urban Development and the Vice President of the United States.

Mr. President, I was handed a copy of a letter a few moments ago from the Honorable Samuel Pierce, Jr., Secretary of Housing and Urban Development. At the conclusion of my statement, Mr. President, I ask unanimous consent that the full text of this letter appear.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. Mr. President, the sense of this letter points out that "in the last few weeks I"—referring to Secretary Pierce—"Have worked happily with you and other Senators, the Vice President, the Department of Justice, and major civil rights organizations to strengthen the bill."

The letter from Secretary Pierce further points out, "The substitute to be offered by Senator KENNEDY, Senator SPECTER, and others is critical to putting the Federal Government on the offensive against discrimination in housing."

And finally, Secretary Pierce states, "Your substitute has the full support of the administration."

I think it is very important to know that the administration is fully behind this legislation.

Mr. President, I think it appropriate to know that there were extensive discussions over the course of the past weekend, and I join Senator KENNEDY in thanking the majority leader and the Republican leader in pressing this legislation to the floor. Senator DOLE has been an active supporter of this legislative package throughout the entire process, although I have not had the opportunity to discuss with him yet today the specific provisions of this substitute bill. But after the majority leader announced Friday afternoon that this measure would be on the floor today, that activated and intensified the discussions over the course of the past weekend.

I think it appropriate to note, Mr. President, that Vice President BUSH was influential in the final package which was arrived at and that his representatives were a key part of the negotiating process, bringing all parties together. I think there will be credit enough if this legislation is enacted to go all around.

It is a very important bill, Mr. President. It comes 20 years after the initial legislation on fair housing, on establishing a right to housing as a civil right without regard to race, color, creed or national origin, and for the past 20 years that civil right has languished in the absence of an effective remedy.

This legislation will provide such an effective remedy, and I think it worthwhile to focus for just a moment or two on the differences between the current legislation on civil rights for housing and what this bill will do.

At the present time, an aggrieved party may file a complaint with the Secretary of Housing and Urban Development setting forth a discriminatory housing practice. Then there are conciliation efforts. HUD has no authority under existing law to initiate a complaint on its own or to issue a cease and desist order. Its role is simply to conciliate between prospective renters and buyers or landlords and sellers. The conciliation agreements are entirely voluntary. If the conciliation process fails, HUD has no statutory recourse and then only the aggrieved party may file a suit.

That is hardly a remedy at all, Mr. President, because the aggrieved party in such matters does not have the financial resources to go to court to enforce their civil rights. The Attorney General is limited on the institution of a civil action only where there is reasonable cause to believe that a person or group of persons is engaged in a pattern of practice of resistance to the provisions of the act.

So it is apparent, Mr. President, that under existing law there is no effective remedy.

Under the provision advanced today there is an expeditious enforcement proceeding. First, HUD is required to investigate each complaint and make a reasonable causal determination as to whether housing discrimination has occurred or is about to occur within a period of 110 days. Then, there may be conciliation, and the Secretary may in the interim authorize the Justice Department to maintain an injunctive action. But if no conciliation has occurred, and reasonable cause is found, the Secretary is obligated to issue a charge. The complainant, respondent, or aggrieved persons may then elect to have the Secretary's charge litigated by the Justice Department in Federal court.

As the distinguished Senator from South Carolina has already noted the rights to jury trial are reserved under the seventh amendment because either the complainant or the respondant may require that the matter go forward, and a jury trial right would be preserved as guaranteed under the seventh amendment to the U.S. Constitution. But the critical part is that the injured party who has been discriminated against once the charge has been filed by HUD has the absolute right to have the Justice Department proceed to litigate the issue in Federal court.

If that election is not made, there are then substitute provisions for action through an administrative law judge. But as noted, the remedy is present once HUD has found reasonable cause to charge. Then there is enforcement of the charge by the Attorney General in the Federal Court. That Mr. President, will realistically enshrine the right which was created two decades ago finally bringing to bear an effective remedy.

I thank the Chair. I yield the floor.

EXHIBIT 1

SUMMARY OF FINDINGS OF FOUR FAIR HOUSING STUDIES

Measuring Racial Discrimination in American Housing Markets: The Housing Market Practices Survey, April 1979. Division of Evaluation, Department of Housing and Urban Development.

In the Spring of 1977, within 40 metropolitan areas across the country, approximately 300 whites and 300 blacks, in matched pairs, shopped for housing advertised in metropolitan newspapers. A systematic comparison of the relative treatments accorded black housing seekers and white housing seekers showed that blacks were systematically treated less favorably with regard to housing availability, were treated less courteously, and were asked for more information than were whites. For the most important of the discrimination measures reported—housing availability—discrimination occurred in the rental market 27 percent of the time, and in the sales market 15 percent of the time. Since the typical housing seeker is likely to visit more than one rental agent or complex, the chance of encountering discrimination in a search involving several agents can be very high. For example, if 27 percent of rental agents discriminate and a search involves visits to four agents, the probability of encountering at least one instance of discrimination is 72 percent.

A study of How Restrictive Rental Practices Affect Families with Children, 1980. Jane G. Greene, Glenda P. Blake for Office of Policy Development and Research, Department of Housing and Urban Development.

In order to reach families who experienced problems because of restrictive rental policies, National Neighbors ran public service announcements in six metropolitan areas, inviting persons who had difficulty finding rental housing because they had children to call a toll-free number and tell of their experiences. Interviews were completed with 554 respondents. The sample shows that restrictive rental policies against children affect a very diverse group of families: small and large, middle class and poor, white, black and Hispanic, married couples and single heads-of-households. For the total number of respondents who told of difficulty in finding housing, the median search period was nine to ten weeks. Respondents said that usually they were refused because they had too many children or their children did not fit the age guidelines of a complex. Forty seven percent of the sample said they lived in substandard housing in the past year with 35.6 percent living in substandard housing. Because they could not find rental housing which would accept children, 19.2 percent of the respondents said their family had had to live separately during the past year, and 39.1 percent had lived in overcrowded conditions. Associated problems mentioned by respondents included difficulties with jobs, school/day care, transportation, emotional stress, and finances.

Race Discrimination in the Rental Housing Market: A Study of the Greater Washington Area, 1986. Regional Fair Housing Consortium.

Black and white testers were sent to 266 rental properties in areas having a black population of 20 percent less than the overall city population. The study found that 53 percent of the time, white individuals were treated more favorably. The study concludes that black homeseekers in the tristate area experience multi-faceted discrimination; often they either are told that apartments are not available, or they are discouraged from establishing residency in those available. It is noted that in 1986, black homeseekers had at least a fifty percent chance of experiencing discrimination.

Statement of Douglas S. Massey, "Issues Relating to Fair Housing." Hearings before the Banking, Finance, and Urban Affairs Subcommittee on Housing and Community Development. January 27, 1988.

Douglas Massey used census data to analyze patterns of residential segregation in sixty American metropolitan areas. He found that black segregation was highest in large metropolitan areas containing a high concentration of blacks, especially in the Northeast and Midwest. Noted declines in segregation took place mainly in smaller metropolitan areas in the South and West. The study finds that the process of black suburbanization appears retarded when compared to other minority groups, as the average percentage of blacks living in the examined suburbs was 28 percent as opposed to 48 percent of Hispanics and 58 percent of Asians. Once living within a suburban environment, blacks still tend to experience an unusually high level of segregation. In addition, the investigation concluded that the process of black suburbanization is unrelated to black socio-economic status. Even when segregation levels were measured directly against categories of income, education and occupation, black segregation remained high across all levels of socio-economic status. Massey found that due to residential segregation, middle class blacks are not free to live where they choose or where their income allows. They are forced to live in a disadvantaged environment, subject to higher crime rates, less healthy surroundings and inferior school systems.

EXHIBIT 2

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, August 1, 1988.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, D.C.

DEAR SENATOR SPECTER: During my confirmation hearing on January 13, 1981, I pledged to work with the Senate to strengthen federal Fair Housing law. I repeated that pledge in testimony on S. 558 before you on March 31 of last year. Throughout the past seven and one half years it has been gratifying to work with you in my efforts to keep that pledge. President Reagan and Vice President Bush have shared in that pledge and supported the struggle for this essential Civil Rights legislation. I am pleased at the rapid response to the President's call for new civil rights legislation to strengthen the Fair Housing Act in his Legislative Message at the beginning of this session of Congress. The Administration has submitted legislation to accomplish this goal in the 98th, 99th and 100th Congresses.

Today, the Senate begins debate on the Fair Housing Amendments Act of 1988: historic legislation crowning a ten year effort. In the last few weeks, I have worked happily with you, other Senators, the Vice President, the Department of Justice and major civil rights organizations to strengthen the bill.

The product of this effort is your substitute to HR 1158 which clearly protects the proper role of the Executive Branch in commencing enforcement proceedings, provides a broad range of housing choices for older Americans, encourages cooperation among local, state and federal governments in guaranteeing housing usable by the handicapped, and centralizes fair housing litigation at the Department of Justice.

Your substitute has the full support of the Administration. Prompt passage without the offering of amendments not agreed to by the Administration and the sponsors is essential. I encourage all Senators to join as cosponsors and to support final passage. The substitute to be offered by Senator Kennedy, Senator Specter and others is critical to putting the federal government on the offensive against discrimination in housing.

Very sincerely yours,
SAMUEL R. PIERCE, Jr.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, today, we are moving forward on the Fair Housing Amendments Act. As I stated during the subcommittee hearings, I have always been in favor of the basic objectives of this legislative effort. Ever since my arrival in the Senate, I have been aware of the need to reinvigorate the 1968 Open Housing Act. While that act took the necessary first steps toward the provision of equal opportunities in housing, its provisions have never had any real bite. Simply put, the enforcement mechanism has never been adequate.

Over the years, many of my colleagues have recognized this problem and have sponsored several pieces of legislation to improve the law. I have also introduced various bills, for purposes of debate, so that we might have several ideas on the table in order to fashion an effective piece of legislation.

During the spring and summer of 1987, while the Constitution Subcommittee was holding hearings on the need for fair housing amendments, I raised several areas of concern with the companion measure to this bill in the hope that the committee members might improve and strengthen the legislation. Although they have been slow in coming, several of my suggestions are now in place.

One of my greatest concerns with this legislation when it was introduced involved the proposed administrative process, which would have placed all claims before an administrative law judge, without the possibility of de novo Federal district court review, thereby denying the parties their constitutionally protected right to a jury trial. As a result of this concern, the chairman of the subcommittee was kind enough to devote 2 days of hearings on this one issue. From the testimony delivered during those hearings, it became clearer to me that there were constitutional problems with this part of the bill.

As originally worded, the Fair Housing Amendments Act posed a significant question with respect to the seventh amendement of our Constitution. The seventh amendment guarantees that, "In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved." It is probably safe to say that the failure to include the preservation of jury trial rights was one of the major objections to this bill, and it was certainly one of the major objections to the Constitution during its ratification. If the seventh amendment had not been subsequently included in the Bill of Rights, the Constitution itself may have become too controversial to survive. That is how important that particular amendment is.

In the words of the Supreme Court, "The thrust of the amendment was to preserve the right of jury trial as it existed in 1791." *Curtis* v. *Loether,* 415 U.S. 189 (1974). The Curtis case also held that statutory rights created after 1791 are obviously covered by the seventh amendment. In fact, the Curtis case specifically upheld jury trial rights in a title 8 fair housing case.

The importance of the seventh amendment, as it impacts this bill, resurfaced in the early part of 1987 when the Supreme Court held that an EPA enforcement action in a Federal district court must be accorded full jury trial rights. *Tull* v. *United States,* 107 S. Ct. 1831 (1987). Some scholars noted that a footnote in that case supported the case of *Atlas Roofing* v. *OSHA,* 430 U.S. 442 (1977). They cite that case for the proposition that Congress can assign cases to administrative law judges without regard for the seventh amendment. In Atlas, the Court held that an action by the Government to enforce safety regulations, a public right, could be adjudicated in administrative courts.

Atlas, others have contended, only purports to permit "factfinding and initial adjudication" to be assigned to an administrative tribunal. As the Tull case established, the final enforcement of a damages action—or an action in debt—must be accorded full seventh amendment jury trial rights. In other words, Tull and Atlas may be fully consistent. Atlas' endorsement of administrative adjudication may be limited to initial factfinding proceedings in cases dealing with private common law actions.

If Atlas were read broadly to eliminate jury trials any time Congress creates an administrative alternative, it would mean that Congress would have the power to write the seventh amendment out of the Constitution by statute. Stated another way, Congress would be able to engage in random "court-stripping" under the guise of creating new administrative actions.

In 1978, the Carter Justice Department seemed to reach a similar conclusion. They stated, "In response to questions about the ALJ mechanism found in an earlier version of the fair housing bill, that:"

> Plainly, the seventh amendment question here is a close and difficult one. Were we to opine one way or the other, our conclusion would probably favor a finding that [the ALJ provision] is unconstitutional.

I did not always agree with the Carter Justice Department, but this conclusion makes sense. At the Virginia ratifying convention in 1788, Patrick Henry, who was primarily responsible for securing jury trial rights in the Bill of Rights, attacked the Constitution because, in his words, "We are to part with that trial by jury which our ancestors secured their lives and property with, and we are to build castles in the air and substitute visionary modes of decision for that noble palladium. * * * Why do we love this trial by jury? Because it prevents the hand of oppression from cutting you off." Elliot's Debates 3, 544-545.

In light of this history and jurisprudence, and the large amount of testimony we received during the hearings on this issue, I am convinced that claims under this section of the bill remain private in nature. The participation of the Secretary of HUD does not transform them into something public which would allow Congress to strip away the right to a jury trial.

This section of the bill was also of serious concern to the Members of the House. During their consideration of the bill, they adopted a simple compromise which allows any party in a fair housing action to request that the matter be removed to a Federal district court. This simple solution not only preserves the less costly and less formal administrative forum for resolving the dispute, but also provides the parties with an opportunity to appear before a jury of their peers if any party feels that a particular case merits such consideration. I applaud the Members of the House, the civil rights community, the National Realtors Association, and others involved in arriving at this workable solution.

Another concern I had with this legislation, which, interestingly enough, arose out of the compromise I just mentioned, was the transfer of some of the litigating authority from the Department of Justice to the Department of Housing and Urban Development. The Department of Justice is the litigating arm of the executive branch. Over the years since the 1968 act was first placed into effect, the Department of Justice has always had litigating authority in fair housing cases and has developed the expertise necessary to pursue these matters. The House compromise would have fragmented the Federal litigating authority and thereby promoted interference and confusion.

Fortunately, in the intervening time since this bill was sent over by the House, the issue has received consideration and this bill will now vest all litigating authority in the Department of Justice, as is properly the case.

These changes in the enforcement provisions of the bill are important and they were primarily responsible in obtaining the broad support that this measure now enjoys, including my own.

I want to congratulate the sponsors of this bill for agreeing to these and other changes which were agreed to during the negotiating process on this legislation, which began at the subcommittee level and extended until just this morning. The bill is better and deserving of broad support, and I would encourage all of my colleagues to support its passage.

I would also like to warn my colleagues that we should not be quick to sit back and declare our work over. Although the bill is now improved, it is by no means perfect. The bill correctly extends fair housing protections to two new classes of citizens, the handicapped and families with children, but I am afraid that it will also have large negative impact on the Nation's elderly.

Part of the negotiation process with this bill has involved the inclusion of exemptions for housing for older persons since such housing will be directly affected by the familial status protections. The sponsors of this bill have carefully considered these concerns as I raised them during the subcommittee review of this bill and some exemptions have been adopted, but they may be too narrow.

I want to raise this caveat at this time because I am concerned about our senior citizens in this country. I suspect that the majority of the elderly population is unaware of what we are doing in this bill. Some of the organizations which represent the concerns of these citizens endorsed this bill early on, and I fear that their individual members have not been fully appraised of the impact that this bill will have on adults only housing. Only now are some beginning to understand that this bill may permit families with children to move into their housing.

I am also still bothered by the effect that this bill will have on the conciliation process in fair housing cases. It seems to me that reconciliation of a housing dispute prior to bringing the case before an administrative law judge or a Federal district court is still the most desired procedure. The conciliation process is by far the quickest and least costly process from an administrative point of view. However, this bill will require that each conciliation agreement be made public. Only where both parties and the Secretary of HUD agree will such an agreement remain private.

This fact may have a negative impact and actually discourage parties from seriously entering into the conciliation process. From a landlord or real estate agent's point of view, the publication of an agreement is likely to encourage others to file complaints against them regardless of the merits. From a buyer or renter's point of view, publication of the fact that he or she was involved in such a complaint may encourage future landlords or agents to find spurious reasons to avoid dealing with that buyer or renter.

While there are undoubtedly some benefits from the publication a conciliation results. I believe the negative aspects far outweigh the positives.

Another concern that I have with this legislation is our failure to define housing discrimination in a manner sufficient to preclude practices such as integration maintenance. In Brooklyn, for instance, a large housing complex with approximately 17,000 tenants was operated pursuant to a quota which limited the percentage of apartments rented to minorities to 30 percent. In New York City, a housing project was operated with a quota which allocated 75 percent of the apartments to whites, 20 percent to Hispanics, and 5 percent to blacks. This kind of program, even if undertaken to achieve someone's notion of appropriate racial balance, is discriminatory. A black family that arrives after the quota for blacks is filled will be denied a housing opportunity solely on the basis of race. We ought to correct this discrimination, this obstacle to equal housing opportunity. We ought to take steps to ensure that no one is excluded from housing opportunities solely because someone decides that their racial class is already adequately represented in the neighborhood.

Mr. President, I have mentioned a few points in the bill that I still view as in need of further refinement. Without question, there will be others. It is amazing how the legal community effectively comes up with new ways of bringing action. It has always been clear that legislative changes were necessary for the fair housing laws, and this bill will fulfill that destiny.

After an appropriate period of time and experience with the implementation of these provisions, if it is found that this bill is harsher on senior citizens—as I am afraid it will be—than we intend or it was intended as we have this bill evolve, or if the conciliation process is not being adequately utilized, or if any citizen continues to be turned away from available housing, then I would hope that the sponsors and supporters of this bill will join with me and make such changes as will be necessary.

I am in hopes that perhaps good reason will prevail and that none of these issues will arise in the litigation process under our fair housing laws. Unfortunately, I am afraid they will arise, and this could cause some problems and difficulties for this bill. If it does, we should change it immediately.

I want to thank the sponsors and supporters of this bill for making some of the changes that I felt were necessary before final passage. In particular, I thank the distinguished Senator from Massachusetts, because he and I have worked long and hard to try to come up with a fair housing bill I could support. He has been a leader in these areas, and I wish to acknowledge that and acknowledge his kindness and efforts in working with me.

I also praise the distinguished ranking minority member of the Judiciary Committee. He is one of the pillars of the Senate, one of the truly greatest men who has ever sat in the U.S. Senate. He is a person without bias. He is a person who tries to do what is right every day of his life. I love and admire him. In large measure, it has been because of his work and his efforts through the years that this bill is coming out as well as it is, by the time we get the substitute amendment to it or we substitute for this bill today.

There are others who deserve a lot of credit on this bill, but suffice it to say, they know who they are, and I will be happy to thank them personally.

While I have my stated reservations with some sections of the bill, on the whole, it is a good piece of legislation and deserves affirmative consideration.

It is a far cry from what it was back in 1979 and 1980 when that particular matter was fought and I had to lead the fight against that bill, something I felt very badly about but something I felt very sure the right thing to do at the time.

I was committed as I am today about civil rights and fair housing. Sometimes it seems to me we should write these bills better than we do. This one is a much better bill.

The extension of fair housing protections to the handicapped and families with children and the strengthening of the enforcement provisions are welcomed and supported by this Senator.

I think it is a good bill. I recommend my fellow Senators support it, and I want to say with all honesty that I am proud to be a cosponsor of this bill. As of today, I am proud to be a named cosponsor on the substitute which will become the major bill before we pass it through the Senator floor, hopefully today or within the relatively short future.

I again express appreciation to all concerned and I lend my name and my support to this good piece of civil rights legislation.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, if the Senator will yield, I wish to express my appreciation to the able Senator from Utah for his kind remarks. I want to say it has been a great pleasure serving with him here in the Senate. The State of Utah is indeed fortunate to have such an able, dedicated Senator here representing them on the floor of the Senate as Senator HATCH.

Mr. HATCH. I thank my colleague for his kind remarks.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I point out just for the record at the start of this debate the consideration which the Senate Judiciary Committee and the full Senate has given to this issue. I think points were made about the unusual procedures that were followed, although not unprecedented clearly, in bringing this matter up to the floor of the Senate at this time. The procedures which were followed with this legislation are similar to the procedures that were followed with our Civil Rights Act of 1964, the Voting Rights Amendments of 1970, the Voting Rights Amendments of 1975, the extension of the Civil Rights Commission in 1978, the Martin Luther King holiday bill, and the extension of the Civil Rights Commission in 1983.

So this has not been a new procedure and given the time in this session, it is certainly a procedure which I support. I think it is important for the membership to understand that the Judiciary Committee, in 1979, held 6 days of hearings on similar fair housing legislation. Actually, the Committee reported a fair housing bill in August of 1980. We had 9 days of debate during 1980. We fell six votes short of cutting off a filibuster as the Congress drew to a close. This was after the election, the post-election session.

But, nonetheless, we had a very good debate on that measure. In this Congress, the Constitution Subcommittee of the Senate held 6 days of hearings on the fair housing bill.

Then really as a result of those hearings, Senator SPECTER and I made revisions in the bill to respond to some of the questions in those hearings. They were incorporated in the Kennedy-Specter substitute which was supported by the Constitution Subcommittee in June 1987, and this is very similar to the legislation that we are debating and discussing now, and that we have had in one form or another, therefore, for at least 1½ years.

That bill included the extension of coverage to the handicapped. It also provided protections for families with children.

As the House report indicated, the legislation which eventually passed the House was generally very similar to the measure that we had reported to the full committee.

The measure now which we are talking and debating has been approved by 367 to 23 in the House of Representatives.

So, there is very broad and wide support. On the particular compromise amendment that was worked out by Mr. FISH and Mr. EDWARDS, which probably did as much as anything to really unlock the very strong movement on this measure, it actually passed the House 401 to 0.

The President supported this measure. The Vice President is supporting the measure. The minority leader, the Secretary of Housing and Urban Development, all express their support for this measure.

We have had extensive negotiations with the administration and the various interested groups, as I have mentioned earlier. We are very much in their debt for all of the work that all of the groups have done in coming together to support this particular proposal.

This issue, in effect, has been before the Senate for some 10 years. Ten years of delay is long enough, and the Senate ought to move forward.

Finally, I think all of us are mindful again of the necessary absence of our dear colleague, the Senator from Delaware, Senator BIDEN, the chairman of the Judiciary Committee, he has been a long-time advocate, strongly committed to this measure, he has worked both as the chairman of the committee and as a member of the committee for this type of legislation. I know if he were here today, he would be speaking in strong support of this measure and although he is absent, I know that certainly the members of the Judiciary Committee know about the work that was done to advance this measure by the Senator from Delaware.

Finally, I would say those of us supporting this measure are also mindful and we really stand on the shoulders of many of our former colleagues. The Senator from Indiana, Senator Bayh, was one of the strong supporters of this measure when he was on the Senate Judiciary Committee. The Senator from Maryland, Senator Mathias, was a leader on this measure as well in previous times.

So, we are grateful for all of the work that has been done by a number of our colleagues on both sides of the aisle in previous Congresses, and we have a better bill because of their work and their efforts, and we acknowledge the important contribution that they have made.

I see my colleague from Iowa on the floor. As chairman of the Handicapped Subcommittee, he has been instrumental in working and fashioning the particular provisions of this legislation that prohibit the discrimination against the handicapped and I think all of those 33 or 34 million Americans who have some mental or physical challenges know the strong work that the Senator from Iowa has done in this measure, and all of us are grateful to him for his leadership.

I yield the floor.

The PRESIDING OFFICER. To the Senator from Iowa.

Mr. HARKIN. Mr. President, I rise in support of the Fair Housing Amendments Act of 1988, and I thank my distinguished chairman of the committee for his very kind remarks on my behalf. It has indeed been a pleasure to work with him on these issues as the chairman of the handicapped subcommittee, on the committee on which Senator KENNEDY chairs.

I just want to compliment both Senator KENNEDY and Senator SPECTER for their leadership in guiding this bipartisan substitute bill to the floor. It is to their credit that the bill has been endorsed by the national organizations representing the homebuilders, the realtors, children, older Americans, church groups, and civil rights groups, including groups representing racial, ethnic, and religious minorities, women and persons with handicaps. It is also to Senator KENNEDY's credit and Senator SPECTER's credit that this bill now has the endorsement of the White House.

I believe the goals of nondiscrimination that Congress sought to achieve in the Fair Housing Act of 1968 will finally be realized with the passage of these amendments. Not only does this bill contain enforcement provisions which are sorely needed; it expands protections to two classes of Americans that experience housing discrimination on a daily basis—families with children and individuals with disabilities.

Today, in my capacity as chairman of the Subcommittee on the Handicapped, I wish to focus the remainder of my remarks on the critical problem of housing discrimination that Americans with disabilities face and the provisions of the bill which will go a long way toward eliminating this problem as a matter of public policy.

The National Council on the Handicapped, an independent Federal agency comprised of 15 members appointed by the President and confirmed by the Senate, in two recent publications, "Toward Independence" and "On the Threshold of Independence," documents the magnitude of discrimination faced by persons with disabilities in such areas as housing, employment, public accommodations, transportation, communications, and public services. The Council's conclusion is that discrimination in these areas is still "substantial and pervasive."

Discrimination in housing on the basis of handicap takes many forms. One form of discrimination is the segregation of an individual with a handicap in specified units in a multifamily dwelling. A second form of discrimination is the refusal—the outright refusal—to rent or sell a dwelling to an individual with a handicap and this is based basically on ignorance, stereotypes, misperceptions, and unfounded beliefs. Marca Bristo, president of Access Living, a center for independent living in Chicago in testimony before our subcommittee presented on behalf of over 40 national disability organizations to the Subcommittee on the Constitution, Committee on the Judiciary described examples of this form of discrimination:

> The woman who is deaf and was not even allowed to complete an application for an apartment because the rental agent assumed she was not competent; only because she was deaf.
>
> The young man with mild mental retardation in D.C. who was told there were no units left after he was observed getting assistance in reading his application. His previous rental history was impeccable and his income was more than sufficient. The units were readvertised the following weekend.
>
> The young woman, head-injured as a result of an accident, whose communication difficulties lead the apartment manager to reject her application on the grounds that she is too disabled to live by herself; and
>
> The man who uses attendant care and is barred from renting an apartment because the landlord assumed that the applicant was unable to live independently just because he needs an attendant to meet personal care needs.

The report of the President's Commission on the Human Immunodeficiency Virus Epidemic, June 1988, states that:

> One of the primary causes of discriminatory responses to an individual with HIV infection is fear, based on ignorance or misinformation about the transmission of the virus. We cannot afford to let such ignorance and misinformation persist.

The Commission concludes that discrimination against persons with HIV infection in housing, among other areas, is unwarranted because it has no public health basis. And yet Mr. President, there is great discrimination against those individuals.

A third form of discrimination results from thoughtlessness and indifference. Policies or acts that have the effect of causing discrimination can be just as devastating as other forms of discrimination. For example, a person using a wheelchair is just as effectively excluded from the opportunity to live in a particular dwelling by a policy that provides "no wheeled vehicles may be used on carpets" or by the design and construction of a dwelling that results in a lack of access into a unit because the door ways are too narrow. These policies are tantamount to a landlord posting a sign that reads: "handicapped persons are not welcome." In *Alexander* v. *Choate,* 469 U.S. 287 (1985), the U.S. Supreme Court observed that discrimination on the basis of handicap is "most often the product, not of invidious animus, but rather of thoughtlessness and indifference—of benign neglect" and mentioned "architectural barriers" as one factor that can have a discriminatory effect.

Ending discrimination on the basis of handicap is not only morally right but it is also an economically prudent public policy. The national council concludes that "the costs of providing appropriate housing options for disabled people are well worth the investment because of the significant savings that may be engendered by enabling disabled people to live in the community, get jobs, and pay taxes." That is pointed out in Toward Independence at page 37, which was put out by the national council.

Housing is a fundamental requirement for living independently and economic self-sufficiency. Employment opportunities are greatly restricted by the lack of housing options in reasonable proximity to potential jobsites and transportation systems. For many, the alternative to a lack of accessible housing is institutionalization. One out of every six Americans is now disabled. As the population ages and as medical technology continues to prolong life, accessible housing will become increasingly more critical.

Depending on geographic location, the national council reports that it currently costs between $30,000 to $100,000 per year for each individual who is elderly or disabled to be housed in a federally funded facility. Without a Federal policy that enables people with disabilities to live in the community, these expenses will only accelerate.

In addressing discrimination on the basis of handicap, the bill sends a clear message to persons with disabilities and to those engaged in the sale and rental of dwellings and other transactions covered by the bill that the arbitrary exclusion or segregation of persons with disabilities from housing will no longer be tolerated. It repudiates the use of stereotypes and ignorance and mandates instead that persons with handicaps be considered as individuals. Generalized perceptions about individuals with disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion. The bill also requires reasonable adjustments to policies and services that have the effect of denying opportunity for individuals with disabilities and repudiates exclusions resulting from architectural barriers by establishing reasonable and modest requirements of accessibility and adaptability.

The provisions in the Fair Housing Amendment Act of 1988 are substantially the same as the provisions of a draft bill pertaining to housing discrimination developed by the national council—see "On the Threshold of Independence." It is important to note that all of the current members of the national council were appointed by President Reagan.

I would like to focus the remainder of my remarks on three provisions in the Fair Housing Amendments Act of 1988. First, the bill includes a definition of the term "handicap" that is substantially similar to the definition under the primary Federal law prohibiting discrimination on the basis of handicap, the Rehabilitation Act of 1973—which is under the jurisdiction of the Subcommittee on the Handicapped, which I chair.

The standards and interpretations of the term "handicap" in the Rehabilitation Act—as recently amended by the Civil Rights Restoration Act; current regulations—see for example, 45 CFR 84 and 34 CFR 104 and the appendices attached thereto; and the interpretations by the Supreme Court in *School Board of Nassau* v. *Arline,* 107 S. Ct. 1123 (1987) apply to the definition included in the bill. For example, AIDS and infection with the human immunodeficiency virus are covered under this act. Several courts have correctly found such coverage under section 504 of the Rehabilitation Act. See for example, *DOE* v. *Centinela Hospital*, No. CV 87-2514 (par) (C.D. Cal. 1988); *Local 1812 AFGE* v. *Dept. of State*, 662 F. Supp. 50 (1987).

Second, I would like to comment on the provision in the bill which states that

> Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

The formulation of this provision parallels the provision added to the Civil Rights Restoration Act with regard to individuals with contagious diseases and infections—a provision Congress added in order to reaffirm the Arline decision. An explanation of the provision is included in the March 2, 1988, Congressional Record at page 1738. In Arline, the Supreme Court held that:

> [A] person who poses a significant risk of communicating an infectious disease to others in the workplace will not be otherwise qualified for his or her job if reasonable accommodation will not eliminate that risk.

While Arline dealt with employment in the context of section 504 of the Rehabilitation Act of 1973, the same standard applies in the context of housing under this act. I have reviewed the House report accompanying H.R. 1158 (pages 28-30) and agree with the statements on this matter contained therein. I have also reviewed the Congressional Record and agree with Congressman Frank's explanation of his amendment (H 4679) that added the phrase "or whose tenancy would result in substantial physical damage to the property of others" and Chairman Edwards explanation (H 4932).

This phrase is intended to be read in conjunction with the other provisions in the act providing access for persons in wheelchairs. Thus, this provision should not be construed to permit a landlord to exclude a person in a wheelchair because of a fear that the wheelchair may damage the carpets or chip the paint off the walls. These and other similar typical effects of using a wheelchair do not constitute "substantial physical damage." Similarly, the fact that a person might damage some minor piece of property would also not allow this provision to take effect. In addition, because the provision requires "substantial physical damage," any concern—whether unfounded or not—regarding possible reduction in property value stemming from stereotypes and misperceptions about individuals with handicaps of the landlord or others is clearly not included.

The "direct threat" provision was included in the bill for the same reason it was included in 1978 in the Rehabilitation Act and in the Civil Rights Restoration Act. While it is not foreseeable that the tenancy of any individual with handicaps would pose any risk, much less a significant risk, to the health or safety of others or result in substantial physical damage to the property of others by the status of being handicapped, the provision was added to allay the fear of those who believe that the nondiscrimination provisions of this act could force landlords and owners to rent or sell to individuals whose tenancies could pose such a risk. It does not change in any way the principles enunciated by the court in Arline.

The third provision I would like to comment on ensures the nondiscriminatory design and construction of covered multifamily dwellings for "new construction," that is, first occupancy after the date that is 30 months after the date of enactment of this act. The bill provides that discrimination includes the failure to design and construct such dwellings in such a manner that:

First, the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

Second, all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

Third, all premises within such dwellings contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

These provisions are the result of lengthy negotiations between the disability community and architects, builders, and managers to achieve a reasonable balance between meeting the intent of the bill, to assure equal opportunity in housing for individuals with handicaps, while minimizing both construction costs and potential issues of marketability.

The cost of compliance with certain of these requirements is zero and minimal for other requirements. Ron Mace, a well-known architect who specializes in the design of buildings for use by disabled and nondisabled people, in testimony before the Subcommittee on the Constitution stated:

> For example, a prohibition in all housing against the narrow, 24 inch bathroom door would eliminate the most frequently needed modifications in the future, and it would not increase costs because the wall left out to install the wider door costs more than the door itself.

Mr. Mace then added:

> Because of advances in technology, design standards, and better products, we can now build most new housing that can be used by everyone without increasing its costs.

We also included a provision in the substitute bill, which is not in the House bill, that is designed to clarify the relationship between these civil rights requirements and State and local policies, practices, and procedures. The new provision includes several points. First, if a State or unit of general local government has incorporated into its laws the requirements for new construction contained in the bill, compliance with such laws will be considered to satisfy the requirements in the bill.

Second, regardless of whether or not a State or unit of general local government incorporates into its laws these requirements, such governmental unit may review and approve newly constructed dwellings for the purpose of making determinations of whether the design and construction requirements are being met. Third, the Secretary of HUD shall encourage, but may not require, such governmental units to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with the requirements for new construction in the bill, and must provide technical assistance to such governmental units and other persons to implement the requirements applicable to new construction.

Fourth, the bill reaffirms what the sponsors of the bill have been saying all along; namely nothing in the act should be construed to require the Secretary to review or approve the plans, designs, or construction of all covered multifamily dwellings to determine compliance with the new construction requirements in the act. The final point makes it clear that HUD and the State enforcement agencies retain the obligation to receive and process complaints or otherwise engage in enforcement activities under the act. Further, determinations by such State or units or local general government will not be conclusive in enforcement proceedings under the act.

For example, HUD may determine that the policies developed by the governmental unit are inconsistent with the requirements in the act. Similarly, HUD could determine that the requirements in the State law were adequate but a person's designs were inconsistent with the requirements in the applicable State law. Further, HUD could determine that the designs were consistent with the law, but the construction was not carried out in accordance with the designs.

Twenty years ago, Congress established a national policy that it is unacceptable to discriminate in housing practices against racial, ethnic, and religious minorities; subsequent amendments extended these protections to women. We must now act to eliminate housing discrimination against persons with disabilities, our largest minority. Individuals with disabilities have the right to be protected from discrimination in housing and have the same recourse through the same legal avenues that are now available to other minorities to protest discriminatory actions.

I urge my colleagues to join me in support of this legislation so that we can send a long overdue message to all Americans with disabilities that they have the right to live wherever they choose.

Mr. President, I will close by saying that this legislation is for all Americans with disabilities. A vote for the disability provisions in this bill, without amendment, is a vote for our brothers and sisters who were disabled in the Vietnam war and other wars and to the young infants and children born with disabilities or who, because of injury or disease, become disabled.

It is my hope that this legislation will enable Americans with disabilities to live in communities free from attitudinal and physical barriers. Every American deserves the opportunity to live with or close to his or her family, rather than to live in an institution or segregated housing. Every American deserves the right to be able to visit his friends and neighbors without worry that physical barriers would get in the way.

So, Mr. President, again, this bill is for all Americans with disabilities. I am hopeful that any amendments that are offered that would lessen the thrust of this bill to provide the access that is needed will be voted down by the Senate. I am hopeful that the bill, with amendments as proposed, will be passed in its entirety.

Again, Mr. President, I wish to give my personal thanks and the thanks, I am sure, on behalf of of all of those disabled groups that have testified before my Subcommittee on the Handicapped to the distinguished Senator from Massachusetts for bringing this measure to the floor in the form that it is now in.

FAIR HOUSING AMENDMENTS ACT

Mr. KARNES. Mr. President, I am pleased to be a cosponsor of the Fair Housing Amendments Act, H.R. 1158, as amended. This legislation is designed to strengthen the substantive protections and the enforcement mechanisms of the Fair Housing Act. I strongly support that objective.

The Fair Housing Act protects individuals against discrimination based on race, color, religion, sex or national origin.

In his legislative message to the Congress on January 25, 1988, the President stated:

> The 20th anniversary of the Fair Housing Act of 1968 is an appropriate time to strengthen the statute by increasing the penalties of those convicted of housing discrimination and by extending the protections of the Act to handicapped persons.

I heartily agree with the President. I am pleased that, to the protections already provided under existing law, this legislation adds prohibitions on discrimination against individuals based on handicap and familial status. These changes are long overdue.

President Reagan and Housing and Urban Development Secretary Pierce have consistently and vigorously supported efforts to strengthen and expand Federal fair housing enforcement under title VIII of the Civil Rights Act of 1968. In every State of the Union message since 1981 the President has called for Congress to enact legislation to amend the fair housing laws. Secretary Pierce has submitted legislation in behalf of the administration in 1983, 1985, 1986, and 1988. The most recent administration bill had many basic features in common with H.R. 1158, which is now before us.

Mr. President, my commitment to available, affordable and accessible housing for all our citizens has developed over many years of personal experience and hands-on involvement in numerous community-based programs in my home town of Omaha, NE, all designed to increase housing opportunities.

Moreover, as a White House fellow in 1981 and 1982 I served as a special assistant to Secretary of Housing and Urban Development Samuel R. Pierce, so I speak from a close, personal vantage point when I say how important fair housing is and has been to Secretary Pierce and this administration and to the future of our country and our people.

Mr. President, I want to applaud Secretary Pierce and this administration for their commitment to extending the guarantees and the protection of the civil rights laws to the handicapped and to families with children in housing matters and to their leadership and efforts in making fair housing a reality for all Americans.

As a supporter of fair housing and civil rights for all Americans, I am pleased that we now have an opportunity to enact landmark legislation which:

Empowers the Federal Government to initiate enforcement actions involving individual acts of discrimination; increases penalties for fair housing violations authorizes the Secretary of Housing and Urban Development to initiate investigations without a formal complaint; and adds the handicapped and familiar status to those classes protected by title VIII of the Civil Rights Act of 1968.

Also this act strengthens enforcement of the Fair Housing Act, this legislation which:

Authorizes the Department of Justice to bring lawsuits on behalf of an individual based on a single occurrence of housing discrimination, rather than requiring a pattern or practice of discrimination, as under current law; authorizes awards of compensatory damages to individuals aggrieved by housing discrimination in lawsuits brought by the Department of Justice; authorizes substantial civil penalties that a court may impose for housing discrimination in a lawsuit brought by the Department of Justice; and increases substantially the punitive damages a court may award in a lawsuit brought by an individual aggrieved by housing discrimination.

Mr. President, I wish to touch on several provisions in the bipartisan substitute to H.R. 1158 which we are now considering that clear up several problems contained in the House-passed bill. These amendments are clear evidence of the spirit of compromise and determination of those who have worked so tirelessly to produce an effective, workable fair housing bill. I refer to provisions on familial status, handicapped accessibility and litigation authority.

One of the most contentious provisions of this legislation concerns familial status. For the first time, familial status—defined as one or more children under 18 living with a parent or guardian—is added by H.R. 1158 to the classes protected by title VIII of the Civil Rights Act.

Originally the administration was concerned that there had not been sufficient consideration to the effects that the housing restrictions would have on the housing choices of the elderly and adults without children. It believed that the bill needed amending to preserve the housing choices for the elderly and adults without children.

Fortunately the bipartisan substitute has amended the familial status language so that it is now workable and will effectively protect families from discrimination in housing without unfairly limiting housing choices for the elderly or causing problems for elderly communities.

H.R. 1158 exempts some adult-only buildings consisting solely of efficiency and one-bedroom units. Elderly housing is also exempted from the requirement to admit families with children if no one in the building is under 62 years of age, or if 90 percent of the residents are over 55 years of age and the owner provides significant facilities and services designed to meet the physical or social needs of older persons.

The bipartisan substitute removes the requirement that every building owner wishing to serve older persons must either deny admission to everyone under 61 years of age or provide dining, social or recreational facilities and services, such as emergency and preventive health care, continuing education, welfare information and counseling, housekeeping and transportation. The costs of these facilities and services threatened to restrict elderly-only housing to the relatively expensive retirement communities such as Leisure World or Sun City in Arizona.

It also increases from 10 to 20 percent the maximum percentage of units in exempted elderly buildings which may be occupied by nonelderly persons, elderly households with an adult child, or a couple in which one spouse is under 55 years of age. Moreover, the factors required to maintain an exemption for buildings serving older persons will be established by regulation. This will allow HUD some latitude to react to experience and the changing housing needs of the elderly.

The results of compromise are evident. As a result, the bipartisan substitute to H.R. 1158 provides increased flexibility, reduced potential for increased cost of elderly housing, and better protection for a broader range of elderly housing arrangements.

Let me mention another area where compromise has improved the legislation. As passed by the House, H.R. 1158 requires that all covered multifamily new construction dwellings be constructed so that all doors into and within the premises are wide enough for persons with wheelchairs and all public and common areas are readily accessible to and usable by the handicapped. Further, units in covered multifamily new construction must provide: First, an accessible route into and through the dwelling for handicapped persons; second, light switches and thermostats at an appropriate level; third, bathroom walls reinforced for later installation of grab bars at a tenant's expense; and fourth, kitchens and bathrooms in which a wheelchair can maneuver.

The bipartisan substitute relieves HUD of any obligation to develop or enforce a Federal building code or to generally review and approve the plans, designs, and construction of covered multifamily dwellings. It encourages States and localities to adopt and implement their own laws. It authorizes State and local agencies to inspect construction and certify compliance with the bill's requirements. It does not reduce the coverage of the legislation or alter the features negotiated by the sponsors, the National Association of Home Builders, and the civil rights and disability groups.

As a result of compromise, the substitute bill strengthens the antidiscrimination provisions protecting the handicapped and at the same time defers to and encourages State and local enforcement. Thus it avoids Federal monitoring of the more than 400,000 multifamily units constructed in our country each year.

Finally. I wish to mention two principal features of the substitute which are the results of compromise and effectively resolve the constitutional concerns over separation of powers arising out of the sharing of litigating authority which, in the House-passed version, was divided among HUD and the Justice Department.

H.R. 1158, as passed by the House, authorizes the Secretary of Housing and Urban Development to seek prompt judicial relief—including restraining orders and injunctions—during the course of an investigation if immediate action is necessary to carry out the purposes of fair housing, such as protecting the rights of a complaining party. The Secretary is also authorized to maintain actions in Federal district court on behalf of aggrieved persons when one party chooses to remove a case from the jurisdiction of administrative law judges. These are changes to current law, which authorizes the Attorney General to file cases only to halt a pattern or practice of housing discrimination or in matters of general public importance.

Parallel overlapping enforcement authority in two agencies in an action arising out of a single fact situation will hinder—not advance—effective administration of the law. The authority to litigate has resided in the Justice Department under the Fair Housing Act since its passage in 1968 and as it has developed the necessary knowledge and expertise in litigating claims of housing discrimination. Fragmenting this authority would not be an efficient use of Government law enforcement resources.

The bipartisan substitute consolidates the conduct of all Federal fair housing litigation at the Department of Justice. This will ensure that enforcement actions brought by the Government under the Fair Housing law will have the benefit of the superior nationwide resources and expertise of the Justice Department, including local U.S. attorneys.

The substitute assures that the Secretary of HUD has both the authority to seek appropriate judicial action to halt acts of housing discrimination and access to the legal resources possessed by Justice.

The House-passed bill also failed to provide clearly authority for the executive branch to exercise law enforcement discretion required by the separation of powers doctrine. There was no opportunity to resolve this problem during House consideration of H.R. 1158. The bipartisan substitute resolves this problem by clarifying that the Secretary of Housing and Urban Development has the discretion to initiate formal enforcement proceedings based on the facts developed in an investigation.

Mr. President, enactment of this landmark legislation is at last possible because of the spirit of compromise that has pervaded the negotiations surrounding the bipartisan substitute we are discussing today and hopefully voting on tomorrow. As a consequence, H.R. 1158, as amended, represents a reasonable consensus among all parties. I am happy to acknowledge that the President and Vice President both have indicated their support for the bipartisan substitute. The housing industry, in particular, the National Association of Home Builders and the National Association of Realtors support the compromise. And various elderly coalition groups and the civil rights and community organizations are pleased with the compromise.

In my opinion, this substitute—the Kennedy-Specter substitute—is an excellent, tough, reasonable compromise. If enacted, it promises to strenghten and expand our civil rights laws so that we can now be assured that the rights of the handicapped and young families with children in housing will be adequately protected in our Nation. It reconfirms our Nation's commitment to fairness and equality for all Americans in housing.

This reform is long overdue. I am satisfied that these improvements will not in any way have a negative impact on rural housing, but will, in fact, protect families with children and handicapped citizens residing in rural Nebraska and guarantee them equal access to housing in rural areas throughout this country.

Mr. President, I am proud to support this legislation, and I hope it will be strongly supported by my colleagues.

With the passage of this legislation, all Americans—in particular, the handicapped and families with children—will have achieved a great deal more than a window of opportunity in housing. Indeed, the door to opportunity, fairness, and equality will have swung wide open. And if this Senator has anything to do with it, this door will never be allowed to close again on any American regardless of race, creed, sex, age, disability, or familiail status.

Mr. President, I encourage all of my colleagues to voice their strong support in favor of this legislation in a vote that I hope will occur tomorrow.

With those remarks, I thank the Chair and yield the floor.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator HEINZ, Senator PACKWOOD, and Senator DANFORTH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair, yield the floor, and suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The **PRESIDING OFFICER.** The Senator from Kansas.

Mr. **DOLE.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **DOLE.** Mr. President, two decades ago Congress passed the first fair housing law with the hope that discrimination in housing would be ended once and for all.

Congress did not believe in 1968 that the right to buy or rent a house should be determined by a person's race, color, religion, sex or national origin.

We still do not believe it is right to discriminate in housing. It is unfair, it is wrong, and, thanks to the action of the Congress, it is illegal.

Now, some 20 years after passage of the fair housing law, we find that the job is still not complete.

The rights of persons with disabilities, and families with children, have never been protected under the fair housing law. And too many of those Americans already covered by the law have waited far too long for it to become truly effective.

We, too, in this body—and I would say to my friends in the other body—have waited long enough. The years of debate here and our long experience with the fair housing law have taught us its strengths and its weaknesses. It is time now to act.

NEED FOR STRONGER ENFORCEMENT

The Department of Housing and Urban Development, which administers the fair housing law, estimates that more than 2 million acts of housing discrimination occur every year—2 million. Yet, HUD receives only 4,000 to 5,000 complaints each year. Something is wrong here.

Here are some possible reasons for the low number of complaints: Some victims may not even know they have been discriminated against because information about the availability of housing is withheld.

Another reason for the low number of complaints may be frustration. Frustration due to the even lower number of housing units actually obtained for the victims of discrimination.

It is a simple fact of life that if you do not deliver the goods, sooner or later, people simply stop coming to you for help.

In my view, a major reason the fair housing law has not been more effective is that it relies on voluntary conciliation and persuasion. In other words, a law without its teeth. It does not have the clout necessary to stop discrimination as it occurs and to assure that housing is still there when a complaint is finally resolved.

The Secretary of HUD, in testimony last year before the Judiciary Committee, cited a study indicating that a black person seeking to purchase a home had a 48-percent chance of encountering discrimination. A black person seeking to rent had a 72-percent chance of being discriminated against.

This is unacceptable—especially 20 years after passage of the fair housing law. This Nation should not rest until fair housing is more than a slogan. It should be a reality.

PROTECTION FOR HANDICAPPED

In addition to testimony in favor of strengthening the enforcement of the fair housing law, both HUD and Justice have testified in favor of expanding the fair housing law to include persons with disabilities as a protected class. I strongly support such an expansion and urge my colleagues to do the same.

Disabled Americans want to be a part of the mainstream; and I can think of no more fundamental first step toward mainstream living than fairness in housing.

BIPARTISAN LEADERSHIP

I would just like to commend the bipartisan spirit that has marked this year's significant breakthrough on the fair housing front.

Senators SPECTER and KENNEDY along with other Senators on both sides of the aisle who have worked long and hard to reach agreement on fair housing are to be congratulated.

I would say that many of my colleagues in the House, again on both sides of the aisle, I will name just one, Congressman HAMILTON FISH. It was his effort, along with efforts of others but primarily his effort, that provided the breakthrough on the House side that brought all the parties together: The realtors and the home builders and others who have had some real questions about interpretation of some of the aspects of the fair housing legislation.

So we have a bipartisan effort and the efforts have demonstrated that civil rights is and always has been a bipartisan concern. The leadership Conference on Civil Rights and the National Realtors Association have also demonstrated real leadership on this issue. And I am proud to say that the president of the National Realtors Association is a Kansan, Nestor Weigand, who is a realtor in Wichita, KS, and he was there at the press conference on the House side a few weeks ago to indicate the National Realtors Association's strong support of the bill.

So I say to all those who have been participants, we have been able to forge an agreement acceptable to so many diverse groups. It was not an easy task, but it has been done.

Mr. President, the time has come to complete the job. I hope we can complete action on this bill not later than tomorrow. Maybe tomorrow after the policy luncheons will be a good time for a vote. There will be some debate. There still are some reservations with reference to the elderly.

I know my distinguished colleague, Senator THURMOND, who has been battling for equality for years, has some serious questions about certain aspects. There may be some questions about building codes, as far as the handicapped are concerned, but by and large, in my view, most of the problems surrounding this bill early on have been dealt with through the efforts of many of my colleagues in both the House and Senate and, again, on both sides of the aisle.

I would be very pleased to cosponsor, and I ask unanimous consent that I may be added as a cosponsor of the substitute.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **DOLE.** I urge my colleagues to support the substitute, knowing some will support the substitute but still have reservations about certain provisions.

I also would like to have printed in the RECORD a statement by President Reagan just issued by the White House, indicating his full support of the bill:

> Today I received a welcome report from Secretary of Housing and Urban Development Sam Pierce and Attorney General Ed Meese that a package of amendments with broad support has been fashioned to further improve the bill that the House of Representatives passed in June. The package ensures appropriate roles for Federal, State and local government in protecting the housing rights of persons with handicaps, improves arrangements for the conduct of lawsuits by the Federal Government to enforce the act, and protect the rights of older Americans.
>
> I urge the Senate and then the House to pass the bill swiftly, to advance the day when I will receive from the Congress the landmark civil rights bill for which we have worked so long and hard.

I commend the President. I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
August 1, 1988.

STATEMENT BY THE PRESIDENT

> The Senate is scheduled to consider shortly legislation we have long sought to strengthen the Fair Housing Act. That Act prohibits discrimination in housing based on race, color, religion, sex or national origin.
>
> I am extremely pleased at the swift congressional response to the call in my Legislative Message at the beginning of this session of Congress for the enactment of new civil rights legislation to strengthen the Fair Housing Act. Among other things, the legislation extends the protection of the Act

to prohibit housing discrimination against those with handicaps—one of my key legislative goals.

Today I received a welcome report from Secretary of Housing and Urban Development Sam Pierce and Attorney General Ed Meese that a package of amendments with broad support has been fashioned to further improve the bill that the House of Representatives passed in June. The package ensures appropriate roles for Federal, State and local government in protecting the housing rights of persons with handicaps, improves arrangements for the conduct of lawsuits by the Federal Government to enforce the Act, and protects the rights of older Americans.

I urge the Senate and then the House to pass the bill swiftly, to advance the day when I will receive from the Congress the landmark civil rights bill for which we have worked so long and hard.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.0

Mr. GRASSLEY. Mr. President, I rise in support of H.R. 1158, the Fair Housing Act Amendments of 1988, which will protect the rights of all Americans to seek and obtain housing.

This is—quite appropriately—a fair bill based upon a desent compromise.

Among those individuals and groups that deserve recognition for their work on this bill, I would like to mention HUD Secretary Samuel R. Pierce, and his role in helping to achieve this compromise.

I know Sam Pierce. He has been to my State many times to listen to the housing concerns of Iowans.

While I have not agreed with Secretary Pierce on every issue, I have always respected his sincerity. Where Secretary Pierce and I have never differed, however, is in the area of fair housing.

Together with the President, Secretary Pierce has asked for stronger fair housing enforcement legislation every year since taking over at his Department.

This most important legislative objective—to put teeth into the Federal fair housing law—is being realized with the passage of this compromise legislation.

Mr. President, with the passage of H.R. 1158, all of the parties to this compromise will be rewarded for assuming some significant political risks. Policymakers at HUD, the White House, the Justice Department, and housing interests in the private sector are to be congratulated.

Last month, after an important compromise was achieved to protect the rights of individuals to seek jury trials, H.R. 1158 passed the other body by a wide margin. However, administrative and enforcement problems remained in the bill. Negotiations amongst the interested parties ensued.

Finally, following further extensive discussions with the White House, the Vice President, HUD, and the Justice Department, an agreement was reached.

After many years of false starts and frustrations, it now appears that enforcement of the Fair Housing Act can be sustained because the Federal Government will have a mechanism in place to prosecute cases of housing discrimination.

As is usually the case in American politics, the debate over H.R. 1158 boiled down to the means of achieving a worthy goal.

The basic understanding—never questioned by any party to the negotiations over this legislation—is that it is in everyone's interest to promote equal access to affordable housing.

Again, I congratulate all who were involved in this compromise and I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that I be added as a cosponsor of the compromise amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from Ohio [Mr. METZENBAUM] be included as a cosponsor and the Senator from Vermont, Senator LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator BOSCHWITZ, Senator COHEN, Senator MCCONNELL, Senator CHAFEE, and Senator KARNES be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. We seem to be gaining some momentum on this side of the aisle, I say to the Senator from Massachusetts. We better put out a call for some more cosponsors generally. We may be out of space here.

Mr. KENNEDY. They can demonstrate that further support by not offering any amendments from that side, too, and we will be able to get this whole bill expedited.

Mr. SPECTER. I think all these cosponsors will not add any amendments.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator WARNER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senators ADAMS, STEVENS, HATFIELD, MATSUNAGA, and SIMON be added as cosponsors of the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that further proceedings under the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1778 TO AMENDMENT NO. 2777

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2778 to amendment No. 2777:

On page 10, line 16 strike "two or" and on page 10, line 17, strike "more times".

Mr. THURMOND. Mr. President, this substitute pending before the Senate provides protection for individuals convicted of certain drug offenses. The substitute states that nothing in this title prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance.

The thrust of this provision is that an individual convicted of the manufacture or distribution of narcotics who is denied housing by a landlord should bring a lawsuit for this denial and recover damages. This makes no sense. A landlord should be allowed to protect other tenants from a dope dealer.

There is no rational reason to wait until an individual is convicted twice of a drug offense. One conviction is sufficient. My amendment simply says that one conviction is sufficient for a landlord to refuse to rent to a drug dealer. It is that simple. I urge my colleagues to vote for this amendment. Failure to do so makes the rights of law-abiding citizens meaningless. Drug dealers deserve no Federal protection.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. KENNEDY. Mr. President, a similar amendment was adopted in the House of Representatives. It was agreeable to Congressman EDWARDS and others. I have no objection. I support the amendment.

What we are basically talking about is the manufacture and distribution of substances which are prohibited in other Federal statutes. I inquire of the Senator from South Carolina, as I read the Senator's language, if an individual is discriminated against because he is a member of some other protected class under the bill, for example, because he is black or Hispanic and not because he was convicted of drug offenses, then, of course, that individual would remain within the protection of the act; am I correct?

Mr. THURMOND. Mr. President, in response to the distinguished manager of the bill, my amendment is colorblind in its application with regard to a conviction.

Mr. KENNEDY. The fact remains we are identifying those who have violated the law and not extending it to those who violate the law. They would be prohibited from any protections. It would be based upon a conviction, is that correct, in a court of law?

Mr. THURMOND. That is correct.

Mr. KENNEDY. Any conviction against those particular items apply to anyone; is that correct?

Mr. THURMOND. That is correct.

Mr. KENNEDY. I have no objection to the amendment.

Mr. THURMOND. Mr. President, I ask for a rollcall on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KENNEDY. We are agreed to take the amendment.

Mr. THURMOND. Mr. President, as I understand, the Senator is willing to accept the amendment?

Mr. KENNEDY. Yes.

Mr. THURMOND. We will not ask for a rollcall then, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2778) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, if Senators have amendments, I hope they will bring them to the floor so that we could begin to dispose of those amendments. We have been prepared to debate these measures now through the course of the afternoon. We are glad to try to accommodate Senators. We also think that the membership is entitled to express itself on these different items. So I urge our colleagues who do have amendments to bring them to us. We have increasing support, bipartisan support, support by the President, the Vice President, the minority leader, and many others. We are impressed by that range of support. We want people who do have amendments to propound them, but we also hope to move along on the Senate's business. So I hope any of our colleagues with amendments will come to the floor so we can dispose of those amendments.

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask unanimous consent it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Strike all of page 9a, and insert in lieu thereof the following:

Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section. "Housing for Older Persons" means—

"(A) any building, mobile home or trailer park, or any group of buildings on a contiguous parcel owned by the same person or entity, intended for, and at least 80 percent occupied by, at least one person 55 years of age or older per unit;

"(B) one-third of the units in any building, mobile home or trailer park, or in any group of buildings on a contiguous parcel owned by the same person or entity, provided that the housing provider maintains and displays, in the rental or sales office, a written declaration designating the exempt units; or

"(C) the size of units or number of bedrooms per unit in any building or group of buildings.

(D) Provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program).

"Notwithstanding any other provision of this title, only injunctive relief shall be available as a remedy against a housing provider in any action under this title based solely on a violation of the requirement to have such a written declaration as provided in subparagraph (B).".

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections 2(A), provided that new occupants of such housing meet the age requirements of subsections (2)(A); or

"(B) unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(A).

Mr. THURMOND. Mr. President, I had intended to offer this amendment because I was concerned about the impact on our Nation's elderly citizens. Specifically, my concerns focused on how these new requirements their affect on the cost of retirement housing. Would this discriminate against those persons retiring on fixed incomes and not able to afford housing which provides significant facilities and services?

Mr. President, the administration is very concerned about these matters. They conferred with my staff about these matters. However, now the administration has sent a letter down in effect saying they do not approve of any amendments. I feel under the circumstances after talking with the manager of the bill and Secretary Pierce that the Secretary of HUD may have enough flexibility to handle this situation without this amendment. I would be very pleased to hear from the distinguished manager of the bill on that point.

Mr. KENNEDY. Mr. President, I welcome the opportunity to give those assurances to the Senator from South Carolina and indicate to him that the legislation provides for that kind of flexibility. It gives that kind of discretion to the Secretary of HUD and it is certainly the desire of those that have fashioned the legislation to permit this kind of flexibility.

What we are basically providing is that in areas that are going to be senior citizen retirement communities, those that are going to be the age of 62 or older, none of these particular services are going to have to be required. But when we were talking about younger ages, 55 and older and under the formula in the legislation, it spells out the percentage. Eighty percent of those units have to have individuals 55 or older. If that particular housing is going to be a place for retirees, particularly in some sections of our country—there has been concern in Arizona, Florida, and other communities—we want to make sure they are going to be really a place where seniors are going to retire. At least this requirement is an additional indication they are going to be for seniors, they will be providing the facilities which seniors basically enjoy and want. But it was never intended to be a requirement that additional kinds of services would be necessary in order to enjoy the provisions and protections of the act.

So we have granted the Secretary the ability to issue the kind of regulations that would take that into consideration. Specifically, the Secretary may provide in the regulations that it is impractical to provide facilities and services, and the exemption may nevertheless be available in those unusual circumstances where housing without such facilities and services will provide important housing opportunities for older persons.

So I welcome the chance to give those assurances to the Senator from South Carolina. I think it provides the kind of flexibility which is necessary, and it also does not do violence to the basic thrust of the legislation, and the provisions in here to protect families with children.

Mr. THURMOND. Mr. President, in view of those assurances and action of the administration, I will not offer this amendment at this time. I want to say, however, I retain my right to offer this amendment at a later date if it proves to be needed to protect our Nation's senior citizens.

Mr. KENNEDY. Mr. President, I also give the assurance that the various associations of senior citizens are very familiar with these particular provisions, and they have given support for the language which we have included in the RECORD. That ought to at least give some additional assurances to some of the Members that might be concerned about that issue. The American Association of Retired Persons supports the way this language has been drafted as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. HELMS. Mr. President, the bill is open to amendment?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2779

(Purpose: To Clarify the Definition of Handicapped)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2779:
>
> At the appropriate place in the substitute, add the following: "For the purposes of this Act as well as Chapter 16 of Title 29 of the U.S. Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.".

Mr. HELMS. Mr. President, this amendment should not be controversial. It does two things: First, it clarifies what I am confident was congressional intent in passing the Rehabilitation Act of 1973 and the various amendments thereto through the years; it clarifies that the term "handicapped individual" does not include transvestites. Second, it clarifies the term "handicap" as used in this bill to ensure that it will not be construed to include transvestites.

The need for this amendment arises because of a 1986 decision by the U.S. District Court for the District of Columbia in the Case of *Blackwell* v. *United States Department of the Treasury,* 639 F. Supp. 289 (D.D.C. 1986).

Mr. President, in the Blackwell case, the plaintiff was an admitted homosexual and transvestite. He had previously worked at the Treasury Department but had lost his job through a reduction in force [RIF]. He applied and interviewed for a subsequent opening at the Treasury Department under their priority placement program for rehiring those who had been "RIF'd."

According to the district court judge, the plaintiff "attended the interview dressed as a woman, the same type of dress he had worn during his previous 8 years of employment with the Department of Treasury." The judge also pointed out that the plaintiff "had foam implanted in his breasts, and has effected other changes in his physical appearance."

Rather than hire the plaintiff, the Treasury Department abolished the position. The plaintiff sued the Department on the grounds that they had discriminated against him based on his handicap of being a transvestite.

The district court opinion at 656 F. Supp. 713 states that:

> As a matter of statutory analysis, while homosexuals are not handicapped it is clear that transvestites are, because many experience strong social rejection in the work place as a result of their mental ailment made blatantly apparent by their cross-dressing life-style.

Mr. President, fortunately, the Treasury Department won that case in the district court on a technicality: The court found that the plaintiff had failed to inform his prospective employer of his so-called handicap, a prerequisite for protection under the Rehabilitation Act according to the court, since the "handicap" was not "automatically apparent."

The opinion was later vacated by the court of appeals, but only because the appeals court disagreed with the district court's conclusion that relief under the Rehabilitation Act is dependent on a person's giving a prospective employee notice of a handicap that is not "automatically apparent." The appeals court did not even address the district court's conclusion that a transvestite is protected from discrimination under the act.

Mr. President, if someone can show me a decision that makes it clear that transvestites are not covered by the Rehabilitation Act, I will be more than glad to withdraw the amendment. However, to the best of my knowledge—and we have researched it carefully—there is no case or precedent preventing the same judge who decided the Blackwell case, or any other Federal court judge, from interpreting the term "handicap" to include individuals because they are transvestites.

I have lived long enough that I find it difficult to be surprised about anything, Mr. President. Therefore, I have no doubt that sometime, somewhere, another Federal court will be asked to revisit that issue—if not under the Rehabilitation Act, perhaps under the Fair Housing Act. When that happens, it should be clear to the courts that Congress does not intend for transvestites to receive the benefits and protections that is provided for handicapped individuals.

Mr. President, this is not the first time Congress has had to clarify the meaning of "handicapped." In the 1978 amendments to the Rehabilitation Act, Congress amended the act to specify that alcoholics and drug abusers were not included in the term "handicapped."

Mr. President, in his statement before the Subcommittee on Select Education, Congressman HENRY HYDE explained that:

> The Congress needs to give thoughtful and wide-ranging consideration to the needs of the handicapped person, balanced against the realities of public safety, economics and commonsense [sic].

Mr. President, I could not agree more. My amendment is an attempt to put a little common sense back into the equation.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the definition that was used in this legislation under fair housing is the definition that came under the Rehabilitation Act, and it is not my desire to be commenting on pending various Federal court decisions.

I do not have any objection to this amendment. If the Senator from North Carolina wants to have the yeas and nays, I have no objection to that as well, although we are prepared to accept that now, and that is the reasonable way to proceed. Then we can move on to other matters. But I will be guided by his desire.

Mr. HELMS. Mr. President, I thank the Senator.

I want to look at the amendment one more time, if I may.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

EXCLUSION OF CERTAIN MENTAL DISORDERS FROM COVERAGE UNDER FAIR HOUSING ACT

Mr. CRANSTON. Mr. President, I rise in strong opposition to the pending amendment that would exclude from coverage under the Fair Housing Act a particular mental disorder, in this case transvestitism.

Mr. President, this amendment is not about whether or not this Senator or particular Senators approve of the conduct involved here. Rather, as a principal author of section 504, I see this amendment as a direct attack on the heart and soul of antidiscrimination laws, which protect individuals against discrimination based on stereotypes.

In 1973 when section 504 was enacted, Congress recognized that a great deal of the discrimination facing disabled individuals is not the inevitable result of their handicapping condition, but, rather, arises out of the false perceptions and prejudices that others hold about individuals who have those conditions. The clear congressional intent was to sweep broadly—to change attitudinal barriers which had served so unfairly to deprive disabled persons of the rights and opportunities afforded to other Americans.

Mr. President, the premise of section 504 is straightforward—individuals should be judged on their abilities, not on their disabilities. If a disabled person can do the job and does not pose a significant health or safety risk to others, there is absolutely no justification for denying him or her a job. If he or she is otherwise qualified for an educational or other program receiving Federal financial assistance, the opportunity should not be denied. Likewise, an individual should not be denied housing on irrelevant grounds.

Mr. President, in this case the Senator from North Carolina has singled out for exclusion a disability that is considered by the American Psychiatric Association to be a mental disorder. Despite our efforts over the years to eliminate the stigma of mental illnesses, persons with mental illness are still frequently the subject of discrimination because some individuals have irrational fears about them and are made uncomfortable by them. Although section 504 has been very successful in helping individuals with physical handicaps to be much more widely accepted and integrated into society, the same degree of success has, unfortunately, not yet been achieved for individuals with mental disorders. This amendment would single out one category of individuals who are already being discriminated against and say to them, "Sorry you now have no protections. Congress has decided that it no longer cares whether or not you are cast out of our society."

Mr. President, it is ironic that nothing demonstrates quite as convincingly the continuing need for and the merits of section 504 and the Fair Housing Act as this amendment. It is an appeal to our worst instincts—saying that we shouldn't have to associate with individuals who are different from ourselves because of the way they dress or their emotional problems. That is precisely why various antidiscrimination laws were enacted—to protect disabled persons from irrational judgments and prejudices.

Mr. President, this amendment forsakes the basic principles of fair play, reason, and justice. If we were to start excluding one category of individuals from coverage, we would be threatening to undermine the very essence of antidiscrimination laws.

This amendment could open the door to any number of attempts to exclude other disabilities from this and other antidiscrimination laws. I would stress again that the whole purpose of the Fair Housing Act and other antidiscrimination laws is to provide across-the-board, evenhanded protection, not to pick and choose disabilities we approve of and exclude the ones we don't. If we remove protections from one form of disability, who will be next?

Mr. President, the enactment of section 504 and of other important civil rights measures were proud moments in the history of the U.S. Congress. In passing those measures we were united in spirit with the Founding Fathers in moving forward to ensure that all Americans have the opportunity for the "pursuit of happiness" and to secure for many of our citizens the "blessings of liberty."

In stark contrast, this amendment, by proposing to close for some the doors of opportunity we opened years ago promises a retreat from the historic principles embodied in our Constitution and in our civil rights laws. I will not and can not sanction denying to some American citizens, those who may need them most, rights to fair treatment and to opportunities to prove themselves and to improve their lives.

Mr. President, the Fair Housing Act is designed to serve a very basic purpose—to protect individuals with disabilities from discrimination that arises out of ignorance and fear about individuals who are different from the rest of us. We should maintain the letter and spirit of that principle and oppose this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. Breaux], the Senator from Connecticut [Mr. Dodd], the Senator from Alabama [Mr. Heflin], the Senator from Nevada [Mr. Reid], the Senator from Tennessee [Mr. Sasser], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Sasser] would vote "yea."

Mr. SIMPSON. I announce that the Senator from the New York [Mr. D'Amato] and the Senator from Utah [Mr. Garn] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—89

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—2

Cranston
Weicker

NOT VOTING—9

Biden
Breaux
D'Amato
Dodd
Garn
Heflin
Reid
Sasser
Simon

So the amendment (No. 2779) was agreed to.

Mr. HEFLIN. Mr. President, while I was attending the dedication of the Mobile Homeport in Mobile, AL, earlier today with the Secretary of the Navy and other members of the Alabama delegation, I regret that I missed the vote which occurred on the Helms amendment No. 2779 to the fair housing bill, in which the Senate agreed to exclude transvestites from the protections afforded to handicapped individuals under the Fair Housing Act.

Had I been in Washington at the time of the vote, I would have supported the amendment offered by the Senator from North Carolina.

The PRESIDING OFFICER. The Senate will please be in order. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have been on this bill now for some 4 hours. We welcome the opportunity to come to grips with any of the amendments of any of the Members. I have not been notified of other amendments. We are prepared to deal with them. It is an enormously important bill and we want to be sure that Senators are satisfied, either one way or the other, with the terms of the provisions of the legislation. But we would also like to move forward.

So, we are prepared to deal with these measures and would like to continue to go along and deal with them and would ask all of the membership if they do have amendments that they come over so that we can dispose of them.

I ask unanimous consent that the Senator from Illinois [Mr. DIXON] be added as a cosponsor; the Senator from Georgia [Mr. NUNN] be added as a cosponsor; and I believe the Senator from Iowa [Mr. HARKIN] already is a cosponsor.

The PRESIDING OFFICER. It is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I will have an amendment. If no other Senator has an amendment to offer at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, this is the opportunity for Senators, if they want to make statements on this bill, opening statements or otherwise. We are waiting on the Senator to get an amendment ready, and this is a good chance for anyone who wants to make a statement on the bill.

Mr. LEAHY. Mr. President, I might ask the distinguished ranking member, if nobody has any statements or amendments, would it be a good time to go to third reading?

Mr. THURMOND. Well, it suits me, but I think someone reserved a little time. They will be here in a few minutes.

Mr. LEAHY. I understand. It is just always good to keep the legislative wheels spinning as quickly as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that additional cosponsors be added: Senator BOND, Senator STEVENS, and Senator HATFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2780

(Purpose: To restore the right of voluntary prayer in public schools and to promote the separation of powers)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2780.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LEAHY. Mr. President, if my distinguished friend will withhold that request, I think for those people watching it on the monitor, it might be simpler if they hear the whole amendment.

The PRESIDING OFFICER. There is objection. The clerk will continue reading.

The amendment is as follows:

At the appropriate place in the substitute insert the following:

SEC. . (a) This section may be cited as the "Voluntary School Prayer Act".

(b)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1260. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter and in accordance with section 2 of Article III of the Constitution, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) For purposes of this section, the term 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(2) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction: limitations.".

(c)(1) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1367. Limitations on jurisdiction

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(2) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1367. Limitations on jurisdiction.".

(d) The amendments made by this section shall take effect one day after the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. If the Senator will withhold, we have not finished reading.

Mr. HELMS. I am sorry.

The PRESIDING OFFICER. The clerk will continue reading.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I thought he had finished.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absent of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2781 TO AMENDMENT NO. 2780

(Purpose: To restore the right of voluntary prayer in public schools and to promote the separation of powers)

Mr. SYMMS. Mr. President, I send a second-degree amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 2781 to amendment numbered 2780.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be suspended.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is noted.

The assistant legislative clerk resumed reading as follows:

SEC. . (a) This section may be cited as the "Voluntary School Prayer Act".

(b)(1) Chapter 81 of title 28, United States Code is amended by adding at the end thereof the following new section:

"§1260. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter and in accordance with section 2 of Article III of the Constitution, the Supreme Court shall not have jurisdiction to review by appeal, writ of certiorari, or otherwise any case arising out of any State statute, ordinance, rule, regulation, practice or any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) For purpose of this section the term 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(2) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction: limitations.".

(c)(1) Chapter 85 of title 28, United States Code is amended by adding at the end thereof the following new section:

"§1367. Limitations on jurisdiction

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(2) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1367. Limitations on jurisdiction.".

(d) The amendments made by this section shall take effect on the date of enactment except that such amendments shall not apply to any case which on such date of enactment was pending in any court of the United States.

Mr. BYRD. Mr. President, I suggest the absent of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I have discussed this request with Mr. HELMS and Mr. KENNEDY. It is the following. Mr. KENNEDY wishes to move to the table the amendment which can be done at any time. Mr. HELMS is agreeable to having 15 minutes for himself and 15 minutes for this side. There will be 30 minutes equally divided, 15 to Mr. HELMS and 15 under the control of the manager, Mr. KENNEDY. At the conclusion of the 30 minutes there will be a vote on the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. And this would be the motion to table the underlying amendment which would carry with it both amendments.

It is understood that, if tabling should fail, there is no time limit on the amendment itself.

Mr. KARNES has 3 minutes under his control.

Mr. President, 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HELMS. Mr. President, the time is to be equally divided.

The PRESIDING OFFICER. That is correct.

Mr. HELMS. No other Senators are involved. Senator KENNEDY controls his time.

The PRESIDING OFFICER. Yes.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, the pending amendment would restore to America's schoolchildren the right of voluntary prayer. It would accomplish this by restoring freedom to the States, freedom that the U.S. Supreme Court wrongfully and unconstitutionally took away from them, so that the traditional and honorable practice of voluntary school prayer can be restored.

Mr. President, the text of both amendments, now pending is identical to S. 2001, which has been on the Senate calendar since January 26 of this year, and identical to S. 213, which was referred to the Senate Judiciary Committee in January 1987. And the amendment pending is also practically identical to legislation that the U.S. Senate has approved on two occasions—in 1979 and again in 1982—and which the Senate last considered in 1985.

Mr. President, proponents of H.R. 1158 may argue that this bill is designed to restore equity and civil rights.

However, Mr. President, I must say that I can think of no greater unfairness or inequity visited on all Americans than the fact that our children, by Supreme Court edict, are no longer permitted to pray, even if they wish to, in the public schools.

If enacted, Mr. President, the pending amendments would eliminate this egregious attack on religious freedom.

Mr. President, I remind Senators that our governmental framework was built on ideals of individual liberty and democracy embodied in the Judeo-Christian ethic handed down to us from forefathers willing to brave a new world in search of religious liberty. We have grossly deviated from the course and vision they set for America and—because we have abandoned our spiritual moorings—we are plagued with indecision in the midst of our increasing difficulties.

It should be obvious, Mr. President, that unless and until we return to the paths of the Almighty, we cannot and will not solve the problems within and without our Nation. The best place to start in putting America back on the intended course of her Framers is to restore the right of our children to pray in school.

The public agrees with me on this issue, Mr. President. The New York Times published a poll June 12, 1988, showing 70 percent of Americans support permitting prayer in public schools. They support school prayer whether they are rich or poor, old or young, religious or nonreligious, Democrat or Republican. The poll proves that Americans appreciate the value of prayer and that they want their elected representatives to support it.

Americans understand that religious liberty is fundamental to our democracy, Mr. President. From this country's very inception, our Founding Fathers recognized this fact. The majority leader this past December recalled Benjamin Franklin's counsel over 200 years ago in Philadelphia. We all know the story: The time was the Constitutional Convention of 1787. It was sweltering hot. Our Founding Fathers had been wrangling for days over the details of the document which would set the destiny of our new Nation. For a time, it looked like everything would fall apart. Benjamin Franklin took the floor to counsel his colleagues. He expressed his belief in the sacred writings which say: "Except the Lord build the house they labor in vain that build it." At that point, our Founding Fathers kneeled to God invoking His help in what seemed to be an insurmountable task.

Mr. President, this tradition—holding a morning prayer in the Senate—continues today. We invoke God's blessings in our daily decisions which affect so many Americans.

Clearly, Mr. President, our Founding Fathers intended this Nation to be a God-fearing nation, not the anti-God nation so many would like for it to become.

Yet, that is the road down which we are heading, Mr. President. In a series of decisions since 1962, the Supreme Court has barred our children this basic right.

Mr. President, this Senator is not alone in believing that this was not what our Founding Fathers intended. Prof. Edward Corwin, a distinguished constitutional scholar declares:

> The historical record shows beyond peradventure that the core idea of an "establishment of religion" comprises the idea of preference; and that any act of public authority favorable to religion in general cannot, without manifest falsification of history, be brought under the bar of that phrase.

Prof. Charles Rice of Notre Dame Law School explains that it has been—

> incorrectly asserted, by the Supreme Court and others, that the establishment clause ordained a Government abstention from all matters of religion, a neutrality between those who believe in God and those who do not. An examination of the history of the clause, however, will not sustain that analysis. Its end was neutrality, but only of a sort. It commanded impartiality on the part of Government as among the various sects of theistic religions, that is, religions that profess a belief in God. But as between theistic religions and those nontheistic creeds that do not acknowledge God, the precept of neutrality under the establishment did not obtain. Government, under the establishment clause, could generate an affirmative atmosphere of hospitality toward theistic religion, so long as no substantial partiality was shown toward any particular theistic sect or combination of sects.

Mr. President, our Founding Fathers' sole intent in the Constitution's establishment clause was to prohibit the establishment of a national church; all remaining issues concerning church-state relations were left strictly with the States. My legislation will restore the original intent of the framers in this regard.

Mr. President, the Congress need not yield to any Justice of the Supreme Court in its respect for the words of the first amendment or for the principles or history behind them. Neither must Congress yield in its responsibility under the Constitution to ensure that the freedoms protected by the first amendment are not undermined by actions of other institutions. There are few more pressing duties facing Congress than to restore the true spirit of the first amendment.

Mr. President, we are going to hear a lot about Court stripping and that sort of thing, which is ridiculous. I invite Senators to examine the U.S. Constitution, article III, section 2 which reads:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

On countless occasions in the history of this country, Mr. President, Congress has made exceptions. The late Sam Ervin told me that he had counted 57 different occasions when Congress had stipulated exceptions which, in effect, took away from the Court jurisdiction, and that is all we are talking about today. I am trying to nullify, frankly, that infamous decision by the Supreme Court years ago.

Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER.** Seven minutes and twenty-one seconds.

Mr. **HELMS.** I reserve the remainder of my time.

The **PRESIDING OFFICER.** The Senator from Massachusetts.

Mr. **KENNEDY.** Mr. President, we have 15 minutes?

The **PRESIDING OFFICER.** That is correct.

Mr. **KENNEDY.** I yield myself 2 minutes.

Mr. President, I hope the Senate will reject this amendment. We have visited this issue not many years ago, in 1985. It was decisively rejected at that time, 62 to 36.

It is irrelevant, it is nongermane, it is probably unconstitutional, and it has no business being on this particular piece of legislation. This is an issue that has been debated and discussed many hours, many times in the past. We are basically talking about a major constitutional change in terms of the protections of the first amendment and threats to the establishment clause. It has absolutely no place on this legislation, and I hope the Senate will reject it at the appropriate time.

Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. **SPECTER.** I thank the distinguished Senator from Massachusetts.

Mr. President, I strongly oppose this amendment. The essence of the amendment would destroy the jurisdiction of the Supreme Court of the United States, and run contrary to the basic tenets of constitutional review established under Marbury versus Madison.

There is one case, ex parte McCardle, handed down shortly after the Civil War, which casts some doubt on this issue. But it has been a matter where, dealing with first amendment rights, all agree that the jurisdiction of the Supreme Court of the United States is inviolate. If the Court can be stripped or jurisdiction can be taken from the Court on issues involving first amendment freedoms of religion, then no right in the Constitution of the United States is sacrosanct.

This issue was discussed at some length during the confirmation proceedings of Justice Rehnquist for the position of Chief Justice. Justice Rehnquist had some reservations and did not wish to express any opinion prematurely on matters which might come before the Court on limitation of jurisdiction of the Supreme Court of the United States. However, on the one issue where it was a first amendment issue, Justice Rehnquist was emphatic and was in fact willing to so state in confirmation hearings, where Supreme Court nominees are very reluctant to say much, if anything. Justice Rehnquist, in his confirmation proceedings for Chief Justice, said that there could be no divestiture of jurisdiction of the Supreme Court of the United States when it came to first amendment issues.

This is as fundamental as anything in our system of government. We are a Nation of laws. We are a constitutional government of unique statute in the history of the world, and the one provision of the Constitution which stands out above all others is the first amendment. Perhaps along with freedom of speech, freedom of religion is rockbed in this country, and this amendment ought to be defeated. It ought to be decisively tabled.

I thank the Chair and I yield the floor.

Mr. **KENNEDY.** I yield 3 minutes to the Senator from Montana.

Mr. **BAUCUS.** Mr. President, the amendment before us should not only be defeated soundly, it should be defeated unanimously. This amendment guts the Constitution. The amendment guts the Constitution of the United States of America.

This amendment says that the Congress shall not have jurisdiction over this particular Supreme Court issue. If the amendment passes, if it becomes law, and if it were the law of the land, then a similar amendment could be offered to any bill that affects any other core constitutional issue. Free speech, gun control, the right of due process, all of the individual civil liberties and other constitutional provisions that protect Americans, would be not only at risk, they would be obliterated. They would be gone. This Congress would have eliminated Supreme Court jurisdiction over any of those issues.

This amendment has that potential. If we go down this road, then every other single constitutional provision is at risk, every one. We no longer have a Constitution and this country is run by the tyranny of majority and whims of the moment. That is what will happen.

Many people who believe that there should be school prayer also understand this provision and know that this is not the way to establish school prayer.

One is the former Senator from Arizona, Senator Goldwater. Senator Goldwater has stood on this floor and he has stated he is for school prayer but he is equally, foursquare, against this kind of approach, because if we go down this road then any other single constitutional provision could also be eliminated from the Supreme Court's jurisdiction.

The Senator from North Carolina mentions the exceptions clause in the Constitution as the logical basis upon which he thinks that the Congress can limit Supreme Court jurisdiction.

There are so many arguments against that argument that we have not the time to go into them. One is that it is inherently inconsistent. How could our Founding Fathers provide that the U.S. Congress could eliminate, could except, certain core constitutional provisions and yet still have a Constitution and still have a Supreme Court? It could not happen.

Second, if you look at the constitutional history, that is, the proceedings of our Founding Fathers when they wrote the Constitution, it is clear that they did not intend the exceptions clause to have this effect. First of all, the major draft did not say this. I do not have time to go into specifics, but there was a committee of detail which rewrote this draft and the revised version, containing the exceptions clause, was adopted without debate. It could not have the consequence that the Senator from North Carolina says it does.

So, however you cut it, however you slice it, this amendment does make sense.

One of the final arguments against it is that, if it passes, we have 50 different States interpreting the U.S. Constitution 50 different ways. I do not think we want that either.

I think this amendment should be resoundingly defeated.

I understand there is going to be a tabling motion. I think for the sake of the country and Congress we should adopt that motion forthwith.

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **KENNEDY**. Mr. President, I yield 3 minutes to the Senator from Connecticut.

The **PRESIDING OFFICER**. The Senator from Connecticut.

Mr. **WEICKER**. Mr. President, I rise to oppose the amendment. I have tracked this type of shenanigans ever since I came to the U.S. Senate. The last time we debated, it was the rights of black schoolchildren, and we were going to go ahead and deny to the courts the remedies necessary to assure that they had equality of educational opportunity.

Now we want to go ahead and strip the courts of their ability to assure religious freedom to all Americans.

Please do not be beguiled by the term "school prayer." What is being discussed here is government prayer, government-organized prayer, and if government can organize silent prayer, it can organize vocal prayer; if it can organize vocal prayer, it can organize the words that are said in that vocal prayer.

We are a diverse nation of many beliefs. I do not want the U.S. Government interfering in religion of mine or anybody else's children. We want to worship vigorously for what we believe in, not for what is dictated from the floor of the U.S. Senate.

But the point of issue before us here today is that once the courts are stripped of their ability to protect our constitutional rights, they are forever stripped.

At one time it was unpopular to be a black school child in America. Maybe it will be unpopular to be old. Maybe it will be unpopular to be handicapped.

The fact is that regardless of the politics or the philosophies of the times, the courts stand there to protect us all, to make sure that we can flower and grow within this great democracy of ours as we choose.

Once you strip the courts of the authority to protect in this narrow instance, then you have taken away from that branch of government its capacity to remedy forever.

I understand the popular buzzwords of the time. I understand that it would be nice, in other words, if you vote to table this amendment, to say, "Well, such and such a Senator is against prayer in school" or "such and such a Senator is for busing."

That is not the issue. That is not the issue.

The **PRESIDING OFFICER**. The Senator used the 3 minutes.

Mr. **WEICKER**. In just 30 seconds I shall conclude.

The issue is whether you want to stand up for the three separate but equal branches of government that have been given to us a realization of ideals unequaled in the history of the world, because the ideals were reborn from within each American rather than from a government as a whole.

I would hope that the amendment would not just be narrowly defeated but overwhelmingly so, and that we do away with this nonsense and reaffirm a Constitution that works.

The **PRESIDING OFFICER**. Who yields time?

Mr. **KENNEDY**. I yield a minute to the Senator from Illinois.

The **PRESIDING OFFICER**. The Senator from Illinois.

Mr. **DIXON**. Mr. President, I rise in opposition to this amendment to H.R. 1158, the Fair Housing Amendments Act of 1988.

I support voluntary school prayer. However, I support a constitutional amendment to provide for silent prayer in our schools.

In fact, Mr. President, I favor allowing periods of prayer or meditation in our schools if they could be provided without violating our country's strong tradition of separation of church and state.

This amendment, I believe, would impede on the independence of the Federal judiciary.

As I have stated in the past, since 1969, in my own State of Illinois, classroom teachers and students have been authorized by law to observe a brief period of silence each day. According to the State prayer law, the period "shall be an opportunity for silent prayer or silent reflection." The Illinois statute, therefore, avoids the thicket of problems we face if our public schools have to choose among creeds.

While I realize the difficulties involved in setting public policy with regard to a matter as deeply involved as religious belief, I believe that provisions of this amendment are unconstitutional.

Additionally, I believe that this approach is inappropriate for the Senate to take on a very serious moral issue as important as prayer in our schools.0

Mr. **KENNEDY**. I yield 2½ minutes to the Senator from Utah.

The **PRESIDING OFFICER**. The Senator from Utah.

Mr. **HATCH**. Mr. President, I think my reputation in this body is well-known as one of the strongest supporters for a voluntary school prayer amendment that we could have, but an amendment to the Constitution.

I led the fight for the school prayer amendment here a couple of years ago for the administration. We only had 56 votes on this floor.

The fact of the matter is I fought all my lifetime for it. But this is a court-stripping amendment.

I am not saying that under article III, section 2, of the Constitution that the Congress of the Untied States absolutely cannot strip jurisdiction away from the U.S. Supreme Court. The fact of the matter is that it probably can under certain circumstances.

The question is should it? If you go back to Marberry versus Madison, we established the principle of judicial review. The Supreme Court in this case in the case of school prayer, Engle versus Fatellie outlawed school prayer.

The Supreme Court made that decision. It exercised its power of judicial review.

What my colleagues, and they are my closest friends, are trying to do here is they are trying to say the Supreme Court no longer has any jurisdiction with regard to school prayer.

It is a court-stripping bill. I would state that the Supreme Court should not have jurisdiction to review any case which relates to school prayer, Bible readings, or religious meetings.

This is not an appropriate constitutional way to go.

As the distinguished Senator from Pennsylvania said the ex parte McCardle case did seem to allow court stripping, and we certainly have done that in the times past. In the Norris-La Guardia Act we took away the right to have injunctions in labor matters, and I can name a few others, where literally the Congress has exercised its right to strip.

The question is, Is it right to do it? If we are going to do it here just because some of us want a school prayer bill, then it means we can do it in any other way and limit the jurisdiction of the Supreme Court of the United States of America. And that it would be bad for this country. It would be bad for the Constitution. It would allow the Congress of the United States total preeminence in these separation of power areas and frankly it would be wrong.

So, I have to stand up and tell my colleagues that as much as I would like to see the right to pray in schools restored, the appropriate way to do it is through a constitutional amendment straight up and do it the right way, not by trying to take away the jurisdiction of the court through a mere statutory 51 vote means, and that is wrong.

So, I am going to recommend to my colleagues that we move to table this, and I personally will make the motion. I hope that they will vote to table this and not put it on this particular weighty and important civil rights bill.

Mr. **KENNEDY**. Mr. President, I understand there is about 1 minute left. I yield 10 seconds to the Senator from New York and the remaining time to the Senator from Maine.

The **PRESIDING OFFICER**. The Senator from New York.

Mr. **MOYNIHAN**. Mr. President, I rise in opposition to Senator HELMS' amendment to strip the Federal courts of their jurisdiction to hear cases relating to school prayer. Seven years ago, as the 97th Congress was convening, the then-president of the American Bar Association, David Brink, testified before the Judiciary Committees of Congress about the impact of court-stripping legislation. He said:

> We confront, at this very moment, the greatest constitutional crisis since the Civil War.

The difficulty here is that while, indeed, we may face a constitutional crisis, we may be getting there by a route many would argue is constitutionally permissible.

Let us consider the possibility of such a constitutional oxymoron. Article III, section 2, of the Constitution, states in relevant part:

> The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Since the vast majority of the Supreme Court's work obviously is appellate in nature, the meaning of this phrase is of some criminal moment.

There are those who claim that under the "exceptions" clause, Congress may pass laws setting the boundaries for the Supreme Court's appellate jurisdiction wherever it chooses—or should we say, wherever it deems proper. Those who take the view that Congress can restrict the Court's jurisdiction rely, in the main, on a case decided by the Supreme Court 119 years ago, Ex Parte McCardle.

I will not review McCardle. It is enough, in any event, to cite the views of Justice Owen J. Roberts, in an address to the association of the bar of the city of New York in 1948, after he had retired from the Court.

"Now Is the Time" his title declared, for "Fortifying the Supreme Court's Independence." He proposed four amendments. The first would set the size of the Court at nine persons. James Bryce had noted the problem almost a century ago. What, Roberts asked "would prevent there being 20 if Congress so legislates." He would require retirement at 75, and prohibit anyone once a Justice to be eligible to the Office of President or Vice President.

But by far his most important proposal, in his view, addressed the question of what we have come to call court-stripping. Mr. Justice Roberts was a conservative judge, properly construed. He was not much for amending the Constitution:

> I am all for the view that it ought to be a document stating great principles and not attempting the meticulousness of a regulatory statute. Every time you suggest an amendment you violate, to some extent, that great principle.

Even so, he thought it essential and even urgent to amend the Judiciary Article to "give the Supreme Court appellate jurisdiction in all cases under the Constitution * * *." Given several decisions by Marshall, and given McCardle, he asked:

> What is there to prevent Congress taking away, bit by bit, all the appellate jurisdiction of the Supreme Court of the United States, not doing it by direct attack but by that sort of indirect attack? I see nothing. I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions. The jurisdiction is exercised now under the terms of the Judiciary Act. Suppose Congress should decide to let the decisions of state courts of appeal be final on constitutional questions. How could the Supreme Court assert a power to take those questions, notwithstanding the act of Congress.

Here is the record: 12 votes to strip the Court of some jurisdiction or other. None of the measures have become law either because we have been able to avoid a final vote by extended debate or the House has demurred. Still a Senate majority has been prepared throughout. To wit:

April 5, 1979, Senate votes 44 to 43 not to kill amendment to eliminate jurisdiction of Federal courts, including the Supreme Court, in cases relating to voluntary prayer.

April 5, 1979, Senate votes 47 to 37 in favor of amendment to eliminate Federal courts' (including Supreme Court) jurisdiction in voluntary prayer cases.

April 9, 1979, Senate votes 51 to 40 for amendment to eliminate jurisdiction of Supreme Court and other Federal courts in voluntary prayer cases.

April 9, 1979, S. 450, bill to eliminate all mandatory jurisdiction of Supreme Court passes 61 to 30. This bill includes amendment eliminating Federal courts' (including Supreme Court) jurisdiction to hear voluntary prayer cases.

February 4, 1982, amendment to prevent Justice Department from bringing cases that could lead to court-ordered busing and barring the Federal courts from ordering busing as a remedy adopted 58 to 38.

September 15, 1982, Senate votes 50 to 44 in favor of amendment to ban abortion (which was amendment to amendment stripping Federal courts, including Supreme Court, of jurisdiction in voluntary prayer cases.)

September 20, 1982, Senate votes 50 to 39 in favor of amendment eliminating jurisdiction of Federal courts (including Supreme Court) in voluntary prayer cases.

September 21, 1982, Senate votes 53 to 47 in favor of same amendment involving voluntary prayer.

September 22, 1982, Senate votes 54 to 46 in favor of amendment on voluntary prayer.

September 23, 1982, Senate votes 53 to 45 in favor of voluntary prayer amendment.

October 1, 1984, Senate by a vote of 56 to 41 endorses amendment restricting rights of Federal courts to order busing to achieve desegregation.

June 3, 1986, Senate votes 50 to 45 in favor of amendment limiting power of Federal courts to order school busing for desegregation.

On September 20, 1982 when we prevented cloture on school prayer, I said:

> If you can strip from the Supreme Court the right to hear one question, you can strip from it the right to hear any question. There is no right in the Constitution that would not be placed in jeopardy. The great fear of the founding fathers was that we should have a tyranny of the majority. They spoke over and over again of a tyranny of the majority and they devised the Court as the institution in which minority rights would be protected. Those rights are embodied in the Constitution and the right of the Supreme Court in the end to say, as Justice Marshall said, it is emphatically the province of the Court to declare what the law is. It is not for us to do so. We may have our views, we make the laws, but we make them in the context of a high law, the Constitution, and the Court compares.

No less a person than President Reagan's former Attorney General, William French Smith, said in 1982:

> Congress may not . . . consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

It all comes down to this. For a generation or more—for a century or more—we have been taking the chance that something that could happen to our constitutional arrangement won't happen. Mr. Justice Roberts put it well, when he described this school of thought thus: "Don't touch the Constitution * * * It has a great big hole in it. Nobody has run through the hole yet, and let's take a chance that nobody ever will."

Mr. DURENBERGER. Mr. President, I rise as a cosponsor and strong supporter of the Fair Housing Amendments Act before us, and to speak in opposition to the pending Helms and Symms amendments.

The Senators from North Carolina and Idaho have chosen to raise two highly controversial amendments in order to delay or derail the legislation before us. As sweeping as the issues of prayer in schools and school desegregation are, the mechanism utilized by the amendments are even more inflammatory. The amendments are a frontal assault on the jurisdiction of the Supreme Court: the Court is stripped of its opportunity to protect the rights of individuals in any case which deals with prayer or busing. We cannot abide a system where courts pick and choose, at the Congress' bidding, which rights to protect.

It is the Constitution, Mr. President, which is at stake in this vote today. I urge my colleagues to join in voting to affirm the balance of powers among the three branches, by voting down the Helms and Symms amendments.

Mr. MITCHELL. Mr. President, this amendment has nothing to do with school prayer. It has everything to do with the structure of our form of Government.

Once allowed to succeed, this tactic will be used indiscriminately and will, I predict, come back to haunt those who propose it here today. It is a very unwise, dangerous proposal that should be overwhelmingly rejected regardless of one's views on the issue of school prayer. This is just not the right way to get the job done.

The PRESIDING OFFICER. All time of the Senator from Massachusetts has expired.

Mr. HATCH. Mr. President, has the time of the proponent of the amendment expired?

The PRESIDING OFFICER. The Senator from North Carolina has 7 minutes and 14 seconds remaining.

Mr. HELMS. Mr. President, the problem with the arguments of my good friends in the Senate is that they do not make sense. Their argument is with this amendment. Their argument is certainly not with this Senator. Their argument is against the Constitution itself.

Now, Mr. President, I hope that all staff members listening on the squawk boxes in their offices and Senators who may be listening, before they come over here to vote, will get out the Constitution and look at article III, section 2, where it says clearly that "The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make." That is the King's English.

All of this argument that we hear every time about court stripping is just as specious now as it was in previous times.

Mr. HATCH. Will my colleague yield for a question?

Mr. HELMS. No, I will not.

Mr. HATCH. Just one question.

Mr. HELMS. No, I will not. I am sorry. The Senator used his time, and the Senator is absolutely 200-percent wrong in his position on this thing.

Furthermore, Mr. President, the distinguished Senator from Pennsylvania referred to the McCardle case. And I wish he had gone into detail on the McCardle case, because it would have rendered nugatory everything that the distinguished Senator from Pennsylvania said. Chief Justice Chase explained in that case, "We are not at liberty to inquire into the motives of the legislature."—meaning Congress. "We can only examine into its power under the Constitution, and the power to make exceptions to the appellate jurisdiction of this court is given by expressed words in the Constitution of the United States."

Nobody can argue with that, Mr. President. Anybody who wants to drag in the McCardle case, let them quote the Chief Justice in that case.

Mr. President, in 1980, I went to Texas to make a speech. And after it was over, I went over to the hotel to get some dinner. It was then about 9:30. I ran into a young man who introduced himself to me as Bill Murray.

Mr. President, I did not know who Bill Murray was, but we began talking. And then I realized that he is the son of Madalyn Murray O'Hair, an atheist, who caused all of this trouble in the first place.

Mr. President, Bill Murray today is going around this country apologizing for what his mother did to this country in prompting the Supreme Court decision. He regrets it. He still loves his mother, but he recalled for me, as he had recalled on countless occasions, how Communist functionaries came to his mother's house and advised her as to how to proceed in terms of getting this thing before the Supreme Court. That is how school prayer was banned in the United States of America.

Now, we can either put up or shut up, Mr. President. I have heard on this floor, "I'm for school prayer, but * * *" No, you are not, Senator. If you do not vote to do what you can under the Constitution as stated in article III, section 2, then you are not for school prayer.

Now, I know Senators would like to be on both sides of this thing, but they cannot do it, Mr. President. They cannot get that straddle-legged. Either you are for it or against it.

Mr. President, this argument about court stripping is absolute nonsense.

Now, Mr. President, where do Senators get off with the kind of arguments that I hear every time I bring up this issue? Where do they get off saying this is court stripping or this is interfering with religious freedom? Absolutely to the contrary, it is the restoration of religious freedom to those schoolchildren—millions of them across the land—whose parents want them to engage in prayer.

And, by the way, Mr. President, what was so wrong with this country before the Supreme Court banned school prayer from the United States?

How much time do I have remaining, Mr. President.

The PRESIDING OFFICER. Two minutes and four seconds.

Mr. HELMS. Mr. President, let me give you just a few examples of how the Supreme Court's decision has curtailed religious freedom:

In the State of Florida, a school principal felt personally compelled to remove pictures of the bible club from the high school annual. He took the annual after it was already printed, each copy of it, and clipped out the pictures of the students in the Bible club.

How absurd can you get, Mr. President?

A teacher in North Carolina was denied her right to read her Bible at lunchtime.

Students have been prohibited from merely carrying their personal Bibles on school premises.

Students have been prohibited all over this country from praying in their cars on school premises.

Students have been prohibited all over this country from praying in their cars on school property.

Mr. President, three separate studies noted that textbooks in the public schools systematically shun the role of religion in molding the Nation and motivating our leaders because publishers feel that Supreme Court decisions require such censorship.

Now, where is the religious freedom there, Mr. President? It is not there, and that is the point. Senators cannot straddle-leg this issue, Mr. President. They are either for it or they are against it. They can vote for the motion to table if they wish, but let the RECORD be clear that what we are talking about is whether Senators are in favor of the restoration of school prayer.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HELMS. Mr. President, I ask unanimous consent that a William & Mary law review article entitled, "Congress, the Constitution and the Appellate Jurisdiction of the Supreme Court: the Letter and the Spirit of the Exceptions Clause" and an article entitled "Limiting Federal Court Jurisdiction. The Constitutional Basis for the Proposals in Congress Today," which appeared in the October 1981 edition of Judicature be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS, THE CONSTITUTION, AND THE APPELLATE JURISDICTION OF THE SUPREME COURT: THE LETTER AND THE SPIRIT OF THE EXCEPTIONS CLAUSE

Ralph A. Rossum*

I. INTRODUCTION

Writing in a 1979 issue of *The Public Interest,* Senator Daniel Patrick Moynihan puzzled over the question, "What do you do when the Supreme Court is wrong?"[1] Short of impeachment, the only responses he could identify were "debate, litigate, legislate."[2] He never so much as acknowledged the existence, much less the possible employment, of Congress' power to curtail the appellate jurisdiction of the Court.[3] Events, however, have passed Senator Moynihan by. Over a score of bills were introduced in the Ninety-Seventh Congress to deprive the Supreme Court of appellate jurisdiction either to hear cases involving such issues as abortion rights and voluntary prayer in the public schools or to order school busing to achieve racial balance. Many of these same proposals were reintroduced in the Ninety-Eighth Congress.[4] These measures have in turn prompted considerable scholarly attention and controversy. Symposia in *Judiciary,*[5] the *Villanova Law Review,*[6] and the *Harvard Journal of Law and Public Policy,*[7] seminars sponsored by the American Enterprise Institute[8] and the Free Congress Research and Education Foundation,[9] hearings before the Subcommittee on the Constitution of the Senate Judiciary Committee,[10] and the foreword to the *Harvard Law Review's* analysis of the 1980 Term of the United States Supreme Court[11] all have been devoted to the questions of whether and to what extent Congress can or should strip the Court of appellate subject matter jurisdiction.

On the surface, these measures would appear to be wholly within the constitutional authority of Congress.[12] After all, article III, section 2 of the United States Constitution provides that:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions and under such Regulations as the Congress shall make.[13]

For many students of constitutional law, the simple reading of these words ends the matter.[14] The language is clear and, for them, conclusive. As Justice Noah Swayne observed in *United States* v. *Hartwell*[15] over a century ago: "If the language be clear it is conclusive. There can be no construction where there is nothing to construe."[16]

This understanding of Congress' power to curtail the appellate jurisdiction of the Supreme Court is reinforced by *Ex Parte McCardle,*[17] the only Supreme Court decision that has directly addressed this issue. In this post-Civil War case, the Court unanimously upheld a law that stripped the Court of authority to hear appeals from persons imprisoned during the Civil War who sought release from custody under an 1867 habeas corpus statute. Republican leaders in Congress feared that the Supreme Court, which had already indicated hostility toward the Reconstruction program, would use *McCardle* to hold much of that program unconstitutional. Consequently, Congress repealed the 1867 act on which McCardle's appeal was founded. This was an obvious attempt by Congress to use the exceptions clause to deprive the Court of its appellate power to review the substantive constitutionality of congressional acts. Moreover, the repealing act was not passed until after the case already had been argued before the Supreme Court. Nonetheless, the Court at once dismissed the case for want of jurisdiction. As Chief Justice Chase explained:

> We are not at liberty to inquire into the motives of the Legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.
>
> What, then, is the effect of the repealing Act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.[18]

For many scholars, then, the constitutional text, supplemented by the Court's reflections on it in *McCardle,* answers any questions concerning the constitutionality of measures restricting the jurisdiction of the Court. As they see it, the only real question raised by congressional initiatives diminishing the Court's appellate jurisdiction is "the wisdom of doing so."[19]

Not everyone, however, is willing to concede that these measures raise only policy questions.[20] Opinion on the constitutionality of congressional curtailment of the Court's appellate jurisdiction is divided, for there are those who argue that such a power could destroy the Court's power of judicial review and, ultimately, undermine our constitutional system of separation of powers.[21] They fear that if Congress had the power to deprive the Supreme Court of its appellate jurisdiction, Congress could constitutionally "deny litigants Supreme Court review in cases involving bills of attainder, ex post facto laws, freedom of speech, press and religion, unreasonable search and seizure, equal protection of the laws, right to counsel, and compulsory self-incrimination."[22] This parade of imaginary horrors convinces some commentators that Congress can no longer claim with good conscience the authority to curtail the Court's appellate jurisdiction,[23] and should Congress nevertheless proceed to exercise this authority, the Supreme Court ought not to tolerate it,[24] but rather ought to invalidate the offending measure.[25]

Those who argue against Congress' power to make exceptions to the Court's appellate jurisdiction find themselves in a most uncomfortable bind. They are forced to deny an explicit power of Congress, expressly granted by the Constitution, in order to protect the Court's implicit power of judicial review, a power which has no textual basis.[26] To extricate themselves from this bind, they commonly advance an argument that has much in common with the argument advanced by the Court in *United Steelworkers of America* v. *Weber.*[27] In that case, Justice Brennan observed that "a thing may be within the letter of the statute and yet not within the statute, because not within its spirit. . . ."[28] Similarly, those who would limit Congress' power to curtail the Court's appellate jurisdiction argue that congressional power to make exceptions may be within the letter of article III and yet not constitutional, because not compatible with the spirit of judicial review.[29] Justice Rehnquist, dissenting in *Weber,* remarked that Justice Brennan's line of argument was worthy "not of jurists such as Hale, Holmes, and Hughes, but of escape artists such as Houdini. . . ."[30] The same criticism is appropriate with regard to the interpretation of the exceptions clause, and perhaps even more so. At least in *Weber,* if the court were mistaken in preferring the statute's spirit over its letter, the mistake could be easily rectified, because "Congress may set a different [statutory] course if it so chooses."[31] A mistaken interpretation of the exceptions clause would be difficult to rectify, however, because a different course can be set only by constitutional amendment.

The debate over Congress' power to make exceptions has been curious. One side cites the letter of article III and concludes that Congress' power over the Court's appellate jurisdiction is absolute: "The power to make exceptions to Supreme Court appellate jurisdiction is a plenary power. It is given in express terms and without limitation, regardless of the more modest uses that might have been anticipated . . . . In short, the clause is complete exactly as it stands."[32] The opposition in this debate invokes the spirit of judicial review and insists that "the long accepted power of ultimate resolution of constitutional questions by the Supreme Court" must not be disturbed.[33] Given the nature of this debate, neither side can win, because each is talking past the other.[34] There is, however, a clear loser—the Constitution, which is presented as a fatally flawed document that neither says what it means nor means what it says. This Article asserts that the Constitution is not flawed in this respect and that the spirit of judicial review is altogether consistent with the letter of Congress' powers under article III. This Aricle will examine the arguments on behalf of Congress' power to make exceptions to the Court's appellate jurisdiction and systematically challenge the spirited objections of those who seek to protect the Court's power to interpret the Constitution by ignoring the Constitution.

II. THE ARGUMENT FOR PLENARY CONGRESSIONAL POWER

Those who argue that Congress has plenary power over the Court's appellate jurisdiction present a straightfoward case based on three kinds of evidence: the text of the Constitution; the intention of the framers; and the firm, consistent, and unwavering understanding of the Supreme Court. Although further consideration of the clear and conclusive words of article III is unnecessary, an examination of what the framers meant when they used those words and how the Supreme Court has interpreted them is in order.

A. The Intent of the Framers

No evidence in the records either of the Federal Convention of 1787 or of the various state ratifying conventions would indicate that Alexander Hamilton's words in *The Federalist, No. 80* were not representative of the understanding of virtually the entire founding generation. In that essay, Hamilton reviewed in detail the powers of the federal judiciary and observed that "[i]f some partial inconveniences should appear to be connected with the incorporation of any of them into the plan, it ought to be recollected that the national legislature will have ample authority to make such *exceptions* and to prescribe such regulations as will be calculated to obviate or remove these inconveniences."[35]

The Federal Convention spent very little time debating the jurisdiction of the federal judiciary.[36] On July 24, nearly two months after the Convention began, the delegates agreed to submit the various resolutions they had approved to the Committee of Detail, so that it might "report a Constitution comfortable to the Resolutions passed by the Convention."[37] Their submission concerning the federal judiciary was most rudimentary: "[T]he jurisdiction of the national Judiciary shall extend to Cases arising under the Laws passed by the general Legislature, and to such other Questions as involve the national Peace and Harmony."[38] Nevertheless, the Committee of Detail transformed this vague resolution into language that is almost identical to article III, section 2. After defining the Supreme Court's original jurisdiction, the committee provided that "in all the other cases before mentioned, it [jurisdiction] shall be appellate, with such exceptions and under such regulations as the Legislature shall make."[39]

Although the Report of the Committee of Detail was presented to the Convention on August 6, 1787, the judicial article was not taken up for consideration until August 27. On that date, Dr. Samuel Johnson of Connecticut suggested that the power of the judiciary ought to extend to equity as well as law—and moved to insert the words "both in law and equity" after the words U.S.[40] This proposal was adopted. After an intervening discussion, "Mr. Governeur Morris [of Pennsylvania] wished to know what was meant by the words 'In all the cases beforementioned it (jurisdiction) shall be appellate with such exceptions &c,' whether it extended to matters of fact as well as law—and to cases of Common law as well as Civil law."[41] James Wilson, the principal architect of the draft reported by the Committee of Detail, answered that the committee meant "facts as well as law & Common as well as Civil law."[42] No comments were forthcoming from other members of the Committee, presumably indicating their agreement with Wilson's answer. To remove all doubt, however, Mr. Dickinson of Delaware moved to add the words "both as to law & fact" after the word "appellate," which was agreed to by unanimous consent.[43]

Acceptance of this addition concluded the discussion.[44] No questions were raised concerning Congress' plenary power to make exceptions. The conclusion is inescapable: both the words chosen by the delegates and the discussion surrounding their choices of these words suggest an unlimited congressional power over the Court's appellate jurisdiction. John Marshall accurately summarized the delegates' intentions when he declared in the Virginia Ratifying Convention that "Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far as the legislature may think proper for the interest and liberty of the people."[45]

B. The Court's Consistent Support for Plenary Congressional Power

Although "the ultimate touchstone of constitutionality is the Constitution itself and not what [the judges] have said about it,"[46] it is nevertheless significant to observe that the Supreme Court's holdings concerning the exceptions clause are altogether consistent with both the express words of article III, section 2, and the manifest intention of the framers.[47] The Court, of course, had addressed directly an actual congressional contraction of its appellate jurisdiction only once.[48] Nevertheless, it has on numerous occasions taken the opportunity to reflect more generally on the nature and extent of Congress' article III powers. A brief consideration of these reflections reveals the Court's firm and unwavering understanding from the opening days of the republic to the present.

In the first of the relevant cases, *Wiscart* v. *Dauchy*,[49] Chief Justice Oliver Ellsworth acknowledged that "even the [Court's] appellate jurisdiction is . . . qualified; inasmuch as it is given 'with such exceptions, and under such regulations, as Congress shall make.'"[50] He then drew what he considered to be the necessary conclusion from the Court's qualified jurisdiction: "If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it."[51] Ellsworth's opinion is especially weighty, as he had been a delegate to the Federal Convention and had served on the Committee of Detail that drafted the exceptions clause.

Ellsworth's conception of the Court's jurisdiction continued in an unwavering line through five consecutive chief justices.[52] Thus, Chief Justice John Marshall in *United States* v. *More*[53] argued that an affirmative grant of certain appellate power by Congress is an implied denial of all appellate power not mentioned: "[A]s the jurisdiction of the court has been described, it has been regulated by Congress, and an affirmative description of its power must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described."[54] Marshall elaborated upon this argument in *Durousseau* v. *United States*.[55]

> The appellate powers of this court are not given by the judicial act. They are given by the Constitution. But they are limited and regulated by the judicial act, and by such other acts as have been passed on the subject. When the first legislature of the Union proceeded to carry the third article of the Constitution into effect, they must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court.[56]

Marshall's successor, Chief Justice Taney, likewise acknowledged the utter dependency of the Court's appellate jurisdiction upon acts of Congress: "By the Constitution of the United States, the Supreme Court possesses no appellate power in any case, unless conferred upon it by act of Congress; nor can it, when conferred, be exercised in any other form, or by any other mode of proceeding, than that which the law prescribes."[57]

Chief Justice Chase's statements in *McCardle* concerning the letter of article III, section 2 have already been considered.[58] Chase not only recognized Congress' power over the Court's appellate jurisdiction, but also made an important contribution to our understanding of the role of the Court: "[J]udicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer."[59]

Finally, in *The "Francis Wright,"*[60] Chief Justice Waite affirmed and extended what his predecessors had argued:

> What [the appellate powers of the Supreme Court] shall be, and to what extent they shall be exercised, are and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to re-examination and review, while others are not.[61]

In the same opinion, Waite also referred to "the rule, which has always been acted on since, that while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe."[62]

Not all judicial support for the opinion that the letter of article III, section 2 is clear and conclusive comes from eighteenth and nineteenth century jurists. For example, while dissenting on other issues in *Yakus* v. *United States*,[63] Justice Wiley Rutledge unequivocally affirmed that "Congress has plenary power to confer or withhold appellate jurisdiction."[64] Similarly, in *National Mutual Insurance Co.* v. *Tidewater Transfer Co.*,[65] Justice Frankfurter noted that:

> Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *sub judice, Ex parte McCardle*. . . .[66]

For many, then, the words of the Constitution, the intention of the founding generation, and the unwavering opinion of the Supreme Court all clearly, consistently, and unequivocally reveal a constitutional plan for the courts:

> [That plan is] quite simply that the Congress could decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power; or, stated differently, how far judicial jurisdiction should be left to the state courts, bound as they are by the Constitution as "the supreme law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."[67]

III. ARGUMENTS AGAINST ABSOLUTE CONGRESSIONAL POWER OVER THE COURT'S APPELLATE JURISDICTION

Those who place the spirit of judicial review over the letter of article III and who insist that Congress' power under the exceptions clause is either limited or nonexistent make a variety of arguments that can be reduced to seven general headings.[68] One contention is that those who rely on the letter of article III have misconstrued the language of that article. A second contention insists that *Ex Parte McCardle*[69] is a very narrow holding with little or no application beyond its facts. A third argument asserts that the power Congress originally possessed under article III, section 2 has been effectively repealed by the passage of time. A fourth argument contends that Congress cannot make exceptions that would destroy the essential role of the Supreme Court. A fifth and related contention maintains that Congress' power to curtail the Court's jurisdiction is qualified by the constitutional principles of separation of powers and federalism. A sixth claim argues that Congress is limited in its ability to make exceptions by other constitutional provisions, such as those found in the Bill of Rights and the fourteenth amendment. Finally, a seventh argument contends that congressional contraction of the Court's appellate jurisdiction cannot be unconstitutionally motivated, that is to say Congress cannot have as its goal or objective the displacement of a disfavored judicial precedent.

What animates those who make these arguments is their conviction that the spirit of judicial review is jeopardized by the letter of article III. Because those who contend that Congress has plenary power over the Court's appellate jurisdiction generally have been content to rely simply on the letter of the Constitution and have felt no particular obligation or rebut these arguments, these general claims have gone largely unchallenged.[70] Little effort has been made to show that the traditional concept of judicial review[71] is wholly consonant with the letter of article III. In the following analysis of these arguments, such an effort will be made.

A. The Argument from Textual Construction

The first of the arguments against Congress' plenary powers under the exceptions clause is that those who rely on the letter of article III have misconstrued the meaning of its words. Variations of this argument exist, with Leonard Ratner focusing on how the word "exceptions" was commonly used at the time of the Federal Convention,[72] and with such scholars as Irving Brant,[73] Henry Merry,[74] and Raoul Berger[75] concerning themselves with the meaning of the phrase "both as to Law and Fact."

From a survey of dictionaries existing at the time of the Federal Convention, Ratner finds that an exception was generally defined "as an exclusion from the application of a general rule or description."[76] This definition indicates that "an exception cannot destroy the essential characteristics of the subject to which it applies."[77] On this basis, Ratner argues that Congress' power to make exceptions to the Court's appellate jurisdiction is not plenary; any exceptions it makes must be narrower in application than the description of the Court's entire appellate jurisdiction.[78] This ostensible limitation on Congress' power, however, is essentially meaningless. If an exception implies some residuum of jurisdiction, Congress can meet this test by excluding everything but, for example, patent cases. As one of the interlocutors in Henry Hart's famous dialogue remarks: "This is so absurd, and it is so impossible to lay down any measure of a necessary reservation, that it seems to me the language of the Constitution must be taken as vesting plenary control in Congress."[79]

A more ingenious, if ultimately no more successful variation of this argument against Congress' plenary power under article III, section 2 focuses on the meaning of the phrase, "both as to Law and Fact." Those who make this argument refuse to concede that the framers of the Constitution intended to vest Congress with the power to effect the wholesale destruction of judicial review. Rather, they insist, the "sole purpose of the exceptions clause was to permit Congress to limit appellate jurisdiction over questions of fact in cases at law."[80] Irving Brant, a noted historian, provides the most recent and sophisticated version of this argument. He contends that as a result of an unfortunate placement of commas in the phrase, "Jurisdiction, both as to Law and Fact," the words "both as to Law and Fact" appear to be a parenthetical, and the modifying clause beginning "with such Exceptions" seems to attach to "Jurisdiction," when, in fact, what the entire exceptions clause was meant to modify is simply appellate jurisdiction of questions of fact.[81]

At the time of the Federal Convention, considerable diversity in legal practice existed among the states, both with respect to cases in common and civil law and particularly with respect to cases in equity and maritime jurisdiction. Re-examination of factual issues was permitted in some states, but was not permitted in others. Under its appellate jurisdiction, the Supreme Court inevitably would be called upon to review cases where questions of fact were central and at issue. This prospect, however, raised the spectre of the Supreme Court having the power to overturn a jury's findings of fact in a criminal case. According to Brant, the problem faced by the Convention was to draft a provision that would permit the Court to review questions of fact in civil, equity, and maritime cases, but that would prevent it from abusing this power by retrying facts found by juries in criminal cases. Given the tremendous diversity among the states, drafting a constitutional clause to resolve this problem was all but impossible. Therefore, Brant argues, the framers took the easy way out and drafted language (albeit, Brant concedes, poorly punctuated language) that left the whole issue for handling by the Congress through the medium of the exceptions clause. The exceptions clause thus was "fashioned to meet the principal criticism of the appellate jurisdiction, its inclusion of matters in 'fact.'"[82]

Despite Brant's ingenuity, and that of Merry and Berger as well, this interpretation of the exceptions clause ultimately fails. This interpretation cannot be reconciled with the actual words and punctuation of the Constitution. Had the framers intended what Brant alleges they intended, they obviously were possessed of the necessary skills to have conveyed clearly that intention.[83] Similarly, Brant's interpretation cannot be squared with the proceedings of the Convention. What the Committee of Detail presented to the Convention in no way suggested that Congress' power to make exceptions to the Court's appellate jurisdiction was limited to the treatment of factual issues. Quite the contrary, the only discussion in the Convention relating to the exceptions clause centered on whether the Court was to have power to review questions of fact, not whether Congress' power to curtail the Court's jurisdiction was limited to such question.[84]

Nor can Brant's interpretation survive exposure to the post-Convention statements of Edmund Randolph and Alexander Hamilton. When the exceptions clause was before the Virginia State Ratifying Convention, Randolph, who had participated in the Federal Convention, Randolph, who had participated in the Federal Convention, declared that "[i]t would be proper to refer here to *any* thing that could be understood in the federal court. [Congress] may except generally both as to law and fact, or they may except as to law only, or fact only."[85] Alexander Hamilton also stressed that Congress' power to make exceptions applied to law as well as to facts: "The supreme court will possess and appellate jurisdiction, both as to law and fact, in all the cases referred to them, but subject to any *exceptions* and *regulations* which may be thought advisable."[86] Hamilton remarked that the propriety of Congress' power to except matters of law from the Supreme Court's appellate jurisdiction "has scarcely been called into question."[87] [C]lamors have been loud," he noted, only with respect to granting the Court any appellate jurisdiction over matters of fact.[88] In an effort to quiet the fear of those alarmed by the prospect of any appellate retrial of facts found by a jury, Hamilton declared, again clearly contrary to Brant's contention, that "the Supreme Court shall possess appellate jurisdiction, both as to law and *fact*, and that this jurisdiction shall be subject to such *exceptions* and regulation as the national legislature may prescribe."[89] All of this merely reaffirms Hamilton's assurance that if any "inconveniences" should arise from the powers the Constitution grants to the federal judiciary, Congress will have authority to make such exceptions and to prescribe such regulations as it believes necessary "to obviate or remove these inconveniences."[90]

Finally, Brant's interpretation is fundamentally at odds with an unwavering line of judicial opinion beginning with Chief Justice Ellsworth, himself a delegate to the Federal Convention and a member of the Committee of Detail, and extending to the present.[91]

B. Reliance on Ex Parte McCardle

A second major argument against Congress' claim to plenary power under article III, section 2 centers on the meaning of *Ex Parte McCardle.*[92] Rather than supporting Congress' claim as is commonly maintained, several scholars contend that *McCardle* concedes nothing to Congress.[93] They note that in *McCardle* the Court carefully pointed out that the repealing act of 1868[94] did not affect judicial authority to issue writs of habeas corpus under section 14 of the Judiciary Act of 1789:

> Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole apellate power of the court, in cases of *habeas corpus* is denied. But this is an error. The [repealing] act of 1868 does not except from that jurisdiction any cases but appeals from the Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously exercised.[95]

These scholars further note that this statement was reaffirmed a few months later in *Ex Parte Yerger.*[96] In *Yerger,* on a petition for habeas corpus, the Court reviewed a circuit court decision denying the writ to a civilian awaiting trial by a military commission for violating the Reconstruction Acts. Without the slightest hesitation, the Supreme Court unanimously sustained its jurisdiction and held that the repealing act of 1868 did not affect its authority under the Judiciary Act of 1789 to issue the writ.[97] Thus, these scholars argue, *McCardle* does not sanction congressional impairment of the Court's jurisdiction:

> The [repealing] statute did not deprive the Court of jurisdiction to decide McCardle's case; he could still petition the Supreme Court for a writ of habeas corpus to test the constitutionality of his confinement. The legislation did no more than eliminate one procedure for Supreme Court review of decisions denying habeas corpus relief while leaving another equally efficacious one available.[98]

These scholars also look to *United States* v. *Klein*,[99] decided two years after *Yerger*, in which the Court held that Congress could not enact legislation to eliminate an area of jurisdiction in order to control the results in a particular case. Klein sued in the Court of Claims under an 1863 statute that allowed the recovery of land captured or abandoned during the Civil War if the claimant could prove he had not assisted in the rebellion.[100] Relying on an earlier Supreme Court decision[101] that a presidential pardon proved conclusively that the recipient of the pardon had not aided the rebellion, Klein prevailed in the Court of Claims. While the government's appeal to the Supreme Court was pending, Congress passed a statute providing that a presidential pardon would not support a claim for captured property, and that acceptance of a pardon for participation in the rebellion, without a disclaimer of the facts recited, was conclusive evidence that the claimant had aided the enemy.[102] Furthermore, the statute provided that no proof of such pardon and acceptance, which could be heard summarily, the jurisdiction of the federal judiciary in the case should cease, and the Court of Claims should forthwith dismiss the suit such claimant.[103] As Chief Justice Chase remarked: "The substance of this enactment is that an acceptance of a pardon, without disclaimer, shall be conclusive evidence of the acts pardoned, but shall be null and void as evidence of the rights conferred by it both in the Court of Claims and in this court on appeal."[104] The Supreme Court held the act to be unconstitutional because it subverted the judicial process by prescribing "a rule for the decision of a cause in a particular way,"[105] and it also infringed upon the constitutional power of the executive by impairing the effect of a pardon.[106]

These efforts to construe *McCardle* narrowly and to employ *Yerger* and *Klein* to protect the spirit of judicial review from the letter of article III, section 2, however, are unsuccessful. Neither *McCardle* nor *Yerger* in any way suggests that the Court would have been justified in invalidating the act of 1868 if the act had excepted from the Supreme Court's appellate jurisdiction cases arising under section 14 of the Judiciary Act of 1789. Quite the contrary, as Chief Justice Chase noted in *McCardle*, judicial duty entails the refusal to exercise ungranted jurisdiction as well as the obligation to exercise jurisdiction when it is conferred by the Constitution or by law.[107] *McCardle* and *Yerger* are wholly faithful to Justice Chase's understanding. In *McCardle*, the Court declined to exercise jurisdiction that had been positively excepted by the repealing act of 1868. In *Yerger*, the Court firmly exercised jurisdiction that the Judiciary Act of 1789 conferred and which the repealing act in no way limited. Thus, the Court on both occasions acted consistently with Chief Justice Marshall's observation in *Cohens* v. *Virginia*.[108] "We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution."[109]

Similarly, reliance on *Klein* is misplaced. *Klein* involved a congressional attempt to forbid the Court from giving the effect to evidence which, in the Court's judgment, such evidence should have, and directed the Court to give the evidence an effect precisely contrary.[110] In *Klein*, Congress sought to curtail the appellate jurisdiction of the Supreme Court to obtain a particular result in a specific case; by so doing, Congress "inadvertently passed the limit which separates the legislative from the judicial power."[111] Congress' action in *Klein* is altogether different from congressional contractions of the Court's jurisdiction that seek merely to shift the determination of any result, whatever that result might be, to the lower federal or state courts, both of which are also bound by the Constitution as the supreme law of the land.[112] Shifting jurisdiction to lower federal or state courts is wholly permissible, and the Court in *Klein* declared as much, acknowledging that "if this Act did nothing more . . . [than] simply deny the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make 'such exceptions from the appellate jurisdiction' as should seem to it expedient."[113]

C. The Contraction of Congress' Power Due to the Passage of Time

A third argument against the letter of article III operates from the perspective of what Justice Rehnquist has called the "living Constitution with a vengeance."[114] This argument is based on the premise that congressional "control over the Court's appellate jurisdiction has in effect now been repealed by the passage of time and by the recognition that exercise of such power would be in the truest sense subversive of the American tradition of an independent judiciary."[115] C. Herman Pritchett, who is closely identified with this position, argues that while the language of article III, section 2 may have seemed reasonable in 1787, so, too, did choosing a President by indirect election.[116] Originally, the Supreme Court was just a few words in an unadopted document; today, however, it is the most respected judicial body in the world and has the authority to determine the constitutionality of acts of Congress.[117] Given these changes in conditions, "Congress can no longer claim with good conscience the authority granted by article III, section 2."[118]

The assertion that new conditions can amend the clear language and intent of the exceptions clause is subject to considerable doubt. Changing circumstances[119] and the passage of time may be considered in the interpretation and adaptation of such broadly phrased constitutional provisions as the due process and commerce clauses. These clauses were drafted expansively to allow evolving interpretations as time might require. Neither the language of the exceptions clause nor the debates of the Convention, however, indicate that the framers intended such broad adaptations of article III. Changing circumstances can neither alter nor amend the meaning of clear and unequivocal language in the Constitution.[120] Even Pritchett recognizes this, at least with respect to the other constitutional feature he regards as anachronistic—indirect election of the President. Thus, rather than contending that the Electoral College has been repealed by history, Pritchett served on and supported the policies of an American Bar Association blue ribbon commission that proposed a constitutional amendment formally abolishing the Electoral College and substituting in its place direct election of the President.[121]

Many provisions of the Constitution, of course, are phrased broadly, thus permitting flexible interpretations that adapt the document to changing circumstances. Nonetheless, even when such broad phrasing exists, the goal must be "adaptation *within* the Constitution rather than adaptation *of* the Constitution."[122] The terms of article III, however, are not phrased so broadly and no doubt exists as to the framers' intent. Unless the Court is to be permitted to disregard the outer rational limits of constitutional language—all to protect its role as principal interpretor of that language—the "passage of time theory" cannot be legitimately employed to amend the letter of the exceptions clause.

D. The "Essential Functions" Argument

A fourth argument against Congress' power to curtail the appellate jurisdiction of the Supreme Court is that Congress cannot constitutionally make any exceptions that will destroy what is variously described as the Court's essential role or function.[123] "[T]he [exceptions] clause means 'With such exceptions and under such regulations as Congress may make, not inconsistent with the essential function of the Supreme Court under this Constitution.'"[124] This argument, however, is also fraught with difficulties. It makes the Court itself the final arbiter of the extent of its powers. The argument contends not only that the essential functions of the Court cannot be limited, but also that the Court exclusively, and not the Congress, is to determine what functions are, in fact, essential. This interpretation of the exceptions clause cannot be sustained:

> It is hardly in keeping with the spirit of checks and balances to read such a virtually unlimited power into the Constitution. If the Framers intended so to permit the Supreme Court to define its own jurisdiction even against the will of Congress, it is fair to say that they would have made that intention explicit.[125]

Nothing in the text of the exceptions clause or in any Supreme Court opinion addressing this subject suggests that Congress' power under article III, section 2 is limited to making "'inessential' exceptions."[126] The distinction between the "essential" and "inessential" functions of the Court is, of course, wholly extraconstitutional. Consequently, those who draw this distinction on the Court's behalf are not limited by the letter of the Constitution but, rather, are free to define the Court and its essential role and functions as they see fit. Not surprisingly, given the absence of any constitutional restrictions (or, more precisely, given their refusal to recognize and abide by any constitutional restrictions), proponents of this interpretation advance and defend a wide variety of definitions. Thus, Henry Hart, who first propounded this argument, defines the essential role of the Supreme Court as serving as a check on the coordinate branches of government to keep them from destroying the Constitution.[127] Leonard Ratner offers a slightly different view, stressing the Court's "essential constitutional functions of maintaining the uniformity and supremacy of federal law."[128] In contrast, Archibald Cox asserts that the "chief function of the Supreme Court is to protect human rights."[129] Even more expansively, Paul Brest accords a special role for the Court in promoting "individual rights and decision making through democratic processes."[130]

Although considerable variety exists among these definitions of the Court and its essential role, they share one common element. Central to all formulations of this argument is an activist view of the judiciary. Only through frequent recourse to judicial review will the Court be able to perform the essential functions judicial activists assign to it. Quite naturally, proponents of the essential functions argument see Congress' plenary powers under article III, section 2 as a threat to judicial activism.[131] These proponents, therefore, strive to distort or obscure the letter of the exceptions clause, thereby rendering secure the spirit of judicial review that animates their judicial activism.[132]

The incompatibility that proponents of the essential functions argument perceive between the letter of article III and the spirit of judicial review is almost exclusively attributable to the way in which they have defined the essential role and function of the Supreme Court. Their expansive view of what the Court should do obviously is threatened by language that gives to Congress the power to except from the Court's appellate jurisdiction the cases necessary to sustain the Court's activist role.[133] This perceived incompatibility, however, can be avoided entirely if the Court's essential role is defined more modestly:

> Federal Courts, including the Supreme Court, do not pass on constitutional questions because there is a special function vested in them to enforce the Constitution or police the other agencies of government. They do so rather for the reason that they must decide a litigated issue that is otherwise within their jurisdiction and in doing so must give effect to the supreme law of the land.[134]

This more limited conception of the role of the Court is consistent not only with the actual provisions of the Constitution, but also with Hamilton's original defense of judicial review in *The Federalist, No. 78*[135] and Chief Justice Marshall's establishment of judicial review in *Marbury* v. *Madison*.[136] Moreover, because this interpretation regards the Court's power of judicial review as extending no further than to cases otherwise within its jurisdiction, which jurisdiction is subject to such exceptions as Congress shall make, this interpretation reflects the compatibility of the letter of article III and the spirit of judicial review.[137]

E. The Separation of Powers/Federalism Argument

A fifth contention closely related to the essential functions arguments is that Congress' power under the exceptions clause is limited by the constitutional principles of separation of powers and federalism.[138]

> If Congress also has plenary control over the appellate jurisdiction of the Supreme Court, then . . . Congress [could] by statute profoundly alter the structure of American government. It [could] all but destroy the coordinate judicial branch and thus upset the delicately poised constitutional system of checks and balances. It [could] distort the nature of the federal union by permitting each state to decide for itself the scope of its authority under the Constitution. It [could] reduce the supreme law of the land as defined in article VI to a hodgepodge of inconsistent decisions by making fifty state courts and eleven federal courts of appeal the final judges of the meaning and application of the Constitution, laws, and treaties of the United States.[139]

This contention, too, is flawed, because it rests on a superficial understanding of the political principles of the Constitution.

Those who would limit Congress' power under article III, section 2 stress that use of the exceptions clause constitutes an attack on the status and independence of the Court and thereby jeopardizes the principle of separation of powers.[140] These criticisms are groundless. In our constitutional system, the judiciary is not supposed to be entirely independent; neither is the legislative nor executive branch. Separation of powers does not entail complete independence. The framers did not intend the branches of government to be wholly unconnected with each other,[141] rather, the framers sought to create a government in which the branches would be so connected and blended, as to give to each a constitutional control over the others.[142] The framers accomplished this blending "by so contriving the interior structure of the government . . . that its several constituent parts, . . . [are] by their mutual relations, the means of keeping each other in their proper places."[143] The result is a government consisting of three coordinate and equal branches, each performing a blend of functions, thereby balancing, as opposed to merely separating, powers.[144]

The term separation of powers is, in fact, a misnomer. The framers created not so much a government of separated powers as one of "separated institutions sharing powers."[145] This sharing of powers allows the branches to have a "mutual influence and operation on one another. Each part acts and is acted upon, supports and is supported, regulates and is regulated by the rest."[146] Thus, the three branches, including the judiciary, are intended to move "in a line of direction somewhat different from that, which each acting by itself, would have taken; but, at the same time, in a line partaking the natural direction of each, and formed out of the natural direction of the whole—the true line of public liberty and happiness."[147]

The framers recognized that power is, by nature, encroaching, whether it be legislative, executive, or judicial.[148] They solved the problem of "the encroaching spirit of power"[149] by balancing the powers assigned to each of the three branches so that each branch could effectively check, but not control, the other two. Furthermore, the framers did not give any one branch the authority to decide whether its powers encroached on the others. "[N]one of [the three branches], it is evident, can pretend to an exclusive or superior right of setting the boundaries between their respected powers."[150]

The framers did not consider the judiciary exempt from the operation of these principles, although they did not consider the judiciary to be the least dangerous of the three branches because they had given the judiciary the least amount of power.

> Whoever, attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in its capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither force nor will but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.[151]

Although the framers regarded the judiciary as having the least capacity, because of the very nature of its functions, to be dangerous, the framers recognized that judicial power could be arbitrary and oppressive. The framers expected that the arbitrary discretion of the courts could be "bound down by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them."[152] Additionally, the framers provided the other branches with powers to check judicial encroachments. Thus, the framers provided for congressional appropriation of money for the judicial branch, presidential appointment and senatorial confirmation of judges, and congressional power to define entirely the jurisdiction of the inferior federal courts. The framers also provided for the impeachment of judges by the House of Representatives and the trial of impeached judges by the Senate—what *The Federalist* called "a complete security" against "the danger of judiciary encroachments on the legislative authority."[153] Finally, the framers of the Constitution provided the legislative branch with ample authority under article III, section 2, so that if "some partial inconveniences" were to arise as a result of the judicial branch's exercise of its powers, Congress could make such exceptions and prescribe such regulations "as will be calculated to obviate or remove these inconveniences."[154]

Thus, the framers never intended for judicial power to be absolute or for the judiciary to be completely independent. Just as they provided checks upon the legislative and executive branches, so too the framers included mechanisms to restrain the judiciary. The exceptions clause was one such mechanism.

Those who contend that Congress' power under the exceptions clause is limited by the constitutional principle of federalism betray an equally superficial understanding of the political principles of the Constitution. They contend with Leonard Sager, that Congress cannot restrict Supreme Court supervision of state conduct if such supervision is necessary to insure uniform judicial interpretation and state compliance with federal constitutional norms.[155] If the Supreme Court were restricted by Congress in such a manner, such restriction would, they fear, reduce the supremacy clause to a virtual nullity, Sager goes so far as to argue that if the states were not answerable to the Supreme Court, the Constitution would have "little to recommend it over the Articles of Confederation."[156] This view is deficient in a number of particulars.

This view reflects a common misperception concerning the nature of American federalism. The framers relied on federalism, as they also relied on separation of powers and the multiplicity of interests in an extended republic, to achieve their constitutional objectives—the creation and operation of an efficient and powerful guarantor of rights and liberties organized around the principle of qualitative majority rule.[157] The framers sought a "Republican remedy for the disease most incident to the Republican Government."[158] That disease was the tension between majority tyranny and democratic ineptitude.[159] The framers saw the federalism they were creating as contributing to that Republican remedy. Their federalism, however, was not merely a division of power between the national government and the state governments; it was also a blending of federal elements into the structure and procedures of the central government itself.[160] An obvious example of this blending is the mixture into the Senate of the federal principle of equal representation of all the states.[161] The framers recognized that this principle, when joined with bicameralism and separation of powers, could contribute directly to qualitative majority rule. For a measure to become law, for example a measure controlling the appellate jurisdiction of the Supreme Court, it would have to pass the Senate where, because of the federal principle of equal representation, the presence of a nationally distributed majority and the moderating tendencies associated therewith would be guaranteed.

To the framers, federalism also meant that the same relationship that existed between the citizen and the individual state also would exist, at least with regard to those functions specified in article I, section 8, between the citizen and the centralized national government. This is a crucial difference between the Constitution and the Articles of Confederation, and one which Professor Sager apparently overlooks.[162] Under the Constitution, the national government need not gain the cooperation of a state to regulate the behavior of the state's citizens, for they are also citizens of the United States. In fact, even if a state actively attempted to frustrate the wishes of the national government, the national government, through either legislative or judicial action, could reach the citizenry and hold them personally accountable for their actions. This is a significant difference between the Constitution and the Articles of Confederation: the national government can govern the individual directly and need not rely on the good will or cooperation of state intermediaries.

Similarly, if the Congress, moderated in its judgments by the nationally distributed majorities that are assured by the federal principle of equal representation of all states in the Senate, restricts the appellate jurisdiction of the Supreme Court in a certain subject matter area because Congress has concluded that the Court's decisions in that area have unduly limited the states, Congress' action can hardly be described as placing the supremacy clauses in jeopardy. Rather, Congress is simply exercising its power under the exceptions clause to obviate those inconveniences that have arisen as a result of the judiciary's interventions and, in a manner that is wholly consistent with the constitutional principle of separation of powers, is determining for the national government what the states may or may not do.

The view that the Congress can limit the appellate jurisdiction of the Supreme Court without jeopardizing federalism is compatible not only with the framers' understanding but also with the actions taken by both Congress and the federal judiciary until well into the twentieth century. Thus, in the Judiciary Act of 1789, Congress did not provide for Supreme Court review of cases in which state courts invalidated state conduct on federal grounds, even if those cases invalidated state conduct under an overly broad reading of federal laws that in turn defeated other federal rights.[163] In the same Act, Congress also subjected Supreme Court review of civil cases to a jurisdictional amount,[164] a requirement that was not eliminated for all cases involving constitutional issues until 1891[165] and was not abolished with respect to Supreme Court review of all federal questions until 1925.[166] Congress did not provide for Supreme Court review of federal criminal cases until 1802, and then only for review of decisions in which an inferior federal court had divided on a question of law.[167] Congress did not grant general power to the Court to review major federal criminal cases until 1891.[168] Obviously, the opponents of Congress' exercise of its powers under the exceptions clause have placed a premium on the uniformity of constitutional interpretation and Supreme Court supervision of state conduct that has not been shared by either Congress or the Court.

F. Limits on Congressional Power: The Bill of Rights and Other Constitutional Provisions

A sixth argument made against Congress' power under the exceptions clause is that this power is limited by the constitutional requirements of article I, section 9 and the Bill of Rights and is fully subject to review under these and any other constitutional provisions uniformly applicable to all acts of Congress.[169] Those who make this argument draw a parallel between Congress' plenary power under the commerce clause and its plenary power under article III, section 2. For example, just as Congress' power to regulate commerce among the several states is subject to the requirements of the first and fifth amendments,[170] so also is Congress' power to make exceptions. The due process clause of the fifth amendment plays an especially prominent role in this argument. Advocates of this argument view the fifth amendment as guaranteeing litigants an independent judicial hearing of all constitutional claims, thereby limiting Congress' power to make exceptions that will deprive litigants of this hearing and, hence, of the opportunity to petition for the remedies they seek.

Like the other arguments against Congress' power to make exceptions, this argument also is deficient. Those who make this argument are correct, of course, in pointing out that the congressional power at issue is subject to the due process clause and all other constitutional provisions uniformly applicable to acts of Congress. What they fail to consider, however, is that the independent judicial hearing they insist upon need not occur at the Supreme Court level. The requirements of the due process clause can be satisfied fully in the state and lower federal courts, even if Congress were to strip the Supreme Court of its entire appellate jurisdiction. Moreover, because the Supreme Court noted in *Cary* v. *Curtis*[171] that "the judicial power of the United States . . . is . . . dependent for its distribution . . . entirely upon the action of Congress, who possess the sole power . . . of investing [the inferior courts] with jurisdiction . . . in the exact degree and character which to Congress may seem proper for the public good,"[172] it would be constitutionally permissible under the due process clause for Congress to deny jurisdiction as well to all lower federal courts, provided that state courts retained jurisdiction to hear these matters.[173] State courts, after all, are bound by the Constitution as the supreme law of the land.[174] Moreover, "[i]n the scheme of the Constitution, [state courts] are the primary guarantors of constitutional rights, and in many cases they may be the ultimate ones."[175] Thus, apparently nothing less than the total denial of any state judicial form would be subject to successful challenge as a violation of procedural due process.[176]

G. The Prohibition on Unconstitutionally Motivated Withdrawals of Jurisdiction

Finally, a seventh argument against Congress' use of the exceptions clause to curtail the Court's appellate jurisdiction is that congressional actions in this regard cannot be unconstitutionally motivated:

> When Congress manipulates jurisdiction in an effort to deny recognition and judicial enforcement of constitutional rights, it has deliberately set itself against the Constitution as the Court understands that document. Comparable behavior on the part of a mayor or police chief would constitute "bad faith," and so here. Legislative bad faith is a constitutionally impermissible motive, and it offers an independent ground for doubting the constitutionality of jurisdictional legislation.[177]

The claim that congressional use of the exceptions clause to displace a disfavored judicial precedent is unconstitutional can be sustained only by embracing the view that the Constitution is merely what the Court says it is. Sager embraces this view,[178] and he fears that "[i]f Congress enacts a selective jurisdictional limitation for cases that concern state conduct, it will be issuing an open, unambiguous invitation to state and local officials to engage in conduct that the Supreme Court has explicitly held unconstitutional."[179] Appalled by the prospect of such a strategem, he repeatedly labels it as "tawdry" and lewd"[180] and as seducing the state judiciary to "malfeasance."[181]

This willingness to treat the Constitution as identical with its judicial gloss, however, is problematic. The mere reference to such notorious cases as *Dred Scott* v. *Sandford*,[182] *Plessy* v. *Ferguson*,[183] and *Lochner* v. *New York*[184] is sufficient to highlight the difficulty. If the Court was correct in its interpretations of the Constitution in these cases, then efforts to overturn these decisions by constitutional amendment, remedial legislation, or subsequent litigation were unconstitutionally motivated. If, however, the Court was mistaken in its interpretations of the Constitution in these cases, then the Constitution is not simply what the Court says it is, and some constitutional means must be available by which to rectify judicial errors.[185] Without such a means, the fate described by Abraham Lincoln in his First Inaugural Address cannot be avoided:

> If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that eminent tribunal[186]

Actually, various constitutional means do exist to correct Court misinterpretations; the exceptions clause is but one means of correction.

IV. PRACTICAL LIMITATIONS ON THE WITHDRAWAL OF JURISDICTION

At this juncture, it should be apparent that the various arguments advanced against the exceptions clause are inadequate to accomplish the formidable task of displacing the clear and express words of article III, section 2. Although they are ingeniously cast and earnestly argued, these arguments can be rebutted, and Congress' power to make exceptions to the Court's appellate jurisdiction remains plenary. This conclusion, however, is unacceptable to some constitutional scholars. Irving Brant may be more graphic than most, but he is no more alarmed than many when he writes: "The mind is staggered by the thought of what would result if Congress should pass, and the Supreme Court should bow to, a law prohibiting the review of state court decisions, or cases involving the first or fourteenth amendments."[187] For Brant, the exceptions clause has "become a dagger sharpened by social conflict and pointed at the heart of the Bill of Rights. Time and again Congress has raised this dagger. Only once has it descended, but the menace continues to mount."[188] These misgivings, however, are unfounded, both because of the practical difficulties that would attend congressional contraction of federal jurisdiction and because of the moderating tendencies of a Constitution structured so that the popular branches can seldom act "on any other principles than those of justice and the general good."[189]

The practical difficulties that would accompany withdrawal of jurisdiction are considerable. First, federal courts are essential to the administration of federal law and the enforcement of coercive sanctions and private remedies. If Congress were to withdraw all jurisdiction from the federal courts, save only the Supreme Court's original jurisdiction, the final resolution of virtually all questions of federal law, constitutional and otherwise, would rest with the highest courts of the fifty states. The potential for inconsistency in their resolution of federal question is so great, and the practical costs of such inconsistency are so high, that Congress is not likely to withdraw all federal jurisdiction, even though it is authorized by article III, section 2 to do so. If, in recognition of these constraints, the Congress decided to curtail only the Supreme Court's appellate jurisdiction, it would find that it had succeeded only in reducing, but by no means eliminating, the potential for national inconsistency. The final resolution of all constitutional questions would then be left to the twelve federal courts of appeal and the probability of inconsistency in their decisions would still remain great."[190] Finally, if the Congress were to exercise its exceptions powers even more exactingly and were selectively to deprive the Supreme Court of jurisdiction to review only particular classes of cases such as busing, school prayer, or abortion, the tradition of stare decisis could lead the lower federal and state courts to follow the Supreme Court decisions that originally promoted the congressional contraction:

> [The courts] would still be faced with the decisions of the Supreme Court as precedents—decisions which that Court would now be quite unable to reverse or modify or even to explain. The jurisdictional withdrawal thus might work to freeze the very doctrines that had prompted its enactment, placing an intolerable moral burden on the lower courts.[191]

All of this is likely to convince Congress that "the federal system needs federal courts and the judicial institution needs an organ of supreme authority."[192]

These practical difficulties, however, are not great enough either to reassure those fearful of Congress' power under the exceptions clause or to discourage those who would have Congress exercise this power. Sager regards contractions of Supreme Court jurisdiction as "lewd winks" cast by the Congress in the state courts' direction, and he worries that state courts will be seduced to "dishonor federal precedent and refuse to recognize disfavored rights."[193] Professor Rice inquires: "What will be the practical effect of withdrawing jurisdiction from the Supreme Court and the lower federal courts?"[194] His answer, which employs the school prayer issue as an example, is hardly comforting to Sager:

> Unlike a constitutional amendment, such a withdrawal would not reverse the Supreme Court's rulings on school prayer. Presumably, at least some state courts would strictly follow those decisions as the last authoritative Supreme Court pronouncement on the subject. But a new law would ensure that the Court received no opportunity to further extend its errors.
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> * * * * *
>
> It may be expected, however, that some state courts would openly disregard the Supreme Court precedents and decide in favor of school prayer once the prospect of reversal by the Supreme Court had been removed. But that result would not be such a terrible thing. . . . [because state courts merely would be reversing]. . . Supreme Court decisions which . . . would appear so erroneous as to be virtually usurpations.
>
> [B]ecause a statute rather than a constitutional amendment is involved, the Court's jurisdiction could readily be restored should the need for it become apparent.[195]

Although the practical difficulties attending jurisdictional contractions may or may not prove reassuring, those fearful of Congress' power to make exceptions should take considerable comfort in the fact that the Constitution is so designed and constructed as to render remote the prospect that Congress will exercise this expressly granted power either frequently or fully. Congress has only once succeeded in passing legislation excising a portion of the court's appellate jurisdiction,[196] and this occurred in the post-Civil War period against a Court whose last exercise of judicial review was in the notorious *Dred Scott* v. *Sandford*[197] decision and whose membership included several justices who were on public record as believing that the Reconstruction program was unconstitutional.[198] Moreover, this excision was carried out neither with a meat-ax nor even with Brant's "dagger,"[199] but with a scalpel; Congress eliminated only one procedure for Supreme Court review of the questions at issue, but left an alternate review procedure untouched. Congress historically has acted quite responsibly toward the Court. It has abused neither its ability to make exceptions nor its other powers to curb the Court.[200] Such historical respect for the functions of the Court is hardly accidental.

V. CONCLUSION

The framers of the Constitution recognized that a dependence on the people and on their representative institutions was essential in a democractic republic. They nevertheless were aware of the need for precautions to ensure that the people not only ruled, but that they ruled well.[201] One of the precautions upon which they relied was an independent judiciary exercising the traditional form of judicial review as articulated in *The Federalist, No. 78*[202] and as instituted in *Marbury* v. *Madison*,[203] thereby keeping the representative branches "within the limits assigned to their authority."[204]

The framers were well aware, however, that this precaution posed a potential threat to the political rights of the Constitution. In this regard, the Court was the least dangerous of the three branches, but it too could annoy and injure the rights and liberties of the people.[205] The Court also had to be restrained, even as it was used to restrain others. One means by which the framers sought to restrain the Court was by granting to Congress the power to make exceptions to the Court's appellate jurisdiction. The framers did not fear that Congress would abuse this power, unrestrained as it was by judicial review, for they had set in place against the tyranical tendencies of the Congress a variety of auxiliary precautions, including separation of powers, checks and balances, bicameralism, staggered elections, federalism, and the moderating effect of a multiplicity of interests present in an extended republic.

For nearly two centuries, these precautions have worked exceedingly well. The Congress has acted responsibly, and the Court, ever mindful of the consequences that might be visited upon it if it were to attempt to substitute its pleasure for that of the legislative body,[206] generally has resisted the temptation to act as "a bevy of Platonic Guardians."[207] There is every reason to believe that these precautions will continue to work well, provided only that the letter of the Constitution—which is, after all, the very source of these precautions—remains central and governing in the minds of those who study and practice the law, and is not subordinated by them to the activist view which distills the very essence of the judicial role and constitutional legitimacy from the spirit of judicial review.

FOOTNOTES

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[1] Moynihan, *What Do You Do When the Supreme Court Is Wrong?* 57 Pub. Interest 3 (1979).

[2] *Id.* at 8.

[3] Proposals to employ art. III, §2 of the United States Constitution to limit the appellate jurisdiction of the Supreme Court have been debated throughout our constitutional history. *See* R. Berger, Congress v. The Supreme Court 285–96 (1969); W. Murphy, Congress and the Court (1962); Nagel, *Court-Curbing Periods in American History*, 18 Vand. L. Rev. 925 (1965).

A subsidiary question concerns Congress' power to curb the jurisdiction of the lower federal courts, leaving issues to be decided solely in the state courts. It is generally conceded that Congress could substantially reduce the authority of these courts or even abolish them altogether. *See* Palmore v. United States, 411 U.S. 389, 400–02 (1973); Cary v. Curtis, 44 U.S. (3 How.) 236 (1845); Redish & Woods, *Congressional Power to Control the Jurisdiction of Lower Federal Courts: A Critical View and New Synthesis*, 124 U. Pa. L. Rev. 45 (1975); Rotunda, *Congressional Power to Restrict the Jurisdiction of the Lower Federal Courts and the Problem of School Busing*, 64 Geo. L.J. 839 (1976); Sager, *Foreword; Constitutional Limitations on Congress' Authority to Regulate the Jurisdiction of the Federal Courts*, 95 Harv. L. Rev. 17 (1981). This Article addresses Congress' power to limit the jurisdiction of the lower federal courts only in relation to the central question under consideration. *See infra* note 173.

[4] *See* S. 26, 98th Cong., 1st Sess. (1983), which would deprive lower federal courts of jurisdiction in cases involving state or local abortion law. *See also* H.R. 618, 98th Cong., 1st Sess. (1983). Similarly, the following bills would deprive the federal courts, including the Supreme Court, of jurisdiction in cases involving voluntary prayer in public schools. S. 88, 98th Cong., 1st Sess. (1983); H.R. 525, 98th Cong., 1st Sess. (1983); H.R. 253, 98th Cong., 1st Sess. (1983). A final group of bills would, in varying de-

grees, limit the jurisdiction of all federal courts to order school desegregation through mandatory busing. H.R. 798, 98th Cong., 1st Sess. (1983); H.R. 153, 98th Cong., 1st Sess. (1983).

[5] *Limiting Federal Court Jurisdiction*, 65 Judicature 177 (1981).

[6] *Congressional Limits on Federal Court Jurisdiction*, 27 Vill. L. Rev. 893 (1982).

[7] 6 Harv. J. L. & Pub. Pol'y (Special Issue 1983).

[8] On October 1 and 2, 1981, the American Enterprise Institute held a seminar in Washington, D.C., the topic of which was "Judicial Power in the United States: What Are the Appropriate Constraints?"

[9] The title of the Foundation's seminar, held in Washington, D.C. on June 14, 1982, was A Conference on Judicial Reform."

[10] *Constitutional Restraints Upon the Judiciary: Hearings before the Subcomm. on the Constitution of the Senate Judiciary Comm. to Define the Scope of the Senate's Authority Under Article III of the Constitution to Regulate the Jurisdiction of the Federal Courts*, 97th Cong., 1st Sess. (1981) [hereinafter cited as *Hearings*].

[11] Sager, *supra* note 3.

[12] This Article does not consider whether these specific measures are properly drafted and technically correct. It considers only whether Congress has the power constitutionally to pass such measures. *See infra* note 19.

[13] U.S. Const. art. III, §2, cl. 2.

[14] *See* E. Corwin & J. Peltason, Understanding the Constitution 109 (6th ed. 1979); E. Corwin, The Constitution and What It Means Today 179 (1974); Berger, *Congressional Contraction of Federal Jurisdiction*, 1980 Wis. L. Rev. 801; Roberts. *Now is the Time: Fortifying the Supreme Court's Independence*, 35 A.B.A.J. 1 (1949); Wechsler, *The Courts and the Constitution*, 65 Colum. L. Rev. 1001 (1965). *See also* 39 Cong. Q. Weekly Rep. 947–51 (May 30, 1981) (statements of Professors Martin H. Redish, Paul Bator, and John T. Noonan).

[15] 74 U.S. (6 Wall.) 385 (1868).

[16] *Id.* at 396. *See also* J. Ely, Democracy and Distrust: A Theory of Journal Review 16 (1980) ("The most important datum bearing on what was intended is the constitutional language itself.").

[17] 74 U.S. (7 Wall.) 506 (1868).

[18] 74 U.S. (7 Wall.) at 514.

[19] E. Corwin & J. Peltason, *supra* note 14, at 179. This Article does not address the "wisdom" of the bills discussed *supra* note 4, nor does it explore the policy questions they raise. Rather, it is limited exclusively to a consideration of Congress' constitutional power to enact such measures.

[20] *See, e.g.*, S. Rep. No. 1097, 90th Cong., 2d Sess. 155–57 (1968); J. Choper, Judicial Review and the National Political Process: A Functional Reconsideration of the Role of the Supreme Court 53–54 (1980); C. Pritchett, Congress versus the Supreme Court (1961); O. Stephens & G. Rathjen, The Supreme Court and the Allocation of Constitutional Power 40 (1980); Brant, *Appellate Jurisdiction: Congressional Abuse of the Exceptions Clause*, 53 Ore. L. Rev. 3 (1973); Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362 (1953); Merry, *Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis*, 47 Minn. L. Rev. 53 (1962); Ratner, *Congressional Power Over the Appellate Jurisdiction of the Supreme Court*, 109 U Pa. L. Rev. 157 (1960); Sager, *supra* note 3. Even John Hart Ely, who writes that the constitutional language itself is "the most important datum" bearing upon what the Constitution means, nonetheless concludes the "Congress' theoretical power to withdraw the Court's jurisdiction over certain classes of cases is . . . fraught with constitutional doubt." Ely, *supra* note 16, at 46.

[21] *See, e.g.*, C. Pritchett, *supra* note 20, at 122; Brant, *supra* note 20, at 21. Even among those who deny that Congress has the power to curtail the Court's appellate jurisdiction, opinion is divided over whether "any legislation of this sort [is] unconstitutional as a violation of the separation of powers and as an attack on the status and independence of the nation's highest judicial tribunal," C. Pritchett, The Federal System in Constitutional Law 15 (1978), or whether legislation is unconstitutional only if it deprives the Supreme Court of its essential role of interpreting the Constitution and resolving conflicts between federal laws and between state and federal laws. *See* Hart, *supra* note 20, at 1365; Ratner, *supra* note 20, at 160–61.

[22] Brant, *supra* note 20, at 5. *See also* Ratner, *supra* note 20, at 158.

[23] C. Pritchett, *supra* note 20, at 122.

[24] Slonim, *Law Scope: Say Dormant Prayer Bill Has Broad Implications*, 66 A.B.A.J. 437 (1980) (quoting Lawrence Tribe).

[25] Brant, *supra* note 20, at 28.

[26] Raoul Berger acknowledges this bind: "The distressing fact is that Congress' power to make 'exceptions' to the Supreme Court's appellate jurisdiction is expressly conferred whereas judicial review . . . is derived from questionable implications and debatable history." R. Berger, *supra* note 3, at 4.

[27] 443 U.S. 193 (1979).

[28] *Id.* at 201.

[29] Jesse Choper adopts this position: "The theoretical underpinnings for a wide legislative power to curtail the appellate jurisdiction . . . are hardly as firm as the literal phrasing of Article III and the quite sweeping judicial language would suggest." J. Choper, *supra* note 20, at 53.

[30] 443 U.S. at 222 (Rehnquist, J., dissenting).

[31] *Id.* at 216 (Blackmun, J., concurring).

[32] Van Alstyne, *A Critical Guide to* Ex Parte McCardle, 15 Ariz. L. Rev. 229, 260 1973). *See also* Roberts, *supra* note 14. "What is there to prevent Congress taking away, bit by bit, all the appellate jurisdiction of the Supreme Court of the United States . . .? I see nothing, I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court . . . ." *Id.* at 4. For this reason, former Justice Roberts favored a constitutional amendment that would have stripped the Congress of its art. III powers. *Id. See also Hearings*, *supra* note 10 (testimony of Thomas R. Ascik, Paul M. Bator, Jules Gerard, Martin H. Redish, and Charles E. Rice); A. Kelly & W. Harrison, The American Constitution: Its Origins and Development 483 (4th ed. 1970); A. Mason & Beaney, American Constitutional Law 3, 24 (6th ed. 1978); Burton, *Two Significant Decisions:* Ex Parte Milligan *and* Ex Parte McCardle, 41 A.B.A.J. 124, 176 (1955).

[33] Comm. on the Judiciary, Minority Report on the Omnibus Criminal Control and Safe Streets Act of 1967, S. Rep. No. 1097, 90th Cong., 2d Sess. 156 (1968) [hereinafter cited as Minority Report]. *See also Hearings*, *supra* note 10 (testimony of George J. Alexander, Edward I. Cutler, Lloyd M. Cutler, Leonard G. Ratner, and Telford Taylor).

[34] For an exception to this generalization, see Van Alstyne, *supra* note 32.

[35] The Federalist, No. 80, at 541 (A. Hamilton) (J. Cooke ed. 1961).

[36] *See* 2 M. Farrand, The Records of the Federal Convention 22, 46 (rev. ed. 1937).

[37] *Id.* at 106.

[38] *Id.* at 132–33.

[39] *Id.* at 173.

[40] *Id.* at 428.

[41] *Id.* at 431.

[42] *Id.*

[43] *Id.*

[44] *But see* Brant, *supra* note 20, at 7. Brant correctly points out that subsequent to Dickinson's motion, an unidentified delegate moved to insert the following substitute for the clause on appellate jurisdiction: "In all the other cases before mentioned the Judicial power shall be exercised in such a manner as the Legislature shall direct." 2 M. Farrand, *supra* note 36, at 431. This motion was defeated, six states to two. Brant argues that this proposed clause "would have given Congress the extensive power it claims it possesses under the authority to make exceptions from the Court's appellate jurisdiction. It is hardly conceivable that such a motion would have been offered if the delegates believed that they had just voted to confer substantially the same power under a different wording." Brant, *supra* note 20, at 7. *See also* Merry, *supra* note 20, at 59; Sager, *supra* note 20, at 49–50 n.95. Brant argues that Congress is authorized under art. III, §2 to make exceptions only to the Court's review of matters of fact. *See generally infra* notes 80–91 and accompanying text. Brant's argument fails, however, because he is mistaken in his assertion that the power to determine how the judicial power shall be exercised is substantially the same as the power to make exceptions to the Court's appellate jurisdiction. The former power, in fact, is much greater, and the delegates understood this. Brant does not appreciate that it is one thing for Congress to have power to determine what cases the Supreme Court shall hear in its appellate jurisdiction, but quite another for Congress to have power to determine what the outcome of those cases shall be.

[45] 3 Debates on the Federal Constitution 560 (J. Elliot 2d ed. 1888).

[46] Graves v. O'Keefe, 306 U.S. 466, 491–92 (1939) (Frankfurter, J., concurring). *See also infra* notes 178–86 and accompanying text.

[47] "The government body most ready to assert the power of Congress to deprive the Court of its appellate jurisdiction has been the Court itself." Comment, *Removal of Supreme Court Appellate Jurisdiction: A Weapon Against Obscenity?"* 1969 Duke L.J. 291, 297 n.37. In fact, no justice has ever denied Congress' broad powers under art. III. Although Justice Douglas did declare in his dissent in Glidden Co. v. Zdanok, 370 U.S. 530, 605 n.11 (1962), that "[t]here is a serious question whether the *McCardle* case could command a majority today," and although this passage frequently is cited in writings that suggest that the contemporary Supreme Court would not accept congressional restrictions of its appellate jurisdiction equivalent to those upheld in *McCardle*, the context of Justice Douglas' dictum suggests something quite different; namely, if Congress were to attempt to deprive the Supreme Court of jurisdiction over a case that is already under judicial consideration, then it is questionable whether *McCardle* would be followed today. Douglas subsequently expressed his understanding of the broader question of Congress' power over the appellate jurisdiction of the Supreme Court in his concurrence in Flast v. Cohen, 392 U.S. 83 (1968): "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of §2, art. III. See *Ex Parte* McCardle . . . ." *Id.* at 109.

[48] *Ex Parte* McCardle, 74 U.S. (7 Wall.) 506 (1868). For a discussion of *McCardle*, see supra notes 17–18 and accompanying text.

[49] 3 U.S. (3 Dall.) 321 (1796).

[50] *Id.* at 327.

[51] *Id.*

[52] To the extent that differences of opinion arose among them, such differences were only over the question of whether the Court's appellate jurisdiction was originally granted by the Constitution or by the Congress. Three different answers were given. The first maintained that any withdrawal of the Court's appellate jurisdiction requires Congress to make a positive exception. All constitutionally granted jurisdiction not positively excepted by Congress is retained by the Court. This was the view of Justice James Wilson in his opinion in Wiscart v. Dauchy, 3 U.S. (3 Dall.) at 326. The second approach was that the Court possesses no appellate jurisdiction unless positively granted by Congress. The Court's appellate jurisdiction is viewed as congressionally granted rather than as constitutionally authorized. This was the view of Chief Justice Ellsworth in *Wiscart*, *see supra* text accompanying note 50, and of Chief Justice Taney in Barry v. Mercein, 46 U.S. (5 How.) 103, 119–20 (1847), *see infra* text accompanying note 57. The third approach combined features of the first two. Like the first, it based the Court's appellate jurisdiction on the Constitution. However, once Congress had acted to grant the Court appellate jurisdiction, this approach followed the second approach and implicitly denied all jurisdiction not positively granted. This was the view of Chief Justice Marshall in Durousseau v. United States, 10 U.S. (6 Cranch) 307, 313–14 (1810). *See infra* text accompanying note 56. *See also* Comment, *supra* note 47, at 297–300.

[53] 7 U.S. (3 Cranch) 159 (1805).

[54] *Id.* at 173.

[55] 10 U.S. (6 Cranch) 307 (1810).

[56] *Id.* at 313–14. *See also* J. Story, Commentaries on the Constitution of the United States 453 (1833)) "It is apparent, then, that the exception was intended as a limitation upon the preceding words, to enable Congress to regulate and restrain the appellate power, as the public might, from time to time, require.").

[57] Barry v. Mercein, 46 U.S. (5 How.) 103, 119–20 (1847).

[58] *See supra* text accompanying note 18. Chief Justice Chase's opinion in *McCardle* echoed, for the most part, Justice Swayne's opinion for an equally unanimous Court in Daniels v. Rock Island R.R., 70 U.S. (3 Wall.) 250 (1854): The original jurisdiction of this court, and its power to receive appellate jurisdiction, are created and defined by the Constitution; and the legislative department of the government can enlarge neither one nor the other. But it is for Congress to determine how far, within the limits of the capacity of this court to take, appellate jurisdiction shall be given, and when conferred, it can be exercised only to the extent and in the manner prescribed by law. In these respects, it is wholly the creature of legislation. *Id.* at 254.

[59] *Ex Parte* McCardle, 74 U.S. (7 Wall.) 506, 515 (1868).

[60] 105 U.S. 381 (1881).

[61] *Id.* at 386.

[62] *Id.* at 385.

[63] 321 U.S. 414 (1944).

[64] *Id.* at 472-73.

[65] 337 U.S. 582 (1949).

[66] *Id.* at 655 (Frankfurter, J., dissenting). *See also* Glidden Co. v. Zdanok, 370 U.S. 530, 567 (1962); Burton, *supra* note 32, at 176; Roberts, *supra* 14, at 4.

[67] Wechsler, *supra* note, at 1905-06. Under this plan, "Congress has the power by enactment of a statute to strike at what it deems judicial excess," *Id.*

[68] Not everyone who would limit Congress' power under art. III, §2 relies on all seven of these arguments. Some of these arguments contradict each other.

[69] 74 U.S. (7 Wall.) 596 (1868).

[70] Intelligent exceptions to this generalization are Rice, *Limiting Federal Court Jurisdiction: The Constitutional Basis for the Proposals in Congress Today,* 65 Judicature 190 (1981); Van Alstyne, *supra* note 32.

[71] *See, e.g.,* Marbury v. Madison, 5 U.S. (1 Crunch) 137 (1803). On the difference between the traditional and modern forms of judicial review, see Wolfe, *A Theory of U.S. Constitutional History,* 43 J. Pot. 292. (1981).

[72] Ratner, *supra* note 20, at 168-71.

[73] Brant, *supra* note 20.

[74] Merry, *supra* note 20.

[75] R. Berger, *supra* note 3. Berger, however, subsequently qualified his position. *See* Berger, *supra* note 14.

[76] Ratner, *supra* note 20, at 168.

[77] *Id.* at 170.

[78] "Sager agrees with Ratner's interpretation: An "exception" implies a minor deviation from a surviving norm; it is a nibble not a bite. And there is reason to think that this sense of the term, was, if anything, clearer at the time the Constitution was drafted than now, The language of Article III from which Congress draws its authority to limit the jurisdiction of the Supreme Court, thus contains only a bounded power to make exceptions: Sager, *supra* note 3, at 44.

[79] Hart, *supra* note 20, at 1364. Ratner recognizes this and concedes ultimately that "general usage . . . cannot provide a definitive interpretation," whereupon he launches into an "essential role of the Court" argument of the kind discussed *infra* notes 123-32 and accompanying text. Ratner, *supra* note 20, at 171. Sager likewise acknowledges the difficulty of textual interpretation: "To be sure, there is nothing self-evident about the precise limits of Congress' authority in such an amorphous grant, but this lack of an obvious answer invites an application of the tools of constitutional interpretation." Sager, *supra* note 3, at 44. If Sager's methodology for constitutional interpretation included some appreciation of the work of the constitutional framers and their understanding of separation of powers and federalism, his invitation to join him in applying this methodology would be more warmly received. *See infra notes 138-61 and accompanying text.*

[80] Brant, *supra* note 20, at 11.

[81] *Id.* at 5.

[82] R. Berger, *supra* note 3, at 307. *See also* Berger, *supra* note 14: "[T]he founders merely intended by that clause to prevent the Court from revising the findings of a jury." *Id.* at 806.

[83] As Chief Justice Marshall wrote in Barron v. Baltimore, 32 U.S. (7 Pet.) 243 (1833), "[the framers] would have declared this purpose in plain and intelligible language." *Id.* at 249. For example, they could have declared: "In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, but with appellate Jurisdiction as to Fact subject to such Exceptions and under such Regulations as the Congress shall make."

[84] *See supra* notes 40-43 and accompanying text. Brant likewise fails to appreciate that all the controversy present in the state ratifying conventions concerning whether the Supreme Court ought even to have power to review questions of fact in its appellate jurisdiction, a controversy that Brant cites as evidence supporting his general argument, is simply not germane to the question of whether Congress has power to contract the appellate jurisdiction of the Supreme Court with respect to substantive questions of law. For similar citation of and reliance on wholly irrelevant evidence, see Merry, *supra* note 20, at 59-62.

[85] 3 J. Elliott *supra* note 45, at 572. Randolph was echoing John Marshall's comments from the previous day: "What is the meaning of the term exceptions? Does it not mean an alteration and diminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court." *Id.* at 560.

[86] The Federalist, No. 81, at 552 (A. Hamilton) (J. Cooke ed. 1961).

[87] *Id.* at 549-50.

[88] *Id.* at 550.

[89] *Id.* at 552. Hamilton also observed that separating law and fact in certain issues was impossible. *Id.* at 551.

[90] The Federalist, No. 80, at 541 (A. Hamilton) (J. Cooke ed. 1961). Although Brant quotes from The Federalist No. 80, he engages in a form of academic gerrymandering and conveniently overlooks this passage. *See* Brant, *supra* note 20, at 9. Brant focuses his attention instead on a passage from The Federalist No. 81: To avoid all inconveniences, it will be safest to declare generally that the Supreme Court shall possess appellate jurisdiction both as to law and fact, and that this jurisdiction shall be subject to such exceptions and regulations as the national legislature shall prescribe. This will enable the government to modify it in such a manner as will best answer the ends of public justice and security.

Id., No. 81, at 552. *See also* Merry, *supra* note 20, at 309 (also ignoring The Federalist No. 80). This passage, of course is irrelevant to the issue of whether Congress' power under the exceptions clause is limited simply to curtailing the appellate jurisdiction of the Supreme Court in cases raising questions of fact. To prove that Congress' power extends to regulating the treatment of facts does not prove that its power is limited to such regulation. *See supra* note 84.

Despite all of this evidence, Sager maintains the following position: [I]f the Framers of Article III had had the bad sense to believe the control of jurisdiction was a workable way to give Congress a substantive check on the federal judiciary, we might as well have to live with that fact and with its implications for the constitutional shortcuts that Congress would be entitled to take. But there is no evidence that they held this belief . . . . Sager, *supra* note 3, at 42.

[91] *See supra* notes 49-67 and accompanying text.

[92] 74 U.S. (7 Wall.) 506 (1868).

[93] *See* R. Berger, *Supra* note 3, at 2-3; Hart, *supra* note 20, at 1365; Ratner, supra note 20, at 178-81. *See also* Rotunda, *Supra* note 3, at 849-51.

[94] Act of Mar. 27, 1868, ch. 34, 15 Stat. 44. The Judiciary Act of 1789 provided all federal judges with the power to issue writs of habeas corpus, Judiciary Act of 1789, ch. 20, §14, 1 Stat. 73, 81

[95] 74 U.S. (7 Wall.) at 515.

[96] 75 U.S. (8 Wall.) 85 (1869).

[97] *Id.* at 96-98.

[98] Ratner, *supra* note 20, at 180.

[99] 80 U.S. (13 Wall.) 128 (1871).

[100] *Id.* at 131. The statute at issue was the Act of Mar. 12, 1863, ch. 120, 12 Stat. 820.

[101] United States v. Padelford, 76 U.S. (9 Wall.) 531 (1869).

[102] Act of July 12, 1870, ch. 251, 16 Stat. 230, 235.

[103] *Id.*

[104] 80 U.S. (13 Wall.) at 144.

[105] *Id.* at 146. The Court continued: Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the Court must deny to itself the jurisdiction thus conferred, because and only because its decision, in accordance with settled law, must be adverse to the government and favorable to the suitor? This question seems to us to answer itself. *Id.* at 147.

[106] *Id.* at 147-48.

To the executive alone is entrusted the power of pardon; and it is granted without limit. Pardon includes amnesty. It blots out the offense pardoned and removes all its penal consequences. It may be granted on conditions. In these particular pardons, that no doubt might exist as to their character, restoration of property was expressly pledged, and the pardon was granted on condition that the person who availed himself of it should take and keep a prescribed oath.

Now it is clear that the legislature cannot change the effect of such a pardon any more than the executive can change a law. Yet this is attempted by the provision under consideration. The court is required to receive special pardons as evidence of guilt and to treat them as null and void. It is required to disregard pardons granted by proclamation on condition, though the condition has been fulfilled, and to deny them their legal effect. This certainly impairs the executive authority, and directs the court to be instrumental to that end.

[107] *See* 74 U.S. (7 Wall.) at 515.

[108] 19 U.S. (6 Wheat.) 264 (1821).

[109] *Id.* at 404.

[110] 80 U.S. (13 Wall.) at 147. *See also* Vaughn, *Congressional Power to Eliminate Busing in School Desegregation Cases,* 31 Ark. L. Rev. 231, 244 (1977).

[111] 80 U.S. (13 Wall.) at 147.

[112] This Article in no way condones Congress' use of power to determine the outcome of any particular judicial proceeding. As James Madison recognized, such a power would clearly make the legislators "advocates and parties to the causes which they determine." The Federalist, No. 10, at 59 (J. Madison) (J. Cooke ed. 1961).

[113] 80 U.S. (13 Wall.) at 145. *See also* Rice, *supra* note 70, at 193-94.

[114] Rehnquist, *The Notion of a Living Constitution,* 54 Texas L. Rev. 693, 695 (1976).

[115] C. Pritchett, *supra* note 20, at 122. *See also* C. Pritchett, The American Constitution 35-36 (3d ed. 1977); Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction,* 83 Yale L.J. 498, 501-13 (1974).

[116] C. Pritchett, *supra* note 20, at 122.

[117] *Id.*

[118] *Id.*

[119] Eisenberg, *supra* note 115, at 504.

[120] *See* Redish & Woods, *supra* note 3:

The seventh amendment, for example, provides that in all cases where the "value in controversy" exceeds twenty dollars, the right to a jury trial at common law must be preserved. It might be argued that use of a twenty dollar floor does not today accomplish the framers' goal of precluding a jury trial in minor civil cases, for twenty dollars at the time of the drafting of the seventh amendment meant something quite different from twenty dollars today. But despite such an argument, we could not read an inflationary spiral into the terms of the seventh amendment. The seventh amendment is strict and unbending in its dictates on this matter. If we are to alter it, even in order to accomplish the framers' goal, we must do so through the amendment process. Similarly, the language and history of article III are so clear that any alteration, even to accomplish the framers' purposes, must come by amendment and not by interpretation in light of "changing circumstances."

Id. at 74.

[121] *See* N. Peirce, The People's President 161 (1968).

[122] Wolfe, *supra* note 71, at 301.

[123] *See, e.g.,* Minority Report, *supra* note 33, at 156; Brant, *supra* note 19, at 24; Brest, *The Conscientious Legislator's Guide to Constitutional Interpretation,* 27 Stan. L. Rev. 585, 594 (1975); Hart, *supra* note 19, at 1365; Ratner, *supra* note 19, at 160-61 Rotunda, *supra* note 3, at 845; Sager, *supra* note 3, at 42-68; White, *Reflections on the Role of the Supreme Court: The Contemporary Debate and the "Lessons" of History,* 63 Judicature 162, 170 (1979).

[124] Ratner, *supra* note 19, at 172. Interestingly, those who make this argument point out that none of the cases cited in support of Congress' powers under the exceptions clause, including *McCardle,* involves what they would consider an "essential function" of the Supreme Court. *Id.* at 173-81. This fact, however, may attest more to the sense of sound congressional opinion against the wisdom of making such exceptions than to any notion that Congress lacks the power to do so. *See* Van Alstyne, *supra* note 31, at 257.

[125] Rice, *supra* note 70, at 195. For a futher discussion of the exceptions clause and its relation to separation of powers and checks and balances, see *infra* notes 140-54 and accompanying text.

[126] Van Alstyne, *supra* note 32, at 257.

[127] Hart, *supra* note 20, at 1365, *See also* Brant, *supra* note 20, in which Brant argues that the Court's critical function is to prevent "the destruction or infringement of any of the mandatory requirements of the Constitution." *id.* at 24. Hart and Brant appear to believe that only the Supreme Court, through its employment of judicial review, is able to provide protection against the Constitution's destruction. This view ignores the operation of such constitutional mechanisms as separation of

powers, bicameralism, staggered elections, federalism, and the multiplicity of interest present in an extended republic. *See* R. Rossum & G. McDowell, The American Founding: Politics, Statesmanship, and the Constitution 6-11 (1981). *See also infra* notes 140-61 and accompanying text. Moreover, even if these other constitutional features were absent, Hart's and Brant's reliance on the judiciary still would be misplaced. As Learned Hand observed: [T]his much I think I do know—that a society so riven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes, no court need save; that in a society which evades its responsibility by thrusting upon the courts the nature of that spirit, that spirit in the end will perish. I Hand, The Spirit of Liberty 125 (1959).

[128] Ratner, *supra* note 20, at 201. *See also* Sager, *supra* note 3, at 43, 45.

[129] Cox, *The Role of Congress in Constitutional Determinations,* 10 U. Cin. L. Rev. 199, 253 (1971). *See also* White, *supra* note 118, White insists that the Court's chief role is serving "as the principal elite institution protecting the people's rights." *Id.* at 170. White goes so far as to argue that the Court should "acknowledge that the source of newly invented rights is not the Constitution but the enhanced seriousness of certain values in our society." *Id.* at 168.

[130] Brest, *supra* note 123, at 594, *See also* J. Choper, *supra* note 19; Brest, *The Misconceived Quest for the Original Understanding,* 60 B.U.L. Rev. 204, 226 (1980); Ely *supra* note 16, at 87.

[131] *See* Brant, *supra* note 20, at 27-28.

[132] *See* Van Alstyne, *supra* note 32. It does appear to be more than a passing strange argument to suggest that because the full evolution of substantive constitutional review may itself have been exogenous to the Constitution, the power of Congress to make exceptions of any appellate jurisdiction described in article III therefore does not extend to such review; as though the power to make exceptions applies to any appellate jurisdiction granted by article III, but not to that judicial power which the Supreme Court simply evolved in the fullness of time. *Id.* at 262.63.

[133] Their expansive view of the Court's essential role also is threatened by, and in turn threatens, other express constitutional provisions, including the prescribed means for amending the Constitution found in art. V, the delegations of powers to Congress found in art. I, §8, and the enforcement sections of the post-Civil War amendments.

[134] Wechsler, *supra* note 14, at 1006. "It is not that the judges are appointed arbiters, and to determine as it were upon application, whether the Assembly have or have not violated the Constitution; but when an action is necessarily brought in judgmment before them, they must, unavoidably, determine one way or another." Letter from James Iredell to Richard Spaight (Aug. 26, 1787), *quoted in* R. Berger, *supra* note 3, at 82-83. *See also* Rice, *supra* note 70: "Whatever the cogency of [the] 'essential role' test would be to a wholesale withdrawal of jurisdiction, if it were ever attempted by Congress, [this] test cannot properly be applied to narrowly drawn withdrawals of jurisdiction over particular types of cases." *Id.* at 195.

[135] The Federalist, No. 78, (A Hamilton) (J. Cooke ed. 1961).

[136] 5 U.S. (1 Cranch) 137 (1803).

[137] *See* Chief Justice Chase's comment in *Ex Parte* McCardle, 74 U.S. (7 Wall.) 515 (1868), *supra* text accompanying note 59. *See also* Muskrat v. United States, 219 U.S. 346 (1911): The exercise of [judical review], the most important and delicate duty of this court, is not given to it as a body with revisory power over the action of Congress, but because the rights of litigants in justiciable controversies require the court to choose between the fundamental law and a law purporting to be enacted within constitutional authority, but in fact beyond the power of the legislative branch of the government. *Id.*, at 361.

[138] Sager describes the separation of powers/federalism argument as a "particular version of the essential function claim." According to this version, the Constitution "contemplates federal judicial supervision of state conduct to ensure state compliance with federal constitutional norms." Sager, *supra* note 3, at 43, 45.

[139] Ratner, *supra* note 20, at 157-58. *See also Hearings, supra* note 10, at 14 (statement of Leonard G. Ratner).

[140] *See, e.g., Hearings, supra* note 10, 226-34 (testimony of Edward I. Cutler); C. Pritchett, *supra* note 20, at 15; Brant, *supra* note 20, at 28-29; Ratner, *supra* note 20, at 158.

[141] The Federalist, No. 48, at 332 (J. Madison) (J. Cooke ed. 1961).

[142] *Id.*

[143] The Federalist, No. 51, at 347-48 (J. Madison) (J. Cooke ed. 1961).

[144] As James Wilson declared in the Federal Convention: "The separation of the departments does not require that they should have separate objects but that they should act separately though on the same objects." 2 M. Farrand, *supra* note 36, at 78. *See also* R. Rossum & G. McDowell, *supra* note 127, at 6-11; R. Scigliano, The Supreme Court and the Presidency 2-7 (1971).

[145] R. Neustadt, Presidential Power 33 (1960).

[146] The Works of James Wilson 300 (R. McCloskey ed. 1967).

[147] *Id.*

[148] The Federalist, No. 48, at 332 (J. Madison) (J. Cooke ed 1961).

[149] *Id.* at 333.

[150] The Federalist, No. 49, at 339 (J Madison) (J. Cooke ed. 1961).

[151] The Federalist, No. 78, at 522-23 (A. Hamilton) (J. Cooke ed. 1961).

[152] *Id.* at 529. *See also* The Federalist, No. 48, at 334 (J. Madison) (J. Cooke ed. 1961).

[153] The Federalist, No. 81, at 545-46 (A. Hamilton) (J. Cooke ed. 1961).

[154] The Federalist, No. 80, at 541 (A. Hamilton) (J. Cooke ed. 1961).

[155] Sager, *supra* note 3, at 43. *See also* Kay, *Limiting Federal Court Jurisdiction: The Unforeseen Impact on Courts and Congress,* 65 Judicature 188 (1981); Ratner, *supra* note 20, at 158-61.

[156] Sager, *supra* note 3, at 48.

[157] The principle of qualitative majority rule considers not only the degree of support that a policy receives, but also the quality of the policy itself. *See generally* R. Rossum & G. Tarr, American Constitution: Cases and Interpretation (1983).

[158] The Federalist, No. 10, at 65 (J. Madison) (J. Cooke ed. 1961).

[159] The rival defects of majority tyranny and democratic ineptitude posed seemingly unsurmountable obstacles for constitution-makers, for the more they attempted to covercome majority tyranny by withholding the power to tyrannize, the more they rendered the government inept and powerless, and vice versa.

[160] *See* Diamond, The Federalist *on Federalism,* 86 Yale L.J. 1273, 1278-85 (1977).

[161] *See* The Federalist, No. 22 (A. Hamilton) (J. Cooke ed. 1961). In this essay, Hamilton discussed federalism as it was understood until the time of the Federal Convention and described it as characterized by three operative principles:

1. The authority of the central federal government was restricted to the individual state governments and did not reach the individual citizens composing the states. Even this authority, however, was limited; the resolutions of the federal authority amounted to little more than mere recommendations, which the states opted to observe or disregard.

2. The central federal government had no authority over the internal problems of the individual states. Its rule was limited primarily to certain external tasks of mutual interest to the member states.

3. Each individual member had an exact equality of suffrage. This equal vote was derived from the equality of sovereignty possessed by each member state.

[162] *See generally* Sager, *supra* note 3, at 45-57.

[163] Congress did not authorize the Supreme Court to review cases that invalidated state conduct on federal grounds until 1914. *See* Act of Dec. 23, 1914, ch. 2, 38 Stat. 790.

[164] *See* Judiciary Act of 1789, ch. 20 §22, 1 Stat. 84.

[165] Act of Mar. 3, 1891, ch. 517, §5, 26 Stat. 826, 827-28.

[166] Act of Feb. 13, 1925, ch. 229, §240(a), 43 Stat. 936, 938-39.

[167] Act of Apr. 29, 1802, ch. 31, §6, 2 Stat. 156, 159-61.

[168] Act of Mar. 3, 1891, ch. 517, §5, 26 Stat. 826, 827.

[169] *See* L. Tribe, American Constitutional Law 39 (1978); Hart, *supra* note 20, at 1373; Van Alstyne, *supra* note 70, at 263-64.

[170] Since National League of Cities v. Usery, 426 U.S. 833 (1976), it appears that Congress' power under the commerce clause is also subject to the dictates of the tenth amendment.

[171] 44 U.S. (3 How.) 236 (1845).

[172] *Id.* at 245. *See also* Lockerty v. Phillips, 319 U.S. 182 (1943); Sheldon v. Sill, 49 U.S. (8 How.) 441 (1850); Vaughn, *supra* note 110, at 237-41.

[173] *See* Berger, *supra* note 14, at 804; Wechsler, *supra* note 13, at 1005. *See also* Redish & Woods, *supra* note 3. Redish and Woods argue that Congress' power to deny original jurisdiction to the federal courts and to vest it instead in the state courts is limited by Tarble's Case, 80 U.S. (13 Wall.) 397 (1871), in which the Supreme Court overturned a habeas corpus order by a Wisconsin state court to a federal offical ordering the release of an allegedly under-age soldier from the United States Army. The Court reasoned that a state court had no power to interfere with the operations of federal officials. Redish and Woods infer from *Tarble's Case* that state courts lack jurisdiction to entertain any case that seeks to direct the conduct of federal officials through the use not only of habeas corpus but also of mandamus and injunctive powers. They later admit, however, that "Congress can probably circumvent the difficulties created by *Tarble's Case* by explicitly authorizing state court jurisdiction over the acts of federal officials." Redish & Woods, *supra* note 3, at 106. Thus, if Congress wants to preclude all lower federal court jurisdiction, it can do so without raising questions of due process, provided only it clearly authorizes state court review of those cases. *See* Sager, *supra* note 3, at 80-84.

[174] *See* Wechsler, *supra* note 14, at 1005.

[175] Hart, *supra* note 20, at 1401. *See also* Kay, *supra* note 148, at 186; Taylor, *Limiting Federal Court Jurisdiction: The Unconstitutionality of Current Legislative Proposals,* 65 Judicature 199, 201 (1981).

[176] Van Alstyne, *supra* note 32, at 269.

[177] Sager, *supra* note 3, at 76-77. Sager also writes: "Harm to constitutionally protected interests occurs whenever controversial rights are singled out for exclusion from federal jurisdiction. Where the specific circumstances surrounding Congress' deliberations conspire to send an apparent message of Congressional disapproval of federal judicial doctrine, the harm is exaggerated." *Id.* at 75. *See also* Brest, *supra,* note 123, at 589-94; Taylor, *supra* note 175, at 202-204.

[178] *See* Sager, *supra* note 3, at 41, 68-69, 72-73, 80, 87.

[179] *Id.* at 69.

[180] *Id.* at 41, 74, 89.

[181] *Id.* at 80. On other occasions, Sager describes the seduction as "bullying." *Id.* at 26, 64.

[182] 60 U.S. (19 How.) 393 (1857).

[183] 163 U.S. 537 (1896).

[184] 198 U.S. 45 (1905).

[185] Ironically, whereas Sager and his like-minded colleagues generally argue that the Constitution is what the Court says it is, they implicitly insist on one exception to this rule: the Constitution, or at least art. III, §2, is not what the Court says it is, at least in *Ex Parte* McCardle, 74 U.S. (7 Wall.) 505 (1868).

[186] 7 J. Richardson, Messages and Papers of the Presidents 13206, 3210 (1897).

[187] Brant, *supra* note 20, at 28, *See also* Merry, *supra* note 20, at 69; Ratner, *supra* note 20, at 158.

[188] Brant, *supra* note 20, at 28. The sole "descent" of this congressional "dagger" was the Act of March 27, 1868, ch. 34, 15 Stat. 44, which excised a portion of the Court's appellate jurisdiction.

[189] The Federalist, No. 51, at 353 (J. Madison) (J. Cooke ed. 1961).

[190] Wechsler, *supra* note 14, at 1006. It must be remembered, however, that if lack of uniformity among fifty states or twelve circuits concerning constitutional interpretation were to become a problem, congressional withdrawal of jurisdiction could easily be repealed by statute.

[191] *Id.*

[192] *Id.* at 1007. *See also* J. Choper, *supra* note 20, at 54.

[193] Sager, *supra* note 3, at 41, 68.

[194] Rice, *supra* note 70, at 197.

[195] *Id.*

[196] Act of March 27, 1868, ch. 34, 15 Stat. 44.

[197] 60 U.S. (19 How.) 393 (1857).

[198] *See* Van Alstyne, *supra* note 32, at 233-44. *See also* 3 C. Warren, The Supreme Court in United States History 193 n.1 (1922).

[199] *See supra* text accompanying note 188.

[200] The exceptions clause is not the only means by which Congress can attempt to curb the Court. For example, Congress also has power to impeach the justices; to destroy the Court's effectiveness by substantially increasing or reducing the size of its

membership; to limit tenure either through constitutional amendment or statutory inducements; to reduce or eliminate staff support for the Court; to refuse salary increases for the justices in inflationary times; to require extraordinary majorities to invalidate statutes; and to require that the justices file seriatim opinions in all cases. *See* W. MURPHY, CONGRESS AND THE COURT 63 (1962). *See also* R. STEAMER, THE SUPREME COURT IN CRISIS: A HISTORY OF CONFLICT (1971).

[201] THE FEDERALIST, No. 51, at 349 (J. Madison) (J. Cooke ed. 1961). These precautions would help to insure that the government would always reflect "the permanent and aggregate interests of the community." THE FEDERALIST, No. 10, at 57 (J. Madison) (J. Cooke ed. 1961).

[202] THE FEDERALIST, No. 78 (A. Hamilton) (J. Cooke ed. 1961).

[203] 5 U.S. (1 Cranch) 137 (1803). *See generally* Wolfe, *supra* note 122, at 293-99.

[204] THE FEDERALIST, No. 78, at 525 (A. Hamilton) (J. Cooke ed. 1961).

[205] *Id.* at 522.

[206] *Id.* at 526.

[207] L. HAND, THE BILL OF RIGHTS 73 (1965).

Limiting Federal Court Jurisdiction: The Constitutional Basis for the Proposals in Congress Today

(By Charles E. Rice)

The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish.—The Constitution, Article III, Sec. 1.

The Constitution itself did not create the lower federal courts. Instead it left to Congress the decision whether to create such courts and, if Congress chose to create them, how much of the jurisdiction encompassed within the federal judicial power it ought to confer upon them. Congress need not have created such courts at all. Having created them, it need not vest in them jurisdiction to decide the full range of cases within the federal judicial power.

For instance, until 1875, the lower federal courts had no general jurisdiction in cases arising under the Constitution or laws of the United States.[1] Today, the jurisdiction of the lower federal courts is limited in some respects by the requirement of jurisdictional amount and in other respects as to the classes of cases in which they are empowered to exercise jurisdiction. The Norris-La Guardia Act, for example, withdrew from the lower federal courts jurisdiction to issue injunctions in labor disputes. The constitutionality of that act was sustained by the Supreme Court in *Lauf* v. *E. G. Shinner and Co.*[2]

More recently, in an extensive dictum in *Palmore* v. *U.S.*[3] the Supreme Court summarized the status of the lower federal courts under Article III:

"The decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create inferior Art III courts to hear and decide cases within the judicial power of the United States, including those criminal cases arising under the laws of the United States. Nor, if inferior federal courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Art III."

The Court then quoted extensively from the 1845 case of *Cary* v. *Curtis*[4] in a decision which said:

"[T]he judicial power of the United States . . . is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Surpeme Court) . . . and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good."

The *Palmore* court added a footnote,[5] and then concluded.

"Congress plainly understood this, for until 1875 Congress refrained from providing the lower federal courts with general federal-question jurisdiction. Until that time, the state courts provided the only forum for vindicating many important federal claims. Even then, with exceptions, the state courts remained the sole forum for the trial of federal cases not involving the required jurisdictional amount, and for the most part retained concurrent jurisdiction of federal claims properly within the jurisdiction of the lower federal courts."[6]

While various theories have been advanced to argue for restrictions on Congress' power over the jurisdiction of the lower federal courts, none of them is supported by the Supreme Court. Not only does the greater discretion to create, or not, the federal courts themselves include the lesser power to define their jurisdiction, the evident intent of the framers was to vest in the Congress the capacity to make the prudential judgment as to which courts, state or federal, should decide constitutional cases on the lower and intermediate levels.

Insofar as the bills pending before Congress today withdraw a particular class of cases from the lower federal courts or forbid those courts to issue specified types of orders, those bills are clearly within the constitutional power of Congress to enact. Moreover, those bills represent a very appropriate means by which to correct recent decisions of the federal courts that a great majority of the people cannot endorse and to restore to the states and the people the right to decide such issues in the future with finality.

THE COURT'S APPELLATE JURISDICTION

The Exceptions Clause of Article III, Section 2, which provides that "the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make" was intended, according to Alexander Hamilton, to give "the national legislature . . . ample authority to make such exceptions, and to prescribe such regulations as will be calculated to obviate or remove" the "inconveniences" which might arise from the powers given in the Constitution to the federal judiciary.[7]

There was evidently concern in the Constitutional Convention and in some of the ratifying conventions that the Supreme Court would exercise appellate power to reverse jury verdicts on issues of fact. Nevertheless, the language of Article III, Section 2, explicitly gives the Supreme Court "appellate Jurisdiction, both as to Law and Fact." And it is evident that the power of Congress to make exceptions to that appellate jurisdiction extends to the Court's power to review questions of law as well as questions of fact. As Alexander Hamilton observed in the Federalist, No. 81.[8]

"The Supreme Court will possess an appellate jurisdiction, both as to law and fact, in all cases referred to them, both subject to any exceptions and regulations which may be thought advisable."

This power of Congress was so broadly interpreted that a specific authorization by Congress of appellate jurisdiction was construed by the Supreme Court to imply that such jurisdiction was excluded in all other cases. This "negative pregnant" doctrine was enunciated by Justice John Marshall in *U.S.* v. *More,* in which the Court held that it had no criminal appellate jurisdiction because none had been expressly stated by Congress, Marshall, speaking for the Court, said ". . . an affirmative description of its powers must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described."[9]

It is interesting to note that no criminal cases were appealable to the Supreme Court until 1891, simply because until then Congress had not specified that they could be so appealed. The only way a criminal case could be brought to the Supreme Court was "by certificate of division of opinion" in the Circuit Court "upon specific questions of law."[10]

In 1810, in *Durousseau* v. *U.S,*[11] Chief Justice Marshall emphasized that the Court is bound even by implied exceptions to its appellate jurisdiction, so that, in effect, it can exercise it only where expressly granted by Congress." The Congress, he said, "have not declared, that the appellate power of the Court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affirmative description has been understood to imply a negative in the exercise of such appellate power as is not comprehended within it."

When Chief Justice Taney spoke to the issue in *Barry* v. *Mercein,* he said

"By the Constitution of the United States, the Supreme Court possesses no appellate power in any case, unless conferred upon it by act of Congress; nor can it, when conferred be exercised in any other form, or by any other mode of proceeding than that which the law prescribes."[12]

Prior to 1868, the Supreme Court never had to decide the validity of an act of Congress making a specific exception to its appellate jurisdiction. But when McCardle, a Mississippi editor, was imprisoned by the federal reconstruction authorities on account of statements he had made, he sought a writ of habeas corpus from the federal circuit court, asking that court to rule that his detention was invalid. This petition denied, he appealed to the Supreme Court under a statute specifically permitting such appeals.

After the Supreme Court heard arguments on the case and while the Court was deliberating, Congress enacted a statute repealing that part of the law which had given the Supreme Court jurisdiction to hear such appeals from the circuit court. The Court, in confronting for the first time the issue of the positive congressional exception to the appellate jurisdiction, dismissed the petition for want of jurisdiction, even though the case had already been argued and was before the Court. Said the Court:

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words . . . without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case. And this is not less clear upon authority than upon principle."[13]

It is true that the 1868 statute upheld in *McCardle* did not bar the Supreme Court from reviewing all habeas corpus cases, but only review sought under the 1867 statute which provided review of such cases from the circuit court. The Supreme Court retained the habeas corpus review power which had been given it by the Judiciary Act of 1789 and which Congress had chosen not to withdraw.

Later in 1868, the Court applied this distinction in *Ex parte Yerger*,[14] where the Court held that the 1868 statute left untouched the Supreme Court's power to issue its own writ of habeas corpus to a lower court as provided in the Judiciary Act of 1789. But neither in *McCardle* nor in *Yerger* is there any indication whatever that the Court would not have upheld an act withdrawing appellate jurisdiction in all habeas corpus cases from the Court.

ONE IMPORTANT LIMITATION

Four years later, in *U.S.* v. *Klein*[15] the Court spelled out one important limitation of the Exceptions Clause in the only Supreme Court decision ever to strike down a statute enacted under that clause. The claimant in *Klein*, who had been a Confederate, sued in the Court of Claims to recover the proceeds from the sale of his property, which had been seized and sold by the Union forces. He had received a full presidential pardon for his Confederate activities, and the Court of Claims ruled in his favor for that reason. (If he had not received a pardon, the governing statute would have prevented his recovery.)

While the appeal of his case was pending before the Supreme Court, a statute was enacted which provided that, whenever it appeared that a judgment of the Court of Claims had been founded on such a pardon, without other proof of loyalty, the Supreme Court would have no further jurisdiction of the case. The statute further declared that every pardon granted to a suitor in the Court of Claims which recited that he has been guilty of any act of rebellion or disloyalty, would, if accepted by him in writing without disclaimer of those recitals, be taken as conclusive evidence of rebellion or disloyalty and his suit would be dismissed.

While declaring the statute unconstitutional, the Supreme Court expressly reiterated that Congress does have the power to deny appellate jurisdiction "in a particular class of cases";

"Undoubtedly the legislature has complete control over the organization and existence of that court and may confer or withhold the right to appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient."[16]

The statute in *Klein* was declared unconstitutional because, under the guise of limiting jurisdiction, it attempted to dictate to the Court how and by what processes it should decide the outcome of a particular class of cases. The Court lost jurisdiction only when the Court of Claims judgment was founded on a particular type of evidence, that is, a pardon. And the statute further prescribed that the effect of the pardon would be such that the recitals in the pardon of acts of rebellion and disloyalty would be conclusive proof of those acts. "What is this," said the Court, "but to prescribe a rule for the decision of a cause in a particular way?"[17]

It is difficult to imagine a more flagrant intrusion upon the judicial process than this effort to dictate the rules to be used in deciding cases. Moreover, the statute in *Klein* intruded upon the President's pardoning power by attempting "to deny to pardons granted by the President the effect which this court had adjudged them to have."[18] In these major respects the statute involved in *Klein* was wholly different from a statute simply withdrawing appellate jurisdiction over a certain class of cases.

Since *Klein*, the Supreme Court has not had occasion to define further any limits to the Exceptions Clause. In the *Francis Wright* case,[19] the Court said that what the "appellate powers" of the Supreme Court "shall be" and "to what extent they shall be exercised, are, and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes be kept out of the jurisdiction altogether, but particular classes of questions may be subject to re-examination and review, while others are not."

Chief Justice Waite, in his opinion for the Court in *Francis Wright*, referred to "the rule, which has always been acted on since, that while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe."[20]

Several statements of individual justices in the intervening years reinforce this conclusion. Thus, Justice Frankfurter, in his dissenting opinion in *National Insurance Co.* v. *Tidewater Co.*[21] noted that "Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while the case is sub judice. Ex parte McCardle, 7 Wall. 506"[22]

In summary, the holdings of the Supreme Court and the statements of various individual justices compel the conclusion that Congress clearly has power under the Exceptions Clause to withdraw appellate jurisdiction from the Supreme Court in particular classes of cases. Indeed, this power is so strong that an exception will be implied in cases where Congress has not specifically "granted" appellate jurisdiction to the Court.

ATTACKS ON USE OF THE EXCEPTION POWER

It will be useful here to mention some arguments that have been advanced against the use of the exception power by Congress. None of them will withstand careful scrutiny, since they each reflect a misunderstanding of our history or the essence of our constitutional system.

Essential roles.—It has been urged, as Professor Henry Hart put it, that the exceptions "must not be such as to destroy the essential role of the Supreme Court in the constitutional plan."[23] In addition to the difficulty of determining what is the Supreme Court's "essential role" that test would make the Court itself the final arbiter as to the extent of its powers. Despite the clear grant of power to Congress in the Exceptions Clause, no statute could deprive the Court of its "essential role" but that role would be whatever the Court said it was.

It is hardly in keeping with the spirit of checks and balances to read such a virtually unlimited power into the Constitution. If the Framers intended so to permit the Supreme Court to define its own jurisdiction even against the will of Congress, it is fair to say that they would have made that intention explicit.

Furthermore, the "essential role" test was advanced by Professor Hart in response to the suggestion that Congress could satisfy the Exceptions Clause by removing all but a "residuum of jurisdiction," for example, by withdrawing appellate jurisdiction in "everything but patent cases." Whatever the cogency of Professor Hart's "essential role" test would be to a wholesale withdrawal of jurisdiction, if it were ever attempted by Congress, his test cannot properly be applied to narrowly drawn withdrawals of jurisdiction over particular types of cases.

It could hardly be argued, for example, that the "essential role" of the Supreme Court depends on its exercising appellate jurisdiction in every type of case involving constitutional rights. Such a contention would be contrary to the clear language of the Exceptions Clause and to the consistent indications given by the Supreme Court itself.

Uniformity and Supremacy.—A related but more substantial argument against the exercise of Congress' Exceptions Clause power is that Supreme Court review of cases involving important constitutional rights is necessary to ensure uniformity of interpretation and the supremacy of federal statutes over state laws.

The argument that fundamental rights should not be allowed to vary from state to state begs the question of whether there is a fundamental right to uniformity of interpretation by the Supreme Court on every issue involving fundamental rights. The argument overlooks the fact that the Exceptions Clause is itself part of the Constitution. As Alexander Hamilton wrote in No. 80 of the Federalist, the Exceptions Clause is a salutary means "to obviate and remove" the "inconveniences" resulting from the exercise of the federal judicial power.

Judging from what the Supreme Court has said about it over the years, the clause is not only an important element of the system of checks and balances, but one which grants a wide discretion to Congress in its exercise. There is, in short, a fundamental right to have the system of checks and balances maintained in working order. Without that system, the more dramatic personal rights, such as speech, privacy, free exercise of religion, would quickly be reduced to nullities. This right to a preservation of the system of checks and balances is itself one of our most important constitutional rights.

Fundamental rights.—If it be contended that the Exceptions Clause cannot be used to deprive the Supreme Court of appellate jurisdiction in cases involving fundamental constitutional rights, it must be replied that such a limitation can be found neither in the language of the clause nor in its explications by the Supreme Court. Indeed, the Supreme Court's conclusion, prior to 1891, that there was no general right of appeal to that Court in criminal cases surely involved the denial of the right to appeal in cases involving constitutional rights. For what constitutional right is more fundamental than the Fifth Amendment right not to be deprived of life or liberty without due process of law?

The specious character of the argument that Congress cannot exercise its Exceptions Clause power in cases involving fundamental rights is shown, for example, in the school prayer matter. The Establishment

Clause of the First Amendment was intended to reserve the issue of establishment of religion for decision by the states without federal interference. The constitutional right protected by the Establishment Clause is the right to have issues such as prayer in public school decided on a state-by-state basis.[24]

Moreover, it is only through an historically indefensible interpretation of the Fourteenth Amendment that the Supreme Court has decreed that the states are strictly bound by the provisions of the Bill of Rights.[25] Until the adoption of the Fourteenth Amendment in 1869, it was clear that the protections of the Bill of Rights bound only the federal government.[26]

The school prayer issue arises out of one judicial fiction piled upon another. The Fourteenth Amendment is interpreted, contrary to the intent of its framers, so as to bind the states strictly by the Supreme Court's conceptions of the First Amendment, and then the First Amendment itself is interpreted in a manner that would shock its framers in the First Congress. Other areas, including abortion, legislative apportionment and certain aspects of criminal procedure, similarly involve "fundamental" rights which were beyond the imagination of the framers of the Constitution and the 14th Amendment and which owe their recognition only to the more fertile imaginations of the justices of the Supreme Court.

Rights which the Court created.—The argument that the Supreme Court cannot be deprived of jurisdiction to hear appeals when they involve rights which the Court has itself created, is an exercise in bootstrap jurisprudence. It would make the Supreme Court not only supreme but absolute in some of the most sensitive areas of our constitutional life. Clearly, the Exceptions Clause was designed specifically to prevent such a result.

DRAFTING LEGISLATION

An acceptable format for a bill limiting the Court's jurisdiction can already be found in several of the bills (e.g., H.R. 72 and H.R. 865) in which a section withdrawing the subject from Supreme Court jurisdiction is followed by one providing that the district courts shall not have jurisdiction in any case which the Supreme Court does not have jurisdiction to review under the foregoing section. Congress, however, could withdraw jurisdiction from the lower courts without withdrawing appellate jurisdiction from the Supreme Court, and vice versa. The Congressional powers involved are distinct and there is no constitutional necessity for them to be exercised together.

It should be noted, however, that Congress could not withdraw from the lower federal courts or from the appellate jurisdiction of the Supreme Court, jurisdiction, for example, "in any case where a Baptist shall be" plaintiff or appellant. This would be unconstitutional, not because the Exceptions Clause power is limited, but because of a specific prohibition elsewhere in the Constitution. The religion of the appellant has nothing to do with the authentic nature of the case. The fact that Congress is forbidden by the First Amendment to prohibit appeals by Baptists, Jews, etc., does not mean that there is any restriction on Congress' power to exclude classes of cases, as determined by the nature of the case, from the jurisdiction of the lower federal courts and the appellate jurisdiction of the Supreme Court.

A separate issue is raised by the brief language of three of the pending bills:

"That no court of the United States shall have jurisdiction to require the attendance at a particular school of any student because of race, color, creed, or sex." [H.R. 1079, H.R. 1180]

"That, pursuant to Article III, sections 1 & 2, of the United States Constitution, no court of the United States shall have the jurisdiction to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school." [H.R. 761]

These provisions do not expressly apply to the appellate jurisdiction of the Supreme Court. If they are intended to apply only to the lower federal courts, it would be preferable to have that intent expressed. If they are intended as well to withdraw jurisdiction from the Supreme Court, they may run afoul of the principle of *United States* v. *Klein*[27] that Article III, Section 2, does not permit Congress to tell the Supreme Court how to decide a case, as opposed to Congress' clear power to withdraw a class of cases from the Court's appellate jurisdiction.

The exercise of congressional power under Article III, Section 2, should be evenhanded. These three bills, if they are intended to apply to the Supreme Court, seem merely to forbid the Court to decide a case in a particular way. A preferable technique is that employed by H.R. 869: "the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise any case arising out of any State statute, ordinance, rule, regulation, or any parts thereof, or arising out of any act interpreting, applying or enforcing a State statute, ordinance, rule, or regulation, which relates to assigning or requiring any public school student to attend a particular school because of his race, creed, color, or sex."

What will be the practical effect of withdrawing jurisdiction from the Supreme Court and the lower federal courts? The school prayer issue will serve as an example. Unlike constitutional amendment, such a withdrawal would not reverse the Supreme Court's ruling on school prayer. Presumably, at least some state courts would strictly follow those decisions as the last authoritative Supreme Court pronouncement on the subject. But a new law would ensure that the Court received no opportunity to further extend its errors. And in cases where supporters of the school prayer decisions sought to extend them, for example, to outlawing voluntary prayer meetings by public school students outside of class time, those state courts would be apt to show a greater measure of prudence than the Supreme Court has sometimes shown on the subject.

It may be expected, however, that some state courts would openly disregard the Supreme Court precedents and decide in favor of school prayer once the prospect of reversal by the Supreme Court had been removed. But that result would not be such a terrible thing. It must be remembered that we are talking about Supreme Court decisions which, in the judgment of the elected representatives of the people and the President (or of two-thirds of the Congress overriding his veto), would appear so erroneous as to be virtually usurpations.

It would be a healthful corrective of those decisions for the people to trust for a time in the state courts upon which the framers of the Constitution primarily relied and to be protected against further excesses in that area on the part of the Court. In the process, the Court might learn a salutary lesson so that it would avoid future excursions beyond its proper bounds. Finally, because a statute rather than a constitutional amendment is involved, the Court's jurisdiction could readily be restored should the need for it become apparent.

In his First Inaugural Address, President Abraham Lincoln warned that "the candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of the eminent tribunal."

Supreme Court decisions in several areas are distortions of the constitutional intent in matters of substantial importance. It is within the power—and it is the duty—of Congress, to remedy this wrong.

The withdrawal of jurisdiction would be a measured and appropriate response. It would be preferable to a constitutional amendment in that it would have no permanent impact on the Constitution. If experience showed it to be unwise, it could be readily repealed by a statute. But it would restore the balance of governmental powers and help undo some of the unfortunate consequences of judicial excess.

FOOTNOTES

[1] Hart and Wechsler, The Federal Courts and the Federal System 727-33 (St. Paul: West, 1953).

[2] 303 U.S. 323, 330 (1938).

[3] All U.S. 389. 400-402 (1973).

[4] 3 How. 236, 245. 11 L. Ed. 576 (1845).

[5] Said the Court in its footnote: "This was the view of the Court prior to Martin v. Hunter's Lessee. I Wheat. 304, 4 L. Ed. 97 (1816). Turner v. Bank of N. America, 4 Dall. 8.1 L. Ed. 718 (1799); United States v. Hudson, 7 Cranch 32.3 L. Ed. 259 (1812). And the contrary statements in Hunter's Lesseé, supra, at 327-339, did not survive later cases. See, for example, in addition to Cary v. Curtis, 3 How. 236 11 L. Ed. 576 (1815), quoted in the text, Rhode Island v. Massachusetts, 12 Pet. 657, 721-722, 91., Ed. 1233 (1838); Sheldon v. Sill, 8 How. 441, 12 L. Ed. 1147 (1850); Case of the Sewing Machine Companies, 18 Wall, 553, 577-578. 21 L. Ed. 914 (1874); Kline v. Burke Constr. Co. 260 U.S. 226, 233-234, 67 L. Ed. 226, 43 S Ct 79, 24 ALR 1077 (1922)."

[6] 411 U.S. 389, 400-402 (1973).

[7] The Federalist, No. 80 (emphasis in original).

[8] The Federalist, No. 81 (emphasis in original).

[9] 7 U.S., 3 Cranch 159, 172 (1805).

[10] United States v. Sanges 144 U.S. 310, 319 (1892); see also United States v. Cross, 145 U.S. 571 (1892) Ex parte Bigelow, 113 U.S. 328, 329 (1885).

[11] 10 U.S., 6 Cranch 307, 313 (1810).

[12] 46 U.S., 5 How. 103, 119 (1847).

[13] Ex parte McCardle, 74 U.S., 7 Wall. 506, 513-514 (1868).

[14] 75 U.S., 8 Wall. 85 (1868).

[15] 80 U.S., 13 Wall. 128, 145-46 (1872).

[16] id., emphasis added.

[17] id.

[18] Id.

[19] 105 U.S. 381, 386 (1881).

[20] Id., at 385 (emphasis added).

[21] 337 U.S. 582, 655 (1949).

[22] See also the opinion of Justice Harlan in Glidden v. Zdanok, 370 U.S. 567-68 (1962); and see the concurring opinion of Justice Douglas in Flast v. Cohen 392 U.S. 83, 109 (1968), stating that "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of Section 2, Art. III. See Ex parte McCardle, 7 Wall. 506."

[23] Hart, *The Power of Congress to Limit the Jurisdition of the Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362, 1365 (1953).

[24] See generally, Griswold, *Absolute Is In the Dark*, 8 Utah L. Rev. 167 (1963); and Rice, The Supreme Court and Public Prayer (Bronx, New York: Fordham University Press, 1964).

[25] See Berger, Government by Judiciary (Cambridge: Harvard University Press, 1977) ch. 8.

[26] Barron v. Baltimore, 32 U.S., 7 Pet. 243 (1833).

[27] Supra n. 15.

Mr. HATCH. Mr. President, on behalf of the principle authors of the substitute bill, Senators KENNEDY, SPECTER, and myself, I move to table this amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah [Mr. HATCH] to table the amendment of the Senator from North Carolina [Mr. HELMS]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from Nevada [Mr. REID], the Senator from Indiana [Mr. SASSER], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER] would vote "nay."

Mr. SIMPSON. I announced that the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 20, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—71

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Simpson
Specter
Stafford
Stennis
Stevens
Weicker
Wilson
Wirth

NAYS—20

Armstrong
Byrd
Exon
Ford
Gramm
Hecht
Heflin
Helms
Humphrey
Kasten
McClure
McConnell
Nickles
Pressler
Shelby
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—9

Biden
Breaux
D'Amato
Dodd
Garn
Reid
Roth
Sasser
Simon

So the motion to lay on the table Amendment No. 2780 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent that the Senator from Vermont, Senator STAFFORD, and the Senator from Arizona, Senator DECONCINI, be added as cosponsors to the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I rise today to express my support for H.R. 1158, the Fair Housing Amendments of 1988, and to urge my colleagues to support this legislation that will add new force and meaning to our civil rights laws.

Mr. President, in 1968, we in Congress made a commitment to eliminate discrimination in housing by passing the landmark Fair Housing Act. Yet today, 20 years later, discrimination in housing is still a powerful reality for millions of Americans.

According to surveys by the Department of Housing and Urban Development [HUD], at least 2 million incidences of discrimination occur annually. Seventy-two percent of the black families seeking rental housing today stand the chance of experiencing discrimination. These figures are due, in large part, to the fact that existing fair housing law lacks tough enforcement mechanisms.

The Fair Housing Amendments of 1988 will change that. Under this legislation, the Secretary of HUD would be given the power to back up the initial investigation and conciliation process. If a dispute has not been resolved within 100 days and the Secretary has found reasonable cause to believe that discrimination has or is about to occur, the Secretary could now issue a formal charge against the respondent.

At this point, any party to the dispute has the right to elect to have a trial by jury in a U.S. district court. In those instances, HUD would represent the interest of the plaintiff. If no party elects to go to court, however, within 120 days there would be a hearing before an independent administrative law judge [ALJ] at HUD.

It is the ALJ process that is the major innovation of H.R. 1158. If the ALJ finds that the respondent has or is about to engage in a discriminatory housing practice, he or she has the authority to issue an injunction, to assess actual damages, and to levy a fine. This procedure, already in use in many other Federal agencies, is fair, inexpensive, and effective.

After years of contentious debate on this issue, Mr. President, we finally have a strong fair housing bill. The House of Representatives has already passed this legislation by an overwhelming majority. This outcome is the direct result of a historic alliance between the civil rights community and the National Association of Realtors. Recognizing the need to put teeth in our fair housing laws, both groups worked together with leading Members of Congress to craft a bipartisan compromise.

Mr. President, H.R. 1158 is also important in that it provides new protection to two groups in our society who all too often suffer housing discrimination—the handicapped and families with children. Naturally, the bill takes into account circumstances where certain limitations on housing are valid. Elderly communities, for example, are exempted from the provisions regarding discrimination against children. Our Nation's seniors should not and will not lose the advantages of specialized elderly housing. Nevertheless, the bill makes clear that families and the handicapped have a right to live in the housing of their choice.

I am very pleased that we will have the opportunity to pass this landmark legislation during the 100th Congress. In 1968, we made an important statement that discrimination in housing must be abolished. Statements, however, are not enough. Today, we take another step in showing that America is devoted to living out the promise of its principles.

As an original cosponsor of the Fair Housing Amendments in the Senate, I urge my colleagues to vote for H.R. 1158.

Mr. CHAFEE. Mr. President, the Senate will soon consider a landmark piece of legislation, the Fair Housing Amendments of 1988. I was an original cosponsor of S. 558, the legislation that gave rise to this historic compromise, and I urge the Senate to take up and adopt it without delay.

With this measure, we will complete a process we began in 1968, with passage of the Fair Housing Act. The Fair Housing Act banned discrimination on the basis of race, color, or religion. However, its effectiveness has been seriously limited by its lack of an enforcement mechanism.

This has left the more than 2 million Americans that are the targets of illegal housing discrimination each year with little recourse except to file a time-consuming and costly suit at their own expense. Too often, the fair housing law is only a paper tiger.

The bill now before us would change that by giving the Department of Housing and Urban Development

[HUD] the tools to enforce the law. Under current law, its role is limited to conciliation and arbitration; it has no power to enforce discrimination complaints. The Department of Justice may file suit, but only if a "Pattern and Practice" of discrimination is found. Otherwise, a person encountering housing discrimination has only one option—to file suit at his or her own expense. In most cases, this is prohibitively costly and time consuming—particularly for someone whose immediate concern is finding housing.

This bill would change that by providing HUD with sound and reasonable enforcement mechanisms, similar to those used for many years by other Federal agencies. Under this bill, HUD will initiate enforcement proceedings in cases where it finds "reasonable cause" to believe housing discrimination has occurred, after first trying to reconcile the parties. Cases will then be referred to an administrative law judge, or, at the request of either of the parties, to a U.S. district court. Proceedings must begin within 120 days, and reach a conclusion within 60 days. The court may award damages or levy fines—of between $10,000 and $50,000.

The bill also strengthens the fair housing laws by extending their coverage to the disabled and to families with children. The need for these provisions is great, as recent surveys of the housing landscape make abundantly clear.

For example, a 1980 HUD survey found that 50 percent of all rental units have restrictions on rentals to families with children, and that another 25 percent do not allow children at all. I want to point out that the ban on discrimination would not apply to Federal housing for the elderly, to retirement communities, or to other developments specifically designed for older Americans.

Finally, passage of this legislation will be a real boon to the 36 million disabled Americans who are not covered by existing fair housing laws.

Mr. President, last April marked the 20th anniversary of the Fair Housing Act. The Fair Housing Act is truly a landmark, but for too long it has been an unfinished landmark. The legislation before us today is an appropriate and long-overdue capstone—without which our job can hardly be considered complete.

By putting real teeth into the Nation's fair housing laws, this bill will go a long way toward helping the millions of Americans that encounter discrimination in their search for shelter. Its provisions are long overdue, and I urge the Senate to adopt them without further delay.

Mr. SIMON. Mr. President, I rise in strong support of the fair housing bill, which I have cosponsored, and commend the Senator from Massachusetts and the Senator from Pennsylvania for their leadership and hard work in putting together the substitute before this body.

As chairman of the Constitution Subcommittee, I made the fair housing bill my highest priority. Early in the 100th Congress, I convened 6 days of hearings and took testimony from 41 witnesses. The subcommittee then reported favorably an amendment in the nature of a substitute that closely resembles the legislation before us today.

When my subcommittee held hearings on this bill we looked at the Senate's earlier hearings on the issue of fair housing, which occurred in 1979. We found that the Judiciary Committee's findings 8 years ago are as true today as they were then—no enforcement provisions exist in current law to combat continuing housing discrimination. As a result, the law that was supposed to wipe out housing discrimination from our country is not working.

Recent studies have shown unacceptable rates of discrimination against blacks, Hispanic Americans, disabled people, families with children, women, and Asian Americans. The most recent HUD sponsored study found that blacks looking to buy a home have a 48-percent chance of encountering discrimination; their chances of being discriminated against in the rental market are 72 percent. Another study in Dallas found that dark-skinned Hispanic Americans were likely to be discriminated against in 96 cases out of 100 when looking for housing.

Disabled people are also locked out of many housing opportunities by physical barriers and the barrier of ignorance.

A 1980 HUD survey noted that 26 percent of our Nation's rental housing market bans rental to families with children; another 50 percent sets limits on ages and numbers of children allowed. That means more than three-fourths of the housing market has restrictions on families.

Few problems hit Americans where they live as harshly as discrimination when they enter the marketplace to rent or buy a home. Today there is wide agreement after nearly two decades of experience that the Fair Housing Act has not been invested with adequate enforcement remedies. Discrimination in housing is still a reality for millions of Americans.

A promise was made nearly two decades ago with insufficient resources to back it up. Now is the time to make good on that promise.

The bill before this body amends the Federal Fair Housing Law, title VIII of the Civil Rights Act of 1968. It is sponsored by a bipartisan group of Senators and has the support of the administration and all the Presidential candidates. It is similar to the bill that passed the House on June 29, 376 to 23.

Mr. President, I particularly want to note that I strongly support the inclusion of individuals with handicaps as a newly protected class under the fair housing statute.

The reality is that millions of Americans are being excluded from full participation in the life of this Nation by an inaccessible, unavailable, and inappropriate housing stock. Part of the housing problem is a result of simple prejudice—the same kind of prejudice we made illegal on the basis of race in 1968. But there is another serious problem: physical exclusion because of barriers in architecture. These architectural barriers, which need not be costly to eliminate, are like "Keep Out" signs to a substantial part of our populations.

This means that for the Americans who already have the most barriers to overcome, housing is the hardest to find. Some social service agencies report that for every wheelchair-accessible apartment available, there are 50 clients in need. In some places, a wait of 2 to 4 years for usable housing is common.

Another dimension of this problem comes at the other end of the cycle: not in finding the housing, but in being forced to leave. This problem especially hurts our elderly citizens with disabilities. When the disability worsens, and they can no longer negotiate the steps or fit the new wheelchair into the bathroom, they are forced to move out of their homes.

There is an enormous human cost when elderly persons are uprooted from their home communities and placed in other, often more institutionalized, settings. They lose their relationship with the corner grocer, the local church, neighbors, and friends. This is unnecessary isolation, and it becomes ghettoization as well when the only choice is a 100-unit building for the elderly.

It is not only the elderly who are affected. As Marca Bristo, the director of Access Living in Chicago, testified last year before the Subcommittee on the Constitution, too many people with disabilities unnecessarily fill the beds in the only accessible housing in town—the nursing home. In Cook County, IL, over 10,000 nonelderly disabled people live in nursing homes.

The provisions of the fair housing amendments included in the Kennedy-Specter substitute address two areas of discriminatory practices related to physical access in housing. Discrimination under the act will include refusal to permit, at the expense of the individual with the disability, reasonable modifications of the premises. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, with reasonable wear and tear excepted.

The provisions also require that all future multifamily housing of four or more units will have to meet minimal access guidelines. In the case of non-elevator buildings, only the ground-floor units must meet these guidelines. These provisions have been developed in consultation with the National Association of Home Builders and the American Institute of Architects, and these organizations support this bill. With clarifications on the primary role of States and local governments in carrying out enforcement of these requirements, the disability provisions have the full support of the White House, the Department of Housing and Urban Development, and the Justice Department.

The discrimination against individuals with handicaps that is based on prejudice and stereotype is also addressed through provisions in this legislation. By including individuals with handicaps as a protected class, the bill provides the same general prohibitions against activities related to the sale or rental of a dwelling as are currently in place for the existing protected classes.

The provisions of the substitute include the definition of handicap found in section 504 of the Rehabilitation Act of 1973, as amended. During action on the Civil Rights Restoration Act, the Congress reaffirmed the inclusion of individuals with contagious diseases and infections in the definition of handicap, and codified the Supreme Court's Arline decision. The language of this substitute states that these provisions do not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. This is wholly consistent with the definition of handicap in section 504 and the Civil Rights Restoration Act.

Mr. President, the provisions of this legislation for persons with disabilities are an equitable approach to ending housing discrimination and making a large part of our housing stock available to this substantial part of our citizenry.

I also want to express my strong support for extending the protection of the Fair Housing Act to families with children.

Many families with children face economic difficulties in finding housing. To add discrimination to that is unconscionable. Children are our country's future. To deny a family the right to buy or rent because they have children, or a certain number of children, or children of certain ages, prevents many American families from realizing a central element of the American dream—a safe and affordable place to live and raise their children.

Nationwide, huge portions of the housing market are legally closed to families with children. Signs reading "No Children" are commonplace. An extensive national study conducted by the Department of Housing and Urban Developement found that 75 percent of the rental units surveyed either restricted or barred children.

The fair housing amendments prohibit discrimination on the basis of familial status, as existing fair housing law now prohibits such discrimination on the basis of sex, religion, national origin, color, and race. At the same time, it protects the rights of landlords and senior citizens.

This legislation does not pit one generation against another. It protects the rights of seniors to live in retirement communities and buildings to serve their special needs, and to exclude children if they so desire.

Mr. President, I am proud to have played a significant role in the development of this landmark civil rights legislation, and urge its speedy passage.

Mr. BYRD. Could we find out how many amendments remain, hopefully, to get an agreement which would limit the amendments to those we can identify and then include a time for vote on final passage tomorrow? I yield to the Republican leader.

Mr. DOLE. Mr. President, we have checked on this side. As far as I know—I can find out quickly—there could be an additional amendment by Senator HELMS on the definition of handicapped and two amendments by Senator HUMPHREY, on building code costs for houses and building code costs for rental properties.

I hope that we might get an agreement that these would be the only amendments in order. I am not certain they will agree to a time agreement, but I think there might be a willingness to agree they are the only amendments in order. I do not know if Senator HUMPHREY is prepared to proceed tonight or is prepared to do it in the morning.

Mr. BYRD. Mr. President, I yield to Mr. HUMPRHEY.

Mr. HUMPHREY. I am prepared to do whatever the leadership wishes. Some Members have pressing engagements tonight. Certainly I want to be accommodating in that respect.

With respect to the unanimous-consent request, may I ask, is it the majority leader's intent for the Senate to go out sometime soon?

Mr. BYRD. That will depend upon whether or not we can get the agreement. If we get the agreement limiting the number of amendments so that we know there will be no more, then we can talk about what time the Senate will go out. Otherwise, we are constrained to press on.

Mr. President, I ask unanimous consent that the only remaining amendments be the two amendments identified by the Republican leader as being offered by Mr. HUMPHREY and the one possible amendment that was identified by the Republican leader as being possibly offered by Mr. HELMS.

Mr. DOLE. I am now advised there may be a second amendment by Senator HELMS.

Mr. BYRD. Mr. President, I ask unanimous consent that the remaining amendments to the bill be limited to the following: An amendment by Mr. HELMS to clarify the definition of handicapped, an amendment by Mr. HUMPHREY dealing with building code costs for houses, an amendment by Mr. HUMPHREY dealing with building costs for rentals, an unidentified amendment by Mr. HELMS, and an unidentified amendment to the Helms amendment by either Mr. KENNEDY or Mr. BYRD, that no motion to recommit with instructions/without instructions be in order.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, Mr. President, would my distinguished friend tell me what that means for the balance of the evening?

Mr. BYRD. For the balance of the evening, if Mr. HUMPHREY wishes to call up his amendment and debate it for a while, that would be fine, Mr. KENNEDY may wish to debate it. We have agreed that a vote would occur tomorrow morning at 11 o'clock.

Mr. STEVENS. I thank the Senator very much.

Mr. BYRD. And that tomorrow morning, if there is time and other amendments on the list are called up and they are debated, rollcall votes ordered, they could be stacked in behind the 11 o'clock vote.

Mr. STEVENS. I thank my friend.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, will the majority leader yield?

The PRESIDING OFFICER. Yes.

Mr. HUMPHREY. The unanimous consent request does not include what the Senator just said about the Senator from New Hampshire laying down his amendment tonight and debating it tonight, does it?

Mr. DOLE. The Senator identified the amendment. He is not required to lay the amendment down?

Mr. BYRD. Not required to.

Mr. HUMPHREY. It is such a wonderful amendment, I would like it to come in close proximity to the debate and not be separated by a night's sleep. In other words, I would not really care to lay the amendment down and debate it tonight with a vote tomorrow after everyone has forgotten the merits of the case.

Mr. BYRD. May I say to the distinguished Senator whatever he wishes is fine. If he wishes to lay it down tonight, not debate it or debate it, whichever he wishes, and if we could agree for a vote in relation to that amendment at 11 o'clock tomorrow morning.

The PRESIDING OFFICER (Mr. PRYOR). Is there objection to the request? If there is none, the request is so ordered.

Mr. BYRD. Did the distinguished Senator from New Hampshire hear the last part, to wit, that a vote would occur in relation to the amendment at 11 o'clock.

Mr. DOLE. I think it depends on when we start. What would the Senator want, 30 minutes on a side?

Mr. HUMPHREY. Thirty minutes total.

Mr. DOLE. Thirty minutes total. We can work that out.

Mr. BYRD. Thirty minutes equally divided?

Mr. DOLE. Thirty minutes total.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. May I inquire of the distinguished Senator from New Hampshire whether or not on the disposition of his amendment, which I assume he will lay down tonight, upon the disposition of that amendment at 11 o'clock tomorrow, will he be willing to lay down his next amendment so that the Senate could proceed thereon?

Mr. HUMPHREY. Yes. However, I want to add a caveat to that. I am not determined to offer that second amendment. I might offer the second amendment or I might not.

Mr. BYRD. Very well. Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, that being the case, I think that would conclude at least the debate on this measure for this evening. Again, I am very grateful to all of those who have been a part of the discussion, and I am very hopeful that we will be able to reach a final conclusion on this sometime in the very early afternoon tomorrow.

I thank the majority leader and minority leader and my cosponsors for their efforts during the course of the debate. I yield the floor.

Mr. THURMOND. Mr. President, I think we have made considerable progress today. We know what amendments are remaining so we should be able to finish the bill tomorrow as I see it. I commend all those who have cooperated in this matter and enabled us to go forward as we have.

AMENDMENT TO INCREASE FUNDING FOR THE STATE DEPENDENT CARE GRANT PROGRAM

Mr. BINGAMAN. Mr. President, I rise today to invite the attention of my colleagues to one of the many important programs funded under the Senate's Department of Labor, HHS and education appropriations bill.

I was proud to cosponsor an amendment offered by my friend and distinguished colleague, Senator RIEGLE, to provide much needed funding for programs authorized under the State Dependent Care Development Grants Act. With passage of this amendment, the Senate helped to ensure that a greater, but still inadequate, number of young school children can have quality, supervised care before and after school.

Senator RIEGLE is the Senate's true advocate and leader for school-age child care. In 1983, he proposed using public schools and other existing community facilities for before- and after-school care for our school-age children. Recognizing the need for such care, the Congress incorporated elements of his legislation into the State Dependent Care Development Grants Act. Senator RIEGLE has worked diligently year after year to fund this important, but often overlooked, child care program.

We can no longer overlook this problem. And fortunately, we are making some progress, albeit in small steps. In March, I chaired a hearing on child care under the auspices of the Joint Economic Committee in my home State of New Mexico. The Joint Economic Committee is largely concerned with such issues as international trade and U.S. competitiveness. But we know from that hearing and others held in the Senate that there is a direct and vital link between our children's current well-being and our Nation's future economic well being.

Children are our Nation's future. They are our future workers, leaders, educators, and taxpayers. So it makes sense that unless our Nation begins seriously to invest in our children today, we will not have the skilled, healthy, and productive work force that we must have in the future to compete successfully in the global economy and to ensure our Nation's social and economic security.

We must be concerned for the future, and we also must deal with the problems of the present. In recent years, U.S. demographics have begun to change. Our children's world is not the same world we knew as children. More and more often, two-parent families find that both parents work to keep their families afloat financially, and more and more children are growing up in single-parent homes. Often it is the mother who must assume the primary responsibility for nurturing the children—emotionally, intellectually, and financially. The economic strain on many parents today is tremendous, and finding safe, affordable care for their children—regardless of age—is of critical importance.

But finding child care that is safe and affordable has become a major challenge for parents today. For the parents of school-age children, the challenge of finding supervised care can be especially difficult. For parents with limited income, the problem is even more acute.

So it is no surprise that the estimates of the number of children left alone after school each day range from 2 to 7 million. Some can probably manage independently, but many face frightening, lonely, or unsafe time alone during the school year, on school holidays and during summer vacations. We know that the potential number of children facing these circumstances increases every day, yet an adequate response fails to happen.

A major factor in the escalating number of children in self-care is cost. In 1983, more than 30 million American children between the ages of 5 and 17 were living below the poverty level. A 1986 children's defense fund study of school-age care found that the cost of care ranged from $20 to $45 a week, far above what low-income families can afford and a significant outlay for moderate income families.

The need for an increased investment in school-age child care has been sounded by teachers, principals, parents, businesses, public safety officers and children. A 1987 Louis Harris and Associates poll of teachers across the country found that teachers cited children being "left alone after school" as the No. 1 cause of difficulty in school. Of principals surveyed in 1988, 86 percent said that communities need after-school care and 84 percent believed their own communities needed after-school care.

Parents share these same concerns, and several studies have concluded that lack of supervised care may lead to alcohol and drug abuse, combativeness, and other gang-related activities. Younger siblings under the supervision of older children are often abused, and accidents have become the leading cause of death among children.

As Amy Tyler-Wilkins of the children's defense fund testified during our hearing in New Mexico:

> The question is not whether or not we need more school-age child care. It is not that we do not know the elements that should be included in a school-age child care program. The question is why have we not made a national commitment to expanding the availability of school-age care? It is long past time to make that commitment.

Indeed, a serious commitment to the Dependent Care State Grant Program is long overdue. This program, established in 1984, is the only Federal program that provides funds to establish and expand school-age child care programs. Sixty percent of the funds are available for school-age child care programs and 40 percent for developing resource and referral programs. We know that this program works. Nearly all 50 States depend on these funds for their child car programs.

We must make a commitment to child care, and we must make it now. Every day the child care dilemma worsens. It is critical that we act now. More child care legislation than ever has been introduced in this Congress, but it will take time to fully debate and pass legislation. Meanwhile, we in the Federal Government can and must do more to help. The tools we need are already available. The Dependent Care State Grant Program can provide a strong foundation for this Nation to build upon once some form of comprehensive child care legislation is enacted.

By accepting the measure proposed by Senator RIEGLE and myself, the Senate made a small but wise investment in our children. It is an investment that will pay off in stronger families, increased productivity in the workplace, a healthier local, national, and international economy, and, most importantly, happier, safer children.

THE FISCAL YEAR 1989 DEFENSE AUTHORIZATION ACT

Mr. NUNN. Mr. President, on July 14 both the House and the Senate passed the conference report on the Fiscal Year 1989 Defense Authorization Act. The enrolled bill was transmitted to the President on July 25. Under the Constitution, President Reagan has until August 5—this coming Friday—to decide whether to sign this bill, veto it, or allow it to become law without his signature.

Some on Capitol Hill and in other circles around town are clamoring for the President to veto this bill. In fact, some Republican Members of Congress have been quoted in the press as saying it would be good politics to veto this bill. I think that would be a serious mistake. Politics should not guide nor be the basis for national security decisions. This bill is extremely important to our national security. It provides for many improvements in defense capability and the management of the Pentagon. In fact, the senior national security advisers to the President and many in Congress in bipartisan leadership roles on the committees of jurisdiction have strongly recommended against a Presidential veto.

Mr. President, the security of the Nation is too important to have it take a back seat to election year politics.

Today I want to take a few moments to outline why I think the fiscal year 1989 defense authorization bill is a good bill—one that will definitely strengthen our national security. Over the next several days, I will also address in more detail some of the specific objections of those who are urging President Reagan to veto this bill.

KEY PROVISIONS OF THE FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL

The annual defense authorization bill has become a major vehicle by which the Congress debates and acts on the President's annual budget request for the national defense function. This year was no exception. The fiscal year 1989 defense authorization bill authorizes funding for all of the major activities of the Department of Defense, the national security programs of the Department of Energy, and civil defense.

This year's defense authorization bill is noteworthy because it authorizes the full amount—$299.5 billion—requested by the President for national defense for fiscal year 1989. This is the first time since fiscal year 1982 that Congress has authorized full funding of the President's defense request. In a year when the Congress and the President have reached a consensus on the level of defense spending, it would be damaging to national security to shred this consensus with a veto. This bill gives the President the level of funding he requested for defense for the first time in 7 years. Why weren't there calls for a veto of the defense authorization bill during the past 7 years when it cut the President's defense budget by as much as $20 to $25 billion?

One of the most difficult issues in this year's bill was the Defense Department's role in the war on drugs. Under the conference agreement, Mr. President, the Armed Forces will concentrate on the detection and monitoring of air and sea traffic, which are traditional military missions. The bill designates the Department of Defense as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. The bill also requires that the command, control, and communications and technical intelligence assets of the United States that are dedicated to drug interdiction be integrated by the Department of Defense into an effective network.

The bill on President Reagan's desk enhances the Defense Department's role in fighting illegal drugs in a responsible and effective way. It took a major effort to resolve this issue in the defense authorization bill rather than in the upcoming omnibus drug bill. A Presidential veto of the defense authorization bill would not only reopen this controversial issue, but postpone the Department's new and enhanced role. A veto would say: "The war on drugs can take a back seat to election year politics."

In the area of strategic programs, the defense authorization bill continues the ongoing modernization of strategic weapons systems and strategic command, control, and communications programs. The bill provides $752 million for the rail-garrison MX and small ICBM programs and $4 billion for SDI; fully funds the requested levels for the Trident submarine and Trident II missile programs; and provides almost all of the funds requested for the B-2 advanced technology bomber and the advanced cruise missile programs.

I understand that the conference agreement on some of these strategic programs—particularly the ICBM modernization program and SDI—upsets some of the people on the other side of the aisle and in the White House. I will have more to say on these two programs over the next 2 days. Let me just say at this point that the compromise on ICB modernization keeps both the rail-garrison MX and small ICBM programs alive for the next administration to make a decision by providing a total of $750 million for ICBM modernization. The Secretary of the Air Force stated to Strategic Subcommittee chairman Senator EXON that he could accept the compromise. On the funding level for SDI, the $4 billion authorized in the bill is an increase over last year and splits the difference between the levels provided in the House and Senate versions of the bill. I think this is a reasonable outcome, particularly since an amendment to reduce the Senate-approved level by $700 million failed by only two votes on the Senate floor.

In the area of conventional weapons programs, the fiscal year 1989 defense authorization bill authorizes $38.3 billion, with major enhancements in several key areas not included in the original budget request. The bill includes $300 million for a major initiative developed with the Army to reverse the deteriorating armor-antiarmor balance between NATO and the Warsaw Pact. The bill also increases the production rates of several major conventional programs—M-1 tanks, Hellfire missile; EA-6B jammer aircraft; F-18 fighter; F-14D fighter—so we buy more capability at less cost.

The Navy's shipbuilding program was approved as requested, with the exceptions of the addition of one DDG-51 destroyer and the deletion of an oceanographic survey ship which the Navy indicated could not be expected due to design problems. We have approved programs designed to help our sailors in the Persian Gulf.

The bill contains a number of provisions which are absolutely essential to meeting our defense manpower needs and supporting our men and women in uniform and their families. The conference agreement includes a comprehensive series of modifications to the joint officer management policies of the Goldwater-Nichols DOD Reorganization Act of 1986 that will facilitate the management of military officers serving in joint duty assignments. These provisions are very high on the priority list of the Joint Chiefs of Staff. The conference agreement also repeals the reductions in the DOD officer corps that would otherwise go into effect.

In the area of compensation and benefits, the conference agreement provides for a 4.1-percent increase to military basic pay and basic allowance for subsistence, and a 7 percent increase to basic allowance for quarters. The 4.1 percent increase exceeds the comparable increases expected in the private sector for the first time since 1981 and begins to close the current pay gap of approximately 11 percent between private sector and military pay. The 7 percent increase in basic allowance for quarters will help to correct deficiencies in the reimbursement to military members for housing.

The conference agreement also provides two major retention incentives—one to counteract retention problems in Navy and Air Force aviator inventories and the other to counteract retention problems in medical officer inventories of all services. In addition, the conference agreement provides for a affiliation bonus test program aimed at improving the recruitment of medical personnel to fill critical shortages in the reserve forces.

Mr. President, as I review the major provisions of the fiscal year 1989 defense authorization bill, it is difficult to understand the calls from some people for a veto of this measure. This bill conforms more closely to the defense program requested by the administration for the fiscal year 1989 than any defense authorization bill passed by the Congress in the last 6 years.

COMPARISON TO THE HOUSE BILL

One of the arguments made when the Senate passed the conference report on this bill was that the Senate passed a good bill, but the House prevailed on all the major issues in conference, creating an unacceptable bill.

The primary source of information for this point of view seems to be a press release by the House Armed Services Committee. This press release claims, for example, that the conference report "takes the stars out of star wars" and leans toward the arms control provisions contained in the House bill.

In my view, these and other statements in this press release are misleading and inaccurate. If President Reagan can figure out a way to veto this press release, I will certainly vote to sustain that veto.

I am not interested in creating a scorecard of the major conference issues between the House and Senate bills to try and determine who came out ahead in the conference. Both the House and Senate conferees were trying to come up with a bill that met the national security needs of the country. But I want to mention briefly some of the major issues in the House-passed bill which the administration opposed and the action taken on these issues by the conferees.

The administration strongly objected to the SDI funding level of $3.5 billion in the House bill, a reduction of $1.4 billion from the fiscal year 1989 budget request of $4.9 billion. The Senate bill provided $4 billion by only a two vote margin, and the conference agreement of $4 billion is the midpoint between the two bills. In addition, Mr. President, this outcome is the most favorable to SDI in terms of the percent of the program approved since 1985. I ask the question—can anyone really believe that providing $4 billion for SDI is gutting the program?

The House bill contained a provision restricting no more than 40 percent of SDI funding to phase 1 activities. The administration adamantly opposed this House provision and it was dropped in the conference report.

The House bill contained a provision requiring U.S. compliance with the central numerical sublimits of the unratified SALT II Treaty. The administration adamantly opposed this provision, and it was dropped from the conference report. In its place the conferees agreed to deactivate a few weeks early two aging Poseidon submarines—thus continuing a practice of early Poseidon retirements which this administration itself has repeatedly undertaken in the past for budgetary reasons.

The House bill contained a 1-year moratorium on tests of all nuclear devices above 1 kiloton. The administration strongly * * * conference report. The conferees directed the Department of Energy to begin technical preparations for maintaining the reliability and effectiveness of our nuclear deterrent in a low- or zero-threshold testing regime. Since the Reagan administration has agreed with the Soviet Union on a step-by-step negotiating approach leading in time to a total test ban, this conference provision is entirely consistent with the administration's own policy in this area—unless the administration's own policy is a sham.

The House bill contained amendments to the Davis-Bacon legislation which the administration strongly opposed. The conferees did not include any changes to the Davis-Bacon Act in the conference report. The Senate's unwillingness to yield on this issue held up the conference for 2 weeks.

The House bill contained a provision repealing the exemption for DOD from the provisions of the Monroney amendment, which would have required DOD to go outside of a local wage area to collect wage data for certain types of Federal blue-collar jobs. The Defense Department opposed this provision, and it was dropped in the conference report.

The House bill contained a provision that would have prevented all contracting out of certain types of maintenance functions. The Defense Department strongly opposed this provision, and it was dropped in the conference report.

The House bill contained a provision prohibiting the Army from converting its antiquated heating facilities in Europe to district heat. The Army strongly opposed this provision, and it was dropped in the conference report.

Mr. President, I could go on, but I think the point is clear: The House did not prevail on every major issue of concern to the administration in the conference on this bill.

I am not saying that I agree with every provision in the conference report sent to the President. The very nature of a conference and the legislative process requires compromises. But in my view, the Senate took a good, solid bill to conference. We brought a good, solid bill back from conference. And we have sent the President a good, solid Defense authorization bill for fiscal year 1989 that will improve the national security of the country.

CONCLUSION

Mr. President, my opinion that the fiscal year 1989 Defense authorization bill is a good bill and that it should not be vetoed is shared by President Reagan's senior national security advisers.

I have to ask two questions: If the people responsible for advising the President on national security policy do not want to see this bill vetoed, then who does? Why is there talk of a veto on this bill, which authorizes the full amount requested by the President for fiscal year 1989, when there was no talk of a veto for 7 straight years when the Defense budget was being cut by as much as $20 to $25 billion each year?

The only conclusion I can come to is that some people believe that there is some political advantage to be gained from vetoing the Defense authorization bill. I reject this argument, and I hope President Reagan will reject this argument. It will be very unfortunate if this bill is vetoed for election year, political reasons which have nothing to do with the national security interests of the country.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent there be a period for morning business for 10 minutes, that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

TAX CONVENTION WITH FRANCE

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the protocol to the 1967 Tax Convention with France (Treaty Document No. 100-21), transmitted to the Senate today by the President; and ask that the protocol be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the Record.

The message from the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Protocol to the Convention between the United States of America and the French Republic with respect to Taxes on Income and Property of July 28, 1967, as amended by the Protocols of October 12, 1970, November 24, 1978, and January 17, 1984, which Protocol and related exchange of notes were signed at Paris on June 16, 1988. I also transmit for the information of the Senate the report of the Department of State with respect thereto.

The main purpose of the Protocol is to modify the Convention to take into account the provisions of the Tax Reform Act of 1986. In addition, the Protocol will permit France to exempt U.S. citizens resident in France from French tax on their U.S.-source investment income.

It is most desirable that this Protocol, together with the related exchange of notes, be considered by the Senate as soon as possible and that the Senate give advice and consent to ratification.

Ronald Reagan.

The White House, *Aug. 1, 1988.*

THE SIOUX NATION BLACK HILLS CONTROVERSY: NEED FOR RESOLUTION

Mr. PRESSLER. Mr. President, the Sioux Black Hills claim has been one of the lengthiest Indian land claim disputes in U.S. history, and remains unresolved to this day. Initially, filed in 1923, the Sioux Nation of Indians sought additional compensation for the amount paid to the Sioux for the Black Hills by the U.S. Government in 1877.

At the request of the Sioux tribal leaders, Congress passed legislation in 1978 waiving res judicata so that the Sioux Nation of Indians could press its claim for monetary damages in the court system. In 1980, they won their court case and were awarded the additional compensation they sought. However, the tribal leaders refuse to accept the U.S. Supreme Court's award of $106 million. With accumulated interest, this judgment award has grown to $202 million this year.

Many individual Sioux Indians have urged that the judgment be distributed. It is important for us to finally resolve this deadlock. In the near future, I plan to introduce legislation to allow the Sioux Indians to vote on this issue. My proposed legislation would direct the Department of Interior to hold an election among the Sioux who would be eligible to receive portions of the Supreme Court judgment fund. If a majority of the Sioux voted to accept a per capita settlement, the money then would be distributed and the land claim would be extinguished. Allowing the Sioux Indians to vote on this issue is in keeping with the democratic principle of majority rule on which our government is based.

In order to understand the rationale of my proposed legislation, it is important to discuss the historical background of the Sioux claim to the Black Hills, the thorough judicial review given to this land claim dispute, and the current attempt to override the 1980 Supreme Court decision through S. 705, the Sioux Nation Black Hills Act.

HISTORICAL BACKGROUND OF THE SIOUX CLAIM TO THE BLACK HILLS

Since the early 1970's, American Indian tribes have become more active in their attempts to regain lost lands through the Federal courts. Too often, moral assertions become emotional issues and often overshadow the legal and historical facts of the Indian land claims. This is especially true in the case of the Sioux Nation's claim to the Black Hills of South Dakota.

Senator Bill Bradley introduced S. 705, the Sioux Nation Black Hills Act, on March 10, 1987. This bill, known informally as the Bradley bill, would transfer 1.3 million acres of unused Federal land in the Black Hills to the Sioux Nation. It would authorize the payment of $200 million for 6 million acres (a total of 7.3 million acres of land was deeded to the Sioux by the Treaty of Fort Laramie of 1868) and $450,000 in royalties for the $18 billion in gold an silver mined from the land since 1877.

I believe that the Bradley bill is based upon inaccurate historical assertions concerning the origin of the Sioux and the Fort Laramie Treaty of 1868. Rex Alan Smith, prominent historian and author of "Moon of Popping Trees," has written a detailed historical review that is relevant to this bill. Many of the events surrounding the U.S. Government's relationship with the Sioux Indians of South Dakota are still shrouded in misconceptions and half-truths. Smith's impartial scholarly work goes a long way toward setting the historical facts straight.

The Sioux did not cross the Missouri River to settle around the Black Hills of South Dakota until 1750. Thus, the Sioux are considered by many to be latecomers to the Black Hills area. The Cheyenne and Kiowa were pushed out of the Black Hills region by the Sioux in the mid-1800's.

In order to protect white settlers traveling to the gold fields of California, Utah, and the newly established State of Oregon, the Treaty of Horse Creek was signed in 1851.

Under that treaty, the U.S. Government offered protection to the Sioux and other tribes against encroachment by white settlers. In exchange, the Indians were to receive $50,000 in gifts. They promised not to attack each other or white settlers traveling on the Overland Trail. Unfortunately, a minor incident involving the killing of a cow owned by a pioneer on the Overland Trail, sparked renewed fighting between the Sioux and settlers.

The hysteria by a Sioux massacre of 80 soldiers in 1866 and the belief that Chief Red Cloud and his Sioux warriors could not be defeated easily, led the U.S. Government to negotiate the Fort Laramie Treaty in 1868 with the Sioux. This treaty gave the Sioux possession of 60 million acres of land in North Dakota, South Dakota, Nebraska, Wyoming, Montana, and Colorado. In addition, the Government agreed to provide food rations, clothing, seed and farming tools to help them become farmers. No settlers would be allowed either to settle on or travel across the reservation. None of the lands in the newly created Sioux reservation could be taken away without the signed consent of three-fourths of the adult male Sioux. In return, the Sioux were supposed to stay within their reservation boundaries, refrain from attacking whites, and compel their children to attend school on the reservations.

Those who support the enactment of the Bradley bill fail to recognize the fact that both the Sioux and the U.S. Government broke the Fort Laramie Treaty of 1868. Watson Parker, a nationally prominent historian from South Dakota has identified several instances in which the Sioux broke the treaty. Parker observes that the Sioux left their reservation to fight the Crow and the Pawnee. He also notes that the 1882 Record of Engagements of the U.S. Army recorded numerous robberies, rapes, thefts and murders committed by the Sioux in areas outside their reservation. In 1876, U.S. Representative Jefferson P. Kidder of South Dakota told his fellow Congressmen that more than

200 civilians had been killed by the Sioux outside reservation land after the signing of the treaty.

In 1874, gold was discovered in the Black Hills. At first the U.S. cavalry kept out prospectors to enforce the provisions of the treaty. This action became difficult both politically and logistically. The peace brought about by the Fort Laramie Treaty of 1868 was short-lived because of the failure of the Sioux and the U.S. Government to uphold the provisions of the treaty.

In 1876, a Commission on Indian Affairs, traveled to the Black Hills with a proposed treaty which provided that the Sioux would relinquish their rights to the Black Hills and other lands, as well as their rights to hunt in territories off the reservation, in exchange for rations. Now dependent on rations and beaten militarily, the Sioux accepted the Government's new treaty demands. The treaty presented to the Sioux chiefs was signed by only 10 percent of the adult male Sioux population—below the 75 percent required by the 1868 treaty. Congress codified the provisions of the 1878 treaty through the Black Hills Act of 1877.

As I have described elsewhere, there is no historical basis for the Sioux claim that the Black Hills have been sacred to them since time immemorial. As I mentioned, the Sioux did not arrive in the lands surrounding the Black Hills until 1750.

A close review of the proceedings of the 1876 Commission, which purchased the Black Hills from the Sioux, reveals that the Indians knew that the white men wanted gold. They were willing to transfer the land if an appropriate price were offered. The proceedings do not record Indian opposition to selling the Black Hills based on the claim that they were sacred. In fact, the primary point of disagreement was over the amount of compensation.

Historians have documented that Bear Butte near the edge of the Northern Black Hills has long been sacred to the Cheyenne. It is the place where their Sweet Medicine legend originated and where they received their Four Sacred Arrows. The tribe has made annual pilgrimages to Bear Butte. When the State of South Dakota put surplus lands up for sale around it, the Cheyenne—and not the Sioux—bought the lands.

Although the supporters of the Bradley bill stress that the Black Hills always have been sacred, it is interesting to note that the original attorney for the Sioux filed for monetary damages rather than for the return of their "sacred" land.

JUSTICE THROUGH THE COURTS

Since the signing of the 1876 treaty, the Sioux have viewed it as a breach of our Nation's duty to reserve lands in North Dakota, South Dakota, Nebraska, Montana, Wyoming, and Colorado for their occupation. Although the Sioux Nation pressed its claims against the U.S. Government for the wrongful taking of land almost immediately after the Black Hills Act of 1877, the courts consistently refused to hear the case for want of proper jurisdiction.

In 1920, the Sioux persuaded Congress to pass a special jurisdiction act that provided them with a forum for adjudication of all claims against the United States "under any treaties, agreements, or laws of Congress, or for the misappropriations of any of the funds or lands."

The Special Jurisdiction Act of 1920 enabled the Sioux in 1923 to file a petition with the Court of Claims. The petition alleged that the U.S. Government had taken the Black Hills without the just compensation required under the fifth amendment to the U.S. Constitution.

In 1942, the Court of Claims dismissed the 1923 petition, stating that the act of 1920 did not authorize it to determine the issue of the adequacy of compensation awarded for the Black Hills. The court concluded this to be a moral issue outside its jurisdiction.

In response to this decision, Congress passed legislation in 1946 to create an Indian Claims Commission. This Commission was established to hear and resolve all tribal grievances.

In 1950, the Sioux filed a claim with the Indian Claims Commission. The Commission dismissed the case in 1954, affirming the 1942 Court of Claims decision.

In 1956, the Court of Claims affirmed dismissal and replacement of the Sioux legal counsel. In 1958, the Indian Claims Commission reopened the case and heard new evidence on the fifth amendment just compensation claim.

In 1974, the Indian Claims Commission ruled that the 1942 Court of Claims decision did not bar the present fifth amendment claim by virtue of res judicata (a legal term which refers to the fact that once one has litigated a case and accepted a final judgment, one cannot come back into court again to seek relief.) The Commission ruled the 1877 act was a fifth amendment "taking" without "just compensation.".

In 1975, the Indian Claims Commission held that the Sioux were entitled to the $17.1 million fair market value of the land taken plus $450,000 for the unmined value of the gold taken from the land. However, the Court of Claims reversed the Commission's decision on the grounds that the claim was barred by the res judicata effect of the 1942 decision.

In 1978, Congress enacted legislation that allowed the Court of Claims to review the Indian Claims Commission judgment without regard to res judicata. In addition, this legislation authorized a new review by the Court of Claims on the merits of the case. At great political risk, I worked closely with Sioux tribal leaders to support enactment of this legislation.

In 1979, the Court of Claims affirmed the Indian Claims Commission's ruling that the 1877 act was a fifth amendment "taking" and ordered just compensation in the amount of $105 million—$17.1 million fair market value for the Black Hills in 1877, plus 5 percent simple interest. The U.S. Government appealed this decision to the U.S. Supreme Court. During its 1979 term, the Supreme Court reviewed the Sioux Nation's claim. The opinion of the Supreme Court traced the history of all the treaties and agreements as well as all previous claims and legislative actions, including references to my comments on the floor of the House of Representatives regarding the waiver of res judicata.

In a 1980 opinion, the U.S. Supreme Court affirmed the Court of Claims ruling in favor of the Sioux, However, the Sioux leaders have refused to accept the $105 million settlement. This judgment award has grown to more than $200 million with interest.

I consider the 1980 Supreme Court decision to be the final settlement of this issue. The Sioux have had their day in court and won a substantial monetary settlement.

OPPOSITION TO THE BRADLEY BILL

The Sioux, organized into eight tribes, continue to refuse to accept the judgment award. Many Sioux have expressed support for the distribution of the settlement on a per capita basis. This would give each eligible member of the tribes $2,800.

The Black Hills Steering Committee, representing the Sioux who refuse to accept the judgment award, supports the passage of the Bradley bill, S. 705. This legislation would return 1.3 million acres of land in western South Dakota to the Sioux.

It is important to note that the Bradley bill singles out South Dakota, while the disputed lands involve six States. This blatant political maneuver was intended to reduce opposition in Congress to the legislation. Singling out South Dakota reduces the legitimacy of the Bradley bill.

Many South Dakotans believe that the passage of this legislation would make it more difficult to bring new business to western South Dakota. Many realtors claim that the bill itself currently is depressing the value of private property in the Black Hills, making it impossible to sell at reasonable prices.

Supporting the sentiment of its citizens, the South Dakota House of Representatives has agreed to H. Con. Res. 1026 urging Congress to reject the Sioux Nation's claims to the Black

Hills. Many cities, counties, and business organizations have passed similar resolutions.

In my debates on national television and statements made on the floor of the Senate, as well as in newspapers across the Nation, I have strongly opposed the Bradley bill. Its supporters have misstated much of the factual history involved in this dispute.

I disagree with those who say that the only way the Sioux can practice their religion is to own the Black Hills. These individuals imply that they are not able to practice their religion. In fact, the Indian Religious Freedom Act of 1978 guarantees the right of American Indians to practice their religious ceremonies on Federal lands. Many Sioux freely have practiced their religion at Bear Butte, located near the northern Black Hills.

The wisdom of taking such a large block of public land out of Federal ownership bears special scrutiny. The legislation would convey 1.3 million acres, including entire national forests and parks, to the Sioux. The following seven counties or major portions of counties would be included within the boundaries of the Great South Dakota Reservation: Harding, Butte, Lawrence, Pennington, Meade, Custer and Fall River. Ellsworth Air Force Base, one of the Nation's most important military installations, also would be within the boundaries of the reservation.

The Bradley bill has serious technical flaws. For instance, it is contrary to traditional Western water law to claim all Federal water rights for the Sioux. Under Western water law, an individual may not hold the right to water for which he does not have a use. Even Indian tribes which benefit from this precedent, set by Winters versus United States, 207 U.S. 564 (1908), are not entitled to a water allocation beyond an amount necesary for the purpose for which the reservation was created. The bill gives the Sioux tribes sole and exclusive jurisdiction over all water in the area (less existing State-created rights), thus going beyond previous acts of Congress and judicial precedent.

Enactment of the Bradley bill also would result in the establishment of a huge reservation which would create a checkerboard jurisdiction. This would greatly increase law enforcement difficulties. An offender in one jurisdiction could easily flee to the jurisdiction of the other. This situation already exists in South Dakota, creating serious problems for tribal, State, and local police. The bill would make this problem even worse.

Because the cost of managing the lands would be much higher than the revenues generated from the lands, the bill would require the Federal Government to assume the financial burden ongoing maintenance of the land. In addition to the 1.3 million acres of South Dakota land, the bill also requires the disbursement of the $202 million court judgment, which was intended to be awarded in lieu of the land.

Under the Bradley bill, both Federal and State Governments are precluded from any taxation authority over the lands or activities within the jurisdiction of the proposed reservation. The Sioux Nation could impose property, local income and sales taxes on non-Indians within the reservation. It is important to recognize that the bill would prohibit a non-Indian from voting in tribal elections or holding tribal office. Many non-Indians residing in the seven counties that would be ceded to the Sioux Nation under the provisions of the Bradley bill are concerned about the issue of taxation without representation. These individuals would pay taxes to the Sioux Nation but could not vote in tribal elections or run for tribal office.

Vast holdings of public lands throughout the Nation were acquired from American Indians. As pointed out in a 1985 Congressional Research Service legal analysis of the bill, "transferring such a large portion of land may influence other tribes to seek the return of lands that they have transferred to the United States, for which they have been compensated for either originally or through the Indian claims process.

This bill would be costly to the Federal Government and the State of South Dakota. The loss of revenues from taxes and mineral leasing fees would be substantial. It is estimated that the loss of school and public lands would reduce State and local tax revenues by $133.9 million. School districts located within the seven counties would lose another $603,000 in Federal mineral and grazing funds.

There are technical flaws in the Bradley bill and little thought has been given to its practical consequences. I recently received a letter from Interior Secretary Donald Hodel stating that the administration is opposed to the Bradley bill. As a member of the Platform Committee of the Republican Party, I have asked my party to oppose land claim legislation initiatives of this type which would give control of Federal land to others.

Mr. President, throughout our history as a nation, the U.S. Government has made 370 treaties with American Indians. Although, the Fort Laramie Treaty of 1868 was broken by both the U.S. Government and the Sioux, the U.S. Supreme Court has rendered final judgment on this land claim dispute.

Although General George (Gray Fox) Crook fought against the Sioux, he was considered a friend and supporter of Indian rights. The statement he made to Indians 100 years ago is still appropriate today: "Instead of complaining of the past they had better think of the future."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-601. A concurrent resolution adopted by the Legislature of the State of Hawaii; ordered to lie on the table.

"SENATE CONCURRENT RESOLUTION 192

"Whereas, the United States's and Canada's executive departments have completed negotiations of a comprehensive Free Trade Agreement; and

"Whereas, the agreement between the world's largest trading partners would relax or eliminate most trade restrictions and encourage further cultural and goodwill exchanges between the two nations; and

"Whereas, the agreement would demonstrate to other nations the benefits of eliminating trade barriers and emulate the essence of the free market system; and

"Whereas, the non-inclusion of the American affiliated Pacific states—the Federated States of Micronesia, American Samoa, Commonwealth of the Northern Marianas, Guam, and the Republics of the Marshall Islands and Palau—is an oversight that should be corrected before final approval; and

"Whereas, by urging support of the agreement and the inclusion of the American affiliated Pacific states, the State of Hawaii joins a growing number of states in favor of free trade between Canada and the entire United States; and

"Whereas, the agreement would further enhance and encourage the State of Hawaii's trade with Canada; now, therefore, be it

"Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the House of Representatives concurring, That the United States Congress is respectfully urged to support the United States-Canada Free Trade Agreement; and be it further

"Resolved, That the Congress of the United States is urged to include the American affiliated Pacific states in the agreement; and be it further

"Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; the

President of the United States Senate; the Speaker of the United States House of Representatives; Hawaii's Congressional delegation; the Consultant to the Senate of Hawaii in Washington, D.C.; and the Governors of the Federated States of Micronesia, American Samoa, Commonwealth of Northern Marianas, Guam and the Republics of the Marshall Islands, and Palau."

POM-602. A resolution from the Commonwealth of Pennsylvania; to the Committee on Appropriations:

"RESOLUTION

"Whereas, A United States Senate Appropriations subcommittee has proposed a level of funding at $1,087,000,000 which is $380,000,000, or 24% less than the level approved by the United States House of Representatives and 22.5% less than the 1988 funding level; and

"Whereas, This reduction would mean a $23,000,000, loss for Low Income Home Energy Asssistance Program (LIHEAP) funds for the Commonwealth of Pennsylvania; and

"Whereas, Low income citizens pay, on the average, 15% of their income for energy, contrasted with 5% paid by the average American family; and

"Whereas, Any further reduction in LIHEAP funding will create undue hardship for those it is designed to assist by reducing the level of benefits or by reducing eligibility requirements for Pennsylvania households from the present 150% of poverty to a level closer to 110%; and

"Whereas, The oil overcharge moneys presently being used to supplement Federal LIHEAP dollars in Pennsylvania are insufficient to meet the continuing needs of the program; therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United States to appropriate funds for the Low Income Energy Assistance Block Grant for the fiscal year 1989 at a level of not less than $1,567,000,000; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-603. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION No. 77—

"Whereas, The recent announcement by the Air Force Logistics Command at Wright Patterson Air Force Base, Ohio, that civilian employees of the Sacramento Air Logistics Center at McClellan Air Force Base will be given a 4-day furlough is of great concern to the people of California; and

"Whereas, Some 13,000 employees who are scheduled for furlough will be devastated by this unexpected lost income; and

"Whereas, The wages lost because of the furlough will have a rippling effect on the economy of communities around Sacramento and elsewhere in northern California; and

"Whereas, Sacramento and other communities depend on the stability of McClellan Air Force Base, a major employer in northern California; and

"Whereas, the citizens of Sacramento and other Californians have appreciated McClellan Air Force Base civilian employees for their productivity, for their participation in the communities in which they live, and for their valuable contribution to the defense of our nation; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the civilian employees at McClellan Air Force Base and also supports the California congressional delegation's efforts to seek equity in the disbursement of national defense funds and in the reduction of budget expenditures; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to representatives of McClellan Air Force Base employees affected by the anticipated furlough."

POM-604. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE RESOLUTION 153

"Whereas, in Hawaii there are a large number of resort-condominium projects which contain apartments used in rental pool and other resort rental operations; and

"Whereas, those apartments have traditionally been resold by their owners solely as real estate through properly licensed real estate brokers and salespersons; and

"Whereas, the laws of this State governing the resale of real estate provide ample protection to purchasers who believe that there has been a misrepresentation or fraud in the resale of a condominium apartment to them; and

"Whereas, the United States Securities and Exchange Commission addressed its Release No. 33-5347, dated January 4, 1973, to developers of condominium and other real properties sold with rental arrangement, but did not address such Release to apartment owners reselling their condominium apartments; and

"Whereas, the United States Court of Appeals for the Ninth Circuit, in deciding the case of *Hocking* v. *Dubois* on February 10, 1988, held that the resale of any apartment in a condominium project which has a rental pool involved the sale of a security; and

"Whereas, the effect of the decision in *Hocking* v. *Dubois* is the application of the whole body of securities law to situations in which the securities laws have not heretofore been applied, creating severe problems for condominium apartment owners, real estate brokers and salespersons, financial institutions which make mortgage loans secured by condominium apartments, and associations of owners; and

"Whereas, the laws governing resale of real estate need to be clarified to avoid this confused result of applying federal and state securities laws to such resales; now, therefore, be it

"Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, That this Legislature of the State of Hawaii request the Congress and the Securities and Exchange Commission of the United States of America to pass amendments to the Securities Act of 1933 and the Securities Exchange Act of 1934, and to promulgate rules thereunder, respectively, clarifying the exclusion from the definition of the word "security" any resale of a condominium apartment or other real estate and any rental or other arrangement; and, be it further

Resolved, That a certified copy of this Resolution be transmitted to the Congress of the United States, each member of the delegation of the State of Hawaii to Congress, to the Chairman of the United States Securities and Exchange Commission, the Governor of the State of Hawaii, the Director of the Department of Commerce and Consumer Affairs, the President of the Hawaii Association of Realtors and the President of the National Association of Realtors."

POM-605. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 95

"Whereas, the issue of mandated social security and related programs for state and local public employees is being considered by the Congress of the United States; and

"Whereas, traditionally, and as felt to be constitutionally required, inclusion of these public employees within the coverage of these programs has been a matter of discretionary decision by state and local governments; and

"Whereas, relying upon the voluntary nature of participation, the government of the state of Louisiana and that of a majority of its local governmental units chose to provide their public employees with excellent state and local pension and other benefit plans which are superior to the federal programs, both in terms of benefits to the participants and their beneficiaries and in terms of the actuarial and financial soundness of the programs; and

"Whereas, to include these employees within the coverage of these inferior programs at this stage, if such inclusion withstands court challenge, will not only substitute their excellent and secure retirement and other plans with inadequate and unsound ones due to the financial inability of the employees and of the governments to participate in both local and federal programs, but will cause the local programs to undergo financial and actuarial disaster due to the accompanying reduction in participation and contributions; therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States not to mandate social security and related programs for state and local public employees; be further

"Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-606. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 224

"Whereas, the Supreme Court of the United States reaffirmed in its *South Carolina* v. *Baker* decision that state sovereignty is not protected by the Tenth Amendment of the Constitution of the United States of America, which reserves to the states and to the people powers not delegated to the federal government; and

"Whereas, recent initiatives by Congress of the United States suggest that the Supreme Court was wrong in its view that the federal government would "partake sufficiently of the spirit [of the states], to be disinclined to invade the rights of the individual states or the prerogatives of their governments"; and

"Whereas, Congress has created unfunded mandates and shifted fiscal responsibility for its policies to the states; and

"Whereas, Congress has expanded the breadth of its power over the sovereign states imposing sweeping conditions upon grants, which conditions cannot be supported independently by any provision of the Constitution other than the Spending Clause; and

"Whereas, Congress has interfered increasingly with state fiscal policy by eliminating the deductibility of state and local sales taxes, and increasing the cost of providing state and local services by imposing an alternative minimum tax on supposedly tax-exempt bonds and by otherwise restricting the availability of tax-exempt financing for public purposes; and

"Whereas, Congress increasingly has derogated the states to the role of either private parties or administrative arms of the federal government; and

"Whereas, the Court has held that there is no constitutional protection from having taxes imposed on the interest on state and local bonds, but Congress has until now acknowledged that tax exemptions for state and local general obligation bonds are a legitimate and important method of insuring the soundness of the nation's infrastructure and the availability of essential services; and

"Whereas, Justice O'Connor correctly asserts in her dissent in *South Carolina* v. *Baker*, "If Congress may tax the interest paid on state and local bonds, it may strike at the very heart of state and local government activities"; therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to respect the fiscal integrity of state and local governments and to reject the invitation of the Supreme Court to tax state and local bonds, and urge Congress to resolve to reject this potential intrusion into the sovereignty of the states; be it further

"Resolved, That a copy of this Resolution be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-607. A joint resolution adopted by the Legislature of the State of Ohio; to the Committee on the Judiciary:

"JOINT RESOLUTION NO. 17

"Be it resolved by the General Assenbly of the State of Ohio:

"Whereas, Since state regulation of insurance has been and continues to be responsive to the needs and desires of the citizens of the several states and state legislatures; and

"Whereas, The McCarran-Ferguson Act leaves the regulation of the insurance business to the several states under the continuing oversight of Congress; and

"Whereas, Under state regulation, insurance companies have been able to test new products prior to national use; and

"Whereas, Individual states have been able to address particular problems and fashion appropriate responses such as the creation of market assistance programs and joint underwriting associations; and

"Whereas, The different states, due to their size economy, and generally dissimilar needs, require individualized regulation that cannot be met by federal regulation and such federal regulation may be inappropriate, inapplicable, or detrimental to the interests of various states individually; and

"Whereas, Insurance problems often necessitate immediate responses that the states are better equipped to handle; and

"Whereas, Repeal of the McCarran-Ferguson Act could result in an inability of insurance companies to share vital information, and thereby, could force smaller insurance companies from the marketplace; and

"Whereas, Repeal of the McCarran-Ferguson Act would lead to a loss of authority by the states to regulate the insurance business as well as protections afforded to respective citizens; and

"Whereas, The several states independently regulate the insurance industry with the assistance of organizations such as the National Conference of Insurance Legislators, the National Association of Insurance Commissioners, and the Council of State Governments to address common needs and problems; and

"Whereas, The regulation and taxation of the business of insurance is being effectively administered by the states; now therefore be it

"Resolved, That the Ohio General Assembly supports the continuation of state regulation of insurance and urges Congress to reject repeal or amendment of the McCarran-Ferguson Act and any further attempts at federal preemption; and be it further

"Resolved, That the Legislative Clerk of the Ohio House of Representatives transmit duly authenticated copies of this Resolution to the President Pro Tempore of the United States, the Speaker of the United States House of Representatives, the two United States Senators from Ohio, each member of the United States House of Representatives from Ohio, and the President of the United States."

POM-608. A resolution adopted by the Senate of the State of Hawaii to the Committee on Labor and Human Resources.

"SENATE RESOLUTION NO. 170

"Whereas, the National Network of Runaway and Youth Services is a national organization, the purpose of which is to develop the nation's capacity to increase, insure, and promote the personal, social, economic, educational, and legal options, and resources available to runaway and homeless youth and other at-risk youth, their families, and their communities; and

"Whereas, at its 1987 Symposium in Washington, D.C., the Network adopted a resolution expressing its commitment to work toward the development of a National Youth Policy and the enactment of a Young Americans Act by the year 1990, both of which are being spearheaded by the National Collaboration for Youth and the National Youth Policy Steering Committee; and

"Whereas, there are currently two bills in the United States Congress, H.R. 1003 and S. 476, which embody the Young Americans Act as supported by the aforementioned national youth organizations; and

"Whereas, these bills would provide assistance in the development of new or improved programs to help young persons through grants to the states for community planning, services, and training; establish within the United States Department of Health and Human Services an operating agency to be designated the Administration on Children, Youth, and Families; and provide for a White House Conference on Young Americans; and

"Whereas, the children and youth of America are the nation's most valuable resource and it is the joint and several duty and responsibility of the federal government and the states and their political subdivisions to provide assistance to ensure that their basic needs are met; now, therefore; be it

"Resolved by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, That Hawaii's congressional delegation is urged to actively support H.R. 1003 and S. 476 as these measures are considered in the respective houses; and, be it further

"Resolved, That the Congress of the United States is respectfully urged to enact the Younger Americans Act of 1987 as embodied in either H.R. 1003 or S. 476; and, be it further

"Resolved, That certified copies of this Resolution be transmitted to each member of Hawaii's Congressional Delegation, the President of the United States Senate, and the Speaker of the United States House of Representatives."

POM-609. A resolution adopted by the Christian Life Commission of the Southern Baptist Convention favoring child care legislation; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2011. A bill to increase the rate of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans (Rept. 100-439).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR:

S. 2674. A bill to improve contracting procedures for procurements of advisory and assistance services by the Federal Government; to improve public access to information concerning such contracts and other contracts, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. CHAFEE, Mr. WIRTH, Mr. HARKIN, Mr. PRESSLER, and Mr. BRADLEY):

S. 2675. A bill to amend title 38, United States Code, to provide certain service-connected presumptions in the case of veterans who performed active service in Vietnam during Vietnam era; to make improvements in the composition of the Advisory Committee on Special Studies Relating to the Possible Long-term Health effects on Phenoxy Herbicides and Contaminants and the procedures used by such advisory committee, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MURKOWSKI (for himself and Mr. FOWLER):

S. 2676. A bill to improve management of lands on Admiralty Island, AK; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself and Mr. HEFLIN):

S.J. Res. 354. A joint resolution to designate November 6 through 12, 1988, as "National Farm Broadcasters Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR:

S. 2674. A bill to improve contracting procedures for procurements of advisory and assistance services by the Federal Government; to improve public access to information concerning such contracts and other contracts, and for other purposes; to the Committee on Governmental Affairs.

CONSULTANT REGISTRATION AND REFORM ACT

Mr. PRYOR. Mr. President, today I am introducing a bill which some of my colleagues may recognize: the Consultant Registration and Reform Act of 1988. I introduced a very similar piece of legislation 7 years ago. Unfortunately, that bill did not reach the Senate floor. However, I believe that the time has come for us to reexamine this issue and look very carefully at the Government's use of consultants and the lack of controls over their use.

The Federal Services Subcommittee has held two hearings this year on Government consultants. At the first hearing, the Office of Management and Budget [OMB] testified that they do not know exactly how much money the Government spends on consulting services or what services consultants are providing the Government.

At the second hearing, we concentrated on the consultants used by the Department of Defense [DOD]. We heard testimony from witnesses who had participated in the DOD procurement system and had valuable insights into the problems and strengths of the system. We also heard from the DOD deputy inspector general and the Director of the Defense Contract Audit Agency who described their abilities or inabilities to monitor the use and costs of consultants.

These hearings have painted a vivid picture of the way consultants operate. As has been clearly demonstrated by the current so-called defense scandal, consultants work not just directly for agencies, but for prime Government contractors as well. In addition, they often work for private companies who have various relationships with our Government, as well as foreign nations.

This is not just true of the Defense Department. In 1980, in the course of an investigation into the use of consultants by the Department of Energy, we discovered a consultant who was helping the Department plan their long-term oil reserve strategy. At the very same time, this same consultant was working on the other side of the street for OPEC, the group which brought us the energy crisis. The most outrageous part of that discovery was that the Department of Energy was not even aware of this dual role until we informed them.

That was not an isolated incident and my hearings have shown that nothing has changed since then. These concerns have led me to draft the legislation I am introducing today. This bill is a sunshine bill. Its purpose is not to stop agencies' use of consultants but to ensure that there is full disclosure so that agencies are not surprised by a consultant's other clients and to protect the Government from possible conflicts of interest.

Mr. President, my bill draws from OMB's Circular A-120 which regulates the Government's use of consultants and the President's Cabinet Council on Management and Administration study on consultants. Consulting services are defined as "advisory and assistance services" which includes management and professional services; the conduct and preparation of studies, analyses, and evaluation; and engineering and technical services.

The legislation introduced today would: First, require requests for proposals for those contracts worth $25,000 or more to be published in the "Commerce Business Daily" at least 30 days prior to the award of the contract;

Second, create monitoring requirements on consulting contracts. For example, before the award of a consulting contract worth more than $25,000 which is based on an unsolicited proposal, the contracting official must transmit a written notice of the proposed contract and the justification for that contract to the agency's Inspector General. An unsolicited proposal is an idea for a contract or work which comes directly from the consultant. The agency has not requested it, yet the consultant thinks that it is such a good idea that he sends it right to the agency. If an agency decides to take the consultant up on his idea, I think it is imperative that the agency justify why it needs that contract, since it didn't seem important enough to the agency to put out a "Request for Proposals;"

Third, require that each report submitted to an agency by a consultant, and each agency report which is substantially based on a consultant report, be labeled as a consultant report. I believe that it is very important for this information to be readily available and for people to realize when an agency report is actually a consultant report. This point was driven home during our second consultant hearing. The DOD directive which regulates agency use of consultants is in large part lifted verbatim from a report written by a consultant for the Navy. Now, I think that the DOD directive is well written, however, if it were not for some investigating on my subcommittee's part, we would not have known that a consultant was responsible for writing a large part of the directive which governs DOD consultant use;

Fourth, require the agency to prepare an evaluation of the contractor's performance which would include: an assessment of the performance judged against the terms of the contract, a description of any differences between the actual cost and time for completion of the contract and the estimated cost and time for completion of the contract, and the purposes for which the consultant service was procured. The contractor will have an opportunity to respond to the agency evaluation;

Fifth, require that both agency budget submissions and the President's budget contain itemized statements regarding the amounts that each agency is requesting for consulting services. It also amends section 1114, title 31, to require that agency heads provide the Federal procurement data system with information on consulting contract costs which are embedded in larger procurement contracts. This will allow us for the first time to get a complete picture of the Government's consultant spending;

Sixth, require that agencies compile, and make available to the public, a list of all the contracts which they had entered into for the previous fiscal year; and

Seventh, create a registration requirement for any consultant doing work directly for the Government or doing work for a contractor who is working for the Government. A contract for consulting services could not be awarded unless the consultant complies with the registration requirement and the agency's general counsel determines that the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States. A consultant would be required to provide the following information: Name and business address; and description of the services provided by the consultant; a list of all public and private clients, both foreign and domestic; a description of the services furnished to each client; a statement as to whether the consultant has ever been convicted of a felony or whether the consultant is under indictment; and a statement as to whether the consultant is currently suspended or debarred by the Government.

I believe that this package of disclosure and registration requirements will ensure that the Office of Management and Budget will no longer have to come before a Senate committee and tell Congress that they do not know how much is being spent on consultants. The bill will also guarantee that the Deputy Inspector General of DOD will not have to come before Congress and say that a convicted felon could be working on a defense contract and the IG would have no way of knowing.

As I said before, this bill is not intended to be burdensome or eliminate the use of consultants. The Federal Government should be able to use the best and the brightest talent available in performing its duties. However, when that talent is also working for the private sector, we should know about it. This bill is intended to shed some sunshine on the all too often shadowy world of consultants.

Mr. President, I urge my colleagues to look favorably upon this legislation and hope that we will have some support from our colleagues, and certainly a host of cosponsors who want to require sunshine to be placed into the shadowy world of consultants used by the Federal Government.

Mr. President, I ask unanimous consent that the legislation that I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consultant Registration and Reform Act of 1988".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Federal procurement officials have not consistently complied with procurement laws, regulations, and management guidelines in awarding contracts for the procurement of advisory and assistance services.

(2) Procurement practices relating to the procurement of advisory and assistance services do not (A) adequately provide for full and open competition, (B) adequately prevent conflicts of interest, or (C) adequately provide for public disclosure of the use and role of contractors who provide such services and studies.

(3) Information regarding the Federal Government's use of advisory and assistance services is not maintained in a manner that results in helpful or meaningful information being available to Congress, the executive branch, or the public.

(4) Federal Government agencies have not consistently complied with the requirement in section 1114 of title 31, United States Code, to include in budget justifications submitted to Congress the amounts requested for consulting services, and the Inspector General (and comparable officials) of such agencies have not consistently complied with the requirement in such section to submit to Congress certain evaluations relating to contracts for consulting services.

(5) Full and open competition in the Federal procurement process is consistent with the basis of the free enterprise system and enables the Federal Government to obtain maximum value for Federal procurement expenditures.

(6) The costs of performing governmental functions are borne by the taxpayer regardless of whether the functions are performed in the private or public sector.

(7) The integrity of the governmental process, especially when advisory and assistance services are used in the performance of governmental functions, requires full public disclosure of the use and role of contractors who perform such functions.

(8) Legislation and oversight is necessary in order to establish and implement consistent policies and practices needed for procurement of advisory and assistance services.

SEC. 3. POLICY.

It is the policy of the United States that—

(1) Federal Government policymaking and decisionmaking functions should be performed by accountable Federal Government officials;

(2) the procurement of advisory and assistance services should be carried out in compliance with applicable procurement laws and regulations; and

(3) Federal Government functions should be performed using the most economical means available while recognizing the inherently governmental nature of certain activities.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "agency" has the same meaning as is provided in section 552(f) of title 5, United States Code.

(2) The term "contract" means (A) any agreement, including any amendment to or modification of an agreement, entered into by the Federal Government for the procurement of property or services, and (B) any letter authorizing the provisions of property or services to the United States prior to a specification of the compensation for the provision of such property or services.

(3) The term "contractor" means any person, including, in the case of a business organization, any affiliate of such organization and including any consultant and any organization of consultants, which is a party to a contract with the Federal Government.

(4) The term "report" means a written study, plan, evaluation, analysis, manual, or similar document, in draft or final form, which is prepared by a contractor pursuant to a contract with an agency and which is submitted to such agency or is submitted on behalf of such agency to any other agency. Such term does not include a billing document, invoice, or other routine business transmittal made with respect to the contract.

(5)(A) The term "advisory and assistance services" means those services acquired by an agency from any nongovernmental source, by contract, to support or improve agency policy development, decisionmaking, management, and administration, or to support or improve the operation of management systems.

(B) Such term includes—

(i) management and professional services;

(ii) the conduct and preparation of studies, analyses, and evaluations; and

(iii) engineering and technical services.

(6) The term "management and professional services" means professional services relating to the management and control of programs, including—

(A) management data collection services;

(B) policy review and development services;

(C) program evaluation services;

(D) program management support services;

(E) program review and development services;

(F) systems engineering services; and

(G) other management and professional services of a similar nature which are not related to any specific program.

(7) The term "studies, analyses, and evaluations" includes the following:

(A) Any analysis or other examination of a subject which—

(i) is undertaken to provide greater understanding of relevant issues and alternatives regarding organizations, policies, procedures, systems, programs, and resources; and

(ii) leads to conclusions or recommendations with respect to planning, programming, budgeting, decisionmaking, or policy development.

(B) With respect to a program of an agency, any study initiated by or for the program management office of the agency.

(C) A cost-benefit analysis, a data analysis (other than a scientific analysis), an economic study or analysis, an environmental assessment or impact study, a legal or litigation study, a legislative study, a regulatory study, a socioeconomic study, and a feasibility study which does not relate to construction.

(D) A geological study, a natural resource study, a scientific data study, a soil study, a water quality study, a wildlife study, and a general health study.

(E) Any similar study or analysis.

(8) The term "engineering and technical services" means the furnishing of advice or training to personnel in order to ensure the efficient and effective operation or maintenance of equipment and associated software by such personnel.

SEC. 5. PUBLIC NOTICE OF CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—An agency may not award a contract for advisory and assistance services estimated to cost more than $25,000 unless a notice describing such contract is published in the Commerce Business Daily at least 30 days before the award.

(b) EXCEPTION.—The head of an agency is not required by this subsection to transmit to the Secretary of Commerce a notice with respect to a contract for advisory and assistance services if the agency's need for such services is of such an unusual and compelling urgency that the United States would be seriously injured as a result of delaying the award of the contract until such a notice has been published.

(c) INAPPLICABILITY OF OTHER NOTICE EXCEPTIONS.—No exception to a contract notice requirement provided in any other provision of law shall apply to a notice required under subsection (a).

SEC. 6. MONITORING PROCUREMENTS OF ADVISORY AND ASSISTANCE SERVICES.

(a) CONTRACT AWARDS.—(1) Before an employee of an agency awards a contract for advisory and assistance services for an amount of $25,000 or more on the basis of an unsolicited proposal, such employee shall transmit to the Inspector General of such agency or a comparable official, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a written notice of the proposed contract award. The notice shall include a description of the contract and the justification for the contract.

(2) Not later than 30 days after the date on which an employee of an agency awards a contract for advisory and assistance services for an amount of $25,000 or more, such employee shall transmit to the Inspector General of such agency or a comparable official of the agency, or in the case of an agency which does not have an Inspector General or a comparable official, the head

of the agency or his designee, a justification for the award of such contract.

(b) Contract Modifications.—Whenever an employee of an agency modifies a contract for advisory and assistance services and the modification of such contract increases the amount of the contract by at least $25,000, such employee shall transmit to the Inspector General of such agency or a comparable official of the agency, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a written notice of the modification. The notice shall include—

(A) a description of the original contract;

(B) a description of the modification; and

(C) the justification for the modification.

SEC. 7 IDENTIFICATION OF REPORTS PREPARED BY CONTRACTORS.

Each report submitted to an agency by a contractor, and each agency report which is substantially derived from or includes substantial portions of any such contractor report, shall include the following information:

(1) The name and business address of the contractor.

(2) The total amount of the contract.

(3) A statement of whether the contract was awarded using competitive or noncompetitive procedures.

(4) The name of the office which authorized the award of the contract.

(5) In any case in which a contractor uses a subcontractor to prepare any portion of the report submitted by the contractor, the name and business address of the subcontractor and the amount paid to the subcontractor for preparation of the report.

(6) The names of all employees of the contractor, and any subcontractor, who substantially contributed to the preparation of the report submitted by the contractor.

SEC. 8. EVALUATION OF CONTRACTOR PERFORMANCE.

(a) Evaluation.—Within 90 days after the completion of the performance of a contract for advisory and assistance services, the head of the agency that awarded the contract shall prepare a written evaluation of the contractor's performance. An evaluation is not required under this subsection in the case of a contract that does not exceed $25,000.

(b) Content of Evaluation.—An evaluation of contractor performance under subsection (a) shall include the following information:

(1) A summary description of the performance of the contractor.

(2) An assessment of the performance of the contractor based on the terms and specifications of the contract performed.

(3) Any differences between the cost of the contract and the time for completion of the contract as provided in or estimated for such contract at the time of contract award and the actual cost of the contract and the actual time for completion of the contract, respectively, and a statement of the reasons for any such difference.

(4) The purposes for which and the manner in which the services procured and any reports received under such contract are used by the agency.

(c) Record of Evaluation.—The head of an agency shall include each evaluation required by subsection (a) in the records maintained by the agency in connection with the contract to which the evaluation relates, and shall maintain copies of all such evaluations in one location in the agency that is readily accessible to the public.

(d) Contractor's Rights.—After preparing an evaluation of contractor performance under this section, the head of an agency shall promptly transmit to the contractor a copy of the evaluation together with a notice stating that the contractor may, within 10 days after receiving such copy, transmit comments to the agency concerning such evaluation. Any such comments shall be made a part of the evaluation as a supplement.

SEC. 9. BUDGET INFORMATION.

(a) Agency Submissions.—The head of each agency shall include with the request for regular appropriations for each fiscal year submitted to the President pursuant to section 1108 of title 31, United States Code, an itemized statement of the amounts requested by the agency for procurement of advisory and assistance services in such fiscal year. The statement shall identify such amounts according to the same subfunctional categories to be used by the President in the submission of the budget for such fiscal year pursuant to section 1105 of title 31, United States Code, and, within each such category, shall identify such amounts according to classifications for procurement of—

(1) management and professional services;

(2) studies, analyses, and evaluations;

(3) engineering and technical service; and

(4) other advisory and assistance servcies.

(b) Budget Submissions.—The budget submitted by the President to Congress for each fiscal year under section 1105 of title 31, United States Code—

(1) shall set forth separately, within each subfunctional category used in such budget, requests for new budget authority for, and estimates of outlays by, each agency for procurement of advisory and assistance services; and

(2) within each such category, shall identify such requests and estimates according to classifications for procurment of—

(A) Management and professional services;

(B) studies, analyses, and evaluations;

(C) engineering and technical service; and

(D) other advisory and assistance servcies.

(c) Justifications for Revisions of Budget Requests.—Within 60 days after the President transmits to Congress a revision of any request for new budget authority or of any estimate of outlays included in the budget for any fiscal year pursuant to subsection (b), the head of the agency affected by such revision shall prepare and transmit to Congress an analysis of such revised request or of such revised estimate, as the case may be, and a statement justifying the need for such revised request or such revised estimate.

SEC. 10. FEDERAL PROCUREMENT DATA SYSTEM.

Section 1114 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) The head of each agency shall provide the Federal Procurement Data System timely, complete, and accurate information on (A) contracts awarded by such agency primarily for the procurement of consulting services, and (B) all procurements of consulting services under contracts awarded by such agency not primarily for the procurement of consulting services.

"(2) The information provided under paragraph (1) shall include the amounts expended for the procurement of consulting services specified separately for contracts described in clause (A) of such paragraph and for procurements described in clause (B) of such paragraph.

"(3) This subsection shall not apply to a contract for consulting service, or any data, reports, or other material pertaining to such services, if the contract—

"(A) involves sensitive foreign intelligence or foreign counterintelligence activities;

"(B) involves sensitive law enforcement investigations; or

"(C) is classified under the national security classification system.

"(d) In this section:

"(1) The term 'consulting services' includes advisory and assistance services.

"(2)(A) The term 'advisory and assistance services' means those services acquired by an agency from any nongovernmental source, by contract, to support or improve agency policy development, decisionmaking, management, and administration, or to support or improve the operation of management systems.

"(B) Such term includes—

"(i) management and professional services;

"(ii) the conduct and preparation of studies, analyses, and evaluations; and

"(iii) engineering and technical services.

"(3) The term 'management and professional services' means professional services relating to the management and control of programs, including—

(A) management data collection services;

(B) policy review and development services;

(C) program evaluation services;

(D) program management support services;

(E) program review and development services;

(F) systems engineering services; and

(G) other management and professional services of a similar nature which are not related to any specific program.

"(4) The term 'studies, analyses, and evaluations' includes the following:

"(A) Any analysis or other examination of a subject which—

"(i) is undertaken to provide greater understanding of relevant issues and alternatives regarding organizations, policies, procedures, systems, programs, and resources; and

"(ii) leads to conclusions or recommendations with respect to planning, programming, budgeting, decisionmaking, or policy development.

"(B) With respect to a program of an agency, any study initiated by or for the program management office of the agency.

"(C) A cost-benefit analysis, a data analysis (other than a scientific analysis), an economic study or analysis, an environmental assessment or impact study, a legal or litigation study, a legislative study, a regulatory study, a socio-economic study, and a feasibility study which does not relate to construction.

"(D) A geological study, a natural resource study, a scientific data study, a soil study, a water quality study, a wildlife study, and a general health study.

"(E) Any similar study or analysis.

"(5) The term 'engineering and technical services' means the furnishing of advice or training to personnel in order to ensure the efficient and effective operation or maintenance of equipment and associated software by such personnel.".

SEC. 11. PUBLIC AVAILABILITY OF INFORMATION ON CONTRACTS.

(a) Lists and Justification.—(1)(A) Not later than November 1, 1989, the head of each agency shall compile a list of all contracts awarded by the agency during fiscal year 1988 and a separate list of all contracts entered into by the agency for which performance has not been completed at the time of the preparation of such list. Each list shall be updated, on a quarterly basis, with information on contracts awarded since the list was prepared.

(B) Each list of contracts compiled and updated by the head of an agency under subparagraph (A) shall include, for each such contract, the following information:

(i) The contract identification number assigned by the agency.

(ii) The contractor's name.

(iii) The date of award and the estimated completion date.

(iv) The original and current amounts to be paid by the agency under the contract.

(v) A brief description of the work to be performed.

(2) The head of each agency shall maintain a written justification for each contract awarded by the agency.

(3) The head of each agency shall permit the public to inspect and make copies of the list prepared and updated under paragraph (1) and the justifications maintained under paragraph (2). The agency may impose a reasonable charge for the costs of making such copies.

(b) Other Information.—Except as otherwise provided by law, the following information shall be available to the public upon request:

(1) Copies of contracts awarded by an agency.

(2) In the case of a contract for advisory and assistance services, the name and qualifications of each person designated in such contract to perform such contract.

(3) In the case of a contract for advisory and assistance services awarded on a sole source basis, the justification for awarding such contract on a sole source basis.

SEC. 12. PROHIBITIONS AND REQUIREMENTS RELATING TO REGISTRATION OF CONSULTANTS.

(a) Prohibited Contract Awards Involving Consultants.—(1) The head of an agency may not award a contract for the procurement of advisory and assistance services to a consultant unless—

(A) such consultant complies with the registration requirements of this section; and

(B) the General Counsel of the agency has reviewed the information registered by such consultant and such other information as may be available to the head of the agency and determined that, with respect to such contract, the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States.

(2) The head of an agency may not award a contract to any person submitting an offer to such agency unless the offeror certifies that each consultant that has furnished advice, information, direction, or assistance to the offeror in support of the preparation or submission of the offer has complied with the registration requirements of this section.

(b) Registration Requirements.—(1) A consultant submitting an offer for a contract referred to in subsection (a)(1) shall register with an officer or employee designated by the head of the agency awarding such contract. The consultant shall register within such time after submitting the offer as the head of that agency shall prescribe in regulations.

(2) A consultant retained by a person in connection with the preparation or submission of an offer for a Federal Government contract shall register with an officer or employee designated by the head of the agency awarding such contract. The consultant shall register within such time after the retention of such consultant as the head of that agency shall prescribe in regulations.

(3) A consultant who is registered with an agency under this subsection with respect to one contract shall update the registered information whenever the consultant submits an offer for another contract of such agency (if such contract is for the procurement of advisory and assistance services) and whenever the consultant is retained by a person in connection with the preparation or submission of an offer for another contract of such agency. The consultant shall update such information within such time as the head of that agency shall prescribe in regulations.

(c) Information Required.—A person registering as a consultant under this section shall furnish the following information:

(1) The name and address of the consultant.

(2) A description of the nature of the services furnished by the consultant in the normal course of the consultant's business.

(3) A list of all public and private clients for which the consultant has furnished advisory and assistance services, including foreign and domestic clients.

(4) A description of the services furnished each such client by the consultant.

(5) A statement of whether the consultant has ever been convicted of a felony and whether, at the time of the registration, there is pending any indictment or information charging the consultant with a felony.

(6) A statement of whether, at the time of the registration, the consultant is ineligible, by reason of suspension or debarment, to be awarded a contract by the Federal Government.

(7) A certification that, at the time of the registration, the consultant and all employees of the consultant are not in violation of any applicable requirement set out in, and are not engaged in any conduct prohibited by, sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code, any similar provision of law, and any contract term required by such section 2397c (or any similar provision of law).

(d) The Inspector General of each agency or, in the case of an agency that does not have an Inspector General, the head of such agency shall monitor the compliance of consultants with the registration requirements of this section and shall submit to Congress an annual report containing a discussion of the extent of such compliance. The first report of each agency shall be submitted not later than one year after the date of the enactment of this Act.

(e) Suspension and debarment proceedings shall be initiated in the case of each consultant who fails to comply with the registration requirements of this section.

(f) In this section, the term "consultant" means any person (including, in the case of a business organization, any affiliate of such organization) that—

(1) furnishes or offers to furnish advisory and assistance services; or

(2) furnishes advice, information, direction, or assistance to any other person in support of the preparation or submission of an offer for a Federal Government contracted by such other person.

SEC. 13. EXCEPTIONS.

Sections 5, 6, 7, 8, 9, and 11 shall not apply to a contract for advisory and assistance services, or any data, reports, or other material pertaining to such services, if the contract—

(1) involves sensitive foreign intelligence or foreign counterintelligence activities;

(2) involves sensitive law enforcement investigations; or

(3) is classified under the national security classification system.

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

Mr. DASCHLE (for himself, Mr. Kerry, Mr. Chafee, Mr. Wirth, Mr. Harkin, Mr. Pressler, and Mr. Bradley)

S. 2675. A bill to amend title 38, United States Code, to provide certain service-connection presumptions in the case of veterans who performed active service in Vietnam during the Vietnam era; to make improvements in the composition of the Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants and the procedures used by such advisory committee, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' AGENT ORANGE AND SERVICE DISABILITIES ACT

Mr. DASCHLE. Mr. President, today Senator John Kerry and I are introducing the Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988. This legislation establishes a presumption of service connection for Vietnam veterans suffering from non-Hodgkin's lymphoma and soft-tissue sarcoma, enabling them to receive disability compensation from the Veterans' Administration. The bill also establishes a nonpolitical procedure for adding other agent orange-related diseases to the list of those to be compensated when, warranted by the scientific evidence, and ensure that the Veterans' Administration will continue to study Vietnam service-related disabilities and provide outreach services for veterans affected by their exposure to agent orange.

Our bill addresses concerns raised by veterans and groups representing veterans, by scientists, researchers, and physicians, and by our colleagues in the Senate.

We have consulted those in the scientific community, who have given us an understanding of the state of knowledge about the effect of toxic herbicides and their contaminants, as well as educating us about the utility—and limitations—of epidemiology.

We have consulted veterans and veterans' groups, who have informed us of the problems affecting Vietnam veterans throughout the country, and who have made us aware of the need for continued study of the Vietnam experience and its human cost.

We have consulted many of our colleagues in the Congress, whose views ranged from those who feel that the Government of the United States needs to do much more to show its gratitude for the sacrifices of those who served in Vietnam, to those who argue that our support for veterans is already generous and should be expanded only after the presentation of definitive evidence of unmet veterans' needs.

As a result of these extensive discussions, we have made several changes in our original bill. For example, we removed provisions of the bill that were objectionable to some of those with whom we consulted in cases where their logic was sound and their arguments persuasive.

We added provisions when those with whom we consulted made cogent and convincing arguments that our bill did not go far enough, as when the veterans' groups pointed out the need for dependable outreach services from the Veterans' Administration for those suffering disorders related to their Vietnam service. These groups also made it clear that research about the effects of the Vietnam experience must not cease, and our bill reflects those concerns.

We made the bill flexible, when the scientific community told us that suggestive evidence about the link between Vietnam service and agent orange and a number of other illnesses. For example, the association between lung cancer, immune suppression disorders, and birth defects and exposure of agent orange has not been as widely discussed or researched as the link between non-Hodgkin's lymphoma and soft-tissue sarcoma and agent orange. The bill thus creates a procedure for allowing additions to the list of compensable disorders if, on the recommendation of independent scientific authorities, the record becomes more complete and justifies a presumption of service connection and compensation from the Veterans' Administration.

After considering this diverse set of views, we wrote a bill that is comprehensive, compassionate, consistent with available scientific evidence, and flexible. It is a carefully developed compromise and a reasonable approach to an important problem affecting millions of America's Vietnam veterans. It is also a bill which I'm proud to note has received endorsements from the American Legion, Veterans of Foreign Wars, and Vietnam Veterans of America.

Senator KERRY and I plan to offer this bill in the form of an amendment in the future. This bill should augment the provisions offered by the Senate Veterans' Affairs Committee in S. 2011, the veterans' compensation bill.

I want to acknowledge with gratitude the efforts of the Veterans' Affairs Committee, for S. 2011 is a step in the right direction and an important recognition of the need to move forward on the agent orange issue. However, S. 2011 provides only temporary disability compensation for non-Hodgkin's lymphoma, and no compensation for soft-tissue sarcoma. Disability payments for non-Hodgkin's lymphoma could be suspended arbitrarily by the Veterans' Administration—the same Veterans' Administration that has refused to grant compensation to any agent orange victims—6 months after the release of the selected cancers study now being conducted by the Centers for Disease Control. The bill also does not create a procedure for adding diseases to the list of compensable disabilities and is silent on the question of additional study of disorders associated with the Vietnam experience. In short, the committee bill is an excellent start, but is simply too limited to deal with the broad range of legitimate concerns raised by Vietnam veterans about agent orange and their Vietnam experience.

Approximately 25 years have passed since American soldiers in Vietnam were first exposed to agent orange. The evidence of the damaging effects of the herbicide has accumulated gradually, but convincingly. And while the accumulation of evidence has not ended, it is clear that the time for compensating veterans damaged by agent orange and the Vietnam experience has arrived. Our bill recognizes this fact, and, at the same time, recognizes the complexity of the issue and the ambiguities existent in the agent orange record. Our need for additional knowledge dictates that we continue our search for knowledge of Vietnam's impact, and our compassion, and our debt to veterans dictates that we offer tangible recognition of their sacrifices.

Mr. President, I ask unanimous consent that letters of support from the American Legion, Veterans of Foreign Wars, and Vietnam Veterans of America, as well as the full text of the Veterans Agent Orange and Vietnam Service Disabilities Act of 1988, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988".

TITLE I—AGENT ORANGE PRESUMPTIONS, RESEARCH, AND OUTREACH MATTERS

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) There is sufficient scientific evidence and experience to warrant a presumption that certain diseases suffered by veterans of service in the Republic of Vietnam during the Vietnam era are connected to such service.

(2) There is sufficient scientific evidence to warrant a presumption that exposure to dioxin or other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era causes a range of significant adverse health effects associated with carcinogenicity, reproductive toxicity, and immunotoxicity in humans.

(3) The Administrator of Veterans' Affairs has determined that it is reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin and other toxic agents in herbicides during such service.

(4) It is also reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed, during such service, to other causes of disease.

SEC. 102. PRESUMPTION RELATING TO CERTAIN DISEASES.

(a) PRESUMPTION OF SERVICE CONNECTION.—Section 312 of title 38, United States Code, is amended by adding at the end the following new subsections:

"(c) For the purposes of section 310 of this title, in the case of any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era, the following diseases shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service:

"(1) Non-Hodgkin's lymphoma.

"(2) Soft-tissue sarcoma.

"(d)(1) For the purposes of section 310 of this title, in the case of any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era and who, during such service, was exposed to dioxin or any other toxic agent in an herbicide used in support of United States and allied military operations in the Republic of Vietnam, each disease described in paragraph (2) of this subsection shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) A disease referred to in paragraph (1) of this subsection is any disease that—

"(A) is determined by the Administrator to be reasonably associated with the known biological effects of exposure to dioxin or any other toxic agent referred to in such paragraph; and

"(B) is listed in regulations which the Administrator shall prescribe for the purpose of this subsection.

"(3)(A) For the purpose of this subsection, a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era and who has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to dioxin or another toxic agent referred to in such paragraph, unless—

"(i) the results of credible and reliable laboratory tests indicate that the level of dioxin or other toxic agent in the veteran's serum or adipose tissue is within or below the range of serum or adipose dioxin or other toxic agent levels considered normal for veterans who performed active military, naval, or air service during the Vietnam era but did not perform any such service in the Republic of Vietnam; and "(ii) the service records of such veteran indicate that the veteran did not participate extensively in tactical operations in Vietnam.

"(B) Notwithstanding section 313 of this title, the presumption provided in subparagraph (A) of this paragraph may not be rebutted except as provided in such subparagraph. The Veterans' Administration shall have the burden of proof (including the burden of nonpersuasion) for rebutting such presumption.

"(C) The Administrator may require a veteran to submit to a blood test in order to determine the level of dioxin or other toxic agent in the veteran's serum or adipose tissue for the purpose of this paragraph.

"(4)(A) The Administrator shall enter into an agreement with the National Academy of Sciences or, if the National Academy of Sciences does not enter into such an agreement, with another appropriate nonprofit private scientific organization to determine, for the purpose of paragraph (3)(A) of this subsection, the normal range of serum or adipose dioxin or other toxic agent levels referred to in such paragraph.

"(B) In determining the normal range of serum or adipose dioxin or other toxic agents for the purpose of paragraph (3)(A) of this subsection, the National Academy of Sciences or other organization referred to in subparagraph (A) of this paragraph, as the case may be, shall consider—

"(i) the results of scientific tests that reasonably relate the chemical composition of dioxin or other toxic agent in serum or adipose tissue to the chemical composition of dioxin or other toxic agents in herbicides referred to in paragraph (1) of this subsection;

"(ii) the half-life of dioxin and such other toxic agents; and

"(iii) variations in the susceptibility of individuals to absorption of dioxin and such other toxic agents.

"(5) The Administrator may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside the Republic of Vietnam during the Vietnam era, was exposed to dioxin or any other toxic agent referred to in such subsection.".

(b) APPLICABILITY OF PRESUMPTION.—If, in the case of any veteran, compensation under chapter 11 or disability and indemnity compensation under chapter 13 of title 38, United States Code, is awarded to any person on the basis of a presumption provided in subsection (c) or (d) of section 312 of such title (as added by subsection (a)), such award shall take effect on the date (whether before, on, or after the date of the enactment of this Act) on which the Veterans' Administration first received an application in which such person claimed entitlement to such compensation on the basis of the disability or death of such veteran resulting from a disease referred to in such subsection (c) or (d).

SEC. 103. DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN TOXIC AGENTS.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by inserting after section 312 the following new section:

"§312A. Procedures for determining diseases associated with effects of exposure to certain toxic agents

"(a)(1) Subject to subsection (c) of this section, the Administrator shall enter into an agreement with an appropriate nonprofit private scientific organization that requires such organization—

"(A) to conduct, with the assistance of and subject to the review of a peer review panel of recognized experts in toxicology, medicine, epidemiology, and related fields, a survey of all completed and ongoing scientific studies of the effects that dioxin and other known toxic agents in the herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era have on humans or other animals that have been exposed to dioxin or such an agent; and

"(B) to determine on the basis of such studies, in the case of dioxin and each such other toxic agent, which diseases (if any) are reasonably associated with the known biological effects of exposure to dioxin or such other agent on humans and appropriate animal models, including those effects involving porphyrin synthesis, lung cancer, other cancers, nervous system function, immune function, reproduction, and birth defects.

"(2) The scientific organization conducting the survey referred to in paragraph (1)(A) of this subsection shall transmit to the Administrator and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report, in writing, containing—

"(A) the name of each disease determined as provided in paragraph (1)(B) of this subsection to be reasonably associated with the known biological effects of exposure to dioxin and the other toxic agents referred to in such paragraph; and

"(B) a discussion of the biological basis for the association of such disease with such effects and the strength of such association.

"(3) Not later than 90 days after the date on which the Administrator and the Committees on Veterans' Affairs receive the report under by paragraph (2) of this subsection, the Administrator shall—

"(A) determine, on the basis of such report, which diseases (if any) are reasonably associated with the known biological effects of exposure to dioxin or other known toxic agents referred to in paragraph (1) of this subsection; and

"(B) prescribe regulations for the purpose of section 312(d)(2) of this title that lists each such disease.

"(b)(1) The Administrator shall provide for a periodic (but not less often than annual) survey of all studies described in subsection (a)(1)(A) of this subsection that have been published or otherwise become available since the last survey under this section. Subject to subsection (c) of this section, the Administrator shall enter into an agreement with a private nonprofit private scientific organization—

"(A) to conduct the survey; and

"(B) to determine, taking into consideration the results of all surveys under this subsection and subsection (a) of this section, whether—

"(i) there is warranted on a scientific basis any modification of the determinations previously made under this section with respect to diseases reasonably associated with the known biological effects of exposure to dioxin or any other toxic agent referred to in subsection (a)(1)(A) of this section; and

"(ii) any disease should be added to the list of diseases contained in the regulations prescribed under section 312(d)(2)(B) of this title.

"(2) After each survey under paragraph (1) of this subsection the organization conducting the survey under such paragraph shall submit to the Administrator a report on the survey and on the determinations of such organization.

"(3) Upon receiving a report under paragraph (2) of this subsection, the Administrator shall—

"(A) determine, on the basis of such report and all previous reports received under this subsection and subsection (a) of this section, whether any disease should be added to the list of diseases contained in the regulations prescribed under section 312(d)(2)(B) of this title; and

"(B) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives—

"(i) a report containing the Administrator's determinations under subparagraph (A) of this paragraph and the scientific basis for his determinations; and

"(ii) a copy of the report received under paragraph (2) of this subsection.

"(4) After transmitting a report to the Committees on Veterans' Affairs under paragraph (3)(B)(i) of this subsection, the Administrator shall amend the regulations referred to in section 312(d)(2)(B) of this title as may be necessary to reflect the Administrator's determinations included in that report. The amended regulations shall take effect 90 days after the date on which the committees receive that report.

"(c) The nonprofit private scientific organization referred to in subsections (a)(1) and (b)(1) shall be the National Academy of Sciences, except that the Administrator may enter into an agreement with any other appropriate nonprofit private scientific organization for the purposes of either subsection if—

"(1) the National Academy of Sciences does not enter into an agreement with the Administrator under such subsection;

"(2) the Administrator has transmitted to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification, in writing, containing the name of the other organization; and

"(3) ninety days have elapsed since the date on which the Committees on Veterans' Affairs received the notification.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Procedures for determining diseases associated with effects of exposure to certain toxic agents.".

(b) DEADLINE FOR INITIAL REPORT.—The report under section 312A(a)(2) of title 38, United States Code (as added by subsection (a)), shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 104. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES.

(a) IN GENERAL.—(1) Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 624 the following new section:

"§625. Reports on health care relating to exposure to certain toxic substances

"(a) The Administrator shall compile and analyze, on a continuing basis, all clinical data obtained by the Veterans' Administration in connection with physical examinations and treatment furnished by the Veterans' Administration after November 3, 1981, to veterans who are eligible to receive such examinations or treatment by reason of having been exposed to dioxin or any other toxic substance referred to in section 610(e)(1)(A) of this title.

"(b) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a semiannual report containing—

"(1) the information compiled in accordance with subsection (a) of this section;

"(2) the Administrator's analysis of such information;

"(3) a discussion of the disabilities identified or treated by the Veterans' Administration in the case of veterans referred to in subsection (a) of this section;

"(4) the Administrator's explanation for the incidence of such disabilities; and

"(5) other explanations for the incidence of such disabilities considered reasonable by the Administrator.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 624 the following new item:

"625. Reports on health care relating to exposure to certain toxic substances.".

(b) First Report.— The first report under section 625 of title 38, United States Code (as added by subsection (a)), shall be submitted one year after the date of the enactment of this Act.

SEC. 105. TISSUE ARCHIVING SYSTEM.

(a) Establishment of System.—In order to facilitate future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Administrator of Veterans' Affairs shall establish and maintain a system for the collection and frozen storage of voluntarily contributed samples of blood and tissue of veterans who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era. The system may be administered by the Veterans' Administration or under a contract awarded by the Administrator, whichever is more cost-effective.

(b) Security of Specimens.—The Administrator shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) Authorized Use of Specimens.—The Administrator may make tissue available from the system for research referred to in subsection (a).

SEC. 106. FEASIBILITY STUDIES.

(a) Studies.—The Administrator of Veterans' Affairs shall award contracts or furnish financial assistance to non-Government entities to carry out studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

(2) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) Report.—The Administrator shall report the results of such studies to the veterans' committees.

(c) Action of Congressional Committees.—The veterans' committees shall consider each report of the Administrator under such subsection, consult with the Office of Technology Assessment and the National Academy of Sciences (or any other appropriate nonprofit private scientific organization), and determine whether to report proposed legislation providing for additional studies and research on health hazards referred to in subsection (a).

SEC. 107. OUTREACH SERVICES.

The Administrator of Veterans' Affairs shall—

(1) conduct an active, continuous outreach program for furnishing to veterans of active military, naval, or air service in the Republic of Vietnam during the Vietnam era services and information relating to the health risks resulting from exposure during such service to dioxin or any other toxic agent in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, including furnishing updated literature and other information on such health risks to such veterans at least twice each year;

(2) update the information on veterans contained in the Veterans' Administration Agent Orange Registry; and

(3) organize the information contained in such registry in a manner that enables the Administrator promptly to notify a veteran of any increased health risk for such veteran resulting from exposure of such veteran to dioxin or any other toxic agent referred to in clause (1) during Vietnam era service in the Republic of Vietnam whenever the Administrator determines, on the basis of physical examination or other pertinent information, that such veteran is subject to such increased health risk.

SEC. 108. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the veterans' committees a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in the Republic of Vietnam during the Vietnam era, including research relating exposure to dioxin and other toxic agents outside the Republic of Vietnam.

SEC. 109. AVAILABILITY OF FUNDS.

(a) In General.—The unobligated balance of any funds appropriated or otherwise available for the use of the Centers for Disease Control for the conduct of a study of the effects of exposure of ground troops to dioxin and other toxic agents in herbicides used in support of United States and allied operations in the Republic of Vietnam during the Vietnam era shall be available to carry out section 312A of title 38, United States Code (as added by section 103 of this Act), and sections 105 and 106 of this Act. Funds made available under this subsection shall be in addition to any other funds that are available to carry out such sections.

(b) Definition.—In this section, the term "unobligated balance" includes the amount of any funds that are deobligated on or after the date of the enactment of this Act.

SEC. 110. DEFINITIONS.

In this title:

(1) The term "veterans' committees" means the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(2) The terms "Administrator", "veteran", and "Vietnam era" shall have the meanings given those terms in section 101 of title 38, United States Code.

TITLE II—ADVISORY COMMITTEE ON SPECIAL STUDIES RELATING TO THE POSSIBLE LONG-TERM HEALTH EFFECTS OF PHENOXY HERBICIDES AND CONTAMINANTS

SEC. 201. FINDING.

Congress finds that an advisory committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants" (hereafter in this tile referred to as the "Advisory Committee") has been established to monitor the conduct, by Department of the Air Force scientists, of a special study relating to the possible long-term effects of phenoxy herbicides and contaminants on the health of human beings (known as the "Ranch Hand study").

SEC. 202. ADVISORY COMMITTEE PERSONNEL.

(a) Composition.—Not less than one-third of the total number of members of the Advisory Committee shall be individuals selected by the Secretary of Health and Human Services from among scientists recommended by veterans' organizations.

(b) Chairman.—The Chairman of the Advisory Committee may not be an officer or employee of the Federal Government (other than by reason of his service as a member of the Advisory Committee).

SEC. 203. ADVISORY RELATIONSHIP.

The Advisory Committee may directly consult with and provide information and recommendations to the Department of the Air Force scientists referred to in section 201, and such scientists may directly consult with and provide information and recommendations to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information.

SEC. 204. REPORTS.

(a) Schedule of Reports.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Veterans' Affairs and on Armed Services of the Senate and the House of Representatives a schedule of reports on the Ranch Hand study and on any other studies conducted by the Department of Defense in order to determine the possible long-term effects of phenoxy herbicides and contaminants on the health of human beings. The schedule shall provide for the preparation of at least two progress reports each year and a final report.

(b) Content of Progress Reports.—(1) Each progress report shall contain the following matters:

(A) A discussion of the progress made in the studies referred to in subsection (a) during the period covered by the report, including a discussion of any progress made in improving administrative support of the conduct of such studies.

(B) A summary of the scientific activities conducted during such period and the findings resulting from such activities.

(2) A progress report need not contain a discussion of progress discussed in another progress report under this section or a scientific summary included in another such report unless such discussion or summary needs to be modified in order to be complete, accurate, and current.

(c) Transmittal of Reports.—The Secretary of Defense shall transmit to the committees referred to in subsection (a) a copy of each report prepared under such subsection.

SEC. 205. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act, except that section 202 shall take effect 30 days after such date.

THE AMERICAN LEGION,
Washington, DC, July 27, 1988.

Hon. THOMAS DASCHLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: The Amercian Legion has reviewed your proposed legislation, the "Veterans Agent Orange and Vietnam Service Disabilities Act of 1988". We feel that the measure seeks a resonable approach toward resolving the Agent Orange dilamma. We hope that, if enacted, this bill will offer reassurance to most veterans who believe they suffer the residuals of dioxin exposure.

In our opinion, the presumption of service connection for two disabilities and the creation of presumptive mechanisms for other disabilities are certainly appropriate. Your proposal clearly recognizes the need for more aggressive research, more cooperation among research groups, more substantive actions to be taken by the Veterans' Administration, greater outreach and information sharing, and regular reporting of research developments to Congress. We agree that all of these undertakings are essential.

Senator, as an organization whose membership consists of almost one million Vietnam Era veterans, The American Legion wishes to express its deep appreciation to you for your continuing leadership on this issue. We also appreciate your willingness, in developing this measure, the accommodate the views of other veterans advocates, both in Congress and in the veterans community.

Sincerely,

E. PHILIP RIGGIN,
Director,
National Legistative Commission.

VETERANS OF FOREIGN
WARS OF THE UNITED STATES,
Washington, DC, July 29, 1988.

Hon. TOM DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: This is written to express the support of the Veterans of Foreign Wars of the United States for the draft legislation which you are about to introduce entitled, "Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988."

Our review of this draft legislation has shown it to be, at least in our estimation, a very carefully considered and sincere effort to assist those long neglected Vietnam veterans who are suffering from disabilities as a result of their demonstrated exposure to dioxin or other toxic agents in the herbicides used in Vietnam. We also commend this bill's provision of a rebuttable presumption of service connection for two diseases which are demonstrably associated with Vietnam service in general.

It also bears mentioning at this time that I appreciate your not only having asked for our views in the development of this legislation, but also for heeding them as well. In light of the VFW's long-standing mandate to justly answer the needs of those veterans who are actually suffering from herbicide exposure, we are gratified with the manner in which this legislation has been developed and with the role we have played in it. With your bill, veterans suffering from Agent Orange exposure may at last be afforded the recognition and assistance they deserve.

Sincerely,

COOPER T. HOLT,
Executive Director.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, July 22, 1988.

Hon. THOMAS A. DASCHLE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DASCHLE: The Vietnam Veterans of America, Inc. (VVA) takes this opportunity to express its full support for the amendatory legislation you plan to introduce concerning Agent Orange disabilities sustained by veterans having served in Vietnam. While we continue to support legislation that you and Senator Kerry introduced last autumn, S. 1787, this latest initiative represents a balanced and prudent compromise agreeable to most parties with a direct interest in this issue.

Naturally, we were as disappointed as you that the Senate Veterans' Affairs Committee failed to go farther than it did in addressing this critical issue when on June 29 it added only cursory Agent Orange provisions to S. 2011, the Veterans Benefits and Programs Improvement Act of 1988. We are convinced, as you are, that even in the presence of scientific evidence that lacks unanimity on the specific health effects of dioxin exposure that enough evidence exists to begin compensating veterans for those diseases strongly implicated by the existing scientific evidence.

In this connection, your amendatory legislation is careful to limit those diseases for which compenation is to be provided to non-Hodgkin's lymphoma and soft tissue sarcoma. Each of these diseases has been repeatedly shown to be more likely evidenced in individuals exposed to dioxin than in individuals who were not.

Importantly, this legislation also establishes an independent review mechanism for evaluating the scientific evidence related to the health effects of dioxin exposure in Southeast Asia with a directed focus on diseases involving porphyrin synthesis, nervous and immune system functions and reproductive problems, as well as cancers including lung cancer and birth defects. The need for an independent review of the scientific studies is needed because the VA's Committee on Environmental Hazards which was charged with similar responsibilities has apparently adopted the operational view that no disease should be compensable in the absence of scientific evidence showing an absolute cause and effect relationship between exposure and disease. It should be noted, in this regard, that no veteran has yet to be compensated for a single Agent Orange claim.

In closing, Senator Daschle, we appreciate your consistent attention to this particular issue. For over 10 years the matter of Agent Orange has served as one of the most unsettling causes of fear and anxiety among Vietnam veterans and their families. It is as important as it is pressing that the Congress begin to resolve this issue. Your amendments would constitute an important first step.

Sincerely,

MARY R. STOUT,
President.

Mr. KERRY. Mr. President, I am very pleased to join with Senator TOM DASCHLE in introducing the Veterans' Agent Orange and Vietnam Service Disabilities Act of 1988. This is an important piece of legislation for Vietnam veterans because it would finally begin the process of providing compensation of Vietnam veterans who are suffering from diseases related to their Vietnam service which may have been caused by agent orange.

This bill has been carefully crafted in consultation with major veterans groups. It has the support of Vietnam Veterans of America, the American Legion, and the Veterans of Foreign Wars. This bill builds upon our earlier legislation, S. 1787, and on other efforts to address this issue.

We have now finally, after 40 years, said that it is time to compensate the "atomic veterans" who are victims of radiation. Let us not make the victims of agent orange wait 40 years until they, too, can finally receive compensation.

The Supreme Court has now recognized that it is time to compensate Vietnam veterans for diseases which may have been caused by exposure to agent orange. The Supreme Court's recent decision upholding the settlement in the agent orange lawsuit means that funds from the chemical companies can now be distributed to veterans. Unfortunately, only a relatively small number of veterans will qualify for the funds, and they will only get a small amount of money. It is estimated that veterans who are 100-percent disabled will receive an average of about $5,700, if they can show they were exposed to dioxin. Death benefits of about $1,800 will go to survivors.

The Supreme Court's decision is important because it is an authoritative statement that the time has come to end this controversy, and to compensate Vietnam veterans. However, it should be emphasized that no Government funds are involved in the agent orange lawsuit, and that all the money will come from the chemical companies which manufactured agent orange. This settlement does not in any way mean that the Federal Government has met its obligation to Vietnam veterans who are victims of agent orange. That decision is up to the Congress.

Our bill would state the finding of Congress that there is now sufficient evidence and experience to warrant presumptions that certain diseases are associated with both Vietnam service in general, and exposure to dioxin and other toxic agents in herbicides such as agent orange. The bill would create a presumption of service-connection for two diseases, non-Hodgkins lymphoma and soft-tissue sarcoma.

The bill would also set up a system for independent review of scientific evidence relating to agent orange by the National Academy of Sciences. It would require the VA to gather and analyze on a continuing basis all clinical data from the health records of veterans examined or treated for disabilities related to dioxin or other toxic herbicides. It would require the VA to set up an archive of frozen blood and tissue samples from Vietnam veterans for possible use in further research. It also requires the VA to award contracts for independent pilot studies relating to agent orange, and to conduct an active, continuous outreach program to furnish information and services to veterans.

The bill also requires the Secretary of HHS to report on research being conducted to identify and develop treatments for exposure to dioxin and other toxic herbicides. The bill specifies that remaining funds from the CDC's aborted agent orange study may be made available to carry out the provisions of this legislation. The bill would also restructure the Advisory Committee on Special Studies Relating to the Possible Long Term Health Effects of Phenoxy Herbicides and Contaminants, also known as the Air Force ranch hand study.

It is important to note that this bill differs from our earlier legislation, S. 1787, in two significant ways. The presumption of service connection in this bill is rebuttable, unlike the previous bill. The presumption can be rebutted by evidence of a blood test showing that the veteran was not exposed to significant amounts of dioxin, or to the type of dioxin used in agent orange. The presumption of service connection for lung cancer, which was in S. 1787, has also been dropped. We recognize that there are those who believe that this issue needs further study. Accordingly, the bill provides that the National Academy of Sciences should examine and direct special attention to the evidence regarding lung cancer.

As time goes on, the evidence on agent orange continues to get stronger. Recent studies, including the Air Force ranch hand study and the CDC Vietnam experience study, have shown increased evidence linking agent orange with non-Hodgkins lymphoma and other diseases. The evidence regarding soft tissue sarcoma is also becoming stronger and clearer. I ask that the test of a study entitled "Soft Tissue Sarcoma Mortality Among Vietnam Veterans in Massachusetts, 1972 to 1983," which was published in the International Journal of Epidemiology in 1988, be printed in the RECORD at the conclusion of my remarks. The study found that "the highly significant excess of this rare malignancy in Vietnam veterans is important information."

In summary, we believe that this bill is a fair and reasonable approach to the difficult issue of agent orange, one which can finally lay to rest the controversy over this issue. It is time that we put the divisions and controversy of the Vietnam war behind us, and heal the wounds of Vietnam veterans. This legislation will help in that process.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOFT TISSUE SARCOMA MORTALITY AMONG VIETNAM VETERANS IN MASSACHUSETTS, 1972 TO 1983

(By Michael D. Kogan and Richard W. Clapp)

[Kogan MD (Massachusetts Department of Public Health, Cancer Registry, 150 Tremont Street, Boston, MA 02111, USA) and Clapp R.W. Soft tissue sarcoma mortality among Vietnam veterans in Massachusetts, 1972 to 1983. *Internal Journal of Epidemiology* 1988, 17: 39-43. Information from death certificates and veterans' bonuses identified 840 Vietnam veterans and 2615 Vietnam-era veterans who died in Massachusetts during 1972-1983. Causes of death among Vietnam veterans were compared to Vietnam-era veterans and other male decedents. Standardized PMRs and MORs were both elevated for soft tissue sarcoma compared to Vietnam-era veterans [sPMR = 880, sMOR = 5.16, 95% CI = (2.4, 11.1)]; as well as non-veteran males.]

The Agent Orange Program in the Office of the Commissioner of Veterans Services (OCVS) requested that a mortality study be conducted comparing the causes of death occurring in 1972-83 among Massachusetts residents who were Vietnam veterans. Vietnam-era veterans who did not serve in Vietnam, and non-veteran males. The Agent Orange Program was established by the Massachusetts Legislature in 1983 for the purpose of supporting studies of possible health effects among Massachusetts Vietnam veterans. It has a Medical/Scientific Advisory Board, comprised of medical and behavioural scientists, who recommend and oversee the research activities supported by Program funds. The mortality study was motivated primarily by a concern that Vietnam veterans may be at increased risk of dying from violent, preventable causes such as motor vehicle accidents, homicide, and suicide.[1] Secondarily, other causes of mortality were investigated.

Because of the age distribution of Vietnam veterans, it was unlikely that diseases of old age or causes of death such as certain cancers would have occurred in sufficient numbers to analyse. In order to focus on relatively stable findings, only specific causes of death for which there were at least seven Vietnam veteran decedents were summarized. In the process of the investigation, two rare causes were estimated to be excessive among Vietnam veterans relative to veterans who had never served in Vietnam. Noteworthy among these was connective tissue cancer. This report examines the evidence for the association between location of military service and mortality due to several types of cancer. The findings concerning the relationship between violent preventable deaths and military service are discussed elsewhere.[2]

METHODS

In August 1984, the study was initiated using the computerized file of Massachusetts mortality data available from the Division of Health Statistics and Research of the Massachusetts Department of Public Health (MDPH). The mortality data for honourably discharged Massachusetts Vietnam and non-Vietnam veterans were obtained by linking the statewide computerized mortality files with the computerized list of veterans who applied for a military service bonus, available from the Massachusetts OCVS. It has been estimated that 90-95% of all eligible Massachusetts veterans received the bonus after presenting proof of military service of at least six months during the time period 1958 to 1973. (Personal Communication, Robert Feeney, Massachusetts Military Archivist, 1985.)

The mortality and veterans files were linked by matching social security numbers for the years 1972-76 and 1980-83. For the years 1977-79, social security numbers were not entered on the MDPH computerized files, although they continued to be recorded on death certificates. For these three years, the computer files were linked by matching names. The resulting output was then verified by hand-checking social security numbers on death certificates with the numbers from the veterans file.

The computer linkage provided information on age at death, sex, race, cause of death, year of death, and service in Vietnam. Underlying cause of death was classified according to the appropriate revisions of the International Classification of Diseases and converted to the Ninth Revision codes.[3]

Because white males accounted for about 98% of the veterans decedents, and the non-white male population of Massachusetts was about 2% in 1970, cause of death data for non-white or female veterans was very sparse. This report, therefore, is restricted to an analysis of white male mortality patterns, although information on other groups should be pursued in further studies.

The number of observed deaths from specific causes among Vietnam veterans was compared with the expected number of deaths based upon the actual mortality experience of both non-Vietnam veterans and all other males in Massachusetts. Veteran deaths were not included in the Massachusetts white male comparison group. The expected numbers were derived from calculations of age-time-cause-specific proportionate mortality within ten-year age groups. The rations of observed to expected numbers of deaths were summarized using the standardized proportionate mortality ratio (sPMR).[5] This method was chosen because it is familiar to many and appears often in the occupational health literature. The statistical significance of the differences was assessed using the Mantel-Haenszel Chi-square test with one degree of freedom. Confidence intervals of the sPMR were based on the results of the Chi-square tests.

For causes of death for which the sPMR was statistically significant, the standardized mortality odds ratio (sMOR) was also calculated according to the method described by Miettinen.[6] The sMOR was used to confirm the results of, and as an adjunct too the sPMR method. The sMOR compares the odds for the exposed population—the number of deaths from the cause of interest compared with the number of deaths from selected reference (auxiliary) causes—with the expected odds derived from a comparison (non-exposed) population. The sMOR approach is essentially equivalent to the case-control approach, in which cases are all deaths from the disease of interest, controls

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Footnotes at end of article.

are all deaths from the auxiliary causes, and the exposure of interest is service in Vietnam. The sMOR was also adjusted for age and year of death.

The sMOR has certain advantages relative to the sPMR. When the auxiliary cause(s) of death is unrelated to the exposure, the mortality odds ratio is interpretable as the observed-to-expected ratio. When standardized for age and time, the mortality odds ratio becomes the standardized mortality odds ratio and the observed-to-expected ratio becomes the standardized mortality ratio. In contrast, the sPMR can be quantitatively interpreted as the standardized mortality ratio only when the sum of the mortality rate(s) of interest and the rate for auxiliary cause(s) of death is the same for both the exposed and non-exposed.

The sMOR analysis was carried out using all circulatory disease (including cerebrovascular disease), except rheumatic heart disease (ICDA 390–459), as the auxiliary cause. All circulatory disease was chosen on the assumption that it was unrelated to the exposure of interest (service in Vietnam). Comparing Vietnam and non-Vietnam veterans to other males for circulatory disease, we calculated as sPMR of 93 and 95 respectively; this was not significantly lower than expected. Rheumatic heart disease is related to the exposure of interest because young men with the disease would presumably fail to pass their military induction physical exam.

RESULTS

Table 1 presents the results of the sPMR analysis, comparing Vietnam veterans to non-Vietnam veterans and to all other non-veteran Massachusetts males for specified causes of death. The sPMRs and their 95% confidence intervals are included in the table. Uncommon causes of death for Vietnam veterans are not presented because statistically stable comparisons could not be made. A minimum of seven observed Vietnam veteran deaths was used as a criterion for calculating an sPMR. Two methods of accounting for suicide deaths are used. The first method includes only those deaths that were recorded as suicides on death certificates. It has been estimated, however, that the actual suicide rate is three times the reported rate.[7] Therefore, a second calculation, known as an "estimated suicide rate," was carried out which includes all poisonings (ICDA codes E850–E869, E980–E982), recorded suicides (ICDA codes E950–E958), and unknown causes of deaths (ICDA code 799.9).[8] The analyses presented were carried out on 766 deaths from specific causes out of the total 810 deaths in the Vietnam veterans group.

The sMOR was computed for each cause of death for which the sPMR was statistically significant in either of the two comparison groups. The sMOR findings differed from the sPMR findings in only two instances: Homicide was not found to be significantly lower for Vietnam veterans compared to the state's non-veteran males (sMOR=0.82), and motor vehicle accidents were elevated for Vietnam veterans compared to non-Vietnam veterans only in the sMOR analysis (sMOR=1.50).

DISCUSSION

Since this is a death certificate study, which utilized record-linkage techniques to assemble the study group, there are a number of potential limitations which should be taken into account when considering the findings. Among them are the following:

The accuracy of cause of death information on death certificates has been about 90% overall and as low as 50% for certain malignancies compared to autopsy findings.[9]

There is no information on death certificates concerning potential confounding factors such as smoking habits of socioeconomic status.

Computer file-linking may miss potential cases due to erroneous recording of information on the variable that is matched on, such as social security number or date of birth.[10]

Only honourably discharged veterans were used in the study, which limits the generalizability to that group. The percentage of Massachusetts veterans not honourably discharged is unknown but is probably less than 10%.

The standardized proportionate mortality ratio is less easily interpretable for more common causes of death, such as circulatory system diseases.[4]

Age-adjusted death rates could not be calculated because the ages of all the living veterans could not be obtained from the computer files.

The findings of this study are unlikely to result from the above limitations. There is no reason to suspect that Vietnam veterans were misclassified differentially from the other two groups. This applies both to misclassification of the file-linking information and the cause of death information. The bonus response rate for honourably discharged veterans was high (90–95%), thus limiting non-response as a possible cause of significant bias. The percent of Massachusetts veterans not honourably discharged is unknown. It is possible that they may have differed significantly from the honourably discharged group. Missing information on potential confounders, on the other hand, might have caused a detectable effect, although not large enough to account for the observed differences for some findings. Given what is known about risk factors for connective and other soft-tissue cancer, it is unlikely that factors not examined accounted for all the excess in Vietnam veterans.[11]

In the interpretation of the findings, it is necessary to keep two other considerations in mind. First, the study group of Vietnam veterans was assembled from a list of Massachusetts residents who received a bonus after they had presented proof of service in Vietnam and honorable discharge. No information about length of service (beyond the six-month required minimum), precise location of service, or specific exposures to toxic substances, such as Agent Orange, was available for these records. Furthermore, no correction was made for possible social class differences between the Vietnam veterans and the two comparison groups. However, the Vietnam veterans findings for three causes of death which are highly correlated with social class—lung cancer, colorectal cancer, and cirrhosis of the liver—did not, in this instance, differ significantly from those of the comparison groups.

No significant differences were found between Vietnam veterans and the two comparison groups with respect to death due to malignant neoplasms as a whole. The significant elevation of malignancies of connective and other soft tissue (ICD 171) was based on only nine deaths; all of these were sarcomas of five different types. Pathological confirmation was obtained from hospital records or the physician in eight of these cases. Table 3 lists the nine cases by years of service, year of death and histological type. Occupational exposure as inferred from the limited information on the death certificate did not seem to be significant.

Two case-control studies from Sweden reported that soft-tissue sarcomas were associated with occupational exposure to phenoxyacetic acids such as 2,4-D and 2,4,5,-T, the components of Agent Orange.[12,13] One ongoing study of Air Force personnel engaged in spraying Agent Orange (Operation Ranch Hand) has found no deaths from soft tissue cancer; however, this study is focused on 1241 men who flew spraying missions between 1962 and 1971 and only 39 deaths have occurred which were summarized in a 1983 report.[14] A New York State Department of Health study reported no excess of soft tissue sarcomas after service in Vietnam. This study looked at both incidence and mortality for this cancer in New York (excluding New York City) diagnosed from 1962 through 1980.[15] It suffers from the fact that the latency period for the development of most cancers may be longer than the observation period of the New York study. The deaths observed in the Massachusetts study included three more years of follow-up and had a mean interval between the start of military service and death due to soft tissue sarcoma of over eleven years.

An Australian study of soft tissue sarcoma in Vietnam veterans from that country reported no excess. It is not clear, however, whether the soldiers or support personnel whose mortality experience was analysed were likely to have been exposed to Agent Orange.[16] Two other similar mortality studies were done in West Virginia[17] and Wisconsin[18] using records that differentiated between veterans who receive bonuses for service in Vietnam or were otherwise determined to have been in-country and those who were not. Their results were quite similar to those in the present study; in addition a comparison between Wisconsin Vietnam-era veterans and the general population showed increased mortality due to soft tissue sarcomas. A study of soft tissue sarcomas identified in Veterans' Administration Patient Treatment Files[19] reported no association with military service in Vietnam. This study excluded 38% of cases originally identified from patient files and raises questions of selection bias in both cases and controls. In the Massachusetts mortality data, only two of nine soft tissue sarcoma decedents were reported to have been patients at VA hospitals.

The present study was not based on either adequate numbers of deaths or adequate exposure information to help resolve this important aetiological issue. Nevertheless, the highly significant excess of this rare malignancy in Vietnam veterans is important information. The latency period for soft-tissue sarcoma in adults is probably sufficiently long that several more years of observation will be necessary before any conclusive findings can be made.

FOOTNOTES

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TABLE 1.—STANDARDIZED PROPORTIONAL MORTALITY RATES FOR SELECTED CASES OF DEATH FOR VIETNAM VETERANS COMPARED WITH EITHER NON-VIETNAM VETERANS OR NONVETERAN MALES

ICD No.[1]	Cause of death	Observed Vietnam veteran deaths	Comparison group: Non-Vietnam veterans PMR	Comparison group: Non-Vietnam veterans 95 percent C1	Comparison group: Nonveteran males PMR	Comparison group: Nonveteran males 95 percent C1
140–234	All causes	840				
153–154	All neoplasms	129	95	(78,115)	112	(94,134)
162	Colorectal	8	113	(56,228)	85	(42,172)
171	Lung bronchus	25	98	(66,146)	102	(72,145)
189	Connective and other soft tissue	9	880	(513,151)	473	(262,855)
390–429	Kidney	9	183	(96,348)	363	(191,651)
439–459	Circulatory system (except cerebrovascular)	139	88	(75,103)	87	(74,102)
430–438	Cerebrovasculuar disease	28	111	(77,160)	138	(96,199)
571	Cirrhosis of the liver	29	94	(65,136)	90	(61,132)
E800–E999	All external causes	428	108	(98,119)	113	(103,124)
E810–E825	Motor vehicle accidents	169	110	(95,127)	127	(106,152)
E950–E958	Recorded suicides	102	93	(77,112)	118	(98,143)
(799.9, E850–E864, E950–E958, E980–E982)	Estimated suicides[2]	163	113	(96,132)	140	(120,163)
E960–E969	Homicides	31	80	(56,114)	66	(46,94)

[1] International Classification of Diseases, 9th Revision, code number.

[2] See reference 8 for discussion of this category. Note that there were 13 deaths in the category 799.9.

TABLE 2.—MORTALITY ODDS RATIOS FOR SELECTED CAUSES OF DEATH FOR VIETNAM VETERANS COMPARED WITH EITHER NON-VIETNAM VETERANS OR NONVETERAN MALES

Cause of death	Comparison group: Non-Vietnam veterans Mortality odds ratio	Comparison group: Non-Vietnam veterans 95 percent C1	Comparison group: Nonveteran males Mortality odds ratio	Comparison group: Nonveteran males 95 percent C1
Connective and other soft tissue cancer	5.16	(2.39,11.14)	5.87	(2.92,11.78)
Kidney cancer	1.34	(0.99,1.80)	4.04	(2.12,7.67)
External causes	1.14	(0.95,1.37)	1.44	(1.08,1.91)
Motor vehicle accidents	1.50	(1.20,1.87)	1.65	(1.28,2.12)
Recorded suicides	1.24	(0.98,1.56)	1.46	(1.02,2.08)
Estimated suicides	1.46	(0.89,2.37)	1.73	(1.22,2.44)
Homicide	.76	(0.24,2.39)	.82	(0.64,1.04)

TABLE 3.—CASE-SPECIFIC INFORMATION FOR CONNECTIVE TISSUE CANCER DEATHS AMONG VIETNAM VETERANS BY HISTOLOGICAL TYPE AND OCCUPATION

Case	Age at death	Year inducted	Year discharged	Year of death	Histological type	Occupation on death certificate
1	30	1969	1971	1975	Fibrosarcoma	Data processing.
2	28	1967	1970	1976	Synovial sarcoma	Manager.
3	30	1965	1967	1976	Liposarcoma	Mental health assistant.
4	32	1967	1972	1977	Fibrosarcoma	Manager.
5	30	1964	1967	1977	Fibrosarcoma	Engineer's aide.
6	32	1970	1971	1978	Fibrosarcoma	Civil engineer.
7	32	1970	1971	1982	Epithelioid sarcoma	Graphics.
8	29	1971	1974	1982	Sarcoma, nos.	Firefighter.
9	39	1961	1966	1983	Hemangiopericytonia	Picker (optical).

By Mr. MURKOWSKI (for himself and Mr. FOWLER):

S. 2676. A bill to improve Federal management of lands on Admiralty Island, AK; to the Committee on Energy and Natural Resources.

IMPROVED MANAGEMENT OF FEDERAL LANDS ON ADMIRALTY ISLAND, AK

● Mr. MURKOWSKI. Mr. President, I rise today to introduce a bill to improve Federal management of Admiralty Island National Monument in Alaska and to improve the use of private lands in the Tongass National Forest through consolidation.

Mr. President, 95 percent of the land in southeast Alaska is in Federal ownership and most of this Federal land is in the Nation's largest forest. The Tongass National Forest is comprised of a little more than 17 million acres of spectacular glaciers, fjords, and some of our country's most productive forest lands. In fact, the forest is larger than the combined States of Massachusetts, New Jersey, Connecticut, Delaware, and Rhode Island. And if it were a State by itself, it would be bigger than West Vriginia and right behind South Carolina.

In the Tongass National Forest we have a strong commitment to environmental protection and to national natural resource preservation. Over 5½ million acres of the Tongass, an area larger than Massachusetts, are set aside in perpetuity in the National Wilderness Preservation System. No roads will be graded and no trees will be cut in one-third of the commercial forest lands of the Tongass. Nearly 2 million acreas of valuable timber resources have been locked up forever to protect their old growth qualities.

But the Tongass is more than an ecological museum. It is a place where many Alaskans make their living. Whether engaged in logging, fishing, tourism, or some other resource-based industry, a majority of the people living in southeast Alaska critically depend on the forest for their livelihood. And this is why a spirit of cooperation and a working partnership between the local people who depend on the forest and the U.S. Forest Service is so important.

Mr. President, it is in furtherance of such a spirit of cooperation that I introduce this bill today. A very similar bill H.R. 2596, has passed the House of Representatives. I have worked closely with the U.S. Forest Service and the local people interested in this legislation to address objections raised to the House passed bill. The bill I introduced today represents a compromise which I believe is acceptable to all parties.

This legislation is relatively straightforward. It encourages the Secretary of Agriculture to negotiate with Kootznoowoo Inc., an Alaska Native village corporation, for voluntary land exchanges and acquisitions in order to consolidate Kootznoowoo inholdings in the Tongass National Forest. This should improve Forest Service management of the Admiralty Island National Monument where many of these inholdings are located and should enable the village corporation to make better use of its land resources. The Forest Service is required to report back to Congress on its progress in this regard. It is important to note that this legislation grants no new exchange or acquisition authority to the Secretary of Agriculture. All exchanges or acquisitions must be made at the Secretary's discretion pursuant to his existing authority.

This legislation also clarifies the intent of section 506(a) of the Alaska National Interest Lands Conservation Act by making it clear that the date on which Kootznoowoo, Inc. accepted the Admiralty Island Land Exchange, under which the corporation received their Alaska Native Claims Settlement Act land entitlements, as the conveyance date for administrative purposes. This will eliminate the possibility of additional accounting, appraisal, and other expenses, and the duplication of effort that would result if section 506 were interpreted to require the corporation to account for its land and timber using the numerous and separate dates on which land has been conveyed to Kootznoowoo pursuant to the land exchange agreement.

Finally, Mr. President, this legislation changes the name of the designated wilderness within Admiralty Island National Monument from the "Admiralty Island National Monument Wilderness" to the "Kootznoowoo Wilderness." The English translation of "Kootznoowoo" is "fortress of the bears" or "bear's fort." This is the name which the Tlingit residents of Admiralty Island have traditionally given to this area and is therefore a proper name for this beautiful and expansive wilderness.●

By Mr. HELMS (for himself and Mr. Heflin):

S.J. Res. 354. Joint resolution to designate November 6 through 12, 1988, as "National Farm Broadcasters Week"; to the Committee on the Judiciary.

NATIONAL FARM BROADCASTERS WEEK

Mr. HELMS. Mr. President, I consider them to be unsung heroes, and Senator Heflin and I feel that both Congress and the President ought to get about the business of singing their praises.

I am talking about the farm broadcasters of America whom I know personally to be as dedicated, hard working and creative as anybody in the broadcasting business, past and present.

That is why the able Senator from Alabama [Mr. Heflin] and I are today offering a joint resolution to designate November 6 to 12, 1988, as "National Farm Broadcasters Week"—and we invite all Senators to join in cosponsorship of this joint resolution. I am satisfied that once we get this joint resolution to the White House, President Reagan will reach for his pen to sign it because he knows a thing or two about the enormous service rendered by the farm broadcasters of this Nation. Early in his varied career, Ronald Reagan worked for a radio station noted for its service to farmers. Whether Mr. Reagan, during his radio days, ever did any farm broadcasts, I do not know—but I suspect he did.

In any event, Mr. President, I feel it entirely appropriate that we pay our respects to these fine men and women across America. Normally, Mr. President, Senators ask unanimous consent that the text of their bills, amendments and resolutions be printed in the Record at the conclusion of our remarks. But because Senator Heflin's and my resolution is drafted to speak for itself, I shall momentarily ask consent that it be printed at this point in the Record. Then I shall have a few more comments.

Now, Mr. President, I ask unanimous consent that the joint resolution be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 354

Whereas farm broadcasting has been one of the most important means of distributing information to farmers and ranchers across the Nation since the earliest days of radio;

Whereas agriculture, the largest industry in the Nation, contributes billions of dollars to the economy of the United States;

Whereas farm broadcasters provide a vital service to agricultural producers in their farm and ranch operations as well as to the consumers of agricultural products; and

Whereas only about 225 farm broadcasters serve the entire Nation through more than 2500 radio and television stations across the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 6 through 12, 1988, is designated as "National Farm Broadcasters Week". The President is authorized and requested to issue a proclamation calling on all Americans to commemorate this week through appropriate ceremonies and activities.

Mr. HELMS. Mr. President, there is not a State in the Nation that is not in fact a "farm State." Therefore, no Senator can be regarded as a "city slicker" in terms of his or her constituency. If we don't look after our farmers, along with all of the other things we do, we aren't doing our duty. Farmers are the bedrock of America, and the farm broadcasters of America are a mainstay in supporting the farmers.

So, I reiterate that Senator Heflin and I hope that all Senators will join in the cosponsorship of this joint resolution.

Mr. President, before I came to the Senate in January 1973, having been elected the previous November, I participated in the management of a broadcasting company. That company owns and operates a television station, several radio stations, and a number of regional radio networks. On all of the company's stations and networks great emphasis is placed on farm news.

The fine publication, Television/Radio Age, carried an excellent article in its July issue, headed "Farm Broadcasters to the Rescue." It's an interesting review of the important role played by farm broadcasters all across the Nation. Many leaders in farm broadcasting are discussed.

Mr. President, I ask unanimous consent that this informative article, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Farm Broadcast to the Rescue—Diversification, Marketing Push Recommended

When the weather gets bad—and it certainly has in 1988—the farm sector's "need-to-know" intensifies, requiring more information from meteorologists, commodity trading centers, farm extension offices, from transportation and marketing hubs, from every level of government.

This year as crop-parching, feedkilling weather persists through vital segments of the growing season, and over huge sections of the country, farm demand for nonstop agricultural and economic updating grows more critical with every new day of drought.

Radio and television stations and specialized farm networks—those with a genuine commitment to their unique audiences—are answering that demand not only with dollars but with programming and people dedicated to "living" their listeners business, not just talking about it.

Members of the National Association of Farm Broadcasters are the professionals who staff the stations and farm networks sharing this commitment. So, RV/RADIO AGE takes its annual look at America's farm situation again this year, through the eyes of the national and regional officers of the NAFB.

IN THE SOUTHEAST

From his post in North Carolina, this year's NAFB president, Dix Harper, director of agricultural productions for WRAL-TV Raleigh-Durham and for the TRN Farm News Network, shares some comments from the Agriculture Commissioners of North Carolina and Georgia, and a look at some new alternatives in agriculture.

North Carolina's Commissioner of Agriculture, James A. Graham, told the NAFB president one of the recent positive developments on the farm front in his state is the success of the "Goodness Grows in North Carolina" marketing program. Under the brand-identity licensing program, in which 90 firms are now involved, farm businesses gain the right to use the slogan, in labeling their product/or products, assuring the buyer it's a locally-produced quality farm product.

"We've been working for 15 or 20 years," Graham told Harper, to diversify our farm products, so that we aren't forced to obtain income only from our major crop which is still tobacco. Now, we're number one in turkeys, number one in sweet potatoes and number two in cucumbers."

"As we continue our diversification effort," said the North Carolina Commissioner, "we're working to increase our turkey exports and develop new turkey products. And our hog production industry continues to grow. Of the eight largest hog operations in all America, four of them," reported Graham, "are here in North Carolina."

Harper, a 40-year member of the NAFB, is, himself, a leader in encouraging diversification and marketing expansion in the southeast. Continuing to emphasize the positive he sees in new approaches to agriculture. Harper shares interviews from a meeting in Iowa, where he discussed two interesting new ventures growing successfully in the south.

The watchword in setting up these new agricultural opportunities, Harper emphasizes, is to "find your market first." The farm broadcaster from Raleigh talked first to Mrs. Winnie Hawthorne, of Sumter, S.C. She now harvests crayfish in her farm ponds, with a yield of 1,000 pounds per acre. Prices range from $1.50 a pound, to $2.00 for the larger size.

In her interview with Harper, she admitted she didn't research the market before setting up her operation but feels that the possibility of success is much greater if the market is targeted before creating any type of new farm business.

That was done by extension agent Larry McPheeters of Halifax County, Va. as he worked with frustrated tobacco farmers, to organize the Southside Virginia Producers Cooperative.

Looking for a supplementary product to the flue-cured tobacco produced in the region, McPheeters and farm producers completed research showing that produce production had potential, since the area was within 500 miles of much of the national population. Operating for only about three years, the cooperative now markets six different produce items, and involves 135 producers from a 17-county area.

IN FLORIDA

Moving further southward into one of the top 10 farm states in the country, the NAFB's regional vice president for the southeast, Cindy Zimmerman interviewed both the chairman of the Cattlemen's Beef Promotion and Research Board and Florida's Commissioner of Agriculture for this year's round of regional reports.

Zimmerman, of the Independent Florida Agrinet, based in Ocala, is farm director of the first independent radio farm broadcasting system in the state. In operation since 1985, Agrinet now delivers a half-dozen programs a day via satellite to 37 stations around the state. Specialized programming focuses on both the northern and southern Florida farm regions, on the citrus and livestock industries, on agribusiness developments, and, of course, on weather.

Suffering somewhat less from the intense drought earlier this year, its apparent—in these reports from the southeastern United States—that farm producers throughout the region are engaged in a push to better market the commodities they produce directly to the consumer and to new markets overseas. At the same time, diversification efforts are also moving higher on the action priority list.

Jo Ann Smith, a Florida cattle producer and chairman of the Cattlemen's Beef Promotion and Research Board, made this clear as she outlined reaction to the national beef "checkoff" program.

"I think," she told Zimmerman, "that the agricultural community has more or less awakened, and is now playing catch-up, after only recently beginning to realize the need for promotion and research in marketing their commodities."

"Like the dairy industry," added Smith, "beef producers are faced with the same kind of consumer concern about cholesterol and fat. It's up to us in production to supply consumers with the type of product they want. Our current, 'Beef: Real Food for Real People,' campaign will continue; and, now with long-term funding, we can certainly expand our research. We'll continue to listen and respond to both the producer and the consumer."

Florida's Agriculture Commissioner Doyle Conner told the NAFB's southeastern vice president, "If we continue to do the things we've done traditionally, we're not going to be able to pay back the banks. So, we're looking at new marketing alternatives, ways to develop value-added crops, expansion of international markets for our products."

"Because of our growing population in Florida," said Commissioner Conner, "there's a growing domestic market for us to tap right here at home. We've set up a new farmer's market at the intersection of some of our interstate highways where producers can transfer their products directly to truckers, for quick transfer to nearby markets. And we're enthusiastic about that type of farm marketing approach."

FROM LOUISIANA

Swinging westward across the southern tier of farm states, the south central regional vice president for the NAFB, Ray Forcier, contributes interviews updating financial and drought developments in his area—one of those hit hardest by the lengthening drought.

From his post as farm news director of 50,000-watt clear channel KWKH in Shreveport, Forcier directs a heavy schedule of daily farm broadcasts to a primary coverage area of more than 71 counties throughout Louisiana, east Texas and Arkansas.

In a conversation with Darrell Jans, vice president of the Federal Land Bank office in Shreveport, Forcier provides some follow-up on developments since shutdown of the Federal Land Bank serving the area, in Jackson, Mississippi. Jans told the NAFB regional vice president, "During the weekend following the May 20 closing, inventory was taken for the receiver at the 80 offices of the bank in Alabama, Louisiana and Mississippi."

"At the start of the following week," he continued, "we were able to resume serving our customers pretty much as we had prior to the closing. Since then—with the exception of new loans, which we hadn't been making for some time, anyway—basically, it's been just about business as usual."

Forcier discussed crop prospects for TV/Radio Age with Marion Faris, county agent for Louisiana's Caddo Parrish. "Our cotton crop," said Faris, "is already suffering from dry weather, and—if we don't get some additional rain on down the line—there'll be additional serious damage. Because of the dry weather, though, we don't see as much of the usual problems from pests like the boll weevil."

FROM ILLINOIS

Moving north, along the low-water, barge-clogged Mississippi into the Corn Belt, Marla Behrends—NAFB regional vice president for the north central area, shares a look at how drought-produced economic pressure is spreading to other businesses in a farm-based economy.

Behrends, farm director of WKAN in Kankakee, Ill., near the Indiana border, talked to nursery and landscaping businesswoman Nancy Tholen, who reports that late last month, her firm was forced to invest in irrigating equipment in an emergency effort to save a new crop of yews (evergreen trees), planted on recently-purchased acreage.

"Not only are concerned about recovering the cost of the new land," Tholen told Behrends, "but now we've added the additional cost of irrigation and equipment. We've also cut back considerably on our sod-laying and landscaping operations, and customer traffic is way down because no one is buying our type of products in the middle of a drought like this."

"Already," Tholen told the NAFB vice president, "we've swallowed quite a bit, and—since plantings this year won't be ready for market for three more years—what we lose now will affect our business three years down the road."

WKAN's farm director also reports that the area's corn crop was hit by an unusual frost on June 8—still another weather negative in a disaster year.

FROM MINNESOTA

Further north, in Minnesota, another big farm state hit hard by the drought, the 1988 national vice president of the NAFB—Lynn Ketelsen, farm services director of the Linder Farm Network in Willmar, Minn.—highlights some positives for those farm producers who are able to survive the drought.

Ketelsen interviewed national Ethanol Commission spokesman, Larry Johnson, who reports that new uses for corn-based ethanol should spur the growth of a new domestic market for the state's farmers. A 10-million gallon ethanol production facility, operated by Minnesota Corn Processors, is expected to provide a base for new products like biodegradable palstics and a de-icer that eliminates the damage of salt-based de-icing materials.

Johnson, who's been dubbed the ethanol "answer man," told the NAFB vice president, "We're working to create a new industry right in the rural areas where the crop is, replacing oil-derived products with products made from corn."

In another report, Ketelsen learned details concerning a new printing ink make from soybean oil that's now being used by a number of major farm magazines and newspapers in Minnesota. "We're also finding new uses for soybean oil," said Jim Palmer, exective director of the Minnesota Soybean Association, "finding it efficient as a carrier in pesticides and as a dust-reducing element in hog feed."

"We're working," he adds, "to become not only providers of food to the nation but providers of renewable resources for new products in other industries.

FROM KANSAS

Dropping down into the big wheat and livestock state of Kansas, the next president of the NAFB, Mark Vail, farm director of the Topeka-based Kansas Agricultural Network, provides this report, as he and his staff monitor the drought for farm listeners, in broadcasts via satellite, to 35 stations in the central and southern Plains.

The situation in late June, Vail indicated to TV/Radio Age, seemed to be less critical because harvesting of winter wheat—the big crop in the state—was speeding up, a drought conditions intensified. "Our situation," reports Vail, "was helped by the fact that many sections of the state had some very late winter blizzards that dumped from 10–14 inches of snow, giving those areas a little better moisture base earlier in the year."

He adds, however, that "we're going to have a somewhat smaller wheat crop than was expected in the middle of May; not only because of increasingly dry conditions, but because of disease problems and fewer acres planted."

In conversation with Todd Domer, of the Kansas Livestock Association, Vail discussed the outlook for the state's cattle producers, in light of the marketing effort created by the beef checkoff program. Reported Domer, "A lot of consumers have seen the advertising and reports of the less serious health impact of cholesterol in beef. This past year, beef competed effectively against record supplies of cheap poultry and pork, indicating some change in consumer demand."

Both, however, see grim days ahead because of drought-produced shortages and high prices for feed.

FROM NEBRASKA

To the north, in areas hit even harder by the lengthening drought, the NAFB's regional vice president for the north central states, Mike Hansen, farm director of WOW Omaha, discusses a worsening outlook with specialists at universities in both Nebraska and Iowa. One of four stations of Wichita-headquartered Great Empire Broadcasting reaching farm audiences from Springfield, Mo. and Shreveport, La., as well as Wichita and Omaha, WOW farm broadcasting covers a 200-county area in six states.

William Edwards, an economist at Iowa State University, told the WOW farm director; "Less grain to sell and higher feed expenses for livestock producers will bring increasingly serious problems as the drought intensifies."

"Deficiency payments," he said, "of course, will be lower. But diversion payments won't be affected by lower yields." One positive factor, though, notes Edwards, is the fact that more farmers have been protecting themselves with federal multiperil crop insurance. "Nearly 40 percent of the crop in Iowa," he told Hansen, "is now covered by this type of insurance."

In Nebraska, many farmers started 1988 with continuing debt problems, and Larry Bitney, a farm management specialist at the state's university in Lincoln, pointed out, in an interview with Hansen, that they'll be hardest hit, as a result of the drought.

"Some 10 to 15 percent of our farm producers in Nebraska," said Bitney, "are still burdened by a lot of debt, and carryover problems from the recent farm debt crisis."

FROM MONTANA

In the last of this 1988 series of regional reports provided by officers of the National Association of Farm Broadcasters, the group's regional vice president for the west, Taylor Brown, adds a final perspective from his post as president and farm director of the Northern Ag Network, headquartered in Billings, Mont.

In addition to the drought, Brown says, crop producers throughout his area have been forced to cope with other adversities—outbreaks of problems such as wheat streak mosaic and the Russian wheat aphid. And, he adds, "this is another bad year for grasshoppers." Discussing the reaction of agribusinessmen in his area to the grim months ahead, Brown passes on these comments from regional executives in the feed and ag chemical industries.

Both Don Carter, regional manager for Loomis Feed Supplements, based in California, and Harold Schultz, vice president and general manager for West Chem Ag Chemicals, emphasized the need to improve contact with their customers, strengthening the ability to share information honestly and with credibility.

Said Carter, "we must clearly define changing needs, particularly in bad times like this. If we give enough of our customers exactly what they need and want, we'll end up getting what we want." Reporting this to be "the most difficult year for his company since 1970," Schultz adds that "if a grower has practiced chem fallow to some degree in this toughest of years, he's going to end up with a better crop than his neighbor who hasn't.

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

S. 166

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 166, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 684

At the request of Mr. HEINZ, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 1081

At the request of Mr. BINGAMAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1081, A bill to establish a coordinated National Nutrition Monitoring and Related Research program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1288

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 1288, a bill to designate July 20 of each year as "Space Exploration Day."

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1673

At the request of Mr. CHAFEE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1738

At the request of Mr. WILSON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 2098

At the request of Mr. HOLLINGS, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2115

At the request of Mr. DANFORTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2330

At the request of Ms. Mikulski, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2345

At the request of Mr. Weicker, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2345, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

S. 2379

At the request of Mr. Sasser, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 2379, a bill to authorize the insurance of certain mortgages for first-time homebuyers, and for other purposes.

S. 2488

At the request of Mr. Dodd, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

S. 2495

At the request of Mr. Bond, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 2495, a bill to amend the Agricultural Act of 1949 to permit producers to plant supplemental and alternative income-producing crops on acreage considered to be planted to a program crop.

S. 2501

At the request of Mr. Wilson, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2501, a bill to amend the Internal Revenue Code of 1986 to allow periods of out-of-residence care to qualify for the principal residence use requirements of the one-time capital gain exclusion for taxpayers who have attained age 55.

S. 2626

At the request of Mr. Moynihan, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 2626, a bill to amend section 530 of the Revenue Act of 1978 to clarify the Federal income and employment tax treatment of providers of technical services through third party arrangements, and for other purposes.

S. 2630

At the request of Mr. Wilson, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2630, a bill to correct the unfair treatment by the tax laws of the United States of citizens performing jury duty.

S. 2636

At the request of Mr. Durenberger, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 2636, a bill to amend title XVIII of the Social Security Act to establish a program of voluntary certification of long-term care insurance policies and to protect Medicare beneficiaries from making practices related to such policies, and for other purposes.

S. 2664

At the request of Mr. Moynihan, the names of the Senator from Minnesota [Mr. Durenberger], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

SENATE JOINT RESOLUTION 278

At the request of Mr. Glenn, the names of the Senator from North Dakota [Mr. Conrad] and the Senator from Utah [Mr. Hatch] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating November 20-26, 1988, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 309

At the request of Mr. Wilson, the names of the Senator from North Dakota [Mr. Conrad], the Senator from California [Mr. Cranston], the Senator from Illinois [Mr. Dixon], the Senator from Kansas [Mr. Dole], the Senator from Utah [Mr. Garn], the Senator from North Carolina [Mr. Helms], the Senator from Hawaii [Mr. Inouye], the Senator from Michigan [Mr. Levin], the Senator from Arkansas [Mr. Pryor], the Senator from Michigan [Mr. Riegle], the Senator from Maryland [Mr. Sarbanes], the Senator from Mississippi [Mr. Stennis], the Senator from Alaska [Mr. Stevens], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 309, a joint resolution designating the month of May as "National Asparagus Month."

SENATE JOINT RESOLUTION 346

At the request of Mr. Lautenberg, the name of the Senator from Texas [Mr. Bentsen] was added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 350

At the request of Mr. Simon, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of Senate Joint Resolution 350, a joint resolution designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. Hatfield, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of Senate Concurrent Resolution 122, a concurrent resolution expressing the sense of Congress regarding the urgent need for food assistance by civilians in Vietnam.

AMENDMENTS SUBMITTED

FAIR HOUSING AMENDMENTS ACT

KENNEDY (AND OTHERS) AMENDMENT NO. 2777

Mr. KENNEDY (for himself, Mr. Specter, Mr. Hatch, Mr. Heinz, Mr. Packwood, Mr. Danforth, Mr. Metzenbaum, Mr. Leahy, Mr. Warner, Mr. Dole, Mr. Grassley, Mr. Dodd, Mr. Stevens, Mr. Hatfield, Mr. Matsunaga, Mr. Simon, Mr. Adams, Mr. Bentsen, Mr. Bond, Mr. Dixon, Mr. Nunn, Mr. Harkin, Mr. Thurmond, Mr. Stafford, Mr. DeConcini, Mr. Cranston, and Mr. Weicker) submitted an amendment to the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'.".

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

SEC. 4. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

"Sec. 800. This title may be cited as the 'Fair Housing Act'.".

SEC. 5. AMENDMENTS TO DEFINITIONS SECTION.

(a) Modification of Definition of Discriminatory Housing Practice.—Section 802(f) is amended by striking out "or 806" and inserting in lieu thereof "806, or 818".

(b) Additional Definitions.—Section 802 is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person—

"(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

"(2) a record of having such an impairment, or

"(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(i) 'Aggrieved person' includes any person who—

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(j) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals' (who have not attained the age of 18 years) being domiciled with—

"(1) a parent or another person having legal custody of such individual or individuals; or

"(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"(l) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

"(1) the person or other entity accused in a complaint of an unfair housing practice; and

"(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

"(o) 'Prevailing party' has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).".

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) Additional Discriminatory Housing Practices.—Section 804 is amended by adding at the end the following:

"(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

"(A) that buyer or renter,

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that buyer or renter.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

"(A) that person; or

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that person.

"(3) For purposes of this subsection, discrimination includes—

"(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

"(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

"(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

"(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

"(iii) all premises within such dwellings contain the following features of adaptive design:

"(I) an accessible route into and through the dwelling;

"(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

"(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

"(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as 'ANSI A117.1') suffices to satisfy the requirements of paragraph (3)(C)(iii).

"(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

"(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

"(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

"(D) Nothing in this Title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

"(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this Title.

"(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this Title.

"(7) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

"(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

"(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(b) Additional Protected Classes.—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(c) Discrimination in Residential Real Estate-Related Transactions.—Section 805 is amended to read as follows:

"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

"Sec. 805. (a) In General.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

"(b) Definition.—As used in this section, the term 'residential real estate-related transaction' means any of the following:

"(1) The making or purchasing of loans or providing other financial assistance—

"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

"(B) secured by residential real estate.

"(2) The selling, brokering, or appraising of residential real property.

"(c) Appraisal Exemption.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.".

(d) Additional Exemption.—Section 807 is amended—

(1) by inserting "(a)" after "Sec. 807."; and

(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section, 'housing for older persons' means housing—

"(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

"(B) intended for, and solely occupied by, persons 62 years of age or older; or

"(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections 2 (B) or (C), provided that new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

"(B) unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

"(4) Nothing in this title prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(e) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

(b) ADDITIONAL FUNCTIONS OF SECRETARY.—(1) Section 808(e) is amended—

(A) in paragraph (2), by inserting before the semicolon at the end, the following: ", including an annual report to the Congress—

"(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

"(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

"(i) investigations are not completed as required by section 810(a)(1)(B);

"(ii) determinations are not made within the time specified in section 810(g); and

"(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g)";

(B) by striking out "; and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(D) by adding at the end, the following:

"(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).".

(2) Section 808 is amended by adding at the end the following:

"(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

"(1) title VI of the Civil Rights Act of 1964;

"(2) title VIII of the Civil Rights Act of 1968;

"(3) section 504 of the Rehabilitation Act of 1973;

"(4) the Age Discrimination Act of 1975;

"(5) the Equal Credit Opportunity Act;

"(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

"(7) section 8(a) of the Small Business Act;

"(8) section 527 of the National Housing Act;

"(9) section 109 of the Housing and Community Development Act of 1974;

"(10) section 3 of the Housing and Urban Development Act of 1968;

"(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and

"(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.".

SEC. 8. ENFORCEMENT CHANGES.

Title VIII is amended—

(1) by redesignating sections 815 through 819 as sections 816 through 820, respectively; and

(2) by striking out sections 810 through 813 and inserting in lieu thereof the following:

"ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

"SEC. 810. (a) COMPLAINTS AND ANSWERS.—(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

"(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

"(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

"(B) Upon the filing of such a complaint—

"(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

"(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

"(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

"(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

"(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

"(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

"(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

"(b) INVESTIGATIVE REPORT AND CONCILIATION.—(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

"(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

"(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

"(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

"(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

"(i) the names and dates of contacts with witnesses;

"(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

"(iii) a summary description of other pertinent records;

"(iv) a summary of witness statements; and

"(v) answers to interrogatories.

"(B) A final report under this paragraph may be amended if additional evidence is later discovered.

"(c) Failure to Comply With Conciliation Agreement.—Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

"(d) Prohibitions and Requirements With Respect to Disclosure of Information.—(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

"(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

"(e) Prompt Judicial Action.—(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

"(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

"(f) Referral for State or Local Proceedings.—(1) Whenever a complaint alleges a discriminatory housing practice—

"(A) within the jurisdiction of a State or local public agency; and

"(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

"(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

"(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

"(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

"(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

"(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

"(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

"(ii) the procedures followed by such agency;

"(iii) the remedies available to such agency; and

"(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

"(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

"(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

"(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

"(g) Reasonable Cause Determination and Effect.—(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

"(B) Such charge—

"(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

"(ii) shall be based on the final investigative report; and

"(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

"(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

"(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

"(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(h) Service of Copies of Charge.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served—

"(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

"(2) on each aggrieved person on whose behalf the complaint was filed.

"SUBPOENAS; GIVING OF EVIDENCE

"Sec. 811. (a) In General.—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

"(b) Witness Fees.—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

"(c) Criminal Penalties.—(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"(2) Any person who, with intent thereby to mislead another person in any proceeding under this title—

"(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

"(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

"(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"ENFORCEMENT BY SECRETARY

"SEC. 812. (a) ELECTION OF JUDICIAL DETERMINATION.—When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

"(b) ADMINISTRATIVE LAW JUDGE HEARING IN ABSENCE OF ELECTION.—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

"(c) RIGHTS OF PARTIES.—At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

"(d) EXPEDITED DISCOVERY AND HEARING.—(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

"(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

"(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

"(e) RESOLUTION OF CHARGE.—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

"(f) EFFECT OF TRIAL OF CIVIL ACTION ON ADMINISTRATIVE PROCEEDINGS.—An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(g) HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.—(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

"(A) in an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

"(B) in an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

"(C) in an amount not exceeding $50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

"(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

"(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

"(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

"(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

"(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

"(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

"(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

"(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

"(i) JUDICIAL REVIEW.—(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

"(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

"(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

"(k) RELIEF WHICH MAY BE GRANTED.—(1) Upon the filing of a petition under subsection (i) or (j), the court may—

"(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

"(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

"(C) enforce such order to the extent that such order is affirmed or modified.

"(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

"(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

"(l) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

"(1) which is filed by the Secretary under subsection (j) after the end of such day; or

"(2) under subsection (m).

"(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief.—If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

"(n) Entry of Decree.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

"(o) Civil Action for Enforcement When Election Is Made for Such Civil Action.—(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made, the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code. The Secretary shall promptly notify the Attorney General of the filing of any action under this subsection.

"(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

"(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

"(p) Attorney's Fees.—In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

"ENFORCEMENT BY PRIVATE PERSONS

"Sec. 813. (a) Civil Action.—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

"(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

"(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

"(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

"(b) Appointment of Attorney by Court.—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

"(1) appoint an attorney for such person; or

"(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

"(c) Relief Which May Be Granted.—(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

"(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

"(d) Effect on Certain Sales, Encumbrances, and Rentals.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

"(e) Intervention by Attorney General.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"Sec. 814. (a) Pattern or Practice Cases.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

"(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

"(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

"(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

"(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

"(c) Enforcement of Subpoenas.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(d) Relief Which May Be Granted in Civil Actions Under Subsections (a) and (b).—(1) In a civil action under subsection (a) or (b), the court—

"(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

"(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

"(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

"(i) in an amount not exceeding $50,000, for a first violation; and

"(ii) in an amount not exceeding $100,000, for any subsequent violation.

"(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

"(e) Intervention in Civil Actions.—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

"RULES TO IMPLEMENT TITLE

"Sec. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.".

SEC. 9. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting ", handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act)," after "sex" each place it appears.

SEC. 10. TECHNICAL AMENDMENT RELATING TO CIVIL ACTION.

Section 818 (as so redesignated by section 8 of this Act) is amended by striking out the last sentence thereof.

SEC. 11. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) Jurisdiction.—Section 2342 of title 28, United States Code, is amended—

SEC. 13. EFFECTIVE DATE AND INITIAL RULEMAKING.

(a) Effective Date.—This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) Initial Rulemaking.—In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

SEC 14. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 15. MODIFICATION OF RENTAL HOUSING BY HANDICAPPED PERSONS.

Section 804 (as amended by section 6 of this Act) is further amended by striking out the period at the end of subsection (f)(3)(A) and inserting in lieu thereof "except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted".

THURMOND AMENDMENT NO. 2778

Mr. THURMOND proposed an amendment to amendment No. 2777 proposed by Mr. Kennedy (and others) to the bill H.R. 1158, supra; as follows:

On page 10, line 16 strike "two or" and on page 10, line 17, strike "more times".

HELMS AMENDMENT NO. 2779

Mr. HELMS proposed an amendment to amendment No. 2777 proposed by Mr. Kennedy (and others) to the bill H.R. 1158, supra; as follows:

At the appropriate place in the substitute, add the following: "For the purposes of this Act as well as Chapter 16 of Title 29 of the U.S. Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.".

HELMS AMENDMENT NO. 2780

Mr. HELMS proposed an amendment to amendment No. 2777 proposed by Mr. Kennedy (and others) to the bill H.R. 1158, supra; as follows:

At the appropriate place in the substitute insert the following:

Sec. . (a) This section may be cited as the "Voluntary School Prayer Act".

(b)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1260. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of section 1253, 1254, and 1257 of this chapter and in accordance with section 2 of Article III of the Constitution, the Supreme Court shall not have jurisdiction to review by appeal, writ of certiorari or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading or religious meetings in public schools or public buildings.

"(b) For purposes of this section, the term 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(2) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction: limitations.".

(c)(1) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1367. Limitations on jurisdiction

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(2) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1367. Limitations on jurisdiction.".

(d) The amendments made by this section shall take effect one day after the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

SYMMS AMENDMENT NO. 2781

Mr. SYMMS proposed an amendment to amendment No. 2780 proposed by Mr. Helms to amendment No. 2777 proposed by Mr. Kennedy (and others) to the bill H.R. 1158, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Sec. . (a) This section may be cited as the "Voluntary School Prayer Act".

(b)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1260. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter and in accordance with section 2 of Article III of the Constitution, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) For purposes of this section, the term 'voluntary' means an activity in which a student is not required to participate by school authorities."

(2) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction: limitations.".

(c)(1) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1367. Limitations on jurisdiction

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(2) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"§1367. Limitations on jurisdiction.".

(d) The amendments made by this section shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

ADDITIONAL STATEMENTS

SPACE EXPLORATION DAY

● Mr. DOMENICI. Mr. President, I would like to add my name to the list of those supporting S. 1288 which would designate July 20 of each year as "Space Exploration Day."

The United States' spectacular accomplishments in space exploration during the last 30 years are an example of the success Americans strive to achieve. When project Mercury was initiated in November 1958 it beckoned the dreams of a generation that saw Alan Shepard become the first American in space and our colleague, John Glenn, circle the Earth. Images of Mars were broadcast from *Viking 1* to the television screens of millions of American viewers. As the keystone of our success in space, almost 20 years ago, Neil Armstrong became the first man to walk on the Moon.

But along with the successes of Neil Armstrong, Alan Shepard and our former colleague from New Mexico, Jack Schmitt, we have seen tragedies that will be especially remembered on Space Exploration Day. On January

27, 1967, Virgil Grissom, Edward White, and Roger Chaffee were killed during a full launch rehearsal aboard *Apollo I.*

Nineteen years later the *Challenger* was destroyed 73 seconds into flight with its seven crew members: Francis "Dick" Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and S. Christa McAuliffe. The loss of these 10 astronauts is felt in the hearts of all Americans. They gave their lives while pursuing greatness, but however tragic their mission, their spirit of adventure, their dedication to the exploration of space, their dreams will always be on board as mankind ventures farther into space.

Our quest for knowledge about space has also increased our knowledge about our planet. All across the country, those dedicated to the dreams of space are working diligently to expand our resources, to broaden our understanding, and contribute to our effort in space. The fruits of that labor have become part of the commercial sector, where these advances are now integrated into the American economy.

Space Exploration Day will be received with special pride in New Mexico, a State that has been particularly close to the development of America's space systems. For half a century New Mexico has been contributing technology that makes our space programs possible. It is a great illustration of our success that on March 30, 1982, I, and hundreds of other New Mexicans, were able to watch the space shuttle *Columbia* land at the White Sands Missile Range where Dr. Goddard performed some of the first tests on American rockets only 50 years ago.

It is with great pride that I join my colleagues in support of S. 1288. Space Exploration Day would help bring Americans together to recognize the value of our space programs. The day would honor all the people who, in the pursuit of space, struggled toward their dreams, especially those who give their lives to see those dreams fulfilled.

The success of our space programs has been due to personal values that Americans exhalt as admirable and brave. It is only fitting that Space Exploration Day be created to honor the people, the ideals, and the desires that have propelled us and our spacecraft from dreams to reality.●

LET'S MAKE THE TARGETED JOBS TAX CREDIT PERMANENT

● Mr. D'AMATO. Mr. President, I am pleased to join my colleague, Senator HEINZ, in sponsoring S. 684, legislation to make the targeted jobs tax credit permanent. This program has provided a powerful incentive to employers to hire the disadvantaged and give them the help to help themselves.

The State of New York has been the Nation's leader in using TJTC to create new jobs for economically disadvantaged individuals. During fiscal year 1987 alone, the program generated employment opportunities for 35,731 persons.

Workers who found their jobs through TJTC included minorities, disadvantaged youth, public assistance recipients, handicapped people, Vietnam veterans, and ex-offenders. I find it impressive, and well worth noting, that one-fourth of all TJTC workers in New Yorks had been receiving welfare. These people are now working; TJTC helped give them an opportunity they otherwise may not have found.

As well as changing opportunities, TJTC has helped change hearts and minds. TJTC changed the attitudes of employers toward hiring individuals in these targeted groups. Employers have had a chance to see how hard working, productive, and loyal these employees can be.

TJTC has proved both cost effective and socially beneficial. The estimated annual payroll of New Yorkers hired under the program was $350 to $400 million in 1987. The ripple effect of economic activity generated by this program added approximately $1 billion to the State's economy.

It is clear this program accomplishes exactly what Congress intended it to. Can we afford not to make this Nation's most successful job creation program permanent? I am proud to add my support.●

SOVIET RESPONSES TO SDI

● Mr. BUMPERS. Mr. President, recently the defense publication Jane's Defense Weekly published an interview in their July 16, 1988, issue they conducted with Soviet Air Force Maj. Gen. Boris Surikov, whom Jane's described as the Soviets' expert on space-based weapons.

All those who are interested in the star wars debate should read this interview. General Surikov describes in quite some detail the kinds of countermeasures that the Soviets have available to them to defeat a star wars system. He refers to a whole host of countermeasures to the strategic defense initiative [SDI], including high-acceleration missiles, which are also called fast-burn boosters. The Soviets' ICBM force will become faster burning over time as they continue to replace their slower burning liquid fueled missiles with faster burning solid ones, even without SDI. Under pressure from SDI, the Soviets could achieve dramatic reductions in the burn times of their ICBM boosters, greatly complicating the already difficult challenge facing SDI. General Surikov also mentions other countermeasures including depressed trajectory SLBM's, direct ascent nuclear antisatellite missiles, decoys, and space mines.

These countermeasures that General Surikov refers to are not pie-in-the-sky, and neither are they terribly expensive. They have been referred to in recent U.S. reports on SDI and are quite feasible. They pose a serious challenge to SDI and seriously call into question its cost-effectiveness.

In the past the Pentagon has spoken of how the Soviets have wasted many billions of dollars on their air defense system, funds that they otherwise would have spent on offense. Despite the Soviets' vast efforts, our bombers will still largely be able to penetrate the Soviet air defense network. It seems to me that this same argument works both ways. SDI would force us to waste many hundreds of billions of dollars, dollars better spent on real defense efforts, in a vain attempt to shield ourselves from Soviet missiles. Let's not duplicate the Soviets' multi-hundred billion dollar mistake. Let's keep star wars to a basic research effort level only.

I commend this article to my colleagues' attention and hope they will read it to gain a better understanding of the many ways in which the SDI space shield could be punctured.

I ask that the summary article, and the full text of the interview with General Surikov, from Jane's Defense Weekly, be placed in the RECORD at this point.

SOVIET GENERAL'S SDI WARNING

(By Geoffrey Manners)

Soviet Air Force Major General Boris Surikov, a member of the SALT I negotiating team and the Soviet government's expert on space-based weapons has warned the USA that his country could use nuclear weapons in space to counter the USA's SDI programme.

"The Soviet Union has, today, at its disposal every means to respond effectively to the 'Star Wars' programme with both offensive and defensive countermeasures. We will not allow the US to tilt the established military-strategic balance in its favour".

The General, giving an exclusive interview to Jane's Defence Weekly, outlined some of the measures his country could take against SDI.

"A significant threat can be created by space mines, either nuclear or conventionally armed.

"Clouds of heavy or lightweight obstacles like metal balls, sawdust, or sand can also be put in the way of combat or sensor platforms.

"The West must be aware that the Soviet Union has a technological basis to develop high-acceleration strategic missiles, and can introduce sufficiently simple imitation and anti-imitation devices in future missile weapons to effectively camouflage the real nuclear warheads among various decoys which would saturate the sensor and combat systems of an ABM defence.

"We could also use heavy-weight decoys and preventive high-altitude nuclear explosives to jam ground-based ABM radars, to complicate the task of targeting ABMs at incoming warheads."

The General also warned about the amount of "rubbish" floating about in space.

"Outer space is filled with a huge quantity of man-made objects" he said, adding that if they collided with sensor and ABM combat platforms it could be misinterpreted as a pre-emptive attack which would, in turn, lead to the use of strategic missiles.

Surikov: How We'll Counter SDI

One of the Soviet Union's leading authorities on the Strategic Defence Intiative has been talking exclusively to *JDW* about Soviet anti-ballistic missile (ABM) research and development, space mines, and space war.

Air Force Maj. Gen. Boris Surikov, a member of the SALT I negotiating team and his government's expert on new types and systems of space-based weapons, also discussed chemical lasers, United States interceptors for use against satellites and the Soviets means of response to President Reagan's Star Wars (SDI) programme.

"The President has long asserted that the USSR was going to deploy a territorial ABM system banned by the ABM Treaty. He raised this matter as early as July 1986 in his traditional radio address to the nation when he also said that the Soviet Union has the only deployed ABM system in the world." said Maj. Gen. Surikov.

"But he has not taken the trouble to explain that he means a cluster of ABM systems commissioned in the early 1970s in strict compliance with the terms of the ABM Treaty for the defence of Moscow.

"It is true that the Soviet Union is engaged in R&D to further improve the limited ABM system of the national capital. It would be useful to note that upgrading or replacing the ABM system or its components is fully in line with Article VII of the ABM Treaty.

"The ABM efforts under way in the USSR are not aimed at changing the limited qualitative and quantitative characteristics of this system allowed by the Treaty.

"The USSR also conducts research and testing of ABM systems, based on new physical principles as applied to the limited ABM area with a radius of 150 km allowed to each side by Article II of the Treaty. The terms of the ABM Treaty, including Statement D, allow testing of both ABM systems and their components in fixed ground-based mode.

"This also covers ABM systems and their components based on new physical principles—the existing ones as well as those that can be developed in future.

"Experts in the West know very well that the existing air defence surface-to-air missiles can be sufficiently effective only against manned and unmanned aircraft but are quite useless as part of strategic ABM systems.

"The reason is that surface-to-air missiles have limited altitude of intercept, limited speed of flight and limited capability to resist longitudinal and lateral load factors. The tactical and technical characteristics of those weapons are suited for effective intercept of modern airborne targets but are insufficient for attacking strategic ballistic missile warheads in mid-course and terminal phases.

"So any surface-to-air missiles—including the ones that are called SA-5, SA-10 and SA-12 in the West—are quite useless as components of an ABM system of the country or its regions."

General Surikov also spoke of "traditional" air defence radars, saying that they too are useless in terms of ABM discussions.

"The U.S. and Soviet negotiators at the SALT I talks agreed the minimal capacities of ABM radars. In their initial statements, the heads of U.S. and Soviet delegations agreed to allow deployment of phased-array radars having a potential (average emitting power in Watts x array area in m.) of not more than 3 million, except for cases expressly prohibited by the ABM Treaty.

"All Soviet radars have lower potentials and cannot detect or track ballistic missiles automatically or with the necessary accuracy.

"The Soviet Union indeed has a deployed air-defence system that has nothing to do with the notorious Red Shield—a mythical territorial ABM system—for the existing one is designed solely for attacking manned and unmanned aircraft.

"Air-defence clusters are deployed in the USSR to protect key governmental and industrial centres as well as vital military facilities. Effective interception of cruise missiles and aircraft flying at minimal, low, medium or high altitudes can be effected either by surface-to-air missiles or by high-speed fighter-interceptors armed with air-to-air missiles."

Referring to the USA's SDI programme the General said that deployment of numerous ABM battle stations in outer space could be extremely dangerous for all.

"The essence of this all too real threat: the outer space around the Earth is filled with a huge quantity of man-made objects. According to NASA data, in June 1987 there were 1,702 artificial earth satellites and 5,130 major fragments in orbits, including components of upper booster stages and rocket head shrouds.

"Most of those man-made objects travel round the Earth at altitudes of 500-2000 km and inclinations of 10-100°. Some fragments fly at altitudes below 500 km. About 1,000 space objects fly in near-geosynchronous and geosynchronous orbits at altitudes of 33,000 to 41,000 km.

"The orbits of ABM components in space can cross orbits of non-operational objects. Besides, in such cases automatic sensors can sound false alarms which cannot be disregarded. As the number of sensor and combat ABM platforms increases, the probability of the their collision with man-made objects, natural meteors or interplanetary dust will grow as well.

"Failure of an ABM component in space could be misinterpreted as a pre-emptive attack of the opposing side, but such a mistake could, in its turn, provoke the use of strategic missiles.

"The essence of the SDI threat for the Soviet Union is that the United States needs this programme primarily to support on unpunished first disarming strike—that is to destroy Soviet missiles that could survive a first strike and be launched in retaliation to that strike."

The space-based echelon of the U.S. ABM system could also have a powerful offensive capacity said General Surikov.

"Besides limited defensive responsibilities, strike weapons in space can, in the foreseeable future, be used to destroy strategically important targets on earth and in space. Their high degree of readiness would not leave the side under attack much time for protective actions.

"The current technology also gives an opportunity to start covert development of space-to-earth strike weapons even now.

"Some of the anti-missile munitions of battle stations could be covertly replaced by space-to-earth strike weapons.

"Independently of the actual armaments of the U.S. ABM battle stations, the Soviet Union would assume that they are armed with weapons able to destroy vital ground targets within 5 minutes of a decision to mount a nuclear attack from space."

General Surikov also said he is aware that the U.S.A. already has technology applicable in development of space-to-space weapons. In the foreseeable future, the results of HOE (homing overlay experiment to kill remote vehicles above the atmosphere) and ASAT (anti-satellite) programmes can be used for the development of space-based weapons for effective combat in space and destruction of satellites, he said.

"It is known that the United States is engaged in vigorous preparations for development of MKV (mini-kill vehicle, a U.S. Army project) interceptors to be used against satellites. It is much simpler to attack a satellite than to destroy an ICBM warhead when countermeasures are used or to destroy the ICBM itself at the boost-phase.

"The chemical laser is considered to be another potential space-based ASAT weapon. Low-power space-based lasers are able to temporarily or permanently disable optical sensors aboard satellites. More powerful lasers can be used to destroy satellites by heating their surface and disabling the instruments inside.

"As satellites are much easier to detect and destroy after forecasting their trajectory than ICBMs or their warheads, ASAT laser weapons can be developed much earlier than laser systems for a space-based ABM defense.

"If USA experts succeed in developing lightweight space-based accelerators of limited power, we cannot exclude in principle their use primarily as ASAT. A neutron beam used against the electronic components of a satellite can disable it.

"Thus, covertly developed attack space weapons, distinguished as SDI, if deployed in orbit and being manoeuvrable, can regularly appear over the territory of any state in short intervals threatening its security. Having a high degree of readiness for nearly instant use, they would leave no warning time.

"Hence it is clear that a broad-scale U.S. ABM system with space-based components, be it deployed on earth or in space, would constitute a major part of strategic first-strike forces—not as a shield covering the strategic offensive arms but rather as a multi-purpose strategic system having an independent powerful attack capacity in space."

The general described to JDW the options open to the Soviet Union to counter the U.S.'s SDI programme and said there would be a possible build-up of the Soviet strategic offensive forces.

"Countermeasures can include development of systems designed to neutralise or destroy ABM components as well as a build-up of offensive nuclear arms.

"We cannot exclude in principle emergence of cheap ICBM decoys having a simplified homing system and deprived of warheads which would greatly overburden the first space layer of the ABM defence when used in combination with strategic missile in a retaliatory strike, and will make most of the defense fire upon decoys at the most important boost and post-boost phases of flight.

"The West must be aware that the USSR has a technological basis to develop high-acceleration strategic missiles as well as nearly unlimited opportunities to introduce sufficiently simple imitation and anti-imitation devices in future missile weapons to effectively camouflage the real nuclear warheads among various decoys which would oversaturate the sensor and combat systems of an ABM defense.

"We could also use heavy-weight decoys and preventive high-altitude nuclear explosives to jam ground-based ABM radars, to complicate the task of targeting.

"It is also possible to build up weapons for which there are no interceptors at present, such as submarine-launched ballistic missiles flying at low altitudes. Yet another measure to reduce the effectiveness of a multilayer ABM system can be found in massive deployment of variously-based cruise missiles.

Small ground-based (sea-launched), air-and-space-based anti-satellites armed with missiles or nuclear weapons can provide another means to destroy ABM combat platforms in space.

"The ABM combat platforms can be effectively disabled by relatively small anti-satellites with a speed of 5-6 km/sec after the post-boost stages of trajectory. "Such anti-satellites must have sufficient thrust to shorten the post-boost phase, and be protected against laser weapons.

"Warheads of such anti-satellites can be armed with IR-guided homing warheads similar to those used in the U.S. ASAT system.

"A significant threat to ABM battle stations can be created by non-expensive space mines—specially designed anti-ABM spacecraft armed with nuclear or conventional charges and put into orbits close to those of the ABM space components. Clouds of heavy or lightweight obstacles (like metal balls, sawdust, sand, etc.) can also be put in the way of combat or sensor platforms."

SOVIET SCIENTIST SAYS MUST DISCUSS SLCM

A soviet military scientist has underlined Moscow's view that it would be too difficult to reach agreement on a reduction in strategic nuclear weapons if sea-launched cruise missiles (SLCMs) are left out of the negotiations

Col. Vladimir Nazarenko said: "The problem of the sea-based cruise missiles has become one of the main obstacles in the way of completing the work for an agreement on a 50 percent cut in Strategic offensive armaments".

He added "the simplest and most radical solution" would be a "ban on their production, testing and deployment" including the nuclear version and dual-purpose cruise missiles.

He suggested another measure would be "to limit the patrol zones" of ships carrying SLCMs, or at least to set a minimal distance at which they approach the shores of another country. Furthermore, they should allow the deployment of the cruise missiles only on certain types of ships and set the maximum number of cruise missiles for search of these types.

The Colonel emphasised the U.S.S.R.'s desire for "the strictes possible control" over SLCMs, using "national technical means" of verification and on-site inspection, and called on Washington to enter into agreement "as soon as possible" to cut back, what he termed, this "powerful destabilising weapon".●

SOUTHEAST REGIONAL WINNERS, INVENT AMERICA!

● Mr. CHILES. Mr. President, I am delighted to report to the Senate that three of my young constituents were named Southeast regional winners in the Invent America competition sponsored by the U.S. Patent Model Foundation. Of these three, one was named a national finalist during Invent America Week activities held here in Washington last week.

David Foster is a first grade student at Cheney Elementary School in Orlando, FL. With the help of his teacher, Millicent Kopman, Ryan invented the skateboard holder and took Southeast regional honors for first graders. His parents are Mr. and Mrs. Harold Foster of Orlando.

Ryan Mullins, a second grader at Coral Park Elementary School in Coral Springs, FL, invented the multidirectional flashlight which earned him honors as the Southeast regional winner for the second grade level. Ryan's parents are Lynda and John Zelisko from Coral Springs. His teacher at Coral Park is Catherine Collins.

I am especially pleased to announce that Andy Hardaker, a fifth grader at John Stockton Elementary School in Jacksonville, FL, is the Invent America national winner for the fifth grade level. Andy received $1,000 in U.S. savings bonds for inventing the underwater jungle gym. His proud parents are Paul and Joy Hardaker of Jacksonville. His teacher at John Stockton is Deborah Martin Floyd.

Mr. President, as my colleagues in the Senate know, two national priorities of ours in recent years have been to upgarde the quality of our educational system at home and to regain our status as strong competitors in the international arena. I believe the Invent America program is conducted in the spirit of these goals as it contributes to a revitalized interest in American ingenuity. In addition, it encourages our youngest students to develop and apply their creative and analytical skills which will be crucial to their success as they grow older.

David, Ryan, and Andy, along with their parents and teachers, were in Washington last week to take part in Invent America Week festivities. Each student received prizes in the form of U.S. savings bonds while their teachers and schools received grant awards. I understand it is unusual to have three winners from one State, but I am not surprised. I extend my congratulations to them for their individual successes and for the honors they have brought to the State of Florida and its schools.●

TRIBUTE TO AN OUTSTANDING ALABAMIAN: WILLIAM D. KOIKOS

● Mr. SHELBY. Mr. President, I rise today to pay tribute to a man who, although born half a world a way, was an Alabamian through and through. William D. Koikos, or "Mister Bill" to those who had come to love his Bright Star Restaurant, came to this country from his birthplace in Teleta, Greece, in 1920. Through hard work and determination—the kind that has come to symbolize an immigrant's fight to make it in a new country, Bill Koikos arrived in Bessemer, AL, on May 20, 1920.

May 21, 1920, found Bill Koikos employed as a bus boy at Bessemer's Bright Star Restaurant. And the rest, as they say, is history.

Within 5 years, Bill was a part owner of the Bright Star Restaurant. Over the next 63 years, his hard work and commitment, ingrained in him through his struggle to not only survive, but to make it in his adopted country, helped him to establish the Bright Star as one of Alabama's preeminent restaurants.

Bill's commitment was not solely to his business. A dedicated family man, Bill married his wife Anastasia, also a Greek immigrant, in 1936. Their three children, Jimmy, Nicholas, and Helen are a tribute to their wonderful parents. Bill was also blessed with three lovely granddaughters.

Never allowing the ties that bound him to his heritage to sever, Bill helped to support his mother, six brothers and four sisters back in Greece. Carefully cultivating his new ties to Alabama, Bill Koikos became a leading member of the Bessemer community.

On July 21, 1988, Alabama lost a favored son. The passing of Bill Koikos is a loss not only to his family, but to all those Alabamians who were privileged enough to learn from his example of hard work and determination, to enjoy a meal in his fine restaurant, or simply to know him and call him a friend.

Bill Koikos's legacy is his gift to all of us. Through his eyes we learned to appreciate, respect and not take for granted this great country. We learned that the "American Dream" is still possible for those courageous and dedicated enough to dream.

Mr. President, this is a tribute to Bill, his wife, children and grandchildren—theirs is a loss shared by all Alabamians.●

ORDERS FOR TUESDAY

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MORNING BUSINESS—RESUME CONSIDERATION OF H.R. 1158

Mr. **BYRD**. That following the two leaders under the standing order there be a period for morning business not to extend beyond 10:30 a.m.; that Senators may speak during that period for morning business; that at the hour of 10:30, the Senate resume consideration of the pending measure. The pending question at that time will be on adoption of the Humphrey amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. And the question could arise on a tabling motion. I ask unanimous consent that there be 30 minutes for debate to be equally divided between Mr. HUMPHREY and Mr. KENNEDY and that at the conclusion of the 30 minutes or videlicet 11 o'clock a.m., the vote occur.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, does the distinguished Republican leader have any further business he would like to transact or any statement he would wish to make.

Mr. **DOLE**. No further business; I think we have had a good day.

Mr. **BYRD**. I thank the Senator. I agree.

RECESS UNTIL 10 A.M. TOMORROW

Mr. **BYRD**. Mr. President, I move that the Senate stand in recess under the order, previously entered.

The motion was agreed to; and, at 6:17 p.m., the Senate recessed until Tuesday, August 2, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1988:

DEPARTMENT OF STATE

SONIA LANDAU, OF NEW YORK, TO BE COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, WITH THE RANK OF AMBASSADOR, VICE DIANA LADY DOUGAN, RESIGNED.

JAMES E. GOODBY, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GREECE.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be admiral

ADM. LEE BAGGETT, JR., [redacted] /1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be admiral

ADM. KINNAIRD R. MCKEE, [redacted] /1120, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. NILS R. THUNMAN, [redacted] /1120 U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. DANIEL L. COOPER, [redacted] /1120, U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

CIVIL ENGINEER CORPS (5104)

DAVID ELLIOTT BOTTORFF.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL ANY OF THE FOLLOWING OFFICERS BE APPOINTED IN A. GRADE HIGHER THAN MAJOR.

LINE OF THE AIR FORCE

WILLIAM P. BAGLEY, [redacted]
STEPHEN BALDWIN, [redacted]
HAROLD R. BANKS, [redacted]
FREEMAN H. BELL, [redacted]
JAMES STEVEN BILLINGS, [redacted]
CHARLES W. BOGGS, III, [redacted]
JAMES W. BROWN, [redacted]
WILLIAM BUCKINGHAM, JR., [redacted]
VICTOR H. BURKE, [redacted]
MONTGOMERY L. CLASON, [redacted]
EDWARD N. COPPOLA, [redacted]
MARCIA E. DANIELS, [redacted]
MICHAEL C. DANTZER, [redacted]
JOHN F. DARGIN, III, [redacted]
RONALD C. DECKER, [redacted]
CHARLES R. DORSEY, [redacted]
HARRY E. DROTTZ, [redacted]
RICHARD G. ERKES, [redacted]
GARY L. FRASER, [redacted]
R. GAYLE FULTS, [redacted]
MICHAEL R. GODBEY, [redacted]
DENNIS W. GREER, [redacted]
GEORGE V. HANSON, JR., [redacted]
ILENE M. B. HAWKES, [redacted]
DAVID V. KRAMER, [redacted]
TOMMY M. KRAMER, [redacted]
EMILY A. LIEOU, [redacted]
GAIL M. LOFDAHL, [redacted]
PETE N. MARQUEZ, JR., [redacted]
RANDY S. MCMULLEN, [redacted]
ROBERT C. MELLERSKI, [redacted]
FREDERICK G. MILLNIK, [redacted]
CLIFFORD MINER, JR., [redacted]
JOAN H. MORGAN, [redacted]
DORIS J. MURRAY, [redacted]
EDWIN L. NEGRON, [redacted]
RICHARD E. NIELSEN, [redacted]
WILLIAM T. PALFREY, [redacted]
RICHARD L. PILIBOSIAN, [redacted]
RICHARD D. REDMON, [redacted]
RICHARD E. REW, JR., [redacted]
PETER M. RICARD, [redacted]
HUGH H. RILEY, [redacted]
THOMAS LEROY SCOGGIN, [redacted]
WILLIAM M. SEATON, [redacted]
DAVID L. SIMPSON, [redacted]
ALLEN L. SMITH, [redacted]
JAMES A. SMITH, [redacted]
VOYSEL SMITH, [redacted]
RANDALL REA TANKSLEY, [redacted]
ROBERT E. TORN, [redacted]
ANDREW L. TRAYWICK, [redacted]
ALLEN N. VICKREY, [redacted]
KIM M. WALKER, [redacted]
GEORGE A. WARD, [redacted]
DANA F. WHITE, [redacted]
BRENDA S. WHITMER, [redacted]
LAN R. YONEDA, [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL ANY OF THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN MAJOR.

CHAPLAINS

RICHARD L. BLANTON, [redacted]
KENT E. BRYANT, [redacted]
JAMES W. BYINGTON, [redacted]
RICHARD J. DAVIS, [redacted]
FANNALOU GUGGISBERG, [redacted]
JOE F. JOHNSTON, [redacted]
WAYNE R. KNUTSON, JR., [redacted]
BENNIE R. LIGGINS, [redacted]
JAMES A. MARTINEZ, [redacted]
LESLIE G. NORTH, [redacted]
JEREMIAH C. ORIORDAN, [redacted]
MACK R. PAINTER, JR., [redacted]
DANNY C. RIGGS, [redacted]
JACK D. RITSEMA, [redacted]
FROILAN A. SALUTA, [redacted]
JAMES CHARLES SEAMAN, [redacted]
BILLY EARL WAYNE SIMMONS, [redacted]
LAWRENCE E. WALLING, [redacted]
ROGER S. WINBURG, [redacted]

JUDGE ADVOCATE

JOHN A. AVERETT, [redacted]
JONATHAN A. BASTEN, [redacted]
ROBERT BLEVINS, [redacted]
CAROL L. BRENNECKE, [redacted]
ANNE L. BURMAN, [redacted]
W. WILSON BURR, [redacted]
ALVIN CHASE, [redacted]
TERRENCE P. DERMOTT, [redacted]
MARK B. DEVEREAUX, [redacted]
CHRISTOPHER R. DOOLEY, [redacted]
ROBERT A. FEDERICO, [redacted]
DANIEL B. FINCHER, [redacted]
DWIGHT R. HITT, [redacted]
BRIAN J. HOPKINS, [redacted]
FRANCIS J. LAMIR, [redacted]
BLANE B. LEWIS, [redacted]
DONALD G. MCKINNEY, [redacted]
LARRY T. MCRELL, [redacted]
TONY E. MONTGOMERY, [redacted]
DIXIE A. MORROW, [redacted]
DAVID J. MOUSSETTE, [redacted]
JOHAN M. S. MULLER, [redacted]
SAMUEL C. MULLIN, III, [redacted]
THOMAS J. NIED, [redacted]
WILLIAM E. J. ORR, [redacted]
SUZANNE PETERS, [redacted]
GLEN K. RICHARDSON, [redacted]
ALBERT A. RINGGENBERG, [redacted]
MICHAEL E. SAVAGE, [redacted]
DONALD D. SELF, [redacted]
WILLIAM T. SHEARER, III, [redacted]
CRAIG A. SMITH, [redacted]
ROBERT W. SNIVELY, [redacted]
DAVID E. SPROWLS, [redacted]
ROBERT L. THOMAS, [redacted]
MARC W. TROST, [redacted]
DOUGLAS E. WADE, [redacted]
CARLA S. WALGENBACH, [redacted]
ROBIN D. WALMSLEY, [redacted]
JAMES R. WISE, [redacted]

NURSE CORPS

SANDRA H. ALFORD, [redacted]
JANET M. BARRETT, [redacted]
LINDA A. BLAINE, [redacted]
ELIZABETH L. BOWERS, [redacted]
ELAINE L. BRADEN, [redacted]
MARILYN R. BRANDT, [redacted]
BRENDA S. BROWN, [redacted]
DIANA L. CHRISTIAN, [redacted]
CLETA L. DEMPSEY, [redacted]
SHERRY A. DERDAK, [redacted]
BONNIE L. DUNCAN, [redacted]
KATHLEEN A. FITZGERALD, [redacted]
MARGARET R. FITZGERALD, [redacted]
SUSAN S. FOSTER, [redacted]
ROSALYN V. GARDINER, [redacted]
EUGENIO GOITIA, JR., [redacted]
MARGARET A. GRIFFIN, [redacted]
YVONNE L. GRINER, [redacted]
ELAINE C. HIMES, [redacted]
DONNA M. HOUF, [redacted]
ALBERT S. JONES, JR., [redacted]
JUNE M. JONES, [redacted]
MARGARET A. KAHLER, [redacted]
SUSAN M. LAHAIE, [redacted]
BARBARA C. MARTINEZ, [redacted]
MARY L. MCELROY, [redacted]
MAUREEN A. MCHUGHCASTRO, [redacted]
CYNTHIA A. MCKINNIE, [redacted]
LINDA F. MILLERHAMMONDS, [redacted]
LINDA S. MITCHELL, [redacted]
KAREN M. MUTZ, [redacted]
BARBARA AG NEDERVELT, [redacted]
KENNETH D. OEFINGER, [redacted]
JOE L. PATRICK, [redacted]
NANCY L. PETRASEK, [redacted]
MARY A. PROSYNIUK, [redacted]
SANDRA B. RAUSCH, [redacted]
DAVID A. ROCK, [redacted]
CHARLES R. ROUNTREE, [redacted]
ROGER W. SCHLINDWEIN, [redacted]
MARY J. SNYDER, [redacted]
KATHLEEN M. TAYLOR, [redacted]
LINDA K. TAYLOR, [redacted]
GAIL M. THERRIEN, [redacted]
KEIKO L. TORGERSEN, [redacted]
WENDY C. WALTERS, [redacted]
DEBORAH A. WHITE, [redacted]
GREGORY WILLIS, [redacted]

MEDICAL SERVICE CORPS

THOMAS C. ARDOLINE, [redacted]
REGINALD L. BOND, [redacted]
GEORGE B. DAVIS, [redacted]
ROY B. DEITLE, [redacted]
JOSEPH F. M. ETHIER, [redacted]
HARRY FLEMING, [redacted]

HOWARD D. GOOGINS, [redacted]
WILLIAM T. MACORKINDALE, [redacted]
TERRY M. OAKS, [redacted]
DONALD A. PERRO, [redacted]
GILBERT J. PILKINGTON, JR, [redacted]
DAVID L. QUICK, [redacted]
DAVID A. ROSHIO, [redacted]
GEORGE W. SHERMAN, [redacted]
GEORGE L. SMALL, [redacted]
TIMOTHY Z. SMITH, [redacted]
JACKIE K. TARKINGTON, [redacted]

BIOMEDICAL SCIENCES CORPS

FERNANDO BARJA, JR, [redacted]
LAWRENCE D. BARNUM, [redacted]
ELIZABETH A. BERNTSEN, [redacted]
REX S. BRENNAN, [redacted]
ROBIN L. CHERRY, [redacted]
HUGH W. CHRISTENSEN, [redacted]
TIMOTHY L. COBB, [redacted]
DONALD A. COERVER, [redacted]
RONALD R. COOPER, [redacted]
CHARLES A. CULVER, [redacted]
MICHAEL K. DOWNEY, [redacted]
ALAN L. EDWARDS, [redacted]
THOMAS G. GIVENS, [redacted]
BRIAN J. HARMS, [redacted]
LARRY L. ISOM, [redacted]
PATRICK N. JOHNSON, [redacted]
STEPHANIE F. MCCANN, [redacted]
MICHAEL J. MCNAMARA, [redacted]
THOMAS J. PARRY, [redacted]
DANNY R. PERSON, [redacted]
LAURA L. POOLE, [redacted]
JACKIE D. REEDER, [redacted]
RENALD ROUILLARD, [redacted]
CARI A. SHERRIS, [redacted]
RICHARD F. STEINER, [redacted]
BRENDA D. THOMPSON, [redacted]
JOHN F. WARD, [redacted]
TERRY D. WEAVER, [redacted]
JAY A. WENIG, [redacted]
JAMES F. WILLIAMSON, [redacted]
RICK W. WILSON, [redacted]

EXTENSIONS OF REMARKS

INTELLIGENCE OVERSIGHT BILL AND 48-HOUR NOTICE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. HYDE. Mr. Speaker, today I am submitting the second and final installment of publications relating to the upcoming vote on the Intelligence Oversight Act of 1988. These articles, by myself and by legal scholar Bruce Fein, appeared in the Washington Times on June 21.

Major objections to imposing an absolute 48-hour deadline for notification even in extreme circumstances revolve around the wisdom of keeping a very few operations absolutely secret until they are completed, usually so a "leak" will not endanger lives. Some argue that the greater the number of persons informed, the more likely there will be an unauthorized disclosure. Others claim the Congress has a good record in this regard and should be trusted. I have been very vocal in rejecting the view that Congress is an exception and that it is only the executive branch which leaks classified information, although I acknowledge that the executive branch also has severe problems in this regard.

Only last week, we were treated to a front-page Washington Post article alleging that a covert action to topple the Government of Panama had been approved less than 2 weeks previously. At this point, it makes little difference whether the newspaper accounts are factually correct—regardless, United States foreign policy interests and the Panamanian opposition have been damaged irrevocably. And I would note that the Post is citing both congressional and executive branch sources.

This is by no means the first time that Congress apparently has talked out of turn. The articles I am submitting today discuss this problem and the ramifications for mandatory 48-hour notice of covert action.

[From the Washington Times, June 21, 1988]

MORE THAN COVERT CAN ENDURE?

(By Bruce Fein)

Giddy with summit euphoria, blind to realpolitik, and emboldened by a weakened presidency, Congress is hell-bent on destroying the covert-action capability of the Central Intelligence Agency. That destruction would foreclose the president's use of the CIA to dethrone Gen. Manuel Antionio Noriega in Panama, Col. Muammar Qadafi in Libya, the Ayatollah Ruhollah Khomeini in Iran or Gen. Wojciech Jaruzelski in Poland.

Nor would covert action be available to bolster fledgling democracies in the Philippines, El Salvador, South Korea or Honduras.

Without covert action, national security will be impared so long as Soviet General Secretary Mikhail Gorbachev trumpets the teaching of Soviet icon Vladimir Lenin: "Everything is moral that is necessary for the annihilation of the old exploiting social order and for uniting the proletariat."

On March 15, 1988, the Senate voted 71-19 to compel presidential notification to specified members of Congress of all clandestine CIA activities. If the activities are other than intelligence collection, the president must make a written finding that they "are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States." The finding must describe any foreign-government or foreign-agent involvement.

Ordinarily, the finding must be shared with the House and Senate Intelligence Committees prior to any covert action. When time is of the essence, disclosure to the committees may be delayed for 48 hours after the Presidential finding. Further, in the most extraordinary circumstances affecting the most vital security interests of the United States, and when the risk of disclosure constitutes a grave risk to such vital interests, the president may report findings only to the speaker and minority leader of the House, and the majority and minority leaders of the Senate.

The House Intelligence Committee has favorably reported a bill that echoes the Senate-passed bill. The full House is expected to pass the anti-covert-action legislation within weeks, despite the threat of a presidential veto.

If enacted over the veto, the legislation would be the epitaph of covert action.

Experience and human nature guarantee cascades of congressional leaks to scuttle covert actions and cooperation from foreign intelligence agencies or foreign agents.

Former CIA Director William Colby recounted in his "Memoirs" that every covert action reported to congressional committees in 1975 leaked. Mr. Colby's successor, Stansfield Turner, testified that foreign intelligence agencies and potential CIA assets have refused cooperation because of fears of public disclosures. Former Deputy Director of the CIA Frank Carlucci confirmed that: "If our intelligence assets around the world, particularly cooperating organizations, perceive that the CIA is obliged to disgorge whatever the [Intelligence Committees] may want, then it is very clear, based on my experience, that our intelligence assets would dry up."

The former chairman of Senate Intelligence Committee, Republican Sen. David Durenberger of Minnesota, was recently reprimanded by the Senate Ethics Committee for publicly disclosing a CIA asset in the Israeli army.

Former vice chairman of that committee, Democratic Sen. Pat Leahy of Vermont, resigned after leaking a confidential report on the Iran-Contra affair that the committee had voted to withhold. Mr. Leahy also blundered in revealing to a national NBC television audience that the United States had intercepted and deciphered communications of Egyptian President Hosni Mubarak.

Democratic Rep. George Brown of California was shuffled off the House Intelligence Committee because of irresponsible handling of sensitive intelligence information.

In 1985, cogent evidence pointed to Sens. Durenberger and Leahy as culpable in leaking a planned covert action to overthrow Libyan tyrant Muammar Qaddafi with the assistance of two North African nations.

A year later, Democratic Sen. Joe Biden of Delaware publicly boasted of derailing two covert-action gambits by threatening disclosure.

Numbers, inexpertness and the absence of sanctions explains the propensity of Congress to publicize covert actions.

At present, the members and staffs of the House and Senate Intelligence Committees and the Defense Appropriations subcommittees with regular access to classified intelligence information approximate 132, a number both exceeding the entire membership of the initial Congress and incompatible with secrecy. As early as 1776, Benjamin Franklin and Robert Morris, members of the tiny committee of secret correspondence during the Revolutionary War, refused to disclose to the Second Continental Congress covert financial assistance negotiated with France. They explained: "We find, by fatal experience, the Congress consists of too many members to keep secrets."

Members of Congress are novitiates in the field of intelligence. Their intellectual energies are splintered, and tenure on the intelligence committees is limited to six years. Speaker of the House Jim Wright, Democrat of Texas, exemplified congressional innocence in falsely maintaining before the House Intelligence Committee that the CIA had engineered the assassination of Guatemalan leader Jacobo Arbenz in 1954.

Further, congressmen are unschooled in habits of taciturnity. They may unwittingly disclose secret information because of forgetfulness about its origins and sensitivity.

Congressmen are not fearful of sanctions for publicizing covert activities or other classified national security information. The "Speech or Debate" clause of the Constitution prohibits both the executive and judicial branches from penalizing a member or his staff for anything said on the floor of the House or the Senate or in committee hearings. Thus, Democratic Sen. Mike Gravel of Alaska with impunity placed the 47-volune Pentagon Papers containing classified information in the public record after convening a subcommittee meeting.

Congress is constitutionally authorized but disinclined to sanction members for improper disclosures of classified information. The sleepy House and Senate Ethics Committee are notorious for inactivity and leniency in disciplining members of Congress. And the House Intelligence Committee recently voted against criminal sanctions for members or staff who leak national security information.

A 48-hour congressional reporting requirement eviscerates covert action as a national-security or foreign-policy instrument of the president. History proves the grave harm it would cause. Six Americans hid in the Canadian Embassy in Tehran after the American Embassy was seized by the Iranian radicals

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in November 1979, Canada assisted the CIA in their covert exfiltration, but only because CIA Director Turner agreed to withhold notification to Congress until the 90-day escape mission was concluded.

Six months of covert activity preceded the ill-starred Desert I rescue attempt of the hostages held in the American Embassy in Tehran. Congress was not informed. Director Turner testified that the cover mission would have been canceled if congressional reporting was compelled.

A planned covert operation to assist Philippines President Cory Aquino fight domestic insurrections was scuttled after it was reported to Congress and later publicized.

George Carver, former chairman of the U.S. Intelligence Coordinating Committee in Germany, testified without contradiction: "Should it ever come to be widely perceived abroad that U.S. law required . . . the identification in a written document, of which at least two copies would be sent to Congress, of all non-U.S. individuals and entities, including governments, cooperatively participating in any U.S. [covert action], our pool of essential foreign assistance and support would swiftly evaporate."

We would act no differently. In the aftermath of World War II, the United States stopped sharing sensitive intelligence information with Australia because its government was unable to keep secrets from the Soviet Union.

Without foreign assistance, significant covert-action opportunities will be lost. In 1981, for instance, a CIA asset—Col. Wladyslaw Kuklinski—was infiltrated into the highest levels of Polish Intelligence. With a guarantee of secrecy, Col. Kuklinski was an attractive candidate to undertake a covert action in support of the Solidarity trade and freedom movement. But Col. Kuklinski would certainly have shunned participation if his involvement were to be shared with Congress in a written finding.

Covert action is important to the nation's national security arsenal and foreign policy goals. It was employed to preserve democratic governments in Western Europe and the Philippines in the late 1940s and early 1950s. It prevented communist domination of Iran in 1953, and Castro-style misrule in Guatemala in 1954.

At present, covert action should be brandished to reinforce democratic impulses around the globe.

Attractive targets of covert action include dictatorial or communist nations, such as Chile, Libya, Nicaragua, Cuba, North Korea, Panama and Ethiopia, and embryonic democracies, such as Brazil, Argentina, Bolivia, El Salvador, Taiwan, South Korea, Singapore and Guatemala.

Overt U.S. support might be counterproductive, because of national pride and anti-American attitudes in many foreign countries.

The national security fecklessness of Congress is boundless. On Dec. 21, 1987, Congress manipulated the power of the purse to prohibit the president from requiring executive branch employees to keep national security secrets.

Section 630 of the Omnibus Continuing Resolution for Fiscal Year 1988 endowed all government employees with an absolute right to disclose any classified information to Congress, despite the objections of the president, based on his constitutional privilege of confidentiality recognized by the Supreme Court in United States vs. Nixon (1974). Federal District Judge Oliver Gasch held section 630 unconstitutional because it impaired the president's constitutional right to protect national security information (National Federation of Federal Employees v. U.S. (May 27, 1988).

Why is Congress so incontinent in pursuing national security information and knowledge of covert actions?

It has turned a deaf ear to a bipartisan galaxy of former national security advisers, CIA directors, a secretary of state and a top CIA assistant, who have assailed a 48-hour reporting rule.

Members argue the reporting requirements enrich the president's decision-making over national security matters. But one searches in vain for a single instance since the creation of the CIA in 1947 when a member possessed of classified information made a productive contribution to the president's national security deliberations.

The more plausible explanation is congressional self-esteem that comes with enlarged powers. Neither the president, the Supreme Court nor the American people, however, should permit legislative *amour propre* to trump the national interest in a bold and robust covert action capability.

[From the Washington Times, June 21, 1988]

MORE THAN COVERT CAN ENDURE?

(By Henry Hude)

The House of Representatives soon will consider whether to follow the Senate's questionable "lead" in decreeing that, without exception, Congress' intelligence committees or top leadership must be informed of *every* covert action within 48 hours of presidential approval.

As hearings have shown, many present and former policy officials, persons of widely varying political affiliations, strongly reject such inflexibility and congressional micromanagement of foreign policy. They cite the need to protect at least temporarily a very few of the most sensitive operations from security leaks, as well as the dubious constitutionality of the proposal.

So corrosive has the permissive culture of "leaking" become that it materially contributed to the disastrous Iran escapade. Adm. John Poindexter testified that in addition to keeping even the congressional leadership in the dark for more than a year, he also deliberately minimized information given to top Cabinet and White House officials, and kept few documents or records of key meetings.

This is corroborated in the just-published memoirs of Don Regan, then White House chief of staff, who writes that unauthorized disclosures "had achieved such epidemic proportions that the inner circle was afraid to take notes lest they read them the next day in the newspapers". Mr. Regan concludes that "in fact, the root of the scandal may well lie in the fact that McFarlane and Poindexter and their assistants were, in a sense, driven mad by leaks".

The result was prolonged pursuit of an ill-considered and politically dangerous policy which suffered grievously from lack of full consideration and thorough periodic review. The paucity of records also contributed to later confusion and charges of a deliberate cover-up.

Some airily dismiss these security concerns as figments of Adm. Poindexter's paranoia. But every recent administration has quickly become appalled by the pervasiveness of leaks harmful to U.S. foreign policy and intelligence capabilities.

Moreover, despite the admiral's extreme precautions, the Iran operation indeed was soon exposed, originally in some Jack Anderson columns. It finally unraveled because of a leak which, for a change, occurred in a foreign newspaper.

With increasing frequency, high-ranking intelligence officials testify before the House Intelligence Committee decrying the human, intelligence and policy damage inflicted by injurious leaks. Lately, some have even gone public in a campaign to point out the harmfulness of an avalanche of unauthorized disclosures.

In this effort, they are hampered by an inability to cite examples, for to do so would confirm the authenticity of published material and heighten the damage. A cursory glance at the daily headlines, however, should convince the average citizen that sensitive, intelligence-related issues have become regular media fare. One begins to suspect that the best way to publicize an issue is to stamp it "Top Secret" and wait for its predictable appearance in the media.

Nonetheless, members continue to press the 48-hour legislation, a key assumption being that Congress can indeed be trusted *in every instance, no matter what the risk.*

Let us be clear about the facts here. Whatever its reservations about congressional reliability, each administration normally has swallowed its concerns and freely provided the legislature a wealth of classified information. The intelligence committees have controlled the oversight process for more than a decade now.

As CIA Deputy Director Bob Gates recently observed, the availability of classified information to the intelligence committees in particular, and to a lesser extent to Congress in general, has increased exponentially over these years, a factor which allows them considerably greater ability to probe and question administration foreign policy than Congress ever had before.

Prior to the Iran-Contra initiatives, there had been only two cases in which House and Senate leadership, rather than both full committees, were initially informed of a covert action.

There have been only *four* cases in which notification of Congress was delayed. Three occurred during the Carter administration. All involved attempts to retrieve U.S. citizens hiding in Iran or held hostage in Iran or Lebanon. In each of these cases, the administration feared deaths could result from media leaks, and knowledge of the operations was also highly restricted within the executive branch.

In three of those instances, although notification was delayed three to six months, the Congress heartily supported the administration.

In all four cases, the administration intended to notify the Congress eventually and was legally required to do so, but it could not be determined from the outset how long notification might be delayed. Thus, only *one* case—the Iran-Contra affair—has raised serious concerns about notification.

It is a precedent that is most unlikely to be repeated. Given heightened congressional sensitivities and the personal and political pain caused by the Iran-Contra investigation (exemplified by the attempted suicide of one policy-maker, financial burdens for them all, the destruction of reputations, and, in effect, the crippling of the Reagan administration during its final two years), it is beyond imagination that any future administration again will temporarily withhold notification on an issue of similar potential controversy.

Moreover, as the bipartisan Tower Commission report noted, the Iran debacle occurred largely because existing procedures for handling covert action were ignored, not because new procedures were needed. The administration also has instituted additional precautions, such as an automatic review every 10 days if the president determines that notification to Congress must be delayed.

Congress will suffer a Pyrrhic victory if it wins on this issue. The Democratic majority will find succeeding presidents hamstrung in grappling with future hostage cases. Does anyone predict an end to hostage taking? And if, in one of those instances, word of covert initiatives leaks out prematurely, possibly triggering the death of a hostage or agent, it is Congress that will fall under a dark cloud of suspicion. At that point, the diminishing mutual trust essential of effective oversight will suffer yet another grievous blow.

A TRIBUTE TO SCOUTMASTER JERRY SALMON

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. LENT. Mr. Speaker, on Sunday, August 7, Boy Scouts of America Troop 332 of East Rockaway, NY, will honor an individual who exemplifies the finest qualities of Scouting. That person is Scoutmaster Jerry Salmon, who will be retiring after 11 years of service to the youth of East Rockaway and Lynbrook.

With the help of his wife, Catherine, Jerry Salmon strived to teach these young men to achieve their highest personal goals and to improve their community. Under his guidance and encouragement, 44 young men have attained the rank of Eagle Scout, the highest rank in Scouting. Also, Troop 332 has been named Bishop's Troop three times, a very distinguished honor.

Jerry Salmon has served as an important role model for these young people. Throughout his dedicated career in Scouting, he gave generously of his time and energy. This commitment is borne of a genuine caring for the young Scouts in his charge and a concern that they mature into active members of the community. Indeed, we all benefit from Jerry Salmon's work. For the young men he has worked with become infected with this need to serve. They take what they have learned from him and reach out to many others.

Volunteers like Jerry Salmon, dedicated to the welfare of their fellow man, are the essence of the American spirit. They have helped make our country great, and we are very fortunate to have him. On this occasion, I'd like to offer my sincere appreciation to Scoutmaster Jerry Salmon for his many years of dedicated service to the young people of our communities and wish him many years of happiness in the years ahead.

SUPER BOWL QUARTERBACK DOESN'T FIND RICHES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. STOKES. Mr. Speaker, I read with great interest an article which recently appeared in the Detroit Free Press entitled, "Fame Fine: Bucks Better." The article discusses the lack of endorsement opportunities for Doug Williams, quarterback of the Super Bowl champions Washington Redskins. Doug Williams' case is in stark contrast to the cases of other Super Bowl heroes such as Joe Theismann, Roger Staubach, and Jim McMahon. These quarterbacks have achieved more than Super Bowl victories—they have achieved the fame, glory, and, more importantly, the financial rewards that accompany such success. Is Doug Williams not worthy of the same?

Mr. Speaker, I read the article with great interest and I urge my colleagues to do the same.

[From the Detroit Free Press, July 7, 1988]

FAME FINE; BUCKS BETTER—QB DOESN'T FIND RICHES

(By Ray Didinger)

PHILADELPHIA.—Joe Namath won a Super Bowl and got a movie contract. Phil Simms won a Super Bowl and wrote a book.

Jim McMahon won a Super Bowl and wound up selling tacos on TV. Joe Montana beat Dan Marino in Super Bowl XIX, then they co-starred in a hokey diet soda commercial.

For most NFL quarterbacks, the Super Bowl is like magic carpet. It whisks them away to a land where their names are in bright lights and strangers smile and hold open limousine doors 24 hours a day.

Mostly, it is a land where a quarterback can get rich in a hurry. It happened to Joe Theismann and Roger Staubach. It even happened to Bob Griese, who is duller than Muzak.

But it has not happened to Doug Williams, not yet anyway, and he had perhaps the best Super Bowl of any quarterback ever. Williams threw for four touchdowns and 340 yards (a Super Bowl record) as Washington buried Denver, 42-10, in Super Bowl XXII last January.

In the five months since his MVP performance, Williams has done just one national TV commercial and that was the Disney World spot that was arranged with both quarterbacks, Williams and Denver's John Elway, before the game. The winner got to do the line ("I'm going to Disney World") as he left the field in San Diego.

Since then, the advertisers and marketing types have beaten a path away from Williams' door.

Could it be they haven't been able to find Williams' offseason home in rural Zachary, LA.? Or could it be they just aren't trying.

Is it because they don't think white America is so eager to buy cameras and razor blades when they are being pushed by a black Super Bowl hero?

"I don't know the answer. That's just the way it is," Williams said recently as he accepted the NFL Filmstar Award for the outstanding individual achievement of last season.

"I've made it this far without all that (commercial) stuff, I'm not going to start worrying about it now. I don't even like to talk about it because it's not going to change anything. That's just the way things are."

"But it doesn't seem fair," someone said.

Williams smiled. "Whoever said life was fair?" he asked.

By all rights, Williams should have been a hot property after Super Bowl XXII. Here was a quarterback who had kicked around pro football for a decade, a man haunted by personal tragedy, who came off the bench to lead his team to the NFL championship.

It was can't-miss, storybook stuff.

This script had everything, including a scene where the hero twisted his knee early in the big game and limped off the field only to come back and win. It was all there. Blood and guts, tears and cheers, gritty underdog (Williams) outshining the golden boy (Elway).

Williams' performance was memorable on several levels; but in particular for the grace be displayed under pressure. He fielded every newsman's question during the week, no matter how clumsy. ("Doug, you've been a black quarterback all your . . .") He was virtually flawless when the curtain went up Sunday.

If Williams has been slighted by the advertisers and corporate spenders since then, well, it's something he can live with.

He has the new car he won as the game's Most Valuable Player. He has a gold Super Bowl watch. His championship ring is on order. He has piled up a lot of frequent flier miles traveling the banquet circuit and collecting awards.

His left knee, surgically repaired in February, is healing nicely. His family—wife, Lisa, and daughter, Ashley—is settled in the new house. He is listed first on the Washington depth chart, ahead of Jay Schroeder, going into training camp.

All in all, Williams, 32, figures he is much better off than he was this time a year ago.

"I'm not mad," Williams said. "Who should I be mad at. I've done a lot of things this off-season, met a lot of nice people.

"The best thing that's come out of this is the Doug Williams Foundation we set up in Washington. We raise money for scholarships and drug abuse programs for needy kids. We ran our first benefit three weeks ago and it was a big success.

"That is a direct result of what happened in the Super Bowl. It's a way I can give something back to the community. I'd rather spend my time working on that than banging on doors, asking why I'm not doing more TV commercials."

The people who said Williams' life would change after Super Bowl XXII didn't know much about the man or his life. Williams never cared for the spotlight, and, after his first wife died of a brain tumor in 1983, he pulled back even more.

Williams never bought into the argument that he played Super Bowl XXII for all black quarterbacks—past, present and future. Williams didn't want the label going into the game. He didn't want the credit after. If others wanted to cast him as a role model, that was up to them.

"I had three or four offers to write a book after the Super Bowl," Williams said. "I wasn't interested. Not yet anyway.

"I'll write a book, but after I'm done playing. And it won't be just a football book. It will talk about my growing up, my life off the field. It will talk about everything I've gone through.

"I'm looking forward to writing it. I feel like I've got a lot to say."

FIVE MARYLAND ELEMENTARY SCHOOLS RATED OUTSTANDING

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mrs. MORELLA. Mr. Speaker, I take great pleasure in commending five elementary schools in Maryland's Eighth Congressional District that were recently rated "outstanding" by the U.S. Department of Education: Bells Mill Elementary School in Potomac, Whetstone Elementary School in Gaithersburg, the Hebrew Academy of Greater Washington in Silver Spring, the St. Jane de Chantal Catholic School in Bethesda, and the Center School in Chevy Chase.

From almost 100 applications, 10 public and private elementary schools were selected by the State of Maryland to be considered by the Department of Education for its biannual Elementary School Recognition Awards. Each school then underwent a 2-day, onsight and indepth inspection. As part of this inspection, DOE interviewers spoke with students, parents, teachers and the principal. Finally, only 287 elementary schools in the Nation were recognized by the U.S. Department of Education. The presentation of the awards and special flags will take place at the White House this fall.

One-third of Bells Mill Elementary School's enrollment is comprised of minority students. The students at Bells Mill come from over 35 countries where more than 20 different languages are spoken. In addition, Bells Mill has the distinction of serving as home to the Area 2 Center for the Highly Gifted. Bells Mill houses a computer lab with a full-time computer coordinator. Its computer literacy program integrates a variety of instructional approaches that provide students with opportunities to interact individually with computers in both laboratory and classroom settings. An emphasis is placed on increasing the computer literacy of minority youngsters. I congratulate principal Dr. Kathleen Holliday and all of the members of the faculty for introducing technology to the classroom, and bringing both English and non-English speaking students together.

Whetstone Elementary is located in a rapidly developing area of Gaithersburg. Whetstone offers an extraordinary nurturing environment. They have a very successful after-school tutoring and recreation program called "After School Kids" [ASK]. Whetstone is involved in the American University's math, sciences and minorities project. Whetstone also provides a special emphasis on the arts. I commend principal Nancy Morton for her commitment to excellence.

The Hebrew Academy of Greater Washington is an Orthodox Jewish elementary school in Silver Spring that offers a standard public school curriculum plus a half-day of Hebrew and Judaic studies. The school enrolls a substantial number of Russian and Iranian refugee children, and it maintains a 1:12 teacher-student ratio. I congratulate Headmaster Rabbi William Altshul and the outstanding teachers at the Hebrew Academy for their special attention to personalized instruction.

St. Jane de Chantal Elementary balances a rigorous academic program with a comfortable, family environment. Its students often score in the 80th and 90th percentiles in standardized achievement tests. They study numerous foreign languages. At St. Jane de Chantal, the faculty is constantly up-grading its curriculum while continuing to emphasize the basics. In 1980, St. Jane de Chantal was the first elementary school in Montgomery County to receive the Middle States Award. I commend Headmistress Sister Mary Donald and all of the teachers at St. Jane de Chantal for their contributions to innovative education.

The Tri-Services Center School enrolls 112 unique, courageous students. The Center School offers unparalleled opportunity for those with learning disabilities. Many times, the teachers at the Center School are much more than instructors; they act as friends, restorers of faith and rekindlers of hope. They offer critically important, yet scarce services including counseling and tutoring for dyslexic students. I congratulate Principal Dr. Ruth Spodak, and the educators and counselors at the Center School for their unbounding commitment, and their beyond-the-classroom dedication.

These schools share many common attributes—a commitment to learning, high standards and excellence. These schools give their students a strong core of skills, knowledge, values and attitudes that help them embrace education with enthusiasm. I hope that they will continue always striving for excellence.

ASIA WATCH RELEASES NEW REPORT ON HUMAN RIGHTS VIOLATIONS IN TIBET

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. LANTOS. Mr. Speaker, I would like to call the attention of my colleagues in the Congress to an important report released yesterday by Asia Watch entitled, "Evading Scrutiny: Violations of Human Rights After the Closing of Tibet."

I welcome the Asia Watch report. It confirms information that we have received in the congressional human rights caucus in hearings and briefings on Tibet that have been conducted since the unrest in Tibet began last fall. This excellent report describes the Chinese policy—which was initiated last fall after the Dalai Lama spoke with members of the human rights caucus here in Washington—of suppressing information on current conditions in Tibet.

The report details how the Chinese Government has restricted access to Tibet, and as a result its human rights violations against the people of Tibet have largely escaped international scrutiny. The report documents the terrible consequences of this Chinese policy, the continuing serious abuses of human rights which are now unchecked by the kind of international attention that the fall protest received.

Mr. Speaker, it is in the interest of China and the United States to improve their relations. This cannot come about, however, in the face of continued Chinese violation of Tibetan human rights. Chinese authorities must understand that just as the American people have insisted on the observance of human rights by the Soviet Union as a condition of improved United States-Soviet relations, so Chinese observance of Tibetan human rights is a precondition for further improvement in United States-China relations.

Mr. Speaker, I commend Asia Watch and its staff for this excellent report. I urge my colleagues to read this report.

It deserves the attention of all of us.

DICK THORNBURG IS AN EXCELLENT CHOICE AS ATTORNEY GENERAL

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. RITTER. Mr. Speaker, on July 12, President Reagan announced that he had nominated two-time Pennsylvania Governor, Dick Thornburg, to fill the vacancy for Attorney General. As my friend, I am naturally pleased to see Dick in this prominent and key position at this critical time. But even more important, Dick can provide a lot of direction for all of us on the extremely important and sensitive matters before the Department of Justice. Happily, it is my understanding that my colleagues in the other body share this feeling and we can expect a quick confirmation.

Dick has stated that he prefers to look to the future of the Justice Department rather than its turbulent past. However, he firmly stated, "My intention, and this is in any area, is to follow the evidence wherever it may lead."

Dick did his undergraduate work at Yale, obtained his law degree at the University of Pittsburgh, and was serving as director of the Institute of Politics at Harvard's Kennedy School of Government. Before being elected Governor in 1978, he was U.S. attorney for western Pennsylvania and subsequently headed the Justice Department's criminal division.

Mr. Speaker, I know Dick Thornburg and I have no doubt that he will operate the Justice Department with the highest standards of integrity as he has done in every post in his distinguished career. In this regard and to emphasize this point, I include an editorial from the July 13 issue of the Allentown Morning Call.

[From the Allentown (PA) Morning Call, July 13, 1988]

GOV. THORNBURGH RETURNS TO JUSTICE

"My intention in this as in any area is to follow the evidence wherever it may lead." Dick Thornburgh, U.S. attorney general designate.

That declaration, backed up by criminal convictions to substantiate it, is one of the reasons why President Reagan chose Gov. Dick Thornburgh to be the next attorney general of the United States. Many Pennsylvanians may have forgotten that before Dick Thornburgh moved into the Governor's Mansion in Harrisburg, he served with distinction in the Justice Department. As assistant attorney general of Justice's criminal division, he pursued members of organized crime and those who betrayed the public trust with a vigor and conviction rate that gave Ronald Reagan the right to characterize Dick Thornburgh as "a prosecutor's prosecutor."

Before Mr. Thornburg's stint at Justice, his tenure as U.S. attorney for Western Pennsylvania was crowned by many scalps belonging to crime bosses, drug traffickers and, yes, even some public officials. The governor's remark yesterday at the White House about following the evidence no matter where it leads only confirms his prosecutor's credo. Given the cloud that has hovered over the Justice Department for several years (and not only the years of Edwin Meese, either), the nomination of Mr. Thornburgh is unusually welcome.

In making this particular choice, and in doing so expeditiously after Mr. Meese's resignation, President Reagan has moved simultaneously to fill a vacuum at the top and to restore morale in the badly demoralized Justice Department. By nominating a man to head Justice whose code of ethics for Pennsylvania officials was a model of rectitude, the president has sent a message to the nation and to official Washington that cannot be misunderstood.

In retrospect, the governor was right in refusing Mr. Reagan's offer last year to become director of the Federal Bureau of Investigation. While the top FBI spot is important, the job at Justice is the more important, and not just because the questionable ethical conduct of Edwin Meese has tarnished Justice's image and impeded its function.

This is one occasion when Mr. Reagan and Democratic leaders of the Senate Judiciary Committee appear to be in agreement on the qualifications of the president's nominee. A rapid confirmation by the full Senate would be good for the nominee, the president and for all those who believe that the Justice Department is the symbol of American justice for everyone.

TRIBUTE TO RICHARD TURNLAND

HON. DON EDWARDS

OF CLIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. EDWARDS of California. Mr. Speaker, it is a pleasure to join in paying tribute to Richard Wayne Turnland, city manager of the city of Newark, CA, since January 1969. Dick has announced his retirement, and will be honored at a retirement dinner on August 5.

Dick's life has been one of public service. In addition to a stint in the U.S. Army, Dick has been involved in city government in Phoenix, AZ; Rock Island, IL; Roseville, MN; and, of course, for the last 20 years in Newark, CA.

For much of my tenure as Newark's Representative in the U.S. Congress, Dick has held the important position of city manager. Those years have been ones of tremendous growth and progress for Newark, and Dick has been at the center of those developments. That Newark enjoys a sound economy, with care taken to balance both residential and commercial development, is a tribute in no small measure to Dick's diligence and competence. Dick should also take pride in his contributions to the development of a vigorous and effective city organizational team.

Dick will be sorely missed. The framework he helped to establish for Newark's current and future prosperity will leave us in his debt for years to come, and we thank him for his many contributions. I join his many friends and colleagues in wishing Dick a happy and productive retirement.

THANK YOU TO LIVERMORE PUBLIC SERVANT DAN LEE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. STARK. Mr. Speaker, I rise to commend the efforts of one of Livermore, CA's, finest public servants, Daniel J. Lee. After 30 years of dedicated service, he is retiring as the Director of Public Works for the city of Livermore. I can only say what his wife and four children already know, that he has given much to his city, and through his long service has helped to make it the beautiful place to live in it is today.

One of his most important accomplishments has been the Livermore Municipal Airport project. Under his direction, the old airport was replaced by the present $60 million facility. With over 600 planes, 400 hangars, and a sound financial status it is one of the best airports in the State of California.

Dan is also responsible for the city's water system. Now valued at over $12 million, it efficiently serves 4,200 customers. He has also directed the award-winning water reclamation plant. By using water which would otherwise be dumped in the bay, it uses an existing resource and conserves the domestic water supply.

Along with these projects, Dan has also worked to improve the quality of life for the people of Livermore. Miniparks were established around the city during reconstruction of the streets. Two new golf courses have been added, the Las Positas and Springtown golf courses. Improvements have been added to both over the years, and they have been turned around from financial liabilities to self-supporting entities.

Dan also worked to obtain the land upon which the civic center is now built. He also built the Vasco Road overpass and established the city grid mapping system. He also tied the public works fees to the construction cost index, which results in development paying its own way. He also brought about railroad track consolidation, which allowed for business expansion and enhanced downtown redevelopment.

A graduate of South Dakota School of Mines, Dan Lee will now be able to enjoy his hobbies of flying, photography, and the remodeling of his house. I join his many friends in wishing him the best of luck on his retirement and in commending him for his excellent service to Livermore. Livermore is a much better place to live because of Dan Lee's public service.

IN HONOR OF JUSTICE EDWARD A. PANELLI

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. MINETA. Mr. Speaker, it is with great pride that I rise to salute a great American and a good friend, California State Supreme Court Justice Edward A. Panelli. Justice Panelli will be honored by the Boy Scouts of America, Santa Clara County Council on Sunday, August 14, 1988, as the recipient of the 1988 Good Scout Award, an honor he richly deserves.

Born in 1931 into a poor, working-class family in Santa Clara, CA, Ed Panelli learned quickly of the challenges of American life. The hardships of the Depression prompted his parents to move their family back to their native Italy for a time, but the vast opportunities of America soon brought them back to California.

At first, Ed spoke only Italian, but he quickly learned English; for above all else, Ed valued education. He sold shoes to help support his college education at Santa Clara University and graduated with a political science degree in 1953.

Ed Panelli's judicial career is rooted in his law education at Santa Clara University. A tireless student, Panelli finished at the top of his class and was selected as the school's most outstanding graduate. He then went to work for a cousin's law firm, mastering probate, juvenile, civil, criminal, and family court law.

In 1982, Ed Panelli became Justice Panelli when Gov. Edmund G. Brown, Jr., appointed him to a newly created appellate court in San Jose. In 1985, Gov. George Deukmajian made Justice Panelli the presiding judge of the sixth district Then, in November 1986, Justice Panelli received his greatest recognition: his nomination to the California State Supreme Court was approved by the voters on election day.

Justice Panelli's rise to the State's highest court affirms what Ed's family, friends, and colleagues have known all along: that he is a man of exceptional judgment, patience, fairness, honesty, common sense, and common decency.

Mr. Speaker, I'm proud to say that Justice Panelli embodies each of these qualities and, thereby, embodies the best of California. He is also generous with his personal time, sharing his knowledge and experience with Santa Clara University and our community at large.

Mr. Speaker, I ask that my colleagues join me in congratulating Justice Panelli on his award from the Boy Scouts of America, Santa Clara County Council. As a former scout, Ed Panelli embodies the ideals and principles of Scouting, and his dedication to public service is an inspiration to us all.

A TRIBUTE TO DENISE AND ROBERT SHER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. LENT. Mr. Speaker, it is always a pleasure to recognize the contributions of dedicated citizens to the betterment of their local community. For this reason, I rise to pay tribute to Denise and Robert Sher who will be honored at a special dinner August 6 by Congregation Beth Emeth as their synagogue's most outstanding members.

I'm privileged to know Denise and Bob Sher, and am very fortunate to share a long and dear friendship with them that goes back many years. They are both very talented, capable people who are actively involved in the temple and local community of Island Park, NY. Their commitment to furthering Jewish culture, religion, and education will ensure this rich heritage for future generations. Furthermore, their dedicated efforts have helped make Temple Beth Emeth a most important institution in the local community.

I'd like to join their many friends in expressing my deep appreciation to Bob and Denise for their outstanding contributions to the betterment of their community and fellow citizens. And, on this momentous occasion, I extend my personal best wishes for their continued happiness and success. Thank you.

A WELCOME TO SOVIET REFUSENIK BENJAMIN CHARNY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. STOKES. Mr. Speaker, as cochairs of the Congressional Coalition for Soviet Jews, my colleagues and I are committed to the fulfillment of human rights everywhere, and specifically to the rights of those desiring to emigrate from the Soviet Union.

It is with great pleasure that I announce the arrival of Mr. Benjamin Charny and his wife, Yoda, to the United States. The Charnys arrived in Boston, MA, from the Soviet Union on July 16, 1988, where they were greeted by their daughter, Anna Charny-Blank; Mr. Charny's brother, Leon; and a host of friends and dignitaries. It was a long-awaited but heartwarming family reunion.

Mr. Speaker, efforts to secure Mr. Charny's release have been ongoing for many years. He suffers from cancer and heart disease. Thus, efforts on his behalf were imbued with a great sense of urgency. The arrival of Ann Charny-Blank to the United States less than 1 year ago infused our campaign with new energy and determination. It is Anna's tireless devotion to her father's cause that is responsible for this happy occasion. We hope that Benjamin Charny's arrival in this country represents not only a family reunion, but also a new lease on life itself.

I want to take this opportunity to welcome Benjamin and Yoda Charny to the United States. The release of Benjamin Charny stands as a living testimony to what come about when many groups and individuals pursue a united effort for a just cause. While his release is cause for celebration, it is also a strong reminder of the need to continue our efforts on behalf of other refuseniks in the Soviet Union and human rights throughout the world.

Mr. Speaker, I would ask my colleagues to join me in welcoming the Charnys to the United States.

A TRIBUTE TO TIMOTHY J. SARRIS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mrs. MORELLA. Mr. Speaker, oftentimes young and aspiring performers in the arts do not receive the encouragement they richly deserve. With this in mind, I would like to take this opportunity to bring to your attention the accomplishments of Timothy J. Sarris of Bethesda, MD.

Only 24 years old, Timothy has already shown great musical promise in opera. As a result of a nationwide search, he has recently been selected to the Wolf Trap Opera Co. Of the 15 individuals chosen, Timothy is the only performer from Maryland and has the distinction of being one of only two returning performers.

In addition, he is a finalist in the Pavarotti International Voice Competition and will compete in Philadelphia in the fall. He won preliminaries and semifinals against professional performers representing over 30 countries.

Tim received a full voice scholarship to the University of Maryland. He studied under tenor George Shirley, the first black tenor at the Met. After Timothy graduated with honors, winning the prestigious Homer Ulrich Award, he was awarded a full scholarship to attend the Curtis Institute of Music in Philadelphia. Timothy is now in his second year pursuing a master's degree. He has studied under Gian Carlo Menotti.

Timothy has performed professionally with the Washington Opera Theater, the Washington Lyric Opera Co., the America Opera Society—Washington branch, and at the Academy of Music in Philadelphia. Last year he was selected as a music/voice intern for the Wolf Trap Opera Program.

In July, he performed in Mozart's Don Giovanni in the Wolf Trap Barn. August 7, Timothy Sarris will perform in its Showcase Concert at the Filene Center. He will perform August 18 and 20 in Procoffier's comic opera, "The Love of Three Oranges".

Timothy Sarris will debut in November at the Lincoln Center in New York.

LEGISLATION TO REFORM THE FEDERAL EMPLOYEE DISCRIMINATION COMPLAINT PROCESS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday August 1, 1988

Mr. LANTOS. Mr. Speaker, I have just introduced H.R. 5112, a Federal employee discrimination complaint procedures bill. This bill implements the report unanimously adopted by the Committee on Government Operations last November, "Overhauling the Federal EEO Complaint Processing System: A New Look At A Persistent Problem." I am delighted that my colleagues who have served as chairman and ranking minority members over the past 4 years, Mr. FRANK, Mr. DIOGUARDI, and Mr. NIELSON are joining me as initial cosponsors of this measure.

Four hearings by the Employment and Housing Subcommittee in 1985, 1986, and 1987 have convinced the members that the present system "is an embarrassment to the Federal Government. It is a system that Rube Goldberg would have been proud of. It lacks all appearance of fairness. * * * It is unnecessarily complex and inordinately lengthly." Our bill will eliminate the built-in conflict of interest caused by agencies investigating themselves and then deciding discrimination charges against themselves—that is, it will get the fox out of the henhouse. This bill transfers the process from the agencies to the Equal Employment Opportunity Commission [EEOC], while allowing 30 days of counseling to remain with the employing agencies.

The EEOC is to determine within 60 days whether there is reasonable cause to believe that the charge is true. If so, it will attempt conciliation. If this fails, the complainant may either sue in district court or request adjudication by an administrative law judge [ALJ] of the Commission. The ALJ will hold a hearing with full procedural safeguards under the Administrative Procedures Act. Either the individual or the agency may appeal the ALJ decision to the Commission itself. If the Commission affirms the decision or fails to act within the specified time, the individual may appeal to the court of appeals for a review on the record. Time limits are established for each stage of the process.

Orders may include backpay for up to 2 years, attorneys' fees and costs with interest, reinstatement of hiring, and other equitable relief. To enforce an order, the Commission may order that the responsible official not be paid until there is compliance. In case of noncompliance by an agency, EEOC or the individual may go to district court.

Mr. Speaker, this bill represents a careful balancing of the need for a speedier, simpler system with the need for an equitable system with procedural safeguards. It makes the Federal worker system closer to the one in effect for employees in the private sector, while providing an option for administrative processing as an alternative to costlier lawsuits in district courts. I truly believe that it will be a giant step to overcome the frustration and despair which have been voiced by thousands of Federal employees over the years.

THE JULY 4TH EMERGENCY COMMITTEE FOR JUSTICE IN PANAMA

HON. SAM GEJDENSON

CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. GEJDENSON. Mr. Speaker, on June 28 a five-person delegation led by former United States Ambassador to Mexico Patrick J. Lucey arrived in Panama City to assess the impact of the economic sanctions placed on the Government of Panama's military dictator, General Noriega. Their mission was made under the aegis of the July 4th Emergency Committee for Justice in Panama, a bipartisan group of private citizens who are concerned about the continued, disastrous, and unforeseen effects of the Reagan administration's economic sanctions.

After meeting with more than 50 Panamanian business, labor, civic, and religious leaders, the committee concluded that the 4-month-old attempt to oust General Noriega has only managed to destroy a once prosperous economy and sow seeds of anti-American sentiment.

The committee concluded that:

First, the result of the sanctions has been the devastation of the middle-class and the private sector. I stress the fact that this segment of Panamanian society has traditionally been the most committed to democratic principles and the most opposed to Noriega's rule. Presently, the Panamanian economy is operating at just 55 percent of its normal level, or worse than the lowest economic performance of the United States economy during the Great Depression. In short, we are hurting our friends in Panama.

Second, due to the loss of the thousands of jobs within the private sector, thousands of Panamanian workers find it more attractive to work for the Government than for private enterprise. As a result, Noriega has been able to increase his hold on the civil service and the Panamanian defense forces.

Third, there has been a rise in anti-American sentiment. Thousands of Panamanians who formerly supported the United States view the sanctions as a form of collective punishment for crimes they did not commit.

Fourth, by serving our economic ties with Panama, we have unwittingly promoted military and commercial ties between Panama and other opportunistic countries. The committee reports that Libya has provided Panama with a $20 million loan to aid Panama in its economic crisis.

The events of these past few months are frightfully reminiscent of three unsuccessful episodes in American foreign policy. I refer to past attempts—which failed—to use economic sanctions to protect United States interests in Iran, Nicaragua, and Libya. We need to reassess our policy in Panama to reverse the political and economic instability which Reagan's foreign policy was originally designed to prevent. Current U.S. policy is politically, economically, and socially counterproductive.

To this end, I have introduced H.R. 4703, the Panama Democracy and Economic Recovery Act. This legislation authorizes assistance for the economic reconstruction of a post-Noriega Panama. The provision of assistance is conditioned upon a demonstrable transition to democracy.

The United States needs a long-term strategy to address the political and economic concerns of the Panamanian people after Noriega leaves. The struggle for democracy in Panama should be a struggle between the Panamanian people and General Noriega. The actions of the administration have turned it into a struggle between the United States and Panama. This bill will put our support back where it belongs, behind the legitimate political forces working toward democracy in Panama.

The Panama Democracy and Economic Recovery Act seeks to: support the Panamanian democratic opposition; establish conditions for assisting in the transition to democracy following Noriega's departure; provide emergency assistance to rebuild the economy within a multilateral framework; support the Panamanian banking system; and stimulate employment.

The bill will earmark $194 million of already appropriated funds to help Panama toward economic recovery and to encourage democratic institutions. The aid would be broken down as follows: $100 million in economic support funds designated for short-term interest payments to international lending institutions; $24 million in direct development assistance; $50 million in loan guarantees for low- and moderate-income housing, half in fiscal year 1988 and half in fiscal year 1989; and $20 million in food aid under Public Law 480, the Food and Peace Program.

The aid would be provided only after Noriega relinquishes power and only if several conditions are met, including: the major political parties agree on a system to assure fair elections; President Reagan certifies that freedom of the press and other constitutional guarantees have been restored; the Panama defense forces are under civilian control; and the Panamanian Government agrees to cooperate fully with the United States on drug enforcement efforts.

At least $1.5 million of the development aid would provide direct support for elections, including voter education and international observers.

The bill calls on the President to work with the Organization of American States, Latin American leaders, and other nations to build multilateral support for Panama's transition to democracy.

Economic sanctions against Panama are not working. They are hurting the very people we want to help. By acting alone, we have alienated our natural Latin American allies, roused our Latin enemies to Noriega's side, and raised old fears about United States neocolonialism in the hemisphere.

Given our strong economic and security interests in Panama, including the canal, failure to act now could be very costly. The stability of Panama is too critical for the United States to let it slide into chaos.

OUR NATIONAL PARK SYSTEM

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to commend the work of the House Committee on Interior and Insular Affairs in developing H.R. 3964. The extensive consideration given to this measure by the committee has produced an important piece of legislation—one which will further enhance the maintenance of our National Park System.

Although I was unable to cast my vote in the affirmative for this legislation, due to an unforeseen absence, I am pleased that my colleagues considered it deserving of favorable consideration. The establishment of a National Park System Review Board will allow responsible oversight of our parks, enabling them to sustain the natural beauty we all enjoy. Furthermore, with Presidential selection and Senate confirmation, the Director of the National Park Service will have support at both the executive and legislative levels.

I have, personally, worked with the National Park Service over the past year in my efforts to expand the boundaries of the Salem Maritime Historic National Site, which is in my district. Established in 1938, it is the oldest historic site in the U.S. National Park System. As a commemoration of the ships and seamen of Salem, MA, this site is a rich reminder of the early shipping industry in New England, which played such a vital role in the economic development of our newly formed Nation.

Without the assistance and support of the National Park System, this important piece of our Nation's history may have been lost. Therefore, I can tell you first hand of the vital role the National Park System plays, and I am pleased that H.R. 3964 received such overwhelmingly support. Congress has shown that the preservation of our parklands will remain a top priority.

CAMDEN COUNTY FIRE BLAMED ON CHILD PLAYING WITH LIGHTER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. FLORIO. Mr. Speaker, the subcommittee I chair has jurisdiction over the Consumer Product Safety Commission [CPSC]. Unfortunately, the CPSC, under its current leadership, has become well known for its excessive delays in addressing product hazards, including hazards affecting children. One issue the CPSC has taken its time to address is the need to consider making lighters child resistant. The lack of child resistance on current lighters contributes to tragic fires, as documented in the article from the Wednesday, July 20, Camden Courier-Post.

Yet these fires don't have to happen. A burn nurse filed a petition with the CPSC asking the Commission to require lighters to be child resistant. The petition was received by the CPSC on May 3, 1985. Despite the fact that each year, about 170 people die in residential fires started by lighters, 120 of which are started by children playing with lighters, and 90 of the victims are children under 5, it took the CPSC 34 long months, until March 3 of this year, to grant the petition and publish an advance notice of proposed rulemaking in the Federal Register—which is but the first step in a long regulatory process.

Fortunately, there were no serious injuries in the recent fire in Runnemede, NJ. We may not be so lucky next time. How much longer must we wait before the CPSC takes its responsibilities seriously?

The article follows:

[From the Camden (NJ) Courier-Post, July 20, 1988]

FIRE BLAMED ON BOY PLAYING WITH LIGHTER

(By Carol Comegno)

RUNNEMEDE.—A child playing with a cigarette lighter apparently started the fire that destroyed four businesses and four apartments Monday night, according to Camden County fire officials.

Firefighters monitored the fire-ravaged corner building at the corner of Black Horse Pike and Clements Bridge Road all day yesterday, sifting through debris and hosing down some to prevent rekindling.

No serious injuries were reported in the seven-alarm blaze which brought 250 firemen to the scene from three counties, demolishing the Alva Vacuum Cleaner Center and three adjoining businesses along the pike—the News Plus paper store, the Peking Kitchen and the Singing Banana Telegrams office.

The presence of firefighting equipment at the busy intersection throughout the day and night yesterday caused a traffic tie-up in both directions as police closed the northbound lane of the pike. The southbound lane and shoulder were carrying one lane of traffic in each direction and westbound Clements Bridge Road traffic was being detoured. At rush hour last night, southbound traffic was backed up a mile into Bellmawr.

Camden County Fire Marshal David Aron said the fire reported at 8:59 p.m., started above the Singing Banana Telegrams office in a bedroom in the apartment occupied by Kathy Longo and her 4-year-old son. It was one of four upstairs apartments destroyed in the two-story building.

"Apparently, the boy was playing with a cigarette lighter in a bedroom and ignited a mattress. His mother heard him holler and went to the bedroom, where she saw the bed on fire. She said she tried to put the fire out but couldn't and then called police," he said.

Aron said he will recommend that the boy be placed in the Camden County Firewatch safety program, which is designed for 3- to 16-year-olds involved either in accidental or deliberately set fires.

"There's no indication this was deliberate," he said. "We are satisified this is what happened. We checked the burned area, and it corresponds to what she said. I think the boy just had a natural curiosity about fire like so many youngsters do."

Meanwhile, Runnemede police sources said that after the fire was extinguished, Longo reported that threats in connection with the fire were made against her by another tenant who lived in the building. No charges have been brought, a police sergeant said last night.

Although no official damage estimates have been compiled by the county, Aron estimated damage at more than $500,000.

"The building is a total loss and will have to come down," Aron said.

Alvin Evans of Runnemede, co-owner of Alva Vacuum Center, said he plans to temporarily relocate his business elsewhere but would like to rebuild at the same location because the 25-year-old business's location is well-known.

Firemen also assisted members of the Jacob Kong family which runs the Peking Kitchen by retrieving a charred suitcase that one said contained a metal box with important business papers.

All the displaced families were either staying with relatives or friends. The American Red Cross, Camden County chapter, gave two of the families food vouchers for a week and enough money to buy basic clothing, a spokeswoman said.

Runnemede Fire Chief David Errickson said reports that one of the tenants had been trapped inside were untrue. He also said about two dozen firemen were treated for smoke inhalation or heat exhaustion at area hospitals but all were released.

NELSON MANDELA TRIBUTE FOR CONGRESSIONAL RECORD

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, I rise today to pay a profound tribute to Nelson Mandela on the occasion of his 70th birthday.

This man, during his 24 years in a South African prison, has become a focus for the struggle against racial oppression in that country. Rather than being silenced by internment, the words of Mandela have become immortalized in the consciousness of all those dedicated to breaking down the walls of apartheid and claiming true equality for South Africa's majority black population.

From his early years to the present time in Pollsmoor Prison, Nelson Mandela has dedicated his life to his ideals of equality and freedom. To put the cause of black nationalism before his own freedom by refusing to compromise with the white minority government is a monumental sacrifice, and one which demonstrates utter integrity and commitment to working for human rights.

Recent years have seen worldwide recognition of the way in which Nelson Mandela personifies the position of struggle in his nation. This acclamation has coincided with calls for his release from incarceration which have become louder and more concerted. His name has become a legend, his imprisonment a symbol.

May I therefore take this opportunity to make my own sincere tribute and extend my extreme appreciation to this great man on his birthday, while hoping that some day soon he will be able to enjoy the freedom in his own country which he has dedicated his life to realizing.

JUST SAY NO TO DEATH PENALTY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. CLAY. Mr. Speaker, a coalition of distinguished American church leaders opposed reinstatement of the death penalty for certain Federal crimes in 1981. In so doing, they demonstrated their position to capital punishment in a broad-based attack on Senate bill 114, introduced by Senator STROM THURMOND of South Carolina. The bill would have allowed capital punishment for a number of Federal crimes. In a strongly worded letter written to every Member of the U.S. Senate, 14 of the most prestigious religious leaders in America opposed the reinstatement of the death penalty. The letter stated in part:

> The religious traditions which we represent share a common belief that all human life is sacred. We believe that every individual has a unique worth and dignity which is given by God. * * * We believe that the penalty fails to achieve the goal of protecting society and in fact perpetuates this tragic cycle of vengeance and violence.

The list of signatories of the letter read like "Who's Who" in American Judeo-Christian society: The Rt. Rev. John M. Allin, presiding bishop, the Episcopal Church [I.S.A.]; Ross T. Bender, moderator, Mennonite Church General Assembly; Bishop James R. Crumley, Jr., Lutheran Church in America; Arie R. Brouwer, general secretary, Reformed Church in America; Rabbi Alexander M. Schindler, president of the Union of American Hebrew Congregations; Bishop H. Ellis Finger, Jr., president, Council of Bishops, the United Methodist Church; Avery D. Post, president, United Church of Christ; William P. Thompson, State clerk of the general assembly, United Presbyterian Church in the U.S.A.; Kenneth L. Teegarden, general minister and president, Christian Church (Disciples of Christ); Stanley Bohn, executive secretary for home ministries, General Conference Mennonite Church; James E. Andrews, State clerk, the general assembly of the Presbyterian the General Board, Church of the Brethren; Rev. Msgr. Francis J. Lally, secretary, Department of Social Development and World Peace, U.S. Catholic Conference; and Rev. Dr. Eugene Pickett, president, Unitarian Universalist Association of Churches in North America.

The introduction of the bill, which calls for the death penalty in cases of espionage, sabotage, treason, and murder on Federal property—and passage in the Senate, are signs of the times. Despite the lack of evidence that these crimes are increasing, the Senate in its collective wisdom passed the bill. Mr. Speaker, now we are confronted with another attempt to impose the death penalty in cases involving narcotic trafficking. There is absolutely no empirical study showing that the death penalty deters crimes or criminals and certainly no reason to believe that its threat will stop incorrigibles from dealing drugs.

Even when the Federal Government was empowered to use the death penalty in cases against civilians, only rarely was it imposed.

The only two civilians ever convicted in a Federal court and executed for espionage were in the nuclear spying case of Julius and Ethel Rosenberg in 1953.

The 14 signers of the plea to the U.S. Senate opposed to the Thurmond bill represent an awsome array of religious and moral power. They are highly esteemed members of the clergy recognized worldwide in their respective denominations. Not one has been labeled as liberal extremist or religious zealot agitating to do grave damage to any well founded theological tenets.

Mr. Speaker, I recommend my colleagues give undue weight to these religious leaders' heavy moral pronouncements.

RECENT ACCOMPLISHMENTS AT BATTELLE'S PACIFIC NORTHWEST LABORATORIES IN RICHLAND, WA

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. MORRISON of Washington. Mr. Speaker, I would like to share with my colleagues some recent accomplishments that have taken place at Battelle's Pacific Northwest Laboratories located in Richland, WA.

On May 31, I was pleased to join Dr. William Wiley, director of the Pacific Northwest Laboratories, in announcing the formation of a new company called Geosafe. This company is an example of a technology developed by the Federal Government for one application and being tailored by some very talented scientists to fit another application. Geosafe will develop a technology called in-situ vitrification and manufacture the associated hardware to treat and remediate hazardous waste sites around the country. As all of us are well aware, there are thousands of chemical waste sites throughout the United States. The cost for remediation and permanent treatment of these sites will be billions of dollars.

I want to congratulate Battelle in its successful efforts at technology transfer and the establishment of a company that is intended to solve waste management problems. Because of its legacy, mention of Hanford and its contractors too often connotes the perception that they are always contributing to a waste management problem. I want my colleagues to know that Geosafe, Battelle's technology transfer spinoff company, is being established to contribute to the solution of hazardous waste management problems.

I would also like to share with my colleagues another piece of news coming out of the Pacific Northwest Laboratory. On June 7, Battelle announced the appointment of Dr. Charles B. Duke as deputy director of the laboratory and chief scientist of Battelle Memorial Institute. Dr. Duke's credentials are most impressive; he will be an extraordinary addition to the scientific resources of the tri-cities and the Pacific Northwest. He is a research physicist with an impressive list of academic and scientific accomplishments. I look forward to reporting to my colleagues some of the future accomplishments of Dr. Charles Duke and the Pacific Northwest Laboratory. A recent Tri-City Herald editorial describes Dr. Duke's challenge and all of our dreams for the Pacific Northwest.

[From The Tri-City (WA) Herald, June 20, 1988]

NETWORK OF IDEAS CAN DO MUCH FOR OUR MODERN WORLD

"The Information Age" is a term heard much in the 1980s, and the predictions of it for the 1990s are being raised to the power of ten.

It is into this expansion of information available in a single place that Battelle Pacific Northwest Laboratories is plunging, with Charles B. Duke, former manager of theoretical physics and chemistry research for Xerox Corp., leading the effort.

The concept seems simple: networking of data and people so that a researcher can get the answer to whatever question might occur, by the manipulation of a machine.

Compare this to the experiences of Albert Einstein. Even his prodigious intellect needed answers—and ideas—from other theoretical physicists and from those in other scientific disciplines. To get these he traveled all over Europe, for years, and was also host, for years, to other travelers on similar quests.

They would walk together and talk, their minds ranging over the universe as they were coming to understand it, referring from time to time to the work of yet another theorist, in some distant place, working on some tiny piece of the cosmic puzzle.

If Einstein, or Fermi, or Szilard, had possessed such an instrument as Battelle now seeks to develop, their work would have at least been eased; the chances are that they could have done more because they could have done it faster and had available the benefits of work going forward at the same time.

This network plan will not do away with the robust competition that is one of the driving forces of pure research, but it may enable scientists and theorists to shift their scope on news from other quarters. Some of the breathlessness and sleepless nights that haunted Crick and Watson as they wrestled with the conceptualization of DNA possibly would have been relieved: they would have had better access to Wilkins' work on X-ray diffraction, upon which much of their theory depended, and they would have known also, perhaps, that Linus Pauling was not as hot on scent as they thought.

But it is not only in the rarified atmosphere of universal theories that information networking is a mighty tool. It will find its way down to be useful in the shop and at the easel. Wherever creativity and inspiration are at work, the concept of quick access to information is vital.

Duke calls the program he and others will develop an electonic highway.

That seems apt.

William Wiley, director of Battelle Pacific Northwest Laboratories, calls the new plan VISTA, an acronym for Vertical Intergration of Science, Technology and Applications.

"I think the experiment is worth doing, but it is an experiment," Wiley said.

His view is tempered by the formidable obstacles that must be overcome. Anyone who has ever fussed over learning a single new computer program can understand the daunting quality of fussing over practically all computer programs at once, so they can communicate with each other.

It is a matter of enormous pride that this is being developed in the Tri-Cities. It is a long step forward for the scientific method everywhere. This is a program that not only can change the world, it almost certainly will. And all for the better.

There is also the impact the program could have long term on the nature of this community. It is not beyond reason to anticipate this evolving into a Tri-City-based network rivaling the world's leading scientific/research/academic centers.

We are seeing the future of information transfer unfold before us, thanks to Battelle's vision and initiative. For the community, it could be a future profoundly evolved from our present state and bursting with opportunity.

A TRIBUTE TO THE MEN AND WOMEN OF THE FORD CO.-MONROE STAMPING PLANT AND THE UNITED AUTO WORKERS LOCAL 723

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1988

Mr. DINGELL. Mr. Speaker, today I rise to pay tribute to the men and women of the Ford Motor Co.-Monroe Stamping Plant and the United Auto Workers Local 723 for their exemplary volunteer service to the county of Monroe and the State of Michigan.

Since 1981 employees of Ford Motor Co.-Monroe Stamping Plant and United Auto Workers Local 723 have been active in community service-oriented activities. In 1987 in an effort to expand their program these two groups and the Monroe County Michigan Department of Social Services formed a partnership. They have developed the first and only program in the State of Michigan which brings together a major corporation, the United Auto Workers, and a public State agency to work exclusively together to provide services of this type.

Among their many accomplishments and contributions are the annual United Way Campaign, blood drives, bond drives, and Christmas Giving Drive.

Most recently these individuals were nominated for the President's National Volunteer Award for 1988, because of their involvement with the Adopt-A-House and Adopt-A-Nursing Home project. The Adopt-A-House project grew out of the continuing concern for the larger senior citizen, and handicapped population living at or below the poverty level. These men and women go out in teams using their expertise to evaluate and make repairs on the homes of senior citizen and handicapped individuals. Indeed this program has reached beyond the repairs as these men and women have personally touched their lives.

This project demonstrates very effectively how a major corporation and the United Auto Workers can link with a government agency to provide no cost services to the less fortunate.

The Adopt-A-Nursing Home project grew out of the concern for aging citizens of Monroe, some of which are former Ford Motor Co., employees or their spouses who now reside in nursing homes. The programs provide activities to bring these nursing home residents out into the community where they once lived. Such activities have included an outing to the local U.A.W. hall for socialization and a fishing trip on Lake Erie. Thanks to these men and women a whole new prospective has been offered to the many people who have been isolated from the community in which they formerly were active, contributing members.

These men and women of Ford/U.A.W. Local 723 are not only an example to our community, but an example to others in our State and country. They have captured the true meaning of the American way of life. Investing tireless energy and skills, they have made it possible for elderly and handicapped individuals in the community to experience better living conditions and more importantly, have demonstrated that someone really does care about them.

I extend my congratulations and very best wishes to these volunteers. These projects have only been successful because of the cooperativeness displayed between the Ford Motor Co., and the United Auto Workers Local 723. They have set an example not only in Monroe but nationally in their innovative and dedicated service to others. They are an example to all who have had the good fortune to work with them and to receive the benefit of their community service.

ADDRESS BY THE TURKISH AMBASSADOR TO THE UNITED STATES OF AMERICA, DR. SUKRU ELEKDAG

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday August 1, 1988

Mr. SKELTON. Mr. Speaker, I recently had the pleasure of arranging a presentation by the Turkish Ambassador, Dr. Sukru Elekdag, of a beautiful vase to the Truman Library in Independence, MO. I am submitting the text of his speech at the library because the Ambassador expressed some kind words about our country and how grateful the people of the Turkish Republic are to the United States for responding in their hour of need.

ADDRESS BY THE TURKISH AMBASSADOR TO THE UNITED STATES OF AMERICA, DR. SÜKRÜ ELEKDAĞ

Honorable Mayor Pott, Honorable Congressman Skelton, Honorable Congressman Wheat, and distinguished guests.

It is indeed an honor and privilege for me to be in Independence, Missouri, home of the 23d President of the U.S. Harry S. Truman.

I am particularly delighted to be among you on this 4th of July celebration, the 212th anniversary of the independence of the United States of America.

On this occasion, I have the great pleasure to convey to all of you, on behalf of the Turkish people and on my own behalf, our warmest congratulations and sincere wishes for the continuous prosperity of your great republic and for the well-being of the American people.

Today, I am here to commemorate the 41st anniversary of the Truman doctrine which laid the foundations of a close and enduring partnership between Turkey and the United States.

I would like to express my sincere appreciations and thanks to Congressman Skelton for his assistance in making my visit to Independence a truly memorable event.

In my remarks today, I will dwell on the brilliant leadership and farsighted vision provided by President Harry S. Truman to the free world during the transformation of Soviet-American "comradeship in arms" into "cold war" and upon the cooperation he introduced into Turkish-American relations.

Following the foundation of the Turkish Republic in 1923, American Administrations pursued with close interest the sweeping reforms introduced by Mustafa Kemal Atatürk in Turkish society.

As you know, these reforms laid the foundations for a modern state, a secular society based on human rights and fundamental freedoms in a democratic setting.

Despite the U.S. Administration's interest in the newly formed Turkish Republic's remarkable strides on the path of westernization and democratization in the eyes of most Americans, Turkey was a far-away land with which the U.S. had neither substantial common interest nor binding historical and cultural affinity.

In fact, when in 1936 a multi-national conference was convened in Montreux, Switzerland for the purpose of establishing regulations affecting the Turkish Straits, a vitally important strategic sea-way linking the Black Sea to the Mediterranean, the United States did not show the slightest interest in participating. The irony of history is that a decade later, soon after the end of the WWII, the US would find itself in partnership with Turkey in countering the Soviet Union's aspirations over these same Turkish Straits.

Indeed, in July 1945, Molotov, Stalin's Foreign Minister, handed to Selim Sarper, Turkish Ambassador in Moscow, a statement denouncing the Soviet-Turkish Treaty of Friendship and Neutrality of December 17, 1925.

Molotov, also demanded joint Turkish-Soviet control of the Straits and the annexation of Turkey's eastern provinces of Kars and Ardahan to the Soviet Union.

The Turkish Ambassador's reply to Molotov was curt. He said, "If you want our land so badly, you have to come and get it."

Here allow me to tell you that Russia's expansionist policies toward Turkey had been formulated centuries before the Soviet Revolution.

Czar Peter the Great, already in the 17th century, declared the acquisition of Turkish territories and the Turkish Straits as paramount strategic objectives for the Russian Empire.

Later, the French Emperor Napoleon, to underscore the critical strategic importance of the Turkish Straits stated: "I would abandon mastery over half the world, rather than yield Russia those narrow straits."

So, in the 1945 Stalin inebriated by the defeat of Germany and commanding the largest standing army on earth, revived the expansionist policies of the Czars vis a vis Turkey.

Turkey's soldier-statesman Ismet Inönü in a speech delivered at the Turkish Parliament emphasized in no uncertain terms the Turkish position. He stated: "We are under no obligation to give up Turkish soil or Turkish rights to anyone. * * * We shall live with honor and die with honor. * * * Kars is the key to the gate of the Mediterranean, the only barrier to a big inundation. * * * If the Russians insist on their demand, we will fight to the last Turk. * * *"

For two years, the Soviet Union put heavy pressures on Turkey. At that time, Turkey had no allies and could not benefit from any kind of outside assistance, moral or material.

Turkey's determination to fight, its national unity and very high morale and the reputation of the Turkish fighting men, probably suggested to the Russians that Turkey's defeat could only be realized through a costly war. That is what deterred the Soviet Union from attacking Turkey.

Although the U.S., right ater the war had recognized the critical importance of Turkey in the global balance of power and for U.S. security interests, it was understandably confronted with competing priorities and was forced to turn its immediate attention to the re-building of war-torn western Europe.

Therefore, the situation in the Eastern Mediterranean was put onto the back-burner.

The U.S. commitment for assistance to Turkey came in 1947 under the leadership of your great statesman, President Harry S. Truman, who in a historic speech on March 12, 1947, to a joint session of the Congress declared the determination of the United States to oppose communist aggression by any and all means.

This famous speech subsequently was recognized as the enunciation of the Truman Doctrine. It also constituted a watershed in U.S. international security policy as it laid the foundation for the containment policy toward the Soviet Union.

Indeed, the winter of 1947 marked a major turning point in American history.

It was now clear that the mutual distrust which had marred the war-time alliance between the Soviet Union and the U.S. was shaping up into a mighty contest between forces seeking world domination and those committed to freedom and democracy.

Americans had started to realize that not only had the Soviet foreign policy returned in the post war years to active support of revolutionary communism in other countries, but, in addition Russia had embarked on a program of territorial expansion.

At that time, Turkey's neighbor to the west, Greece, was engaged in a life-and-death struggle with Communist guerilla forces. These forces were supplied and supported by Greece's Soviet-dominated communist neighbors.

In an effort to outflank Turkey the Soviets resorted to troop movements in Azerbaijan and Iran, on Turkey's eastern borders.

Then, the United Kingdom, due to the financial difficulties she faced in fulfilling her overseas commitments, suddenly decided to withdraw all support from the Greek Government.

This development rendered the situation in Greece very critical. Greece was on the brink of collapse. It became clear to the Truman Administration that were the U.S. not to assume the role traditionally played by Great Britain, communism would prevail in Greece and Russia would be allowed to take over the entire Eastern Mediterranean.

President Truman who inherited all the mighty and complex problems of war and peace when he assumed the Presidency upon Franklin Delano Roosevelt's sudden demise had to make a historic decision within a matter of days as to whether or not the United States would seek to check the surge of Soviet imperialism.

Here, it should be noted that Truman was confronted with a hostile Congress, which could be expected to repudiate any decision that was construed as a departure from America's traditional isolationist stance in foreign affairs. As you know, America had historically been opposed to entangling alliances.

President George Washington's advice in his farewell address 200 years ago was to steer clear of permanent alliances with any foreign country.

That was the policy espoused by the strong neo-isolationist group in the Congress.

Furthermore, distinguished media figures such as Walter Lippman had launched strong opposition to the policies being developed by President Truman.

But that was not all. President Truman was also faced with an uphill and seemingly impossible battle for re-election the following year.

All signs indicated that his re-election campaign was to be made still more difficult by "lowered national morale, high taxes and inflation."

Confronted with such Sisyphean difficulties, any political leader would have procrastinated.

But Harry S. Truman, thrust aside domestic and particularly personal considerations. And although there were serious risks involved, he made the right decisions.

As he remarks in his memoirs, "The alternative would be disastrous to our security and to the security of free nations everywhere."

The Truman Doctrine initiated an era of friendship and close cooperation between Turkey and the United States.

It confirmed that the United States had important interests in the Mediterranean and Middle East, and that a close partnership with the Turkish Republic was the best way to defend these interests.

The Truman Doctrine also provided a basis for Turkey's admission to the NATO Alliance.

However, it was Turkey's participation in the Korean War which convinced most Americans that Turkey was not merely a bridge between Europe and the Middle East, but that it had a world-wide sense of responsibilities, and, therefore, should be considered as a full member of the Western World and a credible partner and ally.

This conviction led to the United States to support Turkey's entry into the NATO Alliance.

In Korea, Turkish troops fought side-by-side with their American allies and grained a reputation for fearless valor and unequalled heroism.

In a critical and extremely bloody battle, the Turkish Brigade opened up the Sunjon Pass, saving the day for American units.

General Walton Walker, the Commander of the Eighth Army, later addressed the Turkish Brigade in these words: "Turkish soldiers, I came here to thank you. You have saved the Eighth Army and the Nineth Army Corps from encirclement and the U.S. Second Division from total destruction. You are the heroic soldiers of a heroic nation."

In conclusion, Turks and Americans owe a tremendous debt of gratitude to the memory of President Truman who made a most significant contribution to the Turkish-American alliance and the friendship, which still binds our two nations.

These ties serve the large array of common interests and bolster the close defense cooperation between our countries.

As we celebrate the 41st anniversary of the Truman Doctrine, I bow to the memory of President Harry S. Truman whose vision and courage checked the disintegration of Europe and served the cause of freedom and democracy.

It is with these thoughts that I present this vase to the Truman Museum and Library.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 2, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

9:00 a.m.

Rules and Administration

Business meeting, to mark up S. 182, to establish a uniform poll closing time in the continental United States for Presidential elections, S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States, and proposed legislation relating to the procedure by which broadcast tapes of Senate proceedings will be made available to the public.

SR-301

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Judiciary

Technology and the Law Subcommittee

To hold joint hearings with the House Committee on the Judiciary's Subcommittee on Courts, Civil Liberties, and the Administration of Justice on S. 2361, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials and the use of library materials or services.

2237 Rayburn Building

10:00 a.m.

Armed Services

To hold hearings on the nomination of Ken Kramer, of Colorado, to be Assistant Secretary of the Army for Financial Management.

SR-222

Banking, Housing, and Urban Affairs

To continue oversight hearings on the thrift industry.

SD-538

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

Foreign Relations

War Powers Subcommittee

To hold hearings on S.J. Res. 323, to provide expedited procedures for legislation requiring the disengagement of United States Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and a related measure.

SD-419

10:15 a.m.

Labor and Human Resources

To hold hearings on the need for long-term care insurance.

SD-430

2:00 p.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

2:30 p.m.

Foreign Relations

Business meeting, to consider pending treaties relating to Mutual Legal Assistance in Criminal Matters.

SD-419

AUGUST 4

9:00 a.m.

Rules and Administration

To hold hearings on S. 1766, to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

SR-301

9:30 a.m.

Armed Services

To resume hearings on the defense aquisition process.

SR-222

Environment and Public Works

Superfund and Environmental Oversight Subcommittee

To hold oversight hearings on Federal facility compliance with hazardous waste laws.

SD-406

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To resume oversight hearings on international debt.

SD-538

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2352, to provide for the transfer of certain lands in the State of Arizona.

SD-366

2:30 p.m.

Finance

International Trade Subcommittee

To hold hearings on the nominations of Don E. Newquist, of Texas, and Ronald A. Cass, of Massachusetts, each to be a Member of the United States International Trade Commission, and Salvatore R. Martoche, of New York, to be Assistant Secretary of the Treasury for Enforcement.

SD-215

AUGUST 5

9:30 a.m.

Joint Economic

To hold hearings on the employment-unemployment situation for July.

SD-628

10:00 a.m.

Foreign Relations

War Powers Subcommittee

To resume hearings to review the War Powers Resolution of 1973 (P.L. 93-148).

SD-419

Judiciary

To hold hearings on the nomination of Richard L. Thornburgh, of Pennsylvania, to be U.S. Attorney General.

SD-266

AUGUST 8

10:00 a.m.

Foreign Relations

East Asia and Pacific Affairs Subcommittee

To resume hearings on U.S. policy toward Indochina.

SD-419

2:00 p.m.

Energy and Natural Resources

To hold oversight hearings on the status and outlook of the Strategic Petroleum Reserve.

SD-366

AUGUST 10

9:00 a.m.

Office of Technology Assessment

The Board, to meet on pending business matters.

EF-100, Capitol

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 2047, to require health warning labels on containers of alcoholic beverages.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

AUGUST 11

9:00 a.m.

Veterans Affairs

To hold oversight hearings to review certain veterans health care programs.

SH-216

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine new developments in computing and computer networking.

SR-253

SEPTEMBER 20

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings to review the U.S. and foreign commercial service.

SR-253

CANCELLATIONS

AUGUST 2

3:30 p.m.

Conferees

On H.R. 4586, appropriating funds for fiscal year 1989 for military construction programs of the Department of Defense.

S-128, Capitol

AUGUST 3

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on proposed Commercial Space Launch Act Amendments, and S. 2395, to revise insurance requirements for persons licensed to provide satellite launch services and to make other changes relating to commercial access to space.

SR-253

HOUSE OF REPRESENTATIVES—*Tuesday, August 2, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, the meaning of respect—respect for people everywhere—in every position of every background. May we see that people are entitled to our courtesy because each person is a gift of Your creation and You have breathed into every soul the very breath of life. May the unique quality of life be respected in every place from the farthest points of the Earth to our closest neighbor.

In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1467. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes;

H.R. 4585. An act to extend the authorization of appropriations for the Taft Institute through fiscal year 1991; and

H.R. 4783. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1467) "An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Mitchell, Mr. Burdick, Mr. Baucus, Mr. Breaux, Mr. Chafee, Mr. Stafford, and Mr. Simpson to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4783) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Chiles, Mr. Byrd, Mr. Proxmire, Mr. Hollings, Mr. Burdick, Mr. Inouye, Mr. Harkin, Mr. Bumpers, Mr. Stennis, Mr. Weicker, Mr. Hatfield, Mr. Stevens, Mr. Rudman, Mr. Specter, Mr. McClure, and Mr. Domenici, to be conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2530. An act to improve the management of the Federal pay system and increase efficiency and productivity of Federal employees, and for other purposes; and

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

CHUN WEI WONG, ET AL.

The Clerk called the bill (H.R. 2108) for the relief of Chun Wei Wong, Bic Ya Ma Wong, Wing Sing Wong, Wing Yum Wong, and Man Yee Wong.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CATHLEEN S. O'REGAN

The Clerk called the bill (H.R. 2684) for the relief of Cathleen S. O'Regan.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HILARIO R. ARMIJO, ET AL.

The Clerk called the bill (H.R. 2682) for the relief of Hilario R. Armijo, Timothy W. Armijo, Allen M. Baca, Vincent A. Chavez, David G. Chinana, Victor Chinana, Ivan T. Gachupin, Michael J. Gachupin, Frank Madalena, Jr., Dennis P. Magdalena, Anthony M. Pecos, Lawrence A. Seonia, Jose R. Toledo, Roberta P. Toledo, Nathaniel G. Tosa, Allen L. Toya, Jr., Andrew V. Waquie, and Benjamin P. Waquie.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PINE RIDGE INDIAN RESERVATION

The Clerk called the bill (H.R. 2711) to settle certain claims arising out of activities on the Pine Ridge Indian Reservation.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IVAN LENDL

The Clerk called the bill (H.R. 4363) for the relief of Ivan Lendl.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JENS-PETER BERNDT

The Clerk called the bill (H.R. 446) for the relief of Jens-Peter Berndt.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REMOVING RIGHT OF REVERSION TO THE UNITED STATES IN LANDS OWNED BY THE SHRINERS' HOSPITALS FOR CRIPPLED CHILDREN

The Clerk called the Senate bill (S. 892) to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, UT.

There being no objection, the Clerk read the Senate bill, as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

S. 892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of the Act of March 14, 1946 (60 Stat. 55, Chapter 91), or any other provision of law, the Administrator of the General Services Administration, subject to receipt of the payment described in subsection (b), is authorized and directed to release by quitclaim deed to Shriners Hospitals for Crippled Children, a Colorado corporation, on behalf of the United States, any and all right of reversion held by the United States in and to the lands which were formerly owned by the United States in Salt Lake County, Utah, and which were transferred pursuant to said Act.

(b) In consideration for the quitclaim deed release described in subsection (a), Shriners Hospitals for Crippled Children shall pay to the United States the sum of $97,627.

(c) The Administrator shall fulfill the requirements of subsection (a) within sixty days of receipt of the payment provided for in subsection (b).

The SPEAKER. The question is on the passage of the Senate bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 0, not voting 66, as follows:

[Roll No. 250]

YEAS—365

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Cheney
Clarke
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Coyne
Craig
Crane
Dannemeyer
Darden
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kildee
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rangel
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—66

Ackerman
Aspin
Bentley
Biaggi
Boxer
Bryant
Chappell
Clay
Clinger
Conyers
Courter
Crockett
Daub
Davis (IL)
Dellums
Dorgan (ND)
Dowdy
Flake
Foley
Ford (TN)
Garcia
Gejdenson
Gray (IL)
Gray (PA)
Green
Gregg
Hatcher
Ireland
Jenkins
Jones (TN)
Kaptur
Kasich
Kemp
Kennelly
Kleczka
Kolter
Konnyu
Lancaster
Leath (TX)
Lipinski
Mack
MacKay
Manton
McDade
Mfume
Mica
Michel
Morrison (CT)
Owens (NY)
Rahall
Richardson
Rose
Russo
Schumer
Shaw
Skelton
Spence
Studds
Sweeney
Taylor
Towns
Vucanovich
Williams
Wilson
Wortley
Wylie

□ 1225

Mr. YOUNG of Alaska changed his vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATING PASSAGE OF S. 892, REMOVING RIGHT OF REVERSION TO THE UNITED STATES IN LANDS OWNED BY THE SHRINERS' HOSPITALS FOR CRIPPLED CHILDREN

The SPEAKER. Without objection, the action of the House in passing the Senate bill, S. 892, without amendment, is vacated.

The Clerk will report the amendment of the Committee on Government Operations.

The Clerk read as follows:

Committee amendment: Page 2, line 10, strike out "$97,627" and insert "$200,000 within 60 days after the date of enactment of this Act".

The SPEAKER. Without objection, the amendment is agreed to.

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COUNTRY MOVING IN POSITIVE DIRECTION WITH DUKAKIS AND BENTSEN

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, even though Ronald Reagan still occupies the White House, we can safely say Michael Dukakis has just signed into law his first bill as President: that is, the 60-day notice requirement for plant closings and layoffs.

This law is not designed to appeal to an individual interest group, but to aid a nation undergoing massive economic change. A national plant closing law will save unemployment compensation costs and increase economic efficiency.

American history is punctuated by cycles that do not neatly fit with the calendar. Long before the President or his party understood, the pendulum began swinging back: there is more public support for an engaged government, greater citizen compassion, less tolerance for the cruel use of corporate power, and less interest in the conservative agenda.

Because of the idealism and activism of people like Mike Dukakis and LLOYD BENTSEN, the pendulum and the country are both swinging in a new, more positive direction.

MR. DUKAKIS NEEDS TO CHECK HIS FACTS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, Michael Dukakis is going around the country from stop to stop making statements that are outrageously false. For example, last Saturday in Springfield, IL, he said, "You don't fight the drug war by paying $200,000 a year to a drug-running Panamanian dictator and funneling aid to the Contras through convicted drug dealers."

That statement is demagogic, uninformed, ignorant, and outrageously false.

I call upon Mr. Dukakis to ask the CIA to brief him on what the facts are, what truth is, what the relationship is and has been through many administrations with Mr. Noriega, and he will find out that what he is saying is so far from the truth as to be an embarrassment. If there was truth in that, the House Select Committee on Intelligence would surely have had a report, but they have not, and so would the Senate Committee on Intelligence.

So I call upon Mr. Dukakis to get a briefing and start knowing something about what he is talking about for a change.

□ 1230

HIGHLY OFFENSIVE RACIAL LOGOS ARE BEING USED IN JAPAN

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I was quite surprised when I came from Chicago to find an article on my desk from the Washington Post pointing out that the Japanese had been using highly offensive racial logos on some of its products.

I was really saddened by that fact but equally saddened by the fact when I found out in a July issue of Black Enterprise that the Colgate-Palmolive Co. had been selling a toothpaste in Japan that is called Darkies and had a very stereotypical logo with that as well.

I would certainly think that our Colgate-Palmolive Co. would not have a double system of marketing. They know that these kinds of stereotypes are highly offensive to Americans who happen to be of darker skin. They also know this is a policy that we would not stand for for 1 minute in America. Yet to do so in Asia is highly offensive but I would think that they would certainly not do anything like that in the future. I hope in fact that in the future they will be much more sensitive to the needs of our people.

I think it is appropriate to point out that the Colgate Co. not only produces toothpaste and dishwashing liquid, but also Curity Cotton Balls, Curity Band-aids, Colgate Shaving Creme, Ajax Cleanser, Fresh Start Washing Powder, and so forth. I would hate to see us begin to talk about boycotting a product but perhaps that time has come.

PERSONAL EXPLANATION: H.R. 5015 HELPS PRODUCERS WHO LOST INCOME DUE TO HAIL

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, I rise today to express my support for the recently passed drought legislation, H.R. 5015. Due to unavoidable circumstances, I missed rollcall vote 249, had I been present I would have voted "yea."

This legislation provides needed assistance to farmers who have been adversely affected by the severe weather conditions in 1988. However, I also encourage members of the conference committee to retain a measure which would provide help to those producers who lost most, if not all their crop in 1987 due to hail.

I compliment the chairman of the House Agriculture Committee for his expeditious handling of this important legislation. Because of his leadership, many farmers who will be facing a financial crisis in the upcoming months, will now be able to maintain their operations until the next planting season.

This legislation is not only important to the producers of our food and fiber, but to the rural towns and communities who depend on the farmer for their well-being. Although it is uncertain what the total crop loss will be, I believe this body has taken a step in the right direction toward helping those in true need while at the same time sending a signal to the farmer that he has not been forgotten.

REQUIRING PERIODIC PUBLICATION OF PAC INFORMATION

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, today I introduced a bill which would require periodic publication of information about political action committees.

Under my bill, the Clerk will compile and print in the CONGRESSIONAL RECORD at the end of each calendar quarter certain information about political action committees—the committee name, its sponsorship, the money it received, and the money it spent. This requirement is not a great burden, since this information is regularly provided to the Federal Elections Commission.

The bill will help the public to stay informed about the activities of political action committees. Although it is true that these committees file comprehensive reports with the Federal Elections Commission, it is not true that the average citizen has the means or the knowledge to make use of those reports.

PAC reports are also available by subscription or on a per copy basis from commercial interests—but I don't believe that our citizens should have to pay for information which the Government owns and which is important for every voter to have.

By publication in the CONGRESSIONAL RECORD, we will make this information available in every public library, where citizens can find out about these committees which operate largely from Washington, but which influence elections everywhere.

As Thomas Jefferson said, "eternal vigilance is the price of liberty." Americans need to know everything possible about the activities of groups which seek to influence elections and public policy.

This bill will help make that information available to all of our citizens.

"BUZ" LUKENS SUPPORTS DOD AUTHORIZATION VETO

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, last week the liberal Democrats and their liberal nominee, Mike Dukakis, in Atlanta at the Democratic National Convention passed a platform with no platform. This week they will try to pass a defense bill with no defense.

Mr. Speaker, I, along with 135 of my colleagues from the Republican Study Committee, strongly support a veto of H.R. 4264, the Department of Defense Authorization Act for Fiscal Year 1989.

The bill is a partisan tribute to liberal democratic ideals. The Wall Street Journal editorial called this bill "the kind of slash and burn performance that's earned the Democrats their reputation for defense weakness."

First of all, this bill reduces SDI research funding by $800 million. We will be eliminating the most vital defense insurance policy the United States has.

Second, H.R. 4264 reduces the MX Rail Garrison Program funding by $543 million, thus endangering our strategic modernization program.

Third, the bill offers short-sighted arms control provisions which will tie our hands in negotiations with the Soviets. Essentially, the Democrats in Congress are giving away all of our bargaining chips—seriously weakening our position in arms control talks.

This bill is a product of the new Dukakis-Democrats. Just as they wrote a party platform with no platform, they are trying to write a defense bill with no defense.

I strongly urge the President to veto the defense authorization bill. Although Ronald Reagan has created a safer world, the world will not remain safe if America is not strong.

PLAYING POLITICS WITH NATIONAL SECURITY

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, Republicans who would like to play politics with national security by urging the President to veto the defense bill offer two basic reasons. First, they want to spend more money on star wars. Second, they object to the bill's joint United States-Soviet flight test moratorium on low-flying quick-attack depressed trajectory missiles. What irony. Depressed trajectory missiles are terrific countermeasures to SDI and the Soviets know it. The top Russian missile designer even said so in Jane's Defense Weekly. So a defense bill veto would be a perfect illustration of Republican defense "genius." With one hand, Reagan and Bush would throw money at star wars and with the other they would give the Russians the means to neutralize star wars at a fraction of the cost.

When George Bush sets out to justify this to the American people, he will face an impossible challenge. That would cause me no discomfort, but for the sake of national security, I urge the President to be a President, not a politician and sign the national defense bill.

DEXTER MANLEY HAPPY, BUT OTHERS OUTRAGED BY NFL DECISION

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, the Washington Post's Tony Kornheiser wrote last week about the 30-day suspension of Dexter Manley for drug use—"He won't be required to have inpatient treatment at a drug and alcohol rehab center. He won't have to miss any games. He won't even have to miss his radio and TV gigs. All he has to miss is training camp. That's the goal of every veteran." Mr. Manley's response was that he was happy with the decision. Why shouldn't he be?

I have been urging my constituents to develop a climate of national anger with the drug users of this country.

The fans should insist that the NFL not tolerate drug abuse. If we are going to stop drug abuse in this Nation we have to focus on the user and make him accountable for his own actions.

Instead, local broadcasters laugh at the suspension, Dexter Manley continues in a very visible role in broadcasts, and young kids see a role model who has used drugs, pictured as a hero. The NFL should be ashamed; the rest of us should be outraged.

GOOD LUCK IN COURT, CARL ROWAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, everybody is taking pot shots at columnist Carl Rowan. I disagree.

In my opinion, Carl Rowan did what he had to do. He did not know the intention of those intruders. It would serve us well to remember the book, "In Cold Blood," a true story in Kansas where the wife and daughter were raped and then murdered and then the father and the son were killed by taking a shotgun and blowing their heads off.

How do you know the intentions of people?

It is true America needs stricter gun control laws, but we can never, and Congress must protect the right of American citizens to bear arms.

And I say this: Carl Rowan did the right thing. Today no one is taking pot shots at him, no one raped his wife and he is not mourning the loss of any loved ones. In fact, I doubt if anybody is going to try.

Good luck in court, Mr. Rowan. I think it is time Americans protect themselves and Congress insures that right to bear arms.

PRESIDENT URGED TO VETO DEFENSE AUTHORIZATION BILL

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise today to urge the President to veto the Defense authorization conference report. This bill has been 6 months in the making; however, it clearly flies in the face of U.S. national security interests.

This legislation undermines Presidential authority at a time when the President is involved in ongoing arms control negotiations with the Soviet Union. This legislation forces compliance with the unratified SALT II Treaty and prohibits testing of nuclear weapons, both of which could endanger the prospects for a START agreement.

The President's original request of $6.7 billion for the strategic defense initiative has been reduced to $4.1 billion, a 40-percent reduction in what is considered our Nation's most vital insurance policy. The Soviet's compliance with past agreements is not good, to say the least, and SDI protects us against this threat.

This bill also endorses the narrow interpretation of the ABM treaty which is historically inaccurate.

Providing for America's security is the unique obligation of the Federal Government. No other level of government or private institution can fund national defense. Our resolve to maintain a strong national defense must never waiver.

PRESIDENT REAGAN IS "COMING BACK HOME" TO THE PARTY OF ROOSEVELT, TRUMAN, AND KENNEDY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. I think that President Reagan might vote Democratic in 1988. Today, when he announced that he was going to leave his pen in his pocket and let the plant closing bill become law, it appears to me he is really starting to return to his roots, the Democratic party, and the roots of his very first Presidency, that as head of a union.

Maybe he is coming home.

He has always said that his very favorite Presidents were Democrats, they were Roosevelt, Truman, and Kennedy. And I want to thank him today for helping create a new Democratic Presidency, that of Michael Dukakis by joining him on these issues for the working men and women of America.

PRESIDENT REAGAN AND THE OLYMPIC DIVING TEAM

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker and fellow colleagues, yes, indeed, it is morning in America and Ronald

Reagan finally woke up. Yes; by deciding to allow the plant closing bill to become law, Ronald Reagan has done in one fell swoop what this Congress has labored mightily for trying to accomplish in the past 18 months.

But I would disagree with one of my Democratic colleagues who said that it was politics which motivated this change.

Yes; there is a significant event taking place this fall ; it will be watched by millions of Americans and hundreds of countries abroad. It invites competition. It rewards success.

No; I am not speaking of the Presidential campaign; I am talking about the Olympics.

And with this flip-flop today, Ronald Reagan's full fledged 2½ gainer with a twist qualifies him for membership on the U.S. Olympic Diving Team. Yes; diving for votes, trying to rescue George Bush; it is morning in America and America's workers have been saved.

CHICAGO COMMUTER CHAOS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, on Thursday morning the United Transportation Union plans to strike the Chicago & North Western Railroad in Chicago and leave 41,000 commuters scrambling to find other ways to get work.

Amazingly, commuter service has nothing to do with the dispute between the railroad and the union. The dispute involves the number of brakemen needed on freight trains.

A Presidential Emergency Board has made recommendations to resolve the dispute and keep the commuter lines running. Recently, the railroad reluctantly agreed to accept them. The union, however, did not.

I have introduced legislation to head off the strike and require both sides to accept the Board's findings.

Mr. Speaker, tens of thousands of rail commuters left without service will create a transportation nightmare in Chicago. Congress must act expeditiously, as they did in the Maine Central and Long Island strikes in 1986 and 1987, to prevent this unconscionable damage to the public interest.

SOVIETS URGED TO APPLY GLASNOST ACROSS THE BOARD

(Mr. WEISS asked and was given permission to address the House for 1 minute.)

Mr. WEISS. Mr. Speaker, 13 years ago yesterday, the leaders of 35 nations, including the United States and the Soviet Union, signed the Helsinki Final Act. This agreement reaffirmed the will of these nations to guarantee to all of their citizens basic human rights, including freedom of conscience, expression, travel, and emigration. It specifically provided that "the participating States will recongize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief."

Mr. Speaker, there are almost 400,000 Jews in the Soviet Union who have applied to leave that country because they have been denied the freedom to profess and practice their religion. To compound this injustice, most of them have been denied the right of emigration because of the arbitrariness of Soviet law. I call upon Secretary Gorbachev today to live up to the treaty obligations his nation has assumed, and allow freedom of religion and a free and fair emigration policy. Mr. Gorbachev, there is no such thing as glasnost for the few—it must apply to people of every race, creed, color, and religion.

THE DUKAKIS FURLOUGH PROGRAM FOR PRISON INMATES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I hope the President will veto the National Defense Authorization Act because it plays right into the hands of the Soviets. But I want to talk about something else for a moment here.

My colleagues on the other side of the aisle have been extolling the virtues of Michael Dukakis. I think the people of this country ought to know that Michael Dukakis firmly supports a furlough program that will let first degree murderers out on the streets. One of the guys who was furloughed under the Dukakis program was a man named Willie Horton, a first degree murderer, who was convicted and did not have any benefit of parole because of his heinous crime.

Willie Horton went to Maryland on furlough, raped, a woman, and stabbed her husband or fiance many times, trying to kill him, and then he escaped. And when the people who had endured this heinous crime went to see Michael Dukakis to ask him to review that program that is letting convicted murderers out on the streets, he would not even talk to those people.

Mr. Speaker, the people of the United States of America ought to know this before they put somebody in the White House that has that view on crime.

ARMS CONTROL

Mr. Speaker, H.R. 4264, the National Defense Authorization Act for fiscal year 1989 is a dream come true for the Soviet Union. Through this bill, the Democrats in this Congress have given more to the Soviets in terms of arms control concessions than they're been able to achieve in 8 years of negotiations.

My friends, that is not a mistake. Let me read you the list. First, it requires that we abide by the narrow interpretation of the ABM Treaty, even when the Soviets are violating it. Second, it says that we must prepare in advance for a ban on nuclear testing, which will practically ensure that our nuclear deterrent is neither effective nor safe.

Third, it provides for the dismantling of two Poseidon-class missile submarines normally scheduled for overhaul so that we can stay within the sublimits of the unratified SALT II Treaty.

Mr. Speaker, I strongly believe the President should veto this misguided and poorly crafted piece of legislation. Let's start over on a clean sheet of paper and do what's best for our national security for a change.

REAGAN WITHDRAWS THREAT TO VETO PLANT CLOSING BILL

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Speaker, I am sure that all of America was pleased and perhaps as surprised as I was this morning when the news reported to us that the White House was announcing that the President had decided that when the moment of truth arrives tomorrow, when it is time for the President to fish or cut bait on whether we would have a 60-day mandatory notice to employees when they are going to lose their jobs, he will join George Bush in the men's room of the White House and let it become law without his action.

I cannot criticize the President because the result is fine, but I would observe that he is making a bad mistake when he thinks that George Bush has fooled the American people into believing that he was always in the men's room when they were deciding to sell illegal arms to the Ayatollah, when they were deciding to let Noriega go after he was indicted for drug running into this country, and when all the other bad decisions were made.

After years of telling us that as a matter of principle he would never sign a law like this, that he would indeed veto it, The President has decided to join George Bush in the back room, and I guess he would tell all those people who stuck with him in the Republican Party, the chamber of commerce and the National Association of Manufacturers, that it is not his fault because he was not there when the decision was made.

AID SOUGHT FOR NICARAGUAN DEMOCRATIC RESISTANCE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, some of the most adamant opponents of aiding the democratic resistance in Nicaragua have argued over the past 8 years that this administration has simply tried to provide a military solution to the conflicts in Central America, rather than attempting to negotiate. Contra aid foes make this case even though the Sandinistas have abandoned the negotiating table on nine separate occasions.

In defense of the administration's policy, we must underscore that this week marks two very important anniversaries. Tomorrow is the first anniversary, Mr. Speaker, of the Reagan-Wright peace plan, and this coming Sunday marks the first anniversary of Esquipulas II. We know full well exactly what has happened since the signing of these agreements. We have seen the closing down of La Prensa and the Catholic radio station. We have seen human rights violations by the Sandinistas continue to proliferate.

Mr. Speaker, both sides of the aisle should work to bring about an agreement which will see renewed aid to the Nicaraguan democratic resistance forces, who are struggling to reach out for the freedom which you and I enjoy.

VETO OF DEFENSE AUTHORIZATION BILL WOULD SIGNAL A STRONG DEFENSE

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the Defense authorization bill should be vetoed. For Ronald Reagan to sign this bill would be to turn his back on everything he's fought for the last 7 years:

A defense against nuclear attack;

An effective deterrent through a strong, balanced triad of strategic forces; and

Negotiations with the Soviets through strength, not unilateral concessions.

To sign this bill would suggest differences between GEORGE BUSH and Ronald Reagan almost as large as those between Senator BENTSEN and Mike Dukakis.

So, the President should veto the bill. But, if he does so, he must be prepared to tell the American people why. That it is not because he's against a strong defense; but, to the contrary, because the bill does not represent strong defense in too many critical ways, like its cuts in funding for SDT, the strategic defense initiative.

And my colleagues must also be willing to bring this same message to our constituents. We cannot ask the President to veto the bill if we are unwilling to back it up and explain the differences betweeen a deficient defense and a strong America as has been built under Ronald Reagan. Stay the course, Mr. President.

DRUG TESTING

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise to commend District Court Judge Revercomb and Supreme Court Justice Sandra Day O'Connor for their granting and upholding of injunctions against the ill-advised and ill-conceived drug testing program for Federal employees.

Their actions make clear that "saying no to drugs" does not mean "saying no to the Constitution."

There is, as Judge Revercomb points out, no evidence of a drug problem in the Federal Government which justifies infringing on the constitutional rights of "trusted and apparently law-abiding employees."

There is no argument that we should wage a full scale war against drugs and drug traffickers. We must end this scourge which plagues our streets, schools, and homes.

The "war on drugs" is a priority, and over time I am confident that we will succeed in ridding our society of the worst effects of this problem, but do we really want to undermine the American Constitution in the process?

The "war on drugs" will have real meaning when we refocus our efforts on building a comprehensive and well-conceived national strategy to confront the outlaws and help the victims, rather than bending the constitutional protections afforded our law-abiding employees.

INTRODUCTION OF BILL TO PROHIBIT SECRET SERVICE PROTECTION FOR POLITICAL CANDIDATES

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, I am going to let you all in on a secret. Those clean-cut, dark-suited men with the radios in their ears, whom you saw surrounding the Democratic and Republican candidates, were not campaign volunteers.

No; they were paid bodyguards, and you want to know another secret? None of the candidates paid for them! Who did? The U.S. taxpayer, to the tune of $29.9 million this year—and that's excluding the cost of protection for the Vice President.

We've been paying $20,000 per day to protect each candidate who wanted Secret Service protection. There are better ways to spend $20,000 each day than to give it away to candidates fighting for their party's nomination. Around the clock, three shifts a day, anywhere in the country. It's a potential abuse of the Secret Service.

I'm going to be watching this situation very closely, and after this election cycle is over I think there should be an extensive study of Secret Service candidate protection to determine if there are any widespread abuses or if this protective service is more appropriately a campaign expense.

It may be time for a little campaign cost-sharing.

KAILEIGH MULLIGAN

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, there was some good news last week in the town of Methuen, MA. Finally, after more than a year of courageous and relentless work, Mrs. Kathleen Mulligan got the Federal Government to change some of its rules that until now made it all but impossible for a family to care for a seriously ill child at home. Mrs. Mulligan's daughter, Kaileigh, was born with Down's syndrome 2½ years ago. The Mulligans found, however, that their annual income of under $26,000 made them ineligible for certain Medicaid and SSI benefits unless Kaileigh were cared for in an institution at a much higher cost. Kathleen Mulligan brought the injustice to the attention of all levels of government. Governor Dukakis and the Commonwealth of Massachusetts responded quickly, becoming the first State to adopt rules that would allow families like the Mulligans to care for their ill children at home. Congressmen BRIAN DONNELLY, BARNEY FRANK, and I introduced legislation earlier this year to change the Federal rules. Finally, last Friday, Vice President BUSH joined the bandwagon belatedly. The Vice President is to be commended for pushing the Health Care Financing Administration to allow some waivers of the existing rules in order to pay some home care costs. As timely as this new policy is it only addresses a small part of the problem. I invite the Vice President to use his influence to get the administration behind our bill to solve this problem and to make sure that other families in nonelection years can benefit as well.

NICARAGUA

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I am appalled at the continued human rights abuses by the Sandinistas in Nicaragua. When I visited that country a few weeks ago, I witnessed brutal repression by the Sandinista security forces. I saw innocent citizens, waiting to march in a democratic demonstration, ruthlessly beaten and thrown in police jeeps, merely because they desired to march for freedom. This incident, only one of many, is a blatant abuse of human rights and is horrifying.

The repression continues. The Washington Post woke up and has finally found the new draft system that the Sandinistas went on last week, another of their forced recruitment rampages to abduct Nicaraguan youths into military service. In the towns of San Rafael del Sur and Masachapa, the people were repressed after protesting the capture of 180 young Nicaraguans for forced military service. This is just another example of how the Sandinistas, cordon off many homes and go house to house dragging young people out and forcing them into the Communist's military service. When I was in Nicaragua, I heard many stories of how the Sandinistas raid nightclubs and other places that young people frequent in an attempt to beef up their military forces. Youths that do not cooperate, of course, are added to the evergrowing numbers of political prisoners. These are disgusting human rights abuses, much worse than the closing of La Prensa and Radio Catolica.

Mr. Speaker, we've given peace a chance. It's time to give human rights and freedom a chance.

SOVIET SUPPORT FOR DEFENSE AUTHORIZATION BILL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the President should veto the Defense authorization bill. If the President needed a reason, all he had to do was listen to at least one leftwing Democrat who spoke here this afternoon. To defend his position that the Defense bill should be signed, who did this leftwing Democrat quote? Why, he quoted a Soviet spokesman.

That is right, he quoted a Soviet spokesman. That alone should tell us more than we need to know about the Defense bill. It is a bill that suggests the best defense is weakness. That may be the leftwing Democratic position, but it should not be the Reagan position. I say, Mr. President, veto at least one bad bill.

□ 1300

PROVIDING FOR MOTION TO TAKE H.R. 1414, PRICE-ANDERSON AMENDMENTS ACT OF 1987, FROM SPEAKER'S TABLE AND DISAGREE TO SENATE AMENDMENTS NUMBERED 1 THROUGH 15 AND CONCUR IN SENATE AMENDMENT NUMBERED 16 WITH AN AMENDMENT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 502

Resolved, That upon the adoption of this resolution, it shall be in order to take from the Speaker's table the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, with Senate amendments thereto, and to consider, any rule of the House to the contrary notwithstanding, the following motion: that the House disagrees to Senate amendments numbered 1 through 15 and concurs in Senate amendment number 16 with an amendment printed in the report of the Committee on Rules accompanying this resolution. Said motion shall be debatable for not to exceed one hour, to be equally divided and controlled by the majority party and the minority party, shall not be subject to a demand for a division of the question, and the previous question shall be considered as having been ordered on said motion to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. Durbin). The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. Latta], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 502 is a rule providing for disposition of H.R. 1414, the Price-Anderson Amendments Act. The rule makes it in order to call up H.R. 1414 with the Senate amendments to that bill and to consider a motion that the House disagree to Senate amendments numbered 1 through 15 and agree to Senate amendment No. 16 with an amendment printed in the Rules Committee report accompanying this resolution. That amendment is a complete substitute for the bill. The rule waives all points of order against this motion and provides for 1 hour of debate on the motion, with the time equally divided between the majority and minority party. The rule provided that the motion is not subject to a demand for a division of the question and that the previous question is considered as having been ordered without intervening motion.

Mr. Speaker, Price-Anderson is the law dealing with liability for damages that would occur in the case of a significant nuclear accident. It provides both for quick and sure payment for damages suffered by citizens as a result of a nuclear accident and for limits on the liability incurred by the commercial nuclear power industry or by the operators of Department of Energy defense nuclear facilities. In the absence of Price-Anderson the operations of the nuclear industry would be severely curtailed, our national security efforts would be handicapped, and our citizens would not be assured of payments for damages resulting from a nuclear accident that we hope will never occur.

Price-Anderson expired on August 1, 1987. Its protections remain in place for existing nuclear powerplants and Department of Energy defense nuclear facility operations contracts in effect prior to that date, but it is crucial to extend Price-Anderson so that those protections are available for any new nuclear power plants and for newly signed DOE contracts.

The House passed H.R. 1414, which reauthorizes Price-Anderson, last July 30 by a 396–17 vote. The Senate passed the bill this past March 18, with 16 amendments. Since that time there have been a series of discussions which have yielded agreement among all the interested parties on 99 percent of the bill. Because there is agreement on all of the most important issues in the bill, and because some of those agreements could evaporate if the bill were sent to conference, Chairman Mo Udall of the Interior Committee and Chairman John Dingell of the Energy and Commerce Committee, have, with my full support, requested this rule which will allow them simply to offer a substitute for the bill which embodies the agreed upon provisions and what we hope will be a compromise on the remaining provision that the Senate will see fit to accept. I should add that the Senators with responsibility for managing this matter in the Senate are in agreement with this procedure.

We are pursuing this approach because we cannot afford to take the chance on going to conference and getting bogged down for so long that we fail to enact a bill by the end of this Congress. That is a real possibility since we have less than 6 weeks left scheduled in this Congress. If we fail to enact a bill, we will cause serious problems for our defense nuclear effort. Two major DOE weapons research and production facility contracts expire on September 30 and a new contract for the critical Savannah River plant, a facility in my district that is the United States' only source of weapons grade plutonium and tritium, is under negotiation right now.

Without Price-Anderson, the signing of these new contracts is in doubt.

I want to commend Chairmen UDALL and DINGELL and subcommittee chairman PHIL SHARP and their staffs for their hard work and persistence on this issue. They have forged ahead with this legislation despite numerous obstacles and difficulties. I particularly want to thank them for working with me to achieve a compromise on the civil penalties provisions in the bill which will help assure the safe operation of DOE nuclear facilities but will not prevent our Nations universities' from contributing to this important work.

It is time for final action on Price-Anderson. We cannot afford any further delays. I believe that the substitute that is going to be offered under this rule should be satisfactory to all interested parties. It is a fair compromise, and this rule provides us with the opportunity to enact this compromise and finally reauthorize the Price-Anderson Act. I urge you to support his rule and the motion that will be offered after the adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill passed the House last year by a record vote of 396 to 17. Then earlier this year the Senate passed the bill with 16 amendments by a voice vote. However, the Senate did not request a conference. The rule before us today represents the House response to this situation.

The rule provides for a motion that the House disagree to Senate amendments numbered 1 through 15 and concur in Senate amendment No. 16 with the amendment printed in the report accompanying this rule. There will be 1 hour of debate on the motion, and no amendments will be allowed.

The rule includes a waiver of all points of order. The germaneness rule is violated because the motion proposes to amend Senate amendment No. 16 with the text of a whole bill. Because the bill is much broader than the text it is amending the germaneness waiver is included.

Mr. Speaker, the purpose of this bill is to revise and extend the liability and indemnification provisions of the Atomic Energy Act. Under which the public would be compensated for damages arising out of Federal nuclear defense activities or the commercial nuclear power program.

There are three committees with jurisdiction over parts of the bill. In the Rules Committee the chairmen of two of them, the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs favored proceedings with this rule. The Chairman of the Committee on Science, Space, and Technology opposed proceeding at that time unless an open rule was provided. The majority on the Rules Committee refused to make in order the specific amendment sought by the chairman of the Committee on Science, Space, and Technology and proceeded to report this rule before the House today.

Mr. Speaker, the administration strongly supports reauthorization of the Price-Anderson Act, H.R. 1414, as passed by the House on July 30, 1987. The administration position is that renewal of Price-Anderson is critical to the future of nuclear power in the United States and to federally sponsored nuclear research and national security activities.

The administration opposes, however, the bill's provision that could provide Federal Tort Claims Act protection for nuclear pharmacies and radiopharmaceutical manufacturers.

Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I wish to urge my colleagues to support this rule and allow the House to move this vital legislation forward.

I believe that the reauthorization bill that is before us is both pro-consumer and fair to the nuclear power industry. To obtain its eventual enactment, we need to get the legislative process moving again. The rule would accomplish this.

We have reason to be optimistic that the provisions of the proposed amendment will be agreeable to the Congress and lead to reauthorization of the Price-Anderson Act in the near future. Negotiation has taken place over the last several months to reach a stage of consensus on the terms of reauthorization. Now is the time to act upon this work and renew the statute and its protection for the public.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4333, MISCELLANEOUS REVENUE ACT OF 1988

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 100-812) on the resolution (H. Res. 507) providing for the consideration of the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4352, OMNIBUS McKINNEY HOMELESS ASSISTANCE ACT OF 1988

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 100-813) on the resolution (H. Res. 508) providing for the consideration of the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PRICE-ANDERSON AMENDMENTS ACT OF 1987

Mr. UDALL. Mr. Speaker, pursuant to the House Resolution 502 I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. UDALL moves to take the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, from the Speaker's table and to disagree with Senate amendments numbered 1 through 15 and concur in Senate amendment number 16 with an amendment.

The texts of Senate amendments 1 through 16 and of the House amendment to Senate amendment No. 16 are as follows:

Senate amendments:

Page 7, line 5, strike out "1997" and insert "2007".

Page 7, line 16, strike out "1999" and insert "2007".

Page 8, line 16, strike out all after b. down to and including line 24.

Page 12, after line 2, insert:

(c) Subsection s. of section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following: "In the event that the Secretary of Energy, in carrying out any activity that the Secretary is authorized or directed to undertake pursuant to this Act or any other law involving the risk of public liability for a nuclear incident as a result of the storage or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste (including the transportation of such materials to a storage or disposal site or facility), undertakes such activity in a manner that involves the actual physical handling of spent nuclear fuel, high-level radioactive waste, or transuranic waste by the Secretary, the Secretary shall be considered as if he were a contractor with whom an indemnity agreement has been entered into pursuant to subsection 170 d. of this Act.".

Page 15, line 2, strike out "subsection i.," and insert "the procedures set forth in subsection 170 i. and will in accordance with such procedures,".

Page 15, strike out all after line 7 over to and including line 12 on page 16.

Page 16, line 13, strike out "(4)" and insert "(3)".

Page 16, line 18, strike out “(5)” and insert “(4)”.

Page 18, line 20, strike out “plans.”. and insert “plans.”.

Page 18, after line 20, insert:

“(3) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

“(4) No such compensation plan may be considered approved for purposes of subsection 170 e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in paragraph 6 of this subsection.

“(5) For the purpose of paragraph (4) of this subsection—

“(A) continuity of session is broken only by an adjournment of Congress sine die; and

“(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

“(6)(A) This paragraph is enacted by Congress—

“(i) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by clause (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

“(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

“(B) For purposes of this paragraph, the term ‘resolution’ means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: ‘That the   approves the compensation plan numbered   submitted to the Congress on   19 .’, the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

“(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

“(D)(i) If the committee to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

“(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

“(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

“(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

“(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommint, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

“(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

“(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate and the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.”.

Page 19, strike out lines 7 to 13, and insert:

U.S.C. 2210(k)), as amended, is amended to read as follows:

“(k) Exemption From Requirements of Financial Protection.—

“(1) With respect to any license issued pursuant to section 53, 63, 81, 104(a), or 104(c) for the conduct of—

“(A) educational activities to a person found by the Commission to be a nonprofit educational institution, or

“(B) under byproduct material licenses issued by the Commission or by an Agreement State to a person for the conduct of medical and related activities of operating nuclear pharmacies or hospital nuclear medicine departments,

the Commission shall exempt such licensee from the financial protection requirement of subsection 170 a.

“(2) With respect to licenses issued pursuant to paragraph (1) of this subsection between August 30, 1954, and August 1, 2007, for which the Commission grants such exemption—

“(A) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, including such legal costs of the licensee as are approved by the Commission;

“(B) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

“(C) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

“(3) No contract of indemnification entered into by the Commission pursuant to paragraph (2) of this subsection for the conduct of activities described in subparagraph (1)(B) of this subsection shall provide indemnification of public liability for, or preclude claims arising out of, the administration or misadministration of radio-pharmaceuticals dispensed by nuclear pharmacies or nuclear medicine departments of hospitals or clinics in the course of diagnosis or therapy.

“(4) With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 2007, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 2007.

“(5) Any licensee may waive an exemption to which it is entitled under this subsection.”.

Page 30, lines 18 and 19, strike out “ “and the Secretary shall submit to the Congress by August 1, 1993, detailed reports”;” and insert “ “and the Secretary shall submit to the Congress by August 1, 1993, and by August 1, 2003, detailed reports”;”.

Page 39, after line 2, insert:

SEC. 17. CIVIL PENALTIES.

The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

“Section 234A. Civil Monetary Penalties for Violations of Department of Energy Regulations.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except that the Secretary shall not incorporate by reference any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to appropriate enforcement action or a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

“b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

“(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph many, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgement shall not be subject to review.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone and Telegraph Technologies, Inc. (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratory;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.".

SEC. 18. CRIMINAL PENALTIES.

Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows:

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except that the Secretary shall not incorporate by reference any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.".

Page 39, line 3, strike out "17" and insert "19".

Page 39, line 8, strike out "(b)" and insert "(b)(1)".

Page 39, after line 10, insert:

(2) Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) as amended by this Act shall apply to all contracts with the Department of Energy whether executed before, on or after the date of enactment of this Act.

House amendment to Senate Amendment No. 16:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 16 to H.R. 1414 insert the following:

Strike out all after the enacting clause of the bill, as passed by the House, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price-Anderson Amendments Act of 1988".

SEC. 2. FINANCIAL PROTECTION.

(a) PRIMARY FINANCIAL PROTECTION AMOUNT REQUIRED FOR LARGE ELECTRICAL GENERATING FACILITIES.—Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "primary" before "financial protection" the first, second, third, and sixth places it appears;

(2) by inserting before the period at the end of the proviso in the first sentence the following: "(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)"; and

(3) by striking in the third sentence all that precedes "private liability insurance" and inserting the following: "The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection,".

(b) STANDARD DEFERRED PREMIUM AMOUNT.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) in the second proviso of the third sentence by striking "That" and all that follows through "protection" and inserting the following: "That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $63,000,000 (subject to adjustment for inflation under subsection t.), but not more than $10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection"; and

((2) in the third proviso of the third sentence, by adding after "and costs" the following: "(excluding legal costs subject to subsection o. (1)(D), payment of which has not been authorized under such subsection)".

(c) LESSER ANNUAL DEFERRED PREMIUM AMOUNTS.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(3) by striking the fifth and sixth sentences; and

(4) by adding at the end of the fourth sentence the following new paragraph:

"(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

"(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

"(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

"(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.".

(d) BORROWING AUTHORITY.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(3)" before the penultimate sentence and redesignating the penultimate and last sentences as a paragraph (3); and

(2) by adding at the end the following new paragraph:

"(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds—

"(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

"(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

"(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

"(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obligations to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.".

SEC. 3. INDEMNIFICATION AGREEMENTS FOR LICENSEES OF NUCLEAR REGULATORY COMMISSION.

Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by striking "August 1, 1987" each place it appears and inserting "August 1, 2002".

SEC. 4. INDEMNIFICATION AGREEMENTS FOR ACTIVITIES UNDERTAKEN UNDER CONTRACT WITH DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended to read as follows:

"d. INDEMNIFICATION OF CONTRACTORS BY DEPARTMENT OF ENERGY.—(1)(A) In addition to any other authority the Secretary of Energy (in this section referred to as the 'Secretary') may have, the Secretary shall, until August 1, 2002, enter into agreements of indemnification under this subsection with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability and that are not subject to financial protection requirements under subsection b. or agreements of indemnification under subsection c. or k.

"(B)(i)(I) Beginning 60 days after the date of enactment of the Price-Anderson Amendments Act of 1988, agreements of indemnification under subparagraph (A) shall be the exclusive means of indemnification for public liability arising from activities described in such subparagraph, including activities conducted under a contract that contains an indemnification clause under Public Law 85-804 entered into between August 1, 1987, and the date of enactment of the Price-Anderson Amendments Act of 1988.

"(II) The Secretary may incorporate in agreements of indemnification under subparagraph (A) the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity authorized in subsection n. (1) to be incorporated in agreements of indemnification. Any such provisions incorporated under this subclause shall apply to any nuclear incident arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A).

"(ii) Public liability arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A) that are funded by the Nuclear Waste Fund established in section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be compensated from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection b.

"(2) In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.

"(3)(A) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection b. is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall at all times remain equal to or greater than the maximum amount of financial protection required of licensees under subsection b.

"(B) The amount of indemnity provided contractors under this subsection shall not, at any time, be reduced in the event that the maximum amount of financial protection required of licensees is reduced.

"(C) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 1988, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.

"(4) Financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section for any Department of Energy demonstration reactor licensed by the Commission under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

"(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed $100,000,000.

"(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

"(7) A contractor with whom an agreement of indemnification has been executed under paragraph (1)(A) and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this subsection, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.".

(b) DEFINITIONS.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended by adding at the end the following new subsections:

"dd. The terms 'high-level radioactive waste' and 'spent nuclear fuel' have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

"ee. The term 'transuranic waste' means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

"ff. The term 'nuclear waste activities', as used in section 170, means activities subject to an agreement of indemnification under subsection d. of such section, that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265).".

SEC. 5. PRECAUTIONARY EVACUATIONS.

(a) COSTS INCURRED BY STATE GOVERNMENTS.—Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by inserting after "nuclear incident" the first place it appears the following: "or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)".

(b) DEFINITION.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"gg. The term 'precautionary evacuation' means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

"(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

"(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.".

(c) LIMITATION.—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

"q. LIMITATION ON AWARDING OF PRECAUTIONARY EVACUATION COSTS.—No court may award costs of a precautionary evacuation unless such costs constitute a public liability.".

SEC. 6. AGGREGATE PUBLIC LIABILITY FOR SINGLE NUCLEAR INCIDENT.

Section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)) is amended to read as follows:

"e. LIMITATION ON AGGREGATE PUBLIC LIABILITY.—(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection o. (1)(D), shall not exceed—

(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection b. (plus any surcharge assessed under subsection o. (1)(E));

"(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection d., the maximum amount of financial protection required under subsection b. or the amount of indemnity and financial protection that may be required under paragraph (3) of subsection d., whichever amount is more; and

"(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

"(i) $500,000,000 together with the amount of financial protection required of the licensee; or

"(ii) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

"(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragrpah (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in section 170 i. and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

"(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsecion b., to fund any action undertaken pursuant to paragraph (2).

"(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection d. is applicable, such aggregate public liability shall not exceed the amount of $100,000,000, together with the amount of financial protection required of the contractor.".

SEC. 7. COMPENSATION PLANS.

(a) IN GENERAL.—Section 170 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(i)) is amended to read as follows:

"i. COMPENSATION PLANS.—(1) After any nuclear incident involving damages that are likely to exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), the Secretary or the Commission, as appropriate, shall—

"(A) make a survey of the causes and extent of damage; and

"(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts.

"(2) Not later than 90 days after any determination by a court, pursuant to subsection o., that the public liability from a single nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1) the President shall submit to the Congress—

"(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection e. (1);

"(B) recommendations for additional sources of funds to pay claims exceeding the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

"(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

"(D) any additional legislative authorities necessary to implement such compensation plan or plans.

"(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

"(4) No such compensation plan may be considered approved for purposes of subsection 170 e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6 of this subsection.

"(5) For the purpose of paragraph (4) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(6)(A) This paragraph is enacted—

"(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

"(B) For purposes of this paragraph, the term 'resolution' means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: 'That the approves the compensation plan numbered submitted to the Congress on , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

"(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

"(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.".

(b) CONFORMING AMENDMENT.—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended—

(1) in the matter preceding paragraph (1), by striking "subsection 170 e.:" and inserting "the applicable limit of liability under subparagraph (A), (B), or (C) of subsection e. (1):"; and

(2) by striking paragraph (4).

SEC. 8. DATE OF EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT.

Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

(1) by striking "August 1, 1987" each place it appears and inserting "August 1, 2002"; and

(2) by striking "excluding cost of investigating and settling claims and defending suits for damage;" in paragraph (1) and inserting "including such legal costs of the licensee as are approved by the Commission;".

SEC. 9. PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by striking subsection 1. and inserting the following:

"1. PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.—(1) Not later than 90 days after the date of the enactment of the Price-Anderson Amendments Act of 1988, the President shall establish a commission (in this subsection referred to as the 'study commission') in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1).

"(2)(A) The study commission shall consist of not less than 7 and not more than 11 members, who—

"(i) shall be appointed by the President; and

"(ii) shall be representative of a broad range of views and interests.

"(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

"(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

"(E) The President shall designate one of the members of the study commission as chairperson, to serve at the pleasure of the President.

"(3) The study commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1), and shall submit to the Congress a final report setting forth—

"(A) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

"(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period; and

"(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

"(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and title 5, United States Code.

"(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(C) The Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

"(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice or assistance upon request by the chairperson of the study commission.

"(E) Each member of the study commission may receive compensation at the maximum rate prescribed by the Federal Advisory Committee Act (5 U.S.C. App.) for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per diem in lieu of subsistence under sections 5702 and 5703 of title 5, United States Code.

"(F) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.) that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

"(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988.

"(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.".

SEC. 10. WAIVER OF DEFENSES.

(a) STATUTE OF LIMITATIONS.—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in clause (iii) of the first sentence by striking the following: ", but in no event more than twenty years after the date of the nuclear incident".

"(b) APPLICABILITY.—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended—

(1) by redesignating subparagraphs (a), (b), and (c) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "or" at the end of subparagraphs (A) and (B); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) arises out of, results from, or occurs in the course of, the construction, possession, or operation of any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a.,

"(E) arises out of, results from, or occurs in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under sections 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a., or

"(F) arises out of, results from, or occurs in the course of nuclear waste activities.".

SEC. 11. JUDICIAL REVIEW OF CLAIMS ARISING OUT OF A NUCLEAR INCIDENT.

(a) CONSOLIDATION OF CLAIMS.—Section 170 n. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(2)) is amended—

(1) in the first sentence—

(A) by striking "an extraordinary nuclear occurrence" each place it appears and inserting "a nuclear incident"; and

(B) by striking "the extraordinary nuclear occurrence" each place it appears and inserting "the nuclear incident";

(2) in the second sentence, by inserting after "court" the first place it appears the following: "(including any such action pending on the date of the enactment of the Price-Anderson Amendments Act of 1988)"; and

(3) by adding at the end the following new sentence: "In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the

period provided in section 1446 of title 28, United States Code, or within the 30-day period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988, whichever occurs later.".

(b) DEFINITION OF PUBLIC LIABILITY ACTION.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"hh. The term 'public liability action', as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.".

(c) SPECIAL CASELOAD MANAGEMENT PANEL.—Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by adding at the end the following new paragraph:

"(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the 'management plan') to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

"(i) a court, acting pursuant to subsection o., determines that the aggregate amount of public liability is likely to exceed the amount of primary financial protection available under subsection b. (or an equivalent amount in the case of a contractor indemnified under subsection d.); or

"(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

"(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

"(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

"(C) It shall be the function of each management panel—

"(i) to consolidate related or similar claims for hearing or trial;

"(ii) to establish priorities for the handling of different classes of cases;

"(iii) to assign cases to a particular judge or special master;

"(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

"(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

"(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

"(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.".

(d) LEGAL COSTS.—

(1) PAYMENT CRITERIA.—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)), as previously amended by this Act, is further amended by—

(A) inserting after the subsection designation the following: "PLAN FOR DISTRIBUTION OF FUNDS.—(1)";

(B) redesignating paragraphs (1) through (3) as subparagraphs (A) through (C); and

(C) adding at the end the following:

"(D) A court may authorize payment of only such legal costs as are permitted under paragraph (2) from the amount of financial protection required by subsection b.

"(E) If the sum of public liability claims and legal costs authorized under paragraph (2) arising from any nuclear incident exceeds the maximum amount of financial protection required under subsection b., any licensee required to pay a standard deferred premium under subsection b. (1) shall, in addition to such deferred premium, be charged such an amount as is necessary to pay a pro rata share of such claims and costs, but in no case more than 5 percent of the maximum amount of such standard deferred premium described in such subsection.

"(2) A court may authorize the payment of legal costs under paragraph (1)(D) only if the person requesting such payment has—

"(A) submitted to the court the amount of such payment requested; and

"(B) demonstrated to the court—

"(i) that such costs are reasonable and equitable; and

"(ii) that such person has—

"(I) litigated in good faith;

"(II) avoided unnecessary duplication of effort with that of other parties similarly situated;

"(III) not made frivolous claims or defenses; and

"(IV) not attempted to unreasonably delay the prompt settlement or adjudication of such claims.".

(2) DEFINITION OF LEGAL COSTS.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"jj. LEGAL COSTS.—As used in section 170, the term 'legal costs' means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.".

SEC. 12. REPORTS TO CONGRESS BY NUCLEAR REGULATORY COMMISSION AND DEPARTMENT OF ENERGY.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "shall submit to the Congress by August 1, 1983, a detailed report", and inserting the following: "and the Secretary shall submit to the Congress by August 1, 1998, detailed reports"; and

(3) by adding at the end the following new paragraph:

"(2) Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual report to the Congress setting forth the activities under this section during the preceding calendar year.".

SEC. 13. LIABILITY OF LESSORS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"r. LIMITATION ON LIABILITY OF LESSORS.—No person under a bona fide lease of any utilization or production facility (or part thereof or undivided interest therein) shall be liable by reason of an interest as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.".

SEC. 14. PUNITIVE DAMAGES.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"s. LIMITATION ON PUNITIVE DAMAGES.—No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.".

SEC. 15. INFLATION ADJUSTMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b. (1) not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) such date of enactment, in the case of the first adjustment under this subsection; or

"(B) the previous adjustment under this subsection.

"(2) For purposes of this subsection, the term 'Consumer Price Index' means the Consumer Price Index for all urban consumers published by the Secretary of Labor.".

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO NUCLEAR REGULATORY COMMISSION.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "Commission" each place it appears and inserting "Nuclear Regulatory Commission".

(2) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by striking "Commission" in the first sentence and inserting the following: "Nuclear Regulatory Commission (in this section referred to as the 'Commission')".

(b) REFERENCES TO SECRETARY OF ENERGY.—

(1) Subsections j. and m. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) are amended by striking "Commission" each place it appears and inserting the following: "Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,".

(2) Section 11 t. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)(2)) is amended by striking "Commission" and inserting "Secretary of Energy".

(3) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after "Commission" the first 2 places it appears the following: "or the Secretary, as appropriate,".

(4) Subsections g., h., j., and m. of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) are amended by inserting after "Commission" each place it appears the following: "or the Secretary, as appropriate,".

(5) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended—

(A) in paragraph (1)—

(i) by striking "Commission" in subparagraph (C) and inserting "Department of Energy"; and

(ii) by inserting after "Commission" the second place it appears the following: "or the Secretary, as appropriate,"; and

(B) in paragraph (2), by inserting after "Commission" the following: "or the Secretary, as appropriate".

(6) Section 170 o. (1)(C), as redesignated by section 11(d)(1) of the bill, is amended—

(A) by inserting after "Commission" the first place it appears the following: "or the Secretary, as appropriate,"; and

(B) by inserting after "Commission" the second place it appears the following: "or the Secretary as appropriate".

(c) References to Revised Statutes.—

(1) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting "(41 U.S.C. 5)" after "Statutes".

(2) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by striking "section 3679 of the Revised Statutes, as amended" and inserting the following: "sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31, United States Code".

(d) Internal Cross-References.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "subsection each place it appears and inserting "section".

(2) Section 11 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)) is amended by striking "subsection" each place it appears and inserting "section".

(3) Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by striking "subsections 170 a., c., and k." and inserting "subsections a., c., and k. of section 170".

(4) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(a)) is amended—

(A) in the first sentence, by striking "subsection 2 i. of the Atomic Energy Act of 1954, as amended" and inserting "section 2 i.";

(B) in the first sentence, by striking "subsection 170 b." and inserting "subsection b."; and

(C) in the second sentence, by striking "subsection 170 c." and inserting "subsection c.".

(5) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended in the first sentence by striking "subsection 170 a." and inserting "subsection a.".

(6) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in the last sentence by striking "subsection 170 e." and inserting "subsection e.".

(7) Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended in subparagraph (B), as redesignated by section 11(d)(1) of the bill, by striking "subparagraph (3) of this subsection (o)" and inserting "subparagraph (C)".

(e) Subsection Captions.—

(1) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by inserting after the subsection designation the following: "Requirement of Financial Protection for Licensees.—

(2) Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by inserting after the subsection designation the following: "Amount and Type of Financial Protection for Licensees.—".

(3) Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by inserting after the subsection designation the following: "Indemnification of Licenses by Nuclear Regulatory Commission.—".

(4) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after the subsection designation the following: "Collection of Fees by Nuclear Regulatory Commission.—".

(5) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting after the subsection designation the following: "Use of Services of Private Insurers.—".

(6) Section 170 h of the Atomic Energy Act of 1954 (42 U.S.C. 2210(h)) is amended by inserting after the subsection designation the following: "Conditions of Agreements of Indemnification.—".

(7) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by inserting after the subsection designation the following: "Contracts in Advance of Appropriations.—".

(8) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k) is amended by inserting after the subsection designation the following: "Exemption from Financial Protection Requirement for Nonprofit Educational Institutions.—".

(9) Section 170 m. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(m)) is amended by inserting after the subsection designation the following: "Coordinated Procedures for Prompt Settlement of Claims and Emergency Assistance.—".

(10) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by inserting after the subsection designation the following: "Waiver of Defenses and Judicial Procedures.—".

(11) Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by inserting after the subsection designation the following: "Reports to Congress.—".

SEC. 17. CIVIL PENALTIES.

The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

"Sec. 234A. Civil Monetary Penalties for Violations of Department of Energy Regulations.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

"b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

"(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the election under paragraph (1).

"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone and Telegraph Company and its subsidiaries (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratories;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.".

SEC. 18. CRIMINAL PENALTIES.

Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows:

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any applicable nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, notwithstanding section 3571 of title 18, United States Code, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, notwithstanding section 3571 of title 18, United States Code, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.".

SEC. 19. NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES.

(a) Rulemaking Proceeding.—

(1) Purpose.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as "radiopharmaceutical licensees").

(2) Final determination.—A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered by the Commission within 18 months of the date of the enactment of this Act.

(b) Negotiated Rulemaking.—

(1) Administrative conference guidelines.—For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act, conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82-4, "Procedures for Negotiating Proposed Regulations" (42 Fed. Reg. 30708, July 15, 1982).

(2) Designation of convener.—Within 30 days of the date of the enactment of this Act, the Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

(3) Submission of recommendations of the convener.—The convener shall, not later than 7 months after the date of the enactment of this Act, submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

(4) Publication of recommendations and proposed rule.—If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed rulemaking within 30 days of the submission of such recommendations under such paragraph.

(5) Administrative procedures.—To the extent consistent with the provisions of this Act, the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code.

SEC. 20. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of the enactment of this Act and shall be applicable with respect to nuclear incidents occurring on or after such date.

(b)(1) The amendments made by section 11 shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

(2)(A) Section 234A of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of the enactment of this Act.

(B) Section 223c. of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. Udall] will be recognized for 30 minutes and the gentleman from New York [Mr. Lent] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona [Mr. Udall].

Mr. UDALL. Mr. Speaker, three different committees are involved in this important legislation, and there is a total of 1 hour for debate. I will manage 10 minutes and will yield 10 minutes each to the managers for the Committee on Energy and Commerce and the Committee on Science, Space, and Technology, if that is agreeable, at the appropriate time.

Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the Price-Anderson Act has served this Nation well for 31 years. The act ensures that adequate funds will be available to compensate the public in the event of a nuclear accident. It streamlines the claims process to ensure speedy compensation for victims; and it provides a mechanism to ensure that these funds are available regardless of the financial health of the responsible party.

Although the Price-Anderson Act is permanent authority, the key to Price-Anderson coverage—the authority of the Nuclear Regulatory Commission and the Department of Energy to enter into indemnification agreements with their licensees and contractors—expired last year, on August 1, 1987.

All nuclear powerplants now operating or under construction are already covered by Price-Anderson, so missing the August 1987 deadline has had no effect on the commercial power program. The Government's defense program, however, is another matter. Several of the contracts under which private firms do work for the Government's Nuclear Defense Program have expired since last August. These include contracts for the operation of the Lawrence Livermore Laboratory in California, the Los Alamos Laboratory in New Mexico, Brookhaven Laboratory in New York, the Portsmouth, OH, uranium enrichment plant, and the Nevada test site. Many more defense contracts will expire this fall, including contracts for important nuclear weapons production work in Pinellas, FL, and Savannah River, SC.

Without authority to indemnify contractors under Price-Anderson, the Government has had to indemnify them under Public Law 85-804, which frankly is not as good as Price-Anderson. For one reason, many accidents covered by Price-Anderson are not covered by Public Law 85-804. Price-Anderson requires the Government to compensate victims even if the accident was caused by a subcontractor or supplier rather than the prime contractor. Public Law 85-804 does not. For another reason, it is harder for victims to collect under Public Law 85-804 than under Price-Anderson. Price-Anderson requires the contractor to waive many legal defenses; Public Law 85-804 does not.

Mr. Speaker, we have been down a long and difficult road with this bill. My committee began hearings on it over 4 years ago. We were within one amendment of bringing it to the floor in the last Congress but failed. After a lot of hard work by three committees, we were able to bring a good bill to the House floor last year. By the overwhelming vote of 396 to 17, the House passed the bill on July 30 of last year. The Senate adopted the House bill in April with only seven amendments. Since then we have tried to resolve the remaining differences through informal discussions. From these discussions we have developed the pending substitute. At this point, I would like to submit for the RECORD a list of the differences between the House and Senate and how the substitute resolves those differences.

A whole year has passed since the House approved this bill. We cannot afford further delay. Already one contractor, DuPont, which has run the Savannah River Plant since Harry Truman told DuPont the Nation's security depended on it, has refused to renew its contract. DuPont cited Congress' failure to renew Price-Anderson as one reason for its decision. The General Electric Co., which runs the Pinellas, FL, plant has announced it will not renew its contract unless Congress renews Price-Anderson by September 1.

In addition, if there is an accident at a nuclear powerplant or a Government defense plant before Congress acts, the public will be assured of only about $720 million or $500 million, respectively, in compensation instead of over $7 billion, as provided by this bill.

Mr. Speaker, I urge my colleagues to adopt the motion.

Mr. Speaker, I would like to address a concern that has been raised about the interpretation of section 13 of the bill. That section simply provides that the lessor in a sale-and-leaseback financing transaction does not become liable under Price-Anderson merely on the basis of the lessor's equity interest. The section confirms existing law. It was added to the bill to give assurance to companies financing nuclear powerplants through sale-and-leaseback transactions that they would not assume the liability for an accident at a nuclear powerpant just because they have a financial relationship with the licensed operator of the plant.

Section 13 speaks only of sale-and-leaseback transactions involving "facilities" because the only examples of such transactions presented to the committee at the time involved nuclear powerplants. It has since come to our attention that the fuel rods used in nuclear powerplants often are financed through sale-and-leaseback transactions. While section 13 does not expressly refer to sale-and-leaseback transactions involving nuclear fuel or other materials, it should not be read as making fuel lessors liable. Such a result would be inconsistent with existing law, which section 13 does not change.

SUMMARY OF AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1414

(1) CIVIL AND CRIMINAL PENALTIES AMENDMENT

Senate amendment: Authorizes civil fines up to $100,000 per violation per day for violating DOE safety rules; and criminal fines of up to $25,000 per violation per day and prison terms up to 2 years ($50,000 fines and 5-year terms for repeat offenders) for willful violation of DOE safety rules.

House bill: Authorized a study of penalties but did not impose penalties.

Substitute: Accepts Senate amendment with a conforming amendment striking the House study.

(2) LIMITATION ON WASTE ACCIDENT LIABILITY AMENDMENT

Senate amendment: Strikes the House bill's special provisions waiving liability limits on nuclear waste accidents. Waste accidents would be subject to the same limit on liability as other DOE-contractor accidents and utility accidents (over $7 billion).

House bill: Limits liability for all nuclear accidents (waste accidents, other DOE-contractor accidents and utility accidents) to over $7 billion, but waives the limit for waste accidents if damages exceed the limit and if Congress does not enact a compensation plan within one year after the President submits the plan.

Substitute: Accepts Senate amendment.

(3) RADIOPHARMACIES AMENDMENT

Senate amendment: Exempts NRC and state licensees making or dispensing nuclear medicine from insurance requirements and requires NRC to indemnify all such licensees for liability over $250,000, up to $500 million.

House bill: No provision.

Substitute: Requires the NRC to conduct a rulemaking to determine whether to indemnify radiopharmacies under existing authority.

(4) SOVEREIGN IMMUNITY AMENDMENT

Senate amendment: Allows victims to sue the Government under Price-Anderson for nuclear waste accidents caused by DOE.

House bill: No provision, thus preserving current law which permits suits under Price-Anderson only against private parties and suits against the Government only under the Federal Tort Claims Act.

Substitute: Rejects Senate amendment.

(5) EXPEDITED PROCEDURES AMENDMENT

Senate amendment: Establishes expedited procedures for House and Senate to consider Presidential plan to compensate liability exceeding the $7 billion limit. These procedures limit committee consideration to 20 calendar days.

House bill: No provision.

Substitute: Accepts expedited procedures for the Senate; rejects expedited procedures for the House.

(6) LENGTH OF EXTENSION AMENDMENT

Senate amendment: Extends the Price-Anderson Act for both DOE contractors and NRC licensees for 20 years.

House bill: Extends Price-Anderson for DOE contractors for 12 years and NRC licensees for 10 years.

Substitute: Compromises at 15 years for both DOE contractors and NRC licensees.

(7) RETROACTIVITY AMENDMENT

Senate: Applies the new Price-Anderson amendments to DOE contracts executed after the prior Act expired last August.

House bill: No provision.

Substitute: Adopts alternative amendment requiring all DOE nuclear contracts to be covered by Price-Anderson as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation to authorize and extend the Price-Anderson Act does exactly what Congress intended when it enacted the Price-Anderson Act in 1957—it ensures that adequate funds will be available to compensate the public for injuries resulting from nuclear activities. H.R. 1414, as passed, increases the amount of funds available to the public in the unlikely event of an accident from $720 million to $7 billion. Nuclear accident liability of contractors indemnified by the Department of Energy, which is now limited to $500 million, would also be increased to $7 billion.

Furthermore, due to the fact that defendants are required under the Price-Anderson compensation system to waive defenses to which they would otherwise be entitled, payment of compensation would be expedient.

This legislation, furthermore, restores the Department of Energy's authority to indemnify nuclear defense contractors and the Nuclear Regulatory Commission's authority to include new commercial nuclear plants in the Price-Anderson insurance system. This authority which expired on August 1, 1987, will help preserve the nuclear energy option and assist the DOE in its negotiations with qualified contractors to continue nuclear defense activities.

For these reasons and the fact that the House amendment to this legislation extend the Price-Anderson coverage for 15 years, I urge my colleagues to vote for the amendment.

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Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, I would like to enter into a colloquy with the gentleman from Indiana [Mr. SHARP].

Mr. Speaker, I would like to ask the gentleman from Indiana a question about section 17 of the proposed substitute. The Senate version of Price-Anderson would give the Secretary of Energy the authority to impose civil penalties on DOE nuclear contractors who violate DOE safety regulations. The Senate version does however exempt seven specified nonprofit DOE contractors from any such civil penalties and grants the Secretary the discretion to remit any penalty imposed on other contractors. My concern is that Clemson University, the University of South Carolina, and the Medical University of South Carolina plan to be involved in work at the Savannah River Laboratory under the new Savannah River Plant contract, but that they will not be able to enter into a contract without assurances that they will not be subject to any monetary penalties.

My understanding is that section 17 of your substitute includes language that will be part of section 234Ab(2) of the Atomic Energy Act and provides that the Secretary of Energy shall promulgate a rule determining whether nonprofit educational institutions should receive an automatic remission of civil penalties. Is it the intent of the authors of this substitute that the Secretary will promulgate a rule immediately so that universities like Clemson, U.S.C., and the Medical University of South Carolina will know in advance whether they will be subject to monetary penalties?

Mr. SHARP. Mr. Speaker, if the gentleman will yield, that is correct. The substitute directs the Secretary to determine whether nonprofit educational institutions should be granted automatic remission of civil penalties.

Under the Senate provision, the Secretary's authority to initiate a civil penalty proceeding is discretionary. Further, the Secretary may take a variety of factors into consideration—such as a contractor's prior safety record—in determining whether to compromise, modify, or remit any such penalty.

Thus, the Senate provision already provides the Secretary with significant discretion. Under the circumstances, I think it is reasonable for the House to direct the Secretary to undertake a rulemaking to determine whether nonprofit educational institutions should receive automatic remission of civil penalties.

Mr. DERRICK. I thank the gentleman from Indiana. I want to express my appreciation to Chairman SHARP, Chairman UDALL, and Chairman DINGELL, for working with me to arrive at this compromise language. It does not expand the exemptions from civil penalties beyond what is provided in the Senate version, it merely calls for the Secretary to disclose in advance whether he will exercise authority granted him by the Senate provision to remit any monetary penalty. This is a fairly minor modification to the Senate provision, but I feel very strongly that it is an important modification that is crucial to the enactment of this legislation.

Mr. LENT. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD], the ranking minority member of the Subcommittee on Energy and Power.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I wish to begin by thanking my colleagues who have worked on bringing this legislation to the floor today. I am referring in particular to Mr. DINGELL and Mr. SHARP from the Energy and Commerce Committee and Mr. UDALL and Mr. LUJAN from the Interior Committee.

There is an urgent need to pass legislation to reauthorize and extend the Price-Anderson Act as well as provide the public the additional benefits of H.R. 1414.

Congress enacted the Price-Anderson Act in 1957: First, to ensure that adequate funds would be available to compensate the public for injuries resulting from nuclear activities; and second, to remove the threat of unlimited liability for a nuclear accident which was deterring private industry from participating in nuclear activities. It is true that the Nation's nuclear power reactors and DOE nuclear facilities have an enviable safety record. However, if there were a nuclear accident the resulting damage could be extremely costly.

The Price-Anderson Act provides a comprehensive system of compensation for potential victims of a nuclear accident that is swift and more beneficial than compensation they would receive under today's tort law. The act, by placing a limitation on overall liability and by channeling all liability regardless of fault to the reactor which has an accident, assures the availability of substantial funds to provide prompt compensation to the public. With 112 reactors currently covered by the Price-Anderson Act, the nuclear industry would have to pay up to $720 million in compensation for an accident. H.R. 1414 would increase this compensation to approximately $7 billion. Nuclear accident liability of contractors indemnified by DOE is limited to $500 million by the Price-Anderson Act. H.R. 1414 requires DOE to indemnify all contractors conducting nuclear activities up to $7 billion.

In addition, in the case of a serious nuclear accident involving substantial off-site contamination, defendants are required under the present act to waive all defenses. This makes it easier for plaintiffs to recover.

However, the Price-Anderson's compensation system for new reactors and nuclear indemnification authority for DOE nuclear contractors expired August 1, 1987. While authority exists under current law for DOE indemnification of contractors, compensation for victims would be less predictable, less timely, and potentially inadequate compared to Price-Anderson compensation. One important difference is that current law does not require indemnified contractors to waive their legal defenses following an extraordinary nuclear occurrence. Public protection in the case of a nuclear accident is far superior under a renewal of the Price-Anderson system.

H.R. 1414, as passed by the Senate, was amended in several significant ways. I believe that with an appropriate compromise this bill will not only extend the needed Price-Anderson authority but improve the protection offered the public.

The most significant Senate amendment is section 4(c) of Senate-passed H.R. 1414. With this amendment the Secretary of Energy would be treated as a Government contractor for purposes of determining the Federal Government's potential liability in connection with certain activities relating to the storage and disposal of radioactive waste. I strongly oppose this amendment since it could be read as permitting the United States to be sued under the same terms and conditions as would be applied to one of its contractors. Such a waiver would ignore the liability scheme established by the Federal Tort Claims Act. Accordingly, this amendment is opposed by the Justice Department and the administration.

I also oppose the special exemptions from the financial protection requirements that the Senate-passed bill provides to licenses held by nuclear pharmacies and nuclear medicine departments. This special interest legislation would further require the NRC to indemnify such licensees for liability in excess of $250,000 up to $500 million. Such treatment of these particular licensees is inconsistent with the legislative history of the Price-Anderson Act concerning the financial protection requirements and would unduly burden the NRC with an increase in the number of licensees indemnified from about 145 to nearly 8,000. Instead of this Senate amendment, I support the proposed House amendment which requires the Nuclear Regulatory Commission to determine by negotiated rulemaking whether to enter into indemnity agreements with radiopharmaceutical licensees. I understand that the NRC has indicated that the materials at issue here contain extremely small amounts of radioactivity which for the most part decays naturally over a period of hours. This certainly questions the need to provide special legislation for these particular licensees.

I do oppose the Senate amendments to H.R. 1414 that authorize fines up to $100,000 per violation per day for violating DOE nuclear safety rules and criminal fines up to $25,000 per violation and prison terms up to 2 years.

I, furthermore, support the compromise proposal to extend Price-Anderson for both DOE contractors and NRC licensees for 15 years. This extension is longer than that proposed by H.R. 1414. This additional period will help provide needed stability to the nuclear energy option as well as DOE contracting activities.

To conclude, this legislation with the House amendment would extend the Price-Anderson coverage, provide additional coverage benefits to the public, preserve for the Secretary of energy the protection offered by the Federal Tort Claims Act and avoid unnecessary special treatment of nuclear pharmacies and hospital nuclear medicine departments.

I urge my colleagues to vote for the amendment.

Mr. UDALL. Mr. Speaker, I yield 10 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in support of the substitute.

The Senate's 16 amendments to H.R. 1414, in most instances, brought the legislation closer to the original recommendations of the Committee on Science, Space, and Technology, as reflected in House Report 100-104, part 2. Therefore, what the Senate did, overall, was to improve the bill.

The compromises and improvements to the Senate's recommendations that are included in this substitute retain much of what the Senate recommended as amendments. Therefore, the substitute moves closer to the original position of the Science Committee, and is also an improvement in the legislation.

For example, the Science Committee in two Congresses recommended that the act be extended for a longer period than 10 years. The Senate recommended 20 years and the substitute before us today increases the period to 15 years. This improves the bill.

Another example is that the Science Committee did not recommend the provision included in the House bill which would have treated nuclear waste contractors differently than other DOE contractors. The Senate struck this House provision and the substitute agrees with the Senate amendment.

Mr. Speaker, the substitute text to H.R. 1414 resolves 9 principle issues which have arisen due to the 16 amendments of the Senate. Chairman ROE and I concur in the resolution of eight of these issues, and must dissent in the resolution of one issue. The substitute takes the following action:

First, splits the difference on the period of extension and sets it at 15 years;

Second, deletes a House provision requiring, for the first time, appropriations to pay Government liabilities under the act;

Third, strikes a Senate provision, which was likely to invite a Presidential veto, requiring that Government employees to considered as contractors for Price-Anderson purposes;

Fourth, accepts a Senate amendment making the limit on liability the same for all DOE nuclear activities;

Fifth, allows the Senate to retain expedited procedures but strikes them for the House;

Sixth, compromises on 11 years as the appropriate deadline for the Congress to receive the reports of the DOE and NRC;

Seventh, requires DOE nuclear contractors to be indemnified only under Price-Anderson.

Eighth, requires as a compromise, NRC to conduct a rulemaking proceeding to determine the need to bring nuclear pharmacies under Price-Anderson coverage;

Ninth, adds civil and criminal penalties to DOE's enforcement authority over its contractors.

Although Chairman ROE and I have agreed in principle to all of these amendments in the substitute, the last one on civil penalties is not good law. We tend to agree with the executive branch that such penalties are not necessary, and possibly detrimental to the unique relationship between DOE and its laboratory operators needed to ensure safety. However, I believe the Senate provision, as well as the provision in the substitute, is flexible enough to permit broad discretion on the part of the Secretary either not to impose a civil penalty, and, if imposed, to allow the Secretary to modify or remit the penalty in whole or in part. Therefore, the civil penalty authority should not be harmful in and of itself.

The objectionable part of the civil penalty provision is section 17(d) of the substitute, which creates exemptions to the applicability of the Secretary's authority to levy civil penalties. This provision is poorly drafted, is unfair to certain contractors, is detrimental to broad industry participation in operating the laboratory system, and is anticompetitive in effect.

The substitute text in section 17(d) names some of the existing nonprofit and nominal profit contractors as exempt from any civil penalties. Although we find it rather peculiar to list any exemption to a provision thought necessary by the Senate to promote public safety, we can understand the perceived need to exempt some contractors because of the potential detriment to the DOE/laboratory relationship. Two competing goals have to be reconciled, and the Senate chose this flawed approach.

First of all, naming a specific person, as is done in section 17(d), to be exempt from the law, is in itself improper. The law should have general applicability and, any exemptions should be cast in terms of classes of people. But I am willing to live with this shortcoming as long as the list names everyone in the class. Unfortunately, the substitute does not name everyone in the contractor class who is either a nonprofit or educational institution.

Second, neither the Senate or the Interior or Commerce Committees have identified any good reason for discriminating against some of the nonprofit or educational contractors; such as Stanford University, Oak Ridge Associated Universities, Southeastern Universities Research Association, and there may be others that DOE has yet to identify. These contractors were left off the list because they weren't known to the Senate at the time the amendment was agreed to.

Third, the exemption provision in the substitute gives the exempted contractors unfair advantage over possible competing contractors when the laboratory contract is due for renewal. This occurs because successor contractors are not covered under the exemption. It is an advantage to be exempt from such a contingent liability and this fact will obviously be a factor in any bid to run a national laboratory.

Fourth, the fact that potential competitors will not have the exemption will have a distinct chilling effect on possible competitors. Those capable contractors who might otherwise be brought into the laboratory system will not be inclined to apply. The exemption list would, therefore, tend to be anticompetitive, preserving the status quo at the expense of the ability of the Government to find and choose the best operating contractors for the laboratories.

Having identified these problems, I sought the advice of the laboratories and the Department of Energy. There were no surprises in the responses, and, for purposes of brevity, I include only the DOE response in the RECORD at the end of my remarks. I will provide the laboratory responses to those who may be interested.

In summary, the laboratories with the exemptions wanted to preserve them. DOE didn't approve of the civil or criminal penalty provisions but thought that it had sufficient flexibility to administratively deal with the problems. I agree, but this is certainly no excuse for the Congress to enact poorly drafted legislation.

Because of the adamant position of the Senate regarding this provision, Mr. ROSE and I prepared an amendment which I thought called for minimal changes in its scope and form. Essentially, the amendment would add the three known contractors fitting the class of exemptees, and also add their successors, if they also fit the class; that is, nonprofits or educational institutions. This was rejected by the Senate, and, as a result, by the other two House committees of jurisdiction. My colleagues on the other two House committees did not wish to risk jeopardizing the expedient enactment of this law because of the Senate's threatened rejection of my amendment. I believe it would have been healthy to force the Senate to deal with this issue.

There is a second problem with this substitute that has only recently been identified. I admit that it is a new issue and has not been fully considered by any committee of jurisdiction. However, its importance is not diminished by this oversight, especially considering that a chief purpose of the Price-Anderson Act is to protect the public.

Mr. Speaker, the substitute includes a substantial disincentive to assuring public safety that I believe should be eliminated.

The Science Committee has authorized the development in the Department of Energy of a new generation of nuclear reactor that promises to be a "fail safe" reactor. All the accidents considered by the Nuclear Regulatory Commission for current generation reactors would be foreclosed in this new generation reactor; foreclosed in the sense that gravity or other physical phenomena prevent the accident from occurring in the first place. This technology is precisely what this country needs to meet public demands, to fight the acid rain problem, to respond to the CO_2 problem, and to rekindle our Nation's nuclear energy option.

What we should be saying through this substitute bill is, "The Congress does not intend to discourage utilities from purchasing inherently safe reactors." This substitute bill is a 15-year reauthorization and these new reactors could be available within a decade. But the bill, as currently written, would discourage any utility from buying these reactors.

The bill authorizes the NRC to assess a $63 million retrospective premium against each reactor licensee in the event of an accident. One of the attractions of the modular reactor concept is that a utility would be able to buy smaller increments of capacity to better meet customer demands. If eight of these modular reactors were, over a period of years, added to a system so as to constitute a single 1,200-megawatt electric plant, then a utility might be faced with a total assessment of $504 million, instead of a single $63 million assessment for a single, current generation reactor.

This, obviously, would be a substantial disincentive for utilities to purchase the passively safe, modular reactors, instead of the larger sized, current generation reactors.

I agree that this issue is a relatively new one. The NRC has said, in the letter included below, that we have identified a real problem that can only be handled by the Congress. The solution I proposed is to give NRC the authority to treat a group of modular, inherently safe reactors as a single facility for purposes of the retrospective premium. I believe this issue could have easily, and without controversy, been resolved by my amendment.

Once again, my counterparts on the other two committees of jurisdiction opposed adding a new issue to the bill at this late date, despite their agreement that we certainly do not want to discourage utilities from purchasing inherently safe reactors. They feared that the Senate might not agree and they did not consider the issue to be critical at this point in time. I disagreed because I believe we do not have to let expediency rule over common sense and good lawmaking.

Faced with two important deficiencies with the substitute, I elected to bring my amendments to the attention of the Rules Committee, but I regret that they declined to make my amendments in order for presentation to this body.

I must reemphasize that the proposed substitute text contains 98 percent of what I believe to be appropriate policies to protect the public, assure continued operation of the national laboratory system, and enhance safety both in the commercial sector and at the national laboratories. It is unfortunate that I cannot give the bill my 100-percent commitment. Nevertheless, considering that the overwhelming percentages involved invoke good sense, the substitute is an acceptable compromise for overall passage.

I support the adoption of the substitute.

NUCLEAR REGULATORY COMMISSION,
Washington, DC, August 2, 1988.

Hon. MARILYN LLOYD,
Chairman, Subcommittee on Energy Research and Development, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MADAM CHAIRMAN: I am responding to your letter of July 19, 1988, in which you sought the Commission's views on modifying H.R. 1414, the bill which would reauthorize the Price-Anderson Act, to eliminate a potential disincentive for utilities to purchase modular, advanced reactor units.

H.R. 1414 as currently written includes authorization in proposed new section 170b(2)(A) for the Commission to make "case by case" adjustments to retrospective premium requirements in certain circumstances. We believe that a serious legal question could arise from this provision as to whether the Commission may provide by rule that a group of reactors be treated as a single reactor for the purposes of meeting the financial requirements. More importantly, even if the Commission were to exercise its authority to require less than the maximum deferred premium for modular advanced power plants, the difference would still have to be paid eventually under 170b(2)(B). We also agree with the view that those considering use of modular reactors could be discouraged by the potential of significantly broader financial exposure than they would incur by choosing a single reactor to generate the same megawatts of power.

On review of the draft amendment you propose, our opinion is that it would remove from H.R. 1414 the potential disincentive that you have identified. We agree that the amendment would give the Commission authority to define by regulation the potential recipients of this treatment and thus to control whether or not the disincentive would be eliminated for any class of modular reactors. However, unless the Commission took such action, it appears to us that the terms of the draft amendment could be sufficient for any licensee of a modular advanced nuclear power plant to claim a statutory right to a single-reactor treatment provided that the power plant has arguably significant passive safety features and is within the wattage limit.

I hope that this response will be helpful to you. The General Counsel or designated members of his staff are available to assist you or your staff further in this matter.

Sincerely,

LANDO W. ZECH, JR.

THE SECRETARY OF ENERGY,
Washington, DC, July 26, 1988.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of July 13, 1988 regarding the impact of Senate amendment No. 13 to H.R. 1414, the "Price-Anderson Amendments Act of 1987". Both the House and Senate have worked hard in the past several years to renew Price-Anderson and that objective is now within reach. I hope that final consideration will take place in the next several weeks, and urge that action be completed on this needed legislation.

The expiration of the Act last August has jeopardized the Department's future working relationships with its contractors; relationships with an established history of cooperation which have served our national security interests and protected the public well for decades. The uncertainty of Price-Anderson coverage can only continue to discourage contractors of the highest caliber and quality from such working relationships with the Department.

We share your concerns about the impact of the civil penalties provision on the Department's working relationships with its contractors. Although we also share the objective of ensuring that DOE contractors conform their conduct to the highest standard of safety and care, it remains our opinion that the inclusion of a civil penalties provision undermines the trust and dedicated partnerships, which thus far have achieved our national security goals. We are convinced that the Department has the authority and discretion to enforce safety standards and that the mutuality of interests the Department shares with its contractors is the best guarantor that the high standards of safety will be met.

I have enclosed answers to most of the questions you raised in your letter. Because of the uncertainty as to the final outcome of the Bill and the newness of the provision, the Department does not yet have all of the answers you are seeking. I will keep you informed as the Department attempts to analyze the intent and practical ramifications of civil penalties on our national security.

I hope that the enclosed will aid you in completing House action on Price-Anderson, as the absence of coverage is surely a greater threat to our national well-being than this provision. I urge prompt action and stand ready to assist in any way I can.

Yours truly,

JOHN S. HERRINGTON.

QUESTIONS AND ANSWERS

Question 1a. Please list those Department of Energy (DOE) contractors which currently have Price-Anderson indemnity?

Answer. Attachment 1 lists the DOE management and operating contractors which currently have Price-Anderson indemnity.

Attachment 2 lists the DOE management and operating contractors that have been extended the indemnification coverage under Public Law 85-804 since Price-Anderson coverage expired.

ATTACHMENT 1—U.S. DEPARTMENT OF ENERGY M&O DATA BASE STANDARD REPORT NO. 2

Awardee Mgr. Rec. Due	Activity Name Award Office	Expiration Date Program Office
Allied-Signal Inc., 7/01/90	Kansas City plant, AL	12/31/91 DP.
Battelle Memorial Institute, 3/30/91.	Pacific Northwest Laboratory, RL.	9/30/92 ER.
E.I. Du Pont de Nemours & Co., 3/30/88.	Savannah River Laboratory and, SR.	9/30/99 DP.
EG&G Idaho, Inc., 3/30/90	Idaho National Engineering Lab, ID.	9/30/91 ID.
General Electric Co., 3/30/89	Knolls Atomic Power Laboratory, NR.	9/30/90 NE.
General Electric Co., 3/30/87	Pinellas Plant, AL	9/30/88 DP.
Kaiser Engineers Hanford Co., 8/29/90.	Engineer/Constructor Contract, RL.	2/29/92 DP.
M-K Ferguson of Idaho Co., 7/01/87.	Inel Construction, ID	12/31/88 ID.
Martin Marietta Energy Systems, 3/30/88.	ORGDP/ORNL/Y-12/Paducah, OR.	9/30/89 DP.
Mason & Hanger-Silas Mason Co., 3/30/90.	Pantex Plant, AL	9/30/91 DP.
Monsanto Research Corp., 3/30/87.	Mound Plant, AL	9/30/88 DP.
Rockwell International Corp., 7/1/87.	Rocky Flats Plant, AL	12/31/88 DP.
Rockwell International Corp., 3/30/90.	Specific Manu. Cap., ID	9/30/91 DP.
Sandia Corp./AT&T Technologies, 3/30/87.	Sandia Laboratory, AL	9/30/88 DP.
University of Chicago, 3/30/87	Argonne National Laboratory, CH.	9/30/88 ER.
West Valley Nuclear Services, 3/30/90.	West Valley Project, ID	9/30/91 NE.
Westinghouse Electric Corp., 3/30/87.	Bettis Atomic Power Laboratory, NR.	9/30/88 NE.
Westinghouse Electric Corp., 3/30/89.	Waste Isolation Pilot Plant, AL	9/30/90 DP.
Westinghouse Hanford Co., 3/30/91.	Richland Operations Office, RL	9/30/92 DP.
Westinghouse Idaho Nuclear Co., 3/30/88.	Idaho Chemical Processing Plan, ID.	9/30/89 ID.
Westinghouse Materials Co., 3/30/90.	Feed Materials Production Cent., OR.	9/30/91 DP.

ATTACHMENT 2

The following have been granted indemnification under Public Law 85-804:

University of California: Lawrence Livermore National Laboratory, Los Alamos National Laboratory.

Associated Universities, Inc.; Brookhaven National Laboratory.

EG&G Energy Measurements Inc.; Nevada Test Site.

Martin Marietta Energy Systems; Portsmouth Gaseous Diffusion Plant.

QUESTIONS AND ANSWERS

Question 1c. If the purpose of the amendment is to promote public safety, what public policy reason exists for distinguishing between the contractors, exempted in Senate amendment number 13 and the other DOE contracts?

Answer. Public safety is best promoted and achieved through mutuality of interests and goals shared by the Department and its contractors; through the highest safety standards being set and willingly agreed to, and by authority to replace those contractors if these goals are not met. We believe this applies to all contractors without distinction.

Question 1d. Has any contractor refused Price-Anderson indemnity when it has been offered? If so, please explain.

Answer. No, not in the past. However, contractors have expressed concerns over the lack of Price-Anderson and the potential future provisions of Price-Anderson.

2. Senate amendment number 13 to H.R. 1414 would allow DOE to assess civil penalities against a contractor. The amendment also exempts certain contractors and the laboratories they manage by name from the provisions of this section. Given the change in the law as stated in Senate amendment number 13.

a. Do you agree, or disagree, that Senate amendment number 13 appears to favor those institutions which are listed, not only for the benefits under the existing contract, but via-a-vis others who might compete for the contract at the time of renewal. Please explain your answer.

b. Do you interpret the Senate passed civil penalty provisions to be discretionary as to the imposition of penalties on any DOE contractor? Please explain.

c. Does the Senate exemption to the civil penalties section include all DOE contractors that are comparable to the named contractors in regard to the type of work performed by a laboratory, and in regard to the financial relationship a contractor has with DOE? If there are other contractors who are comparable to those listed, please name them.

d. Should an exemption apply only to those contractors that currently have Price-Anderson indemnity? Should successor contractors also be exempted?

e. Should the exemption apply to those contractors that currently have contracts with DOE with no Price-Anderson indemnity but that DOE would expect to give indemnity to, once H.R. 1414 is enacted?

f. Does DOE have authority or will it with the passage of H.R. 1414, to promulgate by rulemaking exemptions for a particular type of contractor? Why, or why not?

Answer 2a. through f. The Senate civil penalty provision gives the Secretary the discretionary authority to impose civil penalties on DOE contractors, except those listed as exempt, if they are covered by a Price-Anderson indemnity clause and have violated a nuclear-safety rule, regulation, or order issued by the Secretary under the Atomic Energy Act of 1957, as amended. The Senate provision empowers the Secretary to compromise, modify, or remit such penalties, with or without conditions and to prescribe regulations as he may deem necessary to implement the provision. Although the listing of specific exempt contractors appears to favor the listed institutions, the Secretary has sufficient discretion to ensure that other similarly-constituted contractors doing similar work would not be at a competitive disadvantage in contractual negotiations.

There are DOE contractors absent from the exemption list that presently are engaged in work comparable to the work conducted by the listed contractors. For example, Stanford University is engaged in work conducted at the Stanford Linear Accelerator Center (SLAC) that is similar to the work conducted at Fermilab. While Fermilab is listed as exempt from civil penalties, SLAC is not. The Department could provide equitable treatment to entities such as SLAC either on a case-by-case basis or through rulemaking.

Question 2.g. Should specific classes of contractors, e.g., non-profit educational institutions, be exempted from an assessment of a civil penalty? Why, or why not? If DOE were to exempt certain types of contractors from the civil penalties provisions, what class of contractors would DOE most likely exempt?

Answer. There should not be distinctions drawn between classes of contractors for purposes of accountability. The Senate provision does provide Secretarial discretion, specifically providing, that in determining the amount of the penalty, the Secretary shall take into account the ability of the contractor to pay, the effect on the contractor's ability to continue to do business, history of prior violations, degree of culpability, and such other matters as justice may require.

DOE's initial evaluation would thus tend toward a case-by-case review rather than exemption by class of contractor.

Question 3.b. Does DOE make periodic safety inspections of the DOE laboratories?

Answer. Yes. The DOE safety appraisal program combines routine onsite inspection and surveillance by the DOE Operations Office with periodic technical safety appraisals by the Headquarters Office of the Assistant Secretary for Environment, Safety and Health. This program encompasses the DOE laboratories as part of the overall DOE complex. More specifically, the Operations Offices in the field have responsibility to perform safety inspections and functional appraisals of the contractor's operations in all safety disciplines; i.e., nuclear facility safety, reactor safety, criticality safety, fire protection, quality assurance, radiological protection, industrial hygiene, etc. These appraisals are conducted at a frequency dependent upon the hazard level of the contractor operations to be appraised. Thus, high hazard facilities would be appraised on a more frequent basis than moderate or low hazard facilities.

The Assistant Secretary for Environment, Safety and Health, has oversight responsibility for the Department on all operations. In fulfilling this responsibility, the Office of Environment, Safety and Health performs Functional Appraisals of field activities in all safety disciplines and Technical Safety Appraisals (TSA's), which are documented, multidiscipline appraisals, of selected Department reactors and nuclear facilities. These TSA's assure proper Department-wide application of particular safety elements, nuclear industry lessons learned, and appropriate licensed facility requirements while stressing the Department's ultimate goal of striving for excellence.

TSA's are conducted on an infrequent basis once every few years. DOE has recently initiated an onsite resident inspector program reporting directly to the Headquarters ES&H management. In this way, oversight safety inspections are done by individuals on a daily basis and multidisciplinary teams on a more extended schedule.

Question 3.c. What rules, regulations, or orders presently address nuclear safety for DOE contractors? Please explain.

Answer. The safety requirements for the Department's nuclear operations are specified in the DOE Orders. Some of the major Orders are provided in Attachment 1. These Orders provide minimum requirements which have to be followed in the operation of the Department's reactors and nuclear facilities. The Operations Offices in the field also provide DOE Order Supplements to the contractor. These supplements reflect the need to meet the DOE Order requirements and provide additional detailed requirements related to the specific operations at a particular site.

ATTACHMENT 1

DOE Order No. and Title:

5480.1B—Environment, Safety, and Health Program for Department of Energy Operations.

5480.2—Hazardous and Radioactive Mixed Waste Management.

5480.3—Safety Requirements for the Packaging of Fissile and Other Radioactive Material.

5480.4—Environmental Protection, Safety, and Health Protection Standards.

5480.5—Safety of Nuclear Facilities.

5480.6—Safety of Department of Energy Owned Reactors.

5480.7—Fire Protection.

5480.8—Contractor Occupational Medical Program.

5480.9—Construction Safety and Health Program.

5480.10—Industrial Hygiene Program.

5480.11—Requirements for Radiation Protection.

5480.12—Prevention, Control, and Abatement of Environmental Pollution.

5480.13—Aviation Safety.

5000.3—Unusual Occurrence Reporting System.

5481.1B—Safety Analysis and Review System.

5482.1B—Environment, Safety and Health Appraisal Program.

5483.1A—Occupational Safety and Health Program for Government-Owned, Contractor-Operated Facilities.

5484.1—Environmental Protection, Safety, and Health Protection Information Reporting Requirements.

5610.3—Program to Prevent Accidental or Unauthorized Nuclear Explosive Detonations.

5700.6B—Quality Assurance.

5500.2—Emergency Planning, preparedness, and Response for DOE Operations.

5500.3—Reactor and Nonreactor Nuclear Facility Emergency Planning, Preparedness, and Response for Department of Energy Operations.

5500.4—Public Affairs Policy and Planning Requirements for Emergencies.

6430.1—General Design Criteria.

1324.2—Records Disposition.

1330.2—Uniform Contractor Reporting System.

5700.3B—Major System Acquisition Procedures.

Question 3.d. What procedure does DOE use to determine if a contractor is in violation of a DOE rule, regulation, or order relating to nuclear safety? What type of process is given to a contractor before a contractor may be penalized under existing authority?

Answer. The Department determines whether a contractor is in violation of a DOE rule, regulation, or order relating to nuclear safety in several ways. First, the contractor operations are reviewed early in the design stage prior to construction to assure that facilities are sited and designed in accordance with the DOE Order requirements. Secondly, prior to initial operation, the facilities design is again reviewed against DOE Order requirements. This review focuses on the safety analyses performed for the facility/operations and ensures that: (1) the analyses are complete and accurate, (2) the analyses identify systems important to safety, (3) the design and operation of the facility is in accordance with the DOE Orders, and (4) the safety envelope of the facility is defined through Technical Specifications or Operational Safety requirements. In each of these reviews, a determination of compliance with the DOE Order requirements is made and appropriate changes to the facility design and/or operation are performed without penalty to the contractor.

Thirdly, during facility operations, the Department ensures compliance with its requirements and the approved safety envelope of the facility through inspections and appraisals, as discussed in the answer to Question #3.b., and through reporting requirements imposed on the contractor through the DOE Orders. On the latter, the contractor must report unusual events and occurrences that occur in Department facilities. These reports describe the event/occurrence and corrective action. If through the DOE appraisal or reporting process DOE determines that DOE requirements or the safety envelope of the facility are violated, then the Department can take action to limit operations or shut down the facility.

Penalties against the contractor for failing to comply with DOE Order requirements are established in two ways. One method used is to reduce the Award Fee given to the contractor each year based upon his performance. Since safety is one of the performance elements, poor safety performance by the contractor could result in a reduced rating and reducd award fee. The second method which can be utilized is to cancel the contract or not award the contractor the contract for managing the particular site when the existing contract is completed. In both of these methods, the contractor can provide information to substantiate his performance.

Question 3.e. What types of violations relating to nuclear safety has DOE found at its laboratories?

Answer. The most frequent areas that are not in compliance are: training, documentation, procedural compliance, and quality assurance.

Question 3.f. How does DOE currently mandate compliance when it identifies a violation relating to nuclear safety at a DOE laboratory?

Answer. If through the DOE appraisal or reporting process, DOE determines that DOE requirements or the safety envelope of the facility are violated, then the Department can take action to limit operations or shut down the facility until corrective actions are taken. Also, penalties against the contractor can be imposed as discussed in the answer to Question #3.d.

☐ 1330

Mr. LENT. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Mexico [Mr. LUJAN], the ranking minority member of the Committee on Interior and Insular Affairs.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have some serious reservations about this legislation. I do not know what I can do about it at this point since we are considering this in a closed rule. I would have voted against the rule had we had a recorded vote on it.

I am concerned because we are taking a tremendous leap in the limit of liability under the Price-Anderson Act. The current law, Mr. Speaker, provides that each utility shall pay $5 million per reactor in case there is an accident.

We began by looking at whether we should double that amount of liability as a limit, and we looked at that for a long time. All of a sudden something happened, and it went from $10 million to $63 million per reactor. That amounts to some $7 billion of total liability that all 112 reactors in this country are responsible for.

That may be a lot of fun in Congress to throw around figures like $63 million and $7.2 billion in total liability. I am not sure that the rest of the country understands what those figures are, and I am not sure that we understand what those figures are all about.

Mr. Speaker, the rate-paying public is going to have to pay these amounts of money. Because of the closed rule, Mr. Speaker, we are not to consider anything less than the $63 million per reactor.

There is one redeeming feature in this legislation, Mr. Speaker, and that is that a portion of this bill is likely to extend the benefits of the Price-Anderson Act to radio pharmaceutical licensees, persons, or entities who manufacture, produce, possess, or use radio isotopes or radio pharmaceuticals for medical practices. These medicines help physicians to detect abnormal growths and tumors in the bone, spincal cord, thyroid, lungs, liver, and other organs.

This compromise legislation, although not totally to my liking, at least goes a little bit in the proper way in that it provides a process by which the Nuclear Regulatory Commission can ensure that the benefits of Price-Anderson are extended to this radio pharmaceutical licensee. So there are some benefits to this legislation.

There are a couple of other features, however, Mr. Speaker, that should be in this legislation that are not. It was necessary to exempt from the civil liabilities provision certain laboratories or certain people that operate laboratories for the Federal Government. Among those are Livemore out in California, Los Alamos, Sandia in my home district, and those were exempted from civil liability provisions.

However, it does not make any sense that three national laboratories were included and three others were left out, and the committee was rather adamant that we leave them out. It really does not make any sense to take these three which are operated by consortiums of universities and make them subject to civil liability provisions. So that should have been changed in the committee, and why they were so adamant about it is beyond me.

The final thing is the question of modular reactors. We all know and everybody knows that the future of nuclear power lies in small, inherently safe reactors, and these can be built in steps.

What we have done is that each module now has the responsibility for $63 million, so that as we move along and add these modules and make those reactors a little larger, we begin to multiply those limits of $63 million by the number of modules added on. The reasons they said they would not include this in the legislation and at least give us a limited open rule of some kind so that we could put these on was that we had not had any hearing on that.

Mr. Speaker, let me hope that for next year we can have hearings and maybe look at this legislation in the final year.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Murphy].

Mr. MURPHY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I reluctantly rise in support of the substitute for H.R. 1414. As the gentleman from New Mexico pointed out, we have had a long 2 years in arriving at this point. However, we have arrived.

The Price-Anderson legislation was originally designed, and this reenactment is designed, so that we can continue our competition in the world for the world energy resources.

We must have nuclear power so long as the rest of the world engages in it also. We must remain competitive and we must use every energy resource we have in our own Nation to become energy independent.

This legislaiton sets forth that it is the policy of the Congress that at least for the next 15 years that we may rely for some portions of our energy resources on nuclear power. We would provide that we increase the liability of each plant, as the gentleman pointed out, from $5 million per plant reactor to $63 million, quite an increase.

But I would point out to my colleague from New Mexico that what we likewise do at the same time is keep the first tier of insurance at $160 million, which is what each plant must provide and each company must provide in their first tier of liability.

Coming from the early State in our country which has had an experience with Price-Anderson, the Commonwealth of Pennyslvania at Three Mile Island, I can tell my colleagues that the claims were settled far less than the $160 million of liability in the first tier. The total claims were settled in the amount of $48 million, far less than that provided in the first tier of coverage.

I believe that this measure has worked for us since 1957 in protecting the American public and assuring that we can take advantage of our energy resources, and that it will work for the next 15 years, and therefore I support the measure.

Mr. SHARP. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I am pleased to speak in favor of the motion for a compromise bill responding to the Senate's legislation to renew the Price-Anderson Act. I must begin by thanking Chairman Udall, the gentleman from South Carolina, Mr. Butler Derrick, and Chairman Dingell, for their tireless efforts to enact this important legislation. I also would like to thank Chairman Roe and the minority for their cooperation and contributions.

The effort to renew Price-Anderson has been lengthy and sometimes difficult. In fact, it was over a year ago that the Price-Anderson Act expired, for the first time since its enactment in 1957. Fortunately, both the nuclear utility industry and the Department of Energy contractors who rely on Price-Anderson have been able to make do without the act's protections on an interim basis, pending the conclusion of this legislation effort.

However, as the session draws to a close, the need to renew the Price-Anderson Act has become pressing. First and foremost, this legislation is important to the public. There are 110 nuclear reactors in operation today, many of them run by utilities which do a good job of producing essential power supplies at reasonable cost. Safety is the constant goal in these operations, and I hope that we never see an accident of the magnitude the Price-Anderson Act was designed to respond to.

However, should there be an accident, it is essential that the Price-Anderson Act's protections be available to the public. In the case of a relatively small utility accident such as Three Mile Island, the act's public compensation scheme provides a ready, proven system for responding to the immediate needs of families forced to evacuate their homes.

In the case of a larger accident, this legislation makes up to $7 billion available to compensate the public for personal and property damage, and improves the procedures for compensating damages in excess of that amount. The new $7 billion compensation fund represents a tenfold increase over the amount under the old act, and is far more in line with current economic realities than the existing $700 million limit.

Moreover, the Price-Anderson Act and this renewal legislation provides the public with a significantly easier road to recovery in court. Under normal tort law procedures, accident victims often must prove negligence against large corporations. Few ordinary citizens have the resources, or the ability to await compensation, that would be required in order to bring suit against a major utility. This bill retains the Price-Anderson Act's unique no-fault system, which enables victims to bypass the more onerous aspects of tort litigation.

I am aware that some of my colleagues are disappointed that the $7 billion compensation responsibility imposed on the utility industry is not greater, or indeed that any liability limit was retained. I too supported a higher figure, and fought in the Interior Committee for a higher amount. While I understand this sentiment, I strongly believe that it should not prevent Members concerned about the public's welfare from supporting this bill. There simply is no substitute for the combined advantages of the large, assured compensation fund and the ease of recovery afforded under the traditional Price-Anderson Act and improved upon in this bill.

In addition, this bill clarifies the Price-Anderson Act's application to accidents involving high-level nuclear waste, and guarantees $7 billion in compensation for the public. The Department of Energy currently oversees the storage of vast amounts of defense waste, and over the course of this renewal of the act may begin disposing of waste from commercial generators in the repository now under development.

Similarly, the bill increases from $500 million to $7 billion the amount of compensation provided for victims of an accident involving DOE defense production facilities. Great strides have been made toward improving the oversight and safety of these essential components of our defense system, but the recognition of problems at these facilities only underscores the need for adequate compensation in the event of an accident.

With respect to the Department of Energy's defense operations, is it absolutely essential that we enact this renewal legislation as soon as possible. Private companies now negotiating with DOE have warned that they will not sign contracts without Price-Anderson's indemnification authority. These contracts concern facilities which are of critical importance to our weapons program, such as the Pinellas plant in Florida, the Savannah River plant in South Carolina, and Brookhaven National Laboratory in the New York.

Finally, I would like to speak briefly to three amendments we are proposing to the Senate under this bill and to the procedure we are using today. It has been nearly a year since the House reported its bill, and 4 months since the Senate reported a bill. The two bills are substantially similar, and many of the differences have not been difficult to resolve. However, three of the amendments the Senate attached to the House bill are noteworthy, and have been modified somewhat in the substitute we are voting on today.

First, the substitute proposes an even split between the House and Senate provision on the length of the act's renewal. The House favored the traditional 10-year renewal, while the Senate proposed to extend the act for 20 years. The substitute would renew the act for 15 years, and I am satisfied this is a fair result.

The second amendment I would like to address is the Senate's civil penalties provision. As my colleagues may recall, I supported an amendment, which the House did not adopt, to permit DOE to impose civil penalties on contractors that violate safety regulations. The Senate's inclusion of a similar provision has required the House to consider the matter for a second time, and the substitute bill would largely recede to the Senate on this point. While the provision is less stringent than I would prefer, I believe the compromise the substitute is valuable and worthy of our support.

The third Senate provision I would like to address, the question of indemnifying nuclear pharmacies, has proven particularly controversal. I am pleased that in developing the substitute, we reached informal agreement with our colleagues in the Senate who are most concerned with this topic. I have not supported extending a Federal indemnity to this industry, and have grave reservations about committee Government funds in this manner. However, in the interest of moving the legislation, I am willing to support the compromise, which directs the Nuclear Regulatory Commission to conduct a negotiated rulemaking on the issue. I note that the compromise does no more than require the Commisison to consider the matter, and that it clearly reserves the final decision to the Commission's sole discretion.

Finally, while the procedure set forth in the rule is somewhat unusual, I feel it is the best avenue at this late date in the session to ensuring that a Price-Anderson bill is enacted this year. This approach has been coordinated with, and is supported by, both the majority and the minority on the Interior and Commerce Committees.

I recognize that this bill may not be ideal from anyone's point of view. However, I think we should take satisfaction from the fact that it is very good, solid renewal of a much needed law. The Price-Anderson Act has served both the public and private industry involved in our energy and defense sectors well. This bill introduces many important improvements to the Price-Anderson Act, and we can ill afford to risk letting it lapse any longer.

I thank my colleagues for their attention and urge them to support this important legislation.

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Mr. LENT. Mr. Speaker, I yield 5 minutes to the gentleman from Alaska [Mr. YOUNG], the ranking member of the Committee on Interior and Insular Affairs.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 1414, the Price-Anderson Amendments Act, and ask that the House do the only responsible thing and pass the bill without delay.

The bill would increase tenfold the level of protection to those who might be affected in the unlikely event of a nuclear accident, and that in itself is reason enough for support.

But this bill is needed for other reasons. It has been exactly 1 year since the authority of the NRC and the Department of Energy to enter into agreements with their licenses and contractors ran out. That means that while we have an existing program for prompt settlement of claims resulting from a commercial nuclear energy facility accident, our Nation's ability to conclude agreements with contractors who conduct programs related to our national security is in jeopardy. This bill would resolve this insecurity in the arsenal, of democracy, while increasing the level of protection for citizens of the United States.

Perhaps most importantly, the enactment into law of this bill will send a strong signal to U.S. consumers of electricity—residential and business—that our Nation is open for business and ready to compete.

This Nation—the greatest engine of human material, spiritual and intellectual growth in the history of man—has led the world in freeing man from the burden of his own or an animal's back through the efficient delivery of energy. We need more energy resources for the 21st century. Yes, we need conservation—the wise use of resources goes without argument, and is central to our future.

But many see this as the solution to all of our problems. They are dead wrong, and their shortsightedness threatens our Nation's ability to compete in the next century.

A nation without energy is like a body without energy—withering and dying. We need nuclear. We need coal. We need hydro. We need to open the coastal plain of the Arctic National Wildlife Refuge in Alaska. We need everything we can, if we expect to compete.

Nuclear is clean, it's efficient. It's safe, and with this bill, we will guarantee its safety to the public.

Oil and gas should not be used to produce electricity. They are best used as a transportation fuel to grease the wheels of a huge nation on the move.

As electrical production increases to meet the needs of an electronic communication society, we should not be sending money to Canada to buy it. We need to have a safe, practical energy supply system. Nuclear power gives us that, and H.R. 1414 insures it. I urge Members to support this bill—our future demands it.

Mr. Speaker, Shoreham, Comanche part 2 and WPPSS 3 are tombstones of the nuclear age, some people say.

The argument over the legitimacy of powerplants began before they were proposed. It may never end. But one thing is indisputable: Anywhere from $3 to $5 billion is tied up in each of the 10 reactors in the United States are substantially finished but sit idly by because they lack regulatory approval.

That is a lot of money going to waste. Now, as the environment seems to be suffering more and more than ever from our relentless combustion of fossil fuels, witness the greenhouse effects, the acidic lakes, the widening swaths of dead trees, Americans must ask themselves whether they really want to allow these emission-free powerplants to remain mausoleums. This is not a debate over nuclear power per se. This question is whether we should put more money into this power source or indeed whether we should have put any money into it at all. Even if the answer to this question is "no" and sometimes we may lean in that direction, as some on this House floor may, it is foolish to allow those plants to stand idle. They represent $40 billion of underutilized assets at a time when the country cannot afford to squander its financial resources and they can contribute a modest but meaningful reduction to the amount of fossil fuels that we burn over the next four decades. True, some of these plants may pose environmental and safety risks on their own. But the potential dangers must be weighed against the risk of not employing such ready assets when excessive use of fossil fuels could one day mean the end of life as we know it on Earth.

With what Chernobyl has instilled in our memories, the dangers from combustion of fossil fuels may not seem so dramatic, but they nevertheless are starkly real. That is why the financial and environmental gains to be achieved by starting up our idle nuclear reactors seems compelling. I suggest that we take the wraps off the Shoreham and the other 10 plants sitting idly by and use those resources which we have spent to develop the needed energy in this country. We need our fossil fuels for propulsion, we need them for transportation, but we need nuclear power for the future generations.

I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I rise in strong opposition to H.R. 1414, the Price-Anderson Amendments Act of 1988.

Yesterday, I received, as I'm sure all of you probably did, a letter from the American Nuclear Energy Council [ANEC], strongly urging me to support the compromise bill before us today. And it's no wonder. ANEC, as it indicated on this letter, represents over 100 organizations with an interest in nuclear power—read that economic interest—like utility companies, architect-engineers, and uranium mining companies.

And it's because the conference report on H.R. 1414 protects their economic interests—not necessarily the economic interests of the average American taxpayer, or the health and environmental interests of American citizens—that we should reject this legislative product.

In fact, this attempt at a compromise with the other body remains as fatally flawed as the version that passed this House last summer, and in some cases, it is even worse.

VICTIM COMPENSATION

H.R. 1414 still fails to provide full compensation to victims in the event of a nuclear accident. Instead, this bill raises the liability limit of the nuclear industry to approximately $7 billion, and gives the victim a promise that simply means that the "check is in the mail."

If Congress can't, with the time we have for careful consideration and planning now, before a nuclear accident, come up with a plan to provide for full compensation, I fail to see how anyone could reasonably believe we'll be able to do it in the atmosphere of confusion and recrimination that is sure to follow after a nuclear accident.

And, to make matters worse, this compromise bill does not include the House-passed provisions that would have made sure that victims of nuclear waste accidents, at least, could receive full compensation. The House-passed version of H.R. 1414 set up special procedures that would have waived the $7 billion liability limit if Congress failed to enact a compensation plan within on year after the President submitted his proposal for above-limit compensation. Under the previous House language, all valid claims from nuclear waste accidents would have been paid by from the nuclear waste fund. The House should reject this weakening of its version of the bill.

TAXPAYER PROTECTION—TAXPAYER RIPOFF

H.R. 1414 leaves the Federal treasury, and thus the American taxpayer, as the most likely source of compensation beyond the liability limit. And how much more money than $7 billion might a catastrophic nuclear accident cost? It is a taxpayer ripoff.

In 1982, the Sandia National Laboratories, using a computer model to analyze meteorological, population, and economic data, estimated a wide variety of accident consequences for each of the nuclear powerplant sites in the United States. The study concluded that, in a worst-case scenario, more than 100,000 people could die and economic damages could exceed $100 billion at some locations.

In 1987, the GAO estimated that the financial damages from a catastrophic nuclear accident under average weather conditions could reach $15 billion. The study noted that severe weather conditions, such as heavy rain, could increase these costs by 10 times.

A February 1987 NRC analysis of a potential fuel core meltdown accident at a plant with a GE Mark I containment structure estimated up to 30 million people could be exposed to radiation, with approximately 20,000 latent cancer deaths and $12 billion in off-site property damage alone. Analysis was done of a hypothetical accident at the Peachbottom Plant near York, PA.

ATTORNEYS' FEES

Like last year's House-passed bill, the compromise bill before us today would still allow the nuclear industry's attorneys' fees to be paid out of the limited compensation fund in the event of a nuclear accident. What's the matter with that? Let's use Three Mile Island as an example.

As we all know, the major test of the Price-Anderson system so far was the Three Mile Island accident in March 1979. Since 1979, a total of approximately $48 million has been paid out of TMI's licensee's first tier—$160 million primary insurance coverage—financial protection. That total breaks down like this: $40 million in public damage claims; $8 million in attorneys' fees.

That means that, out of the total amount paid out of the first tier of the compensation system for Three Mile Island so far, approximately 17 percent has been paid in attorneys' fees!

And 17 percent of $7 billion is almost $1.2 billion—$1.2 billion could compensate a lot of public damage claims, a fact which becomes very important when you remember we're dealing with a limited compensation fund.

But if paying out 17 percent of the available public compensation fund doesn't bother you, let me make another point: allowing payment of industry attorneys out of the compensation pool means that victims pay twice.

The general populace, those most at risk of suffering damages from a nuclear accident, can't afford to keep fancy attorneys on retainer to plead their cases for them. After an accident, they're going to be hiring attorneys on a contingency fee basis.

This means, of course, that accident victims will be paying their lawyers out of their damage awards—this is the first time the compensation they receive will be decreased.

The second time comes because the compensation pool established to compensate their damages, the harm caused to the public, will also be used to pay the lawyers defending the guys that caused the harm.

Out of their own pockets, in effect, the victims have to pay both sets of lawyers. I don't think this comports with what the spirit of this law should be, and I don't think this is justice.

Mr. Speaker, this compromise version of H.R. 1414 provides inadequate protection to the potential victims of a catastrophic nuclear accident, and it is fundamentally unfair to the American taxpayer. I urge its defeat.

It perpetuates the most egregious form of corporate welfare imaginable. It should be defeated.

Mr. LENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding this brief time to me.

Mr. Speaker, I rise in strong support of this legislation principally because it is fundamental to continue to meet the energy needs of this country.

Mr. LENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, I want to express my appreciation for the hard work you and our colleagues have done to put together this compromise amendment, and I agree with most of the provisions included in this legislation. However, I cannot agree with putting a limitation on nuclear waste accident liability, and I'd like to take this opportunity to explain why.

First of all, I think it is reasonable to set a limit on liability for nuclear power generation because the utilities involved have only one source of income, that is through ratepayers. We all know that power rates usually must work their way through public utility commissions who aren't about to approve the concept of unlimited liability for their constituents. Furthermore, the probability of a serious nuclear accident caused by powerplant operation is extremely remote. The history of our nuclear industry shows that, even in the case of Three Mile Island, the Price-Anderson liability cap was more than adequate.

High level nuclear waste is a different story. It is the property of the Government. And because there is no history of transportation, handling, and disposal of this waste, the potential for accident is unknown. I can understand that some of my colleagues contend if we extend unlimited liability to nuclear waste activities it will set the precedent for there being no limits on the liability for commercial reactors and other Federal contractor activities. I disagree with this proposition because high level nuclear waste disposal activities are distinct from all other nuclear matters covered by this act. They are the only activities under complete Federal supervision at every stage of the process.

I believe there should be unlimited liability coverage to protect the health and safety of the public against high level nuclear waste accidents, and therefore must oppose the passage of H.R. 1414.

Mr. ROE. Mr. Speaker, I rise in support of the substitute.

The Senate's 16 amendments to H.R. 1414, in most instances, brought the legislation closer to the original recommendations of the Committee on Science, Space, and Technology, as reflected in House Report 100-104, part 2. Therefore, what the Senate did, overall, was to improve the bill.

The compromises and improvements to the Senate's recommendations that are included in this substitute, retain much of what the Senate recommended as amendments. Therefore, the substitute moves closer to the original position of the Science Committee, and is also an improvement in the legislation.

For example, the Science Committee in two Congresses recommended that the act be extended for a longer period than 10 years. The Senate recommended 20 years and the substitute before us today increases the period to 15 years. This improves the bill.

Another example is that the Science Committee did not recommend the provision included in the House bill which would have treated nuclear waste contractors differently from other DOE contractors. The Senate struck this House provision and the substitute agrees with the Senate amendment.

Mr. Speaker, the substitute text to H.R. 1414 resolves nine principle issues which have arisen due to the 16 amendments of the Senate. I concur in the resolution of eight of these issues, and must dissent in the resolution of one issue. The substitute takes the following action—

First, splits the difference on the period of extension and sets it at 15 years;

Second, deletes a House provision requiring, for the first time, appropriations to pay government liabilities under the act;

Third, strikes a Senate provision, which was likely to invite a presidential veto, requiring that Government employees be considered as contractors for Price-Anderson purposes;

Fourth, accepts a Senate amendment making the limit on liability the same for all DOE nuclear activities;

Fifth, allows the Senate to retain expedited procedures but strikes them for the House;

Sixth, compromises on 11 years as the appropriate deadline for the Congress to receive the reports of the DOE and NRC;

Seventh, requires DOE nuclear contractors to be indemnified only under Price-Anderson;

Eighth, requires, as a compromise, NRC to conduct a rulemaking proceeding to determine the need to bring nuclear pharmacies under Price-Anderson coverage; and

Ninth, adds civil and criminal penalties to DOE's enforcement authority over its contractors.

Although I have agreed in principle to all of these amendments in the substitute, the last one on civil penalties is not good law. I tend to agree with the executive branch that such penalties are not necessary, and possibly detrimental to the unique relationship between DOE and its laboratory operations needed to ensure safety. However, I believe the Senate provision, as well as the provision in the substitute, is flexible enough to permit broad discretion on the part of the Secretary either not to impose a civil penalty, and, if imposed, to allow the Secretary to modify or remit the penalty in whole or in part. Therefore, the civil penalty authority should not be harmful in and of itself.

The objectionable part of the civil penalty provision is section 17(d) of the substitute, which creates exemptions to the applicability of the Secretary's authority to levy civil penalties. This provision is poorly drafted, is unfair to certain contractors, is detrimental to broad industry participation in operating the laboratory system, and is anticompetitive in effect.

The substitute text in section 17(d) names some of the existing nonprofit and nominal profit contractors as exempt from any civil penalties. Although I find it rather peculiar to list any exemption to a provision thought necessary by the Senate to promote public safety, I can understand the perceived need to exempt some contractors because of the potential detriment to the DOE/laboratory relationship. Two competing goals have to be reconciled, and the Senate chose this flawed approach.

First of all, naming a specific person, as is done in section 17(d), to be exempt from the law, is in itself improper. The law should have general applicability and, any exemptions should be cast in terms of classes of people. But I am willing to live with this shortcoming as long as the list names everyone in the class. Unfortunately, the substitute does not name everyone in the contractor class who is either a nonprofit or educational institution.

Second, neither the Senate or the Interior or Commerce Committees have identified any good reason for discriminating against some of the nonprofit or educational contractors, to wit, Stanford University, Oak Ridge Associated Universities, Southeastern Universities Research Association, and there may be others that DOE has yet to identify. These contractors were left off the list because they weren't known to the Senate at the time the amendment was agreed to.

Third, the exemption provision in the substitute gives the exempted contractors unfair advantage over possible competing contractors when the laboratory contract is due for renewal. This occurs because successor contractors are not covered under the exemption. It is an advantage to be exempt from such a contingent liability and this fact will obviously be a factor in any bid to run a national laboratory.

Fourth, the fact that potential competitors will not have the exemption will have a distinct chilling effect on possible competitors. Those capable contractors who might otherwise be brought into the laboratory system will not be inclined to apply. The exemption list would, therefore, tend to be anticompetitive, preserving the status quo at the expense of the ability of the Government to find and choose the best operating contractors for the laboratories.

Having identified these problems, I sought the advice of the laboratories and the Department of Energy. There were no surprises in the responses, and, for purposes of brevity, I include only the DOE response in the RECORD at the end of my remarks. I will provide the laboratory responses to those who may be interested.

In summary, the laboratories with the exemptions wanted to preserve them. DOE didn't approve of the civil or criminal penalty provisions but thought that it had sufficient flexibility to administratively deal with the problems. I agree, but this is certainly no excuse for the Congress to enact poorly drafted legislation.

Because of the adamant position of the Senate regarding this provision, I prepared an amendment which I thought called for minimal changes in its scope and form. Essentially, my amendment would add the three known contractors fitting the class of exemptees, and also add their successors, if they also fit the class; that is, nonprofits or educational institutions. This was rejected by the Senate, and, as a result, by the other two House committees of jurisdiction. My colleagues on the other two House committees did not wish to risk jeopardizing the expedient enactment of this law because of the Senate's threatened rejection of my amendment. I believe it would have been healthy to force the Senate to deal with this issue.

There is a second problem with this substitute that has only recently been identified. I admit that it is a new issue and has not been fully considered by any committee of jurisdiction. However, its importance is not diminished by this oversight, especially considering that a chief purpose of the Price-Anderson Act is to protect the public.

Mr. Speaker, the substitute includes a substantial disincentive to assuring public safety that I believe should be eliminated.

The Science Committee has authorized the development in the Department of Energy of a new generation of nuclear reactor that promises to be a fail-safe reactor. All the accidents considered by the Nuclear Regulatory Commission for current generation reactors would be foreclosed in this new generation reactor; foreclosed in the sense that gravity or other physical phenomena prevent the accident from occurring in the first place. This technology is precisely what this country needs to meet public demands, to fight the acid rain problem to respond to the CO_2 problem, and to rekindle our Nation's nuclear energy option.

What we should be saying through this substitute bill is, "The Congress does not intend to discourage utilities from purchasing inherently safe reactors." This substitute bill is a 15-year reauthorization and these new reactors could be available with a decade. But the bill, as currently written, would discourage any utility from buying these reactors.

The bill authorizes the NRC to assess a $63 million retrospective premium against each reactor licensee in the event of an accident. One of the attractions of the modular reactor concept is that a utility would be able to buy smaller increments of capacity to better meet customer demands. If eight of these modular reactors were, over a period of years, added to a system so as to constitute a single 1,200-megawatt electric plant, then a utility might be faced with a total assessment of $504 million, instead of a single $63 million assessment for a single, current generation reactor.

This, obviously, would be a substantial disincentive for utilities to purchase the passively safe, modular reactors, instead of the larger sized, current generation reactors.

I agree that this issue is a relatively new one. The NRC has said in the letter included below, that we have identified a real problem that can only be handled by the Congress. The solution I proposed is to give NRC the authority to treat a group of modular, inherently safe reactors as a single facility for purposes of the retrospective premium. I believe this issue could have easily, and without controversy, been resolved by my amendment.

Once again, my counterparts on the other two committees of jurisdiction opposed adding a new issue to the bill at this late date, despite their agreement that we certainly do not want to discourage utilities from purchasing inherently safe reactors. They feared that the Senate might not agree and they did not consider the issue to be critical at this point in time. I disagreed because I believe we do not have to let expediency rule over common sense and good lawmaking.

Faced with two important deficiencies with the substitute, I elected to bring my amendments to the attention of the Rules Committee, but I regret that they declined to make my amendments in order for presentation to this body.

I must reemphasize that the proposed substitute text contains 98 percent of what I believe to be appropriate policies to protect the public, assure continued operation of the national laboratory system, and enhance safety both in the commercial sector and at the national laboratories. It is unfortunate that I cannot give the bill my 100 percent commitment. Nevertheless, considering that the overwhelming percentages involved invoke good sense, the substitute is an acceptable compromise for overall passage.

I support the adoption of the substitute.

Mr. HUCKABY. Mr. Speaker, I would like to make a few brief remarks about the legislation currently before the House. This bill will reauthorize the Price-Anderson Act, and significantly improve the protections previously afforded to all citizens from the hazards associated with this Nation's nuclear program. The legislation also provides a process by which the Nuclear Regulatory Commission will likely extend the act to radiopharmaceutical licensees. Radiopharmaceutical licensees, including nuclear pharmacies, hospital nuclear medicine departments and radiopharmaceutical manufacturers, currently make available radioactive drugs in unit doses. These important drugs are necessary for the maintenance for the high standard of health care all citizens in our country presently enjoy. Each year, millions of Americans are diagnosed through the use of these drugs. In addition, researchers are making great progress with these drugs in reducing abnormal cells to acceptable levels in children with lukemia and other serious diseases.

The ability of radiopharmaceutical licensees to maintain operations in the future is in serious question because of recent State tort law decisions which expose them to law suits for damages allegedly due to low level radiation emission, even emissions within NRC guidelines. From the evidence presented to the Interior and Insular Affairs Committee, I am convinced that the potential liability faced by these radiopharmaceutical licensees can realistically force them out of business because they cannot obtain insurance for the nuclear risk. As with the vaccine industry, the unwillingness of the commercial insurance industry to provide coverage creates the need for Federal intervention so the standard of healthcare may be sustained.

It is my understanding that despite the evidence submitted to the committee by the radiopharmaceutical licensees themselves, there is some question as to whether or not commercial insurance is available for this risk. For this reason, the process that would be put in place by this legislation will allow a final determination on the insurance question to be made in 18 months from the date of enactment. An independent convener will make an initial determination that can only be reversed by the Commission in the event that clear and convincing evidence supporting such a reversal is subsequently developed. It is not anticipated that the Commission will do work that duplicates efforts undertaken in the negotiated rulemaking process. I am fully confident that, after the Commission has had an opportunity to fully explore the commercial insurance market, coverage under the act will be extended to radiopharmaceutical licensees. I particularly commend Chairmen UDALL and SHARP for affording this unique process by which this issue can be finally and swiftly resolved. I urge adoption of the legislation.

Mr. SKAGGS. Mr. Speaker, earlier today, the House passed a bill to renew the Price-Anderson Act. I voted in favor of that renewal, as I did for an earlier version of this bill last year, because it offers better assurances than we currently have that victims of nuclear accidents would receive prompt and full compensation, and because it would better protect the taxpayer from picking up the tab in the event of a nuclear catastrophe.

However, I would like to stress to my colleagues that, while the bill is an improvement over current law, it still lacks several measures which would significantly improve incentives for safer operation of nuclear facilities. Lacking these measures, today's bill will provide us better insurance if a nuclear accident occurs, but it won't give us any better assurances that one won't.

In particular, the bill before us today does not include the Sharp-Wyden amendment to hold contractors at Department of Energy [DOE] nuclear facilities liable for damages caused by gross negligence or willful misconduct on the part of their corporate management. Nor does it contain the Walgren amendment assigning nuclear waste transporters limited liability for gross negligence or willful misconduct, and requiring them to carry reasonable amounts of insurance.

Under current law, these transporters and DOE contractors are entirely shielded from liability. This indemnification acts to remove from play the normal safety incentives that the rest of our economy relies on and lives with. Common sense tells us that a firm with some limited liability, with some corporate funds at stake, is going to be more concerned about safety than one that won't have to pay a dime in the event of a major accident. It's a real shame these amendments were not included in the bill.

Because of the greatly increased insurance this bill offers, I voted for it. Americans need the added protections it offers both potential accident victims and the taxpayer. However, the safety gaps I've mentioned leave this bill incomplete, and I intend to continue to work to make our country's DOE and commercial plants as safe as possible.

Mr. SWIFT. Mr. Speaker, I rise in opposition to the substitute. This is the only opportunity that Congress will have to deal with nuclear liability for the next 15 years. We should do it right, and unfortunately the substitute fails in that regard.

I regret that I must oppose this substitute. I joined most of my colleagues in voting for final passage of the House bill last year—although even that bill had many flaws. Unfortunately, the substitute that has come back from the negotiations with Senate exacerbates those flaws.

Of particular concern to me is the fact that the substitute does not contain the House provisions establishing special procedures to compensate the victims of a nuclear waste accident which exceed the liability limit. These provisions, which were based on legislation which I introduced, were the result of a compromise in the House that took over a year to craft. The Senate, which struck the nuclear waste dump to Nevada, now says to Nevada—and to all States where nuclear waste might be transported—"don't count on compensation if there is a major accident involving this material."

Mr. Speaker, in my view the bill that passed the House was the minimally acceptable Price-Anderson bill. The Senate has returned to us a package that falls short of the House bill, and I cannot support that.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 1414, the Senate amendments to the Price-Anderson Amendments Act. This version of the Price-Anderson legislation is a substitute for the version passed by the House 1 year ago. While many of us would have preferred tougher provisions on liability and a shorter extension period, this legislation makes several significant improvements in the underlying act. It represents a suitable compromise for those of us concerned with ensuring that the public be compensated for damages resulting from an accident at a nuclear powerplant.

Price-Anderson was first enacted in 1957 and was twice modified and extended before it expired 1 year ago. There is no less pressing need now, in 1988, to have in place a system which provides compensation for personal injuries or property damage resulting from a nuclear accident. H.R. 1414, provides such protection while beginning to diminish the special treatment that the nuclear power industry has received from the Federal Government since its inception.

The legislation we are considering today takes steps in the direction of shattering the myth that nuclear power is an infant industry which must receive special protection from the Federal Government. H.R. 1414 puts a greater burden on the nuclear industry to ensure that its operations are safe by hitting the nuclear industry in the place it understands best—the wallet. Let me cite three examples.

First, the bill before us today raises the liability limit on the nuclear industry tenfold, from $710 million to $7.1 billion. In a perfect world, there would be no limit on the amount for which the industry should be liable. In such a world it would be recognized that an energy industry which has received 40 years of Government subsidies, provides only a tiny percentage of our overall energy mix, and earns mega-profits, ought to be turned out on its own and held responsible for the damage it might inflict, just like any other industry. A tenfold increase in the liability limit should tell the nuclear industry that its days of wine and roses are coming to an end.

Second, the legislation increases the one-time deferred premium which nuclear utilities must pay in the event of an accident. These premiums rise from $5 to $63 million, and, most significantly, are indexed to the inflation rate. These provisions tell the industry that it must pay a significant share of the costs of an accident which exceeds its primary insurance coverage. It tells the industry that it will not have the benefit of inflation eroding the value of that coverage. This indexing provision held up consideration of this legislation for over a year. Its inclusion in the final version is a prime example of how the special economic protection that the industry has thus far received is coming to an end.

Third, H.R. 1414 also contains provisions from the amendment offered last year by the gentleman from Oregon [Mr. WYDEN] which puts into place civil penalties of up to $100,000 per day for DOE contractors who violate safety regulations. These provisions make the statement to DOE contractors that their free ride is over, that strict safety standards must be met in this, the most dangerous technology ever known.

The legislation before us may not be a perfect vehicle—the playing field is still tilted toward the nuclear industry since, of all industries operating in this country, it alone will benefit from a liability cap. But by increasing that liability tenfold, by indexing the cap to inflation, and by making contractors pay large penalties for safety violations, we are saying that ultimately, the field will be level. And the nuclear industry will have to play on its own, with no special protection and no special rules.

Mr. SYNAR. Mr. Speaker, I commend my colleagues who have labored so hard and so long to develop this renewal of the Price-Anderson Act. Having worked with them as the bill was considered on this floor and by a number of committees of the House last year, I know and respect the dedication and sincere desire to fashion a responsible bill that they have demonstrated throughout the process.

However, upon reviewing the vehicle before us today, I must conclude that it misses the mark, and I cannot support it. While there are several troublesome provisions contained in this bill, I will focus my comments on what I consider to be the major weakness of the bill—the lack of any real accountability for contractors who operate DOE nuclear facilities.

H.R. 1414 continues the policy of the expired Price-Anderson law which holds constractors harmless for all damages resulting from nuclear accidents, even those which result from their own gross negligence or willful misconduct. By removing this element of financial liability, a crucial incentive for contractor safety and responsibility is lost.

Moreover, it enables contractors at DOE nuclear facilities to enjoy a protected status which is unwarranted and inconsistent with Federal policy in other areas.

No other Federal law provides such sweeping protections for contractors as the Price-Anderson Act. Most other laws offer no protection for gross negligence or willful misconduct.

These include Superfund, the Clean Water Act, the Outer Continental Shelf Lands Act of 1978, and the Swine Flu Act.

Response action contractors under Superfund are not even covered for damages resulting from such negligence. Yet, there is no lack of qualified bidders for clean up contracts.

Even Public Law 85-804, which provides financial protection for contractors engaged in nuclear and ultrahazardous activities for the Defense Department, exposes those contractors to unlimited liability for damages to their own and Government property which result from their own bad faith or willful misconduct.

In fact, only 2 months ago, this body passed, on voice vote, the Commercial Space Launch Act Amendments of 1988. While it provided full indemnification, without limit, for companies involved in commercial space launch accidents, it excludes indemnification for accidents resulting from willful misconduct.

There is no rational argument why the same contractors who will perform nuclear and ultrahazardous work for the Defense Department and will engage in the commercial space industry without indemnification for costs of damages resulting from gross negligence or willful misconduct, oppose efforts to be held accountable for gross negligence and willful misconduct under the Price-Anderson Act.

The superfluity of such total exemption for responsibility is underscored by the fact that prior to adoption of the first Price-Anderson Act in 1957, many of the same contractors who are in the business today, including General Electric, Babcock, and Wilcox, the University of Chicago and the University of California at Berkeley, operated under indemnity agreements with the Atomic Energy Commission which excluded damages resulting from egregious behavior. It is not clear why such contractors must be less accountable today than they were 30 years ago.

However, throughout the course of our consideration of this issue, the DOE and its contractors have strongly resisted any type of accountability amendment. They claim that contractor fees are small and do not warrant taking on any risk. In fact, some contractors have threatened to walk away from their contracts if an accountability provisio is enacted.

The contractors' threat to walk, which has been offered by many as the rationale for exempting the contractors from all liability, has been shown to be a bluff. The Price-Anderson Act expired over 1 year ago. Yet, since that time, a number of contractors have renewed their contracts to operate DOE nuclear facilities without the protection of Price-Anderson indemnification and operating contracts, which are still being competed, have not lacked for bidders.

It should also be noted that contractors' fees are not as small as they would have us believe. They operate under cost plus contracts, and many contractors are receiving millions of dollars in profits for supplying a small number of people to manage a facility.

But a discussion of contractors profits is not relevant to the issue before us.

Whether a fee is $1 or $10 million, citizens and communities have a right to expect that contractors will manage these sensitive facilities responsibly and carefully, and—at the very least—will not engage in gross negligence or knowingly violate regulations.

How can a contractor take the approach that because it doesn't make a certain amount of money, it cannot be responsible for even such a minimal standard of performance?

Why should the taxpayers be the ones to bear the costs of patently unsafe practices and activities?

The provisions in H.R. 1414, which give the Secretary of Energy the discretion to impose civil monetary penalties upon contractors for violations of DOE regulations, and exempt a broad class of nonprofit organizations from such penalties, are an unacceptable substitute for effective financial accountability.

In closing, there is nothing radical about a proposal that a corporation or any other institution should be responsible for its actions, and has an obligation to stockholders, citizens, and communities to conduct its business responsibly and safely.

We all have industries in our district which are crucial to the well-being of our States and the Nation. In my district, farming, ranching, and oil and gas production are crucial industries. Yet, the individuals and companies who participate in those ventures are responsible for their own actions. No one excuses them from liabilities resulting from their own gross negligence or willful misconduct, and they don't expect to be. This is a basic tenet that we are all taught from grade school, and is a standard of our judicial system.

We should apply the same standards to contractors who operate our government nuclear facilities. Contractors should expect no more, and our citizens deserve no less.

Mr. Speaker, because it lacks adequate contractor accountability provisions, I urge my colleagues to vote against the passage of this legislation.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time and ask for a vote.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the motion offered by the gentleman from Arizona [Mr. UDALL].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ECKART. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 54, not voting 31, as follows:

[Roll No. 251]

YEAS—346

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dreier
Dwyer
Dyson
Early
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Jones (NC)
Jones (TN)
Kanjorski
Kasich
Kennedy
Kennelly
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Olin
Ortiz
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Whittaker
Whitten
Williams
Wise
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—54

Atkins
AuCoin
Coyne
DeFazio
Dellums
Donnelly
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Evans
Frank
Gonzalez
Goodling
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Johnson (SD)
Jontz
Kastenmeier
Kildee
Leland
Lewis (GA)
Lowry (WA)
Miller (CA)
Morrison (CT)
Morrison (WA)
Mrazek
Oberstar
Obey
Owens (NY)
Panetta
Pelosi
Roybal
Sabo
Savage
Scheuer
Schroeder
Schumer
Sikorski
St Germain
Stark
Stokes
Swift
Synar
Traficant
Vento
Weiss
Wheat
Wolpe
Wyden
Yates

NOT VOTING—31

Bentley
Biaggi
Boulter
Boxer
Clay
Conyers
Crockett
Daub
Davis (IL)
Dowdy
Foley
Ford (TN)
Garcia
Gray (IL)
Kaptur
Kemp
Kolter
Latta
Leath (TX)
Lipinski
Mack
McDade
Mica
Michel
Rose
Russo
Spence
Studds
Sweeney
Taylor
Wilson

□ 1414

Mr. KASTENMEIER changed his vote from "yea" to "nay."

Mr. MARLENEE, Ms. SLAUGHTER of New York, Mr. WAXMAN, and Mr. KENNEDY changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was placed on the table.

□ 1415

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CLARIFYING STATUS OF SUBMERGED LANDS IN THE STATE OF ALASKA

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2629) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations, and the State of Alaska, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 5, after line 10, insert:

SEC. 103. (a) IN GENERAL.—The Secretary shall prepare a report that assesses the effects of the implementation of section 101 of this Act on Conservation System Units as defined in section 102(4) of the Alaska National Lands Conservation Act and makes recommendations for appropriate action.

(b) SCOPE OF REPORT.—The report required to be prepared under subsection (a) shall at a minimum—

(1) identify and estimate the acreage of all lands currently patented to or selected by a Native, Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation Act, the Alaska Statehood Act, or this Act that is within the boundaries of Conservation System Units;

(2) establish priorities for the acquisition of lands currently patented to or selected by a Native, Native Corporation or the State that are within the boundaries of Conservation System Units;

(3) make recommendations as to administrative or Congressional action deemed appropriate to reduce any adverse effects of section 101 on the management of lands or resources within Conservation System Units.

(c) SUBMISSIONS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall submit a report pursuant to subsections (a) and (b) of this section to the Committee on Environment and Public Works and Committee on Energy and Natural Resources of the United States and to the appropriate committees of the United States House of Representatives.

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from California [Mr. Miller] for an explanation of the bill.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman from Alaska for yielding.

Mr. Speaker, I rise in support of H.R. 2629. This legislation was approved by the Interior and Insular Affairs Committee on July 29, 1987, and passed unanimously by the House of Representatives on August 3, 1987. The Senate Energy and Natural Resources Committee favorably reported H.R. 1516, without amendment, on March 2, 1988. The Senate adopted an amendment and passed the House legislation by voice vote on July 14, 1988.

SUMMARY

Title I is intended to resolve complex problems related to the coveyance of submerged lands under the multitude of lakes and rivers in Alaska. This title ratifies the Department of the Interior's 1983 decision to apply the Bureau of Land Mangement's [BLM] "Manual of Instructions for the Survey of the Public Lands of the United States (1973)" [Manual] to land conveyances to the State of Alaska under the 1958 Alaska Statehood Act (Public Law 85-508) and to Alaska Native corporations pursuant to the 1971 Alaska Native Claims Settlement Act (ANCSA, Public Law 92-203).

Title II clarifies that Congress must review and specifically approve any exchanges or other land conveyances by the Department within the coastal plain of Alaska's Arctic Wildlife Refuge [ANWR]. This amendment to section 1302(h) of the 1980 Alaska National Interest Lands Conservation Act [ANILCA] is in response to the Department's megatrade proposal to swap 73 highly prospective oil and gas tracts on 166,000 acres in ANWR—valued at $539 million—for 896,000 acres of Native corporation inholdings within seven other national wildlife refuges in Alaska. The Department asserts that it currently has the legal authority to execute the "megatrade" exchanges without congressional approval.

Title II approves Public Land Order No. 6607, dated July 8, 1985, thereby adding approximately 325,000 acres to the 19 million acres managed by the U.S. Fish and Wildlife Service in the ANWR.

Finally, Senators Metzenbaum and Burdick added a new section to H.R. 2629 that would direct the Secretary to assess—and report to Congress with recommendations to mitigate—any adverse effects on national wildlife refuges, national parks and other conservation system units in Alaska from implementation of the land conveyance practices set forth in title I.

SUBMERGED LANDS

Title I of H.R. 2629 is substantially identical to section 918 of H.R. 39 as it passed the House in 1979.

Under the Alaska Statehood Act, the State received a total land entitlement of approximately 105 million acres, while Alaska's Native corporations received about 44 million acres under ANCSA. The State also received title to submerged lands underlying navigable lakes and rivers under the Submerged Lands Act. These submerged lands are transferred to the State in addition to, not as a part of, the entitlement acreage.

The controversy in Alaska centers on the definition of "navigable" waters and the administrative standards by which submerged lands are conveyed and charged against State and ANCSA acreage entitlements. BLM's standard practice in other States is to convey the beds of lakes over 50 acres and rivers of over 198 feet wide to the riparian owners without charging the submerged lands against the recipients acreage entitlement.

Because of judicial disputes over the proper criteria for determining navigability, and the Department's policy, prior to 1983, of applying different land conveyance rules in Alaska than in any other State, many riverbeds and lakebeds claimed by the State have instead been conveyed by the BLM to Native corporations and charged against their ANCSA acreage entitlements. A similar dispute exists with regard to chargeability of acreage for entitlement conveyances to the State.

Under section 901(a) of ANILCA, the State has only a limited period of time in which to contest Federal navigability decisions concerning title to lands underlying rivers and lakes which have been conveyed to Alaska Native corporations by the BLM. The combination of unique administrative conveyance practices prior to 1983 and the limitations period in section 901(a) raise the potential for extensive litigation in Federal court by the State to quiet title to submerged lands that have been conveyed to Native corporations.

H.R. 2629 would permanently repeal section 901(a)'s statute of limitations on navigability litigation, which has already been extended twice by Congress since 1980. As a result, much expensive and unnecessary deadline litigation between the Federal Government, State, and Native corporations would be avoided, and the pattern of navigability lawsuits in Alaska would be spread out over time and approximate that of other States.

H.R. 1516 would also alleviate much of the problem concerning submerged lands and acreage chargeability by applying uniform conveyance rules set forth in the 1973 BLM Manual to Alaska. This would assure equality of treatment between such conveyances in Alaska and the transfer of public lands in other States and also assure that both the State and Alaska Natives receive their full land entitlements under the Statehood Act and ANCSA.

The Metzenbaum-Burdick amendment to H.R. 2629 was partly inspired by a BLM study which concludes that applying the land conveyance practices of title I may result in an additional conveyance to the State and Native corporations of 1.8 million acres of public lands. Of this total, BLM estimates that about 713,038 acres could be conveyed to Native corporations with entitlements within the boundaries of conservation system units, primarily national wildlife refuges. The State of Alaska disputes this BLM study and estimates that, based on recent favorable judicial navigability decisions, the total impact of title I would be between 300,000 and 783,000 acres of additional conveyances to the State and Native corporations.

The Metzenbaum-Burdick amendment requires that the Secretary engage in a systematic review of any adverse effects of title I on wildlife refuges, parks and other conservation system units in Alaska. It is important to note that, although this amendment directs the Secretary to report to Congress within 1 year with recommendations, it most definitely does not authorize the Secretary to unilaterally engage in land exchanges or acquisitions of inholdings prior to review of the report by Congress and additional legislative guidance. Such actions may in fact not be necessary or desirable public policy.

As a final note on title I, I would like to especially acknowledge the perseverance and effort over the past years on the submerged lands issue by Don Mitchell, counsel to the Alaska Federation of Natives and by John Katz, Director of Federal/State Relations and Special Counsel to Alaska Gov. Steve Cowper. They deserve a tremendous amount of credit from Alaskans for the enactment of this significant legislation, at long last, into law.

ANWR MEGATRADE

Title II of H.R. 2629 is identical in intent to separate ANWR land exchange legislation introduced on July 23, 1987, in the House by myself, Congressman Studds and Congressman Young and in the Senate by Senator Bill Bradley—S. 1493.

The language in this title is neutral; it only requires that Congress have the final say on land exchanges involving the 1.5-million acre ANWR coastal plain and on any land selections after July 28, 1987, by the Kaktovik Inupiat Corporation [KIC], Arctic Slope Regional Corporation [ASRC] or individual Natives pursuant to ANCSA, the Chandler Lake exchange, the Native Allotment Act or this or any other act.

Mr. Speaker, I am not neutral on the Department's proposed ANWR megatrades. The megatrade process is so flawed and the proposal so far outside the realm of the public interest that the Congress can not possibly accept it. If people believe that this concept is part of the bargain for the Congress to open ANWR to oil and gas development, then this is fatal to that determination.

On July 7, 1987, the Subcommittee on Water and Power Resources, which I chair, held an oversight hearing on the Department's proposed ANWR land exchanges. We received testimony from the General Accounting Office based on their draft report, prepared at my request, entitled "Federal Land Management: Consideration of Proposed Alaska Land Exchanges Should Be Discontinued" (GAO/RCED-88-179).

The GAO's testimony is an incredible indictment of the megatrade process and concept. The Secretary's recommendation to Congress in the section 1002 report described the coastal plain of the ANWR as "the Nation's single best opportunity to increase significantly domestic oil and gas production over the next 40 years." Yet William P. Horn, the Assistant Secretary for Fish, Wildlife and Parks, was maneuvering to hand out this resource in a nonpublic, noncompetitive, unprecedented manner to Alaska Native corporations and their oil company partners long before the Congress even began to consider whether to open the area to development.

The GAO testified that it "would not be in the Government's best interests to proceed with the proposed exchanges" for the following reasons:

First. About three-fourths of the Native inholdings the Federal Government would acquire would provide only limited wildlife and habitat protection benefits;

Second. The negotiated price the Federal Government would pay for the Native inholdings is six times their appraised fair market value;

Third. The actual values of the oil and gas tracts that the Native corporations would acquire in ANWR are unknown and the estimated values are highly uncertain because they are based on limited surface seismic data;

Fourth. Accepted methods for dealing with uncertainty—requiring competitive bidding for the tracts and retaining a continuing royalty interest for the Government in the actual amounts of oil and gas that may be produced—were not employed.

Interior has repeatedly represented that the megatrade proposal involves an equal value exchange since the Department has valued both the Native inholdings that the Government would acquire and the oil and gas tracts the Native corporations would acquire at $539 million. The compelling evidence presented by the GAO, however, shows that the Department is playing very loose with the public's resources, paying a premium price at one end for the Native corporation inholdings and giving away the ANWR tracts at bargain basement prices at the other.

What is it we are actually acquiring from the Native corporations? The Assistant Secretary privately negotiated to inflate the fair market appraised value of the Native inholdings from $90 million to $539 million on the basis of public interest considerations. Yet none of the 896,000 acres of Native refuge inholdings are on the Department's national priority list for acquisition. Only 9 percent or 180,000 acres of the top 2 million acres of Fish and Wildlife Service priorities in Alaska are involved in the swap. Thirty-one percent of the Native lands are rated by the F&WS refuge managers as low priority or unsuitable for acquisition. Thirty-nine percent are already protected against development that would materially impair refuge values under section 22(g) of ANCSA. Fifty-five percent of the lands contain a subsurface interest which is retained by the Native corporations. The majority of the affected Native residents also retain in perpetuity easements for subsistence access to the lands they are trading to the Federal Government.

What is it that we are giving up in ANWR? The Department wants to trade away to a handful of selected Native corporations and their oil industry partners the potential for major revenues—possibly billions of dollars—that would be generated by major discoveries in ANWR. The 166,000 acres of ANWR selections in the proposed exchanges, in combination with the 92,000 acres acquired in the 1983 Chandler Lake exchange by the Arctic Slope Regional Corporation [ASRC], would result in the noncompetitive conveyance of more than 250,000 of the most highly prospective acres within the coastal plain. According to an analysis by the State of Alaska's Division of Oil and Gas, all 73 tracts selected by the Native corporations, with the advice of the Nation's major oil companies in the secret session last year in an Arlington hotel overlie the highest potential structures in ANWR.

In testimony on July 7 in opposition to the megatrades, the State of Alaska gave the following assessment:

> The proposed exchanges involve a large proportion of the best or most highly prospective coastal plain lands. We believe fair market value can only be assured through a fully open and competitive leasing program and retention of royalty interests on all the ANWR tracts. The fairness and equity of competitive leasing, as well as the risk reduction and maximization of revenues to the federal government, are in marked contrast to the terms of the proposed exchanges.

The Department simply does not have the quantity or quality of data in ANWR to accurately put a price tag on the future value of individual 2,560-acre tracts. BLM had no well data from within ANWR to use in its tract valuation process because the Department specifically failed to obtain access to the KIC well drilled by Chevron and British Petroleum under the terms of the 1983 Chandler Lake exchange.

The terms of two of the agreements between Native corporations and their oil companies demonstrate that BLM in fact vastly undervalued the ANWR tracts involved in the megatrade. Four of the Native groups have refused to provide their agreements to the subcommittee or to the public.

Koniag, Inc. wants to exchange 122,564 acres of inholdings within the Kodiak National Wildlife Refuge for 3,183 acres in ANWR. Koniag's selection was assisted by Chevron which has the advantage of data from the KIC well drilled on lands adjacent to the coastal plan. This is viewed by the Department as an equal value exchange of $77.4 million. Yet Phillips was willing to pay $55 million for only a 49-percent interest in a lease option. Koniag would also receive a 20-percent royalty on production from its leases which can ultimately be converted to a 40 percent net profit share. Koniag would also receive an overriding royalty on any other activities of its oil company partners within six miles of the selected tract.

Old Harbor Native Corp. proposes to exchange 90,355 acres of refuge land for 57,679 acres in ANWR. The Department considers this to be an equal value exchange of $45.7 million in assets. Yet Texaco would essentially remove any risk to Old Harbor by giving the Native corporation a "hold harmless" deal of $45.7 million in cash for a lease option. In addition, Old Harbor would stand to gain a tremendous windfall of 14-percent royalty on production for its ANWR tracts and a 1.5-percent overriding royalty on production on any other Texaco leases in ANWR.

Why are the oil companies willing to put up such enormous sums of money and agree to such generous terms with the Native corporations? First, because the Department's secret tract selection process last year gave them an opportunity to pick tracts without competitive bidding against other companies. Second, under the terms of the proposed agreements with Interior, and because Alaska Native corporations are exempt from NEPA under section 910 of ANILCA, the oil companies would not have to wait for environmental regulations to be issued or for the first ANWR lease sale to be conducted before conducting exploratory drilling on the privately owned Native corporation tracts.

Mr. Speaker, the megatrade proposal was never designed to provide a fair return to the public for disposition of what is described by the Department the most valuable remaining oil and gas prospect in the Nation. It was not designed with the primary intent of acquiring "crown jewels" for the national wildlife refuge system. This was designed to be a lobbying system. This was designed to put together a political coalition of Native Alaskans in an attempt to generate support from environmentalists and the Democratic Congress to open ANWR, while at the same time masking an incredible giveaway to a few Native corporations and their oil company partners.

The absolute bankruptcy of justification for the megatrades is reflected in the continuing controversies over the previously executed Chandler Lake exchange between the Department and the Arctic Slope Regional Corp. In hearings before my subcommittee in June, ASRC argued that, because of its exchange contract with the Department—which was executed without congressional scrutiny or approval—Congress can not, when enacting ANWR legislation, establish different terms and conditions on the pace of development on their 92,000 acres of private inholdings on the coastal plain without subjecting the Federal Government to fifth amendment liability. Further, ASRC asserts that it successfully avoided sharing ANWR revenues with other Native corporations under the terms of section 7(i) of ANCSA by cleverly constructing its exchange.

In testimony to the Senate Energy and Natural Resources Committee on October 20, 1987, the BLM cited a technical problem in title II of H.R. 2629. The BLM is concerned the Kaktovik Inupiat Corp. [KIC] may be underselected and that title II of the legislation could be considered to create an additional barrier to KIC, and to ASRC which obtains the subsurface by virtue of the Chandler Lake exchange.

The Interior Committee record is absolutely clear on this matter. The technical problem cited by BLM is intended to be a barrier to conveyances in ANWR. As the author of title II, it is my intent to require congressional approval for any additional KIC/ASRC selections or BLM conveyances, regardless of whether the act or exchange which gave rise to such entitlement predated July 28, 1987.

At the hearing I chaired on H.R. 2629 on June 11, 1987 (serial No. 100-32), I raised my concern with KIC underselections with the BLM's witness, James Parker:

> Mr. MILLER. Am I correct that BLM's position in the case of the underselected village of Kaktovik in ANWR is that they would not be selecting in ANWR?
>
> Mr. PARKER. The way it stands right now, they are underselected by about 2,386 acres, I believe. They would have to, under our present policy, go outside the refuge for that.

The committee report on H.R. 2629 (Rept. 100-262) clearly states our intention that all land selections subsequent to July 28, 1987, in the ANWR coastal plain—whether by virtue of ANCSA, the Chandler Lake exchange, title I of this act, or any other administrative action—are subject to prior congressional approval:

> With respect to any additional lands within the coastal plain to which the Kaktovik Inupiat Corporation or the Arctic Slope Regional Corporation may claim to be entitled on the basis of actions taken on or subsequent to July 28, 1987, section 201 prohibits the conveyance of such lands until the conveyance is authorized by an Act of Congress.

Mr. Speaker, although we have a difference of opinion on the Department's megatrade, I would like to recognize the contribution that Mr. YOUNG, the committee's ranking minority member, has made to the Native community and to the State of Alaska. Last December we passed the Alaska Native Claim Settlements Act Amendments of 1987 (Public Law 100-241). The basic intent of this legislation was to help assure that Native Alaskans retain control of their corporations and their lands. The act contains a number of important provisions, such as an automatic extension of the Alaska Land Bank immunities from taxation and creditor actions to all undeveloped Native lands. I share Mr. YOUNG's concern for the future of Native Alaskans and I am pleased to join with him in support of H.R. 2629 and in particular the submerged lands title which is of great significance to his constituents.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, as we have come to know in this Chamber, Alaska land law is complicated and difficult to resolve when environmental disputes are involved. In this case, I am pleased to say that we have resolved a long-standing dispute over the proper method allocating submerged lands in Alaska. I compliment the gentleman from California for his efforts to resolve this difficult dispute and tell my colleagues that this legislation resolves one of remaining issues from implementation of the two basic land entitlement statutes—ANCSA and the Alaska Statehood Act. Under this bill, the full land entitlements which are available to the State of Alaska and Alaska Native Corporations will be met.

Mr. Speaker, I am pleased that this legislation—which I first introduced 4 years ago—will now become law.

Finally, Mr. Speaker, I would note that the gentleman from California and I do not agree on the merits of the proposed ANWR land exchanges. That dispute we will resolve another day.

Mr. Speaker, I urge the passage of this legislation at this time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4800, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations and offices for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, I shall not object, but what I would like to do is ask the gentleman from Massachusetts [Mr. BOLAND] a question, if I could.

Can the gentleman indicate to me what his intention is with regard to the drug-free workplace language?

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, that particular line is open for discussion when we get to conference, but my understanding is that in the Treasury bill there is a provision which we can agree to and we would agree to.

Mr. WALKER. That is this gentleman's understanding, too, and I just want to make sure that is the general understanding among the people who are going to be going to conference, that what we will be doing is putting language in the Treasury appropriations bill which is agreed-to language by both the Senate and the House which has been agreed to by this gentleman who was the original sponsor of the amendment, and that would then cover the gentleman's bill and all other appropriations bills.

Mr. BOLAND. Mr. Speaker, that is my understanding, and the gentleman from Pennsylvania is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Massachusetts.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. Boland, Traxler, and Stokes, Mrs. Boggs, and Messrs. Mollohan, Sabo, Whitten, Green, Coughlin, Lewis of California, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 4867, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1989

Mr. YATES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Yates, Murtha, Dicks, Boland, AuCoin, Bevill, Whitten, Regula, McDade, Lowery of California, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 4783, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION ACT, 1989

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4783) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT CONFEREES

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Conte moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 4783, be instructed not to agree to the Senate amendment numbered 103 concerning Low Income Home Energy Assistance, and to seek an appropriation for the Low Income Home Energy Assistance Program at an amount as close as possible to the House-passed level.

The SPEAKER. The gentleman from Massachusetts [Mr. Conte] is recognized for 1 hour.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, ordinarily I would object as the chairman of the subcommittee to the motion made by my friend, the gentleman from Massachusetts. In this instance, Mr. Speaker, he is correct. We accept the motion on this side.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it may seem unusual for the ranking minority member to offer an instruction to his own subcommittee's conferees, but there is one issue our subcommittee will have to deal with that I believe deserves special attention.

That issue is the Low-Income Home Energy Assistance Program.

This program has been savagely cut in the last few years. But, this year, I believe our conferees have an opportunity to stem the tide of these cuts.

You've all heard the claim that there are billions of dollars in oil overcharge money pouring into States which can painlessly offset Federal cuts in LIHEAP. But, this year, we finally have the facts that show the real story.

Before this conference begins, I believe it is important that we arm our conferees with this House's support for a responsible funding level for LIHEAP. And, with a quick review of the facts we now have, I think we can do that right now.

The argument for cutting LIHEAP is very simple. It says that States are receiving money from oil manufacturers who violated the price controls that were in effect from 1973 to 1981. Therefore, the Federal Government can cut its funding for LIHEAP because, if States really care about this program, they'll use their oil overcharge money to make up for any Federal cuts.

But I can give you five simple facts which show that that simple argument just doesn't hold up.

First, the amount of oil overcharge money that States can expect to receive is very uncertain. That's because this money is only available after successful litigation by the Federal Government against the oil companies. And, of the 148 cases currently in judicial litigation, more than half of them involve companies that are now bankrupt.

Second, the settlement amounts we hear about are much greater than the amounts that actually reach the States. Under the formula now being used to distribute these funds, States receive only about 40 percent of the amounts collected, at best.

Third, these payments to States are not made immediately after settlement of a case, nor are they made in one lump sum. Instead, they are often paid out gradually over a period of 5 years or more.

Fourth, the formula used to distribute LIHEAP money to States is very different from the formula used to distribute oil overcharge money to States. In other words, overcharge money is not a simple dollar-for-dollar replacement for LIHEAP cuts.

Instead, if the Federal Government were to cut LIHEAP funds by the amount of money that could be expected in oil overcharge distributions, the result would be some States receiving twice as much as their population's need called for, while other States received up to one-third less than LIHEAP's need-based formula would have given them.

Finally, those who support LIHEAP cuts are ignoring the fact that States cannot put all their overcharge money into LIHEAP. The Federal court decision that governs these oil overcharge distributions, and the Department of Energy rulings which approve State plans to spend this money, both require that it be spread across a variety of energy programs and consumer groups. That's because this money is restitution for the past overcharges that were imposed on all these programs and consumers. Assuming that all this money can be put into

LIHEAP is just closing your eyes to the facts.

I'm not here to set a specific funding level for LIHEAP right here and right now. That's not what this motion is all about. Our conferees will have to have flexibility to work with the Senate in conference, and they'll have to make a lot of tough choices. I don't want to tie their hands.

I do, however, want to send a signal to the Senate—it is the Senate that has been slashing this program year after year, while we in the House fight to protect it. I want to let the Senate know, loud and clear, that our commitment hasn't changed, that we have GAO reports, HHS surveys, letters from 40 State Governors, and more with which to fight.

This body has already gone on record in support of LIHEAP—not only in the letter signed by 206 Members asking that we keep the funding as high as possible, but also in the rollcall vote of June 15, where 369 Members voted to protect LIHEAP from a proposed $200 million cut.

I know our conferees will bring back a result we can be proud of. All I ask is that we send the Senate a message today that says that the whole House stands behind these conferees. I think that message needs to be sent, and I urge my colleagues to support this motion.

Mr. KENNEDY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Massachusetts.

Mr. KENNEDY. Mr. Speaker, if we look around the country today, the fact is we hear nothing more than triple digit numbers throughout the country in terms of temperatures that are occurring. People, when they go to the gas pump, are finding that the price of gasoline is stabilized, if not going down, and for the ordinary American, we think that the energy crisis is past. But for the poorest people in our society, for the most vulnerable people in our society, for the elderly widow on Social Security or Supplemental Security Income, her income is $447 a month, and my colleagues know that in the 6 winter months in Massachusetts one has to spend at least $200 a month to be able to pay for heating bills, and for us to be trying to balance this budget on the backs of the poorest people in our society when those people need that help in the wintertime is just wrong.

So, Mr. Speaker, I support the efforts of the gentleman from Massachusetts [Mr. CONTE] and the efforts of the gentleman from Kentucky [Mr. NATCHER] and others to restore the funding to LIHEAP, the program they need so vitally.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to thank the gentleman from Massachusetts [Mr. KENNEDY], my colleague, for his contribution. Long before he came to the U.S. Congress he had a vital interest in this. He started his own little oil company to help the poor people in Massachusetts and did a remarkable job in seeing that people had enough money or enough fuel in the wintertime so that they could both eat and keep warm.

As I was going to say, 206 Members of this House have sent letters to the gentleman from Kentucky [Mr. NATCHER] and myself asking that the figures should be a billion eight, which it should have been, and it was cut to a billion one last year and finally compromised at a billion five between the Senate and the House. And this year on June 15, 369 Members of this House voted to protect LIHEAP from a proposed $200 million cut.

Mr. Speaker, I hope my amendment is adopted.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Massachusetts [Mr. CONTE].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. NATCHER, SMITH of Iowa, OBEY, ROYBAL, STOKES, EARLY, DWYER of New Jersey, HOYER, WHITTEN, CONTE, PURSELL, PORTER, YOUNG of Florida, and WEBER.

□ 1430

APPOINTMENT OF CONFEREES ON H.R. 4775, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1989

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. ROYBAL, AKAKA, HOYER, COLEMAN of Texas, BOLAND, YATES, WHITTEN, LOWERY of California, SKEEN, WOLF, and CONTE.

APPOINTMENT OF CONFEREES ON H.R. 4794, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. LEHMAN of Florida, GRAY of Pennsylvania, CARR, DURBIN, MRAZEK, SABO, WHITTEN, COUGHLIN, CONTE, WOLF, and DELAY.

NATIONAL TRAILS SYSTEM IMPROVEMENTS ACT OF 1988

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1544) to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. YOUNG of Alaska. Reserving the right to object, Mr. Speaker, and I shall not object, I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, S. 1544 is the companion bill to a House bill (H.R. 2641) introduced by the gentlewoman from Maryland [Mrs. BYRON] and cosponsored by many other Members, that was reported from the Interior and Insular Affairs Committee and passed by the House in April of this year.

The Senate bill is nearly identical to the House bill in most respects. Its major purpose is to provide for the retention of whatever rights the United States may have in certain lands formerly granted for railroad rights-of-way, to facilitate their management for trail or other recreational purposes, should the lands no longer be used for railroad purposes.

Like the House bill, S. 1544 has been carefully drawn. It would not attempt to establish whether in fact the United States has any such rights in any particular case. That question will have to be decided on a case-by-case basis taking into account previous statutes and Supreme Court decisions that were predicated on the fact that at least some federally granted rights-of-way carried an express or implied condition of reversion to Federal ownership if the property ceased to be used for the purposes granted.

The amendments I am offering in the House today clarify two matters in

S. 1544. First, under S. 1544 when a retained right-of-way is outside a conservation area or a national forest, and it has been determined to be suitable for public recreational use, the Secretary is to manage it for such use—but the Secretary may also allow its utilization for additional uses, permitted under applicable law. The House amendment provides that such additional uses are permissible as long as they do not preclude trail use. This would permit, for instance, utility corridors to be developed with trails along appropriate abandoned rights-of-way.

Similarly, the Senate bill has provided somewhat different language regarding the extent to which a local government or another entity seeking to manage a retained right-of-way would have to protect the United States from any claims of liability in connection with the lands involved. The House amendment would clarify the extent to which the United States would be protected from any claims of liability and is consistent with the recommendations we received from the appropriate Federal agencies with an interest in this matter.

Mr. Speaker, legislation to facilitate the retention and management for recreational purposes of those interests the national Government may have in the lands granted for right-of-way purposes is sound public policy. The gentlewoman from Maryland deserves credit for her leadership on this matter, and now that the Senate has sent to us a bill that is substantially consistent with her bill as already passed by the House, I believe that we should act today to expedite final consideration. I urge all Members to join me in support of S. 1544, as amended.

Mrs. BYRON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from Maryland, who is the original sponsor of the bill.

Mrs. BYRON. Mr. Speaker, as we know, S. 1544 would provide for the conversion of abandoned railroad rights-of-way to trail use wherever possible. When such a conversion is not a feasible option, a right-of-way can be sold—the proceeds from which would be placed in the land and water conservation fund for enhancement of other natural resources.

Perhaps one of the most significant aspects of this legislation is the recognition of the role that State and local governments and organizations can play in trail development.

Mr. Speaker, during the committee process we heard concerns from those who claimed that there was little or no Federal interest remaining in any of the abandoned rights-of-way. Existing statutes and past court decisions indicate that a Federal interest exists. However, there are a few recent legal decisions that have served to cloud the issue. In passing S. 1544, Congress is reaffirming that the preservation of these corridors is of national importance and that the Federal interest should be dedicated to recreational trail and other compatible public uses.

The legislation that we are today returning to the Senate for final consideration clarifies what I consider to be an important issue. The Senate bill recognizes that abandoned rights-of-way may, in cases, be appropriate for other uses. We would agree with that, but would like to be specify that these alternative uses must be compatible with trail conversion. The House-amended legislation also specifies protection of the U.S. Government from any liability claims.

Mr. Speaker, in closing S. 1544 provides a mechanism whereby the Government can couple the abandoned rail rights-of-way with the growing demand for trails—and at little cost to the Government.

I urge my colleagues to support this legislation.

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I am about to offer some amendments. The amendments I am offering today would clarify two matters; first, under S. 1544 the retained right-of-way is outside the conservation area of a national forest and it has been determined to be suitable for public recreation use. The Secretary is to manage it for such use, but the Secretary may also allow its utilization for additional uses permitted under applicable law.

The House amendment provides that such additional uses are permissible as long as they do not preclude trail use.

This would permit, for instance, utility corridors to be developed with the trails along appropriated abandoned rights-of-way.

Similarly, the Senate language has provided somewhat different language regarding the extent to which a local government or another entity seeking to manage a retained right-of-way would have to protect the United States from any claims of liability in connection with the lands involved.

The House amendment would clarify the extent to which the United States would be protected from any claims of liability and is consistent with the recommendations we received from the appropriate Federal agencies with interest in this matter.

Mr. Speaker, these amendments will be offered when the gentleman withdraws his reservation of objection.

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, I will not object, but without passing on the merits of this legislation, I would like to point out that section 4 is very important to my State of Alaska and its cultural history. This section reauthorizes the Iditarod Historic Trail Advisory Council for an additional 10 years. As many of you are aware, the Iditarod is the last great race in the world. The Advisory Council for the Iditarod Trail is important to the future of this 1,040-mile dogsled race which occurs in some of the most hostile territory in the world.

Alaskans and Americans are proud of this last great race and the history which surrounds the trail. The addition of this section of the bill improves the bill greatly and I urge the Members' support.

S. 1544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Trails System Improvements Act of 1988".

SEC. 2. FINDINGS.

Congress hereby finds that—

(1) State and local governments have a special role to play under the National Trails System Act in acquiring and developing trails for recreation and conservation purposes.

(2) Many miles of public land rights-of-way have been granted to the railroads by the United States, and much of this mileage could be suitable for trail use at such time as it may be abandoned.

(3) The United States should retain any residual interest it may have in such public land rights-of-way and relinquish it, where appropriate, in favor of State and local governments or other nonprofit entities for trail purposes.

SEC. 3. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

Section 9 of the National Trails System Act (16 U.S.C. 1248) is amended by adding the following new subsections after subsection (b):

"(c) Commencing upon the date of enactment of this subsection, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in the Act of March 8, 1922 (43 U.S.C. 912), shall remain in the United States upon the abandonment or forfeiture of such rights-of-way, or portions thereof, except to the extent that any such right-of-way, or portion thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such Act.

"(d)(1) All rights-of-way, or portions thereof, retained by the United States pursuant to subsection (c) which are located within the boundaries of a conservation system unit or a National Forest shall be added to and incorporated within such unit or National Forest and managed in accordance with applicable provisions of law, including this Act.

"(2) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or a National Forest but adjacent to or contiguous with any portion of the public lands shall be managed pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this section.

"(3) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or National Forest which the Secretary of the Interior determines suitable for use as a public recreational trail or other recreational purposes shall be managed by the Secretary for such uses, as well as for such other uses as the Secretary determines to be appropriate pursuant to applicable laws.

"(e)(1) The Secretary of the Interior is authorized where appropriate to release and quitclaim to a unit of government or to another entity meeting the requirements of this subsection any and all right, title, and interest in the surface estate of any portion of any right-of-way to the extent any such right, title, and interest was retained by the United States pursuant to subsection (c), if such portion is not located within the boundaries of any conservation system unit or National Forest. Such release and quitclaim shall be made only in response to an application therefor by a unit of State or local government or another entity which the Secretary of the Interior determines to be legally and financially qualified to manage the relevant portion of public recreational purposes. Upon receipt of such an application, the Secretary shall publish a notice concerning such application in a newspaper of general circulation in the area where the relevant portion is located. Such release and quitclaim shall be on the following conditions:

"(A) If such unit or entity attempts to sell, convey, or otherwise transfer such right, title, or interest or attempts to permit the use of any part of such portion for any purpose incompatible with its use for public recreation, then any and all right, title, and interest released and quitclaimed by the Secretary pursuant to this subsection shall revert to the United States.

"(B) Such unit or entity shall assume full responsibility for any and all legal liability which might arise with respect to such right-of-way.

"(C) Notwithstanding any other provision of law, the United States shall be under no duty to inspect such portion prior to such release and quitclaim, and shall incur no legal liability with respect to any hazard or any unsafe condition existing on such portion at the time of such release and quitclaim.

"(2) The Secretary is authorized to sell any portion of a right-of-way retained by the United States pursuant to subsection (c) located outside the boundaries of a conservation system unit or National Forest if any such portion is—

"(A) not adjacent to or contiguous with any portion of the public lands; or

"(B) determined by the Secretary, pursuant to the disposal criteria established by section 203 of the Federal Land Policy and Management Act of 1976, to be suitable for sale.

Prior to conducting any such sale, the Secretary shall take appropriate steps to afford a unit of State or local government or any other entity an opportunity to seek to obtain such portion pursuant to paragraph (1) of this subsection.

"(3) All proceeds from sales of such retained rights of way shall be deposited into the Treasury of the United States and credited to the Land and Water Conservation Fund as provided in section 2 of the Land and Water Conservation Fund Act of 1965.

"(4) The Secretary of the Interior shall annually report to the Congress the total proceeds from sales under paragraph (2) during the preceding fiscal year. Such report shall be included in the President's annual budget submitted to the Congress.

"(f) As used in this section—

"(1) The term 'conservation system unit' has the same meaning given such term in the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.), except that such term shall also include units outside Alaska.

"(2) The term 'public lands' has the same meaning given such term in the Federal Land Policy and Management Act of 1976.".

SEC. 4. IDITAROD HISTORIC TRAIL ADVISORY COUNCIL.

Section 5 of the National Trails System Act (16 U.S.C. 1241), as amended, is further amended as follows: In subsection 5(d) after the phrase "each of which councils shall expire ten years from the date of its establishment." insert "establishment, except that the Advisory Council established for the Iditarod Historic Trail shall expire twenty years from the date of its establishment.".

SEC. 5. CONDEMNATION.

(a) Nothing in this Act shall be construed as authorizing the Secretary of the Interior to use condemnation proceedings to retain or acquire all or any portion of a right-of-way described in this Act.

(b) Nothing in this Act shall be construed to expand or diminish existing condemnation authorities contained in the National Trails System Act, as amended.

AMENDMENTS OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer two amendments, and ask unanimous consent that they be considered en bloc, considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. VENTO: In section 3 of the bill, at the end of the new subsection (d)(3) which the bill would add to section 9 of the National Trails System Act, strike the period and insert ", as long as such uses do not preclude trail use."

In section 3 of the bill, revise the new subparagraph (B) of the new subsection (E)(1) which the bill would add to section 9 of the National Trails System Act so as to read as follows:

"(B) Such unit or entity shall assume full responsibility and hold the United States harmless for any legal liability which might arise with respect to the transfer, possession, use, release, or quitclaim of such right-of-way."

The SPEAKER. The question is on the amendments offered by the gentleman from Minnesota [Mr. VENTO].

The amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GERMAN-AMERICAN DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 273) designating October 6, 1988, as "German-American Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objections to this legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise today to draw your attention to a very important resolution that officially designates October 6, 1988, as "National German-American Day." House Joint Resolution 458—Senate Joint Resolution 273, which has already passed the Senate and was considered and passed here in the House this afternoon, is now on its way to the President to be signed into law.

I introduced this legislation, along with Congressman LEE HAMILTON, on February 17, 1988, and have worked with the German-Americans in my district and across the country in an effort to obtain the necessary number of cosponsors in the House. During this time, I was both impressed and encouraged by the dedication of our German-Americans. Pride in their heritage and commitment to future success provides a contagious energy that serves as an inspiration to all.

German-Americans represent one of the largest ethnic communities in the United States, and this resolution recognizes the cultural contributions made by these outstanding people over the past three centuries. Since the first German immigrant arrived in this country, United States citizens of German ancestry have grown to an estimated 52 million.

I am honored to have been able to introduce this legislation that has received such overwhelming support—well over the number of cosponsors necessary in both bodies of Congress. This is truly an important sign of recognition and appreciation from the United States Congress to German-Americans across the country.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 273

Whereas, German-Americans, through their work and contributions to the culture of the United States since the arrival of the first German immigrants in the United States on October 6, 1683, have earned this very special day and tribute to their achievements;

Whereas, as they have before, so will Americans of German descent continue to contribute to the life and culture of the United States, and will work for and will support the Government of the United States, its democratic principles and the freedom of all people everywhere;

Whereas such contributions should be recognized and celebrated in 1988, and annually thereafter; and

Whereas common ties and lasting friendship exist between the United States and the Federal Republic of Germany and other

German speaking countries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1988, is designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FAMILY CAREGIVERS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 463) designating November 20-26, 1988, as "National Family Caregivers Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. CARR). Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objection to this legislation before us.

Ms. SNOWE. Mr. Speaker, I would like to thank Mr. DYMALLY, chairman of the Subcommittee on Census and Population, and the ranking minority member of the subcommittee, Mrs. MORELLA, for bringing to the floor, House Joint Resolution 463 which designates the week of Thanksgiving, November 20 through November 26, 1988, as "National Family Caregivers Week." This bill has received the support of more than half of my colleagues in the house, and it is identical to Senate Joint Resolution 278.

As you know, National Family Caregivers Week has been signed into law for the past 2 years. Last year the outpouring of support for this legislation from prominent national organizations culminated in a policy forum on caregiving attended by over 300 individuals. This year, the Washington Business Group on Health will conduct a briefing in November highlighting the corporate sector to caregiving-related issues.

The broad-based support for this legislation is indicative of the important role families continue to play in the care of the frail and disabled. Indeed, three quarters of the noninstitutionalized disabled elderly rely solely on informal care. As such, family caregivers, primarily wives, daughters, and daughters-in-law, are the principal providers of the long-term care system. Today, a woman will spend 18 years caring for an aging parent and only 17 years caring for a child, a pattern that is expected to persist into the future.

Generally, family care is the main factor associated with the delay or prevention of nursing home care, making it not only humane, but also cost-efficient care. Although there is a false notion that families have withdrawn from the care of their relatives, the reality is that the family continues to be committed to their care, even at great financial or emotional cost.

Legislation designating National Family Caregivers Week remains as important today as it was when I first introduced the concept. We have only just begun to understand the essential role of the family in providing care to the frail and disabled. Congress, by passing this legislation, takes an important step in ensuring family members are given the credit they deserve. National Family Caregivers Week is a tribute to all informal caregivers across the country. This bill reflects our Nation's appreciation for caregivers by recognizing and commending their important contribution.

I want to thank my colleagues for their continuing support and to express my appreciation to the numerous private and voluntary organizations, such as the American Association of Retired Persons and the Washington Business Group on Health, for their efforts on behalf of this important bill.

Mr. Speaker, again I thank the chairman and the ranking minority member for their support of this joint resolution and I urge its adoption.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 463

Whereas the number of Americans who are age 65 or older is growing;

Whereas there has been an unprecedented increase in the number of persons who are age 85 or older;

Whereas the incidence of frailty and disability increases among persons of advanced age;

Whereas approximately 5.2 million older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide older persons help with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas families who give care to older persons face many additional expenses, including the costs of home modifications, equipment rental, and additional heating;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas the role of the aged spouse as a principal caregiver has generally been understated;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities;

Whereas family caregivers need information about available community resources;

Whereas family caregivers need respite from the strains of their caregiving roles;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 20-26, 1988, is designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GEOGRAPHY AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 263) to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, I yield to the chairman of the Census and Population Subcommittee, the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I think it is very appropriate that we discuss this whole question of geography this week, because recently the National Geographic Society took a survey among Americans about world geography. I am sad to tell you, Mr. Speaker, that we scored very poorly. Of all the nations which participated in this, we came out something like 10th or 12th of the nations. Our students, our population, knew nothing about where countries were located, which was which and what was what. It was sort of an embarrassment for us.

I hope that this resolution will stimulate consciousness about this problem in our school system and that our children will, among other things, study geography as part of their education.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I associate myself with the remarks of the chairman, because I also feel it is imperative as a major world power that we recognize the world as the world and that geography awareness be stressed in all our schools and by all our people.

Mr. PANETTA. Mr. Speaker, I rise today in support of Senate Joint Resolution 263, which designates the week of November 19, 1988, as "Geography Awareness Week." This resolution, which was introduced by my distinguished colleague, Senator BRADLEY, is the companion to House Joint Resolution 478, which I introduced along with my esteemed friends and colleagues, Representatives GREEN and KILDEE. House Joint Resolution 478 now has more than the requisite number of cosponsors needed to be brought to the floor. However, as Senate Joint Resolution 263 passed the Senate last week, it is the measure actually before you today for consideration. This resolution, which was first introduced last year, is another expression of my strong belief in the importance of foreign language and international education.

To commence, I would like to thank my many distinguished colleagues who have lent their support to House Joint Resolution 478 in this session, as well as to House Joint Resolution 195 in the first session of this Congress, and also to thank Representatives FORD, DYMALLY, and MORELLA, for allowing this resolution to be brought up for consideration in a timely manner. It would indeed be good for this body to act on the resolution so soon after the Senate and to then hopefully be enacted shortly thereafter. In addition, at least as important, the sooner this resolution is passed, the more time educational and other institutions around the country will have to prepare for "Geography Awareness Week." During the first Geography Awareness Week, last year, there were literally thousands of activities across the country focusing on geography and its importance. At this time, I would also like to commend the National Geographic Society and its president, Gilbert Grosvenor, for their strong interest in this resolution. The society is again planning many activities this year in connection with Geography Awareness Week, and interest should be even greater this year than last.

Although some progress is being made, there is still considerable evidence for the need to increase our attention to this fundamental subject. The Gallup organization recently released a survey, commissioned by National Geographic, of nearly 11,000 adults in nine countries that was the largest international study of its kind to date. Overall, the survey found that Americans unfortunately ranked below all but two other countries, Italy and Mexico, that participated. among the specific findings, even with all of our involvement in the Persian Gulf, 75 percent of Americans could not locate that body of water on an unmarked map of the world.

Even with our very extensive involvement in Central America and with its proximity to the United States, 45 percent could not locate this region on the map. Also related to Central America, less than half knew in which country the Sandinistas and Contras are struggling for control, with many naming Lebanon, Afghanistan, or Iran. Regarding Africa, only 55 percent could identify South Africa as the nation in which apartheid is official government policy. One particularly disturbing result of the survey was that American young adults fared worse than those of any other participating country and than their post-World War II peers.

This news is not only shocking; it is frightening. We depend on a well-informed populace to maintain the democratic ideals which have made and kept this country great. When 95 of some of our brightest college students cannot locate Vietnam on a world map, even after our extensive involvement in that country, we must sound the alarm. When only 25 percent could name four countries that acknowledge having nuclear weapons, we must acknowledge that we are failing to sufficiently educate our citizens to work and live in an increasingly interdependent world. This is especially true when our young people, our future, are even less knowledgeable in geography than are adults.

This ignorance of geography, along with a comparable lack of knowledge of foreign languages and cultures, places the United States at a significant disadvantage with other nations economically, politically, and strategically. We cannot expect to remain a world leader if our populace does not even know who the rest of the world is.

In 1980, a Presidential Commission found that U.S. companies fare poorly against foreign competitors partly because Americans are often ignorant of things beyond our borders. As Gov. Gerald Baliles said in a Southern Governors Association report:

> Americans have not responded to a basic fact: the best jobs, largest markets, and greatest profits belong to those who understand the country with which they are doing business.

One of the key themes and tasks for this Congress has been restoring America's "competitiveness" in a highly complex, rapidly-changing world. Improving our knowledge of the geography, language, and culture of other lands is a concrete, attainable and important goal in the context of international trade and our place in the world economy. It is a substantial way to give content to the buzzword of competitiveness.

The understanding necessary to accomplish this, as I have said, can come only from knowledge of the peoples, cultures, resources, and languages of other nations. This is the sort of knowledge that the study of geography seeks to impart. Alarmingly, in spite of this, the discipline of geography has become seriously endangered in this country. Departments of geography are being eliminated from many institutions of higher learning, and less than 10 percent of elementary and secondary school geography teachers have even a minor in the subject.

However, in the midst of these negative indicators, I feel it is very important to note some hopeful signs that geography education is beginning to experience a long-awaited and badly needed resurgence. Among these.

The National Geographic Society has instituted a pilot school program in which schools in different parts of the country establish innovative geography education programs to test their effectiveness. Two of the schools, Alice Deal Junior High here in Washington and Audubon Junior High in Los Angeles, have won recognition for their programs in national competitions.

At the college level, the University of Tennessee is instituting a requirement that incoming students there have a certain level of knowledge of geography. The is going to cause elementary and secondary schools throughout the State to beef up their geography education programs.

In addition to the declaration of a national Geography Awareness Week, a number of States, including Oregon, Colorado, Alabama, North Carolina, Virginia, and Utah have all instituted such weeks at the State level. These are all important occasions to promote geography education and awareness in each State.

In California, the State board of education, after finding that students were sorely lacking in their knowledge of geography, adopted a new, statewide history-social studies framework in which geography will be studied in specific relation to the history and culture of each country, region, and period studied at each level. This is considered a potential landmark step, one that will hopefully initiate a broad movement for improving geography education throughout the country.

Mr. Speaker, we are a nation with worldwide involvements. Our global influence and responsibilities demand an understanding of the lands, languages, and cultures of the world. It is for this reason that I strongly urge my colleagues to support this resolution focusing national attention on the integral role that the knowledge of world geography plays in preparing our citizens for the future of our increasingly interdependent, interconnected world. It is my hope that again passing this resolution will be just one more step in a revitalization of the study of geography in this country. All of our citizens should have access to the type of education that will help them appreciate the great beauty and diversity of this Nation, and its place in an even more diverse world. The passage of Senate Joint Resolution 263 will be an important step in this direction.

Mr. GREEN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 263 which designates the week of November 13-19, 1988, "Geography Awareness Week." Congressman LEON PANETTA and I sponsored this resolution in the House in order to address a serious problem that exists among Americans of all ages, but particularly our young people: geographic illiteracy. Last week the National Geographic Society and the Gallup organization confirmed the sad fact that Americans are woefully ignorant about geography. In a survey consisting of 81 questions, no more than half those tested in the United States could identify the country in which the Sandinistas and Contras are fighting. Half of the Americans tested could not name any Warsaw Pact nation. One out of seven Americans surveyed could not identify the United States on a world map.

If we expect to maintain our position as a world leader and if we intend to address with sensitivity and understanding the political, economic, environmental, social, and military challenges that face us in the international arena, our citizens must develop a better understanding of the world in which we live. The National Geographic Society, which has provided a window on the four corners of the world for the past 100 years, has taken this challenge to heart and in January donated $20 million to promote geographic education among American children. I applaud the commitment of National Geographic and hope it will spur new interest in geography among students around the United States. I am gratified that the House has been able to play an active role in this endeavor through Geography Awareness Week and I hope that this resolution will encourage States, cities, and schools to develop activities to promote geographic literacy.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 263

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States, and could not name the New England States;

Whereas geography has been offered to fewer than one in ten United States secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 13, 1988, and ending November 19, 1988, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CIVIL RIGHTS DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 140) designating August 12, 1988, as "National Civil Rights Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, it is interesting that this resolution comes up on the very day that our Census and Population Subcommittee just had a hearing to make permanent the Martin Luther King Commission. It also is appropriate to designate August 12, 1988, as National Civil Rights Day. It was 25 years ago in August of 1963 that Martin Luther King, Jr., led the Nation to Washington, DC, to demonstrate the need for legislation to protect the civil rights of the people of the United States.

This year also Congress passed the amendments to the Fair Housing and Civil Rights Restoration Act, and I think this commemoration demonstrates the commitment that Congress has to civil rights for all.

Mr. VISCLOSKY. Mr. Speaker, I am proud that the House of Representatives has overwhelmingly approved the resolution I introduced—House Joint Resolution 140—which designates August 12, 1988, as "National Civil Rights Day."

It is my hope that this day will be set aside to acknowledge the gains which have been made in the area of civil rights over the past decades. Furthermore, it should be a time for us to rededicate ourselves to ensure that the values upon which the country were founded apply to every American. This commemorative day honors all those courageous men and women who saw injustice and did not turn away but struggled to correct it. While I believe that we have progressed greatly in recent years, there is still much to be done.

I would be remiss if I did not recognize and salute the citizens of Gary, IN, for originating the idea of having a National Civil Rights Day.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 140

Whereas the people of the United States are the heirs and beneficiaries of the courageous men and women who struggled to achieve legal and social equality in the United States for men and women of every race, religion, and country;

Whereas such men and women include Martin Luther King, Jr., Susan B. Anthony, and Mary McLeod Bethune;

Whereas the people of the United States should not forget that constant vigilance is necessary to ensure the protection of civil rights and much yet remains to be accomplished with respect to securing civil rights for all the people of the United States;

Whereas in August 1963 Martin Luther King, Jr., led a march in Washington, DC, to demonstrate the need for legislation to protect the civil rights of the people of the United States;

Whereas August 12, 1988, is appropriate date on which to commemorate the progress made in securing civil rights and the need for continued progress; and

Whereas the National Civil Rights Museum and Hall of Fame will be constructed in Gary, Indiana, to pay continued tribute to the fallen national heroes of civil rights and the cause that they embraced: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1988, is designated as "National Civil Rights Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to pause for a minute of silence at noon on such day to pay tribute to the men and women who have struggled to secure civil rights for all the people of the United States;

(2) to ring church bells 11 times during the minute of silence as a remainder that the hour is late with respect to continuing progress in securing civil rights for all the people of the United States, and

(3) to observe such day with other appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SENIOR CITIZENS DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 138) to authorize and request the President to issue annually a proclamation designating the third Sunday of August of each year as "National Senior Citizens Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objection to the joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 138

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue annually a proclamation designating the third Sunday of August of each year as "National Senior Citizens Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY:

Page 1, beginning on line 3, strike out "annually".

Page 1, beginning on line 4, strike out "of each year" and insert in lieu thereof "1988".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. DYMALLY: Amend the title so as to read "Joint resolution to authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as 'National Senior Citizens Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GIVING SPECIAL RECOGNITION TO BIRTH AND ACHIEVEMENTS OF ALDO LEOPOLD

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 40) to give special recognition to the birth and achievements of Aldo Leopold, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objection to this legislation.

Mr. KASTENMEIER. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 50, commemorating the 100th anniversary of the birth of Aldo Leopold and honoring him for his many achievements in scientific wildlife management and his pioneer work in developing the doctrine of wilderness ecology.

Aldo Leopold was a professional forester, a game manager, a scientist, a writer, and a philosopher. He was born in Burlington, IA. He graduated from Yale University Forestry School and entered the U.S. Forest Service. In 1911, he was promoted to supervisor of the Carson National Forest in New Mexico. He helped establish the Gila Wilderness Area in New Mexico as the first National Forest wilderness.

Leopold is perhaps best known for the years he spent in my home State of Wisconsin and in the congressional district which I now represent. From 1925 to 1927, he was the associate director of the U.S. Forest Products Laboratory in Madison, WI. He subsequently left Government service in 1928 to become a game and forestry consultant. While privately employed, Leopold completed the now classic treatise, "Game Management." In 1933, he was appointed professor of game management at the University of Wisconsin, a position that he held with great distinction until his death in 1948.

Leopold was very active in a number of conservation organizations. He served on the council of the Society of American Foresters. He was a founder of the Wildlife Society and the Wilderness Society. He was a director of the National Aububon Society, vice president of the American Forestry Association, and president of the Ecological Society of America. The National Wildlife Federation named him to its Conservation Hall of Fame in 1965. While Leopold will be remembered for his professional endeavors, he also will be remembered for his work, "A Sand County Almanac." Leopold's "Sand Farm" in Wisconsin, his family's "weekend refuge from too much modernity," inspired the writings that were collectively published posthumously in 1949. Like any literary classic, "Sand County" has withstood the test of time and is still read enthusiastically by college students and weekend naturalists alike. It has become an established environmental classic.

The conservation ideology that Leopold espoused, the focus and centerpiece of his philosophy of resource stewardship, is embodied in what he described as a land ethic. The concept is portrayed as follows in "Sand County":

> All ethics so far evolved rest upon a single premise: that the individual is a member of a community of interdependent parts. His instincts prompt him to compete for his place in the community, but his ethics prompt him also to co-operate (perhaps in order that there may be a place to compete for).
>
> The land ethics simply enlarges the boundaries of the community to include soils, waters, plants, and animals, or collectively: the land.
>
> This sounds simple: Do we not already sing our love for and obligation to the land of the free and the home of the brave? Yes, but just what and whom do we love? Certainly not the soil, which we are sending helter-skelter downriver. Certainly not the waters, which we assume have no function except to turn turbines, float barges, and carry off sewage. Certainly not the plants, of which we exterminate whole communities without batting an eye. Certainly not the animals, of which we have already extirpated many of the largest and most beautiful species. A land ethic of course cannot prevent the alteration, management, and use of these "resources," but it does affirm their right to continued existence, and, at least in spots, their continued existence in a natural state.
>
> In short, a land ethic changes the role of homo sapiens from conqueror of the land-community to plain member and citizen of it. It implies respect for his fellow-members, and also respect for the community as such.

Leopold's land ethic is timeless. The continued drainage and conversion of our wetlands, the despoiling of our air, soil, and water, the unabated erosion and denuding of our prairies, deserts, and ranges, and the accelerated destruction of our forests bear witness to this fact. The very conservation issues that Leopold identified more than 36 years ago are still to be resolved. Many, in fact, have grown in scope and magnitude.

Mr. Speaker, this resolution commemorating the 100th birthday of Aldo Leopold, who is truly the father of conservation, will draw attention to the land ethic that he espoused and the many natural resource problems we still face. I urge my colleagues to join me in supporting this resolution which celebrates the monumental achievements of Aldo Leopold.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 40

Whereas January 11, 1987, marks the one-hundredth anniversary of the birth of Aldo Leopold;

Whereas Aldo Leopold is an undisputed pioneer of wildlife management and wilderness ecology;

Whereas Aldo Leopold's land ethics, which "changes the role of Homo sapiens from conqueror of the land-community to plain member and citizen" by "simply enlarg[ing] the boundaries of the community to include soils, waters, plants, and animals, or collectively: the land", has inspired and encouraged the protection and wise management of our renewable natural resources;

Whereas the teaching of Aldo Leopold, so eloquently captured in A Sand County Almanac, continued to be read and enjoyed by millions of Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States give special recognition to the achievements of Adlo Leopold and urges Federal land managment agencies to model their activities after the conservation ethic he has inspired.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1445

NEUROFIBROMATOSIS AWARENESS MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 417) designating May 1988 as "Neurofibromatosis Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. CARR). Is there objection to the request of the gentleman for California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object. the minority has no objection to this legislation.

Mr. WALGREN. Mr. Speaker, I want to thank Congressmen FORD and DYMALLY and Congresswoman MORELLA for their help in bringing House Joint Resolution 417, to designate May 1989 as "Neurofibromatosis Awareness Month" to the House floor today.

Most Americans know very little about neurofibromatosis. Having a month officially recognized as "Neurofibromatosis Awareness Month" can bring Presidential leadership and public recognition to a most serious disorder. Hopefully, it will accelerate research to find a cure.

Neurofibromatosis [NF] is a genetic disorder causing fibrous tumors to form on the nerves anywhere in the body at any time. Often only extensive surgery, excising tumors which can grow back and correcting bone abnormalities and disfigurement, can provide any relief for people with NF.

The psychological impact of the disfigurement associated with NF and the isolation resulting from public fears that the tumors are contagious can be devastating, as so graphically demonstrated in "The Elephant Man," the story of a man with a disease once thought to be NF. The anxiety of not knowing what will happen next with what is a progressive disorder is frightening and very damaging for both victims and their families.

Over 100,000 people in the United States have this disorder. The disorder affects all races and both sexes with varying degrees of severity. There is no known cure.

One child in 4,000 is born with NF. Half the people with NF have no family history of the disorder. The most common form that affect the peripheral nervous system [NF-1] can show signs at birth. But the form that affects the central nervous system [NF-2] lies dormant until the late teens or in the twenties. This latter form most often leads to deafness.

Commendably, in July 1987, the National Institutes of Health held a consensus development conference, attracting over 200 participants. Important progress in research is being made. We now understand the genetic markers that accompany NF, giving us the ability to do focused research on the genetic cause and mechanism of NF. But we must redouble our efforts to find a cure and, pending that, find an effective treatment to control the growth of tumors.

This bill recognizes the suffering of NF patients and their families and the potential for research leading to a cure. It is a small step we can take to bring more public attention to neurofibromatosis.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 417

Whereas neurofibromatosis is a genetic disorder which causes tumors to grow in the human nervous system;

Whereas neurofibromatosis is the most common tumor-causing genetic disorder of the nervous system;

Whereas neurofibromatosis is a potentially debilitating disorder which strikes males and females of all races and ethnic groups;

Whereas neurofibromatosis can strike in any part of the nervous system, at any time;

Whereas the National Neurofibromatosis Foundation, Inc., is a voluntary health organization, with chapters across the Nation, which was established to serve people with neurofibromatosis and their families, to stimulate and support biomedical research on neurofibromatosis, and to increase public awareness of neurofibromatosis and its consequences;

Whereas the public and the Federal Government are not sufficiently aware of neurofibromatosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1988 is designated as "Neurofibromatosis Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY: Page 2, line 3, strike out "1988" and insert in lieu thereof "1989".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. DYMALLY: Amend the title so as to read "Joint resolution designating May 1989 as "Neurofibromatosis Awareness Month".".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

MENTAL ILLNESS AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 248) to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I was looking at some figures about the cost of mental illness in the United States, and over the last year, it has doubled. It went last year from $106 billion to direct treatment and support for mental illness, and now it is costing us a staggering $249 billion. Technology has gone far, research and development also has surged, but also it is very important that we become aware of the impact of mental illness and what can be done to ameliorate it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 248

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 per centum of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 per centum of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital development and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that one in ten AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill citizens and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate for an adequate continium of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 2, 1988, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 488) designating November 6-12, 1988, as "National Women Veterans Recognition Week."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], who is the chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to commend the gentlewoman and also the gentleman from California for bringing this legislation, this resolution, to the floor. The gentleman from Florida [Mr. BILIRAKIS] is a member of the Commttee on Veterans' Affairs, and he is the chief sponsor of this legislation which designates November 6 through November 12 as National Women Veterans Recognition Week. I want to commend the gentleman from Florida [Mr. BILIRAKIS] for the work he has done on this legislation.

Mr. Speaker, I would like to say to the Members, my colleagues, that we on the Committee on Veterans' Affairs are trying to gear legislation more toward our women veterans. I know we are remodeling the veterans' hospitals to take better care of our women veterans. I would like to point out that over 1,200,000 women veterans are now in the service or who have been on active duty and are now classified as veterans, and that is 4.2 percent of the veterans' population, and women veterans have played a major role in the defense of this country. We are very proud of this resolution.

Mr. Speaker, I am sorry that the gentleman from Florida is not here. It is his bill, and he deserves the credit. I know he would like to be here.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I concur with what the gentleman from Mississippi [Mr. MONTGOMERY] has said. I am really pleased that the Committee on Veterans' Affairs has taken the lead in recognizing those valiant, heroic women who have been there to serve in our defense. I congratulate him.

I also want to point out that the gentleman from Florida [Mr. BILIRAKIS] has worked very hard on this resolution, because it is something he is committed to. I know he will have a statement in the RECORD.

Mr. BILIRAKIS. Mr. Speaker, thank you for this opportunity to speak on the resolution before us to designate the week beginning November 6 as "National Women Veterans Recognition Week." For the last 4 years I have introduced this measure in order to honor the more than 1.2 million women veterans who have served in the Armed Forces.

Women have served in the military services since our country was founded. Although women are officially excluded from combat duty, many women veterans have served under very difficult and dangerous circumstances. National Women Veterans Recognition Week is the time for this Nation to express gratitude for that service and a time for women veterans to take pride in the many contributions they have made to the security and well-being of the United States. You, the women who have served, have so much to be proud of.

Despite the continuous service of women throughout the history of our Nation, we have not always recognized their tremendous contributions, nor have we paid attention to their needs as veterans. I am pleased to have played a role in increasing public awareness of women veterans.

I wish to thank Chairman DYMALLY and the ranking member, CONNIE MORELLA for their assistance in bringing this legislation to the floor. In addition, I wish to thank the womens organizations, national veterans organizations and my House colleagues who worked diligently toward the enactment of this measure.

It is my understanding that Senator CRANSTON will introduce the Senate counterpart to my legislation today. It certainly is my hope that the Senate expedites consideration of National Women Veterans Recognition Week in time to honor these brave women veterans.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 488

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;

Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the Nation's security through honorable military service which in many cases involved great hardship and danger;

Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and

Whereas designating a week to recognize women veterans in November 1988 will help further important gains made by women veterans following National Women Veterans Recognition Week in November 1984, 1985, 1986, and 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 6-12, 1988, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5031

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent to have my name removed as cosponsor of H.R. 5031.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRATULATING CESAR CHAVEZ

(Mr. DYMALLY asked and was given permission to address the House for 1 minute.)

Mr. DYMALLY. Mr. Speaker, recently, I addressed this distinguished body on the very serious problem of cancer clusters, found in McFarlane, CA, where dangerous levels of pesticides have been linked to a high death toll of cancer cases. It is sad to note that the majority of deaths have occurred among small children.

Mr. Speaker, at this time I would like to bring to your attention the courageous efforts of Mr. Cesar Chavez, of California, president of the United Farmworkers Union of America.

In a unique display of compassion and care, Cesar is also conducting a personal fast to demonstate his deep felt conviction that injustice against our farmworkers must be recognized and abolished. In his personal sacrifice to endure hunger, weakness, and pain; Mr. Chavez is asking the people of this Nation to identify with the suffering of our farmworkers—to recognize their plight—in the hope that justice will eventually be sought. I would like to personally commend Mr. Chavez for his extraordinary commitment to the farmworkers of our Nation. Indeed, he has set an impressive example for the rest of the Nation to follow.

TRIBUTE TO VFW AWARD WINNER HEATHER EASTERDAY, OF MEADE, KS

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, today I congratulate a young lady from Meade, KS, Heather Janae Easterday, for her excellent work in the Veterans of Foreign Wars scriptwriting contest.

Each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of America scriptwriting contest. This year more than 300,000 students from across the Nation participated, writing their thoughts and feelings about, "America's Liberty—Our Heritage."

I am proud to announce that Heather won eighth place honors in this year's contest.

Mr. Speaker, I again congratulate Heather Easterday for her fine work and commend her winning script to the attention of my colleagues.

AMERICA'S LIBERTY—OUR HERITAGE

Nobody listens to me! I was once known and respected for what I had to say. Presidents even applauded me. Now look at me; I'm nothing more than a relic from the past. I guess I should introduce myself. I am the Liberty Bell. I've seen this nation from the very beginning. I suppose that is the reason I have such pride when I see how we have changed with new technology and discoveries; but in a way, the people today have a lot they could learn from me and our nation's heritage.

I remember way back in 1753 when I rang out for the first time. What a feeling! The people were so proud of me. I represented their greatest desire, freedom. They even inscribed me with the words, "Proclaim Liberty through all the land to all the inhabitants thereof,"

I was different than any of the bells back in the Old Country. They tolled for meaningless reason as the curfew hour. I tolled to call the townpeople of Philadelphia together to discuss matters. Oh, how they discussed! they had such fire and motivation for freedom and were willing to do anything to obtain it. Somewhere through the years the citizens of this nation have lost their love for freedom. It's almost taken for granted now. Maybe the apathy is caused by never having to pay a price to be free.

Once the Revolutionary War had started, it was decided that I wouldn't be safe staying in my bell tower, so I was placed under the floor of a church outside of Philadephia. The people were afraid that the British would capture me and melt me down for bullets. They couldn't let that happen to their symbol of freedom. It sure was hard to stay quiet all that time. I had been such a part of all the events that led to the war. I wanted to ring out to encourage them to fight, but I understood their concern for my safety.

I wonder sometimes if the people today would be concerned about my well-being. Oh, sure they like to preserve historical monuments, but what if the liberty I stand for were threatened? Would modern people fight for their freedom or would they watch as someone carried me and everything I stand for away?

It was such a happy time to be back in my bell tower in Liberty Hall after the war. I didn't have to ring for the same reasons anymore; the nation was free. Life was a little less exciting for me, but it was a thrill to watch the new nation take shape. It was a time of debate and controversy, but it was also a time of uniting. The people were further uniting as citizens of a new nation, and the states were coming together as the United States of America.

It hurts me to see the citizens of this great land drifting so far apart. Of course, the people had their differences back when the nation was founded, but they cared for one another and protected each other's freedom. Today the people go their separate ways and sometimes don't even know the neighbor across the street. How can a nation be united without caring for each other?

My last two hundred years have been sometimes exciting and sometimes very lonely. They have been exciting on occasions when I traveled all over the country promoting liberty. It was so wonderful to feel the patriotism in the air as I visited new places. The times I've felt lonely, though, were the times when I've just sat on display as hundreds of people a day passed by me not even knowing what I represent. They have no idea what it really means to be free because they have never known anything different.

I'm afraid for this nation. I'm afraid that it will have the same fate that fell on me. You see, back in 1835 while I was tolling at the funeral ceremony of John Marshall, I cracked. After all the protection and concern I had received through the years to make sure no one harmed me, I was cracked by my own clapper. Yes, I cracked from within. I see us worrying so much about what action another nation may take against us that we fail to see how we are falling apart within. We are slowly being destroyed by broken families, suicide, AIDS, and immorality in our own country.

I don't want to sound like I see no hope for the United States. It's the only place I would want to live because it has such a bright future. The warnings I send out are only to remind us of where we've come from. I love this country so much; that is why I want the best for it. I want liberty. I don't want the next generation to experience life without freedom. Please let me stay in this country. Please hear my call to freedom. Please don't let America crack. Let freedom ring . . . forever.

INTRODUCTION OF PUGET SOUND LEGISLATION

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKS. Mr. Speaker, today I am proud to join my colleagues from the State of Washington in introducing a bill that will allow for a better financed, a more directed and better coordinated approach to protecting one of the Pacific Northwest's most treasured natural resources, Puget Sound. The legislation we are introducing today will provide specific Federal authorization for the Puget Sound cleanup program which, until now, has been funded as part of the overall national estuary program by the Environmental Protection Agency. In some ways this legislation represents a small improvement—it merely creates a separate line-item in the Federal budget for the Puget Sound program, much like that designation accorded to Chesapeake Bay and Boston Harbor. But it is a move that we view as absolutely fundamental to the success of the large-scale task of protecting the health and vitality of the sound for posterity—an effort that will require the energy and resources of numerous governmental entities, small and large businesses, farmers, developers and, of course, individual citizens around the Puget Sound region of Washington State.

As we look toward the beaches around New York and New Jersey, we are reminded that disposing of our garbage by "throwing it away" in offshore waters or estuaries doesn't work anymore. There's no more "away" there * * * it is coming back to us.

The East Coast situation provides a strong keynote for our effort in Puget Sound. We need a stronger, more concerted Federal and State effort to identify contaminants already in Puget Sound and to stop further contamination from entering the sound's waters.

To accomplish these objectives, we need a more directed Federal approach, to complement the aggressive stance that the State of Washington has already taken in this cleanup program. The legislation we are submitting today provides specific authority for the Administrator of the Environmental Protection Agency to make funds available to the Puget Sound water quality authority for the purpose of carrying out cleanup activities in Puget Sound, and I urge my colleagues to support this important effort.

Mr. Speaker, I include a recent article from Time magazine called the "Dirty Seas," as follows:

THE DIRTY SEAS

(The very survival of the human species depends upon the maintenance of an ocean clean and alive, spreading all around the world. The ocean is our planet's life belt.—Marine Explorer Jacques-Yves Cousteau (1980).)

After sweltering through a succession of torrid, hazy and humid days, thousands of New Yorkers sought relief early last month by heading for the area's public beaches. What many found, to their horror and dismay, was an assault on the eyes, the nose and the stomach. From northern New Jersey to Long Island, incoming tides washed up a nauseating array of waste, including plastic tampon applicators and balls of sewage 2 in. thick. Even more alarming was the drug paraphernalia and medical debris that began to litter the beaches: crack vials, needles and syringes, prescription bottles, stained bandages and containers of surgical sutures. There were also dozens of vials of blood, three of which tested positive for hepatitis-B virus and at least six positive for antibodies to the AIDS virus.

To bathers driven from the surf by the floating filth, it was as if something precious—*their* beach, *their* ocean—had been wantonly destroyed, like a mindless graffito defacing a Da Vinci painting. Susan Guglielmo, a New York City housewife who had taken her two toddlers to Robert Moses State Park, was practically in shock: "I was in the water when this stuff was floating around. I'm worried for my children. It's really a disgrace." Said Gabriel Liegey, a veteran lifeguard at the park. "It was scary. In the 19 years I've been a lifeguard, I've never seen stuff like this."

Since the crisis began, more than 50 miles of New York City and Long Island beaches have been declared temporarily off limits to the swimming public because of tidal pollution. Some of the beaches were reopened, but had to be closed again as more sickening debris washed in. And the threat is far from over: last week medical waste was washing up on the beaches of Rhode Island and Massachusetts. "The planet is sending us a message," says Dr. Stephen Joseph, New York City's health commissioner. "We cannot continue to pollute the oceans with impunity."

As federal and state officials tried to locate the source of the beach-defiling materials, an even more mysterious—and perhaps more insidious—process was under way miles off the Northeast coast. Since March 1986, about 10 million tons of wet sludge processed by New York and New Jersey municipal sewage-treatment plants has been moved in huge barges out beyond the continental shelf. There, in an area 106 nautical miles from the entrance to New York harbor, the sewage has been released underwater in great, dark clouds.

The dumping, approved by the Environmental Protection Agency, has stirred noisy protests from commercial and sport fishermen from South Carolina to Maine. Dave Krusa, a Montauk, N.Y., fisherman, regularly hauls up hake and tilefish with ugly red lesions on their bellies and fins that are rotting away. Krusa is among those who believe that contaminants from Dump Site 106 may be borne back toward shore by unpredictable ocean currents. "In the past year, we've seen a big increase of fish in this kind of shape," he says. Who will eat them? New Yorkers, says a Montauk dockmaster. "They're going to get their garbage right back in the fish they're eating."

This summer's pollution of Northeastern beaches and coastal waters is only the latest signal that the planet's life belt, as Cousteau calls the ocean, is rapidly unbuckling. True, there are some farsighted projects here and there to repair the damage, and there was ample evidence in Atlanta last week that the Democrats hope to raise the nation's consciousness about environmental problems. The heightened interest comes not a moment too soon, since marine biologists and environmentalists are convinced that oceanic pollution is reaching epidemic proportions.

The blight is global, from the murky red tides that periodically afflict Japan's Inland Sea to the untreated sewage that befouls the fabled Mediterranean. Pollution threatens the rich, teeming life of the ocean and renders the waters off once famed beaches about as safe to bathe in as an unflushed toilet. By far the greatest, or at least the most visible damage has been done near land, which means that the savaging of the seas vitally affects human and marine life. Polluted waters and littered beaches can take jobs from fisherfolk as well as food from consumers, recreation from vacationers and business from resorts. In dollars, pollution costs billions; the cost in the quality of life is incalculable.

In broadest terms, the problem for the U.S. stems from rampant development along the Atlantic and Pacific coasts and the Gulf of Mexico. Between 1940 and 1980, the number of Americans who live within 50 miles of seashore increased from 42 million to 89 million—and the total is still mounting. Coastal waters are getting perilously close to reaching their capacity to absorb civilization's wastes.

Today scientists have begun to shift the focus of research away from localized sources of pollution, like oil spills, which they now believe are manageable, short-term problems. Instead, they are concentrating in the less understood dynamics of chronic land-based pollution: the discharge of sewage and industrial waste and—possibly an even greater menace—the runoff from agricultural and urban areas.

Conveyed to the oceans through rivers, drainage ditches and the water table, such pollutants include fertilizers and herbicides washed from farms and lawns, motor oil from highways and parking lots, animal droppings from city streets and other untreated garbage that backs up in sewer systems and spills into the seas. Says Biologist Albert Manville of Defenders of Wildlife, a Washington-based environmental group: "We're running out of time. We cannot continue to use the oceans as a giant garbage dump."

The oceans are broadcasting an increasingly urgent SOS. Since June 1987 at least 750 dolphins have died mysteriously along the Altantic Coast. In many that washed ashore, the snouts, flippers and tails were pocked with blisters and craters; in others, huge patches of skin had sloughed off. In the Gulf of Maine, harbor seals currently have the highest pesticide level of any U.S. mammals, on land or in water. From Portland to Morehead, City, N.C., fishermen have been hauling up lobsters and crabs with gaping holes in their shells and fish with rotted fins and ulcerous lesions. Last year's oyster haul in Chesapeake Bay was the worst ever; the crop was decimated by dermo, a fungal disease, and the baffling syndrome MSX (multinucleate sphereX).

Suffocating and sometimes poisonous blooms of algae—the so-called red and brown tides—regularly blot the nation's coastal bays and gulfs, leaving behind a trail of dying fish and contaminated mollusks and crustaceans. Patches of water that have been almost totally depleted of oxgen, known as dead zones, are proliferating. As many as 1 million fluke and flounder were killed earlier this summar when they became trapped in anoxic water in New Jersey's Raritan Bay. Another huge dead zone, 300 miles long and ten miles wide, is adrift in the Gulf of Mexico.

Shellfish beds in Texas have been closed eleven times in the past 18 months because of pollution. Crab fisheries in Lavaca Bay, south of Galveston, were forced to shut down when dredging work stirred up mercury that had settled in the sediment. In neighboring Louisiana 35 percent of the state's oyster beds are closed because of sewage contamination. Says Oliver Houck, a professor of environmental law at Tulane: "These waters are nothing more than cocktails of highly toxic substances."

The Pacific coastal waters are generally cleaner than most, but they also contain pockets of dead—and deadly—water. Seattle's Elliott Bay is contaminated with a mix of copper, lead, arsenic, zinc, cadmium and polychlorinated biphenyls (PCBs) chemicals once widely used by the electrical-equipment industry. "The bottom of this bay is a chart of industrial history." says Thomas Hubbard, a water-quality planner for Seattle. "If you took a core sample, you could date the Depression, World War II. You could see then PCBs were first used and when they were banned and when lead was eliminated from gasoline." Commencement Bay, Tacoma's main harbor, is the nation's largest underwater area designated by the Environmental Protection Agency as a Super-fund site, meaning that pollution in the bay is so hazardous that the Federal Government will supervise its cleanup.

Washington State fisheries report finding tumors in the livers of English sole, which dwell on sediment. Posted signs warn, Bottomfish Crab and Shellfish May be Unsafe to Eat Due to Pollution. Lest anyone fail to get the message, the caution is printed in seven languages; English, Spanish, Vietnamese, Cambodian, Laotian, Chinese and Korean.

San Francisco Bay is also contaminated with copper, nickel, cadmium mercury and other heavy metals from industrial discharges. Last year toxic discharges increased 23 percent. In Los Angeles urban runoff and sewage deposits have had a devastating impact on coastal ecosystems, notably in Santa Monica Bay, which gets occasional floods of partly processed wastes from a nearby sewage-treatment plant during heavy rainstorms. Off San Diego's Point Loma, a popular haunt of skin divers, the waters are so contaminated with sewage that undersea explorers run the risk of bacterial infection.

U.S. shores are also being inundated by waves of plastic debris. On the sands of the Texas Gulf Coast one day last September, volunteers collected 307 tons of litter, two-thirds of which was plastic, including 31,733 bags, 30,295 bottles and 15,631 six-pack yokes. Plastic trash is being found far out to sea. On a four-day trip from Maryland to Florida that ranged 100 miles offshore, John Hardy, an Oregon State University marine biolgist, spotted "Styrofoam and other plastic on the surface, most of the whole cruise."

Nonbiodegradable plastic, merely a nuisance to sailors, can kill or maim marine life. As many as 2 million seabirds and 100,000 marine mammals die every year after eating or becoming entangled in the debris. Sea turtles choke on plastic bags they mistake for jellyfish, and sea lions are ensnared when they playfully poke their noses into plastic nets and rings. Unable to open their jaws, some sea lions simply starve to death. Brown pelicans become so enmeshed in fishing line that they can hang themselves. Says Kathy O'Hara of the Center for Environmental Education in Washington: "We have seen them dangling from tree branches in Florida."

Some foreign shores are no better off. Remote beaches on Mexico's Yucatán Peninsula are littered with plastics and tires. Fish and birds are being choked out of Guanabara Bay, the entryway to Rio de Janeiro, by sewage and industrial fallout. Japan's Inland Sea is plagued by 200 red tides annually; one last year killed more than 1 million yellowtail with a potential market value of $15 million. In the North Sea chemical pollutants are believed to have been a factor in the deaths of 1,500 harbor seals this year. Last spring the Scandinavian fish industry was hard hit when millions of salmon and sea trout were suffocated by an algae bloom that clung to their gills and formed a slimy film. Farmers towed their floating fishponds from fjord to fjord in a desperate effort to evade the deadly tide.

For five years, at 200 locations around the U.S., the National Oceanic and Atmospheric Administration has been studying mussels, oysters and bottom-dwelling fish, like flounder, that feed on the pollutant-rich sediment. These creatures, like canaries placed in a coal mine to detect toxic gases, serve as reliable indicators of the presence of some 50 contaminants. The news is not good. Coastal areas with dense populations and a long history of industrial discharge show the highest levels of pollution. Among the worst, according to Charles Ehler of NOAA: Boston Harbor, the Hudson River—Raritan estuary on the New Jersey coast, San Diego harbor and Washington's Puget Sound.

Last week the EPA added six major estuaries to the half a dozen already on the list of ecologically sensitive coastal areas targeted for long-term study. Estuaries, where rivers meet the sea, are the spawning grounds and nurseries for at least two-thirds of the nation's commercial fisheries, as well as what the EPA calls sources of "irreplaceable recreation and aesthetic enjoyment."

Although the poisoning of coastal waters strongly affects vacationers, homeowners and resort operators, its first (and often most vocal) victims are fishermen. Commercial fishing in the U.S. is a $3.1 billion industry, and it is increasingly threatened. Fisherman Richard Hambley of Swansboro, N.C., recalls that only a few years ago, tons of sturgeon and mullet were pulled out of the White Oak River. "Now that is nonexistent," he says. "There are no trout schools anymore. Crabs used to be like fleas. I'm lucky to get a few bushels." Ken Seigler, who works Swansboro's Queens Creek, has seen his income from clams and oysters drop 50% in seven years; this year he was forced to apply for food stamps. New Jersey Fisherman Ed Maliszewski has used his small boat for only two weeks this year. He is trying to bail out, and so are others.

In the diet-and-wellness '80s, fish has been widely touted as a healthful food. Not only do smaller catches mean ever higher prices, but also the incidence of illnesses from eating contaminated fish—including gastroenteritis, hepatitis A and cholera—is rising around the U.S. Pesticide residues and other chemicals so taint New York marine waters that state officials have warned women of childbearing age and children under 15 against consuming more than half a pound of bluefish a week; they should never eat striped bass caught off Long Island. Says Mike Deland, New England regional administrator for the EPA: "Anyone who eats the liver from a lobster taken from an urban area is living dangerously."

Fish and shellfish that have absorbed toxins can indirectly pass contaminants to humans. Birds migrating between Central America and the Arctic Circle, for example, make a stopover in San Francisco's wetlands, where they feast on clams and mussels that contain high concentrations of cadmium, mercury and lead. Says Biologist Gregory Karras of Citizens for a Better Environment: "The birds become so polluted, there is a risk from eating ducks shot in the South Bay."

Despite the overwhelming evidence of coastal pollution, cleaning up the damage, except in a few scattered communities, has a fairly low political priority. One reason: most people assume that the vast oceans, which cover more than 70 percent of the world's surface, have an inexhaustible capacity to neutralize contaminants, by either absorbing them or letting them settle harmlessly to the sediment miles below the surface. "People think "Out of sight, out of mind,"' says Richard Curry, an oceanographer at Florida's Biscayne National Park. The popular assumption that oceans will in effect heal themselves may carry some truth, but scientists warn that this is simply not known. Says Marine Scientist Herbert Windom of Georgia's Skidaway Institute of Oceanography: "We see things that we don't really understand. And we don't really have the ability yet to identify natural and unnatural phenomena." Notes Sharron Stewart of the Texas Environmental Coalition: "We know more about space than the deep ocean."

Marine scientists are only now beginning to understand the process by which coastal waters are affected by pollution. The problem, they say, may begin hundreds of miles from the ocean, where nutrients, such as nitrogen and phosphorus, as well as contaminants, enter rivers from a variety of sources. Eventually, these pollutants find their way into tidal waters. For the oceans, the first critical line of defense is that point in estuaries, wetlands and marshes where freshwater meets salt water. Marine biologists call this the zone of maximum turbidity—literally, where the water becomes cloudy from mixing.

There, nutrients and contaminants that have dissolved in freshwater encounter the ionized salts of seawater. The resulting chemical reactions create particles that incorporate the pollutants, which then settle to the bottom. As natural sinks for contaminants, these turbidity zones protect the heart of the estuary and the ocean waters beyond.

But the fragile estuarine systems can be overtaxed in any number of ways. Dredging can stir up the bottom, throwing pollutants back into circulation. The U.S. Navy plans to build a port in Puget Sound for the aircraft carrier U.S.S. *Nimitz* and twelve other ships; the project will require displacement of more than 1 million cu. yds. of sediment, with unknown ecological consequences. Similarly, natural events such as hurricanes can bestir pollutants from the sediment. The estuarine environment also changes when the balance of freshwater and salt water is disturbed. Upstream dams, for example, diminish the flow of freshwater into estuaries; so do droughts. On the other hand, rainstorms can cause an excess of freshwater runoff from the land.

Whatever the precise cause, trouble begins when the level of pollutants in the water overwhelms the capacity of estuaries to assimilate them. The overtaxed system, unable to absorb any more nutrients or contaminants, simply passes them along twoard bays and open coastal areas. "When the system is working," says Maurice Lynch, a biological oceanographer at the Virginia Institute of Marine Science, "it can take a lot of assault. But when it gets out of whack, it declines rapidly."

It is then that the natural growth of sea grass may be ended, as has happened in Chesapeake Bay, or sudden blooms of algae can occur, particularly in stagnant waters. The exact reasons for these spurts of algal growth are unknown. They can be triggered, for example, by extended periods of sunny weather following heavy rains. Scientists believe algal growth is speeded up by the runoff of agricultural fertilizers. The burgeoning algae form a dense layer of vegetation that displaces other plants. As the algae die and decay, they sap enormous amounts of oxygen from the water, asphyxiating fish and other organisms.

Some kinds of algae contain toxic chemicals that are deadly to marine life. When carcasses of more than a dozen whales washed up on Cape Cod last fall, their deaths were attributed to paralytic shellfish poisoning that probably passed up the food chain through tainted mackerel consumed by the whales. Carpets of algae can turn square miles of water red, brown or yellow. Some scientists speculate that the account in *Exodus 7:20* of the Nile's indefinitely turning red may refer to a red tide.

When such blights occur in coastal areas, the result can be devastating. Last November a red tide off the coast of the Carolinas killed several thousand mullet and all but wiped out the scallop population. Reason: the responsible species, *Ptychodiscus brevis*, contains a poison that causes fish to bleed to death. Brown tides, unknown to Long Island waters before 1985, have occurred every summer since; they pose a constant threat to valuable shellfish beds.

A study of satellite photographs has led scientists to believe that algae can be conveyed around the world on ocean currents. The Carolinas algae, which had previously been confined to the Gulf of Mexico, apparently drifted to Atlantic shores by way of the Gulf Stream. One species that is native to Southern California is thought to have been carried to Spain in the ballast water of freighters.

The effects of man-made pollution on coastal zones can often be easily seen; far less clear is the ultimate impact on open seas. The ocean has essentially two ways of coping with pollutants: it can dilute them or metabolize them. Pollutants can be dispersed over hundreds of square miles of ocean by tides, currents, wave action, huge underwater columns of swirling water called rings, or deep ocean storms caused by earthquakes and volcanoes.

Buried toxins can also be moved around by shrimp and other creatures that dig into the bottom and spread the substances through digestion and excretion. Though ocean sediment generally accumulates at a rate of about one-half inch per thousand years, biogeochemist John Farrington of the University of Massachusetts at Boston cites discoveries of plutonium from thermonuclear test blasts in the 1950s and 1960s located 12 in. to 20 in. deep in ocean sediment. Thus contaminants can conceivably lie undisturbed in the oceans indefinitely—or resurface at any time.

There is little question that the oceans have an enormous ability to absorb pollutants and even regenerate once damaged waters. For example, some experts feared that the vast 1979 oil spill in the Gulf of Mexico would wipe out the area's shrimp industry. That disaster did not occur, apparently because the ocean has a greater capacity to break down hydrocarbons than scientists thought. But there may be a limit to how much damage a sector of ocean can take. Under assault by heavy concentrations of sludge, for example, the self-cleaning system can be overwhelmed. Just like decaying algae, decomposing sludge robs the water of oxygen, suffocating many forms of marine life. What effect chronic contamination from sludge, and other wastes will have on the oceans' restorative powers is still unknown.

Rebuckling the planet's life belt may prove formidable. The federal Clean Water Act of 1972 overlooked runoff pollution in setting standards for water quality. Meanwhile, the nation's coasts are subject to the jurisdiction of a bewildering (and often conflicting) array of governmental bodies. One prime example of this confusion, reports TIME Houston Bureau Chief Richard Woodbury, is found in North Carolina's Albemarle-Pamlico region. There both the federal Food and Drug Administration and a state agency regulate the harvesting of shellfish. A third agency, the state's health department, surveys and samples the water and shellfish. And another state body sets the guidelines for opening or closing shellfish beds. Complains Douglas Rader of the Environmental Defense Fund: "The crazy mix of agencies hurts the prospects for good management."

Lax enforcement of existing cleanwater policies is another obstacle. According to Clean Ocean Action, a New Jersey-based watchdog group, 90% of the 1,500 pipelines in the state that are allowed to discharge effluent into the sea do so in violation of regulatory codes. Municipalities flout the rules as well. Even if Massachusetts keeps to a very tight schedule on its plans to upgrade sewage treatment, Boston will not be brought into compliance with the Clean Water Act until 1999—22 years after the law's deadline. Meanwhile, the half a billion gallons of sewage that pour into Boston Harbor every day receive treatment that is rudimentary at best.

Some communities are leading the way in trying to preserve their shores and coastal waters. In March the legislature of Suffolk County on Long Island passed a law forbidding retail food establishments to use plastic grocery bags, food containers and wrappers beginning next year. Sixteen states have laws requiring that the plastic yokes used to hold six-packs of soda or beer together be photo- or biodegradable. Last December the U.S. became the 29th nation to ratify an amendment to the Marpol (for marine pollution) treaty, which prohibits ships and boats from disposing of plastic—from fishing nets to garbage bags—anywhere in the oceans. The pact goes into effect at the end of this year.

Compliance will not be easy. Merchant fleets dump at least 450,000 plastic containers overboard every day. The U.S. Navy, which accounts for four tons of plastic daily, has canceled a contract for 11 million plastic shopping bags, and is testing a shipboard trash compactor. It is also developing a waste processor that can melt plastics and turn them ito bricks. The Navy's projected cost of meeting the treaty provision: at least $1 million a ship. Supporters of the Marpol treaty readily acknowledge that it will not totally eliminate plastic pollution. "If a guy goes out on deck late at night and throws a bag of trash overboard," says James Coe of NOAA's National Marine Fisheries Service in Seattle, "there's no way that anyone will catch him."

Stiff fines and even prison sentences may get the attention of landbound polluters. Under Administrator Mike Deland, the EPA's New England office has acquired a reputation for tough pursuit of violators. In November 1986 the agency filed criminal charges against a Providence boatbuilder for dumping PCBs into Narragansett Bay. The Company was fined $600,000 and its owner $75,000; he was put on probation for five years.

Washington is one of the few states with a comprehensive cleanup program. Three years ago, the Puget Sound water-quality authority developed a master plan for cleaning up the heavily polluted, 3,200-sq.-mi. body of water. The state legislature has levied an 8¢-a-pack surtax on cigarettes to help pay the bill; this year the tax will contribute an estimated $25 million to the cleanup. The Puget Sound authority and other state agencies closely monitor discharge of industrial waste and are working with companies on ways to reduce effluent.

An aggressive effort is being made to limit runoff as well. Two counties have passed ordinances that regulate the clearing of land and the installation and inspection of septic tanks. Farmers are now required to fence cattle away from streams. Zoning has become more stringent for construction in a critical watershed area: a single-family house requires at least two acres of land. The number of livestock and poultry per acre is also controlled.

The Puget Sound group has an educational program that teaches area residents everything from the history of the sound to what not to put down the kitchen sink. Controlling pollution is promoted as everyone's task. High school students take water samples, and island dwellers have been trained in what to do if they spot an oil spill. Says Seattle Water-Quality Planner Hubbard: "Bridgetenders are great at calling in with violations. They are up high, and when they see a black scum or a little slick, they let us know about it."

Officials hope the cleanup program will have the same result as a decades-long effort mounted by the Federal Government and four states in the Delaware River estuary, an area ringed by heavy industry and home to almost 6 million people. The Delaware's pollution problems began in Benjamin Franklin's day. By World War II, the river had become so foul that airplane pilots could smell it at 5,000 ft. President Franklin Roosevelt even considered it a threat to national security. In 1941 he ordered an investigation to determine whether gases from the water were causing corrosion at a secret-radar installation on the estuary.

Although the Delaware will never regain its precolonial purity, the estuary has been vastly improved. Shad, which disappeared 60 years ago, are back, along with 33 other species of fish that had virtually vanished. Estuary Expert Richard Albert calls the Delaware "one of the premier pollution-control success stories in the U.S.

Such triumps are still rare, and there is all too little in the way of concerted multinational activity to heal the oceans. That meand pollution is bound to get worse. Warns Clifton Curtis, president of the Oceanic Society, a Washington-based environmental organization: "We can expect to see an increase in the chronic contamination of coastal waters, an increase in health advisories and an increase in the closing of shellfish beds and fisheries." Those are grim tidings indeed, for both the world's oceans and the people who live by them.

HANDICAPPED DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, today is Handicapped Day throughout the State of Kentucky pursuant to a 1984 resolution in the Kentucky General Assembly sponsored by Senator HENRY G. LACKEY of Hunderson, KY.

James E. Hyatt and Donna Thomas, of Redbanks Nursing Home in Henderson, are promoting Handicapped Day this year in Kentucky. It was Jimmy Hyatt who urged Senator Lackey in 1983 and 1984 to promote this special day for the handicapped. I would like to take this opportunity to recognize the handicapped people in my home State as well as those across the Nation.

I am aware of the struggles the handicapped have made to show that they are no less qualified than those without disability. It is a struggle for physical equality and a struggle to combat a society that has refused too often to regard the handicapped as "capable."

We all know and have benefited from the many individuals who have overcome their obstacles to make valuable contributions to our society. Helen Keller—blind, deaf, and mute—worked diligently to conquer her infirmities, and, through her determination, proceeded to teach others, lecture and write. And the great composer Ludwig von Beethoven lost his hearing, but continued to produce music that mesmerizes audiences today.

But most importantly, perhaps, are the unrecognized millions who are utilizing their talents to the fullest in their local workplaces and communities. Numerous companies such as Procter & Gamble, Honeywell, AT&T, and United Airlines all employ individuals with impediments. We are proud to see an outstanding wheelchair athlete has been featured on the famous Wheaties box.

We are finally coming to the realization that handicapped means handicapable. Being handicapped does not mean being inadequate. On Handicapped Day in Kentucky I again commend the disabled citizens of the United States of America. I truly believe that handicapped is handi-capable.

UNDERSTANDING CONGRESS: A BICENTENNIAL RESEARCH CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, the Commission on the Bicentenary of the U.S. House of Representatives and the Senate Bicentennial Commission, along with the Congressional Research Service, are sponsoring a scholarly bicentennial conference scheduled for February 9-10, 1989. The title of the conference will be: "Understanding Congress: A Bicentennial Research Conference."

The total budget for this conference will be approximately $40,000. The Senate will provide up to $15,000 toward the conference. CRS will provide support in administrative and staff services and some funds from a recent Ford Foundation grant. The Lyndon Baines Johnson Foundation has agreed to support the conference with an amount up to $5,000.

Today, I am introducing a resolution to authorize that up to $15,000 be provided through the House contingent fund as the House contribution to this important conference in honor of the 200th anniversary of Congress. These funds will be used by pay fees, travel, and per diem expenses to speakers and program panelists and other direct conference costs. The funds will not be used for entertainment aspects of the 2-day event.

The conference will bring together nationally known historians, political scientists, journalists, and former Members to discuss ways to improve our understanding of Congress. Outstanding public speakers and several Pulitzer Prize winning scholars have already agreed to participate in this event.

REFORM OF WHITE HOUSE PERSONNEL PROCEDURES

Mr. STARK. Mr. Speaker, for decades White House staffs have been padded with employees borrowed from other Federal agencies. It has reached the point where political appointees have been hired by a Federal agency and immediately detailed to the White House—without doing 1 day's work in the agency that hired them and pays them.

I am introducing two bills today that will reform these abusive management practices. The first bill requires the White House to reimburse the agencies from which it borrows employees for the full time it uses the employees' services. Current law gives the White House free use of these employees for 6 months. This is a bad budget practice. Federal agencies should not be paying for someone else's employees.

The second bill prohibits political appointees from being detailed to the White House. Political appointees are exempted from the competitive service because of the confidential or policymaking character of their positions within the agency that hired them. Detailing them away from the agency destroys the rationale behind exempting them from the competitive service. If the White House wants political appointees, it can hire its own. It should not procure them through another Federal agency.

We will elect a new administration in November. Let's lay down the ground rules for staff now—and end these long-time abuses.

TRIBUTE TO RAYMON HARRISON ROEBUCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. COELHO] is recognized for 60 minutes.

Mr. COELHO. Mr. Speaker, today we pause to pay tribute to a dear friend and coworker of ours, and to celebrate his 25 years of service to this distinguished body. Raymon Harrison Roebuck has, for the last quarter-century, been a loyal friend, trusted confidant, and master chef extraordinaire for the Members of the House of Representatives in his position as manager of the Democratic Cloakroom snackbar.

In 1963, about the time I came to Capitol Hill to work for the Member I eventually succeeded, Ray took over as manager of the snackbar following the retirement of his older sister and her husband from this position. This is significant, because as anyone who knows Ray will tell you, his family is very important to him. I think he would not be upset if I said that the only group more important to him than the Members of this body are the members of his own family, and that is to his credit. No parents could have asked for a more devoted and caring son than Mr. and Mrs. Roebuck had, and he tended personally to their every need until they passed away several years ago. He remains today a pillar of strength and support for his brothers and sisters.

There are several basic qualities that Ray is blessed with, I think, that help to explain how he has succeeded over the years in what is really a very difficult position. First and foremost is his caring nature. Ray has an uncanny ability to remember the name of everyone who he meets—from a freshman member to a new page, both of which share a certain apprehension about their new duties. From their first conversation with him, both of these tender souls know that they will always be able to turn to Ray for some common sense advice with their problems or for some nourishment during a tough late night session. They know that they will always be able to count on Ray. In a town in which friendships and allegiances sometimes shift even quicker than the direction of the wind, this is indeed a rare quality.

Second, and this follows from his role as a caring counselor to most of us, Ray is famous for his discretion. He was once quoted in a book by Jimmy Breslin as having said: "I don't know nothing, I don't hear nothing, I don't see nothing." But quite the contrary, Ray hears everything—his secret is too repeat nothing. Our former colleague and beloved Speaker, Tip O'Neill, once remarked that Ray knew more about how a vote would turn out than the House leadership itself. This is a tribute to the high esteem the Members of this body—myself included—hold him in.

Yet another outstanding quality is his hard work and dedication to his duties. Someone who didn't know better might assume Ray comes in to work a few minutes before the

House goes into session in the morning. He usually arrives by 6 a.m., however, to take delivery of his food and to begin preparing his famous delicacies. Whenever the House is in session late, we can all take comfort in knowing that Ray will be here with us—with his wit, wisdom, and snacks that help to keep us going late into the night.

Finally, another quality that helps to explain Ray's success is his eternal tact and skillfull diplomacy. There are few people on the Hill who have the ability to tell a member of the leadership or a powerful committee chairman to wait their turn for something, but Ray has been doing it—and getting away with it—for a quarter-century. We all know—and understand—that at Ray's counter, it is first come, first served no matter who you are. This is indeed a tribute to his high degree of tact and diplomatic ability.

Clearly, Ray is much more than just our snackbar manager. More importantly, he is our trusted friend. I can quite honestly think of no one who has served this body with greater distinction during my 25 years on the Hill than Raymon Roebuck.

Ray, for your service; for your loyalty; for your kindness; for your counsel; and most of all for your friendship; I am proud to salute you this evening. I am glad that through this heartfelt tribute tonight, we are able to pay back just a little of the great debt we all owe you. I look forward to our next 25 years together.

□ 1500

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I rise to thank the distinguished majority whip for taking this special order to commemorate Raymon Roebuck on his 25th anniversary. I certainly second every single remark our distinguished whip has uttered in this respect.

I would add only the mention that Mr. Roebuck came aboard soon after I came to the Congress, so he and I have been more or less confederates in service, and I think the gentleman has covered every single point that I can think of in extolling the virtues and in sincerely expressing our gratitude for his continued and sustained service. I think these are aspects of service to the House that unless, as the gentleman from California has done, time is taken out to make public note, the general public and even some of our colleagues may not be aware of that general service, even though I think there would be very few in the membership.

The fact is that I end as I started by thanking my colleague from California for taking time, pausing and giving us a change to congratulate Mr. Roebuck and wish him many, many future years of service.

Mr. COELHO. I thank the gentleman from Texas.

Mr. DYMALLY. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from California.

Mr. DYMALLY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I know I speak for all the Members of the Congressional Black Caucus when we express our deep gratitude to Raymon for making what has sometimes been unpleasant moments very pleasant with his warm smile and his ready meal.

But I do want to say this about Ray, Mr. Speaker, he does not know how to bet on baseball teams. From time to time he has picked the wrong teams both in baseball and football, and he is especially wrong on the Dodgers. He is wrong on the Raiders. Occasionally he is right on the Redskins as he was last year, but that was the exception to the rule. But by and large he does not know his football teams and he does not know his baseball teams very well, especially those on the west coast.

Mr. COELHO. If the gentleman will yield back, do you think he knows how to choose his political teams?

Mr. DYMALLY. Yes; very well.

Mr. COELHO. I just want to make that clear.

Mr. DYMALLY. But on the football teams he has only been right once in 7½ years.

But Mr. Speaker, it is a pleasure for me to join with the majority whip and my colleagues here in saying how grateful we are to Ray for making our days very pleasant when things get a little rough on the floor.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding and commend him for taking the time and this special order for our close friend, Raymon Roebuck, so that we could come up and talk about Raymon. He has been here 25 years. I have been here about 22 years, and I think Raymon was one of the first persons that I had the privilege of meeting and becoming good, close friends, and I have enjoyed doing business with Raymon.

As the gentleman in the well, our majority whip, said, Raymon does keep us in line, and takes us in order, and runs a good shop.

I also want to make the comment that through the years Raymon has gotten to know the pages that not only I have had the privilege of bringing up here over the years, but pages of other Members from other States, and when I see these pages that were up here 10 years ago they will always ask about Raymon and how is Raymon doing, how is he getting along. Certainly that is impressive that the young pages appreciate Raymon Roebuck. He gives them the guidance and the help that they need. They are homesick and Raymon knows how to handle them.

Raymon is a great American and I commend the majority whip for taking out this special order. Raymon has meant a lot to all of us.

Mr. Speaker, I am pleased that we are honoring our friend, Raymon Roebuck with this special order today. I commend our colleague, TONY COEHLO for taking this time to pay tribute to Ray's 25 years of service to the House of Representatives.

I have known Ray for as long as I have been in Congress. I consider him a friend and have not only enjoyed doing business with him, I have also always counted on him to find out what's really going on in the House. Ray can tell you what to expect during our House sessions and how late we are going to be working on a given night. He is almost always right on target.

A lot has changed over the past 25 years here in Washington, but we have always been able to count on Ray to be there with a pleasant greeting and a good story. He is a great American and I am honored to take part in this recognition of his years of service.

Mr. COELHO. I thank the gentleman from Mississippi.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I am very pleased to join with the majority whip in paying tribute to one of the really great people of this institution. Raymon Roebuck is our friend. As every Member has risen to attest to, he is our friend because we know that he cares about each one of us individually. It is not a superficial relationship that Ray has with each one of us. It is a caring relationship. He is interested in what we are interested in. He is interested in making sure that we are comfortable and happy and feel a full part of this institution.

I know that like so many others who have spoken on this floor I came in 1981 and one of the first people I met, non-members, was the impressario of Chez Raymon, and he was as gracious, as outgoing, as helpful, as uplifting, as encouraging as anybody in this institution, and he has made my service here far better than I am sure it would otherwise have been.

It is appropriate, not that we waste the time of this body because it is not wasting the time of this body. Some may think that taking an hour out to praise somebody with whom you work is perhaps not the essence of the business that we are about, and yes, we deal with the big issues. But generally speaking, the big issues are handled best when those people with whom we work care about us and we care about them, and that that entire relationship, that connectiveness with persons in this institution is recognized, it is important, and I congratulate the majority whip.

Ray Roebuck is our friend. He is a vital part of this institution. His kind word and encouragement at times of stress make a difference in policy. He is indeed a servant of the people of this country as much as each of us are as Members, and I am very proud that he is my friend, and have enjoyed my service here more so for his service.

Mr. Speaker, usually when we rise to honor a colleague it is because that person is retiring.

Today we have the happy opportunity to pay our respects to someone who we all hope will be with us for many years to come, our friend, Raymon Roebuck of the Democratic Cloakroom.

Yesterday Raymon celebrated 25 years in this House. For the many of us who have been elected during his tenure, Raymon has started out as a guide and became a friend. He has served to educate a generation of Members on the ways and folklore of the House.

It is not often enough in this House that we stop to thank the many people who make our lives easier. Raymon certainly leads those ranks. He is never without a greeting, a good word or a story. For making our lives so much more pleasant; indeed, for making this House more of a home, we thank Raymon.

Mr. COELHO. I thank the gentleman from Maryland.

That brings up a good point. Raymon, whenever we go in the back room, always has his feet solidly on the ground and never gets caught up in a lot of dialog we get caught up in, and he brings us back to Earth which sometimes we need to be brought back to periodically.

I would just note that every once in a while when we are back there we have individuals from the other side of the aisle who come over and partake of our snackbar because of its particular delicacies. I just want Raymon to note that there is nobody from the other side of the aisle here so that he can make sure that when he talks about first come, first serve, that it is certain people first come, first serve, and I just wanted to note that for the RECORD.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, it is a pleasure for me to join my colleagues today in thanking Raymon Roebuck for 25 years of dedicated service to Congress.

In the fast-paced environment of the House of Representatives Chamber, Raymon's sandwich bar area in the Democratic Cloakroom provides an oasis of warmth and refreshment. When controverisal legislation is on the floor and the House is in session until the early morning hours, when the hours are long and tempers run short, Raymon is there with a friendly word as well as food and drink.

After 25 years of service in the House Chamber, Raymon is a Capitol Hill institution. He has known some of the great leaders of Congress. He has witnessed the passage of landmark legislation. No doubt he has been privy to countless strategy sessions which have taken place over a hot dog at his counter. He is always discreet, polite, and caring.

Mr. Speaker, Raymon Roebuck has eased the workload of legislators debating weighty issues in American politics. His years of commitment to his job and his country should deserve to be recognized.

Mr. Speaker, I note that my colleague, the gentleman from California [Mr. DYMALLY] said that Raymon was not too good at picking baseball and football teams, but I can assure the gentleman that he is very excellent in picking the Los Angeles Lakers for 2 consistent years as being the world champions.

On truly a personal note, Mr. Speaker, Raymon and I grew up in the same community here in Washington, DC, and he has really been an oasis to me to talk about the issues and the climate of Washington, DC, some 43 years ago. He is not only a dedicated public servant in the fact that he serves the Members of Congress very well, but he is a personal friend, and I salute him for 25 years of dedicated service.

Mr. COELHO. I thank the gentleman from California.

The gentleman from California mentioned that Mr. Roebuck has been privy to many of the conversations that take place in regards to strategy on different legislative efforts, and Mr. Roebuck does know all those strategies and he is involved with those. He has promised me, however, for those Members who are concerned about the revelation by the gentleman from California [Mr. DIXON] that he will not write a book. He does not intend to do that.

Mr. LELAND. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Texas.

Mr. LELAND. Mr. Speaker, I thank the gentleman from California, our majority whip, for yielding and certainly appreciate him providing us with this great opportunity to pay homage to a great man. For the 25 years he has been here he has already indelibly impressed so many people, people who have come and gone, people who are still here, and I happen to be one of those people.

For 10 years, I have known Raymon and I have been very excited about the relationship we have had over those years, because Raymon has been very special to me. When I have not had anybody else to go and talk to about the problems that I have had, I have always been able to cry on Raymon's shoulder. He had always been able in times when I have needed something to eat and could not afford to go downstairs and pay the cost or the price for those things downstairs, or I could not go out to a restaurant somewhere off of the Hill, Raymon has always given me the kind of credit that I could not get anywhere else, and for that I really appreciate Raymon. The only problem is that the way he tends to take care of me getting out of the problems that I have had or thinking about things other than the problems that I have had when I have gone to him is that he will cook in the microwave some of his foods, and I have had problems with the food and sometimes I have needed an Alka Seltzer, so I think about the problem he had given me through an upset stomach or something as opposed to the problems that were of great magnitude.

Mr. DIXON. Mr. Speaker, if the gentleman will yield, I guess my distinguished colleague, the gentleman from Texas, who came to this Congress with me, has many characteristics in common with me, and one of them is that maybe we do not always pay our debts on time. As the gentleman well knows, Raymon is a gentleman who will extend credit to us, and I understand that my colleague from Texas is on that list of extended credit almost for the whole period of the 10 years that he has been here. I am probably on it for a little shorter period of time, maybe 9½ years. But the remarks of my colleague from Texas certainly are well taken by Raymon today, and I understand that he will probably extend that credit at least for the next 2 years.

Mr. LELAND. I certainly hope so, and I really appreciate having that kind of credit, really I do, I could not get it anywhere else. I could not qualify.

Mr. DIXON. I note the gentleman said he does not go to the downtown restaurants.

Mr. LELAND. That is exactly right. Let me say in all seriousness that Raymon is indeed a very special person. He is a special person to me and many Members of Congress. I probably think that Raymon possibly has at least as much influence, on the majority side of this House anyway, as any one Member of this Congress, and for that I think that at some point in time here in Congress we ought to extend to him an honorary Membership in the U.S. House of Representatives. I consider myself that Raymon is probably the 436th Member of the House of Representatives.

I thank the majority whip for giving me this opportunity.

Raymon, we all love you.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Texas.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Alabama.

Mr. HARRIS. Mr. Speaker, I thank the gentleman from California, my good friend, and our majority whip for yielding.

Our good friend Raymon Roebuck is probably responsible for providing more "humanitarian aid" than we in Congress have appropriated during the time which he has been with us. Raymon has helped us keep body and soul together for the past 25 years and has been a kind and thoughtful friend to us all.

Raymon's knowledge of the workings of the House amazes me and I can always count on him for an interesting bit of history. Of course, that is not surprising—after all he has been here through four Speakers of the House, six Presidents, and countless Members of Congress. In fact, any day now I expect to hear that Raymon has signed a deal to publish his memoirs. Just make sure that you spell my name right, Raymon.

I am pleased to join my colleagues in saluting Raymon Roebuck for his outstanding service on Capitol Hill and for his love and appreciation of our Democratic process. Many thanks for a job well done.

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Mr. COELHO. I yield to the gentleman from Illinois.

Mr. DURBIN. I thank my colleague from California for arranging for this special order this evening to honor a great individual.

I remember 6 years ago when I first came to Congress and we went through this orientation period. As a new Member of Congress you are brought in and they sit you down and they tell you the impressive resources at your disposal as a Member of Congress: the Library of Congresss across the street with copies of every volume of every book ever printed and all the experts in the world; the Congressional Research Service at your beck and call. You pick up the telephone and they can give you the answer to the question.

And all of the professionals that work in and out of Government around Washington, DC, all of the professionals at the committee level. I was dazzled by this.

Then I started into the actual engagement of my role as Congressman and I soon learned that many of these experts are very valuable and they can be helpful but there are people on Capitol Hill who are even more valuable. Raymon Roebuck is one of those people.

I say that not facetiously because he has an insight as to how people work more than how Government works. That I think helps Members as they go along and try to carry the burdens and responsibilities of office.

Raymon has been a good friend. He always has a kind word. He has been through some difficulties in his own life, but frankly those are always secondary to our own concerns. Perhaps we do not listen closely enough as we should to hear what he has been through many times.

But I was glad to come over this afternoon and join in honoring him and I thought back to all the hundreds of Members of Congress who have stood in front of that little snack bar in there, who have received his hospitality and good wishes. I want to add another group, the hundreds if not thousands of congressional pages who Raymon Roebuck over the years has befriended.

Let me give you one specific example: In my home town of Springfield, IL, the State capital, in our Illinois State Senate the sergeant at arms is a fellow named Danny Day. Danny Day was a page in the U.S. House of Representatives many, many years ago. In fact, Raymon Roebuck told me that Danny was present at his fifth anniversary of service to the U.S. House of Representatives.

Well, Danny has gone on to bigger and better and greater things now and he has an official title in Illinois State government, but we still talk many times back in Springfield about his friend Ray Roebuck.

Danny cannot be here with us today; he is here in spirit along with the hundreds if not thousands of others who owe a great debt of gratitude to a great man. We salute you, Ray Roebuck.

Mr. COELHO. I thank the gentleman from Illinois.

Mr. Speaker, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. I would like to congratulate our majority whip for his thoughtfulness in taking time for this special order in order that many House colleagues can come together on the House floor to pay tribute to one we admire and like very much, our friend Raymon Roebuck.

Many of us in Congress realize that those who retire from this body after a long time of service do not have as many Members of the House standing in the House paying tribute to retiring colleagues as we do right now paying tribute to one who is not retiring but who has served 25 years efficiently and effectively and with a joy that causes all of us to look forward to going to the Cloakroom, especially around noon time or in midafternoon for some of us, or both times.

It is good to know, as much as Raymon has heard, that he does not plan to write a book. Many of us are happy to hear that good news.

Mr. COELHO. If the gentleman would yield, he has assured me of that several times. I think we need to keep repeating that, however; it is important.

Mr. HUBBARD. I am also glad at this point that I am paid up in the Cloakroom at the sandwich bar. If I were not, someone might say this speech was a conflict of interest because we are paying to one to whom we owe.

Anyway, in all seriousness, I would like to congratulate our friend Raymon Roebuck upon 25 years of service. Indeed, for some of us, including one who will soon speak to my left here, Raymon Roebuck has served in the House Cloakroom the entire time we have been in Congress, myself for 13½ years.

We appreciate him, we admire him, we wish him God's richest blessings. And we hope that Raymon Roebuck will even have 25 years of good service in the House Democratic Cloakroom.

Mr. Speaker, today I have the honor to rise to pay tribute to my friend Raymon Roebuck. Raymon is celebrating his 25th anniversary of service in our Democratic Cloakroom.

I am honored to participate in this special order recognizing Raymon. He has cheerfully served in this Cloakroom during my 13½ years as a U.S. Representative.

Rarely do we celebrate an individual's commitment to a career. Raymon's commitment to his career is one that I truly admire. He has faithfully worked here for 25 years. I hope Raymon Roebuck will stay with us here in the Nation's Capitol for another 25 years.

Thank you, Raymon.

Mr. COELHO. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, it is certainly a real pleasure to join you in celebrating the 25th anniversary of Ray Roebuck's tenure in the Cloakroom snack bar.

We in the House of Representatives are a community within a community. We have our own traditions, our ways of working, our personal friendships and people who may be called true pillars of our congressional community. Ray Roebuck is one of those pillars.

Since I first entered this House, Ray has always—and I mean always—been helpful, friendly, and ready to lend a hand.

And he does it with warmth in his heart and a smile on his face.

In our community within a community, Ray Roebuck is an institution within an institution.

One of the first lessons I learned was that if you want to know what's really happening, ask Ray. When would we go out for the night? Would we be in the next day or week? Well, while the

New York Times publishes "all the information that's fit to print," Ray Roebuck knows all the information that's important to know.

Mr. Speaker, I consider it a privilege to call Ray my friend, and to join in this tribute to a man who means so much to all of us.

As a postscript, I am sure that Ray would most want for me to wish him another 25-year term in the Cloakroom.

Mr. COELHO. I thank the gentleman from New Jersey.

Mr. Speaker, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, two of my favorite pastimes are enjoying a good meal and enjoying good conversation. Now, good meals are easily found in the Members' dining room; and good conversation has been known to be had even among Members on subjects as diverse as the latest Whitney Houston CD and the joys of spelunking.

That's all well and good, of course. But if I had to pick a favorite pastime it would be enjoying a good meal while enjoying good conversation.

We're holding this special order today because many of us in the House share these two particular passions, and we are very fortunate to have among us a man who has provided Members with both good food and good conversation for a quarter century.

Yesterday, our good friend Raymon Roebuck celebrated his 25th anniversay of service on Capitol Hill—and we are all the richer for his dedication to this institution. Indeed, Raymon is an institution in his own right.

From his station at the Democratic Cloakroom sandwich bar, Raymon has been at the ready whenever Members need a late afternoon snack or some food for thought during one of our occasional late-night marathons.

Raymon's manner has always been courteous and outgoing—even under the most stressful of circumstances. His memory of people and events is nothing short of legendary. It's little wonder, then, that Members consider both the man and his stories a priceless asset of this Congress and every Congress since 1963.

Mr. Speaker, it's been said that we live in an age of constant change—and we do. The personal and professional pressures for many Americans are often very great and can be unpredictable at times. But through it all there are those who remain rock steady, who exemplify the meaning of the words honor, dignity, and national service. Raymon Roebuck is one of those individuals, and he is truly a friend to this body and all who serve in it.

Raymon, congratulations on your first 25 years in the House.

Mr. COELHO. I thank the gentleman from California.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I also thank the gentleman from California, our majority whip, for taking out this special order today for someone all of us obviously feel is very special.

I know I join the distinguished gentleman from Alabama who spoke earlier, in speaking, as he did, for the entire freshman class by indicating how privileged we all were to not just simply join this body, but to join this body and to get to know, as we all have, Raymon Roebuck.

Raymon is pretty much a walking institutional history, at least for the last quarter of a century. It is amazing how younger Members of this body have often gone to him to ask questions about how things developed, what was the institutional history on this legislation, tell us how this particular coalition came together, "was the bill debated before?", and Raymon seems to remember every little detail.

When I got here it was the distinguished gentleman from Washington the majority leader who, during freshman orientation, said, "Now this is Jefferson's Manual and this is where you will learn parliamentary procedure." We all read Jefferson's Manual. But it was through Raymon that we really learned parliamentary procedure and then we would go back and check the manual instead of the other way around.

I find that to be rather amazing and delightful at the same time.

Aside from running an excellent deli operation and being a good friend to Members of the Congress, it is amazing how Raymon Roebuck is the only one who knows when we are going to adjourn and he always comes within 10 or 15 minutes of that target time. I kid Ray about that because I enjoy his company. He is a very kind individual, he is a gentleman, and, as someone said earlier, he has been a friend not only to Members but to pages who have served in this body.

When you think back 25 years at least, I think God has really blessed Raymon and the House of Representatives to have kept both together for so very, very long.

Now I am going to do something that some of the other Members cannot do. I am going to partially claim Raymon as my constituent. Living just up the road 40 miles in Baltimore, Raymon is there usually on a weekly basis. We are always talking about good restaurants to go to up there, whether or not to visit the Farmer's Market, what is on sale and then we also talk about our No. 1 love which is the Baltimore Orioles. I think Ray and I are the only ones that are still in love with the Orioles. But we are.

He is a good person and a good friend and I think this body is enriched, certainly I am, for having had the opportunity to know him and to serve with him.

Mr. COELHO. I thank the gentleman from Maryland.

Mr. Speaker, I yield to the gentleman from South Carolina.

Mr. SPRATT. Ray Roebuck, you are a beautiful guy.

Mr. Speaker, I appreciate the gentleman yielding time.

We all know that Ray Roebuck really runs a front; that is no snack bar, that is not a place for dispensing hot dogs and hot food, but good humor, good advice, and good friendship. That is not to say that the cuisine is not pretty good given the circumstances back there. Did you ever try to buy a hot dog from Raymon before they are fully cooked? He has taken up the motto of, I believe, the constituent of the gentleman from California, our whip, "He serves no hot dog before its time."

Mr. COELHO. That is right.

Mr. SPRATT. Have you ever tried to buy a cup of coffee before the whole pot is fully steeped? Raymon will not trade with you. "Only the best," is Raymon's stamp.

When you go there you not only get top of the line, but if you want to find out what is on the floor Raymon can tell you; if you want to find out when the next vote is, Raymon can tell you better than most of the people in this House including the gentleman in the well, probably.

Mr. COELHO. Including this whip.

Mr. SPRATT. If you want to find out what time adjournment is, Raymon has probably got the best bet on the floor.

Yes; he adds, as a lot of people have said, to the richness of this institution. He is in every sense of the word an asset to the House of Representatives. Indeed, if we all did our work as well as Raymon does his what a House, what a Congress this could be.

Raymon, I do not want you to let all of this praise go to your head, because we are counting on at least another 25 years of your good friendship, your good counsel. But we take this occasion to say, "Thank you" from the bottom of our hearts for being such a good friend to all of us.

Mr. COELHO. I thank the gentleman from South Carolina.

I think Raymon understands the gentleman from South Carolina's comments that tomorrow morning we expect him to be there doing the same thing and not to take any of this stuff seriously that we are saying today except that we sincerely mean best wishes for him and congratulations.

Mr. Speaker, I yield to the gentleman from Delaware.

Mr. CARPER. I thank the whip for yielding and also for taking out this special order.

Mr. Speaker, it has been said there are really only two kinds of people who like flattery: men and women. It has also been said that flattery will not hurt you unless you inhale. So I hope that Raymon, wherever he is standing at this moment, is not breathing too deeply. But if he did not enjoy what he was hearing, I would be awfully surprised.

I remember the first year that I arrived here back in 1983. As freshmen, we need all the help we can get. We found in Raymon a good source, a source of friendship, a source of counsel, a source of wisdom, and somebody who has probably forgotten more about this institution than the rest of us will ever know. I have only one complaint about Raymon Roebuck and that is, Raymon, I like tomatoes on my sandwich. Raymon only thinks that tomatoes grow and can be served 1 month a year, probably not even that, maybe 2 weeks out of the year. I would hope that sometime in the next 25 years that Raymon serves here he will find that tomatoes can be served on sandwiches during some months other than July.

□ 1530

We serve them in Delaware in August, September, October, and November, you name it. July is fine, Raymon, but just see if you can stretch it out just a tiny little bit.

We salute you, my friend, on this occasion.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Delaware [Mr. Carper]. I am sure that some notes were made on those comments.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I thank the Democratic whip for taking time out to pay tribute to our colleague and head chef in the Democratic Cloakroom, in fact, the only chef in the Democratic Cloakroom.

I think we all know that with his vigorous dedication to the tradition of the Democratic Party as a party of the people, Raymon has refused to add anything to our menu that could not be bought in a ball park. I have heard people speak about the warm feeling they get when they go out after meeting Raymon. I have had that warm feeling, too, but after a mouthful of Maalox that warm feeling goes away.

I have been down to the doctor trying to lose some weight, and the first thing he told me was "Stay away from Raymon." He says, "There are more calories in that snack bar than any place I know of."

But, of course, we all know Raymon provides many other services to the Members. The Members who sit here on the floor all know when legislative business is concluded and special orders are about to begin, because for the past 25 years it has been signaled by the Speaker relinquishing the chair to a more junior Member and by the loud bang from the Cloakroom as Raymon bangs the lunch counter closed and bolts for the plaza.

But in all seriousness, I have probably had a better opportunity to view Raymon than most Members. When I was in charge of the page program, Raymon on many nights would come to the floor and welcome the pages and speak to them, and when I would meet pages in the different areas later when I would be visiting, they would ask, "How is the Speaker?" They would ask about so-and-so, and they would say, "And how is Raymon? How is he doing?" And conversely, when I would meet Raymon, he would say, "Gee, how is that young page from New Jersey doing that was here a couple of years ago?" I will bet you that Raymon has got a flock of letters from pages who left this establishment, not only learning something about legislative procedure but learning a little about human procedure from one of the greatest teachers that I think we have, that fellow that works on us so hard to keep us in trim, our pal, Ray Roebuck.

So once again, I thank the Democratic whip very much for taking out this special order so we can tell that fellow who has been putting those calories on us for so many years exactly what we think of him.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. Moakley].

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I want to thank the whip for taking this time and yielding to me so I can say a few things to Raymon.

Mr. Whip, you arrange many different orientations for new Members. When I came, we had the DSG orientation, we had the Brookings Institute, and we had the Kennedy School up in Boston, but I can say that the best orientation I received as a new Member of this Congress was the orientation I received from Raymon in the Cloakroom about each of you and what I should avoid and try to do as I make my new relationships here in Congress. I can tell you that that information was very useful. I thank Raymon for it. It was extremely accurate.

Mr. COELHO. Mr. Speaker, may I ask the gentleman, could he reveal to us any part of that advice that he gave you about anybody in particular? I mean it would be kind of interesting to my colleagues.

Mr. CARDIN. Yes, he told me specifically not to tell you what he told me about you.

Mr. COELHO. That is very good advice.

Mr. CARDIN. But, Mr. Speaker, I also owe Raymon one other thing. He was responsible for the diet I went on. After having food in the Cloakroom for the first 12 months of my term, my doctor ordered me to go on a strict diet, and I think Raymon is at least partially responsible for all of that.

But I do think in all sincerity that he has shown the love of this institution and the love of this membership, and he really does bestow that on each of us in our Cloakroom. He is a very special person, and we are indeed very fortunate to have a person like Raymon among us to remind us how fortunate all of us are to serve in the Congress of the United States.

Mr. Speaker, I thank the Democratic whip for taking this time.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Maryland [Mr. Cardin], and I thank all my colleagues for joining with me in this special order.

As my colleagues have indicated, Raymon Roebuck is a very special person to this body. This body gets credit for doing a lot of wonderful things and some things that are not so wonderful at times, but it is the people that make this body function that deserve most of the credit.

There are a lot of people who work at this podium, and there are a lot of people who work in the rooms surrounding this Chamber who really deserve the credit for the functioning of this body. Raymon Roebuck is one of those individuals who deserve a great deal of credit for the functioning of this institution. We owe him a great deal. We appreciate him, we love him for what he stands for and the way he makes our lives so much better.

We salute you, Raymon Roebuck, for 25 years of great service. We hope and pray it will be at least 25 more.

Mr. PEPPER. Mr. Speaker, I want to be included among the Members of this House who express our appreciation to Raymon Roebuck, who has been for so long a member of this House family and who has given so much assistance and pleasure to us all.

We would hardly know how to recognize our House if we did not think about Raymon being back there in the Cloakroom serving us all so graciously and so well behind his counter, always thoughtful, always kind, always considerate, always anxious to be of any help that he can to the Members of this House. He has set an exemplary example of proper conduct as an aide of this House. He has shown great fidelity to this institution. He has been a great associate of the House of Representatives of the United States of America.

So on this 25th year of his distinguished service, I want to pay my tribute to him and express my warmest commendation to him for his great service and his many kindnesses to me and to other Members of the House and say, "You, Raymon, deserve that biblical injunction that we all cherish to receive for our conduct: Well, done, thou good and faithful servant. Thou hast been faithful over a few things. We will still make thee ruler over many, many in the years to come."

Congratulations to you, Raymon, and a happy 25th anniversary of your distinguished service to the House.

Mr. SMITH of Florida. Mr. Speaker, it is with great pleasure that I join my colleagues in congratulating a good friend, Raymon Roebuck, for 25 years of unfailing service.

Raymon has been a loyal employee, colleague, and friend during the 25 years he has served in the Democratic Cloakroom sandwich bar. He has been here longer than most of us and has seen much in those years.

Raymon has never failed to be courteous and was always ready with a smile and a kind word. He has entertained us with his stories, and enriched our lives with his gentle humor. When we work late into the night, he is ready to fortify us with good food and pleasant conversation.

I congratulate Raymon, and I hope that the next 25 years will be as successful for him as have the last.

Mr. GAYDOS. Mr. Speaker, along with the gentleman from Florida [Mr. Smith] and my other colleagues, I would to put on the Record my feelings involving Raymon also. I can say this as a matter of record, being here over 20 years, that he is very, very familiar with the procedures of the House, and on many occasions if you ask Raymon what the situation is, how much time is remaining or what is coming up next, he can tell you sincerely and help you. He was a part almost of the activities on the floor of the House, although removed from the presence here on the floor.

So employees of that dedicated nature and of the importance and the response that he had to the Members' needs have always been a matter or record, and I think it is proper here that we had a special order enunicating all of those attributes of our friend, Mr. Roebuck.

So I join with my colleagues who have spread their remarks on the Record in his behalf. I think they are all proper, and hopefully his family and friends and supporters will find great joy in reading of what this body actually thinks of him as an individual and as a coworker.

Mr. ST GERMAIN. Mr. Speaker, the Members of this distinguished body are divided along many lines. We hold fiercely opposing positions, espouse conflicting ideologies and worldviews, hold diverse priorities, strive for different goals.

So it is rare, Mr. Speaker, when the Members of this Chamber are able to reach unequivocal agreement on anything. But on one matter, we stand together—harmonious, united, serendipitous. In our praise of Raymon Roebuck, our many voices speak as one.

Raymon has become an institution on Capitol Hill. His warm personal manner and his ability to predict the time of House adjournment are legendary, as well they should be. For 25 years now, one of my most regular pleasures has been this man and his sandwich bar.

But to call Raymon's oasis a sandwich bar is, as you all well know, a vast understatement. As a connoisseur of French cuisine, I have always listed Chez Raymon as the prime dining experience of our Nation's Capital. He knows how to keep us trim, and he knows how to keep us slim. Raymon's egg and tuna salads are so fine that the recipe is locked up in the House vault so as to never be duplicated by thieves, plagiarists, or imposters.

And may I say this? His discretion is unparalleled. Do you realize that he is the man who listens to Chairman Rostenkowski, Chairman Dingell, Chairman Brooks, Chairman Rodino, and Chairman St Germain negotiating right at his little sandwich bar, and at all times we know one thing: that the words which pass between us, the agreements that are made between us, go no further. He is the soul of discretion, at the place where the elite meet to eat.

Raymon Roebuck is a fine example of the many forms that Government service can take. His dedication and his commitment are clear, and today we salute him for those rare, admirable qualities.

Not to mention his "chien chauds." That is French for hotdogs, and boy what a hotdog Raymon serves at Chez Raymon.

Mr. JONES of North Carolina. Mr. Speaker, one of the first people that I met when I arrived in the Congress on February 10, 1966, was my friend and your friend, Raymon Roebuck. Through the years, this acquaintance has grown into a strong friendship. We have exchanged jokes and Redskin tickets, and on occasion, he has extended me credit when I would find that my funds were low.

I think Raymon's outstanding virtue is the fact that he is always the same—there are never any peaks or valleys in his disposition. In spite of the sometimes great rush during rollcalls, he retains a calm and orderly attitude.

So, along with other friends, I say "thank you" for 25 years of service, and hope that the next 25 will be just as pleasant.

Mr. RODINO. Mr. Speaker, I want to thank the gentleman from California for organizing this special order in tribute to our friend, Raymond Roebuck, who is celebrating his 25th year on the staff of the Democratic Cloakroom sandwich bar.

Raymon's dedicated service has benefited us all. Along with the food he served he provided rich stories to engage and entertain us as well as excellent meals to satisfy our hunger. Having served in Congress for 40 years, I have always delighted in receiving tales from the past whenever passing by Raymon's sandwich bar. His courteous manner and congenial personality are always a joy especially on those sessions that would drag into the late evening.

During his 25 years of service, Raymon has earned the respect and admiration of those of us who have had the privilege to know him. On this, the year of my retirement I will always have fond memories of Raymon Roebuck and wish him a successful future in his continuing service in the Democratic Cloakroom.

Mr. BROOKS. Mr. Speaker, it is indeed a very great pleasure to join with my colleagues in honoring Raymon Roebuck, who yesterday celebrated his 25th year of highly efficient service at the sandwich bar in the Democratic Cloakroom.

Raymon Roebuck is a good and kind man who has always displayed a cheerful disposition, regardless of the pressures of his work. He has always had a smile and a good word for every Member of Congress and for all the pages that he has served at the sandwich bar.

He is an institution and an inspiration to his fellow workers in the Democratic Cloakroom, and I'm glad that I've had the opportunity to know Raymon during the past 25 years.

Mr. WHITTEN. Mr. Speaker, I rise today to honor a friend and long-time employee of the House, Mr. Raymon Roebuck. Over the years Raymon has served the House by serving its Members. When our hours and days were long, so were Raymon's, however, he never dished out any floor rhetoric.

Loyalty to the institution is his trademark, friendship with the Members is his hallmark, and friendliness is his temperment.

We all join our colleagues in thanking Raymon for being here when we need him and ask that he "save us one more piece of pie."

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding man, Raymon Roebuck, who for the last 25 years has worked right here at the sandwich bar of the Democratic Cloakroom.

Raymon, the "Sage of the Snackbar," took over the snackbar 25 years ago from his older sister and her husband. In that time, he has an enviable legacy of reliability, where only twice has Raymon missed any time. And don't think that Raymon's day begins when the House goes into session; most times his day begins early in the morning, when he arrives to receive deliveries. And, of course, his day lasts until the House is out of session.

Given the nature of Raymon's work, he has a proximity to quite a few very important conversations. In fact, it has been remarked that Raymon is privy to more important conversations by accident than many of us are on purpose. The simple fact that no one questions Raymon's honesty, his integrity, or as importantly his discretion, speaks volumes as to the high regard which Raymon is held.

But more than these very commendable virtues, we honor Raymon for his warmth, his kindness, his courteousness, and his outgoing personality. My wife Lee joins me in honoring Raymon Roebuck on this very special occasion, and we wish him all of the best in the years to come.

Mr. FASCELL. Mr. Speaker, it is a pleasure to join our colleagues in congratulating and paying tribute to Raymon Roebuck who, for the last 25 years, has fed us, joked with us, and put up with us in the Democratic Cloakroom.

Ray is truly an institution within this institution. His courtesy, good humor, and his hot dogs have saved the day for many of us when we have been in the heat of controversial legislation and needed a brief respite or nourishment. Of particular note—something I have observed and admired for many years—has been the friendliness he has shown to our pages, most of whom are a long way from home and in need of adult interest and concern.

I congratulate Ray and look forward to another 25 years of heartburn and humor with him.

Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to join my colleagues in extending my congratulations to Raymon Roebuck, who has been a faithful and dedicated employee of the Congress for 25 years.

I have served in the Congress for 24 years, and during that time, I have had contact almost daily with Ray. He is cheerful, pleasant, and has always displayed an attitude of helpfulness.

I commend him on reaching this milestone, and I wish for him good health, and many, many more years on the job here on Capitol Hill.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from California [Mr. COELHO] for reserving this time to pay tribute to our good friend, Raymon Roebuck, who is celebrating his 25th year of service on Capitol Hill. I am proud to join in this special tribute to Raymon.

Mr. Speaker, Raymon is an institution on Capitol Hill. For the past 25 years, his warm personality, sharp wit and rich repertoire of stories of the past have entertained us, especially during our late-night sessions. He is as well known for his stories as he is for the excellent food service he provides.

Raymon also has an excellent relationship with the young people who serve as congressional pages in the House. He takes the time to give them counsel and guidance while they are here. Because of the special interest he takes in them, the pages grow to love, admire, and respect him. They often return to Washington to visit with Raymon.

Raymon has a unique ability to know every Member of Congress and to call each of us by name. He also has the uncanny ability to never use pen, pencil, nor calculator to determine what each person owes for a meal, regardless of what was ordered. Likewise, he remembers anyone who has not paid for a meal and what that person owes. He is a man who has never forgotten a debt owed him. He may not have collected on the debt—but he remembers what is owed him.

Mr. Speaker, one of the most humorous things I will always remember about Raymon is the story of the pot. Raymon would sometimes bring in a pot of food which he had personally prepared, such as chicken legs or meatball dinners. One day when BILL CLAY and I approached the counter to place an order, he told us to just wait—he had a pot coming. We waited several hours but the young lady bringing the pot never showed up. We still tease Raymon about the pot that never showed up.

Mr. Speaker, Raymon is a man who has been privileged to overhear political discussions and other information for over 25 years. He maintains the ability to not hear all of the things that are discussed at his counter. No leaks can be attributed to Raymon's counter.

I have enjoyed my friendship with Raymon over the years. He is a kind and gracious person, as well as a loyal and dedicated employee of this institution. It is an honor and pleasure to salute him on this special occasion.

Mr. YATRON. Mr. Speaker, I rise today to join with my colleagues in honoring Mr. Raymon Roebuck on the occasion of his 25th anniversary of service on Capitol Hill. As anyone who has ever met Raymon can attest, he is a fine man and a true gentleman.

In his 25 years of service, Raymon has become an institution on Capitol Hill. His courteousness and friendliness have helped me and my colleagues through many a late night session. Through his outstanding work in the majority Cloakroom, he has provided invaluable service to all of us who have had the honor of serving during Raymon's tenure on Capitol Hill. I join with my colleagues in honoring Raymon Roebuck for 25 years of dedicated service and I wish him continued success and good fortune in the years to come.

Mr. STENHOLM. Mr. Speaker, it is with great honor and pleasure that I join my colleagues today in this special tribute to a fine friend and first-class, food specialist, Raymon Roebuck. In the nearly 10 years that I have served in the Congress, I have consumed many of Raymon's two martini lunches: a Diet Coke and a tunafish sandwich. They have kept me going on many occasions when any meal just wouldn't do. I'm selective about my food and I have learned after my visit to the Cloakroom snack bar that Raymon makes one of the meanest tuna salad sandwiches anywhere. In fact, I would rate them the second best tunafish sandwiches in the world, next to the ones made by Cindy, my wife. Raymon, I know you'll understand that. In all seriousness, Raymon, I want you to know how much we appreciate you and what you do. Your obvious talent of reading my mind is only surpassed by your pleasant demeanor and delightful personality. Thank you, Raymon, for your service and for being yourself.

Mr. APPLEGATE. Mr. Speaker, I wish to join with my colleagues in the House during this special order for Raymon Roebuck, one of the most essential and enjoyable persons ever to work on Capitol Hill.

Known as the sage in the snackbar, Raymon is a very special individual and I wish to recognize and applaud his 25 years of service in the Democratic Cloakroom, a truly remarkable feat, especially considering that he surpasses most of the Members of this Chamber for length of service.

I think back to the seventies when Jimmy Breslin wrote about Watergate and Washington and made mention of Raymon Roebuck in his book. To quote from Breslin's book, Raymon, in response to a question about his duties in the Cloakroom, commented that "I don't know nothing, I don't hear nothing, I don't see nothing."

Quite honestly, I can't think of a more trusting individual than Raymon, operating, as he does, out of his provisional "confessional" in the Cloakroom. If the truth ever came out, we would learn that Raymon really does know everything, that he hears more than anyone else around this place, and that he has seen more than the membership of this body has collectively seen in all of our years.

Donnald Anderson recently told me that he hopes that Ray will continue to serve in the Cloakroom snackbar for as long as possible, because, as Donn related, he doesn't want to be assigned the task of having to find a replacement who would be as remarkable as Ray.

So, in closing Mr. Speaker, I wish to extend to Ray my best regards and wishes upon his remarkable achievement of service to the House. Raymon, my hat's off to you. I look forward to another 25 years of service with you in this august Chamber as well as over that famous stainless steel counter back in the Cloakroom.

Ms. PELOSI. Mr. Speaker, I am pleased to participate in this special order to honor Raymon Roebuck, on his silver anniversary in the House Democratic Cloakroom.

Raymon has served the House with enduring patience for 25 years. He knows and remembers everyone—even those former Members who return to visit the House. Raymon knows their names and enlivens their spirits, just as he does ours.

He is interesting, funny, knowledgeable, and intuitive—who will entertain with a quip or a story or offer his expertise on a legislative endeavor or a sports event. Raymon is a very positive-minded person who keeps to the high road with upbeat stories and fascinating recollections from his rich past.

Mr. Speaker, Raymon Roebuck is a tireless worker. He comes in to set up hours before we arrive, and stays after we leave. He works the filibusters and the budget battles. And when we've left, he offers food to tired and hungry pages.

He is a man devoted to his work, his family, and his church. And his presence lifts us all a little higher.

Congratulations Raymon on 25 years—and Raymon—stick around, we need you with us.

Mrs. BOXER. Mr. Speaker, in this job, there are many moments of frustration and difficulty and many hours away from home.

When House sessions sometimes run way into the evening—even into the early morning hours—it has been a comfort to know that Raymon Roebuck's smiling face is always there when energy and clarity are running low.

I salute Raymon on this very special day and want him to know that I appreciate the support he has shown to me and all others whose lives he touches on a daily basis.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from California for yielding to me and I thank him for taking this time for Members to express their gratitude to our very special friend, Raymon Roebuck.

I would like to take this opportunity to commend Raymon for his elegant taste for fine cuisine. Accordingly, I present to him on this occasion, 25 pounds of Arkansas catfish, one for each year of service in the Democratic Cloakroom.

I do hope Raymon will stay longer so that I may continue to receive the line on all sporting events and teams, especially the Redskins.

On those mornings at the snack counter in the Cloakroom when I see three or four pies stacked up in the display case, I can count on the House running into a very late night. In fact, many times I have heard Members inquire about the hour of adjournment only to be told that it is a three-pie day or a four-pie day.

Thank you, my friend for all that you do and all that you are.

Mr. RANGEL. Mr. Speaker, it is indeed an honor to rise and pay tribute to Raymon Roebuck, who is celebrating 25 years of service at the Democratic Cloakroom sandwich bar.

How many Members of this body, in the middle of an intense debate on the floor, have gone to grab a bite to eat at the Democratic Cloakroom sandwich bar and found Raymon there, who was always as cheerful as ever, and returned to the floor energized—ready to continue debating the issues of the day? How many times have we gone to the sandwich bar, feeling the weight of the world on our shoulders, and left with the feeling that we could tackle anything coming our way? I would venture to say that Raymon Roebuck played a very large role in Members feeling the way that they did when they left the Democratic Cloakroom sandwich bar.

I have know Raymon since I first came to Congress in 1971. During the years since, Presidents have come and gone; Speakers of the House have come and gone; Members on both sides of the aisles have come and gone. But, one person who has survived longer than most Members of Congress is Raymon Roebuck. We have all, in our own special ways, come to depend on him—with the knowledge that he would always be there when we needed him. He is as dependable, considerate, understanding, and humorous today as he was the day that I met him.

Raymon, I salute you for your years of service to the U.S. Congress and, more importantly, to your country. The Members of this body have grown to love and respect you over the years, and I know that I speak for all of us when I wish you continued success for the next 25 years. All the best!

Mr. DE LA GARZA. Mr. Speaker, to be able to participate in today's special order for Raymon Roebuck is a pleasure indeed since this is someone who has certainly brightened my 23 years in this body and about whom I would like to say some very nice things.

Raymon is a man who has never neglected the needs of those around him. In fact, someone said to me that Raymon has worked to provide us with food for thought as well as consumption. I would like to add that in doing so he has contributed to the dignity and potency of our body by being to my mind a shining example of what we all strive to be—effective in a dynamic, competent, and compelling manner.

He not only cares about the Members, but he is always up to date with all of our families—many a time we exchanged notes about our fathers, and up to the time mine passed away, he always inquired about him—for this I will always treasure his friendship.

So Raymon's services which he has so selflessly proferred over the years have without a doubt been invaluable. For making all our lives and all of our jobs easier I would like to say to Ramon "muchas gracias, amigo," for indeed he is a true friend.

Mr. ROSTENKOWSKI. Mr. Speaker, I am delighted to join the many friends of Raymon Roebuck in celebrating his 25th anniversary of service to the Congress. There has been no more faithful worker among us, and no one more fun to be around when the hours get long.

Anyone who wants to be as popular and as useful as Raymon Roebuck need only imitate his habits of hard work, genuine concern for others, unfailing kind and friendly manner, and respect for the traditions of the House. Add to that his gift for story telling, and you could be guaranteed reelection for life.

It's as simple as hitting a perfect golf shot. You merely have to do about 25 things just right, and all at the same time.

I do have one suggestion for Raymon, however, on how to get rid of even more chili in the Democratic cloakroom—go back to using bigger bowls. When I first came here, I seem to recall, the bowls of chili were hero-proportioned, and we ladled it up with giant soup spoons. Now, its cups and teaspoons.

I guess it means that Raymon could also serve as a model for modern business leaders when it comes to stretching the dollar and maximizing the profits. On the other hand, we could all do with a little more fuel to get us through some of the longer floor debates.

I thank Raymon for his friendship and his faithfulness, and I wish him all the best. I also fully expect to see him behind the counter for many, many years to come.

Congratulations, Raymon—I'll be seeing you during the next stem-winder.

Mr. RAHALL. Mr. Speaker, I would like to take this opportunity to add my voice to the chorus of tribute to our good friend, Raymon Roebuck, who is celebrating 25 years of service at the Democratic Cloakroom sandwich bar. Raymon has been a good worker, a great companion and, most important, a trusted friend. He has made many a late night bearable. His wit and ability to tolerate us has kept many of us on the job for hours beyond normal closing.

One has only to look at the reception held in Raymon's honor Wednesday evening in the Capitol to see and know the respect Members of the House have for him. I witnessed more Democratic Members of this body gathered than at any other reception I have attended in my 12 years as a Member of Congress.

On this special occasion, it is quite fitting that we honor a man who has meant so much to us for so many years. Raymon, thank you for being there for all of us, and congratulations on 25 outstanding years of service.

Mr. CARR. Mr. Speaker, I would like to add tribute to my good friend Raymon Roebuck, for his 25 years of service in the Congress of the United States. Raymon symbolizes the best of all employees who work hard and perform a valuable service for the Congress without public recognition. For Raymon and all other employees like him, I want to say how much their service means to us.

Mr. CLAY. Mr. Speaker, It is a great pleasure to pay tribute to our very special friend, Mr. Raymon Roebuck, on the occasion of his 25th anniversary of service on Capitol Hill.

Raymon Roebuck is truly an outstanding public servant. He has demonstrated an indefatigable commitment to improving the quality of life in our Democratic Cloakroom. Raymon's culinary expertise and gracious service at the Sandwich Bar have restored strength and stamina to our bedraggled bodies while his kind words of wisdom and sincere encouragement have inspired and rekindled our sagging spirits. I would like to take this opportunity to credit Raymon Roebuck for spurring many Democratic victories by his unselfish dedication to the tired and hungry.

Raymon Roebuck is a man of stupendous character. His understanding, his patience, his courtesy, and his optimism are a source of inspiration to us all. I am honored to salute Mr. Raymon Roebuck on this very special anniversary and I wish him every continued success in all the years ahead.

AIDS EPIDEMIC LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. Speaker, we do not know exactly when but sometime within the next week or 2 weeks, or even within the next 6 weeks, the House of Representatives will take up what we will consider to be the landmark piece of legislation dealing with the AIDS epidemic in America. The legislation contains $400 million a year for each of the next 3 years for testing and counseling as a means of reducing the incidence of the disease and hopefully charting a course for this country to pursue, a public health policy as distinguished from a civil rights policy which currently is being pursued to deal with this epidemic in America.

This Member from California has been a senior member of the Health and Environment Subcommittee during my 10 years of service in this body, and in that capacity I have had occasion to examine some of the actions of the current public health officials of this administration as they have conducted themselves with respect to developing a policy to reduce the incidence of this tragic disease in America.

It is sad for me to say that our magnificent President, President Reagan,

today is being badly served by the persons he has selected to serve this Nation as the chief officials of the Public Health Service of America. By that I mean Dr. Bowen, the head of the Department of Health and Human Services, Dr. Windom, Assistant Secretary of Health under Dr. Bowen, in charge of the Public Health Service of America, Dr. Mason, head of the Center for Disease Control in Atlanta, GA, and, of course, Surgeon General Koop, Surgeon General of the United States.

These persons have a responsibility to respond to the American public as to things they have done and things they have not done. These persons who are in charge of the Public Health Service of America have sadly served this President, they have sadly served the people of this country, and they have sadly served this administration.

I have taken this special order this afternoon for the purpose of bringing to the attention of my colleagues specificity with respect to the actions of these four distinguished members of the Public Health Service of America in their failure to take action to protect the public health of the people of our country. This letter was written recently to the President of the United States, Mr. Reagan, to outline the deficiencies of the persons he has appointed to serve him and, indeed, this letter has been signed by 15 of the 17 Republicans serving on the Energy and Commerce Committee, the policy committee that contains the Health and Environment Subcommittee, which is one of the subcommittees of that policy committee.

□ 1545

I think it would be appropriate for this Member from California to read this letter at this time, because I think it outlines the deficiencies of the Public Health Service of this country that I have previously alluded to.

The letter is as follows:

House of Representatives,
Washington, DC, April 15, 1988.
Hon. Ronald W. Reagan,
The White House,
Washington, DC.

Dear President Reagan: An undesirable epilogue for any presidency is, "This tenure marked the failed policies of the tragedy of. . . ." Today, after seven significant years of service, Mr. President, you are faced with such an unnecessary finale. The national tragedy is AIDS. The failed policies are attributable to political appointees in the Department of Health and Human Services.

Facts and fate have made this message unavoidable. We do not relish having to admonish the administration of such a good friend. But admonish we must. It is not unjust or unfair to say that thousands of productive lives have been lost due to AIDS because of failed leadership with HHS and, specifically, the Public Health Service.

Our message has not, is not, and will not be popular among the appointees as a whole and, we are certain, excuses and explanations against our claims will abound. But personal motives and popularity should be insignificant factors in public health solutions to preserve human life. We let the record support our claims.

The first failure of the Public Health Service, under the aegis of HHS, is their lack of aggressiveness in maintaining the integrity of the blood supply. As a result, many innocent persons have contracted AIDS who otherwise would not have. As far back as May 1983, Dr. Edgar Engelman, medical director of the blood bank for Stanford University Hospital, had the courage to insist that no untested blood would be allowed in his hospital. But this same courage was lacking at PHS.

PHS issued its first guideline on screening blood donations nearly two years later in January 1985. Even then they drew indefensible distinctions between high-risk donors. On the one hand, their guidelines firmly stated that IV drug users (17% of all AIDS cases) were prohibited from donating blood while, on the other hand, male homosexuals (73% of all AIDS cases) were merely to refrain. PHS event went so far as to initially differentiate between "polygamous" [sic] and "monogamous" homosexuals. Those men subjectively assigned to this latter group continued to have unrestricted access to our nation's blood supplies until their regulatory desegregation in September 1985. Despite strict controls recently adopted by the American Red Cross, PHS continues to endorse a guideline that discriminates against IV drug users in favor of male homosexuals.

Second, PHS has failed to impose its statutory authority to close homosexual bathhouses in this nation. By law, the Secretary of HHS, through the Surgeon General if desired, has the authority to insist that states close all bathhouses operating within their boundaries. Knowing what PHS knew concerning the epidemiology of AIDS since 1982, it is unfathomable that they would allow these AIDS-ridden accommodations to remain in business.

Mr. President, nine months ago you asked HHS to undertake prevalence studies to determine "as soon as possible the extent to which the AIDS virus has penetrated our society and to predict its future dimensions." We are still waiting. The Centers for Disease Control continue to conduct a limited surveillance of testing anonymous blood samples bought from a handful of hospitals from around the country, but this is the extent to which they have followed your directive. Public policy cannot be made in ignorance and, excuses aside, PHS has failed to implement your policy designed to provide insight to this problem.

An even worse indictment of PHS is their reliance on basing future projections of the spread of AIDS on insufficient and speculative data. The CDC reported to your Domestic Policy Council back on November 30, 1987, that the nationwide infection rate among heterosexuals was .021%. By the same token, the United States Army has been testing new recruits and active personnel for two years—this is hard data, not speculation. The Army's findings revealed an infection rate among presumably heterosexual active personnel of .21%, ten times higher than the .021% reported by the CDC. The rate among recruit applicants was .15%, or seven times higher.

The discrepancy between CDC speculation and Army facts is, at worst, a delibertate attempt to misinform the public concerning the spread of AIDS in the general population or, at best, the result of unprofessional irresponsiblity on the part of the CDC. Either way, this discrepancy should be reconciled at once. Both cannot be right.

A last complaint against PHS is their general failure to recommend routine public health procedures to fight the spread of AIDS. The proposition that traditional procedures to fight curable communicable diseases do not apply to incurable communicable diseases such as AIDS is defensible only on political grounds.

Reportability is the cornerstone of all public health endeavors to control the spread of communicable disease. Due to failed leadership this policy has been turned upside down to the point that, in California, the confidential reporting of a carrier of the AIDS virus, even by a licensed physician, is a criminal offense.

Opponents of reporting want to leave this decision up to the states. These opponents, mostly liberal Democrats and, sadly enough, Secretary Otis Bowen of HHS, have positioned themselves on what they perceive as a states rights issue, leaving conservative proponents of reporting in the unenviable position of supporting the oversight and instruction of Big Brother. Opponents to reporting know that if states were allowed this choice both California and New York (representing over half the AIDS cases nationwide) would choose to continue their status quo policy of nonaccountability.

Mr. President, allowing states to decide this fundamental public health issue based on consensual politics is the equivalent of allowing governors to decide whether or not the citizens of their respective states will participate in the selective service program. This flexibility would be intolerable in wartime conditions and, likewise, the state option on reporting the nationwide AIDS epidemic is equally unconscionable.

HHS, PHS and the CDC have been remarkably inadequate in their leadership roles to stem the tide of AIDS. They have allowed science to give way to special interest politics. What is worse is that administration appointees are accomplices to this radical departure from traditional public health procedure. Mounting an effort against these militant special interests and their congressional minions who oppose a traditional response to this problem is made even tougher if they are able to claim that they are simply parroting PHS.

Mr. President, we are requesting your personal intervention in this matter. Your direct authority is desperately needed to rectify the public health incongruities which emanate from HHS, PHS and the CDC regarding the issue of AIDS. Now is the time to take control and provide the necessary leadership to recover a traditional response to dealing with communicable disease.

We look forward to meeting with you at your earliest convenience.

Very truly yours,
William E. Dannemeyer, Robert K. Dornan, Bob Badham, Norman F. Lent, Philip M. Crane, Carlos J. Moorhead, Dick Schulze, Larry E. Craig, Ron Packard, Bob Whittaker, Mike Bilirakis, Sonny Callahan, Thomas J. Bliley, Jr., Dan Burton, Joe Barton, Howard C. Nielsen, Dan Schaefer, Jack Fields, Ed Madigan, Tom DeLay, Michael Oxley, Members of Congress.

Let me say on this point just how our public health care system functions because, for any of the Members

of this body to understand the true civil rights approach that America is now pursuing in controlling the AIDS epidemic rather than a public health response, we have to understand fundamentally how our public health care system functions.

When any of us are feeling ill and it gets bad enough where we decide we want to go to a doctor, we go into our doctor's office, the privacy of that chamber, just the doctor and the patient, and the doctor listens to our complaints. In connection with that examination the doctor may very well decide to take a blood sample for the purpose of determining what is in our blood. And at that point most men and women of this country, indeed around the world, understand that a nurse will come in and put a tourniquet around the arm of a patient. Then we are asked to make a fist so as to better evidence the existence of the blood vessels, and then a nurse takes a needle, and sticks it into our blood vessel and takes out a blood sample, and tests are conducted on that blood sample in order to determine what the status of our blood is.

At the point where we as a patient surrender our blood to our doctor, at that point we are impliedly giving consent to that doctor to take or perform what tests in his or her discretion are called for to determine the status of our blood. Implied consent, that is one of the cornerstones of how our health care system functions.

So profound is the policy of our law to protect the integrity of the doctor-patient relationship that anything that is said in that examining room between a doctor and the patient is confidential. It is nobody's business except the doctor and the patient.

Indeed our law has a policy of protecting the sanctity and integrity of the doctor-patient relationship to the point where the States of the Union have policies in their statutes which say that except under very limited circumstances where a patient will sue a doctor or a patient will bring a cause of action to recover damages to their person, what is said in the examining room is not discoverable in a legal proceeding. It is confidential, as it should be. That statement of confidentiality, of inviolability, pertains except when our doctor, whose wages, or salary or fee we pay, finds that we as a patient have a communicable disease. The doctor is required by law to breach the confidentiality of the doctor-patient relationship and report our name, and address and telephone number to county or city public health authorities.

The reason we breach this confidentiality and report communicable disease in our society is very simple. There are three reasons for the whole concept of reportability. First, we want to gather statistical information on the size of the problem. Second, we want to cure people with a communicable disease. Third, we want to prevent the transmissibility of communicable diseases to other people. Those are the three reasons why we breach that confidentiality and report someone with a communicable disease.

Now in my State of California we have 58 diseases on the list of reportable diseases. Among those 58 are six venereal diseases, all curable by the way. Syphilis, gonorrhea and chlamydea are among those six.

Also on the list of reportable diseases in every State of the Union today is fully developed AIDS. That is one of deterioration of the immune system, and it reaches the point where opportunistic diseases inflict themselves upon the patient so as to cause what medical science has designated as fully developed AIDS. Examples of those are a rare form of cancer, a form of pneumonia, just to name a few. Fully developed AIDS has been reportable for the last 6 years. Those with the virus are not reportable except in eight States in the Union, and in those eight States they contain less than 10 percent of the cases.

The main political debate on this issue in America today revolves around the issue, not of the reportability of those with fully developed AIDS, but those who are positive HIV status, some of whom it is claimed are asymptomatic.

I will come back to my statement just a moment ago about reportability. Some States in the Union; my State of California is one of them, have pursued such an absurd policy that this is the situation that exists in California today. If a physician in private practice finds a patient with a curable venereal disease like syphilis or gonorrhea, the doctor is required to report that patient's name, and address and phone number to county or city public health authorities. If on the other hand the same physician finds a patient with a noncurable veneral disease, like the virus for AIDS, if a doctor in California would report that patient to public health authorities, the doctor would commit a crime. When people in California, and around this country for that matter, hear the absurdity I have just described, it is so unbelievable that people have difficulty in believing that the law would create such an absurdity or it would mandate the reportability and public health of people with a curable venereal disease and yet make the reportability of a noncurable veneral disease a crime.

□ 1600

Believe me, my colleagues, that absurdity did not come into the law of California as the result of logic or reason. It came into the California law as the result of politics, because this absurdity in the law of California is the result of the political clout of the male homosexual community in that State that used their leverage to their legislature, in this instance the law that I have described, AB-403, which was adopted in March of 1985, offered by Assemblyman Art Agnos, who is now the mayor of San Francisco. That law is on the books today. It is the subject of an initiative in that State to repeal that absurdity; but it is relevant not only to California, it is relevant to all of us across the country, because this is not a California issue. It is not a New York issue, notwithstanding those two States have 52 percent of the cases in America between them, but because we Americans are looking at a disease that unless we find a cure, we are probably going to see the death by 1992 of more young men in America, a little less than 300,000 in this country, witnessed in all of World War II in the category of "killed in action."

The whole concept of reportability is at the center stone of the debate over what should be adopted as public health policy in America today.

Opponents of reporting want to leave this decision up to the States. These opponents, mostly liberal Democrats and sadly enough, Secretary Otis Bowen of HHS, have positioned themselves on what they perceive as a States rights issue, leaving conservative proponents of reporting in the unenviable position of supporting the oversight and instruction of Big Brother.

Opponents of reporting know that if States were allowed this choice, both California and New York, representing over half the AIDS cases nationwide, would choose to continue their status quo policy of nonaccountability.

Mr. President, allowing States to decide this fundamental public health issue, based on consensual politics, is the equivalent of allowing Governors to decide whether or not the citizens of their respective States will participate in the Selective Service program. This flexibility would be intolerable in wartime conditions, and likewise the State option on reporting a nationwide epidemic is equally unconscionable.

HHS, PHS, and the CDC have been remarkably inadequate in their leadership roles to stem the tide of AIDS. They have allowed science to give way to special interest politics.

What is worse is that administration appointees are accomplices to this radical departure from traditional public health procedure.

Mounting an effort against these militant special interest and their congressional minions who oppose a traditional response to this problem is made even tougher if they are able to claim that they are simply parroting public health service.

Mr. President, we are requesting your personnel intervention in this matter. Your direct authority is desperately needed to recover the public health incongruities which emanate from HHS, PHS and the CDC regarding the issue of AIDS. Now is the time to take control to provide the necessary leadership to recover traditional responses dealing with communicable diseases.

We Americans were pleased that the President's Commission on AIDS at the end of June issued its report to the President and to the country. One of the recommendations of the President's Commission on AIDS, and I am happy to report this to my colleagues, was that we adopt nationwide the concept of reportability. This Member from California will have such an amendment to the AIDS testing and counseling bill that will be coming to the floor of the House in a week or 2 weeks or 6 weeks, we are not sure when, but the debate on the issue of reportability will be one that I think the country wants to hear about, certainly the Members of this body want to hear about, because it will be one of the major votes in the 100th Congress as to what Members choose to do in hopefully taking action to reduce the incidence of this epidemic.

Sometimes when discussions taken place in my home State of California or in groups that I have been privileged to address around the country on this issue, I kind of get the impression from people in the audience that the thinking goes something like this: "Well, I'm not an intravenous drug user. I'm not a male homesexual. I am not subject as a hemophiliac is to life for dependence on the blood supply of the country. I haven't had surgery, so I have not had a need for a blood transfusion." These groups that I have described constitute roughly 94 percent of the total AIDS cases up until this time in America. The thinking sometimes is, "Well, I'm a heterosexual. I do not fit into any of these groups. Therefore I am not at risk for AIDS or any of the problems that are a part of an epidemic."

If my colleagues believe that, I must inform them that they are misguided and misinformed. This epidemic is not limited to these groups that I have described. Masters and Johnson in a controversial report to the country some 4 months ago that Newsweek magazine featured in its publication for that week made very clear that half a million Americans are acquiring the virus and those who are acquiring the virus are not limited to the groups that I have described.

The fact of the matter is that any person in our society who chooses to pursue a promiscuous and/or a perverse sexual lifestyle is at increased risk for AIDS, whether that person is a heterosexual or homosexual.

The main means of transmissibility of this fatal virus is sex, blood or drugs, but of the almost 60,000 cases of AIDs in America, 3 percent of that total, some 1,800, cannot be fitted into the main groups or classifications that I have described. In other words, CDC cannot tell us how those people got AIDS, 1,800 of them. They do not fit into the group of male homosexuals who contribute 73 percent of the cases nationally. They are not within the group of intravenous drug users who contribute 17 percent of the cases nationally. They are not in the group of hemophiliacs who contribute roughly 2 percent of the cases nationally, and they are not within the group of transfusees of blood who together contribute another 1 percent of those who have acquired this fatal disease.

So the question arises, well, can the virus, can AIDS be transmitted socially or other than by means of sex, blood or drugs? The honest answer is that we frankly do not know for sure.

The correct assessment is the main means of transmissibility is sex, blood, or drugs, but we cannot exclude other means of transmissibility for the reason, as I say, that 3 percent of those cases that have been reported by CDC, they cannot fit them into any of these special categories.

This Member from California has read a great deal of the material that has been printed relating to the epidemic over the course of the last 2½ to 3 years. A lot of this material I would commend to my colleagues because it deserves to be read, but of all the material that this Member has read in recent months in the time that I have described, I think the most succinct analysis of this whole issue of reportability and also touching on a correlating issue that has now come into the public debate of antidiscrimination deserves to be particularly addressed and considered.

This address or speech was given by Dr. David Pence, called the Grand Rapids Address. It was uttered on November 4, 1987, to 1,100 physicians and community leaders in Grand Rapids, MI.

Dr. David Pence is a unique commentator on the AIDS epidemic. He was trained in the classics and physiology before attaining his medical degree from the University of Minnesota. He served 1 year as a general practitioner in an urban community. He worked with I.V. drug users, homosexuals, and low-income patients. It was there he began his campaign to convince physicians and governmental officials to employ traditional public health measures against the AIDS epidemic. He is presently at the University of Minnesota, completing a fellowship in radiation oncology, the treatment of cancer with radiation. Before he entered medical school at the age of 34, he had worked as a community organizer in a black community for 1 year.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend and colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, may I say to the gentleman from California [Mr. DANNEMEYER] if the gentleman would just finish that thought, I wanted to elicit from the gentleman some of the update information that the gentleman mentioned earlier, so that the Speaker and all people interested in the proceedings of this House can again see that for some unbelievable reason we are moving more slowly than we should be in spite of the national attention on this always fatal plague.

Would the gentleman finish what he was saying about that doctor.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman.

Dr. Pence then worked in Minneapolis for 8 years as a full-time civil rights and antiwar organizer and spokesman. He spent a year in Sandstone Federal Prison for draft resistance during the Vietnam war. He is a Roman Catholic and the father of four.

Dr. Pence combines a classical conception of political philosophy, a practical knowledge of protest tactics, and the medical experience of caring for both carriers and end-stage AIDS patients.

His analysis is as unique as his proposals for action are traditional.

This is an address he gave to the 1,100 physicians and community leaders in Grand Rapids, MI, on November 4, 1987. When the history of the AIDS epidemic is written, this address will be remembered as the pivotal document which led to the institution of traditional public health measures in controlling the disease.

I am going to read this address because I think my colleagues should hear what the gentleman has to say, but before I do, I yield to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I look forward to hearing that.

First of all, the perfunctory compliment that we usually go through when we are sharing in a special order with someone, I want the gentleman to know that this is from my heart and from my ken, as the Scottish say, because the gentleman has done absolute stalwart work here on this issue.

I have said many times in the well and at this leadership desk that a handful of us get a document every week from Health and Human Services that tells us what the current status is of reporting AIDS cases. Then it tells us the status of how many people have died since they started keeping the death figures in 1981. There were about 85 to 90 some cases who were known to have expired before that. They have lost track of only about six people, and because they do not know where they are, although every doctor in the National Institutes of Health has told me and the Member in the well that they are all in the grave, which means that it is 100 percent fatal, going back 7, 8, or 9 years.

They do give us the figures of death up to the current week. I just called my office. I have not received the Monday, August 1, letter on the condition of this Nation vis-a-vis AIDS, nor have I received the July 25 one; but through Monday, July 18, 68,220 people are reported AIDS cases.

Dr. Koop has told the gentleman from California [Mr. DANNEMEYER], has told me, has told anybody who will listen that this is probably 10 to 20 percent low, he told me once. That was when they made some adjustments in the reporting procedures 2 years ago last month; so let us say it is only 10 percent low. That means that there is another 6,800 cases, so we are talking about 75,000 reported cases, probably on the low side.

The death figures is now way past Korea. We lost 33,629 combatants in Korea.

□ 1615

Dead to AIDS that we know of—38,541 as of 2 weeks ago. We have really passed, or are approaching, 40,000 reportable, recorded deaths. As a matter of fact, by this Friday it will be over 40,000.

That is way past Korea. It is now closing in on the figures of World War I. World War I had a tremendous death toll for the United States in 1918 when we really started in earnest in combat, as late as June 1918, through November 11, Armistice Day, when the war ended, we lost over 50,000 on the battlefield. It was not anywhere near the bloodletting of Europe, but for us, since the Civil War, that was a tremendous loss of life, and we are going to pass that figure although it took 8 years, and then the tempo starts to pick up in earnest.

Here we are approaching the Vietnam combat fatalities of 47,000. We will pass it this year easily, and we still do not contact trace. This is what I wanted to ask the gentleman about, this Nation of 245,500,000 people, the gentleman's State, my State of California, a massive State, sixth Nation in the world really in gross product, what is the status on the California ballot on November 8? What will we be voting on, succinctly as you can?

Mr. DANNEMEYER. I thank the gentleman, my colleague, for his observations. The citizens of California, through the initiative process, have qualified a measure for the ballot for November, proposition 102. It will repeal AB 403, that distortion that was adopted by the State legislature in March 1985. The cornerstone of this initiative, candidly, is to establish as a public health policy in California, which has 22 percent of the cases nationally, reportably in confidence to public health authorities and contact tracing.

So that our colleagues know what contact tracing is all about, let me just respond to how the system works in California and across this country with contact tracing with curable venereal diseases. When any of us manifests to our physician in the privacy of his office that we have a curable venereal disease like syphilis or gonorrhea, our doctor is required to breach the confidentiality of the patient-doctor relationship and report our name and address and phone number to the city or county public health officer, and when the city or county public health officer gets our name, a health care worker will call up on the telephone, and they will say, "Who are your sexual contacts?" If we at that point are inclined to say, as I think the human tendency is, "That is a matter of utmost privacy. I do not choose to reveal that information. Thank you very much. Please go away," the health care worker at that point under the law will say to such a citizen who responds that way, "Citizen of America, we hear you, but we have news for you. Under the law if you choose not to reveal your sexual contacts, we will come and arrest you and take you into custody until the message gets through to you that you are required for the sake of preventing the transmissibility of this disease to other people so that we can contact these sexual contacts and advise them as to the status. If you do not choose to do that voluntarily, we will keep you in custody." Most people get the message. We follow that for a curable venereal disease like syphilis or gonorrhea, but we are not following that same policy for a noncurable venereal disease like the virus for AIDS?

Some people in the public debate say that, "Well, since we do not have a cure, why bother?" The answer is in the 1940's when we did not have a cure for syphilis, we mandated reportability notwithstanding. AIDS is not curable, but it is treatable, and the sooner that people with the virus get into the health care system when they know they have that virus coursing through their veins the better off they are going to be, the better chances they are going to have for a longer life, and the death that now appears to be inevitable will be delayed.

That to me is humanitarian conduct.

Mr. DORNAN of California. Here is what seems to be just unconscionable, going on now. I doubt that we will have a person dying of AIDS speak at our convention. I do not rule out the idea. I would love to have Paul Gann, our tax-crusading strong friend of the gentleman's and of mine.

Mr. DANNEMEYER. He is supporting proposition 102 in California, by the way.

Mr. DORNAN of California. Exactly. That is why I would like to have him speak on that subject and then mention that he is dying of AIDS and put it the way he put it before your subcommittee and say, "I have been murdered by AIDS."

At the Democratic Convention, they did have a nice-looking young man speak. It was late in the evening, and I guess they had to reach out to that constituency, but in that convention of blue smoke they were trying not to be too provocative about anything, and he spoke. I came home late that night. My wife had taped it and played it a few minutes more for me later, and I looked at that poor man up there with that frightened look of people dying of AIDS, trying to be bold. He said, "I appeal to all the members of the Democratic Party and this convention, do not let anybody call us victims. Stand up and say, 'Don't use that word; we are not victims.'"

I had to analyze that, and again looking at these statistics that are 2 weeks old, 1,079 children reported, and a lot of children die and we do not even know it in that permanent underclass that we have tragically developed in this country. Of those 1,079 children, 616 have already died. Every one of those children, particularly the infants, the 2, 3, and 4 year olds right up to young Patrick Ryan's courageous fight, what are they but victims? What is our friend Paul Gann but a victim? He had a heart bypass and received transfusions during that period when a great organization like the Red Cross and a lot of careful hospitals were being sloppy about their blood-reporting process.

As a matter of fact, until the gentleman in the well put the heat on them and it was resolved, I believe, in September 1985, and that is the exact month, the gentleman was very modest about taking credit for that, but we finally got people in this country to pay attention to the pollution of the blood supply. Is not that young man who spoke at the convention also a victim? Was he not victimized by a philosophy of, "You can make hay while the sun shines and never pay the price?"

Mr. DANNEMEYER. on that point, I thank my colleague for bringing that point up, because I have nothing but compassion and sympathy for these tragic victims of this disease called AIDS in America. There is enough blame to go around, but when we look at what we adult leaders in America have done with the stewardship of power during the 20 years of the sexual revolution that we Americans have witnessed beginning about the mid-1960's, we as a people are saying that we are questioning the existence of standards in human sexuality. We are not necessarily denying them. We are questioning whether these standards exist, and if one is a kid growing up in America and has doubts in his mind as to his human sexuality and he has the Pied Pipers of sex wandering around our culture selling their wares, and by these, I mean, Hugh Hefner of Playboy and Flynt of Hustler and Guccione of Penthouse Magazine saying to the American public through this trash literature that they have made millions of dollars publishing, "But are no longer any standards in human sexuality," and there is a kid examining what his leaders are doing, what do we think?

Mr. DORNAN of California. Hefner's daughter was on one of our excellent interview programs, the "Larry King Show," and I saw the rerun over the weekend, and she said, "Isn't it terrible that it has taken a plague like AIDS to bring open discussion of condoms and sexual education out of the closet?" What, of course, she means is the license, the bunny theory, perpetuated by that magazine.

As a matter of fact, today's Wall Street Journal says, "The Hefner years have run their course." Not exactly, because whatever titillation there was in his particularly clever formula of the scrubbed 18-year-old girl next door presented naked in his centerfolds and up to some very graphic pictures as of the last 4 or 5 years, what it has been replaced by is a videocassette section of hardcore pornography in most, in my experience, of the video rental places.

When some family sees a Pussycat, disgusting hardcore theater roll up its carpet and close the doors, they think "Well, have we awakened in America?" No. It is only because they have lost box office, and this is all available in the local rental place. I stopped frequenting one in my neighborhood because I saw a parent-guardian renting hardcore homosexual videotapes, and you could tell, because they have a large jacket and graphic pictures on the cover, and he was renting it, and he had in tow a 10-year-old boy and a 13-year-old girl, and after we left the store, I was angry at myself that I did not go up and inquire, "Are you their parent? Is this the standard you raise them by?" But like most Americans, I kind of shrank back and said, "Oh, let him wreck his life," but he is wrecking those kids' lives.

We are more graphic in lustful sex exploitation material in 1988 than we were last year or the year before. Twenty years or so of the sexual revolution has not run its course, and one of the ironies I would like to point out to my good friends is that they even tried to use the war in Vietnam to push this sexual permissiveness. The main battle cry of the war, and you can ask any page who was an infant or not even born then, "What is the most memorable expression that comes out the war?" and I will help them a little bit, and say, "Was it Ho, Ho, Ho Chi Minh, or Hey, LBJ, how many kids have you killed today?" and they will eventually say, "I know what it was, Make Love, Not War."

Of course, whether it was Woodstock where the young girls were running around naked and young guys, that was not just making love, we are talking about lust, just happenstance encounters like dogs in an alley that make lust, just having sex for the celebration of recreational sex in and of itself, and then they try to play off against it, instead of going off to war, as if our young soldiers were over there enjoying the battle that was going on, and the irony is, as I pointed out earlier, we are now seeing more people die, at least in the homosexual community because of casual, multiple contacts from the public latrines down to the massage parlors and the hot tubs and the clubs that the people hang out in, all of these deviant lifestyles, and more people are going to die because of lust in the 1980's than died during the decade of the Vietnam war by far.

It was not just a casual, little expression thrown out, "Make lust not war." It is coming back to haunt us in the worst way. I do not believe, this Member does not believe, that we have turned the corner. That is why it is so important.

Mr. DANNEMEYER. Let me make another point that deserves consideration by our colleagues at this point, and that is the tragic failure of the leadership of public health officials across this country in shutting down bathhouses.

I can illustrate right now in San Francisco, in our home State, Los Angeles, New York City, together they have 52 percent of the AIDS cases, but the history of failure of public health leadership in San Francisco is absolutely a tragedy for the people of that city, the people of California, and the people of America, because the health officer of that city was a man named Dr. Mervyn Silverman, who served in that capacity from 1977 to 1984, and during the early part of the 1980's when the AIDS epidemic was growing in America, particularly in cities like San Francisco, Los Angeles, and New York City, it was then quite apparent and vivid that the first policy step we should be taking was to shut down the bathhouses where we knew that anonymous, promiscuous, perverse sex was taking place and transferring this fatal disease. It got so bad that the political leadership of the city of San Francisco, including Dianne Feinstein, then the mayor, literally begged Mervyn Silverman to shut down the bathhouses in that city, and he adamantly refused to do it for the long time that he served in the capacity of health officer of that city.

In September 1984, finally he relented and shut down the bathhouses, but then in 1984 in November, the people of the city and county of San Francisco cast an amendment to their county charter whereby the health officer came under the jurisdiction of the mayor rather than the city administrator, and at that point Silverman knew he would be fired so he resigned.

I mention this because as a part of the sexual resolution in our society, our medical school students that have graduated from the medical schools or who have moved into public health have been caught up in this questioning of the existence of standards in human sexuality as well. Dr. Silverman is a distinguished member of the medical profession, and I have debated him on several occasions. He is intelligent, he is alert, he expresses himself with distinction, but in terms of judgment, he is totally lacking. Here is a leader in the public health service of the State of California saying to the people of California, "We are going to develop a public-health policy based on consensus." That is absolutely absurd, but that is what the guy said.

One of the tragic things is that after Dr. Silverman left his job as health officer of San Francisco County, where did he turn up? He turned up as the chief spokesperson for the California Medical Association interfacing with the public in California as to what should be the policy of our State of California in dealing with the AIDS epidemic.

□ 1630

He was replaced from that position earlier this year by another doctor, so he currently does not hold that status. But all during this time you may from time to time see Dr. Merv Silverman running around the country trying to tell the American public that the correct posture for this Nation to pursue on the issue of reportability is do not make those with the virus reportable to the public health service, because the claim is that it will drive them underground.

They cannot get any further underground than they are already. We have to get a message across to these people that AIDS is not curable, but it is treatable.

Mr. DORNAN of California. Let me ask the gentleman a question on something that happened in my town hall meeting. I had a town hall meeting on AIDS, and as the gentleman knows, I recommended to other Members not to do it if they are in a big, large urban area because people will show up who will try and take over your meeting. Because I was polite and tried to respond to the questions of a small group of homosexual activists, the towm meeting deteriorated, and the other people who showed up to get information from the latest Koop film, which I showed, which was brandnew, they were very angry that I had allowed that small group to dominate the meeting.

But there was a nurse with this group who works in the Orange County AIDS center clinic, and she got up and told me contact tracing was impossible with this fatal venereal disease because in the nonfatal ones, syphilis, gonorrhea, chlamydia, and so forth, there was hope of it working. But there were so many contacts, so much to do, and so late in the day that it was a big waste of time. Then she went into what the gentleman just said, that besides, it will scare people and drive them underground.

I have been reading articles that in those States that do engage in contact tracing, like Colorado, it does work, it does bring people in, it does get those people who need the treatment into a treatable situation and extends their lives. To me, whenever I see very sad, frightened, AIDS victims dying, and I see them interviewed on television or hear them on radio, what they are saying is they are trying to extend their life, hoping that the magic bullet will be developed in time to reverse the ravages of the disease and save their lives. So, all people want to live. Even when you are a leper in the last stages and your fingers are gone, you want to live generally.

Does it work, is my question to the Member?

Mr. DANNEMEYER. Let me respond by saying that nurse is expressing a philosophy of what I call selfishness, because not only do we have rights in America, we also have duties. That nurse, with all due respect, is overlooking the fact that each of us has a duty, and if I as a citizen have a noncurable venereal disease coursing through my veins, I have rights like any other American citizen, but I have a duty not to transfer that fatal condition to another human being. That duty entails accountability to the public health system, it entails reporting to the public health service my status and my contacts with whom I have had sexual contacts so that those people can be contacted to advise them of their status, so that hopefully when they know they have this fatal condition coursing through their veins they are not going to engage in conduct which is going to transfer it to another human.

What we are talking about here, reportability and confidence to public health, and contact tracing is the cornerstone of what public health has pursued to control any communicable disease that has come down the pike in the history of this country, in fact the history of any nation in Western civilization. The tragedy of it is today that we are not pursuing this routine step of reportability and confidence and contact tracing to control this epidemic. This is why I think it is so important for our colleagues to understand what this issue is, so that when this bill comes along that I talked about earlier of testing and counseling, the amendment that I will be offering to require reportability will be something that this body will approve.

Mr. DORNAN of California. Has the gentleman from California sent a "Dear Colleague" letter to all the Members on his amendment?

Mr. DANNEMEYER. That is correct, yes; I have.

Mr. DORNAN of California. I want to support it and speak in behalf of it on the House floor. I would think that it would have an excellent chance of passing.

Do any other States other than California have any ballots or any measures, any propositions or anything related to this contact tracing and reportability facet?

Mr. DANNEMEYER. I am not sure. The State of Illinois has within this year, through the leadership of Penny Pullen, a member of the President's AIDS Commission and a member of the State legislature, adopted some provisions in dealing with the epidemic that are sound, and I commend her for her leadership in that regard, but reportability is not one of those features.

The State medical society of the State of New York has endorsed the concept of reportability. The President's AIDS Commission includes within its report a recommendation that we adopt it as a policy.

Mr. DORNAN of California. Why has the Watkins Report, named after Admiral Watkins who is the chairman of the President's AIDS Commission, why has it taken some criticism, and has the gentleman found any faults with the Watkins Report?

Mr. DANNEMEYER. The major deficiency of the Watkins Report, and we will not have time in this special order this evening to talk about it, and I appreciate the comments of my colleague from California, Mr. DORNAN, the major deficiency of Admiral Watkins report to the President from the AIDS Commission is emphasis on antidiscrimination legislation.

This Member from California will take another special order tomorrow or sometime next week talking about what policy changes will come to America if we go down the road of giving to individuals with a noncurable disease, in this instance the virus for AIDS, antidiscrimination status, because there are consequences that flow from that designation of status that I am not sure the proponents of antidiscrimination have thought through. Some of them have, quite candidly, and they know exactly what they are doing, and they are pursuing this course of antidiscrimination notwithstanding. But some of those who are proposing antidiscrimination status have not thought through what they are doing.

For example, to name one, the U.S. Army has a policy that you may not come into the military service of the Army if you are HIV-positive. If we adopt antidiscrimination status, does that mean the Army will no longer be able to pursue that policy?

The military service of the U.S. Government has a policy that if you are homosexual you are not suited for military service and you will be discharged. Not every male homosexual is HIV-positive, but many are. If we find a male homosexual in the military service who is HIV-positive, would such a person be able to say, if we adopted antidiscrimination laws, you may not separate me from the military service of the United States because my badge to stay on active duty is the fact that I am HIV-positive, and you may not discriminate against me on that basis, thank you very much, I am going to stay on active duty.

The U.S. Air Force has a policy that if you are HIV-positive you cannot be on flight status, the reason being that 44 percent of people who are HIV-positive manifest dementia, and it impairs their muscular function, and they are taken off of flight status.

EVERY YEAR WE FIND MORE IMPORTS ON OUR SIDE OF THE TRADE BALANCE

The SPEAKER pro tempore (Mr. NEAL). Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, my duty here today as chairman of the Steel Caucus is to put a little history on record so that our colleagues can again reiterate in their own mind as to what has happened in our international trade situation. If I may deviate slightly for a moment, I would put on the record the fact that the Steel Caucus, with the executive committee and its chairman, my colleague from Pennsylvania, Mr. MURTHA, who is the chairman of executive committee of the Steel Caucus, and the gentleman from Ohio, Mr. REGULA, who is the vice chairman, and myself as chairman of the full caucus and my other colleague from Pennsylvania, Mr. SCHULZE, who is the vice chairman, along with another 8 to 10 members of our executive committee met with the AISI group this morning. That is the American Institute that is made up of steelmill owners and operators in this country, the American Iron and Steel Institute. They have been in business for many years and in that capacity they have watched over, have fought for the right of the steel industry in this country to maintain its independence and self-reliance, and to set forth before the Members of this House the needs of the steel industry such as tax considerations, reasonable limitations on imports, and also to spread among our colleagues full information as to what is happening in our international trade situation. I want to emphasize that that meeting was very productive, and at a later date, probably next week, we will put into the RECORD their remarks and also our comments.

Mr. Speaker, when my close friend and colleague, the late John Dent, came to Congress 30 years ago, his was the lone voice warning the Nation of the perils of unrestricted and uncontrolled foreign imports.

Everyone who knew Johnny was grieved by his death 4 months ago, but his memory and the wisdom of his observations lives on. During the 10 years that John Dent and I spent together in the House we talked countless times about trade and the economic future of the United States.

I learned a great deal from him during that time, and I think he would be glad to see that Congress and the American people are finally beginning to take our overwhelming trade deficit and our perilous trade posture seriously.

For years, he and I spoke out against unfair foreign trade practices, our trade deficits, and our declining manufacturing base. Now Congressman JOHN MURTHA, who succeeded John Dent, has undertaken the trade cause and we both are working closely with our colleagues in opposing unfair imports.

To win the trade war, America's trading forces need to close ranks and form a united well-coordinated front. We also need expert leadership and a strong comprehensive trade plan to improve America's long-term position in the world market.

This kind of comprehensive trade strategy is difficult to develop, but I believe the new omnibus trade bill, H.R. 4848, is a solid first step. The bill was overwhelmingly passed by the House and I trust that our colleagues in the Senate will pass it by an equally wide margin.

The new trade bill offers us a number of ways to prevent the abuses and infractions of trade law we have seen in the past, and it offers new protections against unfair foreign trade practices.

Well, it's about time.

We've known about the illegal ways our foreign so-called trading partners have abused their free access to our huge domestic market for decades, but it took last year's record-setting $171.2 billion trade imbalance to get Congress to act.

Long before our trade deficit was headed toward $200 billion, Johnny and I were warning Congress and the American people about the dangers of unrestricted trade. I recently ran across an address which I delivered in this Chamber 15 years ago this month, and it reminded me of how things have changed since 1973.

These changes over the last decade and a half have been gradual, but the seeds of our current problems were sown long ago. I would like to share with you some of the observations I made about our trade situation back in 1973. I think those comments are as timely today as they were then, so let me quote them briefly:

> When foreign imports began to trickle into the country after World War II, there were those who said they would be a boon to the American consumer, because they were cheaper than similar products made here at home. They also contended a little competition from abroad would not hurt our high-priced American workers.
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> But that trickle soon became a torrent. Imports poured into the country in ever-increasing quantities. In many cases the foreign manufacturer was subsidized by his government, enabling him to undersell domestic competitors.
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> He was willing to take a financial loss now for huge profits later. He glutted our markets with his low-cost products, undercutting and eventually crushing the competition, forcing them to close their plants and lay off their workers.

Mr. speaker, that was 15 years ago. Over the last decade and a half, we've seen even more of the impact of the uncontrolled flood of foreign imports. As the current chairman and a founding member of the Congressional Steel Caucus, I've certainly seen how unfairly priced imports have almost bankrupted our steel industry.

In 1973, there were 673,000 Americans making steel, and foreign steel captured 12.4 percent of our market. In 1988, there are only 170,000 men and women making steel, and imports capture over 20 percent of the U.S. market.

And the steel industry is not alone. Imports have increased across the board, and there's no end in sight.

In 1973, the United States enjoyed a $900 million merchandise trade surplus. This year, economists predict that we'll again be faced with a $170 billion trade deficit.

In that same 1973 speech I wondered what might happen if foreign imports continued to increase. Let me quote again from those remarks I gave 15 years ago:

> Imports still are coming into the country—only now their manufacturers are coming with them. They are building here, buying there, are gaining greater control everywhere. Our Nation has become an international supermarket with our businesses on sale at bargain basement prices. Foreign buyers are swallowing up companies in every industry and in every State.
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> "Buy American" once had a patriotic ring to it. Now it has a hollow one. "Buy American" now is the battle cry of foreign investors. They see our businesses ripe for the picking and they are swarming over the countryside, their arms loaded with excess American dollars that nobody wants.

Back in 1973 many of us saw what might happen after foreign businesses got a foot in the door of the American market. It started with a foot in the door, then a leg, and now foreign interests are not only inside, they're bidding to buy the whole house.

In 1973, total foreign investments in the United States reached $18 billion. Today, foreign owners control 1.5 trillion dollars' worth of American property and assets, and some of our Nation's largest companies have been acquired by overseas interests.

There are certainly hazards to foreign investment in U.S. companies. I mentioned this in 1973 when I said:

> What guarantee do the few Americans working for a foreign employer have that their boss would not pack up and go home after trampling the competition. Or, if economic conditions are such that it would be cheaper for him to make his product back home, do you think he would hesitate a minute? Do you think he would have the slightest concern as to what will happen to his employees and their families?

Mr. Speaker, that's the way I saw it in 1973, and I truly believe that in the last 15 years the situation has only gotten worse.

Foreign companies have bought a $1.5 trillion share of American stocks, bonds, factories, real estate, and our Federal debt.

This has been going on for decades, but there is absolutely no way for anyone, even a Member of Congress, to find out exactly what foreign nationals are buying and how much they're paying for it. The information simply is not available.

Under pressure from the President and the high rollers in America's largest multinational corporations, the foreign investment reporting requirement was dropped from the omnibus trade bill. That provision would have required foreign holders of American assets to provide the most basic financial information about their American holdings.

I strongly believe that free and open information is essential to America's security and economic health, and I was very disappointed when that provision was dropped from the trade bill.

Well, even if H.R. 4848 doesn't require investment disclosure, it does contain a number of provisions to improve our ability to compete in the world marketplace.

Besides strengthening our ability to retaliate against unfairly traded foreign imports, the bill provides nearly $1 billion for worker training; it improves our schools and libraries; it makes it easier for American companies to export their products; and it extends the President's authority to negotiate trade agreements.

The new trade bill certainly isn't perfect, but no bill ever is.

In the past 15 years, we've passed the Trade Act of 1974, the Trade Agreements Act of 1979, and the Trade and Tariff Act of 1984. All of these bills have improved our ability to negotiate trade agreements, and without them our trade deficit would probably be much worse.

H.R. 4848 is even better. It is the most comprehensive trade bill ever introduced in Congress. It's also the first step in the process of taking trade seriously; the first step in bringing order and reason to our trade policy; the first step along the long road toward a comprehensive national trade strategy to regain our leadership in the world market.

The second step is to streamline the process of developing and implementing American trade policy. Right now, there are many, many Federal departments and agencies responsible for U.S. trade policies. The Departments of Commerce, Treasury, Agriculture, State, and Defense all have a say in how we buy and sell goods across our national borders.

The U.S. Trade Representative tries to coordinate these departments, but he has no authority over them so he cannot implement trade policy.

Some believe that this haphazard arrangement is the best we can do. Some argue that in an economy as complex as ours, it's unreasonable to expect any effective long-term economic planning. Some say that trade policies are against the very nature of free enterprise.

Well, I have two words to say to those people—you're wrong.

I don't believe that free enterprise gives any foreign businessman the freedom to put American workers out of jobs by selling products made with foreign government subsidies.

I don't believe that foreign investors should be allowed to buy and sell American land and American factories without any open supervision.

But, most of all, I don't believe that we can win the trade war unless we treat our overwhelming trade deficit like it should be treated—like a national emergency.

America needs a single department with the authority and the duty to negotiate trade agreements, to formulate long-term trade policies, to coordinate other Government agencies affected by trade, to increase American exports, to monitor foreign imports and investments, and to reduce the crisis proportions of our $170 billion trade deficit.

All of these goals could be accomplished by a new Department of Trade. In the early days of the 100th Congress I introduced H.R. 646, which would create that Department.

The combination of a new, strong Department of Trade and the new omnibus trade bill would be clear signals to our foreign trade competitors that we are serious about reducing our trade deficit and regaining our lead in the world's economy.

If he were with us today, John Dent would be pleased. He'd be pleased to see that Congress is getting serious about facing up to our trade problems, and he'd be spending all of his enormous enthusiasm and energy to see these bills become law.

Mr. Speaker, we have all worked long and hard to put together the present omnibus trade bill, and I think the end result will help us win back our lead in the world trading game. I urge all of my colleagues in the Senate to support this bill and I urge the President to show his courage and leadership by signing it into law.

There's no doubt that to win the international trade war, we must mobilize our forces to win, and H.R. 4848 is the best weapon we've had in years.

□ 1700

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. Neal). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bunning) to revise and extend their remarks and include extraneous material:)

Mr. Gingrich, for 60 minutes, today.

Mr. Gingrich, for 60 minutes, August 3.

Mr. Gingrich, for 60 minutes, August 4.

Mr. Walker, for 5 minutes, today.

(The following Members (at the request of Mr. Erdreich) to revise and extend their remarks and include extraneous material:)

Mr. Hubbard, for 5 minutes, today.

Mrs. Boggs, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, today.

Mr. Gaydos, for 60 minutes, today.

Mr. Coelho, for 60 minutes, on August 3.

Mr. Gaydos, for 60 minutes, on August 3.

(The following Member (at the request of Mr. Dannemeyer) to revise and extend his remarks and include extraneous matter:)

Mr. Solomon, for 60 minutes, August 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Bunning) and to include extraneous matter:)

Mr. Broomfield in three instances.

Mr. Marlenee.

Mr. Lent.

Mr. Rowland of Connecticut.

Mr. Inhofe.

Mr. Sundquist.

Mr. Burton of Indiana in two instances.

Mr. Bilirakis.

(The following Members (at the request of Mr. Erdreich) and to include extraneous matter:)

Mr. Thomas A. Luken.

Mr. Mavroules.

Mr. McMillen of Maryland.

Mr. Rangel.

Mrs. Kennelly.

Mr. Smith of Florida.

Mr. Obey.

Mr. Traficant in two instances.

Mr. Hughes.

Mr. Markey.

Mr. Yatron.

Mr. Lantos.

Mr. Rahall in two instances.

Mr. Eckart.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2530. An act to improve the management of the Federal pay system and increase efficiency and productivity of Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2213. An act to require certain telephones to be hearing aid compatible;

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr. Federal Building"; and

H.R. 4726. An act to designate the United States Post Office Building located at 700

Main Street in Danville, VA, as the "Dan Daniel Post Office Building."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2385. An act to amend the Public Health Services Act to revise and extend the programs establishing migrant health centers and community health centers.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 3, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4110. A letter from the Professional Audit Review Team transmitting an evaluation of the Energy Information Administration's performance during the period October 1985 through June 1987, pursuant to 15 U.S.C. 790d(a); to the Committee on Energy and Commerce.

4111. A letter from the Vice President, Farm Credit Banks of Springfield, transmitting the annual report for the Farm Credit Banks of Springfield retirement plan covering the plan year January 1, 1987 through December 31, 1987, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4112. A letter from the Manager—Benefits, Freddie Mac, transmitting the 1987 annual report for the Federal Home Loan Mortgage Corporation employees' pension plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4113. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4114. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4115. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report of the grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

4116. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a proposed lease prospectus for the Federal Aviation Administration, Oklahoma City, OK, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4117. A letter from the Governor, State of California, transmitting a copy of the "Southwestern Low-Level Radioactive Waste Disposal Compact," enacted in California on June 17, 1987 and in Arizona on July 8, 1988, for formal ratification by the House and Senate, pursuant to Public Law 99-240; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3621. A bill to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and do declare such lands to be part of the reservation with which they are contiguous; with amendments (Rept. 100-811). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 507. A Resolution providing for the consideration of H.R. 4333, a bill to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes (Rept. 100-812). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 508. A Resolution providing for the consideration of H.R. 4352, a bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes. (Rept. 100-813). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 5121. A bill to amend the Federal Election Campaign Act of 1971 to require publication of certain information relating to multicandidate political committees; to the Committee on House Administration.

By Mr. BUSTAMANTE (for himself, Mr. Bryant, Mr. Frank, Mr. Andrews, Mr. Kolter, Mrs. Collins, Mr. Davis of Michigan, and Mr. Levine of California):

H.R. 5122. A bill to amend title 18, United States Code, to provide penalties for the disclosure by Federal Government Employees of certain information relating to Government contracts; to the Committee on the Judiciary.

By Mr. DICKS:

H.R. 5123. A bill to modify the project for Wynoochee Lake, Wynoochee River, WA, to authorize the Secretary of the Army to permit the city of Aberdeen, WA, to operate, maintain, repair, and rehabilitate the project for Wynoochee Lake, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STARK:

H.R. 5124. A bill to amend title 3, United States Code, to require reimbursement for employees detailed to the White House Office and certain other offices for the full period of time for which any such employees are so detailed, rather than for only periods in excess of 180 calendar days in any fiscal year; to the Committee on Post Office and Civil Service.

H.R. 5125. A bill to amend title 3, United States Code, to provide that employees holding positions excepted from the competitive service because of their confidential or policy-determining character may not be detailed to the White House or certain other offices; to the Committee on Post Office and Civil Service.

By Mr. DICKS (for himself, Mr. Foley, Mr. Bonker, Mr. Lowry of Washington, Mr. Swift, Mr. Morrison of Washington, Mr. Chandler, and Mr. Miller of Washington):

H.R. 5126. A bill to direct the Administrator of the Environmental Protection Agency to make grants to the State of Washington Puget Sound Water Quality Authority to implement the Puget Sound water quality management plan; to the Committee on Public Works and Transportation.

By Mr. DioGUARDI (for himself and Mr. Scheuer):

H.R. 5127. A bill to direct the Administrator of the Environmental Protection Agency to make grants to an interstate agency established by Connecticut and New York for the purpose of implementing the comprehensive conservation and management plan for Long Island Sound; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. DYMALLY:

H.R. 5128. A bill to provide for the establishment of a Western Hemisphere Center for Cultural and Technical Interchange; to the Committee on Foreign Affairs.

By Mr. GUNDERSON (for himself and Mr. Coelho):

H.R. 5129. A bill to eliminate unnecessary and redundant data requirements requested by States or the Federal Government under the "Registration of Pesticides—Additional Data to Support Existing Registration" (7 U.S.C. 136a(c)(2)(B))—section of our pesticide laws; to the Committee on Agriculture.

By Mr. HUGHES (for himself and Mr. Saxton):

H.R. 5130. A bill to amend title 18, United States Code, to provide penalties for the dumping of hospital wastes in the high seas, and for other purposes; to the Committee on the Judiciary.

By Mrs. KENNELLY:

H.R. 5131. A bill to amend title XVIII of the Social Security Act to permit payment under the medicare program for certain types of foot care; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. LLOYD (for herself, Mr. Morrison of Washington, Mr. Valentine, Mr. Lujan, Mr. Bruce, Mr. Fawell, Mr. Stallings, Mr. Chapman, Mr. Hochbrueckner, Mr. Walgren, Mr. Traficant, and Mr. Kanjorski):

H.R. 5132. A bill to amend the Federal Nonnuclear Energy Research and Development Act of 1974 to improve the transfer of technology or devices developed by the Department of Energy National Laboratories, and to improve interagency cooperations between the Department of Energy and other agencies with respect to technology transfer; to the Committee on Science, Space, and Technology.

By Mr. MARKEY (for himself, Mr. Dingell, Mr. Rinaldo, Mr. Lent, Mr. Synar, Mr. Eckart, Mr. Boucher, and Mr. Cooper):

H.R. 5133. A bill to improve the procedures and remedies for the prevention of insider trading, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RAHALL:

H.R. 5134. A bill to require the Secretary of Energy to place certain signs regarding environmental information reciprocity at the Canadian-United States border; to the Committee on Energy and Commerce.

By Mr. SAXTON (for himself and Mr. Hughes):

H.R. 5135. A bill to amend the Housing Act of 1949 to authorize the Secretary of Agriculture to provide for legal representation in litigation involving the collection of claims and obligations arising out of rural housing programs; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SMITH of Nebraska:

H.R. 5136. A bill to authorize amendments to a certain water service contract for the Frenchman Unit of the Pick-Sloan Missouri Basin Program; to the Committee on Interior and Insular Affairs.

By Mr. BUECHNER (for himself, Mr. Dornan of California, and Mr. Burton of Indiana):

H.J. Res. 627. Joint resolution designating July 27, 1989, as "National Korean War Veterans Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE:

H.J. Res. 628. Joint resolution designating the period of September 17, 1988, through September 24, 1988, as "American Mushroom Week"; to the Committee on Post Office and Civil Service.

By Ms. SLAUGHTER of New York:

H.J. Res. 629. Joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. BURTON of Indiana (for himself, Mr. Coelho, Mr. Lagomarsino, Mr. Porter, Mr. Fazio, Mr. Lipinski, Mr. Shumway, Mrs. Bentley, Mr. Mavroules, Mr. Dornan of California, Mr. Shays, Mr. Herger, and Mr. Badham):

H. Con. Res. 343. Concurrent resolution concerning human rights of the Sikhs in the Punjab of India; to the Committee on Foreign Affairs.

By Mrs. BOGGS:

H. Res. 509. Resolution providing amounts from the contingent fund of the House of Representatives for certain expenses of the program known as Understanding Congress: A Bicentennial Research Conference; to the Committee on House Administration.

By Mr. LEVIN of Michigan:

H. Res. 510. Resolution providing for printing of a collection of statements made in tribute to the late Senator Robert F. Kennedy; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. de la Garza:

H.R. 5137. A bill to qualify the *Fre-N-Eze* for U.S. Charter Service; to the Committee on Merchant Marine and Fisheries.

H.R. 5138. A bill to qualify the *Beta Lyra* for U.S. Charter Service; to the Committee on Merchant Marine and Fisheries.

By Mr. FRANK:

H.R. 5139. A bill for the relief of Lawrence R. Machado; to the Committee on the Judiciary.

By Mr. ROTH:

H.R. 5140. A bill for the relief of the vessel *Te De II;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. Gordon.

H.R. 382: Mr. Nielson of Utah.

H.R. 387: Mr. Mavroules, Mr. Moakley, Mr. Green, Mr. Flake, and Mr. Shays.

H.R. 672: Mr. Erdreich and Mr. Gordon.

H.R. 955: Mr. Baker and Mr. Holloway.

H.R. 988: Mrs. Bentley, Mr. Weldon, and Mr. Borski.

H.R. 1007: Mr. Gilman, Mr. Hiler, Mr. Fish, Mr. Torres, Mr. Shuster, Mr. Tallon, Mr. Feighan, Mr. Leath of Texas, Mr. Lagomarsino, Mr. Rowland of Connecticut, and Mrs. Lloyd.

H.R. 1028: Mr. DeWine, Mr. Valentine, Ms. Slaughter of New York, Mr. Fauntroy, Mr. Hopkins, and Mr. Rahall.

H.R. 1076: Mr. Conyers, Mr. Bustamante, Mr. Hatcher, Mr. Hyde, Mr. Bilirakis, Mr. Lowery of California, Mr. Hastert, Mr. Wyden, and Mr. Bates.

H.R. 1250: Mr. DioGuardi.

H.R. 2021: Mr. Rangel, Mr. Fauntroy, Mr. Levin of Michigan, and Mr. Kennedy.

H.R. 2151: Mr. Downey of New York.

H.R. 2212: Mr. Shays, Mr. Gray of Illinois, and Mr. Ravenel.

H.R. 2464: Mr. DeFazio.

H.R. 2501: Mr. Eckart, Mr. Evans, Mr. Florio, Mr. Fawell, Mr. Lowry of Washington, Mr. Bustamante, Mr. Roybal, Mrs. Schroeder, and Mr. Sharp.

H.R. 2545: Mr. de la Garza, Mr. McCurdy, Mr. Gray of Illinois, Mrs. Bentley, and Mr. Dyson.

H.R. 2854: Mr. Kanjorski.

H.R. 2925: Mrs. Saiki.

H.R. 2935: Mr. Russo, and Mr. Mavroules.

H.R. 3045: Mr. Martinez and Mrs. Vucanovich.

H.R. 3410: Mr. Volkmer.

H.R. 3490: Mr. Packard.

H.R. 3723: Mr. Eckart and Mr. Dorgan of North Dakota.

H.R. 3726: Mr. Derrick and Mr. Nelson of Florida.

H.R. 3782: Mr. Slattery and Mr. Richardson.

H.R. 3891: Mr. Atkins.

H.R. 4036: Mr. Mavroules, Mr. Torricelli, and Mr. Boehlert.

H.R. 4230: Mr. Wolpe.

H.R. 4302: Mr. DioGuardi.

H.R. 4335: Mr. Ritter, Mr. Atkins, Mr. Owens of Utah, Mr. McHugh, Mr. Ravenel, and Mr. Nelson of Florida.

H.R. 4352: Mr. Obey and Mr. Rahall.

H.R. 4396: Mr. Thomas A. Luken, Mr. Kanjorski, and Mr. Olin.

H.R. 4454: Mr. Wortley.

H.R. 4473: Mr. Schumer, Mr. Kostmayer, Mr. Markey, Mr. Denny Smith, Mr. Beilenson, Mr. Manton, Mr. Hubbard, Mr. Davis of Michigan, Mr. Gejdenson, Mr. Price of North Carolina, Mr. Kanjorski, Mr. Applegate, Mr. Horton, Mr. Penny, Mr. Armey, Mr. Ravenel, Mr. Schaefer, Mr. Dannemeyer, Mr. Chapman, Mr. Upton, Mr. Kyl, Mr. Coble, Mr. Vento, Mr. Wortley, Mr. Morrison of Washington, Mr. Dorgan of North Dakota, Mr. Kolbe, Mr. Flippo, Mr. Jeffords, Mr. Hefner, Mr. Smith of Florida, Mr. Ackerman, Mr. Skeen, Mr. Swift, Mr. Burton of Indiana, Mr. Coyne, Mr. Swindall, Mr. Sikorski, Mr. Gilman, Mr. AuCoin, Mrs. Morella, Mr. Martinez, Mr. Ritter, Mrs. Lloyd, Mr. Fauntroy, Mr. Gingrich, and Mr. Hayes of Illinois.

H.R. 4479: Mr. Frank, Mr. Lagomarsino, Mr. Brown of California, and Mr. Atkins.

H.R. 4498: Mr. de Lugo and Mr. Leland.

H.R. 4614: Mr. Johnson of South Dakota, Mr. Derrick, Mr. Atkins, and Ms. Snowe.

H.R. 4618: Mr. Myers of Indiana, Mr. Atkins, Mr. DioGuardi, and Mr. Gephardt.

H.R. 4666: Mr. Gibbons.

H.R. 4725: Mrs. Morella, Mr. McGrath, Mr. Upton, Mr. Wortley, and Mr. Lewis of Georgia.

H.R. 4830: Mr. Packard, Mr. McCandless, Mr. McCurdy, Mrs. Martin of Illinois, Mr. Holloway, Mr. Miller of Washington, and Mr. Owens of Utah.

H.R. 4855: Mrs. Bentley and Mr. de Lugo.

H.R. 4894: Mr. McCandless and Mrs. Roukema.

H.R. 4898: Mr. Upton, Mr. Rhodes, Mr. Davis of Illinois, Mrs. Bentley, Mr. Herger, Mr. Dornan of California, and Mr. Holloway.

H.R. 4904: Mr. Green, Mr. Smith of New Jersey, Mr. Yates, Mr. de Lugo, Mr. Walgren, Mr. Foglietta, Mr. Lancaster, Mrs. Boxer, and Mr. Borski.

H.R. 4924: Mrs. Bentley, Mr. Roe, Mr. Solomon, Mr. Bonior of Michigan, Mr. Traficant, and Mr. Martin of New York.

H.R. 4940: Mr. Wolpe, Mr. de Lugo, Mr. Evans, Mr. Coleman of Texas, Mr. Campbell, Mr. Atkins, Mr. Bates, Mr. Moakley, and Mr. Martinez.

H.R. 5010: Mr. Mollohan.

H.R. 5020: Mr. Fields, Mr. Slaughter of Virginia, Mr. Michel, Mr. Ortiz, and Mr. Edwards of Oklahoma.

H.R. 5050: Mr. Rose, Mr. Gray of Illinois, Mr. Gejdenson, Mr. Dyson, Mr. Jones of North Carolina, Mr. Dixon, and Mr. Savage.

H.R. 5073: Mr. Kolter.

H.R. 5084: Mrs. Bentley, Mr. Lightfoot, Mr. Hughes, Mr. Evans, and Mr. Lagomarsino.

H.J. Res. 330: Mr. Fascell and Mr. Price of North Carolina.

H.J. Res. 438: Mr. Waxman.

H.J. Res. 450: Mr. Durbin, Mr. Fascell, Mr. Nelson of Florida, Mr. Weiss, Mr. Johnson of South Dakota, Mr. Bennett, and Mr. Young of Florida.

H.J. Res. 478: Mr. Chappell, Mr. Crane, Mr. Sharp, Mr. Gordon, Mr. Hamilton, and Mr. Hutto.

H.J. Res. 501: Mr. Tallon, Mr. Tauke, Mr. Grant, Mrs. Saiki, Mr. Bonior of Michigan, Mr. Stokes, Mr. Rinaldo, Mr. Durbin, Mr. Ortiz, Ms. Oakar, Mr. Nielson of Utah, Mr. Dixon, Mr. Wilson, Mr. Waxman, Mr. Walgren, Mr. Hamilton, Mr. Weldon, Mr. Fazio, and Mr. Hayes of Louisiana.

H.J. Res. 540: Mr. Tauke, Mr. Applegate, Mr. Gallegly, Mr. Traficant, Mr. Mica, and Mr. Derrick.

H.J. Res. 565: Mr. Dornan of California, Mr. Durbin, Mr. Wortley, Mr. Bonior of Michigan, Mr. Frenzel, Mr. Parris, Mr. Levine of California, Mr. Dymally, Mr. Dwyer of New Jersey, Mr. Jacobs, Mr. Anderson, and Mr. Watkins.

H.J. Res. 570: Mr. Mineta, Mr. Young of Florida, Mr. Dixon, Mr. Hoyer, Mr. Gephardt, Mr. Garcia, Mr. Coble, Mr. Dingell, Mr. Evans, Mr. Gray of Pennsylvania, Mr. Gray of Illinois, Mr. Grant, and Mr. Hochbrueckner.

H.J. Res. 574: Mr. Hughes, Ms. Snowe, Mr. Lancaster, Mr. Levin of Michigan, and Mr. Spratt.

H.J. Res. 592: Mr. McCollum, Mr. Kanjorski, Mr. Tallon, Mr. Parris, Mr. Roberts, Mr. Price, of North Carolina, Mr. Porter, Mr. Bennett, Mr. Florio, Mr. Young of Florida, Mr. Wolf, Mr. Fauntroy, Mr. Bilbray, Mr. Boucher, Mr. Buechner, Mr. Coleman of Texas, Mr. Dixon, Mr. Dyson, Mr. Gallo, Mr. Davis of Michigan, Mr. Dorgan of North Dakota, Mr. Dicks, Mr. Carper, Mr. Gephardt, Mr. Evans, Mr. Murtha, Mr. Hastert, Mr. Ford of Tennessee, and Mr. Archer.

H.J. Res. 602: Mr. Levine of California, Mr. Fazio, Mrs. Boxer, Mr. Sikorski, Mr. Torres, Mr. Fawell, Mr. Horton, Mr. Bonior of Michigan, Mrs. Martin of Illinois, Mr. Hughes, Mr. Waxman, Mr. Boucher, and Mr. Inhofe.

H.J. Res. 603: Mr. Yates, Mr. Coelho, Mr. Akaka, Ms. Slaughter of New York, Mr. Kennedy, Mr. Spratt, Mr. Sawyer, Mr. Kasich, Mr. Evans, Mr. Whitten, Mr. Grant, Mr. Roe, and Mr. Price of North Carolina.

H.J. Res. 614: Mr. Gingrich.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5031: Mr. Dymally.

SENATE—*Tuesday, August 2, 1988*

(Legislative day of Monday, August 1, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable Richard C. Shelby, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

But he that is greatest among you shall be your servant.—Matthew 23:11

Father God, we thank Thee for the good progress that has been made in appropriations. Thank Thee for the long hours of hard work of the committee staffs which made it possible. Thank Thee, Lord, for the faithful, tireless service of those who labor in the Chamber before the Senate opens and after it recesses. Thank Thee, mighty God, for the dedication of the many men and women who work behind the scenes but without whom the Senate could not do its work.

Grant harmony and wisdom to the conferences, that nothing may be allowed to frustrate the finished task.

We pray in His name who is the Servant of servants. Amen.

APPOINTMENT OF ACTING PRESIDING PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, August 2, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Richard C. Shelby, a Senator from the State of Alabama, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR SHELBY SERVES 100 HOURS AS PRESIDING OFFICER

Mr. BYRD. Mr. President, at 10:57 a.m. this morning, the junior Senator from Alabama [Mr. Shelby] will have presided over the Senate for 100 hours during the 2d session of the 100th Congress. He will have been the first Senator to achieve this goal in 1988.

Presiding over the Senate is one of the most important responsibilities of the majority. This duty falls most heavily on the shoulders of the junior Senators. With crowded schedules of committee meetings and constituent appointments, it takes a major commitment for any Senator to preside over the Senate for 100 hours during a session.

The junior Senator from Alabama [Mr. Shelby] has made such a commitment and presides with dignity and fairness. In carrying out the duties of the Chair, he has the opportunity to become more familiar with the rules of the Senate and the flow of legislative business.

I congratulate the junior Senator from Alabama [Mr. Shelby] for achieving the goal—at 10:57 a.m. today—of presiding over the U.S. Senate for 100 hours. I look forward to continuing to see him preside during the remaining weeks of the 2d session of the 100th Congress.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to reserve the remainder of my time, and I ask unanimous consent that the Republican leader may reserve his time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein.

CONGRATULATIONS TO SENATOR SHELBY

Mr. PROXMIRE. Mr. President, I join the majority leader in congratulating the distinguished Senator from Alabama [Mr. Shelby] for presiding for 100 hours over the Senate.

The Senator from Alabama is also a very valued member of the Banking Committee, where he has shown his intelligence and his excellent judgment. It is a delight to have a chance to pay tribute to this fine Senator.

ARE UNION WORKERS GETTING THEIR FAIR SHARE?

Mr. PROXMIRE. Mr. President, very little has been written in the Nation's press about the plight of the union worker in this country in the past few years and just about nothing has been said about it on the floor of the Senate. It is time Congress took note of the difficulties under which American labor unions are struggling.

One of the hallmarks of a truly Democratic industrial society is the presence of vigorous, strong labor unions. The strength of the labor union movement presents one of the sharpest differences between totalitarian communism as in Soviet Russia and its eastern European puppets on the one hand and the industrial nations of the free world on the other. In the Communist nations, labor unions are a pathetic joke. Communist labor unions in the Soviet Union are simply tools of the all-powerful Communist Party. When Communist unions, out of desperation, strike for modest improvements in wages and working conditions, the Communist police and military move in, jail the union leaders and smother the workers' protests.

In the United States and other free countries, at least until recently, labor unions fared far better. But in the past few years American unions and the workers they represent have traveled an increasingly more rocky road. In a first page article on June 29, the Wall Street Journal reported that in the midst of the longest peacetime recovery in American history, labor union members have not been doing well. This year they are expected to do even worse. Corporation profits are up sharply. Manufacturing, where union organization is heavily concentrated, is doing especially well. But this is not true of the men and women—largely unionized—who represent most of the working force in these corporations.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This year, about 40 percent of union contracts have expired and are up for renegotiations. With American industry operating at a high level of capacity, many economists expected 1988 to be a banner year for wage increases. But what is actually happening to wages for union workers? Twice as high a proportion of firms are trying to hold wage increases to under 2 percent as last year, with inflation expected to raise the cost of living by about 4 percent. This means that real wages of America's unionized workers will actually decline in real terms.

Consider, for example, the union members who work for the biggest employer in a city of more than 50,000, Eau Claire, in northwest Wisconsin. The Uniroyal Tire Co.'s union has just agreed to a 63 cent an hour reduction—that is right—I said reduction in pay, 1 less vacation week, three fewer annual holidays, no cost of living increases. In Oklahoma, unions representing workers in Safeway stores accepted 20 percent pay cuts.

How can this be, at a time when this country has gained more than 1 million jobs in the last 8 years? Part of the answer is that literally all of the job increases went to smaller firms, most of which are not organized and employ no union workers. Firms employing more than 500 workers actually reduced employment over the past 8 years. More than half of the 9 million new jobs went to firms employing fewer than 50 workers.

Also the ultimate union weapon—the strike—has become less fearsome. Major work stoppages fell last year to their lowest level in the 40 years that the Government has kept track. Union members know that if they go out on strike, companies have a supply of willing workers ready. Temporary workers move in, sometimes without the fringe benefits that constitute a major share of labor costs. Unquestionably, the threat of corporate takeovers, with the potential permanent loss of jobs and possibly even the loss of pensions, represents still another intimidating force against union workers.

Mr. President, in this nonunion government cocoon in which we in the Congress function, we are insulated from the difficulties that beset one of the great pillars of our free democratic society—our labor unions. The American workers who comprise these unions and do much of our Nation's work are in real difficulty. They deserve our understanding, our appreciation, and our support in their struggle for a fairer share of the fruits of their work.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

(The remarks of Mr. Trible pertaining to the introduction of legislation are printed later in today's Record under Statements on Introduced Bills and Joint Resolutions.)

CONGRATULATIONS TO SENATOR SHELBY

Mr. TRIBLE. Mr. President, I, too, congratulate the Presiding Officer for his good effort this year and his steady hand in presiding over our deliberations.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

TRIBUTE TO DR. FORREST NIELSEN

Mr. CONRAD. Mr. President, I rise today to call the attention of my colleagues to an outstanding contributor in the field of nutritional research and to an equally outstanding citizen of North Dakota, Dr. Forrest Nielsen.

Dr. Nielsen is the center director and research nutritionist of the Human Nutrition Research Center located in Grand Forks, ND. This center is a division of the U.S. Department of Agriculture's Agricultural Research Service. He has been with the USDA since 1970, making his mark on nutritional advances.

For the past 8 years, Dr. Nielsen has broken new ground in the study of the element, boron, and its role in mineral metabolism. His findings suggest that boron serves an essential, and until now largely unrecognized role in the mineral metabolic process. His work suggests that boron may be a key factor in maintaining healthy bones and in fighting osteoporosis, a serious bone demineralization condition plaguing approximately 20 million Americans.

Mr. President, it is with pleasure that I ask unanimous consent to print in the Record the text of Dr. Nielsen's article found in the January 1988 edition of Nutrition Today.

There being no objection, the article was ordered to be printed in the Record, as follows:

Boron—An Overlooked Element of Potential Nutritional Importance

(By Forrest H. Nielsen, Ph.D.)

About 1980, a fortuitous happening, which was very frustrating at the time, directed me and collaborators toward the study of boron, an element which probably is of major importance in nutrition. In studies designed to examine the importance of arsenic in nutrition, the experimental animals chicks, exhibited poor growth and leg abnormalities even though all known essential nutrients were added to the diet in sufficient quantity. As a result, a study was then carried out to ascertain whether the lack of some unrecognized essential nutrient was the cause of the problem. To the pleasure of those involved, the study showed that boron stimulated growth and partially prevented the leg abnormalities. Further study revealed that the diet contained inadequate cholecalciferol (vitamin D_3) because the indicated potency of the cholecalciferol supplement was apparently not true. After correcting for the impotent cholecalciferol, the stimulation of growth by boron supplementation was less marked; this suggested an interaction between boron and cholecalciferol, and a possible role for boron in calcium and phosphorus metabolism. The findings showing a relationship between boron and cholecalciferol were first presented[1] in 1981 at a meeting in Australia. Surprisingly, at the same meeting there was another presentation[2] touting boron as a cure for arthritis. Both presentations on boron were received somewhat skeptically. Nonetheless, Dr. Curtiss Hunt and I felt we had made an important discovery and doggedly continued in the study of the element. Our efforts yielded extensive data that has proven difficult to interpret; for example, diet variation gave marked changes in the response of experimental animals to dietary boron. Nonetheless, a clear picture seems to be emerging. The findings strongly suggest that boron is an essential nutrient with an important and apparently unrecognized role in mineral metabolism making it important for maintaining healthy bones. It seems likely that boron will be found to be a significant nutritional factor in the incidence of osteoporosis.

WHAT IS BORON?

Boron (atomic number 5) is the only nonmetal of the Group IIIA elements in the periodic table. Boron exhibits binding and structural characteristics intermediate to both metals and nonmetals. Like carbon, boron has a tendency to form double bonds and macromolecules. Like elements such as aluminium and germanium, boron complexes with organic compounds containing hydroxyl groups. Becuase of this ability, boron complexes with many substances of biological interest. These substances include numerous sugars and polysaccharides, adenosine 5-phosphate, pyridoxine, riboflavin, dehydroascorbic acid and pyridine nucleotides. To date, two biologically synthesized compounds containing boron have been identifed. These compounds are aplasmomycin, a novel ionophoric macrolide antibiotic which was isolated from strain SS-20 of *Streptomyces griseus,* and bormycin, an antibotic produced by *Streptomyces antibioticus.*

HISTORY OF BORON IN BIOLOGY

In 1857, the presence of boron was detected in Maesa picta seeds. Boron toxicity was first described in the late 1800's-early 1900's. However, it was not until after 1910 that boron was recognized as an element of physiological importance. In that year findings were reported indicating that boron was essential for higher plants. Conclusive evidence and acceptance of the essentiality of boron for plants dates from studies reported in 1923. A recent review[3] indicated that between 1939 and 1944, several attempts to induce a boron deficiency in rats were unsuccessful, although the diets used apparently contained only 155 to 163 ng of boron/g. In 1945, there was a report that supplemental boron in the diet enhanced survival and maintenance of body fat and elevated liver glycogen in potassium-deficient rats. Those findings were not confirmed in a subsequent study in which rats were fed a different diet with an unknown boron content and different levels of boron supplementation. After those reports, boron was generally accepted as being essential for plants, but not for animals. However, since 1981 evidence that boron is an essential nutrient for animals including humans has been accumulating.

ANIMAL EXPERIMENTS—1981 TO PRESENT

In 1981, Hunt and Nielsen[1] reported that boron deprivation depressed growth and elevated plasma alkaline phosphatase activity in chicks fed inadequate cholecalciferol. Through a series of experiments with both chicks and rats it was found that the response to changes in dietary boron was markedly influenced by the amino acid methionine, potassium, magnesium, cholecalciferol, manganese and calcium status of the animal. For example, in weanling rats fed a casein-based diet not supplemented with methionine, but containing luxuriant amounts of arginine (probably methionine-deficient) and marginal potassium, the interaction between magnesium and boron was different from that in rats fed optimal amounts of methionine, arginine and potassium. In the former instance, the interaction was characterized by the deprivation of one of the elements making deficiency signs of the other more marked. In the latter case, magnesium deprivation seemed to affect boron-deprived rats less markedly than boron-supplemented rats. Generally, the studies by Hunt and Nielsen have shown that when the diet is manipulated to possibly cause changes in cellular membrane integrity (potassium or magnesium deficiency) or in hormone responsiveness (magnesium or cholecalciferol deficiency; aluminum toxicity), a large number of responses to dietary boron occur. For example, in rats fed marginal methionine and potassium, growth and bone magnesium concentration were lower and spleen weight/body weight and kidney weight/body weight ratio were higher in boron-deprived than in boron-supplemented rats. Magnesium deprivation accentuated these differences.

Just recently, a shortcoming was identified in the diet used for all the boron studies with rats. Initial formulation of the diet was based on a 1972 report on the nutrient requirements of laboratory animals.[4] As a result, all the diets contained about 1.8 mg of potassium/g which is one-half of the present suggested requirement for the rat.[5] Experiments are in progress to define the signs of boron deficiency in rats fed all nutrients except boron in apparent optimal amounts. To date, the only sign of boron deficiency identified under these conditions is depressed growth.

THE HUMAN EXPERIMENT OF 1986

In 1986, a study to examine the effects of aluminum, magnesium and boron on major mineral metabolism in postmenopausal women between the ages of 48 and 82 involved subjects housed in a metabolic unit.[6] In this study, a boron supplement of 3 mg/day markedly affected several indices of mineral metabolism of seven women consuming a magnesium-low diet and five women consuming a magnesium-adequate diet; the women had consumed a conventional diet supplying about 0.25 mg of boron/day for 119 days. Some of the findings are shown in Table 1. Boron supplementation markedly reduced the urinary excretion of calcium and magnesium; the depression seemed more marked when dietary magnesium was low. Boron supplementation of phosphorus by the magnesium-low, but not by the magnesium-adequate, women. Boron supplementation also markedly elevated the serum concentrations of estradiol-17β and testosterone. Similar to the changes in the urinary excretion of minerals, the elevation in serum steroids seemed more marked in the magnesium-low women. Although it was not significant, aluminum supplementation tended to reduce the steroid response of the magnesium-adequate women to boron supplementation. The changes in the steroid concentrations are particularly noteworthy because estradiol-17β is the most biologically active form of native human estrogen, and estrogen administration is the only known effective means to slow the loss of calcium from bone which occurs after menopause. Testosterone is a precursor of estradiol-17β. During this study, two women were on estrogen therapy; their serum estradiol-17β levels were the same as the women fed supplemental boron without estrogen therapy. Like the animal studies, the findings indicate that boron deprivation leads to sub-optimal mineral metabolism.

TABLE 1.—EFFECT IN POSTMENOPAUSAL WOMEN OF BORON AND ALUMINUM ON SERUM CONCENTRATIONS OF ESTRADIOL-17β AND TESTOSTERONE AND ON URINARY EXCRETION OF CALCIUM

Dietary treatement (mg/day)		Mg-low diet			Mg-adequate diet		
B	Al	Serum estradiol-17β (pg/ml)[1]	Serum testosterone (ng/ml)[1]	Urinary Ca excretion (g/24 hr)[2]	Serum estradiol-17β (pg/ml)[2]	Serum testosterone (ng/ml)[3]	Urinary Ca excretion (g/24 hr)[4]
0.25	0	21.1±6.5	0.31±0.06	0.117±0.014	15.5±5.4	0.38±0.09	0.132±0.038
0.25	1000	17.8±4.2	0.34±0.06	0.124±0.018	24.6±7.9	0.33±0.05	0.128±0.035
3.25	0	41.4±12.1	0.83±0.09	0.065±0.006	38.0±1.5	0.65±0.05	0.104±0.035
3.25	1000	38.5±5.9	0.66±0.10	0.073±0.011	29.9±2.5	0.56±0.05	0.113±0.041
Analysis of variance—ρ values:							
Boron		0.01	0.0008	0.0004	0.03	0.02	0.0001
Aluminum		NS	NS	NS	NS	NS	NS
Boron × aluminum		NS	NS	NS	NS	NS	NS

[1] Average serum concentration of 6 women ± SEM on days 16 and 24 of each dietary period of 24 days.

[2] Average excretion of 7 women ± SEM during the last 20 days of each dietary period of 24 days.

[3] Average serum concentration of 5 women ± SEM on days 16 and 24 of each dietary period of 24 days.

[4] Average excretion of 5 women ± SEM during the last 20 days of each dietary period of 24 days.

SIGNIFICANCE OF THE BORON STUDIES

Although the findings need to be confirmed by further experimentation, results of studies on boron strongly suggest that supplementation in amounts commonly found in diets high in fruits and vegetables induces changes in postmenopausal women consistent with the prevention of calcium loss and bone demineralization. In other words, boron may be an important nutritional factor determining the incidence of osteoporosis.

How boron is acting in the body is unknown. However, the findings to date suggest that boron may be needed for the formation of the active or hydroxylated forms of some specific steroid hormones. Because boron deficiency has been found to exacerbate the signs of cholecalciferol deficiency including abnormal bone formation and poor growth, it was suggested that boron might be needed for a hydroxylation step which forms the active or hydroxylated form of cholecalciferol. The formation of testosterone and estradiol-17β from precursors involves the creation of hydroxyl groups on the steroid structure. As described above, these blood-borne steroids were elevated in serum of women given boron supplementation. Also mentioned above was the fact that boron has chemical properties which gives it the ability to complex with organic compounds containing hydroxyl groups. If boron is found to affect the hydroxylation of biological substances in the body, its possible role in disorders of unknown etiology would extend beyond that in osteoporosis. For example, corticosteroids, which are useful in alleviating rheumatoid arthritis, involve the formation of hydroxyl groups during synthesis. Oxalate formation involves hydroxyl group mainipulation; oxalate is thought to be an important factor in urolithiasis. These hints of possible boron involvement in some disorders of unknown etiology that exhibit distrubed major mineral metabolism show the urgent need for further research on the nutritional, biochemical and clinical aspects of boron.

SOURCES AND REQUIREMENT FOR BORON

Based on the finding that rats and chicks exhibit altered mineral metabolism when fed diets containing only 0.3 to 0.4 μg of boron/g, human diets probably should contain more than this level. This extrapolates to something greater than 0.2 mg of boron/day. The women showing a response to boron supplementation were fed 0.25 mg of boron/day for 119 days; this also suggests that human diets should contain more than 0.2 mg of boron/day. Based on animal experiments, it seems possible that the human requirement for boron will be found to be near 1 to 2 mg/day. The daily intake of boron by humans can vary widely depending upon the proportions of various food groups in the diets. Foods of plant origin, especially fruits, vegetables and nuts are rich sources of boron. Meat or fish apparently are poor sources of boron. A recent extensive study of the mineral content of over 200 Finnish foods included boron (see Ref. 3 for references). The average boron content found in different food groups is shown in Table 2. Foods that contained the highest levels of boron (μg/g fresh weight) included soy meal, 28; prune, 27; raisin, 25; almond, 23; rosehips, 19; peanut, 18; hazel nut, 16; date, 9.2; and honey, 7.2. Wines contained up to 8.5 μg of boron/g.

TABLE 2.—AVERAGE BORON CONTENT IN DIFFERENT FOOD GROUPS [1]

Food group	Boron (μg/g dry weight)
Cereals	0.92
Meat	.16
Fish	.36
Dairy products	1.1
Vegetable foods	13
Other	2.6

[1] See footnoote 3 for source of data.

CONCLUDING STATEMENT

It seems safe to state that boron is a dynamic trace element that affects major mineral metabolism in higher animals including humans. Thus, boron may have a role in some disorders of unknown etiology that exhibit disturbed major mineral metabolism (e.g., osteoporosis). I expect that much will be heard about boron in the near future and that boron will soon lose its classification as an overlooked or neglected element of potential nutritional importance.

FOOTNOTES

[1] Hunt CD, Nielsen FH. Interaction between boron and cholecalciferol in the chick. In: McC.Howell J, Gawthorne JM, White CL, eds *Trace element metabolism in man and animals.* Canberra: Australian Academy of Science, 1981; 4:597-600.

[2] Newnham RE. Mineral imbalance and boron deficiency. In: McC.Howell J, Gawthorme JM, White CL, eds. *Trace element metabolism in man and animals.* Canberra: Australian Academy of Science, 1981; 4:400-2.

[3] Nielsen FH. Other elements: Sb, Ba, B, Br, Cs, Ge, Rb, Ag, Sr, Sn, Ti, Zr, Be, Bi, Ga, Au, In, Nb, Sc, Te, Tl, W. In: Mertz W, ed *Trace elements in human and animal nutrition.* New York: Academic Press, 1986; 2:415-63.

[4] National Research Council. Nutrient requirements of the laboratory rat. In: *Nutrient requirement of laboratory animals,* 2nd ed. Washington DC: National Academy of Science, 1972:50-93.

[5] National Research Council. Nutrient requirements of the laboratory rat. In: *Nutrient requirements of laboratory animals,* 3rd ed. Washington DC: National Academy of Science, 1978:7-37.

[6] Nielsen FH, Hunt CD, Mullen LM, Hunt JR. Dietary boron affects mineral, estrogen, and testosterone metabolism in post-menopausal women. *FASEB J* 1987; 1:394-397

Mr. CONRAD. Mr. President, this article provides a more complete description of the breakthroughs Dr. Nielsen has made in spotlighting the nutritional contributions of boron.

I commend Dr. Nielsen's diligent service in the field of nutritional research. His efforts exemplify the true spirit of American innovation.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I would ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The Republican leader.

COMMENDING THE PRESIDENT

PLANT CLOSINGS

Mr. DOLE. Mr. President, the announcement is being made at the White House I assume right about now that the President has made a judgment on the plant closing bill and that he has decided to let it become law without his signature.

I think it is based on a number of considerations. There were changes in the plant closing legislation in the Senate. They were meaningful changes, No. 1. No. 2, the President knows that if it were vetoed and the veto were sustained in the Senate or the House it would probably be added to something else. But I think, primarily, the President, even though he is still not happy with the present legislation, would like to get a trade bill. He would like Congress to move and he wants any roadblock that might be out there, perceived to be out there. And if he did veto plant closings it would eat up some of the time.

We only have 26 or 30 legislative days left this year. So the President, in my view, made the right decision. He said let it become law, I will keep my pen in my pocket, and I want a trade bill.

And I think that is going to be very helpful to us. We do have a bipartisan trade bill. I think you are going to find the leaders working with the chairmen and the ranking member on the Finance Committee and other committees who have an interest in that to make certain we get a trade bill to the President so he can sign it.

So I commend the President. I agree with his decision. I believe the trade bill is certainly more important and I think most Members of Congress do also.

CONTRA AID

Second, on Contra aid, the President indicated some hope that we could have some broad, bipartisan support, Republicans and Democrats, on Contra aid. I think he does not agree with the $18 million figure. Most of that is material that the Contras do not need at this point. There is no money in it. But hopefully there can be a bipartisan package and I think that would be of some interest to my colleagues, to have that information. He feels very strongly about it. He totally disagrees with the actions of Daniel Ortega and in my view he is correct. Ortega, I do not believe anybody could stand up here and apologize for Ortega anymore. His conduct has been reprehensible. More and more oppression, more poverty; the opposition leaders are all in jail. From that standpoint I do not think anybody will be defending Ortega. I cannot think of anybody.

DEFENSE AUTHORIZATION

And finally, Mr. President, on the DOD authorization, because I know the majority leader has an interest in that and perhaps others not present, he has not made a judgment on what he will do with that legislation. He has heard pros and cons from people who advise him, pros and cons from Members of Congress, and in my view he should veto it and he was urged to veto it by the House Members this morning. There were 183 votes against that in the House. But he has not yet made a judgment and I assume he will do that before the week is out.

So I make that report of that information to my colleagues. I know the distinguished majority leader indicated last evening that if we had some early information on plant closings it might be able to help him fill out the schedule for the balance of the week.

The **PRESIDING OFFICER.** The majority leader.

Mr. BYRD. Would the distinguished Republican leader yield?.

Mr. DOLE. I will be happy to yield.

Mr. BYRD. Mr. President, I join with the Republican leader in congratulating, if I may use that word, it may be my own word in this instance. I have not heard everything the distinguished leader has said. I will congratulate the President on his decision to allow the plant closings bill to become law even without his signature. I think it is a good law. I think the American people will applaud its enactment. And I think it is a decent law, it is just and it is fair. It will be good for the American working people and good for American industry.

So I applaud the President's decision not to veto the plant closing bill.

This should allow the Senate to proceed, as I believe I caught the flavor of the Republican leader's remarks, on the trade bill. And it may be possible, if the Republican leader and I and the principal managers on both sides of the aisle can agree, it may be possible to go to that bill, hopefully later today or certainly tomorrow.

I would just as soon go to it today if all parties are agreeable. Because once we finish the fair housing bill, it seems to me that might be the appropriate measure to take up.

So, if the Republican leader would, in his conference, explore that possibility, I will do the same in mine.

I thank the Republican leader.

Mr. DOLE. I would say to the majority leader, I think that was a major consideration and, as I just indicated, I think the President made the right judgment. Some will read some politics into it. But in the final analysis the most important piece of legislation is the trade bill, and I think we have a strong bipartisan bill. We are going to have to work together to get it passed because we only have, as the leader knows, so many days. Hopefully we can do it yet this week.

Mr. BYRD. Mr. President, I have a feeling that the Republican leader's advice did not go unheeded by the President. As I have been noting in the press, it was the feeling of the Republican leader that the President should at least let the bill become law, without his signature if he could not bring himself to sign the bill.

So, I thank the Republican leader for his input into the matter, which I am sure was not inconsiderable.

ORDER OF PROCEDURE

Mr. CHILES. Mr. President, I wonder if I might ask the majority leader a question?

Mr. BYRD. Yes.

Mr. CHILES. So the decision is to go with the trade bill. Is there any suggestion when the Canadian free trade agreement might come up? Does the majority leader think we might get to that before the recess or would it be after we came back?

Mr. BYRD. The Republican leader still has the floor.

I would like to explore that matter with the chairman of the Finance Committee, Mr. BENTSEN, and with the Republican leader. My overall vision of where we go, following trade, is that at some point, perhaps fairly early on, we go to the textile bill and then that we go at some point fairly early on to the United States-Canadian trade agreement.

The speaker and I both committed ourselves, and I believe some others—maybe the chairman and ranking member of the Finance Committee—I forget the exact——

Mr. CHILES. That is right. That is correct. Four of you signed that.

Mr. BYRD. Four. All right.

We committed ourselves to taking up that agreement before the adjournment sine die and we are committed to that and we will do that.

Mr. CHILES. Mr. President, I would just like to say to the distinguished majority leader, the trade bill is important but on a scale of 1 to 10, I think the trade bill might be 2 compared to the Canadian free trade agreement being 10. That is a big item and is so important to the Nation and, indeed to our relationship with Canada; where the Prime Minister has gone way out on a limb in connection with this. So I would hope it would be possible for us to get to that before we went into recess if at all possible.

Mr. BYRD. That may be very possible. Mr. President, does the Senator wish to speak in morning business?

Mr. CHAFEE. I did for about 4 minutes, but I do not want to hold up the proceedings here. We have a time agreement.

PLANT-CLOSING LEGISLATION

Mr. CHAFEE. Mr. President, let me just say that I am glad the President is going to let the plant-closing bill become law. I take it he is not going to sign it, but the effect is the same; it is going to become law. I think that is good. It is good for the American worker.

It is a reasonable bill. The bill was changed since it was first passed here as part of the trade bill. It went to conference; it was changed. I think it is acceptable. I am glad the President finds it acceptable.

THE MYTHS AND HALF-TRUTHS OF SDI

Mr. HATFIELD. Mr. President, all too often, destabilizing and costly new military programs are justified by myths and half-truths. Remember the bomber gap and the missile gap? Or the leaking chemical weapons stockpiles? Those were just a few of the myths and half-truths used in the past by those who wanted a new military program but found that the truth alone would not convince the Congress and the American people to go along.

The latest in this long line of new military programs to be justified by a distorted merging of rhetoric and reality, Mr. President, is the strategic defense initiative. Even if a shield could be developed which would destroy 95 percent of all incoming nuclear missiles before they hit the ground—a big if, according to virtually all experts—100 million Americans could lose their lives. But the President insisted we could render nuclear weapons obsolete by putting up a giant umbrella, so a majority of the Members of Congress marched along like lemmings into the sea and appropriated billions for its creation.

But now, Mr. President, it seems that the American people are beginning to learn the truth. The truth is that SDI just will not work. It cannot work, because in this nuclear age there is no margin for error. So will we stop the program, stop the research, the testing and the deployment? Probably not, and the reason is that new myths and half-truths are being sent our way to justify more billions being allocated for SDI funding.

According to the Strategic Defense Initiative Office and recent press reports, SDI research may help cure cancer, enable paralyzed patients to walk, fight malaria, improve bone surgery and destroy kidney stones. Today, I bring to the attention of my colleagues an essay by Dr. Alan Lockwood, the chairman of the House of Delegates of the Physicians for Social Responsibility, which responds to this new claim that SDI research is improving the Nation's health.

As Dr. Lockwood points out, a single major SDI experiment costs more than double what we spend each year on research into liver disease and strokes. The United States has spent more in the past 18 months on defense-related research than the National Instituties of Health have spent in the past 100 years. As a longtime supporter of biomedical research, I find it offensive that a couple incidental medical spinoffs of SDI research are being hailed by some as reason to support this wasteful and dangerous program. I hope that my colleagues will take the time to read his thoughtful essay on the reality behind the rhetoric of the new SDI public relations campaign. I ask unanimous consent that it be included in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 1988]

Medical Spinoffs From "Star Wars'—or a Cynical Effort To Win Public Opinion?

(By Alan H. Lockwood)

What cures cancer, helps the crippled to walk and protects us, from nuclear attack? The answer, according to recent news stories, is SDI—the Strategic Defense Initiative—more popularly known as "Star Wars." Unfortunately, SDI can do none of these things. Prolonging this inordinately expensive program, on the other hand, could actually slow the progress of medical research in this country.

Medical "spinoffs" of SDI—such as improved radiation therapy machines, lightweight leg braces, and microelectronic circuits for pacemakers—are being publicized enthusiastically by Lt. Gen. James A. Abramson, the director of the SDI Organization, in order to build support for a program that faces increasing scientific, congressional and public skepticism. Abramson took his claim that SDI technologies will benefit the public health directly to the medical community in a recent speech at a major rehabilitation center in Washington. His appearance seems to be part of a well-planned effort. Since September 1985, SDIO, a federal office set up to promote SDI, has funded a special branch charged with encouraging the transfer of SDI technologies into the civilian sector, including the biomedical community.

Put aside, for a moment, the technological and political cases against SDI—that the Soviet warheads penetrating even a 95 percent effective missile defense system could leave 100 million American casualties and that the likely Soviet response to SDI deployment would be to increase their nuclear arsenals rather than agree to strategic reductions by treaty SDIO is moving the debate into a different arena: the alleged benefit to society at large from the offshoots of military research and development.

Is there a genuine benefit to the health of the nation in the search for ways to shoot down missiles during the first five minutes of flight, or is the SDI staff merely engaged in a public relations ploy to win support for a program that can't be sold on its own merits? The answer, in part lies in the history of this administration's budget decisions regarding health policy, and medical and scientific research and development.

The evidence suggests that concern for medical knowledge and the public health has been an afterthought with the Reagan administration. The National Bureau of Standards estimates that federal laboratories conducts $20 billion of in-house research a year. More than 100,000 engineers and scientists work in these labs, accounting for about one sixth of all professionals engaged in research and development in the entire nation. The Defense Department, the Department of Energy and the National

Aeronautics and Space Administration now get 84 percent of that federal R&D money, a percentage that has increased steadily during the Reagan years. The small remainder is allocated to other agencies, including the National Institutes of Health, which supports most biomedical research in the United States. The last 18 months of defense related research and development is about what the NIH spent in the last 100 years.

The true impact on medical research of national priorities that favor spending on SDI over the funding of basic research is devastating.

The administration has used a variety of mechanisms in repeated attempts to reduce federal funding of medical research. Its budget requests for the NIH year after year have been much less than the final congressional appropriation, and it has floated schemes to "extend the availability" of NIH funds (i.e., cut the budget) and subject NIH to disproportionately large Gramm-Rudman cuts. Fortunately, Congress has resisted these attempts.

An analysis of the actual funds allocated for health research is even more revealing. The top four causes of lost years of productive life due to disease are cancer, heart disease, liver disease and stroke. The most recent NIH budgets have made about $100 million available to support research in both of the last two categories at all the universities and medical schools in the United States.

Contrast this with the SDI budget, which will be about $4 billion in fiscal year 1989. The funds for a single major SDI experiment would more than double the annual research budget for these two important disease categories.

The administration, in effect, is trying to sell the American people a $1 trillion antiballistic missile program by holding out the possibility that technological spinoffs would help cure cancer, enable paralyzed patients to walk, fight malaria, improve bone surgery, destroy kidney stones and work any number of other medical miracles. And indeed, spinoffs can occur. As John E. Pike of the Federation of American Scientists put it recently: "There's no way you can spend $4 billion a year without coming up with little odds and ends that other people will find useful."

Spinoff technologies are not legitimate substitutes for properly funded efforts to study and solve real research problems in science and medicine. To the extent that hopes are dangled before us to manipulate public opinon in favor of a bankrupt military concept, the public should respond with outrage at such cynicism.

True national security depends on improvements to our economic and social institutions, including our ability to understand disease and deliver high-quality health care to all Americans. This must be an equal priority with maintaining an appropriate national defense.

The simplest and most direct route to this redefinition of security should include: the elimination of expensive, wasteful military programs that, by virtue of their existence, detract from our security and fuel the arms race; the direct funding of basic medical and scientific research to deal with real public health priorities; a reallocation of funds to essential programs for our nation's economic and social well-being; and the promotion of honestly in dealing with important national issues free of the hyperbole exemplified by claims that SDI expenditures will benefit medical science.

PARAMOUNT, CA; AN ALL-AMERICA CITY

Mr. CRANSTON. Mr. President, 6 years ago the Rand Corp. published a HUD-sponsored study which designated the city of Paramount, CA, as one of the most financially and socially troubled cities in America. This city with a population of 41,000 and located south of Los Angeles was suffering from a stagnant business community and a rapidly growing youth gang and drug problem.

Today, Paramount has been named as an All-America City by the National Civil League. Through massive redevelopment and innovative social programs, it has become a model city not only for California, but for the Nation. Now, more and more families are eager to make Paramount their home. The business districts are growing and prospering once again. Through programs designed to educate about the negative impact of gangs and drugs, Paramount's young people are moving in a positive direction. Paramount won this prestigious award based on the strength of its unique programs Lookin' Good, Public Safety, and Alternatives to Gang Membership.

Recognizing the neighborhood deterioration problems they were facing, Paramount developed the Lookin' Good Program. So far, 1,380 volunteers have given almost 7,800 hours helping neighbors clean up properties, paint homes, and landscape yards—at no cost to residents. An innovative approach to neighborhood cleanup, Lookin' Good is making a difference in Paramount.

In 1981, Paramount had one of the highest crime rates in the Nation. To turn things around, neighborhood watch groups were formed. Residents soon found that instead of proving productive, watch group meetings turned into gripe sessions about the law enforcement provided by Los Angeles County Sheriff's Office. The residents wanted the sheriffs serving their community to know who they were working for. Paramount city seals were placed on every patrol car. A citizen law enforcement evaluation system was implemented, the first of its kind in the Nation. After each call, an acting deputy hands out an evaluation card to the residents. Residents then evaluate the deputy and the service. This has worked amazingly well, and today residents are enjoying a good relationship with the police department.

Paramount's Alternatives to Gang Membership program is winning nationwide praise; in fact, it has been implemented in many cities across America. In 1981, the Los Angeles County Sheriff's Department estimated that there were over 1,200 hardcore gang members in this community. Paramount felt that if it could keep kids from joining gangs in the first place, eventually gangs would cease to exist. Research proved that kids join gangs mostly during the transition of elementary school and junior high school. A 15-week Alternatives to Gang Membership program, which is presented to all fifth graders, was implemented. Through this program, kids learn how to say no to gangs and yes to sports, art, and a good education. Today, of the 2,900 kids who have gone through this program, only 15 have joined gangs. These numbers add up to success.

Mr. President, as the people of the city of Paramount have proved—and as the All-America City Award recognizes—it is possible for people in a community to work together to identify and solve their common problems. It's with great pride and admiration that I congratulate this fine city. Here's to a bright future and much continued success.

HELEN FARABEE—TRIBUTE TO A LIFE WELL-LIVED

Mr. BENTSEN. Mr. President, Members of the Senate, I rise today to pay honor to the life and legacy of an outstanding Texan who died this past week—Helen Farabee.

Our Federal system often responds to national problems with programs that leave some leeway for State or local government to administer those programs in ways that meet unique needs of their constituencies.

Such leeway is appropriate in Texas because of the leaders we elect to State and local office, but also because of a few talented individuals—a number of them volunteers—who give of themselves to meet human needs with responsive government.

The State of Texas has lost such a gifted leader this past week with the death of Helen Farabee of Wichita Falls, a woman whose leadership, intelligence and compassion often made up for inadequate funding of programs in mental health, childcare and other family issues so important to all Americans.

Helen was the wife of former State Senator Ray Farabee, a distinguished Texan and leader of our State government. Because of her work with Ray and with our Lt. Gov. Bill Hobby, Helen was often called the 32d member of the 31-member Texas Senate.

The essence of what Helen Farabee did for Texas and for this country is simple—she took laws and government programs, breathed life and compassion into them and made them work for people. And the people for whom she was an advocate were those who had little access to the processes of government—the mentally ill, the homeless, the working mother, the mentally handicapped. She worked for them without title, portfolio, compensation, or gain.

Helen Farabee was the essence of the term "participatory democracy."

Virtually everyone in Texas knew and benefited from Helen's service. Among the many boards and associations she served were the United Way of Texas, The Texas and National Associations for Mental Health and the Health and Human Services Coordinating Council of Texas.

Our State treasurer Ann Richards said of Helen: "She counseled the powerful about the needs of the powerless, and because she always spoke with reason and decency, she was heard."

When you face the untimely death of such a treasure, you long for words that will comfort the family. But then you stop and realize that Ray and sons David and Steven are comforted knowing that a massive family mourns with them—the family of all humanity, whom she adopted, loved and served. We have all suffered a loss in Helen Farabee's death, but the important thing is that the quality of life she leaves behind her is so much richer because of the years we benefited from her love and work. What a wonderful legacy for us and what a wonderful memorial to her.

Alexander Pope must have had Helen Farabee in mind in his Moral Essays (1720-35). This phrase from one of those essays so well describes Helen:

Statesman, yet friend of truth, of soul sincere,
In action faithful and in honor clear;
Who broke no promise, served no private end,
Who gained no title, and who lost no friend.

Mr. President, fellow Members of the Senate, I ask the Senate to join me in tribute to a great Texan, a compassionate human being and a leader of Texas—Helen Farabee.

SYDNEY STEEL CORP. AND CANADIAN SUBSIDIZATION

Mr. HEINZ. Mr. President, the unacceptable practice of industrial subsidization has complicated international trade negotiations for decades. In an effort to establish the principle of market discipline, the General Agreement on Tariffs and Trade [GATT] and the associated Subsidies Code address the problems of subsidization and treatment of state-trading enterprises, setting out clear limits on permitted activities and standards for resolving conflict and injury. Recent history has shown that steel production is a likely target for subsidies because many developing countries associate a steel mill with development and economic independence, and because developed countries have little political choice but to view the steel sector as a major part of government social policy through the large number of jobs it provides.

The undesirable result of those policies has been to prolong the adjustment of inefficient manufacturers and to export the pain and unemployment of adjustment to those countries with relatively open markets for direct and indirect steel imports, particularly in the United States.

This is also an issue with Canada, made worse by the fact that the United States-Canada Free Trade Agreement [FTA] neither precludes subsidies nor provides more short-term discipline over them. This disappointing void is an invitation to further manipulation and exploitation of the United States steel markets by Canadian producers.

A point of immediate concern is a Canadian proposal to spend $157 million to modernize an obsolete and consistently inefficient Canadian steel producer, Sydney Steel Corp., and at the same time to retire $413 million in the company's Government guaranteed debt. Commonly known as Sysco, this provincially owned operation is located in the economically depressed region of Nova Scotia. This outrageous Canadian plan to bail out and then revitalize Sysco is offensive to both United States steel producers and other nonsubsidized Canadian producers because the additional subsidies severely distort both economic factors of production and domestic steel markets. If this plan is implemented, American steel producers will suffer not just in the rail market where Sysco operates exclusively, but in related markets where Sysco's unfair advantages will have a damaging influence as production is reoriented to take into account this revitalized source of below-cost steel.

The real difficulty for American producers is finding a remedy. Sysco's production will not likely be exported to the United States but will crowd out other continental or foreign rail producers from Canadian markets. Such a result will further increase pressures on third country and other Canadian producers to move into the United States market.

In the latter case, consider the only other Canadian rail producer that competes with Sysco, the privately owned Canadian firm, Algoma Steel Corp., which is located in the similarly economically depressed region of Sault Ste. Marie. Algoma is owned by Canada's privately owned railroad, Canadian Pacific. Sysco, on the other hand, is dependent on rail orders from Canadian National, a state-owned crown corporation, which in coordination with the subsidy program will buy almost exclusively from Sysco despite higher quality, lower priced steel rails available elsewhere. Algoma counts on rail production for one-tenth of its annual income, while Sysco is presently entirely dependent on it.

United States steel producers have correctly pointed out that Sysco's future production capacity will, at the Canadian Government's expense, displace Algoma from domestic Canadian rail markets, sending them south, and will make United States producers' access to Canada impossible. As is true is so many other cases, the Canadian subsidization scheme is entirely uncalled for and effectively circumvents multilateral trade regulations, to say little of the impression it gives the Congress about the sincerity behind Canada's interest in the FTA.

Persuading the Canadians to deal with these problems, however, is always difficult. In this case, I hope the President will instruct the United States Trade Representative to consult with the Canadians on this absurd program. Obviously, the Canadian Government is doing its best to serve the interests of its own economically depressed regions, but once again it will do it at our expense, as well as the expense of another Canadian producer. The Canadian Government has apparently decided that jobs in Nova Scotia are more important than jobs in Sault Ste. Marie and Pennsylvania, and that such jobs are more important than sound economic policy. The result is a Canadian rescue operation that harms its own industries, as well as ours. The Canadian Government should reconsider this profoundly misguided program.

BICENTENNIAL MINUTE

AUGUST 2, 1946: LEGISLATIVE REORGANIZATION ACT

Mr. DOLE. Mr. President, 42 years ago today, on August 2, 1946, President Harry S. Truman signed the Legislative Reorganization Act.

In the aftermath of the Second World War, as America assumed the role of world leadership and the activities of the Federal Government expanded both at home and abroad, it became clear that Congress needed to modernize its machinery, particularly to keep pace with the growth of the executive branch. A joint committee, headed by Wisconsin Senator Robert La Follette, Jr., and Oklahoma Representative—and later Senator—Mike Monroney, investigated the congressional workload. The joint committee determined that there was overabundance of committees and insufficient staff for Members of Congress to function effectively. It recommended that the then 81 standing committees in the Senate and House be reduced to 34, each with more carefully defined jurisdiction, and more specific areas of executive oversight. It urged a major expansion of the legislative reference service—now known as the Congressional Research Service. And it promoted the creation of a professional, nonpartisan staff for committees, and increased staff for individual Members.

Although the House watered down the relatively stronger Senate version of the bill, the final product was a major step forward for the National Legislature. Obsolete committees were swept away. Duplication of effort was reduced, and for the first time the Congress began to establish an effective staff system to reduce its dependence for information from executive agencies. On August 2, 1946, President Truman signed the measure, noting that it was truly one of the most significant advances in the organization of Congress since its inception.

CONGRESSIONAL BUDGET ACT 302(b) ALLOCATION

Mr. JOHNSTON. Mr. President, section 302(a) of the Congressional Budget Act requires the Senate Budget Committee to allocate total budget authority, total budget outlays, and total credit authority among committees of the Senate. Each of the committees receiving a 302(a)(2) allocation is, in turn, required by section 302(b) to file its own report showing its respective allocation of those accounts to its own subcommittees. As chairman of the Committee on Energy and Resources, I hereby submit a list of the total budget authority, total outlays, and total credit authority under the jurisdiction of each subcommittee for fiscal year 1989. I ask unanimous consent that the subcommittee allocations for the Committee on Energy and Natural Resources be printed at this point in the Record.

There being no objection, the allocations were ordered to be printed in the Record, as follows:

COMMITTEE ON ENERGY AND NATURAL RESOURCES CONGRESSIONAL BUDGET ACT 302(b) ALLOCATION OF ACCOUNTS, FISCAL YEAR 1989

[In millions of dollars]

Direct spending	Budget authority	Outlays	credit
Subcommittee:			
Energy Regulation and Conservation	0	15	
Energy Research and Development	108	108	
Mineral Resources Development and Production	436	432	
Public Lands, National Parks and Forests	222	217	
Water and Power	372	35	
Full Committee	195	195	
Total	1,333	931	

Note.—Totals may not add due to rounding.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The **ACTING PRESIDENT** pro tempore. Morning business is closed.

FAIR HOUSING AMENDMENTS ACT

The **ACTING PRESIDENT** pro tempore. The Senate will now resume consideration of H.R. 1158 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1158) to amend Title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kennedy Amendment No. 2777, in the nature of a substitute.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to speak as if in morning business for no more than 2 minutes.

Mr. HUMPHREY. Parliamentary inquiry, Mr. President. Is there not a unanimous-consent order that requires a vote by 11 o'clock?

The **ACTING PRESIDENT** pro tempore. There is a consent agreement that requires 30 minutes on the amendment before the vote.

Mr. HUMPHREY. But no time certain.

The **ACTING PRESIDENT** pro tempore. That is the Chair's understanding.

Mr. HUMPHREY. I thank the Chair.

The **ACTING PRESIDENT** pro tempore. Is there objection to the unanimous-consent request? Hearing none, the Senator from Massachusetts is recognized.

PLANT-CLOSING LEGISLATION

Mr. KENNEDY. Mr. President, I want to join my colleagues in commending the President for his decision on the plant-closing legislation. We know the President's reservations. We debated this issue on several occasions on the floor of the U.S. Senate. I think this is a victory for millions of American families.

I think as a result of his decision to let this become law, there will be millions of American families who will be able to adjust to the changes in our economy, to the layoffs, to the termination of employment, in ways which are going to be less disruptive for those families and are going to permit workers to be able to gain retraining so that they will be able to move toward other types of employment. There will be communities that will be better served with this kind of a notification.

This legislation was overwhelmingly supported by the American people because they understood this was a decent, fair, and just thing to do. For the millions of Americans, who work a lifetime in a plant and factory, all this legislation did was to say to those workers there will be at least 60 days' notice so that they can put their lives in some kind of an order to adjust to extraordinary changes in conditions.

I commend the President for making this decision, and I think it is an important victory for the families of the working men and women in this country.

I yield back whatever time remains on the consent agreement.

FAIR HOUSING AMENDMENTS ACT

The Senate continued with the consideration of the bill.

Mr. BYRD addressed the Chair.

The **ACTING PRESIDENT** pro tempore. The majority leader.

Mr. BYRD. I have a parliamentary inquiry. Under the agreement on yesterday, I believe it was the intent of Members that at the conclusion of the 30 minutes, the vote would occur on or in relation to the amendment by Mr. Humphrey which would mean that rather than at 11 o'clock, it would be in the neighborhood of 11:15; am I correct?

The **ACTING PRESIDENT** pro tempore. The majority leader is correct.

15-MINUTE ROLLCALL VOTE

Mr. BYRD. I thank the Chair. So Senators will understand, there will be a rollcall vote at about 11:15. That will be a 15-minute rollcall vote.

Why do we not agree that it will be at 11:15 so that all Senators will know? That is 30 minutes from now.

Mr. HUMPHREY. Mr. President, if the majority leader will yield, the Senator from Illinois is about to seek an arrangement in which he can proceed in morning business which will throw off the arrangements the majority leader had in mind.

Mr. BYRD. I beg the Senator's pardon. I did not hear.

Mr. HUMPHREY. The Senator from Illinois is about to seek to speak as if in morning business for a few minutes.

Mr. BYRD. I will object to morning business at this point. We had ample time for morning business. If the Senator from Illinois wishes to speak, he may get consent to speak out of order and get someone to yield him time, but we cannot continue to push this action on this bill by virtue of morning business. I do not say that as any reflection on the Senator from Illinois.

The **ACTING PRESIDENT** pro tempore. Is there objection to the majority leader's unanimous-consent request that a vote occur at 11:15 a.m.?

Without objection, the majority leader's unanimous-consent request is agreed to.

AMENDMENT NO. 2782

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 2782.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, it is only with reservation that I object to that. The floor managers have requested a copy of the amendment. It was not made available to us until just at this very moment.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue reading.

The assistant legislative clerk read as follows:

At the end of the pending matter, insert the following:

SEC. . (1) Congress finds that the ability of Americans to purchase affordable housing has been severely limited by the greatly increased prices for housing in recent years, and that the prices for newly constructed houses have increased as follows over the last five years: 1983—$75,300; 1984—$79,900; 1985—$84,300; 1986—$92,000; and 1987—$104,000, as reported by the Census Bureau. It is not the intent of Congress in enacting the Fair Housing Amendments Act of 1988 to exacerbate increased housing costs.

(2) The provisions of this Act which affect the design and construction of housing that is sold to the general public shall not take effect if such provisions would increase the costs of such housing, thus pushing home ownership out of the reach of even more Americans than at present and denying even more Americas realization of the "Great American Dream" of home ownership."

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the clerk has cited the figures as stated by the Census Bureau on the alarming increase in the cost of its for-sale housing available to American citizens. Those figures, I believe, were for single-family housing which, of course, would not be affected by this bill.

The point remains that housing in general, the cost of housing, the purchase price of housing has skyrocketed, whether that housing is detached housing, which will not be affected by this amendment, or attached housing for sale, which will be, which is to say condominiums and row houses or townhouses or cluster houses if they are attached.

The point is the cost of housing to Americans has skyrocketed in recent years driving the ability of Americans to purchase such homes beyond the reach of most, particularly low- and middle-income citizens.

The effect of the design and building standards will be to drive the cost of such housing for sale—and this amendment touches not rental housing; this amendment touches housing for sale—even higher than its present prohibitively high cost.

That will mean, as a practical matter, that this bill is going to increase the cost of housing and make it less and less likely that Americans who aspire to home ownership can attain that dream. That will be the unfortunate effect of this bill, notwithstanding some of its virtuous provisons.

Mr. President, for millions of Americans, the Fair Housing Act of 1988 will prove to be the unfair housing act of 1988, and it will become the unfair housing act because the design and building standards imposed by this bill will raise the already high costs of housing.

In truth, Mr. President, this bill contains a Federal building code which will supersede State and local building codes. The bill imposes a whole new Federal regime upon the design, construction, and management of private housing in this country. The bill eliminates choice of design in many cases. And on top of it all it means higher housing costs.

The bill's proponents deny that the bill imposes such a Federal building code but let us look at the facts. The bill states that it will be illegal to design or build multifamily dwellings that do not comply with a series of specific design and construction standards. The bill subjects the designer and the builder to severe penalties if either designs or builds housing that fails to conform to the new Federal dictate. Construction of noncomplying buildings or projects can be enjoined under force of law.

Now, Mr. President, if that does not constitute a Federal building code, then I am at a loss to see the distinction. The bottom line is that it has the same effect as a Federal building code. States which have less restrictive provisions will be overridden by this bill. The higher, more restrictive Federal standard will prevail in every State and in every community and in every project where there are more than four attached housing units.

It is certainly true that the purpose of the bill is the worthy goal of permitting more accessible housing for handicapped persons, particularly those bound to wheelchairs. The problem is that the bill adopts a very heavyhanded approach that fails to relate the magnitude of the problem to the magnitude of the restrictions imposed, and it does so while substantially adding to the cost of housing, whether that housing is rental housing or housing for sale. First, the code applies to 100 percent of units in elevator buildings and to 100 percent of nonelevator buildings consisting of four units or more. In the nonelevator building category, which encompasses everything from large garden developments to small four-unit comdominiums, only ground-floor units need comply. But the point is that every building in that development is covered in both categories. This 100-percent coverage represents a radical departure from the scope of coverage that has heretofore been applied to federally assisted housing in the area of handicapped accessibility regulations.

Less than 2 months ago, the Department of Housing and Urban Development issued a regulation retaining the rule that only 5 percent of units in federally assisted housing projects must comply with the handicapped access regulations. Why should private-sector housing be subjected to 100-percent coverage when 5-percent coverage has been deemed adequate for federally assisted housing? There is no reasonable justification for this radical change in approach, especially when we recall that wheelchair-bound persons for whom the requirements are imposed constitute less than 1 percent of the population.

Let us look at some of the consequences of this sweeping requirement. Under the bill, 100 percent of all new multifamily housing buildings, large or small, must have entrances that are equally accessible for persons in wheelchairs. That sounds like a humane objective and surely it is, but the achievement of such ideal objectives ought to be balanced against their practical consequences in the real world. Accessible entrances means the elimination of all stairs from the routed entrance to a building. The House report explains, "This means that persons in wheelchairs must be able to have access into and throughout the unit equal to persons not in wheelchairs." For example, a typical garden apartment complex may have 40 or 50 three-story, nonelevator buildings. Under handicap laws in effect in some States, two or three of the buildings would have to be graded or landscaped so that stairs are eliminated from the main entrance route. That is not unreasonable. That is reasonable. The other buildings can be built on existing terrain and stairways can be used for access routes to buildings located on hills or high ground. This is a reasonable, balanced approach, but under this bill, which is not reasonable and is not balanced, every apartment building must be constructed so that stairs are eliminated as a necessary means of entrance.

That means that attractive, natural, landscape features must give way to the bulldozer to assure that level terrain needed for flat or ramped entrances. Putting aside the environmental and aesthetic loss, what will the economic cost of these new restrictions on landscaping construction for low-

and middle-income apartment developments?

Well, no one knows the answer. There is no way that we can know because this is a new approach for nationwide housing regulation.

The bill's plain language, furthermore, makes it clear that the building code applies to rows of attached houses, that is to say, attached townhouses, row houses, or cluster houses constituting a single building. Furthermore, the House report makes no disclaimer of such coverage. The bill will effectively prohibit, then, the design and construction of some of the most popular new housing designs on today's market and especially designs which are more affordable than traditional housing. Many townhouse designs and settings simply cannot avoid staircases as a means of entrance.

Mr. President, the bill imposes new Federal requirements on the size of bathrooms, kitchens, hallways, and other components of multifamily housing. The commendable purpose, of course, is to provide greater room for persons in wheelchairs. Americans support that objective. But there are adverse practical consequences which cannot be ignored when we apply these design criteria to 100 percent of attached housing in America. The space per unit required for multifamily housing developments throughout America will be increased. Land costs, at least in my part of the country, are the primary driver of increased housing costs. These regulations will mean that multifamily developments will require even more expensive space, and the upshot will be that the cost to the buyers will be higher and, frankly, fewer Americans will be able to afford such housing. That is the practical reality.

Various sources have estimated the cost of these requirements at anywhere from $400 to $3,000 per unit. If you are at the margin, if you are just barely able to afford today's housing or maybe just below the margin, this $400 to $3,000 of increased cost driven by this bill will mean that you cannot afford a house.

We do not even know what the costs will be for sure. But what we know for sure is these increased costs will fall hardest on those least able to afford them—low- and middle-income Americans seeking a place in multifamily attached housing. The mansions and manors of McLean and Beverly Hills will be unaffected by this bill, but nearly all the housing complexes which are attractice to most Americans because of affordability most certainly will. It is hard to imagine an activity more private or local in nature than the size of one's bathroom or kitchen, and yet this bill directly regulates from a Federal level these very things. In short, the bill represents what may be the ultimate expansion of Federal regulatory power into areas always left to State and local governments.

Mr. President, the bottom line is that this bill, however well intended, is going to increase the cost of housing to Americans. The amendment which I now present deals with housing which is for sale. It is not rental housing but housing which is for sale. The amendment states that the provisions of this act which affect the design and construction of housing that is sold to the general public shall not take effect if such provisions would increase the cost of such housing, thus pushing home ownership out of the reach of more and more Americans than at present and denying even more Americans the realization of the great American dream of home ownership.

Mr. President, I believe this to be a sound amendment. I believe it addresses the principal defect in this bill, one which Senators really cannot afford to ignore without damaging the interests of a great many of their constituents who seek better housing, who cannot afford it today on the market and who will be even less able to afford it once this bill becomes law.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 14 minutes, and he controls the time.

Mr. KENNEDY. I would like to yield to the Senator from Alabama 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized for 1 minute.

THE GOLDEN GAVEL AWARD FOR SENATOR SHELBY OF ALABAMA

Mr. HEFLIN. Mr. President, I would like to take notice of the fact that the Presiding Officer, Senator SHELBY of Alabama, has now completed 100 hours in the chair as Presiding Officer, and is entitled to the Golden Gavel Award. If the cameras of the television will center on Senator SHELBY, I would like for them to see him there as he presides, and take notice of the fact that he has served diligently, worked exceptionally hard, and it is a rare honor. There are not many Senators who have won a Golden Gavel Award.

I think it shows the diligence, the cooperation, and his desire to see that the work of the Senate continues.

Thank you.

[Applause.]

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts controls the time.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I find this amendment to be extremely mean spirited. Basically what this amendment is saying to millions of disabled individuals—probably 30 million of them in this country—is that we are not going to provide any kind of accessibility in terms of housing, thereby pushing home ownership out of the reach of even more Americans. The fact of the matter is there are millions of handicapped, disabled people that have not been a part of the American dream because homes have not been accessible. This amendment is targeted at some of the most vulnerable people in our society, the 30 million disabled people. It says to them, OK, you have been out of the American dream, and we are going to continue to keep you out because of the minimal requirements that we have placed in the bill.

The substitute, it should be clear, does not give the Secretary of Housing and Urban Development any discretion in deciding whether to file a discrimination charge, once the Secretary's investigation has revealed reasonable cause to believe that a discriminatory housing practice occurred or is about to occur. The reasonable cause determination is based solely on the facts of the case, and once the Secretary makes a finding of reasonable cause, then a charge must be issued and an enforcement proceeding begun, either before an administrative law judge, or in Federal court if a party so elects.

What are we talking about, Mr. President, in terms of improvements? We are talking about light switches which are going to be reachable to people who might be in wheelchairs. We are talking about the widening of doors. According to the Committee on the Handicapped, the estimated cost of that is $4 because when you widen the doors you save materials in wall space—$4. We require studs in bathrooms walls that may be utilized sometime down the road, if a handicapped person occupies a house. What is the cost of that? Twenty-seven dollars. Twenty-seven dollars for studs in the bathroom, accessible light switches, and widened doorways those are minimum kinds of requirements—absolutely minimum requirements.

Mr. President, there are others who want to speak. But the final point that I would make is who is asking for this amendment? Is it the homebuilders who are asking for it? No. They support the way that the Kennedy-Specter-Hatch substitute has been constructed. Do the other groups, the American Institute of Architects support this amendment? No. They support our proposal without amendment. And the National Association of Realtors? No, because they recognize that these are very minimal requirements.

Mr. President, those requirements that were worked out in this bill were worked out with each of these groups. We have worked with other groups as well, the various groups representing the handicapped, those who are involved in independent living, and this is a very, very fair compromise that does not put any kind of burden on anyone. If we accept the amendment of the Senator from New Hampshire, basically we are saying to 30 million disabled people that you have been outside of the American dream of being able to own a house, and we are going to keep you out there too.

I find that absolutely intolerable, inconsistent with this bill, and I would hope that at the appropriate time it would be overwhelmingly defeated.

The chairman of the Handicapped Committee, the Senator from Iowa, I would like to yield 3 minutes to him, and then 3 minutes to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. I thank the Chair.

I thank the Senator from Massachusetts, and I want to associate myself with his remarks. He is right on target.

I would add this amendment is ill conceived regardless of your viewpoint. Take it from the property owner's viewpoint. This amendment would be devastating. If a person with a disability found a complaint, the property owner's entire financial records would be subject to scrutiny. The disabled person would be able to review every transaction in the course of determining whether the cost was increased. Everything would be determined on a case-by-case basis. The amendment would be a nightmare for HUD. HUD would be required to review the property owner's records, and each and every voucher would have to be reviewed to see if the cost was increased even by 10 cents. In sum, the amendment should be opposed by all, whether you are a property owner, Federal Government, or the disabled community.

The bill does not establish a Federal or national building code. Nothing in this bill requires a person to submit plans to HUD for preclearance nor must builders await approval from HUD during the construction stage. This bill establishes minimum requirements that must be satisfied in order to ensure equal housing opportunity for persons with disabilities.

The homebuilders, the architects, the disabilities community all know this to be the case. Similar requirements of nondiscrimination with respect to new construction have been included in regulations implementing section 504 of the Rehabilitation Act of 1973 since 1977 and no one has ever made such allegations. Further, HHS and Education and other Federal agencies have never required preclearance of new school buildings, hospitals, and other buildings.

The administration, which had some reservations about the House bill, now fully supports the Kennedy-Specter substitute to the House bill because the substitute includes a new provision that addresses their concerns. The provision was the result of extensive negotiations between the administration and the disability and civil rights community.

The new provision includes several important points.

First, if a State or unit of general local government has incorporated into its laws the requirements for new construction contained in the bill, compliance with such laws will be considered to satisfy the requirements in the bill.

Second, regardless of whether or not a State or unit of general local government incorporates into its laws these requirements, such governmental unit may review and approve newly constructed dwellings for the purpose of making determinations of whether the design and construction requirements are being met.

Third, the Secretary of HUD shall encourage, but may not require such governmental units to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with the requirements for new construction in the bill, and must provide technical assistance to such governmental units and other persons to implement the requirements applicable to new construction.

Fourth, the bill reaffirms what the sponsors of the bill have been saying all along; namely, nothing in the act should be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings to determine compliance with the new construction requirements in the act.

The final provision in the compromise language makes it clear that HUD and the State enforcement agencies retain the obligation to receive and process complaints or otherwise engage in enforcement activities under the act. Further, determinations by such State or units of local general government will not be conclusive in enforcement proceedings under the act.

For example, HUD may determine that the policies developed by the governmental unit are inconsistent with the requirements in the act. Similarly, HUD could determine that the requirements in the State law were adequate but a person's designs were inconsistent with the requirements in the applicable State law. Similarly, HUD could determine that the designs were consistent with the law, but the construction was not carried out in accordance with the designs.

The homebuilders concluded that such a proposal would result in higher and more costly standards, thereby destroying the delicate balance between cost, accessibility, and aesthetics achieved by the bill.

Shifting to a percentage of units would also destroy the standardization achieved in the existing provisions and desired by the building industry.

The disability community rejects these separate units because of the segregation that often ensues.

The bill only includes minimal low-cost or no-cost features of adaptive design. Additional features of adaptive design, which are more costly are intentionally not included as part of the compromise. Thus, the bill only requires:

Doors sufficiently wide to allow passage by persons in wheelchairs;

An accessible route into and through the dwelling;

Light switches, electrical outlets, and other environmental controls placed in accessible locations;

Reinforced bathroom walls to allow the future installation of grab bars at the renters expense; and

Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

The bill, consistent with the agreement reached among the parties, does not require, for example, in kitchens a turning radius for persons in wheelchairs nor that adaptable cabinetry, countertops, or special plumbings be used in order to comply with the requirements of the bill.

Last, let me pick up where the distinguished Senator from Massachusetts left off. If you read the amendment, it says the provisions of this act shall not take effect if it would increase the cost of such housing. It does not say how much. Does the Senator from New Hampshire mean to say to a Vietnam veteran, who has lost his legs because of a mine in Vietnam, that 10 bucks or $4 to widen the door to a bathroom is too much? Is that too much to spend to take care of a disabled American like that?

Mr. HUMPHREY. Will the Senator yield?

Mr. HARKIN. I yield for an answer to that question. I yield 30 seconds to answer. I do not have much time.

Mr. HUMPHREY. Mr. President, the Senator knows full well under various categories the federally assisted housing legislation says that such housing must be reserved to the handicapped or at least designed to standards that will accommodate the handicapped.

Mr. HARKIN. I reclaim my time. That is not what this amendment says. This says it shall not take effect if the cost is increased. As Senator KENNEDY said, you put in extra studs for hold bars, and widen a door for Vietnam vets. If it costs 4 bucks you are out. The bill does not take effect. That is what it says. That is why this amendment, however the Senator from New Hampshire wanted to address the problem, is way out of the ballpark.

I would certainly hope it would be resoundingly defeated on that basis alone.

Mr. HUMPHREY. Will the Senator yield?

Mr. HARKIN. I mentioned the Federal Building Code. No one supports it, but just on the basis that an additional $5 or $10 is to take care of a person who may have a handicap in a house, he says it does not take effect. I think that is nonsense. This amendment ought to be resoundingly defeated.

Mr. HUMPHREY. Will the Senator yield for a question?

Mr. KENNEDY. On whose time?

The PRESIDING OFFICER (Mr. FOWLER). The time of the Senator from Iowa has expired.

Mr. KENNEDY. I would be glad to yield if the Senator is asking the Senator from Iowa if he would yield for a question. If he wants to do it on his time, that is fine with me, certainly. We have other speakers who want to oppose this.

Mr. THURMOND. Mr. President, how much time is left on our side of the bill?

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes 5 seconds remaining, and the Senator from Massachusetts has 5 minutes 40 seconds remaining.

Mr. THURMOND. Does he want time?

Mr. HUMPHREY. Who seeks time?

Mr. THURMOND. Which side is he speaking on?

Mr. KENNEDY. I yield the Senator from Pennsylvania 3 minutes.

Mr. THURMOND. That takes care of it.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. I thank the Senator from Massachusetts. I thank the Chair.

I believe the purpose of the amendment of the Senator from New Hampshire is admirable and that is to expand the availability of housing so that the American dream can be fulfilled and can be realized by as many Americans as possible. However, his approach, I regrettably say, I believe to be incorrect. The way to fulfill the American dream is to make housing available to the handicapped and the disadvantaged. When his amendment prohibits the application of the act for any increase in the cost of housing, it is simply unrealistic. The most recent study made on this issue—I regret there is not one which is of more recent vintage—is a 1979 report published by the U.S. Department of Housing and Urban Development. And it shows, Mr. President, if you are talking about the purchase of a condominium in a high-rise tower, to make it adaptable is 0.98 percent, less than 1 percent.

To make it adaptable to garden apartments, if that is a condominium to be purchased, is 0.495 percent, just about a half percent. For a single-family house, it is 2 percent.

It does cost money to make facilities in our society available to the handicapped and the disabled. We see this in public transportation. We see this in accessible sidewalks. We will see it in housing, if, and when this bill is enacted. It is a very worthwhile expenditure.

I think that the fact that the realtors, the homebuilders, and the architects have acquiesced and fully support this legislation and this support is proof positive that the costs are not excessive to make housing available to 30 million more Americans who are disabled. I urge my colleagues to resoundingly defeat this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes to the Senator.

Mr. KENNEDY. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois, Mr. SIMON is recognized.

Mr. SIMON. Mr. President, I simply want to join those who are saying that, however well intentioned the amendment by the Senator from New Hampshire is, it does not make sense.

Over the life of the housing, we are talking about very small amounts—pennies a month—to make it acceptable. What is the option for the Vietnam veteran that Senator HARKIN is talking about? The option, ultimately, is institutionalization of some kind or another, if we do not find housing for people who are handicapped. What is that going to cost? Infinitely more.

We have gradually become a more sensitive society, with access on our streets and in other ways. Are we going to step back? I hope not. I think not.

I think Senator KENNEDY hit it on the head when he talked about the very practical cost. Does it cost any more to put a light switch down a little lower rather than higher? Of course not. These are things we could accommodate.

I hope we will do the right thing and reject this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes and 5 seconds.

Mr. HUMPHREY. A parliamentary inquiry: How much time remains on this side?

The PRESIDING OFFICER. Two minutes and 5 seconds to the Senator from New Hampshire; 1 minute and 20 seconds to the Senator from Massachusetts.

Mr. HUMPHREY. Mr. President, every American supports increased access for the handicapped. That does not translate into the requirement that 100 percent of attached housing in this country, effective with the date of this bill, must be built and designed in such a way as to accommodate the handicapped. It is not just a matter of changing the level of light switches, and the Senator knows it. The bill requires that there can be no stairways leading to such units. That means enormous landscaping costs. It means you cannot use some parcels within a larger parcel. It means you have to buy more land.

This bill, according to most estimates, is going to increase the cost of housing by $400 to $5,000. Nobody can be sure, because there have not been adequate hearings on this bill.

This bill is going to increase the cost of housing for sale, and we cannot be just concerned about the veteran in the wheelchair. We also have to be concerned about the Americans, young couples, low- and middle-income people, who seek a part of the great American dream, which the Senator cites, and that is to own a home. This bill is going to increase the cost of home ownership and will drive out of the market many people at the margin, low- and moderate-income Americans, about who I am sure Senators have as much concern.

I reserve the remainder of my time.

Mr. KENNEDY. I yield myself the last minute.

Mr. President basically, what we have to understand is that it is cheaper to make housing available and accessible to the handicapped when it is being constructed, rather than making modifications later on. This deals with future construction in the circumstances covered by the bill.

As we have pointed out, what does it cost to ensure that a doorway is open for a wheelchair? What does it cost to put light switches at a level that will be available to people in wheelchairs? That is what we are talking about in this particular legislation. It is simple but essential.

As we have mentioned, the costs for the various materials are completely out of sync with what the Senator from New Hampshire has brought out. We have presented those figures.

We believe this amendment should be defeated, and when it is appropriate, I will make a motion to table.

I believe my time has expired.

The PRESIDING OFFICER. It has.

Mr. HUMPHREY. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Twenty-six seconds.

Mr. HUMPHREY. Mr. President, under this bill, all units of attached housing henceforth must be designed and built to accommodate the handicapped. The upshot is that it is going to increase the cost of construction, and many purchasers will be driven out of the marketplace because they cannot afford the additional $500 to $4,000 which will be added to the cost of such housing.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY. Mr. President, I move to table the amendment of the Senator from New Hampshire, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts [Mr. KENNEDY]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. METZENBAUM], and the Senator from West Virginia [Mr. REID] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—88

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—7

Armstrong
Garn
Helms
Humphrey
McClure
Stevens
Symms

NOT VOTING—5

Biden
Bumpers
Dodd
Metzenbaum
Reid

So, the motion to lay on the table amendment No. 2782 was agreed to.

Mr. BYRD. Mr. President, under the agreement, only certain amendments and certain Senators——

Mr. KENNEDY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Chair will ask the majority leader to suspend while we maintain order.

All Senators will please take their seats. The Senate will be in order.

The majority leader.

Mr. BYRD. Mr. President, under the agreement, only certain Senators may call up amendments, Mr. HUMPHREY and Mr. HELMS, I believe, and, in one situation, an amendment to a Helms amendment may be called up.

I wonder if we at this time can determine whether or not those amendments which are specified in the agreement are in reality going to be called up?

Mr. HUMPHREY. I am ready.

Mr. BYRD. Mr. President, Mr. HUMPHREY is ready to call up an amendment.

Would it be agreeable to have a time limitation on the amendment, may I ask the Senator from New Hampshire?

Mr. HUMPHREY. I thought we already did. Thirty minutes, equally divided, would be adequate.

Mr. BYRD. Thirty minutes, equally divided. Would that be agreeable with the managers?

Mr. President, as I understand it, it would be agreeable. I make that request, that there be 30 minutes, equally divided, on the amendment by Mr. HUMPHREY and that, at the conclusion of the 30 minutes, there be a vote on or in relation to the amendment.

Mr. FORD. Mr. President, I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will be in order. Senators will please take their seats during these unanimous-consent requests so that all Senators may hear the leader and his request.

Mr. THURMOND. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. THURMOND. Mr. President, I would like to inquire of the able Senator from New Hampshire if 30 minutes is adequate for him.

Mr. HUMPHREY. Equally divided, yes.

Mr. THURMOND. Mr. President, that is agreeable.

The PRESIDING OFFICER. Is there objection to the request?

Mr. SIMON. Reserving the right to object, and I shall not object. I do want to get 3 minutes as in morning business.

Mr. BYRD. Mr. President, I include that in my request, that the Senator from Illinois may have 3 minutes, as in morning business, for the purpose of introducing a bill, that he may be permitted to speak in that 3-minute period, and that that occur at this time, with the indulgence of the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. Hearing no objection, the unanimous-consent request is agreed to.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. Senator HELMS is on the floor.

Mr. HELMS. Mr. President, I have managed a few bills on the floor during my 15½ years. I have no desire to prolong this. I can count, so I am not going to offer any more amendments. He can remove my two amendments from the list.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

I ask unanimous consent that the amendment or amendments be stricken from the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from North Carolina.

The PRESIDING OFFICER. Under the agreement, the Senator from Illinois, Mr. SIMON, is recognized.

Mr. BYRD. If the Chair will recognize the Senator from Illinois and then the Senator will yield to me?

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois, Mr. SIMON.

Mr. SIMON. I yield.

Mr. BYRD. Mr. President, I ask unanimous consent that time for this inquiry not be charged against the Senator from Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wonder if we could determine a time for final vote on the bill.

Mr. THURMOND. Will the distinguished majority leader yield?

As I understand it now, that is the only amendment remaining, the amendment by the distinguished Senator from New Hampshire. Senator HELMS has withdrawn his amendment. After this amendment is completed, I guess we can go to final passage.

Mr. SYMMS. Mr. President, I would like to speak on the bill for at least 10 minutes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. All right. Mr. President, I ask unanimous consent that with paragraph 34 rule XXII being waived, a vote occur, up or down, on the housing bill at the hour of 2:30 p.m. today and that the time remaining after disposition of the amendment by Mr. Humphrey, the time remaining between that point and the hour of 12:45 today, and that the time between 2 and 2:30 p.m. today, be equally divided and under the control of the distinguished Senator from Massachusetts, Mr. Kennedy, and the distinguished Senator from South Carolina, Mr. Thurmond.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. SYMMS. Mr. President, am I going to get my 10 minutes to speak?

Mr. BYRD. The distinguished Senator from South Carolina I am sure will yield 10 minutes.

Mr. THURMOND. Mr. President, I will be very pleased to yield the distinguished Senator 10 minutes at the appropriate time.

The PRESIDING OFFICER. The Senator from Illinois retains the floor for 3 minutes under the agreement.

Mr. BYRD. Mr. President, if the Senator would indulge me another 30 seconds? I also ask unanimous consent that on the disposition of the amendment by Mr. Humphrey that the Senate approve of the committee substitute, the Kennedy-Specter-Hatch substitute, and that there be one technical amendment that would qualify for offering to that substitute.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator from Illinois and I thank the distinguished Senator from New Hampshire.

Mr. SIMON. Mr. President, I thank the majority leader for his cooperation.

Mr. President, I ask unanimous consent to speak as in morning business.

Mr. KENNEDY. May we have order, Mr. President, for the Senator from Illinois?

The PRESIDING OFFICER. The Senate will be in order. The Senator has consent.

(The remarks of Mr. Simon pertaining to the introduction of legislation are located in today's Record under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Under the order, the Senator from New Hampshire, Mr. Humphrey, is recognized.

Mr. HUMPHREY. Mr. President, I thank the several of my colleagues who stood with me on this amendment. It is never fun to be defeated by a heavy vote but I believe the principle is correct. We ought to be more discriminating in passing legislation that increases the cost of home buying or home renting to those at the margin, those low-income and middle-income Americans who are denied the great American dream of owning one's own home Or at least are denied access to decent, affordable housing. That is a valid principle, I believe, and one which I think most Senators will embrace.

Perhaps they did not like the approach embodied in the previous amendment, so shortly I will send another amendment to the desk that perhaps more Senators will find palatable. But the point is the same. The purpose is the same. That is to reduce the costs which this bill will impose on low- and middle-income Americans who seek better housing, whether that housing is rental or housing for purchase.

I know that Senators did not mean to say by the last vote that they are totally unconcerned about the young people in our society, the newly married people, newly married couples, with one or two or three children, who cannot afford decent housing today. I know Senators are not unconcerned about the plight of such Americans. I know they are very concerned and I am certain in my mind that they did not mean the previous vote to indicate that they are not concerned.

So I am going to offer another amendment in a moment that will present Senators with an opportunity to show their concern, legitimate concern, not only for the handicapped but for our young people who are struggling to afford to be able to buy a home or who are struggling to be able to afford more decent rental housing.

I know of the dynamics that were at work in the previous vote. Senators not only do not wish to vote against the interests of the handicapped, they do not even want to appear to be voting against the interests of the handicapped. I understand that dynamic only too well. It was amply demonstrated by the ratio by which that vote was decided.

But the fact remains: Can we address this logically, unemotionally, for the sake not only of the handicapped but for the sake of young Americans who seek better housing? Can we address it on that basis? I hope so.

Mr. President, for years the Federal standard, the standard for Federal housing programs, is that 5 percent of such units, units affected in such programs, would be set aside and designed for handicapped. Well, I wonder where we got that 5 percent figure. Perhaps it is related to the fact that fewer than 1 percent of Americans are confined to wheelchairs. So 5 percent, presumably, was thought to be a reasonable proportion of units to set aside to design and build to accommodate those who are wheelchair bound.

I am going to be even more generous than that 5 percent, which is more than fives times the number of handicapped persons in wheelchairs. I am going to offer an amendment that will modify this bill so that it applies to 20 percent; that is the handicapped provisions, the design and building provisions will apply to 20 percent of the units or in the case of multiple building units, 20 percent of the buildings.

Twenty percent of the units would have to be designed and built to accommodate the handicapped, including those who are confined to a wheelchair. That is more than 20 times the number, speaking in percentages, of Americans who are confined to wheelchairs.

Again, the point is not to make life more difficult to the handicapped who already face a great many barriers, natural and artificial. But the point is to have some reasonable balance; the point is to give a little weight to the concerns of those people of every background and every ability or disability, if you will, who want better housing and for whom better housing will cost more, substantially more, if this bill is not amended.

As I pointed out in my earlier remarks, various estimates—and one does not know which to believe because we have not had adequate hearings on this bill—various estimates are that the costs, increased costs, of these provisions will be from $400 to $5,000 per unit. Is there any Senator who wants to stand up and argue that for our young people seeking better housing that $400 to $5,000 in increased cost is insignificant? That is the difference between getting that better housing and having to stay in substandard and indecent and inadequate housing.

AMENDMENT NO. 2783

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. Humphrey] proposes an amendment numbered 2783.

On page 6, delete all on lines 19 through 21 and insert in lieu thereof, "(iii) at least 20% of all units within such dwellings, or in the case of a multiple-building development, 20% of all units within such development, and in no event less than one unit, contain the following features of adaptive design:".

Mr. HUMPHREY. Mr. President, that is the substance of the amendment. The language perhaps does not make clear the effect of this amendment, but the effect is, as I have said, to limit the scope of this bill to 20 percent of the units. In other words, in all attached housing, which is what this bill is directed toward, 20 percent must be designed and built to accommodate those restricted to wheelchairs. Eighty percent need not be. If the builder wants to do 100 percent at his discretion, voluntarily, that is fine. He might have difficulty selling those units with those increased costs to those not restricted to wheelchairs. If he chose to do that, fine; more power to him.

The amendment now pending will reserve 20 percent of the units to be designed and built to accommodate those restricted to a wheelchair. The other 80 percent need not include such features and, therefore, will be available to potential renters or purchasers, as the case may be, at more reasonable, affordable prices.

Affordability is what it is all about, Mr. President. There is not a Senator in this body who would suggest that we do not have a housing crisis in this country and an affordability crisis. This bill, unamended, is going to compound that problem severely. Instead, if the Humphrey amendment is adopted, the cost-raising effects of this bill will be substantially ameliorated. Twenty percent is a generous figure.

Here is the latest Department of Housing and Urban Development regulations on housing discrimination based on handicapped. On page 20223 of the report, it is stated: "The Department experience has shown that the 5-percent requirement is adequate."

I alluded earlier, Mr. President, to that 5-percent requirement. For years, we have set aside in federally assisted housing programs 5 percent to be designed and built for the handicapped; 95 percent were not. In the bill before us, which applies to private housing, without even any federally assisted connection, 100 percent of all units would have to be built to accommodate those who are restricted to a wheelchair—100 percent.

That is unreasonable, I say to my colleagues. Let us strike a more reasonable compromise. Let us adopt a more reasonable figure.

The Department of Housing and Urban Development, with the approval, obviously, of Congress, for years has pegged that at 5 percent, bearing in mind that fewer than 1 percent of Americans are restricted to wheelchairs.

I propose in this bill the scope be reduced to 20 percent, four times the traditional 5 percent figure; 400 percent greater. Again, the point is not to make things more difficult for the handicapped. I do not believe such an amendment would.

The point is to give adequate weight to the interests of all Americans who are seeking adequate housing, whether that is rental housing or housing for sale. That is the purpose, to try to ameliorate in some way the awful increases in the cost of housing in this country so that our young people are every bit as much entitled to consideration by this body, as are the handicapped, if a reasonable balance is struck so that their interests can be protected by this bill, as well as those of the handicapped.

Mr. President, I believe it is a reasonable amendment. It is a scope amendment. I hope Senators will find this more palatable than the previous amendment, but it goes to the same point, and that is, trying to slow the increases in the cost of housing for all Americans.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I hope Senators will reject the amendment of the Senator from New Hampshire on this next vote, as they did the last vote. I listened to his arguments about the cost of housing for various young people, for those who want to be able to buy a home.

This legislation does not affect the single-family home. What we are talking about is the multifamily dwelling with four or more units. You only have to meet these very simple requirements if you actually have an elevator, or, if you do not have an elevator, only the bottom floor unit is covered.

We tried to be flexible and tried to be accommodating to some of the concerns. We have been reasonable. What we are talking about is not all the housing in this country.

If you listened to the Senator from New Hampshire, you would think we are applying it to all houses all over this Nation. There may be an argument for that, but that is not what this bill is. Point No. 1.

Second, I have difficulty in following the logic of the Senator from New Hampshire. Basically, he is saying there is a small, specialized group that is disabled in this country. What if you have disabled friends? You can be ablebodied and have disabled friends. The might like to have acessibility in someone's apartment, too. What happens if you get older and fall down and break a hip and you are in one of those other apartments? You are out of luck.

We are talking about very basic and fundamental accessibility requirements. Where that Senator gets 400 percent is beyond me. What does it cost to put a light switch at a level where somebody who is in a wheelchair is going to be able to have access? What does it cost when you build a house to have a more open door so a wheelchair can go through it? Again, what is the cost to put a stud in a bathroom? $27. These are minimal costs, Mr. President, for millions of Americans.

We are saying to the disabled and handicapped community, "You are going to be one of us in America," and we are going to go ahead and see a fair housing bill in our Nation. We are going to have basic kinds of infrastructure so that those who are handicapped and disabled—whether they are today, or whether they will be tomorrow—we are not going to require them, when they go out and break that hip, not to have that accessibility. If they are going to be in a wheelchair, we are not going to send them off to a nursing home, which is hundreds of times more expensive.

I just find it difficult to follow that argument if we are really committed to trying to ensure independent living for those who have physical and mental handicaps, Mr. President.

So at an appropriate time, I will make a motion to table the amendment of the Senator from New Hampshire.

I yield 4 minutes to the Senator from Iowa, the chairman of the Handicapped Committee.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank the chairman for yielding me the time. Again, I want to associate myself with his remarks. He is right on target with this amendment.

Again, there are a lot of things wrong with this amendment. I do not know where to begin.

First of all, the Home Builders. I have a letter from them. I would like to read a portion of their letter. They say:

> The above legislation and report language achieves a reasonable balance between meeting the intent to assure equal opportunity for handicapped individuals while minimizing additional construction costs necessary to achieve this goal.

That is from the Home Builders.

In response to a proposal to limit the percentage of units that would meet adaptability standards, the Home Builders expressed strong opposition. They concluded that such a proposal, if you took off a certain portion of them—let us say 20 percent, 5 percent, 10 percent; I guess the amendment of the Senator from New Hampshire is 20 percent—and you made that only meet minimum requirements that we have, it would result in higher and more costly standards, destroy the delicate balance between cost and accessibility. It would shift to a percentage of units and, again, would destroy the kind of standardization that homebuilders like to have.

I guess I want to say one other thing. Again, what the amendment would do in a multifamily dwelling unit, as the Senator from Massachusetts pointed out, and this does not cover every house in the United States, it would say that 20 percent of these units would be set aside to meet these requirements, and the rest would not.

What do you do then? You segregate. That means people with handicaps are segregated. They are at one end. They are in the basement. They are someplace else, segregated off and apart from everyone who knows him.

What we have been trying to do with the handicapped community in this country over the last dozen years or more is to try to get a more enlightened attitude toward the handicapped that they should be fully integrated into our society to the maximum extent possible; not segregated off to someplace else. That is what this amendment does.

Mr. HUMPHREY. Will the Senator yield for a question?

Mr. HARKIN. Not on my time. I would on the Senator's time.

What this amendment does is it segregates them off again. It says, "OK, 20 percent of the units have to meet the minimum requirements; the other 80 percent do not." So, therefore, you have one segment of the housing that will be just for the handicapped.

Again, as the Senator from Massachusetts pointed out, what would happen? If you were in one of the other ones that was not fully adaptable, if you had an accident, you hurt yourself, you became partially disabled, that is it. What are you going to do? You will have to move then from your apartment to one of these segregated units.

I really think that is the most onerous part of this amendment, the segregation that would ensue.

Again, Mr. President, all ought to understand that we are talking about minimum requirements here, just minimum requirements: Doors to allow the passage into and within the premises; as the Senator said, light switches; electrical outlets; thermostats; environmental controls; reinforcements in bathroom walls that could later be used as a grab rail; usable kitchens and bathrooms so that a wheelchair could maneuver around it just so they can turn around in a turning space. These are very minimal requirements.

Again, I just want to also point out, Mr. President, to the Senators here and others that this bill has the full support of the administration. The administration has not required this amendment. They are not supporting the amendment. They have said they support the bill in its present form without amendments.

So I think for all those reasons again this amendment like the other one ought to be soundly defeated if for no other reason than, as I said, because of the onerous repercussions it would have on segregating handicapped people in multifamily dwelling units.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. How much time remains on this amendment?

The PRESIDING OFFICER. The Senator from New Hampshire has 11 minutes.

Mr. HUMPHREY. Mr. President, apparently the Senator from Iowa is unaware that in present law in the case of federally assisted housing we reserve 5 percent of such housing for the handicapped. That means some of the buildings are designed and built to accommodate the handicapped, producing exactly the kind of conditions which the Senator from Iowa is now criticizing. Perhaps he would like to amend existing law and perhaps that would be worthwhile, perhaps not. But the point is that the Congress has already enacted into law and upheld, that is to say not amended, legislation with the very same mode of operation as I am now suggesting, that is to say, setting aside not 5 percent as the existing Federal standard but 20 percent—400 times more housing for those who are handicapped and particularly those who are restricted to a wheelchair.

Now, the Senator from Massachusetts says that all we are talking about is lowering light switches. Well, that is nonsense and the Senator knows it. We are talking about requiring larger kitchens. We are talking about requiring in every unit larger kitchens, in every unit larger bathrooms. Has the Senator from Massachusetts had a house built lately? I assure him these are more than trivial costs. We are talking about costs that will probably be in the thousands of dollars—paid by whom? By people seeking better housing, most of whom will not be able to afford these increased costs.

Mr. HARKIN. Will the Senator yield?

Mr. HUMPHREY. Not on my time.

Mr. KENNEDY. I yield 2 minutes to the Senator from Iowa.

Mr. HUMPHREY. Regular order. The Senator from New Hampshire has the floor.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. KENNEDY. The Senator said he would not yield on his time. I gave the Senator from Iowa the time.

Mr. HUMPHREY. Regular order, Mr. President. The Senator from New Hampshire has the floor.

The PRESIDING OFFICER. The question is asked, will the Senator from New Hampshire yield for a question on the time of the Senator from Massachusetts?

Mr. HUMPHREY. I beg the Senator's pardon. I will be happy to do so.

The PRESIDING OFFICER. The Senator from Iowa has 2 minutes in which to pose and have the question answered.

Mr. HARKIN. I would just point out to the Senator from New Hampshire that there is a 5-percent set-aside in federally assisted housing, as he knows, right now. I would point out that this goes back some time. The homebuilders are opposed to that.

I ask unanimous consent to have their letter printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, June 22, 1988.

Hon. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN EDWARDS: On behalf of the 155,000 member firms of the National Association of Home Builders—representing builders, owners and managers of multifamily and single family housing—we offer the following comments with respect to an amendment expected to be offered by Rep. McCollum (R-FL) to delete the Committee language from H.R. 1158 with respect to future multifamily housing construction requirements and establish a set-aside with increased requirements.

The proposed amendment would delete the legislative language agreed upon after several months of negotiation between disability and civil rights organizations, architects, builders, and managers to achieve a reasonable balance between meeting the intent of the bill, to assure equal opportunity in housing for handicapped individuals, while minimizing both construction costs and potential issues of marketability. The bill as reported by the Committee clearly achieves this goal.

Current laws which establish a set aside of adaptable and accessible housing units result in a serious problem from all perspectives. Many handicapped individuals neither want nor need grab bars, adjustable or removable cabinetry nor other adaptive features. The result from a marketing perspective is clear: units with these features sit vacant with neither the handicapped nor the non-handicapped willing to live in them. In California, as well as other parts of the country, we have owners and managers with projects with waiting lists to occupy the non-handicapped units, while the set aside units sit vacant. Set asides are far more costly than the initial additional construction cost when the unit once built, remains vacant and generates no revenue.

The McCollum amendment which establishes a set aside with greater requirements than the Committee reported bill would result in a higher and more costly standard, thereby destroying the delicate balance between cost, accessibility, and aesthetics achieved by H.R. 1158 as reported by the Committee.

For this reason, we must oppose the McCollum amendment which undermines the uniformity that the Fair Housing Amendments Act achieves.

Sincerely,

DALE STUARD,
President.

Mr. HARKIN. I would suggest to the Senator from New Hampshire I hope we are going to do away with that. As one who has been involved with the handicapped community, I hope we can do away with that 5-percent set-aside. I would be happy to join with the Senator from New Hampshire in setting aside that 5-percent set-aside. I thank the Senator.

Mr. HUMPHREY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Hampshire has 8 minutes 40 seconds.

Mr. HUMPHREY. Mr. President, I repeat, the cost of larger kitchens is very great. Anyone who has had a house built or who has bought a house lately or who has rented a new unit knows that construction costs are astronomical. We are not talking about incidental costs, trivial costs. We are not talking about a light switch, as the Senator from Massachusetts knows full well. We are talking about larger kitchens, larger bathrooms. We are talking about the absence of stairs. Do you want to know what is the greatest component cost, at least in my part of the country, of housing nowadays? Land use.

Senators should realize that 100 percent of the units of multifamily housing—and that is the scope of this bill unamended—100 percent of the units to be built in this country of multifamily housing may not incorporate stairs into the design of their access. That means a lot of land with steep grades cannot be used, a lot of land cannot be used which otherwise today can be used for attached housing. That is the way to keep down housing costs for our young people, to use land that has a steep grade. It is not flat everywhere. In New Hampshire we have hills, mountains even. It is hilly terrain. If you eliminate stairs, as the bill does, as a means of access to housing, then a lot of land is unusable. The remaining land becomes that much more expensive. Housing, new housing, whether rental or for sale, is that much more expensive. The biggest component is land costs. This bill does not permit stairs as a means of access to any building in this country which is attached multifamily housing henceforward. This is draconian. This is unreasonable. It is nonsense. It is ridiculous. Let us set aside 20 percent and apply these standards to those 20 percent, leaving 80 percent so that costs to other Americans can be more reasonable.

I know that Senators have to be concerned even about their own sons and daughters, many of whom are forming households, seeking to purchase that first home, or at least to move up into a more decent rental unit. I know they are concerned on that scale. Let them be concerned for the sons and daughters of other Americans who are shut out of the housing market and who will be shut out even more tightly with this bill if it is not amended.

Mr. President, I reserve the remainder of my time.

Mr. SPECTER addressed the Chair.

Mr. KENNEDY. I will be glad to yield. How much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes and 15 seconds.

Mr. KENNEDY. I yield 4 minutes.

Mr. SPECTER. I thank the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I oppose the amendment. I oppose the amendment because there are relatively minimal costs involved, and it is probably less expensive in the long run to have the adaptability requirements across the board in a generalized requirement than to have a limitation such as 20 percent.

The amendment by the Senator from New Hampshire is very similar to the last amendment which he offered which was tabled by a vote of 88 to 7. I think that vote reflects the sense of the Senate that under the compromise which has been carefully crafted, which has been agreed to by President Reagan, where Vice President BUSH through his representatives was an active participant in negotiations over the weekend, where the American Association of Homebuilders, the Association of Realtors, the Association of Architects have all taken a very close look, the costs are minimal.

Mr. President, the 1979 report published by the U.S. Department of Housing and Urban Development on the estimated costs of accessible buildings sets the cost for adaptability for high-rise towers at less than 1 percent, 0.98 percent, and for garden apartments at approximately one-half of 1 percent, 0.59 percent.

Perhaps the most telling argument yet advanced in the time allotted to this amendment was made by the distinguished Senator from New Hampshire where he said that the requirement is that for 20 percent, but if an enlightened builder wishes to build more he is free to do so. I think when the Senator from New Hampshire characterizes an enlightened builder as one who would allocate more than 20 percent, he is making essentially the public policy argument, and that is it is enlightened to do more than 20 percent and the public policy which this bill establishes is more than 20 percent; it is 100 percent. That has been the standard which has been accepted in a very carefully constructed way by all parties involved including the Reagan administration. So I urge the rejection of the pending amendment.

How much time do I have remaining on my 4 minutes, Mr. President?

The PRESIDING OFFICER. One minute and forty seconds remain.

Mr. SPECTER. I reserve the remainder of my time if I may.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, will the Senator from New Hampshire yield 1 minute for a question?

Mr. HUMPHREY. Parliamentary inquiry. How much time do I have?

The PRESIDING OFFICER. The Senator from New Hampshire has 6 minutes and 6 seconds.

Mr. HUMPHREY. I will be happy to yield 1 minute to the Senator from Idaho.

Mr. SYMMS. The question that I have, Mr. President, is when we talk about who is enlightened and who is not enlightened, when I look at the building codes in the United States as opposed to the nonmarket countries, we have it way the best, yet we are trying to impose the long nose of the Federal Government into the size of bathrooms. And my question would be to one of the learned Senators on the floor: What clause in the Constitution gives the Federal Government the right to go in and set the size of bathrooms and building codes? Is this in the 13th amendment or is it from the commerce clause in the Constitution? Where does this come from? Is this even constitutional? That is my question.

Mr. HUMPHREY. Mr. President, I think that is a good question. I am not prepared to use up a lot of time on debate on this point because, frankly, I think there are points of debate which Senators might find more appealing than the points on the Constitution, ironically enough. So I am going to decline to engage myself in the debate because the time is limited. But the Senator raises a very good question.

Mr. SYMMS. The Senator from Pennsylvania has 1 minute. Maybe he would like to answer the question.

Mr. SPECTER. I yield myself 10 seconds.

Mr. HUMPHREY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Idaho has used his 1 minute. Who yields time?

Mr. KENNEDY. I would be glad to yield to the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I would be delighted to respond to the question. The commerce clause.

Mr. SYMMS. The Senator says the commerce clause. Does the size of bathrooms in multiunit housing affect the commerce clause?

Mr. SPECTER. Yes.

Mr. SYMMS. How?

Mr. SPECTER. Because the commerce clause touches the construction of housing where the materials passed in interstate commerce. Where there is a determination by the Congress of the United States that interstate commerce is affected, the decisions by the Supreme Court of the United States are clear that it may reach issues like housing comprehended by this Fair Housing Act.

Mr. SYMMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 2 minutes to respond to the Senator. I don't see what the Senator might talk about in terms of these "massive" expenditures he referred to. On page 6 of the substitute it says "accessible route into and through the dwelling." As the Senator from Iowa pointed out, this is accessible in terms of a wheelchair. Top of page 7, the bill speaks of accessible light switches, electrical outlets, thermostats. We mentioned that. Third, reinforcement of bathroom walls—that is the $27 cost, and finally the usable kitchens and bathrooms.

The Senator talked about how this is going to alter and change the whole construction industry. If the Senator would either read the note from the National Association of Home Builders or read the House report: Designing standardized kitchens and bathrooms can be done in such a way as to ensure usability by persons with disabilities without necessarily increasing the size of the space. That is our intention. That is what the House report says, that is what the legislative history says, and that is what the Association of Home Builders says. So to paint this bill like that is unfair, unwarranted, and unjust.

Finally, Mr. President, I would just hope that the families of this country would not be playing roulette with their parents or their friends who come to visit them. There are more and more seniors who are spending time with members of their families, younger members of their families because of the cost of housing.

If the Senator from New Hampshire wants to play Russian roulette with their mother, or their grandfather, that they might break a hip or not break a hip, let it be so. He can do that. But I do not think the majority of the Senate want to do that. That is what we are basically talking about, is playing Russian roulette with the disabilities of the handicapped or their friends. "Love to have you over, Joe, but you are in a wheelchair. Can't come." "Love to have you over, Mary, but we just haven't got accessibility for you. Can't come." "Too bad, grandmother, you fell down and broke your hip. You are out of our particular apartment because those doors just happen to be 4 inches too narrow."

Mr. President, for the reasons that have been outlined, this is a carefully balanced proposal. The types of accessibility that we have approved are very minimal. They have been worked out with the administration, the homebuilders, the architects, the various disability groups, and the provisions that we have are supported now by the administration and by those various groups. They had discussions and debates about all of these different types of set-asides. This issue was up in the House, defeated overwhelmingly in the House by a different percentage, but the same concept, and I would hope that it would be defeated here as well.

I am prepared to yield back the time. If the Senator wants to retain this time, I will retain mine as well.

Mr. HUMPHREY. Parliamentary inquiry. How much time remains on each side?

The PRESIDING OFFICER. The Senator from New Hampshire has 4 minutes, 30 seconds; the Senator from Massachusetts has 15 seconds.

Mr. KENNEDY. I am going to save my time.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senator says, quoting some source, that with larger kitchens and bathrooms it is not necessary to increase the size of kitchens and bathrooms in order to make them such that they can accommodate wheelchairs. That is true. If you have a big house, expensive house with a large bathroom and a large kitchen of the size that some Senators in this body can afford, but for most Americans the size of the kitchen and the bathroom in their first home purchase is quite small.

I recall my own first home. It was a townhouse. There was no way you could have gotten a wheelchair into the bathroom. What the Senator from Massachusetts is saying is that everyone must buy a home of the kind the Senator from Massachusetts can afford. He is saying whether you like it or not, you are going to have to buy a house that is designed to accommodate wheelchairs. If you cannot afford it, tough. You can stay in some hostel somewhere until you get together the scratch so you can afford the house built to the standards which I regard as to be inadequate. That is what the Senator is saying.

This is probably a constitutional bill, given our courts today.They can justify about anything. It is probably constitutional but it is an unreasonable, coercive bill.

That is the point. The point of the amendment which the Senator from New Hampshire is offering is to make it more reasonable, and more balanced to protect the interests of both the handicapped and those who are seeking better housing at affordable prices, affordable costs.

Mr. SYMMS. Would the Senator yield for a question?

Mr. HUMPHREY. Yes.

Mr. SYMMS. I thank the Senator for yielding. I compliment the Senator. I support his amendment. Would he not agree with me when our distinguished manager of the bill stands up and makes the question about Mary, "Sorry, you can't come," "Grandpa, sorry you can't come," that is what you can see? What you cannot see, which is the argument the Senator from New Hampshire is making, is that lower cost housing helps the people get the first step up the rung of the ladder, and America was built on that principle.

Mr. HUMPHREY. That is right. We are looking for balance. The bill is unbalanced, unreasonable, and it is phony. The amendment now pending will make this bill a reasonable bill.

Mr. SYMMS. I compliment the Senator.

Mr. HUMPHREY. Mr. President, Americans who want to buy homes designed to accommodate any possible eventuality are free to do so. There is a big market out there. If they can afford it, they can have every room the size of the barn. Some Senators can afford that. Most Americans can barely afford closets. This bill will make housing, whether it is rental housing, housing for sale, more expensive. Exactly how much, we do not know because this bill has not had adequate hearings. But we do know the cost of building a large kitchen versus a smaller kitchen is substantial. The cost of building a larger bathroom versus a smaller bathroom is substantial. The difference is affordability for those at the margin.

The difference is this bill, as amended, is going to drive thousands, if not millions, of young Americans out of the market for their first home, for better homes, and for many even for better rentals. That is unreasonable. It is unnecessary.

This is a good amendment. It is a reasonable amendment. It brings balance. It brings temperance to this bill. Not every American can afford the kind of housing that Senators can afford. Let us give equal weight to their concerns.

We all know about the appeal of voting for measures that help the handicapped. We all know about the organized voting clout of the handicapped and the groups who ally themselves with those groups. We all know the politics. But let us put a little fairness in this bill, a little reasonableness, a little temperance, a little concern for young Americans seeking a better home who will be denied that better home because of the imperiousness of some Senators in this body.

How much time do I have left?

The PRESIDING OFFICER. The Senator from New Hampshire has 34 seconds.

Mr. HUMPHREY. I am now prepared to strike a bargain with the Senator from Massachusetts. I will yield my 34 seconds if he will yield his 15.

The PRESIDING OFFICER. Who yields time.

Mr. KENNEDY. I yield the remaining time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator has 58 seconds.

Mr. HARKIN. I do not know the room the Senator from New Hampshire is speaking about.

I ask unanimous consent to insert a letter from the National Low Income Housing Coalition. The Honorable Edward W. Brooke, former Member of the Senate, a member of the Senator's own party, not knowing this amendment, opposes all amendments, and supports the bill as passed. The National Low Income Housing Coalition does not support that amendment.

There being no objection, the letter was ordered to be printed in the Record, as follows:

National Low Income
Housing Coalition,
Washington, DC, July 21, 1988.

Dear Senator: On behalf of the Board of the National Low Income Housing Coalition, I would like to add our support to the bipartisan effort which has brought the Fair Housing Amendments Act nearly to the point of presidential signature. I would encourage you to promote the passage of this crucial bill within the current legislative session by bringing the House version, HR 1158 passed by the House of Representatives 376 to 23 on June 28, to the Senate floor and to pass the bill swiftly and without weakening amendments.

We urge you to take the necessary steps to alleviate housing discrimination as shown by a 1986 HUD report which revealed 2.5 million incidents of housing discrimination—many involving families. Moreover, 36 million disabled citizens of the United States who are already excluded from most of the housing market must also be protected.

Finally, the establishment of an Administrative Law Judge process and the option of trying a case directly in district court will insure a less complicated and more expedient method of redress which will undoubtedly strengthen Fair Housing Laws. I am confident that the Fair Housing Amendments Act will bring us one step closer to providing all Americans with a decent place to live and urge you to make this a priority.

Sincerely,

Barry Zigas,
President.

Mr. HUMPHREY. Mr. President, I come back to the basic point, which is irrefutable. Large kitchens cost more than small kitchens. Large bathrooms cost more than small bathrooms.

We are not talking about a light switch. We are talking about hundreds and, more likely, thousands of dollars which will be added to the cost of housing and which most of our fellow citizens cannot afford.

The PRESIDING OFFICER. The time of the Senator has expired. All time has expired.

Mr. KENNEDY. I move to table the amendment of the Senator from New Hampshire, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from Hawaii [Mr. Matsunaga], and the Senator from Nevada [Mr. Reid] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 12, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—84

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—12

Armstrong
Conrad
Garn
Gramm
Helms
Humphrey
McClure
Murkowski
Nickles
Stevens
Symms
Wallop

NOT VOTING—4

Biden
Bumpers
Matsunaga
Reid

So the motion to table the amendment (No. 2783) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2784

Mr. KENNEDY. Mr. President, according to the unanimous-consent agreement, I will offer a technical amendment at this time and then have it in order to accept the Kennedy-Specter-Hatch substitute and then we will vote on final passage at 2:30, with the time between 2 and 2:30 divided between the managers of the bill.

The technical amendment has been cleared with the ranking minority member. I now send the technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kennedy] proposes an amendment numbered 2784.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, strike the sentence on lines 17–19 beginning with the words "The Secretary".

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. The Chair is having difficulty hearing the Senator from Massachusetts.

Mr. KENNEDY. This is a technical amendment to delete a sentence appearing on page 34 of the Kennedy-Specter-Hatch substitute which was inadvertently included. This amendment has been cleared with the other manager on the other side and I move its adoption.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment.

The amendment (No. 2784) was agreed to.

Mr. KENNEDY. Mr. President, I urge the adoption of the Kennedy-Specter-Hatch substitute, as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment (No. 2777), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I thank the majority leader and our ranking member. I understand now we will move to consideration of final passage.

I ask for the yeas and nays on final passage, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read the third time.

The bill was read the third time.

Mr. **THURMOND**. Mr. President, it is not often the distinguished Senator from Massachusetts and I are together on a bill, but on this bill we are together. I am not going to take more time. I think this is a bill that is badly needed and I think it ought to pass promptly and I just want to alert my colleagues to notify the Cloakroom if they wish to speak on this bill. We have a certain amount of time allotted to each of us. If they let me know, we will try to accommodate them.

ORDER FOR RECESS FROM 12:45 P.M. TO 2 P.M. TODAY

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Senate stand in recess today between the hours of 12:45 p.m. and 2 o'clock p.m.

The **PRESIDING OFFICER**. Is there objection? Hearing none, it is so ordered.

Mr. **KENNEDY**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECESS

The **PRESIDING OFFICER**. The hour of 12:45 having arrived, the Senate will stand in recess, under the previous order, until the hour of 2 p.m.

Thereupon, at 12:44 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

Mr. **KENNEDY**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **KENNEDY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **KENNEDY**. How much time remains, Mr. President?

The **PRESIDING OFFICER**. Twenty-five minutes, 21 seconds.

Mr. **KENNEDY**. The time is evenly divided?

The **PRESIDING OFFICER**. That is correct.

Mr. **KENNEDY**. I yield 5 minutes to the Senator from Pennsylvania.

The **PRESIDING OFFICER**. The Senator from Pennsylvania.

Mr. **SPECTER**. I thank the distinguished Senator from Massachusetts.

Mr. President, now that all of the amendments are completed, it is time for a few final comments on the pending legislation, the Fair Housing Act. I suggest this is a very significant bill because it provides for a tough remedy to make existing civil rights for housing meaningful. It also expands civil rights to the disadvantaged, to the handicapped, and also to families with children. Most fundamentally, however, Mr. President, it puts teeth in the existing laws by providing that no longer need the aggrieved party go to Federal court to redress the grievance. It provides that after a determination by the Secretary of Housing and Urban Development it will be the responsibility of the Department of Justice to undertake that litigation.

The reality today, Mr. President, is that the aggrieved parties, who are invariably poor and unable to support such cost of litigation, simply have no remedy to effectuate that right. This legislation is a very, very significant step forward.

On a personal note, I find it very gratifying to be a part of this historic event. We talk a lot in the U.S. Senate about what it is like to be a Senator and about the quality of life here, but I think back to my own parents who came from foreign shores. Civil rights were very important to them because they did not enjoy civil rights when they were growing up.

My father lived in Russia under the Czar's boot and came to the United States at the age of 18. My mother, also born on foreign shores, came here at the age of 5. I can recall very well the heavy emphasis on civil rights in my household and growing up during the era of World War II where we were fighting for the rights of Jews to live, fighting for the rights of the British and the Belgians and the French to live in freedom. So civil rights were very important and have to be recognized as such.

I recall being in Washington in the summer of 1964 working as one of the young lawyers on the Warren Commission staff. I recall Senator Richard Russell being one of the commissioners and being unable to attend very many of the commission meetings because he was occupied on this floor in the civil rights battle of 1964, and that battle was won.

Then there was the voting rights battle of 1965. Then there was the battle for fair housing in 1968. Although that important legislation was passed in the wake of Dr. King's assassination, but that bill was not what ought to have been. Finally, we are making the changes today, Mr. President.

The battle for civil rights is a complicated one, and it has involved really the leadership of the courts in this country, the Supreme Court of the United States, which, in the case of segregation, for decades finally acted in 1954 in the decision. That issue was one of the matters that occupied the attention of the Senator sometime yesterday afternoon on an effort to delineate the jurisdiction of the Supreme Court on issues relating to school prayer. That was roundly defeated with some seven Senators—17 to 20—accepting the motion to table. There is, unfortunately, Mr. President, some substantial feeling in this country on limiting the jurisdiction of the Court.

Mr. President, this legislation has I think many heroes. Perhaps foremost among the list of heroes is Secretary of Housing and Urban Development, Sam Pierce, who has urged this legislation in each session of the Congress since he came here and is the only Member of the Cabinet to serve, from the beginning, the Reagan administration. The President himself supports this legislation. I think another hero is Vice President BUSH, who was very active through staff over the course of the past weekend in bringing this legislation to the floor. Our colleague, Senator Mathias, who is not present in the 100th Congress but certainly is present in the spirit, was a leader in bringing the legislation to the floor in 1980. His fingerprints are all over the legislation which I think will be passed by very large numbers today.

Mr. President, I am pleased to be a prime cosponsor along with Senator KENNEDY. We had a contest of a sort yesterday as the variety of cosponsors were added. I think we had more cosponsors added on the Republican side, but I think when the vote is taken today, Mr. President, it will be very plain that the vast majority of Republicans as well as the vast majority of Democrats in this body will stand four square behind civil rights. It is a very important move forward.

I thank the Chair and yield the floor.

The **PRESIDING OFFICER**. Who yields time? The Senator from South Carolina.

Mr. **THURMOND**. Mr. President, the minority leader had asked for 3 minutes to proceed. Mr. President, I yield 3 minutes to the able minority leader, Senator DOLE.

The **PRESIDING OFFICER**. The Republican leader is recognized.

TIME TO LAY OUR CARDS ON THE TABLE

Mr. **DOLE**. Mr. President, it is time for us—for all of us—to lay our cards on the table.

During the past 24 hours, I have spoken twice about the desire on this side of the aisle to work on a bipartisan basis, to renew effective assistance to the democratic resistance in Nicaragua—the so-called Contras.

Let me say it a third time: We welcome, we want, we need the support of Democratic Senators who believe, as we do, that freedom is worth fighting for—as much in Nicaragua as it is in Afghanistan, in Kampuchea, in Angola.

There would be no better start to getting the United States, clearly and finally, on the side of freedom in Nicaragua than for the Senate to pass, overwhelmingly, on a bipartisan basis, a new package of effective aid to the Contras—not phantom aid, not phony aid, not paper aid, real aid, effective aid, the kind that can keep the Contras in the field, as an effective fighting force, the kind that can keep the Contras at the bargaining table as an effective negotiating force.

Now is the time to vote that kind of aid—not next week, not next month, not in the next administration but now, when the Sandinista Communists have again "blown their cover," their "give peace a chance" cover, and assaulted the Catholic Church, closed the free media, and thrown any who dared speak out into the slammer.

Now, when the resistance is being bled dry inside Nicaragua—denying even the pittance of humanitarian aid we have voted because the Sandinistas will not permit it to be delivered, as they are pledged to do.

Now is the time, finally, to stand up to Daniel Ortega and his bluff and bluster. Now it the time to "blow the whistle" on his lies and deceit. Now is the time, finally the time, for Congress to say it will no longer be played like a yo-yo by that arrogant, two-bit, petty dictator in Managua.

Now, before the last chance for freedom in Nicaragua is lost, finally and irretrievably, now is the time to act.

Mr. President, I understand the majority leader is meeting with his colleagues, in an effort to fashion some kind of Contra aid package. I appreciate the effort and I look forward to seeing a concrete proposal from that side of the aisle. As always, I will be ready to work with the distinguished majority leader.

However, I only wish the Democratic candidate for President had the same willingness to help the freedom fighters in Communist Nicaragua. Given the sad evidence from Managua, I hope that Mr. Dukakis will reconsider his views, and his words, on events in Central America.

He should reconsider, when dozens are rotting in Sandinista jails, for the crime of seeking their own freedom, whether under those circumstances it makes sense to call our policy—America's policy—illegal.

He should reconsider, as the Catholic Church in Nicaragua is under assault, as Catholic Radio remains closed down, whether it makes sense to call our policy—America's policy—immoral.

I ask on him to consider, above all, the views and the words of his own running mate, our distinguished colleague from Texas, who said on the floor of this Senate February 4, 1988, less than 6 months ago:

> Here we are deciding whether to give (the Contras) what they need to continue the fight while the Soviets gave over $1 billion in aid to the Sandinistas last year; including over $500 million in military assistance alone.

The Senator from Texas continued:

> Let us not mistake, either, the nature of the Sandinista regime. It is not a group of peaceful leftists, content to practice their controlled—and I might add, rapidly disintegrating—Marxist economy. These are violent revolutionaries, men and women who are dedicated to spreading their brand of Communism anywhere they can reach.

I implore Michael Dukakis and all others to join us in this effort for freedom. That is what this is all about.

I do not think any of us here really is prepared to stand up and excuse what Daniel Ortega has done; to deny what Daniel Ortega is.

I can only hope that Michael Dukakis—and every other American, Republican, Independent, and Democrat—is listening, too.

I can only hope that now, finally, at long last, all of us will join together, to act. We will offer this on the supplemental.

FAIR HOUSING AMENDMENTS ACT

The Senate continued with the consideration of the bill (H.R. 1158).

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I just have 9 minutes remaining?

The PRESIDING OFFICER. Eight minutes, eighteen seconds.

Mr. THURMOND. How much?

The PRESIDING OFFICER. Eight minutes, fourteen seconds.

Mr. THURMOND. Mr. President, I understand Senator Simpson wants 2 minutes, and Senator Symms wants 10 minutes, and I have about 4 minutes.

I ask unanimous consent that we have 15 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, whatever is added to the Senator's time I ask to be added to our time, too. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. THURMOND. Mr. President, I now yield to Senator Simpson.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I very much thank Senator Thurmond, the ranking member, and I thank the Chair.

Mr. President, I rise today in strong support of the bipartisan substitute offered by Senators Kennedy and Specter, and cosponsored by a number of my colleagues on both sides of the aisle. This substitute for the bill passed by the House is really quite a remarkable piece of legislation—because it is a remarkable compromise which will gain the vote of many of us in this Chamber and has gained the support of a broad coalition of individuals, "interest groups"—"special interests," if you will—Members from both sides of the aisle, and the administration.

In my several years as a legislator, I have often seen the time when people on various sides of an important issue will grapple for years, perhaps decades, over the tough and emotional issues which divide them. They will twist the issues around, up and down, and fight and debate endlessly. And yet, with their amassed "experts" on both sides, they never seem able to come to any compromise which can form the basis of an agreement and the basis of legislation which will alleviate the problem.

Often when this occurs, one side or the other or both will come to the Congress and say, "Here is our problem, we cannot resolve it. You, in Congress, you resolve it for us. Just pass a law and take care of it." Of course, that is the very poorest way to write legislation or resolve disputes. If the "experts" on each side of the issue cannot come to terms, then surely we in Congress are ill-prepared to substitute our judgment and our lack of expertise and do a thoroughly credible job. We will only often muddle it up more and the parties in dispute stumble away into the night—again dissatisfied.

But this bill represents the way that it ought to work. The United States would be a better country if more efforts emulated this legislation. The President for many years has worked to achieve some fair legislation which would improve our fair housing laws and put more bite into the enforcement of housing discrimination. To that end, the President directed the Department of Justice and the Department of Housing and Urban Development to work together to fashion some legislation. Of course, the "interest groups" were also intimately involved in negotiations—as well they should be. The Leadership Conference on Civil Rights, the National Association of Home Builders, the National Association of Realtors, the Children's Defense Fund, the NAACP, and so many more worked so very hard with both Congressmen and Senators to devise a fair and appropriate bill to address housing discrimination. And, of course, the Members of the Senate and the House themselves had worked tirelessly with each other in a spirit of compromise and achievement. Consequently, we are finally getting the job done. How great.

I might illustrate my point by addressing just one aspect of this substitute bill which is before us. I am speaking of the issue of handicapped accessibility and protection for handicapped persons from housing discrimination. If we are to permit individuals with disabilities to realize their full potential and become independent and self-sufficient, then we must expand the scope of the Fair Housing Act to encompass housing transactions.

The House bill and this bipartisan substitute before us today require that certain multifamily new construction dwellings must be constructed in a fashion that persons with wheelchairs may be able to "access" their home and also assure that public and common areas must be readily accessible. Other specific requirements are included in the bill. I will not take time to enumerate them here.

When I practiced law in Cody, WY, I served on the local zoning and planning board. I saw them struggle with the application of building codes from national industry standards to apply to specific homes and structures in and around Cody and in the county. That is where the building codes really had their application, not in some multivolume set of instructions, but in the design and construction of the home on a certain real life person's lot. I have always been concerned about the attempt of the Federal Government to expand its role in mandating building codes to State and local communities—thus restricting each community's ability to adapt building codes for their own circumstances and population.

But I am willing to support this bill with its building requirements for our Nations' handicapped individuals. I would certainly never stand in the way of this great compromise. The bipartisan substitute relieves HUD of any obligation to develop or enforce a "Federal building code" or to generally review and approve the plans, designs and constructions of covered multifamily dwellings. It encourages States and localities to adopt and implement their own laws. This is as it should be. This substitute bill authorizes State and local agencies to inspect construction and certify compliance with requirements of the bill. The principal benefit of this substitute is its deferral to and encouragement of State and local enforcement, thus avoiding Federal monitoring of the more than 400,000 multifamily units constructed each year.

Mr. President, I strongly support the legislation before us today and I urge my colleagues to vote for it. I think it is a very well-thought out bill and I commend all who worked so doggedly to bring it to the dazzingly successful result today. What an encouraging theme to present as we deal with the toughest issues of our times.

I think this is a remarkable thing we have seen here with regard to the ability to forge a piece of legislation from such diversity and such long-term almost hostility, at least in the years I have been here, with regard to this issue, and I am, I guess the word is—impressed—because certainly if we can set this pattern in tough issues of legislation—and I surely hope we can—then there is promise for us here in this place to be able to do things that the American people ask us to do and deal with the tough issues.

It seems to me in my 9 years here I am besieged on a daily basis by people who come to my office, and here are 3, 4, 5, 10 people sitting there, sometimes from both sides of the issue, sometimes from one side, saying, "We can't get this done and so we want you to help us with this bill. We want you to sponsor it."

I have the great desire to cast a fishy eye out upon them and say, "How long have you been working on this?" And they will invariably say, "Oh, 5 years, 10 years, 20 years. We have had meetings all over our State. We have had conferences all over the United States. We can't agree."

That happens on so many issues. And then I say, "So now you are going to come and dump the whole load on our desk and say, 'You do it. We have been working on it for 5 years or 10, but we can't get it resolved as we deal with it on an intimate, daily, hourly basis and now you do it.'"

Well, as I said, we do it and we do not do it very well. It does not matter who is in charge either, Democratic or Republican. There is no way you can do it well.

If the groups that are most intimately affected cannot get it done, then how are we supposed to do it when we are dealing with 3,000 items on our plate. So, this is really an extraordinary thing, with all of this diversity in these groups, and I have met with them. I have agreed with them sometimes. I have disagreed with them sometimes. But really, truly, if this will set the pattern for how to deal with a tough issue that has been breeding and brooding here in this Chamber for all these years and come up with something as acceptable as this, it is truly an achievement we should commend. I must say to you I am absolutely delighted. I congratulate those who worked so doggedly to bring about this remarkable, successful result today. If more could be done in that area, it would certainly be something for a legislature to be proud of, and we need more of that kind of activity where you do your work outside this Chamber and then avoid coming here when everything has fallen into the basement and into disarray and discord.

It is a little too late for that. We will not do it right when it comes to us in that form. We will do it right this time because of the fine work of these groups, and I commend them.

Mr. THURMOND. Mr. President, I yield 10 minutes to the distinguished Senator from Idaho, if he needs that much.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator for yielding. When one sits here and listens to my colleagues talking about their bill, I am wondering if I am reading the same bill, and the same so-called compromise that we hear my colleagues talking about. I guess the one thing I have learned in my years here in the House and the Senate is that truth in labeling is one thing that does not apply to the Congress of the United States because I think a better label for this bill would really be the unfair housing bill, because in my view this is real interference with private sector building and developing.

I know the cause is very noble. I do not challenge my colleagues on that. I impugn no one's motives who is concerned about setting standards that make life somewhat easier for the handicapped or the disadvantaged people in the country or in any way tries to get fairness. But I say to my colleagues that is the point of what you can see. What you cannot see when one looks at one of these things is what would happen if the money were directed to build more lower cost housing for more people to make it more abundant and available to the families of working men and women in this country because this all has to be paid for by someone. There is no free lunch in our society and in this world we live in.

All one has to do is go to a nonmarket country where they have a building code that is set at their Federal level, where they set it. They do not have half the good housing that we have in the United States or a third in most cases. They do not have the opportunities for the handicapped, the disadvanaged, or the minorities that we have in this country. In law, this so-called compromise, this so-called mislabeled bill, which I will call the unfair housing bill, imposes an unprecedented nationwide Federal building code on private sector housing. My good friend and colleague from Pennsylvania made a very passionate argument in favor of the bill. I suppose they could throw up their hands and say. "Well, we might as well go along and vote for it so we are not criticized for in any way being against fairness or against minorities or against handicapped in any way."

But I think the other side of the coin, which you cannot see, is how much we have done in this country to make life better for the disadvantaged people because, if we could afford to do it and provide housing for more people that far outweighs any advantage we are going to get by setting a national Federal standard for building codes. It may be that the commerce clause will affect this as some Senators have said on the floor. But in my view, the size of the bathrooms in private homes do not affect the interstate commerce.

This bill imposes broader handicap access requirements on the private sector than have heretofore been applied to publicly-assisted housing. Only 5 percent of units in federally assisted residential housing are covered by Federal handicap access requirements. This bill requires 100 percent coverage of private housing.

The building code will impose enormous cost and landscaping burdens on the construction of multibuilding communities. Each building in such complexes will have to be constructed so that stairs are eliminated as a necessary mode of entrance. This means flattening the landscape before construction, with enormous cost and environmental consequences. But these consequences have gone totally unexamined in the rush to enact this building code without hearings.

Mr. President, that is again what I said. As I listen to the debate on the floor I wonder if I am talking about the same bill that my colleagues are bragging about. This bill is going to increase the cost of housing for the working men and women in America, and people should be prepared to tell the American people the truth. It will increase the cost of housing, make it harder for people to make that first step up the ladder to get into their own home by either renting or buying that home.

The bill makes a mockery of the concepts of individual liberty and private property rights. If you want to build, say, a vacation quadriplex for your family and relatives, the Federal Government will tell you how big your bathrooms and kitchens must be; it will bar you from putting laundry facilities in the basement unless a ramp or elevator is installed; and it will require you to accept schizophrenics and manic depressives as tenants, because they are "handicapped individuals."

With its overexpansive language to regulate elderly communities, it will make it illegal for many varieties of elderly housing to be maintained. The bill's exemptions for elderly communities that the Federal Government will now "permit" to exist are too narrow and rigid. The bill imposes harsh Federal coercion on freedom of choice in personal living arrangements.

I see no need for legislation that is this intrusive into the lives or the building requirements of the people of the United States of America. What has given the people the idea that the Federal Government has to have its nose in every single facet of people's lives?

The bill also requires landlords and apartment owners to welcome persons with dangerous contagious diseases as tenants. A landlord may no longer err on the side of caution in trying to protect his other tenants from contagious diseases. The only way a landlord can legally exclude a person with, say, a deadly influenza, infectious TB, or AIDS is if he can prove that there is a direct threat to the health or safety of others. Few landlords will be willing to risk the draconian sanctions of this bill on the chance he can convince a liberal Federal judge that a direct threat is proven.

Finally, the bill will inscapably increase the cost of multifamily rental housing in this country. Those costs are skyrocketing and the last things this Congress should be doing is passing laws that will increase the rent burden on the lower and middle income families of this country. But that's what this bill does.

Mr. President, the working men and women in this country, and the people who are in the building of housing in this country, have done a very good job in making those decisions themselves or having local or State governments make those decisions. But it is totally unnecessary, unwise, and unwarranted in this Senator's view to involve the Federal Government once again into the lives of the people of this country only to have those people have to pay for those additional costs because of additional burdens, regulations, and costs that will be automatically built into these new houses to be built as a result of increased regulation.

But these factors leave me no choice but to vote against this bill. It is in my view the unfair housing bill. It is totally misnamed and misnomered. As I said, though, Congress has long since passed the stage where we worry about truth in labeling on the kinds of legislation we pass. What this bill is is a bill to impose Federal standards, the big brother in Washington, to tell people how big to make their bathrooms, how big to make the kitchens, what kind and what size doors they must have on the house, and what kind of landscaping they have to have to go in and out of the house. It will increase the cost and price of housing of every working man and woman in this country, and it is not necessary. It is unneeded. It is entirely burdensome. It is going against the way in the United States of America that we have built more housing, turned on more lights, done away with more sickness, and provided better living standards for more people than any other group of people on the face of the Earth.

I yield the floor and return the remainder of my time back to Senator THURMOND.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes. parliamentary inquiry. Do we have 14 minutes? I yield 5 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my colleague.

Mr. President, I rise in support of the Fair Housing Amendments Act of 1988 as amended by the Kennedy, Specter, Hatch substitute. This bill represents workable compromise which is vastly improved over the bill as originally introduced. In the time that I have I would like to review with my colleagues some of the highlights of this compromise bill.

NEW PROTECTED CLASSES—HANDICAPPED CITIZENS

As originally introduced, S. 558, the Senate version of the Fair Housing Amendments Act, added the new classification of handicapped as a protected group. As I have stated several times, this is long overdue. One concern I raised during subcommittee negotiations on the bill, however, was the extension of this classification to cover those who were illegally abusing drugs.

While the argument might be made that addiction to illegal drugs is a handicap to the individual, at best it is a self-imposed handicap, the protection of which would involve an enormous cost to the Government should it be forced to litigate fair housing cases for these individuals. I believe it is safe to say that funding for the enforcement of fair housing cases will be limited by overall budget considerations, and Federal spending in the handicapped area is more wisely spent for handicapped individuals who have not brought about their handicap as have those who abuse drugs.

One of the important features of the present language in the bill is the elimination of current, illegal use of or addiction to a controlled substance from the definition of handicap. This is an important change from the original bill.

Another difference in this language from the original bill is the inclusion of certain handicap building requirements for all new multifamily dwellings. While the inclusion of this section is viewed by some as an extreme solution to the problems that handicapped individuals face, it is within the realm of a bill that attempts to grant equal opportunity for all individuals to all available housing.

Furthermore, it is not unanticipated that a broad provision will create some difficulty in initial compliance. It was therefore the sponsors' intention to create a transition period for the effective date of this section of the bill and the language provides that this section will not go into effect until 30 months after the enactment of the bill. This delay will allow architects and builders adequate time to finish building projects already under way and make design modifications that will be adequate in the future.

FAMILIES WITH CHILDREN

During our hearings on the fair housing amendments, we heard testimony from some witnesses that there currently exist in some parts of the country, serious shortages of adequate housing for families with children. In several of these areas, housing that is reserved for adults only severely compounds the problem. To address this problem, the sponsors of the bill included the new protected class of families with children, an antiage discrimination provision for children.

Early in our consideration process it was recognized that these provisions could potentially have an adverse impact on housing that was constructed for senior citizens who may have chosen to live out their retirement years in an environment that may be more peaceful than one which includes young children. For example, some retirement communities built on a golf course, were designed to accommodate an older clientele who do not wish to see tricycles left on the greens.

As a proposed solution to this problem an exemption was included for bona fide retirement housing which included housing intended for and primarily occupied by persons 55 years of age or older and which provided facilities and services specifically designed to meet the physical or social needs of such persons.

During our negotiations, it was pointed out that this exemption appeared to be quite narrow and somewhat undefined. The substitute amendment that we adopted today goes much further in defining this exemption.

Under the substitute language, housing for older persons is exempted from the familial status provision. Basically, housing for older persons is now defined as just, housing provided under any State or Federal program specifically designed and operated to assist elderly persons; second, housing intended for and solely occupied by persons 62 years of age or older; or third, housing intended and operated for occupancy by at least one person 55 years of age or older per unit, so long as the housing has significant facilities and services for older persons, at least 80 percent of the units are occupied by at least one person 55 years of age or older, and the manager or owner intends the housing to be for those 55 years of age or older.

This exemption has been expanded by including a grandfather clause for those housing facilities that fail to meet the age requirement or percentage requirement because of vacancies. Furthermore, if the requirement for provision of facilities and services is not practicable, the Secretary of HUD may allow an exemption if it can be shown that such housing is necessary to provide important housing opportunities for older persons.

While it can be argued that the exact effect of this exemption is still unclear, it is now much broader than was originally proposed.

STRENGTHENED ENFORCEMENT PROVISIONS—RIGHT TO A JURY TRIAL

One of my greatest concerns with this legislation when it was introduced, and one of the most important differences between the substitute amendment and the original bill, is the right to remove a case to Federal district court for de novo review.

As originally worded, the Fair Housing Amendments Act posed a significant question with respect to the seventh amendment right to a jury trial. In the case of Curtis versus Loether, the Supreme Court upheld the right to a jury trial in title 8 fair housing cases, holding these cases were subject to the seventh amendment.

When the case of Tull versus the United States was decided in the early part of 1987, some cited its reference to the Atlas Roofing case as evidence that Congress can assign cases to administrative law judges without regard for the seventh amendment. In Atlas, where the Court held that an action by the Government to enforce safety regulations could be adjudicated in administrative courts, the decision hinged on public versus private rights.

Others have contended that Atlas only permits factfinding and initial adjudication to be assigned to an administrative tribunal. As the Tull case established, the final enforcement of a damages action, or an action in debt, must be accorded full seventh amendment jury trial rights. In other words, Tull and Atlas may be fully consistent. It is reasonable to conclude that administrative adjudication may be limited to initial factfinding proceedings in cases dealing with private common law actions. Otherwise, Congress would be able to engage in random "court stripping" under the guise of creating new administrative actions.

In 1978, the Carter Justice Department seemed to reach a similar conclusion. They stated, in response to questions about the ALJ mechanism found in an earlier version of the fair housing bill, that:

> [P]lainly, the seventh amendment question here is a close and difficult one. Were we to opine one way or the other, our conclusion would probably favor a finding that [the ALJ provision] is unconstitutional.

I did not always agree with the Carter Justice Department, but this conclusion makes sense.

This section of the bill was also of serious concern to the members of the House. During their consideration of the bill, they adopted a simple compromise which allows any party in a fair housing action to request that the matter be removed to a Federal district court. This simple solution not only preserves the less costly and less formal administrative forum for resolving the dispute, but also provides the parties with an opportunity to appear before a jury of their peers if any party feels that a particular case merits such consideration. This correction has now been incorporated into the bill.

LITIGATING AUTHORITY

Another concern which has been properly dealt with in this current bill language was the House bill's transfer of some of the litigating authority from the Department of Justice to the Department of Housing and Urban Development. The Department of Justice is the litigating arm of the executive branch. Over the years since the 1968 act first went into effect, the Department of Justice has always had litigating authority in fair housing cases and has developed the expertise necessary to pursue these matters. The House compromise would have fragmented the Federal litigating authority and thereby promoted interference and confusion.

Fortunately, in the intervening time since this bill was sent over by the House, the issue has received consideration and this bill will now vest all litigating authority in the Department of Justice, as is properly the case.

COMPLIANCE WITH STATE BUILDING REQUIREMENTS

A final highlight from the substitute amendment is the inclusion of language which allows for compliance with the handicapped building requirements under State or local government laws that are as stringent as those in the fair housing amendments. This provision will result in a substantial savings to the Federal Government which will not be forced to spend precious resources to inspect for compliance with these requirements.

These changes in the enforcement provisions of the bill are important and they were primarily responsible in obtaining the broad support that this measure now enjoys, including my own. I urge my colleagues to support the bill.

Mr. President, as a person who led the fight against the fair housing amendments back in 1979 and 1980, I did so because I thought that bill was extremely unwarranted in the way it was written. The way it was put together and the way it would have worked, I think, ignored various constitutional provisions. I think that is the reason finally it was shot down back then. But I want to compliment my colleagues who have led the fight on this bill at this time. They have worked with a number of us who have tried very hard to try to amend this original bill so we can come up with an approach that literally will be constitutional, constitutionally refined, one that would work, and one that is basically fair and equitable.

Mr. President, I am very proud to rise today in support of the Fair Housing Amendments Act of 1988 as amended by the Kennedy-Specter-Hatch substitute.

Mr. President, I compliment the distinguished Senator from Massachusetts and the distinguished Senator from Pennsylvania, who have allied themselves throughout this battle to lead this fight for this bill and who have been people with whom you can work.

This compromise is very good, and it is a vastly improved bill compared to the one originally introduced, which I probably would have voted against.

In the time I have, I would like to review with my colleagues some of the highlights of this compromise bill, or some highlights that should convince everyone to vote for this bill.

First, it is right to support Federal housing laws. It is right to support equality of treatment in these areas. It is right to support this bill.

This act now contains a substitute amendment, and that amendment contains the following highlights:

There are new protected categories which have been created under this bill for the handicapped and for families with children. I think the bill is written in an appropriate fashion in these areas.

Second, the enforcement mechanism has been greatly strengthened, and that was something that was always deficient in the original open housing amendments.

The new language does take care of some of the following problems:

The current abuses of legal drugs are not protected under the handicapped language, and I think that is as it should be.

There are some safeguard exemptions to the familial status language to protect legitimate housing for the elderly, and that is as it should be.

The right to a jury trial has been preserved, and thus the seventh amendment to the Constitution has been observed—something that I think we have had lots of difficulties with in the past, one of the most important sticking points, to me, in all the past discussions about fair housing.

The litigating authority has been retained by the Department of Justice, and that is important. That is the litigating authority of the executive branch of Government. It is a deference by this body to the separation-of-powers doctrine and to the executive branch, and I think it is an appropriate deference.

I might add that the cost of inspection for the handicapped building requirements has been reduced, so that it is now workable, or at least I believe it will be workable.

There are other good aspects of this bill and there are some aspects I am concerned about, and I think everybody who looks at it will be concerned about them, but let us see how it works. If it does not work well, we should correct it.

I hope that everyone in this body will consider voting for this bill. It is a historic day. This is a historic bill. There are those who have worked on it from the beginning, whether they have been major proponents of this bill or those who oppose it until some of these things can be brought to pass.

I again compliment the distinguished Senator from Massachusetts, the distinguished Senator from Pennsylvania, my great colleague from South Carolina, and others who have worked hard to fashion this compromise and to see that this bill is passed today. I thank them from the bottom of my heart. I am glad to be a participant in it and am glad to be able to support this bill.

I yield back the remainder of my time.

The **PRESIDING OFFICER**. Who yields time?

Mr. **KENNEDY**. I yield myself 5 minutes.

Mr. President, the CONGRESSIONAL RECORD for yesterday omitted language that is contained in the Kennedy-Specter-Hatch substitute. I ask unanimous consent that the permanent RECORD be corrected to include the amended language.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The material referred to is as follows:

"(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations:

"(III) reinforcements in bathroom walls to allow later installation of grab bars; and

"(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

"(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as 'ANSI A117.1') suffices to satisfy the requirements of paragraph (3)(C)(iii).

Mr. **HARKIN**. Does section 804(f)(3)(A) permit a landlord to condition permission for modifications on a tenant agreeing to remove all modifications at the end of the tenancy?

Mr. **KENNEDY**. This amendment does not permit a landlord to require all modifications to be removed at the end of the tenancy. For example, if a tenant asks the landlord for permission to add grab bars to a bathroom, at the tenant's own expense, it would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. Similarly, it would be reasonable to require that the wall to which the grab bars are to be attached is repaired and restored to its original condition, reasonable wear and tear excepted. However, if it is necessary to add studding behind the wall to affix the grab bar, it would be unreasonable for the landlord to require the tenant to remove the studding, since the studding will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises.

Mr. **SPECTER**. On the other hand, a prospective tenant may have a child who uses a wheelchair, and the door to the bathroom is too narrow to permit the wheelchair to pass. The parent, consistent with this legislation, may ask the landlord to enter into an agreement with him to permit the tenant to widen the doorway at his own expense. Further, in usual circumstances, a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises. It would impose an unnecessary expense on the tenant to require him to narrow the doorway. Therefore, it would be unreasonable for the landlord to require the tenant to pay for the doorway to be narrowed at the end of the lease. A landlord who insists that a tenant incur the expense of that unreasonable restoration would be violating the act.

LIABILITY

Mr. **SPECTER**. It is my understanding that, as a result of this bill, a property owner does not assume a greater degree of vicarious liability as a result of injuries that may be caused by the tenants in the expanded categories of protected classes established under this bill. I believe it would be useful for the manager to confirm that it is not the intent of Congress that property owners will incur greater vicarious tort liability as a result of this statute because of the physical or mental characteristics of the tenants covered by this bill.

Mr. **KENNEDY**. The Senator is correct. Congress does not intend to alter vicarious or secondary State tort law through the provisions of this bill. There is no objective evidence to link concerns about increased liability with any of the protected classes, and none should be assumed. Thus, we are stating, as a matter of clarification, that there is no relationship between this bill and existing State vicarious and secondary liability tort laws.

A question was raised regarding the scope of one of the examples in the substitute amendment's provisions banning discrimination against families with children.

I just want to make it clear that subsection 807(b)(2)(C)(i) is not meant to provide a broad exception from the requirement for significant facilities and services. If owners, managers, or developers of housing for older persons seek to avoid the requirements for significant facilities and services, they have a heavy burden to satisfy.

This exception based on impracticability is to be narrowly used only when it can be demonstrated that the costs of providing the facilities and services would result in depriving low- and moderate-income older persons of needed and desired housing. Independent and objective evidence must be provided to establish impracticability. The housing must be shown to provide "important housing opportunities" for older persons.

Mr. SASSER. Under section 6(c) of the bill, the antidiscrimination provisions to purchasers of mortgage loans in the secondary mortgage market, in addition to the originating lenders in the primary market.

It is my understanding that this amendment will not preclude those purchasing mortgage loans from taking into consideration factors justified by business necessity, including requirements of Federal law, that relate to the financial security of the transaction or the protection against default or diminution in value of the security. Federal or State statutes and regulations, as well as sound business practices, require protection from risks arising from defective title, casualty losses, and the borrower's default.

The makers and purchasers of mortgages must be sufficently protected against default or diminishment of the security property to assure the safety and soundness of the lending or investment decision.

Mr. KENNEDY. The Senator is correct. This provision is fully consistent with the concerns you have raised. The amendment will in no way prevent consideration of factors justified by business necessity, including requirements of Federal law, relating to a transaction's financial security or protecting against default or reduction of the security's value.

PRE-EXISTING AGE RESTRICTIONS AND THE ELDERLY HOUSING EXEMPTION

Mr. DeCONCINI. Will the distinguished Senator from Massachusetts respond to a question?

Mr. KENNEDY. I would be happy to respond to a question from my distinguished colleague from Arizona.

Mr. DeCONCINI. Am I correct that nothing in the act is intended to impose liability or to deny elderly housing communities the exemption of the act due to the existence of a recorded age restriction in the community which is lower than the current minimum age stated in the act, when the existing age restriction was created prior to the date of enactment? This is, of course, assuming that a community meets the exemption criteria and that any pre-existing age restriction will not be enforced in a manner inconsistent with the act.

Mr. KENNEDY. The Senator is correct. The act is not intended to impose liability or deny elderly housing communities the exemption of the bill due to pre-existing age restrictions which are lower than the current minimum age stated in the bill, and were recorded prior to enactment of the act. And as you have stated, this is contingent upon a community meeting the exemption requirements and not enforcing any pre-existing age restriction in a manner inconsistent with the act.

Mr. DeCONCINI. I thank the Senator for his clarifying response.

Mr. STAFFORD. Mr. President, I rise today in support of this legislation and I congratulate my colleagues, Senator KENNEDY and Senator SPECTER, on bringing this important issue to the floor of the Senate.

As one of the original authors of section 504 of the Rehabilitation Act of 1973 and as a cosponsor of this legislation and the Civil Rights Restoration Act, I have been a strong supporter of the equal rights of disabled individuals. The programs in the Rehabilitation Act focus on the training and employment in the labor force of handicapped people. Unfortunately, once a disabled individual has a job, finding appropriate and affordable housing becomes the primary problem. This legislation would, for the first time, disallow discrimination with respect to the sale or rental of dwellings to individuals with disabilities.

Physical barriers are one of the most serious forms of discrimination facing citizens with disabilities. State and local codes calling for accessible construction have been around for years. There have been numerous National Barrier Awareness Days and there have been many articles in architecture and design journals regarding accessibility. Yet there has been a consistent failure to design and build housing having accessible features.

H.R. 1158, the Fair Housing Amendments Act of 1988, states that new multifamily dwellings designed and constructed 30 months after the date of enactment must be "accessible to and usable by handicapped persons". This bill also mandates that only certain basic, uniform features of adaptable design are incorporated in new multifamily housing construction. These features were negotiated with the input of the housing industry and are intended to further the goal of establishing minimal standards to eliminate discriminatory barriers to persons with disabilities. The National Association of Home Builders and the National Association of Realtors as well as the Department of Housing and Urban Development support these provisions.

Mr. President, I urge my colleagues to vote in support of this important and necessary legislation and to oppose any amendment which would detract from the primary focus of this bill—to prevent discrimination of any kind in housing to any individual.

Mr. MOYNIHAN. Mr. President, I rise today to join my colleagues in supporting final passage of the Fair Housing Amendments Act of 1988, which I joined with Senator KENNEDY in introducing in April 1987. This legislation is intended to give, at long last, full effect to the 1968 Fair Housing Act—title VIII of the Civil Rights Act of 1968—strengthening the act's administrative enforcement provisions; expanding its coverage to protect the handicapped, and families with children, from discriminatory practice; and requiring compliance from all persons involved in the housing sector.

In 1968, only a few tragic days after the assassination of Dr. Martin Luther King, Jr., landmark legislation was enacted to ban discrimination on the basis of race, color, religion, sex, or national origin in the sale or rental of housing. Passage of this legislation was indeed an important advance for civil rights advocates and a milestone for our Nation. Regrettably, however, regulations were never promulgated to implement the law, and repeated efforts to improve the law through amendments have continually been rebuffed. The initial act of Congress to ensure each American the right to his or her choice of housing was laudable; that nothing has since been done to carry out the civil rights protections embodied in the original Fair Housing Act is a national disgrace.

The bill we offer gives new life to the promises contained in the 1968 Fair Housing Act. It is a compromise reached between civil rights groups, realtors, and legislators that would complete a 20-year effort to add effective enforcement provisions to the original law banning housing discrimination. The bill would also extend protections to disabled persons and to families with children.

Mr. President, the Fair Housing Amendments Act of 1988 has been endorsed by a broad range of organizations concerned about the odious practice of housing discrimination. The House has passed this bill by a vote of 376-23; with the Senate's action today, we can send a bill to the President to sign and in doing so, finally realize the goal we set out to achieve over two decades ago.

Mr. SANFORD. Mr. President, 20 years ago, Congress passed the Fair Housing Act as title VIII of the Civil Rights Act. While that act provides a clear national policy against discrimination in housing, we have unfortunately seen only limited enforcement of this clear prohibition against racial and other forms of discrimination. Indeed, the Department of Housing and Urban Development has estimated that there are 2 million instances of housing discrimination occurring each year.

The need for legislation to provide a better means of enforcing our Fair Housing laws is clearly demonstrated by recent studies conducted by HUD. These studies involve the use of "testers", one white and the other black or Hispanic, who visit a rental or real estate office separately to inquire about housing. The testers are of the same sex, approximately the same age, have the same kind of family status, the same income and ask for the same kind of housing. These studies have conclusively shown that there continues to be discrimination: First, against blacks in the rental and sale of housing, and second, against Hispanics in the rental of housing.

Furthermore, families with children and handicapped individuals are still legally discriminated against under Federal law. With the exception of federally funded housing programs, there currently are no Federal regulations prohibiting housing discrimination to handicapped persons. The time has come for us to correct this injustice, and give all people an equal chance to obtain quality housing.

Today, we have an opportunity to aid the efforts begun 20 years ago to end discrimination in housing, as well as to support the needs of families and handicapped in obtaining fair access to housing. This bill puts much needed teeth in our already existing laws, while adding new protections for families and the handicapped.

The provisions of this bill calling for the establishment of an administrative enforcement system will have the greatest impact in reducing fair housing violations of any segment of this legislation. Under existing law, in attempting to prosecute housing discrimination cases, HUD may only attempt to conciliate with the alleged offender. Any legal action beyond that must be taken by private persons or fair housing organizations. This bill, however, would give HUD the power to bring such cases before an administrative law judge, after conciliation has failed. This procedure should substantially quicken the processing of housing discrimination complaints, as both parties involved will have additional incentive to resolve the case early in the conciliation process, rather than taking the dispute to an administrative law judge.

I do have some concern that the establishment of a new administrative law judge system along with the option of a jury trial in Federal court could be setting up an expensive and cumbersome new administrative and judicial procedure to enforce one aspect of our civil rights laws. Because of the pervasive nature of discrimination through all aspects of our society—housing, employment, education and other areas, we may need to examine whether a more comprehensive approach to discrimination is warranted, and whether civil rights actions should be handled within so many different agencies.

The only other concern that I have seen raised about the administrative procedure is one questioning its constitutionality, in terms of meeting the seventh amendment right to jury trial. I, too, had such concerns until the adoption of the statute allowing any party involved in a housing discrimination case to demand a trial in U.S. district court. This provision will still give HUD the power to effectively enforce civil rights housing violations without denying any party involved their constitution right to a jury trial.

With an effective enforcement system in place, we will truly be able to eliminate discriminatory practices in the sale and rental of housing. The final steps in completing this process are to make it illegal to discriminate against handicapped individuals and families with children. There is no justification for legal housing discrimination against handicapped individuals. This legislation will not only make this practice illegal, but it will also require that handicapped renters be permitted to make, at their own expense, reasonable modifications to the premises, if such changes would give the handicapped person equal access to the premises. These provisions are the only equitable way to eliminate discriminatory housing barriers against handicapped persons, and I intend to give them my full support.

However, I am somewhat concerned about the provisions requiring all multifamily dwellings constructed for occupancy 30 months after the enactment of this bill to meet accepted standards for handicapped accessibility and adaptability. The broad scope of these requirements may so significantly raise construction costs that it may result in many planned housing developments not to be built at all.

I am in favor, though, of the elimination of familial status discrimination, with the exception of communities and housing developments intended solely for elderly residents.

The bill's provisions making it illegal to discriminate in the sale or rental of housing to families with children should successfully solve this long-ignored problem. Indeed, improving the quality of life for our families can and must become a very high priority. My main concern in this area is that the bill's requirement that all housing units, other than those in elderly communities, be made available for families with children may go too far and may force families into units without adequate facilities or safeguards for children. As many people are well aware, in passing the Housing and Community Development Act of 1977, the Congress prohibited the use of high-rise elevator projects for families with children unless no alternative housing was available. This prohibition was based on significant studies and a great deal of testimony on the best living environment for families with children. My concern is that this bill could turn its back on those findings by preventing high-rise apartment owners from limiting the numbers of families with children in their buildings. I would hope that the Department of Housing and Urban Affairs, in adopting regulations to implement this important Fair Housing legislation, would keep in mind the lessons learned in the public housing arena regarding the best environment for families. Indeed, while I might have favored legislation that would forbid discrimination against families with children but which would permit owners to reserve some small percentage of their units for all-adult living if those units were considered inappropriate for children, I understand that this bill represents a hard-fought compromise and I do not intent to upset its balance.

Mr. President, I strongly support the thrust of our Fair Housing Laws—the elimination of discrimination in housing. I am convinced that this is the most effective mechanism for enforcing these laws, and believe that the steps to eliminate familial and handicapped discrimination will go a long way toward achieving these goals. Therefore, I support the passage of this bill and urge my colleagues to do likewise.

Mr. McCAIN. Mr. President, equality of opportunity is a principle upon which our Nation was founded and a commitment to the American people which must never be compromised. Over the past three decades we have endeavored to secure equal opportunity for all Americans through civil rights legislation such as the Fair Housing Act.

Such legislation, no matter how well intended, however, means very little if it cannot be enforced. For many years, equal housing opportunity has been a righteous, but somewhat hollow call, lacking an accessible and practical enforcement mechanism. Under current law, aggrieved individuals are required to seek recourse through costly litigation. This prohibitive option is simply out of reach to most, and results in unredressed discrimination.

The Fair Housing Amendments Act of 1988 rights this wrong, Mr. President. The bill adds remedial bite to our legislative bark through the establishment of an administrative law adjudication process which guarantees accessible and affordable justice. It does not, however, undermine the conciliation process nor does it preclude individuals from their constitutional right to trial by jury. I applaud this accomplishment.

In doing so, however, I feel compelled to express a serious concern about another aspect of the pending legislation. As my colleagues are well aware, the bill seeks to expand statutory protection to families with children. I support the elimination of unfair discrimination against our Nation's families, Mr. President. There are too many factors in our society seeking to undermine the family. Equitable access to housing should be assured. Yet, we must make absolutely sure that in our effort to provide such protection, we do not impinge upon the right of older Americans to enjoy peace and quiet in their retirement years within communities established for that purpose.

I trust that the committee amendment to H.R. 1158 provides the Secretary of Housing and Urban Development with the necessary authority to promulgate regulations which protect older Americans and senior communities throughout this country. Nevertheless, we must be vigilant. I would hope and urge that should we find the current legislation insufficient to protect our seniors, we will act quickly in a bipartisan fashion to correct any unforeseen problems which might arise.

One of the "familial status" exemptions provided by the bill, Mr. President, is extended to housing communities where every resident is at least 62 years old. I am troubled by the implications of this language upon individuals who may meet the age requirement but whose spouse may not. Under the current proposal, either the couple would be prohibited from the housing community, or the community would have to relinquish its exemption and accept families with children—unless, of course, it could qualify for a separate exemption at the discretion of the Secretary. I urge the conferees to examine this provision closely to assess its discriminatory potential, and make the necessary considerations in the conference process. I thank the Chair and my colleagues for their cooperation and sensitivity to this issue. We must never allow our efforts to protect one sector of our society against invidious discrimination to inadvertently discriminate against another, or we have gained nothing.

Several years ago, President Reagan told the Nation of his goal to put teeth in the enforcement of Federal fair housing statutes. The Fair Housing Amendments Act of 1988 before us today is the realization of that vision. I applaud the commitment of the administration, the many Members of Congress and all of those whose efforts have culminated in the legislation before us.

Mr. WILSON. Mr. President, I wish to seek clarification from the Senator from Pennsylvania [Mr. SPECTER] regarding the treatment of mobile home parks under the provisions of the subcommittee's substitute amendment to H.R. 1158. It is my understanding that mobile home parks are eligible for the same exemptions as are other communities under the "housing for older persons" provisions of the Kennedy-Specter substitute amendment.

Mr. SPECTER. The Senator from California is correct. This amendment in the nature of a substitute to H.R. 1158 extends specific exemptions to mobile home communities in the same way they would apply to other adult communities.

Mr. WILSON. Under this fair housing bill, therefore, an elderly mobile home community can remain as such if it meets one of two exemptions. First, those communities where all of the residents are 62 years of age or older and where the housing is intended for persons in this age group are exempt. Second, the substitute allows for elderly communities when at least 80 percent of a community's residents are at least 55 years of age as long as one resident in each unit meets this age requirement. In such instances, the community must also provide significant facilities and services specifically designed to meet the physical or social needs of elderly persons, unless the provision of these facilities and services would not be practicable or that such housing is necessary to provide important housing opportunities for older persons.

Mr. SPECTER. Senator WILSON is correct. The substitute before us authorizes the Secretary of HUD to promulgate regulations, which include determining whether the "significant facilities and services" provisions would have an impracticable or burdensome impact on a community's residents. But this hardship will have to be demonstrated, keeping in mind that such housing represents a significant housing opportunity for the elderly.

Mr. WILSON. And it is important to note that these communities will benefit from a transition rule, meaning that the age requirements will only apply to new residents—no community will be disqualified based on its current resident population. This means that a mobile home community which intends to be elderly under section 805 but does not currently meet the age threshold can retain its exemption under the bill as long as new incoming residents satisfy the requisite age requirements. Is this the Senator from Pennsylvania's understanding as well?

Mr. SPECTER. Yes it is. And again let's bear in mind that we are not trying to undermine an elderly community's wishes to remain as such. What we are doing is assuring that those communities that do elect to retain their elderly status under the provisions of section 805 do so by satisfying certain threshold requirements.

Mr. WILSON. I want to thank my good friend.

Mr. WEICKER. Mr. President, I rise today in strong support of H.R. 1158, the Fair Housing Amendments Act of 1988.

Twenty years ago, Congress enacted the Fair Housing Act of 1968 to end discriminatory practices in housing on the basis of race, color, religion, sex, or national origin. Yet, 20 years later, housing discrimination still exists. The Department of Housing and Urban Development reports that over 2 million instances of housing discrimination occur each year. A recent survey by HUD of 3,000 brokers and rental agents in 40 metropolitan areas found that blacks looking for a home to buy are likely to encounter discrimination about half the time. The statistics for blacks in the rental market are even more discouraging—about 3 out of 4 can expect to experience discrimination during the search process. The situation is similar for Hispanics and worsening for Asian-Americans and families with children. The bill before us today will provide for more effective remedies for violations of the Fair Housing Act, by significantly strengthening the enforcement mechanisms under the act.

In addition, there are other segments of our society which routinely encounter discrimination in housing: families with children and individuals with disabilities. Therefore, the amendments we make today will add these two groups to those protected under the Nation's fair housing law. I fully support these amendments, and would like to take a few moments to discuss the importance of this legislation for individuals with disabilities as we seek to reach our goal of equal access to housing every American family.

Congress has long recognized that it is in the national interest to integrate individuals with disabilities into all aspects of American life. This goal was made very clear in 1974 when Congress enacted the White House Conference on Handicapped Individuals Act which stated:

> The Congress finds that . . . it is essential . . . to assure that all individuals with handicaps are able to live their lives independently and with dignity, and that the complete integration of all individuals with

> handicaps into normal community living . . . be held as the final objective.

We have worked to attain this goal through enactment of numerous laws intended to increase the independence, productivity and integration of people with disabilities into society. Such landmark legislation as Public Law 94-142, which mandates that all disabled children are entitled to a free appropriate public education in the least restrictive environment, has meant the end of segregation and discrimination toward handicapped children in our public schools. Laws such as the Rehabilitation Act and the Developmental Disabilities Act address other barriers faced by disabled individuals in their effort to lead lives of dignity and independence. The enactment of the Civil Rights Restoration Act in March restored the vitality of section 504 of the Rehabilitation Act, and made it clear that Congress will not permit tax dollars to subsidize discrimination against disabled persons.

I have also introduced legislation to provide comprehensive civil rights protections for disabled individuals that are parallel in scope of coverage to existing civil rights laws protecting minorities. And just last month, the Committee on Labor and Human Resources approved the "Technology-Related Assistance for Individuals with Disabilities Act of 1988," to assist disabled individuals to acquire and use technological devices that may be necessary to allow them to move from dependence to independence.

Each of these laws weaves an important thread in the fabric of protections which people with disabilities deserve as citizens of our great Nation. Each in its own way addresses barriers created through ignorance and stereotypes about people with disabilities that have resulted in their being treated and portrayed as a separate and inferior class of citizens.

But in spite of these laws, we are far from ending the discrimination faced by disabled individuals. Indeed, the National Council on the Handicapped, in its report On the Threshold of Independence issued in January of this year, has stated that discrimination is "The number one problem faced by people with disabilities in our country today." And a major area where such discrimination exists is that of housing.

The council further states that housing is a "major prerequisite to social integration and living independently for persons with disabilities." Since people with disabilities are not currently included under the Fair Housing Act, they are frequently turned down for apartments or houses because a landlord or owner objects to their disability. Blind people are denied housing and told that they would be a fire hazard. Mentally retarded people are rejected as unfit tenants. People who use wheelchairs often find that they are unable to locate any accessible housing whatsoever. And deaf pesons seeking housing find that landlords are often unwilling to make any effort to communicate with them.

These barriers to accessible housing within the community make our efforts to move individuals out of institutions much more difficult—not only at the cost of human suffering, but at significant economic cost, as well. While there is great variation in the costs of institutionalization, generally those costs are assumed to be between $30,000 and $100,000 per year per person. Yet the expense associated with accessibility features for new housing are relatively small. Estimates are that at most, such requirements would entail less than 1 percent of construction costs. We are told by the National Association of Home Builders that they can build in features to ensure accessibility at very little cost—and that cost can be expected to decline ever further once such modifications become standard in the housing industry.

Specifically, the bill provides that it is illegal to discriminate in the sale or rental of a dwelling on the basis of the handicap of the buyer or renter. Under the legislation, it would be discriminatory to refuse to permit, at the expense of the disabled individual, reasonable modifications necessary to afford that person full enjoyment of the premises. It would also be prohibited, as of 30 months after the date of enactment, to refuse to make certain newly constructed dwellings accessible and adaptable for individuals with handicaps.

The major barrier faced by people with disabilities today—discrimination—is not going to go away until we find ways to end their segregation and isolation from the rest of society. And the attitudes, stereotypes, and misconceptions of the rest of society about people with disabilities are not going to change until those of us without disabilities have the opportunity to be around people with them—as classmates, as colleagues, and as neighbors.

With the passage of the Fair Housing Amendments Act of 1988, we move closer to that goal by ensuring that discrimination against people with disabilities in housing will no longer be tolerated. No longer will disabled Americans be told, in their quest for a place to live, "Sorry, this property is not available," when what is really meant is that "This property is not available to you."

I urge my colleagues to reaffirm their commitment to the principle of fair housing for all by supporting this important legislation.

Mr. DOMENICI. Mr. President, I am most pleased to be an original sponsor of the Senate substitute amendment for H.R. 1158, the Fair Housing Amendments of 1988.

For the past 20 years, the Federal Fair Housing Act, title VIII of the Civil Rights Act of 1968, has forbidden discrimination in the sale, rental, and financing of housing on account of race, color, religion, sex, or national origin.

The mechanisms in place at the Department of Housing and Urban Development [HUD] have not been effective in resolving a most important aspect of American life—the right to live where you can afford to buy or rent a place to live. This fundamental civil right is as basic to American freedoms as our right to vote and equal opportunity under the law.

The problem of discrimination has been verified by HUD. White, black, and Hispanic testers have visited real estate and rental offices seeking to purchase or rent housing. The results of this national testing program are shameful. These tests verify that some 2 million Americans are denied their choice of housing solely on the basis of deliberate discrimination.

The enforcement of title VIII currently rests on a conciliation process at HUD. This means that compliance is mostly voluntary and through negotiation and persuasion. The strongest remedies in law now exist if a party is able to prove a pattern and practice of discrimination. This process is not only difficult to prove, but it is timely and costly.

When we think that the real concern of those who are discriminated against is simply the right to purchase or rent the home of their choice, then the lengthy legal requirements now in place actually work against this goal. By the time issues are settled, other buyers and renters have taken control of the subject property.

Mr. President, I am proud to be a sponsor of the Senate substitute Fair Housing Act of 1988. Not only do we create an enforcement mechanism that promises to bring relief to buyers and renters who lose the housing of their choice, but we bring new protections to families with children and the handicapped.

I would like to express my thanks to Vice President GEORGE BUSH, Senator ARLEN SPECTER, and Senator EDWARD M. KENNEDY for their leadership roles in reaching a timely and important agreement to keep this important civil rights legislation moving forward. I understand that the Vice President saw to it that the administration's interests were actively represented at the bargaining table. Due to the Vice President's involvement, we now have the administration's full support for this substitute bill.

The lack of effective enforcement has been the major missing component in fair and open housing. Under the changes in the civil rights law before us today, HUD's ineffective conciliation process is replaced with effective remedies.

CONDUCT OF LITIGATION

This bill creates expedited timetables for resolving complaints. The statute of limitations for a violation is extended from 180 days to 1 year. When a complaint is filed, an investigation by the Secretary of HUD must be completed within 100 days. Both the aggrieved person and the respondent are required to be notified by HUD of their rights.

Both the complaining person and the respondent, under our substitute bill, will have more choices in reaching resolutions to charges of discrimination. Both parties will have the choice of having an administrative law judge [ALJ] proceed with the case or either party could elect to have the Department of Justice [DOJ] proceed in Federal court.

The latter choice, proceeding in Federal court, brings the case under the protections of amendment VII to the U.S. Constitution, the right to a trial by jury. Our substitute bill clearly provides that either the complainant or the respondent has a right to request a trial by jury. The clarity on this matter is an important agreement in the substitute bill.

Again, timing is important, and the Attorney General has 30 days after the election to litigate in Federal court to "commence and maintain" a civil action.

The housing discrimination case, by agreement of both parties, can go the ALJ route. The ALJ's have several options for settling the discrimination dispute. They can award actual damages, equitable relief, or impose maximum civil penalties of $10,000 if there is no prior violation, $25,000 if there has been one prior violation within the preceding 5-years period, and $50,000 if there have been two or more violations within the preceding 7-years period.

With clear timetables and strong fines, Mr. President, I predict that we will not see as many housing discrimination cases when the President signs our bill into law.

CONTROLLED SUBSTANCE ABUSERS

Mr. President, another fair housing issue brought to my attention by my constituents in New Mexico, is the valid concern that users of illegal drugs not be included in our definition of handicapped for the purposes of this Fair Housing Act.

For those who have raised this concern, I would simply like to state my support for the report language. Accoding to the House Report (100-711), and unchanged in the Senate substitute,

> The definition adopted by the committee makes it clear that current illegal users of or addicts to controlled substances, as defined by the Controlled Substances Act, are not considered to be handicapped persons under the Fair Housing Act.

The report continues:

> Similarly, individuals who have a record of drug use or addiction but who do not currently use illegal drugs would continue to be protected if they fell under the definition of handicap. The Committee does not intend to exclude individuals who have recovered from an addiction or are participating in a treatment program or a self-help group such as Narcotics Anonymous. (p. 22)

The intent is clear, and I support this intent. The committee, "affirmed that all individuals with handicaps, with the exception of current illegal abusers or addicts of controlled substances, have access to the housing protections established by this Act."

The case law developed under section 504 of the Rehabilitation Act of 1973 is used by the committee to draw another important distinction. A person removes himself or herself from protection under the act if objective evidence can be presented to show that this person "would pose a threat to the safety of others." In other words, physical or mental handicap alone does not mean automatic protection under this bill.

FAMILIES WITH CHILDREN

In the Fair Housing Amendments of 1988, a family with children is added as a protected class to the Civil Rights Act of 1968. The latest HUD national survey of discrimination based on familial status shows that 25 percent of all rental units did not allow children. Restrictive policies that discouraged families with children were found in 50 percent of all rental units.

HUD also found that,

> Units in predominantly white neighborhoods restricted children at a rate of 28.9 percent compared with 17.5 percent in predominantly black neighborhoods, and also found that restrictions are greater in recently built units.

This House effort to exempt certain housing for the elderly did not meet the tests of recognizing the needs of the elderly as well as the needs of families with children.

Our substitute provides better protection for a broader range of housing for older Americans. The factors required to maintain an exemption for buildings serving older persons will be established by regulation in our substitute. This will allow HUD to react to changing housing needs of the elderly.

The Senate substitute bill also increases from 10 to 20 percent the maximum percentage of units in exempted elderly buildings which may be occupied by the nonelderly, elderly households with an adult child, or a couple in which one spouse is under 55 years of age.

Thus, we are opening the housing doors in America for families with children, but not at the expense of older Americans. I will watch with interest, Mr. President, the impact of this provision on adults only buildings. New Mexico realtors tell me that we have no major problem of housing availability for families with children. I am one who would not hesitate to revisit today's civil rights changes if we are going too far against market forces for single people and young married people who choose to live in environments without children.

HANDICAPPED ACCESSIBILITY COMPROMISE

I was concerned that H.R. 1158 would become known as the basis for a new Federal building code. The construction requirements for new buildings with four or more units, as passed by the House, could mean that HUD would have to review all blueprints before construction could begin.

The House bill and the Senate substitute have some important features to help the handicapped. We have agreed on these changes. First of all, each unit built for occupancy 30 months after enactment must be convertible to the needs of a handicapped person, at that person's expense. Other changes in law will require that buildings have the access needed by the handicapped.

All public and common areas, in the House passed and the Senate substitute bills, must be readily accessible for handicapped persons. Doors must be wide enough for wheelchairs. Light switches and thermostats must be at reachable levels for the handicapped, and bathroom walls will require reinforcement so that a handicapped tenant could install grab bars at his or her own expense.

The substitute bill makes the important decision that HUD will have no authority to develop or enforce a Federal building code. Nor will HUD have the review and approval authority over the building plans. Instead, the substitute bill appropriately leaves responsibility for building code standards in the hands of the State and local officials. This will keep the Federal Government out of an area that has traditionally been a local responsibility.

Mr. President, the latest compromise, the Senate substitute bill, represents the best efforts of industry leaders, civil rights activists, and government leaders.

I urge my colleagues to vote in favor of our Senate substitute for the Fair Housing Act of 1988. There is no justification for delaying these changes any longer. When passed and signed into law, this important civil rights bill will mean a change for the better in housing for over 2 million Americans each year.

Mr. HELMS. Mr. President, there is always an inclination to vote for legislation having an appealing title—and this is the case with this so-called fair housing bill. But if one takes the time to look beneath the surface of this bill, it stands exposed as a clear intrusion by the Federal Government into areas traditionally reserved to the States by creating what amounts to a Federal housing court, presided over by administrative law judges, in the Department of Housing and Urban Development [HUD].

It would also establish a Federal building code with respect to handicapped accessibility in multifamily housing. The family status provisions in the bill would jeopardize many housing opportunities for the elderly.

These are just some of the problems with this massive unprecedented Federal interference with private property rights and individual freedom—especially when much of the legislation has never been the subject of hearings in either House of Congress. I am obliged to vote against it, even though it will likely be approved overwhelmingly.

Mr. President, I am not opposed to helping those who have unfairly been the target of invidious discrimination in their search for housing. Indeed, I feel Americans have a responsibility to ensure that citizens with special needs can find or adapt housing to meet those needs and that families with children are permitted to compete equally with everyone else for the Nation's housing.

However, Mr. President, we can go only so far before we begin to infringe on the civil rights and freedom of association for the rest of the population. Is a nationwide building code for private residential housing really a proper subject for Federal control? Should the Federal Government be given the authority to tell Arizona, Florida, or North Carolina how to balance the housing needs of elderly citizens who prefer adult-only housing with the needs of families with children? Are these issues not best left to State and local control? I am convinced that the answer is yes.

Let's look at the specifics of the bill. First, Mr. President, H.R. 1158 essentially sets up a Federal housing court presided over by administrative law judges. However, either side in a complaint can have the case removed to Federal district court once the Secretary of Housing and Urban Development files a charge in a case. Unfortunately, the bill as amended in the Senate would require the Attorney General to "commence and maintain a civil action on behalf of an aggrieved person," in all cases where such an election is made.

I am convinced, Mr. President, that this provision eliminates any discretion on the part of the Federal Government to determine which fair housing discrimination cases are strong enough to take into Federal court. This is particularly disturbing, when you realize that not only is the Government required to represent an aggrieved party—whether or not the Government feels a case has merit—but the Government may also be required to pay a defendant's attorney's fees if the Government loses the case in court.

Mr. President, in addition to creating this Federal housing court, H.R. 1158 goes on to establish in section 6 what is tantamount to a Federal building code for all residential buildings consisting of four or more units—conceivably bringing row houses within the bill's definiton of multifamily housing. It would require all such newly constructed multifamily units to have:

First, interior and exterior doors wide enough for wheelchairs;

Second, usable kitchens and bathrooms large enough to allow wheelchairs to maneuver;

Third, all light switches, outlets, and thermostats low enough—waist-high—to be reached from a wheelchair;

Fourth, reasonable accommodations in rules, policies, practices, or services "necessary to afford the handicapped an equal opportunity to use and enjoy a dwelling."

Mr. President, one practical effect of the wheelchair maneuverability requirements will be the elimination of small half baths from all new multifamily units. Basements or row houses with entrance steps would have to be accessible by ramp or elevator. Light switches would have to be located lower and wall sockets would have to be considerably higher than the floorboard level common in most homes today—increasing the risk of electrocution to small children by making them more noticeable and accessible. The "full use and enjoyment" standard in the bill could be interpreted to require that sinks, counters, and appliances be accessible from a wheelchair—whether or not a handicapped person will ever actually occupy the dwelling.

Mr. President, it is unjust and economically unsound to require that 100 percent of all new multifamily housing be built to accommodate the special needs of a relatively small segment of the population—especially when such accommodation imposes unnecessary costs and inconvenience on every other segment of the population. The Department of Justice estimates that fewer than 700,000 people in the United States are confined to wheelchairs, yet this bill would require that all 400,000 multifamily dwellings built each year be able to accommodate the needs of the wheelchair confined.

Mr. President, most building codes across the country require that 1 percent of units be adapted for the handicapped, yet many of those units have not been rented because there are not enough handicapped residents to fill the units—or because the handicapped do not wish to live in such units. Incredibly, Mr. President, waiting lists exist for nonhandicapped units in many areas of the country while the specially adapted units sit vacant. In light of this fact, it is wholly unnecessary to require all new multifamily construction to incorporate adaptive designs for the handicapped mandated by this bill.

Mr. President, this bill would also obligate landlords to allow the handicapped to make "reasonable" structural modifications to rental premises, but it makes no distinction between long and short term leases. Obviously, disputes will arise between landlords and tenants as to what modifications are in fact "reasonably" necessary.

Mr. President, H.R. 1158 will include the mentally handicapped within its protection, including those whose illness predisposes them to violent behavior. This bill will increase the liability exposure of landlords for injuries and damage that may be done by such tenants. Landlords would also remain liable for injuries to the handicapped themselves if landlords knew or should have known the mentally handicapped would not be able to appreciate the dangers posed by balconies, garbage disposals, gas ovens, or other features of the premises.

Despite this potential liability on the part of property owners, Mr. President, H.R. 1158 would prohibit them from refusing to rent to the mentally handicapped yet it would prevent them from fully investigating the backgrounds of prospective tenants to detect such potential problems. Landlords would only be permitted to inquire into a prospective applicant's ability to meet the requirements of tenancy. Landlords could not ask blanket questions which touched on the nature of an individual's disability.

Mr. President, at a minimum we should have hearings in at least one House of Congress on the practical and economic consequences of the protections for the handicapped in this bill before we enact such sweeping legislation into law. The handicapped provisions were added in the House Judiciary Committee and did not receive the benefit of hearings and testimony from affected parties in either the House or Senate. Congressional hearings would provide some forum for determining whether the need for these provisions substantially outweighs their considerable cost and impact on society—especially since most States and localities already have extensive statutes and ordinances specifically directed at the housing needs of the handicapped.

Mr. President, hearings should also address the desirability of retaining the "ready access" standard of handicapped accessibility—as currently embodied in the Architectural Barriers Act and section 502 of the Rehabilitation Act of 1973—rather than adopting the "full use and enjoyment" standard contained in this bill. This is a new standard which has no precedent in law or regulation. It would be prudent therefore to conduct hearings on this new standard before we adopt it.

Mr. President, H.R. 1158 would also add families with children, or "familial status," to the list of prohibitions on discrimination contained in the title VIII of the Civil Rights Act of 1968 for the first time. No other Federal civil rights statute prohibits discrimination on such grounds. And once again, Mr. President, like the protections for the handicapped, the practical consequences of this "familial status" proposal have not been the subject of hearings.

Mr. President, while the House Judiciary Committee's report on H.R. 1158 made much of the percentage of rental units which discriminated on the basis of family status and of the high percentage of families with children which had encountered discrimination based on their family status—as contained in a study conducted by the Department of Housing and Urban Development in 1980—the report failed to mention that that study's final conclusion was that there was very little actual bias against children in rental housing. Many of the apartment complexes which did not permit children were efficiency units or one-bedroom apartments which were too small to accommodate families with children and thus were often prohibited from doing so by State and local occupancy rules.

Therefore, Mr. President, health and safety concerns for the most part and not an invidious intent to discriminate against children accounted for the familial restrictions encountered by the majority of families surveyed in the study. Restrictions in single-family and larger multifamily units were found to be much less common. In fact, only 3.7 percent of rental units with three or more bedrooms were found to discriminate on the basis of family status.

Mr. President, it does not seem that discrimination against families with children has much in common with prejudice based on race, religion, national origin, sex, or handicaps. The most significant problem facing families with children in the housing market today is affordability, not invidious discrimination. The larger a family is, the more space required, and thus housing costs can quickly exceed the ability to pay.

Therefore, it should be readily apparent, Mr. President, that the "familial status" provision in H.R. 1158 will have very little impact on alleviating the housing problems of families with children. On the other hand it will have a significant adverse impact on many senior citizens, unmarried individuals, and couples without children who legitimately desire quiet buildings without the full-time presence of children. Such natural preferences do not manifest hatred or prejudice toward children and can hardly be equated with prejudice based on race, religion, national origin, sex, or handicaps.

Mr. President, the two narrow exemptions from the "familial status" provisions in the bill for elderly housing will only grant relief to senior citizens who are relatively wealthy. Housing communities 90 percent occupied by at least one individual 55 or over are exempt if they also provide "significant facilities and services" to meet the needs of older people. Unfortunately, only the wealthiest senior citizens will be able to afford retirement communities which routinely provide the "facilities and services" required to be exempt.

Mr. President, the other exemption from the "familial status" prohibition in the bill—for communities occupied solely by persons 62 years or older—is also targeted exclusively for structured retirement communities. Neither exempton, therefore, would be applicable to the numerous housing providers who rent most—if not all—of their units to the elderly, but do not provide special services specifically addressed to the elderly's needs. Many informal housing arrangements catering to the elderly with very limited housing resources would be prohibited by this bill.

Mr. President, it is certain that this bill will absolutely prohibit developers and landlords from attracting young single adults and couples without children to adult-only developments or housing communities—despite the Constitution's guarantees of freedom of association.

Mr. President, State and local governments have always been in the best position to address the competing interests in the housing market. They can address the problems of families with children while protecting the rights of the elderly and others desiring to live in an adult-only environment which does not otherwise violate the civil rights laws.

Mr. President, I am all for the elimination of invidious discrimination in the housing industry. However, the creation of a Federal housing court and the promulgation of a Federal building code mandating adaptive designs for the handicapped as embodied in this bill is not the way to go.

The extension of the civil rights antidiscrimination protections to families with children is also unwarranted when the problem confronting them is a matter of economics, not invidious discrimination of the type associated with race, religion, national origin, sex, or physical handicaps.

Mr. President, the purpose of this bill—fair housing—is an admirable one. However, the manner in which it seeks to accomplish that goal is just another example of the Federal Government's unwarranted intrusion into matters best left to State and local governments, or better yet, individual choice. Therefore, Mr. President, I am obliged to vote against this bill.

Mr. DANFORTH. Mr. President, our country needs a tough fair housing law. The bipartisan substitute to H.R. 1158, that we are voting on today, will finally put real teeth in title VIII of the Civil Rights Act of 1968. This legislation is probably the most comprehensive civil rights bill the Congress has voted on in over a decade.

I wish to draw your attention to one important feature of the bipartisan substitute which improves greatly upon protection in the House bill for housing for older persons. This compromise provides a balanced solution to the very pressing problem of discrimination against families with children in rental housing. H.R. 1158 adds familial status, described as a family with children, to the classes protected by title VIII of the Civil Rights Act of 1968. The substitute simply broadens the exception to this protection so that the needs of both older adults and children are considered.

Mr. President, the need for some protection for families with children in the area of housing is well documented. According to a nationwide HUD study, in 1980, 26 percent of rental housing in the United States banned children and another 50 percent placed restrictions on the age and number of children allowed. This is a shocking statistic given the fact that the number of families with children that depend on rental housing has grown by about a half million since 1980 and that children and their families represent the largest group of homeless in the United States. The provision in this bill to prevent discrimination against families with children is an important step in our efforts to ensure the bright future of our Nation's children.

While the needs of families with children are crucial, we must not neglect the rights of elderly Americans. Under the House bill, elderly housing is exempted from the requirement to admit families with children if no one in the building is under 62 years of age, or if 90 percent of the residents are over 55 years of age and the owner provides significant facilities and services designed to meet the physical or social needs of older persons. The Secretary of HUD and the Attorney General correctly noted that the House bill fails to fully protect the interest of older Americans. Many housing arrangements that benefit the elderly are informal, and not rigid. As a result, the House exemption would bring into question the status of many apartment buildings designed for the elderly that do not apply policies with the mathematical precision and iron-clad age cutoffs required by the House-passed exemption.

This bipartisan compromise removes the requirement that every building owner wishing to serve older persons must either deny admission to everyone under 61 years of age or provide facilities and services designed to meet the physical or social needs of older persons. The cost of these facilities and services threatened to restrict elderly-only housing to relatively expensive retirement communities such as Leisure Word or Sun City, AZ. It also increases from 10 to 20 percent the maximum percentage of units in exempted elderly buildings which may be occupied by the nonelderly, elderly households with an adult child, or a couple in which one spouse is under 55 years of age. In addition, the factors required to maintain an exemption for buildings serving older persons will be established by regulations. This will allow HUD some latitude to react to experience and the changing housing needs of the elderly.

The substitute also provides a grandfathering provision for nonelderly adults now living in buildings which choose to operate in the future as elderly housing exempted by the bill. This grandfather clause precludes unfair treatment for many adults without children now residing in adult-only buildings with a significant share of residents over 55.

These broader protections were negotiated by the administration, key Senators, the AARP, and the Children's Legal Defense Fund. They struck a good balance between the need to prevent discrimination against single mothers and other families with children with the needs of older Americans who prefer a quiet, congenial living arrangement.

I support the bipartisan substitute and commend the efforts of everyone involved in drafting this balanced approach to the protection against discrimination of families with children.

Mr. McCONNELL. Mr. President, we have before us today a landmark bill to strengthen the Fair Housing Act of 1968—legislation to ensure that no American is denied access to housing on the basis of discrimination. H.R. 1158 provides the Department of Housing and Urban Development with tightened laws and enforcement powers to more effectively fight housing discrimination.

The Department of Housing and Urban Development estimates that there are over 2 million instances of racial bias in housing each year in this country, despite current laws prohibiting such discrimination on the basis of race, color, religion, sex or national origin. That is an appalling statistic, and evidence that new legislation is necessary.

In addition, this bill before us today addresses the problem of age discrimination that families with young children experience in renting. Currently, 75 percent of all rental units have restrictions regarding the ages of children allowed to live on the premises.

Another step forward that this bill takes is in the direction of prohibiting discrimination against handicapped persons. This is a top priority in fair housing policy, but I hope to work with my colleagues to ensure that this provision does not extend its protection to drug abusers and dangerously contagious individuals.

As an outspoken supporter of the Civil Rights Act of 1964, 1965, and 1968, and one who participated in the civil rights marches of those years, I have long been committed to ending discrimination in this country.

The Fair Housing Amendments Act is an important step on the road to ending discrimination, and I urge my colleagues to support it.

Mr. CRANSTON. Mr. President, I am pleased to support the Fair Housing Act Amendments of 1988. As an original cosponsor of the Senate measure when it was introduced in February of last year and as chairman of the Housing Subcommittee of the Senate Banking and Urban Affairs Committee, I am strongly committed to strengthening our laws barring discrimination in housing. Elimination of discrimination in housing is an essential part of our national commitment to a just and a fair society, where equality of rights and opportunities is a reality for all.

Twenty years ago, Congress enacted title VIII of the Civil Rights Act, making it the law of the land that discrimination on the basis of race, color, religion, or national origin in housing is illegal. In 1974, title VIII was extended to cover discrimination on the basis of sex. The legislation before us today would extend those policies to ban discrimination against disabled individuals and families with children. Equally important, this measure would strengthen the enforcement mechanisms of title VIII so that the policies set forth in the law can be implemented in a fair and meaningful fashion.

STRENGTHENING ENFORCEMENT OF TITLE VIII

Mr. President, this legislation is long overdue. There has been widespread recognition for many years that title VIII lacked enforcement provisions comparable to those contained in our other basic civil rights statutes. Unfortunately, in 1980 efforts to strengthen these enforcement provisions were thwarted by a filibuster in the Senate. At long last, we are on the verge of making these important changes.

Mr. President, under existing law, the agency responsible for title VIII implementation—the Department of Housing and Urban Development [HUD]—has little authority to enforce the law. The only tool available to the Secretary of HUD has been conciliation efforts. Unlike numerous other civil rights laws, the Federal Government does not have an active enforcement role in cases involving probable violation of title VIII. Victims of unlawful discrimination are forced to bear the burden of enforcement through private litigation—a costly and time-consuming process.

Current law also contains a stringent statute of limitations, requiring an aggrieved individual to commence an action in a Federal district court within 180 days of the discriminatory act, and a limitation of $1,000 on punitive damages for intentional discrimination. These restrictions, in addition to severe limits upon the availability of attorney's fees for victims of discrimination, have made redress for violations of title VIII difficult to obtain.

The legislation before us today will provide a meaningful remedy for violations of title VIII by establishing an administrative enforcement procedure whereby the Secretary of HUD, upon a determination that there is reasonable cause to believe that discrimination has occurred or is about to occur, can commence an action before an administrative law judge in proceedings subject to the Federal Administrative Procedures Act.

A decision by an administrative law judge in a title VIII case could be appealed to a Federal circuit court of appeal. In addition, all the interested parties would be provided with a judicial enforcement alternative to the administrative process. Any party would have a unilateral option of electing to go to a U.S. district court rather than going before the administrative law judge. This latter provision allows any party, by exercising the option to have the case heard in a Federal district court, the right to have a trial by jury.

These enforcement provisions, which were the subject of extensive negotiations, are designed to provide a fair and meaningful process whereby title VIII complaints can be resolved in a timely fashion. The provisions have broad bipartisan support.

COVERAGE OF DISABLED INDIVIDUALS AND FAMILIES WITH CHILDREN

Mr. President, as I noted earlier, in addition to strengthening the enforcement provisions of title VIII, the legislation expands its scope of coverage in two important ways. It extends protections against discrimination in housing to disabled individuals and families with children.

I have been pleased to be at the forefront of efforts to secure the civil rights of disabled persons during the last two decades, first as the principal author, along with my good friend from Vermont, Mr. STAFFORD, of section 504 of the Rehabilitation Act of 1973, and more recently, as a principal author of the Civil Rights Restoration Act of 1988. I believe that over the past 15 years, our Nation has made significant strides toward overcoming the attitudinal and physical barriers that have kept many disabled Americans out of the mainstream of our society and have denied them opportunities that should be every citizen's due.

However, we cannot rest on our laurels. Much more needs to be done, and housing is a vitally important area in which the next major advance would be most appropriate. Ensuring nondiscrimination in housing means ensuring an essential element of independence and integration into the community for disabled individuals. The right to vote, to work, and to travel freely are all important aspects of an individual's life, but none is more elementary than having the freedom to choose where and how one lives. Housing is shelter—but it is much more. It's the opportunity to be part of a community. It's a chance to enjoy the social and recreational aspects of being a neighbor. It can be the independence to flourish in a lifestyle of one's own choosing. In short, housing is a basic right that we cannot allow to be denied on the basis of a disability.

The provisions of this bill represent a fair balance between the rights of disabled persons, and the costs of the accommodations required to meet their needs. It is the result of many extended and thorough negotiations which have produced a bill heralded both by those in the industry and by those who will benefit from its enactment as a fair compromise and good policy.

It is now time to move beyond the Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1988 to ensure that disabled individuals are protected from invidious discrimination in their access to housing.

Similarly, the legislation addresses a pervasive problem facing families with children. Discrimination against families with children has forced millions of families into substandard housing. Housing discrimination prevents many American families from realizing a central element of the American dream, a safe and affordable place to live and raise their children.

A 1980 national survey conducted by HUD found that 75 percent of rental units either excluded or restricted families with children. Numerous local and State studies have confirmed the scope of the problem. Many of these studies also found a linkage between discrimination against families with children and racial discrimination. Black, Hispanic, and other racial and ethnic minority families are often disproportionately affected by policies that exclude children.

There is also little doubt that discrimination against families with children contributes to the fact that families with children are an ever-increasing segment of the homeless population. The U.S. Conference of Mayors has estimated that families with children constitute more than 30 percent of the homeless population nationwide, with some cities reporting figures closer to 50 percent. There is little doubt that many of these families remain homeless for long periods of time because they cannot find appropriate and affordable housing. "No children" housing policies are a major part of the housing problems faced by millions of young families.

Mr. President, the legislation provides reasonable accommodations to protect housing designed to meet the needs of senior citizens. The compromise agreement provides exemption for housing for senior citizens and provides HUD the authority, by regulation, to ensure that these senior citizens housing developments are not jeopardized. It is a fair and balanced compromise that protects young families and senior citizens alike. It has the support of both child advocacy and senior citizens advocacy groups.

Mr. President, the Fair Housing Amendments of 1988 will provide a much-needed strengthening of the enforcement provisions of title VIII of the Civil Rights Act. It will extend its protections to disabled individuals and families with children. It is an important step forward in our continuing efforts to attain a just and fair society, where every individual has equal opportunities and rights.

COVERAGE OF PEOPLE WITH AIDS-RELATED CONDITIONS UNDER THE FAIR HOUSING ACT

I am pleased to note that one of the positive effects of this legislation would be to prohibit discrimination in housing against persons with AIDS-related conditions, including AIDS, AIDS-related complex, and asymptomatic infection with the AIDS virus. Under the Kennedy-Specter substitute, unless the health or safety of another individual is directly threatened by the occupant of a house or apartment, an individual with an AIDS-related condition cannot be discriminated against.

As my colleagues are well aware, medical science has told us over and over again that AIDS cannot be transmitted through casual contact and that, therefore, people with AIDS do not, in general, pose a health or safety threat.

Mr. President, this legislation represents a major step forward in fulfilling the recommendation of the Presidential Commission on the Human Immunodeficiency Virus Epidemic to eliminate medically unjustified discrimination. The Commission—appointed by President Reagan—wrote in its June 1988 report:

> [D]iscrimination against persons with HIV infection in the workplace setting, or in the areas of housing, schools, and public accommodations, is unwarranted because it has no public health basis.

Mr. President, this bill would extend to the field of private housing the protections against discrimination which have been developed under the Rehabilitation Act of 1973, as recently reaffirmed in the Civil Rights Restoration Act. The latter measure clearly established the principle that an AIDS-related condition should not be excluded per se from coverage under antidiscrimination laws, but should instead be treated as any other handicapping condition. Specifically, under the Civil Rights Restoration Act, and the substitute measure before us, cases of discrimination are to be judged on an individualized basis to ensure that adverse treatment will not occur unless there is a medical basis for it; that is, in the case of housing, unless the individual is not "otherwise qualified" to occupy the housing because his or her tenancy would pose a direct risk to the health or safety of others.

This, of course, is in full accord with the case of *School Board of Nassau County* v. *Arline* (107 S. Ct. 1123 (1987)), in which the Supreme Court held that contagious diseases are not excluded from the scope of section 504.

Given the similarities of wording between the two measures, courts interpreting the meaning of this bill can reasonably be expected to rely heavily on the judicial interpretations of the Rehabilitation Act. That act has been understood, correctly, by the courts in cases such as *Chalk* v. *United States District Court* (840 F.2d 701 (9th Cir. 1988)) and *Thomas* v. *Atascadero Unified School District* (662 F.Supp. 376, 379 (C.D.Cal. 1987)) to cover AIDS as a handicapping condition. The act has also been interpreted, correctly, to reflect Congress' intent to cover asymptomatic infection with the AIDS virus. Most recently, in *Doe* v. *Centinela Hospital* (No. CV 87-2514 PAR (June 30, 1988)), U.S. District Court Judge Pamela Rymer of the Central District of California ruled that HIV infection was a "perceived handicap" covered by the act. "No matter what else *Arline* may fairly be read to hold," Judge Rymer wrote, "it clearly states that discrimination based solely on fear of contagion is discrimination based on a handicap when the impairment has that effect on others." I would also add that the Presidential Commission supports "the position that section 504 coverage applies to persons who are HIV positive yet asymptomatic."

The same reasoning would apply under the Fair Housing Act—which, like section 504, would prohibit discrimination on the basis of a perceived handicap—where a person infected with the HIV who has no symptoms is denied housing because of the incorrect perception of others that HIV is contagious through normal social interaction.

The "perceived handicap" approach has been recognized in other courts. In *Ray* v. *School District of DeSoto County* (666, F.Supp. 1524 (M.D. Fla. 1987)), the court granted a preliminary injunction against a school district that had excluded three seropositive, asymptomatic boys. In *Local 1812* v. *Department of States* (662 F.Supp. 50 (D.D.C. 1987)), although the court denied a union's request for a preliminary injunction against the Department of State's requirement that medical examinations for foreign service employees include an HIV test, in its discussion of the coverage of section 504, it concluded both that "it is enough" for carriers of the HIV to be "perceived to be handicapped" and that "a known carrier" is so perceived.

Enactment of the Fair Housing Act would, thus, extend the force of these rulings into the field of housing that it covers.

Mr. METZENBAUM. Mr. President, I rise in support of the Fair Housing Amendments of 1987. When we introduced this bill last year, I expressed my hope—indeed my strong commitment—to the passage of a fair housing bill during the 100th Congress. Long before I came to the Senate, I was involved in Ohio in efforts to secure housing for blacks and Jews. Then we had to use every bit of our determination to secure a minimal amount of fairness for the victims of discrimination. When this bill was introduced, I recalled this experience. I had hoped that by now, the problem of fair housing would be solved. That has not happened, and so here we are in 1988, still hoping to realize the dream of fair housing.

After many hearings, many months, and much effort on the part of Members of the Senate as well as the House, we have a bill which every Member of the Senate can support. It is a bill which is now supported by the majority leader, the minority leader, the Homebuilders Association, the administration, the National Association of Realtors, the Black Realtors Association, as well as by the Leadership Conference on Civil Rights.

Since we introduced the bill last year, objections have been raised on several grounds.

Some have argued that the families with children provisions will make it impossible for older Americans to find appropriate housing. The sponsors have paid close attention to these comments, and have responded by fine tuning the provisions of the bill to take the concerns of older Americans seriously. Governmental housing for the elderly is exempted, so is housing reserved for persons 62 years or over as well as housing reserved for households containing at least one person 55 years or older. These changes provide a great deal of flexibility for those older Americans who prefer an environment which excludes families with children. As a result of these changes, the American Association of Retired Persons and the National Council of Senior Citizens support the bill.

Charges have also been made that requiring that new construction be adapted for the handicapped will increase the cost of housing and also result in the creation of a Federal building code. There will be some increase no doubt, but these small increases will be offset by the increase in the housing supply for not only handicapped persons but for the elderly who also often have mobility problems. To insure that there will be no Federal building code established, we have included provisions for State and local enforcement of the new construction provisions. The provision for State and local enforcement will allow local government to continue its traditional role of supervising the construction of new buildings.

When the Senate considered the fair housing bill, we heard some objection to the provisions which would permit administrative law judges to award damages and penalties. A solution to this problem was worked out by Members of the House.

As the bill now stands, either party to an administrative law judge proceeding may opt to have their claims or defenses heard in Federal court. This compromise is endorsed by the Leadership Conference for Civil Rights and the National Association of Realtors. I applaude the National Association of Realtors for its decision to support the fair housing amendments with these changes.

As a result of diligent efforts over an 18 month period, we have a fair housing bill which is supported by both Republicans and Democrats, by the House and the Senate, the Justice Department, the White House, and many others. This is a momentous occasion for us all and I congratulate all who have worked so hard on this bill.

When this bill was introduced, I said that the promise of fair housing had not yet been realized.

There is nothing more fundamental than the right to choose one's home.

When this right is denied the rest of life's opportunity seem empty and meaningless.

A home is where we seek our refuge from life's burdens, where we raise our children, greet our grandchildren, and welcome our neighbors. It is the symbolic center of our lives.

America's promise of equality is a lie unless every American can seek a home without the fear of encountering arbitrary discrimination. The dream of fair housing must be kept alive. That is why I support this bill. That is why I join my colleagues in hoping that the effort we have made during this Congress will finally make the dream a reality.

Mr. LAUTENBERG. Mr. President, this year marks the 20th anniversary of the Fair Housing Act. I am pleased that we are restating our commitment to fair housing and strengthening this vital legislation. As a cosponsor, I stand in strong support of the bill before us.

The United States stands for certain principles which have distinguished our country. Among the most important of these is an absolute commitment to equal rights under the law. Protection against discrimination is the hallmark of our civil rights laws. Congress has made it illegal to discriminate against people in several fundamental aspects of life. Few things are as basic as shelter. The Fair Housing Act of 1968 was passed to assure equal access to housing.

But, after 20 years, the undeniable fact is that we have a long way to go. It has been hard to enforce the fair housing law. Many minority groups still report continuing and serious problems with discrimination. Experience has shown that the fair housing provisions of the Civil Rights Act of 1968 are being ignored. They are not being enforced.

Discrimination takes many forms, some more subtle than others. Landlords tell black or Hispanic families that an apartment has already been rented when it has not. They tell a prospective tenant that his credit did not check out. A black tenant may be asked for a higher than usual security deposit which he cannot afford. Other techniques are more blatant. A real estate agent will not show homes in certain neighborhoods to minority buyers.

That is wrong. It is a sad commentary in 1988. Yes, we have made progress in providing equality for all our citizens. But, we still encounter noncompliance with civil rights laws. Problems of housing discrimination persist. The Fair Housing Act must be stronger.

The 1988 amendments will strengthen enforcement procedures. Under current procedures, a victim of housing discrimination can either file a private law suit in Federal district court or request the Department of Housing and Urban Development [HUD] to attempt conciliation between the parties. Lawsuits are costly and slow. The conciliation process is weak. HUD cannot require both sides to participate and it cannot enforce any agreement.

We need a stronger enforcement mechanism to make the law effective. Citizens seeking to rent or buy homes must be assured of their right to fair treatment regardless of their race or other group characteristics.

The bill sets up an administrative hearing process, using independent administrative law judges [ALJ's]. This is nothing new. The ALJ system is used in other agencies. It relieves the courts of some of the burden and offers a swifter hearing for citizens.

An ALJ hearing does away with delaying tactics such as special motions, recesses and so on. A discrimination victim would not even have to have a lawyer. HUD would investigate and file a complaint on behalf of the victim. HUD would have 100 days to complete its part of the process and file a complaint. Conciliation would still be possible. But if it fails, the victim has access to a faster process, one more tailored to the needs of individual citizens.

The bill adds handicapped persons and families with children to the classes which would be protected from housing discrimination.

The issue is whether a family can live in a decent place of their own choosing or whether it is forced to live where others want them to. And if they are not to be denied housing, then they must have access to a process that upholds their rights. The current system of adjudication does not do that. The current system makes a mockery of the legislative mandate against discrimination.

This country needs to give more than lip service to its principles. The strength of this country is in its promise of equal opportunity for all. Surely the right of equal access to housing is part of that promise. No one should be told they cannot live somewhere because their skin is the wrong color or they have a foreign accent or they are handicapped or have children.

Congress can help to make that promise come true by putting teeth into the Fair Housing Act. I am proud to cosponsor this important bill and look forward to its enactment into law.

Mr. PACKWOOD. Mr. President, I rise today in support of H.R. 1158, the Fair Housing Amendments Act of 1988.

Twenty years ago Congress took a great step forward by enacting the Civil Rights Act of 1968. For the first time, Federal law provided protection against discrimination in housing. Today, we are about to complete that stride toward equality with the passage of this bill which offers those responsible for fair housing enforcement the necessary tools to ensure compliance.

We also are offering protection to citizens with special needs. By protecting the handicapped's housing choices, we all benefit. The physically challenged gain the freedom to live where they want, and the general public gains a wealth of exposure to a vigorous and contributing segment of our society.

Importantly, families with children, including pregnant women and adoptive parents, are protected from housing discrimination. I applaud the efforts of those in the administration and our Senate leadership who have worked out an acceptable compromise in this area. As an original cosponsor of this bill, I had no desire to unnecessarily alter the quality of life in our Nation's senior communities, and I am pleased that the American Association of Retired Persons and the National Council of Senior Citizens have seen fit to support this legislation.

The legislation before us has achieved success in the true spirit of compromise. Like earlier civil rights legislation, this bill safeguards the rights of traditionally deprived individuals without adversely affecting constitutional values which we hold dear.

I am proud to be a cosponsor of this bill, and I join with the President, the Vice President, the Department of Housing and Urban Development, and my distinguished colleagues from Pennsylvania, Utah, and Massachusetts in supporting the current comprise bill.

Mr. DODD. Mr. President, I rise in enthusiastic support of final passage of the Fair Housing Amendments Act of 1988. We seem a long way from the divisive debates that had been the dubious hallmark of our progress on this issue since 1980. Today, I hail the bipartisan achievement of my colleagues, particularly that of Senators KENNEDY, SPECTER, and HATCH, whose amendment to this legislation in the nature of a substitute is testament to their deep commitment to the civil rights of all Americans and to their belief that the need to end discrimination in housing transcends partisan concerns.

Over the last 2 days, my colleagues from both sides of the aisle have outlined the provisions in this legislation which strengthen and enhance the enforcement remedies for housing discrimination while extending coverage to the handicapped and to families with children. I won't belabor their well-articulated points here. I will only add that had I been here yesterday and not laid up with the flu as I was, I would have joined them in their chorus of support and would also have joined them in their overwhelming vote to table the Helms amendment which would have limited Supreme Court review in cases pertaining to school prayer.

Mr. President, this is indeed an historic day and I again commend my colleagues for their vigilance and their commitment to this crucial civil rights legislation.

Mr. CONRAD. Mr. President, I rise today in strong support of H.R. 1158, the Fair Housing Amendments Act of 1988. This year, 20 years after the Civil Rights Act of 1968, we are finally taking the important step of providing enforcement for the fair housing provisions contained in title VIII of the 1968 act. With this bill, we also recognize two groups—families with children and handicapped persons—who are in need of protection from housing discrimination.

On June 29, the Fair Housing Amendments Act overwhelmingly passed the House. This House-passed bill which we are considering today represents an historic compromise on civil rights legislation. The National Association for the Advancement of Colored People, the National Homebuilders Association, the National Association of Realtors, the American Association of Retired Persons and others all came together to craft workable, enforeable legislation. The Department of Housing and Urban Development and the White House have also lent their support to this legislation. I applaud these participants for working together in this way.

Mr. President, the act before us consists of amendments to title VIII of the Civil Rights Act of 1968, which banned housing discrimination on the basis of race, color, national origin, or religion. Critics have long recognized that the 1968 act provided for little enforcement of its provisions. The Justice Department can sue, but only in cases where a "pattern or practice" of discrimination can be proven. Since, in the case of individual discrimination, only aggrieved person can bring suit, private persons and fair housing organizations are burdened with primary enforcement of the provisions. While they are effective, they are limited by resources and the law itself. HUD, under existing law, can investigate housing discrimination but the agency cannot sue violators to enforce the law.

There has been some attempt to amend the Civl Rights Act of 1968. In 1980, the House passed H.R. 5200, the Fair Housing Amendments Act of 1980, by a vote of 310 to 95. That bill, like the current bill, provided for administrative enforcement of title VIII of the Civil Rights Act. Passage of H.R. 5200 in 1980 was the culmination of a long oversight process that began in the 92d Congress, with a series of hearings on equal opportunities in housing. The hearings continued in the 95th and 96th Congress. Various bills were introduced to beef up enforcement by creating administrative enforcement mechanisms. None of them were acted on.

The bill we are considering today includes a key provision for enforcement—the creation of administrative law judges within the Department of Justice. Under the Fair Housing

Amendments Act of 1988, the Department of Housing and Urban Development will be empowered to take action against those who discriminate in the sale or rental of housing. HUD can investigate and make a charge of discrimination. Cases may then be worked out through conciliation or the case may be heard by an administrative law judge within the Department of Justice. The Secretary of Housing and Urban Development may opt to take the case to a jury trial. The finding of the administrative law judge would also be subject to appeal to the U.S. Circuit Courts of Appeals.

The Housing Amendments Act of 1988 also extends antidiscrimination protection to two groups: handicapped persons and families with children. The House Judiciary Committee's hearings revealed that there was rampant discrimination against these groups. Approximately 75 percent of all rental units have rules that bar or restrict families with children. Persons with disabilities, of whom there are approximately 36 million, continue to be excluded from large sections of the housing market.

In order to insure that handicapped persons can access housing units, this bill requires that all newly constructed multifamily units built be accessible and adaptable for handicapped persons. Doors and hallways must be wide enough for wheelchairs; switches and other controls must be accessible. Also, disabled persons should be easily able to make alterations.

I know some have been concerned that this bill will require property owners to make extensive and expensive renovations to their units. The costs should not be prohibitive, however, since owners and renters are not required to renovate existing units, nor are they required to install expensive elevators.

Others have objected that they will be required to rent or sell to alcohol and drug abusers because of the handicap provision. The bill specifically exempts alcohol and drug abusers from the handicap provision, and it does not force property owners to rent or sell to anyone who would present a health threat to other residents. This bill also allows elderly housing units, as long as they are substantially composed of senior citizens, to remain seniors' housing.

This bill is one of the most significant civil rights measures in the last 20 years. It will considerably strengthen fair housing provisions and extend their protection to two groups in dire need of protection. Mr. President, I stand in strong support of this legislation and urge its quick passage by this body.

Mr. KERRY. Mr. President, I am pleased to join with Senator KENNEDY and other distinguished colleagues in support of the Fair Housing Act of 1988, and to be a cosponsor of this important legislation. This bill represents a major step forward in ensuring that our national commitment to civil rights and equal rights for all Americans will not be an empty promise. This bill is the result of a compromise between the Leadership Conference on Civil Rights, the National Association of Realtors, and other interested parties, and I commend all of them for their efforts to address the issue of fair housing.

I would also like to note the commitment that this bill makes to provide full and fair housing for the 30 million disabled Americans in this country who are in need of good housing. By our votes on this bill and the amendments to it, the Senate has signalled its concern for providing fair housing for persons with disabilities. This is a very important statement by the Senate.

Mr. President, in 1968, this Nation made a commitment to eliminate discrimination in housing. We did so by enacting a major piece of civil rights legislation, the Fair Housing Act of 1968. Yet today, 20 years later, housing discrimination in American cities is still an ugly reality.

This legislation would remedy some of the defects in the Fair Housing Act of 1968, by providing an expedited administrative enforcement mechanism to assure that complaints are heard and decided in a fair, timely and economical manner.

In order to ensure that the Fair Housing Act works in the way that Congress intended, we must strengthen the enforcement powers of the Department of Housing and Urban Development. Under the present law, HUD has a procedure that enables a victim of housing discrimination to report a violation. But the Department can do little to stop that violation. No HUD official has authority to issue "cease and desist" orders to those found guilty of discriminating in housing. HUD can only investigate and try to bring the two parties together to conciliate their differences.

The weakness in the existing fair housing laws accounts for much of the failure to eliminate the policies and practices which discriminate against minorities, handicapped persons, and families with children. Landlords are not willing to try to resolve disputes with professed victims of discrimination, because there is little that HUD can do to penalize them. The ineffectiveness of the existing law is demonstrated by the fact that few housing discrimination complaints are filed with HUD. Yet, there is abundant evidence that housing discrimination still exists.

HUD's own estimates show that at least 2 million incidences of unlawful discrimination in housing occur annually. This figure does not reflect the increasing number of overt and even violent acts directed against minority families who move into all or predominantly white neighborhoods.

The most recent HUD-commissioned survey, covering 3,000 brokers and rental agents in 40 metropolitan areas, found that black families seeking to buy a home stand a 48-percent chance of encountering discrimination, and blacks looking for a place to rent have a 72-percent chance of encountering discrimination. A similar study in Dallas concluded that a dark skinned Mexican-American has a 96-percent chance of experiencing discrimination in a typical search for housing. Complaints of housing discrimination against women and Asian Americans are also numerous and increasing. And disabled persons continue to be excluded from large segments of the housing market, as do families with children.

This legislation will afford victims of housing discrimination a means to redress their grievances, and would avoid a lengthy trial procedure. It would also broaden the Fair Housing Act to protect handicapped persons and families with children. It has often been said that justice delayed is justice denied. Let us act promptly to bring an end to injustice and discrimination in housing. This legislation will begin that effort.

Mr. LEAHY. Mr. President, I rise in support of the Fair Housing Amendments Act. I am pleased to be an original cosponsor of the Kennedy/Specter bipartisan substitute.

I want to commend Senators KENNEDY and SPECTER for their leadership in bringing this compromise legislation to the floor. It is a testimony to their diligence that the bill before us has the support of President Reagan, Department of Housing and Urban Development Secretary Pierce, civil rights groups, disability groups, senior citizens groups, realtors, homebuilders, architects and many other organizations.

In 1968, 1 week after the death of Dr. Martin Luther King, President Johnson signed into law the Fair Housing Act of 1968, which bars discrimination in the sale or rental of housing on the baisis of race, color, religion, or national origin. The act was amended in 1974 to prohibit discrimination on the basis of sex as well.

Twenty years later, the Fair Housing Act can be credited with reductions in housing discrimination practices. But the act needs updating and bolstering. Despite a national fair housing policy, unlawful discrimination is still widespread. The Department of Housing and Urban Development estimates that more than 2 million incidents of housing discrimination on racial grounds alone occur each year.

The legislation we are considering today equitably addresses the needs of the many Americans who experience the humilitation of housing discrimination.

The Fair Housing Amendments Act would extend protection against housing discrimination to two important groups—families with children and individuals with disabilities.

Discrimination against families with children is a serious problem in the United States. We need laws that support our families, not leave them without adequate shelter.

Without disrupting federally-assisted senior citizen housing or bona fide retirement housing, this legislation would make it unlawful to refuse to rent or sell a housing unit to a family solely because of the presence of children.

It also would be unlawful to refuse to rent or to sell to an individual with a disability solely because of that person's disability. It would be illegal to refuse to allow a disabled person—at his or her own expense—to make the reasonable modifications to a housing unit that would be necessary for that individual to live in the home.

Acts barring housing discrimination—or any type of discrimination—are only as effective as their enforcement. This legislation would strengthen the 1968 Fair Housing Act by putting teeth into the enforcement process, and providing for faster, more practical remedies for victims of illegal housing discrimination.

The Fair Housing Amendments Act is about equality of opportunity in housing for all Americans. I urge the Senate to honor the commitment it made 20 years ago to end housing discrimination by passing this important legislation.

Mr. KENNEDY. Mr. President, this moment has been many years in coming, and what a beautiful moment it is. The 20-year logjam on fair housing is finally breaking, and the promise of fair housing is about to become a reality.

I think it is safe to say that this is the most important expansion of civil rights in terms of protecting individual Americans against discrimination that we will have successfully passed in the last 20 years. We have seen the restoration of important rights that had been denied in the Grove City Court decision, and those rights have been restored.

We have seen other extremely important pieces of legislation which have been achieved over the last 20 years. But I believe this is the most important expansion, and it is a result of a strong bipartisan group of Senators.

It has been a Democratic Congress working with a Republican administration. It has been as a result of courageous decisions being taken within the administration. It has been the result of the persistence of a number of Senators who over the years have recognized that the Fair Housing Act of 1968 was not the remedy that many of us had hoped for, even at that time to address the types of discrimination that take place in this country against many citizens whose skin is brown or yelllow, not white.

Perhaps one of the few advantages we have seen over the last 20 years is that, when we have been addressing this particular barrier to full opportunity in our society, we have also recognized that there is further discrimination in our society agaisnt those who are physically or mentally handicapped, those who want to be able to participate in the American dream and not be subject to the dependency that some of our colleagues are prepared to see them involved in.

We have also taken note of increasing discrimination in our society against families. It is difficult to believe, but it has been increasingly so, particularly families with small children. If there has been a silver lining in the fact that we have had to revisit this issue of fair housing and housing discrimination since 1968, it is that this bill incorporates important protections for those individuals, and that makes this an even more historic and significant moment for this body.

Every year, millions of Americans have suffered flagrant discrimination trying to buy a home or rent an apartment. From the beginning, the problem has been that the remedies provided by the law are too cumbersome and archaic—they have made fair housing an empty promise.

For 20 years, landlords have routinely thumbed their noses at the Federal statute, confident that victims of discrimination would have neither the time nor the money to enforce their rights in court.

For 20 years, because the fair housing law is a toothless tiger, black Americans, Hispanic Americans, and other minorities have been condemned to live in segregated homes and divided neighborhoods whose very existence is an insult to the American dream and the founding principle of our country, that all persons are created equal.

In the course of the two decades of this debate, we have learned that separate is never equal in America—not in schools, not in jobs, and not in housing. We have tolerated separate but not equal housing for too long. We have tolerated a situation in which families with children have had second-class status. Now they, too, will benefit from the promise and reality of a fair opportunity to obtain adequate housing.

This legislation can dispel the bias and discrimination that infect the housing markets of America. This measure represents a new, bipartisan commitment by Congress and the administration that, regardless of party or ideology, we are ready to work together to root out the evil of discrimination from our midst.

Finally, I think we have seen the progress over the period of the last 25 years. We have eliminated, to a very substantial degree, the barriers to participation in the electoral system of our country—voting rights.

We have eliminated discrimination against citizens in public accommodations.

We have eliminated discrimination, hopefully, in the areas of employment.

We have sought to remedy the discrimination that has existed against women in education, with the title IX program. We have recognized in section 504, the discrimination which has existed against the disabled and the handicapped. The age discrimination issue has also been addressed by Congress.

Now we add to those measures this very important measure that, hopefully, will move us as a country and a society to eliminate discrimination in the housing area against families and the handicapped.

I am grateful to all Members who have been a part of this effort, who, as I mentioned in the statement yesterday, built on the shoulders of a number of our colleagues. I welcome the chance in this bipartisan effort to see the Senate of the United States move toward continuing to eliminate the barriers to full opportunity in the American dream. This legislation is a major step forward in that direction, and I hope the Members will support it in overwhelming numbers.

Mr. President, I reserve the remainder of my time.

Mr. THURMOND. Mr. President, I rise to support final passage of the Fair Housing Amendment Act of 1988, H.R. 1158, and the substitute thereto.

This legislation addresses a common goal which I believe is shared by all Members of Congress and that is to provide adequate redress for discriminating housing practices.

As a nation, we have adopted a policy that housing be available to all persons regardless of their race, color, religion, sex or national origin. With the passage of this bill, we will add families and handicapped to the list of protected classes.

Mr. President, our intent is to prohibit discrimination in housing and I wholly support this effort. Going further, I wanted to be sure that our objectives were achieved with a practical legislative package that did not overly expand the authority of the Federal Government.

I was encouraged to learn that during fiscal year 1987 over 72 percent of the housing discrimination complaints received by HUD were referred to State and local fair housing agencies. It is appropriate for these types of complaints to be resolved at the State and local level when there is a tenuous nexus for Federal intervention.

During my 34 years in the U.S. Senate, I have seen the Federal Government go into almost every facet of our lives. If we are to adhere to the Constitution, then it is our duty in the Congress to limit Federal intervention to those areas which have been specifically enumerated in the Constitution.

During the progress of this legislation through the Congress, I raised concerns on some aspects of this bill; specifically as they related to the Constitution.

Originally as drafted, this bill denied parties to a housing discrimination complaint their seventh amendment right to a jury trial.

This was the strongest objection to enactment of this legislation and I was pleased to see this constitutional problem resolved.

I was pleased that my amendment was adopted which will not compel a landlord or seller to provide housing to any person convicted of distributing or manufacturing illegal drugs.

Other issues were raised to clarify the scope and application of this bill.

On balance, I believe we have a bill which will properly strengthen the ban against discriminatory housing practices across our Nation—without expanding Federal authority beyond what is acceptable.

I will vote in favor of this legislation.

Mr. President, I wish to take this opportunity to commend the distinguished Senator from Massachusetts, the manager of the bill, for the outstanding leadership he has provided in this matter. I also would like to commend Senator SPECTER and Senator HATCH for their leadership in this bill. All three of these Senators are members of the Judiciary Committee. We have all worked together on many matters and I am pleased we could be together on this particular matter.

I would like to commend two Members who offered amendments that were not adopted, Senator HUMPHREY of New Hampshire and Senator HELMS of North Carolina. Although their amendments were not adopted, they participated actively. It is always good to hear all views concerning a matter and then Senators can make up their minds. These two Senators devoted considerable time to this bill and ought to be commended.

I would also like to commend some staff members who worked hard on this bill. Senator KENNEDY had two that I know of that did—Jeff Blattner and Carolyn Osolinik. Senator SPECTER, had Steve Hilton; Senator HUMPHREY had George Smith; Senator HATCH had Kay Morell; Senator HELMS had Andy Hartsfield; and I had Thad Strom and Terry Wooten.

The staff members do more work around here than people realize. They do the spade work. They work after hours and do all that they can to bring legislation to fruition.

Mr. President, in closing, I want to say that I think we have a good bill and I hope the Senate will support it.

Mr. KENNEDY. Mr. President, before voting, I just wanted to again express our appreciation to the majority leader. He was the majority leader the last time that the Senate addressed this issue in the closing days of the 1980 session. We had a 9-day filibuster. We were unable then to reach a conclusion on this measure and now again, as majority leader, he is ensuring at least that the membership have an opportunity to speak to this issue. I think it is going to be a major and substantive achievement for this body, but we would not be here unless he had the perseverance and followed this measure.

I also want to express my appreciation to the minority leader, as well as the former chairman of the Judiciary Committee, my friend and colleague, the Senator from South Carolina. We differ on issues and we agree on issues. I am always happier when we agree on them. I appreciate his kind words today and the opportunity to work with him.

I wish to pay a special tribute to Senator SPECTER, the Senator from Pennsylvania, who was there at the time that we had all of the hearings that we had on this measure over a period of years. I thank the Senator from Utah for his work. He has been against us on the fair housing bill and he has been for us. It is much better to have him for us. I know, as always, he wanted to achieve the basic objective which brought us all together and he has demonstrated that commitment with his support for this measure here today. It has been a welcome opportunity for me to work with him, as well. I hope that we would gain an overwhelming vote.

Mr. President, I ask unanimous consent to have a list of the staff members and our colleagues who worked closely with us on this matter printed in the RECORD with my thanks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FAIR HOUSING STAFF LIST

Senator KENNEDY: Jeff Blattner, Carolyn Osolinik, Laverne Walker and Mika Epstein.

Senator SPECTER: Steve Hilton, Margaret Morton, Carol Hamburger, and Jeff Robinson.

Senator METZENBAUM: Linda Green and Eddie Correia.

Senator SIMON: Deborah Leavy.

Senator HARKIN: Bobby Silverstein.

Senator WEICKER: Terry Muilenburg.

Senator THURMOND: Thad Strom and Terry Wooten.

Senator HATCH: Kay Morrell.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a letter from the National Association of Real Estate Brokers be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REALTISTS U.S.A.,
Washington, DC, August 1, 1988.

Hon. EDWARD KENNEDY,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR KENNEDY: Pursuant to Senate Bill 558, we applaud your extraordinary efforts in bringing together historical opponents of fair housing to initiate an act that proscribes penalties for certain acts of violence or intimidation beyond those methods that were originally expressed in the 1968 Civil Rights Act.

The National Association of Real Estate Brokers, Inc. (NAREB) Realtists, have long been the advocates of equal and fair treatment of minorities in their quest for unrestricted inclusion in the housing market and industry. Senate Bill 558, will not only provide equal access for persons seeking housing in this great nation, it will also provide economic opportunities for minorities in real estate and the related trade industries.

The housing crisis in this nation is at its worst in history, not only in terms of affordability, but in exclusionary practices which place many Americans at a distinct disadvantage when looking for a home. The forms of subtle discrimination that are now practiced have reached such levels of sophistication that it is absolutely imperative to institute the type of regulation and oversight that you have included in this legislation.

The National Association of Real Estate Brokers has always recognized your commitment to the goals of equal opportunity for all Americans and we look forward to continued and enthusiastic support of your leadership in advancing the ideas expressed in this legislation and with related issues that are of common concern to us all.

Sincerely yours,

ALBERT H. JOHNSON,
President of NAREB.

The PRESIDING OFFICER. The question is on the passage of the bill. The yeas and nays have been ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, when the record of the 100th Congress has been written, those who study it may be surprised at the many important pieces of landmark legislation that have been enacted during these two sessions. One of these landmark pieces of legislation that will stand out will be the bill on which we are about to vote today, the fair housing bill.

I thank Mr. KENNEDY for his kind references to my minute part in the enactment of this legislation. I congratulate him on providing the leadership that he has consistently shown in this field of legislation, as well as in many other legislative areas.

I also congratulate and thank the distinguished ranking member of the Judiciary Committee, Mr. THURMOND, and as well those other Senators who have been named heretofore—Mr. SPECTER, Mr. HATCH, and others—all of whom have contributed in great measure to the enactment of this bill.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Nevada [Mr. REID] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER (Mr. SIMON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—3

Helms
Humphrey
Symms

NOT VOTING—3

Biden
Bumpers
Reid

So the bill (H.R. 1158), as amended, was passed, as follows:

H.R. 1158

Resolved, That the bill from the House of Representatives (H.R. 1158) entitled "An Act to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'.".

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

SEC. 4. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

"SEC. 800. This title may be cited as the 'Fair Housing Act'.".

SEC. 5. AMENDMENTS TO DEFINITIONS SECTION.

(a) MODIFICATION OF DEFINITION OF DISCRIMINATORY HOUSING PRACTICE.—Section 802(f) is amended by striking out "or 806" and inserting in lieu thereof "806, or 818".

(b) ADDITIONAL DEFINITIONS.—Section 802 is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person—

"(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

"(2) a record of having such an impairment, or

"(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(i) 'Aggrieved person' includes any person who—

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(j) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals (who have not attained the age of 18 years) being domiciled with—

"(1) a parent or another person having legal custody of such individual or individuals; or

"(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"(l) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

"(1) the person or other entity accused in a complaint of an unfair housing practice; and

"(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

"(o) 'Prevailing party' has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).".

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) ADDITIONAL DISCRIMINATORY HOUSING PRACTICES.—Section 804 is amended by adding at the end the following:

"(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

"(A) that buyer or renter,

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that buyer or renter.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

"(A) that person; or

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that person.

"(3) For purposes of this subsection, discrimination includes—

"(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

"(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

"(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

"(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

"(iii) all premises within such dwellings contain the following features of adaptive design:

"(I) an accessible route into and through the dwelling;

"(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

"(III) reinforcements in bathroom walls to allow later installation of grab bars; and

"(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

"(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as 'ANSI A117.1') suffices to satisfy the requirements of paragraph (3)(C)(iii).

"(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

"(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

"(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

"(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

"(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.

"(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

"(7) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

"(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

"(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.".

(b) Additional Protected Classes.—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(3) For the purposes of this Act as well as Chapter 16 of title 29 of the U.S. Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

(c) Discrimination in Residential Real Estate-Related Transactions.—Section 805 is amended to read as follows:

"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

"Sec. 805. (a) In General.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

"(b) Definition.—As used in this section, the term 'residential real estate-related transaction' means any of the following:

"(1) The making or purchasing of loans or providing other financial assistance—

"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

"(B) secured by residential real estate.

"(2) The selling, brokering, or appraising of residential real property.

"(c) Appraisal Exemption.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.".

(d) Additional Exemption.—Section 807 is amended—

(1) by inserting "(a)" after "Sec. 807."; and

(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section, 'housing for older persons' means housing—

"(A) provided under any State of Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State of Federal program); or

"(B) intended for, and solely occupied by, persons 62 years of age or older; or

"(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections 2 (b) or (c), provided that new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

"(B) unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

"(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(e) Clerical Amendment.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) Cooperation With Secretary.—Section 808(d) is amended by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

(b) Additional Functions of Secretary.—(1) Section 808(e) is amended—

(A) in paragraph (2), by inserting before the semicolon at the end, the following: ", including an annual report to the Congress—

"(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

"(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

"(i) investigations are not completed as required by section 810(a)(1)(B);

"(ii) determinations are not made within the time specified in section 810(g); and

"(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g)";

(B) by striking out "; and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(D) by adding at the end, the following:

"(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).".

(2) Section 808 is amended by adding at the end the following:

"(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

"(1) title VI of the Civil Rights Act of 1964;

"(2) title VIII of the Civil Rights Act of 1968;

"(3) section 504 of the Rehabilitation Act of 1973;

"(4) the Age Discrimination Act of 1975;

"(5) the Equal Credit Opportunity Act;

"(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

"(7) section 8(a) of the Small Business Act;

"(8) section 527 of the National Housing Act;

"(9) section 109 of the Housing and Community Development Act of 1974;

"(10) section 3 of the Housing and Urban Development Act of 1968;

"(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and

"(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.".

SEC. 8. ENFORCEMENT CHANGES.

Title VIII is amended—

(1) by redesignating sections 815 through 819 as sections 816 through 820, respectively; and

(2) by striking out sections 810 through 813 and inserting in lieu thereof the following:

"ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

"SEC. 810. (a) COMPLAINTS AND ANSWERS.—(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

"(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

"(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

"(B) Upon the filing of such a complaint—

"(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

"(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

"(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

"(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

"(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

"(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

"(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

"(b) INVESTIGATIVE REPORT AND CONCILIATION.—(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

"(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

"(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

"(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

"(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

"(i) the names and dates of contacts with witnesses;

"(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

"(iii) a summary description of other pertinent records;

"(iv) a summary of witness statements; and

"(v) answers to interrogatories.

"(B) A final report under this paragraph may be amended if additional evidence is later discovered.

"(c) FAILURE TO COMPLY WITH CONCILIATION AGREEMENT.—Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

"(d) PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO DISCLOSURE OF INFORMATION.—(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

"(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

"(e) PROMPT JUDICIAL ACTION.—(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

"(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

"(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—(1) Whenever a complaint alleges a discriminatory housing practice—

"(A) within the jurisdiction of a State or local public agency; and

"(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

"(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

"(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

"(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

"(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

"(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

"(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

"(ii) the procedures followed by such agency;

"(iii) the remedies available to such agency; and

"(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

"(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

"(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

"(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

"(g) Reasonable Cause Determination and Effect.—(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

"(B) Such charge—

"(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

"(ii) shall be based on the final investigative report; and

"(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

"(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

"(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

"(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(h) Service of Copies of Charge.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served—

"(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

"(2) on each aggrieved person on whose behalf the complaint was filed.

"SUBPOENAS; GIVING OF EVIDENCE

"Sec. 811. (a) In General.—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

"(b) Witness Fees.—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

"(c) Criminal Penalties.—(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"(2) Any person who, with intent thereby to mislead another person in any proceeding under this title—

"(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

"(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

"(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"ENFORCEMENT BY SECRETARY

"Sec. 812. (a) Election of Judicial Determination.—When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

"(b) Administrative Law Judge Hearing in Absence of Election.—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

"(c) Rights of Parties.—At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

"(d) Expedited Discovery and Hearing.—(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

"(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

"(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

"(e) Resolution of Charge.—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

"(f) Effect of Trial of Civil Action on Administrative Proceedings.—An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(g) Hearings, Findings and Conclusions, and Order.—(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

"(A) in an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

"(B) in an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

"(C) in an amount not exceeding $50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

"(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

"(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

"(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

"(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

"(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

"(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

"(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

"(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

"(i) JUDICIAL REVIEW.—(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

"(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

"(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

"(k) RELIEF WHICH MAY BE GRANTED.—(1) Upon the filing of a petition under subsection (i) or (j), the court may—

"(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

"(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

"(C) enforce such order to the extent that such order is affirmed or modified.

"(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

"(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

"(l) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

"(1) which is filed by the Secretary under subsection (j) after the end of such day; or

"(2) under subsection (m).

"(m) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION OF ANY PERSON ENTITLED TO RELIEF.—If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

"(n) ENTRY OF DECREE.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

"(o) CIVIL ACTION FOR ENFORCEMENT WHEN ELECTION IS MADE FOR SUCH CIVIL ACTION.—(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

"(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

"(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

"(p) ATTORNEY'S FEES.—In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

"ENFORCEMENT BY PRIVATE PERSONS

"SEC. 813. (a) CIVIL ACTION.—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

"(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

"(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

"(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

"(b) APPOINTMENT OF ATTORNEY BY COURT.—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

"(1) appoint an attorney for such person; or

"(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

"(c) RELIEF WHICH MAY BE GRANTED.—(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

"(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

"(d) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

"(e) INTERVENTION BY ATTORNEY GENERAL.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"SEC. 814. (a) PATTERN OR PRACTICE CASES.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

"(b) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

"(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

"(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

"(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

"(c) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(d) RELIEF WHICH MAY BE GRANTED IN CIVIL ACTIONS UNDER SUBSECTIONS (a) AND (b).—(1) In a civil action under subsection (a) or (b), the court—

"(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

"(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

"(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

"(i) in an amount not exceeding $50,000, for a first violation; and

"(ii) in an amount not exceeding $100,000, for any subsequent violation.

"(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

"(e) INTERVENTION IN CIVIL ACTIONS.—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

"RULES TO IMPLEMENT TITLE

"SEC. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.".

SEC. 9. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting ", handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act)," after "sex" each place it appears.

SEC. 10. TECHNICAL AMENDMENT RELATING TO CIVIL ACTION.

Section 818 (as so redesignated by section 8 of this Act) is amended by striking out the last sentence thereof.

SEC. 11. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) JURISDICTION.—Section 2342 of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (5) but before the matter beginning "Jurisdiction is invoked" the following:

"(6) all final orders under section 812 of the Fair Housing Act.".

(b) DEFINITION.—Section 2341(3) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(D) the Secretary, when the order is under section 812 of the Fair Housing Act.".

SEC. 12. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

SEC. 13. EFFECTIVE DATE AND INITIAL RULEMAKING.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) INITIAL RULEMAKING.—In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

SEC 14. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 15. MODIFICATION OF RENTAL HOUSING BY HANDICAPPED PERSONS.

Section 804 (as amended by section 6 of this Act) is further amended by striking out the period at the end of subsection (f)(3)(A) and inserting in lieu thereof except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed as if in morning business for not to exceed 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUCCESS OF U.S. POLICY IN THE PERSIAN GULF

Mr. CHAFEE. Mr. President, in recent days, we have witnessed an extraordinary turnabout in the prospects for ending the Iran-Iraq war. It seems to me that this proves that our gulf policy is on the right track. Iran has embraced United Nations Resolution 598 which calls for an end to the war. Even the Ayatollah Khomeini declared that, "Taking this decision was more deadly than taking poison," and is now moving his country toward a cease-fire with Iraq.

The Secretary-General of the United Nations, Mr. Cuellar, is currently meeting with an Iranian delegation in pursuit of this cease-fire.

This incredible turn of events is a wonderful tribute, I believe, to the United States' ability and willingness to stay the course. I am not suggesting that the United States can claim full credit for the prospects of peace that now appear to be on the horizon in the gulf, but I think we can say with considerable certainty that the administration's policy in the Persian Gulf is in substantial measure responsible for the optimism that we have cause to feel for that area of the world.

I for one was skeptical when the administration first announced plans to escort reflagged Kuwaiti tankers through the Persian Gulf. I urged the administration to proceed with caution and to ensure that the United States was fully prepared for the risks and for the burdens of an expanded role in the gulf. I was deeply concerned that we had not thought through the potential difficulties and believed the United States must clearly define its objectives in taking on that major task.

The United States went ahead with its plan to protect Kuwait tankers and eventually all neutral shipping in the gulf. We made a determination that important U.S. strategic interests demanded this action. We made a commitment to our Arab allies in the region that we would have a strong naval presence in the Persian Gulf, and the purpose of that presence was to deter the escalation of hostilities. We also wanted to prevent the Soviets from filling any void that we might otherwise leave.

In January of this year, I had the privilege of going to the Middle East to visit Egypt, Israel, Jordan, Saudi Arabia, and Bahrain.

During my discussions with the leadership of those countries it was made crystal clear to me that the gulf countries strongly support our role there. To pull out would not only endanger U.S. vital interests in that strategic area but would also be devastating to U.S. prestige and influence.

This policy of the United States in the area has been well managed. Our warships have escorted tanker after tanker through the gulf waters with considerable success. There were some extremely dark hours as well. A year ago, when the U.S.S. *Stark* was hit by an Iraqi Exocet missile and 37 American sailors lost their lives, there were some in this body and throughout the country who wanted to invoke the War Powers Act and force the withdrawal of United States forces from the Persian Gulf. To them, that tragic incident symbolized the foolhardiness of involvement in the turmoil of that region. A number of amendments to end our gulf presence were offered in the Senate. We voted each time to support the administration's policy.

And the administration stayed the course.

Then, in March, the U.S.S. *Samuel B. Roberts* struck an Iranian mine. Although, miraculously, no lives were lost, the danger of our mission in the gulf was again brought home to Americans. Again, there was discussion of invoking the War Powers Act, which to many was a subtle way of getting out of the area.

Again, the administration did not falter. In fact, the *Roberts* incident seemed to strengthen our resolve, to reinforce the importance of our gulf presence.

Then, finally, on July 3, the Aegis cruiser U.S.S. *Vincennes* mistakenly shot down an Iranian Airbus, killing all 290 civilians aboard. In perhaps the most unsettling moment of our gulf involvement, we responded to the tragedy with overtures of compassion and goodwill to the Iranians, and we waited. Would there be retaliation? Would our resolve be tested further?

Iran has made a number of surprising moves since this terrible incident. There has been no retaliation as we have come to expect. There has been no further retreat into international isolation. Instead, Iran is talking about an end to the war. It has responded to U.S. action against flight 655 with an appeal to an international forum, the United Nations.

There is no question that U.S. steadiness has been a substantial contributing factor to the dramatic chain of events we have witnessed in the gulf and at the United Nations in recent days.

Because of U.S. ability to stay the course—and I want to pay tribute to this administration and to the leadership from the President right on down—we are now hopefully on the threshold of a cease-fire in a war that has killed a million men, women and children. For the first time in 8 years, there is reason to look forward to a new era of stability in the gulf region.

Clearly, as a result of our unwavering pursuit of a strong Persian Gulf policy, we will also come out of this situation with increased influence with the gulf countries. We will be strong in the eyes of Iran and Iraq, and our standing with our Arab allies—Saudi Arabia, Kuwait, Bahrain—will be greatly enhanced.

Our ultimate goal in the gulf has been to protect our vital strategic interests there. By strengthening our alliances and shoring up our influence there, we will have accomplished this goal.

Mr. President, that is indeed a significant achievement.

It is not over yet, of course, but very hopeful signs are on the horizon.

I yield the floor.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, in a moment, when the distinguished Republican leader is back on the floor—he and I have just been discussing this matter—I would hope to go to the trade bill. I would hope to dispose of the trade bill, and then I would like to take up the supplemental appropriation bill at some point tomorrow, and then I would like to go to a freestanding ethanol bill.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 841, H.R. 4848.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I temporarily withhold that request if for the moment while waiting to again present the request. I do say that on this side of the aisle we are prepared to take up the trade bill and offer no amendments to that trade bill.

I had taken this up in the conference today, and I presented this proposal. The distinguished Republican leader and I discussed it and we said we would take it up in our respective conferences. I had to give assurance that the ethanol bill would be taken care of as a freestanding matter. Mr. EXON in conference insisted on that. The distinguished Republican leader and I discussed that also, together with Mr. BENTSEN and Mr. SARBANES, prior to the conferences. It was the Republican leader's feeling also that if we could assure Senators that that measure would be taken up as a freestanding measure, we would try to get an agreement from our colleagues that there be no other amendments. On my side of the aisle that is agreeable.

Mr. PROXMIRE at first was reluctant to proceed with such an agreement but in the event all other Senators would restrain themselves and withhold the urge to offer amendments, Mr. PROXMIRE agreed to proceed on that basis. So we are ready to do that.

Let me say further that I am prepared immediately upon the disposition of the trade bill to go to the dire emergency supplemental appropriation bill—I hope there will not be any amendments to that—then upon the disposition of that bill go to a freestanding ethanol bill; then upon the disposition of that bill go to the DOD appropriation bill so that Senators who have amendments that they thought of offering on the supplemental bill will not do so but would withhold those amendments until the DOD appropriation bill is taken up, which would be before the end of the week if the rest of the scenario as I have described it plays out as hoped.

So I yield at this moment if the distinguished Republican leader or any other Senator who wishes to make observations or comments before I renew the request.

Mr. DOLE. Mr. President, if the majority will yield.

Mr. BYRD. Yes.

Mr. DOLE. I am advised that Senator WALLOP is in the midst of a live interview and will be finished in just a few moments, so maybe by the time we complete our exchange, he will be in a position to come to the floor or advise us that it is not necessary.

The majority leader is correct; it had been the hope of many of us that we might get an agreement (a) on the trade bill with no amendments; (b) a freestanding on ethanol—that was also insisted on by Senator GRASSLEY, Senator KARNES and others on this side—and (c), hopefully, to stay on the trade part; that we would have some agreement to take up before the recess starts and to go to third reading on the Canada-United States free trade agreement and perhaps be able to lengthen the statutory time to 20 hours or some lesser amount. I tried 4 or 5 hours in our conference, and had no objection to that. But while I did well on that end of it I did not do as well on the front end of it. I am now advised that there are amendments. I am not certain how many will be offered. Senator WALLOP is serious about a section 301(a) amendment, he said. There are approximately 20 amendments striking certain provisions, and then another amendment by Senator WALLOP; Senator DURENBERGER, for embargo; Senator MCCLURE, most favored nations with the Soviet Union; Senator MCCLURE, not identified amendment; Senator GRASSLEY, ethanol, and Senator WILSON, study on import restraint. It may—I have not visited with the manager on our side—be that we still might reach some agreement if there is a unified effort to table the amendments and still have a freestanding on ethanol, and maybe some agreement on the Canadian-United States agreement.

I am not in a position to indicate that we could agree on the dire emergency supplemental without amendment because I think there is a great deal of feeling on this side that this should be the vehicle for Contra aid. That might make it more difficult through all of these other things the majority leader had in mind but we are working on this side. I am now advised Senator WALLOP says to go ahead on the trade bill, and I will continue to report to the majority leader as we work down the amendments.

Mr. BYRD. Mr. President, I thank the Republican leader. I also thank Mr. WALLOP.

I renew my request.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4848), to enhance the competitiveness of American industry, and for other purposes.

The Senate proceeded to the consider the bill.

Mr. BYRD. Mr. President, if we could work toward a time agreement that would preclude any and all amendments to this bill and have a time agreement on the bill itself for debate so that we could debate it a while today and vote on it tomorrow morning, perhaps some additional debate tomorrow morning, then I would be prepared to go to a supplemental, and then go to the freestanding ethanol bill. The reason I say supplemental ahead of that is because I understand it is a dire emergency supplemental. The trade adjustment assistance moneys have run out in many States, including my own, and displaced workers have not been getting their check, or they will not be getting their checks. So it seems to me we ought to treat that as an emergency appropriation bill and not offer amendments to it knowing that the DOD appropriation bill, as I have assured the Senate, will be called up immediately after action on the trade bill, the supplemental, and the ethanol bill, which, hopefully, could be before the end of the week.

I caught something the distinguished Republican leader said which appeals to me, and that is recognizing, of course, that all Senators have a right to call up amendments, and there is no agreement on this bill that would preclude their amendments. There is no time limitation on the bill. I like what I heard the Republican leader say. I believe he indicated that, if we could not get such an agreement, perhaps we ought to stand together to table amendments to the trade bill. I for one would be all for that. I would try to sell that on my side of the aisle—stand together, table any and all amendments to the trade bill so that it could go directly to the President for his signature upon passage by the Senate. It would not have to go back to the House. It would not have to go to conference. I for one will enlist in that worthy cause. And I hereby offer and tender my good offices to that extent as far as it can go.

Mr. BENTSEN. If I might comment on that, this is the fourth time that this bill has been before the Senate. We were before the Senate for 5 weeks last year managing this bill. We had 164 amendments that were offered. We had the most extensive conference that I can recall. Approximately one-half of the Senators were involved in that conference. So it seems to me that every conceivable issue has been explored at length. I hope very much that we would be able to get by without going through that kind of a process again. We have about 26 legislative days left. This is a very important piece of legislation, helping to establish a trade policy for our country. I hope we can get through without amendments.

Mr. DOLE. If the majority leader will yield for an observation.

Mr. BYRD. Yes.

Mr. DOLE. All amendments are on this side so it puts us in a little different position, but also the President is on the same side as the managers and the majority and minority leaders telling me just this morning he wanted a trade bill; indicating that is one reason he could swallow the plant closings if we got a trade bill. Here the trade bill is the same day. That is very effective leadership on the part of the President. Within hours we are on the trade bill.

Mr. BYRD. To say nothing of the leadership on the part of the Republican side of the aisle.

Mr. DOLE. And the majority leader. But I think the President is serious about it. I certainly will get back to the majority leader, and see if we cannot first of all reduce the number of amendments; second, reach some agreement on the one that I think is the most controversial, ethanol; and, third, maybe agree to have a joint tabling operation here and finish this bill.

Mr. BYRD. Yes; I would be very happy to join in that. May I say to the distinguished Republican leader, when he describes all the problems to his side of the aisle, that I should say my side of the aisle will relent from offering amendments provided—there are several amendments that could be offered here, but we are willing to put those aside until another day and get on with this important legislation, if we can be successful in holding back the tide. If the tide breaks, and the deluge starts, we may get some amendments from over here too.

I thank the distinguished Republican leader.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. DANFORTH. Mr. President, I wanted to address the question to the manager of the bill.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. First of all, let me say I really commend the efforts of both the majority leader and the Republican leader to try to work out an agreement which prohibits amendments from being offered to this bill. It was a worthy undertaking, and my understanding is that it just could not be worked out.

The question I wanted to ask Senator BENTSEN is does he know the position that is being taken by the chairman of the House Ways and Means Committee with respect to the possibility of a conference on this bill? Does the Senator from Texas believe that to dress this bill up with amendments places the bill in some jeopardy, particularly given the fact that we have a full agenda for the balance of this Congress and very few weeks remaining for business?

Mr. BENTSEN. I say to the distinguished Senator from Missouri that we do endanger the bill if we start adding amendments. We have 26 legislative days left. I am convinced if we can move this forward, get it done quickly without amendments, then we will not need to have a conference, and the bill will go immediately to the President. We will be in good shape. But when you stop to think back to the 164 amendments that were offered before in the 5 weeks it took before, amendments will mean that this bill will just not make it through this session. That would be a tragedy because we have so many things in it that are terribly important—the Harmonized system, trade enhancement on agriculture. I could go through the whole litany of them that the Senator knows so well as a cosponsor on this particular piece of legislation.

I strongly urge that, with a piece of legislation of such high priority, we move it forward and not go through this litany of amendments that we had before the Senate earlier.

Mr. DANFORTH. I encourage the two leaders, plus the floor managers of the bill, to join forces and to move to table all the amendments that are offered to this bill. Of course, to table an amendment or to vote to table an amendment to this bill does not indicate a Senator's position on the merits of the amendment. It simply indicates the fact that this is a bill which has a high priority, which is on the floor of the Senate now for the fourth time.

We have had literally weeks to consider all the possibilities concerning this bill, and the time has come to get on with it.

I know that I intend to vote to table amendments. There are some amendments that have been described to me. At least one I can think of that has been described to me has substantial appeal so far as I am concerned and so far as some of my constituents are concerned. But the bill itself is so important and the bill itself is such a significant move in establishing U.S. trade policy that I would really hate to have it bogged down with a whole series of amendments that Senators would offer.

So I very much encourage the leadership and the managers of the bill to hold firm against all amendments.

Mr. PACKWOOD. Mr. President, I say to the majority leader that I share the desire of Senator BENTSEN and Senator DANFORTH to move this bill. I do not think we can get unanimous consent; but if the majority leader is reasonably strict about requiring the amendments to be called up and just one or two are tabled by a large vote, and if we do not dally, waiting for someone to come in, with an hour quorum call, I think we can finish this bill in not too long a time, and without an agreement.

Mr. BYRD. I thank the distinguished Senator, and I like what he said.

CHICAGO & NORTHWESTERN TRANSPORTATION CO. LABOR-MANAGEMENT DISPUTE

Mr. BYRD. Mr. President, I understand that there is a joint resolution by Mr. SIMON and Mr. GRASSLEY which has been cleared on both sides.

I ask unanimous consent that the Senate proceed, for not to exceed 3 minutes, to the consideration of Senate Joint Resolution 356, without any amendments thereto.

The PRESIDING OFFICER (Mr. SANFORD). The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 356) to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago & Northwestern Transportation Co. labor-management dispute.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, this is the measure I described earlier today, and I want to express my appreciation to the majority leader and the minority leader, as well as to Senator GRASSLEY, Senator QUAYLE, Senator DIXON, and Senator HARKIN.

This would extend for 36 days the cooling off period in the Chicago & Northwestern Railroad strike. I have spent a considerable amount of time talking to the leaders of the union and the president of the railroad. They are all in agreement that this is in order. I hope we can reach an agreement in that 36-day period.

I know of no objection. I have discussed it with everyone, I believe, who could be interested on the floor of the Senate, and I hope we can adopt it by voice vote immediately.

Mr. DIXON. Mr. President, I wish this legislation was not necessary. I am always very reluctant to interfere in the collective bargaining process. I have cosponsored this joint resolution, however, because I am convinced that the consequences of a strike on the Chicago & Northwestern Railroad at this time would be devastating to the Midwest economy. At the outset, it is important to note that this legislation does not attempt to resolve the strike. What it does is to provide one last brief period of time for the collective bargaining process to work. It simply extends the cooling off period scheduled to expire on August 4 for 36 days.

Let me make that clear, that this is a one-time extension. The United Transportation Union and the Chicago & Northwestern, provided this joint resolution is passed, will have until September 9 to find some sort of resolution of their dispute. If no mutually agreeable solution is reached by that time, however, there will be no further extensions. We cannot freeze the status quo indefinitely.

This dispute has already been going on now for more than 2 years. Under the provisions of the Railway Labor Act, a long and extraordinarily complicated process is triggered when management and labor fail to reach a collective bargaining agreement. Both parties have made several appeals to the Railway Labor Board. When an impasse loomed, the President called together an emergency board to look into the situation. The emergency board disclosed their findings and made recommendations earlier in the summer. However, the provisions of the Railway Labor Act are now exhausted. Unless we act, there will be a strike on August 4.

In light of the long history of this dispute, I am not optimistic that providing one more extension will result in a voluntary solution, but I believe, on balance, that we should provide one last bit of time. However, let me again make it clear that this is it. This Senator will not support any more extensions after September 9.

I urge my colleagues to support this joint resolution. It is truly an essential piece of legislation. If the Congress does not act, tens of thousands of Chicagoans will be stranded and millions of dollars of freight may be left on the docks. A 36-day extension will not solve the two parties' problems but it might, more importantly, allow them enough time to solve their problems on their own.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 356

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY PROHIBITION.

Section 9A(h) of the Railway Labor Act (45 U.S.C. 159a(h)) shall be extended until September 9, 1988, with respect to the dispute referred to in Executive Order No. 12636 of April 20, 1988, so that no change, except by agreement, shall be made by the rail carrier, Chicago and Northwestern Transportation Company, or by the employees of such carrier represented by labor organizations that are a party to such dispute, in the conditions out of which the dispute arose as such conditions existed before 12:01 ante meridiem of August 4, 1988.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with the consideration of H.R. 4848.

Mr. BYRD. Mr. President, if the distinguished managers now have some opening remarks, or if other Senators wish to proceed with opening remarks, it might be well to get that done; and then I would urge that Senators who have amendments come to the floor and call up the amendments. Else, we would be constrained to move on to third reading. I would certainly want to protect any and all Senators, but I do not want Senators to tarry unduly and keep the Senate waiting too long.

I think we can dispose of this measure in a reasonable length of time. If Senators call up their amendments, we will see how many we can table—the first two or three with a good vote—and that may be a discouraging factor with other amendments, notwithstanding the fact that Senators have a right to call up their amendments, as long as they have amendments. But I do not think we should expect the Senate to mark time and the managers to stand at their posts of duty, waiting on them, when Senators do not respond to the call.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Nebraska.

Mr. EXON. Mr. President, I will be brief.

I thank the managers of the bill, the majority leader, and the minority leader for their consideration. I am here prepared to offer an amendment on the ethanol provision that has been generally agreed to by the supporters of the concept on that side of the aisle and this side.

I have been asked by the minority leader to consult with Senator GRASSLEY. I understand that Senator GRASSLEY is on his way to the floor.

I do not wish to delay the proceedings. If we cannot get some kind of agreement, I do intend to offer the amendment, which I think is a good one.

The only explanation I have had for not offering this, be even some of those who might vote against it, but who agree with the concept I have been trying to put forth here, is that it will cause trouble on the House side. An amendment not too dissimilar from the Exon proposal was turned down during debate on this measure in the House of Representatives. I think probably it was not basically on the merits but was, more or less, the idea that we have to put this through, and any amendments are going to delay the process.

I appreciate very much that the majority leader and the minority leader and the managers of the bill and several Senators have discussed this with me in the last week or 10 days. Indeed, this morning the majority leader and the minority leader did so again. Yesterday, the manager of the bill, Senator BENTSEN, talked with me about this.

In order to move ahead with this bill, which this Senator strongly supports, I was pleased to offer a tentative arrangement that if we could get an agreement on no amendments, and with the proviso that the majority leader offered, with the consent of the minority leader, that we would have a separate, freestanding bill shortly after we disposed of the trade bill, I thought we could accomplish what many of us have set out to do with regard to the ethanol provisions of the trade bill.

In the interest of trying to work things out, we will continue to try to work things out, and I am here to move ahead, to offer the amendment. I have been asked not to. I will be glad to report back to the managers of the bill as soon as Senator GRASSLEY, Senator KARNES, Senator HARKIN, and others have had a chance to set down and see what we can work out in a final suggested form.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Nebraska for his cooperative attitude in this. He has been cooperative all along the way.

I know there are a number of Senators from States where agriculture is a very major part of their economy who are deeply concerned over this provision and want to participate in it.

It is my strong hope and very strong desire that we do not have any amendments on this bill. I will oppose amendments on the bill and I know a great many of my colleagues will do likewise.

The members of the Democratic caucus have agreed to oppose all amendments if the other side of the aisle chooses to do the same. That would move this bill forward very expeditiously.

But as my distinguished colleagues, the ranking member has stated, if we take on some of these amendments early and defeat them decisively and make it understood that this is top priority legislation, that it is a culmination of about 3 years of effort and over 5 weeks of debate on the floor of the U.S. Senate last year, then we will see this piece of legislation completed by the end of this week.

Mr. President, during the past 4 years this United States of ours has run up an international debt of approximately half a trillion dollars. During that 4-year period of time, we saw this country go from the No. 1 lender nation in the world to the No. 1 debtor nation in the world. We have seen almost a million high-paying manufacturing jobs disappear from our country. We have seen competitive American products denied access in markets in many countries around the world. In a very significant sense we have seen erosion of American's position of world economic leadership.

Despite all of that, we still hear some people question whether or not we need a trade bill.

I believe we do. I believe we need a trade policy based on a simple premise of fairness, that as to any country that has full access to our markets we are entitled to full access to their markets.

Seventy Members of the U.S. Senate agree with that; 376 Members of the House of Representatives agree with that, as do the U.S. Chamber of Commerce, the Business Roundtable, the Emergency Committee for American Trade, the National Fair Trade Council, the labor unions, the petroleum industry, and virtually every farm organization in America.

Mr. President, I have here a list that has just been given to me of various companies across the country, deeply involved and concerned about trade, that think this piece of legislation should pass and should pass now and that it should pass without amendment.

I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 2, 1988.

Hon. LLOYD BENTSEN,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BENTSEN: The undersigned agricultural and business representatives urge you to pass the omnibus trade bill as soon as possible. In order to enact a trade bill into law this year, it must be adopted by the Senate without amendment.

Your support is crucial.

Sincerely,

Acheson Industries, Inc., Adapso, Aerospace Industries Association, Agricultural Trade Council, Amax, Inc., Allied Signal, Inc., American Cyanamid Co., American Express Co., American Farm Bureau Federation, American Furniture Manufacturers Association,

American Hardware Manufacturers Association, American Internationl Group American Paper Institute, American Retail Federation, American Soybean Association, American Supply and Machinery Manufacturers Association, AT&T, Amway Corp., Arco, Armtek Corp.,

Associated Merchandising Corp., Bank of America, Boeing, Borg-Warner Corp., Bristol-Myers Co., British-American Chamber of Commerce, The Business Roundtable, Cargill, Inc., Carpenter Technology, Inc., Cbema,

U.S. Chamber of Commerce, Chemical Manufacturers Association, Coalition of Service Industries, Coleco Industries, Inc., Combustion Engineering, Diebold, Inc., Digital Equipment Corp., Dresser Industries, Inc., E.I. Du Pont De Nemours & Co., Eastman Kodak,

EBCO Manufacturing Co., EG&G, Inc., Electronic Industries Association, Emergency Committee for American Trade, Ethyl Corp., Exxon, Florists' Transworld Delivery, FMC Corp., Gencorp, Genentech,

Georgia-Pacific Corp., G.F. Furniture Systems, Inc., Goodyear Tire & Rubber Co., Halliburton Co., Hewlett-Packard Co., Honeywell, Inc., IBM Corp., Intel Corp., International Insurance Council, Jewelers of America,

K Mart Corp., Lloyd's Electronics Corp., The May Department Stores Co., Maytag Corp., MBI, Inc., MEAD, 3M, Merck and Company, Inc., National Association of Manufacturers, National Coffee Association of U.S.A., Inc.,

National Electrical Manufacturers Association, National Foreign Trade Council, National Grange, National Home Furnishing, National Machine Tool Builders Association, NCR Corp., Northwest Apparel & Textile Association, Pacific Rim Trade Association, Petroleum Equipment Suppliers Association, Pfizer, Inc.,

PPG Industries, Inc., The Procter & Gamble Manufacturing Co., The Prudential Insurance Co., of America, Retail Industry Trade Action Coalition, Rice Millers Association Rockwell International Corp., Rohm & Haas Co., A. Shulman, Inc., Smithkline Beckman Corp., Timex Corp.,

Telecommunications Industry Association, TRW, Inc., Union Camp Corp., U.S. Council for International Business, USX Corp., Volume Shoe Corp., Vulcan Materials Co., Washington Citizens for World Trade, Whirlpool Corp., Wood Machinery Manufacturers Association.

Mr. BENTSEN. Mr. President, I ask unanimous consent to print in the RECORD a letter from the AFL-CIO and a letter from the Business Roundtable, both of them urging the passage of this piece of legislation without a single amendment added to it.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AFL-CIO,
Washington, DC, July 28, 1988.

DEAR SENATOR: Next week the Senate will take up H.R. 4848, the Omnibus Trade Act of 1988.

This complex and lengthy bill addresses many of the issues that affect our National trade policy. This bill provides important changes in U.S. trade law and improves U.S. competitiveness overseas. The Omnibus Trade Act does not contain all we desire, but it does make violations of workers' rights overseas an unfair trade practice, initiates a new dislocated worker program, improves Trade Adjustment Assistance, and creates a new Super Section 301 procedure that will combat unfair foreign trading practices.

By itself, H.R. 4848 will not assure us of an effective trade policy. Only a President whose Administration makes trade a high priority can assure this worthy goal. However, H.R. 4848 provides a new President with better tools to end unfair trading practices abroad and help workers here at home become more competitive in the world market.

As you know, the bill passed the House by an overwhelming vote of 376 to 45. We hope the Senate will vote overwhelmingly, and swiftly, for this important bill. The AFL-CIO urges your strong support of H.R. 4848 without amendment.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

THE BUSINESS ROUNDTABLE,
New York, NY, July 29, 1988.

Hon. LLOYD BENTSEN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ADAMS: On behalf of The Business Roundtable I am writing to urge you to support H.R. 4848, The Omnibus Trade and Competitiveness Act and to oppose any amendments offered to the legislation during Senate consideration of the bill.

For the last three years The Roundtable has worked closely with Congress, the Administration and other private sector groups to develop a comprehensive bill which establishes a clear framework for realistic U.S. trade policy and which will enhance U.S. international competitiveness. We believe that H.R. 4848 accomplishes that goal. Although H.R. 4848 is a new bill, its provisions have been debated extensively in both the House and Senate and have been approved overwhelmingly by both Houses. It is truly a consensus bill with broad bipartisan support.

Prompt action by the Senate is crucial if the bill is to be enacted this year; any floor amendments offered to the bill will seriously undermine that objective.

Again, The Roundtable urges you to support this critical legislation without amendments.

Sincerely,

JAMES D. ROBINSON III,
Chairman, American Express Co., Chairman, IT&ITF.

Mr. BENTSEN. Mr. President, I think it is most important that the American people themselves demand a trade policy that will help our competitiveness by opening up world markets to American goods, focusing a high level of attention on trade, making trade a No. 1 priority for our country, helping to retain some of these workers who have been losing their jobs to foreign competition.

During the past 2 weeks, I have had the opportunity to travel across this country from the Rio Grande in south Texas to North Dakota, from California to Erie, PA, to Washington, DC, I can assure my colleagues here today that there is a broad bipartisan and enthusiastic support for this legislation.

Furthermore, that enthusiasm is not limited to this country. I can recall being in Hong Kong in January. Theirs is a free trade policy. They are enthusiastic for this bill—not concerned about it because they do not practice protectionism, not worried about having to open their market because their market is already open. This is the kind of bill that appeals to them. This is a bill that shows American leadership in trade, in opening up markets.

The bill says that we in America are willing to and able to lead the world economy toward a new era of growth and prosperity for all. Sure, there are some opponents to this bill. Not all of them are located in the White House either. I am delighted to see the White House is a convert and now a supporter of this bill, apparently, from what the minority leader has just told me. That pleases me very much.

But there are people in Tokyo and Bonn who are very well satisfied with the status quo. People who really do not want to see this kind of situation change. People who spent more than $100 million lobbying against the trade bill in 1986. Imagine $100 million. Can you visualize the United States going to one of these other countries and spending $100 million to lobby for a piece of legislation? Yet that is what was done here and that $100 million does not include the money that was spent on the lobbying, on consultants, on public relations, on these trade issues in 1987 and 1988.

Mr. President, these people have a right to be concerned because this bill says "No" to the status quo. It says America is going to insist on opening up those markets. It says America will no longer roll over and accept the situation in which one of my constituents, a leader in oil well drilling technology, is unable to sell his services in Britain while the British service company can come into Texas and sell its services here. That does not make sense. This is not fair.

I have raised the question with Ambassador Yeutter and I raised it to no avail. The British say that this product is a service, not a good one, since the General Agreement on Trade and Tariffs does not cover services, my constituent is just out of luck.

I do not think that luck should be a foundation for a trade policy. I think America must insist on an even playing field.

GATT provides little consolation; since, as the Young Commission pointed out, GATT covers only 5 to 7 percent of world trade. It does not cover petroleum. It does not cover agricultural trade. It does not assure reciprocity in trade with developing countries. It does not cover services, or investment, or protection of intellectual property rights. It does not cover many areas of government procurement.

So, when the Common Markets' representative to the United States says the European Community reserves the right to be protectionist about matters still under negotiation in the GATT, what he means is that Germany can still exclude American manufacturers of telecommunications equipment or steam turbine generators because those are government purchases over there, even though Germany can and does sell telecommunications gear in this country. That is the difference. That is an uneven playing field that we are facing.

So you see why the EC really does not like this trade bill. It has a tough telecommunications provision, worked out in principle by Senator DANFORTH. It has Senator MOYNIHAN's tough section 301 provisions that can be used to crack open that steam turbine generator market. Senator PACKWOOD also played a major role in working on the 301 provision. The bill establishes as a major objective for the GATT to increase coverage and enforceability in a way to help my constituent who has a competitive oil service sell in the world.

Mr. President, this is an important moment in world trade. If this bill is put into effect now, our next President will be able to concentrate his energies on trade where they should be concentrated—on solving trade problems, not on passing trade bills.

I have talked about this matter with Governor Dukakis. He supports this bill. He is ready to embrace the idea of making trade a top priority for our Government.

If we let this opportunity slip by, who knows whether the next President will be able to get trade talks going 2 or 3 years from now—or what it is going to cost him to get those talks going.

Let me take just a moment to give some specific ways in which this bill improves our international competitiveness.

Without this bill, our own Government will remain part of the problem in increasing American exports. This bill strips away unnecessary Government limitations on exports under our current export control laws. That is an area where Senator HEINZ played a key role, along with others.

Without this bill our war to win back foreign agricultural markets from competitors who subsidize their exports will be cut back, because this bill contains necessary expansions of the export enhancement program. That was for American agriculture, and Senator LEAHY's Agricultural Committee worked that out for us.

Without this bill, our small businesses will remain outside the reach of foreign trade because they just will not have the benefit of the new small business development network provided for in this bill. Senator BUMPERS' committee worked that out for this trade bill.

Mr. President, this is the most comprehensive trade bill this country has ever seen. It will help us move in a new direction toward competitiveness, toward the entry of our products into other markets.

Mr. President, no trade bill in this century has received as much consideration as the bill currently before the Senate. Every Senator who has had an interest in this bill has had a chance to change it for the better.

Nine committees contributed to the bill. It was debated on the floor for 5 weeks in 1987. Over 200 amendments were filed, and the Senate considered 164 of them.

When we ran out of trade amendments, we considered amendments that were not relevant to trade. The bill was passed by a vote of 71 to 26.

Then we had the conference—and what a conference. Forty-five Members of the Senate, Republicans and Democrats, were on that conference committee. It lasted 9 months. I cannot remember a more thorough conference—no provision was left unquestioned.

Even after the conference ended, we tried to correct a provision which concerned the two Senators from Alaska, the Alaska oil provision. But there was a Republican objection to acting on the enrollment resolution.

On April 27, 1988, the bill passed the Senate by a vote of 63 to 36. Then the President vetoed it so we debated it again, for 2 more days, and came up three votes short of a veto override.

Mr. President, this is not the time to consider amendments: If we open the floodgate, we could end up killing a bill that is so important to the future economy of America and to the jobs of the people of America.

This bill has been stripped of the plant closing provisions to which the administration takes such strong exception. The provisions on Alaska oil have been removed, which should take care of the objections of the two Senators from Alaska. The only other changes are two technical changes which we explained in the RECORD when we introduced the bill June 23, 1988.

The bill has 70 sponsors as it stands. Nineteen of them are Republicans, including the ranking Republican members of six Senate committees. It has been a bipartisan effort all along, because it addresses an issue vital to America's future—the need for a coherent, effective trade policy.

My principal cosponsor is Senator DANFORTH. The ranking Republican on the committee, Senator PACKWOOD, is a cosponsor of the bill.

At every stage of this process Republicans have participated in writing this bill. We have actively encouraged all committee chairmen from the Democratic side to invite the administration and Republican Senators in the Senate to be part of the process.

When it comes to trade we have been looking for honest answers that make sense for America. We have worked for cooperation, not confrontation.

Mr. President, this bill was not written by the chairman of the Finance Committee or the ranking member or the chairman of the Ways and Means Committee or by the President. What you see here is a consensus, differing views brought together for what we thought would advance the interests of our country.

Mr. President, America's trade situation has brightened considerably, but only a Pollyanna would suggest that our problems are over. Sure, the trade deficit is about 15 percent better than last year, but it is still a $150 billion deficit in merchandise. Our total trade—including services and investment income as well as trade in goods—is getting worse, not better. And this total trade deficit is the main cause of our debt to the rest of the world that will approach $1 trillion in 1990.

Now, part of that has been corrected by the change in the value of currency. I can recall that Don Regan, when he was Secretary of the Treasury, was absolutely adamantly opposed to any change in the value of the dollar to the yen, to the mark, to the franc and to the pound. I chaired a study group that recommended a change and a conference with our major trading partners in trying to get the dollar more in line. Fortunately, Secretary Baker came in and changed the administration's point of view on that. So we have achieved a more equitable balance.

But further depreciation in the value of the dollar is not the answer. You need some stability in the dollar. At this point, we seem to have equated it to a responsible level.

But America can do better than just a one dimensional trade policy. We have to do more than just try to adjust the value of our currency. We need a trade policy that removes barriers to our exports. We need a policy that improves education and worker adjustment in this country. We need a policy that enforces our trade agreements.

In short, Mr. President, we need this trade legislation that is before the U.S. Senate. We need it urgently and we need it without amendment that would send it back to the conference and cost us time.

It has taken a long time and a lot of hard work to reach this point. But we are on the verge of producing a trade bill that will give American exports a fair shot at world markets and will help expand the volume of world trade so that we all prosper across this world of ours.

It is a bill that deserves the support of Republicans and Democrats alike. I urge my colleagues to join me in fashioning an American trade policy for the 21st century.

I thank the distinguished Chair.

Mr. PACKWOOD. Mr. President, I join the committee chairman, Senator BENTSEN, in strongly supporting this trade bill, although I do not think it is a panacea for all of our problems. When we had testimony on this bill, in the days and days of hearings, most of the experts in world trade said in a perfect world—and by that I mean if every barrier overseas to our exports was knocked down, there was absolute free trade—it would reduce our trade deficit by at most 15 to 20 percent. So this bill is a very good bill, but this bill cannot make our trade deficit zero. The trade deficit has a lot of other sources. It may involve research and development. It may involve competitive wages. It may involve a dozen other things that the trade bill has nothing to do with. That does not take away from this bill, it is a good bill.

We should also understand that when we talk about real free trade even if we do not practice it. We talk about Hong Kong. Hong Kong is, in essence, a free port. You can sell anything you want there. We can, China can, Japan can, Germany can. They have no tariffs, no barriers. And yet we place a barrier on Hong Kong textiles coming into this country. We say, "Well, for particular reasons in this country, despite the fact, Hong Kong, that you don't put up a barrier to any of our goods, we are going to put up a barrier to some of your goods."

So we are not without complicity in terms of unfair trade barriers of our own. But, having said that, on balance, we are better than most other countries. We have lower tariffs, freer access than any of the countries in Europe, certainly Japan, certainly most of the Latin American countries. So while we are not without complicity in some areas, we are better than most.

This bill will help the world generally get better. I hope it will make us better. I hope it will make Japan better, India better, Brazil and Europe better at the free exchange of goods.

There are several things in this bill, even if nothing else was in it, that would prompt me to urge the Senate to pass it quickly. One is the fast track bargaining authority. I have previously spoken at length on that subject. All of us in the trade area are well familiar with it. But, in a nutshell, we are not going to be able to bargain on new agreements with any other individual countries—like Canada—or with the rest of the world, unless we can enter into agreements which they have some hope that we might ratify. And they will have no hope that we can ratify it unless we have what is called the fast track authority. This means the President can negotiate it, send it to Congress, we cannot filibuster it, and, when we finally vote on it, we vote on it up or down. We cannot amend it. That authority is in this bill. The President had had it for a dozen years. It expired last year and this bill renews it.

We put into effect the harmonized system of tariff classifications, which is something we had promised to do with the rest of the trading world several years ago. All of the major nations agreed to a harmonizing of their tariff nomenclatures, changing several slightly. It is not really a tariff reduction. It is a harmonization of classifications, to ease the passage of goods back and forth. All of the rest of the world said, "All right, let's go," and we said, "Yes, we will put it into effect." Last year we were supposed to and we did not.

That harmonized system is in this bill. It should be in this bill.

We have streamlined many of our export control laws to make it easier for exporters in this country to get their goods out of this country. I am not talking now about foreign barriers, I am talking about barriers we put up against our own exporters, attempting to get goods out.

There has still been some opposition to this bill, Mr. President. It has been called protectionist. It is simply not protectionist. There is no way that anybody can honestly read this bill and say this bill is protectionist. It does give the President a little more authority, and encourage him to get a little tougher with some unfair foreign trade practices. But that is not protectionist.

This bill, as originally introduced, had about 30 provisions in it that I would have called protectionist and had they remained or had any significant portion of them remained in the bill, I would have voted against it. They have been taken out. I think those who call this bill protectionist are thinking about a different bill, another era, probably another Congress. But not this bill.

Are there some things I wish we did not have in the bill? Yes; we require international negotiations to permit financing what we call trade adjustment assistance with a small tariff on all imports. The reason I think it is a bad provision is, even assuming it does not violate the General Agreement on Tariffs and Trade, other countries are going to start to do the same thing. For the next decade, it is projected that Europe and much of the rest of the world will have higher unemployment than we will; they will put tariffs on our exports going to their countries to finance their so-called trade adjustment assistance, the unemployment that is related to trade. As they will have higher unemployment than we will, our exports to their countries will be disproportionately burdened in comparison to what we do to their imports coming into this country.

This import fee negotiation is in the bill. I thought it was not a good provision. But on balance, the bill is a good bill. Even with that in the bill, I supported it. Even with the plant closing legislation in the bill, I supported it. I thought the plant closing provision was a good provision, not a bad one. I voted to override the President's veto.

I hope we can finish this bill tonight, Mr. Chairman, and I think if we were to table the first two or three amendments that come along by a 70 to 30 or 80 to 20 margin, we can finish this bill tonight. And it is a good step forward.

I want to emphasize, it is not going to solve our total trade problems. A dozen other factors beyond the control of Congress are perhaps more important, but at least Congress can do what it can do, and this bill is a step, a big step in the right direction. I would encourage the Senate to pass it tonight if possible, and I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I recognize that this bill is not going to solve all of our trade problems. Life is too complex for that, but it is certainly a major step in creating a meaningful trade policy for the United States.

Some have attempted to allocate percentages to the cause of our trade problems. Some people said, before the value of the dollar declined, that the decline in the value of the dollar would account for *x* percent of our trade deficit. Unfair trade practices account for more; aggressive efforts by American business people to compete abroad would contribute such and such a percent, and so on.

I have never viewed this problem as a matter of drawing a pie chart and assigning various wedges to parts of the problem. I think that this was demonstrated when in fact the value of the dollar did decline. It brought some improvement of our trade situation, but we still have a very considerable problem.

So my view is that instead of an analysis which says that if you remove trade barriers you gain 15 percent, 20 percent, and so on, we have to do all of these things at the same time—and this bill is a step toward dealing with unfair trade practices and providing a much more predictable trade policy for the United States than we have had in the past.

This bill has a very long history. The history goes back to well before the 1984 Trade and Tariff Act. As I recall, the reciprocity language in the 1984 act was first introduced in 1982, and one of the theories of the 1984 act was to provide a mechanism for more consistent enforcement of our statutes against unfair trade practices.

We created what is known as the National Trade Estimate, which is a directory of unfair trade barriers and other practices. Why did we do that back in 1984? We did that in 1984 because, prior to that time, enforcement of our trade laws was on a squeaky-wheel basis: Whoever complained got the grease; whoever did not complain did not get the grease. Enforcement of trade law was really spordaic, casual, rather than consistent.

So we said in the 1984 Trade Act that we wanted to begin cataloging unfair trade practices by country. That was the first step toward a more uniform practice of enforcement. Now, in this law, we will build on that first step in the 1984 act.

This bill itself has a long history. It's basic predecessor was initially introduced in November 1985. This bill was first introduced early in this Congress; in February 1987. It reached the floor of the Senate last summer. It was, therefore, first on the floor of the Senate over a year ago. It got tied up, unfortunately in my opinion, with an extraneous issue, plant closing; then the President vetoed the bill and now we are back at it again. So this has been a very, very long ordeal passing this bill—but finally we have a consensus. The House passed the bill by a margin of 376 to 45. The President today made a very strong endorsement of the bill. Business has supported it, labor supports it; we find a remarkable coalition of people with different points of view who have come together behind this bill.

Oftentimes, when a consensus is formed behind something that is as large as this bill, over 1,100 pages in length, the immediate conclusion is: Well, the legislation has to be mush. You cannot bring together the President and both Houses of Congress—who cannot pass anything by a vote of 376 to 45—if it has any meaning to it, if it has any bite to it. But, Mr. President, this bill is not mush; this is clearly the most important trade bill since the Trade Act of 1974. This bill marks the creation of a new trade policy for the United States and for that reason it is very significant legislation.

Some of the principal points have already been described. It makes major changes in section 301 of the Trade Act, which enhance the credibility of our enforcement mechanism against unfair trade practices. It provides what is called "Super 301," which means that we can begin aggregating unfair trade cases, and bring them against those countries which have consistent practices of setting up trade barriers.

It overhauls section 201 of the Trade Act. Section 201 is the so-called escape clause provision. It provides for temporary relief for industries that are hard pressed by imports and this bill says that that relief is going to be much more predictable in the future than it has been in the past, provided that the industry that is injured comes forth with a plan for putting itself back on its feet.

Implementing authority for negotiating the Uruguay round of trade agreements is provided for.

Triggered marketing loans, which will give us a very powerful incentive to remove unfair barriers to American agriculture exports, and which will also provide a bargaining tool to use to eliminate this worldwide, very expensive system of agriculture subsidies. We have been part of that. We have attempted to keep up with the subsidies of other countries, but without very much success. So the effect of it is that we continue to have farm problems in the United States, despite the fact that we have been spending some $26 billion a year trying to solve those farm problems.

The Telecommunications Trade Act is part of this legislation. It is very important. The United States, until a few years ago, did have the upper hand in telecommunications trade. Then with the divestiture of its parts by AT&T, suddenly America became fair game for other countries' manufacturers of telecommunications equipment, but at the same time, our products were shut out from their markets. This legislation provides bargaining tools to open up markets in the world's telecommunications markets.

The overall theme, Mr. President, of this legislation is not to close the markets of the United States. Senator PACKWOOD is exactly right, no one can reasonably call this a protectionist bill. It is not protectionist. It has exactly the opposite effect. The theory of the bill is that the United States can compete with anybody. Our businesses, our manufacturers, our workers can compete with anybody in the world provided that the rules of international trade are enforced.

As of now, the rules are not enforced. We bargain with other countries. We have extended negotiations. We toast each other with champagne at the end of those negotiations and we say, "Well, we have entered into major agreements in order to create a free trading system." And yet, in practice, that trading system is not free because it is one thing to negotiate agreements and it is another thing to enforce those agreements. It is one thing for Congress to enact laws providing for the enforcement of trade agreements, and it is quite another thing for an administration to go forward and execute those laws.

That is what this bill does. This bill provides for more certain execution. This bill provides for greater certainty in enforcement. It provides for more credibility for the United States in dealing with the practices of other countries that restrict international trade. It is a market-opening, not a market-closing, bill. It says that the United States can compete. It says that the United States can engage in international trade with other countries and that we can win that competition. That is the theory of this bill. That is why this is such important legislation.

I want to reiterate the position that others have taken and that I stated earlier this afternoon. My hope is that we can pass the bill and pass it quickly. My hope is that these various amendments that are floating around will be tabled. Everyone has had a fair chance to present his or her views on trade literally for a period of years. Day after day, this legislation has been on the floor of the Senate. The time has come to pass it. The time has come to reject all of the embellishments that others would want to offer.

The chairman of the House Ways and Means Committee has stated that he is not going to go to conference. I do not like having the chairman of another committee of the House take such a position. I would like to see a little more flexibility, but the fact of the matter is that that is the position that has been taken and we are in literally the last weeks of the 100th Congress.

So it is my hope that we can get on with it, that we can pass the bill without amendment and that we can begin a new era when Americans who want to compete in international trade will have a government behind them that will enforce the rules of international trade.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very pleased today to join Senator BENTSEN in urging the Senate to quickly pass a version of the trade bill that does not contain the two provisions that the President found most objectionable.

The President decided earlier today to let the plant-closings provision become law. That was the basis of the President's decision to veto the previous version of the trade bill.

That fight is over now.

But we cannot let the political struggle that we have just gone through allow us to forget the serious trade problem that we have on our hands.

This country is still suffering from unprecedented trade deficits. The monthly U.S. trade deficit figures have shown some improvement lately. But, even if those improvements continue, the United States will still be running trade deficits in excess of $100 billion for several years to come. At no point in modern history has any nation run trade deficits that large.

Further, we are still being played for a patsy by our trading partners. The Japanese market—despite some recent breakthroughs on beef and citrus—remains by and large closed to American exports. The markets of some of our other trading partners, such as Korea and Taiwan, are even more tightly closed than Japan.

Several of the newly industrialized countries—particularly Korea and Taiwan—also intentionally manipulate the value of their currency to encourage exports and discourage imports.

These are the problems that the trade bill is designed to address.

Virtually every committee labored to produce a bill that gives America a trade policy.

This bill is the result of millions of man-hours of markup, drafting, and conference stretching over the last 3 years.

And I believe it is a well-reasoned compromise.

The bill does not solve every trade problem that we face. And if we pass a trade bill, the trade deficit will not magically disappear.

But the bill does put in place a legislative framework that allows us to address the trade problem. It does give the United States a trade policy—something that we do not now have.

The importance of the trade bill goes beyond its direct implications for American trade policy—it is an issue of whether or not America can govern.

Mr. President, we were elected to this body to produce responsible legislation to address the Nation's problems.

The President has indicated that he is willing to sign this bill. Let us take him up on his offer and get on with the business of governing America.

Unfortunately, there is a complication. The House has indicated that they will not go to conference again on this bill.

If we want a trade bill this year, we must pass the bill at the desk without amendment.

I am not happy with every provision of this bill. But I have had my chance to change them and so has every other Member of this body.

Every amendment is now a killer amendment.

I urge all of my colleagues to resist all amendments to this legislation.

We have a chance to do the right thing—to pass a trade bill that responds to the Nation's needs.

I hope we do it.

DOMESTIC SUBSIDIES

Mr. President, the Senate trade bill made a significant clarification of the definition of a domestic subsidy.

It was virtually identical with the House amendment with regard to the generally available rule, and I am pleased that the House and the Senate agreed on this amendment.

This has been a highly controversial issue over the last 6 years. However, the Court of International Trade in 1985 made a decision in Cabot Corp. versus United States that resolved this controversy. (620 F. Supp 722, CIT Oct. 4, 1985.) The Court ruled that the Department of Commerce had unduly narrowed the definition and reestablished the definition as it existed in 1979 when the Congress approved the U.S. agreement to the Subsidies Code. The Subsidies Code did not change or narrow the definition of an actionable domestic subsidy and Congress did not amend prior law at that time. The Court recognized that the countervailing duty law remains today as it was prior to 1979.

Both the Senate amendment and the House amendment simply codify the case of Cabot Corp. versus United States. This is made absolutely clear in both the Senate and House reports on this section. I also made it absolutely clear when I offered this amendment in the Finance Committee, and the committee record reflects that agreement.

I trust that the administration will now comply with the law from this point forward in determining that such subsidies are countervailable as required in both the Senate and House amendments to H.R. 3, intervening decisions notwithstanding. Congress has acted and this controversy is now resolved in conformance with the CIT decision in the Cabot case.

I ask unanimous consent that a statement by the chairman of the House Trade Subcommittee, SAM GIBBONS, describing the intent of this provision be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. Chairman, I would like to address briefly the trade bill provision on domestic subsidies. Section 1312 of H.R. 4848 is identical to section 1312 of the conference report on H.R. 3, which was approved by both the House and the Senate in April of this year. This provision on actionable domestic subsidies, commonly referred to as the "general availability" provision, appeared in almost identical form in both the House- and Senate-passed versions of H.R. 3. The purpose of the provision is to correct problems with different interpretations by the administering authority of the general availability concept.

Mr. Chairman, as chairman of the House Ways and Means Subcommittee on Trade, original author of the general availability provision, and coauthor of the conference agreement, I can unequivocally state that the general availability provision was intended to codify the Court of International Trade's decision rejecting the administering authority's then-existing interpretation of section 771(5)(B) of the Tariff Act of 1930 in *Cabot Corporation* v. *United States*, 620 F. Supp. 722 (CIT 1985). Indeed, the Ways and Means Committee report (H. Rept. No. 100-40, Pt. 1, 100th Cong., 1st sess. 124 (1987)) clearly states the committee's intent to codify the Cabot rule requiring the examination of whether competitive benefits are conferred by a government program on identifiable recipients—as opposed to society at large. In my judgment, the Senate report (S. Rept. No. 100-71, 100th Cong., 1st sess. 123 (1987)) also clearly embraced the Cabot rule.

I would also like the record to reflect clearly that neither the House language on general availability nor the similar language in the Senate bill codified or addressed post-Cabot decisions of the Court of International Trade. The conference committee, as indicated in the conference report, intended to codify Cabot but did not address any later-issued rulings such *PPG Industries, Inc.* v. *United States*, 662 F. Supp. 258 (CIT 1987). I note that the author of the Senate provisions has expressed the same understanding of the conference language (134 Cong. Rec. S. 4914 (daily ed. Apr. 27, 1988) (statement of Hon. MAX BAUCUS)).

Finally, the managers adopted conference report language accompanying the provision on domestic subsidies which directs the USTR to identify—through the ITC—and address investment barriers which have the effect of preventing U.S. industries from claiming the benefit of a foreign government program on the same terms as domestic capital.

The principle underlying this provision is quite simple: A government which creates an advantage for its domestic industries through a government program and then denies that advantage to U.S. persons through investment restrictions is engaged in a discriminatory and unreasonable unfair trade practice cognizable under section 301 of the Trade Act of 1974.

The conference report directs USTR to self-initiate section 301 cases to address the practices identified in the ITC report which the U.S. Trade Representative determines most adversely affect U.S. industries. This represents a congressional mandate to take action to address these practices but gives discretion to determine which cases are most "egregious" and have the most adverse impact on U.S. industries.

Mr. Chairman, it is no secret that the situation giving rise to this conference report language is Mexico's investment regime as it applies to foreign access to Mexican natural resources. Mexico maintains a dual pricing scheme for its natural resources whereby the export price is above the domestic price for those resources. In this setting, investment restrictions reserve for Mexican capital the full advantage conferred by the lower domestic price for Mexican natural resources.

I would expect the ITC study to be thorough and comprehensive. I would anticipate that a significant portion of the ITC study will focus on investment barriers as they apply to the exploitation of natural resources. For the Mexican case may not be unique, and we will, sooner or later, be obliged to come to grips with unreasonable and discriminatory foreign practices involving natural resource-based industries.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

Mr. President, this is a happy day for workers in this country and for the future of the American economy. Two significant events have happened today. One, of course, is the President's decision to allow the plant-closing notification bill to become law without his signature. We know he opposes that legislation, but the fact it becomes law today I think is a major victory for our workers and for our country. It will mean that workers out there who may have had a job at a given company for 10 or 20 or 30 years will not arrive at work one morning and find that the gates are locked, the doors are bolted, and that their job has disappeared without any warning.

There will be a 60-day notice now required for the larger companies, both for layoffs and for plant closing, and that will give us an opportunity to see if we can find answers that can keep the plant open and, if not, to then take other steps to try to cushion the shock to those workers and their families and those communities. So that action today is a tremendous step forward for people in this country who work for a living.

Now we have the trade bill on the floor, and I want to begin, if I may, with a tribute to the chairman of the Senate Finance Committee. Senator BENTSEN has led the fight for us now in the Finance Committee and on the Senate floor for really several years, the fight to get trade fairness and also the side-by-side fight to get plant-closing notification which, as I say, has become law today. And so to Senator BENTSEN, who, of course, has now been named to seek the Vice Presidency, and serve with Governor Dukakis, this is a moment of great achievement by the Congress in finally coming to grips with the trade issue, and it is a very profound individual achievement that really first and foremost I think is traceable to his leadership in bringing this issue through the committee and out to the Senate floor.

I have a very special feeling about it because there was a time, in dealing with trade cheating by countries like Japan and Taiwan, Korea, and others that have had a practice of selling here in very large amounts and in turn denying entry of American goods into those countries and to other countries, it was not clear that we would be able to work out a procedure whereby we could stop the trade cheating and get our goods and our workers on an equal footing with those products and workers in foreign countries.

Senator BENTSEN allowed me, and Senator DANFORTH, and others to work over a period of weeks and months to see if we could craft a procedure within the structure of the existing trade laws that would allow us to take head-on the problem of trade cheating and find a remedy that could put an end to it and over a period of time allow our goods to be able to compete fairly and fully in all markets overseas. Actually, as one can see, that is the key to achieving the full vitality of our own economy, and that is the ability to be able to sell on a fair basis overseas in foreign markets.

By affording us that opportunity, when it looked at the outset as if there might not be a way to find an answer, we were able to develop what is called the super 301 procedure. We were able to do it on a bipartisan basis. It later became a leadership amendment on the floor by the leaders of the two parties, and it is now incorporated in my mind as the centerpiece of this bill in that it insists on a set of adjustments that will bring about fair global trade. That would not have been possible but for the willingness of the chairman of the Finance Committee to allow those of us who were looking for that answer to have the time and the latitude to be able to develop both the approach and the consensus that it would take for it to be workable.

I am very proud to say that we finally succeeded in that task, but that would not have been possible without Senator BENTSEN's creating the conditions under which that effort could take place.

Mr. BENTSEN. Will the Senator yield?

Mr. RIEGLE. I yield to the Senator.

Mr. BENTSEN. I applaud the role the Senator has played in this provision. There is no question but that the Senator was able to exercise a true leadership role. I think we are seeing today one of the results of what the Senator has done in that the Japanese Foreign Minister, Mr. Uno, is recommending the President of the United States veto this trade bill. One of the reasons, of course, is the fact Japan has a $60 billion trade surplus with us. When you get to the hardcore, nontariff barriers, Japan has some 29 percent of merchandise from industrialized countries subject to nontariff barriers. That is on what the super 301 provision really strikes home. As the distinguished ranking member, Senator PACKWOOD, was saying earlier, we are not simon-pure. We have some 15 percent of those products subjected to some kind of barrier, but theirs is 29 percent. I think the role the Senator played with Senator DANFORTH and with the leadership, the majority leader, Senator BYRD, and in turn the minority leader, Senator DOLE, is one that really pulled it all together. It was a very difficult one to negotiate and the Senator did a fine job.

Mr. RIEGLE. I thank the chairman for his very kind comments. I think we have reason now as an institution to be very proud of the work that we have before us today in terms of this entire trade bill. It is going to make a real difference in terms of reducing the trade deficit, keeping our best jobs here in America, forcing open the foreign markets, where we are going to be able to sell on a fair footing not only manufactured goods but also services as well as agricultural production. The farm leaders of my State feel very strongly that we can sell much more abroad, and they are right in that, if we can get these trade barriers down overseas.

Our procedure will enable us to accomplish that. So clearly although this has been a very long journey and it has been uphill all the way, we have been able to craft a trade bill that will pass and become law. It is going to make a real difference.

I want to draw attention to just a few other provisions that I was able to help put into this bill by offering these provisions in the Senate Finance Committee. They have come on through the process, through the Senate bill, through the conference, and they are in this bill today. One very important amendment deals with violations of internationally recognized worker rights by saying that the United States will no longer have to compete against unfair practices of extreme sorts, against workers in foreign countries. That worker rights provisions is part of this law that we are about to pass.

Another amendment which we have incorporated makes it an unreasonable practice for a government to tolerate systematic anticompetitive practices by the private sector which keep our goods out. This again deals with some technical difficulties that we have faced with being able to sell on a fair basis overseas. But this provision will help us there. There is a further amendment which prohibits foreign investment firms from operating as primary dealers in U.S. Government securities unless U.S. firms are guaranteed national treatment in return meaning that we are able to be treated on the same footing in those foreign countries.

There is another amendment which requires the International Trade Commission to consider evidence that foreign merchandise is selling below cost in another country, in a third country, and determining whether a threat to injure exists in a U.S. dumping case for the same product. Again, it is technical in nature but it is very important to give us the legal leverage to enforce action against trade cheating that is going on every day that hurts this country, and it hurts our workers.

Finally, there is also an amendment included which designates a customs port of entry for the Oakland-Pontiac Airport which will make it more accessible for foreign trade opportunities.

So, taken together, what we have here is a bill that will really begin to bring down this trade deficit that has been hurting our country. The trade deficit has caused us to become the No. 1 debtor nation. We have been adding international debt at the rate of about $1 billion every 2½ days, but by insisting on a change in these trading rules to do away with the unfairness, to challenge the unfairness, and to bring us into a fair trading system, we will be able to bring that trade deficit down. That is going to mean more good job opportunities here in the United States. By that, I do not just mean jobs at the minimum wage level. We are talking about jobs that pay middle-class wages.

We are talking about manufacturing level jobs where people can earn enough money to be able to put savings aside for a downpayment on a home, to put savings aside to educate their children at the college level later on in life, to have medical benefits associated with that job, medical protection, and finally to be able to have retirement benefits as well.

Those are the kind of jobs that built the middle class of this country. It was in fact the growing strength of the middle class that made America the economic leader for the world. So by getting this trade bill into place, we preserve and enhance the chance for middle-class jobs which in turn will help create and maintain the basic economic strength of America. If we want to be strong militarily overseas, if we want to have a vigorous space program, if we want to be able to help the elderly or find the answer to the AIDS problem or any of the other issues that are expensive for us to solve, we have to have a strong, vigorous economy. Our job foundation is the key to everything else. In a global economy, fair trading rules are the key to economic vitality in the United States. We have here in this legislation a trade bill that we can be proud of. We have done the job. We are about to enact it. We are about to sign it into law. I think it is a time when workers in this country can feel that finally their Government has gone to bat to help them in an area that really counts.

I thank the Chair. I yield the floor.

Mr. BENTSEN. Mr. President, earlier this day we were asking that no amendments be offered. We were not able to get an agreement. I strongly urge those who have listened to come forth, and bring their amendments. We have time, we will give them consideration, and we can move this piece of legislation forward.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am very pleased that we finally have come to this point where we have a very good chance of passing the Trade and Competitiveness Act. It has been a long time coming. We have a staggering and persistent trade deficit, and we need a trade policy to do something about reducing it.

This bill is filled with compromises that have been worked out in good faith on both sides of the aisle. We passed this bill once, only to watch the tragedy of a Presidential veto. We were unsuccessful in overriding that veto.

So, Chairman BENTSEN, in his wisdom, came up with a strategy that makes good sense, of splitting the plant-closing notification provisions from the rest of the trade bill. Now, the President has decided to allow the plant-closing bill to become law without his signature. It is not exactly, I guess, my idea of an act of courage, but, nevertheless, I am glad he chose this route. Today, we are faced with the trade bill itself. It is tremendously important to the American worker. It is equally important to American business. And, frankly, it is very important to America's future.

It contains a variety of provisions dealing with trade policy, with worker retraining, with education, that is going to affect not only my people in West Virginia but people all over this country. It will make us more competitive. It will help make the American work force more competitive in the decades ahead.

Mr. President, this bill gives us a trade policy, and that is something to cheer to the heavens about. There is a long history in this country of maintaining open and accessible markets. We feel that by waiting others will come to that same point of view.

We wait for the Japanese, for the Europeans, for the Brazilians, and for other countries to come around to our way of thinking. But, of course, they do not. In fact, they have very carefully, very strategically, and very deliberately, over a period of decades, particularly in the case of Japan, put themselves in the position where they have developed their economies partly at our expense. To a great extent, they used our technology, our learning, and our research and development. We, in turn, have ignored everything that they have been doing, feeling as we did in the fifties, sixties, and seventies that there was no country that could compete with America. Indeed, that was true in the past. But it is an entirely new world now.

Look at retraining assistance for our workers. A million Americans are thrown out of work a year, some because of overseas competition, with no place to go. We are the only country in the world that does not offer our people a rational retraining program. We are the only industrialized country in the free world that does not do that. That is incredible. But this bill addresses that problem.

Today, if you have been put out of work because of imports, you receive unemployment benefits for 26 weeks. But we have the incredible situation in our present law, whereby, if you want to get any kind of trade adjustment assistance so that you can attend school, get more education and be trained for other work, you cannot do it. You cannot do it because you first have to exhaust the 26-week unemployment benefits. That is absurd.

We hold our workers back. We crush our workers' incentives. This trade bill changes that, and changes it for the better. We must invest in our workers, doing things that other countries do as a matter of course—helping them become reemployed quickly, getting them into good jobs, hopefully, at good wages, and not ignoring them.

We now ignore our people when they are displaced from jobs through no fault of their own. This bill changes that. It gives American industry a chance to reorganize and restructure.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. ROCKEFELLER. I am glad to yield.

Mr. BENTSEN. Mr. President, this bill changes that, and a great part of it is because of the leadership of the distinguished Senator from West Virginia, who is deeply concerned about workers losing their jobs in industries that might become noncompetitive. He is deeply concerned to see that they have the education and training to lead productive lives and contribute to society. I am pleased with the role he has played in this.

Mr. ROCKEFELLER. I appreciate the comments of the distinguished chairman of the Finance Committee, LLOYD BENTSEN.

I say to the chairman that in West Virginia we lead the Nation in plant closings.

Basic industries in West Virginia have been attacked by foreign competition and have been reduced year after year. Hardly a month passes in West Virginia without a plant closing.

These things, under the leadership of the chairman of the Finance Committee, are changed in this bill. That is not to say that the bill answers all our problems, but it is to say that the bill will give us, for the first time, a trade policy.

I refer again to the Japanese. The Japanese believe that if only we would understand their problems, we would come around and be less impatient. Well, going back to the Meiji Restoration, going back to the end of the Second World War, the Japanese have always planned strategically. They have known exactly what they wanted to do.

After the Second World War, when we thought they would build toys, they built steel mills and ships, and they began to expand and protect their industries. Now we are discussing the fact that through the use of their patent office, the Japanese have ways of keeping our high technology products out of their country except under their own terms where we must give up our technology and share it with the Japanese.

They know what they are doing. In 1992, we are going to be faced with a combined Europe, a European bloc, of some 326 million people, with a strong industrial base, united, with a common currency, a common trade policy and a common determination. This is a challenge that this bill will help us meet.

This bill is a statement of policy, of intent, that at last we are going to have an American trade policy, that we will not be passive vis-a-vis the Japanese, the Europeans, the South Americans, or anyone else.

I repeat, Mr. President, that this bill does not solve our trade problems. What will solve our problems is a trade policy that is firm and delineated and understood by other countries who understand what we stand for. We must draw the line and explain that here we stand. There must be a will within the American people to compete, and we have to work on that. Mothers and fathers must get their children to do their homework. You cannot blame the Koreans if our children are watching "Miami Vice" on Friday night and not doing their math and science. You cannot blame the Japanese if we do not have a worker retraining program.

At some point, we have to take responsibility for our own competitiveness, and that is why this is called the trade and competitiveness bill.

In conclusion, I congratulate Senator BENTSEN, who has done extraordinary work on this matter for many years. I also commend Senator PACKWOOD, Senator BYRD, Senator DOLE, and Senator DANFORTH. Also Senator HEINZ, who I see across the Chamber, and many others who have played key roles in bringing about this excellent product.

I hope that our colleagues will vote for it overwhelmingly and that we will at last, in this country, be able to say that we have a trade policy.

I yield the floor.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Pennsylvania.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. HEINZ. I am pleased to yield.

Mr. BENTSEN. I see the distinguished Senator from Montana, a member of the committee, in the Chamber. As I was listening to the Senator from West Virginia talking about the antidumping provisions I recalled the extended work that the Senator from Montana did in expediting cases when a country violates our antidumping laws and what he did to improve those laws in many other areas such as their application to agricultural products. I remember the fight he made in committee, changing the legislation to open up Japanese markets for supercomputers produced in this country.

There are many who have made contributions to this piece of legislation, and I want to acknowledge it at this time.

I see my friend from Pennsylvania, who has played a major part in this legislation, as I referred to in my opening statement.

Mr. HEINZ. Mr. President, first, let me thank the chairman of the committee for the kind words he has said about me. I hope I merit them.

I have enjoyed greatly the opportunity, as a member of the Finance Committee, to participate in the framing of this and several previous trade bills. I would not want to let this occasion pass without paying special tribute to the chairman of the committee, Senator BENTSEN, who at all times conducted the committee, both in its hearings and its markup, not only in a very open way but also in an open-minded way when there are good suggestions made by any member of the committee, regardless of which side of the aisle, Republican or Democrat.

The Senator from Texas was willing to listen to those suggestions and to support them on their merits. He conducted the committee in an utterly fair way, and I think the result of that has been an excellent product, which we now have the opportunity to vote on the fourth time. I hope that this time we are going to get it right and that we will not have to vote on this affirmatively for a fifth time.

I did not happen to be in the Chamber for all of the opening statements that have been made. I have little doubt, however, that some words of praise have been made in favor of this legislation. Many of those words are no doubt deserved. But I am going to speed things up a little bit by omitting the words of praise for this legislation. On three previous occasions I have discussed the merits and some of the shortcomings of this legislation in some detail.

What I would like to do instead is to say a few words about the context within which we are now considering this bill and what we ought to be doing in addition to the bill.

The most obvious point that I would like to make is that the action we are taking today is long overdue. I do not mean just the Perils of Pauline that we have been through with this bill this year, but also that it would have been far better had we done in the 1984 trade bill those things that we intend to do today.

I say that because the 1984 trade bill had virtually no effect on our trade problems, and we should have learned from that failure. We should have passed this bill of 1988 at least in 1986, but we did not do that. We did come close. The House passed a trade bill. The Finance Committee began its markup, but there were some people who did not want to confront our trade problems at that time and those efforts came to nothing.

Now here we are today. We have been a long time getting here because at the beginning of 1987 it looked as though we could complete action on a trade bill by the August recess. That is the recess of last August not this August, but instead other pressing legislative matters postponed this bill, I am afraid, and we also were confronted with some disagreement among ourselves and some Presidential hostility to trade legislation which culminated in this April's veto.

Now we are at last faced with the prospect of enactment a year after that original schedule and 4 years at least behind the need.

I suppose I am one of those who believes that better late than never is a useful cliche. It certainly is descriptive of this sequence of events, but I take from that small comfort, especially for the thousands, indeed hundreds of thousands, of Americans who have lost their jobs in that 4 years due to unfairly traded imports. Of even less comfort is the fact that this bill is not going to do very much to get those jobs back.

Along with the praise, Mr. President, I expect that some will be tempted to suggest that we no longer need this bill, that the crisis is over. Some will argue, "Well, the monthly trade deficit is way down." It is way down to $10 or $11 billion a month. What that means is we will not have a trade deficit of $170 billion a year any more; it will merely be $140 billion.

I hope that the Senate is not going to engage in a bit of euphoria because the trade deficit is down to $140 billion. I hope we understand what that means, that anybody who thinks that is a delightful level is simply wrongheaded, and that in fact our economy, particularly as measured by the trade deficit, continues to have serious problems, particularly in the manufacturing sector.

I would like to bring to the attention of my colleagues, Mr. President, a report developed recently by the Office of Technology Assessment that I and some others originally commissioned. That report is entitled "Paying the Bill: Manufacturing and America's Trade Deficit."

That report, which I released on June 29, is an important testament to some of the more intractable problems we face. That report verifies that many of the ideas that imbue the trade bill are indeed on track. It demonstrates that we are consuming ourselves into the international poorhouse, chalking up debt our children will take many, many years to repay. It shows that our trade deficit, the product of our thirst for imported goods, has been financed by foreign investment, an unprecedented inflow of funds that cannot and will not last forever.

That we must deal with those problems is a given. The real question now is do we choose or not choose to deal with it, and that is the subject of the OTA study. And OTA's conclusions provide a clear and convincing rationale for the legislation that is pending before us.

The least desirable alternative, but it is one identified by the OTA, is recession. Recession certainly is one way of curtailing demand. It throws people out of work. It reduces their incomes. But it is the least attractive alternative, and as OTA points out, it is going to take very careful management to avoid it.

OTA also emphasizes that single solutions like further bringing down the dollar is not going to be enough. The decline so far has belatedly increased exports but it has not, and I repeat not, decreased imports.

The OTA report points out that export expansion, desirable, of course, nevertheless will not be enough. There is no possibility, according to OTA, that we can increase our exports by $150 billion or anything like that without bankrupting the rest of the world.

It concludes that manufacturing is the key. Eighty-five percent of our current account deficit last year was in that sector. A large part of the solution must come from that sector as well.

It points out that growth in services and high-technology exports can never substitute for the performance of the manufacturing sector. And there is little question that most service jobs, whether they involve the service of fast food or the service of the investment bankers, ultimately rests on the production of something. At least 6.5 million service jobs are directly tied to manufacturing. High-tech items are not retail products. Their best customers are indeed other manufacturers.

Mr. President, what is the answer to this dilemma? I suggest, and one should deduce from the OTA report, that it is a combination of macroeconomic adjustment and improved manufacturing competitiveness and that the latter point on improving manufacturing and its competitiveness is absolutely critical.

The history of the last 40 years has been one of the gradual erosion of our manufacturing lead, which has been caused by a wide variety of factors also identified in this report.

First, we experienced a boom at the end of World War II, but it was also to be expected that rapid increases in growth in Europe and Japan would occur as they rebuilt their war-shattered economies and their infrastructure.

We have experienced lagging productivity growth in this country, particularly in the 1970's. There are lower wage costs elsewhere. Other countries have engaged in mercantilist trade practices, including the practice of creating comparative advantage, particularly in Japan and the Pacific rim countries. Our large sophisticated open markets have attracted foreign producers.

In the face of these pressures, the Office of Technology Assessment makes clear that both Government and even more importantly the private sector, business, and labor, have simply not risen to the challenge.

We have virtually dropped out of many areas of production. Consumer electronics is a good example.

Research and development spending is down compared to our competitors.

We graduate relatively fewer advanced professionals such as engineers.

We have lost our technological edge. We lag behind the Japanese in use of innovative manufacturing techniques such as flexible manufacturing systems. So long as a Japanese company can use the same flexible manufacturing system to produce 50 products that our companies employ to make only 15, we will continue to remain behind.

It takes us more time and more manpower to move a product from design to production. So long as a Japanese company can take a product from idea to pilot production in 3.5 years while an American company takes over 5 years with about twice as many engineering hours, we will never be able to recapture our edge. The OTA report released on June 28 on the superconductivity race is the latest example of our slowness in moving from concept to functioning product. With continuing high-capital costs and wages, an edge in technology is something we cannot afford to lose.

While we have made progress recently, so have our competitors. Where we are ahead the gap continues to narrow, and where we have fallen behind, we continue to be behind.

Mr. President, the only conclusion one can draw after reading this study is that we face a much more competitive world out there in which we are one of many near equals rather than the dominant power we used to be. We can deal with this challenge. Indeed, we have to deal with it. But it will not be easy. The first step must be to discard the myths that have paralyzed us in the past and threaten to do so in the future.

Myths like the idea that a strong dollar means a strong economy. Or that bringing down the dollar will solve our trade deficit problem. Or that the changes we are enduring are part of a transition to a post-industrial economy dominated by services, and that if we ever get there everything will be all right. Or the myth that our manufacturing sector, having gone through a difficult period of adjustment, is now healthy.

Mr. President, the Office of Technology Assessment makes reality crystal clear. And that reality is that we do have a serious trade problem. We have a serious manufacturing problem. Those problems, while solvable, will not be solved easily. We will begin that process by passing this bill, the trade bill. Going beyond that to retain our economic strength inevitably, however, must mean going much farther. It means a balanced program of budget deficit reduction and a comprehensive effort on the part of business, labor, and Government to restore our manufacturing sector to competitiveness.

It is this Senator's view that any blueprint for achieving those objectives should contain:

Changes to shift the tax system in favor of savings and investment rather than consumption;

Providing tax incentives for research and development;

Devising strategies to create targeted comparative advantage while facilitating adjustment, as I have proposed in previous years;

Aggressively defending the market system internationally against our competitors' unfair trade practices;

Lowering the cost of capital by reducing the budget deficit;

Upgrading the capability of the work force through education and retraining;

Helping to reduce our current account deficit by reducing energy imports through conservation and substitution, and by increasing defense burden sharing on the part of our allies.

These are all part of the strategy that we, as Americans, together, both in government and in the private sector, need to pursue cooperatively to develop and then to put into practice.

Mr. President, let me say, in closing, that while some of the arguments and proposals that I have discussed over the last few minutes may seem dry and technical to some, the problems that they address are by no means dry or technical. They are problems that, in a State like Pennsylvania or West Virginia or Illinois or California, or virtually any other State, have a very human face. It is the face of a worker whose plant has closed and does not know where to turn for work. It is the face of parents who do not know whether their child will ever achieve the standard of living they have come to expect. It is the face of a small manufacturer trying to hold his or her family business together.

These are worried, in some cases, desperate faces. We have seen far too many of them in recent years in Pennsylvania and in the country as a whole.

Yet, at the same time, those faces reflect a courage and determination and willingness to work to build a better future that has characterized this country for better than 200 years. The people I see know that the problems we face indeed are complex and that there are no easy answers, but they are prepared to take those problems on. What they want from us is not those easy or superficial answers, but a blueprint, a realistic plan for helping us confront the challenges of a truly global economy with all the difficulties and complexities that necessarily entails. Modest though it may be, and overdue though it certainly is, the trade bill before us is a part of that blueprint. I urge its adoption.

Mr. President, one final word about the managers of this legislation. I commended, at the outset, the chairman of the committee, Senator **Bentsen**, for his extraordinary work on behalf of this bill.

Senator **Danforth**, who had served for 6 years as chairman of the Trade Subcommittee and is now its ranking minority member, has equally worked as hard and as effectively as any Senator could for this legislation. He, too, has worked with people on both sides of the aisle.

Senators **Dole** and **Packwood** have also, together with Senator **Byrd**, the majority leader, and Senator **Rockefeller**, my friend and colleague who spoke a moment ago, made major contributions to this legislation.

I am particularly interested in making sure that the improvements in the trade adjustment assistance program are finally enacted into law; that the improvements in section 201 that require a quid pro quo in any adjustment plan become the law of the land; and the strengthening amendments on unfair trade dealing with nonmarket economy dumping, anticircumvention, the steel melted and poured and non-VRA country provisions, that all of these be enacted into law; that, on the export side, the reforms we have made in the Export Administration Act that would streamline and liberalize licensing be quickly made available, as well as the Export Trading Company Act amendments.

All of these improvements have drawn upon the ideas of many members of the committee. While some of them have been amendments that I have offered, they would never have gotten into this trade bill without the understanding and support of my colleagues on the committee.

I have been particularly privileged to work with the junior Senator from West Virginia on the expansion of job retraining, the authorization of some $980 million as the President originally requested some year and a half ago for the expansion of the displaced workers program. These will all give new hope and ultimately new life to people who are indeed deserving, but, more importantly, they will give new hope and new life to our economy, because the people we will help are players in this economic game that we cannot afford to be without.

Mr. President, I again, want to commend the committee for its persistence. This indeed is the fourth time we have had an opportunity to bring this legislation to the floor. This time I sense most people will be speaking for it. I just hope that as we consider it, the Senate will defeat amendments to it.

There have been ample opportunities for amendments to be considered. The Senate and the House have worked their will on those amendments to the previous version. The result of further amendments to what we now have, which is essentially a conference report with two items stripped out of it, would merely complicate the job that both bodies have undertaken and which we have been at for some 4 years.

So I intend to join with the leadership of the Finance Committee and what I suspect are most other members of the Finance Committee in urging the defeat of all amendments to this bill so that we may shortly be able to say that we have passed this legislation, that we have moved it through both the House and Senate and to the President's desk so that he may sign it and that it may become the law of the land just as quickly as possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. **Breaux**). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as the author of the Foreign Corrupt Practices Act [FCPA] I am deeply disappointed that the trade bill contains language that tears the heart out of that important antibribery statute. I fear that changes to the FCPA contained in the trade bill will bring back American corporate bribery of foreign officials.

It was one of the great shames of this country in the 1970's when enormous bribes were paid in Japan and Italy and the Netherlands and Africa and the Middle East and the situation was so bad that the Foreign Corrupt Practices Act passed overwhelmingly. In fact, it passed unanimously in the Senate and overwhelmingly in the House.

The scandals seriously damaged governments in those countries friendly to the United States and discredited our country in the eyes of many. Enactment of the FCPA in 1977 has effectively prevented major foreign bribery for the past 11 years. So think of what we are doing. At the very time when the American people have been shocked by the biggest bribery and corruption scandals in years in military procurement, we in the Congress are going to conspicuously weaken our country's most effective antibribery law.

The question is why are we going to take this action? The answer is that this administration and a small band of corporate lobbyists have managed to bury these changes to the FCPA in the massive trade bill now before us. These lobbyists knew they could never push this smoothly concealed destruction of our important antibribery statute through the Congress on its own. So they have slipped it into this massive overall trade bill. Here is one of the two or three longest, most complex, most controversial bills the Congress has ever considered. It contains thousands of pages and hundreds of thousands of words. No one will ever read it in full. So here is the perfect concealment in depth for the "Bring Back Bribery" provisions. Mr. President, in my book, this bill, if and when it becomes law, will not be known as the trade bill of 1988. It will be and should be known as the bring back bribery bill. And as American corporations pay the bribes and the bribery scandals mortify our country in future years, this will be the legislation that made the bribes inevitable.

If these changes to the FCPA were not in the trade bill I could move to amend or even delete them from whatever bill they were in and could probably convince this body that I had a case. But because these provisions are in the trade bill I will not be able to amend them. We all know why. It is because we do not have time to consider the many changes various of our members would like to make in this omnibus bill. Therefore the House and Senate leadership have had to adopt a no amendment strategy. Every amendment no matter how well conceived will be tabled, because the Senate will not want to get bogged down in a limitless debate on this trade bill. To accept any amendment would signal a reopening of the entire bill and neither body wants to get into that at this late date in the 100th Congress.

Some people contend that I am overly concerned about these amendments to the FCPA because I am the author of this act. I do not think that is the case. I am concerned because I do not think a case has been made for changing the FCPA, and particularly its "reason to know" standard. I am not alone. Let us consider what Congressman RODINO, the distinguished chairman of the House Judiciary Committee who played such a major role in the Watergate hearings, had to say on this issue when we started our March 23 conference meeting on it. He stated then:

> Before we begin to delve into the details of the House and Senate versions of the bill, I want to consider briefly a larger question surrounding our activities here today. To be quite candid, I must ask why we have chosen this time to weaken our anti-bribery law concerning foreign corrupt practices and why, if there is truly support for such legislation, are we attempting to do it by the vehicle of an omnibus Trade Bill. . . . A 1981 Congressional survey of 250 companies showed that the FCPA had little or no impact on American business abroad. A 1987 article in the California Management Review also did not find that the FCPA has put American interests at a disadvantage overseas, did not destabilize friendly regimes, and was not perceived as a type of moral imperialism by the U.S. in attempting to force our cultural standards on nations with different cultural norms. . . . In short none of the arguments put forward for repeal of the Act have been shown. All of which makes me pause to consider the fundamental wisdom of amending the FCPA now and in this manner.

Chairman RODINO is absolutely right. No case had been made for making the changes to the FCPA now in the trade bill. If we weaken the ability of our prosecutors to enforce the FCPA we will bring back bribery. Let me explain why.

In the early 1970's, shortly before the Congress enacted the Foreign Corrupt Practices Act, the Lockheed Corp., paid a $1.4 million bribe to the Prime Minister of Japan.

Think of that. It would be like a Japanese corporation paying a million-dollar bribe to the President of the United States. What happened to the Prime Minister of Japan? That top elected official? He went to jail in disgrace. It ruined his life. He was through.

For Lockheed that bribe was a great investment. That $1.4 million bribe brought in tens of millions of dollars in profits. That is why bribes can be attractive. A relatively small payment can bring large returns. That is why you must have a law that can be enforced against top executives. It stands as a deterrent to the temptation to bribe.

Mr. President, 2 years ago the FBI conducted a sting operation on bribes. They offered 106 bribes to officials, municipal officials in towns and counties throughout New York State and New Jersey. Not New York City, but elsewhere.

Of those 106 bribes they offered, how many were accepted? Mr. President, 105 bribes were accepted. Only one was turned down.

It looks as if, well, at least you found one honest man. The one that was turned down, the FBI said, was turned down because the person that was offered the bribe said it was not big enough. It was not big enough.

What I am saying here is if you are going to stop bribery you have to stop the people who offer the bribes. Public officials, even in this country, and certainly abroad, will accept bribes if corporation officials make them big enough and attractive enough.

Mr. President, you have to have a law that can be enforced against top executives. It stands as a deterrent to the temptation to bribe, and let us face it, bribery as a way to win a sale can be tempting to executives who are in tough competition to win these sales.

A little money can often go a long way. But bribery to get a sale only encourages unethical behavior and results in increased corruption in societies in which we are trying to encourage democracy. Now the proponents of changing the FCPA say they do not want to make bribery easier. Rather they claim a need to clarify the FCPA. But is clarification really needed? Let us look at the record.

In the many hearings this Senator has attended on the Foreign Corrupt Practices Act, I have yet to hear one shred of documentation that justifies changing the 1977 law. There is no question that officials of corporations engaged in foreign trade want very much to kill this antibribery law. For 11 years the law has made them feel uncomfortable. They fear that under the present law if they do not make a constant effort to prevent any officials of their corporation or any agent of their corporation from paying bribes, they may be prosecuted. Well, what is wrong with that? This is precisely the purpose of the law. It has worked. It has stopped foreign bribery by American corporations. Has this law had an adverse effect on American exports? The only documented evidence on the subject indicates it has not. Indeed, in the years 1978 and 1979 the 2 years immediately following the enactment of the FCPA, exports sharply increased.

It is one of the biggest 2-year increases we have ever had in the history of our country, and exports sharply increased.

A 1981 study by the GAO on the FCPA, that was based on an actual survey of 250 major corporations, revealed that most said the FCPA had little or no effect on their business.

I referred previously to a study that was made out in California by Professor John Graham. In that study, he found out from the State Department and the Commerce Department which countries were putatively the most amendable to bribes. He made a particular study of those countries, and he found that in 1978 and 1979 when we prohibited bribery, our exports increased particularly and specifically in those particular countries. As I say, there is no case at all for arguing the Foreign Corrupt Practices Act has diminished our exports.

Has the law resulted in any unjust prosecutions? Is it unfair? Again, the answer is negative. In the extensive Senate hearings on this legislation, there was not a single instance, not one, in which there was even an allegation of an unjust prosecution. So here we have a law adopted by Congress in response to a series of shameful bribes. The purpose of that law was to stop corporate bribery abroad. Has it worked? It has worked extraordinarily well. Why has it worked? Because it requires that a corporate official must keep written records of payments made to foreign officials by his corporation. There is a paper trail. He is also liable if he "knows or has reason to know," that agents hired by the corporation will use bribes to win sales. This means he will automatically question the size and purpose of payments made to such agents.

That "reason to know" language is the heart of the present law against bribery. That standard is crucial to effective enforcement of the law because it is an objective not a subjective standard. This means that a jury can judge whether a corporate manager had "reason to know" whether his agents made bribes to get a sale without getting inside the mind of the corporation executive which nobody can do. They can make such a judgment based on the objective facts and circumstances surrounding the payment to the agent. They do not need to get inside the corporate manager's mind. Getting inside the executive's mind is a subjective standard and adoption of such a standard does not allow a jury to make a judgment as to whether an executive consciously disregarded substantial and unjustifiable risks that his agents were using bribes to get business. Do we really want to allow management to be able to consciously disregard substantial and unjustifiable risks that its agents are making bribes? I do not think so. If not, then why are we changing the "reason to know" standard to a "knowing" standard? That is exactly what the trade bill does. Am I overreacting to this change? Let us hear what the Assistant Attorney General of the Department of Justice during the Carter administration had to say about a "knowing" standard when he testified before the Banking Committee. That former official, Philip Heymann, now a professor of criminal law at the Harvard Law School, stated:

> My problem . . . is that I think knowing gets you right back into the knowing wink and pregnant nod. Knowing is just too strong. The person who deals with that foreign agent is going to make a point of not knowing that the foreign agent is going to pay a bribe. He is going to know or the person who deals with the foreign agent is going to know that he is giving out an awful lot of money, more money than he would give anybody else. And he is going to know that he is giving it to a close relative of the guy who makes the purchasing decision. But he is not going to "know" that it is for a bribe, because he will not want to know that.

Mr. President, that is exactly it. Prosecutors will not be able to prove that management knew money given to its agents went for bribes because in Professor Heymann's words, management "will not want to know that." With a knowing standard corporate officials will, as Professor Heymann warned us, be able to hide behind the "knowing" wink and the pregnant nod.

Professor Heymann was told at our hearing that proponents of changing the "reason to know" standard were concerned that under that standard management might be criminally prosecuted for negligence. No one ever has been so prosecuted but Professor Heymann was asked to come up with a middle ground between "knowing" and "reason to know." He replied:

> I think there are only two ways that anybody has ever figured out to divide—to cut a line halfway between "knowing" and "reason to know". I think there are only two that anybody has ever figured out, and they are both in the law. One line is very close to knowing and it requires you to have consciously shut your eyes to the facts. The courts will treat consciously shutting your eyes to obvious facts so that they do not come to you, they will treat that as knowing. There is precedent for that. That is one way. And a little bit over closer to "reason to know" on the spectrum is simply aware of a very substantial risk that a bribe would be paid. Those are the only two known ways, I think, to state a mental state between reason to know and knowing.

When Professor Heymann, the former head of Justice's Criminal Division was asked which of those two he would choose, he replied:

> I would pick the one that says aware of a substantial risk. There is a category called recklessness, and it is defined in the new Federal Criminal Code, the Model Penal Code, and more than half of our State statutes. It defines "recklessness" as consciously aware of a substantial and unjustifiable risk.

So one of the top criminal law experts in the country told us what to do if we really wanted to change to "reason to know" standard to remove corporate about managers being prosecuted for negligence. He warned us against adopting a "knowing" standard because it would allow managers to adopt a blind eye toward bribery. He recommended going to a standard that covered "knowing or recklessly not knowing" conduct. He, like me, and probably all of us, did not want management to be able to disregard substantial risks that their agents were making bribes and still escape prosecution. The Senate bill had a standard to cover that contingency. It covered managers who "directed or authorized bribes expressly or by a course of conduct." It was meant to cover knowing and reckless conduct but not negligent conduct.

When during the conference I asked fellow conferees to put language that covered "knowing or recklessly not knowing" conduct into the final FCPA amendments, I was told that the matter would be handled in the conference report. Well, I did fight to get language into the conference report to make clear to the courts that we wanted the "knowing" language in the FCPA amendments to be read broadly. I am happy that the conference report states that conferees agreed "management officials could not take refuge from the act's prohibition by their unwarranted obliviousness to any action, or inaction, language or other 'signaling device' that should reasonably alert them of the 'high probability' of an FCPA violation." I also take comfort from the fact that the report states that "the courts should, accordingly, apply the appropriate 'mix' of *subjective* and *objective* standards implied" in the conference report's description of what the conferees intended to cover by their adoption of the knowing language.

Let me sum up by stating that I believe there is no justification for making the changes to the FCPA contained in the trade bill.

I would offer amendments to either strike all FCPA changes, or to change the subjective "knowing standard" in the statute to the objective "knowing or recklessly not knowing" standard if I knew I could get a real hearing and a vote on the merits of such amendments. The objective standard belongs in the statute, not just the conference report. Because, however, there is a policy to table all amendments, no matter how meritorious, I will not offer them. I am not offering them because I do not want some defense lawyer arguing later that the Senate tabling of such amendments meant it favored a narrow reading of the "knowing" standard in the amendments. That would be untrue as the conference report makes clear and I do not want to give them the ammunition for such an argument. It is my hope, however, that when once again bribery of foreign officials becomes commonplace, as I fear it will when we pass these amendments to the FCPA, the Congress will come back and put into the statute language to stop bribery that can be better enforced.

Mr. WIRTH. Mr. President, as the Senator knows, I became quite knowledgeable about the FCPA when I was in the House and chaired the Energy and Commerce's Subcommittee that had jurisdiction over that statute. I, like the Senator, never found that the proponents of making the changes to the FCPA now before us were really able to make a case for those changes. I do want to note however, that the Senator from Wisconsin and the other conferees did make great improvements in the amendments to the FCPA that were originally proposed by the Reagan administration.

Mr. PROXMIRE. Mr. President, I thank the Senator. Congressmen RODINO, BERMAN, MARKEY, DINGELL, and others were very helpful in making improvements in the conference and Senators WIRTH and METZENBAUM helped improved the proposed amendments in the Senate before we ever went to conference.

Mr. WIRTH. I have listened with great interest to the Senator's remarks about why we need an objective "reckless" standard rather than an subjective "knowing" standard to govern management's liability for action by its agents. The objective reckless standard means management will be liable if it ignores substantial risks that its agents are using bribes. It really obligates them to supervise their agents, is that not correct?

Mr. PROXMIRE. Yes; that's the point Professor Heymann made as to why that standard, and not a subjective knowing standard, was needed.

Mr. WIRTH. Well I, and probably most others of us, would support an amendment to make it absolutely clear that Congress wants an objective standard to apply here. But since we are in a posture of tabling all amendments, I think we can take comfort from the language in the conference report that conferees want the courts to apply both subjective and objective standards in determining management's responsibilities with regard to its agents. As I read the report the various phrases used: "conscious disregard," "willful blindness," and "deliberate ignorance" are the subjective tests to be used. The conferees, however, wanted to cover reckless activity as well and that is why they told the courts they wanted a "mix" of subjective and objective standards.

Mr. PROXMIRE. That is correct. When I met with several conferees and pointed out that a subjective standard was not enough and that we needed a standard to cover reckless activity, and objective standard, they agreed to take care of it in the conference report. That is why that language about an objective standard was added.

Mr. WIRTH. I agree with the Senator that it would be better to have it in the statute that reckless conduct is covered. That would be better guidance for corporate managers. Still I am sure their lawyers will advise them about the language in the conference report. I also expect the conference report will be brought to the attention of the courts when they consider this issue, and that will ensure reckless managers are prosecuted.

Mr. PROXMIRE. That was our intent in adding language on the objective standard to the conference report. I hope corporations and the court will pay particular attention to it.

I yield the floor.

Mr. BINGAMAN. Mr. President, I rise in strong support of the Omnibus Trade and Competitiveness Act of 1988. I commend my colleagues for their work on this important piece of legislation. I especially thank the distinguished chairman of the Finance Committee, Senator BENTSEN, for his diligent efforts in bringing this bill to fruition.

It is a bill of which we can all be proud. It is a bill which will lay the foundation for a stronger, more competitive U.S. economy and for an increasing standard of living for all Americans. And it is a bill that is long overdue.

The basis of this bill is reciprocity, not protectionism. It is also a step in the direction of positive structural adjustment. Rather than bringing down the curtain of protection around the economy, this bill promotes the adjustment of the United States to the changing world economy. It is a step away from, not toward, protectionism.

It is also more than just a trade bill. It correctly recognizes that our problem is not just over there, but here in the United States as well. This bill is a step toward addressing our competitiveness problems here at home.

My home State of New Mexico will benefit directly from elements in this bill that will help the ailing oil and gas industry by repealing the windfall profits tax on oil and by expanding trade adjustment assistance coverage to oil and gas workers and suppliers.

Changes in trade laws on unfair trade practices and antidumping and countervailing duties should strengthen the ability of New Mexico's mining industries, such as copper, potash, and uranium, to compete. There are also a number of provisions which will benefit New Mexico's education, high-technology industries, and agriculture.

I was pleased to be able to sponsor a number of provisions contained in this bill—supporting the bilateral framework agreement on commerce and investment with Mexico, helping Indian tribes and artisans promote the exports of their arts and crafts, creating a National Trade Data Bank to help exporters and policymakers, and establishing a Competitiveness Policy Council to help forge a national economic competitiveness strategy.

However, Mr. President, I would like to caution my colleagues that this bill is not the final solution to our trade problems. There are a number of problems that remain. Continuing friction with Japan over semiconductors is one example. We must not abandon the United States-Japanese Semiconductor Agreement, but must work to ensure compliance on both sides of the Pacific.

We must continue to move forward to solve the Third World debt problems, especially the crushing debt of Latin American countries which stunts economic growth in that region and deprives the United States of an important export market. We must continue to improve our educational system so that our children will be better prepared for the jobs of tomorrow and to improve our worker adjustment and retraining programs so that our citizens are better prepared for the jobs of today. We must continue to improve our scientific and technological base by strengthen R&D and facilitating technology transfer from our national labs. And we must continue to work with our trading partners to insure open and free access to markets for U.S. goods and services.

Mr. President, while this bill will not solve our problems overnight, it is a good beginning. I urge its quick passage and look forward to seeing it signed into law.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico yields the floor. Is there further debate on the bill?

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRD PARTY AGENT LIABILITY AND THE FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Mr. DIXON. Mr. President, I have the greatest respect for the distinguished chairman of the Banking Committee, and listened very carefully to his remarks on the Foreign Corrupt Practices Act amendments included in this trade bill, particularly his comments on the "know or reason to know" issue.

As much as I respect my warm friend from Wisconsin, however, I must respectfully disagree with his analysis of this issue, and I believe even more strongly that the Senate should not reconsider this matter again.

Let me start with the second point first. The question of what the appropriate standard should be for determining when a company may be liable under the Foreign Corrupt Practices Act for the actions of its agents overseas is not a new one for either the Senate Banking Committee or the full Senate. The Senate Banking Committee has reported legislation amending the current law standard—"know or reason to know"—not once, not twice, not even three times, but four times since 1980. The substitute standard was in fact negotiated with Senator PROXMIRE back in 1981. The full Senate has passed the legislation twice. On neither occasion was an amendment to retain the current law standard offered.

That is an important point so let me repeat it for my colleagues. The full Senate has twice debated the Foreign Corrupt Practices Act amendments on the Senate floor, most recently during consideration of the first omnibus trade bill earlier in this Congress and on neither occasion was an amendment offered by any Senator to retain the "know or reason to know" standard.

Now, it is true that the standard for agent liability in the conference report on the omnibus trade bill, which is identical, of course, to the standard in the legislation now before us, is not identical to the standard the Banking Committee reported four times and the Senate passed twice. However, it is my belief that it is functionally equivalent to what was included in the Senate-passed FCPA amendments.

The Senate bill replaced the "know or reason to know" standard with a new standard: "direct or authorize, expressly or by a course of conduct." As the conference report on H.R. 3 pointed out, the Senate standard was not defined, but "was meant to preclude a 'head-in-the-sand' approach involving willful ignorance of facts and circumstances underlying the subject transaction which would indicate the payment of a bribe."

The House approach to the issue was somewhat different. The House used a bifurcated standard. For criminal liability the House bill used a "knowing" standard, although, importantly, they defined the term. For civil liability, the House bill used a "knowing or recklessly disregarding" standard.

During the conference, the majority of Senate conferees consistently argued there should be a single standard for both civil and criminal liability, as in the Senate bill. The House conferees, led by Chairman PETER RODINO of the House Judiciary Committee, John Dingell of the House Energy and Commerce Committee, and Dante Fascell of the House Foreign Affairs Committee, argued that the Senate standard, because it was a new one with no established meaning in the courts or regulatory agencies, was unclear, and that the conference should adopt a standard that had a clearly established legal meaning.

The majority of Senate conferees accepted this point. It is worth noting that, while most negotiations were at the staff level, this issue took more of the time of the conferees than any other issue in this portion of the bill. The reason for that is simple: None of the conferees wanted to open up any loophole that would make it easier for American companies to pay bribes abroad. Rather, the intention was to eliminate the chilling effect of the current law standard, which has never been defined and which is capable of being interpreted in widely differing ways, in favor of a standard that told companies with more certainty what behavior on their part would lead to prosecution under the Foreign Corrupt Practices Act.

As the House and Senate conferees and their staffs discussed the issues, it became clear that both the House and the Senate were talking about the same thing. Both the House and the Senate wanted to cover more than simple positive knowledge. Both the House and the Senate wanted to cover what has variously been described as "head-in-the-sand," "willful blindness," "conscious disregard," or "deliberate ignorance" cases. The House therefore proposed at a meeting of the full conference that the conference legislation use a single standard and that that standard should be "knowing" as defined in the Model Penal Code, with additional clarification being supplied by extensive conference report language citing a number of court cases that further clarify the kinds of behavior that the "knowing" standard would reach. The majority of Senate conferees accepted that House offer.

I do not think there is any question that the Senate-passed standard—directs or authorizes, expressly or through a course of conduct—is substantively identical to the standard adopted by the conferees, and I think the definition of knowing included in the legislation makes that point crystal clear. Let me quote it for my colleagues:

> A person's state of mind is "knowing" with respect to conduct, a circumstance, or a result if—
>
> (I) Such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such results is substantially certain to occur; or
>
> (II) Such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

The provision goes on to state:

> When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

The difference between the Senate and conference standards is that the conference standard is better understood in the legal community. Because it is drawn from the Model Penal Code, there is an extensive body of legal opinions that can be drawn on. It is therefore more clear than the Senate standard, which is why the majority of Senate conferees accepted the House offer. I will not take the time of my colleagues to read the statement of managers on this issue, that provides still further evidence that the Senate standard and the conference standard both reach the same kind of behavior, but I highly recommend these two pages to any of my colleagues that are interested in this issue, and I ask unanimous consent that the statement of managers language be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. Mr. President, I should point out that the House conferees do not completely agree that the conference standard is functionally identical to the standard which was contained in the Senate version of the trade bill. The House conferees believe the conference standard they proposed is a stronger standard—that it provides a stronger deterrent to corporate bribery overseas—than the Senate-passed provision. Let me repeat that for the Senate. The House conferees believe the conference result strengthened the Foreign Corrupt Practices Act from the way it passed the Senate.

All of us, I am sure, have issues that they wish had been settled differently by the conference, but if the legislative process is to work, we must respect the integrity of that process.

Of course, if a Senator believes that this legislation would make it easier for U.S. companies to bribe foreign officials, then an amendment should clearly be offered. However, no such amendment is necessary because, as the evidence makes clear, the actions taken by the conferees do not weaken the Foreign Corrupt Practices Act.

The conference standard in the agent situation is still easier for prosecutors to show than the standard that applies in other areas of the Foreign Corrupt Practices Act. Let me state that to my colleagues another way because it is a significant point. A prosecutor has to prove less when a company uses an agent to pay a bribe overseas than it does when the company pays the bribe directly.

It is also an easier standard for prosecutors than the standard that applies under U.S. bribery law, whether or not an agent is used. It is therefore harder for prosecutors to obtain a conviction of a person accused of bribing a U.S. Senator than it is for them to obtain convictions for a person accused of bribing a member of Parliament in Canada.

Finally, it is a standard more favorable to prosecutors than the antibribery standards in most State statutes.

I simply do not think the facts support a conclusion, therefore, that the conferees acted in a way that undermines the intent of the Foreign Corrupt Practices Act. With the conference standard, the act will continue to send a very strong antibribery message. The only thing that is added is greater clarity. The only thing missing is the chilling effect that currently prevents many small businesses from even attempting to do business overseas.

I only want to make two additional points before I conclude. First, it is important to remember the difference between statutory standards and evidentiary standards. It is standard practice to prove circumstantially what one cannot prove directly. It is therefore not necessary to have a "smoking gun" to prove knowledge. Knowledge can be inferred from behavior. The definition of knowledge in the standard reinforces this point because it makes clear that it covers the "head-in-the-sand" case.

Second, both criminal and civil prosecutions are permissible. This is worth keeping in mind because to obtain a civil conviction only a "preponderance of the evidence" is needed, rather than the "beyond a reasonable doubt" needed to obtain a criminal conviction. This also makes it easier for prosecutors to obtain convictions under the new standard.

The bottom line is that the conference standard is a good one: one that ensures we retain the kind of strong antibribery law that we need. I agree with the Senator from Wisconsin that the Foreign Corrupt Practices Act is a vital law, and that we must be extremely careful in making any changes. I believe we have taken the kind of care that is clearly required and that the Senate can be very comfortable that the conference standard does not weaken our commitment to ensure that American firms do not pay bribes to obtain business overseas.

Mr. President, I think that the terms in this bill are accurate and correct and that the trade bill in its current form should be passed.

I yield the floor.

EXHIBIT 1

ANTI-BRIBERY PROVISION—STANDARD OF LIABILITY FOR ACTS OF THIRD PARTIES (AGENTS)

House bill. The House bill changed current law, which applies civil and criminal liability to firms and individuals who make payments to third parties "knowing or having reason to know" that the payment would be used by that third party for purposes barred under the statute.

In provisions concerned with the requisite states of mind applicable to offenses known as "third party bribery" (the furnishing of money or any other "thing of value" by an agent for the purpose of bribing foreign officials), the House bill contained state-of-mind requirements (proposed Section 30A(a)(3) and proposed Section 104(a)(3)) of "knowing or recklessly disregarding" that the money in question would be used for bribery.

Under the House bill, criminal liability would have applied for firms and individuals who made payments to third party for purposes barred under the statute. The House bill contained a definition (proposed Section 30A(f)(2) and proposed Section 104(h)(4)) of the "knowing" state of mind applicable in the case of the foreign corrupt practice of "third party" bribery by securities issuers and domestic concerns. "Knowing" was defined as being "aware or substantially certain" or "consciously disregarding a high probability" that a payment would be made for prohibited purposes. Civil liability would have applied if the payment were made to a third party while "recklessly disregarding" that all or a portion of the payment would be made for purposes barred under the statute. "Reckless disregard" was defined (proposed Section 30A(f)(3) and proposed Section 104(h)(5)) to include "awareness" and disregard of a "substantial risk" that a third party would transmit a prohibited payment.

Senate amendment. The Senate bill addresses the state-of-mind requirement for third-party bribe offenses by making it unlawful "corruptly to direct or authorize, expressly or by a course of conduct" a third party to make such payments. The phrase "course of conduct" was not defined in the Senate amendment, but the Senate report stated that the standard was meant to preclude a "head-in-the-sand" approach involving willful ignorance of facts and circumstances underlying the subject transaction which would indicate the payment of a bribe.

Conference agreement. The Senate receded to the House with an amendment. The conference substitute retains the "knowing" requirement and deletes the "recklessly disregarding" requirement as those terms were defined in proposed Sections 30A(f) (2) and (3) and 104(h) (4) and (5). The compromise bill adopts a modified version of the House bill regarding these provisions and encompasses the concepts of "conscious disregard" or "willful blindness." *See generally United States* v. *Bright,* 517 F.2d 584 (2d Cir. 1975); H. Rept. No. 96-1396, 96th Cong., 1st Sess., 35 (1980). The Conferees intend that the requisite "state of mind" for this category of offense include a "conscious purpose to avoid learning the truth." *United States* v. *Jacobs,* 475 F.2d 270, 277-88 (2d Cir. 1973). thus, the "knowing" standard adopted covers both prohibited actions that are taken with "actual knowledge" of intended results as well as other actions that, while falling short of what the law terms "positive knowledge," nevertheless evidence a conscious disregard of deliberate ignorance of known circumstances that should reasonably alert one to the high probability of violations of the Act.

In clarifying the existing foreign antibribery standard of liability under the Act as passed in 1977, the Conferees agreed that "simple negligence" or "mere foolishness" should not be the basis for liability. However, the Conferees also agreed that the so-called "head-in-the-sand" problem—variously described in the pertinent authorities as "conscious disregard," "willful blindness" or "deliberate ignorance"—should be covered so that management officials could not take refuge from the Act's prohibitions by their unwarranted obliviousness to any action (or inaction), language or other "signalling device" that should reasonably alert them of the "high probability" of an FCPA violation.

The "head-in-the-sand" problem is not unique to this area of criminal law and occurs in a variety of contexts, perhaps the most common being the situation where a person acquires property under "suspicious" circumstances and is charged with "knowledge" that it is stolen. Courts and commentators have considered such behavior to be "distinct from, but equally culpable as actual knowledge." See G. Williams, "Criminal Law: The General Part," sec. 57 at 157 (2d. ed. 1961).

Federal case law has discussed the carefully-drawn elements that comprise the "head-in-the-sand" state of mind in other contexts. The Conferees agree with the reasoning found in such decisions as *United States* v. *Jewell,* 532 F.2d 679 (9th Cir. 1976); *United States* v. *Bright,* 517 F.2d 584 (2d Cir. 1975); *United States* v. *Jacobs,* 470 F.2d 270, 287 n.37 (2d Cir.), *cert. denied sub nom. Lavelle* v. *United States,* 414 U.S. 821 (1973). *See also* H. Rept. No. 96-1396, 96th Cong., 1st Sess. 35 (1980). The knowledge requirement is not equivalent to "recklessness." It requires an awareness of a high probability of the existence of the circumstance. As the Court stated in the *Jacobs* case:

"Knowledge that the goods have been stolen may be inferred from circumstances that would convince a man of ordinary intelligence that this is the fact. The element of knowledge may be satisfied by proof that a defendant deliberately closed his eyes to what otherwise have been obvious to him.

"Thus, if you find that a defendant acted with reckless disregard of whether the bills were stolen and with a conscious purpose to avoid learning the truth, the requirement of knowledge would be satisfied unless the defendant actually believed they were not stolen.

* * * * *

"* * * You should scrutinize the entire conduct of the defendant at or near the time the offense are [*sic.*] alleged to have been committed." 475 F.2d 287 n.37 (emphasis added).

Accordingly, the Conferees intend that the knowledge requirement reflect existing law, including provision for cases of deliberate ignorance. In such cases, knowledge of a fact may be inferred where the defendant has notice of the high probability of the existence of the fact and has failed to establish an honest, contrary disbelief. The inference cannot be overcome by the defendant's "deliberate avoidance of knowledge," *"United States* v. *Manrique Aribizo,* 833 F.2d 244, 249 (10th Cir. 1987), his or her "willful blindness," *United States* v. *Kaplan,* 832 F.2d 676, 682 (1st Cir. 1987), or his or her "conscious disregard," *United States* v. *McAllister,* 747 F.2d 1273, 1275 (9th Cir. 1984), of the existence of the required circumstance or result. As such, it covers any instance where "any reasonable person would have realized" the existence of the circumstances or result and the defendant has "consciously chose[n] not to ask about what he had 'reason to believe' he would discover," *United States,* v. *Picciandra,* 788 F. 2d 39, 46 (1st Cir. 1986).

Courts should, accordingly, apply the appropriate "mix" of subjective and objective standards implied in such a carefully-structured test.

Mr. BYRD. Mr. President, I have no desire to hold the floor. I understood that we might have an agreement. If Mr. Dole can come to the floor—I have been off the floor for a while—I would like to proceed with the agreement.

However, in the meantime, I would be happy to yield to other Senators. I understand Mr. Durenberger wishes to lay down an amendment. If he would like to proceed to lay down his amendment, I would yield for that purpose.

Mr. PACKWOOD. I wonder if the Senator could lay it down and see if we could get a time agreement—I know the Senator from Minnesota wants to speak and Senator Evans and Senator Roth, obviously, appears to want to speak—if we could lay it down and get a time agreement so we could have a vote for tomorrow, it would be helpful.

AMENDMENT NO. 2785

(Purpose: To condition repeal of the prohibition on the importation of furskins from the Soviet Union on a certification by the President regarding freedom of emigration from the Soviet Union)

Mr. DURENBERGER. Mr. President, I have an amendment at the desk that I will call up at this time.

Mr. BYRD. I yield for that purpose, if the Chair will protect my rights to the floor.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Minnesota.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. Durenberger) for himself, Mr. Symms, Mr. Hatch, and Mr. McClure, proposes an amendment numbered 2785.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 463, after line 1, at the end of section 1831 of the bill, add the following:

(d) Furskins.—The repeal made by section 1722 shall apply to articles entered, or withdrawn from warehouse for consumption, after the date on which the President submits to the Congress a written statement certifying—

(1) that the Union of Soviet Socialist Republics does not—

(A) deny its citizens the right or opportunity to emigrate.

(B) impose more than a nominal tax on emigration, or on the visas or other documents required for emigration, for any purposes or cause whatsoever, or

(C) impose more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice, or

(2) that—

(A) the President has received assurances that the emigration practices of the Union of Soviet Socialist Republics will henceforth lead substantially to the achievement of the objectives of this subsection, and

(B) the repeal made by section 1722 will substantially promote the objective of this subsection.

Mr. BYRD. Mr. President, I understand that Mr. Durenberger would be willing to enter into a time agreement on this amendment of 1 hour, to be equally divided, for debate, that that debate would occur this evening, and that the vote on or in relation to the amendment would occur tomorrow morning at 9:30 a.m. Is that agreeable?

Mr. DURENBERGER. Well, the majority leader is correct. In general, I would just ask that he add, if he proposes it or I am to propose it, that there will be no second-degree amendments.

Mr. BYRD. Mr. President, I ask unanimous consent that there be no second-degree amendments to the amendment.

Mr. DURENBERGER. Mr. President, I am willing to enter into that kind of an agreement. I may not need all of the hour, but if it is possible I certainly want to reserve the full hour.

The PRESIDING OFFICER (Mr. Dixon). Is there objection?

Mr. BENTSEN. I have no objection.

Mr. PACKWOOD. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BYRD. Mr. President, it is agreeable with me for Senators to proceed with the debate on this amendment. When the Republican leader is on the floor—I am sure he has been on the floor, and I have not been—I will be happy to come back to the floor so that the Senate will not be detained.

Mr. President, I am going to yield the floor.

I hope that when the Republican leader is here and I am called back to the floor—I have other meetings going on—that we may then be yielded to by Senators without the time being charged to the Senators in an effort to reach an agreement on amendments.

Mr. PACKWOOD. Mr. President, Senator Durenberger has agreed, now that he has his agreement, to let Senator Evans and Senator Roth speak first, and certainly it would not come out of the time on his amendment.

Mr. BYRD. Yes. If either of those gentlemen who may have the floor at the time both leaders are here would yield to us so that we may try to wrap up the agreement.

Mr. CHAFEE. Mr. President, could I ask a question of the distinguished majority leader? Does the suggestion that the vote would occur tomorrow morning on Senator Durenberger's amendment indicate that we probably will have no more rollcall votes tonight?

Mr. BYRD. The vote would occur on or relation to the amendment by Mr. Durenburger tomorrow morning at 9:30. As far as I am concerned, there will be no more rollcall votes today.

Is that agreeable to the managers?

Mr. BENTSEN. Mr. Leader, I have no objection to that.

Mr. BYRD. May I say this: I do not think I should say there will be no more rollcall votes today until such time as we can get this agreement. If we can get this agreement, which I believe the Republican leader is probably familiar with, if we can get that, then I am prepared to say there will be no more rollcall votes today.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. I thank the Chair.

Mr. President, before I begin my remarks, I would like to pay tribute to the managers of the bill, the distinguished Senator from Texas and the Senator from Oregon. They have done a remarkable job in bringing a trade bill to this point in this session.

However, I must say that the trade bill they brought is neither as great as it supporters claim, nor probably as bad as some of its avid opponents claim.

The best thing that can be said about this trade bill is that it is probably too late, if it was ever necessary. And in this Senator's view, it probably was not necessary, for the most part, at all.

Mr. President, some of the arguments which have been used in favor of this bill, and I have listened to many of those who spoke on it today, they said it is "terribly important to the country." "American people want a fair, tough trade bill." "Americans are losing jobs and income." "Foreigners will pop the champagne corks if we do not pass the bill." "There is excessive influence of foreign lobbyists." "It is a huge conference involving hundreds of conferees and out of it comes a good bill supported by many." "The trade bill in the next Congress may be worse."

Well, those are just some of the virtues of this bill, extolled by those who have spoken earlier today.

First, Mr. President, let me say to some of those who have suggested that we have no trade policy currently that I believe that is inaccurate and inaccurate to the extreme. I disagree with the current administration on some things. I have tried to support them on many things. But I believe the President has been strikingly right and consistently right in his view of international trade.

He believes in making trade as free and as open as possible. He believes in opening markets overseas. He believes, however, that Americans, if they are going to penetrate those markets, simply must be more competitive than we have been in the past, and he has been willing to utilize current laws when they are necessary to use in order to help open those foreign markets or deal with unfair trade practices.

No recent administration has used the existing provisions of section 201 and section 301 as extensively and as successfully as this administration.

Mr. President, let me speak of some of the basic points, why I continue to oppose this legislation. The economy is doing just fine without this bill. As I said earlier, if the bill was ever needed, it simply comes too late. Many have talked about the manufacturing job losses of the Nation over the last few years and they talk about the increase in jobs as if they were nothing but the service jobs at minimum wages. And that just, simply is not true. Some continue to repeat it, I guess, hoping that somehow, some way, that will stick.

Mr. President, this country has created 15 million new jobs from 1982 to 1987. And a million new jobs since then. Those new jobs are well-paying jobs. Half the new jobs pay more than $20,000 per year. Low-skilled jobs are declining while middle-skill and high-skill jobs are increasing.

In 1987 alone, 40 percent of the 3.1 million new jobs created within the very highest paying occupational categories: managerial, professional and technical. In addition, manufacturing jobs have come back, in 1987, and continue to grow strongly in 1988: 350,000 new manufacturing jobs during 1987; even more in the early months of 1988.

For those who suggest that we are somehow losing our manufacturing base it is no more true than to say that we are losing our agricultural base because there are fewer people now employed in agriculture than 30, 50, or 70 years ago. Of course there are. There are fewer people involved in agriculture because we are infinitely more productive today than we were a generation or two ago, and the very same thing is true in manufacture. The manufacturing sector as a share of total output in this Nation has remained constant over the 1982 to 1987 period. During that period there was some slight decline in manufacturing jobs but output remained constant; that is, output remained constant in a growing economy.

So the output of manufacturing grew in a healthy fashion during those years. And in this current year, it is manufacturing jobs which are exploding in growth. And why? Because we are engaged in an export boom in this country. We are involved in not only an export boom, but quite generally, a growth of jobs unparalleled in modern history in this Nation. June unemployment, the last one reported, was the lowest since 1979. There has been an unparalleled period of economic growth and of new job creation.

Mr. President, that in itself indicates that this is a typical case of Congress acting after the fact to fix a problem which is well on its way to resolution. Mr. President, the fact that so many conferees were involved and so many committees did their job does not necessarily make this a better bill. In fact, it was unnecessary to have so many conferees, unnecessary to have so many committees involved because some of the admittedly good parts of the trade bill could easily have been passed a year ago or a year and a half ago. They could have been passed by unanimous consent and in fact I attempted a year ago to get the harmonized system, a simple, important ingredient of the trade bill, passed as a separate act so that we could act in consonance with other nations.

I was told, oh, no, we cannot do that separately. That must wait for the trade bill. It was not necessary to wait for the trade bill. Mr. President, the fundamental thesis we have in front of us is still this: In this trade bill we define what is fair and we define what is unfair and encourage the President to take action and in some cases force him to take action, thereby assuming that the trade balance will somehow improve. Well, that is just plain wrong. It is simplistic, and it is not the case.

It is, obviously, more complicated than that. We, either inadvertently or perhaps deliberately, maybe forcing a new President, Republican or Democrat, into a political straitjacket with all of the studies which this trade bill demands and, more importantly what I believed to be one of the worst parts of this bill, the encouragement to initiate section 301 cases against foreign countries.

We are likely, if this bill is to be utilized to its fullest, to be flooded with 301 cases, and enter into a period of unparalleled and complicated negotiations, if not conflicts, with foreign nations on trade.

We need to distinguish, Mr. President, between capital and goods and services. Our balance in goods and services has been improving and improving rapidly. But our balance in capital flow has been worsening. We have the merchandise balance on the one hand, our current account balance, and our basic balance. And in the end the basic balance has to equal zero by definition, after taking into account long- and short-term capital flows. That is a simplistic version, but I think an accurate version, of fundamental international economics.

So what is the problem? The real problem is not corrected by this trade bill. The real problem is that we are borrowing too much, we are living beyond our means, and we are saving too little. What is the real response that we should be engaged in? The time we spent on this trade bill could have been much more propitiously spent on these elements, responding to borrowing too much, living beyond our means, and saving too little.

We simply have to continue the task to reduce the Federal budget deficit faster than we have been doing. We should engage in whatever policies are necessary to encourage a higher saving rate among our citizens and businesses. We need to increase exports, so that we achieve external balance or an export surplus for the 1990's.

Those are what we need to do. And does this bill do any of that? Not at all. It does not reduce the Federal budget deficit and will not lead to that. It does not encourage higher savings rates and will not lead to that. It does not even, in and of itself, increase exports.

There are positive aspects of this bill, Mr. President. Some of those, I believe, are positive simply because I joined with others in sponsoring separate bills and, obviously, we are all enamored of our own propositions. But the authority to implement the harmonized system of tariff classification that I just mentioned could have been done last year. In fact, I tried on the fiscal year 1988 continuing resolution, but we were not allowed to do that. It could have been done by unanimous consent.

There is not a Senator here, I will wager, who opposes that particular proposition. But by hanging it on the trade bill, we are going to be the last industrialized Nation on Earth to implement this important international convention, thereby losing, not gaining, competitiveness.

There is another positive aspect of that bill, and that is providing the necessary authority to the President for the new GATT round in which we are not engaged. That, too, has little, if any, opposition in this Senate and could have been adopted very likely by unanimous consent and could have been adopted last year.

The streamlining of export controls to non-Cocom nations—again, a good, modest but I think good, element of the trade bill—very likely could have been done rather easily as a separate piece of legislation.

There are some elements of the bill that are neutral and probably OK. They could have been done separately—trade adjustment assistance; telecommunications trade provisions.

The section 201 amendments, which many thought were one of the major new elements of the bill, when you carefully look at what we did in modifying section 201, we find that in reality we have really restated current law for the most part and it will not affect the President very much at all in how he carries out section 201.

Now, Mr. President, let me deal with the negative provisions of this bill. The section 301 provisions, admittedly much better than some of the original propositions in this arena, still, in my view, are simply ludicrous. The idea that somehow you can transfer authority from the President to the U.S. Trade Representative for determination of an unfair foreign act and the implementation of retaliation is foolish.

Who in the world appoints the U.S. Trade Representative? The President of the United States. It does say the USTR is subject to a direction, if any, of the President. But let us face it, Mr. President. It is silly and foolish for us to be doing something like this. The President of the United States is our elected official. He may or may not be elected this year or 4 years from now or some time in the future by people based on what that President believes or that candidate believes in terms of trade. To elect a President and then say that not the President but the USTR is going to be the big guru on trade now simply does not make sense.

If you want a President who will say he will act in a certain way in trade decisions, it is time to elect that person President and give the President the power then to carry on those activities. There is a wrong focus in this act, and especially 301, on the bilateral balancing of trade. Trade is not bilateral in nature; it is multilateral in nature. If we go off on the wrong road of trying to build ourselves into a position of balance with every other nation on Earth, we will never have the positive trade balances necessary to retrieve the debt we now owe to other countries.

So a multilateral approach, it seems to this Senator, much more accurately states the case of our position in world trade than the bilateralism in the 301 provisions.

Section 301 in this bill loses its meaning through this broad and aggregate approach. It is meant to be and was meant to be targeted on specific practices and specific acts.

Mark my words, if this bill is adopted and becomes law, we will be more and more vulnerable to pressures from individual Members of this Congress, and a President will be plagued in the future by those pressures to embark on these bilateral 301 cases.

The focus on mandatory negotiations with priority countries will not encourage greater U.S. exports; it will encourage fewer imports into the United States and result in higher cost to American consumers. It is going to require a large increase in the staff of the U.S. Trade Representative, since this goes far beyond any of our national trade estimate studies and their conclusions.

Mr. President, there are other elements of this bill that I think are unnecessary and unwise. Although we all enjoyed, or most all enjoyed, bashing Toshiba in what I think was an unwarranted response, as it has clearly turned out to be, to the unfortunate incidents of a year ago, it was a unilateral response. It violated Cocom rules. It actually penalized two countries after they had taken positive steps to try to correct what they admitted and what we knew as unfortunate acts. What kind of a signal is that to friends of ours and to those we are trying to get to work with us on trade activities?

On workers rights, we put in foreign workers rights as an actionable practice under section 301. Of course, we would like to see workers in other nations have the same privileges and the same opportunities as workers in this country, but, again, Mr. President, we are attempting to view the whole world through our eyes. If we ever had the opportunity to do that, that time has long since passed. We can do it through persuasion. We can do it through example. We cannot do it through law.

I need not even talk about some of the specific special interest provisions which are in this bill—private patent extension for one U.S. drug company; provisions in the agricultural section to compensate one U.S. commodity group, and other elements of similar nature.

Mr. President, these elements, the little things that hang together and build up in an 1,100-page bill, are the elements of this comprehensive trade bill which I find inappropriate, unnecessary, and wrong. The good parts of the trade bill could easily have been adopted separately and without comment and without opposition months and months ago.

We have ended up dragging along all of these questionable items and getting them before this Congress and probably before the President and may very well get them into law because they are hooked on to the few good railroad cars of this train that we all know should be adopted.

Mr. President, I would like very much to support a comprehensive trade bill. Mr. President, this is not a comprehensive trade bill. This is a mixture or a melange of nine separate committee concepts and ideas on anything remotely related to trade all thrown into a huge conference committee and all hooked onto those few good pieces which could have stood on their own merits.

Mr. President, we are currently engaged in one of the biggest movements toward exports we have had in post-World War II history. In the first quarter of 1986, in real dollar terms, we had a $150 billion trade imbalance. By the fourth quarter of 1987 that had been reduced to $120 billion. By the first quarter of 1988 it was down to $102 billion on an annual basis. By the second quarter of 1988 it was down to $83 billion. Those are real dollar terms. But even in current dollars, in the first 6 months of 1988 we have shaved $40 billion on an annual basis off of our trade imbalance. The 3.1-percent real growth in the gross national product during the second quarter of 1988 was a pretty healthy growth—just about on target for a continuation of the sustained growth this Nation has now enjoyed for the longest uninterrupted period in the post-World War II period or probably in this century. Of that 3.1-percent real growth in our economy during the second quarter, 2 percent, two-thirds of that total growth, was export oriented.

Mr. President, America has not retreated from world trade. America is not noncompetitive. This trade bill represents those who fear the future, not those who have confidence in the future. What we really need to do is everything we can to reduce the tensions between labor and management in this country, to reduce the conflict between Government and the private sector, and join together in those elements which will help us be more productive as a Nation so we can compete with each other. It will do little good if through this bill we force open the market doors of other nations where we think they are closed too tightly, only to find that it is not U.S. exporters who are entering that market but our foreign competitors who have proven to be more competitive.

It is sort of a hollow victory for us to force open the doors just so others can enter. There is no guarantee that if we were to break down every trade barrier in every country on Earth the U.S. manufacturers would automatically get one dime of new export trade. That new export trade must come from companies and countries which are competitive, companies that understand the needs, the requirements, the culture, the history, and the language of the countries with which they intend to trade. It will come most successfully from a country which has also put its own internal house in order. We will gain far more in foreign trade, we will continue the export boom in which we are now engaged for a long time into the future, we will once again regain the positive trade balances we all search for when we recognize the need to be competitive, when we turn from this trade activity in Congress and instead focus on the real need to improve the savings rate of our citizens and, most of all, Mr. President, when we recognize that the biggest enemy of American competitiveness is our inability to bring down our own budget deficit, to do our own internal job, to get our own internal house in order which, if we did, would accomplish for American industry, American workers, and for this country far more than this trade bill ever could do.

I yield the floor.

The **PRESIDING OFFICER.** (Mr. WIRTH). The Senator from Delaware.

Mr. **ROTH.** Mr. President, I would like to begin by adding my voice to those lauding our President's decision to withhold the power of his veto on the plant closing bill. It's clear that President Reagan understands as well as any of us in this distinguished chamber that America needs this trade bill.

I believe he has done what is necessary to prepare America for tomorrow, to build upon the economic recovery that has highlighted his administration and help secure the future through this very important trade legislation.

And like my colleagues, who have offered the bipartisan support that has sustained this legislative effort thus far, I believe President Reagan understands the importance it has in maintaining America's leadership in the emerging global economy.

As you can tell, Mr. President, I strongly believe in the need for this legislation. I believe it is landmark legislation because it will help ensure that our Nation is a winner in the emerging global economy. It will help ensure that Americans will benefit as that economy moves into the 21st century.

I strongly believe in this legislation because it offers these assurances and guarantees our country's participation in the world market. This it does by encouraging other countries to open their markets to our goods, services, agriculture, and investment. Rather than disrupt the lives of our people, it encourages them to adjust to international competition and to beat it with better products at better prices.

History has proven the ingenuity of American labor. And this bill magnifies history. This bill boldly announces that given a level playing field America can and will compete as a leader in the world economy. Quite frankly, I am proud of the active role I have played in the orchestration of this legislation. And I appreciate the support of my colleagues who believed as strongly as I did in my provisions that promote competitiveness of American industries, that encourage decisive action against unfair trade, and that provide meaningful assistance for those workers—and their families—that are hurt by trade.

More specifically, this legislation incorporates six of my provisions. It incorporates my reforms to the Trade

Adjustment Assistance Program, which provides new opportunities for workers hurt by trade to retrain and to rejoin the work force.

This provision consists mainly of extended unemployment compensation and opportunity for retraining. In order to receive the extended unemployment benefits, workers would be required to participate in such retraining, where appropriate. This retraining would be directed at qualifying the worker for new employment opportunities.

Under my proposal, the President is required to negotiate within 2 years a small import fee with our trading partners to pay for the program.

I cannot overstate the importance of this one measure. So important, in fact, that I have championed trade adjustment assistance since the program began in 1974. I fought for it through the Carter years. And all my efforts have been worth it as this measure has helped more than 11,000 Delaware workers.

Along with trade adjustment assistance, the bill incorporates my proposals to strengthen U.S. trade laws against unfair trade, particularly to improve the protection of American patents, copyrights, and trademarks against imports which infringe these intellectual property rights.

It also incorporates my legislation to tighten current laws which permits the President to restrict imports, if those imports are threatening an industry critical to U.S. national security.

And it includes my proposals to improve the law to make sure management and labor use import relief granted by the Government to make their industry more competitive.

It also includes my proposals to get new trade negotiations quickly underway, while at the same time maximizing pressure on our trading partners to open markets and eliminate unfair trade practices in these negotiations.

On the whole, I am pleased with this bill. I am pleased that both sides of the aisle have come together and offered this much-needed legislation. I believe it sends a message to our trading partners that they need to hear—that America is serious about its future—that we are making the decisions and taking the action that will provide for our people and their future economic well-being.

As I mentioned in my more comprehensive remarks in support of this trade bill, on April 27, 1988, I have long believed that lack of centralized authority when it came trade sent the wrong signals to our partners. Without a strong and centralized trade bureaucracy and trade spokesman, it is difficult, if not impossible, to convince other nations to open their markets to our goods.

Consequently, I am pleased that this legislation is an important step to reorganize our Government in a manner that will promote the opening of foreign markets. I am pleased that it delegates the necessary authority to the U.S. Trade Representative to negotiate with our partners from a position of strength. This is consistent with my desire to create a Cabinet level Department of Trade. It gives our chief trade negotiator more stature within our Government and, therefore, more clout in trade negotiations with other countries.

Personally, I hope that this strengthening of the USTR position within our Government is a natural and progressive step toward the eventual creation of a Department of Trade. I wholeheartedly intend to keep the creation of such a department high on my legislative agenda, to bring it up at the next appropriate time. But for now suffice it to say, I am pleased with this legislation. I laud my many colleagues, especially our distinguished chairman, who have worked so hard for its creation, the managers of the bill, and my colleagues on the Finance Committee. And I intend to vote for its passage.

Mr. President, I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I remind my colleagues that by unanimous consent the Senate will vote tomorrow I believe at 9:30 a.m. on the amendment which I have proposed.

At this point I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURENBERGER. Mr. President, the amendment that I have offered I offer on behalf of myself and my colleagues, Senator SYMMS, Senator HATCH, and Senator McCLURE.

Mr. President, last July, while we were debating the trade bill, the Senate went on record in opposition to lifting the embargo on the import of Soviet furskins.

That amendment was cosponsored by 20 Senators and was unanimously adopted.

Unfortunately, when the trade bill was reported from conference, the Senate conferees did not prevail in the negotiations with the House, with the result that the trade bill includes a provision lifting the 36-year ban on the import of Soviet furskins.

I considered offering an amendment that would have maintained the embargo. However, I think the actions of the conference committee clearly indicate that a majority of House Members believe that the embargo should be lifted.

Rather than refighting a losing battle on behalf of the 3,200 fur farmers in the United States, I am today offering an amendment that would allow the embargo to be lifted only after the administration complies with the law which has guided our trade policy toward the Soviet Union and other East bloc countries for nearly 15 years—the Jackson-Vanik amendments concerning freedom of emigration.

Mr. President, when Congress adopted the Jackson-Vanik amendments, the United States sent a message to the Government of the Soviet Union and to all East bloc members.

That message was clear and direct—if you want to improve your trading opportunities and relations with the United States; if you want to receive trade concessions from the United States, you must give your citizens the right to freely emigrate.

Mr. President, as a country that was created and built by immigrants seeking escape from political and religious repression, the right of emigration has a special place in our culture.

Freedom of emigration is as basic to our societal values as are the first amendment freedoms of speech, religion, and press.

In many senses, the right to emigrate is one of the most basic and fundamental human rights which distinguishes free societies from repressive societies.

And that is why the Jackson-Vanik law has been the focal point of our trade relations with the East bloc for so long.

Under the Jackson-Vanik law, our Government cannot grant most-favored-nation tariff concessions, nor can it "conclude any commercial agreement" with any of the East bloc countries unless the President submits a report to Congress wherein he determines that the country does not deny its citizens the right or opportunity to emigrate.

The President also has the option of waiving this certification if he reports to Congress that the waiver will substantially promote the objectives embodied in Jackson-Vanik, and that he has received assurances that the emigration practices of that county will lead substantially to the achievement of the objectives of the law.

I submit to my Senate colleagues that unilaterally lifting the Soviet fur embargo, without satisfying the criteria of Jackson-Vanik, violates both the spirit and the letter of Jackson-Vanik and threatens to undermine the credibility of the moral commitment underlying Jackson-Vanik.

Although Jackson-Vanik speaks directly to the issue of MFN status, it would only be consistent and logical to extend the principle to the lifting of this embargo.

When a country is granted MFN status, that country's products are accorded much more favorable tariff treatment than the column 2 rates provide.

However, in many instances, the column 2 rates are not so prohibitive as to make that country's products uncompetitive in the U.S. market.

By contrast, lifting this embargo will not only open the American market to Soviet competition, but will, in at least one case—raw "undressed" mink skins—allow Soviet fur products to enter the United States at a zero tariff.

In effect, lifting the embargo is tantamount to granting the Soviets MFN status without a single mention of the Jackson-Vanik criteria. Moreover, the column 2 tariffs on other skins, which are nearly 25 percent, will not protect the American fur farmer from the heavily subsidized competition from State-controlled fur farms in the Soviet Union, the Soviet collective farms to raise mink for half the cost of their American and European counterparts.

Because the Soviets subsidize every aspect of fur farming—from State-provided employee housing to fish feed for the animals obtained from the Soviet Government-owned fishing trawler fleet—the Soviets are in a position to effectively compete in the United States market as if they had the benefits of MFN.

Mr. President, when we discussed this issue last year, some of my colleagues suggested that when the late Secretary of Commerce, Malcolm Baldrige, visited Moscow in 1985, he committed the United States Government to lifting the fur embargo in exchange for the Soviets granting American furriers access to the Leningrad fur auction.

I heard that same statement expressed in a variety of ways, and I have almost come to believe it myself. The Secretary is unfortunately no longer with us.

I think it is important to clarify what commitment the late secretary made. In the Commerce Department's June 10, 1985 publication "Business America," the Commerce Department indicates that the only commitment was to have "the United States side introduce legislation in the Congress to eliminate the import embargo."

Some of my colleagues may consider this commitment equivalent to a trade agreement between the United States and the Soviet Union.

If that is the case, then there is all the more reason to apply the Jackson-Vanik criteria. Jackson-Vanik bars the United States from "concluding any commercial agreement" with a Soviet bloc country without first satisfying the emigration standards of Jackson-Vanik.

Neither the Secretary of Commerce, nor even the President of the United States, has the power to conclude such agreements without complying with the Jackson-Vanik standards.

Mr. President, the criteria established by Jackson-Vanik represent a moral commitment that the United States has made to the citizens of East bloc countries.

Should that commitment diminish, there will be little, if any, incentive for these repressive societies to loosen their restrictions on emigration.

Look at what happened in the year following the late Secretary's trip to the Soviet Union. Did the Soviets allow more of its citizens to leave? In 1986, the Soviets allowed only 914 Jews to leave the Soviet Union—the second lowest emigration level in 17 years; and a level that was 5,000 percent lower than the peak emigration level in 1979.

Although emigration levels rose in 1987 and are likely to rise in 1988, the fact remains that emigration levels are still 300 to 500 percent below the levels of 1979.

What this record clearly demonstrates is that despite the policies of glasnost and perestroika which receive much praise in the Western press, the Soviet Union is still unwilling to allow its citizens, whether, Jews, or Armenians, or Pentacostalists, the right to choose to leave their country.

As the statistics from the Brezhnev era demonstrate, levels of emigration are not determined by bureaucratic inertia. They are set by political will.

And as of today, the political will of the leadership in the Soviet Union is unwilling to remove restrictions on allowing its citizens the basic human right of free emigration.

Mr. President, I know that many of my colleagues in both the Senate and the House are strong supporters of Jackson-Vanik.

And I know that there are many Senators who believe that we should not adopt any amendments to the trade bill.

Yet if we fail to adopt this amendment, if we backtrack from our commitment to human rights and free emigration, I think we will have failed not only our moral responsibilities, but will have diminished the hopes and dreams of the millions of people who seek to create a better life in another country.

I hope my colleagues will join me in maintaining the moral commitment of Jackson-Vanik and not reject this amendment in the name of expediency.

If, in the name of expediency, we can today diminish our commitment to free emigration, then tomorrow we can justify a diminished commitment to other human rights and freedoms for which this country has fought and died for more than 200 years.

Mr. BENTSEN. Mr. President, the Senator from Minnesota has referred to the Jackson-Vanik provision. That really confuses the issue. That is not what we are talking about here. We are talking about restoring an embargo on furs coming in from Russia.

I can recall very well Secretary Baldrige talking to me at length in my office, discussing this issue, talking about how they were encouraging the Russians to open up some of their markets to American businessmen, to come in and do some things in the way of development and trade. In turn, we were to lift this embargo on furs.

We took this to conference, and the House felt strongly on this issue. We agreed to lift the embargo and try to encourage trade between our two countries.

Neither body likes to give up its provisions in this process, but this is part of the way compromises are worked out. If we take the bill back with the embargo suddenly imposed again, there is no question that we have to go to conference with the House, which we are trying to avoid with a no-amendment proposal.

So I urge very strongly that we oppose this amendment and that we defeat it by a decisive margin, which would send a strong signal to our colleagues about how seriously we feel about moving this trade bill forward, that it is a top priority, and that we will oppose such amendments.

I sympathize with the Senator from Minnesota and his interest in this. The issue has been debated. It should be laid to rest. We spent 5 weeks on the floor discussing amendments before, and we do not have that luxury at this time.

Mr. DANFORTH. Mr. President, will the Senator yield me 2 minutes?

Mr. BENTSEN. I am delighted to yield 2 minutes to the distinguished Senator from Missouri.

Mr. BYRD. Mr. President, I wonder if the distinguished Senator from Missouri will allow the Republican leader and me to propose a request at this time, without it being charged against the Senator from Missouri and without his losing his right to the floor.

Mr. DANFORTH. I yield.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr, President, I ask unanimous consent that the only amendments, other than the pending amendment, to the trade bill be limited to the following:

One amendment by Mr. WALLOP dealing with Presidential authority and section 301. Two Wallop amendments——

Mr. DOLE. I have had a slight amendment. He is now indicating 1 amendment on section 301; 5 amendments, instead of 10 amendments, on "pork provisions"; and 1, instead of 2, on striking steelworkers' rights.

Mr. BYRD. Mr. President, I amend my request.

I ask unanimous consent that the only amendments remaining on the trade bill, other than the pending amendment, be limited to the following:

One amendment by Mr. WALLOP dealing with Presidential authority and section 301; five amendments striking "pork provisions"; one amendment on striking steelworkers' rights and unreasonable practice in section 301.

One amendment by Mr. McCLURE dealing with MFN—the most-favored-nations clause—with the Soviet Union. One amendment by Mr. McCLURE on Federal diesel fuel tax extension.

One amendment by Mr. GRASSLEY and/or Mr. KARNES dealing with ethanol.

Mr. DOLE. Or Mr. EXON.

Mr. BRYD. And/or one amendment by Mr. EXON on the same subject.

One amendment by Mr. WILSON dealing with a study on import restraint program.

One amendment by Mr. HUMPHREY on Afghan trade.

Mr. DOLE. And one unspecified amendment

Mr. BYRD. And one unspecified amendment by Mr. HUMPHREY.

One unidentified amendment by Mr. BENTSEN or Mr. BYRD, which would have to deal with the same subject matter of the unidentified matter by Mr. HUMPHREY.

Provided, further, that if any amendments are adopted, there is no limitation on amendments.

Provided, further, that upon the disposition of the amendment by Mr. DURENBERGER tomorrow morning, the vote on or in relation to the Durenberger amendment begin at 10 o'clock tomorrow morning. That would be a 15-minute rollcall vote, and of course the call for the regular order would be automatic.

That upon the disposition of the amendment by Mr. DURENBERGER, Mr. WALLOP will be recognized to call up one of his amendments.

Was there a time agreement on one of the other amendments?

Mr. DOLE. None on the Wallop amendment. He said he probably will not take more than an hour. The McClure amendment would be 40 minutes.

Mr. BYRD. On the MFN amendment by Mr. McCLURE, there would be a 40-minute time limitation, to be taken up not before 11:45, the time to be equally divided and controled in accordance with the usual form. Provided further that the vote on passage of the trade bill occur no later than 6 p.m. tomorrow.

Mr. DOLE. Mr. President, reserving the right to object, I just want to make an inquiry of the majority leader.

Mr. BYRD. Yes.

Mr. DOLE. As I understand, first of all on the ethanol amendments, that could be an amendment by Senator GRASSLEY, a separate amendment; could be an amendment by Senator EXON, a separate amendment; could be an amendment by Senator KARNES, a separate amendment.

Mr. BYRD. Yes.

Mr. DOLE. It is my hope in the morning we could probably get the 8 or 10 people interested in those amendments together. I would certainly be willing to host a meeting in my office and we will try to set that up and see if we can bring the parties together to work out one.

Mr. BYRD. Yes.

Mr. DOLE. I am advised that Senator HELMS would like one unspecified amendment.

Mr. BYRD. One amendment unspecified by Mr. HELMS, and one amendment by Mr. BENTSEN or Mr. BYRD likewise unspecified to that amendment but on the same subject matter.

Mr. DOLE. And the only other request on this side would be one second-degree amendment to one of the listed amendments by Senator KARNES.

Mr. BYRD. I beg the Senator's pardon?

Mr. DOLE. One second-degree amendment to one of the above amendments by Senator KARNES.

Mr. BYRD. One second-degree amendment to——

Mr. EXON. Mr. President, reserving the right to object.

Mr. BENTSEN. I would suggest under those conditions the Senator from Nebraska might have some request in that regard.

Mr. EXON. Will the Senator please state that again?

As far as on ethanol, the majority leader has reserved one amendment for Senator GRASSLEY, one amendment by Senator KARNES, one amendment by Senator EXON. Were there some other amendments or were those the three amendments that the Senator has on the list?

Mr. BYRD. Mr. President, those are the three amendments that would deal with ethanol and there will be no amendments in the second degree offered to any of the amendments other than the unspecified second-degree amendments to the unspecified first-degree amendments that have been enumerated.

Mr. EXON. And the obvious reason for that is if you do not know what the amendment is you should have some protection to offer an amendment in the second degree.

Mr. BYRD. Yes.

Mr. EXON. I do not know how this matter is going to unfold, but if other Members are going to be reserving the right to offer second-degree amendments I have no objection to that, just add the one in for the other Senator from Nebraska for a second-degree amendment of his choice on the ethanol.

Mr. DOLE. It must be germane. I think that is it.

I say to the majority leader, I hope we can resolve it and I am not certain it is on ethanol, but the ethanol one I think is causing some consternation and confusion because we will have not gotten the parites together.

We had a lot of staff running around. We need to get the principals together and I hope to do that tomorrow after the first vote.

Mr. BYRD. Yes. Aside from the request for a moment, may I inquire as to the last amendment that was mentioned here, namely one by Mr. KARNES that would be unspecified but which would be offered to the second-degree amendment to any of the foregoing? I would have to object to that. I would have to object to an unspecified amendment being offered in the second degree to a specified amendment.

I will be happy to add an additional amendment by Mr. KARNES if the Senator would like.

Mr. DOLE. I might say in the meantime, while we are checking that, I have been advised that Senator McCLURE, if he can start his MFN amendment at 11:45, we will drop his amendment on Federal diesel fuel tax exemptiom. So we are losing one and gaining one.

Mr. BYRD. I would include that in the request that at 11:45, as I understood the Republican leader, the Senator from Idaho [Mr. McCLURE] be recognized at 11:45 a.m. to call up which amendment?

Mr. DOLE. The MFN amendment.

Mr. BYRD. The MFN amendment that that be a part of the agreement and that the other amendment by Mr. McCLURE, Federal diesel fuel tax exemption amendment, would be dropped.

Mr DOLE. Would be dropped.

I am advised by the Senator from Nebraska, Senator KARNES, that his second-degree amendment, in the event there is an Exon amendment, would be a second-degree amendment to that amendment if Senator EXON has no objection.

Mr. EXON. I have just been discussing this with my colleague, Senator KARNES. I think what my colleague and I would both like and maybe we can clear it up this way: We would both like to reserve the option of a second-degree amendment that either one of us individually might offer to any of the amendments with regard to ethanol.

Mr. BYRD. All right. Provided further that Mr. KARNES and Mr. EXON be authorized to call up a second-degree amendment to any other ethanol amendment.

Mr. EXON. One second-degree amendment.

Mr. BYRD. And that the second-degree amendment be on the same subject matter.

Did I understand that?

Mr. DOLE. And/or.

Mr. EXON. I guess what we were trying to make clear, we are not asking for the right to offer a second-degree amendment on all of the ethanol amendments. We are each reserving the right to offer one second-degree amendment to any of the ethanol amendments that are offered at our choice but no more than one.

Mr. BYRD. Yes. Each of you can do that, meaning both of you can do that. Mr. EXON can and Mr. KARNES can.

Mr. DOLE. Either/or.

Mr. BYRD. No; it is not either/or. Each of them, as I understand.

Mr. EXON. Each.

Mr. BYRD. Mr. EXON will have the right to offer a second-degree amendment to the ethanol——

Mr. EXON. Mr. KARNES will have a right.

Mr. BYRD. And Mr. KARNES will have the right to offer a second-degree amendment on ethanol to ethanol.

Mr. EXON. The Senator is correct.

Mr. DANFORTH. Mr. President, will the leader yield for a clarifying question?

Mr. BYRD. Yes.

Mr. DANFORTH. First, with respect to Senator WALLOP, my understanding is that he is to be called on after the vote at 10 o'clock and then Senator McCLURE is to be called on at 11:45. So in between those two events, Senator WALLOP would then be allowed to call up—as I understand the way it was expressed—an amendment, but I take it that he could call up any of his amendments or a number of his amendments during that period of time.

Mr. BYRD. Yes. There would be one vote according to the agreement on the amendment by Mr. DURENBERGER at 10 o'clock a.m. Mr. McCLURE would be recognized at 11:45 to call up an amendment on which there will be 40 minutes, the MFN amendment. In between, any other amendments could be called up, disposed of, or the yeas and nays ordered thereon and stacked to come after the McClure amendment or occur before that.

Mr. DANFORTH. But Senator WALLOP will be called on immediately after the disposition of the Durenberger amendment.

Mr. BYRD. Yes. I would add that.

Mr. DANFORTH. And he could call up any number of amendments, not just during this time.

Mr. BYRD. Yes; except at 11:45, then Mr. McCLURE is to be recognized regardless of who else may have the floor at that time. He would be recognized to call up his amendment.

Mr. DANFORTH. And in the event that any of these amendments are agreed to, then, the door is open for any number of amendments.

Mr. BYRD. The agreement is null and void.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank my friend and the Republican leader.

The text of the agreement is as follows:

Ordered, That during the further consideration of H.R. 4848, an act to enhance the competitiveness of American industry, and for other purposes, the following amendments be the only amendments in order, except for the pending Durenberger amendment:

Wallop amendment, dealing with Presidential authority in Sec. 301; 5 Wallop amendments, dealing with striking "pork provisions"; Wallop amendment, dealing with workers rights in Sec. 301;

McClure amendment, dealing with MFN with the Soviet Union, on which there shall be 40 minutes debate to begin at 11:45 a.m. on Wedesday, Aug. 3, 1988, to be equally devided;

Grassley amendment, dealing with ethanol;

Karnes amendment, dealing with ethanol;

Karnes 2nd degree amendment, on the same subject, to any other amendment dealing with ethanol;

Exon amendment, dealing with ethanol;

Exon 2nd degree amendment, on the same subject, to any other amendment dealing with ethanol;

Wilson amendment, dealing with a study of import restraint program;

Humphrey amendment, dealing with Afghan trade;

Humphrey amendment, unidentified;

Bentsen/Byrd 2nd degreee amendment to the Humphrey unidentified amendment, on the same subject matter.

Helms amendment, unidentified.

Bentsen/Byrd 2nd degree amendment to the Helms unidentified amendment on the same matter.

Ordered further, That on Wednesday, Aug. 3, 1988, there be 20 minutes debate on the Durenberger amendment prior to the vote on or in relation thereto, which will occur at 10:00 a.m.

Order further, That following the disposition of the Durenberger amendment, the Senator from Wyoming (Mr. Wallop) be recognized to call up an amendment.

Ordered further, That final passage of this bill occur no later than 6:00 p.m. on Wednesday, Aug. 3, 1988.

Ordered further, That if any of the foregoing amendments to the bill are adopted, the entire agreement be null and void.

Mr. DANFORTH. Mr. President, I believe I have 2 minutes.

The PRESIDING OFFICER (Mr. HARKIN). The Senator is correct.

Mr. DANFORTH. Mr. President, I would like to speak for those 2 minutes in opposition to the Durenberger amendment.

First, it should be said that the Durenberger amendment is strongly opposed by the administration. In fact, the lifting of the embargo in this legislation was done at the insistence of the administration. The late Secretary of Commerce, Malcolm Baldrige, took the lead in this and felt very strongly about it. As I recall, at one point he called on me in my office to ask that we lift the embargo on fur skins from the Soviet Union.

The second point I would make is that my office has been in contact with the National Conference on Soviet Jewry. This is the organization that takes the lead in dealing with matters relating to emigration of Soviet Jews, particularly from the Soviet Union. The National Conference on Soviet Jewry has told my office that it opposes the Durenberger amendment. It views the Durenberger amendment as sending the wrong signal at the wrong time to the Soviet Union with regard to Soviet emigration. It points out that during the month of July some 1,600 people emigrated from the Soviet Union and it believes that this amendment is not timely.

Finally, in the conference between the House and the Senate on this bill, the House took a very strong position against the Durenberger position. Because it is opposed by the House, because it is opposed by the administration, and because it is opposed by the National Conference on Soviet Jewry, I would suggest that this amendment really is a nonstarter and, therefore, if the question is passing the trade bill or not passing the trade bill, Senators might consider voting to table this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I have been informed by the distinguished majority leader that there will be no further votes this evening.

Mr. BENTSEN. Mr. President, I would say that I am prepared to yield back my time if the distinguished Senator from Minnesota is also prepared to yield back his time.

Mr. DURENBERGER. Mr. President, I believe I would like to reserve my time. I may not use it all tomorrow, but I would like to reserve my time.

Mr. BENTSEN. My understanding was that we were supposed to finish this tonight; is that not the situation?

Mr. President, how much time will the distinguished Senator want for tomorrow morning?

Mr. DURENBERGER. I say to my colleague that I believe I have about 20 minutes remaining. I expect if I use 10 minutes of that time that should be sufficient.

Mr. BENTSEN. Could we agree that each of us will have 10 minutes tomorrow morning?

Mr. DURENBERGER. I can agree to that.

Mr. BENTSEN. That is fine with me.

Mr. President, I ask unanimous consent that the distinguished Senator from Minnesota and the manager for the majority each be allowed 10 minutes tomorrow morning preceding the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I am pleased to join many of my distinguished colleagues in support of this trade bill. This bill, of course, has previously been before us. We have debated it extensively. We passed it a little over a year ago. I think it is important to note that the President of the United States made a very strong statement this morning in support of this legislation.

This bill is probably the most comprehensive trade legislation in the history of the United States. It contains provisions that will work to keep our economy strong. It will improve the competitiveness of American industries. It will level the playing field for U.S. exporters in international trade.

Our Nation is currently in the sixth year of the longest peacetime expansion of the economy in our history. Sometimes we get so busy that we fail to appreciate the incredible economy we are enjoying in the United States today. This economic recovery is brought about and continues through a number of factors. What are some of those factors?

They are that we have staved off protectionism. We have reduced taxes. We have stuck with deregulation. We have stressed free enterprise. We have eliminated petty harassment of business.

During part of this economic recovery, we have witnessed a decline in our international competitiveness. We might as well recognize that that took place in the early part of this economic recovery. Our ability to compete overseas was reduced and it was symbolized by a tremendous trade deficit. It was also symbolized by a drop in the level of U.S. productivity in comparison with other nations. I believe that reducing the budget deficit is one of the keys to improving our balance of trade. But there is more we must do to enhance American competitiveness.

The U.S. trade balance has fallen in part because other countries are not playing by the rules. We are the world's strongest advocate for the principle of free trade, but unless we insist on fair trade the United States stands to lose a great deal. Our challenge has been to craft a policy in trade which enables U.S. industries to compete on a level playing field without resorting to tactics that others could retaliate against because they are called protectionist.

In crafting this bill, the U.S. Congress has made a sincere effort. Those of us on the Finance Committee who are deeply involved in this trade bill realize this especially. We made a particular effort to respect the rules of the General Agreement on Trade and Tariffs, the international agreements which we call GATT. In our zeal to get tough with some countries that have not played by the rules, we certainly cannot ignore the rules ourselves.

What are the good features of this bill? It extends the authority of the President to negotiate trade agreements for 5 years—until May 31, 1993. This includes an extension of the so-called fast-track procedure for congressional approval of the legislation that implements these trade agreements. That has been extended straight through May 31, 1991, with the ability to continue it through May 31, 1993. If we are ever going to enter any trade agreements, we have to have this fast-track procedure. That, indeed, is what we are going to be using in connection with the Canadian trade agreement.

What the fast-track procedure does is it says to those we negotiate with, look, when we enter this agreement with you, we are going to bring it back to the Congress, and when it comes before the Senate or the House there are not going to be any amendments. It is up or down, yes or no. It is not an opportunity for a Christmas tree wherein everybody can add their protectionist measures, whether they are for shoes, steel, outboard motors, for jewelry, or for anything else.

Our negotiating partners at any international trade conference know that the only way we can get a multinational trade agreement through Congress without debilitating amendments attached to it is with this fast-track procedure.

Also, in this trade bill the list of trade negotiating objectives has been expanded to include an objective I have long sought, which is the ability to eliminate foreign barriers which deny equal access by U.S. individuals to foreign developed technology transfers like trade, should be reciprocal and mutually beneficial.

The whole theme of this trade bill reflects reciprocity. It says to our trading partners you must give us access to your markets if we are going to let you have access to the great market of the United States.

Another provision that reinforces this notion of reciprocity is the part that deals with telecommunications. In the last Congress I introduced legislation, and I will confess, aimed at Japan which said to the Japanese, you cannot sell your telecommunications products in our country unless you let us sell to you. The approach in this bill has expanded that original concept which I had, and it says to any country which unfairly limits the access of our telecommunications companies to their markets that you cannot sell in our markets unless you let us sell there.

The President under this legislation is given 3 years to negotiate bilateral or multilateral agreements to open trade in telecommunications. The most important improvements made in this bill to our trade laws are changes to strengthen the so-called section 301 of the Trade Act of 1974. This is the section that permits the President to respond with retaliation to any act or policy, or practice of a foreign country which is unjustifiable, unreasonable, or discriminatory, or which burdens and restricts U.S. commerce.

I have been sounding the alarm on the need to strengthen section 301 since July 19, 1985 when I introduced legislation to accomplish this goal. I introduced that legislation because the President had seldom utilized the power he currently has under section 301 to what they call self-initiating. In other word, the administration initiates cases, and does not wait for the affected or afflicted industry to have to come forward and initiate those cases. The changes made in section 301 in this legislation are very similar to the provisions contained in the original bill I introduced. I believe they will help put teeth in section 301, and provide the protection our countries need from unfair trade practices.

The most significant change is the transfer of authority from the President to our Special Trade Representative, the so-called STR. The STR, as a result of this legislation, when it passes, will have the ability to investigate, to negotiate, and to retaliate in unfair trade cases. When it comes to the retaliation, he must do so at the direction of the President.

The STR has the first responsibility for trade, and this authority will allow our trade ambassador to negotiate from a position of strength.

Any foreign negotiator who deals with our Special Trade Representative will know that he is dealing with somebody who can make decisions.

Also, we have expanded the list of actionable unfair trade practices. We have a list of those, and we have included some new ones, including one I am particularly involved with—namely, targeting. It is important to list targeting as an unfair trade practice because foreign industrial targeting can be extremely injurious to American manufacturers.

What is targeting? Targeting involves an attempt by a foreign government to develop a particular industry so that that industry has developed its export capabilities, and the government provides an unfair advantage to that industry until it is strong enough to compete.

American machine tool companies, for example, have been placed at a competitive disadvantage because of the support which Japan has given to its domestic machine tool industry. It has so protected that industry, built it up and favored it, that it can go overseas and compete in a devastating manner against, for example, U.S. machine tool manufacturers.

In addition to these new actionable practices, we have added provisions directing the STR to identify and deal with trade liberalization priorities. What that means is that over the next 2 years, our Special Trade Representative is to identify those trade barriers that have the most injurious impact on U.S. export. The Trade Representative then says these are trade liberalization policies that we have to undertake, and he has the ability to initiate section 301 cases against those barriers.

The bill makes significant changes to section 201 of the Trade Act of 1974 and provides relief for domestic industries that are hurt by imports.

We have improved our trade laws in the area of antidumping and countervailing duties. We have worked to strengthen and clarify these provisions.

The bill extends the Trade Adjustment Assistance Program. This is something that helps American workers who are injured by imports. It extends that program for 2 years, from September 30, 1991, to September 30, 1993. It is a program for assistance to workers who have lost their jobs due to competition from abroad. We have expanded the trade adjustment assistance for our workers who are injured, by providing extended unemployment compensation to more workers.

We have added a requirement that the worker must seek retraining in order to get these extended benefits. In other words, we want our workers not just to collect but to learn something new, so that they can compete.

This emphasis on retraining clearly represents an improvement in the current law. The retraining requirement is necessary to provide these workers with skills necessary to help America become more competitive.

There is a special section on protection of high-technology products which was derived from a separate bill I introduced in the last Congress.

I would like to touch briefly on the fact that the House of Representatives has finally approved the measure which the Senate passed many times, dealing with foreign corrupt practices. This is an area I have been deeply involved with for some 8 or 9 years. What it does is that finally we set forth to American businesses that these are clearly the rules when you go to sell abroad.

The rules that U.S. manufacturers or exports have had to deal with under the so-called Foreign Corrupt Practices Act have been chilling, to say the least.

Finally, we have straightened this out. I know they are not to the satisfaction of some Senators, but clearly they are helpful to our exporters.

Finally, I must say that I do not think anybody should get carried away with the fact that this trade bill or any similar legislation is going to clarify and eliminate our trade deficit.

There are a lot of other problems overseas that affect our exports outside of this legislation or legislation that previously has been on the books. But, hopefully, this legislation, this new trade bill, will correct that portion of our trade deficit that is caused by unfair practices and will help strengthen American companies' ability to compete abroad.

The House passed this bill by a vote of 376 to 45. You cannot beat that for an overwhelming vote. It is time for the Senate to defeat any amendments and pass this legislation so that finally we will have a good trade bill on the books and we can move on to something else. This bill culminates 3 long years of work to enact a new trade policy. Passage means that we can send this legislation to the President, who wants to sign it and who will sign it, without further delay.

Mr. President, I thank the Chair for his patience. I yield the floor.

CLEARINGHOUSE ON STATE AND LOCAL COMPETITIVENESS INITIATIVES

● Mr. BUMPERS. Mr. President, I am proud that this trade bill includes my proposal to establish a Clearinghouse on State and Local Competitiveness Initiatives in the Department of Commerce.

I proposed that a clearinghouse be established last year in S. 930, introduced on April 7. Both the House and the Senate endorsed the proposal in the Omnibus Trade and Competitiveness Act as section 5122. On July 13, the House voted again for the clearinghouse in adopting the revised trade bill, again as section 5122. Now, the Senate is about to vote again for the clearinghouse in the revised trade bill, H.R. 4848.

During this delay on the trade bill, the Congress for fiscal 1988 the Congress appropriated $250,000 to establish the clearinghouse in last year's continuing appropriations resolution. (House Joint Resolution 395 and House report 100-498.) That appropriation was subject to enactment of authorizing legislation, which shortly will be provided here in the revised trade bill. These fiscal 1988 funds are to remain available until expended by the Department to establish the clearinghouse. Given the face that we are only now finally providing the formal authorization for the clearinghouse, at least part of these funds is likely to be expended in the next fiscal year.

For fiscal 1989 the Senate appropriations bill for the Commerce Department again appropriates $250,000 for the clearinghouse. (Senate report 100-388, at page 14.) These funds are to be expended in fiscal 1989 and they will supplement any funds which remain available for the clearinghouse from the fiscal 1988 appropriation.

The only reason why we have not increased the funding for the clearinghouse in fiscal 1989 is that the clearinghouse will only be established in late fiscal 1988 and it will have funds left over from its fiscal 1988 appropriation to use in fiscal 1989.

The Department of Commerce strongly supports the clearinghouse. It would prefer that the clearinghouse be located in the Office of the Secretary, rather than in the Office of Productivity, Technology, and Innovation, where it is placed in the revised trade bill. But, I trust that this difference of opinion will not lead to any delay on the Department's part in establishing the clearinghouse.

I expect that the Department will move promptly to appoint a director for the clearinghouse, hire its initial staff and commence its operations.

With the funds left over from the fiscal 1988 appropriation and the appropriation available in fiscal 1989, there will be sufficient funds for the clearinghouse to be quite active in fiscal 1989.

By the end of fiscal 1989, the clearinghouse should be fully capable of serving its intended function of providing detailed information on the competitiveness initiatives of State and local governments.

It should be able to begin serving as a valuable advisor to State and local governments and to Federal Government agencies and the Congress.

The clearinghouse will, of course, have to establish its priorities.

It will need to review the excellent work already done by the National Governor's Association and others in documenting these State and local initiatives. It must determine how it can supplement this information with more detailed and different information.

The clearinghouse must make itself useful to its constituency in the State and local governments.

It may be that the most useful information the clearinghouse can provide to start with is an annotated directory of all the State and local officials who are active in competitiveness initiatives.

The clearinghouse may want to pull together the most useful bibliography of publications regarding these initiatives.

It may want to publish a monthly or quarterly newsletter with information about conferences and publications in the field.

It may be that the clearinghouse may want to initiate a detailed study of several of the most interesting competitiveness initiatives, perhaps, for example, those which focus on enhancing productivity or quality control.

The clearinghouse may do well to establish an advisory committee to help it find its niche.

The clearinghouse must prove itself. It must show that it is not duplicating other sources of information. It must show that it can be trusted as an ally of State and local governments and as an expert advisor to Federal agencies and the Congress.

The clearinghouse must act as an entrepreneur, establishing its agenda and its priorities and, most important, its credibility.

I look forward to working with the director of the clearinghouse and with other officials of the Department of Commerce to make the clearinghouse an effective agency.

I ask that an outline of the legislative history of the clearinghouse and its appropriations be printed at this point in the RECORD.

The outline follows:

OUTLINE OF LEGISLATIVE HISTORY OF CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES

AUTHORIZING LEGISLATION

April 7, 1987: Introduction of S. 930, The Competitiveness Enhancement Act of 1987, by Senator Dale Bumpers. Introductory Statement of Senator Dale Bumpers. 133 Congressional Record S 4724-4728 (April 7, 1987).

April 29, 1987: Introduction of H.R. 2219, the Competitiveness Enhancement Act, by Congresswoman Claudine Schneider and Congressman Doug Walgren. H.R. 2219 is the House version of S. 930.

April 30, 1987: Hearing of the Subcommitte on Science, Research and Technology, House Committee on Science, Space and Technology, on H.R. 2219 and other legislation. Statement of Senator Dale Bumpers and testimony of Mr. Richard B. Geltman, National Governors' Association, and Mr. Joe Kazmarek, President of Impact Technologies. "The Role of Science and Technology in Competitiveness," Hearings before the Subcommittee on Science, Research and Technology, House Committee on Science, Space and Technology, April 30, 1987.

May 19, 1987: Hearing of the Senate Committee on Commerce, Science and Transportation on S. 930 and other legislation. Testimony of Senator Dale Bumpers. "Technology Competitiveness Act of 1987," Hearings before the Senate Committee on Commerce, Science and Transportation, May 19, 1987.

June 22, 1987: Senate Commerce, Science and Transportation Committee files report on S. 907, the Technology Competitiveness Act of 1987. "Technology Competitiveness act of 1987 (S. 907)," Report of the Senate Committee on Commerce, Science and Transportation, Senate Report 100-80. Section 202 of S. 907 contains a simplified version of S. 930.

June 24, 1987: Introduction of S. 1420, the Omnibus Trade and Competitiveness Act. S. 1420 was the vehicle for Senate debate on the nine trade and competitiveness bills reported from Senate Committees. Section 4102 of S. 1420 is identical to Section 202 of S. 907.

July 17, 1987: Perfecting amendment to Section 4102 offered by Senator Dale Bumpers. Statement of Senator Dale Bumpers and Senate Debate on Amendment of Senator Bumpers making technical corrections to Section 4102 of S. 1420. 133 Congressional Record at S 10163-10168 (July 17, 1987).

July 21, 1987: Senate adopts S. 1420 as an amendment in the nature of a substitute for H.R. 3, the House-passed Omnibus Trade and Competitiveness Act. Section 4102 of the Senate amendment was the Senate version of the clearinghouse for purposes of the conference on the trade and competitiveness bill with the House.

August 4, 1987: House Committee on Science, Space and Technology files report on H.R. 2916, the Technology Competitiveness Act of 1987. "Technology Competitiveness Act of 1987 (H.R. 2916)," Report of the House Committee on Science, Space and Technology. House Report 100-266 (August 4, 1987). Title IV of H.R. 2916 contains a simplified version of H.R. 2219, the House version of S. 930, and it served as the House version of the clearinghouse for purposes of the conference on the trade bill with the Senate.

April 20, 1988: Conference Committee on Omnibus Trade and Competitiveness Act files report on H.R. 3, the Omnibus Trade and Competitiveness Act. "Omnibus Trade and Competitiveness Act of 1988," Report of the Conference Committee on H.R. 3. House Report 100-576 (April 20, 1988). Section 5122 of the conference version of H.R. 3 contains the clearinghouse provision.

April 21, 1988: House adopts conference report on H.R. 3.

April 27, 1988: Senate adopts conference report on H.R. 3. Statement of Senator Dale Bumpers on clearinghouse provision in conference report on H.R. 3. 133 Congressional Record S 4900-4901 (April 27, 1988).

May 24, 1988: President vetoes H.R. 3.

May 24, 1988: House overrides Presidential veto of H.R. 3.

June 8, 1988: Senate fails to override Presidential veto of H.R. 3.

July 13, 1988: House adopts H.R. 4848, the revised Trade and Competitiveness Act. Section 5122 of revised trade and competitiveness bill contains the clearinghouse provision as earlier reported by the conference on H.R. 3.

August 2 or 3, 1988: Senate adopts revised Trade and Competitiveness Act, H.R. 4848.

APPROPRIATIONS LEGISLATION

September 25, 1987: Senate Appropriations Committee files report on H.R. 2763, the appropriation bill for the Department of Commerce. Senate Report 100-182 (September 25, 1987). The report states that $500,000 is appropriated to establish the clearinghouse in Fiscal 1988.

October 15, 1987: Senate adopts H.R. 2763.

December 11, 1987: Senate adopts H.J. Res. 395, the Continuing Appropriations Resolution. Statement of Senator Dale Bumpers on H.J. Res. 395. 133 Congressional Record S 17944-17945 (December 11, 1987). The Senate version of the continuing resolution incorporated the recommendations of the Senate version of H.R. 2763.

December 22, 1987: Conference Committee files report on H.J. Res. 395, the Continuing Appropriations Resolution. House Report 100-498 (December 22, 1987). The report states that $250,000 is appropriated to establish the clearinghouse in Fiscal 1988.

June 20, 1988: Senate Appropriations Committee files report on H.R. 4782, the appropriations bill for the Department of Commerce. H.R. 4782 states that $250,000 is appropriated for the clearinghouse in Fiscal Year 1989. Senate Report 100-388, at page 14.

July 26, 1988: Senate adopts H.R. 4782. Statement of Senator BUMPERS on Clearinghouse. 134 CONGRESSIONAL RECORD at 18752.●

INTERIM RESTRAINT AND DEPRESSED TRAJECTORY

Mr. NUNN. Mr. President, yesterday I provided the Senate with my assessment of the fiscal year 1989 Defense authorization bill. I pointed out the many reasons this bill is extremely important to our national security and to making needed improvements in our defense capabilities and the management of the Pentagon. I stated that I hope the President will accept the advice of his national security team to not veto this bill. I also indicated that the clear basis of calls for a veto are election year politics and made it clear that the national security of the country is too important to take a back seat to politics.

Mr. President, today I want to discuss two provisions in the bill which have been cited by advocates of a veto. These provisions involve, first, the early deactivation of two aging Poseidon submarines and, second, a moratorium on depressed trajectory missile flight testing.

INTERIM RESTRAINT

At the outset, let me say that I was disappointed that we had to deal with a House-passed SALT II provision in conference again this year because I had thought that we had done a pretty good job in last year's conference in defining an alternative position on interim strategic restraint which enjoyed broad support. I do not need to remind everyone that had we not worked out that compromise last year, we would have faced a certain veto of the fiscal year 1988 bill. But we were able to work that out last year; the President signed the bill in December.

Mr. President, let me emphasize this point: the compromise that Senator EXON was able to craft on this issue this year is virtually identical to the compromise in last year's bill—a bill which the President signed. Indeed, it is consistent not only with Secretary Carlucci's own decision in this year's request to retire a Poseidon submarine early but also with a series of early Poseidon retirements by the Reagan administration over the last several years. In short, what we did this year with the Poseidon submarines is no different than the approach we took in last year's bill. It is no different than the approach Secretary Carlucci took in this year's budget request; it is no different than the approach taken repeatedly by the administration in past years. The only thing that is different is that this year some Republicans are eager to play politics wih the defense bill and are using this provision as an excuse.

Let me briefly review the background of the interim restraint compromise we worked out last year. As many will recall, the conferees on the fiscal year 1988 bill agreed to retire one Poseidon-class Poseidon, the U.S.S. *Andrew Jackson,* instead of overhauling it. There were fiscal reasons for doing this, but we also wanted to put in place a U.S. policy of interim restraint that would help persuade the Soviet Union to continue its unilateral practice of observing the central SALT II sublimits.

As the conferees stated in their report on the FY 88 bill:

> The conferees believe that maintaining interim restraint in strategic offensive force levels is not only prudent in light of current budget realities, but also consistent with the recent progress in the START negotiations and the continuing Soviet practice of retiring older ICBMs and SLBMs prior to the end of their normal service life. Assuming that progress continues to be made in START and that the Soviet Union continues early retirements of ICBMs and SLBMs, it would be the intent of the conferences to take such actions as may be required to maintain U.S. and Soviet interim restraint, including the option of foregoing the overhaul of additional Poseidon-class submarines nearing the end of their normal service life.

The submarine which the conferees had assumed would have to be retired in fiscal year 1989 was the U.S.S. *John Adams,* which had been scheduled for overhaul in October of this year. In accordance with this assumption, Secretary Carlucci, citing budget realities, decided to retire the U.S.S. *Adams* in lieu of conducting an expensive overhaul. There are no other ballistic missile submarines scheduled for overhaul and service life extension in fiscal year 1989.

Nonetheless, the conferees on this year's bill recognized that there was still a problem if we were to maintain the interim restraint policy. As fiscal year 1989 goes on, the level of U.S. strategic forces, as measured in terms of MIRV'd ICBM's and SLBM's and bombers equipped with ALCM's, will increase. This is because new Trident boats and continued conversions of B-52's to ALCM carriers will more than offset the reductions due to the early retirement of Poseidon SSBN's.

By the end of fiscal year 1989, the United States will have almost 1,400 such weapons, which is about 50 more than we had as of the end of last year and about 80 more than would have been permitted were the United States still observing the central SALT II numerical sublimits. If Congress elected to take no offsetting action, then there was a substantial risk that the increase in the level of U.S. strategic forces would prompt the Soviets to cease their own policy of interim restraint.

The conferees were aware that in fiscal year 1990 there are three Poseidon-class SSBN's, with a total of 48 MIRV'd missile launchers, that are due for overhaul and service life extension. These expensive overhauls are most likely not going to be funded in the Navy's 1990-94 POM nor included in the administration's fiscal year 1990 budget request. The conferees on this year's bill therefore agreed that we did not need to just sit back and wait for these retirements to be announced. In lieu of the House provision, which would have enacted a binding requirement for the United States to adhere to the central SALT II sublimits as long as the Soviets did the same, the conferees decided to commence the deactivation of two Poseidon submarines in this year's bill.

The bill requires the deactivation effective September 1, 1989, of one aging Poseidon-class submarine (the U.S.S. *Henry Clay*) and will withhold a second (the U.S.S. *James Monroe*) from operations as of that date. The *Monroe* and *Clay* are 26-year-old submarines nearing the end of their service lives. They are not equipped with the more modern C-4 Trident I missiles but instead still carry the older, shorter-range, and less accurate C-3 missiles.

Under current plans, the *Monore* and *Clay* could begin overhauls in October 1989, and January 1990, respectively, at a cost of about $125 million each. As I stated, however, we have indications that the Navy will choose not to conduct these overhauls in its budget request next year for fiscal reasons. So what the conference provision does, then, is speed up by just a few weeks or months retirement actions which I think will take place anyway in the fiscal year 1990 budget.

These deactivations will produce substantial cost savings in fiscal year 1990 and will also have the effect of stabilizing U.S. strategic forces during fiscal year 1989 at roughly the level maintained during fiscal year 1988. In this regard, then, the bill is simply keeping faith with the policy articulated in last year's conference report.

Mr. President, this provision does not enact the unratified SALT II Treaty. It does not tie the President's hands in arms control. It does not undercut our position in START. What it does do is continue a modest policy of interim restraint that has served not only to maintain a stable situation while progress in START goes forward but also has helped persuade the Soviets to retire strategic weapons that otherwise would be aimed at the United States and its allies. In short, this policy of interim restraint has been a success.

Those who advocate a veto of the bill must explain why they want the Soviets to retain the strategic weapons they are now unilaterally dismantling—because that would be the likely effect it the United States takes no action to prevent a substantial increase in our strategic inventory. Those who want to play politics with this bill must explain to the American people why we will be stronger if the Soviets stop retiring their ICBM's and ballistic missile submarines. The Soviets are retiring deployed SS-17 MIRV'd ICBM's that are newer than any U.S. missile except the MX. I do not think the veto proponents can explain such a situation.

DEPRESSED TRAJECTORY

Let me now turn to the depressed trajectory issue. As I indicated in a colloquy with Senator Gore before he withdrew his amendment on depressed trajectory missile flight testing during our floor debate on the bill, I agree with the basic objective that was reflected in the original House provision on this issue. The House provision passed by an overwhelming margin of 262 to 160 and was coauthored by Republican Congressman Robert Dornan of California.

I doubt whether anyone would argue that it would be a welcome development were the Soviets to acquire a depressed trajectory capability that could threaten U.S. strategic assets whose survivability depend on timely receipt of adequate warning of attack. With a depressed trajectory, Soviet SLBM's could significantly reduce their time of flight and destroy U.S. bombers standing alert before the bombers could get away from their air bases.

I did, however, have a number of concerns about the hasty and flawed manner in which the House amendment had been crafted. I was, therefore, pleased that the conference was able to correct these problems and come up with a sensible substitute that promotes our security interests in this area.

Let me review the key elements in this compromise:

The provision deletes the technically flawed formula for determining a depressed trajectory flight that had been included in the House amendment and instead tasks the Secretary of Defense, in coordination with the Director of Central Intelligence, to report to Congress on an appropriate definition;

The Secretary's report, which is due on April 1, 1989, will also include information on U.S. monitoring capabilities for Soviet depressed trajectory missile flights and on past Soviet or United States flight testing that would qualify as depressed trajectory;

Congress will have 60 days to review this report and then on June 1, 1989 (or 60 days after the report is received if received later than April 1, but not later than August 1), the compromise prohibits any United States flight testing of depressed trajectory missiles, as defined in the report, for the remainder of fiscal year 1989 unless: First, the President reports that the Soviets have conducted a depressed trajectory flight test after June 1, 1989 (in which case the provision requires "prompt consideration" by Congress of any reprogramming request for testing a U.S. depressed trajectory missile), or second, Congress passes legislation repealing the restriction.

What we have, then, is a combination of carrot and stick in terms of trying to influence the Soviets not to acquire this destabilizing capability. The carrot is the moratorium on any such testing on our part. I would note that the United States has no plans to conduct such tests, but this provision enacts a binding prohibition for the last few months of fiscal year 1989. The stick is the commitment to consider reprogramming if the Soviets do conduct such a test.

I would emphasize, however, that once the required report is received next spring, we will have ample opportunity to take another look at the approach we have incorporated in this conference report. If necessary, we can make appropriate adjustments before the moratorium goes into effect. I would also note that unless Congress extends the moratorium next year, it will expire at the end of September of this year. This represents a major improvement on the House-passed amendment, which would have imposed the moratorium at the beginning of the fiscal year and would not have provided for the considered input of executive agencies or any review by Congress of that report before the moratorium took effect. In short, the Senate conferees succeeded in making the best of the situation we were confronted with by the flawed House provision.

This compromise represents a first step toward a coherent United States policy for heading off a Soviet strategic development which would have profoundly adverse consequences for the credibility of our strategic deterrent. It would be one thing if those who are advocating a veto could point to any alternative plan by this administration to prevent this development from occurring. But the fact is the administration has no such plan. Indeed, the administration has no proposal in START, nor even a proposal under formal interagency consideration for possible submission at START on the depressed trajectory issue.

Mr. President, it is incumbent on those advocating a veto to explain to the American people why we will be stronger if the Soviets acquire a depressed trajectory capability. As with the interim restraint provision, I do not think veto advocates can make this case.

JOSEPH VERNER REED'S SPEECH TO THE UNITED NATIONS ASSOCIATION OF THE UNITED STATES OF AMERICA

Mr. PELL. Mr. President, on July 11, 1988, Joseph Verner Reed, Undersecretary-General of the United States for Political and General Assembly Affairs, addressed the National Convention of the United Nations Association of the United States of America.

We are currently witnessing a resurgence of the United Nations in world affairs. Peacekeeping and mediating effort in the Persian Gulf, Afghanistan, Kampuchea, Southern Africa, the Western Sahara, and in Cyprus are but a few of the many examples of the U.N.'s crucial role in furthering world peace in tandem with U.S. foreign policy interests. In addition, the U.N.'s specialized agencies such as the World Health Organization, the International Atomic Energy Agency, and the United Nations Environment Programme have been central to efforts to cope with such diverse but serious global problems as AIDS, nuclear proliferation, and environmental degradation.

Mr. President, it is ironic indeed that in view of its increased visibility in international relations, the United Nations is concurrently facing a budget situation of crisis proportions. This untenable situation is due to the refusal of the United States to meet its financial obligations to the United Nations.

As the senior American in the U.N. civil service, Ambassador Reed is well-qualified to speak to the role of the United Nations as well its funding problems. His speech to the UNUSA underscores the vital role of the United Nations in today's world, as well as the dilemma it faces because of the United States' refusal to pay its dues. I commend the speech to my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE UNITED NATIONS: MAKING A WORLD OF DIFFERENCE

Madam Chairperson, distinguished presidents of the chapters and divisions of the United Nations Association of the United States of America, distinguished leaders of the UNA/USA's affiliated organizations, distinguished recipients of the "Arnold Goodman Leadership Award", Ladies and Gentlemen.

I am deeply impressed by your presence here today to demonstrate your support for the United Nations and to launch the next stage of your endeavours on behalf of our World Organization. I am full of admiration for what you have been doing, and for what you continue to do in support of the United Nations. You are the best evidence that the United Nations belongs to the peoples of the world and that it can succeed only with their faith and their support.

The Secretary-General, Mr. Javier Pérez de Cuéllar, had hoped to be with you today. However, fast-breaking developments in one of the regional conflicts required his personal attention and he is, therefore, unfortunately, unable to be with you. He has asked me to convey to you his appreciation for your dedicated service to the United Nations and his best wishes for the success of your convention.

The theme of your convention this year is inspiring. Yes, the United Nations does make a world of difference. But before I speak about that, let me say, straightaway, that you, your Chapters, Divisions, affiliated organizations, you, the United Nations Association of the USA, make a big difference for us. Your faith and dedication have been sources of strength, indeed encouragement, to us in the Secretariat of the United Nations. The fact that you care so much encourages us to try even harder; the fact that you have been in the thick of the reform process by organizing study panels, and producing thoughtful reports such as "Successor Vision", spurs us on to search for better ways of organizing our activities; the fact that distinguished leaders such as you, from all walks of life, are out there keeping the flag of the United Nations flying tells us that we must succeed; for we have in our hands a charge entrusted to us by the peoples of the world. Yes, your activities have made a world of difference for us. "Thank you."

Friends of the United Nations,

As we meet here today, the Office of the United Nations High Commissioner for Refugees (UNHCR) is providing relief and protection to over twelve million refugees and displaced persons in every continent of the world. Members of the staff of the High Commissioner intercede daily in several parts of the world to protect human lives and to uphold international norms for the protection of Refugees. The activities of the Office earned it the Nobel Peace Prize in 1954 and again in 1981.

As we meet here today, the United Nationa's Children's Fund (UNICEF) is co-operating with developing countries in their efforts to protect their children and to enable them to develop their full potential. Under its Basic Services strategy, adopted in 1976, UNICEF assists Governments to plan, develop and extend—in both rural and urban environments—low-cost community-based services in the interrelated fields of maternal and child health, applied nutrition, clean water and sanitation, formal and non-formal education, responsible parenthood and supporting services for women and girls. Particular progress has been made in recent years in a UNICEF programme to bring about a virtual revolution in child survival and child development at low cost and in a relatively short time, emphasizing immunization, breast-feeding, growth monitoring and a simple oral rehydration method. A current major goal is universal immunization against vaccine-preventable diseases by 1990.

As we meet here today, the Office of the United Nations Disaster Relief Co-ordinator (UNDRO) is providing assistance to several countries. In 1986-1987, for example, UNDRO was involved in 110 disaster situations, many of which were of a long-standing nature calling for assistance over an extensive period. Major disasters which required the involvement of UNDRO included cyclonic storms and floods in Bangladesh, the release of toxic gas from Lake Nyos in Cameroon, an earthquake in El Salvador, floods in Bolivia, drought in Ethiopia, floods in Haiti, armed conflict and floods in Lebanon, a cyclone in Madagascar, drought/destabilization in Mozambique, floods in Peru, a cyclone in the Solomon Islands, drought in the Sudan, a typhoon in Viet Nam, a forest fire in China, an earthquake in Ecuador, a tidal wave in the Maldives, a cyclone in Vanuatu, civil strife in Democratic Yemen and a wide-spread locust threat in Africa. The locust threat, as you well know, is far from over.

As we meet here today, the United Nations Development Programme (UNDP) has operations in 152 developing countries and territories, where it channels expertise, advice and technical assistance to help those countries in the implementation of their development plans. It is the world's largest donor of grant technical assistance. Resources pledged for 1988 total over $1 billion. UNDP has a network of offices in 112 countries. In 1987, 4,700 projects were under way. Today, over 8,000 experts provided by UNDP are helping to make development a reality for the peoples of 152 developing countries and territories.

As we meet here today, United Nations Peacekeeping Forces are separating hostile communities or performing observer tasks in the following areas: The United Nations Truce Supervision Organization (UNTSO) with a strength of 298 operates in Israel, Egypt, Lebanon, Jordan and Syria. The United Nations Disengagement Observer Force (UNDOF) with a strength of 1,344 operates between Israel and Syria in the Golan Heights. The United Nations Military Observer Group in India and Pakistan with a strength of 38 operates in Kashmir on the India-Pakistan Border. The United Nations Peace-keeping Force in Cyprus (UNFICYP) with a strength of 2,150 operates in Cyprus. The United Nations Interim Force in Lebanon (UNIFIL) with a strength of 5,894 operates in southern Lebanon. All told there are around ten thousand blue helmets around the globe contributing to peace.

As we meet here today, the United Nations human rights programme is responding to an average annual inflow of about forty thousand petitions complaining of violations of human rights: The United Nations sends telegrams seeking to protect people in difficulty, organizes fact-finding missions, contacts governments and provides advisory services or technical assistance to help to promote and protect human rights and fundamental freedoms universally. The Secretary-General uses his good offices regularly to help individuals with humanitarian problems.

As we meet here today, the United Nations is pursuing efforts to implement the recommendations of the World Commission on the Environment and Development, which last year sounded a pressing alarm about the deterioration of the global environment. Only last week, the Secretary-General attended a follow-up meeting in Norway to review the state of implementation of the Brundtland Commission's recommendations and the Environmental Perspective to the Year 2000 and Beyond which the General Assembly adopted last year.

As we meet here today, the United Nations Fund for Population Activities (UNFPA), the largest internationally funded source of assistance to population programmes in developing countries, is helping those countries to build up the capacity to respond to needs in population and family planning, to promote understanding of population factors, to assist Governments to develop population goals and programmes, and to provide financial assistance to implement them. Its areas of work include family planning, communication and education, data collection and analysis, formulation and implementation of policies and programmes, special programmes for women, youth, the aged and the handicapped and activities such as conferences, documentation centres, clearing-houses and training.

As we meet here today, the United Nations Division for Narcotic Drugs is putting the finishing touches to a draft convention against illicit trafficking in drugs which is due to be discussed at an international conference later this year. As you well know, the drugs menace is causing increasing global concern.

As we meet here today, the United Nations and the World Health Organization are spearheading a major international effort to find a solution to the terrible AIDS pandemic. Research is being funded in many parts of the world, information exchanged and a world-wide education campaign is under way. WHO, through its Global Programme on AIDS, and UNDP are forging an alliance to control AIDS globally, combining the strengths of WHO as international leader in health policy and in scientific and technical matters relating to health, and of UNDP as leader in socio-economic development and of each of its resident representatives as coordinator of United Nations operational activities for development in countries.

As we meet here today, the Secretary-General of the United Nations, Mr. Javier Pérez de Cuéllar, is working on resolving several regional conflicts or to improve situations giving rise to humanitarian concerns. The magnitude of the Secretary-General's efforts is simply staggering. Let me review some of these for you. To begin with, I am sure you are fully aware how hard the Secretary-General and his aides worked to bring the parties to agree on the Afghanistan accords.

In Central America, the Secretary-General's representative has participated in a verification commission that monitors compliance with the peace treaty concluded by the Central American nations. In the Iran/Iraq conflict, as I am sure you all know, the Secretary-General is one of the few interlocutors acceptable to the parties. He has visited the capitals of both countries on several occasions. He launched the idea of a meeting of the Security Council at the Ministerial level, which eventually produced resolution 598. He has been having regular meetings with the representatives of both parties in an effort to promote implementation of the resoluton of the Security Council.

As for Kampuchea, the Secretary-General announced, on 27 June 1988, that in exercise of his good offices, he had sent his Special Represenatative to the region with specific proposals contained in a working paper which could provide the basis for negotiations on the framework for a comprehensive settlement of the Kampuchean problem and restoration of peace and stability in South East Asia.

On the situation in Namibia, the Secretary-General is actively pursuing the search for an agreement that can lead to the independence of that country. Last October, the Secretary-General was authorized by the Security Council to arrange a cease-fire between South Africa and the South West Africa People's Organization (SWAPO) in order to proceed to the implementation of the United Nations plan for the independence of Namibia. SWAPO has conveyed to him its readiness to sign and observe a cease-fire with South Africa in accordance with the provisions of the plan. However, South Africa has not so far provided him with a definitive response. Its insistence that agreement must be reached on the withdrawal of foreign troops from Angola, prior to the implementation of Security Council resolution 435 (1978), now constitutes the sale issue to be resolved for the achievement of Namibian independence.

On the situation in the Western Sahara, the Secretary-General is co-ordinating a joint UN/OAU effort to organize a referendum to determine the will of the people of the territory. On 29 May 1988 he announced his intention, after consulting with the OAU Chairman, to submit to the parties in the coming weeks formal proposals which would embody practical arrangements for establishing appropriate conditions necessary for the conduct of a free and fair referendum in the territory.

Then there are challenges that are less known. Let us take relief operations in Ethiopia for example. During his visit to Addis Ababa, in May 1988, the Secretary-General discussed with the Government of that country the emergency humanitarian situation in Ethiopia and he reviewed developments affecting relief operations in the northern provinces. He also raised the question of the continued role and contribution of the international community in the ongoing emergency operation. The Secretary-General obtained assurances from the President of Ethiopia of the continued co-operation of his Government with the United Nations. The discussions also extended to ways and means of strengthening and expanding the co-operation between the United Nations and the Government of Ethiopia, in order to expedite relief operations and to ensure the continued flow of humanitarian supplies to the affected population in the drought-stricken areas. It was agreed that the Secretary-General's Special Representative together with the Government of Ethiopia, would work out arrangements to enhance the joint humanitarian efforts in Ethiopia.

In another situation, this time the Sudan, it was announced on 6 June 1988 that a representative of the Secretary-General had completed a mission to Khartoum where he had held discussions with the Government of the Sudan on issues related to the critical humanitarian situation in that country, resulting from the continuing drought, civil strife and the presence of great numbers of refugees and displaced persons in various parts of the country. There are approximately two million displaced persons and close to one million refugees in the Sudan. The Secretary-General's representative visited the Sudan in follow-up to discussions held between Secretary-General Javier Pérez de Cuéllar and the Prime Minister of the Sudan, in Addis Ababa during the Summit Conference of the Organization of African Unity.

Subsequently, on 28 June 1988, the Secretary-General received a letter from the Prime Minister of the Sudan formally requesting the assistance and involvement of the United Nations and the international community in addressing the complex emergency situation in the Sudan. In the light of the Prime Minister's appeal, the Secretary-General announced that everything possible will be done to mobilize international assistance to meet the humanitarian needs of the affected population. An Emergency Operations Group, composed of representatives of the United Nations system, was established in Khartoum to ensure an effective and concerted United Nations response.

This is just a mere sampling of the numerous positive things that the United Nations does. Who can say the United Nations does not make a difference? For the millions of people who benefit from United Nations programmes, who can honestly say the United Nations does not make a world of difference? There can be no question about it: If the United Nations did not exist, we would have to invent it.

Friends of the United Nations,

While the United Nations goes about its work for humanity, it must, like any other human institution, keep watch over its organizational and administrative efficiency. Before I joined the United Nations Secretariat, one of my main responsibilities as an Ambassador at the United States Mission was to coordinate the efforts for reform, revitalization and streamlining of the United Nations. It so happens that I entered the Secretariat just about the time that those reforms were about to be set in place. I can tell you that, thanks to a joint effort between the Secretariat, under Secretary-General Javier Pérez de Cuéllar and Permanent Missions, we have made the United Nations and its Secretariat a much more streamlined, lean and efficient place. Let me enumerate for your benefit the following reforms which we have introduced to date:

1. *Budget consensus:* We have seen a substantial increase in the degree of consensus on the 1988–89 budget approved by the Assembly last fall. All European countries, East and West, were in favor. In the budget committee, consensus was up even more dramatically. Only 19 votes were taken on budget matters, as opposed to 132 votes in 1985. And consensus held up admirably when the Committee for Programme and Co-ordination approved the Secretary-General's revised budget estimates for 1988–89, which have direct implications for the 1990–91 budget.

The bottom line may be even more important: the 1988–89 budget was the first negative growth budget in recent history.

2. *Secondment:* In May, senior Soviet officials informed the Secretary-General that, for the first time, they would be willing to permit some of their nationals to accept permanent contracts and to extend the length of service for their other nationals, in order to help strengthen the international civil service. This, in my view, is a groundbreaking development. It is the first time that the USSR has been willing to make a formal alteration in its policy on secondment.

3. *Staff reductions:* We are ahead of schedule in moving toward the goal of a 15 per cent staff reduction by 1 January 1990. By the end of April 1988, the vacancy rate produced by the hiring freeze had already reached 15.3 per cent in the case of professional staff and in the case of General Service staff 10.4 per cent. Impressive progress has also been made toward the goal of eliminating 25 per cent of the most senior posts. As of today, 11 of the 16 posts to be eliminated are either vacant or have been eliminated.

I would like to refer to two other subjects that I hear repeatedly mentioned in Washington—expansion of the Committee for Programme and Co-ordination and the establishment of a contingency fund to limit add-ons. It is said that the expansion of the CPC is a sign that other Member States are not serious about reform. I think the opposite is true. While it can be more difficult to achieve consensus with a larger group, the strong interest of countries in joining the CPC shows that the consensus procedure has made it an important, powerful and prestigious body. In any case, the procedure, aimed at reconciling the interests of Member States, remains no matter what the size of the CPC.

Similarly, the fact that a contingency fund was not grafted on to the 1988–89 budget is sometimes cited as a setback for reform. This is not true. Under the terms of the reform agreement, the contingency fund is to be incorporated into the 1990–91 budget. In response to the US interest, it is expected that the item can be taken up by the CPC this September for possible inclusion in the second half of the current budget.

The Secretary-General has worked long, hard and effectively to implement the reform agenda. He has had the good-faith support of many Member States. I believe that an objective assessment of our accomplishment to date should lead the Administration and the Congress to endorse payment of $44 million remaining from the fiscal 1988 appropriation and at the appropriate time the $144 million requested by the President for the fiscal year 1989 as well. I should point out that because the 1988 assessment is $215 million, payment of the $44 million would still leave the United States $423 million in arrears. I hope that with your support, we can put this era of financial uncertainty behind us and get on with the essential work of the Organization.

I must say, quite candidly, that I am very disturbed that the United Nations finds itself in this situation. I am even more disturbed that the United States is in the situation of placing the operations of the United Nations in jeopardy. This, after the USA has been one of the founders of this Organization; after it has helped to shape the United Nations for forty-three years; after the USA sought and obtained the necessary reforms; after it has seen hard evidence of a greater sense of pragmatism at the United Nations; after it has seen recognition of the role of private initiative in the development process; after it has recognized that it has solemn treaty obligations to pay its contributions to the assessed budget of the United Nations. I am a believer in the Organization and one who has been active in bilateral and multilateral diplomacy. I feel confident about the future direction of the Organization.

The fortieth anniversary of the Universal Declaration of Human Rights will be commemorated on 10 December this year. Would it not be a terrible thing if the General Assembly could not meet around that time because our country's failure to pay its contributions had forced the Assembly to close down? Do you really feel comfortable about this situation as Americans with a proud tradition of respect for the rule of law?

Friends of the United Nations,

Allow me to conclude with the eloquent thoughts expressed at the closing plenary session of the 1945 United Nations Conference on International Organization in San Francisco:

"You have created a great instrument for peace and security and human progress in the world.

"The world must now use it!

"If we fail to use it, we shall betray all those who have died in order that we might meet here in freedom and safety to create it.

"If we seek to use it selfishly—for the advantage of any one nation or any small group of nations—we shall be equally guilty of that betrayal.

"The successful use of this instrument will require the united will and firm determination of the free peoples who have created it. The job will tax the moral strength and fiber of us all.

"By their own example the strong nations of the world should lead the way to international justice. That principle of justice is the foundation stone of this Charter. That principle is to be the guiding spirit by which it must be carried out—not by words alone but by continued concrete acts of goodwill."

Those were the words of the then President of the United States, Harry S. Truman. Are they any less vaild today? You have decided they remain valid. You have kept alive the flame which was lit in San Francisco. You have remained steadfast in your efforts to make the United Nations succeed and to improve it. You have helped us to identify options for improving the functioning of the United Nations and for shaping its vision of the future. You, who are in the trenches are providing policy options which can be presented to the World Organization and which can help to bring about better working relations between the United States and the United Nations.

The message that I take from your work is that the United Nations must be made to succeed. I thank you for the steadfastness of your support. I should like to say to you, in turn, that we in the Secretariat are determined to do our utmost to make the United Nations a better organization, and to improve the quality of service which it provides the international community. My message to you today, and through you to all United Nations Associations, is that we have created a great instrument for peace and security and human progress in the world. The world must have the understanding and the courage to use it.

THE AMERICAN ACADEMY OF DIPLOMACY: WORKING TOWARD AN EFFECTIVE U.S. FOREIGN POLICY

Mr. PELL. Mr. President, I would like to call attention to the efforts of the American Academy of Diplomacy to assist the next administration with its conduct of foreign affairs. It is widely accepted that in 1989, America's next President will face a series of challenges and tough decisions in the foreign policy arena. Keeping this in mind, the American Academy of Diplomacy recently sent letters to the Democratic nominee, Michael S. Dukakis, and the prospective Republican nominee, GEORGE BUSH, outlining the academy's basic views and offering three sensible suggestions about the foreign policy process.

Realizing, Mr. President, that the new administration will also have to work very closely with the Congress to meet these challenges, I would like to share the text of the letter sent to Governor Dukakis and Vice President BUSH with my colleagues in the Senate. I hope that they will find it as informative and useful as I did. I ask unanimous consent that the full text of the academy's letter to Governor Dukakis be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN ACADEMY OF DIPLOMACY,
Washington, DC, July 6, 1988.
Hon. MICHAEL S. DUKAKIS,
Governor of the Commonwealth of Massachusetts, State House, Boston, MA.

DEAR GOVERNOR DUKAKIS: We are sending this letter to you on behalf of the American Academy of Diplomacy, a nonpartisan organization of men and women, both career and noncareer, who have rendered important service in the field of American diplomacy.

It is clear that the next Administration will assume office at a moment clouded with uncertainties in the area of foreign policy. There will be an urgent need to shape the long-term response to the changes now occurring in the USSR and indeed in the entire communist world. Our nation must adjust itself to the status of the world's largest debtor. American interests must be protected in the face of surging East Asian economies, an integrated European Community and a turbulent Middle East. Our policies of democratic development and debt relief in Central and South America will require careful attention. And it will be necessary to deal with human rights violations, arms control, the drug traffic, refugee movements, protection of the environment and a host of other global problems

This is a daunting agenda. Its management will be the more difficult at a moment when our relative preponderance in world affairs may be shrinking. American leadership is certainly not outmoded. But its exercise will require an extraordinary degree of expertise and sound judgment. Skillful diplomacy will assume even more importance than it has had in the past.

Ideally, a new President should have in place a capable and responsive diplomatic team from the moment of his inauguration. In fact, every transition produces some gaps and some unsettlement. At such moments a solid professional Foreign Service can provide operational guidance and institutional memory, so that effective diplomacy can continue to serve as a primary tool of American policy.

The Academy will support every measure taken to create a knowledgeable and effective team to carry out that policy.

We respectfully propose that you give particular attention to three aspects of our foreign policy process, to keep it functioning effectively in the period ahead.

First, we suggest that you announce your readiness to work with Congressional leaders to establish a bipartisan approach to major foreign policy problems. We hope you will prepare to fashion a broad agreement between the Administration and Congress on objectives and strategy, and their application to particular cases. Unless bipartisanship is restored, the country is more than likely to suffer from fits-and-starts diplomacy, Congressional micromanagement of contentious issues, and a resulting lack of coherence and credibility that ill becomes a major power.

Second, we trust you will recognize that the United States foreign affairs budget—well under two percent of our total federal expenditure—ought to be maintained at a level permitting the country to meet its basic commitments. In constant dollar terms, our outlays for military and economic support to our friends abroad have fallen; our contributions to international organizations are in deficit; and our diplomatic establishment, overseas and in the State Department, has been squeezed down to inadequate levels. Unless these trends are reversed, and we demonstrate that we can and will meet our obligations, our influence is bound to decline.

Third, we hope you will demand high standards of competence, relevant experience, and understanding of foreign policy problems in choosing ambassadors for our embassies and senior officials for the Department of State. The goal should, we submit, be a judicious mix of career and non-career chiefs of mission and senior officials, in reasonable proportions, in which each representative is qualified for the position he or she occupies. The Academy suggests that you consider appointing an advisory board to assist you in selecting such officials. The Academy also suggests that you take steps to maintain the ability of our hard-pressed Foreign Service to function effectively as a professional organization.

The American Academy of Diplomacy trusts that these matters will receive your early consideration. Their implementation will help to maintain American leadership and to achieve the country's foreign policy objectives. We would be happy to discuss them with you or with members of your staff and to assist in any appropriate way.

During the transition period the Academy will undertake a number of projects directed toward improving public understanding of the role and importance of diplomacy. Through a series of analytical seminars, for example, the Academy is exploring the tasks confronting those who will shape our foreign policies in the decade of the nineties. We will communicate the results to you, in the hope that they may be helpful to those who will determine the country's objectives and work to achieve them in the years to come.

A list of officers and members of the Academy is attached.

We are sending an identical letter to Vice President George Bush.

Respectfully yours,
For the American Academy of Diplomacy,
SOL M. LINOWITZ,
Chairman.
DAVID H. POPPER,
President.

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The Honorable Douglas MacArthur II.
The Honorable William B. Macomber.
The Honorable Edwin M. Martin.
The Honorable Robert J. McCloskey.
The Honorable John J. McCloy.
The Honorable George C. McGhee.
The Honorable Donald McHenry.
The Honorable Robert McNamara.
The Honorable Edmund S. Muskie.
The Honorable David D. Newsom.
The Honorable David H. Popper.
The Honorable John E. Reinhardt.
The Honorable Elliot L. Richardson.
The Honorable William D. Rogers.
The Honorable William P. Rogers.
The Honorable Carl T. Rowan.
The Honorable Donald Rumsfeld.
The Honorable Kenneth Rush.
The Honorable Dean Rusk.
The Honorable Harold Saunders.
The Honorable William E. Schaufele, Jr.
The Honorable Brent Scowcroft.
The Honorable William W. Scranton.
The Honorable Joseph J. Sisco.
The Honorable Gerard C. Smith.
The Honorable William H. Sullivan.
The Honorable Malcolm Toon.
The Honorable Philip Trezise.
The Honorable John Wills Tuthill.
The Honorable Leonard Unger.
The Honorable Viron P. Vaky.
The Honorable Cyrus R. Vance.

The Honorable Nicholas A. Veliotes.
The Honorable Robert F. Woodward.

HONORARY MEMBERS

The Honorable Charles Percy.
The Honorable William Fulbright.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate message from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 328. An act to amend chapter 39 to title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1579. An act to amend the Public Health Service Act to revise and extend the block grant program, and for other purposes.

The message further announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 1226) to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. LELAND, Mr. LENT, and Mr. MADIGAN as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3932) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1982. An act to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana;

H.R. 3313. An act to establish in the Department of the Interior the Heritage Preservation Commission, and for other purposes;

H.R. 4030. An act to strengthen certain fish and wildlife laws;

H.R. 4068. An act to amend the Archeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that act, and for other purposes;

H.R. 4124. An act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes;

H.R. 4208. An act to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992;

H.R. 4457. An act to create a national park at Natchez, Mississippi;

H.R. 4519. An act to provide for the disposition of certain lands in Arizona under the jurisdiction of the Department of the Interior by means of an exchange of lands, and for other purposes; and

H.R. 4574. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

At 2:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to bill (S. 2385) to amend title III of the Public Health Service Act to revise and extend the programs of assistance for primary health care and the program of health services for the homeless, and for other purposes.

The message also announced that the House has passed the following bills, in which is requests that concurrence of the Senate:

H.R. 4310. An act to extend for an additional 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings; and

H.R. 4410. An act to designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Building".

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 2385. An act to amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers; and

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest Atlanta, Georgia, as the "Martin Luther King, Jr. Federal Building".

The enrolled bills were subsequently signed by the President pro tempore [Mr. STENNIS].

ENROLLED BILLS SIGNED

At 3:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2213. An act to require certain telephones to be hearing aid compatible; and

H.R. 4726. An act to designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building".

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1982. An act to authorize the establishment of the Lewis and Clark National Historic Site of Montana; to the Committee on Energy and Natural Resources.

H.R. 3313. An act to establish in the Department of the Interior the Heritage Preservation Commission, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4030. An act to strengthen certain fish and wildlife laws; to the Committee on Environment and Public Works.

H.R. 4068. An act to amend the Archeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4124. An act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4208. An act to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992; to the Committee on Commerce, Science, and Transportation.

H.R. 4410. An act to designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Building"; to the Committee on Environment and Public Works.

H.R. 4457. An act to create a national park at Natchez, Mississippi; to the Committee on Energy and Natural Resources.

H.R. 4519. An act to provide for the disposition of certain lands in Arizona under the jurisdiction of the Department of the Interior by means of an exchange of lands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4574. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4310. An act to extend for an additional 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings;

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 2, 1988, he had presented to the President of the

United States the following enrolled bill:

S. 2385. An act to amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, and documents, which were referred as indicated:

EC-3666. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-206, adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3667. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-207, adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3668. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-209, adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3669. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-210, adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3670. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-211, adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1600. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes (Rept. No. 100-440).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments.

S. 2367. A bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes (Rept. No. 100-441).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1629. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors (Rept. No. 100-442).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2470. A bill to promote technology competitiveness and energy conservation in the American steel industry (Rept. No. 100-443).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2114. A bill entitled the "Public Telecommunications Act of 1988" (Rept. No. 100-444).

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 5026. A bill making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TRIBLE:

S. 2677. A bill to establish a program of Federal grants to assist local educational agencies to establish and provide for a school year of not less that 218 days; to the Committee on Labor and Human Resources.

By Mr. DOLE:

S. 2678. A bill to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts; to the Committee on Energy and Natural Resources.

By Mr. QUAYLE (by request):

S. 2679. A bill to amend the Job Training Partnership Act to add an enriched program option of employment and training for at-risk youth to the title II-B Summer Youth Employment and Training Program, to revise the method for allocating funds under that program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BYRD (for Mr. LAUTENBERG (for himself, Mr. MOYNIHAN, Mr. BRADLEY, Mr. D'AMATO, Mr. CHAFEE, Mr. DODD, Mr. PELL, and Mr. WEICKER)):

S. 2680. A bill to establish a pilot program for the tracking of medical wastes in the States of New York, New Jersey, and Connecticut; ordered held at the desk.

By Mr. HEFLIN:

S.J. Res. 355. A joint resolution designating October 7, 1988, as "National Teacher Appreciation Day"; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. DIXON, Mr. HARKIN, Mr. GRASSLEY, and Mr. DURENBERGER):

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation company labor-management dispute; considered and passed.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. SIMPSON, Mr. THURMOND, Mr. STAFFORD, Mr. SPECTER, Mr. BURDICK, Mr. PELL, Mr. KERRY, Mr. DIXON, Mr. CHILES, Mr. HOLLINGS, Mr. DASCHLE, Mr. MOYNIHAN, Mr. GORE, Ms. MIKULSKI, Mr. SHELBY, Mr. DOLE, Mr. MCCAIN, and Mr. WILSON):

S.J. Res. 357. Joint resolution designating the week beginning November 6, 1988, as "National Women Veterans Recognition Week"; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 358. Joint resolution to authorize and request the President to issue a proclamation designating August 21, 1988 as "National Senior Citizens Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. MCCAIN):

S. Con. Res. 134. Concurrent resolution to urge States and the Federal Election Commission to evaluate the success of the Kids Voting Program in Arizona; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TRIBLE:

S. 2677. A bill to establish a program of Federal grants to assist local educational agencies to establish and provide for a school year of not less than 218 days; to the Committee on Labor and Human Resources.

VOLUNTARY EXTENDED SCHOOL YEAR INCENTIVE PROGRAM

Mr. TRIBLE. Mr. President, George Washington, in his first message to Congress said, "knowledge is to every country the surest basis of public happiness." Those words were never truer than when we look toward the 21st century. Our Nation's strength and prosperity, our ability to lead, depend on educational excellence.

In spite of the reforms occasioned by the findings of the National Commission on Excellence in Education, America is still a nation at risk.

About 30 percent of our elementary and secondary students drop out of school, about 20 percent of our population is functionally illiterate, our students rank far below many other countries—particularly in math and science achievement, and they display an appalling lack of knowledge about this country and the world around us.

America must do better. Our young people must be encouraged not only to work harder, but also to work longer; 180 days a year is not long enough when Japanese kids go to school for 243 days a year and out perform our children.

Almost all of our economic competitors have long school years. European students spend up to 230 days a year in class. German and British schools start in early September and go to school through mid-July. In South Korea the school year lasts 220 days, in Taiwan 240 days and in Japan 243 days.

These comparisons suggest that American schools should be encouraged to establish year round programs. That is why today I am introducing legislation to establish an extended school year incentive assistance program; $10 million would be made available annually for grants to local school systems that choose to try out longer school years.

No school system would be compelled to offer a longer school year and participation in the incentive program would be fully voluntary. The bill also requires a fair distribution of assistance among local school systems in urban, rural, and suburban areas. Finally, this legislation would use funds already available under the Hawkins-Strafford Elementary and Secondary School Improvement Amendments of 1988.

Mr. President, the 9 month school program was a product of an agrarian society that exists no more in the United States. Children today should be given the opportunity to go to school during the summer months if they choose to do so. Millions of young Americans will take courses for promotion, remediation, enrichment, and acceleration. They will be better off and so will the Nation; 425 schools in our Nation already offer an extended school year and another 52 schools are converting their school calendars this summer. One of the longest running and most successful extended school year programs is in Buena Vista, VA.

For 14 years Parry McCluer High School has offered a voluntary extended school year in this industrial town of 7,000 people. Over half of the students attend the summer sessions, school drop-out rates have declined and test scores have increased. All students now collectively score above 98 percent on State competency tests.

Additional time in the classroom yields results. Also, in traditional school programs many students, especially poor students, lose much that they have learned over the summer. In the fall, it often takes teachers months to get these students back to where they were in May.

Morever, school districts should be encouraged to make more efficient use of their facilities. Americans have a current investment in school buildings in excess of $250 billion. Today these facilities remain idle about 25 percent of the time. It makes sense for us to make greater use of these facilities to help our Nation meet the needs of illiteracy, school drop-outs, manpower training, high technology, children at risk and enrichment.

Mr. President, our Nation must have an educational system second to none. This legislation will provide an incentive to encourage longer school years as one step toward educational excellence in our land.

Mr. President, I ask unanimous consent to print in the RECORD the text of the bill and a table that compares the length of the school year in America with those nations with which we must compete in the days ahead.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENDED SCHOOL YEAR PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program of grants to local educational agencies to assist such agencies to establish and provide for a school year of not less than 218 days in accordance with the provisions of this section.

(b) REQUIREMENTS.—A local educational agency which receives financial assistance under this section shall provide for a school year of not less than 218 days.

(c) APPLICATIONS.—Any local educational agency which desires to receive a grant from the Secretary under this section shall submit an application to the Secretary in such form and at such times as the Secretary may require. In considering applications submitted under this section, the Secretary shall ensure an equitable distribution of assistance among local educational agencies in urban, rural, and suburban areas.

(d) AVAILABILITY OF FUNDS.—In order to carry out the provisions of this Act, the Secretary shall, prior to carrying out the provision of section 1511(a)(2) of the Elementary and Secondary Education Act of 1965, reserve $10,000,000 from the amount appropriated for fiscal year 1989 and for each succeeding fiscal year ending prior to October 1, 1993, to carry out chapter 2 of the Elementary and Secondary Education Act of 1965.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(2) The term "Secretary" means the United States Secretary of Education.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect October 1, 1988.

Length of School Year

Country:	Days per school year
United States	180
Mexico	180
Sweden	180
France	185
Canada (Ontario)	186
Finland	190
New Zealand	190
Nigeria	190
Hungary	192
England/Wales	192
China	192
Canada (British Columbia)	195
Hong Kong	195
Netherlands	200
Scotland	200
Thailand	200
Israel	216
Luxembourg	216
South Korea	220
Taiwan	240
Japan	243

Source: McKnight et al, "The Underachieving Curriculum," 1987, and the Congressional Research Service of the Library of Congress.

By Mr. DOLE:

S. 2678. A bill to authorize the reformulation of the Cedar Bluff unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts; to the Committee on Energy and Natural Resources.

REFORMULATION OF CEDAR BLUFF UNIT OF THE PICK-SLOAN MISSOURI BASIN PROGRAM

Mr. DOLE. Mr. President, I rise today to introduce needed legislation that would authorize the reformulation of the Cedar Bluff unit of the Pick-Sloan Missouri River Basin Program, Kansas, and provide for the amendment of water service and repayment contracts.

Studies show a significant flow depletion in the Smoky Hill River above Cedar Bluff Reservoir. There has been a consistent decline in water supply available for irrigation from Cedar Bluff Reservoir during the past 23 years and no deliveries of irrigation water have been made since 1978. In recent years, the Cedar Bluff Irrigation District has not been able to pay construction repayment installments, or operation, maintenance, and replacement [OM&R] obligations under the present contract with the Bureau of Reclamation. The fish cultural station located below the dam, which was operated by the U.S. Fish and Wildlife Service, has been closed and is now operated by the Kansas Department of Wildlife and Parks as a Canadian goose rearing facility.

Currently, the Federal Government is holding a repayment contract with the irrigation district which they are unable to collect without adverse action to the district. The district is also unable to pay their share of the annual OM&R costs associated with the dam and reservoir. The Federal Government is allowing, on a temporary basis, the State to utilize the fish cultural station and water right for rearing Canadian geese.

Mr. President, on December 17, 1987, the State of Kansas and the Bureau of Reclamation signed a memorandum of understanding that clears the way for this important legislation. Congressman PAT ROBERTS is taking the lead in the House and will soon be introducing a companion bill. I am confident the Energy and Natural Resources Committee will move expeditiously with hearings on this undertaking Mr. President, I would request that a copy of the memorandum of understanding be inserted into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Memorandum of Understanding Between the U.S. Department of the Interior, Bureau of Reclamation and Fish and Wildlife Service, the State of Kansas and the Cedar Bluff Irrigation District No. 6]

REFORMULATION AND OPERATION OF THE CEDAR BLUFF UNIT

1. PURPOSE

The purpose of this Memorandum of Understanding is to establish a cooperative partnership between the U.S. Department of the Interior—Bureau of Reclamation (Bureau) and Fish and Wildlife Service (Service), the State of Kansas (State), and the Cedar Bluff Irrigation District (District) to achieve the greatest possible level of multipurpose benefits from the Cedar Bluff Unit, built and operated by the Bureau on the Smoky Hill River, in Trego and Ellis counties, in west-central Kansas.

2. BACKGROUND

The Cedar Bluff Unit was authorized as a multipurpose unit of the Missouri Basin Project to provide flood control, irrigation, and other associated benefits. The major feature of the project, Cedar Bluff Dam and Reservoir, was completed in 1951. The dam was constructed in advance of the finalization of irrigation plans as a part of the Missouri River Basin Flood Control Program. Formation of the District was filed with the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, on January 3, 1958. After approval by the Chief Engineer, the three member District board of directors was elected September 9, 1958. The District has a total irrigable acreage of 6,800 acres. The delivery of irrigation water to project lands began in 1963.

The Cedar Bluff Unit includes the dam and reservoir, the irrigation distribution system, a fish cultural station built by the U.S. Fish and Wildlife Service below the dam, and the fish, wildlife, and recreation investment made by the State in land and water management and in State park facilities. The U.S. Fish and Wildlife Service holds a Kansas water right for water supply associated with the fish cultural station. The City of Russell holds a Kansas water right associated with storage space in Cedar Bluff Reservoir for municipal water supply by direct releases to the Smoky Hill River. The District holds the water right associated with the irrigation of its 6,800 acres of irrigable lands.

During flood stages, operation of the reservoir is in accordance with cooperative agreements with the Corps of Engineers for basinwide control. These agreements provide that the Corps of Engineers will direct operations when the water surface is within the flood control pool.

Studies show a significant flow depletion in the Smoky Hill River above Cedar Bluff Reservoir. There has been a consistent decline in water supply available for irrigation from Cedar Bluff Reservoir during the past 23 years. The following problems related to operating the Cedar Bluff Unit under these depleted inflow conditions have been identified.

a. No deliveries of irrigation water have been made to the District since 1978.

b. In recent years, the District has not been able to pay construction repayment installments, or operation, maintenance, and replacement obligations under the present contract with the Bureau.

c. The fish cultural station located below the dam, which was operated by the U.S. Fish and Wildlife Service, has been closed and is now operated by the Kansas Department of Wildlife and Parks as a Canadian goose rearing facility.

d. Without (1) water deliveries to the District, (2) water releases to the river for the city of Russell, and (3) water utilized by the fish cultural station below the dam, the Smoky Hill River and alluvial ground-water system has not been recharged by stream flows, or return flows, that historically have been available. This has in part been responsible for critical depletions at city and rural water district alluvial groundwater supply facilities.

e. The Kansas Department of Wildlife and Parks is concerned about protecting and utilizing the State's investment in the fishery in Cedar Bluff Reservoir and wildlife management associated with the land area around the reservoir. It is also concerned about protecting and utilizing the State's investment in recreation facilities at the Cedar Bluff State Park areas down to the reservoir water level.

3. OVERVIEW OF INITIATIVE

The Federal/State/District partnership established in this Memorandum of Understanding is designed to reformulate and operate the Cedar Bluff Unit in recognition of the issues in paragraph 2 above. In order to achieve this objective, the Bureau, the Service, the State, and the District intend to reformulate and operate the Cedar Bluff Unit so that:

a. The existing flood control aspects of the project would be unchanged, except for additional flood storage in the "joint-use pool" as described in f. below.

b. The lower 19.1 feet of the existing conservation pool (consisting of 29,739 acre-feet between elevation 2090.0 and elevation 2109.1) would be a "designated operating pool" (2,700 acre-feet) for the City of Russell's municipal water supply; (5,400 acre-feet) for artificial recharge (environmental, domestic, municipal, industrial, and irrigation); and (21,639 acre-feet) for fish, wildlife, and recreation. (See Exhibit No 1, page 4).

c. The "designated operating pool" would be operated as a single pool with the three uses sharing proportionally the inflows and losses, so that a continuous accounting is maintained on the amount of water that is available for Russell's municipal water supply; for artificial recharge; and for fish, wildlife, and recreation. The State intends to operate the fish, wildlife, and recreation part of the "designated operating pool" for the benefit of recreation activities and fisheries management at Cedar Bluff Lake, and for minimal downstream releases for goose rearing activities and stream environment preservation.

d. The City of Russell's existing water storage right and contract with the Bureau would be unchanged, including the continuance of the existing accounting procedure for sharing of inflows and losses at Cedar Bluff Reservoir.

e. Subject to Congressional approval of the reformulated Cedar Bluff Unit, the District would be relieved of its contractual obligations under contract No. 0-07-70-W0064, formerly No. 14-06-700-2118, dated September 3, 1959, as amended. After this approval, the District would request the Chief Engineer, Division of Water Resources, State Board of Agriculture, for permission to disband the irrigation district as provided for under Kansas law.

f. The upper 34.9 feet of the existing conservation pool (consisting of 147,090 acre-feet between elevation 2109.1 and elevation 2144.0) would be a "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint-use pool" is empty, the operation, maintenance, and replacement (OM&R) costs would be assigned to flood control, and, if water should accumulate into the joint-use pool, the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the proceeding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenues from the sale of water from the "joint-use pool" would be shared equally, between the Bureau and the State.

g. The Kansas Department of Wildlife and Parks would continue to administer the reservoir lands and lake areas for fish and wildlife management purposes according to existing agreements, and to operate the Cedar Bluff State Park areas extended down to the water surface actually in the reservoir.

h. The Service would transfer to the State the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the State's operation for fish, wildlife, and related purposes.

i. The State would pursue its evaluation for the formulation of an Intensive Groundwater Use Control Area in the Smoky Hill River alluvium above Cedar Bluff Reservoir.

j. The Bureau would conduct "Safety-of-Dams" (SOD) studies as it deems necessary concerning SOD issues. The contract for sale of the use of a portion of the conservation storage capacity to the State will acknowledge these SOD studies, and allow both parties to have the option to invalidate the sale contract, should that be determined to be the best solution to the SOD problems.

4. PROCEDURES

a. The Bureau intends to:

(1) Prepare a contract for the sale of storage capacity in the conservation pool of Cedar Bluff Reservoir to the State, based on the agreed upon criteria.

(2) Operate and maintain Cedar Bluff Dam and Reservoir for flood control in cooperation with the Corps of Engineers; for municipal water supply for the City of Russell; and for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and fish, wildlife, and recreation, in cooperation with the State.

(3) Designate a part of the existing conservation storage space in Cedar Bluff Reservoir (between elevation 2090.0 and elevation 2109.1) as a "designated operating pool", and the remaining portion of the existing conservation storage space in Cedar Bluff Reservoir (between elevation 2109.1 and elevation 2144.0) as a "joint-use pool".

(4) Operate the "designate operating pool" as a single pool with all three uses sharing proportionally in the inflows as well as the losses, so that a continuous accounting is maintained on how much water is available for the City of Russell's municipal water supply; for artificial recharge; and for fish, wildlife, and recreation.

(5) Operate the "joint-use pool" for flood control for water supply; and for fish, wildlife, and recreation. When the "joint-use pool" is empty, the OM&R costs would be assigned to flood control, and, if water should accumulate into the "joint-use pool", the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the preceding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenues from sale of water from the "joint-use pool" will be shared equally between the Bureau and the State.

(6) Accept, subject to Congressional approval and in lieu of the District's repayment obligation to the United States, an upfront payment of $365,424 from the State for purchase of the use of a portion of the conservation storage capacity in Cedar Bluff Reservoir. The payment will be made in two successive equal annual installments of $182,712.

(7)(a) Include in the proposed sale contract a provision for a payment by the State for its proportionate share of the OM&R costs for Cedar Bluff Dam and Reservoir. The State's share for the "designated operating pool" OM&R costs will be 7.33 percent of the total, or $15,000, whichever is greater. 27,039 A.F./368,689 A.F. = 7.33 percent.

(b) Should the water level ever rise into the "joint-use pool", the maximum amount of storage in that pool will be divided by the total reservoir storage of 368,689 acre-feet to find a percent of OM&R costs for the next year's payment to be paid by the State. Any OM&R costs associated with this pool will be in addition to the 7.33 percent for the "designated operating pool" as stated above, or a total of $15,000, whichever is greater.

(8) Continue unchanged the existing contract between the City of Russell and the Bureau, including continuance of the existing accounting procedure for sharing inflows and losses at Cedar Bluff Reservoir.

(9) Transfer to the District fee title to all real property and buildings at the District headquarters, along with all equipment and tools, for its agreement to abandon the distribution system at no further cost to the United States.

(10) Effect a declaration of abandonment of all easements for the District's distribution system. Filing of any formal rights of way abandonment documents will be each landowner's responsibility.

(11) Continue with "Safety of Dams" (SOD) studies on Cedar Bluff Dam and Reservoir to determine the most feasible corrective actions to be undertaken to resolve the SOD issues.

b. The Service intends to:

(1) Transfer to the State the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the State's operation for fish, wildlife, and related purposes.

(2) Transfer the water rights associated with the fish hatchery to the State for their use for fish, wildlife, and related purposes.

c. The State intends to:

(1) Enter into a contract of sale for the use of a portion of the conservation storage in Cedar Bluff Reservoir with the Bureau based on the agreed upon criteria.

(2) Promote the passage of the required legislation for the reformulated operation of the Cedar Bluff Unit through the United States Congress.

(3) Pursue its evaluation for the formulation of an Intensive Ground-water Use Control Area in the alluvium above Cedar Bluff Reservoir.

(4) Utilize the "designated operating pool" as a single pool for the City of Russell's municipal supply; for artificial recharge (environmental, domestic, municipal, industrial, and irrigation); and for fish, wildlife, and recreation purposes, with all three uses sharing proportionally inflows and losses, so that a continuous accounting is maintained on how much water is available for each of the three use categories.

(5) Utilize the "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint use pool" is empty, the OM&R costs would be assigned to flood control, and, when water accumulates into the "joint-use pool," the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the preceding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and contructed including the reformulation of those purposes as herein contemplated. Any net revenue from the sale of water from the "joint-use pool" will be shared equally between the Bureau and the State.

(6) Pay, in lieu of the repayment obligation between the Bureau and District, an upfront payment of $365,424 (payable in two successive equal payments of $182,712 per year) for the use of a portion of the conservation capacity in Cedar Bluff Reservoir.

(7) (a) Contract with the Bureau for payment of a share of the OM&R costs for Cedar Bluff Dam. The State's share of the "designated operating pool" OM&R costs will be 7.33 percent of the total, or $15,000, whichever is greater. 27,039 A.F./368,689 A.F. = 7.33 percent.

(b) Should the water level ever rise into the "joint-use pool", the maximum amount of storage in that pool will be divided by the total reservoir storage of 368,689 acre-feet to find a percent of OM&R costs for the next year's payment to be paid by the State. Any OM&R costs associated with this pool will be in addition to the 7.33 percent for the "designated operating pool" as stated above, or a total of $15,000, whichever is greater.

(8) Pursue a change in use application, and transfer the U.S. Fish and Wildlife Service water right and the District's water right associated with the conservation storage space in Cedar Bluff Reservoir to the State for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and for fish, wildlife, and related purposes.

(9) Continue to operate the project lands and lake areas for fish, wildlife, and recreation purposes according to existing agreements.

(10) Extend the Cedar Bluff State Park areas down to the water level actually in the reservoir.

(11) Accept the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the state's operation for fish, wildlife, and related purposes.

d. The District intends to:

(1) Agree, subject to Congressional approval, to the State's payment of $365,424 to the Bureau for the use of a portion of the conservation storage capacity in Cedar Bluff Reservoir in lieu of its repayment obligation to the United States. In consideration of this debt relief, the District agrees to abandon the distribution system at its expense and to disband as an irrigation district under Kansas law.

(2) Agree to the submission of an application for a change in use, and to the transfer of that portion of its water right associated with the conservation storage space in Cedar Bluff Reservoir to the State for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and for fish, wildlife, and recreation purposes.

(3) Accept transfer of ownership of all real property and buildings at the District headquarters, along with all equipment and tools, and agree to abandon all of the distribution system at no additional cost to the United States.

(4) Utilize all of its existing funds and any revenue from the sale of its real property, tools, and equipment to assist the individual landowners in affecting the abandonment of the distribution system and related facilities, at no additional cost of the United States, by reimbursing landowners with the remaining funds to accomplish satisfactory abandonment in accordance with District recommendations.

(5) Agree on behalf of all individual landowners to the declaration of abandonment of all construction, operation, and maintenance easements for the distribution system. Agree that any formal rights-of-way filings desired by landowners will be their individual responsibility.

(6) Support the passage of the required legislation for the reformulated Cedar Bluff Unit through the United States Congress.

5. INTERIM OPERATIONS

Commencing with the execution of this agreement and continuing until the reformulated Cedar Bluff Unit is authorized by the Congress and all contracts and transfer documents are executed between the Bureau, the Service, the State, and the District, the reservoir will be operated in accordance with the purposes for which it was authorized and constructed pursuant to the authority of the Secretary of the Interior and in general accord with the provisions of this Memorandum of Understanding.

6. CONDITIONS

a. This Memorandum of Understanding shall be effective upon the date that all parties have signed.

b. This Memorandum of Understanding is predicated upon the pursuit of the reformulation and operation of the Cedar Bluff Unit on a comprehensive basis. Should the initiative not move forward in a judicious manner due to failure of the Bureau, the Service, the State, or the District to carry out those actions described in paragraph 4 above, then the understanding contained herein shall become null and void.

c. This Memorandum of Understanding may be modified or terminated upon mutual agreement of the parties hereto by giving thirty (30) days written notice to all the parties signatory to this agreement. The Bureau and the State will jointly pursue legislation to implement the provisions of this agreement. If Congress fails to enact legislation approving the provisions of this agreement, then this agreement shall become null and void.

By Mr. QUAYLE (by request):

S. 2679. A bill to amend the Job Training Partnership Act to add an enriched program option of employment and training for at-risk youth to the title II-B Summer Youth Employment and Training Program, to revise the method for allocating funds under that program, and for other purposes; to the Committee on Labor and Human Resources.

AT-RISK YOUTH EMPLOYMENT AND TRAINING AMENDMENTS

● Mr. QUAYLE. Mr. President, I am introducing a bill to amend the Summer Youth Program, title II-B of the Job Training Partnership Act [JTPA], to add an enriched program option of year-round services for at-risk youth, at the request of the Department of Labor.

This bill has been developed by the Department of Labor [DOL] after many years of experience with youth programs. This proposal includes the most successful components of exemplary youth programs and should assist States and localities to better serve those young adults who need help to avoid the pitfalls of unemployment, lack of education, and lack of self-respect.

This bill would allow local service delivery areas the option of using funds under title II-B to provide a year-round, comprehensive program of intensive services for youth at-risk of chronic unemployment. At-risk youth often face multiple barriers to successfully entering the workforce, including a lack of basic skills, drug and alcohol abuse, teen pregnancy, behavioral problems, and disruptive living conditions. The program would provide participants with an assessment of their reading, mathematics, and other basic skills, a service strategy, and basic skills assistance. This bill places a heavy emphasis on basic skills attainment, rightly so.

Under the bill, local areas would decide what services to offer, consistent with the principles of JTPA. We believe that most localities will want to enhance their summer youth programs with year-round programs that emphasize basic skills for at least some of their youth. However, a year-round program may not be necessary or appropriate for all youth.

To be eligible for the year-round component, individuals must be between the ages 14-21; be economically disadvantaged; and be deficient in basic skills. Programs must provide for linkages with the local school system.

The bill also changes the formula for allocting title II-B funds to States. DOL believes that the current formula which measures unemployment rates is not sensitive to the eligible target population of economically disadvantaged and at-risk youth. This bill would base the State allocations on the number of economically disadvantaged youth, aged 14 through 21, using a poverty index. Also, to avoid large annual variations in States allocations due to fluctuating unemployment, the allocation formula will stabilize State allotments.

I must express some serious concerns about this change in the formula. While I understand the rationale for such a change, I am concerned about the loss of funds to certain States at a time when there is great need for programs of this type. Under the proposed formula, Indiana would lose $1.5 million in title II-B funds. Other Midwest States would also lose money. Relatively speaking, our need may be less than other States according to the new formula, but I can assure my colleagues that there are many thousands of needy, at-risk youth in Indiana, and I do not support a reduction of funds to my State.

I understand that Senator SIMON will be proposing a different change in the formula, which I will also review very carefully. Clearly, there are a number of options available for better targeting of funds, and we should review them all.

Mr. President, aside from the decrease in funds to my State from the proposed formula change, I believe this package is an excellent one and deserves consideration by this body. We have a serious problem on our hands with at-risk youth, and this bill would make a real difference to thousands of them.

This bill is very similar to and would supercede a proposal passed unanimously by the Senate last year as part of the JEDI [Jobs for Employable Dependent Individuals] bill, that amended the Summer Youth Program. My colleagues supported that proposal last year as a means of helping our at-risk youth, and I hope they will do so again.

I ask that the text of the bill and a statement in explanation of the At-Risk Youth Employment and Training Amendments of 1988 be printed in the RECORD following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "At-Risk Youth Employment and Training Amendments of 1988".

PROGRAM AUTHORIZED

SEC. 2. Part B of title II of the Job Training Partnership Act is amended to read as follows:

"PART B—SUMMER AND AT-RISK YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"PURPOSES

"SEC. 251. (a) The purpose of programs assisted under section 253 is to—

"(1) enhance the basic educational skills of youth;

"(2) encourage school completion, or the enrollment of students in supplementary or alternative school programs; and

"(3) provide eligible youth with exposure to the working world.

"(b) The purpose of programs assisted under section 254 include—

"(1) the purposes listed in subsection (a);

"(2) providing at-risk youth with the skills necessary for entering the labor force;

"(3) assisting at-risk youth in addressing problems which impair their ability to make successful transitions from school to work; and

"(4) improving the long-term employability of at-risk youth.

"ALLOTMENT AND ALLOCATION

"SEC. 252. (a) From the funds appropriated under section 3(b), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Freely Associated States (Republic of the Marshall Islands and the Federated States of Micronesia), the Republic of Palau, the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the program under this part in the fiscal year preceding the fiscal year for which the determination is made.

"(b)(1) Subject to the provisions of paragraph (2), the remainder of sums appropriated pursuant to section 3(b) shall be allotted for each fiscal year among the States on the basis of the relative number of economically disadvantaged youth within each State as compared to the total number of economically disadvantaged youth in all States.

"(2)(A) No State shall be allotted less than one-quarter of one percent of the amounts available for allotment under this subsection for each such fiscal year.

"(B) No State shall be allotted less than 90 percent of the State's allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) No State shall be allotted more than 110 percent of the State's allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(D) For the purposes of subparagraphs (B) and (C), the allotment percentage of a State shall be the percentage which the State received from all allotments made pursuant to this subsection.

"(3)(A) For the purpose of this section the term 'economically disadvantaged youth' means an individual who is aged 14 through 21 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (i) the poverty level as issued by the Department of Health and Human Services or (ii) 70 percent of the lower living standard income level.

"(B) As appropriate and to the extent practicable, the Secretary shall exclude college students and members of the armed forces from the number of economically disadvantaged youth.

"(c)(1) Subject to the provisions of paragraph (2), the Governor shall allot the sums available pursuant to subsection (b) of this section for each fiscal year among the service delivery areas within the State on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in the State.

"(2)(A) The Governor may establish a minimum allotment amount for service delivery areas to ensure the maintenance of a viable program under this part.

"(B) No service delivery area shall be allotted less than 90 percent of the service delivery area's allotment percentage for the fiscal year preceding the fiscal year for which the determination is made, unless the Governor waives this limitation based on a determination that such waiver would result in the more effective utilization of funds and enhance the achievement of the objectives of the program.

"(C) No service delivery area shall be allotted more than 110 percent of the service delivery area's allotment percentage for the fiscal year preceding the fiscal year for which the determination is made, unless the Governor waives this limitation based on a determination that such waiver would result in the more effective utilization of funds and enhance the achievement of the objectives of the program.

"(D) For the purposes of subparagraphs (B) and (C), the allotment percentage of a service delivery area shall be the percentage which the service delivery area received of all allotments pursuant to this subsection.

"SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM

"SEC. 253. (a)(1) Funds available under this part may be used for—

"(A) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment; and

"(B) supportive services necessary to enable eligible individuals to participate in the program.

"(2) A service delivery area shall assess the reading and mathematics skill levels of eligible individuals in programs assisted by this section and shall expend funds (from this Act or otherwise available to the service delivery area, or both) for basic and remedial education as described in the job training plan under section 104.

"(b)(1) Programs assisted under this section shall be conducted during the summer months, except that a service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs assisted under this section to participants during a vacation period treated as the equivalent of a summer vacation.

"(2)(A) Except as provided in paragraph (3), eligible individuals under this section shall be economically disadvantaged youth.

"(B) Eligible individuals aged 14 or 15 shall, if appropriate and set forth in the job training plan, be eligible for summer youth programs assisted under this section.

"(c)(1) Private industry councils established under title I, chief elected officials, State job coordinating councils, and Governors shall have the same authority, duties and responsibilities with respect to planning and administration of funds available under this section as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under part A of title II.

"(2) In accordance with the provisions of paragraph (1), each service delivery area shall establish written program goals and objectives for evaluating the effectiveness of programs assisted under this section. Such goals and objectives may include—

"(A) improvement in school retention and completion;

"(B) improvement in academic performance, including mathematics and reading comprehension;

"(C) improvement in employability skills; and

"(D) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol prevention and treatment programs.

"AT-RISK YOUTH EMPLOYMENT AND TRAINING PROGRAM

"SEC. 254. (a) In addition to or in lieu of the services for eligible individuals available under section 253, each service delivery area may elect to use funds available to the service delivery area under this part for the program described in this section.

"(b) Each service delivery area operating a program under this section shall include in the job training plan a description of the program, including—

"(1) the goals and objectives to be attained,

"(2) the activities and services to be provided,

"(3) the linkages established with other local agencies to provide services under the program, and

"(4) the service strategies of demonstrated effectiveness on which the provision of services will be based or, where new strategies are undertaken, the design of the program which will allow for a rigorous and objective evaluation of the new strategies.

"(c)(1) The program assisted under this section may be conducted on a year-round basis.

"(2) Except as provided in paragraph (4), an individual shall be eligible to participate in the program under this section only if—

"(A) the individual is aged 14 through 21;

"(B) the individual is economically disadvantaged; and

"(C) the individual is deficient in basic skills.

"(3) Among eligible youth, special consideration shall be given to serving youth who experience severe disadvantages, such as—

"(A) school dropouts;

"(B) students with poor academic and attendance records;

"(C) individuals with a history of behavioral problems;

"(D) students who are older than the normal age for their grade level;

"(E) pregnant or parenting teens;

"(F) drug or alcohol abusers;

"(G) handicapped youth;

"(H) juvenile offenders;

"(I) recipients or members of families who are receiving public assistance;

"(J) runaway or homeless youth or youth in foster care; or

"(K) victims of child abuse.

"(4) Up to 10 percent of participants in the program assisted under this section may be individuals who are not economically disadvantaged if such individuals have experienced severe disadvantages such as those described in paragraph (3).

"(d) The services provided to each participant in the program assisted under this section shall include—

"(1) an assessment of reading, mathematics and other basic skills;

"(2) development of a service strategy; and

"(3) basic skills assistance.

"(e) In addition to the services provided under subsection (d), funds available for the program assisted under this section may be used, where appropriate, to provide the following services:

"(1) For in-school, dropout prone youth:

"(A) Combined basic and life skills instruction, and work experience during the summer months;

"(B) Enriched basic skills and study skills training, including tutoring, during the school year;

"(C) Supplemental school year activities such as individual and group counseling, mentoring, career awareness, and social group and educational activities;

"(D) Pre-employment and socialization skills and behavior training; and

"(E) Supportive services necessary to enable individuals to participate in the program.

"(2) For school dropouts and out-of-school youth:

"(A) Specialized outreach arrangements;

"(B) Basic skills training, including tutoring;

"(C) Occupational skills training, work experience, limited internships in the private-for-profit sector, and job development and placement assistance;

"(D) Work readiness and life skills training, counseling, mentoring, parenting education, and post-program follow-up services; and

"(E) Supportive services necessary to enable individuals to participate in the program.

"(3) The services made available to youth described under this subsection may include—

"(A) needs-based payments necessary to participate in the program in accordance with a locally developed formula or procedure; and

"(B) compensation in the form of work experience wages.

"(f) In conducting a program under this section, a service delivery area shall establish linkages with local educational agencies. Such linkages shall include, but are not limited to—

"(1) arrangements to ensure that the program assisted under this section supplements existing programs provided by local educational agencies to in-school youth;

"(2) arrangements to ensure that the program assisted under this section utilizes existing services provided by local educational agencies to out-of-school youth to the extent possible;

"(3) formal agreements providing that, where feasible, the local educational agencies shall notify the program assisted under this section when a youth drops out of the school system; and

"(4) arrangements for obtaining information relating to the literacy levels of participants.

"(g) In addition to the linkages required under subsection (f), service delivery areas shall establish other appropriate linkages which enhance the provision of services assisted under this section. Such linkages may be established with local service agencies, community organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"(h) Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this section as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under part A of title II, except that private industry councils shall have the additional responsibility under this section of ensuring the coordination of service delivery areas, local educational agencies and other participating agencies in the planning, program design and the provision of services to participants.

"LIMITATION ON CERTAIN COSTS

"SEC. 255. Not more than 15 percent of the funds available for programs assisted under this part may be used for the cost of administration.".

CONFORMING AMENDMENTS

SEC. 3. (a) PERFORMANCE STANDARDS.—Section 106(b) of the Act is amended—

(1) by striking out "also" in paragraph (2),

(2) by inserting in paragraph (2) after "programs" the first time it appears the following: "under part A of title II",

(3) by redesignating paragraph (3) as paragraph (4), and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) The Secretary shall, at such time as the Secretary deems appropriate, prescribe performance standards under this section for the at-risk youth employment and training program under section 254.".

(b) PROGRAM REQUIREMENT.—Section 141(k) of the Act is amended by striking the period at the end of the subsection and inserting in lieu thereof ", or such individual is an eligible youth participating in an internship program under section 254.".

(c) MINIMUM ALLOCATION.—Section 202(a)(3) of the Act is amended by striking "and (b)".

(d) DEFINITIONS.—(1) Paragraph (8) of section 4 of the Act is amended by striking "determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting in lieu thereof "issued by the Department of Health and Human Services".

(2) Paragraph (22) of section 4 of the Act is amended by striking "the Trust Territory of the Pacific Islands" and inserting in lieu thereof "the Freely Associated States (Republic of the Marshall Islands and the Federated States of Micronesia), and the Republic of Palau".

(e) TABLE OF CONTENTS.—The table of contents of the Act relating to part B of title II is amended to read as follows:

"PART B—SUMMER AND AT-RISK YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Allotment and allocation.
"Sec. 253. Summer Youth Employment and Training Program.
"Sec. 254. At-Risk Youth Employment and Training Program.
"Sec. 255. Limitation on certain costs.".

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall take effect on October 1, 1988.

STATEMENT IN EXPLANATION OF THE AT-RISK YOUTH EMPLOYMENT AND TRAINING AMENDMENTS OF 1988

This bill would amend the Job Training Partnership Act (JTPA) to add an enriched program option of intensive employment and training services for at-risk youth to the present Title II-B Summer Youth Employment and Training Program and would revise the method for allocating funds under Title II-B.

The new option would allow Title II-B funds to be used for a year-round program designed to assist youth at risk of chronic unemployment. These youth often face multiple barriers to successfully entering the workforce, such as a lack of basic skills, drug and alcohol abuse, teen pregnancy, and disruptive living conditions. The new option offers a coordinated approach to assisting at-risk youth in overcoming these barriers.

Under this proposal, local areas would have the option of determining whether their needs are better met by retaining the traditional summer youth program, by operating the new at-risk youth program, or by operating some combination of these programs.

Section 1 of the bill provides that this act shall be entitled the "At-Risk Youth Employment and Training Amendments of 1988." Section 2 of the bill amends section 106(b) of JTPA to establish separate performance standards for the at-risk youth program. The standards are to be prescribed by the Secretary of Labor at such time as the Secretary determines enough information exists to develop meaningful standards.

The bill provides a new section 251(a) of JTPA which retains the description of the purposes for the summer youth program that is contained in the present section 251. The bill adds a new subsection (b) to section 251 that describes additional purposes for the at-risk youth program, which are: (1) to provide at-risk youth with the skills necessary for entering the labor force, (2) to assist at-risk youth in addressing problems which impair their ability to make successful transitions from school to work, and (3) to improve the long-term employability of at-risk youth.

The bill amends sections 252 of JTPA to revise the formula for the allocation of funds for programs under this part. The current formula (which is the same formula used to allocate funds for the adult and youth programs under part A of title II) is not sufficiently sensitive to the eligible target population of economically disadvantaged and at-risk youth that are to be served by the programs under Title II-B. Under the current formula, two-thirds of the funds are allocated based on the share of total unemployment rather than on the extent or concentration of the target youth groups. In addition, summer allocations have been characterized by large annual variations due to fluctuating unemployment figures, which again do not necessarily reflect shifts in the eligible youth population. This bill would target Title II-B resources based on the relative number of economically disadvantaged youth and would stabilize year-to-year allocations.

The bill retains the present subsection (a) of section 252 that sets aside a small percentage of funds for certain areas and entities. The bill then provides, in subsection (b) of section 252 of JTPA, a new formula for allocating the remaining funds among States. The new formula would allot the funds on the basis of the relative number of economically disadvantaged youth within each State as compared to the number of economically disadvantaged youth in all States.

The formula would also provide, in paragraph (2), that notwithstanding the allocation formula, no State will be allotted less than one-quarter of one percent of the total allotments, no State shall receive less than 90 percent of its allotment percentage from the previous fiscal year, and no State shall receive more than 110 percent of its allotment percentage from the previous fiscal year. These provisions would ensure funding stability and predictability, and therefore enable jurisdictions to more effectively plan their programs.

Under this section, economically disadvantaged youth are defined as individuals aged 14 through 21 who meet an income test that is based on available income information. That definition would also exclude, as appropriate and to the extent practicable, college students and members of the armed forces. The exclusion of these two groups would correct a bias in the present data that favors areas with large numbers of these two groups.

Subsection (c) of section 252 would direct the Governors to allocate funds among SDAs on the basis of the same formula used to allocate funds among the States. That subsection contains, in paragraph (2), a provision that notwithstanding the allocation formula, the Governor may establish a minimum allocation for a service delivery area to ensure the maintenance of a viable program. Paragraph (2) also provides that no SDA will receive less than 90 percent or more than 110 percent of its previous fiscal year's allotment percentage unless the Governor waives either or both or these limitations. The waivers would be based on the Governor's determination that a waiver would result in the more effective utilization of funds and enhance the achievement of the program's objectives. The waivers would give the Governors greater flexibility in allocating funds to SDAs.

The bill amends section 253 of JTPA to incorporate the components of the current summer youth program into one section. The bill amends subsection (a) of section 253 of JTPA to incorporate the language of the present section 253 pertaining to the services for which funds under this section may be used, the required reading and math skills assessment of participants and the provision of basic and remedial education to summer youth program participants.

Subsection (b) of section 253 of JTPA is amended to incorporate the language relating to the program limitations which is contained in the present section 254 of JTPA. The program would, with a limited exception, be conducted during the summer months, and individuals eligible for this program are to be economically disadvantaged youth, generally aged 16 through 21, unless the SDA includes in its job training plan that economically disadvantaged youth aged 14 through 15 may also participate.

The bill amends subsection (c) of section 253 of JTPA to incorporate the language of the current section 255 describing (1) the roles of private industry councils, chief elected officials, State job training coordinating councils, and Governors in the summer youth program, and (2) requiring SDAs to establish written goals and objectives for the program.

The bill amends section 254 of JTPA to establish the At-Risk Youth Employment and Training Program component. Subsection (a) of section 254 sets forth that a service delivery area may, in lieu of or in addition to the summer youth program, elect to use funds available under Title II-B for the at-risk youth program.

The bill amends section 254(b) to provide that service delivery areas operating the at-risk youth program include a description of the program in the job training plans. The description is to include the goals and objectives to be attained, activities and services to be provided, linkages established with other local agencies to provide services under the program, and strategies of demonstrated effectiveness on which the provision of services will be based or, if new strategies are to be undertaken, the design of the program that will allow a rigorous and objective evaluation of the new strategies.

The objective of these requirements is to promote adequate planning by SDAs for the kind of intensive services to be provided under the at-risk youth program. Strategies of demonstrated effectiveness are successful approaches to serving youth that have been used in youth programs on the Federal, State, or local level. The Department would circulate descriptions of examples of such programs to assist State and local planning. Where States and SDAs desire to base the program on new strategies, it is intended that the plan will describe how the new strategies will be evaluated, and that such evaluation will be based on generally accepted evaluation techniques, including, where feasible, random assignment.

The bill amends section 254(c)(1) of JTPA to provide that the at-risk youth program may be conducted on a year-round basis. Section 254(c)(2) establishes the eligibility criteria for the at-risk youth program. An individual is eligible to participate in the program if: (a) the individual is aged 14-21, (b) the individual is economically disadvantaged, and (c) the individual is deficient in basic skills.

Section 254(c)(3) provides that special consideration is to be given to those eligible youth who experience severe disadvantages such as school dropouts, individuals with behavioral problems, pregnant and parenting teens, alcohol and drug abusers, handicapped youth, juvenile offenders and recipients of public assistance. In addition, section 254(c)(4) provides that up to 10 percent of the program participants may be individuals who are not economically disadvantaged if those individuals have experienced disadvantages such as those described above.

Subsection (d) of section 254 provides that the program under this section include for each participant: (1) an assessment of reading, mathematics and other basic skills, (2) development of a service strategy, and (3) basic skills assistance. A new assessment of a participant's basic skills would not be required if the results of another recent assessment are available to the program. This is the same approach taken regarding the required assessment under the current summer youth program.

In addition to these services, subsection (e) of section 254 provides that where appropriate, SDAs operating the program may use available funds to provide a variety of services targeted at in-school dropout prone youths and at school dropouts and out-of-school youths. For in-school dropout prone youth the services may include: combined basic and life skills instruction and work experience during the summer months; enriched basic skills and study skills training; supplemental school year activities such as counseling, mentoring, career awareness, and social group and educational activities; pre-employment and socialization skills and behavior training; and supportive services, such as child care and transportation, necessary to enable the participation of an individual. For school dropouts and out-of-school-youths the services may include: specialized outreach arrangements, basic skills training, including tutoring; occupational skills training, work experience, limited internships in the private-for-profit sector, and job development and placement assistance; work readiness and life skills training, counseling, mentoring, parenting education, and post-program follow-up services; and supportive services.

Paragraph (3) of subsection (e) provides that the services available to youth described in this subsection may include payments to participants including needs-based payments and work experience wages.

Section 254(f) requires SDAs operating a program under section 254 to establish linkages with local educational agencies. Such linkages are to include arrangements to ensure that the program under section 254 supplements and utilities existing programs and services provided by local educational agencies for in-school and out-of-school youth; agreements providing that, where feasible, the local educational agencies notify SDAs operating the program when eligible youth drop out of the school system; and arrangements to provide information relating to the literacy level of participants.

Section 254(g) provides that SDAs are to establish other appropriate linkages to enhance the provision of services under the program. Such linkages may be established with local service agencies, business, labor and community organizations, volunteer groups and family members, and other training, education, employment and social services programs, including programs under JTPA title II-A.

The bill establishes a subsection (h) of section 254 of JTPA which provides that the roles performed by private industry councils, chief elected officials, State job training coordinating councils, and Governors under the at-risk youth program will be the same as the role those entities perform under part A of title II, except that private industry councils will have the additional responsibility of ensuring that the job training plan provides for the coordination of SDAs, local education agencies and other participating agencies in the planning, program design, and the provision of services to program participants.

It should be noted that, under the authority provided by section 454 of JTPA, the Department would evaluate the effectiveness of the new at-risk youth program in meeting its objectives.

The bill amends Section 255 of JTPA to provide that not more than 15 percent of funds available under part B may be used for administrative costs. This provision codifies a regulation that currently imposes a 15 percent cost limitation on the summer youth program. There would be no limitation on the percentage of funds that could be spent on supportive services under either the summer program or the new at-risk youth program. This is consistent with the current law for Title II-B. There is a percentage limitation under current law for Title II-A programs. With respect to the new at-risk youth program, it is intended that most of the funds will be spent on training and employment services rather than on supportive services. The Department would monitor the expenditures for supportive services under the programs, and after some experience has been obtained, determine whether it is appropriate to establish a limit on such expenditures.

Section 3 of the bill contains conforming amendments and revises that table of contents relating to part B of Title II of JTPA.

Section 4 of the bill provides that the amendments made by the bill are to take effect October 1, 1988.●

By Mr. HEFLIN:

S.J. Res. 355. Joint resolution designating October 7, 1988, as "National Teacher Appreciation Day"; to the Committee on the Judiciary.

NATIONAL TEACHER APPRECIATION DAY

● Mr. HEFLIN. Mr. President, today I am introducing a joint resolution to honor the contribution of teachers to our society. By commemorating October 7, 1988, as "National Teacher Appreciation Day," we will only begin to give teachers the credit they deserve for educating our Nation's children.

We should also recognize the tremendous dedication of these men and women not only to the academic growth of their students, but also to their ethical, social, and emotional development. Our teachers are a national treasure, and should be recognized as such. The foundation of America's future rests on our children and I can think of no group more influential in their development than our teachers.

By enacting this legislation, we will be giving our Nation's teachers but a small token of our appreciation for the enormous role they play in shaping each and every American's life.

Therefore, I urge my colleagues to support the designation of October 7, 1988, as "National Teacher Appreciation Day" to commemorate the sacrifices our teachers make to ensure the future of America.●

By Mr. SIMON (for himself, Mr. Dixon, Mr. Harkin, Mr. Grassley, and Mr. Durenberger):

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago & Northwestern Transportation Co. labor-management dispute; considered and passed.

EXTENSION OF COOLING-OFF PERIOD FOR CHICAGO-NORTHWESTERN RAILROAD

Mr. SIMON. Mr. President, I am introducing a joint resolution. I ask unanimous consent that it be held at the desk and let me just explain very briefly what the situation is. It is cosponsored by Senator Dixon, who will be entering a statement in the Record; by Senator Harkin; and Senator Grassley.

It asks for a 36-day cooling-off period, an extension of the cooling-off period for the Chicago & Northwestern Railroad. What is at stake is, obviously, a number of people who would go on strike, but infinitely more than that, about 44,000 commuters in the Chicago area, hauling of grain, hauling of coal, and of a great many other things.

If, at the end of the 36-day cooling-off period this is not resolved, I will introduce legislation to impose the Emergency Board's recommendations. Obviously, there is no guarantee to either management or labor that that can pass. But labor and management are not that far apart, as I understand the situation, and I hope that they can use this next 36-day period, if we can pass this and get it passed the House, to see that we avoid what will hurt everyone: management, labor, and the whole Chicago area.

So I introduce this legislation and I hope we can move swiftly in this body.

Mr. HARKIN. Mr. President, I am pleased to cosponsor the joint resolution providing for an extension of the existing prohibition of a strike or a lockout in the Chicago & Northwestern Railroad labor dispute.

This is a simple resolution. It provides that both the railroad and the labor union are to take another cooling off period—until September 9—before taking actions which will cause a strike.

Workers have a right to strike. That right is a key element of our Nation's labor law and I strongly support that right. Without it, the ability of labor to organize and to negotiate fair working conditions is severely disrupted.

However, a strike on the Chicago & Northwestern will cause very considerable difficulties in Iowa, Illinois, Minnesota, Missouri, and other States that are served by the CNW. It will disrupt the movement of grain and manufactured goods to and from thousands of points. If the strike occurs for a significant length of time it would cause real damage to hundreds of businesses and thousands of farmers in my State. And even the shortest strike would disrupt commuter service in the Chicago area.

There is sound precedent for the Congress to intervene in rail labor disputes and to give the force of law to findings of the board called into being by the President to examine the merits of both sides in a labor dispute under the Railway Labor Act. The Congress took that position in 1982 in a Brotherhood of Locomotive Engineers' strike against six railroads. The Congress again acted in a Maine Central maintenance-of-way employee dispute in 1986. And last year, the Congress ended a strike on the Long Island Railroad.

However, if the Congress is to turn the Presidential board finding into law in this manner, it should, in my view, occur only as a last resort. Government should not, as a normal process, determine detailed working conditions for workers in a particular company. Thus, this resolution provides only for an extension of time.

I understand that there are some ongong discussions between the two sides which might result in an agreement. In my view, it is always better to have the parties involved reach an agreement on their own rather than have the terms of agreement set by law.

For these reasons, I believe that the resolution that we are proposing today is the proper course. And, I hope that both sides will come to an agreement by September 9. If they do not reach an agreement, the Congress could still act prior to adjournment.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. SIMPSON, Mr. THURMOND, Mr. STAFFORD, Mr. SPECTER, Mr. BURDICK, Mr. PELL, Mr. KERRY, Mr. DIXON, Mr. CHILES, Mr. HOLLINGS, Mr. DASCHLE, Mr. MOYNIHAN, Mr. GORE, Ms. MIKULSKI, Mr. SHELBY, Mr. DOLE, Mr. MCCAIN, and Mr. WILSON):

S.J. Res. 357. Joint resolution designating the week beginning November 6, 1988, as "National Women Veterans Recognition Week"; to the Committee on the Judiciary.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am very pleased to be introducing today Senate Joint Resolution 357, a measure to designate the week beginning November 6, 1988, as "National Women Veterans Recognition Week". Joining with me as cosponsors are the distinguished ranking minority member of the Committee, Senator MURKOWSKI, and Committee members Senators MATSUNAGA, DECONCINI, MITCHELL, ROCKEFELLER, GRAHAM, SIMPSON, THURMOND, STAFFORD, and SPECTER; and Senators BURDICK, PELL, KERRY, DIXON, CHILES, HOLLINGS, DASCHLE, MOYNIHAN, GORE, MIKULSKI, SHELBY, DOLE, MCCAIN, and WILSON.

This measure is very similar to measures I have authored over the last 4 years which designated a "National Women Veterans Recognition Week" in November of each of those years.

Mr. President, during the past 4 years, important strides have been made in the efforts both to honor women who have served our country in the Armed Services and to build public awareness of the significant contributions by and continuing work of women veterans for this Nation. I believe it important to continue this momentum by proposing the designation of such a week again this year.

Mr. President, a 1982 General Accounting Office report and a 1984 Veterans' Administration report, found that many women veterans—who now comprise approximately 4.4 percent of the total veteran population—were unaware of the benefits available to them as veterans and that there were many shortcommings in the VA's efforts to contact women veterans and to meet their needs for benefits and services.

As part of an effort to address these shortcomings, the VA commissioned a study to shed new light on the current status and experiences of women veterans. The resulting "Survey of Female Veterans", published in August 1985, by Louis Harris and Associates, is particularly significant because it was the first such comprehensive survey on the female veteran experience and served both to confirm and to dispel a number of popular theories relating to women who have served in the military.

A major finding of the study was that awareness of the benefits available to veterans continues to be low among women who have served in the Armed Forces. This has resulted in a low usage rate of most veterans benefits by women veterans. Indeed, for 11 out of 18 programs examined, the survey found that less than half of women veterans had even heard of the programs.

Interestingly, the study also found that nurses represent only 16 percent of all women veterans. This finding, which is contrary to the popular conception that most women veterans served as nurses, reflects a broadening of job assignments available to women in the military.

Finally, the Harris Survey found that only 1 percent of women veterans completed a 20-year career in the Armed Forces with military retirement. Many women reported they were forced by their superiors to leave the military because of pregnancy of children, despite the official discontinuation of this policy in the 1970's.

Findings such as these are being reviewed and addressed on an ongoing basis by the VA Advisory Committee on Women Veterans which was first established administratively on a temporary basis but later, in November 1983, given statutory permanence by virtue of the enactment of legislation I proposed. In its initial report, issued in July 1984, the Advisory Committee made the following points:

> Two fundamental problems cut across the issues discussed by the Committee. First, many veterans are not aware of their entitlement to the benefits administered by the VA and other women who may be aware of their entitlements are reluctant to initiate claims for their benefits. Second, VA information materials, brochures, and outreach programs designed to inform veterans of their rights and benefits have been aimed at a male constituency. In part, this is merely a reflection of a traditional societal mindset that a veteran is, almost by definition, male.

More recently, in its July 1986, report, the Advisory Committee listed as its top priorities increasing understanding of, and addressing, concerns such as the special needs of aging women veterans, the gender-specific health conditions of women veterans, the employment needs and problems of women upon separation from the

Armed Services, the notification of provision of benefits to WAAC's and WASP's, and the development and distribution of materials to inform women veterans more adequately of the wide range of VA benefits and services for which they are eligible.

The VA, working in concert with the Advisory Committee, has taken various steps in response to its recommendations. One such step was the establishment of a Women Veteran Coordinator position in each VA medical center in order to help make VA health-care facilities more accessible and sensitive to the needs of women veterans. At its semiannual meeting, the Advisory Committee noted other VA accomplishments in improving the care provided to female veterans. Among those improvements are steps to ensure women more privacy during examinations and hospital canteens stocking cosmetics, practical pajamas for women, and other such products. The Advisory Committee's next report is due to be issued on September 1, 1988.

I am also pleased that the VA is examining a health issue of special concern to women Vietnam veterans. The Consolidated Omnibus Reconciliation Act of 1985, Public Law 99-272, included a provision based on legislation I authored in the Senate requiring the VA to conduct a female Vietnam veterans health experience study. It will focus on potential long-term adverse health effects resulting from service in Vietnam, where service members may have been exposed to a variety of health hazards, including agent orange and other phenoxy herbicides. The Office of Technology Assessment reviewed the protocol for this study last September and raised several serious concerns. The health study contractors are now revising the protocol and expect to present the VA and OTA with a revised protocol later this summer.

Mr. President, I would like to take this opportunity to describe progress on another issue of great interest to women veterans. I am delighted to report that efforts to erect a statue of a woman Vietnam veteran at the Vietnam Veterans Memorial [VVM] are moving forward, despite a disappointing setback. Last year, Secretary of the Interior Donald P. Hodel endorsed the Vietnam Women's Memorial project [VWMP] proposal and concluded that it was authorized by Public Law 96-297, the law providing for construction of the VVM. With the support of Secretary Hodel, every major veterans' organization, and many Members of Congress, the VWMP proposal was presented to the Commission of Fine Arts [CFA] for consideration. Despite the very strong support for the project, the CFA rejected it on October 22, 1987.

I was deeply disappointed by the CFA's shortsighted decision. It prompted the introduction of separate bills last November by Senator DURENBERGER and me—Senate Joint Resolution 215 and S. 1896—with the common goal of authorizing construction of the VWMP proposed statue but providing for different approval processes for the project. We subsequently merged our proposals and introduced legislation, S. 2042, on February 4, 1988. S. 2042 was passed by the Senate by a 96-to-1 vote on June 14 and has been referred in the House of Representatives to the Committee on House Administration. That Committee's Subcommittee on Libraries and Memorials held a hearing on June 21 on S. 2042 and related legislation.

Finally, I would like to note that much progress is also being made toward establishing a memorial in honor of all women who served in the Armed Forces of the United States. In July of 1985, I coauthored with Senator MURKOWSKI a measure, enacted as Public Law 99-610, authorizing the establishment in the District of Columbia of such a memorial. I am pleased to report that the National Capitol Memorial Commission, the Secretary of the Interior, the Commission of Fine Arts, and the National Capitol Planning Commission have all now approved the entrance of Arlington National Cemetery as the site for erecting the memorial. I believe a national memorial will provide a much-needed, permanent focal point for recognizing and honoring the vital role of women who have served in our Armed Forces.

Mr. President, although much has been accomplished in the past several years, data show that women veterans are still less than half as likely to use major veterans' benefits such as VA health care and home loan guaranties than are their male counterparts. Much more remains to be done to recognize fully the rich contributions of women in our Armed Forces and to address the unique problems and concerns of women veterans. One way for us to signify our continued support for this ongoing work is with the designation of a National Women Veterans Recognition Week in 1988.

Mr. President, as I did the last 4 years, I look forward to working with my good friends on the Judiciary Committee, the Chairman [Mr. BIDEN] and ranking minority member [Mr. THURMOND] and particularly the three original cosponsors of the resolution who serve on the Committee, Senators DECONCINI, SIMPSON, and SPECTER, as they consider this measure. We invite all our colleagues to join with us to help ensure quick enactment of the resolution so as to allow sufficient time for the advance publicity that can bring about maximum awareness in the public about National Women Veterans Recognition Week.

Mr. President, I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 357

Whereas there are about one million two hundred thousand women veterans in this country, representing 4.4 percent of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas women veterans continue to contribute greatly to our society in civilian life, bringing with them their valuable military service experience and expertise.

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have in the past been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans was among the factors that tended to discourage or prevent women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces;

Whereas important steps have been taken to improve the accessibility and quality of health care for women veterans, yet women veterans are still far less likely than male veterans to utilize their VA benefits; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 6, 1988, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contribution of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans, and to continue and reinforce important gains made in this regard in the last four years as a result of the designation of the first, second, third, and fourth National Women Veterans Recognition Weeks in November of 1984, 1985, 1986, and 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 6, 1988, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

By Mr. THURMOND:

S.J. Res. 358. Joint resolution to authorize and request the President to issue a proclamation designating August 21, 1988, as "National Senior Citizens Day"; to the Committee on the Judiciary.

NATIONAL SENIOR CITIZENS DAY

Mr. THURMOND. Mr. President, I am pleased to introduce today a Senate joint resolution which would designate August 21, 1988, as "National Senior Citizens Day."

Sunday, August 21, 1988, will be a day set aside to acknowledge and honor older persons for not only their past contributions but their continuing contributions to our Nation.

We have become increasingly aware of our older citizens as assets to our country due to their experience and expertise. We must assure their well-being by granting them the opportunity to lead full lives—an adequate income, affordable health care, independence, dignity, and respect.

Mr. President, I am proud to sponsor this joint resolution commemorating our senior citizens and I urge my colleagues to support it.

ADDITIONAL COSPONSORS

S. 232

At the request of Mr. Wilson, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of S. 232, a bill to permit placement of a privately funded statue of Haym Salomon in the Capitol Building or on the Capitol Grounds and to erect a privately funded monument to Haym Salomon on Federal land in the District of Columbia.

S. 508

At the request of Mr. Levin, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 508, a bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

S. 1515

At the request of Mr. Heflin, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 1515, a bill to prohibit injunctive relief or an award of damages, against a judicial officer for action taken in an official capacity.

S. 1600

At the request of Mr. Ford, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1738

At the request of Mr. Wilson, the name of the Senator from Maine [Mr. Cohen] and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1751

At the request of Mr. Lautenberg, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 1751, a bill to require vessels to manifest the transport of municipal or other vessels nonhazardous commercial wastes transported offshore to ensure that these wastes are not illegally disposed of at sea.

S. 1897

At the request of Mr. Thurmond, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 2034

At the request of Mr. Chiles, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of S. 2034, a bill to provide financial assistance for programs for prekindergarten students designed to prevent students from dropping out of school, and for other purposes.

S. 2183

At the request of Mr. Pressler, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of S. 2183, a bill to improve the provision of services under the Medicare and Medicaid Programs to individuals with Alzheimer's disease or related disorders and to amend the Public Health Service Act to provide assistance for education, research, and treatment programs relating to such disease and disorders.

S. 2449

At the request of Mr. Pryor, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2454

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 2454, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 2469

At the request of Mr. Heinz, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 2469, a bill to amend chapters 83 and 84 of title 5, United States Code, to expedite the processing of retirement applications of Federal employees, and for other purposes.

S. 2549

At the request of Mr. Danforth, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 2549, a bill to promote highway traffic safety encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2590

At the request of Mr. McConnell, the name of the Senator from Washington [Mr. Evans] was added as a cosponsor of S. 2590, a bill to amend the Federal Election Campaign Act of 1971 to repeal public financing and spending limits in Presidential elections, prohibit contributions to Presidential candidates by multicandidate political committees, require disclosure of attempts to influence Presidential elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of Presidential campaigns.

S. 2626

At the request of Mr. Moynihan, the names of the Senator from New York [Mr. D'Amato], and the Senator from Illinois [Mr. Dixon] were added as cosponsors of S. 2626, a bill to amend section 530 of the Revenue Act of 1978 to clarify the Federal income and employment tax treatment of providers of technical services through third party arrangements, and for other purposes.

S. 2664

At the request of Mr. Moynihan, the names of the Senator from Missouri [Mr. Danforth], and the Senator from Tennessee [Mr. Sasser] were added as cosponsors of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

S. 2669

At the request of Mr. Boren, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 2669, a bill to amend section 1388 of the Internal Revenue Code of 1986.

SENATE JOINT RESOLUTION 7

At the request of Mr. Thurmond, the name of the Sentor from Nebraska [Mr. Karnes] was added as a cosponsor of Senate Joint Resolution 7, a joint resolution proposing an amendment to the Constitution of the United States relating to volunatry school prayer.

SENATE JOINT RESOLUTION 321

At the request of Mr. Bradley, the names of the Senator from South Carolina [Mr. Hollings], the Senator from Michigan [Mr. Levin], the Senator from Indiana [Mr. Quayle], the Senator from North Dakota [Mr. Burdick], the Senator from Hawaii [Mr. Matsunaga], and the Senator from South Carolina [Mr. Thurmond] were added as cosponsors of Senate Joint Resolution 321, a joint resolution to designate the period commencing February 19, 1989, and ending February 25, 1989, as "National Visiting Nurse Associations Week."

SENATE JOINT RESOLUTION 346

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Tennessee [Mr. GORE], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the names of the Senator from Connecticut [Mr. DODD] and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

AMENDMENT NO. 2705

At the request of Mr. BINGAMAN, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of amendment No. 2705 proposed to H.R. 4783, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

AMENDMENT NO. 2777

At the request of Mr. THURMOND, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of amendment No. 2777 proposed to H.R. 1158, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

At the request of Mr. LUGAR, his name was added as a cosponsor of amendment No. 2777 proposed to H.R. 1158, supra.

SENATE CONCURRENT RESOLUTION 134—URGING AN EVALUATION OF THE KIDS VOTING PROGRAM

Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. MCCAIN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 134

Whereas, voter turnout in the United States has gone steadily down since 1876 until today;

Whereas, nearly 50 percent of eligible citizens do not vote in presidential elections, over 60 percent do not vote in congressional elections, and more than 70 percent do not vote in most local elections;

Whereas, 84 percent of young Americans between the ages of 18 and 24 did not vote in the 1986 election, and nonvoting—especially by our young people—undermines the validity of the election mandate and the future of our democratic process;

Whereas, in Costa Rica, Central America's oldest and most stable democracy, 80-90 percent of that country's voting age population regularly turns out for elections—which the former United States ambassador to Costa Rica has described as a "festival of democracy";

Whereas, for more than 40 years Costa Rican children have been permitted to accompany their parents and grandparents to the polls, and for a number of years children have been allowed to cast mock ballots at their schools, the results of this youth "election" being separately counted and publicized;

Whereas, observers credit the high voter turnout in Costa Rican elections in large part to this early exposure of youth to the electoral process, an experience which, they say, assured that democracy in Costa Rica will be safe come the day when these children are old enough for their votes to count.

Whereas, the State of Arizona this year is pioneering an exciting and promising pilot program in American democracy—the first of its kind in the Nation—by adapting and modifying the Costa Rican experience to our electoral system;

Whereas, the Arizona experiment—called Kids Voting—is enthusiastically supported by Arizona business, education, press and government leaders, and citizen volunteers, the Arizona legislature passed overwhelmingly, and Governor Rose Mofford signed into law, legislation permitting children to enter the State's official polling places with their parents and to vote in a simulated general election on November 8, the results to be tabulated and publicized;

Whereas, some 28,000 children in grades 3 through 12 in 6 Arizona school districts and 2 private schools currently are undergoing a special curriculum financed by a private sector grant to prepare them for November 8 including, in the higher grades, instruction on the rights and responsibilities of informed voters, and information on the candidates, offices, and platforms, and on election procedures generally;

Whereas, promoters of Kids Voting describe this historic experiment as "a direct assault on voter apathy" and say it will be a "hands-on lesson in democracy" for those 28,000 school children who, in turn, are expected to improve the voting habits of their parents by urging them to the polls: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That election officials and school administrators in all 50 States and the District of Columbia should assess the results of the Kids Voting program in Arizona this November in terms of increased student awareness of an interest in the political process, that the Federal Election Commission should observe the Kids Voting program and advise the Congress on the success of the program in increasing voter turnout and, if this project does show promise of increasing voter turnout by both present and future voting age citizens, other States should adopt similar innovative programs.

Mr. CRANSTON. Mr. President, it is a distressing fact that only a small minority of Americans elect the people who make the vital decisions that affect our communities and our Nation.

That small minority is the 10 to 20 percent of Americans who usually go to the polls on election day.

As many as 140 million Americans never vote—or vote only infrequently in local and State elections. Voter turnout in national elections is a bit better—but not much. In 1984 only slightly more than 50 percent of our citizens voted—80 million Americans who were eligible to vote stayed home.

In 1986, with control of the U.S. Senate hanging in the balance, over 100 million Americans did not vote.

Only 37 percent of the eligible voters participated nationwide. In some States, far less than 18 percent of the citizens decided who would be sent to Washington to determine what our Nation's policies would be.

That's not full democracy. That's not even half-full democracy. It's a self-imposed system of exclusion that is corroding the credibility or our electoral system and weakening the fabric of our democracy.

George Bernard Shaw once said, "Democracy is a device that ensures we shall be governed better than we deserve."

That is eminently true. The quality of our leaders, the strength of our institutions, and the direction of our country are a direct reflection of the kind of people we are.

A free citizenry—free to vote and free to make choices—is a distinguishing characteristic of democracy. It separates us from dictatorships and totalitarian regimes.

But when that precious right is not exercised by 50 percent—and in some elections by even 90 percent of the population—then the differences begin to fade.

Our freedoms become fragile; our governing institutions weak, and our democracy is endangered.

Citizen involvement in the governance of our Nation began a revolution for human freedom that climaxed with the American Constitution of 1789.

Mr. President, an imaginative approach toward reversing the downward trend in voter participation that is corroding the credibility of our electoral system and weakening the fabric of our democracy is taking place in Arizona. There, a project called Kids Voting offers us an outstanding example of the creative thinking we need to spark interest in the political process among young people and kindle a second American Revolution that will broaden the electoral base and strengthen our democracy.

As author of the proposed Universal Voter Registration Act of 1988 and as a leader of a 20-State, nonpartisan registration drive, I was especially attracted to this innovative idea.

Mr. President, I am submitting a concurrent resolution to call national attention to Arizona's Kids Voting experiment. I am joined in submitting this concurrent resolution by the Senators from Arizona, Senators DECONCINI and MCCAIN.

This election year approximately 28,000 young people, between the ages of 8 and 18, will be involved in a unique electoral experience in Arizona. They will be allowed to go to the polls with their parents on November 8, and allowed to cast mock ballots in the election. Their ballots will be tabulated, and the results of their voting will be reported.

This program is modeled after a similar program which exists in Costa Rica, Central America's oldest and most stable democracy. For more than 40 years Costa Rican children have been permitted to accompany their parents to the polls. In recent years, these children also have been allowed to cast mock ballots at their schools, and the results of the children's election have been counted and publicized.

In Costa Rica 80 to 90 percent of the voting age population actually vote. This exceptionally high turnout is in part a result of the early exposure to the voting process that Costa Rican children receive.

I hope that innovative programs such as Kids Voting will instill the same respect for the electoral process in children in this country. If our citizens are taught the importance of voting at a young age, we can all hope that, when they reach voting age, they will exercise their right to vote. If innovative programs such as Kids Voting increase interest in the political process on the part of young people, and increase voting by their parents, then our democracy is well served indeed.

Mr. DECONCINI. Mr. President, I am pleased to join as a cosponsor of the concurrent resolution Senator CRANSTON has submitted to call attention to an exciting new program originating in my home State of Arizona—Kids Voting.

Kids Voting is a pilot program being launched in Arizona which will allow over 28,000 school children the opportunity to participate in the electoral process. Students in grades 3 through 12 will take a course in voter education and then accompany their parents to the polls where they will actually be permitted to vote on election day. Of course, the ballots cast by the students will not be included in the official election results, but these simulated ballots will be tabulated and widely publicized.

The program has been enthusiastically supported by Arizona business, education, civic, and government leaders. They have all seen voter turnout in the United States steadily decline for over 100 years. This is a sad occurrence that must be stopped. Kids Voting will help to reverse this tragic trend by increasing our children's awareness and interest in politics and the political process. At the same time, it will encourage parents and their children to discuss politics and the governmental process in their homes.

Costa Rica has held mock elections for its students for over 40 years. It is not a coincidence that that nation has also seen 90 percent of its citizens vote on a regular basis. Early exposure to the electoral process fosters an appreciation for the sanctity of the ballot and the importance of voting. This appreciation carriers into adulthood and leads to responsible voters who understand and carry out of their civic responsibilities.

Mr. President, on November 8, 1988, 28,000 Arizona kids will play an active role in our political system. I would strongly encourage other cities throughout the country to adopt similar programs. The future of the United States rests with our children. We should let them know that their opinions are important. It is a lesson that they won't soon forget.

I would urge all of my colleagues to support this concurrent resolution and to encourage projects similar to Kids Voting in their respective States.

AMENDMENTS SUBMITTED

FAIR HOUSING AMENDMENTS ACT

HUMPHREY AMENDMENT NOS. 2782 AND 2783

Mr. HUMPHREY proposed two amendments to amendment No. 2777 proposed by Mr. KENNEDY (and others) to the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes; as follows:

AMENDMENT NO. 2782

At the end of the pending matter, insert the following:

"SEC. . (1) Congress finds that the ability of Americans to purchase affordable housing has been severely limited by the greatly increased prices for housing in recent years, and that the prices for newly constructed houses have increased as follows over the last five years: 1983—$75,300; 1984—$79,900; 1985—$84,300; 1986—$92,000; and 1987—$104,000, as reported by the Census Bureau. It is not the intent of Congress in enacting the Fair Housing Amendments Act of 1988 to exacerbate increased housing costs.

"(2) The provisions of this Act which affect the design and construction of housing that is sold to the general public shall not take effect if such provisions would increase the costs of such housing, thus pushing home ownership out of the reach of even more Americans than at present and denying even more Americans realization of the "Great American Dream" of home ownership."

AMENDMENT NO. 2783

On page 6, delete all on lines 19 through 21, and insert in lieu thereof, "(iii) at least 20% of all units within such dwellings, or in the case of a multiple-building development, 20% of all units within such development, and in no event less than one unit, contain the following features of adaptive design:".

KENNEDY AMENDMENT NO. 2784

Mr. KENNEDY proposed an amendment to amendment No. 2777 proposed by Mr. KENNEDY (and others) to the bill H.R. 1158, supra; as follows:

On page 34, strike the sentence on lines 17-19 beginning with the words "The Secretary".

OMNIBUS TRADE AND COMPETITIVENESS ACT

DURENBERGER (AND OTHERS) AMENDMENT NO. 2785

Mr. DURENBERGER (for himself, Mr. SYMMS, Mr. HATCH, and Mr. MCCLURE) proposed an amendment to the bill (H.R. 4848) to enhance the competitiveness of American industry, and for other purposes; as follows:

On page 463, after line 2, at the end of section 1831 of the bill, add the following:

(d) FURSKINS.—The repeal made by section 1722 shall apply to articles entered, or withdrawn from warehouse for consumption, after the date on which the President submits to the Congress a written statement certifying—

(1) that the Union of Soviet Socialist Republics does not—

(A) deny its citizens the right or opportunity to emigrate.

(B) impose more than a nominal tax on emigration, or on the visas or other documents required for emigration, for any purpose or cause whatsoever, or

(C) impose more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice, or

(2) that—

(A) the President has received assurances that the emigration practices of the Union of Soviet Socialist Republics will henceforth lead substantially to the achievement of the objectives of this subsection, and

(B) the repeal made by section 1722 will substantially promote the objectives of this subsection.

WHISTLEBLOWER PROTECTION ACT

STEVENS AMENDMENT NO. 2786

Mr. DOLE (for Mr. STEVENS) proposed an amendment to the bill (S. 508) to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; as follows:

On page 88, strike line 10 through line 24.

On page 89, line 1, strike "Sec. 5.", and insert in lieu thereof "Sec. 4.".

On page 90, line 8, strike "Sec. 6.", and insert in lieu thereof "Sec. 5.".

On page 92, line 20, strike "Sec. 7.", and insert in lieu thereof "Sec. 6.".

On page 94, line 7, strike "Sec. 8.", and insert in lieu thereof "Sec. 7.".

On page 94, line 13, strike "Sec. 9.", and insert in lieu thereof "Sec. 8.",

On page 95, line 8, strike "Sec. 10.", and insert in lieu thereof "Sec. 9.".

On page 96, line 12, strike "Sec. 11.", and insert in lieu thereof "Sec. 10.".

On page 97, line 1, strike "Sec. 12.", and insert in lieu thereof "Sec. 11.".

On page 97, line 11, strike "Sec. 13.", and insert in lieu thereof "Sec. 12.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, August 2, 1988, to conduct oversight hearings on the thrift industry.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on August 2, 1988, to hold a hearing on S. 466, the Handgun Violence Prevention Act of 1987.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary, be authorized to meet during the session of the Senate on August 2, 1988, to hold a hearing on the Freedom of Information Act.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Senate Energy Committee be authorized to meet during the session of the Senate on August 2, 1988, to conduct a hearing on H.R. 2530, a bill to provide for the establishment of the Mississippi National River and Recreation Area, and for other purposes; H.R. 2952, a bill to increase the amount authorized to be appropriated for acquisition of the Women's Rights National Historical Park; H.R. 3559, a bill to authorize the acquisition of 25 acres to be used for an administrative headquarters for Canaveral National Seashore; H.R. 4050, for the relief of certain persons in Riverside County, CA, who purchased land in good faith reliance on an existing private land survey; H.R. 4212, a bill to amend the joint resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, NY; H.R. 4315, a bill to provide for the inclusion of certain lands within the John Muir National Historic Site; S. 1290, a bill to direct the Secretary of the Interior to acquire certain real property adjacent to the Andrew Johnson National Historic Site in Greenville, TN, for inclusion within the national cemetery located in that site; S. 2565, a bill to remove restrictions on land acquisition for Antietam National Battlefield; and S. 2586, a bill to quiet title and possession with respect to a certain private land claim in Sumter County, AL.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, August 2, 1988, to conduct oversight hearings on international debt.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON THE CONSUMER

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 2, 1988, to conduct a hearing on S. 2549, the Drunk Driving Prevention Act of 1988.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 2, 1988, to hold a hearing on S. 2044, legislation to require the Federal Communications Commission to conduct a further review prior to adopting its price cap proposal.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

THE 40TH ANNIVERSARY OF THE ARTHRITIS FOUNDATION

● Mr. FOWLER. Mr. President, I rise to congratulate the Arthritis Foundation on its 40th anniversary. Since its conception in 1948, the Arthritis Foundation has provided, Americans with an invaluable service. While age 40 may slow some, the Arthritis Foundation is forging ahead with vitality and increased commitment to Americans with arthritis.

Arthritis affects an estimated 37 million Americans, of which 165,000 are children. Arthritis is also the leading cause of mobility problems. This staggering number does not include the millions of family members and friends who care for those afflicted. They, too, suffer tremendously from the effects of this debilitating disease.

If that is not enough, the economic impact of arthritis is astounding. It is estimated that through lost wages, medical costs and other factors arthritis costs our country roughly $8.6 billion each year. The increasing number of elderly persons in our country will only increase this financial drain.

Yet, despite its prevalence and impact on our society, arthritis remains the the subject of many myths and misconceptions. Americans continue to spend up to a billion dollars each year on unproven remedies. Further, the grave seriousness of arthritis is often overlooked.

The Arthritis Foundation, which is headquartered, in Atlanta, GA, is committed to ending this waste. It is the only national voluntary organization dedicated to providing answers about the more than 100 forms of arthritis. It sponsors research, public education and awareness, and services for people afflicted with these diseases. The foundation currently funds approximately 192 individual grants and fellowships specifically for research. Arthritis is not just minor "aches and pains." It can and should be effectively treated through appropriate medical care and exercise.

In the last 40 years, the Arthritis Foundation has made a major contribution in increasing the awareness of arthritis to a point in which the control of crippling arthritis is realistically within reach. I congratulate the Arthritis Foundation on its achievements and wish it continued success in the future.●

THE KIDS VOTING PROGRAM

● Mr. McCAIN. Mr. President, it is with great enthusiasm that I join my colleagues in introducing a resolution in support of the Kids Voting Program that will be taking place in Arizona this November 8. This program provides students the unique opportunity to participate in our democratic process at an early age, and to instill in them the rights and responsibilities of every eligible voter.

The kids voting experiment calls on young people from several Arizona school districts to go to the polls in November with their parents and vote in a simulated general selection. This project, which is being supported by businesses, schools, and parents, was officially approved by the Arizona State Legislature and allows children to enter the polling place with their parents in the upcoming November election. This program is expected to include 28,000 students who range from the 3d to the 12th grades. The students who participate in this program will study voter rights and responsibilities in class, and will be provided information on the candidates running for election. The results will be tabulated and the mock ballots will be reported by the 65 precincts that will be participating throughout the State of Arizona.

This pilot program in Arizona is modeled after a longstanding tradition in Costa Rica in which children accompany their parents to the polls and often participate in well-publicized mock elections. The results of this tradition are reflected in the nearly 90 percent turnout of the Costa Rican voting population.

Mr. President, as we all know, the voter turnout across the United States is far from being as high as that of Costa Rica. The State of Arizona, as a matter of fact, currently ranks 46th in the Nation for voter turnout. This dismal participation rate places our democratic process in jeopardy. The Kids Voter Program, however, should increase the awareness of these students about the right and responsibility each eligible American has in choosing the leaders of our Nation.

This project, Mr. President, is exciting, innovative and truly deserves the support of all the Members of this body. It is one step that we can take as a way to assure that democracy remains strong and viable in our great Nation. I am hopeful that the Kids Voter Program becomes a tradition in my State of Arizona and that similar successful and innovative programs are adopted throughout the United States.●

HONORING "UNITED STATES MARSHALS BICENTENNIAL DAY"

● Mr. D'AMATO. Mr. President, I rise to support the resolution designating September 24, 1989, as "U.S. Marshals Bicentennial Day." As the oldest law enforcement agency of the United States, the U.S. marshals have steadfastly defended and protected our Nation's judicial process.

The U.S. marshals have played an important role throughout our Nation's history. Their involvement was crucial during the Whiskey Rebellion of 1794, the taming of the wild west, and the enforcement of the Civil Rights Acts of the 1960's.

Today, one of the marshals' most important functions is to ensure witnesses' safety. The Marshals Service protect some 12,000 witnesses through relocation, identity change, and other services. Marshals also ensure the appearance of prisoners at trials, the safe operation of the courts, and the apprehension of fugitives.

An effective war against drugs will never be possible without the U.S. Marshals Service. Drug defendants often threaten or otherwise intimidate witnesses, necessitating U.S. marshals' protection. When drug defendants ignore warrants and other court orders, it is the marshals who track them down and bring them to justice. More than 3,500 State and Federal fugitives wanted in connection with drug offenses were arrested by the marshals over the past 6 years.

Mr. President, it is with profound gratitude to the brave men and women of the U.S. Marshals Service that I urge my colleagues to join me in supporting the U.S. Marshals Bicentennial Day.

I also ask that the remarks of the director of the Marshals Service, Stanley Morris, at a ceremony honoring Brig. Gen. Humberto Regalado Hernandez, be printed in the RECORD at the conclusion of my remarks.

The remarks follow:

PRESENTATION TO BRIG. GEN. HUMBERTO REGALADO HERNANDEZ, JULY 25, 1988

Members of the Senate and House of Representatives of the United States; distinguished guests from the Department of State and Department of Defense; and our honored guests representing the Government of Honduras—welcome.

The men and women of the U.S. Marshals Service take great pride in their many responsibilities. Among the most important of these functions is the tracking and capture of fugitives who have evaded justice—criminals who have escaped from jail, or jumped bond or bail.

We have invited our guests to be with us today as the Marshals Service expresses our deepest appreciation to one "whose cooperation and leadership were essential factors in the operation that brought Juan Matta-Ballesteros back into our criminal justice system."

First, I want to acknowledge the presence of several prominent guests and officials of the United States Government.

National borders are little more than lines on a map to drug traffickers and other major criminals. Because of the often vast sums of money at their disposal, they cross international borders at will. Often they hide behind a briar-patch of treaties and complex international legal agreements to frustrate the efforts of governments and law enforcement agencies to put an end to their criminal activities and dismantle their criminal organizations.

This past April, the expulsion from Honduras and subsequent arrest of Juan Matta-Ballesteros demonstrated that elusive international criminals can be brought to justice—through the determined efforts of the law enforcement and government officials of cooperating nations.

Juan Matta escaped in 1971 from a federal prison in the United States, where he was serving time for an immigration law violation. In the intervening years since 1971, Matta has been indicted on numerous federal charges relating to the manufacture, importation and distribution of thousands of pounds of cocaine. Ultimately, he fled to Honduras where he was apparently enjoying the fruits of his drug trade.

That enjoyment came to an abrupt end on April 5th.

With the full knowledge and cooperation of the United States Marshals Service, a decision was made by high officials of the Honduran Government to expel Juan Matta from Honduras. He was placed aboard an aircraft destined for the Dominican Republic. On his arrival at the Santo Domingo airport, officials of that government correctly determined that Matta did not have the proper documents for entry to that country and placed him on a commercial airliner heading for Puerto Rico—United States territory!

It was not a coincidence that Deputy Marshals were aborad the same aircraft. And, when the plane entered U.S. airspace, he came within the law enforcement jurisdiction of the United States Marshals Service.

Juan Matta's experience is not unlike that of Carlos Lehder-Rivas, one of the world's major drug traffickers who was expelled from Colombia to stand trial in the United States. Lehder was convicted and sentenced just this month to life in prison plus 135 years. And, in Bolivia, Robert Suarez Gomez, the so-called "King of Cocaine" was arrested last week by Bolivian authorities. Each of these international criminals has experienced the truth of the saying, "You can run, but you can't hide."

Juan Matta-Ballesteros is currently serving the balance of the sentence from which he escaped in 1971, and is awaiting trial in federal court on multiple charges of drug trafficking.

None of this would have been possible without the courageous and determined leadership of the commander of the Honduran military forces. It is to him and his cooperating associates that we express our appreciation. It is our hope that his example will encourage leaders in other nations throughout the world to greater cooperation in a worldwide battle to smash the international drug trade.

It is my pleasure to call forward the Commander-in-Chief of the Honduran Armed Forces, Brigadier General Humberto Regalado-Hernandez, to present a special symbol of our appreciation. Howard Safir will read the citation.

Now, on a somewhat "larger scale," and intended to reflect our appreciation beyond General Regalado to all those Honduran officials who participated in this law enforcement initiative, I am pleased to present this plaque bearing the official seal of the United States Marshals Service.●

INNOVATION IN MINNESOTA'S COUNTIES

● Mr. BOSCHWITZ. Mr. President, I would like to share with my colleagues here in the Senate what one Minnesota county—Faribault County—is doing to improve its economic health. I occasionally like to share with my colleagues some of the innovative ways Minnesotans both in business and in the public sector are working together to improve their communities. And I am proud to report that good things are happening in Faribault County, creative things.

I have with me a copy of an article that appeared in the July issue of Corporate Report Minnesota. Mr. President, I will ask that it be inserted in the Record following my remarks.

Mr. President, like many counties, Faribault County has dreams of economic success. And like other counties in Minnesota and throughout the Midwest, it is facing some pretty hard times. The drought isn't going to make things any easier—here in Congress we are doing what we can to smooth over that crisis. We have approved a pretty good drought bill, but the difficulties of our rural economies are not going to go away simply through Federal legislation. What sets Faribault County apart is that it is not just dreaming of success—it is making it happen. Local governments, businesses, and communities in Faribault County are out to make prosperity happen.

Spearheading this effort is Jack Quinlivan, executive director of a new local development authority set up by the citizens of Faribault County to focus on economic development. He and his assistant, Patricia Miller, are working hard to coordinate the efforts of businesses and local governments to accelerate the county's economic growth.

Using a range of innovative ways to entice new businesses to set up shop in Faribault County and helping existing firms to stay and grow there, Quilivan and his office are creating an environment for business growth, employment, and community investment. They've started by understanding the needs of local businesses and coming up with ways the public sector can help—like improving a road so that the Owatonna Canning Co. could expand, and helping a group of workers to organize and finance a contracting firm called Stop-Gap to supply labor to firms facing temporary labor shortages.

In addition, they have used creative financing and promotion of the county's special assets—it is proximity to metropolitan areas, for example—to encourage businesses to move to the area, as well as help to create new businesses. Local communities have joined together in cooperative projects, like the joint sewage district created by Wells, Easton, and Minnesota Lake that lets them share needed facilities while reducing public costs.

By taking a creative approach to problem solving, the public sector, businesses and the people of Faribault County have demonstrated what can happen when all members of a community work together. Rather than just dream about economic growth and prosperity, they are making it happen in Faribault County.

I ask that the article be printed in the Record.

The article follows:

[From the Corporate Report Minnesota, July 1988]

PURSUING AN ECONOMIC GRAIL

(By Charles I. Mundale)

A LOOK AT THE ACTION IN FARIBAULT COUNTY

In 1928, Faribault County voted solidly for Herbert Hoover, whose campaign slogan struck a responsive cord: "Let's keep what we've got; prosperity didn't just happen."

In 1985, led by County Board Chairman Charles Pingry, about 80 Faribault County officials, mayors, and business people got together for a two-day meeting at a Mankato motel. They brought in a professional facilitator to run the meeting, and they talked about the county's future and how to make prosperity happen.

As a result of that meeting, the county created a local development authority and hired a director. Shortly thereafter, a nonprofit development corporation was set up "to expand our possibilities," as the executive director, Jack Quinlivan, puts it.

Quinlivan and Assistant Director Patricia Miller operate out of offices in Blue Earth, the county seat, and Wells, the county's second largest community. They have laid out an ambitious set of goals that involve them in a surprising variety of activities:

Marketing the county "as if it were a company."

"Name recognition is a big problem for us," Quinlivan says, citing the confusions among Faribault, the city, and Faribault, the county; and Blue Earth, the city, and Blue Earth, the county. Another part of the marketing program is an effort "to clean up, fix up, and paint up." Eight of the county's 11 communities have entered the Minnesota Community Improvement Program.

"When all you've got is miles and miles of corn and beans, it's hard to establish a point of difference," Quinlivan laments. On this topic, he likes to tell about the Bloomington business prospector who, after visiting several possible sites in Faribault County, called back for more information about "that town with the geraniums." The town is Easton, one of the county's smallest, but every spring an elderly couple hangs pots of geraniums from the street-light poles and tends to them all summer.

"It got them remembered," Quinlivan declares.

Prospecting for new businesses and helping established firms to stay and grow.

"If businesses here are already leaving" Quinlivan says, "it's hard to convince others to move in." Quinlivan's tactics vary with the circumstances. In Wells, he worked with the city government to arrange a land purchase that permitted expansion of a turkey processing plant that employs more than 600 people. He also persuaded local bankers to keep longer hours on paydays, so those employees could cash their checks in Wells and maybe spend some of the cash there rather than in Mankato or Albert Lea.

For the town of Bricelyn, the problem was a 6-mile stretch of road connecting the town to Interstate 90. Upgrading the tonnage rating smoothed the way for an expansion at the Owatonna Canning Company plant. Tax-increment financing was used for site preparation.

In Winnebago, the county development corporation took an equity position in a small company organized by workers laid off when an electrical plant closed. Called Stop-Gap Inc., the company provides contract manufacturing to other firms faced with temporary capacity shortages.

Quinlivan's business recruitment efforts often begin at regional trade shows, where he scouts for manufacturing firms looking for new or better plant locations. Toting his bag of financial inducements and an inventory of all manufacturing services and vacant buildings in the county, he heads mostly for the small trade shows, concentrating on entrepreneurs who are just getting started.

He is, he says, looking for "good fits," like the small company he lured out of North Dakota with talk about freeway connections and proximity to Minneapolis-St. Paul, Chicago, and other large Midwestern population centers.

"We concentrate on diversity and small scale," Quinlivan explains, "like the electric-motor manufacturer that set up shop in Winnebago with 10 people, or the woman with the wedding-dress factory in Easton, three employees. Or the guy in Wells who recycles dry-cleaning filters. He'll have six to nine by year's end."

Quinlivan's 1987 track record includes six expansions five recruiting successes (three from Iowa, one from North Dakota, and one from elsewhere in Minnesota). When all of these projects have reached their potential in 1989, Quinlivan predicts Faribault county will have 140 new jobs.

Looking for new sources of funds and new ways to use old sources.

Quinlivan's bag of financial incentives includes the usual tools—interest buydowns, direct loans, loan guarantees, and equity—but the development office has also assisted with some creative bonding projects. By using the county's bonding authority, rather than issuing bonds themselves, towns have been able to save money on interests rates.

Three Faribault County communities—Wells, Easton, and Minnesota Lake—have saved substantial sums on new sewage treatment facilities by organizing a joint sewage district. In addition to savings from avoiding duplicate facilities, Easton and Minnesota Lake were eligible for state and federal funds, so that advantage benefited the entire project.

Looking for alternative crops.

The potential in alternative crops is a subject of considerable controversy. On the one hand, it's worth remembering that soybeans, now the state's number two crop, were once an "alternative crop." On the other hand, there lingers the bitter memory of Jerusalem artichokes, and a few ex-growers of azuki beans are still shaking their heads.

According to Victor Johnson, a Blue Earth lawyer, the University of Minnesota has identified more than 200 alternative crops that will grow in Minnesota. Johnson exemplifies the mixture of public promotion and private entrepreneurship catching on in Faribault County and elsewhere. He's helping set up a new international marketing firm in Blue Earth and has been looking for research money to check out the commercial viability of several ventures, including five alternative crops. He thinks that his Makotah Trade Center, which was scheduled to open for business in mid-June, can find a niche between the local grain elevators and the giants like Cargill and Continental Grain Company.

Meanwhile Quinlivan also pursues the alternatives. "We're not looking for crops that require a whole new system of machinery," he explains. He notes that Ed Hubbard, a Bricelyn area farmer, has been experimenting with amaranth. Popular with customers of health-food stores, amaranth is high-protein grain that can be harvested with the same equipment used for soybeans.

White corn is another possibility. It requires a longer growing season than its yellow relative, so it is traditionally grown farther south, but test plots in Faribault County last year produced 20 percent higher-than-average yields. That was enough to catch the attention of people at Quaker Oats, who, with the assistance and encouragement of Quinlivan, paid a visit to Faribault County in February.

White corn is a contract crop—like peas or sweet corn—and brings the farmer about 35 percent more than number two yellow, which it would be replacing in the field. Because it is for human consumption, more stringent quality control applies, so more management is required of the farmer. Whether economics and climate will finally bless white corn's appearance in southern Minnesota is still problematic. At this point, says Quinlivan, "I want Quaker Oats to know about Faribault County, and I want our farmers to know about Quaker Oats."●

SALUTING MAYOR LEONARD C. PADUANO

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Leonard C. Paduano, mayor of New Rochelle, NY, on being named "Man of the Year" by the New Rochelle Boys & Girls Clubs.

Boys and girls clubs are important institutions offering club members guidance and support during painful adolescent years. While some children and teenagers turn to drugs and other illegal activities, others join the boys and girls clubs. For these children, the clubs offer excellent character-building programs. This would not be possible without tremendous support from the community. Mayor Paduano has helped provide this by supporting the two clubs and also by helping to build New Rochelle's Southside Community Center.

Mr. President, I salute Mayor Paduano for all of his work with the boys and girls clubs and as "Man of the Year." I wish there were more people like him who work to help our children develop the skills necessary to become responsible, law-abiding citizens. There is no better investment in the future than in our children.●

GLOBAL POVERTY REDUCTION ACT OF 1988

● Mr. D'AMATO. Mr. President, I rise today in support of S. 2454, legislation introduced by my distinguished colleagues, Senators HARKIN and BOSCHWITZ, which will direct the next President to establish a plan to alleviate the worst aspects of absolute poverty by the year 2000.

When Congress passed the Foreign Assistance Act of 1961, it pledged to "assist people in developing countries to eliminate hunger, poverty, illness, and ignorance." Now, 27 years later, less than 30 percent of foreign aid supports humanitarian goals and very little of this money is helping the neediest poor.

The Global Poverty Reduction Act will use funds already allocated to target concern toward three main goals. By the year 2000, S. 2454 calls for an under-5 mortality rate of 70 per 1,000 live births, a female literacy rate of 80 percent, and an absolute poverty level of not more than 20 percent of the population living below absolute poverty.

To follow the progress on these objectives, the President will consult with host country governments, international organizations, and United States and indigenous nongovernmental organizations which represent the poor in developing countries; that is, CARE, UNICEF, RESULTS, and 21 other organizations which support S. 2454. The President will also prepare and present to Congress annual reports which explain his plans regarding this legislation.

S. 2454 would reinforce the purpose and goals of the Foreign Assistance Act of 1961. Through this legislation, the United States would join forces with other countries to combat the many social, environmental, and economic problems that are associated with poverty. I am pleased to support S. 2454 and I urge my colleagues in the Senate to join me in cosponsoring this legislation.●

UNITED NATIONS FINDING ON IRAQ'S USE OF CHEMICAL WEAPONS

● Mr. MITCHELL. Mr. President, amidst the signs of a possible end to the Iran-Iraq war, we must not forget the horrifying cost at which the military stalemate was achieved.

A United Nations team has just released reports of its most recent investigation of the use of chemical weapons in the gulf war. Sadly, the reports' conclusions are strikingly similar to those reached by previous United Nations investigations.

Since 1984, there has been conclusive evidence of Iraq's repeated use of chemical weapons. The new reports conclude that twice this year Iraq employed chemical weapons such as cyanide and nerve gas against soldiers and civilians.

The United Nations team also investigated claims of Iranian chemical weapons use but could not ascertain whether Iraqi soldiers had been victims of their own chemical agents or those employed by Tehran. According to the State Department, there are indications that Iran may have used chemical weapons in the war. On the basis of evidence acquired by the United Nations investigators, it appears that possible Iranian use in no way rivals Iraq's pattern of chemical weapons use.

We were outraged by the grotesque results of Iraq's March 16 chemical attack on the Iranian-occupied town of Halabja in which thousands of Kirdish civilians were killed. The administration rightfully called the attack a "particularly grave violation" of international law. On June 24, the Senate joined that protest, voting unanimously to condemn Iraq's use of chemical weapons.

Yet, these condemnations are perhaps too little, too late. As early as 1982, Iraq began experimenting with chemical weapons and accidentally poisoned its own troops. Since 1984, the United Nations has documented and condemned Iraq's repeated use of chemical weapons against Iran. The most recent attacks augment the already ample evidence of Iraq's policy of chemical weapons use, a policy that remained unchanged despite international censure.

Iraq's blatant violations of the 1925 Geneva protocol should compel us to strengthen international law. The Geneva protocol bans only the use of chemical weapons. It lacks enforcement mechanisms. There are more promising and practical options to pursue if we are serious about restoring the legal and moral prohibition against chemical weapons.

In passing Senate Resolution 408 unanimously, the Senate expressed its strong support for such efforts. We urged the President to work in the Geneva Conference on Disarmament to reach an arms control agreement banning the use, production, development, transfer, and acquisition of chemical weapons. We called upon the President to seek allied cooperation to further tighten controls on exports of chemical compounds to countries seeking to develop chemical weapons.

Achieving these goals will not be simple. But the international community must make a concerted effort to halt the rapid proliferation of chemical weapons. Many countries, particularly in the Middle East, are fast acquiring chemical arsenals and chemical production capabilities. Unless we act to halt these trends, the world will be increasingly threatened by the "poor man's bomb."

Every reported violation weakens the strictures against the use of chemical weapons. I hope that we will not have to repeat the experience of World War One, in which chemical agents killed tens of thousands, in order to relearn the horror and futility of chemical warfare.

For these reasons, I believe that the United Nations should—once again—strongly condemn Iraq's continued use of chemical weapons in violation of international law.

No one would have the issue of chemical weapons block a resolution of the gulf war.

We all want the 8 years of senseless bloodshed to end.

Yet we must not allow this desire for peace to blind us. The rules of war are not carefully established over time simply to be ignored in the service of an allegedly more important end.

The price of peace does not include overlooking the use of chemical weapons.

I commend President Reagan and the United States Senate for condemning Iraq's use of chemical weapons, and I hope that the United Nations will act similarly.

All nations share the responsibility to condemn in no uncertain terms the use of chemical weapons by any country and to work toward strengthening international law and national policies to preclude the future use and production of chemical arms. I sincerely hope we will join together and make these goals a high international priority.●

MODIFICATION IN SENATE JOINT RESOLUTION 356

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 356, adopted earlier today, be modified with the changes that I send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the Republican leader as to whether or not Calendar Orders No. 840, 844, 845, and 850 on the Calendar of Business are cleared for action on his side.

Mr. DOLE. They have each been cleared on this side.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to those four measures en bloc, and that amendments, where shown be agreed to, that amendments to the title where shown be agreed to, that the measures be advanced to third reading en bloc, passed en bloc, the motion to reconsider en bloc to be laid on the table, and that statements be included where indicated and appropriately placed as though read in full.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEASING OF CERTAIN REAL PROPERTY

The bill (S. 2496) to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution to grant authority for the erection of a permanent building for the American National Red Cross, District of Columbia Chapter, Washington, District of Columbia", approved July 1, 1947 is amended by adding at the end thereof the following new section:

"SEC. 11. (a) Notwithstanding any other provision of law, the Administrator of the General Services Administration shall enter into a lease of the real property described in the first section of this Act with the American National Red Cross, District of Columbia Chapter. Such lease shall provide that such property shall be used as an office, medical and scientific facility by such Red Cross Chapter and the tenants of such Chapter on such terms and conditions as shall be customary and necessary, including that—

"(1) the lease shall be triple net to the United States and such Red Cross Chapter shall pay all taxes, insurance, and operating costs, and a rent of $1.00 for the term of the lease;

"(2) the lease term shall be for 99 years, and all improvements on such property shall revert to the ownership of the United States at the conclusion of the term;

"(3) such Red Cross Chapter may (at the expense of such Chapter) demolish the improvements on such property or any improvements constructed on such property after the date of enactment of this section, build, own, operate, and maintain new improvements, enter into leases, finance improvements (and mortgage any improvements and the leasehold estate), and in all manner deal with the property subject only to the condition that the ownership interest of the United States in the land shall not be adversely affected;

"(4) any space not needed for the operations of such Red Cross Chapter or the American National Red Cross in any building or improvement constructed on such property shall be first made available for use by Federal agencies at rental rates and other related expenses that are less than fair market value and reflect the value of the property provided to such Red Cross Chapter under the provisions of this Act;

"(5) the United States shall cooperate with such Red Cross Chapter with respect to any zoning or other matters relating to the development or improvement of such property; and

"(6) the plans of any proposed building or improvement for construction after the date of the enactment of this section shall first be approved by the American National Red Cross, the Commission of Fine Arts, and the National Capital Planning Commission.

"(b) The enactment of this section may not be construed as establishing a policy of the United States Government to furnish building sites for Red Cross chapters or any eleemosynary institution at any other place."

ESTABLISHMENT OF A NATIONAL MIMBRES MUSEUM

The Senate proceeded to consider the bill (S. 1912) to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, NM, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Mimbres Culture Study Act of 1988".

SEC. 2. AUTHORIZATION OF STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to conduct a study of the Mimbres culture to determine its significance in illustrating and commemorating the prehistory of the Southwest. The study shall include an analysis of the significance of the culture as it relates to the Mogollon, Salado, and Casas Grandes cultures and shall include a list of appropriate sites for interpreting the culture.

(b) RECOMMENDATIONS.—The study shall include recommendations with respect to—

(1) measures for the preservation of resources associated with the Mimbres cultures located in and around the vicinity of Silver City, New Mexico; and

(2) indications of types and general intensities of development, including a visitor facility with sufficient space to accommodate exhibits of Mimbres pottery and information regarding the Masau Trail, that would be associated with public enjoyment and use of the sites, including general location and anticipated costs.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year after the date on which funds are appropriated for the study.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. DOMENICI. Mr. President, I rise to support S. 1912, the National Mimbres Culture Study Act, of which I am a cosponsor.

S. 1912 would authorize the National Park Service to conduct a study of the Mimbres culture and the significance of that culture to the history of southwestern New Mexico.

The study will include recommendations on the preservation of archaeological sites and artifacts associated with the Mimbres culture and on the presentation of the Mimbres culture story to the public.

The Mimbres people were a relative small group of people who inhabited the isolated valleys of southwestern New Mexico almost 2,000 years ago. The classic Mimbres culture lasted from 200 A.D. to its collapse in 1200 A.D. This thousand-year period produced remarkable pottery, stone tools, and a wide variety of decorative objects and ornaments.

Neither the origin of the Mimbres culture nor the reasons for its demise are known.

The Mimbres people would have remained little known, but for their development of a distinctive style of pottery painted black and white. It is recognized worldwide as a classic example of native American artwork.

Mr. President, the Mimbres culture deserves to be studied in order to determine how we can preserve the remnants of that culture for the Americans of today and tomorrow. Therefore, I urge all Senators to support S. 1912.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize a Study of the Mimbres Culture in Southwestern New Mexico, and for other purposes."

STUDY OF POSSIBLE DESIGNATION OF HISTORIC SITES IN THE STATE OF NEW MEXICO

The Senate proceeded to consider the bill (S. 2157) to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spanish Colonization Commemorative Act of 1988".

SEC. 2. AUTHORIZATION OF STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to conduct a study of the Spanish Frontier culture and Spanish Borderlands story to determine their significance in illustrating and commemorating the Spanish colonization of the Southwest, the Spanish colonial frontier culture, and Spanish colonialism in New Mexico. The study shall include an analysis of the significance of the San Gabriel Historic Landmark and the Los Luceros Hacienda as they relate to the Spanish Borderlands story of the Southwest.

(b) RECOMMENDATIONS.—The study shall include recommendations with respect to—

(1) measures for the preservation and interpretation of resources associated with the Spanish colonization of the Southwest; and

(2) indications of types and general intensities of development, including the feasibility of visitor facilities, that would be associated with public enjoyment and use of the sites, including general location and anticipated costs.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than two years after the date on which funds are appropriated for the study.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. DOMENICI. Mr. President, I rise to support S. 2157, the Spanish Colonization Commemorative Act.

The Spanish Colonization Commemorative Act, of which I am proud to be a cosponsor, would authorize the National Park Service to conduct a study of the culture and history of the Spanish frontier area of North America. The purpose of this study would be to determine the significance of Spanish frontier history and culture in commemorating the Spanish colonization of what became the American Southwest.

The study will include an analysis of the San Gabriel Historic Landmark—the site of the first Spanish capital of New Mexico, and the Los Luceros Hacienda, which is believed to be one of the haciendas established by the first Spanish colonizers.

Four centuries ago, before the English settled Jamestown and the Pilgrims landed at Plymouth Rock, Spanish conquistadores headed north from Mexico to found what was to be the farthest, most northern outpost of Spain's empire in the New World: New Mexico. In 1598, Juan de Onate, the first Spanish governor of New Mexico, and his caravan of 130 traveled on foot, on horseback, and in ox-driven carts into New Mexico from Mexico, reaching as far north as Espanola.

At the point where the Rio Chama empties in the Rio Grande, on what is now San Juan Pueblo, Onate established the first Spanish headquarters in what is now the United States. This site was called San Gabriel de Yunque-Ouinge and was the first Spanish capital of New Mexico, and remained the capital until 1609 when it was moved to Santa Fe.

As part of the Spanish colonization of New Mexico, Juan de Onate established 15 haciendas in the northern Rio Grande Valley. These haciendas constituted the first colonization of what is now the United States. The Los Luceros Hacienda is believed to be one of those original 15 haciendas.

Mr. President, the history and culture of the Spanish settlers are woven into the fabric of the culture of New Mexico. They survive to this day and, along with the rich culture of the Indian people, help make New Mexico the unique place that it is. The Spanish colonization of New Mexico is worthy of study and recognition. S. 2157 would authorize such a study, and I urge its adoption.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize a feasibility study of the Spanish Frontier Culture and Spanish Borderlands Story, and for other purposes."

TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT

The Senate proceeded to consider the bill (S. 2561) to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of most residents of the United States.

(2) For all individuals, technology can provide important tools for making the performance of tasks quicker and easier.

(3) For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks. The provision of assistive technology devices and assistive technology services enables some individuals with disabilities to—

(A) have greater control over their own lives;

(B) participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

(C) interact to a greater extent with nondisabled individuals; and

(D) otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

(4) Although the development of assistive technology devices designed to assist individuals with disabilities is still in its early stages, there already exist a substantial number of assistive technology devices, including simple adaptations to existing equipment, that could significantly benefit, in all major life activities, individuals of all ages with disabilities. Such devices, including adaptations, could be used in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

(5) The use of assistive technology devices and services by individuals with disabilities can reduce the costs of the disabilities to society, individuals with disabilities, and families of individuals with disabilities by reducing expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by individuals with disabilities.

(6) Many individuals with disabilities do not have access to the assistive technology devices and assistive technology services that such individuals need to allow such individuals to function in society commensurate with their abilities. States do not have comprehensive programs for making available technology-related assistance to individuals with disabilities. There is a lack of—

(A) resources to pay for such devices and services;

(B) trained personnel to provide such devices and services and to assist individuals with disabilities to use such devices and services;

(C) information about the potential of technology available to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(D) coordination among existing State human services programs, and among such programs and private agencies, particularly with respect to transitions between such programs and agencies; and

(E) capacity of such programs to provide the necessary technology-related assistance.

(7) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

(8) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) Purposes.—The purposes of this Act are as follows:

(1) To provide financial assistance to the States to help each State to develop and implement a consumer-responsive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to—

(A) increase awareness of the needs of individuals with disabilities for assistive technology devices and assistive technology services;

(B) increase awareness of policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology devices and assistive technology services;

(C) increase the availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;

(D) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(E) increase the capacity of public and private entities to provide technology-related assistance, particularly assistive technology devices and assistive technology services, and to pay for the provision of assistive technology devices and assistive technology services;

(F) increase coordination among State agencies and public and private entities that provide technology-related assistance, particularly assistive technology devices and assistive technology services; and

(G) increase the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living.

(2) To facilitate—

(A) the identification of Federal policies that facilitate payment for assistive technology devices and assistive technology services for individuals with disabilities;

(B) the identification of Federal policies that impede such payment; and

(C) the elimination of inappropriate barriers to such payment.

(3) To enhance the ability of the Federal Government to provide the States with—

(A) technical assistance, information, and training and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and

(B) funding for model demonstration and innovation projects.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) Assistive technology device.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(2) Assistive technology service.—The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) Individual with disabilities.—The term "individual with disabilities" means any individual—

(A) who is considered to have a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides; and

(B) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

(4) Institution of higher education.—The term "institution of higher education" has the meaning given such term in section 435(b) of the Higher Education Act of 1965, and includes community colleges receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(5) Secretary.—The term "Secretary" means the Secretary of Education.

(6) State.—Except as otherwise provided, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) Technology-related assistance.—The term "technology-related assistance" means functions performed and activities carried out under section 101 that accomplish the purposes described in section 2(b)(1).

(8) Underserved group.—The term "underserved group" means any group of individuals with disabilities who, because of disability, place of residence, geographic location, age, race, sex, or socioeconomic status, have not historically sought, been eligible for, or received technology-related assistance.

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) Grants to States.—The Secretary of Education shall make grants to States in accordance with the provisions of this title to assist States to develop and implement consumer-responsive comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(b) Functions of Programs.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out any of the following functions:

(1) Identification and needs assessment.—Identification of individuals with disabilities (including individuals from underserved groups) who reside in the State and the conduct of an ongoing evaluation of the needs of such individuals for technology-related assistance, which may be based on existing data.

(2) Identification and coordination of resources.—Identification and coordination of Federal and State policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements.

(3) Provision of assistive technology devices and assistive technology services.—Provision of assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services.

(4) Dissemination of information.—Dissemination of information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(5) Training and technical assistance.—Provision of training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or repre-

sentatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) Public awareness program.—Conduct of a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities.

(7) Assistance to statewide and community-based organizations.—Provision of assistance to statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities.

(8) Partnerships and cooperative initiatives.—Support of the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to facilitate the development and implementation of a statewide program of technology-related assistance for individuals with disabilities.

(9) Qualifications of staff.—Taking actions to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel.

(10) Program data.—Compilation and evaluation of appropriate data relating to the program.

(11) Procedures for involvement of concerned individuals.—The establishment of procedures providing for the active involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals in the development and implementation of the program, and for the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services in decisions relating to such assistive technology devices and assistive technology services.

(12) Other functions.—Any other functions the Secretary considers appropriate.

(c) Authorized Activities.—In carrying out the functions described in subsection (b), any State may use amounts made available to the State under a grant under this title for activities including the following:

(1) Model delivery systems.—The State may support model systems for the delivery of assistive technology devices and assistive technology services to individuals with disabilities that if successful could be replicated or made generally applicable. Any such system may include—

(A) the purchase, lease, or other acquisition of assistive technology devices and assistive technology services or payment for the provision of assistive technology devices and assistive technology services;

(B) the use of counselors, including peer counselors, to assist individuals with disabilities and the families of individuals with disabilities to obtain assistive technology devices and assistive technology services;

(C) the involvement of individuals with disabilities or, if appropriate, families or representatives of individuals with disabilities in decisions related to the provision of assistive technology devices and assistive technology services to individuals with disabilities; and

(D) the evaluation of the efficacy of the particular model delivery system involved.

(2) Statewide needs assessment.—The State may conduct a statewide needs assessment, which may be based on existing data and may include—

(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

(B) a description of efforts during the fiscal year ending before the date of the enactment of this Act to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

(ii) a description of the devices and services provided;

(C) the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

(D) the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

(E) a description of State and local public resources and private resources (including insurance) that are available to establish a statewide program of technology-related assistance for individuals with disabilities;

(F) the identification of State and Federal policies that facilitate or interfere with the operation of a statewide program of technology-related assistance;

(G) a description of—

(i) alternative State-financed systems of subsidies for the provision of assistive technology devices and assistive technology services, including—

(I) a loan system for assistive technology devices;

(II) a low-interest loan fund;

(III) a revolving fund;

(IV) a loan insurance program; and

(V) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

(ii) a description of the eligibility criteria for such a system;

(H) a description of the State's procurement policies and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance under a grant under this title are compatible with other technology devices, including technology devices designed primarily for use by individuals without disabilities, elderly individuals, or individuals with particular disabilities; and

(I) an inquiry into whether it is advantageous for either a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) to study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

(i) the purchase, lease, or other acquisition of assistive technology devices; or

(ii) the use of assistive technology services.

(3) Support groups.—The State may encourage the creation or maintenance of statewide or community-based organizations or systems that assist individuals with disabilities to use assistive technology devices or assistive technology services, or support any existing organization or system that provides such assistance.

(4) Public awareness program.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—

(A) the development and dissemination of information relating to—

(i) the nature of assistive technology devices and assistive technology services;

(ii) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

(iii) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

(B) procedures for providing direct communication between public providers of assistive technology devices and assistive technology services and private providers of such devices and services (including employers); and

(C) the development and dissemination of information relating to—

(i) use of the program by individuals with disabilities, families or representatives of individuals with disabilities, and professionals who work in the field of technology-related assistance, and other appropriate individuals; and

(ii) the nature of the inquiries made by the individuals described in clause (i).

(5) Training and technical assistance.—The State may provide directly or support public or private training and technical assistance activities relating to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) Access to technology-related information.—The State may develop, operate, or expand a system for public access to information concerning technology-related assistance, including information about assistive technology devices and assistive technology services, funding sources, costs, and individuals, organizations, and agencies capable of providing technology-related assistance to individuals with disabilities. In developing, operating, or expanding a system described in the preceding sentence, the State may—

(A) develop, compile, and categorize print, braille, audio, and video materials containing the information described in such sentence;

(B) identify and classify existing funding sources, conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(C) identify existing support groups and systems designed to help individuals with disabilities make effective use of technology-related assistance; and

(D) maintain a record of the extent to which citizens of the State use or make inquiries of the system established under this paragraph, and of the nature of such inquiries.

(7) Interstate agreements.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, school, work, or in other environments that are part of daily living.

(8) Other activities.—The State may utilize amounts made available under grants made under this title for any other activities necessary for developing, implementing, or evaluating the statewide program of technology-related assistance.

SEC. 102. DEVELOPMENT GRANTS.

(a) General Authority.—The Secretary shall award to States 3-year grants to assist States to develop and implement statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of section 101.

(b) Number of Grants To Be Awarded.—From amounts appropriated under section 106, the Secretary shall award under this section, to the extent appropriate applications are submitted—

(1) in the first fiscal year for which amounts are appropriated, not more than 10 grants on a competitive basis;

(2) in the second fiscal year for which amounts are appropriated, not more than 20 grants on a competitive basis; and

(3) in the third fiscal year for which amounts are appropriated, any number of grants on a competitive basis.

(c) Amounts of Grants.—

(1) Grants to states.—From amounts appropriated under section 106, the Secretary shall pay to each State that receives a grant under this section—

(A) for each of the first 2 years of the grant period, an amount that is not less than $500,000 and not more than $1,000,000; and

(B) for the third year of the grant period, an amount that is not less than $500,000 and not more than $1,500,000.

(2) Grants to territories.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(3) Calculation of amounts.—The Secretary shall calculate the amounts described in paragraphs (1) and (2) on the basis of—

(A) amounts available for making grants under this section;

(B) the population of the State or territory concerned; and

(C) the types of activities proposed by the State relating to the development of a statewide program of technology-related assistance.

(4) Priority for previously participating states.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(5) Definitions.—For purposes of this subsection:

(A) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(B) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) Priorities for Distribution.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable; and

(2) distributes the grants among States that have differing levels of development of statewide programs of technology-related assistance.

(e) Applications.—Any State that desires to receive a grant under this section shall submit an application that contains the following information and assurances:

(1) Designation of responsible entity.—The designation by the Governor of the office, agency, entity, or individual responsible for—

(A) preparing the application;

(B) administering and supervising the use of amounts made available under the grant;

(C) planning and developing the statewide program of technology-related assistance;

(D) coordination between public and private agencies, including the entering into of interagency agreements;

(E) ensuring active, timely, and meaningful participation by individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals with respect to performing functions and carrying out activities under the grant; and

(F) the delegation of any responsibilities described above, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

(2) Agency involvement.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of such agencies in the development of the statewide program of technology-related assistance.

(3) Public involvement.—A description of the nature and extent of involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals who are not employed by a State agency in the development of the application and the continuing role of such individuals in the development of the statewide program of technology-related assistance.

(4) Preliminary needs assessment.—A tentative assessment of the extent of the need of individuals with disabilities in the State, including individuals from underserved groups, for a statewide program of technology-related assistance and a description of previous efforts and efforts continuing on the date of the application to develop a statewide program of technology-related assistance.

(5) State resources.—A description of State resources and other resources (to the extent such information is available) that are available to commit to the development of a statewide program of technology-related assistance.

(6) Goals, objectives, functions, activities, and outcomes.—The State's goals, objectives, functions, and activities planned under the grant, and the expected outcomes at the end of the grant period with respect to a consumer-responsive statewide program of technology-related assistance, consistent with the purposes described in section 2(b)(1).

(7) Information and Evaluations.—A description of—

(A) procedures used for compiling information; and

(B) procedures that will be used to conduct evaluations.

(8) State policies with respect to contracts and agreements.—A description of the policies governing contracts, grants, and other arrangements with public agencies, private nonprofit organizations, and other entities or individuals for the purpose of providing assistive technology devices and assistive technology services consistent with the provisions of this title.

(9) Distribution procedure.—An assurance that, to the extent practicable, technology-related assistance made available with amounts received under the grant will be equitably distributed among all geographical areas of the State.

(10) Compliance with act.—An assurance that amounts received under the grant will be expended in accordance with the provisions of this title.

(11) Supplement other funds.—An assurance that amounts received under the grant—

(A) will be used to supplement amounts available from other sources that are expended for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if amounts under the grant had not been available, unless—

(i) such payment is made only to prevent a delay in the receipt of appropriate technology-related assistance (including the provision of assistive technology devices or assistive technology services) by an individual with disabilities; and

(ii) the entity or agency responsible subsequently reimburses the appropriate account with respect to programs and activities under the grant in an amount equal to the amount of the payment.

(12) Control of funds and property.—An assurance that—

(A) a public agency shall control and administer amounts received under the grant; and

(B) a public agency or an individual with disabilities shall—

(i) hold title to property purchased with such amounts; and

(ii) administer such property.

(13) Reports.—An assurance that the State will—

(A) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this title; and

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(14) Commingling of funds.—An assurance that amounts received under the grant will not be commingled with State or other funds.

(15) Fiscal control and accounting procedures.—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant.

(16) Availability of information.—An assurance that the State will—

(A) make available to individuals with disabilities and the families or representatives of individuals with disabilities information concerning technology-related assistance in a form that will allow such indi-

viduals to effectively use such information; and

(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

(17) Other information.—Such other information and assurances as the Secretary may reasonably require.

SEC. 103. EXTENSION GRANTS.

(a) General Authority.—The Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that the State made significant progress in developing and implementing a statewide program of technology-related assistance under a grant provided under section 102, consistent with the requirements of such section and the purposes described in section 2(b)(1).

(b) Amounts of Grants.—

(1) In general.—(A) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than $500,000 and not more than $1,500,000.

(B) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(C) For purposes of this paragraph:

(i) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(ii) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Calculation of amount.—The Secretary shall calculate the amount described in paragraph (1) on the basis of—

(A) amounts available for making grants pursuant to this section,

(B) the population of the State;

(C) the types of assistance to be provided; and

(D) the amount of resources committed and available from other sources.

(3) Priority for previously participating states.—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(c) Application.—A State that desires to receive an extension grant under this section shall submit an application that contains the following:

(1) Needs.—A description of needs relating to technology-related assistance of individuals with disabilities, including individuals from underserved groups, families or representatives of individuals with disabilities, and other appropriate individuals within the State.

(2) Activities under development grant.—A description of the specific activities carried out under the development grant received under section 102 and the relationship of such activities to the development of a statewide program of technology-related assistance.

(3) Progress.—Documentation of the progress made under the development grant toward development of a statewide program of technology-related assistance.

(4) Public involvement.—A description of State actions designed to determine the degree of satisfaction of individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals with—

(A) the degree of their ongoing involvement in the development and implementation of the statewide program of technology-related assistance;

(B) the specific activities carried out by the State under the development grant; and

(C) progress made toward development and implementation of a consumer-responsive statewide program of technology-related assistance under the development grant.

(5) Comments.—A summary of any comments received concerning the issues described in paragraph (4) and the State's response to such comments, solicited from individuals affected by the statewide program of technology-related assistance, including individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals.

(6) Other information and assurances.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

(7) Compatibility and accessibility of electronic equipment.—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973.

SEC. 104. PROGRESS REPORTS.

(a) In General.—Each State that receives a grant under this title shall submit to the Secretary annually a report that describes—

(1) completed activities carried out under the grant, especially with regard to section 102(e)(6), including, to the extent appropriate, a description of the impact of such activities on individuals with disabilities, public agencies, financial resources committed to technology-related assistance for individuals with disabilities, community-based organizations, and employers;

(2) unanticipated problems encountered in carrying out such activities;

(3) activities planned to rectify such problems in the following year.

(b) Specific Requirements for Reports With Respect to Extension Grants.—Each State that receives a development grant under section 102 may include, and each State that receives an extension grant under section 103 shall include in the report required by subsection (a) a description of—

(1) the types of assistance provided under the grant and the effects of such assistance, especially with respect to individuals with disabilities;

(2) the types of environments in which assistance was provided under the grant; and

(3) how the information required by this subsection was derived.

SEC. 105. ADMINISTRATIVE PROVISIONS.

(a) Review of Participating States.—

(1) In general.—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this title are making significant progress in achieving the purposes of this title.

(2) Onsite visits.—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(3) Minimum requirements.—At a minimum the visits shall allow the Secretary to determine the extent to which the State is making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(4) Provision of information.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) Corrective Action Plan.—

(1) In general.—Any State that fails to comply with the requirements of this title shall be subject to a corrective action plan.

(2) Penalties.—A State that fails to comply with the requirements of this title may be subject to penalties such as—

(A) partial or complete fund termination;

(B) ineligibility to participate in the grant program in the following year; or

(C) reduction in funding for the following year.

(3) Appeals procedures.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this title as the result of an onsite visit or failure to supply information required under subsection (a)(4).

(c) Effect on Other Assistance.—Nothing in this title shall be construed to permit the State or any Federal agency to reduce medical or other assistance available or to alter eligibility under—

(1) title II, V, XVI, XVIII, XIX, or XX of the Social Security Act;

(2) the Education of the Handicapped Act;

(3) the Rehabilitation Act of 1973; or

(4) laws relating to veterans' benefits.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this title $9,000,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1993.

(b) Reservation.—

(1) Provision of information.—The Secretary shall reserve 1 percent of funds appropriated in any fiscal year under subsection (a), or $500,000, whichever is greater, for the purpose of providing States with information and technical assistance with respect to the development and implementation of

consumer-responsive statewide programs of technology-related assistance.

(2) ONSITE VISITS.—The Secretary may reserve from amounts appropriated in any fiscal year under subsection (a) such sums as the Secretary considers necessary for the purposes of conducting onsite visits as required by section 105(a)(2).

SEC. 107. EVALUATION.

(a) EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or by contract, shall conduct a national evaluation of the program of grants to States authorized by this title.

(2) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the results of the evaluation conducted as required by paragraph (1) not later than October 1, 1992.

(b) PURPOSE.—The purpose of the evaluation required by subsection (a) shall be—

(1) to assess, through representative samples, the status and effects of State efforts to develop statewide programs of technology-related assistance for individuals with disabilities in a manner consistent with the provisions of this title, particularly in terms of the impact of such efforts on individuals with disabilities; and

(2) to recommend amendments to this title that the Secretary considers necessary to assist States to fully accomplish the purposes of this title.

(c) INFORMATION SYSTEM.—The Secretary shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, a qualitative and quantitative description of the impact of the program of grants to States authorized by this title on—

(1) the lives of individuals with disabilities, particularly with regard to the purposes described in section 2(a)(3);

(2) public agencies;

(3) fiscal resources committed to technology-related assistance for individuals with disabilities;

(4) community-based organizations; and

(5) employers.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—STUDY ON FINANCING OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. STUDY BY NATIONAL COUNCIL ON THE HANDICAPPED.

(a) STUDY AND RECOMMENDATIONS.—The National Council on the Handicapped (hereafter in this part referred to as the "Council"), in addition to the duties of the Council described in section 401 of the Rehabilitation Act of 1973, shall conduct a study and make recommendations to the Congress and the President concerning—

(1) Federal laws, regulations, procedures, and practices that facilitate or impede the ability of the States to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities;

(2) Federal and State laws, regulations, procedures, and practices that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities;

(3) policies, practices, and procedures of private entities (including insurers) that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities; and

(4) alternative strategies for acquiring or paying for assistive technology devices and assistive technology services.

(b) ADVISORY COMMITTEE.—The Council shall appoint an advisory committee in accordance with section 404(c) of the Rehabilitation Act of 1973 to assist the Council in carrying out the duties of the Council under this part. Such advisory committee shall be appointed from individuals from both the public and private sectors who have broad experience and expertise directly relevant to the issues to be studied by the Council under this part, and shall also include individuals with disabilities, families of individuals with disabilities, and representatives of organizations representing individuals with disabilities.

(c) COOPERATION OF OTHER AGENCIES.—

(1) FEDERAL AGENCIES.—The heads of all Federal agencies shall, to the extent not prohibited by law, cooperate with the Council in carrying out the duties of the Council under this part.

(2) USE OF RESOURCES OF FEDERAL, STATE, AND LOCAL AGENCIES.—The Council may use in carrying out its duties under this part, with the consent of the agency involved, services, personnel, information, and facilities of other Federal, State, local, and private agencies, with or without reimbursement.

(d) REPORTS.—The Council shall submit to the President and to the appropriate committees of the Congress—

(1) such interim reports as the Council considers advisable; and

(2) not later than 18 months after the date of the enactment of an Act providing appropriations to carry out this part, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Council considers advisable.

PART B—NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK

SEC. 211. ESTABLISHMENT OF NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK.

Before the end of the 30-month period beginning on the date of the enactment of an Act providing appropriations to carry out this part, the Secretary shall—

(1) determine whether it is appropriate, based on the findings and recommendations of the study conducted under section 212, to establish and operate a national information and program referral network to assist States to develop and implement consumer-responsive statewide programs of technology-related assistance; and

(2) if the Secretary determines that establishment and operation of such a network is appropriate, enter into any contract or cooperative agreement necessary to establish and operate such a network, which may consist of information and program referral networks in existence or under development at the time of the study conducted under section 212.

SEC. 212. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—The Secretary shall conduct a study—

(1) to determine the feasibility and desirability of creating the network described in section 211; and

(2) to determine the appropriate structure for the organization and operation of such a network, if it is determined to be feasible and desirable.

(b) CONTRACT AUTHORITY.—In carrying out the study required by subsection (a), the Secretary may enter into a contract or cooperative agreement necessary to conduct the study.

SEC. 213. CONTENTS OF STUDY.

The study conducted under section 212 shall—

(1) analyze the needs of States that are interested in developing and implementing consumer-responsive statewide programs of technology-related assistance;

(2) describe the types of information and program referral networks (including electronic networks) in existence or under development at the time of the study, including—

(A) the types of information and program referral incorporated into or provided by such networks;

(B) the cost of maintaining such networks;

(C) the types of services provided by such networks;

(D) the types and numbers of individuals served by such networks;

(E) the location of such networks and accessibility to other networks; and

(F) the feasibility and desirability of linking such networks, including proposed plans and an estimate of the cost of such a linkage;

(3) analyze the impediments to the exchange of information and the development and operation of such networks;

(4) describe the information that should be incorporated into a national information and program referral network to ensure that the network serves the entire United States, in particular addressing the gaps in existing networks and methods of filling such gaps using networks in existence or under development at the time of the study;

(5) describe the information systems from other fields of technology development that may be incorporated into a national information and program referral network on technology-related assistance;

(6) analyze the issues involved in operating a national information and program referral network;

(7) analyze and describe management and cost projections for a national information and program referral network;

(8) evaluate operational alternatives including at least the advantages and disadvantages of—

(A) grant arrangements, contracting arrangements, or other funding mechanisms or arrangements, and the lengths of any such arrangements;

(B) various network configurations, including—

(i) regionally distributed;

(ii) focused on functional limitations;

(iii) age-focused;

(iv) expertise-centered; and

(v) other network configurations;

(C) costs associated with funding arrangements described in subparagraph (A) and network configurations described in subparagraph (B), and options for paying such costs, including the possible use of Federal funds, State funds, and other alternatives;

(D) mechanisms of payment for information and program referral services;

(E) mechanisms for ensuring that information systems remain current, have relevant and useful information, and provide information in a form that allows individuals with disabilities to make effective use of the information;

(F) forms of Federal oversight and independent evaluations that could be applied to a national information and program referral network;

(G) types of staffing expertise required for different options; and

(H) types of institutional oversight, such as governing boards and advisory panels; and

(9) a timetable for implementation of various network options.

SEC. 214. TIMETABLE FOR STUDY.

(a) Award of Contract.—The Secretary shall, before the end of the six-month period beginning on the date of the enactment of an Act providing appropriations to carry out the study required by this part, enter into any contract or cooperative agreement necessary for conducting such study.

(b) Completion of Study.—Any contract or agreement entered into under subsection (a) shall require the study to be completed and a report concerning such study to be submitted to the Secretary and to the appropriate committees of the Congress before the end of the 18-month period beginning on the date of the contract or agreement.

(c) Implementation of Recommendations.—The Secretary, after allowing for public comment on the report submitted under subsection (b), shall take appropriate action based on the report before the end of the 6-month period following the date on which the Secretary receives the report.

PART C—TRAINING AND PUBLIC AWARENESS PROJECTS

SEC. 221. TRAINING.

(a) Technology Training.—

(1) General authority.—The Secretary shall enter into contracts or cooperative agreements with appropriate nonprofit or for-profit entities for the purposes of—

(A) conducting training sessions; and

(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

(2) Eligible activities.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) Technology Careers.—

(1) General authority.—The Secretary shall make grants to assist institutions of higher education to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities.

(2) Priority.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and implementation of consumer-responsive statewide programs of technology-related assistance to individuals with disabilities.

(3) Uses of funds.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

SEC. 222. PUBLIC AWARENESS PROJECTS.

(a) Program Authorized.—The Secretary shall make grants to, or enter into contracts with, nonprofit and for-profit entities to carry out national projects that recognize and build awareness of the importance and efficacy of assistive technology devices and assistive technology services for individuals of all ages with disabilities functioning in various settings of daily life.

(b) Uses of Funds.—Amounts made available for grants and contracts under subsection (a) may be used to—

(1) develop a national media campaign (including public service time slots on radio and television);

(2) convene national or regional conferences;

(3) prepare and disseminate information (including summaries, comparisons, analyses, and cost-benefit projections) concerning the efficacy of technology-related assistance;

(4) encourage others to hold national or regional conferences;

(5) develop and maintain recognition programs that are designed to promote public credit to entities that demonstrate an aggressive effort for a sustained time to provide or promote the use of technology-related assistance or the development of assistive technology devices; and

(6) other activities considered appropriate by the Secretary.

SEC. 223. PRIORITIES.

(a) In General.—Beginning in fiscal year 1991, the Secretary shall—

(1) establish priorities for activities carried out with assistance under this part;

(2) publish such priorities in the Federal Register for the purpose of receiving public comment; and

(3) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes grant announcements for grants made under this part.

(b) Explanation of Determination of Priorities.—Concurrent with the publication required by subsection (a), the Secretary shall publish in the Federal Register an explanation of how the priorities were determined.

PART D—DEMONSTRATION AND INNOVATION PROJECTS

SEC. 231. PROGRAM AUTHORIZED.

(a) Demonstration and Innovation Projects.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, nonprofit and for-profit entities to pay all or part of the cost of establishing or operating demonstration and innovation projects relating to technology-related assistance for individuals with disabilities.

(b) Eligible Activities.—Amounts made available for purposes of carrying out this part may be used for the following activities:

(1) Model projects for delivering assistive technology devices and services.—The establishment or operation of model projects for delivering assistive technology devices and assistive technology services to individuals of all ages with disabilities functioning in various environments and carrying out various life activities (including model systems described in section 101(c)(1) of title I).

(2) Model research and development projects.—The conduct of applied research and development projects, including projects designed to—

(A) increase the availability of reliable and durable assistive technology devices that address unique, low-market demand, or complex technology-related needs for individuals with disabilities;

(B) develop strategies and techniques that involve individuals with disabilities in assessing the performance characteristics of technology that is not designed specifically for individuals with disabilities and developing adaptations of such technology for individuals with disabilities;

(C) assist in the transfer of technology that is not specifically designed for individuals with disabilities to uses appropriate for such individuals; and

(D) facilitate effective and efficient technology transfer.

(3) Income-contingent direct loan demonstration project.—Demonstration projects in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary shall provide an amount equal to not more than 90 percent of the amount required for any such project) to examine the feasibility of a direct loan program that would provide loans—

(A) to individuals with disabilities who require technology-related assistance in order to maintain a level of functioning or to achieve a greater level of functioning in any major life activity; or

(B) to the families or employers of individuals with disabilities, on behalf of such individuals, for the purposes described in subparagraph (A).

(c) Report to Congress on Extension of Direct Loan Program.—The Secretary shall, based on the projects assisted under subsection (b)(3), report to Congress concerning the feasibility of operating a direct loan program of general applicability beginning after September 30, 1993.

PART E—AUTHORIZATION OF APPROPRIATIONS

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) General Authority.—There are authorized to be appropriated for purposes of carrying out this title (other than section 231(b)(1)) $5,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) Model Delivery Projects.—There are authorized to be appropriated for purposes of carrying out section 231(b)(1) $1,500,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) Priorities.—

(1) Model delivery projects.—Notwithstanding any other provision of this Act, if amounts appropriated for purposes of carrying out this Act for the fiscal year 1989 equal or exceed $6,000,000, the Secretary shall first make available, from such amounts, not less than $500,000 for demonstration projects under section 231(b)(1).

(2) Other title II activities.—(A) Of amounts appropriated under subsection (a) for the fiscal year 1989, the Secretary shall first make available not more than $250,000 for purposes of carrying out part A.

(B) Subject to subparagraph (A), of amounts appropriated under subsection (a) for any fiscal year, the Secretary shall first make available, in order of priority—

(i) not more than $750,000 for purposes of carrying out section 212; and

(ii) such sums as may be necessary for purposes of carrying out section 211.

Mr. HARKIN. Mr. President, I rise today to urge the passage of S. 2561, the Technology-Related Assistance for Individuals With Disabilities Act of 1988. This bill, which establishes a program of grants to States to promote the provision of technology-related assistance to persons with disabilities, was unanimously ordered reported by the Committee on Labor and Human Resources on July 14, 1988, with an amendment in the nature of a substitute.

This is bipartisan, consensus legislation. It has the support of my colleagues from both sides of the aisle in the Senate and the House. The committee has received letters of support and endorsement from Secretary of Education Bennett, and from the Coalition on Technology and Disability, a group consisting of representatives of over 50 advocacy, provider, and consumer organizations working together for legislation on assistive technology. I ask unanimous consent that the full text of these letters be entered in the RECORD.

Technology can play a powerful role in enhancing opportunities for individuals of varying ages and types of disabilities across all major life activities, including early intervention, education, rehabilitation and training, employment, residential living, independent living, and recreation. While technology is often a luxury for individuals who are not disabled, for some individuals with disabilities, technology is a necessity that enables them to be more independent, productive, and integrated into the mainstream of society.

Not too long ago, I had an opportunity to visit the Iowa University Affiliated Program at the University Hospital School in Iowa City, where I met young children with disabilities and saw what a tremendous difference assistive technology was making in their lives. One of these children was 11-year-old Brenna. Severely impaired with cerebral palsy and severe to profound mental retardation, Brenna was unable to communicate with the world when she came to the program. After a comprehensive evaluation, the staff discovered that Brenna could use a head-mounted light pointer, allowing her to communicate by pointing the light at pictures on a board. For example, if Brenna is thirsty, she can communicate that need by pointing to a picture of a glass of water. The staff also found that Brenna, with her minimal hand movement, could operate adapted microswitches to activate specially adapted battery-operated toys. The staff is hopeful that eventually Brenna will be able to use an augmentative communication device, and a computer. Since she began using assistive technology, Brenna is responsive to her environment at a much higher level than anyone had thought possible. And Brenna has found that she can have impact on her environment in a way that she had never been able to before.

Another child in the program is an 8-year-old named Gabe. Gabe is a bright child of normal intelligence who is quadriplegic and has cerebral palsy. He was unable to communicate when he first came to the program. Now, he is using a touch-talker, an augmentative communication device that allows Gabe to talk with friends and family using a computerized "voice." Gabe is also using a computer with a specially adapted keyboard that allows him to write and do his own schoolwork. Now, program staff are developing environmental controls for Gabe to use for activities such as calling a friend on the telephone, a task that would otherwise be impossible. And, Gabe is being evaluated for using a power wheelchair which will greatly enhance his mobility. All of these things, the touch-talker, computer, environmental controls, and power wheelchair, are giving Gabe new independence and control over his environment. Down the road, they will enable Gabe to be more independent; more actively involved in leisure, learning, and work; and more able to use his knowledge and fulfill his intellectual potential.

But this is just the beginning for Brenna and Gabe. With this legislation, the future will be even brighter for them, and for other children with disabilities all across the Nation. For many of these children, access to assistive technology will mean unlimited possibilities, and a means for realizing their full potential. Assistive technology will make school and college learning environments more accessible to them. And as they enter adulthood, it will facilitate their employment in jobs commensurate with their abilities, and their living independently. I am particularly proud of the positive impact that this legislation will have on the futures of children with disabilities.

For a number of reasons, the benefits of assistive technology are not reaching most people with disabilities. The current lack of coordination among most existing State human services programs, and among these programs and private agencies, is a significant barrier to the development of comprehensive programs of technology-related assistance. Lack of funding is another significant barrier to gaining access to assistive technology devices and services. There is also a need for trained personnel to deliver assistive technology services, and for more information to be available about the potential of technology. Because of limited commercial markets, the private sector is often reluctant to become involved in the development and distribution of technology devices to meet the needs of individuals with disabilities. Most States simply lack the capacity to overcome these barriers and provide the necessary technology-related assistance.

At the Federal level as well there is a lack of coordination between agencies that provide or pay for the provision of assistive technology devices and services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and the provision of assistive technology services.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 has two titles. Title I establishes a competitive grant program designed to assist each participating State develop and implement a consumer-responsive statewide program of technology-related assistance for individuals with disabilities.

Under title I up to 10 States may enter the first year, 20 additional States the second year, and the remaining States the third year. A State that competes successfully receives a 3-year grant, and then must submit another application for 2 more years of funding, for a total of 5 years. Funding per State is $500,000 to $1,000,000 in years 1 and 2 and $500,000 to $1,500,000 in years 3, 4, and 5. Title I also authorizes the Secretary of Education to provide the States with technical assistance.

It is anticipated that title I grants will serve as a catalyst for States to, first, comprehensively and systematically review current policies, practices, and procedures used by public and private entities relating to the provision of and payment for assistive technology devices and services; and, second, develop and implement comprehensive strategies for expanding and improving opportunities for individuals of varying ages and types of disabilities across all major life activities to obtain high-quality assistive technology devices and services and other forms of technology-related assistance.

States are given considerable discretion in setting up statewide programs, although specific suggestions are included in the legislation. In developing and implementing a statewide program, a State may elect to accomplish the purposes described above through such functions as identification of needs and evaluation, provision of assistive technology devices and services, dissemination of information, training and technical assistance, a public awareness program, assistance to community-based organizations, partnerships and cooperative initiatives, collection of program data, and procedures for involvement of concerned individuals.

Suggested uses of funds to carry out the purposes of the grant include—but are not limited to—using funds for model delivery systems, a statewide needs assessment, public awareness programs, training and technical assistance, an information system, and interstate agreements.

The authorization of appropriations for title I in fiscal year 1989 is $9,000,000, and such sums as may be necessary in the 4 succeeding years.

Title II authorizes a variety of discretionary activities and studies, including a study of the financing of assistive technology and services and a study of the feasibility and desirability of establishing a national information and programmatic referral network on technology-related assistance. It also supports training and public awareness grants to increase the knowledge and effective use of assistive technology devices and services; and funds demonstration and innovation projects related to model projects for delivery of assistive technology devices and services, applied research and development in assistive technology devices and services, and a loan program for assistive technology services.

The bill authorizes to be appropriated for title II, except the model projects for delivery of technology-related assistance, $5,000,000 for fiscal year 1989 and such sums as may be necessary for the 4 succeeding years. The bill authorizes to be appropriated for the model projects for the delivery of assistive technology devices and services $1,500,000 for fiscal year 1989 and such sums as may be necessary for the 4 succeeding fiscal years.

I would like to thank Senator KERRY for his help and guidance on the bill. I also would like to thank Senators KENNEDY and HATCH and the other members of the subcommittee, Senators WEICKER, SIMON, STAFFORD, ADAMS, METZENBAUM, and COCHRAN, for their input and support.

There are several people in my home State of Iowa who have helped us to identify critical issues and develop strategies for meeting the needs that people with disabilities have for technology-related assistance. In particular, I would like to thank Denny Theesfield who testified before the subcommittee. The story of his return to farming after becoming disabled is one that really inspired me in working on this bill. Thanks also go to Alfred Healy, M.D., professor, department of pediatrics and director of the Iowa University Affiliated Program, and his colleagues Dr. James Hardy and Thomas Grey. Also in Iowa, I would like to thank Frank Vance at the department of education; Jerry Starkweather at the department of vocational rehabilitation; Karen Purlowski, executive director of the Developmental Disabilities Council; and Terry Wilkomm with the Easter Seal Society of Iowa's Farm Family Rehabilitation Management Program.

Special thanks go to Bobby Silverstein, Rud Turbull, Andrea Solarz, Katy Beh, and Patty Gual of my staff. Thanks also to Sally Yozell of Senator KERRY's staff; Mo West, Terry Muilenburg, and Chris Button of Senator WEICKER's staff; Chris Lord of Senator HATCH's staff; Sue Ellen Walbridge with Senator STAFFORD; Robin Buckley with Senator KENNEDY; Judy Wagner of Senator SIMON's staff; Evelyn Bonder with Senator METZENBAUM; John Tayer of Senator ADAMS' staff; Lisa Pittman with Senator COCHRAN; and the other staffers who worked hard to make this a bipartisan consensus bill.

I would also like to thank my colleagues in the House of Representatives who worked closely with us to develop the final bill. In particular, I would like to recognize Representative JEFFORDS, who introduced companion legislation, along with Representatives OWENS and BARTLETT. Special thanks also to Pat Morrissey and the other House staffers for their efforts in developing the House companion bill. I would also like to thank the Coalition on Technology and Disability for their important input and feedback.

It is time for the Federal Government to provide the support necessary to assist individuals with disabilities obtain needed assistive technology devices and services. I urge my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Senator KENNEDY and a letter to me pertaining to this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
Washington, DC, July 12, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide the views of the Department of Education on S. 2561, the "Technology-Related Assistance for Individuals with Disabilities Act of 1988". Title I of the bill would authorize the award of grants to States to assist them in developing Statewide programs that facilitate the provision of assistive devices and services to disabled children and adults. Title II of the bill would authorize various studies, training, and demonstration projects related to assistive devices and services. I support Senate passage of S. 2561.

S. 2561 reflects an appreciation of the role that assistive devices and services can play in increasing educational and vocational opportunities, and improving the quality of life, for persons with disabilities. The types and numbers of such devices have increased in recent years, particularly in regard to computer and other electronic equipment. Technological aids may also be used to provide increased mobility and environmental control for severely physically disabled persons, enabling them to engage in a broader range of activities.

The provision of assistive devices and services to disabled persons has not been well coordinated. A variety of State and Federal programs, administered by several different agencies, provide different benefits to particular age groups, for certain types of disabilities, or for various purposes such as special education, vocational rehabilitation, or health care financing. To ensure that disabled individuals of all ages and handicapping conditions receive assistive devices and services appropriate to their individual needs, States must begin to develop comprehensive programs to coordinate the now fragmented delivery of those devices and services, and to integrate such related aspects as training and dissemination of information into a complementary system.

Title I of S. 2561 would assist States in this important effort through multi-year demonstration grants, awarded on a competitive basis. This portion of the bill, in fact, closely parallels a planned Departmental initiative to award fiscal year 1989 grants to States on a competitive basis, to develop comprehensive Statewide approaches to providing assistive devices and services to persons with handicaps.

If a new State grant program is to be implemented, I agree with the bill's sponsors that it should be thoroughly evaluated by the end of the five-year authorization period. However, it should be noted that an evaluation report submitted by October 1992, as provided for in the bill, would allow us to examine only two years of efforts in not more than 10 States.

Title II of the bill would authorize various studies and training and demonstration projects related to assistive devices and services. These activities will provide the Congress and the Department with useful information and recommendations, and will produce a variety of models for the effective delivery of assistive devices and services to disabled persons. As with Title I, these provisions of the bill would build on activities already undertaken by the Department's Office of Special Education and Rehabilitative Services through its special education, vocational rehabilitation, and disability research programs.

In summary, I recommend that the committee approve S. 2561.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM J. BENNETT,
Secretary.

COALITION ON
TECHNOLOGY & DISABILITY,
Washington, DC, June 24, 1988.

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: The undersigned members of the Coalition on Technology and Disability strongly endorse the Technology-Related Assistance for Individuals with Disabilities Act of 1988. The Coalition on Technology and Disability is made up of organizations committed to seeing that individuals with disabilities receive the appropriate technology devices and services they need. Through their members, these organizaitons have seen the incredible impact assistive technology can have in the lives of individuals with disabilities.

The undersigned members of the Coalition believe that Title I of this Act will assist States in planning for and providing assistive technology services to those individuals and families most likely to benefit from it. Currently, one of the major problems in providing assistive technology services to individuals with disabilities is the lack of coordination, funding and information available. We believe that this Act would begin to help us find solutions to these problems.

The undersigned members also support Tittle II of this Act. We believe it will enable the Federal government to find creative resolutions to many of the barriers disabled individuals face when they are trying to access assistive technology services and devices.

We urge Congress to pass this important legislation during the 100th Congress at its full authorized levels. The coalition stands by, ready to assist you in every way it can.

Sincerely,

United Cerebral Palsy Association.
American Association for Counseling and Development.
American Association of University Affiliated Programs.
American Association on Mental Retardation.
American Foundation for the Blind.
American Occupational Therapy Association.
American Speech-Language-Hearing Association.
Association for Children & Adults with Learning Disabilities.
Association For Retarded Citizens.
Blinded Veteran's Association.
Council for Exceptional Children.
Epilepsy Foundation of America.
International Association of Psychosocial Rehabilitation Services.
National Alliance for the Mentally Ill.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Easter Seal Society.
National Head Injury Foundation.
National Recreation and Park Association.
Association for the Advancement of Rehabilitation Technology (RESNA).
Self help for Hard of Hearing People.
Spina Bifida Association of America.

Mr. KERRY. Mr. President, as a sponsor of this legislation, I am extremely pleased with the fast track on which it has been addressed. S. 2561, was introduced on June 23, 1988, the Labor and Human Resources Committee voted it out on July 28, 1988 and today just 1 week later the Senate plans to pass the Technology Related Assistance for Individuals with Disabilities Act of 1988. clearly, this is testimony not only to the importance of the legislation, but also shows how unified Members of Congress and representatives from the disability community are in their assessment on what approach needs to be taken nationally to ensure that citizens with disabilities can access necessary technologies.

The legislation before the Senate today establishes a blueprint for States to help them begin to address the technology needs of all handicapped citizens. The legislation is designed to assist States in their planning efforts so that down the road they can provide technology related assistance to disabled Americans that will enable them to lead more independent and productive lives.

As the former ranking member on the Subcommittee on the Handicapped, I have had the opportunity to witness first hand the difference that assistive device technology can make for a handicapped person. Whether it is adapting a wheelchair with a special seating system or providing a nonspeaking person with an augmentative communication device, adaptive device technology can mean the difference for a disabled person between participating in school and sitting alone in a corner of a classroom; being gainfully employed or languishing at home. For that reason, in the beginning of 1987, I set out to establish a legislative initiative which would enable handicapped infants children and youth to have acceess to necessary technology and adaptive advices at a formative age. After working with rehabilitation engineers educators therapists, State officials and many other experts in the field, last year I introduced S. 1586 the Technology to Educate Children With Handicaps Act, known to many as the TECH act. The TECH Act is straightforward. It was designed to address the problems that families and individuals currently face when trying to gain access to technology and to establish assistance device and technology resource systems nationwide.

Mr. President, the bill being introduced today embodies that same concept. As one who offered the first legislation in this area, I am proud to further the process along by not only supporting the legislation but also urging my colleagues to unanimously pass it today.

The benefits of assistive device technology are overwhelming. They offer handicapped individuals the chance to focus on their abilities, particularly persons who are severely handicapped. Technology permits severely handicapped persons to participate and contribute at home, at school, in the work place and in social and recreational settings. For many with severe disabilities, without assistive device technology, these activities would be impossible. In addition when individuals with special needs are more active and productive members of society, the cost to assist these individuals are reduced as they become more independent.

In particular, the cost benefit to help children with disabilities access technology is very great. Helping children maximize their potential through technology at the front end of their lives, will diminish the creation of barriers as well as limit the need for costly services later on. The ability of special needs children to develop their cognitive, social skills at the beginning means entering society and school with an advantage that would otherwise not exist. Assistive technologies offers kids a very real legup. If a child's disability is compensated for through technology during the formative years then the stage is set for them to receive a decent education. If they are assisted through technology to be independent in the class room then their expectations and abilities to achieve greater independence when they finish school and prepare for the work force will be greatly enhanced. Mr. President, getting assistive device technologies into the hands of our youngsters is truly a worthwhile investment.

The legislation that we will pass today will help States coordinate existing services, get the private sector involved with their efforts as well as determine and plan for what they need to set up statewide assistive device delivery systems.

One provision in the bill which is particularly important to me is the model projects for delivering assistive technology devices and services. This section of the act will both, give States an incentive to develop new model programs, as well as, enable model programs which currently exist to receive Federal dollars to deliver direct services. While States are planning and developing for their future statewide systems, actual services will be delivered at the same time.

In my own State for example there are a number of proven model assistive device technology centers. In fact, my own bill, the TECH Act was based on the successful structure of many such centers. These are centers that are fully operative and delivering quality services to many handicapped citizens in the Commonwealth. Furthermore, through these demonstration grants, centers and programs in other States could really stand to benefit, by expanding their programs and increasing the number of handicapped persons that they are currently serving.

And even more important is the fact that many of the current assistive device technology programs can serve as true national models for delivering services both statewide and nationally. For example, today a mix of funds are currently being used to fund mobile vans which provide assistive device technology services.

And lastly, Mr. President, ensuring that services will be delivered this year with the help of Federal dollars, means that we will be giving a few extra children an advantage that they may otherwise have to forgo, or helping an adult receive a job that without adaptive technology would be given to someone else. So Mr. President, I strongly endorse the concept provided in these model service delivery grants.

I would, if I may, like to discuss with the good Senator from Iowa, the Sponsor of this legislation, Senator HARKIN a brief clarification of what our intentions are regarding the funding of title 2, part D section 231(1), the model projects for delivering assistive technology devices and services.

Mr. HARKIN. I am happy to talk about this matter with my good friend Senator KERRY.

Mr. KERRY. It is my understanding that if the fiscal year 1989 appropriation level exceeds $6 million that at least $500,000 must be spent on model projects for delivering assistive technology and services.

Mr. HARKIN. The Senator is correct. The reason why we have included this priority in the funding, is to ensure that States who are ready to provide services today are able to do so.

Mr. KERRY. I agree. In addition, as I mentioned earlier in my statement, this priority will enable the creation of model projects as well as, utilize existing models currently providing direct delivery services at the State and local levels and allow such programs to become models used by other States and localities.

Mr. HARKIN. Yes, that certainly is our intention. By making this a priority in our limited funding for the first year, we will both be rewarding and helping existing model programs as well as creating new ones.

Mr. KERRY. I thank Senator HARKIN for your assistance on this matter.

Mr. President, in closing let me reiterate my support for this legislation. Today the race continues to develop new and better technologies to serve mankind. While the technology revolution is upon us, redesigning the way we work, learn, and recreate, we as lawmakers have a responsibility to tap into these resources and adapt such changes to benefit individuals with disabilities. The legislation that will pass today lays the ground work for such a system that will provide handicapped Americans with the necessary access to the technology revolution, and I urge my colleagues to unanimously pass this worthy initiative.

Mr. WEICKER. Mr. President, I am pleased that the Senate will today consider S. 2561, the Technology Related Assistance for Individuals With Disabilities Act of 1988. This legislation enjoys bipartisan support in both the House and Senate on the development of a comprehensive approach to delivery of assistive technology services for people with disabilities.

Most of us take for granted the technological advances that enrich our daily lives. For individuals with disabilities, the promise of technology can literally mean the difference between a life of dependence and isolation, or a productive life in the mainstream of society. Through technology the door of opportunity can be opened for many people with disabilities. Augmentative communication systems and personal computers can help assure a free appropriate public education for the child with a disability as well as enhance a client's ability to benefit from vocational rehabilitation. Sophisticated assistive technology such as electronic communication devices enable individuals who cannot speak to express themselves, and environmental control devices permit persons with limited functional abilities to operate telephones and to direct the use of a pencil or utensil in carrying out activities of daily living. These are just a few examples of the exciting developments in the area of assistive technology. As a result of these advances, disabled individuals are becoming increasingly integrated into our educational system, our work force, and society at large.

The role of the private sector in promoting opportunities for disabled employees to fully participate and contribute in the workplace is exemplified by Champion International Corp. in my home State of Connecticut. Their use of applied technology has proven its worth both economically and in terms of productivity through the enhanced employee performance that occurs when technological equipment and devices are available at the worksite. Champion International has a long history of extending the capabilities of its workers, regardless of their disability, through the use of assistive technology. It is an exemplary program, well worthy of replication nationwide.

During recent hearings held by the Subcommittee on the Handicapped one theme became clear: Individuals who need assistive technology face a number of problems in obtaining such services and devices. Often these services are not available at all, and when they are, there is no single identifiable source for obtaining necessary referral information in order to secure what may be needed. Unfortunately, the present service delivery system is fragmented at the Federal, State, and local level, making access to technology difficult. We can all attest to the fact that technology makes many things in life easier. But for disabled individuals technology goes farther in that it makes things possible. The challenge is to stay abreast of the rapid technological changes and assure that people with disabilities can have access to services and devices they need in order to fully participate in society.

The legislation before us today will address the need for access to technology by people with disabilities in a number of ways. First, this legislation will enable States to develop a comprehensive and coordinated approach for providing technology and related assistance to people with disabilities. In addition, the act will promote research, training, and development of model service delivery programs at the national level. It will also enable the Secretary of Education to examine the feasibility of establishing a national information and referral network to assist States in their need for information and assistance. The act also mandates an important study on the financing of assistive technology devices, to be undertaken by the National Council on the Handicapped. Indeed, the financing of needed assistive technology is one of the major problems encountered by people who need such assistance.

In other words, the approach outlined in this legislation will ensure that existing technology and future advances in this rapidly expanding field will be available to all people with disabilities who can benefit from them—not just a privileged few.

Finally, I would like to commend Senator HARKIN for his exemplary leadership in developing this legislation, and also Senator KERRY, the former ranking member of the Subcommittee on the Handicapped, for his valuable contribution in this effort. I urge my colleagues to pass this important legislation and help us to eliminate many of the barriers to increased independence, productivity, and integration of people with disabilities.

Mr. KENNEDY. Mr. President, I rise today in support of S. 2561, the Technology Related Assistance for Individuals With Disabilities Act of 1988. This legislation represents the first step toward recognizing the vital role technology can play in the lives of disabled individuals.

Technology is truly revolutionizing life for disabled individuals. Without the wonders of technology, many disabled individuals would be unable to attend school, find jobs or become participating and productive members of society. The cost is low, and the benefits are extremely high.

Despite the many proven successes of assistive technology, many States have not developed comprehensive delivery networks because of the recent emergence of assistive technology and the lack of funds available to States to develop systems. This legislation will provide States with funding to develop systems that best meet the needs of the population they will serve. This bill allows States much flexibility in designing a system. I am particularly pleased with this because it essentially allows the Congress to learn from programs developed by States and will provide Congress with a wealth of knowledge to fashion future legislation.

Some States have assistive technology delivery services in place, and other States are just beginning to tap the rich potential of assistive technology. I hope that the States which have a system in place will use their State grants to provide direct service delivery. In States that are just beginning to put a system in place, I urge them to experiment with a variety of options, but to also make a concerted effort to provide direct services to consumers.

The credit for the progress we have made in the U.S. Senate in bringing the wonders of technology to 36 million disabled Americans is due to the determination and leadership of two of my colleagues—TOM HARKIN, of Iowa, and JOHN KERRY, of Massachusetts. Senator HARKIN's strong commitment to producing an assistive technology bill is the reason we are introducing this comprehensive legislation today. Senator KERRY introduced legislation earlier in the 100th Congress, the Technology to Educate Children with Handicaps Act, and has provided useful insight into the development of this bill. We are truly indebted to them for their leadership on this important issue.

Mr. President, I urge my colleagues to agree to the passage of this legislation. The Technology Related Assistance for Individuals With Disabilities Act of 1988 is good policy, and it deserves the full support of the U.S. Congress.

Mr. HATCH. Mr. President, I am pleased that today we are considering S. 2561, Technology Related Assistance for Individuals With Disabilities Act of 1988. Several years ago, I asked the Office of Technology and Assessment [OTA] to conduct a study of the extent to which technology could be used to aid the handicapped. The OTA study which was released in May 1982 concentrated on specific concerns facing persons with disabilities by examining the developments and the use of technology as a lifecycle process. The report pointed out that we are not adequately utilizing available technology nor sufficiently encouraging future research and development. In addition, it emphasized that an insufficient number of personnel are being trained.

A survey conducted by the Department of Education reported that the U.S. Government spends about $66 million a year on technological research and development relating to disabilities. It also spends about $36 billion a year for income support for individuals with disabilities and appropriates more than $2 billion on rehabilitation and education of the handicapped. In spite of such expenditures, it is still apparent that gaps in services remain and that needs are not being met.

I am pleased to be a cosponsor of S. 2561, which proposes to eliminate some of these deficiencies within the system. This bill establishes a comprehensive program to coordinate the currently fragmented delivery of devices and services to assist persons with disabilities. Title I of the bill would authorize the award of grants to States to assist them in developing statewide programs that facilitate the provisions of devices and services to disabled children and adults. Title II would authorize various studies, training, and demonstration projects.

The State Grant Program under title I is competitive and allows up to 10 States to be funded the first year, 20 States the second year, and the remaining States the third year. The States are allowed considerable flexibility in setting up their programs. A State that competes successfully will receive a 3-year grant and may subsequently submit another application for an additional 2-year grant for a total of 5 years. It is anticipated that these grants will function as a catalyst for increasing the availability of funding from both the private and public sectors for developing technology devices and services for the disabled.

Although part C in title II authorizes training and public awareness grants, I would like to go on record stating the importance of keeping this provision on a high priority level. Without adequate training, the consumer would not be able to utilize effectively the technology acquired through the bill.

I would like to commend Senator HARKIN, chairman of the Subcommittee on the Handicapped, and his staff for their efforts in developing S. 2561. I would also like to acknowledge the efforts of Congressman BARTLETT and his staff for developing the companion bill on the House side. This legislation is the culmination of many hours of discussion with disability advocates, the Department of Education, both Senate and House Members, persons with disabilities and their families, and professionals in the field. In addition, the Department of Education endorses passage of this bill and the Office of Management and Budget has no objections.

At this time, I would like to encourage all my colleagues to support rapid movement of S. 2561 through Congress. This legislation will promote the dissemination of technological advances to improve the quality of life for our 36 million citizens with disabilities. Achieving this objective will not only benefit these individuals but will also our society in general.

Mr. STAFFORD. Mr. President, I congratulate Senators HARKIN and WEICKER on the development of this important legislation which will provided needed technology services and devices to disabled individuals.

Advances in technological devices over the past 10 years have assisted many disabled children, youth and adults to achieve greater independence in all facets of their lives. A voice synthesizer that enables an individual with severe cerebral palsy to communicate, a computer operated by a slight turn of the head allows a quadriplegic to continue to be employed, or an audio device attached to a television describing the nonverbalized action—such as a car chase scene—to a blind individual are all examples of devices that have been designed or adapted for use by persons with disabilities.

My own State of Vermont has one of the few rural farm rehabilitation programs in the country. This program assists farmers who have become disabled—amputated limbs, paralysis, and so forth—to continue to farm their land. This is accomplished through modifying tractors with lifts, and adapting the controls on the farm equipment as well as in the home.

Unfortunately, the dissemination of available new technologies is not readily available to the disabled individual or their families and in many cases the cost is prohibitive. The research and development of new devices is an ongoing process which necessitates the availability of it to all individuals.

This legislation provides for grants to States to begin a coordinated Federal/State effort to assist in the provision of these services to individuals with disabilities and their families.

Mr. President, I urge my colleagues to vote in support of this legislation.

Mr. DOLE. Mr. President, I strongly support S. 2561, the Technology-Related Assistance for Individuals With Disabilities Act, which is designed to make assistive technology more accessible to people with disabilities. I want to thank the members and staff of the Subcommittee on the Handicapped for their hard work on this important legislation.

The technological revolution has improved the quality of life for all of us. But for the disabled, technology can mean the difference between dependence and independence. An assistive device can be as simple as an adapted switch on a toy or as complex as an electronic communication device. It can be the product of years of sophisticated research or the result of inspired tinkering. What these devices have in common is that they make it possible for people with disabilities to work, play, study, and participate in community life to their full potential.

I have seen the benefits of assistive technology firsthand during my visits to the Center Industries Corp. in Wichita, KS. Although 75 percent of the employees there have disabilities, with the help of assistive devices they are able to work full time making a range of products from license plates to farm tools that are competitive in price and quality.

My colleagues may also be interested to know that the Dole Foundation for Employment of People with Disabilities, a nonprofit organization that I chair, has made support for the development and distribution of assistive technology one of its chief priorities. In California, for example, we are helping the Sensory Aids Foundation in Palo Alto establish a Computer Evaluation and Training Center to train blind and visually impaired persons on the assistive devices best suited to their needs. We are also supporting a project sponsored by the New England Association of Business, Industry, and Rehabilitation which provides disabled students with the adaptive equipment and rehabilitation engineering they require to make the transition from school to the workplace.

Despite the work of the Dole Foundation and other nonprofit organization, rehabilitation professionals, and many businesses across the country, far too many people with disabilities still are not able to take advantage of assistive technology. The Subcommittee on the Handicapped has identified a number of reasons for this lack of accessibility. Federal, State and local programs for providing assistive technology are not coordinated, the market for these devices is limited, and there is inadequate financing for and information about this technology. S. 2561 would help address these problems by encouraging States to develop comprehensive programs for the provision of assistive devices and services. It would also fund a variety of studies and training and demonstration projects dealing with this technology.

Mr. President, it would be difficult to overestimate what we gain by harnessing the technological revolution for the benefit of people with disabilities. Employers will find it easier to tap into a motivated and talented resource pool. The demand for costly, taxpayer-supported services will diminish. And most importantly, people with disabilities will have a much greater opportunity to lead productive, meaningful lives. The legislation before us today will help bridge the gap between the availability of technology and the needs of the disabled, and I urge my colleagues to give it their support.

Mr. ADAMS. Mr. President, I rise today in support of the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

As a member of the Handicapped Subcommittee, I am continually amazed by advances in the development of assistive technology and their benefits to the disabled community. In hearings before the subcommittee, for example, I saw how assistive technology allowed Teddy Pendegrass to continue his successful musical career following a disabling accident. Mr. Pendegrass and the many other individuals who have developed their talents through the use of assistive devices are a testament to the important role these devices play in our society. By helping handicapped individuals to participate in activities previously thought to be beyond their capacity, assistive devices allow these citizens to become increasingly independent and productive members of society.

Unfortunately, it has been recognized that disabled citizens suffer from restricted access to these advanced technological devices. Often, it is the prohibitive cost of such equipment that limits accessibility. However, more individuals suffer from limited access because they have not been adequately exposed to the availability and application of existing technology. A 1982 report issued by the Office of Technology Assessment portrayed a fragmented system for delivering assistive technology to the disabled in which the purchase of technology; the delivery of technology; the training of individuals with disabilities, members of such individuals' families, and persons who work with such individuals; and the provision of information about technology, have not been integrated into a mutually reinforcing and complementary system. As a result, the disabled individuals may fail to comprehend how they can benefit from assistive technology, what resources exist for obtaining these devices, and where to get the training necessary to effectively adapt the technology to their lives.

Through the bipartisan, bicameral cooperation exhibited over the past few months, both the House of Representatives and the Senate will consider legislation designed to address these deficiencies. The legislation before us today, The Technology-Related Assistance for Individuals with Disabilities Act of 1988 (S. 2561), represents a major effort on the part of Congress to collapse the barriers that limit access to assistive technology. S. 2561 will achieve this goal by authorizing Federal support for State initiatives in the area of assistive technology. States will be allowed to use these funds to establish statewide information centers, coordinate State and Federal funding resources, establish public awareness programs, and initiate other programs or services necessary to increase access to assistive technology for disabled individuals. In this way, we will ensure that the disabled have access to the assistive devices, throughout their lives, that allow them to achieve their greatest degree of independence and productivity.

I applaud Senator HARKIN and his staff for their leading role in fashioning this important legislative initiative and I thank my colleagues for their attention to this important issue. I look forward to favorable consideration and expedient passage of S. 2561 by the Senate.

Mr. SIMON. Mr. President, I strongly support the passage of S. 2561, the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

In a recent session of the annual meeting of the President's Committee on the Employment of Persons with Disabilities, a presenter showed slides of advanced technology being used to allow people with severe disabilities to function normally in their environments. The presenter titled his slide show, "Back to the Future." The significance of that title was that all of the technology being shown was at least a decade old.

The technology is there, and it is improving daily. But it is reaching a tiny proportion of the millions of adults and children with disabilities who could benefit from it. This legislation will provide the systemic support necessary to allow the benefits of current and new technology to reach and change the lives of people with disabilities.

One of the most important of the several purposes of this legislation is the increase it will bring about in awareness and knowledge of the efficacy of assistive technology devices and assistive technology services. As the committee has noted in its report, there are currently too many decisions affecting individuals with disabilities, including some of the decisions they make for themselves, that do not take into consideration the potential positive impact of technology. Many insurance adjusters, for example, are denying requests for reimbursement for assistive technology out of ignorance of the cost benefit of such devices.

Related to the need for awareness is the need for professional preparation, both preservice and inservice, of personnel to deliver assistive technology services. the ability to provide appropriate technology for individuals with disabilities involves a unique combination of knowledge of products, of disability, of rehabilitation services—a combination of expertise in a broad range of areas. This legislation should increase the number of people who are knowledgeable about technology devices and services and who have the authority to make these devices and services available.

If an investment in technology enables a worker to stay on a job instead of collecting disability benefits, it is a wise investment. If providing assistance to programs like Lekotek can help families integrate their severely handicapped children into lives of their families, or providing assistance to programs like Project ACCT at Western Illinois University can improve the learning potential of children with handicaps, it is assistance we need to be providing.

The Technology-Related Assistance Act will help overcome the barriers that prevent this assistance from being available. It will pull together fragmented service delivery systems, and make people with disabilities, their families, educators, rehabilitation professionals, potential employers, and others aware of the benefits of assistive technology. It will help in the development of ways to overcome the barriers that prevent people who could benefit from assistive devices from acquiring them. It will give support to the efforts of those who are training people with disabilities and their family members in the use of assistive technology devices. And by increasing their use, it will help bring down the cost of specialized devices.

For people with disabilities, technology can mean the difference between being dependent or independent; between holding a job or collecting unemployment; between having others make all of their decisions, or being able to make decisions for themselves in the most basic aspects of their lives. It is, as we heard in our hearings on this bill, a key ingredient in a society that is both politically and economically committed to full integration of people with disabilities in all phases of society, including employment.

I thank the chairman of the Subcommittee on the Handicapped for his leadership in taking a long step toward the fulfillment of that commitment, and I urge the swift passage of this important legislation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WHISTLEBLOWER PROTECTION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 782.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 508) to amend title 5, United States Code, to strengthen the protections available to Federal Employees Against Prohibited Personal Practices and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to provide whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) protection from reprisal.

(b) PURPOSES.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

(2) establishing—

(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel and not contrary to such interests; and

(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish these goals, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; OFFICE OF SPECIAL COUNSEL; EMPLOYEE RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"Sec. 1201. Appointment of members of the Merit Systems Protection Board.
"Sec. 1202. Term of office; filling vacancies; removal.
"Sec. 1203. Chairman; Vice Chairman.
"Sec. 1204. Powers and functions of the Merit Systems Protection Board.
"Sec. 1205. Transmittal of information to Congress.
"Sec. 1206. Annual report.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"Sec. 1211. Establishment.
"Sec. 1212. Powers and functions of the Office of Special Counsel.
"Sec. 1213. Provisions relating to disclosures of violations of law, mismanagement, and certain other matters.
"Sec. 1214. Investigation of prohibited personnel practices; corrective action.
"Sec. 1215. Disciplinary action.
"Sec. 1216. Other matters within the jurisdiction of the Office of Special Counsel.
"Sec. 1217. Transmittal of information to Congress.
"Sec. 1218. Annual report.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CASES INVOLVING PROHIBITED PERSONNEL PRACTICES

"Sec. 1221. Individual right of action.

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"§1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§1202. Term of office; filling vacancies; removal

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of the member's predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than 1 year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§1203. Chairman; Vice Chairman

"(a) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and the Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

"§1204. Powers and functions of the Merit Systems Protection Board

"(a) The Merit Systems Protection Board shall—

"(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

"(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, any administrative law judge appointed by the Board under section

3105, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—

"(A) issue subpoenas requiring the attendance and presentation of testimony of witnesses, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.

"(3) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) In the case of contumacy or failure to obey a subpoena issued under subsection (b)(2)(A), the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.

"(e)(1) In any proceeding under subsection (a)(1), any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(2)(A) In enforcing compliance with any order under subsection (a)(2), the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued, and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(B) The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A).

"(3) In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed.

"(f)(1) At any time after the effective date of any rule or regulation issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection, the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302(b) of this title; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302(b) of this title.

"(3) The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(4) The Board shall require any agency—

"(A) to cease compliance with any provisions of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(B) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.

"(g) The Board may delegate any of the administrative responsibilities of the Board under this title to any employee of the Board.

"(h) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.

"(i) Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

"(j) The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(k) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

"(l) The Board shall submit to the President, and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

"§1205. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"§1206. Annual report

"The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"§1211. Establishment

"(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.

"(b) The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.

"§1212. Powers and functions of the Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) in accordance with applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—

"(A) bring petitions for stays, and petitions for corrective action, under section 1214 of this title; and

"(B) file a complaint or make recommendations for disciplinary action under section 1215 of this title;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213 of this title, disclosures of violations of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 of this title and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the jurisdiction of the Office of Special Counsel (as referred to in section 1216 of this title).

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may—

"(A) issue subpoenas requiring the attendance and presentation of testimony of witnesses, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.

"(3) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A) the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.

"(5) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Office of Special Counsel, and represent the Office, in any civil action brought in connection with any function carried out by the Office pursuant to this title or as otherwise authorized by law.

"(d)(1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2)(A) The Special Counsel may intervene in an action brought by an individual under section 1221 of this title or in an appeal brought by an employee under section 7701 of this title only with the consent of such individual or employee.

"(B) Notwithstanding the provisions of subparagraph (A), the Special Counsel may intervene as a matter of right if—

"(i) an employee bringing an action under section 7701 of this title or an individual bringing an action under section 1221 of this title, has been charged with conduct constituting a prohibited personnel practice as defined in section 2302(b) of this title; or

"(ii) the agency initiated the contested personnel action against the individual pursuant to a waiver by the Special Counsel under section 1214(e) of this title.

"(3)(A) The Special Counsel may obtain judicial review of any final order or decision of the Merit Systems Protection Board in which the Special Counsel was a party.

"(B) A petition for review under this paragraph shall be filed with such court, and within such time, as provided for under section 7703(b) of this title.

"(e)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(f) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.

"(g) The Special Counsel may not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).

"(h)(1) The Special Counsel may not respond to any inquiry or provide information concerning any person making an allegation under section 1214(a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

"(2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any personnel inquiry concerning any person described under paragraph (1) without the consent of such person.

"§1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

"(a) This section applies with respect to—

"(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

"(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

"(c)(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

"(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

"(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel.

"(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—

"(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

"(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsec-

tion (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

"(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the report of the agency under subsection (c)(1) of this section contains the information required under subsection (d) of this section.

"(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General.

"(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General together with a statement noting the failure of the head of the agency to file the required report.

"(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(1) the report shall not be transmitted to the complainant; and

"(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(g)(1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(3) If an individual does not consent to the transmission of information to the head of the agency under paragraph (2), the Special Counsel shall—

"(A) return any documents and other matter provided by the individual who made the disclosure; and

"(B) inform the individual of—

"(i) the reasons that the disclosure may not be further acted on under this chapter; and

"(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

"(h)(1) Subject to paragraph (2), the identity of any employee, former employee, or applicant for employment who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without the consent of the employee, former employee, or applicant, unless the Special Counsel determines that the disclosure of the identity of the employee, former employee, or applicant is necessary in order to carry out the functions of the Special Counsel.

"(2) The identity of any employee, former employee, or applicant for employment whose disclosure (as described in subsection (a)) is not further acted upon under subsection (g)(3), may not be disclosed without the consent of such employee, former employee, or applicant for employment, except where necessary for reasons of public health and safety or law enforcement.

"(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(k) The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies under subsection (c), together with reports by the heads of agencies under subsection (c)(1)(B) relating to such matters. The Special Counsel shall take steps to ensure that any such public list does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"§1214. Investigation of prohibited personnel practices; corrective action

"(a)(1)(A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—

"(i) the allegation has been received by the Special Counsel; and

"(ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.

"(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—

"(i) within 60 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;

"(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and

"(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.

"(2)(A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—

"(i) the termination of the investigation;

"(ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person; and

"(iii) the reasons for terminating the investigation.

"(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).

"(3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302(b)(8) from the Special Counsel and—

"(A) the Special Counsel notifies such employee, former employee, or applicant that an investigation concerning such employee, former employee, or applicant has been terminated; or

"(B) ninety days after seeking corrective action from the Special Counsel, such employee, former employee, or applicant has not been notified by the Special Counsel that the Special Counsel shall seek corrective action on behalf of such employee, former employee, or applicant.

"(4) If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.

"(5) In addition to any authority granted under paragraph (1), the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1)(A)(i) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 45 days if the Special Counsel

determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(ii) Any member of the Board requested by the Special Counsel to order a stay under clause (i) shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(iii) Unless denied under clause (ii), any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(B) The Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate.

"(C) The Board may allow any agency which is the subject of a stay to comment to the Board on any extension of stay proposed under subparagraph (B).

"(D) A stay may be terminated by the Board at any time, except that a stay may not be terminated by the Board—

"(i) on a motion of the Board or a motion of any agency, unless notice and opportunity for a hearing are first provided to the Special Counsel and the individual on whose behalf the stay was ordered; or

"(ii) on motion of the Special Counsel, unless notice and opportunity for a hearing are first provided to the individual on whose behalf the stay was ordered.

"(2)(A) If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken.

"(B) If the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

"(C) If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.

"(3)(A) Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—

"(i) oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and

"(ii) written comments by any individual who alleges to be the subject of the prohibited personnel practice.

"(4)(A) The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counsel has demonstrated that a prohibited personnel practice, as described under paragraphs (1) through (7), and (9) through (11) of section 2302(b) has occurred, exists, or is to be taken.

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the Special Counsel has demonstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against the individual. The Special Counsel may demonstrate that the disclosure was a factor in the personnel action by showing that—

"(I) the official taking the personnel action knew of the disclosure; and

"(II) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a factor in the personnel action.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrate by clear and convincing evidence that—

"(I) the personnel action involved is justified on a basis independent of the disclosure referred to in clause (i); and

"(II) the disclosure was not a material factor in the personnel action.

"(c)(1) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—

"(A) the alleged violation has been reported to the Attorney General; and

"(B) the Attorney General is pursuing an investigation, in which case the Special Counsel has discretion as to whether to proceed.

"(d) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (c), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and when the action will be completed.

"(e) During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"(f) Nothing in this section shall preclude an individual from seeking corrective action from the Board under section 1221.

"§1215. Disciplinary action

"(a)(1) Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—

"(A) committed a prohibited personnel practice,

"(B) violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or

"(C) knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel's determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.

"(2) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

"(A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;

"(B) be represented by an attorney or other representative;

"(C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;

"(D) have a transcript kept of any hearing under subparagraph (C); and

"(E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703(b).

"(5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter.

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the President for appropriate action in lieu of being presented under subsection (a).

"(c)(1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the Federal agency concerned.

"(2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

"§1216. Other matters within the jurisdiction of the Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection

(b), conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;

"(2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in paragraphs (4) and (5) of subsection (a), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"§1217. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, the Special Counsel or any employee of the Special Counsel designated by the Special Counsel, may transmit to the Congress on the request of any committee or subcommittee, thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§1218. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CASES INVOLVING PROHIBITED PERSONNEL PRACTICES

"§1221. Individual right of action

"(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), seek corrective action from the Merit Systems Protection Board.

"(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

"(c)(1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

"(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

"(3)(A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

"(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

"(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (b), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.

"(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

"(e)(1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant. The employee, former employee, or applicant for employment may demonstrate that the disclosure was a factor in the personnel action by showing that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a factor in the personnel action.

"(2) Corrective action under paragraph (1) shall not be ordered if the agency demonstrates by clear and convincing evidence that—

"(A) the personnel action involved is justified on a basis independent of the disclosure referred to in paragraph (1); and

"(B) the disclosure was not a material factor in the personnel action.

"(f) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.

"(g) If an employee, former employee, or applicant for employment is the prevailing party, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other costs incurred.

"(h)(1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of the Board under this section or section 1214 may obtain judicial review of the order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513(d) if, or to the extent that, a prohibited personnel practice as defined in section 2302(b)(8) is alleged.

"(j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.".

(b) CONFORMING AMENDMENT.—The analysis for part II of title 5 of the United States Code is amended by striking the item relating to chapter 12 and inserting the following:

"12. Merit Systems Protection Board, Office of Special Counsel, and Employee Right of Action .... 1201".

SEC. 4. JUDICIAL REVIEW.

Section 7703(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A petition to review a final order or final decision of the Board involving a prohibited personnel practice as described under section 2302(b)(8) of this title may be filed in the United States Court of Appeals for the Federal circuit or a United States court of appeals for the judicial circuit within which the petitioner resides.".

SEC. 5. REPRISALS.

(a) DISCLOSURE REPRISALS.—Section 2302 (b)(8) of title 5, United States Code, is amended—

(1) by inserting ", or threaten to take or fail to take," after "take or fail to take";

(2) by striking out "as a reprisal for" and inserting in lieu thereof "because of";

(3) in subparagraph (A) by striking out "a disclosure" and inserting in lieu thereof "any disclosure";

(4) in subparagraph (A)(ii) by inserting "gross" before "mismanagement";

(5) in subparagraph (B) by striking out "a disclosure" and inserting in lieu thereof "any disclosure"; and

(6) in subparagraph (B)(ii) by inserting "gross" before "mismanagement".

(b) APPEAL RIGHT REPRISALS.—Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

"(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A); or

"(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law.".

SEC. 6. PREFERENCE IN TRANSFERS FOR WHISTLEBLOWERS.

(a) In General.—Subchapter IV of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§3352. Preference in transfers for employees making certain disclosures

"(a) Subject to the provisions of subsections (d) and (e), in filling a position within any Executive agency, the head of such agency may give preference to any employee of such agency, or any other Executive agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer under subsection (b) if—

"(1) such employee is otherwise qualified for such position;

"(2) such employee is eligible for appointment to such position; and

"(3) the Merit Systems Protection Board makes a determination under the provisions of chapter 12 of this title that a prohibited personnel action described under section 2302(b)(8) of this title was taken against such employee.

"(b) An employee who meets the conditions described under subsections (a) (1), (2), and (3) may voluntarily apply for a transfer to a position, as described in subsection (a), within the Executive agency employing such employee or any other Executive agency.

"(c) If an employee applies for a transfer under the provisions of subsection (b) and the selecting official rejects such application, the selecting official shall provide the employee with a written notification of the reasons for the rejection within 30 days after receiving such application.

"(d) An employee whose application for transfer is rejected under the provisions of subsection (c) may request the head of such agency to review the rejection. Such request for review shall be submitted to the head of the agency within 30 days after the employee receives notification under subsection (c). Within 30 days after receiving a request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Merit Systems Protection Board.

"(e) The provisions of subsection (a) shall apply with regard to any employee—

"(1) for no more than 1 transfer;

"(2) for a transfer from or within the agency such employee is employed at the time of a determination by the Merit Systems Protection Board that a prohibited personnel action as described under section 2302(b)(8) of this title was taken against such employee; and

"(3) no later than 18 months after such a determination is made by the Merit Systems Protection Board.

"(f) Notwithstanding the provisions of subsection (a), no preference may be given to any employee applying for a transfer under subsection (b), with respect to a preference eligible (as defined under section 2108(3) of this title) applying for the same position.".

(b) Technical Amendment.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3351 the following:

"3352. Preference in transfers for employees making certain disclosures.".

SEC. 7. INTERIM RELIEF.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (1) of subsection (b); and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

"(i) the deciding official determines that the granting of such relief is not appropriate; or

"(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

"(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

"(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review under subsection (e).

"(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.".

SEC. 8. AVAILABILITY OF OTHER REMEDIES.

No provision of this Act or any amendment to chapter 12 of title 5, United States Code, made under section 3 of this Act may be construed to limit any right or remedy available to any person based on law other than the provisions of this Act or such amendment.

SEC. 9. SAVINGS PROVISIONS.

(a) Orders, Rules, and Regulations.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

(b) Administrative Proceedings.—No provision of this Act shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

(c) Suits and Other Proceedings.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978; TRANSFER OF FUNDS.

(a) Authorization of Appropriations.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1989, 1990, 1991, 1992, and 1993, $20,000,000 to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

(2) for each of fiscal years 1989, 1990, and 1991, $5,000,000 to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

(b) Restriction Relating to Appropriations Under the Civil Service Reform Act of 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note).

(c) Transfer of Funds.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a)(1) Section 2303(c) of title 5, United States Code, is amended by striking "the provisions of section 1206" and inserting "applicable provisions of sections 1214 and 1221".

(2) Sections 7502, 7512(E), 7521(b)(C), and 7542 of title 5, United States Code, are amended by striking "1206" and inserting "1215".

(3) Section 1109(a) of the Foreign Service Act of 1980 (22 U.S.C. 4139(a)) is amended by striking "1206" and inserting "1214 or 1221".

(b) Section 3393(g) of title 5, United States Code, is amended by striking "1207" and inserting "1215".

SEC. 12. BOARD RESPONDENT.

Section 7703(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) The Board shall be named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision on the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.".

SEC. 13. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days following the date of enactment of this Act.

AMENDMENT NO. 2786

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE] for Mr. STEVENS proposes an amendment numbered 2786.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 88 strike line 10 through line 24.

On page 89, line 1, strike "Sec. 5.", and insert in lieu thereof "Sec. 4.".

On page 90, line 8, strike "Sec. 6.", and insert in lieu thereof "Sec. 5.".

On page 92, line 20, strike "Sec. 7.", and insert in lieu thereof "Sec. 6.".

On page 94, line 7, strike "Sec. 8.", and insert in lieu thereof "Sec. 7.".

On page 94, line 13, strike "Sec. 9.", and insert in lieu thereof "Sec. 8.".

On page 95, line 8, strike "Sec. 10.", and insert in lieu thereof "Sec. 9.".

On page 96, line 12, strike "Sec. 11.", and insert in lieu thereof "Sec. 10.".

On page 97, line 1, strike "Sec. 12.", and insert in lieu thereof "Sec. 11.".

On page 97, line 11, strike "Sec. 13.", and insert in lieu thereof "Sec. 12.".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator form Alaska.

The amendment (no. 2786) was agreed to.

Mr. LEVIN. Mr. President, I am pleased that the Senate is about to approve S. 508, the Whistleblower Protection Act of 1988. S. 508 is an urgently needed measure that would substantially enhance the procedural protections available to Federal employees who "blow the whistle" on waste and fraud in Federal programs.

Whistleblowers can serve as an important check on fraud, waste, and abuse by identifying potential problems and abuses at an early stage. It is worth noting, for example, that the current defense procurement fraud scandal was reportedly first brought to the attention of investigators by a whistleblower—in this case, a former Federal employee. All too frequently, however, Federal employee whistleblowers appear to have been punished, rather than rewarded, for their efforts to save the taxpayers' money.

Congress recognized its responsibility to protect whistleblowers in 1978 by passing the Civil Service Reform Act, which created the Office of Special Counsel and the Merit Systems Protection Board to investigate and handle hearings and appeals involving retaliation for whistleblowing by Federal employees and other prohibited personnel practices.

Since 1978, however, it has become clear that the Civil Service Reform Act did not go far enough in its protection for whistleblowers. Despite the enactment of this bill, two separate surveys in 1980 and 1983 found that an astronishing 70 percent of the Federal employees with knowledge of fraud, waste, and abuse did not report it. These same two surveys also revealed that the percentage of employees who did not report Government wrongdoing because of fear of reprisal rose dramactically from 20 percent in 1980 to 37 percent in 1983. These statistics are a clear sign that the system has not worked as intended and needs to be improved.

The administration itself agrees that improvements is needed. While we continue to have some differences on a few specific provisions, representatives of the Office of Special Counsel, the Merit Systems Protection Board, the Office of Management and Budget, and the Justice Department have spent many hours working with us on this bill to make it a strong yet reasonable proposal. These agencies have made many constructive comments, the vast majority of which have been incorporated into the bill that is before us today.

I would like to thank Senator PRYOR and Senator STEVENS, the chairman and ranking minority member of the Subcommittee on Federal Services, Post Office, and Civil Service, for their contributions to this bill. Senators PRYOR and STEVENS held 2 days of hearings on S. 508 last July and were of great assistance in moving the bill expenditously through their subcommittee and through the full Governmental Affairs Committee.

I would also like to thank Tom Devine and the Government Accountablity project, who have worked tirelessly to provide us with an important perspective on the bill's major provisions in light of real world problems faced by whistleblowers.

As a result of the many contributions of these individuals and agencies, S. 508 is a stronger and better bill today than it was when I first introduced it 1½ years ago.

S. 508, as amended, would make a number of important improvements over current law.

First, the bill would establish the Office of Special Counsel [OSC] as an independent agency; it states that the primary purpose of the OSC is "to protect employees, especially whistleblowers." The bill would further clarify that OSC is supposed to act "in the interests of employees who seek assistance from the [OSC] and not contrary to such interests." As the committee report explains, this provision is not intended to create an attorney-client relationship between the OSC and an employee, but rather to serve as guidance to the OSC and as a basis for interpreting specific protections outlined elsewhere in the bill.

Second, the bill would permit whistleblowers to take their own cases directly to the Merit Systems Protection Board [MSPB] if the OSC fails to act on their complaint within 90 days. Such employees would have the right to request the MSPB to issue a stay of the personnel action which they allege to be retaliatory.

Third, the bill would improve the ability of whistleblowers to prove cases of reprisal in two ways:

The bill would create an express statutory presumption that the prima facie burden of proof of retaliation is met in a whistleblowing case when the employee can establish that the official taking the personnel action knew of the disclosure and that the action occurred within a period of time such that a reasonable person could conclude that the disclosure was a factor. This presumption is not intended as the exclusive way that retaliation may be proven and is not intended to preclude whistleblowers from taking advantage of any other methods of proof—such as proof by other circumstantial evidence, such as constructive knowledge—that may be available under existing law.

The bill would relax the standard of proof of retaliation established in the case of Mount Healthy City Board of Education versus Doyle. In particular, the bill specifies that a whistleblower may make out a prima facie case of reprisal by showing that the whistleblowing was a factor in the personnel action. The agency can overcome this showing by demonstrating by "clear and convincing evidence" that the whistleblowing was not a "material factor" in the action. A "material factor," as used in the statute, means any factor which, alone or in connection with other factors, tended to affect the outcome of the decision.

Fourth, the bill would clarify that any disclosure of information which evidences gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety is protected. This provision is intended to preclude the Board from considering such factors as whether the employee was the first person to make the disclosure, whether the disclosure was made to someone other than the responsible agency official, what the motives of the employee may have been in making the disclosure, or other similar factors, in determining whether a disclosure is protected.

Finally, the bill would ensure that employees seeking the assistance of the OSC are kept informed of the status of their cases, are assured of confidentiality in their communications with OSC, and are protected from any use in any other proceeding of a decision by OSC to terminate an investigation.

Senator STEVENS will be offering an amendment to the venue provision of S. 508, which we are prepared to accept. Currently, whistleblowers are permitted to appeal decisions of the Merit Systems Protection Board only to the court of appeals for the Federal circuit. The venue provision of S. 508 would have offered a whistleblower the choice of appealing MSPB decisions either to the Federal circuit or to the court of appeals for the judicial circuit in which the whistleblower resides. The primary purpose of the committee's provision was to offer whistleblowers an opportunity to appeal to their local courts of appeals, as petitioners in other kinds of cases are permitted to do.

Senator STEVENS has pointed out, however, that the Federal circuit court of appeals was created for the express purpose of creating a single court with with jurisdiction and expertise in several specialized areas of the law, including Federal personnel law. Because the venue provision of S. 508 might undermine this goal, we agree to Senator STEVENS' amendment deleting the provision.

Mr. President, this bill provides substantial improvements in the laws protecting Federal employee whistleblowers, and I am pleased that it has achieved broad bipartisan support. Protecting whistleblowers is one of the simplest and one of the most effective means available to us to reduce the cost of and improve the functioning of our Federal Government. If we are going to achieve a more honest and efficient government, it is essential that we increase the confidence of Federal employees that their Government will respond in an ethical and responsible manner whenever they disclose wrongdoing.

Mr. GLENN. Mr. President, the Committee on Governmental Affairs recommends Senate passage of the Whistleblower Protection Act of 1988, a bill to strengthen the protections available to Federal employees who "blow the whistle" on waste and fraud in Federal programs and enhance the role of the Office of Special Counsel in protecting those Federal employees.

I want to commend Senator LEVIN, chairman of the Subcommittee on Oversight of Government Management, who introduced S. 508 at the beginning of this Congress and has since worked tirelessly with the administration and other Senators to accommodate their concerns and improve the bill. Senator PRYOR, as chairman of the Subcommittee on Federal Services, Post Office and Civil Service, to which S. 508 was referred, also is to be commended for his work in holding excellent hearings on whistleblower issues.

The Office of Special Counsel was created in 1978 as part of the Merit System Protection Board [MSPB] to investigate prohibited personnel practices and when appropriate, seek corrective action on behalf of the wronged employee before the Board. Unfortunately, for most of its existence, the office has been severely criticized for failing to meet its congressional mandate. Indeed, in 1984, the MSPB estimated that 70 percent of Government waste and illegality goes unreported, in part because those Federal employees who personally observe it fear reprisal if they do report.

In order to encourage Federal workers to continue to report waste and fraud, and thereby save taxpayer money, we need to send a signal that the system will treat them fairly. S. 508 addresses this problem by establishing the office as an independent agency and by clarifying in civil service law that its primary purpose is to protect employees, especially whistleblowers.

S. 508 also amends present civil service law to simplify the burden on the employee to show reprisal for whistleblowing and to establish that any personnel action against an alleged whistleblower must be justified by reasons other than the disclosure of waste and fraud. As Senator LEVIN stated at the time he introduced S. 508, while we do not want employees who are poor performers to escape sanction by manufacturing a claim of whistleblowing, we also do not want to discourage whistleblowers by allowing agencies to use any possible flaw in an employee's work background as an excuse for retaliation. The elements of proof proposed in the bill strike an appropriate balance between ensuring management discretion and protecting employee's rights.

I urge my colleagues to give this bill their full support.

Mr. PRYOR. Mr. President, today we are considering S. 508, the Whistleblower Protection Act of 1988. I want to thank Senator LEVIN for his tireless work on this issue and for developing this important legislation. This bill addresses many of the problems which were discussed at the 2 days of hearings held by the Federal Services Subcommittee last July.

We heard from four whistleblowers who had dealings with the Office of Special Counsel, the agency created by Congress to protect and assist them. Each witness had a horror story to tell about their experiences with the OSC. I can assure you that there were no kind words for the treatment they received. The subcommittee continues to receive information from whistleblowers about their dealings with the Office of Special Counsel, and while I am sure that not all whistleblowers receive poor treatment, I am dismayed by the fact that these Federal employees are still not able to fully rely on the Office of Special Counsel for assistance.

I believe S. 508 contains some substantial improvements in the protections available to whistleblowers. This legislation gives the Office of the Special Counsel the opportunity to increase its vigilance in defense of whistleblowers and to vigorously prosecute managers who retaliate against them. However, this opportunity will only go as far as the current and future special counsels will take it. Congress expects that implementation of this measure will be consonant with its spirit.

The bill makes significant changes to current law. It replaces the Mount Healthy test with a standard that will ensure that blowing the whistle cannot be used as a reason for taking an adverse personnel action against an employee. This change is essential to ensure that fraud, waste, and abuse in the Government does not go unreported because of employees' fear of retaliation.

S. 508 contains a provision that will provide interim relief to those whistleblowers who receive a favorable decision at the Merit Systems Protection Board regional level. This ensures that an employee will not suffer undue hardship waiting for a final decision from the MSPB. The bill also includes a transfer preference for whistleblowers to help them change jobs if their relationship with management deteriorates because of their whistleblowing activity. This preference will only apply to whistleblowers who win at the Merit Systems Protection Board.

Senator LEVIN and I have worked with the administration regarding many of their concerns about this legislation. We were able to make significant progress toward addressing their concerns and included many of their suggestions in the subcommittee substitute which was approved by the Governmental Affairs Committee.

I urge my colleagues to support this legislation and ensure that we do all we can to encourage good management practices in the Federal Government.

Mr. ROTH. Mr. President, I rise today to express my support for S. 508, the Whistleblower Protection Act of 1987. I believe that in light of the ongoing criminal investigation into the procurement process at the Defense Department and the historic problem of waste and fraud in Government, that a stronger Whistleblower Protection Act is needed to help to alleviate these very serious problems.

Passage of the bill would strengthen the procedural protections available to Federal employees who "blow the whistle" on waste and fraud in Federal programs. During my over 20 years of service in Congress, I have learned first hand, that the problem of waste and fraud in Government is widespread and pervasive. The Whistleblower Protection Act is needed to reduce unnecessary and wasteful Government spending by encouraging and protecting Federal employees who report waste, fraud, and abuse. Many Federal employees are reluctant to report wrongdoing for the fear of reprisal. I believe that in order to have an effective whistleblower law we must be able to encourage and protect those employees who decide to "blow the whistle" on waste and fraud in Government. I believe that this bill goes a long way toward accomplishing that goal.

Passage of this bill would protect Federal employess who report waste, fraud, and abuse by enhancing the role of the Office of Special Counsel in protecting the employee by making this office an independent agency, separate from the Merit System Protection Board. The bill also clarifies the purpose of the OSC by establishing that it's primary role is to protect employees especially whistleblowers. The bill adds an important additional right for an employees to pursue a claim independent of the OSC.

Passage of this bill is urgently needed to restore the faith of conscientious Federal employees in the fairness and integrity of our Federal service. Additionally, I believe that the act will go a long way toward helping to eliminate the massive and perplexing problem of Government waste and fraud. A central component to eliminating waste is the ability of our Federal worker to exercise his civic duty and report any wrongdoing that the he experiences in the workplace. But we are fooling ourselves if we believe that this can occur without having adequate protection in place that will protect those employees who risk their jobs and career to expose the problems of waste, and fraud in Government.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 508), as amended, was passed as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to provide whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) protection from reprisal.

(b) PURPOSES.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

(2) establishing—

(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel and not contrary to such interests; and

(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish these goals, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; OFFICE OF SPECIAL COUNSEL; EMPLOYEE RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"Sec. 1201. Appointment of members of the Merit Systems Protection Board.
"Sec. 1202. Term of office; filling vacancies; removal.
"Sec. 1203. Chairman; Vice Chairman.
"Sec. 1204. Powers and functions of the Merit Systems Protection Board.
"Sec. 1205. Transmittal of information to Congress.
"Sec. 1206. Annual report.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"Sec. 1211. Establishment.
"Sec. 1212. Powers and functions of the Office of Special Counsel.
"Sec. 1213. Provisions relating to disclosures of violations of law, mismanagement, and certain other matters.
"Sec. 1214. Investigation of prohibited personnel practices; corrective action.
"Sec. 1215. Disciplinary action.
"Sec. 1216. Other matters within the jurisdiction of the Office of Special Counsel.
"Sec. 1217. Transmittal of information to Congress.
"Sec. 1218. Annual report.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CASES INVOLVING PROHIBITED PERSONNEL PRACTICES

"Sec. 1221. Individual right of action.

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"§ 1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office; filling vacancies; removal

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of the member's predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than 1 year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and the Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

"§ 1204. Powers and functions of the Merit Systems Protection Board

"(a) The Merit Systems Protection Board shall—

"(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

"(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—

"(A) issue subpoenas requiring the attendance and presentation of testimony of witnesses, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.

"(3) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) In the case of contumacy or failure to obey a subpoena issued under subsection (b)(2)(A), the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.

"(e)(1) In any proceeding under subsection (a)(1), any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(2)(A) In enforcing compliance with any order under subsection (a)(2), the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued, and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(B) The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A).

"(3) In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed.

"(f)(1) At any time after the effective date of any rule or regulation issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection, the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302(b) of this title; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302(b) of this title.

"(3) The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(4) The Board shall require any agency—

"(A) to cease compliance with any provisions of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(B) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.

"(g) The Board may delegate any of the administrative responsibilities of the Board under this title to any employee of the Board.

"(h) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.

"(i) Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

"(j) The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(k) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

"(l) The Board shall submit to the President, and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

"§ 1205. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"§ 1206. Annual report

"The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"§ 1211. Establishment

"(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.

"(b) The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.

"§ 1212. Powers and functions of the Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) in accordance with applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—

"(A) bring petitions for stays, and petitions for corrective action, under section 1214 of this title; and

"(B) file a complaint or make recommendations for disciplinary action under section 1215 of this title;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213 of this title, disclosures of violations of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 of this title and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the jurisdiction of the Office of Special Counsel (as referred to in section 1216 of this title).

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may—

"(A) issue subpoenas requiring the attendance and presentation of testimony of witnesses, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.

"(3) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A) the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.

"(5) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Office of Special Counsel, and represent the Office, in any civil action brought in connection with any function carried out by the Office pursuant to this title or as otherwise authorized by law.

"(d)(1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2)(A) The Special Counsel may intervene in an action brought by an individual under section 1221 of this title or in an appeal brought by an employee under section 7701 of this title only with the consent of such individual or employee.

"(B) Notwithstanding the provisions of subparagraph (A), the Special Counsel may intervene as a matter of right if—

"(i) an employee bringing an action under section 7701 of this title or an individual bringing an action under section 1221 of this title, has been charged with conduct constituting a prohibited personnel practice as defined in section 2302(b) of this title; or

"(ii) the agency initiated the contested personnel action against the individual pursuant to a waiver by the Special Counsel under section 1214(e) of this title.

"(3)(A) The Special Counsel may obtain judicial review of any final order or decision of the Merit Systems Protection Board in which the Special Counsel was a party.

"(B) A petition for review under this paragraph shall be filed with such court, and within such time, as provided for under section 7703(b) of this title.

"(e)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(f) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.

"(g) The Special Counsel may not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).

"(h)(1) The Special Counsel may not respond to any inquiry or provide information concerning any person making an allegation under section 1214(a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

"(2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any personnel inquiry concerning any person described under paragraph (1) without the consent of such person.

"§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

"(a) This section applies with respect to—

"(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

"(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

"(c)(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

"(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

"(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel.

"(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—

"(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

"(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsection (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

"(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the report of the agency under subsection (c)(1) of this section contains the information required under subsection (d) of this section.

"(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General.

"(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General together with a statement noting the failure of the head of the agency to file the required report.

"(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(1) the report shall not be transmitted to the complainant; and

"(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(g)(1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(3) If an individual does not consent to the transmission of information to the head of the agency under paragraph (2), the Special Counsel shall—

"(A) return any documents and other matter provided by the individual who made the disclosure; and

"(B) inform the individual of—

"(i) the reasons that the disclosure may not be further acted on under this chapter; and

"(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

"(h)(1) Subject to paragraph (2), the identity of any employee, former employee, or applicant for employment who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without the consent of the employee, former employee, or applicant, unless the Special Counsel determines that the disclosure of the identity of the employee, former employee, or applicant is necessary in order to carry out the functions of the Special Counsel.

"(2) The identity of any employee, former employee, or applicant for employment whose disclosure (as described in subsection (a)) is not further acted upon under subsection (g)(3), may not be disclosed without the consent of such employee, former employee, or applicant for employment, except where necessary for reasons of public health and safety or law enforcement.

"(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(k) The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies under subsection (c), together with reports by the heads of agencies under subsection (c)(1)(B) relating to such matters. The Special Counsel shall take steps to ensure that any such public list does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"§ 1214. Investigation of prohibited personnel practices; corrective action

"(a)(1)(A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—

"(i) the allegation has been received by the Special Counsel; and

"(ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.

"(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—

"(i) within 60 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;

"(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and

"(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.

"(2)(A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—

"(i) the termination of the investigation;

"(ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person; and

"(iii) the reasons for terminating the investigation.

"(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).

"(3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302(b)(8) from the Special Counsel and—

"(A) the Special Counsel notifies such employee, former employee, or applicant that an investigation concerning such employee, former employee, or applicant has been terminated; or

"(B) ninety days after seeking corrective action from the Special Counsel, such employee, former employee, or applicant has not been notified by the Special Counsel that the Special Counsel shall seek corrective action on behalf of such employee, former employee, or applicant.

"(4) If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.

"(5) In addition to any authority granted under paragraph (1), the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1)(A)(i) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 45 days if the Special

Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(ii) Any member of the Board requested by the Special Counsel to order a stay under clause (i) shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(iii) Unless denied under clause (ii), any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(B) The Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate.

"(C) The Board may allow any agency which is the subject of a stay to comment to the Board on any extension of stay proposed under subparagraph (B).

"(D) A stay may be terminated by the Board at any time, except that a stay may not be terminated by the Board—

"(i) on a motion of the Board or a motion of any agency, unless notice and opportunity for a hearing are first provided to the Special Counsel and the individual on whose behalf the stay was ordered; or

"(ii) on motion of the Special Counsel, unless notice and opportunity for a hearing are first provided to the individual on whose behalf the stay was ordered.

"(2)(A) If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken.

"(B) If the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

"(C) If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.

"(3)(A) Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—

"(i) oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and

"(ii) written comments by any individual who alleges to be the subject of the prohibited personnel practice.

"(4)(A) The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counsel has demonstrated that a prohibited personnel practice, as described under paragraphs (1) through (7), and (9) through (11) of section 2302(b) has occurred, exists, or is to be taken.

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the Special Counsel has demonstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against the individual. The Special Counsel may demonstrate that the disclosure was a factor in the personnel action by showing that—

"(I) the official taking the personnel action knew of the disclosure; and

"(II) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a factor in the personnel action.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrate by clear and convincing evidence that—

"(I) the personnel action involved is justified on a basis independent of the disclosure referred to in clause (i); and

"(II) the disclosure was not a material factor in the personnel action.

"(c)(1) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—

"(A) the alleged violation has been reported to the Attorney General; and

"(B) the Attorney General is pursuing an investigation, in which case the Special Counsel has discretion as to whether to proceed.

"(d) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (c), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and when the action will be completed.

"(e) During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"(f) Nothing in this section shall preclude an individual from seeking corrective action from the Board under section 1221.

"§ 1215. Disciplinary action

"(a)(1) Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—

"(A) committed a prohibited personnel practice,

"(B) violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or

"(C) knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel's determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.

"(2) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

"(A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;

"(B) be represented by an attorney or other representative;

"(C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;

"(D) have a transcript kept of any hearing under subparagraph (C); and

"(E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703(b).

"(5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter.

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the President for appropriate action in lieu of being presented under subsection (a).

"(c)(1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the Federal agency concerned.

"(2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

"§ 1216. Other matters within the jurisdiction of the Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection (b), conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;

"(2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in paragraphs (4) and (5) of subsection (a), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"§ 1217. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, the Special Counsel or any employee of the Special Counsel designated by the Special Counsel, may transmit to the Congress on the request of any committee or subcommittee, thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§ 1218. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CASES INVOLVING PROHIBITED PERSONNEL PRACTICES

"§ 1221. Individual right of action

"(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), seek corrective action from the Merit Systems Protection Board.

"(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

"(c)(1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

"(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

"(3)(A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

"(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

"(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (b), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.

"(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

"(e)(1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant. The employee, former employee, or applicant for employment may demonstrate that the disclosure was a factor in the personnel action by showing that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a factor in the personnel action.

"(2) Corrective action under paragraph (1) shall not be ordered if the agency demonstrates by clear and convincing evidence that—

"(A) the personnel action involved is justified on a basis independent of the disclosure referred to in paragraph (1); and

"(B) the disclosure was not a material factor in the personnel action.

"(f) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.

"(g) If an employee, former employee, or applicant for employment is the prevailing party, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other costs incurred.

"(h)(1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of the Board under this section or section 1214 may obtain judicial review of the order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513(d) if, or to the extent that, a prohibited personnel practice as defined in section 2302(b)(8) is alleged.

"(j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.".

(b) CONFORMING AMENDMENT.—The analysis for part II of title 5 of the United States Code is amended by striking the item relating to chapter 12 and inserting the following:

"12. Merit Systems Protection Board, Office of Special Counsel, and Employee Right of Action........................ 1201".

SEC. 4. REPRISALS.

(a) DISCLOSURE REPRISALS.—Section 2302 (b)(8) of title 5, United States Code, is amended—

(1) by inserting ", or threaten to take or fail to take," after "take or fail to take";

(2) by striking out "as a reprisal for" and inserting in lieu thereof "because of";

(3) in subparagraph (A) by striking out "a disclosure" and inserting in lieu thereof "any disclosure";

(4) in subparagraph (A)(ii) by inserting "gross" before "mismanagement";

(5) in subparagraph (B) by striking out "a disclosure" and inserting in lieu thereof "any disclosure"; and

(6) in subparagraph (B)(ii) by inserting "gross" before "mismanagement".

(b) APPEAL RIGHT REPRISALS.—Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

"(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A); or

"(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law.".

SEC. 5. PREFERENCE IN TRANSFERS FOR WHISTLEBLOWERS.

(a) IN GENERAL.—Subchapter IV of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3352. Preference in transfers for employees making certain disclosures

"(a) Subject to the provisions of subsections (d) and (e), in filling a position within any Executive agency, the head of such agency may give preference to any employee of such agency, or any other Executive agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer under subsection (b) if—

"(1) such employee is otherwise qualified for such position;

"(2) such employee is eligible for appointment to such position; and

"(3) the Merit Systems Protection Board makes a determination under the provisions of chapter 12 of this title that a prohibited personnel action described under section 2302(b)(8) of this title was taken against such employee.

"(b) An employee who meets the conditions described under subsection (a)(1), (2), and (3) may voluntarily apply for a transfer to a position, as described in subsection (a), within the Executive agency employing such employee or any other Executive agency.

"(c) If an employee applies for a transfer under the provisions of subsection (b) and the selecting official rejects such application, the selecting official shall provide the employee with a written notification of the reasons for the rejection within 30 days after receiving such application.

"(d) An employee whose application for transfer is rejected under the provisions of subsection (c) may request the head of such agency to review the rejection. Such request for review shall be submitted to the head of the agency within 30 days after the employee receives notification under subsection (c). Within 30 days after receiving a request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Merit Systems Protection Board.

"(e) The provisions of subsection (a) shall apply with regard to any employee—

"(1) for no more than 1 transfer;

"(2) for a transfer from or within the agency such employee is employed at the time of a determination by the Merit Systems Protection Board that a prohibited personnel action as described under section 2302(b)(8) of this title was taken against such employee; and

"(3) no later than 18 months after such a determination is made by the Merit Systems Protection Board.

"(f) Notwithstanding the provisions of subsection (a), no preference may be given to any employee applying for a transfer under subsection (b), with respect to a preference eligible (as defined under section 2108(3) of this title) applying for the same position.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3351 the following:

"3352. Preference in transfers for employees making certain disclosures.".

SEC. 6. INTERIM RELIEF.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (1) of subsection (b); and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

"(i) the deciding official determines that the granting of such relief is not appropriate; or

"(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

"(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

"(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review under subsection (e).

"(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.".

SEC. 7. AVAILABILITY OF OTHER REMEDIES.

No provision of this Act or any amendment to chapter 12 of title 5, United States Code, made under section 3 of this Act may be construed to limit any right or remedy available to any person based on law other than the provisions of this Act or such amendment.

SEC. 8. SAVINGS PROVISIONS.

(a) ORDERS, RULES, AND REGULATIONS.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

(b) ADMINISTRATIVE PROCEEDINGS.—No provision of this Act shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

(c) SUITS AND OTHER PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978; TRANSFER OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1989, 1990, 1991, 1992, and 1993, $20,000,000 to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

(2) for each of fiscal years 1989, 1990, and 1991, $5,000,000 to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note).

(c) TRANSFER OF FUNDS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a)(1) Section 2303(c) of title 5, United States Code, is amended by striking "the provisions of section 1206" and inserting "applicable provisions of sections 1214 and 1221".

(2) Sections 7502, 7512(E), 7521(b)(C), and 7542 of title 5, United States Code, are amended by striking "1206" and inserting "1215".

(3) Section 1109(a) of the Foreign Service Act of 1980 (22 U.S.C. 4139(a)) is amended by striking "1206" and inserting "1214 or 1221".

(b) Section 3393(g) of title 5, United States Code, is amended by striking "1207" and inserting "1215".

SEC. 11. BOARD RESPONDENT.

Section 7703(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) The Board shall be named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision on the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.".

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days following the date of enactment of this Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill as amended was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDENTIAL TRANSITIONS EFFECTIVENESS ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3932.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives.

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3932) entitled "An Act to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Presidential Transitions Effectiveness Act".

SEC. 2. PRESIDENTIAL TRANSITION AUTHORIZATIONS.

(a) AMENDMENTS.—Section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102, note) is amended—

(1) by redesignating such section as section 6;

(2) by inserting before such section the following heading:

"AUTHORIZATION OF APPROPRIATIONS";

(3) by inserting "(a)" after the section designation;

(4) in paragraph (1), by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000";

(5) in paragraph (2), by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000";

(6) in paragraph (2), by inserting before the period at the end thereof the following: ", except that any amount appropriated pursuant to this paragraph in excess of $1,250,000 shall be returned to the general funds of the Treasury in the case where the former Vice-President is the incumbent President"; and

(7) by adding at the end thereof the following new subsection:

"(b) The amounts authorized to be appropriated under subsection (a) shall be increased by an inflation adjusted amount, based on increases in the cost of transition services and expenses which have occurred in the years following the most recent Presidential transition, and shall be included in the proposed appropriation transmitted by the President under the last sentence of subsection (a).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall be effective upon enactment, except that the amendment made by paragraph (7) of such subsection shall take effect on October 1, 1989.

SEC. 3. PRESIDENTIAL TRANSITION FINANCING AND PERSONNEL.

The Presidential Transition Act of 1963 (3 U.S.C. 102, note) is further amended by inserting after section 4 the following new section:

"DISCLOSURES OF FINANCING AND PERSONNEL; LIMITATION ON ACCEPTANCE OF DONATIONS

"SEC. 5. (a)(1) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all money, other than funds from the Federal Government, and including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand, received either before or after the date of the general elections for use in the preparation of the President-elect or Vice-President-elect for the assumption of official duties as President or Vice President.

"(2) The President-elect and Vice-President-elect (as a condition for receiving such services and funds) shall make available to the Administrator and the Comptroller General all information concerning such contributions as the Administrator or Comptroller General may require for purposes of auditing both the public and private funding used in the activities authorized by this Act.

"(3) Disclosures made under paragraph (1) shall be—

"(A) in the form of a report to the Administrator within 30 days after the inauguration of the President-elect as President and the Vice-President-elect as Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"(b)(1) The President-elect and Vice-President-elect (as a condition for receiving services provided under section 3 and funds provided under section 6(a)(1)) shall make available to the public—

"(A) the names and most recent employment of all transition personnel (full-time or part-time, public or private, or volunteer) who are members of the President-elect or Vice-President-elect's Federal department or agency transition teams; and

"(B) information regarding the sources of funding which support the transition activities of each transition team member.

"(2) Disclosures under paragraph (1) shall be made public before the initial transition team contact with a Federal department or agency and shall be updated as necessary.

"(c) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall not accept more than $5,000 from any person, organization, or other entity for purposes of carrying out activities authorized by this Act.".

SEC. 4. LIMITATION ON EXPENDITURES OF CERTAIN FUNDS.

(a) USE OF AIRCRAFT.—Section 3(a)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by inserting "(A)" after "(4)";

(2) by adding at the end thereof the following new subparagraph:

"(B) When requested by the President-elect or Vice-President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, the Vice-President-elect, or the designee of the President-elect or Vice-President-elect, aircraft may be chartered for transition purposes; and any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under section 6 of this Act;".

(b) DURATION OF EXPENDITURES.—Section 3(b) of the Presidential Transition Act of 1963 is amended to read as follows:

"(b) The Administrator may not expend funds for the provision of services and facilities under section 3 of this Act in connection with any obligations incurred by the President-elect or Vice-President-elect—

"(1) before the day following the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code; or

"(2) after 30 days after the date of the inauguration of the President-elect as President and the inauguration of the Vice President-elect as Vice-President.".

(c) COMMENCEMENT OF EXPENDITURES.—Section 4 of the Presidential Transition Act of 1963 is amended by striking out "six months from the date of the expiration" and inserting "seven months from 30 days before the date of the expiration".

SEC. 5. DISCLOSURE OF IN-KIND CONTRIBUTIONS TO 1988–1989 TRANSITION.

(a) DISCLOSURE AS CONDITION OF RECEIPT OF FUNDS.—The President-elect and Vice President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) shall provide an estimate to the Administrator of General Services of the aggregate value of in-kind contributions made during the period beginning on November 9, 1988, through January 20, 1989, received for transition activities for—

(1) transportation;

(2) hotel and other accommodations;

(3) suitable office space; and

(4) furniture, furnishings, office machines and equipment, and office supplies.

(b) FORM AND AVAILABILITY OF ESTIMATES.—The estimates made under subsection (a) shall be—

(1) in the form of a report to the Administrator of General Services within 90 days after January 20, 1989; and

(2) made available to the public by the Administrator upon receipt by the Administrator.

SEC. 6. TRAVEL AND TRANSPORTATION EXPENSES.

Section 5723 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out "or (B)" and inserting "or (C)";

(2) in subsection (a), by adding at the end thereof: "In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee."; and

(3) in subsection (c), by adding at the end thereof the following: "In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.".

SEC. 7. EXECUTIVE AGENCY VACANCIES.

(a) APPLICATION OF VACANCY PROVISIONS TO EXECUTIVE AGENCIES.—(1) Section 3345 of title 5, United States Code, is amended by striking out "Executive department" and inserting in lieu thereof "Executive agency (other than the General Accounting Office)".

(2) The heading for section 3345 of title 5, United States Code, is amended to read as follows:

"§3345. Details; to office of head of Executive agency or military department".

(3) The table of section headings for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3345 to read as follows:

"3345. Details; to office of head of Executive agency or military department.".

(b) EXTENSION OF TIME FOR INTERIM SERVICE.—Section 3348 of title 5, United States Code, is amended to read as follows:

"§3348. Details; limited in time

"(a) A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 120 days, except that—

"(1) if a first or second nomination to fill such vacancy has been submitted to the Senate, the position may be filled temporarily under section 3345, 3346, or 3347 of this title—

"(A) until the Senate confirms the nomination; or

"(B) until 120 days after the date on which either the Senate rejects the nomination or the nomination is withdrawn; or

"(2) if the vacancy occurs during an adjournment of the Congress sine die, the position may be filled temporarily until 120 days after the Congress next convenes, subject thereafter to the provisions of paragraph (1) of this subsection.

"(b) Any person filling a vacancy temporarily under section 3345, 3346, or 3347 of this title whose nomination to fill such vacancy has been submitted to the Senate may not serve after the end of the 120-day period referred to in paragraph (1)(B) or (2) of subsection (a) of this section, if the nomination of such person is rejected by the Senate or is withdrawn.".

Mr. GLENN. Mr. President, I rise to support final passage of H.R. 3932, the Presidential Transitions Effectiveness Act. This legislation is critical for ensuring that the coming Presidential transition is as smooth as possible.

In brief, the final legislation makes the following changes in Presidential transitions:

First, funding for the incoming President is increased from $2 to $3.5 million. This funding is absolutely essential to keep pace with inflation. The $2 million Jimmy Carter received in 1976 is now worth less than $1.3 million.

Second, funding for the outgoing President is increased from $1 to $1.5 million, with the proviso that $250,000 of that funding be returned to the Treasury in the event the outgoing Vice President is elected President.

Third, future transition funding is to be increased by an inflator which reflect real cost increases in transition expenses.

Fourth, in return for public transition funding, the President-elect must disclose all private cash raised for pre- or post-election transition activities, including the source, amount, and associated expenditures. As a result, we will know both where the private cash is coming from and what the money is buying.

Fifth, the President-elect may not accept private cash contributions from any source which exceed $5,000 total pre- and/or post-election.

Sixth, the President-elect must disclose the names, most recent employment, and source(s) of funding support for all transition personnel. We will know both who is working in the transition and who is paying the way.

Seventh, for 1988 only, the President-elect must make an estimate of the aggregate value of all in-kind contributions in four categories: (1) transportation, (2) hotel and other accommodations, (3) office space, and (4) office equipment and supplies.

Eighth, the bill contains a provision which allows the General Services Administration to provide services such as office space, furniture, and office supplies for the outgoing President 30 days in advance of the end of the term. It is the committee's view that GSA use this and any other authorities to take such necessary and appropriate steps to be in a position to provide such services to the outgoing President by the date specified in the bill in order to ensure a smooth transition out of office.

Finally, the 1868 Vacancies Act is amended to limit all temporary appointments to executive branch vacancies to 120 days, unless a nomination has been submitted to the Senate. This provision clearly encourages the President to fill vacancies promptly.

Mr. President, this is a very good bill. By increasing the funding levels under the 1963 Presidential Transition Act, this legislation will clearly improve the 1988 transition. By closing a serious loophole in our campaign finance laws through which private cash may flow unregulated into transitions, the legislation will remove any appearance of potential conflicts of interest.

The bill reflects the hard work of a number of Members in both Houses of Congress, including Senators STEVENS and ROTH, as well as their staffs, particularly William Canfield and John Parisi. The bill has been approved by the House, and awaits our final action.

Mr. President, I urge the Senate to concur in the amendment of the House.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

THE KIDS VOTING PROGRAM IN ARIZONA

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 134.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 134) to urge States and the Federal Election Commission to evaluate the success of the Kids Voting Program in Arizona.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no resolution, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 134) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 134

Whereas, voter turnout in the United States has gone steadily down since 1876 until today;

Whereas, nearly 50 percent of eligible citizens do not vote in presidential elections, over 60 percent do not vote in congressional elections, and more than 70 percent do not vote in most local elections;

Whereas, 84 percent of young Americans between the ages of 18 and 24 did not vote in the 1986 election, and nonvoting—especially by our young people—undermines the validity of the election mandate and the future of our democratic process;

Whereas, in Costa Rica, Central America's oldest and most stable democracy, 80-90 percent of that country's voting age population regularly turns out for elections—which the former United States ambassador to Costa Rica has described as a "festival of democracy";

Whereas, for more than 40 years Costa Rican children have been permitted to accompany their parents and grandparents to the polls, and for a number of years children have been allowed to cast mock ballots at their schools, the results of this youth "election" being separately counted and publicized;

Whereas, observers credit the high voter turnout in Costa Rica elections in large part to this early exposure of youth to the electoral process, an experience which, they say, assures that democracy in Costa Rica will be safe come the day when these children are old enough for their votes to count;

Whereas, the State of Arizona this year is pioneering an exciting and promising pilot program in American democracy—the first of its kind in the Nation—by adapting and modifying the Costa Rican experience to our electoral system;

Whereas, the Arizona experiment—called Kids Voting—is enthusiastically supported by Arizona business, education, press and government leaders and citizen volunteers, the Arizona legislature passed overwhelmingly, and Governor Rose Mofford signed into law, legislation permitting children to enter the State's official polling places with their parents and to vote in a simulated general election on November 8, the results to be tabulated and publicized;

Whereas, some 28,000 children in grades 3 through 12 in 6 Arizona school districts and 2 private schools currently are undergoing a special curriculum financed by a private sector grant to prepare them for November 8 including, in the higher grades, instruction on the rights and responsibilites of informed voters, and information on the candidates, offices, and platforms, and on election procedures generally;

Whereas, promoters of Kids Voting describe this historic experiment as "a direct assault on voter apathy" and say it will be a "hands-on lesson in democracy" for those 28,000 school children who, in turn, are expected to improve the voting habits of their parents by urging them to the polls: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That election officials and school administrators in all 50 States and the District of Columbia should assess the results of the Kids Voting program in Arizona this November in terms of increased student awareness of an interest in the political process, that the Federal Election Commission should observe the Kids Voting program and advise the Congress on the success of the program in increasing voter turnout and, if this project does show promise of increasing voter turnout by both present and future voting age citizens, other States should adopt similar innovative programs.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEQUENTIAL REFERRAL OF A BILL—S. 2153

Mr. BYRD. Mr. President, I ask unanimous consent that when the Select Committee on Indian Affairs files its report on S. 2153, providing for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian community, the bill be sequentially referred to the Energy Committee for a period not to exceed 15 days, excluding periods of 7 or more days during which the Senate is not in session.

Provided further, if the Energy Committee has not reported the legislation at the end of the period specified, the bill be automatically discharged from the committee and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK

Mr. BYRD. Mr. President, on behalf of Senators LAUTENBERG, MOYNIHAN, BRADLEY, D'AMATO, CHAFEE, DODD, PELL, and WEICKER, I am introducing a bill to establish a pilot program for the tracking of medical wastes in the States of New York, New Jersey, and Connecticut, and I ask unanimous consent that it be held at the desk until close of business on Wednesday, August 3.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Senate Concurrent Resolution 105, appoints the following Senators to the Joint Congressional Committee on Inaugural Ceremonies: the Senator from West Virginia [Mr. BYRD], the Senator from Kentucky [Mr. FORD], and the Senator from Alaska [Mr. STEVENS].

ORDERS FOR WEDNESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands in recess until the hour of 9:15 a.m. tomorrow; that following the recognition of the two leaders, there be a period for morning business not to extend beyond the hour of 9:40 a.m., and that Senators may speak during that period for morning business for not to exceed 5 minutes each; that at the hour of 9:40 a.m. tomorrow the Senate resume consideration of the trade bill, and that there be 20 minutes of debate equally divided on the amendment by Mr. DURENBERGER, and that the vote, as previously ordered, occur at the hour of 10 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, tomorrow the Senate will come in at 9:15.

After the two leaders have been recognized under the standing order, there will be a period of morning businesses extending until the hour of 9:40 a.m. During that period for morning business, Senators may speak for not to exceed 5 minutes each.

At 9:40 a.m., the Senate will resume its consideration of the trade bill. There will be 20 minutes for debate, equally divided, on the amendment by Mr. DURENBERGER.

At 10 o'clock, the vote will occur on or in relation to the amendment by Mr. DURENBERGER. That will be a 15-minute rollcall vote. The call for the regular order will occur automatically at the termination of the 15 minutes, and following the disposition of the amendment by Mr. DURENBERGER, Mr. WALLOP will be recognized to call up an amendment.

There will be rollcall votes throughout the day tomorrow, and a time agreement has been entered on the trade bill under which only certain specified amendments may be called up, any one of which, if adopted, renders the time agreement null and void. If the time agreement remains intact, the vote will occur on or before 6 p.m. tomorrow on final passage of the trade bill.

Mr. President, does the distinguished Republican leader have anything further?

Mr. DOLE. Mr. President, first, I indicate that after the first vote, at 10:15 I will be hosting a meeting on behalf of all Senators on both sides of the aisle with reference to ethanol. If I do not have a chance to call Senators individually, anyone who wants to be present, the Presiding Officer and others, certainly are invited.

Perhaps we could agree on one amendment and then work out the best way to deal with that amendment, either an amendment to the bill, which I think would probably be tabled, or some other way to approach that.

Second, I might mention that I have received a letter from Secretary Shultz urging me, if we can, to move on some of the ambassadorial appointments, some of which are being held on this side, and others—I think there are four or five—yet to have hearings.

RECESS UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 9:15 a.m. tomorrow.

Thereupon, at 7:55 p.m., the Senate recessed until Wednesday, August 3, 1988, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1988:

DEPARTMENT OF LABOR

ROBERT T. JONES, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE ROGER DALE SEMERAD, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

LAWRENCE J. JENSEN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE FRANCIS S. BLAKE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MARVIN HAMLISCH, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1994, VICE ALLEN DRURY, TERM EXPIRING.

EXTENSIONS OF REMARKS

PEACE IS PROLIFERATING

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. BROOMFIELD. Mr. Speaker, as we look around the globe, we are seeing welcome moves toward peace where once there was only conflict.

In Asia, after a 10-year occupation, Vietnam is promising to remove its troops from Cambodia by the end of 1990. Further, while the Jakarta talks among the various Cambodian factions have been erratic, the warring factions have indicated their commitment to continue to seek a resolution to the conflict.

Turning to Afghanistan, the Soviet Union has begun removing troops from the Afghanistan countryside, marking an end to an 8 year military effort to impose the Soviet will on that country. On the African continent, Angola, South Africa, and Cuba have agreed in principle to disengage, and in the Middle East, Iran and Iraq are moving slowly toward a cease-fire.

A recent front page Wall Street Journal article examines these moves toward peace, their causes, and the implications for the United States.

As the article points out, while there are many factors involved in this outbreak of peace talks, there are also common threads. Among these common threads are the related factors of President Reagan's policies and Moscow's recognition of its own limits that are influencing the perceptions of Third World nations. These nations can no longer count on United States passivity or support from Moscow.

In Afghanistan and Angola, the article says that "Clearly, the Reagan administration's more activist policies have made the Soviet Union's commitments in the Third World particularly costly."

In discussing the turmoil in the Persian Gulf, the article argues that "The United States stuck with its Navy convoy operations for a year despite Iran's mine-laying and small-boat attacks. The show of resolve dissuaded Tehran from thinking that the United States would cut its losses and go home, as it did in Lebanon in 1983."

Mr. Speaker, the Wall Street Journal points out that there is one area where the United States did not show this same resolve, and the conflict continues—Nicaragua. The Congress' on-again-off-again policy of support and the consequences of the Iran-Contra matters has left the "Anti-Communist guerrillas in a cloud of uncertainty. The war there has been inconclusive, and peace talks have stalled." I would also add that Nicaragua is no closer to having a democracy than it was in 1979 when the Sandinista government betrayed the revolution.

Mr. Speaker, during the past 8 years, the Reagan administration's record is not only that of economic prosperity and expanding opportunities at home, but also an expansion of peace and democracy in the world. There are lessons about the importance of resolve for all of us to learn from this impressive record, and so I wish to commend the accompanying Wall Street Journal article to our colleagues.

[From the Wall Street Journal, July 29, 1988]

QUIET TIME—PEACE IS PROLIFERATING IN MANY TROUBLE SPOTS FROM MIDEAST TO ASIA

(By Robert S. Greenberger and Tim Carrington)

WASHINGTON.—In trouble spots across the globe, some of the world's bitterest enemies, exhausted by their wars, suddenly are suing for peace.

Vietnam is promising to end its nearly 10-year occupation of neighboring Cambodia by 1990. Angola, South Africa and Cuba have agreed in principle to disengage from a conflict that has spread across southern Africa. Iran and Iraq, after a brutal, eight-year struggle that left one million dead, are edging toward a cease-fire. And in Afghanistan, the Soviet Union has begun withdrawing its troops in a move similar to the U.S. retreat from Vietnam.

Several common threads link these seemingly disparate developments, offering hope that the still-fragile peace overtures will take hold and that the world can look forward to a period of reduced tensions.

WATERSHED IN FOREIGN RELATIONS

The Soviet Union, determined to address domestic economic problems, has grown wary of supporting expensive Third World revolutions. Moscow's political successes in the 1970s—Angola, Vietnam and Nicaragua—are its economic burdens today. At the same time, the U.S. has pursued a huge military buildup, coupled with a display of renewed resolve in troublespots such as Afghanistan and the Persian Gulf. And regional combatants across the globe have sunk into economic exhaustion, in part a reflection of the high costs of buying—and suffering attacks from—sophisticated modern weapons.

The combination of U.S. resolve and Moscow's recognition of its own limits is changing the perceptions of some smaller nations. Those countries that look to the Soviet Union are now beginning to realize they no longer can count on Moscow's automatic support or America's passivity.

"There's a real watershed change going on in the world now," says David Packard, formerly the deputy secretary of Defense and a co-founder of Hewlett-Packard Co. "The confrontational climate is going to shift."

Nobody is suggesting that the world's lions are ready to lie down with its lambs. Age-old regional hatreds live on, and even as peace talks proceed, continuing bloody skirmishes threaten to undercut negotiations, particularly in the Persian Gulf. Some skeptics contend that peace initiatives, such as Iran's agreement to a United Nations-sponsored cease-fire resolution, are tactical ploys designed to provide breathing space to re-equip. As the Soviets withdraw from Afghanistan, internecine warfare could break out among various Islamic groups striving for control of the country. So, too, in Cambodia, where the coalition fighting Vietnam is rife with internal distrust and hatred.

Still, the proliferation of peace talks signals that fundamental changes are afoot, changes that carry with them broad consequences:

Moscow's apparent disillusionment with Third World adventurism could help reduce its involvement in regional conflicts and temper the ambitions of its clients. Vietnam's decision to pull its troops out of Cambodia was announced several months after a senior-level Soviet official visited the region and pointedly observed that the same principles involved in Moscow's decision to withdraw from Afghanistan also applied to Southeast Asia.

A GLUT OF ARMS

A possible reduction in tensions around the world, accompanied by the growing prospect of U.S. and Soviet conventional arms reductions, also could lead to a diminished appetite for weapons—at least in some regions and at least temporarily. Armsmakers already see a contraction of the aerospace and electronics industries, in part because of a drop in demand. Former Navy Secretary John Lehman, who presided over the Reagan administration's big naval buildup, now hopes to cash in on the collapsing demand for arms by heading a special group at Paine Webber Inc. that offers help in restructuring and merging defense companies around the world.

"There is overcapacity globally" in the arms industry, says Robert Costello, undersecretary of defense.

In the Persian Gulf, peace would permit both Iran and Iraq to rebuild their ravaged economies chiefly by increasing their oil exports, which have been disrupted by the war. Such a move would add to the world's current oil surplus and put a downward pressure on prices, most analysts believe.

In the U.S. presidential campaign, the enhanced prospects for peace could, in the minds of voters, lend credence to the Reagan philosophy of negotiating from strength and could obscure some of the administration's foreign-policy blunders, such as its inability to oust Panama's Gen. Noriega. This could play to Vice President George Bush's advantage in the November election, assuming he is able to convince voters that he deserves some of the credit for the peace. Already, Mr. Bush is stressing his extensive foreign-policy experience—and highlighting the relative inexperience abroad of Democrat Michael Dukakis.

The relaxation of tensions, however, could trigger new concerns for American policy makers. Soviet leader Mikhail Gorbachev's decisions to leave Afghanistan and to prod Vietnam to do the same in Cambodia are steps toward a Sino-Soviet rapprochement. A deeper friendship between China, which has opposed Vietnam's expansionism, and the Soviet Union may not serve Washington's long-term interests; American presi-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

dents for decades have played on the hostility between China and the Soviets.

Further, a winding down of the Iran-Iraq war promises new problems for Israel, America's prime Mideast ally. Israel has benefited from the draining conflict between its two adversaries. Now it fears that the resources Iran and Iraq used against each other could one day be turned against Israel. Moreover, other Arab nations have spent the last eight years preoccupied with the fundamentalist threat from Tehran. With that threat largely exhausted, at least for now, these countries will be able to refocus their attention on the Arab-Israeli conflict.

But on balance, the cooling of global hotspots is obviously good for the U.S. and for other nations, since it reduces the risk that regional conflicts will flare into superpower confrontations and gives war-torn countries a chance to rebuild tattered economies.

CHANGING UNITED STATES-SOVIET RELATIONS

Most significantly, it reflects the improvement in U.S.-Soviet relations. The two superpowers are making progress on arms control, and seem interested in calming regional, as well as global, tensions. This new inclination to cooperate has, for the moment, reduced the superpowers' interest in fighting ideological battles through Third World surrogates.

At the 25th Communist Party Congress, in 1976, Soviet officials bragged about their resounding successes in the Third World. Marxism-Leninism was flourishing, they noted, the West was on the run and the "correlation of forces" was shifting in Moscow's favor.

At the 26th Party Congress 10 years later, the new Soviet leader, Mr. Gorbachev, said little about the Third World and for the first time talked about Afghanistan as "a bleeding wound."

Mr. Gorbachev's decision to withdraw from Afghanistan was "a seachange in Soviet policy," says Michael Mandelbaum, director of the Project on East-West Relations at the Council on Foreign Relations. "It represented the willingness to abandon a Communist regime, to say it is worthwhile to sacrifice them [Afghanistan] for the sake of other goals," such as reviving the Soviet Union's economy.

Clearly, though, this seachange has its limitations. The Soviets have no intention of abandoning all their client states. Indeed, they recently agreed to double their subsidy to Vietnam over the next five years—to some $4 billion—and continue to support governments in Cuba and Nicaragua that are thorns in America's side. But, says Francis Fukayama, a senior social scientist at the Rand Corp., "the clients can read the handwriting on the wall. Times are changing and the Cubans and Vietnamese are deciding on their own that they have to retrench the way the Soviets are."

In Vietnam, adds Paul Kreisberg, a senior associate at the Carnegie Endowment for International Peace, "the Soviets were pushing on a partially open door. Vietnam was in a state of collapse and army resentment over casualties in Cambodia was mounting."

U.S. officials also believe that Moscow has been encouraging Cuba to enter into a regional agreement in southern Africa under which Cuba would withdraw some 50,000 troops from Angola, where they are protecting a Marxist regime from South African pressure. Under the agreement, brokered by the U.S., the Cubans would leave in exchange for South Africa granting independence to Namibia, which South Africa occupies illegally.

The Reagan administration meets regularly with the Soviets to discuss developments in southern Africa. This weekend, for instance, Chester Crocker, assistant secretary of state for African affairs, will meet with Soviet officials in Geneva, Switzerland, before the next round of meetings between South Africa and its adversaries begins there Tuesday. "My guess is the Soviets have been telling them [the Angolans and Cubans] that a military resolution isn't in the cards," says a U.S. official.

Clearly, the Reagan administration's more activist policies have made the Soviet Union's commitments in the Third World particularly costly. In Afghanistan, resistance fighters armed with U.S. Stinger missiles began downing Soviet aircraft and attack helicopters at an astounding "kill rate"—believed to be about 90 percent.

AN UNWANTED REGIME

Moreover, the U.S. publicly condemned the Soviet occupation and kept the issue on the agenda of superpower talks. "We kept the international pressure on the Soviet Union for their Afghan adventure," says assistant Defense Secretary Richard Armitage. The Soviets found that "it was impossible in the long run to force an unwanted regime on the people," he says.

The covert shipment of Stingers to rebel forces in Angola has also created a toll of downed helicopters and lost pilots for the Socialist forces. According to analyses in Washington, the American shipments produce disproportionate leverage: The Soviets pour $1 billion a year into propping up the Socialist government there, while the U.S. helps to destabilize it with $15 million of arms. "The impact that Stinger missiles have had on Soviet operations is incredible," says Christopher Lay, a special assistant for policy at the Pentagon. And the U.S. could duplicate that leverage in similar situations around the world, he says.

In the Gulf, the U.S. stuck with its Navy convoy operations for a year despite Iran's mine-laying and small-boat attacks. The show of resolve dissuaded Tehran from thinking that the U.S. would cut its losses and go home, as it did in Lebanon in 1983.

The U.S. hasn't shown such resolve everywhere, however. In Nicaragua, Congress' on-again-off-again funding and the administration's messy Iran-Contra scandal has left the anti-communist guerrillas in a cloud of uncertainty. The war there has been inconclusive, and peace talks have stalled.

As the decade draws to a close, more nations are realizing that fighting wars requires expensive high-technology weapons that they can't afford, particularly if their economies are in shambles. In the end, tensions may be easing simply because of financial exhaustion.

"What we are seeing in the second half of the 1980s is the political and economic bankruptcy of Marxism-Leninism," says Mr. Mandelbaum of the Council on Foreign Relations. "These countries simply don't know how to run their economies and they're doing so badly that they just have to cut back."

OPEN LETTER TO GOVERNOR DUKAKIS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. McEWEN. Mr. Speaker, James Schlesinger has served both Republican and Democrat Presidents including stints as Secretary of Defense and Director of the Central Intelligence Agency in the Nixon and Ford Presidencies as well as Secretary of Energy during the Carter administration. I wish to submit into the RECORD, and urge my colleagues to read, his open letter to the Democrat's nominee for President which appears in the August 1 edition of Time magazine. Mr. Schlesinger rightly questions Governor Dukakis' "grasp" of national security affairs.

"YOUR RECORD IS NOT REASSURING"

(By James Schlesinger)

(James Schlesinger has dealt with national security for every President since Dwight Eisenhower. He was CIA director and Secretary of Defense in the Nixon and Ford Administrations, then Energy Secretary for Jimmy Carter)

DEAR GOVERNOR DUKAKIS: While congratulating you on your nomination, many of us who have worked for the nation's security in Democratic and Republican Administrations feel trepidation about your views—and, more important, your instincts—on crucial defense issues. All that we have to go on are your actions as Governor and your statements in the campaign.

As chief executive of Massachusetts, you have had an opportunity to affect the national-security policy of the country as a whole, and your record is not reassuring. You have steadily prevented Massachusetts' participation in the Ground Wave Emergency Network, a communications system designed to transmit warnings or presidential orders to the Strategic Air Command and the North American Aerospace Defense Command if the nation were under nuclear attack. Of 56 intended GWEN sites around the country, 52 have now been completed. Only your state and Rhode Island continue as holdouts. This Massachusetts gap in the national-warnings system is particularly disquieting since the primary radar installation for detecting a submarine-launched missile attack is located on Cape Cod.

In your 1986 letter to the Air Force objecting to the placement of GWEN in Massachusetts, you suggested that having such a communications system might encourage the "mistaken belief that nuclear war can be kept under control once it begins" and thereby "make national leaders more inclined to let one begin." Governor, what deters war is the completeness and integrity of the U.S. deterrent, and secure communications enhance our deterrent. Yet you seem to suggest that the way to deter war is to be unprepared to respond.

In a matter less consequential but perhaps equally indicative, in your ten years as Governor you have declined all invitations to visit Hanscom Air Force Base, the premier military facility in Massachusetts and the home of the Air Force's Electronic Systems Division. Four ESD commanders have invited you. Accepting such invitations is the normal political practice, and other Massachusetts officials have regularly done so.

Your unwillingness to visit Hanscom has led many of us to wonder whether you are viscerally antimilitary.

Your campaign statements to date have done little to dissipate such concerns. You have explicitly opposed America's latest intercontinental ballistic missile, the MX; plans for a small, single-warhead mobile ICBM, the Midgetman; the B-1 and Stealth bombers. You have also urged a ban on all missile test flights. You have indicated that you would terminate or radically reduce the Strategic Defense Initiative (SDI).

To be sure, you have strongly supported efforts to achieve further arms-control agreements, nonetheless, for us unilaterally to curtail our strategic programs, as you have suggested, would remove much of the Soviet Union military incentive for compromise and thus destroy much of America's leverage in negotiations. In recent months, as you have moved toward the political center, you have acknowledged the continued necessity for nuclear deterrence and have indicated that, despite your opposition to the MX and Midgetman, you are not necessarily against a new ICBM in principle. Yet you will find that any new missile program is impossible unless you back off from your commitment to a missile test-flight ban. We cannot have a new missile system unless we test it.

You have expressed support for NATO and called for a "conventional defense initiative." This exhortation, which so far is largely lacking in content, seems intended to constitute your substitute for SDI and other new strategic programs. Those of us who have long advocated an improved conventional capability are eager to join in any serious effort to that end. But you seem not to have faced up to the intractable reality that improvement in the conventional balance is both difficult and costly.

Quite simply, nuclear weapons and nuclear strategy hold NATO together. Our European allies will view with alarm any statement that seems to weaken the nuclear element of the deterrent. They will be especially disturbed by any repetition of your remarks to the Atlantic Council on June 14 that NATO must be up "to the challenge of fighting—and winning" a conventional war. The Europeans are interested not in fighting but in deterring a war. They would not want as an American President anyone who believes that conventional war is somehow fightable and winnable—therefore acceptable.

Moreover, you will find that over the past decade or so, the Soviet Union has enormously improved the number and quality of its conventional forces. The Warsaw Pact has particularly improved its capability for short-warning attack. Therefore we have a dauntingly long way to go in restoring the conventional balance. Yet we and our key allies are under immense budgetary and other pressures to shrink NATO's forces. So while strengthening NATO's conventional capability is desirable, it will require careful handling of our allies and additional resources. In estimating the price tag for these conventional improvements at $3 billion over four or five years, as you did in an interview with the Baltimore Sun published on July 3, you have trivialized the problem. A more realistic estimate would be tens of billions of dollars a year. Strengthening NATO's ability to deter war should not be simply an afterthought for a politician who may have painted himself into a corner by opposing strategic nuclear programs; a true conventional defense initiative will require additional expenditures roughly on the order of the Strategic Defense Initiative itself. As you seek to become the leader of the free world and our Commander in Chief, many of us hope that you will acquire a better feel for these complexities.

UNITED STATES-CANADIAN ENVIRONMENTAL INFORMATION RECIPROCITY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. RAHALL. Mr. Speaker, Canada is, without a doubt, a nice place to visit. In fact, this is a message often broadcasted into our homes courtesy of the Canadian Government's tourism campaign on television. Visions of wilderness landscapes, historic places, and interesting people flash across our screens as we are told of the excitement in store for United States families visiting Canada this summer.

There is, however, another Canadian media campaign in the works aimed at United States tourists once they get to Canada. Canada's environment minister, the Honorable Tom McMillan, has announced that his Government will use billboards, magazines, and radio advertising to convince folks from this country visiting Canada that our Federal Government is not doing enough to address the acid rain issue.

It can be expected that this Canadian Government media campaign will have a certain bias against those existing programs in the United States which are, in fact, successfully reducing powerplant emissions which may potentially contribute to instances of acidic deposition. Under the Clean Air Act, significant progress has been made in improving air quality. For example, sulfur dioxide ambient air quality levels improved by 37 percent between 1977 and 1986.

Pursuant to the Clean Air Act, coal burning powerplants constructed since 1978 are required to install smokestack scrubbers in an effort to obtain a continued downward decline in emission rates. While perhaps not a necessary prerequisite for achieving compliance with ambient air quality standards from plants burning low-sulfur coal, this technical means for emission reduction is especially effective for those powerplants which utilize higher sulfur content coals. And for the future, we have initiated a Clean Coal Technology Program to devise new techniques to enhance coal burning processes.

In Canada, however, there are no federally enforceable standards for sulfur dioxide and not a single electric utility coal fired powerplant is equipped with a smokestack scrubber.

For this reason, today I am introducing the "United States-Canadian Environmental Information Reciprocity Act of 1988." This bill would require the posting of a sign at every United States-Canadian border crossing with the following message:

> Welcome back to the United States, land of 142 powerplant smokestack scrubbers. Did you see a single one in Canada?

The idea for this sign came from Allen Wampler, the Assistant Secretary of Energy for fossil energy at the Department of Energy, in commenting on the fact that billboards in Canada implore U.S. tourists to have their Government do more to combat "acid rain."

It only stands to reason that when U.S. citizens are being subjected to a foreign government's media campaign, the political ramifications of such a tactic should be noted by the U.S. Government. This is the premise for the legislation I am introducing, and I include the text of the bill as follows:

H.R. —

A bill to require the Secretary of Energy to place certain signs regarding environmental information reciprocity at the Canadian-United States border

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Canadian Environmental Information Reciprocity Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The Government of Canada has announced a media campaign utilizing billboards, among other advertising media, aimed at convincing visitors from the United States that their Federal Government needs to do more to address the "acid rain" issue.

(2) The environmental information made available by the Government of Canada as part of this media campaign may not fully and adequately explain current programs within the United States which are successfully reducing those emissions of sulfur dioxide from electric utility powerplants that may potentially contribute to instances of acidic deposition.

(3) In the United States there already exists over 140 smokestack scrubbers; a technology which reduces sulfur dioxide emissions from electric utility coal fired powerplants. No smokestack scrubbers exist on Canadian electric utility coal fired powerplants.

(4) The United States is also investing in a Clean Coal Technology program to ensure the commercialization of other techniques to further reduce emissions from coal fired powerplants.

(5) After being subjected to the Government of Canada's media campaign, visitors to Canada immediately upon their return to the United States should receive an indication of the bias which may exist in the Canadian media campaign against current programs within the United States to address the "acid rain" issue.

SEC. 3. SIGNS AT CANADIAN BORDER CROSSING.

(a) Within 30 days after the enactment of this Act, the Secretary of Energy shall place a sign of an appropriate size at each highway crossing on the border between the United States and Canada on lands owned by, or under the control of the United States. Such signs shall be visible to persons entering the United States at such border crossing. Each such sign shall contain the following message:

"Welcome back to the United States, land of 142 powerplants smokestack scrubbers. Did you see a single one in Canada?"

(b) The Secretary of Energy may take such other actions as he deems appropriate to make available to visitors returning from

Canada information on programs within the United States which address the "acid rain" issue.

A HUMAN RIGHTS COMPARISON: ISRAEL VERSUS THE ARAB STATES

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. BURTON of Indiana. Mr. Speaker, the Washington Metro system has recently been blighted by advertisements sponsored by the Arab Anti-Discrimination Committee saying that the Soviet Union, South Africa, and Israel should be measured by the same human rights "yardstick." I agree that Israel, a vibrant democracy in a sea of dictatorships, should be measured on the same human rights standard as the rest of the world. I believe that it meets that standard with flying colors.

No democracy, let alone no Arab dictatorship, would have acted with greater restraint and greater soul-searching toward the lethal violence directed against it.

The hypocrisy of the Metro ads and their sponsors is truly astounding. No Arab State except Jordan will grant citizenship to a Palestinian Arab. In 1976, the Syrian Army killed more than 23,000 Palestinians, and in 1970 Jordan killed 3,400 Palestinians in just 10 days. Kuwait has deported 27,000 people, many of them Palestinians, for security reasons. About 3,000 Palestinians languish in Syrian prisons today, where 35 methods of torture have reportedly been used.

These facts have been collected from press reports, State Department human rights reports, and other human rights sources in a study entitled "A Human Rights Comparison: Israel Versus the Arab States," published by the American Israel Public Affairs Committee. At this point, I would like to insert the executive summary of this study in the RECORD, and commend it to my colleagues' attention:

A HUMAN RIGHTS COMPARISON: ISRAEL VERSUS THE ARAB STATES

(By Sara M. Averick)[1]

EXECUTIVE SUMMARY

Human rights violations are a serious problem in the Middle East. Surprisingly, however, when considering this topic the first country that leaps to many people's mind is Israel, the region's only democracy. This is especially puzzling because although Israel may be an imperfect democracy, it is surrounded by repressive regimes and authoritarian police states. This study seeks to restore perspective to the question of human rights in the Middle East by comparing the records of Israel and Arab states.[1]

Ideally, Israel should be compared to the western democracies. Indeed, when such comparisons have been made Israel has fared favorably. But the reason for the intended comparison stems first from the way in which the issue has been used propagandistically by the Arab states themselves in their ongoing effort to delegitimize Israel. Second, by virtue of its location, Israel faces a combination of Islamic fundamentalism and Arab extremism so prevalent in the Middle East today. To the extent that this explosive combination confronts the Arab regimes as well, it is worthwhile to explore how Israel and the Arab states meet the challenge.

Certain examples of human rights practices in the Arab states are particularly striking when comparing the level of interest or degree of condemnation with that meted out to Israel. Israel has been condemned for resorting to deportation of a small number of Palestinians as a measure of last resort in the aftermath of continuous rioting and violence in the West Bank and Gaza. On the other hand, but for an obscure reference in the State Department's *Country Reports On Human Rights Practices for 1986,* almost nothing was heard about Kuwait's deportation in 1986 of *27,000* people for "security reasons," many Palestinians among them. Few are aware that Kuwait expelled more Palestinians in February 1988 in order to quell demonstrations supporting Palestinian rioters in the territories.

Nearly 10 percent of the resolutions passed by the United Nations Commission on Human Rights in 1987 were Israel-related; not a single resolution addressed human rights violations by any Arab state. Yet during this period, there were renewed reports of slavery's revival in the Sudan; Syria was found to be practicing 35 different methods of torture against political prisoners; Iraq's use of chemical weapons proceeded, such that three months into 1988, in one attack 5,000 Iraqi citizens were gassed to death; and Saudi Arabia continued to mete out amputation as a form of criminal punishment.

Foes of Israel has seized upon the months of violent disturbances in the West Bank and Gaza—riots which highlighted the urgency of finding an Arab interlocutor to negotiate an end to this difficult problem—to reinforce their campaign to discredit Israel. The Arab regimes have been particularly successful in deflecting attention from their own mistreatment of the Palestinian Arabs in their midst. With the exception of Jordan, no Arab state has granted unconditionally citizenship to Palestinian refugees, nor have they been aborbed and allowed to assimilate anywhere else. In 1970, during "Black September," Jordan itself killed 3,400 Palestinians in just 10 days. In 1976, the Syrian army killed more than 23,000 Palestinians. In the three-year war-of-the-camps outside Beirut the death toll reached 3,000. An equal number of Palestinians reportedly languish in Syrian prisons.

Violations of human rights in the Arab regimes are widespread in many categories. For example, in violation of the fundamental freedoms which under the Universal Declaration of Human Rights encompasses the right to "life, liberty and security of the person," some Arab states conduct wholesale massacres of political opponents as state policy. In February 1982, Syria killed as many as 30,000 civilians. Iraq annually executes so many political prisoners that certain years Amnesty International has had difficulty in getting the exact figure. In the People's Democratic Republic of Yemen (PDRY) there were mass executions during the first weeks of January 1986. Moderate regimes have resorted to massive firepower against demonstrators: 402 were killed in Mecca in one day during the 1987 *hajj;* Egyptian troops shot dead at least 107 during police riots on March 7, 1986.

Failure of due process has sometimes affected large numbers of citizens. In September 1981, Egypt arrested 1,536 people in a security sweep without informing them of the reason for their arrest nor allowing them to see legal counsel. Saudi Arabia too has similarly dealt with critics of the regime. In Iraq, hostages, including children, have been imprisoned in lieu of the people being sought by the government.

Freedom of expression, a civil liberty that is second nature to Americans, is outlawed in most Arab regimes. Thus, Saudi Arabia, Kuwait, Oman and Qatar forbid criticism of the King or Amir. In Iraq, where possession of an unregistered typewriter is illegal, publicly insulting the president warrants the death penalty. There are restrictions on the press; the PDRY even tortured to death five journalists. In Iraq and Syria, only pro-government rallies are permitted. Saudi Arabia prohibits any political demonstrations.

With respect to women's rights, harsh laws restricting women's freedom of movement are enforced throughout the Arab world, from Morocco to Iraq. In Saudi Arabia, there is government enforced segregation for women. On the other hand, in Egypt and Sudan, for example, enforcement of laws prohibiting the physical mutilation of women through the practice of female circumcision is lax; in Yemen and Libya there is no legislation outlawing the practice.

Freedom of religion is a basic tenet for Americans, many of whose forefathers fled to these shores to escape religious persecution. Contrast this with Saudi Arabia, Qatar, and the Yemen Arab Republic, which prohibit the public practice of Christianity by law. The Saudis have arrested and deported even private Christian worshippers. Other Arab states maintain for Christians restrictions on construction, fundraising, and/or religious training. After the establishment of Israel, most Jews were forced to flee the Arab states. Any Jews who try to emigrate from Syria face torture; those who remain in Lebanon may face death. In some regimes, like Saudi Arabia, there is anti-Semitism even in the absence of Jews.

By contrast, Israel shares with the other western democracies a fundamental commitment to the legal protection of the individual, basic equality for women, adherence to the principle of religious freedom and respect for minority rights. Israel's commitment to a free press guarantees virtually free access to information and ample opportunity for scrutiny. To be sure, Israel has its flaws. But a consequence of this very openness has been to magnify Israel's faults under the microscope of the media. This publicity also ensures that Israel's efforts can be revealed and corrected. The restricted access to information among the Arab states precludes criticism or reform.

In the Arab world, "radical" and "moderate" regimes alike abuse human rights. Yet these regimes have vilified the one democracy in their very nasty neighborhood. They have built a coalition with such states as the Soviet Union and Iran to condemn Israel in the United Nations, where they are often joined by western democracies in their anti-Israel effort.

But merely documenting these abuses in the Arab states is not enough. The western democracies would do well to begin holding these regimes to the standard set for all nations in the Universal Declaration of Human Rights.

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[1] AIPAC papers on United States-Israel Relations. Series editors: Steven J. Rosen, Sara M. Averick.

CESAR CHAVEZ FAST OF 1988

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. DYMALLY. Mr. Speaker, I am pleased to bring to the attention of Members a statement by Cesar Chavez about his fast of 1988:

A powerful urge has been raging within me for several months. I have been struggling against it. Towards the end of last week, this urge became insistent. I resisted again but my efforts were in vain. It was at that time that I decided, with God's help, to go on an unconditional water fast commencing at midnight July 16th, 1988.

As I look back at this past year, I can see many events which precipitated the fast, including the terrible suffering of farm workers and their children, the crushing of farm workers' rights, the denial of fair and free elections, and the death of good faith collective bargaining in California agriculture. All of these events are connected with the great cause of justice for the farm worker family.

This fast is first, fast and foremost personal. It is something I feel compelled to do. It is directed against myself. It is a fast for the purification of my own body, mind, and soul.

The fast is also a heart felt prayer for purification and strengthening for all of us, for myself, and for all those who work beside me in the farm workers movement, whatever the work we do. It is a fervent prayer that, together, we will confront and resist, the scourge of poisons that threaten our people, land, and food. There is no doubt that we work hard within the many tasks of our movement, but the times we face call for more from us. Do we carry in our hearts the suffering of our farm workers and their children? Do we feel deeply for the pain of those who must work in the field everyday, or the anguish of the many families who have lost their loved ones to cancer? Of who fear for the lives of their children, or who have lost their babies through miscarriages, or who agonize over the outcome of the pregnancies, or who are raising their children with deformities. Or who ask, with fear in their voices, where will this deadly plague strike next? Do we feel their pain deeply enough? I know I don't and I am ashamed.

It pains me to see that some of our members are still cooperating with those who grow and sell the poisoned food we eat. It pains me that we continue to shop at stores that offer grapes, that we eat at restaurants that display them, that we are too patient and understanding to those that serve them to us.

It is also true that some workers, because of fear or ignorance or apathy, unwittingly assist their growers in their pesticide madness and that all of us are too accepting of this poisonous assault on our people, our communities, and our food.

What have we done, you and me? What have we done that is sufficient enough to stop this evil in our midst?

The fast is also an act of penance for those in positions of moral authority and for all men and women activists who know what is right and just, who know that they could or should do more, who have become bystanders, thus collaborators with an industry that does not care about its workers. How can we face the enormity of the corporate sin that threatens our people?

The fast is finally a declaration of non-cooperation with supermarkets that promote and sell and profit from California table grapes and who are just as culpable as those who manufacture the poison and those who use them on workers, on our land and on our food. It is my fondest hope that our friends everywhere will begin a great movement of non-cooperation with supermarkets, that people will resist any myriad of nonviolent ways to remove the presence of grapes in the stores where they shop.

During the past two years, I have been studying the plague of pesticides on our land and on our food. I have read the literature and have met with the experts. I have talked to workers, and listened to the children and families. I have seen with my own eyes their anguish and their suffering. The evil is far greater that I had thought it to be. It threatened to choke out the life of our people and also the life systems which support us all. It will not be eradicated by legislative hearings or the executive power. It will take our combined energy and influence in the marketplace to change the cycle of poison and destruction and death that threatens our people and our world. The solution to this deadly crisis will not be found in the arrogance of the powerful but in the solidarity of the weak and the helpless. I pray to God that this fast will be a preparation for a multitude of simple deeds and justice, carried out by men and women whose hearts are focused on the suffering of the poor and who yearn with us for a better world, together all things are possible.

CESAR CHAVEZ,
President, United Farmworkers
of America, AFL-CIO.

A TRIBUTE TO YOUTH ENRICHMENT SERVICES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday August 2, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Youth Enrichment Services, a very special organization in my 17th Congressional District. This program is part of Neighborhood Ministries, which began in 1903 assisting the new immigrants of Campbell, OH, and today aids the poor and underprivileged throughout Mahoning and Trumbull Counties. And it is my strong belief that Youth Enrichment Services is one of the finest programs of the many outstanding projects that Neighborhood Ministries has undertaken in its 75-year history.

Youth Enrichment Services began out of the deep concern of Mr. Ernest Madison over the broken and drug-afflicted lives that countless urban youth suffer through. Mr. Madison's goal as project director of Youth Enrichment Services is to teach young men to cooperate, control their tempers, walk away from trouble, and learn that there are no handouts in life. After meeting with Mr. Madison in my office, I must say that I find him to be an impressive and dynamic individual, and I only wish that there were more people with Mr. Madison's compassion and devotion to improving humanity.

Youth Enrichment Services has received a grant for $35,000 from the Ohio Department of Youth Services for a 2-year program. Mr. Madison and his partner Mr. Mark Samuel each tutor a group of seven boys for 1 year, after which they will each get seven new boys. And it must be noted that Mr. Madison chooses the most disruptive and troublesome students in Youngstown city schools that he can possibly find.

The results have been astounding, for through their meetings, group outings, and summer camp, all of the boys have become motivated to rise to the top of their school and attend college. Instead of the harsh reality of poverty and street gangs, these young men now dream of university campuses and ivory towers. In fact, one of Mr. Madison's students has already made the honor roll, and I suspect that many more will join him in the upcoming school year.

Youth Enrichment Services is one of the most worthwhile programs I have ever encountered during my tenure in Congress, and I have every intention of doing all that I can to ensure that this program continues indefinitely. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in saluting the enriched lives and brighter futures for young people brought about by Youth Enrichment Services.

SUPPORT FOR ABC LEGISLATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. RANGEL. Mr. Speaker, last week, I received a letter from Rev. Jesse Jackson expressing his wholehearted support for H.R. 3660, the "Act for Better Child Care Services." Reverend Jackson also expressed a desire to assist in any way that he can efforts to pass this legislation into law.

In addition, I was also the recipient last week of a recently adopted resolution by the Coalition of Black Trade Unionists addressing the critical issue of the lack of decent and affordable child care in the United States. The Coalition of Black Trade Unionists has approximately 3 million members across the country.

Mr. Speaker, clearly the lack of responsible child care in the United States is one which knows no racial or religious boundaries. It is affecting one and two parent households through America, from my own district of Harlem, to Los Angeles. The economic and social reality is that millions of American families cannot afford to pay for decent child care. The average cost of child care in America, according to the Coalition of Black Trade Unionists, is $3,000 a year for one child. It is reasonable to expect that this figure will continue to rise. The question of affordable child care in America is an issue whose time has come. It can no longer be ignored, or dismissed as election year politics.

H.R. 3660, the "Act for Better Child Care Services," represents a positive step forward in addressing this pressing problem. I am a cosponsor of this legislation, and will continue to do all that I can to insure its passage in both Houses of Congress, in addition to signature by the President.

Both Rev. Jesse Jackson and the Coalition of Black Trade Unionists are to be commended for continuing to speak in favor of decent and affordable child care in public forums across the country. At this time, I would like to submit for the RECORD both Rev. Jesse Jackson's letter and the resolution addressing the issue of child care recently passed by the Coalition of Black Trade Unionists.

The material follows:

JULY 29, 1988.

Hon. CHARLES B. RANGEL,
U.S. House of Representatives,
Washington, DC.

DEAR CHARLIE: I understand that the Act for Better Child Care Services (HR 3660) is moving ahead. I wanted to take this opportunity to express my wholehearted support for this legislation and my commitment to provide whatever assistance is needed to enact it this year.

Quite simply, I view this legislation as providing economic salvation for millions of families now operating at the margins of our economy. The ABC bill will provide millions of our hard working families with the financial resources they need to make real child care choices.

We have all heard far too many tragic stories of black, brown, and white children who have been killed or injured for want of decent care. The list is too long. We must save these children now. The health, safety, and quality standards contained in the legislation are absolute minimums for the protection of our children—who after all are our hope as a black community and our future workforce as a nation.

Please let me know if there is any way I can be of assistance in your efforts to win swift passage of ABC.

Sincerely,

REV. JESSE L. JACKSON.

RESOLUTION NO. 1.—CHILD CARE

Whereas the child care situation in America is a national disgrace. The United States is the only industrialized nation, except South Africa, that does not have a child care program to help working parents find and afford safe, high quality care for their children; and

Whereas most mothers of young children have joined the labor force, a massive demographic shift that has made decent child care a necssity for families from every income group. In 1985, 84% of Black working mothers and 79% of Hispanic working mothers worked full time. Half of all married mothers with infants younger than one year old are in the workforce—a 108% increase since 1970. By 1995, two-thirds of all preschool children—or nearly 15 million children—will have mothers in the workforce. Almost four out of five school age children will have working mothers by then; and

Whereas more women are working out of economic necessity. In 1985, two out of three women in the paid labor force were either single heads of households, or had husbands whose earnings were less than $15,000. For many two-parent families today, the second income is all that stands between them and poverty. Thirty-five percent more two-parent families would live below the poverty line if the wives in them were not employed; and

Whereas millions of American families cannot afford to pay for decent care. The average cost of child care in America's major cities and suburbs is $3,000 a year for one child. That equals one-third of the annual poverty level income for a family of three. Single-parent families, where 1 out of 5 children under 18 years old now live, are even less likely to be able to afford child care. The median annual income for a single mother with at least one child younger than 6 was only $6,500 in 1985. Of the total families with children, 19% are headed by women, and, of those, 48% are headed by Black women. The poverty rates of children in female-headed households are 66.9% for Black families and 72.4% of Hispanic families; and

Whereas child care is too often considered merely as a custodial service, simply a burden that must be borne to help mothers work, while preschool is viewed separately as a means of furthering the optimal development of young children. In fact, when they are high quality programs, both have vast potential for achieving the same objective: helping families and improving children's development;

Whereas in good child care, preschoolers can get the foundation they need to build toward success in school. Studies have demonstrated that early childhood development has helped to decrease the dropout rate and illiteracy, and that most children benefiting from such training go on to college and most assuredly finish high school. Due to lack of income and inadequate government support, however, children from low-income families are less than half as likely to attend preschool programs as their more advantaged peers; and

Whereas employers also suffer from the current child care crisis. A growing number of working parents are dissatisfied with their child care arrangements and say child care problems adversely affect their work. A *Fortune* magazine study found that child care dissatisfaction was the most reliable predictor of absenteeism and unproductive work time. A Census Bureau study reported that 1 in 20 working parents was absent from work one month previous to the study because of child care problems; and

Whereas the lack of good child care now will affect the American economy later. As the population of the country ages, the percentage of Americans who are children and young adults is shrinking. This decline will result in a smaller proportion of Americans who will be entering the workforce. Our country will depend more heavily on the skills of every young worker. Yet, of today's 3 to 5 year olds, who will be entering the labor force around the year 2005, one in four are poor; and one in seven is at risk of dropping out of school; and

Whereas the economics of child care make it impossible for the private sector to solve the interrelated problems of availability, affordability and quality. State government help depends upon the health of its economy. Employers are slow responding to the crisis and even so, it is unrealistic to expect them to shoulder the entire burden. Only 3,000 out of 6 million employers provide any type of child care assistance to their employees; and

Whereas congressional action is crucial to create a national child care infrastructure. The Act for Better Child Care Services would begin to do this; and

Whereas the Act for Better Child Care Services (H.R. 3660 and S. 1885) calls for a $2.5 billion, first-year federal investment in child care to make it more affordable for low and moderate income families, increase the availability of child care facilities and qualified providers, and help improve the quality of child care; and

Whereas the Act for Better Child Care Services now has 38 Senate sponsors and 165 House sponsors and is endorsed by over 124 national organizations representing labor unions, children, minorities, women, religions, early childhood development specialists, child care providers and many more. State alliances for Better Child Care (BBC) have been organized in 38 states to increase grassroots support for the Act and to pressure Members of Congress to sponsor the bill. The Act has a very good chance of passing this year.

Therefore be it resolved, That the national CBTU and its chapters advocate for the enactment of the Act for Better Child Care Services (H.R. 3660 and S. 1885); and

Be it further resolved, That CBTU join the Alliance for Better Child Care to increase grassroots support at the state and local levels for the enactment of the Act for Better Child Care Services; and

Be it finally resolved, that CBTU advocate for increased funds for federal preschool programs, such as Head Start and Chapter 1, to serve more children whose parents cannot pay for a good preschool program.

Submitted By: The CBTU Executive Council.

Adopted: May 28, 1988.

A TRIBUTE TO DENISE AND ROBERT SHER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. LENT. Mr. Speaker, it is always a pleasure to recognize the contributions of dedicated citizens to the betterment of their local community. For this reason, I rise to pay tribute to Denise and Robert Sher who will be honored at a special dinner August 6 by Congregation Beth Emeth as their synagogue's most outstanding members.

I'm privileged to know Denise and Bob Sher, and am very fortunate to share a long and dear friendship with them that goes back many years. They are both very talented, capable people who are actively involved in their Temple and local community of Island Park, NY. Their commitment to furthering Jewish culture, religion, and education will ensure this rich heritage for future generations. Furthermore, their dedicated efforts have helped make Temple Beth Emeth a most important institution in the local community.

I'd like to join their many friends in expressing my deep appreciation to Bob and Denise for their outstanding contributions to the betterment of their community and fellow citizens. And, on this momentous occasion, I extend my personal best wishes for their continued happiness and success. Thank you.

HERITAGE OF LIBERTY

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. INHOFE. Mr. Speaker, every year, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year's theme was "America's Liberty—Our Heritage." This year, over 6,000 schools comprising a quarter of a million students nationwide participated in the contest. One winner is selected from each State to present their script to Voice of Democracy judges in Washington, DC.

I am proud that the writer of the best script from Oklahoma, Miss Terri Lewis, is also a resident of the First Congressional District. Her composition addresses a question pertinent to the America of today: can today's young people carry on our heritage of liberty in a changing society? After reading this outstanding essay, my answer is the same as hers: yes, they can. Terri Lewis has already answered the call of liberty in her generation and is an encouragement to all generations to preserve America's Heritage—Our Liberty.

AMERICA'S LIBERTY—OUR HERITAGE

(By Terri Lewis)

The year is 1963. The place is our nation's capital, Washington, D.C. Over 200,000 people gather for a civil rights march. Throughout the crowd signs are carried that read; "Jobs for All", "End Segregation", "We march for Equal Rights". Banners are raised by blacks and whites alike. The races join hands to express the need for new beginnings.

The people of that generation saw a call for change. They expressed their rights and responsibilities as citizens by demonstrating the need for new laws and enforcement of existing ones. That generation, like those who helped win women the right to vote, ended child labor, and freed the slaves, displayed their willingness to carry forth the banner of "America's Liberty—Our Heritage".

Never before in the history of mankind had such an experiment in democracy been attempted. This experiment was our nation. One man, one vote was a truly revolutionary theory of government. "Dedicated to the proposition that all men are created equal", is the way Abraham Lincoln expressed it in his Gettysburg address of 1863.

This new strategy of government was not and is not easily maintained. Lincoln spoke of its preservation as he continued. "Now we are engaged in a great civil war, testing whether that nation, or any nation, so conceived and dedicated can long endure". Lincoln raised a question that I raise today. Can my generation carry on a democracy in the midst of such adverse conditions? We face the challenges of today as we struggle to elect officials, maintain a political balance on the Supreme Court, and fight to achieve a monetary equilibrium that will stabilize our economy.

The American Heritage of Liberty has been handed down for over two-hundred years. This liberty is always, and has always been one generation away from being lost or destroyed. My generation has the responsibility of maintaining, enriching, and delivering this heritage of liberty into the hands of our children, as each generation before mine has done.

It might take as little as passing out pamphlets for a political campaign—collecting signatures for a petition, or as much as the supreme sacrifice made by those who gave their lives in war to protect our fragile democracy.

Throughout the history of our nation each generation has accepted and answered the challenge of preserving democracy through their liberty as citizens. Today, as always, our freedom is challenged. From our past, we see our freedom can be maintained and continued. I have every confidence that history will demonstrate that my generation also met that challenge and passed on "America's Liberty—Our Heritage".

A TRIBUTE TO THE SEVEN "CHALLENGER" ASTRONAUTS

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. SCHUETTE. Mr. Speaker, I rise today to share a poem with Members of the House that was written by Mr. Ray Timmons of Beaverton, MI, in memory of the seven *Challenger* astronauts. Although this tragedy is more than 2 years past, its significance to the American pioneering spirit is as meaningful today as in 1986.

SEVEN FALLEN ANGELS

I wonder where they are, the brave ones that we've lost
They rose into the sky one day, and to the wind their souls were tossed.
They lived their lives for others, so the story is told,
They were seven fallen angels, whose hearts were full of gold.
Our lives have all been touched, by the glory of their dreams,
Our hearts have all been wounded, and were crippled, or so it seems.
Will we ever be the same again, can we see through all the pain.
Their lives were much too precious, for us to let them fall in vain.
I know if they could speak to us, they would tell us, we must push on.
For our hopes and dreams for peace tomorrow, in every man's mind must live on.
Their mission ended before its time, but their purpose we must all see,
For these seven fallen angels fell, to give us a better world and to keep us forever free.

THE SEAMY SIDE OF CASTRO'S CUBA: DRUG SMUGGLING TO THE UNITED STATES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. BROOMFIELD. Mr. Speaker, I have just learned of new evidence which proves that the Cuban Government is involved in smuggling drugs to this country. I commend the Federal district court in Miami and all of our Government agencies involved in the recent investigation of Cuban drug-related activities.

In 1982, I became aware of possible Cuban efforts to bring narcotics to the United States. At that time, 14 persons were indicted in Federal district court in Miami on drug charges. Four high-level Cuban officials were among those charged in absentia. The majority of those indicted who did stand trial were convicted.

That investigation, the Guillot Lara case, uncovered evidence which showed that the Cuban Government facilitated drug trafficking through the Caribbean. The trial revealed that airplanes carrying drugs from Colombia to Cuba returned there with cargoes of Cuban-supplied weapons for the leftist FARC guerrilla units which continue to threaten the stability of that prodemocratic country. Some witnesses at the trial testified that Cuban authorities promoted drug use in the United States.

While drug trafficking organizations and international terrorist groups were once good friends, they have now entered into a marriage of convenience. There is a community of interests between drug traffickers and international terrorists. They enjoy a productive symbiotic relationship. Drugs brought from Colombia to Cuba are sold on that island by the drug smugglers and the profits are used for the purchase of weapons for terrorist groups operating in Colombia. Terrorist organizations, as the M-19 and FARC, provide the protection needed by the drug lords for their drug producing areas.

The most recent trial and conviction of five members of a Miami-based drug smuggling ring produced hard evidence about Cuba's involvement in the drug trade. Court prosecutors presented evidence showing that the smugglers arranged to have two loads of cocaine flown from Colombia to Cuba. The aircraft landed at Varadero, a Cuban military base, and Cuban Government officials reportedly off-loaded the drugs and transferred the cargo to boats that were then escorted by the Cuban Coast Guard into international waters. The Cubans also alerted the drug-carrying ships to the location of United States narcotics interdiction patrol vessels in the area.

In addition to letting Cuba be used as a way station for ships and drugs on their way to the United States, the Cuban Government also allows drug-carrying aircraft to overfly that island.

While it is difficult to determine the precise extent of Cuban Government involvment, in the drug trade, evidence shows that some Cuban Defense Ministry officials are involved in the dirty business of helping to smuggle drugs to poison America's youth.

With these concerns in mind, I commend the following Washington Post article to my colleagues in the Congress:

[From the Washington Post, July 26, 1988]

FIVE GUILTY IN $10 MILLION COCAINE RUN

(By Michael Isikoff)

Five members of a Miami-based drug ring were convicted yesterday of smuggling more than $10 million worth of cocaine through Cuba in a case prosecutors said contains some of strongest evidence yet of Cuban government involvement in drug trafficking.

The conviction of Hugo Ceballos, a Venezuelan native with ties to Colombian cocaine traffickers, and four codefendants came after a two-week trial in which prosecutors presented evidence that the smugglers last year arranged to have two loads of cocaine totaling 700 kilograms flown from a farm in Colombia to Varadero, Cuba, a site identified as a Cuban military base.

With the assistance of men alleged to be Cuban government officials, the drugs were loaded onto boats that were escorted out of the country's territorial waters by the Cuban coast guard, according to trial evidence and prosecutors.

"The evidence in the trial demonstrated that Cuban territory was used with the knowledge, approval and cooperation of the Cuban government," said Dexter Lehtinen, U.S. attorney in Miami. "These were not simply a few, rogue low-level Cuban officials. . . . This demonstrated knowledge at high levels of the Cuban defense establishment."

For more than five years, Reagan administration officials have publicly accused the Cuban government of Fidel Castro—as well as the Sandinista leadership in Nicaragua and leftist guerrillas in South America—of complicity in the narcotics trade. But until recently, law enforcement officials said, little or no hard evidence has substantiated the charges relating to Cuban officials.

In an NBC television interview earlier this year, Castro vehemently denied his government's involvement in the drug trade, calling allegations that he cooperated with members of the Colombia-based Medellin cocaine cartel "lies from top to bottom."

U.S. officials stressed that there is still no way to determine how high up Cuban government complicity may go. But officials said the Ceballos case, combined with evidence developed for a related case involving some of Ceballos' associates, is significant in any event because it shows that cocaine traffickers may be turning to Cuba as a transit base as U.S. law enforcement officials crack down on smuggling through the Bahamas and other Caribbean islands.

"This is the first time we've had evidence that Cuba—like other Caribbean countries—is being used as a transshipment base for drug trafficking," said Jack Hook, a spokesman for the Drug Enforcement Administration in Miami. "Before this, it's only been rumors."

In the course of the trial, prosecutors introduced videotapes and taped telephone conversations in which Ceballos contacted a U.S. government undercover agent and recruited him to fly cocaine into Cuba in March 1987, promising that his safety would be guaranteed.

After a second shipment in May 1987, an alleged Cuban-American coconspirator, Ruben Ruiz, is quoted on videotapes telling a secret government informant that he arranged to have Cuban officials "at the topmost channels in Havana" contact Federal Aviation Administration officials in Miami to inform them the Cessna they were using had run into "fuel trouble" and needed to make an emergency landing in Veradero.

Prosecutors said it was necessary to concoct the fuel trouble to provide the smugglers with an explanation of why they did not follow their pre-filed flight plan from Panama to Miami. When the plane landed in Cuba, it was met by a group of men dressed in civilian clothes who supervised the unloading of the cocaine onto a jeep.

"Oh, those [men] are government," Ruiz said on the tape. "Those are big guys."

In a bond hearing last March, Ruiz was quoted as boasting to the informant that "I am the only one that has connections" in Cuba. Then, in an apparent referral to Castro, Ruiz says, "The money went in Fidel's drawer," although at that point, the videotape was stopped.

DIFFICULT TIMES AT THE OIL INDUSTRY

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. McEWEN. Mr. Speaker, I recently read an article in the June issue of Petroleum Independent concerning the difficult times the oil industry is going through. The article by Frank Pitts, an independent producer from Dallas, makes the point that the recession that hit the oil patches threatens the Nation with a full-fledged depression unless the Nation's political leaders wake up and take notice.

He notes that it's important for the government of any producing nation to help maintain a healthy oil industry, and that excessive dependence on foreign oil and natural gas threatens our economic stability and national security.

I bring this to the attention of my colleagues with the suggestion that this is an informative article. I also ask that it be entered into the CONGRESSIONAL RECORD.

LET'S STOP COMPLAINING ABOUT ROADBLOCKS AND GET TO WORK!

(By Frank Pitts)

Oil and gas questions and answers change so fast these days that hard answers don't come easy. But I do have some tough ideas for you. Not ideas I always like, or dreams I wish would come true, but hard facts.

When oilmen sell a few barrels less oil per day, somebody's oil truck doesn't run; somebody else's rig is idle; a roughneck misses a payment on his pickup; and Anthony's sale on blue jeans is a flop. Tomorrow, they may need one less employee at the Longhorn Cafe; the bank is in trouble; and the school district is trying to pry new tax money from retired mail carriers and waitresses, who never before gave a thought about their stake in the oil business.

Those are facts of life that you and I share with the folks in Caps and Merkel and Houston. But they are still unknown to most Americans in Beverly Hills, Vermont, or Georgia. And so we shout, "The recession that started in the oil patch threatens the nation with a full-fledged depression unless the politicians wake up!"

Hard Fact No. 1: The politicians are wide-awake! The U.S. economy, beginning with the demise of the oil industry in 1982, is trying to take off! A new low-valued dollar has us competitive overseas again. The Midwest rust belt of manufacturing is sprouting chrome. Japan is importing American-made Hondas because they're cheaper than Japanese-built Hondas! We can plead dangers of dependence on foreign oil all we want—and in the long run, we may be proven right. But politicians have accurately read the pulse of most Americans, and they know what can get them re-elected. We cannot this year overturn the general feeling that things are improving in this country, and that cheap foreign oil is just what we needed all the time.

I have been an avid supporter of a variable import fee on foreign oil ever since the Saudis dumped two million barrels per day on the market and ran the price down to $10. Many oil operators have supported those same efforts, and others have resisted them in support of free enterprise, or shown concern of the danger of more government interference in our business. There are good arguments on both sides, but our differences have destroyed our lobby position.

Hard Fact No. 2: In my opinion, there will be no oil import fees established, and no government floor or price support that will assist the 10 principal oil and gas producing states. Not under Mr. Reagan, and not under the next president, regardless of his name or party.

That leads head-on to Hard Fact No. 3: The price of oil the next several years will remain at $15 to $20 in 1988 dollars.

I believe any producer who is sitting around hoping for a crisis that will raise oil prices to $25 to $30 in the next two or three years is kidding himself. It is absolutely in OPEC's interest to keep the price as high as possible, but low enough that high-cost producers, such as Americans, cannot give them any serious competition. If the price of oil creeps high enough to let Americans or Canadians make easy profits again, OPEC's huge producing capacity will flood the market again and drive us producers to the wall. They may fight, stab, and cheat each other on the quotas, but OPEC is not going to come unglued.

For a producer to continue in business, he must grit his teeth! Face the facts! Trim his operation! Analyze every prospect down to the last pore-space! Get on the computer and check every step of the dozens of ways his financial deals can be structured. "Necessity is the mother of invention." He can make some money from $15 to $20 oil if he'll use the technology available to him.

There still is $15 to $20 oil left to be found and recovered in this country. But it is not nearly as large a resource as $2.50 to $4 natural gas. As a premium fuel, natural gas is even more underpriced than oil at the moment, but that's going to improve. Gas producers are worried about the temporary gas surplus that is still driving prices down, and about Canadian gas that is still shipped into U.S. markets. Canadian gas filled 5 percent of the U.S. market last year and is expected to climb to 10 percent of the U.S. market by 1994 or 1995. Some gas producers are gearing up to fight tooth and nail to prevent ratification of the natural gas portion of the U.S.-Canada free trade bill.

Hard Fact No. 4: The treaty will be ratified. New England gas utilities are in favor of Canadian gas imports. In California, Pacific Gas welcomes the cheaper, more stable supply of Canadian gas. There are many producers such as Amoco and Exxon, and some U.S. independents too, who have Canadian gas to sell. There is more nearly a coalition favoring an open market for Canadian gas than there is against it.

Hard Fact No. 5: U.S. gas producers are not selling their abundance of gas! They're talking so much about future shortages and high prices of natural gas, that they're driving their best potential markets away! Too many of them are in a strange new world with no map. For 40 years, the regulated pipelines basically told producers what they'd pay, and how much gas they'd take.

When Jimmy Carter was elected in 1976, he looked at the gas reserve curve sliding downhill and decreed: "The United States is out of natural gas. We've got to stop wasting precious gas on generating electricity and use coal and other types of energy." His new laws did away with free market intrastate pricing, but prices were allowed to rise.

Soon, expensive new gas choked the pipelines. Consumers couldn't pay for it. Industry wasn't allowed to use it. A surplus of gas smothered producers, just as the Arabs drove the price of oil down below $10. The entire oil and gas industry crashed, bringing down with it all kinds of subsidiary industries, multi-billion dollar banks, investors, and the ripple-effects were felt far and wide. Today, new laws have opened up a huge expanse of potential markets, but most producers are still waiting for the pipeline to come and buy their surplus. He's never had to sell aggressively, and doesn't know how to start selling gas to an end user.

In my more than 40 years experience in this business, I've seen only two clear windows of real opportunity. The first was in the early 1970s, when our government had prices squeezed down so nobody could drill and make a profit with $3 oil and 14 cents to 25 cents gas. Reserves were dropping and imports were increasing to the danger level. It was obvious that something had to give. Together with a few associates, we began drilling wells. Within two years, the prices began to rise, and our investment paid off.

The second window is right here today. The conditions are nearly the same as 15 years ago. I believe the government is going to have to come to its senses again. The U.S. oil industry will recover, but only after Congress pulls some chocks from the wheels.

The government of any producing nation should help maintain a healthy oil industry. There are some wonderful examples of incentives and partnerships aimed at reviving and encouraging producers in Norway, Sweden and England, which have all granted tax privileges or special credits. Australia and Argentina have cancelled oppressive tax disincentives. On the average, non-OPEC countries have cut about $7 from every $10 of former taxes. Canada has been particularly helpful to producers, even making outright cash grants designed to increase exploration, drilling and production.

That's in marked contrast to the "get lost" attitude of our own government's response, which was to add $10 billion in taxes to U.S. producers in 1986. The difference is apparent. At present, as the industry has tried to creep toward recovery, active drilling rigs have increased in the U.S. by 30 percent, and in Canada by 100 percent. The chairman of Petrocanada recently reported that Canada's new tax policies have allowed him to make as much profit on $18 oil as he once did on $30 oil.

What can our government do? It can eliminate many disincentives and create some new incentives. (1) Our government could instigate tax credits for new drilling. (2) Our government could eliminate federal taxes on all new discoveries and their associated development wells for a period of, say, five years. (3) Our government could repeal the misnamed windfall profit tax. (4) Our government could restore 27.5 percentage depletion, thereby increasing the production of even $15 oil by 370,000 barrels a day. (5) Our government must open more government lands to exploration, onshore and offshore.

Fortunately, there appears to be a growing pool of investment money that will be available when government signals a tax climate under which we can conduct profitable operations even with today's low prices. Some is foreign, some is institutional, such as insurance companies and pension funds, and some is private U.S. dollars.

But the type of investor that Texas producers have depended on for 50 years, those looking for tax shelters, are probably gone forever. The new investor operates on conservative business principles.

Hard Fact No. 6: Razzle-dazzle has been replaced by computer printouts. New kinds of investors are going to create a whole new breed of independent producers; one who knows his market; one who knows how to sell to his market; one who knows how to manage a really tight ship, where nothing slips through the cracks; and one who stays abreast of and uses as much of the new technology as is applicable to his operation.

Companies like Mobil, Texaco, and Conoco are not finding the transition easy, and it will be even more traumatic for most independents. There's going to be a period of adjustments and regulatory turmoil, too. In the long run, most small independents may continue to sell to pipelines, and through a new breed of oil field cat, the gas sales broker.

But opportunity is about to beat the hinges off producers' doors! The electric generation business alone must produce 22 percent more power by 1995 to meet the estimated demand. We've got the cleanest fuel, and plenty of it. It costs less to build and maintain a gas-fired plant than any other.

In order to capture this huge market, two questions must be answered, positively: (1) Will there be a long-term supply of gas? and (2) Will the purchaser be able to negotiate a long-term contract?

The expansion of natural gas markets will be especially helpful to the Texas economy. SMU has calculated that for every gas well drilled, 192 jobs are spread through the economy. To add one trillion cubic feet of gas to our supplies requires 312 rigs, which equals 64,000 jobs, and contributes $1.6 billion in personal income. New gas markets are important to a lot more people than just a few producers.

It's time for us to put on our selling clothes and convince investors and customers that we're the cornerstone to America's future economy. It's time to stop fighting government windmills. Instead of complaining about Canadian and Mexican gas digging into our markets, let's use that extra availability as one of our strong points: a gas network over all of North America is our back-up cushion to prevent shortages! The pie is plenty big enough for us all to share.

Hard Fact No. 7: We need to stop complaining about roadblocks, get out our building blocks, and get to work!

"WEST VIRGINIA OIL AND GAS DAY" A SUCCESS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. RAHALL. Mr. Speaker, on Saturday, July 30, the Independent Oil and Gas Association of West Virginia [IOGA] sponsored the first "West Virginia Oil and Gas Day." Held at Glenville, WV, one of the purposes of this event was to provide members of the West Virginia congressional delegation with a better working knowledge of the oil and gas industry in West Virginia.

The event was a resounding success. The firsthand view of a working rig site and tour of the excellent reclamation being done by the industry coupled with a highly informative seminar on the issues facing the industry provided me with a better understanding of a segment of the energy industry often overshadowed by the coal industry in West Virginia.

Not many people are aware of the fact that West Virginia now ranks second in the Nation in the number of gas wells drilled and is usually one of the top 10 producing States. The independent oil and gas industry in West Virginia accounts for over $100 million in wages per year and directly employs around 4,500 workers. During the latest fiscal year, West Virginia producers paid over $60 million in royalties and $40 million in State business and occupation taxes.

The oil and gas industry in West Virginia is truly comprised of independent firms. These are not subsidiaries of large multinational oil companies. They are West Virginia companies which hire West Virginia workers whose successes have been self-made.

As with other energy sectors, however, the West Virginia industry is feeling the brunt of soft market conditions and is suffering from the lack of a coherent national energy policy in this country. In addition, at this time the industry's very existence is being threatened on several fronts relating to Federal law and policy.

A great deal of natural gas in West Virginia is produced from Devonian shale, and these wells qualify for the non-conventional-source fuel tax credit. Frankly, without this credit some very high quality natural gas would be left in the ground. It is, as such, imperative that Congress extend the qualification period for at least 1 more year and allow the carry-forward of unused credits.

Another matter of the gravest concern involves the latest of many ill-advised Federal Energy Regulatory Commission proposals. The FERC is currently toying with the concept of "unbundling" pipeline services and the blind application of this policy would result in separating transmission and gathering services and charging separately for them. With the typical ignorance of the manner in which natural gas is produced, transported, and sold in the Appalachian Basin, there is little doubt that the effect of this policy would be the virtual end to the transportation of West Virginia natural gas.

These are but two out of many pending issues which could dramatically undermine the contribution made by the independent oil and gas industry in West Virginia to our national energy security. The preservation and enhancement of this contribution will certainly be a major part of my efforts in the energy arena.

Mr. Speaker, I want to take this opportunity to express my deep appreciation to the members of IOGA for sponsoring "West Virginia Oil and Gas Day" and for taking the time to assist my understanding of not only the workings of their industry but the public benefits derived from a healthy and viable independent producing sector in West Virginia.

ECONOMIC SANCTIONS AGAINST SOUTH AFRICA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday August 2, 1988

Mr. BURTON of Indiana. Mr. Speaker, I would like to share with my colleagues a letter I have received from the leader of the largest black church in South Africa, Bishop B.E. Lekganyane. Bishop, Lekganyane is head of the Zion Christian Church in South Africa, with a membership of over 5 million black South Africans. He is an authentic leader with a real following. A couple years ago his church held an Easter gathering that according to Dan Rather of CBS News was attended by about 2 million people— it was the largest such gathering in the world that year.

I wrote to Bishop Lekganyane to ask for his perspective on the proposal for further economic sanctions against South Africa, and on my substitute bill. I explained in my letter that here in America, proponents of sanctions were saying that South African blacks supported sanctions, but that I thought we should take a different approach.

His response, I believe, speaks for itself. I include his remarks in the RECORD at this point, and commend them to my colleagues' attention.

ZION CHRISTIAN CHURCH,
Zion City Moria, July 24, 1988.

DEAR CONGRESSMAN BURTON: Although this reply to your letter will reach you much later than expected, I wish to thank you for giving me the opportunity to express my views on sanctions and disinvestments. I also want to commend you for your courage in proposing to look beyond immediate domestic political capital and to offer meaningful assistance to those quarters of our community where help is most needed.

Allow me to say at the outset that my views on sanctions and disinvestment have been reinforced by the countless reports that I have received from leaders of all walks of life in our country. Community leaders, spiritual leaders, businessmen and many others all are deeply concerned about the effects of sanctions in their communities. Without fear of contradiction I can consequently claim to accurately reflect the opinion of the 5 million plus of the members of my church in Southern Africa. We are totally and irrevocably opposed to sanctions. The principle and effects of sanctions and disinvestment are diametrically opposed to what we stand for and what we believe in.

I am encouraged by the growing awareness among the black people of this country for the need to openly oppose sanctions. Even those organizations that have initially been the most ardent supporters of sanctions and who, it could be said, played a major role in having sanctions imposed have either recently toned down their public support for sanctions or have refrained from making any statements at all. Some of these have even admitted privately that sanctions are counterproductive.

You state in your letter that the proponents of the near-total embargo approach contend that they have the support of the majority of South African blacks. They do not have such support and if they honestly believe that they do, they have been misled. They have never had such support and I cannot foresee that they will ever have it. You should therefore not even think of changing your position.

I do not even wish to think of the impact of the total embargo approach on my country. I cannot reconcile myself as a leader of millions with the principle of suffering as a means to an end even if that end is the abolition of apartheid. There is another way—the positive approach. Only economic development, more jobs, social upliftment, improved housing, better education for all, increased and equal opportunities will help us destroy apartheid. Just as the stroke of a pen abolished slavery but failed to destroy racism, the stroke of a pen would help in ending apartheid, but it will not destroy it. We ourselves are the only ones who can eradicate it. You can certainly help if you associate with our plight by involving yourselves, by visibly and tangibly extending assistance, know-how, by creating jobs, by expanding the capacity of the economy to offer prosperity. Sanctions have done just the opposite.

We do not want hand outs. We also have our pride. The least we ask of you is not to inflict more desperation on us by even harsher sanctions. Because we share your lofty ideals and appreciate your compassion we dare ask you to allow your businessmen to freely trade with South Africa, to invest here, to create jobs, opportunities, build houses for employees, sponsor bursaries and improve and provide transport. Congress can contribute to the promotion of freedom and justice for all South Africans by extending your freedom of association to the people of this country. Allow your businessmen, your financial institutions, your foundations, your society and your people to associate with us and our plight. Congress can help in refraining from deepening our sense of despair caused by existing sanctions legislation.

Finally, may I once again commend you not only on the honesty you have shown by proposing the Burton substitute but also on the substance thereof. Your proposals constitute a real and meaningful support for Blacks in South Africa. It preserves our faith in your intentions and strengthens our hope in the future.

May you succeed in your endeavours and may you be sustained in the course you have chosen. Be assured of our esteem and appreciation.

B.E. LEKGANYANE,
Bishop of Zion Christian Church in South Africa.

MR. HAN-GIL LEE COMPLETES CONGRESSIONAL FELLOWSHIP

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. DYMALLY. Mr. Speaker, I am proud to announce that since coming to the Congress in the 97th session, my office has participated in an agreement with the National Assembly of the Republic of Korea under which staff members of the National Assembly come to Washington for a 6-month fellowship.

I am happy to say that this program has provided an opportunity for members of the Korean Government to gain a better understanding of the legislative process while serving as staff assistants in Congress. For the past 6 months, my office has had the pleasure of hosting the congressional fellowship of Mr. Han-Gil Lee.

A graduate of Kuk-je College, Mr. Lee holds a bachelor's degree in legal affairs and a master's in business law from Han-yang University Law School, both of which are located in Seoul. In addition, he has studied law in Korea for over 6 years.

In his capacity as a chief staff member for the legislative and judiciary committee of the National Assembly of Korea, Mr. Lee is responsible for the drafting, writing, and interpretation of law. In addition, he has worked as a researcher in the Legislative Research Bureau in Korea; our equivalent to the Congressional Research Service here in Washington.

Mr. Lee's knowledge of the Korean Government and its system of laws is quite impressive. He has been a great asset to our office and frequently spoke with staff on the various aspects of the Korean Government. He explained to us its 16 committees in which the judiciary committee commands the most power. When describing the legislative hierarchy, he chuckled and said, "Although Korea does not formally hold Senate elections, parliamentary members of the legislative committee like to refer to themselves as "senators."

Looking back upon his congressional experience, Mr. Lee strongly commends the Korean Fellowship Program. He feels it has provided him with an excellent opportunity to understand our legislative process as well as other aspects of American life including its culture, values, history, and people. Furthermore, his fascination with our Nation and its people has inspired him to vigorously pursue the study of English. In addition, Mr. Lee has strong aspirations to return to the States and attend law school in the next couple of years.

Although Mr. Lee is anxious to return to his family and friends in Korea, he regrets leaving his friends on Capitol Hill. "It has been a pleasure to be here. The American people have been so friendly and supportive throughout my stay."

I would like to take this moment to express my sincerest appreciation to Mr. Lee for participating in the Korean Fellowship Program. We will miss you Mr. Lee, and wish you well in all your future endeavors.

TRIBUTE TO TOM AND FLO WHITE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Tom and Flo White, two very special residents of my 17th Congressional District. It gives me exhilirating pleasure to announce that Tom and Flo White were chosen to be the grand marshals for the 1988 Fourth of July celebration in Canfield, OH. I would like to take a few moments to inform my fellow Members of the U.S. House of Representatives about these two living memorials to the history of Canfield.

Tom and Flo have operated the Western Auto store in Canfield for the past 37 years. It is an extremely beautiful and historic building, with its elegant wooden floors and unique tin square ceiling; just entering this stately building is like returning to the days when Harry Truman was President. But the future mixes with the past, as young children of today check out the new footballs and baseball gloves in this lovely Western Auto store.

Tom White is the son of an Italian immigrant tailor, and after graduating from Youngstown Rayen High School, he entered the U.S. Navy and fought for America in the Pacific during World War II. Flo also graduated from Rayen, and married Tom on July 18, 1949—the happiest day of both of their lives. Both are active members of St. Anthony Church in Youngstown, and are the proud parents of attorney Richard White of Poland, OH. They are quite active in community affairs, for Flo is a member of both the Canfield Business Women's Club and the Altar and Rosary Society, and Tom is the head of lay commentators and an usher at St. Anthony.

I am filled with abundant happiness at the knowledge that the Western Auto store is a piece of living history still operating in my district, and it is my deepest desire that this business remains successful and profitable for at least another 37 years. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in saluting the charming and energetic personalities and very noble characters of Tom and Flo White.

LEGALIZE DRUGS? GET SERIOUS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. RANGEL. Mr. Speaker, on September 29, 1988, the House Select Committee on Narcotics will hold a hearing on the legalization of drugs. My position against legalization is well-known. I anticipate that we will conduct a comprehensive examination of this issue on September 29.

I recently read an article by columnist Charles Krauthammer, entitled "Legalize Drugs? Get Serious." Mr. Krauthammer offers an interesting discussion about the fallacy of making now-illicit drugs legally available, and I would like to share it with you.

I insert Mr. Krauthammer's column on this topic in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Daily News, May 24, 1988]

LEGALIZE DRUGS? GET SERIOUS

(By Charles Krauthammer)

The idea of the month—to cure the hysteria of the year—is to legalize illegal drugs. If drugs are legal, there are no profits to be made smuggling, no Mafias and drug cartels to be enriched by the trade. We save billions in law enforcement and reduce corruption to boot.

Even legalization proponents admit that it will increase drug use. What they minimize is the catastrophic effect that legalization will have on public health, an effect that will far outweigh the savings in law enforcement. We had an inkling of that during Prohibition. Prohibition was a law-enforcement catastrophe but, during its early years at least, a public-health triumph. The rates of such alcohol-related illnesses as cirrhosis of the liver and alcoholic psychosis went down remarkably.

Well, you ask, if alcohol is now legal, what is the logic of prohibiting cocaine and heroin? No logic, just history. Alcohol use is so ancient and universal that it cannot be repealed. The question isn't: Which is worse, alcohol or cocaine? The question is: Which is worse, alcohol alone or alcohol plus coke and heroin and PCP? Alcohol is here to stay. To legalize other drugs is to declare that the rest of the pharmacy is here to stay, too.

Do we really want the additional and permanent burden of other intoxicants, some of which are infinitely more addictive than alcohol? Since the January 1987 Amtrak crash in which 16 passengers were killed, there have been 37 railroad accidents involving drug use. With cocaine and heroin readily available, additional transportation deaths alone—think just of the highway toll—would dwarf the current number of drug-related deaths.

What to do? For any problem that is ultimately cultural there can be no quick fix. The answer has to be cultural, too, and changing attitudes takes decades. But it can be done. The great paradigm is the success of the now 25-year-old anti-smoking campaigns.

When I was a kid, the most glamorous image one could imagine was Bogie with a cigaret dangling from his lips. No more. Tobacco advertising is banned on TV, a clear violation of free speech and a good one. A relentless government campaign, finally picked up by Hollywood and the rest of the culture industry, has deglamorized cigarets.

The combination of moral suasion, deglamorization and mild repression—segregating smokers, banning TV ads—has led to a dramatic decline in tobacco usage in one generation. It was 40% when the surgeon general's first report was issued in 1964. It is 30% today.

Nancy Reagan's "Just Say No" campaign drew ridicule, but it recognized the only nonrepressive way to go after drugs. Do to them what was done to tobacco: deglamorize. The only way to reduce consumption is to reverse a cultural impression. In a culture of bright lights and big cities, doing that cannot be quick and easy, but there is no other way.

Save one. If you want an overnight fix, start cracking down hard on users. Not by putting them all in jail. There aren't enough cells to go around. But by imposing stiff sanctions against property—heavy fines and confiscations. When a user has to calculate the price of coke at $100 per gram plus a possible, say, $10,000 premium thrown in, he might start looking for cheaper forms of recreation.

There you have it: four solutions. If you are desperate for a quick fix, either legalize drugs or repress the user. If you want a civilized approach, mount a propaganda campaign against drugs on the scale of the anti-smoking campaign. And if you are just a politician looking for reelection, send in the Marines and wave to the cameras.

QUALITY CHILD CARE IS EVERYONE'S CONCERN BY KENT KRAUSS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. UDALL. Mr. Speaker, the lack of decent and affordable child care is having a devastating impact on the well being of American families and on the productivity of our work force.

In recent weeks, there has been a growing consensus that the Federal Government must assume a stronger partnership with State and local governments, community groups, and religious organizations to help working parents find and afford the care they need for their children. Indeed, the debate has shifted from whether the Government should act to improve child care to how should the Government act to improve child care.

If you ask any working parent in Arizona's Second District, they will tell you that finding good child care they can afford is difficult, if not impossible.

My constituents are not divided on what they think needs to be done. They don't want quick, cosmetic fixes that will only sell our children short. They know that our country's child care crisis will only be solved by addressing the root causes of our child care crisis: availability, quality, and affordability.

Kent Krauss from Phoenix's Business Journal sums up the issue as we see it in Arizona. Mr. Speaker, I insert his editorial in the RECORD.

[From the Business Journal, Nov. 23, 1987]

QUALITY CHILD CARE IS EVERYONE'S CONCERN

(By Kent Krauss)

Given the huge federal budget deficit, now is not the most propitious time to introduce large new federal programs. But the Act for Better Child Care Services, a comprehensive child care bill that was expected to be introduced late last week as the Business Journal went to press, deserves serious consideration despite its cost.

The bill, which is co-sponsored by Arizona Sen. Dennis DeConcini, was expected to be introduced to Congress by Democratic Sen. Christopher Dodd of Connecticut, Republican Sec. John Chafee of Rhode Island, and Democratic Rep. Dale Kildee of Michigan. If the bill becomes law, it would authorize $2.5 billion for fiscal year 1989 to greatly expand child-care options for families. That's out of a total budget that will exceed $1 trillion.

Among other things, the bill would help low- and moderate-income families pay for child care, expand training opportunities for child care, expand parental access to resource and referral programs, furnish new resources to strengthen family day care, increase the supply of care providers and improve the protections for all children in child care.

The act would give states money to make available child-care financial aid to families with up to 115 percent of a state's median income, adjusted for family size. Parents in school or training programs also would be eligible for assistance.

Each state could design their own program, providing assistance through contracts with care providers or certificates given to parents.

Ensuring adequate child care should not be an issue that pits Republicans against Democrats or liberals vs. conservatives. It is less a matter of fiscal concern than of human concern, of establishing national priorities.

Congress must examine both the cost of the proposed program and the costs of doing nothing. The latter may not be measured as directly in dollars and cents, but in terms of wasted lives and opportunities, the inability of many well-intentioned people to break out of the cycle of poverty and the health and well-being of America's children—our future.

Ultimately, failure to provide adequate care and guidance to children costs taxpayers, too, in the form of lower federal tax revenues, funds for prisons and for other social programs.

Many conservatives are against abortion, and I am not questioning the sincerity of that position. But the concern for life should not end at birth; they also should be concerned about providing each child with the opportunity to become all that he or she can be.

Responsive government should respond to changing social needs, and without a doubt, family patterns have changed to the point where quality child care should become a high priority.

Working couples, often by necessity, have become the rule rather than the exception. And sometimes that means both young children and latchkey kids pay a price.

Rather than hiding behind fiscal arguments, Congress should re-examine its spending priorities and put the emphasis on caring. A national program to improve the quality, affordability and availability of child care would be a good place to start.

Buisiness, too, should care, for reasons that include dollars and cents. That's because the quality of child care can directly affect the productivity and turnover rates of employees.

DOMESTIC STEEL INDUSTRY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. SCHULZE. Mr. Speaker, this morning, David Hoag, president and CEO of LTV Steel, presented his views of the condition of our domestic steel industry to the Congressional Steel Caucus. I urge my colleagues to read Mr. Hoag's remarks and heed his advice that all that glitters is not gold—and the glittering statistics surfacing in reports on steel mask the underlying need to continue modernization and to extend voluntary restraint agreements with our major trading partners.

The following remarks look toward the future, as all American enterprise must to ensure our position of prominence in the world trading order:

Sales are good, the order book is solid and the domestic steel industry is making a profit. Good news—but the industry's problems are far from over. The reason—there has been little change in the global structural conditions that contributed to the worst period ever in the industry's history—$12 billion in losses during the 1982-1986 period. And recovery to date has been brief. A short history of this recovery is useful to understand where we stand as we begin the second half of 1988, and where we seem likely to be at the end of this year.

Last year was the industry's first year of profitability since 1981. Net income was $1 billion, but $300 million of this total consisted of non-recurring items such as investment tax credits. Even in this environment, significant segments of the steel business remained in the "red". Major bar products suppliers reported operating losses in 1987.

Operating rates and shipments began to increase in the second half of 1987 and continued into 1988. We have to keep in mind that a number of unrelated special events occurred to create this market situation. What I'm referring to is:

A seven month strike at the largest producer

A low dollar and an improved economy

The end of the oil country tubular inventory glut in the second quarter of 1987

First quarter 1988 operating rate improved to over 90 percent. Shipments were also relatively high during this period, running at an annual rate of 84 million tons. When I say relatively high, some historical perspective is in order. 84 million tons looks good now after the industry has severely rationalized. But 10 years ago we would have called it a recession.

Finally, net income for the first quarter was clearly good—$827 million on sales of $7.9 billion. It must have been good—we heard phrases like "Sellers' market," "hedge buying," and "inventory building" used to describe conditions in the domestic industry. A not surprisingly characterization from steel buyers who may have been buying steel for 5 years at cut rate prices at the expense of steel jobs and industry viability.

The first quarter picture wasn't without blemishes. There was concern that the inventory building portion of demand was too large to be sustained. Of particular concern was the fact that, while shipments to the capital goods and construction sectors were strong, shipments to the automotive sector were down compared to the first quarter of 1987. The automobile sector, an important segment of our business, is a leading indicator.

Second quarter 1988 data for the industry are not yet complete. However, clearly the industry has continued to operate at what we now call high levels. Companies that have reported their second quarter profits have had good news to tell. Shipments for the first six months ran at an annualized rate of almost 86 million tons. We believe for several reasons that this is unsustainable. Disturbing news from the second quarter comes from the inventory problem. Steel consumers have been building inventory for some time. We do not believe that this inventory build reflects a steel usage level that can be sustained. And while the third quarter has continued to show strength, seasonal conditions are now beginning to evidence themselves.

One major steel segment, like Tubular business, has already seen substantial reduction in its order rate. While on the Tubular subject, I should add parenthetically that the jury is still out as to whether the Tubular business in this country is viable when imports with VRAs can be in the 50% range.

The rest of 1988 remains something of a question mark. What do the professional steel forecasters say about 1988? Well, it seems that they are also focusing on the inventory issue. Most of them are forecasting that shipments in the second half of 1988 will be down by more than would be justified by normal seasonal declines. The second half is generally slower than the first in our business.

Forecasts are ever changing and all over the lot. Commerce Department estimates 80 million and DRI is at 78-79 million tons. A 79 million ton year in 1988 represents a little over 42 million tons in the first half, and somewhat less than 37 million in the second—a 13% decline.

Imports could be the "wild card" in this scenario. They could represent an additional softening influence on the domestic steel market in the second half, because of technical adjustments to VRA countries' entitlements. This technical adjustment could result in as much as half a million tons of additional steel products being licensed for arrival in the U.S. market in the second half of this year.

Notwithstanding these concerns, 1988's results are the first rays of light for the industry after a long drought. The good news, which abounds right now, however, needs to be taken in the context of an industry which has lost $12 billion during the last economic downturn, and an industry that must commit large sums of capital for modernizing and restructuring. During the last two years the industry has invested capital at the rate of some $1 billion annually. That's a lot of money—particularly if you don't have it. But it may represent as little as one-third of what is needed to fully modernize and be internationally competitive.

Given that the basic nature of the industry has not changed, it is not a question of whether we will have to face another downturn in steel demand, but when. Thus, the current return to strong steel demand and profitability represents only a first small step toward recovery from the financial pounding the steel industry took in the early 1980s. What our industry needs now, in order to recover fully from the devastation of the 1982-1986 period, is a sustained period of recovery—not just two or three quarters' improvement.

THE SEATTLE FOOT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. MONTGOMERY. Mr. Speaker, tremendous interest and great excitement has been generated recently by news reports in magazines, newspapers and televisions presentations concerning revolutionary progress in the quality of artificial limbs available for lower limb amputees. An outstanding example of such prosthetic device is the Seattle Foot which enables foot amputees to run and participate in such sports as basketball and soccer. It is not widely known that this foot is a product of the Veterans' Administration Rehabilitation Research and Development program. Dr. Ernest Burgess, a Seattle orthopedic surgeon who is the founder and director of prosthetics research study, was the principal investigator of the VA-funded project and was assisted by Ronald L. Poggi, an engineer.

The Seattle Foot is a high performance foot designed to store the energy of weight bearing and to release this energy at the time a person's toes push off the ground in walking. The idea is to store energy from one part of the walking pattern and release it in another part to mimic the action of the calf muscle. The internal component or keel of the Seattle Foot is a specially designed lightweight plastic that acts as a spring. The Seattle Foot's ability to store and release energy during the normal walking pattern allow it to restore the natural lift and forward thrust required by an amputee during walking or running.

We are all thrilled to see a video presentation of a double amputee playing basketball or running enabled by the Seattle Foot. Recently the DuPont Co. included such a scene in its advertising campaign on TV and in the press. The plastic material developed by DuPont is cited as enabling the individual to participate in such sport activity. But no mention is made of the fact that it is the revolutionary energy storing design of the lower limb prosthesis, the Seattle Foot, worn by the player which makes this possible. Nor is any mention made of the critical role of the Federal Government in making this new prosthesis possible.

The Rehabilitation Research and Development Service of the Veterans' Administration has designated as its highest priority research and development in the area of prosthetics/amputation/orthotics. The mission of this program is to improve the quality of life of impaired, disabled and handicapped veterans by making them more functionally independent. Though geared to the needs of veterans, the results of VA supported research and development are shared with all disabled.

The development of the Seattle Foot was supported by the Veterans' Administration to improve the quality of life for veterans but the transfer of this technology has been effectively made to the private sector and it is now available to all disabled who could benefit from its application. Since becoming available in 1985, there have been over 20,000 of these prostheses produced for use by amputees within the United States and other countries.

The unique nature of the Seattle Foot placed it among the 13 winners of the first Presidential Awards for Design Excellence established by President Reagan. The awards provide national recognition of exemplary achievements in Federal design in the fields of architecture, engineering design, graphic design, interior design, landscape architecture, product/industrial design and urban planning.

Mr. Speaker, we can all be proud of the role the Rehabilitation Research and Development Service of the Veterans' Administration has played in supporting the development of new technology and devices exemplified by the Seattle Foot to permit amputees to become more active.

SOUTH AFRICAN SANCTIONS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. MARLENEE. Mr. Speaker, I would like to include for the RECORD a letter from my constituent who has personally visited South Africa and has some excellent insights on the sanctions debate.

Economic sanctions and embargoes would only hurt the very people we are so desperately trying to help and would weaken our ability to bring about peaceful change in South Africa. As Dr. Gilliland ably points out, black South Africans are much more concerned about a Communist takeover than they are about apartheid.

When we vote on sanctions, Mr. Speaker, let's not make one of the most productive and religious nations in Africa the killing fields for the atheistic, Marxist-dominated African National Congress.

The letter follows:

BILLINGS, MT, *July 7, 1988.*

HON. RON MARLENEE,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MARLENEE: I spent a month this spring in South Africa learning everything I could about the situation there. I talked to many Blacks, both rich and poor. I also talked to whites at all levels. I got a good idea of their feelings.

The Blacks are particularly unhappy about the American sanctions, causing American companies to sell out, and others to quit trading with South Africa. American companies were setting the example and showing the people of South Africa that all races could be treated equally and be given equal opportunities for promotion. They were making equal opportunity available to everyone.

American companies quitting trade with South Africa has not effected the government except that it has forced South Africa to trade instead with the Communist countries. The people are very concerned about this, and about our strengthening the communist influence.

Black people of South Africa are *much* more concerned about a communist takeover, which will definitely happen if there is a revolt, than they are about apartheid. We should be too. If we loose South Africa as the only really important stronghold against communism in Africa, we loose not only a lot of loyal friends, we loose the world's greatest supplier of chromium, titanium, and platinum, all of which are essential for our own defense. We also loose the major producer of gold and diamonds and the control of the sealanes through which most of the oil for Europe must go.

Please do your best to prevent the passage of the "Anti-Apartheid Act" (S. 556 and H.R. 1580). This could be the last straw that could force South Africa into revolution then inevitable communist control.

Sincerely,

DR. HAP GILLILAND,
Professor of Education.

VICE PRESIDENT BUSH TALKS ABOUT CAPTIVE NATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. BROOMFIELD. Mr. Speaker, I recently had the honor to introduce Vice President BUSH in Warren, MI. The Vice President was the guest speaker at a Captive Nations Banquet at the Ukrainian National Center and talked at length about the tragedy of captive nations and America's progress in reversing the spread of communism.

Under the Reagan-Bush administration, strong emphasis on human rights has made a difference. United States support for anti-Communist opposition groups has also helped to put a stop to communism-backed insurgency, subversion, and forced takeovers of foreign governments. When we look around the world, the prospects for freedom are brighter than ever.

Vice President BUSH deserves much of the credit for the administration's commendable efforts to turn the tables on Communist expansion. As Vice President, former Director of Central Intelligence, U.N. Ambassador, and Ambassador to China, GEORGE BUSH is uniquely qualified to confront the Soviet challenge and advance democratic principles around the world. He clearly has the foreign policy skills and experience required to keep America in a leadership position.

Those who attended the captive nations banquet warmly welcomed the Vice President and appreciated his comments. Many of the Ukrainians in that banquet hall know the reality of the expansion of communism into their ancestral homelands. They know the reality of life in a police state. They live with the memories of their loved ones who are trapped in those closed societies.

I extend my appreciation to the Vice President for his efforts to visit Warren and to share his thoughts with those Americans from Michigan who know the sad reality of life under a totalitarian regime. I can assure my colleagues that a future "President BUSH" would aggressively champion the cause of freedom around the world. I commend the following excerpts of the Vice President's remarks in Michigan to my colleagues in the Congress.

EXCERPTS OF REMARKS, VICE PRESIDENT GEORGE BUSH, CAPTIVE NATIONS BANQUET, WARREN, MI., JULY 20, 1988

Some five years ago I travelled to Germany, and in the course of my trip paid what for me will always be an unforgettable visit to the small village of Moedelreuth. Down the main street ran a high concrete wall topped with densely packed barbed wire. On the near side, the villagers were peacefully going about the ordinary business of their daily lives. On the far side, soldiers stood watch with machine guns and attack dogs ran along the wall on chains.

As I looked East, I realized more profoundly than words can describe that I stood on the frontier of freedom. Only two or three stories high, that wall casts its dark shadow across half the continent of Europe, across millions of lives—it casts its shame across human history.

Of course, one could say that, in other forms, that wall stretches beyond Europe and around the globe, closing in nation after nation. The crushing of independence in Ukraine, the forceable occupation of the Baltic States and suppression of central Europe was followed by the spread of communist domination to Cuba, Vietnam, Laos, Cambodia, Angola, Ethiopia, Nicaragua and Afghanistan—and others.

This is the map of subjugation; this is the litany of totalitarian conquest we mark on this, the 30th commemoration of captive nations week. For many here today, this commemoration is no abstraction, but marks yet another year that their homelands remain bound and captive. For many, this anniversary marks yet another year that family and friends remain divided and loved ones remain cut off from contact.

For all Americans, this week makes a special call to our conscience. It is a time that we reaffirm the principle of liberty that is America's inspiration and purpose—and it is a time that we rededicate ourselves to the cause of national rights and true self-determination for all nations.

America's work will never truly be done until all the captive nations and peoples of this earth are set free.

For much of these last 30 years, it appeared, sadly, that the list of captive nations would continue to grow; in the 70s, especially, it often seemed that the forces of freedom, beleaguered and unsure of themselves, were on the retreat. People talked of the so-called "convergence" between the democratic West and the totalitarian East, and the tragically dimming hopes for the national rights of the subjugated nations were glossed over by the catch phrase "spheres of influence."

"Spheres of influence"—to my mind, that was never anything more than a euphemism for accepting the status quo of totalitarian domination.

But the will to freedom never died in those nations, it only grew stronger in the crucible of suffering. The brave voices from the gulags and "re-education camps" were never silenced. The dissidents, the refuseniks, and others, men like Lithuanian Balys Gayavskas, Byelorussian Mikhail Kukobaka, Solidarity leader Lech Walesa, and Ukrainian activist, Lev Lukyanenko—they continued to speak out, often at mortal risk, and force the world to listen.

And then there were the refugees. I remember the story of one group of boat people from Vietnam—they had survived brutality and famine in their own country, starvation, drowning and pirates in their leaking boat on the high seas, and when the American ship pulled along board, they shouted to their rescuers, "Hello America, hello freedom man!"

No, the voices from out of the captive nations, the voices of suffering humanity, would not let us forget. It has been a hallmark of this Administration to call America back to her mission as a standard bearer for liberty around the world:

We rebuilt American military strength, and so its credibility. And we didn't hesitate to use it, as in Grenada, when we liberated that small island nation from communist captivity; in Libya, where we taught Colonel Qadhafi that terrorism carries a high price; and in the Persian Gulf, where America is once again taking the lead in protecting the vital interests of the free nations—just as you would expect from the leader of the free world.

We have met communist subversion around the world with support for freedom and democracy—sending aid to the brave freedom fighters battling to liberate their countries from communist domination. The results have been dramatic and positive.

Today we are witnessing something few dreamed possible: the heroic Afghan freedom fighters have turned back the Soviet war machine. The withdrawal of Soviet troops has begun—the brave Mujahedeen may just be about to shorten the list of captive nations. Our goal in Afghanistan is firm and unchanged—an independent, undivided, and free Afghanistan.

In Angola, too, our policy of support for Jonas Savimbi's UNITA forces against 40,000 Cuban mercenary troops is causing the communists to reconsider the cost of aggression in Africa. Negotiations are now under way that could get the Cubans out—now is no time to pull the rug out from under the Angolan freedom fighters.

In Cambodia, the Soviet-supported, Vietnamese occupation forces are beginning their withdrawal. Now more than ever our strong support of the democratic resistance is vital to assure that the murderous Pol Pot never again come to power and that a free and neutral Cambodia emerges from its long agony.

Sadly, Congressional support for those fighting for their freedom against Soviet domination has not been universal. It is a mystery to me why there is less of a commitment to freedom on the American mainland than in Africa, Asia and Afghanistan; why the brave Nicaraguan freedom fighters are deemed less worthy than UNITA, the Mujahedeen, or the democratic forces in Cambodia.

If Congress doesn't vote support for the Nicaraguan freedom fighters soon, we are looking at an irreversible surrender to the forces of communism in Nicaragua—another tragic entry into the list of captive nations, with seriously threatening consequences for Nicaragua's democratic neighbors. Support for the freedom fighters is the only hope for true negotiations, the only hope for democracy and human rights in Nicaragua and a real, lasting peace in the region.

Contrast the lessons of Afghanistan and Nicaragua: negotiations succeed only when backed up by firmness and resolve. Peace comes through strength; weakness, we are seeing once again in Nicaragua, only invites aggression. I am convinced that it is because America rebuilt its strength, and reaffirmed its moral purpose as protector and friend of freedom, that the prospects for freedom and a strong, secure and durable peace in the world are brighter than at any other time in the post-war era.

Recently, we have begun to see fissures in the wall, and the first rays of light begin to break through. Groups such as Solidarity in Poland; Charter '77 in Czechoslovakia, the Free Democratic Union of Scientific Workers in Hungary, the new People's Fronts in Latvia, Lithuania, and Estonia, and the Inter-National Committee in Defense of Political Prisoners—they speak out and are heard. Within the last month, the original flags of the Baltic States have been recognized. And the largest Helsinki monitoring group, all of whose members have been at one time imprisoned—four died in special regimen camps—the Ukrainian Helsinki Group has recently been resurrected.

No one views the reforms being talked about by Mr. Gorbachev with greater hope and a greater desire for success than do I. His actions have taken real courage, and deserve our encouragement—a subject I hope to explore later in another address.

Nevertheless, Mr. Gorbachev should know that we will never sweep the human rights question under the rug: America feels a particular responsibility to those witnesses to the world, the Helsinki monitors, who have been imprisoned simply for calling on the Soviet Union to abide by their signed commitments to the Helsinki Accords.

Many have been released, but at least nine still languish in Soviet prisons. These include Ukrainians Mykola Horbal and Ivan Kandyba, and Lithuanians Victoras Petkus and Sigitas Tamkevicius. These brave individuals were arrested years ago for acts now permitted. However, Armenian Pavir Airykyam was arrested for nothing more than providing information on demonstrations in Armenia.

I call upon General Secretary Gorbachev to free these brave souls—few actions would do more to improve relations with the United States than their release and the end to harassment of all Helsinki monitors.

We can not forget, too, that although the celebrations of the millennium of Christianity in Kievan Rus' were just completed with official participation, the Orthodox and Catholic Churches in the Ukraine are still outlawed, and the faithful must continue to practice their religion underground and in fear.

You know, some will say, when we bring up these issues, that we are being bellicose. They feel that we should remain quiet on these fundamental issues of human and national rights. But I have learned from experience how important it is to speak up for freedom.

So on this 30th commemoration of Captive Nations week, we remember Father Popieluszco and all the other millions of victims of communism. We join our voices to the nations and people, yearning to break free, and we pledge once again that we will never cease to speak the truth, and we will never cease to work and pray for the freedom of our families, friends, our brothers all, in nations held captive around the world.

Thank you all very much and God bless you.

INTRODUCTION OF PUGET SOUND LEGISLATION

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. DICKS. Mr. Speaker, today I am proud to join my colleagues from the State of Washington in introducing a bill that will allow for a more directed and better coordinated approach to protecting one of the Pacific Northwest's most treasured natural resources, Puget Sound. The legislation that I and my seven colleagues are introducing today will provide specific Federal authorization for the Puget Sound Cleanup Program which, until now, has been funded as part of the overall National Estuary Program by the Environmental Protection Agency. In some ways this legislation represents a small improvement—it merely creates a separate line item in the Federal budget for the Puget Sound Program. But it is a move that we view as absolutely fundamental to the success of the large-scale task of protecting the health and vitality of the sound for posterity—an effort that will require the energy and resources of numerous governmental entities, small and large businesses, farmers, developers and, of course, individual citizens around the Puget Sound region.

There can be no doubt about the consensus in our region: Protecting the marine organisms that inhabit Puget Sound and preserving for future generations this important part of our Northwest culture is top priority. Our livelihoods and our recreational opportunities depend upon maintaining the health of Puget Sound. We cannot become complacent and we must remain vigilant in preventing any additional contamination of the sound. As we look toward the beaches around New York and New Jersey, we are reminded that disposing of our garbage by "throwing it away" in offshore waters or estuaries doesn't work anymore. There's no more "away" there * * * it is coming back to us.

The east coast situation provides a strong keynote for our effort in Puget Sound. We need a stronger, more concerted Federal and State effort to identify contaminants already in Puget Sound and to stop further contamination from entering the sound's waters.

To accomplish these objectives, we need a more directed Federal approach, to complement the aggressive stance that the State of Washington has already taken in this cleanup program. The legislation we are submitting today provides specific authority for the Administrator of the Environmental Protection Agency to make funds available to the Puget Sound Water Quality Authority for the purpose of carrying out cleanup activities in the Puget Sound Estuary.

This bill signals a giant step forward in addressing a problem that is plaguing too many of our Nation's large inland and coastal water bodies, and which seriously threatens our own Puget Sound.

We are fortunate in Washington State to have the Puget Sound Water Quality Authority, established in 1985, working actively to ensure that well-defined goals for water quality are both established and implemented.

Puget Sound has many critical needs that must be addressed immediately in order to avert further contamination in its waters. In our short experience with analyzing the impact of hazardous contaminants in Puget Sound, researchers have uncovered alarming evidence of harm to species in the area, including:

High concentrations of PCB's in the tissue of marine birds in some locations along the sound;

Tumors in fish due to concentrations of aromatic hydrocarbons;

Malignant cancer in shellfish; and

Liver abnormalities in English sole and other species.

The water quality authority has identified an ongoing need in such areas as the monitoring of water and sediment quality, research and technical studies, and in the implementation of source control programs.

However, without greater Federal involvement this task will be made much more difficult. This bill provides an authorizing vehicle for permitting critically needed resources to be made available to Puget Sound through the water quality authority for the implementation of its management plan, which the EPA has referred to as a "model for other estuaries throughout the Nation."

Last week, in an article describing the dangerously polluted conditions facing the Nation's inland water bodies and coastal areas, Time magazine stated that:

> Washington is one of the few States with a comprehensive cleanup program. Three years ago, the Puget Sound Water Quality Authority developed a master plan for cleaning up the heavily polluted, 3,200-square-mile body of water.

While the water quality authority is beginning to receive recognition for its initial achievements, this legislation is aimed at ensuring that it gets the resources as well to move the cleanup program from the research phase to the action phase.

In addition to implementing and updating the water quality authority's management plan, the bill authorizes other critical activities, including the implementation of a program for:

Monitoring the water quality of Puget Sound—including sampling and analysis of the sediment, water quality, and plant and animal populations and habitats of Puget Sound and its freshwater tributaries; and

Conducting supporting research aimed at increasing an understanding of Puget Sound, its ecological systems, and the implications of human activities in its waters.

This legislation mandates that the Federal share of activities carried out with the grants provided is not to exceed 75 percent of the total cost of such activities, and further requires the water quality authority to submit an annual report to the Administration of EPA outlining progress on the activities carried out using the grants.

Furthermore, the goals and intent of the bill are not unprecedented, as Congress in the past has recognized the need to designate large water bodies in order to respond better to their geological uniqueness and complexity.

Prior legislation has already provided such provisions for Boston Harbor, the Great Lakes, and Chesapeake Bay.

Mr. Speaker, this bill is a valid attempt to save a national treasure, and to leave an environmental legacy for future generations in the Pacific Northwest. If we fail to achieve this goal, we are truly being unfaithful servants.

PERSONAL EXPLANATION

HON. JACK DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. DAVIS of Illinois. Mr. Speaker, due to an infection apparently caused by a spider bite, I was being treated in the Bethesda Naval Hospital during the recording of two votes on amendments to H.R. 5015, the Emergency Drought Assistance Act of 1988.

Had I been able to be present on the floor, I would have voted "No" on agreeing to the Penny-Gunderson substitute amendment in Rollcall No. 247. Also, I would have voted "Yes" on the Roberts-Olin amendment as it was amended in Rollcall No. 248. I do not feel that the sorely needed emergency drought assistance bill is the proper vehicle for initiating these policy changes.

I strongly support the drought assistance proposed in H.R. 5015, and I am grateful that I was able to make it back to the floor to cast my "yea" vote for its final passage. I have walked through many a browned and burned acre this summer. I am glad that help is on the way.

THE BLESSING OF THE ASHTABULA FLEET

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. ECKART. Mr. Speaker, today I am inserting into the RECORD remarks made by Mr. Robert F. Dorn during the "Blessing of the Fleet" in Ashtabula, OH, on June 5, 1988. Mr. Dorn is the vice president of marine operations of the Interlake Steamship Co.

In his comments, Mr. Dorn, who has been very involved in the revitalization of the commercial shipping business on the Great Lakes, cited some optimistic statistics about the state of our boating industry. The waters of the Great Lakes are shared increasingly by both commercial shippers and recreational boaters. Pleasure boating has grown threefold over the past 5 years and 61 U.S. commercial-flag vessels currently service the Great Lakes. We are not yet at the level of shipping we had 15 years ago, but due to the reinvigoration of traditional Ohioan industries such as steel, coal, and stone trade, outlook for increased profitability of Great Lakes' commercial shipping is propitious.

Boating on the Great Lakes in the past has provided great enjoyment and commercial benefits, and I am certain that in the future, with the help of such individuals as Robert Dorn, this industry will continue to grow and prosper.

THE BLESSING OF THE FLEET

(By Robert F. Dorn)

I am very pleased to be addressing this Blessing of the Fleet Ceremony here in Ashtabula. As many of you know, Interlake enjoys Ashtabula as its homeport for its fleet. The three 1,000′ ore carriers are a far cry from a decade and a half ago when 10 to 18 vessels could be seen filling the harbor. Despite this notable exception, there is an exciting revitalization occurring throughout the Great Lakes. This is seen in both the commercial shippers and the recreational boater.

A celebration such as this for the maritime industry is probably the best time to look at where we are today and where we are going as a commercial Great Lakes shipping industry. For the past several years, we on the Great Lakes have had to find ways to survive the recession which has dominated this decade. Midwest based steel, iron ore, construction and Great Lakes shipping industries have been through extremely hard times. Hard times not only in terms of the industry, but also for the people. What has happened is that there has been a mammoth restructuring. We have survived. We now have a new platform from which we can look to the future. This is a platform of upgraded and restructured mines, steel mills, shipping interests and related industries which have survived the Midwest recession. This is certainly not the first time economic hardships have brought us together and forced us to look for new and better ways of doing business, nor will it be the last. In a recent documentary, this region of the country was depicted as the "Rustbelt." It was a newscast which certainly portrayed our hardships. I take exception, however, to the nomenclature "Rustbelt." I would rather call this part of the Midwest, the "Steel-Belted" area. Our decade of challenge brings together heavy industry, who needs the giant, commercial vessels, and entrepreneurs, who have put their time and money towards the recreational and private boating sector. In the last five years, there has been a three fold increase in pleasure boats utilizing the Great Lakes. Recreational boating will continue to be a vital link in keeping the Great Lakes alive.

Let me briefly depart from recreational boating in order to give you an overview of the shipping season as seen from the American flag vessels on the Great Lakes. As of this date, there are 61 U.S. flag vessels in service on the Great Lakes. We haven't seen that many ships out there since August of 1984. They represent 93% of the single trip carrying capacity of all the Great Lakes documented vessels. These same ships carry 96% of the annual tonnage in the U.S. trade on the Lakes. Looking ahead at this year, all indications are that shippers, such as Interlake Steamship, will see noted improvement over last year's strong performance. As you know, last year was the first year that Great Lakes shipping, iron ore mines and steel mills saw the "light at the end of the tunnel." Statistics indicate April shipments of iron ore are up 27% over last year. Through March, the steel industry has been operating at 90.1% of capacity (>95%). The stone trade is already 18% ahead of last year's performance. April coal shipments have increased 13.8%. This increase was somewhat unexpected in light of last year's late season surge in coal loading. This surge reflected stockpiling in case coal mines struck when their contract expired in January of 1988. There was no strike, so with ample stockpiles, the early season demand for coal was not expected to be this strong. To meet this strong demand for cargo, U.S. flag fleets have 61 of their 70 vessels in operation. Only one of the nine inactive vessels is considered large enough to compete in the iron ore trade as a self unloader. The remaining eight ships in lay-up which are straight deckers are best suited to the stone, grain, and cement trades.

If we can believe what we read, and what the forecasters with their often cloudy crystal globes tell us, the economy will continue strong through this year and into the first quarter of next year. At that time we may see some retrenching, but nothing that should give us any great concern at this juncture. (Review inflation, value of dollar, export market and trade deficit, low jobless rate).

As you are well aware of, commercial shipping on the Great Lakes is only a small part of the total maritime community. Our United States maritime industries have experienced similar but perhaps not as drastic periodic problems since the early days of wooden ships and iron men. It is distressing to mention that the maritime community in its commercial sea lift capacity upon which the U.S. military depends on it in time of serious conflict for strategic and economic purposes, does not exist in terms of ships, crew or shipyards. In a recent address Congressman Charles E. Bennett states that "since 1970, major U.S. Liner Cargo Companies, each operating five or more ships in the international trade have declined from 18 liner companies with a total of 434 ships to 4 major liner companies with only 88 vessels. The overall U.S. merchant fleet of tankers, bulk carriers, barge carriers, container ships and such which totaled over 416 privately owned, active and laid up units at the beginning of 1988 is expected to decline by 50% in the next 12 years." Congressman Bennett did not mention the Great Lakes Active fleet. In 1970, there were 18 companies in the Lake Carriers' Association which owned and operated 194 ships. In 1988, there are 14 operators owning 67 ships. Now you can understand why the Commission on Merchant Marine Activities have classified this as a "clear and growing danger to national security".

It is easy to go on and on in a flag waiving rhetoric supporting this very important issue. But all of us can do something about the Maritime and U.S. industry as a whole, by conscientiously asking the question—in our business decisions, do we promote U.S. maritime industry? I am not suggesting that we become isolationists and throw up tremendous trade and tariff barriers. What I am suggesting is that if pricing and service are relatively equal, we should promote and specify American flag vessels for service and supplies for the sake of our national interests. Facts and figures are indicators, the bottom line is people.

The merchant marine is a people business both ashore and afloat. The newscasters tell us of the short supply of sailors, the Jack Tars, the folkheros of the lakes. True, each ship carries about 30 men. But it takes hundreds of shore-side people to support each vessel "community". Shore-side support workers range from vessel operation staffs to shipyard workers, marine insurance people to repair personnel, lawyers to chandlers, port terminal managers and government officials to trade associations. The list could go on and on. These are the smaller related industries which any large business and its community must support. But we cannot forget Jack Tar, the Great Lakes merchant sailor. There is a very real need for a front line of people to deliver goods across the seas, through the rivers and throughout the Great Lakes. The merchant marine affords great opportunities for men and women who are physically fit and properly trained. We will need not only vessel officers, but also unlicensed crews of high caliber. People such as these are a national asset as well as an essential element in the movement of goods. We all need to recognize the importance of attracting good men and women to the merchant marine. We need to ensure that institutions such as the Great Lakes Maritime Academy of Traverse City, Michigan survive. The recently reported Cuyahoga Community College program, affiliated with Great Lakes Maritime Academy, is one such program which must continue. Other State and federally sponsored academies also need to continue to receive funding so that they may continue to produce the high quality, trained officers necessary to handle the highly technical ships of today's merchant marine. As one who goes down to the seas, I can personally attest to the fact that shipping is an honorable and gratifying profession.

Finally, I'd like to return to the partnership developing between commercial shipping and private boating interests. We all share the waters. We all participate in the resource on an equal basis. The Great Lakes is a resource to be enjoyed and preserved. Conservation protects the waters. Boaters are also a valuable resource. Safety will preserve them. As both a merchant marine officer and a recreational boater, I can say that all sectors have the responsibility to operate their crafts in a safe and conscientious manner. We have seen the Government and Coast Guard officials place an increasing amount of emphasis upon safe boating. They are forced to increase regulation by those who do not operate their crafts in a prudent manner. Do we need any more regulation or oversight? Let us manage our own destiny through safe boating that will in turn bring pleasure and economic growth to Ashtabula.

Ashtabula has shown its ability to meet today's challenge in a most visable manner. Since the Coast Guard abandoned this station, you have been able to preserve the building and now have a local marine patrol unit available to you. This certainly speaks to the issue that you are able to manage yourselves, provide support and be masters of your own destiny. With Dennis Eckhart's tremendous efforts, the transition from Federal to local control has been achieved. What a shining example of what Americans can do when individuals, government and private industry work together.

As I look here at the Harbor of Ashtabula, I see great potential. It is exemplified in the ability to service lake ships, ocean carriers and the private boating sector. I would like to congratulate all of you in this Blessing of the Fleet activity and the commercial activity that surrounds us both with the merchant traffic and recreational traffic. Do not let the great tradition of Ashtabula as a maritime community, as a brotherhood evolved in the lakes, pass away from you. Continue to share the waters with all those who wish to participate. Continue to keep the future of Ashtabula linked to our greatest resource to the north—Lake Erie.

In closing, as the desk sergeant on "Hill Street Blues" can be quoted as saying "be careful out there!" And as I tell our captains every year, may you find fair winds, deep waters and safe harbors. Thank you.

TRIBUTE TO ANN BELKNAP BENNER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to a dear, dear friend—Ann Belknap Benner. It would be appropriate to recognize her at any time, Mr. Speaker, but this occasion is a very special one—this week Ann celebrates the 70th anniverary of her birth in Chicago, IL, on August 6, 1918.

Ann is a woman of boundless energy and firm commitment. Let me cite just one of the most recent examples. For the past 2 years, Ann made a substantial personal and financial commitment by adopting a 19-year-old South African black girl. She devoted great effort to provide love, a home, educational opportunities, and open doors for her adopted namesake. She did this in an effort to compensate for the closed schools and chaos of South Africa this young girl found in her homeland. The task of bringing a teenager from a completely different culture into one's home is a task that most of us would avoid, even if we were not 70 years old. But not Ann.

In 1940, she received her B.A. in English at Rockford College in Rockford, IL. Three years later, she was awarded an M.A. in philosophy from Mills College in Oakland, CA. Since moving to the San Francisco peninsula, she has contributed to improving our community. In 1945, she was a founding member of the League of Women Voters of Central San Mateo County. In 1941, she was a founding member of the Unitarian-Universalist Church of San Mateo. In recognition of her commitment to the Unitarian community, the San Mateo congregation established an annual award for service to the church and community, which it named the "Ann Benner Award." It is a great honor to receive an award, but a greater honor still to have an award named in your honor.

Many honors have come to Ann for her leadership and commitment. In 1975 she was named "Democrat of the Year" by the San Mateo County Democratic Central Committee. In 1981 she was named "Woman of the Year" by the San Mateo County Business and Professional Women.

She has served in leading positions for a number of other community groups in the Bay area. Ann's commitment to civil rights is evidenced by her life membership in the NAACP and her service as vice president and member of the board. She has also been president and member of the Board of the Peninsula Halfway House since 1960. She was a board member of the Starr King School of the Ministry (Unitarian) in Berkeley, the San Mateo High School Parent Teachers Association, where she also served a term as president, the South Hillsborough Parents' Group, the Childcare Coordinating Council of San Mateo County, the PACE organization [Planning to Achieve Change in Education] for San Mateo County, and a number of other groups.

Organizations that seek to better our communities on the Peninsula and organizations devoted to improving the status of women are like magnets that draw Ann's considerable energy and talents. She is a member of the American Association of University Women, the Head State Auxiliary, the American Civil Liberties Union, Women for Responsible Government, the National Women's Political Caucus, the National Organization for Women, and the Older Women's League.

Ann understands the importance of political involvement, and she has been a model of civic participation. She has been actively involved in many political campaigns, from the Presidential campaigns of former Senator Edmund Muskie and former California Governor Jerry Brown to all the congressional campaigns on the Peninsula for the last two decades. I am delighted that Ann Benner was one of my earliest and strongest supporters when I made the decision to seek election to this distinguished House.

In addition to her extensive commitments to the community, Ann has also found time to raise and care for four children—Susan, Robert, Stephen, and Richard—and she is now the grandmother of three.

Mr. Speaker, it has been my great good fortune during the past nearly 8 years that I have been a Member of Congress to have Ann Benner as a special assistant on the staff of my district office. No constituent problem is too great, no request for information is too obscure, no constituent too demanding to win her immediate and whole-hearted help. A good description of Ann's work can be Wordsworth's observation that "small service is true service." The multitude of small services she provides daily is a great contribution to the welfare of the people of San Mateo County.

Mr. Speaker, as Ann Benner celebrates her seven decades of service to others, I invite my colleagues in the Congress to join me in paying tribute to her.

COMMEMORATING JUDGE MORRIS TURK

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, it is my honor today to bring to the attention of this House a distinguished citizen and public servant of my district who retired last Friday. Judge Morris Turk served faithfully on the bench of the fifth judicial circuit for 13 years. His accomplishments and seniority led to his becoming the chief judge for the circuit for many years.

Born on the corner of Fleet and Broadway in Baltimore, MD, he attended City College at an early age, and was graduated from the University of Baltimore Law School at 18. However, he was not allowed to take the Maryland Bar because State law required one to be 21 before taking the exam. Instead, Morris Turk went off to Egypt for service during World War II.

Upon returning he married an Annapolis girl, Irene Richman. After serving his country again during the Korean war, Turk returned to take the bar and passed. He set out his shingle over the Maryland Inn, sharing office space with the preeminent Maryland lawyer Noah Hillman. In 1968, Morris opened a partnership with two young lawyers, George Manis and Warren Duckett. The three had such confidence in their future that no partnership agreement was drawn up—they merely shook hands.

In 1975 he was appointed to the circuit court bench for Anne Arundel County. His stewardship was marked by his compassion toward each person that came before his bench, and his agonizing over each decision. The people of Anne Arundel County who've been fortunate enough to know him have found Judge Turk personable and thoroughly painstaking in his approach to the law. While we all wish him the best in his retirement, his caring wisdom and learned hand will be sorely missed in Anne Arundel County.

A TRIBUTE TO MALCOLM CHANCEY, JR.

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. MAZZOLI. Mr. Speaker, everyone agrees that the basis for a successful future—for a person or a nation—is a good education. But there is less agreement on how we can provide a quality education to our children and adults. More and more, education is, of course, being looked at as a partnership venture involving the school system, the State and local governments, and the business community.

Malcolm Chancey, Jr., executive vice president of Liberty National Bank in Louisville, is a man who has taken his responsibility as a successful member of the business community to heart. He has contributed his time and energy since 1978 to build a business and education partnership to strengthen education in the Louisville-Jefferson County area.

It began, modestly enough, with three targeted high schools and three local businesses. Today, his partnership concept includes over 500 businesses and organizations and all 155 schools in the Jefferson County School District.

In addition to spearheading this educational partnership effort, Malcolm is charter member and Chair of the Jefferson County Public Education Foundation. This he established in 1983 in an effort to secure sound financial support for the county public school system. It has raised over $6,000,000 to provide computer labs in schools. Over 200 businesses have contributed to this far-reaching project.

I am happy that Malcolm's distinguished and esteemed efforts have not gone unnoticed. He was named a regional finalist in the National School Volunteer Program, an acknowledgment of his outstanding contributions. As a respected businessman in our community, who realizes the important link between education and business, it is right and fitting that Malcolm Chancey has been honored for his extensive involvement in improving the quality of our locality's and our Nation's education system.

I salute Malcolm and wish him all continued success in the years ahead.

AN LWCF SUCCESS STORY IN DELAWARE

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. CARPER. Mr. Speaker, over the years, there have been many successes in Delaware of the Land and Water Conservation Fund Program. I am pleased today to share two of those success stories with my House colleagues:

AN LWCF SUCCESS STORY IN DELAWARE—HOW SEAFORD, DE, A TOWN OF LESS THAN 6,000 PEOPLE, ACHIEVED THE IMPOSSIBLE DREAM

In 1979, the only public swimming pool in Seaford, Delaware, was operated and maintained in the parking lot of a shopping mall by the local Jaycees. With the sale of the mall to a new owner came the stark reality that their lease would not be renewed after the 1980 swimming season. Faced with this challenge the City of Seaford, along with the local Jaycees, acted quickly to gather broad-based community and corporate support for a new swimming pool complex.

Seaford served as the official project sponsor in applying for an LWCF grant of $200,000 to fund 50% of the proposed cost of the complex. The Jaycees formed a fund raising committee to help raise the local $200,000 matching share. $50,000 was raised directly from the community while $150,000 was donated by local businesses and provided by several foundation grants. Operation and maintenance of the pool would be and is provided by the Seaford Jaycees through a long-term lease arrangement with the City of Seaford.

Following project approval in 1980, Seaford purchased a 3.8 acre parcel of land for $24,250. Soon after the acquisition was made, development of the pool complex began. It consists of a 25 meter L shaped Olympic size pool with an area for diving and sliding, and a children's wading pool. A multipurpose building surrounds the deck and picnic area and lies adjacent to the pool. It provides showers, dressing rooms, bathroom facilities and a snack bar area. Attached wings to the main building provide a meeting room and house all filter and pool maintenance equipment. A chain link fence provides security and surrounds the complex. Parking space for 60 cars is provided in front of the swimming complex.

The entire facility was designed to required handicap specifications and the pool is within easy walking and driving distance for people from all socio-economic settings. Instruction programs are offered that provide life saving, first aid, and swimming skills.

This project was truly a community effort and an excellent example of how local, State and Federal governments along with community organizations, businesses, corporations and foundations can all come together to achieve a worthwhile goal. The pool was completed in time for the 1981 swimming season and as the Souvenir Edition of the local newspaper stated: The Impossible Dream—"Every noble work is at first impossible"—Thomas Carlyle.

AN LWCF SUCCESS STORY IN DELAWARE—HOW DUPONT, DELAWARE AND PENNSYLVANIA SAVED THE WHITE CLAY CREEK VALLEY

In the early 1970's, the State of Delaware began to acquire lands in the White Clay Creek Valley to create an outdoor recreation area now known as the 563 acre Walter S. Carpenter, Jr. State Park. The master plan for the park included lands owned by the DuPont Company which were purchased during the 1950's to facilitate the construction of a reservoir to meet the projected water needs of New Castle County. The narrow property straddles the Delaware-Pennsylvania state line. Considerable public opposition to the possible inundation of this rich heritage led to formation of citizen organizations that fought the dam proposals and promoted alternatives. Years later, however, revised water projections by the DuPont Company showed that there was likely no need for the reservoir. Development was forestalled and the Company started considering land-use alternatives.

It has gradually become apparent that this stretch of land had evolved into a natural treasure and with the DuPont Company now inclined to donate the property to be managed for the public benefit as a natural area. The White Clay Creek Valley has remained undisturbed since the DuPont Company Acquisition retaining a rich and complex environment of plant and animal life.

The Valley's natural assets include five outstanding natural areas containing many recognized threatened and endangered species of flora and fauna. The cultural environment includes a rich social and economic history witnessed by the remaining historic structures and ruins including a Mason-Dixon marker stone.

The National Park Service, which officially recognized the area's wild character by listing portions of the Creek on the inventory of potential Wild & Scenic Rivers, assisted the DuPont Company in reviewing the various preservation alternatives. They recommended that the 1,700 acres be donated to the State of Delaware and Pennsylvania to be developed, operated and maintained as a bi-state park. In 1984, the DuPont Company donated 487 acres to Delaware and 1,213 to Pennsylvania while the Governors of both states pledged to accept and jointly manage the property estimated to have a value of $8.5 million. A bi-state advisory council was created to advise both states' park agencies about planning, land-use, development, and preservation within the new preserve.

The value of the lands donated in Delaware have been appraised at approximately $2.3 million. This has been approved by the National Park Service as an in-kind match for federal assistance from the Land and Water Conservation Fund. Conditional on the continued availability of LWCF monies, federal funds will be utilized over the next five years for improvements within the Preserve and at three other state parks in Delaware. In this way, the generosity of the DuPont Company will be compounded to the benefit of outdoor recreation in all three Delaware counties.

A Joint Master Plan was prepared by representatives of the two park agencies to insure consistent and well-coordinated development, preservation and managment on both sides of the State line. Development will be limited to trails, interpretive facilities, maintenance and administrative facilities, parking and related support facilities. The advisory council will work with professional staff to implement a master plan and to address unresolved issues: recreational-use conflicts, limitations on development, appropriateness of public hunting in the preserve, off-road vehicle impacts and concerns of adjacent property owners.

The Preserve is a monument to the persistence of the local conservation community with individual citizens and conservation organizations in both states effectively arguing for its long term preservation. The Preserve is evidence of a continuing need for the public and private sector to work together to provide open space and protect critical natural and cultural resources.

CITIZEN BEE WINNER NOTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. SUNDQUIST. Mr. Speaker, today I would like to recognize an outstanding student from my congressional district. Eric Martin of Woodlawn, TN, is this year's winner in the State competition of Citizen Bee.

The Tennessee Citizen Bee, organized by the State department of education and sponsored by the Tennessean, the Tennessee Tomorrow Program, the Tennessee Book Co., and South Central Bell, involved over 400 students from across the State in school, regional, and State competition. By winning that competition, Eric became eligible to participate in the national finals held here in Washington.

The Citizen Bee is a civic education competition program of the Close Up Foundation. It presents American history, government, economics, geography, and current issues in an innovative way that makes learning both interesting and fun.

I want to congratulate Eric Martin for the talent and creativity he displayed in winning the Tennessee competition and for proudly representing our State in the national finals.

ON BEHALF OF THE CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. MAVROULES. Mr. Speaker, I continue my forceful advocacy and unwaivering support of the Congressional Call to Conscience Vigil for Soviet Jews by speaking out on behalf of prisoners of conscience and other persons who are seeking freedom and emigration from the Soviet Union.

Earlier this year, a group of refuseniks, aged 60 to 82, sent an open letter to world leaders requesting their assistance. Although many have been refuseniks for as long as 16 years, they were denied exit visas on the pretext of state security. I am confident that as I share with you a small portion of their appeal, you too will be moved as I am. The letter reads, in part, as follows:

> For many years we have not engaged in any work which could be considered classified. This constitutes a period ranging from 5-40 years, differing among us. Clearly, our departure will not pose a threat to the Soviet state.
>
> We of the older generation, have experienced difficult years of labor. We suffered the hardships of war and worked with dedication. Many of us fought in World War II and earned high official awards for bravery under fire.
>
> We have appealed to all the Soviet authorities many times, but always in vain . . . Our appeals have always been met with indifference. Thus, we are driven to demonstrate against violations of our civil rights. Our peaceful demonstrations were dispersed; refuseniks were place under house arrest; people were pulled out of cars, literally in a search for anyone who looked Jewish.
>
> The years are passing. Our strength is ebbing. We do not have many years left. We seek your help.

On the behalf of these, and the thousands they represent, I ask, as I have done so many times over the course of the past several years, that the Congress continue to join in the struggle for Soviet Jewry. Once again, let me reiterate that these individuals are seeking strict application of the Soviet constitution and Soviet compliance with international agreements, in particular, the final acts of the Helsinki accords, of which the Soviet Union is a signatory.

Therefore, let us support wholeheartedly the aims of the vigil. And let us do that which is within our power to win freedom for Soviet Jewry.

MEDICARE COVERAGE OF FOOT CARE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mrs. KENNELLY. Mr. Speaker, I am pleased to introduce legislation which will significantly improve the Medicare Program. For too long, Medicare has denied coverage of essential foot care for our Nation's elderly. The present Medicare supplementary medical insurance program ignores the danger posed by untreated corns and calluses. Medicare administrators insist that such conditions do not qualify as medical problems. My bill will remedy this unacceptable situation.

Foot conditions are not merely inconveniences. Left untreated, they may evolve into acute pathologies. They can easily become infected, causing shifts in walking patterns which may result in falls and serious injury. Approximately 3 to 4 million senior citizens today suffer from the conditions addressed in this legislation.

The problem with Medicare denials of foot care first came to my attention when several of my constituents contacted me and complained that they had been denied for certain foot procedures important for their independence and overall health. I met with officials of the Health Care Financing Administration [HCFA], who responded quickly to the obvious injustice of billing Medicare beneficiaries for services they had every reason to expect would be covered. However, HCFA pointed out that the beneficiaries were now warned. From now on, they could expect no further Medicare coverage of certain foot care procedures. The reason is that the procedures are considered routine foot care.

I understand and accept that clipping toenails may well be routine. I worry, however, about some of the other procedures that are dismissed as routine. For example, the procedures addressed in my bill are delicate and potentially dangerous, if performed by an older person who may have arthritis or visual impairment. Over 20 percent of all corns and calluses develop into secondary pathologies.

If an older person cannot afford to pay for professional care, she has two options: try to remove the corn or callus herself, or neglect the condition. Either option can lead to serious complications. Misapplication of over-the-counter medication can cause dangerous burning. Use of an unsterilized scissor or knife frequently causes infection. Burning or infection in a younger person rarely is debilitating. In an older person, the condition can be devastating. The American Podiatric Medical Association notes that:

> An inexcusable number of senior citizens with poor eyesight have inflicted severe injury upon themselves by mistakenly cutting away the wrong tissue from their feet.

Medicare will pay for the treatment of any secondary condition which develops when an uncovered pathology becomes acute. Eliminating a mild condition, however, is much less expensive in the long run than treating the complications which result from neglect. As one wise person once noted, prevention is always better than a cure because it saves the labor of being sick. It also saves money. The cost of treating an infection can easily exceed $200. Removing a corn is generally around $50.

Medicare has traditionally denied coverage for preventive care. That policy is one of the worst problems with the program. I am pleased to note that the Medicare Catastrophic Coverage Act takes a very important step toward covering preventive services for the first time. The new mammography benefit is a significant precedent which I hope will save thousands of lives. More comprehensive coverage of foot care would be another step toward prevention. We must ensure the health of our Nations' seniors, not just treat their illnesses.

People concerned with the well-being of the elderly have for many years urged Medicare to improve the coverage of foot care. The 1981 White House Conference on Aging listed as one of its recommendations:

> Comprehensive foot care [should] be provided for the elderly in a manner equal to care provided for other parts of the human body, to permit patients to remain ambulatory. (Report of the White House Conference on Aging, 1981, p. 108.)

The recommendation points out that proper foot care is important in ensuring a person's ability to walk. Without that ability, a senior citizen's independence is threatened. We have focused considerable attention in this Congress to the need to keep people out of nursing homes, to ensure their independence and sense of dignity. My bill will move us closer to that goal. I invite my colleagues to join me in this effort to guarantee the well-being and independence of older Americans.

LIBRARY OF CONGRESS EQUAL EMPLOYMENT OPPORTUNITY APPEALS BOARD—H.R. 5105

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. CLAY. Mr. Speaker, over the past several months we have become increasingly aware of employment problems existing within the purview of congressional institutions. I have been especially concerned about ongoing reports of employment discrimination at the Library of Congress.

The problems of employee discrimination at the Library of Congress have a long history. Recently, a Federal judge awarded payments to several hundred black employees of the Library of Congress who were passed over for promotions and appointments starting in 1972. For many years I have been concerned about employment discrimination reports at the Library and I've made many attempts to encourage the recently appointed Librarian of Congress to develop an effective affirmative action program.

Unfortunately, despite my appeals to the new Library administration to address the persistent equal employment problems, complaints about employment discrimination continue to surface. Since the installation of the new administration nearly 2 years ago it appears to be business as usual with Federal bureaucrats continuing the age old process of promoting the same people to the same positions. In an effort to respond to the Library employees who have brought their grievances to my attention, I am proposing to establish a Library of Congress Equal Employment Opportunity Appeals Board to enforce the stated policy of equal employment opportunity at the Library.

The Library of Congress Equal Employment Opportunity Appeals Board would be similar to that which was established at the General Accounting Office in response to a similar situation. Since the establishment of the GAO appeals board, incidents of employment discrimination have been significantly reduced and the agency's EEO performance is much improved.

My. proposal for the Library of Congress Equal Employment Opportunity Appeals Board establishes a board whose members would be appointed by the Librarian. This entity would have the power to investigate appeals of alleged discrimination and personnel practices affecting equal employment opportunity. The Board also would have the authority to order corrective or disciplinary action in appropriate cases. The evidence shows there is an urgent need to establish an Equal Employment Opportunity Appeals Board at the Library of Congress. I encourage my colleagues to help eliminate employment discrimination at the Library of Congress and to support my legislation—H.R. 5105.

RURAL POVERTY—A HIDDEN PROBLEM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. OBEY. Mr. Speaker, urban poverty justifiably gets a lot of attention from the Congress and a lot of attention from the national press, but rural poverty gets far less attention. When it does, it is often covered in stereotypical fashion. I think that is probably because the news networks and the national newspapers are located in urban areas and it is easier to cover stories in your own backyard. I think that because of television's penchant for looking for good pictures as well as good news, rural America is associated almost exclusively with tractors and silos even though poverty is hitting farm and nonfarm people alike in the countryside.

Newsweek, this week, has run an excellent article on the rural poor. That article points out that while poverty rates are actually falling in urban areas, they are rising in rural America and that this is the first decade that this has happened in a long time. The article also points out that there are more rural poor than urban poor.

I would urge my colleagues to read the article in hope that they will understand that all of rural America is not populated by giant farms with fancy machinery and people who are experiencing a benign way of life free from strife. The article actually makes clear that it is far from the truth.

The article follows:

AMERICA'S THIRD WORLD

(By John McCormick)

When Americans think about poverty, most conjure up familiar city scenes: welfare moms in tenements, jobless men under street lamps, wasted kids on crack. Those powerful images belie the fact that in the nation's urban areas poverty rates are actually falling. Lost in the shadows are 9.7 million impoverished rural Americans; they constitute 18.1 percent of the 57 million people who live outside metropolitan areas. A much smaller group of the destitute—the homeless—receive far greater attention, while this disturbing, widely dispersed underclass, call it America's Third World, rarely intersects with the rest of society. It is a world caught in a chronic recession and in which violence—particularly family violence—is commonplace. It is a world of drifters, rusting mobile homes, marginal medical care, cheap liquor and terrible nutrition. And it is a world in which conditions are deteriorating at an alarming rate.

This week the Population Reference Bureau, a respected demographic study group, will report that one-fourth of all rural children now live in poverty. Next month another Washington-based group, Public Voice for Food and Health Policy, will report that infant mortality in America's 320 poorest rural counties tops the national rate by a chilling 45 percent. But the most startling statistic of all is that America's rural-poverty rate now slightly exceeds the rate in our blighted big cities. This decade's increase in rural poverty is especially disheartening because it follows a half century of steady improvement.

While some of the rural poor work in agriculture, few are the oft-publicized "family farmers" who own their land. Only 7 percent of all rural Americans live on farms, and their proverty rate barely exceeds that of others living in rural areas. Far larger is the share of rural poor who live in the nation's small cities and towns—and who benefit little from the $13.1 billion the United States spends on farm subsidies. In fact, the heavily publicized farm problems of the 1980s probably obscured the plight of the rural poor. Says Kenneth Deavers, the Agriculture Department's top poverty expert: "There's no way the true scope of rural poverty can compete with Dan Rather sitting on a tractor and talking about 'the Farm Crisis'."

The rural poor face obstacles their metropolitan counterparts do not. Often they dwell in sparsely settled regions where relief offices and job-training programs are hardest to find. Their small towns can't begin to afford the wealth of social services that cities offer. They tend to live in two-parent households and to hold menial jobs—attributes that curb eligibility of AFDC, Medicaid and other benefits in many states. Though they make up 30 percent of all Americans living below the poverty level, rural residents receive only about 20 percent of the $95 billion that federal, state and local governments spend on the poor. And while three-fourths of the rural poor are white, the poverty rate among rural blacks is 42 percent, 11 percent higher than the rate among blacks in cities.

There are few routes of escape for the rural poor. In the past decade, broad downturns in low-tech manufacturing, mining, agriculture and oil have cut median rural income from 80 percent of U.S. urban income to 73 percent. Many economists expect that slide to continue. Seven of every eight new U.S. jobs are in metropolitan areas—and the rural jobs often pay only near-minimum wage. When the poor do escape it is often the better educated who head for urban areas, leaving the least skilled to fend for themselves.

In the past many people associated rural poverty with Appalachia and the South. Today the problem has no boundaries. A tour of America's Third World can move from a county seat in Kansas to seaside Delaware, from booming Florida to seemingly idyllic Wisconsin:

THERE'S NOT MUCH THEY CAN GRAB

Thick crops atop the clay loam around Ottawa, Kans., camouflage poverty's grip. The United States has thousands of Ottawas, small towns whose moribund economies offer the poor little hope of a better life. Often the destitute are overlooked even in their own communities. "These people are lost in the shuffle, just lost," says Vivian Norton, an antipoverty worker in Ottawa (population: 11,000). "There's not much they can grab to pull themselves up."

Poverty is passed from one generation to another: it is the only legacy of the poor. Ida Swalley married at 15 to escape a hard-drinking stepfather. She has no marketable skills. Now 43, she is separated from her fourth husband and living in a squalid $200-a-month apartment that could be owned by an urban slumlord. Swalley shares the hovel with her 17-year-old son and a menagerie of bugs and mice. An old fly swatter is the sole decoration on one wall. The Kansas heat pushes the fetid air toward 100 degrees and aggravates Swalley's heart problems. She says things may improve once her new boyfriend gets out of jail. Her fondest hope is that life will somehow be better for her daughter, Carol Sue, 26, and her two-year-old grandaugther, Jacqueline Ruth.

But that dream may be illusory. Carol Sue Stevens earns just $3.85 an hour as a nursing-home aide. Her life, like her mother's, has been a succession of small-town romances with men prone to drunkenness and violence. Little Jacqueline Ruth was fathered by Carol Sue's current boyfriend, but the toddler doesn't carry either parent's surname. She will grow up using Ida Swalley's maiden name, Ray. "My boyfriend threatened to steal her," confides Carol Sue. "If we end up in some custody fight, I don't want her in court already using her daddy's last name."

The Swalley family at least has roots in Ottawa; many of the rural poor drift like dry leaves across the landscape. Ben and Tammie Hughes were only 17 and 16 when a burglar stole their wedding presents. Eight years and four children later, their luck has not markedly improved. They have moved 15 times, maybe more. Ben now does maintenance work at an apartment complex in exchange for a place to live and $600 a month. To stretch the family's food budget, he barbecues foot-long turtles gathered from the roadside. Tammie tends the boys and, once a month, treks to downtown Ottawa for federal commodity handouts. The threat of hunger in the nation's top wheat-producing state presents a stark irony: to sample the bounty that surrounds them, impoverished Kansans like Tammie Hughes must wait in line for small sacks of government flour.

For the moment, the parents try to make do for the children, gently explaining why birthdays must go by without fanfare. But even things more basic than birthdays—like medical care—must sometimes wait. "People say, 'Get your kid to the doctor,' not knowing that may be the last thing on your list," Tammie says. "Not that an ear problem isn't important. But food and a place to live always have to come first."

Ottawa's poor rely on ECKAN, the acronym for a nonprofit community-action program that survives on donations and government grants. With an administrative budget of $240,000 the agency struggles to serve seven rural counties with 17 programs, supplying when possible everything from housing aid to Christmas toys. Grant money is tight: ECKAN had to drop one project in which Blue Bear and other puppets taught children why it's important to eat.

"HE DOESN'T EVEN HAVE AN ADDRESS"

When their long workday ends, the migrant laborers come in crowded vans and station wagons to a small Dover, Del., clinic run by Delmarva Rural Ministries, an ecumenical service agency. Inside a 29-year-old physician named Lori Talbot races at flank speed from patient to patient. By 8:10 her night already seems long, and it will get much longer. Talbot is about to encounter Noe Tavias.

Noe's mother says the boy has "a little cold." Talbot suspects pneumonia. She is disturbed that Noe has never received routine immunizations against diphtheria, rubella, polio and other dangerous diseases. And she has spotted another anomaly: although he is almost four, the boy communicates with sounds, not words. Noe Tavias cannot speak.

Talbot proceeds aggressively, but with little of the medical arsenal she could muster in a normal practice. Noe, dark-eyed and winsome, embodies much that is wrong with the care of poor migrants: his problems are severe, yet his medical past is a mystery. His mother says that as an infant Noe was given unspecified "injections" in Mexico after two serious seizures. She was told he might grow up blind or mute. His records are at the Mexican hospital; his mother seems unsure which one. Talbot says Noe needs neurological tests, a CAT scan and a speech evaluation. She asks a nurse to launch the probably pointless search for the Mexican records that would put test results in perspective. Even if useful information materializes, Noe is unlikely to get thoughtful, consistent treatment. Come September the harvest will end, and the Tavias family must leave Delaware for work elsewhere.

Talbot's part-time work at the clinic is worlds apart from her full-time job treating students at the University of Delaware. The migrants often seek care only when an ailment becomes a crisis. They suffer high rates of anemia, tuberculosis and stunted growth; one study of Delmarva Peninsula migrants found that 34 percent had parasites. A huge caseload also pre-empts the preventive care most Americans expect. Talbot has no time to explain the perils of smoking or high cholesterol levels. She has yet to meet a migrant woman who has ever had a mammogram.

There are other frustrations. Talbot has prescribed special diets for workers who have no choice but to eat whatever camp cooks prepare; she has ordered insulin for diabetics only to learn they have no access to refrigerators in which to store it. Her commitment goes beyond office hours; she has hauled seriously ill migrants to a Wilmington hospital an hour away. She laments a shortage of bilingual social workers to connect poor migrants with available government aid. Talbot says of one cerebral palsy victim: "If Harold lived in a city he'd have plenty of help finding all the medical specialists he needs. Here he doesn't even have an *address.*"

"I GOT LUCKY—MY EX-HUSBAND DIED"

Forty miles from Walt Disney World, a huge cruciform machine called the mule train pursues black farm workers down long rows of sweet corn. Greater Orlando teems with tourists, but the noisy mule train, named for its steady, ceaseless pace, isn't a prime Florida attraction. Laborers hustle ahead of the machine, pawing through wet, buggy air to pluck ears from stalks. Atop the mule train, 20 men and women crate the corn and load it on a truck for shipment north. The rapid pace keeps workers basting in sweat; a skimpy incentive plan pulls this crew's pay above the federally mandated minimum wage. But walking with the mule train is a trek to nowhere. In days the corn season will end, and once again the workers will have to find jobs elsewhere—or not at all.

Tourism has vastly enriched parts of central Florida, but thousands of farm workers in this lush land still face shocking conditions. Better educated blacks have taken service jobs spawned by the theme parks, leaving unskilled workers to perform stoop labor at vegetable farms, plant nurseries and citrus groves. Resentments flourish as Haitian and Mexican immigrants take some of the jobs long performed by native-born blacks. Drug dealers feed on the desperate social climate, and family break-downs are the norm. "These people's problems are overwhelming," says Armando Fuentes, an obstetrician at a farm workers' clinic in Apopka, Fla. "I have not fully accepted the fact that, when I come to work, I am in the United States."

Audrey Neal, 23, is one of Apopka's casualties. After a December fire engulfed her dilapidated home and disfigured her five-year-old son, Segio, the former nursery worker moved in with her sister Shawana, 21. The two women and their seven off-spring share a tiny, two-bedroom house in a neighborhood where crack dealers randomly crash through doors to seek refuge. during drug raids. As young women struggle, young men flee responsibility. Abandonment is so common that mothers joke about it. "I got lucky—my ex-husband died," says Mildred Bell, a mother of two. "At least we get social security."

Social worker Sally Miller says years of grueling labor leave farm workers debilitated: "People here limp from crisis to crisis in a state of chronic stress until their bodies cave in." Most lack medical insurance. Because Orlando has no public county hospital, Fuentes has at times coached poor patients to exaggerate symptoms so a private emergency room will have no choice but to admit them. When government aid is available to remedy problems, the poor often don't know how to get it. "We're talking about people who can't spell their children's names, let alone write down the identities of their last three landlords," Miller says.

A local Office for Farmworker Ministry has started a clinic, a credit union and a farm workers' association, all attempts to bring order to the lives of the poor. In the land of Mickey Mouse, the Roman Catholic advocacy group uses its own cartoon characters, Gordo (Fat) and Flaco (Skinny), to represent haves and have-nots. "We explain that both characters bear equal responsibility," says Sister Cathy Gorman, head of the ministry. "Gordo acts unfairly—and Flaco permits him to continue."

Sister Ann Kendrick, a staffer at the farm workers' ministry, hopes one day to enlighten the millions of tourists who flock to Walt Disney World and Sea World. She would erect her own tourism kiosk at Orlando's airport and promote a new attraction, Real World. To sample the true Florida farm-worker experience, visitors would board a sweltering van for the ride to rural Apopka. Along the way they would eat stale peanut-butter sandwiches. They would walk muddy rows in the rich farm fields; perhaps they would take a long ride on a mule train. And they would come away knowing what life is really like in America's vacation wonderland.

"IT'S AS THOUGH WE DON'T EXIST"

In the weeks after he lost his farm, Russ Schwebke faced a deeper humiliation: he could not afford to feed his son. The boy left Wisconsin to live with his mother while Schwebke, desperate for a livelihood, tried to start a tiny herd of 11 dairy cows on a vacant farmstead. The loneliness was unbearable. So was the cold. He couldn't afford fuel for his house and on the worst nights he slept in a barn warmed only by the animals. The intervening three years have brought countless discouragements and one joy: his 11-year-old son, Rick, is back home. Often the Schwebkes talk man to man about the father's dismal finances. Russ, 46, carefully explains that it is no disgrace to be poor. He privately hopes that adversity will strengthen his son. Beyond consolidation and love, adversity is all Russ Schwebke has to offer.

Schwebke cannot bring himself to apply for food stamps or AFDC. He accepts food from the Western Dairyland Economic Opportunity Council, an antipoverty agency; his son will not endure the diet of bread topped with cream and sugar that fed impoverished farm children a generation ago. Schwebke sees congressmen attuned to the urban poor but less aware of people like himself: "It's as though we don't exist.'

Many Americans view farm problems as yesterday's news. This summer's drought aside, U.S. agriculture has begun a comeback. But many small farmers still risk ruin in marginal regions such as western Wisconsin, where broad hills jut from the sandy soil like buttes of the desert Southwest. The isolation of some areas from cities and jobs offers few alternatives to those the recovery may have permanently left behind. Across the countryside, frustrations ignite family disputes and child neglect worsens. Some women resort to support networks; they exchange tales of poverty and desolation in the same rural areas that a nearby brewery has long advertised as God's country.

Young farm wives often bear the brunt of poverty's burden. When Frank Schuh couldn't meet payments on his Buffalo County farm, it was his wife, Doreen, 37, who finally walked into the bank to admit defeat. An accident then crippled Frank's right leg, leaving Doreen to move the family to an empty farmhouse infested with bull snakes. Counseling has eased the bitterness Frank heaped on Doreen as she confronted crises he wanted to deny. She has not come to terms with dependence on welfare. The first time a caseworker brought food to the family of six, an embarrased Doreen Schuh insisted he leave with a loaf of bread she had baked.

Even when the isolation is self-imposed, the pain can be palpable. George Richard Beck, a mechanical engineer, sits in a rented frame house outside Black River Falls, his blue eyes transfixed on a blurry "Star Trek" rerun. He lost his job in Chicago and fled north two years ago. "I was tired of bill collectors, tired of running," says Beck, 45 "When we got here I was a beaten man. Still am." He says he has submitted 300 job applications and would settle for janitorial work at a nursing home. He doubts he'll get the job: "Would you hire an engineer to mop floors?" he asks. His wife, Michel, 30, talks of the emotional torment and fighting that have plagued the impoverished household. She is gamely learning to butcher deer hit and killed on the highway.

Is there any hope for the rural poor? The Becks and others hope a new president will notice their severe problems. This week's rush to approve $6 billion in drought relief is the latest proof that Congress, for one, would rather appease the narrow farm lobby than confront the more vexing problems of all the rural poor. Some experts propose a diversion of farm subsidies into broader rural-development projects; others suggest a sort of rural triage, with money channeled only to the most promising areas at the expense of the least. But imaginative plans won't get a serious hearing until the plight of 9.7 million rural Americans is placed firmly on the national agenda.

PERSONAL EXPLANATION

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. ROWLAND of Connecticut. Mr. Speaker, on July 26, 27, and 28, I was absent from the House for the birth of my third child. Julianne Rowland born at 8:38 on Tuesday, July 26, 1988. My absence necessitated that I miss a number of rollcall votes. Had I been present, I would have voted in the following manner:

Rollcall 237: H.R. 4741, the Veterans' Compensation Act, passage, "yea";

Rollcall 238: S. 328, the Prompt Payment Act, passage, "yea";

Rollcall 239: motion to recommit H.R. 4519, the Arizona-Florida Land Exchange bill, "nay";

Rollcall 240: H.R. 4519, passage, "yea";

Rollcall 241: H.R. 5026, the Fiscal 1988 Dire Emergency Supplemental Appropriations, passage, "yea";

Rollcall 242: the Young substitute to H.R. 1516, the Tongass Timber Reform bill, "nay";

Rollcall 243: H.R. 1516, passage, "yea";

Rollcall 244: the Craig substitute to H.R. 3964, the National Park System Review Board bill, "yea";

Rollcall 245: H.R. 3964, passage, "nay";

Rollcall 246: Rule for H.R. 5015, the Drought Assistance Act, "yea";

Rollcall 247: the Penny substitute to the Roberts amendment to H.R. 5015, "yea";

Rollcall 248: the Roberts' amendment as amended, "nay"; and

Rollcall 249: H.R. 5015, passage, "yea".

NELSON MANDELA

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. HUGHES. Mr. Speaker, I rise to join with my colleagues in commemorating the 70th birthday of Nelson Mandela.

For 26 years Mr. Mandela has been held prisoner, in virtual isolation, by the white-supremacist government of South Africa. Yet, during that time, the force of his moral authority has kindled the spirits of the people of South Africa, black and white, and has drawn the attention of the world to the brutal repression that is apartheid.

It seems ironic that a man who is considered a leader by his people has not been seen in public for over a generation. But even those South Africans who were not yet born when Mr. Mandela began his incarceration regard him as the legitimate head of the movement to bring justice and fundamental human rights to that strife-torn land.

In the words of Henry David Thoreau, "under a government which imprisons any unjustly, the true place for a just man is also a prison * * * the only house in a slave state in which a free man can abide with honor."

Nelson Mandela has indeed made his solitary cell a place of honor, and a lodestar for those seeking inspiration in the protracted struggle for freedom in South Africa.

Nelson Mandela almost certainly could leave that prison tomorrow—if only he would bow to the demands of the South African Government and abandon the goal of abolishing apartheid. But Mr. Mandela has not cooperated with his captors. He has not capitulated to their demands. And, by his words and deeds, he has made it clear that he will never compromise the principles that have motivated and guided his life.

Mr. Speaker, it is for these reasons that we salute Nelson Mandela on his birthday. And as we do, we look forward to the day when Mr. Mandela and his followers are able to celebrate his birth in a land undivided by racial animus, and united in the pursuit of equal justice for all.

THE AMERICAN EAGLE GOLD BULLION COIN PROGRAM

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. DEWINE. Mr. Speaker, recent congressional concerns about the performance of the American Eagle Gold Bullion Coin Program has prompted me to offer this review of the program's progress. A close look reveals a record of many achievements. American Eagles have captured 33 percent of the world bullion market in just 15 months, according to the World Gold Council. Its chief competitor, Canada's 9-year-old Maple Leaf, holds an equal share of the market. This is an outstanding victory for the American Eagle; it has achieved in just 15 months what it took the Maple Leaf nearly a decade to accomplish.

One major reason the American Eagles are so successful is the wide international system used by the mint for distributing the coins to the public. This open network of 29 gold and 40 silver authorized purchasers—4 more gold and 13 more silver have been added since the program began—distributes the coins to more than 20 countries worldwide, providing a highly liquid two-way market for the public purchase and sale of American Eagles. The mint's distribution system is similar to and broader than that of any competing coin.

The coin continues to be successful in the face of many new pressures in the world bullion marketplace. Three new competitors—Britain's Britannia, Australia's Nugget, and Belgium's Ecu—recently have emerged to further crowd the market, splintering bullion coin demand and biting into the sales of the American Eagle, as well as its competitors. In response, many competitors have increased markedly their advertising expenditures. In Hong Kong, for example, the Canadian Maple Leaf Program spent an estimated $2.6 million Hong Kong dollars in advertising, over 30 percent more than the mint's advertising budget allowed for the region.

The American Eagle is also at a competitive disadvantage in the Far East and certain other markets because of its congressionally mandated gold purity, 91.67 percent. The sizable Asian market historically has preferred gold coins with a 99.9 percent gold purity. This purity difference, while not affecting the value of the coin, hampers American Eagle sales in the region. Mint marketing efforts stress the superior strength and durability that the American Eagles offer Asian investors, but the process of transforming public opinion can be expected to take time.

Despite the increased pressures on the American Eagle, the program continues to function smoothly and successfully. The coin commands a powerful market share in both the domestic and world markets. Some have attempted to evaluate the program based on month-to-month sales rather than by market share, the former approach neglects the many economic factors which profoundly affect demand for American Eagles and other bullion coins.

As a gold bullion commodity, American Eagle sales depend directly on the price of gold and other economic factors. For instance, investors flocked to American Eagles during the stock market slide last October. Lately, due to the low price of gold and a stable economy, investors have refrained from purchasing American Eagles and other bullion coins. Fred Bogart of Republic National Bank, a retail outlet for bullion coins recently said:

> Sales of the Maple Leaf and other gold bullion coins have slowed just as much as American Eagle sales. The demand for all gold coins is down right now.

Of course, lighter demand does not mean the American Eagle Program is failing. It is misleading to evaluate the performance of the American Eagle Program on the basis of straight coin sales, because demand for the coins naturally ebbs and flows with changes in the investment market. It is market share that truly indicates the performance of the Eagle.

Some who blame the mint for these periods of light demand have proposed changes in the program's pricing structure and distribution system. The current pricing structure—a 3 percent premium on the price of a 1 ounce gold coin—insures that the mint can operate the program at no net cost to the taxpayer, provides a minimum marketing budget and a small profit.

John Lutley, managing director of the Gold Institute, argues against a cut in the price of the American Eagle:

> If the mint were to undercut its competition by dropping the price of the American Eagles, there's no doubt that the competition would follow suit. The end result would be less money for advertising, which would shrink the entire bullion coin market.

Lowering the price of American Eagles would induce a price war between bullion coins that would prove highly destructive to the American Eagle Program.

While not perfect, the American Eagle distribution system is operating smoothly, as industry observers have stated. Competitors apparently agree, since the Maple Leaf, Britannia, and Nugget all use similar systems. The worldwide distributors who comprise the distribution system meet the demands of the world gold market by offering a variety of products from which their customers can choose, and provide an invaluable service to the American Eagle Program. The existing system is economical and effective. It offers the coins to the public, shields the mint from any speculation in gold, and saves the program the countless millions it would take for the mint to distribute the coins directly to the public and for buying coins back, as a two-way market structure requires.

In sum, the mint should be applauded for the tremendous success it has created with the American Eagle Bullion Coin Program. American Eagles are firmly established in the world market and are posed for success in the years to come.

LONG-TERM HEALTH CARE

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. SMITH of Florida. Mr. Speaker, I would like to commend the Subcommittee on Health for holding a hearing on the crucial issue of long-term health care. Attention to long-term health care is long overdue and worthy of recognition.

Any illness of a family member is disturbing, but a chronic illness is devastating. Not only is the emotional stamina of a family stretched to its limit, but oftentimes their financial resources are completely depleted. As a result, thousands of families are left destitute each year after life savings are spent to provide the care necessitated by a long-term illness. Accordingly, I would like to register my fervent support for the thorough evaluation and consideration of long-term care legislation to help remedy these financial and emotional pressures.

As Congress continues to make long-term care a priority, it is important that we consider the various proposals which aim to improve long-term health care coverage. Provisions such as the inclusion of children and the disabled in eligibility determination and the inclusion of nursing-home care coverage should not be neglected. In addition, we must carefully evaluate the financing mechanisms which enable any long-term care legislation to survive and succeed.

Let's not delay in the development and implementation of a sound long-term health care policy which provides a solution to the problems associated with long-term health care. This is an issue which deserves strong, bipartisan attention. I urge my colleagues to send the President a comprehensive long-term care bill as soon as possible.

FIFTIETH ANNIVERSARY OF THE ASHLAND MOTHERS' MEMORIAL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. YATRON. Mr. Speaker, I rise today to recognize an extremely important occasion for the citizens of Ashland, PA. During the week of August 28–September 4, 1988, the people of Ashland will celebrate the 50th anniversary of the famous Ashland Mothers' Memorial.

The Mothers' Memorial is a familiar landmark to Ashland residents as well as to anyone who has ever visited the town. The statue is a bronze replica of James McNeil Whistler's famous painting of his mother. On the statue base, beneath the word "Mother," are the words of a poem by Samuel Taylor Coleridge: "A Mother is the holiest thing alive." The statue is dedicated to all mothers—past, present, and future—and is considered the only memorial in the world dedicated to mothers.

The idea for the memorial was first developed by the Ashland Boys Association and a communitywide effort to raise funds was initiated. On September 4, 1938, over 2,500 people watched as Ashland's two oldest mothers unveiled the statue. This September, it will be redicated after an extensive refurbishing project is completed. Ashland's two oldest mothers, who have yet to be named, will again have the honor of unveiling the statue.

The Ashland Mothers' Memorial is a symbol of motherhood and community values for the people of our area. We are all very proud of the memorial and the community spirit behind the memorial's 50th anniversary celebration. A number of special events are planned. These include a parade, a special church service, concerts, and a special student essay contest on plans for the memorial's 100th anniversary. Under the able leadership of Ashland Mayor June Gressens and Council President Robert Felker, the celebration is certain to be a huge success. Mr. Speaker, I know that my colleagues will join me in honoring the citizens of Ashland on the Mothers' Memorial's 50th anniversary and in wishing all of them continued success and good fortune in the years to come.

CAROL FLIER AN EXTRAORDINARY CITIZEN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. LEVINE of California. Mr. Speaker, today I rise to pay tribute to an extraordinary California citizen, Carol Flier. This Sunday, August 7, Ms. Flier will receive the Volunteer of the Year Award from the Jewish Homes for the Aging of Greater Los Angeles in recognition of her selfless dedication to the well-being of the residents of the Jewish Homes for the Aging.

Ms. Flier's unwavering dedication to the Jewish Homes for the past 10 years truly gives new meaning to the concept of volunteer service. With the exception of only 6 days in 10 years, Ms. Flier has spent every Tuesday at the Jewish Homes performing such tasks as leading exercise classes, giving manicures, running errands, taking residents out to lunch and shopping, helping residents to walk, reading to them and writing letters for them.

A native of west Los Angeles, Ms. Flier now lives in Tarzana, CA, with her husband of 23 years, Dennis Flier. Her daughter, Nicole, age 17, has aided her mother as a volunteer since she was 7 years old. Nicole will enter the University of Southern California this fall.

Ms. Flier's commitment to volunteer service began following a tragic occurrence involving a close friend and her friend's mother. Ms. Flier explains that her friend took her own life just hours before her terminally ill mother passed away.

As Ms. Flier describes her reaction, "I learned from this that in life we must not only think of ourselves, but help others."

"There is no money that buys what you can get out of giving," Ms. Flier says. "I love my fellow Jewish people and when I decided to do volunteer work at the Jewish Homes, it fulfilled all of my aspirations. These people truly appreciate everything you do for them. It gives me great satisfaction to know that I can bring joy to our Jewish elderly. I never had grandparents, so every resident is like my grandmother and grandfather, and they look upon me as their granddaughter. They love sharing their life's experiences with me, sharing their family albums about their families."

Indeed, the compassion that Ms. Flier exemplifies both through her words and her deeds should serve as an example to every American citizen. Ms. Flier, I would like to take this opportunity to wish you the best of luck in your future endeavors and to publicly commend your fine display of humanitarian service.

SENATOR CARL HARRISON

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. DARDEN. Mr. Speaker, the State of Georgia and Cobb County lost a dedicated lawmaker and public servant recently with the death of State Senator Carl Harrison of Marietta. Those of us who served with Carl in Georgia's General Assembly also lost a dear friend.

Carl was elected to the general assembly seven times, serving four terms in the house of representatives and three terms in the senate. All of us who served with him in that legislature were impressed by his dedication to the task of representing his constituents.

But in the past year, Carl's legislative career was overshadowed by his demonstration of personal courage and determination against serious health problems. Last summer, he was gravely ill from the cumulative effects of years of heart disease. A heart transplant was clearly his only hope, and in November he became the oldest patient to ever undergo that procedure at St. Joseph's Hospital in Atlanta.

Carl amazed all of us—including his doctors—with the speed of his recovery over the next few months. Just a few weeks after his heart was replaced, he walked into the State senate chamber for the 1988 session.

Sadly, Carl encountered new health problems this summer, and his life was taken by a stroke on June 30. But I know he treasured the additional months of life the transplant gave him, and his courage under the circumstances should serve as an example for all of us.

Mr. Speaker, I invite my colleagues to join me in extending our heartfelt sympathies to Carl's wife, Betty, and to his three children; Diana Harrison Bavis, Pam Harrison, and John Harrison. I also would like to submit for inclusion in the RECORD two articles from the July 1 edition of the Marietta Daily Journal.

The articles follows:

[From the Marietta Daily Journal, July 1, 1988]

HARRISON DIES AT 59

STATE SENATOR SERVED FINAL TERM AFTER HEART TRANSPLANT

(By Danielle Herubin)

State Sen. Carl Harrison died at 7 a.m. Thursday of a massive stroke at St. Joseph's Hospital, where he had been in a coma for nine days following an earlier stroke June 22, hospital spokeswoman Susan Mancuso said.

Harrison, 59, was the oldest recipient of a heart transplant at St. Joseph's and, amazing his doctors, recovered from his Nov. 15 surgery in time to serve at the last session of the Georgia Legislature.

He returned to the hospital and underwent emergency surgery June 2 to treat an abscess that had formed on the incision from the transplant. On June 22 he had a stroke and went into a coma.

His death marked the end of 20 years of active public service he devoted to bringing better education, laws and ways of life to Cobb County and Georgia.

Harrison is survived by his wife, Betty Sparrow Harrison and three children, Diana Bavis of Huntsville, Ala.; and Pam Harrison and John Harrison of Marietta.

The family will receive friends Friday from 7 p.m. to 9 p.m. at Mayes Ward Funeral Home of Marietta. The funeral will be Saturday at 2 p.m. at St. Andrew United Methodist Church near Marietta.

A North Carolina native, Harrison was a graduate of Georgia State College, now

Georgia State University, and received the distinguished alumni award. He was a graduate of Atlanta's Fulton High School and, as a two-sport participant, became friends with many Marietta athletes.

He first came to Marietta to work as a store manager for Pittsburgh Plate Glass Co. After a short stint in Norfolk, Va., he returned to Cobb to start his own business in 1963, Harrison Glass Co. on Atlanta Road.

His first public service was as a member of the five-man Larry Bell Park board which governed operation of the 40-acre city-county owned recreation facility, present site of the Cobb Civic Center.

Friends of Harrison say he never complained of the pain he endured for years, and he continued active public service despite serious operations.

"Not once did he mention the hurt of his (heart transplant) operation," said Bo Pounds, a close friend of Harrison's who owns Metro Ambulance. "He always acted like he was just going to Sears to trade in his old heart for a new one.

Harrison underwent quadruple bypass heart surgey in August 1963, but was told then it was only a temporary solution. By 1986, it became critical he receive a new heart and began carrying a beeper so he could be notified the moment a donor heart was found.

By October 1987, Harrison was very sick and was placed in the hospital because of his deteriorated condition. A November accident that claimed the life of a 21-year-old south Georgia man in effect saved Harrison's life.

The man's tissue type matched Harrison's and within hours a team of doctors had removed the donor organ, and led by Douglas Murphy, transplanted it into Harrison.

Murphy, the rest of the team and the nurses who cared for the senator were amazed at his recovery. At the time, friends said the hardest task they faced was trying to slow down the energetic senator.

In little more than two weeks after the transplant, Harrison was released from the hospital and began a steady program of exercise to regain his strength. He was determined to attend the grueling 40-day session of the General Assembly that began in January.

Harrison's heroic fight and exemplary track record of public service won admiration from all over the state. Citizens clamored for his speeches and politicans welcomed back what Rep. Johnny Isakson, R-east Cobb, called "the glue that held us together."

In February, Harrison was named Citizen of the Year in Cobb County by the Marietta Daily Journal for his outstanding contributions to the community over the years.

The state Senate honored Harrison with a resolution for his work in the General Assembly.

Harrison was a pioneer Republican in Cobb County and held an impressive list of public offices and accomplishments. With his first election to the Cobb County Board of Education in 1969, he was the second Republican ever elected to an office in the county, which had previously been held in the Democrat's visegrip. He was the first Republican to serve as chairman of the school board.

In 1974, Harrison was elected to the state House from west Cobb's District 20, a post he held for eight years. While a representative. Harrison used his position on the Education Committee to sponsor laws improving education in Georgia.

"The man truly cared about what was good for children in this state," said Dr. Thomas S. Tocco, superintendent of the Cobb County school system and a close friend of Harrison's. "Much of his work in both House and Senate revolved around making life better for citizens in Georgia through the betterment of educational opportunity."

One of 10 Republicans in the 56-member Senate, Harrison became Cobb County's first Republican senator when elected to the 37th District senate seat when it was created in 1982. The district includes north Cobb and south Cherokee counties.

In the Senate, Harrison once again was named to the Education Committee. He was a Senate minority whip as well as secretary of the Insurance, Industry and Labor committee and the powerful Rules committee.

By then a prominent and powerful legislator, Harrison was elected chairman of Cobb County's 14-member legislative delegation after his re-election in 1986.

He was unopposed for re-election in the upcoming November general election.

Harrison, even as he was dying, gave what he had to the public.

He allowed his heart transplant to be filmed by a local televison station and the entire procedure was broadcast as part of a special in February.

Harrison told a reporter shortly after receiving his new heart he planned to draw up legislation to equalize the process of providing donor organs in the state.

Through his own experience, Harrison discovered some transplant centers were being favored over another without just cause and said he wanted to equalize the process.

At the time, Harrison said he intended to increase awareness of the need for donor organs, and to fulfill his promise he became active in the statewide Transplant for Life Committee, often speaking for the group.

After chairing a Senate Organ Donor and Transplant study panel, he wrote and pushed through a 1987 bill that requires insurance companies to provide optional coverage for heart transplants with the same degree of protection as coverage of other physical ailments.

In 1988, Harrison wrote a bill regulating organ donations and the release of bodies from coroners. The bill passed and is awaiting the governor's signature.

The grieving sentiments of Harrison's close friends were echoed throughout the community Thursday. As Dr. Tocco said, "I miss him already and it's going to take me a long time to get over his death."

STATE GRIEVES OVER DEATH OF HARRISON

(By Danielle Herubin)

The American flag flew at half-staff at the Cobb Administration Building on the Marietta Square on Thursday, marking the death of one of Cobb's most devoted legislators, state Sen. Carl Harrison.

Friends of Harrison grieved the loss and remembered the senator's energy and devotion to improving Georgia laws and way of life. He also was remembered for his dry humor.

"Probably one of the funniest things I remember about him was his love for his dog," recalled Bo Pounds, a close friend of Harrison's and owner of Metro Ambulance. "He had a Chinese Chow named Mintoy, and he had a nice Oldsmobile car with a leather interior. One day, I asked him 'What happened to the leather?' because it was all chewed up. He said, 'The dog likes leather.'

"When he bought a new car, I noticed it also had leather seats, and I asked him why he bought leather seats if the dog was going to chew them up. He said, 'The dog likes leather.'"

Harrison was known for his energy. Less than a month after a heart transplant, he attended the 40-day General Assembly, and when he died he was running for re-election.

"He'd been out of the hospital eight days (after a heart transplant), and he called me at 5 a.m. one morning," Pounds said. "He asked me, 'What are you doing?' and I said, 'You're not going to believe this, but I was sleeping.'

"'Pick me up this morning and take me to Marshall's (Country Kitchen) for breakfast,' he told me, so I picked him up," Pounds said. The restaurant is the meeting place for many local politicans, and Harrison, a Republican, "liked to tease Rep. Joe Mack Wilson," a long-time Marietta Democrat.

"Politics was his only hobby," Pounds said.

Friends described Harrison as a brave man who never let anyone know how much in pain he was. Pounds said, "When he was waiting for his open heart surgery he acted like he was getting a tooth filled."

Pounds described Harrison, known to many through his 20 years in public office, as a "super human being," and said, "If you didn't like Carl Harrison, you didn't like people.

"He was a Republican and even the Democrats like him." he said.

Another close friend of Harrison's state Rep. Johnny Isakson, R-east Cobb, said Harrison's passing is "a real loss of the county and the school system, which he built."

"If you really look back, Harrison's efforts left a mark on tens of thousands of children," he added.

Isakson described Harrison as "above the pettiness and a first-class guy."

Harrison left his mark on the Cobb County School System, said Dr. Thomas S. Tocco, superintendent of the Cobb County School System, and another of Harrison's close friends.

"The Cobb County School System, in fact the children throughout the state of Georgia, lost an advocate with Carl's passing," Tocco said. "Much of his work in both the House and Senate revolved around making life better for citizens in Georgia through the betterment of educational opportunity."

In memory of Harrison's contributions, the flag will fly at half-staff at the Cobb Administration Building until after Harrison's funeral Saturday, said Cobb Commission Chairman Earl Smith.

"Senator Harrison devoted a substanial portion of his life to public service." Smith said. He was a great leader and an invaluable asset to Cobb. He will certainly be sorely missed."

Governor Joe Frank Harris said "His death is a real loss not only to his family, friends and constituents but to state government as well.

"He served with class and distinction and it was a privilege to work with him and to know him. He will be deeply missed and I extend my sincerest sympathy to (his wife) Betty, and the family."

Cobb "Who's Who" Honors Harrison

(By Bill Kinney)

It would have been the kind of funeral state Sen. Carl Harrison would have wanted; one in keeping with the way he lived.

He was simple, dignified and brief, and cut across Cobb political lines. Attending was a "Who's Who" in Cobb County.

The folks who filled St. Andrew Methodist Church, located on Canton Highway—and appropriately across from Blackwell School—touched all the eras of the pioneer Cobb Republican, who died Thursday of a stroke. Harrison's political career spanned from early years on the Larry Bell Park Board, to the Cobb School Board, the Georgia House and finally the Georgia Senate.

Heading the state delegation was Gov. Joe Frank Harris and his wife, Elizabeth; Lt. Gov Zell Miller; fellow senator Roy Barnes, and Congressman Buddy Darden, all Democrats. Also attending was former Gov. Lester Maddox and his wife, Virginia.

Paul Revere Erwin, Cobb and Seventh District Democrat party chairman, also represented that party. Reflecting back to Harrison's school board days were Alton Crews, ex-Cobb superintendent and now Gwinnett superintendent, and Dr. Tom Tocco, Cobb's present superintendent.

Others attending read like a roll call of Cobb's Republican Party, old and new. Heading the group was party Chairman Jim Hokkanen and early party leaders Warren Herren and Doug Howard.

There were GOP county commissioners Earl Smith, Emmett Burton and Democrat Harvey Paschal; and ex-commissioners Barbara Williams and George Lankford. Also present were judges Harris Hines, Mary Staley, Grant Brantley, Dorothy Robinson, David Dodd and Mike Stoddard. U.S. Attorney Bob Barr and Court Administrator Skip Chesshire also attended.

The cross section of mourners attested to the fact Carl Harrison was a man for all seasons. Some came in casual attire. In the long procession of Kennesaw Memorial Cemetery on Dallas Highway was an employee driving a Harrison Glass Company pickup truck. Carl would have loved that.

A few political hopefuls who attended were school board aspirants Laura Dingler, Harrison's longtime campaign manager; Betty Boyd; John McClure and present board member Carole Duncan and her husband, Frank. Then there were House seat seekers Jack Vaughn, Earl Ehrhart, and Gresham Howren, senatorial candidates Hugh Ragan and Joe Lee Thompson, and commission candidates Delree Friant, Yardy Williams and Richard Castellicus. Also, Election Supervisor Sharon Dunn, Tax Commissioner Jim McDuffie, Sheriff Bill Hutson and his aides, Buck Craft and Linda Coker.

There was all of Harrison's fellow GOP legislative members and a group of out-of-county Senate colleagues and state officials.

There was former Marietta annexation adversary and former city manager Jack Crane, telephone executive Mack Henderson, Acworth Mayor Mike Donehoo, Chamber chief Phil Sanders, water system manager Harry Ingram and scores of other Cobb County citizens whose lives were touched by Harrison in the areas of education, politics and business.

The church began filling shortly after 1 p.m., and by 2 p.m., it was standing room only. An honor guard was formed from Cobb law enforcement agencies.

Dr. Mike Cordle, who conducted the service, led off by candidly eulogizing a man he met only once—several days ago, with each wearing a surgical mask at St. Joseph's Hospital, where Harrison was being treated.

The Rev. Cordle linked Harrison's long service to Cobb education with that of Martha Berry, founder of Rome's Berry College, one of Rev. Cordle's alma maters. The pastor said he hadn't known Martha Berry either, but that didn't keep him from admiring her, and likewise Harrison.

He said during his short stay here, admirers had told him of Harrison's folksy, unpretentious manner and his commitment to education and to people of all walks of life, whose conditions of living he wanted to improve.

Harrison's former pastor, Dr. Gerald Thurman, praised the senator in a similar fashion. He said Harrison walked humbly with God and always wanted everyone to get a fair shake in life. He said Harrison was characterized by kindness and understanding, a man who never knew a stranger.

Dr. Thurman said when Harrison had his heart transplant in November, he feared he would never return to the Georgia Legislature, adding the lawmaker amazed everyone, including his doctors, by his speedy recovery.

Thurman said when Harrison invited him to lead the devotion in the Legislature, he told Harrison's colleagues he'd tried as Harrison's pastor to get him to "have a change of heart" and slow down. "He had a change of heart alright," said Thurman, but never slowed down.

Harrison's three favorite hymns were sung by the mourners during the service: "How Great Thou Art," "The Old Rugged Cross," and "America The Beautiful."

As pallbearers Bo Pounds, Charles Pharr, Rep. Johnny Isakson, Bill Self, John Anderson, Ed Mulkey, Robert Ervin and Jimmy Goddard moved the flag-draped casket of the Korean conflict veteran to the waiting hearse, small groups gathered.

Long-time educator Henry Hill disclosed that Harrison's daughter, Dianne Bavis and her husband told Harrison just before his death he would be a grandfather for the first time.

Others huddled and offered hope that the Cobb School Board would forego its rule of waiting three years before naming schools for a deceased person and name one of the new schools immediately for the man so responsible for improved education in Cobb County.

TELECOMMUNICATIONS AND AMERICAN COMPETITIVENESS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. BONKER. Mr. Speaker, we have spent 2 years debating the United States' loss of its dominant role in the world economy. We have all agreed on the need for greater export promotion and long-range planning. We all recognize that protectionist policies and self-defeating handicapping of our domestic industries will only continue the decline of American competitiveness.

Telecommunications offers a striking example of handicapped American industry. The Bell Co.'s currently cannot engage in the provision of information services, in research and development, or in the manufacture of telecommunications equipment. These companies constitute half the telecommunications industry resources in the United States.

Since the domestic telecommunications industry is a key infrastructure industry here and abroad, it offers both direct export opportunities and a means to improve American competitiveness. Telecommunications is replete with emerging key technologies—with fiber-optic telephone transmission, with new applications of microprocessor technology, with software that creates new communications services. Yet, the United States, acting through executive agencies and antitrust courts, has severely restricted and hindered the industry.

Mr. Speaker, I urge my colleagues to sponsor House Concurrent Resolution 339, which calls for allowing the Bell Operating Co.'s to participate more fully in the industry. If we persist in the current court driven policy of restricting the Bell Operating Co.'s from these areas, the international economy will continue leaving us behind.

THE INSIDER TRADING AND SECURITIES FRAUD ENFORCEMENT ACT OF 1988

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1988

Mr. MARKEY. Mr. Speaker, I rise today to introduce the Insider Trading and Securities Fraud Enforcement Act of 1988. After nearly 2 years of an extraordinary public focus on this issue, the time has come for Congress to move forward and take affirmative action to deal with this blight on our securities markets.

The extent of and the systematic evils caused by insider trading have been exhaustively catalogued before this subcommittee and others. The stunning stories of greed in the cases of Dennis Levine, Ivan Boesky, Martin Siegel and others have made clear the potential for massive fraud throughout even the highest levels of the securities profession. The SEC itself stated in a memorandum in the Boesky case that Boesky's cooperation "revealed that criminal conduct is at the heart of a substantial amount of market activity by established securities industry professionals."

The most recent revelation of blatant abuse occurred just last month with the SEC's charges against Stephen Wang and Fred Lee. Although all the facts surrounding the violations are not known, the abuses are of the exact nature that this legislation seeks to deter by imposing stiffer monetary penalties on insider traders and holding securities firms liable for failing to take the proper steps to supervise their employees and prevent the misuse of inside information. SEC officials expressed amazement that Mr. Wang and Mr. Lee were undeterred by the recent high-profile cases against top securities executives who have paid millions of dollars in fines and are now serving time in prison. It is apparent that there still exists a strong need for additional legislation with stiffer penalties to deter and prosecute violations of existing securities laws.

If the practice of insider trading itself were on trial today, the jury would have an easy answer: guilty on all counts. Guilty for injuring shareholders who buy or sell stocks without legitimate access to the same information used illegitimately by insider traders. Guilty for injuring the integrity of and confidence in the securities markets, a vital source of capital formation. Guilty for injuring the owners of proprietary or confidential information who seek to prevent the misuse of that information. And guilty for providing unjust enrichment to those who take unfair advantage of the system, and in the illicit pursuit of private profit show disdain for the public good.

On the problem of insider trading, I have sought, with the cooperation of the full committee chairman, Mr. DINGELL, and the ranking minority member, Mr. RINALDO, to craft legislation that provides a tough, but commonsense approach to enhancing the investigation and enforcement of the insider trading laws.

This bill would permit the SEC to impose treble damages against securities firms and others who knowingly or recklessly fail to establish, maintain and enforce a proper system of supervision designed to prevent and detect insider trading violations by their employees. We seek not strict liability but, strict responsibility, for those in the securities business who must share in the burden of keeping our marketplace a fair one.

In response to the difficulty of making strong insider trading cases, this legislation would also grant the SEC the authority to award bounty payments to persons who provide information leading to the prosecution of insider trading violations. This would serve as a clear incentive for individuals to step forward with information that might be impossible to obtain in any other manner. At the discretion of the Commission, the individual can receive up to 10 percent of the penalty imposed or settlement reached.

The legislation would also increase the maximum criminal fine for individuals from $100,000 to $1,000,000 and the maximum fine for nonnatural persons from $500,000 to $2,500,000. Dramatically raising the monetary penalties for insider trading speaks to violators in a language they understand.

Courts have repeatedly recognized an implicit private right of action in insider trading cases, and this bill would codify an express private right of action for two classes of persons: those who traded the same class of securities "contemporaneously" with the inside trader or tipper, and other persons who can demonstrate an injury by an insider trading violation.

Finally, given the ever-increasing incidence of insider trading violations carried on abroad, the SEC has sought ways to gain the cooperation of foreign authorities in the enforcement of U.S. securities laws. The legislation would amend section 21(a) of the Exchange Act by providing the Commission with expanded authority to assist foreign governments in investigations concerning violations of foreign securities laws and regulations that take place abroad. In deciding whether to offer assistance the Commission must consider the following factors: (1) whether the requesting foreign authority has agreed to provide reciprocal assistance to the Commission on U.S. securities matters; and (2) whether compliance with the request would "prejudice the public interest of the United States."

This bill also directs the Commission to establish a panel of experts to embark upon a study of the adequacy of enforcement of the Federal securities laws in meeting the goal of protecting the investing public. This study is in no way intended as an impediment to any needed efforts to reform the securities markets and assure the fair and efficient operation of those markets.

In summary, congressional waiting is over, and the time for congressional action has arrived. During a time when Wall Street has been set aflame with fraudulent activity, those of us in public office will not be seen as fiddling. It is time to douse the flames. We have to begin by giving the Government all the tools necessary to build a fairer, more honest marketplace.

SECTION-BY-SECTION ANALYSIS—INSIDER TRADING AND SECURITIES FRAUD ENFORCEMENT ACT OF 1988

SECTION 1—SHORT TITLE

Section 1 cites the title of the Act as the "Insider Trading and Securities Fraud Enforcement Act of 1988".

SECTION 2—FINDINGS

The findings in Section 2 expressly recognize that the rules and regulations of the Securities and Exchange Commission under the Securities Exchange Act of 1934 ("Exchange Act") governing trading while in possession of material, nonpublic information are necessary and appropriate for the Commission to carry out its responsibilities to act in the public interest and for the protection of investors. Furthermore, the findings recognize that while the Commission has enforced such rules and regulations vigorously, effectively and fairly, that additional methods are required to deter and prosecute violations of such rules and regulations. These findings are intended as an expression of congressional support for these regulations.

SECTION 3—CIVIL PENALTIES AND LIABILITY OF CONTROLLING PERSONS FOR ILLEGAL TRADING BY SUBSIDIARIES AND EMPLOYEES

This section creates a new Section 21A of the Exchange Act, which replaces and expands the present Section 21(d)(2) of the Act concerning the imposition of civil penalties on individuals who commit insider trading violations and persons who controlled them at the time of the violation. Congress originally granted the Commission authority to seek the imposition of such civil penalties in the Insider Trading Sanctions Act of 1984.

Authority to impose civil penalties

Subsection (a) of Section 21A authorizes the Commission to bring an action in United States district court to impose a civil penalty on persons who violate the securities laws by "purchasing and selling a security while in possession of material nonpublic information in a transaction, or by communicating such information in connection with a transaction." The Commission may similarly seek a civil penalty against persons who, at the time of the violation, "controlled" the violating person. As crafted, this subsection would make clear that "tipping" of inside information in connection with a securities transaction would be considered a primary, not merely secondary, violation of the statute and thus explicitly subject to a civil penalty. The Commission would not have to demonstrate independently that a tipper "aided and abetted" a wrongful purchase or sale of securities in order to seek a civil penalty.

Paragraphs (2) and (3) of subsection (a) set the amount of civil penalties for persons who commit insider trading violations and the controlling persons. For the violating party, the amount of the civil penalty could be as high as three times the profit gained or loss avoided as a result of the unlawful activity. For controlling persons, the limit would be the greater of $1 million or three times the amount of the profit gained or loss avoided as a result of the controlled person's violation. If the controlled person is a tipper, however, then the profit gained or loss avoided would be limited to profits or losses by those to whom the tipper had wrongfully communicated. In all instances, the actual amount of the penalty would be determined by the court in light of appropriate facts and circumstances.

Limitations on liability

Subsection (b) of Section 3 provides several limitations on liability under subsection (a). Paragraph (1) delineates alternative requirements for the imposition of liability against controlling persons. "Controlling persons" in the insider trading context are generally broker-dealers and investment advisers, but may also include other employers and individuals who exercise effective control over the activities of a violator. This paragraph imposes liability on controlling persons who "knew or recklessly disregarded" facts that would give those persons reason to believe that the person under this control was engaging in insider trading. Broker-dealers and investment advisers are also subject to liability if they have "knowingly or recklessly" failed to establish, maintain or enforce adequate procedures reasonably designed to prevent insider trading violations by their employees. These supervisory procedures are by this Act affirmatively required of all broker-dealers through the new Section 15(f) of the Exchange Act and Section 204A of the Investment Advisers Act of 1940.

This subsection also makes clear that the breakdown in a firm's system of surveillance must have been a contributing factor in the violation committed by the controlled person. Paragraph (1) of subsection (b), in combination with subsection (a), fundamentally changes current law by extending liability for civil fines beyond primary violators of the law to those who culpably violate their duty to take reasonable steps to prevent that behavior.

Paragraph (2) of Subsection (b) contains additional restrictions on liability. First, it would prohibit the imposition of liability under subsection (a) based solely on the reason that a person employs another person who is liable under this subsection. Such employing person would be subject to liability, however, if deemed to be one who "directly or indirectly controlled" a person violating this section. Second, this paragraph makes clear that existing Section 20(a) of the Exchange Act, concerning liability for controlling persons, does not apply to actions brought under Section 21A. Section 20(a) provides the general responsibility for controlling persons in the event of violations of the securities laws by their controlled persons.

Exemptive authority of the commission

Subsection (c) of Section 21A grants the Commission authority to exempt any persons or transactions from any of the provisions of this section. Such exemption must be "necessary and appropriate" to meet the Commission's statutory directive to act in the public interest and for the protection of investors.

Procedures for collection

Subsection (d) of Section 21A includes several provisions relating to the procedures for bringing actions under this Section. Paragraph (1), which mirrors current law, specifies that any penalty under Section 21A is payable into the Treasury of the United States.

Paragraph (2) of Subsection (d) states that in the event a person fails to pay a civil penalty under a court order, the Commission may seek the judgment itself through court proceedings or refer the matter to the Attorney General.

Paragraph (3) of subsection (d) would make clear that Section 21A is not an exclusive remedy for insider trading violations and would not preclude the Commission or the Attorney General from bringing any other actions to which they are legally entitled. This mirrors present law in Section 21(d)(2)(A) of the Exchange Act, and permits the Government to litigate insider trading cases based on other provisions of the securities laws and of the general mail and wire fraud statutes, which served as the basis for the insider trading conviction of Wall Street Journal reporter R. Foster Winans, among others, in *Carpenter* v. *U.S.*

Paragraph (4) of subsection (d) states that actions under Section 21A will be treated as actions "to enforce any liability or duty created by this title," which is necessary for purposes of clarifying proper jurisdiction and venue under Section 27 of the Exchange Act. This mirrors present law in Section 21(d)(2)(A) of the Exchange Act.

Paragraph (5) of subsection (d) picks up the same statute of limitations as included in present law in Section 21(d)(2)(D) of the Exchange Act. No action may be brought under Section 21A more than five years after the date of the transaction that forms the basis of the violation.

Bounty provision

Subsection (e) grants authority to the Commission to award bounty payments to persons who provide information concerning insider trading violations. At the discretion of the Commission, the individual can receive up to ten percent of the penalty imposed or settlement reached. neither the decision to award an informant nor a decision on the amount of such award is subject to judicial review. This provision is intended to encourage additional sources of information to come forward, thus assisting the Commission in its investigation and development of insider trading cases.

Definition

Subsection (f) of Section 21A defines the terms "profit gained" or "loss avoided," which are used to determine the amount of the civil penalty. The definition is identical to present law in Section 21(d)(2)(C), and is the difference between the purchase of sale price of the security paid or received by the violating party and the real value of that security as measured by the trading price a reasonable time after public dissemination of the nonpublic information.

Supervisory requirements for broker-dealers and investment advisers

Subsection (b) of Section 3 of this Act includes conforming amendments to the securities laws which establish affirmative obligations on regulated securities firms to supervise their employees. Both broker-dealers and investment advisers must establish, maintain and enforce written policies "reasonably designed" to prevent misuse of material, nonpublic information by the firm or any of its employees or associated persons. Thus, a multiservice securities firm would have to establish a supervisory system to oversee trading of securities in both firm accounts and employee accounts. The adequacy of the system would be considered in the context of the nature of the firm's business. This is a significant change from current law, which contains no affirmative obligation on a securities firm to adopt procedures designed to prevent insider trading.

This subsection also specifically directs the Commission, consistent with it statutory responsibility to act in the public interest and for the protection of investors, to adopt rules or regulations to specify the policies and procedures which would be in compliance with the dictates of these statutory requirements.

Recommendations for additional civil penalty authority

Subsection (c) of Section 3 of this Act mandates that within 60 days after the enactment of this Act the Commission shall submit to Congress appropriate recommendations with respect to the extension of the Commission's authority to impose civil penalties in areas beyond insider trading. The Commission recently approved this proposal and directed staff to prepare the appropriate recommendation. This provision is intended to set a deadline for that process.

SECTION 4—INCREASES IN CRIMINAL MONEY PENALTIES

This section amends Section 32 of the Exchange Act by increasing monetary penalties for any criminal violation of the provisions of the Exchange Act from an individual maximum of $100,000 to $1,000,000 and a maximum for non-natural persons from $500,000 to $2,500,000. The section also changes current law by making all non-natural persons subject to the higher criminal penalty; current law imposes the higher burden only on exchanges.

SECTION 5—LIABILITY IN PRIVATE RIGHTS OF ACTION

Section (a) of this Section would create a new Section 20A of the Exchange Act and provide express rights of action for two classes of persons: those who traded securities contemporaneously with and on the opposite side of a transaction from the inside trader, a class which would automatically be deemed injured by insider trading and tipping violations; and other persons who can demonstrate an injury by a violation of the insider trading provisions in the Exchange Act or its rules and regulations.

LIMITATIONS ON LIABILITY

Paragraph (1) of subsection (b) would limit the total amount of damages awarded to contemporaneous traders to the profit gained or loss avoided in the transaction constituting the violation. Furthermore, under paragraph (2), the total amount of damages imposed in an action brought by a contemporaneous trader must be diminished by any amount the violating person was required to disgorge to the Commission pursuant to a court order. As paragraph (3) dictates, no action pursuant to this section may be brought more than 5 years after the date of the last transaction that formed the basis of the violation.

Joint and several liability

Subsection (1) imposes liability on tippers of inside information to the same extent as those who directly profited from such trading.

No restriction of implied rights of action or public prosecutions

Subsection (d) states that the explicit authority for persons to pursue private rights of action under this section is not intended to limit or condition any implied private rights of action under any other section of the Exchange Act. Subsection (e) also makes clear that this section is not intended to bar or limit any other court action by the Commission or the Attorney General.

SECTION 6—INTERNATIONAL ENFORCEMENT COOPERATION AUTHORITY

This section amends Section 21(a) of the Exchange Act by providing the Commission with expanded statutory authority to assist foreign governments in investigations concerning violations of foreign securities laws and regulations. The Commission would have the discretion to assist foreign governments upon a request for such assistance, but would have to consider the following factors in making a determination whether to cooperate: (1) whether the requesting foreign authority has agreed to provide reciprocal assistance to the Commission on U.S. securities matters; and (2) whether compliance with the request would "prejudice the public interest of the United States."

This section closely follows one section of the Commission's recent proposal for expanded statutory authority to bring its domestic investigatory powers to bear in assisting foreign governmental authorities in cases involving foreign securities laws. Such assistance is considered crucial to gaining the cooperation of foreign governments when necessary for investigations of U.S. securities laws when the evidence exists outside of the U.S.

SECTION 7—SECURITIES LAWS ENFORCEMENT STUDY COMMISSION

This section directs the Commission to establish a panel of experts to embark upon a a study of the adequacy of enforcement of the federal securities laws in meeting the goal of protecting the investing public. This study is in no way intended as an impediment to any needed efforts to reform the securities markets and assure the fair and efficient operation of those markets.

SECTION 8—COOPERATION WITH FOREIGN AUTHORITIES AND INTERNATIONAL ORGANIZATIONS IN ENFORCEMENT

This section amends Section 35 of the Exchange Act by authorizing the appropriation of funds, not to exceed a total of $20,000 per year, for official expenditures and membership fees incurred through the Commission's participation in the International Organization of Securities Commission ("IOSC"). As the Commission has noted in previous congressional testimony,

the IOSC is the major international forum for securities market regulators. The facilitation of SEC participation in this organization provides an opportunity for U.S. regulators to join with high-level delegations from other nations to further their common goals in the effective regulation of international securities markets.

SECTION 9—EFFECTIVE DATE

This section clarifies the prespective application of this statute. With the exception of section 6 of this Act, none of the amendments made by this Act shall apply to any action occurring before the date of enactment.

SENATE—*Wednesday, August 3, 1988*

(Legislative day of Monday, August 1, 1988)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of Abraham, Isaac and Israel, sovereign Lord of history, I pray for the Nation today. It is tempting to think of Thee as religious option in life and to treat ourselves as gods—each, deciding his own morality—his own ethics—his own destiny. Help us, Gracious Father, to see the peril in such relativism. Help us to heed the warning of Moses as he prepared Israel for nationhood: "Beware that thou forget not the Lord thy God * * *. Lest when thou hast eaten and art full, and hast built goodly houses and dwelt therein; and when thy herds and thy flocks multiply, and thy silver and thy gold is multiplied, and all that thou has is multiplied; then thine heart be lifted up, and thou forget the Lord thy God * * *. And thou say in thine heart, 'My power and the might of mine hand hath gotten me this wealth.' But thou shalt remember the Lord thy God: for it is He that giveth thee power to get wealth * * * if thou do at all forget the Lord thy God * * * I testify against you this day that ye shall surely perish."—Deuteronomy 8:11-19.

Give us ears to hear, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 3, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting majority leader.

RESERVATION OF LEADERS' TIME

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority leader and the minority leader be reserved for their use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to extend beyond the hour of 9:40 with Senators permitted to speak therein for not more than 5 minutes each.

The Senator from Wisconsin.

UNEMPLOYMENT 5.3 PERCENT—GREAT NEWS; THE FUTURE PRICE—VERY PAINFUL

Mr. PROXMIRE. Mr. President, what are we to make of the drop in unemployment to 5.3 percent? This is the lowest unemployment level in 14 years. There is no economic statistic that is more potent than the level of unemployment. The American people—God bless 'em—treasure jobs as their prime economic priority. If given a choice between winning a fat lottery ticket that would put the typical American on easy street for life or winning a life long, productive job, I am sure the great majority of Americans would take the assurance of regular work. Why is this? The regular pay check is part of it, of course, but only part of it. A job gives a person a treasured status as a productive, useful, needed human being that is far more than the sum of weekly or monthly pay checks.

So this level of unemployment is a coin-of-the-realm, political boon. Who deserves credit? The President? The Congress? The Federal Reserve Board? The Republican Party? The Democratic Party? Or is the happy, high employment level an economic phenomenon that happens with little or no real assistance from policies of the Federal Government? Obviously we have a mixed government. Economic policies are established by both the Republican President and the Democratic Congress. Critically important monetary policy that determines the level of interest rates and the availability of credit is determined by the independent Federal Reserve Board that has been entirely appointed by the Republican President. On the other hand taxing policies and spending policies—while recommended by the Republican President—have been established by the exclusive power of the Democratic Congress.

It seems clear to this Senator that the present level of economic activity, the high jobs, and low unemployment is in significant part the result of a consistent year after year 7-year Federal Government policy of running massive all-time record deficits. We are living well for the same reason every high living financially irresponsible family lives well—for a while. Our jobs are up. Americans are employed in the greatest numbers and in the greatest proportion in relation to work-age adults, in our history. Why? Because we are living beyond our means. Not just the Federal Government. We are all living beyond our means. Households have borrowed more and are spending more than ever before. They are also saving less than American families have saved throughout our history. Of course, this buoys the economy even more than Federal Government deficits and king size government borrowing. Just consider the figures. The Federal Government is up to its neck with a $2.5 trillion debt. American households have now run up an all time world record $3 trillion debt. Then there's the big enchilada—business—that is all business—corporate business, partnerships, individual proprietorships, farms, and all other business establishments have come on with a huge $4 trillion plus debt.

When the whole Nation is borrowing and spending like there is no tomorrow, is it any wonder that the economy is humming along like a brand new Cadillac? So why fight it? It works. We have jobs as never before. Why worry about government deficits or family deficits or business deficits? The answer is that borrowing more and more, and more spending than you take in, pays off in what we Americans want more than anything else: A regular paycheck for good honest work. So the Federal Government is paying net interest to the public today at home

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

and abroad of $150 billion per year. Families and business together are paying $450 billion yearly in interest.

So this interest cost is rising. So what? Why not keep it going. This has worked like a charm for 6 years since 1982 in providing more and more jobs. Why not keep it going for another 6 or another 10 or indefinitely? The answer is that even a mammoth world-leading economy like ours cannot keep this up forever. Maybe we can go on after this year for another year or two.

But the day will come when our debts and the interest on our debt is simply too heavy for us to bear. At that point the obvious solution—most helpful to all debtors—is to pursue a deliberately inflationary policy. Like the overwhelming majority of other countries that have gotten deeply in debt, we will step up the borrowing and spending. We will inflate the currency. That means almost everyone's income rises. Wages and salaries soar. Profits go through the roof. The enormous debts especially the long-term debts are suddenly far less burdensome because family and business incomes rise sharply. A hundred thousand dollar mortgage is automatically reduced to a "real" burden allowing for inflation of $50,000 as family income doubles. This takes care of the old debt handsomely. But not for long. The borrowers relief, of course, becomes the lenders' distress. No sane lender will lend at a rate of interest less than the expected inflation rate. Why should he? It means that he will get back less in real value than he lends. So if the inflation rate goes to 20 percent, the interest rate will rise to 25 percent. As the inflation rate zoomed up to 50 percent, the interest rate will swiftly soar on up to 60 percent.

What does this do to our credit economy? Answer: It ruins the economy. Skyrocketing interest rates promptly kill home buying. Many families that can swing a 10-percent mortgage interest rate will drop out of the market for new homes when the rate goes to 15 percent. When it rises to 20 percent or more real estate offices become like funeral homes—sad and silent. Seventy-five percent of auto purchases are financed on credit. So what happens to the crucial auto business when interest rates go through the roof? What happens is that the auto business goes through the floor. The day of reckoning comes. Not with recession, but with full-fledged depression.

So the record low level of unemployment in June of 5.3 percent is good news in and of itself. But it comes because the country has been living far beyond its means. The day is coming when we will have to pay and pay heavily for this irresponsible extravagance.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

BICENTENNIAL MINUTE

AUGUST 28, 1957: SENATOR WILLIAM PROXMIRE'S VOTING RECORD

Mr. DOLE. Mr. President, as the 100th Congress draws to a close, so too does the remarkable career of the senior Senator from Wisconsin, William Proxmire.

Bill Proxmire came to the Senate 31 years ago this month, on August 28, 1957, after winning a special election following the death of Senator Joseph R. McCarthy. He will leave the Senate as the third most senior among our current Members. Senator Proxmire is the chairman of the Banking, Housing, and Urban Affairs Committee, the author of the Truth-in Lending Act and the Competitive Banking Act, the chief promoter of the Genocide Treaty, and the presenter of many "Golden Fleece" Awards that direct national attention to the unnecessary waste of taxpayer's money.

In addition to these remarkable accomplishments, the senior Wisconsin Senator has established two extraordinary Senate voting records. First, in his 31 years, he has cast nearly 12,000 recorded votes—more than any other Senator in history. Second, Bill Proxmire has not missed a single rollcall vote since April 20, 1966. This amounts to approximately 10,150 consecutive yeas and nays, covering every issue imaginable on the American political scene.

A record such as this depends upon great physical stamina—no illnesses to keep him from casting a vote. It demands political courage—no issues to be ducked. And it requires considerable force of will—no campaign appearances or other events too important to keep him from appearing on the Senate floor when the ringing bells summon us for a vote.

Bill Proxmire's phenomenal voting record will stand in our books the way the records of Babe Ruth, Ty Cobb, and Hank Aaron have dominated baseball statistics. It is a record we can all applaud, and do our best to emulate.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator from Kansas, the distinguished Republican leader, yield?

Mr. DOLE. I will be happy to yield.

Mr. PROXMIRE. That is a great speech. I must say, the Senator has made many fine speeches in this country and this body but that is the best I heard. I cannot thank my good friend enough. There is nobody's esteem I treasure more highly. I have great admiration and respect for him. He only made one mistake and that is, he joined the wrong party.

Mr. DOLE. I thank my colleague from Wisconsin.

This is part of my Bicentennial Minute. This is a record I do not think will be surpassed for a long time. His consecutive voting record will probably be in the history books for the next 10, 20, 30 years. I thank my colleague.

Mr. MOYNIHAN. I wonder if the Republican leader will yield for a comment? Mr. President, the occasion will come when this side of the aisle will wish to devote a morning to the saga of Bill Proxmire, but just to extend the Senator's remarks on Bill Proxmire, I would like to observe that with respect to the Genocide Treaty, an elemental moral necessity of our age, Bill Proxmire made over 3,000 speeches on the Senate floor until we finally listened. Thank you.

The ACTING PRESIDENT pro tempore. The Senator from New York.

AGENT ORANGE

Mr. MOYNIHAN. Mr. President, I rise today to urge the Senate's favorable consideration of my bill, S. 2670, a measure to prevent disabled veterans and their survivors from losing Federal public assistance benefits if they are recipients of settlement payments in the litigation against the manufacturers of Agent Orange.

As announced by a Federal district court in Brooklyn on July 5, totally disabled Vietnam veterans who were exposed to the highly toxic herbicide Agent Orange will begin receiving payments early next year from the settlement of a suit against the chemical's makers.

Just last month, a U.S. Supreme Court ruling cleared the last legal obstacle to the 1984 settlement agreement. Under that agreement, the chemical companies will pay a derisory, if I may say, $180 million to settle all claims while admitting no liability for any injuries or deaths caused by the use of agent orange. To receive payments, a veteran must be totally disabled, must show exposure to agent orange in Vietnam, and show that the disability was not caused by another injury. Payments will also be made to the families of veterans whose deaths are linked to agent orange.

Mr. President, based on court estimates, an eligible veteran will receive an average disability settlement payment of about $5,700 over the 6-year distribution period, or an average annual payment of about $950; $950 per year for 6 years for having been totally disabled in our Nation's service.

An eligible survivor will receive an average total death payment of about $1,800. Of the 250,000 veterans who have filed preliminary claims, about 40,000 to 60,000 may be eligible for payments.

Mr. President, small as these payments are, without a change in the law, these settlement payments will be counted as income for purposes of determining eligibility for and benefit amounts under Federal programs such as veterans pensions, supplemental security income. AFDC, and food stamps. The bill I have introduced, which has the support of the New York State veterans associations of every disposition, would change the law so that disabled veterans and their family members who receive Federal assistance benefits would not lose their benefits or have them reduced in consequence of receiving the very small, very inadequate payments for the disabling injuries suffered from agent orange.

It seems to me but a small gesture for the Nation to make on behalf of disabled veterans.

The bill has been referred to the Committee on Veterans' Affairs. I hope we can act expeditiously. I am sure we will.

I thank the Chair for its courteous attention.

TRIBUTE TO JOHN S. COOPER

Mr. MOYNIHAN. Mr. President, may I call attention to the very pleasing presence on the floor this morning of that most eminent, scholarly, statesmanlike former Senator from Kentucky, the Honorable John Cooper.

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

Mr. SANFORD. Mr. President, I rise in strong support of S. 2613, the Omnibus Trade and Competitiveness Act. Given the months that have passed since we initially passed the trade bill, I think it is worth just a moment to review just how we got to the momentous place that we are today, and to touch on a few of what I believe are the critical parts of this large and important package.

I think it is too bad we had to go through the political exercise of having this bill vetoed, thereby delaying the effectiveness of it. The fact that the plant-closing provisions have now become law and that the same trade bill is once again before the Senate shows how uselessly political the veto was. The President's veto has unfortunately caused us hours and hours of additional work and the expenditure of a great deal of time simply for a political maneuver that did not work.

Three years ago, Congress began work on a large, multifaceted, complex—and controversial—trade bill. This bill originated with the Democratic leadership's concern and dismay over geometrically growing U.S. trade deficits, a growing public sentiment that we, as a nation, were losing our competitive edge, that our role as the world's economic leader was rapidly fading, and that our trading partners were not playing fair with us.

The two different bills that emerged from the House and the Senate that were cited are protectionist and pork barrel. There was a great deal of skepticism that the largest House-Senate conference ever could even organize itself much less produce a bill acceptable to the Congress, the administration, business, labor, and our trading partners.

I congratulate the conferees and the leadership of the Senate. By May of this year, they accomplished what few thought they could. Unfortunately the administration could not see the value of this tremendous accomplishment and chose to veto this crucial legislation over a plant-closing provision that has now finally become the law of the land. I commend the President for ultimately realizing the fairness and decency of providing workers with 60 days' notice before their plant and place of employment is shut down.

I am pleased that we have the opportunity today to finally enact the sound and solid bill that emerged from the conference months ago. I believe this bill strikes a fair compromise between concerns that we may send a protectionist signal to our trading partners and Congress' concern that the trade deficit is out of control and must be corrected. The bill before us today gives us added tools to reduce our huge trade deficit and increase U.S. exports. It does not contain any "extremist" provisions that might provoke retaliation abroad or rattle world financial markets.

The 1988 Omnibus Trade and Competitiveness Act strengthens our trade and tariff laws, making it clear to our trading partners that we are serious about fair and evenhanded rules of the trading game. The bill makes important changes to our countervailing duty and antidumping laws—changes which expand the scope of our trade remedy laws and which provide incentives to manufacturers injured by unfairly traded imports to use these remedies more often.

Equally important, the bill strengthens section 301 of the Trade Act, placing a duty on USTR to take action against violations of foreign trade agreements and against "unjustifiable" practices which unfairly discriminate against U.S. products and services. The USTR will be required to take retaliatory action in an amount equivalent to the harm done to the U.S. commerce. This provision is crucial to demonstrating to our trading partners that the United States is serious about eliminating barriers to trade and that the United States is willing to be a world leader in seeking free and fair markets.

I am pleased that the bill also includes improvements to the provisions providing for retraining of workers displaced by imports. It recognizes the direct link between the level of skill and training of our workers and our international competitiveness. Certainly we must provide assistance to workers thrown out of work by imports who need additional training to move on to another line of work.

The bill also gives relief to industries injured by imports so that they can become more competitive. And it provides a $2.5 billion export enhancement program for agricultural products competing against subsidized European Community products. It also provides a program to assist small businesses get into exporting. Clearly America's small businesses have fueled much of our economic growth over the past decade. These businesses can and will compete in the international markets if only provided with the basic tools to establish an export market.

In addition, the bill gives the administration what it needs in a trade bill—negotiating authority for the Uruguay round talks under the GATT and United States adherence to the harmonized commodity description and coding system. The United States is taking the lead in the new GATT round to establish international free trade rules for services, for dealing with trade-related investment practices which distort trade, and for establishing a more effective international trade dispute mechanism. We are also trying to bring long-needed reform to agricultural trade rules. It is important that the administration be provided with the authority it needs to participate fully and effectively in these important trade talks. The new harmonized system will standardize our customs classifications with those of more than 50 other nations, reducing confusion, and therefore costs, in international trade.

Very importantly for our high-tech exporters, many of whom are headquartered in my home State of North Carolina, the trade bill eases export controls for exports of high tech equipment. While these particular provisions do not go as far as I might have liked in assisting exports or our most competitive high-tech goods, they are a significant improvement over current controls both through streamlining licensing requirements as well as reducing the list of controlled items. I hope it will finally give the Commerce Department the authority it needs to adequately police our exports of dual-use technology without undue interference by the Department of Defense.

I am very pleased that the bill calls for discussions to establish, a multilateral debt management facility. I believe that the problems of international debt threaten the economic development of many lesser developed countries as well as the safety and soundness of our financial system. The creation of an international debt management facility is a step in the right direction to begin addressing our international debt problems and urge the administrator to begin these negotiations immediately.

The bill also makes significant changes to the Foreign Corrupt Practices Act. I believe that these changes are a very important part of our effort to reduce our trade deficit. The Foreign Corrupt Practices Act was designed to outlaw bribery of foreign officials by American corporations. That basic tenet is not affected by this bill. Instead, the bill brings some much needed clarification to the operation of the Foreign Corrupt Practices Act. This clarification is essential if companies, particularly small businesses, are to behave competitively, but legally, in foreign markets.

The 1988 Omnibus Trade and Competitiveness Act provides the foundation for a comprehensive approach to our trade deficit. It addresses the issue of whether we are playing the trading game under rules biased against U.S. companies. It also gives incentives and support to U.S. exporters. Almost 200 Congressmen spent several years drafting it. It is an outstanding example of the leadership, vision, dedication, and thorough understanding of the trade issues by the chairman of the Senate Finance Committee, LLOYD BENTSEN and his colleagues. It truly represents a broad consensus of the Congress and the American people. It should be passed immediately.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KARNES. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLVING THE ETHANOL PROVISION IN THE TRADE BILL

Mr. KARNES. Mr. President, before the Senate is the following trade bill, which in large measure is based on the bill vetoed by the President earlier this year. I have had considerable ambivalence toward this measure from the time it was before the Senate last July. As with all measures of this scope, the trade bill contains both good and bad provisions. While there are many things about the trade bill I strongly support, there are also provisions I have opposed—and strongly opposed.

Among the provisions I support, the bill grants the President the authority to negotiate multilateral and bilateral trade agreements through the middle of 1993. Further, fast-track legislative procedures will be used to enact implementing legislation of such agreements. The negotiating authority and the fast-track procedures are subject to future congressional review. I support granting such authority to the President and I hope the administration will be able to negotiate aggressively to remove barriers to trade and investment in multilateral and bilateral forums. It is through trade negotiations that we can best achieve a world economy based on free and fair trade. Thus, I am glad that this critical granting of negotiating authority is included in the bill.

I support many of the provisions included in the bill concerning international banking and finance issues which came out of the Senate Banking Committee on which I serve. The bill streamlines export licensing procedures to allow domestic producers to move into the international marketplace more efficiently. While we should take great care to ensure sensitive technologies are not transferred to the Soviet Union, we should not unduly hamper the activities of exporters. The bill's provisions strike a careful balance in this area. The bill eases restrictions on export trading companies in order to strengthen their role in promoting American exports around the world. The activities of the Foreign Commercial Service are strengthened as well. Finally, the bill takes action to clarify the Foreign Corrupt Practices Act to free American exporters from the fear of being penalized for inadvertent errors or standard practices.

Mr. President, as a member of the Senate Agriculture Committee, I am extremely proud of the provisions in this bill to expand agricultural exports. It is a forward-looking proposal. American agriculture can compete with any country in the world and the measure before us would make sure that we market our agricultural products aggressively and effectively. The provisions include a strengthening of the Foreign Agricultural Service, an expansion of the export Enhancement Program, increased funding for the targeted Export Assistance Program, and the establishment of a triggered Marketing Loan Program designed to enhance our negotiating position at the new GATT round.

The small business provisions in this measure would make important contributions by ensuring that small businesses are included in export markets. Small businesses are often intimidated by the complexities of exporting. I support the provisions in the bill to provide specialized services to make the export market more accessible to small businesses.

During deliberations on the Senate version of this trade legislation, I supported an amendment repealing the windfall profit tax. Currently, the price of oil is under the taxable threshold mandated by the windfall profit tax. Although no revenues have been recently collected, oil companies are continually burdened by the cumbersome requirements and expensive administrative costs associated with IRS filings. To continue requiring oil companies to file detailed reports, is counterproductive and unnecessary. Thus, I find this provision, which is retained in the bill, to be an important contribution to this legislation.

In sum, Mr. President, I consider the above provisions to be real contributions to the effort to improve our trade position. They promote the freeing up of the international trading system through multilateral and bilateral negotiations, the elimination of unfair foreign trade practices, and the expansion of U.S. exports. They address the specific problems facing the United States in the international trading system without resorting to protectionism or solutions that will prove more costly to the United States than the problems they are attempting to address. There is much in this bill to be commended and this Senator wants to vote for this trade bill.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senate that morning business is now closed.

Mr. BYRD. Mr. President, does the Senator want a couple more minutes?

Mr. KARNES. If I could, I would like unanimous consent to proceed as in morning business for an additional 3 minutes.

Mr. BYRD. Would 3 minutes be sufficient?

Mr. KARNES. That would be fine. Three minutes.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. I ask unanimous consent that morning business be extended for 3 minutes so the Senator may speak.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. KARNES. I thank the leader.

Mr. President, while there are many good things about this measure, as I stated, there are also things that are either inappropriate or wrong-headed. The fact is there are many things that should not be in this trade bill. They should not be in it because either they do not concern trade matters, constitute special legislation that benefits only a few, or they move our trade policy in the wrong direction.

Most importantly, this bill contains a provision that will be detrimental to the interests of my State. This provision would expand the duty-free importation of ethanol through the Caribbean Basin Initiative. It is my strong preference to see this provision struck from this bill altogether. This provision is going to result in the direct substitution of European-produced wine alcohol for U.S.-produced corn alcohol. Nebraska currently produces 11 million gallons of ethanol annually. Within the next 2 years, it is anticipated that the current level of production will be expanded by 50 million gallons. Allowing the duty-free importation of ethanol, as this bill would allow, will only serve to undermine the Nebraska ethanol industry. In fact, it will displace the consumption of 80 million bushels of corn, potentially.

Also, it is estimated that extending this special preference will result in the loss of $120 million in tariff revenues. What troubles me most about this provision is that those who will benefit the most under its terms are not people of the Caribbean Basin, who the CBI was specifically designed to assist and encourage, but heavily subsidized European wine alcohol producers. I support the efforts to improve economic conditions in the Caribbean Basin, but this provision will not benefit the people of the Caribbean. What this provision does, is turn the Caribbean Basin Initiative into a loophole large enough for a tanker to steam through as the Europeans attempt to dump their surplus product on the market. I cannot understand why we would grant a special benefit to European wine producers who have already benefited from large-scale subsidies. This provision should not be in this bill. I am proud that the President chose to include this provision among those he listed as objectionable in his veto message because I was among those who spoke to him about the potential damage that could be caused to domestic farmers and ethanol producers by this provision.

Mr. President, I am encouraged by the participation of the leadership in attempting to address the concerns of this Senator and others relative to this ethanol provision. I have been happy to work with the leadership on both sides of the aisle to resolve this problem. Let me say, that it is not the intention of this Senator to delay the completion of the bill in any way. I must say, however, that I am prepared to offer an amendment to strike this provision or at a minimum limit ethanol foreign origination to the intended Caribbean Basin country sources if another appropriate resolution of this problem cannot be reached. Mr. President, despite its many shortcomings, I want to vote for this trade bill. As I stated when I voted to support the President's veto of an earlier version of this bill, we still can enact a bipartisan trade bill this year. The fact that this bill is before the Senate now is evidence that we can enact a trade bill. I look forward to working with the leadership to reach a compromise concerning this ethanol provision and thereby expedite the progress of this bill.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. KARNES. I thank the Chair.

I yield the floor.

URGING PRESIDENT REAGAN TO SIGN THE DEFENSE BILL

Mr. KENNEDY. Mr. President, this may be a political season in the country, and it may be a long hot summer in Washington. But many of us are shocked by President Reagan's decision to veto the defense authorization bill for the wrong reason.

Obviously, national defense and national security are important issues in the Presidential election campaign. But these issues can and should be discussed on their own merits, without crossing the line and turning something as important as the defense bill into a political football.

The White House is obviously desperate for an issue to help Vice President BUSH get back into the Presidential campaign. But it's wrong to play politics with National Security.

Part of the problem is that the Secretary of Defense is in Moscow and the Secretary of State is in Argentina. These two powerful cats were away, and the Vice President's pollster should never have been allowed to play.

The bill sent to the White House was the product of lengthy debate and skillful negotiations between Congress, the President, and the Department of Defense. Neither the President nor Congress nor the Pentagon got everything they were seeking. They never do.

In critical areas such as star wars, MX missiles, and nuclear testing, the bill sent to the President reflects a fair and thoughtful compromise of controversies that have been waged intensely for many years between Congress and the administration.

We have sent similar defense bills with similar compromises to the President in recent years, and there has never been a serious prospect of a veto. There is no justification for the President to bring this bill down now, as a political afterthought, when the legislation has been almost completely free of partisan politics for all these months of constructive negotiation and debate.

There is no issue over the level of total spending for defense. The bill contains every penny of the $299 billion approved for defense by Congress and the President in our budget summit last fall. True, it contains less for certain nuclear weapons systems than the President wanted, and it contains more for conventional forces. But these compromises reflect the good faith efforts of both Congress and the President under the Constitution to fulfill our responsibilities for the Nation's defense. None of these compromises is so far from the position of the President that the bill deserved to be vetoed.

The legislative process worked—and worked well—on this bill. It would be a travesty now, after so much constructive bipartisan cooperation, for the President to start playing Presidential politics with the Nation's defense and bow to the desperate clamor of the right wing for a Presidential campaign issue.

President Reagan faces a difficult test between now and November to maintain a proper separation between his roles as President and political campaigner. On this issue, he should not have abdicated his responsibility to the country as President and Commander in Chief—he should have signed the defense bill.

NO MORE CONTRA AID

Mr. KENNEDY. Mr. President, yesterday the Republican minority leader criticized Democratic Party leaders for our unwillingness to support United States military aid to the Contras in Nicaragua. Today, we learned again, if any reminder is necessary, the brutal way that our lethal aid is used.

Yesterday afternoon, in violation of the current cease-fire, the Contra forces attacked a civilian passenger boat on a river in Nicaragua. Scores of innocent men, women and children on the boat were under fire. Two people were killed and 27 others were wounded. One of those injured was an American—a clergyman traveling on the boat with his daughter and a group of other Americans.

This assault is just the latest reason why Congress should send no additional military aid to the Contras in Nicaragua. In the discussions now underway, I urge the Senate and the House to stand firm in our opposition to sending new military aid to the Contras.

This attack on the passenger ship is a blatant act of terrorism. The Contras are not freedom fighters—they are terrorists. And they do not deserve another dime of U.S. military aid.

CHICAGO NORTHWESTERN RAIL DISPUTE

Mr. GRASSLEY. Mr. President, yesterday the Senate passed Senate Joint Resolution 356 which will allow for a cooling-off period for the Chicago Northwestern and the United Transportation Union. I intended to speak at the time of passage but due to scheduling problems I was unable to be here to do that. I would like to do that at this time.

In my opinion, it is a mistake to delay a resolution of the Chicago Northwestern crews consist dispute until September. We should address this issue now.

There has been adequate time under the Railway Labor Act to negotiate this issue. This dispute has been discussed through collective bargaining, through mediation conducted by the National Mediation Board and has been studied by the Presidential Emergency Board, which was appointed by the President on April 22, and reported its findings on July 1. Therefore, assertions that more time is needed to try to resolve this issue have no merit.

However, it is clearly the desire of the chairman of the Labor Committee and others who are directly affected, to require a 36-day delay in resolving this dispute.

I am pleased by the assurances of Senator HATCH, Senator KENNEDY, Senator SIMON, and others that this process is the last delay in an already overly lengthy process.

There has been speculation that one of the reasons for this delay is to provide time for a purchase of the Chicago Northwestern by various parties which may or may not include rail labor.

This is totally unrelated and could be a misuse of the collective bargaining process for private gain. The company leadership assures me that the railroad is not for sale.

I will support this resolution on the clear understanding that this is indeed the last time. However, if it becomes apparent that Senate action on this issue will not resolve the pending strike, then I intend to urge my colleagues to immediately move forward and enact the President's emergency proposal.

It would be wrong for this body to allow two unnecessary strikes.

I would like to submit for the RECORD, a letter from Secretary of Transportation, James Burnley. I am in total agreement with the Secretary on this issue. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF TRANSPORTATION,
Washington, DC, August 2, 1988.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate, Washington, DC.

DEAR BOB: There is a growing possibility that the United Transportation Union will strike the Chicago & North Western Transportation Company on August 4, 1988, over a dispute regarding the size of train crews. It is my understanding that the Senate will consider legislation to extend the "cooling-off" period under the Railway Labor Act (45 U.S.C. 151, *et seq.*), to prevent a strike and give the parties additional time to resolve their dispute. The Administration would have no objection to a *one-time* extension of the status quo period of about a month's duration to give the Congress time to act. However, the Director of OMB and I would recommend to the President that he veto any bill that contained labor protection provisions or Staggers Act amendments (such as the CURE bill).

Presidential Emergency Board No. 213 has already reviewed the UTU/C&NW dispute and recommended terms of settlement. Unfortunately, the report has not had the intended effect of leading to a resolution of the dispute. While this Administration is committed to the principle of collective bargaining as the basis for the labor-management relations, it is not clear that an extension of the bargaining period will lead to a negotiated agreement. If Congress intends to enact a legislative solution to the dispute in the absence of a negotiated agreement, it may wish to act well in advance of the expiration of the extended status quo period. The Department of Transportation stands ready to provide whatever assistance may be needed in addressing the UTU/C&NW dispute.

Sincerely,

JIM BURNLEY.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 4848 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4848) to enhance the competitiveness of American industry, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Durenberger Amendment No. 2785, to condition repeal of the prohibition on the importation of furskins from the Soviet Union on a certification by the President regarding freedom of emigration from the Soviet Union.

AMENDMENT NO. 2785

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of 16 minutes of debate on the Durenberger amendment with the vote thereon or in relation thereto to occur at 10 a.m.

Who yields time?

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, it is my understanding that I have 10 of those 16 minutes.

The ACTING PRESIDENT pro tempore. The Chair advises that the time is equally divided.

Mr. BENTSEN. The vote is scheduled at 10 o'clock, is that correct?

The ACTING PRESIDENT pro tempore. There are 16 minutes remaining of debate time to be equally divided.

Mr. BENTSEN. That is fair enough.

Mr. DURENBERGER. I thought the agreement last night was reserved 10 minutes for myself. I was not aware of the 15-minute arrangement. Perhaps we can work that out.

Mr. BENTSEN. Mr. President, the agreement last night was very clearly stated, and I reiterated it, which was each of us would have 10 minutes if we started on time which would have meant 20 minutes. The Senator has started somewhat after some of the time has expired. So I would think the fair thing to do, the equitable thing, would be to divide the time. But we are using it up here trying to resolve it. Let me reach a bit to try to help the Senator. How much time do we have right now?

The ACTING PRESIDENT pro tempore. The Chair would inform Members that there are 14 minutes remaining.

Mr. BENTSEN. Fourteen minutes remaining. Then, if it is agreeable to the Senator, I will take the last 5 minutes. He can have the 9.

Mr. DURENBERGER. My leader is most gracious. I accept.

Mr. President, last night we began debate on my amendment to require the administration to comply with the clear standards of the Jackson-Vanik amendments before the embargo on importing Soviet fur is lifted.

I think the issues were clearly spelled out in last night's debate. And I will only reiterate one point that I made last night. We undermine the principle that has guided us for nearly 15 years in our trade relations with the East bloc if we grant the Soviet Union any significant trade concession without receiving a pledge that the Soviets will improve their record on allowing their citizens to freely emigrate. That is what Jackson-Vanik has always been about, and if we reject this amendment we undermine the credibility of the moral commitment underlying that law.

Mr. President, reference has been made to the fact that one of the groups that has had a long record of support for improving Soviet emigration policies opposes this amendment. Mr. President, there is no one group that speaks on behalf of improved Soviet emigration, and legitimate differences exist among these groups.

Yesterday, I received a letter from the Union of Councils for Soviet Jews, some of whose members recently returned from a 10-day series of meetings with hundreds of refuseniks and Soviet Jewish leaders in Moscow and Leningrad. Their letter expresses complete support for this amendment. I would like to quote just two sentences from that letter:

> The Durenberger amendment is supportive of the policy of the Soviet Jewry movement that calls for increased continuing linkage of trade to Soviet emigration policy. It is not in the interest of the United States

and its human rights priorities to encourage increased trade between the United States and the U.S.S.R. so long as the Soviet Union continues to ignore the letter and the spirit of its international human rights agreements generally, and, specifically, its agreement to remove the barriers to travel by its citizens.

Mr. President, I ask unanimous consent that the letter I referred to from the Union of Councils for Soviet Jews be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNION OF COUNCILS
FOR SOVIET JEWS,
Washington, DC, August 2, 1988.

The Union of Councils for Soviet Jews commends Senator Durenberger for introducing an amendment to the Trade Bill (H.R. 4848) that would link the right of the Soviet Union to export fur skins into the United States to substantial improvements in levels of emigration permitted to its citizens, as called for in the Helsinki Final Act.

As drafted, Section 1722 repeals the ban and, in the case of undressed mink skins, would allow importation under a zero tarrif, a concession to the Soviets that, if it were in an agreement, would be barred by the provisions of the Jackson-Vanik Amendment. The Durenberger Amendment is supportive of the policy of the Soviet Jewry Movement that calls for increased and continuing linkage of trade to Soviet emigration policies. It is not in the interest of the United States and its human rights priorities to encourage increased trade between the United States and the U.S.S.R. so long as the Soviet Union continues to ignore the letter and the spirit of its international human rights agreements generally and, specifically, its agreement to remove the barriers to travel by its citizens.

We have recently returned from a 10-day series of meetings with hundreds of Refuseniks and Soviet Jewry leaders in Moscow and Leningrad. We speak directly on their behalf in urging the Congress to support the Durenberger Amendment.

UNION OF COUNCILS FOR
SOVIET JEWS,
PAMELA B. COHEN,
National President.
MICAH H. NAFTALIN,
National Director.

Mr. DURENBERGER. Mr. President, there is always a diversity of opinion on how to improve human rights in East bloc countries. Last summer, during debate on the trade bill, we heard strong opposition from many private groups and from the administration, on the issue of denying MFN status to Romania. Yet despite this opposition, the Senate, not once, but twice, voted to strip the repressive Romanian Government of MFN.

The issue is a matter of conscience that each Senator must weigh. It is my hope that my colleagues will consider this amendment with the same balance and thoughtfulness that was given to the Romanian MFN issue.

FUR FARMERS AND THE RURAL ECONOMY

Mr. President, this amendment concerns not just the emigration policies of the Soviet Union, but a decision that the administration made to undercut the 3,200 small family fur farmers in the United States. Most of these farms are located in Wisconsin, Minnesota, Utah, Idaho, Washington, Oregon, Iowa, Illinois, Ohio, New York, Pennsylvania, Montana, Nebraska, and Alaska. These farmers purchase more than $125 million worth of eggs and byproducts of fish, poultry and beef.

Many of these fur farms provide off-farm income for rural communities throughout the year. During the winter months, many farmers in Minnesota and other States supplement their income by working on these fur farms. Fur farms help diversify and strengthen the rural economy and should not be sacrificed on the altar of better trade relations with the Soviet Union—if, in fact, that is all we are trying to accomplish.

That is exactly what may happen when and if the embargo is lifted. The average United States cost of production per mink is double the cost of production in the Soviet Union. The reason Soviet fur poses such a serious threat to United States fur farmers is that all Soviet fur skins are produced on State-controlled fur farms where all production costs, as well as housing costs, the feed costs, the whole works, are subsidized by the Soviet Government.

Through such subsidies, the Soviet state-controlled farms are clearly in a position to drive down the domestic price of American fur skins, and in the process, drive American fur farming families out of business. Mr. President, in my view, that would be a severe blow to the fragile rural economy that we should not allow to happen.

Mr. President, as a member of the Finance Committee, I share the many things that have been said about our leadership on both sides of the political aisle in the committee for the work that has gone into the trade bill. I have labored alongside the leaders, the chairman of the committee and the ranking minority member, the Senator from Missouri, and others who carried the brunt of this negotiation; and I agree with most of my colleagues that they have accomplished a monumental task.

So it was not easy for me to make the decision to come to the floor with this amendment. It is difficult to become very excited about 3,200 little fur farmers in this country when we can get more excited about the macroeconomics of protectionism versus free trade and be scared by the Japanese, and so forth.

Finally, Mr. President, I now know how David felt when he walked out to meet Goliath in the Valley of Elah. We may not have an issue of such consequence before us, but, like David, I believe I have principle on my side. And I think we should let the giants or the shepherd boy fall where they may.

I know the leaders on both sides have talked about a "tabling operation" and a de facto no-amendment rule that they will try to push down on all of us, the Davids and the other folks alike. I know that Chairman ROSTENKOWSKI has said there will be no conference, period. Do any of the Members believe that this trade bill, which has such powerful momentum behind it, will fail over the Soviet fur embargo or the deletion of the ethanol provision?

I think the answer is "No." I hope that my colleagues who take the Jackson-Vanik issue seriously, who take seriously the issues of rural America, who take seriously that the only reason the provision is in this bill is that the late Secretary of Commerce was able to persuade that it be there, vote for the amendment. I think we will have a trade bill, a great trade bill. It will come relatively easy with a couple of these amendments in it.

So I encourage my colleagues to consider my amendment solely on its merits, and to vote to support this amendment.

Mr. BENTSEN. Mr. President, let me sketch the background of this amendment.

We have had an embargo on Soviet fur skins since 1952. In the meantime, an American industry in fur has developed in this country. And, of course, for many years the Soviets have sought to have the embargo removed.

Now the Reagan administration, and specifically the late Mac Baldrige, thought that there was a lot of business we could do with the Soviets. He got an agreement from them to improve market access for our businesses if we remove this embargo. The Senate was skeptical.

Senator DURENBERGER last summer succeeded in convincing the Senate to accept a provision in the trade bill in the form of a resolution that the embargo should not be lifted.

The House had the opposite provision. It was convinced by Mr. Baldrige, before his untimely death, that removing the embargo was a good idea, so its version of the trade bill did so.

As the Senate conferees, we held on to the Senate position in the face of administration opposition for 8 months. But as I have said in the Senate many times, we had to make many concessions to the Reagan administration in order to get a bill. We would not be here if we had not made some concessions. I want to assure Senator DURENBERGER that I had to give up a few provisions I wanted on state trading. But no person has written all of this bill—this is one we had to let the White House write as part of a package to get a trade bill. It is true that this domestic industry will lose import protection few U.S. industries have—a complete embargo—but it will still have all the protections U.S. trade laws provide to all industries, including a new remedy for dumping by Communist countries.

Now at this point, we cannot revisit this provision without endangering the whole bill. Here we have a bill that is before the Senate for the fourth time. We have the Business Roundtable and the AFL-CIO both saying it is critical to pass this bill, without amendments. That is unusual, but it reflects the time both of them and many others have spent on this bill.

So what we see here is a bill that has been worked on by many sources and a consensus has developed. The bill was debated for 5 weeks on the floor of the Senate, with 164 amendments.

Now we are faced with a situation of 26 legislative days remaining. When we start down the road of adding these kinds of amendments, I do not know how long we will be here. Obviously, we do not have time to get into an extended discussion of a group of amendments. If you allow one or two, where does this process stop?

We have agreed to go ahead and vote by 6 o'clock this afternoon, and I urge very strongly that we show forcefully, by a large majority, that we will not accept any amendments on this trade bill.

This is the fourth time this bill has been before us. So it has been discussed at length. We have had a conference with almost half the Members of the Senate involved, going over it extensively and intensively, during those many months of negotiation.

At some point, we have to say enough is enough; let us move forward. We have a major piece of legislation. It is good for the market. It will open markets around the world. It will help.

As the distinguished ranking minority member of the committee said yesterday, this is not going to solve all the problems. This is not going to turn the trade deficit totally around. But it is a plus, and we have to work in every avenue we can in trying to bring trade to a No. 1 priority in our country and begin to break down some of the barriers to our products abroad.

The main thesis of this legislation is that if any country has full access to our country, we are entitled to the same access to theirs.

I strongly urge my friends to vote against this amendment, and that will be the policy we will be following throughout the day.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BENTSEN. I yield to the ranking member of the committee.

Mr. PACKWOOD. Mr. President, I join the chairman. This is the first test on a number of amendments we will have.

Much as I sympathize with the Senator from Minnesota—and I have a number of fur farmers in Oregon—if we are finally going to get this trade bill, and we need it, then we should defeat decisively some of the amendments which will be offered.

I assure the Senator from Minnesota that no one worked harder than the Senator from Texas, the chairman of the committee, in attempting to keep this provision in the bill.

The administration was adamant in their position, and the House was adamant in its position.

As we all know, you win some and lose some. This is one we tried to win and we could not win. If it is put on this bill, we cannot win, and I would hate to jeopardize the bill.

Mr. BENTSEN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the National Association of Manufacturers, which asks for the passage of this trade bill without amendment.

It is absolutely incredible, the number of associations—labor, management, agriculture groups—asking that this bill be moved forward without amendments.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
MANUFACTURERS,
August 1, 1988.

HON. LLOYD M. BENTSEN,
U.S. Senate,
Washington, DC.

DEAR LLOYD: The Senate will soon be voting on a second version of the omnibus trade bill (S. 2558/H.R. 4848). We are pleased this bill is now before the Senate and urge you to vote for its passage without amendment.

American companies and workers cannot help but gain from trade legislation designed to open foreign markets, protect U.S. intellectual property, implement the harmonized tariff system, improve enforcement of U.S. trade laws, and eliminate U.S. export disincentives. They will benefit not only from the renewal of the trade adjustment assistance program but also from the nearly $1 billion in worker dislocation funding in the legislation. And most important, the U.S. and the international trading system will gain from provisions in the bill which provide negotiating authority for a new GATT round.

NAM has argued for the past three years that the United States needs a trade bill which supports our companies and workers competing here and overseas. We urge you to support prompt passage of the omnibus trade bill.

Sincerely,
SANDY TROWBRIDGE.

Mr. DURENBERGER. Mr. President, I ask unanimous consent to have printed in the RECORD an article I referred to yesterday in "Business America," a publication of the Commerce Department, which sets out the only commitment made to the Soviets by the Secretary of Commerce Malcolm Baldrige and added that he would introduce legislation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGREED REPORT OF THE EIGHTH SESSION OF THE JOINT U.S.-U.S.S.R. COMMERCIAL COMMISSION

The eighth session of the Joint U.S.-U.S.S.R. commercial Commission, established by a joint communique in May 1972, was held in Moscow on May 20-21, 1985. N.S. Patolichev, Minister of Foreign Trade of the U.S.S.R., headed the Soviet delegation and presided over the session. The U.S. delegation was headed by Malcolm Baldrige, Secretary of the United States Department of Commerce.

During the work of the Commission, Secretary Baldrige was received by the Secretary General of the Central Committee of the CPSU, Mr. M. S. Gorbachev, and had talks with Ministers A.A. Yezevskiy and V. P. Lein.

In opening the session, Minister N.S. Patolichev said that definite prospects exist for developing equitable and mutually beneficial Soviet-American trade. Secretary Baldrige stated that the United States wants to develop a more constructive working relationship with the U.S.S.R. The U.S. side is of the opinion that an expansion of trade can be part of such a relationship and believes that both sides should take concrete steps to expand trade where that is now possible.

The U.S. side stated its belief that while useful steps to improve trade could be taken now, a fundamental change in trade relations could not take place without parallel improvements in other aspects of the bilateral relationship.

The Soviet side stated that it is opposed to tying trade to aspects of bilateral relations which in its view have no bearing on trade. It believes that the development of trade between the two countries can contribute to the improvement of bilateral relations as a whole.

The Commission adopted the following agenda:

1. Status and Prospects for Trade
2. Report of the Working Group of Experts
3. Trade Expansion Including Projects
4. Business Facilitation

STATUS AND PROSPECTS FOR TRADE

Assessing the status of U.S.-Soviet trade, the Commission noted that although bilateral trade grew sharply in 1984 to $3.8 billion (3.1 billion rubles), the range of products traded continued to be limited.

The Commission agreed that an expansion in trade of mutual interest was desirable and possible and that it was the policy of each side to take steps to support such expansion.

The Commission noted that the potential for bilateral trade was not being fully utilized: Soviet exports to the United States remained at a low level, and U.S. manufactured goods exports were continuing to fall.

Both sides agreed that the main task of the Commission is to work toward elimination of obstacles to mutually-beneficial trade. They intend to provide assistance and support to the business communities of both countries in identifying areas of possible cooperation and concrete projects, and in restoring a climate of mutual confidence.

The Commission also discussed the current state of maritime and civil aviation relations. It agreed that progress toward the resolution of outstanding differences in these areas would contribute to further development of bilateral economic and trade relations. Both sides welcomed the resumption of bilateral exchanges of views on maritime and civil aviation questions and hoped that these would achieve concrete results.

REPORT OF THE WORKING GROUP OF EXPERTS

The Commission approved the reports of the heads of delegations to the fourth meeting of the Working Group of Experts held in Moscow Jan. 8-9, 1985, in accordance with the provisions of the long-terms Agreement on Facilitation of Economic, Industrial and Technical Cooperation, which was extended for 10 years on June 29, 1984.

The Commission noted that it was the Working Group's frank exchange of views on the obstacles to trade, the steps each side sought for their resolution, and the prospects for expanding trade in various sectors, which laid the groundwork for a meeting of the Joint Commercial Commission.

The Commission agreed that the fifth meeting of the Experts Working Group would take place in Washington, D.C., in 1986, at a time to be agreed upon between the Cochairmen of the Commission before the end of 1985.

TRADE EXPANSION, INCLUDING PROJECTS

To aid trade expansion and the conclusion of mutually beneficial contracts, both sides agreed to assist in identifying appropriate sectors and projects which would be of interest both to U.S. firms and Soviet organizations.

The Commission analyzed the course of negotiations between U.S. firms and Soviets foreign trade organizations on a number of commercial projects and noted the interest of both sides in bringing them to a positive conclusion.

The Soviet side noted the absence of progress on questions of normalizing the conditions of mutual trade and providing export credits for the sale of American machinery and equipment to the U.S.S.R. It stated that U.S. firms had lost the reputation of being reliable suppliers in the Soviet market, and this had resulted suppliers in the Soviet market, and this had resulted in a reduction of orders for supplying machinery and equipment. The Soviet side believes that restoring this reputation is important for normalizing trade, and it will welcome appropriate steps by the Administration, Congress and the U.S. business community.

The U.S side expressed its continued recognition of the importance of maintaining the reliability of our supplier relationship. It cited the Administration's support for new legislation which would provide a high degree of contract certainty to American firms and their foreign trade partners. With regard to normalizing conditions for trade, the U.S. side noted that official credits and Most-Favored-Nation (MFN) treatment for Soviet goods were dependent upon progress in other aspects of the bilateral relationship. The U.S. side stated that it hoped to see such progress soon.

The Commission believes that the process of improving conditions for trade expansion can be started by a gradual elimination of obstacles, where that is now possible. This would demonstrate to the business communities of both countries the intention of each side to contribute to strengthening mutually-beneficial economic cooperation.

In this spirit of cooperation, the U.S. side announced that it would introduce legislation in the Congress to eliminate the 34-year-old import embargo on seven types of furskins from the Soviet Union. It also stated that, to the extent consistent with present trade laws and the federal-state relationships in the United States, the U.S. side would attempt to see that Soviet Foreign trade Organizations were not discriminated against in their efforts to sell in the United States.

In this same spirit of cooperation, the Soviet side stated that it would inform Soviet Foreign Trade Organizations of the Soviet side's interest in expanding trade with the United States, and that Soviet Foreign Trade Organizations would address bid inquiries to interested U.S. firms. It also stated that the Soviet Foreign Trade Organizations would address bid inquiries to interested U.S. firms. It also stated that the Soviet Foreign Trade Organizations would consider U.S. proposals fully on their economic merits, taking into account foreign trade laws and regulations existing in the United States.

The U.S. side stated it was pleased that an increasing number of U.S. firms had received invitations to bid from Soviet firms since January 1985 and that several contracts totaling over $400 million had been signed. The U.S. side expressed its interest in having American firms serve as suppliers for appropriate Soviet projects under the upcoming 12th Five-Year Plan.

The Commission discussed the U.S. analysis of over 30 projects which the ministry of Foreign Trade had indicated as having potential for U.S.-Soviet cooperation. The U.S. side also identified over 20 other projects it believed to be of mutual interest. The U.S. side pointed out that most of the items related to these projects may currently be exported without a specific license and that, where required, a validated license would generally be approved for appropriate equipment associated with the projects listed.

In order to continue the efforts begun at this session of the Commission, both sides agreed to establish the practice of regular meetings between their representatives in Washington and Moscow for the specific purpose of attempting to identify and eliminate, where possible, obstacles to the completion of mutually-beneficial projects.

The Commission took note of the important role the U.S.-U.S.S.R. Trade and Economic Council (USTEC) has played in identifying areas for trade expansion and agreed that its efforts have been a useful starting point for concentrating attention on projects. The Commission agreed to continue to work closely with USTEC and to encourage it to develop additional detailed proposals.

Mr. DURENBERGER. Mr. President, to the point, let me suggest a solution to my colleagues.

It seemed to me that after the great difficulty the trade bill got into, the House was talking about negotiating over Alaskan oil and a few other things, I think if we vote favorably on this amendment, we will give the House an opportunity to cut a deal to pass this trade bill. All they have to do is take the fur embargo and the ethanol provision, accept the two Senate changes on this bill, and they have a trade bill.

There are certainly smaller issues in the whole realm of things than what they were going to give away with regard to Alaskan oil.

I think what is going to happen after this amendment is attached to the trade bill here and after the ethanol provision comes on this bill, it is going to go to ROSTENKOWSKI and they are going to say "Regardless of what you said, Mr. Chairman, about no conference, you are right; there will not be a conference. Let us accept the Senate version of the bill, get it to the White House, and get on with trade."

I think that it ill behooves this body to stand behind ROSTENKOWSKI's no conference edict, but it ought to stand up for its rights. This body passed this preservation of the embargo, passed it twice, and I recognize the fact that the chairman worked very hard to save it. It was the House that took it out.

Now we have the opportunity to tell the House to take it, and I think we should do that.

Mr. McCLURE. Mr. President, I rise in support of the Durenberger amendment which requires the President to certify to Congress that the Soviet Union does not deny its citizens the right or opportunity to emigrate before lifting the embargo on the import of Soviet furskins under section 1722 of the trade bill.

During consideration of the trade bill last July, the Senate went on record in opposition to lifting the embargo on the import of Soviet furskins. However, the Senate position did not prevail in the conference committee and the House conferees insisted on repealing the 36-year-old ban.

Mr. President, the amendment before us today is fair and should be adopted. It does not repeal the section of the trade bill lifting the ban on Soviet furskins, but it does require the President to certify that the Soviet Union is allowing those who seek to emigrate to do so. I strongly believe that we should not allow the Soviets to increase their access to the United States market until they are willing to respect the individual rights of those who wish to leave.

Further, this is unfair to the 3,200 fur farmers in the United States who will be hurt by the increased imports. The Soviets subsidize every aspect of their fur farming. By lifting this embargo we will be granting the Soviets, in effect, MFN status. This is a mistake and should not happen.

Mr. President, in my State of Idaho we have a number of citizens involved in the fur industry. To ignore their interests and investments in this country to give the Soviets more access to our market without commitment that the Soviets will honor the wishes of those who chose to escape the Soviet oppression is a mistake. I hope this amendment will be adopted.

I will be offering an amendment later today where I will discuss in detail my views on improving trade with the Soviet Union. We should not allow them access to our market until they are willing to respect the human rights of those who seek to leave.

Mr. SYMMS. Mr. President, there are many particular sections of this trade legislation that are deeply offensive to this Senator and directly harmful to the citizens of my State. I applaud the statement of the senior Senator from Washington yesterday about the changes that are being made to the section 201 and section 301 provisions. These changes are dangerously harmful to the principles of free and fair international trade.

I am supporting the amendment of the Senator from Minnesota to reaffirm the prohibition on the import of Soviet fur skins for two important reasons:

First, the fur industry in this country is a competitive, and profitable industry. Its costs of production are determined in the free market. The resources that are used in the production of furs are priced by the supply and demand for them in other kinds of production: animal feed and the materials that are used for cages and shelter of the animals that are cultivated and bred by the fur producers have many other uses in our diversified, free economic system.

The contrast with the Soviet fur skin industry could not be more stark: the resources that are used by the Soviets are not priced in any measurable or rational way. As a matter of pricing, the Soviet exports of furs do not know what their costs of production are—so they have complete discretion to price their furs below the prices of the furs produced in America and Canada.

Second, because the Soviets have so few sources of high-quality exports to earn the hard, Western currency they must have to finance their puppet governments in Cuba and Nicaragua, and to finance their subversive activities and espionage around the world, the export of fur skins to the United States is just like giving them money. I intend to offer a sense-of-the-Senate resolution at the appropriate time to put us again on record against the provision of untied bank loans to the Soviet bloc. I think the principle of the West financing its own enemies is something we must oppose at every opportunity.

The excellent amendment by the Senator from Minnesota is our opportunity to stand up for principle, in favor of the free market and against unwise policies to give money to our adversaries.

The **ACTING PRESIDENT** pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, do I have any time remaining?

The **ACTING PRESIDENT** pro tempore. The Senator has all of 9 seconds.

Mr. BENTSEN. Does the distinguished Senator from Minnesota have any time left?

The **ACTING PRESIDENT** pro tempore. The Senator's time has expired.

Mr. BENTSEN. I yield back my 9 seconds and I move to table the amendment and ask for the yeas and nays.

The **ACTING PRESIDENT** pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **ACTING PRESIDENT** pro tempore. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Minnesota. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessary absent.

The **PRESIDING OFFICER** (Mr. ROCKEFELLER.) Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—64

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Weicker
Wilson
Wirth

NAYS—32

Armstrong
Boschwitz
D'Amato
Dole
Domenici
Durenberger
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Quayle
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—4

Biden
Bumpers
Cochran
Stennis

So the motion to lay on the table amendment No. 2785 was agreed to.

The **PRESIDING OFFICER.** The Senate is not in order. The Senate is not in order. We will not carry on business until the Senate is in order.

The Chair would make the observation that, under the previous order, the Senator from Wyoming [Mr. WALLOP], is recognized to call up an amendment.

Mr. McCLURE. Will the Senator from Wyoming yield for a unanimous-consent request?

Mr. WALLOP. Mr. President, may we have order, please?

The **PRESIDING OFFICER.** The Chair would ask Senators to cease their conversations or take their conversations to their respective cloakrooms. The Chair will not continue until there is silence in the Senate.

The Senator from Wyoming may proceed.

The **PRESIDING OFFICER.** The Senator from Wyoming may proceed.

Mr. WALLOP. Mr. President, the Chair may be able to hear, but the Senator from Wyoming cannot hear back here.

The **PRESIDING OFFICER.** If I could ask the staff please to take their seats.

AMENDMENT NO. 2787

(Purpose: To ensure that the actions taken under chapter 1 of title III of the Trade Act of 1974 are under the control of the President)

Mr. WALLOP. Mr. President, I thank the Chair.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 2787.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

In paragraph (1) of section 301(a) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In subsection (b) of section 301 of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In paragraph (1) of section 305(a) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding such action" and insert in lieu thereof "subject to the specific direction of the President".

In subparagraph (B) of section 305(b)(1) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu therof "subject to the specific direction of the President".

In paragraph (1) of section 307(a) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In subsection (b) of section 310 of the Trade Act of 1974, as added by section 1302 of the bill, strike out "the Trade Representative shall initiate" and insert in lieu thereof "the Trade Representative shall, if the President concurs, initiate".

Mr. WALLOP. Mr. President, the language presently contained in this revised bill before us today would transfer the authority from the President to the U.S. Trade Representative in the 301 process. My amendment seeks to place the President, whether Republican or Democrat, back into the 301 decisionmaking process.

I happen to believe, Mr. President, that the Founding Fathers were correct when they devised three branches of this Government. I happen strongly to believe that when they gave the President the authority over the conduct of foreign affairs, and make no mistake about it, trade is as well a foreign affair as a domestic policy issue, that they put into the hands of the President, who is, after all, elected by all of the people as opposed to our rather individual constituencies, the authority to make decisions in the interests of the United States. We have hereby decided that in this instance he, essentially, did not have that authority, unless he positively acts to deny protection rather than acts in his authority as President of the United States to provide protection. And there is a very big distinction, politically, as anyone in ths room knows and as the authors of this provision well know. They want to put trade decisions into a politically-charged atmosphere rather than into a responsibly-charged atmosphere.

I believe it is critical for the President to retain some discretion to weigh trade versus non-trade interests. They will say these are trade versus non-trade interests. I am here today to argue it is trade versus non-trade interests, before deciding whether or not action should be taken against other countries.

My amendment, therefore, is very simple. It removes just two words. The words "if any" from the language presently contained in the super 301 section of the bill so that the language reads, in each instance noted, "subject to the specific direction of the President."

While I believe the language in the bill places America's trade policies on autopilot, I have not sought to change the basic structure of the so-called super 301 language, although I would surely like to. I was one of seven who voted against this language when it was initially included in the Senate bill last year.

While I cannot speak in behalf of all my other colleagues, I, for one, am extremely nervous about placing as much authority in the hands of an unelected, albeit appointed, official like the U.S. Trade Representative. Under the present 301 program authorized by chapter 1 of title III of the Trade Act of 1974, the President is authorized to suspend trade concessions, impose import restrictions, or take any other appropriate action to enforce U.S. rights under a trade agreement or to respond to unfair foreign trade practices that burden or restrict the U.S. Congress. The President may take section 301 action independently or following an investigation and recommendation by the USTR. The USTR may initiate an investigation on petition by an interested party or by self-initiation and must consult with a foreign country during the investigation.

On the basis of the investigation and consultations, the USTR then must make recommendations to the President, and the President then must determine what action, if any, to take, not the USTR.

The bill before us would transfer authority from the President to the USTR. The USTR would decide if a foreign practice were actionable under section 301. The USTR would decide whether action should be taken and then what action to take. And the USTR would then implement that action.

Some say that this gives our negotiators a big stick. I would suggest that U.S. leadership in ongoing GATT negotiations and in the Uruguay Round will be badly undercut.

How does one lead a multilateral negotiation after having completely rewritten trade rules and presented other nations with Senate fiats and some deadlines for complaints? To my way of thinking, this invites retaliation and not cooperation. It provides rigidity. It reverses the role. I ask anyone in this Senate what they would do if a trading partner of ours gave its trade representative the power to initiate action against the United States unless we complied with a series of artificial deadlines decided and defined by them and them alone? Otherwise, some critical item of trade would be simply stopped.

This Senate would not respond to deadlines. This Senate would accuse that country of arrogance, and yet this Senate is about to take that arrogant step.

What does this super 301 amendment do? First of all, the Trade Representative would be required to identify those countries with priority practices, as they are determined here, and to identify those which are priority for even countries up to all of the list of 42 nations in the national trade estimate report on foreign trade barriers.

A priority practice is a practice which, if eliminated, could result in the greatest increase in U.S. exports. Then USTR would initiate 301 investigations in these cases.

I suggest, Mr. President, that these are wholly subjective thoughts and probably wholly political thoughts that would have to come to bear. They would be based upon powerful U.S. corporations, powerful U.S. unions and not on the interests of the United States.

During an investigation into a priority country, the USTR would be required to negotiate with the country for the reduction of its practice over 3 years. Rigidity, again. If a successful agreement were negotiated with the country, then the case would end.

Again, this is not a decision of the President; this is a decision of the USTR. Otherwise, that case would continue.

The bill would set maximum time limits—again, the rigidity—by which the USTR would have to decide on and implement action. The maximum time limit for deciding on an action would be 18 months for non-subsidy trade agreements cases and 12 months in all other cases. Again, I ask how this Senate would react if some other country were to put on us an obligation to drop some of the protections in the steel industry, some of the protections in the textile industry, some of the protections in any other industry that we have that has highly structured protectionist trading patterns today?

Under these time limits, the United States would no longer wait until the GATT, General Agreement of Tariffs and Trade, has reached a decision on disputes before taking action. Or after determining what action to take, the USTR would have to implement the action within 30 days with a maximum of a 180-day delay possible.

I again ask this Senate, what happens if the USTR acts and then GATT rules against the United States? Does the bill provide for a reversal of actions, or do we go headlong into protectionism? If we do, we invite retaliation. This, again, is a practice which is designed to have those countries involved not cooperate but retaliate against the United States.

If the foreign practice was in violation of an international trade agreement, the USTR would be required to take retaliatory action equal in value to the burden of a foreign practice. That retaliation would end after 4 years unless the U.S. industry petitioned successfully for continuation. Retaliation could also be waived if other conditions are met. But the key to it is that these are not decisions of the President of the United States. These are not decisions of somebody who is elected by the people of the United States, but somebody who is appointed.

There is not a soul in this body who has not seen people appointed who did not do what the President of the United States wished to have him do, in both parties, in every administration.

Since the enactment of the 301 program in 1974, there have been about 67 cases that have come under this program. About half of those have been terminated or suspended. About one-fifth are in dispute settlement, and of the remaining, most have resulted in some tentative agreement and a few have resulted in retaliation. But that process has been measured, intelligently arrived at and successfully pursued.

This administration, in 1985 proposed a major trade initiative that was centered around a tougher stand on unfair foreign practices. In 1985, Clayton Yeutter self-initiated section 301 cases for the first time and took that action four times that year prior to September of 1985. All section 301 cases prior to that had been initiated by private action.

So in 1987 and so far in 1988, 301 cases have also been initiated solely by private petition.

The recent 301 cases that involve retaliations, and most do not, have included: Japanese semiconductors—many would argue that that has put the rest of the American computer industry seriously in competitive jeopardy—European Common Market hormones and Brazil informatics. In 1988, so far five new cases have been initiated: Common Market oilseed policy; Korean barriers to cigarette imports; Korean barriers to beef imports and Japanese barriers to beef and citrus products and Korean constraints on United States wine.

As most Members know, the United States was able to reach an agreement on the Japanese barriers to citrus and beef, and this was without super 301. This was with a dedicated pursuit, coordinated among the President of the United States, the U.S. Trade Representative and the acting leader on the floor of this bill and the Senator who initiated the Beef Caucus.

I believe it is critical to the office of the President to retain authority over these important trade decisions, and my amendment seeks to do that.

Mr. President, make no mistake about it, this is essentially a protectionist portion of this bill. I read from an article by Mr. Claude E. Barfield in which he says that this super 301 is, if not the son of Gephardt, the brother of Gephardt, and would be protectionist in result, even though it does not directly impose new tariffs and quotas. It propels the President into a series of no-win bilateral trade negotiations under impossible deadlines and almost certainly results in highly nationalistic anti-U.S. trade restrictions. Flexibility, quiet diplomacy and quiet assertion of the Presidential authority are the prerequisites of unfair trade practices negotiations. Super 301 eliminates the possibility of any of these preconditions.

What specifically does it do? In comparing super 301 with Gephardt, the Congressional Research Service concluded that "Despite the obsession of Senators with disassociating their super 301 amendment from the Gephardt approach, it is clear that super 301 is much broader and, in some ways, more aggressive than Gephardt." And indeed it is.

The President can avoid a final retaliation by invoking either national economic or national security considerations, I grant, but we are frightened that he might. So what do we do? We have a way to thwart his will and that is the Ways and Means Committee and the Finance Committee give themselves the authority to initiate 301 negotiations at any time in the process.

My colleague from Rhode Island, Senator CHAFEE, predicted that a broad new avenue of protectionist constituent redress had been opened and would be often utilized. I fear the same thing.

So as we go through and argue this case, Mr. President, I am simply arguing that the President of the United States ought to be the President of the United States. I am arguing as well, should it be that this triggers retaliation and not cooperation, we will see the end of a very remarkable, sustained period of economic activity which has led the world into a wholly different concept of international economics.

I quote from a letter to me from Jude Wanniski. He said:

> The trade bill that will again come before the Senate is the progeny of Smoot-Hawley. But it's much less blatant. "Procedural protectionism," George Shultz calls it. It rearranges the mechanisms of power over trade actions in a way that invites trade retaliation, and would inevitably draw the West into more and more of the kind of destructive conflicts we've seen develop in recent years over semiconductors from Japan, fabricated steel from Europe, shakes and shingles from Canada. As in 1929-30, the forces of protectionism abroad are itching to retaliate even before the U.S. takes action. Politically powerful industries in every country only need the excuse to win protection for themselves in the face of a threatened U.S. action. The inexorable outcome would be recession in the West, a resurgence of our budget deficit toward the $300 billion level, and calls from all corners for tax increases to close the gap.

Mr. President, I might ask that at the conclusion of my remarks an article by Mr. Wanniski, in which he traces in astonishing and eerie relevance the progress of Smoot-Hawley and the crash of 1929, be printed in the RECORD. I think and hope that Senators, even though they vote for this bill, will read that and be prepared to watch for the signs and warning signals should this amendment not succeed, that we might be able to react to and retract actions which I think are terribly unwise.

Now, let me just wander through this a couple more minutes to explain some of what concerns me.

Talking about the scope of authority of the Trade Representative, he is authorized to—he, not the Congress and not the President, is authorized to—suspend, withdraw, or prevent application of, benefits of trade agreement concessions to carry out a trade agreement with a foreign country. He, not the Congress and not the President, is authorized to impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country as he, the Trade Representative, determines appropriate. He and not the Congress is now not only the Secretary of State but the super Secretary of State. He enters into binding agreements. We have no longer any trade treaties or other kinds of things. He just does this with a foreign country and commits that foreign country to eliminate or phase out acts or restrictions, et cetera.

Now, this Trade Representative is also authorized to take, under subsection (a), action against any goods or economic sector (A) on a nondiscriminatory basis or solely against the foreign country described or (B) without regard to whether or not such goods or economic sector were involved in the act, policy, or practice subject to such actions. There is a self-contradiction in there, Mr. President, that people who read the English language would find somewhat alarming, because if it is nondiscriminatory, then it becomes discriminatory in the next paragraph by his action.

Now, the Trade Representative can also give preference to the imposition of duties or the imposition of other import restrictions. The imposition of duties, Mr. President, is an import restriction. It cannot be viewed otherwise, and if the duties involved do not restrict enough, then they impose greater ones. That is the whole purpose of it. And so it is a distinction as well as a delusion which this act seeks to put in it.

It says in (3)(A) that "An act, policy, or practice is unreasonable if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable."

We now break the law at will, break treaties at will and we have authorized not the President of the United States, to whom other countries must come, but the U.S. Trade Representative to make these determinations, to flout our law, to flout our international obligations, to flout our treaties.

Mr. President, it is my hope we might pass this amendment but certainly not my expectation, knowing that the fix is in and knowing that there are enough provisions of pork in this legislation to buy off the votes of enough Members of this Senate to keep the bill relatively intact. Later on I will speak to some of those pork provisions which have nothing whatsoever to do with trade and point out that they are basically the purchasing arm of Congress at work to buy the loyalties of Members so that they vote in behalf of a restriction which may well lead this country, and with it the world, to an economic consequence that none of us would wish, none of us expect, but all of us can predict.

I yield the floor.

EXHIBIT 1

THE SMOOT-HAWLEY TARIFF AND THE STOCK MARKET CRASH OF 1929

(by Jude Wanniski, Polyconomics, Inc.)

World War I was a war of political succession, as opposed to a violent resolution of economic conflict. It in fact made the world "safe for democracy," in the sense that at its conclusion the global electorate's long experimentation with monarchy was at last over. There would still be crowned figureheads scattered over the terrain—in Britain, Italy, Japan, etc.—but for the first time in the history of civilization there was in 1918 no serious experiment in political aristocracy still underway. The Hohenzollerns gave way to an economically crippled democracy in Germany. The Russians had seen their last czar as they embarked on a new kind of democratic experiment. Except in the colonies of the European powers, the political systems throughout the world were such that a boy of any economic class could grow up to sit behind a political desk at which the buck would stop. It would take a second great war to bring this same condition to the colonies.

The important economic fact at the conclusion of World War I was the magnitude of international war debts. Until 1914, the United States had been a debtor nation throughout its history, a recipient of cash from eager investors abroad. In other words, in 1914 the rest of the world owned more U.S. assets than the United States owned of the assets of the rest of the world. By the war's end, this condition reversed, as Europe not only sold U.S. assets to Americans to finance the war, but also sold European assets (bonds) to Americans to finance the enormously expensive conflict. Rest-of-the-world debt to the United States in 1918 came to $11.9 billion, roughly a third of national income in the United States. Britain, which ran up $4.7 billion of this amount, in turn was owed $11.1 billion by the rest of Europe, much of it worthless czarist bonds. France came out a net debtor to the amount of $3.5 billion. The rest of the world, excluding the United States, Britain, and France, was in hock to these nations in the amount of $14.8 billion.

That wasn't all. The victors in the war spent three years calculating the war reparations that Germany would have to pay, and finally arrived at the figure of $33 billion. That amount, about equal to U.S. national income, was arrived at by an intricate process of adding up debt incurred by the allies as a result of the war—including pensions for veterans—and more or less approximately the net domestic and international indebtedness of the allies. The problem after every war is to figure out how to pay off the bonds floated to finance that cost not covered by war taxation. The allies sought to have the vanquished Germans pay it all.

The allies did not think they were being unreasonable. Germany had been left relatively unscarred by the war, which was largely fought on French soil. The way the allies worked it out, principal and interest on the $33 billion would amount to 7 percent of Germany's prewar national output. Not a stupendous amount.

The difficulty, not understood at the time, was that Germany, like all other nations engaged in the war, had increased domestic taxation during the war and these high tax rates still remained in effect. The critical point on the Laffer Curve, the optimal rate of taxation, had changed as Germany shifted from war to peace, and the tax rates thereby shifted into the prohibitive range. A further increase in tax rates to slice 7 percent of pre-war output from the economy would only further contract output and revenues. Even if there had been no reparations, the economy could not return to pre-war output as long as the tax rates remained in the prohibitive range. Germany actually made a payment of $250 million in the summer of 1921, not by raising taxes, but merely by printing reichsmarks (RMS) and using these to buy up foreign currencies equivalent to $250 million. This naturally flooded the market with reichsmarks without increasing the volume of goods and services they could buy and the price of goods in terms of RM rose sharply. This burst of inflation caused internal convulsions in Germany. As the medium of exchange lost value as a lubricant to commerce, the economy became less efficient, output fell further, and revenues to the government fell too. The government then printed more currency to pay its domestic bills, repeating the process and inducing the hyper-inflation of 1922–23.

The effect of this hyper-inflation was to wipe out all domestic debt denominated in reichsmarks. This included the bonds Germany floated internally to finance World War I, and also all mortgages and contracts made in RMs. Before the currency was stabilized, the reichsmark supply came to more than 4 quintillion. The currency stabilization was possible because government tax revenues did not have to cover internal debt finance, there no longer being internal debt. The savings and financial assets of the German people were wiped out, but so of course were their debts; their human capital—intelligence, skills, and resourcefulness—remained. The international debt—denominated in gold reichsmarks—and including reparations, also remained. It could not be inflated away.

The allies showed little sympathy for Germany even as they observed the hyper-inflation, seeing instead that because Germany had now wiped out its internal public debt, it should be all the easier for it to pay reparations. If it would only raise tax rates! As a result, the allies kept Germany bound to the upper range of the Laffer Curve, from which it would not escape until the 1950s.

The stubbornness of the allies grew out of the fact that they, too, had been pushed into the prohibitive range of the Laffer Curve during the war. With the exception of the United States, they all had to finance not only internal but international debt. Great Britain was in a net creditor position internationally, but how could she pay the $4.7 billion she owed the United States if she were not concurrently being paid the money owed her by the other allies? And how could the other allies pay great Britain if Germany was not paying reparations?

The answer to these seemingly impossible questions is that if Britain, France, and Germany had reduced the tax rates imposed in war to pre-war levels, there would have been a European economic expansion that would have reduced the size of these international debts relative to their national incomes. Britain and France did not do so because they were mesmerized by their domestic and international indebtedness, and Germany did not because of the pressure of her creditors for reparation payments.

Only the United States pulled itself down from the upper reaches of the Laffer Curve. The Wilson administration imposed high tax rates in 1917: an excess profits tax on business, a doubling of the normal corporate rate to 12 percent, and sharp increases on personal income-tax rates. The 15 percent rate on $2 million and above gave way to a 77 percent rate on incomes above $1 million. The lowest bracket, 2 percent on $20,000, gave way to a 6 percent marginal rate on $4,000. The domestic public debt grew to $24 billion from $1 billion because of war finance. This figure mesmerized the Democrats in power, and at the conclusion of the war the high tax rates were left in place with the idea that the revenues would go to paying off the $24 billion public debt. Instead, the United States slid into a recession, as peacetime put the tax rates into the prohibitive range.

In the 1920 elections, the Republican candidate called for a "return to normalcy" on tax rates—that is, a return to the pre-war rates. In his acceptance speech, Warren G. Harding, Ohio senator, told the GOP convention: "I believe the tax burdens imposed for the war emergency must be revised to the needs of peace, and in the interest of equity in the distribution of the burden." [1]

Harding won by the greatest landslide in the history of presidential elections at the time, bringing in with him 303 Republicans to the House of Representatives. Harding's Treasury Secretary, Andrew Mellon, wanted the personal income-tax rates to come down to 25 percent as well as to remove the excess-profits tax; but Congress worried that the bite would be too deep into revenues and held him to a cut in the top personal bracket to 57 percent and elimination of the excess-profits tax. The economy crept out of the recession nevertheless.

Unhappily, the Repubicans of the era had the same difficulty in seeing the symmetry between domestic tax wedges and international tax wedges . . . At the same time that Republicans argued for a lessening of the tax wedge domestic transations, they argued the need for a greater wedge in international transactions—that is, the protective tariff. As the Harding administration was winning a lowering of the wartime tax rates in 1921, it was also pushing along the Fordney-McCumber Tariff of 1922. the Democrats, conversely, favored an expanded domestic tax wedge (explicitly on the well-to-do) and opposed tariff protection.

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[1] New York times, 23 July 1920, p. 4.

As protective tariffs go, the 1922 Act was not especially onerous, the rates going back up to where they were before the Democrats had reduced them in 1913. The tax-cutting more than compensated and the economy pushed ahead, Gross National Product climbing from $69.9 billion in 1921 to $74.1 billion in 1922. Treasury Secretary Mellon inveigled another round of tax cuts from Congress, now sufficiently impressed with the economic and revenue effects of the first round. The top bracket was cut to 46 percent from 56 percent and the income threshold at which the top bracket was encountered went to $500,000 from $200,000. The lowest bracket, $4,000, had its rate cut as well, to 1.5 percent from twice that. Again, the economy responded and revenues sufficient to produce another budget surplus came into the Treasury. GNP went to $85 billion, with no inflation. Consumer prices even inched downward from the 1920 level.

The really explosive growth of the decade was still to come. We can see its foundations in a speech by Calvin Coolidge, who succeeded Harding as President upon Harding's death in 1923. The speech, delivered on Feb. 12, 1924 before the National Republican Club in New York, may be the most lucid articulation of the wedge model by a politician in modern times. It is quoted at length here:

> In time of war, finances, like all else, must yield to national defense and preservation. In time of peace, finances, like all else, should minister to the general welfare. Immediately upon taking office it was determined after conference with Secretary Mellon that the Treasury Department should study the possibility of tax reduction for the purpose of securing relief to all taxpayers of the country and emancipating business from unreasonable and hampering exactions. The result was the proposed bill, which is now pending before the Congress. It is doubtful if any measure ever received more generous testimony of approval . . . .
>
> The proposed bill maintains the fixed policy of rates graduated in proportion to ability to pay. The policy has received almost universal sanction. It is sustained by sound arguments based on economic, social and moral grounds. But in taxation, like everything else, it is necessary to test a theory by practical results. The first object of taxation is to secure revenue. When the taxation of large incomes is approached with that in view, the problem is to find a rate which will produce the largest returns. Experience does not show that the higher rate produces the larger revenue. Experience is all the other way. When the surtax on incomes of $300,000 and over was but 10 percent, the revenue was about the same as when it was at 65 percent. There is no escaping the fact that when the taxation of large incomes is excessive, they tend to disappear. In 1916 there were 206 incomes of $1,000,000 or more. Then the high rate went into effect. The next year there were only 141, and in 1918, but 67. In 1919, the number declined to 65. In 1920 it fell to 33, and in 1921 it was further reduced to 21. I am not making argument with the man who believes that 55 percent ought to be taken away from the man with $1,000,000 income, or 68 percent from a $5,000,000 income; but when it is considered that in the effort to get these amounts we are rapidly approaching the point of getting nothing at all, it is necessary to look for a more practical method. That can be done only by a reduction of the higher surtaxes, when viewed solely as a revenue proposition, to about 25 percent.
>
> I agree perfectly with those who wish to relieve the small taxpayer by getting the largest possible contribution from the people with large incomes. But if the rates on large incomes are so high that they disappear, the small taxpayer will be left to bear the entire burden. If, on the other hand, the rates are placed where they will get the most revenue from large incomes, then the small taxpayer will be relieved. The experience of the Treasury Department and the opinion of the best experts place the rate which will collect most from the people of great wealth, thus giving the largest relief to people of moderate wealth, at not over 25 percent.
>
> A very important social and economic question is also involved in high rates. That is the result taxation has upon national development. Our progress in that direction depends upon two factors—personal ability and surplus income. An expanding prosperity requires that the largest possible amount of surplus income should be invested in productive enterprise under the direction of the best personal ability. This will not be done if the rewards of such action are very largely taken away by taxation. If we had a tax whereby on the first working day the Government took 5 percent of your wages, on the second day 10 percent, on the third day 20 percent, on the fourth day 30 percent, on the fifth day 50 percent, and on the sixth day 60 percent, how many of you would continue to work on the last two days of the week? It is the same with capital. Surplus income will go into tax-exempt securities. It will refuse to take the risk incidental to embarking in business. This will raise the rate which established business will have to pay for new capital, and result in a marked increase in the cost of living. If new capital will not flow into competing enterprise the present concerns tend toward monopoly, increasing again the prices which the people must pay.
>
> The high prices paid and low prices received on the farm are directly due to our unsound method of taxation. I shall illustrate this by a simple example: A farmer ships a steer to Chicago. His tax, the tax on the railroad transporting the animal, and of the yards where the animal is sold, go into the price of the animal to the packer. The packer's tax goes into the price of the hide to the New England shoe manufacturer. The manufacturer's tax goes into the price to the wholesaler, and the wholesaler's tax goes into the price to the retailer, who in turn adds his tax in the price to the purchaser. So it may be said that if the farmer ultimately wears the shoes, he pays everybody's taxes from the farm to his feet. It is for these reasons that high taxes mean a high price level, and a high price level in its turn means difficulty in meeting world competition.
>
> Most of all, the farmer suffers from the effect of this high price level. In what he buys he meets domestic costs of high taxes and the high price level. It is essential, therefore, for the good of the people as a whole that we pay not so much attention to the tax paid directly by a certain number of taxpayers, but we must devote our efforts to relieving the tax paid indirectly by the whole people.[2]

As it gradually became clearer through 1924 that the Coolidge bill, not the Democratic alternative, had sufficient support for passage, and that Mellon would realize his aim of a 25 percent top bracket, the great Coolidge bull market got underway. It had taken four years for the New York Times index of industrial share prices to move from 90 to 106, floating around 100 for most of the period. Now it began to climb in earnest and by December, 1924 was at 134. At the end of 1925 it reached 181, pausing at that plateau through 1926, moving again in 1927 to 245 at year's end. Before the Times industrials peaked on Sept. 19, 1929, the index had more than quadrupled, to 469, in a mere five and a half years. The Dow Jones industrial average followed a similar track, doubling from 191 in early 1928 to 381 in September, 1929.

There is in the current history of that era no mention of the relationship between the Mellon tax cuts and the Coolidge bull market. In his book The Great Crash—1929, John Kenneth Galbraith makes no attempt to explain why the boom occurred. Charles Kindleberger, in The World in Depression, 1929-39, puzzles about the cause and, without much enthusiasm, suggests that "the boom was built around the automobile," without saying what caused that boom. Goronwy Rees writes in The Great Slump; Capitalism in Crisis, 1929-33 that the "restoration of political stability from 1925 onwards was accompanied by a spectacular economic recovery." Rees mentions the Mellon tax cuts, but only by way of denigrating them as reactionary. Two monetarist schools have differing views. Murray Rothbard has a broad definition of what constitutes "money," and so reckons the expansion from 1921-1929 as "an inflationary boom," the money supply by his reckoning having increased by 61.8 percent over the eight years. His America's Great Depression seems untroubled by the fall in the consumer price index over those eight years, from 53.6 to 51.3. Because their definition of money is too narrow, Milton Friedman and Anna Schwartz are forced to argue that while the stock market boomed, the economy did not. In The Great Contraction, they assert that "Federal Reserve policy was not restrictive enough to halt the bull market yet too restrictive to foster vigorous business expansion."

But of course the period was one of phenomenal economic expansion. GNP grew from $69.6 billion to $103.1 billion. And because prices fell, GNP grew even faster in real terms, by 54 percent over the stretch. On a 1947 index equaling 100, output per man hour of U.S. production workers grew from 44.6 to 74.3 in the decade, a percentage increase of 66.5. The Federal Reserve Board index of industrial production leaped from 12 to 23 between 1921 and 1929.

Modern Keynesians are as baffled by the boom as are the monetarists. From their theoretical vantage point, tax cuts will "stimulate" an economy only if they are concentrated in the lower income classes, which, according to this theory, have "a higher propensity to spend" than do rich people. In any case, the economy will contract if the government runs persistent budget surpluses. Yet from 1920 to 1930,

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[2] Andrew Mellon, Taxation: The People's Business (New York: Macmillan Co., 1924), app. E, pp. 216-227.

Mellon managed to cut the national debt to $16.9 billion from $24.3 billion. Lord Keynes himself never troubled to explain the boom, possibly because he resided in Cambridge, England, and in England there was no boom at all in the 1920s. Great Britain, after all, left the steep progressive income taxes it imposed in 1914 in effect during the peace, and to this day [1978] has not reduced them.

One other nation came down from the prohibitive range of the Laffer Curve in the 1920s, and like the United States enjoyed a boom.[3] In 1922, Benito Mussolini, a socialist newspaper editor who turned conservative after the war, was invited by the King of Italy to take control of the government, in crisis as a result of severe economic contraction. Mussolini brought with him a finance minister, Alberto de Stefani, who had been a professor of classical economics at the Technolgy Institute of Vicenza. De Stefani slashed both tariffs and Italy's progressive income tax. The Italian economy went into immediate expansion and even during the 1930s suffered much less economic contraction than the other industrial nations. As we will later see, both Franklin D. Roosevelt and Adolf Hitler misinterpreted the source of the Italian boom, with World War II the result.

II

It is never possible to say with precision why the stock market rises or falls, any more than it is possible for any individual to precisely discern the wishes of the electorate. In a sense, the stock market is an instrument of the electorate, the most accurate and efficient forecaster of the economic component of the political economy. There are dozens of stock markets around the world, and each of them has some value in this regard, but the only one with the breadth and depth to stand as a gauge of the global political economy is the New York Stock Exchange. It is massive enough so that no group of individuals can manipulate it. The companies it aggregates do business in almost every corner of the globe, constantly feeding information of a political and economic nature back to this central marketplace. The marketplace itself exists in a free and uncontrolled information center. It is inconceivable that information that bears on profit and loss can be known anywhere in the world without soon being absorbed by this most sensitve intelligence, which is open to all intelligence directly or indirectly. People will speak of the market being "underpriced" or "overpriced," but there is not real sense in which this can be true. The market is composed of all the people who are active in the market and can with a telephone call become inactive, and also all the people who are inactive, and with a telephone call can become active, either by buying shares or supplying information to someone who will buy shares. At any moment, the market, is fully priced.

Technically, what the market measures in the process of absorbing information and translating it into a valuation of the market shares is the capital stock of the United States. Think of the market as an instrument that has a mind of its own, over and beyond the total of minds participating in it. The market is the most accurately programmed computer on the planet, the closest expression of the mind of the electorate itself. It places a value on each company within it, based on its calculation of that company's *future* income stream. While the planet itself throws off information that is absorbed by the market pertinent to future income streams, planetary information is relatively trivial because planetary changes, when they occur, are glacial. Summer sooner or later follows spring. The most important information coming to the market is political news. War and peace, after all, can turn on the chemistry of a single mind. Political news is volatile, because it can instantly and dramatically alter the market's future income streams.

It is frequently possible to relate market shifts to political developments with a high degree of certainty, but the market's reasoning is still beyond comprehension. On November 22, 1963, when President Kennedy was assassinated, the Dow Jones Industrials fell 22 points. The market fell because of the assassination, but it recovered all the lost ground the following day and gained 11 more points. If we cannot tell the market's reasoning of why it recovered, how can we plumb its calculations of why it saw future income streams threatened by the assassination?

The Coolidge bull market ended in September, 1929; with finality the following month with the Crash. The most common explanation of the Crash to this day is that the market was overpriced because of speculation, as if this great, sensitive brain was somehow fooled into misjudging the future flows of income. As if individuals could bid the market up without other individuals being present to assess value soberly and bid it down. The fact is, from the vantage point of the wedge model, the market at its peak was exactly where it should have been, and the Crash came because the chemistry of a few individual political minds turned the system toward a stupendous error. The evidence of what went wrong is therefore magnificently encouraging, for it removes the burden of error from masses of people and places it on a tiny few, who can be forgiven because they were merely human.

The stock market Crash of 1929 and the Great Depression ensued because of the passage of the Smoot-Hawley Tariff Act of 1930.

III

When any economic unit becomes wealthier relative to the rest of the world, whether the unit be a family or a nation, it becomes uneconomic for members of that unit to persist in work consistent with the lower level of wealth. When Jones graduates from medical school, it soon is evident that his wife need no longer work as a typist unless she desires the nonmonetary rewards. If Mrs. Jones should sell a successful novel, it is plain her children no longer need work their way through college.

As the United States became wealthier relative to the rest of the world during 1919-1929, the same happy condition applied, but with an unfortunate exception. A husband easily transfers the rewards of wealth to his wife and family, and so does the successful wife. In a nation, if there is no system for such transmittal, wealth brings its own problems. The system itself can advance to higher levels of prosperity even as a class of individuals within the system is being made obsolete.

So it was in the 1920s. The U.S. economy moved to higher levels of wealth. All *segments* of the economy became wealthier, but some became wealthier at a relatively slower pace. Throughout the economy, individuals became obsolete in the jobs they held at the lower level of wealth and had to adjust to new work. For most, this was a happy experience: promotion. What this invariably means is that the individual uses his physical capital less and his intellectual capital more. Instead of hammering out a widget, he makes one with a widget-making machine. The bank teller becomes a cashier. The laborer is recruited to be an apprentice plumber.

For some individuals, though, transition is not a happy experience. The economy as a whole must move to greater emphasis on intellectual capital and less emphasis on physical capital as it rises to a higher level of wealth. On the margin of society, those who would not make the transition voluntarily are forced to do so by the weight of expansion.

The textile mills of New England, for example, give way to machine tools or electronics manufacturing, which are more "capital intensive," and less "labor intensive." New England becomes too wealthy to produce textiles. Similarly, the Southern states face the same transition by moving small farmers who have been pushing plows into now transplanted textile mills, while other farmers turn in their plows and horses to buy tractors.

Those who resist transition, often because they are too old to begin new careers or must move too far from family and friends, are cruched by progress. This was the dynamic of the late 1920s. All segments of the economy were becoming wealthier rapidly, but the labor-intensive farmer was being wiped out by falling farm prices. That is, a non-farm worker could trade his labor for more farm goods than was the case prior to the expansion. On the other side of the coin, the farm worker could trade his labor for fewer non-farm goods and services. To adjust back to equilibrium, more farmers had to become industrial workers. They were indeed doing so, but the expansion required ever faster transition, and the political system felt this as an irritation.

The Republican Party in 1928 looked at this phenomenon as something to be corrected, as if "balanced" growth meant that the higher level of economic wealth should be enjoyed equally by all segments, industrial and agricultural. This problem, of course, is the primordial question of political economy: what do you do with the fisherman who breaks his leg or the marginal farmer who becomes obsolete? In a fragmented world economy, the question has special complications, for if the wealthiest nation becomes too wealthy to perform labor-intensive work, it must then rely on other nations to supply labor-intensive goods, and the supply becomes vulnerable. It is one thing to shift textile mills from Massachusetts to South Carolina; it is another to shift them to Taiwan and South Korea. The same is true of agriculture. As a political economy expands to a higher level of wealth, its impulse for survival drives towards expansion of its borders to take in land and population that can be committed to labor-intensive goods safely secured. Caesar solved Rome's problem in this fashion by conquest and empire. Great Britain built its colonial empire in the nineteenth century for this reason. When Sir Robert Peel, the British prime minister, faced the same problem in 1843 that the Republicans and Herbert Hoover faced in 1928, his answer was the repeal of the Corn Laws—the British protective tariffs on agricultural goods. The rest of the world would supply Britain with labor-intensive foodstuffs. Britain would be free to develop its intellectual capital. The supply line would be secured through colonial empire and the commonwealth agreements. The subsidized British farmers were forced to adjust.[4]

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[3] France imposed a steeply progressive income tax in 1920 in the name of tax reform—which the French called a "sucker's tax" (impot des poires)—to be paid only by those who could not escape it. As the government became more adept at enforcing the tax, the French economy contracted amid steady inflation, culminating in the 1924 financial crisis. Total government revenues, measured in prewar francs, were only a bit higher from 1920-25 than in 1913, when there was no income tax. The crisis ended in 1926 when the leftwing Herriot Cabinet fell and the center-right Poincare Cabinet one week later announced a new tax law, on August 3.

The highest rate of the general income tax was cut from 60 percent to 30 percent. The rates of the inheritance and estate taxes were cut, and at the same time made less steeply progressive. The annual transmission tax on securities was lowered by about 40 percent; the carnet de coupons, devised to check evasion of the general income tax as concerned revenue from securities, was abolished.

The franc stabilized, the economy revived, and in the first year of the reform, tax revenues jumped dramatically, from 5.4 billion prewar francs to 7 billion. In the six months from July to the end of 1926, the franc soared on the foreign-exchange market, from two cents to four cents on the dollar. See Robert Murray Haig, *The Public Finances of Post-War France* (New York: Columbia University Press, 1929), p. 163.

The Republican Party in 1928 went the other way. It sought to adjust the imbalance in wealth positions between farm and city by raising the protective tariff on foreign agricultural products, stating in its party platform:

> The Republican Party believes that the home market, built up under the protective policy, belongs to the American farmer, and it pledges its support to supply it . . . It is inconceivable that American labor will ever consent to the abolition of protection, which would bring the American standard of living down to the level of that in Europe, or that the American farmer could survive if the enormous consuming power of the people in this country were curtailed and its market at home, if not destroyed, at least seriously impaired.

A tariff is of course nothing more than a tax on international transactions. A domestic tax, whether a sales or income tax, is a wedge between the trading of labor by Jones and Smith. The tariff is a wedge between the trading of labor by Jones, a national, and Schmidt, a foreigner. The effects on commerce are precisely the same. And just as Jones does not benefit when Smith is taxed, or vice versa, neither does Jones benefit when Schmidt is taxed, or vice versa.

> Gain through freeing imports from taxation does not depend on other countries doing the same. For other countries to tax our exports to them is an injury to us and an obstacle to trade. For us to tax their exports to us is not a correction of that injury; it is just a separate additional obstacle to trade. . . . If one country has good harbours while all the rest have bad ones, it will not realize the advantages of good harbours so fully as if all the rest had good ones also. But it will realize some advantages; it will be better off than if it, too, sank rocks all round its coasts.[5]

The United States from its earliest days imposed tariffs as its chief source of revenue. The idea of a protective tariff took root in the Tariff of 1816, when the shoe was on the other foot. At the conclusion of the Napoleonic wars in 1815, the fear was that cheap manufactures from Europe would wipe out the fledgling U.S. industries. Thomas Jefferson, who had proposed protectionism earlier, now, at seventy-three years of age, decided that conditions warranted a change: "To be independent for the comforts of life we must fabricate them ourselves. We must now place the manufacturer by the side of the agriculturist. . . . Experience has now taught me that manufacturers are now as necessary to our independence as to our comfort."[6]

Jefferson's political rationale in defense of protectionism had small merit, then as now. It was one thing to protect then, when the United States was a small debtor nation and the revenue from the "protective" tariff was the chief source of financing legitimate government services. (Much of the revenues from the 1816 tariffs paid off the public debt, which meant a decrease in future domestic taxes.) It was quite another matter for the United States to protect when it was the most powerful creditor in the world. In 1928, the transition problems of marginal U.S. farmers were trivial. With hindsight, no GOP argument, political or economic; justified higher tariffs.

Hoover did not appreciate that, in addition to the interallied war debt, the rest of the world had borrowed an additional $11.8 billion from private U.S. sources between 1919 and 1929, although it was pointed out to him. On May 5, 1930, 1,028 American economists petitioned Hoover not to sign the tariff bill if and when it was enacted:

> Our export trade, in general, would suffer. Countries cannot permanently buy from us unless they are permitted to sell to us, and the more we restrict the importation of goods from them by means of even higher tariffs, the more we reduce the possibility of our exporting to them . . .
>
> Many of our citizens have invested their money in foreign enterprises. The Department of Commerce has estimated that such investments, entirely aside from the war debts, amount to between $12,555,000,000 and $14,555,000,000 on January 1, 1929. These investors, too, would suffer if restrictive duties were to be increased, since such action would make it still more difficult for their foreign debtors to pay them the interest due them.[7]

Hoover signed the bill on June 16, 1930, but the stock market anticipated the act and crashed in the last days of October, 1929.

The first signs of distress came in December, 1928 as the market was hit a double blow in the space of two days. On December 5, after the market had closed, Coolidge announced that there would be no further tax cut in the budget he would send Congress for the next fiscal year. This was the influence of President-elect Hoover's handpicked successor to Andrew Mellon at Treasury, Ogden Mills, who would be Undersecretary to Mellon in the new administration. Hoover, aware that Mellon disliked him and had privately worked against his nomination, could not simply bounce Mellon and replace him with Mills. Mellon was a Republican and a national hero by this time. Had Coolidge sought re-election and won, Mellon undoubtedly would have used the surplus in the budget to ask further tax reduction in 1929. As it was, Coolidge urged Congress to economize on spending in his no-tax-cut message, which The New York Times observed "sounded more like a message to President-elect Hoover than to Congress."

The stock market was disappointed. On December 6, the Dow Jones Industrials (DJI) dropped 11 points to 279. "Stock Prices Break in Day of Selling As Money Hits 12%—Huge Profits Crumble," announced a front-page headline in The New York Times of December 7, 1928.

The market fell another eight points the following day as word got out that the House Ways and Means Committee had scheduled hearings of fourteen subcommittees to take up tariff testimony, and that the hearings would cover all commodities, not only agriculture. The New York Times reported the schedules on December 7 along with the news that the Republican members of Ways and Means were committed to take up all the items in the tariff law. The market fell twenty-two points in two days.

Having swallowed this news, the market nevertheless recovered. The bill was a long way from being written, let alone passed, and there was plenty of opposition to it. Lame-duck Coolidge allowed himself to think out loud, saying he didn't even think the farmers would be helped by tariff revision. And Mellon on November 23 actually cut the tariff on pig iron from Germany, thereby showing where his heart lay. The market climbed to 300 by year's end and continued marching upward to March 23, 1929, when the trouble really began. The hearings were underway, Hoover had been inaugurated March 4, and on Sunday, March 24, the world got bad news on page 2 of The New York Times.

The Senate, it seems, was now a problem:

> Watson Predicts Tariff Difficulties After Conference With Hoover
>
> Senate Leader Says Industries Seek Wide Revision
>
> He Will Ask Cement Rise
>
> Other Legislators Will Back Own Industries
>
> Longworth Supports President on Limit
>
> Washington, March 23—The Administration program to limit tariff revision to a few schedules is going to encounter much opposition in Congress, Senator Watson, Republican Senate leader, said today after a conference with President Hoover on the legislative program for the special session.
>
> "It will be the desire of the Republican leaders to cooperate with President Hoover in every way and prevent the revision of the tariff getting beyond control and opening up the schedules to wholesale revision," Senator Watson said. "Of course the making of a tariff law is always a difficult subject and it is going to be extremely hard to lay down a fixed program and bold revision to a few accepted schedules, since many industries are demanding higher duties, which they claim are necessary to meet the improved production situation abroad."
>
> Senator Watson said that as the time for the special session approached, the demand for a more thorough revision of the tariff became greater. Senators, he said, were being deluged by industries in their district

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[4] Karl Marx put his finger on the problem: "With the setting free of a part of the agricultural population, therefore, their former means of nourishment were also set free. They were now transformed into material elements of variable capital. The peasant, expropriated and cast adrift, must buy their value in the form of wages, from his new master, the industrial capitalist." Karl Marx, *Capital* (New York: Modern Library, 1906), p. 817.

[5] Sir William Beveridge et al., Tariffs: The Case Examined (London: Longmans, Green & Co., 1932), pp. 109–10.

[6] Asher Isaacs, International Trade Tariff and Commercial Policies (Chicago: Richard D. Irwin, 1948), p. 178.

[7] Ibid., p. 233.

for changes in the schedules affecting them. He intends, he indicated, to ask for the placing of a duty on cement. The cement industry in Indiana and Pennsylvania, he said, is unable to meet the competition of Belgian manufacturers, who, despite ocean transportation costs, are able to lay cement on the Atlantic seaboard cheaper than it can be produced in the Middle West cement belt.

It is the belief of some Republican leaders that President Hoover will face a serious problem if he attempts to limit tariff revisions to a few schedules. They say they cannot with justice close revision to industry in their own districts. They also point out that tariff revision is accomplished by combinations of interests, and forecast that this practice may be found in the special session.

This was ominous news and the stock market reacted the following day, Monday the 25th, as the Times reported on its front page of March 26:

STOCK PRICES BREAK HEAVILY AS MONEY SOARS TO 14 PERCENT

Tightening of Country's Credit Causes One of Broadest Drops in Exchange's History

90 Issues at Year's Low

Tightening of the strings on the country's credit supply, a development foreshadowed last week, but not considered seriously by speculators in the stock market, brought about yesterday one of the sharpest declines in securities that has ever taken place on the Exchange. Only twice in the history of the Exchange have there been broader breaks.

As each hour yesterday brought a lower level of prices, the liquidation increased. Millions of dollars in slowly accumulated paper profits were wiped out as frightened speculators dumped their holdings overboard "at the market," or for what they would bring at a forced sale . . .

There were three principal causes for the break in stocks. They were: Tight money, with the call rate advancing from 9 to 14 per cent, with acceptances up ⅛ and thirty day funds loaning at 8-¾%.

Fear of a drastic advance in the rediscount rates by the Federal Reserve Board, or the adoption of equally drastic means to divert the country's surplus credit back to its ordinary and normal commercial channels.

The continuance of an overwrought speculative position, with hundreds of thousands of small and easily frightened speculators in the market, prone to do the wrong thing at the right time and the right thing at the wrong time.

The Times was wrong about the reason the market sold off. Unable to see that the market had been forced to reassess the international credit structure as a result of the ominous tariff news from Washington, the Times and other Wall Street observers groped for an answer and looked to the Federal Reserve, which was also forced to deal with reaction to the tariff news without knowing it. Nobody could "think on the margin" although the market itself, representing everybody, acted on the margin. Foreigners, liquidating assets in the United States as the tariff news made their debt position worse, would of course produce an excess supply of dollars as they sought to convert dollars into their own currencies, and the Federal Reserve would, in line with practice, sell bonds in order to mop up this surplus dollar supply. The financial markets saw the effects of the tariff report and interpreted these as the causes of the market break.

In the same Tuesday, March 26, issue of the Times, on page 19, there was further bad news on the tariff for the financial community to read on the way to the market that day:

Give Hoover Tariff Data

Davenport and Treadway Tell Him of Textile Industry's Needs

Washington, March 25—President Hoover today received a report on the question of increases in tariff rates to protect rayon, cotton, and other industries in New York and New England states, submitted by Representatives Davenport of New York and Treadway of Massachusetts, as members of a subcommittee of the Ways and Means committee during a call at the White House. They declined to indicate the tenor of their report, but asserted that the textile tariff schedules should be greatly increased and that there was little opposition to such action in the Ways and Means committee.

The Wednesday, March 27 New York Times front page gives the results:

STOCKS CRASH THEN RALLY IN 8,246,740-SHARE DAY:

MONEY GOES TO 20 PERCENT

Market Sets New Record

Stocks Dumped As Loan Rate Mounts, Sending Wide List Down

Bankers Aid Recovery

Heavy Buying Orders in Five Pivotal Securities Help Stem Tide in Last Hour—300 Issues at Year's Low

$13,874,000 Bond Sales Also Biggest for 1929, With Many Declines

The references to "money" going to 20 percent referred only to spot loans to individuals who had bought shares on margin, i.e., who had paid only a portion of the full price of stocks and, with the falling market, had to borrow fresh funds to cover their accounts. Long term rates didn't rise.

This, of course, was not the famous Crash of '29, for the market needed more definite news on the tariff from Washington. The Dow Jones Industrials, which had opened the year 1921 at 72, climbed slowly through the Harding years and soared to 300 at the close of 1928, climbed to 311 before the Watson report brough it back to 281 in two days in March, then advanced to 300, where it hovered through the end of May. The market was sure enough that the House of Representatives would put through a broad tariff boost, which it did swiftly in May, but meanwhile opposition to the legislation began forming in the Senate. It began to appear that the upper body would have the numbers to kill the bill or keep the legislation limited to a few agricultural products. There were forty "Old Guard" Republican Senators, including Senator Reed Smoot of Utah, chairman of the Senate Finance Committee, and they favored high protective tariffs on all commodities. The other senators, thirty-nine Democrats and fifteen "progressive" Republicans, formed a coalition against broad tariff revision. The progressives were also in coalition with the Old Guard Republicans to push through a tariff hike on agriculture, which the Democrats opposed. In June, Senator Borah of Idaho presented a resolution to the Senate that would give the "sense of the Senate" as reflecting a desire to keep tariff revision limited to agriculture. His resolution lost thirty-nine to thirty-eight, but was understandably counted a victory for the anti-tariff forces because almost all of the nineteen senators who were absent or not voting on the resolution were members of the Democratic-Progressive GOP coalition. Up went the stock market, to a 347 Dow Jones average on July 31, to 380 on August 30, and to 381 on September 3, when the summer recess ended and Congress came back to Washington from the grass roots. The Dow Jones Industrials would not see the number 381 again for more than a quarter of a century.

The decline over the next several weeks was "orderly and produced no panic,"[8] drifting to 352 on October 10. Pressure on investors who were on margin accounts increased in the following two weeks as call money tightened up in the New York banks, loans declining by $120 million, "largely as a result of withdrawals of funds by foreigners,"[9] who were again liquidating assets in either direct or indirect response to the tariff problem.

On October 21 the high-tariff bill that had been written in the Senate Finance Committee by Senator Smoot and the Old Guard Republicans was on the Senate floor for its first big test vote. Senator Thomas of Oklahoma offered a motion to recommit the bill to the Finance Committee with orders to bring back a bill limited exclusively to the farm tariff schedules. There was a problem, though, with this motion almost identical to the promising Borah resolution of the previous June. The Democrats had always wanted "consumer representation" on the Tariff Commission, and Smoot and the Old Guarders had put this provision into their bill. And the Progressives, who also liked this provision, now took up the argument that if they permitted only farm schedules in a new bill, they would be unable to reduce industrial rates. Senator LaFollette of Wisconsin took the lead in making this argument, and Senator Thomas warned him: "I will make the prophesy, that if this motion does not carry, you will not reduce the rates of existing law, you will not be able to muster upon this floor sufficient votes even to reduce many of the increases in the pending bill."[10]

The New York Times headlines the following day tell what happened:

(column 2, p. 1)

Senate Firmly Bars Farm Tariff Limit

Thomas's Recommital Plan Lost 64-to-10 Vote

Borah Motion was 39-38

(column 5, p. 1)

Stocks Slump Again But Rally at Close On Strong Support

Continuation of Selling Wave Depresses Most of List In Day of Excited Trading

The DJI lost but 3 points, to 320, although the blue chips do not help the rest of the market. But there is still hope. Maybe LaFollette is right. Maybe Thomas is wrong.

Indeed, the front page of the Times of October 23 suggests that LaFollette may be right after all:

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[8] Milton-Friedman and Anna Schwartz, *A Monetary History of the United States*, 1867-1960 (Princeton: Princeton University Press, 1963), p. 305.

[9] Ibid., pp. 307-8.

[10] *Congressional Record*, 21 October 1929, p. 4728.

(column 5)

Stocks Gain Sharply But Slip Near Close

Vigorous Recovery Marks Most of Day and Many Issues Show Net Advances

(column 4)

Tariff Cuts Forced In Chemical Rates

Senate Coalition Wins Test Vote, 45 to 33, on First Schedules Taken Up

The Dow Jones Industrials gained 6 points, to 326, on this encouraging development, but on October 23, an hour before the market closes, it went into a nosedive and fell 21 points. The October 24 *Times* front page tells the story:

(columns 1-2)

Price of Stock Crash In Heavy Liquidation

Total Drop of Billions Crash in Final Hour

(column 2)

Coalition Breaks Over Carbide Rate

13 Democrats, 3 Republicans Desert as Senate Rejects, 42 to 37, Halving of Cent Duty

The crash occurred in the final hour after the vote in the Senate was known, although not a word appeared in the press making note of this remarkable coincidence. How could it make so much difference to the market whether the rate on carbide was one penny or a half-penny per pound? Moreover, chemicals were only the first of 15 schedules involving more than 20,000 items.

Why should the market care about the next item, casein, a product made from skim milk and used in the manufacture of glue and slick paper? Was it a farm item or an industrial item? Maybe both. The old rate was 2½ cents a pound. The House left it at that. Senate Finance bumped it up a penny, to 3½ cents. What would the full Senate do?

The next day, Thursday, October 24, would be time enough for the full Senate to take up casein.

John Kenneth Galbraith describes that next day on Wall Street:

The panic did not last all day. It was a phenomenon of the morning hours. The market opening itself was unspectacular, and for a while prices were firm. Volume, however, was very large, and soon prices began to sag. Once again the ticker dropped behind. Prices fell farther and faster, and the ticker lagged more and more. By eleven o'clock the market had degenerated into a wild, mad scramble to sell. In the crowded boardrooms across the country the ticker told of a frightful collapse. But the selected quotations coming in over the bond ticker also showed that current values were far below the ancient history of the tape. The uncertainty led more and more people to try to sell. Others, no longer able to respond to margin calls, were sold out. By eleven-thirty the market had surrendered to blind, relentless fear. This, indeed, was panic.[11]

The panic was over by noon and prices firmed. In the late afternoon there was even something of a recovery. The Times market headline the following day even pushed news of the tariff off the front page, to page 25, as the headline went half the page:

WORST STOCK CRASH STEMMED BY BANKS;

12,894,650-SHARE DAY SWAMPS MARKET;

LEADERS CONFER, FIND CONDITIONS SOUND

What, after all, had happened on the Senate floor that morning? Would the rate be 2½ cents or 3½ cents? Senator Shortridge, a friend of the dairyman, argued that the rate should go to 8 cents a pound, so U.S. purchasers of casein will have to buy the U.S. product, thus using more skim milk, and raising the profitability of dairying. Notwithstanding protest from the senators from paper-making states, the Senate that morning worked out a compromise with Shortridge, raising the casein rate to 5½ cents—by one estimate an 87 percent *ad valorem* rate!! The vote was 52 to 19, with the anti-tariff forces claiming a victory in keeping the rate from going to 8 cents!

By afternoon, the anti-tariff forces had reassembled, pushing through amendments cutting other chemical rates, and putting crude chicle on the free list. Thus Black Thursday ended, with only a 6½% point drop in the DJI when the smoke had cleared, although the broader list of shares was down badly.

On Friday, the Senate coalition was still holding from its Thursday afternoon gains and the market improved:

(page 8)

More Chemical Rates Cut

In Test Vote of Day, Chamber By 48-30 Defeats Rise in Duty on Non-Shatterable Glass

(page 1, columns 6-8)

STOCKS GAIN AS MARKET IS STEADIED

BANKERS PLEDGE CONTINUED SUPPORT

HOOVER SAYS BUSINESS BASIS IS SOUND

Trading is Near Normal

Officials are Optimistic

The DJI enjoyed a gain of almost 2 points, to 301, and the next day lost only 2½ points, the market experiencing its quietest day all week with not much happening in Washington. On Sunday morning, the Times reported on page 14 that some of the Old Guard were worried that if more chemical rates were cut by the coalition, the bill might fail in the special session scheduled to end December 2. Senator Reed of Pennsylvania who wanted high industrial tariffs for his manufacturing state, predicted the bill would fail in conference with the House because it would find changes being made by the Senate to be unacceptable. . . .

From his "Watch Tower" column on the financial page, Times man Richard V. Oulahan quoted Senator Thurston's remark that "Nobody wants it and everybody is for it." Wrote Oulahan: "'Everybody,' of course, means the Senate and not the American people, among whom there seems to prevail a decided apathy with regard to what the Senate is doing with the tariff."

On Monday morning, the financial community read in the Times that:

Leaders Insist Bill Will Pass

Smoot and Borah Contradict Reed, Who told Philadelphians Bill was Dead

Washington, Oct. 27—While the fate of the tariff bill admittedly is in doubt in the minds of many of the Senators now trying to agree on a measure that can be passed and meet the approval of the President, a statement made by Senator Reed of Pennsylvania in a Philadelphia speech last night that the bill would die in the present session came as a surprise to the Republican and Democratic leaders here.

Senator Smoot, Republican of Utah, chairman of the Senate Finance Committee, took direct issue with Senator Reed and, although agreeing that chances of the bill passing in the regular session were dim, predicted that it would be acted on in the regular session opening in December. . .

Senator Borah also took issue with Senator Reed. "My opinion is that the tariff bill is not going to die," he said. "I believe it is going to be made into a good bill and that it will be passed. I think those who have the power to write the bill have the power to pass it."

Senator Simmons, leader of the Democratic forces, said that his party intended to see to it that the President's plan to relieve agriculture was carried out. He added that if the bill died, the Republican party would have to kill it.

The coalition guaranteeing a tariff bill now included the Republican leaders of the Old Guard and Progressive and the leader of the Democratic forces. Tuesday's front page of the Times reveals what the market did after absorbing this information:

STOCK PRICES SLUMP $14,000,000,000 IN

NATION-WIDE STAMPEDE TO UNLOAD; BANKERS TO SUPPORT MARKET TODAY

Premier Issues Hard Hit

Unexpected Torrent of Liquidation Again Rocks Markets

Days Sales 9,212,800—Nearly 3,000,000 Shares Are Traded in Final Hour—

The Ticker Lags 167 Minutes—

New Rally Soon Broken

Selling By Europeans and "Mob Psychology" Big Factors in Second Big Break

The DJI lost a shade over 38 points, closing at 260, and over in the corner of the Times front page was a small story about senatorial pleadings with Hoover to tell what he thought about the tariff. Hoover said nothing. There was also a complaint from Senate Republican leader Watson that the Democratic delays that held up passage of the tariff bill might be charged with responsibility for the crash in the stocks. Senator Tydings, Maryland Democrat, responded by saying that the Republicans were causing the delay.

On Tuesday, October 29, all the reports coming out of Washington seemed to be aimed at assuring the stock market that the tariff bill would not be killed, that it would be pushed through somehow, and this new coalition of Republicans and Democrats would see to it.

On October 30, the Times found room in column two to make this report ("Coalition Fighting Move to Kill Tariff"), even though so much of the front page reported on Black Tuesday:

STOCKS COLLAPSE IN 16,410,030-SHARE DAY

BUT RALLY AT CLOSE CHEERS BROKERS

BANKERS OPTIMISTIC, TO CONTINUE AID

The DJI settled at 230 and, in the following days, rallied weakly before reaching new lows until November 13, when it hit bottom for the year, at 198. On November 13, in a surprise move explicitly aimed at "showing confidence" in the business community and the strength of the nation, the Hoover administration announced a tax cut on personal incomes. True, it was only 1 percent but Andrew Mellon himself made the announcement, an indication that a shaken Hoover was hearing Mellon, not Mills. Congress whipped through the tax cut in less than a month. Before December was out, the Dow Jones Industrials climbed back to 263.

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[11] John Kenneth Galbraith, The Great Crash-1929 (Boston: Houghton Mifflin Co., 1954), p. 104.

Congress did in fact adjourn its special session without completing work on the bill, but as Senator Watson predicted in October, work resumed with the regular session and through the spring the Senate completed the 15 tariff schedules. The Senate and the House then went into conference to work out differences in their two versions. The compromise that emerged in June reflected a one-third increase in the 1922 rates.

Through much of this period the stock market was heartened. The DJI rose to a high of 294 in April, as changes of defeating the bill improved. For one thing, the rest of the world was horrified at the prospect of passage and was applying vigourous pressure on the White House. Foreign governments filed thirty-four formal protests, and many began slapping on retaliatory rates in advance. The implied promise was that they would be repealed if Congress backed away at the last minute or if Hoover vetoed the bill. There was, for example, the protest from British India:

Please protest vigorously against states proposition of duty on cashews because 1000% increase unjustified whilst U.S. not producing cashews, otherwise cashew industry in British India will be destroyed."[12]

And from Greece:

The Minister of Greece avails himself of this opportunity to point out that the export of American products, agricultural as well as industrial, holds the first place in Greece imports, and whatever changes occurring in the tariff would necessarily affect the purchasing power of Greece to the detriment of American goods.[13]

Mussolini's Italy was furious. Congress had sharply increased the tariff on olive oil, not because it competed with a domestic product, for there was no U.S. olive oil industry. U.S. packagers of raw imported olive oil worried that Italians were beginning to ship packaged oil, and pressed Senator Goldsborough of Maryland to push through a high rate on all but bulk oils of all kinds.

The Italian reaction took the form of indignant editorials charging that the United States was attempting to corner the gold supply and ruin the entire world, especially Italy. The campaign against American automobiles was especially bitter. Italian drivers were embarrassed and annoyed at having their tires punctured, their windows spat upon or broken, and further harrassed by the Royal Automobile Club of Italy, which wanted to publicize the names of all Italians buying American automobiles and to demand an offical statement of reasons for their choice. The importation of new cars was stopped by unheard-of duties. For example, a duty of $815.50 was imposed on each Ford car; $950 on a Plymouth; $1,385 on a Chrysler 77; and $1,660 on each Chrysler Imperial. American agencies closed up by November 1930, and Ford closed his assembly plant.[14]

The stock market began a slow slide again in April as such protests brought no new word from the White House. Head counts in the Senate showed that the one slim hope of defeating the bill on final passage lay with Senators Reed and Grundy of Pennsylvania. They were the two most fanatical advocates of high industrial rates, who were furious (or pretending to be furious) that the compromise rates were not higher! But this was a slim hope, and on June 13 the Senate voted, as the Times reported the following day:

SENATE PASSES TARIFF BILL BY 44 TO 42;

FIVE DEMOCRATS HELP 'REGULARS' TO WIN;

EUROPE TAKES FIRST MOVE IN REPRISAL

Interests Abroad Combine Copper Firms of England, Germany and Belgium to Stop Buying Here.

Others Expected to Join

American Experts Interpret It as Definite "Answer" to Our Tariff Program

Heavy Losses are Feared

House is Set to Act Today Republican Leaders Say Hoover Will Sign Bill Before July 1 Borah Assails Measure

Crowded Galleries Hear Watson Lead in Defense of Highest Rates in History

On this news, the stock market broke 14 points on the DJI, to 230, precisely where it was on the bottom of Black Tuesday, October 29, 1929. The only possibility remaining was that Hoover, who still had not spoken, would veto at the eleventh hour. After the market closed Saturday, Hoover chose Sunday the 15th to make his announcement: "I shall approve the tariff bill."

HOOVER SAYS HE WILL SIGN TARIFF BILL;

HAILS FLEXIBLE CLAUSE AS GIVING POWER TO

CORRECT FAULTS, END FOREIGN PROTESTS

PERFECT ACT 'IMPOSSIBLE'

President Sees a Method of Scientific Adjustment at Last Against More Agitation Uncertainty over Measure Only Retards Business Recovery, He Declares

PLATFORM PLEDGES CITED

Hoover, as the headlines indicate, rested much of his argument on the administrative features of the act, which permitted him to raise or lower any rate by 50 percent. In the years that followed almost no use was made of this provision, and when it was, the rate was more often raised than lowered.

On monday, the stock market reacted to the loss of the last frail hope. The June 17 *Times* front page reported:

DEMOCRATS TURN TARIFF FIRE ON HOOVER

AS SENATE SENDS BILL TO WHITE HOUSE;

BREAK IN STOCK AND COMMODITY PRICES

Selling Swamps Exchange

Leading Issues Tumble as Wall Street Assails the New Tariff

Cotton and Wheat Down Former Touches the Lowest in Three Years with Grain Sagging in Chicago

Many Margins Wiped Out

Much of the Liquidation Due to Brokers Calling in Vain for Further Deposits

The National Association of Manufacturers, though, predicted that the new tariff, when it became law, would bring "a breath of relief to all industry and all business." Organized labor also approved. Big business, big labor, and big government were in agreement.

The Great Depression was at hand, however, and as country after country took retaliatory tariff actions against the United States, the stock market sank lower, the Dow Jones industrials finally hitting rock bottom on July 8, 1932, a few days after Franklin D. Roosevelt won the Democratic presidential nomination on an anti-tariff platform. On that day the DJI hit 41, against its September, 1929 high of 381. There were plenty of other reasons for the market to fall to that low level in the two years following Hoover's signing of Smoot-Hawley, however.

Mellon, for example, had become an embarrassment to Hoover. His magic had failed. The symbolic 1 percent cut in income tax rates had not done much to stem the collapse. In December, 1930, Hoover announced that the budget had gotten out of balance. With the sharp increase in tariff rates, revenues from customs fell sharply and in 1933 hit $250 million from 1929's $600 million at the lower rates. The 1 percent tax cut of the previous year was therefore, allowed to lapse. In addition, a freshman Senator from Texas, Wright Patman, brought impeachment proceedings against Mellon. The grounds were that the Treasury Secretary, who had been a multi-millionaire when he took office in 1921, became richer during his tenure as his financial assets appreciated. In return for Hoover's removal of Mellon, who was exiled to London to be Ambassador to the Court of St. James, impeachment proceedings were dropped and Ogden Mills stepped up to become Treasury Secretary in name, as he had been in fact since Hoover's election in 1928.

Hoover, now had, as a result of the 1930 elections, a Democratic House and a Republican Senate (the electorate would have to wait until 1932 to pitch out Senators Smoot, Watson, and Reed). By the spring of 1931, it seemed that the United States was more or less back in equilibrium, having adjusted to the higher international wedge of the tariff act. Hoover and Mills, though, still worried about the budget. The government had run a deficit of more than $1 billion in the preceeding 18 months, and Hoover and Mills believed this was causing a drag on business confidence. Hoover proposed an increase in the income-tax rates to remedy the situation.

Most one-term Presidents only have time for one truly disastrous decision, but Herbert Hoover squeezed in two. Having widened the international wedge, he proceeded to put the domestic tax wedge back where it had been when Harding took office in 1921. He did, though, have help from the Democrats who now controlled the House, 220 to 214, and had control of the tax-writing Ways and Means Committee. The personal income tax was pushed up to a 63 percent bracket at $1 million, from 25 percent at $100,000, and to 4 percent at $4,000 instead of 1 percent at that income. A host of business taxes were piled on too. The House passed the bill on April 1, 1932, with 162 Republicans and 164 Democrats approving; 37 Republicans and 27 Democrats in opposition. On June 6, 30 Republican Senators and 16 Democrats in the Senate voted for a bill that not only pushed rates higher, but also made them retroactive to January 1, 1932; 11 Republicans and 14 Democrats opposed. Hoover signed the bill on June 6, 1932. The retroactivity feature of the tax boost was Hoover's last gift to Roosevelt. As the March 15, 1933 deadline approached for payment of 1932 tax liabilities, taxpayers throughout the nation had to withdraw funds from the banks. The bank panic of 1933 was the result. Roosevelt's "bank holiday," announced as soon as he was inaugurated March 4, 1933, merely enabled the Federal Reserve to reflow tax receipts to the banking system.

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[12] Isaacs, International Trade, p. 231.

[13] Ibid.

[14] Ibid., p. 236.

Roosevelt now only had to carry through on his campaign pledges in the Democratic platform of 1932. The platform had "condemned" the Smoot-Hawley tariff and pledged "reciprocal tariff agreements with other nations, and an international economic conference designed to restore international trade and facilitate exchange."

Roosevelt had gotten the Democratic nomination by expertly wooing the divided wings of the party, the internationalists and the "intranationalists." The former, led by Senator Cordell Hull of Tennessee, who had been ranking Democrat on the Ways and Means Committee of the House in 1929 when the tariff bill was written, believed the nation's economic problems had international roots. Hull himself was single mindedly devoted to repeal of the tariffs, but other members of the international wing were eager to join the League of Nations and recognize the Soviet Union. The intranationalists were identified with newspaper publisher William Randolph Hearst, who argued that the United States should solve its own problems first, and only then look outward. Hearst and these Democratic conservatives were not especially opposed to tariff reductions, but rather focused on opposing the political and diplomatic aspects of internationalism.

In February, 1933, before his inauguration, Roosevelt named Hull Secretary of State. For the rest of the year, Roosevelt was an internationalist of the Hull variety. From April 8 onward, Hull had the spotlight. The April 9 Times reported:

ROOSEVELT SCRAPS POLICY OF ECONOMIC NATIONALISM TO ASSIST WORLD PARLEY

Old Course Condemned

Hull Lays World Slump to 12 Years of Isolation by the Republicans

11 Nations Invited Here

Trade Revival is Sought

Agreement for Lower Tariffs Will be Urged to Spur the Exports of Surpluses

The stock market surged, and continued a steady advance throughout 1933, rising with almost every statement by Hull. The DJI finished the year at 100, from 59 on April 8.

Roosevelt, though, had no intellectual commitment to Hulls program, and was also listening to the intranationalists that he had assembled around him, the Brains Trust. There were three academics, Raymond Moley, Rexford Tugwell, and A. A. Berle, plus Treasury Secretary Henry Morgenthau. Morgenthau most directly helped unwittingly to dynamite Hull by attempting to drive up farm prices through devaluation of the U.S. currency.[15] The move was viewed for what it was in fact, a "beggar-thy-neighbor" act, with nationalistic motives of precisely the type that underlay the Smoot-Hawley Act. The Roosevelt-Morgenthau gold manipulations stunned international diplomats assembled in London at the World Economic Conference inspired by Hull, and U.S. efforts aimed at arranging instant truces on tariffs and exchange depreciations broke down in acrimony. Hull still had enough backing to win enactment of the 1934 Reciprocal Trade Act, which enabled him to chip away little by little at Smoot-Hawley rates over the rest of the decade. But by December, 1933, any real interest by Roosevelt in a Hull solution to the crisis had dissipated.[16]

He turned instead to internal remedies, which meant national planning: the New Deal. The idea was to use the central government both to promote economic growth through regulation of business and to assure balanced growth between industrial and agricultural sectors. This meant a re-allocation of resources away from the direction they would normally flow in a free market, either by government direction, government partnership with business and labor (in syndicates, which is why the process is sometimes called syndicalism), or taxation and spending. The Brains Trust was impressed not only by the Soviet experiment in central government direction, but in 1933 there was a general interest in Washington and other world capitals in what Mussolini had accomplished in Italy:

Although his favorable reaction to Soviet developments in the mid-1920s moved Tugwell in new directions, it needs to be stressed that planning had taken hold almost everywhere in the industrial world outside of the United States. Beginning in the late 19th and early 20th centuries, Great Britain, without reference to Marxism, moved away from laissez-faire toward "planned prices, planned manpower, planned investments, planned allocation of materials—and the redistribution of incomes that has taken place through steeply graduated taxation" . . . Bismarck's backing of national railroads and health insurance in Germany, as well as the growingly dominat role of powerful industrialists also reflected prevailing economic and social trends in Europe.

In Italy, the laissez-faire policies of the years 1922–25 gave way in 1925–26 to the syndicalist state with workers and employers organized into twelve national syndicates. Business and government entered into a formal partnership under Fascism. The relationship that developed, in the opinion of one recent observer, represented an institutionalization of patterns followed by Western democracies in more disguised forms. "The difference was more in form than in substance with the Fascists shouting what the others, perhaps more wisely, preferred to whisper." While probably generally true of Europe, the United States remained an exception (in 1933).[17]

Unfortunately for the global electorate, the virtues of syndicalism were a mirage. The Soviet economic advances of the mid-1920s should not be surprising, for the Soviet revolution had rid the nation of all domestic and international debt, which was simply repudiated. Central planning had its economic costs and inefficiencies, but these negative effects were for a while overwhelmed in Russia by the leap from the very top to the bottom of the Laffer Curve.

Enchantment with Mussolini's syndicalism was also misplaced. The rest of Europe was practising in whispers what Mussolini was shouting in Italy, but Mussolini was not practicing what he was shouting. The economic foundations of Mussolini's power were built by his finance minister, De Stefani, in the first weeks and months after he climbed to power in 1922.

De Stefani's program was coherent. It was inspired by a laissez-faire philosophy which, in principle, was totally acceptable to business. Public enterprise was to give way to private initiative wherever possible. Public controls over production were to be abolished. Restrictions in the scope of governmental action would make it possible for the government to reduce and reform the bureaucracy, thereby gaining greater administrative efficiency and lowering operating costs. The reduction of public expenditures was to be accompanied by fiscal reforms, which was to increase governmental revenue by the paradoxical device of actually lowering tax rates and simplifying tax laws. De Stefani's rationale was that unrealisticly high tax rates and complicated tax laws reduced revenue by encouraging widespread cheating and by making it virtually impossible for government officials to verify tax returns.[18]

The economy boomed, revenues flowed into the treasury, the lira appreciated steadily, and in 1924 the Fascist won two thirds of the seats in the national legislature. Mussolini thus won a democratic vote that Hitler never could.

Mussolini adapted the trappings of syndicalism, and these imposed economic costs on Italy, but he was much less the central planner than he seemed to the rest of the world.

Far from being fully absorbed into the Fascist state as the idea of totalitarianism implies, organized industry managed to retain a degree of autonomy. If the Fascist state turned out to be considerably less totalitarian in practice than it was in theory, the reasons are to be found in Mussolini's political techniques and in the resistance and resourcefulness displayed by outside groups, foremost among them the industrialists.[19]

Italy's real strength in the 1920s and early 1930s was in its tax and hard-currency policies, which remained in place even after De Stefani left the government in 1927. Not until late 1935 did Mussolini seriously begin chipping away at these fundamental benefits, and when he was forced to raise taxes to finance his Ethiopian campaign a year later the Italian economy soured. Mussolini introduced new taxes in October 1937 and his popular support faded with the economy.

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[15] Charles Kindleberger, *The World in Depression, 1929–1939* (Los Angeles: University of California Press, 1973), pp. 109–231.

[16] Elliot A. Rosen, *Hoover, Roosevelt and the Brains Trust* (New York: Columbia University Press, 1977), p. 380.

[17] Ibid., p. 166.

[18] Roland Sarti, *Fascism and the Industrial Leadership in Italy,* 1919–1940 (Berkeley: University of California Press, 1971), pp. 45–46.

[19] Ibid., p. 69.

Intrigued by Mussolini's seeming success with syndicalism as a basis for economic policy, both Roosevelt and Hitler tried it—Roosevelt with a whisper, Hitler with a scream. But neither noticed the De Stefani tax reforms, and they gave no thought to cutting the high rates they inherited. They both chipped away at tariffs. Hull's most important reciprocal tariff treaty was finally negotiated with the British Commonwealth in December, 1938. Hitler's finance minister, Hjalmar Schacht, was successful in negotiating duty-free bilateral trade agreements with two dozen raw-material producing nations. But high domestic taxation in the United States kept the depression going.

Roosevelt surely could not have succeded politically with his New Deal program of "Tax and tax, spend and spend, elect and elect," had the Republicans admitted their tariff errors of 1929-30. But they were still at it, as, for example, in the GOP platform of 1936:

> The New Deal administration * * * secretly has made tariff agreements with our foreign competitors, flooding our markets with foreign commodities * * * We will repeal the present reciprocal trade agreement law. It is futile and dangerous.

The GOP was still pushing domestic and international wedge increases, so the voters looked upon Roosevelt as being at least half right, and they could still juggle the Congress to get what it wanted. In 1935, needing revenues for his spending programs and still unhappy about deficit finances, Roosevelt pushed through a major tax increase that lifted income-tax rates to a new high, 79 percent on incomes above $5,000,000. In 1936, he was back again for taxes and revenues, now hitting not only people with high incomes, but also successful business enterprises. Congress gave him what he wanted, the economy slid into the 1937 recession, and the new Congress, elected in the November, 1936 Roosevelt landslide, finally took matters into its own hands in 1938:

> Despite the President's objection, the Congress passed in May a Revenue Act which reduced the capital gains tax and the undistributed profits tax and provided for the latter to expire at the end of 1939. The president criticized this action severely but, in a move unprecedented for him, allowed it to become law without his signature. In June, 1938, Congress enacted the appropriations for the spending program.
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> June was also the bottom of the recession. Thereafter the economy rose gradually but visibly. However, in August, 1939, just before the economic effects of the European War began to be felt, production and employment were still a few percentage points below their mid-1937 peaks.[20]

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. WALLOP. Mr. President, before the Senator begins, and I apologize, I ask unanimous consent that Senator HECHT be added as a sponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I apologize to the Senator.

Mr. BAUCUS. Mr. President, I have listened with great interest to the Senator from Wyoming. This is an issue that has been debated at great length in many different arenas—certainly in the Finance Committee, of which the very distinguished Senator from Wyoming is a member, and many times on this floor. I am wondering if the Senator from Wyoming would be agreeable to entering into a time agreement on this amendment, say around 11:30, with the remaining time equally divided?

Mr. WALLOP. Yes, the Senator would agree.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the vote in relation to that amendment occur at 11:30, with the remaining time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, as I mentioned, this provision and provisions similar to it have been debated at great length many times. The basic question before us is the degree to which the USTR, our chief negotiator, should in one extreme be a green eyeshade bureaucrat, that is, have absolutely no power whatsoever, and in the other extreme the degree to which he should be the sole trade negotiator, be the person in the executive branch who conducts all U.S. trade policy.

The obvious answer to that question is neither extreme but someplace in the middle, that is, someplace that seems to make most sense as we Americans try to formulate and conduct a very effective trade policy.

Provisions in the present bill try to strike that balance by providing that the USTR will have the authority subject to the discretion of the President, if any.

That is what is in the trade bill right now. That, I think, is a reasonable balance, that is, the USTR, our chief negotiator, who conducts in the main trade negotiations with various countries in various matters, is the person, he has the office that will have the authority to recommend and to initiate certain retaliatory action that may or may not be necessary subject to the discretion of the President, if any. The President does have the discretion presently in the trade bill. The President has the discretion anyway. We all here know that any President of the United States is going to basically, in certainly important cases, work his will on the USTR. It just is going to happen.

Well, we have also provided for it to happen in this bill. The President in his discretion can certainly overrule the USTR if he so chooses.

Now, the amendment by the Senator from Wyoming strikes the phrase "if any" so the fact is effectively in every case the USTR is going to be second-guessed. It is going to reduce his power as he negotiates with various countries, trying to negotiate trade agreements, trying to help protect America's rights overseas.

It is the judgment of the committee, the judgment of the Finance Committee, certainly the judgment of the sponsors of this bill, that the USTR should have enough clout, enough negotiating authority so when he negotiates with another country the other negotiator on the other side knows the USTR basically has the authority to conduct the agreement. The other side always knows the President will be able to override the USTR. But the provision in the bill gives the USTR just a little bit more clout, a little bit more authority, so that the other side, the other negotiating side knows the USTR position is probably the position that is going to be recommended, and probably the position that the U.S. Government and the executive branch in particular is going to agree with.

The trouble I see with the Senator's amendment is this: if he is successful, that will send the signal to our trading partners around the world that our USTR really does not have the power. He does not have the clout. He is just there talking, sort of a mouthpiece and does not amount to much. I do not think we want to do that. I think we want our chief negotiator to have that authority to initiate retaliation subject to the discretion of the President so our trade negotiator is more likely to reach an agreement to prevent retaliation so we do not have to have retaliation. That is what we are after here. We are not looking for retaliation. Of course we do not want retaliation. We are looking for an agreement in the U.S. best interests.

So I submit that, not only because this issue has been hashed so many times and debated at length so many times but also because on the merits at least in the judgment of this Senator the provision that is currently contained in the bill strikes about the right balance, we should keep the provision that is in the bill. We also know that the other body, at least the chairman of the Ways and Means Committee, said he is not going to accept any amendments. That is not a posture I would like to be in but nevertheless it is a reality as we are closing down and do not have that many more legislative days in the session.

So for a whole host of reasons, the basic one being we have a good provision in the bill that strikes about the right balance, I very respectfully suggest to Members of this body that we keep the provision in the bill, and do not agree to the provision of the Senator from Wyoming.

Mr. DANFORTH. Mr. President, would the Senator yield?

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[20] Herbert Stein, The Fiscal Revolution in America (Chicago: University of Chicago Press, 1969), pp. 99-100.

Mr. BAUCUS. I am happy to yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, fortunately, most disputes that we have with other countries relating to trade are settled. Most disputes do not go through the entire section 301 process, fortunately I say because it is very important where possible to work out these agreements that we have with other countries. The negotiations that lead to those settlements are conducted by a person. That person is the U.S. Trade Representative. The issue before us is the status with which the U.S. Trade Representative goes into those negotiations. That is really the question before us now. Does the U.S. Trade Representative go into negotiations on disputes with other countries as the decisionmaker under international trade, or do we identify him with this Wallop amendment as really at random, somebody who plays second fiddle? Do we label him as such?

As a practical matter, the U.S. Trade Representative is appointed by the President of the United States. As a practical matter, the U.S. Trade Representative can be removed without any notice at all from office by the President of the United States. As a practical matter everybody in the executive branch speaks for the President. Certainly, the U.S. Trade Representative does. If the U.S. Trade Representative operates on his own, contrary to the views of the President of the United States, he is out on his ear that very same day.

So the issue is not whether the U.S. Trade Representative is subordinate to the President. As a matter of fact, in the bill as it is written, the U.S. Trade Representative is subject to the direction, if any, of the President. That is recognized in the legislation. My concern with the Wallop amendment is that this Wallop amendment amounts to a labeling of the U.S. Trade Representative as somebody who is just nothing more than doing the errands of the President, as someone who is always on the other end of the phone checking in with headquarters. And the effect of this would be to transform the USTR into a weakling, into someone who has no credibility whatever in conducting negotiations with another country.

I believe the Wallop amendment would exacerbate problems that we have with other countries. I believe that the Wallop amendment would work against interests of settling disputes, and tend to move us at the direction of fewer settlements and therefore going the full distance in litigating these matters.

I believe with the Wallop language agreements that we have reached for example with respect to access of cigarettes into the Japanese markets, access of citrus into the Japanese markets, I believe those agreements would not have been made. And therefore I think it is very important from the standpoint of overall trade relations with other countries that we defeat the Wallop amendment.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Wyoming.

Mr. WALLOP. I think the Senator from Missouri made my case. He has drawn the wrong conclusion but he has made my case. In point of fact the U.S. Trade Representative, and I am sure the Senator from Missouri does not believe Clayton Yeutter has been walking the stage of the world neutered. He is no weakling. Many would say, and I certainly would, that he has been the best U.S. Trade Representative this country has ever had. He has gotten all of those agreements on the basis of 301 as it exists today which is what my amendment seeks to reestablish. He did not get them on the basis of promises that we would pass this. Indeed many in this world of trading partners did not believe we would have another trade bill, although this Senator did from the beginning.

The Senator from Missouri says that most disputes are settled. He says fortunately. I do not think it is a bit fortunately. I think it is because of the positive, direct, and intelligent action on the part of the combined and coordinated efforts of the President of the United States and the U.S. Trade Representatives. These have not been the actions of a weak Trade Representative. It is impossible to argue that they have been.

Does the Senator from Missouri really argue that Ambassador Yeutter has no status now, that he is merely the President's lackey and cannot do anything without calling on the telephone? How is it that he has been successful? By some chemistry, by some alchemy, by threats of nuclear war? He has been successful because he has had the support and the direction of the President, not if any, not because he is wandering the world on his own; and to label him as the errand boy of the President today is utterly hogwash. He is no errand boy. This provision has neither been sought by nor supported by the U.S. Trade Representative as of today.

My friend from Montana would say that in every case the USTR is second-guessed, if this amendment reestablishes the status quo today. That, too, is utterly without foundation with the experience that we have had. He is not second-guessed in every instance today. What is taking place under the amendment or the bill's provisions as it exists today is who is second-guessed every day but the President of the United States, and he has to maintain rear guard action to see that he is not. My amendment seeks to take these decisions out of politics, out of the realm of highly squeaking wheels with important unions or important business heads in this country and into and in behalf of the national interests of America, and not the special interests of highly visible, highly politically sophisticated industries or industry representatives.

The Senator from Montana would have us believe that this would send a signal that the USTR does not have the power. I say that it sends a signal that the President of the United States does not have the power.

The timeframes and the automatic pilot that are contained within this provision are precisely the things which worry me and must be taken into consideration if the President of the United States is to avoid a retaliatory trade war triggered by a Trade Representative who took an action that the President did not have the opportunity to deny.

In each and every instance, the President will have a pile of 301 cases on his desk every morning, because this invites squeaking wheels. This invites protectionism. This invites the flight from the real world of competition which has made America so great, the achievements of American workers so positive. All the achievements and changes in the trade direction that have taken place—all of these are invited into a status of jeopardy.

So I think you have to look at these provisions in terms of the timeframes that are there.

I ask the Senate if any Senator on the floor would stand up and say that we would respond positively to the ultimatums of any of our trading partners were we to be faced with the same kind of rigidity that this bill contains? Is anyone willing to say that? Is anyone willing to say that the Senate would respond to threats from Japan, would respond to threats from Britain, would respond to threats from the Soviet Union, that if we did not implement certain things according to their liking within 90 days or 180 days, we would kowtow and respond and address those issues—especially were they not to be coming from the President of that country or the Prime Minister of that country or the General Secretary of that country, but some national trade representative? Who here is going to argue that we would respond? It is curious, is it not? We would not, and neither would they.

So what we are inviting is trade war, not trade agreement.

I point out again that the Senator from Missouri said most disputes are settled. We have settled everything from pasta to shingles and shakes, with many of the heavy industries in between. I suggest that this is not a responsible argument that has been advanced, and I think the Senate needs a better one to support the committee position.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield 5 minutes to the Senator from Delaware.

Mr. ROTH. Mr. President, I rise in strong opposition to the Wallop amendment. I rise in strong opposition because I think this delegation of authority is one of the most important provisions of the new trade legislation.

Let me point out what I consider to be one of the serious defects in our current trade apparatus. It is the fact that the USTR acts from a position of weakness, a position of weakness both within the Government and in negotiating with foreign countries.

It is no secret that with every new administration there is a power struggle as to who is to have the effective voice in trade matters. I happen to think that Ambassador Yeutter is an extremely effective USTR, but the fact is that in many ways he is a technocrat, subject to the direction of the Secretary of the Treasury. I believe it is of critical importance that we institutionalize the authority of the USTR so that he can speak with a loud, clear voice.

A number of concerns that have been raised, in my judgment, have no merit. They have no merit because—make no mistake—even under the language of the trade bill, the USTR is the servant of the President.

It has already been pointed out, for example, that the USTR serves at the will of the President and can be removed at any time, just as any other Cabinet member can be removed. So he knows who the boss is. But even more important is the fact that the trade legislation spells out carefully that the USTR acts subject to the direction, if any, of the President. We have carefully guarded the prerogatives of the President in these kinds of situations.

What we are doing and what has great merit, in my judgment, is, as I say, to institutionalize the authority in the USTR so that when he deals in his own Government, he does not have to constantly be fighting for his rights and his authority, as has been the case in most recent administrations. More important, when he sits across from his counterparts in dealing with foreign negotiators, they know he speaks with authority. We need a loud, clear voice for trade matters in this Government, and that is exactly what the legislation, as written, provides.

As I say, there is precedent for this kind of authority. I point out the fact that the President and Congress have delegated to other Cabinet-level officials significant authority of their own. The Secretary of the Treasury has a free hand in setting the value of the dollar. Under World Court decisions, the Secretary of State can make binding agreements and give away American territory. The Secretary of Defense can, on his own authority, put American strategic bombers in the air and send our fleets to sea. The Secretary of Commerce can tax imported, dumped, and subsidized products and halt exports for national security reasons.

Yet, the USTR must pass on to the President, for his personal decisions, such matters as reviewing an International Trade Commission patent infringement determination with respect to sneakers or whether duty-free treatment can be given to imports from developing countries.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROTH. May I have 3 more minutes?

Mr. BAUCUS. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 7 minutes and 2 seconds.

Mr. BAUCUS. I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. ROTH. Mr. President, clearly, the President should not be bothered with trivial matters such as this.

Given the reality that it is not the President who ultimately will make all trade decisions, it does make a difference, in my judgment, which Cabinet officer has primary responsibility in a given area. For example, shifting administration of the countervailing duty and antidumping laws from Commerce to Treasury in 1979 made a real difference in the determination of our Government to implement these laws.

So in closing let me just say, Mr. President, I think it is important that this proposed amendment be overwhelmingly defeated.

As I say, I think one of the most important provisions of the legislation is to institutionalize the authority of the USTR so that his counterparts know that when he sits across from them he speaks with authority.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. WALLOP. Mr. President, the Senator from Delaware and I, as have the Senator from Missouri and I, the Senator from Montana and I, and the Senator from Texas and I, have gone together and worked together on whole batteries of issues that come before the Finance Committee and the Senate of the United States.

For us to part company on such things is rare. But it is a matter of some philosophical difference right at this moment. The Senator from Delaware says that this is a delegation of authority to the Trade Representative. It is not, and it must not be viewed as that way. It is a surgical excision of authority from the President. It is authority from the President and it is the position of the President to cede that authority, not the position of the Congress.

To say that this is a delegation of authority is to say that the President of the United States has no authority which to delegate, that only the Congress does. That is the whole point of the Wallop amendment. It is to hold within the Office of the President of the United States the authority which the Constitution gives him and which the Founding Fathers rightfully rested with him.

The Senator says that the Trade Representative is going to have to fight all the time for his rights and authority. That is utter rubbish. He does not have to do it now. He could not have been successful had he.

There is no set of circumstances under which he, Clayton Yeutter, could have maintained the record of success and credibility that he has.

Does anybody here think that Bob Strauss had to fight for his authority and his rights or any of those who intervened?

What you have, Mr. President, as you do with any administration, is you have people with varying degrees of competence and presence who may hold that position. Some are good and some are not good. But it is ultimately always the President of the United States upon whom ultimate authority is returned, not the Trade Representative. He is the one who is elected. His administration or hers is the one which is judged by the behavior of the people in it and to excise that authority from the President, not allowing him to cede it, is not a proper role of the Congress, and that is what the Senator from Wyoming argues today.

The Senator again said that we need in trade to speak with a loud and clear voice. Oh, yes, we do. I agree. The Senate agrees. America agrees and America wants that.

The question is whose loud, clear voice should it be—the President of the United States or somebody that the people of the United States did not elect who only was appointed?

My belief is that Americans want the loud, clear voice to be their President's and if the President wants that voice loud and clear, he yields, cedes, and authorizes that authority to the U.S. Trade Representative or any other position and not the Congress of the United States.

These mundane duties of which the Senator spoke that the Trade Representative has to run to the President every day and ask if he can do something is again a slightly specious argument because in point of fact the

President of the United States early on establishes his relationship with his Cabinet or with the people who serve him and those authorities are ceded as a matter of routine. Nothing mundane comes in front of the President who is competently acting as President.

So I think yet we have not heard on argument why we should take power away from the President to authorize somebody who has demonstrably, successfully conducted the affairs of the United States of America in the world of trade.

I reserve the remainder of my time.

The **PRESIDING OFFICER**. Who yields time?

Mr. **DANFORTH**. Mr. President, I ask if I could have 1 minute.

Mr. **BENTSEN**. Mr. President, how much time do we have remaining?

The **PRESIDING OFFICER**. The Senator from Texas has 5 minutes remaining.

Mr. **BENTSEN**. How much time remains for the proposer of the amendment?

The **PRESIDING OFFICER**. The Senator from Wyoming has 10 minutes remaining.

Mr. **BENTSEN**. Mr. President, I would like to close debate on this amendment.

I yield 1 minute to the Senator from Missouri. But I would encourage my friend from Wyoming, if he would go ahead and continue his eloquence, and I yield to the Senator from Missouri.

The **PRESIDING OFFICER**. The Senator from Missouri [Mr. DANFORTH] is recognized.

Mr. **DANFORTH**. Mr. President, whether the USTR has been demonstrably successful is a matter of dispute. I do not think that it is so demonstrable.

There are a number of instances in the failure of USTR to conclude successful agreements relating to unfair trade practices, particularly with respect to Brazil and intellectual property rights, the European Community with respect to corn and sorghum, the European Community again with respect to pasta, Korea with respect to beef, Canada with respect to border broadcasting, and Japan with respect to the Kansai Airport.

All of these are instances of failures by the USTR under the present regime.

The **PRESIDING OFFICER**. Who yields time?

The Senator from Wyoming.

Mr. **WALLOP**. Mr. President, it is curious how things change. The Senator form Missouri was just on his feet the last time saying that most cases were successfully resolved. These are cases that are under way. They have not been abandoned. There is no sense that anybody that I know of has that the USTR is not either operating with the full authority of the President of the United States or has abandoned those.

Now I think one can sit up and cast a seine across the curds that arise on any bowl full of trade milk and pull out instances where things have gone well and pull out instances where things have not gone well.

But that is not what is at issue here.

Is the Senator from Missouri suggesting that somehow or another the successes have been accidents and the failures have been because this Trade Representative has not had this 301 as his tool?

I think on its face that argument is absurd.

How can you be successful in the instances—I quote the Senator from Missouri—most cases are settled successfully.

It was not my words; those were his.

I would suggest that merely to have this word and language in place does nothing for the authority of the Trade Representative that he does not now already operate with under the guise and leadership of the President of the United States.

It is possible that the Senator from Texas might end out to be the President of the United States sometime, and I would think that one of the things that he would like more than anything would be the authority to conduct that office without the intrusion of the Senate Finance Committee or the Senate of the United States or the House Ways and Means Committee or the House.

It is a question of who has the authority in America. And this is not a delegation of authority, as I said before, that the Senator from Delaware suggested.

This, Mr. President, is absolutely and completely a surgical excision of the rightful authority of the President of the United States by the Congress of the United States and is granted to someone who none of us elect, only one of us appoint.

So the question is what are the consequence of this. I go back and say the consequences are protectionism. I say the consequences are retaliatory. I say the consequences are that the very likelihood of the initiation of 301 cases is increased problematically by the imposition of this provision. Squeaking wheels, powerful unions, powerful economic sectoring of America will operate the exclusion of those less powerful and those less fortunate.

And the probability of cases will arise because of the probability of relief, because we have taken it out of the decisionmaking process and put it in the political entity and political sphere, that and that alone.

So I would suggest, Mr. President, that what we are talking about is a self-initiated trade war, unless the President takes some subsequent action after the passage of this bill to restore the rights and balances of his office. I do not mean veto. I just mean that he must find the means by which, in appointing the Trade Represenative, to gain back that which the Congress has stolen from him. And I think he should if we continue on the course that appears likely.

Mr. President, how much time remains?

The **PRESIDING OFFICER**. The Senator has 5 minutes remaining and the Senator from Texas has 4 minutes remaining.

Mr. **WALLOP**. Mr. President, I would like the opportunity to at least respond in brief detail to whatever the Senator from Texas may say by way of argument. I know he wants to close, and I would permit that, but I would like to hear initial arguments and try to make the case on behalf of my amendment very briefly.

I would be prepared to yield back most of what would remain after that.

Mr. **BENTSEN**. Mr. President, the Senator from Wyoming has had quite a discussion of it and I have 4 minutes remaining. Is the Senator asking me to break it into 2 and 2?

Mr. **WALLOP**. No, Mr. President. In fact, the Senator from Wyoming has 5 minutes.

The **PRESIDING OFFICER**. That is correct.

Mr. **WALLOP**. I would be content to yield to the Senator from Texas 2 of my 5 minutes. I just want a brief moment to respond to his core argument. I know he wants to make a tabling motion.

Mr. **BENTSEN**. Obviously, the Senator wants to make closing remarks. Let us try that.

Let me say first what we are up against. Let me talk about the practical realities of this debate in getting this trade bill through. We have an agreement here as to the number of amendments that will be offered. That is agreed on. We have a time that we are going to vote, and that is 6 o'clock. That is agreed on, except for one point. If any one of these amendments carries, forget the whole thing. The 6 o'clock vote is off; the number of amendments agreed to, forgotten. Then the number of amendments would only be limited by the imagination of the Members and the staff.

The last time we discussed this, it was 5 weeks and 164 amendments considered. That is what we are up against if one of these amendments carries.

Now, insofar as the substance of what we are talking about on this amendment, I could not disagree more. Our problem and our concern has been that over all this time trade has been used as a handmaiden to achieve other foreign policy objectives for whatever agency that might be involved. If you are talking about trying to do something about the European common agricultural policy, trying to break down some of those barriers and the Secretary of Agriculture tries to do something about it, then the Secretary of Defense says, "Oh, you don't want to do that. You don't want to upset NATO. We are trying to get Pershing II's in there, cruise missiles in there." So, all of a sudden, we back off.

What we are trying to do is make trade the No. 1 priority for our country. This particular provision in this bill does not take one iota of authority away from the President. What it is is a managerial process of saying that we are going to make the USTR chairman of that interagency meeting. He is going to sit above the salt. He is going to be the chairman. That gives him some extra muscle in presiding.

Do you think the President of the United States is going to preside over an interagency meeting? Of course, he is not going to, but someone is.

And what we see is a situation where the USTR is below the salt. The Secretary of the Treasury is often the chairman of that inter-agency meeting, and at other times it is others. But you have the Secretary of Defense, Secretary of the Treasury, Secretary of State far above the Secretary of Commerce or the USTR.

So this is a managerial process of having that man there focusing on the USTR, that trade is the priority for our country.

The problem we have had is Presidents have not even taken the USTR with them to economic meetings. You have some of these foreign ministers, presidents of their country, come to negotiate over economics and they have their trade ministers with them. But that is not the way it has been treated in this country.

Now, this provision that we put in on foreign trade abuses, discrimination, section 301, for this to be utilized, the House wanted all of this moved over to the USTR. This was the compromise. This is the lynchpin. This is what we have finally agreed to with the House of Representatives.

Mr. President, I retain the remainder of my time. How much time do I have remaining?

The **PRESIDING OFFICER.** The Senator has 45 seconds remaining.

Mr. **WALLOP.** Mr. President, I promised the Senator I would yield him 2 minutes of my time and I will if the Chair will inform me when my 3 minutes are up.

The **PRESIDING OFFICER.** The Chair understood the Senator from Wyoming to yield back 3 of his minutes and now use 2 minutes in closing and then the Senator would use his 45 seconds in closing.

Mr. **WALLOP.** The Senator from Wyoming wants to yield all but 2 minutes of my time to the Senator from Texas.

Mr. **BENTSEN.** I thank the distinguished Senator from Wyoming.

The **PRESIDING OFFICER.** The Senator from Wyoming has 3 minutes remaining and is recognized.

Mr. **WALLOP.** Mr. President, I hope that in matters of national economic survival, national survival, or other things, that we do not put a 6 o'clock deadline in front of a rational decisionmaking process. I suggest that this amendment has those kinds of overtones.

I do believe that it is protectionist. I do believe that the future economic well-being of the United States and much of the world is very dependent upon whether or not we come out of this as a nation bent on protectionism and listening to the most powerful amongst us or as a nation bent on expanding its commerce, its opportunities, and other areas of national greatness.

The Senator from Texas makes my point again: Trade is a priority, a singularly high priority for the United States, but it is not and cannot be the No. 1 priority, because nothing can be. The art of statecraft is balancing priorities into an area in which the whole interests of a country are weighed. To take one and put it as the No. 1 priority, even for a while, wholly distorts the ability of statecraft to assure survival, prosperity, and futures for its citizens.

Nations always have intermingled priorities and, at one time or another, one can be foremost among them, but not forever and not in the permanency of this kind of language which is here.

I suggest, again, that the President of the United States is the sole judge of the terminal priorities of his country and that we here act as advisers and consenters and passers of legislation which I hope we remember in this process.

The **PRESIDING OFFICER.** The Senator's time has expired. The Senator from Texas is recognized for 2 minutes and 15 seconds.

Mr. **BENTSEN.** Mr. President, I could not agree more with the Senator from Wyoming when he states that the President is the ultimate authority as to the priorities of our country. This does not take one iota of the authority away from the President. This is a managerial process. The President would not sit there at an interagency meeting. It is who is going to Chair that meeting. And if you are talking about trade, then the person that has that responsibility in carrying out the authority of the President ought to be the USTR.

This is a very carefully put together compromise with the House that wanted all of that authority moved over to the USTR, subject, of course, to the President. But we have selected out the section 301 where we have had these kinds of abuses in our foreign trade to give that chairmanship to the USTR.

I think it is a fine compromise. It is a lynchpin of what we have put together here. I strongly urge the defeat of the amendment.

The **PRESIDING OFFICER.** The Senator from Texas.

Mr. **BENTSEN.** Mr. President, if all time has been used, I move to table the amendment and I have been authorized by Senator PACKWOOD to say that he joins in that.

Mr. **WALLOP.** Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** All time has expired. The question occurs on agreeing to the motion of the Senator from Texas [Mr. BENTSEN] to table the amendment of the Senator from Wyoming [Mr. WALLOP]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Florida [Mr. CHILES], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. **SIMPSON.** I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 26, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—69

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Weicker
Wilson
Wirth

NAYS—26

Armstrong
Boschwitz
Domenici
Evans
Garn
Gramm
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Lugar
McCain
McClure
Nickles
Quayle
Simpson
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—5

Biden Chiles Stennis
Bumpers Cochran

So the motion to lay on the table amendment No. 2787, was agreed to.

The **PRESIDING OFFICER**. Under the agreement, the pending business is an amendment to be offered by the Senator from Idaho [Mr. McCLURE] with a 40-minute time limit, equally divided.

The Republican leader, Mr. DOLE.

Mr. **DOLE**. Mr. President, I checked this with the distinguished majority leader. I have not checked with the managers. I do not think there will be any objection. I hope after the vote on this amendment there might be 20 minutes for Senator STEVENS to talk on the bill. Is there any objection?

Mr. **BENTSEN**. I see no objection to that.

Mr. **DOLE**. It comes out of the total time.

The **PRESIDING OFFICER**. Without objection, it is agreed to.

AMENDMENT NO. 2788

(Purpose: To require the President to consider the extent to which countries are in compliance with the Helsinki Final Act before granting most-favored-nation trade treatment)

Mr. **McCLURE**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 2788.

Mr. **McCLURE**. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the end of part 2 of subtitle H of title I of the bill, add the following:

SEC. . MOST-FAVORED-NATION TRADE TREATMENT.

(a) IN GENERAL.—In considering the extension of most-favored-nation trade treatment to the products of any foreign country that is a signatory to the Final Act on Security and Cooperation in Europe (hereafter in this section referred to as the "Helsinki Final Act") and that did not enjoy such trade treatment on August 1, 1988, the President shall take into account—

(1) the extent to which the country is in compliance with the Helsinki Final Act, particularly the human rights and humanitarian provisions, and

(2) in determining such compliance—

(A) the extent to which a pattern of compliance exists in which violations are clearly the exception and contrary to established policy and generally observed practices in the country;

(B) the existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress in the country that facilitate and encourage, rather than frustrate, the exercise by the citizens and inhabitants of the country of fundamental freedoms specified in the Helsinki Final Act, and

(C) the ability of citizens of the country and citizens of other foreign countries that are signatories to the Helsinki Final Act, in theory and in practice, to freely monitor the performance of the governmental authorities of the country with regard to the requirements of the Helsinki Final Act throughout the territory of the country, and to publicize their findings, both within and outside of the country.

(b) REPORT.—At the time the President extends most-favored-nation trade treatment to any foreign country described in subsection (a), the President shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives describing the extent to which such country is in compliance with the Helsinki Final Act, with particular emphasis on the criteria described in subsection (a)(2).

(c) CONSTRUCTION.—Nothing in this section may be construed as vitiating, limiting, or otherwise having any effect on any other limitations on, or requirements or waiver procedures necessary for, the granting of most-favored-nation trade treatment to the products of any foreign country that are imposed under any other provision of law.

The **PRESIDING OFFICER**. The Senator from Idaho controls the time.

Mr. **McCLURE**. Mr. President, I yield myself as much time as I may consume.

Mr. President, let me first clarify what my amendment does and does not do. The McClure amendment simply requires the President, in granting MFN status to a Helsinski signatory not currently receiving MFN to first consider the extent to which that country is in compliance with its Helsinki obligations and, second, report to Congress on the extent of Helsinki compliance.

Let me emphasize to my colleagues that this is not the same amendment I offered to the defense authorization bill, which would have required the Soviets to be in compliance before they could receive MFN. This modified amendment contains no such requirement.

Mr. President, let me anticipate some of the objections I expect to hear to this amendment.

"But doesn't the amendment expand the requirements of Jackson-Vanik, thereby taking MFN off the table just when the Soviets were moving in the right direction." The answer is no. The modified amendment does not impose any requirements at all on the Soviets. Under the original version of the amendment, the Soviets would have had to comply with the Helsinki Accords to obtain MFN status. In response to the concerns of the National Conference on Soviet Jewry and other groups, who were worried that my original amendment might have the effect of undercutting Jackson-Vanik, I modified the amendment to eliminate any possibility of such a result.

The second question: "Progress in emigration leads to progress on other human rights, so it would be counterproductive to do anything that might reduce emigration." Once again, this amendment would not hurt emigration. Furthermore, as the case of Romania illustrates, there is no particular correlation between emigration and other human rights. Congress recognized that when it voted to suspend Romania's MFN status. The Romanian Government cynically used its relatively liberal emigration policies to obscure its wretched record in other areas of human rights. Let me remind my colleagues that Nazi Germany maintained freedom of Jewish emigration at the same time that it adopted the infamous Nuremberg laws relegating Jews to second-class citizens and laying the groundwork for the Holocaust.

Third question: "But this is the wrong signal to send at this time, when emigration is on the rise and overall human rights practices are improving." This is essentially the same argument the Nixon administration and others made against Jackson-Vanik. The argument then was that "quiet diplomacy," not linkage, was the best way to secure increased emigration. The Soviets would lose face, we were told, if they seemed to be bowing to U.S. legislation requiring them to change their domestic practices. The Congress did not accept this kind of argument then, and should not accept them now. In any case, since the modified amendment would not require the Soviets to do anything in the first place, it would not put them in a position of losing face.

The next objection is probably: "The administration has no intention of granting MFN status, so legislation of this type is unnecessary." And I have heard that argument. Although I am concerned at the possibility that the administration might offer MFN, this argument is not really relevant since the amendment does not make it any more difficult to grant MFN.

Mr. President, 13 years ago at Helsinki, the Soviet Union pledged "to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief. * * *" That is principle VII of Helsinki Final Act. Those promises have been a beacon of hope to millions in the Soviet Union. Natan Shcharansky, a founding member of the Helsinki Watch Group, said the biggest disappointment for Soviet political prisoners came when the 1983 Helsinki Review Conference in Madrid renewed the Accords despite the Soviets' utter disregard of their human rights commitments.

Mr. President, I want to repeat that because I want the people to understand how it looks to dissidents and refuseniks inside the Soviet Union. Shcharansky said—and I again remind you that he was a founding member of the Helsinki Watch Group—the biggest disappointment for Soviet political prisoners came when the 1983 Helsinki Review Conference in Madrid renewed the Accords despite the Soviets' utter disregard of their human rights commitments. He was not talking about emigration. He was not talking about Jackson-Vanik. As a refusenik he was seeking to get out of the country. He was talking about human rights and the disappointment that they, both dissident and refusenik, had at that action in 1983.

Granting the Soviets most-favored-nation status would be a historic development in East-West relations. One day, perhaps in the not-too-distant future, it may be appropriate. But before we grant MFN, we should at least consider the Soviet record on human rights and compliance with the Helsinki Accords.

While we must protect the progress that has been made in Soviet emigration policies, we must not lose sight of the reasons why people want to emigrate in the first place. Nor must we forget our obligation to those millions of Soviet citizens, Jewish and non-Jewish, who may not emigrate but who deserve the freedoms they were promised at Helsinki. There are over 1.8 million Jews in the Soviet Union. Of these, an estimated 400,000 want to emigrate. What about the rest? What about Sakharov and the other dissidents? What about the other 280 million people in the Soviet Union: Russians, Lithuanians, and Ukrainians; Latvians, Armenians, Crimean Tatars and others? Do they not deserve our support?

Mr. President, Natan Shcharansky and Ida Nudel have urged the United States Government to use its economic and political leverage to pressure the Soviets to comply with the whole range of human rights embodied in the Helsinki Accords, including but not limited to emigration. This amendment does not even do that much. But does the Senate want to send the message that we should not even think about freedom of religion or freedom of speech or psychiatric abuse or the rule of law?

If we do, Mr. President, that will be a slap in the face of the Shcharanskys and Nudels and Sakharovs and all the others who have labored and suffered for the cause of freedom.

In closing I want to note that while there is opposition from some of the groups involved in the struggle for Soviet Jewry, this opposition is not unanimous. The McClure amendment has been endorsed by the Center for Russian Jewry, the Student Struggle for Soviet Jewry, the Colorado Committee of Concern for Soviet Jewry, the Slepak Foundation, Americans for a Safe Israel, and Resistance International. I know that many of my colleagues here sit on the boards of or are otherwise affiliated with some of these organizations, and I hope they will take these endorsements to heart.

Mr. President, I urge the adoption of the amendment and I reserve the remainder of my time.

Mr. **PACKWOOD** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **PACKWOOD**. Will the Senator from Texas yield me 5 minutes?

Mr. **BENTSEN**. I yield 5 minutes to the distinguished ranking minority member.

Mr. **PACKWOOD**. Mr. President, I rise in opposition to this amendment. I have opposed similar amendments in the past and also amendments when we were debating Romania and most favor nation to attempt to extend this principle to Romania if they did not observe what we regard as proper religious freedoms. The reason I rise in opposition is I make a distinction in my mind between the right to leave a country if you do not like it and other basic freedoms which we cherish and which we should encourage throughout the world but which I regard on a different basis.

Right now we are being very successful in Jewish emigration out of the Soviet Union. We were lucky to get a thousand a year, 2 years ago. We are up to a thousand a month now. And I respect the right of people to leave the country. The Jackson-Vanik amendment has worked. But if we start to say it shall apply to Romania and religious freedom, it shall apply to Russia and the Helsinki accords, and it shall apply, and put in dot-dot-dot, Poland and worker rights and Hungary, we start to expand it and expand it and expand it until we finally say to a country, "look, unless you sort of have our Constitution and our bill of rights and our trial by jury and our search and seizure, you are not going to get most favored nation."

Now, Mr. President, we are not going to do that, and I am not so sure that we should be moving in that direction. But the right to leave a country is critical.

And the United States, I suppose, is lucky. Very few people want to leave here. We are still a magnet in this world; more people want to come to this country than all of the rest of the countries in the world put together. So we do not face the problem of citizens who want to get out, who are attempting to chink away at the border and the curtain and say, "Let us out." But I think we would be making a mistake if we were to start to widen, widen, and widen the Jackson-Vanik amendment until we attempted to cover every form of real or imagined denial of civil liberties and worker rights in the world.

I hope we will stick with something that has been successful, proven, and tried, and I might add despite the list of the organizations that my good friend from Idaho read, the great bulk of the Jewish leadership organizations in this country are opposed to this amendment and would encourage us not to put it on this bill.

Mr. **BENTSEN** addressed the Chair.

The **PRESIDING OFFICER** (Mr. Dixon). The Senator from Texas.

Mr. **BENTSEN**. Mr. President, I strongly endorse the comments made by the distinguished ranking member of the committee who has been very much involved and concerned on this issue. I recognize the commitment of my friend, the Senator from Idaho, and he has brought this amendment before us time and time again. But there is a great risk. If we were to adopt this amendment, then the agreement that we have that we have a set number of amendments to be considered would be out. Then the agreement that we would have a vote at 6 o'clock will be null and void. Once again, the amendments offered would be only limited by the imagination of the Members and their staffs. The last time we debated this for 5 weeks. We had 164 amendments that were considered. That is the road we would start down as this would unravel if we accept one amendment.

I think the better way to address what is the concern of the Senator from Idaho is what we have done in this bill here. We gave a larger role to the Congress in deciding when to grant MFN treatment to a Communist country. That is why I worked hard with others to get that provision in the trade bill. That would prohibit any administration from agreeing to the Soviet Union's joining GATT without first obtaining congressional approval. Joining the GATT is the way other Communist countries have been able to get MFN treatment. It is the way the Soviets have hoped to gain such treatment. If this trade bill is enacted, that avenue will not be available to them without congressional approval. You can get yourself a statement insofar as a point of view by the Senator from Idaho, but if this trade bill goes down the tubes, that is all you will have achieved, where this has a very positive way to address that problem. I think it is terribly important that we defeat all amendments that are offered this afternoon.

I urge my colleagues to join with the distinguished ranking member and me at the end of this debate when we will move to table the amendment.

The **PRESIDING OFFICER**. Who yields time? The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Idaho has 10 minutes and 35 seconds.

Mr. McCLURE. I thank the Chair.

Mr. President, I expected an argument against the amendment on the basis of let us keep this bill clean. Let us not adopt any amendments. And I understand. I have managed bills on the floor, too. I do not like to have anybody coming in and messing up my ball game. I want to set the rules, have all the players, and I do not want anybody else to play on my field when I am managing a bill. That is I guess typical of most floor managers of legislation.

But, Mr. President, I think it is wrong for us to say the adoption of this amendment is going to jeopardize the passage of the bill. On the contrary, it enhances the opportunity to pass this bill. This in no way inhibits the acceptance of this legislation, and that is a reason to support it; not to oppose it. It is a reason to support it if we adopt it. So far from jeopardizing the passage of the bill I think it underscores its likelihood to become law.

I expected that there might be debates on the floor about whether or not this would undercut immigration, and the real progress that is debatable but nevertheless is on consensus believed to come and to be enhanced under the provisions of Jackson-Vanik that requires progress on immigration matters as a condition of MFN status.

I support Jackson-Vanik, and I have for years, I strongly support it, and still do. But this does not undercut immigration policy. It does not undercut the Jackson-Vanik amendment. It has been specifically altered to make sure that argument simply has no validity. So I say to those that raise that question today, while they may emotionally feel so committed to Jackson-Vanik they want no other statement on MFN it nevertheless simply requires the President of the United States before granting MFN to observe the progress of the Soviet Union in complying with the agreement that they signed at Helsinki and to report to the Congress what he finds in that review.

I did not expect to hear an argument here that human rights are unimportant. That is what I heard; that the right to flee the prison in Russia has some legitimacy in debate and policy in this country, but concern over human rights inside the Soviet Union does not. That to me is an incredible argument. It has been rejected by the American people. It was rejected and very articulately and forcefully enunciated in the human rights doctrine of this country under President Carter. One of the best things he did in the years of his administration was to focus the concern of this country and our people on the degree of human rights observance or nonobservance in other countries, a legitimate expression of this country. And for this Senate to back away from that commitment today on this vote seems to me to be incredible; absolutely incredible for us to say we are not concerned about human rights in foreign countries. That is baloney. It is worse than that. It is sickening to me to hear that kind of thing even discussed as a part of our national purpose. We are interested in whether you can get out of the prison, but we are only going to debate about how wide the door is open, not why you are in the prison or what your rights are while you are there.

Finally, Mr. President, we are not simply doing this, in the case of the Soviet Union, because we are interested in human rights and we are interfering in their internal policy and processes by having raised it. It was suggested in debate a few minutes ago that we have no right to expect them to comply with our Bill of Rights. No, maybe not. We have a right to expect that they will, but we certainly do not have a right to interfere in their internal process. Perhaps, but we have an undisputed right to say "Live up to the agreement you signed." We did not force them to sign the Helsinki accords. It was a bargain in which they got certain things and we got certain things. The thing we got out of it was their pledge to observe basic human rights and freedoms as set forth in that document. We have a right to demand that they live up to that agreement. We have an obligation to the people of this world that they live up to their commitments under that agreement. We have an obligation to ourselves to be faithful to the commitment that we made in the Helsinki accords, and for it to be suggested now we are somehow dabbling in their affairs unduly strikes me to be bizarre.

We did not ask for this situation specifically. It was negotiated in the Helsinki agreements.

I had the opportunity to visit with Dr. Sakharov in Moscow recently. Dr. Sakharov is not a refusenik. He does not seek to leave the Soviet Union. He is a Soviet citizen. He is proud of his country, and he wants to remain there. But he wants his country to change. He wants his country to live up to some of the human rights that we believe are sacred in our own system, and we urge on others to adopt. He wants us to help them insist on betterment of the human condition inside the Soviet Union. Anatoly Shcharansky was a refusenik. He was refused the right to emigrate. But he was very careful throughout his entire statements, his entire career, and he has since of course left the Soviet Union and has escaped that prison at long last. But he among others has said eloquently upon a number of occasions that you cannot separate the emigration issues and the human rights issues.

The Jewish community inside and outside the Soviet Union should never allow itself to focus only on the right to emigrate and forget the human rights questions involved to all peoples, whether they are in the Soviet Union or not.

Ida Nudel has made the same statement. She was a refusenik who has since been granted the opportunity to leave the Soviet Union. She has made the same statement upon repeated occasions, that the human rights struggle is the struggle of all people everywhere.

For God's sake, if we stand for anything, if we as a nation stand for anything, we stand for the human rights of individuals wherever they may be, under whatever government they may be oppressed or suffer today.

For us now to argue that this amendment, a simple amendment requiring a review and a report, nothing else—and even if the President finds in the review that their record on human rights is terrible, that their compliance with the Helsinki accords is terrible, he can report that to Congress.

This is not to undercut Jackson-Vanik. This is a simple statement that the American people believe that human rights are important and we expect the Soviet Union to comply with the agreements in that regard that they signed.

Mr. President, it is incredible to me that there would be any of the debate we have heard on other than the question of let us keep the bill clean and not mess this up; or the other question I reject, but which is legitimate, that it would affect the emigration question.

For the life of me, I cannot understand anyone standing on the floor of the Senate and saying that human rights inside the Soviet Union is not a matter of our concern. It is. It has been. It should continue to be.

The McClure amendment should not be tabled, and I appeal to the manager of the bill to make an exception—if they want to talk about a clean bill—to make an exception on behalf of the human dignity of people who live in the Soviet Union and the aspirations of the American people, to support those who struggle and yearn for freedom.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho has 1 minute remaining.

Who yields time?

Mr. BENTSEN. I yield 3 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, there are two ways of looking at this amendment: Either it really does not do anything; it just requires a report and has no real effect; or it is an amendment that does, in Senator McClure's words, undercut Jackson-Vanik—either-or.

If the amendment does not do anything, if it is simply a report that has no effect, then why put it on this bill? Why open up the time agreement? Why run the risk of bogging the bill down in conference, when the chairman of the House Ways and Means Committee says he will not go to conference on the bill?

If, on the other hand, it does undercut Jackson-Vanik, it seems to me that is an amendment that should be rejected.

Everyone cares about human rights. Everyone in the Senate feels deeply about human rights. We have to assume that. No one likes people to be persecuted anywhere in the world. That is not the issue. The issue is, to what degree can Jackson-Vanik be a useful tool of furthering human rights?

Jackson-Vanik, I believe, is a useful tool in providing for emigration and putting the pressure on for emigration from Eastern bloc countries.

When I was chairman of the Trade Subcommittee of the Finance Committee I used Jackson-Vanik, I think, very effectively, in securing emigration from Eastern bloc countries. But it was always clear to me at that time that you could not load everything on Jackson-Vanik. To the extent that we used Jackson-Vanik for other purposes, we weakened Jackson-Vanik itself.

This weakening of Jackson-Vanik, this using it not just for the purpose of increasing emigration but for other human rights purposes as well, is why this sort of amendment has been so strongly opposed in the past by Members of the Senate. All of us have had to vote on this kind of thing before. But it is also opposed by organizations such as the National Conference on Soviet Jewry, and this amendment is opposed by the National Conference on Soviet Jewry.

Again, either the amendment does nothing, in which case it should be rejected, or it does dilute the power and effectiveness of Jackson-Vanik, and in that case it should be defeated.

Mr. PACKWOOD. Will the Senator from Texas yield me 5 minutes?

Mr. BENTSEN. I yield 5 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I would feel more comfortable with the argument of the Senator from Idaho if we applied it more consistently around the world.

Everyone in this body can say there is no one who has fought harder for human rights around the world than has the Senator from dot-dot-dot: Oregon, Texas, Illinois, wherever you are from. We all pride ourselves on the support of our Constitution and the Bill of Rights.

Let us be serious about this. China has most-favored-nation status. I have not seen us applying this amendment to them in terms of extending human liberties, and they do not have it. Taiwan has it. Chile has it, one of the last remaining brutal dictatorships in Latin America. I do not see us extending it to them and say: "If you don't have our freedom of civil liberties, you don't get most-favored-nation status." Why just the Soviet Union?

Or, if we are concerned with violations of agreements, that they violated the Helsinki agreement, what about the agreements they signed in the late 1920's and early 1930's with the then-independent countries of Latvia, Lithuania, and Estonia, about forever observing their sovereignty, independence, and right to exist, snuffed out in the 1940's, all in violation of treaties? Why do we not enforce it against Russia because of what they have done to these Baltic countries? I find it a selective use.

We have had Jackson-Vanik for the better part of 15 years. I think it has been successful in encouraging emigration from the Soviet Union, Jewish and non-Jewish. I think we can hold ourselves high and proud that we have succeeded in prodding Russia open a bit on emigration when they may not otherwise have done it. But if we are going to say that that is not enough, that they have to observe the Helsinki agreements, that they have to observe other forms of human liberties that we cherish, then I would say let us extend it much broader.

If that is going to be the policy—and President Carter started down that road—that is an issue worthy of legitimate debate. Let us not apply it to the Soviet Union only, but let us apply it to all countries, regardless of whether we regard them as friendly—and by "friendly," I do not mean whether they have civil liberties but whether they are on our side in some ideological situation. Let it be a legitimate standard, and let us hold our friends and our foes to it.

To run the risk of harming a policy that has worked well, and to say it is because we love worldwide human liberties, but we are only going to apply it this country, I think is a misappropriation of our idealism.

Mr. McCLURE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. McCLURE. In that minute, it is difficult to respond, but let me say, first, that this is not just aimed at the Soviet Union. This is aimed at every country which signed the Helsinki accords. And that is why it is tied to the Helsinki accords.

Let me close simply by saying it is argued that this does not do everything, so let us do nothing. It is argued that we really care but at the same time it is said that we really care we must do nothing to offend the Soviets. How empty is our caring if indeed it is tied with a position that says we can do nothing?

The Senate ought to reject the motion to table. I hope the managers of the bill will not make it. I urge the adoption of the amendment.

Mr. BENTSEN. Mr. President, I yield to the Senator from Oregon [Mr. Packwood] 2 additional minutes.

The PRESIDING OFFICER. The Senator from Texas has 9 minutes.

The Senator from Oregon is recognized for 2 minutes.

Mr. PACKWOOD. I thank the Chair and the Senator from Texas.

Let me read the letter just handed to me dated today.

> Dear Senator Packwood: We are writing to you to express our concern regarding Senator McClure's attempts to link the granting of most-favored-nation (MFN) status with compliance with the human rights provisions of the Helsinki Final Act.
>
> While there is no doubt that compliance with the Helsinki Final Act is a major objective of Soviet Jewry activists, we believe that expanding the requirements for MFN would erode the traditional and useful link between the right to leave one's country, which is a most basic and fundamental human right, and the recognized use of trade ties to our nation, including the granting of MFN status.
>
> This link, which is stipulated in the Jackson-Vanik Amendment to the Trade Act of 1974, has served as a significant avenue for dealing with the Soviets on the issue of the right to leave one's country. Senator McClure's action, while well-intentioned, would alter the Jackson-Vanik Amendment by expanding the requirements needed for achieving MFN.
>
> We consider this matter to be extremely important with potentially serious consequences for the Soviet Jewry movement. If you have any questions or comments, please contact the Washington office of the National Conference on Soviet Jewry, at 265-8114.
>
> Thank you for your consideration.
>
> Sincerely,
>
> Morris B. Abram, Chairman, National Conference on Soviet Jewry; Theodore Ellenoff, President, American Jewish Committee; Robert Lifton, President, American Jewish Congress; Burton S. Levinson, National Chairman, Anti-Defamation League of B'nai B'rith; Seymour Reich, President, B'nai B'rith International; Hyla Lipsky, President, B'nai B'rith Women; Mendell L. Berman, President, Council of Jewish Federations; Ruth Popkin, President, Hadassah; Lenore Feldman, President, National Council of Jewish Women; Rabbi Alexander Schindler, President, Union of American Hebrew Congregations; and Milton S. Shapiro, President, Zionist Organization of America.

The **PRESIDING OFFICER.** The Senator from Texas.

Mr. **BENTSEN.** Mr. President, that message carries great significance because here we are talking about the people most sensitive to the concern and they are asking that this amendment be defeated.

The **PRESIDING OFFICER.** The Senator from Idaho has utilized his full time.

The Senator from Texas has 6½ minutes remaining.

Mr. **BENTSEN.** I see no further requests on my side.

Mr. President, I will move to table and the Senator from Oregon joins with me in that. I move to table the amendment and I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. **SIMPSON.** I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting the Senator from South Carolina [Mr. THURMOND] would vote "nay."

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 28, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—67

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Danforth
Daschle
Dixon
Dodd
Dole
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stafford
Weicker
Wilson
Wirth

NAYS—28

Armstrong
Boschwitz
D'Amato
DeConcini
Domenici
Durenberger
Garn
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Lugar
McCain
McClure
Melcher
Murkowski
Nickles
Pressler
Quayle
Rudman
Specter
Stevens
Symms
Trible
Wallop
Warner

NOT VOTING—5

Biden
Bumpers
Cochran
Stennis
Thurmond

So the motion to lay on the table amendment No. 2788 was agreed to.

The **PRESIDING OFFICER.** Under the unanimous consent agreement the Senator from Alaska is recognized for 20 minutes to speak on the bill.

Mr. **STEVENS.** Thank you, Mr. President.

The **PRESIDING OFFICER.** May we have order in the Chamber? The Senator from Alaska is recognized for 20 minutes.

Mr. **STEVENS.** Mr. President, I am grateful to the managers of the bill for the opportunity to speak.

The **PRESIDING OFFICER.** May we have order in the Chamber? The Senator from Alaska is recognized.

Mr. **STEVENS.** I thank the President. I ask unanimous consent that the Senator from Texas [Mr. GRAMM] have 20 minutes following my remarks, Mr. President.

Mr. **KENNEDY.** Mr. President, reserving the right to object, I will not object. I was wondering if at some time I could get a minute or minute and a half at a time agreeable on a different matter.

Mr. **STEVENS.** I withdraw the request. I thought that that was already agreed to.

Mr. **KENNEDY.** I will not object.

The **PRESIDING OFFICER.** Did the Senator from Alaska make a unanimous consent request?

Mr. **STEVENS.** I just withdrew that request and would like to get on with my 20 minutes, if I could.

The **PRESIDING OFFICER.** The Senator from Alaska is still recognized for that 20 minutes.

Mr. **STEVENS.** Mr. President, at the time that the omnibus trade bill was before the Senate previously I made this statement. I said beyond the anti-Alaska provisions, I find that I could not support the bill anyway.

I want to thank the President for his veto action which enabled Congress to remove from the trade bill the provisions that we objected to so strenuously. The anti-Alaska provisions, which I documented previously, were unconstitutional, in my opinion. Provisions of that type place a tremendous burden upon those of us who represent States with small populations.

Now I find that this bill has been improved somewhat, but it still has not been improved enough for me to vote for it, and I wanted to explain that to the Senate.

This bill does have some good features. It does try to establish our trade policy on the basis of reciprocity and its purpose is to try to open foreign markets to our competition. It does have what I consider to be escape clauses from the mandatory actions that are required by this bill when it is in the Nation's interests not to mandate the President to take specific actions. It does have, from a congressional point of view, one good feature and that is, under the Constitution, the power to control trade is with the Congress. Historically, much of that power has been delegated to the President. As the Senator from Wyoming has pointed out, this bill shifts that policy-making power back toward the Congress. However, one could say that is good or bad, depending upon perspective.

Another argument in favor of the bill might be that if this bill does not pass, a trade bill next year would be worse, not better.

I point out, Mr. President, the text of this bill which is before us now is 1,125 pages. I would venture to guess that there are not many Members of the Senate who have read and attempted to understand every single portion of that bill. But if the bill becomes law, it becomes something that every person involved in foreign trade will have to know and understand.

I cannot support the bill because what it really does, is to proceed on a false assumption. I join my southern neighbor, my friend, the distinguished senior Senator from Washington, the former Governor of the State just to the south of Alaska, in opposing this bill because it goes in the wrong direction.

This country ought to be in favor of free trade. We ought to try to remove the barriers to free trade and not add additional barriers.

Based upon assumptions that we have been exporting jobs, this bill would result in additional barriers to those involved in the export trade when actually we have not been exporting jobs. Our economy is now on the move and it has generated 14 million new jobs since 1982.

Foreign trade barriers did not cause our trade deficit. Our trade deficit was caused largely by an overvalued dollar, which resulted from high interest rates generated by massive Federal borrowing. Our overvalued dollar then made our exports more expensive overseas.

Again, the economy itself, the ship of state, is righting itself, and it does not need help from Congress in order to restore our trading power abroad. To the contrary, I had the occasion with other Senators to visit with representatives of what they call the next

500 companies, the second 500 companies and we were shown evidence that every single one of them had increased their exports and that exports generally in that group had increased 10 percent in the last calendar year.

The basic assumption of this bill is that it is necessary to protect U.S. jobs. If that were true I would be first in line to support it.

However, I cannot support it because I represent an area of the country that is now coming into its own as far as foreign trade is concerned. Members of the Senate probably do not realize that on a per capita basis Alaska now participates in foreign trade more than any other State in the Union. We are top ranked among all the States in terms of the export figures.

Further than that, when I am at home in Anchorage, I am closer to Tokyo than I am to Washington, DC. Some people do not realize how far in the Pacific our Nation extends and how much our State is involved there. Nor do they realize that in terms of foreign trade, Alaska is merely 1,000 miles further from London and Paris than we are from Washington. Distances are changing, as far as perspectives in the world. The Pacific Rim has a dynamism that most people from the East are unaware of and refuse to admit. Washington and Alaska are reaching out to that Pacific Rim and just as we reach out to the Pacific Rim, we encounter a bill that would create 30 new Federal agencies, panels and commissions and mandate 150 new studies. And what it means to us is for every new entrepreneur wanting to extend export trade to the Pacific Rim there are going to be more people in Washington they have to deal with in order to get involved in the business.

Exports are increasing. They jumped by 23 percent this March alone, although those are the latest figures that I have.

Mr. President, the real problem about this is that, contrary to the basic intent of the bill—to base our trade policy upon a coherent concept of reciprocity—this bill actually will lead to additional protectionism for the established industries, and those industries are basically east of the Mississippi. If I were from east of the Mississippi, I would not vote against this bill. But anyone from west of the Mississippi ought to look closely at this trade bill, because as we look to the Pacific, in the next century, we ought to realize we are going to be developing more trade with that new Pacific Rim area, increasing our exports, and at the same time they are going to bring into our country—what? They are going to bring into our country textiles and those things that compete with the established industry of the East.

If this country is going to have the ability to keep up with this dynamic, new series of countries in the Pacific Rim, those who are adapting our technology at a rate that is unheard of in history; are developing their own production capability and their own demands for our products at a rate that we will be hard pressed to keep up with if we maintain a relationship with them; they ought to look at the protectionism in this bill that will protect existing U.S. companies from foreign imports.

This bill will do that in a manner that will hurt the consumer. Our consumers will pay more for goods because we want to protect that existing investment in the traditional areas of industry in our country, at the expense of our ability to be involved in the developing areas of the world.

I believe that we ought to look to a national policy, not one that just protects existing industry, but one that looks to the future and particularly looks far enough into the next century to have a stable policy.

Mr. President, I predict that before the next Presidential term is over, we are going to see another trade bill. It will be thicker than this. It will be another attempt to involve the Federal Government in basic industrial policy, basic business against the best interests of the country as a whole.

In my judgment, if other countries mirror this action, it will hurt the very people it is intended to protect. As those countries mirror this action, it will prevent the development of the trade that I foresee, and that is the trade with the Pacific Rim. The areas of the world that have the best chance to increase their imports in the United States are in the Pacific Rim.

We ought not to approve a bill that will lead to retaliation by those countries, as well as the existing trade partners of the United States. I am not critical of those who have managed the bill. I think that they had an intent to bring us a trade bill that would shift, as I indicated before, our policies. I do not see that this trade bill does that.

While there have been some changes since the bill was before us on the first occasion prior to its veto, they have not been sufficient, in my judgment, to warrant voting for this bill. This is not the time for creation of new Government bureaucracy in the export area, but this bill does that.

This is not the time to believe that additional people in Washington, DC, will increase exports from the 50 States. This is the time for the Federal Government to get out of the way, and a time when our country is proving that the dynamics of free enterprise and the freedom of our markets pay off.

We find that now this bill is bringing us back into a situation where we, ourselves, might violate the General Agreement on Tariffs and Trade, [GATT] because the provisions will add up to an attempt by the United States to exert our will over our trading partners outside of the multilateral framework.

I repeat, Mr. President, in my judgment, if you examine this bill in the totality, it is not in the national interest, and I cannot vote for it.

The PRESIDING OFFICER. Does the Senator from Alaska yield back the remainder of has time?

[S03AU8%210UsS10680uSTEVENS

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to talk about a very small portion of the trade bill, but one that impacts detrimentally upon agriculture and a provision that, at the same time, is antithetical for the basis of the Caribbean Basin Initiative. I wish my colleagues, too, who were very much involved in the setting up of the Caribbean Basin Initiative, would pay attention to what section 1910 of the trade bill does.

I take the position that it is very antiagriculture, antifarmer. I think that is a very simple way to put it, but a very correct way to put it. I would like to have this body consider aspects of section 1910 that are bad, not only for agriculture and America's family farmers, but our economy generally. I would like to have this body think about striking that provision.

I know we are in a procedural mindset here where motions to strike or any motion to amend at all is in jeopardy because of agreements that have been made and a feeling that we have to pass this bill just the way it was received in this body and the way it passed the other body.

On the other hand, there may be other ways of dealing with this issue that I think is so bad in this bill, and there are some discussions going on now to see if some sort of compromise can be reached. As I am going to speak for some time on this issue, I am not speaking to discourage other approaches because I think there is more than one way to accomplish our goals in this body, and as long as the end result is accomplished, that is also a consideration that I am willing to consider.

I take the position then that as long as we have this provision in here and if motions are made to strike section 1910, I think a vote against striking section 1910 is not only an antifarmer vote, but at the same time a vote to leave 1910 in the bill is simply a vote to benefit five companies.

Now, think of a very controversial provision in this bill—and somehow we are in a mindset that we ought not effect any change—that is basically a subsidy to five companies and at least one of these companies is a multinational company and at least one is tied to oil interests.

We have had no hearings on this section of the bill at all, and my colleagues ought to understand that this provision in this bill originally was put in the bill which the President vetoed. After the first trade bill passed this body, this provision that I refer to as 1910 was put in in conference between the House and Senate. It was not debated on the floor of the House in that original bill. And allowing duty-free treatment for five companies was not debated on the floor of the Senate in that original bill. That is a violation of the normal process of doing business where in order for something to be put in the conference, it ought to be in dispute between the House and the Senate and there ought to be at least some reference to those provisions in either the House bill or Senate bill. But we have a situation now where these companies were able to hire lobbyists to promote their cause behind the scenes and get it put in in conference. So I think it is bad procedure to do that without hearings.

Also, remember that the Caribbean Basin Initiative, which 1910 makes an exception to, was passed by this body with a lot of discussion, considerable thought—the Caribbean Basin Initiative being an instrument by which we wanted to encourage economic development, private sector economic development. One of our incentives for doing that was freer trade, less trade restrictions between the United States of America and these smaller nations. So we had a very worthwhile motive in setting up the Caribbean Basin Initiative. Of course, what 1910 does is allows products that would otherwise have to pay duty coming into the United States, meaning ethanol that is used as a blend in gasoline, to come in through the Caribbean Basin Initiative and avoid that duty.

Now, if that created a lot of jobs in the Caribbean countries, then OK because we have all agreed that that is good policy not only for those countries but for our country. But the Caribbean Basin Initiative was set up with a lot of forethought, careful thought by this body. Later there were some exceptions made in the 1986 tax bill for the ethanol industry and the reprocessing of some product to be turned into ethanol so it could come into this country. Those special exceptions were made with again a lot of thought by this body and the other body. There were two hearings held in the other body and two hearings held in this body to set good policy, defended by a lot of the leaders of the Senate Finance Committee and generally agreed to as good public policy as well.

Now, what is wrong with having some hearings, public, open hearings, to discuss the merits of 1910? Section 1910 is devastating to American farmers, to thousands of American jobs, to America's ethanol production. Some of these companies appear to be geared not toward Caribbean Basin development but only to their own profit, not toward job creation, because the reprocessing of European wine into ethanol that can come into this country is not a job creation in these Caribbean Basin countries. It does not create the jobs that were anticipated by giving some incentive to ethanol production, because the idea was that we would use locally produced feedstocks as a product from which ethanol would be made, and then that ethanol could come into this country duty free even though that might unfairly compete with our own basic industry. But we thought that was a worthy goal of the Caribbean Basin Initiative.

If that goal is followed, I agree with it and do not argue with it. But section 1910 is a compromise detrimental not only to the Caribbean Basin Initiative, it is antijobs in the Caribbean Basin and also antijobs in America, and it is antifarmer in America.

Now, I wonder if we had no hearings because we were afraid that this information might come out. Are we afraid that some of these five companies have absolutely no business getting these exemptions, this duty-free treatment?

That is the background. As I said to my colleagues, we are in this procedural mode where we are not going to entertain any amendments or if any amendments are entertained they are going to be tabled. I think we Republicans have an awful lot to learn from Democrats in this body, and I do not think we learn very well on these procedural arguments about tabling. It has been suggested by my colleagues that a vote to table is not a vote on the merits of the specific amendment, and I would like to advise my colleagues, particularly those from farm States, not to take much comfort in those assurances because we Republicans have been harmed by those arguments in the past. I recall not too long ago, I guess wihtin the last 3 years, when we Republicans controlled this body, we often had to stick together simply to govern.

For instance, I think of our passage of that budget resolution in 1985. Republicans had to scrape together a thin majority to get the budget passed. The Democrats then huddled, as you wisely did, whatever your motives may have been, but it was particularly difficult for us. Some of the amendments that you put forward after we adopted that budget resolution as amendments to that budget resolution were politically difficult amendments. They ended up embarrassing Republicans. I do not know why the Democrats handled that procedurally the way they did at that time, but I know they did a good job of manufacturing ammunition that was used very effectively against us in 1986.

So in order to provide leadership and carry the burden of governing, we Republicans stuck together and voted to table those amendments as Democrat majorities are advising their majorities to table our amendments on this bill this very day.

One, in particular, back in 1985 that caused us problems was those Social Security amendments that the Democrats, then the minority party, put forth. We saw in the 1986 election that, come election time, Democrats were spending millions of dollars on TV, radio, and print advertisement, attacking Republican incumbents for voting, as you put it, against Social Security. Somehow the Democrats forgot to include in those ads at that time that those votes were not on the merits of the legislation. The amendments were only for procedural votes. That did not show up in the ad, and I dare say because you were able to maneuver so effectively in that direction that we lost several Republican seats. And you are now in the majority.

So I want to say to my Democratic colleagues that, you know, what goes around comes around. And this issue that we have before us on this ethanol issue represents the first opportunity the Senate has had to vote up or down on this question of giving five companies a multimillion dollar windfall at the expense of American farmers and workers.

I do not care what you might call an amendment that affects this, whether you call it a motion to table or whatever you might call it. The issue that 1910 presents to this body is quite simple. A vote in favor of 1910, whether it is a vote against striking or a vote to table, is a vote in favor—I had better say it again this way, Mr. President, if you pardon me for repeating. If colleagues would vote to keep 1910 in this legislation, and it does not matter how that question is put, whether it is on a motion to table or an up-or-down motion, that vote to keep 1910 in this bill is a vote against the American family farms and against American workers.

(Mr. DODD assumed the chair.)

Mr. GRASSLEY. To cast your vote in favor of 1910 is simply a vote to allow the exploitation of the Caribbean Basin Initiative in favor of the profits of five companies.

I say that to people in this body who are much more involved in the creation of the Caribbean Basin Initiative than I was even though I supported it. The people who created the Caribbean Basin Initiative ought to be concerned that its original purpose be served which was to create a strong economy in those countries of Central America, and a strong economy based upon private sector intiative, not government initiative; an economy that was going to create jobs there that were real jobs, and we were going to encourage that by allowing freer trade between the United States of America and the Caribbean Basin countries.

The people in this Congress who thought up that idea need to be congratulated, but they also ought to be cognizant of what 1910 is going to do to the Caribbean Initiative. And it goes against what you are trying to accomplish there, the creation of jobs, because for every job that is created by reprocessing European wine through the Caribbean Basin Initiative you can create 410 jobs in the Caribbean Basin if you require the same method of manufacturing ethanol there that you have in the United States of America. And that means starting with feed stock like we do in the Midwest, using corn grown by American family farmers processed through our own ethanol production plants.

If you take feed stocks produced in the Caribbean Basin and use that in these, you are creating hundreds of jobs for every one that is created the other way.

It seems to me that job creation is the purpose of the Caribbean Basin Initiative and we should not by subterfuge undo that.

So I am asking people not only who want to protect the American farmer but also people who are interested in creating jobs through the Caribbean Basin Initiative to understand that when you vote on this bill or on these motions affecting 1910, whether it is a motion to table or a motion for an up or down vote, you are not going to be able to hide what you are doing to the American farmer.

So I ask people on the other side of the aisle who benefited from Republicans not being able to hide behind procedural votes when you were in the minority and you wanted to embarrass us, I think you ought to think about political ads that can cause you to be found guilty of voting against the American farmer, and the American worker.

Can you not see those political ads that might go something like this: "Senator votes against farmers, workers, and rural economy in order to favor special interests"? "Senator votes to allow subsidized European wine to flood America and displace ethanol that would be produced by the American farmer"?

I would not want to be in those candidates' shoes any more than I would want to be in the shoes of your effective ads used against Republicans when you took those votes in 1985 and made Republicans look as if we were against Social Security and against older people, which we were not. I think if you think about this issue today you may come to the conclusion that 1910 is just plain bad public policy from the standpoint of being against the American agriculture, and the American family farmer, as well as against job creation in the Caribbean Basin Initiative.

The question of striking section 1910 should not have to be a partisan issue. I do not mean to imply that it is partisan, yet, in this body. I am trying to convince people that it ought to be looked at from the economics, that it is not good economics.

In the other body when they debated this issue, there were Democrats who recognized how devastating this provision was, and I would like to quote Representative DURBIN, a Democrat from Illinois, with respect to section 1910. This is what he said:

> If we go along with the ethanol provisions in this bill for these five companies, we will displace desperately needed markets for American corn, up to 10 percent of the 1988 corn corp which could be displaced by this action in the trade bill. We will also eliminate a market for 250,000 tons of U.S. coal.

Let me say parenthetically that that should be of interest to Senators from the States of Pennsylvania and West Virginia, just to name two States that produce a lot of coal.

Representative DURBIN goes on to say:

> We will lose 500 jobs in America's ethanol industry, 3,000 jobs indirectly related, and will dump 200 million gallons of highly subsidized European wine alcohol into the American market. Mr. Speaker, let me also add that if this imported ethanol does not pay a duty, the taxpayers will pay the difference, $120 million in lost tariff revenues that we otherwise would have collected.

That is another issue that is involved here, and I am reminded by Representative DURBIN's statement. Section 1910 costs the Treasury of the United States $120 million, according to Representative DURBIN. That is $120 million divided among five companies. So you can see the subsidy.

Representative DORGAN, a Democrat from North Dakota, also expressed opposition to section 1910, and I quote him:

> The gentleman from Illinois is going to raise some concerns about the ethanol provisions in this bill. I share those concerns. Frankly, we should have had a debate on CBI to determine what kind of action by this Congress promotes and stimulates jobs in the Caribbean.

Let me say parenthetically that what he is trying to say is that this compromises the Caribbean Basin Initiative considerably, because it is not job creation and it is done without a hearing in this body and in the other body.

To go on:

> This legislation offers some opportunities for certain interests to move European wine alcohol or Brazilian ethanol through the Caribbean and up some drying towers and then into this country duty free. This is unfair competition.

Again to the point something Representative DORGAN says perhaps too casually here: To move this European wine into this country, and, he says, up some drying towers, shows that this is not a labor-intensive process and not a job-creation process, where they take some water out, which presumably changes it just enough so that it can come into this country duty-free.

Representative DORGAN goes on to say:

> I want CBI to work. I have seen the inactive cane fields in Haiti. Unemployment is rampant in countries like Haiti. I would like to see ethanol plants there. I do not fear that competition. I would like to see the opportunity for full-fermentation ethanol plants to operate in that region of the world because I think that would give those citizens down there some employment opportunities.
>
> But what we are doing in this bill is just wrong.

Mr. President, it was not too long ago that a goodly number of Republicans and Democrats in this body shared my concern about American farmers and our domestic ethanol industry and provisions like 1910. I have a letter in my hand, a copy of which was sent on November 2, 1987, to the chairman of the Finance Committee, Senator BENTSEN, expressing our concerns about the Caribbean Basin Initiative provisions. It was signed by 24 Senators. Half of these Senators were members of the Democratic Party and half were members of the Republican Party. Senators who signed this were people like Senator EXON, who is now on the floor with me, as well as Senators BURDICK, DIXON, HARKIN, RIEGLE, FORD, CONRAD, PRYOR, SIMON, GLENN, and SASSER.

I should like to read what we said back on November 2, 1987:

> We would like to draw your attention to two controversial tariff and trade legislative initiatives that could have serious consequences for the domestic ethanol industry and thousands of American farmers.
>
> First, it is our understanding that the House Ways and Means Committee recently approved an amendment to their budget reconciliation allowing certain Caribbean Basin ethanol producers to manufacture ethanol from feedstocks purchased predominantly from the EEC and Brazil.
>
> In last year's debate over tax reform, Members of Congress, the U.S. ethanol industry and American agricultural interests agreed—

All these various factions agreed last year, meaning in 1986.

> to establish requirements using increased percentages of Caribbean Basin feed stocks in the production of fuel grade ethanol for duty-free export to the United States.

Understand this:

> This approach was taken to insure that Caribbean Basin countries did not merely serve as conduits for duty-free importation of European and Brazilian Ethanol.

In other words, so that the Caribbean Basin Initiative would not be undercut—the purpose of it, which was job creation.

I continue to reading:

> The amendment proposed by the Ways and Means Committee would dismantle that agreement by allowing millions of gallons of Brazilian and European wine ethanol to enter the U.S. duty free.

The second point made in this letter to Senator BENTSEN:

> Second, the trade bill passed by the Senate includes an amendment providing a "grandfather" commitment to one 50 million gallon ethanol dehydration (dewatering) plant in the Caribbean. This provision represents a substantial cost to the federal government, both in lost tariff revenues and Highway Trust Funds. In addition, this plant will displace a market for 25 million bushels of corn while providing a market for heavily subsidized European wine alcohol.
>
> The Senate "grandfather" proposal and the House amendment will cause significant harm to the domestic ethanol industry and U.S. farmers. We recommend that the House-Senate Trade Conferees strongly oppose any effort to circumvent our tax and tariff laws regarding the importation of ethanol from the Caribbean Basin.

That is the end of the letter. As I say, this was signed by Republicans and Democrats.

As this letter reveals, Mr. President, we all expressed concern about one provision that would allow up to 50 million gallons of ethanol to be routed through the Caribbean Basin Initiative. We are told now that through section 1910, the problem is corrected; we compromised with the House. Now, instead of allowing 50 million gallons of European or Brazilian alcohol to flood American markets, section 1910 will allow up to 200 million gallons.

That is hard for me to understand. Fifty million gallons was a problem, and now it is corrected by allowing 200 million gallons to flood our markets.

I plead with my friends in this body, particularly people on the other side of the aisle, not to abandon rural America, with its family farmers, small-town businesses, and hard-working labor force.

If we could just have the benefit of some movie stars who have come to Washington to hold news conferences for the benefit of America's farmers, I think we would get attention for 1910 and show how bad it is for agriculture.

If we held news conferences as have been held in the past, with Jane Fonda and Jessica Lange, my colleagues might realize the gravity and devastation that section 1910 represents for the American farmers and the American workers. As I said, this is going to cost over 3,000 American jobs.

I suppose somebody is going to use the argument today that we do not have time to deal with controversial sections like 1910 and we are going to run out of time. I think that is just a case of where leadership, both Republican and Democrat, in this body decide their allocation of time.

If passage of a trade bill is very important for the economy of this country, then we can work out the few differences that there are going to be between the House and Senate.

And section 1910 has such little rationale behind it that once we lay out on the table what is wrong with section 1910, I think we can get it struck very easily, particularly considering the fact that it is antithetical to the motives behind the Caribbean Basin Initiative. All those Senators and Congressmen who were the originators of that ought to be concerned about what section 1910 does to that, particularly when we can show that we should not have to sacrifice up to $800 million in rural economic activity so that we can have a sweetheart deal with five companies Or, as Democratic Congressman DURBIN from Illinois stated, displacing up to 10 percent of the 1988 corn corp and eliminating up to 3,500 jobs directly or indirectly related to domestic ethanol production.

It just seems to me, I say to my colleagues, that this is an awfully steep price for us to pay. I am certainly glad that I do not have to explain to my farmers and rural citizens why this Congress was willing to flush hundreds of millions of dollars of economic activity and thousands of farmers and workers down the drain.

I am glad that I will not have to explain my support for this. I hope that my colleagues will think in terms that maybe they do not want to explain it either.

Why should five companies carry so much clout with this Congress that we are willing to turn our backs on the American farmers and workers?

I do not think we ought to be in a position where just a few people in the other body can dictate to us that we ought to take this bill with no amendments when there are bad provisions in it, like section 1910. Let us do instead what is right. Let us consider what sort of a compromise can be worked out on section 1910.

We have had one meeting today of several Senators, and its seems to me that there ought to be some way we can accommodate section 1910 so that those bad aspects of it can be corrected and maybe some other way found to strike it so we are not saddled with this.

Mr. President, I believe that I have laid out as best I can what is wrong with section 1910. As you noticed, I have not offered an amendment to this body, because I do think that there are those opportunities for working this out, and I hope that we do accomplish that goal.

Mr. Speaker, I ask my colleagues to think in terms of 1910 not only being bad for American agriculture, not just the corn farmer and agriculture generally, agribusiness, the small towns of North America, American workers who are going to be displaced, but it even compromises the purpose of the Caribbean Basin Initiative.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening very carefully to my friend and colleague from my neighboring State of Iowa. I generally agree with the statements and the concerns that he has raised, particularly about the importation of ethanol from the Caribbean Basin that is made from highly subsidized wine that is produced in Europe. When the Caribbean Basin Initiative was passed in the Congress there was no interpretation or belief that the ethanol would be in competition with raw product materials that are made in the United States.

So I agree, and I am concerned, and it is true that the Senator from Iowa and this Senator from Nebraska have been on many, many letters of concern and have joined in statements in opposition to the importation of ethanol produced from wines made in Europe. But to try and put this all in perspective, negotiations are going on, and the Senator from Iowa and this Senator from Nebraska have been appointed to try and work out some kind of a compromise that we all can agree to, to do the best that we can, and I underline "the best we can," given the situation that confronts us.

The world is never as we would like to see it and certainly legislation and the way it is passed and the amendments that are placed on it are not always the way we all would like to see it. I would probably suspect that most of us would agree that no perfect bill was ever passed by the Congress of the United States.

I do not mean to say that the Senator from Iowa is not bringing up a very valid point, and I wish that we could correct some of the problems that he has outlined today.

Having said that, I agree with the thrust of his remarks with regard to ethanol. I do not agree with the thrust of his remarks in regard to politics because I think this is not a political issue. I think whether we are Democrats or Republicans, we generally agree that something should be done to correct what we think is an injustice in this particular area. But the facts are the way the facts are.

While no hearings were held in either the House of Representatives or the U.S. Senate on this matter, it is true that the House of Representatives passed, or put their stamp of approval on the very measure that the Senator from Iowa is objecting to, by an overwhelming vote of 237 to 183. In other words, they said that this provision that he cites was correct.

I do not happen to agree with that position of the House of Representatives. I do not happen to agree with the action that was taken in conference on this matter, but it was.

Since that time, whether there were hearings or not, the House of Representatives, which is a coequal body, has spoken and they have spoken quite decisively. Therefore, I think we have to look at things as they are.

Mr. President, there are an awful lot of fish to fry, so to speak, on the trade bill before us. I would point out that while I am not enthusiastic at all and wish that we could make some fundamental changes, many of them outlined by my friend and colleague from Iowa, I would simply say that the trade bill has too much momentum. There is so much support for it on both sides of the aisle that it is going to pass.

Indeed, I wish that there were more of our Members on that side of the aisle who had voted to override the President's veto. Then we would not be here today tied up as we are.

The bill is going to pass because it is needed in America. Regardless of the ethanol amendment and the possible importation of ethanol into the United States from the Caribbean Basin that might be made from wine—I am not happy with that and I think it is bad—there are so many overriding pluses in this trade bill for agriculture that I would try and allay the fears of my colleague from Iowa that anybody is going to be launching negative campaign ads because it simply would not hold water.

This is a proagriculture bill, despite the fact that it does have this ethanol provision that this Senator objects to and wishes were not in there.

The Senator from Nebraska has fashioned a compromise, which I think eventually will be passed as a resolution after the trade bill passes. That will be sent to the House of Representatives for their approval. That simply says that we would strike section 1910 that the Senator from Iowa correctly objects to, but we would allow and give the authority to the Secretary of Agriculture and the Secretary of the Treasury to bring in ethanol if they felt that was in the interest of the United States of America.

There has been a suggestion made from that side of the aisle, which I think is a good one, to include the Secretary of Energy as one more Cabinet member that would have to pass on that.

I would simply point out also that I really do not believe that very many jobs are going to be affected, given this drought situation that we have in the United States today with many of our key corn producing States, in an unbelievably severe drought.

I think there is a legitimate question, Mr. President, as to whether or not we are going to have enough raw products in the form of corn and other feed grains that can be purchased at a price by our ethanol manufacturers to produce enough ethanol to serve the market that many of us have worked for years and years and years to create. And there would be nothing more devastating, it seems to me, than to find ourselves in a situation where, because of the drought, we would not be able to provide ethanol in the United States for that fuel additive portion that basically started in Nebraska years and years ago when I was Governor of that State when we coined the term "gasohol" which has now become ethanol and is now a key contributor to the energy independence of the United States of America.

So I simply say that if we could all get behind the compromise amendment that has been authored by this Senator from Nebraska as not a part of the trade bill but as a concurrent resolution that would then go back to the House of Representatives and give them a chance to reverse the position where they voted 237 to 183 to leave this in, we would probably be in the best possible position of all worlds.

I would simply say, Mr. President, let us move this bill ahead. I hope that my colleague from Iowa and this Senator can continue to work together, as I am sure we can, to resolve this matter because I simply say to all that it is very clear there are not going to be any amendments adopted as part of this trade bill. There are not the votes on either side of the aisle, and it is not a Republican or Democratic issue. I think we can resolve this as best as we can facing realities and not ideologies and come up with something that would protect our farmers.

I am simply saying that myself and others who have been effective spokesmen for the American family-sized farmer for many, many, many years are working in their behalf once again. I hope that all of us similarly situated can come to some reasonable agreement on this matter and not disrupt or interrupt the very important trade bill.

Mr. President, I yield the floor.

Mr. DANFORTH. Mr. President, yesterday I received a letter which was signed by approximately 100 organizations. The letter urges the Senate to pass this trade bill without amendment. Included in the list of signers of this letter are the Agricultural Trade Council, the American Farm Bureau Federation, the American Soybean Association, the National Grange, and the Rice Millers Association.

Mr. President, why did these farm organizations write us and ask us to pass this bill without amendment? They wrote us and asked us to pass this bill without amendment because they recognize that this trade bill in its present form is as important a piece of farm legislation as we have had since I have been in the U.S. Senate.

For those who believe in agricultural exports, for those who believe in expanding America's agricultural market, this bill is excellent legislation. It is excellent legislation because it strengthens section 301 of the Trade Act. It is excellent legislation because of its export enhancement program. And it is particularly excellent farm legislation because of the triggered marketing loan, which gives us a tremendous bargaining advantage in sitting down with other countries and getting rid of unfair barriers to U.S. exports and also of moving away from this world system of subsidies which now has made it so difficult for American farmers to compete in international markets. This bill is excellent farm legislation, excellent agricultural legislation, and that is why the American Farm Bureau Federation and other organizations have supported it.

Now let me address the ethanol question very briefly. This matter came up in the conference because it was a provision in the House bill. Anytime you have a provision in the House bill that is not in the Senate bill, it has to be worked out.

I was on that conference committee. It fell upon me to try to work out some sort of an agreement.

I agree on the merits exactly with the Senator from Iowa. I do not like this provision, either, but my job in the conference was to try to work out some sort of an agreement. During that process, my staff was in communication with the corn growers, my staff was in communication with the ethanol people, and we believed that we had their agreement. I believe now that we had their agreement for the present form of this bill.

Now, I do not mind people changing their minds, and I would like to get a better deal, too.

But I do want it understood that this was not something that was pulled out of the hat in the conference. This was not something that was materialized out of thin air in the conference. This was a tough bargain. And I was the person who tried to drive that hard bargain. I know people want to do better, but we did our best.

Now, my hope is that we do not jeopardize the entire bill because of this ethanol provision. As a matter of fact, since we agreed in conference, the effect of this provision has been pretty much overtaken by events. And the big event has been the drought.

Ethanol constitutes something like 4 percent of the entire use of corn production in the United States. Well, at a time when there is a surplus, it is very good to have something using up part of our surplus. As everyone knows, we are not going to have a big surplus in the immediate future. There is a big concern whether we can meet our obligations in export sales as it is with the present corn crop. We have to do that. But certainly a surplus, an overabundance of corn, is not going to be our problem in the immediate future.

Well, this provision in the bill which does allow the importation of European wine alcohol—and I am sorry that it does, that was the agreement. But it sunsets. It is capped and it sunsets and it sunsets in a year and a half.

So, I believe that by the time that we have surpluses again in our corn crop, that sunset is going to elapse. Because this bill is so important for American agriculture, among other reasons, it is my hope that we can pass the legislation. I have no doubt at all that if we start adopting amendments on the floor of the Senate, that does jeopardize the future of this bill and it is my hope, therefore, that we can figure out some way to address the concern of the Senator from Iowa without an amendment being offered to this bill.

Several possibilities have been suggested. One possibility is that this could be offered as a concurrent resolution subsequent to the passage of the bill and that the concurrent resolution would instruct the enrolling clerk to drop the provision. The House would then have to vote on that.

Another possibility is that we could take care of this in the textile bill or in the technical corrections bill or that we could do it in all three of those measures. I think that that would be worth pursuing. But I would hate to jeopardize a very good farm bill, which is the underlying trade bill, by offering an amendment at this particular point in time; and I would particularly hate to jeopardize a very good farm bill when there are other available methods to accomplish precisely the same result and when this particular provision expires, in any event, in a year and a half, during which time there is going to be a shortfall rather than a surplus of corn production.

Mr. President, I have spoken with the Senator from Iowa several times about this. I know that he has been involved in a series of discussions. So have the two Senators from Nebraska. My hope is that those discussions would continue to go forward and that the Senators would forbear in offering the amendment.

The **PRESIDING OFFICER**. The Senator from Florida.

Mr. **GRAHAM**. Mr. President, I do not wish to extend unduly the discussion on this issue. I want to particularly thank the Senator from Iowa and the Senator from Nebraska for their sensitivity to the importance of the overall trade bill as they raise an issue which is of very legitimate concern to themselves and to their States.

I would like to make a few closing remarks so that if we should return to this issue on a future bill we would have a more complete context in which to consider this issue.

First, I think it is important to understand just what this provision in the trade bill does. It is not a monumental piece of public policy. To put it in historical context, when the Congress passed in 1983 the Caribbean Basin Initiative, a program that was intended to encourage private sector free enterprise marketplace economies in a region of the world—the Caribbean and Central America—of obvious great importance to us, it provided for the encouragement of indigenous industries.

In approving the CBI we recognized the fact that we were starting in many of these countries from a very low base of economic development and therefore there would have to be a transition period. We recognized that certain products would get the benefit of access to the U.S. market without having to be fully produced from product within the region. The standard which was set was 35 percent of the content of value-added, which had to come from within the region. Based on that standard, requests were made by investors interested in investing in Jamaica and Costa Rica—two of our most important allies—for the establishment of an ethanol industry.

U.S. Customs, in 1984, reviewed these proposals and found them to be consistent with the statute which the Congress had passed a year earlier. So, based on congressional and executive representations, investments were made.

In 1986, during the consideration of the Tax Reform Act, an amendment was inserted which could increase from 30 percent the amount, of local feedstock required to qualify for CBI duty free treatment, to 60 percent in 1988 and 75 percent in 1989; standards which were wildly beyond anyone's reasonable expectation of Jamaica and Costa Rica's being able to realize.

The practical effect, Mr. President, of changing the rule, in the middle of the game was to put this industry out of business.

What this bill does, this very modest step, is say that the 1986 standards will be deferred until the end of 1989, essentially buying us less than 18 months additional time. And how will those 18 months be used? The statute calls for a study by the International Trade Commission and the GAO and a recommendation as to a fair local feedstock requirement that will be consistent with our CBI goals. I think those are prudent and not excessive delays of the new standards which were added by the 1986 Tax Act.

I might also point to a bit of history, Mr. President. As you know, because you were personally involved, this Senate, in consideration of the trade bill, had added some provisions that would have enhanced the Caribbean Basin issue. One of those, for instance, would have restarted the 12-year clock which began in 1983. It would have said we will start another 12 years beginning with the enactment of this act, which would carry it through 1999.

The House did not have such a provision. The House had some other provisions relative to enhancement of the Caribbean Basin economies. In the process of negotiation that goes on at the conference committee, the Senate provision on the 12-year extension was deleted. The House provision on ethanol was added. So this Congress has indicated in both Houses a desire to be forthcoming in terms of the Caribbean Basin and has selected this item to underscore its commitment to this strategically important region.

I believe, Mr. President, that if we were to delete this item it would send a tremendously negative signal to an important region for U.S. interests. We are about to have what could be a raging debate in this Chamber on the issue of continuing United States aid to the Contras in Nicaragua. However we may vote on that issue, we all recognize that the fundamental problem in this region is not the provision of additional bullets and hand grenades; that the real issue is how we build an economic base that will sustain strong political democracies in a region of great importance to the United States, as well as to those people who are our nearest neighbors.

We also understand that this is an important area for the United States in terms of our overall trade. One of the things that has struck me, when you go to the Caribbean and Central America, is how often you see the names Caterpillar, General Electric and other major American industrial producers.

With respect to agriculture, although many of these islands and nations were at one time great agricultural centers and producers of goods for the world, they have, unfortunately, been unable to sustain themselves. The country of Trinidad-Tobago, one of the most economically advanced nations in the region, imports 70 percent of its foodstuffs. And where does it import the 70 percent of the food that the people of that island nation consume? From the United States of America. They are major markets for our industrial and agricultural goods.

Mr. President, it would be excessively redundant to the debates that we have held in this forum to talk about the importance of this region as it relates to drugs. This is a major funnel of the international drug trafficking that brings drugs to the streets of Des Moines, the streets of Durham, the streets of Kansas City and, unfortunately, to the streets in virtually all the communities of this Nation.

Again, a key to our efforts to get a strong international aggressive and effective offensive against drugs is going to be to work for the economic well-being of these countries.

Mr. President, these are all issues that are part of this debate. I am hopeful and, if my hope is realized, appreciative of those who are concerned about this item, that they would allow us to forego that debate on this critically important trade bill. But should we have that debate at a future time, I would urge the Senate to be prepared to look sympathetically and empathetically at what is in the best interest of American agriculture, including that portion of American agriculture which is concerned with this potential ethanol industry in the Caribbean Basin, and to be sensitive to the impact our actions will have on a region of great security, economic and political importance to the United States.

Mr. President, there are many good reasons to vote in favor of the revised trade legislation before us today. One of the more compelling ones centers on an ethanol fuel shortage brought on by a drought that is drying up supplies of corn—the main ingredient in U.S. ethanol fuel production.

A provision in this bill will help us meet the growing demand for ethanol fuel—while also allowing us to promote economic development in the strategically important Caribbean Basin. The result will be increased ethanol fuel supplies at a time when many of our metropolitan areas are scrambling to find cleaner burning ethanol fuel so that they can meet clean air standards.

The language in this bill represents a carefully crafted and reasonable compromise that balances the interests of domestic producers, domestic consumers and Caribbean Basin ethanol investors. It does so by temporarily suspending—until the end of 1989—a requirement that Caribbean ethanol producers more than double by next year the use of Caribbean based feed stock—primarily sugar—in producing ethanol.

A cap of 20 million gallons per facility per calendar year would also be placed on each of five ethanol facilities established in CBI countries.

In the meantime, the International Trade Commission and the General Accounting Office would study the economics of ethanol production in the region and recommend to the Congress an appropriate domestic feedstock requirement—one that will ensure meaningful production and employment in the Caribbean region.

Mr. President, the ongoing ethanol debate is a perfect example of how we can ensnarl ourselves in controversy by trying to strike a balance between foreign policy objectives and domestic needs. In this case, however, our foreign and domestic policies need not be at loggerheads. They can, and should be, mutually reinforcing.

To see how this is so, we need to keep two points in mind.

First, the United States made a comitment to economic development in the Caribbean Basin when this administration proposed and the Congress approved the Caribbean Basin Initiative in 1983. As a result of that commitment—a commitment that clearly is in our own interests—the United States encouraged ethanol production in the Caribbean Basin.

Second, this country's ethanol producers do not produce enough ethanol to meet domestic demand—a situation that is bound to worsen with the drought—as skyrocketing corn prices make the diversion of corn stock to ethanol production economically impractical.

Due to high corn prices, as many as 100 to 200 million gallons of ethanol production may be forced to shut down by late summer, according to industry sources. That is a significant amount for an industry that produced only 800 million gallons in 1987.

Today we import less than 4 percent of U.S. domestic consumption from CBI countries. Our need for ethanol is expected to double by 1990. Increasing consumption has already resulted in an ethanol shortage on the west coast as well as periodic shortages in other areas.

If there ever was a happy marriage of foreign policy and domestic objectives, this is it. We've got an ethanol shortage; Caribbean Basin countries can help fill the demand. They can do so while at the same time providing despearately needed jobs for their people.

Opponents of this provision argue that the ethanol industry in the Caribbean Basin is simply running a pass-through operation, that by dehydrating European feedstock they produce few jobs and undermie the goal of the CBI. They believe therefore that CBI-produced ethanol should not qualify for duty-free treatment.

In fact, CBI producers went into business based on a 1984 customs ruling that CBI-produced ethanol would meet CBI standards requiring that it contain 35 local value added and that ethanol dehydration constitute "substantial transformation." Without these assurances, producers would have had to pay 60-cents-per-gallon duty and would never have made a $53 million investment.

That investment has produced jobs in the CBI nations. More than 10,000 workers are employed directly in the CBI ethanol industry.

Despite the CBI ethanol industry providing jobs and helping to make up an ethanol shortage in this country, the domestic ethanol industry convinced the Congress in 1986 to change the rules of the game. Under the Tax Reform Act of that year, ethanol imports into the United States under CBI are required to use 30 percent CBI feedstock in 1987, 60 percent in 1988 and at least 75 percent in 1989.

Although this may seem to be a practical graduation—given the surfeit of CBI sugar—there is in fact no way CBI ethanol producers can meet this criteria under this timetable.

In theory, large quantities of alcohol could be produced for feedstock from excess CBI sugar. But with world sugar prices at 11 cents per pound, diversion to alcohol for ethanol production is not profitable. Indeed, sugar prices would have to drop to less than 7 cents per pound to make sugar use economically feasible.

There are, of course, sugar lands that have been idled because of an inability to produce sugar economically at previous world market prices. Ethanol producers are working to integrate these lands as part of a full and integrated fermentation process. But this is both timeconsuming and risky.

For example in the case of idled lands, to rehabilitate and replant fields takes approximately 2 to 3 years. Moreover, construction of new fermentation facilities is costly and takes nearly 2 years.

Mr. President, the language in the trade bill is a reasonable—a pragmatic—compromise that will allow the Congress to take another look at the ethanol question. I urge my colleagues to support it by opposing any amendments to the bill.

Mr. **MATSUNAGA** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Hawaii.

Mr. **MATSUNAGA.** What is the present parliamentary situation?

The **PRESIDING OFFICER.** The bill is pending and it is open to those amendments that have been designated.

Mr. **MATSUNAGA.** Mr. President, I rise to express my support for H.R. 4848, the Omnibus Trade and Competitiveness Act of 1988.

Mr. President, as I stated in my remarks on the conference report on H.R. 3 last April, I believe that by and large the conferees on the omnibus trade legislation produced a moderate bill that modernizes the major provisions for trade laws to conform to the realities of the global economy of the 1980's. The central message of the pending legislation is that the United States must insist on reciprocal market access and trading opportunities in other countries similar to that which we afford to foreign firms in our country.

H.R. 4848 is not a perfect bill, but in legislation of this scope, every legislator can find some provision which he or she would prefer to drop or change. But on balance, I believe H.R. 4848 is a bill that deserves the support of the Senate, based on the bipartisan basis on which the bill was developed.

Mr. President, in my view, two of the most important provisions in the bill happen to be measures that I introduced. On February 5, 1987, I was the original sponsor of legislation to renew the negotiating authority of the President to submit trade agreements, both bilateral and multilateral, on the fast-track for congressional approval. Providing renewed negotiating authority for the President is critical in order to allow the ongoing Uruguay Round of multilateral trade negotiations to have a chance to make expeditious progress. I know a number of our trading partners have questioned the United States' ability to negotiate seriously in the Uruguay Round without the President having renewed negotiating authority. Many of the international trade problems that have been raised by Senators during the course of our deliberations on trade legislation can only be addressed through multilateral agreement, not by unilateral legislation. Until the President is empowered to conclude such trade agreements and submit them on the fast-track, agreements to address such pressing global issues as the subsidization of international agricultural trade and better international market access for services industries, these negotiations are unlikely to move ahead.

The second critical provision in this bill is the amendment I offered during floor debate last year to implement the Harmonized Tariff System for the United States, replacing our current tariff system. At this juncture, the United States is the only major trading country that has not yet implemented the Harmonized System, a fact which is causing considerable confusion and complications for our own trading community. The amendment in the bill implements the Harmonized System as of January 1, 1989. We need to make it clear as soon as possible that the Harmonized System will be in effect as of that date in order to allow many firms which are already placing orders for next year to operate their businesses with some degree of certainty. In addition, many companies will need to train and retrain their import specialists in advance of this changeover in order to minimize the transition problems that will inevitably occur during the change to the Harmonized System.

There are many other provisions in this bill, too numerous to mention, which represent a constructive contribution to existing law and practice in regard to our trade policies. Most notable are provisions requiring negotiations to obtain reciprocal market opportunities for U.S. telecommunications firms in foreign markets; improving the reporting of Government trade statistics to include a volume index and eliminate the overstatement of the size of imports in monthly trade figures; reform of our system of export controls and licensing; reform of the Foreign Corrupt Practices Act and the development of a better adjustment process for industries which are injured by fairly traded imports.

Despite my support for the overall legislation, Mr. President, I must express my concern regarding two provisions of this legislation which in my view will likely cause as many problems as they solve. The first area of concern I mentioned in my statement of April 25 of this year, is what I view as the bill's potential overreliance on section 301 of the Trade Act of 1974 as a part of our trade policy. The effectiveness of section 301 actions is predicated upon recognition that it is a limited tool, not a panacea for solving trade problems. The greater frequency with which it is employed in actual retaliation, the less effective it is likely to become as a future negotiating tool with foreign countries. This is particularly likely with the new and expansive unilateral definitions of actionable practices under this statute.

That being said, it should provide no excuses for those countries which prefer to hide behind merchantilist or restrictive trading practices, thinking that the United States will in no case respond to foreign trade barriers. The relatively open U.S. market has provided an engine for economic growth and development for many countries around the world and in order for this process to continue, the growth of trade must be a two-way street.

Mr. President, I also wish to reiterate my previous remarks regarding another important part of this bill which modifies the existing laws on export controls and licensing procedures. These export control reforms represent a constructive change in the law which will reduce the handicaps that are placed on American exporters by their own government, without jeopardizing the necessary security restrictions that we must have to prevent the transfer of militarily sensitive equipment, technology and data to Eastern bloc countries.

However, I share the view of the Departments of Defense, Commerce and State that the mandatory prospective sanctions provisions of this bill, in attempting to punish foreign firms that violate Cocom regulations, could well prove counterproductive by creating disunity where only cooperation will strengthen Cocom. This provision has already been criticized by other Cocom countries as asserting U.S. jurisdiction in cases where only a foreign, not American, law has been violated, and where no U.S. product or technology is involved.

According to an analysis by the Commerce Department of information contained in the Export Administration Annual Report to Congress, 83 U.S. firms or individuals have been sanctioned for violations of our Export Administration Act during the last 3 years. Of these violations, 25 have committed offenses of either exporting or attempting to export Cocom-controlled goods to a Cocom-proscribed destination. If other Cocom member nations decide to enact similar legislation allowing sanctions against U.S. firms, we could easily create a trade environment where many firms will face multiyear export bans in most of the developed world. This sort of outcome will in no way improve the control of technology transfer to restricted destinations, and if everything, may well weaken the effectiveness of the Cocom agreement.

In summary, Mr. President, I believe that the Congress has crafted a bill, on a bipartisan basis, which addresses many important issues in building America's trade future. Significantly, the bill gives direction toward some of the steps the Government is able to take to promote our international competitiveness, such as the better dispersion of technologies to smaller firms in the economy. In this regard, we as a nation must continue to promote the development of our human resources, which is the real key to competitiveness in an increasingly technological world. There are many challenges ahead in regaining our competitive edge. And many of those challenges will have to be primarily confronted by private industry, not with legislative solutions.

Most of our trade deficit is a result of the imbalanced macroeconomic policies that we have undertaken in this country. Reducing that deficit will require serious adjustments in our macroeconomic policies including increasing the rate of savings in our domestic economy. As other Senators have pointed out, the Congress cannot effectively legislate a reduction in our trade deficit. H.R. 4848 does not attempt to do that, but instead puts forth a comprehensive plan to direct American policymaking in adapting to the growing role of international trade in our economy. Mr. President, I urge my colleagues to support the passage of H.R. 4848, the Omnibus Trade and Competitiveness Act of 1988.

I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, in a few moments, I am going to send an amendment to the desk, but before I do, I want to make a couple of points which I think many in the Senate are either unaware of, or are only too well aware of, depending on the favors with which one may or may not have been treated.

This bill, in addition to being a trade bill, is chock of full pork. This bill has a variety of provisions in it which have absolutely nothing to do with trade but with Members' personal interests.

I know that somebody is going to come along and say that Senator BAUCUS and I have, with the lamb imports, put lamb in pork casings, but I suggest that what we did and how the conference treated that is entirely different than those items which I will bring up here.

The difference is that the compromise calls for treating lamb as a perishable item under section 201 of U.S. trade law to provide fast-track relief for the industry should it be injured.

This is a GATT legal formulation for import relief. It requires an injury test, and the relief is granted under an article 19 escape clause, and the President can waive the relief in that instance if it is not in the national economic interest. Also, the International Trade Commission is directed to begin monitoring lamb imports.

The original amendment, which Senator BAUCUS and I cosponsored, was a technical amendment. It merely put sheep producers on an equal footing in trade law with beef and other meat producers. Beef imports are already covered by provisions in the Meat Import Act, but lamb was not included because, at the time, lamb imports held only 1½ percent of the domestic markets and beef imports held 10 percent Now that situation is quite reversed and lamb imports hold 10 percent, while beef imports hold less than 8 percent. So the amendment was technical and trade related, and the original amendment was designed to prevent surges of lamb imports from disrupting the U.S. market and nothing more. In fact, the basic limit was greater than the highest level of imports ever achieved into this country.

So lest one try to include that in these provisions, I might just suggest that those were technical amendments. Some would argue otherwise. But if it were to be the case, I would put those as well into the amendment which I will introduce in 1 minute.

But I want to talk about one other thing before getting to my amendments. There will be two, one of which is sort of a pork elimination amendment and one which will eliminate the council on competitiveness.

I think many Senators do not realize that the cost of implementing this bill, over and above the trade provisions, will run in excess of $5 billion—2.3 almost immediately.

The problem I want to talk about is something that I had intended to offer an amendment on and decided not to because I see that already my concerns have been answered when this Senate decided that it did not want to enforce the provisions of the Helsinki accords. If they do not want to do that, they clearly do not want the provisions on worker rights.

Worker rights is an admirable goal, and no country in the world has achieved more in the way of worker rights than has the United States of America.

Workers' rights in other countries is an admirable goal, but one has to ask how consistently sponsors of this legislation intend to have that provision applied.

I do not believe that any of those who are professing support for this piece of legislation are here to tell me today or will stand up and tell me today that they are going to enforce the provisions of that definition on the Soviet Union, on the People's Republic of China, on any of the east bloc states, or on any of a number of others.

This is an entirely subjective judgment that is going to be used probably and primarily and principally for racial purposes. If the people's eyes happen to be slanted and their skin happens to be yellow, you can believe that these criteria will be raised. If it happens to be the Soviet Union or one classified as semi-enemy, you can believe that they will not.

Let me just read what those provisions are, Mr. President. "Trade retaliation is acceptable if the country in question shows a consistent pattern of conduct that, first, denies workers the rights of association."

Does the Soviet Union do that? Does Hungary do that? Does Romania do that? Does China do that?

"Second, denies workers the right to organize and bargain collectively."

When was the last time we saw collective bargaining in the Soviet Union? When was the last time we saw pictures of them hammering down collective bargaining in Poland? When was the last time we saw anybody engaged in collective bargaining in any of the Iron Curtain countries, Communist bloc countries with whom we do business?

"Third, permits any form of forced or compulsory labor."

I would ask anybody who thinks that we are likely to uniformly apply that provision around and about the world. We have had an amendment here which we did not adopt dealing with Soviet furs. We have seen charges and affirmation of Soviet slave labor in the construction of a pipeline and in other goods.

"Fourth, fails to provide minimum age for the employment of children."

An admirable goal but it does not specify what the minimum age is, does it? The minimum age for the employment of children could be 3, it could be 5, it could be 15, it could be 20. It is an entirely subjective judgment that is not defined by this legislation.

"Fifth, fails to provide standards for minimum wages, hours of work and occupational safety and health of workers."

What are those standards to be? Who is to judge their adequacy? None other now than the U.S. Trade Representative, not even the President of the United States. As my amendment on 301 failed, those provisions will now be determined and defined by the U.S. Trade Representative.

Mr. President, I am here to say that I agree with those principles, that I wish other countries all over the world had that. I wish other countries all over the world had the standards U.S. workers have. I wish Mexico did. I wish Nicaragua did. I wish Panama did. I wish Argentina did. I even wish Canada did, or the countries of Africa, or Asia, or other places. But they do not, and they will not on the basis of the definition by the United States, so a standard that has been arrived at and achieved in this particular piece of legislation, wholly subjective, wholly becomes an excuse in which to operate retaliatory trade mechanisms if powerful interest goups come to play.

You and I know that nobody is willing to say that they expect this standard to be applied uniformly throughout the world. Were it to be, we would trade with ourselves in the morning because none of the countries meet the standards that this United States has achieved—in occupational safety and health, workers' rights to organize and bargain. They are as free here as anywhere in the world. Workers' rights of association are as free as anywhere in the world.

We do not have forced or compulsory labor unless one starts to talk about license plates made in prison factories or some other kinds of events such as that, but even those I understand can be challenged as compulsory and people do not have to do it.

Our minimum wages and hours of work, occupational safety and health standards are as high as any in the world. But they are not uniform around the world. So when we do not apply it uniformly, against whom will we?

If the behavior of America is to be forecast on the behavior of America in the past, we will exercise those provisions against friendly countries and not against those which come under the term "adversarial."

We have had trade problems with Korea. We have virtually no trade with North Korea, but does anybody here think we would stop initiating it if that opportunity arose on the basis of the behavior of the North Korean Government toward the North Korean people? Most North Koreans are forced against their will to work 12- to 16-hour days even though there is a right to no more than 8 hours of work guaranteed in their Constitution. In practice the Government routinely uses military conscripts or forced labor and the recent demobilization of North Korean forces is really nothing more than a ruse because those troops have been shifted into working on large-scale construction projects, now civilians, no longer troops, but against their will and under the same requirements and under the same harsh circumstances.

Will we, if we have an opportunity to engage in trade with North Korea, be willing to apply that standard? I think not. What about Afghanistan? We are supposedly watching a Soviet pullout from that country, yet the regime there routinely orders youth to do forced or compulsory labor. In October 1987, 1,800 youths from various educational institutions were forced to go to Kandahar to participate in construction work, but worse than that, even as we speak and even while the so-called Geneva agreements are in place, Afghan children are taken against their will to the Soviet Union for long-term training and indoctrination without their parents' consent and in most cases even their knowledge. Are we going to treat them more harshly than their neighbor and our friend Pakistan? Mr. President, I suggest that that is not likely to be the case.

So I just want to say, Mr. President, that one of the provisions that lies within this bill, that sounds so sweet and is such an admirable goal, has not an admirable purpose in mind by those who advance it. Its purpose is trade retaliation against selective countries in the world, make no mistake about it. Its purpose is not being uniformly applied.

So as we proceed down this path, I think it is important to recognize that there are literally hundreds of pork provisions, and I will address a few of them in an amendment in a little while. There is a user-fee airport in there for Pontiac/Oakland, MI. There are price supports for sunflower seeds. There are fees for corngrowers. There is a special duty elimination for a project in Hawaii.

There is a whole variety of pork provisions, and I will address those. But for now the purpose of the amendment, which I will send to the desk in a moment, is to delete the so-called Competitiveness Council. The Competitiveness Council, Mr. President, is nothing other than the name or nothing other than the council under a different name that was called by our friends on the other side, and one time most people rejected as an industrial policy group. It is essentially a socialist event defined and devised to sort of order about the American economy. This is a council, costing $10 million, on competitiveness with 12 members, all of whom are going to be paid the rate comparable to that received by a GS-18 Government employee, or more than $70,000 a year. You can believe this is not going to be full-time work, and you can believe these are going to be plums passed out to richly deserving political friends around and about.

The council is to develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of U.S. industries. One would have to ask what is now noncompetitive about U.S. industries and what is now uncompetitive and unproductive about U.S. industry? It had the largest increase in productivity in the history of industrial countries in this world in this century by the great workers of the United States of America. Yet we are going to try to figure out how to increase their productivity.

The U.S. economy at the moment of the stock market crash, some say triggered by news of this trade bill, was expanding at its most rapid rate since 1983, industrial production up over 5 percent, total jobs up over 5 million, manufacturing jobs up 340,000 from the year before, a growth rate that has expanded 466,000 a year as of April of this year. Since 1982 industrial production has almost silently, because nobody around seems willing to say these things outside because it does not serve the purposes of the trade bill, risen by over 26 percent compared with Japan's 22 percent. So much for exported jobs and exported industry.

West Germany is 11.6 percent and Europe in general is 8.8 percent. It is true that large corporations lost 1.4 million manufacturing jobs between 1974 and 1984, but those losses were virtually made up by positions created by 41,000 new industrial companies formed during that period. Those are companies with fewer than 250 employees, which now make up 42 percent of all the manufacturing employment and could constitute—if we do not destroy it here—an absolute majority of all jobs in America by the early 1990's, vibrant, growing companies, and we are trying to figure out how to get them to be productive and competitive.

In 1986 U.S. financial wealth as measured by the Federal Reserve flow funds analysis reached 244 percent of GNP, an alltime high and up hugely from the 181.4-percent level of 1981. Even after the stock market crashed, that figure remains over 240 percent.

A recent National Institute of Economic and Social Research study showed that the United States now has the most competitive labor costs in the world. U.S. exports are soaring, particularly merchandise exports which are rising at a 30-percent rate. Manufacturing production is now rising at a 6.4-percent annual rate, the fastest of the major industrial nations while Japan is now importing some of its own cars from the United States.

As of the latest quarter, U.S. productivity stands 29-percent higher—29-percent higher than in 1981 when President Carter left office for an annual average rise of 4.2 percent a year—the greatest and most prolonged rise in U.S. history. But we need a council to understand and talk about and tell us and advise us about productivity. At the same time of this astonishing rise in productivity, unit labor costs in manufacturing as of the last quarter stand nearly 1-percent lower than in 1981. After a 29-percent rise in productivity, unit labor costs are lowered by 1 percent during that same period.

Since 1982, Japan has not matched our own requirements. In fact, our employment has grown three times as fast as Japan's and 10 times as fast as Europe. We are now close to full employment in this country with our employment ratio at a world record 62.3 percent of our adult population. In fact, over the last 12 months the Labor Department reports that 63 percent of all new jobs were managerial and professional, and those are its highest paying and skills category, while only 1 percent were in the so-called service occupations commonly referred to as hamburger flippers.

The United States has created 90 percent of all the new jobs in the Western World since 1980. And this upward income performance in an era of exploding competition has been miraculous to say the least and a testament to the fact that the U.S. economy continues to be a quiet success. If, however, our country is continually told that its future is bleak it will sooner or later lose its self-confidence. Some perhaps in here would see that as perhaps a moment of political opportunity. We would move away from the growth in investment which brought it to where it is today.

Mr. President, I hope this Senate will see to it that we do not make this a self-fulfilling prophecy by adopting a Council on Competitiveness that we do not need. The world wonders how we have become so productive and so competitive. And why do we need at this moment in time a council that is going to cost us $10 million to tell us what is the world record and achievement of which every single American can be astonishingly proud?

Mr. SYMMS. Will the Senator yield?

Mr. WALLOP. In just one moment. I would like to send my amendment to the desk and ask that it be stated.

AMENDMENT NO. 2789

(Purpose: To delete the Competitiveness Policy Council)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 2789.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 827, line , insert the following: strike Subtitle C—Competitiveness Policy Council Act, beginning on line 17 through page 846, line 19.

Mr. WALLOP. The amendment is simple. It simply eliminates the Competitiveness Council.

Mr. SYMMS. Would the Senator make any statement—if he would for my edification—or restate what was the geneis of where this amendment came from? Was there a hearing on this in the Finance Committee?

Mr. WALLOP. It arose in the Finance Committee. My guess is that it arose as a part and parcel of what was basically the Democratic Party's old industrial policy group, industrial policy council. The competitiveness and productivity council has a sweeter sounding name, and who can speak—not the Senator, and not I—against competitiveness or productivity? The question is what do we get for our $10 million? What can they do to tell this country that it has not already done better than it could be told? We know, the Finance Committee knows, a lot of other Senators know, and we are still unable to get it done, that R&D in the Tax Code is critical to the future of America as competitiveness and sustained productivity. But last year we had that passed. And we had it paid for. But last year they took away the R&D credit and used what we had to pay for it to pay for some of the folderol of the reconciliation bill.

What we do not need is the Competitiveness Council. We need a Senate and a House of Representatives that are committed to creating the business climate that makes for jobs and future economic prosperity for each and every American. But we do not. We indulge ourselves with pork in the rest of this bill and a Competitiveness Council that makes us look as if we care at home, and we do care, but the problem is that the care we show is demonstrably not needed. It is just money we are spending.

There are all kinds of ways in this Government to study what we do: the Department of Commerce, the Department of Agriculture, the National Science Foundation, which is another piece of pork that arises later in this bill. We have all kinds of places, and we have a private industry that is leading the world in research and development. Our job is to provide them with a means to do it, not a council that tells them, "You guys ought to have a tax reduction to foster research and development or do some other things." We know that. They know that. But we do not need $10 million to be told.

Mr. SYMMS. I think the Senator makes an excellent point, and I compliment him on the amendment.

It is obvious, also, that we have the economics departments in the business schools and private and public institutions all across the country that do these things for us. We have all kinds of think tanks that do these kinds of studies if the country needs one, not to ask the taxpayer.

I would think that $10 million might do more good for competitiveness and freedom if it was given to the Contras so that they could establish some freedom of their own, instead of spending $10 million of taxpayers' money here for a very obviously unnecessary piece of pork that is in this bill and is not needed.

I thank the Senator for yielding.

Mr. WALLOP. Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak in opposition to this amendment. Am I correct that the pending amendment is the Wallop amendment to strike subtitle C—the Competitiveness Policy Council Act?

The PRESIDING OFFICER. The Senator is correct.

Mr. BINGAMAN. I would like to speak in opposition to the amendment and just give a little background for the Members of the Senate.

The amendment that is being offered really follows the argument that was laid out earlier when the President vetoed the trade bill. He said in his veto message that this is "a mistaken effort to revive discredited industrial policy planning through a so-called Council on Competitiveness that will open even more venues for special pleaders."

I think the President misconceived what is intended here, and I think the Senator from Wyoming misconceives what is intended here, and I should like to try to put that in the RECORD.

The problem today is that we have an extemely fragmented system that encourages special pleading. The Competitiveness Policy Council is an attempt to overcome that fragmentation by focusing our national attention on the broader and the long-term public interest.

The Competitiveness Policy Council that is contemplated and provided for in this act would be a focal point for discussing the problems of economic competitiveness in the broad rather than narrow view. It would be a mechanism for solving those problems by bringing together leaders from business, labor, government, academia, and public interest in general. It would assure a badly needed independent review of the competitiveness policies of the Federal Government.

The proposal is to have 12 members—4 each appointed by the President, the House, and the Senate. It is intended that Council be bipartisan, that no more than 6 members could be from the same political party, and the membership would be equally divided among leaders from business, labor, Government, and the academic world and public-interest groups. Members would be removable only for cause, and therefore the Council would be totally independent.

The Council would recommend national strategies for improving U.S. productivity and international competitiveness. It would comment on private-sector requests for Government assistance and evaluate the impact of Federal policy on the ability of U.S. business to compete internationally. It would report annually to Congress and the President on its findings.

It would have no executive powers: Its mission would be strictly to diagnose and advise and try to build a consensus on helping the development process.

Some have argued—the sponsors of it would not argue—that this is unnecessary, that it is counterproductive, that we have other groups that could do this. The fact is that they are not doing it. We have a lack of a coherent trade and competitiveness policy today, and I think that is proof enough that we do not have a mechanism in place that functions in the way we hope this could function.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. BINGAMAN. I yield.

Mr. SYMMS. I hear what the Senator is saying, and I appreciate the point he is trying to make. But is not the fact that we have created more jobs in the last 7 years than have been created in Western Europe and Japan combined—is that not enough of a statement to say that we do have some kind of policy here that is an industrial policy that seems to be working? More people are working and our economy has been expanded, whereas other economies have been lagging. What more does the Senator need for a statement?

Mr. BINGAMAN. What we need is some way to deal with the enormous trade deficit we have created in recent years. We have a $160 billion trade deficit this year, which is not going away. That deficit has been reduced slightly. I have great difficulty—given present policies and following them forward—in seeing how that trade deficit is going to be below $100 billion in the foreseeable future. We need some group, a blue-ribbon panel such as this, which would help us to identify some policies to move in that direction.

Mr. SYMMS. Why not use the University of Chicago School of Economics?

Mr. BINGAMAN. There are some who do not believe that the University of Chicago School of Economics has all the answers.

Mr. SYMMS. How about the University of New Mexico?

Mr. BINGAMAN. There are some who might argue that they do not have all the answers.

Mr. SYMMS. Does the Senator believe that spending $10 million of taxpayers' money is going to reduce the trade deficit?

Mr. BINGAMAN. I think that if this Council is given the attention it deserves under the next administration, as I hope it will be, the small cost involved in setting up this Council and funding it represents a tremendous bargain in the benefit we would receive, long-term, in our economic prosperity. I hope that is the case.

Let me say clearly that if the next administration wants to ignore this Council and give it short shrift, then obviously it will not be a helpful tool for helping us to make good policy. But if the next administration would like to pursue some of the long-range problems that need attention, in my judgment, I think this Council could be a very useful tool in helping that to occur.

Let me finish the explanation I was making before the question was asked.

The competitiveness index which was put together by the Council on Competitiveness, which is a nonpartisan group with national leaders from business, labor, and academia—I believe John Young is head of that group—shows that the United States is behind in all four measures of competitiveness we have identified: standard of living, trade, productivity, and investment.

The standard-of-living index has dropped 21.1 points since 1972; the trade index dropped 17.4 points; the productivity index dropped 31.3 points; and the investment index dropped 3.8 points; in the last year that they made a measurement, both the standard of living and the productivity index continued to drop.

In short, I think it is clear that the competitiveness problems that many have foused on have not gone away. They continue to need attention, and there are many groups in the business sector as well as in the academic world that have underlined this—the National Association of Manufacturers, the Business Higher Education Forum, the Semiconductor Industry Association, have all come up in favor of this proposal.

I need to just quote for a moment from some testimony we received. The question was asked earlier did this just come up without a hearing. We had extensive hearings in the Governmental Affairs Committee on this proposal. Some of the testimony we received was from Alexander Trowbridge, president of the National Association of Manufacturers, and his testimony went as follows on this issue. He said:

> The idea that there should be a permanent prestigious body concerned with global competition and America's economic future is meritorious indeed. There is a gap today between our faith in markets and the chilling wisdom of *Proverbs*, "Where there is no vision, the people perish." It is a gap that a high-level body, respected by the President and the Congress, could fill, or begin to fill. A Council on Competitiveness could be relied upon to provide fresh thinking and occasionally to lend support to important ideas that, absent a respected neutral advocate, might not be politically viable.

The problems are real and the solutions will be difficult. We can best improve our economic competitiveness with active structural reform, rather than with the current costly program of declining exchange rates and declining real incomes. Creation of the Competitiveness Policy Council is a step forward toward rebuilding our economic foundation.

Mr. President, in my view, the council is a good step. It is something that is important in this trade bill. I believe the Governmental Affairs Committee acted properly when it voted this out. I believe the Senate acted properly when it included this in the legislation considered earlier. I would resist the effort by the Senator from Wyoming to delete this from the legislation pending today.

I yield the floor.

Mr. WALLOP. Mr. President, before my good colleague from New Mexico sits down, would he be so kind to respond to a question?

Mr. BINGAMAN. I would be glad to.

Mr. WALLOP. If this Competitiveness Council has so much confidence from the Senator from New Mexico and the Congress in general, perhaps he would be good enough to explain to me why we have included 100 studies in this trade bill.

Mr. BINGAMAN. Why we have included 100 studies in the trade bill?

Mr. WALLOP. One hundred studies are in this trade bill on absolutely everything under the sun.

I would be willing to endorse the Competitiveness Counsil if he thought that it would stop the Congress from mandating spending.

Mr. BINGAMAN. I would suggest to my colleague that I do not know of any bill approaching this size that goes through the floor of the Senate that does not have a great number of studies included in it. That is the defense authorization bill. That is the trade bill. That is most tax bills.

I think we have a proclivity to urge various sectors of the Federal Government to study things, and I do not think that is all bad. I think even with the studies that are done we generally do not have very good information when we have to make decisions around here.

Mr. WALLOP. Mr. President, I would suggest that I do not think I have an answer. I do not mean that pejoratively. I just think that presumably the studies in the trade bill are directed toward competitiveness or productivity or any of a variety of things that could fall under the aegis of the studies of this council.

It is clear to me that we are dealing in symbols and perhaps a symbol is worth $10 million a year, but the average American taxpayer who foots the bill for all of these plus 100 studies is going to have great difficulty in seeing the benefits to him.

I would note that my friend from New Mexico, in citing those who had embraced this most enthusiastically, represent the biggest in America, not the most productive, and certainly not the major part of the American economy.

I would suggest if he has great difficulties in seeing how the trade deficit is going to drop below $100 million that he and others might join with me on a council to study energy policy because if you want to look at our trade deficit, the major principal contributing factor is our energy thirst from abroad.

Mr. BINGAMAN. Mr. President, will the Senator yield for a comment at that point?

Mr. WALLOP. I am happy to.

Mr. BINGAMAN. I think the failure of this administration and really most in national policymaking positions to consider the total lack of energy policy in their deliberations on trade is a perfect example of the reason why this kind of a competitiveness policy council should be established.

I think there is no way to seriously consider our long-term trade deficit without focusing on energy as a major part of that. I agree totally with the Senator in that regard.

But I would also suggest that that is exactly the course we have been following in the last decade. We have paid no attention to our energy problems while the trade deficit has worsened and a percent of that trade deficit attributable to imported petroleum products has increased each year.

Mr. WALLOP. I would say to my friend that he perhaps does not remember what the energy policy of the Carter administration was which labored under the wonderful acronym of MEOW, the Moral Equivalent of War, and that its basic purpose was to make people suffer because they did not think there was any more energy. We at least have discovered in this administration the way to produce more gas and a whole variety of things.

The problem is this council is not directed to look there. I do not suppose it is prohibited from it either.

But if you look at the mandate that is contained in the bill that is beginning to wander far afield for it.

I am suggesting that we are spending 10 million good taxpayers' dollars to achieve what we have already achieved, a massive state of competitiveness, a massive state of productivity and incredible increase in all the skills that the rest of the world now envies.

There is not a country in this century that has matched our increase in productivity with the containment of labor cost; not Japan, not West Germany, not anyone in Europe. None of them have.

So we are studying what we already do the best in the world. Maybe that is not a bad idea. But at the time when you are trying to reduce budget deficit strikes me as a pretty extraneous use of $10 million.

Basically, I think Congress will not pay attention to studies anyway. It does not pay attention to the 100 studies that it mandates within the body of the rest of the bill.

There was a wise man one time who said the way to do nothing is to have a study.

I think in many respects, what these things do is keep us from acting rather than prompt us to act.

I would suggest that, by and large, this council appointed as it is by the neutralizing factors, and they are designed to be neutralizing, four by the House, four by the Senate, and four by the President. They are all designed to gut each other before they get started.

The policy and the whole formulation of it is one more for propaganda purposes than for real effect in trade policy and trade productivity and trade relations.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BENTSEN. Mr. President, I am seeking recognition.

The PRESIDING OFFICER. The Chair must determine first whether there is a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I do not mean to interrupt the distinguished Senator from Wyoming.

Mr. WALLOP. I have yielded the floor.

Mr. SYMMS. Mr. President, I want to speak briefly on the amendment.

I thank the distinguished chairman for withholding. What I think he was about to do was to table the Wallop amendment.

Mr. President, first I compliment some of the good things in this bill. I think that the distinguished chairman and the ranking member and other Senators on the committee have put some things in the bill that would in fact not harm our trade policy or not be too protectionist but would be helpful with the kind of issues that we have before us. I particularly like the repeal of the misnamed windfall profit tax.

The amendment that Senator WALLOP offers just points up the need for a line item veto.

This bill reeks of add-ons that have nothing to do with fair trade, or free trade policy for the United States of America. It is going to cost, I have been told, over $1 billion, maybe $2 billion, I think I heard the Senator from Wyoming say that, to implement this bill.

Mr. WALLOP. I think the latest total, if the Senator will yield, is $7 billion over 5 years.

Mr. SYMMS. Over 5 years, $7 billion.

That is one of the reasons why we have a deficit with the Federal budget. It is because we keep passing legislation and add-ons that cost more.

But the Senator from New Mexico asked a question about the trade deficit and raised a question, and I know many people are concerned about the trade deficit.

One thing that has been very difficult for all of us to accept in the United States, because we have all been concerned about budget deficits, is this trade deficit. But one of the reasons that we have a trade deficit is because we have millions of Americans working who are earning money and are able to purchase more goods right now that are being produced in the United States as well as goods that are being produced overseas. One of the reasons that is happening is because we are receiving billions and billions of dollars of foreign investment in the United States economy, because it is viewed as the best and safest place in the world to invest money.

Now, people ask the question: How do they want to cure the trade deficit? I can give you a prescription, Mr. President, that, in my opinion, would cure the trade deficit, but I do not think it is one that the American people would like. Raise taxes, pass very protectionist legislation in this country, trigger a recession in the process so that there are less people working and less people having purchasing power and the trade deficit will erode and disappear.

If you go out and look at a State like my State, it has had a hard time in natural resources production. Things are starting to turn around out there now. But we probably have had a trade surplus in the last 5 or 6 years because we have not had the purchasing power and the earning power to purchase that many goods. We have been largely an exporter.

And that is true around the world. Countries that are poor, underdeveloped, normally end up with a trade surplus. Those are not good places to invest money. The places that are good places to invest money, like the United States of America, that have a strong, free enterprise economy like we have in this country, have created millions upon millions upon millions of new jobs. We have people out there with purchasing power and relatively open borders where people are wanting to trade their goods for our greenbacks, and on paper we have a trade deficit.

I think that we should be very careful about all this enthusiasm for reducing imports. If we become too protectionist in our trade policy and too severe in our tax policy, that would change the health and viability of this economy in the United States.

Mr. President, I support the amendment of the Senator from Wyoming.

I yield the floor.

Mr. BENTSEN. Mr. President, this is a bill that has been about 3 years in the making. I know of no piece of trade legislation that has been more exhaustively examined than this one has. And this is another example of it.

This is a provision that was before us last year. There were differing points of view. Those differing points of view were recognized, they were reconciled, and they were compromised. We reached a position where we had an agreement, and it was taken to the conference. The conference agreed to it. Now we have it before us again.

Last year, when the Senate considered this bill, there were 164 amendments considered in 5 weeks. When we reported this bill out of the Finance Committee over a year ago, of the 20 votes, there was only one vote against it. It was by my distinguished friend, the Senator from Wyoming. He is opposed to the bill. He has opposed this bill, and every chance he has had to vote against it he has done so. That is his right of course.

But also it is well understood that, if you introduce an amendment now and if it is carried, this whole agreement for the consideration of this bill comes unwrapped. We do not vote at 6 o'clock. We do not have any set number of amendments that are going to be considered. This is a very effective way to try to kill a piece of legislation.

So, once again, as I have stated earlier, let us oppose these amendments. Let us vote them down. Let us go on to pass the most important piece of trade legislation in our generation, one that will help move this country forward in a competitive way.

I urge the defeat of the amendment. I move, along with my colleague, the distinguished ranking minority member of the Finance Committee, to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. BENTSEN] to table the amendment of the Senator from Wyoming [Mr. WALLOP]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Mississippi [Mr. STENNIS] are necessary absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN] and Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] would vote "nay."

The PRESIDING OFFICER (Mr. ADAMS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 33, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—62

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Weicker
Wirth

NAYS—33

Armstrong
Bond
Boschwitz
Chafee
D'Amato
Dole
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Simpson
Specter
Stevens
Symms
Trible
Wallop
Warner
Wilson

NOT VOTING—5

Biden
Bumpers
Cochran
Stennis
Thurmond

So the motion to lay on the table amendment No. 2789 was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETO OF THE DEFENSE AUTHORIZATION BILL

Mr. REID. Mr. President, I feel compelled to rise today to express my disappointment at President Reagan's veto of next year's Defense authorization bill. A presidential veto is strong medicine that is traditionally used by a President only as a last resort, when Congress sends him legislation that is so objectionable that he is forced to reject it out of hand.

The question arises, "Why was this Defense bill vetoed?"

Did it spend too much or too little on national defense? The answer has to be "no." The spending levels in this Defense bill adhere to the budget agreement reached between Congress and the President last fall. That cannot have been the reason.

Did this bill somehow weaken our national defense and thus deserve to be vetoed? Again the anwer is "no". Frank Carlucci, the President's handpicked Secretary of Defense, the man in charge on the day to day defense of our nation is an ardent supporter of this bill and believes that it meets our defense needs.

Then why the veto?

Unfortunately, Mr. President, the answer seems only too clear. It seems that high-ranking Republican political operatives have convinced the President that he should use the waning months of his Presidency to make political decisions aimed at helping national Republican political efforts, and they have convinced him that somehow his vetoing this vitally important piece of legislation will help the Republican political cause.

Mr. President, risking the security of our Nation in the name of political expediency is folly. The Founding Fathers would spin in their graves at the notion that our national defense would ever be used for transitory political advantage.

Neither will the American people be fooled by this ploy. I have no doubt that this will backfire on the Republican Party. However, by that time, the damage is likely to be done. Our defense planning and procurement operations will be disrupted because of the lack of needed authority granted the Pentagon in this defense bill. Also, important new authority to bring the military into the national fight against drugs will also be lost.

Mr. President, the ultimate irony in the President's veto is that throughout Ronald Reagan's Presidency, he has complained that Congress has tied domestic and social spending to defense spending in order to force him to approve the whole package or hurt our national defense. Now, when for the first time in nearly a decade, the Congress has done as the President has asked and approved the spending bills separate from defense needs and sent him a defense authorization closer to what he has asked for than any defense bill in recent years, he vetos it.

Rather than try to explain seemingly abnormal behavior, some of the more cynical observers of the national political scene have termed the period between July 4 and election day every 4 years as "silly season." Well, there is little I can find that is "silly" about the blatant politicization of our national security, and I expect that most Americans would agree with me on this issue.

I yield the floor.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with consideration of the bill.

Mr. DOLE. Mr. President, I understand the remaining amendments are on this side of the aisle so I urge my colleagues, if they intend to, to offer the amendments. I think that would be Senator WILSON, and that may be worked out. Senator HUMPHREY, Senator HELMS, and then there are ethanol amendments, Senator KARNES, Senator GRASSLEY, and then Senator EXON.

I think at the appropriate time we may be able to resolve that by considering those three amendments in one effort with a concurrent resolution which I understand by unanimous consent we can vote on before final passage. So if we have that time we could take up that resolution.

But I would say to my other colleagues, if they do not intend to offer the amendments, it would be helpful to the managers to have that information because the RECORD still lists an unidentified Helms amendment, two Humphrey amendments, and a Wilson amendment in addition to the ethanol amendments. I think Senator HUMPHREY will be willing to offer his amendment on another bill if he can be assured that he will have the support of the leadership on some other bill. I have already indicated to him that he would have my support. That is the amendment that relates to Afghan trade. So I would just take this time to alert my colleagues.

Second, if there is not going to be any business in the next 20 or 30 minutes, I know a number of my colleagues on this side who would like to make brief statements on the DOD authorization bill veto. I would want to clear with the majority leader if we might have 20 or 25 minutes to do that while we are waiting on other things to happen.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair. While the minority leader is present, I thank him and the others who have been working for a compromise on the ethanol matter. As I understand it, so the Senate could be advised at this time, evidently we have been successful in reaching an agreement with all parties interested and involved in this since yesterday.

If I could have the attention of the minority leader, I want to make certain that we have an understanding because there have been several of my colleagues asking about this.

As I understand it, the agreement we have reached is that immediately following the vote on the trade bill we would offer the amendment as a concurrent resolution, and that amendment is essentially the amendment that this Senator had offered earlier that all have agreed to, and that following my offering of this amendment there will be two minor amendments that I think are good ones that have been offered by Senator GRASSLEY and Senator KARNES that have to do with adding the Secretary of Energy to the two Secretaries I had indicated and in addition thereto the amendment that I have agreed to would add one sentence, that the domestic ethanol production industry is not fully meeting the demand for ethanol in the United States. Those are the only caveats, and I think if we could spell that out now we might be able to lay that aside.

Do I understand then we have reached an agreement that the amendment to strike the provision will not be offered on the trade bill?

Mr. DOLE. If we can get the agreement that we can offer this one.

Mr. EXON. We have not reached that point yet.

Mr. DOLE. We need to clear that with the majority leader and the managers on each side. I understand Senator PACKWOOD has no problem. I also learned from the Parliamentarian that by unanimous consent we can do that at any time, even before we pass the trade bill. So as soon as we have that agreement, I know both the Senators from Nebraska and the Senator from Iowa, Senator GRASSLEY, are prepared to proceed. That might speed up what we do after 6 o'clock this evening.

Mr. EXON. Which means we might have a rollcall vote, or would we voice it?

Mr. DOLE. No. I think we would have a rollcall, but ahead of 6 o'clock.

Mr. EXON. I would not object to that except I would think with the time probably we are not going to have a rollcall vote before 6 o'clock. I, too, would like to make some remarks on the Defense authorization, unfortunate Defense authorization bill veto by the President.

I will not take the time of the Senate any further, Mr. President. I thank the Chair. I thank the minority leader.

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Mr. President, thank you.

Mr. President, earlier this morning, I presented a lengthy statement concerning the concerns that I had, and many other farm State Senators, on the ethanol provisions. This provision would expand the duty-free importation of ethanol through the Caribbean Basin Initiative. This provision, as we have discussed on this floor today, would result in the direct substitution of European-produced wine ethanol for U.S.-produced corn ethanol.

My State of Nebraska currently produces 11 million gallons of ethanol annually. Within the next 2 years, it is anticipated the current level of Nebraska's production will be expanded by 5 million gallons. So allowing the duty-free importation of ethanol, as this bill would allow, particularly section 1910 of this bill, will only serve to undermine the Nebraskan ethanol industry and the American ethanol industry. We have had statements on this floor today concerning the position of various industry groups concerning this particular provision, section 1910. Let me clarify some of those positions.

What is the position of the domestic ethanol industry concerning section 1910? Throughout the debate on the trade bill, the domestic ethanol industry has steadfastly maintained its wholehearted support for the development of full production of grassroots ethanol facilities in the Caribbean while opposing the establishment of passthrough operations, transshipment operations for subsidized wine alcohol that produces no economic benefit to the Caribbean or its people.

In just 8 short years, domestic ethanol producers have created the most important alternative fuel industry in the United States by investing nearly $2 billion in over 80 ethanol production facilities located in 23 States. An indigenous ethanol industry in the Caribbean will create similar economic development in that region, which is something that all of us applaud and would encourage. An indigenous industry would employ thousands of workers, establish new markets for surplus agriculture commodities, and enable Caribbean nations to reduce their crippling dependence on imported oil.

What is the position of major farm organizations concerning section 1910 of the trade bill? Virtually every single major farm organization in the country opposes the duty-free importation of wine alcohol.

The National Corn Growers Association, of which I am a member as a corn producer myself, in particular has led the fight against the ethanol transshipment loophole in the trade bill on the grounds that it would perpetuate the exclusive use of subsidized wine alcohol from the European community displacing ethanol produced by our own U.S. corn producers from our domestic market. Earlier Senator GRASSLEY, my distinguished colleague from Iowa, talked about the impact on American agriculture and the loss of jobs in many small businesses, and the displacement of up to 40 million bushels of corn annually for every 100 million gallons of European wine ethanol that comes into our country.

Those statistics are well documented. But another question should be asked. Will there be American jobs lost? Absolutely. Will this section 1910 benefit the Caribbean countries? Very little. Dehydration by this transshipment process which is contemplated by section 1910 only facilitates the return of 10 cents per gallon onto the local economy in the Caribbean while a full fermentation process or facility will return over $1.50 a gallon. If we are looking at true economic development in the Caribbean, if we are attempting in this provision to be true to the desires and wishes of those Members of Congress that passed the Caribbean Basin Initiative, we should not allow transshipments to proceed, but should require full processing in the Caribbean of Caribbean feed stocks, Caribbean-based country feed stocks.

In addition to these points, we have discussed the impact to our U.S. Treasury. Fully $120 million at a minimum would be lost to our Treasury because of this section 1910, if it is fully implemented.

We have said, and I have said many times before on this very floor, that we will displace the consumption of many millions of bushels of corn in our country with the implementation of section 1910. Also it is estimated that this special preference will cost tax dollars.

I am hoping that if we are serious in this, if those of us in the U.S. Senate are serious about this provision and in rectifying this situation, if it is not done on the trade bill as a part of the core package, as I would like, it could be done later on in another provision that would have a positive revenue impact by adding revenue to the Federal Treasury rather than taking away, possibly in the technical corrections legislation that will very likely come before this body later in the 100th Congress.

I support the efforts to improve economic conditions in the Caribbean, and this provision as I have said will not benefit the people of the Caribbean as much as it will the European wine alcohol producers. I cannot understand why this body would grant a benefit to the Europeans who have already benefited from large-scale subsidies.

As far as this Senator is concerned, this provision, section 1910 of the trade bill, only encourages a form of indirect dumping that can hurt directly U.S. corn farmers and ethanol producers, whether they be in Nebraska or other parts of the country. Thus I have strongly stated that this provision should not be in the bill. Indeed, I think back to a trip that I took as a part of the U.S. delegation to the GATT negotiations in Geneva. I sat across the table from Europeans, and we were challenging them to open their markets to our products. In order to have a strong negotiating position, we indicated to them that we would be prepared to take strong measures to reciprocate, if you will, if necessary, to make sure that we have fair and free trade.

I can see that those types of statements would be statements coming from a paper tiger, in the minds of the Europeans because they would know that by using a loophole in the Caribbean Basin Initiative they could move around very smartly these provisions, these negotiating positions that we are taking, and dump literally millions of dollars worth of European ethanol on our market. It is a heavily subsidized product.

So this provision, section 1910, is ill advised in the face of our negotiation at the GATT negotiations that are going on right now.

Also as I have stated before, this is not a provision that would benefit directly the Caribbean countries or their people. Let me must share with you for a minute some of the information on some of the beneficiaries of this provision. They are not the domesticated enterprises of the Caribbean. They are large, multinational companies who by profiting from this provision will be able to take approximately $120 million out of the pockets of the American taxpayer.

I have a chart here that talks about how one of the companies, one of the beneficiaries of these provisions, would benefit. Does this appear to be a domesticated Caribbean company, with holdings in the United States, Australia, France, and throughout the world? They have a very complicated arrangement here where they have entities in various parts of the Caribbean, various parts of Europe, and in the South Pacific. These are the types of people that would benefit from this provision, and not the type of people that all of us would like to see benefit from the Caribbean Basin proposal.

Let me also point out why these companies are so excited about section 1910. It is because they are able to bring feedstocks, heavily subsidized feedstocks, in many instances, into the United States through this loophole. Here is a chart that come from a letter to the shareholders of one of the companies that would benefit handsomely from these provisions. Does it appear from this map that they are looking to draw upon domestic feedstocks in the Caribbean? Absolutely not. They are telling their shareholders with a certain degree of pride that they will be able to use this loophole to move heavily subsidized, in this case, feedstocks, from Europe directly into the United States, duty free, at the taxpayers' cost, the American taxpayers' cost, to take advantage of this provision.

I might again underscore the fact that this particular chart appeared in a letter to the shareholders of a company that would benefit from this provision.

Some of us in this body may not fully appreciate what is happening around the world but, believe me, the multinational companies which are going to be taking advantage of this provision if it is passed in the trade bill know very well who they are affecting. They are affecting the American taxpayer, and the American taxpayer is putting dollars into the pockets of these people to the tune of $120 million.

So, as we talk about this provision, I think it is important for the Members of the Senate to understand the importance of this provision and the importance of fairness and equity to the American taxpayer and the American farmer; and I hope this message is communicated to my colleagues on the other side of the Hill, who will have an opportunity to vote on this provision.

I have heard my distinguished colleague from Missouri, Senator DANFORTH, who has labored long and hard on this trade bill, and I compliment him for his labors. He said that this provision, section 1910, will sunset at the end of 1989, thereby concluding that this will be only a small item and it really is not an issue, and that this issue will go away at the end of 1989.

I remember very well, as a member of the Senate Banking Committee, a similar type of commitment. This was concerning a moratorium on institutions exiting from the Federal Savings and Loan Insurance Corporation. This moratorium would last for only 1 year, and after the 1 year expires the moratorium will no longer be in place and companies may decide to become a part of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

What has happened? Just last week, we did not allow the moratorium to expire. Indeed, we continued the moratorium for 1 more year. There are reasons, good reasons, why that moratorium was continued. But I should note that any statements that provisions will sunset, that these things will go away, are subject to further action by this body in their own interests.

Next year, at the end of 1989, we may very well have this provision as a part of the law that may continue and allow opportunities for European ethanol to come into our country once again.

Mr. President, I have been carrying around today an amendment which I had been prepared to offer, which would strike the provision in its entirety, this ethanol section of the trade bill. I believe that the President was correct in his assessment that the ethanol provision could hurt American grain producers, and therefore he included this in his veto message as a provision of this trade bill that should be eliminated.

I am also very much a part of the negotiations and the compromise discussions that have been going on all day. It is very important for me also to acknowledge that we must have a vote on this issue in this body. Therefore, I have worked very hard with my distinguished colleague from Nebraska, Senator EXON, and my colleague and fellow farmer from Iowa, Senator GRASSLEY, and many others, including Senator DOLE, to work out a provision that all of us could support. I believe we have come to that conclusion, and I am prepared at this time to state that I will not submit my amendment to strike and will support the initiatives that this bipartisan compromise group have worked out, to provide an opportunity for this body, as a part of a concurrent resolution—and later, hopefully, the House of Representatives—to have an up-or-down vote on this issue. I hope they will consider at that time the type of arguments that have been made by Senator GRASSLEY, Senator EXON, and me as to the fairness and equity of this provision.

Our obligation in this body should be no less than to arrive with legislation that is the best possible legislation the Senate can put together. I believe, as I have said many times, that the best legislation would be to strike. However, in the spirit of compromise and in the interest of having a provision that this body can vote on, I indicate at this time my support for the provision that my distinguished colleague from Nebraska has discussed, to which I have added several provisions throughout the negotiating process today.

Mr. President, I conclude by saying that I hope all my colleagues in this body give special consideration to this provision and the concurrent resolution we will be voting on shortly after the adoption of the trade bill. I hope we can have a unanimous vote on that provision, to send a very strong signal to the European and other foreign agribusiness, multinational companies that they will not be allowed to pick the pockets of American taxpayers to the expense of the American farmer.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, the ethanol agreement would be a concurrent resolution to instruct the enrolling clerk to strike out this section and insert compromise language agreed upon by Senators EXON, KARNES, GRASSLEY, DASCHLE, and myself and others, this morning. It is pretty much agreed to. As soon as we can obtain the agreement that we can do that, we can probably complete action on that and have that vote before the 6 o'clock vote on final passage of the trade bill. That might accommodate Senators who have other plans. As soon as the majority leader is available, we will seek that request.

DEFENSE CONFERENCE REPORT VETO

Mr. DOLE. Mr. President, President Reagan's decision to veto the defense authorization bill is the right decision; and it was made for only one reason—the right reason: The bill does not serve the national security interests of the United States.

The message the President sends with this veto is loud and clear: He will not stand for anyone playing politics with our national security. He will not stand for attempts to enact one party's convention platform into law.

We haven't had the election yet; and it's still more than 5 months until Inauguration Day. None of us knows who will take the oath of office next January. But right now, Ronald Reagan is still the President; Ronald Reagan is still in charge of our defense, arms control, and foreign policies; and Ronald Reagan intends to do his duty, and meet his responsibility, to do what is needed, and what is best for America's security.

It is Ronald Reagan who must negotiate with the Soviets; and he cannot negotiate successfully if liberals in Congress try to micromanage our arms control policies. It is Ronald Reagan who must make basic decisions on the direction and pace of our defenses, including the strategic defense initiative; and he cannot do that successfully if liberals in Congress unilaterally gut SDI. That's the bottom line: That's why this bill has been vetoed.

However, Mr. President, I am pleased to reiterate the President's support for the kind of defense bill that was passed in the Senate.

I say to all my colleagues in the Senate the President did not have any problem with the bill passed in this body. So I commend Members of our Armed Services Committee. Members—from both parties—showed good sense, good faith and commendable restraint in formulating a bill that more adequately met our national security needs.

I commend our chairman, Senator NUNN, and the ranking Republican, Senator WARNER.

The President indicated he would have signed that kind of bill. He is right not to sign this kind.

So I commend the President. What is in that bill—and for the most part the Senate bill was all right—but what was added in the conference does not make any sense.

I commend the President for his action.

I would just say very quickly what is wrong with this bill.

What provisions led to this veto? Even as we are deep into negotiations with the Soviets on our strategic forces, the conference report would have us take two extremely potent strategic platforms out of service early—with absolutely no quid pro quo from the Soviets. Last year it was one missile boat, this year two, next year—who knows? Why are we giving away these two vessels—these bargaining chips if you want to call them that—why are we giving them away?

It just does not make any sense.

In this bill the liberals in Congress have also usurped from the President the authority to determine when and how to modernize our strategic ballistic missile forces. The Soviets must be delighted that the Congress has now put the rail-mobile MX into the same limbo as Midgetman. Emasculating both programs is not a compromise—it is stupidity, pure and simple. It just does not make any sense.

And finally, Mr. President, and probably most importantly, the President has seen fit to finally draw the line on congressional micromanagement of the SDI Program. SDI is precisely the insurance policy that we will need in a post-start world. It is precisely the leverage we need on the Soviets to get to that world with a good start agreement.

But again those forces in Congress, in this bill, have ripped $800 million out of the heart of SDI, and have limited some of the most promising technologies. Some are boasting that they have taken the stars out of star wars; and that is just what they have done. But they have also taken away the possibility that the Soviets will negotiate seriously on a new START agreement; and they've taken away any chance we might have of stopping nuclear warheads launched at America from landing on our soil, and destroying our people, is that something to boast about?

Mr. President, it just does not make any sense.

None of it makes any sense.

CONCLUSION

Mr. President, we have already heard one Senator saying this is a political veto.

I say that is hogwash.

It is a national security veto of a political bill.

Next, we will see the crocodile tears of those who, for decades, have done nothing to support America's fighting men—but now will gush anguish over an alleged scrubbing of a pay raise.

Hogwash.

The truth is, we need that pay raise and can easily have it—as long as congressional liberals give up their attempts to use it as blackmail, to accept their dangerous agenda.

Mr. President, President Reagan does not seek confrontation with the Congress. He does not insist on his own way, no matter what. He made all that clear yesterday, in his decision on the plant closing bill.

But President Reagan does insist on making his own decisions on the national security of the United States. He is the President. He is the Commander in Chief. It is his job.

He intends to do that job. And I—and many others in this body—intend to stand by him, as he does it.

THE PRESIDENT'S VETO

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I rise in direct opposition to the opinion just expressed by the minority leader. I do not salute the President of the United States for his veto. I condemn the President of the United States for a politically inspired veto of a defense authorization bill that had the support of the Secretary of Defense, the President's Secretary of Defense, and had the support of the leadership of the Armed Services Committee, both Democrats and Republicans.

On Thursday last this Senator stood at this desk and pleaded with the President of the United States to reject the politically motivated suggestion that this bill should be vetoed.

I think it is time we lay it on the line. And I say this, Mr. President, as a member of the Armed Services Committee and the chairman of the Strategic Nuclear Deterrent Subcommittee that has carried the water for this administration time and time again on many of the key strategic defense initiatives of this administration, sometimes when one vote made the difference. I feel let down.

I hope that the men and women who serve in our Armed Forces that were entitled to a 4-percent increase in their pay will not feel let down.

But the President of the United States against the advice of his top military experts cast a politically motivated veto, and that is what it is, and that is what it should be branded.

I do not know what is going to happen now, Mr. President, but I suspect that the defense bill will have to take the form of a continuing resolution because I suspect that the time is not there to go back through the laborious process that will be necessary to put together the bill that has to do with the defense of the United States of America and the free world.

There are those who will disagree with this Senator, and they have every right to disagree, but the record will eventually show that while the bill that we worked through in the Armed Services Committee, the bill that was passed on the floor of this United States Senate by an overwhelming veto-proof vote, is the bill that should never have been vetoed and I suggest, Mr. President, that it was vetoed for political advice, for political reasons. That eventually will come out during the fall campaign.

As much as I hate to say it, Mr. President, I think this is the worst breach of bipartisan support for the defense of the United States of America I have ever seen since I have been in the U.S. Senate.

I suspect that maybe the Republicans are looking at their own poll and they have decided that they have to create an issue. There is nothing wrong with political parties creating and making issues, but I think it is a sad day, indeed, Mr. President, when the national defense of the United States is allowed to succumb to political chicanery, in this case, of the worst order.

Mr. President, I yield the floor.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

The **PRESIDING OFFICER**. The Senator from Alaska.

Mr. **MURKOWSKI**. Mr. President, I rise to speak on behalf of the pending legislation before this body, the Omnibus Trade and Competitiveness Act, this legislation unquestionably makes important changes in our trade laws and certainly reaffirms our commitment to maintaining American competitiveness in world trade.

NEGOTIATING AUTHORITY FOR GATT

This bill sets out an aggressive agenda to strengthen and expand the scope of GATT that has been brought out by a number of my colleagues. It gives the President the necessary and important negotiating authority and "fast track" approval for trade agreements which is critical to achieving our objectives in the Uraguay Round. It ensures that as these negotiations proceed, there will be adequate consultation between the administration and Congress.

And again I would like to emphasize the necessity of the fast track provision.

Further, I support the provisions strengthening section 301, I think, are necessary and offer our industries more certainty. The bill ensures that countries who persistently engage in trade distorting practices will be dealt with in a swift and consistent manner. It also sends a clear signal to our trading partners that we are willing to use, if necessary, the full force of our trade laws to address violations of trade agreements.

Make no mistake about it, Mr. President. The United States is the world's largest marketplace. Countries must have continued access to that marketplace and we want to maintain that access, but we also want a quid pro quo. We want to have the right to enter their markets.

For far too long, Mr. President, it has been a one-way street or that street has been partially closed to U.S. industries participating overseas.

SECTION 302 AMENDMENT

The bill also contains an amendment which I authored, directing the USTR to conduct investigations under section 302 of the Trade Act concerning barriers to United States construction services in Japan.

In conducting this investigation, I expect USTR to thoroughly examine the impact the recent arrangement between the United States and Japan has had in facilitating United States access to Japan's market for major projects. I am pleased to report that this agreement was reached in May of this year and covers 14 major public works projects in Japan and contracts estimated at $16 billion. It demonstrates the progress we can make in resolving trade disputes if we are willing to set deadlines and give our negotiators real leverage. I am supportive of the principles of this agreement and I commend Secretary Verity, Ambassador Yeutter, the USTR, and Ambassador Matsunaga of Japan for their efforts to resolve this dispute. The agreement is the first step, now we must be certain that it will have tangible results.

There are other provisions which will have a major impact on the way we do business in the international marketplace. We have strengthened laws to protect intellectual property rights, and streamlined licensing procedures for some of our most competitive exports. In addition, we have taken steps to improve education and worker retraining programs. These programs are critical to maintaining U.S. prominence in the international marketplace.

We have expanded support of our foreign missions for U.S. firms who take advantage of increased export opportunities.

The bill authorizes the Secretary of Commerce to designate the commercial officers in up to eight of our foreign missions with the title of minister-counsellor. And It directs the Secretary of State to consider filling vacancies for the position of consul general with officers from our foreign commercial service, if the main functions of the consulate are commercial in nature. These steps will place new emphasis on trade and economic issues at our missions overseas.

Further, Mr. President—and something that is very significant, I think to our energy independence in this Nation—is the provision repealing the windfall profits tax. The bill removes cumbersome regulatory burden inhibiting domestic exploration and development in our energy industry. As oil continues to constitute a major part of our trade deficit, it is absolutely critical for our Nation to take a hard look at the environment we create for development of our domestic energy resources. We must have the incentives to encourage our industry to invest in exploration, to spend the money to find the reserves. The windfall profits tax elimination will be a major factor and I am very pleased to see that this legislation contains that elimination.

Further, in the area of something that is very close to my heart and that of my colleague, the senior Senator from Alaska, Senator STEVENS, is the oil export provision.

I have highlighted some of the significant items in this bill previously, also significant is what it does not contain. I am pleased that my colleagues have seen fit to address an injustice served my State of Alaska in the first version of the trade bill.

Removal of the provisions restricting the export or requiring products of new refineries only in Alaska and allowing the export of crude oil to Canada only if shipped in the lower 48 sends a message that this bill is about expanding opportunities for every State in this country.

The original trade bill, H.R. 3, would have limited, just from the State of Alaska, the export of refined petroleum products from new refineries to no more than 50 percent of average annual output, or in any case more than 70,000 barrels a day. The injustice of that, Mr. President, was obvious. They picked on one State and they said only in Alaska will this apply.

In other words, the crude oil could go down from Alaska to California. California refiners could refine it, get an export permit, and export their product into the Pacific rim markets. But in Alaska we could not do it in a new refinery. I am glad to see that is out of there.

Another injustice that was in the bill allowed for the first time the export of North Slope crude oil to our neighbors in Canada but only if it went to the lower 48 first. In other words, it had to go down to the State of Washington before it could come back to Canada.

Well, anyone who recalls their geography, Mr. President, recognizes that Vancouver, British Columbia, is between Alaska and the State of Washington. The tankers carrying the oil would be forced to go right by Vancouver, down to the State of Washington, unload the oil, and then bring it back before it could be brought into Canada. I am pleased to see that this injustice has been removed, as well.

In conclusion, Mr. President, while this bill is not a cure-all for all of our trade problems, it is a step in the right direction. I want to commend the distinguished chairman and ranking member of the Finance Committee and the senior Senator from Missouri for the leadership they and others of my colleagues have displayed throughout our lengthy consideration of the trade legislation.

Mr. President, I hope this bill will be passed by the Senate and enacted into law expeditiously.

I thank the Chair and I yield the floor.

(Mr. PRYOR assumed the chair.)

Mr. MOYNIHAN. Mr. President, it would be ironic indeed if the fate of the trade bill were to be placed in jeopardy by a modest provision that permits the continued import of small amounts of Caribbean ethanol. I strongly support the ethanol trade bill provision, and I helped to draft it in conference.

It was ironic that the President listed the ethanol provision as one of his five reasons for vetoing the trade bill in the first place. After all, the President, in his veto message expressed reservations about the trade bill being too protectionist. But, he listed the ethanol provision as a veto item. Why? Because it was not protectionist enough.

Indeed, in seeking to prohibit the import of Caribbean ethanol, the President seemed to be turning his back on his own Caribbean Basin Initiative. We need to encourage more trade from CBI nations, not stomp out their industries whenever they emerge. A Washington Post editorial of May 31, 1988, commenting on this irony was titled "Breaking Faith," and that is precisely what the President did in his veto message. And that is precisely what Members would be doing if they vote for a provision that eliminates Caribbean ethanol imports.

How did we come to be in this position?

As I have mentioned, the origin is the 1983 Caribbean Basin Economic Recovery Act. Under the tariff-free provisions of the CBI Program, a number of countries undertook to establish ethanol industries to supply the U.S. market. Normally, ethanol is subject to a very high U.S. tariff of 60 cents per gallon.

However, the entrepreneurs who established their operations in the Caribbean, often with the participation of U.S. interests, failed to anticipate one thing. Ethanol can be made with a variety of feedstocks, including both sugar and corn.

No sooner did a Caribbean industry emerge using sugar and European wine feedstocks, than U.S. corn growers objected. They claim that U.S. corn distilled into ethanol cannot compete with the "subsidized" European wine feedstocks. Thus, they succeeded in having inserted in the 1986 tax bill a 3-year phase-in under which Caribbean ethanol must contain a minimum "local (sugar cane) feedstock" content of 75 percent by 1989. The level was set at 30 percent in 1987, and 60 percent in 1988. Transitional exemptions for 1987 and 1988 were included for up to 20 million gallons for eligible Caribbean facilities.

Unfortunately, a number of the Caribbean producers have not been able to meet the higher local feedstock level, and they are now shut out of the U.S. market. The viability of the Caribbean industry is now in doubt. Indeed, most Caribbean producers cannot even meet the 60 percent requirement for 1988. Only one producer is currently shipping to the United States. The Caribbean industry is on the ropes.

What is the provision in the trade bill that is so inimical to the interests of our country's corn farmers?

Simple. It is a last stand effort to preserve the continuation of the Caribbean industry. U.S. ethanol producers want it wiped out. The trade bill proposes the extension of the exemption from the local feedstock requirement for five eligible producers. Only three of the eligible facilities are actually capable of operation, two in Jamaica and one in Costa Rica. The extension of the exemption would be for only 1 year, until December 31, 1989. Imports under the exemption are capped at 20 million gallons for each eligible Caribbean facility.

Without enactment of the grandfather extension, we risk the elimination of an infant industry in the Caribbean and the loss of thousands of jobs. Already, thousands of jobs have been lost in Jamaica and Costa Rica, because two of the three existing facilities are not able to meet the 60 percent local feedstock requirement for 1988 and have ceased shipments.

What is the impact on the United States? Caribbean ethanol imports have never exceeded 5 percent of U.S. consumption. In 1987, Caribbean imports accounted for only 3.7 percent of U.S. consumption. In 1988, it will probably be closer to 1 percent. Total U.S. consumption is 800 to 900 million gallons per year.

So why the fuss. John A. Barnes, writing in the New Republic last November offered some insights.

Mr. Barnes noted that U.S. ethanol production is dominated by the Archer-Daniels-Midland Co. of Illinois. ADM is able to make vast profits from ethanol.

Why? The reason is the huge farm subsidies that are provided to U.S. corn growers. Another irony. We hear a lot of talk about how the European wine feedstocks the Caribbean plants purchase are subsidized. And we have heard a great deal of discussion about the problem of foreign country subsidies as we have considered this trade bill. But what about U.S. farm subsidies?

Corn farmers have received huge subsidies to produce the surplus corn that ADM uses to make ethanol. ADM buys cheap subsidized corn and produces both corn syrup and ethanol. Corn sweetener has become profitable for ADM because in 1981 the Reagan Administration put in place a sugar program that has driven up the US price of sugar by 300 percent by reducing sugar imports by 80 percent.

In so doing, the Administration has managed to make the production of corn sweetener profitable, and has taken hundreds of millions of dollars in sugar exports away from Caribbean countries.

The program has also caused thousands of job losses in the U.S. sugar refining industry.

Indeed, the President's sugar program has so devastated the Caribbean sugar industry that there are no longer sufficient sugar cane resources in the Caribbean to meet the ethanol feedstock requirement. Caribbean countries want to maximize the use of local feedstocks for enthanol production—but the U.S. sugar program has hampered that effort. Thus, the Caribbean countries have been caught in a vicious whipsaw.

ADM also blends cheap U.S. corn with alcohol to produce ethanol, which is used to produce gasohol. As if the corn subsidies were not enough, gasohol retailers also get a significant exemption from the Federal gas tax. A number of States also provide gas tax exemptions for gasohol.

Thus, it is the corn subsidy and the gas tax subsidy that make the production of U.S. ethanol profitable.

According to Barnes, the Federal Highway Administration has estimated the cost to the highway trust funds of the gasohol exemption to be as much as $460 million per year. Other U.S. ethanol subsidies have included the free supply of corn from U.S. stockpiles for ethanol production, and government loan guarantees for ethanol production facilities.

Enough. Let us not accept that a modest 1-year extension of the Caribbean ethanol grandfather will destroy the U.S. industry. Caribbean ethanol is only a tiny fraction of U.S. consumption.

And let us not believe that a "free market" U.S. industry is being injured by a subsidized Caribbean industry.

How can we extol the needs for economic growth in the Caribbean while stopping their efforts at every turn.

Mr. President, I strongly oppose any provision that would eliminate the Caribbean grandfather. I think 1 year more is the least we can do. I wish we were doing more. Let us not turn this irony into a reality.

I see my distinguished colleague from Ohio, the author whose initiative in seeing this plant-closing bill was finally passed and indeed accepted in the White House, brings this trade bill before us. I congratulate him for that role.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to offer my strong support for H.R. 4848. I am particularly pleased that the bill's Worker Adjustment Program will once again be combined with advance notice to create a job opportunities law.

My worker adjustment provision in the trade bill calls for a commitment of $980 million to help millions of hardworking Americans whose jobs have been eliminated due to direct foreign competition, changes in technology, and other dramatic shifts in our economy. Our effort to help secure retraining and job placement assistance is truly a wise investment in human capital. The Worker Adjustment Program is aimed at finding new jobs that are good jobs for American workers.

As my colleagues will recall, this $980 million commitment originally was tied to a requirement that companies give 60 days notice before closing a plant or ordering a mass layoff. Advance notice is vital to our efforts to assist dislocated workers. It has been shown time and time again, in studies by the General Accounting Office, the National Academy of Sciences, and the Reagan administration's own blue ribbon task force that the most successful worker adjustment programs begin before the plant shuts its gates.

During that 60-day period, when the plant-closing notice is given, there can be that kind of retraining that is so needed and so helpful to the worker to see to it he or she finds a new job.

It is a shame that President Reagan refused to listen to the experts. He vetoed the trade bill last May because of the mandatory notice provision. Fortunately, Congress and the American people prevailed in the end. By the time this trade bill reaches the President's desk, 60 days' advance notice will be the law of the land. I am very pleased that at long last, both my mandatory notice provision and my provision commiting $980 million in direct assistance to dislocated workers will become law. It is time for these workers, the cream of the American work force, to begin receiving the notice and the assistance they need and deserve.

Taken together, the $980 million program and 60 days' advance notice are truly a job opportunities law. I am pleased to say here, parenthetically, that the administration has accepted the concept of spending the $980 million for this matter of retraining and relocation.

Millions of American workers now will be able to prepare for and step into new jobs, jobs that take advantage of their skills, experience, and dedication.

So, with this trade bill and the provisions contained therein which I had offered at a much earlier point, we are now taking a plant-closing notice bill and turning it into a jobs bill for American workers. And there is not one of us in Congress that does not want to help keep American workers working, making available to them such jobs as can be had if they are given adequate notice.

Mr. President, before yielding the floor let me say I am very grateful to my distinguished colleague from Illinois who was on the floor prior to my being here but was good enough to yield to me for the purpose of delivering these few remarks.

Several Senators addressed the Chair.

Mr. DIXON. Mr. President, I do not mean to impose on the Senator from Texas; I had yielded time to the Senator from Ohio who had a time constraint. But if my colleague from Texas has a similar situation, I am glad to yield the time to him. I was going to make some remarks, but would be delighted to yield to him.

Mr. GRAMM. Well, Mr. President, I cannot allow my dear friend from Illinois to be more courteous than I am.

Mr. DIXON. I must warn my dear friend from Texas that he may take exception to some of my remarks.

The PRESIDING OFFICER. The Senator from Illinois.

THE PRESIDENT'S VETO

Mr. DIXON. Mr. President, I rise, frankly, with some degree of reluctance. I rise to take particular exception to the remarks by the distinguished Republican leader, perhaps a half-hour ago, here on the floor of the U.S. Senate regarding the President's veto of the defense authorization bill.

I am happy that my friend from Texas is on the floor because he is not only a member of the Armed Services Committee, but also a member of the subcommittee I chair, the Subcommittee on Readiness, Sustainability, and Support.

In addition, I want to say for the Record, I think there is no more eloquent spokesman for the Republican view in America than my friend, the senior Senator from Kansas. There are some of us on this side who recognize how well he could articulate this point of view should he be afforded such an opportunity this fall.

But I take direct issue—direct issue—with almost everything he said on the floor of the U.S. Senate a half-hour or so ago about the blatant, and I say that again, the blatant partisan veto of the Department of Defense authorization bill by the President of the United States of America.

I suggest that the political season is upon us in America. If anyone questions my assertion, I offer the veto by the President of the United States as evidence.

He filed that veto against the direct recommendations of Secretary Frank Carlucci, the Secretary of Defense. He filed that veto against the direct recommendations of the ranking member of the Armed Services Committee of the U.S. Senate, the distinguished Senator from Virginia, John Warner. He filed that veto against the direct recommendations of the distinguished senior Senator from South Carolina and a treasured and important member of the Armed Services Committee, Strom Thurmond. That veto, Mr. President, is in every way a blatant partisan and political veto.

When my friend from Kansas, whose friendship I treasure and whose leadership in this body I recognize, suggests that this sends a message to the liberals in the Congress, let me say this: It was not just the liberals who wrote that Department of Defense authorization bill. This Senator from Illinois who votes generally for Contra assistance, this Senator from Illinois who voted for the MX missile and for the Midgetman and for the strategic defense initiative, this Senator from Illinois who happens to be a Democrat who twice voted for nerve gas in the days when his Republican senior colleague from the Senate voted against it in order to effect a tie so the Vice President of the United States of America could break a tie in favor of the administration, this Senator says that was a sound, good, fair bill for America and that every person in the House and Senate of any consequence who has anything to do with the passage of a Department of Defense authorization bill participated and participated fully in the passage of that legislation.

I want to name, Mr. President, some of those raging liberals of America who participated in this bill drawn by liberals: The raging liberal from Texas, who stands before me, my friend, the raging liberal from Texas, Phil Gramm, a valuable Member who served in full capacity on my committee that I chair; the raging liberal from Virginia, the senior Senator who I see on the floor, Senator WARNER—that raging liberal participated; the raging liberal from South Carolina, STROM THURMOND, also played a part. And on my subcommittee, Mr. President, as you go down the table, these raging liberals: The raging liberal ranking member, the Senator from New Hampshire, GORDON HUMPHREY—that raging liberal helped write this bill; the raging liberal from Arizona, my good friend Senator JOHN MCCAIN; the raging liberal from Idaho, my good friend Senator STEVE SYMMS. I could go on.

But what is my point, Mr. President? Here is my answer to my friend, the distinguished Republican leader. Last year in a budget summit before this Senate and this Congress began its work, we were given our number and, Mr. President, that number was $299 billion American. The bill that we sent to the desk of the President of the United States of America is $299 billion American, the same amount we were asked by the President to authorize.

My subcommittee, the Subcommittee on Readiness, Sustainability and Support, has 38 percent of the Defense budget. Every member of the Republican Party on the committee fully participated in the debate on this bill. I say this without any fear whatsoever of any successful contradiction by anyone in this body. The minority members were fully consulted and received every consideration accorded to any majority member. As a matter of fact, the last order of business that took place in my subcommittee was to insert $5 million, not much against the $299 billion, for the junior Senator from California, a valuable Republican member of that subcommittee.

I am here to say that the fiscal year 1989 Department of Defense authorization bill was crafted wholly in a bipartisan fashion with input from every Member from both sides of the aisle.

I want to say Mr. President, that everything in the bill is not exactly how this Senator from Illinois wanted it to be. I did not like the aircraft carrier provision, and I happen to think when you talk about pork, homeporting is the biggest spoil system and pork operation in the recent history of the U.S. Senate or at least since I have been in the U.S. Senate. This pork was originally put in the Department of Defense authorization bill by the distinguished Secretary of the Navy, John Lehman. Secretary Lehman not only put it in there but also lobbied every Member of the Congress to vote for it. He stopped by our offices and called people by telephone about homeporting. It is his pork; John Lehman's pork.

The bill has been vetoed. That is fine. The President of the United States has the right. This bill will have to be redone by the Congress, and it will be. But for anybody to go out into the country and to think that you can win a political campaign by saying to the people of America that this bill was soft on defense, or some hogwash like that, is an insult to the intelligence of every single sensible voter in America. It shocks the conscience, or it should shock the conscience, of every thinking voter.

(Ms. MIKULSKI assumed the chair.)

Mr. DIXON. The President is trying to make a case, Madam President, that we forced him to veto the bill because we cut a little bit out of the strategic defense initiative. The amount in question is $800 million. I cannot do my arithmetic real quick, but $800 million out of $299 billion, why, that is about one-fourth of 1 percent.

Now you mean to tell me the President of the United States vetoed a bill because he thought it was short by one-fourth of 1 percent? As far as SDI goes, the plain fact is we cut it more in prior years than we cut it this year. Why did he veto it in an election year when he liked it so well when we cut it more in nonelection years?

Madam President, I am on the Armed Services Committee. I am proud to be a Truman, defense-oriented Democrat who believes in a strong national defense and, by God, votes for it. But when you try to tell the people of this country you are shocked by this bill, when we have more than doubled what we spend on our national defense, when we increase it every year, when even this year we increased, not decreased, but increased—the Department of Defense authorization bill, when we cut everything else, why Madam President, that reasoning will not wash.

I am on the Banking, Housing, and Urban Affairs Committee. Last year we finally passed a housing bill. It was, Madam President, the first housing bill passed by the U.S. Senate in 7—7, I said—years. We have cut the heart out of Federal housing programs in America. I know of the homeless people. I see them in this city sleeping on heat grates in the ice and the snow. These people are starving to death, they do not have a roof over their head, and yet we cut programs for them while we double the amount of money for our national defense. We increase this funding every year, and still the President of the United States vetoes it?

Madam President, that decision will not wash. It will not wash. This kind of a veto will not fool anybody.

Now, I know the President wants to take yesterday's news about the plant closing bill off the front page. Swell. Well, if he wants to take that story off the front page, he ought to think of something else. But, instead, he chose to veto this bill. I do not know what the distinguished chairman of our committee, that raging liberal from Georgia, the senior Senator from Georgia, SAM NUNN, is going to do in light of this veto. It scares me to think of the way SAM handles these things, Madam President. However, he probably will figure something out. But I want to say this: "Mr. President, we did the best we could do."

You know, we have to deal with the House in conference. We got the best result possible. We got the amount of money the President requested. If we cut him one penny, he could at least argue there was a difference, but there is none. He got the money he asked for. In most cases, he got what he wanted. Any Republican colleague of mine who has a complaint he or she did not get treated well, please tell me where. I don't think they can tell me where, because they were treated fairly.

This is as good a bill as we have ever passed. I had the distinct honor of being the assistant floor manager with the chairman of the committee this year. I stood here for 7 days this year. I chaired a committee that oversees 38 percent of the total defense budget. I know what is in this bill. There is nothing the matter with this bill except the fact that it was sitting on the President's desk during the wrong month. It is August, right before the November general election, and Vice President BUSH is behind in the polls. He is 18 points behind in the 22d Congressional District, which was carried by Ronald Reagan 4 years ago by 21 points. Maybe the President better start vetoing everything, but I am going to tell you something. It will not raise the boat in the lake by one-half inch.

I think I have vented my spleen, Madam President. We liberals are sorry we offended anybody. And if someone can tell me how to pass a better bill, I think all of us liberals are ready to listen. I thank the Chair.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

VETO OF DEFENSE AUTHORIZATION BILL

Mr. GRAMM. Madam President, our distinguished colleague from Illinois was humorous and persuasive as always. His cardiologist called me and asked me to interrupt and ask him to calm down but I did not do it.

Madam President, I would like to begin by responding to my dear colleague. First of all, let me say that the bill that we all worked on is a bill that Ronald Reagan was willing to sign. When our dear colleague talks about all the work we put into the bill and how it was a good bill, the President agrees with that assessment. In fact, had the Senate bill been sent to the White House, he would have signed it into law. But, Madam President, we did not send the Senate bill to the White House. We sent a bill to the White House that represented the results of our conference.

Now, whether it was the best bill we could get out of conference or not, that is open to speculation. It is well known that the distinguished Senator from Illinois is one Democrat who is committed to keeping Ivan back from the gate. Unfortunately, there are many in the House with whom we have to deal who are not so committed, and therefore there was a very difficult challenge that we faced in trying to put this conference report together.

But I would like to get down to the bottom line on this issue, and the bottom line is the following: First of all, the President's first major objection to this bill is that through this law we try to impose the SALT II Treaty on the United States. But the Senate of the United States thought so little of the SALT II Treaty, when a Democratic President negotiated the treaty with a Democratic majority in the Senate, they would not even ratify the treaty. Besides, the Russians have never abided by the treaty. The treaty is now expired even if it had been ratified. Now, all of a sudden, we come along and in law mandate that the United States abide by a treaty that the Senate would not ratify—a treaty that the Russians never lived up to, that is now expired, and in the process we destroy two perfectly good missile submarines.

Now, Madam President, I am not surprised that the President finds that objectionable. How can you negotiate with the Russians when Congress is demanding we make more concessions than the Russians are asking us to make? How can we negotiate with the Russians when Congress is forcing constraints on the United States and those constraints are not equally binding on the Soviet Union?

Madam President, we all know how important SDI is. Anybody who ever doubted the importance of SDI should listen to Gorbachev. It is obvious that SDI scares the Russians. In fact, it is a principal ingredient that has brought the Russians back to the bargaining table.

Now, Madam President, obviously Ronald Reagan objects to the fact that we have cut funding for SDI, but it is more than that. Not only have we cut funding, but we have imposed restrictions on SDI that limit our ability to do the things that we are negotiating with the Russians about today.

Now, it may well be if Michael Dukakis is elected President, he will kill SDI. I am sure there will be great applause in the Kremlin. If he is elected, the American people will have obviously made the decision. But he is not President of the United States today, and obviously I am hopeful that he never will be.

But, Madam President, Ronald Reagan is President, and the Congress is proposing, through fencing language, limitations on SDI that the Russians have demanded in our arms talks for 3 years. Why are we in Congress giving the Russians what they cannot win at the bargaining table? It makes absolutely no sense. This is not then a political issue. It is an issue of common sense.

If there is one thing we can do that the Russians cannot do, it is implement technology. They cannot develop technology because technology comes from creativity, and creativity comes from freedom. That is what perestroika is all about. They are trying to jump start their economy because unless people have some freedom, some self-initiative, they are not very creative. At the very time that the Soviets continue to spend more and more money on defense, I will have to take exception to one comment my dear friend and colleague made and that is: We have cut defense for the last 4 years. In terms of real buying power, we have cut the level of commitment to defense for 4 years in a row.

Madam President, when we are doing that, the last thing we want to do is to artificially limit our ability to wisely use the money we are spending.

Last year we unilaterally stopped development of an antisatellite missile even though the Soviets have such a system. We just decided unilaterally to stop its development. This year the new technology that we are strangling is a technology related to depressed trajectory missiles; that is, missiles that have a lower flight path so you cannot track them as easily. It is an area in technology that we could have a tremendous advantage over the Soviets. It is an area we would have a chance to destroy in terms of effectiveness tens of billions of dollars' worth of Soviet investment.

Why are we writing provisions in our defense bill that say we cannot develop and test this new technology? Madam President, it makes no sense. It is not a dollar issue. It is an issue of limiting our ability to use the one thing we have the Soviets do not have and cannot match, and that is technology.

Finally, this bill refuses to make a decision about the third leg of the triad, our land-based nuclear missiles. We have a budget constraint. We cannot afford rail garrison MX and the Midgetman. Everybody knows that. So what does Congress do? We give a little piddly amount of money to each one and then we fence money to say that the new President will make a decision as to which weapon we will finally select.

Madam President, we have come to the moment of decision. We either have to go ahead with rail garrison MX or we have to build the Midgetman. This bill does neither and in effect it hobbles both programs. So we have heard all the comments today about the great Senate bill, but the President did not veto the Senate bill. In fact, he said he would have signed the Senate bill. He vetoed the conference report, and he vetoed it because it unilaterally imposed unratified and unrespected treaties by the Soviets on the United States.

I think most Americans would be shocked to find out that Congress is trying to force us to abide by treaties that Congress even would not ratify.

I think people in the country would be surprised to find out that we are mandating, through the law of the land, restrictions on SDI that in some cases are more binding than what the Russians want. I think people would be shocked that we are limiting our ability to use modern technology at the very time when real defense spending is declining.

Finally, the time has come to make a choice about land-based missiles. We cannot afford them both. We have to make a decision. We have a right obviously to make that decision in conjunction with the President, but what the President objects to here is our unwillingness to decide. So, Madam President, this issue is not a dollar issue.

We are pirating the defense budget, at this point about $900 million, to pay for other things in clear violation of our agreement with the President. That is the source of this veto.

I cannot see how anybody can call any of these issues political. These are issues that have to do with the survival and success of freedom in this world. The President vetoed the bill because of these issues. I am confident that we can and will sustain that veto on these issues. I am hopeful that Congress will come to its senses and take this language out. I hope Congress will not force us to abide by treaties that the Senate will not ratify. I am hoping that Congress will. If they are going to cut spending on SDI, for God's sakes they ought to let us spend the money wisely.

I could go into other areas, Madam President, but I have spoken on this issue longer than I intended to. I want now to turn my comments to the trade bill.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. GRAMM. Madam President, I have spoken long and hard on this bill on many occasions. I find myself in a position where I have to make a decision. I have an amendment in this bill that is very important to me and my State, and that is the amendment repealing the windfall profit tax. That was an unfair confiscatory tax that did not make any sense when it passed. It sure does not make any sense now that we are not collecting the tax, when we are spending $100 million merely doing paperwork.

I thought to myself that maybe I would just get up and say what a great amendment I offered with Senator BOREN, and that I would give a big round of applause when the President signed it into law. And I would vote against this bill.

On the other hand, I have to admit there would be a little hypocrisy in that. So as much as it pains me, since I intend to be there when my President fulfills a campaign promise he made in 1980 to repeal the windfall profit tax and signs the bill into law that repeals that tax. I am going to vote for this bill.

But I do not want anybody to be confused that somehow I think this is a good bill. It is the best we could do so far today. It is a compromise.

I want to commend the people who worked on this bill from the Senate, because the bill is better than it might have been. But the bill is still basically wrongheaded. It is a step backward, and not a step forward. It is based on a false premise. We have all heard it. It has been repeated so many times that unfortunately a lot of Americans believe it.

The premise is that we are losing in trade, that we are exporting millions of jobs, and that American jobs are being lost to foreign competition. What a great contrast that is, Madam President, with reality.

Since 1982 we have created more than 17 million new jobs. That is more jobs than all the other developed economies in the world have created. We have created more jobs than Germany and Japan combined have created in the last decade.

Madam President, before somebody jumps up and says but, we are losing manufacturing jobs, let me remind my colleagues that is not so. Between 1982 and 1986 we created 406,000 jobs in manufacturing, and this last year we created more manufacturing jobs than any other nation on Earth. In fact, despite all this myth of deindustrialization, the percentage of our economy made up of manufacturing has not changed in 50 years. It basically is the same percentage today that it was 50 years ago and, as our economy grew last year so did manufacturing.

We have all heard the old bugaboo that, well, these are low-paying jobs. I would like to remind my colleagues that if you break out salaries into low income, which is less than $7,012, middle income, which is $7,000 to $28,000, and high income which is above $28,000, during the Carter years 41.7 percent of the jobs created were in low-income categories. During the Reagan years only 6 percent of the jobs created have been in low-income categories. Ninety-four percent of the jobs that we have created have been in the middle- and upper-income categories.

In fact, during the Carter years, we actually lost 10 percent of the jobs in the high-income category. During the Reagan years we have gained high-income jobs. Forty-six percent of the jobs created since 1981 have been in the high-income category.

Madam President, I could go on at great length. But let me sum up, since I know another one of my colleagues has an amendment here that he wants to present and talk about. This is not a good bill. We are currently winning from trade. America has gone through one of the greatest industrial transformations in history. And it may be a decade before we look back and realize it. It has been hard. It has been painful. And it has taken its toll. But, Madam President, we are stronger today than we were 6 years ago. We are more competitive today than we were 6 years ago. Our automobiles today are the best produced in the world.

Today, we are competitive with Japan and Germany, and we have not done it because anybody wanted to do it. In fact, every day on the floor of the U.S. Senate we have had proposals that said: "Don't make America compete; don't make the guys standing on the assembly line, in that old country song, having daydreams about night things in the middle of the afternoon—don't make them pay attention to their business. Don't make us work. Don't make American management, instead of having that two-cocktail lunch get their fannies off the golf course and go to work. Don't make them do it."

Madam President, thank God we had a President who said no to protectionism. Thank God we had a President who said we cannot be a world power unless we can compete. If we cannot produce, we cannot lead the world. As a result, we fought back all that protectionism, and today America is stronger and more competitive, and today America is in its ascendancy again. This bill, however, is a step backward.

Anybody who believes that when a company is losing to foreign competition, by protecting them for 8 years somehow they are going to become competitive, is crazy. The lack of competition produces noncompetitiveness.

The reality is that there is only one market, and that is the world market, and we have to compete in it.

This bill is a throwback to the past. This is an investment in the past. This is trying to hold on to the old jobs. We ought to be talking about new jobs.

Madam President, by approving the free trade agreement with Canada, we will more than offset this bill. I hope that someday we will come back and repeal this bill, and I hope that we will follow the free trade agreement with Canada with one with Mexico and Central America.

I hope that if the Japanese trade unfairly, rather than slapping our consumer in the face, we will go to the Koreans and say: "We will let your goods in our country to compete with the Japanese on a privileged basis if you will let our goods into your country." Let me assure you that that would bring the Japanese to Washington to negotiate.

The proponents of this bill are not interested in trade. They want to prevent trade.

Finally, there is some misconception that somehow we can benefit by producing everything at home. I look at my trade balance with the grocery store. It is a totally unfair trade relation. They do not buy a single thing from me. The grocery stores are absolutely protectionist in my dealing with them.

Somebody here will say that I ought to start growing tomatoes because the grocery store is practicing unfair trade. I could do that, but the price would be poverty.

World trade is a reality. The quickest way for America to decline is to try to opt out of world trade. We ought to be moving in the other direction; but with all the political pressure for protectionism, it is almost a miracle that we are not doing worse.

So I hope we will follow this bill by adopting the Canadian Free Trade Agreement. I am committed to repealing most of the provisions in this bill, except with reference to the windfall profit tax and a few other items that actually promote trade.

I thank my colleagues for their long indulgence while I have spoken on this issue and the President's veto of the defense authorization bill.

THE PRESIDENT'S VETO: CONGRESS LEFT HIM NO ALTERNATIVE

Mr. HELMS. Mr. President, the Defense authorization conference report amounts to U.S. unilateral disarmament.

Congress mandated the scrapping of three more perfectly serviceable Poseidon submarines, in order to comply unilaterally with the unratified SALT II Treaty sublimit on MIRV'ed missiles.

Meanwhile, the Soviet Union currently has 1,220 MIRV'ed missiles, exceeding the SALT II MIRV missile sublimit by enough nuclear missiles to destroy 20 American cities. This is the highest MIRV'ed missile number the Soviets have ever had.

Thus Congress mandated United States unilateral SALT II compliance in the face of the greatest Soviet SALT II violation ever observed.

Second, the President vetoed this bill because Congress mandated U.S. unilateral compliance with the narrow interpretation of the ABM Treaty in developing our vital strategic defense initiative.

Third, the President vetoed a bill that guts the Strategic Defense Initiative Program.

Meanwhile, virtually the entire Congress agreed with the President when Congress voted that the Soviet Krasnoyarsk radar is a clear violation of the ABM Treaty. Indeed Krasnoyarsk is a "material breach" of the ABM Treaty.

So while Congress is forcing United States unilateral compliance with the narrow interpretation of the ABM Treaty, to which the Soviets never agreed, and while Congress is gutting the funding of the vital SDI Program, the Soviets have broken out of the ABM Treaty.

Mr. President, the Defense authorization conference report mandated U.S. unilateral disarmament. President Reagan has helped to safeguard American national security by vetoing this unilateral disarmament, antidefense, Defense bill. The appeasement lobby in Congress, which mandated the unilateral disarmament entailed in the antidefense Defense bill, is outraged by President Reagan's veto of their handiwork, but the American people certainly do not want to disarm America unilaterally by complying unilaterally with SALT I and SALT II in the face of massive, confirmed Soviet violations of both treaties.

Mr. President, Ronald Reagan was right to veto this conference report. In fact, the irresponsibility of Congress left him no alternative.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. **HUMPHREY**. Mr. President, in a moment I will call up an amendment. First, I want to address a few remarks to the bill itself, which I intend to oppose.

In the broadest sense, this is an attack on the power of the Presidency, and not just on the powers of the current occupant of the White House, but those who will follow. Except in the area of trade, it is a parallel attack to the kinds of attacks made on the Presidency and Presidential powers to conduct foreign policy.

This, in a sense, is the War Powers Act—this trade bill before us is, in effect, the War Powers Act in the area of trade. It will diminish Presidential authority. It will muddle the conduct of trade policy. It will not improve it.

If Senators like the muddle we have with respect to dealing with the Communist regime in Nicaragua; if they like the muddle produced by 535 self-appointed Secretaries of State daily, competing with the President in the conduct of foreign policy—if Senators like that kind of muddle in the conduct of our foreign policy, then they will like the kind of muddle this bill will produce in the conduct of trade policy when we reduce the President's powers in that area.

In a political sense, this is just another of a long line of political bills we have seen brought to the floor in this body that are intended to serve the interests of the majority in this body, the interests of that party nationally. These are intended to be tough votes for Republicans, and they are tough votes for the President. We saw his about-face on the plant-closing bill. These are political bills.

The bill for all these political shenanigans will be paid by the people of this country, by the American people; and the bill for this political shenanigan, this trade bill, will be borne by each and every American who, more than likely, will face higher consumer prices as this bill cuts into international competition, as this bill provokes retaliation among our trading partners against us.

There are a few good provisions in the bill; no question about it. The Senator from Texas has named one. It repeals that foolish bit of legislation, that vindictive bit of legislation passed in the height of the hysteria over the energy crisis, the windfall profits tax.

This Senator was one of a few—I think one of two—as I recall, representing States east of the Mississippi River, who opposed that windfall profits tax. We imposed that tax at the time, and through today my thinking has been that if we want to produce more of something, in this case energy and oil, we should encourage its production instead of penalizing its production.

In any event, the windfall profits tax was repealed. That is good, and I regret that in voting against the bill, I will be working against that repeal. I do not want it misunderstood, and I do not think it will be, because the record shows where I have been on the issue from day one.

I recall another piece of legislation that was passed during the hysteria of the energy crisis which created something called the Synthetic Fuels Corporation. I am glad to recall that I voted against that monstrosity as well. Ultimately, we came to see that as a monstrous waste of hundreds of millions of dollars; and finally Congress put that miserable operation out of its misery, but not before that great amount of money was wasted.

The bill is an attack upon the powers of the Presidency. It is not going to work well. I agree with the Senator from Texas that ultimately we will find that it operates poorly and we will have to amend it in significant ways.

AMENDMENT NO. 2791

Mr. **HUMPHREY**. Madam President, I now want to address a narrower issue. This is, after all, a trade bill, so I am offering an amendment that deals with the continued trade which exists between the United States and Afghanistan. I send an amendment to the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 2791.

Mr. **HUMPHREY**. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . TRADE WITH AFGHANISTAN.

(a) AUTHORIZATION TO PROHIBIT IMPORTS.

(1) Notwithstanding any other provision of law, the President is authorized to prohibit the importation into the United States of all products of Afghanistan after the date of enactment of this Act.

(2) For purposes of this subsection, the term "product of Afghanistan" means any article which—

(A) is grown, produced, or manufactured in Afghanistan, and

(B) is exported by—

(i) the so-called Republic of Afghanistan that is sponsored by the Union of Soviet Socialist Republics, or

(ii) any political party, faction, or regime in Afghanistan sponsored by the Union of Soviet Socialist Republics.

(b) AUTHORIZATION TO PROHIBIT EXPORTS.—Notwithstanding any other provisions of law, the President is authorized to prohibit the exportation of any goods or technology from the United States for the benefit of, or use by—

(1) the so-called Republic of Afghanistan that is sponsored by the Union of Soviet Socialist Republics, or

(2) any political party, faction, or regime in Afghanistan sponsored by the Union of Soviet Socialist Republics.

(C) REPORT TO CONGRESS.—If the President has not, before the date that is 45 days after the date of enactment of this Act, taken actions under this section to prohibit trade between the United States and the so-called Republic of Afghanistan, a regime that is sponsored by the Union of Soviet Socialist Republics, the President shall submit to the Congress on such date a report which states the reasons why the President has not taken action to prohibit such trade.

(D) INTENT OF CONGRESS.—It is not the intent of Congress to authorize the President to prohibit trade with those Afghan forces or factions for which the Congress has expressed support.

Mr. HUMPHREY. Madam President, the essence of the amendment, which has previously been adopted by the Senate unopposed, is to give authority to the President such that he may prohibit the importation into the United States of products made in Afghanistan. He is authorized to do that. He is not required to do it or compelled to do it. He is given the authority to do it.

Madam President, as every Member of this body knows by now the regime in Kabul which purports to govern Afghanistan is a regime imposed by the Soviet army. It is a puppet regime, a regime with a thoroughly documented record of crimes against its very own people.

Last year, as I mentioned, the Senate by a vote of 83 to 0 adopted an identical amendment to the omnibus trade bill. Therefore, there is no reason that this amendment should not be unanimously adopted today. I presume it would if we could just get by the tabling motion. I am not optimistic on that. Nonetheless, I want to address the amendment briefly.

It has been now almost 9 years since the troops of the Soviet Union poured into Afghanistan and installed a puppet regime in Kabul. The list of documented atrocities sanctioned by that regime is endless. The United Nations, Helsinki Watch, Amnesty International, the State Department and recently a team of international lawyers, have compiled hundreds of pages of testimony on the horrifying disregard for human rights in Afghanistan sanctioned by this puppet with whom we continue not only to trade but with whom we countenance and increase in trading in recent years.

With the help of 120,000 Soviet troops, these Kabul puppets now reduced, of course, by 20,000 or 30,000, these Kabul puppets are directly responsible for the deaths of more than 1 million people—1 million people in a small country—most of those noncombatants, not soldiers, not freedom fighters, but women, children, and elderly, innocent victims.

To give the Senate some sense of proportion, I mentioned Afghanistan is a small country. If the United States with our population of 210 million or so were to suffer the same proportion killed—not talking about wounded, talking about killed people—that would equate to 16 million, 16 million, 16 million dead people.

If it is possible to imagine that, and it is very difficult to imagine it, one has to realize that would mean literally virtually that every family would have lost some dear relative, a child, a parent, brother or sister, and that is precisely the case in Afghanistan, thanks to the Soviets and to the criminal regime which they installed in Kabul at point of force.

Not only that, not only are they responsible for a million deaths and responsible for the largest refugee population in the world, over 5 million, one-third of the population equivalent to about 80 million Americans being driven into foreign exile. One-third of Afghanistan's population before the Soviet invasion had been driven into foreign exile by the fury and cruelty and the hardship of this war.

That is 80 million Americans, equivalent, driven into foreign exile.

So enormous are the crimes committed by the puppet regime in Kabul that the United Nations has described the condition of human rights in Afghanistan as: "A situation approaching genocide."

We all know that the United Nations is not noted for rash statements or strong statements or even appropriate statements on most occasions, so when they say this situation is approaching genocide you have to recognize that it is a very bad situation, indeed.

The Congress for its part in Public Law 99-399 expressed concern that Soviet policies in Afghanistan may constitute the crime of genocide.

The President and senior administration officials have repeatedly described the Kabul puppet regime as "weak and illegitimate."

Yet, despite all this, the United States continues to grant legitimacy to this criminal puppet regime, guilty of cooperating in the genocide of its own people, by maintaining and expanding a trade relationship with that puppet regime.

Though there are restrictions on sales of certain strategic items—we cannot sell them any ICBM's or bombers; we are a little bit discriminating—nonetheless, the State Department informs my office that:

"Trade in and of itself between the United States and Afghanistan is not prohibited."

Indeed, it is not.

In fact, as I said, trade is on the rise between the United States and Afghanistan.

In 1987, the volume of United States exports to Afghanistan more than doubled over the volume of exports the previous year. The items included aircraft parts, small engine parts, cigarettes —that is OK. Maybe we should send them more, send them the matches, too, while we are at it—and some domestic items such as clothing and soaps.

The point is, Mr. President, it is not so much the items or even the dollar value of the trade, it is the legitimacy it confers. It is the legitimacy that this Nation continues to confer upon this puppet criminal regime by continuing to sanction and countenance trade between our two nations.

I mentioned the doubling in 1986. Last year the level of United States exports to the Kabul regime increased once again.

Stated simply, the same regime that is participating in the genocide of its own people, has access to American markets for the purchase of certain goods.

The amendment now before us would authorize—authorize I emphasize—the President to prohibit all trade between the United States and the Soviet puppet regime in Kabul. This amendment is similar to legislation that I introduced on April 10, 1987, and which was at the time of its introduction supported by Senators PROXMIRE, BYRD, DOLE, and 19 other Senators and which now has the bipartisan support of 31 Senators.

My proposal is consistent with our trade policy toward other States whose human rights abuses are an anathema to civilized nations. The United States prohibits trade with Cuba, Nicaragua, Vietnam, North Korea, and Kampuchea. We are now long overdue in adding to that list the regime in Kabul.

As our distinguished colleague from Wisconsin, Senator PROXMIRE, indicated upon the introduction of this legislation: "While in the past some Members of this body have expressed doubts over the need to cut off trade with Nicaragua, North Korea, and Cuba, this case is crystal clear."

Mr. GORE assumed the chair.

Mr. HUMPHREY. Mr. President, under this provision the President retains the authority to suspend and resume a trade relationship with Kabul. At such a time the President determines that Kabul is no longer controlled by a Soviet puppet regime, he would have full authority to lift the ban on trade. This amendment is fully supported by the administration. The Deputy Secretary of State writes: "We will draft an executive order for the President's signature once we receive the authority to lift the ban on trade."

The time has come for the Senate to act as the puppet in Kabul, Mr. Najibullah increasingly seeks to cloak his regime in the appearnace of legitimacy, we must send a strong message that this Nation will have no commerce with a regime guilty of nothing less than the genocide of its own people.

Mr. President, I have no question but this amendment would be adopted if judged on its merits because it has been adopted unanimously in the past. Unfortunately, on this bill, the provision which was unanimously adopted was dropped in conference and so we are going to have the problem again. However, I am also aware that so far no amendment has succeeded against tabling motions on this bill and so certain am I of the importance of this measure and its unanimous support in this body that it would be unwise to risk an adverse vote and, therefore, I will not expose it to a tabling motion under these unique situations which exist today.

And having conferred with the majority leader and the minority leader earlier in the day and been assured that they continue to support this measure and would support it on another bill sometime this year, I am prepared in a moment to withdraw the amendment.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. HUMPHREY. I am happy to.

Mr. DOLE. I say we conferred earlier and I would be happy to support it. It is a good amendment. It was adopted unanimously. It should have been left in there.

I would be happy to support the Senator on this particular amendment at any appropriate time.

Mr. HUMPHREY. I thank the Republican leader for his continued support and for that assurance.

The PRESIDING OFFICER. Is there objection to withdrawing the amendment? Hearing none, the amendment is withdrawn.

The amendment was withdrawn.

Mr. BYRD. Mr. President, I feel that some comment by me is necessary in this respect. I have been off the floor.

I support the amendment and will support it on another bill depending on what the other bill is. Just as in the case of this bill, I will not support it on this bill, the reason being that we are trying to defeat all amendments to this measure and keep it clean so it can go down to the White House without going back to conference.

With that caveat I say I do support the measure and hope that it will be called up to a bill which will not provide the kinds of restrictions that this particular bill provides.

Mr. HUMPHREY. Mr. President, I thank the majority leader for his continued support of the amendment and the provision. I am heartened by his willingness to support the amendment on another bill not yet specified, but a bill of the type which surely will come along before the end of this year.

Mr. SYMMS. Mr. President, I rise briefly to conclude my comments on this trade debate. We have had quite a lengthy year of trade being a very important issue.

I might say to my colleagues that there is much about this bill that I think is positive. In the first place, it repeals the misnamed windfall profits tax. My reasons for opposing the bill are more generic, because in my view we are starting down a path of procedural protectionism, which will lead to an economic slowdown in the United States of America.

As I said earlier in the debate, when the distinguished Senator from Wyoming was making his points about this trade bill, if we want to reduce the trade deficit, one way surely to do it is to impose more socialism on the economy of the United States, to pattern ourselves after those economies in the world that are slow and dead. This Congress can fix things so that the Americans who now have jobs and purchasing power will not be able to afford to buy the goods and services they are buying today that come into this country from other countries. More importantly, Mr. President, this Congress can impose taxes and regulations so that foreign investment will not continue to flow into the United States of America. If we are going to be trying to protect what in many cases may be old and out of date and needs to modernize and make itself competitive with the world market that we live in, we will discourage investment. Therefore, I think that this bill should not become law.

In my State, we have had some trade problems. We are a natural resource producing State. Under current law, two major issues were solved by this administration, an administration that takes a lot of criticism for having been called a nonactivist trade administration. But in the case of the timber question—and many States were involved in that with the unfair, subsidized pricing of Canadian timber stumpage against American timber producers—we were able to get considerable consideration from our Government who, in fact, then negotiated a satisfactory arrangement with the Canadians to price timber at fairer cost levels.

The other agreement, of course, which has been widely criticized from many parts is the semiconductor agreement. We have a very strong and viable semiconductor industry in my State, particularly the firm of Micron Technology, a company which benefited from the agreement and is expanding and growing more profitable. It is on the cutting edge of semiconductor technology in the country. That was done under current law.

What usually happens in these arguments, Mr. President, is we talk about "fairness," fair trade. We always hear the argument from people who are promoting protectionism—and it is not new to this debate in the 100th Congress in 1987 and 1988; it has been true throughout history—that people who want to promote protectionism point to the closed markets of our trading partners and claim they are unfair to American producers. The foreigners can sell their goods here, but we cannot sell ours over there. Americans are "fair" and our trading partners are "unfair".

Of course, fairness basically means treating everyone equally. We would like to have evenhandedness, without favoritism, so the rules of the game for all players are equal. But "fairness" acquires a new meaning in the mouths of protectionists.

We have had a great deal of pressure in this country for protectionism with respect to the automobile industry. For some of the people who lost their jobs in the automobile industry, it is a very traumatic experience and very difficult for them to go through. I understand their pain.

We had the same experience in my State with the Bunker Hill Smelter, a nonferrous lead, zinc, and silver smelter that ended up becoming unable to compete with foreign smelters for many reasons—union monopoply contracts, environmental protection laws, transportation disadvantages compared to our friends to the North in Canada, and many other problems. But for one reason or the other, old equipment that had been fully depreciated, a Federal tax policy that had been too high, imposing a tax on capital, for many, many years, and we lost that smelter. It was difficult for those people. It was traumatic. I do not downplay that.

But now we have more jobs in my State than we had in prior years. So we must take the longer view. Sometimes what we have to look at when we look at the argument about fair trade is the full picture.

A foreign government's protectionism bestows privileges and extra profits on sellers in its domestic markets. But it is also unfair to the buyers there, who are denied the benefits of lower prices and the widest selection of goods. That is what the whole issue is all about. Fairness to both sellers and buyers.

It is very interesting to see how this works out. I just pose the rhetorical question: Why should U.S. officials care so much about domestic market restrictions in Europe or Brazil? In every other sphere of international relations, the watchword is sovereignty and nonintervention. The United States Government does not have a policy to interfere in the affairs of Ethiopia or Cambodia to prevent economic policies that are causing starvation and mass murder. So why is there so much passion, then, about Japanese quotas with respect to oranges and beef? Many of us in this room have been involved in that argument.

The reason, of course, is very obvious. The answer is there could be profits made by selling oranges and beef in the Japanese market and there are not any profits to be made in interfering in some of these other human rights issues, which are also cases of economic injustice.

I think it is good that the Japanese are opening up their orange, citrus and beef markets to allow America to compete for that share of the market. Whether we will get the largest share or whether Australia will get it, or someone else will get the market, we will have to wait and see. But at least we will have an opportunity to compete for that market. And that is what we are asking for.

But I would say, again, to my colleagues the current laws of the land of the United States, without this trade bill, are just fine. So I think we should take a very careful look at what we are about to do here today and what we say we are doing in the name of fairness. How fair it will be, in the long run, to treat American producers and sellers and American buyers, American consumers, under this bill.

Trade sanctions supposedly make it possible for our trade negotiators to gain concessions by threats of retaliation against our trading partners.

Essentially, protectionism tries to help some American producers at the expense of American consumers—and other producers. But the U.S. Government's duty is to treat all Americans fairly. The tools of the new trade law are market-closing sanctions, sanctions that hurt Americans who buy imported goods. In the name of fairness to American sellers, rather blatant unfairness is inflicted upon American buyers.

Such sanctions supposedly make it possible for our trade negotiators to gain concessions by threats of retaliation against foreign business owners, who may not even support their government's trade policies. The trade negotiators want these tools to help them fight for some American sellers.

But, Mr. President, the economic researcher Jim Powell, the author of a new book, "The Gnomes of Tokyo," canvassed the 30-year record of trade retaliation by the U.S. Government. Powell found that the record of failure is exceeded only by the dogmatic belief in "tough negotiating." And when he examined it, he found few places where we actually were successful by threatening trade retaliation. He found no successes in Europe, none in Latin America, and in Japan, only with cigarettes and aluminum. But not very much in those cases either by threatening retaliation.

That is really my concern about this bill. In my part of the country, in the Pacific Northwest, we look to the Pacific Rim as the opportunity for our future, for new markets for the production of our goods and our services and the talents of our people. We need the markets in the Pacific Rim.

It sounds good to talk about bashing someone or threatening retaliation, but the reality of it is that it has not worked to any degree. There just is no evidence to show that retaliation has been a way to help open up closed markets. It has been long, hard, patient negotiating to convince people that it is not only in the best interest of the United States to have open trade but it is in their best interests too. We can show Japan, or wherever the trading partner is, when they open up trade with us both sides can profit and we can have good, healthy trade.

Mr. President, there is a great emotional appeal to a trade question. There is no doubt about that. It is patriotic. Many of us prefer to buy things that are made in the United States of America. That is only, I think, a normal patriotic, nationalistic feeling.

The abuse of logic and language in the trade debate extends beyond the misuse of fairness. Take the linguistic sleight of hand that claims that some Americans are treated unfairly by foreign governments, so all Americans are treated unfairly by foreigners. Clearly, the foreign producer who offers you clothing, electronics, automobiles, or petroleum at lower prices or better quality than anyone else is not doing anything unfair to Americans—neither to you nor to its American competitors.

This fallacy is also visible in reports of a trade deficit. Some Americans make products for export. Some Americans buy and consume imported products, in preference to domestically produced brands. With strong economic growth in the United States, imports increase. Exports increase with economic growth abroad. Yet the trade deficit is figured by subtracting one total from the other: your two apples minus my three oranges makes our fruit deficit—this is the fallacy of composition.

So, the power of the argument for protectionism rests and works on those kinds of false arguments. And it becomes a rather illogical belief. I have to say that before I studied the basis for the trade deficit, I used to worry a lot about it. But I think one can come to the conclusion that it is a statistical measurement of dubious accuracy and it has no real impact on the lives of most Americans.

The reason for that is that there is a massive amount of foreign investment coming into this country to provide the jobs and the capital to help hire more people. Manufacturing and exports are actually up in the United States. We are working closer to plant capacity than we were several years ago.

Real per capita personal income nationwide has grown 12 percent. In constant 1986 dollars, the percentage of families earning less than $20,000 a year declined from 33.4 to 31.8 percent, while those earning more than $50,000 rose from 15.9 to 20.7 percent between 1980 and 1986.

But what really concerns me is not part of this bill, but this legislation sets the stage for this: it has been popular to have a little Japanese-bashing going on. I can remember that 10 years ago it was very popular to bash the Arabs and say the Arabs are buying up America.

I remember, when the distinguished occupant of the Chair and I were in the other body, there was a great hue and cry about Arab investors. In the Agricultural Committee there were many bills touted around to try to outlaw foreign investment in agricultural America and stop foreign investment.

The point I want to make is that now we hear that same talk, but it is all pointed at Japan—buying up the United States of America. The truth is that the British have a great deal more investment in the United States than the Japanese, and the Dutch have a great deal more investment in the United States than the Japanese do. But the ethnicity, and because of our relationships with those European friends of ours, it does not seem to bother people.

So we would rather bash the Arabs or the Japanese; to say they are buying up America. But we should be very cautious of doing anything which will preclude foreign investment in the United States of America. I do think that this trade bill, although there may be much about it that probably will not be harmful to our economy, in the general sense, the message that it sends is that America is becoming more protectionist. It is less willing to allow its industries to accommodate to the changing global economic conditions in the world and allow its people to change jobs and get into more efficient, vastly better and more productive jobs that in many cases pay higher wages than the jobs they have lost.

If that happens, if this legislation sends a signal that slows down some of this investment, and if the investment is slowed down from coming into the United States, our economy will slow down, and we will suffer a recession. You can trace this effect on investment back to Smoot-Hawley and other protectionist legislation. It is just absolutely illogical for us to try to interfere with the growing, healthy economy by passing legislation like this. The next step will be to increase taxes because we will have more problems with the budget deficit with more unemployment, and every other problem as we go into a recession. It will make the deficit bigger, the Federal budget deficit, and one thing will lead to another. We will end up starting, generating a slowdown of our economy that we could avoid. Without this legislation, we could have continued expansion.

What we should be doing, in my view, is concentrating on finding ways that we can save money out of the Federal budget, concentrating our efforts on that and allowing our current system to operate as it has operated in these past many years.

I think the economic public interest for most of the working men and women in this country would be better served without this legislation, even though it has some parts in it that I do favor.

Mr. President, I ask unanimous consent that a paper entitled "The Folly of Trade Retaliation," by researcher Jim Powell, be printed in the RECORD at this point.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

THE FOLLY OF TRADE RETALIATION

(By Jim Powell, author of The Gnomes of Tokyo: Dodd, Mead & Co., 1988)

Trade retaliation doesn't work. Although U.S. officials claim that threatening to close our markets helps open foreign markets, this rarely ever happens. When it does, the payoff tends to be small. The more likely result of retaliation is increased U.S. trade barriers which mean higher prices for American consumers and reduced competitiveness of American companies.

What's the biggest success claimed for our strategy of trade retaliation? Officials in the office of the U.S. Trade Representative cite the recent case of cigarette sales in Japan. Negotiations dragged on for 14 years, and finally the U.S. threatened retaliation under Section 301 of the 1974 Trade Act. In 1987, the Japanese agreed to suspend their cigarette tariffs, and U.S. cigarette sales in Japan surged to $492 million. Although the U.S. share of the Japanese cigarette market tripled to 10%, this added only 1.5% to our total exports there.

U.S. cigarette sales in Japan are expected to grow, but Japanese cigarette consumption is levelling off. So increased U.S. cigarette sales means the Japanese will be manufacturing fewer cigarettes. Consequently, they may end up buying less U.S. leaf tobacco. There may not be much, if any, net improvement of U.S. tobacco sales to Japan, although sales would shift from raw materials to manufactured goods. In any case, one may wonder why American taxpayers are promoting lung cancer overseas.

The strategy of retaliation seems to have figured in several other modest market openings. In 1985, the Japanese agreed to relax restrictions against aluminum ingots and sheets, and since then, the U.S. market share has increased from 1.7% to 3.5%—or $333.3 million in 1987. Overall improvement of our exports to Japan: less than 1%.

In some cases, markets opened, but the U.S. share actually declined. For example, in December 1985, Japanese officials relaxed restrictions in their non-rubber footwear market. But the U.S. share fell from 6.5% in 1985 to 5.5% in 1987 as European companies expanded sales to Japanese customers.

U.S. officials have pressured the Japanese to liberalize barriers which excluded U.S. companies from the Japanese telecommunications market. NTT, the giant telecommunications company, had relied on four traditional suppliers—NEC, Oki, Fujitsu and Hitachi. Although NEC is buying more from foreign suppliers now, the U.S. market share has declined. In 1983, according to information supplied by the U.S. Embassy in Tokyo, U.S. companies had a 2.7% share of the Japanese telecommunications market. This has declined to 2.2 percent in 1987, apparently as European companies expanded their business.

Our trade negotiators have criticized Japan for its pursuit of "Buy Japan" policies in military procurement and civilian construction. While the Japanese government has agreed to develop a modified design of the U.S. F-16 fighter aircraft, only the shell and some components are likely to be American. The U.S. will gain few jobs. The situation is similar in construction. The Kansai International Airport, for instance, will cost $8 billion to build. Thusfar, U.S. firms have won contracts worth less than $2 million. Since construction in Japan, as in the U.S. tends to be embroiled in politics, we shouldn't expect big gains here.

Oranges figure in another trade dispute with Japan. In 1987, U.S. orange growers reported $123 million of exports to Japan, for a 4.6 percent market share. U.S. growers would be the primary beneficiaries of a more open Japanese market now, but in the future Australia and South Africa may become important competitors. U.S. growers face serious competition from Brazil in the smaller Japanese market for frozen concentrated orange juice.

Our trade negotiators are likely to be less successful with beef. In 1987, U.S. companies exported $557.5 million of beef to Japan, accounting for 13.4 percent of that market. If the Japanese phase out their import restrictions against beef, U.S. sales may actually decline, as cheaper Australian beef gains market share.

Overall, then, a poor record for the strategy of retaliation. Former Commerce Department trade negotiator Clyde V. Prestowitz admits: "nothing to show for all the hours of talks with Japan except more horror stories."

Europeans are no more receptive to threats than the Japanese, and the trend there is to close markets. About the only success our trade negotiators can point to are agreements which slow down the market-closing process. For example, after Spain agreed to join the European Community, it had to start implementing higher trade barriers against U.S. exports. U.S. officials threatened to slap 200% tariffs on a wide range of Yuppie products from Spain, such as wine and cheese. In January 1987, Spain agreed to buy $434 million of U.S. grain for each of the next four years, a figure based on recent import levels. But Spain hasn't acted on this agreement yet, and in any case, if they do, the market closes when Spain is fully integrated with the European Community.

U.S. threats haven't yielded much to cheer about elsewhere, either. Argentina, Brazil and India, for instance, continue their protectionist policies which include high tariffs, restrictive import licensing procedures, barriers against services, government monopolies, "buy national" programs and a variety of laws limiting foreign investment.

The poor record of trade retaliation is consistent with the poor record of economic sanctions generally. After analyzing 103 cases of economic sanctions imposed since 1914, Gary Clyde Hufbauer and Jeffrey J. Schott of the Institute for International Economics concluded: "In most cases, sanctions are not effective, and occasionally they backfire."

For example, after the Soviet Union invaded Afghanistan in 1979, the Carter Administration ordered Caterpillar Tractor to cancel a sale for several million dollars worth of earth-moving equipment being shipped to the Soviets. The order was filled quickly by an alternate supplier. The Soviets got their equipment, and Americans lost business.

Trade retaliation may work mainly when a big country threatens a little country. For example, U.S. pressure seems to have played a role in Taiwan's decision to reduce tariffs on 1,800 categories of imports. Recently, U.S. trade negotiators pressured the tiny Caribbean islands of Trinidad and Tobago to restrict their steel exports to the U.S.

It should be apparent by now that we can't dictate another country's trade policy any more than we can tell people what form of government to adopt or which political leaders to choose. We have our hands full trying to contain our own protectionists.

If a country defies our threats and we end up retaliating, we mainly hurt ourselves. Perhaps the most dramatic example is the Semiconductor Agreement we pressured the Japanese to sign in September 1986. It required that Japanese semiconductor producers stop selling their products at bargain prices. To accomplish this, they restricted output. In recent months, a severe shortage has developed, and prices for 256 kilobyte memory chips have quadrupled from $2.50 to $10—doing considerable harm to American companies which need memory chips to make computers, telecommunications equipment and other products. In effect, the Semiconductor Agreement is helping to transfer hundreds of millions of dollars from U.S. semiconductor users to Japanese semiconductor producers which are investing substantial sums in research and development, to help maintain their lead. Finally, the Semiconductor Agreement has triggered litigation among U.S. companies and disputes with the European Community.

To be sure, another aim of the Semiconductor Agreement was to increase the U.S. share of the Japanese semiconductor market. But by restricting sales in overseas markets, the agreement has contributed to a chip glut and lower prices in Japan, making that market even harder for U.S. firms to penetrate. Since implementation of the agreement, the U.S. market share is up a little bit to 10%—where it was a decade ago. So all the threats haven't resulted in any long-term gains.

Meanwhile, a number of U.S. companies have protested that they're injured by duty-free imports from Mexican "maquiladora" factories which Japanese investors have financed. Politicians hesitate to impose restrictions, because the U.S. General Accounting Office reported that 68% of all maquiladora factories are actually U.S.-owned. Efforts to help some U.S. companies would clearly hurt many others.

Antidumping and countervailing duty laws are intended as weapons against unfair trade practices—bargain prices and subsidies respectively —but these retaliatory policies, too, mainly hurt ourselves. They tend to impose punitive duties in the 20 percent to 50 percent range, chiefly on industrial inputs like nitrocellulose, softwood, spun acrylic yarn, neoprene laminate and construction castings. Sometimes retaliation is more severe, as in the case of 92 percent duties against large power transformers from Italy, 158 percent duties against animal glue from West Germany and 500 percent duties against photograph adaptors from Britain. By increasing the cost of business, such retaliation handicaps American companies in global markets.

When antidumping or countervailing duties are imposed on consumer products, obviously consumers suffer a direct hit. This is the case with duties on sugar, TV sets, cooking ware and cut flowers.

Many antidumping and countervailing duties remain in effect for years, adding to the maze of U.S. trade barriers. Fifty-three antidumping orders—almost a third of the number currently in effect—go back to the 1970s or earlier. For example, we've had an antidumping order against cement from the Dominican Republic since May 4, 1963; steel bars from Canada since September 25, 1964; bicycle speedometers from Japan since July 22, 1972; canned Bartlett pears from Australia since March 3, 1973; pressure sensitive tape from Italy since October 21, 1977; and sugar from France since June 13, 1979. Typically, an antidumping order isn't lifted if a U.S. company protests it may be hurt, even when—as is the case with those Australian canned Bartlett pears—zero imports are coming in.

Moreover, retaliation always entails the risk of counter-retaliation. The most horrifying episode involved the 1930 Smoot-Hawley tariff which slapped an average 59 percent duty on 75 agricultural commodities and 925 categories of manufactured goods. Austria, Finland, France, Germany, Hungary, Italy, Poland, Spain, Switzerland, Yugoslavia and 50 other countries retaliated within two years. The volume of world trade plunged more than 50 percent during the 1930s.

We invite retaliation now, because we're guilty of just about everything we accuse our trading partners of doing. Myriad government agencies subsidize U.S. exporters. For example, the Small Business Administration, Export-Import Bank, Overseas Private Investment Corporation, Agency for International Development and Trade and Development Program. In addition, many U.S. companies benefit from subsidized electrical power. The U.S. Government is the world's biggest dumper, giving away billions of dollars worth of wheat, rice, soybeans and dairy products every year—and in the process, impoverishing Third World farmers. U.S. municipalities manipulate building codes to create barriers against imported building materials. Many states have "Buy American" laws which bar better-made, lower-cost imports. Orderly marketing agreements restrict trade in commodities such as tin, ball bearings and mushrooms. "Voluntary" restraint agreements restrict trade in automobiles and machine tools. Washington restricts 220 kinds of textile and clothing imports from almost 40 countries, as well as steel imports from Europe, Asia and Latin America. There are U.S. tariffs on thousands of products. The United States has pursued protectionist policies more aggressively than any other major country during the 1980s.

Retaliation often generates random damage, as each government strikes at different targets likely to do the most harm. During the famous "chicken war" of the 1960s, U.S. officials aimed to knock down European Community tariffs against imported broiler chickens by imposing retaliatory duties on imported French cognac and German Volkswagen vans. But the tactic didn't work. The Europeans retained their tariffs against broiler chickens. American consumers paid higher prices, and two decades later we're still stuck with 25 percent tariffs on light vans—a legacy of the "chicken war".

In 1985 the U.S. slapped retaliatory duties against pasta imports from the European Community, because of discriminatory duties against U.S. citrus fruit. The Europeans counter-retaliated with higher duties on U.S. lemons and walnuts. Two years later, there was an agreement to reduce subsidies—estimated around 25 percent—on pasta shipped to the U.S. Implementation of this agreement will mean higher prices for American consumers.

When, in June 1986, the United States tacked a 35 percent tariff on Canadian red cedar shingles, Canada retaliated with tariffs up to 30 percent on U.S. oatmeal, computer parts, tea bags and Christmas trees. American and Canadian consumers picked up the tab.

In April 1987, U.S. officials decided that Japanese companies weren't buying enough American semiconductors, so the U.S. Trade Representative held hearings on a list of products which might be subject to retaliatory tariffs. Over 500 companies opposed tariffs on one or more listed products. Just 30 companies advocated retaliation. During three days of hearings, 63 witnesses opposed retaliation, and five favored it. President Reagan retaliated with 100 percent tariffs on $300 million worth of Japanese power tools, color television sets and laptop computers. American consumers got shafted again.

Whatever the rationale for U.S. trade barriers, they cost consumers an estimated $70 billion annually. We are all poorer.

As the great American free trader Henry George remarked, protectionism is a policy where we do to ourselves in peacetime what our enemies do to us in war. "Protective tariffs," he wrote, "are as much applications of force as are blockading squadrons, and their object is the same—to prevent trade. The difference between the two is that blockading squadrons are a means whereby nations seek to prevent their enemies from trading; protective tariffs are a means whereby nations attempt to prevent their own people from trading."

How, then, can we help open foreign markets? Experience suggests that markets open when enlightened people assert themselves. Hong Kong adopted open market policies without our help. Our trade negotiators can't claim credit for Latin America's most open market which is in Chile: intellectual property rights are relatively well protected, subsidies are low, and there are few import quotas or investment restrictions. Now New Zealand is cutting tariffs, liberalizing investment policies, phasing out export licenses and subsidies. U.S. threats didn't produce these welcome trends.

After decades of expropriating foreign investment, Mexico is liberalizing its policies, but this isn't because of U.S. threats. Rather, Mexico has simply exhausted its borrowing power. Mexican leaders recognize that being hospitable to equity investment is their best hope for achieving growth and creating jobs. Thanks to a surge of investment, northern Mexico is growing 6 percent annually, almost as fast as Japan.

Turkey, too, began liberalizing its policies when it faced economic collapse. Since 1979, the government has phased out import quotas, lowered tariffs, abolished most price and exchange controls. Result: a gratifying boom.

The greatest progress with Japan has come through private initiative, not government threats. Subsidiaries of IBM, Xerox, Kodak, Johnson Wax, Schick, Coca-Cola, Proctor & Gamble, Walt Disney and hundreds more American companies in Japan generate an estimated $50 billion of annual revenues. European exports to Japan jumped 42 percent in 1987 compared to the year before. The U.S. has had little to do with Japan's deregulation of capital markets, probably the most important new development in global finance; this resulted from relatively large issues of Japanese government debt which could only be absorbed by a more open bond market.

Instead of threatening people around the world, we could achieve significant export gains by removing many of our own export barriers. The Commodity Control List is estimated to cover a million products which require a difficult-to-obtain license before they can be exported. Yet in thousands of cases, alternative sources are available in foreign countries. For instance, plastics, synthetic resins, synthetic rubber, synthetic fibers, drugs, ordnance and accessories, engines and turbines, calculators and computers, much radio and television receiving equipment, communications equipment, electronics components and accessories, watches and clocks, measuring, analyzing and controlling instruments, photographic, medical and optical goods. The National Academy of Science estimates export controls cost our economy $9 billion annually in lost sales and 200,000 lost jobs each year.

If we really wish to spur our exports, we could achieve enormous gains in two strokes. For example, repealing Public Law 94-373 which prohibits the export of renewable timber from federal land west of the 100th meridian—the Dakotas, Idaho, Oregon, Washington and California. Johns Hopkins' economist Steve H. Hanke estimates this would result in at least $1 billion of annual exports to Japan. We could repeal the Trans-Alaska Pipeline Authorization Act which makes it illegal to export oil from the North Slope fields. Exports to Japan could go up another $10 billion, according to J. Fred Bergsten of the Institute for International Economics. We cannot blame foreigners for denying us export sales when we are doing so much to restrict ourselves.

The government can help promote export business by avoiding economic sanctions, since they establish us as unreliable suppliers. For example, when our government clamped an embargo on soybean exports in 1974, we alarmed the Japanese for whom soybeans are a staple. To protect themselves in the future, Japanese companies made substantial investments developing a Brazilian soybean industry. Our own misguided policies have cost American soybean farmers a significant share of the world soybean market.

Multi-lateral trade liberalization talks are fine, but they take decades, and we lose by retaining our own trade barriers all the while. We will gain by unilaterally phasing out our tariffs, quotas, voluntary trade restraints, antidumping laws, countervailing duty laws and other import restrictions, because we will be able to obtain what we need more easily and cheaply. Our available resources will go further, so our people will enjoy greater prosperity, and our companies will be more competitive.

This will put pressure on other countries to liberalize their restrictions in an effort to gain competitive advantages. Recall Britain's extraordinary success after they repealed virtually all their trade barriers in 1846. From then until the outbreak of World War I in 1914, Britain's industrial output grew 362 percent. Imports soared 697 percent. Exports, 645 percent. British merchants and bankers dominated international business. Envying Britain's success, France, Holland, Belgium, Germany and other countries lowered their trade barriers. Furthermore, free trade helped promote international peace, because it reduced the range of possible disputes among governments. No one was denied advantageous trading opportunities or cut off from vital resources.

In recent years, too, we've seen success spark global trends. After we cut our tax rates and attracted foreign capital, dozens of countries cut their tax rates. When it became clear that Margaret Thatcher's privatization policy reduced the cost of government, facilitated tax cuts, improved productivity and the calibre of services, even the most statist Third World regimes pursued privatization, too.

With trade barriers going up almost everywhere, we have a magnificent opportunity to reassert American leadership. Rather than pursue fruitless, self-defeating retaliation against foreign countries, we should unilaterally open our markets, gain the benefits and set a powerful example for the world.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, it is 5:25. We thought we would have some agreement on ethanol, have a concurrent resolution, have it all worked out; Senator EXON would offer the resolution, there would be an amendment, and then we would have a vote. But I understand there may be an objection to that, and if that is the case, we do not have any other alternative than to offer an amendment. I assume it would be an amendment by Senator EXON, second-degree by Senator KARNES.

To do that we only have about 35 minutes. We have been operating on the premise that we would work it out. We may still work it out, but I hope we could reserve at least 20 minutes for that amendment, and I know others would like to speak.

I think in fairness to the authors, who have been working in good faith all day, that will give us enough time at least to explain it.

Mr. BYRD. Mr. President, the Republican leader is certainly justified in the proposal that he has suggested. I have been off the floor, working on other subjects today. I have not been able to apply my energies to this particular bill as much as I usually do in the case of a bill that is on the floor. So I do not know what the state of things may be with respect to an accompanying resolution. I had indicated earlier that I would be very happy to help to bring up a free-standing resolution, but I had understood, in talking with the Republican leader, that there was some discussion with respect to a concurrent resolution that would be voted on prior to the final vote on this bill?

Mr. DOLE. Either that or back to back.

Mr. BYRD. Or back to back.

So, I have not participated in any of those discussions for the reason I have already stated. There may be Senators on my side of the aisle; perhaps the manager of the bill, Mr. BENTSEN, would know. Perhaps the manager, Mr. BENTSEN, would know what the situation is in that regard at this moment.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD. But, in any event I will ask unanimous consent that that amendment, if it is offered as an amendment, will have 20 minutes equally divided on it. If at any time it is called up prior to the hour of 6 o'clock tonight it will have at least 20 minutes. It will have 20 minutes on it, equally divided, if it is called up prior to the hour of 6 o'clock tonight.

The PRESIDING OFFICER. Is there objection?

Mr. BOREN. Reserving the right to object, Mr. President.

Mr. BYRD. And that the vote on final passage would be delayed accordingly.

In other words, if it were not called up until 10 to 6, then final passage would occur back to back following the adoption or rejection of the amendment at 10 after 6.

The PRESIDING OFFICER. Is there objection?

Mr. BOREN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Reserving the right to object, I just wanted to make an inquiry. The Senator from Wyoming is on his feet wishing to speak. I wish to speak for 3 minutes on the matter in general, on the trade bill. Would that preclude us, the Senator from Wyoming and myself and others, from having that time? If so, I would like to request that I be allowed to proceed for 3 minutes before the final time runs out.

The PRESIDING OFFICER. Is there objection to the pending unanimous-consent request? The Senator from Nebraska.

Mr. KARNES. I just raise the question; I do not plan to object but reserving the right to object I would like to make sure that our proposal that was made in the unanimous-consent agreement last night regarding second-degree amendments would continue.

Mr. BYRD. Mr. President, I am now apprised by the distinguished manager of the bill and the Republican leader and others that there is agreement among the principals that there would be a correcting resolution which would be voted upon immediately following the passage of the trade bill, which would direct the enrolling clerk to make the necessary changes in the bill. And this would deal with the ethanol subject matter, and that there would be, as a consequence of this agreement—and I will make that request—that there be no amendments to the bill itself dealing with ethanol.

Mr. DOLE. If the majority leader would yield?

Mr. BYRD. Yes.

Mr. DOLE. We could do our little enrollment thing, say, between 5 of 6 and 6. There have been speeches made on the floor today. I do not think we need to hear them again. I mean, they were very good.

But then we could have back-to-back votes, first on the bill and then on the enrollment resolution.

Mr. EXON. Mr. President, reserving the right to object, I do not know why we are complicating things when it is not necessary to complicate them. As I understand it, we have removed all objections to bringing up the amendment for an appropriate vote and let the Senate express its will after we pass the trade bill, which is the main course of business.

Why can we not proceed to allow any legitimate activity between now and 6 o'clock with regard to the bill or any additional time, if there is no other amendment, that the majority leader might wish to give to other people who want to speak on this or other subjects, and then have the vote at 6 o'clock? Doing something different for a change, let us have the vote at 6 o'clock as we had agreed to and then have the legitimate procedure of having the vote on the correcting amendment following the bill, which I would think would be the appropriate way to do it.

Mr. BYRD. If the Senator had been listening, that is exactly what I had been proposing.

Mr. EXON. I understood maybe the majority leader was not listening.

Mr. BYRD. No, the majority leader was listening.

Mr. EXON. I understood the Republican leader to say he wanted to vote on this before 6 o'clock.

Mr. DOLE. What I was saying was that between 5 of 6 and 6, we could send up the resolution, do the second-degree, and make a minute or two speech, and then that vote would follow the vote on the bill. That way we will save some time.

Mr. EXON. I understood the majority leader to say we would wait until 20 minutes after 6, but that was the previous request; is that right?

Mr. BYRD. Yes.

Mr. DOLE. Do we have that agreement, then?

The PRESIDING OFFICER. The majority leader will restate the unanimous-consent request.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. I ask unanimous consent, Mr. President, that immediately following the vote on final passage of the trade bill, a vote occur on the concurrent resolution providing for the enrolling clerk to make certain changes in the trade bill dealing with enthanol, and that by virtue of that action by the Senate on the resolution, there be no amendments dealings with ethanol called up prior to 6 o'clock, which would result in a vote on the trade bill at 6 o'clock p.m., as previously ordered; a vote immediately thereafter on the concurrent resolution; and no amendments on ethanol to either.

Between now and then, the floor is open for debate and the offering of other amendments.

Are there other amendments, may I ask the Republican leader?

Mr. DOLE. As I understand, the other amendments will not be offered. Senator HELMS is here, and I think that is the only other one. Senator HUMPHREY's is withdrawn.

Just for clarification, we would send the concurrent resolution to the desk after the vote on the trade bill and then have a vote on that.

Mr. BYRD. It can be sent after or before. But a vote will occur immediately back to back following the vote on final passage, and the concurrent resolution will be offered, as I understand it, by Senators EXON, KARNES, and others.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BENTSEN. There are no amendments on our side.

The PRESIDING OFFICER. Hearing none, the request is agreed to.

THE VETO OF THE DEFENSE AUTHORIZATION: PLAYING POLITICS WITH AMERICAN SECURITY

Mr. BYRD. Mr. President, this morning the President announced that he has vetoed the Defense authorization bill for 1989. According to the President, the Defense authorization bill signals "weakness" and "accommodation" with our adversaries, obviously, with reference to the Democrats because the reference was made to the 1970's. It is hard to understand how the President could argue that a bill which provides the full amount requested for Defense somehow weakens the United States, somehow it accommodates or compromises the national security interests of the defense of the United States.

How can he argue that a bill that provides the full amount requested for defense weakens the United States? The President must know his statement is not true. It is, in fact, ridiculous on its face.

This veto decision has been taken against the advice of the Secretary of Defense, against the advice of the National Security Advisor, and despite the fact that the DOD authorization conference report had the support of 16 Republicans, who I am sure are not interested in weakening the defense of this country, when we voted on it in the Senate on July 14. Were these distinguished Senators voting to weaken America? Was the Secretary of Defense arguing against the veto because he wants to weaken America? The very notion is absurb.

One can only conclude that the President has decided to play election year politics with the national defense. One can only conclude that narrow-minded political operators in the back rooms of the White House wish to gain political advantage somehow by misrepresenting the defense bill, a bill that does not meet the capabilities and the needs of national defense.

The American people will not be deceived by this shallow partisanship.

The newspapers indicated the President has been advised to veto this bill as a way of joining the issue to make the Democrats look weak on defense. The American people are not going to be deceived by that shallow partisanship. The American people will not buy an argument that a bill authorizing vital national security programs such as the following weakens the nation:

The bill authorizes a pay increase for our men and women in uniform. Does that weaken the defense of the country?

The bill establishes the Department of Defense as a key player in the war against drugs. This was an extremely difficult issue requiring a great deal of effort by many Senators on both sides of the aisle. What emerged was a solid approach which puts the Department of Defense in the lead for detecting and monitoring the air and sea traffic—military missions which will help stem the flood of illegal drugs into this country.

The bill authorizes major improvements in our conventional forces, higher production rates for tanks, fighter aircraft, some missiles, and full funding for the shipbuilding program. It boosts the defense industrial base, supports advanced technology research, and adds to our national security in a host of other programs.

Moreover, this bill fully funds the budget as requested by the President and as agreed to by the administration and the Congress at the budget summit last December. This is the first time in 6 years that the President's budget request has not been reduced by the Congress, including 4 years when Republicans were the majority in this body.

And yet the President has vetoed the bill. One can only conclude that the President has vetoed this bill in an effort to play election year politics with the Nations' defense.

The President contends that the Congress cut the SDI Program by 20 percent. But SDI is funded at over $4 billion and is one of the few programs to receive more money than last year.

The President states that the bill restricts space-based interceptors in the SDI Program. He states that we should rely on the experts. But the Secretary of Defense opposes this veto.

Is he not an expert on defense?

The report of the Defense Science Board milestone panel last May—surely these are experts—recommended a restructuring of the SDI Program reducing the emphasis placed on the space-based interceptor.

This veto strategy is transparently political. It is not based on flaws in the authorization bill. It is not supported by the national security experts in the legislative and executive branches. It cannot be defended by the President in any but the most partisan terms. And I hope that it will be rejected by all who care seriously about the Nation's security.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

THE PRESIDENT'S VETO

Mr. WALLOP. Mr. President, I rise in support of the President's veto of the Defense authorization bill. I heard argued on this floor earlier that he got all he asked for in a dollar effect; I think he got all he asked for in effect in rubles. He did not get the bill this Senate passed by any stretch of the imagination or any likeness.

I heard the Senator from Illinois earlier expressing that he ought not to have been upset by the cut of one-quarter of 1 percent in the bill in SDI. I suggest to any Senator in here, particularly any of those who need a little weight loss, one-quarter of 1 percent might be taken up by a body's eyeball, but I do not think you will be willing to see that as an effective means of weight reduction any more than this was.

Mr. President, I want to congratulate the President this morning for having vetoed the worst Defense authorization bill I have yet seen in my some 12 years in the Senate. President Reagan did not have to portray Democrats as weak on defense. Their Presidential candidate and this bill did that for them.

This bill represents a near total collapse of the Senate's positions in its conference with the House. It is, in fact, a Dukakis Defense bill, and seeks unilateral disarmament.

The bill the President vetoed this morning is the first example of what Defense budgets under a Dukakis administration will look like if the Democrats take over the White House this fall. It slashes vital U.S. strategic programs, stabs the strategic defense initiative in the back, and it places full confidence in unilateral arms control restrictions to redress the strategic threats to our Nation. In short, it harkens back to the Defense budgets of another President, President Carter. When will they learn. Let me be specific:

First, for the first time in the history of the SDI Program we have negative real growth compared to last year. Negative real growth, and how many on the other side of the aisle go back to their districts and trumpet support for SDI?

Second, still worse, we have micromanaged the SDI to death in this bill against the backdrop on declining funding. Make no mistake about it, the intentions of the House Members and many in this Senate is to do the same to the SDI.

Third, why do we have an $85 million ceiling on the space-based interceptor when the request was three times that figure? The answer again is in the HASC new release: "The conferees dramatically rewrote the SDI, slashing funds for space-based defenses—by far the smallest increase, overall, since the SDI Program began—in essence, that takes the stars out of star wars."

Fourth, the Senate defeated an amendment that would have placed SALT II sub-limits on its DOD bill. But it is in the bill sent to the President. We have to cut up two perfectly good submarines.

On nuclear testing, every year the House passes a crazy amendment restricting U.S. testing and every year the Senate, wisely and bipartisanly, has rejected those crazy limitations. But not this year. This year we are required to establish a DOE Program to get ready for a total ban on nuclear testing. That is inconsistent with the national security interests of this country if we are going to rely in the future, as we are, on nuclear weapons to deter aggression against ourselves and our allies.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. WALLOP. Mr. President, with regard to the bill in front of us, I believe I heard the Senator from Oregon [Mr. PACKWOOD] say that if we thought the amendment to take out the superfluous competitiveness council was worthy, the one I had to follow it was even more worthy and it contained a whole manner of the pork in this bill—some 100 studies and some dozen or so provisions amounting to over a billion dollars the American people are being asked to pay in the name of trade.

Having said all of that, time is short and I will not ask the Senate to consider it, but I will say that there are many strengths in this bill as well. Repeal of the windfall profit tax is as near and dear to us as the ill-founded idea of the Carter administration toward energy policy. The bill authorizes a new round of negotiations in GATT which I think are critical and perhaps could find us negotiating ourselves out of some of the constraints and idiocries that are contained in this legislation. It contains certain other strengths. Perhaps with the United States-Canada free trade agreement, the United States economy may be strong enough to overcome some of the trepidations that one finds in the trade bill long enough to survive until there is a rational response by the President of the United States, especially in the area of super 301.

Mr. President, much has been said about the state of our economy, and it is the strongest in the world today. It is the most competitive, the most productive, and it has done all of this with a decrease in the cost of production. It has not done all of this without pain and the Senator from Wyoming is more than willing to admit that. But, those who have protected have suffered and those who did not, namely, the United States, have suffered. But I think by far the quickest relief of the pain and suffering came to those who did not put up the barriers and who did not erect the constraints on international trade.

This country's economy has produced more jobs—62 percent of all adult Americans are at work, a worldwide record. I think that we need to be careful before we enter into a variety of activities that may reverse those remarkable gains. So I would say the economy may be strong enough to take care of the provisions of this bill. United States-Canada may signal a strong enough commitment to the future of free trade to impair the possible damages that this bill might cause, but it is a dangerous step that we take and it ought to be taken with a careful eye. And, we ought to review it in the future as quickly as we see any signs that protectionist sentiment has impaired the growth of this great country.

Mr. BOREN and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the Chair.

I want to discuss for a moment one of the provisions of the trade bill which was mentioned in passing just a moment ago by my good friend and colleague from Wyoming. It is a very important provision in this trade bill that we have under consideration which I hope will be passed in just a few moments. It repeals what has been known as the windfall profit tax.

Mr. President, I have to say that I look upon the likely passage of this bill in a form that will be signed into law by the President of the United States with favorable anticipation tonight, in no small measure because this bill does include the repeal of the windfall profits tax.

For 9 years I have been trying to accomplish the repeal of this unfair tax. During the 9 years that it has been on the statute books the results have been clear for all to see. It has had a doubly negative effect because of the decline of oil prices during this period of time. During the period of time in which the windfall profits tax has been on the books, we have gone through a depression in the domestic energy sector. We have seen in my own State over 50,000 people thrown out of work in the oil and gas industry. I have seen the number of students enrolling in petroleum-related fields of study fall to only 20 percent of the level of just 5 years ago. We have seen the dependence of this country on imported oil increase from a low of about 18 percent as we begin this decade to well over 40 percent today, threatening our national security.

In the last few years, while this tax has not been collecting a single dollar of revenue for the Government of the United States, it has remained on the books as a paperwork burden upon the already-depressed private energy-producing sector of this country, costing the producers hundreds of millions of dollars, costing the taxpayers of the United States hundreds of millions of dollars just for the filling out of forms on the collection of a tax that had not even been triggered.

So, Mr. President, it is extremely important that this tax be removed from the books, removed to do away with an unnecessary paperwork cost and burden on the taxpayers and on the energy producers, removed so that more drilling can take place and producers will know that when prices do recover, they will not have to send 70 cents out of every dollar of price improvement back to the Government in the form of windfall profit tax; that if they drill today, they have a hope tomorrow if prices recover of making a reasonable profit. I think we will see activity pick up in light of the repeal of the windfall profit tax.

Present is my good friend and colleague from Texas, the distinguished chairman of the Finance Committee. He supported my efforts when I offered the amendment to repeal the windfall profit tax, and it passed by an 18-vote majority about a year ago. He has been with me every step of the way. His leadership on the trade bill has made it possible to keep this amendment to repeal the windfall profit tax in a bill that now has an excellent chance of being signed into law by the President. I cannot overestimate the importance of the leadership of my good friend from Texas, Senator

Bentsen, in making this possible. I express gratitude to him from the people of Oklahoma for the leadership he has shown on this matter.

Mr. President, I have been asking for 9 long years: How long are we going to impose this unnecessary paperwork burden on the energy producers? How long are we going to stop energy production in this country? How long are we going to wait to do something to stem our dependence on foreign oil?

Mr. President, I hope and believe we are finally a few minutes away from removing from the statute books one of the most unfair taxes ever, one of the greatest mistakes ever made from the point of view of economic policy. It is a day that the people of my State have been waiting for a long time.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, in just 3 years we saw this country move from the number one lender nation in the world to the number one debtor nation in the world. Questions have begun to rise around the world: Is the United States losing its economic leadership?

What you will see tonight with the passage of this trade bill is what I believe will be the most major piece of legislation on competitiveness this country has ever considered.

I think what you will see here is a great victory for restoration of economic leadership by the United States. You have seen 11 committees involved in putting together this piece of legislation.

When I was in Thailand in January meeting with Mr. Prem, the Prime Minister of Thailand, he said, "Tell me, is the United States going to be in a position to lead in the new trade negotiations?" After tonight and this trade bill is finally signed by the President, as I hope, we are going to say "yes" to Mr. Prem and to all the other leaders around the world.

There are nations around the world that really do not want a change in the statue quo. There will be some disappointments tonight in Tokyo and in Germany where they have a very substantial trade balance with this country. Countries have spent well over $100 million working against this trade legislation with their lobbyists and with their public relations firms, but tonight we are agreeing to expand trade around the world, to break down trade barriers, and to help lead the United States into a new era of greatness.

The people that reduce world trade are much more sophisticated than to just to walk away from the negotiations authorized by this bill. They would try to keep those negotiations going on forever. But that will not happen under this trade bill. This bill sets out ambitious goals for those negotiations. It provides the mechanism to ensure Congress and the private sector that they are going to be consulted every step of the way in those negotiations. It sets reasonable deadlines on those negotiations which the Congress can enforce if the executive branch will not.

A few months ago I spoke about the new round of trade negotiations to Latin leaders at the Council of the Americas. I explained to them that notwithstanding our economic problems and concerns, this bill showed that we had confidence on a bipartisan basis to do some of the things that had to be done to develop our economic potential and our world leadership. For that reason, I said this bill is good for all people all over the world. Afterward many of those leaders came up to me and said we are enthusiastic about America leading with that policy.

When the World Bank staff studied protectionism 2 years ago, they reported that the European Community's nontariff barriers that really restricted imports—they called them the hardcore nontariff barriers—affected 23 percent of the imports that were coming into Europe from developing countries. We have some trade barriers too but ours are 17 percent of our imports from developing countries. No wonder that Europe is worried about the trade talks. Those European businessmen would not be nearly so enthusiastic about opening their internal markets in 1992 if it meant making their markets as open to non-European competition as the United States is.

In Japan they have recently been much more explicit about the trade bill. On Thursday, July 14, 1988, the Japanese Trade Minister, Foreign Minister Uno, urged President Reagan to veto the trade bill.

Now, Japan's imports from developing countries have been increasing recently. That is to be applauded. Japan has made a real effort to expand their economy, and to open their agricultural markets. And their imports from developing countries are increasing. But according to the World Bank, Japan's real trade barriers are to imports from industrialized countries, not developing countries. In 1986, their hardcore nontariff barriers affected 29 percent of their imports from industrialized countries. Comparable U.S. restrictions affected some 15 percent of our imports.

Let me tell you what the Vice President of the U.S. Chamber of Commerce has said about enforcing our rights under this bill:

> We are tired of doing it case by case. This bill will go after the systemic practices and do something about it. Is it any wonder that some of these countries are nervous about an American trade policy like this?

This bill in this form has the unqualified support of the U.S. Chamber of Commerce, the Business Roundtable, the Emergency Committee for National Trade, the National Foreign Trade Council, the Protrade Council, and virtually every farm organization. It has the support of American labor, and they are all asking for it with no amendments. And that is the way it has been accomplished. As long as I have been around the Senate I have rarely seen the Business Roundtable and the American Federation of Labor both writing a letter saying that they not only support the same bill, but they support it without any amendments.

Do each of these groups and Senators think this is a perfect trade bill? Of course not. But they each have studied the bill, participated in the debate on it for 3 years, and they each believe that it has elements in it that are absolutely essential, and that it does not have the elements they find to be intolerable.

Most of all, they believe that this bill is necessary this year, and the sooner the better. Listen to what John Young, the dynamic Chairman of the President's Commission on Industrial Competitiveness, has to say about this bill:

> The bill has taken on more, not less, importance as American firms gear up for export. The significant fall in the dollar's value created an exceptional opportunity for U.S. firms to regain lost market shares or capture new markets. But this opportunity may be lost if U.S. firms do not have the appropriate tools to crack markets that historically have been closed to them, and the trade bill provides some of those tools.

It will not solve all of the problems, of course not. There are many more things this country must do and can do. One of the things we need to bring about is increasing the amount of R&D that should be done to improve the technology of our country. What our country needs is a renaissance in American technology. And Government can help. Government can help on some of the basic research, in cooperation with the private sector and with academia. Government can help with the transfer of technology. We invented VCR's and yet they are produced in other countries. We are a pioneer in robotics, and yet other countries have moved ahead of us in that regard.

Government cannot pick industries they are going to help or that they are going to ignore. The Government has never done a very good job of that. They should not try.

But when we are talking about basic research and moving the country forward—improving our competitiveness—that has to be done, and this trade bill can help bring it about, then I think we are moving in the right direction. And when we pass this bill, I think we will have passed a very major and important piece of legislation.

I ask for its support.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, after the years of work, the vote is just minutes away. I will take only seconds because I know other Senators will want at least a little bit of time.

It cannot be overstated that this is a major, major bill. It constitutes a very real change in U.S. trade policy. It creates trade policy. It is a major bill but it is not a protectionist bill. It is based on the opposite of protectionism. It says that Americans can compete for international markets provided that the rules are enforced. This bill is designed to enforce the rules of international trade. It makes enforcement much more certain than it is now.

It strengthens the hands of our trade negotiator. It makes American trade policy credible for once. Great credit should go to the chairman of our committee, Senator BENTSEN, to Senator BYRD, to Senator DOLE, to Senator PACKWOOD, and to so many others who have worked so hard to make this bill a reality. It is a very big step toward a more competitive America.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. President, there can be no doubt that America's trade laws were old, old-fashioned, and desperately in need of modernization. And by passing this bill tonight, that is what we are going to do. We are going to modernize some very old trade laws of the United States of America. I myself would have been happy if we would have stopped after title I in this bill, the modernization and bringing current the trade policies of this country. We chose not to. And there are some provisions that I do not like, but I am going to vote for it because I think it is time to modernize the very old trade laws.

There are many in the United States who have been talking about the rise and the fall of the United States. I chose tonight to suggest that the title has already changed, and that really what we had was a fall of the United States and the rise of the United States. We have already risen. We are on the ascendency. Every single economic fact that you can look at indicates America is back, strong, productive, we are not even using the word competitiveness so much. It was everyone's world a few years ago because we were there. Tonight, as I see it, by bringing our trade laws current, we will be saying to American working men and women in American business who have performed a miracle in revitalization of bringing America back from a decade of the seventies where we had fallen, we are saying to them we are going to give our Government the right kind of tools to make sure in the trade area we keep that ascendency that you have earned, working men and women in American business with the Government policy that complimented you.

We are going to give you the tools. I believe that is what this is about.

For those people who are out there questioning the President's commitment to a sound competitive America, let me say that I know the change this administration has brought about toward a new economy has not been easy all around.

But before this administration came to town our economy was in a very bad way. This President has done much to restore our country's confidence.

Mr. President, I have listened to the debate on this bill with mixed feelings. Because while it contains a number of good provisions, some of which I contributed, it also has many other issues that are extraneous to a trade bill. I would have been content if this bill stopped at title I only.

One thing is certain, this bill is not going to be the salvation to America's trade imbalances.

On the plus side of this measure, it updates our trade laws and modernizes our export control laws.

It will also facilitate the licensing of our technology products.

This bill is a signal to our trading partners that the United States expects reciprocity and fairness in its trade relationships.

I think that giving the President new authority to harmonize the systems of tariffs is a very good provision. Extension of the fast-track procedure and granting the President authority to proclaim tariff reductions until 1993 is also a very necessary measure.

Taken together, they will enable the President to enter into serious negotiations with our trading partners in the Uruguay round of the GATT.

I also think that the Worker Readjustment Assistance Act [WRAP] will provide dislocated workers suffering the effects of foreign competition with the kind of expedited access to retraining and relocation not available under the Training Assistance Act.

This bill in amending section 232 of the Trade Expansion Act of 1962 will impose time certain which will help petitioners get relief in a timely fashion.

Section 201 which I contributed to, would expand the remedy list, to include emphasis of the notion of positive adjustment. It applies voluntary restraint agreements as an option for relief.

I am pleased the 201 provisions include two of my amendments making it clear that all nonproprietary sections of an adjustment plan be made public. The other amendment favors that consumer group and downstream customers would have an opportunity to present evidence at ITC proceedings. This guarantees that decisions will be based on all relevant factors.

Section 301 dealing with Unfair Trade Practices is expanded to cover new trade disputes that have proven troublesome.

Finally, let me point out that repeal of the Windfall Profits Tax is long overdue. It was an ill conceived tax at the time it was enacted. It was an excise tax on profits which discouraged domestic production from oil.

Last year in 1987 we imported $44.2 billion in energy at what most consider depressed oil prices, and when our trade balance was unfavorable. Compare that to 1980 when we spent $74.9 billion net on energy at a time when we had favorable trade balances but for energy. Can you imagine what would be the impact on our economy if energy prices should explode again?

Repeal of windfall profits tax is the first step in refocusing our energy policy so that we can become energy independent.

I think our next big trade fight will be over patent law with Japan. We have diametrically opposed approaches. They grant patents to the first one to file the patent. We grant it to the first one to invent it.

Let me take the next few moments to remark on what we need to undertake to safely pilot America's trade policy in the last decade of the 20th century.

First of all, let me say that no one can predict with certainty what future difficulties and opportunities the international trade arena will bring. What we can count on is an increasingly aggressive fight for a share in the world's trade markets.

No formula we prescribe today will still be 100 percent valid even 5 years down the road. What does count is that we should be prepared to maximize the opportunities offered by shifts and changes in the marketplace.

So the first point I wish to make about trade policy is that there is no magic wand to remedy the vicissitudes of international trade. Preparedness is the answer here.

The second point, Mr. President is that we should not be terrribly worried about our trading future. The best policy is to let America be America. What Americans want is the freedom to pursue their dreams; in learning, in business, in helping each other to fulfill the best within us. And to have trade that is fair and free, and that benefits all who take a part in it.

The third point is that service and technology are the engines of growth and future prosperity for this or any country that wants to be a leader in the 21st century.

Services account for 70 percent of the U.S. gross national product, and 75 percent of our employment. Banking, insurance, information, transportation and other services have grown dramatically in the last quarter century, and will continue to assume a larger share of international trade.

Technological research and development will continue to open new avenues for trade opportunities. And with it will come thousands of new jobs, free of the hazards and pollution that our forefathers faced when they built this country. America needs to maintain its leadership position in technology to protect new job creation.

There are other provisions in this bill which help in reaching for this goal. For example, the technology extension activities and clearinghouse would instruct the Commerce Department to make available the unclassified output of nearly 700 Federal laboratories to potential commercial users. It would also create a clearinghouse for local governments and research institutions to exchange innovative ideas.

Which brings me to my fourth point. And that is that education and training are the keys to a healthy and prosperous economy. In the future, salaried workers won't be able to bank on a protected and tenured job in industry until retirement. The fierce competition for trade will retire those who rest on that dated assumption.

Job retraining for workers and educating our young people in high technology skills will assure America's continued preeminence as an economic dynamo of change.

The technology training centers authorized by this bill together with the higher education programs to promote study in fields of national need, like math and science are steps in the right direction.

I would like to conclude by looking for a moment at what has been taking place.

For the better part of the past year, this country's trade deficit has been improving—at times quite dramatically—without the help of this legislation.

Look at the most recent data on the economy that the Commerce Department released last week.

American exports are booming.

Through the second quarter of this year, exports are up 19 percent in real terms versus a year ago.

This is not new. Exports were up 13 percent in real terms last year.

Equally important, imports are down, not only in real terms but in absolute nominal dollar terms.

Most economists expect the trade deficit to improve by about $25 billion this year—that would be about a 16-percent improvement.

But, if the current trends continue, the trade deficit in this country could go down by almost $50 billion. That would be a shift of almost 30 percent.

This improvement, I remind you, precedes the probable enactment of this legislation.

Mr. President, there are those who say that the trade deficit is evidence of the weakened economic state of America.

To the contrary, Mr. President, the ability of the United States to emerge in the past 2 years as the most competitive nation in the industrialized world is dramatic evidence the resilience of the American economy and the American people.

Mr. President, over the past 2 years, this great Nation has had the most rapid growth in productivity of any industrial nation in the world—including Japan. I repeat, including Japan.

As a result, America has done a better job of holding down costs than any other industrial country. Yes, we have done a better job than even the great economic giant, Japan.

We have even done a better job over the past 2 years than some of the emerging industrial countries like Korea.

Since 1985, unit costs in the United States have declined by 2 percent while they have gone up 2 to 3 percent in Korea and remained about flat in Japan. These numbers look at these trends in terms of countries own national currencies and therefore are in addition to the effect of the dollar decline.

In many of the European countries, unit costs are up 5 to 6 percent.

Even in industries where we were thought to be out of the running, this country is world competitive.

I received a letter recently from USX Corp., formerly United States Steel. Let me quote: "The American steel industry can produce a meter of carbon-steel cheaper than any other country in the world." This is an enormous achievement.

The new American manufacturing machine is not an accident. And, it is not a product of a trade bill. It is a result of hard decisions and hard work by American workers and American business.

We are spending a larger share of our real economic resources on investment in plant and equipment than at any time in the past 35 years.

We are spending more in real manufacturing investment per manufacturing employee than Germany and Japan.

We lead the industrialized world in industrial R&D spending per dollar of sales.

America is rich, not poor.

The trade problem, and the external debt it implies, is an important problem.

Still, make no mistake. The $500 million shift in America's net asset situation is small compared with her enormous wealth.

We have $15 trillion in physical assets and some $35 trillion in land and human resources. We are indeed a wealthy country.

Our borrowing $500 billion from the rest of the world is like a family with a $50,000 house taking out a $1,500 mortgage. Indeed, if we were to count the value of our human resources in this analogy, a $500 billion loan from the rest of the world would be the equivalent of a $500 credit card loan.

Let me be clear, Mr. President. I say this not to belittle the problem but to put it in perspective for the average person.

Now, there are those say that all of this growth and prosperity is not good because it benefits only a few Americans—that whole regions have been left out of this recovery.

Mr. President, unfortunately it is always the case that some States and regions do better than others in any economic recovery.

If one looks at the differences in the unemployment rates among States, they are no greater today than they were in the mid to late 1970's.

Indeed, Mr. President, some States which have not grown during this recovery are not troubled by lack of manufacturing competitiveness but by the one problem that I think this trade bill does address—and that is oil.

The dramatic drop in oil prices has hurt many States including my own. The least we could do to relieve the burden of the oil industry in the face of these terrible circumstances is to eliminate the windfall profit tax.

This bill does that, and for that reason alone, it is worth voting for.

But, I tell you, Mr. President, we are doing this great Nation a disservice if we somehow allow ourselves to divert our attention away from the great competitive challenge our economy will continue to face in the world just because we have passed a trade bill.

Last spring, Mr. President, the watchword of this body was "competitiveness." This word must have been used thousands of times during the trade bill debate.

Lately, however, the word "competitiveness" seems to have disappeared from the political landscape. But it is no less important.

In the coming weeks we are going to consider a series of bills all of which have worthy aims—with which this Senator has great sympathy. But we need to look at the effect of these bills on America's competitiveness in the world.

As I have said several times recently, we are living in a new world. It is the world that America created with enormous vision in the wake of the Second World War.

Yes, America did something absolutely unique when it set about the postwar reconstruction. America aided her former adversaries. She encouraged them to model their institutions on American values and American character.

In principle, she set about creating a world of equal and prosperous nations that would compete in the international marketplace rather than in the fields of war.

We have succeeded. But that means that the era of American hegemony will never return. In its place will be competition and prosperity, and, hopefully, world peace.

What is important is that over the past several years America has demonstrated to the world that she can take up the competitive challenge head-on and succeed.

The world will continue to create new competitors and we will continue to have to compete.

If the passage of this trade bill allows us to take our attention from this objective then this action will have been a terrible mistake.

Mr. President, I yield the floor.

INTELLECTUAL PROPERTY

Mr. LAUTENBERG. Mr. President, the Senate is again passing monumental trade legislation. Unfortunately, the President's veto has forced us to repass the legislation, minus the plant closing provision.

I want to emphasize the importance of the measure we pass today. I specifically want to address the matter of increasing the protection of intellectual property.

Mr. President, a recent International Trade Commission study found that America's most competitive industries are losing over $40 billion a year in sales as a result of inadequate protection of intellectual property.

That is why it is so important that we approve this legislation, to strengthen intellectual property protection—to protect markets, American jobs and American ideas. This is legislation not to hinder trade, but to stop unfair trade.

America's economic edge is its technology and its innovation. But, if we are to enjoy the fruits of our labor—the jobs and growth that are to come from innovation—we need to stop the piracy of American intellectual property. I refer to U.S. patents, copyrights, trademarks, trade secrets, and semiconductor masks.

In my State, this is a critical issue. New Jersey is among the most inventive States in the Nation. Research-based firms are plowing millions of dollars into the development of new products and processes. They need the assurance that others will not be able to take a free ride on their investment.

It takes as much as $150 million if not more to develop and bring a new pharmaceutical product to market. Yet, an average chemist could duplicate it with ease. A new family of semiconductor chips may cost $100 million or more to design, yet can be copied for less than $1 million.

We need to take action. The bill before us would do that. It incorporates a number of important reforms of intellectual property right protection. I would like to take a few moments to discuss those.

SECTION 337

Mr. President, this bill includes amendments to section 337 of the Tariff Act of 1930, to remove hurdles that stand in the way of innovators' ability to get protection from the International Trade Commission. These changes were originally embodied in S. 486, which I was pleased to sponsor and be joined by Senator Roth and others.

Section 337 of the Tariff Act of 1930 empowers the ITC to exclude imports when the importer engages in unfair acts such as the piracy of American inventions. But, the law needs to be improved. Currently, one has to prove that imports would destroy or injure a U.S. industry, an industry that is efficient and economically operated.

To exclude foreign goods, proof of piracy should be enough. That is what this trade measure would do, by removing the requirement that injury be proved. Infringement is injury.

We also relax the so-called industry requirement, under which inventors must now exploit their invention by production in the United States. In order to secure relief. For better or worse, we are more and more an information based economy. For those who make substantial investments in research, there should be a remedy. For those who make substantial investments in the creation of intellectual property and then license their creations, there should be a remedy.

Mr. President, as the original author of the section 337 reforms, it has been my intent that substantial investment should be judged in the light of the facts and circumstances of the particular person or entity seeking to enforce the right. This provision should enable independent inventors and small businesses who otherwise lack the capacity to produce their product to seek relief under section 337. Substantial investment for these intellectual property owners should be defined in terms of the labor, time, as well as financial resources they have committed to developing, patenting, or licensing their inventions. Smaller businesses should not be denied the right to seek relief merely because they may have made smaller financial investments than large companies, in developing or exploiting an intellectual property right.

A continuing goal of Congress is to encourage innovation by providing meaningful protection for the inventions and discoveries of American inventors and for the manufacture of innovative products made by American workers. The emerging biotechnology industry has pioneered a revolutionary genetic engineering technology that produces recombinantly derived materials used to make previously unavailable products.

With respect to section 1342 of the Trade Act (title 19), this bill reenacts prior section 337a of the Tariff Act of 1940 (as 337(a)(1)) which addresses protection of U.S. business from importation of products made outside of the United States by a process covered by a claim of a U.S. patent.

Section 337(a)(1) (a reenactment of section 337a) will provide the assistance necessary for emerging U.S. industries, such as the biotechnology industry, to compete in a marketplace without interference due to unfair acts of foreign competitors. The continued broad jurisdiction of the International Trade Commission will help U.S. industry address the unfair activity of foreign competitors who, for example, import products manufactured using patented genetic engineering technology. Merely moving manufacture offshore does not absolve the wrongdoer from the requirement to compete fairly. This Trade Act protection prohibits the foreign enterprise from taking jobs from American workers by doing offshore that which they could not lawfully do in the United States.

The legislation would address other problems with section 337. It would make sure that the ITC acts promptly on emergency complaints. The legislation makes clear that once a firm is found guilty and subject to an exclusion order, that firm has the burden of proof if it wants to reopen the case. It makes clear that where a party seeks a limited exclusion order, and a defendant defaults without good cause, relief should be forthcoming. To deter "port shopping," the legislation gives the ITC the power to order the seizure and forfeiture of goods, as opposed to simply ordering their exclusion from the U.S. market.

PROCESS PATENT REFORM

The bill also incorporates process patent reform. Its changes are based on the text of S. 1200, which Senator DeConcini, Senator Hatch, and I were able to craft after a great deal of effort. Mr. President, I want to applaud my colleagues in the Patent Subcommittee for their hard work in securing a compromise with the House. This represents the culmination of an effort that has spanned many years.

This trade measure would finally make it a violation of U.S. patent law, to import into the United States or sell products in our country, that were made abroad through the unauthorized use of American patented processes.

A great deal of discussion and thought has been given to the issue of whether and to what extent parties whom one might characterize as innocent should be held liable for damages or subject to an injunction. On the other hand, a basic principle of the process patent legislation has been that an importer or seller of products shall be liable for infringement, even though the importer or seller does not actually use the patented process. Particularly where the party actually using the process may be operating abroad, the importer or seller is the only party reachable in U.S. courts. The importer or seller can then turn to the party using the process.

Mr. President, the compromise before us is an effort to reconcile these issues. Is it a perfect resolution? Of course not. But, it is a good compromise and one that deserves support.

NEGOTIATING MULTINATIONAL IP STANDARDS

Mr. President, while 337 and process patent reform will help rid the American market of infringing goods, we need to do more about infringement abroad. We must take steps to increase intellectual property right protection in other countries. At stake are American exports and American jobs.

The bill sets out negotiating objectives for the next trade round. I am pleased that the bill includes intellectual property right protection as one of our major objectives. We need minimum international standards of protection.

While there exists international agreements on intellectual property, they often require only that the nation provide national treatment—meaning that foreigners get the same protection as citizens. In many cases, this means no protection at all. The conventions were never intended to be used as enforcement mechanisms, nor do they have bilateral or multilateral dispute settlement provisions. They are not self-executing. That is why we need to negotiate new multilateral agreements to strengthen intellectual property protection.

UNFAIR TRADE INVESTIGATIONS AND MARKET ACCESS

The bill would also require the USTR to identify priority nations that deny protection of intellectual property. Those top infringing countries would then become the target of unfair trade investigations. Mr. President, these provisions had their origin in S. 335, which I was pleased to join in sponsoring. It is critical that we take swift action against those nations that would bar our industries from their markets and deny them a fair chance to compete.

Mr. President, our trade deficit cannot be erased overnight. We need to remove unfair trade practices. We need to promote American competitiveness. American innovation is key to American competitiveness. That innovation is tied up in our patents, copyrights, trademarks, and semiconductor mask works. We need to protect those rights, and take action to gain respect for those rights abroad.

This is one of many steps we need to take. This is one of the many steps included in the bill before us. I urge my colleagues to support the bill.

Mr. GRASSLEY. Mr. President, the 100th Congress gave top priority to the trade issue that was conceived early in the 99th Congress. It did so with good reason, as we all became concerned with our record breaking deficits, rapidly increasing foreign competition and erection of trade barriers and other unfair trade practices.

If we want our domestic companies to grow faster over the next 10 years, they will need to focus on the developing world and have the proper tools for them to be able to compete. The omnibus trade bill provides many of those tools for us to be able to move into the next decade and be an effective player in the international arena.

When the Senate version of the trade bill was introduced, I was a member of the Finance Committee and an original cosponsor of the legislation.

There are several provisions in the legislation that I originally sponsored or cosponsored. Senator BENTSEN alluded to some of them in his statement during the vote on the President's veto of this measure and for his efforts in my behalf during the conference.

For my part, I have deep respect for the Senator from Texas and the position he is in of trying to get a trade bill passed. The Senator has truly tried, I believe, through-out this long ordeal, to craft a bipartisan effort.

It is because of the bipartisan effort that has been a major element of this debate I have determined to support the trade bill on final passage. As everyone knows I have had a major concern over the ethanol provision in this legislation and was pleased that, again, a bipartisan effort was made to arrive at a compromise position for this bill to move forward. It is time now to move on in a bipartisan effort to bring out a trade bill the President can sign before this session of Congress comes to a close.

However, no one should be lulled into the false sense of security that this bill will solve all of our trade deficit problems.

In a recent study released by the Office of Technology Assessment, they indicated that the trade deficit cannot be attributed to any single source. The study states, and I quote, "A complex of forces, acting together, created the situtation we have now. These can be divided into two basic categories: macroeconomic forces, and the declining competitiveness of U.S. manufacturers." The author of the report describes the factors behind the trade deficit like "untangling a plate of spaghetti."

Mr. President, I ask unanimous consent to insert at this point of the RECORD The summary statement of OTA's report: "Paying the bill—manufacturing and America's trade deficit."

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

In the 1980s, the United States lived beyond its means to an extent unimaginable a few years before. Consumption rose—both in absolute terms and as a percentage of GNP—with consumption of foreign-made goods leading the way. Imports grew at an average rate of 8 percent per year between 1980 and 1987, far outpacing exports. Investment recovered soon after the 1982 recession. Federal government spending surged ahead of reduced tax revenues, causing the biggest peacetime budget deficits in U.S. history. And in the process, the United States, a creditor nation since World War I, quickly became the world's leading debtor. Its net indebtedness exceeded $400 billion in 1987, and could reach $1 trillion by the early 1990s.

The U.S. current account balance—the most comprehensive measure of trade in goods and services—was stable throughout the 1950s and 1960s and experienced some tremors in the 1970s. Then, beginning in 1981, it nosedived. The only way the United States was able to sustain this deficit was with loans and investments from abroad. A massive infusion of foreign capital allowed Americans to live beyond their means. It cannot continue, though, and therein lies the problem.

No nation, not even one as rich as the United States, can go on forever paying its current account deficit with foreign capital. A time of reckoning will come. As the United States sinks deeper into debt, foreign investors and creditors—central banks, individuals and firms—will be less inclined to commit ever-increasing amounts of capital to a $4 trillion economy on a spending spree.

The trade deficit will go away. As the flood of foreign capital ebbs, the United States will be forced to rein in government spending, business investment, or consumption—or all three. Whether this comes about through slower growth, or through a recession that cuts investment and consumption in absolute terms, will depend on how competitive American manufacturers are and how fast other major economies are growing. One way or another, exports will have to exceed imports. A recession could force this to happen, by cutting consumption and thus restraining imports. So could a further drastic fall in the value of the dollar, raising the price of imported goods beyond the means of many consumers, making video cassette recorders, imported cars, and so on luxury items for the few. A less painful course is not only to make needed macroeconomic adjustments, but also to get better at manufacturing—to make a wide range of high quality goods at competitive costs. That is the most constructive way to recapture some of our own markets and raise exports. Such gains will not be easy to win, however; they will require concentrated efforts on the part of U.S. producers to improve manufacturing productivity and quality. And they will require redoubled efforts on the part of the U.S. government to promote American manufacturing; for example, through export promotion and through policies that will ease the pressures on manufacturers to pursue short-term profits at the expense of longer term investments in technology and market share.

THE TRADE DEFICIT: IN WHAT AND TO WHOM?

The U.S. trade deficit is mostly a deficit in the trade of manufactured goods. Of the $161 billion current account deficit in 1987, 85 percent was in manufacturing trade. The growing U.S. service sector cannot generate sufficient trade to offset continuing deficits in manufactured goods trade. The services trade is simply not big enough; goods can be stored and shipped while services by and large cannot. Moreover, the surpluses the United States has enjoyed in services trade are shrinking. Other nations have become more competitive in an array of services that are traded internationally—from engineering to banking and software design.

Nearly three-quarters of the U.S. manufacturing trade deficit is in three product areas: motor vehicles and parts (a $53 billion deficit); textiles, apparel and shoes (a $28 billion deficit); and electronics, especially semiconductors, telecommunications equipment and consumer electronic items (a $22 billion deficit).

The countries with which the United States runs the largest trade deficits are, in order: Japan, Taiwan, West Germany, Canada, South Korea, Hong Kong, Italy, Mexico, Brazil, and Great Britain.

Japan accounted for 36 percent of the U.S. merchandise trade deficit in 1987—about $57 billion. From Japan came 21 percent ($85 billion) of U.S. merchandise imports, but to Japan went only 11 percent ($28 billion) of U.S. merchandise exports. The leading Japanese import by far was motor vehicles and parts—about 30 percent of all imports from that country. Other major imports from Japan include consumer electronic products, telecommunications equipment, computers and their attachments, other office machinery (e.g., copying machines), and semiconductors.

The deficit with Japan has accounted for one-third to one-half of the U.S. merchandise trade deficit for the last decade, growing tenfold in that time from $5.5 billion to almost $57 billion. The U.S. merchandise trade deficit with Asian countries other than Japan has also grown significantly over the past decade. By 1987 it had reached $47 billion, of which nearly three-quarters was with Taiwan, South Korea, Hong Kong, and Singapore.

In 1980, the United States had a merchandise trade surplus of $20 billion with Western Europe. By 1987, this surplus had turned into a deficit of $27 billion, with West Germany accounting for more than half ($15 billion). Automotive products are the number one item in the U.S. merchandise trade deficit with Western Europe.

As the U.S. deficit declines, the countries exporting most to the United States will have to adjust to exporting less—or at the least, slowing the growth of exports. Although the adjustment will not be easy for anyone, countries that can expand consumption in their own economies, and that have low unemployment rates, strongly competitive manufacturing industries, and healthy trade surpluses, are best equipped to weather the changes.

CAUSES OF THE TRADE DEFICIT

There is no one cause and no single cure.

Macroeconomic policies certainly contributed to the deficit. In the 1980s, the United States has pursued expansionary fiscal policies, while most other industrialized nations acted to restrain their deficits. As a result, the United States needed to borrow money, and real interest rates had to rise to attract it. In response countries such as Japan and West Germany invested their savings in the United States. This, in turn, increased the demand for dollars and pushed up the dollar's value. The strong dollar made goods produced in the United States more expensive for foreigners and foreign goods cheaper for Americans.

But the strong dollar is only part of the story behind the U.S. trade deficit. The dollar peaked in the first quarter of 1985 and since then its value has fallen by one-third relative to other major currencies. It is now at postwar lows against the yen and the German mark. Despite this 3-year decline, and despite the recent upsurge in exports, the U.S. merchandise trade deficit was running at an annual rate of well over $100 billion in 1988. The deficit with Japan hit a new record in 1987, and only began to decline in the first months of 1988. It seems that the devalued dollar spurred U.S. exports, but it did not reduce merchandise imports until April 1988.

There is further evidence that something in addition to currency exchange rates is at work here. U.S. manufacturers of products as diverse as automobiles, integrated circuits and color televisions began to lose their world market share well before the dollar's rise. Moreover, since about 1970, U.S. manufacturers have been able to hold on to their shares of world markets only when the dollar's value is falling, making U.S.-made goods progressively cheaper compared to goods made in other countries. This suggests loss of competitiveness.

Of course, the United States cannot expect to dominate world markets to the extent it did in the first couple of decades after World War II. War-damaged industrial countries recovered, and the diffusion of capital and technical knowledge made it possible for some of the poorer countries to achieve vigorous economic growth. The world economy became richer—a desirable result, and one which has long been the aim of U.S. policy.

The fact remains that the U.S. market—the largest and richest in the world, and one of the most open to foreign goods—is the best prospect for both developed and developing countries to cultivate. Some of these countries have concentrated on exports and kept their own markets relatively closed, as a development strategy. Few nations have faced the kind of competitive pressure the United States is under. While some developed nations have labor costs comparable to those of the United States, most nations have much lower wages. U.S. capital costs have also been higher than those of most other developed nations. The combination of these disadvantages and the attractiveness of the American market to most foreign producers (in developed and developing countries alike) means that the United States must do a great many things very well, just to stay even with the competition.

Quite a few signs indicate that U.S. manufacturing is not staying even.

SIGNS OF WEAKNESS IN U.S. MANUFACTURING

U.S. pre-eminence in many manufacturing industries has evaporated. For example, only one U.S.-owned company is still making color TV sets, and most of its production takes place in Mexico. No U.S. company makes video cassette recorders or compact disc players. Mass production of automobiles was invented in the United States, but others (especially the Japanese) are now leaders in the technology and management of auto manufacture. Of the 10.3 million passenger cars bought by Americans in 1987, 3.1 million came from Japan, despite the quota on these imports. Another 620,000 cars were built in North America in Japanese-owned plants; still another 1 million cars were imported from other countries.

What is behind these losses? There are signs that the United States is losing its once substantial edge in technology, a crucial factor in competitiveness for an advanced, high-wage nation. For example, the United States is spending a smaller share of gross national product on the kind of research and development likely to pay off commercially than its major competitors; U.S. civilian R&D spending was less than 1.9 percent of GNP in 1985, compared to Japan's 2.8 percent and West Germany's 2.5 percent. Japanese private businesses are even farther ahead in spending on R&D, devoting 2.1 percent of GNP to the purpose in 1986, compared to 1.4 percent for U.S. businesses.

In the human skills needed for technologically advanced manufacturing, the United States is also losing ground. We are graduating and using just over half as many engineers per capita as Japan; and our public schools are turning out young people who do not measure up internationally, especially in math and the sciences.

The heart of the matter, however, is whether American manufacturers have fallen behind in the practical application of technology. The available evidence suggests that they have. One study of flexible manufacturing systems—computer controlled systems that are designed to make different kinds of parts in small batches—concluded that American firms have no edge at all in this advanced form of automated manufacturing. On the contrary, they used the technology far less effectively than the Japanese. The American flexible manufactured systems produced many fewer kinds of parts, took longer to develop, and performed less reliably.

Another example comes from auto design and manufacture. U.S. auto companies spend, on average, over 5 years taking a model from the initial concept to full production. Japanese companies take only a little over 3½ years to do the same—and they do it with about half as many engineering hours. The Japanese advantage appears to come from such things as putting a single boss in charge of the project, getting the company's research/development/design people and its production people to communicate with each other, ironing out conflicts early, and treating product and process design as simultaneous rather than sequential.

There are other Japanese strengths. Among those most often cited are close attention to product quality and reliability, consensus building, and emphasis on long-term market share rather than short term profit. Not all Japanese firms share these characteristics, and some American firms do. But firsthand observation, case studies, and the remarkable record of Japanese industrialization and adaptation in the postwar period support the basic point: Japanese manufacturers have moved into a commanding position in many industries and have surpassed U.S. rivals in many important markets, by developing and applying technology.

U.S. manufacturers have responded to the Japanese challenge (and the challenges from Taiwan, Korea, Germany, and so on) in a variety of ways, some effective, and some less so. Overall, American manufacturing has not yet recouped the losses of recent years. As one departing chief executive officer of a major U.S. manufacturer told the New York Times: "Yes, American industry has improved over the past four or five years, but so have our competitors."[1]

A MANUFACTURING AND SERVICE ECONOMY

The United States cannot do without a strong manufacturing sector. Manufactured goods are indispensable for trade with other nations. It is also clear that America has not entered a post-industrial stage in which demand for goods gives way to demands for services. Demand for manufactured goods is as great as ever—greater, for everything but the basics, food and fuel. American consumers, businesses and government now devote over 30 percent of all their spending to manufactured goods other than food and fuel, compared to 23 percent 30 years ago.

More fundamentally, to speak of services as taking the place of manufacturing is to overlook the strong interdependence of the two kinds of activities and the blurring of distinctions between them. Many service industries depend heavily on manufacturers for business. And some manufacturing industries could hardly exist without allied services—for example, the manufacture of computers and design of software, often by an independent firm.

Manufacturing remains extremely important for employment in the U.S. economy. Nearly 28 million Americans—about one-quarter of the work force—make their living in manufacturing, either directly or in providing services or materials to manufacturing. For from replacing manufacturing as source of employment, in the manner that manufacturing took the place of agriculture. Service industries include a good many jobs that depend on manufacturing—and by and large, these are well-paying jobs. Not only are manufacturing wages, on average, higher than wages in the service sector; most of the jobs in services that are closely tied in with manufacturing also pay better than average. To keep those good jobs, America has to compete effectively in the production of goods, as well as the provision of services.

High technology industries cannot take the place of traditional manufacturing, any more than services can simply replace the manufacturing sector as a whole. Certainly, high tech industries are vital to the generation of jobs, wealth, exports, and the advance of technology in other industries. But they do not stand alone. The best customers of high tech industries such as semiconductors are other industries, both high tech (e.g., computers) and traditional (e.g., autos). Nor can the high technology industries, by themselves, compensate for trade deficits in declining traditional industries. The trade balance in high technology products shrank from a surplus of $27 billion in 1980 to a surplus of only $600 million in 1987—with an intervening deficit of $2.6 billion in 1986. U.S. high technology industries are still quite competitive, but they are unlikely to regain the dominance they enjoyed 10 years ago or to generate the large trade surpluses of that time.

CONCLUSION

Counting on the lower dollar alone to sell American manufactured goods is a shaky and potentially painful strategy. If the United States is to maintain its standard of living and live within its means, it will have to reduce the Federal budget deficit, increase its access to foreign markets, and make its manufacturing sector more competitive. As yet, some progress has been made on some of these fronts, but more ground remains to be gained. Improving manufacturing competitiveness—the ability to make high-quality goods at reasonable costs, without sacrificing our standards of living to get costs down—will be crucial if the United States is to remain a first-class economic power.

Mr. GRASSLEY. I am pleased to be a board member of the Office of Technology Assessment and I would encourage each of my colleagues, if they have not done so already, to read not only the summary, but the entire special report.

The report makes it very clear that there is no one cause and no one single cure. After reading the report one can only conclude that we face a much more competitive world than we did even a decade ago.

Although it will not be easy, I believe we can deal with the challenges we will be faced with in the years ahead. Passage of the trade bill which is presently before us will be but one of the many important facets to meet that challenge. Beyond that will be the need for a bipartisan effort for us to initiate a Federal budget deficit reduction program and a comprehensive program on the part of Government and business to restore our manufacturing sector to competitiveness.

I would like to conclude my remarks on this study by quoting the last paragraph from the chapter entitled "Climbing Out: How to Reduce the Trade Deficit." I believe the author sums up the situation we are presently in very nicely when he states:

> The trade patterns of the 1980's are a significant departure from any past experience, and the enormous current account deficits of the United States have changed economic relationships throughout the world. While some remedies will make more of a difference than others, solutions aimed at only one area * * * such as promoting competitiveness or reducing Federal spending or opening foreign markets * * * cannot achieve more than limited success. We must make progress in many areas to overcome the trade deficit while minimizing the impact on standards of living. Whatever solutions we adopt, we are in unchartered waters: We have never had such problems to solve before.

Mr. President, clearly these problems are not totally of a Democrat or Republican making. The responsibility of these problems lies equally among both parties and only through a bipartisan effort can these problems be resolved.

The leadership on the omnibus trade bill has proven that we can accomplish a significant piece of legislation when we are willing to tap the expertise and knowledge of Members of both our parties. It is because of this effort I am encouraged that we will face up to the challenges of the future.

The omnibus trade bill, I believe, is a major step forward to assist us in the years ahead to provide the needed tools to those in the business, agricultural and academic community. While it would have been easy for me to vote against the bill because of my strong position on section 1910 of this bill in good conscience, I saw too much good in the overall package for those in our business and agricultural community not to support the legislation—things like the authorization for the President to participate in the new round of GATT talks and provision for agricultural—some of which I sponsored or cosponsored, provisions for retraining employees who lose their jobs and major revisions to sections 201 and 301 to name but a few.

Mr. President, we have had an honest and frank debate on the trade bill. As with any points of difference not everyone gets what he wants. However, in the end we must weigh the good versus the bad on legislation in which we are asked to cast our vote. As everyone knows, we don't have a "maybe" vote, it is either "yes" or "no." I have weighed the pro and cons and I am pleased to cast a "yes" vote for this legislation in the hope that it will send a proper signal to our foreign competitor and to whomever is President in the future that this country has a trade policy—a policy, regrettably, that is long overdue and one that I am pleased has finally come to full term.

Mr. DURENBERGER. Mr. President, after several false starts and dashed hopes, I believe we will soon cast our final vote on a trade bill that will be signed into law. It has taken us more than 3½ years to reach this point. But I think we can all agree that this is a bipartisan bill that is vastly superior to the original House version of the trade bill and the version that was adopted in the Senate prior to the conference.

I believe passage of this bill represents an important milestone in our international trade relations and will serve to help open more markets to American exporters and chart a course for a new round of worldwide negotiations aimed at achieving broader and fairer trade relations.

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[1] Robert Anderson, former chief executive officer, Rockwell International Corporation, quoted in Claudia H. Deutsch, "U.S. Industry's Unfinished Struggle," The New York Times, Feb. 21, 1988, sec. 3.

NEW ROUND AUTHORITY

In my view, the most important feature of this legislation is the new round negotiating authority granted to the administration. This grant of authority provides our Government and the next administration with the tools necessary to enter into bilateral and multilateral negotiations aimed at improving the world's trading system. And it sends a message to our trading partners that trade negotiations must lead to a more open and fair world trading system which permits American agriculture, mining, manufacturing, high technology, and service industries fairer access to world markets.

Mr. President, under the new round negotiating authority granted to our trade representatives in this bill, our negotiating position at the Uruguay GATT round is clear cut: Trade must be a two-way street. The playing field of international trade must be leveled so that Americans have the same opportunity to compete abroad as we allow other countries to compete in the United States. And that means ending unfair subsidies, protecting patents and copyrights, and opening all markets.

One of the principal objectives of the new GATT round is the revision of the GATT with regard to agricultural trade. Such revisions will increase U.S. agricultural exports by eliminating barriers to trade and clarifying GATT rules for agriculture. At the same time, our negotiators must resolve questions under the GATT pertaining to export subsidies, market pricing and market access.

This legislation puts pressure on our trading partners to seriously negotiate at the Uruguay GATT round on agriculture trade issues. If, by 1990, the President cannot certify to Congress that significant progress is being made toward resolving agriculture trade and subsidy issues, the Secretary of Agriculture is given authority to implement a marketing loan program for the 1990 crops of wheat, feed grains and soybeans to help our farmers sell abroad.

SECTION 201 ESCAPE CLAUSE

This legislation contains the section 201 compromise crafted during the spring by the House-Senate negotiators. As I noted last April, the section 201 compromise rejects the narrow and restrictive rules the Senate imposed on the President in its version of the trade bill. Instead, the compromise substantially broadens the menu of options available to the President in import relief cases. At the same time, the bill retains a broad measure of the President's current authority to weight the effects of import relief on the overall economy in reaching a decision on the scope of import relief, if any, that should be provided under section 201.

UNFAIR FOREIGN TRADE PRACTICES

This legislation sets strict deadlines for the administration to take action against unfair and unreasonable trade practices and mandates retaliation when our trading partners do not live up to agreements to end unfair trade practices. At the same time, the legislation provides the administration with broad flexibility to delay, defer, or decide not to retaliate when it is determined that it would not be in the economic or national security interests of the country.

In my view, the unfair trade practice provisions of this bill are vital to maintain the integrity of the negotiating process in international trade. Sanctions against unfair trade practices are a last resort to be considered, but are vital if our negotiators are going to have credibility with our trading partners to convince them to live up to the agreements they enter into.

Moreover, I believe we have responsibly addressed the question of how to deal with those countries which maintain a consistent pattern of unfair trading practices which effectively bar American companies from selling in foreign markets. Under the super 301 procedure we have directed the administration to focus its resources on eliminating those barriers which have the most significant potential to increase U.S. exports.

When it comes to unfair trade practices involving agricultural trade, the bill strengthens the President's hand to thwart such practices by extending the authorization for the Export Enhancement Program [EEP] through 1990 and by increasing the ceiling on the value of commodities that can be used under that program from $1.5 billion to $2.5 billion.

And if the U.S. Trade Representative [USTR] believes that a foreign government unfair trade practice or export subsidy impairs or threatens sales of U.S. agricultural commodities on the world market, USTR will continue to be able to use surplus commodities under the EEP to offset and nullify the effects of the foreign government subsidy.

TRADE ADJUSTMENT ASSISTANCE

Mr. President, this legislation also contains an important authorization of $980 million for funding the Job Training Partnership Act and for trade adjustment assistance [TAA]. The legislation also expands the eligibility for TAA to workers or firms that supply essential goods and services to companies that have had to close because of increased imports.

The key to the expansion of benefits under TAA hinges on the ability of the President to seek GATT approval to permit the imposition of a small import duty to fund TAA-type programs. This fee cannot exceed the cost of operating these worker retraining programs, up to a maximum level of 0.15 percent ad valorem.

It is my hope that our trading partners will agree to the imposition of such an import fee. This funding mechanism will provide greater certainty to workers who lose their jobs because of foreign competition that Federal funds will be available to allow them to make the difficult and painful adjustment to a new profession.

HIGH TECHNOLOGY AND INTELLECTUAL PROPERTY ISSUES

Mr. President, this legislation contains several advanced technology initiatives that will enhance this Nation's ability to retain its technological superiority. For example, it establishes an Advance Technology Program to serve as a focal point for cooperation between the public and private sectors in the development of industrial technology and to encourage business to use the research, research techniques and know-how developed at Federal research facilities.

In addition, the bill incorporates legislation I introduced in early 1987 which establishes a Presidential Commission that will examine options for coordinating business and Government development of high temperature superconductors. This emerging technology holds many promises in the field of energy conservation and high speed supercomputing. This Commission should lay the foundation for better coordination between the Government, industry, and university researchers in developing commercial applications of high-temperature superconductors.

This legislation also brings needed relief to our high technology companies that have faced unfair competition from foreign companies that have infringed their patents and copyrights. We have strengthened the effectiveness of section 337 by eliminating the requirement to show that patent or trademark infringement injures a domestic industry.

We have eliminated the requirement that a domestic industry must show that it is economically and efficiently operated, while broadening the basis for finding that an industry actually exists in the United States. By so doing, the legislation encompasses universities and other intellectual property owners who engage in extensive licensing of their rights to manufacturers in the United States and abroad.

Mr. President, this bill also brings some much needed sense to our policy on export controls. We have streamlined our current export control rules and limited the ability of the Defense Department to block high-tech exports to Western nations. According to a recent study prepared by the National Academy of Sciences, U.S. companies lose nearly $9 billion in export sales because of export controls which bar U.S. companies from exporting products that are commercially available from other Western countries. This policy just does not make sense in a world where we no longer have a monopoly on high-tech products.

OBJECTIONS TO THE BILL

Mr. President, there are some aspects of this bill that I find especially troubling. Of most concern is the provision that expands the duty-free exemption provided for ethanol imported from the Caribbean Basin. These facilities are merely acting as processors for cheap European Community wine and are undercutting American farmers who have been processing ethanol for corn. There is no justification for this extension of the grandfather provision that was adopted in 1986. We cannot be certain that the House will accept the concurrent resolution that would modify this provision. However, it is my hope that we can satisfactorily resolve this controversy.

This bill also lifts the embargo on the import of Soviet furskins, despite the unanimous sense-of-the-Senate resolution urging the Senate conferees to maintain the embargo. Earlier today, I attempted to restore that embargo until the President certifies that the Soviet Union is in compliance with the Jackson-Vanik emigration rules. Unfortunately, the Senate rejected that amendment.

Although I believe that the embargo should be retained, I accept the will of the majority of the Senate and will vote for this legislation because the positive features of the bill outweigh the negatives I have cited.

CONCLUSION

Mr. President, as I said last April, this bill will not, by itself, solve our trade deficit. That is ultimately the responsibility of the American business community and the employees of those companies. However, it will help level the playing field of international trade, and will strengthen our negotiators' hands in the tough bargaining that lies ahead at the Uruguay GATT round. I am pleased to vote in favor of this bill.

Mr. HATFIELD. Mr. President, last April, when the Senate considered the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988, I discussed in detail my views on trade legislation and explained why I could not support the measure. Unfortunately, the trade bill presently before us is a reheated version of the old bill. The provisions which earlier prompted my "no" vote remain the same; consequently, so must my vote.

Unlike many of my colleagues, my opposition to the earlier trade bill was not based on the "notice of plant closings" provision, and its omission from this bill is not a factor which compels my support. I supported the intent of the plant-closing provision, voted for the freestanding bill and was pleased to learn that the President will allow the measure to become law. There were other provisions in the bill with far greater implications for this country and which created greater concern for me.

Because the issues involved with this legislation are so important, the reasons for my opposition bear repeating. It's no secret that I am an ardent "free trader." When it comes to international trade legislation, it is not a matter of simply weighing the good and bad provisions, and voting "yea" or "nay" depending on how the scale tips. It is not good enough that the bill contains a bare minimum of supportable provisions. The standard of measurement for a trade bill should be a simple one: Does the bill, in its entirety, clearly promote free and fair trade? As with the earlier trade bill, this identical measure does not meet that standard.

As I stated on this floor in April, the globalization of our markets has occurred at a remarkably rapid pace and the economies of the world have become increasingly interdependent as a result. Our interest in promoting American commerce and trade cannot be viewed in isolation from our other geopolitical interests. What we in Congress enact today in an attempt to force entry into foreign markets will not only have a dramatic effect on our own economy, but could also impact the dynamics of our overall relations with our trading partners and allies. I cannot support a bill which would needlessly complicate those foreign relations and perhaps dampen our Nation's economic growth, which relies so heavily on foreign investment.

Ours is a debt-driven economy and greater effort must be dedicated toward reduction of our trade and budget deficits. Progress is being made on both fronts, and the drop in the value of the dollar has had a direct beneficial effect on our trade deficit. Unfortunately, this trade bill furthers neither goal. Let me emphasize, this trade bill will not help reduce our trade deficit, or our budget deficit.

Clearly, greater access to international markets and the removal of tariff and nontariff trade barriers are on all of our minds. The administration should be a tough negotiator on trade and market access agreements. Those negotiations should occur at the highest levels of Government and the President, be he Republican or Democrat, must have complete flexibility to respond to the exigencies of the time regarding fair trade with foreign countries and compliance with trade agreements.

As with the prior bill, section 301 and the new "super-301" provisions greatly concern me. The bill completely transfers to the U.S. Trade Representative the President's authority and discretion in enforcing our trade agreements and responding to unfair trade practices. This type of wholesale delegation of Presidential discretion and flexibility is bad precedent and bad policy.

I cannot support the congressional mandate, through application of super-301, that in cases of suspected violations of trade agreements or other unjustifiable practices the USTR must take retaliatory action within a limited period of time and in an amount equivalent in value to the foreign burden or restriction on U.S. commerce. This provision is patently protectionist. Retaliation typically means import restrictions and tariff increases, the net effect of which is to increase the cost of goods sold in this country and to import trading partners to close or restrict their markets in further response to our action. Under this bill, section 301 is transformed from a trade negotiation statute to a trade retaliation statute.

Our relations with foreign governments are sensitive, complicated and based on a diversity of interests, commerce and trade being only two. In negotiating specific issues, governments often rely on the full spectrum of interests to come to agreement on any one matter. Our mutual interests in national security and foreign assistance, for example, can be a basis of agreement on trade. Likewise, a healthy and reciprocal trading relationship can be the basis of agreement on other important international issues. Unfortunately, this super-301 provision simply serves to further restrict the President's available options in such negotiations with foreign governments and to force the administration to base trade action, which has international implications covering a whole range of issues, on the narrow industrial interest involved rather than on a policy or vision which is broader and more national in scope. On that basis alone, I cannot support this legislation.

As with the earlier bill, this legislation imposes a retroactive 3-year trading sanction against Toshiba Machine and Kongsberg Trade for their illegal sale of sophisticated technology to the Soviet Union. While I continue to strongly condemn those sales, Congress is not the body to impose sanctions. A congressionally-mandated sanction against a private business located in a foreign country is an inappropriate manner of response. The proper course of action should be determined by the President after consultation with the Congress and the Japanese and Norwegian Governments.

These are just a few reasons why I cannot support this bill; there are others, including the fact that the bill will not reduce our twin deficits, its cost, the number of studies and commissions created, the expansion and financing of the Trade Adjustment Assistance Program, the inclusion of workers' rights in foreign countries as an actionable practice under section 301, and the many special interest provisions tucked away in the bill's pages.

I fully realize the many good and necessary provisions in the bill. The extension of the President's negotiating authority for bilateral and multilateral nontariff barrier agreements and tariff agreements, the provisions for "fast track" congressional consideration of those agreements, and the implementation of the harmonized commodity description and coding system are just three examples.

My great frustration is in seeing these important items, upon which no one disagrees, encumbered by provisions which are controversial and which are of questionable benefit. Unfortunately, these objectionable provisions taint the entire bill and leave me no choice but to vote no.

Mr. SASSER. Mr. President, I am pleased at the action of the Senate today in passing this trade bill. My only regret is that we need to be taking this action due to the President's ill-advised veto of the original trade bill.

The Senate is taking a historic step in passing this legislation. For the first time, Congress is passing truly comprehensive trade legislation. Too often in the past Congress has considered trade issues on a piecemeal basis—dealing with the hot issue of the moment.

This legislation addresses both imports and exports. It addresses the need to assist American businesses who wish to export—especially small businesses. It addresses the impact of education on America's competitiveness. It addresses those emerging trade issues in the areas of high technology, information, and services.

Our trade deficit for 1987 was $177 billion. That was greater than the total of all of the trade surpluses that the United States has accumulated since World War II.

My native State of Tennessee is a vivid example of what is happening nationwide. In 1980, in Tennessee, more than 56,000 of the manufacturing jobs were export related. These jobs represented some 11.4 percent of the total manufacturing jobs in Tennessee. The value of Tennessee's manufacturing exports stood at $5.3 billion. But by 1984, the latest year for which we have figures, the situation had taken a very dramatic turn for the worse.

The value of export related manufacturing sales dropped to $5 billion, a loss of over $300 million in exports in 4 years. The number of manufacturing jobs related to exporting fell to 41,000, a net loss of 15,000 just in the exporting sector of one state which is not noted for exports.

This legislation puts teeth in our own trade laws and it enables us to remove foreign trade barriers to our companies attempting to export. For too long, foreign countries have used unfair trading practices to gain an advantage in the U.S. market while at the same time erecting barriers to U.S. goods and services. This bill will allow us to attack those unfair trading practices while at the same time providing leverage to open foreign markets to U.S. companies.

I am particularly pleased that the provisions of this conference report contain a small business section. The language in the small business title of this measure closely parallels S. 1344, a small business trade bill which I introduced in the first session of this Congress.

My bill served as the basis for the small business title in the Senate's trade bill. This title reflects the importance of the export side of the trade equation with regard to small business. Restoring balance to our trade accounts will require increased export activity on the part of all American industries, and that includes small business.

Small business and small entrepreneurs have often served as a catalyst to drive our economy. They can play a central role in efforts to expand our export base. Small businesses make up about 85 percent of the businesses in the United States. Yet, some 250 large companies account for 80 percent of the dollar volume of U.S. exports. We need to do more to encourage small firms to compete in today's world markets.

This trade bill also recognizes the critical importance of educating our workers to fill the jobs which will be available in the years ahead. Thus, in the Senate trade bill we included money for adult training and worker retraining so that Americans will be equipped to compete in the global marketplace. Those education provisions are a critical part of this bill.

This bill also makes two important changes in our trade adjustment assistance. First, it makes workers who supply essential goods and services to firms directly affected by imports eligible for benefits. This recognizes the fact that supplier companies may be just as severely affected by imports as companies producing the imported product itself.

The other important change provides that brief interruptions in training will not result in workers being dropped from the program. We've had examples in my State where workers in training have been dropped from the program because of school vacations.

Mr. President, that is ridiculous. These are individuals who are working hard to be retrained and they are being penalized for their efforts. For the workers of my State, who want only the opportunity to earn a living for their families, this is an important change.

So, I am pleased that we have been able to pass this bill today. I trust the President will reconsider his unwise veto on the first trade bill. It is past time that we enact this bill. It will send a message to the working men and women of this country that we are concerned about their interests, concerned about their livelihood, concerned about their jobs, and that we are doing what we can to look out for them.

ITC STUDY CLARIFICATION

Mr. DOLE. Mr. President, the conference report to H.R. 3, which is to be treated as the legislative history of this trade bill, has adopted a new approach to certain foreign dual pricing practices. The conference report directs USTR to identify (through the ITC) and address, through section 301 of the Trade Act of 1974, investment barriers which have the effect of denying American industries the full benefit of a foreign government program, such as a governmentally imposed dual pricing scheme.

The clear mandate of the Congress is that USTR should self-initiate section 301 cases to address practices identified by ITC USTR retains considerable discretion to decide which of the practices identified by the ITC merit a section 301 case. But USTR may not conclude that investment barriers described in the conference report and identified by the ITC are outside the scope of section 301.

Given the background to the language of the conference report, we would expect that a substantial portion of the ITC study would be devoted to foreign investment barriers as they affect access by American companies to foreign natural resources. The focus of this portion of the ITC study should be on those foreign investment barriers which combine with a foreign government program to place American companies at a competitive disadvantage because they cannot get access to the natural resources on the same terms and conditions as entities of that foreign country. On the other hand, we would not expect the ITC to focus on investment barriers which do not disadvantage American companies because the natural resource is available outside the country on terms and conditions as favorable as inside the country with investment barriers.

Mr. THURMOND. Mr. President, the United States continues to face serious trade-related problems. Congress must appropriately address these trade problems if American business is to remain competitive in the international marketplace. The trade deficit—over $171 billion in 1987—has caused extensive damage to the very fabric of the economy of this Nation. The 1987 trade deficit was an all-time record for any country since trading among nations began. This is one record we do not want. Imports from foreign countries totaled over $424 billion while exports totaled a mere $253 billion. Such huge deficits clearly indicate that the competitive strength of American industry is declining while foreign countries continue to capture the world marketplace including our own.

The loss of jobs, American jobs, is the result of our trade-related problems. Recent job losses has been staggering. Between 1980 and 1988, manufacturing industries lost 878,000 jobs. As long as we continue to open our borders to any foreign nation without appropriate limitations, the situation we now face will continue to get worse. Today's trade-related problems did not just happen, but are the consequence of the willingness of this Government to allow wide-open access to domestic markets. Foreign nations, on the other hand, follow trade policies designed to protect their own self interests. Congress must adopt a tough, effective, well-designed trade bill if America is to remain the stongest Nation in the world.

One of the most important tasks Congress faces today is that of restoring American international economic strength. We have addressed this issue far too many times without achieving any worthwhile results. The time to act is now. To once again achieve economic superiority, we must erase our enormous trade deficit.

One provision of this trade bill which will benefit our domestic industry provides for stronger action against unfair trade practices abroad. The bill would require the U.S. Trade Representative to begin formal action against countries which engage in unfair foreign trade practices, identified in an annual report of world trading practices initiated under the bill. Responding to unfair trade practices abroad will strengthen many of our domestic businesses, especially the textile and apparel industry which has been the victim of foreign labor abuse and foreign government subsidies for many years.

The one major domestic industry which has been hardest hit by imports is the domestic textile and apparel industry. I will use this specific industry to exemplify the problems of foreign imports since textile and apparel manufacturing is a major industry in South Carolina and I have seen the devastating effect of imports first hand. Unquestionably, the domestic textile industry is suffering as a result of foreign imports. Unfortunately, the administration has failed to take effective action to prevent the tremendous loss of jobs and job opportunities caused by foreign imports. Unless Congress takes prompt action to stop the flood of textile and apparel imports, the devastation will drive the domestic textile and apparel industry to extinction. Over 2 million Americans employed in these industries could suffer the tragedy of losing their jobs.

Over 1,000 textile and apparel plants have closed since 1980. Almost 300,000 textile and apparel jobs have been lost to imports in the last several years. Approximately one-half of all textile and apparel goods sold in the United States are made abroad. During the past 5 years, textile and apparel imports have increased at an average of 20 percent a year. This Nation had a record textile and apparel trade deficit of $24.8 billion in 1987. This reflects a 17 percent increase over 1986. The textile and apparel deficit is nearly one-seventh of the entire U.S. trade deficit.

Figures released by U.S. Department of Commerce show that imports of textiles and apparel in 1987 reached a record $29 billion while exports totaled $4 billion for the year. This equates to an import-export ratio of 7 to 1. The entire trade deficit reflects an import-export ratio of only 1.67 to 1. This clearly depicts how hard the textile and apparel industry has been hit compared to other industries. The textile and apparel trade deficit is over 14 percent of the overall trade deficit. Month after month, year after year, textile imports continue to surge upward. Such disturbing statistics are an affront to textile employees, as well as other Americans. This current trend must not be allowed to continue. Our textile industry and its 2 million employees must be saved from the devastation caused by enormous textile imports flooding into our country.

These statistics warrant the introduction of a separate bill, S. 2662, the Amended Textile and Apparel Act of 1987. This measure is currently pending on the Senate Calendar and I urge my colleagues to act expeditiously as possible on this. With each passing day, more textile and apparel plants are closing due to foreign imports.

The chief concern I have with considering the textile bill as a free-standing measure is that its opponents may argue that the remedies in this so-called generic trade bill should be given an opportunity to work before industry specific measures are enacted. The purpose of this statement is to address that concern and potential argument. I want to make it completely clear that the textile and apparel trade deficit is far higher than the general trade deficit as depicted by the ratios I listed above. These figures justify the enactment of the textile and apparel bill.

I want all of my distinguished colleagues to have notice of the fact that the Textile and Apparel Trade Act of 1987 will soon be on the Senate floor for consideration. The argument that it does not merit support because it provides assistance to a specific industry, in view of the bill which we are currently considering, lacks substance. If anything, the Textile and Apparel Act of 1987 deserves special consideration given the devastating statistics I stated above.

Mr. President, it is the responsibility of the leaders of this Nation to provide appropriate assistance to those domestic industries facing grave harm due to foreign imports. It is simply not acceptable for those elected by the citizens of this Nation to stand by and watch major domestic industries perish due to foreign imports and the unfair trade practice used abroad. Millions of jobs are at stake. Millions of family livelihoods are at risk. The human toll must not be forgotten.

Mr. President, I strongly believe in fair trade as opposed to free trade. The theory of free trade is well-founded only when all other markets are free and competitive which is no longer the case around the globe. Foreign governments are subsidizing exports, limiting imports and targeting U.S. industries for expansions in a race for control of our market.

However, the situation which causes me the greatest concern when discussing the trade deficit is its impact on national defense. I cannot imagine a worse scenario than a country engaged in war and dependent on foreign nations for crucial materials and supplies. Ensuring that our soldiers are properly equipped is not a foreign issue—it is an American obligation. Critical military equipment and supplies should be made in America because we cannot rely on imports landing on our shores in time of war. The preferred action is to maintain an adequate industrial base to meet defense needs. It is conceivable that some of our so-called trading partners can be potential enemies in time of war.

Many of my colleagues who adamantly advocate free trade also believe in a strong defense. I remind my colleagues that in order for our Nation to be secure and able to defend itself, we must become economically independent. You cannot have a strong and independent military with such enormous trade deficits.

Mr. President, I urge my colleagues to support this trade bill and to act expeditiously. This crucial legislation has been delayed far too long.

Mr. HELMS. Mr. President, as is so often the case, it is tempting to vote for this bill based on the profusion of accolades that we have heard about it from our colleagues. However, there is one aspect of the bill that troubles me enough that I am obliged to vote against it: it expands the Federal bureaucracy and adds too much to our enormous budget deficit.

Mr. President, I acknowledge that the bill has some very positive provisions. Among other things, it gives the President necessary negotiating authority, it implements the harmonized system, it repeals the windfall profits tax, and it addresses some important tariff provisions.

Furthermore, the bill lays to rest one important issue. That issue is the guilt or innocense of Toshiba Corp. for the criminal conduct of its subsidiary, Toshiba Machine Co. Toshiba Machine has already been convicted by a Japanese court. It received a minor fine, a mere slap on the wrist, that was totally inappropriate to the enormity of the crime. But Toshiba Machine was convicted of a crime nevertheless.

Mr. President, since Congress does not impose sanctions and penalties upon innocent people, we have heard arguments that Toshiba Corp. should not be held accountable for the misdeeds of Toshiba Machine. These arguments are far from persuasive. Section 2443 of this legislation imposes a 3-year ban on contracting with the Toshiba Corp. or procurement of products and services from the Toshiba Corp. In taking this action, the U.S. Congress is saying very clearly one thing: Toshiba Corp. is also guilty.

Mr. President, despite the few positive aspects of this bill, I do not believe that it will result in a dramatic improvement in our trade deficit, contrary to what some Senators suggest. In fact, I am fearful that it may indeed make bad matters worse.

Economists agree that the major cause of our trade deficit is uncontrolled Federal spending and the resulting budget deficit. I simply cannot support legislation which purports to be the solution to our trade deficit when it will in fact increase Federal spending more than $10 billion.

The bottom line with this bill is that it authorizes more than 100 new studies, and it creates expensive, unnecessary new programs, councils, commissions, demonstration projects, and so forth, costing $10 billion.

Despite my approval of particular provisions of the trade bill, I simply cannot support legislation which continues to add to the enormous economic burden that Congress has placed on the backs of America's taxpayers.

Mr. McCAIN. Mr. President, I would like to take this opportunity to explain my continued opposition to this trade bill.

Our Nation's trade laws and policy are in need of improvement, but this legislation is not the best way to address our trade problems. It seems obvious to me that any trade legislation must be fiscally responsible, as well as improve our international competitiveness and open foreign markets. H.R. 4848 accomplishes none of these goals.

As many of us have begun to realize, the trade deficit is primarily the result of our huge Federal budget deficits. Even though deficits have fallen from the $220 billion range of a few short years ago, the American consumer and investor is using up more and more of our savings pool. As long as our deficits remain as high as they are now, we will have to borrow from abroad. In other words, for every dollar not absorbed by the Federal Government, there is a dollar available for consumption and investment, a dollar we need not borrow.

This legislation, however, would add to the Federal budget deficit. Let me emphasize that I never expected this trade package to be a deficit reduction measure, but neither did I expect it to contribute to the deficit. Yet this legislation would do so by costing nearly $7 billion over the next 6 years. What do we get for $7 billion? Not enhanced competitiveness, but roughly 160 programs to be supported by 65 new Federal agencies and subagencies, and staffed by more than 1,200 new Federal employees. I cannot believe that expanding the Federal debt and bureaucracy is the answer to our trade problems. Furthermore, we cannot logically welcome the capital inflow from abroad in one breath—thereby enjoying lower interest rates than we would otherwise have—while increasing public borrowing and complaining about the trade deficit in the next.

More importantly, our international competitiveness is jeopardized by this trade legislation. The changes in the law governing section 301 trade cases limits executive discretion and flexibility. I fear these changes will only exacerbate tensions with our trading partners by automatically forcing punitive action, and potentially setting off the kind of trade wars we are trying to avoid. Negotiation should be our first response, with punitive actions imposed only when a negotiated settlement has failed. In addition, given the increasingly complex and interdependent nature of the international trading community, I believe the President should be given greater flexibility in order to consider other relevant concerns, such as our national security.

This bill further undermines our competitiveness abroad through a sin of omission, by failing to address the transfer of knowledge from research facilities to commercial uses. We in the United States are justifiably proud of the fact that our citizens have won more Nobel Prizes than those of any other nation. Yet, our technology and inventiveness is commercialized by other nations. The VCR is just one example. Facilitating the transfer of knowledge would end this loss, and an attempt to resolve the problem should be a component of any trade legislation.

Finally, I do not believe H.R. 4848 will open foreign markets. It provides for a new worker retraining program that will be funded by a fee levied on imported goods. Using our imports to cure unemployment may be a serious mistake. What if our trading partners adopt a similar approach? With the exception of Japan, they have considerable higher unemployment rates that we do here in the United States. If they were to use a similar import fee, American goods would cost more abroad. Because of the fiscal deficit we have accumulated, and which is further exacerbated by other provisions of this bill, we must run a trade surplus in the next decade if we are to maintain our present standard of living. The import fee provision could make this much more difficult.

While there are many provisions of this trade bill that I do support—provisions that give the executive branch authority for the new GATT round, institute the harmonized system of tariffs, aid high-tech industry exports, and certain others—I believe the total cost of H.R. 4848 is too high and would seriously injure our international trade position overall.

Mr. DOLE. Mr. President, I would like to bring a matter to the attention of the distinguished floor manager of the trade bill, Senator BENTSEN, and ask his opinion if it is the type of discriminatory practice the United States will be able and likely to do something about if the trade bill becomes law.

A U.S. firm formed a joint venture in Argentina and through this joint venture secured a contract to perform services for a local government agency in that country. The U.S. firm exported goods to the joint venture as well as the managerial expertise necessary to permit it to perform under the contract, which it has done, without dispute.

Unfortunately, the Government agency has not held up its end of the contract. After the implementation of a monetary reform in 1985, the agency unilaterally began to discount its payments to the joint venture for the services being performed. The amount in dispute is now more than $20 million, and the agency has refused to negotiate a settlement. Other similar contracts with Argentine and foreign firms have been honored. This U.S.-controlled joint venture has been singled out.

My understanding is that this discriminatory behavior affecting U.S. foreign investment and trade in services could fall within the type of unfair foreign practices defined in section 301.

Could the distinguished Senator from Texas tell me if this is correct?

Mr. BENTSEN. Based on what the distinguished Republican leader has related to me, that is correct.

AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT

Mr. HEINZ. Mr. President, yesterday the chairman of the Banking Committee, Mr. PROXMIRE, announced that he was abandoning his effort to alter or strike the amendments to the Foreign Corrupt Practices Act that are included in the trade bill. This is welcome news not only because it permits us to move forward in enacting vital trade legislation but because these amendments are an essential part of our revised trade policy, developed after 7 years of effort by the Congress.

During previous Senate trade debate, I stated that these amendments "will provide clearer guidance for Americans doing business abroad as to which activities are permissible and which are not, without opening the door to bribery." There is no question that an overwhelming majority of my colleagues agree with me since these amendments were reported by the Banking Committee four times with large bipartisan majorities and twice passed by the Senate. House conferees, including supporters of a tough antibribery statute like Congressmen RODINO, HUGHES, and BERMAN, were unanimous in their support of the conference agreement.

The fundamental reason for this bipartisan consensus is that these amendments correct long-recognized deficiencies in current law without weakening it. Yet, even in abandoning the fight, Senator PROXMIRE continues to make unfair and unfounded charges about what these amendments would do. The case for FCPA reform was forcefully presented yesterday by the distinguished Senator from Illinois, Mr. DIXON. As a participant with Senator DIXON in the 7-year FCPA debate in committee, on the Senate floor, and in the trade conference, I feel compelled to join him in responding to the charges leveled at the FCP amendments over the last year by the Senator from Wisconsin. The major criticisms, and I quote the Senator, are as follows:

That the amendments were "slipped into this massive overall trade bill" to hide them from public scrutiny.

That the Senate amendments make "the trade bill bring back bribery bill with a vengeance."

Finally, that the trade bill language "deletes the basis in the present law for prosecuting a corporation official that he has reason to know a bribe is being paid."

First, in response to the charge that we put one over on anyone, I would like to recount the long history of these amendments. As Senator PROXMIRE is well aware, the Banking Committee began the process of amending the FCPA in 1981. In the 97th Congress, 5 days of hearings were held. A bill was reported on an 11-to-4 vote and passed the Senate after extensive debate by voice vote. Since the House failed to act on FCPA reform, the Senate-passed bill was taken up by the committee again in the 98th Congress; an additional day of hearings was held and the bill was reported by a vote of 17 to 1. In the 99th Congress, the committee held yet an additional day of hearings on the same bill, which was reported again by a vote of 11 to 3.

The same issues were taken up by the committee in the 100th Congress, and after substantial debate in committee, a modified form of the bill previously reported by the committee was again reported, this time by voice vote. The difference in 1987 was that the House had passed FCPA amendments as part of its version of the trade bill, providing the legislative vehicle for final passage of FCPA reforms.

Was this a secret plan, something sneaked by in the dark of night? On the contrary, the entire debate over 7 years took place in broad daylight, open to the public, and with substantial press coverage. I could have the foot-thick printed record of discussion of these issues read into the RECORD to support my contention, but I will spare everyone that burden.

My point is that the record is clear. The amendments that Senator PROXMIRE now vilifies were reported by the committee he chairs by voice vote. The House added FCPA amendments to its version of the trade bill because an unclear bribery law is legitimately dealt with as an impediment to trade. There was no effort to conceal.

The second charge is that the Senate amendments would make the FCPA a "bring back bribery" bill. In response, I need only quote the Banking Committee report of last year on the amendments it reported. It states that "a clearer law will assist U.S. businessmen to police their own actions with greater confidence and will reaffirm our national policy against using bribes to obtain, retain, or direct business."

Senator PROXMIRE's statements some months later about bringing back bribery made good press, but they are clearly at variance with the views of his committee and with his own position in markup. In return for some final wording changes during negotiation of the FCPA language in committee, the very same language which passed the Senate as part of the trade bill, Senator PROXMIRE pledged his "enthusiastic support" for the committee amendments. It is hard to imagine what he would be saying about the bill if he had objected to it.

The third charge is that one of the FCPA amendments included in the trade bill deletes the "reason to know" standard for the actions of agents as a basis for prosecuting corporate officials and "tears the heart out of the antibribery law." To begin, let me make clear that neither the Senate amendments nor the conference agreement delete any standards from the law. The standards for accounting and direct bribery violations in the FCPA are unchanged. The "reason to know" standard is amended and clarified, making it a better prosecutorial tool. In combination with substantial increases in FCPA penalties imposed by the trade bill, the law has been made tougher.

Let me briefly review the existing standards. First, "cooking the books" to hide bribes remains a crime, and a crime subject to tougher penalties. In 1981, Senator PROXMIRE referred to the accounting provisions as "the heart and soul of this legislation." Thus, the heart of the FCPA is intact and beating stronger than ever.

Similarly, it remains unlawful for a U.S. company, or any employee or agent of a company, to make or authorize a payment for the purpose of influencing an official of a foreign government or political party in order to obtain or retain business. No change was made to the direct bribery standard, but, again, penalties were increased.

What is changed is the standard of liability for the actions of agents, which sets a separate standard of liability in situations where an agent is used as a conduit for illegal payments. Current law makes it unlawful to make payments "to any person, while knowing or having reason to know" that an illegal payment would be made. Senator PROXMIRE favors this "reason to know" standard, arguing that it makes U.S. companies think long and hard before they wire funds to an agent in a foreign country.

Practically everyone else involved with this issue sees the standard as unclear and unworkable. When an agent is involved, the standard of liability is not "intent" to deceive or bribe as elsewhere in the FCPA. It does not require "knowledge" of a bribe, or even a "knowing wink" so that there is deniability of knowledge. In fact, no one knows what it means because no body of case law on it exists 10 years after enactment.

What this so-called "objective" standard tells American businessmen is to avoid dealing in foreign markets where they have to use agents. A U.S. businessman dealing by telex in foreign countries with limited information could be criminally liable for any payment that a prosecutor decides they should have had "reason to know" would lead to a bribe.

Over the years, Congress has been urged to clarify this standard by representatives of the Commerce Department, the Justice Department, the business community, the National

Governors' Association, the American Bar Association, and others. Now, both House and Senate have taken action to provide a clearer, more workable standard.

In the Senate, we adopted language making it illegal to "direct or authorize" illegal payments by an agent "expressly or by a course of conduct." This is tougher than the direct bribery standard in the FCPA in that it not only covers intentional acts but—and I quote now from the committee report—is "meant to prevent management from adopting a "head-in-the-sand" approach to bribery in order to avoid liability by ignoring actual facts and circumstances underlying the subject transaction which would indicate the payment of a bribe."

The committee report also notes that this change does not alter the enforcement policy of the Justice Department. Deputy Assistant Attorney General John Keeny testified that "the policy of the Department has been to prosecute only those cases where the evidence of awareness—whether direct or circumstantial—was clear as to constitute actual knowledge of the bribe scheme. This policy would not be changed by abolishing the "reason-to-know" standard in favor of a more objective standard and would improve the clarity of the Act."

The House of Representatives passed a bill with a "split" standard of liability for the action of agents. It provided a simple "knowing" standard for criminal prosecution, but also would permit civil prosecution in cases of "reckless disregard."

A reasonable man would have assumed that any compromise reached between the language reported by the Banking Committee and the tougher language of the House bill would be acceptable to the Senator from Wisconsin. Not at all. It is now clear that any compromise, even one that clarifies alleged deficiencies in the Senate standard he accepted, is unacceptable to the Senator.

In conference, after much deliberation, the Senate receded to the House with an amendment dropping the "split-standard" approach. The result was a single standard as in current law, based not on a "reason to know" but on a definition of "knowing" crafted by the House Judiciary Committee. This "knowing" standard explicitly brings with it an extensive body of case law and legal precedent and, as with the Senate standard, clearly encompasses the concepts of "knowing disregard," "willful blindness" or the "head in the sand" to avoid knowledge or liability under the law. It not only encompasses the behavior the Senate intended to cover but is, in many ways, a clearer and better standard.

Was this result achieved without due consideration of Senator PROXMIRE's concern with the language? On the contrary, there was extensive discussion of Senator PROXMIRE's concern that the House definition of "knowing" be expanded. Allow me to quote a few points from the transcript of the conference.

At the outset, Senator PROXMIRE agreed that the standard should not be "recklessness" as in the House split standard, but proposed that additional statutory language be added covering "conscious disregard" of a high risk of a bribe. In an effort to accommodate his concerns, the Senate conferees then proposed specific statutory language along these lines based on the term "willful blindness." House objections to any expansion of the language were overwhelming.

Congressman HUGHES argued that the House definition already included the concepts in question and noted: "If you write those provisions into this statute, that is going to put a different spin on all the other statutes that we have created that use the term 'knowing' where the courts have consistently interpreted it as including 'willful blindness' and 'conscious disregard' as part of the 'knowing' standard." He was strongly seconded by Representatives BERMAN and MICA, the latter being the House author of the FCPA amendments.

Congressman RODINO, who led the Judiciary Committee conferees, objected to any change in the House definition arguing that "we would be raising an even more serious question than we are going to be resolving." He stated: "I think it would be important to just try to stay with 'knowingly' as it has been recognized in the law. I hope that has some influence on the members."

Finally, Representative BERMAN moved to have a single standard based on the House model penal code definition of "knowing" and to include language on "willful blindness" in legislative history. Chairman DINGELL asked for a show of hands for the Berman motion and support was unanimous on the House side.

With all due respect to the views of Senator PROXMIRE, I believe he is quite wrong on this issue and very nearly alone in his views. Twenty-five House Members, many of them the staunchest supporters of tough antibribery laws, disagreed with him. His own committee disagreed with him.

Senator PROXMIRE deserves tremendous credit for achieving passage of this landmark legislation. The committee report lauded its passage as "a positive and significant step toward the important objective of prohibiting bribery of foreign government officials by U.S. companies." However, even a very good law may require amendment. I believe the amendments in the trade bill make a good law better.

At the end of our conference on the FCPA provisions, Congressman BERMAN told the Washington Post that the conference has produced a tougher bill than the Senate had brought to the table. He stated that we produced "a law that is still tough on foreign bribery, but has become a series of reasonable clarifications to meet the concerns raised by the business community." I agree with him totally. The claims of the chairman of the Banking Committee notwithstanding, I believe that outcome will be rated as one of the concrete achievements of this trade bill.

LATER DEVELOPED PRODUCTS

Mr. MOYNIHAN. Mr. President, I wish to emphasize the importance of section 1321(d) of H.R. 4848, which deals with later developed products. As the sponsor of the later developed product provision, and as a member of the conference, it is my understanding that section 1321(d) is specifically directed at preventing determinations such as the one the Commerce Department made in portable electric typewriters from Japan. In that decision, portable typewriters were found to be outside the scope of an antidumping duty order because they possessed small memory or calculator features. Section 1321(d) was added by the Senate and included in H.R. 3, and now H.R. 4848, to ensure that dumping orders are broadly construed by the Commerce Department and that technological advancements or modifications do not result in the circumvention of existing orders. Can the distinguished Senator from Texas, chairman of the Finance Committee, who was the cochair of the conference, confirm my understanding of the intent of section 1321(d)?

Mr. BENTSEN. The distinguished Senator from New York is correct in his characterization of section 1321(d). The language contained in the Senate report reflects the intention of the conferees. The administration has repeatedly promised to enforce vigorously our trade laws. Section 1321 is one of the amendments designed to see that those promises are kept.

Mr. DASCHLE. Mr. President, I rise, again, in support of H.R. 4848, the Omnibus Trade and Competitiveness Act.

This body has already had extensive deliberation on various versions of this bill—at least three times over the past 2 years—so I will make comments brief.

I supported this bill the last time it was brought before this body. I supported a trade bill that included the plant closing provision—a humane, and necessary provision that ensured our laborers that they would be given reasonable notice of layoffs.

I support this bill, because I feel that it will change trade law in a way that will force President Reagan's successor to be as attentive to our international trading situation on the first day of this Presidency as he might be on his last. Senator BENTSEN is to be congratulated for not letting Presidential vetoes and partisan politics get in the way of legislation which is good for our Nation.

This bill keeps any administration from giving short shrift to our trade problems. It helps U.S. farmers, workers and businesspeople by elevating trade to a more prominent position in the administration.

All of us have debated the multitude of reasons why we must pass this bill. I support this bill since it includes many provisions that are good for agriculture and, therefore, good for the state of South Dakota. Among them are provisions to:

Give the President the power to retaliate against countries that use unreasonable inspection standards as a trade barrier to U.S. beef and pork products.

Allow pork producers and growers to be included with the manufacturers and processors as part of the domestic industry when the International Trade Commission is considering the impact of subsidized exports on U.S. businesses.

Set up an improved system for record keeping on agricultural imports and their impact on the domestic industry.

Set up an office within the USDA to help victims of unfair trade practices.

Allow the USDA to apply more resources to develop new markets for processed beef, pork and poultry products.

Allow the USDA to provide financial aid to producer groups who are fighting against unfair trade actions.

Extend the Export Enhancement Program through 1990—this program has been one of the recent success stories in improving exports of U.S. farm products.

The list of provisions speaks for itself. This bill makes sense—it is good for the country, good for agricultural states and good for South Dakota. In fact, I believe this bill is the most significant piece of legislation affecting agriculture this year.

It provides the United States with better negotiating skills and recognizes the growing interdependence and competitiveness of the complex international economy.

We have already put off implementation of this legislation long enough. Let us vote now to begin to create a coherent trade policy and improve the trade deficit.

Mr. MITCHELL. Mr. President, I rise in support of this second effort to enact into law a strengthening of our trade laws.

It is essential that this Nation have a trade policy in place. As the world's premier trading nation, our trade policies affect not only our trading allies and competitors, but our domestic economy as well.

The President's veto of the earlier trade bill on the grounds that the plant closing notice was anticompetitive did not serve the best interests of the Nation. He has decided now to allow the plant closing legislation to become law. That change of heart means that we must now reenact the trade reform act.

American trade policy will remain in limbo unless this measure is enacted. Neither our customers, our competitors nor our own manufacturers and exporters will know what our policy is, because we will have no policy. So speedy action on this measure is essential.

The veto of the first trade bill for the reason given was the latest example of the misplaced priorities which have dominated trade policy throughout this decade.

American trade policy has been the hand maiden of our defense and foreign policies for too long. Our military allies compete for the dollars of American consumers at home. Their companies compete against us for customers abroad. But when we negotiate to preserve the Western alliance or maintain our defenses, trade issues take second place.

For our allies, trade policies take first place. Their laws protect manufacturers, farmers, exporters, and workers against the dislocating effects of strong trade competition. Many of their laws are similar to laws on American books. But there is a crucial difference.

What we do not have—while our allies do—is trade law enforcement.

Strengthening those laws and making their application more predictable and reliable is the central purpose of the trade bill.

The veto gave the comparatively modest advance notification requirement priority over these important purposes of the act.

This is exactly the kind of misplaced priority which has undermined sound trade policy for decades.

That decision was an unfair policy judgment for American workers. But it was also an unwise policy judgment for the long-term economic health of the Nation.

The Omnibus Trade and Competitiveness Act of 1988 now again before us is the culmination of a process begun almost 4 years ago to establish a modern and effective trade policy for the United States.

After considerable effort by scores of individuals working in close consultation with the executive branch, Congress has written comprehensive legislation which will serve as a basis for this Nation's trade policy for years to come.

Recent improvements in the trade balance do not lessen the need for this legislation. It goes to deeper problems than temporary shifts in the dollar's value. Until those problems are resolved, our trade balance will be at the mercy of currency fluctuations.

It took barely 5 years for the creditor status of our Nation to shift and make us the world's greatest debtor.

This bill reflects the fact that when the dramatic plunge into record-breaking trade deficits took place, it did so against a background of virtual indifference from the administration.

Indeed, even as our trade deficits mounted to record levels, we were debating, not what kind of trade policy our Nation should have, but whether there should be any policy at all.

Not until late 1985 did the administration recognize that unfair trade practices should be actively challenged. Even then, the tendency to sacrifice the interests of American workers to other policy considerations was not abandoned.

Much of the debate on this bill reflected that problem. It was a debate over how aggressive our policy should be and what the appropriate role of the President is in pursuing that policy.

This legislation resolved most of these issues in favor of a more aggressive trade policy in defense of American workers and industries. It preserves Presidential prerogatives, but it provides the tools with which to pursue a more vigorous and aggressive trade policy on behalf of this Nation. It should mark the start of a new chapter of our Nation's trade policy.

The bill rests on several central premises. First, it explicitly recognizes that under our system of government, the President must consult with the Congress. American workers and manufacturers must know that negotiations, which will affect their economic well-being, reflect their concerns.

The bill requires closer, more detailed and continuing consultation with Congress as agreements are negotiated, because this is the only way to assure that.

Trade agreements cannot ignore the interests of American workers, manufacturers or consumers. Nor can it subordinate one of these interests to the others. Americans are both workers and consumers. It makes no sense to settle for what serves the consumer if the settlement leaves the consumer jobless.

Trade policy must have continuity, purpose and accountability. The only way to integrate and serve the interests of American workers, consumers and businesses is to ensure that those interests are factored into the negotiations. The only way to ensure that is through consultations with Congress.

Another basic premise of this bill is predictability.

Not only should American businesses and workers feel confident that American law will protect American interests; our trading partners and competitors also need to know, with some clarity what actions will produce responses.

Under our system, the effectiveness of virtually any law depends on the vigor with which a President enforces it. This is as true of trade laws as of any others.

Too many of our trading partners still have too many good reasons to believe that they can have totally unrestricted access to the American market and bar American imports with impunity.

None of our trading partners has an incentive to overcome its own national interest when there is absolutely no penalty attached to pursuing that national interest.

It's ironic that in this decade, a commitment to the ideology of free trade—not a free trade policy, but a free trade ideology—has gone hand in hand with an increase in protectionism around the world.

But so long as protectionism draws no penalty, that ironic outcome should surprise no one.

International trade cannot expand in an environment where trading nations pursue their own interests exclusively. But when foreign producers see there is no penalty in doing what the Brazilians, the Japanese, the South Koreans do to protect their markets, there is no incentive for restraint.

This legislation, by directing a more aggressive executive branch pursuit of reciprocal access to foreign markets, as well as mandating penalties for unfair trade practices in our market, will recreate such an incentive.

The amendments to section 301, in particular, are designed to do so. I believe these changes will be of great assistance to American companies.

The bill does not set in concrete the current manufacturing makeup of U.S. industry.

It recognizes that as technology changes, as our Nation's demographics alter and as economic choices shift, new products, new processes and new services will displace old ones.

The bill seeks to make the transition from older to new industries less harsh for workers by providing better retraining and retooling aid.

This is not only a key element to maintaining American competitiveness in world trade, it is a key element in a sound domestic economy as well. We cannot and should not enter the 21st century with whole regions of people whose skills are outmoded and workers whose energies are wasted.

The bill changes the Trade Adjustment Assistance Program to expand the group of workers eligible for adjustment assistance; it puts greater priority on retraining workers.

These elements of the legislation—adequate consultation with affected parties, predictability, and protection for those whose work or business is dislocated by changes in trade patterns—are all essential elements of a sound trade policy.

With this legislation, we can finally institute such a policy.

Our workers should not have to wait until our trade deficit approaches disaster levels before their Government acts. Our businessmen should not have to hope for a dangerous trade deficit before they can be assured that our laws will be enforced.

We need a trade policy in place and we need one now. This measure provides it, and it should be passed into law.

STUDY OF HARM CAUSED BY IMPORT RESTRAINTS

Mr. WILSON. Mr. President, when considering the implementation of a national economic policy, there are a few very basic touchstones. One of these is that if a national policy will create some dislocation, some economic harm, some pain, that it should not fall on any one group disproportionately.

For the past 25 years, the United States has had a policy to compensate workers and companies that are hurt by imports: The Trade Adjustment Assistance Program, known as TAA. As the Finance Committee report on the original trade bill indicated, TAA is justified because the Federal Government has a "special responsibility to ease the dislocation and adjustment that would occur because of an open trading system."

In other words, any dislocation caused by our generally beneficial free trade policy should not fall disproportionately on any one industry or group of workers. The bill before us endorses and expands this concept of assistance to workers.

If the national policy is to compensate workers and industries that have been hurt by international market forces, shouldn't we also be concerned with the harm caused when we distort free trade by imposing restrictions on fairly traded imports?

Of course we should care about consumers who have to pay too much and about workers who lose their jobs because of governmental interference in the market—in other words, protectionism.

Protectionism is a peculiar word. What do we protect when we practice protectionism?

Certainly, trade protectionism does not protect consumers, who are cheated out of $65 billion each year because we limit their choices when they go to the store to buy clothes, cars, and other consumer goods. This $65 billion figure comes from a study just released by Citizens for a Sound Economy.

And, trade protectionism certainly does not protect workers, who can't work because their employer is cut off from fairly traded raw materials.

Let us take, for example, the present restraint program on steel imports. This so-called "voluntary restraint agreement" program, or VRA, was negotiated by the President—under congressional duress—with various steel exporting countries in order to help domestic steel producers. According to a study by Arthur T. Denzau of the independent Center for the Study of American Business, the steel VRA has resulted in a net loss of more than 35,000 jobs nationwide.

So what we have is a Presidential decision to restrict the importation of steel—fairly traded or otherwise. This intrusion into the market has reduced availability and increased the cost of steel to U.S. companies, while foreign producers still have access to market-priced steel. In turn, this has caused U.S. steel-consuming companies to lose their ability to be price-competitive, resulting in less production—and layoffs.

As a matter of simple equity, a national policy to protect the steel industry should not leave uncompensated these workers and companies outside of the steel industry that have been hurt by the steel VRA.

And in California, it is clear that the steel VRA has hurt. Davis Walker Steel has been prevented from obtaining adequate supplies of wire rod at prices that would allow its finished products to compete in the market. Similarly, California Steel Industries, which is operating a former Kaiser Steel Co. mill in Fontana, CA—a mill that was closed in 1982—has been prevented from expanding production to meet market demand, and at times has had to lay-off workers, for a lack of steel slab.

Other industries and workers have suffered from import restraints, from manufacturing companies to transportation companies and dock workers. One broadly based group that has felt the sting of import restraint programs is the retailers, and for this reason support the point of view that I have outlined. I am pleased to have received support from the American Retail Federation and the National Retail Merchants Association.

Mr. President, even with the disaster of Hawley-Smoot, the recent economic history of the United States records numerous import restraint programs. While I oppose the erection of new restraints against fairly traded imports, the political will of the Congress, and at times the President, is to engage in protectionist practices that do limit fairly traded goods.

While it may be arguable that these protectionist acts were in the best national interests, no one can gainsay that they are intrusions in the marketplace.

Yet, our country has been built on the wisdom and strength of the marketplace. Every day, men and women risk their time and effort as they strive to make a living. And under our economic system, it is indeed a risk, as few opportunities come without risk. The operation of the market may give them wealth, or it may take away their jobs or destroy their businesses. Again, that is the risk of our economic system.

If we are going to intrude on the marketplace of free and fair trade, at least we should know the harm we are causing. That is why I have devised a very simple, straight forward amendment.

Mr. President, my amendment would require the International Trade Commission to submit an annual report to Congress on the negative economic impact of trade import restraint programs. Furthermore, supplemental reports would be made at any time that significant new restraints were erected.

My amendment would require the ITC to report on the harm to consumers resulting from protectionism. If the import restraint program on apparel makes Mrs. Jones pay more for her kids back-to-school clothes, then we should fess-up and tell her that her own Government is taking money out of her pocketbook, and we should fess-up and tell Mrs. Jones how much more this wonderful Government protectionism is costing her.

My amendment would also require the ITC to do an assessment of job losses caused by our protectionism. If Jim Smith, a steelworker in my State of California, is laid off because his own Government has cut off his employer's access to raw steel, then we should fess-up and tell him that his own Government has put him out of work.

Mr. President, my amendment would require a little honesty with the American consumer. My amendment would require a little honesty with American workers.

Mr. President, I offered an amendment quite similar to this one when the original trade bill was first on the floor last summer, and it was accepted with little debate.

Now, the chairman of the Finance Committee has told us of the many months during which the conference committee struggled with the differences between the House and Senate trade bills—and I commend the effort he and his colleagues on the conference expanded.

However, as the conferees struggled with the very contentious and complex issues, it somehow quickly disposed of my little amendment that I successfully offered in the Senate. Specifically, my amendment disappeared as part of the first House offer, which was quickly accepted by the Senate conferees.

Now, Mr. President, why should a simple straightforward amendment like mine, that simply sheds some light on the consequences of protectionism, why should it disappear so quickly without a whimper of objection? Good question.

Maybe, my amendment disappeared in the trade bill conference because the same Members of the Congress see no domestic downside to protectionism.

Certainly, we know of a $65 billion downside to consumers. Imagine if that money went for productive purposes instead of for goods whose prices are inflated by protectionism? And, let us understand that some of that $65 billion goes overseas, to the same foreign manfacturers from whom we are attempting to protect ourselves.

Mr. President, we need not only a good trade policy, we also need a little honesty. Everyone in this body and in the House is quick to trumpet all that we do to help consumers and all that we do to help workers—but the resulting harm is ignored.

My amendment simply would force us, once a year, to fess-up to the American public about the economic downside, the economic hangover caused by drunken protectionism.

With all of the information that the Federal Government collects on the impact of imports on our economy, it is more than disappointing that there is a true dearth of information on the negative impact of restraints on fairly traded imports. My amendment would rectify this situation and provide us with important information on which to make important economic decisions.

Let us have a little truth in trade policy.

STUDY ON IMPORT RESTRAINT PROGRAMS

Mr. President, I appreciate the concerns of the chairman and ranking member of the Finance Committee that no amendments be added to the trade bill. I appreciate their concerns, for I, too, hope to see this bill become law very soon.

With this in mind, I am pleased to withhold my amendment, having reached a very reasonable compromise with Senator BENTSEN and Senator PACKWOOD that would go a long way to accomplish the goals of my amendment—namely, more information about the impact of trade import restraint programs.

Mr. President, I do ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

ITC STUDY ON CONSUMERS AND INDUSTRIES HURT BY IMPORT RESTRAINTS

At the appropriate place in the bill, add the following:

SEC. . REPORTS ON IMPACT OF TRADE RESTRAINTS.

(a) Within twelve months after the date of enactment, and on February 15 of each subsequent year, the International Trade Commission shall submit to the Congress a report on the negative economic effects on the United States of significant existing trade import restraint programs of the United States. The report shall include an assessment of the impact on consumers and, for each significantly affected service or product industry, an assessment of the impact on the income and employment of workers and on the ability of United States companies to compete, on price and quality bases, in domestic and international markets.

(b) In addition to the report to the Congress required under subsection (a), after the date of enactment the Commission shall provide a supplementary report on the negative economic effects of a new or significantly altered trade import restraint program not later than 60 days after the date of the announcement or enactment of such program (or if involving particular analytic complexity, 180 days is allowed), provided that if the Commission is proposing import restraints pursuant to section 201 of the Trade Act of 1974, such report shall accompany the recommendation of the Commission to the President, and shall at that time also be submitted to the Congress.

(c) The term "trade import restraint program" includes any increase or new imposition of duties, quantitative restrictions, or other limitations on imports into the United States pursuant to any Act of Congress, any action taken pursuant to the trade laws of the United States, or any international agreement, whether or not authorized by law, provided that such term shall not include any import restraint imposed to redress unfair trade practices pursuant to the trade laws of the United States.

Mr. BENTSEN. The Senator from California and I have disagreed from time to time on trade issues, but he has always taken an aggressive stance in favor of expanded international trade and against import restraints.

At the request of the Senator from California, I will urge the Finance Committee to request from the ITC a study of the economic impact on consumers, industry, and employment of our trade restraint programs. This request will be made under the terms of section 332 of the Tariff Act of 1933.

We have spoken with staff members of the ITC, and they believe that this study can provide an important benchmark as we try to assess the impact of our trade policies. Some details remain to be worked out with the Commission, particularly on the amount of time that it needs to complete the study.

Specifically, it appears that the most reasonable approach would be to ask the Commission to split the report into three parts, to be completed over a period of 2 to 3 years. The first part would cover manufactured goods, the second would cover agricultural products, and the third part would cover services. While we are awaiting word from the Commission about some possible problems with the services study, the first two present no novel problems.

I shall submit this proposal to the Finance Committee this year, and I trust that the ITC will be able to present its first report sometime next year.

Mr. PACKWOOD. Mr. President, I want to express my strong support for the proposal of the Senator from California. He is directly addressing an important aspect of our trade policy that too often is given insufficient attention, namely the cost of our import restrictions.

While import restrictions have some short-term benefits, they have other effects, both short and long term, on employment, consumer prices, and to our overall economy. These are important considerations, and it is important to get this information about costs to consumers, to workers, and to industry out to the public and into the debate on trade policy.

I am pleased that Senator WILSON has pressed this point and want to thank the distinguished chairman of the Finance Committee for agreeing to request the ITC study on import restraints.

Mr. WILSON. Mr. President, I thank my two colleagues for their kind words and for their assistance in reaching a very reasonable agreement.

I am optimistic that the ITC studies will add to the debate and lead us away from the temptation to restrict the free and fair flow of international trade.

Mr. KARNES. Mr. President, the issue before the Senate today is the follow-on trade bill, the Omnibus Trade and Competitiveness Act of 1988. I have had considerable ambivalence toward this measure from the time it was before the Senate last July. As with all measures of this scope, the trade bill contains both good and bad provisions. While there are many things about the trade bill I strongly support, there are also provisions I strongly oppose. The President vetoed an earlier version of this measure on the basis that he felt that we could still produce a better bill. I agreed with the President that we could produce a better bill and the fact that we are now on the verge of passing the bill before us is a vindication of the view of the President.

First, let me address those aspects of the Omnibus Trade and Competitiveness Act of 1988 that I support. The first provision of the bill grants the President the authority to negotiate multilateral and bilateral trade agreements through the middle of 1993. Further, fast-track legislative procedures will be used to enact implementing legislation of such agreements. The negotiating authority and the fast-track procedures are subject to future congressional review. I support granting such authority to the President and I hope the administration will be able to negotiate aggressively to remove barriers to trade and investment in multilateral and bilateral forums. It is through trade negotiations that we can best achieve a world economy based on free and fair trade. Thus, I am glad that this critical granting of negotiating authority is included in the bill.

I support many of the provisions included in the bill concerning international banking and finance issues. The bill streamlines export licensing procedures to allow domestic producers to move into the international marketplace more efficiently. While we should take great care to ensure sensitive technologies are not transferred to the Soviet Union, we should not unduly hamper the activities of exporters. The bill's provisions strike a careful balance in this area. The bill eases restrictions on export trading companies in order to strengthen their role in promoting American exports around the world. The activities of the foreign commercial service are strengthened as well. Finally, the bill takes action to clarify the Foreign Corrupt Practices Act to free American exporters from the fear of being penalized for inadvertent errors or standard practices.

Mr. President, as a member of the Senate Agriculture Committee, I am extremely proud of the provisions in this bill to expand agricultural exports. It is a forward-looking proposal. American agriculture can compete with any country in the world and the measure before us would make sure that we market our agricultural products aggressively and effectively. The provisions include a strengthening of the Foreign Agricultural Service, an expansion of the Export Enhancement Program, increased funding for the Targeted Export Assistance Program, and the establishment of a triggered marketing loan program designed to enhance our negotiating position at the new GATT round.

The small business provisions in this measure would make important contributions by ensuring that small businesses are included in export markets. Small businesses are often intimidated by the complexities of exporting. I support the provisions in the bill to provide specialized services to make the export market more accessible to small businesses.

During deliberations on the Senate version of this trade legislation, I supported an amendment repealing the windfall profit tax. Currently, the price of oil is under the taxable threshold mandated by the windfall profit tax. Although no revenues have been recently collected, oil companies are continually burdened by the cumbersome requirements and expensive administrative costs associated with IRS filings. To continue requiring oil companies to file detailed reports, is counterproductive and unnecessary. Thus, I find this provision, which is retained in the bill, to be an important contribution to this legislation.

In sum, Mr. President, I consider the above provisions to be real contributions to the effort to improve our trade position. They promote the freeing up of the international trading system through multilateral and bilateral negotiations, the elimination of unfair foreign trade practices, and the expansion of U.S. exports. They address the specific problems facing the United States in the international trading system without resorting to protectionism or solutions that will prove more costly to the United States than the problems they are attempting to address. They should be key components of our trade policy.

Mr. President, while there are many good things about this measure, as I stated, there are also things that are either inappropriate or wrong-headed. The fact is there are many things that should not be in this trade bill. They should not be in it because either they do not concern trade matters, or they move our trade policy in the wrong direction. And make no mistake about it, we have much to lose by enacting a bad trade bill. We are creating more jobs than Europe and Japan combined. We have created 16 million new jobs in America since 1982. Also, real wages in America have risen by 7 percent since 1982. In the previous decade real wages fell by 6 percent. The United States is not losing from our open trade policy.

The bill contains a provision to require the administration to negotiate the creation of a new international debt management facility. While this proposal is rather obtuse, it is likely to prove expensive and counterproductive. I see no need to force the administration to enter into such negotiations. While we should be paying close attention to the international debt crisis, I do not see this proposal as being helpful in resolving this problem.

The bill bars the Federal Reserve from granting primary dealer status to foreign firms from countries that do not offer our firms the same opportunities. While I share the goal of this proposal—namely opening foreign markets to U.S. firms—it is likely that it may have a harmful effect. Foreign investment in the United States has many benefits for the U.S. economy. This provision on primary dealers may well discourage foreign investors from investing in the United States. There is no need to run the risk of scaring away foreign investment. This provision takes that unnecessary risk.

Finally, Mr. President, the trade bill is a costly measure. According to the administration, this conference report contains $2.4 billion in new budget authority. In these times when the Federal Government is running large budget deficits, it is unfortunate that this trade bill will contain new spending authority of this magnitude. The fact is that the existing Federal Government deficits are contributing to our balance-of-trade problems. Compounding our problems with the fiscal deficit by establishing more spending programs in this bill may well negate the positive proposals in the bill to reduce out trade deficit. I would have hoped that this conference report would have reflected greater fiscal restraint.

Mr. President, the path followed by this legislation has been a long and winding one. The House of Representatives originally passed a bill that was overtly protectionist, containing the so-called Gephardt amendment. The Senate, much to its credit, passed a much more responsible bill. I supported the original Senate bill, although with profound reservations. It was my hope that the House-Senate conference would produce a report that would represent a responsible trade policy and a bill that could be signed by the President. Unfortunately, while the House-Senate conference made considerable progress in deleting many protectionist provisions, the conference report did not meet with the hope and expectations of this Senator, and I voted against the conference report. In the same vein, the President felt compelled to veto this measure and I voted to support the President's veto.

My chief objection to this trade bill, of course, was the provision related to duty-free imports of ethanol, which received so much attention on the floor of the Senate in course of today. Fortunately, we have agreed to undertake a process to redress this problem. But I believe that we must look at the process that produced that ill-considered provision. It is the same process that caused my ambivalence toward the trade bill as a whole. The fact is that this bill became a vehicle for all sorts of extraneous matters, a sort of legislative Christmas tree. The bill numbers over 1,100 pages. It includes many things that do not have the least bit to do with our trade policy. It is my hope that we will avoid binding various legislative proposal into large omnibus bills such as this trade bill. This year we are moving away from this sort of legislative bundling in the appropriations process. It would be folly to allow the authorizing process to develop its own equivalent to the continuing resolution. I hope that we will not use this approach to legislating in the future.

Mr. President, my reservations notwithstanding, I have decided to vote in favor of the version of the trade bill that is now before the Senate. I stated from the outset that my primary goal relative to this legislation was to establish a strong bipartisan trade policy. I believe that the bill in its current form will serve as the foundation for such a bipartisan trade policy. Thus, Mr. President, despite all its warts, I urge my colleagues to vote for this measure and thereby establish a bipartisan trade policy.

Mr. DOLE. Mr. President, sometimes it is useful to remind members of the public that improving the trade position of the United States is not a partisan issue. People can sometimes get the wrong impression from Senate debate on specific provisions. We all believe in trade laws that maximize the chance that other countries will allow our industries to compete in their markets on the same basis that we allow their industries to compete here.

We do not want to close our markets to foreigners. We want only to encourage other countries to open their markets to our business.

We do not expect other countries to buy our goods when they are not competitive. We just expect them to give our companies a chance to compete.

It has become clear over the years that our trade laws have not given other countries enough incentive to open their markets in all areas. Too often in the past we have taken an inflexible position in favor of "free trade" that demanded that our markets be open to foreigners, but did little to ensure that foreign markets were open to our goods. This bill should correct that unfortunate situation. But it does so without giving anyone an argument that it is protectionist.

One of the most important provisions in this bill is a modified version of the Byrd-Dole "super 301" provision to reform the procedure for enforcing our rights under trade agreements and our response to unfair foreign trade practices. If all we wanted to do is protect our industry from foreign competition, we could have just raised import duties. But that was not our goal. We just wanted to impress upon our trading partners that they have responsibilities too.

This bill has a number of other very important provisions. For instance, the bill extends the President's authority to negotiate multilateral trade agreements, allowing the United States to participate fully in the Uruguay round of the GATT. And it will reauthorize the "fast-track" process which has done much to facilitate agreements in the past.

The legislation will also implement the harmonized system of international goods classification and tariff schedules to which this country has already agreed.

And, finally, the legislation would repeal the so-called windfall profit tax—a misnamed and misguided piece of legislation which should never have been enacted. I helped lead the fight against enactment in 1979 and 1980 and have worked consistently ever since for repeal. That repeal is long overdue, but it is finally about to happen.

This bill is not perfect. Legislation rarely is since it is the nature of our system that we must compromise competing views and interests. But it is a good bill which will be good for our economy and the international economy. It should become law.

It has taken a long time to get where we are today. I know the distinguished Senator from Missouri [Mr. DANFORTH] has been working for years to get reform of the trade laws to the President. And I know no one who has worked harder on this issue than the distinguished Senator from Rhode Island [Mr. CHAFEE]. And of course the chairman of the Finance Committee, Mr. BENTSEN, and our ranking member, the distinguished Senator from Oregon [Mr. PACKWOOD] and their staffs deserve a lot of credit.

Mr. President I hope that the Senate will vote overwhelmingly in favor of this bill so that the President can sign it into law as soon as possible.

SANCTIONS AGAINST THE TOSHIBA CORPORATION

Mr. BRADLEY. Mr. President, on balance, the trade bill is a good bill. But one provision deeply concerns me. While I support sanctions against the Toshiba Machine Tool Co. to reinforce the Japanese Government's penalties and the parent corporation's dismissals of its chief executives for having violated Cocom, I have serious reservations about the mandatory sanctions against the parent Toshiba Corp. There is no credible evidence that Toshiba Corp. knew of, or participated in, Toshiba Machine's crime. Under these circumstances, I believe this provision is unwise and counterproductive from the standpoint of our national security and our long-term relationship with Japan. I also believe that the highly charged, emotional atmosphere in which the sanctions debate has occurred has not been conducive to the careful deliberation the issue merits. Finally, as a member of the Senate Select Committee on Intelligence, I am particularly concerned that Congress may have been misinformed by unduly alarming assessments from the intelligence community that remain uncorrected to this day. The SSCI is currently studying this matter and will inform the Senate of its conclusions at a later time.

I strongly support controls on the transfer of sensitive technology to our adversaries. I believe that we and our allies must improve Cocom enforcement. Violators must be caught and punished. Cocom members must take their responsibilities seriously. This means enacting and enforcing strong laws. The threat of sanctions by the United States and other Cocom members against countries and firms that violate the rules can be very effective in inducing them to shape up. But punishment that is based on inaccurate, overstated, and misleading assessments; that is out of proportion to the nature of, and damage from, any known violation; and that singles out one nation or company for especially harsh treatment does not promote respect for the rules or a desire to comply. On the contrary, it raises questions about the desirability of Cocom membership and the motivation of the punisher.

So it is with Toshiba Corp. No one, Mr. President, argues against the sanctions imposed on Toshiba Machine. This company committed a serious breach. It was punished to the full extent of Japanese law in effect at the time the violation occurred. Everyone, including the Japanese, agrees that the sentences were too light. The chief executives of Toshiba Machine were forced to resign in disgrace. Japan has begun to understand the extent to which its own national security depends on preventing the transfer of sensitive technology to the U.S.S.R. And Japan needs to raise the importance of the issue within their own government and private sector.

They must have better enforcement of export controls and stiffer penalties for violations. They have begun by enacting new laws and instituting a new prevention and enforcement system. What troubles the Japanese is that the parent company, Toshiba Corp., should be subjected to mandatory sanctions, just like its guilty subsidiary, Toshiba Machine, and that their sanctions cannot be modified for 3 years regardless of how effective the company's new internal controls have been in ensuring that violations don't happen again.

In the case of other firms and other countries, the President is authorized to modify sanctions for export violations applied to a parent, affiliate, or successor entity after 2 years if: The entity did not knowingly violate Cocom rules, the government of the country in which it is located has improved its export control system, the entity has improved its internal controls, and the impact of the sanctions is proportionate to increased U.S. defense expenditures.

Mr. President, we would be well-advised to apply these same sound principles to Toshiba Corp. Unfortunately, our judgment has been clouded by politics, emotion, and misinformation. This is dangerous. In the complex geopolitical environment of the 1990's, we will not be able to afford such mistakes. They will carry an increasingly high price. The United States must continue to lead, but our leadership will rest more and more on enlarging the common ground between ourselves and our allies. The East-West economic relationship, including capital flows, joint ventures, international organizations, and technology transfers, will be high on our agenda. To manage this relationship in a manner that promotes Western interests, we must recognize that our collective economic vitality, particularly including Japan, the world's second largest economy, is a strategic asset. We must identify common interests and pursue them together.

The Soviet Union is already dangling the enticing prospect of a separate deal with a stronger, more unified EEC after 1992. In the world of the 1990's, Japan, with its capital and technology, will play a pivotal role. Right now, Japan is firmly rooted in the West. Their realistic views of Soviet intentions and objectives reinforce our own. We will need their wholehearted support for strengthening the multilateral security and economic framework that has served the West so well for the past 40 years. Unilateral actions that single out Japan for especially harsh treatment, like the mandatory sanctions in this bill against the Toshiba Corp., cut in the opposite direction.

With mature reflection and more complete and accurate assessments by the intelligence community, Congress might even revisit this issue within a year from now. If Japan and Toshiba Corp. clearly meet the tests in section 2444 of this legislation, there could be the possibility of modifying the sanctions so that our punishment fits, but does not exceed, the crime of its subsidiary.

Mr. LEVIN. Mr. President, this trade bill has been a long time coming. I congratulate Senator BENTSEN, the majority leader, and others, whose persistence allowed us to reach the point where it now appears that comprehensive trade legislation will finally be enacted into law.

The bill we will vote on today attempts to deal with two of the reasons why foreign countries are selling so much more in the United States than we can sell abroad. First, it addresses the fundamental lack of fairness in our trade relations with many countries. And second, it contains measures that will improve the competitiveness of American manufacturing, agriculture, and service industries.

This bill doesn't go as far as I would have liked in terms of mandating tough action against unfair trade practices. A President who is determined not to retaliate would still be able to avoid retaliation in many if not most unfair trade cases. But the bill reduces the ways in which the President can justify failure to act forcefully for the elimination of unfair practices, and establishes a benchmark to judge the success of efforts to get rid of these unfair foreign trade practices.

I've long stressed the importance of toughening our position on unfair trade practices. For the sake of our children and grandchildren who are going to be exchanging goods with other countries 25 and 50 years from now, it's essential that we establish now a new ground rule in the area of trade: We will treat foreign countries no better—and now worse—than they treat us. America can no longer afford to play on a field tilted against us.

At the same time, we all recognize—and this legislation recognizes—that a large chunk of our trade deficit is accounted for by our own lack of competitiveness. There's no question that foreign countries can and will compete against us successfully in our own market and in third country markets.

This bill contains a number of useful provisions that will help us compete into the 1990's. It targets Federal funding for math and science education and sponsors basic research in key industries like semiconductors. It revamps and expands worker retraining programs to help those who lose jobs because of imports. And it improves programs to promote American exports.

By passing this legislation, Congress is sending a message to our competitors that we are discarding a "hands off" approach to trade. The program and initiatives contained in this bill won't magically make the United States more competitive or reduce our dangerously high trade deficits. But they will at least give us a fighting chance to achieve these goals. This trade bill represents a useful, albeit modest, step toward injecting a bit of reality into our trade policy.

Mr. McCAIN. Mr. President, I would like to take this opportunity to explain my continued opposition to this trade bill.

Our Nation's trade laws and policy are in need of improvement, but this legislation is not the best way to address our trade problems. It seems obvious to me that any trade legislation must be fiscally responsible, as well as improve our international competitiveness and open foreign markets. H.R. 4848 accomplishes none of these goals.

As many of us have begun to realize, the trade deficit is primarily the result of our huge Federal budget deficits. Even though deficits have fallen from the $220 billion range of a few short years ago, the American consumer and investor is using up more and more of our savings pool. As long as our deficits remain as high as they are now, we will have to borrow from abroad. In other words, for every dollar not absorbed by the Federal Government, there is a dollar available for consumption and investment, a dollar we need not borrow.

This legislation, however, would add to the Federal budget deficit. Let me emphasize that I never expected this trade package to be a deficit reduction measure, but neither did I expect it to contribute to the deficit. Yet this legislation would do so by costing nearly $7 billion over the next 6 years. What do we get for $7 billion? Not enhanced competitiveness, but roughly 160 programs to be supported by 65 new Federal agencies and subagencies, and staffed by more than 1,200 new Federal employees. I cannot believe that expanding the Federal debt and bureaucracy is the answer to our trade problems. Furthermore, we cannot logically welcome the capital inflow from abroad in one breath—thereby enjoying lower interest rates than we would otherwise have—while increasing public borrowing and complaining about the trade deficit in the next.

More importantly, our international competitiveness is jeopardized by this trade legislation. The changes in the law governing section 301 trade cases limits executive discretion and flexibility. I fear these changes will only exacerbate tensions with our trading partners by automatically forcing punitive action, and potentially setting off the kind of trade wars we are trying to avoid. Negotiation should be our first response, with punitive actions imposed only when a negotiated settlement has failed. In addition, given the increasingly complex and interdependent nature of the international trading community, I believe the President should be given greater flexibility in order to consider other relevant concerns, such as our national security.

This bill further undermines our competitiveness abroad through a sin of omission, by failing to address the transfer of knowledge from research facilities to commercial uses. We in the United States are justifiably proud of the fact that our citizens have won more Nobel Prizes than those of any other nation. Yet, our technology and inventiveness is commercialized by other nations. The VCR is just one example. Facilitating the transfer of knowledge would end this loss, and an attempt to resolve the problem should be a component of any trade legislation.

Finally, I do not believe H.R. 4848 will open foreign markets. It provides for a new worker retraining program that will be funded by a fee levied on imported goods. Using our imports to cure unemployment may be a serious mistake. What if our trading partners adopt a similar approach? With the exception of Japan, they have considerably higher unemployment rates than we do here in the United States. If they were to use a similar import fee, American goods would cost more abroad. Because of the fiscal deficit we have accumulated—and which is further exacerbated by other provisions of this bill—we must run a trade surplus in the next decade if we are to maintain our present standard of living. The import fee provision could make this much more difficult.

While there are many provisions of this trade bill that I do support—provisions that give the executive branch authority for the new GATT round, institute the harmonized system of tariffs, aid high-tech industry exports, and certain others—I believe the total cost of H.R. 4848 is too high and would seriously injure our international trading position overall.

AMERICA STARTS BACK

Mr. BYRD. Today, Mr. President, America starts back. We are about to pass sweeping trade and competitiveness legislation that points to a new direction for the American economy. Mr. President, this is legislation that will mean good jobs at good wages, not only to my State of West Virginia but to all States. It will generate new ideas in the laboratory and put them to work in the classroom. Some of the steps in the bill are modest; others are more ambitious; but they all point in the direction of opening economic opportunity for all Americans.

Mr. President, the trade and competitiveness bill marks a significant change in policy and a sharp change in American thinking. We have left behind the passive approach to trade policy that characterized the early 1980's, that saw wave after wave of deficits become a sea of red ink and a rising tide of debt. In place of passivity, we have a broad-based strategy to boost U.S. exports, improve longrun competitiveness, and ease the adjustments that come with open markets and international competition.

In the past, Mr. President, we have relied on isolated changes in export policy. In the trade and competitiveness bill, we have adopted measures that will help keep the dollar competitive, point to new approaches to growth in developing countries, strengthen the President's hand in multilateral trade negotiations, improve the education and training of our workers, streamline our export control laws and bolster our export promotion services. Just as important as the individual steps, Mr. President, was the determination of the Congress to reject the piecemeal approach and instead fashion a comprehensive approach.

In seeking a comprehensive solution to a complex set of problems, the Senate called on the work of 11 committees. Almost half the Senate sat as conferees and virtually every Senator had a hand in crafting this bill. Committee action on the trade bill started in 1985 and we are finishing the work almost 4 years later.

Mr. President, the trade and competitiveness bill says the right things about America and America's future. Instead of turning away from the international economy, the trade bill makes a commitment to meet global competition. Instead of blocking imports, the trade bill concentrates on making American exports more competitive. Instead of closing our markets, we focus the force of American trade policy on opening markets overseas. Instead of falling into the trap of domestic protectionism, we take on the fight against foreign protectionism.

America is starting back, Mr. President. A growing number of academicians may be ready to turn their backs on America's international leadership. But this trade bill sends a different message. It represents a congressional mandate to broaden and strengthen the international trading rules. It represents a renewed sense of purpose in America's foreign trade dealings.

The trade bill also helps put the country's shoulder to the fundamentals of education, training, and research. These are the building blocks of America's economic future, Mr. President. And they are a central element of this bill.

Mr. President, in drafting the trade bill there is no question we were responding to real problems. We were all pushed to action by the sharp rise in international competition and the policy of passivity adopted by the administration.

The administration's fiscal and monetary policies were major factors in the rise of the dollar and the decline in America's price competitiveness. But the trouble went well beyond the dollar: The collapse of markets in the debt-burdened developing countries; American students lagging behind their foreign counterparts; the sudden challenge to America's high tech leadership; and the persistent failure to open foreign markets to American goods.

As one deficit became prologue to the next, there was a growing fear that America was slipping; that the American century had already come to a close; that America had started down a long road to economic decline. We were told that we had to down size America's dreams and pull back our commitments to peace and freedom.

But in my life, Mr. President, I have seen America meet and overcome one challenge after another. I remember how hard it was to find a job in the Great Depression. Eventually, we put the whole Nation back to work. We fought tyranny in World War II and helped build industrial democracies in their place. When Russia put a man in space, we rolled up our sleeves and took mankind's first step on the Moon.

The first steps of today's journey started in 1979 when Senator Lloyd Bentsen took the lead in seeking an economic answer to America's slow productivity growth. He stressed the importance of public and private investment, education, research, and the need for a coherent trade policy. Today, we are putting many of those ideas to work for the country.

Finally, Mr. President, as our travels begin, I would like to thank my colleagues here in the Senate who have been the architects and chief supporters of this landmark legislation. As I stated, Senator Bentsen deserves great praise for his long efforts on behalf of this comprehensive trade bill. Distinguished colleagues from both sides of the aisle—Senators Riegle, Danforth, Packwood, Proxmire, and Hollings and others—have all given strong leadership and support to this historic and essentially bipartisan legislation. Through their good efforts, and those of their staffs, with this bill, America is again set upon a new road to trade competitiveness. It is a journey essential to our Nation and its future.

The PRESIDING OFFICER. The bill will be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The hour of 6 p.m. having arrived, the question now occurs on passage of the bill, H.R. 4848.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers] and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. Cochran] is necessarily absent.

The PRESIDING OFFICER (Mr. Bingaman). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 11, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—85

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—11

Boschwitz
Evans
Hatfield
Helms
Humphrey
Kassebaum
McCain
McClure
Proxmire
Stevens
Symms

NOT VOTING—4

Biden
Bumpers
Cochran
Stennis

So the bill (H.R. 4848) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I sincerely regret that I missed two votes today on the Omnibus Trade and Competitiveness Act. The reason for my absence is that I was in South Carolina finalizing details on a project with the Department of Energy to bring a $2 to $4 billion state-of-the-art new production reactor to South Carolina.

I have been working for 6 years to ensure that the Savannah River plant in South Carolina would be considered for this vital project. Today our efforts have come to fruition. I feel that it was my obligation and duty to be in South Carolina for a project which will have such a positive economic impact upon South Carolina and which is vital to our national security.

This bill is a step toward alleviating our huge and devastating trade deficits. Many American industries have suffered from unfair trade practices utilized by foreign countries. It is time we promoted fair trade among all nations instead of free trade among a few.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I understand that a little time is needed on the concurrent resolution. May I inquire of the distinguished Republican leader and the manager if I am correct?

Mr. DOLE. I would just say there might be at least 5 minutes needed for Senator Exon to explain it and Senator Karnes to comment on it.

Mr. BENTSEN. I would agree. I see no reason for extensive time. Five minutes would be fine.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes, to be equally divided between Mr. Exon and others.

Mr. EXON. I think we can make it 5 minutes. I am sure that would be adequate.

Mr. BYRD. Well, it may not be. The distinguished Senator from Florida opposes this and he wants equal time.

Mr. EXON. I am sorry.

Mr. BYRD. So I ask unanimous consent that there be 10 minutes, equally divided, 5 minutes under the control of Mr. Graham and 5 minutes under the control of Mr. Exon and the other authors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is there one amendment, may I ask?

Mr. DOLE. There is one amendment.

Mr. BYRD. Mr. President, I ask unanimous consent that amendments to the resolution be limited to the one amendment which would be offered by Mr. Karnes and that there be no other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, may I ask the majority leader—I think we can simplify this. We have time limits that are adequate. I would suggest that we have one rollcall vote. I am going to send the resolution to the desk and ask for the yeas and nays. I am prepared to accept an amendment to be offered by my colleague from Nebraska. I suggest we could voice vote that and then have a vote on the yeas and nays. It should not take more than 10 minutes at the outside.

CORRECTING THE ENROLLMENT OF H.R. 4848

Mr. EXON. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 135) to correct the enrollment of H.R. 4848.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. EXON. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their conversations to the cloakrooms.

The Senator from Nebraska.

Mr. EXON. Mr. President, this concurrent resolution is offered by myself, Mr. KARNES, Mr. BOND, Mr. GRASSLEY, Mr. PRESSLER, Mr. DOLE, Mr. DURENBERGER, Mr. HARKIN, Mr. DASCHLE, Mr. BURDICK, and Mr. LUGAR.

Mr. President, this is a very simple, straightforward concurrent resolution. It simply provides that none of the language in this bill with regard to ethanol will take place and be entered into until "after the Secretary of Agriculture and the Secretary of the Treasury, acting jointly, submit to the Congress, and publish in the Federal Register, a written statement certifying that the quality of the ethyl alcohol, and mixtures of the ethyl alcohol, that would be imported in the customs territory of the United States free of duty by reason of the amendments made by this section is necessary to maintain adequate supplies of ethyl alcohol for consumers in the United States."

Mr. President, I have been working with several Members of the Senate on this matter. I will yield in just a moment, if I can, to my colleague from Nebraska who will offer an amendment to add the Secretary of Energy to the other two department heads and one additional sentence that says: "The domestic ethyl alcohol production industry is not fully meeting demand for ethyl alcohol in the United States."

I think that is a good amendment. We have worked it out. I hope it will be accepted by a voice vote.

If there is no other discussion, I would like to yield to my colleague from Nebraska for what time he may need to explain the amendment that we have accepted.

Mr. President, I ask for the yeas and nays on the concurrent resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KARNES] is recognized.

AMENDMENT NO. 2793

(Purpose: To protect the domestic ethanol industry)

Mr. KARNES. Mr. President, I send an amendment to the concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Our assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KARNES) for himself, Mr. DOLE, Mr. EXON, Mr. GRASSLEY, Mr. PRESSLER, Mr. BOND, Mr. DURENBERGER, and Mr. LUGAR proposed an amendment numbered 2793.

Mr. KARNES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 after "Secretary of Agriculture" insert ", the Secretary of Energy".

On page 1 after "statement certifying that" insert "the domestic ethyl alcohol production industry is not fully meeting demand for ethyl alcohol in the United States and that".

Mr. KARNES. Mr. President, I am glad that we are now going to turn to the concurrent resolution instructing the enrolling clerk to modify the provision in the trade bill concerning imported ethanol, which was agreed to be taken up under the leader's unanimous-consent agreement that we have discussed. I want to commend Senator DOLE for his leadership in reaching this agreement on this issue and using his good offices to bring all of the groups together throughout the day to work out this compromise. I also want to thank all of my colleagues, particulaly Senator EXON, for working with us on this and participating in this effort.

As I stated earlier, the trade bill contains a provision that will be detrimental to the interests of my State. This provision would expand the duty-free importation of ethanol through the Caribbean Basin Initiative. This provision is going to result in the direct substitution of European-produced wine alcohol for United States-produced corn alcohol. Nebraska currently produces 11 million gallons of ethanol annually. Within the next 2 years, it is anticipated that the current level of production will be expanded by 50 million gallons. Allowing the duty-free importation of ethanol, as this bill would allow, will only serve to undermine the Nebraska ethanol industry. In fact, it will displace the consumption of 80 million bushels of corn.

Also, it is estimated that extending this special preference will result in the loss of $120 million in lost tariff revenues. While I support the efforts to improve economic conditions in the Caribbean Basin, this provision will not benefit the people of the Caribbean as much as it will benefit European wine alcohol producers. I cannot understand why we would grant a special benefit to European wine producers whom have already benefited from large-scale subsidies. As far as this Senator is concerned, this provision encourages a form of indirect dumping that can only hurt U.S. corn farmers and ethanol producers, whether they be in Nebraska or other parts of the country. This provision should not be in this bill. I am proud that the President chose to include this provision among those he listed as objectionable in his veto message because I was among those who spoke to him about the potential damage that could be caused to domestic farmers and ethanol producers by this provision.

I would have preferred to have eliminated the ethanol provision in the trade bill altogether. Those of us opposed to this provision realized, however, that there was an overwhelming desire on the part of this body to pass the trade bill without amendment, notwithstanding the demerits of the ethanol provision. Thus, we have opted to pursue this alternative approach to striking or modifying the provision on the trade bill itself.

The measure before us corrects the enrollment of the trade bill, H.R. 4848, by giving discretion to the Secretaries of Energy, Treasury, and Agriculture to allow this ethanol to enter the United States duty free, if domestic demand indicates there is a pressing need for additional imports.

Given the drought, there is a possibility that domestic demand will require some imports. If that proves to be the case, the three Secretaries, under this language, will have the opportunity to allow these imports. Thus, I believe this language properly recognizes the changes expected in the domestic ethanol market brought about by the drought.

The approach that has been adopted has allowed the quick completion of the trade bill. I am glad that we were able to bring that about. The trade bill is a massive piece of legislation that has been years in the making, and we should send it back to the President for his signature.

There is one aspect of this approach, however, that I would like to clarify with the leadership of the Finance Committee. I am concerned that the House may refuse to take up the concurrent resolution that is before this body. I would like to inquire of Senator BENTSEN and Senator PACKWOOD if they would agree to include essentially the same language that is included in this concurrent resolution in the committee amendment to the technical corrections bill, if the House refuses to consider the measure before us?

With the assurances provided by the chairman and ranking member of the Finance Committee, I believe that we have a realistic expectation that the provision in the trade bill, to which I object, will be modified before the conclusion of the 100th Congress.

I must indicate to my colleagues my concern that the House may not act on this concurrent resolution. I would like to advise my colleagues that this Senator is prepared to amend all appropriate measures that come before this body with this concurrent resolution language if the House does not adopt this concurrent resolution and the instructions found therein.

Thus, I am determined to see that this issue is not ignored in the future.

Mr. President, as a Member of this body who has worked very hard to reach this compromise that brought this legislation before us, I urge my colleagues to approve this concurrent resolution. I hope that we will vote to approve this measure by an overwhelming margin so that our colleagues in the other body will get a clear message that the Senate is determined to see this language enacted into law. Our farmers, our taxpayers, and indeed the public as a whole, deserve no less. The special interest provision in the trade bill, which allows duty-free ethanol to enter the country, should not be allowed to stand. The adoption of this concurrent resolution is a step in the right direction by inserting voices of reason into the ethanol decisionmaking process through the three Cabinet Secretaries and the specific import determination criteria found in the Exon-Karnes-Grassley initiatives which constitute the concurrent resolution before this body now.

The **PRESIDING OFFICER.** The time of the Senator has expired.

There are 5 minutes remaining under the control of the Senator from Florida.

Mr. **GRAHAM.** Mr. President, I yield myself such time as may be required.

Mr. President, this is not the biggest issue that this body is ever going to debate or resolve. It relates to a very narrow set of economic entities for less than 18 months, because the amendment which is in the bill provides that there will be the current level of treatment of domestic products in ethanol produced in the Caribbean Basin from now until the end of 1989.

During that period there will be a 20-million-gallon-per-plant limitation. We are talking about less than 4 percent of the total amount of ethanol produced in the United States that would be allowed in under the maximum extent of this legislation.

We are also requiring, during this 18-month period, that there be studies conducted as to what the future should be beyond 1989 relative to this industry in the Caribbean.

The issue we are talking about, therefore, is a very limited one, but I think it has important, substantive and symbolic importance to this body. First, we are talking about a provision which is ragingly protectionist—ragingly protectionist. How much more protectionist could you be than to say that we cannot import products under this provision unless it is "necessary to maintain adequate supplies of ethyl alcohol for consumers in the United States" beyond that which could be produced by our domestic producers.

Would you not like to have a provision like that for steel? You could not produce unless there could be a demonstration that our steel capacity could not be met?

Would the people in the lumber industry like to have that same provision? It is a ragingly protectionist provision.

Second, the Caribbean Basin Initiative was not entered into because we happened to like the people in Central America and the Caribbean. It was entered into because we thought it was in the interests of the United States of America. And, my friends, we were right. It is in the interests of the United States of America. It is in our national security interests.

In a few days we are going to be debating aid to the Contras in Nicaragua. Would we not rather be debating the question of economic growth in Central America so we can have a strong, prospering democracy in our region? And is not one of the ways to do that to start a pattern of free enterprise, a market system, and investment? That is what the Caribbean Basin Initiative was all about.

Are we not interested in increasing our trade into these areas? When you visit the Central American countries in the Caribbean you see Westinghouse, you see Caterpillar, you see American companies. Because this is a region that we still dominate. We sell 70 percent of the foodstuff into the largest countries in the Caribbean because they cannot produce for themselves and they are our market. And yet this is the kind of action we are going to take.

We also are concerned about drugs. We are going to have another big debate about drugs. How are we going to tell the people in Jamaica, which is one of the two countries affected by this, that they ought to enter into stronger international relations with the United States to cut off our supply of drugs when we are telling them you made an investment to build an alternative economy to drugs and now we are telling you we did not mean it?

And we also have important obligations that we want these countries to meet. The second country affected by this is Costa Rica. Costa Rica has a per capita foreign debt that exceeds that of the countries that we hear so much about: Brazil, Argentina, Mexico. We want them to pay their debts. We want them to be a good member of the international economic community. And yet we are now telling them that we are about to terminate one of the means that they have chosen to try to meet their obligations.

Finally, my colleagues, there is the issue of the honor of the United States of America at stake here. In 1983 we passed the Caribbean Basin Initiative. Under that provision, two of our strongest allies in the region, Jamaica and Costa Rica, said we would like to take advantage of this program and start an ethanol industry which we think would be complementary to the needs of the United States in its desire for energy independence and cleaner air.

In 1984 investors planning to invest in these countries came to the United States and said: Here is what we want to do. Does it meet your statutory requirements?

And we wrote them a letter, the U.S. Customs Agency, and said: Yes, it meets the Congress' intent. If you do what you say you are going to do, you will be able to enter your product into our Nation.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **DODD.** Mr. President, I ask unanimous consent that the Senator have 2 additional minutes.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

Mr. **GRAHAM.** And now, Mr. President, we are about to tell these two countries that in spite of what we did in 1983, in spite of the assurances we gave them in 1984, and in spite of the substantial investments that they have made and the literally thousands of people whose employment depends upon this fledgling industry, that now we are going to say, in 1988, that we have changed our minds? We are going to tell them we still want you to pay back, Costa Rica, the billions of dollars that you have borrowed from foreign financial institutions, many of which are in the United States. We expect you to keep your word, Jamaica; we want you to keep your word to continue the international program to eradicate marijuana so it will not come into the United States. Trinidad-Tobago, we want you to continue to buy our industrial and agricultural products, but we have changed our minds.

The honor, the integrity, of the United States of America, is what is at stake here; not the few months from now until the end of 1989 and not the few plants in Jamaica and Costa Rica which were built in reliance on the representation that this Senate and this Government made.

That is the issue which is at stake here, Mr. President. My colleagues, I recognize the forebearance of the authors of this in not offering this amendment on the trade bill and for that I thank and commend them for their good judgment.

I hope that this body would have an equal good judgment now to reject this resolution which runs exactly counter to the spirit of the trade bill that we have just adopted, which says: We are a proud country; we are a country ready to compete; we are a country which is ready to meet its international obligations, whether they are international obligations to big countries in Europe or Japan or they are international obligations to our small neighbors to the south, in Jamaica and Costa Rica.

That is the issue. I hope, Mr. President, that we will send a resounding statement of our fidelity and reject this amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. May I ask for 1 additional minute?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, the statements by the Senator from Florida are well taken except the Senate should know that what was done on the House side and in conference was to extend—our membership should hear that—extend an agreement on ethanol. And therefore we are not violating any commitment that we made to the ethanol producers in other countries.

I would suggest, Mr. President, that since the underlying amendment has been proposed and the yeas and nays have been ordered, and since the amendment offered by my colleague from Nebraska is before us, that we would have a rollcall vote on that amendment and if it is adopted, we would then proceed to a rollcall vote on the underlying amendment.

Mr. BYRD. Mr. President, the Senators have been promised one more rollcall vote today and that was the order. I would hope the Senator would not press that.

Mr. EXON. Did I say rollcall? A voice vote on the amendment offered by my colleague and then the one rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2793) was agreed to.

Mr. DURENBERGER. Mr. President, when I decided to vote in favor of the conference compromise last April, I made my decision after carefully weighing all of the provisions of the bill. As I noted in my statement at that time, the conference agreement was far from perfect, but on balance represented the best trade bill I thought we could get this year, and a far better bill than would be likely if Congress adopted no trade bill this year. One of my concerns related to the unwarranted expansion of the provision adopted in tax reform allowing for the duty-free import of ethanol from the Caribbean Basin contries.

Although we could not amend the conference report, today we have the opportunity to improve on that compromise. That is why I am pleased to rise in support of the concurrent resolution to modify the provision which expands the exemption for ethanol imports from Caribbean Basin countries, and delays for 1 year the increase in the domestic content requirements for qualifying imports.

Mr. President, when Congress established strict domestic content requirements for the duty-free importation of ethanol from the Caribbean Basin, it did so because it recognized that simple distillation of dehydrated ethyl alcohol into ethanol would not create the type of economic activity that would increase employment and productivity in the Caribbean area in a manner that is consistent with the goals of the CBI program. Instead, Congress found that simple distillation had become a tactic to circumvent the 60-cents-per-gallon duty and to thwart the intent of U.S. customs laws.

Mr. President, the simple fact is that a few American companies have set up distillation facilities in CBI countries which often employ fewer than five people. These companies then import excess ethyl alcohol produced in Europe from wine grapes and merely distill the ethyl alcohol into ethanol. The local CBI economies derive little, if any, benefit from these plants, and the real loser is the domestic American ethanol industry and the American farmer.

The CBI ethanol plants are nothing more than a sham. If they are to be allowed the benefit of duty-free imports, they should be required to meet the strict domestic content requirements spelled out in current law. As this concurrent resolution provides only if there is a certifiable domestic shortage of ethanol, should the administration be allowed to waive these rules. I urge my colleagues to support this concurrent resolution, and I hope the House will accept it.

Mr. DASCHLE. Mr. President, I expect that many in this body have grown weary of listening to speeches against the Omnibus Trade Act based on the existence of a provision allowing five CBI nations to export a limited amount of ethanol to the United States for a 2-year period. As the chairman of the Senate Alcohol Fuels Caucus and a longtime opponent of transshipment of European wine alcohol to the United States, I would like to say a few words in defense of Chairman BENTSEN's and the Senate conferees' role on this issue and express my hope that the adoption of Senator EXON's amendment will provide a vehicle for putting this controversy behind us and setting the stage for expansion of the U.S. ethanol market.

Let me speak first to the conference agreement. While the conference compromise provision is far from perfect, the Senate conferees did secure two important concessions from the House conferees. The final conference committee compromise provides, first, an annual 20,000-gallon-per-plant importation cap, and second, an abbreviated term of relief through the end of 1989, during which time the ITC and the GAO would be asked to prepare a comprehensive evaluation of the maximum amount of local feedstocks that Caribbean producers should be required to utilize. As the Renewable Fuels Association wrote to me, "Your point that the Senate conferees were instrumental in limiting damage to the competitiveness of the domestic ethanol producers was absolutely correct."

So, the argument that a maximum of 100 million gallons of ethanol coming into this country will crush our thriving domestic ethanol industry is just plain silly. It's time this shrill debate is put into the proper context.

Most of the predictions made on the floor have been based on the false assumption that 100 million gallons of CBI imports will cause 100 million gallons of domestic ethanol to be displaced. There are three primary reasons why this assumption is faulty.

First, it completely ignores the fact that demand for ethanol is growing rapidly. If the domestic ethanol market were "tapped out" at 800 million gallons—the amount we produced in America in 1987—the impact of this CBI ethanol would be significant, though hardly catastrophic. Ethanol is, however, in demand in new urban markets as an air pollution reduction tool. Last April, 43 Senators joined me in signing a letter to the Administrator of the EPA to ask him to encourage the use of ethanol-blended gasoline in carbon monoxide [CO] nonattainment areas. The EPA has embraced this proposal and is strongly recommending it for use in areas all over the country.

Because of ethanol's newly recognized value as an air pollution reduction tool, several huge new markets are opening up for oxygenated fuels like ethanol. Metropolitan Phoenix, Albequerque, Denver, and many other CO nonattainment areas are faced with the choice of requiring the use of oxygenated fuels like ethanol, or accepting harsh Federal penalties or a construction ban. Largely because of this development, a 1988 USDA study predicted that U.S. ethanol demand would double in the 1990's.

In Phoenix alone, a year-round oxygenated fuels program to achieve maximum CO reductions would use somewhere between 75-120 million gallons per year. Obviously, the market in this one city alone would be enough to absorb most or all of the CBI imports.

Ironically, however, at the same time some domestic ethanol producers have been trying to convince Congress that CBI ethanol imports will cripple them, they have told the Arizona Legislature not to require the use of ethanol-blended gasoline as a CO reduction strategy because domestic producers cannot provide an adequate supply of ethanol.

As Arizonans for Clean Air Now [CAN] put it in a recent widely distributed letter to Senator DECONCINI:

> It is critical that an assured supply of ethanol be available for use in Arizona and other western cities. It is unlikely that the importation of Caribbean ethanol would significantly impact the domestic industry, which primarily serves the East and Midwest.
>
> To accomplish the objective of clean air in Arizona and other western cities with a minimum of government intrusion, we urge you to oppose moves to restrict the importation of Caribbean-based fuel ethanol into the United States.

With ethanol market demand continuing to expand rapidly, Senators should not have to cower in fear of this limited amount of imported ethanol.

The Arizonans CAN letter passage I just referenced touches on the second reason why it is wrong to assume that CBI ethanol will displace domestic ethanol on a gallon-for-gallon basis. Because, first, the domestic ethanol industry is centered in the Midwest and East, and second, ethanol—which cannot be transported via pipeline—is extremely expensive to transport cross country, it is unlikely that CBI ethanol and domestic ethanol would be competing head to head for the same markets. CBI ethanol traditionally serves coastal States, which cannot get ethanol from Midwestern plants.

It is simply cost prohibitive for a Caribbean producer to take ethanol all the way from Jamaica to Los Angeles, and subsequently pay to transport it another 1,400 miles to South Dakota. That Jamaican ethanol will be used in markets well outside of the current reach of our domestic ethanol industry.

Mr. President, I can appreciate my colleagues' concern that there are no assurances that imported product will, in fact, be directed to coastal markets and CO nonattainment areas as opposed to areas with existing State incentives. However, it should also be kept in mind that most Midwestern State laws, including Nebraska and South Dakota, prohibit noncereal derived ethanol from qualifying for State subsidies. Thus, extra transportation costs are prohibitive for CBI ethanol to reach most Midwestern grain ethanol markets.

Finally, CBI ethanol will not displace domestic ethanol to the extent predicted by some Senators, because of the effect the current drought is likely to have on the domestic ethanol supply.

With the drought driving the cost of domestic ethanol feedstocks sky high, it is going to be very difficult for domestic producers to maintain the supply of 800 million gallons for their current customers. One industry analyst has already predicted that the drought will cause at least a 100 million-gallon reduction in domestic ethanol production.

The danger we face in 1988 is that lower domestic production will result in the loss of ethanol markets we have struggled for a decade to build. In 1983, ethanol marketing programs were badly harmed by drought-induced production shortfalls, and this year's drought promises to be much worse than the 1983 drought. To a limited extent, CBI imports may ironically serve to complement the domestic ethanol industry by helping maintain the supply of ethanol in 1989.

Because of the drought, new market demand, and the fact that CBI producers generally market in different areas than domestic producers, some industry analysts maintain that this provision will not displace any domestically produced ethanol. I cannot be sure of that, but I do know that the claim that this compromise will result in the loss of 1,000 jobs and 80 million bushels of corn is alarmist, simplistic, and just plain wrong.

Mr. President, for the last 3 years I have led the fight to stop the transshipment of wine alcohol through Caribbean nations for export to the United States. Along with the RFA and the Reagan administration, I support the development of an indigenous ethanol industry in poverty-stricken, strategically critical Caribbean nations, while steadfastly opposing the use of dewatering facilities.

I happen to agree with the Reagan administration that indigenous economic development in CBI nations is important to our national security and the overall stability of the Western Hemisphere. That, of course, is the premise of the Caribbean Basin Initiative. If we completely pull the plug on the CBI, we should not be surprised if we wake up some day soon and find that the CBI has failed and our Caribbean neighbors have abandoned us out of desperation in favor of nations hostile to the United States.

My intent has never been to pull the plug on President Reagan's CBI, but the CBI did not endorse the kind of pseudo-development wine alcohol transshipment brings. I have fought to stop the reprehensible policy of simply passing wine alcohol through dewatering plants in the duty-free Caribbean zones, and encourage the near-term conversion to full-fermentation plants, which employ the maximum number of people, bring in hard foreign currency, and utilize locally grown feedstocks.

Toward that end, I am pleased that the only two currently operating CBI plants have upgraded their dehydration plants to full fermentation facilities, as originally intended in the Caribbean Basin Initiative. This must happen in all Caribbean plants in the near future. Duty-free treatment of dehydrated products is irresponsible and unacceptable to this Senator.

I also firmly believe that we need to continue to push CBI producers to produce ethanol from locally produced feedstocks, such as surplus sugarcane. Frankly, a case now can be made that the 75 percent local feedstock requirement I originally advocated for inclusion in the Tax Reform Act of 1986 may be unattainable. Because of the uncertainty on this issue, I strongly support the provision of the conference compromise that requires that GAO and the ITC to identify a reasonable local feestock goal. Ultimately, we must decide this issue based on real facts, rather than hearsay.

Mr. President, as I have explained, under current circumstances, it is too simplistic to say that 100 million gallons of imports will automatically displace 100 million gallons of domestically produced ethanol. The fact is that nobody knows exactly what the effect of this short-term provision will be, but it certainly is not anywhere near as cataclysmic as some have portrayed it.

As one who has worked on this difficult issue from the very beginning, I would like to commend Chairman BENTSEN and the Senate conferees for their successful efforts to limit the damage to the competitiveness of domestic ethanol producers and set up a framework for the final resolution of this divisive issue. I would also like to commend Senator EXON and Senator DOLE for their efforts to resolve individual Senators' concerns about this trade bill provision.

Given the current controversy and misunderstanding regarding the trade bill CBI import provision, I hope that Senator EXON's amendment will allow the Congress to proceed with a rational approach to developing the ethanol market in the United States. It gives the administration the authority to determine whether limited CBI imports are necessary to maintain domestic ethanol supplies over the next 18-month period, and it retains the trade bill's mechanism for an independent analysis of the economics of ethanol production in the Caribbean Basin and its potential impact on U.S. producers of ethanol, including a recommendation of appropriate and feasible domestic feedstock requirements to insure meaningful production and employment in the region and to discourage "pass-through operations." At a minimum, it is time that we have a reputable third-party cut through the ethanol imports rhetoric and give the Congress the hard data necessary to make rational decisions about the future of ethanol demand and supply in the United States.

In closing, let me reiterate my view that the U.S. fuel ethanol market is at a crucial juncture where demand exceeds supply. Midwestern grain ethanol producers are not capable of meeting the significant demand increases occurring in carbon monoxide nonattainment areas outside the Grain Belt. This situation has been exacerbated by the drought. Conservative projections are that ethanol production will fall by at least 100 million gallons, if not more.

The Exon amendment will allow the Administration to sanction a limited volume of CBI imports to provide a "bridge supply" to keep the domestic industry going through this difficult time if the situation warrants such action. I urge adoption of the Exon amendment.

Mr. HARKIN. Mr. President, I rise in support of the concurrent resolution of the Senator from Nebraska [Mr. EXON]. This concurrent resolution would provide that that section of the omnibus trade bill which permits the duty-free import into the United States of ethanol from the Caribbean Basin will take effect only if the Secretary of Agriculture and the Secretary of Treasury certify that those imports are necessary to maintain adequate supplies of ethanol for consumers in the United States.

I believe the Exon concurrent resolution corrects a major problem for American agriculture that remains in the trade bill. On April 27, I joined an overwhelming majority of my Senate colleagues in voting for the conference report of the omnibus trade bill but at the time expressed my reservations with the ethanol provision that was incorporated into the bill in conference.

That provision opens a wide loophole in the law for the duty-free import of ethanol shipped from the Caribbean Basin. This loophole would undercut domestic ethanol production, reduce demand for American-grown corn, and undermine efforts to encourage expansion of the U.S. ethanol industry.

Specifically, this provision would permit certain trading companies to transship heavily subsidize European wine alcohol through Caribbean Basin countries to avoid the payment of import duties on fuel ethanol produced outside the Caribbean.

The Caribbean Basin Economic Recovery Act, adopted in 1983, imposed a 35-percent substantial transformation requirement before CBI ethanol could enter the United States duty-free. The 1986 Tax Reform Act substantially tightened that provision, requiring ethanol facilities in the Caribbean region to use increasing levels of local sugar cane in the production of fuel grade ethanol for duty-free export to the United States. That act required that by 1989 CBI producers use 75 percent CBI feedstock for duty-free treatment, incrementally increasing levels from 30 percent in 1987 to 60 percent this year. The problem provision of the omnibus trade bill exempts five Caribbean Basin companies from this feedstock requirement.

I am concerned that if this provision were to become law, this special treatment for ethanol imported from the Caribbean Basin would likely displace sales of ethanol produced from sources in the United States. According to some experts, this clause would displace about 80 million bushels of U.S. corn, and could cause losses of $800 million to our rural economy.

Iowa, the second largest ethanol supplier in the United States, potentially puts at risk the nearly 950 Iowans who owe their jobs, either directly or indirectly, to the ethanol industry. Iowa and Illinois could stand to lose $568 million over the next 18 months.

The Exon concurrent resolution will control the threat to U.S. ethanol producers and their domestic suppliers while ensuring an adequate supply of ethanol to meet demand in the United States. The problem of supply is not a trivial one. The drought ravaging our heartland could cause increases in the value of corn and other feedstocks which would force U.S. ethanol producers to reduce production. Disruption of supply would hurt the alcohol fuel markets in the United States, which American farmers and advocates of ethanol have fought so hard to expand.

Therefore, the proposal of the Senator from Nebraska offers a reasonable and just solution to two problems for U.S. ethanol producers and their suppliers. It would preserve domestic alcohol fuel markets while limiting the risk of a flood of unwanted imported alcohol.

Overall, I will support the omnibus trade bill, and I encourage my colleagues to vote for the Exon concurrent resolution to protect our domestic ethanol industry. This bill is not a perfect bill but it does go a long way toward waking up to the problem of foreign imports and our devastating trade deficit.

It strengthens section 301 procedures—our laws against unfair practices that bar our companies from competing in foreign markets.

This bill incorporates into section 301 a strong worker rights provision, which makes violations of internationally recognized worker rights an unfair trade practice.

This bill contributes to the expansion of foreign markets for American agriculture. It expands the Export Enhancement Program. It includes triggered marketing loans for feed grains, soybeans, and wheat. It also calls for an end to Japanese and Korean barriers to American agricultural exports.

The omnibus trade bill is a good bill which would be made better by adding the Exon amendment to the measure's ethanol provisions. I urge the adoption of the Exon concurrent resolution.

Mr. DOLE. Mr. President, as everyone knows by now, this trade bill contains a provision which extends and expands the Caribbean ethanol grandfather provisions enacted in 1986.

We should be upfront about this issue. This provision has nothing to do with improving the ability of the United States to compete in the international marketplace.

To the contrary, this provision has the potential to cause irreparable damage to the domestic fuel ethanol industry, result in the loss of tens of millions of dollars in tariff revenues, and harm American farmers and ethanol producers who are already facing the worst drought in a generation. American farmers and ethanol producers have enough problems already. They don't need us to add to them.

My colleagues may recall that, during the debate over the Tax Reform Act, Congress established guidelines under which fuel grade ethanol from the Caribbean basin could be imported into the United States free of the duties which otherwise would apply. We required that an increasing percentage of the ethanol be produced from sugar cane grown in the region, our objective was to encourage capital investment and jobs in the Caribbean.

Unfortunately, if the trade bill goes into effect without change, we will be encouraging additional imports of ethanol to compete with ethanol produced from U.S. grain—but we will not be encouraging significant capital investment or creating many new jobs in the Caribbean.

What section 1910 of the trade bill does is very simple. It allows five plants in the Caribbean basin to export to the United States, free of any duty, ethanol not produced from Caribbean sugar, but instead, ethanol produced from heavily subsidized European wine alcohol. Through 1989, these plants will be able to take advantage of a provision originally designed to help the economies of the Caribbean States simply by dehydrating excess wine from Europe to raise its alcohol content.

I am sure my colleagues will agree that this is not what we had in mind when we enacted the Caribbean basin initiative back in 1983. We intended to help provide long-term economic development and employment opportunities, not to provide a loophole from the duties that otherwise would apply. Certainly we did not intend to provide a scheme to damage our emerging ethanol industry and thousands of American farmers who have realized new and expanding markets for their crops.

Mr. President, I would like to emphasize two points. First, we already addressed this issue in 1986 as part of the Tax Reform Act. At that time, we overwhelmingly voted to limit duty-free treatment of ethanol from the Caribbean to ethanol derived substantially from Caribbean feedstock.

We could have said that it had to be ethanol derived solely from CBI feedstock, but we compromised the issue to take into account the concern of Caribbean interests that they would need to import at least some feedstock, at least in the short run. The important thing to focus on is that the compromise has already been worked out. That happended in 1986.

I can understand that the individuals involved in the plants covered by section 1910 want a more generous rule. That is their right. But we must keep in mind that compromise was agreed upon 2 years ago.

There is no reason to revisit that agreement now, especially not when the necessary result is to do so at the expense of our own ethanol and farming communities.

The second point is to distinguish between simple dehydration plants which are the subject of section 1910 of the trade bill and full fermentation ethanol facilities.

Full fermentation facilities are the types of ethanol production facilities which generate thousands of jobs, provide a new and substantial market for millions of tons of sugar cane, lead to larger capital investment and long-term economic development in the region.

The transshipment schemes based on dehydration facilities employ fewer than 40 workers per facility, utilize feedstocks such as European wine, and inhibit the emergence of local projects.

So long as producers can realize enormous profits from the transshipment process, they will have little incentive to invest in grass-roots ethanol facilites using Caribbean sugar cane.

Mr. President, the distinguished Senators from Nebraska [Mr. KARNES], Iowa [Mr. GRASSLEY], and several others have already spoken eloquently on this issue. The merits are clear. It truly is important; it is not a minor item.

I urge that we agree to this concurrent resolution by an overwhelming vote to emphasize to the House both the importance of this issue and our resolve.

The PRESIDING OFFICER. The question is now on agreeing to the concurrent resolution as amended. The yeas and nays have been ordered.

Mr. BYRD. Mr. President, this is all the rollcall votes. This is the last rollcall vote today. There will be a rollcall vote by 9:30 tomorrow morning.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Mississippi are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 34, as follows:

[Rollcal Vote No. 289 Leg.]

YEAS—62

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Burdick
Byrd
Cohen
Conrad
D'Amato
Danforth
Daschle
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Leahy
Levin
Lugar
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Murkowski
Pressler
Quayle
Riegle
Rockefeller
Roth
Rudman
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—34

Boren
Bradley
Breaux
Chafee
Chiles
Cranston
DeConcini
Dodd
Evans
Fowler
Gore
Graham
Gramm
Hatfield
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Matsunaga
McCain
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Sanford
Sarbanes
Weicker
Wirth

NOT VOTING—4

Biden
Bumpers
Cochran
Stennis

So the concurrent resolution as amended, was agreed to.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, has the Senate been advised yet as to what the pending business is?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Yes. If I can say to my distinguished friend from Virginia, the pending business will be a bill reported from the Committee on Environment and Public Works held at the desk, which is a measure to control medical waste discharges into the ocean off the shores of Rhode Island, Connecticut, New York, and New Jersey.

Mr. WARNER. Mr. President, I thank the distinguished senior Senator from New York. Could he advise Senators as to how long the Senate might be considering this measure?

Mr. MOYNIHAN. I would not expect more than 10 to 15 minutes.

Mr. WARNER. And then after that?

Mr. MOYNIHAN. There is no rollcall

Mr. WARNER. I understand that. My further question is, Upon the disposition of this measure, has the Senate received any advice from the leadership as to what the next measure will be?

Mr. MOYNIHAN. I am afraid the majority leader is not on the floor.

The majority leader is on the floor, and the Senator's question will be expeditiously answered.

Mr. WARNER. Mr. President, is the majority leader able to advise the Senate what might occur following consideration of the pending measure?

Mr. BYRD. Mr. President, in response to the distinguished Senator from Virginia, I wish at this time to call up, on behalf of Senators LAUTENBERG, MOYNIHAN, BRADLEY, D'AMATO, CHAFEE, DODD, PELL, and WEICKER a bill that is not being held at the desk, S. 2680. I ask unanimous consent that there be only one amendment, a technical and clarifying amendment, to the bill, and that there be a time limitation for 30 minutes.

Mr. MOYNIHAN. Twenty.

Mr. BYRD. Twenty minutes, to be under the control of Senators MOYNIHAN, CHAFEE, LAUTENBERG, and D'AMATO.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. BYRD. Beyond that, I do not expect to call up any other measure tonight.

Mr. WARNER. Mr. President, I thank the distinguished leader.

Mr. BYRD. I thank all Senators.

TRACKING OF MEDICAL WASTE

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2680) to establish a pilot program for the tracking of medical waste in the States of New York, New Jersey, and Connecticut.

The Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 2680, the New Jersey-New York-Connecticut Medical Waste Tracking Act of 1988. This legislation will force EPA to respond to the emergency of medical wastes washing up on beaches from New Jersey to Massachusetts.

This bill is very similar to S. 2628 which Senators MOYNIHAN, BRADLEY, D'AMATO and I introduced on July 11. Senator MOYNIHAN and I offered an amended version of S. 2628 as an amendment to S. 1751, the Shore Protection Act at a July 14 Environment Committee markup. The Environment

Committee unanimously approved this amendment. The bill we are considering today adds Connecticut to the regional tracking system at the request of Senators WEICKER and DODD and includes other useful provisions suggested by Senator CHAFEE. I want to express my thanks to all of the cosponsors for their support.

Mr. President, this bill has been cleared with the chairman of the Committee on Environment and Public works, Senator BURDICK, and the ranking member of this committee, Senator STAFFORD. I want to thank both of them for their support. I also want to thank Senator BAUCUS, the chairman of the Subcommittee on Hazardous Wastes and Toxic Substances and Senator DURENBERGER, the subcommittee's ranking Republican member for their assistance in moving this legislation. My legislation deals with the emergency facing our region. But there is a broader medical waste disposal problem. Senator BAUCUS plans to consider a nationwide manifest system for medical waste as part of his subcommittee's consideration of reauthorization of the Resource Conservation and Recovery Act. I plan to work closely with Senator BAUCUS on this matter.

Mr. Chairman, last summer, the New Jersey shoreline was invaded by a sea of garbage, an invasion which included hypodermic needles, syringes, blood bags, gauze dressings, vials of blood and other medical wastes. From August 13 through August 16, beaches along a 50-mile area were closed because of the garbage washup which included these medical wastes. These closings ruined summer vacations, severely damaged the tourist industry and cost thousands of dollars to clean up. More importantly, the washup undermined the confidence of those who go to the shore about the safety of the water and beaches.

The medical wastes appear to be the work of illegal dumpers. These dumpers threaten the well-being of their fellow citizens to save a few dollars in disposal costs. It is clear from last year's events that our laws are inadequate to prevent this illegal disposal.

In response, Senator BRADLEY, together with myself, Senators MOYNIHAN, D'AMATO, CHAFEE, PELL, and DODD, and 20 other coastal State Senators wrote to EPA on October 20, 1987. We urged the Agency to take immediate action. We urged EPA to implement a system to track medical wastes so that we can be confident that this waste is properly disposed. EPA has had authority under the Resource Conservation and Recovery Act since 1976 to regulate the transportation and disposal of infectious waste. EPA has the power to include tracking of infectious wastes from cradle to grave. But EPA has chosen not to use that power. EPA has chosen to issue guidelines on proper infectious waste management rather than establish a tracking system and regulate the proper disposal of these wastes. I ask unanimous consent that a copy of the letter, together with EPA's response be inserted in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. LAUTENBERG. But while EPA sits and thinks about what to do, medical wastes continue to defile New Jersey's shoreline. In late May, it was an empty red bag used for the disposal of infectious medical waste washing ashore. In early June, five vials containing blood arrived on the beaches at Island Beach State Park and Ortley Beach. Two of the vials tested positive for the AIDS virus. While the viruses were dead and did not pose a health threat, they are enough to make every one of us sick of pollution. Another vial tested positive for the infectious hepatitis B virus. Later in June, 50 hypodermic needles were found in Ocean State Park. Beginning over the Fourth of July weekend in Bayonne, close to 150 vials of blood and hypodermic needles and surgical gloves washed ashore. One woman on a beach in Beach Haven was stuck by a needle as she lay down on the sand. People thinking about a day at the beach should not have to worry about being pricked by a needle which could cause disease. In late July, some beaches on Sandy Hook were closed because medical waste washed ashore.

But the illegal disposal of garbage and medical waste effects not only New Jersey. Beginning in early July, Long Island, Queens, and Staten Island beaches were closed after being attacked by a wave of sewage. Beachgoers found syringes, blood vials and medical wrappings. A few vials were contaminated with the AIDS and hepatitis B viruses. By mid-July medical waste including syringes, needles, test tubes with liquids, tubing and surgical gloves washed ashore in Connecticut, Rhode Island and Massachusetts. Thousands of pieces of medical waste, together with tons of other debris, have washed ashore in our region this year.

When medical wastes are disposed improperly, beaches are closed, vacations are ruined and our tourist economy is injured. Medical waste on the shore is repulsive.

And our health is threatened. While there is virtually no chance of being infected by the AIDS virus because of the virus's poor ability to exist outside the human body, there is a danger of infection from these wastes including infection by hepatitis B. The Centers for Disease Control has said that contaminated needles or sharps, human blood and blood products, pathological parts and laboratory wastes possess real potential to transmit disease. Spending a day at the beach should not have to be followed by a day at the doctor. A week relaxing at the beach should not have to be followed by a week of anxiety waiting for test results.

Tragically but predictably, EPA has procrastinated. It took EPA until June 2, 1988, over 7 months after we first urged EPA to act expeditiously, just to put a notice in the Federal Register to ask whether Federal action is even necessary. While EPA flounders, syringes, vials of blood, some contaminated with hepatitis and the AIDS virus, and other medical wastes continue to washup on our shores. I ask unanimous consent that a copy of the Federal Register notice be inserted in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 2.)

Mr. LAUTENBERG. Some States have moved in to fill this void. Currently, 39 States have some form of infectious waste regulation. A few States require the tracking of infectious wastes and my own State of New Jersey is in the process of adopting such a system. But wastes travel across State boundaries so State programs by themselves are inadequate. Without a system to track wastes on a regional basis, we make it easy for the illegal dumper to improperly dispose of his wastes. A tracking system will also deter those who contemplate illegally disposing of medical waste.

That is what the New Jersey-New York-Connecticut Medical Waste Tracking Act will do. The bill requires EPA to set up a demonstration program for the tracking of medical waste generated in New Jersey, New York, and Connecticut within 9 months. In setting up this program, EPA should work closely with State and local officials. EPA is authorized to inspect those facilities handling medical wastes. Violations of the regulations will result in severe penalties. States would be allowed to impose more stringent requirements. And EPA would have to report to the Congress within 3 years on the demonstration program. I understand that this morning, EPA Administrator Lee Thomas announced his support for the bill.

Our oceans and beaches and precious resources. They provide aesthetic, recreational, and economic opportunities for our citizens and habitat for wildlife resources. EPA has failed to protect them. We must not. We must protect them, for this and for future generations. I urge my colleagues to support passage of this bill.

EXHIBIT 1

U.S. SENATE,
Washington, DC, October 20, 1987.
Hon. LEE M. THOMAS,
Administrator, U.S. Environmental Protection Agency, Washington, DC.

DEAR MR. ADMINISTRATOR: The illegally-dumped hospital waste that washed up along the shore in New Jersey this past summer highlighted a problem of great concern to all Senators who represent coastal states. We understand and share the concern and anger that our citizens would feel when our beaches are defiled. Our shores are among our Nation's most precious resources. It is simply intolerable to have syringes with needles and other hospital waste wash up on our beaches.

Because the current system of dealing with hospital waste is inadequate, the problem that New Jersey faced this summer could apply to any state. Most states have differing requirements for the disposal of hospital waste, and these requirements are often inconsistent. Most important for proper enforcement, hospitals are not fully accountable for the ultimate disposal of their waste.

We are aware that the Environmental Protection Agency published the Guide for Infectious Waste Management in May 1986. This was a very useful first step but does not go far enough to ensure cradle-to-grave accountability for hospital waste.

We request that EPA take immediate action to implement the system to ensure that hospitals manifest their wastes to a disposal facility licensed by the States. If you feel you do not have the authority to do so under the Hazardous and Solid Waste Amendments of 1984, please provide a legal opinion outlining the new authorities you may need.

We also would like EPA to review the need for a national standard for treatment and disposal of hospital waste. Because this matter is of such importance, we request that your analysis be completed with a report to Congress as expeditiously as possible.

In addition, we request that the Agency undertake other ways to assure greater accountability on the part of the generator, including stamping the name of the hospital on the red bag used for disposal of waste. This might aid tracking of illegally-dumped material.

We cannot afford to have a repetition of the dreadful situation that New Jersey encountered this past summer. Continued pollution of our shores must be stopped. We believe there are effective actions that can and must be taken, and look forward to hearing from you about these initiatives.

Sincerely,

FRANK R. LAUTENBERG
(With 26 cosponsoring Senators)

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, November 10, 19897.
Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: Thank you for your October 20, 1987, letter concerning the illegal disposal of medical wastes. I share your concern that improperly disposed medical wastes could pose a threat to human health and the environment.

It is important that we periodically evaluate the possible problems posed by infectious waste as well as all other wastes. In the past, we have convened panels of experts from the public and the private sector to discuss the potential hazard posed by infectious wastes. These panels assisted us in developing the EPA Guide for Infectious Waste Management, published last year.

We have also taken an active role in training health professionals about responsible infectious waste management. Several members of the staff regularly serve as faculty members at symposia sponsored by the American Hospital Association and the American Society for Hospital Engineering.

The Agency is taking several steps to evaluate the problems associated with infectious waste management and to identify and implement solutions to those problems. On November 12, we will convene a panel of experts from government, academia, and industry to discuss the Federal role in management of these wastes. We have invited representatives from the Centers for Disease Control, the National Institutes of Health, the American Hospital Association, the American Medical Association, the American Nurses Associations, the states, Department of Transportation, Occupational Safety and Health Administration, the Association of State and Territorial Solid Waste Management Officials, American Society for Hospital Engineering, Association of Practitioners in Infection Control, Veterinarian Medical Association, Pharmaceutical Manufacturers Association and other agencies and organizations that are interested in this issue.

This panel will discuss issues related to infectious wastes, particularly in the context of federal controls. The agenda for the meeting includes issues such as the definition of infectious waste, workplace safety, manifesting, and the transport of infectious waste. Also, the suggestions contained in your letter will be fully considered.

After this panel has concluded its deliberations, we will consider what additional action by EPA is necessary to ensure that infectious wastes are managed in a responsible manner. We will keep the Congress informed of our progess.

Sincerely,

J. WINSTON PORTER,
Assistant Administrator.

EXHIBIT 2

40 CFR PART 261

[FRL-3390-5]

HAZARDOUS WASTE MANAGEMENT SYSTEM; IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; INFECTIOUS WASTE MANAGEMENT

Agency: Environmental Protection Agency.

Action: Notice of data availability and request for comment.

Editorial Note: This document was received at the Office of the Federal Register on May 27, 1988.

Summary: The Agency today is publishing a notice of data availability and request for comment on issues pertaining to infectious waste. In particular, EPA is announcing the availability of several documents which provide current information on infectious waste definition and management issues. In addition, in response to recent public concern over potential hazards posed by mismanagement of infectious wastes, the Agency is requesting comment on several issues concerning the management and disposal of infectious waste.

Dates: EPA will accept public comments on the issues posed in this notice until August 1, 1988.

Addresses: The public must send an original and two copies of their comments to: EPA RCRA Docket (S-201) (WH-562), 401 M Street SW., Washington, DC 20460.

Place "Docket number F-88-IWMA-FFFFF" on your comments. The Office of Solid Waste (OSW) docket is located in the sub-basement at the above address, and is open from 9:00 to 4:00, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials at (202) 475-9327. The public may copy material from any regulatory docket at a cost of $0.15 per page.

For Further Information Contact: The RCRA/Superfund Hotline at (800) 424-9346, or at (202) 382-3000. For additional information contact Denise Zabinski, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7458.

Supplementary Iinformation

OUTLINE OF TODAY'S NOTICE

I. Background
II. Availability of Data
III. Issues Presented for Public Comment
  A. Definition of Infectious Waste
  B. Nature of the Problem Posed by Infectious Waste
  C. EPA's Role in Infectious Waste Management
  D. Tracking System for Infectious Waste
  E. Exemptions From an Infectious Waste Control Program
List of Subjects in 40 CFR Part 261

I. BACKGROUND

Today's Notice is in response to increased recent interest regarding infectious waste handling, treatment, and disposal. The purpose of this Notice is to make Agency information on the safe management of infectious wastes available to the public and to solicit public comment on a number of issues pertaining to infectious waste and the possible need for further governmental action. The Agency believes that the proper management of infectious waste is crucial to ensure that any potential hazards to the public and to individual workers are avoided.

By way of background, on December 18, 1978, the Agency proposed regulations under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580 (Oct. 21, 1976)), which would classify certain infectious wastes as hazardous waste. These wastes included infectious waste generated by certain departments in health care facilities and veterinary hospitals, by laboratories handling etiologic agents, and by sewage treatment facilities, unless these wastes were sterilized or incinerated in accordance with specified methods. (December 18, 1978, 43 FR 58946, 58956.)

The Agency proposed to list these wastes as hazardous because the Agency believed at that time that if they were improperly managed, they could pose a substantial hazard to human health and the environment. It should also be noted that the statutory definition of hazardous waste specifically cited infectiousness as one of the properties that the Agency should consider in its evaluation in defining wastes as hazardous; see section 1004(5), where it states "the term hazardous waste means a solid waste, or combination of solid wastes which because of its quality, concentration, or physical, chemical, or infectious characteristics, may . . .". Significant comments were received on the proposal; based upon these comments infectious waste was not identified or listed as a hazardous waste when the regulations were made final on May 19, 1980. See 45 FR 33087. Instead, the Agency initiated several activities to collect information and assess the problems posed by infectious waste management and disposal. This information was then used by the Agency to develop a draft guidance document in 1982 (on which comment was solicited) on infectious waste management. EPA then brought in professionals from the health care industry to provide additional information in preparing a final guidance document which was published in 1986. This document outlined a prescriptive program for the management of infectious waste. See "EPA Guide for Infectious Waste Management", described in further detail in Part II, below. Additional guidance on the management of infectious waste has also been provided. See "Hospital Waste Combustion Study", also in Part II below, for a more detailed discussion.

In addition to publishing guidance in May 1986, the Agency has taken an active role in training health care professionals regarding the responsible management of infectious waste. Staff from the Agency have participated as faculty or professional experts at symposia sponsored by the American Hospital Association and the American Society for Hospital Engineering.

Furthermore, in November of 1987, as a result of several isolated incidents of improper management and disposal of infectious wastes and growing public concern about the potential threat of infectious waste to human health and the environment, the Agency called together a panel of experts to discuss the definition of, proper management, and risks posed by infectious wastes (see Part II for further discussion of this meeting).

Today's notice of data availability and request for public comment is a further effort to (1) make available to the public and those persons responsible for managing infectious waste the EPA guidance manual, and (2) solicit comment on issues of concern regarding the proper management of infectious waste. The Agency believes that the proper management of infectious wastes can significantly reduce the risks associated with these wastes. The Agency, with this Notice, will reevaluate and assess the problems posed by infectious wastes to determine if further Federal governmental action is necessary.

II. AVAILABILITY OF DATA

As already indicated, the agency has not promulgated regulations controlling the management of infectious waste; instead, a number of guidance documents have been prepared to assist the states and others interested in the management of infectious waste. These documents are: (1) "EPA Guide for Infectious Waste Management", U.S. EPA, Office of Solid Waste and Emergency Response, EPA/530-SW-86-014, May, 1986; and (2) "Hospital Waste Combustion Study, Data Gathering Phase, Final Draft Report", prepared by Radian Corporation, Research Triangle Park, NC for U.S. EPA, Office of Air Quality Planning and Standards, EPA Contract No. 68-02-4330, October, 1987. Each of the these documents is included in the RCRA public docket, at the address listed above. The following is a brief description of each document and includes further information on how the public can obtain copies:

(1) The "EPA Guide for Infectious Waste Management" outlines the EPA perspective on environmentally acceptable techniques for managing infectious wastes. Topics covered include a definition of infectious waste, the various categories of waste included under the definition, and recommended practices for packaging, transportation, treatment, storage, and disposal of these wastes. In particular, the document discusses various types of treatment alternatives and describes the suggested treatment methods for each waste category. The document is intended to provide guidance to persons responsible for infectious waste management. State and local regulatory agencies also will find this manual useful as resource material. Copies are available as publication No. PB86.199130 from the National Technical Information Service (NTIS), Port Royal Road, Springfield, Virginia (703) 478-4650. This document is also available in the RCRA public docket.

(2) The "Hospital Waste Combustion Study", October, 1987, summarizes readily available information on the hospital waste combustion industry including waste characterization, industry technology, multipollutant air emissions data, emission control technologies, current regulation and control strategies, and hospital waste combustor population characteristics, including suggested model plant parameters for use in exposure modeling. The study was initiated by EPA's Office of Air Quality Planning and Standards in response to increasing concerns over the potential public health impacts from the disposal of hospital wastes, including incineration and other methods of disposal. This document is available in the RCRA public docket.

In addition to the development of these documents, the Agency held a meeting last November to discuss issues pertaining to infectious waste management. The primary purpose of this meeting was to discuss and evaluate the nature and extent of the risks to human health and the environment posed by wastes that contain infectious materials. The meeting was held in response to growing concerns about infectious waste management and to assist EPA in determining whether the Agency should undertake any additional action under the Resource Conservation and Recovery Act. Infectious waste issues were discussed by a group of experts representing health care professionals and practitioners from government, academia, industry and professional and trade associations called together by the EPA. The proceedings of this meeting have been made available to the public. (See "Report on the Proceedings of the EPA Infectious Waste Management Meeting, November 12, 1987, EPA Headquarters, Washington, D.C.", available in the RCRA public docket).

The Agency also has examined a recent survey, entitled, "State Infectious Waste Regulatory Programs", assembled for the Council of State Governments, which summarizes the current status of state infectious waste regulations. This document is available from the Council of State Governments and a copy has been placed in the RCRA public docket for this notice.

III. ISSUES PRESENTED FOR PUBLIC COMMENT

Several recent incidents involving infectious waste mismanagement have resulted in a number of infectious waste issues being presented to the Agency. The Agency is offering today, for public comment, issues concerning infectious waste. These issues are intended to solicit information which will help the Agency to better understand the problems posed by infectious waste, to identify additional sources of information, and to determine whether further guidance or rules should be developed by EPA. Each of these issues is presented below, introduced by a brief discussion and followed by specific questions for comment.

A. Definition of Infectious Waste

EPA currently defines infectious waste as waste capable of causing infectious disease. This definition requires the consideration of several factors contributing to the risk of introduction of disease. As described in EPA's guidance manual, these factors include: (1) Presence of a pathogen of sufficient virulence; (2) dose of the pathogen; (3) portal of entry; and (4) resistance of host. For a waste to be infectious, it must contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in infectious disease. EPA has identified in the Guidance Document six infectious waste categories, including: (1) Isolation wastes; (2) cultures and stocks of infectious agents and associated biologicals; (3) human blood and blood products; (4) pathological wastes; (5) contaminated sharps; and (6) contaminated animal carcasses, body parts and bedding.

The Center for Disease Control (CDC) under the Department of Health and Human Services has also issued guidelines on infectious waste. Both EPA and CDC define infectious waste according to both waste characteristics and waste type. The CDC guidelines differ only slightly from EPA's guidelines in how they define infectious waste. In particular, both Agencies consider microbiological waste, pathological waste, blood, and contaminated sharps as infectious waste. EPA considers communicable disease isolation wastes as infectious, while CDC recommends such waste be treated according to hospital policy. EPA also has identified certain wastes such as surgery and autopsy wastes, dialysis unit wastes, and contaminated equipment, which the Agency lists as optional infectious wastes, and thus may require special handling. CDC does not consider these optional wastes infectious. Also, CDC's guidelines only pertain to hospitals while EPA's guidance deals with a wider variety of sources.

The state tend to classify infectious waste in one of three ways: (1) As a hazardous waste; (2) as a special waste; or (3) as a solid waste. The trend is to classify infectious wastes as special or solid wastes. Current state regulations vary with respect to how they define infectious waste. Approximately two-thirds of the states have definitions in place or are currently adding to or amending their definitions of infectious waste. Of the 19 states that have definitions in place which are not undergoing amendment, approximately half include the four common EPA/CDC infectious wastes in their definitions. While there exists a certain amount of variation among the States' regulations, there appears to be some general agreement among the states as to the basic definition of infectious waste.

The Agency is requesting comment on the following issues concerning defining infectious waste: Is EPA's current definition of infectious waste appropriate? If not, how should infectious waste be defined? Should this definition be based on waste characteristic, waste type, waste source, or a combination of these factors? Are there different categories of infectious waste that warrant differing degrees of control?

B. Nature of the Problem Posed by Infectious Waste

Infectious wastes are generally disposed of through incineration, landfilling, or disposal in public sewers. Treatment of these wastes may or may not occur prior to disposal in landfills or sewers. Such treatment if it occurs, is called pretreatment, and for infectious waste normally involves some form of sterilization of the waste, either through steam, chemical or other method or process of sterilization. The goal of pretreatment is to greatly reduce, if not eliminate, any infectious characteristic. Approximately 56 percent of the states require or are considering requiring pretreatment before land disposal. At least twelve states currently allow, under certain conditions, land disposal of infectious waste without pretreatment.

Current literature indicates that the risks posed by infectious waste are primarily occupational, potentially affecting those people who encounter these wastes from the point of generation to the point of disposal. Two occupations that regularly encounter infectious waste are hospital employees and waste disposal workers. The Agency, therefore, is interested in the risks posed to these two groups, as well as any risks posed to the general public.

The risks posed to these groups may be specific to certain wastes, such as contaminated sharps (e.g., scalpels and hypodermic needles), or to certain management practices. The Agency also is interested in how proper packaging of these wastes can curtail occupational risks posed to the groups mentioned above. Proper packaging of these wastes reduces the potential for exposure which is a necessary factor for transmission of these diseases. This point is recognized in that 15 states currently impose packaging/handling requirements on infectious waste generators, and 16 states are considering imposing such requirements.

The Agency requests comment on the following issues: What are the risks and problems posed by exposure to infectious waste? To what extent is the mismanagement of these wastes a problem? If fully implemented, are the current pretreatment and packaging practices capable of reducing the risks posed by infectious waste or are additional requirements necessary? Should specific disposal requirements be placed on specific wastes (i.e., sharps)?

C. EPA's Role in Infectious Waste Management

As already discussed, EPA does not regulate infectious wastes as a hazardous waste. Under RCRA, the Agency has the authority to regulate these wastes as hazardous. As discussed above, the Agency has chosen to issue guidelines on proper infectious waste management. In addition, infectious wastes are subject to regulation as non-hazardous solid waste under Subtitle D of the Resource Conservation and Recovery Act (RCRA).

Many states have developed or are currently developing legislation and regulations to address infectious wastes. These state initiatives are relatively recent efforts, stimulated by the growing concern over infectious waste management. There is considerable variation in the scope and level of stringency among the various state efforts. Currently 39 states have some form of infectious waste regulation. Five of the states without such regulations plan on developing them soon. Currently, 88 percent of the states are, or will soon be, regulating infectious waste. This compares with 57 percent of the states that regulated infectious wastes in 1986.

It has been suggested that one alternative to Federal regulation of infectious waste is the development of a model state program. A model state program is a comprehensive management program designed to provide guidance to states which are developing similar programs. The model programs serve to make the expertise of the Agency available to states and localities that may need assistance in developing comprehensive and effective programs. Such models can provide useful information and guidance to those states developing programs, but also provide state with the flexibility to tailor the model to their individual state needs.

The Agency is requesting comment on the following issues concerning EPA's role in infectious waste management: What roles should EPA and/or the states play in the management of infectious waste? Should there be a Federal regulatory structure for infectious waste management or should the Federal role be one of providing technical assistance and guidelines for state infectious waste programs? Should EPA's role be in the transfer of information on infectious waste to states, localities, and the public? Is a model state program for regulation of infectious wastes necessary or helpful? If so, are there particular areas on which such a program should concentrate?

D. Tracking System for Infectious Waste

Several instances of improper disposal of infectious waste have been documented. It has been suggested that a tracking system may alleviate the possibility of such improper disposal. Tracking a waste can serve to improve the accountability of the parties involved in the management and disposal of that waste. In this way, tracking has the potential to improve compliance with management and disposal regulations.

Currently, infectious wastes are not subject to any Federal tracking requirements. If these wastes were simply classified as hazardous wastes by Federal regulations, they would be subject to the manifesting requirements of RCRA Subtitle C regulations. The manifest tracking requirement of Subtitle C relies on exception reporting for tracking of waste. Exception reporting requires generators of regulated wastes who do not receive proper copies of the manifest from the disposal facility to report this noncompliance to a designated authority.

Some tracking of infectious waste is currently being implemented at the state level. A number of states have or are considering imposing transportation and recordkeeping requirements on infectious waste generators and haulers. In some states the types of shipping papers required are specified. Where tracking is addressed in these state regulations, the tendency is to require the generator to maintain records on site, rather than submit manifests to the State.

The Agency requests comment on the following tracking issues: What type of tracking system would be most appropriate for infectious wastes? Which infectious wastes should be tracked? Should exception reporting be required?

E. Exemptions From an Infectious Waste Control Program

Although much of the infectious waste that is generated comes from hospitals and large laboratories, there are many small generators in the form of private offices, clinics, and smaller labs which may become subject to regulation, if not otherwise exempted. Under current Subtitle C regulations, small quantity generators of hazardous waste are subject to certain conditional exclusions. Presently, all but six states have or are considering regulations pertaining to infectious waste. The majority of states identify hospitals as the target generator for regulation of infectious waste. Many of the states that regulate hospitals also regulate clinics. Approximately half of the states that regulate hospitals also regulate doctors and dentists offices, and animal care facilities. Five states currently exempt small quantity generators from some or all infectious waste requirements.

The Agency requests comments on the following issues concerning exemptions from infectious waste controls: Should any generators of infectious waste be exempted from management controls? Do small health care operations pose less risk because of the amount of waste they produce? If no generators are exempted, how many generators would be subject to infectious waste controls?

The Agency specifically requests comments on all of the issues included in today's notice. Comments on additional issues related to infectious waste will also be accepted. Once the Agency has reviewed all of the public comments, the Agency plans to evaluate the need for additional information, to collect and examine such information; and to ultimately develop an effective Federal program addressing infectious waste. Upon evaluating the comments solicited in today's notice the Agency will also reevaluate the status of the existing EPA guidance document on infectious waste.

LIST OF SUBJECTS IN 40 CFR PART 261

Hazardous materials, Waste treatment and disposal, Recycling.

AUTHORITY: Sec. 3001 RCRA, 42 U.S.C. 6921.

Date: May 27, 1988.

J. WINSTON PORTER,
Assistant Administrator.

Mr. BAUCUS. Mr. President, I rise to support the New Jersey-New York medical waste tracking bill. Senator LAUTENBERG, the chief sponsor of this legislation, is to be commended for coming forward with a proposal to begin to address the problem of improper disposal of medical wastes. This bill is a good step toward controlling infectious and other medical wastes to ensure that they are safely managed.

Congress is forced to act at this time to protect our beaches and other areas from medical waste contamination because EPA has failed to act. EPA has had authority to regulate the transportation, treatment, storage and disposal of these medical wastes since 1976 when we enacted the Resource Conservation and Recovery Act. It has been 12 years and EPA has still not promulgated regulations to ensure the safe management of these wastes.

As a result we have found infectious wastes including hypodermic needles, vials of contaminated blood and other medical wastes along our beaches in New Jersey, New York, Maine, North Carolina, Mississippi, and Texas. We must address this crisis.

The bill that Senator LAUTENBERG introduced goes a long way toward controlling wastes in New Jersey and New York. It can provide a basis for establishing a national infectious waste management system while beginning to address the crisis along the New

York and New Jersey shores. However, medical wastes are also becoming a problem in other parts of the country. We do not know where these wastes will crop up next. We have hospitals, laboratories and health clinics that generate medical wastes in every State in the Nation. We must ensure that these wastes are safely managed everywhere.

The RCRA reauthorization bill that I intend to introduce before the end of this Congress will fully address this problem and ensure the safe management of infectious wastes and other medical wastes across the Nation. In addition to a manifest tracking system that Senator LAUTENBERG's bill requires, I will require the storage and transportation of medical wastes in clearly labeled leakproof containers. I will also require that medical wastes either be incinerated in a unit equipped with the best available emissions controls, or sterilized to render the waste noninfectious.

Enactment of the New Jersey-New York Medical Waste Tracking Act of 1988 is a necessary first step in protecting public health and environment from infectious and other medical wastes. I commend Senator LAUTENBERG for his leadership on this issue and look forward to working with him to reauthorize RCRA next year.

Mr. CHAFEE. Mr. President, I yield 4 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me commend my colleagues, all of them: The senior Senator from New York, Mr. MOYNIHAN; Senator LAUTENBERG; Senator BRADLEY; my distinguished friend and colleague from Connecticut, Senator WEICKER; Senator CHAFEE, for putting together a bill that is absolutely necessary. It is long overdue.

I live on Long Island. For years, we have prided ourselves on our beaches, that have made it a quality of life second to none. Our beaches have been ravaged. At one time, we thought of the summer as a time of sun, of surf, of sand, of camaraderie, but with quality of life second to none. When we think of our beaches today, we do not think of those pleasant things. We think of syringes, sewage, and sludge. They have been devastated. There is a catastrophe, not in the making; it has happened. There has been a desecration that I never in my wildest dreams or imagination—and I have lived on Long Island since 1944—could ever have imagined. Be it Long Island, New York, New Jersey, Connecticut, Rholde Island, it is unacceptable.

This bill is the first step of doing the business of the people, of seeing to it that those who generate, store, treat, transport, or dispose of medical wastes are subject to the kind of requirements and scrutiny by the EPA that will bring this to an end. The people have a right to see at least this.

I spoke to our Governor, Governor Cuomo, today. He has assured me he is going to work in a cooperative effort with the State of New Jersey and others. He is pushing for tough legislation on the State level that will bring about criminal penalties, and greater scrutiny as it relates to the disposal of this waste.

The time for action is now. We should have the total cooperation of EPA and it should be a priority. Maybe, to a certain extent, this is a blessing in disguise. If it takes this kind of incredible thing to take place, to wake up, to galvanize the Congress of the United States in action to see to it that we prevent these events from reoccuring, then we will have profited from the misery that has been inflicted on so many—more than that, the destruction of our own environment.

Again, let me thank my colleagues who have come to the floor in a spirit of doing the business of the people.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I yield 4 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey

Mr. BRADLEY. Mr. President, I express my appreciation to Senators LAUTENBERG, MOYNIHAN, and CHAFEE for moving this bill forward in the U.S. Senate.

Mr. President, I rise in frustration, dismayed that the bill we are considering today is necessary at all.

Since last summer, when we were sickened by the terrible sight of medical waste defiling our beautiful New Jersey shoreline, I have been asking the Environmental Protection Agency to use its existing authority to establish a system to track medical waste. We are now forced to act to require the EPA to do something it has always had the responsibility to do, something it already has the power to do, something it should have done months ago.

I have been pleased that at my request EPA has convened meetings between the States of New Jersey and New York to establish a medical waste tracking system. Those meetings have been productive, and I am hopeful that we will see a positive result at the State level very soon. The bill we are considering today is intended to move that process along more quickly and to be consistent with the effort already underway. Today's legislation is in no way intended to interfere with or slow down that State effort. Rather, we hope that it will push EPA to move more quickly to meet its responsibilities under the law.

This bill introduced by Senator LAUTENBERG, who is taking a leadership role on this issue, Senator MOYNIHAN, D'AMATO, CHAFEE, and I, clarifies any potential ambiguity regarding EPA's authority under section 7003 of the Solid Waste Disposal Act to address the medical waste problems?

Twenty-six Senators, including Senator LAUTENBERG and me, wrote to the EPA last October, asking the agency to provide Congress with a legal opinion if it felt it did not have authority to address the medical waste problem with a tracking system. We requested information outlining any new authority that might be needed. Such an opinion was never received. EPA did not respond and has never asked for new authority. They could act today if they chose to respond to the public health threat.

EPA currently has the power to invoke section 7003 to protect the public health and safety, and this legislation clearly indicates that we face a situation of imminent and substantial endangerment as a result of medical waste washing up on our beaches. Therefore, any bureaucratic hurdles—real or imagined—that might have prevented EPA from taking immediate action are removed by this legislation.

Mr. President, the problem of shore pollution seems to be growing to crisis proportions. Certainly, the unhappy events of this summer offer evidence of that. We know that medical waste is only one aspect of the problem. We must also deal forthrightly and responsibly with the need to replace antiquated sewage treatment facilities—including storm sewers which deposit the many pollutants accumulating in our gutters in the nearest body of water every time there is a heavy rainfall.

We have to stop dumping our sewage sludge in the ocean as a quick, out-of-site, out-of-mind fix. We must deal with runoff from nonpoint sources of pollution. We must address the consequences of the tremendous growth of our population in shore areas.

This bill is a step toward dealing adequately with the burden we have placed on our coastal waters. It will help, but much remains to be done. I, for one, will not rest until our beaches are free from syringes and blood bags and our children can once again swim safely in the ocean.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that there be an additional 10 minutes, equally divided, on the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I am proud to cosponsor this legislation with my colleagues from New York, New Jersey, Connecticut, and Rhode Island.

Mr. President, the problem very simply is that man is overburdening his planet, and most particularly the oceans. As one who has worked on the ocean floor with the marine research community, this latest tragedy, further evidence of man's despoiling the environment, really does not come as a surprise.

During the past several years, the entire diadema population—sea urchins from South America through the Caribbean—have been wiped out. The situation that has taken place in that part of the world still has not been solved. Whales and porpoises wash up on shore. Lobsters and crabs have burn-spot disease.

What this all say is that the only time we become exercised is when our swimming is interrupted. Then we understand that maybe we are doing things that we should not be doing. All the plant life and all the sea life can die first, but we only become exercised when our vacation is rudely interrupted by our own unfortunate activities.

The time has come to understand that we cannot do to the waters of this world what man is doing. Really, what is going on below the surface is probably even more serious than what we see washed up on the shores.

With deference to all my colleagues, I suggest that the sooner New York and New Jersey stop ocean dumping their sewage sludge—and they are doing so under an exception, a court-ordered exception—the better it is going to be for everybody. I hope that day comes soon.

All the laws are on the books to be enforced. This bill goes that very necessary added step of tracking what is happening to hospital waste so that enforcement can take place.

In the final analysis, we must make good on our commitment to the environment—in this case, the water—we must recognize that it is very fragile indeed. It has lasted for tens of thousands of years, millions of years, and we have to treat it a lot differently from the way we are now treating it. Otherwise, it will not even last another 100 years.

I enthusiastically support this legislation. I commend FRANK LAUTENBERG, PAT MOYNIHAN, BILL BRADLEY, JOHN CHAFEE, and CHRIS DODD for trying to fine-tune the laws we have in order that enforcement might take place.

However, whereas this body designates only several million to NOAA and billions to NASA, might I suggest, that that portion of our Earth which covers 75 percent of the globe might be given a little more priority in our research and in our efforts to maintain it in a condition so that our children, grandchildren, and great-grandchildren can use it.

As each of us knows from these coastal States—it might be the mountains and the lakes of the Far West—but for us, the Atlantic Ocean and Long Island Sound are our greatest natural resources, and this bill goes to their preservation. It provides a timely response to one of the most disturbing pollution events we have witnessed in many years.

As I am sure many of my colleagues are aware, medical wastes—including hypodermic needles, blood vials, bandages, and so on—have been washing up on the beaches of the Northeastern States. In many cases these wash ups have caused the closure of beaches at the height of the beachgoing season. In Connecticut, we have had several beach closures due to medical waste wash ups in just the last few weeks. Even when the beaches have reopened, the public is often afraid to return. It is sad to say, but they are afraid of going into the water.

There are several ways in which medical wastes may be finding their way into the ocean, all of which are the result of illegal activities. Disposal or dumping of these materials is currently prohibited by such statutes as the Ocean Dumping Act, the Clean Water Act and the Act to Prevent Pollution from Ships. All of these laws provide tough civil and criminal penalties for violators. What we are finding out, however, is that these laws are not providing the tools for their effective enforcement.

The Medical Waste Tracking Act we are considering today should provide precisely the type of enforcement mechanism needed to bring a halt to the illegal dumping of medical wastes. It will also ensure that anyone who continues to dump illegally will be severely punished.

The enforcement mechanism which we provide in this act is a manifest and tracking system. This is not a new idea, it is rather a new application of a previously tried and tested approach. The Medical Waste Tracking Act instructs the Environmental Protection Agency to establish—within 9 months—a demonstration tracking project for medical wastes in the tri-state area of New York, New Jersey, and Connecticut. This system will require manifesting of wastes from the point of generation to the point of ultimate disposal. It will therefore cover all parties involved including generators, haulers, and those who store, treat, and dispose of the wastes.

As landfill capacity continues to diminish around the country—driving the costs of disposal ever higher—the tendency to dump illegally can only be expected to increase. The demonstration tracking system established by this act will therefore provide the dual benefit of strongly discouraging illegal dumping in the area where it has been most prevalent, and providing feedback on the utility of such a system for possible application in other coastal and inland areas.

The act further instructs EPA to report back to Congress in 3 years on the progress and success of the tri-state demonstration project. A partial measure of the success of the project will come from the monitoring of New York, New Jersey, and other New England beaches where washups have occurred this summer. The act also instructs EPA to work with the National Oceanic and Atmospheric Administration to use wind and current data to determine the most likely point of disposal of this summer's wastes.

Critics of this legislation are bound to cite the costs of compliance with the tracking system. I would only say to them that this is what must be done at this time to begin to stop the flagrant disregard for our laws which this summer's washups represent. We could institute the most severe penalties imaginable, but if we do not have the proper tools for enforcement—such as this act's manifest and tracking system—these penalties will be of no use.

The demonstration project initiated by the Medical Waste Tracking Act may not be the perfect fix to this problem, but it is a critical first step. I can guarantee that if we fail to take any action, we will only see an increase in the pollution of our coasts by medical wastes. I therefore strongly urge my colleagues to support this important legislation.

Mr. MOYNIHAN. I yield myself 3 additional minutes.

Mr. President, we have heard very powerful statements from Senator LAUTENBERG, Senator D'AMATO, Senator BRADLEY, and our distinguished colleague from Connecticut, Mr. WEICKER, who has indeed made oceanography and ocean research a very special concern.

I think it is fair to say that this summer the oceans have been trying to tell us something. There is too much pressure on that environment; and if it is coming at us in the gruesome form of hypodermic needles and blood vials, perhaps it will get our attention that way.

We have not been able to get the attention of the Environmental Protection Agency, as Mr. BRADLEY and Mr. LAUTENBERG said. We have written them. We think they have the power. We asked if they think there is any impediment to their action, and we received no response. This is incomprehensible. Very well, we will legislate, and we do so on this occasion.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter which Senator BRADLEY drafted and some 20 of us signed last October, asking this question of the EPA, and a letter which Senator LAUTENBERG drafted and others of us signed, last July.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, October 20, 1987.
Hon. Lee M. Thomas,
Administration, U.S. Environmental Protection Agency, Washington, DC.

Dear Mr. Administrator: The illegally-dumped hospital waste that washed upon along the shore in New Jersey this past summer highlighted a problem of great concern to all Senators who represent coastal-states. We understand and share the concern and anger that our citizens would feel when our beaches are defiled. Our shores are among our Nation's most precious resources. It is simply intolerable to have syringes with needles and other hospital waste wash up on our beaches.

Because the current system of dealing with hospital waste is inadequate, the problem that New Jersey faced this summer could apply to any state. Most states have differing requirements for the disposal of hospital waste, and these requirements are often inconsistent. Most important for proper enforcement, hospitals are not fully accountable for the ultimate disposal of their waste.

We are aware that the Environmental Protection Agency published "The Guide for Infectious Waste Management" in May 1986. This was a very useful first step but does not go far enough to ensure cradle-to-grave accountability for hospital waste.

We request that EPA take immediate action to implement the system to ensure that hospitals manifest their wastes to a disposal facility licensed by the States. If you feel you do not have the authority to do so under the Hazardous and Solid Waste Amendments of 1984, please provide a legal opinion outlining the new authorities you may need.

We also would like EPA to review the need for a national standard for treatment and disposal of hospital waste. Because this matter is of such importance, we request that your analysis be completed with a report to Congress as expeditiously as possible.

In addition, we request that the Agency identify other ways to * * * generator, including stamping the name of the hospital on the red bag used for disposal of waste. This might aid tracking of illegally-dumped material.

We cannot afford to have a repetition of the dreadful situation that New Jersey encountered this past summer. Continued pollution of our shores must be stopped. We believe there are effective actions that can and must be taken, and look forward to hearing from you about these initiatives.

Sincerely,

Bill Bradley.
(With 26 cosponsoring Senators.)

U.S. Senate,
Washington, DC, July 14, 1988.
Hon. Lee M. Thomas,
Administrator, U.S. Environmental Protection Agency, Washington, DC.

Dear Lee: Nearly a year ago we wrote you expressing concern about the improper disposal of medical waste. At that time beaches on the New Jersey shore had been closed because of this problem. We urged you to establish a means of tracking medical waste to insure that existing laws were enforced. We have been in regular touch with your office since that time. Yet the problem continues and to date no tracking system has been instituted.

During the last five weeks, the New Jersey and New York shorelines have suffered more occurrences of medical waste appearing on the beaches. At a June 21st meeting of New York and New Jersey environmental and health officials, convened by the regional EPA office at our request, New York officials acknowledged that more than 500,000 pounds of medical wastes from New York City are disposed of outside the city each week, yet no one knows where those wastes are going. New Jersey officials have no idea where New Jersey's medical wastes are being disposed. Both states admitted that doctors and nurses in their states are generally unaware of state laws regulating disposal of medical waste. The result is a problem that is simply unacceptable. We cannot go through the normal lengthy bureaucratic channels to respond to this problem.

We urge you to act with speed utilizing emergency powers you already have. Section 7003 of the Resource Conservation and Recovery Act gives you authority to regulate disposal of medical waste and to do so quickly to protect the public health and safety. We believe there is sufficient urgency to act without further delay. Moreover, while we believe that a national medical waste tracking system is necessary, at an absolute minimum you must direct New York and New Jersey to implement a medical waste tracking system immediately.

As you know, legislation is speeding through the Senate to mandate this action by your agency. Since you have the authority now, we urge you to act without further delay so another beach season is not lost. Millions of New Jersey residents and visitors are now afraid to enjoy their shore because of the improper disposal of medical waste. The public has a right to demand of their government that laws affecting their health and safety are enforced.

Sincerely,

Frank R. Lautenberg.
Bill Bradley.
Daniel P. Moynihan.
Alfonse M. D'Amato.

Mr. MOYNIHAN. Mr. President, finally, a kind of grim summation of what my colleague and friend Mr. D'Amato described as those beaches of ours. What Long Island is to him, Rockaway was for me as a boy.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to have printed in the Record a New York Times editorial entitled "How To Clean Up Needle Beach."

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the New York Times, July 24, 1988].

How To Clean Up Needle Beach

Investigators have not yet found the specific sources of hypodermic needles, blood vials and other medical waste rolling in with the tides on Northeast beaches. But controlling the problem poses no mystery at all.

Hospitals, clinics, laboratories and nursing homes across New York State generate about 125 tons of infectious waste each day—a tiny portion of the 48,000 tons from all sources. State law mandates that the infectious matter be segregated in red bags and burned and that hospitals dispose of half the total in their own incinerators. To get rid of the rest, they contract with private firms.

It's unlikely that many hospitals, labs or clinics knowingly seek to evade the law. But some surely are tempted by low bids from unscrupulous carters who dump the red bags in the water and pocket the incineration fee. Some waste may not even get as far as the ocean. Last year, Brooklyn District Attorney Elizabeth Holtzman indicted Energy Combustion Corporation of Long Island for allegedly covering up the illegal dumping of 1,400 red bags found in a Brooklyn warehouse.

A serviceable model for stronger control of the carters exists in laws designed to curb the "mid-night dumping" of toxic chemical wastes. In addition to establishing stiff penalties for violations, they require record-keeping to create a paper trail from waste producer to disposal site.

While medical pollution has turned up before, the issue lacked political weight until this month, when the needles and blood vials prompted anxious health officials to order beach closings in the middle of the marathon heat wave.

Now Senators Moynihan and D'Amato of New York and Bradley and Lautenberg of New Jersey are sponsoring legislation calling on the E.P.A. to establish a pilot waste-tracking program in the Northeast. Governor Cuomo, meanwhile, wants the Legislature to upgrade to a felony the dumping of even small amounts of infectious waste.

He also has found $2 million in the state budget for more rigorous enforcement of infectious waste laws and has ordered state agencies to develop a tracking system. Ultimately, the private carters might be relieved entirely of their role with the construction of more hospital incinerators.

In an era of disappearing landfills and homeless garbage barges, it's tempting simply to accept medical waste on the beaches as one more dismal side effect of modern life. That's nonsense: the quantity is manageable and safe incineration feasible. Open beaches require no more than common sense and political will.

Mr. MOYNIHAN. Mr. President, I hope we will proceed as I am sure we will not just to pass the measure tonight but to see that it passes the House and is enacted this year.

Mr. CHAFEE. Mr. President, I yield myself 4 minutes.

Mr. President, I strongly support the legislation we are now considering, the Medical Waste Tracking Act of 1988. This bill, which has been mentioned, is the result of the work of Senator Lautenberg, Senator Bradley, Senator Moynihan, Senator D'Amato, Senator Weicker, myself, and others.

I particularly want to point out it will direct the EPA to implement a tracking system which will trace the medical waste in New York, New Jersey, and Connecticut we might say from "cradle to grave"; in other words, from where this waste originates in medical centers, clinics, hospitals, wherever it might be, straight on through until it is properly disposed of.

This measure will impose criminal penalties on those convicted of improper disposal of medical waste. Anyone implicated in polluting our oceans with hypodermic needles or vials of infectious materials or other medical wastes should not just be slapped with a stiff fine; they ought to be sent to jail. And that is what happens under this legislation.

They endanger public health and they should be treated like the criminals they are.

I have worked with Senator LAUTENBERG on this bill to make sure that EPA is focusing on this waste which is being transported currently through the tides and the currents up onto our New England beaches. The incidence of hospital waste on New England beaches makes it clear that this is not just a restricted problem affecting unfortunately as it is the Long Island beaches and the New Jersey beaches, but it is affecting the entire east coast.

This legislation will require EPA to conduct monitoring of the beaches of New York, New Jersey, and all of New England.

In recent days, in my home State of Rhode Island, over 100 pieces of medical waste have been found up on our shores. Some amount of infectious waste has been found on nearly every single beach in our State.

Fortunately, the amounts of it have not been sufficient to require the closing of the beaches as, unfortunately, has occurred in New York, but it could well happen, and we want to prevent that from occurring and we want to make sure that it does not happen as it has in New York and New Jersey.

I stress the points that Senator WEICKER made. There is a limit to what our oceans can take, and clearly we have reached that limit. The oceans cannot be a receptacle for society's waste ad infinitum. We have reached the point. We have to stop and not only with medical waste but with the dumping of sludge at the 106 mile site off New York shores, a matter that we will be taking up later on.

AMENDMENT NO. 2794

Mr. CHAFEE. Mr. President, I have one technical amendment which has been cleared on both sides that I propose at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 2794.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Technical and clarifying amendment to S. 2680.

On page 9, amend subsection (b) of section 3 by (a) inserting ", in appropriate cases," immediately before "directed to use" in the first sentence; and (b) striking "and the Solid Waste Disposal Act" in the second sentence.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 2794) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I would hope we could move on if everybody has completed and deal with the very, very important legislation which, sure it deals with a local issue, a local issue of Rhode Island, Connecticut, New York, and New Jersey, but it could affect everybody else. Indeed, it could affect North Carolina, South Carolina, or the beaches in the gulf coast.

So it is important legislation.

Mr. MOYNIHAN. Mr. President, there are no further speakers.

Mr. LAUTENBERG. Mr. Prsident, I ask unanimous consent that Senator ROTH be added as a cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I cannot forbear to take this opportunity to point out that New York State has not five friendly neighbors as is thought; it borders on New Jersy, on Pennsylvania, on Connecticut, on Massachusetts, and on Vermont. It also borders on Rhode Island. Our border is a line in Long Island Sound, but it makes us no less proud of the proximity and no less concerned to do right by our neighbors from Rhode Island.

Mr. CHAFEE. Mr. President, the distinguished senior Senator from New York is exactly right. The island is not Long Island.

Mr. MOYNIHAN. Rock Island.

Mr. CHAFEE. No. Fishers Island.

Mr. MOYNIHAN. Fishers Island.

Mr. CHAFEE. It extends east of the eastern border of Connecticut, so thus they are a neighbor of ours.

Mr. DODD. Mr. President, I am pleased to join Senators LAUTENBERG, BRADLEY, MOYNIHAN, D'AMATO, WEICKER, CHAFEE, and PELL in introducing the New Jersey-New York-Connecticut Medical Waste Tracking Act of 1988.

This bill directs the Environmental Protection Agency to establish a manifest system for tracking medical wastes from the point of generation to the point of disposal in the States of New Jersey, New York, and Connecticut.

We all have heard about the recent invasion of our shorelines by a sea of garbage; an invasion which has included hypodermic needles, syringes, blood bags, vials of blood, gauze dressings, and other medical wastes.

Beaches from New Jersey to Long Island Sound have been closed at different times so far this summer because of the garbage washup and floating medical waste.

Health officals in my home State of Connecticut have had to warn beachgoers not to touch any materials resembling medical trash.

We understand and share the concern and anger that our citizens feel when our beaches are defiled.

We do not know where these medical wastes are coming from or if they were illegally or accidently dumped. Through the use of the manifest system required under our bill, it will be possible to trace the responsible parties involved in the chain of possession between generation, treatment, transport, and disposal of these materials.

The manifest system will allow the proper Federal and State authorities to identify the party responsible for the wastes and to levy the appropriate penalties.

Our oceans, shores, and beaches are among our Nations's most precious resources. It is simply intolerable to have syringes, needles and other medical wastes wash up on our beaches.

I am confident that this bill will serve as an important first step in ensuring the public safety on our beaches, and I urge my colleagues to support it.

Mr. MOYNIHAN. Mr. President, I urge adoption of the bill.

The PRESIDING OFFICER. All time is yielded back.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2680) was passed, as follows:

S. 2680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as the "New Jersey-New York-Connecticut Medical Waste Tracking Act of 1988".

SEC. 2. REGULATION OF MEDICAL WASTES.

(a) REGULATIONS—Not later than 9 months after the date of enactment of this Act, and after notice and opportunity for public hearings, the Administrator shall promulgate regulations which establish a demonstration program for the tracking of medical waste generated and disposed of in the States of New York, New Jersey and Connecticut. Such regulations shall—

(1) define medical waste;

(2) apply to generators of medical waste, and owners and operators of facilities for

the treatment, storage, transport, and disposal of medical waste;

(3) establish a manifest system for accountability and tracking of medical wastes from their point of generation to point of disposal; and

(4) include such other requirements as may be necessary to protect human health and the environment, including monitoring of beaches in New Jersey, New York, Connecticut and New England, where there have been reported incidences of medical waste being washed up on shore. Such monitoring shall include an assessment of ocean currents, wind, and other environmental factors which may be responsible for the migration of medical waste in coastal areas of the mid-Atlantic and New England regions.

In conducting such monitoring the Administrator shall consult and coordinate activities with the Administrator of the National Oceanic and Atmospheric Administration.

(b) Inspections.—(1) For purposes of developing any regulation under this section, or to assure compliance with such regulations, any person who generates, stores, treats, transports, or disposes of medical waste shall upon, request of any authorized and designated representative of the Environmental Protection Agency, permit access to and provide copies of all records relating to such wastes to any designated representative of the Environmental Protection Agency

(2) Any representative of the Environmental Protection Agency who obtains samples of medical waste from any facility under the authority of this section shall furnish upon a receipt describing such sample to the owner or operator of such facility prior to leaving the premises.

(c) Compliance Orders.—(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement under this section the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator under this section and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this section. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(3) Public Hearing.—Any order issued under this section shall become final unless, not later than thirty days after the order or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(4) Violation of Compliance Orders.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

(5) Criminal Penalties.—Any person who—

(A) knowingly transports or causes to be transported any medical waste in violation of regulations promulgated under this section;

(B) knowingly treats, stores, or disposes of any medical waste in violation of regulations promulgated under this section;

(C) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator under this section;

(D) knowingly generates, stores, treats, transports, disposes of, exports or otherwise handles any medical waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or files for purposes of compliance with regulations promulgated by the Administrator under this section;

(E) knowingly transports without a manifest, or causes to be transported without a manifest, any medical waste required by regulations promulgated under this section to be accompanied by a manifest;

shall upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of subparagraph (A) or (B), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

(6) Knowing Endangerment.—Any person who knowingly transports, treats, stores, disposes of, or exports any medical waste in violation of subparagraph (A) (B) (C) (D) or (E) paragraph (5) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than $1,000,000.

(7) Special Rules.—For the purposes of paragraph (6)—

(A) A person's state of mind is knowing with respect to—

(i) his conduct, if he is aware of the nature of his conduct;

(ii) an existing circumstance, if he is aware or believes that the circumstances exists; or

(iii) a result of his conduct, if he is aware or believes that his conduct is substantially certain to cause danger of death or serious bodily injury.

(B) In determining whether a defendant who is a natural person knew that his conduct placed another person in imminent danger of death or serious bodily injury—

(i) the person is responsible only for actual awareness or actual belief that he possessed; and

(ii) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

provided, that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.

(C) It is an affirmative defense to a prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

(i) an occupation, a business, or a profession; or

(ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subsection by a preponderance of the evidence.

(D) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under paragraph (6) and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.

(E) The term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(F) The term "serious bodily injury" means—

(1) bodily injury which involves a substantial risk of death;

(ii) unconsciousness;

(iii) extreme physical pain;

(iv) protracted and obvious disfigurement; or

(v) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(8) Civil Penalty.—Any person who violates any requirement of this section shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.

(d) Relationship to State Law.—(1) Nothing in this section shall be construed to prohibit any State or political subdivision of a State from imposing any requirements for the control or monitoring of medical waste that are more stringent than those imposed by this section.

(2) Nothing in this section (or in any regulation adopted under this section) shall be construed to prohibit any State from requiring that the State be provided with a copy of each manifest used in connection with medical waste which is generated within that State or transported to a treatment, storage, or disposal facility within that State.

(e) Report.—Three years after the date of enactment of this section, the Administrator shall report to the Congress on the progress and success of the program outlined in this section.

(f) AUTHORIZATIONS.—There are authorized to be appropriated $300,000 for each of the fiscal years between 1989, 1990, and 1991 for the purpose of carrying out activities under this section.

(g) RELATIONSHIP TO THE SOLID WASTE DISPOSAL ACT.—Nothing in this section shall be construed to affect or modify the authorities or requirements of the solid Waste Disposal Act (42 U.S.C. 6901 et seq.)

SEC. 3. APPLICABILITY OF SEC. 7003 OF THE SOLID WASTE DISPOSAL ACT.

(a) The Congress finds that:

(1) Large quantities of medical waste, including syringes, hypodermic needles, vials containing contaminated blood specimens, and surgical gloves have washed up on the beaches in New York, New Jersey and New England;

(2) beaches in New York and New Jersey have been closed as a result of medical waste washing up on shore, and the imminent and substantial endangerment to human health and the environment presented by such waste;

(3) the improper disposal of medical waste is presenting an imminent and substantial endangerment to public health and the environment in certain coastal areas of the mid-Atlantic and New England regions.

(b) Based on the finding in subsection (a), the Administrator is empowered and, in appropriate cases, directed to use the authority provided in section 7003 of the Solid Waste Disposal Act to immediately address and correct such improper disposal of medical waste. In addition, the Administrator is empowered and directed to use the authorities of this Act to seek the imposition of criminal penalties where appropriate.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, on behalf of the sponsors we thank you for your courtesy and your patience. We thank the leaders and we hope that we will see this matter through to law this year.

Mr. CHAFEE. Mr. President, I also thank the staff and the Environmental Committee especially and, of course, our distinguished colleagues.

I suggest the absence of a quorum. I withhold.

Mr. LAUTENBERG. Mr. President, before we start the quorum call, if I may just have a minute to say that I was pleased to have the support and strength that was added by the cosponsors of this legislation, to see that there is such a mood of cooperation here. We recognized it, and we all need to do it, and I am pleased also that we were able to get the agreement of all on both sides of the aisle to move ahead with this legislation, and we say we have had enough of the assault on our oceans.

I thank you, Mr. President, and I yield back whatever time is left.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS CONTROL AND STRATEGIC FORCE MODERNIZATION: THE PROBLEMS IN THE DEMOCRATIC APPROACH TO PREVENTING WAR

Mr. McCAIN. Mr. President, it is with regret that I rise to support President Reagan's veto of the Defense authorization bill. I believe that the President had little other choice from a policy viewpoint. The bill that emerged out of conference was filled with add-ons that were little more than "pork," congressional micromanagement, and provisions that undercut both our ability to deter nuclear war, and negotiate meaningful arms control from a position of strength.

What I regret is that we in the Senate produced a very different draft of this bill. Our draft reflected bipartisan compromises between Republicans and Democrats that would have preserved the defense consensus between our political parties that is vital to preserving our security and reducing the threat of nuclear war.

We are not here to debate a veto on classic party lines. If the issue was the Senate version of this bill, the bill that emerged under the outstanding leadership of Senator NUNN and Senator WARNER, we would be celebrating an outstanding act of legislation.

We are here because the House Armed Services Committee is dominated by people that do not represent the mainstream of American public opinion, and which do not understand our strategic needs and the true nature of the arms control process.

Their actions led to a bill that rejected the much sounder compromises worked by Republicans and Democrats in the Senate. They add up to the adoption of a national posture based on military weakness and unthinking trust in the Soviet Union. They mean abandoning the thesis that we can only achieve meaningful arms control if we negotiate from strength—a position that allowed President Reagan to achieve the only meaningful reductions in nuclear weapons ever negotiated.

FAILURE TO SET CLEAR GOALS FOR MODERNIZING OUR STRATEGIC FORCES

We cannot hope to prevent or reduce the risk of war by failing to come to grips with the basic military realities our Nation faces. Our survival as a nation depends on maintaining nuclear forces that are so strong and so survivable that the U.S.S.R. will never, even in the most unlikely crisis, take the risk of challenging that strength.

Thanks to President Reagan, and substantial bipartisan support from both parties, the United States is proceeding with the modernization of its SSBN force, and has deployed the B-1. It is making important advances in its cruise missiles and has the B-2, or stealth bomber, in development.

Yet, because of this legislation, the United States is making agonizingly slow progress in modernizing its ICBM force.

We cannot afford to take this risk. Even if no START agreement is negotiated, we can never allow any major element of our strategic nuclear deterrent to be any more vulnerable to Soviet attack than we can possible help.

The only incentive the U.S.S.R. will ever have to initiate a nuclear exchange is its belief that, in some dire crisis, it can gain an advantage over the United States by exploiting the vulnerability of United States strategic forces. As long as we modernize our forces to reduce their vulnerability, and ensure that they can do unthinkable damage to the U.S.S.R. even under the worst case assumptions about a Soviet first strike or attack, the U.S.S.R. will never take the risk of war.

The Reagan administration's programs for the deployment of the Trident D-5 SLBM and the B-1A and B-2 bombers, will accomplish this for the sea-based and air-based elements of our strategic triad. We also, however, must match the ongoing Soviet deployment of mobile ICBM's if we are to reduce the vulnerability of the land-based portion of our triad.

This is particularly true because Soviet strikes against our ICBM force would involve massive numbers of nuclear weapons exploding directly at the level of the Earth and massive amounts of fallout. These strikes would produce fallout patterns that would cover much of the continental United States.

Further, we must understand that the deep reductions we are seeking as part of START, are real reductions and not the paper restraints of SALT II. We cannot afford to cut nearly 50 percent of our nuclear delivery systems and then leave the remainder vulnerable. The end result would be to increase, not decrease, the Soviet incentive to initiate a nuclear war. This is why the modernization of our nuclear strategic forces, especially our ICBM forces, will be even more important with START than without it.

SOVIET LEAD IN ICBM MODERNIZATION

We also need to recognize that the Soviet rhetoric about glasnost is in no way matched by the actions the U.S.S.R. is taking to try to improve its lead in many aspects of strategic nuclear forces. The Soviet nuclear threat remains as strong as ever. We must not ignore the need to reduce the vulnerability of every element of our triad.

The United States intelligence estimate of the rate at which the U.S.S.R. will modernize its strategic forces provided in this year's edition of Soviet military power indicates that the Soviet Union will modernize over 35 percent of its SLBM's by the mid-1990's, and nearly 50 percent of its strategic bombers.

United States intelligence indicates that the U.S.S.R. will also deploy large numbers of ALCM's and SLCM's, and will continue to build up massive numbers of deep nuclear shelters and other defenses.

These trends affect nuclear warheads as well as delivery systems. The U.S.S.R. has deployed over 500 additional ICBM warheads since 1982; the U.S.S.R. has added 1,000 more SLBM warheads to its SSBN force since 1984, and the U.S.S.R. overtook the United States in terms of deployed intercontinental range bombers in 1982.

All of the data on Soviet efforts to deploy new strategic defenses, and conduct strategic defense R&D programs, strongly indicate that the U.S.S.R. is spending more on SDI programs than the United States.

SOVIET LEAD IN KILLING POWER

The growth in Soviet nuclear power is also reflected in the total nuclear stockpile, or killing power, available to each side. The U.S.S.R. has made a great many claims about a buildup in United States nuclear strength under the Reagan administration.

The truth is very different. As a result of the leadership of President Reagan and Vice President BUSH, the United States has concentrated on making its forces survivable and on improving their accuracy and command and control. The United States has steadily cut its stockpile since 1975, and now has 12 percent fewer weapons than it had in 1975.

In contrast, the U.S.S.R. increased its number of nuclear weapons by 37 percent during 1975-88. It now has a 30-percent lead over the United States in terms of total deployed weapons. During 1975-88, the U.S.S.R. also built up a 3:1 lead in the total megatonnage or killing power of its nuclear weapons stockpile.

In spite of close study by United States intelligence experts, there are no current signs that the Soviet Union is reducing its effort to increase its lead in the number and total yield of either overall mix of theater nuclear or strategic nuclear weapons. In fact, unless a dramatic breakthrough takes place in START, the nuclear balance will almost certainly continue to deteriorate in terms of both theater and strategic nuclear weapons.

EFFORTS TO BLOCK ICBM MODERNIZATION

These trends in the threat show why President Reagan had to veto the fiscal year 1989 defense authorization bill. Regardless of the technical debates over the technical merit of the rail garrison mode for the MX versus the deployment of the SICBM, the liberal efforts to block President Reagan's effort to deploy the MX are intended to be a virtual freeze on the modernization of our ICBM force.

This has been clearly demonstrated by the actions of the House in passing the fiscal year 1989 defense authorization and appropriations bills. By cutting funds and creating "fences" within appropriations, the conference report jeopardizes both the modernization of our ICBM Program and the future of SDI.

ICBM MODERNIZATION

The most recent intelligence analysis by the Department of Defense estimates that by the mid-1990's, nearly 50 percent of the Soviet ICBM force will consist of mobile ICBM's like the road mobile SS-25 and the rail-mobile SS-24. Most of the remaining Soviet ICBM will consist of the SS-18 or a new heavy ICBM whose main role would be to support a first strike against our strategic forces.

Even if START places real limits on the Soviet heavy ICBM's—something the hollow limits of the SALT II Treaty would never have accomplished—the U.S.S.R. will be able to carry out all the required reductions and still have a virtually invulnerable ICBM force.

This is the threat some Members seem unable to understand. This is the threat we must reach to, particularly if we are to build on the success of the Reagan-BUSH team in negotiating arms control agreements that really do reduce the number of nuclear forces, and the risk of nuclear war.

Both the rail garrison mode for the MX and the road mobile small ICBM, or SICBM, represent valid ways of reducing the vulnerability of our ICBM force. Both could be critical in ensuring our ability to negotiate a START agreement that truly reduces the risk of war, rather than creating a new Soviet incentive for a first strike against our ICBM force.

Given the current fiscal climate however, we need to make a firm and cost-effective choice between the two systems.

President Reagan recommended the rail garrison mode for the MX because it was cheaper in terms of its cost per deployed war head, and because the United States could make rapid progress in deploying the system.

Secretary Carlucci has also made it clear in his comments on the fiscal year 1989 Defense Authorization Act that he feels that, "the Small ICBM program is inaffordable in the budget climate we face.

The Senate recognized the wisdom of this position on a bipartisan basis. In its deliberations on the fiscal year 1989 Defense Authorization Act, the Senate included $700 million for rail garrison MX funding and $50 million for the Small ICBM Program.

The House, however, chose to ignore the recommendations of the President and Secretary of Defense and included $600 million for Small ICMB and $100 million for rail garrison MX.

The conference produced an awkward compromise that is also included in the Defense appropriations bill.

This compromise permits the obligation of up to $250 million for the rail garrison mode for the MX and $250 million for the SICBM, while requiring the next President to decide, by March 31, 1989, whether to continue either, both, or neither program. At that time, the remaining $250 million will be available for obligation.

The compromise will waste a minimum of $250 million and may well waste nearly $1 billion. It will delay any progress toward ICBM modernization. It will not only waste funds in fiscal year 1989, it may distort our entire ICBM modernization program for years to come.

This outcome represents a severe setback for the ICBM modernization program, and a severe blow to our national security.

The rail garrison deployment of the MX, which was proceeding into full scale development and on a schedule that would have provided initial operational capability by the end of 1991, will literally be "derailed." Contract teams will have to be scaled back, and the schedule will slip.

This compromise has also put the Small ICMB Program on a very uncertain and costly path. Secretary Carlucci had sought to phase this program down to the minimum possible level of spending that would preserve it as an option for the next President, and to achieve the maximum possible savings.

It would force the Reagan administration to obligate hundreds of millions of dollars that will be wasted unless the SICBM is actually deployed.

Secretary Carlucci has stated this will "increase overall costs, could delay the deployment of a survivable Peacekeeper ICBM, and by leaving us without any viable mobile ICBM Program, it clearly complicates our position in the ongoing START Program."

Even with an early decision by the next President, which history tells us is unlikely, the Department of Defense will not be able to restore the scheduled momentum that the Rail Garrison MX Program currently enjoys for at least a year.

This will mean further disruption of virtually every aspect of the MX Program, and much higher costs as key elements are renegotiated.

It will leave the United States without any clear definition of the force posture it would have with or without a START agreement, and without a clear solution for matching the ongoing Soviet deployment of mobile ICBM's.

It will reduce the pressure on the U.S.S.R. to agree to the kind of arms control agreement the United States is seeking.

We also need to understand that a significant minority in the House supported this legislation because they oppose any form of ICBM modernization, and hope to use the SICBM Program not only to delay the MX, but to kill any major effort to modernize the land elements of the triad.

These same people oppose the Trident D-5 Program, and B-2. Their idea of reforming defense is to abolish it.

We cannot afford to proceed down this path. We cannot afford to make nuclear war "thinkable" to the U.S.S.R. If there is anything we have learned about deterrence, it is that we must do everything possible to create a deterrent that is sufficiently invulnerable to deny the U.S.S.R. any incentive to launch a first strike or to escalate.

If there is anything we have learned about arms control over the last 20 years, it is that we must negotiate from strength.

This legislation fails to reflect either of these basic strategic realities.

STRATEGIC DEFENSE INITIATIVE

Similar actions by the House have jeopardized the elements of our SDI Program that have had broad support from both Republicans and Democrats.

The Senate made several limited cuts in the President's request, but it preserved the core of the program. It provided $4.25 billion for DOD and $279 million for DOE. In addition, funds were set aside for the accidental launch protection system and advanced launch system programs.

This legislation, however, seems totally indifferent to both the need to reduce our vulnerability to any form of nuclear attack, and the scale of the Soviet effort in strategic nuclear defenses. It seems totally indifferent to the fact the U.S.S.R. is probably spending more on research and development in these areas than the United States, and is moving towards a breakout capability in deploying land based strategic defenses.

The legislation provided only $3.158 billion for DOD and $245 million for DOE. This funding level would fall far short of needs for an effective research and development program, and would represent less than half the Soviet effort in similar programs.

The House then forced a compromise with the Senate that "split the difference" between the two bills, providing $4 billion for SDI, split into $3.738 billion for DOD and $262 million for DOE.

In doing so, the House departed from traditional conference outcomes for SDI that favored the higher Senate figure. This funding level constitutes negative real growth relative to fiscal year 1988. Furthermore, the conferees departed from tradition by allocating funding within the SDI Program.

In past, reallocation was left to the program manager, who was deemed better equipped to make resource allocation decisions at reduced funding levels. In addition to an 18-percent overall reduction in funds, the House forced changes in the SDI Program to specify that at least $225 million must be spent on the free electron laser—a tribute more to member interests than technical merit.

In a similar exercise in micromanagement, they mandated that at least $350 million must be spent on ground based interceptors, and not more than $85 million can be spent on space based interceptors—a funding level which Secretary Carlucci says "is not even adequate to undertake the cost-reduction efforts I believe are so important."

This decision to reduce SDI funding, and to designate program element funding, will severely impact the ability of the program manager to construct a balanced SDI program that protects both long and short term requirements.

Key elements, such as the Accidential Launch Protection System Program, will be adversely affected. Further, the fence on the space based interceptor programs will require the cancellation of important competitive technology efforts in this area that could have an application to both space-based and ground-based programs.

PROBLEMS IN ARMS CONTROL

The actions of the House have also damaged our prospects for meaningful arms control in ways which go beyond the damage they have done to our strategic deterrent.

Republicans and Democrats in the Senate combined to produce a Senate report on the fiscal year 1989 Defense Authorization Act that sought to strengthen the President's approach to arms control through new legislation that requires an annual report on arms control strategy, net assessment analysis of the impact of arms control, and better reporting of suspected violations. They supported a bipartisan approach to negotiating from a position of strength.

Unfortunately, the conference chose to ignore the progress being made toward reaching a START Treaty, the need to negotiate from a position of strength, and the changes taking place in the Soviet threat.

The House version of bill sought to achieve arms control by legislation on a number of key issues. By recommending unilateral limits or reductions in a number of key areas, these liberals weakened the defense posture of the United States while allowing the Soviet Union to continue to forge ahead.

LIMIT STRATEGIC FORCE LEVELS TO SALT II LIMITS

Let me be more specific. The House voted to require the administration to adhere to the sublimits set by the never-ratified Salt II Treaty, providing that the Soviets also comply. The Senate bill did not contain any similar provision.

The net result of the House approach to arms control was to prohibit the obligation of funds—beginning on September 1, 1989—to operate and maintain two nuclear-powered ballistic missile submarines [SSBN's] scheduled for overhaul in fiscal year 1990. Because of this amendment, the operational lives of the two SSBNs—the *James Monroe* and *Henry Clay*—will be shortened.

This position: Ignores the fact that the Salt II Treaty was never recognized, either politically or legally, by the United States; ignores the fact that the Soviet Union is not in compliance with all of the Salt II ceilings. Dr. Fred Eimer, the director of ACDA verification, has said that the Soviets are over the 1,200 ICBM/SLBM subceiling.

By forcing the early retirement of these SSBN's, this legislation is undercutting the Reagan administration's position of negotiating through strength, and the most survivable leg of the triad is being unilaterally reduced. Further, the U.S.S.R. is being rewarded for its violations of past agreements.

NUCLEAR TEST BAN

The legislation treatment of the test ban issue is a similar warning. The House wanted to limit United States nuclear testing to 1 kiloton without regard to whether effective constraints could be negotiated with the U.S.S.R.

After pressure from the Senate Armed Services Committee, the House receded, but insisted that a nuclear test-ban readiness program be established by DOE.

The House proponents of this readiness amendment used the administration's objective of a total test ban [TTB] or comprehensive test ban [CTB] for their own political purposes.

The Reagan administration had already initiated this program as a long-term objective, but made it contingent on the negotiation of a suitable agreement with the U.S.S.R. and the far more important needs of creating a safe post-START force posture.

The House version of the test ban amendment serves no purpose in actually reducing the risk of nuclear war.

It is nothing more than a "nose under the tent" for a more restrictive amendment next year, and for imposing a unilateral limit on U.S. force modernization that will not be imposed on the U.S.S.R.

The supporters of this measure also have advocated this test ban with the same disregard they always seem to show for any assessment of this measure on the trends in the nuclear balance, and they do not seem to care whether nonexplosive testing is sufficient to assure weapon effectiveness, changes in military requirements, reliability, and safety under a low TTB or CTB.

DEPRESSED TRAJECTORY

The House also voted to place a 1-year moratorium on testing of ballistic missiles in a depressed trajectory for fiscal year 1989.

The Republicans and Democrats in the Senate opposed this House amendment. The United States has no plans to test a ballistic missile in a depressed trajectory, and there was bipartisan agreement on requiring a report from the Secretary of Defense to be provided in the House and Senate Armed Services Committee.

However, instead of allowing these bodies to analyze the report and act accordingly, the conferees passed legislation that requires the United States to adhere to the moratorium regardless of the outcome of the report.

This amendment is a "nose under the tent" for an eventual liberal amendment to ban the flight testing of all ballistic missiles—the kind of legislation that undermines our efforts to maintain America's strength in the face of the Soviet threat.

SUMMARY IMPACT OF THE ICBM, SDI, AND ARMS CONTROL MEASURES

I regret the fact that President Reagan has had to veto this bill. However, the President could not ignore the fact that all of these amendments in the legislation are dangerous to our security and our ability to negotiate arms control agreements that really do reduce the risk and cost of war.

The present treatment of strategic forces, SDI, and arms control in both this bill and the draft appropriations bill represent a search for unilateral arms control that is being imposed without regard for their impact on our security, the trends in the military balance, and the ongoing arms negotiations with the U.S.S.R.

Given the fact that the Soviets show no indication of a willingness to unilaterally limit themselves, this trend can only undercut the overall arms control process, and lead to a radical shift in the balance of strategic weapons.

The final tragedy is that this unworkable approach to national defense and arms control, and partisan approach to strategic surrender, will thrust us into months of partisan debate that may well end with an even worse appropriations bill or continuing resolution. We have no assurance that we can block the threat that the actions of the conferees pose to our security, although we have no choice other than to try.

I can only hope that we will be able to turn away from our drift toward liberal extremism, and return to the kind of bipartisan approach to reviewing the President's defense budget request that was so ably led by Senator NUNN and Senator WARNER.

Mr. President, I thank the Chair for his patience during this late hour. I am deeply appreciative of that.

I yield back the remainder of my time.

THE 1ST 100 DAYS OF THE 2D SESSION OF THE 100TH CONGRESS

Mr. BYRD. Mr. President, this week has been a productive week for the Congress. The Senate has passed a historic trade bill for a second time, plant closing legislation has become law, and the Senate has affirmed landmark fair housing legislation that now goes to conference. We are doing the Nation's business on the 100th day of the 100th Congress and we are doing it well.

The pace of our progress this week matches that of last week. Last week the Senate passed much needed drought relief legislation to help America's farmers, reauthorized the Endangered Species Act, passed three more appropriations bills, and approved child nutrition legislation.

The Congress has not finished all of its business to be sure. There is still work to be done before we recess for the general elections. But several actions are worth noting as we progress with our work.

First, the 100th Congress has passed major landmark legislation. The trade bill is the most recent but other significant measures fall within this category. The Senate affirmed its constitutional duty in improving and giving its advice and consent to the INF Treaty. Congress has passed the broadest expansion of the Medicare Program since that program began in 1965.

And this week's passage of the fair housing bill has broken a 20-year gridlock on open housing legislation. I should also note that welfare reform is in conference.

Second, this Congress has not been shy to challenge the efforts of the White House to derail the legislative agenda. Last year, the Congress quickly overrode the President's veto of the Clean Water Act and the highway bill. This week, plant closing legislation becomes law of the land despite the President's lack of support even as we send him the landmark trade bill again.

Another trend can also be discerned. The 100th Congress has been a constitutional Congress. Much of our effort, particularly in the first session, was given over to checking and balancing the excesses of the Executive. Obviously, the Iran-Contra investigation comes to mind.

But it is fair to say that, in rejecting the nomination of Robert Bork, and in reauthorizing the Office of the Independent Counsel, the 100th Congress has done its work and done it well.

The 100th Congress of the United States has been a Congress that has been quick to react to the immediate problems of the American people. Homeless assistance, drought aid to farmers, increased funding for AIDS research, plant closing, and the first new housing legislation in 7 years are all testimony to the ability of this Congress to react quickly to meeting the needs of the American people.

This Congress has also moved with dispatch to keep the appropriations process moving. Twelve of the 13 appropriations bills have been passed by both Houses. The one exception is the appropriations bill for DOD.

I cite these trends to make the simple point that the 100th Congress of the Nation is upholding its duties as defined in article I of our Nation's Constitution. We are doing the people's business, and on this 100th day of the 2d session of the 100th Congress, as we reflect on our progress, let us pledge to continue to do our duty for this country that we love so much. We are making good progress.

I thank the Republican leader and our friends on the other side of the aisle for the cooperation that we have had in moving the legislation forward.

We have done very well and it is through the cooperation and the teamwork and the bipartisan efforts that we have been able to make the kind of progress that we have made.

There have been times when we have slowed a bit and we have not had that kind of cooperation. But on the whole this kind of record is clearly indicative of the kind of cooperation that we have had and I personally want to express my appreciation to the Republican leadership for its support and assistance.

HAPPY BIRTHDAY, SENATOR STENNIS

Mr. BYRD. Mr. President, I know all my colleagues will want to join me today in wishing the President pro tempore, Senator JOHN STENNIS, a happy 87th birthday.

On this day in 1901, Senator STENNIS was born in Kemper County, MS.

That was an important event for his parents, for the people of Mississippi, and for the citizens of the United States.

For more than 40 years now, JOHN STENNIS has been at the center of, or a vital participant in, some of the most momentous decisions and legislative efforts in modern American history. As he nears the close of an illustrious and patriotic career, we all have profound reasons to be grateful to Senator STENNIS and we have reasons to regret his impending retirement from our midst. Certainly, all Americans owe to Senator STENNIS a special appreciation for the multiple occasions in which he has assisted our country to navigate through turbulent waters, in peacetime and in war.

But today, with his retirement some months off, we all join his family and other friends in offering to our friend, the distinguished senior Senator from Mississippi, all of our best wishes and congratulations on reaching an important benchmark in a life filled with important benchmarks.

MILITARY PAY RAISE

Mr. WARNER. Mr. President, as I understand, the leadership determined at some point, possibly at the conclusion of this bill, the Senate may turn to an appropriations bill in the nature of an emergency appropriations bill. I just wish to state for the benefit of the leadership and the Members of the Senate, it would be my intention, at the appropriate time during the course of the consideration of that measure, to offer an amendment which would be that portion of the DOD authorization bill relating to the pay raises for the men and women of the Armed Forces.

I will file that amendment shortly, and if any Members desire to be cosponsors, this Senator will be more than welcome to receive them and add them to the amendment.

Mr. President, this morning, as I am sure all of my colleagues are aware, the President vetoed the defense authorization bill. While there may be differences among us on how best to provide for our national security and, indeed, there were honest differences of opinion on the subject of this veto, I am certain that my colleagues will agree that we must honor our obligations to our men and women in uniform around the globe who are serving this Nation.

These men and women who serve in our Armed Forces do so unselfishly and often at great sacrifice to themselves and their families.

The people in our military should not suffer while we in Congress strive to settle our differences on this or any other issue relating to national defense.

Therefore, I ask all my colleagues to join in ensuring that our men and women in uniform receive a full 4.1-percent pay raise which would have been provided by the defense authorization bill and subsequently the defense conference report had it become law.

These young people serving our country have always responded, and they have never failed. us. We must not fail them now. We must ensure they know they have our loyalty and our support, regardless of the differences we may have on how best to provide for our Nation's defense legislatively.

The proposed fiscal year 1989 pay raise for civilian employees in the Department of Defense is not part of the defense authorization process and, therefore, is not affected by the veto of the Defense Authorization Act. However, legislation is necessary to ensure that the pay raise for military personnel is forthcoming.

My amendment would provide a raise of 4.1 percent in basic pay and basic allowance for subsistence, and of 7 percent in basic allowance for quarters for all military personnel, effective January 1, 1989.

This is identical to the pay raise provisions in the defense authorization conference report and those contained in the defense authorization bill as passed by the U.S. Senate earlier this year.

The pay raise would affect some 2.1 million active-duty personnel and some 2.9 million dependents of active-duty personnel, some 1.1 million Reserves and National Guardsmen and their 1.2 million dependents. In short, approximately 7.3 million military personnel and family members are looking to the Congress for our support.

I urge each of my colleagues to register their strong support for the members of the Armed Forces and their families by voting for this amendment.

GLASNOST SEEMS TO BE UNREAL

Mr. HECHT. Mr. President, I feel I must rise today to express my frustration and, quite honestly, my dismay at the recent actions of the Soviet Union which run contrary to their avowed policy of glasnost. Mr. President, earlier this year, I met with Dr. Andrei Sakharov in Moscow. During that very moving occassion, I delivered a letter to him from Dr. Edward Teller, America's noted physicist. The letter I carried extended an invitation to Dr. Sakharov to visit the United States this August and attend an upcoming international conference on nuclear reactor safety, which will be conducted by the George Washington University's Institute for Technology and Strategic Research here in Washington.

I am happy to report to the Senate that Dr. Sakharov graciously accepted this invitation and expressed his sincere desire to attend. Upon my return to Washington, and over the past few months, I have acted as an intermediary with the Soviet Embassy to work out an arrangement whereby Dr. Sakharov would be allowed to come to America, for a few days in August, participate in this international event, and return to Moscow.

As this body and America knows, Mr. President, the Soviet Government has in the past refused to allow Dr. Sakharov to travel outside of Russia. Unfortunatley, it appears they have not changed their mind. Not withstanding all my efforts, which have been fully in keeping with glasnost, as of yesterday, the Soviet Union will not allow Dr. Sakharov to accept the invitation of Dr. Teller.

Mr. President, I am perplexed by Soviet behavior. Over the past year, we have heard nothing but the coming of a new age with the advent of glasnost and perestroika. I can report to the Senate that even I, who has watched the Soviet Union with a very suspicious eye, was optimistic that an arrangement could be worked out. Indeed, the Soviets gave me every reason to be optimistic.

In the end, it appears the Soviets are better at keeping false hopes alive than desiring to change rigid policies. Glasnost is really just for show, without much credibility. If the Soviet Union were truly interested in demonstrating in good faith to the world, that it wishes to be an international partner, why is it afraid to allow Dr. Sakharov to leave even for just a few days? It is hard to figure out.

Mr. President, the conference in question will address the critical issue of improved safety for nuclear reactors. What better topic—safe nuclear power for the future—for two of the greatest scientific minds to sit down and discuss than this. The subject has major ramifications for mankind.

Mr. President, I have provided Dr. Teller's letters to Dr. Sakharov—in person—to General Secretary Gorbachev—via our Ambassador. I have spoken in person and by telephone with Embassy officials. I have made a personal appeal. Unfortunately this has all been to no avail.

I am saddened that Mikhail Gorbachev is so terrified of allowing Dr. Sakharov time off, even for a few days, that he refuses this simple request. Actions speak louder than words, Mr. President, and this denial by the Soviets speaks volumes about Russia under Mr. Gorbachev. Glasnost does not seem to be real.

What a momentous occasion it would be—one truly in the spirit of glasnost—to allow the father of America's hydrogen bomb and the father of the Soviet hydrogen bomb to come together, in peace, and work together to benefit mankind. It is indeed unfortunate and I throught my colleagues would like to know.

Mr. President, I ask unanimous consent to print in the RECORD the letters referred to above.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE GEORGE WASHINGTON UNIVERSITY, SCHOOL OF ENGINEERING AND APPLIED SCIENCE,
Washington, DC, March 23, 1988.

Mr. MIKHAIL GORBACHEV,
General Secretary of the Central Committee, Communist Party of the Soviet Union, Kremlin, Moscow, U.S.S.R.

DEAR MR. CHAIRMAN: Of the many changes you introduced, one was of particular importance. It was to make it possible for Andrei Sakharov to return to Moscow and resume his work. I am sure that the whole of the American scientific community has been deeply impressed by this decision.

If Academician Sakharov were allowed to travel and visit with his many admirers in the scientific community, of which I am one, a further important step would have been taken in the process of openness. In this regard, I am sending Academician Sakharov the attached letter inviting him to attend a meeting in the United States on safe nuclear reactors.

I believe that openness is of particularly great help in an approach to mutual confidence, stability, and peace. It is for this reason that I have asked Senator Hecht to carry this letter to Moscow.

Sincerely,

EDWARD TELLER.

THE GEORGE WASHINGTON UNIVERSITY, SCHOOL OF ENGINEERING AND APPLIED SCIENCE,
Washington, DC, March 23, 1988.

Dr. ANDREI SAKHAROV,
The USSR Academy of Sciences, Leninskiy Prospekt 14, Moscow 117901.

DEAR ACADEMICIAN SAKHAROV: A letter from the President of The George Washington University was sent to you a few weeks ago inviting you to a conference on reactor safety. Indeed, the Institute for Technology and Strategic Research will organize such a conference and your presence would be of the greatest possible value. The immediate interest is connected with your suggestion about locating nuclear reactors underground. I believe in this proposal and believe it is of great importance to the U.S.S.R., to the U.S., and to the whole world. In a more general way, I also believe that discussing specific technical problems can bring scientists more closely together and will serve as a good introduction to approaching more difficult general questions connected with war and peace.

I have a great personal interest in meeting you. Several reasons (particularly including my age and my health) make it practically impossible for me to visit you, but I still can travel in the United States.

I should be most happy with an understanding that all of our conversations should be completely open, that is, that they should be accessible in all details to everybody. A clear understanding of this circumstance may make it particularly easy for us to talk on a common basis—first on some special technical problems and later, if you wish, some more general problems. I could be available to you for a few days on the East Coast of the United States and, in addition, for almost any length of time on the West Coast.

If you are able to visit the United States, I am sure that there will be literally thousands of scientists and other eminent people who would be eager to see you. I am merely one of them.

It would be a particularly great pleasure if your wife could join you and we could continue our conversation.

Sincerely,

EDWARD TELLER.

U.S. AID TO THE INTERNATIONAL FUND FOR IRELAND

Mr. KENNEDY. Mr. President, on Monday, President Reagan issued the Presidential certification to permit the current $35 million dollar installment of U.S. financial assistance to be paid to the International Fund for Ireland.

U.S. assistance to the fund, subject to annual Presidential certifications, was authorized by Congress in 1986 as a demonstration of America's support for the historic Anglo-Irish Agreement reached that year between the British and Irish Governments.

The Anglo-Irish Agreement offers the best hope for an end to the violence in Northern Ireland and a peaceful settlement that respects the rights of both the Catholic and the Protestant communities in that land.

As part of the Agreement, the International Fund for Ireland was created by the two governments as a means of promoting the economic and social development in the areas of Ireland and Northern Ireland that have suffered most severely from the violence.

Many of us in Congress have worked closely with the President and the Secretary of State to encourage U.S. participation in the International Fund. I welcome the President's certification for the current fiscal year as a strong reaffirmation of U.S. confidence in the Fund.

A State Department memorandum supporting the President's determination provides a strong endorsement of all aspects of the Fund's activities, including the structure of the board of the Fund, the pattern of expenditures made by the Fund, and the worthwhile results being achieved by the Fund.

I am hopeful that this action by the President will encourage Congress to continue this much-needed annual assistance as part of our foreign aid appropriations for fiscal year 1989. The Fund is the most visible way for the United States to help demonstrate that there are realistic alternatives to violence in Northern Ireland, and it deserves our full support.

Mr. President, I ask unanimous consent that the text of the President's certification and a memorandum prepared by the Department of State on the Fund may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
WASHINGTON,
August 1, 1988.

PRESIDENTIAL DETERMINATION NO. 88-21

Memorandum for the Secretary of State.

Subject: Presidential Certification to Permit U.S. Contributions to the International Fund for Ireland.

Pursuant to Section 5(c) of the Anglo-Irish Agreement Support Act of 1986 (P.L. 99-415), I hereby certify that: (1) the Board of the International Fund established by the Anglo-Irish Agreement is, as a whole, broadly representative of the interests of the communities in Ireland; and (2) disbursements from the International Fund (a) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and (b) will address the needs of both communities in Northern Ireland.

You are requested to report this determination to the Congress immediately.

This determination shall be effective immediately and shall be published in the Federal Register.

Ronald Reagan.

DEPARTMENT OF STATE,
WASHINGTON,
July 20, 1988.

Memorandum for the President.

From: John C. Whitehead, Jr., Acting.

Subject: Certification to Permit U.S. Contributions to the International Fund for Ireland and Northern Ireland.

The Anglo-Irish Agreement Support Act of 1986, Public Law 99-415 ("the Act"), authorizes United States contributions to the International Fund ("the Fund") established pursuant to the November 15, 1985 agreement between the United Kingdom and Ireland. The Act establishes the U.S. contribution as $50 million for fiscal year 1986 and $35 million for each of the fiscal years 1987 and 1988. U.S. contributions may be used only to "support and promote economic and social reconstruction and development" in Ireland and Northern Ireland.

Section 5(c) of the Act requires that each fiscal year, prior to the U.S. contribution, the President certify to the Congress that he is satisfied the following conditions have been met: (1) the Board of the Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the Fund (a) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and (b) will address the needs of both communities in Northern Ireland. Each such certification must include a detailed explanation of the basis for the President's decision.

The Fund received $85 million for fiscal years 1986 and 1987. The proposed certification is intended to cover the 1988 contribution of $35 million.

SATISFACTION OF CONDITIONS FOR CERTIFICATION

The present composition of the Fund's Board and the arrangements for disbursement of its funds satisfy the conditions set forth in Section 5(c).

(1) Composition of the Board.

The method by which the Board is selected assures that it is "broadly representative of the interests of the communities in Ireland and Northern Ireland," as required by Section 5(c)(1). The Board of the Fund consists of seven representatives: a chairman and three members each from Ireland and Northern Ireland. Pursuant to the Anglo-Irish Agreement, members are appointed jointly by the U.K and Irish governments. As described in more detail in the attached Memorandum of Justification, the members of the current Board represent a broad cross-section of both communities and have wide experience in both public policy and private sector activities in Ireland and Northern Ireland.

(2) Equitable Principles of Disbursement.

By its charter, the Fund is required to make disbursements "consistent with the economic and social policies and priorities of the respective governments." To that end, the guidelines the Fund has established for awards are specifically made subject to U.K. employment discrimination legislation governing Northern Ireland. That legislation prohibits employment discrimination on the grounds of religious belief or political opinion.

In addition, equal representation of Northern Ireland and Ireland officials and the cross-community participation within all of the management units of the Fund ensure funds are disbursed in accordance with the principle of "nondiscrimination and equality of opportunity in employment without regard to religious affiliation" (Section 5(c)(2)(A) of the Anglo-Irish Support Act). Criteria by which to supplement this principle are clearly spelled out and are built into the appraisal and approval systems as well as the monitoring and evaluation systems. The systems themselves are, in turn, well defined. All grantees are required to sign a pledge, using the exact words employed by the U.S. Congress, that any money allocated be used in a nondiscriminatory manner.

The Fund's systems and criteria also ensure that awards, "will address the needs of both communities in Northern Ireland" (Section 5(c)(2)(B) of "The Anglo-Irish Support Act"). The Fund's charter establishes employment generation and investment promotion in both communities as top funding priorities. The Fund solicits and approves proposals consistent with its employment generation and investment objectives, from a broad cross-section of private groups, investors and individual citizens from both communities.

Finally, the geographic distribution of projects approved throughout Ireland and Northern Ireland demonstrates that the needs of both religious communities are being met.

A more detailed statement of the basis on which the Fund disburses assistance, and its effectiveness in reaching both communities is contained in the attached Memorandum of Justification.

MEMORANDUM OF JUSTIFICATION FOR CERTIFICATION U.S. CONTRIBUTION TO THE INTERNATIONAL FUND FOR IRELAND FOR FISCAL YEAR 1988

Section 5(c) of the Anglo-Irish Agreement Support Act of 1986, Public Law 99-415 ("the Act"), requires that each fiscal year, prior to contributions to the International Fund for Ireland, the President certify to the Congress that he is satisfied the following conditions have been met:

(1) The Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland.

(2) Disbursements from the International Fund:

(a) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(b) will address the needs of both communities in Northern Ireland.

As required by the Act, the following is a detailed explanation of the basis for the President's certification.

BACKGROUND

1. The International Fund for Ireland ("the Fund") was formally established on December 12, 1986, following ratification of an agreement between the Governments of Ireland and the United Kingdom by the Irish Dail and the British Parliament, respectively. That agreement was entered into on September 18, 1986, and implements article 10(a) of the Anglo-Irish Agreement of November 15, 1985. It set up the Fund as an international organization with the two signatories as members.

The objectives of the Fund, as provided in the Anglo-Irish Agreement, are to promote economic and social advancement and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland. The agreement states that the Fund shall accomplish these objectives by stimulating private investment and enterprise, supplementing public programs and encouraging voluntary efforts, with special emphasis on projects promoting communal reconciliation. A special arrangement providing for the establishment of two investment companies is contained in the agreement.

The Fund is also guided by the September 26, 1986 agreement signed between the U.K., Ireland and the U.S. Government. This agreement specifies that the U.S. contributions should be used primarily to stimulate economic growth and prosperity in the private sector with emphasis on practical projects, and should be distributed on the basis of strict equality of opportunity, and nondiscrimination in employment, without regard to religious affiliation.

The Fund has an independent, nonpolitical, seven-member Board. It is guided by a Joint Advisory Committee of senior civil servants drawn equally from Northern Ireland and Ireland. The Committee's principal role is to advise the Board on the economic and social policies and priorities of the two governments and to avoid duplication of activity. The Board is supported by a Secretariat composed of carefully selected administrators from the two jurisdictions. The Secretariat is headed by two joint directors general, one from each side. The Fund's operating expenses are paid by the British and Irish Governments.

The Fund receives contributions directly from bilateral donors. The U.S. contribution, as established by the Anglo-Irish Support Act, totals $120 million: $50 million for fiscal year 1986 and $35 million for each of the fiscal years 1987 and 1988. Canada and New Zealand have made specific pledges equivalent to $10 million and $300,000 respectively. The EEC Commission has adopted a draft budget for 1989, including a provision of $18 million for the International Fund. The President of the Commission has stated that he will seek to have a similar provision included in the budgets for 1990 and 1991. It is hoped that other countries such as Australia will also contribute.

Each donor is entitled to appoint a representative to attend all Board meetings as a nonvoting observer. Observers receive all Board papers and help provide guidance to the Fund on behalf of the donor countries. The Honorable William M. Fine was appointed the U.S. Observer to the Fund in December 1986.

The Board has held thirteen formal meetings and has put in place procedures to govern its operations and its working relationship with its Secretariat and Advisory Committee. The Board meets approximately once every two months, principally to review policy and procedural issues and to approve or reject proposals forwarded for consideration.

The Fund has also established program teams in the following areas: Business Enterprise, Tourism, Urban Development, Agriculture and Fisheries, Science and Technology and the Wider Horizons Program. These teams were delegated responsibility for approval, implementation and monitoring of all projects within these six key program areas. The teams are composed of representatives from government departments and agencies from both jurisdictions. Detailed agreements have been finalized between the Fund Secretariat and the concerned government implementing agencies from both jurisdictions involved with each program. These agreements contained the following:

(a) description of the purpose and scope of each program;

(b) administration of the program (including processing of applications, reporting/monitoring systems, appeals; publicity, delegations of authority, subcontracting and commitment to nondiscrimination) and;

(c) financial arrangements (including issuance of checks, program budgets, administration cost and audit requirements).

Each program team is composed of an equal number of Northern Ireland and Ireland Government technical officials (between 3 to 5 persons). The teams are headed by joint chairmen, one from the North and one from the South. A Fund Secretariat representative from each side attends all program team meetings. Each team is supervised by two Fund Board members, usually one from the north and one from the south. These Board members keep the Chairman of the Board and the full Board of Directors informed of their respective program team's activities.

Program teams forward projects to the Board for any of the following reasons: a) the total value exceeds 400,000 pounds (for the Wider Horizons Program, 200,000 pounds); b) a policy determination is required; c) the project is controversial; or d) appeals have been made for review of prior decisions.

In addition, as required by the terms of the Anglo-Irish Agreement, the Fund has established two investment companies, one in Northern Ireland the other in Ireland. These entities also have responsibilities for approving projects in which they participate. The investment companies are managed by Boards composed of highly respected professionals in law and business and headed by a chief executive. Five million pounds have been allocated to each company as working capital.

CERTIFICATION ELEMENTS

1. Board Representation

The seven-member board, which is jointly appointed by the British and Irish Governments, has three members each for Ireland and Northern Ireland, and a Chairman. Board membership has been chosen through consultation between the British and Irish Governments, and, by design and agreement, is representative of the communities in both Ireland and Northern Ireland.

The U.K. (Northern Ireland) representatives all have significant public policy experience, have served either in senior government positions or as elected public officials as well as having business and private sector backgrounds. They are:

Sir Ewart Bell. Former head of the Northern Ireland Civil Service, also served in the Ministry of Health and Local Government, as Permanent Secretary of the Department of Commerce, and later as Permanent Secretary of the Department of Finance. Currently serves as a Director of the Ulster Bank and is Honorary Treasurer of Queen's University, Belfast.

Sir Gordon Booth. Retired diplomat, and current Director of Hanson PLC., one of Britain's largest enterprises, with extensive interests in the U.S. He is also Vice Chairman of Bechtel Ltd., the British arm of the Bechtel Group. His diplomatic career was principally devoted to trade and investment matters, including serving as British Consul-General in New York.

Sir James Doherty. Private Businessman in the meat processing sector. Former Nationalist Councillor in Derry, Chairman of the Nationalist Party in North Ireland, Chairman of Western Education and Library Board and member of several educational committees. He is currently on the Board of the Northern Ireland Housing Executive and Northern Ireland Electricity. He also serves on the Northern Ireland Working Party of the University Grants Committee.

The Ireland representatives have held senior positions in major private corporations. They are:

Sir Gerald Dempsey. Formerly Chief Executive (ancillary activities) of Aer Lingus and Chairman of Aer Lingus-Dunfey Hotels Corporation; currently Director of Waterford Glass Group PLC., and other companies. Mr. Dempsey is a chartered accountant by training and is former President of the Institute of Chartered Accountants in Ireland.

Mr. Neil McCann. Chairman and CEO of Fruit Importers of Ireland, the largest fruit and vegetable importing company in Ireland. Mr. McCann is also a founder member of the Dundalk Economic Development Co., Ltd.

Dr. Alastair McGuckian: Chairman of Masstock International, a large-scale agricultural company involved in dairy and farming, as well as agricultural development projects in Saudi Arabia, China and U.S.A.

The Chairman is Mr. Charles Brett. Mr. Brett is a partner in a long-established firm of Belfast solicitors, and formerly Chairman of the Northern Ireland Housing Executive. He also served as Chairman of the Northern Ireland Labor Party.

The Board is comprised of an impressive group of individuals who are highly respected in their jurisdictions for their accomplishments, integrity and professional capability. Both major religious communities are properly represented. In addition, the residence of members is dispersed across a variety of geographic areas in Northern Ireland and Ireland.

2. Disbursements from the International Fund

The Fund's structure and policy framework ensure that resources are distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation, and that these resources address the needs of both religious communities in Northern Ireland. As described below, this structure and policy framework is manifest in the internal checks and balances in the Fund's appraisal, approval and management systems. Also, the geographical distribution of approved projects confirms the Fund's effectiveness in meeting the needs of both communities, and accomplishments have been made in the areas of job creation, leveraging of private investment, and reconciliation.

a. Distribution of disbursements in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation.

Structure of the Fund—The Fund Board of Directors, the Advisory Committee, the Secretariat, and the program teams have equal representation from Northern Ireland and from Ireland. The Northern Ireland representatives, in addition, include individuals from both the Catholic and Protestant communities. Individuals with each of these organizational units are fully aware of and committed to the Fund's principle of equality and nondiscrimination in employment. It is an important element in performing their various functions.

Further assurance of these principles being appropriately practiced is the extremely high caliber of officials involved with the Fund. The Board is composed of individuals who are highly respected for their professional competence, integrity, and commitment to the Fund's objectives. Furthermore, because of the importance given the Fund by the two Governments, the Secretariat staff have been carefully selected for their administrative skills and judgment. The project approval and management procedures which the Secretariat have established and which the Board of Directors have endorsed, clearly demonstrate their strict adherence to equality of opportunity and nondiscrimination. Finally, the program teams are staffed with exceptional technical and administrative professionals who are equally committed to these operating principles. These observations were confirmed by the U.S. Observer, by visits of A.I.D. officials to Northern Ireland and Ireland, and by visits of Fund officials to the United States.

Policy framework—All Fund publications and solicitations for proposals clearly spell out the Fund's commitment to equality of opportunity and nondiscrimination without regard to religious affiliation. All successful applicants are required by the Board's letter of offer to make the following commitment:

"Acceptance of a grant or loan under this scheme will be deemed to signify the applicant's acceptance of the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation and that the applicant will be expected to use the money in accordance with this principle."

The letter of offer makes it clear that any violation of this agreement will require the immediate repayment of Fund resources.

Equality of opportunity requirements are also reinforced in Northern Ireland under the Fair Employment (Northern Ireland) Act of 1976. This act makes employment discrimination on grounds of religious belief or public opinion illegal. These principles will be further strengthened by the Government in Northern Ireland when legislation, which is shortly to be introduced, is passed. The principles of the new legislation has been spelled out in an official pamphlet entitled, "Religious Equality of Opportunity in Employment":

"* * * (It) will be the basis for a radical program of action to secure equal opportunity for all. It will strengthen the existing law and build on work already done by the Fair Employment Agency. It will introduce compulsory monitoring by employers. Employment practices will be subject to systematic external audit. There will be new support and education programs to help employers. The legislation will strengthen enforcement powers, through the criminal and civil law, and through the denial of Government grants and contracts."

Implementation of this legislation will greatly facilitate the monitoring of equality of opportunity.

Project Appraisal and Approval—The Fund has instituted a clear and systematic appraisal and approval system. Each program team has signed agreements with the Fund Secretariat which spell out the criteria upon which all applications are solicited and approval decisions are made. Both jurisdictions' program team members have been chosen for their expertise in the particular sector. The program teams appraise each of the projects using standard economic and financial analysis tools, as well as criteria relevant to their technical field.

Projects must also be consistent with the economic and social policies and priorities of the respective Governments which have the prerogative to agree to activities proposed under the Fund. No resources are to be used, for example, to improve the standing of or to further the goals of any paramilitary organization, either directly or indirectly. The Fund and the two Governments are primarily interested in supporting activities which contribute to viable, self-sustaining growth, prosperity and stability.

Thus, within the Fund's policy guidelines and criteria set down in the appraisal and approval process, projects are accepted for funding, turned down, or forwarded to Government agencies if the proposals can be financed by an existing Government program. Each action to approve, disapprove, or forward a project to a Government agency requires the recommendation of the relevant program team, the endorsement of the two Board members supervising the team, and the approval of the Fund Secretariat. If any project is controversial, raises policy issues or exceeds the program team's delegation of authority, it is forwarded to the Board itself.

The appraisal and approval net is extremely wide. The principle under which the Fund operates with reference to equality of opportunity and nondiscrimination is clear. The cross-community composition of the Fund Board, the Secretariat and the program teams ensure that this principle is adhered to. Any violation of these objectives would be immediately addressed by the very nature of the system the Fund has instituted.

Program Implementation—As of April 1988, the Fund has received approximately 2,863 applications. Of these, 159 have been approved, 1,158 are under review and 1,555 have been turned down or forwarded to other Government agencies for consideration under existing Government assistance programs.

The Fund has allocated its existing resources of $91.3 million to its various program areas. As of April 1988, some $41.7 million had been committed. Of this amount $23.7 has been committed to approved projects within the various programs and $17 million to the investment companies.

Most of the programs are heavily oversubscribed and the deadline for new applications has passed. Project applications in most of the programs have been appraised and are about to be approved. The Fund anticipates that it will fully commit its remaining resources during the next three to four months. The only exception is the Wider Horizons Program which will commit its budgeted funds by December 1989.

The geographical distribution of the approved projects indicate that the commitments made under the various programs is quite balanced. In Northern Ireland, the following counties have projects: Armagh (5), Antrim (13), Down (15), Fermanagh (10), Londonderry (14), and Tyrone (14). There are 6 approved projects in Belfast. In the border counties of Ireland, the distribution is a follows: Donegal (18), Louth (11), Leitrim (5), Sligo (7), Cavan (8) and Monaghan (6). There are also 6 regional projects and 21 projects of a cross border nature.

The major portion of resources committed to specific areas is allocated to the counties in Northern Ireland with high unemployment. Approximately 60 percent of these resources are distributed to areas in which unemployment rates exceed 25 percent and half of this amount goes to areas where rates of unemployment exceed 30 percent. Another 30 percent of approved Fund resources go to counties with unemployment rates between 21-25 percent and only the remaining 10 percent to those areas where unemployment is less than 20 percent.

b. Addressing the needs of both communities in Northern Ireland.

The Fund does not permit religious affiliation to be a factor in the approval process as this would be a violation of the principle under which the U.S. Government contribution was made. Documentation submitted to the Fund does not indicate an applicant's religious affiliation. Fund representatives were, therefore, unaware of the religious affiliation of the individual applicants or grantees, although they are aware that certain geographical areas have large Catholic majorities, i.e. West Belfast, North Belfast, Newry and Derry.

The geographical distribution of the approved projects described in the section above shows considerable balance and thereby demonstrates that the Fund has been able to address its resources to the needs of both communities. Furthermore, as mentioned earlier, the Fund has allocated a major portion of its resources in Northern Ireland to areas of higher unemployment where members of the Catholic community tend to reside.

During a recent program review of the Fund in Northern Ireland and Ireland conducted by A.I.D., all management officials and some 30 grantees were asked to comment on the extent to which the Fund was addressing the needs of both communities. While none could state in quantitative terms the extent to which their individual projects involved one religious community or the other, many, nevertheless, spoke proudly of the cross-community participation in their project activities and of the personal and professional working relationships developed across religious lines. Some recognized the difficulty that the geographic location of a project posed in attracting members of the other community, given the segregated nature of the society in Northern Ireland. But all, without exception, indicated that every effort was being made to increase and strengthen the cross-community nature of their endeavors.

The Board has clearly indicated its concern about the needs of the most depressed areas. It has supported a number of projects in such areas as North and West Belfast, Derry and Newry. However, to underscore its concern and to help the inflow of Fund resources to depresed areas, it is actively involved with community leaders in these locales to find further ways of providing help. This is an area to which the Board is certain to give priority attention.

OTHER ELEMENTS

a. Reconciliation.

Reconciliation is also an important element of the Fund's program. It is a major thrust of the Wider Horizons Program which concentrates on reconciliation efforts in the context of skills training activities. Participation in the training program is equally divided among persons from Northern Ireland and Ireland, and the Northern Ireland contingent is represented equally by each religious community. In addition, all of the other programs contribute significantly to reconciliation. The Urban Development Program helps to generate economic activities, often in town centers to upgrade "neutral areas" in which both communities may interact for commercial benefit. The Tourism Program will attract people of both communities to enjoy leisure areas, as well as visitors from other countries.

The Science and Technology Program brings technical and professional people from both jurisdictions to participate in joint research programs of common interest. The Business Enterprise Program provides common facilities to individuals of both communities to work towards becoming established as independent entrepreneurs.

The operation of the Fund, its Secretariat, and its program teams also brings Northern Ireland and Ireland officials together on a regular basis. It has provided a setting for frequent and constructive interaction from which very close working and personal relationships have developed. This contributes to "reconciliation throughout Ireland."

b. Job creation and private investment.

Two important elements tied to the U.S. Government's contribution to the Fund are job creation and the leveraging of private sector investment into the economy. Both elements have been adopted by the Fund in the implementation of its program.

Each of the program teams have provided approximate figures of direct jobs created, and short-term construction jobs created. The $23.7 million committed to projects approved by the program teams (exclusive of the $17 million to the investment companies) have resulted in the creation of 1,474 direct jobs and 588 construction jobs. Indirect jobs arising from related, ancillary activities generated by the projects will be significantly higher. In addition, some 200 new jobs will flow directly from the recent approval by the Northern Ireland investment company of a major project (Neotech), involving a U.S. based company.

The Fund has also been effective in leveraging private sector investment. Projects approved by the program teams ($23.7 million) have leveraged some $25.1 million. Some of the projects also include Government investments which total an additional $3.7 million. Thus, every dollar that the Fund has committed through the program sector approach has resulted in an additional $1.21 being committed from other sources—primarily the private sector. Future programs offer considerable potential for further leveraging private sector investment. For example, the farm diversification program will contribute up to a maximum of 30 percent of the cost of a project, requiring that the balance come from other sources. The two investment companies also anticipate being able to leverage significant levels of funding. The recent approval by the Northern Ireland investment company of $450,000 for the Neotech project referred to above will leverage some $7.5 million.

CONCLUSION

The Fund has been in operation for just over one year and continues to refine and evolve its policies and management operations. It has set up a systematic approach to implement its objectives. Resources have been allocated according to needs and to projects which, without Fund support, would not have been possible including those in areas in which Government programs did not exist. Based upon its experience to date with the various sector programs, the Fund's Board will determine (in accordance with USG legislation and agreements) how the next tranche of the U.S. contribution will be allocated.

Inasmuch as project activities under the International Fund for Ireland have recently commenced, and most of the approved projects have only received their first payments, it will be another six to twelve months before the outcomes of these projects can be fully assessed. At that time, A.I.D. plans a further review of the Fund's progress in meeting its objectives with respect to its beneficiaries. However, based upon A.I.D.'s review of the present policies and procedures and of the Fund's experience in implementing its program to date, the following is clear:

(1) The Board of the Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland;

(2) Disbursements from the Fund:

(a) are, and will be, distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(b) are, and will, address the needs of both communities in Northern Ireland.

AL MAZEWSKI

Ms. MIKULSKI. Mr. President, I would like to make a few comments about a remarkable American, Al Mazewski, who died today in Illinois.

Mr. Mazewski was the president of the Polish American Congress and had led that organization since 1968. For the past 21 years he had also headed up one of the country's largest fraternal organizations, the Polish National Alliance.

He was the heart and the voice of all of us in this country who are of Polish descent.

On many, many occasions I turned to Mr. Mazewski for advice on issues which are important to Polish-Americans—immigration reform, human rights, East-West relations, political developments within Poland. His counsel was always measured and wise.

Over the years Mr. Mazewski received so many well-deserved awards and citations. He was the friend and adviser to Presidents and Popes, particularly the current Pope.

He held together the Polish-American community through newsletters, an extensive network of friends in high places, dozens of phone calls daily, extraordinary energy, and unlimited good will.

I will miss him greatly as a friend and as a leader. So will all of Polonia and America.

ALOYSIUS MAZEWSKI, PRESIDENT, POLISH AMERICAN CONGRESS

Mr. MURKOWSKI. Mr. President, I rise today to honor the memory of a friend, a great man and a great Polish-American, Aloysius Mazewski, president of the Polish American Congress.

Mr. Mazewski passed away this morning in Chicago.

Al Mazewski has been active in Polish-American affairs for his entire adult life.

Since 1967, he has been president of the Polish-American Alliance.

In 1968, he became president of the Polish American Congress.

Under his leadership, the Polish-American community has worked to improve the quality of life of Poles everywhere.

Through the Polish-American Charitable Foundation, Al Mazewski supervised the delivery of badly needed assistance to those struggling under the Communist regime in Poland.

For his contribution, Al Mazewski has been honored by Presidents going back to Richard Nixon in the late 1960's.

He is survived by his wife, Florence, his son Aloysius, his daughter Marilyn, and two granddaughters.

Al Mazewski was a man who taught all who knew him the essential lesson of our American experience.

He was a patriot in all respects. He embodied the best qualities of our Nation, but he retained a deep love of an appreciation for the culture from which he had his roots.

He deeply believed the blessings of liberty which we enjoy in this land should be the birthright of all mankind.

He strove to provide the best of the American experience to the citizens of Poland who have suffered so much to preserve their national identity.

Al's steady, forceful leadership will be greatly missed by all Polish-Americans.

CRISIS IN EMERGENCY MEDICAL CARE

Mr. CRANSTON. Mr. President, there is a crisis in America's hospital emergency rooms. The rising number of patients who cannot pay is forcing trauma centers—specialized centers in the care and treatment of severely injured individuals—to close and emergency rooms to turn away patients. In Los Angeles, 7 out of 23 trauma centers have withdrawn from the trauma system. In Miami, seven of the eight trauma centers withdrew from the system. In Chicago, 2 of 10 trauma centers dropped out of the 2-year-old system. I am also advised that trauma centers in San Diego and San Jose are close to dropping out of their systems. Although many factors are involved, excessive uncompensated care losses were cited as the primary reasons behind all of these actions.

Mr. President, legislation I have introduced, S. 10, the proposed Emergency Medical Services and Trauma Care Improvement Act, was ordered favorably reported by the Senate Labor and Human Resources Committee on July 26. This legislation would provide much-needed assistance to communities and States in setting up trauma systems. Equally important, it would provide for needed financial relief to trauma centers that are threatening to close because of large financial losses associated with trauma.

In terms of financial assistance to trauma centers, S. 10 is a modest bill and certainly would not solve the systemic problems associated with uncompensated care, which our Nation's hospitals are facing. Those issues must be addressed comprehensively and nationwide. However, in the meantime, we must help ensure that our Nation's trauma centers are able to continue to provide lifesaving care to all who are in need. That is what S. 10 is intended to do.

Mr. President, I ask unanimous consent that the following three recent articles and a TV news show transcript concerning this life-threatening issue be printed in the RECORD at the conclusion of my remarks: "Tauma Care on the Critical List," Time Magazine, July 4, 1988; "Crisis in Emergency Rooms: More Symptoms Than Cures," New York Times, July 28, 1988; "Emergency Rooms in U.S. Listed in Critical Condition, Los Angeles Times, July 25, 1988; and the transcript of a July 23, 1988, segment on Trauma Centers from West 57th Street, produced by CBS News.

The West 57th Street story, Mr. President, emphasizes the need for State governments to take on the politically sticky task of designating a few hospitals to be trauma centers. These are vital actions which would be facilitated by S. 10.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRAUMA CARE ON THE CRITICAL LIST—AS COSTS SOAR, SPECIAL EMERGENCY UNITS ARE IN DEADLY TROUBLE

(By John Langone)

Of all the rules of thumb that govern emergency medicine, one of the most basic is to get the patient to the nearest hospital—and fast. More and more, however, that precept, designed to save lives, has gone awry. In medical centers and hospitals across the country, disorganized, underfunded and understaffed emergency services are on the critical list. In Chicago not long ago, a fire-department rescue team rushed a 19-year-old gunshot victim to a nearby hospital emergency room unfamiliar with such cases. Within hours the patient, who had been alert and in satisfactory condition, began to fail. The hospital staff, unable to respond adequately, belatedly asked the Cook County Hospital trauma unit to take the patient. On his arrival at the facility, some five hours after first receiving medical aid, the youth was dead.

Beset by high costs and poor patients, often ignored by paramedics and abandoned by doctors who fear malpractice suits, the nation's trauma centers—specialized 24-hour emergency rooms—have been especially hard hit. Last week the Journal of the American Medical Association published a survey of U.S. regional trauma systems that came up with a disturbing diagnosis. Twenty-two years after the National Academy of Sciences declared that trauma was the "neglected disease of modern society," only two states, Maryland and Virginia, have set up acceptable statewide systems. Nineteen states and the District of Columbia either have incomplete coverage or lack essential components; the remaining 29 states have not yet set up formal systems. Says Dr. John West of the University of California at Irvine, an author of the J.A.M.A. report: "If you drive across the U.S. and get into an accident, you have maybe a 1-in-50 chance of getting the proper treatment."

Those odds also apply to affluent areas. In Northen California a bicyclist whose legs were severely damaged in an accident lay for several hours in a local emergency room waiting for special surgeons. The patient was eventually transferred to a trauma unit in San Francisco, where doctors had to amputate one of his legs. A more tragic case occurred at a Nevada hospital that claimed to specialize in trauma care. A skier with a ruptured spleen died while waiting for a CAT scan ordered by a surgeon who believed the patient's injuries were not immediately life threatening.

Traumatic injuries—including violent accidents, shootings and stabbings—are the leading cause of death among Americans between the ages of one and 44. The bleeding and shock that frequently ensue demand a degree of speed and precision not often available in most hospital emergency rooms. Experts believe that of the more than 140,000 Americans who are killed by traumatic injuries each year, at least 25,000 die needlessly because they do not receive the proper care in time.

In the 1970s trauma-care networks sprang up in a number of American cities, inspired by MASH units—mobile army surgical hospitals—widely used in the Viet Nam War. Twenty-three Los Angeles hospitals signed up to participate in a county trauma network that was launched in 1983, although experts warned that there would not be enough patients to go around and urged that only eight centrally located units be designated. It soon became evident that 30% to 35% of the trauma victims were uninsured and unable to pay their bills. Today seven of the Los Angeles trauma centers have closed their doors, citing huge costs run up by indigent patients.

The centers that remain in the L.A. network are swamped. At the Los Angeles County-University of Southern California Medical Center, officials occasionally have been forced to stop accepting trauma victims from other hospitals. Says David Langness, of the Hospital Council of Southern California: "It doesn't matter whether you drive a Pinto or a Rolls-Royce. You still can't get trauma care."

Southern Florida faces similar problems. Six of the eight hospitals in Dade County's trauma network have dropped out. An especially ugly factor in the closings has been their abandonment by doctors: surgeons, outraged at malpractice-insurance premiums that can exceed $200,000 a year, have begun "riding bare," dropping their coverage and refusing to treat gravely injured patients.

For most physicians, the risk of a less-than-perfect outcome—and a lawsuit—is just too high. Last June a pregnant woman with a broken neck lay in the emergency room for 4½ hours as officials at AMI Palm Beach Gardens Medical Center begged one neurosurgeon after another to treat her. The first five refused. Finally, an orthopedic surgeon agreed—on condition that a neurosurgeon assist him.

To ease the crisis, Florida lawmakers approved a bill in February that would limit pain-and-suffering awards in arbitration cases to $250,000 and make "wanton disregard" the only grounds for liability in the emergency room. In the U.S. Senate, Democrat Alan Cranston of California is sponsoring a bill that would provide matching grants to states for regional trauma-care systems. That measure and a similar one in the House have drawn strong backing. Declares Dr. Howard Champion, chief of trauma services at the Washington Hospital Center in Washington, D.C.: "Why the hell should the hospital dish out $50,000 for the care of a patient if there's no way of getting it back?"

In the J.A.M.A. report, West recommends an aggressive approach for improving trauma care: development of comprehensive regional plans that would care for patients "from the field to complete rehabilitation," and better identification of trauma victims at risk for life-threatening injuries. He even proposes a national trauma-care network. Areas without many uninsured people, which would include most of the system, says West, would more than pay for themselves; other regions, he believes, should require federal or state reimbursement.

[From the New York Times, July 28, 1988]

CRISIS IN EMERGENCY ROOMS: MORE SYMPTOMS THAN CURES

(By Robert Reinhold)

LOS ANGELES, July 27.—It was only 6 o'clock on a recent Saturday night when the busiest emergency room in downtown Los Angles, at the California Medical Center, ordered all ambulances diverted to other hospitals. The 13 beds were already filled: a woman delivering a baby, a boy with an asthmatic attack, a 6-year-old girl bleeding from apparent sexual abuse, a young man hurt in a car accident and, the last straw, a 48-year-old man in full cardiac arrest.

When quiet returned three hours later, the emergency director, Dr. Alan Heilpern, told a sadly familiar story: six of the 13 patients were "066's," hospital code meaning they had no medical insurance or other means of paying.

Hospital officials say that state reimbursements for treatment of indigent patients is inadequate and that the insitution is hemorrhaging $500,000 a month through its emergency room.

A CENTURY OF SERVICE

The hospital, which has served central Los Angeles for a century, decided to shut its emergency room doors to ambulances beginning Monday, Aug. 1. Patients who can get to the emergency room by other means will still be treated.

The closing, which faces governmentand court challenges, could touch off a crisis in emergency care in Southern California of proportions unknown in a major American city. It could leave the vast central area of Los Angeles with no nearby emergency room.

"Los Angeles is a harbinger of what is very likely to happen in the rest of the country," said Dr. Michael J. Krentz of Dallas, president of the 12,000-member American College of Emergency Physicians.

PROGRESS AND PARADOXES

The Los Angeles crisis reflects a wrenching paradox in an era that has seen vast improvements in emergency care, steps that have saved thousands of lives in cases of accident or illness.

Professional paramedics now ride in many ambulances, and hospitals in many regions, are designed as "trauma centers" that can handle major disasters, with specialist, special equipment and blood supplies on hand at all times.

But this costly system is deteriorating, an unintended result of efforts to control rising medical costs. Rates of reimbursement to hospitals and doctors by Medicare, Medicaid and private insurers have been pushed down as they have been based more on diagnosis rather then actual treatment or hospital time. Hospitals say they find it impossible to shift costs to compensate for charity patients, and hospital occupancy rates have fallen.

Adding to the strains are a shortage of nurses, doctors' protests over increases in malpractice insurance rates, rivalries between hospitals and political tensions involving paramedic services, doctors, and city, county and state governments.

TROUBLE IN FORT WORTH

Signs of stress are growing nationally. In Fort Worth, for example, the county-supported John Peter Smith Hospital has regularly shut its emergency from this summer because it lacks enough intensive-care beds and nurses. Patients were being held in the emergency area for up to four days.

In Miami, seven of eight hospitals have given up their designation as special trauma centers, citing losses. This has put a huge burden on Jackson Memorial Hospital.

And in Massachusetts, which has led the nation in providing a state-run insurance pool for the uninsured, many hospitals are often overloaded and forced to transfer patients.

OUTLOOK WORST IN LOS ANGELES

But nowhere is the system threatened with such collapse as in the Los Angeles area, where 27 percent of all non-elderly adults and 30 percent of all children have no health insurance.

California Medical, a private, non-profit hospital that has received about 800 ambulance runs a month, says that as of Aug. 1 it will shut its emergency room to ambulances.

Unless the state intervenes in the next few days to prevent it, California Medical's action is likely to be followed by nearby hospitals fearful of being overloaded by indigents.

Ambulances from downtown would have to travel many extra miles through freeway traffic to county hospitals like the Martin Luther King/Drew Medical Center and County-University of Southern California Hospital, which are already overloaded, understaffed and underequipped.

"People will literally die in the streets and in their office," said Dr. Brian D. Johnston, emeregency director at White Memorial Hospital. "You'd be better off having a heart attack in Mexico City than in Los Angeles."

Dr. Kenneth W. Kizer, director of the state Department of Health Services, said millions of people stand to lose access to emergency care. He is trying to negotiate a solution, but he says the strapped state Government has little money to help.

Meanwhile, efforts to build a national network of regional trauma centers have stalled. A report last month in The Journal of the American Medical Association said 29 states have not even started designating trauma centers and only two, Maryland and Virginia, have fully operational systems.

In Los Angeles, seven of 23 trauma centers have dropped out of the special network, citing financial losses. In 1987, 55 trauma hospitals in California reported losses totaling $131 million, mostly because of indigent and uninsured patients.

NEW YORK IS FOCUS

In New York City, the study found that only one-third of critical trauma patients were taken to the eight top-level trauma centers there. The implication was that many New Yorkers are dying as a result, since other studies have shown that one-third of trauma deaths in non-designated hospitals were preventable.

The New York State Department of Health, however, said that it plans to institute a new procedure by next year in which Emergency Medical Service paramedics can take patients directly to designated trauma centers. "This system significantly will cut the time from injury to treatment and save many lives," said Faith Schottenfeld, a spokeswoman for the health department.

"When ability to pay gets in the way, we see needless death and disability," said Dr. Howard Champion, chief of trauma services at the Washington Hospital Center in Washington.

He said those unable to pay who need major surgery or other costly services are frequently shuffled off to county hospitals even if that means losing the critical "window of opportunity" when such surgery can be helpful.

TEXAS PROBLEMS ARE ADDRESSED

"We know these things happen," Dr. Champion said. "If you cannot pay, you will get worse and worse service."

Even access to ordinary emergency care has become more difficult. Faced with an increase of 1,000 patients a month and a cutback of 100 beds because of a nursing shortage, Houston's Hermann Hospital last month approved policies for transferring patients.

Reports of widespread "dumping" of seriously ill patients by private hospitals onto public ones in Texas have abated after passage last year of a state law stipulating procedures for such transfers.

Last year, Florida experienced an emergency-care crisis when doctors protested over malpractice suits. That crisis has eased, at least in part because of a law passed in February requiring that an expert witness vouch that a cause for action exists before a malpractice suit can be filed. Still, the safety net is thin. In fast-growing Broward County, north of Miami, the number of neurosurgeons available for emergency service has dropped sharply in the past decade.

Massachusetts, in passing the nation's first universal health insurance law last spring, went a long way toward alleviating the problem of caring for people who have no insurance. Still, a recent study of 85 of the state's 106 acute-care hospitals by the Massachusetts Hospital Association found that nearly a third of the emrgency rooms were overloaded at least once a week.

STATE IS CUTTING BACK

But California presents the most urgent problem. Under a fiscally conservative Republican Governor, George Deukmejian, the state's Medi-Cal program for the poor has become the least generous program of any state except Mississippi, Alabama and West Virginia. Last year, the Governor vetoed special financing to bolster the Los Angeles system, saying it was a county problem.

As a result, hospitals in the Los Angeles area are rebelling. Over the last two years, 15 hospitals in Los Angeles County have closed or downgraded their emergency rooms.

The linchpin in the remaining system is California Medical. The 344-bed hospital serves a huge inner city population that is heavily Mexican-American and black. Administrators say nearly one-third of the 2,500 emergency patients a month have no insurance. They said the hospital last year was not paid for emergency services for which it would have billed nearly $8 million.

If the hospital shifts on Aug. 1 to "standby status," meaning the emergency room will remain open but not to ambulances, at least two other nearby hospitals, Good Samaritian and French, say they will too. County and city health authorities are preparing contingency plans to transport patients to other hospitals. Business leaders are fearful of the consequences for tourism and conventions.

NOT JUST 'POOR' PROBLEM

Even now, the network is strained. "On a Friday or Saturday night, it is not unusual to have 17 or 18 hospitals all closed, beginning in the central city and fanning out," said Virginia Price Hastings, chief of paramedic and trauma hospital programs for the county.

"Many people mistakenly think this is a problem for the poor," she said. "But if there is no emergency room, it is not there for anybody. If the wealthiest person in the state is at a conference downtown and has chest pains, he will be taken to a county hospital."

The big county hospitals are expecting 1,000 or more runs a month. Already they are overwhelmed. At Martin Luther King, in south central Los Angeles, the ambulances are often lined up five deep. On one recent Saturday night, four gunshot victims lay for hours on gurneys in the corridors before being treated.

Whether California Medical can restrict its emergency room legally is unclear. Dr. Kizer, the state health director, said that he would refuse an application to downgrade the state-licensed facility, and the issue is likely to wind up in court. Dr. Kizer has invited the hospital to renegotiate its Medi-cal rates, but the hospital said that will not provide enough additional income.

COMPLAINT IS FILED

Meanwhile, a complaint has been filed against California, Samaritan and French hospitals by the National Health Law Program, the Legal Aid Foundation of Los Angeles and the Western Center on Law and Poverty. It charges that the closures will endanger the lives of the poor and, in the case of California Medical, violate the agreement under which the hospitals accepted Federal construction grants in return for caring for indigents.

Michelle Barker, spokeswoman for California Medical, said that the hospital accepted $998,000 in construction money in 1970 under the Hill-Burton Act and has since given $3 million in care in return.

Assemblyman Mike Roos of Los Angeles has entered a bill to provide $20 million to augment county health budgets, and another to provide $40 million to shore up the trauma network.

Senator Alan Cranston and Represenative Jim Bates, both California Democrats, have introduced bills to authorize $60 million a year for three years in matching funds to encourage states to set up trauma systems.

But experts say the whole emergency network will continue to crumble until there is a long-term remedy to the problem of uncompensated care.

"We absolutely need a long-term solution," said Dr. Gary Krieger, past president of the Los Angeles County Medical Association. "Lots of people will die, and then some celebrity, an entertainer or a politician, will have a car accident on the Harbor Freeway and won't be able to get help soon enough. Out of that will come a new health-care law."

[From the Los Angeles Times, July 25, 1988]

EMERGENCY ROOM IN U.S. LISTED IN CRITICAL CONDITION

(By Claire Spiegel)

The looming breakdown of hospital emergency services in Los Angeles is simply the most acute symptom of a fast-spreading disease afflicting emergency health care systems nationwide, health officials say.

Doctors around the United States describe emergency rooms as explosive pressure cookers where intense human suffering collides on a daily basis with harsh new economic realities confronting hospital officials.

More and more people are arriving sicker and poorer at busy inner-city emergency rooms. Hospitals, however, are increasingly unwilling to absorb the cost of caring for them, due to tight budgets caused by stringent government cost controls, low occupancy rates, and, in some cases, debts from overexpansion.

Looking to cut their losses, hospitals have closed their trauma centers or curtailed basic emergency service. In many instances, the pressure behind the move is coming from doctors who are refusing to treat the patients.

Four private hospitals in downtown Los Angeles plan to close their emergency rooms next month to public ambulances that transport victims of 911 distress calls; five other hospitals have threatened to follow suit.

Los Angeles is "probably at the epicenter of this critical problem," said Dr. Stephen Groth, president of the California chapter of the American College of Emergency Physicians. But all over the country "are on the front line" of conflict in the health care industry.

Dr. Howard Champion, chief of trauma at Washington Hospital Center in Washington, said that hospitals, especially in poor urban areas, are considering curtailment of emergency services.

In Houston, the president of the 900-bed Herman Hospital, Jeptha Dalston, said, "I think we'll soon be where you [in Los Angeles] are at right now."

South Florida has already been dealt a devastating blow, Seven of the eight trauma centers in Miami have closed. And the Florida Hospital Assn. has reported that 35% of the state's 220 emergency departments have reduced service for lack of physicians.

In New York City, the problem is one of serious overcrowding. Hospitals are so full of critically ill patients that they back up into the emergency room, creating "medical gridlock," according to Dr. Lewis Goldfrank at the city-operated Bellevue Hospital Center.

Pressure on emergency rooms throughout the city, he said is so great that he has publicly advocated calling in the National Guard to help with the caseload.

"The whole system is starting to come unglued at the seams and fall apart," said Dr. Larry Bedard, of Sausalito, former president of the California chapter of the American College of Emergency Physicians.

"It's like a big pot boiling over," said Robert Heilig, an official with the California Assn. of Hospital and Health Systems. "We felt the heat first in trauma care, and now it's happening in emergency services."

SMALL COMMUNITIES ALSO

Seven of the 23 trauma centers in Los Angeles have closed during the last three years. Others are threatening to drop in San Diego and San Jose, as well as small communities like Castro Valley. In Marin County, a large hospital is considering opening a trauma center—but only upon passage of a pending ballot initiative that would guarantee financial support.

Trauma centers are, in a sense, the crown jewel of an emergency services network. Usually located within or next to a hospital emergency room, these units are specially staffed to treat victims of violent accidents, shootings and stabbings who typically need immediate and specialized medical care.

But the trauma patient pool makes up only a small fraction of the entire emergency patient load.

Many more people—heart attack victims, women in labor, patients in respiratory arrest or suffering from seizures, comas, overdoses and lacerations, as well as minor illnesses—typically seek treatment in hospital emergency rooms.

Generally, the medical care there has improved enormously over the last decade, due to technological advances and better training of emergency physicians.

"Fifteen years ago, emergency rooms were sleepy little places," Groth said. "The doctor on duty might just be a moonlighting dermatologist. . . . They [emergency room doctors] were considered to be misfits who weren't good enough or smart enough to open up a practice. But that has changed 180 degrees.

Equipped to handle not only the sickest patients arriving by ambulance, the emergency room has been increasingly flooded by so-called "walk-in traffic"— patients with minor illnesses and injuries who regard the emergency room as their primary source of medical care. Their ranks have been swelled by record numbers of people—20 percent of the population in California under age 65—who lack health insurance or other means of paying private doctors.

Often for financial reasons, patients have postponed treatment, making many of them sicker than ever when they finally arrive at the emergency room.

"The emergency room has become the only guaranteed access point to the health care system in America," said Dr. Michael Krentz, a Dallas physician who is president of the American College of Emergency Physicians. Most private physicians, he pointed out," expect payment up front," and have "the right to refuse to take somebody as a patient for whatever reason." However, in the emergency room, all patients must be treated and stabilized without regard to their financial status.

At the same time, no comprehensive system has been established in California or in many other states to help hospitals and doctors defray the expense of treating patients who can not pay their bills.

"The result of this schizophrenic thought process is that health care providers, both hospitals and physicians, are left holding the bag," Groth said. "Society has dictated what will be provided, but is unwilling to underwrite its own wishes."

But some health care advocates are not so sympathetic to the plight of the hospitals.

They point out that private hospitals in California shoulder a lower percentage of the cost of uncompensated care than their counterparts in other states. Furthermore, they say that many private hospitals have received enormous tax breaks, low-interest loans and federal grants for construction projects with the expectation that they will fulfill their charitable obligations to serve the public—rich and poor alike.

Attorneys for the National Health Law Project have vowed to seek a temporary restraining order preventing the California Medical Center and three smaller downtown Los Angeles hospitals from drastically curtailing their emergency room service on Aug. 1.

They point out that the medical center—part of a $1-billion, 14-hospital nonprofit health care conglomerate called UniHealth America—has received millions of dollars in federal grants and tax-exempt bond money to expand and modernize its 327-bed hospital at 1414 S. Hope St.

"This hospital has benefited from millions of dollars in government funding," said attorney Standley Dorn. "It is not like a private oil business that is free to turn the tap on and off whenever it suits the bottom line. They've received public funds, so they owe an obligation to serve the public."

The surest way for a hospital to avoid some of the sickest and poorest patients is to "down-license" the emergency room to standby status, thereby shutting off rescue ambulances that transport patients in 911 distress cases.

If California, The Hospital of the Good Samaritan, French Hospitals and Linda Vista Community Hospital down-license their emergency rooms, as planned, they will shut off rescue ambulances carrying a total of about 1,400 patients a month—an estimated one-third of whom have no health insurance or other means of paying their bills.

Five other major private hospitals have threatened to follow suit in a devastating chain reaction of cutbacks that would shift a massive increase in patients into the already swamped public hospitals.

At risk would be hundreds of people who happen to become sick or injured while living, working or traveling through Central Los Angeles.

"There's going to be the practical equivalent of a war zone," said Dr. Marshall Morgan, director of emergency medicine at UCLA Medical Center. "What will eventually get people's attention is that a lot of high-powered executives work in these tall buildings downtown, and when one of them has a coronary, the paramedics won't get there in time. When they do, it will take longer to get to a hospital. And when he gets there, he'll be the fifth in line for the only [heart] defibrillator.

The only requests now on file with the state for emergency room down-licensing have come from downtown Los Angeles hospitals, state health officials said.

But Heilig of the hospital association said he knows of hospitals that are just waiting to see what happens in Los Angeles. One administrator, he said, has been given blanket permission from his board of directors to downgrade the emergency room at any time.

After a recent fact-finding trip to San Diego, the staff director for the state Senate subcommittee that oversees health care legislation, James Lott, said: "San Diego is not to far from where Los Angeles is right now. We probably will see some emergency rooms either downgrade to standby status or close altogether so they can control the flow of indigent and unpaying patients into the hospitals".

Special concern is focused on the threatened closure of Physicians and Surgeons Hospital, a private hospital in southeast San Diego owned by National Medical Enterprises.

The closure of this hospital, which has shouldered an enormous indigent load, would put pressure on other hospital emergency rooms. Officials at nearby Paradise Valley Hospital are already considering such defensive options as closing the emergency room to paramedic traffic, said Dr. Richard Stennes, president of a group of 35 emergency physicians who now staff three hospitals in San Diego.

He said his group quit staffing Physicians Hospital because "in a good month, our reimbursement was 21% of charges and we couldn't get backup [physicians]".

Throughout the state and nation, hospitals are having serious problems motivating staff specialists—orthopedists, obstetricians, surgeons and the like—to participate on hospital "call panels" that serve as a backup medical staff for emergency rooms or trauma centers, doctors and hospital officials acknowledged.

The specialists complain that too many patients cannot pay their bills, that reimbursement through the government insurance programs is too low and time-consuming, and that medical malpractice insurance rates are too high. In California, many doctors have been scared off by a new state law that imposes criminal penalties on doctors, who when serving on call panels, withhold treatment from unpaying or undesirable patients.

One San Diego hospital, Stennes said, was so short of physicians volunteering to serve on the call panels that participation was made mandatory—whereupon all but one of the obstetricians resigned.

Bedard pointed to two hospitals in San Bernardino County where all the othopedists have refused to serve on call panels and to a hospital in Gilroy, south of San Jose, where "the medical staff revolted" when doctors were required to serve.

COLLABORATION NEEDED

Most health officials agree that a solution to the problem of uncompensated care will require the broad-scale collaboration of both private and public officials. "The ultimate resolution of this problem will require action by elected officials at all levels of government and the private sector," said state health services director Dr. Kenneth Kizer.

Several states have moved in major ways to address the problem.

In New Jersey, the state has set up an Uncompensated Care Trust Fund designed to redistribute and equalize the burden on hospitals throughout the state. The way it works is that the state establishes a uniform, statewide flat rate that is added onto hospital bills and charged to all health care payers in the state. Hospitals with uncompensated care costs that are lower than the add-on level remit the difference to the fund. Those hospitals with costs higher than the add-on receive the difference.

"Nine states have hospital pools where they distribute money among hospitals and then collect it, and put it in a pool and then divvy it out to those hospitals providing disproportionate care to the poor," said Los Angeles health care consultant Geri Dallek.

But Krentz said that the pending cutbacks in private emergency room services in Los Angeles are an ominous sign for the whole nation. "Southern California seems to be the harbinger of things to come," he said. "Unless there's something done to relieve the situation, hospitals are going to close our shops. The necessary consultants [call panel doctors] will not be there to help us, and we'll reach the point where we won't be able to do our job. I could envision major metropolitan areas without any sort of emergency medical capability, if current trends continue."

[From CBS News, July 23, 1988]

TRAUMA CENTERS: FIGHT FOR LIFE

JOHN FERRUGIA. Our next story tonight is about this country's most pervasive killer of young people. It's not cancer or heart disease or AIDS. It's called trauma. Trauma is usually caused by an accident or an act of violence. It can cause massive bleeding, loss of blood pressure and death. Its antidote is quick, highly skilled medical attention. But expert trauma care is the exception in this country, not the rule. It's expensive and most state and local governments haven't found a way to fund a system. So if you're a trauma victim, whether you live or die may depend on how much your local hospital thinks your life is worth.

JOHN LENNOX. My son was in an automobile accident and he was injured. He was diverted to a hospital. They had the best doctors in the world. They wasn't present. They was not there.

FERRUGIA [voice-over]. John Lennox is chief of police in Louden, Tennessee. His son Robin is a tragic trauma statistic. On an August night in 1986, he survived this auto accident that killed the driver. He also survived the 20-minute wait for an air ambulance that took him to nearby Park West Hospital. But he bled to death as he lay waiting for surgery.

Mr. LENNOX. They had to call a doctor from his home in the middle of the night and I don't know, I never, I don't know how long it took him to get there. And evaluate the situation and see that he has to have more help and he has to call in more folks. And an hour and 45 minutes, a little longer, passed and my son just laying there.

FERRUGIA [voice-over]. Robin Lennox should never have been taken to Park West

Hospital. The helicopter was on its way here, to the University of Tennessee Hospital where a trauma team was waiting. But the helicopter, which was leased to Park West, was diverted in mid-flight.

Dr. Kimball Mall. I've never been critical of any individual in terms of his, the care rendered this boy, but I've been very critical and remain very critical of the decision that was made to divert his flight to another hospital from this hospital.

Ferrugia. What's the motivation?

Dr. Mall. Money.

Ferrugia [voice-over]. Dr. Kimball Mall is head of trauma at the University of Tennessee. On that night, he was standing by with a full team expecting to operate on Robin Lennox. He believes that competition between hospitals, the need to fill beds and maximize profits, especially with critical care patients, is the reason Lennox was sent to another hospital.

Dr. Mall. I've never said that we could have—we could have saved the boy, but I do think his chances of survival would have been better had he been brought to us, because we have the capability for immediate surgical intervention and we have had many cases where patients have arrived with virtually no blood pressure and we've done this, we've taken them from the heliport to the operating room, and they've walked out of the hospital.

Ferrugia [voice-over]. It's hard to believe that anyone survived in this demolished police cruiser, but Robert Hertado of Dade County, Florida is alive today because he got what Robin Lennox didn't. He was taken to Jackson Memorial Hospital in Miami, where a trauma team is waiting 24 hours a day to treat serious injuries like his. Dr. Patricia Byers remembers when Hertado was brought in.

Dr. Patricia Byers. He was on a breathing machine for probably most of that first week. He also had a massively destroyed pelvis bone so that he required operations for that. His bladder was ruptured, he had broken legs, so he really went through quite a bit.

Ferrugia. Do you think that you would have survived had you gone to another hospital, one without a trauma center?

Robert Hertado. I don't think so. I think if they would have taken me to another hospital, I wouldn't have made it.

Ferrugia. When you first saw your son, did you think he'd live?

Mr. Hertado. I don't think so. They told me that is not too many, too much chance, or too many chance, maybe 50-50, because he was in real bad shape.

Ferrugia [voice-over]. The team in Florida that saved Hertado resembles an army MASH unit in Korea or Vietnam. That's where many of the life-saving procedures were developed. This team may see more than 20 life-threatening injuries a night, including shootings, stabbings and auto accidents. That has helped it develop the speed, judgment and surgical skill that's kept its success rate high. Across the country, in Orange County, California, Dr. John West is a nationally recognized trauma expert. He says that 20 to 30% of the hospital deaths that occur after a trauma victim arrives could be prevented at a trauma center.

Dr. John West. We don't have to put research dollars into this. We don't have to invent a new machine, a new technology. We don't have to build new hospitals. It's a matter of organizing what's out there. And the major thing blocking the development of these trauma systems is politics.

Ferrugia [voice-over]. To prove his point, West cites studies going back 10 years that show that trauma centers do indeed save lives. Yet there's been no significant growth in the centers around the country.

Dr. West. When a victim arrives at a trauma center, there's a whole team of people waiting. If that person needs surgery, he's in the operating room within minutes. What's the net effect? The relatives see that and my gosh, they can't believe it. They know that their loved one is receiving the best possible care possible. What if they go to a non-trauma center? They sit around, somebody gets on the telephone, they don't know what they're doing. It's obvious to the relatives.

Ferrugia [voice-over]. West and other experts say that 250 centers like Jackson Memorial, strategically placed nationwide, could save 25,000 lives a year, but only if state governments take on the politically sticky task of designating a few hospitals to be trauma centers. In most of the country, hospitals are left to decide for themselves, and in many cases hospital administrators, worried about giving up a competitive edge, have killed the idea.

Dr. West. They're doing it out of fear that they're going to lose money. They're very highly competitive and they fear the loss of patients who will generate dollars for that hospital, and they're concerned about their economic survival.

Ferrugia. So rather—so rather than have one or two or maybe three trauma hospitals in a community, they'd rather have none.

Dr. West. They'd rather either have none or everybody.

Ferrugia [voice-over]. That's exactly what happened in Miami. Ten hospitals wanted the trauma tag and there just weren't enough patients to justify it. Many of Miami's trauma patients, victims of violent crime and accidents, are uninsured indigents. They were given the same high-cost care but they couldn't pay for it. Since the state wouldn't make up the difference and there's no federal help available, hospitals began losing money and one by one began dropping out. The system collapsed in only 15 months. So now, if you need expert trauma care in south Florida, you're just lucky if you end up in a place like Jackson Memorial. West says that while large metropolitan areas like Miami may need subsidies to provide the care, it's the best investment taxpayers can make.

Dr. West. You know, we put tremendous amount—for every dollar spent on trauma, we spend a thousand dollars on heart research, but you have to remember that there are more years of life lost from trauma than heart disease and cancer combined. They primarily affect people at the end of their life cycle. Trauma hits people right at the very heart, the very center of their life cycle, the time just before they're ready to become productive and return all that investment back to society, and that's when it robs these young lives.

Mr. Lennox. Somebody's going to have to take charge, legislators, Congress, someone, to say, yes, trauma care has to be and it is going to be, and until this happens we going to have the same political war, financial profits is going to rule.

Ferrugia [voice-over]. John Lennox is suing Park West Hospital for negligence. He's also suing the surgeon, the emergency room physician and the helicopter service. Park West Hospital has declined to be interviewed. Meanwhile, a state inspection team called for an immediate designation of the University of Tennessee Hospital as the only trauma center for the eastern part of the state, but five of the area's community hospitals, including Park West, objected. The state has now decided to postpone designation indefinitely. And the outspoken Dr. Mall feels that he's become the target of those who want to preserve the status quo.

Dr. Mall. The medical community has been fairly hostile and in fact has censured me for speaking out on behalf of the acutely injured patient. And I don't feel badly about that. I think that the injured patient, especially the critically injured patient, is the one person who can't speak for himself. Ideally you want the system to speak for the patient.

Mr. Lennox. If there's no one there, many don't have a chance. Personal opinion? That several people die that could have been saved. Mine was one of them.

VETO OF DEFENSE AUTHORIZATION ACT

Mr. GLENN. Mr. President, I am very disappointed that the President of the United States has chosen to politicize the defense authorization bill for fiscal year 1989 by vetoing it.

In taking this action, the President has turned his back on many of his top advisers on national security who urged him not to veto the bill. Instead, he has chosen to listen to political advisers and pollsters and the pleas of candidate Bush. In so doing, he has put Presidential politics ahead of this Nation's national security.

The President said that the bill represented a move away from strength and proven success. I would remind the President that the bill represents in large measure the priorities that he established in the budget he sent over earlier this year. Specifically, in prepared testimony on the Defense request, Secretary Carlucci stated: "The priorities in the budget are straightforward—people, readiness, and efficient acquisition." The cold hard fact is that the bill the President vetoed admirably addressed these priorities. Moreover, it conformed to the budget summit agreement in which the administration concurred.

As chairman of the Subcommittee on Manpower and Personnel, I believe that the bill contains numerous provisions that are vital to meeting our Nation's defense manpower needs. Of greatest importance to our men and women in uniform is the bill's provisions for compensation and benefits. The conference agreement provides for a 4.1-percent increase military basic pay and basic allowance for subsistence, and a 7-percent increase to basic allowance for quarters. The 4.1-percent increase exceeds the comparable increases expected in the private sector for the first time since 1981, and begins to close the pay gap between private sector and military pay; the 7-percent increase in basic allowance for quarters will help to correct deficiencies in the reimbursement to military members for housing.

Mr. President, I cannot emphasize enough how crucial these increases in compensation and benefits are to the well-being and morale of our Armed Forces. In May of last year, I traveled to the Persian Gulf to investigate the *Stark* tragedy with my good friend Senator WARNER who has done an outstanding job as ranking member of the Senate Armed Services Committee. I was struck by the dedication and patriotism of our service personnel who are performing perhaps the most dangerous and demanding mission for our Nation anywhere in the world. Imagine what a blow to morale it must be for these brave men and women in uniform and their compatriots throughout the world to see their hard won and badly needed benefits put at risk because of their Commander in Chief's cynical political action today.

In the area of manpower strength, the bill provides for a combined active and reserve military strength level of 3,324,200 and a civilian strength level of 1,102,240. This represents a combined defense manpower strength level of 4.4 million for fiscal year 1989 and is consistent with the levels requested by the administration.

A contentious manpower strength issue over the last 2 years that we finally resolved in the bill is the issue of the officer cuts that earlier were mandated by the Congress. Under current law, the Department of Defense must reduce its officer force by 2 percent in each of the next 2 fiscal years. The mandated reductions are repealed in this bill on the basis of some actions that have been taken by the Department of Defense to control the disproportionate growth that has occurred in officer strength. The veto wipes out this repeal.

The bill also provides two major retention incentives—one to counteract retention problems being encountered by the Navy and Air Force in their aviator inventories, and the other to counteract retention problems in all of the services in their medical officer inventories. In addition, the bill provides for an affiliation bonus test program aimed at improving the recruitment of medical personnel to fill critical shortages in the Reserve Forces.

In the area of personnel management, the conference agreement provides for a comprehensive series of modifications to the joint officer management policies of title IV of the Goldwater-Nichols DOD Reorganization Act of 1986. These modifications will facilitate the management of military officers serving in joint duty assignments, a matter that the Chairman of the Joint Chiefs of Staff and the Chiefs of the services feel is of the highest priority. The major features of the modification approved by the conference committee would:

First, increase the length, and provide more flexible rules for, the transition period leading to full implementation of title IV;

Second, provide more equitable rules for crediting officers with joint duty service;

Third, shorten joint duty tour lengths;

Fourth, provide more flexibility in the selection and assignment of joint specialty officers; and

Fifth, provide more flexibility regarding the joint duty prerequisite for promotion to general or flag rank.

Mr. President, that in brief summarizes the major manpower and personnel provisions in the bill. These provisions are now in jeopardy. I cannot see how vetoing these measures helps our national security. Indeed, it does exactly the opposite.

There are also many other important provisions in the bill that are jeopardized by the veto. In his press conference this morning in explaining his veto President Reagan stated that the restrictions on the level and scope of SDI funding as contained in the bill would "gravely endanger the SDI program." Nothing could be further from the truth.

I believe that the limits placed on the SDI program as contained in the bill to a large extent reflects the concern of the majority of the American people who have serious misgivings about America moving toward undermining or abrogating the ABM Treaty in order to deploy SDI.

For some time, the Senate has been mired in a dispute with this administration regarding the interpretation of the ABM Treaty and the proper role of the Senate in the treaty ratification process. This confrontation has tended to obscure the more important question of whether the ABM Treaty and continued compliance with the traditional interpretation of that treaty is in our national security interest. I believe that it is.

The controversy over the ABM Treaty stems from the debate over the pace and direction of the SDI program. While I certainly have my share of doubts about the strategic defense initiative, I support the SDI research program efforts to determine the long-term feasibility of strategic defense, and I have voted for higher funding levels here in the Senate. I strongly believe that we must continue with a strategic defense research program if only as a hedge against the Soviet breakout of the ABM Treaty. The level of strategic defense funding is, of course, something about which reasonable individuals may differ, but I believe that the funding authorized in the bill is entirely adequate.

The bill also contains a modified version of title I of S. 1085, the Nuclear Protections and Safety Act, that I introduced in April of last year. This title would have established, for the first itme, a Nuclear Safety Oversight Board to make recommendations to improve the protection of health, safety, and the environment at our nuclear weapons plants.

The President's veto, with the strong support of Candidate BUSH, means that they have decided to ignore the 35-year DOE record of hiding the truth about unsafe designs, deteriorating plants, sloppy operations, and disregard of internal reports documenting safety and environmental deficiencies. It is shameful to make a political football out of the need to prevent our ground water and soil from being poisoned by radioactive materials.

While these items are some that I have been particularly involved in, there are many others that are covered by the bill that are of extreme importance to the national defense of this country and were requested by the administration. They include a continuation of modernization of both our conventional forces and of our nuclear deterrent, and provisions for an increase in overall readiness—including increased funding for operations and maintenance. All of these matters were hammered out in conference and represent substantial gains in the overall national security posture of the United States.

In summary, Mr. President, our Government can only function through a process of accommodation and consultation—not by irresponsible election year political posturing. I believe that President Reagan's veto of the Defense authorization bill will diminish, rather than enhance our national security. It should be opposed by every Member of the Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 40. Joint resolution to give special recognition to the birth and achievement of Aldo Leopold;

S.J. Res. 248. Joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week";

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; and

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day."

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2629) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native corporations, and the State of Alaska.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 496. An act to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROYBAL, Mr. AKAKA, Mr. HOYER, Mr. COLEMAN of Texas, Mr. BOLAND, Mr. YATES, Mr. WHITTEN, Mr. LOWERY of California, Mr. SKEEN, Mr. WOLF, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4783) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. NATCHER, Mr. SMITH of Iowa, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. DWYER of New Jersey, Mr. HOYER, Mr. WHITTEN, Mr. CONTE, Mr. PURSELL, Mr. PORTER, Mr. YOUNG of Florida, and Mr. WEBER as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. LEHMAN of Florida, Mr. GRAY of Pennsylvania, Mr. CARR, Mr. DURBIN, Mr. MRAZEK, Mr. SABO, Mr. WHITTEN, Mr. COUGHLIN, Mr. CONTE, Mr. WOLF, and Mr. DELAY as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BOLAND, Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. MOLLOHAN, Mr. SABO, Mr. WHITTEN, Mr. GREEN, Mr. COUGHLIN, Mr. LEWIS of California, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. YATES, Mr. MURTHA, Mr. DICKS, Mr. BOLAND, Mr. AUCOIN, Mr. BEVILL, Mr. WHITTEN, Mr. REGULA, Mr. MCDADE, Mr. LOWERY of California, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1516. An act to repeal the permanent appropriation of $40,000,000 to the Secretary of Agriculture for the Tongass National Forest, require the Secretary of Agriculture to renegotiate two 50-year timber supply contracts, provide for a 5-year moratorium on commercial timber harvesting in 19 areas within the Tongass National Forest, and for other purposes.

ENROLLED BILL SIGNED

At 4:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2629. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native corporations, and the State of Alaska.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1516. An act to repeal the permanent appropriation of $40,000,000 to the Secretary of Agriculture for the Tongass National Forest, require the Secretary of Agriculture to renegotiate two 50-year timber supply contracts, provide for a 5-year moritorium on commercial timber harvesting in 19 areas within the Tongass National Forest, and for other purposes.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. DASCHLE) announced that on today, August 3, 1988, he had signed the following enrolled bills, which had previously been signed by the Speaker of the House:

H.R. 2213. An act to require certain telephones to be hearing aid compatible; and

H.R. 4726. An act to designate the U.S. Post Office Building located at 700 Main Street in Danville, VA, as the "Dan Daniel Post Office Building."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3671. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-212 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3672. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-208 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3673. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-216 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3674. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-217 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3675. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-218 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3676. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-220 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3677. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-215 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3678. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-214 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3679. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-213 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3680. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-229 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3681. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-228 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3682. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-227 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3683. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-226 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3684. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-225 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3685. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-224 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3686. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-223 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3687. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-222 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3688. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-221 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3689. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-205 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3690. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-204 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3691. A communication from the Special Council of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report of the Administrator of Veterans Affairs; to the Committee on Governmental Affairs.

EC-3692. A communication from the Secretary of Labor, transmitting, to law, notification of a proposed contract award to the International Union of Operating Engineers; to the Committee on Labor and Human Resources.

EC-3693. A communication from the Secretary of Education, transmitting, pursuant to law, notice of Final Funding Priority Under the Law-Related Education Program; to the Committee on Labor and Human Resources.

EC-3694. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the fiscal year 1986 Low Income Home Energy Assistance Program; to the Committee on Labor and Human Resources.

EC-3695. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting a draft of proposed legislation for a compensation fund for the Panama Canal Commission; to the Committee on Armed Services.

EC-3696. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a proposed Letter of Offer to Japan for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3697. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a supplemental summary of the FY 1989 Budget; jointly to the Committee on Appropriations and the Committee on the Budget.

EC-3698. A communication from the Administrator of the Federal Aviation Administration, U.S. Department of Transportation, transmitting, pursuant to law, the National Airspace System Plan; to the Committee on Commerce, Science, and Transportation.

EC-3699. A communication from the Secretary of Commerce, transmitting six copies of a draft bill entitled "The Thomas A. Edison Prize Act of 1988"; to the Committee on Commerce, Science, and Transportation.

EC-3700. A communication from the Secretary of Commerce, transmitting six copies of a draft bill "to provide that contracts for the construction or repair of vessels of the National Oceanic and Atmospheric Administration are subject to the provisions of the Walsh-Healey Act, and for other purposes"; to the Committee on Commerce, Science, and Transportation.

EC-3701. A communication from the Chairman of the Professional Audit Review Team, transmitting, pursuant to law, the Performance Evaluation of the Energy Information Administration; to the Committee on Energy and Natural Resources.

EC-3702. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a letter of intention to make refunds to offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3703. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a letter of intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3704. A communication from the Administrator, Agency for International Development, transmitting, pursuant to law, the 1987 Annual Report entitled "Progress in Conserving Tropical Forests and Biological Diversity in Developing Countries"; to the Committee on Foreign Relations.

EC-3705. A communication from the Assistant Secretary, Department of State, transmitting, pursuant to law, a report on the status of illegal technology transfers of Norway and Japan; to the Committee on Foreign Relations.

EC-3706. A communication from the Administrator, Department of Health and Human Services, transmitting pursuant to law, a report of a proposed Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3707. A communication from the Assistant Secretary, Department of Transportation, transmitting, pursuant to law, a report for a revision to an existing system of records, DOT/FAA 847, General Air Transportation Records on Individuals; to the Committee on Governmental Affairs.

EC-3708. A communication from the secretary of the Railroad Retirement Board, transmitting, a copy of a Railroad Retirement Board matching program report; to the Committee on Governmental Affairs.

EC-3709. A communication from the plan administrator, Eighth Farm Credit District Employee Benefit Trust, transmitting the annual report for the Eighth Farm Credit District Savings Plan for the year ending December 31, 1987; to the Committee on Governmental Affairs.

EC-3710. A communication from the benefits supervisor, Farm Credit Services, transmitting, pursuant to law, the annual report disclosing the financial condition of the Retirement Plan for the Employees of the Seventh Farm Credit District; to the Committee on Governmental Affairs.

EC-3711. A communication from the vice president, Farm Credit Banks of Springfield, transmitting, pursuant to law, the Annual Report for the Farm Credit Banks of Springfield Retirement Plan; to the Committee on Governmental Affairs.

EC-3712. A communication from the executive secretary, Federal Reserve Employee Benefits System, transmitting, pursuant to law, the annual report of the Retirement Plan for Employees of the Federal Reserve System; to the Committee on Governmental Affairs.

EC-3713. A communication from the plan administrator, Eighth Farm Credit District Employee Benefit Trust, transmitting the annual report for the Eighth Farm Credit District Savings Plan for the year ending December 31, 1987; to the Committee on Governmental Affairs.

EC-3714. A communication from the Farm Credit District of Baltimore, transmitting a report of the Farm Credit District of the Baltimore Retirement Plan; to the Committee on Governmental Affairs.

EC-3715. A communication from the executive director, D.C. Retirement Board, transmitting, pursuant to law, the personal financial disclosure statements of Bonnie R. Cohen and Solomon J. Kendrick, members of the D.C. Retirement Board; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 2238. A bill to make technical corrections relating to the Tax Reform Act of

1986, and for other purposes (Rept. No. 100-445).

By Mr. INOUYE, from the Select Committe on Indian Affairs, with an amendment in the nature of a substitute:

S. 555. A bill to regulate gaming on Indian lands (Rept. No. 100-446).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with amendments:

S. 2488. A bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes (Rept. No. 100-447).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 100-9. International Natural Rubber Agreement, 1987, done at Geneva, March 20, 1987, and signed on behalf of the United States on August 28, 1987 (Exec. Rept. No. 100-22).

Text of Resolution of Advice and Consent to Ratification as Reported by the Committee on Foreign Relations.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Natural Rubber Agreement, 1987, done at Geneva, March 20, 1987, and signed on behalf of the United States on August 28, 1987.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. Simon, and Mr. Inouye):

S. 2681. A bill to amend the Public Health Service Act to establish a lifecare long-term care program, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. EXON (for himself, Mr. Karnes, Mr. Bond, Mr. Grassley, Mr. Pressler, Mr. Dole, Mr. Durenberger, Mr. Harkin, Mr. Daschle, Mr. Burdick and Mr. Lugar):

S. Con. Res. 135. To correct the enrollment of H.R. 4848; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. Simon, and Mr. Inouye):

S. 2681. A bill to amend the Public Health Service Act to establish a Lifecare Long-Term Care Program, and for other purposes; to the Committee on Labor and Human Resources.

LIFECARE LONG-TERM CARE PROTECTION ACT

Mr. KENNEDY. Mr. President, I rise today to introduce the Lifecare Long-Term Care Insurance Program.

America has made vast strides in the past half century in providing the secure and dignified retirement that should be the birthright of every senior citizen. Social Security, Medicare, and, most recently, passage of the Medicare catastrophic legislation, have done much to liberate our senior citizens from those dark days when the blessings on long life were too often blighted by the curses of poverty, illness, and despair.

But one great gap in the retirement security safety net remains: our national failure to protect our senior citizens against the devastating cost of long-term care. Long-term care insurance is as essential to the current generation of the elderly as Medicare was to the last generation. Every senior citizen who has ever needed nursing home care or home care knows that—and so do their spouses, their children, and their grandchildren.

The magnitude of the long-term-care problem is immense. Over 1 million elderly Americans live in nursing homes today—and for every senior citizen in a nursing home, two or three more are equally disabled and equally in need—struggling to survive in their own homes, in their children's homes, or in other community settings.

The number of seniors in nursing homes today vastly understates those who will need long-term care in the years ahead. As Americans live longer, 35 to 50 percent of all senior citizens can expect to enter a nursing home at some point in their lives. According to surveys, almost half of all American families have been touched—and often touched hard—by the need for long-term care.

One of the most distressing aspects of this growing crisis is the devastating cost of decent long-term care for the vast majority of familes. For the average senior citizen, a stay in a nursing home today can be as financially ruinous as a stay in the hospital used to be in the dark days before Medicare.

According to a recent study by the House Select Committee on Aging, one-third of all elderly couples would be pauperized if one of them had to be institutionalized for 6 months. And for senior citizens who are single and, therefore, more likely to be living on the edge, almost two-thirds would be impoverished in the same 6 months.

Home care is less costly than nursing home care, but even that type of care is prohibitively expensive for most of the elderly. One out of every five married couples would be impoverished by 6 months of home care; almost one-third would see their hopes for a dignified retirement vanish within a year. Again, if the senior citizen is single, two-thirds will be impoverished within 1 year.

Crushing as these expenses are in financial terms, they are even more destructive in human terms. Disabled senior citizens who cannot afford assistance are condemned to lives of loneliness, misery, and dispair. Even if they manage to recover physically from the stroke, or fractured hip, or heart attack or other disability that led to confinement in a nursing home, they often cannot go home, because the financial burden of treatment and recovery has wiped out the savings that made life at home possible, let alone comfortable.

When an infirm senior citizen must be cared for in the home by a spouse, or by a daughter or son with children of their own, the financial and emotional burden of providing needed care can become so great that it destroys all possibility of happiness—both for the senior citizen and for the family members who provide the care.

These conditions are unacceptable in America in 1988, and the legislation I am introducing today is designed to put an end forever to these human tragedies.

The Lifecare Program will provide comprehensive protection against the need for long-term care, whether that care is provided in a nursing home or a senior citizen's own home. Because the need for long-term care can strike children and disabled younger adults as well as seniors, Lifecare will cover those groups as well.

Lifecare is constructed on three fundamental principles. First, it will be universal. Everyone will be able to participate. All insurance programs work best with broad participation: they are most effective in protecting both society and individuals, and they are most cost-effective, too.

Second, the program will be available to all without regard to ability to pay. Social insurance programs have wide support because rich and poor contribute alike and benefit alike. It is no accident that Social Security and Medicare are the two most broadly supported and widely loved social programs ever enacted, and that successful approach will be a cornerstone of the Lifecare Program.

Third, the program must be comprehensive enough to provide all essential services without the need for private supplementary insurance. Studies by the Brookings Institution have shown conclusively that private insurance cannot possibly reach all the elderly needing help. The reason is obvious. Private insurance that is not sold on a group basis inevitably skims off the easiest risks and least costly clients and dumps the rest on Government. And where gaps in a public program need to be filled by private insurance, it is those who need the gaps filled the most who are typically least able to afford supplementary protection.

In addition, as experience under Medicare proves, private insurance inevitably costs more than the Government charges for the same protection. Adminstrative costs are a rock-bottom 2 or 3 percent under Medicare, compared to as high as 40 percent under private so-called Medigap policies.

When the 101st Congress passes a Long-Term Care Protection Program—as I believe it will—I want it to be a program that truly meets the needs of our disabled senior citizens—and children and disabled younger adults as well. I do not want us to have to come back two decades later—as we just did with Medicare catastrophic—to correct inadequacies that should have been obvious from the beginning.

The comprehensive program that I am proposing today will come in two parts, analogous to Medicare. Part A would cover the full cost of home care and the first 6 months of nursing home care. It would be fully financed with Federal funds. Part B would cover longer stays in nursing homes. Enrollment in Part B would be voluntary, and it would be financed two-thirds by premiums from the elderly themselves and one-third from public revenues.

Individuals will be eligible under part A from home services, adult day care, and respite care if they are totally unable to perform at least one of the so-called normal activities of daily living or are significantly disabled on two or more of these activities. These activities include transferring (for example, from a bed to a wheelchair), bathing, dressing, eating, and using the bathroom. Those who need care because they are cognitively disabled, by Alzheimer's disease, for example, would also be covered. Services would be based on the degree of disability and the need for care, with limits on the daily or weekly cost, but no limit on the length of time as long as the need continued. There would be a modest co-payment to assure services would be provided only when needed, but the co-payment would be related to ability to pay to assure that no one is denied needed services because the co-payment is to burdensome.

The Home Care Program would be organized and managed at the local level by area long-term care coordination agencies designated by State governments, which would retain a fiduciary responsibility for their operation under Federal guidelines. This State-local delivery system follows a model of home care that a number of States, including my home State of Massachusetts, have already shown can deliver high quality, humane, comprehensive, and cost-effective care to disabled elderly citizens.

In addition to covering home care, part A would also fully cover the cost of the first 6 months of a nursing home stay. Nursing home care would be provided rather than home care if nursing home care was necessary and in the best interest of the senior citizen.

For protection against the cost of longer nursing home stays, individuals could enroll in part B of Lifecare. After an initial eligibility period subsequent to the bill's enactment, individuals could choose to enroll at either age 45 or age 65. Individuals enrolling at age 45 would gain the benefit of lower premiums throughout life and protection during the period between age 45 and age 65.

The Lifecare Program I have outlined today will cost an estimated $20 billion per year when fully phased in. Obviously that cost is great, but the benefits are even greater. I believe that this is one program where the American people will say "Amen" when we ask them to pay for it with higher taxes—and end this shameful blight on the lives of senior citizens and their families.

There are a number of possible ways to pay for Lifecare. The one I favor is to increase the current income ceiling on the payroll tax for both employees and employers. If we raise the income ceiling from its current level of $45,000 per year to $75,000, we could pay most of the cost of Lifecare. I personally believe that it would be fairer to eliminate the income cap entirely, so that all Americans, including the wealthy pay the same share of their income to support these important programs. Taking that step would raise more than would be needed to support Lifecare, and we could use the surplus to lower the tax rate for all workers.

A number of other possible financing sources to pay for long-term care have been suggested. I intend to work with the tax committees and the affected groups to find the method that is fairest and most generally acceptable. The key condition that we all know must be met is that this program must be self-financing. Deficit increases are as unacceptable as inaction, and I am confident that the American people and the Congrees will find a way to pay for the kind of program that our senior citizens and their families need and deserve.

The fact is that, if we are honest, we know that society already pays for long-term care but in cruel and irrational ways. Public dollars now contribute more that $20 billion a year for nursing home care—almost half the total. But these public dollars, provided through Medicaid, are expended only after senior citizens and their families have been forced to pauperize themselves. I say, these public dollars should be used up front, to protect the elderly's standard of living when there is something left to protect.

The billions of dollars of private funds that go into the current system would also be redirected under Lifecare. Today, they are extorted from the sick and their families as an unfair penalty for serious long-term illness. When Lifecare is law, these private dollars will be spent through an effective, humane social insurance program that spreads the cost among all citizens.

Enacting Lifecare will be a tough fight—almost as tough a fight as the enactment of Medicare more than two decades ago. The fight for Medicare was won because America's senior citizens and the American people as a whole knew that no decent society denies its elderly access to affordable health care. In 1988, the American people know that the adequate and affordable long-term care, whether it is provided in a senior citizen's own home or in a nursing home, is just as fundamental.

In closing, I would like to thank Congressman CLAUDE PEPPER, whose tireless work has done so much to put this issue high on our national priority list and whose pioneering home care bill provided the basis for the home care section of part A of Lifecare. I would also like to thank Senator PAUL SIMON, who has also been a leader in this field and has contributed much to the development of this legislation. I am pleased that he is cosponsoring this bill today.

Mr. President, I ask unanimous consent that a factsheet describing the bill and the text of the bill, as introduced, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Lifecare Long-Term Care Protection Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Lifecare long-term care protection program.

"TITLE XXIII—LIFECARE LONG-TERM CARE PROTECTION PROGRAM

"PART A—GENERAL PROVISIONS

"Sec. 2301. Definitions.
"Sec. 2302. Long-term care agencies.
"Sec. 2303. Contribution of State funds.

"PART B—COVERAGE OF HOME AND COMMUNITY-BASED CARE SERVICES

"Sec. 2311. Benefits.
"Sec. 2312. Eligibility.
"Sec. 2313. Respite care.
"Sec. 2314. Qualified service providers.
"Sec. 2315. Payment for services.
"Sec. 2316. Quality assurance boards and community advisory boards.
"Sec. 2317. Certification.
"Sec. 2318. Reimbursement.

"PART C—COVERAGE OF FIRST 6 MONTHS OF NURSING HOME CARE

"Sec. 2321. Benefits.
"Sec. 2322. Eligibility.
"Sec. 2323. Limitations on payment.
"Sec. 2324. Reimbursement.

"PART D—INSURANCE COVERAGE FOR NURSING HOME CARE THAT EXCEEDS 6 MONTHS

"Sec. 2331. Establishment of Federal Long-Term Care Insurance Program.
"Sec. 2332. Eligibility.
"Sec. 2333. Premium rates.
"Sec. 2334. Benefits.
"Sec. 2335. Qualified service providers.
"Sec. 2336. Reimbursement.

"PART E—TRAINING AND RESEARCH

"Sec. 2341. Grants for training for home and community-based care for the elderly.
"Sec. 2342. Grants for home health aides.
"Sec. 2343. Grants for model consumer training programs.
"Sec. 2344. Centers for long-term care planning and technical assistance.
Sec. 3. Conforming amendments.
Sec. 4. Effective date.

SEC. 2. LIFECARE LONG-TERM CARE PROTECTION PROGRAM.

The Public Health Service Act is amended—

(1) by redesignating title XXIII (42 U.S.C. 300cc et seq.) as title XIV;

(2) by redesignating sections 2301 through 2316 (42 U.S.C. 300cc through 300cc-15) as sections 2401 through 2416, respectively; and

(3) by inserting after title XXII the following new title:

"TITLE XXIII—LIFECARE LONG-TERM CARE PROTECTION PROGRAM

"PART A—GENERAL PROVISIONS

"SEC. 2301. DEFINITIONS.

"As used in this title:

"(1) ACTIVITY OF DAILY LIVING.—The term 'activity of daily living' means—

"(A) getting water and cleansing the whole body, including turning on the water for a bath, shower, or sponge bath, getting to, in, and out of a tub or shower, and washing and drying oneself;

"(B) getting clothes from closets and drawers and then getting dressed, including putting on braces or other devices and fastening buttons, zippers, snaps, or other closures, selecting appropriate attire, and dressing in the proper order;

"(C) going to a bathroom for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes;

"(D) moving in and out of bed and in and out of a chair or wheelchair; or

"(E) transferring food from a plate or its equivalent into the body, including cutting food so as to make possible safe ingestion.

"(2) ADULT DAY HEALTH CARE.—The term 'adult day health care' means a community-based group program designed to—

"(A) meet the need for adult day health care for functionally impaired individuals in a structured, comprehensive program; and

"(B) provide a variety of health and social services furnished by an adult day health care center in an ambulatory group care setting during any part of a day, but on a less than 24-hour basis, to an individual described in section 2312.

"(3) ADULT DAY HEALTH CARE CENTER.—

"(A) IN GENERAL.—The term 'adult day health care center' means a public agency or private organization (or a subdivision thereof), with an identifiable administrative unit headed by a Director, that meets such standards for personnel, program, physical characteristics of the facility, recordkeeping, and such other aspects of the function of such center as the Secretary considers necessary or desirable for the health, safety, and effective treatment of patients and establishes by regulation.

"(B) PROFESSIONAL ORGANIZATION STANDARDS.—In promulgating such regulations, the Secretary shall carefully consider certification standards established by the National Council on Aging and its professional membership unit and the National Institute for Adult Day Care.

"(C) PERSONNEL.—Such standards shall include the participation in the provision of the services of the center of a multidisciplinary group of personnel that includes at least—

"(i) one physician, which could be the individual's own physician;

"(ii) one registered professional nurse;

"(iii) one social worker;

"(iv) individuals with skills representing physical, recreational, or occupational therapy or speech-language pathology; and

"(v) a dietician.

"Such personnel may be employed directly by the center or on a consultant basis, as specified by the Secretary by regulation.

"(D) STATE CERTIFICATION.—To be considered an adult health care center under this title, a center shall be certified by a State, pursuant to regulations issued by the Secretary.

"(4) CARE PLAN.—

"(A) IN GENERAL.—The term 'care plan' means a plan that has been developed by the case management division of a long-term care agency based on the results of a comprehensive needs assessment of an eligible individual in cooperation with the individual and the family of the individual and in consultation with such other health professionals as the case manager considers appropriate for the needs of the individual.

"(B) CONTENTS.—The plan shall—

"(i) include a definition of specific outcome goals on which improvement, reduced rate of decline, or improved quality of life for the elderly disabled individual is expected; and

"(ii) identify the specific mix of services allotted to the patient and reimbursable under this title as determined by the procedure described in section 2302.

"(5) CASE MANAGEMENT SERVICES.—The term 'case management services' means services performed by a case manager or case management team that include—

"(A) conducting a comprehensive needs assessment in cooperation with an individual and the family of an individual and in consultation with such other health professionals (such as a physical therapist occupational therapist, or physician) as the case manager considers appropriate for the needs of the individual to assess the physical, social, and environmental status of the individual;

"(B) developing, implementing, and modifying (when necessary) the care plan of an individual;

"(C) coordinating the services provided under the care plan;

"(D) monitoring the care plan to ensure the quality, quantity, timeliness, and effectiveness of the services; and

"(E) monitoring the progress of an individual towards achievement of the goals specified in the care plan.

"(6) CASE MANAGER.—The term 'case manager' means a registered professional nurse or a certified social worker (working in consultation with a registered professional nurse) employed by a long-term care agency or by a certified home health agency, home care agency, or other private nonprofit organization under contract with the agency to provide case management services pursuant to the requirements of this title and standards prescribed by the Secretary by regulation. Such nurse or social worker shall meet standards of education, training, and experience established by the Secretary by regulation to qualify to provide case management services under this title.

"(7) COMPREHENSIVE NEEDS ASSESSMENT.—The term "comprehensive needs assessment" means a comprehensive interdisciplinary assessment of the status and needs of an individual. The assessment shall address functional status (including activities of daily living), instrumental activities of daily living (such as housekeeping, shopping, transportation, meal preparation, and taking medication), medically defined conditions, mental status, living arrangement, and availability of caregiver support.

"(8) HEAVY CHORE SERVICES.—The term 'heavy chore services' means heavy cleaning and minor home repair. Chore services may not be used to perform activities that are the responsibility of a housing authority or landlord, or both. Heavy chore services shall be provided by personnel not requiring special training but who work under supervision. Heavy chore services may include washing floors and walls, woodcutting, changing storm windows, replacing window panes, door and window locks, installing minor home adaptations, snow shoveling, weatherization, and such other needed heavy chore services as are specified by a case manager.

"(9) HOME AND COMMUNITY-BASED CARE SERVICES.—The term 'home and community-based care services' means items and services provided to an individual—

"(A) under a written plan of care for furnishing such items and services to the individual;

"(B) except as provided clauses (iv), (v), and (xii) of subparagraph (C), on a visiting basis in a place of residence of the individual (including a congregate day care or adult foster home setting but not including a nursing home); and

"(C) that include—

"(i) homemaker services;

"(ii) home health aide services;

"(iii) heavy chore services;

"(iv) adult day health care provided at an adult day health care center;

"(v) respite care;

"(vi) home mobility aids and minor adaptations to the home of the individual (such as installation of an emergency alarm system, railings, ramps, and special toilets) that are approved by the case manager and included in the care plan of the individual;

"(vii) nursing care provided by or under the supervision of a registered professional nurse;

"(viii) medical social work services;

"(ix) physical, occupational, or speech therapy or rehabilitative services to preserve and restore functional capability or to prevent functional deterioration;

"(x) transportation to and from health or social services;

"(xi) nutrition and dietary counseling; and

"(xii) any of the items and services referred to in clauses (i) through (xi)—

"(I) that are provided on an outpatient basis, under arrangements made by the case manager, at a hospital or nursing facility, or at a rehabilitation center that meets such standards as may be prescribed in regulation; and

"(II) the furnishing of which cannot readily be made available to the individual in such place of residence, or can be provided more economically or effectively in such hospital, facility, or center.

"(10) Home care agency.—The term 'home care agency' means an agency in any State that has been certified by the State to provide home care services pursuant to regulations of the Secretary. Such services include homemaker services, heavy chore services, and respite care.

"(11) Home health agency.—The term 'home health agency' means an agency in any State that has been certified by the Secretary to provide home health services. Such services include homemaker services, nursing services, medical social work services, and occupational, physical, and speech therapy.

"(12) Home health aide services.—

"(A) In general.—The term 'home health aide services' means the services provided by a home health aide who meets such educational, training, and any other requirements as the Secretary shall establish by regulation and who is employed by a home health agency or whose services are subcontracted through the home health agency to a case management division.

"(B) Services.—Such services shall include—

"(i) providing personal care in following the instructions of the physician of an individual under the supervision of a registered professional nurse (who has established a written care plan and is supervising and revising the services included in the care plan at least every 60 days) or, if appropriate, a physical, speech, or occupational therapist;

"(ii) assisting the individual with activities of daily living;

"(iii) helping an individual with personal care activities, including grooming, footcare, and assistance with dentures;

"(iv) assisting and reinforcing the individual with necessary self-help skills; and

"(v) reporting to the registered professional nurse supervisor any change in the condition or family situation of the individual.

"(13) Homemaker services.—

"(A) In general.—The term 'homemaker services' means services provided by a homemaker who meets such educational, training, and any other requirements as the Secretary shall establish by regulation and who is employed by a home care agency, or is approved by a long-term care agency, to provide services within its geographic jurisdiction.

"(B) Services.—Homemaker services may include—

"(i) organizing the homemaking activity of the household with the active participation of an individual, if possible, and other responsible family members;

"(ii) coordinating efforts of other family members in planning and carrying out the duties necessary for the normal functioning of the household;

"(iii) performing routine housekeeping tasks, planning and preparing meals, doing the marketing and simple errands, and taking care of light laundry; and

"(iv) performing such incidental household services are are essential to the care of an individual at home, such as reporting to a registered professional nurse supervisor changes in the condition or family situation of the individual.

"(14) Long-term care agency.—The term 'long-term care agency' means as agency established under section 2302(a).

"(15) Nursing facility.—The term 'nursing facility' means an institution that meets such conditions of participation as the Secretary shall prescribe by regulation to ensure the safe and efficient provision of nursing home services under this title.

"(16) Respite care.—The term 'respite care' means a temporary break provided by an individual who supplies regular care to a dependent older relative. For purposes of this title, the break may not exceed 30 days in a calendar year. The term includes institutional or noninstitutional patient supervisory services to temporarily relieve the caregiver of an eligible individual as determined by a long-term care agency.

"(17) Spell of illness.—The term 'spell of illness' means a period of consecutive days beginning with the first day on which an individual is furnished a covered service and ending with the close of the first 6 consecutive months thereafter during which the individual is not an inpatient of a hospital or a nursing facility.

"SEC. 2302. LONG-TERM CARE AGENCIES.

"(a) Establishment.—The Secretary shall contract with a State or, in any case in which a State declines to contract with the Secretary, a private nonprofit organization to establish and administer a long-term care agency for each designated area of a State. Such agency shall demonstrate expertise in the delivery of health and social services to the impaired elderly pursuant to requirements established in this title and such standards as the Secretary may establish by regulation (including standards for training and qualification of personnel, financial responsibility, and governance).

"(b) Screening Division.—

"(1) Establishment.—A long-term care agency shall establish a screening division whose responsibility it shall be to determine the eligibility of individuals residing in the geographic jurisdiction of the agency for services covered under this title.

"(2) Eligibility.—The screening division shall determine the eligibility of an elderly individual based on the results of a preliminary telephone or written questionnaire (completed by the applicant or by the caregiver of the applicant) that shall be validated by a screening tool administered to each applicant by a registered professional nurse who is employed by the agency and who meets the education, training, and experience requirements established by the Secretary by regulation.

"(3) Questionnaires and screening tools.—

"(A) In general.—The Secretary shall establish a telephone or written questionnaire and a screening tool to be used by a screening division to determine the eligibility of an individual for services under this title consistent with requirements of this title and standards established by the Secretary by regulation.

"(B) Questionnaires.—The questionnaire shall include questions about the functional impairment, mental status, and living arrangement of an individual and other criteria that the Secretary shall prescribe by regulation.

"(C) Screening tools.—The screening tool shall include measures of a functional and cognitive impairment of an individual as well as information concerning behavioral problems (such as wandering or abusive and aggressive behavior), the living arrangement of an individual, availability of caregivers, and any other criteria that the Secretary shall prescribe by regulation.

"(4) Notification.—The screening division shall notify an individual of the eligibility of the individual for benefits under this title within 30 days after the individual has been contacted by telephone or written questionnaire.

"(5) Appeals.—The Secretary shall establish a mechanism for hearings and appeals in cases in which individuals contest the eligibility findings of the screening division.

"(6) Funding level.—The screening division shall be responsible for determining the estimated funding level that shall be allotted for each individual eligible for home and community-based care, pursuant to standards established under this title and regulations of the Secretary.

"(c) Case Management Division.—

"(1) Establishment.—A long-term care agency shall establish a division, with separate line authority than the screening division, to provide case management services for eligible individuals directly or through contracts with public or private nonprofit organizations that meet the requirements of this title and standards prescribed by the Secretary by regulation for providing case management services.

"(2) Care plan.—The case management division shall develop a care plan for each individual determined to be eligible by a screening division. In developing a care plan for an individual, the case management division shall design a plan that meets the service needs of the individual, consistent with the resources available to the long-term care agency.

"(3) Funding.—

"(A) In general.—The actual level of funding allotted to an eligible individual by the case management division to cover services included in the care plan of the individual may fall above or below the estimated annualized level allotted to the individual by the screening division.

"(B) Limitation.—The case management division shall allocate the resources available to the long-term care agency (as described in section 2315(a)) to ensure that the total expenditures for home and community-based care for individuals eligible for services covered under this title residing within the geographic jurisdiction of the agency do not exceed the total amount available monthly to the agency, pursuant to this section, for home and community-based services. The case management division shall establish specific financial controls (including authorizing the amount, scope, and duration of services to be provided to an individual) to carry out this subparagraph.

"(d) Registry.—A long-term care agency shall establish and maintain a registry of all qualified providers of home and community-based and nursing home care in the geographic jurisdiction of the agency and shall assist individuals in choosing qualified providers to carry out the care plan. An individual eligible for services under this title shall be free to choose from the registry of the home care agency, home health agency, or other qualified provider) of services to carry out the care plan of the individual. The long-term care agency shall assist the individual in locating alternative providers if the individual becomes dissatisfied with the provider initially chosen.

"(e) Monitoring.—A State shall, along with the Secretary, monitor the performance of all designated long-term care agencies and assure the fiscal stability of such agencies. A State shall act as the financial guarantor of each agency.

"SEC. 2303. CONTRIBUTION OF STATE FUNDS.

"(a) Estimate.—The Secretary shall estimate the amount that a State would have spent during each calendar year for individuals eligible for long-term care services under each Federal-State entitlement program in the absence of the program established by this title. Such estimate shall be updated annually based on the projected increases in the cost of carrying out this title.

"(b) Contribution.—For residents of a State to be eligible to participate in the program established by this title during a calendar year, the State shall contribute the amount estimated under subsection (a) to the Secretary to share in the costs of providing services to such State residents under the program established by this title for such calendar year.

"PART B—COVERAGE OF HOME AND COMMUNITY-BASED CARE SERVICES

"SEC. 2311. BENEFITS.

"An individual who meets the eligibility criteria prescribed in section 2312 shall be eligible under the program established by this part for coverage for home and community-based care services that are—

"(1) determined to be necessary by a long-term care agency;

"(2) described in the care plan of the individual;

"(3) services for which the individual is eligible; and

"(4) consistent with the need for care of the individual, regulations issued by the Secretary, and standards established by this part.

"SEC. 2312. ELIGIBILITY.

"(a) In General.—An individual shall be eligible for benefits under this part if the individual—

"(1) is—

"(A) 65 years of age or older;

"(B) eligible for benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as the result of a disability; or

"(C) under 19 years of age;

"(2) has been determined by a long-term care agency through a screening process (conducted in accordance with section 2302) to be—

"(A) completely dependent (does not participate) in at least one age-appropriate activity of daily living or unable to perform two or more age-appropriate activities of daily living without human assistance or supervision; or

"(B) so cognitively impaired as to require constant supervision; and

"(3) has filed an application for, and is in need of, benefits covered under this title.

"SEC. 2313. RESPITE CARE.

"(a) Eligibility.—An individual shall be eligible for respite care benefits under this part if—

"(1)(A) the individual meets the requirements established in section 2312;

"(B) the individual is dependent on a daily basis on a primary caregiver and is assisting the individual without monetary compensation in the performance of at least two activities of daily living; and

"(C) without such assistance the individual could not perform such activities of daily living; or

"(2) the individual has dementia or other cognitive impairments, as determined by a long-term care agency.

"(b) Determination of Need.—The determination of the need of an individual for respite care shall be made by the case management division of the long-term care agency. An analysis of such need shall be included in the care plan of the individual.

"(c) Services.—Respite care services under this section may include home and community-based services or nursing home services described in section 2321(b).

"(d) Period of Coverage.—Coverage for such services shall be for short periods of time of not to exceed 30 days during a given calendar year.

"(e) Reimbursement Rates.—Reimbursement rates for respite care services covered under this section shall be the same as rates established elsewhere in this part for home and community-based services and nursing home services.

"SEC. 2314. QUALIFIED SERVICE PROVIDERS.

"(a) In General.—Services provided to eligible individuals pursuant to a plan of care under this part shall be provided by qualified service providers.

"(b) Types.—A qualified service provider shall include—

"(1) a home care agency certified by the State;

"(2) a home health agency certified by the Secretary;

"(3) an adult day health care center certified by the State; and

"(4) such other certified or licensed provider of specific services as the Secretary shall designate by regulation (including a registered professional nurse, licensed social worker, physician, physical, occupational or speech therapist, or certified dietician) and other providers approved by the State or the long-term care agency.

"(c) Approval Required for Reimbursement.—No individual or agency shall be eligible for reimbursement for services provided to an individual under this part unless the long-term care agency approves the provision of services to such individual or agency.

"SEC. 2315. PAYMENT FOR SERVICES.

"(a) Long-Term Care Agencies.—The Secretary shall pay an amount monthly to each long-term care agency that equals the sum of the amounts allotted by the screening division for individuals in the geographic jurisdiction of the agency who have been determined by the agency to be eligible to receive services covered under this part.

"(b) Service Providers.—

"(1) Direct payments.—The long-term care agency shall make direct payments to certified home care and home health agencies, and other qualified providers of home and community-based services reimbursable under this part, in accordance with such methods as the State may establish pursuant to regulations of the Secretary.

"(2) Full payment for services.—All providers of home and community-based care services under the program established by this part shall accept payment rates established by the long-term care agency as payment in full for services and shall not pass on additional charges to beneficiaries for services rendered under a plan of care.

"(c) Providers of Case Management Services.—If a State or a long-term care agency contracts with a private nonprofit organization to provide case management services, the long-term care agency shall make direct payments to such organization in accordance with such methods as the State may establish pursuant to regulations of the Secretary.

"(d) Limit on Payment for Home Health and Community-Based Services.—

"(1) Initial period.—During the 3-year period beginning on the date of enactment of this title, the maximum amount of payments that may be made to a long-term care agency for providing home and community-based services for a number of days in a given month to an individual who resides in the geographic jurisdiction of the agency and who is eligible for services under this part shall be no more than 65 percent of the average amount payable for the same number of care days in a nursing home under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in the area in which the home and community-based care is provided.

"(2) Subsequent years.—In years subsequent to the period referred to in paragraph (1), the maximum amount referred to in such paragraph shall be established by the Secretary according to such prospective payment methods as the Secretary may establish by regulation to assure that no payment is made for home and community-based services that will exceed the cost of an alternative placement in a nursing facility, less a reasonable estimate of the cost of room and board in such facilities or in the community.

"(e) Amount of Coverage.—

"(1) In general.—Subject to subsection (d) and other provisions of this subsection, the amount of coverage allotted to an eligible individual shall be the amount necessary to carry out the service needs of the individual.

"(2) Maximum average amount.—In the case of an individual in a given geographic area, the average amount payable for such individual shall not exceed an amount determined by multiplying—

"(A) the maximum amount prescribed in subsection (d); by

"(B) a measure of the severity of the need for services of the individual.

"(3) Severity of need for services.—For purposes of paragraph (2), the severity of the need for services of an individual shall be estimated by such statistical models and techniques, which shall include a measure of the severity of dependency in activities of daily living, cognitive impairment, living arrangement, age, and such other factors as the Secretary shall specify by regulation, except that all individuals determined to be eligible for services under this part shall be presumed to face a monthly need for services of at least 5 percent of the maximum allotment. Expenditures authorized by this paragraph shall be made only for the services specified in this part in accordance with a written care plan prepared through case management services provided by the long-term care agency or an organization under contract with the agency to provide care management services.

"(f) Copayment.—The amount payable for home and community-based services under this part shall be reduced by a copayment amount equal to 5 percent of amount of the individual's monthly insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), if any, or 10 percent of the costs of services, whichever is less.

"SEC. 2316. QUALITY ASSURANCE BOARDS AND COMMUNITY ADVISORY BOARDS.

"(a) Quality Assurance Board.—A State shall establish and appoint members to a quality assurance board that will monitor the quality of care provided under this part in a given area of the State, pursuant to procedures established by the Secretary by regulation.

"(b) Community Advisory Board.—A State shall establish and appoint members to a community advisory board for each long-term care agency pursuant to regulations by the Secretary. The advisory board shall be composed of consumers of services and their families, representatives of agencies and organizations, professionals providing services to the elderly, and public members. Public members and consumers and their families shall form a majority of the members of the advisory board.

"SEC. 2317. CERTIFICATION.

"(a) In General.—A State shall—

"(1) survey home care agencies, home health agencies, and adult day health care centers for eligibility to participate in the program established by this part; and

"(2) certify such an agency or center as eligible to participate in such program if the agency meets the requirements of this part and regulations prescribed by the Secretary.

"(b) Individual Providers.—

"(1) In general.—To be reimbursed for services covered under this part, a qualified service provider referred to in section 2314 shall be certified by the State in which the provider practices pursuant to the requirements of this part and regulations prescribed by the Secretary.

"(2) Homemakers and home health aides.—To be reimbursed for services covered under this part, a homemaker or home health aide must be approved by a State or by a long-term care agency to provide services within its geographic jurisdiction.

"(3) Waiver.—The Secretary may waive the requirement for certification for providers not referred to in paragraph (2) if the Secretary determines that such certification is unnecessary.

"SEC. 2318. REIMBURSEMENT.

"(a) Acceptance of Referrals and Reimbursement.—

"(1) In general.—Except as provided in paragraph (2), a home health or home care agency or other provider certified by a State to provide services reimbursable under this part shall provide services to all individuals referred to the provider by a long-term care agency or by an organization under contract with the agency to provide case management services and accept as payment in full the reimbursement amounts provided under this part.

"(2) Exception.—The service requirement imposed by paragraph (1) shall not apply if the requirement would be in conflict with operating policies under which the provider was certified (such as the maximum number of individuals an agency may care for at any given point in time).

"(b) Additional Services.—Nothing contained in this part shall be construed to preclude any individual who is eligible to receive services under this part from purchasing home and community-based services that are more generous than services provided for in the care plan of the individual. If an individual purchases more generous services, a provider may not charge such individual higher rates for such services than the amount the provider is reimbursed under this part.

"(c) Relationship to Other Entitlement Programs.—Notwithstanding any other provision of law, in the case of any service covered under this part that is also covered under another Federally administered entitlement program, the Secretary shall act as a secondary payer under this part.

"(d) Reimbursement.—Reimbursement for services provided under this part shall be subject to the requirements of this part and regulations prescribed by the Secretary.

"PART C—COVERAGE OF FIRST 6 MONTHS OF NURSING HOME CARE

"SEC. 2321. BENEFITS.

"(a) In General.—Subject to subsections (c) and (d), an individual who meets the eligibility criteria prescribed in section 2322 shall be eligible under the program established by this part for coverage for services described in subsection (b) provided to the individual by a nursing facility that are required by the individual, while the individual is an inpatient of the facility, for a period of time not to exceed 6 months for a spell of illness.

"(b) Types.—Coverage may be provided under this part for—

"(1) nursing care provided by or under the supervision of a registered professional nurse;

"(2) bed and board in connection with the furnishing of nursing care;

"(3) physical, occupational, or speech therapy furnished by a facility or by others under arrangements with a facility;

"(4) medical social services;

"(5) drug, biological, supply, appliance, and equipment for use in the facility, that is ordinarily furnished by the facility for the care and treatment of an inpatient;

"(6) medical service of an intern or resident-in-training under an approved teaching program of a hospital with which a facility has in effect a transfer agreement or other diagnostic or therapeutic service provided by a hospital with which a facility has in effect a transfer agreement; and

"(7) such other health services necessary to the health of a patient as are generally provided by a nursing home facility.

"(c) Extension of Benefit Period.—If a medical assessment by a long-term care agency at the end of the 6-month period referred to in subsection (a) indicates a reasonable possibility of the patient returning home, the coverage period under this part may be extended for a period of time not to exceed 1 year. If the coverage period is extended for an individual under this subsection, the agency shall assess monthly the patient status of the individual monthly after the initial 6-month stay.

"(d) Benefits After Covered Stays.—An individual shall be eligible for additional nursing home coverage under this part subsequent to a covered stay if—

"(1) the individual has not been an inpatient in a hospital or nursing facility for at least 6 consecutive months after any covered stay; and

"(2)(A) the individual has a diagnosis that is different than that provided for the preceding nursing home stay; or

"(B) there has been a substantial worsening of the condition of the individual since the latest discharge of the individual.

"SEC. 2322. ELIGIBILITY.

"(a) In General.—An individual shall be eligible for benefits under this part if—

"(1) the individual is 65 years of age or older and has been determined by a long-term care agency through a screening process (conducted in accordance with section 2302) to be—

"(A) completely dependent with respect to at least one activity of daily living or unable to perform two or more activities of daily living without human assistance or supervision; or

"(B) so cognitively impaired as to require constant care; and

"(2) the individual has filed an application for, and is in need of, benefits covered under this title;

"(3) receiving nursing home services in a nursing facility would be in the best interest of the individual; and

"(4) the Secretary determines that the individual meets the eligibility requirements imposed under this subsection.

"(b) Current Individuals.—An individual who is in a hospital or nursing home on the date of the enrollment of the individual in the program established by this part shall be ineligible for coverage under this section until the individual's first spell of illness beginning after such date.

"SEC. 2323. LIMITATIONS ON PAYMENT.

"(a) In General.—Monthly reimbursement for nursing home services covered under this part shall be an amount the Secretary determines to be reasonable and appropriate, taking into account the average cost of providing appropriate care.

"(b) Prospective Payment.—To the extent feasible, the Secretary shall establish a prospective payment mechanism for payment for nursing home services covered under this part that takes into account the expected resource utilization of individual patients based on the degree of impairment of the patients and other factors affecting service requirements.

"SEC. 2324. REIMBURSEMENT.

"Certified nursing homes shall accept payment for services rendered under this part as payment in full and shall not be allowed to pass on additional charges to beneficiaries for covered services.

"PART D—INSURANCE COVERAGE FOR NURSING HOME CARE THAT EXCEEDS 6 MONTHS

"SEC. 2331. ESTABLISHMENT OF FEDERAL LONG-TERM CARE INSURANCE PROGRAM.

"The Secretary shall establish an optional insurance program for individuals 45 and over to cover nursing homes stays that exceed 6 months.

"SEC. 2332. ELIGIBILITY.

"(a) Determination.—

"(1) In general.—A long-term care agency shall determine whether an individual is eligible to receive benefits covered under this part.

"(2) Screening tool.—The screening division within such an agency shall use the same screening tool as was used to determine the eligibility of an individual for coverage of the first 6 months of nursing home care under part C in order to determine the continued need of an individual for nursing home care and therefore eligibility for benefits under this part.

"(3) Criteria.—The screening division shall use the same criteria to determine eligibility under this part as are used to determine the eligibility of benefits under part C.

"(4) Periodic evaluation.—The case management division shall continue to make such an evaluation periodically, pursuant to regulations of the Secretary, as long as an individual remains in a nursing home.

"(b) Election of Coverage.—

"(1) In general.—Subject to the other provisions of this subsection, an individual shall have the option to purchase coverage under this part at 45 years of age or at age 65 years of age.

"(2) Initial year.—During the 1-year period beginning on the effective date of this part, an individual who is 45 years of age or over shall be eligible to purchase insurance under this part, except that such an individual shall not be eligible to purchase insurance while confined to a hospital or nursing home or within six months after a period of confinement in a nursing home or 90 days after a period of confinement in a hospital.

"(3) EXTENSION BEYOND INITIAL YEAR.—If an individual is confined to a nursing home or hospital during a period that extends beyond the first year after the effective date of this part, an individual shall be eligible to enroll in the program established by this part during the 60-day period beginning after the person's first spell of illness.

"(4) SUBSEQUENT YEARS.—During years subsequent to the period referred to in paragraph (2), an individual shall be eligible to purchase insurance under this part within 6 months of the 45th or 65th birthday of the individual.

"(5) ACTIVATION OF BENEFITS.—To receive coverage under the insurance program established by this part, an individual must have purchased such coverage at least 1 month prior to admission to a nursing facility.

"SEC. 2333. PREMIUM RATES.

"(a) IN GENERAL.—The Secretary shall determine one premium rate for individuals electing to purchase coverage under this part at age 45 (or between ages 45 and 64 during the initial enrollment period) and a separate rate for those who elect such coverage at age 65 (or at age 65 and over during the initial enrollment period).

"(b) REVISION.—The Secretary shall revise the premiums annually.

"(c) RATES.—In developing premium rates under the program established by this part, the Secretary shall establish rates that are expected to cover 45 percent of the estimated costs of nursing home stays that exceed 6 months for those individuals enrolled in the program.

"SEC. 2334. BENEFITS.

"(a) TYPES.—An eligible individual who elects to purchase insurance under this part shall be eligible to receive from a nursing facility for an unlimited period of time (contingent on the continued need of the individual for services)—

"(1) nursing care, provided by or under the supervision of a registered professional nurse;

"(2) physical, occupational, or speech therapy furnished by the facility or by others under arrangements with the facility;

"(3) medical social services;

"(4) drugs, biologicals, supplies, appliances, and equipment for use in the facility, that are ordinarily furnished by the facility for the care and treatment of inpatients;

"(5) medical services of interns and residents-in-training under an approved teaching program of a hospital with which the facility has in effect a transfer agreement and other diagnostic or therapeutic services provided by a hospital with which the facility has in effect a transfer agreement; and

"(6) such other health services necessary to the health of patients as are generally provided by nursing facilities.

"(b) DURATION.—The duration of benefits covered under this part shall be unlimited as long as the long-term care agency determines, through its periodic review of a patient, that the patient continues to require nursing home services.

"SEC. 2335. QUALIFIED SERVICE PROVIDERS.

"(a) IN GENERAL.—Covered nursing home services under this part shall be provided by qualified service providers.

"(b) TYPES.—A provider shall be considered a qualified service provider under this part if the provider is a nursing facility that is certified by the State and meets the requirements of this part and any other standards established by the Secretary by regulation for the safe and efficient provision of services covered under this part.

"SEC. 2336. REIMBURSEMENT.

"(a) AMOUNT.—Monthly reimbursement for nursing home services under this part shall be 65 percent of the amount the Secretary determines to be reasonable and appropriate to cover the cost of care provided under this part, taking into account the average cost of providing appropriate care in the most efficient manner.

"(b) PROSPECTIVE PAYMENT.—To the extent feasible, the Secretary shall establish a prospective payment mechanism for payment for nursing home services under this part that takes into account the expected resource utilization of individual patients based on their degree of disability and other factors determining service requirements.

"(c) ROOM AND BOARD.—

"(1) IN GENERAL.—Notwithstanding section 2332(b)(2), payment for room and board under this part shall be made by an individual participating in the program established by this part for those days spent in a nursing facility beyond 6 months.

"(2) MANNER OF PAYMENT.—Such payments for room and board shall be made by an individual directly to the nursing facility.

"(3) RATES.—Charges for room and board shall be 35 percent of the average per diem rate paid by the Secretary to nursing facilities receiving reimbursement under this part.

"PART E—TRAINING AND RESEARCH

"SEC. 2341. GRANTS FOR TRAINING FOR HOME AND COMMUNITY-BASED CARE FOR THE ELDERLY.

"(a) IN GENERAL.—The Secretary shall make grants to schools of nursing, social work, allied health, and public health of accredited universities to develop and conduct programs to train individuals in the provision, supervision, planning, and analysis of home and community-based care and nursing home care for the elderly and in the administration of such programs.

"(b) USE OF FUNDS.—Funding made available under this section may be used for curriculum development, faculty support, and traineeships and fellowships.

"(c) GRANT PREFERENCES.—In awarding grants under this section, the Secretary shall give a preference to programs that—

"(1) provide for the development or conduct of programs for continuing education and certification of professionals currently working in the field of geriatric health in the provision of services to the chronically impaired;

"(2) have established or will establish affiliations with nursing homes, agencies providing home and community-based care, senior citizen centers, adult day care centers, and other institutions and agencies providing health and social services to the impaired elderly, for the purpose of providing in-service training to individuals being trained at the grant-receiving institution and technical assistance to the institution providing services; and

"(3) have established or will establish affiliations with programs of geriatric training based in accredited medical schools or schools of nursing, or both.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.

"SEC. 2342. GRANTS FOR HOME HEALTH AIDES.

"(a) IN GENERAL.—The Secretary shall make grants to State approved programs (meeting requirements established by the Secretary relating to minimum course hours, curriculum content, competency evaluation, and qualifications of instructors) to develop and conduct programs to train individuals in the provision of home health aide services. Such training programs shall be designed and conducted according to guidelines and requirements established by the Secretary by regulation.

"(b) GRANT PREFERENCES.—Preference shall be given to programs that have established or will have established affiliations with nursing homes, agencies providing home and community-based care, senior citizen centers, adult day health care centers, and other institutions providing health and social services to the impaired elderly, for the purpose of providing in-service training to individuals being trained at the grant-receiving program and technical assistance to the institution providing services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1990 and 1991 and $25,000,000 for fiscal year 1992.

"SEC. 2343. GRANTS FOR MODEL CONSUMER TRAINING PROGRAMS.

"(a) IN GENERAL.—The Secretary shall make grants available to accredited university schools of nursing to develop model consumer training programs. Such programs shall provide information and training about the delivery of home care services for caregivers as well as general information about the home and community-based care service system for consumers or potential consumers of home care or home health services, or both, pursuant to regulations established by the Secretary.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1990, $10,000,000 for fiscal year 1991, and $15,000,000 for fiscal year 1992.

"SEC. 2344. CENTERS FOR LONG-TERM CARE PLANNING AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance under this section for the purpose of—

"(1) assisting the Secretary in carrying out this part;

"(2) providing such technical and consulting assistance as States may require;

"(3) conducting research, studies, and analysis of planning and resource development for the provision of long-term care services; and

"(4) developing long-term care planning approaches, methodologies, policies, and standards.

"(b) NUMBER OF CENTERS.—The Secretary shall provide assistance under this section so that at least 6 such centers shall be in operation by January 1, 1990.

"(c) LONG-TERM CARE AGENCIES.—Agencies assisted under this section—

"(1) may enter into arrangements with long-term care agencies for the provision of such services as may be appropriate and necessary in assisting the agencies in performing their functions under this part; and

"(2) shall develop and use methods (satisfactory to the Secretary) to disseminate to such agencies long-term care planning approaches, methodologies, policies, and standards.

"(d) STAFF.—

"(1) DIRECTOR.—Each center shall have a full-time director who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of planning and resource development in the area of long-term care.

"(2) ADDITIONAL STAFF.—Each center shall employ such other additional staff as may be appropriate. The staff of the center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1990 and $15,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Section 305(i) of the Public Health Service (42 U.S.C. 242c(i)) is amended by striking out "2313" each place it appears and inserting in lieu thereof "2413".

(b) Sections 406(a)(2), 480(a)(2), 485(a)(2), and 505(a)(2) of such Act (42 U.S.C. 284a(a)(2), 287a(a)(2), 287c-2(a)(2), and 290aa-3a(a)(2)) are each amended by striking out "2101" and inserting in lieu thereof "2401".

(c) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289f) are each amended by striking out "2301" and inserting in lieu thereof "2401".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) COVERAGE OF HOME AND COMMUNITY-BASED CARE SERVICES.—Part B of title XIII of the Public Health Service Act (as added by section 2 of this Act) shall require payment for services provided in accordance with such part on or after January 1 of the second year that begins after the date of enactment.

(c) COVERAGE FOR NURSING HOME CARE.—Part C of such title shall apply to nursing home care provided in accordance with such part on or after January 1 of the third year that begins after the date of enactment.

(d) FEDERAL LONG-TERM CARE INSURANCE PROGRAM.—Part D of such title shall require the establishment of a Federal long-term care insurance program in accordance with such part on and after January 1 of the second year that begins after the date of enactment. Payment for nursing care under this part shall begin on January 1 of the third year that begins after the date of enactment.

(e) TRAINING AND RESEARCH.—Part E of such title shall require training and research programs in accordance with such part on and after January 1, 1989.

BACKGROUND INFORMATION ON SENATOR EDWARD M. KENNEDY'S LIFECARE INSURANCE PROGRAM

THE PROBLEM

Approximately three million senior citizens are unable to perform one or more activities of daily living without assistance. Their disabilities make it impossible for them to perform such activities as dressing, bathing, going to the bathroom, or eating on their own. One million of these disabled citizens reside in nursing homes; an additional two million live in community settings. For some seniors, the disability can be expected to improve over time; for others, disability is chronic. In all cases, however, some degree of disability will last for an extended period and require long term care. A smaller number of disabled children and disabled adults under age 65 also need long term care.

The cost of the necessary long term care required by the disabled senior citizens is high, so high as to be out of the reach of all but the most affluent. Indeed, a recent study[1] found that one-third of married couples would be impoverished in just 26 weeks if one member of the family needed nursing home care. Almost half would be impoverished within a year. For single senior citizens, who tend to be less well off, the savings of a lifetime would be lost even more quickly. Over one-half would be impoverished within 26 weeks; over two-thirds would be impoverished within a year.

Most senior citizens prefer home care to nursing home care, if their physical condition permits them to stay in their homes. Although it is less costly, home care, too, is expensive. Approximately one in five married couples would be impoverished by 26 weeks of home care; one-third would be impoverished within a year. Half of single seniors would be impoverished within 26 weeks; sixty percent would be destitute within a year.

The inability to afford the cost of essential services can be devastating to disabled senior citizens. When they cannot afford to purchase the assistance they need, they are condemned to lives of loneliness and misery that generally end in unwanted confinements in nursing homes. Sixty-six percent of even the most disabled seniors, those who are unable to perform four or more of the essential activities of daily living, receive no formal home care or assistance in managing their daily lives. When they recover from strokes or hip fractures or other temporary disabilities that make treatment in nursing homes necessary, too often they can not return to their own homes because the cost of that necessary care destroyed the savings that made life at home possible.

Most disabled senior citizens struggling to survive in community settings rely on assistance from children, spouses, other relatives or friends to manage. But the burden of that care is frequently so overwhelming that it places intolerable strains on the caregivers, many of whom are aging or aged themselves.

Public programs provide limited assistance in meeting long term care needs. The Medicare program currently covers up to 100 days in a skilled nursing facility (which will be extended to 150 days beginning January 1, 1989), but a beneficiary must require skilled nursing care to be eligible. Since most disabled senior citizens do not require skilled nursing care for more than a relatively brief time, Medicare provides little help in meeting nursing home bills. Because of this and other restrictions, in 1986, Medicare covered only 1.6 percent of the total number of nursing home care days and contributed only $600 million to the nation's $38 billion nursing home bill. Medicare also covers home health services. However, Medicare covers such services provided on a daily basis for only two to three weeks, regardless of an individual's needs. (Beginning January 1, 1989, coverage for daily home health care will be extended for up to five weeks.) Moreover, Medicare coverage for home health services is restricted to those needing skilled nursing care (or physical therapy, occupational therapy, or speech therapy).

Medicaid covers the cost of nursing home care in all states, and contributes approximately forty two percent of total national nursing home costs. However, Medicaid is never available until the disabled senior citizen is impoverished. Extremely restrictive eligibility rules in many states make it impossible for some seniors to obtain Medicaid even if they are poor or have become impoverished as a result of nursing home expenses. Medicaid rarely covers home care services, and, again, is only available once the senior citizen has been impoverished by the cost of care. While the Medicare catastrophic bill provides some additional protection under Medicaid to spouses of individuals who must enter a nursing home, it does not provide any assistance to single seniors, does not apply in all states, and, even where it applies, does not assure that spouses will not suffer a significant loss of income and assets.

Other public programs, such as Title XX, provide assistance for home care for some senior citizens, but budgets for such programs are extremely limited in relationship to need, and they do not provide the security of an insurance program.

PRINCIPLES OF THE LIFECARE PLAN

Universal Insurance.—The plan is a universal social insurance program modelled on the successful example of Medicare and Social Security. All Americans will contribute, and all seniors, disabled children, and disabled adults eligible for Medicare who need services will benefit. There will be no means testing in determining an individual's eligibility for services.

Government Responsibility for Comprehensive Coverage.—Only a public long term care insurance program can assure universality, equity, and reasonable administrative costs. Gaps in government programs can be filled by private insurance, as has happened in Medicare, but such an approach is inherently unsatisfactory. The administrative costs of private insurance are much higher—10 to 40 percent for private Medigap coverage as compared to two to three percent for Medicare—and the lower income elderly, who are least able to pay out-of-pocket for gaps in government coverage, are also least able to buy private coverage to fill the gaps.

Services Based on Need.—All seniors and other eligible individuals who need long term care will be eligible to receive it. The services available to individuals will be based on need for care, as determined by uniform assessment procedures. Both care in a nursing facility and in a senior citizen's own home will be covered.

Modest Copayments and Deductibles.—Any significant copayments or deductibles reduce the demand for care, but experience has shown that they reduce the demand for necessary care. Seniors of moderate means would be particularly victimized by copayments and deductibles, because they would be unable to afford them and because the better off would be likely to buy private insurance to cover the cost of copayments and deductibles. This has been the experience under Medicare.

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[1] U.S. Congress. Report presented by the Chairman of the House Select Committee on Aging. "Long Term Care and Personal Impoverishment: Seven in Ten Elderly Living Alone are at Risk." October, 1987.

No Increase in the Deficit.—Given the current economic situation, any new long care insurance program must be self-financing.

DETAILS OF THE LIFECARE PROGRAM

The Lifecare Program would provide home and community-based care and nursing home care for the impaired elderly, for disabled children, and for disabled, Medicare-eligible adults under age 65. Lifecare would be divided into Part A and Part B. Part A would cover home and community-based care and the first six months of nursing home care. Part B would establish an optional public insurance program to cover stays in nursing facilities that exceed six months. The bill also creates a number of grant programs to help increase the national capacity to provide high quality long term care services.

Under the Lifecare program, the Secretary of the Department of Health and Human Services would contract with States or private non-profit organizations to establish and administer a Long Term Care Agency for each area of a State. A Screening Division within this agency would be responsible for determining the eligibility of individuals residing in its geographic jurisdiction for services covered under both Part A and Part B of the Lifecare program.

Once an individual was determined to be eligible for services, a separate division of the Long Term Care Agency, the Case Management Division, would assume responsibility for providing case management services for eligible persons. Case management services include conducting a comprehensive needs assessment (which includes measures of the person's functional and cognitive impairment, behavioral problems, living arrangement and availability of informal care, diagnosis and age), developing an eligible person's specific plan of care for either home and community-based services or for nursing home services based on the results of the needs assessment, and coordinating the provision of such services by qualified providers.

Home and Community-Based Care

Persons eligible for home and community-based care are individuals who are determined by a Long Term Care Agency to be either totally dependent in at least one activity of daily living or dependent upon human assistance in at least two activities of daily living, or cognitively impaired enough to require continual supervision.

Qualified providers of home and community-based care include certified home care agencies, home health agencies, adult day health care centers, and other certified or licensed providers of specific services such as registered professional nurses, licensed social workers, physicians, and physical, occupational and speech therapists and other providers approved by the State or the Long Term Care Agency. All providers of home care services under the Lifecare program would be required to accept payment rates established by the Long Term Care Agency as payment in full for services and would not be allowed to pass on additional charges to beneficiaries for services rendered under the plan of care. A beneficiary could, however, purchase additional, optional services out of his or her own pocket at the payment rates established by the Long Term Care Agency. For example, a family might wish, as a matter of convenience, to provide more hours of chore services than were determined necessary under the plan of care.

Specific home and community-based benefits covered by the Lifecare program include: homemaker services; home health aide services; heavy chore services; adult day health care; respite care; home mobility aides and minor home adaptations; nursing care provided by or under the supervision of a registered professional nurse; and physical, occupational, or speech therapy.

The Screening Division would be responsible for allotting an estimated funding level to each person determined eligible for home and community-based services under the Lifecare program. This funding level will be dependent on an individual's severity of need for services, which shall include a measure of physical and cognitive impairment, living arrangement, and age. While the Long Term Care Agency would be free to modify the budget for a particular individual based on the individual care plan, the total budget for the agency would be fixed and would be based on the average amount established by the screening for all individuals receiving home and community-based care from the Agency.

During the first three years of this program, the maximum amount that could be spent to provide home and community-based services to a particular individual could not exceed 65 percent of the average amount that would be paid for nursing home services under Medicare. In subsequent years, the limit would be established by the Secretary.

First Six Months of Nursing Home Care

Eligibility for coverage of the first six months of nursing home care would be based on the same age and disability requirements used to determine a person's eligibility for home and community-based care. Nursing home care would only be provided if it were better for the individual than home care and consistent with the beneficiary's preferences.

Part A nursing home coverage could be extended for up to one year when a medical assessment at 6 months indicates that there is a reasonable possibility of the patient returning home.

Qualified providers or nursing home care include nursing facilities that meet the standards for participation in the Lifecare program established by the Secretary.

The Secretary is encouraged to establish a prospective payment system for nursing home services. The Secretary is required to use a methodology that will promote effective and economical provision of high quality services. Nursing homes would be required to accept payment from the Lifecare program as payment in full and would not be allowed to pass on additional charges to beneficiaries for covered services.

Part B Insurance Program to Cover Nursing Home Stays That Exceed Six Months

All individuals age 45 and over may enroll in the Part B optional insurance program. Individuals may purchase insurance within 6 months of their 45th or 65th birthday. There will be a separate, lower premium for those enrolling at 45 than for those enrolling at 65. Premiums will be set at a level sufficient to finance two-thirds of the cost of the program, with Federal funds contributing one-third of the cost.

To receive benefit coverage under this program, individuals must be enrolled in the insurance program one month prior to admission to a nursing facility. For persons who received coverage for nursing home care under Part A, the Long Term Care Agency would determine eligibility for Part B coverage through a reassessment process. The Long Term Care Agency would determine the activation of benefits for those enrolled persons aged 45-64, through an assessment process similar to that used for determining eligibility for Part A nursing home care.

The insurance program established by Part B would cover 65 percent of the cost of nursing home stays that exceed six months. People who receive Part B coverage would be required to pay for the part of the nursing home bill that represents the cost of room and board, which they would have had to pay if they were living in the community. Accordingly, Part B insurance does not cover 35 percent of the daily nursing home cost. For those lacking sufficient income to pay the 35 percent share, Medicaid would act as a gap-filler.

STRENGTHENING OF LONG TERM CARE DELIVERY SYSTEM

Enactment of Lifecare will result in substantially expanding the ability of disabled seniors and other eligible individuals to purchase the nursing home and home care services they need. To help expand our society's ability to provide high quality long term care services, the legislation establishes a number of capacity-building programs. These include: training programs for professionals providing nursing home and home and community-based services; training programs for home health aides; establishment of centers to provide technical assistance to agencies providing or managing home care and to conduct research on long term care needs and planning methods; and programs to develop consumer information programs on long term care services.

COST OF THE PROGRAM

The net cost of the tax-supported portion of the plan at full implementation is estimated to be $20.5 billion, as shown in the following table.

Cost estimate [1]

	Billions
Part A (primarily tax financed):	
Home care	$9.0
Nursing home care (up to 6 months)	10.0
Part B (premium plus tax financed):	
Subsidy for premium cost of nursing home care insurance for stays beyond 6 months (one-third of program cost)	1.5
Total	20.5

[1] Estimates are net of Medicaid offsets.

PROGRAM FINANCING

A number of alternative revenue sources could be used to cover the public costs of the program. One appropriate way to insure senior citizens against the cost of long term care would be to eliminate the current $45,000 cap on the amount of income subject to the Medicare and Social Security payroll tax. As currently applied, the Social Security and Medicare taxes are regressive.

Since everyone pays the same percentage tax on the first $45,000 of income and nothing thereafter, workers with wages below that ceiling pay a higher proportion of income to finance these programs than individuals with higher incomes. Eliminating the current cap would correct that inequity and generate enough revenues to cover the cost of Lifecare. The substantial amount of excess revenue created by this change should be used for Social Security rate reduction.

A decision as to the most acceptable way to finance the Lifecare program will require extensive discussion with the tax-writing committees and affected groups. The key requirements are that any tax must be fair and is fully financed so that it does not add to the deficit.

Mr. SIMON. Mr. President, today I rise to join my distinguished colleague from Massachusetts to sponsor lifecare legislation that will provide comprehensive long-term care for America's disabled, elderly and children. I commend him for his long-term commitment to providing access to quality health care for all citizens. I am especially pleased that this proposal includes services for chronically ill children and disabled persons that were a fundamental part of H.R. 2762 and S. 1616, the Pepper-Simon proposals for home and community based care. I thank him for extending the benefits of lifecare to those people.

This bill will provide a blueprint for how our Government should take care of our Nation's elderly, sick, physically and mentally ill, and provide for long-term care. Lifecare provides relief for the American family of today and of the future.

The aging of our society has been described as a 20th century miracle. The quality of life for most elderly Americans has improved dramatically over the last quarter of a century. Research and preventive efforts have made all of us healthier. One effect of a healthier America has been increasing numbers of Americans have become elderly and we now must meet the challenges of old age.

When Social Security passed, the average American lived to be 58. We now live to be an average of 75. And very shortly we are going to see an explosion in this demand for long-term care. And we are either going to devastate seniors and families or we are going to meet this problem in a constructive way.

People aged 85 and older are more than 4 times as likely as those aged 65 to 74 to need long-term care services. There is a great need for a comprehensive bill to address the health care needs of our elderly and disabled citizens.

Three months ago I joined Senator GEORGE MITCHELL in the introduction of a long-term care proposal for the chronically ill. As I indicated then, the proposal does not go as far as I think we should on long-term nursing home care. It troubles me that that plan provides Medicare benefits for nursing home stays once a person had spent 2 years there; once low- and middle-income elderly have lost everything they worked for. I am here today to build and to improve on past efforts.

Sixty-three percent of patients in nursing homes are there for less than 6 months. Lifecare provides a minimum of 6 months' coverage. It also establishes a voluntary insurance plan for those over 45, who seek to insure themselves against unlimited, longer stays.

I believe that lifecare will meet the challenges facing our Nation and the aging of our population. For America, lifecare in the 1990's is what Social Security was in the 1930's and Medicare was in the 1960's. Lifecare will be able to help the American family afford long term care for their parents, grandparents, relatives, friends and other loved ones without having to sacrifice their own dreams of a home, college education for their children or basic necessities. Long-term care is a family issue, a women's issue, an elderly issue and a disability issue. It is about families who are being devastated by the need for long-term care.

I receive letters from senior citizens asking for help when their spouse is in a nursing home and they have spent their life savings in less than a year and are now forced to go on welfare and receive Medicaid. Last year a gentleman from Greenville, IL, starved himself and lived without air-conditioning so that his wife could stay in a local nursing home.

Recently, a woman from Riverside, IL, wrote this:

> A friend of mine, Mary Ingorvato, was recently admitted to a hospital for a broken foot and a cracked chest bone as a result of a fall. After three days, discharge plans were in the making. She was bedridden, and suffered from diarrhea and fever. There was no possible way in which she could care for herself, for she was still ill. The doctor said that she needed further medical care, but was informed that Medicare would no longer cover her hospitalization. Thus, she would have to be released. This seems strange, being that she is allowed sixty days plus on Medicare. Once she was kicked out of the hospital, there would be no one to care for her and she has no money for a nursing home.
>
> After one week at home, she returned to the hospital via ambulance. The diagnosis was two cracked vertebrae. Her spine was deteriorating and after immediate medical treatment at the hospital it became evident that a nursing facility was the only answer. Medicare does not pay for this and neither does supplemental hospital care. She has no money. Her life savings is now enough for two months in even the lowest cost home. Prior to her health problems, she managed beautifully on $460.00 per month. Additionally, no nursing homes want her. Certain facilities will not accept public aid patients. In many cases patients must make a $40,000.00 deposit. Caring for senior citizens has become a flourishing business, and it provides a service only the wealthy can afford.

It is a shame that the hard-working, upstanding citizens in our country are reduced to poverty because America lacks a long-term care plan to serve the very basic need for adequate health care and related medical services.

I ask for support on this very important issue today and hope that we can address this great need before the 100th session ends.

We must ensure that all Americans share in the dignity of our nation and that a dignified nation—a dignified America—cares for our aging, disabled and mentally ill citizens. This is not a burden. It is the just and right thing to do.

ADDITIONAL COSPONSORS

S. 1817

At the request of Mr. KENNEDY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1992

At the request of Mr. HEINZ, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1992, a bill to promote intergovernmental and interagency cooperation in the development of groundwater policy.

S. 2330

At the request of Ms. MIKULSKI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2633

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2633, a bill to provide jurisdiction and procedures for claims by individuals for injuries or death due to exposure to radiation from nuclear testing.

S. 2675

At the request of Mr. DASCHLE, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. PELL], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2675, a bill to amend title 38, United States Code, to provide certain service-connected presumptions in the case of veterans who performed active service in Vietnam during Vietnam era; to make improvements in the composition of the Advisory Committee on Special Studies relating to the Possible Long-term Health effects on Phenoxy Herbicides and Contaminants and the procedures used by such advisory committee, and for other purposes.

S. 2680

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2680, a bill to establish a pilot program for the tracking of medical wastes in the States of New York, New Jersey, and Connecticut.

SENATE JOINT RESOLUTION 280

At the request of Mr. Hatch, the names of the Senator from Ohio [Mr. Glenn] and the Senator from Connecticut [Mr. Dodd] were added as cosponsors of Senate Joint Resolution 208, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 348

At the request of Mr. Reid, the names of the Senator from Missouri [Mr. Bond], the Senator from North Dakota [Mr. Burdick], the Senator from Mississippi [Mr. Cochran], the Senator from Minnesota [Mr. Durenberger], the Senator from New Hampshire [Mr. Humphrey], the Senator from Hawaii [Mr. Inouye], the Senator from New Jersey [Mr. Lautenberg], the Senator from Hawaii [Mr. Matsunaga], the Senator from Arizona [Mr. McCain], the Senator from Ohio [Mr. Metzenbaum], the Senator from Arkansas [Mr. Pryor], the Senator from Alabama [Mr. Shelby], the Senator from South Carolina [Mr. Thurmond], and the Senator from California [Mr. Wilson] were added as cosponsors of Senate Joint Resolution 348, a joint resolution to designate the week of February 5, 1989, through February 11, 1989, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 350

At the request of Mr. Simon, the names of the Senator from Colorado [Mr. Wirth], the Senator from Michigan [Mr. Levin], the Senator from Oregon [Mr. Packwood], the Senator from Washington [Mr. Adams], the Senator from Oklahoma [Mr. Boren], the Senator from New Jersey [Mr. Bradley], the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Burdick], the Senator from Illinois [Mr. Dixon], the Senator from New Hampshire [Mr. Humphrey], the Senator from Hawaii [Mr. Inouye], the Senator from New York [Mr. Moynihan], the Senator from Michigan [Mr. Riegle], the Senator from Vermont [Mr. Stafford], the Senator from Kansas [Mr. Dole], the Senator from Nevada [Mr. Reid], the Senator from Delaware [Mr. Roth], the Senator from Rhode Island [Mr. Pell], the Senator from Texas [Mr. Bentsen], and the Senator from Missouri [Mr. Danforth] were added as cosponsors of Senate Joint Resolution 350, a joint resolution designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 132

At the request of Mr. Simon, the names of the Senator from Massachusetts [Mr. Kerry] and the Senator from Maine [Mr. Mitchell] were added as cosponsors of Senate Concurrent Resolution 132, a concurrent resolution regarding the protection and promotion of human rights in the Republic of Singapore.

AMENDMENT NO. 2749

At the request of Mr. Glenn, the names of the Senator from Iowa [Mr. Harkin] and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of amendment No. 2749 proposed to H.R. 4784, a bill making appropriations for rural development, agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

SENATE CONCURRENT RESOLUTION 135—MAKING CORRECTIONS IN THE ENROLLMENT OF H.R. 4848

Mr. EXON (for himself, Mr. Karnes, Mr. Bond, Mr. Grassley, Mr. Pressler, Mr. Dole, Mr. Durenberger, Mr. Harkin, Mr. Daschle, Mr. Burdick, and Mr. Lugar) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 135

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 4848, an act to enhance the competitiveness of American industry, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Section 1910 of the bill shall have the following proviso added: *Provided,* That the amendments made by this section shall apply, if at all, with respect to ethyl alcohol, and mixtures of ethyl alcohol, entered after the date on which the Secretary of Agriculture ", the Secretary of Energy" and the Secretary of the Treasury, acting jointly, submit to the Congress, and publish in the Federal Register, a written statement certifying that "the domestic ethyl alcohol production industry is not fully meeting demand for ethyl alcohol in the United States and that" the quantity of ethyl alcohol, and mixtures of ethyl alcohol, that would be imported into the customs territory of the United States free of duty by reason of the amendments made by this section is necessary to maintain adequate supplies of ethyl alcohol for consumers in the United States.

AMENDMENTS SUBMITTED

OMNIBUS TRADE AND COMPETITIVENESS ACT

WALLOP (AND HECHT) AMENDMENT NO. 2787

Mr. WALLOP (for himself and Mr. Hecht) proposed an amendment to the bill (H.R. 4848) to enhance the competitiveness of American industry, and for other purposes; as follows:

In paragraph (1) of section 301(a) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In subsection (b) of section 301 of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In paragraph (1) of section 305(a) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In subparagraph (B) of section 305(b)(1) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In paragraph (1) of section 307(a) of the Trade Act of 1974, as added by section 1301(a) of the bill, strike out "subject to the specific direction, if any, of the President regarding any such action" and insert in lieu thereof "subject to the specific direction of the President".

In subsection (b) of section 310 of the Trade Act of 1974, as added by section 1302 of the bill, strike out "the Trade Representative shall initiate" and insert in lieu thereof "the Trade Representative shall, if the President concurs, initiate".

McCLURE AMENDMENT NO. 2788

Mr. McCLURE proposed an amendment to the bill H.R. 4848, supra; as follows:

At the end of part 2 of subtitle H of title I of the bill, add the following:

SEC. . MOST-FAVORED-NATION TRADE TREATMENT.

(a) In General.—In considering the extension of most-favored-nation trade treatment to the products of any foreign country that is a signatory to the Final Act on Security and Cooperation in Europe (hereafter in this section referred to as the "Helsinki Final Act") and that did not enjoy such trade treatment on August 1, 1988, the President shall take into account—

(1) the extent to which the country is in compliance with the Helsinki Final Act, particularly the human rights and humanitarian provisions, and

(2) in determing such compliance—

(A) the extent to which a pattern of compliance exists in which violations are clearly the exception and contrary to established policy and generally observed practices in the country;

(B) the existence, in theory and in practices, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress in the country that facilitate and encourage, rather than frustrate, the exercise by the citizens and inhabitants of the country of fundamental freedoms specified in the Helsinki Final Act, and

(C) the ability of citizens of the country and citizens of other foreign countries that are signatories to the Helsinki Final Act, in theory and in practice, to freely monitor the performance of the governmental authorities of the country with regard to the requirements of the Helsinki Final Act throughout the territory of the country, and to publicize their findings, both within and the outside of the country.

(b) Report.—At the time the President extends most-favored-nation trade treatment to any foreign country described in subsection (a), the President shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives describing the extent to which such country is in compliance with the Helsinki Final Act, with particular emphasis on the criteria described in subsection (a)(2).

(c) Construction.—Nothing in this section may be construed as vitiating, limiting, or otherwise having any effect on any other limitations on, or requirements or waiver procedures necessary for, the granting of most-favored-nation trade treatment to the products of any foreign country that are imposed under any other provision of law.

WALLOP AMENDMENT NO. 2789

Mr. WALLOP proposed an amendment to the bill H.R. 4848, supra; as follows:

On page 827, strike Subtitle C—Competitiveness Policy Council Act, beginning on line 17 through page 846, line 19.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1988

WARNER (AND OTHERS) AMENDMENT NO. 2790

(Ordered to lie on the table.)

Mr. WARNER (for himself, Mr. Dole, Mr. Cohen, and Mr. Wilson) submitted an amendment intended to be proposed by them to the bill (H.R. 5026) making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes; as follows:

At the end of the bill, insert the following new section:

Sec. . Military Pay Raise For Fiscal Year 1989.—

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(b) Increase in Basic pay and BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.

(c) Increase in BAQ.—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

(d) Increase in Cadet and Midshipman Pay.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525".

OMNIBUS TRADE AND COMPETITIVENESS ACT

HUMPHREY AMENDMENT NO. 2791

Mr. HUMPHREY proposed an amendment to the bill (H.R. 4848) supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . TRADE WITH AFGHANISTAN.

(a) Authorization To Prohibit Imports.—

(1) Notwithstanding any other provision of law, the President is authorized to prohibit the importation into the United States of all products of Afghanistan after the date of enactment of this Act.

(2) For purposes of this subsection, the term "product of Afghanistan" means any article which—

(A) is grown, produced, or manufactured in Afghanistan, and

(B) is exported by—

(i) the so-called Republic of Afghanistan that is sponsored by the Union of Soviet Socialist Republics, or

(ii) any political party, faction, or regime in Afghanistan sponsored by the Union of Soviet Socialist Republics.

(b) Authorization To Prohibit Exports.—Notwithstanding any other provision of law, the President is authorized to prohibit the exportation of any goods or technology from the United States for the benefit of, or use by—

(1) the so-called Republic of Afghanistan that is sponsored by the Union of Soviet Socialist Republics, or

(2) any political party, faction, or regime in Afghanistan sponsored by the Union of Soviet Socialist Republics.

(c) Report To Congress.—If the President has not, before the date that is 45 days after the date of enactment of this Act, taken actions under this section to prohibit trade between the United States and the so-called Republic of Afghanistan, a regime that is sponsored by the Union of Soviet Socialist Republics, the President shall submit to the Congress on such date a report which states the reasons why the President has not taken action to prohibit such trade.

(d) Intent of Congress.—It is not the intent of Congress to authorize the President to prohibit trade with those Afghan forces or factions for which the Congress has expressed support.

WILSON AMENDMENT NO. 2792

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill H.R. 4848, supra; as follows:

At the appropriate place in the bill, add the following:

SEC. . REPORTS ON IMPACT OF TRADE RESTRAINTS.

(a) Within twelve months after the date of enactment, and on February 15 of each subsequent year, the International Trade Commission shall submit to the Congress a report on the negative economic effects on the United States of significant existing trade import restraint programs of the United States. The report shall include an assessment of the impact on consumers and, for each significantly affected service of product industry, an assessment of the impact on the income and employment of workers and on the ability of United States companies to compete, on price and quality bases, in domestic and international markets.

(b) In addition to the report to the Congress required under subsection (a), after the date of enactment the Commission shall provide a supplementary report on the negative economic effects of a new or significantly altered trade import restraint program not later than 60 days after the date of the announcement or enactment of such program (or if involving particular analytic complexity, 180 days is allowed), provided that if the Commission is proposing import restraints pursuant to section 201 of the Trade Act of 1974, such report shall accompany the recommendation of the Commission to the President, and shall at that time also be submitted to the Congress.

(c) The term "trade import restraint program" includes any increase or new imposition of duties, quantitative restrictions, or other limitations on imports into the United States pursuant to any Act of Congress, any action taken pursuant to the trade laws of the United States, or any international agreement, whether or not authorized by law, provided that such term shall not include any import restraint imposed to redress unfair trade practices pursuant to the trade laws of the United States.

CORRECTIONS IN THE ENROLLMENT OF H.R. 4848

KARNES (AND OTHERS) AMENDMENT NO. 2793

Mr. KARNES (for himself, Mr. Dole, Mr. Exon, Mr. Grassley, Mr. Pressler, Mr. Bond, Mr. Durenberger, and Mr. Lugar) proposed an amendment to the concurrent resolution (S. Con. Res. 135) to correct the enrollment of H.R. 4848; as follows:

On page 1 after "Secretary of Agriculture" insert ", the Secretary of Energy"

On page 1 after "statement certifying that" insert "the domestic ethyl alcohol production industry is not fully meeting demand for ethyl alcohol in the United States and that".

MEDICAL WASTE DISPOSAL

CHAFEE AMENDMENT NO. 2794

Mr. CHAFEE proposed an amendment to the bill (S. 2680) to establish a pilot program for the tracking of med-

ical wastes in the States of New York, New Jersey, and Connecticut; as follows:

On page 9, amend subsection (b) of section 3 by—

(a) inserting ", in appropriate cases," immediately before "directed to use" in the first sentence; and

(b) striking "and the Solid Waste Disposal Act" in the second sentence.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATIONS DISORDERS

KENNEDY AMENDMENT NO. 2795

Mr. BYRD (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 3361) to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communications Disorders; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Research Institutes Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Public Health Service Act.

TITLE I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

Sec. 101. Biomedical and behavioral research facilities.

TITLE II—BIOMEDICAL ETHICS

Sec. 201. Fetal therapy and research.
Sec. 202. Reauthorization of the biomedical ethics board and committee.

SUBTITLE C—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

TITLE III—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Sec. 301. National Institute on Deafness and Other Communication Disorders.

TITLE IV—NATIONAL INSTITUTE ON AGING

Sec. 401. Centers of geriatric research and training.
Sec. 402. Special function of institute.

TITLE V—NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

Sec. 501. National Center for Medical Rehabilitation Research.

TITLE VI—NATIONAL CENTER FOR NURSING RESEARCH

Sec. 601. National Center for Nursing Research.

TITLE VII—NATIONAL CANCER INSTITUTE

Sec. 701. Purpose.
Sec. 702. Special authorities of the Director.
Sec. 703. National cancer research and demonstration centers.

TITLE VIII—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Sec. 801. Information and education.
Sec. 802. Resources program.
Sec. 803. National research and demonstration centers.
Sec. 804. Interagency technical committee.

TITLE IX—NATIONAL INSTITUTES OF HEALTH

Sec. 901. Appointment and authority of the Director.
Sec. 902. Addition of national center for medical rehabilitation research.
Sec. 903. Report of director of NIH.
Sec. 904. Advisory council of division of research resources.

TITLE X—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

Sec. 1001. Appointment and authority of the directors.
Sec. 1002. Advisory councils.
Sec. 1003. Authorization of appropriations.

TITLE XI—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Sec. 1101. Redesignation of National Institute of Diabetes and Digestive and Kidney Diseases.
Sec. 1102. Advisory boards.

TITLE XII—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

Sec. 1201. National arthritis and musculoskeletal disease programs.
Sec. 1202. Multipurpose disease centers.

TITLE XIII—NATIONAL LIBRARY OF MEDICINE

Sec. 1301. Board of regents.
Sec. 1302. Authorization of appropriations.
Sec. 1303. Grants for the development of new educational technologies.
Sec. 1304. Grants for basic resources of medical libraries.
Sec. 1305. Grants for establishment of regional medical libraries.

TITLE XIV—AWARDS AND TRAINING

Sec. 1401. National research service awards.

TITLE XV—GENERAL PROVISIONS

Sec. 1501. Peer review requirements.

TITLE XVI—MISCELLEANOUS

Sec. 1601. Epidemiological study for Hanford, Washington.
Sec. 1602. National commission on sleep disorders research.

SEC. 2. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

SEC. 101. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Title IV (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new part:

"PART H—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 499A. GRANTS FOR CONSTRUCTION.

"The Director of the National Institutes of Health, through the Director of Research Resources (hereinafter in this part referred to as the 'Director'), is authorized to award grants to public and nonprofit private institutions to expand, remodel, renovate, or alter existing research facilities or construct new research facilities pursuant to this part. Applications for grants shall be evaluated on the basis of merit as provided in section 499H.

"SEC. 499B. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES COMMITTEES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Director of the National Institutes of Health shall establish, in the Division of Research Resources, a Biomedical and Behavioral Research Facilities Committee (hereafter referred to in this part as the 'Committee') to conduct the peer review of applications received under this part.

"(2) MEMBERSHIP.—The committee shall be composed of—

"(A) members to be appointed by the Director of the National Institutes of Health, under the authority provided in section 402(b)(6); and

"(B) individuals, who by virtue of their training or experience, are eminently qualified to perform review functions, except that not more than one-fourth of the members of the Committee shall be officers or employees of the United States.

"(b) PEER REVIEW OF APPLICATIONS.—

"(1) IN GENERAL.—The Director of the National Institutes of Health shall require appropriate peer review of applications for grants under this part in accordance with section 492.

"(2) MANNER OF REVIEW.—Review of grant applications shall be conducted in a manner consistent with the system of scientific peer review conducted by scholars with regard to applications for grants under this part for biomedical and behavioral research.

"SEC. 499C. APPLICATION AND SELECTION FOR GRANTS.

"(a) SUBMISSION.—Applications for grants under this part shall be submitted no less frequently than annually to the Director by public and nonprofit private institutions.

"(b) AWARDING OF GRANTS.—A grant under this part may be awarded by the Director if—

"(1) the applicant institution is determined by the Director to be competent to engage in the type of research for which the proposed facility is to be constructed;

"(2) the applicant institution meets the eligibility conditions established by the Director;

"(3) the application contains or is supported by the reasonable assurances that—

"(A) for not less than 20 years after completion of construction, the facility will be used for the purposes of research for which it is to be constructed;

"(B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility; and

"(C) sufficient funds will be available, when construction is completed, for effective use of the facility for the research for which it is being constructed; and

"(4) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

A grant under this part may be made only if the application therefor is recommended for approval by the Advisory Council.

"(c) ELIGIBILITY CONDITIONS.—Within such aggregate monetary limit as the Director may prescribe, applications that, solely by reason of the inability of the applicants to give the assurance required by subsection (b)(2), fail to meet the requirements for application set forth in this section, may be approved on condition that the applicants give the assurance required by such paragraph within a reasonable time and on such other reasonable terms and conditions as the Director may determine.

"(d) AWARDING GRANTS.—

"(1) IN GENERAL.—In acting on applications for grants under this part, the Director shall take into consideration—

"(A) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding capacity for biomedical or behavioral research and in improving the quality of such research;

"(B) the quality of research or training, or both, to be carried out in the facilities involved;

"(C) the need of the institution for such facilities in order to maintain or expand the institutions' research and training mission;

"(D) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(E) the age and condition of existing research facilities and equipment.

"(2) INSTITUTIONS OF EMERGING EXCELLENCE.—

"(A) IN GENERAL.—In addition to paragraph (1), the Director shall consider other criteria for the awarding of grants for the construction of research facilities to eligible institutions that demonstrate emerging excellence in biomedical or behavioral research.

"(B) ELIGIBILITY.—To be eligible for a grant under this paragraph, an institution shall—

"(i) have a plan for research or training advancement and the ability to carry out the plan; and

"(ii)(I) carry out research and research training programs that have a special relevance to a problem, concern, or unmet need of the United States;

"(II) have already demonstrated a commitment to enhancing and expanding their research productivity; or

"(III) have been productive in research or research development and training in settings where significant barriers to institutional development have been created by—

"(aa) the underrepresentation of minorities in health science careers;

"(bb) the health status deficit of a large segment of the population; or

"(cc) a regional deficit in health care technology, services, or research resources that can adversely affect health status in the future.

"SEC. 499D. AMOUNT OF GRANT; PAYMENTS.

"(a) AMOUNT.—The amount of any grant awarded under this part shall be determined by the Director, except that such amount may not exceed—

"(1) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(2) in the case of a multipurpose facility, 50 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(b) RESERVATION OF AMOUNTS.—On approval of any application for a grant under this part, the Director shall reserve, from any appropriation available therefor, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Director may determine. The Director's reservation of any amount under this subsection may be amended by the Director, either on approval of an amendment of the application or on revision of the estimated cost of construction of the facility.

"(c) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by grant authorized under this part; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) WAIVER OF LIMITATIONS.—The limitations imposed by subsection (a) may be waived at the discretion of the Director for institutions described in section 499C(d)(2).

"SEC. 499E. RECAPTURE OF PAYMENTS.

"If, within 20 years after the completion of construction for which a grant has been awarded under this part—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private institution; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"SEC. 499F. NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS.

"Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research conducted by, and the personnel or administration of, any institution.

"SEC. 499G. REGULATIONS.

"Within 6 months after the date of enactment of this part, the Director, after consultations with the Advisory Council, shall prescribe regulations regarding the eligibility of institutions for grants awarded under this part, and the terms and conditions of approving applications for such grants. The Director may prescribe such other regulations as the Director finds necessary to carry out this part.

"SEC. 499H. NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL.

"(a) COUNCIL SUBCOMMITTEE STRUCTURE.—The existing subcommittee structure of the National Advisory Research Resources Council (hereafter referred to in this section as the 'NARRC'), established pursuant to section 480 (which includes the Planning and Agenda Subcommittee, the General Clinical Research Centers Program Subcommittee, the Biomedical Research Technology Program Subcommittee, the Biomedical Research Support Program Subcommittee, the Animal Resources Program Subcommittee, the Minority Biomedical Research Support Program Subcommittee, and the Research Centers in Minority Institutions Program Subcommittee) shall be increased by the addition of a Biomedical and Behavioral Research Facilities Program Subcommittee (hereafter referred to in this section as the 'Subcommittee').

"(b) REQUIREMENTS.—The Subcommittee established under subsection (a) shall—

"(1) consist of seven members appointed by the Director of Research Resources from among the Council membership;

"(2) carry out the advisory functions of the NARCC subcommittees as provided for in the NARCC charter, under the authority of section 480 of the Public Health Service Act (42 U.S.C. 287a); and

"(3) provide advice to the NARRC and to the Director of Research Resources.

"(c) COUNCIL ANNUAL REPORT.—The NARRC shall prepare and submit to the Director of Research Resources an annual report that shall be made available to the public, that—

"(1) describes the activities of the Subcommittee in the fiscal year for which the report is made;

"(2) describes and evaluates the progress made in such fiscal year in meeting the facilities needs for the biomedical research community;

"(3) summarizes and analyzes expenditures made by the National Institutes of Health for such activities;

"(4) reviews the approved but unfunded applications for grants under this part; and

"(5) contains recommendations for any changes in the implementation of this part.

"SEC. 499I. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to award grants and carry out this part $150,000,000 for fiscal year 1989 and such sums as necessary for each of the fiscal years 1990 and 1991. Sums appropriated pursuant to this section shall remain available until expended.

"SEC. 499J. DEFINITIONS.

"As used in this part:

"(1) CONSTRUCTION AND COST OF CONSTRUCTION.—The terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or offsite improvements.

"(2) PUBLIC OR NONPROFIT PRIVATE INSTITUTION.—The term 'public or nonprofit private institution' means an institution that conducts biomedical or behavioral research, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.".

TITLE II—BIOMEDICAL ETHICS

SEC. 201. FETAL THERAPY AND RESEARCH.

Section 498(c) (42 U.S.C. 298g) is amended to read as follows:

"(c)(1) Not later than 1 year after the date of enactment of this subsection, the Secretary shall appoint an Ethics Advisory Board that shall advise the Secretary and biomedical researchers regarding research on fetal therapy and on research involving human fetuses.

"(2) The Board shall consist of 15 members to be appointed as follows:

"(A) Five members shall be appointed by the Secretary who shall be distinguished in biomedical or behavioral research. Of such members, three shall have had experience with research involving human fetuses, and two shall have had experience in research involving children.

"(B) Three members shall be appointed by the Secretary who shall be distinguished in the practice of medicine, or otherwise distinguished in the provision of health care. Of such members, one shall have expertise in obstetrics, and one shall have expertise in neonatology.

"(C) Six members shall be appointed by the Secretary who shall be distinguished in the fields of ethics, theology, and law.

"(D) One member shall be appointed by the Secretary who shall be representative of citizens with an interest in biomedical ethics but who shall possess no specific expertise in such.

"(3) The term of office of each member of the Board shall be 3 years, except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which such members predecessor was appointed shall be appointed for the remainder of such term. The terms of the members of the Board shall be staggered by the Secretary so as to establish a rotating membership.

"(4) The Biomedical Ethics Advisory Committee appointed under section 381 shall conduct a study of the nature, advisability, and biomedical and ethical implications of exercising any waiver of the risk standard published in section 46.102(g) of such part 46 (or any successor to such regulations). The Committee shall complete the study and report its findings to the Biomedical Ethics Board established under section 381 not later than the expiration of 24 months after the date of enactment of this subsection. The report shall include the recommendations, if any, of the Committee on the advisability of the authority for such a waiver and the circumstances under which such a waiver might be granted. The Biomedical Ethics Board shall transmit the report to the Secretary, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate.

"(5) During the 2-year period beginning on the date of enactment of this subsection, the Secretary may not grant (under section 46.211 of title 45, Code of Federal Regulations or any successor to such section) a modification or waiver for fetal research.".

SEC. 202. REAUTHORIZATION OF THE BIOMEDICAL ETHICS BOARD AND COMMITTEE.

Subsection (e) of section 381 of the Public Health Service Act (42 U.S.C. 275(e)) is amended to read as follows:

"(e) To enable the Board and the Committee to carry out their functions, there are authorized to be appropriated $2,000,000 for fiscal year 1989, $2,500,000 for fiscal year 1990, and $3,000,000 for fiscal year 1991.".

TITLE III—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

SEC. 301. NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS.

(a) Establishment and Transfer of Functions.—Title IV is amended—

(1) in section 401(b)(1) (42 U.S.C. 281(b)(1))—

(A) by striking out "and Communicative" in subparagraph (J); and

(B) by adding at the end thereof the following new subparagraph:

"(M) The National Institute on Deafness and Other Communication Disorders.";

(2) in the heading for subpart 10 of part C, by striking out "and Communicative";

(3) in section 457 (42 U.S.C. 285j)—

(A) by striking out "and Communicative"; and

(B) by striking out "disorder, stroke," and all that follows and through the end thereof and inserting in lieu thereof "and disorder and stroke."; and

(4) in Part C (42 U.S.C. 285 et seq.), by adding at the end thereof the following new subpart:

"Subpart 13—National Institute on Deafness and Other Communication Disorders

"SEC. 464. PURPOSE OF THE INSTITUTE.

"The general purpose of the National Institute on Deafness and Other Communication Disorders (hereafter referred to in this subpart as the 'Institute') is the conduct and support of research and training, the dissemination of health information, and other programs with respect to disorders of hearing and other communication processes, including diseases affecting hearing, balance, voice, speech and language, taste, and smell.

"SEC. 464A. NATIONAL DEAFNESS AND OTHER COMMUNICATION DISORDERS PROGRAM.

"(a) Establishment.—

"(1) In general.—The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Deafness and Other Communication Disorders Program (hereafter in this section referred to as the 'Program').

"(2) Preparation of plan.—The Director of the Institute shall, with respect to the Program, prepare and transmit to the Director of the National Institutes of Health a plan to initiate, expand, intensify and coordinate the activities of the Institute respecting disorders of hearing, balance, voice, speech and language, taste, and smell.

"(3) Contents of plan.—The plan prepared under paragraph (1) shall include such comments and recommendations as the Director of the Institute determines appropriate.

"(4) Revision of plan.—The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Director of the National Institutes of Health.

"(b) Activities.—Activities under the Program shall be coordinated with other national research institutes to the extent that such institutes have responsibilities respecting disorders of hearing or other communication processes and shall, at least, provide for—

"(1) investigation into the etiology, pathology, detection, treatment, and prevention of all forms of disorders of hearing and other communication processes, primarily through the support of basic research in such areas as anatomy, audiology, biochemistry, bioengineering, epidemiology, genetics, immunology, microbiology, molecular biology, neurosciences, otolaryngology, psychology, pharmacology, physiology, speech pathology, and any other scientific disciplines which can contribute important knowledge to the understanding and elimination of disorders of hearing and other communication processes;

"(2) research into the development and evaluation of techniques, (including surgical, medical, and behavioral approaches) and devices (including hearing aids, auditory and nonauditory prosthetic devices and other communication aids) used in the diagnosis, treatment, rehabilitation and prevention of disorders of hearing and other communication processes;

"(3) research into early detection and diagnosis of hearing loss and speech and language disturbances (including stuttering in children) and research into preventing the effects of such disorders on learning and learning disabilities with extension of programs for appropriate referral and rehabilitation;

"(4) research into the detection, treatment, and prevention of disorders of hearing and other communication processes in the growing elderly population with extension of rehabilitative programs to ensure continued effective communication skills in such population;

"(5) research to expand our knowledge of the effects of environmental agents that influence hearing or other communication processes; and

"(6) develop and facilitate intramural programs on basic and clinical research on disorders of hearing and other communications processes.

"SEC. 464B. DATA SYSTEM AND INFORMATION CLEARINGHOUSE.

"(a) Data System.—The Director of the Institute shall establish a National Deafness and Other Communication Disorders Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with disorders of hearing or other communication processes, including where possible, data involving general populations for the purpose of identifying individuals at risk of developing such disorders.

"(b) Information Clearinghouse.—The Director of the Institute shall establish a National Deafness and Other Communication Disorders Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of disorders of hearing and other communication processes by health professionals, patients, industry, and the public.

"SEC. 466C. MULTIPURPOSE DEAFNESS AND OTHER COMMUNICATION DISORDERS CENTER.

"(a) Development.—

"(1) In general.—The Director of the Institute shall, after consultation with the advisory council for the Institute, provide for the development, modernization, and operation (including care required for research) of new and existing centers for studies of disorders of hearing and other communication processes.

"(2) Definition.—For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Requirements of Centers.—Each center assisted under this section shall—

"(1) use the facilities of a single institution or a consortium of cooperating institutions; and

"(2) meet such qualifications as may be prescribed by the Secretary.

"(c) Activities of Centers.—Each center assisted under this section shall conduct at least some combination of the following activities—

"(1) basic and clinical research into the cause diagnosis, early detection, prevention, control and treatment of disorders of hearing and other communication processes and complications resulting from such disorders, including research into rehabilitative aids, implantable biomaterials, auditory speech processors, speech production devices, and other otolaryngologic procedures;

"(2) training programs for physicians, scientists, and other health and allied health professionals;

"(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and

"(4) programs for the dissemination to the general public of information—

"(A) on the importance of early detection of disorders of hearing and other communication processes, of seeking prompt treatment, rehabilitation, and of the following an appropriate regimen; and

"(B) on the importance of avoiding exposure to noise and other environmental toxic agents that may affect disorders of hearing or other communication processes.

"(d) STIPENDS.—A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in subsection (c)(2).

"(e) PROGRAMS.—Each center assisted under this section may conduct programs—

"(1) to establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals at risk of developing disorders of hearing or other communication processes; and

"(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

"(f) DISTRIBUTION OF CENTERS.—

"(1) GEOGRAPHICAL LOCATION.—The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section.

"(2) CHILDREN AND ELDERLY INDIVIDUALS.—The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of the elderly, and of children (particularly with respect to their education and training), affected by disorders of hearing or other communication processes.

"(g) PERIOD OF SUPPORT.—

"(1) IN GENERAL.—Support of a center under this section may be for a period not to exceed 7 years.

"(2) EXTENTION OF PERIOD.—The period referred to in paragraph (1) may be extended by the Director of the Institute for one or more additional periods of not more than 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director, with the advice of the Institute's advisory council, if such group has recommended to the Director that such period should be extended.

"SEC. 464D. NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Institute the National Deafness and Other Communications Disorders Advisory Board (hereafter in this section referred to as the 'Advisory Board').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Advisory Board shall be composed of 18 appointed members and nonvoting ex officio members.

"(2) APPOINTED MEMBERS.—The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health and rehabilitation professionals, who are not officers or employees of the United States, and who in a balanced manner represent the specialties and disciplines relevant to deafness and other communication disorders, including not less than two persons with a communication disorder; and

"(B) six members from the general public who are knowledgeable with respect to such disorders, including not less than one person with a communication disorder and not less than one person who is a parent of an individual with such a disorder.

Not less than five of the appointed members shall by virtue of their training or experience be knowledgeable in the diagnosis and rehabilitation of communication disorders, the education of the hearing, speech, or language impaired, public health, public information, community program development, occupational hazards to communications senses, or the aging process.

"(3) EX OFFICIO MEMBERS.—The following shall be ex officio members of the Advisory Board:

"(A) The Assistant Secretary for Health, the Director of the National Institute of Health, the Director of the National Institute on Deafness and Other Communication Disorders, the Director of the Centers for Disease Control, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs.

"(B) Such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

"(c) COMPENSATION.—

"(1) FEDERAL OFFICIALS.—Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment.

"(2) OTHER MEMBERS.—Members of the Board, other than those covered under paragraph (1), shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) that they are engaged in the performance of their duties as members of the Board.

"(d) TERMS OF OFFICE.—

"(1) IN GENERAL.—The term of office of an appointed member of the Advisory Board is four years.

"(2) STAGGERED TERMS.—Of the initial members appointed to the Board—

"(A) six shall hold office for a term of 3 years;

"(B) six shall hold office for a term of 2 years; and

"(C) six shall hold office for a term of 1 year;

as designated by the Secretary at the time of appointment.

"(3) APPOINTMENTS TO FILL VACANCIES.—Any members appointed to fill a vacancy on the Board shall be appointed for the remainder of such term.

"(4) EXPIRATION.—A member may serve after the expiration of the member's term until a successor has taken office.

"(5) VACANCIES.—If a vacancy occurs on the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days from the date the vacancy occurred.

"(e) CHAIRPERSON.—The members of the Advisory Board shall select a chairperson from among the appointed members.

"(f) STAFF MEMBERS.—

"(1) EXECUTIVE DIRECTOR.—The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with an executive director and one other professional staff member.

"(2) ADDITIONAL STAFF.—The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, such services of consultants, such information, and (through contracts or other arrangements) such administrative support services and facilities, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) MEETINGS.—The Advisory Board shall meet at the call of the chairman or on request of the Director of the Institute, but not less often than four times each year.

"(h) DUTIES.—The Advisory Board shall—

"(1) review and evaluate the implementation of the plan prepared under section 464A(a) and periodically update the plan to ensure its continuing relevance;

"(2) for the purpose of assuring the most effective use and organization of resources concerning deafness and other communication disorders, advise and make recommendations to the appropriate Committees of Congress, the Secretary, the Director of the National Institutes of Health, the Director of the Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

"(3) maintain a liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan, with officers responsible for coordination activities under section 464A(b), and with key non-Federal entities involved in activities affecting the control of such disorders.

"(i) SUBCOMMITTEES.—In carrying out its functions under this section, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees, The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

"(j) REPORT.—The Advisory Board shall prepare and submit to the Secretary, an annual report that—

"(1) describes the activities of the Advisory Board in the fiscal year for which the report is made;

"(2) describes and evaluates the progress made in such fiscal year in research, treatment, education, and training concerning deafness and other communication disorders;

"(3) summarizes and analyzes expenditures made by the Federal government for activities concerning such disorders in such fiscal year; and

"(4) contains the recommendations of the Advisory Board for changes in the plan prepared under section 464A(a).

"(k) DATE OF ESTABLISHMENT.—The Advisory Board shall be established not later than 90 days after the date of the enactment of the National Research Institute Reauthorization Act of 1988.

"SEC. 464E. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as are determined necessary.".

(b) TRANSITIONAL AND SAVINGS PROVISIONS.—

(1) TRANSFER OF PERSONNEL, ASSETS, AND LIABILITIES.—Personnel employed by the Na-

tional Institutes of Health in connection with the functions vested, under the amendments made by subsection (a), in the Director of the National Institute on Deafness and Other Communication Disorders, and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds of the National Institutes of Health, arising from or employed, held, used, available to, or to be made available, in connection with such functions shall be transferred to the Director for appropriate allocation. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(2) Savings provisions.—With respect to functions vested, under the amendments made by subsection (a), in the Director of the National Institute on Deafness and Other Communication Disorders, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, that have been issued, made, granted, or allowed to become effective, and that are effective on the date of the enactment of this Act, shall continue in effect according to their terms unless changed pursuant to law.

(c) Effective Date.—The amendments made by this section shall take effect October 1, 1988, or on the date of the enactment of this Act, whichever occurs later.

TITLE IV—NATIONAL INSTITUTE ON AGING

SEC. 401. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 445A. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

"(a) Grants.—The Director of the Institute shall enter into cooperative agreements with, and make grants to, public and private nonprofit entities for the development or expansion of centers of excellence in geriatric research and training.

"(b) Duties of Centers.—Each center developed or expanded under this section shall—

"(1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director; and

"(2) conduct—

"(A) research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging; and

"(B) programs to develop individuals capable of conducting research concerning aging and concerning such diseases, disorders, and complications.

"(c) Limitations.—In making cooperative agreements and grants under this section for the development or expansion of centers, the Director of the Institute shall provide that such centers are—

"(1) geographically distributed throughout the United States; and

"(2) located at entities with proven research capabilities and emerging centers of excellence.".

SEC 402. SPECIAL FUNCTION OF INSTITUTE.

Section 444 (42 U.S.C. 285e—1) is amended by adding at the end thereof the following new subsection:

"(e) In consultation with the Advisory Council established under section 485, the Director of the Institute shall make grants for the acquisition, construction, or renovation of facilities.".

TITLE V—NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

SEC. 501. NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH.

Part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 4—National Center for Medical Rehabilitation Research

"SEC. 486A. PURPOSE OF THE CENTER.

"The general purpose of the National Center for Medical Rehabilitation Research (hereafter in this subpart referred to as the 'Center') is the conduct and support of biomedical and related research and research training, the dissemination of health information, and other programs with respect to the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, or other physiologic systems (hereafter in this subpart referred to as 'medical rehabilitation').

"SEC. 486B. APPOINTMENT OF THE DIRECTOR.

"The Director of the Center shall be appointed by the Secretary and shall report directly to the Director of the National Institutes of Health.

"SEC. 486C. SPECIFIC AUTHORITIES.

"In carrying out the purpose described in section 486A, the Director of the Center may—

"(1) make grants and enter into cooperative agreements and contracts;

"(2) provide for clinical trials with respect to medical rehabilitation;

"(3) provide for research with respect to model systems of medical rehabilitation;

"(4) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities;

"(5) support multidisciplinary medical rehabilitation research conducted or supported by more than one such agency;

"(6) with the approval of the Director of the National Institutes of Health and the advisory council established under section 465F, appoint technical and scientific peer review groups in addition to any such groups appointed under section 402(b)(6); and

"(7) support medical rehabilitation research and training centers.

"SEC. 486D. RESEARCH PLAN.

"(a) Development.—After consultation with the Director of the Center, the advisory council established under section 486F, and the coordinating committee established under section 486E, the Director of the National Institutes of Health shall develop a comprehensive plan for the conduct and support of medical rehabilitation research.

"(b) Contents.—The plan shall identify priorities with respect to such research and shall provide for the coordination of such research conducted or supported by the agencies of the National Institutes of Health.

"(c) Revision.— The Director of National Institutes of Health shall (after consultation with the Director of the Center and with such advisory council and such coordinating committee) revise the plan as appropriate.

"SEC. 486E. COORDINATING COMMITTEE.

"(a) Establishment.—The Director of the National Institutes of Health shall establish a committee to be known as the Medical Rehabilitation Coordinating Committee (hereafter in this subpart referred to as the 'Coordinating Committee').

"(b) Composition.—The Coordinating Committee shall be composed of the directors of the National Institute on Aging, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute of Child Health and Human Development, the National Institute of Neurological and Communicative Disorders and Stroke, and of such other national research institutes as the Director of the National Institutes of Health determines to be appropriate.

"(c) Duties.—The Coordinating Committee shall make recommendations to the Director of National Institutes of Health and the Director of the Center with respect to the content of the plan required in section 486D and with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health.

"SEC. 486FG. ADVISORY COUNCIL.

"(a) Establishment.—The Director of the National Institutes of Health shall establish a council to be known as the Medical Rehabilitation Advisory Council (hereafter in this section referred to as the 'Advisory Council').

"(b) Duties.—The Advisory Council shall advise, assist, consult with, and make recommendations to the Director of the National Institutes of Health and the Director of the Center on matters relating to the activities carried out by and through the Center and the policies respecting such activities, including recommendations with respect to the plan required in section 486D.

"(c) Membership.—

"(1) In general.—The Director of the National Institutes of Health shall appoint to the Advisory Council 18 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, 12 shall be representatives of health and scientific disciplines with respect to medical rehabilitation and 6 shall be individuals representing the interests of individuals undergoing, or in need of, medical rehabilitation.

"(2) Ex officio members.—The following officials shall serve as ex officio members of the Advisory Council:

"(A) The Director of the National Institutes of Health.

"(B) The Director of the Center.

"(C) The Director of the National Institute on Aging.

"(D) The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(E) The Director of the National Institute of Child Health and Human Development.

"(F) The Director of the National Institute of Neurological and Communicative Disorders and Stroke.

"(G) The Assistant Secretary for Special Education and Rehabilitative Services.

"(H) The Assistant Secretary of Defense (Health Affairs).

"(I) The Chief Medical Director of the Veterans' Administration.

"(d) Chairperson.—The Director of the National Institutes of Health shall designate a chairperson from among the members of the Advisory Council.

"(e) Construction.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 406 shall apply to the advisory council established under this section in the same manner as such provisions apply to any advisory council established under section 406.".

TITLE VI—NATIONAL CENTER FOR NURSING RESEARCH

SEC. 601. NATIONAL CENTER FOR NURSING RESEARCH.

Section 484 (42 U.S.C. 287c-1) is amended to read as follows:

"SEC. 484. SPECIFIC AUTHORITIES.

"To carry out section 483, the Director of the Center may—

"(1) provide research training and instruction and establish, in the Center and other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, and the nursing care of individuals with and the families of individuals with acute and chronic illnesses;

"(2) provide individuals receiving such training and instruction under paragraph (1) or such traineeships or fellowships with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary;

"(3) make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under paragraph (1);

"(4) enter into cooperative agreements with, and make grants to, public and private nonprofit entities to fund all or part of research and demonstration projects that may include projects for research concerning—

"(A) innovative models of nursing care;

"(B) problems relating to the national nursing shortage; and

"(C) the quality of the nursing role with regard to patient care; and

"(5) in consultation with the Advisory Council established under section 485, make grants for the acquisition, construction, or renovation of facilities.".

TITLE VII—NATIONAL CANCER INSTITUTE

SEC. 701. PURPOSE.

Section 410 (42 U.S.C. 285) is amended by inserting "and rehabilitation from" after "treatment of".

SEC. 702. SPECIAL AUTHORITIES OF THE DIRECTOR.

Section 413(b) (42 U.S.C. 285a-2(b)) is amended—

(1) in paragraph (5), by striking out "with the approval of" and inserting in lieu thereof "in consultation with";

(2) in paragraph (7), by inserting "and to conduct the technical and scientific peer review required by section 492(b)" before the semicolon;

(3) in paragraph (9), by striking out "; and" and inserting in lieu thereof a semicolon;

(4) by redesignating paragraph (10) as paragraph (11);

(5) by inserting after paragraph (9) the following new paragraph:

"(10) may publish or arrange for the publication of information regarding cancer research, prevention, biology and diagnosis, control, and treatment to cancer patients and their families, physicians, and other health professionals, oncologic investigators, and the general public without regard to section 501 of title 44, United States Code; and"; and

(6) in paragraph (11) (as redesignated in paragraph (4)), by striking out "may" and inserting in lieu thereof "shall".

SEC. 703. NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS.

Section 414(a)(1) (42 U.S.C. 285a-3(a)(1)) is amended by inserting "control," after "prevention,".

TITLE VIII—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 801. INFORMATION AND EDUCATION.

Paragraphs (1) and (2) of the second sentence of section 420 (42 U.S.C. 285b-2) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following: "the utilization of collaborative efforts with both the public and private sectors to—

"(1) increase the awareness and knowledge of health care professionals and the public regarding the prevention of heart and blood vessel, lung, and blood diseases and the utilization of blood resources; and

"(2) develop and disseminate to health professionals, patients and patient families, and the public information designed to encourage adults and children to adopt healthful habits concerning the prevention of such diseases.".

SEC. 802. RESOURCES PROGRAM.

Section 421 (42 U.S.C. 285b-3) is amended—

(1) in subsection (a)(1)(D), by inserting "and rehabilitation from" after "treatment of"; and

(2) in subsection (b)—

(A) by striking out "; and" in paragraph (3) and inserting in lieu thereof a semicolon;

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, support appropriate programs for education and training (including continuing education and laboratory and clinical research training).".

SEC. 803. NATIONAL RESEARCH AND DEMONSTRATION CENTERS.

Section 422(a)(1) (42 U.S.C. 285b-4(a)(1)) is amended—

(1) in subparagraph (A), by inserting "and rehabilitation" after "treatment"; and

(2) in subparagraph (B), by inserting "and rehabilitation" after "treatment".

SEC. 804. INTERAGENCY TECHNICAL COMMITTEE.

Section 423 (42 U.S.C. 285b-5) is repealed.

TITLE IX—NATIONAL INSTITUTES OF HEALTH

SEC. 901. APPOINTMENT AND AUTHORITY OF THE DIRECTOR.

Section 402(b)(6) (42 U.S.C. 282(b)(6)) is amended by inserting "and scientific program advisory committees" after "scientific peer review groups".

SEC. 902. ADDITION OF NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH.

Section 401(b)(2) (42 U.S.C. 281(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(E) The National Center for Medical Rehabilitation Research.".

SEC. 903. REPORT OF DIRECTOR OF NIH.

Section 403 (42 U.S.C. 283) is amended—

(1) in paragraph (3), by striking out "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3), the following new paragraph:

"(4) a description of the health related behavioral research that has been supported by the National Institutes of Health in the preceding 2-year period, and a description of any plans for future activity in such area; and".

SEC. 904. ADVISORY COUNCIL OF DIVISION OF RESEARCH RESOURCES.

Section 480(b)(1) (42 U.S.C. 287a(b)(1)) is amended to read as follows:

"(b)(1) The advisory council shall consist of ex officio members, one liaison member from the National Science Foundation designated by the National Science Board, and not more than eighteen members appointed by the Secretary.".

TITLE X—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 1001. APPOINTMENT AND AUTHORITY OF THE DIRECTORS.

(a) POWERS AND DUTIES OF DIRECTORS.—Section 405(b) (42 U.S.C. 284(b)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1)—

(A) by striking out "the human diseases" and inserting in lieu thereof "human diseases";

(B) by striking out "for which the national research institutes were established"; and

(C) by inserting "and agency of the National Institutes of Health" after "each national research institute";

(2) by adding at the end of paragraph (1) the following new sentence: "For purposes of Federal income, estate, and gift taxes, any gift accepted under subparagraph (H) shall be considered to be a gift or transfer to the United States."; and

(3) in the matter preceding subparagraph (A) of paragraph (2), by inserting "and agency of the National Institutes of Health" after "research institute".

(b) CARRYING OUT DUTIES.—Section 405(c) is amended—

(1) in the matter preceding paragraph (1), by inserting "and agency of the National Institutes of Health" after "national research institute";

(2) in paragraph (1), by inserting "or agency" after "institute";

(3) in paragraph (2)—

(A) by inserting "and agencies" after "institutes"; and

(B) by inserting "or agency" after "institute"; and

(4) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) may—

"(A) with the approval of the advisory council for the institute or agency and the Director of the National Institutes of Health, establish technical and scientific peer review groups in addition to those established under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A).".

SEC. 1002. ADVISORY COUNCILS.

(a) APPOINTMENT OF MEMBERS.—Section 406(b)(3)(A) (42 U.S.C. 284a(b)(3)(A)) is amended by inserting "two individuals who are leaders in the fields of" after "(including".

(b) TERMINATION OF MEMBERSHIPS.—Section 406(h)(2)(A)(v) (42 U.S.C. 284a(h)(2)(A)(v)) is amended—

(1) by inserting "shall be nonvoting members and" after "the Board"; and

(2) by striking out "and the Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Energy Research of the Department of Energy".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 408(a) (42 U.S.C. 284c(a)) is amended to read as follows:

"(1)(A) For the National Cancer Institute (other than its programs under section 412), there are authorized to be appropriated

$1,587,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.

"(B) For the programs under section 412, there are authorized to be appropriated $84,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.

"(2)(A) For the National Heart, Lung, and Blood Institute (other than its programs under section 419), there are authorized to be appropriated $1,001,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991. Of the amount appropriated under this subsection for such fiscal year, not less than 15 percent of such amount shall be reserved for programs respecting diseases of the lung and not less than 15 percent of such amount shall be reserved for programs respecting blood diseases and blood resources.

"(B) For the programs under section 419, there are authorized to be appropriated $101,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1988.

TITLE XI—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 1101. REDESIGNATION OF NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES.

Title IV (42 U.S.C. 601 et seq.) is amended by striking out "National Institute of Diabetes and Digestive and Kidney Diseases" each place it appears in sections 401(b)(1)(C), 426, and 430(b)(2)(A)(i) (42 U.S.C. 281(b)(1)(C), 285c, and 285c-4(b)(2)(A)(i)) and the heading for subpart 3 of part C (42 U.S.C. prec. 285c) and inserting in lieu thereof "National Institute of Diabetes, Digestive and Kidney Diseases, and Endocrinology".

SEC. 1102. ADVISORY BOARDS.

Section 430 (42 U.S.C. 285c-4) is amended—

(1) by striking out subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

TITLE XII—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 1201. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

Section 436 (42 U.S.C. 285d-1) is amended to read as follows:

"SEC. 436. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

"(a) PLAN.—The Director of the Institute, with the advice of the Institute's advisory council, shall prepare and transmit to the Director of the National Institutes of Health a plan for a national arthritis, musculoskeletal and skin diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis, musculoskeletal and skin diseases. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise such plan and shall transmit any revisions of such plan to the Director of the National Institutes of Health.

"(b) ACTIVITIES.—Activities under the national arthritis, musculoskeletal and skin diseases program shall be coordinated with the other national research institutes to the extent that such institutes have responsibilities respecting arthritis, musculoskeletal and skin diseases, and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis, musculoskeletal and skin diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis, musculoskeletal and skin diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation, and prevention of arthritis, musculoskeletal and skin diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

"(c) ADMINISTRATION.—The Director of the Institute shall carry out the national arthritis, musculoskeletal and skin diseases program in accordance with the plan prepared under subsection (a) and any revisions of such plan made under such subsection.".

SEC. 1202. MULTIPURPOSE DISEASE CENTERS.

Section 441(b)(2)(A) (42 U.S.C. 285d-6(b)(2)(A)) is amended by inserting "and rehabilitation from" after "treatment of".

TITLE XIII—NATIONAL LIBRARY OF MEDICINE

SEC. 1301. BOARD OF REGENTS.

Section 466(a)(1)(A) (42 U.S.C. 286a(a)(1)(A)) is amended by striking out "ten members appointed by the Secretary" and inserting in lieu thereof "13 members appointed by the President".

SEC. 1302. AUTHORIZATION OF APPROPRIATIONS.

Section 469 (42 U.S.C. 286b) is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of grants and contracts under sections 472 through 476, there are authorized to be appropriated $14,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 and 1991.".

SEC. 1303. GRANTS FOR THE DEVELOPMENT OF NEW EDUCATIONAL TECHNOLOGIES.

Section 473 (42 U.S.C. 286b-4) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall make grants to appropriate public or private nonprofit institutions for the purpose of carrying out projects in the research, development, and demonstration of new educational technologies. Such projects shall assist in the training of health professions students, and enhance and improve the research and teaching capabilities of health professionals. Funding may support projects including those concerning computer-assisted teaching and testing of clinical competence at health professions and research institutions, the effective transfer of new information from research laboratories to appropriate clinical applications, the expansion of the laboratory and clinical uses of computer-stored research databases, and the testing of new technologies for training health care professionals in non-traditional settings.".

SEC. 1304. GRANTS FOR BASIC RESOURCES OF MEDICAL LIBRARIES.

(a) LIBRARY CONSTRUCTION AUTHORITY.—Section 474(a) (42 U.S.C. 286b-5(a)) is amended—

(1) in paragraph (3), by striking out "and" after the semicolon;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the acquisition, construction, or renovation of facilities.".

(b) REMOVAL OF GRANT CAP.—Section 474(b)(2) (42 U.S.C. 286b-5(b)(2)) is amended by striking out ", except that in no" and all that follows through "$500,000".

SEC. 1305. GRANTS FOR ESTABLISHMENT OF REGIONAL MEDICAL LIBRARIES.

Section 475(b) (42 U.S.C. 286b-6(b)) is amended—

(1) in paragraph (4), by striking out "and" after the semicolon;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the acquisition, construction, or renovation of facilities.".

TITLE XIV—AWARDS AND TRAINING

SEC. 1401. NATIONAL RESEARCH SERVICE AWARDS.

(a) MULTIDISCIPLINARY RESEARCH.—Section 487(a) (42 U.S.C. 288(a)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary, acting through the Director of the National Institutes of Health, shall assure that support is provided for multidisciplinary research training in disciplines not readily identified with existing categorical institutes.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 487(d) (42 U.S.C. 288(d)) to read as follows: "There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $350,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 and 1991.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1988.

SUBTITLE XV—GENERAL PROVISIONS

SEC. 1501. PEER REVIEW REQUIREMENTS.

Section 492 (42 U.S.C. 289a) is amended—

(1) in subsection (a)(2)(A), by inserting "and congruent with changing review need," after "to the extent practical,"; and

(2) in subsection (b), by inserting ", except as provided in section 413(b)(7)" before the period at the end thereof.

TITLE XVI—MISCELLANEOUS

SEC. 1601. EPIDEMIOLOGICAL STUDY FOR HANFORD, WASHINGTON.

Part A of title III (42 U.S.C. 241 et seq.) is amended by inserting after section 301 the following new section:

"SEC. 301A. THYROID MORBIDITY

"(a) AUTHORITY.—In carrying out the purposes of section 301, the Secretary shall direct the Director of the Centers for Disease Control (hereafter referred to in this section as the "Director") to conduct a study of thyroid morbidity of the population in the vicinity of Hanford, Washington during the years of 1944 through 1957.

"(b) PEER REVIEW.—As soon as practical, the Director shall establish a peer review committee that shall, along with the Centers for Disease Control, make any determinations as to the conduct of the study required under this section.

"(c) Contracts.—

"(1) In general.—Except as provided in paragraph (2), the Director may contract out any portion of the study required under this section if the Director considers such appropriate, except that such contractor shall not have any direct or indirect interest in the outcome of such study including, contracts with the Department of Energy.

"(2) Relationships.—Contractors that currently are parties to contracts with the Department of Energy (or who have previously been parties to such) shall be given consideration pursuant to paragraph (1), except that the Director shall make a determination in each such circumstance that the relationship of the contractor with the Department of Energy does not represent a conflict of interest or the appearance of such a conflict regarding the conduct of the study required under this section.

"(d) Report.—Not later than 42 months from the date of enactment of this section, the Director shall transmit a report including such study to the appropriate Committees of Congress, the Governors of Oregon and Washington, and the governing officials of the Indian tribes in the vicinity of Hanford, Washington.

"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $5,500,000, to be available until expended, and 4 full time equivalents in personnel allocation for the management and conduct of the study pursuant to this section.".

SEC. 1602. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH.

(a) Establishment.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), after consulting with the Director of the National Institutes of Health, shall establish a National Commission on Sleep Disorders Research (hereafter in this section referred to as the "Commission").

(b) Composition.—

(1) Appointed members.—The Commission shall be composed of 10 members to be appointed as follows:

(A) Six members shall be appointed by the Secretary from among scientists, physicians, and other health professionals who are not in the employment of the Federal Government, and who have primary expertise in sleep disorders research or medicine.

(B) Two members shall be appointed by the Secretary from the general public, of whom one of which shall have personal or close family experience with sleep disorders.

(C) Two members shall be appointed by the Secretary from among the personnel of the National Institutes of Health, and such members interest shall be in the field of sleep disorders research.

(2) Ex officio members.—The Director of the National Institutes of Health; the Director of the National Institute of Neurological and Communicative Disorders and Stroke; the Directors of the National Heart, Lung and Blood Institute, the National Institute on Mental Health, the National Institute on Aging, the National Institute on Child Health and Human Development; the Director of the Center for Disease Control; the Chief Medical Director of the Veterans' Administration; and the Secretary of Defense shall be ex officio members of the Commission.

(c) Chairperson.—The members of the Commission shall select a Chairperson from among the appointed members of the Commission.

(d) Meetings.—Not later than 60 days after the establishment of the Commission, the Commission shall meet as directed by the Secretary, and thereafter shall meet at the call of the Chairperson of the Commission, but in no event shall the Commission meet less often than three times during the life of the Commission. The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission considers appropriate.

(e) Personnel.—

(1) Executive secretary.—

(A) Appointment.—The Commission may appoint and fix the compensation of an executive secretary to effectively carry out the functions of the Commission.

(B) Compensation.—The executive secretary shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall receive compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Additional personnel.—The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines to be necessary for the Commission to carry out its functions effectively.

(f) Compensation.—

(1) Officers or employees of the federal government.—Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment.

(2) Non-federal government members.—Members of the Commission who are not officers or employees of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Grade GS-18 of the General Schedule for each day (including traveltime) that such members are engaged in the performance of their duties as members of the Commission.

(3) Expenses.—All members of the Commission, while serving away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in Government Service employed intermittently.

(g) Duties.—

(1) Study.—The Commission shall—

(A) conduct a comprehensive study of the present state of knowledge of the incidence, prevalence, morbidity, and mortality resulting from sleep disorders, and of the social and economic impact of such disorders;

(B) evaluate the public and private facilities and resources (including trained personnel and research activities) available for the diagnosis, prevention, and treatment of, and research into, such disorders; and

(C) identify programs (including biological, physiological, behavioral, environmental, and social programs) by which improvement in the management and research into sleep disorders can be accomplished.

(2) Development of a plan.—Based on the study conducted under paragraph (1), the Commission shall develop a long range plan for the use and organization of national resources to effectively deal with sleep disorders research and medicine.

(3) Cooperation.—Each Federal entity administering programs and activities related to sleep disorders shall, on request, assist the Commission in carrying out its duties under this subsection.

(h) Development of Estimates.—The Commission shall recommend, for each of the Institutes of the National Institutes of Health whose activities are to be affected by the long-range plan, estimates of the expenditures needed to carry out each Institute's part of the overall program. Such estimates shall be prepared for the fiscal year beginning immediately after completion of the plan under subsection (g)(2) and for each of the next 2 fiscal years.

(i) Report.—Not later than 18 months after the initial meeting of the Commission (as prescribed by subsection (d)), the Commission shall prepare and submit to the appropriate Committees of Congress, a final report describing—

(1) the long-range plan developed under subsection (g);

(2) the expenditure estimates required under subsection (h); and

(3) any recommendations of the Commission for legislation.

(j) Termination.—The Commission shall cease to exist on the 30th day following the date of the submission of the final report under subsection (i).

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FISCAL YEAR 1988

CRANSTON (AND OTHERS) AMENDMENTS NOS. 2796 AND 2797

(Ordered to lie on the table.)

Mr. CRANSTON (for himself, Mr. DeConcini, and Mr. Murkowski) submitted two amendments intended to be proposed by them to the bill H.R. 5026, supra; as follows:

Amendment No. 2796

On page 12, line 19, amend the Committee amendment as follows: strike out "$296,500,000" and all that follows on line 19 and insert in lieu thereof "$498,100,000, to remain available until expended, and for an additional amount for 'Medical care', $31,730,000, of which $21,730,000 is derived by transfer from the Veterans' Administration Loan Guaranty Revolving Fund: *Provided,* That the penultimate proviso in the appropriation language under the head 'medical care' in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted in section 101(f) of Public Law 100-202 is deleted.".

Amendment No. 2797

On page 12, line 19, amend the Committee amendment as follows: strike out "$296,500,000" and all that follows on line 19 and insert in lieu thereof "$565,600,000, to remain available until expended, and for an additional amount for 'Medical care', $31,730,000, of which $21,730,000 is derived by transfer from the Veterans' Administration Loan Guaranty Revolving Fund: *Provided,* That the penultimate proviso in the appropriation language under the head 'Medical Care' in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted in section 101(f) of Public Law 100-202 is deleted.".

Mr. CRANSTON. Mr. President, I send to the desk for printing in the Record two alternative amendments for myself and Senators DeConcini and Murkowski alternative amendments to H.R. 5026, the fiscal year 1988 Dire Emergency Supplemental Appropriations Act.

These amendments would provide funding to meet expenditures required by law for the 1988 Veterans' Administration compensation cost-of-living adjustment and for implementation of veterans' health-care entitlements enacted in Public Law 100-322, and to eliminate an appropriations proviso that is based on an erroneous computation.

NOTICE OF HEARING

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE, AND THE SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. PRYOR. Mr. President, I would like to announce that the Subcommitte on Federal Services, Post Office, and Civil Service and the Subcommittee on Oversight of Government Management, of the Committee on Governmental Affairs, will hold a joint hearing on Wednesday, August 10, 1988. The subcommittees will hear witnesses from the Postal Service and the General Accounting Office.

The hearing is scheduled for 10 a.m., in room SD-342 Senate Dirksen Office Building. For further information, please call either Ed Gleiman, staff director, on 224-2254, or Linda Gustitus, staff director, on 224-3682.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, August 3, 1988, to conduct oversight hearings on the thrift industry.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to conduct a hearing on "Lifecare Legislation and the Need for Long-Term Care Insurance" during the session of the Senate on Wednesday, August 3, 1988.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on August 3, 1988, to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW AND THE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary and the Subcommittee on Courts, Civil Liberties, and Administration of Justice of the Committee on the House Judiciary, be authorized to meet during the session of the Senate on August 3, 1988, to hold a hearing on S. 2361, the video privacy bill.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

HCFA'S DENIAL OF HOME CARE BENEFITS

● Mr. SASSER. Mr. President, I would like to call the attention of my colleagues to a recent Federal court ruling that found the administration's practice of denying home health care to eligible Medicare recipients to be against the law. As a strong supporter of home care, I am pleased to see that the administration's policy of denying needed benefits has been struck down.

The administration's arbitrary denial of home services to individuals who are too sick to care for themselves, but not sick enough to enter nursing homes has been a cruel injustice to many of our Nation's elderly. Indeed, the Federal Government could have been saving money by allowing sick elderly to receive 1 or 2 hours a day of home care rather than forcing such persons to turn to nursing home care, often at expense to the Federal Government.

But instead, the administration has been providing home care only to those who use it no more than 4 days a week, regardless of the amount of care that an individual receives per day. In other words, Mr. President, under the administration's policy, an individual could receive 8 hours of care a day, 4 days a week; but he could not receive 1 hour of care a day, 5 days a week unless he enters into a nursing home.

That policy simply made no sense, Mr. President. And it often forced the elderly to do without needed care rather than move into a nursing home.

Thankfully, the courts have seen the folly in the administration's policy. Hopefully, now Medicare beneficiaries will get the care they pay for and deserve. Furthermore, I hope that this ruling will send a strong signal to the health care financing administration that the delivery of health care to our Nation's seniors is not merely an issue of cost—it is an issue of quality.

Mr. President, I ask that an article from today's Washington Post be printed in the Record with my remarks.

The article follows:

[From the Washington Post, Aug. 3, 1988]

Medicare Change Illegal, Judge Says

(By Lee Hockstader)

A federal judge here has ruled that the Reagan administration illegally blocked hundreds and perhaps thousands of elderly and disabled people from receiving Medicare benefits, and ordered the government to correct the "abuses" within 30 days.

In a decision made public yesterday, U.S. District Court Judge Stanley Sporkin said the administration effected a "drastic" and "arbitrary" change in policy when it decided that Medicare would not reimburse people who received more than four home visits a week from nurses or health aides.

The policy, he wrote, has "a devastating impact" on elderly or ailing peole who are unable to appeal.

"Because [the government is] unwilling to provide part-time daily home health services, many people needlessly have been forced to make the cruel choice between foregoing needed care or submitting to institutionalization in a nursing home or hospital," he said.

The judge also certified the case as a class-action suit, meaning that the government must reopen all Medicare claims from people whose benefits were denied because of the administration's policy shift.

Medicare, a health insurance system for the aged and disabled established by Congress in 1965, for years met the cost of nursing care, therapy and other health services rendered at home—as long as the services were not full time. In 1986, about 1.6 million people submitted claims for such home-care benefits.

The home-care program was designed to provide services at home for people who are not so disabled that they need to be hospitalized or confined to a nursing home. Proponents contended that the program ultimately saves money for the government by easing the burden on hospitals and nursing homes.

Under the Reagan administration, however, the Health Care Financing Administration (HCFA), which administers the Medicare system; tightened eligibility requirements. The new guidelines—never published—barred reimbursements to people who needed care more than four days a week.

The change resutled in benefits being cut off to people who, for example, required nursing care for one hour a day, five days a week, while preserving the reimbursement for those who needed five hours of care four days a week, Sporkin said.

Individuals who received home nursing services more than four days a week were denied not merely Medicare coverage for care in excess of four days, but received no reimbursement for any home visits, Sporkin wrote.

"The [government's] rigid and narrow definition . . . is inconsistent with the agency's longstanding interpretation of the home health care benefit and contrary to law and congressional intent," his opinion said.

Sporkin's ruling came in response to a lawsuit filed last year by 17 elderly Medicare recipients, several home health care agencies, the National Association for Home Care and about a dozen members of Congress.

William A. Dombi, director of the National Association of Home Care's Center for Health Care Law, said the judge's decision signaled the restoration of a promise made by Congress in 1965 but broken by the Reagan administration to save money.

"The government was trying to create a law as they wish it had been," he said. "In the future, individuals will have a chance to receive benefits based on a proper definition of the law."

Bob Hardy, spokesman for the HCFA, said that while the agency had not had a chance to review Sporkin's opinion, "We believe we are properly administering the home health care benefit."●

J.O. "BO" COPPEDGE

● Mr. PRYOR. Mr. President, this summer the U.S. Naval Academy reluctantly bid a fond adieu to one of its most distinguished and loyal graduates. J.O. "Bo" Coppedge stepped down after 20 years as athletic director at the academy.

"Bo" entered the Naval Academy 45 years ago as a plebe. This Arkansas native became the first civilian to hold the post of athletic director at the Naval Academy in 1968. During his tenure, he was chairman of both the NCAA Television Committee and the Postgraduate Scholarship Committee.

Those who would underestimate his down-home style and his Arkansas twang often found themselves at the short end of the stick when they tackled Bo's cunning as a manager, negotiator, and a ruler.

In June many gathered at Annapolis to pay tribute to Bo's career there—one that resulted in countless awards, including the Department of Defense medal for public service.

At that gathering, Bo reflected on his upbringing on a farm in Blytheville, AR, a farm with no electricity or indoor plumbing. Yet, he was justly proud of the fact that he "came to the Naval Academy, got an education, was able to raise a wonderful family, and make captain in the Navy. All of us should have our priorities in life in such good order.

I want to wish Bo Coppedge many years of well-deserved retirement—a man I am proud to have as a friend.

I ask that articles pertaining to "Bo" be printed in the Record.

The articles follow:

[From the Washington Post, June 7, 1988]

Coppedge's Second Career Ends Where First Began

(By Ken Denlinger)

Annapolis.—The best practical joke, said Bo Coppedge, who has perpetrated some and witnessed lots more, came in a submarine under his command moored at an exotic Asian port.

It had taken nearly a day for the sly fellow to instill among his crewmates the proper mindset for this prank of pranks. Through means subtle and direct, he was able to momentarily strike horror by yelling, at 3 a.m. in the cramped quarters of a tightly-sealed sub:

"My cobra is loose."

That happened to occur to Coppedge as his feet were propped on a table in his office the other day; when a man retires, and Coppedge now has done it twice, his memory bank starts purring.

The first career, which lasted 25 years, involved either the sea or seas of paper and caused him to admit: "The best job I ever had in my life was commanding officer of a submarine."

When he came up for air, so to speak, he became athletic director at the Naval Academy. A dinner tonight salutes 20 years of exemplary work at that hectic and largely inappreciated watch.

"One reason I'm tired," he said, "is that I can't remember in the last 10 years or not working six days a week. Lots of things that require your attention now are on Sundays. Whoever comes in here must be prepared for long days."

In his first Navy life, football lineman Coppedge chased, and sometimes caught, Army's legendary Glenn Davis and Doc Blanchard and later took a sub around the world under water.

In his second Navy life, this time as a civilian at the Academy, he supervised an expanding intercollegiate sports program and helped negotiate television contracts for the NCAA with such people as ABC-TV's Roone Arledge. Among his most significant achievements is Navy's all-sports record against Army during the last 20 years: 16 years Navy has prevailed, twice Army has and the schools have been equal two years.

Coppedge was an Army man when he was accepted at Navy in 1943, having completed two years at VMI. The unpleasant alternative to the Naval Academy, he said, "was to go get shot at."

A two-way tackle, Coppedge averaged 43 minutes a game in 1945; a heavyweight, he wrestled at a time when that sport had pomp as well as painful circumstances.

"The matches were Saturday nights," he said, "and formal affairs. Ladies came in long dresses, men in bow ties." Here Coppedge laughed and said: "One good thing about being a heavyweight is that you got plenty to eat, cause those other guys were always making weight."

Twinkling, he added: "We did more things inside the yard and in the first two blocks outside the gate than Midshipmen do now with their cars. We couldn't even ride in cars back then * * * A big deal for us was the jumbo chocolate soda."

Coppedge first set foot on the Academy grounds on a Friday; two days later, he was in Griffith Stadium, watching the Senators versus the Clevelend Indians "and Mr. [Lou] Boudreau was there."

It was full circle at Navy a quarter-century later. As a plebe, Coppedge would watch up to four athletic events on many Saturdays; as athletic director, Coppedge would watch more on most Saturdays.

"We have 4,500 in the Brigade," he said, "and I imagine that 1,600 to 1,800 are on some kind of intercollegiate teams. Lots of people do well here in sports they've never seen before. Fencing, for instance, and squash."

Coppedge has experienced more than most men since leaving his home town; still, quite a bit of Blytheville, Ark., remains in him.

By way of explaining why any college football playoff must include much of the present post-season format, he said: "A lot of people are drinkin' good whiskey and eatin' red meat cause of the bowls. They're not gonna be weaned off that rapidly."

A playoff will happen, he said, "because there's too big a [financial] pie not to do it."

Coppedge called his involvement with the NCAA television committee "my most rewarding experience outside the Academy." He also chaired a couple of other important NCAA committees.

The television situation that followed Oklahoma and Georgia suing for school's rights "has gotten worse," Coppedge said. "I can't believe they would have gone through with their suit had they known how [fragmented] things would turn out."

Coppedge recalls how he and the other television committee members once were determined to wrestle a particular rights fee from ABC. In caucus, they mentioned how they would not settle for a penny less than that figure, that each "would stand up and be counted" and "stay solidly unified no matter what."

The meeting sounded like halftime of a big game. Us against Roone.

"And then," he said, smiling now, "the TV people came in and offered us a million more than we wanted."

In his first or second year as athletic director, Coppedge recalled, he was appointed to chair an NCAA committee whose purpose was to study the merits of a football playoff system he now believes is inevitable.

Not long before the meeting he'd called was scheduled to begin, his friend and committee member Bear Bryant dropped by for coffee. Casually, but pointedly, Bryant said "we don't want a playoff;" he then left before anyone else arrived.

With that gesture, Coppedge knew the idea was defeated before discussion started. He added: "Two years later, I got a call in the middle of the night telling me the committee was disbanded."

While on active duty for the Navy and actively on duty at the Academy, Coppedge saw enough of the world to want to stay fairly planted in retirement. Except for one minor adventure. If possible, he will find a way to visit Las Vegas "because I'd love to see those shows. That glitter."

[From the Annapolis Capital, June 8, 1988]

600 Bid Farewell to Navy AD

(By Joe Gross)

They came to honor Bo Coppedge.

From across the country men and women who have known and revered Coppedge came to honor him.

Admirals. Athletic directors. Past coaches. Present coaches. Commissioners of leagues. Classmates. Teammates. Players. People he had hired. People he didn't hire. Even people he fired. Acquaintances. Friends. Family.

They were all there. Nearly 600 of them.

And the man who first arrived in Annapolis 45 years ago to begin his plebe year at the Naval Academy was honored by the presence of these men and women who had gone out of their way to be with him on a special night.

There were words, too. Words of praise. Words of esteem. Words of love. Words of honor.

So many people honored Bo Coppedge with their words spoken in small groups during the cocktail hour and spoken from the podium after the dinner.

He was referred to as "an institution." He was also called "a monument." And, he was described as "a giant of a man."

He is and has been all of those things and more to the Naval Academy and the athletic department he directed for the past 20 years.

Carl Ullrich, the director of athletics at West Point, told how others in the profession feel about Bo Coppedge. "We envy him. We respect him. We admire him," Ullrich said.

Other speakers used such words as humility, selfless, integrity and honest in their descriptions of the man who had become a virtual legend through his years of service. You might also have heard some say, powerful, wonderful, tough, devoted or caring when talking about the man they had come to honor.

Coppedge was also honored last night with gifts. Mementos of his retirement that will join the very mementos of the years he put in as the Naval Academy's director of athletics.

He was the subject of proclamations, certificates and citations. He was given plaques from schools, from leagues and from the national body that governs collegiate sports, the NCAA.

Coppedge was even presented with the Department of Defense medal for public service. He earned every gram of metal that went into that award.

He was presented with a new blazer. A new tie. A blanket. A clock. And there were several other smaller gifts Coppedge did not hold up to show.

Naturally there were stories about him. There were funny stories. There were sarcastic stories. And there were serious stories. Every one told in a voice and tone that honored Bo Coppedge.

The honored guest said he was extremely honored and pleased that so many had gone out of their way to be with him last night. Coppedge was grateful for the words and the gifts.

He said he was surprised to be getting an occasion of the magnitude of last night's gathering. He was surprised because he feels as indebted to the school in general, as well as the people he's met and come to know while in the Navy and at the Naval Academy, as they all feel toward him.

"I grew up on a farm in Arkansas during the depression. That meant I lived in a house with no electricity. I lived in a house with no inside plumbing," Coppedge related. "Yet, I came to the Naval Academy and I got an education. I was able to raise a wonderful family. I made captain in the Navy.

"I think about what the Navy and the Naval Academy did for me and I have to be surprised that I get a dinner like this. That's unbelieveable.

[From the Annapolis Capital, Mar. 16, 1988]

Navy's Coppedge Retiring After Distinguished 20 Years

(By Joe Gross)

Bo Coppedge sat with his feet resting in one of the few uncluttered spots on the table in his Ricketts Hall office and surveyed the area that has been his lair for the past eight years.

Earlier in the day, the venerable director of athletics, whose full monicker reads Captain J.O. Coppedge, USN (Ret), had shocked everyone at the Naval Academy by announcing his plans to resign from the post he has held since 1968.

While veiling his true feelings beneath a strong, almost-trademark facade, Coppedge was struck with the reality of leaving as he scanned the mementos of his term.

"There are a lot of things in this office that I'll pack up to go with me," Coppedge said of his momentary reminiscence.

There is a picture of an angora goat on the sideline of a football game. There is another depiction of a Navy goat done in needlepoint.

There is a picture of Coppedge shaking hands with President Ronald Reagan; the matting is signed by the president. There is also a letter from President Gerald Ford. And a certfiicate from Frank White, a former governor of Coppedge's native Arkansas.

They are but a few of the prized personal souvenirs displayed in the office decorated in Navy blue and gold.

Coppedge's desk is littered with schedules, rosters, notes, pamphlets and pictures. There is an array of partially filled wooden cigar boxes, a can of tobacco and a huge, round, pottery ash tray that gets constant use.

At the other end of the room is the table at which Coppedge sat. It too is covered by books, magazines, regulations, yellow legal pads and even tape casettes.

There is a large blowup of a picture of Coppedge as a midshipman sitting on a couch.

There are pictures of his granddaughters. Pictures given to him by former Navy athletes.

The office is a veritable Bo Coppedge museum. And, as would be expected, each and every item has a special meaning to the man who has been so successful as head of the Naval Academy Athletic Association.

After a long puff on the still long, half-burned cigar left a cloud of smoke wafting toward the ceiling, Coppedge grudgingly admitted, "I'm tired.

"There are three numbers that tell why I've decided to retire now," the white-haired monarch of the NAAA said. "I've been in or a part of the Navy for 45 years. I've been director of athletics here for 20 years. And, I'm 64 years old."

That admission is monumental coming from the big, stately looking man with the booming, commanding voice. The man who rules the roost.

To many, Coppedge is physically intimidating. His down-home style and the Arkansas twang in his voice belie the man's cunning as a manager, negotiator and ruler.

The style that has become so familiar to denizens of the Naval Academy led many to believe Coppedge was indestructable and that he would never step down from the top of the athletic empire he is credited with erecting.

"I've been thinking about (retiring) for the last six months or so," Coppedge said. "This is the time to do it."

Coppedge is the 26th director of athletics at the Naval Academy. He took over the post from Alan R. Cameron while still an active duty captain.

Two years later, when the term of almost all of his predecessors in the position had ended, Coppedge broke the school's 60-year tradition by remaining in the position upon his retirement from active duty.

Thus, Coppedge is the first civilian to hold the athletics director post.

During his tenure Coppedge has become a powerful man. He was a chairman of the NCAA Television Committee and its Postgraduate Scholarship Committee.

"I think the time is right for me to retire. My health is good and the health of the athletic program here is good, too," Coppedge continued. "I have a new house (in St. Margarets) that I haven't moved into yet. I have a new dog, a German Shepherd that is delightful. And, I have the same wife. I want to enjoy them all."

Coppedge said he has not set a definite date for leaving his office, but he told the stunned group of NAAA employees who were called together at 9:30 yesterday morning, he would leave in May.

"I said May because I felt June would be the easiest month for someone else to take over. That's about the slowest month of the year around here," Coppedge explained.

"I'll be here until the new person is ready to take over. Then I'll be around to help him in any way I can. I do have the corporate knowledge of what's gone on here for the past 20 years," Coppedge said. "I won't, however, put my fingers in his pie."

Coppedge said it would be hard for him to leave the post for which he has lived the past 20 years, but there have been hard times that have to make retirement easier.

The stock market collapse six months ago dealt a costly blow to the NAAA finances. Then the NAAA lost a battle with the City of Annapolis when it wanted to build a hotel on property along College Creek. Coppedge took those defeats to heart.

The year before, the athletic director was devastated at having to fire then football coach Gary Tranquill. Some felt that was the greatest show of emotion they had every seen in Coppedge.

"A lot of people were suprised, but not everyone was," said Coppedge, who added that he has not set any definite plans for his retirement.

"Some people want to travel. I have no ambition to travel. I've done all of that I want. I went around the world in a submarine. I don't need any more travelling than that," Coppedge said.

"I just want to sit around and relax on my front porch. I'll be able to see more of my family, of my two granddaughters," he added.

Coppedge has not taken a vacation in 10 years according to the best estimates of those who have worked for the NAAA for that long. He assures he never could find the right time to be away from the office for an extended period.

"I've come in to work just about every day for very many years now," said the 1946 Naval Academy graduate. "That's tiring. It's time to get some rest."

The much decorated and highly respected verteran of the Korean conflict was a standout wrestler and a two-way tackle as a midshipman.

He feels most proud of having been at the helm while the Naval Academy upped its athletic program from 21 sports to the 33 teams it presently fields while most other schools in the nation were downgrading their programs.

Coppedge was thrilled when the 1986-87 Naval Academy teams recorded a .716 winning percentage, the highest for a single year in school history.

No successor was named by Naval Academy Superintendent, Rear Adm. Ronald F. Marryott, who made the official announcement yesterday of Coppedge's resignation.●

CHEROKEE NATIONAL FOREST MANAGEMENT PLAN

● Mr. SASSER. Mr. President, I am pleased to announce that a plan for the management of the Cherokee National Forest in east Tennessee has been agreed upon and will be signed tomorrow in Knoxville, TN. My colleagues will recall that of the 107 managment plans for our national forests released in 1985, 63 came under immediate appeal. The plan for the Cherokee was one of those appealed by several interest groups in April 1986.

Throughout this process, I have encouraged the appellants and the Forest Service to work toward a management plan more representative of the practice of multiple use of our national forests as called for in the National Forest Management Act of 1976. After more than 2 years of discussion over how to appropriately balance timbering and recreation in the Cherokee. A plan has been devised which I believe meets the needs of all forest users.

I am particularly pleased about this agreement given my personal involvement in this matter. On several occasions I have spoken to my colleagues about the need for a responsible comprehensive management plan for the Cherokee. I hiked in the Cherokee two summers ago with forest service officials and many of those interested in the final management plan.

At that time several points were clear to me. Extensive clearcutting had reduced the aesthetic value of some areas of the forest. I called into question expanding the use of clearcutting to the extent originally proposed. Second, recreational use of the Cherokee continues to grow and improved measured needed to be taken to address this use. And finally, activity in the forests needed to be planned with an eye toward the preservation of some environmentally sensitive areas.

These elements struck me as ones which could be resolved through negotiations at the local level. Rather than tie up the Cherokee plan as a National test case, I urged both sides to work out a compromise that achieved the benefits inherent in a sound multiple use management plan.

As a result of nearly 2 years of negotiations, such a management plan has been crafted. It is a plan that holds promise for those who use the Cherokee for recreation as well as those who rely upon the Cherokee for a living. Specifically, the managment plan will:

Reduce the practice of clearcutting, which can cause extensive soil erosion and stream damage, by 30 percent;

Defer timber sales on 34,000 acres of forest which are environmentally sensitive;

Set aside 8,700 acres as scenic areas;

Reduce road mileage in order to preserve wildlife habitat, especially for the black bear which roams throughout the Cherokee;

Add some 24 miles of hiking trails throughout the forest;

Establish a citizen's forest watch program to review timber sales and road construction which may prove to be potentially hazardous to the forest; and

In addition, the stay on timbering will be lifted immediately.

This agreement represents a long-term approach to forest management. As such, it recognizes the importance of protecting our most valuable renewable resource. The efforts which have gone into drafting this management plan exemplify what can be achieved by addressing the needs of those who reside near and must use our national forests.

Resolving such disputes at the local level can be a long process, as has been the case with the Cherokee National Forest. However, drafting a management plan which best sustains multiple use of the forest will be rewarding for those who use the forest and more importantly in protecting the forest for future use.

Improved management plans and protection of our natural resources are efforts which we must undertake. Multiple use makes good economic and environmental sense. This is the type of plan which should be implemented in the management of our national forest. And at a time when forests are being cleared at a rate of 1 million acres per day worldwide, I would daresay this is an approach we would do well to see elsewhere, especially in developing nations. No less than the future of our global environment depends on the future of these forests. It is our responsibility to safeguard that future for generations to come. The management plan for the Cherokee National Forest underscores the success we can achieve.●

TENTH ANNIVERSARY—VANDERBILT PSYCHOLOGY CONSORTIUM

● Mr. GORE. Mr. President, I would like to recognize the upcoming 10th anniversary of the Vanderbilt University-Veterans Administration Medical Center Internship in Professional Psychology. This consortium program is one of excellence and uniqueness in the education of psychologists and functions by creatively utilizing the rich resources of the middle Tennessee area—Vanderbilt University, the Nashville and Murfreesboro VA Medical Centers, and the DeDe Wallace Mental Health Services as well the voluntary contributions of time of numerous Tennessee mental health professionals.

The consortium concept was initiated in 1979 by Ken Anchor, Ph.D., whose leadership has expanded the size and scope of the internship program while enhancing its quality. Dr. Anchor's predecessor was Warren Webb, Ph.D., an extraordinary educator in the field of clinical psychology. I applaud them for their work which has made a significant impact on the mental health of this Nation. Their well-trained graduates have entered the health care system as private practitioners, educators, researchers, systems administrators, and consultants.

Mental health care needs to be a more integral component of our health care delivery system. I am proud of the Vanderbilt Psychology Consortium graduates whose professional achievements now and in the future facilitate the achievement of that goal.●

MAJ. KAY T. PERRY RETIRES FROM DEPARTMENT OF THE AIR FORCE

● Mr. DIXON. Mr. President, I rise today to recognize Maj. Kay T. Perry of the U.S. Air Force.

Major Perry, a lifelong resident of Illinois, will retire from the Department of the Air Force Air Weather Service on September 1, 1988, after 22 years of distinguished and superior service.

As the chief of Meteorological Methods Development Division at Scott Air Force Base in southern Illinois, Perry is responsible for developing, updating, and monitoring training programs for the Air Weather Services.

Upon retiring, Major Perry will reside in my hometown of Belleville, IL.

I would like to take this time to congratulate Major Perry for his many years of outstanding service and wish him happiness in his retirement. He is a model leader and citizen.

Twenty-two years of dedicated service is truly an outstanding accomplishment and a reason for him and his family to be very proud.●

COURT-STRIPPING AND THE POWER OF THE FEDERAL JUDICIARY

● Mr. MOYNIHAN. Mr. President, August 1, 1988, may be seen as the day the Senate finally ended its perilous flirtation with bills to strip the Federal courts of jurisdiction to hear cases concerning school prayer, abortion, busing, and such like matters. By a vote of 71 to 20 the Senate defeated Senator HELMS' amendment to strip the Federal courts of their jurisdiction to hear cases relating to school prayer.

For almost a decade, a majority of the Senate has voted repeatedly to strip the Federal courts of some jurisdiction or other. Since 1979 there have been 14 votes on court-stripping legislation; on only one occasion has such legislation failed to gain majority support. That is, until the August 1 vote, which was the largest and most decisive repudiation of court-stripping ever. Let us hope that the spell which such legislation has cast over the Senate has at last been broken and that we have seen the end of these court-stripping efforts.[1]

It is about time. I have been speaking about the dangers of court-stripping for the better part of this decade. In 1981, the then-president of the American Bar Association, David Brink, testified before the Judiciary Committees of Congress about the impact of court-stripping legislation. He said:

> We confront, at this very moment, the greatest constitutional crisis since the Civil War.

Mr. Brink was right. Court-stripping is particularly pernicious, for it is both colorably constitutional and yet profoundly at odds with our Nation's political tradition and values.

Let us consider the possibility of such a constitutional oxymoron. Article III, section 2, of the Constitution, states in relevant part:

> The Supreme Court shall have appeallate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Since the vast majority of the Supreme Court's work obviously is appellate in nature, the meaning of this phrase is of some critical moment.

On September 20, 1982 when we prevented cloture on a court-stripping amendment on school prayer, I said:

> If you can strip from the Supreme Court the right to hear one question, you can strip from it the right to hear any question. There is no right in the Constitution that would not be placed in jeopardy. The great fear of the founding fathers was that we should have a tyranny of the majority. They spoke over and over again of a tyranny of the majority and they devised the Court as the institution in which minority rights would be protected. Those rights are embodied in the Constitution and the right of the Supreme Court in the end to say, as Justice Marshall said, it is emphatically the province of the Court to declare what the law is. It is not for us to do so. We may have our views, we make the laws, but we make them in the context of a high law, the Constitution, and the Court compares.

There are those who claim that under the exceptions clause, Congress may pass laws setting the boundaries for the Supreme Court's appellate jurisdiction wherever it chooses—or should we say, wherever it deems proper. But in order for the Court to interpret the law, the Court's peculiar province, as Marshall observed, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights. There must be a single arbiter of the Constitution, the "Supreme Law of the Land," and that must be the Supreme Court. Otherwise anarchy.

The exceptions clause of the Constitution cannot mean that Congress has unlimited power to set boundaries on the Supreme Court's appellate jurisdiction. The Court has certain essential functions under the Constitution. On October 1, 1981, Professor Leonard Ratner, then of the University of South Carolina, suggested that:

> Reasonably interpreted the (exceptions) clause means "With such exceptions and under such regulations as Congress may make, not inconsistent with the essential functions of the Supreme Court under this Constitution."

Those who take the opposite view that Congress can restrict the Court's jurisdiction rely, in the main, on a case decided by the Supreme Court 119 years ago, Ex Parte McCardle.

I will not review McCardle, and even if the decision is correct that court-stripping is constitutional, the inquiry does not end. We need only cite the views of Justice Owen J. Roberts, a conservative jurist who believed that court-stripping might well be constitutional. In an address to the Association of the Bar of the City of New York in 1948, after he had retired from the Court, he argued that it was essential to amend the Judiciary Article to "give the Supreme Court appellate jurisdiction in all cases under the Constitution . . . ." Given several decisions by Marshall, and given McCardle, he asked:

> What is there to prevent Congress taking away, bit by bit, all the appellate jurisdiction of the Supreme Court of the United States, not doing it by direct attack but by that sort of indirect attack? I see nothing. I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions. The jurisdiction is exercised now under the terms of the Judiciary Act. Suppose Congress should decide to let the decisions of state courts of appeal be final on constitutional questions. How could the Supreme Court assert a power to take those questions, notwithstanding the act of Congress.

No less a person than President Reagan's former Attorney General, William French Smith, said in 1982:

> Congress may not . . . consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

Yet, despite this statement, on May 6, 1982 Attorney General Smith wrote Congressman PETER RODINO, chairman of the House Judiciary Committee, endorsing the constitutionality of S. 951, the Senate-passed version of the Department of Justice authorization bill that limited the power of the Federal courts to order busing. If the Attorney General believed the legislation to be constitutional it was his duty to say so, though I find it more than a bit inconsistent with his statement quoted above.

But, even so, the Attorney General of the United States has other duties too. A measure may be constitutional, but should it be enacted? It is his duty to advise on the prudence and the wisdom of matters touching the Court, of which he must be the first defender.

The American Bar Association declares this to involve "the greatest constitutional crisis since the Civil War." The Attorney General declares, in effect, that it is no concern of his.

In the course of the debate on S. 951, I said:

> Many times I have stood on this floor and said that as to a particular issue I thought the Supreme Court was wrong, but I have always said simultaneously that our obligation to the Court is not to agree with it but to obey it. Indeed we see over history the Court changing its mind, as repeatedly it has done as new evidence, new thinking, and new Justices come to the fore. . . . Whatever else we do, we should not attempt to deny the Court its most fundamental reality, which is to act as a court, to decide matters which are brought before it by litigants. When you say that there are matters the Court may not consider you say it less than a court; much less a Supreme Court. You are saying the court acts at the toleration and on the terms set by this body; that this body becomes the supreme arbiter of what may be judged and what may not.
>
> At that point a profound constitutional transformation takes place, a constitutional transmutation. We are not thereafter the same Republic we have been.

It all comes down to this. For a generation or more—for a century or more—we have been taking the chance that something that could happen to our constitutional arrangement won't happen. Mr. Justice Roberts put it well, when he described this school of thought thus: "Don't touch the Constitution. * * * It has a great big hole in it. Nobody has run through the hole yet, and let's take a chance that nobody ever will."

The Senate is listening. The 71-20 repudiation of the court-stripping amendment demonstrated that the Senate respects the Court, that the separation of powers doctrine remains vital, and that the time for offering court-stripping proposals is over.

Mr. President, I ask that an address I gave on June 6, 1982 at the commencement exercises for St. John's University Law School and an article I wrote in the December 9, 1985 New York Law Journal, "Court-Stripping—A Threat To Power of Federal Judiciary" be inserted in the RECORD.

FOOTNOTE

[1] April 5, 1979, Senate votes 44-43 not to kill amendment to eliminate jurisdiction of federal courts, including the Supreme Court, in cases relating to voluntary prayer.

April 5, 1979, Senate votes 47-37 in favor of amendment to eliminate federal courts' (including Supreme Court) jurisdiction in voluntary prayer cases.

Footnotes at end of article.

April 9, 1979, Senate votes 51-40 for amendment to eliminate jurisdiction of Supreme Court and other federal courts in voluntary prayer cases.

April 9, 1979, S. 450, bill to eliminate all mandatory jurisdiction of Supreme Court passes 61-30. This bill includes amendment eliminating federal courts' (including Supreme Court) jurisdiction to hear voluntary prayer cases.

February 4, 1982, amendment to prevent Justice Department from bringing cases that could lead to court-ordered busing and barring the federal courts from ordering busing as a remedy adopted 58-38.

September 15, 1982, Senate votes 50-44 in favor of amendment to ban abortion (which was amendment to amendment stripping federal courts, including Supreme Court, of jurisdiction in voluntary prayer cases.)

September 20, 1982, Senate votes 50-39 in favor of amendment eliminating jurisdiction of federal courts (including Supreme Court) in voluntary prayer cases.

September 21, 1982, Senate votes 53-47 in favor of same amendment involving voluntary prayer.

September 22, 1982, Senate votes 54-46 in favor of amendment on voluntary prayer.

September 23, 1982, Senate votes 53-45 in favor of voluntary prayer amendment.

October 1, 1984, Senate by a vote of 56-41 endorses amendment restricting rights of federal courts to order busing to achieve desegregation.

September 10, 1985, Senate votes 62-36 to kill amendment eliminating jurisdiction of federal courts (including Supreme Court) in voluntary prayer cases.

June 3, 1986, Senate votes 50-45 in favor of amendment limiting power of federal courts to order school busing for desegregation.

August 1, 1988, Senate votes 71-20 to kill amendment eliminating jurisdiction of federal courts (including Supreme Court) in voluntary prayer cases.

The material follows:

WE CONFRONT, AT THIS VERY MOMENT, THE GREATEST CONSTITUTIONAL CRISIS SINCE THE CIVIL WAR

(Address by Senator Daniel Patrick Moynihan)

In 1981, not long after the 97th Congress convened, the American Bar Association testified before the judiciary committees of Congress that legislation then beginning to be introduced that would strip Federal courts, including the Supreme Court, of jurisdiction over various subject matters was both unwise as to policy and questionable as to constitutional validity. The president of the ABA, Mr. David R. Brink wrote the committees:

"We confront, at this very moment, the greatest constitutional crisis since the Civil War."

A year has gone by. One such measure has passed the Senator by an imposing vote. Others are being "marked up" and reported out, still others are already on the calendar. The proponents of such measures grow more confident. The grounds for their confidence are clear. The Congress would seem to be theirs. The Judiciary, the "least dangerous branch" as Madison had it, is silent in obedience to its custom and to its constitutional role. There is in that respect a stand-off. The one event that might change this balance has not occurred, which is to say that the Executive Branch, and more specifically the Justice Department, might take a stand on behalf of the Court, and in the judgment of some of us, the Constitution.

The Justice Department, however, chooses as best it can to act as if there were no crisis. It is in the main silent; at best ambiguous. Above all, it is unconcerned.

As one Senator very much concerned, I must state that, in my view, in the face of this crisis, in the face of a fundamental assault on constitutional procedure, the Department of Justice has been complacent to the point of collusion.

I speak, or if you will, write as someone who has been much interested in the history of the Court's reversing itself, and very much involved in some issues of the present age in which it seems to me the Court ought to do and which I dare to think it will.

Put plain, the Supreme Court is often wrong. Not in the sense that one of us might think it wrong, but in the specific sense that the Court having decided an issue, subsequently declares that its decision was incorrect and either modifies or in some cases, quite reverses its early decision.

In the largest matters, these changes occur over a generation; more often over two generations. If we use the somewhat dim convention that a generation is to be measured as thirty years, it was one generation before the Court reversed itself in *Lochner*, two generations before it reversed itself in *Plessy*. I need not tell law graduates that these are often cultural as much as legal events. Hence my judgment that it will take the better part of two generations entirely to reverse *Everson*, a process already underway, but by no means completed.

On the other hand, the Court can reverse itself within the space of a year, as it did on this past Tuesday, June 1 in *U.S. v. Ross.*[1]

In the fall of 1979, I published an article in *The Public Interest* entitled: "What Do You Do When The Supreme Court Is Wrong?" I argued that at various points in American history, and sometimes for extended periods, the Court had been "wrong" about one or another of the principal constitutional issues of the day, and that the court had subsequently reversed itself, saying in effect that it had been in error.

My purpose was to examine the process by which earlier Court reversals had come about—and could today. I described a simple hierarchy of responses—responses to the question, what do you do when one thinks the Supreme Court is wrong?—responses that in one combination or another had commonly led the Court to change its position. My argument, deriving as much from Finley Peter Dunne as from any more contemporary political scientist was that the Court does respond to positions reasonably compounded. I suggested a hierarchy, if you will, of advocacy. One was to Debate, to Legislate, to Litigate.

Briefly, issues upon which the Court had ruled would remain vital in public forums. Debate would continue on the same question. Variations of the originally contested law would be enacted by legislators who thought the Court had been wrong. The laws would be challenged in the lower Courts and indeed in the Supreme Court, which might already have changed its position. If it wasn't already convinced, if it ruled again that legislators had written an unconstitutional law (I wrote), the solution was to draft yet another law to the same effect. Changed social circumstances, a different (or better!) argued case, or a new Justice might lead to a favorable ruling.

I hoped that those who disagreed with one or another of the Court's decision, as I had done with respect to opinions on aid to non-public schools and public access to pretrial judicial proceedings, would remember that the Court can change its mind and that there is a legitimate and time-tested way to get it to do so.

But I read that something else has happened. In the intervening three years, some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.

They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution) and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).

Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is both colorably constitutional (at least in the case of inferior courts) and profoundly at odds with our nation's customs and political philosophy.

It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.

While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.

This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than *Marbury v. Madison* and few more famous dicta than Chief Justice Marshall's that:

"(i)t is emphatically the province and the duty of the judicial department to say what the law is."

But in order for the Court to interpret the law it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

As cases produce winners and losers, so do the ideas and principles upon which the cases rely produce supporters and enemies. So I suppose that it is only natural that those who see the courts ruling against them should seek to prevent these rulings by denying the courts the power to decide at all, or, failing that, by denying litigants certain kinds of relief, such as the busing of school children to eliminate illegal segregation.

These court-curbing bills—there are currently thirty-two (32) of them pending in the 97th Congress—would deny federal courts the authority to hear cases on a variety of such issues. The Senate, I regret having to report, has already adopted one such measure, having voted 58 to 38 on February 4, 1982, substantially to limit the authority of lower federal courts to require busing as a remedy for the unconstitutional segregation of school children.

These bills are troublesome, not least because they are arguably constitutional. The jurisdiction of the Supreme Court is set out in Article III of the Constitution which states in Section 2:

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[1] The Court in *Ross* upheld the right of police to search luggage or packages found in an automobile provided the police had probable cause both to search the vehicle and the container. In so holding the Court expressly overruled a decision it had handed down less than 12 months before disallowing such a search. Writing for the majority, Associate Justice John Paul Stevens explained:

"Our decision today is inconsistent with the disposition in *Robbins v. California*, and with a portion of the opinion in *Arkansas v. Sanders* on which the plurality in *Robbins* relied. Nevertheless, the doctrine of stare decisis does not preclude this action. Although we have rejected some of the reasoning in *Sanders* we adhere to our holding in that case. Although we reject the precise holding in *Robbins*, there was no court opinion supporting a single rationale for its judgment and the reasoning we adopt today was not presented by the parties in that case."

"The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases of admiralty and maritime jurisdiction; to controversies between two or more States, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign States, citizens or subjects.

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

I repeat: "with such exceptions, and under such regulations as the Congress shall make."

The plain meaning of the penultimate clause—the "exceptions" clause—is that Congress may, by statute, set boundaries for the Supreme Court's appellate jurisdiction. Indeed, in *Ex Parte McCardle* (1868), the Court itself seemingly bowed to the authority of the Legislature. The Court dismissed for want of jurisdiction an appeal based on a law repealed by Congress after the case had been argued before the Court, while it was awaiting final decision. Some have suggested that the Court's decision was not truly a test of Congress's powers in the area of jurisdiction in that it merely altered the manner in which a Habeas Corpus question could be brought before the court and in no way questioned the Court's ability to hear the case. But it is frequently cited as the leading case in this area by those who would have Congress restrict the jurisdiction of the Court. The Court said:

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution and the power to make exceptions to the appellate jurisdiction of this court is even by express words.

"What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause."

This is not, however, the end of the matter. For the Constitution has other sections including Article VI which states in part:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution of Laws of any State to the contrary notwithstanding."

Must we not presume from this, the "supremacy clause", that the Constitution's framers intended that there should be but a single arbiter of this supreme law, rather than the anarchy of a separate interpretation by each State's highest Court? Why write a constitutional "supremacy clause" if there were not to be a single supreme tribunal authorized to interpret and pronounce the meaning of the Constitution and of Federal law? Indeed, in the case of *Martin v. Hunter's Lessee*, (1816), Mr. Justice story said as much.

"A motive of another kind, perfectly compatible with the most sincere respect for state tribunals, might induce the grant of appellate power over their decisions. That motive is the importance, and even necessity, of uniformity of decisions throughout the whole United States, upon all subjects within the purview of the constitution. Judges of equal learning and integrity, in different states, might differently interpret a statute, or a treaty of the United States, or even the constitution itself: If there were no revising authority to control these jarring and discordant judgments, and harmonize them into uniformity, the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable; and it cannot be believed that they could have escaped the enlightened convention which formed the constitution * * * (T)he appellate jurisdiction must continue to be the only adequate remedy for such evils."

Thus we have the notion that the court has certain "essential functions" under the Constitution. And that any power the national legislature might have to limit jurisdiction is itself limited. Professor Leonard G. Ratner of the University of South Carolina suggests that:

"* * * Reasonably interpreted the (exceptions) clause means "With such exceptions and under such regulations as Congress may make, not inconsistent with the essential functions of the Supreme Court under this Constitution."

We find ourselves, then, not knowing if the Supreme Court's appellate jurisdiction is subject to the will of Congress. We have in *Ex Parte McCardle* a leading case, but rather an old one, that suggests that it is. I think it would be fair to say that most modern commentators would say that it is not.

The claim that the Congress makes on the jurisdiction of lower courts though is I think more clear. Section 1 of Article III says:

"The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

It is held that this section gives Congress absolute discretion to establish lower federal courts and by implication the power to control the jurisdiction of the courts it creates. There are those who would disagree. Professor Theodore Eisenberg of Cornell had said that because of the proliferation of Federal law and the dramatic increase in Federal court caseloads since the first lower Federal courts were established in 1789, these courts have become a constitutional necessity since the burden of harmonizing conflicting interpretations of Federal law by the fifty state court systems and vindicating Federal rights would be more than the Supreme Court exercising its appellate jurisdiction could bear. Others have said that Federal courts are constitutionally necessary to bar unconstitutional acts by Federal officials since state courts are generally without power to afford relief in such cases.

Again we find ourselves in the situation of not knowing for sure what the powers of Congress in this area are. The legislature has repeatedly, and without serious challenge, exercised its power to decide what the lower courts' jurisdiction should be in organizational or administrative matters, such as the minimum dollar amount that must be in controversy before a case can be heard. But it has never tried to say that certain outcomes would not be tolerated or that certain cases rather than classes of cases could not be heard.

If the constitutionality of these jurisdiction-stripping bills is unclear, two things are not. One is that they are a profoundly bad idea that raises the spector of a constitutional crisis that could leave our courts crippled and the Congress diminished. The other is that the Reagan Administration has at least tacitly acquiesced in the actions of those who would take away the courts' power to decide.

On October 29, 1981, Attorney General William French Smith spoke before the Federal Legal Council in Reston, Virginia. after saying that "the multiplication of implied constitutional rights * * * has gone far enough," Mr. Smith concluded:

"We intend in a comprehensive way to identify those principles that we will urge upon the Federal courts. And we intend to identify the cases in which to make our arguments all the way to the Supreme Court."

Fair enough. It is the duty of the Attorney General to enforce the laws as he sees fit and to interpret the Constitution as best he can. But Mr. Smith also said "Through legislation and litigation we will attempt to effect the goals I have outlined."

Back in October, I had hoped by this the Attorney General meant he had come to accept my hierarchy. He had, by the very fact of his address, already begun the debate on the courts' decisions with which he disagreed. I thought he might then seek passage of laws that would bring before the courts those issues he wished to have decided differently, and that he would argue in court for the changes he sought. Debate, Legislate, Litigate.

But it now appears that he had something quite different in mind. For on May 6, 1982 he wrote Congressman Peter Rodino, Chairman of the House Judiciary Committee endorsing the constitutionality of S. 951 the Senate-passed version of the Department of Justice authorization bill that limits the power of lower Federal courts to order bussing. It was clearly his duty to do this, to tell us if he thought the legislation constitutional or not. But the Attorney General of the United States has other duties too. It is his duty to advise on the prudence and the wisdom of matters touching on the Court, of which he must be the first defender.

The Attorney General failed in that duty. However much one might disagree; it would be possible to respect a position by the Attorney General supporting the court-stripping bill. After all, fifty eight Senators did so. But what is one to say of silence. The mere assertion, as stated in the accompanying press release:

"With regard to the anti-busing legislation, the Attorney General has concluded that this legislation may be enacted consistent with the Constitution."

Indeed, I grant, that might be so. But should it be? The American Bar Association declares this to involve "the greatest constitutional crisis since the Civil War". The Attorney General declares, in effect, that it is no concern of his.

In the course of the debate on S. 951, I had occasion to speak of this matter on the floor.

"Many times I have stood on this floor and said that as to a particular issue I thought the Supreme Court was wrong, but I have always said simultaneously that our obligation to the Court is not to agree with it but to obey it. Indeed we see over history the Court changing its mind, as repeatedly it has done as new evidence, new thinking, and new Justices come to the fore * * * Whatever else we do, we should not attempt to deny the Court its most fundamental reality, which is to act as a court, to decide matters which are brought before it by litigants. When you say that there are matters the Court may not consider you say it is less than a court; much less a Supreme Court. You are saying the court acts at the toleration and on the terms set by this body; that this body becomes the supreme arbiter of what may be judged and what may not.

"At that point a profound constitutional transformation takes place, a constitutional transmutation. We are not thereafter the same Republic we have been."

For nearly 200 years this country has succeeded for the most part in resolving its political disputes in a manner that, if it did not satisfy everyone, at least left adversaries feeling that they had been treated fairly. We have been able to do this because we have agreed on certain things that, while not contained in the Constitution, are related to it. First, we would not reach basic decisions on great issues without coming to more or less a national concensus. We would not try to overpower the opposition because we knew that one day we might be the opposition. Political parties might forget that they would not always be in power but those in power generally tried to ensure that the rights of the minority were protected.

Next, we have respected our institutions. The Congress might war with the President but the Presidency was honored. We now find ourselves in danger of losing both these things. In large part the matters sought to be decided by these jurisdiction-stripping bills are matters where concensus does not yet exist, and the bills themselves are fashioned to endanger the way Americans feel about their government and the way the branches of government feel about each other. And that is why they must be opposed. I end today where I began my article three years ago, with the words of Erwin N. Griswold:

"An institution charged with the role which the Supreme Court has successfully filled for so many years is entitled to our respect and understanding. If one criticizes the Court (as people have always done in the past, and should continue to do in the future), it should be essentially for the purpose of trying to contribute to that respect and to that understanding. The debt which we all owe to the Court is far greater than any individual can repay. Criticism of decisions of the Court or opinions of its members should be offered as an effort to repay that debt, and with the thought that conscientious criticism may be an aid to the Court in carrying out its difficult and essential task."

[From the New York Law Journal, Dec. 9, 1985]

"COURT-STRIPPING"—A THREAT TO POWER OF FEDERAL JUDICIARY

(By Daniel P. Moynihan)

In a short while now, the United States will be observing the bicentennial of our present Constitution and the beginnings of our present government.

A fair amount of celebration can be expected—and some cerebration as well. Mr. Gladstone's celebrated observation concerning "the most remarkable work known to me in modern times to have been produced by the human intellect," no doubt, will be revived.[1] Perhaps more to the point, Madison's judgment that it was a "miracle" will be remembered.[2] This and much more, for in the annals of mankind there has been no equivalent of two centuries of continuous government under one set of written rules. That this, in the main, has been felicitous government, giving structure to an immensely successful society, only adds to the wonder of the thing.

CHARTER STILL IN PLACE

Despite such wonder, it is still possible to be thoughtful about the subject. The Constitution drafted in Philadelphia in 1787 is still in place, because from time to time it has been amended. These amendments, however—a spare twenty-six—have never gone to the essential structure of the national Government devised in Philadelphia.

The first ten, our Bill of Rights, were adopted in 1791, the Eleventh four years later and the Twelfth Amendment on the Electoral College in 1804. Save for the Civil War amendments, the Constitution remained untroubled until the next century. We have changed some things since, but to no purpose that could not have been achieved by statute. As I read our history, only one of the 20th century amendments concerned activities of the Federal government, as such. This was the Sixteenth Amendment in 1913 that permitted a graduated income tax, and that was more a matter of scruple over a strict reading of Article II §8.

ONLY MAJOR CHANGES

Indeed, if I read correctly, the only significant change we have seen with respect to the structure of our national Government was the Supreme Court's assertion of judicial independence, successfully carried off in 1803 by John Marshall in *Marbury* v. *Madison*.[3] Marshall's constitutional coup was no "technical correction," but it came early enough so as not to unsettle any previous paterns, and in that sense was part of the Constitution making period.

In this sense, after 200 years of an intact Constitution, 1988 will verily be an annus mirabilis.

It comes as something of a surprise, then, that this season also should be one of considerable questioning of the Constitution, a great range of proposals for changing it, and, in the particular matter I propose to explore here, something like a concerted assault upon it. But this may not be so surprising after all. J.H. Plumb, one of the truly wise men of our age, has written that contrary to the modern sensibility so fascinated with the onset of instability in society—call it revolution, or liberation, or what you will—it is the onset of stability which is wondrous and rare.[4] The stability of the American arrangement is ahistorical, and we should expect questions about it.

NEEDED CHANGES SEEN

There is abroad now a genuine and sincere sense that our governmental arrangements may not be working well, that 18th century concerns no longer fit 20th century needs. Persons of this view are to be distinguished by the fact that, generally speaking, they are not mad at anybody or about anything. They merely wish we could devise a better way to adopt a budget, or ratify a treaty. I count myself of this view, and like to think that in time, more will be heard of it from Constitutional scholars, such as are assembled in the Committee on the Constitutional System.

We come upon quite a different level of intensity and specificity, however, when we look at the groups seeking constitutional change now, at this moment.

Thus we find ourselves in the midst of an extraordinary effort to convene "a convention for proposing amendments," as provided for under Article V of the Constitution. Nominally, this is part of a campaign to bring about a balanced-budget amendment; but the Constitution speaks of "amendments" plural and there would be no containing such an assemblage should it take place. (It is worth recalling that the Philadelphia Convention assembled because New York State was taxing firewood imported from Connecticut, and other such concerns.)

32 STATES WANT CONVENTION

Thirty-two state legislatures have called for such a convention, and of late we go through the now annual exercise to see whether another two will put the score over the required two-thirds. I make no prediction. For one thing I don't know how long a legislature's application remains valid. Indefinitely? Article V is silent. The earliest application we have on hand is from the State of Mississippi more than a decade old, dated April 29, 1975. (In case of fire, or other such mishaps, perhaps I should record that the thirty-two current applications are contained in the third drawer of a four-drawer filing cabinet, in Room S-221 of the Capitol, under the supervision of the Secretary of the Senate.)

In the meantime, there also are quite a number of proposals around to amend the Constitution in the traditional way for some specific purpose. The Equal Rights Amendment, passed once by Congress and pending again, is the most venerable of these proposals. More recently, and less advanced, have come proposals concerning school prayer, and abortion.

It may be noted that apart from the ERA, the present spate of proposed constitutional amendments, as the proposal for a second constitutional convention, are directed against the existing constitutional arrangements, in the sense that they are designed to change the present system, or to reverse decisions which the present system has brought about. Feelings run high on these matters; indeed, how could they not?

But of all these developments it appears to me that none should demand more attention than an emergent mood in the Senate in support of what has come to be known as "court-stripping." To amend the Constitution, to revise a particular provision according to prescribed procedure, is a matter wholly within the framework of accepted practice. Court-stripping is different. It would be, in its way, a constitutional coup, and could impair in a profound way the judicial power as established under the Constitution—especially as we have received it from Marshall. Yet, no less a document, no less a political authority, than the 1984 Platform of the Republican Party, adopted Aug. 2 in Dallas, stated, "it is not a judicial function to reorder the economic, political and social priorities of our nation." True enough, the Supreme Court spends its time on Constitutional priorities, which, of course, may appear in economic, political, or social realms. The platform, however proceeds to state, "where appropriate, we support congressional efforts to restrict the jurisdiction of Federal courts."

ABA PRESIDENT'S VIEW

Four years ago, as the 97th Congress was convening, the then-president of the American Bar Association, David Brink, testified before the Judiciary Committees of Congress about the impact of court-stripping legislation. He said:

"We confront, at this very moment, the greatest constitutional crisis since the Civil War."

The difficulty here is that while, indeed, we may face a constitutional crisis, we may be getting there by a route many would argue is constitutionally permissible.

Let us consider the possibility of such a constitutional oxymoron. Article III, §2, of the Constitution, states in relevant part:

"The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

I repeat: "With such exceptions, and under such regulations as the Congress shall make." Now, since the vast majority of the Supreme Court's work obviously is appellate in nature, the meaning of this phrase is of some critical moment.

There are those who claim that under the "exceptions" clause, Congress may pass laws setting the boundaries for the Supreme Court's appellate jurisdiction wherever it chooses—or should we say, wherever it deems proper. Those who take the view that Congress can restrict the Court's jurisdiction rely, in the main, on a case decided by the Supreme Court 117 years ago, *Ex Parte McCardle.*[5]

JUSTICE ROBERTS' VIEWS

I will not review *McCardle.* It is enough, in any event, to cite the views of Justice Owen J. Roberts in an address to The Association of the Bar of the City of New York in 1948, after he had retired from the Court.[6]

"Now Is the Time" his title declared, for "Fortifying the Supreme Court's Independence." He proposed four amendments. The first would set the size of the Court at nine persons. James Bryce had noted the problem almost a century ago. What, Roberts asked, "would prevent there being twenty if Congress so legislates." He would require retirement at seventy-five, and prohibit anyone once a Justice to be eligible to the office of President or Vice President.

But by far his most important proposal, in his view, addressed the question of what we have come to call court-stripping. Mr. Justice Roberts was a conservative judge, properly construed. He was not much for amending the Constitution.

"I am all for the view that it ought to be a document stating great principles and not attempting the meticulousness of a regulatory statute. Every time you suggest an amendment you violate, to some extent, that great principle."

Even so, he thought it essential and even urgent to amend the Judiciary Article to "give the Supreme Court appellate jurisdiction in all cases under the Constitution. . . ." Given several decisions by Marshall, and given *McCardle,* he asked:

"What is there to prevent Congress taking away, bit by bit, all the appellate jurisdiction of the Supreme Court of the United States, not doing it by direct attack but by that sort of indirect attack? I see nothing. I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions. The jurisdiction is exercised now under the terms of the Judiciary Act. Suppose Congress should decide to let the decisions of state courts of appeal be final on constitutional questions. How could the Supreme Court assert a power to take those questions, notwithstanding the act of Congress."

Such an effort has been underway in a most explicit form in the Senate for the past six years. Somehow the concerted and successful (so far as attaining a Senate majority) nature of this effort has escaped notice.

Here is the record: eight specific majority votes to strip the Court of some jurisdiction or other. None of the measures has become law either because we have been able to avoid a final vote by extended debate—some of the eight occasions were on cloture where sixty votes are required—or else the House has demurred. Still a Senate majority has been prepared throughout. To wit:

On April 9, 1979, the Senate voted 51 to 40 in favor of an amendment by Senator Helms of North Carolina excluding from the Supreme Court's appellate jurisdiction cases calling into question state or local laws permitting voluntary school prayer.

On Feb. 4, 1982, the Senate passed 58 to 38 a Helms amendment to the Department of Justice Authorization Bill, to prevent any court of the United States from ordering students bused to a public school other than the one closest to their home.

On Sept. 15, 1982, the Senate voted 50 to 44 in favor of ending debate on a Helms amendment regarding court jurisdiction in abortion cases.

On Sept. 20, 1982, the Senate voted 50 to 39 in favor of ending debate on a Helms amendment providing that the Court would have no jurisdiction to hear cases relating to voluntary school prayer.

On Sept. 21, 1982, the Senate voted 53 to 47 in favor of ending debate on the same Helms amendment.

On Sept. 22, 1982, the Senate voted 54 to 46 in favor of ending debate on the same Helms amendment.

On Sept. 23, 1982, the Senate voted 53 to 45 in favor of ending debate on the same Helms amendment.

On Oct. 1, 1984, the Senate voted 56 to 41 not to table an appeal of the Chair's ruling that a busing amendment was non-germane to the *Grove City* bill.

AUTHOR'S ARGUMENT

I have been one of the filibusterers—extended debate is the polite term—and my argument has been simple. Thus, on Sept. 20, 1982, when we prevented cloture on school prayer, I said:

"If you can strip from the Supreme Court the right to hear one question, you can strip from it the right to hear any question. There is no right in the Constitution that would not be placed in jeopardy. The great fear of the founding fathers was that we should have a tyranny of the majority. They spoke over and over again of a tyranny of the majority and they devised the Court as the institution in which minority rights would be protected. Those rights are embodied in the Constitution and the right of the Supreme Court in the end to say, as Justice Marshall said, it is emphatically the province of the Court to declare what the law is. It is not for us to do. We may have our views, we make the laws, but we make them in the context of a high law, the Constitution, and the Court compares."

Mind, we have not been alone in resisting those who would strip the Court of jurisdiction. No less a person than President Reagan's former Attorney General, William French Smith, said in 1982:

"Congress may not * * * consistent with the Constitution, make 'exceptions' to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch of our system of separation of powers."[7]

THE BOTTON LINE

There is much I could add, including a discourse on the appearance of "majority cloture," a technique for ending debate by a simple majority vote.

But it all comes to this, For a generation or more—for a century or more—we have been taking the chance that something that could happen to our constitutional arrangements won't happen. Mr. Justice Roberts put it well, when he described this school of thought thus: "Don't touch the Constitution * * * It has a great big hole in it. Nobody has run through the hole yet, and let's take a chance that nobody ever will." Realistically, this may be our only option. But given the risks we have gone through these past years, ought we not expect to hear more from the public, especially the bar, about this matter?

We have had nothing like the "popular uprising" that Mr. Justice Roberts saw as the only way to deter a Congress determined in this matter. I would hope then we might at least hear more from the Federal Bar. Congress listens you know. But if you do not speak, I dare to think there could be many an issue of large importance in years ahead which the Supreme Court will not hear.

FOOT NOTES

[1] British Prime Minister William Gladstone, in a letter to members of a government-appointed commitee celebrating the Centennial of the American Constitution. July 20, 1987.

[2] James Madison. Outline Notes. September 1929.

[3] *Marbury v. Madison, 5 U.S.* (1 Cranch) 137 (1803).

[4] See J.H. Plumb's *The Origins of Political Stability, 1675-1725,* London: MacMillian, 1967, P. XVII.

[5] *Ex Porte McCardle,* 74 U.S. (7 Wall) 506 (1869).

In 1867, the Reconstruction Congress determined to try to protect the rights of former slaves who had served the Union Army. In 1865, to encourage enlistments in the border states of the union, where slavery was still allowed, Congress had passed a law stipulating that the wife and children of any slave who volunteered for the Union Army would be considered free. In 1867, in order to help enforce the 1865 law, Congress passed a new law reaffirming the rights of such persons to a writ of *habeas corpus* and authorizing appeals to the Supreme Court of denials of the writ by lower courts.

McCardle tried to use this law against the Congress. He was an ex-Confederate newspaper editor being held for trial before a military commission, accused of publishing incendiary and libelous articles. McCardle filed for a writ of *habeas corpus,* alleging unlawful restraint by military force. When the lower courts denied his petition, he appealed to the Supreme Court, taking advantage of the 1867 statute.

The Supreme Court heard arguments on the case in 1866. But before the Court could issue its decision, Congress passed another statute, this time explicitly withdrawing the Court's jurisdiction to review lower-court denials of those *habeas corpus* writs issued under the 1867 law.

The Supreme Court was faced with a new issue: did Congress act properly—under the Constitution—by passing a law in 1868 that stripped the Court of jurisdiction over cases under the 1867 statute? The Court acknowledged, first, that Congress could make exceptions to its jurisdiction to hear appeals and recognized further, in this instance, that: "The provisions of the Act of 1867, affirming the appellate jurisdiction of this Court in cases of *habeas corpus,* (were) expressly repealed. It is hardly possible to imagine a plainer instance of positive exception."

The Court held it did *not* have jurisdiction to hear the appeal, and dismissed the *McCardle* case for want of jurisdiction.

[6] Robert, *Fortifying the Supreme Court's Independence,* 35 A.B.A.J. 1 (January 1949).

[7] Letter from Attorney General Smith to Senator Strom Thurmond, chairman of the Senate Judiciary Committee, May 6, 1982 [Printed at 128 Cong. Rec. 11814 (1982)].●

EXPERIMENTAL AIRCRAFT ASSOCIATION CONVENTION, OSHKOSH, WI

● Mr. KASTEN. Mr. President, I rise today to reassure my colleagues from Illinois about the apparently ominous developments north of their border. No less than 15,000 planes have been massed at Wittman Field in Oshkosh, WI—one-twelfth of all the private planes in the United States.

I want to reassure both Senators from Illinois that our intentions in deploying this "Wisconsin Air Force" are entirely peaceful. We harbor no designs on the territory of Illinois, or on her people.

Our aims are simple. We seek—for one brief week—to displace Chicago's O'Hare Airport as our Nation's busiest landing strip. This goal is entirely compatiable with the peaceful relations that exist between our two States.

Mr. President, I ask that an article in today's Washington Post about the convention of the Experimental Aircraft Association in Oshkosh be included in the RECORD.

[From the Washington Post, Aug. 3, 1988]

PLANE SPEAKING IN OSHKOSH—A MIGHTY CONCLAVE AT THE AIR SHOW

(By Michael Kernan)

OSHKOSH, WI.—They like the noise.

When the Concorde roared in, rooftop high, over the Experimental Aircraft Association's convention here, a quarter of a million people vibrated. Some even staggered under the blast, a continuous thunderclap that pressed the eyeballs back into the head.

"Yahhhh! That's power, baby!" yelled a man in a Harley-Davidson hat. When the lovely white giant circled majestically halfway into the next county and returned for another sweep, you just stood there and let it beat on you like a high wind.

And when a whole line of P51 fighters streaked past with the terrific tearing engine noise that made World War II famous, the announcer himself shrieked. "Rolls-Royce Merlins—how ya like that sound!"

There is enough noise for everybody here this week as the 36th annual fly-in makes modest Wittman Field the world's busiest landing strip for eight days—four times busier than Chicago's O'Hare. They say one-twelfth of all the private planes in the country are here, anyway well over 15,000.

There are military planes, antique classics, homemade jobs built from kits or mail-order plans, ultralights and some of the damnedest-looking craft you ever saw. There are planes with a high wing in back and a low wing in front ("It's like a Ferrari in the air, very light touch," says the owner), boxy biplanes, flying wings, planes with tails bent like bananas, old barnstorming planes with the standing brace on top for the wing walker, open-frame planes like something left over from Kitty Hawk, front engines, rear engines, fore-and-aft seats, side-by-side seats, planes with folding wings, planes that you can't tell for the life of you which way they go.

Over the weekend Wittman got so crowded it had to be closed at times, and other strips for miles around were overburdened. When you walked down the mile-long parking lot for show entries and drove past the endless acres of transient planes, trailers, vans and tent cities, you could believe that all 40,000 EAA members were here with their families. Plus half the population of Wisconsin. Try to get a Hertz car in Madison, 100 miles away, last Sunday.

There was also a B1 bomber ("Are we supposed to be seeing this?"), sitting high above the mob that milled constantly around it, its grim green-black matte surface glowing with quiet menace in the sun. And a Goodyear blimp, a B17 Flying Fortress and a 1910 Curtiss pusher biplane with a wicker seat, and Corsairs and Avengers and Hellcats and Thunderbolts, and the beloved P38, which flew by ahead of its own whirring engine sound, soft as fleece.

And Messerschmitts, Focke-Wulfs, Japanese Zeroes, a Soviet Yak 11, a carrier plane from the storied Lexington with its memories of Pacific battles from Tarawa to Okinawa, a rare de Havilland Mosquito bomber, an even rarer P40 of the Flying Tigers, painted pink behind its savage shark's mouth trademark and, side by side, a World War I Fokker and a Jenny ("You can't send the kid up in a crate like that!").

People rebuild old warriors and make a hobby of flying them at air shows. You can buy a beat-up C47—the workhorse that became the DC3 after World War II—for as little as $50,000. Or inquire about the like-new Fiat G59, rebuilt by Dennis Sanders of Darwin, Australia, for $382,000. Or you can join the Confederate Air Force for $200 and just be a part of it all, like Dave Fairbrother of Chicago, who flew here with the team that exhibits the Black Sparrow, a C47 whose weatherbeaten insignia features a girl's leg and a martini glass. His cap and shirtfront are covered with patches and badges.

"This was built in '45," he says, "was in the Navy first and then the Agriculture Department. Has 20,000 hours on it, which isn't that much."

Only a handful of the 9,000 C47s from the war are still flying. They towed gliders over Normandy on D-Day. They dropped 2,600 paratroopers onto the Salerno beachhead in 45 minutes to turn the enemy flank. They flew the Hump into Burma and evacuated wounded from Guadalcanal. They were so hardy that once when a pilot tried to ditch his riddled plane in the Pacific because he was sure it would break into small pieces any minute, the thing bounced up from the water and took him home anyway.

"These old war birds, you know," Fairbrother says, "we've always getting guys who come by and say, 'This was my plane.'"

As if on cue, a rough-skinned, quick-eyed man walks up and spots the serial number on the tail, 315033. "That series went through Baer Field in Fort Wayne when I was there," says Gene Pettibone, of Clyde, Ohio. "I was there '44 and '45 with the Air Transport Command."

Oh yes, he flew C47s. "Handles like an oversized Piper Cub. No bad habits. But you might fly it into the ground first time you land, you're so high up. You just don't three-point 'em."

They talk in numbers, these men and women: fuel stats, performance stats, military units, weather data. A code. "Jeez, 180 horse and does 174 miles an hour!" someone mutters, and you think how strange to be looking up at a sky full of machines and talking about horses.

At one time you can count 34 planes in the air. That's nothing: On opening day Friday, 161 Cessnas came by in formation. Took 30 minutes for them all to land.

It's a life. Kenneth W. Hyde of Airlie, Va., an airline pilot, spent 16 years fussing with his 1918 Curtiss Jenny. Last year the venerable two-seater was grand champion at Oshkosh. It took him 15 hours and 40 minutes to get here, cruising at 60 miles an hour, stopping seven times along the way.

"It's hard to find grass runways," Hyde says. "You have to call ahead." He can't land on concrete because there is no rear wheel, just a tail skid.

The plane had spun in when he bought it, the engine destroyed, the front end telescoped, a wing gone. He had to build the wing from scratch. Found a Curtiss OX5 eight-cylinder water-cooled engine in Connecticut. Sent to Ireland for the linen for the skin (which is like covering it in dollar bills). Put it together with beautiful brass radiator mounts, spruce and ash load-bearing uprights, fir spars, ribs of white pine. And painted and polished and tuned and adjusted until it flew like a dream. More or less.

"You have to fly it all the time, it's not really stable in any axis. That's what made it a good trainer: You can't take your feet off the rudder bars or let go of the stick. They didn't know that much about stability back then. But it handles well, it was ahead of its time aerodynamically."

Hyde, lean and laconic, worked as a kid apprentice mechanic for Charley Culp at the old Manassas airport, taking his pay in flying lessons. He helped restore Culp's ancient KR34 biplane and got the bug. He has three planes around his country place, and a small airfield out back.

"It's a strange sensation after a 727," he says. "You have to be on your toes, because a Jenny doesn't stop flying until all the airspeed is gone. Even at a low airspeed it'll try to run away from you. It doesn't like crosswinds. You have absolutely no directional control if you're skidding in a crosswind."

Culp, the man who taught him to fly, sat in the second seat on the trip last year. "Old guys get a tear in their eye when they see these," Hyde says. "It could probably do loops and stuff, spins, but we haven't done any of that. We got an awful lot of 1918 wood in this plane."

Parked among the kit-builts is the cute little Cricket MC15, advertised as "the smallest two-engine plane in the world." A beautiful thing to see, with its neat cockpit bubble and streamlined wheel covers. You want to hug it. The silver wings yawn across the horizon for a full 16 feet. Hell, there are people who can jump farther than that. The 15-horse one-lunger engines look as if they would burn out trying to cut a Chevy Chase lawn.

"It goes four hours in the air," says Anne Prince of Akron, Ohio, whose husband Gordon built it five years ago. "It stays up with one engine out. Cruises about 110 but can go 135. My husband loves to fly it. He never built one before."

He assembled it in the family room, she says, and took it out through the laundry room. Worked on it six months but had to wait for winter to end before he could solo. He's a retired builder, she says. Flew P51s in the war.

You can buy a Cricket kit for $11,970, including $4,540 for the power plant. It weighs 170 pounds empty. You could take it to bed with you if you really wanted to.

Down the road is a very homemade looking craft called the Sky Pup, built by Dan Grunloh of Potomac, Ill., from plans. It took him 700 hours over two years, $50 at a time, and wound up costing $2,200.

This is the stripped-down model, Grunloh points out. It has no struts, but a massively thick wing instead. It has no brakes.

"To stop, you just do a slow ground loop and put your hand here," he says, reaching out from the cockpit to touch one of the bicycle-type wheels alongside. His sneakers stick out beneath the fuselage. They are new. You wonder how many pairs he has worn out scuffing to a stop.

"This is mainly made of wood, which is popular with guys like me who don't know a whole lot about welding and stuff. I take it out for maybe 30 miles, around the country. Average 11 miles, I would say. Lot of balloonists out there—they throw paper cups at you if you get too close."

Next to him stands Jim Kelly, a Department of Defense executive from Leonardtown, Md., who sells a scary-looking flying wing in black and green fabric called the Pegasus XL. He has a dealership at Deep Creek airport near Annapolis, and says the Pegasus is a docile number, good as a training craft. It comes ready-made from Britain for about $10,000.

Kelly flew for a living with the Navy for nine years, but now he flies "only when my 40 hours at the office are up."

This end of the field is so different from the other end, where the war birds are, the shoulder patches, the military shoptalk. Here, the Wisconsin countryside is closing in, farms and silos and cornfields. The ultralight headquarters is in a cow barn, and the row of dealers' tents looks like a county fair midway.

Lanky whiskered man drives up to a vacant parking space in a battered van with Vermont plates and unloads huge packages of struts and plastic pipe. "You gonna build it right here?" someone says. "Yup," he says.

A hundred feet straight up, a gyroplane hangs perfectly still in the air for 30 seconds, then darts off like a hummingbird. Below, a dealer looking cool in the shade of his planter's hat puts the hard sell on a young guy.

". . . and you're just not gonna find a feature like that on any comparable model," he says earnestly. "I'm sure," mutters the young guy.

The dealer takes his mini-gyro to the landing strip and tries to start it. And tries and tries, cranking the prop, adjusting the fuel mixture, cranking again, ka-pock, ka-pock, ka-pock-pock.

After five minutes it finally catches. Good Lord, what a racket! That thing is no bigger than a newborn baby, but its angry blat makes people stop talking 50 yards away. Then it dies. Later it is towed away behind a VW bug, with the dealer sitting in it while his competitors call out witty remarks. He is still wearing the planter's hat but no longer looks cool.

If there is any rule of thumb about planes, it is that, pound for pound, the smallest ones make the most noise. No two are alike: Some loft gently into the air, tilting and feeling their way like the model glider you built in high school; some attack the air in a rage; some slice through it slippery as fish.

And if there is any rule of thumb about air show crowds, it is that they wear hats. Of the 250,000 here on Saturday, 220,000 were wearing billed caps, 15,000 had cowboy hats and one wore a giant wedge of Wisconsin cheese. At least 100,000 carried aluminum folding chairs. As to costume, the less said the better, except that one T-shirt read, "If God had wanted man to fly, He would have given him more money."

Attendance figures are not reliable at this stage, officials warned, though by the time awards are announced Thursday night, the numbers are expected to show a 20 percent increase over last year, when a million attended this world's largest air show. One source predicted between 80,000 and 400,000 each of the eight days. That's a rather loose shoe.

In any case, the lunch counter lines ran 150 yards long by 11 a.m.

Then there were the guests from 65 countries, visiting astronaut Neil Armstrong and Voyager designer Burt Rutan, the high-tech military planes on the scene such as the Harrier jet, the hundreds of sheet metal, woodworking, welding, weather-reading and assorted workshops, the seminars and lectures and forums and movies and sales pitches going on all over the field.

On opening day a visitor died after being hit by a wing tip—not a propeller blade, officials said, contradicting the local press. A media advisory explained what to do and not do in the event of "an aviation incident."

You had to like airplanes. At one afternoon's performance, war birds flew by in unending succession, but nobody put hands to ears. There were teams of parachutists carrying flags. There were superb aerobatics, planes climbing straight up and falling back into their own smoke, or twisting in spirals, or racing upside down close to the ground. (Frankly, there's not all that much you can do in aerobatics.)

Two planes called The French Connection did a sky ballet to the "Ode to Joy" and a poem recited over the speaker. It didn't quite work. The flying was poetry enough.

After each event the participating pilots were driven past the crowd in Jeeps, jaunty in their matching jump suits, waving their matching plastic caps. Most of them looked thoroughly middle-aged, old guys, and you realized with something like a shock that of course they are old guys, they are flying prop planes that probably in a few years will be hung from cables in museums.

And by then the planes that still fly will be flown by young pilots, good ones certainly, specially coached in handling the primitive controls of another era, but it won't be the same. Because these old guys flew planes like these, the P38s and the C47s and the Thunderbolts and the Mustangs and the Hellcats, when they were for real.

That's one reason why you go to Oshkosh.●

DONALD JONES

● Mr. LUGAR. Mr. President, I would like to take this opportunity to pay tribute to an outstanding Hoosier, Donald Jones. Donald serves as the executive director of the Indiana Regional Minority Supplier Development Council, and over the past 10 years provided the leadership and the vision which enabled over one-half billion dollars to go to minority purchases for companies in our State.

Donald moved to Indianapolis at a young age, and attended school number 87 and Shortridge High School. He went on to receive his BS degree from Tennessee A&I College in 1961. He is married to the former Linda Young of Indianapolis.

The Indiana Regional Minority Supplier Development Council operates on a $214,000 annual budget. Don Jones is the key factor in the success of the council. The council has 20 majority corporate members. One of the major vehicles that generates opportunities for minority companies is the annual Indiana Business Opportunities Fair which is held to introduce large firms to small minority companies.

Don Jones has received numerous awards and achievements. Most recently, the Indiana District Office of the Small Business Administration honored him by naming him the 1988 minority advocate of the year for his valuable service and assistance to minority business. In 1986, he was made an honorary Secretary of State for his efforts in minority business and economic growth in Indiana. He was given the key to the city in 1983 for his promotion of minority businesses.

Even with this important job, he finds time to help community based organizations. He is active with the Flanner House Programs and serves on the boards of Alpha Home and the Indianapolis Business Foundation. He also serves on the Civil Rights Board of the City of Indianapolis.

I would urge my colleagues to join me in paying tribute to a fine citizen and Hoosier for his many talents and for his contributions to Indiana.●

NEWCOMEN HONORS IMMANUEL MEDICAL CENTER

● Mr. KARNES. Mr. President, on October 8, 1987 the Immanuel Medical Center completed its first century of operation in Omaha. Today, in Omaha the American Newcomen Society holds its meeting to honor Immanuel Medical Center and to celebrate its 100th anniversary. Due to my duties in the Senate, I was unable to accept the Newcomen Society's kind invitation to this auspicious occasion, but because of the historic importance of this event, I thought my colleagues would be interested to learn more about Immanuel Medical Center and the Newcomen Society.

Immanuel Medical Center was founded in 1887 by Lutheran Pastor E. A. Fogelstrom, who envisioned a hospital served by Lutheran deaconesses. In addition to the hospital, the Immanuel Deaconess Institute, as it was known until 1968, soon had an orphans' home, a home for the aged and special care and housing for the disabled. The facility's services and programs continued to expand, and by 1974 had outgrown its original 13-acre site at 36th and Merdith Streets. A move to its current 166-acre location in northwest Omaha enabled continued growth to result in the present-day 601-bed medical center, with not only a full-service hospital but a nursing home, mental health and addictions recovery centers, physical medicine and rehabilitation center, child development center, retirement village, motel and an educational facility. Immanuel continues its strong commitment to maintaining its diversity and to successfully blending the caring spirit of 1887 with the advanced medical technology of today.

The Newcomen Society, which is honoring Immanuel today, is a public supported educational membership corporation for the study and recognition of achievement in American business and the society it serves. Named after the British inventor of the Newcomen steam engine, the society was founded in 1923 and today boasts over 13,000 members in 54 regional committees in the United States and Canada. The society's single chapter in Nebraska has over 700 members, all businessmen, small entrepreneurs and leading civic-minded citizens.

The society's Nebraska committee meets twice a year to recognize two outstanding businesses and private civic organizations that have made major contributions to the free enterprise system and to improve our way of life in Nebraska. In April the society honored Waldo Hog Farms in DeWitt, NE, a small business which has become very successful as a leading American pork producer.

Today the Newcomen Society recognizes the achievements of the Immanuel Medical Center over the past century. There will be a reception and a luncheon at the Red Lion Inn. Presiding will be E.J. Faulkner, honorary chairman of the board and executive counsel of the Woodmen Accident and Life Insurance Co. of Lincoln, and chairman of the Nebraska Committee and Honorary Trustee in the Newcomen Society of the United States. The guest of honor and speaker will be Mr. Charles J. Marr, president and chief executive officer of Immanuel. Prior to joining Immanuel in 1987, Mr. Marr headed West Nebraska General Hospital in Scottsbluff. A native of Fremont, Mr. Marr received his B.S. and M.B.A. at the University of Nebraska in Lincoln. Both he and his wife have been active in Omaha civic affairs. He will be introduced by Mr. Robert D. Hamilton, vice president of the Federal Reserve Bank of Kansas City, Omaha branch, chairman of Immanuel's Board of Directors and a member of the Nebraska Committee in the Newcomen Society.

This promises to be a festive centennial, and I regret that I cannot attend. I am grateful to Mr. Steve Sparks of Immanuel for providing this information about the history of the Medical Center and the Newcomen Society.

We Nebraskans are proud of the contributions that Immanuel Medical Center has made to the world of medicine and to the well-being of our citizens. We look forward to the achievements that Immanuel will make in its second century.●

THE PUBLIC INTEREST IN RAILROAD MERGERS

● Mr. CHILES. Mr. President, I rise today to address the issue of the public interest in railroad mergers.

Congress has provided by law that two railroads may merge only with the approval of the Interstate Commerce Commission—the ICC. Congress has further provided that the ICC shall approve such a merger only when it finds that the transaction is consistent with the public interest.

There are sound economic reasons why the ICC should consider the public interest when reviewing the sale, acquisition, or merger of our railroads. These railroads are part and parcel of our Nation's transportation infrastructure and their benefits spill over to the entire economy.

Realizing this, the Government played a pivotal role in the birth of our railroads, granting large tracts of public lands and conveying monopoly rights to the railroads. And when a critical rail system has run into economic difficulty, the Government has often stepped in to help the system regain its economic vitality.

The Government has also played a constructive role in guaranteeing that consumers' and taxpayers' interests are protected, preventing undue concentrations of power and monopolistic practices. Throughout it all, the public interest has demanded that critical rail systems remain viable and competitive.

Now a new dimension has been added. It is the possibility that an acquired rail system will be broken into pieces and sold off. The profitable corporate assets will be auctioned to the highest bidder, and the proceeds taken out of the rail business all together.

The problem is that this approach could easily undercut the interests of the users of rail services, the American taxpayer, and the American economy. Many of the assets were granted as a specific financial incentive to shore up the rail system and keep it on sound financial condition. Selling these holdings without using the proceeds in the rail business would break that basic bargain, and what if the weakened rail system gets into financial difficulty? It will be the American taxpayer who will be called upon to pick up the tab. Just as the wave of private mergers and acquisitions has weakened some of our largest corporations through divestiture of their best assets, the same potential lurks here.

Simple fairness and sound economics require the ICC to consider the national interest in these sales and mergers. Both market concentration and the long-run financial viability of our transportation system should be weighed in the ICC's decisions.●

REPRESENTATIVE EDOLPHUS TOWNS, NEW YORK

● Mr. MOYNIHAN. Mr. President, I rise today to salute Representative Edolphus Towns of New York's 11th Congressional District, for his heroic actions in forestalling the burglary of his home.

On Tuesday, August 2, 1988, a burglar broke into Representative Town's Brooklyn house. However, the burglary attempt was unsuccessful, due to Congressman Towns' confrontation of the perpetrator. The burglar remained at the scene long enough for the police to arrive and arrest him. No harm done. However, I fear the outcome of future such events might not be as pleasant. Therefore, I feel this incident serves as a lesson for us all. We must continue to fight crime in our neighborhoods, to provide safe homes for our families to live in.

I recognize Congressman Towns for his bravery. But as this incident demonstrates, we must redouble our efforts to make our neighborhoods safe.●

SALUTING MAYOR LEONARD C. PADUANO

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Leonard C. Paduano, mayor of New Rochelle, NY, on being named "Man of the Year" by the New Rochelle Boys & Girls Clubs.

Boys and girls clubs are important institutions offering club members guidance and support during painful adolescent years. While some children and teenagers turn to drugs and other illegal activities, others join the boys and girls clubs. For these children, the clubs offer excellent character-building programs. This would not be possible without tremendous support from the community. Mayor Paduano has helped provide this by supporting the two clubs and also by helping to build New Rochelle's Southside Community Center.

Mr. President, I salute Mayor Paduano for all of his work with the boys and girls clubs and as "Man of the Year." I wish there were more people like him who work to help our children develop the skills necessary to become responsible, law-abiding citizens. There is no better investment in the future than in our children.●

FEDERAL RESERVE SYSTEM—UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent as in executive session that the Senate proceed to the consideration of John P. LaWare, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1988, and I ask unanimous consent that there be no time for debate thereon; that tomorrow morning at 9:30 a.m., the Senate go into executive session and go immediately into the nomination of Mr. LaWare with no debate, no action or motion of any kind, vote up or down on the nomination and that upon the disposition of the vote the motion to reconsider be laid on the table, the President be immediately notified of confirmation of the nomination if indeed the nomination is confirmed, and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am advised that Senator PROXMIRE would like 5 minutes of debate so I ask unanimous consent that at 20 minutes after 9 the Senate go into executive session with 10 minutes for debate to be equally divided between the distinguished Republican leader and the Senator from Wisconsin [Mr. PROXMIRE] and that at 9:30 a.m. the Senate proceed as previously ordered to vote without further motion or action of any kind on the nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Therefore, Mr. President, I would ask that when the Senate goes into executive session tomorrow morning it go in at 9:20 instead of 9:30; 9:20 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATIONS DISORDERS ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 801, H.R. 3361.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3361) to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communications Disorders.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2795

Mr. BYRD. Mr. President, I send a substitute amendment to the desk on behalf of Mr. KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. KENNEDY proposes an amendment number 2795.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I rise to recommend to the Senate for consideration the National Research Institutes Reauthorization Act of 1988, legislation that will reauthorize and extend the research and training programs of the National Institutes of Health.

In a hundred years of sustained excellence, the NIH has grown from a one room attic laboratory in 1887 to the premier and largest medical research institution in the world today. The legacy of a century of support of biomedical research is a truly impressive list of life-saving and life-enhancing medical breakthroughs. Funding for NIH has not been money spent, but money invested, and every American has profited.

One only need look at the benefits that have accrued to children. NIH research has produced a drug cure for childhood leukemia, reduced mortality from neonatal respiratory distress syndrome, provided vaccines for life-threatening diseases such as rubella, developed early detection tests and treatments for congenital disorders that have saved thousands of children from mental retardation. Or one only need look at the benefits that have accrued to the aged. NIH research has resulted in the development of corneal transplants and laser retinal therapy that has saved the eyesight of many, as well as improved therapies for cancer, heart disease, and diabetes. Yet, we are still far from the cures we seek for many dread diseases. And we are confronted with a new and deadly epidemic, AIDS.

Even as we need NIH more than ever, its progress is threatened. Its outstanding record of achievement has only been possible as a result of the Federal Government's willingness to share the cost of facility construction and maintenance at research institutions. This support was severely cut back after 1969, and financially constrained research institutions have been forced to defer needed construction and maintenance in order to keep up research productivity. In the reauthorization bill before us, I have proposed to institute a construction and revitalization grant program at NIH that will rebuild and expand our biomedical research infrastructure.

This legislation will support a number of areas of research where there is particular promise. Medical rehabilitation research has brought much progress in the understanding and treatment of disabilities; yet it has not contributed to the extent it might for lack of an administrative focal point dedicated to its needs. I propose that a Center for Medical Rehabilitation Research be created at the NIH. These are also exciting times for research on aging. We can capitalize on this momentum by authorizing the National Institute on Aging to establish centers in geriatric research and research training.

Another area of promise and need for emphasis is research on deafness and other communication disorders. Increased public and congressional attention has been focused on the prevalence of these disorders. Led by my colleague, Senator HARKIN and others, a compelling case has been made that too little has been done to provide hope to those impaired. This area needs and deserves its own institute. This bill provides for the creation of the National Institute on Deafness and Other Communication Disorders.

Training is also another important area of concern. I propose to reaffirm our commitment to research training by increasing the authorization level of the National Research Service Awards by 27 percent. This increase will allow for much needed substantial growth in the number of research trainees in the important areas of drug and alcohol abuse and mental health research. These disciplines are below the projected need as estimated by the National Academy of Sciences. The Chair of the President's Commission on AIDS has underscored the overarching importance of improving our research in the area of drug abuse.

In the last century a partnership has developed in biomedical research between Government, academia, and industry. The Federal support of NIH has made it preeminent in the world and the Congress has been a steady and reliable partner. The reauthorization bill I have proposed will enhance the NIH's ability to play its role and will challenge our partners to match our commitment.

I hope my colleagues will join me in supporting this very worthwhile piece of legislation.

Mr. HARKIN. I am proud to rise in support of H.R. 3361, legislation introduced in the House by Congressman PEPPER, and identical to legislation I introduced last fall, S. 1727, establishing within the National Institutes of

Health a National Institute on Deafness and Other Communication Disorders. S. 1727 was reported unanimously by the Committee on Labor and Human Resources on April 13, 1988, in the form of an amendment to S. 2222, the National Research Institutes Reauthorization Act of 1988.

In reporting my bill establishing a new institute, the Committee on Labor and Human Resources recognized the inconsistency between the research support given to deafness and other communication disorders and the prevalence of these disorders.

There are approximately 22 million Americans who experience partial or total loss of hearing. Of that number, 2 million are totally deaf; the other 20 million have disabling hearing conditions. In addition, over 8 million Americans experience other communication disorders, ranging from mild to severe in the degree of disability.

The most common hearing disorder is age-related deafness; 16 percent of persons over 65 cannot understand the speech of their family and friends. A conservative estimate of the number of their family and friends. A conservative estimate of the number of hearing handicapped senior citizens is 4 million now, and this number will rise over 10 million as we move into the next century.

Despite the significant numbers of individuals in this country who are deaf or who have other communication disorders, it is estimated that biomedical research support on these disorders amounts to only two-tenths of 1 percent of the costs.

In order to realize the possibilities of research for deafness and other communication disorders, a concerted and defined effort is needed. A separate institute committed to research in this field will bring together a wide range of professionals, galvanize their abilities, give focus to their work, and give visability to deafness and other communication disorders.

Future research efforts hold unprecedented promise of yielding rapid results with practical significance to deaf persons and persons with other communication disorders. For example, opportunities exist, using modern technology, to make meaningful strides in understanding the molecular and genetic basis for the hearing process and its dysfunction. This is vital to achieving optimal means of preventing hearing damage or loss, detecting a potential hearing problem at an early, more manageable stage, and developing safe and effective treatment methods.

In supporting establishment of a separate institute for deafness and other communication disorders, the Committee on Labor and Human Resources recognized and clarified the relationship between the new institute and other existing institutes, particularly the neurology institute. As the chief sponsor of the new institute, I would like to reaffirm my concurrence with the expressions of congressional intent set out in Senate Report No. 100-363. It is my expectation that all institutes of the NIH involved with aspects of communication disorders research will continue to support research in this area, including deafness, balance, speech, language, and taste and smell. It is also assumed that this research support will be performed in a coordinated fashion with the New National Institute on Deafness and Other Communication Disorders.

I would like to make one final point about the new institute. When the committee adopted my amendment establishing the new institute, I was still working with the field on the specific components of an advisory board for the new institute. I am pleased to note that the committee package of amendments agreed to by the full Senate now includes my provision establishing an advisory board.

The advisory board must be composed of 18 appointed members representing a broad spectrum of expertise and experience and certain specified nonvoting ex officio members. Twelve of the appointed members must represent individuals who are scientists, physicians, and other health and rehabilitation professionals who represent a range of specialities and disciplines relevant to deafness and other communication disorders, including at least two individuals who have a communication disorder.

The remaining six members to be appointed must be knowledgeable with respect to such communication disorders, including not less than one person with a communication disorder and not less than one person who is a parent of an individual with such a disorder.

Further, of the appointed members not less than five must by virtue of training or experience be knowledgeable in diagnoses and rehabilitation of communication disorders, education of the hearing, speech, or language impaired, public health, public information, community program development, occupational hazards to communications senses, or the aging process.

I would like to just take a minute to thank a few of the people who have been dedicated to make a separate institute a reality—first, Margaret Stuart and Bobby Silverstein of my staff; Gerry Fox who has spent much time and effort in gaining public awareness of this legislation, and Marlee Matlin and Bruce Gantz who testified on behalf of a separate institute.

In closing, I urge my colleagues to support the National Institute on Deafness and Other Communication Disorders Act.

Mr. ADAMS. Mr. President, I want to thank the distinguished chairman of the Senate Labor and Human Resources Committee, Senator KENNEDY, and the ranking minority member, Senator HATCH, for their willingness to include in this legislation authorization for the Centers for Disease Control to conduct an epidemiological study involving the release of radioactive material from U.S. Government facilities in Washington State. In particular, the National Research Institutes Reauthorization Act of 1988, as amended, would instruct the Centers for Disease Control to conduct a study of the health consequences associated with the release of hundreds of thousands of curies of radioactive iodine from the Hanford Reservation during the period from 1944 to 1956. The bill would authorize $5.5 million for this purpose along with authorization for personnel to manage the study.

The impetus for this study came from the disclosure, in February of 1986, of approximately 19,000 pages of previously classified documents held by the U.S. Department of Energy, the current owner of the Hanford Reservation. These documents have revealed that between 1944 and 1946 releases from Hanford into the surrounding environment ranged from 100 to 7,200 curies of radioactive Iodine-131 a week. All told, 470,000 curies of radioactive iodine were released during this initial 3-year period. The historical documents also revealed Iodine-131 contamination of vegetation extended up to 150 miles downwind.

Representatives of the States of Washington and Oregon, the Yakima Indian Nation, the Nez Perce Tribe, the Confederated Umatilla Tribes, and a number of independent consultants reviewed this data and recommended that health and epidemiological studies be conducted to ascertain the effect of these releases on the population living in the vicinity of the Hanford Reservation. These experts indicate that such studies should begin with an investigation of thyroid morbidity resulting from these large radioactive iodine releases. The manager of the DOE's Richland Operations Office, which is currently responsible for the Hanford Reservation, has similarly supported an independent epidemiological study of thyroid morbidity. Richland is currently funding a complementary dose reconstruction study of the historical releases. I want to assure my colleagues that this provision does not in any way alter or effect the ongoing dose reconstruction study nor is it my intention to do so.

Faced with a significant body of evidence that the population living in the vicinity of Hanford was indeed subjected to levels of radioactive iodine likely to be health threatening, I believe the Federal Government has a clear responsibility to conduct an epidemiological study which could confirm whether or not this population shows evidence of thyroid abnormalities. This is of more than academic interest since such a study can also serve as a basis for therapeutic action. As we now know, thyroid problems resulting from exposure to radioactive iodine are decidedly and commonly clinically treatable. After consultation with experts in this field, it became apparent that the Centers for Disease Control [CDC] is the most capable and credible institution to conduct this study.

I am most appreciative that the distinguished chairman and ranking minority member of the Labor and Human Resources Committee have agreed with this view and have been so supportive of this effort. I know that Senator HATCH has had a similar problem: residents of his State who lived downwind from the atmospheric tests of atomic bombs in Nevada were also exposed to significant levels of radiation. I want to particularly thank him for his assistance.

I would also point out to my colleagues that the House has, at the behest of two of my Washington State colleagues—Mr. FOLEY and Mr. LOWRY, included first year funding for this study in the Labor-HHS appropriations bill. I sincerely hope that, based upon the action of the Senate today, the 100th Congress will proceed to both fully authorize this study and provide first year appropriations in fiscal year 1989.

Mr. SIMON. Mr. President, I rise in support of the bill to establish the National Institute on Deafness and Other Communication Disorders at the National Institutes of Health. This is potentially one of the most significant measures affecting those with hearing impairment and communication disorders to be considered in many years. I want to express my gratitude to Senator HARKIN for his leadership on this matter.

Deafness and hearing disorders are often referred to as the invisible handicap. And yet, there are more than 22 million Americans who have disabling hearing conditions. There are an additional 8 million Americans who have other significant communication disorders. We face a tremendous loss in human productivity and creativity as a result of our failure to fully address the problems of persons with communication disorders. Biomedical research support in deafness and other communication disabilities amounts to only two-tenth of 1 percent of the estimated costs of communication disorders.

In correspondence with a Maryland physician who has a deaf daughter, in 1986 the Director of the Communicative Disorders Program at the National Institute of Neurological and Communicative Disorders and Stroke wrote:

> Hearing impairment, unlike visual impairment, has never been able to secure enthusiastic public support. Possibly for this reason, and despite the ubiquity of hearing impairment, there is far less support available for research into hearing impairment than into support for visual impairment * * * Not the least of the benefits (of an NIH research center on hearing impairment) that would accrue from such a center would be heightened visability of concern for hearing impairment generally—a problem often most aptly described as the "invisible handicap."

The existence of a National Eye Institute clearly has had the positive result of stimulating the development of grants and focusing attention on promising developments in visual research. A National Institute on Deafness can do the same for critical research in communications disorders.

We know that the population of those with hearing impairments in this country will grow substantially in the next 10 years as a result of our aging population. We also know that problems of the ear are the most common diseases of children between birth and age 7. At the same time, the number of workers in the field of deafness and communication disorders is increasing, and we are seeing important new discoveries in basic research that offer unprecedented hope for prevention, rehabilitation, and treatment in the future. It is time to act on these merging needs and opportunities. And the most effective action we can take is the establishment of an institute to galvanize the efforts and to bring together the expertise and focused attention to make them grow.

Thanks to the superb efforts of the students at Gallaudet University earlier this year, people who are deaf can no longer be considered a silent, as well as invisible, part of our society. As we hear and accede to the rightful demands of this large segment of our society for dignity and equality, we should also take the steps needed to make the wonders of science available to expand their opportunity. As a nation, we cannot afford to lose any of their great potential.

I urge my colleagues to support this important legislation.

Mr. HATCH. Mr. President, I am pleased to speak in support of the National Research Institutes Reauthorization Act of 1988. I have been a supporter of the National Institutes of Health [NIH] and its vital programs since I was first elected to the Senate. Not only is NIH the crown jewel of the Public Health Service, it is a resource to the world, and the hope of those afflicted with terminal illnesses.

S. 2222, will assure the continuation of NIH as the preeminent research organization in the world. The bill, with the amendment offered by Senator KENNEDY and myself, will help revitalize our university-based infrastructure through a series of grants for facilities construction.

During the hearings this year, we heard about how universities are hampered by insufficient and unsatisfactory research space. In my own State, the University of Utah, which is leading the way in biomedical research in areas such as the total artificial heart and the development of chemical probes has had to rent space away from the university for research. At another major university, the administration was forced to place a moratorium on additional applications for research grants until the staff can demonstrate that adequate space was available.

Clearly, Mr. President we need to replace our outmoded facilities and relieve the overcrowding of our researchers so that we can continue to advance into the wondrous future.

The committee has recommended a significant increase in the authorization for the National Research Service Awards. This increase will offer NIH the opportunity to increase the number of trainees. Support which NIH has been slow to provide but is now showing signs of furnishing.

The committee has directed NIH to develop approaches, through the NRSA Program, to identify and support promising talent in fields such as primary care, public health, general internal medicine, and medical rehabilitation among others. Those of us who represent the medically underserved in rural and urban areas are acutely aware of the important need to assure that we increase our cadre of primary care physicians. We also need to increase the skills to deliver care by primary care practitioners. It is necessary that these efforts be closely coordinated with the primary care training and service programs in the Public Health Service.

An area of great concern to me and a number of my colleagues is section 202 of the bill, fetal therapy and research. This bill continues the past compromise by extending the moratorium on fetal research for an additional 2 years. During that time, the Congressional Biomedical Ethics Board will complete its report on this issue.

The members of the committee heard an eloquent plea for a National Institute on Deafness and Communication Disorders from Ms. Marlee Matlin and Dr. Bruce Gantz. The 20 million people with hearing disorders and the 8 million additional people with other communications disorders will benefit from the establishment of this new institute at NIH. The growing population of elderly increase the need for this institute. The elderly now account for 4 million of the hearing impaired and are projected to grow to 10 million by the turn of the century.

In addition to the promise offered by the new Institute on Deafness and Communication Disorders there are high expectations for the new Center for Medical Rehabilitation established by this bill. NIH supports approximately $107 million in medical rehabilitation research across all of the institutes. This new center will provide the focus for improved coordination. It will also offer a focus for training in medical rehabilitation research, including behavioral studies, epidemiology, and health services research. The Center is expected to augment and stimulate medical rehabilitation research in the various institutes at NIH.

Mr. President, I would like to also take this opportunity to mention an issue that has consumed a significant amount of my energy in recent weeks. I and a number of my colleagues were notified several weeks ago, by stories in the press, of the intent of the National Heart, Lung, and Blood Institute to unilaterally cancel the four contracts—the only Federal effort underway in this country—to develop a totally artificial heart.

I am pleased to note that I have been notified that the funding for this very important effort will continue as originally planned. I would also like to acknowledge the efforts of the Director of the National Heart, Lung, and Blood Institute in the resolution of this problem and the interest and support by the Members of both the Senate and the House. I would like to note for the record the support for continued funding that was expressed by the NHLBI Advisory Council who stated "* * * the development of a fully implantable, long-term total artifical heart as technically feasible, clinically important and timely." A number of other organizations joined the NHLBI Advisory Council in calling for the continued funding of this program. I ask unanimous consent that their letters be printed in the RECORD at the end of my statement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN COLLEGE OF CARDIOLOGY,
Bethesda, MD, June 8, 1988.
Senator ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: The American College of Cardiology (ACC) is a 16,000 member non-profit professional medical society and teaching institution whose mission is to foster optimal cardiovascular care and disease prevention through professional education, promotion of research, and leadership in the development of standards and formation of health care policy. As is clearly identifed in our mission, the promotion of research is integral to the delivery of high-quality cardiovascular care to the citizens of this nation. It appears that current funding restrictions are beginning to seriously constrain the ability of our scientific community to continue important research programs. Specifically, we wish to draw your attention to a proposal to eliminate research funding for the total artificial heart program at the National Heart, Lung, and Blood Institute (NHLBI), since funding levels would not enable support for both this effort and the left ventricular device assist device program.

The American College of Cardiology has testified annually before Congress in support of the high-quality research being conducted under the auspices of the NHLBI into the cause, cure and prevention of cardiac disease. We have consistently called for the highest reasonable level of funding to this Institute. This year we joined our colleagues in the medical research community in calling for a FY 1989 appropriation level of $1.187 billion dollars. At this level of funding, those research projects that have the high likelihood of a short-term return on investment such as left ventricular assist devices could be adequately funded without compromising other long-term research endeavors such as the artificial heart program. The College is concerned that short-term finding decisions not negatively impact the future of cardiovascular research in this country.

Therefore, the American College of Cardiology urges that the necessary funds be made available to the NHLBI to enable continuation of both the left ventricular assist device program and the artificial heart program.

We thank you for your continued support of the National Heart, Lung, and Blood Institute and the major research being conducted into the prevention, diagnosis and treatment of cardiovascular disease.

Sincerely,
ANTHONY N. DEMARIA, M.D., F.A.C.C.,
President, American College of Cardiology.

AMERICAN HEART ASSOCIATION,
Washington, DC, May 24, 1988.
Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: The American Heart Association (AHA) is the only voluntary agency in the United States devoting all of its human and financial resources to one goal: the reduction of premature death and disability from cardiovascular diseases and stroke, the number one killer in the United States.

On May 3rd, the National Heart, Lung, and Blood Institute (NHLBI) announced that four contracts supporting the development of a fully implantable artifical heart (biventricular assist device) would be terminated on September 30, 1988. This action would allow NHLBI to shift its focus and its limited resources on the clinical testing of the totally implantable left ventricular assist device (LVAD).

Under the President's FY 1989 budget for the NHLBI, the Institute could not support both the clinical testing of the LVAD and the development of a fully implantable artificial heart. If the President's budget were enacted, only the LVAD could be financed. Enactment of the American Heart Association's recommended funding level for the NHLBI, $1.187 billion (including AIDS money), would allow both of these devices to be funded.

In response to the NHLBI's action on the artificial heart program, its National Advisory Council unanimously adopted the enclosed resolution in which they strongly urge that additional funds be made available to Institute to continue both programs. Specifically, an additional $5 million over the President's budget for a total of $94.205 million for the NHLBI's research and development contract mechanism would be required to support both of these programs.

Although the AHA has always placed its major emphasis on preventing disease and our focus continues to be on the reduction of premature death and disability from cardiovascular diseases through basic biomedical research, we believe that research on the fully implantable artificial heart should continue. Thank you for your consideration of our concerns.

Recommended funding levels for programs of concern to the AHA[1]

National Heart, Lung, and Blood Institute—$1.187 billion.

National Institute of Neurological and Communicative Disorders and Stroke—$657.671 million.

NIH's Division of Research Resources—$452.828 million.

Office of Smoking and Health—$5 million.

Office of Disease Prevention and Health Promotion—$5 million.

Your support for these programs is critical in the battle against cardiovascular diseases and stroke, this nation's leading cause of death.

Sincerely,
HOWARD MORGAN, M.D.,
President.

[1] All numbers include AIDS money.

Mr. WEICKER. Mr. President, I rise today in support of the National Research Institutes Reauthorization Act of 1988. This legislation reauthorizes the National Institutes of Health, the medical research arm of the Federal Government. In 1987, NIH celebrated its centennial year, but this Nation continues to celebrate its contributions to the health of our citizen and the world daily.

In recent years, Congress has stood firm in the face of proposed funding cuts and other legislative strategies that would have disarmed and even dismantled this vital contributor to our national security. Now we have an opportunity to strengthen NIH's ability to perform its mission by giving it new authority to deal with some of the more serious realities facing medical research today. This bill provides for the expansion of several vital research programs and improvements to the infrastructure of NIH which will strengthen the Institutes' ability to perform their research mission.

As the Nation continues to battle AIDS, cancer, heart disease, diabetes, and other chronic illnesses and handicapping conditions, one thing is certain: you don't get exellence by waffling on the Nation's commitment to biomedical research. We need strong and consistent support of efforts to maintain and improve the bricks and mortar of our research facilities. And we must do everything we can to get rid of the climate of uncertainty already existing in the ranks of our researchers.

This legislation goes far in strengthening our biomedical research programs. It addresses the problem of aging and obsolete facilities and instrumentation in NIH-supported institutions. It strengthens and expands several important authorities of the National Cancer Act. This bill also addresses factors affecting the Nation's medical manpower—including the growing ranks of the elderly in America, the nursing shortage, and the loss of research personnel to other private pursuits as well as the need for more research and research training in the fields of medical rehabilitation and deafness and other communicative disorders.

While I am in support of this bill on the whole, I do have serious reservations about those provisions which relate to research into fetal therapies, particularly the continuation of the 2-year moratorium along with a study by the Congressional Biomedical Ethics Board. That moratorium has resulted in widespread confusion and a severe decrease in Federal support for important scientific research. I can assure you, Mr. President, that I will not support a continuation of a moratorium of fetal research beyond the 2 years contained in this bill. The time has come to take definitive action to resolve this issue.

Mr. President, today we have the opportunity to strengthen and enhance our Nation's commitment to science and medicine. I urge my colleagues to adopt this bill.

Mr. HUMPHREY. Mr. President, I support the amendment offered by Mr. KENNEDY and Mr. HATCH, and urge passage of the bill.

I offer a few short remarks on several provisions which the managers of the bill and I have negotiated with respect to title II.

ETHICS ADVISORY BOARD

S. 2222 restates the Secretary's authority to establish an ethics advisory board [EAB] in the Department of Health and Human Services, and sets a deadline for reestablishing the board with a prescribed allocation of board members. The EAB was allowed to lapse at the close of the last decade, but the authority to reconstitute the board did not expire.

The provision in the amendment to S. 2222 adjusts the allocation of board members in order that they more equitably reflect various areas of expertise on these matters. In particular, the amendment ensures adequate representation of those who specialize in theological and ethical critiques of fetal research policy.

In addition, it hardly need be stated that the board should also fully represent the various philosophical views on these sensitive issues, including particularly the perspective that no fetal research on intentionally aborted infants can ethically be justified. Further, with regard to the scope of authority of the EAB, I refer my colleagues to my colloquy elsewhere on this issue with Mr. KENNEDY.

FETAL RESEARCH REPORT

S. 2222 reauthorizes the congressional biomedical ethics board, and extends the board's statutory mandate to advise Congress on issues regarding fetal research. This mandate was a critical element of the seminal 1985 agreement reached to ensure a thorough and objective review of these sensitive issues. The bipartisan, bicameral biomedical ethics board is prepared to carry out the statutory mandate, and should issue a more objective and relevant report than might be issued by any partisan organizations outside Congress, such as the National Academy of Sciences.

MORATORIUM

S. 2222 extends for 2 years the existing moratorium on waivers of the risk standard that must be met before research on live infants may be conducted. I strongly prefer an extension of the moratorium for the life of the bill, not to mention a virtual ban on any fetal research that would not benefit that infant.

Nevertheless, I will support this extended 2-year moratorium as a means of continuing protection of prenatal infants until Congress puts in place adequate statututory protection in this regard. Until Congress clarifies its intent regarding waivers, I believe a moratorium on all waivers is the most prudent means of ensuring full protection for unborn children who might otherwise be the subjects of harmful or careless research.

Mr. President, I thank the managers of the bill again for their roles in accomodating my concerns.

Mr. HARKIN. Mr. President, I would like to engage you in a colloquy concerning the purpose and operation of the National Center for Medical Rehabilitation Research at NIH. I am a strong supporter of involving the NIH in a much greater way in support of medical rehabilitation research. NIH should apply in a major way it's traditional focus of biomedical and related research to issues involving the medical rehabilitation of individuals with physical disabilities. It has not done so in the past. However, nothing in the legislation creating the Center should be construed in such a way as to diminish the current efforts and focus of the National Institute on Disability and Rehabilitation Research in the Education Department. The NIDRR has been a source of support for many very important and effective programs involving all aspects of disability from vocational to social and including a focus on medical problems which relate to comprehensive needs and services. Medical researchers should continue to have interests in NIDRR areas of research as well as in the new Center, in may opinion.

Am I correct that the intention of this legislation is to create a Center at NIH whose purpose is to promote the development of traditional NIH biomedical and related research in the field of medical rehabilitation? And further, is it the intention that the NIDRR is unaffected by this legislation?

Mr. KENNEDY. Senator HARKIN, your assumptions as to the intent of this legislation are correct. The Center at NIH is to focus on traditional NIH biomedical and related research and the NIDRR is not affected. The Center and NIDRR should complement one another. We expect there to be coordination and joint planning between these two programs. But we certainly have no intention of diminishing the focus on vocational, social, psychological, service delivery, technology or other research which NIDRR supports. We intend that this initiative enable each institution to flourish and people with disabilities to benefit.

Mr. WEICKER. Mr. Chairman, is it your understanding that the committee intends that American institutions of research operating outside the United States will be eligible to apply for matching grants to construct biomedical and behavioral research facilities under the program established by this legislation?

Mr. KENNEDY. The bill does not specifically address the question of American institutions located outside the United States. It is certainly not prohibited by the provision on facilities construction. Certainly if research cannot be done within the United States or could be best done in an international setting, American institutions located outside the country would be justified in applying for facilities renovation and construciton funds. An example might be where certain patient populations who might be studied are outside the United States. These grant applications should be addressed by the relevant Advisory Council following normal NIH procedures.

Mr. HUMPHREY. Mr. President, I would appreciate a clarification from the distinguished manager of the bill regarding the authority of the Ethics Advisory Board [EAB] to propose any new regulation, or to grant any waiver of the risk standard published in section 46.102(g) of part 46 of the Code of Federal Regulations (or any successor to such regulations).

Mr. KENNEDY. Mr. President, it is our intention that the EAB shall have no authority to propose new regulations for the Secretary's consideration, or to initiate the process of giving notice of proposed rulemaking. Moreover, the committee intends that the EAB shall have no authority to grant any waiver of the risk standard published in section 46.102(g).

Mr. HUMPHREY. Mr. President, I appreciate the assurances of the committee chairman regarding the narrow scope of authority delegated to the EAB. Were it otherwise, I am convinced that a number of my colleagues and I could not support the provisions regarding the EAB contained in S. 2222. I thank the chairman of the committee.

The PRESIDING OFFICER. Are there amendments to the substitute? If not, the question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 2795) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 3361), as amended, was passed.

The title was amended as follows:

A bill to amend the Public Health Service Act to reauthorize programs relating to the National Research Institutes established under title IV of such Act, and for other purposes.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. SANFORD) appointed Mr. KENNEDY, Mr. HARKIN, Mr. ADAMS, Mr. HECHT, and Mr. WEICKER conferees on the part of the Senate.

TECHNICAL CORRECTIONS TO THE AGRICULTURAL CREDIT LAWS—H.R. 3980

Mr. BYRD. Mr. President, if there is no objection on the part of the Republican leader, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 567.

Mr. DOLE. We have no objection.

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 3980) to make technical corrections to the agricultural credit laws.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I urge the Senate to pass H.R. 3980, the Agricultural Credit Technical Corrections Act of 1988. This bill makes technical and clarifying amendments to the Agricultural Credit Act of 1987 which was enacted on January 6, 1988.

The Credit Act was passed within 48 hours after the joint conference committee reached final agreement. The final agreement was based upon the Senate- and House-passed credit bills, both of which were very lengthy and complex. This quick action was necessary to pass the legislation prior to adjournment to avoid a further crisis in the Farm Credit System.

The staff worked around the clock during the 48-hour period to put together the conference agreement. In many cases, the conference agreement substantially differed from either the House or Senate language. Although the staff worked diligently to complete the conference agreement in the short time allowed, there remain a number of erroneous cross references and possibly ambiguous provisions.

Many changes were required to conform drafting styles between the Senate and House provisions which were adopted by the conference and to put the language in proper tax style.

H.R. 3980 does not change the conference agreement, but is simply a technical corrections bill. The bill puts the finishing touches on the conference agreement that would have been done earlier, had there been sufficient time.

Mr. President, last year the Congress passed legislation creating a new secondary market for agricultural real estate loans. A corporation called the Federal Agricultural Mortgage Corporation, or Farmer Mac, was set up to facilitate these operations and oversee the secondary market.

Farmer Mac holds great promise for bringing much needed stability and liquidity to the farm real estate sector. Through Farmer Mac, farm borrowers are expected to obtain benefits similar to those achieved by home borrowers as a result of the secondary market for residential mortgages.

Farmer Mac's interim board established the Corporation. I believe that this is a good time to explain the Agriculture Committee's intent in subjecting Farmer Mac to independent Federal regulation and oversight regarding financial safety and soundness.

As chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I was intimately involved in fashioning the Farmer Mac legislation. Section 8.11 of that legislation deals with the regulatory authority of the Farm Credit Administration, FCA. That section specifies that FCA's regulatory authority includes using its general enforcement powers and its related authority to define unsafe and unsound practices.

FCA cannot be expected to use regulations or orders to define all possible problems beforehand. However, its enforcement authority will be more effective if FCA attempts to define the more fundamental unsafe and unsound practices before rather than after financial problems arise. Such regulatory guidance can also help Farmer Mac define the limits of risk it plans to incur. Such supervision is consistent with practices of other agencies supervising similar types of institutions.

FCA must avoid substituting its judgment for Farmer Mac's day-to-day business and management decisions. However FCA should not totally abdicate its responsibility for careful regulation of Farmer Mac's safe and sound performance of its powers, functions, and duties. If Farmer Mac is to be an institution with a long and bright future, it must avoid risks that could cloud its success.

The Congress expects FCA, as an independent arms-length regulator, to regulate Farmer Mac's safety and soundness much as the Comptroller of the Currency regulates the safety and soundness of banking institutions. This will help protect both Farmer Mac, and the Federal Treasury.

To supplement its regulatory authority, the Farmer Mac legislation also gives FCA responsibility for examining Farmer Mac's books, records, and transactions, and authorizes FCA to require an annual report of condition. The annual report is important for FCA's oversight role. In keeping with its responsibility for overseeing Farmer Mac's safety and soundness, FCA should require an annual report on the creditworthiness of loans and securities Farmer Mac guarantees, and on other kinds of risks that may be involved in the Corporation's activities.

To succeed over the long term, Farmer Mac must manage the risk in its operations, and FCA must monitor such risk to obtain early warning of any possible problems deserving the attention of this committee. Again, the annual reports of condition required by other financial institution regulators provide a good model for Farmer Mac reports, adapted by FCA as appropriate to the special circumstances of Farmer Mac and its guarantee function.

Mr. President, the Congress has conferred upon Farmer Mac the great responsibility to creating a viable secondary market for agricultural real estate loans. As Farmer Mac's regulator, FCA has a commensurate responsibility to assure that the Corporation remains financially safe and sound to provide its services to rural America for many years to come.

Mr. BOREN. Mr. President, the bill before us, H.R. 3980, will make technical corrections in the Agricultural

Credit Act of 1987 and the Farm Credit Act of 1971, as amended. As my colleagues will recall, the 1987 act made major revisions in the 1971 act in addition to establishing a mechanism for providing financial assistance to troubled Farm Credit System institutions.

This legislation is necessary due to the extremely short period of time the joint conference committee staff had to draft the conference agreements in bill language and prepare the statement of managers. Staff members simply did not have enough time to ensure that the bill language and the statement of managers accurately reflected the conference agreements. Thus, this legislation is designed to correct the unavoidable errors which occurred in the waning days of last year.

A detailed section-by-section analysis of H.R. 3980 has been prepared by the distinguished counsel for the House Agriculture Committee, Mr. Phil Fraas. I ask unanimous consent that this section-by-section analysis be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOREN. At this time, Mr. President, it is prudent to correct the statement of managers with respect to financial assistance for Farm Credit System institutions. Again, due to time constraints, the statement of managers is incorrect in its description of the provisions in the Senate bill and the House bill. Additionally, the statement of managers does not include a description of the conference agreement. In particular, starting on page 194 of the conference report (House Report 100-490), item 27 actually combined what were originally items 27 and 28 of the statement of differences used by the conferees. The statement of managers then skips to item 29(a) without providing a description of the conference agreement on item 27.

To clear this up, Mr. President, I ask unanimous consent that a description of the Senate and House provisions and the conference agreement relating to items 27 through 29(a) (pages 194-201 of the Statement of Managers) be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BOREN. Mr. President, there are a couple of issues relating to this legislation which I want to bring to the attention of my colleagues.

Included in section 401 of H.R. 3980 is language which amends the authority of the production credit associations, Federal land bank associations, and the new farm credit banks to clarify the intent of Congress that system institutions may operate as originators and become certified as certified facilities to participate in the secondary market authorized by the Agricultural Credit Act of 1987. This language, and that in section 8.5(e) of the Farm Credit Act of 1971, as amended, which specifically authorizes system institutions to establish and operate an agricultural mortgage marketing facility as an affiliate, are intended to permit the Farm Credit System to fully participate in this new market. Certified "pooling" facilities are authorized to purchase loans from all eligible originators both system and nonsystem, to hold or warehouse loans and to pool and securitize them. These functions are necessary for a facility to fully participate in the secondary market. It would be inconsistent with the intent of Congress if facilities formed by system institutions were limited in the functions they could perform or the originators from which they could purchase loans.

During our consideration of the 1987 act, there were considerable discussions about requiring system institutions to develop loan restructuring policies. Section 4.14A of the Farm Credit Act of 1971, as amended, requires "qualified lenders" to restructure loans under certain circumstances. The definition of a "qualified lender" intentionally excluded banks for cooperatives. Regretfully, however, subsection (G) of section 4.14A requires each bank board to develop a restructuring policy and submit it to the Farm Credit Administration. It was not our intent to require banks for cooperatives to develop a restructuring policy. It was our intent to have restructuring policies developed by banks required to restructure loans, and this does not include the banks for cooperatives.

Several provisions in the Farm Credit Act of 1971, as amended, specify that any "member bank of the Federal Reserve System" is an authorized depository of the securities and current funds of farm credit banks, banks for cooperatives, and the financial assistance corporation. That phrase is not ordinarily understood to include the Federal Reserve banks themselves. Yet, in fact, the principal custodial accounts used by both the funding corporation and the banks in connection with system funding are maintained with the Federal Reserve banks, as authorized by the Federal Reserve Act. There was no intention on our part last year to require any change in this long-standing practice. The legislation contemplates that such accounts can continue to be maintained with the Federal Reserve banks themselves, as well as member banks of the Federal Reserve System.

The 1987 act provides for a new funding corporation, which was established by the act rather than the means of a charter issued by the Farm Credit Administration. H.R. 3980 clarifies the means by which the new funding corporation succeeds to the assets and liabilities of the predecessor funding corporation. In addition, the bill provides that the board of directors of the predecessor funding corporation will serve as the initial board of the financial assistance corporation until a majority of the directors of the new funding corporation has been elected. This will ensure that the financial assistance corporation can continue to be operational so as to meet its statutory obligations.

Since there has recently been some discussions about the definition of permanent capital, I would like to clarify the definition at this time. Section 4.3A of the Farm Credit Act of 1971, as amended, prohibits the directors of system institutions from reducing permanent capital by dividends, patronage refunds, or retirements of stock below the minimum capital adequacy levels established by the Farm Credit Administration and regulations under section 4.3 of the 1971 act, as amended. Section 4.3A(a)(1) defines permanent capital as including, among other things, "Surplus (less allowances for losses)." Since surplus itself, under generally accepted accounting principles, does not include amounts reflecting allowances for losses, I am concerned that the parenthetical phrase might be construed to permit or require a double deduction of such allowances in determining permanent capital. This was not our intention. Further, if allowances for losses are not included in an institution's surplus, such allowances should not be deducted again in determining permanent capital. The parenthetical phrase was intended only to ensure that the allowance for losses not be considered as a part of permanent capital.

Finally, Mr. President, there is one remaining issue which I believe needs to be addressed at this time even though it does not relate to the substance of the bill before us today. The 1987 act required the Farm Credit Administration to develop regulations which would establish minimum capital adequacy requirements for Farm Credit System institutions. The Farm Credit Administration Board adopted a proposed rule on April 5, 1988, and published the proposed rule in the Federal Register on May 12, 1988. Public hearings were held on June 9, 1988, and the Farm Credit Administration Board last week adopted a final rule covering only a portion of the capital adequacy requirements. The substantial portions of the rule are to be considered by the Farm Credit Administration Board at its meeting on September 6, 1988. The rule would then become final following a 30-day period for congressional review. Thus, the earliest possible date the final rule would be effective is October 6, 1988.

As my colleagues will recall, the 1987 act guarantees the retirement, at par value, of certain borrower stock. Specifically, certain borrower stock includes all stock issued prior to 9 months after enactment of the 1987 act or prior to the adoption of capitalization bylaws adopted by the institutions, whichever is earlier. In other words, stock issued after October 6, 1988, by an institution which has not adopted capitalization bylaws is not protected by the stock guarantee. The act requires that the capitalization bylaws conform to the minimum capital adequacy standards established by the Farm Credit Administration. As one can imagine, the Farm Credit System institutions find themselves in a box at the present time because the minimum capital adequacy requirements are not in final form and will not be until October 6, 1988. The stockholders in the system institutions cannot adopt bylaws until the minimum capital adequacy requirements are in final form and yet System institutions must continue offering loans to borrowers and require those borrowers to purchase stock which will not be protected. At the earliest, stockholders may be able to adopt bylaws by late October. That means almost a month of loan activity and the corresponding issuance of unprotected stock.

I bring this issue to the attention of my colleagues since it may be necessary, before October 6, to extend the stock guarantee for a short period of time. I am hopeful that this issue can be resolved without necessitating legislative action. However, because of the importance of protecting borrower stock in the Farm Credit System, legislation may be the only appropriate course of action.

Mr. President, the Agricultural Credit Technical Corrections Act of 1988, H.R. 3980, is critically necessary for the proper functioning of the Farm Credit System. I urge my colleagues to support this legislation.

Exhibit 1

Section-by-Section Analysis of H.R. 3980—Technical Corrections to the Provisions of the Agricultural Credit Act of 1987

Following are section-by-section analyses of the technical amendments to the Agricultural Credit Act of 1987 (Public Law 100-233) made by H.R. 3980, the Agricultural Credit Technical Corrections Act of 1988, as passed by the House of Representatives on February 23, 1988, prepared by the staff of the House Committee on Agriculture. For the most part, the amendments are drafted as amendments to the Farm Credit Act of 1971 (since the 1987 Act consisted, primarily, of amendments to the 1971 Act).

The amendments are only corrections of provisions that do not accurately reflect the conference agreement on the 1987 Act (as described in the conference statement of managers—printed in H. Rept. 100-490) and corrections of drafting errors, such as faulty cross-references, grammatical errors, and unintended inconsistencies and ambiguities.

(Note.—Unless otherwise noted, section references in this analysis are to sections of the Farm Credit Act of 1971.)

TITLE I—AMENDMENTS RELATED TO TITLE I OF THE 1987 ACT

Sec. 101. Amendments related to section 101 of the 1987 Act—

Section 101 of the Agricultural Credit Act of 1987 added a new section 4.9A to require that certain FCS institution borrower stock be retired at par value, regardless of the book value of the stock.

Section 101, in subsection (a), will repeal the old section 4.9A (Farm Credit System reserve fund, which was made obsolete by the provisions of the 1987 Act establishing the new Farm Credit System Insurance Corporation and inadvertently not repealed by the 1987 Act.

Section 101, in subsection (b), will strike out the second sentence of subsection (a) of new section 4.9A. The sentence to be deleted is a provision (originally in the House bill but not agreed to by the conferees on the 1987 Act to be included in the conference report) providing for certain Assistance Board-FCS institution coordination of the retirement of eligible borrower stock at par value.

The conference agreement called for the adoption of the Senate bill approach to section 4.9A, requiring the provision of assistance by the Assistance Board and the FCS Insurance Corporation to FCS institutions as needed to retire borrower stock at par value, as described in the next paragraph.

Section 101, in subsection (c), will revise subsection (c) of new section 4.9A to include provisions requiring that assistance be provided by the Assistance Board and the FCS Insurance Corporation to FCS institutions as needed to retire eligible borrower stock at par value.

Under revised subsection (c) of section 4.9A, assistance would be provided to FCS institutions unable to retire eligible borrower stock at par due to the liquidation of the institution.

(Note.—Under subsection (a) of section 4.9A, each FCS institution must retire eligible borrower stock at par value. If an institution has entirely exhausted its capital account it would not be able to meet the requirement to retire stock at par vlaue. However, the 1987 Act anticipates that—

(1) over the next five years, an FCS institution with a severely impaired capital account will receive Assistance Board assistance to restore it to economic viability (and such assistance will faciliate such institutions continuing to retire eligible stock at par value), and any institution denied such assistance will be placed into Farm Credit Administration receivership long before its capital account is completely exhausted; and

(2) with respect to borrower stock still eligible for retirement at par value after such five-year period, an institution with a severely impaired capital account likewise will be placed into Farm Credit Administration receivership long before its capital account is completely exhausted.)

Under revised subsection (c), the receiver of an institution in liquidation will be required to retire eligible borrower stock at par value as would have been retired in the ordinary course of business of the institution, and—

(1) during the five-year period beginning on the date of the enactment of the 1987 Act, the Assistance Board must direct the Financial Assistance Corporation to provide the receiver with sufficient funds to enable the receiver to carry out such retirement; and

(2) after such five-year period, the Insurance Corporation must provide the receiver with sufficient funds from the Farm Credit Insurance Fund to enable the receiver to carry out such retirement.

Revised subsection (c) would continue to ensure that assistance is made available for stock retirement to receivers of FCS institutions placed in litigation prior to the engagement of the 1987 Act.

Section 101, in subsection (d)(1), will amend the definition of "eligible borrower stock" in subsection (d)(2)(B) of new section 4.9A to delete the part of the definition that states that it only includes stock *required* to be purchased by borrowers, and substitutes language describing eligible stock as stock *issued or allocated* to borrowers. This amendment is necessary to make the defintion consistent with current law provisions that a borrower stock interest consisting of *allocated equities* is not required to be purchased by the borrower.

Section 101, in subsection (d)(2), will amend subsection (d)(2)(i) of new section 4.9A to change the erroneous cross-reference to the new provision dealing with capitalization requirements (added by section 301(b) of the 1987 Act), from section 4.9B to section 4.3A.

Section 102—Amendments related to section 102 of the 1987 Act—

Section 102 of the Agricultural Credit Act of 1987 added several new sections to the Farm Credit Act of 1971 to establish an FCS loan restructuring program.

Section 102, in subsection (a), will amend subsection (a) of new section 4.14A (added by section 102 of the 1987 Act) in the part preceding paragraph (1), to delete the erroneous reference to sections 4.17 and 4.18 as being in part C of title IV.

Section 102, in subsection (b) will amend subsection (a)(6)(B) of new section 4.14A (effective six months after the enactment of the 1987 Act), to correct certain cross-references to sections of titles I and II that will be out of date in six months.

(Note.—Effective six months after the enactment of the 1987 Act, titles I and II (currently dealing with Federal land bank/Federal land bank association and Federal intermediate credit bank/production credit association lending systems) will be revised to reflect the required mergers of land banks and intermediate credit banks into Farm Credit Banks under section 410 of the 1987 Act. New title I will contain provisions relating to the new Farm Credit Banks and new title II will contain provisions relating to land bank associations and production credit associations, as supervised by the new Farm Credit Banks.)

The revision of the cross-references to sections of title I and II will ensure that the references are updated at the appropriate time to reflect the sections of new titles I and II that are comparable to the sections currently referenced in new section 4.14A.

Section 102, in subsection (c), will amend subsection (e)(1) of new section 4.14A, to make a grammatical change of "a qualified" the second time it appears therein to "such qualified".

Section 102, in subsections (d) and (e), will make conforming amendments to subsection (g) of new section 4.14A to change references therein to farm credit district boards to bank boards. Consistent with subsection (a)(6)(A) of new section 4.14A, the changed references to "banks" do not implicitly include banks for cooperatives.

(NOTE.—The 1987 Act, in subsection (c) of the second section 415, repealed the provisions establishing farm credit district boards. Under the 1987 Act, each Farm Credit Bank will have its own board of directors. See also the analyses of sections 409(c) and 409(d) of this bill below. While section 409(c) of this bill will restore the repealed provisions related to district boards for the six-month period following enactment of the 1987 Act, the amendments made by subsections (d) and (e) of section 102 can go into effect immediately because technically the district boards also serve as the boards of the individual banks in each district.)

Section 102, in subsection (f), will amend subsection (1) of new section 4.14A (effective six months after the enactment of the 1987 Act) to delete a reference to Federal intermediate credit banks and substitute a reference to Farm Credit Banks.

(NOTE.—Under section 410 of the 1987 Act, within six months after its enactment, the Federal intermediate credit banks and the Federal land banks will be merged into Farm Credit Banks.)

Section 102, in subsection (g) (effective six months after the enactment of the 1987 Act), will amend subsection (a) of new section 4.14B, added by section 102 of the 1987 Act, to change references to Federal land banks to Farm Credit Banks. See the note in the preceding paragraph.

It also will qualify the requirement that the bank retire an equal amount of stock owned by the land bank association (when the association cancels and retires borrower stock in connection with the forgiveness of principal under a loan restructuring agreement) by limiting the requirement "to the extent provided in the bylaws of the bank relating to its capitalization." This will conform the provision to the capitalization provisions of new section 4.3A, added by section 301(b) of the 1987 Act, which (subject to several limitations) provides FCS banks great flexibility in its capitalization and stock ownership policies.

Section 102, in subsection (h) (effective six months after the enactment of the 1987 Act), will amend subsection (b)(1) of new section 4.14C, added by section 102 of the 1987 Act, to change a reference to farm credit district board to a reference to Bank board.

(NOTE.—Under the 1987 Act and as corrected by this bill, the provisions establishing Farm Credit district boards will be repealed six months after the enactment of the 1987 Act. At that time, the boards of the Farm Credit Banks will begin performing the functions currently performed by the district boards with respect to land banks and intermediate credit banks.)

Sec. 103—Amendments related to section 106 of the 1987 Act—

Section 106 of the Agricultural Credit Act of 1987 revised section 4.14 (dealing with review of certain FCS credit decisions) to expand the scope of, and borrower rights in, the review of credit decisions.

Section 103, in subsection (a), will amend section (b)(1) of section 4.14 (dealing with review of adverse credit decisions) to change an ambiguous provision—"to obtain a review of a decision by a credit review committee" (it is the banks, not the review committees, that make loan decisions)—to read as follows "to obtain a review of a decision before the credit review committee".

Section 103, in subsection (b), will correct an erroneous cross-reference in subsection (d)(1) of section 4.14 (dealing with the use of independent appraisals in reviews). Currently, subsection (d)(1) provides that an appeal filed with a credit review committee can include a request for an independent appraisal. However, this authority is limited to appeals of decisions filed under subsection (b)(1). That subsection only addresses decisions to deny or reduce the amount lent on loan applications. The context of subsection (d) of section 4.14 indicates the authority also should extend to appeals of decisions filed under subsection (b)(2)—denials of applications for loan restructuring. The correction of the cross-reference will add "or (2)" to the phrase "(b)(1)".

Sec. 104, Amendments related to section 108 of the 1987 Act—

Section 108 of the Agricultural Credit Act of 1987 added a new section 4.36, establishing an FCS right of first refusal program.

Section 104, in subsections (a) and (b), will amend subsection (b) of new section 436 to correct the dates relating to the timing of certain right of first refusal requirements to conform them to the conference agreement on the 1987 Act. In drafting the conference report on the 1987 Act, two dates (30 days, (the time within which a former borrower must submit a first refusal offer to repurchase his land) and 15 days (the time within which the FCS institution involved must accept the offer)) were inadvertently reversed.

Section 104, in subsection (c), will amend subsection (g) of new section 4.36 to change a reference to "former borrower" to "previous owner".

(NOTE.—Each person eligible for first refusal rights under section 4.36 is referred to everywhere else in the section as "previous owner." See the first parenthetical phrase in the first sentence of subsection (a) of section 4.36.)

TITLE II—AMENDMENTS RELATED TO TITLE II OF THE 1987 ACT

Sec. 201—Amendments related to section 201 of the 1987 Act—

Section 201 of the Agricultural Credit Act of 1987 added a new title VI establishing (in subtitle A) an Assistance Board and (in subtitle B) a Financial Assistance Corporation to provide financial assistance to FCS institutions, and providing for the repayment of the assistance.

Section 201, in subsection (a), will amend subsection (a)(12) of new section 6.3 and subsection (a)(12) of new section 6.24, both added by section 201 of the 1987 Act, to correct in erroneous cross-reference—"as defined in section 3(b) of the Federal Deposit Insurance Act" (referring to the term "insured State nonmember bank")—to "within the meaning of section 3 of the Federal Deposit Insurance Act." (NOTE: There is no specific definition of the term "insured State nonmember bank" in section 3 of that Act. It defines other terms that, taken together, describe what an insured State nonmember bank is.)

Section 201, in subsection (b), will make a clarifying amendment in each of subsection (b) of new section 6.3 and subsection (b) of new section 6.24, both added by section 201 of the 1987 Act. These two provisions are substantially the same and provide that (1) any civil lawsuit in which the Assistance Board (section 6.3) or the Financial Assistance Corporation (section 6.24) is a party will be deemed to arise under the laws of the United States, and (2) the U.S. District Court for the District of Columbia will have original jurisdiction over such lawsuits. The amendment will change the description of the D.C. district's court's jurisdiction, from "original" to "exclusive." The amendment will clarify the grant of jurisdiction in light of the facts that "original" Federal jurisdiction can be read as running to all U.S. district courts and that the provision is designed to restrict the described lawsuits exclusively to one district court—the district court for the District of Columbia.

Section 201, in subsection (c), will redesignate subsections of new section 6.4, added by section 201 of the 1987 Act, to correct a drafting error that put two subsections (c) in section 6.4.

Section 201, in subsection (d), will amend subsection (d) of new section 6.5, added by section 201 of the 1987 Act. Subsection (d) of section 6.5 states that no assistance under title VI can be provided in connection with the merger of FCS institutions until the Farm Credit Administration has approved the merger plan and the stockholders and institutions involved have approved the merger. The amendment will add a conforming phrase to subsection (d) restricting its applicability to mergers other than mergers under section 410 of the 1987 Act. (NOTE: Section 410(c) requires that title VI financial assistance, in certain circumstances, be provided to Farm Credit Banks created by section 410, which do not involve stockholder, institution, or FCA approval.)

Section 201, in subsection (e), will amend new section 6.5, in several places, to delete an ambiguous phrase "the appropriate provision of" in references to certification to issue stock under the appropriate provision of section 6.27. (NOTE: Section 6.27 has only one provision—subsection (a)—authorizing certified FCS institutions to issue stock.)

Section 201, in subsection (f), will amend subsection (a)(8)(B) of new section 6.6, added by section 201 of the 1987 Act, to delete erroneous cross-references to sections 5.5 and 5.17(a)(15).

Section 201, in subsection (g), will amend subsection (a)(9) of new section 6.6, to strike out the second "may" in a phrase reading "the Assistance Board may may suspend . . .".

Section 201, in subsection (h), will amend subsection (b)(1) of new section 6.6 to correct an erroneous cross-reference, from subsection (a)(*8*) of section 6.6 to a reference to subsection (a)(*9*).

NOTE.—The reference is intended to be to the provision of subsection (a) of section 6.6 authorizing the Assistance Board to suspend or terminate an FCS institution's certification to issue stock to obtain assistance.

Section 201, in subsection (i), will amend subsection (b)(2) of new section 6.6 to delete the phrase "the appropriate provision of". See the analysis of subsection (e) above.

Section 201, in subsection (j), will make a grammatical amendment to subsection (d) of new section 6.7, added by section 201 of the 1987 Act, by inserting a comma to close out a parenthetical phrase ("and relevant supporting material") opened by a comma. It also will correct a grammatical ambiguity so that it is clear that the last phrase of the subsection ("as are necessary and appropriate to protect the confidentiality of the documents and material") refers back to the "terms and conditions" under which the Assistance Board has access to certain Farm Credit Administration documents and material.

Section 201, in subsection (k), will change the tag line of subsection (a) of new section

6.9, added by section 201 of the 1987 Act, from "LIABILITIES" to "ASSETS AND LIABILITIES" to reflect the substance of the subsection.

Section 201, in subsection (l), will amend subsection (e)(5) of new section 6.9, in the provision therein providing for a certain suspension of FCS bank loss-sharing agreements, by adding the phrase "activation of". This will clarify that what is suspended are new *activations of* the agreements, not the obligations under the agreements incurred prior to the third quarter of 1986. Also, at the end of the subsection, it will delete a superfluous close quotation mark and period.

Section 201, in subsection (m), will amend new section 6.12, added by section 201 of the 1987 Act. Section 6.12 currently states that the Assistance Board and the authority provided under subtitle A of title VI will terminate on December 31, 1992. A phrase will be added to clarify that the termination of authority referred to is the authority provided "to the Assistance Board". (NOTE: This will ensure that the termination of five years will not apply to section 6.9(e)(3), which provides for the repayment, over fifteen years, of funds used to replace the third quarter 1986 assessments against FCS institutions under loss-sharing agreements.)

Section 201, in subsection (n), will amend subsection (d) of new section 6.13, added by section 201 of the 1987 Act, to add the phrase "for return to the revolving fund established under section 4.0" to the provision requiring the Financial Assistance Corporation to pay to the Farm Credit Administration the full amount of financial assistance provided to FCS institutions under new section 6.13. This will eliminate any ambiguity as to what the Farm Credit Administration is to do with funds received from the Financial Assistance Corporation in reimbursement for assistance funds the Farm Credit Administration makes available from the section 4.0 revolving fund when it exercises the powers of the Assistance Board prior to the start-up of the Board, as provided for in section 6.13.

Section 201, in subsection (o), will make a conforming amendment to subsection (a)(1) of new section 6.22, added by section 201 of the 1987 Act, to change an erroneous cross-reference to "this Act" to "this subtitle" in the phrase "(hereinafter in this act referred to as the 'Board of Directors')".

Section 201, in subsections (p) and (q), will make conforming amendments to subsections (c)(2)(D) and (d)(1)(D) of new section 6.26, added by section 201 of the 1987 Act. These subsections provide a special rule with respect to the allocation, among FCS institutions, of certain repayment obligations of the Farm Credit System under section 6.26. The intent of these provisions is to ensure that the allocation (which is based on comparative loan volume of the FCS institutions) counts only loans made to borrowers, not loans made by banks to FCS associations.

Subsection (p) will apply the special rule to Federal land banks. Currently, it only applies to Federal intermediate credit banks.

Subsection (q), effective six months after the enactment of the 1987 Act, will change the references—from land banks and intermediate credit banks to Farm Credit Banks. See the note in the analysis of subsection (f) of section 102 above.

Section 201, in subsection (r), will amend subsection (c)(5) of new section 6.26, to strike out "interest payments" in paragraphs (B) and (C)(i) and insert "payments under this paragraph" to avoid any ambiguity about what the payments refer to. The payments are not debt service payments of year-to-year accrued interest on the debt, but are repayments of the debts owned to the Treasury for its making of certain interest payments at an earlier time (as described in subparagraph (A) of subsection (c)(5)).

Also, it will replace an erroneous reference in the last phrase of subparagraph (B) to obligations "issued under subsection (d)(1)(C)" to obligations "referred to in subsection (d)(1)(E)."

(NOTE.—The obligations intended to be referred to are principal debts of all FC3 institutions incurred in rolling over the principal on certain Fiancial Assistance Corporation bond obligations under Title VI when those bond obligations come due, so the appropriate reference is to subsection (d)(1)(E) rather than either subsection (d)(1)(C) or (d)(1)(D). Further, those obligations are not issued under subsection (d)(1)(E), but referred to in that provision.)

Section 201, in subsection (s), will make a conforming revision to the tag line of subsection (d) of new section 6.26—"REFINANCING AND PAYMENT OF PRINCIPAL"—so that it reads "REFINANCING AND PAYMENT OF PRINCIPAL; DEFAULTS", to reflect that the provisions of the subsection deal with defaults on repayment of both principal and interest.

Section 201, in subsection (t), will make a clarifying amendment to subsection (d)(1)(C) of new section 6.26, which requires repayment by all FCS institutions of the principal on certain Financial Assistance Corporation bond obligations under title VI. As currently written, subsection (d)(1)(C) specifically imposes the requirements for System-wide repayment only with respect to FAC bond proceeds used to provide assistance to Farm Credit Banks created by merging Federal land banks and Federal intermediate credit banks, under section 410 of the 1987 Act. The subsection does not specifically impose this requirement with respect to FAC bond proceeds used to provide assistance to receivers of FCS institutions in liquidation to ensure the retirement of eligible borrower stock at par value under new section 4.9A and FAC bond proceeds used to cover the expenses of the Assistance Board under new section 6.7(a). Section 201, in subsection (s), will resolve this unintended omission by specifically imposing the System-wide repayment obligation on bond proceeds used for section 4.9A and section 6.7(a) purposes.

It also will make a conforming amendment to subsection (d)(1)(C) by striking out "such principal" and inserting "such obligation". The subject referred back to by the phrase is repayment of obligations. Further, it will strike out two references in subsection (d)(1)(C) to banks and insert, instead, references to institutions, since all loan-making institutions of the System will be responsible for repayment of the bond obligations described in the subsection.

Section 201, in subsection (u), will amend subsection (d)(1)(E) of new section 6.26 to change an erroneous cross-reference ("subparagraph (B)") to a reference to "subparagraphs (B) and (C)". (NOTE: Subsection (d)(1)(E) contains a rule for how FCS institutions are to raise funds to repay the principal of FAC debt obligations. This rule should apply equally to System-wide repayments under subsection (d)(1)(C), as well as to repayment by individual institutions under subsection (d)(1)(B) of nonmerger assistance they have received.)

Section 201, in subsection (v), will amend subsection (d)(3)(A) of new section 6.26 to change incorrect references, in clause (i) and (ii), to "this subsection", to references to "subsection (c)". (NOTE: This is necessary because the matter cross-referenced is payment of interest on FAC bond obligations, which is covered in subsection (c), not subsection (d).)

Section 201, in subsection (w), will amend subsection (d)(3)(B) of new section 6.26, by adding to the third sentence of clause (iii) a clarifying phrase to refer to FCS institutions "prohibited" from repaying principal on FAC bond obligations under the first sentence of the clause (which so prohibits such repayment in certain circumstances). (NOTE: as currently written, the third sentence (which establishes alternative procedures for repayment of principal on FAC bond obligations when FCS institutions do not do so) only refers to FCS institutions that elect not to repay, as authorized under the second sentence of the paragraph. The lack of parallel reference to prohibitions under the first sentence is an oversight in drafting.)

Section 201, in subsection (x), will correct an incomplete cross-reference in clause (iii) of subsection (d)(4)(B) of new section 6.26. As currently written, clause (iii) provides that, in any year, funds in the Farm Credit Insurance Fund must be used to repay any debt still owing the Secretary of the Treasury for certain outlays under section 6.26 before the Insurance Fund is used for any other purposes, except for payments under section 5.60. However, the exception is meant to only apply to the payments to cover eligible borrower stock retirement at par value, as specified in subsection (c)(2)(B) of section 5.60. The amendment will change the cross-reference from a reference to section 5.60 to a reference to section 5.60(c)(2)(B).

Section 201, in subsection (y), will delete an ambiguous cross-reference, in subsection (a)(1) of new section 6.27, added by section 201 of the 1987 Act. Subsection (a) of section 6.27 provides that any FCS institution certified under section 6.4 to issue preferred stock (in order to receive financial assistance under section 6.27) may issue such stock to the extent authorized by the Assistance Board. However, as currently written, the subsection refers to certification under section 6.4(a) or (b). Section 6.4 contains specific certification authority in its subsection (c). The deletion of the subsection parts of the reference to section 6.4 will cure the inadvertent omission of subsection (c) without changing the effect of the cross-reference.

Section 201, in subsection (z), will amend subsection (a)(2)(B) of new section 6.27 to change two erroneous references to the "Reserve Account Board" to references to the "Farm Credit System Insurance Corporation".

(NOTE.—The term "Reserve Account Board" was initially used in the Senate bill, but the conference on the 1987 Act adopted the House provision establishing an Insurance Corporation to perform comparable tasks to those the Senate assigned to the Board.)

Section 201, in subsection (aa), will make a clerical amendment to subsection (b) of new section 6.27 to delete a superfluous cross-reference therein to itself.

Section 201, in subsection (bb), will amend subsection (b)(2) of new section 6.28, added by subsection 201 of the 1987 Act, to make a conforming and grammatical change of the phrase "this paragraph to" to "paragraph (1) equal to". The amount due referred to in subsection (b)(2) is that specified in paragraph (1) of subsection (b), and the addition of the word "equal" is a grammatical change.

Also, it will change an erroneous cross-reference to "subsection (c)(1)(D)" to "section 6.26(c)(2)(D)".

(NOTE.—Section 6.28 has no subsection (c)(1)(D); the cross-reference is intended to be to the special rule applicable to calculations of loan volume contained in section 6.26(c)(2)(D).)

Sec. 202—Amendment related to section 202 of the 1987 Act—

Section 202 of the Agricultural Credit Act of 1987 rewrote section 4.0 to make it consistent with the other provisions of the 1987 Act.

Section 202 will revise the wording of section 4.0, as so rewritten, to—

(1) clarify that the Assistance Board will have access to the section 4.0 fund (NOTE: Section 4.0, as rewritten, does not contain language to authorize the use by the Assistance Board of the section 4.0 fund under section 6.7—making it unintentionally inconsistent with section 6.7); and

(2) delete an unnecessary provision added to section 4.0 that restates, in slightly different and thus ambiguous language, the provisions of section 5.60 (relating to when the section 4.0 fund is transferred to the Farm Credit Insurance Fund). (NOTE: Section 5.60 reflects the conference agreement on this issue.)

Sec. 203—Amendments related to section 204 of the 1987 Act—

Section 204 of the Agricultural Credit Act of 1987, in subsection (a), rewrite section 4.9 to charter statutorily a new Federal Farm Credit Banks Funding Corporation to (1) replace the old Funding Corporation, chartered under section 4.25 to perform section 4.9 functions, and (2) assign to the new Funding Corporation the functions under section 4.5 previously performed by the FCS banks finance committee.60

Section 203, in subsection (a), will add a new subsection (f) to section 4.9 as rewritten. The new subsection (f) will clarify what is implicit elsewhere in rewritten section 4.9 but that, as a matter of eliminating any ambiguity, should be spelled out—that the assets, liabilities, contracts, instruments, and stock of the pre-1987 Act Funding Corporation are transferred to the new Funding Corporation chartered under rewritten section 4.9 (which transfer will take place automatically at the time the new Funding Corporation takes over from the old Funding Corporation and the FCS banks finance committee under subsection (e) of new section 4.9).

Specifically, new subsection (f) provides that—

(1) the new Funding Corporation (by operation of law and without any further action by the Farm Credit Administration, the old Funding Corporation, or any court) will succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the old Funding Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the old Funding Corporation;

(2) the existing contractual obligations, security instruments, and title instruments of the old Funding Corporation (by operation of law and without any further action by the Farm Credit Administration, the old Funding Corporation, or any court) will become and be converted into obligations, entitlements, and instruments of the new Funding Corporation; and

(3) the stock of the old Funding Corporation issued before the date of the enactment of the 1987 Act (by operation of law and without any further action by the Farm Credit Administration, the old Funding Corporation, or any court) will become and be converted into stock of the new Funding Corporation.

New subsection (f) also contains a provision to clarify that the succession to assets, assumption of liabilities, conversion of obligations, instruments, and stock, and effectuation of any other transaction by the new Funding Corporation to carry out subsection (f) will not be treated as a taxable event under the laws of any State or political subdivision thereof. (NOTE: Section 4.9, as revised by section 203(a) of the 1987 Act, was not intended to accomplish any transfer of assets to a third entity. It was only intended to reshape the old Funding Corporation in the manner spelled out in section 4.9; and this was to be accomplished through the legislative chartering of the new Funding Corporation as a replacement for the old Funding Corporation.)

Section 203, in subsection (b), will amend subsection (b)(3) of section 4.9 to change an ambiguous reference to the "Funding Corporation". Section 4.9 contains references both to the pre-1987 Act Funding Corporation and the new Funding Corporation under the 1987 Act. This amendment will clarify that the reference in subsection (b)(3) is to the old Funding Corporation.

Section 203, in subsection (c), will amend subsection (d)(2) of section 4.9 to make conforming changes, in subparagraphs (B) and (C), in the way the new Funding Corporation is referred to—from "Federal Farm Credit Banks Funding Corporation" to "Corporation". (NOTE: Subsection (a) of section 4.9 states that, thereafter in the section, the new Funding Corporation is to be referred to as the "Corporation".)

Section 203, in subsection (d), will revise subsection (e) of section 4.9, which currently provides that, until a quorum of the board of directors of the new Funding Corporation is elected or appointed, the finance committee established under the pre-1987 Act section 4.5, and the old Funding Corporation operating under the pre-1987 Act section 4.9, will continue to operate as if the revision of section 4.9 made by section 203(a) of the 1987 Act had not been enacted.

The revisions to subsection (e) will—

(1) strike out the phrase "or appointed", an erroneous reference to establishing a quorum of the board of the new Corporation by appointment (see subsection (d) of section 4.9);

(2) make a clarifying revision of the conditional clause (until a quorum is constituted), so that it becomes: until the election of a majority of the voting members of the board of the new Corporation;

(3) add a clarifying provision requiring the election of such majority of voting members as soon as practicable; and

(4) add a conforming provision stating that, until a majority of the voting members of the board of the new Corporation are elected, the board of the old Funding Corporation will serve as the board of the Financial Assistance Corporation (see section 6.22(a)(1)).

Section 203, in subsection (e), will amend subsection (e) of section 4.2 (in connection with revisions to section 4.9 made by section 203(a) of the 1987 Act to charter, statutorily, the new Federal Farm Credit Banks Funding Corporation) to make conforming changes in references therein—from "fiscal agent" to "Federal Farm Credit Banks Funding Corporation".

Sec. 204—Amendment related to section 205 of the 1987 Act—

Section 205(b) of the Agricultural Credit Act of 1987 added a new paragraph (2) to section 5.19(b), under which the authority for the use of regulatory accounting practices was extended to December 31, 1992.

Section 204 will amend new paragraph (2) of section 5.19(b) to change the cross-reference to the RAP provisions extended, to eliminate any possible ambiguity, from "authorities contained in this section" to "authorities contained in the third sentence of paragraph (1)" of section 5.19(b)—which is where the RAP authorities are found.

Sec. 205—Amendments related to section 207 of the 1987 Act—

Section 207(a)(2) of the Agricultural Credit Act of 1987 repealed paragraph (8) of section 5.17(a).

Section 205 will redesignate paragraphs (9) through (14) of section 5.17(a) as paragraphs (8) through (13). This is a conforming amendment, to be done in conjunction with the section 207(a)(2) repeal of paragraph (8).

TITLE—AMENDMENTS RELATED TO TITLE III OF THE 1987 ACT

Sec. 301—Amendments related to section 301 of the 1987 Act—

Section 301 of the Agricultural Credit Act of 1987, in subsection (a) (a free-standing provision), set out rules and procedures for the establishment of minimum capital adequacy standards for FCS institutions. Section 301 of the 1987 Act, in subsection (b), added a new section 4.3A, providing broad authority, subject to specific limits therein, for each FCS institution to adopt bylaws providing for its capitalization. (NOTE: The authority in new section 4.3A, as specified in subsection (g) thereof, overrides many specific capitalization provisions elsewhere in the Farm Credit Act of 1971.)

Section 301, in subsection (a), will make a clarifying amendment so subsection (a)(1)(B) of section 301 of the 1987 Act, which currently provides that minimum capital adequacy standards under section 301 "shall be based on" the financial statements of an FCS institution prepared under generally accepted accounting principles. This is a grammatically incorrect way of stating how the standards will affect the institutions. The amendment will change the phrasing to "the standards . . . shall be applied to an institution based on" the financial statements of the institution prepared on a GAAP basis.

It will also amend subsection (a)(2) of section 301 of the 1987 Act to—

(1) change an erroneous cross-reference, from section 5.17(*b*)(2) to section 5.17(c)(2) (Note: Section 802(n) of the 1987 Act redesignated section 5.17(b) as section 5.17(c)); and

(2) strike out the superfluous word "proposed", in the phrase "with respect to the issuance of the proposed regulations", relating to capital adequacy standards required under subsection (a)(1)(A) (Note: Subsection (a)(1)(A), in requiring the Farm Credit Adminsitration to issue the regulations on this matter, does not call for proposed regulations first).

Further, it will amend subsection (a)(3) of section 301 of the 1987 Act to change an erroneous cross-reference to subsection (a)(1)(*C*) to a reference to subsection (a)(1)(*D*) (NOTE: The context of the cross-reference is the time period specified in subsection (a)(a)(D).)

Section 301, in subsection (c), will amend subsection (a)(1)(B) of new section 4.3A, added to section 301(b) of the 1987 Act, to correct the cross-reference therein to the section relating to the guarantee of borrower stock, that is, section 4.9A. Currently, subsection (a)(1)(B) cross-references a nonexistent section 4.9B.

Section 301, in subsection (d), will amend subsection (c)(1)(D)(i) of new section 4.3A to delete the grammatically inappropriate comma in the phrase "producers, or harvesters of aquatic products."

It also will clarify subsection (c)(1)(G) of new section 4.3A, which currently provides that new FCS institution bylaws must require that holders of stock issued before adoption of the bylaws exchange a portion of such stock for new voting stock. The clarification will change the description of the old stockholders to which subsection (c)(1)(G) applies to "holders of voting stock", so that it is unambiguous that only holders of old voting stock receive new voting stock.

Section 301, in subsection (e), will amend subsection (c)(1)(H) of new section 4.3A to insert a clarifying phrase—"except as otherwise provided in this section". This will eliminate an apparent inconsistency between that subsection and subsection (c)(1)(E)(i). Subsection (c)(1)(E)(1) states that FCS institution bylaws must require that, as a condition of borrowing from the institution, a borrower acquire a certain minimum amount of stock (not less than $1,000 or 2 percent of the loan, whichever is less). However, subsection (c)(1)(H) provides that the bylaws need not provide for minimum standards of borrower stock ownership based on a percentage of the borrower's loan. The amendment will correct this inconsistency by stating that the rule under subsection (c)(1)(H) will be subject to specific exceptions elsewhere in section 4.3A.

Section 301, in subsection (f), will amend subsection (c)(1)(I) of new section 4.3A to delete superfluous words. As currently written, subsection (c)(1)(I) permits stock retirement at the discretion of an FCS institution if the institution meets the "capital adequacy standards established under standards issued under section 4.3(a)." The amendment will delete the superfluous "standards issued under."

Section 301, in subsection (g), will make clerical amendments to subsection (d)(1) of new section 4.3A, to—

(1) delete a cross-reference to a section in the Senate version of the 1987 Act (section 4.9A) that was not retained in the conference agreement on the 1987 Act; and

(2) delete "or allocated equities" in the phrase "stock or allocated equities". (Note: Section 4.3A in subsection (a)(2) defines the term "stock" as used in section 4.3A to include allocated equities.)

Section 302—Amendments related to section 302 of the 1987 Act—

Section 302 of the Agricultural Credit Act of 1987 added a new part E (sections 5.51 to 5.65) to title V, establishing the Farm Credit System Insurance Corporation to insure the debt obligations of FCS banks.

Section 302, in subsection (a), will revise paragraphs (3)(A) and (3)(B) of new section 5.51, added by section 302 of the 1987 Act, which describes the debt obligations of FCS banks that will be insured under new part E. The amendments will cure an unintended gap in coverage under which debt obligations issued after the date of enactment of the 1987 Act (January 6, 1988) but before January 6, 1989, would not be covered. The gap occurs because, as currently structured, paragraph (3) of new section 5.51 defines the term "insured obligation" to include (in paragraph (3)(A)) all debt obligations issued on or before the date of enactment and (in paragraph (3)(B)) obligations issued after that date on behalf of an insured FCS bank. However, new section 5.54 provides that FCS banks will not become insured FCS banks until January 6, 1989. To remedy this problem, the revision of paragraph (3)(A) will include in the definition all debt obligations issued on or before January 5, 1989. The revision of paragraph (3)(B) will not change the current meaning of the paragraph, but will add the clarifying phrase "when issued," to ensure that insurance coverage on debt obligations issued by an insured bank continues if a bank ceases to be an insured bank.

Section 302, in subsection (b), will make a conforming change to paragraph (5) of new section 5.51. Paragraph (5) defines the term "receiver" to include a receiver or conservator appointed by the Farm Cerdit Administration *to liquidate* an FCS institution. The amendment will delete the phrase "to liquidate" as being unnecessary and in conflict with the inclusion in the definition of conservators (who do not liquidate institutions).

Section 302, in subsection (c) (effective six months after the enactment of the 1987 Act), will amend subsection (d) of new section 5.55, added by section 302 of the 1987 Act, to change a reference to loans made by Federal intermediate credit banks in a provision detailing how insurance premiums are calculated, to a reference to intermediate term loans made by Farm Credit Banks. (NOTE: Insurance premium debts will not begin accruing until 1989. Under section 410 of the 1987 Act, within six months after its enactment, the Federal intermediate credit banks will be merged into Farm Credit Banks.)

Section 302, in subsection (d) (effective six months after the enactment of the 1987 Act), will amend subsection (d)(2) of new section 5.55, to correct a cross-reference therein to the OPI (other financing institutions) provision, from section 2.3(a)(2)—a reference that will be out-of-date in six months—to section 1.7(b)(1)(B). See the note in the analysis of section 102(b) above.

Section 302, in subsection (e) (effective six months after the enactment of the 1987 Act), will amend subsections (d)(2) and (d)(3) of new section 5.55, to change references therein from Federal intermediate credit banks to Farm Credit Banks. See the note in the analysis of subsection (c) above.

Section 302, in subsection (f), will amend subsection (a) of new section 5.56, added by section 302 of the 1987 Act, to eliminate an ambiguity. As currently written, subsection (a) provides that certain insurance statements must be filed before the beginning of such year; however, there is not antecedent for the word "such". The context requires that the filing be done before the beginning of each year. The amendment will delete the word "such" and replace it with "the."

Section 302, in subsection (g) and (h), will amend subsection (b) of new section 5.57, added by section 302 of the 1987 Act, to delete extraneous references to reports of condition. The references are extraneous because a provision in an earlier *House* version of the 1987 Act requiring reports of conditions from insured FCS banks was not included in the conference agreement on the 1987 Act.

Section 302, in subsection (i), will make a grammatical amendment to paragraph (5)(A) of new section 5.58, added by section 302 of the 1987 Act, by deleting the word "to" in two places. Without the amendments, the provisions will read "the Corporation may (to) define and (to) dismiss."

Section 302, in subsection (j), will amend subsection (b)(1) of new section 5.60, added by section 302 of the 1987 Act, to strike out the parenthetical in the phrase "section 4.0 (in effect immediately before the date of the enactment of this part)" that originated in the House version of the 1987 Act. Under the House approach, section 4.0 would have been repealed. However, under the conference agreement on the 1987 Act, section 4.0 and the fund established thereunder were retained.

Section 302, in subsection (k), will make a conforming amendment to amend subsection (b)(2) of new section 5.60, which requires the Farm Credit System Insurance Corporation to deposit preimum payments in the Insurance Fund, to strike out a phrase making the provision effective beginning five years after the enactment of the 1987 Act. The premiums will begin to be payable in 1989, so that the authority to deposit premium payments in the Fund should begin immediately. (NOTE: The five-year delay in the effective date originated in the Senate version of the 1987 Act. Under the Senate approach, the FCS insurance mechanism (the Reserve Account Board) would not become effective, and premiums would not be assessed, until five years after enactment. However, the conference agreement adopted, with modifications, the House approach of beginning premium assessments before insurance coverage begins, five years after enactment.)

Section 302, in subsection (1), will revise subsection (c)(2)(B) of new section 5.60, which requires the use of the Insurance Fund for retirement of eligible borrower stock under new section 4.9A, to—

(1) delete language (in the reference therein to eligible borrower stock) that is extraneous based on the definition of "borrower stock" and "par value" in new section 4.9A(d); and

(2) eliminate an erroneous and unnecessary subsection cross-reference to section 4.9A carried over from the Senate version of the 1987 Act, but not inaccurate based on the structure of section 4.9A under the conference agreement on the 1987 Act.

Section 303—Amendment related to section 303 of the 1987 Act—

Section 303(b) of the Agricultural Credit Act of 1987 added a new subsection (e) to section 4.4, to provide for the use of the Insurance Fund before invoking joint and several liability of FCS banks under section 4.4. Section 303 will redesignate new subsection (e) of section 4.4 as subsection (d). This will eliminate a gap in section 4.4 resulting from the amendment to section 4.4 made by section 207(c) of the 1987 Act, which repealed subsection (c) and redesignated then-current subsection (d) as subsection (c).

TITLE V—AMENDMENTS RELATED TO TITLE IV OF THE 1987 ACT

Sec. 401—Amendments related to section 401 of the 1987 Act—

Section 401, effective six months after enactment of the Agricultural Credit Act of 1987, will make a number of amendments to sections in new titles I and II, added by the 1987 Act. Under the 1987 Act, effective six months after its enactment, titles I and II (currently dealing with Federal land bank/

Federal land bank association and Federal intermediate credit bank/production credit association lending systems) will be revised to reflect the required mergers of land banks and intermediate credit banks into Farm Credit Banks under section 410 of the 1987 Act. New title I will contain provisions relating to the new Farm Credit Banks and new title II will contain provisions relating to land bank associations and production credit associations, as supervised by the new Farm Credit Banks. Under the conference agreement on the 1987 Act, those provisions of current titles I and II not inconsistent with the mergers required under section 410 were carried over to new titles I and II without change.

Section 401, in subsection (a) (effective six months after the enactment of the 1987 Act), will add a conforming phrase to subsection (a) of new section 1.3 (to be added by section 401 of the 1987 Act), which provides that the banks established pursuant to the mergers of Federal land banks and Federal intermediate credit banks will be Federally chartered instrumentalities of the United States. The added conforming language states that the banks refered to are those merged as provided in section 410 of the 1987 Act.

Section 401, in subsection (b) (effective six months after enactment of the 1987 Act), will make a conforming revision in subsection (b) of new section 1.3 dealing with modification of the charters of Farm Credit Banks. The amendment will delete provisions providing that the modification is to be made by the Farm Credit Administration Board. Instead, subsection (b), as revised, will provide that the Farm Credit Administration is to approve amendments to charters of the banks. This change will conform new section 1.3 to current section 1.3, as amended by section 802(a) of the 1987 Act.

(NOTE. Section 802 removed or rewrote provisions that required Farm Credit Administration pre-approval of actions taken by FCS institutions or other direct involvement in the operations of the Farm Credit System inconsistent with its role—since the 1985 amendments to the Farm Credit Act of 1971 (the Farm Credit Amendments Act of 1985, Public Law 99-205)—as an arms-length regulator. Section 401 of this bill contains similar pre-approval conforming amendments in subsections (d)(6), (d)(7)(A), (h), (m)(4), and (t).)

Section 401, in subsection (c) (effective six months after enactment of the 1987 Act), will delete an extraneous phrase in new section 1.4, to be added * * * Act. New section 1.4 states that each Farm Credit Bank will elect a board of directors from its voting stockholders. The reference to voting stockholders will be deleted because the only stockholders of Farm Credit Banks will be FCS associations (see new section 4.3A(c)(1)(D)).

Section 401, in subsection (d) (effective six months after enactment of the 1987 Act), will make several amendments to section 1.5 (to be added by section 401 of the 1987 Act), which establishes the general corporate powers of Farm Credit Banks. The amendments will—

(1) *in paragraph (1),* revise paragraph (9) of new section 1.5 to make grammatical improvements;

(2) *in paragraph (2),* correct a typographical error in paragraph (11) of new section 1.5, so that a phrase reading "deposits or securities of funds" will be revised to read "deposits of securities or funds";

(3) *in paragraph (3),* delete extraneous words in subparagraphs (B) and (C) of paragraph (12) of new section 1.5: in those two subparagraphs, the phrase to be deleted—"participate with"—is unnecessary because the introductory phrase coming before subparagraphs (A) through (C) reads "(12) participate with—";

(4) *in paragraph (4),* correct an erroneous cross-reference in paragraph (14) of new section 1.5 in the same manner as described in the analysis of subsection (a) of section 201 above;

(5) *in paragraph (5),* make a conforming change of the reference to "Federal land bank associations" in paragraph (18) of new section 1.5 (which authorizes Farm Credit Banks to delegate functions to such associations) to a reference to "associations"—this revision will conform this power to other provisions of new titles I and II making the Farm Credit Banks the supervising banks for production credit associations as well as Federal land bank associations;

(6) *in paragraphs (6) and (7)(A),* make "pre-approval" changes in paragraphs (22) and (23), respectively, of new section 1.5 to conform them to paragraphs (21) and (22) of current section 1.4, as amended by section 802(b) of the 1987 Act—see the note in the analysis of subsection 9(B) above; and

(7) *in paragraphs (7)(B) and (8),* add a new paragraph (24) to new section 1.5, to give Farm Credit Banks the power to operate as originators, and become certified as certified facilities, under new title VIII (the farm credit secondary market provisions). (Note: This will be a conforming change to correct an oversight in the 1987 Act, under which (in-section 705) identical powers were conferred on existing FCS institutions through amendments to current titles I and II. Since the Farm Credit Banks and associated governed by new titles I and II will replace current titles I and II entities, the same powers, with respect to the secondary markets, should be extended to them.)

Section 401, in subsection (e) (effective six months after enactment of the 1987 Act), will revise subsection (a) of new section 1.7, to be added by section 401 of the 1987 Act, to—

(1) redesignate the current provisions as paragraph (1); and

(2) add a new paragraph (2) to authorize the Farm Credit Banks to make loans to, and discount loans for or purchase loans from, Federal land bank associations, when such associations become direct real estate lenders, as authorized under the lending authority transfer provisions of new section 7.6 (added by section 416 of the 1987 Act). The added language tracks that of subsection (b)(2) of new section 7.6 and will simply conform the provision (subsection (a) of new section 1.7) listing the lending authority of Farm Credit Banks to section 7.6 by adding the authority to the listing.

Section 401, in subsection (f) (effective six months after enactment of the 1987 Act), will make several conforming amendments to subsection (b) of new section 1.7. The amendments will—

(1) delete the second sentence of subsection (b)(2), which is substantially duplicative of subsection (c)(2) of new section 1.11 (to be added by section 401 of the 1987 Act)—but see the analysis of subsection (j) of this section for a description of a related conforming amendment to subsection (c)(2) of section 1.11;

(2) change the heading of subsection (b)(3) to change the word "ASSISTANCE" to "SERVICES" so as to more accurately reflect the content of subsection (b)(3);

(3) change a cross-reference ("herein contained") in subparagraph (B) of subsection (b)(3) to "described in subparagraph (A)" to eliminate a possible ambiguity as to the provision referred to; and

(4) for a similar purpose, change a cross-reference ("authorized by this section") in subsection (b)(4) to "authorized by this subsection". Subsection (b)(4) is intended to provide authorities with respect to collateral for, and FCA regulation of, Farm Credit Bank intermediate term lending. Such lending is covered in subsection (b) of section 1.7. Subsection (a) of section 1.7 covers Farm Credit Bank long-term real estate lending, which has specific collateral rules in new section 1.10 (to be added by section 401 of the 1987 Act).

Section 401, in subsection (g) (effective six months after enactment of the 1987 Act), will make a conforming change in subsection (a) of new section 1.8 (to be added by section 401 of the 1987 Act. Currently, subsection (a) of new section 1.8 provides that loans and discounts made by a Farm Credit Bank will bear interest at certain rates. Because discounted loans are purchased at a price less than face value, rather than bear interest accruing to the discounter, this provision will be rephrased to provide that loans and discounts will bear "rates of interest or discount".

Section 401, in subsection (h) (effective six months after enactment of the 1987 Act), will amend subsection (a) of new section 1.10 (to be added by section 401 of the 1987 Act) to—

(1) *in paragraphs (1) and (2)(B),* make "pre-approval" changes in paragraphs (2) and (3), respectively, to conform them to subsections (b) and (c) of current section 1.9, as rewritten by section 426 of the 1987 Act—see the note in the analysis of subsection (b) above; and

(2) *in paragraph (2)(A),* eliminate redundant language in paragraph (3), as follows: by striking out the second "appraisal" in the phrase "the value of security shall be determined by appraisal under *appraisal* standards prescribed by the bank".

Section 401, in subsection (i) (effective six months after enactment of the 1987 Act), will correct a typographical error in subsection (b) of new section 1.10, as follows: by striking out "harvester" in the phrase "producers and harvester of aquatic products" and inserting in lieu thereof "harvesters".

Section 401, in subsection (j) (effective six months after enactment of the 1987 Act, will make conforming amendments to subsection (a)(2) of new section 1.11 (to be added by section 401 of the 1987 Act) in conjunction with the amendment made by subsection (f), described above. Subsection (f) will strike out a sentence in subsection (b)(2) of new section 1.7 that is substantially the same as the sentence to be amended by subsection (j): both authorize Farm Credit Banks to own and lease (or lease with option to purchase) to a person eligible for credit under titles I and II items needed in the person's operations. The provision in new section 1.7 applies this authority to equipment with respect to intermediate-term lending under title II; the provision of subsection (c)(2) of new section 1.11 to be amended here applies this authority to facilities with respect to long-term real estate lending under title I. The amendment will expand the authority in subsection (c)(2) of new section 1.11 to apply it to equipment with respect to intermediate-term credit under title II.

Section 401, in subsection (k) (effective six months after enactment of the 1987 Act), will make conforming amendments to new section 1.12 (to be added by section 401 of the 1987 Act) by—

(1) redesignating the text as subsection (a);

(2) striking out "each district" in the phrase "as determined to be feasible by the boards of directors of each district bank", and substituting therefor "the" (see the note in the analysis of section 102(h) above; this amendment will eliminate what may be taken to be reference to district boards of directors); and

(3) adding a new subsection (b) to carry over to new title I a provision added by section 305(3) of the 1987 Act to current section 2.5 and intended to apply under new title I. The provision establishes procedures for the passing on to production credit associations and OFIs (other financing institutions) the cost of insurance premiums incurred by their supervising bank. The new subsection (b) will authorize each Farm Credit Bank to assess each production credit association and OFI in the district in which the bank is located to cover the costs of making insurance premium payments. The assessment on any such association or OFI for any calendar year would be computed on the same basis as is used to compute the premium payment and could not exceed the sum of—

(a) the annual average principal outstanding for such year on loans made by the association, or on loans made by the OFI and discounted with the Farm Credit Bank, that are in accrual status, multiplied by 0.0015; and

(b) the annual average principal outstanding for such year on loans made by the association, or on loans made by the OFI and discounted with the Farm Credit Bank, that are in nonaccrual status, multiplied by 0.0025.

Section 401, in subsection (l) (effective six months after enactment of the 1987 Act), will amend new section 1.15, to be added by section 401 of the 1987 Act, to—

(1) as a grammatical improvement, insert a comma at the end of a parenthetical phrase already set off with a comma at the beginning of the phrase; and

(2) correct an erroneous U.S. Code citation.

Section 401, in subsection (m) (effective six months after enactment of the 1987 Act), will make several conforming and grammatical amendments to subsection (b) of new section 2.0, to be added by section 401 of the 1987 Act. The amendments will—

(1) *in paragraph (1),* change to "subtitle" a reference in subsection (b)(1) of new section 2.0 to "title", and in paragraph (2) change to "subtitle" a reference in subsection (b)(3) of new section 2.0 to "part". The first change recognize that only subtitle A of new title II deals with lending by production credit associations (see also the analysis of subsection (s) below); and the second change corrects a drafting error in referring to the subtitle as a part;

(2) *in paragraph (3),* eliminate a superfluous word both in subsection (b)(3)(B) and subsection (b)(3)(C) of new section 2.0 by eliminating the second "the" in a phrase that otherwise would read "articles shall specify in general terms the the . . ."; and

(3) *in paragraph (4),* make a "pre-approval" change in subsection (b)(8) of new section 2.0, to conform it to current section 2.10, as amended by section 802(1) of the 1987 Act—see the note in the analysis of subsection (b) above.

Section 401, in subsection (n) (effective six months after enactment of the 1987 Act), will correct a typographical error in new section 2.1, to be added by section 401 of the 1987 Act, by striking out the comma in the phrase "except that, at least one member shall be . . .".

Section 401, in subection (o) (effective six months after enactment of the 1987 Act), will make several amendments to new section 2.2, to be added by section 401 of the 1987 Act. The amendments will—

(1) *in paragraph (1),* revise paragraph (16) of new section 2.2 to make grammatical improvements;

(2) *in paragraph (2)*—

(a) make a conforming change in paragraph (17) of new section 2.2 by substituting, for a provision providing for the election by the board of directors of a production credit association of its manager or other chief executive officer, a provision authorizing the board of the association to provide for a manager or other chief executive (Note: This will conform the PCA power to a similar power provided to each Farm Credit Bank under new section 1.5(8)); and

(b) make a related amendment to paragraph (17) by striking out "be elected or designated" in the provision that no PCA director, within one year after leaving the board, can "be elected or designated a salaried employee" of the association, and inserting in lieu thereof "serve as"; and

(3) *in paragraph (3), (4), and (5),* add a new paragraph (21) to new section 2.2 to give production credit associations operating under new title II the same power to operate as originators, and become certified as certified facilities, under new title VIII (the farm credit secondary market provisions) already given to production credit associations under current title II. See also the Note in the analysis of paragraphs (7)(B) and (8) of subsection (d) above.

Section 401, in subsection (p) (effective six months after enactment of the 1987 Act), will amend subsection (b)(1) of new section 2.4, to be added by section 401 of the 1987 Act, to—

(1) so as to avoid a possible ambiguity, change a cross-reference from "this title" to "this subtitle" in the provision requiring that rural housing financed by production credit associations be for certain types of dwellings. Titles II consists of subtitle A, including section 2.4 (relating to production credit associations), and subtitle B (relating to Federal land bank associations). The cross-reference change will appropriately limit the applicability of subsection (b)(1) of Section 2.4 to PCA lending. (NOTE: There is no direct FLBA real estate lending under title II); and

(2) correct a typographical omission by adding the word "or" to a phrase so that it reads "standards of housing existing in, or planned or recommended for, the rural area where it is located".

Section 401, in subsection (q) (effective six months after the enactment of the 1987 Act), will insert a new subsection (d) at the end of new section 2.4, to be added by section 401 of the 1987 Act. The amendment will carry over to new title II, with several changes, a provision added by section 431(f) of the 1987 Act to current section 2.15 and intended to apply to production credit associations under new title II. See the analysis of subsection (b) of section 415 (amending current section 2.15) below.

New subsection (d) will establish PCA authorities under a special district rule. It provides as follows:

Notwithstanding any territorial limitation in the charter of a production credit association in a district in which there are only two such associations, the FCA Board, on request of the association, could permit the association to provide credit and technical assistance to any borrower who is denied credit by the other association in the district if the Board determines that the other association is unduly restrictive in the application of credit standards. If the FCA Board approves such extension of credit and technical assistance, the association must approve or deny each application for credit within 90 days after receipt of the application from the borrower.

Section 401, in subsection (r) (effective six months after the enactment of the 1987 Act), will amend new section 2.6 (PCA tax status), to be added by section 401 of the 1987 Act, to—

(1) as a grammatical improvement, insert a comma at the end of a parenthetical phrase already set off with a comma at the beginning of the phrase; and

(2) carry over to new section 2.6 a provision added by a technical correction made by section 805(j) of the 1987 Act to current PCA tax provisions (in current section 2.17) and intended to apply to production credit associations under new section 2.6. The added provision states that interest on debt and other obligations issued by production credit associations will be subject to Federal income taxation in the hands of the holder. The provision is needed because it was in pre-existing law but was inadvertently repealed by section 205(e)(16) of the Farm Credit Amendments Act of 1985.

Section 401, in subsection (s) (six months after the enactment of the 1987 Act), will amend subsection (b) of new section 2.10, to be added by section 401 of the 1987 Act, to—

(1) add to paragraph (1) a limiting reference (to the authority for long-term real estate lending under new section 1.7(a)) to the provision authorizing the formation of a Federal land bank association by a group of persons desiring to obtain financing from Farm Credit Banks. This change recognizes that land bank associations are intended to provide farmers access to section 1.7(a) type of financing—long term real estate loans; and

(2) revise paragraph (2)(D)(i) to make grammatical improvements.

Section 401, in subsection (t) (effective six months after the enactment of the 1987 Act), will revise subsection (c) of new section 2.10 to incorporate "pre-approval" changes in subsection (c) of the section, to conform it to current section 1.13, as amended by section 802(e) of the 1987 Act—see the note in the analysis of subsection (b) above. It also will correct a grammatical error under which paragraph (4), which begins "to direct", is introduced by language that the Farm Credit Administration shall have the power "to provide for the". The correction will move the introductory "to provide for the" to paragraphs (1), (2), and (3) (to which that phrase more appropriately applies).

Section 401, in subsection (u) (effective six months after the enactment of the 1987 Act), will make several conforming and grammatical amendments to new section 2.12, to be added by section 401 of the 1987 Act. The amendments will—

(1) *in paragraph (1),* make conforming changes to paragraph (7) of new section 2.12 by substituting, for a provision providing for the election by the board of directors of a Federal land bank association of its manager or other chief executive officer, a provision authorizing the board of the associa-

tion to provide for a manager or other chief executive, and by striking out "be elected or designated" in the provision that no FLBA director, within one year after leaving the board, can "be elected or designated a salaried employee" of the association, and inserting in lieu thereof "serve as"—see the note in the analysis of paragraph (2) of subsection (o) above;

(2) *in paragraph (2),* revise paragraph (8) of new section 2.12 to make grammatical improvements;

(3) *in paragraph (3),* carry over to paragraph (12) of new section 2.12 a technical change made in paragraph (12) of current section 1.15 by section 805(b) of the 1987 Act. The technical change will delete a provision for delegation by the bank, to the associations, of certain bank functions; and

(4) *in paragraphs (4), (5), and (6),* add a new paragraph (22) to new section 2.12 to give Federal land bank associations operating under new title II the same power to operate as originators, and become certified as certified facilities, under new title VIII (the farm credit secondary market provisions) already given to land bank associations under current title I. See also the note in the analysis of paragraphs (7)(B) and (8) of subsection (d) above.

Section 401, in subsection (v) (effective six months after the enactment of the 1987 Act), will repeal new section 2.14, to be added by section 401 of the 1987 Act. New section 2.14 is to provide that, on the liquidation of a Federal land bank association, a sum equal to its reserve account as required in the Farm Credit Act of 1971 must be paid to its supervisory Farm Credit Bank. The proposed repeal is a conforming change in recognition of the fact that, under new titles I and II, a FLBA reserve account will not be required under the Act.

Section 401, in subsection (w) (effective six months after the enactment of the 1987 Act), in conjunction with the repeal of section 2.14 under subsection (v) described in the previous paragraph, will redesignate new sections 2.15 through 2.17, to be added by section 401 of the 1987 Act, as sections 2.14 through 2.16, respectively.

Section 401, in subsection (x) (effective six months after the enactment of the 1987 Act), will amend new section 2.17 (to be redesignated a section 2.16 under subsection (w), as described in the previous paragraph) to—

(1) as a grammatical improvement, insert a comma at the end of a parenthetical phrase already set off by a comma at the beginning of the phrase;

(2) change a reference from "banks" to "associations", because the context in which the word is used is a description of the tax exemptions of Federal land bank associations; and

(3) correct an erroneous U.S. Code citation.

Sec. 402—Amendments related to section 410 of the 1987 Act

Section 410 of the Agricultural Credit Act of 1987 provides for the merger, within six months after the enactment of the Act, of the Federal land bank and Federal intermediate credit bank in each FCS district. The merged banks will be known as Farm Credit Banks.

Section 402, in subsection (a), will make clarifying amendments to subsection (a) of section 410 of the 1987 Act. It will expand a reference (to give it more specificity) by changing a description of the land bank and intermediate credit bank of each district to description of such banks of each Farm Credit System district.

It also will add a sentence at the end of the subsection exempting the implementation of section 410 mergers from the provisions of title VII, as contemplated by the conference agreement on the 1987 Act. Title VII, added by section 416 of the 1987 Act, contains a number of specific provisions that otherwise are to govern mergers of FCS institutions. The added sentence will ensure that there is no ambiguity as to what provision is to apply to section 410 mergers in cases in which the provisions of section 410 and title VII conflict.

Section 402, in subsections (b) and (d), will make similar additions to the language of subsections (b) and (d), respectively, of section 410 of the 1987 Act, to avoid a possible conflict between those provisions and provisions in the Farm Credit Act of 1971.

Subsection (b) of section 410 provides that the initial capital stock structure of each Farm Credit Bank is to be determined by the FLB-FICB merger plan. However, new section 1.6 (added by the 1987 Act and to become effective six months after its enactment) provides that the capital stock structure of a Farm Credit Bank is to be determined by the Bank itself through its bylaws. Therefore, the amendment will add language to subsection (b) of section 410 (effective six months after enactment of the 1987 Act) stating that its provisions with respect to initial capitalization are to be effective notwithstanding new section 1.6.

Similarly, subsection (d) of section 410 contains provisions establishing the initial boards of directors of Farm Credit Banks under specific rules that are contrary to new section 1.4 (added by the 1987 Act and to become effective six months after its enactment), which provides, as a general rule, that the Bank's bylaws are to spell out the rules and procedures governing the composition and election of its board. The amendment will add language to subsection (d) of section 410 stating that its provisions with respect to the initial board are to be effective notwithstanding new section 1.4.

Section 402, in subsection (c), will make two clarifying amendments to subsection (c) of section 410 of the 1987 Act, to provide a more specific description of two organizations described therein. The changes will revise the provision that the Assistance Board is to direct the Financial Assistance Corporation to take certain actions, to a provision requiring the Assistance Board established under section 6.0 to direct the Financial Assistance Corporation established under section 6.20 to take the actions.

Sec. 403—Amendments related to section 411 of the 1987 Act—

Section 403 will correct a drafting error in subsection (b) of section 411 of the Agricultural Credit Act of 1987. Section 411 provides for stockholders' votes on the merger of Federal land bank associations and production credit associations that share substantially the same geographical service territory. Under the conference agreement on this provision, the votes would have to take place within 12 months after the enactment of the 1987 Act. However, subsection (b) of section 411 incorrectly provides for such votes within six months after enactment. Section 403 would change the two references to the time period for the votes in section 413, from six months to twelve months.

Sec. 404—Amendments related to section 412 of the 1987 Act—

Section 412 of the Agricultural Credit Act of 1987 provides for stockholder votes on the consolidation of the elements of the Farm Credit System other than banks for cooperatives into not less than six districts. The votes on mergers of district banks under the consolidation plan are to take place within 18 months after the enactment of the 1987 Act.

Section 404, in subsection (a), will change the title of section 412 of the 1987 Act from "CONSOLIDATION OF FARM CREDIT DISTRICTS" to "CONSOLIDATION OF DISTRICT FARM CREDIT BANKS". See the note in the analysis of subsection (b) below.

Section 404, in subsection (b), will correct a typographical error and make two conforming changes in subsection (a)(2) of section 412 of the 1987 Act. It will—

(1) delete the superfluous comma in the phrase "the committee shall develop, a proposal to consolidate. . ."; and

(2) change an ambiguous reference to "Farm Credit System banks" and to "farm credit banks" to references to "Farm Credit Banks". (Note: Under the conference agreement on the 1987 Act, the structure of the Farm Credit System as a system of twelve districts, each with a district board of directors responsible for the management of a district Federal land bank, Federal intermediate credit bank, and bank for cooperatives will be changed substantially within six months after the enactment of that Act. The provisions authorizing district boards will be repealed effective six months after enactment (see also the analyses of subsections (c) and (d) of section 409 below); the land bank and intermediate credit bank in each district will be replaced by a district Farm Credit Bank; and the stockholders of the banks for cooperatives will vote on merging into a consolidated interdistrict bank for cooperatives. Thus, the consolidation envisioned under section 412, providing for votes on the consolidation of the Farm Credit System districts under the new structure, was the mergers of the 12 Farm Credit Banks into no less than six combined-district Farm Credit Banks. The conforming changes described in this paragraph will ensure that the section accurately reflects that consolidation concept.)

Section 404, in subsection (c), will correct two erroneous cross-references in subsection (b)(1) of section 412 of the 1987 Act. That subsection requires the Farm Credit Administration to review the System-wide consolidation proposal. Currently, it refers to the proposal developed in "subsection (b)(2)"; but the provision regarding the development of the proposal is found in subsection (a)(2), so the cross-reference will be changed to "subsection (a)(2)". Also, it refers to the submission of the proposal to stockholders under "paragraph (2)" of subsection (b). However, paragraph (3) of subsection (b) contains the provision for submission to stockholders, so the cross-reference will be changed accordingly.

Section 404, in subsection (d), will make a grammatical change in paragraph (b)(2) of section 412 of the 1987 Act. As currently written, that subsection states that consolidation proposals (plural) will be submitted to stockholders for a vote. But the other subsections of section 412 clearly envision that only one System-wide consolidation proposal is to be developed. Under the amendment, the provision will be recast as applying to the proposal (singular).

Section 405—Amendments related to section 413 of the 1987 Act—

Section 413 of the Agricultural Credit Act of 1987 provides for stockholder votes on the merger of the banks for cooperatives into a consolidated bank. The vote is to take place within 180 days after the enactment of the 1987 Act. If eight or more banks for cooperatives approve the merger, such banks and the Central Bank for Cooperatives will be merged into a National Bank for Cooperatives. If more than one but less than eight banks approve the merger, those banks (and Central Bank if its stockholders approve) will be merged into a United Bank for Cooperatives.

Section 405, in subsection (a), will amend subsection (a)(2)(A) of section 413 of the 1987 Act to correct an erroneous cross-reference. As currently written, paragraph (2)(A) of subsection (a) establishes certain requirements on completion of the plan of merger of the banks for cooperatives "pursuant to subparagraph (C)". However, the provision of section 413 providing for the development of the merger plan is found in paragraph (1)(C) of subsection (a). The amendment will change the cross-reference quoted above to a reference to paragraph (1)(C).

Section 405, in subsection (b), will make clerical amendments and a conforming amendment to subsection (a)(3) of section 413 of the 1987 Act. It will—

(1) correct a typographical error by deleting the superfluous open-quotation mark at the beginning of the subsection, and change a reference therein from "district banks" to "district banks for cooperatives", to make the reference more descriptive of the banks involved; and

(2) as a conforming change to the provision in the subsection requiring the submission of the BC merger plan to voting stockholders and subscribers to the guaranty fund of the banks for cooperatives, delete the underlined matter. This will conform the provision to subsection (c) of section 413, which provides that references in the section to voting stockholders will include subscribers to the guaranty fund.

Section 405, in subsection (c), will delete the phrase ", or a subscriber to the guaranty fund of" from subsection (b)(1)(A)(i) of section 413 of the 1987 Act. See paragraph (2) of the analysis of subsection (b) in the preceding paragraph.

Section 405, in subsection (d), will change a reference in subsection (b)(4)(A) of section 413 of the 1987 Act from "district banks" to "district banks for cooperatives", to make the reference more descriptive of the banks involved.

Section 405, in subsections (e) and (f), will correct typographical errors in subsection (b)(6) of section 413 of the 1987 Act, in each case by deleting a comma separating a subject of a sentence from its predicate.

Section 405, in subsection (g), will correct an erroneous cross-reference in subsection (b)(6)(C) of section 413 of the 1987 Act. Subsection (b)(6)(C) authorizes any district bank for cooperatives to merge with a consolidated bank for cooperatives on the approval of voting stockholders of the merging banks based on a certain voting requirement. As currently written, the provision states that the voting requirement is that of "subsection (a)" of section 413. However, the voting procedures provision of section 413 is found in subsection (b)(1), so the quoted cross-reference would be changed accordingly.

Sec. 406—Amendments related to the first section 414 of the 1987 Act—

The first section 414 of the Agricultural Credit Act of 1987 (which inadvertently contains two sections 414—see the analysis of subsection (a) of section 409 below), in subsection (a), contains free-standing provisions establishing the initial boards of directors of remaining district banks for cooperatives after the vote on merging into a consolidated bank for cooperatives and after the farm credit district boards are dissolved under the 1987 Act. Subsection (b) of the first section 414 amended section 3.0 (which will be changed to an amendment to section 3.2; see the anaylsis of subsection (b) of this section) to insert additional provisions for the permanent boards of remaining district banks for cooperatives and the Central Bank for Cooperatives.

Section 406, in subsection (a), will add to subsection (a) of the first section 414 of the 1987 Act a phrase providing that the free-standing provisions will be effective without regard to the permanent-law provisions in section 3.2 relating to BC boards of directors. As a conforming amendment related to the change to be made in subsection (b) of the first section 414 (described in the analysis of subsection (b) below), it also will delete the designation of the provisions as subsection (a).

Section 406, in subsection (b), will repeal subsection (b) of the first section 414 of the 1987 Act, effective retroactively to the date of enactment of the 1987 Act. That subsection, as noted above, added provisions to section 3.0 dealing with BC boards. However, section 3.0 prior to the 1987 Act contained provisions relating to the chartering and territories of banks for cooperatives, not BC board structure. Section 3.2, before and after enactment of the 1987 Act, contains provisions relating to BC boards. The bill, in subsection (d) of section 901 (analyzed below), will move the repealed provisions to section 3.2.

Sec. 407—Amendments related to the first section 415 of the 1987 Act—

The first section 415 of the Agricultural Credit Act of 1985 added new provisions (section 3.21 to 3.28) to title III, to govern the consolidated bank for cooperatives established under section 413 of the 1987 Act. See the first paragraph of the analysis of section 405 above. (Note: The Act inadvertently contains two sections 415—see the analysis of subsection (a) of section 409 below).

Section 407, in subsection (a), will correct a grammatical error in subsection (a) of new section 3.20, added by the first section 415 of the 1987 Act, by deleting "in this section" in the phrase "(hereinafter in this part referred to in this section as the 'consolidated bank')". It also will make a clarifying improvement to the provision in that subsection providing that the National Bank for Cooperatives or the United Bank for Cooperatives (whichever the BC stockholders vote to establish under section 413 of the 1987 Act) will be federally-chartered instrumentality of the United States and an FCS institution. The amendment will add language specifically describing the National or United Bank referred to as the bank "established under section 413" of the 1987 Act.

Section 407, in subsection (b), will correct a typographical error in subsection (b) of new section 3.20. It will insert a word inadvertently dropped in drafting—"except" in the phrase "(except) as otherwise provided for in this Act".

Section 407, in subsection (c), will add a new subparagraph (C) to subsection (b)(2) of new section 3.21, added by the first section 415 of the 1987 Act, to conform the provision to the general intent of the conferees as to board elections under the 1987 Act. Subsection (b)(2) of section 3.21 sets out the procedures for the election of the three stockholder-elected members of a National or United Bank for Cooperatives from each constituent district of the Bank. As currently written, subsection (b)(2) contains special rules for electing the first and second members (subparagraphs (A) and (B)), but contains no specific provision for the election of the third member. However, in several other instances, the 1987 act established general procedures for the election of FCS institution boards of directors—that is, under procedures established in the bylaws of the institution. Thus, new subparagraph (C) will provide that the nomination and election of the third member from each district is to be carried out in accordance with procedures prescribed in the bylaws of the Bank.

Section 407, in subsection (d), will make a clarifying improvement to clause (i)(I) of subsection (b)(2)(B) of new section 3.21. The clause is designed to establish a date each year that is to be used to determine when the votes of BC stockholders for certain board elections are to be weighted; the weighting is done based on relative amounts of equity interests of the stockholders. The amendment will change the possibly ambiguous description of the time at which amounts of equity interests are measured, from the final date of the fiscal year of the consolidated bank to the close of the immediately preceding fiscal year of the bank.

Section 407, in subsection (e), will amend new section 3.22, added by the first section 415 of the 1987 Act, to—

(1) substitute, for the phrase "United Bank for Cooperatives or the National Bank for Cooperatives" a conforming reference to "consolidated bank" (Note: Section 3.20(a) provides that, in the sections of title III that follow it, a United or National Bank is to be referred to as the "consolidated bank"); and

(2) make a conforming change to a provision referring to the effective date of mergers of banks for cooperatives into a consolidated bank, by substituting for the word "merger" a more specific reference to the "establishment of the bank under section 413 of the Agricultural Credit Act of 1987".

Section 407, in subsection (f), will make a conforming revision to new section 3.25, added by the first section 415 of the 1987 Act, which currently provides that the "board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 4.3A". This language, although substantially similar, varies from the language used in new titles I and II to provide for capitalization of Farm Credit Banks (section 1.6), production credit associations (section 2.3(a)), and Federal land bank associations (section 2.13)), in light of the specific capitalization rules established by new section 4.3A, added by the 1987 Act. The revision will rewrite section 3.25 to track the language used in new sections 1.6, 2.3(a), and 2.13, which will become effective in six months. Revised section 3.25 will provide that, in accordance with section 4.3A, each consolidated bank is to provide, through bylaws and subject to FCA regulations, for the capitalization of the bank and the manner in which bank stock will be issued, held, transferred, and retired and bank earnings distributed.

Section 407, in subsection (g), will make a clarifying change in the second sentence of new section 3.27, added by the first section 415 of the 1987 Act. The second sentence provides a tax exemption for certain asset transfers to BC stockholders in connection with BC mergers. The amendment will change the reference to the receipt of assets by a taxable institution to a reference to such receipt by a cooperative. As a general rule, all cooperatives (the stockholders of banks for cooperatives) are taxable institutions, so that the current reference to taxable institutions makes a distinction without meaning in this context. (Note: Section 3.27 is patterned after provisions in the House version of the 1987 Act that addressed receipt of assets by production credit associations and Federal land bank associations. In that context, the distinction has meaning because the former are taxable institutions, while the latter are not.)

Section 408—Amendments relating to section 416 of the 1987 Act—

Section 416 of the Agricultural Credit Act of 1987 added a new title VII (sections 7.1 to 7.13) to the Farm Credit Act of 1971. New title VII contains provisions relating to mergers of FCS institutions, transfer of lending powers, termination of FCS status, disclosure to stockholders, and reconsideration of stockholder votes.

Section 408, in subsection (a), will change the title heading of new title VII from "MERGERS OF SYSTEM INSTITUTIONS" to "RESTRUCTURING OF SYSTEM INSTITUTIONS". This is a conforming amendment to make the title more descriptive of the content of title VII.

Section 408, in subsection (b), will amend new section 7.0, added by section 416 of the 1987 Act, to make a conforming change in the provision authorizing FCS banks within a district to merge. As currently written, section 7.0 states that "Two or more banks within a district" may merge. The amendment will change the phrasing to "The banks within a district". (Note: Under section 410 of the 1987 Act, two (the Federal land bank and Federal intermediate credit bank) of the three banks currently in each farm credit district will be merged into a single Farm Credit Bank, leaving, at most, two banks in each district—the Farm Credit Bank and the bank for cooperatives. There could be but one if, after the BC merger vote under section 413 of the 1987 Act, the district bank for cooperatives is merged into a larger National or United Bank for Cooperatives.)

It also will revise the language of paragraph (3) of new section 7.0 establishing that a majority approval by the stockholders of a merger is to be determined in accordance with section 5.2(c). However, section 5.2(c) (which section 802(u)(3) of the 1987 Act redesignated as 5.2(d)) is part of the district board provisions to be repealed six months after the enactment of the 1987 Act (see the analysis of subsections (c) and (d) of section 409 below). The amendment will substitute, for the cross-reference that soon will be out of date, the substantive provisions of section 5.2(c) providing a special rule for voting by stockholders of FCS banks, excluding banks for cooperatives (which have a separate special rule provided in paragraph (4) of section 7.0, in addition to the implicit requirement remaining in paragraph (3), as amended, that a majority of the BC stockholders, on a one-man, one-vote basis, must approve the merger). The substitute language will provide a special "look-through" voting rule that associations (who are the stockholders of Federal land banks and Federal intermediate credit banks, and will be the stockholders of Farm Credit Banks), in each case, will be entitled to cast a number of votes equal to the number of its voting stockholders.

Section 408, in subsection (c), will revise new section 7.1, added by section 416 of the 1987 Act, which provides for the boards of directors merged under new section 7.0, to—

(1) eliminate provisions, originally in the Senate version of the 1987 Act, involving farm credit district boards (since, under the conference agreement on 1987 Act, the district board system will terminate six months after the Act's enactment); and

(2) substitute for the remaining provision, originally in the Senate version (which in calling for representation on the board of the associations of each of the merging banks is inconsistent with the scope of new 7.0 under the conference agreement—that is, it is an authorization for mergers of Farm Credit Banks and district banks for cooperatives (whose stock is held not by FCS associations but by individual cooperatives)), the same language used in the conference agreement for the boards of directors of new Farm Credit Banks, production credit associations, and Federal land bank associations under new titles I and II (effective six months after the enactment of the 1987 Act). See sections 1.4, 2.1, and 2.11 in new titles I and II.

The revised text of new section 7.1 will provide that each merged bank is to elect a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that at least one member must be elected by the other directors, which member cannot be a director, officer, employee, or stockholder of an FCS institution.

Section 408, in subsection (d), will substitute a revised 7.3 for new section 7.3 (capital stock of FCS district banks merged under new section 7.0) and new section 7.4 (use of capital and earning by such banks), both added by section 416 of the 1987 Act. Similarly to the amendment to be made by subsection (f) of section 407 (analysed above), the amendment here will conform the capitalization and use of capital and earnings provisions applicable to these merged banks to the System-wide capitalization rules established under new section 4.3A, added by section 301(b) of the 1987 Act. In doing so, the amendment will provide substitute language that tracks the language used in new sections 1.6, 2.3(a), and 2.13, which will become effective in six months. (Note: New section 4.3A, which generally provides for capitalization rules for each FCS institution, already provides that, to the extent any provision of that section is inconsistent with any other provision in the Farm Credit Act of 1971, that section will prevail.)

Revised section 7.3 will provide that, in accordance with section 4.3A, each merged bank is to provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock is to be issued, held, transferred, and retired and bank earnings distributed.

Section 408, in subsection (e), will redesignate new section 7.5, added by section 416 of the 1987 Act, as section 3.29 and transfer the redesignated section to the end of part B (dealing with consolidated banks for cooperatives) of title III. Section 7.5 provides for annual reports by merged banks for cooperatives and thus properly should be placed in title III, rather than subtitle (a) (which deals with mergers of unlike banks) of title VII.

Section 408, in subsection (f), will make several clarifying amendments to, and corrections of cross-references in, subsection (a) of new section 7.6 (transfer of long-term real estate lending authority from FCS banks to Federal land bank associations), added by section 416 of the 1987 Act. The amendment will—

(1) *in paragraphs (1), (2), and (4),* substitute in several places the word "transfer" for the words "assign" and "assignment"—this is a clarifying change because the authority provided under subsection (a) of 706 is transfer authority, and the use of the concept of assignment creates a possible ambiguity about the scope of the authority. One of the changes, that to the tag line of subsection (a), substitutes "voluntary transfers" for "ASSIGNMENTS" to distinguish transfers under subsection (a) from transfers under new subsection (d) (mandatory transfer)—see the analysis of subsection (i) below;

(2) *in paragraph (3),* strike out cross-references to sections of the Act dealing with long term real estate lending under title I that will become incorrect when new title I goes into effect six months after the enactment of the 1987 Act (see the note in the analysis of section 102(b) above). The amendment will substitute for the section references an equally accurate reference to "this Act"; and

(3) *in paragraph (5),* correct an erroneous cross-reference to section 7.6 (the section in which the cross-reference appears). The cross-reference appears in a provision of subsection (a) of section 7.6 requiring that a transfer of lending authority be approved by the stockholders of the bank and associations involved, in accordance with certain cross-referenced voting provisions. The voting provisions erroneously cross-referenced as being in section 7.6 are those relating to association stockholders. The provision originally appeared in the Senate version of the 1987 Act. In the Senate version, what is now section 7.6 was section 7.7, and in that context the cross-reference was correct—there was an association voting provision in the Senate section 7.6. However, the Senate section 7.6 was not included in the 1987 Act. But substantially similar provisions can be found in new section 7.8, added by the 1987 Act. Therefore, the amendment will change the cross-reference from "7.6" to "7.8".

Section 408, in subsection (g), will amend subsection (b) (FLBA lending powers after a transfer to it of bank lending authority) of new section 7.6, to—

(1) change a reference from "assignment" to "transfer"—see the analysis of paragraph (1) of subsection (f) above;

(2) extend the applicability of subsection (b) to new subsection (d) (mandatory transfer)—see the analysis of subsection (i) below; and

(3) as a conforming change, revise a reference from "Federal land bank" to "bank"—see the note in the analysis of section 102(f) above.

Section 408, in subsection (h), will amend subsection (c) (FCA regulations relating to transfers) of new section 7.6 to—

(1) strike out a reference to "assignments"—see the analysis of paragraph (1) of subsection (f) above; and

(2) delete a superfluous sentence stating that, following a transfer or assignment under subsection (a) of section 7.6, the provisions of section 4.3A will be applicable to the transferee association. (Note: Section 4.3A applies to all FCS institutions and the inclusion of this sentence in section 7.6 could create an unintended ambiguity as the applicability of section 4.3A to other FCS institutions.)

Section 408, in subsections (i) and (j), will redesignate new section 7.7, added by section 416 of the 1987 Act, as subsection (d) of section 7.6. Section 7.7 provides that, on the merger of a production credit association with a Federal land bank association, the land bank association's supervisory bank is required to transfer its long-term real estate lending authority to the merged association. As currently designated, section 7.7 is inappropriately placed in chapter 2 (merger of associations), rather than chapter 1 (transfers of lending authority) of subtitle B of title VII. The amendment will place this provision in chapter 1. Also, the amendment, by making the provision a subsection of new section 7.6, along with the amendment made by subsection (g) (analyzed above) applying subsection (b) of section 7.6 to section 7.7 mandatory transfers, will make a clarifying improvement with respect to the provision. With mandatory transfers made part of section 7.6 and subject to subsections (b) and (c) thereof, there will be no ambiguity as to the powers of the associations under the transfer and the role of the Farm Credit Administration in regulating the transfer. The provisions of new subsection (d) of 7.6 will be the same as currently in section 7.7. Also, an erroneous cross-reference in section 7.7 to the transfer of bank lending authority "under section 7.8" will be eliminated. (Note: Section 7.8 contains no provision relating to the transfer of bank lending authority.)

Section 408, in subsection (k), will delete a superfluous sentence in subsection (b)(2) of new section 7.8 (merger of associations in a farm credit district), added by the 1987 Act. The superfluous sentence provided that, following a merger under section 7.8, the provisions of new section 4.3A will be applicable to the merged association. A similar sentence will be deleted from section 7.6 by subsection (h) of section 408; see paragraph (2) of the analysis of subsection (h) above.

Section 408, in subsection (1), will substitute a revised subsection (c)(2) for subsections (c)(2), (c)(3), and (d) (capitalization provisions) of new section 7.8. Similarly to the revision of new section 7.3 to be made by subsection (d) (analyzed above), the revision here will conform the capitalization provisions applicable to merged associations to the System-wide capitalization rules established under new section 4.3A, added by section 301(b) of the 1987 Act. The revision will not change the effect of the provisions substituted for (with one exception), but will ensure that the language in section 7.8 tracks the language used with respect to capitalization of Farm Credit Banks, production credit associations, and Federal land bank associations in new sections 1.6, 2.3(a) and 2.13, respectively, which will become effective in six months. The one exception is an ambiguous provision not carried over in the revision that, if read literally, would permanently restrict voting stock ownership to only those producers who were direct borrowers from the associations involved at the time of the merger. A better reading is that voting stock in the merged association will be limited to persons who, at the time they hold stock, are direct borrowers: this reading is the same as provided under new section 4.3A.

Specifically, revised subsection (c)(2) will provide that, in accordance with section 4.3A, each merged association is to provide, through its bylaws and subject to FCA regulations, for the capitalization of the association and the manner in which association stock will be issued, held, transferred, and retired, and association earnings distributed.

Section 408, in subsection (m), will redesignate new section 7.9 (reconsideration of merger and similar stockholder votes), added by section 416 of the 1987 Act, as "CHAPTER 3—RECONSIDERATION". Currently it inappropriately is in chapter 2, entitled "MERGER OF LIKE AND UNLIKE ASSOCIATIONS". In connection with the addition of the new chapter 3 designation, current Chapter 3 (which applies to new section 7.10) will be redesignated at chapter 4.

Section 408, in subsection (n), will make several amendments to subsection (a) of new section 7.9. Subsection (a) itemizes the stockholder votes that are subject to reconsideration under section 7.9. The amendments will—

(1) *in paragraph (1),* change the cross-reference to section 5.17(b)(2) in paragraph (1) of subsection (a) (intended to be a reference to the statutory authority for votes on mergers of districts) to a general cross-reference to the Farm Credit Act of 1971. The current reference to section 5.17(b)(2) is a reference to the provision authorizing FCA approval of such mergers, not the provision authorizing stockholders votes on such margers;

(2) *in paragraph (2),* add a needed cross-reference to new section 7.13, added by section 416 of the 1987 Act, to paragraph (5) of subsection (a), which covers votes on mergers of associations;

(3) *in paragraph (3),* make a grammatical change of "and" to "or" at the end of paragraph (6) of subsection (a), to reflect the disjunctive nature of the items listed in paragraphs (1) through (7);

(4) *in paragraph (4),* change an erroneous cross-reference in paragraph (7) of subsection (a) from "section 7.13" to "section 7.12", to correct the reference to the provision of new title VII covering mergers of similar banks; and

(5) *in paragraph (5),* redesignate paragraphs (5) through (7) of subsection (a) as paragraphs (4) through (6)—needed because subsection (a) currently has no paragraph (4), it skips from paragraph (3) to (5).

Section 408, in subsection (0), will make two changes in subsection (b)(2) of new section 7.9, which requires stockholder notification of the results of a vote on a merger or related action prior to it going into effect. The first change is to correct a typographical error by deleting a superfluous comma separating the subject of the one-sentence subsection from its predicate. The second change is a conforming amendment to extend the conditional clause at the end of the subsection ("shall not take effect until . . . the stockholders of such association are notified") to stockholders of banks. This will make the conditional clause parallel in construction to the rest of the sentence ("A voluntary merger . . . approved by a vote of the stockholders of two or more banks or associations shall not take effect . . .").

Section 408, in subsection (p), will make two clarifying amendments to subsection (a)(1) (disclosure of information to stockholder on plans of merger or related action) of new section 7.11, added by section 416 of the 1987 Act. The amendments will—

(1) delete a reference in subsection (a)(1) to assisgnments of lending authority—see the analysis of paragraph (1) of subsection (f) above; and

(2) change a reference to "such institutions" to "the institutions involved"—the phrase has no antecedent that lends itself to the word "such".

Section 408, in subsection (g), will revise subsection (b) of new section 7.12, added by section 416 of the 1987 Act, to conform the cross-references (to the provisions in current sections 7.2, 7.3, and 7.4 relating to the powers and capitalization of FCS banks merged under section 7.0) to the changes to be made to sections 7.3 and 7.4 by subsection (d), analyzed above.

Section 408, in subsection (r), will make a conforming change in subsection (c)(2)(B) of new section 7.12, by changing "members" to "directors" in the phrase "elected by members elected under subparagraph (A)". Subparagraph (A) of subsection (c)(2) describes certain directors, not members, of boards of directors of banks merged under section 7.12.

Section 408, in subsection (s), will amend subsection (a)(4) of new section 7.13 (mergers of similar associations), added by section 416 of the 1987 Act. As currently written, subsection (a)(4) requires that the merger of like associations be approved by the supervising Farm Credit Bank (singular). To the extent that like associations in different districts (and thus supervised by different Farm Credit Banks) wish to merge under section 7.13, the subsection (a)(4) requirement should be changed to a requirement for approval by the Banks involved. Subsection (s) will make this change.

Section 408, in subsection (t), will make a change in the cross-references in subsection (b) of section 7.13 to conform the reference (to the provisions of current subsections (b), (c), and (d) of section 7.8 relating to the capitalization of FCS associations merged under section 7.8) to the changes to be made to subsections (c) and (d) by subsection (1), analyzed above.

Section 408, in subsection (u), will add a new subtitle E (consisting of one section—section 7.14) to new title VII. The new provision was agreed to by the conferees on the 1987 Act (as stated in the statement of managers), but inadvertently was not included in the conference report. New subtitle E, entitled "TAXATION OF MERGER TRANSACTIONS," will provide that no State or political subdivision of a State can treat the merger or consolidation of two or more FCS institutions under new title VII, or title IV of the 1987 Act, as resulting in a change of ownership of any property owned by any of such merging or consolidating institutions, for purposes of any law of such State or political subdivision imposing a tax on the ownership or transfer of property.

Sec. 409—Amendments related to the second section 414 and second 415 of the 1987 Act—

Section 409, in subsection (a), will correct a drafting error in the Agricultural Credit Act of 1987 under which the sections following section 416 were designated 414 and 415, causing there to be two section 414s and 415s in the 1987 Act. Subsection (a) will redesignate the second sections 414 and 415 as sections 417 and 418, respectively.

Section 409, in subsection (b), will make a conforming amendment to the table of contents of the 1987 Act to reflect the redesignations to be made by subsection (a).

Section 409, in subsection (c) and (d), will correct the erroneous repeal of sections 5.1 through 5.6 (relating to the organization and powers of farm credit district boards) effective on the date of enactment of the 1987 Act. The conference agreement on the 1987 Act requires that the district board system remain in existence for six months after the enactment of the 1987 Act—see the note in the analysis of section 102(h) above. Thus, subsection (c) will repeal subsection (c) of the second section 415 of the 1987 Act, which repealed section 5.1 through 5.6 effective on enactment; and, in connection with that, it will require that the

Farm Credit Act of 1971 be applied and administered (and the amendments made by section 430 of the 1987 Act to section 5.5 and by section 802(u) of the 1987 Act to section 5.2, take effect) as if such subsection (c) of the second section 415 had not been enacted.

Then, subsection (d) will repeal sections 5.1 through 5.6 at the correct time—six months after the enactment of the 1987 Act.

Section 409, in subsection (e), will make a clarifying amendment to subsection (a)(2) of section 5.17. That provision was amended by subsection (d) of the second section 415. The amendment will revise a provision that currently provides that the Farm Credit Administration has the power to "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories that they serve when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved * * *;". The amendments will—

(1) add the word "approve" inadvertently left out at the beginning of the clause referring to consolidations or divisions; and

(2) replace the underlined phrase ("that they serve") with the words "of institutions". The "they" in "that they serve" has no antecedent, and the replacement phrase "of institutions" conforms to the rest of the clause. (Note: Prior to the amendments made by the second section 415, the word "they" had an antecedent (FCS banks and other institutions), but the antecedent was deleted by the second section 415.

Sec. 410—Amendments related to section 421 of the 1987 Act—

Section 421 of the Agricultural Credit Act of 1987 added a new subsection (b) (making certain entities eligible to borrow from a bank for cooperatives) to section 3.8. Section 410 will make a grammatical correction to subsection (b)(1)(C) of section 3.8. The correction will be to change "make" to "makes" to ensure that the verb fits the context in which it is used. The provision would read "Any legal entity that (i) holds * * * and (ii) borrows * * * and makes funds available * * *".

Sec. 411—Amendments related to section 422 of the 1987 Act—

Section 422 of the Agricultural Credit Act of 1987 designated the text of subsection (a) of section 4.29 as paragraph (1) and added a new paragraph (2) to subsection (a) requiring FCS associations to offer at least two insurers for each of its insurance programs from among those approved by the Federal intermediate credit banks.

Section 411, in subsection (a) (effective six months after the enactment of the 1987 Act), will amend subsection (a)(1) of section 4.29 to delete cross-references to sections in titles I and II that will become outdated in six months (see the note in the analysis of section 102(b) above) and substitute equally accurate references to titles I and II, so that the provision involved will read, "The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under titles I and II * * *" (Note: The section references to be deleted refer to the only sections of titles I and II that so authorize financially related services.)

Section 411, in subsection (b) (effective six months after the enactment of the 1987 Act), will make a conforming amendment to paragraph (2) of subsection (a) of section 4.29, added by the 1987 Act. The conforming amendment will change a reference from "Federal intermediate credit banks" to "Farm Credit Banks". See the note in the analysis of section 102(f) above.

Sec. 412—Amendments related to section 426 of the 1987 Act—

Section 426 of the Agricultural Credit Act of 1987 revised the text of section 1.9 (Federal land bank loan security).

Section 412, in subsections (a) and (b)(2), will make "pre-approval" changes to section 1.9, as revised by section 426 of the 1987 Act, so that section 1.9 will conform to old section 1.9 that erroneously (see the analysis of section 701 below) was amended by subsection (d) of section 802 of the 1987 to effect "pre-approval" changes. See also the note in the analysis of section 401(b) above. (Note: Those provisions of both old section 1.9 and revised section 1.9 to which the pre-approval changes apply are the same, notwithstanding other changes to the text of section 1.9 made by section 426 of the 1987 Act.)

Section 412, in subsection (b)(1), will make a grammatical change to subsection (c) of section 1.9, by striking out a redundent word (the second "appraisal") in the phrase "shall be determined by appraisal under appraisal standards". See also the analysis of section 401(h)(2)(A) above.

Sec. 413—Amendments related to sections 427 and 428 of the 1987 Act—

Section 413 will correct a drafting error in the Agricultural Credit Act of 1987 under which two new sections 4.37 were added to the Farm Credit Act of 1971. Section 110 of the 1987 Act added a new section 4.37 (entitled "APPLICATION OF UNINSURED ACCOUNTS"); section 427 of the 1987 Act added a second new section 4.37 (entitled "AFFIRMATIVE ACTION"); and section 428 of the 1987 Act added a new section 4.38 (entitled "ENCOURAGEMENT OF CONSERVATION PRACTICES"). Section 413 will redesignate the second section 4.37 and section 4.38 as sections 4.38 and 4.39, respectively.

Sec. 414—Amendment related to section 430 of the 1987 Act—

Section 430 of the Agricultural Credit Act of 1987 added a provision to section 5.5 providing that no director serving on a farm credit district board may receive compensation for such service in excess of $15,000 annually.

Section 414 (effective six months after the enactment of the 1987 Act) will make a conforming addition of a new section 4.23 at the end of part D of title IV. The new section 4.21 will restate, in updated form, the provision added to section 5.5 by section 4.30 of the 1987 Act. The new provision is needed because section 5.5 will cease effect, and the farm credit district board system will terminate, six months after the enactment of the 1987 Act—see the analysis of subsections (c) and (d) of section 409 above. To continue the limitation following the repeal of section 5.5, new section 4.21 will provide that no member of the board of directors of an FCS bank may receive more than $15,000 per year as compensation for serving in that capacity.

Sec. 415—Amendments related to section 431 of the 1987 Act—

Section 431 of the Agricultural Credit Act of 1987, in subsection (c), revised the text of section 5.11 (organization of the Farm Credit Administration). The revision carried over from old law a provision making FCA personnmel subject to the maximum pay scale for Federal employees, as provided in title 5 of the U.S. Code. However, in revised section 5.11, the citation to the section in title 5 where this provision is found is erroneous.

Section 415, in subsection (a), will strike the current reference (5 U.S.C. 5315) and insert the correct reference (5 U.S.C 5373).

Section 431 of the Agricultural Credit Act of 1987, in subsection (f), added a new subsection (c) to section 2.15 of current law. That section deals with PCA lending, and new subsection (c) authorizes a production credit association in a farm credit district that has no more than three PCAs to make loans to borrowers outside its territorial service area in certain situations.

Section 415, in subsection (b), will revise new subsection (c)(1) of section 2.15 to—

(1) make grammatical revisions in the text; and

(2) change the reference to districts with "no more than three" PCAs (in the description of situations to which subsections (c) will apply) to a reference to districts with "no more than two" PCAs. This change is necessary to correctly reflect the conference agreement on this item.

The language of revised subsection (c) of section 2.15 also will be inserted in new section 2.4 (see the analysis of section 401(q) above).

Sec. 416—Amendments related to section 432 of the 1987 Act—

Section 432 of the Agricultural Credit Act of 1987, in subsection (a), revised the text of section 5.15 (FCA operating expenses fund) and, in subsection (b), added a provision to section 5.19(a), providing for FCA examinations of Federal land bank associations.

Section 416, in subsections (a) and (b), will make clarifying changes in subsections (a)(2) of section 5.15, as revised by section 432(a) of the 1987 Act. The amendments will—

(1) replace an ambiguous reference to "such assessment" in subparagraph (A) of subsection (a)(2)—there is no antecedent to which the word "such" can refer. The context indicates the reference is to the assessments to cover FCA administrative expenses under subparagraph (B) of subsection (a)(1). The substitute reference will be to "the assessment described in paragraph (1)(B)"; and

(2) change the way an assessment amount provided in subparagraph (C) of subsection (a)(1) is referred to in subparagraph (C) of subsection (a)(2)—from "specified" to "described"—to reflect the fact that subparagraph (C) of subsection (a)(1) does not specify an amount but describes the amount as that needed to pay the costs of supervising and examining the Federal Agricultural Mortgage Corporation.

Section 416, in subsection (c), will amend the provision added to section 5.19(a) by section 432(b) of the 1987 Act to change an incorrectly-stated time period therein. The provision added by the 1987 Act requires FCA examination of each Federal land bank association at least once every five years. The conference agreement on the 1987 Act was that an examination must take place at least once every three years, and the amendment will change the provision to conform to the conference agreement.

Sec. 417—Amendments related to section 433 of the 1987 Act—

Section 417 will make several clarifying and conforming amendments to section 433 of the Agricultural Credit Act of 1987, a free-standing provision authorizing the reassignment of FCS assocations to farm credit districts adjoining the districts in which they are located.

Specifically, section 417 will—

(1) *in subsection (a)(1),* change an excepting clause in subsection (a) of section 433 that reads, "Notwithstanding any other provision of this Act" to read "Notwithstanding any other provision of law". This change is needed because the 1987 Act ("this Act") does not contain all the provisions of law possibly in contact with the provisions of section 433. Arguably, provisions of the Farm Credit Act of 1971 not changed by the 1987 Act provide strictures that are intended to be overridden by section 433;

(2) *in subsection (a)(2),* make a conforming grammatical change to the reference, in subsection (a) of section 433, to the "Agricultural Credit Act of 1987". The reference would be changed to the more grammatically accurate "this Act";

(3) *in subsection (b),* change an erroneous cross-reference in subsection (b) of section 433, from "this subsection" to "this section"—the intended reference is to the provision authorizing the filing of petitions for reassignment, a provision not found in subsection (b), but in subsection (a) (which contains the general authorization for reassignments applicable to the entire section);

(4) *in subsection (c),* eliminate a reference in subsection (c)(2) of section 433 to a farm credit district board of directors (which will be out-of-date six months after the enactment of the 1987 Act—see the analysis of section 102(h) above) and replace it with a reference to a district bank board of directors (which will be a valid reference before and after the six-month post-enactment period); and

(5) *in subsection (d),* as a clarifying change to subsection (c)(2)(5), make the reference to "Assistance Board" more specifically read "Farm Credit System Assistance Board".

TITLE V—AMENDMENTS RELATED TO TITLE V OF THE 1987 ACT

Title V of the Agricultural Credit Act of 1987, in sections 501 through 506, contains free-standing provisions to establish a matching grant program to assist in the funding of State agricultural loan mediation programs.

Sec. 501—Amendment related to section 501 of the 1987 Act—

Section 501 will make a grammatical correction to subsection (b) of section 501 of the Agricultural Credit Act of 1987, by deleting the superfluous comma in the phrase "Within 15 days after the Secretary receives from the Governor of a State, a description of . . ."

Sec. 502—Amendments related to section 503 of the 1987 Act—

Section 502, in subsection (a), will add clarifying language to subsection (a)(1)(B) of section 503 of the Agricultural Credit Act of 1987. As currently written, subsection (a)(1)(B) provides that the Secretary of Agriculture "shall, on the date of enactment of this Act, participate" in certain agricultural loan mediation programs. However, the conference agreement on the 1987 Act must be read as requiring such participation for the period beginning on the date of enactment. Thus, the amendment will change the phrase to read, "shall, effective beginning on the date of enactment of this Act, participate."

Section 502, in subsection (b), will correct an ambiguous cross-reference in subsection (a)(2) of section 503 of the 1987 Act. Subsection (a)(2) currently provides that the Secretary of Agriculture will not be bound by a determination made in a program described in subsection (a)(1). However, subsection (a)(1) refers both to Department of Agriculture farm loan programs (see the material in subsection (a)(1) preceding subparagraph (A)) and State agricultural loan mediation programs (see, for example, subparagraph (A) of subsection (a)(1)). The context of subsection (a)(2) indicates that the programs cross-referenced are the State programs: Determinations made in the other programs—Department of Agriculture programs—should bind the Secretary since they are his determinations. Thus, the cross-reference will be changed to "section 501" (in which the only program described is the State program).

TITLE VI—AMENDMENTS RELATED TO TITLE VII OF THE 1987 ACT

Sec. 601—Amendments related to section 702 of the 1987 Act—

Section 702 of the Agricultural Credit Act of 1987 added a new title VIII of the Farm Credit Act of 1971, establishing a new agricultural credit secondary market program.

Section 601, in subsection (a), will make a grammatical change in paragraph (9) of new section 8.0, added by section 702 of the 1987 Act. Paragraph (9) defines the term "qualified loan" (for purposes of the secondary market program) as an obligation that meets criteria listed in subparagraphs (A), (B), and (C) thereof. The criterion in subparagraph (B) is that the obligation is an obligation of a U.S. citizen or lawfully admitted alien (clause (i) of subparagraph (B)) or of a private corporation or partnership that meets a certain standard (clause (ii) of subparagraph (B)), that is, that a majority of its stockholders meet the clause (i) criterion. However, as currently written, clause (ii) states that the corporation or partnership must be one in which its equity holders "hold" a majority interest (a provision that on its face is meaningless) and are individuals described in clause (i). To conform clause (ii) to its intended meaning, the amendment would change the words quoted in the preceding sentence, so clause (ii) would read—

"(ii) a private corporation or partnership whose members, stockholders, or partners holding a majority interest in the corporation or partnership are individuals described in clause (i);".

Section 601, in subsection (b), will amend subsections (a)(1) and (b)(3) of new section 8.2, added by section 702 of the 1987 Act, to eliminate a possible ambiguity. In both cases, the current language establishes time periods beginning on the effective date of new title VIII. However, title VIII does not have a special effective date; it became effective on the date of enactment of the 1987 Act. Thus, in both cases, the reference to "effective date" would be changed to the "date of the enactment" of the 1987 Act.

Section 601, in subsection (c), will amend subsection (c)(4) of new section 8.3, added by section 702 of the 1987 Act, to eliminate a possible ambiguity. As currently written, subsection (c)(4) gives the Federal Agricultural Mortgage Corporation the power to provide for a president and other employees and to make provisions for a losses occasioned by "acts of the persons". The persons referred to are the president and other employees, so the phrase quoted in the preceding sentence would be changed to read "acts of such persons".

Section 601, in subsection (d), will make a clarifying change to subsection (a)(1) of new section 8.4 (stock issuance by the Federal Agricultural Mortgage Corporation), added by section 702 of the 1987 Act. The amendment will resolve in the affirmative any question as to whether national banking associations are eligible to purchase and hold certain FAMC stock. Currently, subsection (a)(1) of new section 8.4 provides that class A stock may be held by entities—

(1) that are not FCS institutions; and

(2) that are eligible (as insurance companies, banks, or other financial institutions or entities) to vote for the members of the FAMC board elected by such entities.

The amendment will separate these two criteria, as contained in subsection (a)(1), by the conjunction "and", and add at the end of the second criterion the clarifying phrase "including national banking associations (which shall be allowed to purchase and hold such stock)".

Section 601, in subsection (e), will correct a drafting error in subsection (e)(1) of new section 8.4. The second sentence of that subsection provides that certain preferred stock is freely transferable, except that, as to the Federal Agricultural Mortgage Corporation, "such stock shall be transferable only on the books of the *Association*". This provision erroneously uses the word "Association" (Italicized above) when its meaning clearly is "Corporation". The amendment will change "Association" to "Corporation". (Note: In no place in the secondary market provisions of the 1987 Act are there provisions relating to Associations.)

Section 601, in subsection (f), will make two clarifying modifications to subsection (a)(1) of new section 8.6 (guarantee of qualified loans by the Federal Agricultural Mortgage Corporation), added by section 702 of the 1987 Act. The amendment will clarify that the Corporation may only guarantee the timely payment of principal and interest on the securities issued by a certified facility that represent interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans that meet the standards established under section 8.8 and that are held by the facility. The amendment will make express the implied cross-reference to new section 8.8, which establishes the minimum criteria for the standards to be established by the board of directors of the Corporation for qualified loans.

Section 601, in subsection (g), will correct a drafting error in subsection (e) of new section 8.6. The amendment will strike out paragraph (2) of subsection (e) to make clear that the Board of the Federal Agricultural Mortgage Corporation has no responsibility to adopt standards regarding securities registration requirements.

Section 601, in subsection (h), will make a conforming change of "effective date" to "date of enactment" in subsection (f)(1) of new section 8.6. See the analysis of subsection (b) above.

Section 601, in subsection (i), will make a clarifying amendment to subsection (a) of new section 8.6. The amendment will clarify that it is the permanent board of directors of the Federal Agricultural Mortgage Corporation that will, in consultation with originators, establish uniform underwriting, security appraisal, and repayment standards for qualified loans.

Section 601, in subsection (j), will correct a drafting error in new section 8.9 (exemption from restructuring and borrowers rights provisions for pooled loans), added by section 702 of the 1987 Act. The amendment will change an erroneous cross-reference to section 4.37 of the Act found in several places to become a reference to section 4.36. (NOTE: Neither of the sections 4.37 added by the 1987 Act relates to borrowers rights, but section 4.36 establishes an FCS right of first refusal program.) The amendment also will add a reference to section 4.14D to these cross-references. This reference—to a borrowers right provision concerning acceleration of loans based on minimum collateral requirements—was intended to be included in the provisions of section 8.9, which would allow the borrower to make a knowing waiver of this right.

Section 601, in subsection (k), will make a conforming change in subsection (a)(1) of new section 8.12 (securities in credit enhanced pools), added by section 702 of the 1987 Act. The amendment will make the language of subsection (a)(1) conform with other references in title VIII to securities representing an interest in, or obligations backed by, a pool of qualified loans (e.g., see subsection (c)(1) of section 8.12).

Section 601, in subsection (l), will make a conforming change of "effective date" to "date of enactment" in subsection (b)(2) of new section 8.12. See the analysis of subsection (b) above.

Sec. 602—Amendment related to section 703 of the 1987 Act—

Section 703 of the Agricultural Credit Act of 1987 amended section 9105 of title 31 of the U.S. Code to provide for audits of the Federal Agricultural Mortgage Corporation by the Comptroller General.

Section 602 will correct a drafting error in subsection (a)(4)(B)(i) of section 9105 of title 31, as added by section 703 of the 1987 Act. That provision requires the Federal Agricultural Mortgage Corporation to make available to the Comptroller General for audit "all records and property of, or used or managed by the Association which may be necessary for audit". The provision erroneously used the word "Association" (underlined above) when its meaning clearly is "Corporation". The amendment will change "Association" to "Corporation". See the note in the analysis of section 601(e) above.

Sec. 603—Amendment related to section 704 of the 1987 Act—

Section 603 will make a clarifying amendment in subsection (a)(1) and in subsection (a)(2) of section 704 of the Agricultural Credit Act of 1987. Each subsection requires the Comptroller General to perform a study relating to the secondary market activities of the Federal Agricultural Mortgage Act are found in subtitle A of title VII; subtitle B contains provisions relating to a secondary market for FmHA guaranteed loans. However, the two study provisions in section 704 refer to "the amendments made by this title". Section 603 will change these references to "subtitle" to more precisely describe the amendments relating to the FAMC secondary market.

Sec. 604—Amendments related to section 705 of the 1987 Act—

Section 705 of the Agricultural Credit Act of 1987 added new provisions to the Farm Credit Act of 1971, as follows: paragraph (23) of section 1.4 (Federal land banks), paragraph (22) of section 1.15 (Federal land bank associations), paragraph (21) of section 2.1 (Federal intermediate credit banks), and paragraph (21) of section 2.12 (production credit associations). The added provisions are all the same and will authorize the FCS institution involved to "operate as an originator and to become certified as a certified facility under title VIII" (FAMC secondary market provisions). In each case, the underlined word ("to") is superfluous because the lead-in to the itemized provision in each section provides that the institution "shall have power to—".

Sec. 605—Amendments related to section 711 of the 1987 Act—

Section 605 will make a technical amendment to new subsection (f) of section 338 of the Consolidated Farm and Rural Development Act (FmHA guaranteed loan secondary market) added by section 711(a) of the Agricultural Credit Act of 1987. The amendment will add a new paragraph (5) at the end of new subsection (f) of section 338, to provide that the Secretary of Agriculture may contract for goods and services to be used for the purposes of new subsection (f), without regard to certain other requirements of Federal law. The amendment will allow the Secretary of Agriculture to begin improving the secondary market for loans guaranteed by the Farmers Home Administration without delay, consistent with the conference agreement on the 1987 Act.

TITLE VII—AMENDMENTS RELATED TO TITLE VIII OF THE 1987 ACT

Sec. 701—Amendments related to section 802 of the 1987 Act—

Section 802 of the Agricultural Credit Act of 1987 made a number of amendments to the Farm Credit Act of 1971 to reverse or rewrite provisions therein that required the Farm Credit Administration pre-approval of actions taken by FCS institutions or other direct involvement in the operations of the Farm Credit System inconsistent with its role—since the amendments to the Farm Credit Act of 1971 made by the Agricultural Credit Amendments Act of 1985, Public Law 99-205—as an arms-length regulator. Subsection (d) of section 802 of the 1987 Act made such "pre-approval" changes to section 1.9 as it existed prior to the 1987 Act. However, the 1987 Act also—in section 426—completely revised section 1.9, making the amendments to pre-existing law in subsection (d) of section 802 meaningless. Therefore, section 701 will repeal subsection (d) of section 802 and provide that section 1.9 (as revised by section 426 of the 1987 Act) is to be applied and administered as if the subsection had not been enacted. See also the analysis of section 412, which will make similar "pre-approval" changes in revised section 1.9.

Sec. 702—Amendments related to section 805 of the 1987 Act—

Section 805 of the Agricultural Credit Act of 1987 made a number of technical corrections to the Farm Credit Act of 1971.

Section 702 will make several conforming changes to the provisions amended by section 805 of the 1987 Act. Specifically, it will—

(1) *in subsection (a),* correct a grammatical error made to current section 1.15(12) by subsection (b) of section 805 of the 1987 Act: That subsection struck out "or delegated to" in the phrase "as may be agreed to or delegated to the association". The correction will insert the needed preposition "by" before "the association" in the amended text;

(2) *in subsection (b),* repeal subsections (q), (s), and (x) of section 805 of the 1987 Act. Those three subsections amended pre-existing sections 4.3(c), 4.14, and 5.11, respectively. However, section 304 of the 1987 Act completely revised section 4.3(c), section 106 of the 1987 Act completely revised section 4.14, and section 431(c) of the 1987 Act completely revised section 5.11, making the repealed subsections unnecessary. Also, subsection (b) provides that section 4.3(c), 4.14, and 5.11 are to be applied and administered as if such subsections had not been enacted;

(3) *in subsection (c),* correct erroneous part designations made by subsection (u) of section 805 of the 1987 Act. Subsection (t) of section 805 of the 1987 Act redesignated sections 4.15 through 4.19 as part D of title IV, and redesignated pre-existing part D as part E. Subsection (u) of section 805, in conjunction with those amendments, redesignated parts E and F of title IV as G and H, respectively, skipping part F. The amendment made by subsection (c) will correct this drafting error and redesignate parts G and H as parts F and G, respectively;

(4) *in subsection (d),* correct a cross-reference in subsection (e) of section 5.28. The cross-reference was incorrectly changed by subsection (aa) of section 805 of the 1987 Act—from "subsection (d)(1)" to "subsection (d)". The matter intended to be cross-referenced is the provision of section 5.28 authorizing suspension by the Farm Credit Administration of officers of FCS institutions in certain situations, which is found in subsection (c) of section 5.28, and subsection (d) will change the reference to subsection (c). (Note: Subsection (c) of section 5.28 even specifically cross-references proceedings under subsection (e) of section 5.28. Subsection (d) of section 5.28, on the other hand, provides procedures for a hearing on an FCA notice of intention to remove an officer of an FCS institution); and

(5) *in subsection (e),* correct a grammatical error in subsection (b) of section 5.29, as amended by subsection (bb)(2) of section 805 of the 1987 Act. As amended, subsection (b) of section 5.29 contains a provision that a person can appear before the Farm Credit Administration to show that he does not pose a threat to the interests of an FCS "institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institutions or the Farm Credit System". Subsection (e) will delete the grammatically unnecessary underlined word "may" in the above-quoted material.

(Note: Section 805 of the 1987 Act, in subsection (z)(1), repealed paragraph (13) of section 5.17(a). This provision (relating to the power of the Farm Credit Administration to sue and be sued) was added by section 201(7) of the Farm Credit Amendments Act of 1985 and was intended to ensure that the Farm Credit Administration would have the same legal status as other Credit Administration would have the same legal status as other Federal agencies. Section 201(7) of the 1985 Act was part of a number of amendments to the Farm Credit Act of 1971 made in title II of the 1985 legislation to restructure the Farm Credit Administration as an arms-length regulator of the Farm Credit System. However, paragraph (13) of section 5.17(a) is unnecessary to achieve its intent—to enable the agency to sue and be sued. Prior to the 1985 legislation, the agency already could sue and be sued as an independent Federal agency. The repeal of this provision by section 805(z)(1) of the 1987 Act simply preserves the agency's legal status as it existed prior to the 1985 legislation, and avoids any question as to whether the agency's legal status changed as a result of the 1985 legislation.)

TITLE VIII—AMENDMENTS RELATED TO TITLE IX OF THE 1987 ACT

Sec. 801—Amendments related to section 901 of the 1987 Act—

Section 901 of the Agricultural Credit Act of 1987 contains effective dates for provisions of the Act. Specifically, subsection (b)(2) of section 901 provides that certain existing regulations relating to FCS borrower rights are to remain in effect until January 1, 1989.

Section 801 will—

(1) *in paragraph (1),* make a conforming change to the U.S. Code citation for part C of title IV (the borrowers rights provisions) in subsection (b)(2) of section 901, by changing "12 U.S.C. 2201" to "12 U.S.C. 2201 et seq.";

(2) *in paragraph (2),* delete a superfluous comma in the provision in subsection (b)(2) of section 901 that restricts the applicability of the extension of the regulations to January 1, 1989. As currently written, that limiting provision reads "to the extent that such regulations are not contrary to this Act, and the amendments made by this title". Paragraph (2) would delete the underlined comma in the quoted material above; and

(3) *in paragraph (3),* correct a drafting error by changing "title" to "Act" in the material quoted in (2) above. Title IX of the 1987 Act contains only effective dates; the amendments to the Farm Credit Act of 1971 relating to borrower rights were made in other titles of the 1987 Act.

TITLE IX—OTHER AMENDMENTS TO THE FARM CREDIT ACT OF 1971

Sec. 901—Other amendments—

Section 901 contains a number of amendments to provisions of the Farm Credit Act of 1971 not directly affected by the Agricultural Credit Act of 1987. The section 901 amendments will conform these other provisions of the 1971 Act to changes made by the 1987 Act, and make other technical changes to the 1971 Act.

Section 901, in subsection (a), will correct an erroneous U.S. Code citation in sections 1.21 and 2.8. "31 U.S.C. 742(a)" will be changed to "31 U.S.C. 3124". See also the analysis of section 401(1) above.

Section 901, in subsection (b), will amend sections 2.1(12) and 3.1(12) to correct an erroneous cross-reference—"as defined in section 3(b) of the Federal Deposit Insurance Act" (referring to the term "insured State nonmember bank")—to "within the meaning of section 3 of the Federal Deposit Insurance Act". See the note in the analysis of section 201(a) above.

Section 901, in subsection (c), will make a conforming change in the provision of section 3.0 that currently provides that, unless an existing bank for cooperatives is merged with one or more other such banks under section 4.10, there must be a bank for cooperatives in each farm credit district and a Central Bank for Cooperatives. The amendment will delete the provision underlined above and insert in lieu thereof "another bank". This change will reflect the repeal of section 4.10 by the second section 415 of the 1987 Act and the broad new merger powers applicable to banks for cooperatives under title VII, as added by section 416 of the 1987 Act, and under section 413 of the 1987 Act.

Section 901, in subsection (d) (effective six months after the enactment of the 1987 Act), will revise section 3.2, which deals with the boards of directors for cooperatives.

Section 3.21, added by the first section 415 of the 1987 Act, provides specific rules for establishing the board of directors of a National or United Bank for Cooperatives (see the first paragraph of the analysis of section 405 above).

Subsection (a) of the first section 414 of the 1987 Act contains specific rules for establishing the boards of directors of district banks for cooperatives after the dissolution of farm credit district boards (see the analyses of sections 409(c) and 409(d) above). Subsection (b) of the first section 414 of the 1987 Act amended section 3.0 to provide rules for the establishment of permanent boards of directors of such banks.

Section 406(b) of this bill will remove the new permanent BC board provisions from section 3.0, so they can be relocated in section 3.2. Subsection (d) of section 901 will effect that transfer of provisions. The transferred provisions will substitute for the current section 3.2 provisions that will be out-of-date in six months because they provide for the district board serving as the BC board. The transferred provisions, which will be subsection (a) of section 3.2, provide that each bank for cooperatives not merged into the United or National Bank for Cooperatives is to elect a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that at least one member must be elected by the other directors, which member cannot be a director, officer, employee, or stockholder of an FCS institution.

Section 901, in several subsections, will amend sections of the Farm Credit Act of 1971 to remove references to farm credit district boards. See the analyses of sections 102(h), 409(c), and 409(d) above.

Subsection (e) will amend subsection (a)(4) of section 3.8 (dealing with qualifying criteria for BC loans) to change the italicized words in "as established by the *district board*" to "bank board".

Subsection (f) will amend subsection (a) of section 4.12 (dealing with mergers of associations) to change the italicized words in "with the concurrence of the *district board*" to "board of the supervising bank".

Subsection (g) will amend section 4.15 (dealing with the nomination of persons to be elected to the board of directors of FCS institutions). The amendment will change the italicized words in "Regulations of the Farm Credit Administration governing the election of *district* directors shall similarly assure a choice of two nominees for each elective office to be filled and that the *district* board represent as nearly as possible all types of agriculture in the district." (in both cases) to "bank".

Subsection (i) (effective six months after the enactment of the 1987 Act) will amend subsection (a) of section 4.19 (dealing with programs to assist young, beginning, and small farmers and ranches) to change the italicized word in "under policies of the *district* board" to "district Farm Credit Bank". (Note: The effective date of this provision will be delayed because it uses the phrase "Farm Credit Banks"—see the note in the analysis of section 201(f).)

Subsection (l) (effective six months after the enactment of the 1987 Act) will amend section 5.16 (dealing with quarters and facilities for the Farm Credit Administration) to change the italicized word in "with the concurrence of two-thirds of the *district* boards" to "bank". (Note: The effective date will be delayed because the provision to be amended calls for concurrent action by the farm credit districts, not (as with some of the other provisions to be amended) action by individual district banks.)

Subsection (m)(1) (effective six months after the enactment of the 1987 Act) will amend subsection (a)(1) of section 5.17 (which deals with modifying the boundaries of farm credit districts) to change the italicized word in "with the concurrence of the district *boards* involved" to "banks". See the note in the analysis of subsection (l) above.

Subsection (m)(2) (effective six months after the enactment of the 1987 Act) will amend subsection (a)(2) of section 5.17 (which authorizes the merger of farm credit districts) to change the italicized words in "when agreed to by the *boards* of the districts involved" to "district bank boards". See the note in the analysis of subsection (1) above.

Subsection (q)(2) (effective six months after the enactment of the 1987 Act) will amend section 5.0 (which authorizes the adjustment of district boundaries by the Farm Credit Administration) to change the italicized words in "with concurrence of district boards involved" to "boards of the bank in each district". See the note in the analysis of subsection (1) above, and also the analysis of subsections (q)(1) and (r) below.

Section 901, in subsection (h) (effective six months after the enactment of the 1987 Act), will amend section 4.17 (dealing with interest rates on loans made to FCS borrowers to (1) delete a cross-reference to the provision relating to OFIs (other financing institutions—section 2.3—that will be out of date in six months, and (2) add a reference in the same provision to Farm Credit Banks. (See the notes in the analyses of 102(b) and 102(f) above). The provision to be amended currently reads "and eligible to discount with the intermediate credit banks pursuant to section 2.3 of this Act". After the amendment, it will read "and eligible to discount with the Federal intermediate credit banks and Farm Credit Banks".

Section 901, in subsection (j) (effective six months after the enactment of the 1987 Act), will make conforming changes to subsection (b) of section 4.19 (which requires reports from FCS banks on their programs to assist young, beginning, and small farmers and ranchers). The reference therein to Federal land banks and intermediate credit banks would be changed to a reference to Farm Credit Banks (see the note in the analysis of section 102(f) above). Also, the subsection will be modified grammatically in several places to reflect this change, and the unneeded modifier "of this section" in the phrase "subsection (a) of this section" will be deleted.

Section 901, in subsection (k) (effective six months after the enactment of the 1987 Act), will make two conforming changes to section 4.28 (which provides that certain tax exemptions do not extend to FCS service entities organized under part E of title IV). The amendments will—

(1) correct cross-references that will be out-of-date in six months (see the note in the analysis of section 102(b) above); and

(2) change a reference currently reading "banks of the Farm Credit System" to "banks or associations of the Farm Credit System", to conform the reference to the sections cited (which include a citation of section 1.21, which provides tax exemptions to Federal land bank associations).

With the amendments, the phrase "to the extent that section 1.21, 2.8, and 3.13 of this Act may exempt banks of the Farm Credit System" will read "to the extent that sections 1.15, 2.17, and 3.13 of this Act may exempt banks and associations of the Farm Credit System".

Section 901, in subsection (m)(3) (effective six months after the enactment of the 1987 Act), will amend subsection (a)(3) of section 5.17 (dealing with reports by FCS banks under section 4.19(b)) to delete a reference to Federal land banks and intermediate credit banks and insert in lieu thereof a reference to Farm Credit Banks. See the note in the analysis of section 102(f) above.

Section 901, in subsection (n) (effective six months after the enactment of the 1987 Act), will amend subsection (d)(1) of section 5.17 (dealing with legislative review of regulations dealing with OFIs (other financing institutions)) to—

(1) change a cross-reference to section 2.3 that will be out-of-date in six months to a reference to section 1.7(b) (see the note in the analysis of section 102(b) above); and

(2) delete the unneeded modifiers ("of this Act") in two places.

Section 901, in subsection (o) (effective six months after the enactment of the 1987 Act), will revise the title of title V (which currently reads "DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION") to delete "DISTRICT AND". This is conforming change to reflect the repeal by the 1987 Act of the provisions of title V relating to farm credit distirct boards. See the analyses of sections 409(c) and 409(d) above.

Section 901, in subsection (p) (effective six months after the enactment of the 1987 Act), will delete the part heading for part A of title V. This will be a conforming change, related to the transfer of the provisions of section 5.0 to section 1.2, by subsection (q)(1) and (r), analyzed below, and the repeal of other provisions of part A of title V by the 1987 Act. See also the analyses of sections 409(c) and 409(l) above.

Section 901, in subsection (q)(1), (r), and (s)(1) (effective six months after the enactment of the 1987 Act), will transfer the text of section 5.0 (which provides for the creation of the farm credit districts) to section 1.2 (revised by section 434 of the 1987 Act), where it will be inserted as subsection (b), with the existing test of section 1.2 being designated as subsection (a). The 1987 Act repeals the other provisions of part A of title V (see the analyses of sections 409(c) and 409(d) above), and by itself section 5.0 appropriately can be placed in section 1.2, which deals with the establishment of the Farm Credit System. The rest of title V deals with the Farm Credit Administration, not the Farm Credit System.

Section 901, in subsection (s)(2) (effective six months after the enactment of the 1987 Act), will amend new section 1.2, revised by section 434 of the 1987 Act, to delete the superfluous word "the" in the phrase "subject to the regulation of the Farm Credit Administration". (Note: Section 1.2, as revised by section 434 of the 1987 Act, becomes effective six months after the enactment of the 1987 Act.)

TITLE X—EFFECTIVE DATE

Sec. 1001—Effective date—

Section 1001, provides that, with certain exceptions, the amendments to be made by the bill will become effective as if enacted immediately after the enactment of the Agricultural Credit Act of 1987 (January 6, 1988).

The exceptions are the amendments made by sections 102(b), 102 (f) through (h), 201(q), 302 (c) through (e), 401, 402(b), 409(d), 411, 414, 901(d), 901 (h) through (s). Those amendments (as noted in the analyses of the listed sections) will take effect immediately after the amendment made by section 401 of the 1987 Act take effect (six months after the enactment of the 1987 Act).

EXHIBIT 2

CORRECTION FOR STATEMENT OF MANAGERS (HOUSE REPORT 100-490) RELATING TO THE AGRICULTURAL CREDIT ACT OF 1987 (PUBLIC LAW 100-233)

(The following material should be used as a substitute for items 27 through 29(a) on pages 194-201 of the statement of managers).

(27) ASSISTANCE FUNDING UNDER THE HOUSE BILL

Treasury purchases

The House bill will require the Secretary of the Treasury, during fiscal years 1988 through 1992, to purchase the amount of stock or obligations issued by the Temporary Assistance Corporation that the board of directors of the Corporation requests to be purchased. For such purpose, the Secretary of the Treasury could use as a public debt transaction the proceeds of the sale of securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities could be issued under such chapter would be extended to include such purchases. All redemptions, purchases, and sales by the Secretary of the Treasury of such stock or obligations would be treated as public debt transactions. (Sec. 4.28I(a).)

In connection with this requirement, the board of directors of the Temporary Assistance Corporation would be authorized to issue TAC stock or obligations in amounts sufficient to provide financial assistance to the Farm Credit System and to cover reasonable and necessary operating expenses. (Sec. 4.28F(a)(9).)

Payment

The House bill provides that, not later than five years after the enactment of the bill or one year after the Insurance Fund is initially funded at the secure base amount (whichever is earlier), and annually thereafter, each FCS bank is to pay to the Federal Farm Credit Banks Funding Corporation (see item (34) below) an amount equal to one-fifth of 1 percent of the average principal outstanding during the preceding year on loans made by the institution (except, in the case of a Federal intermediate credit bank, the aggregate of loans made by the production credit associations of the district in which the bank is located) that are in accrual status. Payments would cease immediately after the aggregate of the amounts so paid equals the amounts provided by the Secretary of the Treasury to the Temporary Assistance Corporation for FCS financial assistance. Any institution could pay any amount required to be paid before the date such payment is required. (Sec. 105(f).) The Temporary Assistance Corporation could not require or request any Farm Credit System institution to repay financial assistance provided to the institution under the bill, except as described above. Nor could the Temporary Assistance Corporation receive funds from the Insurance Corporation. (See. 4.28H.)

The House bill also provides that the stock or obligations acquired by the Secretary of the Treasury are to be retired and canceled in amounts equal to the amounts paid to the Secretary by the Federal Farm Credit Banks Funding Corporation at the time of such payment. (Sec. 4.28I(a).)

Availability of funds

The House bill will require the Secretary of the Treasury, in fiscal year 1988, to make $2.5 billion available to the Temporary Assistance Corporation through the purchase of stock or obligations as described above. (Sec. 4.28(I)(b).) The House bill also will authorize appropriations, in each of the 1989 through 1992 fiscal year, of such sums as are certified necessary by the Corporation. (Sec. 4.28I(c).) The House bill also specifically will authorize the appropriation of such sums as are necessary to (a) provide the Corporation funds sufficient to ensure that each FCS institution will retire borrower stock at 100 percent of par value, as required under the bill, and (b) fund Treasury purchases of stock and obligations. (Sec. 4.281(a).)

Offsetting receipts

The House bill will authorize the Secretary of Agriculture, under terms prescribed by the Secretary, to sell notes and other obligations held in the Rural Development Insurance Fund in such amounts as to realize net proceeds to the Government of $2.5 billion. (Sec. 4.28I(b).)

The Senate amendment contains no comparable provision, but provides for a different mechanism to fund FCS financial assistance described below.

Financial Assistance Corporation under the Senate amendment

The Senate amendment, in section 101, will add provisions to the Farm Credit Act of 1971 (subtitle B of title VI) to establish the Farm Credit System Financial Assistance Corporation to carry out a program to provide capital to FCS institutions that are experiencing financial difficulty. The program will be coordinated with the activities of the Assistance Board to be established under subtitle A of title VI.

The House bill contains no comparable provision, but provides a different mechanism for funding FCS financial assistance (which is described above).

NOTE.—Following is a summary description of the major provisions of new subtitle B of title VI.)

Establishment.—Not later than five days after enactment of the bill, the Farm Credit Administration must charter the Financial Assistance Corporation, which is to be an institution of the Farm Credit System and a federally chartered instrumentality of the United States. (Sec. 6.20.)

Board of directors.—The board of directors of the Financial Assistance Corporation will consist of the board of directors of the Federal Farm Credit Banks Funding Corporation. The board would elect, on an annual basis, a chairman from among the members of the Board. Board members would receive compensation for the time devoted to meetings and other activities of the board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the board in amounts not in excess of levels set by the Farm Credit Administration Board. The board is to adopt rules appropriate for the transaction of its business and keep permanent and accurate records and minutes of its acts and proceedings. No business could be conducted at a meeting of the Corporation unless a quorum is present. A vote to approve an action would require a majority vote of the members voting. A chief executive officer would be selected by the board and serve at the pleasure of the board. (Sec. 6.22)

FAC stock.—The Financial Assistance Corporation would issue stock with a par value of $5.00 (Sec. 6.23.)

Corporate powers.—The Financial Assistance Corporation would be given the standard corporate powers needed to conduct business as a corporate entity, including the powers to—

(1) provide for staff and salaries, establish bylaws, enter into contracts, and sue and be sued;

(2) borrow on its own individual responsibility and on terms and conditions approved by the Farm Credit Administration; and

(3) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank and pay fees therefor and receive interest thereon.

Any civil action or proceeding to which the Corporation is a party would be deemed to arise under the laws of the United States, and the U.S. District Court for the District of Columbia would have original jurisdiction over the action or proceeding. The Corporation, without bond or security, could remove any such action or proceeding from a State court to the D.C. Distict Court. (Sec. 6.24(b).)

Accounts.—The Financial Assistance Corporation would establish an account called the Farm Credit Assistance Fund to be available to the Corporation as a revolving fund. The Assistance Fund would be funded through the issuance of 15-year debt obligations, through payments from the Secretary of the Treasury, and through payments of interest by FCS institutions. Moneys in the Assistance Fund not needed for current operations would be invested in direct obligations of the United States or obligations guaranteed by the United States. The Financial Assistance Corporation also would establish an account called the Financial Assistance Corporation Trust Fund, consisting of securities of the Treasury purchased by the Corporation with the funds received from the one-time required purchase of stock from the Corporation by System institutions under section 6.29 (described below). (Sec. 6.25)

Debt obligations.—During the period beginning 61 days after the enactment of the bill and ending September 30, 1992, the Financial Assistance Corporation could, subject to the approval of the Assistance Board, issue uncollateralized bonds and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury, with semiannual coupon payments and a maturity period of 15 years.

The aggregate amount of obligations that could be issued is not to exceed $4 billion to be issued in two phases: The first phase is not to exceed $2.8 billion. Then, after December 31, 1988, an additional amount, not to exceed $1.2 billion, could be issued if the initial $2.8 billion in obligations has been issued, the Assistance Board determines additional funds are needed, and a report is sent to Congress by the Assistance Board at least 90 days prior to the issuance of any of the additional debt obligations, containing a detailed evaluation supporting the determination. The Corporation would establish the forms and denominations, the interest rates, the terms and conditions, the manner of issuance, and sales prices for the 15-year obligations. (Sec. 6.26(a) and 6.26(b).)

Interest Payments.—The interest on each 15-year obligation issued by the Assistance Corporation would be paid as follows: during the first 5 years, the Assistance Corporation would pay the entire interest with appropriated moneys from the Secretary of the Treasury; during the second 5 years, the Assistance Corporation would pay the interest with 50 percent of the amount from the Secretary of the Treasury and 50 percent from payments made by all Farm Credit System institutions to the Assistance Corporation; after 10 years, the Assistance Corporation would pay the entire interest from payments made by all Farm Credit System institutions to the Corporation.

During each year of the second 5 years, Farm Credit System institutions are to pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System exceed 5 percent of net assets for the preceding fiscal year.

During each of the second 10 years, each Farm Credit System institution is to pay a proportionate share of the interest according to its average performing loan volume for the preceding year in relation to the average performing loan volume of the System.

The Secretary of the Treasury would pay to the Assistance Corporation, in a timely manner, during each year of the second 10 years such amounts as are not paid by Farm Credit System institutions to meet the interest expense on the obligation. (Sec. 6.2(c)(1)-(4).)

Treasury recoupment.—Payments made by the Secretary of the Treasury to meet the interest expense on each 15-year obligation must be eventually repaid, on a fair and equitable basis, by all Farm Credit System institutions. No interest would be charged on such payments. Institutions are to begin making such repayments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that the institutions possess the financial viability to make such payments.

However, institutions will not be required to begin making such repayments until all debt obligations issued to refinance the 15-year obligations issued by the Assistance Corporation are fully repaid. Subject to the foregoing, institutions are to make the repayments at such levels and on such dates as the Farm Credit Administration determines appropriate. The Farm Credit Administration could not set payment levels or dates that would jeopardize the financial viability of any institution. Institutions would not be required to make repayments in a manner that would impair stock or jeopardize minimum capital requirements. The obligations to make repayments of interest expense payments by the Secretary of the Treasury would not be required to be collateralized. (Sec. 6.26(c).)

Refinancing the guaranteed bonds.—When a 15-year debt obligation matures, it would be repaid by the Financial Assistance Corporation. To enable the Corporation to repay the obligation, each Farm Credit System institution that issued preferred stock to the Corporation with respect to the obligation (to obtain financial assistance under the bill) would pay to the Corporation, prior to the maturity of the obligation, the dollar value of such outstanding preferred stock at par value. To make these payments, institutions would be authorized to refinance the obligation without a collateral requirement and without any guarantee.

The payment of the principal and interest on the refinanced obligations would be solely the obligation of the Farm Credit System institutions issuing the debt. (Secs. 6.26(d)(1) and 6.26(d)(2).)

Defaults on interest obligations.—If a Farm Credit System institution defaults on its payments for interest expense during the second 10 years of a 15-year obligation, the Financial Assistance Corporation would use the Trust Fund to meet the interest expense, and seek to recover the amount from the defaulting institution to reimburse the Trust Fund. If the Corporation has not recovered the full amount from the defaulting institution by the end of the 12-month period beginning on the date of the default, the uncollected interest payment due from the defaulting institution would be paid to the Trust Fund from the Central Reserve Account (described in the section of this Statement dealing with the Insurance Corporation/Reserve Account). If the Reserve Account is insufficient, the remaining balance would be added to the amount of interest expense payments otherwise payable by the remaining Farm Credit System institutions. Each remaining Farm Credit System institution would pay a proportionate share of this uncollected amount according to the amount of performing loan volume of the institution (based on the average loan volume for the preceding year) in relation to the total performing loan volume of the system. Such amounts would be paid to the Trust Fund. A defaulting institution would be liable to the remaining Farm Credit System institutions for the amount of any interest paid by the other institutions. (Sec. 6.26(d)(3).)

Inability to redeem preferred stock.—Not later than 90 days prior to the maturity of each 15-year obligation, the Farm Credit Administration would be required to evaluate the general financial condition of each Farm Credit System institution that issued preferred stock to the Financial Assistance Corporation with respect to the obligation (to obtain financial assistance under the bill) to determine whether the institution will be able to redeem such stock at par value on the maturity of the obligation, and continue to remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates. A copy of the evaluation would be furnished to the Secretary of the Treasury and Congress. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, that an institution will be unable to redeem the preferred stock at par value in a timely manner (either directly or through the use of funds obtained by the institution through the issuance of uncollateralized and nonguaranteed obligations) and remain a viable and competitive institution, the Financial Assistance Corporation would withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by the institution with respect to the obligation to enable the Corporation to pay the principal of the maturing obligation. At the same time, the Corporation would transfer to the Reserve Account an equal amount of preferred stock of the institution. To the extent the Trust Fund is insufficient to enable the Corporation to pay the principal of the maturing obligation, the Reserve Account would be used by the Reserve Account Board to purchase such preferred stock to enable the Corporation to pay the principal of the principal of the maturing obligation. Any preferred stock transferred to, or purchased by, the Reserve Account would be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Reserve Account Board and the institution. (Sec. 6.26(d)(3).)

Treasury assistance.—To the extent that the Trust Fund and the Central Reserve Account are insufficient to provide funds to pay the principal, the Secretary of the Treasury would be required to purchase the remaining amount of preferred stock issued by the institution with respect to the obligation. For that purpose, the Secretary could use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. Whenever the Secretary is required to purchase preferred stock so as to meet the payment of principal, the Reserve Account Board is to use funds deposited in the Reserve Account to repurchase, at par value, such stock from the Secretary as funds become available for such repurchase. (Secs. 6.26(d)(3) and 6.26(d)(4).)

If for any reason the Financial Assistance Corporation would be otherwise unable to pay the principal or interest on a 15-year debt obligation, the Secretary would be required to pay to the Corporation the amount due. Whenever the Secretary is required to make an interest payment (because of an interest default) to the Corporation, the Secretary is to recover the amount of such payment from such defaulting institution. If the full amount is not recovered in 12 months, the uncollected amount would be paid to the Secretary from the Reserve Account. (Sec. 6.26(d)(3).)

Issuance of preferred stock.—The Senate amendment provides that each Farm Credit System institution that is certified as eligible to receive financial assistance under the bill could issue, in such amount and subject to such terms and conditions as authorized by the Assistance Board, preferred stock to the Financial Assistance Corporation in return for the assistance. The stock would be a special class of preferred stock for which dividends will not be payable (except as described below) and no voting rights will exist. The stock will provide for the payment of dividends to the Secretary of the Treasury if such stock is purchased by the Secretary. The dividends will be paid at a rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, and a premium to reflect the cost of capital for institutions in financial distress.

The Financial Assistance Corporation must purchase shares of the stock issued by certified Farm Credit System institutions to the extent that the issuance of such stock is approved by the Assistance Board. (Sec. 6.27.) The Senate amendment, in section 105(e), also provides that any such preferred stock will be subordinated to, and impaired prior to, other stock or equities of the institution.

Treasury responsibility (subject to appropriations).—The Secretary of the Treasury will be required to reimburse the Financial Assistance Corporation for (a) any amounts that the Corporation pays in interest charges on the 15-year debt obligations in fiscal year 1988, and (b) any amounts due from the Secretary to such Corporation under the provisions described above relating to servicing the 15-year obligations. Appropriations to the Secretary (of such sums on an annual basis as may be necessary to carry out subtitle B) would be authorized. (Sec. 6.28.)

One-time stock purchase.—For the purpose of obtaining funds for the Trust Fund, each Farm Credit System institution would be required to purchase, from the Financial Assistance Corporation, stock issued by that corporation in an amount equal to the amount by which unallocated retained earnings of the institution (after taking into account any funds received from reversing the assessments of the Capital Corporation) exceeds, in the case of a Farm Credit System bank, 5 percent of assets, or in the case of a production credit association or a Federal land bank association, 13 percent of assets. These unallocated retained earnings and assets would be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986. (Secs. 6.29(a)(1) and 6.29(b).)

Reallocation.—A Farm Credit System district board, subject to the unanimous consent of the bank and associations within the group that would be affected by a reallocation, could reallocate the amount of stock to be purchased by institutions in the district to equitably reflect the institutions' ability to pay. However, the total amount of stock purchased by institutions in the district must equal the total amount of stock required to be purchased in the district, and the district board could not impair the stock of an association in doing so. A district board's authority to reallocate stock purchases would be limited to (a) reallocation among like associations of the amount of stock required to be purchased by such associations; (b) reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and (c) reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations would not be permitted. (Sec. 6.29(a)(2).)

Not later than 15 days after notifying Farm Credit System institutions of the amounts to be provided by the Capital Corporation assessment reversals (described below), the Financial Assistance Corporation would notify each institution of the amount of the one-time stock purchase. Likewise, in districts in which the stock purchase obligation is reallocated as described above, the district would notify each institution in the district of the amount of the purchase that will be required. Not later than 15 days after notification, each institution would have to buy such stock. (Secs. 6.29(c) and 6.29(d).)

Jurisdiction.—The U.S. district court for the District of Columbia will have exclusive jurisdiction over any action brought under or arising out of the stock purchase provisions of section 6.29. No suit could be filed challenging required stock purchases unless and until the stock has been purchased and paid for in full. (Sec. 6.29(e).)

The Conference substitute adopts the *Senate* provision with a few modifications. The Conference agreement on this and several related issues is as follows:

(1) MANDATORY MERGERS OF FLBS AND FICBS

The land bank and the intermediate credit bank in each district must merge within six months after the enactment of the bill.

The Assistance Board would be required to provide financial assistance to merged banks (or banks prior to merger), if needed to protect stock from any impairment caused by the merger.

As to the nature of the new merged bank that is being created, provisions similar to 7.0 to 7.4 under the Senate bill would apply.

(2) REQUIRED VOTE ON A MERGER OF BCS

The stockholders of the banks for cooperatives and the CBC must vote, within 6 months after enactment, on merging into a National Bank for Cooperatives.

This vote would be a two-tier vote, requiring approval by both—

(a) a majority of cooperatives voting, weighted by loan volume; and

(b) a majority of banks for cooperatives voting, on a one bank-one vote basis.

The authority for a bank for cooperatives to merge with another bank in its district under section 7.0 would become effective only after the vote.

(3) REQUIRED VOTE ON CONSOLIDATION OF DISTRICTS

The voting stockholders in the current twelve districts would vote on reorganizing the FCS district structure down to no less than six districts.

The vote, which would take place no later than 18 months after enactment of the bill, would be on a comprehensive reorganization plan.

The plan would be developed by a special committee composed of a representative from each district with the Assistance Board. The Board could use the plan in organizing its financial assistance to the System.

The plan would have to be approved by the Farm Credit Administration.

The plan would have to take into account any inter-district merging occurring before the 18 months is up (such as mergers facilitated by the Assistance Board).

Each of the twelve districts would have to approve their part of the plan.

(4) REQUIRED VOTE ON FLBA/PCA MERGERS

Within six months after the FLB and FICB in a district merge, the stockholders of each PCA and FLBA in the district serving substantially the same geographic area must vote on whether to merge those associations.

The mergers would be as provided in the Senate bill, but more analysis of the details of the bill might be appropriate.

Merged associations would adopt the corporate structure of PCA's and have a discount relationship with the district bank for short, intermediate, and long term loans.

A special committee of association directors will design a district wide association reorganization plan, which would be put to a vote of the stockholders within 12 months after enactment.

The reorganization plan would be designed to accomplish one stop shopping for member borrowers, cost effectiveness, efficiency of scale while preserving member borrower control and cooperative unity.

(5) BC—TERRITORY LIMITS

For banks for cooperatives only, there would be an exception to current territorial service limitations if eight or more (but not all) BC's vote to merge into a National Bank. Each bank would be allowed to do business outside its district.

Smaller BC's would be permitted financial dealings with the National Bank for Cooperatives as it has now with the Central Bank for Cooperatives.

(6) VOLUNTARY MERGERS

Include the provisions similar to 7.5 to 7.16 of the Senate bill, which authorizes (a) voluntary transfers of lending authority from PCAs to FICBs and from FLBs to FLBAs, (b) voluntary merger of associations into banks, (c) voluntary mergers of unlike associations in a district, and (d) voluntary mergers of like banks (revises current law).

Also, adopt the provisions in the Senate bill (i) allowing institutions to leave the System, (ii) providing for disclosure of merger information to voters, (iii) providing for reconsideration of merger votes, and (iv) providing protection to those associations that choose not to merge.

It is proposed that the Senate merger authorities be reviewed to simplify the options. For example, mergers of associations into their supervising bank might be allowed to occur only where the associations had first merged into a single association. Where that had occurred, the supervising bank could alternatively, merge into its single association.

(7) REVISION OF SYSTEM SELF-HELP PROVISIONS

Instead of collecting the 1986 third quarter assessments (currently tied up in court), the entire System would become responsible for all principal and all interest (from the date of issuance) on guaranteed bonds that generate equivalent amount of funds (to go to institutions in need of assistance).

This provision would use the Financial Assistance Corporation and funding mechanisms in part B of title II under the Senate bill.

The third quarter assessments would be reversed 5 days after enactment.

Banks which had received assistance under capital preservation agreements would continue to carry the receivables on their books.

(8) REVISED SENATE FINANCIAL ASSISTANCE MECHANISM

The compromise would include the assistance and funding mechanisms on title VI under the Senate bill, except that—

(a) the entire System will be responsible for servicing the debt, except as provided in (b);

(b) receiving institutions that choose not to merge would be required to service their assistance debt alone;

(c) the Assistance Board special powers would be expanded to include using assistance funds to encourage and otherwise facilitate mergers (e.g., if a particular association is insolvent, the assistance funds could be used to make it fiscally attractive to the adjoining association to take over the insolvent institution's territory, assets, and liabilities).

(9) ONE-TIME ASSESSMENT

The one-time assessment to capitalize the Financial Assistance Corporation (incorporating the Bentsen reallocation provisions), in the Senate bill as passed, would be included, after taking into account the reversal of third quarter assessments.

28. FINANCIAL REPORT

The Senate amendment will require the Farm Credit Administration to review and evaluate the financial condition of the Farm Credit System, during the period beginning September 30, 2001, and ending December 31, 2001, and to submit a report to the Secretary of the Treasury and to the appropriate committees of the Congress on: (1) the general financial condition of each Farm Credit System institution; (2) the total outstanding principal of the 15-year guaranteed financial assistance bonds issued by the Financial Assistance Corporation; and (3) the ability of each Farm Credit System institution to retire at par value the preferred stock it issued to the Financial Assistance Corporation in connection with the assistance provisions of the bill (Sec. 104.)

The House bill contains no comparable provision.

The Conference substitute adopts the *Senate* provision.

29. RETURN OF CAPITAL CORPORATION ASSESSMENTS.

Both the House bill and the *Senate* amendment will require the Capital Corporation to cancel all assessments against Farm Credit System institutions and return any funds collected under the assessments. The bills differ as follows:

(a) The House provision will become effective on December 31, 1987. (Sec. 4.28L.) The Senate provision will become effective not later than 15 days after the Assistance Board is chartered. (Sec. 6.10(c).)

(b) Under the House bill, during the period beginning on the date of enactment of the bill and ending December 31, 1987, the Temporary Assistance Corporation could use Capital Corporation funds to carry out the financial assistance program. (Sec. 4.28L.)

(c) The Senate amendment provides that, if after the assessments are refunded, there remain surplus funds in the Capital Corporation, the Assistance Board will be required to distribute the surplus among the Farm Credit System institutions that contributed funds to the Capital Corporation on the basis of the relative percentages contributed. (Sec. 6.10(d).) The House bill contains no comparable provision.

The Conference adopts the Senate provision.

Mr. LUGAR. Mr. President, several farm credit issues needing clarification have been brought to my attention recently. To address these matters I would like to engage the distinguished chairman of the Agriculture Committee, the Senator from Vermont, in a dialog.

Mr. LEAHY. Mr. President, I would be pleased to respond to any questions my distinguished friend from Indiana may have.

Mr. LUGAR. I thank the Senator. Section 4.14A of the Farm Credit Act, as amended, requires "qualified lenders" to restructure loans under certain circumstances. It defines "qualified lender" as excluding banks for cooperatives. But subsection (g) of section 4.14A in paragraphs (1) and (3) requires each "bank board" to develop a restructuring policy and submit it to the Farm Credit Administration. Am I correct that subsection (g) is intended to apply only to those banks that are "qualified lenders" and that, consequently, the subsection does not require banks or cooperatives to develop a policy or submit it to the Farm Credit Administration?

Mr. LEAHY. That is correct. Only those banks that are required to restructure, and this does not include the BC's, need develop a policy and submit it to the Farm Credit Administration.

Mr. LUGAR. Mr. President, I would like to clarify a point that has been mentioned by some of the national organizations which represent farmers. Title VI of the Agricultural Act of 1987 ads a new title VIII to the Farm Credit Act of 1971 and establishes a new Federal Agricultural Mortgage Corporation. The interim and the permanent board of the Corporation has public members, some of whom must be farmers. Also, subparagraphs (a)(1)(C) and (D) (a)(4)(B), (b)(2)(C) and (b)(5)(B) of section 8.2 provide that the appointed members of the interim and the permanent board of directors of the Corporation who represent the public cannot be, or have been, officers or directors of any financial institutions or entities. It is my understanding that reference in those subparagraphs of section 8.2 to the word "director" includes advisory directors of any financial institutions or entities.

Mr. LEAHY. Mr. President, I appreciate the Senator having raised this point for clarification. I note that two of the public members of the interim board and one of the public members of the permanent board of the Corporation must be farmers or ranchers. You are correct in pointing out that the references in those parts of section 8.2 to the term "director" includes advisory directors. None of the public members appointed by the President to the interim or permanent board can be, or have been, directors or advisory directors of any financial institutions or entities.

Mr. LUGAR. I thank the Senator for that clarification of my understanding.

Mr. LUGAR. Mr. President, will the distinguished Senator from Vermont respond to an inquiry on an action taken in the last session by the conferees with respect to a provision in title VII of the Agricultural Credit Act of 1987?

Mr. LEAHY. I will be happy to respond to the Senator's inquiry.

Mr. LUGAR. Mr. President, my question relates to a provision in title VII of H.R. 3030, the secondary market title, which would have expressly provided that securities guaranteed by the Federal Agricultural Mortgage Corporation would be eligible for unlimited purchase, sale and underwriting by banks except that the language in question was dropped from the final bill by the conferees (sec. 8.12(c)(1)). Concern has been expressed that the removal of this provision from the bill in some way may prevent banks from purchasing or underwriting the securities guaranteed by the Federal Agricultural Mortgage Corporation.

In this regard, it was my understanding that the inclusion of the provision in question in the Senate amendment to H.R. 3030 was not intended to change existing law on the issue of the authority of banks to purchase or underwrite securities but was merely a matter of clarification. Nor was the Senate's action in receding to the House by excluding this language intended to be construed to change existing law on this subject. Isn't it true that the Glass-Steagall Act provides that banks are authorized to purchase and underwrite without limitation obligations issued under authority of the Farm Credit Act of 1971? And, if so, is it not true that securities guaranteed by the Federal Agricultural Mortgage Corporation fall within this category of securities since: First, the Corporation is chartered as an institution within the Farm Credit System, and second, the securities which it will guarantee will be issued under the authority of the Farm Credit Act of 1971?

Mr. LEAHY. Yes, the distinguished Senator from Indiana is entirely correct in his understanding of the effect of the deletion of the language from title VII of H.R. 3030 expressly authorizing the purchase and underwriting by banks of securities guaranteed by the Federal Agricultural Mortgage Corporation. The conference agreement retains existing law with regard to Glass-Steagall provisions and the Farm Credit Act of 1971.

Mr. LUGAR. Mr. President, I rise to support the immediate consideration and passage of H.R. 3980, a bill to make technical corrections in the Agricultural Credit Act of 1987. H.R. 3980 was developed in a joint effort between the staffs of the Agricultural Committees in the House and the Senate. It is a measure that should be passed to eliminate from the 1987 act a variety of errors; it is not a substantive measure in its own right, however. It was passed by the House of Representatives under suspension of the rules on Tuesday, February 23, 1988.

Mr. President, it should come as no surprise to anyone that a bill as long and complex as the Agricultural Credit Act of 1987 might need to have technical corrections made in it. Conferees worked up to the last few days of the first session of this Congress to get agreement on the provisions of the bill and then the staffs of both bodies literally worked 24 hours a day from December 15—when the conference ended—until December 18—when the conference report was filed. In the calmer days that followed final passage of the bill, staff examined the bill and began to identify technical problems that need to be corrected in order to eliminate ambiguity in the implementation of the law itself.

H.R. 3980 represents a significant effort by staff to identify and eliminate the mistakes found in the bill. The proposed corrections involve grammar, spelling, cross references, and the elimination of technical deficiencies in the language of the law due to provisions adopted by the conferees requiring the merger of land banks and credit banks in each of the 12 farm credit districts 6 months after enactment of the bill.

In addition, the bill will place into law a provision relating to State taxation of consolidated property of merged system institutions that the conferees adopted but that was inadvertently omitted from the text of the 1987 act, and will clarify ambiguous provisions relating to the authority of national banks to purchase stock in the Agricultural Mortgage Corporation.

Section 101 of the bill amends the borrower stock guarantee provisions of the 1987 act to incorporate language inadvertently omitted from the conference report which provides the mechanism for assisting institutions to retire borrower stock when their financial condition would otherwise leave them unable to do so. I believe that the intent of the guarantee provision is clear—to assure farmers who own stock in system institutions that they will not lose their investment—whether or not the technical correction is made. However, the correction will eliminate any possible ambiguity with respect to how the stock guarantee will be implemented.

Another example involves the many changes being proposed to conform provisions of both the 1987 act and the underlying 1971 act to the required merger of the banks within each district and formation of the new consolidated farm credit banks 6 months after enactment. Many references to the old land banks and intermediate credit banks were found in the statutory language governing operation of the system after the mergers take place as well as obsolete cross references to provisions that were eliminated in the 1987 act. To properly conform the provisions of the new law with the change in the banks, the technical corrections bill inserts all of the proper references effective at the time of the mergers.

Another change, included in section 401 of the bill, clarifies that system institutions may operate as originators and become certified facilities under the secondary market title of the Agricultural Credit Act of 1987. These changes, which specifically authorize system institutions to establish and operate an agricultural mortgage marketing facility as an affiliate, will eliminate ambiguity in the existing language. It is the intent of Congress that certified "pooling" facilities are authorized to purchase loans from all eligible originators both system and nonsystem, to hold or warehouse loans, and to pool and securitize them. These functions are necessary for a facility to fully participate in the secondary market and the changes being made will assure that system institutions can fully participate in this new market.

Many of the changes in the technical corrections bill appear to be very complex. However, this bill does not make substantive changes in the 1987 act. It is a technical corrections bill, and its provisions have been widely circulated and reviewed by all of the major interest groups that were involved in the development of the 1987 act. My staff has personally reviewed the bill with the Treasury Department, Agriculture Department, Farm Credit Administration, the staff of the newly created Assistance Board, the Farm Credit Council, Senate committee staffers, and various other persons. All agree that the bill contains many changes that must be made to assure the full implementation of the 1987 act without needless controversy. I urge my colleagues to support this bill and let these corrections take place as soon as possible.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3980) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LAND EXCHANGE FACILITATION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1860.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 1860) entitled "An Act entitled the 'Federal Land Exchange Facilitation Act of 1987'.".

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill, with an amendment as follows: Page 16, line 22 of the Senate engrossed amendments, strike out "less.".", and insert: "less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States.".

Mr. BYRD. Mr. President, I move the Senate concur in the House amendment.

The motion was agreed to.

PUBLIC LANDS, TONGASS TIMBER REFORM ACT—H.R. 1516

Mr. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I ask that H.R. 1516, the Public Lands, Tongass Timber Reform Act be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

An act (H.R. 1516) to repeal the permanent appropriation of $40 million to the Secretary of Agriculture for the Tongass National Forest, and for other purposes.

Mr. BYRD. Mr. President, I ask the bill be read the second time.

Mr. DOLE. Mr. President, I object on behalf of Senators STEVENS and MURKOWSKI.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

BIRTHDAY WISHES TO JOHN STENNIS

Mr. DOLE. If the majority leader will yield, I first join the majority leader in expressing to our dear friend and colleague, Senator STENNIS, a very happy 87th birthday. He is a friend to everyone in the Senate and has been for as long as he has been here.

I recall many times when I first came to the Senate my predecessor told me to keep an eye on Senator STENNIS and do what he did and I would not get in too much trouble. That is the late Senator Frank Carlson.

I tried to follow that advice. So I want to join on behalf of all of us on this side to wish Senator STENNIS a happy birthday, and well-deserved, and a happy retirement when he does leave the Senate.

COMMENDATION OF ROBERT C. BYRD

Mr. DOLE. Mr. President, I also commend the majority leader. I am sorry I missed part of his statement. We have already accomplished a great deal this week. If someone had told me 2 months ago we could do fair housing and the trade bill in 3 days, I would have said, "Sure, why not two or three other things, too?" It has been done in 3 days because of the spirit of cooperation and bipartisanship and, above all, the leadership from Senator ROBERT BYRD.

I also would like to congratulate the majority leader and all Senators because without the cooperation of all Senators we would still be on who knows what.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, Finally, we will be meeting in the morning at 10:15 in my office—a number of Republicans, along with General Powell—to be taking a look at the package on Contra aid that the Democrats have worked out. I hope I did not overreact to the outline today. I understand the bill is a little more complete than the outline.

So I hope that we can take a hard look at that package in the morning. We have a copy of the legislative language. We will then get back to the distinguished majority leader after we have had an opportunity to discuss it with about 10 to 12 Republicans and representatives of the President and indicate to the majority leader what we might be willing to do, if we might have some suggested changes or whatever, so we will attempt to do that so not to delay the work of the Senate.

It is my understanding that if there should be amendments to the emergency supplemental, the majority leader would probably go to some other matter if we are going to get bogged down on amendments to the emergency supplemental. I can also raise that tomorrow morning.

Mr. BYRD. Yes, Mr. President, if the distinguished Republican leader will yield, it is my hope the Senate can take up the dire emergency supplemental bill.

That being what it is, an emergency supplemental, I hope that we will not have amendments offered to it. I am sure I echo the sentiments of the Speaker and leadership in the House. The bill needs to go to the President's desk quickly. I would like to take it up first before we proceed to the DOD appropriation bill. But if there are going to be amendments to it, then it would be my inclination to take it down and go to the DOD appropriation bill, or if it is indicated to me that there will be amendments to it, I would then hope to go to the DOD appropriation bill and let those amendments be offered to it, which would mean, of course, that the dire emergency bill would have to wait. But I think it would be a mistake to go to it and have amendments on it, some of which should be on the DOD appropriation bill rather than on the supplemental.

Mr. President, I thank the distinguished Republican leader again for the fine relationship that exists between us. I am a little like Mark Antony in his funeral oration as he stood at the body of Caesar. He said, "I am no orator, as Brutus is, but, as you know me all, a plain blunt man * * * for I have neither wit, nor words, nor worth, action, nor utterance, nor the power of speech to stir men's blood. I only speak right on."

I often pay tribute to the Republican leader and speak of our fine relationship and we all do that a lot around here, and to some extent maybe it is overdone. I have no hesitancy in saying that I have had a great respect for the other Republicans who from time to time have led in this Senate, but I have to say that the working relationship with BOB DOLE has been better than any I have had.

I did not have to say that, but I say it because I think it. Why not say it. It is better to say it before it is too late. If something happens to me overnight, if something happens to Mr. DOLE, I cannot say it then. So I said it and it is on the RECORD.

We have to play our respective roles and sometimes we cannot march together elbow to elbow, arm in arm, but it has been a very fine record I think that this cooperative teamwork has produced in this year's session and last year.

We do not have many more days this year. If we stay in until September 30, we have about 25 more working days. We can go beyond September 30. That is a tentative date that both the Republican leader and the Speaker and I have been working toward. I hope we can make it. In 25 days we have a good bit of work to be done, and as I say, we may have to go beyond that. I hope we will not.

Mr. President, if the distinguished Republican leader has anything further, I will be glad to yield.

Mr. DOLE. I thank the majority leader very much.

We have, I think, on this side been able to reduce the time on the Canada-United States free trade agreement to 6 hours, if that is any help to the distinguished majority leader. I do not suggest everybody is for the agreement, but it is not amendable. We have had one or two suggest they would like 20 minutes out of the 3 hours. We have been able to accommodate as far as we know most everyone on this side. I think the majority leader has some hope we might dispose of that before we go out next Thursday evening.

Mr. BYRD. Yes, I would like to do that. If we could dispose of the DOD appropriation bill, I would like to dispose of the United States-Canadian trade agreement if the managers are prepared, and I have a feeling they will be.

I also have indicated to Mr. HOLLINGS that I would like to do the textile bill very soon as well.

ORDERS FOR THURSDAY

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders there be a period for morning businesss not to extend beyond the hour of 9:20 a.m., and that Senators may speak during morning business not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the nomination, in accordance with the order previously entered, the Senate return to legislative session, and that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE CALENDAR WAIVED

NO MOTIONS OR RESOLUTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over tomorrow, and that the call of the calendar under rule VIII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD. Mr. President, if the distinguished Senator has nothing further, I move in accordance with the order previously entered that the Senate stand in adjournment until 9 a.m.

The motion was agreed to; and, the Senate, at 8:01 p.m., adjourned until Thursday, August 4, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 3, 1988:

THE JUDICIARY

JAY C. WALDMAN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE DANIEL H. HUYETT, 3D, RETIRED.

BOARD FOR INTERNATIONAL BROADCASTING

CLAIR W. BURGENER, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1991 (REAPPOINTMENT).

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

DONALD M. CLARK, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1991, VICE DONALD BARR, TERM EXPIRING.

HOUSE OF REPRESENTATIVES—*Wednesday, August 3, 1988*

The House met at 10 a.m.

The Reverend Dr. William Stepp, Sr., Memorial Presbyterian Church, West Palm Beach, FL, offered the following prayer:

Almighty God, we thank You for the United States, our President, Congress, national leaders and citizens. Grant that the deliberations and decisions of our leaders will be in keeping with Your will thereby providing sound guidance and wisdom for our Nation and world. We ask You to forgive and overrule our mistakes. Bless the actions of Congress securing America's rich heritage of freedom, justice, and peace for all people.

We pray for the families and loved ones of our Congressmen asking Your healing grace for those who are ill and Your special care for those in need. Grant each of us wisdom to live balanced lives providing the time and quality of life both to meet our responsibilities in government and to strengthen the bonds of love in our families. In Jesus' name. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SWINDALL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SWINDALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 119, not voting 36, as follows:

[Roll No. 252]

YEAS—276

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clement
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Darden
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Patterson
Payne
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torricelli
Towns
Traficant
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Williams
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—119

Armey
Badham
Baker
Ballenger
Barton
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Burton
Callahan
Chandler
Cheney
Clinger
Coble
Coughlin
Courter
Craig
Crane
Dannemeyer
Davis (IL)
DeWine
Dickinson
DioGuardi
Dornan (CA)
Edwards (OK)
Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Grandy
Gregg
Gunderson
Hansen
Hastert
Hawkins
Hefley
Henry
Herger
Hiler
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Morrison (WA)
Murphy
Oxley
Parris
Pashayan
Penny
Porter
Pursell
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—36

Aspin
AuCoin
Bentley
Biaggi
Boland
Bonior
Boulter
Chapman
Clay
Conyers
Crockett
Daub
Derrick
Dixon
Dowdy
Dyson
Ford (TN)
Gingrich
Hertel
Kemp
Latta
Lott
Mack
MacKay
McDade
Mica
Neal
Pepper
Rinaldo
Ritter
Spence
Taylor
Torres
Traxler
Valentine
Wilson

□ 1025

Mr. DONALD E. "BUZ" LUKENS changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1158. An act to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes;

H.R. 4782. An act making appropriations for the Departments of Commerce, Justice

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 5015. An act to provide drought assistance to agricultural producers, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4782) "an act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. CHILES, Mr. LAUTENBERG, Mr. SASSER, Mr. STENNIS, Mr. RUDMAN, Mr. STEVENS, Mr. WEICKER, Mr. HATFIELD, Mr. KASTEN, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4784) "an act making appropriations for Rural Development, Agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BURDICK, Mr. STENNIS, Mr. CHILES, Mr. SASSER, Mr. BUMPERS, Mr. HARKIN, Mr. INOUYE, Mr. COCHRAN, Mr. MCCLURE, Mr. KASTEN, Mr. SPECTER, Mr. GRASSLEY, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5015) "An act to provide drought assistance to agricultural producers, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. MELCHER, Mr. PRYOR, Mr. BOREN, Mr. HEFLIN, Mr. LUGAR, Mr. DOLE, Mr. COCHRAN, Mr. BOSCHWITZ; from the Committee on Energy and Natural Resources only for consideration of the Bureau of Reclamation provisions: Mr. JOHNSTON, Mr. BRADLEY, Mr. BINGAMAN, Mr. MCCLURE, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 3932) "An act to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.

The message also announced that pursuant to the provisions of Senate Concurrent Resolution 105, the Chair on behalf of the Vice President, appoints Mr. BYRD, Mr. FORD, and Mr. STEVENS, to the Joint Congressional Committee on Inaugural Ceremonies.

DR. WILLIAM R. STEPP, SR.

(Mr. GRAY of Illinois asked and was given permission to address the House for 1 minute.)

Mr. GRAY of Illinois. Mr. Speaker, it is a real pleasure and privilege to welcome our guest chaplain today, my friend, Dr. William R. Stepp, Sr., minister of the Memorial Presbyterian Church of West Palm Beach, FL.

Mr. Speaker, my time allotted for this purpose will not allow me time to list all of the attributes of Dr. Stepp, and I assure my colleagues there are many. Bettie Ann and their three sons, John, Andrew, and Owen, are in Washington for this special occasion for Dr. Stepp. I hope it will suffice to say that Dr. Stepp has been a leader in helping the poor, the homeless, running an orphanage, and a multitude of needs in his community and an outreach all over the State and Nation.

My daughter, Dianne Jasinsky, and her family, have received a great spiritual enrichment as members of Dr. Stepp's congregation. My colleagues DAN MICA and TOM LEWIS, join me in welcoming my friend, Dr. Stepp, as our guest chaplain today.

In closing, I want to thank Dr. Jim Ford, our beloved Chaplain, for allowing us this privilege.

Thank you, Mr. Speaker.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT ON THURSDAY, AUGUST 4, 1988, DURING 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit during proceedings of the House under the 5-minute rule on Thursday, August 4, 1988, to mark up H.R. 5090, legislation to implement the United States-Canada Free Trade Agreement.

The ranking minority members concur in this request.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO FILE REPORT ON H.R. 5094, DEPOSITORY INSTITUTIONS ACT OF 1988

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until midnight Wednesday, August 3, 1988, to file a report on H.R. 5094, Depository Institutions Act of 1988.

The ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

□ 1030

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I do so in order to ask a question of the distinguished chairman.

Last Thursday morning, early in the morning we were deliberating as the full Committee on the Banking, so-called Banking Reform Act. I offered an amendment that was accepted by the committee. But in speaking with the staff late yesterday and this morning, I am informed that that particular section on community reinvestment, to which I appended the amendment, is being revised according to different and in a different form and manner, or shape to that which the amendment written and accepted by the committee.

Now I have no way of knowing what is going on. Can the chairman tell me if those amendments offered in the wee hours of the morning Thursday last are being, in effect, revised in the report that the gentleman is asking that we grant until midnight to file? Because if I cannot be assured that the integrity of the processes of the committee are guaranteed in that report, I am going to interpose an objection to this unanimous-consent request.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I certainly yield to the chairman.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, I say to the gentleman the chair is fully satisfied within his own mind, heart, and soul, having reviewed the transcript, the colloquy, and the amendment that had been offered prior to the amendment offered by the gentleman from Texas, that the intent, the intent of the amendment from the gentleman from Texas is incorporated in the legislation.

Now if the gentleman is insisting on the very absolute same identical language as was offered in the amendment that he offered, then I must say to the gentleman I cannot agree with that. And if the gentleman, therefore, seeks to object he may object.

Mr. GONZALEZ. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. PANETTA). Objection is heard.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 316

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Concurrent Resolution 316.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PRESIDENT'S VETO OF DEFENSE AUTHORIZATION BILL

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, here we go again.

I understand that the Democratic leadership has devised a dubious strategy for dealing with the President's expected veto today of the Defense authorization bill.

Instead of dealing with the veto up front, I understand the leadership is going to slip it under the rug by referring it to committee and then attach the authorization to the pending appropriation bill in the other body.

Such a ploy will probably get you a citation from the Magician's Union but it violates the intent and purpose of the Constitution and makes a mockery of our rules and procedures.

Mr. Speaker, the Constitution says when a veto occurs, the House is to reconsider the vetoed bill with a public, recorded yea or nay vote. We should and must proceed directly to the question at hand with no referral, no postponement, no silly political shell games.

The American people have a right to know where the House stands on this issue. The President has a right to have his veto sustained or overridden as the case may be. This House ought to have the political courage and the integrity to face up to it.

Is this the kind of courageous leadership the country has in store under Democratic rule?

Mr. Speaker, the House ought to act without delay. Let us not make the same mistake we did, for example, on the fairness doctrine.

PICKING A VICE PRESIDENT: PROFILES IN LEADERSHIP

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, how a Presidential nominee selects his running mate speaks volumes about his leadership abilities.

In making his choice, Mike Dukakis talked and campaigned with party leaders from Congress and the States.

He wasn't looking for a lap dog; he wanted the most capable person who could serve as President, if needed.

By designating the senior Senator from Texas a week before our convention, Governor Dukakis gave Democrats the chance to nominate someone else if we disagreed with the selection.

But his choice was accepted unanimously, and we now have the most unified party in decades.

By contrast, GEORGE BUSH is relying on a pollster to pick his running mate.

And, he's concealing his choice until the third night of their convention, telling Republican delegates they must "take it or leave it."

This election is about two vastly different profiles in leadership. The Democratic nominee refuses to play a Vice Presidential shellgame; he is open and honest with the American people. Can the other party make the same claim?

H.R. 4333 REPEALS DIESEL FUEL TAXES FROM FARMERS AND THE SO-CALLED HEIFER TAX

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today in support of a bill the House will consider tomorrow, the Miscellaneous Revenue Act of 1988 (H.R. 4333).

While no piece of legislation of this magnitude is ever perfect, H.R. 4333 goes a long way in addressing some of the problems found in the Tax Reform Act of 1986 and the Budget Reconciliation Act of 1987.

I am pleased to see included in this bill the repeal of the collection of diesel fuel excise taxes from farmers and ranchers and the repeal of the so-called heifer tax. These two changes will help the agriculture sector, particularly in this drought-stricken year, since both laws were estimated to raise the cost of production for producers.

Earlier this year, I introduced one of the first bills calling for repeal of the 15-cents-a-gallon tax on diesel fuel for off-highway users. This additional up-front payment required from farmers who irrigate has been particularly difficult because of the drought. According to the University of Nebraska, about 35 percent of the 72,000 irrigation wells in Nebraska are powered by diesel fuel.

This procedure adds thousands of dollars in unnecessary compliance and administrative costs to tax-exempt, off-road users of diesel fuel. It will not be missed.

In January 1987, I introduced legislation repealing the heifer tax. The tax, in its zeal to eliminate tax sheltering, has gone overboard. It is estimated that the requirement that farmers and ranchers capitalize preproductive expenses will cost an additional $50 to $100 for every replacement heifer they raise. Again, a repeal of the heifer tax is especially needed now since cattle producers will be facing higher feed costs over the next year as a result of the drought.

I commend the Ways and Means Committee for including these repeals in H.R. 4333—beneficial changes which are needed to address the unique circumstances and problems farmers and ranchers experience.

GEORGE BUSH: A MAN OF ABSENCE

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, during their tenure, the Reagan-Bush administration regularly rejected America's movement toward equality of rights under law.

It's a shame the Vice President was unwilling or unable to defend that record at a recent gathering of the Urban League.

Like so many other Americans, members of the Urban League were forced to ask: "Where was GEORGE BUSH?".

It has always been that way. When the critical decisions are being made—on whether to veto the defense bill or Grove City, on arms sales to the Ayatollah, on the failed drug war—GEORGE BUSH is noticeably absent, always.

Like Groucho Marx singing "I'm afraid I must be going", like Monty Python screaming "run away", like the dog that didn't bark; like invisible ink; like Claude Raines or the invisible rabbit "Harvey."

We quickly realize that perhaps BOB DOLE was right when he said GEORGE BUSH hasn't left "any footprints anywhere."

With GEORGE BUSH there is just no there—there.

What you see is what you get and with GEORGE BUSH that "ain't much."

PRESIDENT REAGAN IS RIGHT IN VETOING THE DEFENSE AUTHORIZATION BILL

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the President has rightfully vetoed the Defense authorization bill. It is a compilation of too many clinkers, sinkers, and stinkers for him to sign in its present form and we should take it back and clean it up before we pass it again.

Mr. Speaker, in the last 7½ years the United States has come a long way in foreign policy and, unlike before President Reagan, we Americans can now hold our heads high around the world. Because of our rebuilt strength, we have now backed the Soviets out of Afghanistan; the Cubans are negotiating a withdrawal from Angola; we reached an agreement on intermediate nuclear weapons; and the Iran-Iraq war is winding down.

For these reasons and lots of others, the world is a safer, freer place than it was under Jimmy Carter when he left office. So it is hardly the time to start unilaterally tying our hands with messy, cumbersome, and inadequate provisions in the Defense authorization bill.

Mr. Speaker, the bill is a loser and we can do better, but only if we keep in mind the reason for our successes around the world. We are stronger than we were and we can stay that way with a better bill.

TRIBUTE TO MIKE DITKA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, this past weekend in Canton, OH, one of the greatest football players in American history, Mike Ditka, was inducted into the National Football League Hall of Fame.

As a former teammate of Mike's at the University of Pittsburgh, I want to extend my sincere congratulations to one of football's all time great players.

Mr. Speaker, on the field Mike was a real warrior. He never backed off. He hated to lose.

As a result, he was a consensus all-American at the University of Pittsburgh in 1960. The following year he was the rookie of the year in the National Football League and for 5 straight years he was a consensus all-pro tight end for the Chicago Bears and he made that position, tight end, the cornerstone of modern professional football.

Off the field many people do not know the volatile Mike. He is a caring man who has given back and helped the less fortunate.

In addition, his greatness as a football player is not the only element of his great career.

Mr. Speaker, I predict that when it is all over the name of Mike Ditka will be revered as a coach in the NFL with that of Halas, Shula, Noll, Brown, Davis, and even the great Lombardi.

So I rise here today to pay tribute to a great citizen of Aliquippa, PA, who has had hard times but never knew the meaning of the word "quit."

That is the symbol of Mike Ditka. Mr. Speaker, for all of the Pitt alumni all around the world, and all the people in western Pennsylvania and northeast Ohio, we say congratulations, Mike Ditka, you are a great citizen and keep up the good work.

WHERE WAS MIKE—THE G.W.E.N. STATION

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the Democratic Presidential nominee says, "we must be * * * militarily strong." But, I want to know, Where was Mike when the Air Force tried to install the ground wave emergency network station in Massachusetts? This system will help notify the Strategic Air Command and the North American Aerospace Defense Command in the event of nuclear attack.

Governors don't usually get the opportunity to have an impact on national security policy. But Mike has. Thus, we have a rare opportunity to observe how he would act as President on national security policy. And what have we seen? Mike has consistently opposed the participation of Massachusetts in this important Nationwide communications system. His opposition continues to this day.

Only Mike Dukakis and Rhode Island are preventing the full operation of this vital system. Mike, you can't have it both ways. You can't maintain that you're for a strong military and still cut off America's ability to protect itself from nuclear attack. This position is frighteningly similar to Dukakis' views on the strategic defense initiative.

James Schlesinger, a distinguished national security expert in both Democratic and Republican administrations, recently wondered if Dukakis is "viscerally antimilitary." Mr. Speaker, I believe Mr. Dukakis' views on the ground wave emergency network and other national security issues proves that, at a minimum, Mike doesn't have a grasp on sensible defense policy.

LEGISLATION TO HELP AMERICANS BUY THEIR FIRST HOME

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, tomorrow we will vote on Tax Code changes, one of which will help people in my home State of Maine and across the country to buy their first home.

H.R. 4333 would extend the Mortgage Revenue Bond Program which enables State housing agencies to offer low-interest mortgages to first-time, low- to moderate-income homebuyers.

Our current housing crisis should not be underestimated. We have lost over 2 million potential homebuyers over the last 7 years, including thousands in Maine, because incomes have not kept pace with the price of homes.

We also have lost millions in potential construction jobs, purchased materials, and tax revenues. Conservative estimates show that this program generates $10 in economic impact for every $1 that is invested by the Federal Government.

A home is a very precious thing. It is more than just a place to sleep—it is the center—the very heart of the family. This program has made the dream of homeownership a reality for millions of American families. It deserves to continue. I urge a yes vote on the technical corrections bill.

PRESIDENT REAGAN COMMENDED FOR VETOING THE DEFENSE AUTHORIZATION BILL

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, that noise you heard this morning was a bunch of Republicans reading the story in the right hand column of the Washington Post. We found out in this story that President Reagan has decided to veto the misnamed Defense authorization bill.

Mr. Speaker, I commend the President for deciding to stand up to the liberal disarmers straight out of the Michael Dukakis camp. I applaud this veto. It clearly shows the differences between Republicans and Democrats when it comes to the defense of our Nation.

But even more important, perhaps now we can write a defense bill that actually increases our defense rather than cuts it. We've cut the defense budget, in real-dollar terms, for the past 4 years, so we don't have the luxury of putting all these self-limiting provisions into our new bills.

Policies of unilateral disarmament have failed throughout history. President Reagan has proven that the best way to increase the chance for peace is to have a strong defense. The American people and the Vice President both realize this, which leaves me rather optimistic about this fall.

□ 1045

SUPPLEMENTAL SECURITY

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, last February I introduced legislation, along with members of the Massachusetts delegation, to allow severely disabled children to more easily become entitled to SSI benefits. Our bill would overturn existing law which "deems" a parent's income to a disabled child when the child leaves an institution and returns home.

The result of this policy is to force children to remain in institutions at a much greater cost to our Government when they could be cared for more cheaply and, most importantly, more humanely at home by their parents.

Our bill, filed at the request of the Governor of Massachusetts, was prompted by the case of a severely disabled child in Massachusetts who is affected by these unfair rules.

It now appears that Vice President BUSH agrees at least with the basic premise of our bill because last Friday he announced that a new Federal program was being established to allow States to pay for nonprescription drugs and other home care needs in situations involving disabled children.

Frankly, Mr. Speaker, the Vice President's initiative is too little and too late. Mothers of sick children should not have to petition the Vice President of the United States for humane and adequate access to health care. And, most importantly, Mr. Speaker, young sick children should not be used as pawns in a political campaign.

Let me say, Mr. Speaker, that if the Vice President is really serious about helping tens of thousands of sick children in this situation, he would get the administration to withdraw its opposition to our bill and use his considerable influence with the President to convince him to sign our legislation when it reaches his desk in October.

DOD AUTHORIZATION BILL IS FATALLY FLAWED

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I join my colleagues by rising to congratulate the President for sending us a very clear and bold message by vetoing the defense authorization bill for the upcoming fiscal year. We all know that the Preamble of the Constitution states very clearly our responsibility to "provide for the common defense," but we also know that the Constitution instructs us on how to deal with a veto. The rumor that has been circulated here is that there is going to be a surreptitious attempt by our colleagues on the other side of the aisle to deal with this in an incorrect manner.

The budget summit last September doomed this important measure to failure when it continued the decline in defense spending started 4 years ago. This reduction in funding comes at a time when the threats to our national security continue to grow.

The House and Senate took further steps to sabotage this bill by rearranging the budget priorities of the Defense Department to suit its own agenda and priorities. Finally, the other side of the aisle weakened this bill by the introduction of counterproductive arms control language

Mr. Speaker, I am very pleased that just a few minutes ago the President decided to veto this measure.

INTRODUCTION OF LEGISLATION EXEMPTING RESIDENTIAL CONSTRUCTION FROM CERTAIN IRS REQUIREMENTS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, despite the fact we are still experiencing the longest period of economic growth in modern history, affordable housing is becoming one of the major concerns of Americans today. Costs are continuing to rise, especially, for low-income and multifamily housing units.

Recent action taken by the Internal Revenue Service to apply long-term contract rules to all residential housing, undermines the ability of home builders to maintain capital reserves necessary for constructing housing. Under the IRS regs, costs will skyrocket and most importantly, builders will pay taxes on income they never receive.

Mr. Speaker, today I am introducing legislation to provide that contracts for residential construction completed in less than 12 months, shall be exempt from IRS long-term contract requirements. It concerns me greatly that the IRS, perhaps in an attempt to grab revenue wherever possible, is pursuing a tax policy through regulation contrary to the principles of fairness and common sense.

FURIOUS FOOTBALL

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, GEORGE BUSH is down 17 points, and he is getting desperate. With this administration, winning is almost as important as ideology, but nothing is ever sacred with them, and when they are down, they get very nervous.

It seems now as though President Reagan has decided that he wants to veto, and has vetoed, the Defense authorization bill. But is this decision really being made by President Reagan? I doubt it. This is a game of politics, pure and simple.

As is always the case at this point in a Presidential election cycle, some are ahead in the polls and some are behind. There is the inevitable game of political catch up that goes on, and that is expected. But when the game starts to involve the Nation's security, I expect responsible Members of this body to cry, foul. It is about time.

Counseling the President to veto this bill, legislation which makes America more strong and more efficient, is outrageous, and it is time, I say to my colleagues, that we cry, foul.

VETO ARGUMENT

(Mr. SMITH of New Hampshire asked and was given permission to address the House for 1 minute.)

Mr. SMITH of New Hampshire. Mr. Speaker, this morning President Reagan vetoed the National Defense Authorization Act, H.R. 4264. The bill is a bad bill, and deserves to be vetoed for national security reasons and not for political reasons.

The Democrats are mistakenly saying that the voters don't believe that defense is an issue anymore. What it really means is that the Democrats don't want to face the issue. They don't want to face the fact that they are weak on defense.

The No. 1 priority in the Constitution is for the Government to provide for the common defense. So what the Democrats are doing, in this bill and in the Presidential election, they are shirking their primary responsibility to the people. This bill does not provide for the common defense; it gives the Soviets nearly everything they haven't achieved through negotiations.

The veto of this legislation, which I strongly support, will elevate this issue to its proper height, and highlight one of the major differences between the Republican and Democratic Parties.

Well done, Mr. President.

POLLSTER POLITICS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I say to the Presidential candidate of the Republican Party: You are down 17 points in the polls and your opponent has just had a great convention and made a Vice-Presidential choice that many consider brilliant, putting you on the defensive in many States of the country that you thought you had locked up. And now all eyes turn to you, the Republican candidate, to see what Vice President you will choose, because many say, correctly perhaps, that your choice of Vice President will determine whether you win or lose the Presidency.

What does a candidate of strength, of conviction, of proven leadership ability, do when asked who he will pick for Vice President? He turns to his pollster. Yes, we have read that Vice President GEORGE BUSH is not going to meet with the candidates. He is not going to go out and examine who they are and what they are, but, rather, he has stated publicly that he is going to talk to his pollster about who to choose for Vice President.

Mr. Speaker, is that the kind of leadership America wants? Is that what we need for a strong America? Is that what America needs in the 20th century?

Mr. BUSH. Mr. Vice President, do what you feel is right. Do not turn to your pollster to determine who will be the Vice President.

PEACE, PROSPERITY, STRONG DEFENSE ARE STILL CENTERPIECE OF THE REAGAN ERA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, the Department of Defense announced yesterday that factory orders are at an all-time record high, durable goods are up 5½ percent, housing starts are up once again, inflation and interest rates, of course, are down, and we have created 9,000 jobs a month for now 67 consecutive months. Employment jobs have increased 2½ times more than Japan, Canada, and West Germany combined in the last 6½ years.

On the foreign policy front, in Afghanistan, in Angola, and in Cambodia, peace is on the ascendancy.

So, Mr. Speaker, I congratulate the President on vetoing the Defense authorization bill and drawing the line when it comes to our Nation's military strength from those who have pledged to bring an end to the Reagan era, those who have boasted that they would end the progress and prosperity we have enjoyed.

Therefore, Mr. Speaker, I congratulate the President for vetoing this legislation which would have marked the fourth year in a row of negative growth of real reductions in our defense budget, that would have destroyed the modernization efforts of our strategic forces, that maintains the Kremlin request for arms control provisions that ban depressed trajectory missile flights, and complying with the SALT II embarrassment that even the Democratic Senate could not abide. In addition, it would have gutted SDI, essentially destroying any hope for a ballistic missile defense for our Nation.

Mr. Speaker, I congratulate the President for drawing the line and for the fact that the Reagan era of peace and prosperity is not over yet.

WHITE HOUSE ACTIONS ON PLANT CLOSING, DEFENSE AUTHORIZATION ASCRIBED TO POLITICS

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. McCURDY. Mr. Speaker, yesterday the President allowed a plant closing bill to become law thinking his action would rob Democrats of an important election year issue. Today, we learn that he vetoed the fiscal year 1989 Defense authorization bill because he thinks it will help GEORGE BUSH appear strong on defense. It appears that the White House has opted out of its responsibility to govern and has chosen instead to roll the political dice. Unfortunately, the stake in this high risk game happens to be U.S. national security.

This bill has the undaunted support of the President's military advisers, Defense Secretary Carlucci and Chairman of the Joint Chiefs of Staff, Admiral Crowe. It contains a 4.1-percent military pay raise. It recognizes the reality of post-INF world by increasing funding to conventional readiness programs like tanks, spare parts, and equipment for our National Guard and Reserve forces. At the same time, the bill provides substantial funding for strategic modernization. It includes critical funds for drug interdiction. It provides for bold, new manpower initiatives.

Yet, the President would throw all of this away and yield to the requirements of the BUSH for President campaign. He would raise the spectacle of funding our national defense through a haphazard continuing resolution rather than under coherent authorization policy.

At the most critical of times, the President has again chosen confrontation rather than construction.

TRIBUTE TO EUNICE HIGH SCHOOL

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, I rise today with great pride and pleasure to honor Eunice High School for their exemplary drug awareness program. During this critical period in our Nation, as we are searching for solutions to the drug epidemic destroying our youth, Eunice High School has risen ot meet the challenge.

For the past 2 years Eunice High School has won the "Set a Good Example Contest" sponsored by the Concerned Businessmen's Association of America. This award is presented to only one high school a year for recognition of their superior drug awareness program. It is a privilege to have such an exceptional high school in my district.

The students and faculty of Eunice High School sacrificed a lot of time to make this program a success. While Mrs. Susan Bellon, 4-H leader for the school, donated her many talents to develop the curriculum and direct the events. During "B.A.D. [Bobcats Against Drugs] Week" they performed plays, decorated doors, broadcast radio announcements, held poster and essay contests, showed films, listened to speakers, sponsored a "Just Say No" dance and hosted many other creative initiatives to promote drug awareness.

I would like to ask my colleagues to join me in honoring Eunice High School for their achievements. Special thanks go to Mr. Raymond Fontenot, principal of Eunice High, for his skilled leadership and Mayor Curtis Joubert of Eunice for his enthusiastic support of this program. I know, like myself, they are very proud of the accomplishments made by the high school. Thanks also belong to the concerned parents and members of the community who became involved in "B.A.D. Week."

Go Bobcats!

GEORGE BUSH

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, the weather across the country this month is reminiscent of the Republicans' predicament in this election year—sticky and hazy. but I heard the Washington weather forecast this morning and it said that the sky will be clear tonight and the stars will be shining brightly. So in this astrological administration perhaps the Vice President can look through the telescope at his mansion tonight and divine who he will select as a running mate. There has been much made about this administration's reliance on astrology and the birth signs of its leaders. The President was born under a water sign. The Attorney General was born under a dollar sign. Judging from the Iran-Contra affair, the Vice President was born under a "no talking" sign.

Several days ago, while discovering a day care center the Vice President told a group of children that he talks to fish. Since the rest of us to not have this "Dr. Doolittle" gift I think the Vice President owes us an explanation of whether he advised the fish against selling arms to Iran. In any event, Mr. Speaker, because of this administration's pitiful record on alleviating acid rain and ocean dumping there are fewer and fewer fish for the Vice President to consult with.

APPLAUDING PRESIDENT REAGAN FOR VETOING THE DEFENSE AUTHORIZATION BILL

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I applaud the President's courage to stand up for his unyielding commitment to strengthen our national defense by vetoing the so-called defense authorization bill.

Vetoing this Defense bill is the only cure for a bill that is replete with examples of the Democrats misguided defense policies.

The American people should know that the liberals in the Democratic Party want to force this President to unilaterally remove strategic weapons systems from operation, force the President to live with SALT II restrictions from a treaty that could not pass a Democratic Senate, which is unratified, which has expired, and which the Soviets have repeatedly violated.

Provisions in this bill gut the strategic defense initiative program—a program which the American people strongly support and may hold the promise for peace in the next century.

The Democratic Party's defense policy is embodied in this bill. They wish to unilaterally restrict or curtail our strategic programs and allow the Soviets a free hand to develop new strategic systems.

If enacted, this bill would destroy America's leverage at the negotiating table and cripple the next President's ability to make continued progress on further arms control agreements.

Mr. President, I applaud your decision and urge you to continue to veto any legislation that contains the same repugnant provisions.

PERHAPS THE PRESIDENT WAS CONFUSED

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I think people are trying to explain away a mistake. I think the President meant to sign the defense bill and veto the plant-closing bill because he gets a little confused sometimes. I mean he told us how terrible the plant-closing bill was, and then he says it should be the law, like the time he said the independent counsel law was unconstitutional, so he signed it. Now the defense bill, which gives him all the money he asked for, he vetoed.

So, Mr. Speaker, I think there may have been some confusion. Otherwise I do not understand why the President would have vetoed the defense money bill except for the fact that it may be an interference with the version of free enterprise that they have gotten over the Pentagon. It is strange that the President would at this point object to our trying to deal with questions at the Pentagon when he has presided over one of the greatest scandals in American history.

My colleagues know that we hear a lot from this administration about waste and fraud and abuse, and they generally point to some programs that try to help the desperately poor. It is now clear that, if all the poor people in America got together and worked real hard for a year, they could not steal as much money from the Federal Government as this administration has allowed to be stolen from the defense budget. So, when we budget, we assume that maybe they will begin to do some efficiences over there. Maybe they will begin to stop this merry-go-round of consultants, contractors, and officials, and maybe we can get by with a little bit less money, and that is probably one of the reasons the President vetoed it. He may not have enough confidence in his own ability to manage the place. The suggestion that because we are continuing to pursue responsible mutual arms control in the era of the Reagan-Gorbachev détente, the suggestion that that is why he vetoed the bill, would be too strange even for him.

GOVERNOR DUKAKIS AND THE PLEDGE OF ALLEGIANCE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, as usual my colleagues on the other side of the aisle started the day off by maligning the President, one of the most popular Presidents in the history of our Nation. They do it day in an day out. They also maligned the Vice President.

Well, my colleagues on the other side ought to tell the American people that Michael Dukakis, who is running for President, does not want little kids to say the Pledge of Allegiance to the flag in the schools of Massachusetts. He vetoed a bill that would mandate the kids say the Pledge of Allegiance to the flag every morning before school.

My colleagues know that the Pledge of Allegiance is the symbol of our Constitution. It is the symbol of patriotism in our Nation, and every American ought to understand and know the Pledge of Allegiance because we need patriotism now more than ever.

Yet the man who aspires to the highest office in the land does not even want little kids to say the Pledge of Allegiance to the flag. That says something about this man.

Now they can malign Ronald Reagan and George Bush, but the fact of the matter is that Michael Dukakis does not even want the Pledge of Allegiance to the flag said in the schools of Massachusetts.

Do my colleagues want that kind of man in the White House? I do not.

RACISM IN OUR SOCIETY

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, there was a cross burning in my district last week.

On the front lawn of a home in a quiet integrated neighborhood someone planted a cross, set it on fire and ran.

Three young children, residents of the home, discovered the burning on their front lawn at midnight. You can imagine their immediate fright. You can imagine how that hateful memory will last a lifetime. As a father, I wonder how someone could inflict such hate on children.

Perhaps you would like to think that this is an isolated incident, maybe only one or a few sick individuals are involved. Perhaps you would like to think that racism doesn't exist in your district. Look a little deeper, I tell you. Racism lives on in our society, in your district and in mine.

Yes, the occurence of overt acts of racism may be less than they were once were. But their very existence reminds us that beneath the surface of this very public attack, there are hundreds of incidents everyday of covert racism. As Americans, who love liberty and humanity, that diminishes all of us.

As leaders we have a special responsibility to speak out. Only through repeated expressions of our abhorrence and through strict laws and strict enforcement can we make more progress in eliminating racism.

I know my colleagues join me in expressing our sympathy to the Prince Georges County family with a renewed commitment to reject racism and reaffirm our commitment to justice for all and malice toward none.

WALTERBORO, SC, HOSTS 13TH ANNUAL DIXIE DEBS WORLD SERIES OF WOMEN'S SOFTBALL

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, a great southern battle is taking place in my district this week. Waterboro, SC, is the site of the 13th Annual Dixie Debs World Series of Softball. Ten Southeastern States are fielding teams to decide the top women's fast-pitch softball team in the South. This year's world series marks the first time South Carolina has hosted the Dixie Debs, and already the records are falling. Monday night, North Carolina's pitcher struck out 12 batters, shattering the previous world series record. There was a sad note to this particular achievement, though. North Carolina's opponent was, unfortunately, our own team from Walterboro. As of today, only Louisiana is undefeated in this double elimination tournament. But there is still hope. South Carolina has sustained only one loss. Regardless of who wins, though, we in the First District of South Carolina feel mighty proud to have been host to some of the best women's softball in the country.

UNMASKING DUKAKIS—"MASSACHUSETTS MIRACLE"

(Mr. DeLAY asked and was given permission to address the House for 1 minute.)

Mr. DeLAY. Mr. Speaker, Gov. Mike Dukakis loves to talk about the supposed "Massachusetts Miracle." Mike says he'll do for America what he did for Massachusetts. In his acceptance speech, Dukakis said:

> I've worked with the citizens of my State—worked hard to create hundreds of thousands of new jobs—and I mean good jobs, jobs you can raise a family on, jobs you can build a future on, jobs you can count on.

Surprise surprise, a reputable study by the Associated Industries of Massachusetts seems to contradict this claim. According to this group, since the middle of 1984, Massachusetts has lost 74,000 manufacturing jobs. Additionally, despite the fact that Massachusetts has only 3.1 percent of America's industrial employment the State accounted for 41 percent of all manufacturing jobs which were lost nationally from 1984 to 1987.

The loss of those jobs translates into a significant loss in the industrial economy. According to Warren Brookes, a nationally syndicated economics columnist and respected "Dukakis-watcher," Massachusetts under Governor Dukakis has the worst industrial record in the country, with the exception of New York.

Mr. Speaker, given these facts, I think New Hampshire Gov. John Sununu's "Massachusetts Mirage" is a more accurate description of the economy under Mr. Dukakis. If Dukakis truly wants to do for America what he did for Massachusetts, I believe this record proves that the voters should have no interest in the Governor.

GOOD REASONS FOR THE VETO OF THE DEFENSE AUTHORIZATION BILL

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute.)

Mrs. MARTIN of Illinois. Mr. Speaker, as we are all aware by now, President Reagan has vetoed the fiscal year 1989 defense authorization bill. There are, I believe, many good reasons for his doing so.

For one, the legislation, as the administration and many of my Republican colleagues in here and in the Senate have pointed out, contains a litany of worn and outdated restrictions and directives which ignore a positive record of achievement in arms control, and East-West diplomacy more generally.

I believe that this legislation deserved the veto for another equally important reason. This legislation authorizes at least several billion dollars in expenditures for goods and services that the Department of Defense and the military services neither want nor need.

Ironically, many of those same individuals who have argued most passionately and in the highest moral tones for the need to reduce defense spending and rationalize the spending process are themselves responsible for the pork barreling which has swelled this legislation. The hypocrsy is blatant and disturbing.

The President has provided the opportunity to clean up this authorization. I would urge my colleagues on both sides of the aisle to take advantage of the opportunity.

GEORGE BUSH—THE REAL THING

(Mr. LUNGREN asked and was given permission to address the House for 1 minute.)

Mr. LUNGREN of California. Mr. Speaker, I find it interesting that many of our colleagues on the Democratic side of the aisle are so interested in who the Republican Vice-Presidential nominee is going to be. I find that fascinating. Evidently they are trying to help us create the tension that will continue until the time that Vice President BUSH reveals his particular selection.

Mr. Speaker, perhaps they are upset about the fact that we seem to have such an enormous amount of talent and so many people to be considered. Perhaps they are upset that no woman was seriously considered on the Democratic side while several women are being considered on our side. Perhaps they are trying to forget their disappointment when the Senator from Texas, Senator BENTSEN, was chosen as the Vice-Presidential nominee on their side.

Now let us look at Senator BENTSEN. He supported Contras. He has also been for Reaganomics all along. He has supported the President on a number of his proposals in the area of national defense. On the other hand, his votes on spending overall have not been that good. He has bowed to Governor Dukakis on a number of issues; he may bow even further, and so what we have is a pale imitation of a Republican for Vice President.

Mr. Speaker, it seems to me when the American people have an opportunity to make their final decision that they will vote for the real thing. And I can understand, therefore, why my colleagues on the Democratic side are so discomforted by that fact.

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LEAVE BLOOD BORDERS A RELIC OF THE PAST

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, on July 1 of this year, Wyoming became the 50th and last State to accept a drinking age of 21. I wholeheartedly applauded that move. Wyoming's action closed the last blood border in the United States and the book on the unchecked slaughter of our Nation's young people on the highways.

Then, just when you thought it was safe to go back on the highways again, talk is being heard in Wisconsin of lowering the drinking age to 19 and reopening the Wisconsin-Illinois blood border. This border is just 40 miles north of our Nation's third largest city, Chicago, and was the sight of teen drunk driving deaths almost every weekend until Wisconsin sensibly raised its drinking age.

It is the height of irresponsibility that any State consider reopening the blood borders that have been the cause of death and injury to so many. For our children's sake, I encourage Wisconsin Gov. Tommy Thompson and the Wisconsin Legislature to strongly oppose lowering the drinking age and to send a firm message to other States that the uniform nationwide drinking age is working and is here to stay.

TURNAROUND IN SOVIET UNION DUE TO REBUILDING OF AMERICAN DEFENSE STRUCTURE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, we all clearly see that something incredible is happening in the Soviet Union. To see the imagery on television last night of the Secretary of Defense of the United States of America sitting in the cockpit of the Soviet Union's most advanced top-secret bomber, the Blackjack, as we call it in NATO terminology, is phenomenal; to see Ronald Reagan on Red Square when he cannot even walk safely on the streets of some of our American cities because of crime in this great country, to see him with his arm around Gorbachev greeting people in one of the few shopping areas of Moscow, is phenomenal.

What caused this turnaround? The answer is 7½ years of the American defense structure being rebuilt. It was not caused by indecision and hesitancy and weakness, and that is why I am glad the President this morning has vetoed the defense authorization bill.

Authorization bills write things into law. The only way we can correct it now with the few days we have left in the 100th Congress because the authorization process is lost to us, is to fix the mistakes of dictating to the Presidency, to any President, whether Dukakis or BUSH, that would have existed next year. We can correct this in the appropriations bill.

THE CHRISTIC INSTITUTE

Mr. Speaker, switching topics, I am going to do a 1-hour special order tonight on the Christic Institute, a lying, foul, slandering organization that has spread such vicious calumny about the CIA, the FBI, and the DEA that it even worked its way into Ann Richards' keynote speech at the Democratic Convention. You can see these foul lies about the CIA now in top Hollywood movies like "Lethal Weapon," "No Way Out," you hear it on "Cagney & Lacey," a top-rated television show. This poison must be stopped.

They should be denied the use of the name Christ in their title, because they are actually the Tick Institute. They are like a poisonous, blood-sucking tick on the body politic. They spread these poisonous lies through the mouth of Daniel Sheehan, and we are going to stop it on our side of the aisle.

PRIVILEGES OF THE HOUSE—IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

Mr. RODINO. Mr. Speaker, I rise to a question of the privileges of the House, and I call up a privileged resolution (H. Res. 499) impeaching Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida, for high crimes and misdemeanors.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 499

Resolved, That Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, be impeached for high crimes and misdemeanors and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

From some time in the first half of 1981 and continuing through October 9, 1981, Judge Hastings and William Borders, then a Washington, D.C. attorney, engaged in a corrupt conspiracy to obtain $150,000 from defendants in United States v. Romano, a case tried before Judge Hastings, in return for the imposition of sentences which would not require incarceration of the defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE II

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE III

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., to modify the sentences of defendants in United States v. Romano, a case tried before Judge Hastings, from a term in the Federal penitentiary to probation in return for a bribe from those defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE IV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., in connection with a payment on a bribe, to enter, within 10 days of that payment, an order returning a substantial amount of property to the defendants in United States v. Romano, a case tried before Judge Hastings. Judge Hastings had previously ordered that property forfeited.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE V

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' appearance at the Fontainebleau Hotel in Miami Beach, Florida, on September 16, 1981, was not part of a plan to demonstrate his participation in a bribery scheme with William Borders of Washington, D.C., concerning United States v. Romano, a case tried before Judge Hastings, and that Judge Hastings expected to meet Mr. Borders at that place and on that occasion.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings did not expect William Borders, of Washington, D.C., to appear at Judge Hastings' room in the Sheraton Hotel in Washington, D.C., on September 12, 1981.

ARTICLE VII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath, make a false statement which was intended to mislead the trier of fact.

The false statement concerned Judge Hastings' motive for instructing a law clerk, Jeffrey Miller, to prepare an order on October 5, 1981, in United States v. Romano, a case tried before Judge Hastings, returning a substantial portion of property previously ordered forfeited by Judge Hastings. Judge Hastings stated in substance that he so instructed Mr. Miller only because Judge Hastings was concerned that the order would not be completed before Mr. Miller's scheduled departure, when in fact the instruction on October 5, 1981, to prepare such order was in furtherance of a bribery scheme concerning that case.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' October 5, 1981, telephone conversation with William Borders, of Washington, D.C., was about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina, and was not a coded conversation in furtherance of a conspiracy with Mr. Borders to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings, is guilty of an impeachable offense warranting removal from office.

ARTICLE IX

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that three documents that purported to be drafts of letters to assist Hemphill Pride, of Columbia, South Carolina, had been written by Judge Hastings on October 5, 1981, and were the letters referred to by Judge Hastings in his October 5, 1981, telephone conversation with William Borders, of Washington, D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE X

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath, make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on May 5, 1981, Judge Hastings made a telephone call to 803-758-8825 in Columbia, South Carolina, and talked to Hemphill Pride at that number.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on August 2, 1981, he made a telephone call to 803-782-9387 in Columbia, South Carolina, and talked to Hemphill Pride at that number.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on September 2, 1981, he made a telephone call to 803-758-8825 in Columbia, South Carolina, and talked to Hemphill Pride at that number.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that 803-777-7716 was a telephone number at a place where Hemphill Pride worked in July 1981.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on the afternoon of October 9, 1981, Judge Hastings called his mother and Patricia Williams from his hotel room at the L'Enfant Plaza Hotel in Washington, D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact concerning his motives for taking a plane on October 9, 1981, from Baltimore-Washington International Airport rather than from Washington National Airport.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVI

From July 15, 1985, to September 15, 1985, Judge Hastings was the supervising judge of a wiretap instituted under chapter 119 of title 18, United States Code (added by title III of the Omnibus Crime Control and Safe Streets Act of 1968). The wiretap was part of certain investigations then being conducted by law enforcement agents of the United States.

As supervising judge, Judge Hastings learned highly confidential information obtained through the wiretap. The documents disclosing this information, presented to Judge Hastings as the supervising judge, were Judge Hastings' sole source of the highly confidential information.

On September 6, 1985, Judge Hastings revealed highly confidential information that he learned as the supervising judge of the wiretap, as follows: On the morning of September 6, 1985, Judge Hastings told Stephen Clark, the Mayor of Dade County, Florida, to stay away from Kevin "Waxy" Gordon, who was "hot" and was using the Mayor's name in Hialeah, Florida.

As a result of this improper disclosure, certain investigations then being conducted by law enforcement agents of the United States were thwarted and ultimately terminated.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVII

Judge Hastings, who as a Federal judge is required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of his office impartially, did, through—

(1) a corrupt relationship with William Borders of Washington, D.C.;

(2) repeated false testimony under oath at Judge Hastings' criminal trial;

(3) fabrication of false documents which were submitted as evidence at his criminal trial; and

(4) improper disclosure of confidential information acquired by him as supervisory judge of a wiretap;

undermine confidence in the integrity and impartiality of the judiciary and betray the trust of the people of the United States, thereby bringing disrepute on the Federal courts and the administration of justice by the Federal courts.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

Mr. RODINO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following:

That Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, be impeached for high crimes and misdemeanors and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

From some time in the first half of 1981 and continuing through October 9, 1981, Judge Hastings and William Borders, then a Washington, D.C. attorney, engaged in a corrupt conspiracy to obtain $150,000 from defendants in United States v. Romano, a case tried before Judge Hastings, in return for the imposition of sentences which would not require incarceration of the defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE II

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE III

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., to modify the sentences of defendants in United States v. Romano, a case tried before Judge Hastings, from a term in the Federal penitentiary to probation in return for a bribe from those defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE IV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., in connection with a payment on a bribe, to enter an order returning a substantial amount of property to the defendants in United States v. Romano, a case tried before Judge Hastings. Judge Hastings had previously ordered that property forfeited.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE V

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' appearance at the Fontainebleau Hotel in Miami Beach, Florida, on September 16, 1981, was not part of a plan to demonstrate his participation in a bribery scheme with William Borders of Washington, D.C., concerning United States v. Romano, a case tried before Judge Hastings, and that Judge Hastings expected to meet Mr. Borders at that place and on that occasion.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings did not expect William Borders, of Washington, D.C., to appear at Judge Hastings' room in the Sheraton Hotel in Washington, D.C., on September 12, 1981.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath, make a false statement which was intended to mislead the trier of fact.

The false statement concerned Judge Hastings' motive for instructing a law clerk, Jeffrey Miller, to prepare an order on October 5, 1981, in United States v. Romano, a case tried before Judge Hastings, returning a substantial portion of property previously ordered forfeited by Judge Hastings. Judge Hastings stated in substance that he so instructed Mr. Miller primarily because Judge Hastings was concerned that the order would not be completed before Mr. Miller's scheduled departure, when in fact the instruction on October 5, 1981, to prepare such order was in furtherance of a bribery scheme concerning that case.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' October 5, 1981, telephone conversation with William Borders, of Washington, D.C., was in fact about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina, when in fact it was a coded conversation in furtherance of a conspiracy with Mr. Borders to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE IX

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that three documents that purported to be drafts of letters to assist Hemphill Pride, of Columbia, South Carolina, had been written by Judge Hastings on October 5, 1981, and were the letters referred to by Judge Hastings in his October 5, 1981, telephone conversation with William Borders, of Washington, D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE X

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath, make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on May 5, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on August 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-782-9387 in Columbia, South Carolina.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on September 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that 803-777-7716 was a telephone number at a place where Hemphill Pride could be contacted in July 1981.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on the afternoon of October 9, 1981, Judge Hastings called his mother and Patricia Williams from his hotel room at the L'Enfant Plaza Hotel in Washington, D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact concerning his motives for taking a plane on October 9, 1981, from Baltimore-Washington International Airport rather than from Washington National Airport.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVI

From July 15, 1985, to September 15, 1985, Judge Hastings was the supervising judge of a wiretap instituted under chapter 119 of title 18, United States Code (added by title III of the Omnibus Crime Control and Safe Streets Act of 1968). The wiretap was part of certain investigations then being conducted by law enforcement agents of the United States.

As supervising judge, Judge Hastings learned highly confidential information obtained through the wiretap. The documents disclosing this information, presented to Judge Hastings as the supervising judge, were Judge Hastings' sole source of the highly confidential information.

On September 6, 1985, Judge Hastings revealed highly confidential information that he learned as the supervising judge of the wiretap, as follows: On the morning of September 6, 1985, Judge Hastings told Stephen Clark, the Mayor of Dade County, Florida, to stay away from Kevin "Waxy" Gordon, who was "hot" and was using the Mayor's name in Hialeah, Florida.

As a result of this improper disclosure, certain investigations then being conducted by law enforcement agents of the United States were thwarted and ultimately terminated.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVII

Judge Hastings, who as a Federal judge is required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of his office impartially, did, through—

(1) a corrupt relationship with William Borders of Washington, D.C.;

(2) repeated false testimony under oath at Judge Hastings' criminal trial;

(3) fabrication of false documents which were submitted as evidence at his criminal trial; and

(4) improper disclosure of confidential information acquired by him as supervisory judge of a wiretap;

undermine confidence in the integrity and impartiality of the judiciary and betray the trust of the people of the United States, thereby bringing disrepute on the Federal courts and the administration of justice by the Federal courts.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

□ 1130

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from New Jersey [Mr. RODINO] is recognized for 1 hour.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, this House must decide whether to exercise its constitutional power to impeach Judge Alcee L. Hastings. In carrying out this serious and solemn duty, our decision must be based on the clear intent behind the constitutional impeachment provision, which is expressly reserved for those serious offenses by public officials that betray the public trust and undermine the integrity of high public office.

As with all other aspects of the checks and balances in our system of government, the framers of the Constitution structured impeachment in a manner that rejects a system of pure efficiency in favor of a more complex procedure that maximizes the integrity and independence of the Federal judiciary. To the framers, mandating an intricate process for the removal of Federal judges seemed a small price to pay to ensure the American populace an independent judiciary. In explaining why impeachment was one of a number of overlapping features aimed at preserving judicial autonomy, the framers were concerned that the judiciary was the most vulnerable of the three branches because unlike the executive, it cannot rely on its control of the Army, and unlike the legislature, it has no control over the power of the purse.

They were concerned that any less complex machinery might not sufficiently protect the judiciary from the political backlash of their decisions.

Thus, the Founding Fathers fully anticipated that impeachment would be a cumbersome affair, generating controversy and divisiveness, and demanding much attention by Members of Congress. Yet, they believed that no other branch of Government was as qualified to undertake this duty or would safeguard the impeachment process as scrupulously from vindictive or frivolous accusations. History attests to the care with which the Congress has discharged its prescribed responsibility.

Since 1787, the House of Representatives has impeached 14 Federal officers: One President, one Cabinet officer, one Senator, and 11 Federal judges. Twelve of the impeached officers were tried in the Senate; two resigned prior to Senate proceedings. Five of the twelve impeachments that went to trial resulted in conviction and removal from office. All five involved Federal judges.

While the power of impeachment has been exercised infrequently, it has, as the Founding Fathers intended, played a special and essential role in maintaining the integrity of the Federal judiciary. As Members of this body have recognized in prior judicial impeachments, the judges of the Federal courts occupy a unique position of trust and responsibility in our system of government: They are the only members of any branch that have life tenure in office. They are purposely insulated from the immediate pressures and shifting currents of the body politic. But with the special prerogative of judicial independence comes the most exacting standard of conduct.

The resolution before this House today sets forth 17 articles of impeachment against Judge Alcee L.

Hastings. The circumstances under which this matter has come before us are unique in our Nation's history.

Judge Hastings and a codefendant, Mr. William Borders, were indicted in 1981 for having engaged in a corrupt conspiracy to solicit a bribe from defendants who were tried in Judge Hastings' court. Mr. Borders, in a separate trial, was convicted. Thereafter, Judge Hastings was tried and acquitted. Approximately 6 weeks after his acquittal, two U.S. district judges from the 11th circuit initiated a complaint pursuant to title 28, United States Code section 372(c). The Judicial Councils Reform and Judicial Conduct and Disability Act, requesting an investigation to determine whether Judge Hastings had engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.

On August 4, 1986, the committee of judges appointed to investigate the complaint submitted its report and recommendations to the Judicial Council of the eleventh circuit. The report found that the evidence, considered in its totality, clearly and convincingly established that Judge Hastings had engaged in a corrupt conspiracy to obtain a bribe from the defendants in a case which was pending before him. The report also found that there was clear and convincing evidence that Judge Hastings had testified falsely at his trial in an attempt to conceal his participation in the bribery scheme.

On September 2, 1986, the Judicial Council of the eleventh circuit unanimously adopted the report containing these findings. The report was then forwarded to the Judicial Conference of the United States, which concurred in the determination of the Judical Council. On March 17, 1987, Chief Justice Rehnquist, acting on behalf of the conference, transmitted the report and the records of the investigation to the Speaker of the House, stating in language mandated by the statute that "consideration of impeachment [of Judge Hastings] may be warranted."

The inquiry into Judge Hastings' conduct was referred to the Committee on the Judiciary, and was in turn referred to the Subcommittee on Criminal Justice under the able leadership of the gentleman from Michigan [Mr. CONYERS].

Faced on the one hand, with the acquittal of Judge Hastings on certain charges and, on the other hand, with the conclusions of the lengthy report emanating from the eleventh circuit's investigation, the subcommittee engaged in an independent investigation lasting approximately 1 year. Dozens of witnesses were interviewed; thousands of documents were reviewed and analyzed; extensive litigation to obtain additional documents and testimony was engaged in successfully; and new areas of inquiry, not considered by the jury at Judge Hastings' trial, were also investigated. Seven days of hearings were conducted at which 12 witnesses testified.

Judge Hastings was afforded the right to be present and participate with his five counsel during the subcommittee's hearings, all of which were public. He had the opportunity of having witnesses called at his suggestion and the opportunity to question all witnesses who came before the subcommittee. Judge Hastings was invited to testify at the conclusion of the subcommittee hearings, but declined to do so.

On July 7, 1988, the subcommittee voted unanimously in support of 17 articles of impeachment against Judge Hastings. On July 26, 1988, the Committee on the Judiciary took up House Resolution 499, which contains the 17 articles recommended by the subcommittee. The ranking minority member, Mr. FISH, offered a technical and clarifying amendment which was adopted by voice vote. Thereafter, the Committee on the Judiciary voted to adopt all 17 articles. Articles I and XVI were adopted by voice vote. The committee then adopted the remainder of House Resolution 499, as amended, excluding articles I and XVI, by a rollcall vote of 32 to 1. Every member of the Committee on the Judiciary voted for at least one article of impeachment.

Mr. Speaker, many have served this country as Federal judges with honor and in a manner wholly deserving of the high esteem in which the Federal judiciary is held by the citizens of this country. When the Congress and public are confronted with allegations of gross judicial misconduct, however, the reputation of the Federal judiciary becomes tarnished and the impact on our system of government and the public trust is severe. The Constitution places upon the House of Representatives the duty to restore the equilibrium of public trust and sound government through the power of impeachment.

The high standard of behavior for judges is inscribed in article III of the Constitution, which provides that judges "shall hold their Offices during good behavior * * *." Addressing this constitutional standard during the impeachment of Judge Ritter in 1936, Senator William Gibbs McAdoo explained:

> Good behavior, as it is used in the Constitution, exacts of a judge the highest standards of public and private rectitude. No judge can besmirch the robes he wears by relaxing these standards, by compromising them through conduct which brings reproach upon himself personally, or upon the great office he holds. No more sacred trust is committed to the bench of the United States than to keep shining with undimmed effulgence the brightest jewel in the crown of democracy—justice.

This description places in sharp focus the essence of the impeachment inquiry: Whether the public trust vested in high office has been violated as to bring that office in disrepute to the detriment of the public confidence in the institutions of Government.

The fact that Judge Hastings was acquitted of the bribery conspiracy charge does not alter our responsibility to adopt articles of impeachment based on the extensive record of his corrupt conduct. The Constitution itself establishes that impeachment and indictment are two separate and distinct proceedings. Conduct which may not be specifically criminal, but which is harmful to the integrity of institutions of Government, is well within the ambit of the impeachment remedy. Moreover, impeachment serves a fundamentally different purpose from the criminal law. It is not designed to punish a Federal officer or to seek retribution. Rather, its function is primarily to maintain constitutional Government.

We are not here to punish Judge Hastings. We are here to determine whether articles of impeachment should be brought whereby he may be removed from office. That is our unique constitutional responsibility, committed exclusively to this body. The American people look to us to protect them from persons who are unfit to hold public office by virtue of serious misconduct. Any impeachment is a regrettable event, but our duty under the Constitution is clear.

In calling up House Resolution 499, I want to commend the subcommittee for their thorough and diligent examination of the facts. I have reviewed the articles of impeachment which the committee and subcommittee have adopted. I have considered and weighed the evidence which underlies each article. I believe the evidence supports the 17 articles of impeachment.

I urge this body, based on the extensive record in this case, to exercise its constitutional power to impeach Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida.

□ 1145

Mr. Speaker, for the balance of my time, I defer to the distinguished chairman of the Subcommittee on Criminal Justice, the gentleman from Michigan [Mr. CONYERS] who will, in turn, yield time only for the purposes of debate.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from New Jersey [Mr. RODINO] has consumed 14 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

CALL OF THE HOUSE

Mr. CONYERS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 253]

ANSWERED "PRESENT"—398

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
DeWine
Dickinson
Dicks
Dingell
DioGuardi
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Young (FL)

□ 1210

The SPEAKER pro tempore (Mr. GRAY of Illinois). On this rollcall, 398 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF COMMITTEE ON PUBLIC WORKS TRANSPORTATION TO MEET TODAY DURING THE 5-MINUTE RULE

Mr. NOWAK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation may be permitted to sit while the House is reading for amendment today under the 5-minute rule.

Mr. Speaker, this request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVILEGES OF THE HOUSE—IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] has been recognized.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, today we are voting on the impeachment of Judge Alcee Hastings. However, I would like to address myself to the larger issue of whether the impeachment process is the most effective way to remove Federal judges. I believe that impeaching judges is becoming too costly and time-consuming for the Congress to deal with and that we should establish a new way to remove judges.

Because the number of Federal judges is rising dramatically, impeachments are no longer going to be rare occurrences. The Hastings impeachment is not an isolated case. The House will soon vote on the impeachment of Judge Walter Nixon, and we all remember the 1986 impeachment of Judge Harry Claiborne.

Who can really deny that the current system is archaic and ineffective? Perhaps in the 18th century when there were only 37 Federal judges and 26 Senators, impeaching judges made sense. Today, when there are over 730 Federal judges and 100 Senators, we have an enormously unwieldy system that duplicates existing procedures, wastes the time of Congress, and foolishly costs the taxpayer's money.

"Time-consuming" is an understatement for the current process. In the case of Judge Alcee Hastings the judicial branch investigated the case for over 3 years and produced a 381-page report. But the House Judiciary Committee has been obliged to investigate the matter for another year and the Senate will have to conduct its own inquiry. We are now spending more time to remove a district judge than we would to impeach a President.

There is a better way. Most States now have special judicial procedures for removing State judges. The Federal Government should follow the States' example and allow the Federal judiciary to remove Federal judges.

The judicial branch is much better suited to investigating and trying judges than the Congress. In fact, as a result of the 1980 Judicial Councils Reform Act there is already an effective mechanism for investigating and disciplining judges. These judicial panels could and should be given the authority to remove judges. I recently introduced a constitutional amendment to give the Federal judiciary the authority to remove judges and I hope that Members of Congress will support my effort to reform the impeachment process.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 499 impeaches—that is, accuses—Alcee L. Hastings, a U.S. district judge for the Southern District of Florida, of high crimes and misdemeanors. Impeachment is the first step in the possible removal from office of a Federal judge. The next step, if the resolution is adopted, is a trial in the other body. If the House of Representatives votes to impeach and then if two-thirds of the Senate vote to convict, Judge Hastings will be removed from office and could be disqualified from holding another office of "honor, trust, or profit under the United States."

Impeachment is a solemn constitutional responsibility of the House of Representatives that is unlike our usual legislative business. The House of Representatives in an impeachment inquiry acts as a factfinding body. The task of an impeachment inquiry is to ascertain the facts so that a judgment can be made whether or not an officeholder has lived up to the standards of office.

The inquiry into the conduct of Judge Hastings was triggered by a certification of the Judicial Conference of the United States submitted under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980. The Judicial Conference certified, in language drawn from that statute, that Judge Hastings had "engaged in conduct which might constitute one or more grounds for impeachment".

The Judicial Conference's action was based upon a recommendation of the Judicial Council of the Eleventh Circuit, which had appointed an investigating committee to investigate complaints about Judge Hastings' behavior. The investigating committee conducted an extensive investigation into Judge Hastings' conduct, in the process amassing thousands of pages of testimony and collecting some 2,800 exhibits. The investigating committee reported its findings and conclusions to the 11th Circuit Judicial Council, which thereupon concluded that Judge Hastings had "engaged in conduct which might constitute one or more grounds for impeachment".

The Judicial Conference's certification was referred to the Committee on the Judiciary and, in turn, to the Subcommittee on Criminal Justice, which I chair. Given the House's constitutional responsibility, I did not want the subcommittee merely to rubber stamp the work of the 11th Circuit Judicial Council and I can assure Members of this body that did not happen. The goal of the subcommittee's inquiry was to provide the House with all of the facts necessary to make an informed and fair decision about whether Judge Hastings should be impeached.

The transcripts of Judge Hastings' criminal trial and the criminal trial of William Borders were reviewed. The complete records of the 11th Circuit investigating committee were reviewed. In addition, independent interviews of numerous persons were conducted, new evidence was considered, and the subcommittee expanded the inquiry when it received a new allegation that Judge Hastings had improperly disclosed confidential information.

During the course of the inquiry, the subcommittee sought certain records from the courts. Despite his assertions that he was interested in a full and complete disclosure of the facts, Judge Hastings resisted these efforts. The matters were litigated, and the committee ultimately prevailed.

Judge Hastings was not fully satisfied with the manner in which the subcommittee carried out the inquiry. He wanted his counsel to be intimately involved in the investigation and to be present at, and take part in, such activities as interviewing witnesses. The subcommittee could not agree to this. To be independent and impartial, our investigation had to be free of any taint. It would have been inappropriate for Judge Hastings' counsel—or, for that matter, representatives of the Judicial Conference—to have been intimately involved in our investigation. The subcommittee therefore declined the judge's request about the participation of his counsel.

The subcommittee's inquiry culminated with 7 days of hearings. Judge Hastings was permitted to make an opening statement at the start of the hearings, and was afforded more safeguards and more due process than ever given in an impeachment proceeding. His counsel—and on one occasion, the judge himself—questioned witnesses called by the subcommittee. The subcommittee was generous in the time it gave Judge Hastings and his counsel for questioning. In addition, Judge Hastings was asked to suggest witnesses that the subcommittee should call. After the taking of testimony was completed, counsel for Judge Hastings was permitted to make a closing summary. I believe that our procedures were fair to the judge and resulted in compiling a complete record that will enable the House to judge for itself whether Judge Hastings should be impeached.

Judge Hastings' initial response to the Judicial Conference certification was to suggest that the House of Representatives do nothing. The judge argued that the principles of fairness underlying the double jeopardy clause called for that response. He claimed that the jury that acquitted him heard all of the evidence and that the subsequent inquiries had turned up nothing new.

The judge did not argue that the double jeopardy clause itself precluded the House from acting for that would be an untenable position. The double jeopardy clause protects against a prosecution for conduct that was the subject of a prior criminal prosecution. Impeachment is not a criminal proceeding. The person impeached and convicted is not sent to jail or fined. The double jeopardy clause, therefore, does not apply. If it did apply, last term the House would have been unable to impeach, and the Senate convict and remove from office, Judge Harry T. Claiborne, for the double jeopardy clause protects against a criminal trial following a conviction as well as a criminal trial following an acquittal.

Judge Hastings was really arguing that the House, as a matter of policy, should not inquire into his conduct. The Committee on the Judiciary does not agree. To begin with, contrary to Judge Hastings' assertion, there is new evidence that was not before the jury at his criminal trial. Moreover, because an individual's liberty interest is at stake, the jury must acquit a defendant in a criminal trial if there is a reasonable doubt. There is, and should be, a different standard in an impeachment proceeding.

The purpose of impeachment is to insure the integrity of our institutions of government, not to punish individuals. The standard of proof for an impeachment proceeding is not the criminal-law standard of beyond a reasonable doubt. We do not know from the jury's verdict of not guilty what it would have done had it been asked to apply a less stringent standard than beyond a reasonable doubt. The committee concludes, therefore, that the House must review the evidence for itself.

While the hearing record compiled by the subcommittee is extensive, one thing that emerges from that record, particularly about the bribery conspiracy matter, is the extent to which the facts are not in dispute. What is in dispute are the inferences to be drawn from those facts.

In general outline, the facts of the bribery conspiracy allegation are that some time in 1981, the FBI became aware of claims by William Borders that he could fix cases before Judge Hastings. Borders dealt with an undercover agent that Borders thought was a defendant who had been convicted after a jury trial in Judge Hastings' court. Borders agreed that, in return for $150,000, Judge Hastings would reduce the sentence of the person portrayed by the agent, as well as that person's codefendant.

The evidence establishes that Judge Hastings was a part of that bribery conspiracy, actively scheming to sell justice. Here are some examples of how the evidence establishes this.

First, Borders, a Washington, DC, lawyer, was not licensed to practice law in Florida, and was not involved in any way in the case for which he was seeking the bribe. Nonetheless, he was familiar with the details of the case and told the undercover agent that Judge Hastings would issue an order returning a substantial amount of property to the defendants. Those details could only have come from talking to Judge Hastings, and that commitment could only have been made with Judge Hastings' agreement.

Second, when the undercover agent sought proof from Borders that Judge Hastings was involved, the judge cooperated with Borders to provide that proof. Borders agreed to have the judge appear at the Fountainebleau Hotel dining room on September 16, 1981, at 8 p.m. It is undisputed that the judge made that appearance.

Judge Hastings argues, however, that he expected to meet Borders there for dinner. Judge Hastings took a guest to that dinner. But he had made reservations only for two—not for three or four, as he should have done if he were expecting Borders. Moreover, he did not tell his guest that they were meeting Borders for dinner, and he did not object when the maitre'd sat him and his guest at a table for four and then removed two place settings. Borders was in fact in Las Vegas that night, attending the Leonard-Hearns championship fight, a trip that was planned well in advance and that was well known to Borders' acquaintances.

Third, Judge Hastings was actually present in Mr. Borders' law offices when Mr. Borders talked by telephone with the undercover agent on October 9, 1981. During that call, Mr. Borders arranged the details of the payoff with the agent.

Fourth, the vast majority of documented phone calls between Judge Hastings and Borders occurred around significant events in the case that was the target of the bribe. The calls were often brief, sometimes at odd hours, and on at least one occasion to and from a pay telephone. There are very few documented phone calls on other occasions.

Perhaps the most damning evidence of Judge Hastings' involvement is that the judge fled from Washington on October 9, 1981, after he learned that Borders had been arrested. It is undisputed that Judge Hastings left the hotel immediately. He turned down a friend's offer of a ride to the airport, and instead took a taxi. Rather than going to National Airport, about 10 minutes from where he was staying, he went to Baltimore-Washington International, about an hour—and a $50 cab ride—away. He did not fly to Miami, where his car was parked, but rather to Fort Lauderdale, where he was forced to rent a car.

The judge explains his haste as due to information he had received when he telephoned his mother and Patricia Williams, his fiancee, from the hotel. Judge Hastings allegedly made these calls from the hotel at a time when Judge Hastings' friend, Hemphill Pride, says that he (Pride) was with the judge. Mr. Pride testified that the judge did not make the calls. The information that the judge claims to have learned from the calls, moreover, could not have been provided by Judge Hastings' mother or Ms. Williams. Finally, the telephone records do not show a telephone call during the relevant time period from any phone at the hotel to either Judge Hastings' mother or Ms. Williams.

The evidence establishes that the judge, when he learned of Borders' arrest, panicked and fled from Washington, and that the reason for this panic was the judge's involvement in the bribery conspiracy. Article I of the resolution charges Judge Hastings with participating in the conspiracy.

Articles II through XV charge Judge Hastings with 14 separate instances of perjury at his criminal trial. The perjury counts are not based upon answers that the judge gave to trick or complicated questions. Thirteen of the fourteen counts, for example, deal with statements made by Judge Hastings during direct examination, in response to questions from his own counsel. The perjury was committed by Judge Hastings to conceal his involvement in the bribery conspiracy.

The bribery conspiracy article and the perjury articles cannot be separated. If Judge Hastings knowingly participated in a bribery scheme, then he must have been testifying falsely at his trial when he explained away incriminating evidence. Likewise, the only reason for the judge to perjure himself at trial was to cover up his participation in the bribery conspiracy.

The judge claimed on the stand that the October 5 call was about letters of solicitation for a friend, while the evidence actually establishes that he was engaged in a coded conversation about the bribery scheme. One cannot conclude that Judge Hastings was part of the scheme without also finding that he isolated his oath to tell the truth when he testified about the October 5 call.

In short, the facts establishing Judge Hastings' participation in the conspiracy also establish his false statements at trial. The 14 articles of impeachment involving Judge Hastings' false testimony cannot be divorced from the article I charging Judge Hastings with participating in the corrupt bribery scheme.

For example, article V charges Judge Hastings with lying under oath about why he appeared at the Fontainebleau Hotel on the day and at the time specified by Borders and the undercover agent. If one believes, as the evidence establishes, that Judge Hastings arrived at the hotel to indicate his involvement in the bribery conspiracy, then one must necessarily conclude that Judge Hastings lied at his trial when he claimed that he went to the hotel on September 16 not because he was in on the scheme but instead to meet Borders.

Similarly, Judge Hastings' explanation at trial about the October 5, 1981, phone call he had with Borders was necessarily false if one believes all the evidence establishing Judge Hastings' perjury at trial.

Article XVI charges that Judge Hastings improperly disclosed confidential information to Stephen Clark, the mayor of Dade County, FL, on September 6, 1985. The judge told the mayor to "stay away from Waxy Gordon," that Gordon was "hot" and was using the mayor's name in Hialeah. The information disclosed by Judge Hastings was learned by him during a court-ordered wiretap that he was supervising. As a result of the disclosure, the FBI was forced to stop two major investigations and to limit the usefulness of a third.

There is no dispute that the judge and Mayor Clark spoke on September 6 at a meeting where Judge Hastings was a principal speaker. Judge Hastings, however, denies making the improper disclosure, and suggests that the mayor and friends of the mayor in the FBI have set him up.

Mayor Clark has consistently maintained that Judge Hastings told him the information, and has passed a polygraph examination on that point. The mayor acted immediately upon the information he received, setting up a meeting for later that morning to discuss the matter with Waxy Gordon. As a result of that meeting, Gordon undertook an investigation to try to find out how the judge could have learned that he (Gordon) had used the mayor's name and immediately became suspicious of an associate who was in fact an undercover FBI agent.

While the mayor has friends in the FBI, there is no evidence that anyone in the FBI leaked information to the mayor, and the evidence establishes that the judge made the disclosure.

Article XVII charges that Judge Hastings, by his corrupt relationship with Borders, that is, the bribery conspiracy, by his repeated perjury and submission of false documents at his criminal trial, and by his improper disclosure of highly confidential information, has undermined public confidence in the integrity and impartiality of the judiciary and betrayed the public trust.

I had hoped Judge Hastings would accept the subcommittee's invitation to testify and respond to these serious allegations against him. He chose not to do so and therefore has left uncontroverted these numerous damning allegations.

When I first heard of this matter, I and other Members of Congress, including my colleagues in the Congressional Black Caucus, were skeptical. A charismatic and outspoken black judge, whose progressive views I share, was involved. I therefore paid close attention to the possibility that racism, not misconduct, was involved.

In view of the history of the unfair treatment and the harassment of black public officials, which is too long to go into now, and of the significant underrepresentation of black judges, I entered these proceedings with some experience and some feeling about the matter that was before me.

I first came to Congress 24 years ago in order to help make it possible for black people to be full and equal participants in American life. Freedom riders and civil rights workers—black and white—seeking to bring about greater equality for black people were threatened, beaten, and killed. Mrs. Viola Liuzzo from my hometown, for example, was murdered in 1965 after the march on Selma, AL, led by Dr. King.

This was a time when civil rights lawyers knew that there were certain judges, Federal judges, that they could not expect to receive a fair hearing, if they could get in the court at all. Their cases were prejudged on the basis of extraneous factors. And one of the successes of the civil rights movement was to make the Federal courts more responsive to the civil rights claims and to the claimants.

We did not wage that civil right struggle merely to replace one form of judicial corruption for another. And we can no more close our eyes to acts that constitute high crimes and misdemeanors when practiced by judges whose views we approve than we could against judges whose views we detested.

It would be disloyal to the essential principles of the civil rights movement and to my oath of office at this late state of my career to attempt to set up a double standard for those who may share my philosophy and for those who may oppose it. In order to be true to our principles, we must demand that all persons live up to the same high standards that we demand of everyone else.

During my time in office, I have been proud to work for the enactment of laws to protect civil rights and guarantee equal justice under law, such as the Civil Rights Act of 1964, the Voting Rights Act of 1965 and its several extensions, the Civil Rights Act of 1968, to name a few laws. Subcommittees I have chaired have looked into problems of racism in our criminal justice system. I was, therefore, acutely sensitive to the concern that Judge Hastings might have been victimized by racism.

I do not find that to have been the case. Judge Hastings has been the architect of his own undoing.

Others whose concern with racism in our society cannot be questioned, and who were involved in the proceedings before the Eleventh Circuit and in the Judicial Conference, have reached the same conclusion. I do not believe that they would have failed to speak out if they had had any indication that the judge was being victimized by racism.

Two members of the Eleventh Circuit Judicial Council deserve mention. First, U.S. Circuit Judge Frank M. Johnson, who also served on the investigating committee, has a strong judicial record in support of civil rights. Indeed, for many years, the U.S. marshals had to give him and his family special protection because of the unpopularity of his decisions. Second, the first black person to be named to the Federal bench in the State of Florida, Joseph W. Hatchett. Judge Hatchett was also the first black person named to be a U.S. magistrate in the State of Florida, and the first black person popularly elected to the Florida Supreme Court. He is an outstanding jurist.

Another person who passed upon Judge Hastings' conduct is U.S. Circuit Judge Aubrey E. Robinson, Jr., who as chief judge of the U.S. District Court for the District of Columbia, was a member of the Judicial Conference of the United States. Judge Robinson's distinguished record on the bench and distinguished public service is well known.

John Doar, the counsel to the Eleventh Circuit Judicial Council's investigating committee, has a distinguished civil rights record as First Deputy and Assistant Attorney General in charge of the Civil Rights Division of the Justice Department during the Eisenhower, Kennedy, and Johnson administrations. He left Government service to be executive director of the Bedford Stuyvesant Development & Services Corp., which was formed to help develop and improve the life of the residents of a predominantly black part of New York City.

I do not believe people of the caliber and commitment of Judge Robinson, Judge Hatchett, Judge Johnson, and Mr. Doar would have stood mute if they had had any indication that the proceedings against Judge Hastings were tainted by racism.

The subcommittee called the judges who filed a complaint against Judge Hastings and thereby began the process that culminated in the certification from the Judicial Conference. Judge Hastings questioned these judges, but—curiously—he did not go into the matter of racism. Judge Hastings questioned them about the impact of the Judicial Councils Reform Act upon judicial collegiality, an interesting, perhaps, but irrelevant matter as far as the inquiry into whether Judge Hastings should be impeached or whether Judge Hastings is the victim of racism.

This country was founded upon a principle of equality expressed in the Declaration of Independence: "All men are created equal * * * they are endowed by their creator with certain unalienable rights, that among those rights are life, liberty, and the pursuit of happiness". In the 200-plus years of our country's history, that principle, as far as black people have been concerned, has been honored more in the breach than in the observance. Over that time, black people have had life, but not much liberty, and for most of that time laws and Jim Crow customs have severely hampered the pursuit of happiness.

Indeed, the entire civil rights movement has been really about fairness and equality of opportunity in achieving our dreams that a system of law would apply to everyone. And those of us who have closely identified with this struggle must be equally concerned about the integrity, the public integrity of everyone that holds office.

The struggle to make the principle of equality a reality for black people must go on. Although it has been suggested that the decision in this matter may adversely affect that struggle, I do not think so. The principle of equality requires that a black public official be held to the same standard that other public officials are held to. A lower standard would be patronizing, a higher standard, racist. Just as race should never disqualify a person from office, race should never insulate a person from the consequences of wrongful conduct.

Judge Hastings' conduct, evaluated by the standard applicable to all Federal judges, has not measured up to what it should be. Judge Hastings has committed high crimes and misdemeanors and should therefore be impeached.

☐ 1230

Mr. Speaker, for purposes of debate only, I yield 11 minutes to the gentleman from Pennsylvania [Mr. GEKAS], the ranking member of the Subcommittee on Criminal Justice of the Committee on the Judiciary.

Mr. GEKAS. Mr. Speaker, Judge Hastings must go. Judge Hastings must be impeached. He must be removed from office. That is the sum and substance of the eloquent remarks just made by the chairman of the subcommittee. His recounting of the facts are such that everyone can be satisfied that indeed every single article in this resolution is well-founded in evidence, both documentarily and oral, and derived through witnesses and concluded by fair reason and attempts at a fair reading of all the matters that have prevailed against Judge Hastings right from the beginning.

These articles, however, do not tell the whole story. They are written in proper legalistic language and give us as Members of the House the proper foundation upon which later to cast a vote in this resolution; but there are certain things that leap out of the facts of this case that every Member must try to picture along with us who were on the committee and who heard every stitch of evidence presented in this case.

If you will bear with me, I want to create three pictures that will remain with me to my dying day about this most serious case of the misconduct of, as we see it, Judge Alcee Hastings.

Mr. Speaker, the proof and the evidence demonstrate beyond a reasonable doubt or beyond any standard that you want to apply that William Borders, a Washington attorney, a good friend, long-time friend of Judge Hastings, and Judge Hastings himself engaged into a conspiracy whereby in return for moneys, gigantic sums of moneys, Borders would be representing certain criminal defendants in front of Hastings and Hastings would in return for this lucre, would then pronounce a soft sentence or nonsentence on criminal defendants who should be punished by a long term in jail.

Now, that on a simple basis means that if proved beyond a reasonable doubt in criminal court or beyond any doubt under our system here of impeachment, that that would be enough to vindicate any resolution that we may present on the impeachment of Judge Hastings; but let us delve into that circumstance a little more.

□ 1245

At a time when this conspiracy had been set up with all the circumstances that occurred thereafter, proof after proof, after we investigated fully that, indeed, that conspiracy did obtain, what happened was that in Washington, DC, on one day when the FBI in culminating its investigation after it had succeeded in putting certain moneys into Borders' hands was now ready to do the payoff; the balance of the moneys of the $150,000 was now to be paid over to Borders, because Hastings had completed his deal, and the conspiracy had come to its full moment; on that day in Washington, DC, picture this with me: Hastings happened to be in Washington. Borders was in Washington. The FBI met with Borders and then planted this final payment through the undercover agent into Borders' lap and Borders was arrested on the spot. He was busted as the parlance goes right then on the spot in Washington, DC.

Understand this: Hastings was in Washington in a hotel. Borders knew where he was. Hastings knew what Borders, or at least the evidence is conclusive to that fact, was about to engage in. All of a sudden Borders is arrested. Borders has his lawyer, a fellow by the name of Shorter, to do the immediate thing that was necessary for Border's state of mind at that point, to contact Judge Hastings. Shorter did his best to contact Judge Hastings and, in fact, did get through to him through another common friend at this hotel, and Judge Hastings learns that the FBI wants to talk to Judge Hastings.

Mr. Speaker, ladies and gentleman, colleagues of the House of Representatives, here is a situation where a Federal judge who happens to be in Washington learns that the FBI wants to discuss certain matters with him. What is the first reaction of a Federal judge who is innocent of any wrongdoing, who is clear of conscience, who has noting to hide? What would be the natural reaction of a Federal judge to a request by the FBI to talk over certain matters with him that emerge out of his courtroom? Would not the reaction be of an innocent, nonwrongdoing, clear-of-conscience individual to say, "When do you want to meet? Where do you want to meet? Of course, I will talk with you. Let us talk right away?" But instead we have the spectacle of a Federal judge doing everything humanly possible to flee the jurisdiction, to flee away from the possibilities of talking with the FBI, to do everything in the world to avoid talking with the FBI.

Here is the FBI, a Federal law enforcement agency, wanting to talk to a Federal judge, and we have the gigantic picture of a Federal judge changing plane reservations, changing landing plans, changing the mode of egress and ingress, trying to do everything possible to get out of Washington so that he cannot be traced. If ever the fleeing from jurisdiction or fleeing from a possible arrest or an inquiry shows guilt, it is in that circumstance. That picture will always remain with me.

The second picture which the Members must also put indelibly into their consciousness in order to vote properly on this resolution: We have a situation where Judge Hastings is on trial on a criminal charge. Everybody recognizes in and out of the courtroom that a defendant will do almost anything in a criminal trial to free himself from the tentacles of the law, and a defendant will lie. There is no question about it. History proves that, when he is on the stand and charged with these criminal actions, but to have a Federal judge, but remember, a Federal judge who under an oath himself to uphold the law, who then takes the stand and commits perjury on the stand, that is another picture which cannot be erased from the total atmosphere upon which we are being asked to cast a final vote on this resolution.

We did not know, nor did the world know, that he lied on the stand until afterward, but the pure fact of the matter is that the jury in acquitting him of that criminal conspiracy did so most probably because he lied on the stand, because he perjured himself on the stand, because he violated the oath he took at that proceeding to tell the truth and nothing but the truth. What a spectacle, fleeing from justice in Washington, lying on the stand, and if that were not enough, then the third picture leaps out at us as we review this evidence.

That is a situation wherein a very sensitive, very dramatic, very important, very dangerous mission undertaken by the FBI in Miami to set up a very important wiretap investigation involving corruption and a whole series of possible wrongdoing in the Miami area, and the judge chosen to authorize the wiretap under statutes created by the Congress of the United States, statutes which were created with the intent of making sure that wiretapping, which is a possible violation of civil rights, was set up in such a way that we would allow wiretapping in certain cases to be monitored and charged by a Federal judge; in doing so, after this particular judge, Alcee Hastings, sets up and gives the order to permit this wiretap investigation to proceed, he himself then betrays the FBI, betrays the investigation, smashes it to smithereens, by leaking pertinent information to individuals who themselves are involved in this whole scheme in one way or another at which the FBI was aiming through the investigation in the first place. Can the Members think of anything more devastating to the system of justice that we have than a Federal judge leaking information placed with him in confidence in a very sensitive, dangerous investigation, and, as I say, the whole fabric of our legal system crashes to the ground if we have those who are in charge of it, the judges themselves, tearing it apart at whim or for whatever reason they in their own minds felt justified in doing so?

Those three images will never, never leave me throughout my service in Congress and beyond.

Mr. Speaker, Alexander Hamilton, during the great debates in 1787, described impeachment as the Federal inquest that should be permitted by the Constitution, the Federal inquest into the conduct of public men, and it is the only way in which we can look into the conduct of Federal judges, and this look that we have just given into the conduct of Alcee Hastings makes one sick in the stomach. To allow those kinds of things to happen at the hands of a man holding a Federal judge position is intolerable.

We must vote in favor of this resolution.

Mr. CONYERS. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I rise in support of House Resolution 499, the articles of impeachment of Judge Alcee L. Hastings. I urge my colleagues to join me in voting to exercise this constitutional remedy in order to protect the integrity of the Federal judiciary.

The 17 articles of impeachment incorporated in House Resolution 499 address three different areas of corrupt conduct. One of those areas is Judge Hastings' participation in a bribery conspiracy. In collaboration with William Borders, Judge Hastings schemed to sell his judicial office. Upon payment of $150,000, he promised to reduce the sentences of two criminal defendants who had been convicted of racketeering charges in his court.

Judge Hastings was tried and acquitted on the bribery conspiracy charge. There is substantial evidence, however, that was never presented to the jury in Judge Hastings' case. Our investigation into the bribery allegation, as well as the 3-year investigation by the Eleventh Circuit Investigating Committee, uncovered abundant new evidence that clearly implicates Judge Hastings in the bribery scheme. The new evidence also establishes that Judge Hastings lied under oath at his criminal trial about his involvement.

There are, in fact, 13 items of incriminating evidence that were never presented to the jury. Those items are detailed in the committee report accompanying House Resolution 499. For example, there is the evidence that during the relevant time period nearly all the documented telephone contacts between Judge Hastings and Mr. Borders occur around significant events in the Romano case, the case involving the bribery scheme. There is also the undisputed evidence that, in an attempt to explain away significant incriminating evidence, Judge Hastings testified falsely about four phone calls he allegedly made to Columbia, SC.

The Subcommittee on Criminal Justice and the full Committee on the Judiciary could not ignore either the evidence presented at trial or the newly presented evidence. The totality of the evidence clearly and convincingly establishes Judge Hastings' involvement in the bribery scheme and the falsity of his trial testimony. Such conduct cannot be tolerated on the Federal bench and warrants impeachment.

Mr. Speaker, I would also like to commend the gentleman from Michigan for his work in handling this very difficult matter. I commend him for his dignity and leadership, and for the unwavering commitment to fairness that he exhibited throughout these proceedings.

THIRTEEN ITEMS OF NEW EVIDENCE

1. The correlation of the documented telephone contacts between Judge Hastings and William Borders with significant events in the Romano case.

2. The evidence of events prior to September 10, 1981 revealing (a) the relationship between William Dredge and William Borders, (b) William Borders' insistence that he could deliver Judge Hastings, and (c) the correlation of events in the Romano case with early events in the bribery scheme.

3. William Borders' statement to Jesse McCrary prior to setting up his first meeting with the undercover agent, Paul H. Rico, that he did not expect to return to Washington, D.C. during the weekend of September 11-13, 1981 due to a long-planned family reunion.

4. William Borders' decision to delay his flight from National on September 11, 1981, following Judge Hastings, messages that his flight from Miami to National was delayed, which in turn provided the opportunity for Mr. Borders and the Judge Hastings to meet prior to Mr. Borders first meeting with Mr. Rico.

5. The testimony of two of the women who were in Judge Hastings' Sheraton Hotel room at 10 p.m. on September 12, 1981 indicating that they were waiting for William Borders or at least for "someone" when Mr. Borders arrived.

6. Dudley Williams' statement that William Borders never missed a championship fight and this fact was well known to Mr. Borders' friends.

7. The determination that the phone records of the L'Enfant Plaza Hotel are sequentially numbered and none are missing for the relevent time period on October 9, 1981.

8. Evidence that four of the five phone calls Judge Hastings testified to at trial, allegedly made to Hemphill Pride to discuss his financial condition and desire for reinstatement, were not made to Mr. Pride, nor to any phone to which Mr. Pride had access.

9. Hemphill Pride's testimony that Judge Hastings asked him to go along with his explanation of the "Hemp letters" when the judge came to Columbia, South Carolina to interview Mr. Pride.

10. The testimony of William Borders' attorney, John Shorter, that prior to Mr. Borders' trial he declined to look at the alleged draft "Hemp letters" because he did not believe Judge Hastings would authenticate them.

11. The conclusions of forensic experts that the alleged drafts of the "Hemp letters" could not be dated.

12. The detailed testimony of a linguistics expert that the October 5, 1981 taped conversation between Judge Hastings and William Borders was a coded conversation.

13. Evidence of events prior to September 10, 1981 suggesting a bribery scheme involving William Borders and Judge Hastings with regard to the Santo Trafficante case.

Mr. CONYERS. Mr. Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Michigan [Mr. CONYERS] has 5 minutes remaining.

Mr. CONYERS. Mr. Speaker, because there are so many requests to speak on this matter, I ask unanimous consent that the gentleman from New Jersey [Mr. RODINO] be allowed an additional 20 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RODINO] is recognized for an additional 20 minutes.

Mr. CONYERS. Mr. Speaker, I yield 6 minutes to the ranking minority member on the full Committee on the Judiciary, and a member of the subcommittee, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the overwhelming support for House Resolution 499 among members of the Committee on the Judiciary represents a recognition that overwhelming evidence links Judge Alcee L. Hastings to a series of impeachable offenses. The Committee on the Judiciary reported House Resolution 499 favorably only after affording committee members an opportunity to study the results of the Criminal Justice Subcommittee's comprehensive year-long investigation and exhaustive hearings.

The Criminal Justice Subcommittee followed hearing procedures designed to encourage Judge Hastings' involvement. We listened attentively to opening remarks from Judge Hastings, welcomed the participation of Judge Hastings and his counsel in the questioning of witnesses, and extended an invitation to Judge Hastings—which he declined—to testify concerning the events of our inquiry.

The chairman of the subcommittee, the gentleman from Michigan [Mr. CONYERS], and the ranking minority member, the gentleman from Pennsylvania [Mr. GEKAS], committed themselves to a thorough, fair, and objective search for the truth. The committee's special counsel Alan Baron and assistant special counsels Janice Cooper, Patricia Wynn, Lori Fields, and Robert Levin conducted themselves with diligence and professionalism. Designated counsel of both majority and minority committee staff have been of great assistance to subcommittee members in our deliberations.

The involvement of special counsel in litigation on behalf of the Committee on the Judiciary deserves particular mention. The committee achieved important Federal court victories in obtaining access to grand jury and electronic surveillance materials. The significance of the judicial opinions extends beyond the investigation of Judge Hastings. The decisions provide important precedents that should facilitate the investigative work of the House of Representatives in future impeachment matters.

The task of examining the conduct of a sitting Federal judge is our constitutional responsibility, as Members of this body, when significant allegations of misconduct are brought to our attention. Article I, section 2, clause 5 of the Constitution vests the "sole power of impeachment" in the House of Representatives. The constitutional design seeks to reconcile the need for judicial independence with the need to preserve the integrity of the Federal judiciary.

The first article of the impeachment resolution charges that Judge Hastings and William Borders engaged in a conspiracy to obtain a bribe in connection with a case pending before Judge Hastings. William Borders was convicted of the conspiracy, but Judge Hastings in a separate trial was acquitted. The two verdicts clearly are inconsistent. The jury in the Borders case had to be convinced of Judge Hastings' complicity. The Court of Appeals for the Eleventh Circuit, in its affirmance of Borders' conviction, concluded:

> Because only Hastings and Borders were named as conspirators in the indictment, the government had to prove Hastings' involvement in order to convict Borders for conspiracy.—693 F.2d. 1318 at 1324 (11th Cir., 1982).

The fact that the Government failed in the Hastings trial to prove conspiracy—the same conspiracy it succeeded in providing in the Borders case—does not relieve the House of Representatives of its obligation, in an impeachment inquiry, to look at the evidence of conspiracy.

The constitutional protection again double jeopardy—which bars successive criminal prosecutions—has no application to a process designed to protect the rule of law from unfit judges rather than to impose punishment. These proceedings simply do not place Judge Hastings in "jeopardy of life or limb" within the meaning of the fifth amendment.

Our constitutional forebears intended to establish an impeachment process separated from the judicial branch of government. We cannot, consistent with this scheme, consider ourselves bound by the outcome of a criminal trial. The jury's verdict, in my view, is entitled to a substantial measure of deference—and I have accorded it substantial deference—but that verdict cannot provide a substitute for the independent judgment the Constitution requires the House of Representatives to exercise.

Our hearings, in my view, produced clear and convincing evidence that Judge Hastings participated in a conspiracy to receive a bribe and committed perjury during his trial in order to mislead the jury. House Resolution 499 describes many knowingly false statements made under oath. Judge Hastings, according to clear and convincing evidence, engaged in criminal conduct by lying repeatedly during his trial—a course of conduct that led to his acquittal of conspiracy to commit bribery.

The fact that an individual succeds, through crimes committed at trial, in winning an acquittal in a criminal case, does not release us from our responsibility to bring before the Senate the issue of his removal from public office. On the contrary, our responsibility to act is heightened by flagrant disregard for the rule of law.

Fourteen separate articles of House Resolution 499 delineate lies told by Judge Hastings during trial testimony. These articles document a pervasive pattern of deception that this body must not ignore. A trial process that relies on the willingness of witnesses to testify honestly cannot be entrusted to a judge who demonstrates contempt for the truth.

The House of Representatives, as the repository of the sole power of impeachment, possesses the responsibility to look at the evidence of false testimony in spite of the fact that lies may have been believed by a jury in a bribery conspiracy trial—just as we have the responsibility to look at the evidence of a bribery conspiracy in spite of an acquittal based on false testimony. A judge who compounds his misconduct by both conspiring to accept a bribe and repeatedly lying under oath gains no immunity in an impeachment proceeding.

Judge Hastings, according to clear and convincing evidence, sought to sell his judicial office for private gain—and later perverted the legal process by testifying falsely. Such conduct cannot be tolerated in a public official responsible for dispensing equal justice under law.

The Committee on the Judiciary also considered allegations that Judge Hasting improperly disclosed information he received as the supervising judge from a continuing electronic surveillance that he authorized. The evidence is clear and convincing that Judge Hastings in fact made the improper disclosure—with the result that law enforcement undercover operations had to be aborted; the lives of some individuals involved in law enforcement efforts may have been placed at risk as a result of Judge Hastings' action. This conduct by a Federal judge cannot be tolerated and provides a sufficient independent basis for impeachment.

Mr. Speaker, the Federal judiciary is the guardian of our most precious liberties. Our responsibility is to vigilantly protect the judiciary. I urge my colleagues to support House Resolution 499 and give the Senate the opportunity to decide whether Judge Alcee L. Hastings is guilty of high crimes and misdemeanors.

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Mr. RODINO. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida [Mr. SMITH], a member of the Committee on the Judiciary.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman from Michigan for yielding time to me, and I want to commend him, as the chairman of the subcommittee, for having done an outstanding job on so difficult an issue, one which touched him so deeply, as well as the chairman of the full committee and the other Members of the subcommittee and the full committee for having devoted so much time to it.

Many are aware that I am one who has known Alcee Hastings for many years, and this is a sad day, as was the day in the Judiciary Committee for me, because I see a man who had such a high community standing, a man of such noble reputation, a good lawyer, a good and capable judge with a good legal mind in this terrible, terrible problem. For many who know this individual, this is not something that we would ever have imagined, but nonetheless we are here.

I voted against article I of the 17 articles. Article I is the article based on the charge of conspiracy. Judge Hastings was acquitted of that conspiracy by a jury, and so I voted against it because I do not believe that it is necessary to try him again when he has been cleared by a jury of his peers on that basis.

On the other 16 articles, my colleagues can judge for themselves. I hope many of them have read what has been brought to them by and through the Judiciary Committee and the subcommittee. They did a terrific job of according to the gentleman, Mr. Hastings, every courtesy. Every fair request that he made was granted by the gentleman from Michigan [Mr. CONYERS] and for that I am very grateful.

The bottom line is that this is a terrible situation for us. But it is an unusual, novel situation of first impression. I would urge my colleagues to view it in that aspect. Never before has a sitting judge who has been acquitted of a criminal charge then been called to account on the basis of that charge for these kinds of high crimes and misdemeanors.

This means we have an unusual role to play. It is not a role any of us relish, but one that must be discharged.

I am, for the sake of this gentleman's career, for the sake of our responsibility, urging that the Senate hold a trial in full, en banc, the whole Senate, to hear the case, and I will be sending a letter to all of my colleagues' offices asking them to sign it.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I would like the gentleman from Florida to know of course that none of us on the committee have any objection to the Senate holding a trial with all of its Members in attendance. I think the gentleman's suggestion is well taken.

Mr. SMITH of Florida. I understand the gentleman and I hope that they do because it is such an unusual and novel first impression case.

Again I thank the chairman for yielding me this time, and for many of us it is a sad day.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, first I want to congratulate the distinguished chairman of the subcommittee, Mr. Conyers, and the ranking member, the gentleman from Pennsylvania [Mr. Gekas], for an excellent job. I do not often disagree with my colleague from Florida, Mr. Smith, on matters, but relative to article I of the articles of impeachment, which deals with the conspiracy count, there is no question but that no precedent exists that suggests that it is double jeopardy to impeach a Federal judge or any other official subject to impeachment simply because they were previously tried in court and acquitted. Double jeopardy is not applicable and does not lie as a defense. The standards of proof, the process, purpose, sanctions and constitutional basis are all different and distinct. We have a responsibility to review all of the facts and make our own judgment on the issues. This is a circumstantial case, and when I approached it I too was skeptical. But the case is strong and compelling. Circumstantial cases can often be more satisfying and more certain than ones based on direct evidence, and that is the case in this instance. I could not believe the mountain of evidence against Judge Hastings. I suspect the subcommittee could have probably developed a number of other articles of impeachment dealing with the perjury involved in this matter.

The conduct of Judge Hastings falls into a number of categories, and 30 seconds does not permit me to discuss them all. But the acts at the Hotel Fontainebleu on September 16, 1981, and his flight from Washington on October 9, 1981, is just not consistent with innocent conduct. It is inconsistent with proper motives and conduct.

He left the court chamber at one point in April 1981, and walked out to the public corridor to use a public telephone in the Federal courthouse to call the Federal courthouse in Washington DC, charging his home phone. He has telephones in his chambers. That it is not consistent with innocent conduct.

I am going to vote for all 17 articles. The evidence is overwhelming.

Mr. CONYERS. Mr. Speaker, I yield 3½ minutes to the gentleman from Georgia [Mr. Swindall].

Mr. SWINDALL. Mr. Speaker, I rise in favor of all 17 articles. I doubt if there is a single Member in this room that has not been confronted, as I have been confronted at town hall meetings or political forums where an individual constituent stands and says what are we going to do in this country about the fact that Federal judges are appointed for lifetime terms? What accountability is there when it comes to the Federal bench, individuals who do not stand for reelection? My standard, stock response as an individual who greatly respects our Constitution is that our Founding Fathers anticipated exactly the situation that we debate here today, and that is when a Federal judge violates the law, that Federal judge cannot be above the law and the Constitution places the responsibility squarely on the shoulders of the Congress to make certain that that accountability exists.

What we have seen thus far in the subcommittee on which I sit and the full committee on which I sit is a clear example of different individuals from both ends of the political spectrum, from every part of the country, and certainly from the black, white and Hispanic communities coming together, setting color aside, setting ideological differences aside and saying what do the facts show.

As we look at those facts, I say it is not just clear and convincing evidence, I say that it is evidence beyond a reasonable doubt that this individual has in fact placed himself above the law.

I would like to quickly look at the three areas of concern. First, article I, which is the conspiracy charge. It is important to recognize that Judge Hastings was not acquitted by a jury based upon all of the evidence, because when that jury reached a verdict, and the word verdict means a statement of truth, it did not have before it all of the evidence, nor did it have before it truthful evidence because Judge Hastings manufactured evidence. The record is replete with that evidence set forth, showing that he made it up.

I mention that because even as we listened to the evidence I wanted to have the opportunity to ask Judge Hastings his explanation for this manufactured evidence. Regrettably, Judge Hastings chose not to testify, not to answer the questions that we had, and here is why that is important: Unlike a criminal proceeding where an individual is placed in jeopardy of imprisonment, in an impeachment and removal proceeding there is not a presumption of innocence. Therefore, we as individual Members of Congress, are not permitted under our Constitution or our statutory body of law to presume that Judge Hastings is innocent until he steps forward and rebuts the evidence that has been placed before us. He made the decision of his own will and volition not to do that.

Finally I would say we also have before us a situation where justice is being impeded. I asked one of the FBI agents if this individual stays on the bench will that in any way jeopardize your ability to conduct ongoing investigations, and he said, without equivocation, yes, it would. Why? Because one of these counts deals with Judge Hastings leaking information to a target of an FBI investigation. We must under our constitutional responsibilities satisfy that so that we can tell our constituencies that yes, our Constitution does work and no one, including a Federal judge, is above the law.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. Mr. Speaker, initially I would just like to say I have worked for the last 10 years with the chairman of this subcommittee, and we have disagreed on some things and agreed on others, and I would have to say this is one of his finest moments, because this was a difficult question that was brought about not just because of the historic first nature of it, but also because of some surrounding political questions involved. I think he has presented himself in the entire investigation in not only an honorable fashion, but a lawyer-like fashion, and any Member of this House who takes the time to read through the material that has been presented will recognize that we are not doing this without sufficient evidence. In fact, we are well grounded in the evidence.

This committee and its staff went far beyond that which was done by the investigation of the Judicial Conference. It went into that, it looked at that, but it also went into its own investigation, and frankly, ladies and gentlemen, we have to recognize that we are the only ones in this country who can judge a judge under these circumstances.

Because of the independence of the Federal judiciary, we must have lifetime tenure given to Federal judges, whether we agree with them or disagree with them. That however affords with it the possibility of abuse, of an arrogance of power, if you will. The only tempering of that arrogance of power, of that abuse is here in the House of Representatives and then in the Senate. If we fail to act, the people of the United States are defenseless against that abuse.

In this case we have to probe very deeply because we have a case in which a Federal judge was in fact acquitted, and that just makes it that much more difficult for us to act. But it does not mean we can turn away, because if we turn away the Constitution then does not prevail.

If my colleagues look at these counts, they not only deal with the bribery conspiracy, they deal with perjury, and then in fact they deal with the question of a judge leaking information on a wiretap, which goes to the essence of the preservation of liberty and the essence of law enforcement acting under constitutional guarantees.

Mr. Speaker, the fact are absolutely replete in this case. This gentleman needs to be, must be impeached. We must act.

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Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CROCKETT].

Mr. CROCKETT. Mr. Speaker, let me begin by first expressing the personal pride I feel in the job that was done by my colleague from Michigan, the gentleman from Michigan [Mr. CONYERS], as chairman of the subcommittee that handled this matter.

I want to commend him, the members of the subcommittee and the entire Committee on the Judiciary for the care with which they have examined all the facts connected with this proceeding and have come forth with their conclusions.

I do not share all of the conclusions. I will support the resolution for impeachment but I do it solely on the basis of the first article.

Having read the evidence, the testimony, I am convinced that we are dealing with a Federal judge who has forfeited his right to sit in judgment on his fellow citizens. He has lost respect, he has lost the ability to serve as a Federal judge.

I disagree with article XVII which charges that he disclosed confidential information. I disagree because I have read the evidence and I am aware that the FBI, as well as the Department of Justice, agreed that there was no basis for a criminal charge in that regard and therefore they refused to bring any charges.

My own independent review of the evidence convinces me that there is not a basis there for charging unfitness on the part of Judge Hastings. I disagree with all of the articles charging perjury because I believe that facts once inquired into by a jury and found should be allowed to stand in the absence of new evidence that could not have been available to the jury that decided the facts in the first place.

In this case, after reading the record, I find no indication of any evidence that was not available to the prosecution at the first trial and could have been presented at the first trial and therefore I support the resolution entirely on the basis of article I.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW], a member of the Committee on the Judiciary.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, Alcee Hastings is a resident of the 15th Congressional District of Florida which I am privileged to represent. I have known Judge Hastings for approximately 20 years from the time he and I were both young lawyers. I was chief city prosecutor for the city of Fort Lauderdale and then later city judge for the city of Fort Lauderdale for a number of years. Mr. Hastings had a number of clients who used to appear before me and whom I used to prosecute. Because of this association and our friendship throughout the years, as a member of the Committee on the Judiciary I apply to myself the same standards that I would apply had I still been sitting as a judge. And that is if I could not objectively stand as a trier of fact I would abstain in the voting.

As fate would have it, I left the Committee on the Judiciary to join the Committee on Ways and Means just a week before the vote was taken before this committee.

I did, however, at a very early date make the decision to abstain in the voting.

So when the vote is called for following the conclusion of all debate I should vote "present."

I thank the Speaker.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, this is not a pleasant day for any of us; it is especially unpleasant for the chairman, I am sure, who handled this matter in an exemplary way as did the ranking member.

But the gentleman from New York said it earlier, we should not summarily dismiss or ignore the jury verdict and that has not been done. That has been weighed very carefully I think. It seems to me furthermore, Mr. Speaker, that ordinary care is not the appropriate standard to apply here. I think we must apply a more rigid, a more inflexible, a higher standard to this man who was appointed for life to an honorable position and he violated that trust that was given to him when he accepted that lifetime appointment.

As has been said many times today, and I will reiterate it, impeachment must lie. It is not pleasant, but it is the right thing to do.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts, [Mr. EARLY].

Mr. EARLY. I thank the chairman.

Mr. Speaker, I did not intend to get involved in the debate. I read the whip's advisory to the committee, on the impeachment, the report; there certainly were grounds for impeachment.

I have listened to distinguished lawyer after distinguished lawyer after distinguished lawyer testify for this impeachment. I want to just say as a layman that I asked myself: Here is an individual indicted by the Justice Department that went to trial before his peers and was acquitted. The impeachment suggests he was acquitted because of perjury. I asked myself "Why didn't the Justice Department retry him for perjury?" The other impeachable things which are suggested are felonies, I would suggest, as a nonlawyer. Why did not the Justice Department indict him and take him to trial?

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. EARLY. No, please, as far as my good friend from Pennsylvania, we have had 1 hour and 20 minutes all on one side.

I will ask my questions and then if someone wants to answer them I think they should be answered. Why is not this man entitled to go back before his peers and be retried?

The SPEAKER. The time of the gentleman from Massachusetts [Mr. EARLY] has expired.

Mr. CONYERS. Mr. Speaker, I would yield 1 additional minute to the gentleman from Massachusetts because I think he expresses a very important point that we would like to resolve.

Mr. EARLY. I thank the gentleman for yielding.

Mr. Speaker, we are dealing with minutes here when we are talking about—you know, the gentleman from Michigan has been commended as doing an outstanding job. I sat here too and asked myself "What if you didn't come in with this decision, would they still say you listened objectively?" Mr. Chairman, please, we should have a little more time.

Mr. CONYERS. Mr. Speaker, would the gentleman yield?

Mr. EARLY. I yield to the gentleman.

Mr. CONYERS. Mr. Speaker, how much time would the gentleman like?

Mr. EARLY. I do not want a lot of time, maybe 5 minutes.

Mr. CONYERS. Of course. Mr. Speaker, do we have 5 minutes remaining?

The SPEAKER. The Chair would advise the gentleman from Michigan [Mr. CONYERS] that only 3½ minutes remain in the time once extended by unanimous consent.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that we have 10 additional minutes and I would yield 5 minutes to the gentleman from Massachusetts [Mr. EARLY]. I certainly do not want any misunderstanding about this debate to end on any kind of unfortunate note. And I had not consulted with the gentleman about the matter before, but I would be pleased to try to respond to any of the questions that he raises.

The **SPEAKER.** Is there objection to the request of the gentleman from Michigan [Mr. CONYERS] that the time be extended by 10 additional minutes?

There was no objection.

The **SPEAKER.** The Chair recognizes the gentleman from Massachusetts [Mr. EARLY] for 5 minutes.

Mr. EARLY. So my question specifically is: In the statement of trial which happened in 1982, why did not the Justice Department retry the individual for perjury like they would have in any other case. I would assume? Mr. Speaker, here is what is bothering me most: In the conclusion of the report, in the middle of the first paragraph we say, "The appointment of Federal judges for life as required by article III of the Constitution serves a very important purpose of insulating the Federal judiciary from political pressure." Insulating them from political pressure; here we have an individual who went to trial, was acquitted, and the Justice Department never retried him. And we are bringing it into this body, into this body that deals with theory in the real world and in the other body that deals with theory in the real world. There are not many in this Hall today that suspect that this impeachment is not going to happen. I am not going to vote against it; I am going to vote "present" because of my reservation.

I think from the testimony you could indict or impeach. There are not too many in this Hall who think when it goes across the corridor if it comes up, especially before reelection, that the individual has any chance.

And we say we are not politicizing the system? I ask everyone in this body to look at the ethics. Ethics is not supposed to be a political thing. It is not supposed to be politicized. The ethics that has happened in the past year in this House is shameful, shameful. It is political, totally.

Here we have an individual that was not convicted.

Now what are we going to do with every other judge, Federal judge that is accused, just accused, whether a Democrat or a Republican? It is going to be politicized. Whatever side, the other is going to come in and say, "Boy did you see the evidence they have?" And you are going to bring it in here. And my friend from Michigan knows if a vote comes in here there is nothing more important than reelection, nothing, and it is too bad.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I yield to the chairman.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Speaker, first of all I should let the gentleman know that if I wanted to be political about this case it would have been much easier for me to take a completely opposite position than I did.

Mr. EARLY. No question about it.

Mr. CONYERS. So as far as the politics are concerned, that was the one thing that I set aside.

I happen to believe that a number—and I know that a number of members of this subcommittee—approached this case with the same skepticism that I did. I am on the record of having spoken out in defense of Judge Alcee Hastings before I had any notion that this would ever cross my desk.

Mr. EARLY. I am not trying to infer that the gentleman from Michigan politicized this.

Mr. CONYERS. I understand that, but I just want to bring the gentleman up to speed on this question of why a jury trial is not sufficient. We are not trying him on the question of a conspiracy to enter into a bribery. That is a criminal charge with which the conviction of you can lose your freedom, you can be fined.

The impeachment process is a constitutional and, yes, Mr. EARLY, a political process to the extent that it includes us 435 political animals. And that is a question that goes solely to the question of fitness to sit on the bench. It is not criminal.

Therefore, it is not double jeopardy.

Mr. EARLY. I am not saying double jeopardy. Why was he not retried on the perjury?

Mr. CONYERS. Because that would have been double jeopardy. That was why the Department of Justice refused to take the case again. They declined to take it there, they declined to prosecute under title III, wire tap, because it was a specific criminal count.

Mr. EARLY. If I may reclaim my time, I am a nonlawyer. Does the gentleman mean that you can be tried and you can perjure yourself and you cannot be retried, you cannot be brought up on the charge of perjury? Is not perjury a felony?

Mr. CONYERS. Mr. Speaker, will the gentleman yield further?

Mr. EARLY. I yield to the gentleman.

Mr. CONYERS. Mr. Speaker, you can be tried for perjury but not for the underlying count of conspiracy to commit bribery.

Mr. EARLY. My question is why was he not tried for perjury?

Mr. CONYERS. I am not able to tell you except to repeat myself about what happened in terms of the Department of Justice. Their declination has nothing whatsoever to do with the question of whether we are going to impeach for fitness to sit. That is not a question that comes before them.

Mr. EARLY. There are 15 counts of perjury in this impeachment process.

The **SPEAKER.** The Chair would advise that the 5 minutes allocated to the gentleman from Massachusetts [Mr. EARLY] have expired.

Mr. CONYERS. Mr. Speaker, I would yield 1 additional minute to the gentleman from Massachusetts.

Mr. EARLY. I am only saying, you know, as a layman I think there is no question of the evidence put forth here, but my question is why was he not tried for perjury?

□ 1330

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I only have 1 minute, I say to the gentleman. The gentleman has had 2 minutes.

Mr. GEKAS. And now I cannot answer the gentleman.

Mr. EARLY. We are setting a precedent. Are we going to have the Judiciary Committee coming down with impeachment after impeachment when some Federal judge gets charged? Never mind whether he gets acquitted, he just gets charged, and they say there is an impeachment, whether it is the Democrats or whether it is the Republicans. It is both sides.

Mr. Speaker, we are setting, in my opinion, a precedent. This is a layman's opinion. He had a jury of peers. He probably did not have any lawyers on the jury. He had a chance. Here we come in with every witness a lawyer. I am saying, because of my layman's opinion, that I am going to vote "present."

The **SPEAKER.** The time of the gentleman from Massachusetts [Mr. EARLY] has expired.

Mr. CONYERS. Mr. Speaker, may I inquire as to how much time remains?

The **SPEAKER.** The gentleman from Michigan [Mr. CONYERS] has 7½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if I may, I would conclude this very important debate with some observations. First of all, we were very concerned, and still are and will continue to be concerned, and we are vigilant about the question of whether any civil rights advocate, any liberal jurist, or any black American has been harassed. And I remind the Members that many black political officials have been the subject of exceedingly harsh treatment or harassment. We think that these are appropriate subject matters to be vigilant about and concerned with. I approached this, looking for it.

But I want to remind the Members that Judge Hastings and his counsel were present for every minute of the subcommittee's hearings. At no time have they themselves offered any specific information about racial or even political harassment. Judge Hastings himself examined the two sitting chief judges who brought the complaint that sent this matter to the 11th Circuit Investigating Committee, ultimately to the 11th Circuit Council, and then to the U.S. Judicial Conference.

I would tell everyone here that if there is any reason for you to question your vote, based upon either political or racial harassment, I can assure you that we have examined the record minutely and scrupulously, and I can state to every Member here that I have no question about it. That is not to say that there are not people gloating about the tragedy that has befallen Judge Hastings. That is not to say that people who oppose civil rights and are in fact racist are not delighted with what has befallen this black jurist. I am not trying to say they do not exist. I am very well aware of the few number of blacks in the Federal judiciary.

But, believe me, Mr. Speaker, this committee has worked for over a year to bring to the Members the facts that compel each and every Member to cast his ballot for this resolution of impeachment.

Mr. EARLY. Mr. Speaker, will the gentleman yield some time to me so I may sum up?

Mr. CONYERS. Mr. Speaker, I must say to the gentleman that I am sorry, I have yielded considerable time to the gentleman, and I do not think we need to go further.

Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, on March 23, 1987, the gentleman from Illinois [Mr. HYDE] and I introduced an impeachment resolution against U.S. District Judge Alcee L. Hastings. We introduced this resolution almost immediately after the Judicial Conference of the United States unanimously recommended to this House that impeachment of Judge Hastings "may be warranted."

We were concerned by the presence of a Federal judge who would bring the judiciary into disrepute because he fabricated evidence at his trial. After an investigation conducted in painstaking detail, the House is considering a unanimous conclusion by the Judiciary Committee that Judge Alcee L. Hastings should be impeached.

Justice cannot be stalled. Judge Hastings cannot fool the American people into believing his presence on the Federal bench is good for America.

Judge Hastings cannot charge racism where civil rights stalwarts on the Judiciary Committee have found no racism. Judge Hastings cannot tell us he was deprived of fundamental fairness by the investigating subcommittee when the record shows he was extended every courtesy and unprecedented opportunity to question witnesses. Judge Hastings cannot stall justice. Support House Resolution 499 and send the judge to the U.S. Senate for trial.

The SPEAKER. The gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

The SPEAKER. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER. The question is on the resolution, as amended.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 3, answered "present" 4, not voting 11, as follows:

[Roll No. 254]

YEAS—413

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—3

Dymally
Roybal
Savage

ANSWERED "PRESENT"—4

Early
Ford (TN)
Gonzalez
Shaw

NOT VOTING—11

Biaggi
Boulter
Daub
Derrick
Dowdy
Kemp
Lott
MacKay
Mica
Spence
Taylor

□ 1350

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1400

PROPOSALS TO ALTER THE IMPEACHMENT PROCESS

(Mr. RODINO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RODINO. Mr. Speaker, there are some today, like 200 years ago, that say the impeachment process should be streamlined, overhauled, made more efficient, and cost-effective. They would transfer Congress' unique impeachment responsibility to panels of judges or other councils to perform a variant to peer review—not much different from the disciplinary procedures of a local bar association.

The efficiency theorists do not make new arguments. The Founding Fathers considered the notion of judicial peer review as well as two other swifter methods for the removal of judges: The first, having Congress simply send a resolution to the President requesting removal; and the second, vesting in the President the power to remove just as he is given the power to appoint in the first place. The efficiency advocates were voted down. Because, as the late Senator Ervin wrote:

> The separation of powers concept as understood by the Founding Fathers assumed the existence of a judicial system free from outside influence of whatever kind and from whatever source, and further assumed that each individual judge would be free from coercion even from his own brethren.

Chief Justice Rehnquist of the Supreme Court has noted that both types of judicial independence are necessary and are part of the unwritten constitutional law surrounding article III.

The Framers had not forgotten in 1787 what they had so vehemently grieved against 11 years earlier in the Declaration of Independence: That King George "had made judges dependent upon his will alone for the tenure of their offices and the amount and payment of their salaries." As a result, the Constitution invests members of the Judiciary with the greatest autonomy of action of any officeholder in our system of Government.

In rejecting a system of pure efficiency in favor of one that maximizes the integrity and independence of the Judiciary, the Founding Fathers anticipated that impeachment would be a cumbersome affair, generating controversy and divisiveness and demanding much exertion by Members of Congress. Yet, they believed that no other branch of Government was as qualified to undertake this duty or would safeguard the process as scrupulously from vindictive or frivolous accusations. While the power of impeachment has been exercised infrequently, history attests to the care with which Congress has discharged its prescribed responsibility.

A full 50 years had passed since the impeachment of Judge Halsted Ritter in 1936, when the Congress was faced with the impeachment of Judge Harry E. Claiborne, who was convicted and removed from office 2 years ago.

When compared with the time devoted by the House and Senate to impeachments in the last century, the Claiborne impeachment process was one of the most expeditious in history. The shortest impeachment on record occurred in 1912 in the matter of U.S. Circuit Judge Robert Archibald, consuming 3 months in the House and 6 months in the Senate. However, the very next impeachment—considered in 1931 in the matter of U.S. District Judge James Peck—required 3 years and 5 months in the House and a 9-month trial in the Senate. In 1933, Halsted Ritter, a U.S. district judge, occupied the attention of the House for 2 years and 8 months and required 1 month and 7 days for trial in the Senate. In contrast, the impeachment and trial proceedings of Judge Claiborne were completed in only 4 months.

It is argued that the Federal judiciary has grown beyond the vision of men living in a largely agrarian eighteenth century society. It is asserted that the Federal bench will soon swell to 1,000 members, that the quality of sitting judges can be expected to erode by the exodus of those who are attracted to high paying law firms and weighed down by the unpleasant and expanding administrative and bureaucratic tasks now connected with judicial life. With such disincentives to public service in the Federal judiciary, a lowering in professional standards will result, thus leading to a severe rise in the number of impeachments and an untenable burden on the legislature.

But the impeachment process cannot be viewed merely as a one dangling appendage of our constitutional system that may stand in need of revision; it is intricately connected to a myriad of overlapping provisions. I do not agree that the notion of judicial autonomy, as safeguarded by the impeachment process, is some quaint vestige of a different age.

It is the very foundation upon which public confidence in the Federal judiciary is based. When political forces are allowed to operate—whether from within the judicial branch itself or from the executive branch—the independence of the judiciary is weakened and made vulnerable. Allowing models such as peer review to be the ultimate arbiter is to invite the judiciary to engage in politicized activity when a jurist or his views falls into disfavor with his colleagues.

What one's views should be on changing the impeachment process as set out in article III may come down to whether we want to make the same gamble as the framers. In the end, the efficiency argument must be weighted against the long-run advantages of an independent judiciary, which as the framers concluded, is the best and last beacon of strength to preserve the independence and courage of our judiciary from any political intrusion of any kind."

Mr. Speaker, I believe the following article from the New York Times emphasizes clearly the importance of retaining the present process for impeachment of members of the judiciary:

[From the New York Times, July 28, 1988]

THE VIRTUE OF IMPEACHMENT

(By John P. MacKenzie)

When Congress removed Harry Claiborne from the Federal bench in Nevada two years ago, it was the first full use of the impeachment power in five decades. Two more judges are now targets of impeachment proceedings. The House Judiciary Committee yesterday recommended the impeachment of Judge Alcee Hastings of Florida. A subcommittee has completed hearings on the charges against Judge Walter Nixon of Mississippi.

This sudden cluster of impeachments ignites questions: Is the judicial branch, so long honored for its elegant independence, losing its way? Will the cumbersome impeachment process so engulf Congress that the Constitution must be changed to make removal easier?

The answer to both these questions is no. The Federal judiciary, pride of America's constitutional system, loses none of its luster when judges who misbehave are removed. It's a symbol of strength, not weakness, that the system stands ready to cleanse itself.

This purging takes time and energy. Judge Claiborne clung to his job for two years after a jury convicted him of tax fraud. He was already serving his prison sentence when the Senate finally voted his conviction and removal. But these time-consuming, tedious proceedings are the Constitution's way of making sure that unpopular officials are not railroaded out.

Some commentators suggest changes in the constitutional design, like having the judiciary remove corrupt or unethical judges. Congress wisely rejected this idea in 1980 but took a creative step. It empowered the judiciary to investigate complaints against judges and, if necessary, to ask Congress to start impeachment proceedings. Congress has always been free to impeach with or without outside prompting and free to ignore impeachment demands. The recommendation would not bind Congress but it would require the legislators to pay attention.

That's as far as the judiciary need go. The Founding Fathers called for a removal process that would be judicious though handled by politically accountable officials. Congress' function, quite different from deciding criminal guilt or innocence, is to determine fitness for office.

The case of Judge Hastings vindicates that design. The first black Federal judge in Florida, he says he's a victim of political and racial persecution, especially by his fellow judges who simply don't like him. Unlike Judges Claiborne and Nixon, who were first convicted at criminal trials, Judge Hastings was acquitted of conspiring to take a bribe in return for going easy on two convicted hoodlums. His co-defendant, a lawyer, was convicted at a separate trial.

The judge now stands accused of lying at his trial, of leaking the contents of a wiretap order he signed, and bringing the bench into disrepute. Whatever the merits, his countercharge of racism is surely answered by the unanimous vote to impeach by a subcommittee headed by Representative John Conyers of Michigan.

Mr. Conyers, a civil rights champion, is especially well qualified to assure that this impeachment is not motivated by racism. So are many of his politically accountable colleagues. "We did not wage that civil rights struggle merely to replace one form of judicial corruption with another," the veteran black Congressman said, explaining his vote. "In order to be true to our principles, we must demand that all persons live up to the same high standards." Removal by the independent judiciary alone could never provide such credible assurance.

The Federal judiciary, overworked by litigants and abused by politicians, remains a constitutional success story. A vigilant Congress can help to keep it so, by showing its willingness when necessary to wield the impeachment power.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on House Resolution 499, the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

Mr. RODINO. Mr. Speaker, I offer three privileged resolutions, and I ask unanimous consent that they be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read House Resolutions 511, 512, and 513, as follows:

HOUSE RESOLUTION 511

Resolved, That Peter W. Rodino, Jr., John Conyers, Jr., Don Edwards, John Bryant, Hamilton Fish, Jr., and George W. Gekas, Members of the House of Representatives, are appointed managers to conduct the impeachment trial against Alcee L. Hastings, judge of the United States District Court for the Southern District of Florida. These managers are instructed to appear before the Senate of the United States and at the bar thereof in the name of the House of Representatives and of all the people of the United States to try the impeachment of Alcee L. Hastings of high crimes and misdemeanors in office and to exhibit to the Senate of the United States the articles of impeachment against that judge which have been agreed upon by the House of Representatives. These managers shall demand that the Senate take order for the appearance of Alcee L. Hastings to answer such impeachment, and demand his conviction and appropriate judgment thereon.

HOUSE RESOLUTION 512

Resolved, That a message be sent to the Senate to inform the Senate that—

(1) the House of Representatives has impeached for high crimes and misdemeanors Alcee L. Hastings, judge of the United States District Court for the Southern District of Florida;

(2) the House of Representatives adopted articles of impeachment against Alcee L. Hastings, which the managers on the part of the House of Representatives have been directed to carry to the Senate; and

(3) Peter W. Rodino, Jr., John Conyers, Jr., Don Edwards, John Bryant, Hamilton Fish Jr., and George W. Gekas, have been appointed such managers.

HOUSE RESOLUTION 513

Resolved, That the managers on the part of the House of Representatives in the matter of the impeachment of Alcee L. Hastings, judge of the United States District Court for the Southern District of Florida, are authorized to do the following in the preparation and conduct of the impeachment trial:

(1) To employ legal, clerical, and other necessary assistance and to incur such expenses as may be necessary. Expenses under this paragraph shall be paid out of the funds available to the Committee on the Judiciary pursuant to House Resolution 388, One Hundredth Congress, agreed to on March 16, 1988, and House Resolution 408, One Hundredth Congress, agreed to on March 30, 1988, on vouchers approved by the Chairman of the Committee on the Judiciary.

(2) To send for persons and papers, and to file with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

(3) To take such other actions as are necessary to the conduct of the trial.

Mr. CONYERS. Mr. Speaker, I yield myself 2 minutes, and then I will yield further to the gentleman from Massachusetts [Mr. EARLY].

Mr. Speaker, let me continue my discussion with my colleague, the gentleman from Massachusetts, because I can see that he is seriously convinced that there may be some problem here.

Let me say to the gentleman that if the Department of Justice had retried him, it would have in no way affected the result that would have brought us here today. Whether he was retried, whether he was acquitted or not, I am trying to impress upon the gentleman the one simple fact that no matter what the criminal outcome, an impeachment proceeding in the House of Representatives is not precluded.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I certainly will yield to the gentleman from Massachusetts.

Mr. EARLY. That is theory. That is not going to suggest that he was retried and was acquitted again, and that that would not be any precedent. The gentleman says he should have come down. I ask the gentleman, what would have been the expense for Judge Hastings to come down and be tried on something that went 15 months, with 7 days of testimony? If he had to have testimony, was his counsel going to be paid for? How much did he pay counsel to get acquitted the first time? How much is he going to have to pay for counsel when he goes across the hall? How much is he going to have to pay for counsel and then, after this happens, he gets indicted again?

That is theory, I say to the gentleman from Michigan. Just for 1 second, I want to say to the gentleman that I think there is no way he did anything except an outstanding job. My problem is that the precedent should not be in here.

Mr. CONYERS. Mr. Speaker, I want to tell the gentleman that I have considered each and every question that he has raised. I am completely confident that there is absolutely no way that we could have escaped the conclusion that each and every one of the 17 articles of impeachment should be adopted.

I only wish that I could impress upon the gentleman that this is not theory.

The SPEAKER. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

Mr. CONYERS. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, we did not hold these hearings to talk about ancient constitutional precedents. We did not hold these hearings on a theoretical basis. We brought factual witnesses before us. As a matter of fact, we excluded anybody that wanted to talk about anything else.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I promised to yield to the gentleman from Pennsylvania, so I yield at this time.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it must be made clear to the gentleman from Massachusetts that following that trial to which he alluded, a group of judges making up the Judicial Council decided to reinquire into all the circumstances surrounding that trial and other allegations of misconduct on the part of Judge Hastings, after a thorough investigation which took months and months by the judges, Judge Hastings' peers, and after their investigation they submitted it to this Congress pursuant to a law we passed that calls for that procedure. That is why the impeachment proceeding came before us. By that time the statute of limitations on perjury about which the gentleman from Massachusetts inquires had already come and gone or was about to expire.

Mr. EARLY. How long is the statute of limitations?

Mr. GEKAS. Two years.

Mr. EARLY. Two years. Mr. Speaker, if the gentleman will yield further, I understand he refers to the Justice Department?

Mr. GEKAS. Yes, the Justice Department, if the gentleman will listen to me.

Mr. EARLY. Oh, I am listening attentively.

Mr. GEKAS. The Justice Department did not know anything about what was being uncovered by the judges in their Judicial Council, in their investigation, which concluded many, many months later, just short of that statute of limitations; they did not know that indeed perjury had been committed. I ask the gentleman to understand that it had to do with a separate judgment that was made by his own peers, by the judges who decided that perjury and other misconduct required the attention of the House of Representatives in an impeachment proceeding.

Mr. EARLY. Does the judge not deserve a trial?

Mr. CONYERS. Regular order, Mr. Speaker. If I may reclaim my time, I would like to make available for the gentleman and the membership the reasons the Department of Justice decided not to prosecute Judge Hastings for perjury. It declined to prosecute for these several reasons: The concern that it not appear vindictive or that it was prosecuting Judge Hastings for political or racial or other improper reasons, particularly since the judge had charged that his original prosecution for the bribery conspiracy was so motivated; second, the Department's concern that if the perjury prosecution was unsuccessful, Judge Hastings would then be accorded a blanket of immunity, in that the Department would be virtually unable to prosecute Judge Hastings for any subsequent unlawful conduct; and, third, the Department's conclusion that there were technical defenses to a perjury charge—all of which, I say to the gentleman from Massachusetts, amounts to a decision over which we had no control, literally no interest, and no intention to affect.

What came to us was an impeachment inquiry, which arose under the law that we enacted in 1980. That law requires that allegations of judicial misconduct reaching these proportions be sent to the Committee on the Judiciary for it to consider.

All of the criminal proceedings to which the gentleman refers, which involve the American jury system, in no way affect the question of whether a Federal judge has been appropriate in his conduct and is fit to remain in public office. Nobody, no group in America, can make that decision but the Congress.

Mr. MFUME. Mr. Speaker, I would like to comment my distinguished colleague from Michigan and the Subcommittee on Criminal Justice for their diligence and painstaking efforts in pursuing the facts of this inquiry.

Today I rise with a heavy heart. We are considering whether Judge Alcee L. Hastings, the Federal judge for the southern district of Florida, should be impeached for high crimes and misdemeanors. After careful examination of the testimonies and evidence presented, I have decided to support House Resolution 499 to impeach Judge Hastings.

I have decided to support this resolution entirely on the findings of article I, which identifies Judge Hastings as engaging in a corrupt conspiracy to receive $150,000 from the defendants in the United States v. Ramano case in return for a reduced sentence.

Mr. Speaker, after careful consideration of the arguments by both parties, I have found that this is the only charge where I find evidence of misconduct by Judge Hastings.

I do not support the articles of perjury nor do I support article XVII, which finds that Judge Hastings improperly disclosed confidential information as the supervisory judge of a wiretap. I do not believe that it is for us to question the jury and the facts considered by the jury should remain evident despite any new information being professed. Furthermore, I cannot find any reason to charge Judge Hastings on disclosing confidential information. We must have the utmost confidence in the jury, otherwise the pillars upon which our legal system rest will no longer support the weight of justice.

This is a difficult decision for us all, for the burden of a notable career rests on our shoulders. I had to examine the facts carefully. I submit to my colleagues that I find no other reason to support this resolution besides the findings of article I of this resolution.

The SPEAKER. The gentleman from New Jersey [Mr. Rodino] is recognized for 1 hour.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely rise to point out that the resolutions are the customary resolutions which the House adopts subsequent to voting to impeach a Federal civil officer. One provides for the appointment of managers; the other one notifies the other body of the adoption of the articles of impeachment and the appointment of managers; and the last one grants the managers the necessary powers for funding.

With that, Mr. Speaker, I move the previous question on the resolutions.

The previous question was ordered.

The resolutions were agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4800, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5015, DISASTER ASSISTANCE ACT OF 1988

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees:

From the Committee on Agriculture, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. de la Garza, Jones of Tennessee, Brown of California, Rose, Panetta, Huckaby, Glickman, Stenholm, Volkmer, Madigan, Jeffords, Coleman of Missouri, Marlenee, Hopkins, and Stangeland.

Except that:

For consideration of sections 103 and 104 of the House bill and modifications committed to conference, Mr. Staggers is appointed in lieu of Mr. Jones of Tennessee;

For consideration of section 102 of the House bill and section 102 of the Senate amendment, Mr. Penny is appointed in lieu of Mr. Brown of California;

For consideration of section 313 of the House bill and section 312 of the Senate amendment, Mr. Stallings is appointed in lieu of Mr. Rose;

For consideration of sections 101 and 303 of the House bill and sections 101 and 303 of the Senate amendment, Mr. Nagle is appointed in lieu of Mr. Brown of California;

For consideration of title II and section 311 of the House bill and title II and section 313 of the Senate amendment, Mr. Jontz is appointed in lieu of Mr. Brown of California;

For consideration of section 323 of the House bill and section 341 of the Senate amendment, Mr. Johnson is appointed in lieu of Mr. Huckaby;

For consideration of title I of the House bill and title I of the Senate amendment, Mr. Robert F. Smith is appointed in lieu of Mr. Hopkins;

For consideration of section 102 of the House bill and section 102 of the Senate amendment, Mr. Gunderson is appointed in lieu of Mr. Stangeland;

For consideration of sections 203 through 208 of the House bill and sections 203 through 206 of the Senate amendment, Mr. Schuette is appointed in lieu of Mr. Jeffords;

For consideration of sections 301 and 302 of the House bill and sections 301 and 302 of the Senate amendment, Mr.

GRANDY is appointed in lieu of Mr. JEFFORDS.

As additional conferees, from the Committee on Interior and Insular Affairs, for consideration of subtitle B of title IV of the House bill, and modifications committed to conference: Messrs. UDALL, MILLER of California, and PASHAYAN.

As additional conferees, from the Committee on Education and Labor, for consideration of section 347 of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, MARTINEZ, WILLIAMS, JEFFORDS, and GUNDERSON.●

OMNIBUS McKINNEY HOMELESS ASSISTANCE ACT OF 1988

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 508, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 508

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5110 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by title instead of by section and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and clause 5(a) of rule XXI are hereby waived. No amendment to title X of said substitute shall be in order in the House or in the Committee of the Whole except for the amendments printed in the report of the Committee on Rules accompanying this resolution. Following disposition of the amendments printed in the report, no further amendments to said substitute shall be in order and the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 508 is the rule providing for consideration of H.R. 4352, the Omnibus McKinney Homeless Assistance Act of 1988. This is a modified open rule, providing for 2 hours of general debate.

Thirty minutes of debate are to be allocated to each of the following four committees; the Committee on Banking, Finance, and Urban Affairs; the Committee on Energy and Commerce; the Committee on Education and Labor; and the Committee on Ways and Means. Each committee's time is to be equally divided and controlled by its chairman and ranking minority member.

The rule makes in order the text of H.R. 5110 as an amendment in the nature of a substitute as original text for the purpose of amendment, and it provides for consideration of this legislation by title, rather than by section. H.R. 5110 is the compromise homeless assistance bill, introduced by our distinguished majority leader, Mr. FOLEY, which reflects the provisions reported by the Committees on Banking, Finance and Urban Affairs; Energy and Commerce; and Ways and Means. It also contains provisions requested to be included in the bill by the Committees on Education and Labor and Veterans Affairs.

Under the rule, titles I through IX of the substitute are open to any germane amendment. However, the only amendments permitted to title X are the two printed in the report accompanying this resolution. One amendment, sponsored by Representative BARTLETT, would allow a lender to receive partial HUD insurance benefits without going through foreclosure when a borrower defaults on a HUD-insured mortgage. The other amendment, sponsored by Representative SAXTON, would permit litigation on Farmers Home Administration section 502 loan foreclosures to be contracted out to private attorneys, rather than handled solely by U.S. attorneys. After disposition of these two amendments, no additional amendments to the substitute will be in order.

Title X contains technical and conforming amendments to the Housing and Community Development Act. The Rules Committee is recommending limiting the amendments to this title to prevent the House from substantially broadening the bill, which would have been possible if title X was open to all germane amendments.

The rule waives clause 7 of rule XVI, which prohibits nongermane amendments, against the substitute. This waiver is needed because the substitute made in order by this rule is broader than H.R. 4352 as introduced.

The rule also waives clause 5(a) of rule XXI, which prohibits appropriations in a legislative bill, against the substitute. This waiver is needed because the substitute contains several sections which permits the redirection of previously appropriated funds. The substitute does not contain any new appropriations.

Finally, the rule provides one motion to recommit, with or without instructions.

The legislation for which the Rules Committee has recommended this rule reauthorizes the homeless assistance programs which were established by the Stuart B. McKinnney Homeless Assistance Act of 1987. It extends the act's housing assistance, emergency food and shelter, community services, education, and veterans programs through fiscal year 1990, and it extends the act's health services programs through fiscal year 1991.

Mr. Speaker, to summarize, House Resolution 508 is an open rule, except for title X where only two designated amendments are permitted. It provides for 2 hours of debate to be divided among the committees of jurisdiction, and it waives two House Rules. I urge adoption of the resolution, so that the House can proceed to the consideration of H.R. 4352.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule has been ably explained, and we are now going to consider the Omnibus McKinney Housing Assistance Act on the floor of the House after the adoption of the rule.

Mr. Speaker, I recall what I said when this homeless program was first presented to the House. I said then, and I repeat now, that we are embarking on a program that will cost billions of dollars in the future.

This bill provides that, in fiscal year 1989 over $600 million will be authorized, and in 1990 it will be approximately $1 billion. The fear that I have is that this bill will create more homeless throughout the country because families are in need at home, and if they find out that they can get better help by going the homeless route, then I have a great fear that that is what is going to happen.

Mr. Speaker, I was here when the Food Stamp Program was first started as a very minor program, and it now costs billions and billions of dollars. Many of the programs to help people start out with good intentions, but then they fail along the line and become bureaucratic nightmares.

I hope, however good it is, and I think it is a good program, that it will not encourage the young people of our Nation to travel throughout the land seeking shelter wherever they go, and cause families with low incomes to go the route of the homeless.

It is a two-bladed sword. No one likes to see the homeless in the bitter cold suffer. No one likes to see the homeless in the brutal heat that we have now, suffer. No one likes to see the homeless go without food. We are a compassionate people, and we are a compassionate nation, but there must be safeguards along the way to prevent great numbers from getting into the program and consuming more and more taxpayers' money.

Mr. Speaker, I urge the adoption of the rule. The bill is open to amendments except for one title. I know it will be thoroughly discussed.

I would like to advise the gentleman that I have one request for time.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, homelessness is one of today's most serious public policy issues. Concern for the plight of the homeless is widespread, and rightfully so. Next to crime, the homeless problem is among the top concerns of residents in my southern California district. I share their view that finding a solution to the homeless problem should be a national priority.

For that reason, Mr. Speaker, I rise in opposition to H.R. 4352, to reauthorize the McKinney Homeless Assistance Act. As expected, the McKinney Act has done nothing to mitigate the homeless problem, or offer any long-term solutions to end homelessness in this country. Instead, with this legislation, we are creating a permanent homeless infrastructure which will preclude a solution to the problem for years to come.

The Federal commitment to the homeless has more than tripled in the last 3 years. Unfortunately, so has the assessment of the magnitude of the problem by homeless advocates and the private organizations that receive Federal funds to implement the programs. These groups and organizations are never going to say that the problem is improving for fear that they will lose a permanent source of funding that they would normally raise through private donations. As much as 20 percent of Federal homeless funds to private organizations are used to pay for salaries, travel costs, and other administrative expenses. What we essentially created is another powerful grass roots lobby that Congress will be unable to say no to in the future.

But beyond that, Mr. Speaker, H.R. 4352 is simply the wrong prescription to the homeless problem. It merely throws money at the symptoms of homelessness, and it does so in a bureaucratic maze that inhibits the flexibility needed at the local level to meet the diverse characteristics of the homeless population. That's why I will be supporting the Ridge-Roukema amendment to combine the three housing programs in the bill into a Block Grant Program. This approach will improve the flow of assistance to the homeless by giving States and communities more flexibility to tailor Federal money to best suit the needs of the homeless at the local level.

The block grant approach is a step in the right direction. But until Congress can come to grips with the true nature of the homeless problem, a solution will continue to be illusive. For instance, the availability of low-income housing is commonly cited as the most serious impediment to solving the homeless problem. But contrary to what many so-called homeless advocates have said, it wasn't administration budget cuts that have decimated the Nations's low-income housing stock. It was urban redevelopment in the 1970's financed by such Federal programs as the EDA, UDAG, and CDBG grants, and exacerbated by rent regulations and the stifling inflation we endured in the late 1970's.

Between 1974 and 1979, this country lost an average of 360,000 low-income rental units a year. Between 1974 and 1983, 896,000 single-room occupancy units, which provide viable housing for extremely low-income individuals, were lost. In response, Congress eliminated the incentives for investment in low-income housing in the Tax Reform Act. And through legislation like H.R. 4352, the Federal Government has emphasized permanent shelters rather than transitional and permanent housing. At the same time, thousands of abandoned public housing units remain vacant while cities such as New York spend an average of $1,800 a month to put homeless people in welfare hotels. We should also be fostering homeownership of public housing to stem the decline in the Nation's low-income housing stock.

Mr. Speaker, the McKinney Homeless Assistance Act was meant to be a temporary program to supplement, not replace, local and private efforts to address the problems of homelessness. Enactment of H.R. 4352 will virtually guarantee a permanent, centralized homeless bureaucracy at the Federal level. It will perpetuate ill-conceived housing and mental health program at all levels of government—programs which address the symptoms, rather than the causes of homelessness.

Furthermore, H.R. 4352 is simply a tool to exploit public sympathy for the homeless in an effort to increase, without justification, Federal spending on domestic welfare programs. H.R. 4352 offers no long-term solution to the homeless problem and it should be defeated.

□ 1430

Mr. QUILLEN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 81, not voting 19, as follows:

[Roll No. 255]

YEAS—331

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes

Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—81

Archer
Armey
Baker
Ballenger
Barton
Bateman
Bentley
Bilirakis
Bliley
Brown (CO)
Buechner
Bunning
Burton
Callahan
Cheney
Coble
Combest
Craig
Crane
Dannemeyer
Davis (IL)
DeLay
DeWine
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Gallegly
Gekas
Gingrich
Goodling
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Holloway
Hunter
Hyde
Inhofe
Ireland
Kolbe
Kyl
Lewis (CA)
Lewis (FL)
Lowery (CA)
Lukens, Donald
Lungren
Mack
Marlenee
McCandless
McCollum
Michel
Nielson
Oxley
Packard
Pashayan
Porter
Rhodes
Roberts
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Skaggs
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Whittaker

NOT VOTING—19

Badham
Biaggi
Boulter
Daub
Davis (MI)
Derrick
Dixon
Dowdy
Frank
Johnson (CT)
Kemp
Lott
MacKay
Mavroules
McCurdy
Mica
Spence
Stangeland
Taylor

□ 1451

Mr. HENRY and Mr. COBLE changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. (Mr. Murtha). Pursuant to House Resolution 508 and rule XXIII, the Chair declares the House in the Committee on the Whole House on the State of the Union for the consideration of the bill, H.R. 4352.

□ 1452

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the House on the State of the Union for the consideration of the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes with Mr. Smith of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from Texas [Mr. Gonzalez] will be recognized for 15 minutes; the gentlewoman from New Jersey [Mrs. Roukema] will be recognized for 15 minutes; the gentleman from California [Mr. Waxman] will be recognized for 15 minutes; the gentleman from New York [Mr. Lent] will be recognized for 15 minutes; the gentleman from California [Mr. Hawkins] will be recognized for 15 minutes; the gentlewoman from New Jersey [Mrs. Roukema] will be recognized for 15 minutes; the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 15 minutes; and the gentleman from Texas [Mr. Archer] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of H.R. 4352, the Omnibus McKinney Reauthorization Act, which is an emergency effort to assist the homeless in our country. This bill represents the continuing commitment by Congress to assist the homeless which now number in excess of 3 million persons in the United States. This bill is a direct result of the Housing Subcommittee's continued efforts to highlight the issue of homelessness in America. Since December 1982, when the subcommittee held the first congressional hearing on homelessness which brought national attention to the issue, the subcommittee has continued to introduce legislation to assist the homeless.

I must emphasize that this bill is an emergency effort to assist the homeless. We have developed this legislation in order to address the emergency and acute needs of the homeless. This bill does not make the McKinney programs permanent. Rather it only reauthorizes the McKinney programs for 2 more years, fiscal years 1989 and 1990. This bill does not focus on the cause—the lack of affordable available housing to lower income Americans. The answer is clearly more permanent housing which is affordable and available to lower income persons. The Housing Subcommittee will soon consider much broader approaches to provide permanent housing for the 1990's.

Last year we were successful in authorizing the McKinney Act programs and today we continue our efforts by reauthorizing and perfecting the homeless programs contained in the Stewart B. McKinney Act. This bill provides emergency assistance to the homeless and is not the cure-all for the homeless. Rather it expands upon and perfects the initial McKinney Act which we enacted last year and which has been operating over the last 7 months.

Millions of persons—women, men, children, families—are homeless in America today and the number of homeless are on the rise. In fact, according to a U.S. Conference of Mayors survey, homelessness is expected to increase in 92 percent of the survey cities during 1988 and the demand for shelter has increased by an average of 21 percent in most all of the 26 cities surveyed.

Despite the great need for assistance to the homeless, subsidized housing assistance has drastically been reduced during the last 7 years by 75 percent and the number of families in search of shelter is growing.

Today we are reauthorizing the vitally needed homeless programs contained in the McKinney Act for fiscal years 1989 and 1990. This bill represents a joint bipartisan effort by both the majority and minority. The funding levels authorized in the bill do not exceed the levels assumed in the fiscal year 1989 concurrent budget resolution. The bill reauthorizes the McKinney programs and provides a number of programmatic changes which are based on the hearings conducted by the Housing Subcommittee on January 26, 1988, and based on subsequent meetings with advocates for the homeless, service providers, and State and local officials. These changes were agreed to in a bipartisan fashion, and, I believe, will make the programs that we designed in the McKinney Act more workable in many communities throughout our country.

H.R. 4352 authorizes a total of $642.5 million for fiscal year 1989, of which $426.8 million is authorized for the HUD and FEMA homeless programs under the Banking Committee's jurisdiction. The $426.8 million for the HUD/FEMA programs is allocated as follows: $125 million for the Emergency Shelter Grants Program; $105 million for supportive housing demonstration programs (including transitional housing and permanent housing for handicapped homeless programs); $27 million for the Supplemental Assistance for Facilities to Assist the Homeless Program; $40 million for section 8 10-year moderate rehabilitation for single room occupancy [SRO] dwelligs; $129 million for the FEMA Emergency Food and Shelter Program; and $800,000 for the Interagency Homeless Council. The bill also authorizes $2211.1 million for fiscal year 1990; however, the HUD FEMA homeless programs are authorized at such sums as may be appropriated for fiscal year 1990 with all of the funding authorized for the McKinney programs under the jurisdiction of the other committees.

This bill contains six titles under the jurisdiction of the Banking Committee, the first five, titles I through V deal with the HUD and FEMA McKinney homeless programs and title X deals with technical and conforming amendments to the 1987 Housing and Community Development Act (Public Law 100-242). This bill contains a budget compliance provision and requires the General Accounting Office to submit an annual report to Congress on the HUD and FEMA McKinney programs. The bill also extends the Interagency Council for 3 years and strengthens the communication and distribution of information about the Federal resources available under the McKinney Act through a bimonthly bulletin. The bill also requires the National FEMA Emergency Food and Shelter Board to use data on long-term unemployed workers in distributing FEMA program funds.

The bill also contains technical and programmatic provisions which clarify and strengthen the HUD homeless programs to better assist the homeless. Changes are made to the comprehensive homeless assistance plan [CHAP], which is submitted by local governments and States which strengthens communication and information about the McKinney homeless programs and includes a requirement that a good faith assurance that recipients will administer a policy to ensure that their homeless facility is free of illegal use, possession or distribution of drugs or alcohol. Numerous provisions are included to perfect the existing McKinney programs and allow greater participation in all HUD McKinney programs.

In addition to the changes in the McKinney Act, we have added a provision in this legislation that makes a number of technical and conforming changes to the 1987 housing authorization bill that the President signed on February 5, as well as correcting some erroneous interpretations that HUD has taken with regard to certain provisions in the 1987 housing authorization bill. Again, these technical changes to the 1987 authorization bill have been agreed to by both the majority and minority and will be in our best judgment what the committee had in mind in developing last year's authorization bill.

I also wish to take this opportunity to voice the Banking committee's concerns that the Farmers Home Administration is not effectively taking steps to alleviate the vacancy problems in section 515 rural rental housing projects in certain areas of the Nation. the committee is aware that the increase from 25 to 30 percent of adjusted income for the contribution to rent requirement for low-income tenants is causing these vacancies, especially in areas of the Nation experiencing economic distress. In these areas, particularly where oil or agriculture has declined, housing markets have significantly softened. As an alternative to paying higher section 515 rents, families are choosing cheaper housing as is now available in these distressed areas. The result is that an increasing number of vacancies are occurring in section 515 projects, which is threatening their financial viability. FmHA has the means under current law to alleviate most of these problems. However, the committee learned in its recent hearing on this problem, that FmHA is requiring projects to experience substantial losses before stepping in with relief. This is contrary to the intent of the Congress. The Congress intends that relief measures be put in place so as to minimize losses. Accordingly, the committee directs the Secretary of Agriculture to immediately implement a procedure that will bring the requisite relief to such troubled section 515 projects within a resonable period after such relief is requested and certainly before significant unrecoverable losses are experienced by the owners of such projects.

Mr. Chairman, I urge the adoption of this bill.

CHART A.—FUNDING FOR PROGRAMS UNDER THE MCKINNEY HOMELESS ASSISTANCE ACT

[Budget authority dollars in millions]

	Fiscal year 1987		Fiscal year 1988		Fiscal year 1989				Fiscal year 1990		Fiscal year 1991
	Auth.	Approp.	Auth.	Approp.	Pres. request	Appropriations conference	H.R. 4352, Rev.	Sen. Banking Com	H.R. 4352, Rev.	Sen. Banking Com.	H.R. 4352
Banking Committee:											
HUD Emergency Shelter Grants	100	[1]50	120	8	0	46.5	125	120	(6)	120	
Supportive Housing Demonstration	80	[1]80	100	65	75	85	105	100	(6)	100	
Transitional Housing (Families)	(20)	(20)	(20)	(20)	(75)	(20)	(20)	(20)	(6)	(20)	
Handicapped Housing Grants	(15)	(15)	(15)	(15)	(0)	(10)	(15)	(15)	(6)	(15)	
Supplemental Assistance	25	15	25	0	0	0	27	10	(6)	10	
Sec. 8 10-yr. Mod. Rehab. for SROs	35	35	35	0	0	45	40	50	(6)	50	
Housing subtotal	240	180	280	73	75	176.5	297	280	(6)	280	
FEMA Emergency Food & Shelter[3]	15	[1]10	124	114	80	114	129	129	(6)	134	
Interagency Homeless Council[3]	.2	(.2)	2.5	(.8)	1.2	1.1	.8	1.2	(6)	1.2	
Banking subtotal	(255.2)	(190)	(406.5)	(187)	(156.2)	(291.6)	(426.8)	(410.2)	(6)	(415.2)	
Energy and Commerce:											
Health Care for the Homeless	50	46	30	14.4	15		61.2		63.6		66.2
Mentally Ill Demo. Projects	10	9.3			4.7		10		11		12
Mental Health Services Block Grant	35	32.2		11.5	14.3		35		36		38
Alcohol & Drug Abuse Demo. Project	10	9.2			4.6		10		11		12
Energy and Commerce subtotal	(105)	(96.7)	(30)	(25.9)	(38.6)		(116.2)		(121.6)		(128.2)
Education and Labor Committee:											
Emergency Comm. Services (CSBG)	40	36.8	40	19.1	0		42		42		
Job Training			12	9.6	0		13		13		
Homeless Children Education Grants	5	4.6	5	4.8	0		6		6		
Adult Literacy	7.5	6.9	10	7.2	0		11		11		
Exemplary Grants			2.5		0		2.5		2.5		

CHART A.—FUNDING FOR PROGRAMS UNDER THE MCKINNEY HOMELESS ASSISTANCE ACT—Continued

[Budget authority dollars in millions]

	Fiscal year 1987		Fiscal year 1988		Fiscal year 1989				Fiscal year 1990		Fiscal year 1991
	Auth.	Approp.	Auth.	Approp.	Pres. request	Appropriations conference	H.R. 4352, Rev.	Sen. Banking Com	H.R. 4352, Rev.	Sen. Banking Com.	H.R. 4352
Education and Labor subtotal	(52.5)	(48.3)	(69.5)	(40.7)	0		(74.5)		(74.5)		
Agriculture Committee:[4]											
Temp. Emer. Food Assist. Program (TEFAP)			50	50	0						
Food Stamp Provisions			54	54	70						
Surplus Food Distribution (Com. Credit Corp.)			6		0						
Agriculture subtotal			(110)	(104)	(70)						
Veterans Committee:											
Chronically Mentally Ill Veterans		2.1		[2]2.9	0	5	10		10		
Domiciliary Care		15			0		15		15		
Job Training Program[5]	30						15		15		
Veterans subtotal	(30)	(17.1)		(2.9)	0	(5)	(25)		(25)		
Total	442.7	352.1	616	360.5	264.8	296.6	642.5	410.2	221.1	415.2	128.2

[1] HUD Emergency Shelter Grants received previous to the McKinney Act $10 mil. in the fiscal year 1987 HUD Approp. Act for a total of $60 mil. in fiscal year 1987 and the Supportive Housing Demo. received $5 mil. for transitional housing for a total of $85 mil. in fiscal year 1987. The FEMA Emergency Food and Shelter program received $70 mil. from the fiscal year 1987 HUD Appro. Act and $45 mil. from a transfer of Disaster Relief Funds for a total of $125 mil. in fiscal year 1987.

[2] $5 mil. was originally appropriated for the program in the fiscal year 1987 Sup. Appro. Act; however, $2.9 mil. lapsed and was reappropriated for fiscal year 1988.

[3] Senate Gov. Affairs has jurisdiction over the FEMA Emergency Food and Shelter program and the Interagency Homeless Commission.

[4] Agric. provisions originally included in H.R. 4352 as introduced were deleted and incorporated into H.R. 4060, the Hunger Relief Act.

[5] Job Training Program for homeless Veterans has been included in a previous bill, which became Public Law.

[6] Such sums.

Mr. ST GERMAIN. Mr. Chairman, I rise in support of H.R. 4352 and the substitute made in order by the rule H.R. 5110 which would reauthorize the Stewart B. McKinney Homeless Assistance Act for an additional 2 fiscal years and to make a number of programmatic changes to provide urgently needed assistance to homeless people. This bill builds on the work of last year's Stewart B. McKinney Homeless Assistance Act and makes a number of programmatic changes, along with providing the reauthorization levels for program activities. Changes in the programs are the result of recommendations from the hearings of the Banking Committee and the other committees, and from recommendations of service providers, State and local governments, and private individuals that are involved in providing emergency assistance for the homeless. It is a balanced bill with strong bipartisan support and the titles within the jurisdiction of the Banking Committee were reported out of the committee on a voice vote.

H.R. 4352 reauthorizes all of the various committees' programs at a level of $642 million for fiscal year 1989. The total Banking Committee's authorization levels of HUD homeless programs and the FEMA Emergency Shelter Program total $426.8 million. Programmatic changes contained in this bill are included at the recommendation of the service providers.

This legislation is a product of the efforts of the Committees on Energy and Commerce, Education and Labor, Veterans' Affairs, and Ways and Means and I would commend the distinguished members of these committees and in particular Chairmen DINGELL, HAWKINS, MONTGOMERY, and ROSTENKOWSKI. In addition I would also commend those members of my Committee on Banking, Finance and Urban Affairs who assisted in putting this bill together, the distinguished Housing Subcommittee chairman HENRY B. GONZALEZ of Texas and the ranking minority member MARGE ROUKEMA of New Jersey, as well as the ranking Republican member of the full Committee, Mr. CHALMERS WYLIE. I urge Members to support this bill so that these programmatic changes can be implemented to make these programs more effective in dealing with the emergency shelter needs of the many homeless people that we have in our communities.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], the ranking member of the full committee.

Mr. WYLIE. I thank the gentlewoman for yielding.

Mr. Chairman, as one of the original cosponsors of this legislation, I rise in support and urge adoption of this bill.

Mr. Chairman, the chairman of our subcommittee, the gentleman from Texas [Mr. GONZALEZ], again, deserves special recognition for his leadership role in bringing this legislation here today and also the gentlewoman from New Jersey [Mrs. ROUKEMA], the distinguished ranking member of the subcommittee, deserves our special admiration and commendation for the bipartisan cooperation which she has exemplified.

Mr. Chairman, I am pleased that the committee bill includes a budget compliance provision. I sponsored this provision which requires that the new budget authority for the programs authorized in the bill not exceed the appropriate aggregate levels established in the concurrent budget resolution.

The minority is also somewhat encouraged by the willingness of the majority to accept some of our recommendations for designing more flexibility and efficiency into the delivery of homeless assistance programs.

We are, however, disappointed that a constructive improvement, at least we feel it is a constructive improvement, in adding flexibility and greater local discretion through the creation of a block grant approach was not accepted. However, the membership of the House will be afforded an opportunity later on this afternoon when we consider the Ridge-Roukema amendment and I certainly urge its adoption and approval.

This legislation is strongly recommended by the United Way, the Salvation Army, the National Council of Jewish Federations, the American Red Cross, the National Conference of Catholic Charities, the National Council of Churches, and by such organizations as the National Mental Health Association, the Association for Retarded Citizens, United Cerebral Palsy, and the Easter Seal Society. These are some of the organizations that have stood in the front lines in our fight to aid the homeless. They will use these funds and they will use them wisely as we continue to fight this cancer that has spread over our Nation.

By adopting this legislation, we are showing that those without homes, those without hope, those without a designated place in our society, that we do care and that they too are a part of the American dream to life, liberty, and the pursuit of happiness.

Mr. Chairman, in Columbus, OH, we have an excellent program to aid the homeless that has been funded under programs that this legislation reauthorizes. Although my local service and shelter providers would like more flexibility, the programs work well in the overall.

Therefore, I believe the benefits of this legislation will return our citizens to their dignity, their self-respect and, yes, even to their families.

With this bill we are recognizing the continuing existence as well as the critical nature of this issue.

□ 1500

Mr. Chairman, I congratulate my colleagues for recognizing the need for this legislation, and I support its passage.

Mr. GONZALEZ. Mr. Speaker, I yield 4½ minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me, and I congratulate the gentleman from Texas [Mr. GONZALEZ] and the gentlewoman from New Jersey [Mrs. ROUKEMA] for their work on this important bill and for the attention they have given to the homeless in America. I am grateful to the Members for the manner in which they have addressed the issue of the homeless in general, which does not discriminate against the rural homeless and the rural poor.

In times past, the isolation of poor people living in rural areas like Arkansas and Montana and New Jersey removed them from the good intentions of the national policy of our country to attend to this national problem. For this reason, I wish to alert my colleagues from rural States like Arkansas to be expecially attentive to the Roukema amendment, which would provide for a block grant program.

We think that would discriminate against States like Arkansas and would hurt the rural poor in areas like Arkansas. So I would be constrained to oppose her amendment when the time comes in the process for its consideration.

Mr. Chairman, I wish to congratulate Newsweek on this week's publication and for the attention that it has focused on "America's Third World." The article has as its theme the plight of the rural poor in America, and this is the first publication of this type I have seen in some years, in 4, 5, 6, or 7 years, that has expanded on this topic. I was beginning to wonder if anyone who published national magazines would address this subject, and I was beginning to wonder if the rural poor had just gone away, had faded into the countryside, and had lost the attention and focus of the national media. But Newsweek deserves a good guys' award for having focused on this problem in our countryside.

The rural poor deserve the same consideration as the urban poor. Certainly both deserve the attention of this Congress. I congratulate the leadership of this committee and the leadership of the gentleman from Texas [Mr. GONZALEZ], who has distinguished himself in the area of giving a helping hand to the homeless of America.

There is a renewal of interest in the plight of the poor in Arkansas and throughout the country, in this era when the number of poor people is increasing. It is estimated that 40 percent of the Nation's homeless are in small cities or rural areas—areas such as Arkansas. Homelessness is not a problem confined to huge metropolitan areas, for it has spread to places like Jonesboro and Forrest City in the Nation's heartland.

In recent years, rural poverty has become worse, not better, and the depressing decline continues today. One of every four children now lives in poverty. It is a sad situation, but with the resurgence of interest in this issue and the political will to act, we can make progress in attacking the dilemma of poverty in rural America.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I really appreciate the gentleman's remarks, particularly about the rural poor, because there is a lot of misinformation being circulated, and I think the gentleman, who represents a very important part of Arkansas, which is inclusive of the rural poor, certainly knows firsthand what has happened. The formula that was worked out provided that 30 percent of the funds would go to the rural poor, and it is true that the urban areas get 70 percent. But under the formula that is being proposed by the gutting block grant amendment, 20 percent would be targeted for the rural poor and 80 percent for the urban poor.

So the gentleman is absolutely accurate when he says that this amendment that may be offered in the future will gut a part of the program and hurt the rural poor.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the chairman of the subcommittee.

Mr. GONZALEZ. First, Mr. Chairman, I want to thank my distinguished colleague, the gentleman from Arkansas, profoundly.

From the very beginning of my tenure as chairman of this subcommittee in 1981, we initiated comprehensive hearings in every single region of this country, from the most densely urban to the most sparsely rural, including the Eastern Shore area, just 1 hour and 20 minutes' drive from the Capitol, where we have discovered atrocious rural housing conditions. That has been one of the prime objectives of the committee, and I want to thank the gentleman for his support.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman from Texas for his leadership. Mr. Chairman, I include with my remarks the article entitled "America's Third World," that appeared in Newsweek, August 8, 1988, as follows:

AMERICA'S THIRD WORLD

(By John McCormick)

When Americans think about poverty, most conjure up familiar city scenes: welfare moms in tenements, jobless men under street lamps, wasted kids on crack. Those powerful images belie the fact that in the nation's urban areas poverty rates are actually falling. Lost in the shadows are 9.7 million impoverished rural Americans; they constitute 18.1 percent of the 57 million people who live outside metropolitan areas. A much smaller group of the destitute—the homeless—receive far greater attention, while this disturbing, widely dispersed underclass, call it America's Third World, rarely intersects with the rest of society. It is a world caught in a chronic recession and in which violence—particularly family violence—is commonplace. It is a world of drifters, rusting mobile homes, marginal medical care, cheap liquor and terrible nutrition. And it is a world in which conditions are deteriorating at an alarming rate.

This week the Population Reference Bureau, a respected demographic study group, will report that one-fourth of all rural children now live in poverty. Next month another Washington-based group, Public Voice for Food and Health Policy, will report that infant mortality in America's 320 poorest rural counties tops the national rate by a chilling 45 percent. But the most startling statistic of all is that America's rural-poverty rate now slightly exceeds the rate in our blighted big cities. This decade's increase in rural poverty is especially disheartening because it follows a half century of steady improvement.

While some of the rural poor work in agriculture, few are the oft-publicized "family farmers" who own their land. Only 7 percent of all rural Americans live on farms, and their proverty rate barely exceeds that of others living in rural areas. Far larger is the share of rural poor who live in the nation's small cities and towns—and who benefit little from the $13.1 billion the United States spends on farm subsidies. In fact, the heavily publicized farm problems of the 1980s probably obscured the plight of the rural poor. Says Kenneth Deavers, the Agriculture Department's top poverty expert: "There's no way the true scope of rural poverty can compete with Dan Rather sitting on a tractor and talking about 'the Farm Crisis'."

The rural poor face obstacles their metropolitan counterparts do not. Often they dwell in sparsely settled regions where relief offices and job-training programs are hardest to find. Their small towns can't begin to afford the wealth of social services that cities offer. They tend to live in two-parent households and to hold menial jobs—attributes that curb eligibility of AFDC, Medicaid and other benefits in many states. Though they make up 30 percent of all Americans living below the poverty level, rural residents receive only about 20 percent of the $95 billion that federal, state and local governments spend on the poor. And while three-fourths of the rural poor are white, the poverty rate among rural blacks is 42 percent, 11 percent higher than the rate among blacks in cities.

There are few routes of escape for the rural poor. In the past decade, broad downturns in low-tech manufacturing, mining, agriculture and oil have cut median rural income from 80 percent of U.S. urban income to 73 percent. Many economists expect that slide to continue. Seven of every eight new U.S. jobs are in metropolitan areas—and the rural jobs often pay only near-minimum wage. When the poor do escape it is often the better educated who head for urban areas, leaving the least skilled to fend for themselves.

In the past many people associated rural poverty with Appalachia and the South. Today the problem has no boundaries. A tour of America's Third World can move from a county seat in Kansas to seaside Delaware, from booming Florida to seemingly idyllic Wisconsin.

THERE'S NOT MUCH THEY CAN GRAB

Thick crops atop the clay loam around Ottawa, Kans., camouflage poverty's grip. The United States has thousands of Ottawas, small towns whose moribund economies offer the poor little hope of a better life. Often the destitute are overlooked even in their own communities. "These people are lost in the shuffle, just lost," says Vivian Norton, an antipoverty worker in Ottawa (population: 11,000). "There's not much they can grab to pull themselves up."

Poverty is passed from one generation to another: it is the only legacy of the poor. Ida Swalley married at 15 to escape a hard-drinking stepfather. She has no marketable skills. Now 43, she is separated from her fourth husband and living in a squalid $200-a-month apartment that could be owned by an urban slumlord. Swalley shares the hovel with her 17-year-old son and a menagerie of bugs and mice. An old fly swatter is the sole decoration on one wall. The Kansas heat pushes the fetid air toward 100 degrees and aggravates Swalley's heart problems. She says things may improve once her new boyfriend gets out of jail. Her fondest hope is that life will somehow be better for her daughter, Carol Sue, 26, and her two-year-old grandaugther, Jacqueline Ruth.

But that dream may be illusory. Carol Sue Stevens earns just $3.85 an hour as a nursing-home aide. Her life, like her mother's, has been a succession of small-town romances with men prone to drunkenness and violence. Little Jacqueline Ruth was fathered by Carol Sue's current boyfriend, but the toddler doesn't carry either parent's surname. She will grow up using Ida Swalley's maiden name, Ray. "My boyfriend threatened to steal her," confides Carol Sue. "If we end up in some custody fight, I don't want her in court already using her daddy's last name."

The Swalley family at least has roots in Ottawa; many of the rural poor drift like dry leaves across the landscape. Ben and Tammie Hughes were only 17 and 16 when a burglar stole their wedding presents. Eight years and four children later, their luck has not markedly improved. They have moved 15 times, maybe more. Ben now does maintenance work at an apartment complex in exchange for a place to live and $600 a month. To stretch the family's food budget, he barbecues foot-long turtles gathered from the roadside. Tammie tends the boys and, once a month, treks to downtown Ottawa for federal commodity handouts. The threat of hunger in the nation's top wheat-producing state presents a stark irony: to sample the bounty that surrounds them, impoverished Kansans like Tammie Hughes must wait in line for small sacks of government flour.

For the moment, the parents try to make do for the children, gently explaining why birthdays must go by without fanfare. But even things more basic than birthdays—like medical care—must sometimes wait. "People say, 'Get your kid to the doctor,' not knowing that may be the last thing on your list," Tammie says. "Not that an ear problem isn't important. But food and a place to live always have to come first."

Ottawa's poor rely on ECKAN, the acronym for a nonprofit community-action program that survives on donations and government grants. With an administrative budget of $240,000 the agency struggles to serve seven rural counties with 17 programs, supplying when possible everything from housing aid to Christmas toys. Grant money is tight: ECKAN had to drop one project in which Blue Bear and other puppets taught children why it's important to eat.

"HE DOESN'T EVEN HAVE AN ADDRESS"

When their long workday ends, the migrant laborers come in crowded vans and station wagons to a small Dover, Del., clinic run by Delmarva Rural Ministries, an ecumenical service agency. Inside a 29-year-old physician named Lori Talbot races at flank speed from patient to patient. By 8:10 her night already seems long, and it will get much longer. Talbot is about to encounter Noe Tavias.

Noe's mother says the boy has "a little cold." Talbot suspects pneumonia. She is disturbed that Noe has never received routine immunizations against diphtheria, rubella, polio and other dangerous diseases. And she has spotted another anomaly: although he is almost four, the boy communicates with sounds, not words. Noe Tavias cannot speak.

Talbot proceeds aggressively, but with little of the medical arsenal she could muster in a normal practice. Noe, dark-eyed and winsome, embodies much that is wrong with the care of poor migrants: his problems are severe, yet his medical past is a mystery. His mother says that as an infant Noe was given unspecified "injections" in Mexico after two serious seizures. She was told he might grow up blind or mute. His records are at the Mexican hospital; his mother seems unsure which one. Talbot says Noe needs neurological tests, a CAT scan and a speech evaluation. She asks a nurse to launch the probably pointless search for the Mexican records that would put test results in perspective. Even if useful information materializes, Noe is unlikely to get thoughtful, consistent treatment. Come September the harvest will end, and the Tavias family must leave Delaware for work elsewhere.

Talbot's part-time work at the clinic is worlds apart from her full-time job treating students at the University of Delaware. The migrants often seek care only when an ailment becomes a crisis. They suffer high rates of anemia, tuberculosis and stunted growth; one study of Delmarva Peninsula migrants found that 34 percent had parasites. A huge caseload also pre-empts the preventive care most Americans expect. Talbot has no time to explain the perils of smoking or high cholesterol levels. She has yet to meet a migrant woman who has ever had a mammogram.

There are other frustrations. Talbot has prescribed special diets for workers who have no choice but to eat whatever camp cooks prepare; she has ordered insulin for diabetics only to learn they have no access to refrigerators in which to store it. Her commitment goes beyond office hours; she has hauled seriously ill migrants to a Wilmington hospital an hour away. She laments a shortage of bilingual social workers to connect poor migrants with available government aid. Talbot says of one cerebral palsy victim: "If Harold lived in a city he'd have plenty of help finding all the medical specialists he needs. Here he doesn't even have an *address.*"

"I GOT LUCKY—MY EX-HUSBAND DIED"

Forty miles from Walt Disney World, a huge cruciform machine called the mule train pursues black farm workers down long rows of sweet corn. Greater Orlando teems with tourists, but the noisy mule train, named for its steady, ceaseless pace, isn't a prime Florida attraction. Laborers hustle ahead of the machine, pawing through wet, buggy air to pluck ears from stalks. Atop the mule train, 20 men and women crate the corn and load it on a truck for shipment north. The rapid pace keeps workers basting in sweat; a skimpy incentive plan pulls this crew's pay above the federally mandated minimum wage. But walking with the mule train is a trek to nowhere. In days the corn season will end, and once again the workers will have to find jobs elsewhere—or not at all.

Tourism has vastly enriched parts of central Florida, but thousands of farm workers in this lush land still face shocking conditions. Better educated blacks have taken service jobs spawned by the theme parks, leaving unskilled workers to perform stoop labor at vegetable farms, plant nurseries and citrus groves. Resentments flourish as Haitian and Mexican immigrants take some of the jobs long performed by native-born blacks. Drug dealers feed on the desperate social climate, and family break-downs are the norm. "These people's problems are overwhelming," says Armando Fuentes, an obstetrician at a farm workers' clinic in Apopka, Fla. "I have not fully accepted the fact that, when I come to work, I am in the United States."

Audrey Neal, 23, is one of Apopka's casualties. After a December fire engulfed her dilapidated home and disfigured her five-year-old son, Segio, the former nursery worker moved in with her sister Shawana, 21. The two women and their seven off-spring share a tiny, two-bedroom house in a neighborhood where crack dealers randomly crash through doors to seek refuge. during drug raids. As young women struggle, young men flee responsibility. Abandonment is so common that mothers joke about it. "I got lucky—my ex-husband died," says Mildred Bell, a mother of two. "At least we get social security."

Social worker Sally Miller says years of grueling labor leave farm workers debilitated: "People here limp from crisis to crisis in a state of chronic stress until their bodies cave in." Most lack medical insurance. Because Orlando has no public county hospital, Fuentes has at times coached poor patients to exaggerate symptoms so a private emergency room will have no choice but to admit them. When government aid is available to remedy problems, the poor often don't know how to get it. "We're talking about people who can't spell their children's names, let alone write down the identities of their last three landlords," Miller says.

A local Office for Farmworker Ministry has started a clinic, a credit union and a farm workers' association, all attempts to bring order to the lives of the poor. In the land of Mickey Mouse, the Roman Catholic advocacy group uses its own cartoon characters, Gordo (Fat) and Flaco (Skinny), to represent haves and have-nots. "We explain that both characters bear equal responsibility," says Sister Cathy Gorman, head of the ministry. "Gordo acts unfairly—and Flaco permits him to continue."

Sister Ann Kendrick, a staffer at the farm workers' ministry, hopes one day to enlighten the millions of tourists who flock to Walt Disney World and Sea World. She would erect her own tourism kiosk at Orlando's airport and promote a new attraction, Real World. To sample the true Florida farmworker experience, visitors would board a sweltering van for the ride to rural Apopka. Along the way they would eat stale peanut-butter sandwiches. They would walk muddy rows in the rich farm fields; perhaps they would take a long ride on a mule train. And they would come away knowing what life is really like in America's vacation wonderland.

"IT'S AS THOUGH WE DON'T EXIST"

In the weeks after he lost his farm, Russ Schwebke faced a deeper humiliation: he could not afford to feed his son. The boy left Wisconsin to live with his mother while Schwebke, desperate for a livelihood, tried to start a tiny herd of 11 dairy cows on a vacant farmstead. The loneliness was unbearable. So was the cold. He couldn't afford fuel for his house and on the worst nights he slept in a barn warmed only by the animals. The intervening three years have brought countless discouragements and one joy: his 11-year-old son, Rick, is back home. Often the Schwebkes talk man to man about the father's dismal finances. Russ, 46, carefully explains that it is no disgrace to be poor. He privately hopes that adversity will strengthen his son. Beyond consolidation and love, adversity is all Russ Schwebke has to offer.

Schwebke cannot bring himself to apply for food stamps or AFDC. He accepts food from the Western Dairyland Economic Opportunity Council, an antipoverty agency; his son will not endure the diet of bread topped with cream and sugar that fed impoverished farm children a generation ago. Schwebke sees congressmen attuned to the urban poor but less aware of people like himself: "It's as though we don't exist."

Many Americans view farm problems as yesterday's news. This summer's drought aside, U.S. agriculture has begun a comeback. But many small farmers still risk ruin in marginal regions such as western Wisconsin, where broad hills jut from the sandy soil like buttes of the desert Southwest. The isolation of some areas from cities and jobs offers few alternatives to those the recovery may have permanently left behind. Across the countryside, frustrations ignite family disputes and child neglect worsens. Some women resort to support networks; they exchange tales of poverty and desolation in the same rural areas that a nearby brewery has long advertised as God's country.

Young farm wives often bear the brunt of poverty's burden. When Frank Schuh couldn't meet payments on his Buffalo County farm, it was his wife, Doreen, 37, who finally walked into the bank to admit defeat. An accident then crippled Frank's right leg, leaving Doreen to move the family to an empty farmhouse infested with bull snakes. Counseling has eased the bitterness Frank heaped on Doreen as she confronted crises he wanted to deny. She has not come to terms with dependence on welfare. The first time a caseworker brought food to the family of six, an embarrased Doreen Schuh insisted he leave with a loaf of bread she had baked.

Even when the isolation is self-imposed, the pain can be palpable. George Richard Beck, a mechanical engineer, sits in a rented frame house outside Black River Falls, his blue eyes transfixed on a blurry "Star Trek" rerun. He lost his job in Chicago and fled north two years ago. "I was tired of bill collectors, tired of running," says Beck, 45 "When we got here I was a beaten man. Still am." He says he has submitted 300 job applications and would settle for janitorial work at a nursing home. He doubts he'll get the job: "Would you hire an engineer to mop floors?" he asks. His wife, Michel, 30, talks of the emotional torment and fighting that have plagued the impoverished household. She is gamely learning to butcher deer hit and killed on the highway.

Is there any hope for the rural poor? The Becks and others hope a new president will notice their severe problems. This week's rush to approve $6 billion in drought relief is the latest proof that Congress, for one, would rather appease the narrow farm lobby than confront the more vexing problems of all the rural poor. Some experts propose a diversion of farm subsidies into broader rural-development projects; others suggest a sort of rural triage, with money channeled only to the most promising areas at the expense of the least. But imaginative plans won't get a serious hearing until the plight of 9.7 million rural Americans is placed firmly on the national agenda.

Mrs. ROUKEMA. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as the ranking minority member of the subcommittee, I am pleased to join Chairman Gonzalez in bringing this bill to the House. This is a reasonable bill and deserves our support. Let me also compliment the chairman of the full committee, the gentleman from Rhode Island [Mr. St Germain] and the ranking minority member, the gentleman from Ohio [Mr. Wylie]. Without their support, we could not have brought this matter before the House in such a bipartisan fashion.

I should also like to salute the gentleman from Minnesota [Mr. Vento], who is the prime sponsor of this legislation and who is well known for his commitment to homeless Americans.

HISTORY

For several years now, we have seen a disturbing increase in the number of homeless people in our country, and I am deeply concerned about this. I am also a senior member of the Hunger Committee, where we have also examined this problem in considerable detail.

As has been established by many reports and by testimony before our subcommittee, the causes are several and complex. They include deinstitutionalization of the mentally ill, drug and alcohol abuse, dramatic sociological changes in the family, the increase in teenage pregnancies, and pockets of economic disruption in the country. Indeed, the homeless population is becoming more complex and, as a society, we do not yet know how to cope with this phenomenon with complete success.

Members of the committee and Members of the floor have heard me in the past focus on one of the most vulnerable segments of the homeless population: The mentally ill, who because of the policy of deinstitutionalization either were removed from hospitals or who have never been admitted to a hospital. Many States took the gain by dumping these poor, unfortunate souls onto the street but paid none of the price of providing community-based treatment facilities for them. To the degree that this has occurred around the country, the Federal Government has had to step in to help clean up the mess. This we did with enactment of the McKinney Act in March of last year and which we would do with this bill, which reauthorizes the McKinney homeless programs for fiscal years 1989 and 1990.

While we do not have good figures for how many people are homeless, no one denies that the numbers have grown. As I said, this has been due to many and complex causes. But it is a major problem, and it must be confronted by a cooperative effort of all levels of government and the private sector. What we are about today is admittedly a continuation of emergency programs and does not address the underlying structure of these complex issues that contribute to the homeless problem.

COMMITTEE ACTION

The very first hearing of our subcommittee in January of this year was on the subject of homelessness and reauthorization of the McKinney Act. At that time we heard from administration witnesses and from nonprofit providers of assistance to the homeless. Homelessness was also, in part, the subject of a hearing the subcommittee held, at my request, in Trenton, NJ, on April 25 of this year. The subcommittee reported the bill June 3 and the full Banking Committee approved it June 29. The Full Committee reported it by voice vote.

FUNDING LEVELS

For the programs under the jurisdiction of the Banking Committee, the bill authorizes $426.8 million for fiscal year 1989 and "such sums" in 1990. The committee did approve an amendment I offered which requires compliance with the budget resolution. My amendment said that this bill and its amendments could not be construed to provide for new budget authority, budget outlays or new entitlement authority in excess of the appropriate aggregate levels established by the concurrent resolution on the budget.

The $426.8 million for fiscal year 1989 is a modest increase in the authorization level over the current year, which is $406.5 million.

Of course, as we all know, what really counts in these matters is the amount appropriated, and that is well below the authorized amount.

Again, for the programs under the jurisdiction of the Banking Committee, the amount appropriated this year was only $187 million and the amount in the House bill for next year is $300.2 million. As I said, the appropriations are well within the authorized limits.

I would also like to highlight that the committee decided to authorize "such sums" for fiscal year 1990. I am pleased with that decision and, from my point of view, it supports moving to a greater reliance on the block grant approach for these programs.

BLOCK GRANT

I do not intend to go into a detailed discussion of block grants at this time because I do plan to speak on the matter under the five minute rule when an amendment is offered later.

However, for now, I would like to outline the proposal briefly.

The gentleman from Pennsylvania [Mr. RIDGE] and I will offer an amendment which, beginning in fiscal year 1990, would combine three categorical programs now authorized under the McKinney Act into one homeless assistance block grant.

We would combine the emergency shelter grants, supportive housing, and supplemental assistance. Other programs would not be affected by our block grant.

All activities now permitted by these three programs would be eligible activities under our block grant.

The authorization levels would not be affected by our amendment. We would provide the same authorization total as the committee bill.

Our amendment increases flexibility for localities. The amendment is supported by the National League of Cities and the National Association of Counties, as well as several Governors. At our subcommittee's January hearing, which I mentioned earlier, we had a panel of eight nonprofit service providers from around the country. They were asked what they thought of the block grant approach, and not one opposed the idea. Each response was a favorable one.

I will speak further on this later when the amendment is offered, but I urge my colleagues to consider it seriously. It is a reasonable proposal and one which allow localities to their homeless populations more effectively.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] has just expressed the reason why this is a bipartisan effort. She has been indefatigable in attending the hearings, which have been lengthy and sometimes dreary, and has also contributed mightily to the product we have here today, plus the authorization bill.

Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentlewoman from Ohio [Ms. OAKAR], a member of the subcommittee.

Ms. OAKAR. Mr. Chairman, I thank the subcommittee chairman for yielding this time to me.

Mr. Chairman, I want to compliment the subcommittee chairman and all members of the committee who supported the legislation, including the minority leadership, and worked to make this a bipartisan bill.

We ought to keep the bill as it is. It is a good bill, one that we all agreed on, and it is important.

I would just like to point out that there are some things about this bill that are unique. This is not just a bill that puts a roof over an individual's head in an emergency crisis situation. We know, for example, that about a third of the homeless are military or are veterans. We know that there are families who are homeless, and we also know that one of the real crises in areas like my own hometown of Cleveland has to do with the mentally deinstitutionalized people, people who are deinstitutionalized from our mental institutions and who could get along if they had a home, if they had some job training and counseling, and if they had their medication.

So it is not just shelter alone that we really need to focus on. One of the things this bill does relates to the transitional housing area, an area that my staff and I worked on for an awfully long time. I was delighted that the chairman accepted it, and that the Senate side accepted those provisions so that we would have to deal with that problem comprehensively. If we give people who are deinstitutionalized a chance, if we give them their medication, their counseling, and their training, they can be functionally creative individuals and live a life of dignity. But if we let them out of institutions, as the States are doing in a wholesale manner, without any kind of services, it is a real problem.

I know we are going to debate the block grant issue. I feel very, very strongly about it at this point, because this is a relatively new bill. We have not had a homeless bill before this session of Congress in a comprehensive manner. It should not be a new bill, but it is.

When we leave it up to the States, which have not provided the leadership that they should have been providing in terms of dealing with the deinstitutionalized, as an example, and with families, as an example, I really worry about it. This will be a problem until we get this problem off the ground and can demonstrate what can be done. And that is what this provision is, demonstration projects across the country in this area, particularly as they affect the deinstitutionalized.

So, Mr. Chairman, this is not a rural or an urban problem. It is a people problem, and we ought to view it in that manner.

Mrs. ROUKEMA. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER], a member of the committee.

□ 1515

Mr. BEREUTER. Mr. Chairman, I would begin by expressing my appreciation to members of the committee for their assistance in including in the bill a specific amendment to require the Secretary of Agriculture to carry out the Rural Housing Guaranteed Loan Demonstration Program, as provided in the 1987 Housing Act, with unused funds available under the section 502 rural low-income housing loan program for fiscal year 1988 and three or more succeeding years. I would particularly address comments of commendation to the subcommittee chairman, the gentleman from Texas [Mr. GONZALEZ], for his assistance in the acceptance of this amendment. Praise is also due to the supportive and helpful attitude displayed by the ranking minority member of the subcommittee, the gentlewoman from New Jersey [Mrs. ROUKEMA]. This Member also appreciated the cooperation of the committee chairman, the gentleman from Rhode Island [Mr. ST GERMAIN], and the ranking minority member, the gentleman from Ohio [Mr. WYLIE].

The need for this amendment is the result of a Farmers Home Administration legal opinion concerning the appropriations language that was originally used in the 1987 Housing Act. I have been assured in writing by the Administrator of the FmHA, Mr. Vance Clark, that the new language of the amendment this gentleman offered will resolve the questions that the legal opinion raised and will result in the authorization of funding for the Rural Loan Demonstration Program that Congress intended by its legislative actions in 1987.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise to discuss an amendment that I will be offering to title X, which is the technical amendment section of this bill providing technical amendments to existing housing programs. This particular amendment will effect and improve the operation of FHA. This amendment will allow homeowners who have an FHA loan who have defaulted on their loan and are unable to pay it, upon their conclusion that it is in their own best interest they will then be allowed to sell their home in lieu of facing a foreclosure.

Now present law in a depressed area, if a homeowner's mortgage is more than the market value of that home, then that homeowner ends up with no choice but to face the agony of a foreclosure proceeding and the difficulty that that causes him in terms of credit rating. My amendment would simply allow the homeowner to sell their property in lieu of a foreclosure and then charge the deficiency payment to HUD, as the FHA insurance would do with a foreclosure. It preserves a borrower's credit rating by permitting the sale of a home in lieu of foreclosure. It does provide that the sale has to be at a fair market price.

Mr. Chairman, it also requires that HUD and the lender approve the sale. It allows then the lender to obtain at least a partial payment from HUD for property once it is foreclosed. The amendment then saves money for the taxpayers.

Mr. Chairman, it is estimated that at least $5,000 per home could be saved for every unit that does not end up in HUD's inventory. It provides the Federal Government the opportunity to whittle down the $1.2 billion that we are spending in fiscal year 1987 to sell foreclosed property by having less foreclosed property on the market. It reduces agency staff time required to maintain and process the sale of HUD acquired property. It is estimated that a foreclosure from start to finish to resale requires about 16.7 months, and that in turn jeopardizes neighborhoods.

The amendment then would protect neighborhoods by ensuring a faster rate of occupancy on foreclosed property.

Mr. Chairman, it has bipartisan support, and it has the support of both the National Association of Homebuilders and the Mortgage Bankers Association. It was recommended originally in an April of 1988 General Accounting Office report.

On the overall bill I would comment to my colleagues that the bill has some good features in the overall homeless bill, but it has two main objectionable features. First, most of the money is spent in shelters which tend to keep people homeless as opposed to helping bring people back into conditions outside of homeless, and second, it does provide for a rather large, extraordinary increase in funding, increasing funding levels from $187 million in the Committee on Banking, Finance and Urban Affairs jurisdiction in fiscal year 1988 at the appropriated levels, up to $426 million in fiscal year 1989, and the authorized levels in this bill are roughly a 2½ times increase in 1 year.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding this time to me.

First, let me compliment the chairman of our subcommittee, the gentleman from Texas [Mr. GONZALEZ] and the ranking minority member, the gentlewoman from New Jersey [Mrs. ROUKEMA], both of whom have worked together to craft a good bill and a bipartisan bill.

Mr. Chairman, we have seen on our television screens this past winter the images of homeless people sleeping on subway grates and sidewalks, and that strikes heart pangs in all of us. Well, today's bill is an example of doing something about that anguish that we feel.

It is summer. It is warmer. The issue of the homeless is not really on our minds, but we all know very well that come next fall, come next winter, come the colder weather, we will be seeing those terrible images again, and, if we do not do anything now in this season, we are going to have nothing later.

Mr. Chairman, I think it is a much-needed bill. It certainly does not solve the homeless problem, but it does show we care. The mark of compassion in our society is that we are willing to spend some money, and yes, an increase.

I am proud of that increase, I would say to my colleague, the gentleman from Texas. It shows that we are taking positive steps.

The bill, I think, has a number of different points that are important. First, its main effort it not to end the homeless problem, although we would like to do that, but to say to a significant number of homeless people, "We're going to help you get back on your feet, not only with a roof over your head, but with certain kinds of services. So, once we place that roof over your head, you won't be forced back into a shelter".

So, Mr. Chairman, there is nutrition aid in this bill, there is job training aid in this bill, and education and drug rehabilitation aid. And those of us on the Housing Subcommittee are ever mindful of the fact that housing is part, a real part, a significant part, not the only part of the problem.

The second thing I would say is that ultimately our real problem is that we do not have enough housing, and if we continue to cut back and cut back and cut back on housing, as we have over the last 7 years, we are going to have a homeless problem, and we are going to need more bills like this.

Mr. Chairman, in 1978 housing and community development was 7 percent of the Federal budget. Now it is 1 percent: 7 percent in 1978 and 1 percent now. If we had frozen our level of housing assistance at the beginning of this administration, we would have 560,000 more units of housing. That is 560,000 fewer homeless families, well over a million fewer homeless people.

Mr. Chairman, these are the kinds of things we must be mindful of. In a sense this is a Band-Aid. This bill is a Band-Aid approach. It is certainly a lot better to have the Band-Aid than the open wound, but it is better to cure the wound all together, and we have to begin marching together to think of new and cost efficient housing programs to deal with the homeless problem.

But I say, Mr. Chairman, Stew McKinney would be proud of us today. He stood for the kind of compassion, the kind of caring and the kind of thoughtful and comprehensive legislation that we are about to enact today, and I am proud to be here and be a small part of that effort.

Mr. GONZALEZ. Mr. Chairman, pursuant to an agreement reached earlier with the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], who has yielded to our committee his portion of the time, half an hour, I ask unanimous consent that that time be allocated to this committee, this subcommittee.

The CHAIRMAN. Is the gentleman from Texas asking that 15 minutes be allocated to each side?

Mr. GONZALEZ. Yes, Mr. Chairman, an additional 15 minutes and an additional 15 minutes to the minority.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding this time to me.

First of all, Mr. Chairman, I am very pleased and proud to rise in support of this much-needed legislation. It is something that Members of both sides of the aisle have worked on during the past couple of years. The support has been bipartisan. It has been broad. Hopefully, as a body, when we conclude the debate on the different amendments, we will continue to support the assistance for these unfortunate people who are without shelters and without supportive services.

I had my staff take a look through their computer as to how many newspaper articles appeared yesterday around the country in communities dealing with the problem, the people problem of homelessness. I think they reported to me that there were 35 or 40 different articles yesterday not precipitated by the debate or the expectancy of the debate today, but simply because it is recognized in those different communities as being an incredible hardship on men and women, most of whom, through absolutely no fault of their own, endure homelessness—a condition that is absolutely intolerable.

Mr. Chairman, it is clearly a pleasure for me to work with our chairman and the vice chairman to try to eradicate, as best we can, and to mollify, as best we can, the misery and suffering that these people are subjected to.

Having said that, I must also say that during the course of this debate our colleagues are going to be given an opportunity to decide, to select, to choose, between two different approaches to channel some of these limited resources to the people who are most in need.

The gentlewoman from New Jersey [Mrs. ROUKEMA] and I are going to offer an amendment that would take approximately 40 percent of the dollars involved in the housing portion of the Homeless Assistance Act and to take that 40 percent and channel it to the States and to the local communities through a block grant approach rather than a categorical block grant approach. We believe strongly that States and local communities are in a better position certainly to identify their unique needs and certainly in a position to address those needs with the funding we have set aside for them. We also believe that people at the local and State levels are in a much better position to evaluate the kind of support their homeless population needs. I know the gentleman from New York feels strongly that we have to build more shelters. Perhaps in his particular jurisdiction that is the case, but I know throughout much of northwestern Pennsylvania, and indeed around the State, the need for permanent structures is not as great in most of the communities as the need for a broader range of support services, those of which would be available under the block grant approach.

So, Mr. Chairman, I encourage my colleagues listening to the debate to pay attention. They are going to be given a choice. I urge them to support the block grant approach. In my opinion it will result in the more effective utilization of the limited resources we have to truly help these people.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. MFUME], a member of the committee.

Mr. MFUME. Mr. Chairman, I rise today in strong support of the Omnibus Stewart B. McKinney Reauthorization Act of 1988. This bill would reauthorize the homeless assistance programs established by the McKinney Act of 1987 including emergency shelter grants and supportive housing programs, outpatient health care and mental health services, and community services and education programs. Under this act, a total of $642.5 million would be authorized for next years' funding level.

In 1949, we were victors of a recent war; our economy was expanding; and Harry S. Truman was President of the United States. But even more significantly at that time, the 81st Congress set a national goal of providing "a decent home and a suitable living environment for every American Family" in the Housing Act of 1949. Though our policies have changed over the years, our goal must remain the same.

Since 1961, almost 2 million privately owned, federally subsidized units for low-income households have been constructed. Our standard of living has improved tenfold since the harsh times of the Great Depression. Yes, we should feel proud of our progress, but our work is not finished.

We have all heard the maxim "wherever there is prosperity, one shall find scarcity." This paradoxical phrase adequately describes housing in America today. The number of poor people seeking housing has increased and remains high despite many successes. It is estimated that more than 500,000 federally subsidized housing units occupied by low-income Americans will be lost by the year 2002 if nothing is done. The number of homeless people has dramatically increased in the last decade, thus leaving millions to live in the streets, bus stations, and abandoned cars. The Nation's rate of home ownership declined from 65.6 percent in 1981 to 63.8 percent just 2 years ago. This percentage change represents about 2 million families who would have been expected to purchase a home. If these trends are allowed to continue, they shall likely worsen the state our Nation's housing in the 1990's.

Mr. Chairman, a year ago the Stewart B. McKinney Homeless Assistance Act was passed by Congress and signed into law by the President. I am pleased to have played a role in making this landmark housing legislation into law and today I continue to support its reauthorization. Since its enactment, the Stewart B. McKinney Act has had overwhelming cooperation by State and local governments in every region of this country.

History has taught us that housing problems are varied and complex. To be effective, housing assistance has to reflect the particular needs of our communities. But the central question is how can we provide adequate, affordable housing which realizes our goal of providing a decent place to live for everyone? The answer is not simple, but we can begin by reauthorizing this most worthy piece of legislation. We already have the resources needed to reverse the declension in the state of our neighborhoods and communities. Now is the time that we must use them.

As we approach the 1990's, it is time that we move our housing policies into action and make adjustments which will reflect our ever-changing society's needs. We in the 100th Congress must reaffirm the commitment established by this body 39 years ago. The opportunity to move forward with the goals set forth by our predecessors cannot wait. I urge my colleagues to vote in support of this bill.

Mrs. ROUKEMA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to address myself to some of the comments of the gentleman from Arkansas whom I believe has drawn a mistaken conclusion from the change in the formula that has been proposed under the Ridge-Roukema amendment, and we will debate this in greater length later, but I would like to make the point now that he indicated that the block grant discriminates against rural areas like Arkansas. It is the current system, I submit, which discriminates against rural areas because the rural areas do not often have sophisticated grantsmen to write grant applications as required under the conditions of this bill.

□ 1530

We need only to look at the experience in Arkansas this past year to illustrate the point, and here I am using figures from a HUD analysis. In 1987, Arkansas actually received $463,000 under the State portion of the McKinney Act. Had our block grant, the Ridge-Roukema block grant, been in effect at that time, the State's share for Arkansas would have been $827,000. That is a lot more.

If we look at the entitlement communities within Arkansas, we find that there are two, Little Rock and Pocohontas. Those two entitlement communities actually received last year a total of $48,000. Had there been a block grant proposal in effect, they would have received over twice the amount of the current system, estimated to be $108,000.

I am sure that this will come up again during the debate on the amendment, but I thought this should be in the RECORD on the debate.

Mr. FRANK. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. No, I will not yield at this time. I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding me this time.

I am sorry the gentlewoman from New Jersey would not yield. What I wanted to ask her was where I could get some of this wonderful arithmetic, where everybody gets more and nobody gets less.

We asked her what this was. Would the rural communities get more and the nonrural communities get more and the entitlement communities get more and the nonentitlement communities get more?

Obviously if we have a fixed dollar amount and some people are getting a lot more, somebody is going to get a lot less, and nothing could be less credible than to stand, as the gentlewoman did, and tell us this one is going to get more and that one is going to get more and no one is going to get less.

Mr. GONZALEZ. Mr. Chairman, if the gentleman would remain on his feet, I would like to have a little colloquy with the gentleman on that in that respect, even though I think when we go into the amendatory process, we will do that; however, I do think that we ought to make it clear what our bill does, what the supposed amendment will attempt to do.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. Frank] has expired.

Mr. GONZALEZ. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, if this bill here under consideration is approved by the House and the Senate and signed into law at the authorization level and if it is funded, which past bills have not been, we have been receiving actual appropriations of about 35 percent of the authorized levels, so that if this happens, though, and we get full funding for this authorization level, then our bill will give the same communities the same amount as the block grant approach will.

Mr. FRANK. Mr. Chairman, I thank the gentleman.

I caution my colleagues—and I am sorry the gentlewoman will not yield to me—not to be fooled by the magic pot out of which more always comes and never less. That simply cannot be the case.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished woman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Chairman, I rise today in support of the McKinney Homeless Assistance Reauthorization Act. As a member of the Housing Subcommittee, I would like to commend Chairman St Germain and Chairman Gonzalez for their leadership on addressing this national crisis in a timely manner.

Recent congressional action on homelessness originated with passage of the Stewart McKinney Act of 1987. The McKinney Act broke ground in providing Federal Assistance to the growing numbers of homeless people in America. Unfortunately, the numbers of homeless keep rising, and so do their needs. The original McKinney Act is only a beginning. Today, we have an opportunity to continue the progress first envisioned by Congressman Stewart McKinney.

More people are homeless today in America than at any time since the Great Depression. Overall, the homeless population grew by 25 percent in 1987 alone. Families with children are now the fastest growing group among the homeless. In the richest Nation on earth, growing numbers of men, women, and children are living on the streets and eating out of garbage cans.

In the spring of 1987, after years of inaction, Congress passed comprehensive legislation to aid the Nation's homeless poor. The Stewart B. McKinney Act, which passed with overwhelming bipartisan majorities in both Houses of Congress, provided badly needed emergency relief. Hundreds of groups around the country are now using these programs to provide lifesaving resources to America's homeless.

The legislation we are considering today reauthorizes the Homeless Assistance Programs established by the McKinney Act, including emergency shelter grants and supportive housing programs, outpatient health care and mental health services, and community services and education programs. The bill authorizes a total of $642.5 million in fiscal year 1989 and additional funds, as necessary, for fiscal year 1990.

The Housing Assistance, Emergency Food and Shelter, Community Services, Education, and Veterans Programs are extended through fiscal year 1990, while the health care programs are extended through fiscal year 1991.

On the subject of health and the homeless, recent news reports have revealed that some bay area contractors have hired hundreds of untrained homeless people to assist in asbestos removal without protection from the health hazards posed by this work. This alarming news prompted me to enlist the support of my colleagues from Oakland and San Francisco, where these practices were reported, to write to the Environmental Protection Agency, the Occupational Safety and Health Administration, and CAL-OSHA.

This is an intolerable situation I want to bring to the attention of my colleagues. I hope we will be successful in eliminating any such activity that takes advantage of the plight of the homeless, particulary in such a life-threatening way.

I would like to submit a copy of our letter to Mr. Frank Strasheim, regional director of FED-OSHA in San Francisco, for the Congressional Record.

Passage of this legislation is critical, for without the reauthorization of essential programs for the homeless, many men women, and children now receiving emergency aid will be threatened. I urge my colleagues to support this legislation.

I also urge my colleagues to oppose the Ridge-Roukema amendment, which would combine three housing assistance grant programs into one block grant, effective in fiscal year 1990. This would reduce the funding provided directly to local governments, funding which has been quickly and efficiently put to work by those governments.

Experience in other programs, notably the antidrug enforcement grants has shown that State administration of funds intended for local governments has been extremely slow. Indeed, some cities have yet to see a penny of funds appropriated nearly 2 years ago for antidrug programs. I see no justification for changing the McKinney Act system of grants, established just a year ago, when it is working. The Ridge-Roukema amendment is opposed by the National Coalition for the Homeless, the U.S. Conference of Mayors, The National Mental Health Association, and the Mental Health Law Project.

I am pleased that the House is today taking up this important legislation, which is another step in addressing the problem of homelessness in the United States. While this bill will not, on its own, solve the housing crisis facing our Nation, it will help alleviate some of the suffering experienced by the homeless.

House of Representatives,
Washington, DC, Aug. 1, 1988.

Mr. Frank Strasheim,
Regional Administrator, Occupational Safety and Health Administration, San Francisco, CA.

Dear Mr. Strasheim: We are writing to express our concerns over recent news reports that safety standards for the removal of asbestos from privately owned buildings are not being adhered to in the San Francisco Bay Area.

These reports suggest that, at certain sites, some Bay Area contractors have hired hundreds of untrained homeless people to assist as "scrapers" in the removal of asbestos from banks, churches, offices and hotels. Some of these "scrapers" have been interviewed and report that they were sent to asbestos contaminated areas without being given body suits; a number were given no safety training or medical examinations; and site foremen did not complain when workers removed their respirator masks during breaks in contaminated areas. If, in fact, these news accounts are true, we ask your office to take appropriate action to review this situation and coordinate your activities with other related agencies in protecting the health of these "scrapers". We are pleased that these contractors have made a practice of hiring the homeless, but believe that all workers must be protected from the health hazards posed by asbestos removal.

The Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration have developed strict guidelines for asbestos removal in public buildings, including schools. We believe that the strongest guidelines should be followed in all asbestos removal projects to insure worker safety.

These removal procedures expose workers to highly hazardous materials where safety procedures are of critical importance. We ask that you work with us to help eliminate irresponsible and potentially unsafe practices that could prove harmful to many workers. It is our hope that in working together to establish stricter guidelines, we can ensure the safety of all workers involved in asbestos removal projects.

Thank you for your time and consideration.

Sincerely,

Nancy Pelosi,
Ron Dellums,
Barbara Boxer,

FORTNEY H. (PETE) STARK,
Members of Congress.

Mrs. ROUKEMA. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a member of the Committee on Education and Labor.

Mr. GUNDERSON. Mr. Chairman, I come to you as the ranking Republican on the Education and Labor Committee's Employment Opportunities Subcommittee. I come to you during general debate on this legislation to call to your attention action by the other body regarding their homeless legislation which could severely affect the ability of our House and this Congress to successfully and expeditiously complete action on homeless legislation yet this year.

It should be noted that the Senate, during committee consideration of its homeless legislation, added an amendment to the bill known as the JEDI proposal or the Jobs for Employable Dependent Individuals Act, which has nothing to do with the homeless and which could potentially harm programs under the Job Training Partnership Act in its current form.

I would like to clarify that the concept and goals behind the JEDI legislation are worthy. Unfortunately, the legislation in the form contained in the Senate bill presents some very dramatic challenges in terms of its implementation by State and local governments. Those of us on the Education and Labor Committee on a bipartisan basis have been struggling with the goals of this legislation to try to find a way in which we can make it workable without negatively affecting programs within the Job Training Partnership Act.

If we go to conference with the Senate with no Comparable JEDI provision here in the House, and we do not intend to add such a provision because it is nongermane to your homeless legislation, but the Senate continues with this language, we run two risks. Risk No. 1 is that of slowing up the homeless legislation altogether. The second risk is to inundate your committee with members of the Education and Labor Committee trying to negotiate with the Senate on a bill which they have incorporated and obviously we have no similar provision.

This becomes particularly important because as those of us on the House Subcommittee on Employment Opportunities proceeded in our consideration of this legislation, we made a number of changes to the JEDI bill that have not been included in the provisions added by the Senate. One of the most important amendments to the bill added in the subcommittee guarantees that none of the funds for JEDI will be expended until we maintain full funding for our traditional Job Training Partnership Job Training Act programs. This provision was overwhelmingly adopted in a bipartisan manner.

Due to these concerns, and because I truly feel that consideration of the JEDI legislation is important enough that it warrants independent consideration—which is continuing in our Education and Labor Committee with a hearing scheduled for September, I do not believe that it is appropriate to consider JEDI as a part of the homeless bill.

I simply want to call to the attention of all our colleagues that if we are indeed intent, as I think we are on a bipartisan basis, of moving forward on the homeless legislation, the Senate has provided us a new hurdle that we are going to have to deal with in the next few weeks.

Mr. GONZALEZ. Madam Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK] for the purposes of engaging in a dialog with our distinguished colleague, the gentleman from Minnesota [Mr. SABO].

Mr. FRANK. Madam Chairman, I appreciate the gentleman from Minnesota being willing to have a discussion with me on this. I know the gentleman is concerned about a project in his own district and I think he is trying in a very constructive way, as he usually does, to resolve it.

There is a piece of language in this bill which would affect the multifamily disposition section that we have. I think the result that is being brought about is a good one, but I appreciate my friend joining me in this so that we can make it clear that this should not be used as any precedent by anyone who would not be trying to protect homeless people.

I would just ask my friend to affirm that or correct it in a particular case here. We are not talking about any current resident being displaced.

Mr. SABO. Madam Chairman, if the gentleman will yield, that is accurate.

Mr. FRANK. In addition, my understanding is that some of the tenants, and there is a mix of people, we had special circumstances of some apartments being cooperative, but these are not circumstances likely to be replicated, as I know it in other buildings; but in addition, my understanding is that with the able assistance of the gentleman the city of Minneapolis is seeking to get from the Federal Housing and Urban Development Department some section 8 certificates that they could use in a project-based assistance mode, so that not only would we not have anyone displaced, we would not lose the total number of low-income communities that are available. Am I correct in that?

Mr. SABO. Madam Chairman, if the gentleman would yield, the gentleman is accurate. Pending approval of this in a negotiated sale which occurred to make sure that subsidized units would remain available in the project, my understanding is that HUD has agreed to 250 additional units to be used elsewhere in the city.

Mr. FRANK. I thank the gentleman. I just want to make it clear, because I think the multifamily disposition aspects are very important, that while we are prepared to be flexible here in the legislation, as we are in this case, we have a city administration and a Member of Congress who care very deeply about these concerns. I am reassured that everything is being done to first of all absolutely preserve the existing tenancies, and second, to try to procure some new units.

The chairman of the subcommittee, the gentleman from Texas, has been battling for this for a long time to make sure that low income people are not sacrificed when we do these kind of workouts. I am pleased that we are doing that here in this case.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. FRANK. I am pleased to yield to the gentleman from Minnesota.

Mr. SABO. Madam Chairman, let me express my appreciation to the gentleman from Massachusetts and the chairman of the subcommittee, the gentleman from Texas and my colleague, the gentleman from Minnesota [Mr. VENTO] for their help in making sure the language is in the bill to make sure that this negotiated sale can proceed and at the same time express my appreciation to the committee for a good bill which I intend to support.

Mr. FRANK. Madam Chairman, I thank the gentleman.

Of course, it goes without saying, but we will say it anyway, but as we often do with things that go without saying here, that it is the staffs that work together of all these entities and are responsible.

We are I think showing flexibility while protecting the legitimate interests of the low income people. I appreciate that.

If this is cited as a precedent, it ought to be a precedent in which no one is displaced and an additional number of units are secured.

Mrs. ROUKEMA. Madam Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Madam Chairperson, I rise in support of the Stewart B. McKinney Homeless Assistance Act of 1988 and to compliment the Members of both sides of the aisle for moving forward on this bill.

Clearly, we have an authorization for which Stewart McKinnney would be justifiably proud. The act stands as an example of what we can do as a Nation when we work together. But we need a larger allocation of funds to realize the full benefit of this bill. Otherwise, we will not be able to fulfill the work and ideals of the man whose name this act bears.

Stewart McKinney, my predecessor, was someone who cared about and worked for the good of the Fourth Congressional District of Connecticut, but he also cared deeply about the needs of our Nation. The homeless were one of his highest priorities. He was a Congressman who helped focus attention on their needs.

Stewart was outraged when he visited shelters and saw that so many people—men who had fought for their country and mentally ill individuals and young children—had no place to live. Indeed, the statistics are heartbreaking. Thirty percent of the homeless are military veterans, 25 percent are deinstitutionalized mentally ill patients who have not been provided proper halfway care and 30 percent are parents with young children. Clearly, the people behind the statistics motivated Stewart to address their plight.

Homelessness is one of a number of serious problems that will not be solved by partisan politics but by both sides working together for the common good. That's exactly how Stewart conducted himself. He worked with both sides of the aisle for the good of individuals who need and deserve our help. I salute my colleagues in carrying on the work of Stewart McKinney.

Mrs. ROUKEMA. Madam Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Madam Chairman, it is indeed a fitting tribute to our late colleague, Stewart McKinney, that we enact legislation today which will attempt to deal with the problem of homelessness in America.

H.R. 4353, the Omnibus McKinney Homeless Assistance Act of 1988, is on balance a piece of legislation that is deserving of our support.

In addition to providing funds for emergency food and shelter programs, the McKinney Act will also provide educational opportunities to homeless children, training opportunities for homeless adults, and health care for both parents and children who lack permanent shelter.

Although I wish the legislation provided a higher degree of flexibility to State and local governments, I am nonetheless pleased that the committee has included several demonstration projects to test new solutions in the areas of mental health, alcohol, and drug abuse.

This legislation is the product of much hard work by a number of committees.

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I would like to commend all of those who have been part of this progress, and I urge adoption of this legislation.

Mrs. ROUKEMA. Madam Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Madam Chairman, I thank the gentlewoman for yielding.

Madam Chairman, I just wanted to comment on an observation made by my friend and colleague, the gentleman from Massachusetts [Mr. FRANK], who was talking about some magical cup that continues to runneth over. Clearly we are not saying to all communities that there is more money and that this bill will provide more money for them to assist their homeless. Clearly in this bill there are winners and losers.

As I take a look at some of the projections from HUD, one of the potential losers may be Boston, MA. Obviously the city had very good grantsmen. Perhaps they get help and direction from the Governor. In any event, under the block grant approach, they would get less.

Mr. FRANK. Madam Chairman, will the gentleman yield?

Mr. RIDGE. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Madam Chairman, I would just like to say that Boston is not in my district. It is not one of the things that I am being concerned about, so the gentleman's effort at subtlety does not seem to me to have been too especially successful in this instance.

Mr. RIDGE. Reclaiming my time, I was not trying to be subtle, just trying to respond.

Mr. FRANK. Maybe the gentleman was successful.

Mr. RIDGE. Madam Chairman, the gentleman suggested that all communities were going to win, that all communities were going to get more money. I just want my colleagues who are listening to the debate, and who will have an opportunity to choose, to understand that there are, indeed, winners and losers.

We have targeted through the CDBG formula obviously most metropolitan areas, and most metropolitan areas with the large homeless population should do better. I just want my colleagues, our colleagues, the Members, to understand that it is not offered under the pretense that all communities will be better served. There are winners and losers.

Mr. FRANK. Madam Chairman, will the gentleman yield?

Mr. RIDGE. I am happy to yield to the gentleman.

Mr. FRANK. Madam Chairman, I thank the gentleman for yielding.

There has been some suggestion that the rural communities are going to do better under this amendment, and the gentleman now said that the large metropolitan areas will do better. I would hope that the gentleman from Pennsylvania and the gentlewoman from New Jersey would give us a list of not just the winners that they keep mentioning but the losers. The gentleman from Pennsylvania said that the metropolitan communities will do better, and the rural communities would do worse. I think they ought to tell them which ones they are.

Mrs. ROUKEMA. Madam Chairman, will the gentleman yield?

Mr. RIDGE. I am happy to yield to the gentlewoman.

Mrs. ROUKEMA. Madam Chairman, the point to my statement was that the gentleman from Arkansas drew the wrong conclusion in terms of his State of Arkansas, and the fact that he asserted this amendment is fundamentally biased against rural areas. It is not.

An analysis of the way the formula works will demonstrate that in fact because of the grantsmanship aspect of this, the rural areas will probably make out far better than they would otherwise.

Mr. FRANK. Madam Chairman, will the gentleman yield?

Mr. RIDGE. I am happy to yield to the gentleman.

Mr. FRANK. Madam Chairman, the gentlewoman is offering half of the amendment, and she is saying that the rural areas will do better. The gentleman is offering the other half of the amendment, and he is saying that the metropolitan areas are going to do better.

Madam Chairman, can we not have a playoff and let us debate the winner?

Mr. RIDGE. I understand the gentleman from Massachusetts is not trying to be subtle. He is just trying to confuse the issue.

I would just respond to my colleague, the gentleman from Massachusetts, who knows full well that some communities benefit through this program more than others, and some will get less money. This debate is beyond this approval. It involves a choice among programs, block grant or categorical. It involves the most effective way to use limited resources to help communities who have been working long and hard to deal with the homeless problem before the Federal Government ever offered any support.

I just wanted to clarify that point.

Mr. GONZALEZ. Madam Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Madam Chairman, I thank the gentleman for yielding.

The recent statement of the gentleman from Pennsylvania is one where we might disagree some, but it is a statement that is accurate, that it is a better way to do it. My problem is that I am not trying to confuse the issue. We just heard from, a few minutes ago, the two cosponsors, one saying that the metropolitan areas will do better, and one saying that the rural areas will do better. I do not think that is a reasonable way to argue it either way, and I think what the gentleman just did is the way we ought to be arguing it. It is not one community versus the other. It is what is the better approach. I would say in my defense, since no one seems likely to lead to it, that I was not the one who raised this issue about rural versus urban, and the two cosponsors did have contradictory views on that.

Let us get off of that and into the real issue.

Mrs. ROUKEMA. Madam Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Madam Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Madam Chairman, I rise in support of the bill.

This piece of legislation is one that members of the committee and of the subcommittee have worked hard on. I believe that it is good legislation, and also I think that people around my district and around the country are constantly asking the question of why has this issue of homelessness arisen in America. It does not seem that we have to look too much further than the Nation's budget to come to grips with the answer to that question.

The fact is that over the course of the last several years we have seen a reduction in the budget of the number of subsidized housing units in this country, with a drop from $30 billion a year down to less than $8 billion. In 1979 this country spent enough money to build over 300,000 units of affordable housing, and last year we built some 11,000 units of affordable housing, and if we just do the simple mathematics, we will find out very quickly that we have lost some 2½ million units of affordable housing, and that is roughly the number of homeless people in America. If we want to do something about homelessness, then the fact is that we need to support such efforts as the McKinney bill.

We also cannot suggest to the general public that this is the answer to homelessness. Until we deal with the whole issue of whether or not we are going to build more units, we will not solve the problem of homelessness. What we can do is we can provide some decent, quick measures which will end up alleviating some of the terrible burdens that the homeless people today are facing.

The dollars that we are telling the American people are being spent in today's bill are much less than the actual appropriated dollars that are sticking to today's bill. We need to have a commitment as we had in 1949, a commitment by the Federal Government to build more housing, and until we get that, we are not going to eliminate homelessness.

We should support today's bill. We should support the efforts of Mr. McKinney. We should support this bill which has been worked hard on by this committee and by this Congress.

I support the legislation, and I hope that the Congress does as well.

Mr. DELAY. Madam Chairman, it looks like Congress is going to play the numbers game again today. The plight of the homeless is not comforting to anyone. But, I believe that the bill before us today addresses a complete unknown—a guess if you will—of the number of homeless in the United States and the number of homeless this bill will aid.

We are about to reauthorize a huge amount of Federal tax dollars in order to target a problem that has to date, not been targeted. We are enduring a needless panic and will throw millions of dollars at this issue to make it just go away. And yet, we all know it will not go away. Sadly enough, this is an extremely diverse problem—one that is very difficult to deal with at the Federal level.

Frankly, this bill addresses short-term needs which will always be present rather than long-term solutions to the problem. It seems that many Members believe that the woes of the homeless can be solved with cash and rhetoric. The trouble is, all this cash and talk are likely not only irrelevant and wasteful, but also detrimental to the welfare of the homeless themselves.

Why? Because the Federal Government is incapable of targeting specific needs of the homeless. Because of this fact, this bill will merely perpetuate the problem at hand. The best way the homeless can be assisted is through the State and local channels that have been in place for years. For example: In fiscal years 1986, there were at least 20 programs throughout government, and $170 to $200 million targeted for the homeless—and that's not including regular welfare benefits.

It is important that we realize that by nature, the homeless problem should be addressed at the State and local level. To think that here in this body we can condense the problem down to a few specific categories is ludicrous. We are merely wasting taxpayers dollars.

Americans have been lulled by the media into believing that there are countless millions of homeless roaming the streets at any given moment. Countless yes, millions no. Best estimates from many sources show that there are only 250,000 to 300,000 homeless in this country today.

The bill provides $426.8 million for housing assistance for this number of homeless people. Is the best way to approach this problem by building more shelters? Is a national right to shelter approach —one that would forever institutionalize this problem just like in the Soviet Union the answer? Given the vast number of programs that already exist to serve the homeless, and given the at-best sketchy numerical evidence offered by the homeless lobby, why should taxpayers believe there is a homeless crisis?

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 4352, the Omnibus McKinney Homeless Assistance Act.

Despite increased awareness and efforts to provide housing and other support for our nation's homeless, the problem continues to grow, affecting individuals and families across the country. Unfortunately, in the last year alone, the homeless population has grown by 25 percent.

In my own home State of California, it is projected that the homeless population could number as high as 250,000 individuals. This group includes families with children, the newly unemployed, victims of family breakup, the working poor, and those suffering from chronic mental illness and drug and alcohol abuse.

A little over a year ago, Congress overwhelmingly approved the Stewart McKinney Homeless Assistance Act to combat this mounting problem. While this legislation was an important step, it represented only the first step in our fight to eradicate homelessness in the United States.

The legislation we have before us today reauthorizes many of the programs contained in that initial effort. For example, it includes a total of $642.5 million in fiscal year 1989 for the reauthorization of such homeless assistance programs as the Emergency Shelter Grants and supportive housing programs, outpatient health care and mental health services, and community services and education programs.

While approval of H.R. 4352 will not solve this critical problem, it will ease the lives of those who are homeless. I strongly urge my colleagues to support this important and much-needed legislation.

Mr. SAWYER. Mr. Chairman, I rise today in support of the Omnibus McKinney Homeless Assistance Act of 1988 and to commend the chairman and all the members of the Banking Committee for moving this legislation which will help us reach the homeless and provide them with the most elemental of human needs.

I would also like to thank Chairman GONZALEZ for accepting in Committee an amendment I proposed which will assure that eligible homeless women and children are not denied the benefits of the WIC Program.

As my colleagues know, the WIC Program is designed to serve the nutrition and the health needs of low income women and children who are found to be at nutritional risk; and there is probably no group that is more nutritionally at-risk than homeless women and children.

Some States, in large measure for purely bureaucratic reasons, have denied these important benefits to this highly vulnerable population. The intent of this amendment is to clarify that homeless individuals who meet the nutritional risk and income standards are eligible for WIC benefits. Eligible homeless women and children—who have vastly different and critically important nutritional needs—shall receive WIC benefits whether or not they receive meals from soups kitchens, shelters or other emergency food assistance programs.

The amendment also provides the States with the flexibility to tailor the food package or the delivery system to meet their unique needs.

So that Congress can obtain better information on the size and needs of this population, the amendment will also require State agencies to include in their State plan a description of how they will provide benefits to homeless individuals. The Secretary of Agriculture shall annually submit a brief review of the major highlights of those plans to Congress.

Finally, Mr. Chairman, it is my understanding that the Food and Nutrition Service [FNS] which administers this programs has decided to back this policy.

Again, I greatly appreciate the assistance of the chairman on this amendment and express my admiration for his work on the homeless assistance bill.

Mr. COELHO. Mr. Chairman, in increasing numbers, Americans are rejecting the myth of the homeless as transient individuals who have no desire for a permanent home. Today we are facing the reality of the homeless situation, and that reality is that the homeless are children. They are families. They are the disabled. They are the elderly. They are the chronically ill. They are the emotionally distressed, and they are veterans. In short, they are people not so different from you and me who have fallen upon hard times, and who now need some help to get back on their feet. Last year, we confronted this reality and made a national commitment to end the tragedy of homelessness by passing the Stewart B. McKinney Homeless Assistance Act.

The signing of that Act into law on July 22, 1987, marked the beginning of a truly inspiring use of Government funds by local agencies in their efforts to provide human services. In communities across the country, McKinney Act money has been used efficiently, effectively, and creatively to respond to the needs of the homeless. It is impossible for me to detail here all of the good work that is being done with the help of McKinney Act funds. But perhaps you will get some sense of what I mean when I tell you that in Philadelphia, McKinney Act funds are helping the Pentecostal Bridgegroom, a family shelter, house 95 families. Or that in Providence, RI, the Traveller's Aid Society is using McKinney funds to help fund a transitional housing program for homeless 18 to 22 years old, most of whom are runaways. Or that in Kansas City, McKinney money is being used to provide mental health services to the homeless through nonprofit agencies. Or that in New Orleans, McKinney funds help Covenant House shelter teenage mothers and their children. Or that in New York City, the Catherine Street Shelter is being converted from a facility in which several families share one room into a facility where each family has an individual sleeping area. Or that in Portland, OR, The Raphael House is using McKinney money to serve homeless women and children who are victims of domestic violence. Or that the San Francisco Clinic Consortium is using McKinney funds to establish a health care system for the homeless through a citywide, multiethnic network of federally funded and nonfederally funded community health programs. Or that right here in Washington, DC, McKinney Act funds help the Sasha Bruce Youth Network shelter and counsel homeless adolescents.

These are just a few examples of the many, many programs funded by the McKinney Act which are working to meet the complex needs of the homeless. In San Francisco, in Boston, in Louisville and Minneapolis, in Seattle, Phoenix, San Antonio and Trenton, in cities all over the country, McKinney Act funds are being used to provide shelter, health care, counselling, and other services to the homeless.

Clearly, the McKinney Act was more than just a good idea. It is a program that is working. And it is a program that must continue to work. The homeless problem has not gone away, and it will not go away unless we make a commitment to end it. Let's continue that commitment and allow our communities to keep on with the good work that they are doing. Please join me in voting for passage of the McKinney homeless assistance reauthorization.

Mr. BROWN of California. Mr. Chairman, I rise today in strong support of H.R. 4352, the Stewart B McKinney homeless assistance reauthorization bill.

Since the early 1980's, Congress and the public have become increasingly aware of the large numbers of Americans without permanent homes, often living on the streets or in emergency shelters in the community. Some of this awareness stems from the realization that the homeless problem is becoming worse and is affecting new segments of the population, such as the "working poor" and families with children. The homeless population is diverse, and includes the mentally ill, evicted families, the aged, alcoholics, drug addicts, minorities, veterans, abused spouses, abused young people, and castoff children. Estimates of the homeless population in the United States range from 300,000 to 3 million.

I believe that we have the responsibility not only to help the homeless achieve a decent standard of living, but also to stem these problems before people end up on the streets. Prior to this year, most activity to aid the homeless was undertaken and funded by community organizations and local governments. However last year, Congress passed the Stewart B. McKinney Homeless Assistance Act, a comprehensive bill authorizing new Federal spending for homeless aid, including temporary shelter and housing, health services, emergency services and job training. The act was a tremendous step in the right direction, because it is designed to deal not only with the immediate problems of the homeless—such as emergency food and shelter—but also with its roots and causes—by providing health care and job training.

Hundreds of groups around the country are now using these programs to provide needed resources to help America's homeless. My home State of California has a large homeless population that the local communities cannot adequately handle without Federal funds. I am pleased that California received more than $46.2 million from the McKinney Act funds this fiscal year.

Today, Congress has the opportunity to reauthorize these homeless assistance programs established by the McKinney Act of 1987. H.R. 4352 authorizes a total of $642.5 million in fiscal year 1989. Hunger and homelessness must continue to be a priority in the 100th Congress, and I urge my colleagues to support H.R. 4352.

Mr. PANETTA. Mr. Chairman, I rise in strong support of the McKinney homeless assistance reauthorization. This legislation demonstrates that the commitment we made last year to the homeless of America—that the Congress would get meaningful assistance to this group was not a one-time media event in which we simply passed a bill and moved on to another issue. The legislation before us today shows that the Congress intends to stay the course on this issue until the blight on our society of Americans, including children, sleeping on streets, in cars, and in homeless shelters is banished forever.

Last year, in the initial McKinney bill, we included a nutrition title which contained a number of significant steps to assist the homeless and to help prevent additional Americans from becoming homeless, including the extension of the Temporary Emergency Food Assistance Program [TEFAP], an increase in the limit on the shelter deduction in the Food Stamp Program to lessen the painful dilemma too many poor American parents face between feeding their children or housing them, and a number of other homeless assistance and homeless prevention changes to the Food Stamp Program.

This year, we have developed a bipartisan nutrition initiative, the Emergency Hunger Relief Act of 1988 (H.R. 4060), which is scheduled to be considered in the House next week. I want to discuss the major provisions of the bill, giving particular attention to the homeless assistance provisions included in that legislation. The Emergency Hunger Relief Act will—

First, extend for 1 year the Temporary Emergency Food Assistance Program [TEFAP] which we reauthorized last year in the McKinney Act;

Second, require the U.S. Department of Agriculture to purchase $110 million worth of commodities to distribute to the needy to compensate for the reduced availability in TEFAP of cheese and other commodities in recent months;

Third, restructure TEFAP to give higher priority to food banks and soup kitchens which aid the homeless;

Fourth, make permanent the provision enacted 2 years ago which allows homeless individuals living in shelters to participate in the Food Stamp Program;

Fifth, increase monthly basic food stamp benefits for each recipient above the normal inflation adjustment by an average of 70 cents in fiscal year 1989 and $2.25 in fiscal year 1990;

Sixth, provide additional information to the needy about food stamps and reduce unnecessary paperwork for applicants;

Seventh, reduce barriers to participation in the Food Stamp program for farmers, the elderly, and the disabled;

Eighth, improve the efficiency of the Food Stamp Program by establishing an error rate of 6 percent as an objective for administrative improvement and targeting sanctions for errors on States with the highest rates of incorrect payments, expanding the definition of error to include underpayments as well as overpayments, eliminating sanctions for States whose performance is better than average, rewarding States which reduce erroneous payments below 6 percent, and ensuring that State sanctions are enforced; and

Ninth, provide a contingency clause so that if budget sequestration takes place, the provisions of this bill having a cost impact above the CBO baseline for the fiscal years (1989-91) covered by the concurrent resolution on the budget for fiscal year 1989 (H. Con. Res. 268) will not be implemented.

Before we leave for the August recess, we have the opportunity to provide meaningful assistance to the homeless through the extension of the McKinney Act and meaningful nutrition assistance to all Americans, including the homeless and millions of Americans who are one pay check or less away from being homeless, through the Emergency Hunger Relief Act of 1988.

I urge your support of both urgently needed bills.

Mr. SMITH of Florida. Mr. Chairman, today the House is focusing attention on a national problem, the plight of the homeless.

H.R. 5110, the McKinney Homeless Assistance Act, would provide the financial backbone for homeless programs throughout our Nation. In fact, the passage of this bill would complement the passage of the conference report on H.R. 558, the Urgent Relief for the Homeless Act which authorized $442.7 million in fiscal year 1987 and $616 in fiscal year 1988 for a variety of homeless aid programs. As a supporter of H.R. 558, cosponsor of the McKinney Homeless Assistance Act of 1987, and as a supporter of the enactment of the original McKinney bill, I would like to reiterate my continued dedication to providing assistance to our homeless citizens.

Today we have the opportunity to reauthorize this act and provide the homeless with improved health care and housing benefits. This bill specifically provides a total of $642.5 million in fiscal year 1989 and an unspecified total in fiscal year 1990 for the homeless programs by targeting five specific areas: $297 million for housing programs, $116.2 million for health programs, $74.5 million for community service and education programs, $15 million for veterans programs, and $129 million for emergency food and shelter programs.

I would like to commend the numerous committees that crafted this bill and established a strong piece of legislation to assist our Nation's homeless. I urge my colleagues to support the reauthorization of the McKinney Homeless Assistance Act, and cast a vote for the homeless.

Mr. FIELDS. Mr. Chairman, I rise in opposition to H.R. 4352, the Omnibus McKinney Homeless Assistance Act of 1988. Mr. Chairman, while I most certainly do recognize and agree with the meritorious intentions which give rise to H.R. 4352, I must express my reasons for opposing H.R. 4352.

First, the nature of this issue would show that it is primarily a State and local issue. Local government authorities are better able to determine the specific nature and extent of homelessness in their areas. Further, State government is in a better position to exercise oversight and regulation for the collection of funds for the homeless and the disbursement of these moneys. However, today the Federal Government is being asked to pick up a large portion of the administrative costs of these programs, during a time of a severe Federal deficit. This bill contains an authorization providing for a total of $642.5 million in fiscal year 1989, and yet we still cannot identify the homeless population with any degree of accuracy, nor can we say or define what their needs truly are.

Second, the authorization in this bill, with respect to the health, mental health, and substance abuse services, covers a number of existing federally financed programs which the homeless are currently eligible to take advantage of. The administration's fiscal year 1989 budget request, which provides for a great deal of funding for our Nation's homeless, includes primary health care grants, mental health, alcohol and substance abuse programs and services, and additional funding for Medicaid specifically for the homeless. The administration not only looks at the problems of those individuals which are currently homeless, but also proposes to spend an additional $12 million on mental health services for individuals who are in danger of becoming homeless.

Finally, Mr. Chairman, we are required to establish priorities according to the bipartisan economic summit agreement. As I stated earlier, the problem of our Nation's homeless is indeed important and I am by no means diminishing this importance. However, if these homeless programs are on our high priority list, then there must be the necessary balancing reductions in other Federal programs due to our immense national deficit. We cannot authorize money for the homeless today, and then tomorrow for other health related activities, such as AIDS testing and counseling, without taking into account the complete agenda of federally funded health programs.

Mr. Chairman, again I must express my opposition to H.R. 4352. We should be cautious about bringing yet another charge upon the Federal Government which might best be handled at our State and local levels of government. And I remind my colleagues that H.R. 4352's authorization levels substantially exceed those contained in the Presidents budget request.

Mr. WEISS. Mr. Chairman, I am pleased to support the reauthorization of the McKinney Homeless Assistance Act. The housing, health, and veterans programs funded by this legislation have already assisted thousands of homeless men, women, and children who might not have otherwise been helped. Our Nation's shelters and soup kitchens are overflowing with Americans in severe need. The McKinney Act is the very least we can do to help them.

Unless we act to alleviate the main causes of homelessness—the scarcity of affordable housing and the deinstitutionalization of the mentally ill—the programs authorized by the McKinney Act may someday become institutionalized themselves, because the need for them grows unabated. The homeless population is increasing by as much as 38 percent a year; in some localities, the numbers of homeless families alone have doubled in the last year.

The Subcommittee on Human Resources and Intergovernmental Relations, which I am proud to chair, has conducted investigations of homelessness in America. The subcommittee issued reports and recommendations, some of which are reflected in the McKinney Act. We found the same problems everywhere we went: Homeless families crammed into inadequate welfare hotels; lack of medical and mental health services in shelters; large populations of homeless veterans. The programs of the McKinney Act are addressing these and other problems of the homeless, and they are working.

The measure also contains a provision to prevent the enforcement of regulations proposed by the Department of Health and Human Services that would substantially reduce the amount of Federal matching funds available under the Aid for Families with Dependent Children Program. Under AFDC, emergency assistance and special needs grants are available for States to use to aid homeless families. But the regulations would limit the use and time periods for the funds. These regulations are symbolic of the administration's policy toward the homeless, which is to ignore them.

In my home district in New York City, the regulations would have crippled local programs for homeless families. Many of New York's homeless families are forced to live in welfare hotels, which are partially funded by the Federal Government. These facilities are unsafe and unsanitary, and the city recently adopted a plan to phase out using them within the next 2 years. I strongly oppose any efforts by HHS to cut funds to the city, especially now, at a time city officials are engaged in a massive effort to find adequate housing and shelter for homeless families.

Part of the problem is that the Social Security Act prohibits the use of AFDC funds for the construction of low-income housing, which could prevent the need for costly shelters for homeless families. I believe it would be wiser and less expensive to allow AFDC funds to be used for the construction of low-income housing, and I have joined my colleagues, Representatives SCHUMER and DOWNEY, in introducing legislation to authorize a demonstration program that would allow AFDC matching funds to be used for low-income housing construction and rehabilitation.

The notion of using AFDC funs for low-income housing was even suggested by the President himself. On November 19, 1986, the President was asked at a press conference what he intended to do about the homeless crisis. He said he thought New York's spending of $37,000 a year to house a family in a welfare hotel did not make sense. "Why doesn't someone build a house for that family?" the President asked. We agree. Housing should be built with that money, and without creating any new programs or increasing the budget, we can do just that.

Mr. GARCIA. Mr. Chairman, I rise today in support of the reauthorization of the McKinney Homeless Assistance Act. Since it was passed in 1987, the McKinney Act has provided crucial emergency assistance through a panoply of programs that address the needs of homeless families and individuals throughout our country today. Homelessness has become a national crisis and a national embarrassment. We must do everything possible to provide for each and every homeless man, woman, and child.

This bill reauthorizes the homeless assistance programs at $642.5 million for fiscal year 1989. This represents an increase from the $484 million appropriated for fiscal year 1988 and includes $297 million for the housing programs authorized under McKinney, the emergency shelter grants, supportive housing demos, supplemental assistance and section 8 rehab funding.

The bill authorizes $116 million in fiscal year 1989, $121 million and $128 million for fiscal years 1990 and 1991, respectively, for various health care assistance. These include health care for the homeless, mental health block grants, alcohol and drug abuse demos, and community mental health demos.

The bill also authorizes $74.5 million for each of fiscal years 1989 and 1990 for community service, job training and education programs for the homeless. The education programs include adult literacy, education grants to homeless children and grants to address the special education needs of homeless students in elementary and secondary schools. The bill provides an additional $154 million for veterans health care programs and emergency food and shelter.

I have taken the stand in favor of the McKinney Act on many occasions and will continue to do so. I will continue to speak out on behalf of the homeless in this country until this tragic reality is eliminated. It sems to me that no country with the wealth and demonstrated conscience of the United States of America should ever tolerate and let develop to such crisis proportions the homelessness that we witness on our streets and in our alleyways, under our bridges and in our vacant lots, doubled up in cramped housing and shepherded away in inadequate emergency welfare hotel rooms.

There is no doubt in my mind that this Nation cannot continue to place the needs of so many of its people, needs basic and necessary to everyday survival, so low on its list of priorities. There should be no greater challenge, no need more urgent, than the elimination of homelessness in America. How can we as a people prosper if we stand idly by as more and more families are threatened by the tragedy of homelessness? How can we as a people expect to instill civic values in our younger generation and help prepare for a greater America in the future if we fail to commit to the challenge that lay before us today? We must act now. I urge my colleagues to pass this bill and work hard for levels of appropriations.

This act is crucial to the fight against homelessness because the needs of the homeless continue. Families and individuals continue to need emergency housing assistance. They continue to need emergency health care and food. They continue to need job training and counseling and child care facilities. In closing and in strong support of this bill and the commitment it represents, I think it is important to say that it represents the best of us as a people. But by itself, the McKinney programs will not solve the problems of homelessness. Yes, we need this commitment. Yes, this funding represents a significant fight against the problems of homelessness.

But we can not simply pass this reauthorization and be safisfied that the whole job is done. Ultimately, we as a nation must say enough is enough and make the larger commitment to provide affordable and decent housing to every American family. This has been the very foundation of our national housing policy. The promise of providing a decent home and safe living environment has unfortunately become an empty promise. Nothing could be more important to the welfare of this country. And nothing can be done until the Federal Government makes an all out commitment to produce more housing. It is important to remember that housing production has traditionally required Federal assistance. Housing production still requires Federal assistance.

We must make the commitment to provide the assistance necessary to counsel families making the transition from shelters to rental units and hopefully one day to homeownership. And we must make the larger commitment to fund these emergency programs, these counseling programs and all housing assistance at levels and for the duration that will eliminate this American tragedy all together.

I urge my colleagues to vote in favor of this measure and to let it mark the renewed commitment for each of us as legislators and all of us as Americans to recognize this program as the crisis that it is and to make the commitment to do away with it once and for all.

Mr. LEVINE of California. Mr. Chairman, I rise today as a cosponsor and strong supporter of H.R. 4352, the Omnibus McKinney Homeless Assistance Reauthorization Act of 1988. With this legislation we have the opportunity to continue the work started last year under Public Law 100-77, the Stewart B. McKinney Urgent Assistance to the Homeless Act. I urge my colleagues to support this legislation.

Los Angeles has one of the highest homeless populations in the Nation. In my district there are approximately 3,000 to 5,000 homeless individuals, and throughout Los Angeles there are an estimated 30,000 to 50,000 homeless. The homeless represent a broad cross section of society. In my district, emergency shelters and facilities serving the homeless report increases in the number of families with children seeking assistance. Additionally, many homeless individuals are employed, but are still unable to find affordable shelter. The high cost of housing in my area makes this problem particularly serious. It is unconscionable that families with children and working people are unable to find decent shelter anywhere in this Nation.

H.R. 4352 demonstrates the continued commitment of the Federal Government to ending the homeless crisis. It is not nearly all we need but it is a very important step in the right direction. Programs established last year under Public Law 100-77 have been implemented over the last several months, and are just beginning to fulfill their mandate to provide necessary services to homeless individuals. This legislation includes funding for emergency shelters and operating expenses, emergency food programs, health and mental health care, job training, and veterans programs.

For shelter programs, H.R. 4352 provides $125 million to the Emergency Shelter Grants Program for the renovation, rehabilitation or conversion of buildings for emergency shelters for the homeless. The legislation also provides $105 million for the Supportive Housing Demonstration Program to provide operating and technical assistance for these services—$20 million of this is set aside for families with children, and $15 million for permanent housing for the handicapped homeless.

Serious health problems are another consequence of homelessness. A significant number of the homeless in Los Angeles test positive for TB. Additionally, mental health and drug problems frequently occur among homeless individuals. H.R. 4352 provides $61.2 million for comprehensive health care services for the homeless, outpatient mental health care, drug and alcohol abuse services, and case management. H.R. 4352 also provides funding for block grants to the States for mental health programs, and for demonstration projects for drug and alcohol abuse treatment services.

Importantly, H.R. 4352 includes provisions to equip homeless individuals with the job training and educational skills necessary to find employment. The legislation authorizes $13 million for job training demonstration projects, and $11 million for basic literacy education. Additionally, $6 million is authorized for programs to ensure educational opportunities for homeless children.

Homelessness is a critical problem throughout the Nation. We must continue to act to prevent homelessness, and to protect those who have become homeless. H.R. 4352 continues the important work started last year with Public Law 100-77, and I urge my colleagues to support this legislation.

Mr. CLEMENT. Mr. Chairman, I rise in strong support of the Stewart McKinney homeless assistance reauthorization bill being debated here today.

Homelessness is not a new phenomenon. Once thought to be a temporary crisis, homelessness has proven to be an enduring problem. I am pleased that the Congress responded to this American plight with enactment of the Stewart McKinney Act of 1987. This legislative effort established a comprehensive set of services that deal with the acute and varied problems that the homeless face.

It is distressing that the actual incidence of homelessness across the country remains unknown. By the very nature, they elude enumeration but estimates range from one-quarter of a million to 3 million. The best estimates suggest, that in my district, even in the economically healthy community of Nashville, there are now approximately 2,000 homeless individuals and families.

Rather than decreasing over the course of this decade, homelessness appears to be rising in the face of what many Americans consider a prosperous economy. It is essential that the Congress play an active role in reversing these numbers.

Fifth District residents have responded in several innovative ways to assist the homeless. Many churches and organizations have sponsered shelters and meal sites. A nationally renowned health clinic was established and continues to be funded by the local government. And our former colleague and current mayor, Bill Boner, has outlined a proposal to construct a SRO residence.

I believe these local efforts should be supported by Federal funds. This bill which authorizes a total of $642.5 million for 1989 and sums as may be necessary for fiscal year 1990 is an important step toward continuing our fight against homelessness in America. I join in supporting this important reauthorization bill.

Mr. JEFFORDS. Mr. Chairman, I am pleased to rise in support of this bill, H.R. 4352, and to speak specifically to the portions of the bill which come under the jurisdiction of the Education and Labor Committee.

As we are all aware, the plight of the homeless has become a major national issue. The magnitude of the problem is uncertain because we still do not have reliable data on the extent of homelessness in America, although estimates range from 500,000 to 3 million homeless people.

Traditionally, most homeless people were thought to be older, single men. However, increasingly the homeless population includes battered women, elderly poor, runaways, veterans, and unemployed people with their families. This last segment in fact, is the fastest growing element of the homeless population. In a survey of 29 cities in 1987, families, primarily single-parent families, make up more than one-third of the homeless—an average growth of over 31 percent from previous estimates. The cities surveyed cited lack of affordable housing, a lack of jobs and inadequate public assistance as the main causes of homelessness.

This bill extends education and job training provisions orginally contained in the McKinney Act. The education provisions essentially seek to eliminate the barriers that homeless children have in receiving public education. The job training language continues a demonstration grant program in which the Secretary of Labor awards moneys to State and local public agencies, private nonprofit organizations, and businesses to provide basic skills instruction, remedial education activities, basic literacy instruction, job search activities, job counseling, and job preparatory training.

Further, just as we have done in other feeding programs, we have relaxed the requirements under the WIC Program so that homeless women can receive the benefits of this highly successful program. Finally, the eligible uses of funds available under the Community Service Block Grant [CSBG] Program for services to the homeless has been expanded.

These provisions in this bill continue to build upon programs which have just started as a result of the enactment of the Stewart McKinney Homeless Assistance Act, and in the case of the WIC Program, include a logical population who can clearly benefit from the available services. Without the assistance that can be provided through nutrition, education, and training programs, we do not have an effective response to the problems of the homeless.

I am concerned however, that as a result of a technical amendment to the bill, the issue of religious discrimination has been avoided rather than dealt with head on. As I understand it, the bill being considered by the other body retains the religious discrimination provisions of current law, and I hope that when this bill is in conference, this issue will be resolved in favor of the Senate provisions.

I urge my colleagues to support this bill. It is fitting that a bill devoted to easing the problems of homlessness be named after my good friend and colleague, Stewart McKinney, a man who dedicated so much of his life to combating this critical problem.

Mr. ANDREWS. Mr. Chairman, many people have been enlisted in the war against drugs in this country. The drug problem has been recognized as a national crisis and it is clear that we must continue to focus our efforts on eliminating this scourge.

However, there is another scourge to be fought. It has not received quite so much attention as the drug problem, but its huge cost in human suffering makes it imperative that we attack it with equal determination. I am speaking of the scourge of homelessness in America.

By now people in our cities are all too familiar with the sight of people sleeping on the streets with no place to go. Many of these people are mentally ill and an alarming number are families with children. In fact, families with children constitute one of the fastest growing segments of homeless.

In my hometown of Houston some estimates now put the number of homeless at as high as 25,000 to 30,000 people. In one shelter alone—the Star of Hope Women and Family Shelter—3,921 homeless people sought relief in 1987. A staggering 1,510 of them were children.

The fight against homelessness must be intensified and Congress must recognize its leadership role in this fight. For this reason I was glad to add my support to H.R. 4352 passed by the House today. This bill reauthorizes the essential programs under the McKinney Homeless Assistance Act.

The strength of the McKinney Act is not only that it provides aid for shelter for the homeless in the form of emergency shelter grants and supportive housing programs but also that it recognizes the need to attack the problems of the homeless at the core. It includes provisions for aid in areas such as outpatient health care, mental health assistance, job training, and educational assistance all aimed at helping find long-term solutions to homelessness. In all the bill authorizes $642.5 million for homeless assistance programs in 1989 and extends these programs through 1991.

It is my hope that our colleagues in the Senate will recognize the extreme importance of this legislation and act on it as soon as possible.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support for the reauthorization of homeless assistance programs established by the Steward B. McKinney Homeless Assistance Act of 1987. Current authorization for the measure expires on September 20, 1988.

The Federal Government began taking an active role in providing funding for homeless programs and services when it passed the Mckinney Act. The statute provides a comprehensive approach to the homeless crisis by allocating funding for the renovation of buildings for use as shelters, transitional housing, food distribution, increased medical and mental health care, and better utilization of surplus Federal facilities. Funds appropriated under the measure have made an important contribution to efforts aimed at easing the continuing and expanding crisis of hunger and poverty in our Nation, and to giving nationwide priority to the plight of the homeless. However, considerably more is needed to meet the critical needs of Americans who are without shelter.

The measure we are considering today would authorize $642 million to provide urgently needed assistance to protect and improve the lives and safety of the homeless, with special emphasis on elderly persons, handicapped persons, and families with children. This funding is vital to New York State, where over 34,000 homeless persons, including nearly 14,000 children, sleep in State-regulated shelters each night. Under the bill, New York State will receive an estimated $59 million in fiscal 1989 to provide essential services to the homeless including food and shelter, health care, education, and job training.

While New York continues to devote substantial resources to meeting the needs of its homeless citizens, funding under the McKinney Act has provided substantial assistance to the State in addressing the homelessness crisis. For example, organizations in New York receiving funds under FEMA's Emergency Food and Shelter Program have provided 17,500 meals a day and 2,100 beds each night. Under the Emergency Shelter Grant Program, which provides grants for the renovation, rehabilitation or conversion of buildings for use as emergency shelters for the homeless, an estimated 200 beds have been either saved or created in New York. Similarly, in New York last year, 47 community action agencies and one seasonal farmworkers group assisted an estimated 4,400 people through funds provided under the Emergency Community Services Homeless Grant Program.

Of particular importance to my district, the legislation we are debating today will extend through October 1, 1989, the moratorium on implementation of the regulations proposed by the Secretary of Health and Human Services that would restrict New York's use of the AFDC Special Needs Program for housing assistance. If these proposed regulations were implemented, New York would lose an estimated $85 million in Federal assistance for the homeless.

Mr. Chairman, the primary cause of homelessness is the lack of affordable housing. When President Reagan took office in 1981 funding for the Department of Housing and Urban Development [HUD] was around $32 billion, but today HUD receives only around $8 billion. We have seen the number of homeless people increase as the availability of low- and moderate-income housing has decreased in recent years. The most effective way to address the homeless problem is to provide permanent affordable housing. However, until this issue is adequately addressed, homelessness will remain a major problem in the United States and emergency housing assistance will continue to be a necessity.

I strongly urge my colleagues to support passage of the Omnibus McKinney Homeless Assistance Act of 1988.

Mr. WORTLEY. Mr. Chairman, I rise in support of the McKinney homeless bill and I urge my colleagues to give it their support also.

We are aware of the homeless statistics. Anywhere from 300,000 to 3 million persons have no shelter from the elements, no privacy, no security, no place to cook their food or live in safety and decency. A lack of any shelter whatsoever strikes cruelly at the core of human dignity. This legislation takes significant steps to alleviate this situation by reauthorizing all homeless assistance programs.

Whether a result of economic dislocation, the stresses of modern 20th century life, or physical and mental impairments, we continue to be confronted with a serious problem which demands action by this Congress. This legislation will help diminish the immediate pains of the homeless while laying the groundwork for a more permanent solution.

The great diversity of the problem dictates that the solution should emphasize flexibility and local control. Since the nature of the problem varies from area to area, State and local input is essential. I am also glad that the bill seeks to reinforce certain nonprofit organizations because we will never solve this problem without increasing private involvement.

Fiscal constraints prevent us from doing everything we would like to in this area. The need for continued private efforts to help the homeless directs us to carefully consider what the Federal Government's role ought to be. But as one who has supported efforts to increase the funding for these programs, I maintain that this legislation is an important step in meeting the needs of some of the most vulnerable members of our society.

Mr. Chairman, I urge my colleagues to support the bill.

Mrs. LLOYD. Mr. Speaker, I rise in support of the Stewart B. McKinney Omnibus Homeless Assistance Act of 1988.

By the very nature of their situation, the homeless elude enumeration. Estimates range from a quarter of a million to 3 million people. Charitable, religious, and local community groups, traditionally operate the missions, shelters, and soup kitchens that serve the homeless. Mr. Slim Johnson, and all the dedicated workers at the community kitchen in Chattanooga, TN, are fine examples of the concerned individuals all across our Nation who give freely of their time and energies to minister to those in need. I am proud to be involved with the congregation of my own church, the Brainerd Church of Christ, in distributing clothing and food to the needy. Many of these groups and local governments consistently have reported increases in the need for emergency services, including both food and shelter, over the past few years and acknowledge that they have had to turn away homeless people because the groups' resources are insufficient to meet the growing demand.

Over the years of the 1980's, homelessness has become an acute national problem due to economic and social changes, unemployment, and growing numbers of the poor. The McKinney Act, which was passed, with my support in 1987, was a lifeline to the weakest and most vulnerable of our citizens—the homeless. It authorized a wide range of programs and benefits for the homeless, including health care, emergency food and shelter, mental health services, transitional housing, education, and job training. The legislation before us today, reauthorizing this law, is essential in our continuing efforts to alleviate homelessness.

H.R. 4352 would revise and extend, through fiscal year 1991, the four health authorities in title VI of Public Law 100-77: the Health Care for the Homeless Grant Program; the Mental Health Block Grant for Services to the Chronically Mentally Ill Homeless, the Demonstration for Community Mental Health Services to the Homeless; and the Demonstration for Alcohol and Drug Abuse Treatment for the Homeless. All of these authorities are due to expire on September 30, 1988. It is critical that we pass this legislation in order to revise and extend these authorities through September 30, 1991.

Mr. Chairman, homelessness is not a new phenomenon. News coverage of the homeless has evolved from individuals in soup lines during the recession of 1982 to families in shelters displaced by the rising costs of housing in 1988. Today, the image that homeless people were isolated in the core of decaying cities has given way to the realization that homeless people exist in the midst of urban renaissance and small town bustle. I believe that we in the Congress must take steps to assure that the poor and disenfranchised in our country become self-sufficient as well as address the critical, emergency, short-term needs of the poor. This legislation does both and deserves to be passed with all possible speed.

I urge my colleagues to join with me in supporting the Omnibus McKinney Homeless Assistance Act of 1988 so that we can continue to assist the homeless in making a successful transition to a more stable life.

Mrs. COLLINS. Mr. Chairman, problems change over time. As a problem becomes protracted, it draws attention, requires remedial action, and eventually receives it. In the United States in 1988, homelessness is at the stage of requiring remedial action, and H.R. 4352, the Omnibus McKinney Homeless Assistance Act of 1988, would be a significant step toward solving this problem.

The priorities of the Reagan administration over the past 7½ years have focused on elitism. As millions of American suffered to a degree previously unknown, a select cadre of our countrymen prospered to just as striking an extent. The administration viewed the victims of its policies with diffidence.

Problems resulted and grew. Among these problems are the staggering numbers of Americans who lost their jobs, were not able to afford life in America, and ultimately ended up living in the only place available where rent is free: the streets. Among these victims were middle-aged men and women, young men and women, elderly men and women, and families with young children. No group was exempt. Homelessness touched the lives of people throughout society.

All one needs to do to understand this phenomenon, unique to the years of the present administration, is to take a walk through virtually any urban center in the United States. One encounters people living in their cars, in abandoned buses, on park benches, and occasionally the lucky ones who are living in the few and overburdened homeless shelters. Very noticeably some of these people are in dire need of medical or psychiatric care. But just as noticeably, most are average citizens who simply became victims of circumstances beyond their control.

Remedial action is long overdue. The homless need our help to get off the ground and get a fresh start. For many of them, what is required is a place to sleep for others, it is health care to overcome a debilitating physical problem; for some others, it is education or job training which will facilitate economic independence. But the bottom line is that the Government must lend a hand in as many substantial ways as possible. The time to act is now. Damage has been done, but it is not irreversible; independent successful lives can still be salvaged.

The McKinney Homeless Assistance Act recognizes the varied problems of homelessness and offers solutions and avenues which are equally multifarious. It is not enough to simply build a structure and toss in beds. The McKinney Act recognizes the philosophy of creating a new home, offering support, and encouraging residents to get on their feet to step toward a new life. This bill will have a significant impact on this homelessness problem and will set a very constructive precedent for future local, State, and national efforts to contain and eliminate the scourge on the face of America.

Mr. Chairman, I encourage my colleagues to join me in supporting this legislation.

Mr. GARCIA. Mr. Chairman, I rise in support of the reauthorization of the McKinney Homeless Assistance Act. Since it was passed in 1987, the McKinney Act has provided crucial emergency assistance through a panoply of programs that address the needs of homeless families and individuals throughout our country today. Homelessness has become a national crisis and a national embarrassment. We must do everything possible to provide for each and every homeless man, woman, and child.

This bill reauthorizes the homeless assistance programs at $642.5 million for fiscal year 1989. This represents an increase from the $484 million appropriated for fiscal year 1988 and includes $297 million for the housing programs authorized under McKinney, the emergency shelter grants, supportive housing demos, supplemental assistance, and section 8 rehab funding.

The bill authorizes $116 million in fiscal year 1989, $121 million and $128 million for fiscal years 1990 and 1991 respectively, for health care assistance and $74.5 million for each of fiscal years 1989 and 1990 for community service, job training and education programs for the homeless. The bill also provides an additional $154 million for veterans health care programs and emergency food and shelter.

I have taken the stand in favor of the McKinney Act on many occasions and will continue to do so. I will continue to speak out on behalf of the homeless in this country until this tragic reality is eliminated. It seems to me that no country with the wealth and demonstrated conscience of the United States of America should ever tolerate and let develop to such crisis proportions the homelessness that we witness on our streets and in our alleyways, under our bridges and in our vacant lots, doubled up in cramped housing and shepherded away in inadequate emergency welfare hotel rooms.

There is no doubt in my mind that this Nation cannot continue to place the needs of so many of its people, needs basic and necessary to everyday survival, so low on its list of priorities. There should be no greater challenge, no need more urgent, than the elimination of homelessness in America. How can we as a people prosper if we stand idly by as more and more families are threatened by the tragedy of homelessness? How can we as a people expect to instill civic values in our younger generation and help prepare for a greater America in the future if we fail to commit to the challenges that lay before us today? We must act now. I urge my colleagues to pass this bill and work hard for levels of appropriations.

This act is crucial to the fight against homelessness because the needs of the homeless continue. Families and individuals continue to need emergency housing assistance. They continue to need emergency health care and food. They continue to need job training and counseling and child care facilities. For these reasons, I urge my colleagues to support the McKinney programs in their present form and to vote against the amendment to block grant the delivery mechanism. The program works and should be given the time to deal an effective blow to homelessness.

In closing and in strong support of this bill and the commitment it represents, I think it is important to say that it represents the best of us as a people. But by itself, the McKinney programs will not solve the problems of homelessness. Yes, we need this commitment. Yes, this funding represents a significant fight against the problems of homelessness.

But we cannot simply pass this reauthorization and be satisfied that the whole job is done. Ultimately, we as a Nation must say enough is enough and make the larger commitment to provide affordable and decent housing to every American family. This has been the very foundation of our national housing policy. The promise of providing a decent home and safe living environment has unfortunately become an empty promise. Nothing could be more important to the welfare of this country. And nothing can be done until the Federal Government makes an all out commitment to produce more housing. It is important to remember that housing production has traditionally required Federal assistance. Housing production still requires Federal assistance.

We must make the commitment to provide the assistance necessary to counsel families making the transition from shelters to rental units and hopefully one day to homeownership. And we must make the larger commitment to fund these emergency programs, these counseling programs and all housing assistance at levels and for the duration that will eliminate this American tragedy all together.

I urge my colleagues to vote in favor of this measure and to let it make the renewed commitment for each of us as legislators and all of us as Americans to recognize this problem as the crisis that it is and to make the commitment to do away with it once and for all.

Mrs. MORELLA. Mr. Chairman, Robert Frost said in "Death of the Hired Man," "Home is the place where, when you have to go there, they have to take you in." Today, far too many Americans have no homes to go to. I am here today as an original cosponsor of the Omnibus McKinney Homeless Assistance Act, which will reauthorize the homeless assistance programs established by the first McKinney Act of 1987. This bill attacks the multifaceted problem of homelessness by authorizing emergency food and shelter programs, health care for the homeless, community service and education programs.

It is unconscionable that in one of the wealthiest nations on earth, people have to sleep on sidewalks and in cars. The McKinney Act, named after the late Congressman Stewart McKinney, who was a leader on homeless issues, includes some $642.5 million in emergency aid in the 1989 fiscal year.

There is certainly a serious need for this assistance locally. In Montgomery County, MD, which I represent, there are ten shelters which can accommodate approximately a total of 200 people. But there are an estimated 1,500 homeless in Montgomery County. This bill will help people move from the county's streets and shelters to short-term housing.

I strongly support the Omnibus McKinney Homeless Assistance Act, and I urge my colleagues to pass this legislation today.

Mr. TRAFICANT. Mr. Chairman, I would like to voice my strong support for the McKinney homeless assistance reauthorization bill before the House today. This measure comes to the aid of thousands of homeless adults and children. It would reauthorize the programs initiated under the McKinney Act of 1987 and authorizes the necessary funding to carry out these programs.

The projects we're considering here are crucial to stamping out the homeless problem that exists today, a problem that continues to worsen. The emergency shelter grant (administered by HUD) would provide money for upgrading emergency shelters. Also included, are moneys which would go toward transitional housing for the mentally ill and permanent housing for the homeless handicapped.

A Comprehensive Homeless Assistance Plan [CHAP] would be required by States and local governments in an effort to track funding needs and prepare strategies to assist the homeless across the country. Each CHAP must verify that program sponsors and participants restrict the homeless facility from illegal use, possession, or distribution of drugs or alcohol.

In addition, the McKinney Act provides assistance moneys for health, community service and education such as job training, emergency food and shelter programs, and an Interagency Homeless Council geared to administer homeless assistance programs. All totaled, this bill authorizes $297 million in fiscal year 1989 and such sums as may be necessary through fiscal year 1993.

Mr. Chairman, the problems associated with the plight of the homeless must be addressed. This legislation will help out the people who cannot help themselves: those who have no where to turn because they have neither a home nor money to find necessary shelter. Some say that Congress cannot consistently feed and shelter the poor at the taxpayer's expense. Well I can say this: Why can't we take some of the billions of dollars in foreign aid we send abroad and put it to work for those who need it here at home? Let's provide some "humanitarian aid" to our homeless.

I urge my colleagues to support this legislation. A vote for this homeless bill is a vote to end the tragedy which exists on the streets of every city in this Nation.

Mr. ANDREWS. Mr. Chairman, many people have been enlisted in the war against drugs in this country. The drug problem has been recognized as a national crisis and it is clear that we must continue to focus our efforts on eliminating this scourge.

However, there is another scourge to be fought. It has not received quite so much attention as the drug problem, but its huge cost in human suffering makes it imperative that we attack it with equal determination. I am speaking of the scourge of homelessness in America.

By now people in our cities are all too familiar with the sight of people sleeping on the streets with no place to go. Many of these people are mentally ill and an alarming number are families with children. In fact, families with children constitute one of the fastest growing segments of homeless.

In my home town of Houston some estimates now put the number of homeless at as high as 25,000 to 30,000 people. In one shelter alone—the Star of Hope Women and Family Shelter—3,921 homeless people sought relief in 1987. A staggering 1,510 of them were children.

The fight against homelessness must be intensified and Congress must recognize its leadership role in this fight. For this reason I was glad to add my support to H.R. 4352 passed by the House yesterday. This bill reauthorizes the essential programs under the McKinney Homeless Assistance Act.

The strength of the McKinney Act is not only that it provides aid for shelter for the homeless in the form of emergency shelter grants and supportive housing programs but also that it recognizes the need to attack the problems of the homeless at the core. It includes provisions for aid in areas such as outpatient health care, mental health assistance, job training, and educational assistance all aimed at helping find long-term solutions to homelessness. In all, the bill authorizes $642.5 million for homeless assistance programs in 1989 and extends these programs through 1991.

It is my hope that our colleagues in the Senate will recognize the extreme importance of this legislation and act on it as soon as possible.

The CHAIRMAN pro tempore (Ms. PELOSI). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. LENT].

Mr. LENT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to take this opportunity to discuss title VI of this bill pertaining to programs for health care for the homeless which was reported out of the Energy and Commerce Committee.

Title VI of the bill revises and extends authority for four programs that were initiated under public law 100-77 (The Stewart McKinney Homeless Assistance Act):

The health care for the homeless grant programs,

The mental health block grant for services to the chronically mentally ill homeless,

Demonstration projects for community mental health services to the homeless, and

Demonstration projects for alcohol and drug abuse treatment for the homeless.

In particular, I would like to highlight the fine work of the grants program for the health care for the homeless. Since this program has been in existence, the Department of Health and Human Services has provided $44.5 million to 109 grantees in 43 States. It is anticipated that by the end of the current grant period these projects will have delivered health services to approximately 395,000 homeless men, women, and children.

I think this program has been effective. I believe that experience with the matching funding requirements for grantees to contribute to the costs of providing health care services from non-Federal funds demonstrates the success of the partnership between the public and private sectors in trying to address the problem of homelessness. I am pleased that the committee bill increases this matching requirement to one-third of costs. I think this is a responsible step. State and local governments as well as the private sector must also contribute to the solution of the homelessness problem.

Finally, I must note that while I support the extension of these programs, I am concerned about the authorization levels.

We are required to establish priorities and make hard decisions by the bipartisan economic summit agreement.

The conference report on the fiscal year 1989 concurrent resolution on the budget identifies the homeless programs as high priority. Presumably, if these programs are to be high priority, the necessary offsetting reductions must be made in other programs. Yet, H.R. 4352 authorizes spending for fiscal year 1989 alone of $116.2 million—an increase of over $90 million over current appropriations for the homeless—without and offsetting reductions. I certainly believe that we need to take a hard look at our funding priorities and make some hard decisions before this legislation is sent to the President.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] is recognized for 15 minutes.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 4352, which would reaffirm the Federal Government's commitment to assisting perhaps the most vulnerable group in our society—the homeless.

The Committee on Energy and Commerce authored title VI of this legislation, which revises and extends two health initiatives and two demonstration programs for the homeless which will expire on September 30. The committee's work was based on the Health Care for the Homeless Act of 1988, H.R. 4003, introduced by Mr. LELAND, who has been relentless in his efforts to improve the health care, nutrition, and housing services available to the homeless.

The first of the health initiatives in title VI is the Health Care for the Homeless Grant Program, which is currently funding the delivery of primary care and substance abuse treatment services to the homeless in 109 communities throughout the country. This initiative was modeled after a highly successful 4-year demonstration in 19 cities funded by the Robert Wood Johnson Foundation and Pew Memorial Trust which is coming to an end this year. Grantee organizations must now cover 25 percent of the costs with non-Federal funds; under the bill, this local matching requirement would increase to 33 percent for grants renewed in fiscal year 1990, assuring a greater local commitment. The bill authorizes $61.2 million for this program for the coming fiscal year, enough to reach an additional 41 urban and rural communities that have large concentrations of homeless people with no access to basic health care.

The second initiative is the block grant for community mental health services to the mentally ill homeless. Under this program, the Federal Government has allotted funds to the States to provide services to the chronically mentally ill homeless; States must match 25 percent of the costs from non-Federal funds. The bill provides that if a State elects not to apply for funds, the Secretary must use the amounts set aside for that State to make grants to public and private nonprofit organizations to provide mental health services to the homeless. The bill also establishes a minimum allotment of $50,000 for each of the territories. The authorization in fiscal year 1989 would be $35 million.

Finally, the Energy and Commerce title reauthorizes two demonstration programs to test new approaches to delivering community-based mental health and substance abuse services to the homeless. Both the community mental health demonstration program and the community alcohol and drug abuse demonstration program would be reauthorized at $10 million in fiscal year 1989.

The Energy and Commerce title provides a total budget authority for all of these initiatives of $116 million in fiscal year 1989, $122 million in fiscal year 1990 and $128 million in fiscal year 1991. These levels were chosen to give the Appropriations Committee the ability to increase existing funding levels to accommodate urban and rural communities with large concentrations of homeless people with unmet health needs.

I urge the Members to support this bill.

□ 1600

Mr. LENT. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased to rise in support of H.R. 4352, the Omnibus McKinney Homeless Assistance Reauthorization Act. I am an original cosponsor of this legislation which will authorize $632.5 million in assistance for fiscal year 1989, an increase of $16.5 million over last year's authorization, and "such sums as may be necessary" for most homeless programs in fiscal year 1990. The programs funded under this legislation are of vital importance in our continuing effort to eradicate the problem of homelessness throughout the Nation, and I would like to take this opportunity to commend the distinguished gentleman from Minnesota [Mr. VENTO], for his interest and leadership in this area.

Mr. Chairman, throughout my 16 years in the Congress, I have long striven to defend the rights and benefits of homeless citizens. The condition of homelessness is an outrage which affronts the moral principles at the foundation of this great Nation. We cannot permit the continued existence of this desperate condition to persist further. Unfortunately, despite increased congressional awareness of this issue in recent years, the problem appears to be getting worse. Most regrettably, congressional appropriations provided only funding for some $357 million of the original McKinney bill's $616 million funding level. I urge my colleagues to resist a repetition of this pattern. While I recognize that there are competing priorities which vie for scarce budget dollars, the problem of homelessness is of sufficient merit to necessitate full funding as provided in this reauthorization. We must raise the problem of homelessness on the national agenda, and we must endeavor to provide sufficient funding to alleviate the growing problem among homeless families, especially among women and children.

To this end, Mr. Chairman, I have recently joined the Republican Housing Caucus to ensure that affordable housing problems and the problem of homelessness receive adequate attention at the 1988 Republican National Convention, later this month. As a caucus member, our first act is to pledge to support as a national priority the problems of housing and homelessness. Mr. Chairman, I ask unanimous consent to have this National Housing Pledge reproduced in the Congressional Record, and I urge all my Republican colleagues to consider signing this vow.

Mr. Chairman, I am also pleased that my colleagues on the Banking Committee have seen fit to continue most of the programs initially conceived in the McKinney legislation. In particular, I am pleased that the measure grants a 1-year moratorium on implementation of an HHS proposal to cut off funding for emergency homeless shelters after just 30 days. As my colleagues may recall, together with my colleague from New York [Mr. DioGuardi], I have introduced legislation to remove this statutory limitation on emergency assistance funding.

I also appreciate the attention of our colleagues from New York, the distinguished member of the Ways and Means Committee [Mr. Downey], and my good friend, the distinguished chairman of the Subcommittee on Select Revenue Measures [Mr. Rangel], for their always sensible solutions to the critical problems of homelessness in our area. Recognizing that the problem of homelessness is not amendable to a quick, thirty day solution, we are equally aware of the pressing need to find long-term, decent housing for all our Nation's homeless citizens.

Finally, Mr. Chairman, I am also pleased that the bill contains language to ensure that Federal homeless programs will only benefit assist drug-free housing facilities. I was pleased to cosponsor this amendment which was also offered by the distinguished gentleman from New York [Mr. DioGuardi]. As the ranking Republican member of the Select Committee on Narcotics Abuse and Control, I applaud this long past-due initiative to address our committee's growing concern over the drug- and alcohol-related problems too often present in our Nation's housing shelters.

Accordingly, I urge my colleagues to support H.R. 4352, the Omnibus McKinney bill reauthorization, so that we may continue the important battle for affordable housing and homeless assistance.

Housing Pledge

I pledge to support policies which return housing to a national priority and recognize a Federal responsibility to encourage home ownership and affordable rental housing in order to meet the housing needs facing America in the decade ahead. These policies include:

1. Maintain and increase home ownership opportunities by retaining the homeowners interest deduction on primary and secondary residences.
2. Maintain our strong housing finance delivery systems in both the primary and secondary mortgage markets.
3. Reduce the cost of housing by eliminating overlapping, duplicative and unnecessary regulations at all levels of government and support policies to discourage growth restrictions while increasing adequate infrastructure necessary to support continued production of affordable housing.
4. Address the needs of low and moderate income renters by increasing the supply of affordable rental housing.
5. Preserve and enhance the existing housing stock while preserving the rights and existing commitment to property owners.
6. Address the housing needs of native Americans, the elderly, the handicapped, those in rural areas and the homeless and near homeless.

Benjamin A. Gilman,
MC.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Texas [Mr. Leland] who is the author of the health components of the legislation before us.

Mr. LELAND. Mr. Chairman, I rise to lend my enthusiastic support to H.R. 4352 legislation reauthorizing the Stewart McKinney urgent relief for the Homeless Act of 1988. I urge my colleagues to support this proposal, and in so doing, reaffirm the commitment to alleviating the plight of homeless individuals across the United States.

The approval of the McKinney Act last year marked the first time the Federal Government assumed major responsibility for combating the complex causes of homelessness and responding to the varied needs of homeless people. While this was a significant step in the fight against homelessness the number of homeless individuals has not shrunken and the causes perpetuating this tragic epidemic have not abated.

The U.S. Conference of Mayors 1987 Survey of 26 cities reported a 23-percent increase in the demand for emergency shelter. The 80 percent decline in the Federal housing budget has placed low-income housing at a premium. Working individuals often cannot afford the basic necessities of life including decent housing. Hundreds of thousands of children have joined the ranks of the homeless, many of whom have turned to drugs and prostitution to support themselves. Men, women and children suffer everyday and die on the streets because they lack access to health care.

Mr. Chairman, I am proud to have had the opportunity to take part in crafting the health care for the homeless title of this legislation. According to a 1986 report prepared by the Social and Demographic Research Institute, there is probably more untreated disease among homeless persons than among any other identifiable group in the United States. Research also indicates that persons with long-term mental illness constitute the largest single identifiable group among the ranks of the homeless. The Grant Program embodied in the bill before us today, respond to the unique needs of this group by providing outreach, community mental health services, referral for abuse services, and supportive supervisory services in a residential setting. Additionally, the primary and mental health care grant programs extended in H.R. 4352 assure the availability of treatment and care that is readily accessible.

Last year we approved the McKinney Act and initiated a variety of programs and services designed to meet the emergency needs of the homeless and laid a comprehensive framework for eradicating homelessness. H.R. 4352 ensures the continuation of these initiatives.

Rhetoric concerning aid for the poor and the disenfranchished of our society has been widespread during this election year. This legislation provides us the opportunity to do more than extend sympathetic statements, it lets us extended a helping hand to those who are among the neediest of our country.

Mr. LENT. Mr. Chairman, I have no other requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, we have no further requests for time, and I yield back the balance of our time.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 15 minutes and the gentleman from

Texas [Mr. ARCHER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4352, the Stewart B. McKinney Homeless Assistance Act and especially title IX of the bill which falls within the jurisdiction of the Committee on Ways and Means.

Last year, the Department of Health and Human Services proposed regulations that would have abruptly curtailed AFDC payments for homeless families living in so-called welfare hotels. Congress responded with a 12-month moratorium on those regulations. This moratorium expires on October 1, 1988.

Title IX of H.R. 4352 would extend the moratorium for an additional 12 months, prohibiting the Department of Health and Human Services from issuing regulations prior to October 1, 1989. It would also authorize five no-cost demonstration projects designed to move homeless families from welfare hotels to more humane quarters that offer the supportive services these families need to find and keep permanent housing.

Homeless families, especially those with young children, should never have been housed in these unsafe and often squalid welfare hotels. Simply cutting off the funds—as HHS has proposed—will not solve the problem. The true solution will be complicated and might cost money, at least in the short term. As evidence of my commitment to ending the use of welfare hotels, I want my colleagues to know that I will resist any further extension of this moratorium. It's time to solve the problem which we expect to do next year.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have serious concern about many aspects of the approach this bill takes to solving what most all would agree is a difficult and emotional problem in many localities.

But I will address my comments now only to title X of the McKinney Act, which is within the jurisdiction of the Committee on Ways and Means. It allows States to continue to use AFDC emergency assistance funds to house families in welfare hotels on a year-round basis. Under the original law States were limited to using these funds for not more than 30 days in any 12-month period. However, in 1987 this limit was waived for 1 year, permitting some welfare families to be housed month after month in terrible temporary living arrangements. Title X, inadvisedly, in my opinion, extends that waiver for another year without addressing the substantive problem.

Everyone seems to agree that welfare hotels are not only extremely expensive, but potentially harmful to human health and family life. It also seems clear that without Federal funds, States would be forced to find a different solution to the housing problems of poor families.

Sooner or later, Congress must demand that States stop dealing with the housing problems of families by treating their situation as a permanent emergency. By passing title X, we are putting off that time for yet another year. It is a sad commentary on the work of this Congress that we are once again sweeping a problem under the rug, further burdening both the taxpayers who must pay the bills and the unfortunate families who are kept year round in the negative environs of welfare hotels.

□ 1615

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there is a provision in the McKinney reauthorization bill that will extend for 1 year a moratorium on a proposed cutoff of Federal funds that are used for stays of longer than 30 days by homeless families in emergency facilities. The moratorium that was contained in last year's reconciliation bill expires in 2 months. The provision contained in the McKinney reauthorization will extend the moratorium for 1 more year. I rise to express my support of this provision but I wish to state the conditions under which I lend my support.

Last year the Department of Health and Human Services proposed an immediate cutoff in response to reports it had received about homeless families in New York City being housed in "welfare hotels" for extended periods of time, in some cases up to 2 years, at an average cost of $1,900 per month. Unfortunately those reports are true. The city government had been unable to come to grips with the welfare hotel situation. When faced with a sudden loss of $70 to $80 million a year in Federal emergency assistance funds, the city asked us for help. "Keep the money coming," it said, "and we will develop a plan for getting people out of the hotels." My distinguished colleague, Mr. RANGEL, and I agreed that an immediate slashing of Federal aid was not fair, and we worked to prevent the cutoff with the understanding and a commitment from the city to develop a plan to stop using "welfare hotels" to house homeless families for long periods.

Prior to last year's proposed cutoff date the city offered a 5-year plan for moving homeless families out of the "welfare hotels." Because the threat of losing Federal funds was the motivating factor for the city to develop its 5-year plan, Congressman RANGEL and I recognized the necessity of monitoring the city's progress to make sure it kept to its schedule. This past Monday, we held a hearing in New York City and called upon city officials to testify on what has been done over the past year to move families out of the "welfare hotels." We knew we needed evidence of substantial progress on the part of the city in order to come back to our colleagues and support an additional 1 year moratorium.

Aware that the threat of a cutoff of funds was still looming over the head, the city announced at the hearing that it will be able to accelerate its 5-year plan to a 2-year plan. By incorporating proposals that have been made over the past 3 years by homeless advocacy groups such as Partnership for the Homeless, and assisted by new Federal regulations that require local public housing agencies to give preference for housing assistance to homeless families, the city now says that after 2 years it will no longer need to house homeless families in "welfare hotels." There currently are 3,269 homeless families now housed in "welfare hotels." By the end of 1989 the city's plan calls for a reduction to 1,990 homeless families and by the end of 1990 there will be no families housed in the hotels.

This is good news. The "stick" worked. The city deserves a "carrot." The city's new proposal warrants our support by continuation for 1 year of the moratorium. I want to emphasize that when we approach the end of the next moratorium, I shall once again ask the city to provide substantial evidence that it is meeting the goals of its 2-year plan.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. If there are no further requests for time, pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 5110 is considered as an original bill for the purpose of amendment under the 5-minute rule and each title is considered as having been read.

No amendments to title X of said substitute are in order except amendments printed in House Report 100-813.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus McKinney Homeless Assistance Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Budget compliance.

Sec. 102. Audits of housing and shelter programs by Comptroller General.

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 201. Functions.

Sec. 202. Authorization of appropriations.

Sec. 203. Extension of Interagency Council.

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 301. Data to be considered in development of program guidelines.

Sec. 302. Authorization of appropriations.

TITLE IV—HOUSING ASSISTANCE

Sec. 401. Comprehensive homeless assistance plan.

Sec. 402. Emergency shelter grants program.

Sec. 403. Supportive housing demonstration program.

Sec. 404. Supplemental assistance for facilities to assist the homeless.

Sec. 405. Section 8 assistance for single room occupancy dwellings.

Sec. 406. Administrative provisions.

Sec. 407. Report on effect of rent control on homelessness.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

Sec. 501. Identification of properties by Secretary of Housing and Urban Development.

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

Sec. 601. Increase in required amount of matching funds and modification in eligibility for waiver with respect to matching funds.

Sec. 602. Establishment of authority for temporary continued provision of services to certain former homeless individuals.

Sec. 603. Clarification with respect to certain provisions.

Sec. 604. Authorization of appropriations.

Subtitle B—Block Grant for Community Mental Health Services

Sec. 611. Authorization of appropriations and contingent conversions to categorical program.

Sec. 612. Eligibility of territories.

Sec. 613. Technical and conforming amendments.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

Sec. 621. Mental health services for homeless individuals with chronic mental illness.

Sec. 622. Alcohol and drug abuse treatment of homeless individuals.

Subtitle D—General Provisions

Sec. 631. Effective dates.

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Sec. 701. Adult education for the homeless.

Sec. 702. Education for homeless children and youth.

Sec. 703. Job training for the homeless.

Sec. 704. Emergency community services homeless grant program.

Sec. 705. Access of homeless women, infants, and children to the special supplemental food program.

TITLE VIII—VETERANS PROGRAMS

Sec. 801. Medical programs.

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 901. Extension of prohibition against implementation of certain proposed regulations.

Sec. 902. Review of policy governing use of AFDC funds to meet emergency needs of families eligible for AFDC through emergency assistance or special needs payments; report to Congress.

Sec. 903. Demonstration projects to reduce number of homeless AFDC families in welfare hotels and expand use of transitional facilities to house such families.

TITLE X—TECHNICAL AND CONFORMING AMENDMENTS TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Subtitle A—Housing Assistance

Sec. 1001. Income eligibility for assisted housing.

Sec. 1002. Prohibition of reduction of section 8 contract rents.

Sec. 1003. Public housing child care grants.

Sec. 1004. Housing counseling.

Sec. 1005. Multifamily housing management and preservation.

Sec. 1006. Multifamily housing capital improvements assistance.

Sec. 1007. Use of funds recaptured from refinancing State finance projects.

Subtitle B—Preservation of Low Income Housing

Sec. 1021. Notice of intent.

Sec. 1022. Notice to tenants.

Sec. 1023. Incentives to extend low income use.

Sec. 1024. Criteria for approval of plan of action.

Sec. 1025. Modification of existing regulatory agreements.

Sec. 1026. Definition of eligible low income housing.

Sec. 1027. Rural rental housing displacement prevention.

Sec. 1028. Section 8 loan management program.

Subtitle C—Rural Housing

Sec. 1041. Availability of amounts for guaranteed loan demonstration.

Sec. 1042. Section 515 rents.

Sec. 1043. Availability of domestic farm labor housing for other families.

Subtitle D—Mortgage Insurance and Secondary Mortgage Market Programs

Sec. 1061. Change in definition of veteran.

Sec. 1062. Limitation on use of single family mortgage insurance by investors.

Sec. 1063. Procedures applicable to assumption of insured mortgages.

Sec. 1064. Mortgage insurance on Hawaiian home lands.

Sec. 1065. Home equity conversion mortgage insurance demonstration.

Sec. 1066. Reciprocity in approval of housing subdivisions among Federal agencies.

Sec. 1067. Regulation of rents in insured projects.

Sec. 1068. Permanent authority to purchase second mortgages on multifamily properties.

Subtitle E—Community Development and Miscellaneous Programs

Sec. 1081. City and county classifications.

Sec. 1082. Corrections to cross-references.

Sec. 1083. Conserving neighborhoods and housing by prohibiting displacement.

Sec. 1084. Determination of low and moderate income benefit for assistance used to pay assessments.

Sec. 1085. Urban development action grants.

Sec. 1086. Neighborhood Reinvestment Corporation.

Sec. 1087. National flood insurance program.

Sec. 1088. Home mortgage disclosure.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—GENERAL PROVISIONS

SEC. 101. BUDGET COMPLIANCE.

(a) In General.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1989 or 1990 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

(b) Definitions.—For purposes of this section, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

SEC. 102. AUDITS OF HOUSING AND SHELTER PROGRAMS BY COMPTROLLER GENERAL.

Section 105 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11304) is amended—

(1) by inserting "annually" after "shall"; and

(2) by striking the following: ", upon the expiration of the 4-month and 12-month periods beginning on the date of the enactment of this Act".

The CHAIRMAN. Are there any amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 201. FUNCTIONS.

Section 203(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) prepare and distribute to States, local governments, and other and private nonprofit organizations, a bimonthly bulletin that describes the Federal resources available to them to assist the homeless, including current information regarding application deadlines and appropriate persons to contact in each Federal agency providing the resources.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $800,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

SEC. 203. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "on October 1, 1990".

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 301. DATA TO BE CONSIDERED IN DEVELOPMENT OF PROGRAM GUIDELINES.

Section 316 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Data on Long-Term Unemployed Workers to be Taken Into Account.—In establishing and modifying the guidelines provided for by subsection (a), the National Board shall utilize data that reflect the number of long-term unemployed workers in the localities involved, including those who unemployment benefits have run out and those who have been out of work so long they are no longer actively seeking employment.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $129,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

The CHAIRMAN. Are there any amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—HOUSING ASSISTANCE

SEC. 401. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) Plan Required.—Section 401(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "annually" after "submits"; and

(B) by striking "and" at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) at the time of submission of the comprehensive plan to the Secretary—

"(A) in the case of a State, it also submits a copy of the comprehensive plan to each metropolitan city or urban county that is located in the State and is subject to the requirements of this subsection; and

"(B) in the case of a metropolitan city or urban county, it also submits a copy of the comprehensive plan to the State in which it is located; and".

(b) Contents.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) in paragraph (3)—

(A) by inserting "facilities and" before "services"; and

(B) by striking "and" at the end;

(2) in paragraph (4)—

(A) by inserting "facilities and" before "services"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) an identification of the appropriate person or agency to contact in the State, metropolitan city, or urban county with respect to assistance under this title; and

"(6) an assurance that each recipient and project sponsor shall administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.".

(c) Applications.—Section 401(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(f)) is amended by striking "the public official responsible for submitting a comprehensive plan for the jurisdiction to be served" and inserting the following: "each public official responsible for submitting a comprehensive plan for any jurisdiction to be served".

SEC. 402. EMERGENCY SHELTER GRANTS PROGRAM.

(a) Distribution of Assistance by States to Private Nonprofit Organizations.—

(1) In general.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended by inserting "and private nonprofit organizations" after "local governments".

(2) Distributions to nonprofits.—Section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by adding at the end the following new sentence: "Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.".

(b) Required Use of Building as Shelter.—Section 415(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)(1)) is amended—

(1) by striking "or" the first place it appears and inserting a comma; and

(2) by inserting before the semicolon at the end the following: ", or for the period during which such assistance is used if such assistance is used solely for activities described in paragraphs (2) and (3) of section 414(a)".

(c) Authorization of Appropriations.—Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

SEC. 403. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) Availability of Operating and Technical Assistance for New Structures.—

(1) Definition of project.—Section 422(7) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(7)) is amended by inserting before the period at the end the following: "or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle".

(2) Operating assistance.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended by inserting after "transitional housing" the following: "(without regard to whether the housing is an existing structure)".

(3) Technical assistance.—Section 423(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(4)) is amended to read as follows:

"(4) Technical assistance in—

"(A) establishing supportive housing in an existing structure;

"(B) operating supportive housing (without regard to whether the housing is an existing structure); and

"(C) providing supportive services to the residents of supportive housing (without regard to whether the housing is an existing structure).".

(b) State Approvals of Permanent Housing for Handicapped Homeless Persons.—

(1) Project sponsor.—Section 422(8) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(8)) is amended by striking "the Governor or other chief executive official of a State" and inserting "a State".

(2) Letters of participation.—Section 424(a)(2)(F)(i) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(F)(i)) is amended by striking "the Governor or other chief executive official of the State" and inserting "the State".

(c) Definition of Supportive Housing.—

(1) Maximum period of residence in transitional housing.—Section 422(12)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(A)) is amended in the first sentence by striking "as determined by the Secretary" and inserting "as determined by the project sponsor".

(2) Maximum number of residents in permanent housing for handicapped homeless persons.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended in the first sentence by striking "8 handicapped homeless persons" and inserting "12 handicapped homeless persons".

(d) Use of Advances to Repay Debt.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended by adding at the end the following new sentence: "The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph.".

(e) Repayment of Advances.—

(1) In general.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "10" the first, second, and fourth place it appears and inserting "5"; and

(B) by striking "10" the third place it appears and inserting "20".

(2) Assurances.—Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by striking "10" and inserting "5".

(f) Site Control.—

(1) Requirement.—Section 424(a)(2)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(A)) is

amended by inserting before the semicolon the following: ", including documentation that the applicant or project sponsor has (or will have within 12 months after the date on which any assistance is provided for the project under this subtitle) control of the site of the proposed project".

(2) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) the extent to which the applicant or project sponsor has control of the site of the proposed project; and".

(g) MATCHING FUNDS.—Section 425(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385(a)) is amended—

(1) in the subsection caption, by striking "TRANSITIONAL" and inserting "SUPPORTIVE"; and

(2) in the last sentence—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period at the end the following: ", any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary".

(h) REPORTS TO CONGRESS.—Section 427 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11387) is amended to read as follows:

"SEC. 427. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year (6 months in the case of fiscal year 1988).".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $105,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

(j) REALLOCATIONS.—Section 428 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388) is amended by adding at the end the following new subsection:

"(d) REALLOCATIONS.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b)(1), (b)(2), or (c) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

SEC. 404. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) USE OF ASSISTANCE.—Section 432(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (A); and

(B) by adding at the end the following new subparagraph:

"(C) to provide supportive services for the homeless; or"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "operation," after "renovation,"; and

(B) in subparagraph (B), by striking "homeless individuals" and inserting "the homeless".

(b) RESERVATION OF FUNDS.—The second sentence of section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) by inserting "and services" after "facilities" each place it appears; and

(2) by striking "individuals and" and inserting "individuals or".

(c) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $27,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

SEC. 405. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $40,000,000 on or after October 1, 1988, and by such sums as may be necessary on or after October 1, 1989.".

(b) REPEAL OF COST LIMITATION.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

SEC. 406. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401 et seq.) is amended by adding at the end the following new section:

"SEC. 443. ADMINISTRATIVE PROVISIONS.

"The procedures established under section 104(g) of the Housing and Community Development Act of 1974 shall also be applicable to projects assisted under this title.".

(b) CONFORMING AMENDMENT.—The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended by inserting after the item relating to section 442 the following new item:

"Sec. 443. Administrative provisions.".

(c) APPLICABILITY.—The amendments made by titles I through V shall be applicable to amounts received before, on, or after the date of the enactment of this Act.

(d) REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development or other Federal entity involved shall by notice establish such requirements as may be necessary to carry out the amendments made by titles I through V. The Secretary or other Federal entity involved shall issue regulations based on the notice not later than 12 months after the date of the enactment of this Act.

SEC. 407. REPORT ON EFFECT OF RENT CONTROL ON HOMELESSNESS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the impact of local housing rent controls and regulations on the rate of homelessness in major cities in the United States.

(b) SPECIFIC REQUIREMENTS.—The report required in this section shall include—

(1) a listing of localities that have housing rent controls or regulations, the nature and extent of such controls or regulations, and an assessment of the variance of such controls or regulations among localities;

(2) an evaluation of the impact of such controls or regulations on the development, supply, and growth of affordable rental housing for lower income families, including an accounting of any increase or decrease in the supply of rental units that has occurred during the period of such controls or regulations;

(3) an evaluation of the benefits and effectiveness of such controls or regulations in ensuring affordable rents for lower income families;

(4) an evaluation of the relationship between the existence of such controls or regulations and Federal subsidized housing assistance in the locality, including whether such controls or regulations necessitate more or less Federal housing aid;

(5) an evaluation of the impact on the resident population of removing such controls or regulations, including an assessment of potential rent increases on lower income residents, the options available to localities to mitigate any such increases, the potential increased demand for Federal subsidized housing assistance, and the impact on fair market rents in the locality;

(6) an evaluation of the effect of such controls or regulations on commercial and nonrental housing development in the locality;

(7) a demographic review of the income levels of the population in controlled or regulated units;

(8) an evaluation of the effect of such controls or regulations on the quality of controlled or regulated units;

(9) an evaluation of compliance with such controls or regulations by owners, management, and residents of controlled or regulated units;

(10) an evaluation of the administration and enforcement of such controls or regulations by local officials;

(11) an evaluation of the impact of factors other than rent controls or regulations that affect the development of affordable housing in the locality;

(12) a comparison to other localities that have not instituted such controls or regulations on the supply, development, availability, and affordability of rental housing; and

(13) any other related issue the Secretary of Housing and Urban Development determines to be of interest or significance.

(c) DEADLINE.—The Secretary of Housing and Urban Development shall submit the report required in this section within 12 months after the date of the enactment of this Act.

The CHAIRMAN. Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. RIDGE

Mr. RIDGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RIDGE: At the end of title IV, insert the following new section:

SEC. 408. HOMELESS HOUSING ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking subtitles B, C, and D; and

(2) by inserting after subtitle A the following new subtitle:

"Subtitle B—Homeless Housing Assistance Block Grants

"SEC. 411. STATEMENT OF PURPOSE.

"The purpose of this subtitle is to provide funding to States, and to larger metropolitan cities and urban counties, on a formula block grant basis, in order to provide them with maximum flexibility to meet the needs of the homeless.

"SEC. 412. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'grantee' means a metropolitan city, urban county, or State receiving assistance from the Secretary under section 414 or an Indian tribe or territory receiving assistance from the Secretary under section 415.

"(2) The term 'handicapped' means an individual who is handicapped within the meaning of section 202 of the Housing Act of 1959.

"(3) The term 'handicapped homeless person' means, for purposes of permanent housing assisted under this subtitle, a handicapped individual who is a homeless individual within the meaning of section 103, is at risk of becoming a homeless individual, or is a handicapped individual who has been resident of transitional housing carried out pursuant to the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'metropolitan city' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(6) The term 'operating costs' means expenses incurred in operating housing for the homeless assisted under this subtitle with respect to—

"(A) the administration, maintenance, repair, insurance, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(7) The term, 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(8) The term 'private nonprofit organization' means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'State' means any State of the United States and the Commonwealth of Puerto Rico, or any instrumentality thereof approved by the chief executive officer of the State.

"(11) The term 'supportive housing' means a project assisted under this subtitle that provides housing and supportive services for homeless individuals. All or part of the supportive services may be provided directly by the grantee or other recipient or by arrangements with other public or private service providers. The term includes the following:

"(A) Transitional housing, which means a project assisted under this subtitle that has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable amount of time, as determined by the project sponsor. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, and homeless families with children.

"(B) Permanent housing for handicapped homeless persons, which means a project assisted under this subtitle that provides community-based, long-term housing and supportive services for not more than 12 handicapped homeless persons. Each project shall be either a home designed solely for housing handicapped persons or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than one home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home. All projects shall be integrated into the neighborhoods in which they are located.

"(12) The term 'supportive services' means assistance designed by the recipient that (A) addresses the special needs of persons, such as deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons, intended to be served by a project; and (B) assists in accomplishing the purposes of the different types of housing for the homeless. The term includes, but is not limited to, food, child care, outpatient health services, drug treatment, education, employment counseling, nutritional counseling, security arrangements necessary for the protection of residents of facilities to assist the homeless, the provision of assistance to homeless individuals in obtaining other Federal, State, and local assistance available for such individuals, including mental health benefits, employment counseling, and medical assistance, such other services essential for maintaining independent living as the grantee determines to be appropriate, and assistance in obtaining permanent housing. The term does not include major medical equipment.

"(13) The term 'territory' means the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(14) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(15) The term 'urban county' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 413. AUTHORIZATIONS.

"(a) AUTHORITY TO MAKE GRANTS.—The Secretary is authorized to make grants to metropolitan cities, urban counties, and States, in accordance with section 414 and the other provisions of this subtitle. The Secretary is also authorized to make grants to Indian tribes and territories, in accordance with section 415 and the other provisions of this subtitle.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1990. Sums appropriated pursuant to this subsection shall remain available until expended.

"(c) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance in planning, developing, and administering assistance under this subtitle. This assistance may include, but is not limited to—

"(1) establishing supportive housing;

"(2) operating supportive housing; and

"(3) providing supporting services to the residents of housing under this subtitle.

"SEC. 414. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) IN GENERAL.—

"(1) After determining the amount of the set-asides established under section 415 for grants to Indian tribes and territories, the Secretary shall allocate 80 percent of the remaining amount of assistance available under this subtitle to metropolitan cities and urban counties and 20 percent of such amount to States, in accordance with this section.

"(2) The Secretary shall determine the amount to be allocated to each metropolitan city and urban county under this subtitle as follows—

"(A) divide the amount available for allocation to all metropolitan cities and urban counties under this subtitle by the amount available for allocation to such cities and counties under section 106(a) of the Housing and Community Development Act of 1974 for the prior fiscal year; and

"(B) multiply the result by the amount that was allocated to each city and county under section 106(b) of such Act for the prior fiscal year.

"(3) The Secretary shall determine the amount to be allocated to each State under this subtitle as follows—

"(A) divide the amount available for allocation to States under this subtitle by the amount available for allocation to States under section 106(d) of the Housing and Community Development Act of 1974 for the prior fiscal year; and

"(B) multiply the result by the amount that was allocated to each State under section 106(df) of such Act for the fiscal year.

"(b) MIMIMUM ALLOCATION REQUIREMENT.—If, under subsection (a), any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated to carry out this subtitle for any fiscal year, that amount shall, instead be allocated to the State. However, any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated more than $1,000,000 in community development block grants funds in fiscal year 1987, shall receive directly from the Secretary the amount allocated to the city under subsection (a).

"(c) GRANTS TO STATES.—

"(1) A State may use amounts allocated to it under subsections (a) and (b) (A) to carry out eligible activities directly (all or a portion of which may be distributed to private nonprofit organizations, as authorized by subsection (d)); or (B) to distribute amounts to units of general local government. When a State carries out activities directly (including where it distributes amounts to private nonprofit organizations), it shall consult with the chief executive officer of the unit of general local government. When a State distributes amounts to private nonprofit organizations, the State shall request the applicable unit of general local government or Indian tribe to review and comment on each application from such an organization for a project to be assisted under this subtitle. The State shall give the unit of general local government or Indian tribe 30 days from the date of the request to submit comments to the State, and shall take any comments into consideration in deciding whether to fund the application.

"(2) No amount may be distributed by any State to any unit of general local government unless the unit of general local government certifies that its program will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and title VIII of the Civil Rights Act of 1968 (Public Law 90-284), and that it will affirmatively further fair housing.

"(d) Distribution to Nonprofit Organizations.—A grantee may distribute all or a portion of its grant to private nonprofit organizations providing assistance to homeless individuals. In the case of a grantee that is a State, any such distribution shall be made in accordance with subsection (c).

"(e) Administrative Expenses.—A grantee may use up to 5 percent of its grant for any fiscal year to cover administrative expenses in carrying out its responsibilities under this subtitle.

"(f) Reallocation.—Any amounts allocated to a metropolitan city, urban county, or State pursuant to subsections (a) and (b) which are not received by the city, county, or State for a fiscal year for any reason or are returned, or which become available as a result of actions under section 417(a), shall be reallocated in the fiscal year in which the amounts become available to grantees that received an allocation in subsections (a) and (b), or in the next fiscal year if the Secretary determines that the amounts available for reallocation are so small that reallocation in the same year would not be feasible.

"SEC. 415. GRANTS TO INDIAN TRIBES AND TERRITORIES.

"(a) Set-Asides.—Of the total amount approved in appropriation Acts pursuant to section 413 for any fiscal year, the Secretary shall set aside an amount for grants to Indian tribes and an amount for grants to territories. The Secretary shall allocate these amounts in accordance with allocation formulas established by the Secretary. Any amounts under this subsection initially allocated to Indian tribes that become available for reallocation shall be reallocated to Indian tribes, and any amount initially allocated to territories shall be reallocated to territories.

"(b) Assistance for Nonprofits.—Any grantee under this section may distribute all or a portion of its grant to private nonprofit organizations providing assistance to homeless individuals.

"(c) Availability of Amounts.—Amounts set aside for grants under subsection (a) in any fiscal year, but not used in that year, shall remain available for use in later fiscal years for the same purposes.

"(d) Compliance With Civil Rights Laws.—

"(1) Except as provided in paragraph (2), no grant may be made under this section unless the grantee provides satisfactory assurances that its program will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and title VIII of the Civil Rights Act of 1968 (Public Law 90-284).

"(2) No grant may be made to an Indian tribe under this section unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of the Civil Rights Act of 1968 (Public Law 90-284). The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 416(b)(8).

"(3) The Secretary may accept a certification from the grantee that it has complied with the requirements of paragraph (1) or (2), as appropriate.

"SEC. 416. ELIGIBLE ACTIVITIES; PROGRAM POLICIES AND REQUIREMENTS.

"(a) Eligible Activities.—Activities assisted under this subtitle may include only—

"(1) the acquisition, lease, renovation, rehabilitation (including, but not limited to, substantial rehabilitation), acquisition and rehabilitation, or conversion of buildings to be used for supportive housing (including transitional and permanent housing) and emergency shelters;

"(2) debt service payments in connection with a preexisting loan made to purchase an existing structure that has been and will continue to be, or will be, used to assist homeless individuals;

"(3) assistance to facilitate the transfer and use of public buildings to assist homeless individuals and families;

"(4) the provision of supportive services, if the services have not been provided by the local government during any part of the immediately preceding 12-month period;

"(5) operating costs of providing housing for the homeless; and

"(6) additional assistance, in support of activities under paragraphs (1) through (5), to meet the special needs of homeless families with children, elderly homeless individuals, and the handicapped in connection with housing for the homeless assisted under this subtitle.

"(b) Program Policies and Requirements.—

"(1) Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and shall meet all applicable State and local housing and building codes and licensing requirements in the jurisdiction in which the housing is located.

"(2) Each grantee shall certify, to the satisfaction of the Secretary, that it will maintain any building for which assistance is used under this subtitle for homeless individuals for not less than a 3-year period, for not less than a 10-year period if the assistance is used for acquisition, substantial rehabilitation, or conversion of a building, or for not less than a 1-year period if the assistance is used solely for activities described in paragraphs (3) through (6) of subsection (a).

"(3) Assistance under subsection (a)(1) for acquisition, substantial rehabilitation, or conversion, or under subsection (a)(2) for debt service payments, used to assist supportive housing shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as supportive housing in accordance with the provisions of this subtitle. Grantees and project sponsors shall be required to repay 100 percent of the amount of the assistance if the project is used as supportive housing for fewer than 5 years following initial occupancy. If the project is used as supportive housing for more than 5 years, the percentage of the amount that shall be required to be repaid shall be reduced by 20 percentage points for each year in excess of 5 that the property is used as supportive housing. A project may continue to be treated as supportive housing for purposes of this subsection if the Secretary determines that the project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of lower income persons.

"(4) Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and title VIII of the Civil Rights Act of 1968 (Public Law 90-284), and the grantee will affirmatively further fair housing.

"(5) Each grantee shall certify, to the satisfaction of the Secretary, that no assistance received under this subtitle (or any State or local government funds used to supplement such assistance) will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(6) Each grantee shall assure that homeless individuals will be assisted in obtaining—

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless individuals.

"(7) Notwithstanding any other provision of law, the Secretary may permit any grantee or other recipient of assistance under this subtitle to retain any program income that is realized from any grant made by the Secretary, or any amount distributed by a State, for the purposes of carrying out homeless housing assistance activities, subject to all applicable laws, regulations, and other requirements.

"(8) The provisions of section 109 of the Housing and Community Development Act of 1974 shall apply to assistance under this subtitle.

"(9) Each grantee shall certify, to the satisfaction of the Secretary, that a portion of the assistance received under this subtitle by the grantee will be used to assist handicapped homeless persons, including mentally ill homeless persons.

"(10) Each grantee shall comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program under this subtitle in an effective and efficient manner.

"SEC. 417. REVIEW AND ADJUSTMENTS; GAO AUDITS.

"(a) Review and Adjustments.—

"(1) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a data-based performance and evaluation report, by project, concerning the use of funds made available under section 414 or 415, as appropriate. The grantee shall also make the report available to the citizens in each grantee's jurisdiction in sufficient time to permit the citizens to comment on the report before its submission. The grantee's report shall indicate its programmatic accomplishments, and shall include a summary of any comments received by the grantee from citizens in its jurisdiction respecting its program.

"(2) The Secretary shall, on at least an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

"(A) in the case of grants made to metropolitan cities, urban counties, and States (with respect to amounts used by a State to carry out eligible activities directly) (i) whether the grantee has carried out its activities in a timely manner; (ii) whether the grantee has carried out those activites and its certifications in accordance with the requirements of this subtitle and with other applicable laws; and (iii) whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

"(B) in the case of grants to States with respect to amounts distributed by the States to units of general local government (i) whether the State has distributed funds to units of general local government in a timely manner; (ii) whether the State has carried out its certifications in compliance with the requirements of this subtitle and other applicable laws; and (iii) whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in subparagraph (A).

"(3) The Secretary shall prepare an annual report, based on information obtained from the grantees, to determine the effectiveness and efficiency of assistance provided under this subtitle. The report shall also provide information on the activities funded under this subtitle and assess whether there is a continuing need for assistance under this subtitle.

"(4) The Secretary may adjust, reduce, or withdraw assistance made available to a recipient, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this subtitle shall not be recaptured or deducted from future assistance.

"(b) GAO AUDITS.—Insofar as they relate to funds provided under this subtitle, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, the recipients pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 418. REPORTING REQUIREMENTS.

"The Secretary may require grantees and other recipients of assistance under this subtitle to submit to the Secretary such reports and other information as the Secretary determines are necessary to monitor the program.".

(b) TRANSITION PROVISIONS.—

(1) TERMINATION OF ASSISTANCE.—On or after the effective date of this section, no assistance may be provided under subtitle B, C, or D of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.), as it existed immediately before such effective date, except pursuant to a commitment made before such effective date.

(2) CONTINUATION OF ASSISTANCE.—Any assistance provided under subtitle B, C, or D, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such subtitle.

(3) REALLOCATION OF ASSISTANCE.—Any amounts that, in the absence of this section, would have been available for commitment on or after the effective date of this section shall be available for allocation pursuant to subtitle B, as added by subsection (a) of this section.

(4) DEFINITION.—The term "commitment", as used in this subsection, means (A) in the case of the emergency shelter grants program under subtitle B, approval of an application; and (B) in the case of the supportive housing demonstration program under subtitle C and the supplemental assistance for facilities to assist the homeless program under subtitle D, obligation of funds by the Secretary of Housing and Urban Development.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The items relating to title IV in the table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) are amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—Comprehensive Homeless Assistance Plan

"Sec. 401. Requirement for comprehensive homeless assistance plan.

"Subtitle B—Homeless Housing Assistance Block Grants

"Sec. 411. Statement of purpose.
"Sec. 412. Definitions.
"Sec. 413. Authorizations.
"Sec. 414. Allocation and distribution of funds.
"Sec. 415. Grants to Indian tribes and territories.
"Sec. 416. Eligible activities; program policies and requirements.
"Sec. 417. Review and adjustments; GAO audits.
"Sec. 418. Reporting requirements.

"Subtitle C—Miscellaneous Provisions

"Sec. 431. Section 8 assistance for single room occupancy dwellings.
"Sec. 432. Community development block grant amendments.
"Sec. 433. Administrative provisions.".

(2) COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Section 401(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(a)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "emergency shelter grants program" and inserting "homeless housing assistance block grant program under subtitle B"; and

(ii) by striking "section 413(b)" and inserting "section 414(b)";

(B) in paragraph (1), by inserting before the semicolon at the end the following: "or an amendment to the comprehensive plan submitted in the prior year (when appropriate)"; and

(C) by striking the semicolon at the end of paragraph (3) and all that follows and inserting a period.

(3) REDESIGNATIONS.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(A) by redesignating subtitle E as subtitle C; and

(B) by redesignating sections 441 through 443 as sections 431 through 433, respectively.

(d) EFFECTIVE DATE.—This section shall become effective on October 1, 1989.

In section 1, in the table of contents, insert after the item relating to section 407 the following new item: "Sec. 408. Homeless housing assistance block grants.".

In the matter proposed to be inserted by section 402(c), strike "and such sums as may be necessary for fiscal year 1990".

In the matter proposed to be inserted by section 403(i), strike "and such sums as may be necessary for fiscal year 1990".

In the matter proposed to be inserted by section 404(c), strike "and such sums as may be necessary for fiscal year 1990".

Mr. RIDGE [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RIDGE. Mr. Chairman, first of all I do want to again applaud the chairman and the vice chairman of the Subcommittee on Housing and Community Development, the gentleman from Texas [Mr. GONZALEZ] and the gentlewoman from New Jersey [Mrs. ROUKEMA] for their leadership and resolve on this particular issue.

I look forward, regardless of the outcome of this debate, to continue working together with them to promote the interests and best utilization of our limited resources to help the homeless.

I would like to try to focus clearly on the primary issue. The debate is not going to be about specific dollar amounts or winners and losers because clearly there will be some communities that will receive more money and some communities are going to get less. It is more constructive for us to talk about the best approach available in developing a homeless policy, the best approach available to utilize the restricted resources in a way that maximizes their effectiveness.

What we are arguing about, Mr. Chairman, involves 40 percent of the money that would be set aside in the housing portion of the homeless bill. We seek to change these three categorial programs to a single block grant.

The gentlewoman from New Jersey [Mrs. ROUKEMA] and I strongly believe and encourage our colleagues to adopt the block grant approach rather than the categorical programs.

Let me tell you in a very real way at least why I have concluded that that is the best and most effective approach.

As many of you know, I was pleased to work with our deceased colleague from Connecticut through the natal stages of this homeless bill through and to completion when we enacted it into law last year.

What I did toward the conclusion of the year was to get together with my service providers, with those men and women and agencies that have been involved in meeting the real human needs of the homeless people long before the Federal Government ever got involved in the enterprise.

Mr. Chairman, I was surprised to learn quite a few things from them. In many instances it was a good news/bad news situation. They said, "Congressman, it is great that the Federal Government has finally recognized its responsibility to the homeless." That is the good news. "There is some money out there for us or potentially for communities to use to help the homeless. That is good. Remember this was a group of 8 or 10 people representing different social service organizations and nonprofits which had been dealing with homeless for years and years they reiterated "the good news is the Federal Government has some money out there and the bad news is that none of us are receiving any."

They also reminded me of another very, very important fact that I think is absolutely essential for consideration of the choice that we are offering you.

There is really no generic no stereotypical homeless person. There are a variety of reasons: economic, social, demographic which have resulted in homelessness.

Take a look in any particular community. There will be a certain number of homeless because of an alcohol or drug dependency, or maybe some that are just runaway adolescents; clearly there are some out there for economic reasons, some are those who may have been prematurely and cruelly released from institutions; others may be abused and battered women with children. So clearly there is not one particular type of homeless person, and indeed therefore it seems logical to conclude that there is not a single kind of program that we could devise in Washington to take care of these homeless people in these communities, communities that are best capable of identifying their own unique needs.

So we have to fashion a flexible policy because there are so many different kinds of needs and so many reasons that people are homeless. It is not easy. It is not easy to do at all.

In the bill that we are trying to amend there are three programs that we are trying to consolidate into block grants: the Emergency Shelter Grant Program where some of the money went to the State and the balance through the Federal Government. There was a supplemental assistance program and there was a supportive housing program.

What the gentlewoman and I would like to do is to wrap those three into one, one single block grant; we are not changing the list of eligible or activities. Communities can still use these monies for purposes allowed within these three categorical programs.

We had some hearings on the effectiveness of the categorical approach earlier this January.

We had people from Pennsylvania, from Minnesota and from other communities around this country, men and women who deal on a day-to-day basis, not once or twice a year as Congress and individual Congressmen and women, but women and men and organizations that deal daily with homeless people.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RIDGE] has expired.

(By unanimous consent, Mr. RIDGE was allowed to proceed for 5 additional minutes.)

Mr. RIDGE. I would just like to recite a few of their comments, understanding of course, that the hearings lasted for hours and hours. But we asked them specifically about the block grant project.

Ms. Tonelli said:

> I know there have been some block grant funds given through the provision to mental health, under the McKinney Act, and they have been very helpful. I think probably that approach will work because they are at the level where they know the money is needed, so I certainly support that.

Ms. Cancilla from northwestern Pennsylvania said:

> I definitely support the block grant approach, so long as it is the result of a shared consensus of people who are involved in the service in a particular community to decide where funds should be disbursed.

Mr. Leary said:

> I would also support the block grant approach. In the competitive programs under the McKinney Act especially, a few large programs, if any, are receiving funding. Like I mentioned earlier, we have 27 transitional programs in Minnesota and only one of the agencies was able to access that money.

Mr. Suko said:

> I think the block grant approach is a very useful way of focusing attention on coordinating all the services.

We had hearings, we recognized there was a problem, so we invited service providers in. They said to us:

> As you are looking through the housing portion of the homeless bill why don't you give the block grant approach a try. We think it would be a better, more useful tool to coordinate our approach toward dealing with the real needs of these people who are affected by the plight of homelessness.

I also asked the Council of State Community Affairs Agencies, State agencies which deal with the problem of homelessness. They wrote a very supportive letter which I might just quote:

> The block grant concept nonetheless is viewed as the simplest and most effective way of overcoming the weaknesses and inefficiencies of the McKinney Act Housing Progam and maximizing the efficacy of those programs.

The National Association of Counties remarked similarly:

> Restructuring the McKinney Act to provide housing and other services to the homeless through block grants simply makes more sense. With block grants there is more local flexibility, the facilities setting priorities and developing a comprehensive strategy to meet the needs of the homeless.

I might say we also received a letter in support from the National Association of State Mental Health Program Directors. Finally, the National League of Cities, which I will quote.

> The National League of Cities has long supported legislative efforts that would enhance the ability of local governments to exercise the maximum amount of flexibility in addressing local concerns. Given the growing complexity and diverse service demands of the homeless crisis, it is vitally important that local officials have the ability to utilize federal financial assistance in a manner that is best suited to their unique community requirements.

So I would urge my colleagues to take a very, very careful and studied look at the approach that the gentlewoman and I are offering in the form of this amendment. A categorical approach benefits those organizations and communities that have good grantsmen not necessarily the most homeless. We do not think having a qualified grantsman is necessarily the most appropriate and most effective way of meeting the needs of the homeless. It is better for local service providers and the homeless to target the money through the CDBG Program.

Let's take the money from these three programs and put it in a block grant. Let's distribute these moneys as we distribute moneys through the Community Development Block Grant Program. Eighty percent would go to entitlement communities. Twenty percent to the States.

□ 1630

Mr. Chairman, I would just encourage the Members to examine this amendment carefully because I think it has considerable merit. Certainly there is more efficiency and a lot more flexibility here. The decisionmakers who are most knowledgeable about the needs of the homeless in their communities make the decisions. We trust our local officials. The homeless are better served when service providers get together to avoid duplication and to provide a very comprehensive approach to their problems. The amendment distributes the funds to States, cities, and urban communities through the well respected and understood CDBG Program formula.

We must remember that this has the added feature of allowing the grantees to channel that money to the nonprofit providers. It permits allocation of funds to communities with the greatest need.

We think there is also another very important element, and that is predictability. In this way these communities that are making a very aggressive effort to meet the needs of the homeless will have a predictable source of funding on which they can base not only an annual program but a program projected in the future to help the homeless.

If you truly want to help the homeless, if you are really concerned about the men and women and families that are out on the street—and I think we are all concerned about them—please support the block grant approach. I think it is a much more effective utilization of our limited resources and ultimately serves the needs of these homeless in a more effective fashion.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. Gonzalez was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from Texas [Mr. Gonzalez] is recognized for 10 minutes in opposition to the amendment.

Mr. GONZALEZ. Mr. Chairman, I know that many Members have received "Dear Colleague" letters from the proponents of this amendment alleging that the Ridge/Roukema block grant amendment would provide more funds for the HUD Homeless Assistance Programs than would be available under the committee version. In some cases the Members have showed me the statements that were made that their districts would be getting double the amount of funds that they received in the previous years' activity. I challenge the accuracy of these statements by the proponents of the amendment.

After a quick review of the budget justification I would state that these statements on the level of assistance in the Dear Colleague letters are based on the authorization level of $257 million in the committee reported bill. The amounts that they compare the higher levels to are based on last year's appropriated level which is approximately $144 million. No wonder they can make the claim that more funds would be available under their amendment. The authorized level in this bill and in the pending amendment is higher than the appropriated amounts in last years appropriations act. A vote for the committee version of this legislation would produce the same amount of funding for the Members' communities as the Ridge/Roukema proposal would produce. Do not be swayed by the argument that your communities are being cheated. They are not. We will be getting the same amount of money under the committee version as we would in the Ridge/Roukema amendment.

This block grant approach is merely an attempt to dilute support of individual HUD programs which assist the homeless and consolidate these programs into one large grant which will be susceptible to the domestic budget program ax in the congressional budget process. To block grant McKinney programs at this time would be premature given that the McKinney programs have only been operating for a few months and the programs have been grossley underfunded. The true problem with the McKinney Act is that the programs need more funding.

I believe that the block grant approach leaves the homeless programs vunerable to further budget cuts in the future. We have experienced severe cuts to block grants, such as the Community Development Block Grant Program, which under the Reagan administration has experienced drastic cuts of 40 percent. Likewise, this block grant for the homeless would be most susceptible to those wishing to cut domestic programs.

The block grant amendment does not address the real issue surrounding the McKinney Act which is the need for more funds for McKinney Act programs. The McKinney programs have not received adequate funding. For instance, the committee authorized $616 million for fiscal year 1988, and $360.5 million was appropriated which is an approximate 42 percent shortfall from the authorization. The proponents of the block grant list a series of cities and States which would receive allocations under the block grant approach; however, given the past drastic cuts to the McKinney programs, if the block grant is adopted the actual funding may be quite low; thus having a minimal impact on the homeless in each community.

Proponents of the block grant allege that local service providers support the block grant approach. It is unclear, however, whether such support exists. In the Housing Subcommittee's January 26, 1988, hearing on the McKinney Act programs, witnesses emphasized the need for more funding for the McKinney programs. The witnesses did not, however, give their strong support to this approach. In their brief responses to a question on the block grant approach, witnesses outlined conditions under which a block grant could be considered.

Mr. Chairman, I urge the defeat of the Roukema/Ridge amendment.

I rise in opposition to the amendment which substitutes a block grant for several McKinney homeless programs. This amendment was voted down in committee by a vote of 30 nays, 19 ayes. I believe that this amendment is premature given that the McKinney programs were first enacted 1 year ago and have only been operating for the last 7 to 8 months; and in addition I believe that the amendment is a disguise for further reducing services to the homeless. This block grant amendment does little to simplify the McKinney programs. Rather it eliminates three vitally needed homeless programs—HUD Emergency Shelter Grants Program, supportive housing demonstration programs—including transition housing and permanent for the handicapped homeless—and the supplemental assistance for facilities to assist the homeless program. This block grant amendment will better be handled in committee when the banking committee considers omnibus housing legislation for the 1990's when we deal with more permanent affordable housing approaches for low-income Americans. Consideration of this amendment in this emergency bill is not the proper vehicle to handle this issue.

The U.S. Conference of Mayors, the National Coalition for the Homeless, and the National Mental Health Association oppose this amendment. I have included their recent letters in opposition to the amendment.

The U.S. Conference of Mayors,
Washington, DC, August 1, 1988.

Dear Representative: On Wednesday you will consider H.R. 4352, a bill to reauthorize the Stewart B. McKinney Homeless Assistance Act. I am writing on behalf of the nation's mayors to urge your support for this important legislation, and to urge you to vote against an amendment to be offered by Representatives Roukema and Ridge that would turn three of the McKinney Act programs into a block grant.

In June The Conference of Mayors sent you a report on how cities are using funds provided through the McKinney Act. That report showed that the Act has provided much needed help to homeless people in our cities, that the federal funds have leveraged significant amounts of local dollars—both public and private—and that local efforts to meet the needs of homeless people have been expanded. But the problems of homelessness continue to grow in our cities, as our previous reports have shown. Even with the help provided through the McKinney Act, local programs which serve homeless people, including increasing numbers of families with children, are often unable to meet the need. Clearly the McKinney Act must be continued.

On the issue of the Roukema/Ridge amendment, generally The Conference of Mayors supports block grants to cities. This amendment, however, would take 20 percent of the funds appropriated and provide them to the states. This would reduce the funding provided directly to local governments—funding which has been quickly and efficiently put to work by those governments. Our experience in other programs, notably the anti-drug enforcement grants, has shown that state administration of funds intended for local governments has been extremely slow. Indeed some cities have yet to see a penny of funds appropriated nearly two years ago for anti-drug programs. We see no justification for changing the McKinney Act system, established just a year ago, when clearly it is working.

Please consider the views of the nation's mayors when you vote on H.R. 4352.

Sincerely,

J. Thomas Cochran,
Executive Director.

National Mental
Health Association,
Alexandria, VA, June 20, 1988.

House Banking Committee Member,
U.S. House of Representatives,
Washington, DC.

Dear Member of House Banking Committee: I would like to bring to your attention several concerns that the undersigned organzations have on H.R. 4725, which would block grant the housing programs under the Steward B. McKinney Homeless Assistance Act. For the following reasons, we urge you to support reauthorization of the housing programs in McKinney as reported out of the Housing subcommittee:

(1) Preservation of the Permanent Housing Program for Homeless Handicapped

People as a categorical grant better ensures that mentally ill homeless people would be served. A block granting of the programs increases the likelihood that mentally ill people would be at a disadvantage in the competition for funds at the state level since sponsors of projects for people with developmental disabilities have more experience in applying for these projects than sponsors of projects for people with mental illnesses.

(2) Since the housing programs in McKinney were just authorized last year, it is premature to block grant them now. While there were some problems with initial implementation of the McKinney programs, it makes more sense to make technical changes to the existing programs (as the subcommittee has done) than to change the whole structure, and combine them.

(3) Next year, Congress will be considering major changes to housing programs. Any changes to McKinney housing programs would be more appropriate at that time.

Sincerely,

LARRY BEST,
Staff Associate, Federal Relations, National Mental Health Association.

NATIONAL COALITION FOR THE HOMELESS,
Washington, DC, August 1, 1988.

Hon. HENRY B. GONZALEZ,
House Office Building,
Washington, DC.

DEAR CONGRESSMAN GONZALEZ: Later this week, the Stewart B. McKinney Homeless Assistance Act Reauthorization (H.R. 4352) will be voted on by the House of Representatives. I understand that Congresswoman Marge Roukema and Congressman Tom Ridge plan to offer H.R. 4725, the Homeless Housing Block Grant Act of 1988, as an amendment to the reauthorization bill. The Ridge-Roukema amendment combines three programs under Title IV of the McKinney Act; the Emergency Shelter Grant, Supportive Housing, and Supplemental Assistance for Facilities to Assist the Homeless, under one block grant.

While I do not oppose in principle the block grant approach to these programs, I am concerned about the critical need to get the reauthorization bill passed as quickly as possible. Already the bill has moved very slowly through the committee process on its way to the floor; any further delay would be intolerable.

I encourage and support further investigation of the proposals offered by the Ridge-Roukeman amendment. I hope that the debate between those favoring the block grant approach and those supportive of categorical or competitive grants does not develop into a partisan battle. There are some obvious advantages to the block grant approach provided that adequate Federal safeguards are incorporated in the statutory language. However, I do not believe that there is enough time or that the House floor is the proper forum to examine specific language and implement the necessary safeguards. As a result, I oppose consideration of the amendment at this time.

The McKinney Act provides emergency, survival resources to people in desperate need of help. As you know, the funds involved are almost nominal compared to the enormity of the need. Nevertheless, they can and will help save lives. I hope that in overseeing the consideration of the bill on the floor, our common objective, to ensure that the bill passes as quickly and with as little controversy as possible, remains the focal point.

Sincerely yours,

MARIA FOSCARINIS.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, do I understand that my colleague meant to tell us earlier that according to the material and charts that the amendments proponents issued, counted the money in the special programs, the categorical programs, on the basis of appropriated money, and they counted the block grant on the basis of what was authorized?

Mr. GONZALEZ. That is right.

Mr. VENTO. There is a difference of more than $100 million. It is no wonder, then the difference. In other words, these are phantom dollars they are dealing with; is that correct?

Mr. GONZALEZ. That is right, these are ghost dollars.

Mr. VENTO. They are phantom dollars.

The authors of this amendment are circulating a letter to many Members of Congress which promise large increases in homeless assistance funding to each district if their block grant amendment passes.

Mr. Chairman, this is more phantom dollars than real dollars more blue smoke and mirrors than true help.

The figures used in this letter are misleading and inaccurate. They bear no resemblence to what was actually appropriated or authorized and surely no sound basis upon which to compare the benefits of competing means of Federal funds distribution.

These figures compare apples to oranges to bananas and come out with a "red herring"—claiming that every district will somehow receive increased funding from this "revenue neutral" amendment.

That type of shell and pea game ought to fall of its own weight!

This amendment would not help rural areas as the authors specifically claim. Twenty percent of the block grant funds would be stretched across the country to nonentitlement areas. That is 20 percent of $73 million—fiscal year 1988 appropriation for all three programs—only $14 million for rural communities across the Nation. We could just about double that number under current authorization levels if they were fully appropriated. Ironically under the regular CDBG formula, rural, nonentitlement areas receive a more generous treatment.

For example, the largest McKinney homeless assistance program is a block grant program—the Emergency Shelter Grant Program—which received only $8 million of the $120 million authorized. If you are sincere about increasing block grant funding, then support increased funding for this program and defeat this amendment. If you want to destroy a program that has only been in operation for 8 months but has shown a great deal of promise in helping the homeless then support the amendment.

The purpose of the homeless programs is to serve the poorest of the poor and maybe even save a few lives. Let's not lose sight of that goal in these underhanded tactics and cooked up numbers.

The authors say that their aim is to simplify the McKinney Act, yet their amendment would not accomplish that goal. The Roukema-Ridge amendment affects only 3 of the 19 homeless programs. In fact, the two largest homeless assistance programs are already block grant programs. What is really needed instead of this amendment is support to fully fund the existing homeless assistance block grant.

The likely effect of the amendment would be to eliminate essential McKinney programs and to make the homeless assistance programs more susceptible to the domestic budget ax. After less than a year of operation and exhaustive efforts—including a lawsuit—to get HUD to administer the homeless assistance programs, it would be unreasonable and premature to eliminate any of the McKinney programs.

This amendment would eventually result in lower funding levels for the homeless assistance programs. This consolidation attempt is not a new device. It was used to eliminate other programs and form the Community Development Block Grant Program. If this amendment passes, it won't be long before some of its supporters will want to lump it together with the CDBG Program. Our first clue to that attempt was the Reagan budget that ignored the fact the CDBG Program has been cut by 40 percent since 1980 and implied that the CDBG Program is sufficient to satisfy the needs of the homeless. Past experience has shown us that consolidating programs into block grants results in stretching fewer and fewer Federal dollars for more and more purposes.

This amendment is also unfair to charitable organizations that were helping the homeless long before this legislation was first enacted. Charitable organizations that have traditionally served the homeless would be bypassed in the funding process under this amendment. State and local governments would be the only entities receiving direct funding. If this amendment passes, State and local governments will win; charitable organizations will lose; but the true loss will be felt by the homeless.

I urge my colleagues to vote against this amendment.

Mr. GONZALEZ. Yes, they are ghost dollars, floating around out there somewhere. I think the gentleman from Massachusetts [Mr. Frank] put it very aptly when he said, "Well, there must be some golden pot somewhere where less is more."

But the truth is that a careful analysis of this clearly shows that this would be a cruel hoax to perpetuate on our sincere colleagues who are not members of the committee and have not had a chance to digest this.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise to speak in favor of the amendment that is cosponsored by the gentleman from Pennsylvania [Mr. Ridge] and myself. Before moving on to the body of my remarks, I would like to address myself to a statement just made by the chairman of the subcommittee, and I assert that indeed he was correct in his reference to the amounts and the erroneous figures that were first distributed concerning the amounts that would be allocated under the block grant proposal. He was indeed correct. There was an original tabulation that had been distributed to the committee where an error had been made. However, these numbers have now been corrected, and the numbers that I referred to earlier in the debate with respect to the specific question of what would happen, say, in the case of Arkansas, are accurate. We are comparing apples and apples, so to speak, in terms of those numbers.

The comparison we asked HUD to make was if under the same assumptions of the appropriations of the 1987 McKinney Act the provisions were applied on a block grant basis, how would those numbers look? That was what we asked them to do, and I must say that we now have those accurate numbers here for anyone who would like to look at them.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the point is that we cannot use dollars that are not appropriated. The point is that the categorical grant programs are up and running, and assuming they would make grant awards rather than having the type of lack of performance we had the past year the dollars would go out and some communities would benefit, based on the categorical awards.

Mrs. ROUKEMA. Correct.

Mr. VENTO. So there are no extra dollars here. These are dollars that are either going to go in a concentrated form on a categorical program or we are going to spread them an inch deep and a mile wide in terms of the block grant type of program.

Mrs. ROUKEMA. Mr. Chairman. I simply want to make the point again that has been made before, and I hope that everyone hears it because there has been an attempt to divert the issue here. The issue is that this formula is not discriminatory to rural areas. There are, as the gentleman from Pennsylvania [Mr. Ridge] has said, winners and losers, but it is not based on rural versus urban in terms of the formula we have here.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. ROUKEMA. I yield to the gentleman from Minnesota.

Mr. VENTO. The fact is the way the formula works in the other part of the bill if we have less than a specific dollar amount, those dollars go to the State, because on a block grant basis the dollars would be too small. Does the gentlewoman's formula work in the same manner?

Mrs. ROUKEMA. Yes, it does.

Mr. VENTO. So the point, then, would be that we would distribute that money through the State rather than directly through the eligible communities. Many communities, of course, are not eligible under the formula basis, under CDBG, in any instance, and so most of this money would be going out through the States, and in that particular sense they would not get the money directly.

Mr. Chairman, I thank the gentlewoman for yielding.

Mr. RIDGE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Pennsylvania.

□ 1645

Mr. RIDGE. I would like to respond to the gentleman's inquiry. The gentleman probably understands that there is a minimal amount that the communities would be eligible to receive, and, if their allocation formula came in under that amount, that money would be reversed to that particular State. We have, again using 1987 appropriation figures, calculated basically the percentage that would go directly to the entitlement communities and to the money that would be available to the States. It is probably closer to 70 percent/30 percent because of the residual money that is left over, but it would be application to the States.

Now presently with those two programs you have got to go to the Federal Government. Another program, some of the money goes to the Federal Government. Some goes to the State. And so we have reduced the amount of paperwork, brought it a lot closer to the people who need it and who are in a better position to evaluate what they need to help their communities than I am afraid a lot of people are giving them credit for.

So, Mr. Chairman, I am happy to respond to the gentleman's question.

Mrs. ROUKEMA. Reclaiming my time, Mr. Chairman, I would like to explain the amendment as I see it.

The CHAIRMAN. The time of the gentlewoman from New Jersey [Mrs. Roukema] has expired.

(By unanimous consent Mrs. Roukema was allowed to proceed for 5 additional minutes.)

Mrs. ROUKEMA. Mr. Chairman, let me first compliment the principal author of the amendment, the gentleman from Pennsylvania [Mr. Ridge]. He is a very able member of our subcommittee, and he has worked hard on this issue.

I want to emphasize that the authors of this amendment, the gentleman from Pennsylvania [Mr. Ridge] and I, are supporters of assistance to homeless individuals and families. Both of us are original cosponsors of the bill before us. We come at this issue from the perspective of trying to improve delivery of services to the homeless.

How, would our amendment improve that delivery of services?

The various nonprofit providers are the ones who are on the front line dealing with the problems of homeless. When one of those providers appeared before our committee, she complained about the current program structure.

This witness happens to come from an area that already has shelter facilities for its homeless. However, it is short on the services needed to help these people get back on their feet.

Our witness asked, "What need do we have of a categorical program that provides money for bricks and mortar? We don't need that. We have facilities already. What we need are services. So a program to build shelters does us no good."

She pointed out to the committee, however, that, if a block grant combined the various programs, she and the other providers on the local level could assess their needs and decide how best to allocate money to help the homeless. This is common sense.

That witness described the first and most important advantage of the block grant approach—flexibility for local providers to decide how best to serve the homeless.

What are the other advantages?

Predictability. Under the current categorical structure, no area can predict how much homeless assistance it will receive in a given year. It depends on the application process, and some applications are funded and some are not.

A block grant, on the other hand, provides predictability, a very important feature for local governments and nonprofit providers. Under our proposal, funds would be distributed according to the established and well-known community development block grant formula, modified slightly to give greater weight to the areas where the problem is most acute. By distributing funds on a formula basis, localities would know what they are going to get once the appropriation has been approved. In short, a block grant would allow localities to plan, which they cannot do with the current structure.

Another advantage of the block grant is that it gives no unfair advantage to sophisticated grantsmen. The present system favors localities that may have experienced grantsmen on contract, people who are most adept at the drafting of grant applications. This is an even greater advantage to those communities when we are talking about programs like those under the McKinney Act which are relatively new.

Of course, many communities do not have such sophisticated grantsmen. A block grant would help such communities because, as I explained a moment ago, the funds would be distributed on a formula basis. The unfair advantage to crafty grantsmen would be removed.

The people who deal directly with these programs prefer the block grant approach. The National League of Cities supports our amendment, as does the National Association of Counties. The block grant approach is supported by many Governors and by the National Association of State Mental Health Program Directors.

I should emphasize that nothing in our amendment in any way diminishes the role of the nonprofit providers. The nonprofits are doing a terrific job of helping the homeless, and that would continue with the block grant. Money distributed with the block grant would be passed along from the cities or State to nonprofit entities in their jurisdiction.

During our subcommittee's hearing on reauthorizing the McKinney Act which we held in January of this year, we heard from a half-dozen nonprofit service providers from around the country.

And they were unanimous in their support of the block grant approach.

I think it's worth quoting briefly from those witnesses.

In response to a question about instituting a block grant which was asked by the gentleman from Pennsylvania [Mr. RIDGE], Flo Tonelli of the Colorado Department of Housing said, "I certainly support that."

Kitty Cancilla of the Erie, PA, Community Drop-in Center said, "I definitely support the block grant approach."

Patrick Leary, the Minnesota Homeless Assistance Programs coordinator, said, "I would also support the block grant approach."

Randy Suko, of the Thurston County, WA, Housing Authority, said "I think the block grant approach is a very useful way of focusing attention on coordinating all the services."

And Ted Pappas of the American Institute of Architects said that his organization "supports the block grant appoach."

No witness expressed opposition. They all supported a block grant.

The people who are involved in providing assistance to the homeless like the Ridge-Roukema amendment because it makes sense.

It simplifies the system and increases flexibility for localities.

Our amendment combines three of the categorical programs now authorized under the act into one homeless assistance block grant.

The amendment takes the emergency shelter grants, supportive housing, and supplemental assistance, and makes these programs into one block grant.

All of the activities now authorized under those three programs would be eligible activities under the block grant. Anything you can do now, you could do under the block grant.

We do not affect the authorization levels with our amendment. The total for our block grant is the same authorization total as that for the three categorical programs.

We use a well-known and well-liked formula to distribute the money under the block grant. We use the CDBG formula, slightly revised to give greater weight to cities and urban counties. This is a formula which States and localities are very familiar with and which will help to get the money out more quickly and more effectively.

In summary, our amendment would provide greater efficiency and flexibility and would ease the delivery of funds to those in our society who are so desperately in need.

This is a commonsense amendment, and I urge my colleagues to support it.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words and I rise in strong opposition to the amendment, and I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA], my good friend whom I respect very much, but who, in this case, I ardently disagree with, just for purposes of a question.

Does the block grant formula of the gentlewoman from New Jersey [Mrs. ROUKEMA] authorize any money for 1989?

Mrs. ROUKEMA. Mr. Chairman, we had determined to have this effective in 1990 because the appropriation has already been made. The appropriations have already been made for 1989, and, therefore, we have formulated the amendment to apply in 1990.

Ms. OAKAR. Well, Mr. Chairman, let me just say that I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for responding to the question. She really creates, if this passes, and I just hope the Members are aware of this, that, if this passes, she creates a very fuzzy area for 1989 because truly—if I can just finish my point, and then I will yield when I finish some other points that I would like to respond to in terms of what the gentlewoman is making as her argument—it is important that we authorize and keep the formula that we have for 1989 because, if we change it in midstream, which is really what this is all about, this becomes a new concept, a new bill, that has not really taken off yet. And we are really on the verge now of seeing an impact on the homeless due to the efforts of Stew McKinney, and certainly our chairman and others. So, we do not have that.

The second thing is I have seen all of these "Dear Colleagues" which I guess I want to change some of the figures on, but nonetheless every Member who may not have the opportunity to listen to this debate who may be in hearings, et cetera they ought to know for those who believe that this may help rural and smaller areas that the formula being proposed by my friends on the other side would change the formula from 30 percent for the rural areas to 20 percent for the rural areas. So, it is a decrease for rural areas.

The other point that I would like to make is just in terms of responding to the gentlewoman from New Jersey [Mrs. ROUKEMA] who talked about one of the witnesses from Pennsylvania, my mother's place of birth, with respect to transitional housing. I think somebody, since I wrote part of that particular section and contributed to that section, somebody should have explained what that section is all about, and I think it would be reasonable that that Member would explain that to her. The fact is that the transitional housing area is not necessarily bricks and mortar. What we are saying is that we want to give a person a chance to bring his or her life back together, and the problem is that with many of the people that are predictable we can tell who the homeless are in contrast to my colleague from Pennsylvania who said, or to paraphrase, that we are not sure who the homeless are.

Mr. Chairman, I honestly know who the homeless are. I see them in my own neighborhood. About a third of them are mentally deinstitutionalized. About a third of them are families, men, women and children, and about a third of them are made up of veterans and other groups. I know who they are, and I do not think local authorities know any more about this than I do.

I do know this: That no one on a local level to my knowledge has comprehensively addressed the mental health deinstitutionalized person or the families, and let me tell my colleagues that one of the things we are trying to do is to fold all of that together and not target these groups that are so vulnerable and very seldom get the comprehensive kind of counseling, training, health care that this bill does. What they are trying to do is fold it all together and not mention what groups we really are trying to target, and we say it in the bill. We say that we want emergency shelter grants. We say that we want supportive housing for families, for handicapped, for the deinstitutionalized. We are not afraid to say that. We think it is important to have supplemental assistance and to target those kinds of programs, at least for the time being, until we can get the resources.

As my colleagues know, the administration time and time again has opposed this concept.

At one point, if we all recall, those of us who have been on the committee for a while, we recall that they put out a report and said that there was not to any discernable person a homeless problem. So, without intending to do this, they are in fact gutting a portion of a very important portion of the bill. That is really what it is all about because, if we can create this huge umbrella and have the laissez-faire attitude of the States and say, "Do with the money whatever you think you should do," there is no guarantee that there will be emergency shelters, that we will finally take a look at the mentally deinstitutionalized and the handicapped in the families of America who are in fact homeless, and we will not be serving, frankly, a lot of homeless individuals who are women, and we very seldom see targeted homeless programs for those individuals who are battered women, et cetera, who want a chance for transition, not just the opportunity to have some roof over their heads for a night or so, but a transition so they can get their lives back together, get that job, have the health care that they need get into a dignified human condition and living atmosphere for all of our people.

Mr. Chairman, this is a people problem, and I am surprised that HUD likes the idea of block grants because this administration loves to block grant everything. It reminds me of the voucher system that they have always proposed for health benefits. I mean that is in fact tantamount to no program at all, and I do not think it is intentional because I know that the gentlewoman from New Jersey has worked many hours on this, but I do feel very strongly that, if we want to see the gutting of an issue that some of us have worked very, very hard on on both sides of the aisle, including the late, great Stew McKinney, we will certainly not be served by this block grant approach.

□ 1700

The other point I would like to make is that it is very, very important that we not allow the mandated 5 percent of all money to be used for administration.

Let me tell you something. Sure, these State administrators, and I have a lot of respect for the State administrators, but a lot of them would like to raise salaries and they would like to hire more people and all that sort of thing. Listen, I think that within the framework, when you get a nonprofit group knowing that this is going to be a pilot project targeting a specific group in great dire need to comprehensively deal with that person, that individual nonprofit group or administration should not be saying off the bat that 5 percent of the limited resources in the average grant can be watered down to about $40,000 to be used for administration. We ought to be using that money for the homeless problem in a comprehensive fashion.

Mr. **RIDGE.** Mr. Chairman, will the gentlewoman yield?

Ms. **OAKAR.** I yield to the gentleman from Pennsylvania.

Mr. **RIDGE.** Mr. Chairman, if I might, just a couple points. The gentlewoman does not think that the Governor of the great State of Ohio or Governors elsewhere are going to abuse that 5 percent. It is a requirement in the legislation the gentlewoman is supporting.

Ms. **OAKAR.** May I tell the gentleman, I think of the world of the Governor from my State and I think in the State of Ohio they have done a terrific job in terms of the mental health program, but I also think not only in the State of Ohio, but in all 50 States that many of the States because of their budget restrictions are deinstitutionalizing people and they have been doing this for years, beyond this administration in terms of my own State of Ohio, and everybody in America knows it.

These people are so vulnerable. They do not have the opportunity, very often they do not vote. They have no political clout. The gentleman knows it and I know it.

Let me tell the gentleman something. When they are deinstitutionalized and a third of them are walking the streets, they usually do not have any family. They do not have any medical follow-up which is in the bill, if that is the way these groups want to use this money. They very often do not have any job training, let alone a home.

One of the things that we are dealing with this transitional housing section and other sections of the bill is saying that finally on a pilot program basis we are going to deal comprehensively with the problem and see what happens when you give them the medication, when you give them the home, you give them the training and you give them the human interest that they so sorely need so that they do not walk around the streets without seeming to have a direction.

So I think we ought to reject this. Let us give this bill time and really have this comprehensive approach.

I want to compliment my chairman for all his good work.

The **CHAIRMAN.** The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

(At the request of Mrs. ROUKEMA, and by unanimous consent, Ms. OAKAR was allowed to proceed for 2 additional minutes.)

Mrs. **ROUKEMA.** Mr. Chairman, will the gentlewoman yield?

Ms. **OAKAR.** I yield to the gentlewoman from Ohio.

Mrs. **ROUKEMA.** Mr. Chairman, just for a point of clarification, particularly between my good friend, the gentlewoman from Ohio and myself, I think the gentlewoman and I have probably expressed more concern for the mentally ill and the deinstitutionalized than I guess any two people I know in the Congress. I do not know why we have this difference of opinion.

Ms. **OAKAR.** That is why it is so important.

Mrs. **ROUKEMA.** We are looking at the same issue through different ends of the telescope, it seems to me; but I do want to say to the gentlewoman that certainly it is not my intention nor have we devised here an amendment that would in any way diminish services for the mentally ill or handicapped in other ways. All programs that qualify under present law under the bill as it now stands qualify and are included in this block grant approach. There is not one effort to diminish services to the mentally ill.

In addition, in the health portion of it, that of course is not affected at all

Ms. **OAKAR.** I know that is the gentlewoman's intention. Let me tell the gentlewoman what happens. You leave the block grant approach where you combine, it is like a big umbrella. In our bill we have targeted specific amounts of money, and I will be happy to show the gentlewoman this chart which was handed out to us during the hearings, et cetera. For example, for HUD emergency shelter grants, we have specifically targeted in H.R. 4352 $125 million.

In support of housing, the demonstration program that we have been talking about, we have specifically targeted out $105 million.

For the handicapped grants, we specifically targeted out a certain amount.

We do not have any guarantee whatsoever when you float all these many programs under one huge umbrella that the States will specifically deal with issues like the mentally deinstitutionalized, and that is the problem.

I am not blaming the States in terms of their resources and so on. Maybe they are doing the best they can, but I think it is high time we comprehensively target people who are extraordinarily vulnerable and have comprehensive needs. That is why I want to see this have a chance to be successful. We are not giving it a chance.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Minnesota.

Mr. VENTO. Well, Mr. Chairman, I think the gentlewoman from Ohio is exactly right. The point that has to be made in this instance is that if we spend this on a block grant basis, it will go to all 50 States and eligible territories, a small amount of money. In fact, the Emergency Shelter Program, we have written as the gentlewoman knows, is on a block grant basis, so the amount of moneys that are here are very small. Most of the homeless programs are on a block grant or formula basis already.

The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. OAKAR] has again expired.

(At the request of Mr. VENTO, and by unanimous consent, Ms. OAKAR was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Minnesota.

Mr. VENTO. That is the point, Mr. Chairman, that has to be borne in mind, that most of the homeless program we already have is on a formula or block grant basis, so the amounts of money we are talking about here, not only authorized, but appropriated, are relatively small.

The fact is that over a period of time if you for instance block grant this money, it will be spread an inch deep and a mile wide all over the country. You will not really have the impact in terms of the special or creative programs that are necessary to deal with the homeless.

I do not think from a housing standpoint, from a shelter standpoint, that we have all the answers today with regard to how we are going to deal with the homeless and shelter perspective. In many instances these categorical types of grant programs provide in-depth funding. They provide funding for 1, 2, 3, or 4 years. They provide, the nonprofit groups the type of in-depth funding that permits counseling, job training, and to deal with special problems that the homeless experience. If you give everyone just a little bit of money, the most likely thing they will do is put it into dormitories, or to pay the utility bills.

I do not doubt that my colleagues want to do good things for the homeless. This is an argument between people that support the program. I commend them for their effort and sponsorship of this total legislative package; but we have to realize what the impact is. Of this amendment we decided to go with most of these programs in the past. We ought to let them work before we throw them out the window.

What we are doing is walking away from these important commitments. We need those type of in-depth categorical programs and the creativity that they will spawn. The nonprofits need it. That is why the Conference of Mayors supports the categorical programs, as the bill is. That is why the National Mental Health Association nationwide support it. That is why we should be supporting it for these relatively modest amounts.

Actually, if the cities and States remain a couple bucks more, they will use it right now.

We should take a longer point of view a different perspective. We have to realize that providing those nonprofits with special targeted funding will create and will be creative with regard to these dollars to help us resolve this homeless problem, so I hope my colleagues will consider what I have said and the good words of the gentlewoman from Ohio—whom I thank for her hard work today and yielding to me so I could express my views.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in general support of the efforts to aid the homeless, but I do have some substantial reservations regarding this legislation.

I am somewhat encouraged by the Housing Subcommittee's various steps forward in this legislation toward a more flexible and efficient service system for the homeless; however, like most Members, I am opposed to throwing away more and more of our limited taxpayer dollars at the problems of homelessness without assuring ourselves of a better quality control and performance-based effort. Those concerns about the inefficient or wasteful and ineffective utilization of Federal funds would, this Member is convinced, be greatly reduced if the concept of block grants was applied to this legislation.

It is for this reason that I strongly support the Roukema-Ridge amendment which will use a block grant approach to address the problems of homelessness. To some degree, each community or locality has a different situation with respect to the homeless. How many of the Members of this body have been State legislators, members of city councils, county commissioners or perhaps mayors, supervisors? Statistically I think over half the body have been. Think back to those days when it was suggested frequently that the Federal Government had the answers to all the problems on the use of grant funds, categorical block grants, or whatever. The reason we had the block grants is because we are a very diverse Nation. We continue to be diverse, and the problems of homelessness as they are faced in various communities are quite different.

So instead of addressing this issue on a local or even State basis with Federal assistance, last year Congress when it first authorized a rather extensive, if uncoordinated program, to address the problems of the homeless forgot about that diversity in the Nation, and we chose a centralized bureaucratic and financially inefficient approach. The result is too few dollars efficiently reach the homeless and the program of assistance in those areas with the greatest need. We cannot afford this inefficient use of our limited financial resources at any time, and I think we particularly cannot afford them when we have huge budget deficits.

Now, I am sure it has been suggested already by others before me that it is not just this or these Members who support a block grant approach for the homelessness programs. It is supported by the National League of Cities, the National Association of Counties, and many Governors also support it.

Even the providers of homeless programs benefits indicated in the hearings before the Housing Subcommittee that experienced providers were not benefiting from the current Federal application approach as much as desired or as much as possible. These people and the entities they represent are the ones who deliver the services on the front lines to the homeless, and they are saying that the currently authorized program is not working very well. Substantial basic improvements can be made.

Now I would like to suggest is the time when those changes should be made when bureaucratic inertia is not as big as it is going to be a couple years from now.

The block grant approach would allow those communities and providers to individually fashion their programs so that they can better meet the individual needs of the respective communities with these Federal funds.

Much has been made of the fact that we have a limited amount of funds. That is true. These programs tend to grow. I would suggest that the States and cities if they had adequate funds, Federal funds, Federal funds to block grant matching their local funds, would have done and would do in the future a much better job of addressing the problems of homelessness and they would do it in a fashion that meets local concerns and conditions. No longer would they have to devote such effort to fitting a square peg into a round hole. No longer would grantsmanship be the primary reason why localities are able to receive grant funds.

Earlier in this debate, the gentleman from Arkansas [Mr. ALEXANDER] made the point that in fact less funds would come to rural areas under a block grant approach. I think that is not the case. The formula may suggest it is the case, but I think the reality because of the importance of grantsmanship, the amount going to rural areas, and we do have substantial homelessness among minority groups in particular with native Americans in the State where I come from, if you take a look at what they are getting, it amounts to about zero, zip.

So I would like to suggest that in general State by State we will find that more money will be going to rural areas, so that the gentleman's admonition to Members who represent rural constituencies should be turned on its face. More money would come to rural areas.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. BEREUTER] has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. While there has been some discussion as to the need for further study of the block grant approach, I believe that we should implement a more efficient delivery system now. The right for greater local control and coordination of many homeless assistance programs must be won now, not later, before the hardening of the arteries sets in.

I would also suggest that we need to insist upon local accountability and performance as provided in the block grant amendment.

I believe we have attempted to do that by the offering of the gentleman from Pennsylvania and the gentlewoman from New Jersey. I urge support for the Ridge-Roukema block grant amendment.

□ 1715

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join my colleagues in opposition to the block grant amendment to the Omnibus McKinney Homeless Assistance Act of 1988.

The McKinney Act of 1987 has been in existence for less than a year. I say let's give the programs in the McKinney Act a chance to work before we make changes that really may not be needed. In fact, all indications thus far have shown that the programs under the McKinney Act are clearly working as intended.

This amendment was considered by the House Banking Committee during markup a few weeks ago. Many of us on that committee rejected the amendment because we didn't see a real need to make changes in the programs before this session ends. I think it would be wiser for us to return next year after we have had a chance to reexamine these programs and then decide whether changes are needed. So let's not rush into reorganizing the McKinney programs. There are many questions that have yet to be answered about the block grant approach and I think that we need to thoroughly review them to adequately assess its prospected impact.

Additionally, the amendment does not specify authorization levels, which makes it impossible for State or local authorities to determine how much they will receive. Many cities base their budgetary planning on projected Federal funding. Because this amendment does not require any matching amounts from non-Federal sources, the incentive to involve State and local governments or private enterprises would diminish.

Finally, the amendment does not specifically target money to seriously mentally ill homeless persons nor to families.

The programs were just let this past September. Essentially, this amendment would virtually eliminate the Supportive Housing Program, which is the only funded program specifically targeted to assist the seriously mentally ill and to aid homeless families. At a time when whole families comprise an estimated one-third of our homeless population, this program desperately needs to be preserved. And so I argue that if it ain't broke don't fix it.

I urge my colleagues to vote no to the block grant amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MFUME. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I did not want to take 5 minutes on my own, because I know we are anxious to get to a vote on this.

Mr. Chairman, this debate is between the friends and supporters of the homeless that disagree on the approach. We all want to do more for the homeless. We want to do the best we can with too few Federal dollars, but we ought to try the categorical grant programs we wrote into law, before we dump them by virtue of this amendment.

The authors say that their aim is to simplify the McKinney Act, yet their amendment would not accomplish that goal. The Roukema-Ridge amendment affects only 3 of the 19 homeless programs. In fact, the two largest homeless assistance programs are already block grant programs. What is really needed instead of this amendment is support to fully fund the existing homeless assistance block grant.

The real effect of the amendment might well be to eliminate essential McKinney programs by making homeless assistance programs more susceptible to the domestic budget ax. After less than a year of operation and exhaustive efforts, including a lawsuit, to get HUD to administer the homeless assistance programs, it would be unreasonable and premature to eliminate any of the McKinney programs.

This amendment would eventually result in lower funding levels for the homeless assistance programs. This consolidation attempt is not a new device. It was used to eliminate other programs and form the Community Development Block Grant Program. If this amendment passes, it won't be long before some of its supporters will want to lump it together with the CDBG Program. Our first clue to that attempt was the Reagan budget that ignored the fact that the CDBG Program has been cut by 40 percent since 1980 and implied that the CDBG Program is sufficient to satisfy the needs of the homeless. Past experience has shown us that consolidating programs into block grants results in stretching fewer and fewer Federal dollars for more and more purposes.

This amendment is also unfair to charitable organizations that were helping the homeless long before this legislation was first enacted. Charitable organizations that have traditionally served the homeless would be bypassed in the funding process under this amendment. State and local governments would be the only entities receiving direct funding. If this amendment passes, State and local governments will win; charitable organizations will lose; but the true loss will be felt by the homeless. Funding one inch deep and one mile wide it would spread the money and kill most creative efforts by the nonprofit organizations would be under cut.

Mr. Chairman, we did not write this legislation to benefit State and local governments; I wrote it to help the millions of homeless living and dying in our country. I urge my colleagues to vote against this amendment.

Mr. WYLIE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the statement was made that if this is a block grant program it will kill off the homeless program, and I would remind the Members that we have had a block grant program in effect since 1974. The Community Development Block Grant Program just received an increase, and most mayors, including the mayor of my own city, like the flexibility of the block grant concept.

As I stated earlier, it is my belief that there is a strong need to deal more realistically with the Federal response and funding system of the homeless assistance by recognition of the fact that the Federal Government alone is not capable of shouldering all of the responsibility. The problems of homelessness and the solutions as well reflect wide geographically and regionally determined responses and, therefore, in my view it is necessary and essential to carefully consider these important differences when we in Congress attempt to deal with such problems as homelessness.

The amendment offered by the gentlewomen from New Jersey [Mrs. ROUKEMA] and the gentleman from Pennsylvania [Mr. RIDGE] is carefully constructed and goes directly to the heart of the matter. By building into our Federal delivery system requirements which maximize flexibility and recognition of regional variations in favor of local and grassroots decisionmaking authority, the Ridge-Roukema amendment proposes to use the very successful, tried and proven model of the Community Development Block Grant Program to create a true partnership among the Federal, State, local, and private sector organizations which are the most knowledgeable and proficient in meeting the needs of the homeless.

This amendment is both responsive and responsible and was initiated in consultation with local government leaders with recommendations and suggestions from government leaders and from mayors all over the country.

This method, by using a block grant formula basis in allocating scarce Federal resources, is an improvement over the current distribution system which uses a categorical and competitive approach that rewards grantsmanship and results in only a few chosen winners and many more losers in such competition.

The Ridge-Roukema homeless assistance block grant amendment would not disrupt the current programs authorized by the omnibus McKinney homeless assistance reauthorization contained in this bill, because it only proposes to consolidate three HUD homeless housing programs into a block grant which will not go into effect until 1990.

The amendment is a rational approach which enables local communities advance notice and better planning assurances to utilize specific funding allocations on worthy homeless aid projects at the local level.

Mr. Chairman, I wish to congratulate my colleagues, the gentleman from Pennsylvania [Mr. RIDGE] and the gentlewoman from New Jersey [Mrs. ROUKEMA], for their good work in bringing this to the floor. I must emphasize the strong support given to the amendment by the 16,000-member National League of Cities and the National Association of Counties, and I am pleased to encourage all House Members to vote in favor of the Ridge-Roukema amendment.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I am happy to yield to the gentleman.

Mr. RIDGE. Mr. Chairman, I would just like to point out to the Members the colloquy that the gentlewoman from Ohio had and some of the observations that our colleague and friend, the gentleman from Maryland, had really go to the heart of that.

The gentlewoman is very concerned about transitional housing. Make no mistake about it, transitional housing remains an eligible activity, and it may very well be that is what the gentlewoman's community needs to deal with a significant portion of its homeless. It may not be what my community needs or anybody else's community needs. As long as we protect it as an eligible activity along with a long list of other activities, it is our belief, strong belief, that the local community is in a much better position to aid the homeless in the fashion that the homeless need the aid. We serve two purposes. We serve both the interests of both communities, but, more importantly, we serve and will be able to satisfy the unique needs of the different kinds of homeless in the different communities.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I am happy to yield to the gentlewoman.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding. He mentioned community development block grants and, of course, this is what is in the bill is a block grant as it is, but we do in fact mention certain targeting that we think is important.

Are there under the current community development block grant formulas specific requirements? Since the gentleman made that analogy, are there requirements as to how that is used?

Mr. WYLIE. Mr. Chairman, reclaiming my time, the answer is yes, there are certain categorical requirements for individual block grant programs within the community development plan.

The point I would make is that the determination is made more at the local level as to needs.

Ms. OAKAR. If I could just ask the gentleman, who deemed those requirements? Was it not in fact our bipartisan, terrific committee that mandated certain requirements as to how the money would be used? Otherwise, cities might use it for fire engines or police cars.

Mr. WYLIE. Certainly. Reclaiming my time, we have sort of a rifle-shot approach, I would like to say, in the case of categorical grant programs.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. WYLIE] has expired.

(At the request of Ms. OAKAR and by unanimous consent, Mr. WYLIE was allowed to proceed for 5 additional minutes.)

Mr. WYLIE. Mr. Chairman, in the case of the categorical grant programs, we have kind of a rifle-shot approach to the program. It has to be done on a specific basis, mandated at the Federal level, whereas in the Community Development Block Grant Program, there are certain guidelines under that umbrella within which the local community leaders have some discretion.

Ms. OAKAR. Mr. Chairman, if I could just respond to that, that is exactly on a parallel basis with what we are doing.

Mr. WYLIE. Maybe there is a distinction without a difference here. So, why not let community leaders make the decision.

Ms. OAKAR. We are saying that there are a couple of areas. We know that these people are walking around in these neighborhoods without any kind of transitional housing or sort of permanency to their lives. We know that they do not get training. We know that they do not have their medication and so on. Why not give them a chance?

If I could just say this: We just started awarding the grants, HUD just finally got around to it, last September. We passed the bill months before that. We just started the program, and already the gentleman wants to eradicate any kind of a formula.

Mr. WYLIE. Mr. Chairman, no, none of that at all. I was one of the original cosponsors of the homeless bill along with the gentleman from Minnesota [Mr. VENTO], so I do see the need.

I would just say that my local community leaders think that this is a better approach, and I am supporting their position.

Mr. KENNEDY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to address the issue before the House today with regard to the notion of having the funds moved into a block grant.

The fact is that we have heard an awful lot of debate on this issue. When all is said and one, we are talking about $300,000 worth of funds for the 50 States across this country, and it just seems to me that if we are talking about that kind of money, we ought to be able to have the expertise in the Department of Housing and Urban Development to be able to target those funds to the communities that have the greatest homeless needs in our country. That is what those people over at HUD are paid for. That is what I would think we, as a country, that pays billions of dollars to that agency, should be able to expect in terms of their expertise.

Mr. Chairman, I do not question that small communities or urban cities, whoever we are determining are going to be doing better under the block grant formula, that in fact one or two cities or towns might do better in any particular year. What I am suggesting, for the sake of the small amount of dollars which are being put into this bill, if we had a fully funded homeless bill, which I am sure the gentleman from Pennsylvania [Mr. RIDGE] and the gentlewoman from New Jersey [Mrs. ROUKEMA] and all of us would like to see, so that the homeless needs of Americans would be taken care of. The gentleman from Pennsylvania [Mr. RIDGE] knows as well as I do that the amounts of funds we are dealing with today, in today's bill, are a piddly amount compared to the need in this country.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I am happy to yield to the gentlewoman.

Mrs. ROUKEMA. Mr. Chairman, I would suggest to the gentleman from Massachusetts that it was precisely that line of reasoning that led the gentleman from Pennsylvania [Mr. RIDGE] and myself, and I think the providers who testified before our committee, to say that since funds are so limited we want to have the flexibility and the predictability to target those funds as they are best needed in our communities and can best serve our communities.

Mr. KENNEDY. The fact of the matter is if we had a situation where the funds were up to a certain level at which we could actually provide people a reasonable amount, but it seems to me that anybody watching this debate that really a sham is being provided. What is actually occurring is $300,000 for every State across this country. That is how much money it is; 80 percent of the $140 million. It just is not enough money to put in the form of a block grant.

If the gentlewoman and the gentleman want to work with our side to be able to come up with a bill that actually funds the homeless issue and funds the homeless programs to a point at which the applications could be made, I think that we would not have a big problem in terms of our side going along with the block grants.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I am happy to yield to the gentleman.

Mr. RIDGE. Mr. Chairman, I know that my colleagues want to conclude the debate.

The gentleman is right, one of the reasons we are offering the block grant approach is because there are very, very limited resources. I think we authorized, and somebody correct me if I am wrong, a little bit in excess of $600 million. The appropriation was approximately $350 million. Who is in a better position to determine what the needs are in a particular homeless community? The folks down at HUD down the street or the people in the community? We have concluded that if we really want to help the homeless, if we really want to arrest or at least respond to the unique needs of the kinds of homeless that we have in our communities, we had better not let that decision rest solely in Washington. Share it with those back home.

What we have done in Washington is to identify eligible activities. All of these activities, transitional housing, child care, outpatient health services, drug treatment, education, employment counseling are eligible activities. We must avoid our predisposition to mandate what is need in our load communities. They should decide for themselves.

□ 1730

Mr. KENNEDY. The gentleman knows as well as I do that those activities were not put in there arbitrarily. Those activities were put into this bill in order to deal with the needs that were heard in testimony before each and every committee that listens to these issues. And the reason why we have those committee hearings is in order to come up with programs to meet the needs of the poor and vulnerable citizens of this Nation.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding because I want to agree very much.

There is one point I want to make to meet directly what the gentleman from Pennsylvania said. Sometimes some of the things we want to do for the homeless are not all that popular in the immediate political jurisdiction. Transitional housing, unfortunately, is not always the most popular thing, and sometimes having a good community group being able to apply directly to the Federal Government to do something like transitional housing is a lot likelier to get that built than if you have to go through the more local level where frankly there may be some kinds of political opposition that could come about.

I just want to say I think the gentleman from Massachusetts made the central point: We want more money. Let me acknowledge that this is a relatively small disagreement among friends. The gentleman from Pennsylvania and the gentlewoman from New Jersey joined with us, most of us, in voting for more money, we have all done that on the tough vote taken a while ago and our friends were there.

So there are two sides here that are both well intentioned, but we are the right well intentioned and you are the wrong one.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

There was no objection.

Mr. GONZALEZ. Mr. Chairman, I think it is time that we advise the Members what this amendment is they are going to be asked to be voting for, and I want to point out some things.

I said that as far as I was concerned I sympathize with the thrust and the desires as reflected by the authors of the amendment, but that this was premature. This is not the vehicle, the Emergency Homeless Act, on which to append this. But on top of that, a careful scrutiny of the actual wording of the amendment will show that it does the very opposite of what the authors seek to bring about.

I will add another point, and this seems strange, that we on our side would be saying that this is a fiscally irresponsible amendment, and I will tell my colleagues why. It simply is open-ended on authorization of appropriations.

"There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1990. Sums appropriated pursuant to this subsection shall remain available."

"Such sums as may be necessary," what is that? There is no stated figure at any point in this amendment targeting any particular activity.

But then interestingly on page 8, the minimum allocation requirement, "If under subsection (A) any metropolitan city or urban county would receive a grant of less than .05 percent of the amounts appropriated to carry out this subtitle for any fiscal year," my goodness, how are we going to figure out this amount in time for an emergency action? "That amount shall instead be allocated to the State. However, any city that is located in a State that does not have counties as local governments," and what is this, "that has a population greater than 40,000, but less than 50,000 as used in determining the fiscal year 1987 Community Development Block Grant Program allocation, and that was allocated more than $1 million in community development block grant funds in fiscal year 1987, shall receive directly from the Secretary the amount allocated to the city under subsection (A)."

I would like for the authors of this amendment to tell me what particular city fits this population bracket definition? I have had staff check, and it seems there is only one city, and that is Woonsocket, RI.

This is something that I think they automatically copied from the community development block grant amendments to the authorization bill. But is this what my colleagues want to vote for in a homelessness emergency bill?

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Yes, of course I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, I would say, because I know the gentleman and I have been working together on this entire measure, that much of the language to which he refers we grafted from this bill. So it basically contains a lot of the language that he just read. When it came to the formula that talks about 0.05 percent and the reversion back to the States, that is also existing law. So I do not really think we have a disagreement here, because I think the language to which the gentleman referred is contained both in his bill and in our amendment.

Mr. GONZALEZ. If the gentleman will excuse me interrupting, I am going to reclaim my time. The gentleman is referring to wording in the community development block grant language in the authorization bill. This is an Emergency Homelessness Assistance Act that we are talking about that the gentleman from Pennsylvania wants to incrust this particular verbiage in. But I ask the gentleman which city is he enclosing here that has received $1 million worth of CDBG grants in the 1987 appropriation process? This is what the gentleman is asking us to vote on, and this is the language I am reading from his amendment.

Mr. RIDGE. I do not know for sure, but I am told that there is this city of Woonsocket.

Mr. GONZALEZ. That is what I was told. I do not know.

Mr. RIDGE. But a member of our committee represents that particular city. And I might say that is the precise language that is in the gentleman's bill.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(By unanimous consent Mr. GONZALEZ was allowed to proceed for 3 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I would reclaim my time because I think this is vital. This is what we are going to be voting on, not some desirable mechanism to improve the delivery through the block grant approach.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will yield in a minute, but not yet because I am going to another section.

Mr. RIDGE. Will the gentleman from Texas let me respond to the last inquiry?

Mr. GONZALEZ. I will in a minute.

On page 12, "rehabilitation: including, but not limited to substantial rehabiliation, acquisition and rehabilitation or conversion of buildings to be used for supportive housing, including transitional and permanent housing and emergency shelters. Debt service payments in connection with a preexisting loan made to purchase an existing structure that has been and will continue to be or will be used to assist the homeless individuals. Assistance to facilitate the transfer and use of public buildings to assist homeless individuals and families."

Then on page 13, "Each grantee shall certify to the satisfaction of the Secretary." The gentleman was talking about getting away from this awful Washington, but it says to the satisfaction of the Secretary. The last time I heard, I do not know, he was in Moscow. That is the last time I heard. But assuming he is still headquartered here, you have to come to the District of Columbia so that "each grantee will certify that it will maintain any building for which assistance is used under this subtitle for homeless individuals for not less than a 3-year period, for not less than a 10-year period if the assistance is used for acquisition, substantial rehabilitation or conversion of a building."

That, my friend, is the reason I objected previously to trying to permanentize in this legislation. This provision, if we vote it in, will permanentize an otherwise emergency, ad hoc program where we are trying to do something about the acute need and distress that we find with 3 million homeless Americans.

So I think the gentleman will agree that I had substantial reasons for saying hold up, let us refine and redefine the amendment. I was hoping that you all would withdraw it and answer these questions.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, first of all, I appreciate the gentleman's offer, but I am going to ask for a recorded vote.

Second, I would just share with the chairman and my colleagues that again the language to which the gentleman referred, and of which he is so critical in our amendment, is precisely the same language that is contained in Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act, and it is put in there to comply with the provisions of that act. We only are changing three programs and trying to take that money into a pool and let the local communities use it where they can best meet the needs of the homeless in their communities.

So I just wanted to remind my colleagues the language of which the gentleman complains is already in the law, and I know the gentleman supports the bill.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has again expired.

(By unanimous consent Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, I have asked for this 1 more minute because that needs a reply urgently.

In the first place, the gentleman is talking about and referring to a permanent housing law. We are dealing with an emergency homeless law.

I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the H.R. 4352, to reauthorize the McKinney Homeless Assistance Act. The problems of the homeless are mutifaceted, and this bill addresses many special homeless needs: Emergency food and shelter, building rehabilitation, and a variety of health care services without duplicating or overlapping existing programs. The McKinney Program is 1 year old and unlike the bill passed in 1987, H.R. 4352 responds to the growing homeless problem with more reason than emotion and maintains fiscal responsibility.

I am also pleased to support Mrs. ROUKEMA's and Mr. RIDGE's amendment to combine the shelter, housing, and supplemental assistance programs under one block grant. The causes and nature of homelessness varies from area to area. Solutions must, therefore, recognize and respond to the differing regional and local needs. I believe that the local cities, counties, and private organizations have the ability to design and implement creative solutions to their homeless problems. With a growing number of poor, homelessness is fast becoming a national problem. This Block Grant Program will provide the necessary Federal funding to local municipalities and private organizations funding while allowing them the flexibility to address their situations as they see fit.

Mr. BRENNAN. Mr. Chairman, I rise in support of the amendment offered by Representatives RIDGE and ROUKEMA. This amendment combines into a single block grant three housing assistance programs for the homeless authorized by the McKinney Act. These three programs are emergency shelter grants, the supportive housing demonstration program, and supplemental assistance for facilities to assist the homeless.

This amendment is about where decisions will be made concerning the use of these funds. Do we in Congress want to delineate how cities and towns will spend these funds? Or do we let the cities and towns make some decisions, too?

In my former job as Governor of the State of Maine, I dealt with municipal officials on a daily basis. They are on the front lines in facing particular challenges of homelessness in their communities. They know firsthand the needs of their communities and how these needs can be most effectively addressed.

As a strong supporter of the McKinney Act, I realize there is concern that this change could be disruptive to these programs. I would point out, however, that the amendment would not be effective until 1990, so it allows for a period of planning and transition.

I intend to vote for this measure because it will provide cities and towns with flexibility in coping with the crisis of homelessness. I know from experience that cities and towns need this flexibility, and I urge my colleagues to support it as well.

Mr. WYLIE. Mr. Speaker, I take this time to raise several important issues relating to title X, the technical corrections portion of this bill. As Members of the House recognize, enactment of last year's Housing and Community Development Act required a long and difficult process which had many twists and surprises, not all of which were pleasant. However, at the end of that process, we had a bill signed into law, and I am very proud of that fact.

Given the complexities of that bill and its many revisions over several months, it is not surprising that it has become necessary to draft legislation to correct or clarify certain technical provisions. The Banking Committee has done so and has included those corrections as title X of the homeless assistance bill before us today.

It is also not surprising that several of these provisions are more than "technical" in nature and that the administration opposes some of them.

Mr. Chairman, HUD and the administration object to several of the technical changes; citing some as being violations of previous agreements and others as having a budgetary impact. I don't agree with all of their objections, but there are a few which appear to be misunderstandings of agreement or intent, and I am concerned about any provisions which might cost more than originally anticipated.

HUD has been attempting to work out some of these differences with the Housing Subcommittee staff. As a matter of fact, one provision to which HUD had strong objection was dropped from the bill.

Mr. Chairman, I urge the chairman of the Housing Subcommittee, Mr. GONZALEZ, and the ranking minority member, Mrs. ROUKEMA, to continue with their negotiating with HUD so that these final differences can be resolved in conference and that we can make this the best bill possible, with complete support for its speedy enactment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. RIDGE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RIDGE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 215, not voting 13, as follows:

[Roll No. 256]

AYES—203

Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boggs
Brennan
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Davis (IL)
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Neal
Nichols
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Petri
Porter
Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rose
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOES—215

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Hubbard
Hughes
Jacobs
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (UT)
Panetta
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Rahall
Rangel
Richardson
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Smith (FL)
Smith (IA)
Solarz
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Yatron

NOT VOTING—13

Biaggi
Boulter
Daub
de la Garza
Dowdy
Espy
Kemp
Lott
MacKay
Mica
Owens (NY)
Spence
Taylor

☐ 1759

The Clerk announced the following pair:

On this vote:

Mr. Boulter for, with Mr. Owens of New York against.

Messrs. LIPINSKI, DICKS, RANGEL, WATKINS, PICKLE, and WORTLEY changed their vote from "aye" to "no."

Messrs. SKELTON, JENKINS, and SHAYS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. CRANE: Page 13, after line 14, insert the following new subsection (and redesignate the subsequent subsections accordingly):

(e) EMPLOYMENT ASSISTANCE.—

(1) AUTHORITY TO PROVIDE GRANTS.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by adding at the end the following new paragraph:

"(5) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.".

(2) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) in the case of transitional housing, the extent to which the project contains an employment assistance program described in section 423(a)(5); and".

Page 14, line 14, stike "is" and insert the following: "(as amended by subsection (e) of this section) is further".

Page 14, line 16, strike "(6)" and insert "(7)".

Page 14, line 17, strike "(7)" and insert "(8)".

Page 14, line 18, strike "(8)" and insert "(9)".

Page 14, line 19, strike "(6)" and insert "(7)".

Page 14, line 21, strike "(7)" and insert "(8)".

Page 15, line 11, insert after the comma the following: "any salary paid to residents of transitional housing under an employment assistance program described in section 423(a)(5),"

Mr. CRANE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CRANE. Mr. Chairman, I would like to pay tribute to the thousands of private, nonprofit organizations which are doing an outstanding job of providing the homeless with housing and counseling services. Given the large number of these groups, time will not permit me to acknowledge all of them today. Nevertheless, I do have the opportunity to mention a few of these groups.

Travelers and Immigrants Aid has served the good residents of my hometown of Chicago for years. It provides transitional housing to 25 homeless young adults. These individuals are provided with an array of services designed to improve their ability to return to full-time work and independent living. This private group has been successful and a credit to the efforts of all private organizations dedicated to helping the less fortunate members of our society.

Jubilee Housing Inc., based in Washington, DC., was founded in 1973 by a mission group of the Church of the Saviour. This outstanding group owns and manages nine buildings which provide affordable housing to 1,000 individuals. Jubilee Housing takes a unique approach to the care of the homeless by not only providing shelter, but just as importantly, giving families spiritual guidance. The president John W. Branner, and vice president, Bob Boulter, deserve a special commendation for their tireless efforts on behalf of the homeless.

Based in Boston, Bridge Over Troubled Waters has over 18 years of experience in providing health, education, residential housing, and vocational counseling services to runaway and homeless youth. The Bridge House, an independent living program for 16- and 17-year-old youths, assists young people in learning the basics of daily living. Since 1970, Bridge has treated thousands of youths on their free medical van, now a landmark on the streets of Boston. It is an organization which has a long and proud tradition of which it can be proud.

In an effort to help these organizations provide their residents with an opportunity to improve their job skills and earn an income, I offer the following amendment. My amendment is quite straight forward; it enables nonprofit organizations, local, and State governments to develop employment assistance programs for the residents of transitional housing, which shall include employment of residents in the operation and maintenance of housing. It also gives financial assistance to these organizations to help defray the cost of transporting homeless individuals to places of employment. I would also like to thank Jubilee Housing Inc., and the National Center for Neighborhood Enterprise for giving me much needed assistance in crafting this amendment. I welcome their fine support for this effort.

My amendment will enable these organizations to apply for assistance from the Supportive Housing Demonstration Program, a program already authorized by this bill. This amendment is consistent with the purpose of this program since it is intended to allow homeless assistance organizations to demonstrate the viability of new and innovative projects.

My amendment would also allow these organizations to use each dollar spent on employing the homeless as a credit toward receiving matching funds from the Federal Government. Nonprofits are generally allowed to receive a dollar from the Federal Government in assistance for every dollar they raise from other sources. My amendment would give these organizations an incentive to employ the homeless by making it easier for them to receive matching funds from the Federal Government. For example, if a nonprofit seeks $100,000 in funding from the Federal Government and is willing to spend $20,000 on employing the homeless, it would only be required to raise $80,000 from other sources to receive Federal funding. In essence, this provision gives nonprofits an economic incentive to raise additional money from the private sector to provide assistance to the homeless.

My amendment is fiscally sound because these new projects would receive funds from the Supportive Housing Demonstration Program, a program which has already been authorized. Furthermore, nonprofit organizations have a fine record of raising funds from the private sector and my amendment augments their efforts to raise matching fund requirements.

My amendment is based on the evidence that local governments and private nonprofit organizations are the best equipped to help rehabilitate the homeless. Thus, my amendment simply gives them another tool to carry on their fine work. They know that care for the homeless not only means providing shelter, but that it requires improving the social and jobs skills of these individuals. I am hopeful that my colleagues will support my amendment and give the homeless the opportunity to develop job skills and take one step in the direction of achieving complete self-sufficiency. Let us support the concept that those more unfortunate than ourselves have the ability to return to work and become self-supportive.

Mr. Chairman, inasmuch as the floor managers on both sides of the aisle have reviewed and consented to my amendment, I would like to yield just for a confirmation to the distinguished gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman from Illinois for yielding.

Mr. Chairman, we have looked over the gentleman's amendment. It is a good amendment, and we accept it on our side.

Mr. CRANE. Mr. Chairman, I thank the subcommittee chairman for his kind words.

Mr. Chairman, I now yield to our distinguished ranking minority member, the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, we have no problem with the amendment. Indeed I think it is a very appropriate one to attach to this bill, and I thank the gentleman for his contribution.

Mr. CRANE. Mr. Chairman, I thank both sides, and with that I ask for the support of the Members for my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

SEC. 501. IDENTIFICATION OF PROPERTIES BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

Section 501(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(a)) is amended by inserting before "shall identify" the following: ", within 2 months after collecting such information,".

The CHAIRMAN. Are there any amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 601. INCREASE IN REQUIRED AMOUNT OF MATCHING FUNDS AND MODIFICATION IN ELIGIBILITY FOR WAIVER WITH RESPECT TO MATCHING FUNDS.

(a) INCREASE IN REQUIRED AMOUNT.—Section 340(e)(1)(A) of the Public Health Service Act (42 U.S.C. 256(e)(1)(A)) is amended—

(1) in clause (i), by striking "under the grant; and" and inserting the following: "for the first fiscal year of payments under the grant and 66⅔ percent of the costs of pro-

viding such services for any subsequent fiscal year of payments under the grant; and"; and

(2) in clause (ii), by striking "Federal funds" and all that follows and inserting the following: "Federal funds provided for the first fiscal year of payments under the grant and not less than $1 (in cash or in kind under such subparagraph) for each $2 of Federal funds provided for any subsequent fiscal year of payments under the grant.".

(b) Effective Date for Increase.—The amendment made by subsection (a) shall take effect October 1, 1989.

(c) Modification in Eligibility for Waiver.—Section 340(e)(2) of the Public Health Service Act (42 U.S.C. 256(e)(2)) is amended to read as follows:

"(2) The Secretary may waive the requirement established in paragraph (1)(A) if the applicant involved is a nonprofit private entity and the Secretary determines that it is not feasible for the applicant to comply with such requirement.".

SEC. 602. ESTABLISHMENT OF AUTHORITY FOR TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.

(a) In General.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) by redesignating subsections (h) through (q) as subsections (i) through (r), respectively; and

(2) by adding after subsection (g) the following new subsection:

"(h) Temporary Continued Provision of Services to Certain Former Homeless Individuals.—If any grantee under subsection (a) has provided services described in subsection (f) or (g) to a homeless individual, any such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.".

(b) Conforming Amendments.—

(1) Section 340(d)(1) of the Public Health Service Act (42 U.S.C. 256(d)(1)) is amended—

(A) in subparagraph (C), by striking "(h)" and inserting "(i)";

(B) in subparagraph (D), by striking "(i)" and inserting "(j)";

(C) in subparagraph (E), by striking "(j)" and inserting "(k)"; and

(D) in subparagraph (F), by striking "(k)" and inserting "(l)".

(2) Section 332(a)(3) of the Public Health Service Act (42 U.S.C. 254e(a)(3)) is amended by striking "340(q)(2)" and inserting "340(r)".

(3) Section 536(1) of the Public Health Service Act (42 U.S.C. 290cc-36(1)) is amended by striking "340(q)(2)" and inserting "340(r)".

SEC. 603. CLARIFICATION WITH RESPECT TO CERTAIN PROVISIONS.

(a) Definition of Homeless Individual.—Section 340(r)(2) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "living accommodations." and inserting "living accommodations and an individual who is a resident in transitional housing.".

(b) Provision of Technical Assistance.—Section 340(o)(2) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "(p)(1)," and inserting "(q)(1) for a fiscal year,".

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "There are authorized" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this section $61,200,000 for fiscal year 1989, $63,600,000 for fiscal year 1990, and $66,200,000 for fiscal year 1991.".

Subtitle B—Block Grant for Community Mental Health Services

SEC. 611. AUTHORIZATION OF APPROPRIATIONS AND CONTINGENT CONVERSIONS TO CATEGORICAL PROGRAM.

(a) In General.—Section 535 of the Public Health Service Act (42 U.S.C. 290cc-35) is amended to read as follows:

"FUNDING

"Sec. 535. (a) Authorization of Appropriations.—For the purpose of carrying out this part, there are authorized to be appropriated $35,000,000 for fiscal year 1989, $36,000,000 for fiscal year 1990, and $38,000,000 for fiscal year 1991.

"(b) Effect of Insufficient Appropriations for Minimum Allotments.—

"(1) If the amounts made available pursuant to subsection (a) are insufficient for providing each State with an allotment under section 521(a) of not less than the applicable amount specified in section 528(a)(1), the Secretary shall, from such amounts as are made available pursuant to such subsection, make grants to the States for providing to homeless individuals the mental health services described in section 524.

"(2) Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

(b) Failure of State With Respect to Expending Allotment.—Section 529 of the Public Health Service Act (42 U.S.C. 290cc-29) is amended to read as follow:

"CONVERSION TO STATE CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT

"Sec. 529. (a) In General.—Subject to subsection (c), the Secretary shall, from amounts described in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to homeless individuals the mental health services described in section 524.

"(b) Description of Funds.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521(a) that are not allotted under such section to a State as a result of—

"(1) the failure of the State to submit an application under section 522;

"(2) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(3) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) Requirement of Provision of Services in Certain States.—With respect to grants under subsection (a), amounts made available pursuant to subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.".

SEC. 612. ELIGIBILITY OF TERRITORIES.

(a) Definition of State.—Section 536(3) of the Public Health Service Act (42 U.S.C. 290cc-36(3)) is amended by striking "Columbia," and all that follows and inserting the following: "Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

(b) Minimum Allotment.—Section 528(a)(1) of the Public Health Service Act (42 U.S.C. 290cc-28(a)(1)) is amended to read as follows:

"(1) $275,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and".

SEC. 613. TECHNICAL AND CONFORMING AMENDMENTS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) in section 521(a), by amending the first sentence to read as follows: "The Secretary shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 528.";

(2) in section 541(a)(4), by striking "522" and inserting "543";

(3) in section 545(d), by striking "526" and inserting "547"; and

(4) in section 546(a)(4), by striking "521" and inserting "542".

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 621. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended to read as follows: "For payments pursuant to section 504(f) of the Public Health Service Act, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991, in addition to any other amounts authorized to be appropriated for such payments for each of such fiscal years.".

SEC. 622. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out section 512(c) $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

Subtitle D—General Provisions

SEC. 631. EFFECTIVE DATES.

The amendments made by subsection (a) of section 601 shall take effect in accordance with subsection (b) of such section. The amendments otherwise made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

The CHAIRMAN. Are there any amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

SEC. 701. ADULT EDUCATION FOR THE HOMELESS.

Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated $11,000,000 for each of the fiscal years 1989 and 1990 for the adult literacy and basic skills remediation programs authorized by this section.".

SEC. 702. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) Grants for State Activities.—

(1) Data gathering.—Section 722(d)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(d)(1)) is amended by inserting "annually" before "gather".

(2) Reports.—Section 722(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(d)(3)) is amended to read as follows:

"(3) prepare and submit to the Secretary not later than December 31 of each year a report on the data gathered pursuant to paragraph (1).".

(3) Authorization of appropriations.—Section 722(g)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(g)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this section $6,000,000 for each of the fiscal years 1989 and 1990.".

(b) Exemplary Grants and Dissemination of Information.—Section 723(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11433(f)) is amended to read as follows:

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1989 and 1990.".

SEC. 703. JOB TRAINING FOR THE HOMELESS.

(a) Authorization of Appropriations.—Section 739(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this subtitle $13,000,000 for each of the fiscal years 1989 and 1990, of which amount $2,200,000 for each fiscal year shall be available only to carry out section 738.".

(b) Ratable Reductions.—Section 739(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(2)) is amended—

(1) by striking "in fiscal year 1988" and inserting "for any fiscal year"; and

(2) by striking "$12,000,000" and inserting "the amount authorized in paragraph (1)".

SEC. 704. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

(a) Program Requirements.—

(1) Additional eligible use of funds.—Section 753(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(c)) is amended by adding at the end the following new paragraph:

"(4) Provision of assistance to any individual who has received a notice of foreclosure, eviction, or termination of utility services, if—

"(A) the inability of the individual to make mortgage, rental, or utility payments is due to a sudden reduction in income;

"(B) the assistance is necessary to avoid the foreclosure, eviction, or termination of utility services; and

"(C) there is a reasonable prospect that the individual will be able to resume the payments within a reasonable period of time.".

(2) Maximum amount available for additional eligible use.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) not more than 25 percent of the amounts received will be used for the purpose described in subsection (c)(4).".

(b) Timely Awarding of Funds.—Section 753(b)(1)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)(1)(A)) is amended in the matter preceding clause (i) by inserting after "receives" the following: ", by not later than 60 days after such receipt,".

(c) Authorization of Appropriations.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended to read as follows:

"SEC. 754. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $42,000,000 for each of the fiscal years 1989 and 1990.".

SEC. 705. ACCESS OF HOMELESS WOMEN, INFANTS, AND CHILDREN TO THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) Definitions.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by adding at the end the following new paragraph:

"(15) 'Homeless individual' means—

"(A) an individual who lacks a fixed and regular nighttime residence; or

"(B) an individual whose primary nighttime residence is—

"(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

"(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

"(iii) a temporary accommodation in the residence of another individual; or

"(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.".

(b) General Authority.—The last sentence of section 17(c)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(1)) is amended to read as follows: "The program shall be supplementary to—

"(A) the food stamp program;

"(B) any program under which foods are distributed to needy families in lieu of food stamps; and

"(C) receipt of meals from soup kitchens, shelters, or other emergency food assistance programs.".

(c) State Administration.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)(C)(iv), by striking "migrants" and inserting "migrants, homeless individuals,";

(2) in paragraph (8)(A), by inserting "organizations and agencies serving homeless individuals," after "Indian tribal organizations,";

(3) in paragraph (13), by striking "cultural eating patterns" and inserting the following: "cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals"; and

(4) by adding at the end the following new paragraph:

"(17) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals.".

AMENDMENT OFFERED BY MR. DE LUGO

Mr. de LUGO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. de Lugo: Page 31, line 22, insert before "Section" the following: "(a) Authorization of Appropriations.—

Page 32, after line 4, insert the following new subsection:

(b) Definition of State.—Section 702(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(d)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

Page 32, after line 6, insert the following new paragraph:

(1) Allocation.—Section 722(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(b)) is amended by inserting before the period at the end the following: "and 0.1 percent of the amount appropriated for each fiscal year shall be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

Page 32, line 7, strike "(1)" and insert "(2)".

Page 32, line 11, strike "(2)" and insert "(3)".

Page 32, line 17, strike "(3)" and insert "(4)".

Page 33, after line 5, insert the following new subsection:

(c) Definition of State.—Section 725(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11435(1)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

Page 33, after line 6, insert the following new subsection:

(a) Definition of State.—Section 737(5) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11447(5)) is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

Page 33, line 7, strike "(a)" and insert "(b)".

Page 33, line 15, strike "(b)" and insert "(c)".

Page 33, after line 23, insert the following new subsection:

(a) Allocation of Grants.—Section 752(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11462(a)) is amended by inserting before the period at the end the following: ", except that 0.1 percent of the amounts made available under this subtitle for each fiscal year shall be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

Page 33, line 24, strike "(a)" and insert "(b)".

Page 35, line 6, strike "(b)" and insert "(c)".

Page 35, line 11, strike "9c))" and insert "(d)".

Mr. de LUGO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. DE LUGO. Mr. Chairman, I offer a noncontroversial amendment that has been cleared with both the subcommittee chairman and the minority.

Now this amendment to the McKinney Homeless Act that is under discussion today clarifies the language of the bill and makes clear that the U.S. territories, that is, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas, would participate in the program under title VII. The territories are in all the other sections, but inadvertently they were not included in this section.

Mr. Chairman, I would like to ask at this time if this amendment is acceptable to the committee.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield to me?

Mr. DE LUGO. I am happy to yield to the distinguished subcommittee chairman.

Mr. GONZALEZ. Mr. Chairman, we have examined the amendment. We consider it a technical amendment that improves the bill. It includes what by inadvertence was left out, including the territories and other jurisdictions.

Mr. DE LUGO. Mr. Chairman, I thank the chairman of the subcommittee, and at this time I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I have examined this amendment offered by the gentleman from the Virgin Islands [Mr. DE LUGO], and I find it a good amendment. We have no objection to it, and I believe it really covers an inadvertent omission in the original bill.

Mr. DE LUGO. Mr. Chairman, I thank the gentlewoman from New Jersey.

The CHAIRMAN. The question is on the amendment offered by the gentleman from the Virgin Islands [Mr. DE LUGO].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—VETERANS PROGRAMS

SEC. 801. MEDICAL PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for each of fiscal years 1989 and 1990, in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for those fiscal years, the sum of $25,000,000 for medical care.

(b) DOMICILIARY CARE.—Of the amount appropriated pursuant to subsection (a), 60 percent shall be available for—

(1) converting to domiciliary care beds underused space located in facilities under the jurisdiction of the Administrator of Veterans' Affairs in urban areas in which there are a significant number of homeless veterans; and

(2) furnishing domiciliary care in such beds to eligible veterans (primarily homeless veterans) who are in need of such care.

(c) CHRONICALLY MENTALLY ILL HOMELESS VETERANS.—Of the amount appropriated pursuant to subsection (a), 40 percent shall be available for furnishing care under section 620C of title 38, United States Code (or any other applicable provision of law), to homeless veterans who have a chronic mental illness disability. Not more than $500,000 of the amount available under the preceding sentence shall be used for the purpose of monitoring the furnishing of such care and, in furtherance of such purpose, maintaining an additional ten full-time-employee equivalent personnel.

(d) LIMITATION.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

The CHAIRMAN. Are there amendments to title VIII?

If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 901. EXTENSION OF PROHIBITION AGAINST IMPLEMENTATION OF CERTAIN PROPOSED REGULATIONS.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "October 1, 1988" and inserting "September 30, 1989".

SEC. 902. REVIEW OF POLICY GOVERNING USE OF AFDC FUNDS TO MEET EMERGENCY NEEDS OF FAMILIES ELIGIBLE FOR AFDC THROUGH EMERGENCY ASSISTANCE OR SPECIAL NEEDS PAYMENTS; REPORT TO CONGRESS.

(a) REVIEW OF POLICY.—The Secretary of Health and Human Services shall review the policies in effect, as of the date of the enactment of this section, with respect to the use by States of amounts paid to such States under the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in the form of payments of aid to meet special needs or emergency assistance under section 406(e) of such Act (42 U.S.C. 606(e)) to meet emergency needs of families who are eligible for such aid.

(b) REPORT TO CONGRESS.—Not later than April 1, 1989, the Secretary of Health and Human Services shall submit to the Congress a report containing recommendations for legislative and regulatory changes designed to—

(1) improve the ability of the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to respond to emergency needs of families who are eligible for such aid; and

(2) eliminate the use of funds provided to States under such program to pay for the provision of shelter in commercial or similar transient facilities.

SEC. 903. DEMONSTRATION PROJECTS TO REDUCE NUMBER OF HOMELESS AFDC FAMILIES IN WELFARE HOTELS AND EXPAND USE OF TRANSITIONAL FACILITIES TO HOUSE SUCH FAMILIES.

(a) IN GENERAL.—In order to encourage States and political subdivisions of States to house homeless families who are recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in transitional facilities instead of in commercial or similar transient facilities, up to 5 States and political subdivisions of States may undertake and carry out demonstration projects in accordance with this section. Demonstration projects under this section shall meet such conditions and requirements as the Secretary shall prescribe. The Secretary shall consider all applications received from States and political subdivisions of States desiring to conduct demonstration projects under this section and shall approve up to 5 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(b) PROJECT REQUIREMENTS.—A demonstration project under this section must provide that the State or political subdivision of the State will—

(1) make transitional facilities available to homeless families who are recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and who reside in commercial or similar transient facilities;

(2) permanently reduce the number of rooms used to house homeless families who are recipients of such aid in commercial or similar transient facilities by the number of units made available in transitional facilities in accordance with paragraph (1); and

(3) make a transitional facility available in accordance with paragraph (1) for any fiscal year beginning on or after October 1, 1988, only if the cost of providing shelter and services in such facility for such fiscal year does not exceed the cost of providing shelter and services in commercial or similar transient facilities for such fiscal year.

(c) FUNDING.—

(1) IN GENERAL.—Notwithstanding part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the regulations promulgated thereunder, any amount expended by any State, during the 5-year period beginning October 1, 1988, to pay the operating costs (including debt service costs) of transitional facilities used to carry out a project which meets the requirements of subsection (b) and an application for which has been approved by the Secretary of Health and Human Services shall constitute an expenditure subject to Federal reimbursement under paragraph (1) or (2) of section 403(a) of such Act, whichever is applicable.

(2) PROJECTS TO RESULT IN ZERO NET COST TO THE FEDERAL GOVERNMENT.—The aggregate of the amounts to be provided by the Federal Government for demonstration projects under this section shall not exceed the aggregate of the amounts which would have been provided by the Federal Government, in the absence of such projects, to house homeless families who are recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in commercial or similar transient facilities.

(d) DEFINITIONS.—As used in this title—

(1) the term "homeless family" means a dependent child or children and the relatives with whom such child or children are living, who—

(A) lack a fixed and regular nighttime address,

(B) have a primary residence that is a shelter designed for temporary accommodation, a hotel, or a motel, or

(C) are living in a place not designed for, or ordinarily used as, a regular sleeping accommodation;

(2) the term "commercial or similar transient facilities" means transient accommodations in—

(A) a commercial hotel or motel operated by a privately owned for-profit entity, or

(B) a similar establishment which is not a transitional facility (whether or not directly operated or contracted for by the State or a political subdivision or by a not-for-profit organization authorized by the State or political subdivision to provide such accommodations); and

(3) the term "transitional facility" means any facility operated by a State or local government or a nonprofit organization which, at a minimum—

(A) provides temporary and private sleeping accommodations, and temporary eating and cooking accommodations; and

(B) provides services to help families locate and retain permanent housing.

The CHAIRMAN. Are there amendments to title IX?

If not, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—TECHNICAL AND CONFORMING AMENDMENTS TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Subtitle A—Housing Assistance

SEC. 1001. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended in the first sentence—

(1) by striking ", and" and inserting a comma;

(2) by striking ", as appropriate" and all that follows through "programs" and inserting the following: "an appropriate specific percentage of lower income families other than very-low income families that may be assisted in each assisted housing program"; and

(3) by inserting before the period at the end the following: ", and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

SEC. 1002. PROHIBITION OF REDUCTION OF SECTION 8 CONTRACT RENTS.

Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C)) is amended—

(1) in the first sentence, by striking "as hereinbefore provided" and inserting the following: "under subparagraphs (A) and (B)"; and

(2) by striking the last sentence and inserting the following: "After April 14, 1987, the Secretary shall not reduce the maximum monthly rents in effect for a newly constructed, substantially rehabilitated, or moderately rehabilitated project assisted under this section (including any project assisted under this section as in effect prior to November 30, 1983) unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.".

SEC. 1003. PUBLIC HOUSING CHILD CARE GRANTS.

(a) Availability of Child Care Services in Facilities Near Public Housing.—Subsections (a), (b), (c), and (e) of section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) are amended by inserting "or near" after "child care services in" each place it appears.

(b) Conforming Amendments.—

(1) Eligiblity for assistance.—Section 222(b) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended—

(A) by striking "in the project" each place it appears and inserting "for the project"; and

(B) in paragraph (2), by inserting "in or near the project" after "facilities".

(2) Allocation of assistance.—Section 222(c)(3) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended by striking "established in" and inserting "established for".

SEC. 1004. HOUSING COUNSELING.

Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended by inserting before the period at the end of the first sentence the following: "or guaranteed or insured under chapter 37 of title 38, United States Code".

SEC. 1005. MULTIFAMILY HOUSING MANAGEMENT AND PRESERVATION.

(a) Unsubsidized Projects.—Section 203(a)(1)(C) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(a)(1)(C)) is amended by inserting after "that" the following: "(i) for purposes of subsection (d), are, on the date of assignment, foreclosure, or sale, occupied by low- and moderate-income persons; or (ii) for all other purposes under this section,".

(b) Right of First Refusal.—Section 203(e) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(e)) is amended—

(1) in the first sentence, by striking "Upon receipt of a bona fide offer to purchase" and inserting the following: "Upon approval of a disposition plan that reflects the fair market value of"; and

(2) by striking "the offer" each place it appears and inserting "the disposition plan".

(c) Definition of Subsidized Project.—Section 203(i)(2)(E) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(i)(2)(E)) is amended by striking "(other" and all that follows and inserting "(excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o)), if (except for purposes of paragraphs (1) and (2) of subsection (h) and section 183(c) of the Housing and Community Development Act of 1987) such housing assistance payments are made to more than 50 percent of the units in the project.".

(d) Applicability.—

(1) In general.—The amendments made by this section and section 181 of the Housing and Community Development Act of 1987 (other than subsection (e) of such section 181) shall apply to any case in which legal title to the property is not transferred before February 5, 1988 (including such property for which a contract of sale is entered into before such date).

(2) Date of assignment.—For purposes of section 203(a)(1)(C) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(a)(1)(C)), the term "date of assignment" means the date of assignment, without regard to whether such date occurs before, on, or after February 5, 1988.

(3) Exception.—The provisions of paragraph (1) shall not apply to the contract of sale entered into by the Department of Housing and Urban Development and the Minneapolis Community Development Agency for the disposition of the Cedar Square West Project.

SEC. 1006. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

Section 201(j)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(4)) is amended by striking "may use not more than" and inserting the following: "shall, to the extent of approvable applications and subject to paragraph (1), use not less than".

SEC. 1007. USE OF FUNDS RECAPTURED FROM REFINANCING STATE FINANCE PROJECTS.

In the case of any State financed project that was provided a financial adjustment factor under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) and is being refinanced, 50 percent of the amounts that are recaptured from the project shall be made available to the State housing finance agency in the State where the project is located for use in providing decent, safe, and sanitary housing affordable to very low-income families or persons.

Subtitle B—Preservation of Low Income Housing

SEC. 1021. NOTICE OF INTENT.

Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended in the last sentence by striking "notice or intent" and inserting "notice of intent".

SEC. 1022. NOTICE TO TENANTS.

(a) Notice of Intent.—Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended by inserting before the period at the end of the last sentence the following: ", and shall submit the notice of intent to the tenants of the housing".

(b) Plan of Action.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended in the last sentence—

(1) by striking "owner may" and inserting "owner shall"; and

(2) by inserting after "plan of action" the following: "to the tenants of the housing and".

(c) Consultations.—Section 229 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended—

(1) by inserting before "The Secretary shall confer" the following: "(a) Consultations by Secretary.—"; and

(2) by adding at the end the following new subsection:

"(b) Consultations With Tenants.—The Secretary may not approve any plan of action under this subtitle unless the Secretary—

"(1) has determined that the tenants of the housing have been notified in accordance with sections 222 and 223(a);

"(2) has provided the tenants with an opportunity to comment on the plan of action of the owner; and

"(3) has taken the comments of the tenants into consideration.".

SEC. 1023. INCENTIVES TO EXTEND LOW INCOME USE.

Section 224(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended in the matter preceding paragraph (1) by inserting after "agreements" the following: "that extend low income affordability restrictions through the term of the mortgage".

SEC. 1024. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

Section 225(a)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended by striking "will not materially increase economic hardship for current tenants" and inserting the following: "will not result in a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant (or, in the case of a current tenant who already pays more than such percentage, will not result in an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index)".

SEC. 1025. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

Section 228(a)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended by striking "section 225(b)(6)" and inserting "section 225(b)(3)(F)".

SEC. 1026. DEFINITION OF ELIGIBLE LOW INCOME HOUSING.

Section 233(1)(A)(iii) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715*l* note) is amended by inserting "or a State or State agency" after "Secretary".

SEC. 1027. RURAL RENTAL HOUSING DISPLACEMENT PREVENTION.

Section 502(c)(4)(B)(iv) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)(iv)) is amended by striking "paragraphs (7) and (8) of section 515(b)" and inserting "paragraphs (1) and (2) of section 515(c)".

SEC. 1028. SECTION 8 LOAN MANAGEMENT PROGRAM.

Section 8(v)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)(2)) is amended by inserting "for project-based loan management assistance" after "new contract".

Subtitle C—Rural Housing

SEC. 1041. AVAILABILITY OF AMOUNTS FOR GUARANTEED LOAN DEMONSTRATION.

(a) In General.—Section 304(a) of the Housing and Community Development Act of 1987 (42 U.S.C. 1472 note) is amended by striking "to the extent of amounts provided in appropriation Acts" and inserting "using amounts made available under subsection (b)".

(b) Conforming Amendment.—Section 304 of the Housing and Community Development Act of 1987 (42 U.S.C. 1472 note) is amended by adding at the end the following new subsection:

"(f) Relation to Other Law.—Section 4 of this Act, section 502(d) of the Housing Act of 1949, and the second sentence of section 517(e) of the Housing Act of 1949, shall not apply to this section.".

(c) Applicability.—The amendments made by this section shall apply to fiscal year 1988 and each succeeding fiscal year.

SEC. 1042. SECTION 515 RENTS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by striking subsection (h).

SEC. 1043. AVAILABILITY OF DOMESTIC FARM LABOR HOUSING FOR OTHER FAMILIES.

(a) Insured Loan Program.—Section 514 of the Housing Act of 1949 (42 U.S.C. 1484) is amended by adding at the end the following new subsection:

"(i) Housing and related facilities constructed with loans under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

"(1) there is no longer a need in the area for farm labor housing; or

"(2) the need for such housing in the area has diminished to the extent that the purpose of the loan, providing housing for domestic farm labor, can no longer be met.".

(b) Grant Program.—Section 516 of the Housing Act of 1949 (42 U.S.C. 1486) is amended by adding at the end the following new subsection:

"(j) Housing and related facilities constructed with grants under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

"(1) there is no longer a need in the area for farm labor housing; or

"(2) the need for such housing in the area has diminished to the extent that the purpose of the grant, providing housing for domestic farm labor, can no longer be met.".

Subtitle D—Mortgage Insurance and Secondary Mortgage Market Programs

SEC. 1061. CHANGE IN DEFINITION OF VETERAN.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended to read as if the amendment made by section 405(1) of the Housing and Community Development Act of 1987 (101 Stat. 1899) to section 203(b)(3)(2) of the National Housing Act had been made instead to section 203(b)(2) of the National Housing Act.

SEC. 1062. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) Exemption From Occupancy Requirement.—Section 203(g)(3) of the National Housing Act (12 U.S.C. 1709(g)(3)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) a mortgagor that, pursuant to section 223(a)(7), is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.".

(b) Correction of Conforming Amendment.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as if the amendment made by section 406(b)(1)(B) of the Housing and Community Development Act of 1987 (101 Stat. 1900) had deleted instead the following: "to be occupied as the principal residence of the owner".

SEC. 1063. PROCEDURES APPLICABLE TO ASSUMPTION OF INSURED MORTGAGES.

(a) Credit Reviews.—Section 203(r)(2) of the National Housing Act (12 U.S.C. 1709(r)(2)) is amended by striking "date on which the mortgage is endorsed for insurance" each place it appears and inserting "date on which the mortgage is executed".

(b) Effective Date.—Section 407(a)(2) of the Housing and Community Development Act of 1987 is amended to read as follows:

"(2) Effective date.—The amendment made by paragraph (1) shall apply to each mortgage originated pursuant to an application for commitment for insurance signed by the applicant on or after December 1, 1986.".

SEC. 1064. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.

Section 247 of the National Housing Act (12 U.S.C. 1715z-12), as similarly amended first by the Department of Housing and Urban Development-Independent Agencies Act, 1988 (101 Stat. 1329-191) and later by subsections (a) and (b) of section 413 of the Housing and Community Development Act of 1987 (101 Stat. 1906), is amended to read as if the later amendment had not been enacted.

SEC. 1065. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) Definitions.—Section 255(b)(3) of the National Housing Act (12 U.S.C. 1715z-20(b)(3)) is amended by inserting "Depository" before "Institutions".

(b) Eligibility Requirements.—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z-20(d)(3)) is amended by striking "and that" and all that follows through "residence".

SEC. 1066. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) For purposes of complying with subsection (a), the Secretary of Housing and Urban Development shall consider the issuance by the Administrator of Veterans' Affairs of a certificate of reasonable value for 1 or more properties in a subdivision to be an administrative approval for the entire subdivision. This subsection shall not apply after the expiration of the 1-year period beginning on the date of the enactment of the Omnibus McKinney Homeless Assistance Act of 1988.

"(c) Before the expiration of the period referred to in subsection (b), the Secretary of Housing and Urban Development shall report to the Congress on housing subdivision approval policies and practices, if any, of the Departments of Housing and Urban Development and Agriculture and the Veterans' Administration. The report shall focus on the administration of environmental laws in connection with any such policies and practices, and shall recommend any statutory, regulatory, and administrative changes needed to achieve total reciprocity for such housing subdivision approvals. The Secretary of Housing and Urban Development shall consult with the foregoing agencies, and such other agencies as the Secretary selects, in preparing the report.".

SEC. 1067. REGULATION OF RENTS IN INSURED PROJECTS.

Section 425 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z-1c) is amended—

(1) by inserting before "After" the following: "(a) In General.—";

(2) in paragraph (1), by striking ", and the project owner has not filed a written request with the Secretary to enter into,"; and

(3) by adding at the end the following new subsection:

"(b) Regulations.—The Secretary of Housing and Urban Development shall issue regulations to carry out this section in accordance with section 553 of title 5, United States Code.".

SEC. 1068. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON MULTIFAMILY PROPERTIES.

(a) Federal National Mortgage Association.—Section 302(b)(5)(A)(ii) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(5)(A)(ii)) is amended by striking "until October 1, 1985,".

(b) Federal Home Loan Mortgage Corporation.—Section 305(a)(4)(A)(ii) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(4)(A)(ii)) is amended by striking "until October 1, 1985,".

Subtitle E—Community Development and Miscellaneous Programs

SEC. 1081. CITY AND COUNTY CLASSIFICATIONS.

(a) Metropolitan City.—

(1) Retention of classification.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended in the second sentence—

(A) by striking "the population data of the 1980 decennial census" and inserting "a decrease in population"; and

(B) by inserting "or any subsequent fiscal year" after "1983".

(2) Deferral of classification.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as similarly amended first by the Department of Housing and Urban Development-Independent Agencies Act, 1988 (101 Stat. 1329-193) and later by section 503(a)(2) of the Housing and Community Development Act of 1987 (101 Stat. 1923), is amended to read as if the later amendment had not been enacted.

(b) Urban County.—Section 102(a)(6)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(A)) is amended by striking the last comma in clauses (i) and (ii)(I) and inserting a semicolon.

SEC. 1082. CORRECTIONS TO CROSS-REFERENCES.

(a) Definitions.—

(1) Inclusion of population in urban county.—Section 102(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(d)) is amended by striking "subsection (a)(6)(B)" and inserting "subparagraph (A)(ii) or (D) of subsection (a)(6)".

(2) Exclusion of population from urban county.—The first sentence of section 102(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(e)) is amended by striking "subsection (a)(6)(B)(i)" and inserting "subsection (a)(6)(A)(ii)(I)(a)".

(b) Reallocation of Amounts.—Section 106(c)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(c)(1)) is amended—

(1) in the first sentence, by striking "section 104(a), (b), or (c)" and inserting "subsection (a), (b), (c), or (d) of section 104";

(2) in the first sentence by striking "section 104(d)" and inserting "section 104(e)"; and

(3) in subparagraph (B), by striking "section 104(d)" and inserting "section 104(e)".

(c) Allocations to States.—Section 106(d)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(3)) is amended—

(1) in subparagraph (C), by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (d)"; and

(2) in subparagraphs (C) and (D), by striking "section 104(d)" each place it appears and inserting "section 104(e)".

SEC. 1083. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

(a) Certifications.—The third sentence of section 104(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 4304(d)(1)) is amended to read as follows: "A unit of general local government receiving amounts from a State under section 106(d) shall so certify to the State, and a unit of general local government receiving amounts from the Secretary under section 106(d) shall so certify to the Secretary.".

(b) Plan Requirements.—Section 104(d)(2)(A)(iii)(II) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)(2)(A)(iii)(II)) is amended by adding "and" at the end.

SEC. 1084. DETERMINATION OF LOW AND MODERATE INCOME BENEFIT FOR ASSISTANCE USED TO PAY ASSESSMENTS.

Section 105(c)(2)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)(2)(A)) is amended—

(1) by striking "or" before "(ii)"; and

(2) by inserting before the period at the end the following: "; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement".

SEC. 1085. URBAN DEVELOPMENT ACTION GRANTS.

(a) Use of Repaid Grant Funds.—Section 119(f) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(f)) is amended in the penultimate sentence by striking "section 104" and inserting "section 105".

(b) Consideration of Certain Counties as Cities.—Section 119(n)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(1)), as similarly amended first by the provisions made effective by section 101(g) of Public Law 99-500 and Public Law 99-591 (100 Stat. 1783-242 and 3341-242) and later by section 515(i) of the Housing and Community Development Act of 1987 (101 Stat. 1934), is amended to read as if the later amendment had not been enacted.

SEC. 1086. NEIGHBORHOOD REINVESTMENT CORPORATION.

Section 604(a)(6) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8103(a)(6)) is amended by striking the second of the two periods at the end.

SEC. 1087. NATIONAL FLOOD INSURANCE PROGRAM.

Section 1306(c)(1)(A) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)(A)) is amended by striking "Following" each place it appears in clauses (i) and (ii) and inserting "following".

SEC. 1088. HOME MORTGAGE DISCLOSURE.

Section 565(a)(4) of the Housing and Community Development Act of 1987 (12 U.S.C. 2802 note) is amended by striking "1986" and inserting "1987".

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bartlett: Page 60, after line 2, insert the following new section:

SEC. 1069. PAYMENT OF CLAIMS ON LOSSES FROM PREFORECLOSURE SALES.

(a) In General.—The second sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by striking ", and (2)" and inserting the following: ", or (B) upon the sale of the insured property by the mortgagor after default, if (i) the sale has been approved by the Secretary, (ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and (iii) the mortgagor has received appropriate homeownership counseling, as determined by the Secretary; and (2)".

(b) Conforming Amendments.—

(1) Applicability.— Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended in the third sentence by striking "the effective date of this sentence" and inserting the following: "November 30, 1983 (on or after the date of the enactment of the Omnibus McKinney Homeless Assistance Act of 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence),".

(2) Cross-reference.—

(A) Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended immediately before the first proviso in the fifth sentence by striking "foreclosure".

(B) Section 204(j) of the National Housing Act (12 U.S.C. 1710(j)) is amended by inserting "clause (1)(A) of" before "the second sentence".

(c) Regulations.—In developing regulations to carry out the amendments made by this section, the Secretary of Housing and Urban Development may delegate to mortgagees the authority to make determinations on behalf of the Secretary, and the Secretary shall rely on certifications and post audit reviews to the greatest extent possible.

Page 4, in the table of contents, insert after the item relating to section 1068 the following new item:

Sec. 1069. Payment of claims on losses from preforeclosure sales.

Mr. BARTLETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTLETT. Mr. Chairman, I am offering an amendment to title X of H.R. 5110, the McKinney homeless assistance reauthorization bill. Title X contains a variety of technical changes pertaining to existing housing programs.

My amendment would provide needed flexibility to HUD with respect to the handling of claims after a default has occurred on an FHA-insured mortgage.

Current law requires that HUD reimburse lenders when an FHA loan goes into default only after the lender has foreclosed, taken possession of the property and actually conveyed the property to HUD. Another circumstance under which HUD will pay out claims is when the loan has been assigned to HUD. The assignment most frequently occurs in instances where borrowers can work their way out of temporary financial difficulties.

HUD will also make payment on claims filed without advancing the title of the property if the property value is less than the outstanding amount of the loan. However, in practice, the property ends up in HUD inventory anyway since lenders simply want to avoid having to try to sell off devalued property. My amendment would add to the battery of tools the Federal Government has to arrange for a sale of property without actual foreclosure.

The amendment would make clear that defaulted borrowers have the option of selling their property and allowing lenders, upon sale of the property, to file a claim with HUD—without having to convey the property title to the agency. This approach is permissible, provided:

First, HUD approves the sale;

Second, in connection with the sale, HUD conducts a cost/benefit analysis to determine whether actual sale of the property would be less costly than having HUD take possession of the property;

Third, the borrower explicitly agrees to sell the property; and

Fourth, the foreclosed property is a single-family home.

In addition, the amendment requires that the property be sold at the fair market price and also preserves existing counseling programs available to borrowers. The property must be sold at a price at least equal to what FHA would receive if actual foreclosure were to take place and the property were sold by FHA. When the agency drafts its regulations, I would encourage it to set specific standards for lenders to ensure that they receive the best price possible for the property.

As to appropriate homeownership counseling, the amendment stipulates that HUD ensure that borrowers who are capable of keeping their homes—if they receive counseling or can restructure their financial obligations—be given plenty of opportunity to do so. The HUD Secretary should, therefore, make clear to lenders and FHA that the new procedure for filing claims is not meant to override any existing programs to help borrowers deal with outstanding loans.

The benefits of this amendment will fall to borrowers, lenders and the taxpayers, alike.

The amendment would save the Federal Government considerable costs related to foreclosure, property disposition, and management which would include maintenance, repairs and taxes. An April, 1988 GAO report indicates that the costs of acquisition and disposition of property have, in many instances, outweighed the property value.

The GAO found that in fiscal year 1987, HUD's average selling price was $38,200 after holding properties in its inventory for 7 months. The interest carrying costs on such property was approximately $2,200, based on a rate of 10 percent. According to GAO, on each 1 percent of the property acquisitions, HUD would have saved roughly $1.4 million if it had been able to eliminate the interest costs through more expedient home sale programs.

I also note that in fiscal year 1987, HUD sold 59,194 single family homes out of its inventory and experienced a loss of $1.2 billion on these sales. That averages out to $20,272 per unit. The loss is based on the sales price less all HUD costs to acquire, manage, and dispose of these properties.

The time for the foreclosure process between the last payment made by a mortgagor and the time the property is conveyed to HUD is, on average, 16.7 months. GAO estimates indicate that the Federal Government would save an average of over $5,000 per unit if it avoided the foreclosure process, as well as prevent additional depreciation of property values.

Second, it would allow borrowers to keep their good credit ratings intact. Instead of having a foreclosure on record, the borrower's credit report would only indicate that a loan default has occurred.

Third, it would prevent foreclosures that can only depreciate other property in a neighborhood and force vacancies that increase the potential for vandalism. Under current practice, foreclosed property stands vacant until HUD finds a buyer for the property.

In conclusion, my amendment would shorten what otherwise has become a cumbersome and costly process for all the parties involved; be it the borrowers, lenders or the Federal Government.

The additional flexibility provided under my amendment will specifically address circumstances when the value of the property that is subject to foreclosure is less than the outstanding amount of the loan. The new procedure for filing FHA claims as proposed in my amendment is not intended to circumvent any existing counseling programs, foreclosure proceedings established at the state level or right-of-redemption time periods.

This amendment is supported by the National Association of Homebuilders and the Mortgage Bankers Association. I urge your support for this amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I am happy to yield to the chairman of the subcommittee.

Mr. GONZALEZ. Mr. Chairman, we have looked over the amendment, and we have had a chance to evaluate it. There are some things I feel we could refine, but for the purpose of expediting the processes, I will say that the amendment is good, it is constructive, and we accept it on our side.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for his support.

Mr. KLECZKA. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Wisconsin.

Mr. KLECZKA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. I did have conversations and I had correspondence with my local manager of HUD from Milwaukee, and clearly, as he demonstrated to me, we could save dollars from the insurance fund if in fact we would buy out the mortgage or permit the sale of the mortgage or the residence prior to going to foreclosure, with all the other attendant costs involved. In fact, he indicated to me that the system is similar to what the VA currently permits.

So I do very strongly support the gentleman's amendment, and I hope over the next few weeks to work with the gentleman and with the subcommittee chairman, the gentleman from Texas [Mr. GONZALEZ], to tighten up one or two aspects of it while the bill is in conference.

So, Mr. Chairman, I join the gentleman in supporting this worthwhile amendment.

Mr. BARLETT. Mr. Chairman, I thank the gentleman for his support.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

(On request of Mrs. ROUKEMA, and by unanimous consent, Mr. BARLETT was allowed to proceed for 1 additional minute.)

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the gentleman's amendment which would provide needed flexibility to FHA with respect to the handling of FHA insured mortgage foreclosures and claims payment procedures.

Under current law FHA is restricted by section 204(a) of the National Housing Act to only make a claim payment for a defaulted or foreclosed mortgage insured by FHA to a lender only after the lender has foreclosed and taken possession of the property, and actually conveyed the property to the Secretary.

The impact of this restriction is to create significant delays resulting in increased costs to the FHA mortgage insurance funds created by the holding period required before HUD may sell or dispose of the acquired and foreclosed property.

The proposed amendment will permit HUD to make claim payments on defaulted FHA insured loans before foreclosure and conveyance to lenders and when HUD approves the sale of the property by the homeowner who is in default. The amendment will result in a reduction of HUD property disposition costs and reduction of mortgage insurance fund payments, because of the savings of time of disposition of such property.

The amendment is supported by HUD and is recommended by the GAO. The National Association of Home Builders, and the Mortgage Bankers Association also supports the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAXTON: Page 55, after line 2, insert the following new section:

SEC. 1044. LEGAL REPRESENTATION IN LITIGATION INVOLVING COLLECTION OF CLAIMS AND OBLIGATIONS ARISING OUT OF RURAL HOUSING PROGRAMS.

Section 510(d) of the Housing Act of 1949 (42 U.S.C. 1480(d)) is amended by inserting before the semicolon at the end the following: "; except that prosecution and defense of any litigation under section 502 shall be conducted, at the discretion of the Secretary by—

"(1) the United States attorneys for the districts in which the litigation arises and any other attorney that the Attorney General may designate under law, under the supervision of the Attorney General;

"(2) the General Counsel of the Department of Agriculture; or

"(3) any other attorney with whom the Secretary enters into a contract".

Page 3, in the table of contents, insert after the item relating to section 1043 the following new item:

Sec. 1044. Legal representation in litigation involving collection of claims and obligations arising out of rural housing programs.

Mr. SAXTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SAXTON. Mr. Chairman, I am pleased to be able to offer an amendment which does two things which usually run counter to each other. The first is that it saves the American taxpayers or at least it has the potential of saving the American taxpayers over $102 million a year, and at the same time it makes homes available which would otherwise not be available for local and moderate income buyers.

Today in our country our Farmers Home Administration has on the books some $555 million worth of mortgages which are in the process of foreclosure.

□ 1815

These are on homes that have been vacated. They have been boarded up. They are in disrepair and becoming in more disrepair.

Mr. Chairman, through this amendment, therefore, we can save a great deal of money for the taxpayers and put these homes back on the market for people who need them. As a matter of fact, our research shows, Mr. Chairman, that there are more than 17,000 of these homes available throughout the country today, and in my home State, 744 alone.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Texas [Mr. GONZALEZ] happily.

Mr. GONZALEZ. Mr. Chairman, we have discussed this with the author of the amendment. We have looked it over. It is a very good amendment, and I compliment the gentleman for improving this bill with respect to the Farmer's Home Administration programs, and we accepted it on our side.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I am happy to yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I just want to rise in support of the amendment of the gentleman from New Jersey [Mr. SAXTON], and I congratulate him because this puts more housing stock back on the market, it will save the Government tens of millions of dollars by contracting attorneys fees, and it is amazing that we have not thought of this before. I congratulate the gentleman.

Mr. Chairman, I rise in support of the amendment my colleague from New Jersey has offered.

In these days of scarce Federal funds and even scarcer low-income housing, it's a disgrace that we allow perfectly good houses to sit boarded up for over 3 years because the U.S. Attorney's Office doesn't have the manpower to promptly handle section 502 foreclosure cases.

This amendment will not make it easier for the Farmers Home Administration to evict defaulting borrowers from their homes. It does not affect foreclosure decisions at all, nor does it affect the numerous servicing options that Farmers Home is required to offer to these section 502 borrowers. According to the FmHA, evictions are rarely necessary for borrowers who don't resolve their problems in the first phases of the foreclosure process, because most of these homes are vacated by the borrowers when, or shortly after, foreclosure is initiated.

It is at this point, when a foreclosure case is turned over to the U.S. Attorney's Office, that the process bogs down. Farmers Home estimates that judicial foreclosure takes an average of three years, during which the houses in question remained unused. Each of these empty houses—of which there are now over 17,000—costs the Government about $400 per month in interest payments, taxes, and caretaker and repair fees.

Meanwhile, low-income families who would love to have the chance to buy these homes through the section 502 program are closed out of the housing market for want of available housing.

The Farmers Home Administration estimates that the time it takes to complete an average judicial foreclosure could be cut from 3 years to 1 year if they could secure adequate legal manpower by contracting with outside attorneys. The savings from such a reduction, in interest costs alone, would be in excess of $100 million per year. It would also liquefy the more than $555 million now invested in these loans, which continue to accrue interest at approximately $70,000 per day.

In short, this amendment would save the Government money while helping low-income families secure decent housing. I urge my colleagues to support these worthy goals.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I rise in support of the amendment of the gentleman from New Jersey [Mr. SAXTON].

This amendment is constructive and technical in nature and pertains to title X—Technical and Conforming Amendments to the Housing and Community Development Act of 1987.

Specifically, the Saxton amendment will result in substantial cost savings and reduction of delays in the collection of claims and obligations in the administration of loan processing under the Farmers Home Administration Rural Housing Home Ownership Program known as section 502.

The amendment will provide for a more flexible alternative to the Farmers Home Administration in the collection of claims and obligations arising from mortgage foreclosure proceedings. Presently the law limits litigation procedure to be conducted only by the U.S. Attorneys General. This limitation has a funnel impact resulting in very long delays and subsequent loss of time and the addition of costs to the process.

The gentleman from New Jersey, Mr. Saxton's amendment will permit, at the discretion of the Secretary of Agriculture, the handling and processing of such claims and obligations to be administered by attorneys from the U.S. Department of Agriculture in addition to the Attorneys General.

This will greatly expedite the procedure and save taxpayers dollars.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment was agreed to.

Mr. VENTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, no person has to look far to see why this legislation and such programs are so necessary. There are 2 to 3 million homeless men, women, and children in our Nation.

To be homeless, what does it mean? We hear so much about the homeless that we may gloss over the real meaning of homeless. My colleagues, take just a minute to think about life without a decent place to live. Without shelter, we would see the disintegration of our family, our job, and eventually our entire life would be in dismay.

Shelter provides much more than a roof over our heads. It provides the stability neeeded to live a normal life. The millions of homeless individuals and families are not just without shelter, they are without the essential stable base needed to pull themselves out of despair.

Without shelter, they are unable to take advantage of opportunities such as education and employment—the traditional and only means to get ahead in society and to make your way back into the mainstream.

Without shelter, the homeless are driven to such desperation that they will take any work they can find—and I mean any work—even when it may seriously threaten their health and endanger their lives. Recent incidents in the San Francisco Bay area have been reported, in which homeless people were hired to work as "scrapers" removing cancer-causing asbesto from buildings without the adequate training, safety equipment, or proper protective clothing, and without medical exams as required by Federal and States laws. One homeless activist has said, "Society doesn't want asbestos and it doesn't want the homeless, and it treats both as waste products." What a travesty. What an outrageous exploitation of the powerless in our society—a nation that reverses the dignity and value of the individual.

What does that say about our society that we allow the most powerless to be shuffled around, taken advantage of and treated as expendable?

Allowing our fellow citizens to remain homeless and vulnerable is devastating to the individual and devastating to society as a whole.

These actions, this exploitation must not go unchecked. Let me assure my colleagues of my concern and enlist your help to fully address the questions and accountability of our laws and protection of workers in the work place, whether they are homeless or not.

For the individual who is homeless, decent shelter provides a basis for dignity and self-respect and a boost out of the despair of being homeless. This legislation will reclaim some of the lost hope and restore a measure of dignity for thousands of homeless nationwide.

The homeless crisis has surely reached critical proportions within the last decade. Why does our Nation have more homeless today than at any time since the Great Depression? Why indeed? Because we have more poor people, with less money, seeking fewer available housing units, of declining quality at sharply increasing rents.

The future housing prospects for low-income Americans looks even bleaker. The number of poor households is expected to increase by more than 40 percent and the number of low-rent units is expected to shrink from 12.9 to 9.4 million within 15 years if the current policy path is not changed.

The American public recognizes and sympathizes with the plight of the homeless. Sixty-eight percent of American voters support increased funding for Federal aid to the homeless, according to a Roper organization poll. No other economic, military or social program has such support, yet, most other Federal programs receive more funding.

The concern of the American public is part of the reason we were able to elicit the support of nearly 100 Members of Congress as cosponsors. I thank the Speaker JIM WRIGHT, Majority Leader TOM FOLEY and Majority Whip TONY COEHLO for their early endorsement of this legislation. I also thank Chairman ST GERMAIN, Chairman GONZALEZ, and Ranking Member CHALMERS WYLIE and MARGE ROUKEMA for their support. Of course, I also want to thank my colleague and friend MIKE LOWRY who has been fighting this battle with me since the start in Congress.

The McKinney Act will continue to help meet the immediate emergency needs as well as deal with some of the chronic problems of the homeless. This 2-year reauthorization measure proposes about $642 million annually to meet the needs of the homeless. In addition to emergency shelter and food, the legislation will provide critical health care, education, job training services, and transitional housing for homeless families.

In 1 short year since the McKinney Act took effect, it has enhanced existing homeless programs, and spawned a number of innovative new homeless assistance programs nationwide. It has encouraged communities across America to respond to the tragedy of homelessness with great compassion. All sectors—public, private and nonprofit—have participated in efforts to help those who have become victims of the housing and shelter crisis plaguing our Nation.

In order to help the homeless we must meet their emergency needs and then tackle the larger problem of providing affordable housing. The enactment of this legislation is a crucial step in our efforts to help the homeless out of their despair; to help them regain their dignity and self-respect; and to boost them back into the mainstream. The next step will be to alter the devastating housing policy path this Nation has been on for the last 8 years and to provide the homeless and all Americans with decent, affordable housing.

I urge my colleagues to support this legislation.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman for giving me just a few moments as the dean of the Connecticut delegation to commend him for his great work and to remember Stewart McKinney, who of course played such a tremendous role in working for the homeless.

The Stewart B. McKinney Act is an appropriate tribute to our late colleague from Connecticut. Stewart worked hard for those most in need in our Nation—the poor, the homeless.

Reauthorization of the act is an important tribute to Stew. More importantly, reauthorization is essential to the survival of homeless families and individuals.

Homelessness is a problem that continues to grow worse. As we all know, the fastest growing group of homeless is families with children. Homelessness is found across our Nation, in our cities, in our rural communities, even in our suburbs. There are an estimated 20,000 homeless in Connecticut.

The McKinney Act provides needed relief—emergency food, shelter, health and mental health care. The need for this relief is growing. We not only need to reauthorize this bill; we need to find solutions so no more families are forced to survive on the street and in emergency shelters.

We need to find permanent solutions to the causes of the problem, not just solutions to the effects of the problem. If Stewart was with us, he would be fighting to find permanent solutions to the causes of homelessness. He would be fighting for decent, affordable housing for the poor and for families with moderate incomes. He would be fighting for the health of our cities and towns. He would be fighting for opportunity for our country's poor.

As we consider the reauthorization of this act, we should also remember the values of its original author and work to fight for them.

Mr. VENTO. Mr. Chairman, I would share in the gentleman's accommodation with regards to Mr. McKinney. I think this is a day in which he would be proud of the work of this House.

The CHAIRMAN. Are there further amendments to title X?

If there are no further amendments, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the Chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, pursuant to House Resolution 508, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GONZALEZ. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 333, noes 80, not voting 18, as follows:

[Roll No. 257]

AYES—333

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Crockett
Darden
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—80

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bereuter
Bilirakis
Brown (CO)
Bunning
Burton
Callahan
Cheney
Combest
Craig
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gregg
Hammerschmidt
Hansen
Hastert
Hefley
Hopkins
Hunter
Inhofe
Kolbe
Konnyu
Kyl
Latta
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
Michel
Moorhead
Nielson
Oxley
Packard
Petri
Porter
Rhodes
Ritter
Roberts
Roth
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Sweeney
Swindall
Thomas (CA)
Walker
Weber
Whittaker

NOT VOTING—18

Biaggi
Boulter
Coyne
Daub
de la Garza
Dowdy
Espy
Ford (TN)
Gephardt
Glickman
Kemp
Lott
MacKay
Mica
Owens (NY)
Spence
Taylor
Udall

□ 1844

The Clerk announced the following pair:

On this vote:

Mr. Owens of New York for, with Mr. Boulter against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COYNE. Mr. Speaker, I was absent during rollcall vote No. 257 on H.R. 4352. Had I been present I would have voted "yes" on passage of the bill.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4352, OMNIBUS McKINNEY HOMELESS ASSISTANCE ACT OF 1988

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 4352, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make any other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 4352, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT OF RULES COMMITTEE PROCEDURE PROVIDING FOR CONSIDERATION OF OMNIBUS DRUG LEGISLATION

Mr. PEPPER. Mr. Speaker, I have a very important announcement to make regarding the Rules Committee procedure in providing for the consideration of the omnibus drug legislation. On Monday, Members should have received a "Dear Colleague" outlining the amendment procedure. I would simply like to reemphasize at this time that all amendments to the drug bill must as a general guideline be submitted to the Rules Committee by 3 p.m., Friday, August 5. Today, an amended Rules Committee print is being distributed to all Members which should be used in the preparation of amendments. This new committee print is simply a compilation of all the bills submitted for inclusion in the Omnibus drug bill from the legislative committees. The original Rules Committee print distributed on Tuesday inadvertently failed to include the Energy and Commerce Committee title. In addition, Members should submit 35 copies of each amendment along with a brief explanation to the Rules Committee. The Rules Committee will meet to take all testimony on the bill and all amendments beginning at 11:00 a.m., Monday, August 8.

We contemplate finishing hearing all the witnesses on Monday, August 8, and reporting a rule out to the House on the next day, August 9.

Mr. Speaker, I thank the Members for their consideration.

□ 1845

MAKING IN ORDER CONSIDERATION OF THE UNITED STATES-CANADA FREE TRADE AGREEMENT, H.R. 5090, ON AUGUST 9, 1988, OR ANY DAY THEREAFTER

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it be in order to consider, pursuant to the procedures contained in section 151 of the Trade Act of 1974, as amended, the bill (H.R. 5090) implementing the United States-Canada Free Trade Agreement, any rule of the House to the contrary notwithstanding, on Tuesday, August 9, 1988, or any day thereafter, and that the general debate on the bill be limited to 3 hours.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I do not intend to object, but I take the time in order to ask the gentleman from Washington if he could inform the House what the rest of the schedule is for the evening. We are hearing a whole series of rumors about what it is we are taking up and what we are not taking up. I wonder if the gentleman could clarify the situation for the House.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman.

Mr. FOLEY. Mr. Speaker, it will be our intention to call up the veto message of the President with respect to the bill H.R. 4264, the Department of Defense authorization bill, and I will move to refer the bill and the accompanying veto message to the Committee on Armed Services. That motion is preferential and would provide for 1 hour of debate. It would be my intention to yield that time to the gentleman from Wisconsin [Mr. Aspin], who in turn will yield 30 minutes to the Republican side. At the conclusion of the debate, we will have a vote, rollcall vote, on the referral motion, and if it is carried, that will conclude the business for the evening. Let me correct that statement. We will take up the general debate tonight, general debate only, on the conference report with respect to the Japanese relocation legislation, the conference report.

Mr. WALKER. Mr. Speaker, further reserving the right to object, there are a number of us who have some severe concerns about bringing up the Japanese relocation bill and debating it when the Members are obviously going to be leaving the Hill. Is there any chance that the debate and the vote could go tomorrow rather than trying to do that yet this evening? Obviously it is going to be very late at night before that particular bill comes up, and as the gentleman well knows, that has been a subject of some controversy.

Mr. FOLEY. We had intended to take the Japanese relocation bill up in its entirety tonight, but the intervening veto message has created a situation where the schedule has to be adjusted because of that. As the gentleman knows, it is necessary to take some action on the veto message on the day it is received, and that is what is making us late, not the Japanese relocation bill.

Mr. WALKER. Mr. Speaker, further reserving the right to object then, can we have the vote tonight, because if in fact what we are going to do is keep some of the Members around here in order to participate in the debate——

Mr. FOLEY. The Members have to decide whether they remain for the debate or not. There is no way, as the gentleman knows, that Members can be forced to sit in the Chamber or to otherwise listen to the debate if they do not wish to do so, whether the debate is held at night or in the morning, and frankly I think the attention span of Members is sufficiently great to carry them from the evening's conclusion tonight to the first action tomorrow morning.

Mr. WALKER. Further reserving the right to object, I am wondering, Mr. Leader, given the nature of this, is there any chance that we could do part of the debate tonight and part of the debate tomorrow and thereby at least give some chance that some Members might hear the debate? I think we are in a situation where what we are doing is putting this in, this particular legislation in a situation where we can predict that practically none of the Members are going to hear the debate on this very serious matter. Is there some chance that we can divide the debate?

Mr. FOLEY. I have to disagree with the gentleman. This matter has been extensively debated during the legislative stage of the bill, and the conference report follows very closely the legislation enacted in the House. It is not a matter of new impression to the Members, and the issues have been thoroughly debated, but, again, I am not willing to suggest that Members are all going to absent themselves from the House tonight. We have discussed it. There is an obvious difference of opinion about whether we should conclude tonight, keeping all of the Members there for a vote, or attempt to do the general debate and to have the vote the first thing in the morning. It is not unusual at all that we should do this. Time and time again, we have had the general debate at the conclusion of one business day and the vote or the amendments considered the following day.

Mr. WALKER. Further reserving the right to object, maybe I can ask the Chair a question. Has this matter been before the Senate? Has the Senate approved the conference report at this point?

The SPEAKER. The Chair will respond to the gentleman's question that the Senate has approved the conference report on H.R. 442. The remaining action is in the House.

Mr. WALKER. I thank the Chair. I have one more question.

Mr. FOLEY. If it will provide any assistance to the gentleman, we could do 10 minutes on each side tomorrow.

Mr. WALKER. I think that would be preferable to doing the whole thing this evening, and I think that if we could arrive at that agreement that would certainly be preferable to trying to do the whole thing this evening.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I would like to establish for the record and the understanding of some of the Members, including this one, is it a parliamentary requirement that we must bring up the veto message and deal with it today?

Mr. FOLEY. The gentleman is correct.

Mr. DICKINSON. Why must it come today if it has not even come back yet? Why do we not take it up tomorrow?

Mr. FOLEY. We are required to take some action on it when it is received. It can be referred; it can be tabled; it can be postponed to another date at a time certain or it can be voted. Some action is required today, under my understanding.

Mr. DICKINSON. It would seem reasonable to me, and certainly I think preferable, if we could postpone it to a date certain such as tomorrow to give us some opportunity to get ready to even debate it, and why it has to come up and be dealt with today instead of going over to tomorrow and give us an opportunity to take up the Japanese relocation bill, that makes more sense to me.

Mr. FOLEY. I understand, and believe me as one who has been involved in it, that there are many different ways of doing a schedule. We create all sorts of alternatives, postponing for months, postponing for days, taking up one bill tonight and another bill another night, and I just have to tell the gentleman that we have given a lot of thought to this. This is what we consider to be the best arrangement and, with the exception of the change that I have just noted, that we will have 10 minutes of debate tomorrow, if the gentleman finds that agreeable, on each side prior to the adoption of the conference report vote. I will also say that under those circumstances we will do the 1-minutes at the end of the day tomorrow, not prior, and we will probably hope that we could avoid the Journal vote tomorrow.

Mr. DICKINSON. If I might just respond to the gentleman, and I thank him for his answer, and it is not the intent at this time to be argumentative, but if it is possible to simply postpone to a date certain such as tomorrow so that we can deal with it, we could deal with the rest of today's scheduled business today and get out of here and give us an opportunity to at least focus further on the veto, and I would hope it would not go over.

Mr. FOLEY. Mr. Speaker, I wish to tell the gentleman that we were not advised by the executive branch that they were sending the bill vetoed today. It could have been a message tomorrow and taking care of the problem that way, but having received it, we are in a position of having to determine how to proceed. It is our intention to go ahead with a motion to refer the bill to committee, and that is subject to 1 hour of debate under the rules. A usual vote on the veto override would be 1 hour of debate, so in either case, we are getting an hour of debate on it.

Mr. DICKINSON. Mr. Speaker, I thank the majority leader for his answer. But I think we would be wise to do it tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington with respect to granting permission for consideration for the United States-Canada Trade Agreement?

Mr. WALKER. Mr. Speaker, reserving the right to object, it has been brought to my attention that we might have one other piece of legislation coming to the floor tomorrow, and I would like to find out if this piece of information is true, and that is dealing with the railroad strike in Chicago. Is that piece of legislation going to be on the schedule tomorrow? Is that one reason why we cannot fit some of these other things in tomorrow? Is that something else that is going to be added to the schedule, and is that something else that we have not been informed about?

The SPEAKER. May the Chair respond that if that matter were to arise for consideration tomorrow, it would do so by a unanimous-consent request.

□ 1900

Mr. WALKER. It would have to come up by unanimous consent?

The SPEAKER. That would be the expectation of the Chair.

Mr. WALKER. I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On June 14, 1988:

H.J. Res. 469. Joint resolution to designate June 1988 as "National Recycling Month"; and

H.R. 4556. An act to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.

On June 16, 1988:

H.R. 2210. An act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints; and

H.R. 2969. An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

On June 17, 1988:

H.R. 1100. An act to authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park, in the State of Illinois, and for other purposes;

H.R. 3869. An act to amend the act providing for the establishment of the Tuskegee Institute National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes; and

H.R. 4799. An act to extend the withdrawal of certain public lands in Lincoln County, NV;

On June 22, 1988:

H.J. Res. 423. Joint resolution to designate the third week in June 1988 as "National Dairy Goat Awareness Week".

On June 24, 1988:

H.R. 4448. An act to designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, Ohio, as the "John O. Holly Building of the United States Postal Service."

On June 27, 1988:

H.R. 1044. An act to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes;

H.R. 1212. An act to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce;

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes;

H.R. 4621. An act to provide Congressional approval of the Governing International Fishery Agreement between the United States and the Government of the German Democratic Republic; and

H.R. 4638. An act to amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

On June 28, 1988:

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site.

On June 29, 1988:

H.R. 3927. An act to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives.

On June 30, 1988:

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988 "National Safety Belt Use Week".

On July 1, 1988:

H.J. Res. 587. Joint resolution designating July 2 and 3, 1988, as "United States-Canada Days of Peace and Friendship"; and

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

On July 6, 1988:

H.R. 4162. An act to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States.

On July 11, 1988:

H.R. 4731. An act to extend the authority for the Work Incentive Demonstration Program.

On July 15, 1988:

H.R. 4288. An act to designate the Federal building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Building".

On July 18, 1988:

H.R. 3893. An act to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State Governors and to begin implementation of those plans.

H.R. 4639. An act to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes.

On July 19, 1988:

H.R. 4229. An act to amend title 10, United States Code, to codify in that title certain defense-related permanent freestanding provisions of law.

H.R. 4567. An act making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

On August 1, 1988:

H.J. Res. 569. Joint Resolution designating July 24 through 30, 1988, as "Lyme Disease Awareness Week".

H.R. 3251. An act to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-220)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning without my approval H.R. 4264, the National Defense Authorization Act, Fiscal Year 1989.

The bill's provisions on strategic defense and arms control undercut the very foundation of our Nation's security and our successful arms reduction efforts—to negotiate with the Soviets, we must do so from strength. On the basis of strength alone, we concluded the historic INF Treaty to eliminate an entire class of United States and Soviet nuclear missiles. Only on the basis of strength can we continue to pursue our negotiations in Geneva for further arms reductions, including deep cuts in strategic forces.

This bill would drastically curtail our Strategic Defense Initiative [SDI] Program, make unilateral concessions on arms control, limit our strategic forces and their modernization, and sacrifice national defense requirements to the demands of parochial interests. It would needlessly concede military advantage to the Soviets, whose military programs are not similarly restricted. The bill would signal a basic change in the future direction of our national defense—away from strength and proven success and back toward weakness and accommodation. It would reward the Soviets for their words and not their deeds. This I shall not do.

The bill would restrict, reorient, and limit funding for our strategic defense initiative. Together, these restrictions and funding cuts would cripple our ability to fulfill the promise of effective strategic defense. The bill would hand the Soviet Union restrictions on our Strategic Defense Initiative Program they have long sought. It would limit critical funding for the space-based interceptor program, altering long-established priorities for the SDI and delaying unacceptably the development of technology to defend against missiles in the boost-phase, where defensive leverage is greatest. The strategic defense initiative challenges our best scientists to find a way to deter war and protect what we value while threatening no one. The use of advanced technologies to defend—rather than destroy—offers the brightest hope for a more secure future. Most importantly, we owe our children an alternative to the current policy of deterrence based solely on the threat of nuclear retaliation.

The Congress must fully fund our vital Strategic Defense Initiative Program without restricting research into promising technologies.

The bill would return us to the practice of rushing to give away our negotiating leverage without receiving a single thing in return from the Soviets.

Two such actions in this bill:

Depressed Trajectory Missile Testing—The bill would prohibit depressed trajectory missile testing. Yet, the Congress admits that depressed trajectory testing is something it cannot define. So, the bill asks the Department of Defense to define the action, after which the Department will be banned from conducting such tests unless such tests are undertaken by the Soviet Union. This hastily written provision usurps the President's treaty negotiating authority and erodes the Senate's treaty ratification responsibility.

Poseidon Retirements—The bill would require the United States to remove two of our Poseidon ballistic missile submarines from active duty earlier than we had planned. The action is a vestige of thinly disguised congressional efforts to force the United States to comply unilaterally with numerical limits in the fatally flawed and unratified SALT II Treaty. In its current form, it would arbitrarily restrict U.S. strategic force levels by prematurely retiring Poseidon submarines. There is no similar requirement for the Soviet Union. This would undermine both our strategic deterrent and our position in the START negotiations.

The bill would cut 25 percent of the funds requested to continue modernization of our strategic forces at the same time we are pursuing strategic arms reductions. It does not assure our rail-mobile PEACEKEEPER program—a program critical to ensuring the continued effectiveness of the land-based leg of the triad of forces we have relied upon for several decades. The Soviet Union continues, without letup, its own strategic modernization program which includes both new rail- and road-mobile ICBM's.

Part of the success we have experienced in the last several years rests squarely upon the modernization of our strategic forces, which had witnessed a decade of neglect during the 1970's.

Our negotiators in Geneva have told us that the Strategic Defense Initiative and the strategic modernization program brought the Soviets back to the table in 1985. This helped us attain the first real cuts and begin to move even further toward more historic 50-percent reductions in Soviet and American strategic nuclear forces. Bolder agreements and deeper, stabilizing cuts are only possible if we maintain our resolve. The Congress must fully fund the modernization of our strategic forces. The Congress must stop tying the hands of our negotiators in Geneva.

Finally, the bill would authorize a number of procurements that are clearly in the special interest of a few. Although the bill is within the overall levels of defense spending outlined in the bipartisan budget agreement, the Congress stayed within the agreement only by reducing vital programs and inserting billions of dollars for items not needed to defend our Nation. In short, the bill trades vitally needed defense muscle for the parochial interests of those in the Congress.

There are a number of desirable provisions in this bill. In fact, the version passed by the Senate was one of the better defense bills in several years. The provisions for the readiness and modernization of our forces needed for a strong conventional deterrent, the authorized personnel levels, the needed pay raise for our men and women in uniform, the support for multi-year procurement, and the responsible involvement of the Department of Defense in our war on drugs are all positive aspects of the bill. Unfortunately, the House version contained many unacceptable provisions, and the conference agreed on a bill more like the House version than the Senate version.

In conclusion, I cannot accept H.R. 4264 because it would undercut current U.S. arms control and negotiating efforts and redirect funds from critical defense programs. I look forward to receiving from the Congress a responsible defense bill.

RONALD REAGAN.

THE WHITE HOUSE, *August 3, 1988.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

The Chair recognizes the gentleman from Washington [Mr. FOLEY].

PARLIAMENTARY INQUIRIES

Mr. MICHEL. Mr. Speaker, I have a series of parliamentary inquiries.

The SPEAKER. The gentleman will be recognized to state his parliamentary inquiries.

Mr. MICHEL. Mr. Speaker, is it true that under House precedents, now that the President's veto message has been read, the question of consideration is considered as pending and a motion to reconsider is not required?

The SPEAKER. The gentleman would be correct if the Chair should state the question on reconsideration. The Chair has not stated that question.

Mr. MICHEL. I have a further parliamentary inquiry, Mr. Speaker. Is it also true that unless the Speaker actually states the question on passing the bill under reconsideration, the bill is not considered to be under debate by the House?

The SPEAKER. The gentleman is correct.

Mr. MICHEL. Is it not customary for the Speaker to state the question on passage immediately after the reading of a message so that the House can actually proceed to debate and vote on the bill?

The SPEAKER. The Chair would respond that that is not necessarily customary.

The consistent practice under the precedents of the House with respect to the disposition of veto messages is accurately reflected in Deschler-Brown procedure in the House, chapter 24, section 15.8.

> Under the precedents of the House, when a veto message is before the House for consideration either de novo or as unfinished business, the motions to lay on the table, to postpone, and to refer take precedence in the order named over the question of reconsideration, the objections of the President to the contrary notwithstanding, and a Member may not in that situation invoke the provisions of rule XVI, clause 4 to move the previous question on the question of reconsideration as preferential over the motion to refer, where the chair has not yet stated the question to be pending on overriding the veto.

It is an accepted principle of parliamentary procedure that a question is not under debate until the chair has stated the question. Thus, the question of overriding the President's veto is not under debate until the Speaker states the question as such.

Such course is not required under the precedents, although the chair has on occasion entertained a motion to proceed to the reconsideration of a vetoed bill. The Constitutional question of reconsideration may be considered as pending without motion from the floor when so stated by the chair. And that is a modern practice.

But Speaker Champ Clark stated the constitutional and parliamentary situation correctly in Cannon's VII, section 1100, where the headnote reads that:

> The constitutional mandate that the House "shall proceed to reconsider" a vetoed bill is complied with by laying it on the table, postponing consideration to a day certain, referring it to a committee, or immediately voting on reconsideration.

Speaker Clark said:

> Of course everybody understands that frequently it would be extremely inconvenient, if not impossible, to immediately consider a veto message; and the Constitution does not say "immediately" anyhow. The practice has been to dispose of it in one of three ways.

And therefore, in response to the gentleman's question, the Chair would declare that the precedents of the House consistently indicate that prior to the Chair's stating the question of whether the House upon reconsideration shall pass the bill, the objections of the President to the contrary notwithstanding, any one of three motions would be in order, but that the motion for the previous question is not yet in order on the question of override, unless and until the Speaker has not stated that question or recognized for a motion to that effect.

Mr. MICHEL. Mr. Speaker, I have a further parliamentary inquiry.

Is the Speaker saying that the constitutional mandate to proceed to reconsider a vetoed bill may be prevented by secondary motions and the House could actually avoid a direct debate and vote on overriding the veto bill?

The SPEAKER. The Speaker is saying that on many occasions precisely that has occurred, and that it is wholly within the precedents and rules of the House, and that under those precedents a motion to refer takes precedence over a motion to reconsider, the objections of the President notwithstanding, where the Chair has not stated the question on override.

Mr. MICHEL. In the opinion of this gentleman, I guess that tends to stand the Constitution on its head, but the Chair has made a ruling.

□ 1915

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Is all that the Speaker has just told the House true even if there is no intention of ever proceeding to the reconsideration of the veto?

The SPEAKER. The issue remains privileged under the rules of the House and there is no precedent available to the Chair with respect to an interpretation of intention in regard to a matter of this kind. The intentions of the House may be expressed in any one of several ways: By tabling, by postponing to a day certain, by referring to a committee or by proceeding immediately to the reconsideration of the matter vetoed, the objections of the President to the contrary notwithstanding.

Any one of those four is in order under the House rules. Under the precedents that the Chair has cited, to wit: The precedents stated in chapter 24, section 15.8 of the Deschler/Brown Procedure, a motion to refer to a committee would take precedence over a question of reconsideration where the Chair has not stated the question on override.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker: If I understood the precedents as read by the Speaker, they were predicated on the idea that the House would eventually proceed to reconsideration. If in fact the House does not ever get to reconsideration, then it seems to me that those precedents, then, do not apply. And so this gentleman's inquiry is whether or not those precedents only apply when the House is actually proceeding to reconsideration.

The SPEAKER. The presumption has to be that the precedents apply with respect to a present situation in which a Presidential veto message has been presented to the House and the motion of any of the types described is offered.

Now the Chair would state, further, to the gentleman that if the bill were, by action of the House, referred to a committee, it remains a privileged matter under the precedents and the motion to discharge that committee would be in order at a subsequent time, consistent with the constitutional requirement that the House reconsider the bill.

CONSTITUTIONAL PRIVILEGES OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I rise to a question of the constitutional privileges of the House. I send a resolution to the desk and ask for its immediate consideration.

The SPEAKER. The Chair will report the resolution.

The Clerk read as follows:

HOUSE RESOLUTION

Whereas the Constitution provides that, if a bill is returned by the President to the Congress without his approval, the objections shall be entered at large on the Journal and the House which originated the bill shall "proceed to reconsider it."; and

Whereas "when a bill returned with the President's objections is called up the question of reconsideration is considered as pending and a motion to reconsider is not required." (7 Cannon's Precedents 1097-1099); and

Whereas veto messages are privileged questions under the Constitution and "take precedence over all other business except questions of the privileges of the House" (6 Deschler's Precedents, chapter 21, § 28); and

Whereas House Rule IX defines questions of privilege as "those affecting the rights of the House collectively," including the "integrity of its proceedings," and, under the precedents of the House, include "questions relating to its constitutional prerogatives (House Rules & Manual, § 662); and

Whereas the Speaker was in the process of giving priority recognition for a motion to refer the vetoed bill (H.R. 4264), the Department of Defense Authorization for Fiscal Year 1989 at the time this resolution was offered and before stating the question on the reconsideration of said vetoed bill; and

Whereas such consideration of a motion to refer would preclude the actual reconsideration of the vetoed bill as guaranteed by article I, section 7 of the Constitution, interferes with the constitutional prerogative of the House to "proceed to reconsider" the vetoed bill, and thus raises a question of the constitutional privileges of the House under House Rule IX: Now, therefore, be it

Resolved, That as a question of the constitutional privileges and prerogatives of the House under Rule IX, the Speaker shall, immediately upon the adoption of this resolution, first state the question on the reconsideration of the bill (H.R. 4264), before recognizing any Member to offer a motion to refer the vetoed message and bill.

The **SPEAKER**. The Chair will state that the distinguished Republican leader has demonstrated the courtesy to the Chair of having shown this proposed resolution to the Chair in advance and the Chair expresses his appreciation for that courtesy.

Therefore, the Chair has had the opportunity to examine the resolution and concludes that the question of the privileges of the House under rule IX is not involved in such a resolution.

As recently as March 11, 1987, as shown on page 341 of the House Rules Manual, it was held that questions of privilege of the House may not be invoked to effect a change in the rules of the House on their interpretation, including directions to the Speaker that priority recognition shall be given to any Member seeking to call up a matter highly privileged pursuant to a statutory provision.

By the terms of the resolving clause, the gentleman's motion would require that the Speaker shall immediately, first state the question on the reconsideration of the bill before recognizing any Member to offer a motion to refer. That would be a change in the rules of the House and an overt direction to the Speaker as to whom he must give priority recognition. The Chair believes that under the precedents, the question of reconsideration which the gentleman from Illinois would reach immediately through the adoption of such resolution as this can only be reached under the rules when the Speaker states the question to be on the passage of the bill, the objections of the President to the contrary notwithstanding, or when the Speaker recognizes a Member to offer a motion to that effect. But until that time, the precedents of the House indicate that the Chair is acting in accordance with the rules by recognizing a Member to move to lay the bill on the table or to postpone further consideration of the bill to a day certain or to refer the bill to a committee. And thus the Chair really does not believe that a question of the privilege of the House can be utilized to direct the Chair's recognition in a certain way when the Chair has exercised his power of recognition in accordance with the rules.

The Chair had done so by recognizing the gentleman from Washington, the distinguished majoriey leader.

Mr. **WALKER**. Mr. Speaker, I respectfully appeal from the ruling of the Chair.

Mr. **FOLEY**. Mr. Speaker, I move to lay the appeal on the table.

The **SPEAKER**. The question is on the motion to lay the appeal on the table offered by the gentleman from Washington [Mr. FOLEY].

The question was taken, and on a division (demanded by Mr. WALKER) there were—yeas 87, nays 72.

Mr. **WALKER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 168, not voting 29, as follows:

[Roll No. 258]

YEAS—234

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—168

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—29

Applegate
Biaggi
Boulter
Carper
Crockett
Daub
de la Garza
Dowdy
Espy
Foglietta
Ford (TN)
Gephardt
Glickman
Hyde
Kemp

Lott
MacKay
Mica
Miller (CA)
Murphy
Owens (NY)
Oxley
Rose
Smith (TX)
Spence
Stark
Taylor
Udall
Williams

The Clerk announced the following pairs:

On this vote:

Mr. Carper for, with Mr. Boulter against.
Mr. Foglietta for, with Mr. Oxley against.

☐ 1945

So the motion to lay the appeal on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PREFERENTIAL MOTION OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. WALKER moves to postpone consideration of the bill, H.R. 4264, together with the veto message, until Thursday, August 4, 1988.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to postpone on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to lay on the table the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and on a division (demanded by Mr. WALKER) there were—153 yeas, 95 nays.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 158, not voting 48, as follows:

[Roll No. 259]

YEAS—225

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Cooper
Coyne
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wilson
Wolpe
Wyden
Yates
Yatron

NAYS—158

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Packard
Parris
Pashayan
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—48

Andrews
Applegate
Bateman
Biaggi
Boulter
Brooks
Buechner
Carper
Conyers
Crockett
Daub
de la Garza
Dowdy
Espy
Fish
Florio
Foglietta
Ford (TN)
Gallegly
Gephardt
Glickman
Henry
Hyde
Kemp
Lancaster
Lott
Lujan
MacKay
Mica
Miller (CA)
Murphy
Nelson
Owens (NY)
Oxley
Petri
Ridge
Rose
Sabo
Shuster
Smith (TX)
Solomon
Spence
Stark
Taylor
Udall
Waxman
Williams
Wise

☐ 2007

The Clerk announced the following pairs:

On this vote:

Mr. Carper for, with Mr. Boulter against.
Mr. Foglietta for, with Mr. Oxley against.

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I move that the veto message of the President, together with the accompanying bill, H.R. 4264, be referred to the Committee on Armed Services.

MOTION TO TABLE OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I move to table the motion offered by the gentleman from Washington [Mr. FOLEY].

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] to lay on the table the motion offered by the gentleman from Washington [Mr. FOLEY].

The question was taken; and the Speaker announced that the nays appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 162, nays 229, not voting 40, as follows:

[Roll No. 260]

YEAS—162

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson

Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Packard
Parris
Pashayan
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—229

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Cooper
Coyne
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—40

Andrews
Applegate
Biaggi
Boulter
Brooks
Buechner
Carper
Conyers
Crockett
Daub
de la Garza
Dowdy
Espy
Fish
Foglietta
Ford (TN)
Gallegly
Gephardt
Glickman
Hyde
Kemp
Lott
Lujan
Luken, Thomas
MacKay
Mica
Murphy
Owens (NY)
Oxley
Petri
Rose
Sabo
Shuster
Solomon
Spence
Spratt
Stark
Taylor
Udall
Waxman

☐ 2024

The Clerk announced the following pairs:

On this vote:

Mr. Boulter for, with Mr. Carper against.
Mr. Oxley for, with Mr. Foglietta against.

Mr. MILLER of California changed his vote from "yea" to "nay."

Mr. EMERSON changed his vote from "nay" to "yea."

So the motion to lay the motion on the table was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The pending business is the motion of the gentleman from Washington [Mr. FOLEY] to refer the veto message and the bill to the Committee on Armed Services.

The gentleman from Washington [Mr. FOLEY] is recognized for 1 hour.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the hour provided for debate on this motion may be equally divided and controlled, for purposes of debate only, by the chairman and the ranking minority member of the Committee on Armed Services.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The gentleman from Wisconsin [Mr. ASPIN] is recognized for 30 minutes.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is appropriate to refer this veto message to the committee at this time.

The House could go through a contentious debate on the veto and vote on it but, with the vote result as close as it was when the conference report originally passed the House, I don't think this would be productive.

I don't want people to misunderstand my dismay at the President's decision. It is clear, Mr. Speaker, this veto has almost nothing to do with the substance of the bill and almost everything to do with politics and the White House effort to use important legislative responsibilities of this Government to the perceived benefit of the Bush Presidential campaign.

Mr. Speaker, it is well known that the Secretary of Defense and the President's own National Security Advisor opposed a veto. It was the political apperatchicks in the White House who engineered this action. What makes me say this? Let's look at the facts.

The veto message complains about the level of SDI funding. The fact is that in percentage terms the SDI cut was much less this year than last year—that is a 17-percent cut this year versus a 32-percent cut last year. It would be over $4 billion for next year even with the reduction.

The veto message complains about arms control provisions in this year's bill—yet the provisions contained in this bill are almost identical to those contained in the bill the President signed last year.

The veto message complains about the add-ons the Congress has in this bill—yet the dollar value of add-ons this year is half what it was last year. The add-ons this year were for conventional forces when the administration preferred to spend money on questionable strategic programs.

Mr. Speaker, then what is the difference in the President's decision this year versus last year. I think we all know the answer. This is the White House using the Defense authorization for election year politics and putting politics over the good of national defense.

Mr. Speaker, the President has the right to veto and he can delay—and maybe stop—an authorization bill. But I think the President, and all those who support him need to understand that he cannot and will not be able to stop responsible, legislated arms control limitations from being contained in Department of Defense legislation. It's coming, Mr. President, but maybe in a new vehicle.

Mr. Speaker, I reserve the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are debating tonight whether or not to refer this bill back to our committee, the Committee on Armed Services. I am sorry that it has come to this, and I am sorry that circumstances necessitate it.

□ 2030

Let me say before we go into a long discourse on this that there is a strong feeling on my side of the aisle that once this bill is referred to the Committee on Armed Services of the House that it will never again see the light of day. I think this is probably the main thrust of the resistance to this motion tonight.

If I might have the attention of my chairman, I would like to discount these fears by asking the chairman, in the event this motion should carry and this bill be referred to our Committee on Armed Services, would the Chair give it an expeditious hearing and help to expedite getting it back to the floor in whatever shape it is going to be in?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I would just tell the gentleman from Alabama that at this point we do not know what will happen to the bill when it comes to the committee.

Mr. DICKINSON. That is what I thought the answer would be, and that is the reason, I would say, if this bill is referred to the Committee on Armed Services of the House it will never see the light of day again. I was hoping the gentleman from Wisconsin would dispel this matter of some concern.

Let me point out two reasons to vote against this motion to send this bill to the Committee on Armed Services.

First, it is a surprise to me that the Members are not going to be allowed to vote on the veto. That is the usual and customary way of doing business. If the President vetoes a bill, the bill comes over and we vote the veto up or down. I purposely asked the majority leader what remedies we had, if it were absolutely necessary that at this late hour, and it is now 8:30, that we must deal with the veto, and the answer was we must deal with it in some way. There were three ways to deal with it.

One way was a very simple way, which was to move that it be postponed to a time certain, such as tomorrow, when we might have an opportunity to collect our thoughts, determine the best course and procedure to take, and might at least have had an opportunity to type what remarks we might want to make, and do some research instead of having to scratch our remarks out on the back of an envelope. But we were not given that opportunity.

That is easily the reasonable way to go. We had some other legislation scheduled that this is going to supersede. There was no reason to do it except for political reasons.

So my chairman wants to talk about playing politics. What could be more playing politics than to bring this bill up at this late hour when there was no reason to? It could have gone over until tomorrow and been handled by an orderly procedure, but the leadership on the Democratic side decided this is not the way they want to do it.

It does not have to be dealt with tonight. It could be dealt with in a very orderly procedure and manner at a time certain, whether it be tomorrow or the next day or any time before we adjourn.

Next, I would predict that if this bill is referred to our committee, the House will not be given an opportunity to vote on the veto. There will be no bill to be voted on, because it will never come out of our committee.

Let me give my colleagues some fundamental reasons why I voted against the bill when it came out of the House in the first place. My colleagues I think will remember that when it came to final passage of this bill I stood at this podium in this well and said that I would vote against the bill and I would urge all my friends to vote against the bill, and if it passed I would urge the President to veto it in its present form. My chairman and others I am sure will make a lot to do by saying this is a political decision here in a presidential campaign. It has nothing to do with politics. It has to do with the contents of this bill. It had to do with what we fought for in committee. After it came out of committee, it had to do with the amendments that were added on this floor.

At that time I opposed the bill. It went to conference with the Senate. I had hoped that in the conference with the Senate we could improve the bill, which we usually do. There was no substantial improvement to the bill in the conference with the Senate. For that reason, only two of the Republicans in the conference voted for the conference report. Everybody else refused to sign the conference report.

The conference report came to the floor. I urged a negative vote on the conference report, and there were 183 votes against the conference report.

So to say that this is some sort of a political gimmick that the President is bringing up is just a spurious argument to cover the politics we are playing here this evening.

Let me tell my colleagues some of the things that are absolutely wrong with the bill. First off, money is not in contention. It is not the amount of money involved here. We started out with an agreement at the beginning of the year coming out of the budget summit of last year with $299.5 billion, and that is the amount of money in here. I did not vote against it because of the amount of money. I voted against it because of what was done with the amounts of money.

I voted against the bill for several reasons. One had to do with the reduction of the strategic defense initiative [SDI]. My chairman has pointed out it was not cut near the percentage it was cut last year. That was because, as General Abrahamson testified, they themselves, in anticipation of the resistance on the floor, asked for less than they thought they really needed. We took $800 million out of the SDI Program in this bill, and if that was not bad enough, then we had to micromanage what was left.

I talked to General Abrahamson, who is in charge of the program, as my colleagues know, and he came to my office the day before the conference report was to come out of conference. He said, Congressman, I can live with the cuts. I cannot live with both the cuts and the micromanagement of the elements of the program, because I cannot adjust the manpower, adjust the level of efforts of the various programs. And he said we are going to have to lay off many skilled people that are presently engaged in this program, and when they go out the gate they will not be back in because we cannot replace them.

So I am saying we have dealth a deadly blow to the strategic defense initiative in this bill. The President stated this in his message accompanying the veto message.

If you want to kill the SDI Program, this is a good way to do it. But at least give it a chance to survive until the next administration, and then we will let the next President decide what he wants to do with it.

Initially the administration started out asking for $1 billion for the rail garrison program, the MX. By agreement, the administration changed that and asked for $800 million for the MX program, and put in $200 million as a sop or an accommodation to those who prefer the Midgetman.

What was the final shape of the bill? Not $800 million and $200 million, but they reduced the $800 million down to $250 million and they raised from zero to $250 million, raised both programs to $250 million even though the administration does not want the Midgetman. It said repeatedly it is too expensive to afford. They would not fund it if they had their choice, but we are mandating that they spend $250 million for the Midgetman ICBM that the administration does not want and cannot afford.

Then getting to more or less the crux of the bad part of this bill, the bill usurps the Presidential prerogative in arms control negotiations. It deals with SALT, and this Congress and this Government has never ratified the SALT Treaty. But it deals with the subject and is requiring the destruction of two *Poseidon* submarines to stay within the SALT limits, even though there is no ratified SALT Treaty.

It deals with a nuclear test ban which is under negotiation by our negotiators in Geneva with the Soviets. And also they throw in as a little gratuitous effort legislation prohibiting us from testing a depressed trajectory missile, which this administration never even contemplated doing, but we are giving all of these things to the Soviets at the same time we are negotiating with them in Geneva.

I talked to Ambassador Rowny. He called me very concerned and said, "Congressman, you are giving things away faster in the Congress than we can ever negotiate in Geneva. At least give us a chance to get some quid pro quo if we are going to give something away. Why do you write in legislation giving away things when we are negotiating?"

He urged a veto of the bill.

Next, I voted against the conference report. I had hoped that the conference report would improve the bill. Not only did it not improve it, it made it worse.

Just a couple of small items. It fenced, and that means you cannot use it for any other purpose, $225 million for a free electronic laser in New Mexico. Then the Appropriations Committee came after that and in their bill, which has already passed the House, they fenced an additional $150 million for a project in New Mexico, this time the neutral particle beam program.

So we not only have cut the programs as they are, then we get in and micromanage the balance.

So I think that this bill was due for a veto. I think we ought to let the Commander in Chief be the Commander in Chief, let the Secretary of State be the Secretary of State, and not have 435 Members over here acting like the Secretary of Defense, acting like the Secretary of State, and taking the prerogatives of the President.

The bill was prime for a veto. I would have vetoed it last year. I urge the President to veto it. Many of our Members went and sat with the President in the Cabinet Room last week setting out these reasons why it is a bad bill. The contents are bad; forget the politics.

The President was convinced that we were right. Both Senators and House Members were present. He acceded to our request. It was the right thing to do and it is the only choice that he had.

I would urge the Members to vote no on referring this to our committee where it will never see the light of day. If Members vote no, then we will have an opportunity to vote up or down on the veto, which I think the American people deserve to see us do, and let us set the record straight as to where we stand.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. Mineta). The gentleman from Alabama [Mr. Dickinson] has consumed 12 minutes.

Mr. ASPIN. Mr. President, I yield 3 minutes to the gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. Mr. Speaker, I thank my chairman for yielding me this time.

Mr. Speaker, when I first heard that the President was going to veto the defense bill, I thought that maybe, just maybe the Pentagon scandal had really changed the Reagan-Bush attitude about the defense procurement problems. I really thought that maybe he was vetoing this bill in light of the Pentagon scandal so he could work with us to straighten out the mess, the fraud, waste, the abuse, the corruption that we have seen.

But no, the President does not even mention the Pentagon scandal in this veto message. He gives other reasons for his veto, in my opinion quite absurd reasons.

First he says that Congress is soft on defense. This bill is $50 million more than the President asked for, more dollars than he asked for for defense, so let us put an end to that phony charge.

Second, he says that the modest arms control in the bill will tie the hands of our negotiations in Geneva. We ought to make sure that the record shows that it was not until Congress started passing arms control that there was any progress at all in Geneva.

Third, star wars. The Joint Chiefs of Staff say that star wars can only be 30 percent effective, yet the President wants to break the bank on a system that not one expert says can really work as he envisioned it. And by the way, the bill spends more on star wars than last year, so let us put an end to that phony charge.

So why, we ask ourselves, why this veto? I think it is to deflect attention from Congress' success on the plant closing bill, and for that matter on a number of our successes, on health, on housing, on deficit reduction, on clean water, on trade.

I think it is important to note that Secretary of Defense, Frank Carlucci, counseled against this veto while George Bush, Presidential candidate, counseled in favor of this veto. With that on the record, how can we ever doubt that this is clearly a political veto, and that it is clearly counterproductive?

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. Badham].

□ 2045

Mr. BADHAM. Mr. Speaker, I have chosen to address the House from this side of the aisle because I want to talk to my friends on the Democratic, the majority side of the aisle.

In the word of the great spokesman for the prize-fighting ring, "You can run but you can't hide."

I think the charge of the people from this side of the aisle that the people on that side of the aisle are making this politic is absurd and ludicrous because, let me tell you, I do not think that the American people are even devoid of intelligence on this one. If you can prevent this veto message from being voted on and the veto sustained on the House floor, you can hide for a little while, you can run for a little while, but you cannot hide.

The chairman, whom I respect greatly, has said we would be subjecting ourselves, if we did not put this vote back to committee, to recommit the bill to a contentious debate on the House floor. My heavens, colleagues, the bill was written on the House floor and that is why we voted against it, that is why I voted against it; that is why the President vetoed it, because it was junked up on the floor and it was junked up in conference, and you know that.

The bill was written by the Dukakis wing of the Democratic Party. It might as well have been written in Massachusetts. There is junk sufficient in there to last the unilateral disarmament people for a long time. But the bill was not written in committee. The money was agreed to in the Rose Garden a year ago and everybody agreed, $299.5 billion, magic number.

But on the House floor we reratified the ABM Treaty, we virtually killed rail garrison while breathing life into the Midgetman.

On SDI, the administration requested a reduction from $6.2 billion when it is time to ramp up, down to $4.5 billion which was cut to $3.7 billion, biggest cut ever in SDI. The depressed trajectory which has not yet been defined is something that is put in the bill by my friends over here who can run but they cannot hide.

We have had in the conference a provision to prepare for a nuclear test ban and have a committee do that. To say that this does not bind the hands of the Commander in Chief is ludicrous.

Now to say that it is political is also ludicrous. I and 171 of my colleagues voted against this bill as it left the House floor on May 11 of this year. Why? Because the bill was junked up. We voted against the conference report, not 171 of my colleagues and I, but 182 of my colleagues and I, because the bill was further ruined and politicized in the conference.

Mr. Speaker, we have read in the press now recently that if this bill's veto is sustained, which you know, every one of you, will be sustained because there are not two-thirds of the Members of this body who will support this lousy bill; there are not two-thirds of this body who will support that bill. And now we understand that the Democrats have said, "Well, there goes the pay raise for our military." That is another reason I would like to take this side of the aisle to talk to my friends in the majority party and say, "Are you really going to eliminate a modest four percent pay raise for those who have served our country in uniform on the basis that you think you can call the Republicans political on this issue? Are you really going to deny the people who have fallen farther and farther behind in comparable pay because of the defense cuts that the majority has put on the people of this country? Are you really going to do that? Are you going to deny a much-needed and well-deserved and essential pay raise to the people who serve this country in the uniform of this country?" Give me a break.

I think that if your party had courage and really wants to get into politics, what you would do is allow this bill to come to the floor of the House and have an up or down vote on whether or not the Commander in Chief could be Commander in Chief or whether the gentleman from Massachusetts who seeks to be President by killing defense would be the President of the United States and hence Commander in Chief. That is where you are, gang. That is where we are.

Mr. ASPIN. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. I thank the chairman for yielding this time.

I might address some of the allegations made by my colleague from California [Mr. BADHAM] with regard to Governor Dukakis.

Mr. Speaker, I can say to you and to those who might be listening and watching this debate throughout the country, Governor Dukakis will demonstrate leadership, competence and a sense of values and he will not politicize such an important issue as we are discussing here on the floor.

This morning I listened very intently to some of the Members of the Republican side taking their 1-minutes on the floor and they started the old game, they went back to Carter-bashing, bashing Jimmy Carter, bashing Governor Dukakis whom you know and I know has absolutely nothing to do with the defense authorization bill. And on the other hand, they say to you and to the people they are not politicizing the issue.

It is not a question of politics. The truth is you have been talking politics since this morning. You made this a political issue. We have not and, therefore, we are going to respond to you.

And to those of you who have been bashing Mr. Carter, let me give you the facts and let me set them out straight: It was under President Nixon and his administration that defense spending went down by 30 percent—30 percent reduction in defense spending under President Nixon. And thank God President Ford had the foresight and the wisdom to bring it back to 9 percent in 1 year and under Jimmy Carter we brought it back 8.2 percent during his administration, a plus, because he realized the weakness of President Nixon during his years in office.

Those are the facts, my friends, you cannot run away from them. The truth is that we have a good defense authorization bill. The truth is it is a question of politics. The truth is President Reagan is playing games with a national security issue and the truth is, and you know it, that this is a good bill and the initiative should be referred to the committee as we have stated before.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman knows obviously the Governor from Massachusetts very well and I just want to talk about his management style.

Mr. Speaker, would he be inclined to veto a defense bill if his Secretary of Defense not only recommended against it, but was outside of the country visiting the Soviet Union?

Mr. MAVROULES. Absolutely not and we know that, my dear colleague.

Mrs. SCHROEDER. And do you not think it is rather startling that Colin Powell, the National Security Adviser is here in town and the President's appointee, and he said this was not a good idea to veto it, that this was a good bill?

Mr. MAVROULES. I might add that the Republican leadership on the other side have all supported this legislation. And suddenly even Republicans who support the legislation wake up the next morning and say, "The President wanted a veto, let's make it a political issue." Those are the facts.

Mr. Speaker I rise today to express my indignation at the Presidential veto of our Defense Authorization bill. Against better wisdom of his Defense Secretary and National Security Adviser, Ronald Reagan opted to veto the $300 billion military bill in order to force the next President to place defensive weapons in outer space and MX missiles on civilian rail care.

These, however, are decisions that should be made by the next man to occupy the oval office. I find it offensive that President Reagan will not extend to his successor the courtesies provided by his predecessor. The issue here is not the numbers in the bill but the numbers in the polls.

Furthermore, for all of the administration's criticism of Congress, this President has presided over the largest peacetime military buildup in history.

Quite frankly, I think the American people have had enough of Reagan administration excesses—excessive waste, excessive defense spending, and an excessively political veto that undermines prudent national security planning.

Mr. ASPIN. Mr. Speaker. I yield 3 minutes to the gentleman from Washington [Mr. DICKS]

Mr. DICKS. Mr. Speaker, Ronald Reagan has violated his most basic pledge with the veto of the fiscal year 1989 Defense Authorization Act: Not to play politics with national security. The President has often referred to the late Senator Henry Jackson's famous motto: "When it comes to national defense and national security, the best politics is no politics." Scoop Jackson would be appalled that a President would rely on pollsters rather than his defense advisers who unanimously favored signing this bill. This veto is a ploy by a failed administration desperate to stop the political freefall of the Vice President.

I am shocked by this decision to reject legislation that provides a level of defense funding higher than the current fiscal year and even slightly higher than the current fiscal year and even slightly higher than the President's own request. This Defense bill is, in my judgment, clearly consistent with our national security interests.

It is apparent that the President has chosen to listen to political pollsters who are desperately trying to throw a lifesaver to the sinking campaign of Vice President GEORGE BUSH, rather than listening to his Secretary of Defense, his National Security Adviser, and congressional leaders. In doing this, the President has broken faith with the American people.

This bill provides funding to improve our conventional forces including increases above the President's request for anti-tank weapons, measures to eliminate the fraud in Pentagon contracting, and efforts to modernize our strategic forces. It also includes modest, but important provisions to curb the nuclear arms race including preserving the Anti-Ballistic Missile Treaty and restraining the deployment of offensive weapons on both sides.

I believe this bill strikes a proper balance. Despite the administration rhetoric, it does not return to the so-called neglect of the 1970's. But neither does it return to the fantasy of unlimited defense dollars of the early 1980's It even provides more than $4.1 billion for research and development of the strategic defense initiative, the President's favorite program. This is by far the largest R&D program in the budget and nearly as large as all the Army R&D programs combined: It would be no means "gut" the SDI Program. Rather, it allows for a rational approach to the issue of strategic defense—not a leap into the unknown.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I sat here and listened with a great deal of interest, especially from the other side, who said this veto was a political maneuver by the President. I do not know what is more political than sending this bill back to the Committee on Armed Services.

I voted for this bill, I voted for every objectionable amendment that the President is opposing here in the veto. And I want to have this opportunity tonight to vote to override the President. But we are not going to get it and I will tell you why: It is the best soft-shoe dance I have seen in town in 30 years that I have been in the Congress. They want to protect the conservative Democrats over there because if they have to vote on a veto up or down and they vote to override the President like I want to do tonight they are going to look weak on defense.

Now I think that we have had enough politics. There might have been some politics down at 1600, but do not be holier than thou, you are guilty of politics tonight. You should have taken this bill on the floor and let us vote up or down.

I believe in what I voted on and I would like to show the President that I believe. They are just ducking. The Senate and the committee, you know where this bill is going to wind up, in the CR. You are going to have the big colossal Christmas tree in that CR. Everyone who has something that they want to get to their district know that that is the last train leaving the station and they will put it on the CR and the taxpayers are the ones that are going to suffer tonight. That is a bad mistake.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

□ 2100

Mr. FAZIO. Mr. Speaker, in vetoing the defense authorization bill President Reagan charged that the bill would have glutted the strategic defense initiative.

Nothing could be further from the truth.

The defense authorization bill included $4.1 billion for SDI. That's a 3 percent increase over the $3.9 billion we're spending this year and four times the $1 billion we spent on the program in 1984, just 5 years ago.

Moreover, Mr. Speaker, these enormous increases for SDI over 400 percent have come at a time when the overall national defense budget has increased just over 3 percent in real terms. Even as other defense and domestic programs have suffered cutbacks forced by the mounting national deficit, funding for SDI has shot through the roof.

In vetoing the defense bill, President Reagan said he was "putting back the 'I' for 'Initiative' in SDI."

We think it's more important to focus on the "D" for "Defense."

The defense budget has become a zero sum game. More spent on SDI means less for strategic force modernization and less for conventional strength, and that knowledge is what caused Secretary Carlucci to advocate his signature on this bill. But even within the SDI, we have to make choices. We cannot do it all.

Rather than spend hundreds of billions of dollars developing space-based interceptors, which the experts have concluded would be too expensive to deploy and easily neutralized through Soviet countermeasures, Congress decided to reorient the program to researching advanced technologies—beam weapons and the like—which promise real defense from a responsive Soviet nuclear threat.

These advanced technologies for which the defense bill provided more funding for than the President requested offer the only promise of fulfilling the President's personal vision of a shield to protect us and our allies against the threat of nuclear destruction.

This is a political veto but it's impact will be not to increase support for the Reagan-Bush campaign but to create more doubt and confusion about the fiscal process. This will lead us to a CR and the possible disruption of our otherwise smooth appropriation process. But perhaps that is a political objective as well.

If it is, I hope the people who are watching know who brought about the budget chaos. It was not the Congress but the President who threw down this veto gauntlet and created the kind of mess we have tried so hard, and so far so successfully, to avoid in this Congress. What a tragedy for so little gain.

The President continues to hold to the false belief that we now have or soon could have the technology capable of protecting the American people from nuclear attack. Scientific opinion is nearly unanimous: it will take at least a decade of basic research before we might know if such weapons were even feasible.

Moreover, recent estimates from the Congressional Budget Office indicate that it could cost American taxpayers $450 billion over ten years to deploy the elaborate constellation of space weapons Pentagon planners now say would be needed to stop even a small fraction of Soviet nuclear missiles. That's more than we have invested in all of our strategic forces over the past 10 years, including the procurement of 100 B-1 bombers, all 50 MX missiles and a fleet of Trident submarines.

Further, there is no political consensus in Congress to proceed with development or deployment of the administration's early deployment architecture for the strategic defense initiative [SDI]. A 25-member special Task Force of the Democratic Caucus of the House of Representatives, which I cochaired along with Congressman CHARLES BENNETT of Florida, unanimously agreed that after spending $13 billion over the past 5 years, SDI is no where near fulfilling the President's expectations.

From liberals such as Congressman RON DELLUMS and ED MARKEY to conservatives such as Congressman BILL CHAPPELL and DAVE MCCURDY, our task force recommended an alternative program, one that focuses on new technologies that might have the long-term potential of defending our country. We recommended that this research be funded at a reasonable and stable level and that all our work remain within the limits of the ABM treaty.

Our task force was painfully aware of the tough choices forced upon us by the massive budget deficits incurred by this administration. For the forseeable future, the defense budget will be a zero-sum game: increased funding for SDI cannot be achieved without doing great harm to our programs to modernize our conventional and strategic forces. Secretary of Defense Frank Carlucci has already told us that he will be forced to cut over $250 billion from the Pentagon's budget plans over the next 5 years. And former Lt. Gen. Brent Scowcroft outlined for the task force the prospect that the newly signed INF Treaty and a future START agreement will require the United States to expend billions of dollars on dispersing and mobilizing fewer nuclear warheads on more launchers. The fact is budget pressures alone may significantly hamstring our ability to pursue much more than research on SDI.

The experts our task force talked with agreed—the easiest way to defeat any possible defense is to simply overwhelm it with attacking missiles. That was true in 1972; it is true today. In fact, the Department of Defense's own science board recently recommended that the administration's plans for building an SDI system be drastically scaled back.

Beyond any doubt, an agreement to sharply reduce both the numbers and classes of nuclear weapons will enhance stability sooner and at far less cost that SDI, even it were possible. The President can rest assured that the United States can continue to adhere to the ABM Treaty for the next 10 years without jeopardizing any vital research.

Someday, strategic defenses might make sense. Were we to reduce nuclear weapons to several hundred instead of tens of thousands, deployment of futuristic defensive systems might be a prudent step. Until then, fiscal and technological realities should encourage this President and the next to trade something we cannot use, for a treaty that we can.

Mr. ASPIN. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. McCURDY. Mr. Speaker, I find this evening a regrettable situation, and I have to say this as one who has tried to work with my colleagues in the Committee on Armed Services on both sides of the aisle: I think it is regrettable because what we have seen tonight is the continued politicization of a very important issue, and issue that we in this body and certainly the chief executive of this country should rise above, and that is that we should not be playing politics with our national security.

It is not only politicizing this issue that is regrettable, it is also incredibly wasteful. This one issue and the one thing that the Secretary of Defense has stressed to our committee and that we have seen from experts who deal with defense that we need the most today is stability. We need stability in funding, we need stability in programs, we need stability so we can plan, and what we have tonight is not the Congress creating the instability but the administration itself throwing the big wrench into the works.

I had an opportunity yesterday to speak with the Chairman of the Joint Chiefs, a man that I have incredible respect for, and he indicated that it was against his advice that the President was going to veto this bill. Here is a man who spent his entire career trying to provide leadership for our national defenses, and yet he sees to his regret the very administration that has stressed defense as the one critical pillar of the administration being the most political toward the end.

In this environment today, in post-INF, with the treaty, we need to be stressing conventional readiness, conventional improvements, and that is what this bill did. When the CINC's met with the committee, the one issue, they said, that was the most important to them was the pay raise, to reestablish morale, to get the men and women who serve feeling better about themselves and about the opportunities that lie within the professional services.

We have seen the development, however slowly, over 7 years, when finally we have the utilization of the net assessment, trying to base decisions on defense on the threat and on our relative abilities to meet that threat. And yet tonight we are walking away from that, because what we are going to do is rely on a continuing resolution, as the gentleman from Massachusetts indicated.

Mr. Speaker, I in my 7 years, nearly 8 years now, of service on the Armed Services Committee have, I think, seen some progress. We have tried to move away from just dealing with weapons systems and have tried to establish and reestablish policy as the principal directive in developing an authorization bill. We are not there yet, but we are making progress toward that end.

The net assessment is the key factor. We have seen an administration in 8 years squandering opportunities because of mismanagement and the inability to establish priorities in our defense. We have seen the opportunities squandered, and we have seen the consequences for increasing defense spending, which I have supported. These opportunities have been squandered because of the lack of management and in many cases because of mismanagement.

We see a stress on strategic systems, SDI. We have heard much about SDI, and yet we are spending over $4 billion on research and development on that this year, which is larger than Army research and development for conventional systems. Air Force R&D was larger than Army procurement. We tried to address that in this bill.

Mr. Speaker, my only concern is that whichever administration is going to be in office next year, whether it is a Democratic administration or a Republican administration, I would hope they would try to build a bipartisan consensus, that they would reach out to both aisles to try to establish that consensus which is absolutely necessary to establish stability.

This move today undermines that capability in the next administration. This is not the way to start the next 4 years in dealing with national security. This is not the way to start. I would just say that I urge my colleagues that even knowing the politics is running high and heavy tonight and today, that in the next few weeks we try to rise above that, and if we have to override a veto, fine. If we have to attach it to the appropriations bill, fine, but we need to get down to the business of establishing policy in this Congress.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very interested in hearing all the talk about politics here this evening, because there is some real politics being played, of course, on the House floor, too, because what we are doing is we are just taking the Constitution and kind of ripping it up and throwing it away when it comes to the veto power of the President. What we are doing here is a real attempt not only to protect conservative Democrats, I would say to my colleague, the gentleman from Massachusetts, but to protect the liberal Democrats as well. A bunch of them voted against this bill.

And guess what? What they would have to do is vote to sustain the President in order to maintain that particular vote. They do not want to do that. The leftwing viscerally antimilitary Dukakis wing of the party has absolutely no desire to vote on this veto, so instead what we will do is send it into the pigeonhole of the Armed Services Committee. And what have we already heard as an admission on this floor tonight? This bill is going nowhere after it goes into that pigeonhole.

We have already heard it said by the chairman of the committee himself that we will have a new vehicle. And guess what? We have already heard it said on the floor what that new vehicle is going to be. It is going to be a continuing resolution, one of those abominations that we always get at the end of the session.

That is not politics? Of course, it is politics, and it is absolutely wrong.

What is the reason why those Presidential advisers wanted this bill signed? Nobody has mentioned the reason for it. They thought this was the best abomination they could get this year, that if it came back up here, they would get an even worse abomination out of this Congress. So they decided they ought to take the best abomination they could get. That is not exactly a good recommendation for the bill.

I am surprised to hear my Democratic colleagues quoting those people, given the opinion they had of this particular bill.

And what about the figures we have had thrown at us tonight? My distinguished colleague, the gentleman from Massachusetts [Mr. MAVROULES] got up here and talked about the 8.2-percent increase during the Carter years. There was 13-percent inflation in one of those Carter years. In only one of the Carter years they had more inflation than we had as an increase in the entire time.

Mr. MAVROULES. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. He also quoted that Nixon had a 30-percent drop in defense. The Vietnam war ended. Does the gentleman not remember that little piece of history? We had an end to the Vietnam war. I think that was probably a time when defense might come down a little bit.

Mr. MAVROULES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Massachusetts.

The SPEAKER pro tempore. (Mr. MINETA). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman very much for yielding time to me, and if I may, I would like to engage in a colloquy with the gentleman from Pennsylvania [Mr. WALKER]. The point is that the gentleman from Pennsylvania was one of those this morning who came up here—and I believe I am correct, and started Carter-bashing.

Mr. WALKER. No.

Mr. MAVROULES. Oh, yes.

Mr. WALKER. I did not speak this morning.

Mr. MAVROULES. Who came in and gave a 1-minute speech this morning from the Republican side? They started the old rhetoric on Carter-bashing, which is terribly unfair and very much politicizing the issue.

The point is that even if we ended the war in Vietnam, we had the reduction of 30 percent under President Nixon and the erosion had taken place.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, let me say to the gentleman that I just want to correct the facts. I did not speak in the 1-minutes this morning; I was in committee. So, therefore, the gentleman is absolutely wrong with something that I may have said or done.

Mr. MAVROULES. I am very sorry if that is the case, and I apologize to the gentleman. But the point is that the Carter-bashing had begun this morning. Therefore, it was the Republicans who started politicizing the issue.

I just want to set the record straight, that because of Nixon's actions the erosion in the security and the Defense Department had taken place.

Mr. WALKER. Mr. Speaker, let me just say to the gentleman that I think Carter should be bashed on defense.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, since the Vietnam war was mentioned, I think the House ought to know some facts.

The fact is that spending in fiscal year 1989 will still be $70 billion higher in real terms for defense than it was in fiscal year 1981. Two-thirds of that increase will be concentrated in procurement. The fact is that real outlays for procurement in fiscal year 1989 will be more than double the annual average for the period between Vietnam and the beginning of the Reagan administration, and they will be more than 25 percent above the annual average spent on procurement during the 7 worst years of the Vietnam War.

Mr. Speaker, if that is not enough, somebody is nuts.

Mr. ASPIN. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the committee chairman for yielding this time to me.

Mr. Speaker, President Reagan has regrettably yielded and bowed to partisan politics and vetoed the Defense authorization bill. This veto is said to have come at the behest of Vice President BUSH.

He said in a speech in Chicago yesterday that this bill cuts SDI spending. But it does not. It increases it, although not as much as they would like. And he said it ties the President's hands on SDI. Among other things, the Vice President said, "The Democrats in Congress are dragging their feet on SDI."

For the record, I think we ought to say that over the last five years we have appropriated between $13 billion and $14 billion for defenses against ballistic missiles. Others have said this, and it bears saying again: The bill that was just vetoed contains $4.1 billion for SDI research and development, and by comparison that is more than we are spending in this bill on any other defense system now in procurement or research and development. It is almost as much as all the United States Army receives for its entire research and development budget. Surely, this is enough to keep SDI going and to keep the Soviets bargaining in Geneva.

□ 2115

As I understand what the gentleman from Alabama has stated and what General Abrahamson told him, it is not the amount that they really object to. It is the allocation of these amounts, and, if my colleagues listen for long to what they said, they would think that we have really hogtied this strategic defense organization with the provisions of this bill.

The truth of the matter is that of $4,100,000,000 authorized in this bill for SDI, only 15 percent is limited by the bill, and only in one case do we actually put a lid on spending. In two cases we impose a floor in order to protect two systems, a free electron laser system and the ground-based kinetic energy systems, those ground-based interceptors known as the ERIS and the HEDI from being savagely cut in the case of reallocation within this budget due to these reductions.

Now these priorities that we impose in this bill, 3, 15 percent of total spending. The rest of the money, 85 percent of it, can be allocated as SDI sees fit.

These priorities did not come off the wall. In fact, they reflect, if they do not exactly mirror, the recommendation of the Pentagon's own panel of scientists which they themselves called together through the Defense Science Board, the so-called Everett Commission chaired by the former chairman of the MITRE Corp., Robert Everett.

In April this DSB, the Defense Science Board panel impaneled, being called in by the Pentagon itself, concluded in view of technical, budgetary, political, and arms control uncertainty surrounding the ballistic defense missile defense program. The panel recommends planning a number of steps in technical development and deployment of the system to meet the Joint Chiefs of Staff requirement rather than a single major action. And what they recommended was a 6-point program. Every commission put together by the Pentagon recommended a 6-point specific program. The first two steps recommended by that panel of scientists, the development of an accidental launch protection system, that will be phase 1, step 1, and a robust network of sensors are completely consistent with this defense authorization bill, and indeed the very thing we protect by putting a floor under it is a ground-based kinetic system which would comply with the step 1 recommendation of that board. We say SBI wanted $350 million for that. Fine. Spend $350 million on that because we go along with that, and the House indeed overwhelmingly voted to support that idea.

It is true that one of those systems is cut, 1. On one system alone do we impose a lid, and that is the so-called spaced-based interceptor. We have limited expenditures on that program in the next fiscal year. We would have under this bill to go $85 million down from a request of $330 million.

But this action taken in this bill was taken only after that Pentagon science panel downgraded the SBI, the space-based interceptor, to the lowest priority of the near-term development project, a system which was based partly on its projected costs.

As someone earlier said, "Analysts have estimated that a limited deployment of these spaced based interceptors alone could cost $80 billion or more."

Now can anybody realistically recommend to the House or to anyone here tonight in this debate that we are going to be able to find $80 billion to put into space this highly vulnerable system? I doubt it.

I think it is well that we inform SDIO that this priority should be adhered to.

Mr. Speaker, I appreciate this opportunity.

Mr. DICKINSON. Mr. Speaker, I yield 3½ minutes to the very distinguished and able gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, the American people should know what is going on here. There are several myths, and I have chosen in my brief time to simply address four of them,

The first myth perpetrated by some of my colleagues on this side is that the Secretary of Defense likes this bill and perhaps even the National Security Adviser. He does not. He says it is a bad bill, and the National Security Adviser agrees with him.

Last week when I was at the White House, and I saw none of my colleagues from the Democratic side here in the room with the President and with the Secretary of Defense, the National Security Adviser. I took notes on what the Secretary of Defense said. He said that it is a bad bill because it does not provide enough money for SDI. It is a bad bill because it cuts money for the rail garrison, for the MX missile. It is a bad bill because it forces us to retire two *Poseidon* submarines next year. It is a bad bill because it bans testing on depressed trajectory. And he went on and on. The Secretary of Defense does not like this bill.

Second myth: The President vetoed the bill because he was reading the polls. Well, that is not why, if he had bothered to read the veto message of the President.

But what if it were true? Imagine the President doing what the American people wanted. And I think the truth of it is the polls would show that the American people would turn thumbs down on this bill because it does not provide for a strong defense.

Next myth: That the Democrats are merely referring this bill to the committee. Now everybody in this Chamber, Mr. Speaker, knows precisely what we mean by that. Here the word "referring" does not mean what the American public might think it means. It means "killing." Because when this bill goes to the committee, it will never again see the light of day, and we will never have an opportunity to vote to sustain or to override the veto.

Do my colleagues know why? Because the Democrats know they do not have the votes to override the veto.

The fourth myth: That we are already spending plenty on SDI. Do my colleagues know how much we are spending on SDI? We are spending less than 1½ percent. One and a half percent of the Defense budget is allocated to SDI, arguably the most important, ultimately the most important, spending program in the entire Defense budget—1½ percent. And our colleagues over here say that is too much, and so they cut $800 million.

And who is their big witness tonight? It is the Secretary of Defense.

It was the Secretary of Defense who said, "You're gutting the SDI program. Don't cut it by $800 million. We can't run the program on that much money in a responsible way." And all of my colleagues on the Committee on Armed Services heard him testify precisely in that fashion.

So, the Secretary of Defense said, "This is a bad bill because it doesn't fund SDI adequately."

Let us not suggest to the American people, Mr. Speaker, to our colleagues, that the Secretary of Defense and the National Security Adviser believes that the bill that the President vetoed funded SDI adequately. They disagree with that.

Now a final point: I will tell you who is playing politics.

The people playing politics are those Democrats who are threatening the 4.1-percent pay raise for the men and women of the military with this particular action here tonight. That is irresponsible. One should not play politics with the men and women in the military services. It is absolutely irresponsible.

When it comes to the national defense, the people of this country know who to trust: Ronald Reagan. He had a strong defense which brought us to the bargaining table with the Soviets, and the result was the INF treaty.

We know that the President understands how to deal with the Soviets, and that is why he vetoed this bill, and that is why I support this veto.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman from Alabama [Mr. DICKINSON] for his generosity.

Mr. Speaker, I want to point out in the very outset that the question we are talking about here tonight is not the amount of money to be spent on defense.

I heard one Member of this House on the radio this morning talking about the administration wanting to spend more money for defense and less on other issues. That has never been the argument here. It is 2995. The question is how is it going to be spent.

I hate to be the bearer of bad tidings to my friends on the Republican side of the aisle, but this is not jumpball. This is not a fair fight. And on this issue we are going to vote not to send it to the committee where it will never see the light of day again.

I hate to break the news, but we are going to lose. But that is the way it is in the House unfortunately.

Mr. Speaker, this was decided a long time ago, but the sad part about it is for everyone that we are not even going to get a vote on sustaining the President's veto of this bill, and that is really sad.

I go to the high schools and the grade schools in my district, and I hate to explain to the young people that it does not really work the way it should, the way Miss Ruth told me some 30 years ago in the big book where the President says, "I veto this," and we say, "We respectfully disagree with you, Mr. President," if we are going to vote and two-thirds of us will decide that we are right and he is wrong.

Mr. Speaker, it does not work that way. Somehow in the procedures of this House unfortunately we find that the American public really does not understand how this works. We are not even going to get to vote to sustain or override the President of the United States.

Now what is particularly inappropriate about that is that this bill was written here on the floor of the House contrary to the wishes of my colleagues on both sides of the aisle who serve on the Committee on Armed Services. Does this mean that we are going to wave the white flag and turn over our responsibilities to the Committee on Appropriations and to the entire body on a continuing resolution? I hope not because it would be a sad day.

But respectfully I say to my leader, the gentleman from Alabama [Mr. DICKINSON] that I do not think we are going to win.

Mr. DICKINSON. Mr. Speaker, I yield 3½ minutes to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, first I want to compliment Members, particularly on my side of the aisle, for the splendid arguments they have made for the position on our side, and, Mr. Speaker, since you are now again on the floor, as I mentioned in my remarks earlier today, I am concerned with a growing practice of attempting to bury Presidential vetoes by referring them to committee.

And what we are doing here is subverting the Constitution and the clear intent of those who wrote and ratified it. And what we are doing here is attempting to override Presidental vetoes frankly by a majority vote, and what we are doing here is creating a whole new legislative system which is beyond the screening of the public, beyond the discipline of the House rules, beyond the scope of the very Constitution we are here to serve.

And the Constitution says very clearly in article I, section 7, how we ought to deal with vetoes, and I will not repeat that but will include that in my extension of remarks. But my colleagues read it in the Constitution, and that language to me says that we are to give prompt reconsideration to a vetoed bill, that we are to vote on it, and that an override should require two-thirds of our number and that the vote is to be recorded for public inspection.

How can anyone in this body argue that we are complying with that instruction when we are referring the veto to a committee without the question of reconsideration being the question of highest privilege, slipping the vetoed bill on to another bill and sending it back to the President without ever having taken up the veto? Who will stand in this well and tell me that is what the Founding Fathers had in mind when they wrote section 7?

The Founding Fathers gave us the power in section 5 to write our own rules, but they did give us the power to write rules so we could subvert the

Constitution. They gave us the power of rulemaking to implement their good work and not to subvert it, and, if the Founding Fathers had intended that whoever sat in the Chair at any given time could do whatever he or she wanted to whomever, wherever, for whatever reason, I suspect they would have simply said, "The Speaker of the House is empowered to run things the way he chooses, not withstanding any other provision of this document."

Mr. Speaker, we do not need anyone to instruct us in the exercise of common sense and good judgment when attempting to fulfill the sacred trust of our forefathers or the people we serve, and what is right in this case is so profoundly clear that there should be no argument, no discourse, no politics and especially no parliamentary flimflam.

Mr. Speaker, the people have a right to demand that we take a stand on the veto, and the President has right to a decision one way or another. I think that is the least we can do.

Again, I want to thank the distinguished gentleman for the manner in which he has deported himself this afternoon. All the Members on our side have acquitted themselves so well in the great arguments they have made in support of our position.

Mr. Speaker, I yield back the balance of my time.

□ 2130

Mr. DICKINSON. Mr. Speaker, I yield back the balance of my time.

Mr. ASPIN. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. HEFNER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, a couple questions of the gentlewoman. As a Member who sits on the Appropriations Committee, and we struggled to stay within the limits and worked diligently, both Republicans and Democrats, to meet the numbers on the particular bill, I would just like to ask the gentlewomen's opinion, have we not in the past when the President signed bills that were even more restrictive than the things we have in this particular bill?

Mrs. SCHROEDER. Absolutely. One of the main things the President talked about was the arms control provisions, which of course we have passed before.

Mr. HEFNER. That have been more restrictive than this?

Mrs. SCHROEDER. And they have been as restrictive or more, and I do not think that any of this is shocking. Obviously the numbers are the same that he wants. I think the gentleman makes an excellent point.

Mr. HEFNER. Mr. Speaker, if the gentleman will yield further, if this bill was so bad, I do not understand, and maybe I am misinformed, the vote in the other body, what was the vote in the other body on the final passage of this particular legislation?

Mrs. SCHROEDER. I do not know what the vote was, but I know many Members——

Mr. HEFNER. If my memory is correct, I believe this passed in the other body by voice vote.

Mrs. SCHROEDER. I think that is correct.

Mr. HEFNER. So we could technically say that if it passed the other body with all Members consenting, both Democrats and Republicans, except in this bill.

Mrs. SCHROEDER. That is right, and I think the other thing that is important to point out is the very distinguished gentleman, the ranking Member, Senator WARNER, thinks that this bill was very good and told the President it should be signed. I think the gentleman points out some good things.

Mr. BADHAM. Mr. Speaker, will the gentlewoman yield on that point?

Mrs. SCHROEDER. Well, I would like to respond first, and then if I have time, I will yield.

Mr. BADHAM. Fine. I will wait. I thank the gentlewoman.

Mrs. SCHROEDER. We have heard a lot about what the Founding Fathers wanted. I am sure that what we are doing tonight is exactly what the Founding Mothers would want. After all, if you look at this process, we were to be three independent bodies.

Let me tell you what you are hearing from the other side. What you are hearing from the other side is the President wanted to shoot at our feet and say, "Tapdance, Congress," and we were all supposed to come down here and tapdance.

Now, that is not what the Founding Fathers and Founding Mothers thought about. They said we are three independent bodies and we are to come here and exercise our judgment.

Now, No. 1, we are being told that this is not political; however, the President of the United States was advised by his Secretary of Defense, his National Security Adviser, the Joint Chiefs and the ranking Republican Member in the Senate to please sign the bill. On the other side, he was advised by GEORGE BUSH not to.

No. 2. The President says in his veto message one of the reasons he is so offended by this bill is the arms control provisions, which we have done before, but he is so offended by that because he thinks it takes power away from him and we should be speaking with one voice to the Soviet Union.

The reason I think that is totally undercut is at the time the President is vetoing this message his own Secretary of Defense is in the Soviet Union. He is undercutting his own Secretary of Defense at a time when he is over there negotiating. The poor man must feel a little silly being over there, having said, "Sign it," left town and, boom, this is what happens.

Now, we are supposed to over here in the Congress go one way or another or whatever. That makes no sense.

I think what we are doing tonight is absolutely the proper thing, referring it to the committee rather than magnifying this, and when the Secretary of Defense comes back we can try to be rational and present a position.

Next, I want to point out that the world has not been static since we passed this bill. A lot of things have happened. There has been the most massive Pentagon scandal we have ever seen. There are many of us who have been working very hard under Chairman ASPIN having all sorts of hearings about this scandal. We found all sorts of things that maybe we need to do to this bill that we did not know about when we first had it, making the inspector general more independent. We probably need whistleblower protection for the different contract employees who have no protection at all. Maybe we would have found out about this scandal much earlier had that happened. All those things are there.

We would be totally remiss to throw away those months of hearings and what we have been focusing on since we passed that bill. We do not quit when this bill is passed. Our chairman is a real taskmaster. He has been driving us trying to find out what has been going on, very important.

I think it is also important to point out that we have had all sorts of things happening in the Persian Gulf.

Now, people on this side had to go to convince the Defense Department on the pay issue that the Persian Gulf was indeed a dangerous area and people should get danger pay, so this side has been very worried about the morale of our soldiers, and I find it very offensive when the other side says we are playing games with that. We are not. We did get danger pay for people in the Persian Gulf area, as they should have it, with our work.

I think all of those are very important and I think sending it to the committee is the proper thing to do, the constitutional thing to do, and I think it is the best thing to do for foreign policy at the moment.

Mr. ASPIN. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to refer the veto message and the bill, H.R. 4264, to the Committee on Armed Services.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 162, not voting 46, as follows:

[Roll No. 261]

YEAS—223

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Cooper
Coyne
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foley
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Ray
Richardson
Robinson
Rodino
Rose
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—162

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Courter
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Packard
Parris
Pashayan
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—46

Applegate
Biaggi
Boulter
Brooks
Bryant
Buechner
Carper
Cheney
Clay
Conyers
Coughlin
Crockett
Daub
de la Garza
Dowdy
Espy
Fish
Foglietta
Ford (MI)
Ford (TN)
Gallegly
Gephardt
Glickman
Hawkins
Hyde
Jacobs
Kemp
Lott
Luken, Thomas
MacKay
Mica
Murphy
Murtha
Owens (NY)
Oxley
Petri
Rangel
Roe
Rostenkowski
Shuster
Spence
Stark
Synar
Taylor
Udall
Waxman

□ 2156

The Clerk announced the following pairs:

On this vote:

Mr. Carper, with Mr. Boulter against.
Mr. Foglietta, with Mr. Oxley against

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 442, CIVIL LIBERTIES ACT OF 1988

Mr. FRANK. Mr. Speaker, I call up the conference report on the bill (H.R. 442) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 26, 1988.)

The SPEAKER pro tempore (Mr. MINETA). The gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes and the gentleman from Georgia [Mr. SWINDALL] will be recognized for 30 minutes.

Mr. COBLE. Mr. Speaker, I oppose the bill, and under the rule I demand 20 minutes.

The SPEAKER pro tempore. Is the gentleman from Georgia [Mr. SWINDALL] opposed to the conference report?

Mr. SWINDALL. Mr. Speaker, I am in favor of the conference report, and I am amenable to the gentleman's request.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. COBLE] will be recognized for 20 minutes and the gentleman from Georgia [Mr. SWINDALL] will be recognized for 20 minutes.

Mr. FRANK. Mr. Speaker, pursuant to conversations among the three of us, I make the unanimous-consent request that pursuant to what the majority leader asked earlier, the time be divided as follows: that the gentleman from Georgia [Mr. SWINDALL] and myself have up to 14 minutes today and up to 6 minutes tomorrow, the gentleman from North Carolina [Mr. COBLE] 12 minutes today and up to 8 minutes tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important day, and I thank all Members for allowing us to accommodate in a busy schedule this important piece of legislation. There are a number of Members who are very much concerned.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 442.

This is long overdue legislation designed to address the personal and financial injuries caused by the internment of over 120,000

Americans of Japanese ancestry during most of World War II.

Some erroneously view this legislation as a "gift" to internees. Nothing could be further from the truth.

This legislation is a gift from the internees to each American who loves and respects our Constitution. Because what this legislation says is that we, in the Congress, recognize the enormous blunder and disrespect for constitutional liberties which the internment was, and that we vow never to permit it to reoccur.

The Constitution of the United States guarantees the rights of all citizens, including Japanese-Americans, in times of peace as well as during times of war. This legislation sends a clear message to our people that as a country, we will constantly uphold these rights for all the racial groups, the ethnic groups and the social groups which are part of this country.

The internment of Japanese-Americans was ordered as a result of the conclusions of military leaders that Japanese-Americans—regardless how long they had lived here or their unqualified loyalty to America—posed a military threat to the United States. That conclusion was not based on facts; it was not based on law. It was based on racism pure and simple.

In fact, during the war, not a single person of Japanese descent was convicted of espionage. Japanese-Americans were no different from the Americans of German and Italian descent who had come to America seeking political and economic freedom. Yet they suffered a fate far more cruel and unjust than any other immigrant group.

I take this matter very personally, because among the children with whom I grew up the northern California in the 1940's were many whose parents and siblings were assigned to internment camps. Many of these Japanese-Americans of Contra Costa County were farmers and small business people who lost their possessions because of the internment policy.

In my district alone, the internment forced 1,200 people to leave their jobs, friends and possessions to spend up to 4 years in permanent relocation camps. One of those Contra Costans, Chiyeko Tahira, was lucky enough to have Caucasian friends with whom she hurriedly stored family china and other heirlooms before she left for over 3 years internment in Topaz, UT. Many others were not so lucky and returned to find that the barns where they had hidden their belongings had been looted or burned.

Beyond the material loss was the phsychological damage of having been suddenly uprooted and labeled a potential traitor. Over 7,000 of the internees were children less than 5 years old. These children were scared by the strains of overcrowded, impoverished living behind chain-link fences. Most of them fortunately survived the internment experience, returned home, and began reconstructing their lives, burdened by financial loss and social stigma. And admirably, they maintained faith in a country that had broken faith with them.

Forty years after that tragic period of American history, it falls to this Congress and this generation of America to make amends for the past error. In authorizing $20,000 to each surviving internee, we make only a symbolic effort to compensate these Japanese-Americans for their years of hardship. Twenty thousand dollars is not a great sum when we consider that settlements of up to $10,000 were made for only 1 night of false imprisonment during the Vietnam protests of the late sixties.

I am proud to be a cosponsor of this legislation, and we as Americans should be proud that we have finally the courage to confront this unpleasant chapter in our Nation's history and attempt, however symbolically, to right the wrongs. In approving this conference report, we do far more than acknowledge our debt to the interned Japanese-American citizens of the 1940's.

We reiterate our national commitment to the primacy of our Constitution and the rule of law which can be diminished neither by racial distinctions or the passage of time. By admitting to our past mistakes, we are a better and more united country today.

It is imperative that we give this conference report our overwhelming support and never again allow the constitutional rights of any group of citizens to be swept away by the powerful tides of prejudice and irrationality.

Mr. FRANK. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, a number of people have been very concerned with this bill. We have benefited from the support of the Speaker, the majority leader, the chairman of the Committee on the Judiciary who exercised their leadership. One of those who was entitled to claim authorship of this bill because he filed the first version consistent with his genuine concern for the rights of all people is our colleague, the gentleman from the State of Washington [Mr. Lowry].

Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. Lowry].

□ 2200

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Speaker, I rise in strong support of the conference report on H.R. 442. I think most of us in this country realize that the real strength of the United States is our Bill of Rights and constitutional protections of individual liberties, that that is what really sets our country apart from types of governments that we really do not agree with.

So the basic issue that is before us and is addressed by the successful passage of this conference report tomorrow and the President signing it into law is that in 1942, when in that time of panic the due process rights and the Bill of Rights rights of the Americans of Japanese ancestry were violated, we are saying that was wrong and this conference report is to address that. It was, of course, especially unique and ironic that the historic and heroic 442d Battalion battle group, made up totally of Americans of Japanese ancestry, were in Europe fighting fascism, fighting for the freedoms that this country so stands for, while at that time other Americans of Japanese ancestry were having exactly those freedoms violated by being put into internment camps, just one of the many examples of the tremendous service that these Americans have been doing for our country, their country, and that their rights were being violated.

I stand in strong support of this conference report. I hope that it will pass tomorrow by an overwhelming margin whereby we will say that this is what America stands for, the Bill of Rights, those constitutional protections for all individuals in this country.

Again I thank the gentleman for yielding me this time.

Mr. SWINDALL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. Saiki].

Mrs. SAIKI. Mr. Speaker, I rise to express my full support for the passage of this conference report, and to urge my colleagues to vote in favor of this historic measure.

I believe this legislation is the fulfillment of a promise, Mr. Speaker, the promise of our country to provide basic civil rights to all.

Governments make mistakes, and our government is no exception. What is different, however, what distinguishes our form of government from others, is that in a democracy based on the inherent constitutional rights of individuals, mistakes must be acknowledged and compensation awarded. Acknowledgment and compensation for the tragic mistake of the internment of loyal, decent Americans is what this legislation is about.

When this legislation was considered on the House floor last year, I spoke about growing up as a young person in Hawaii, and witnessing firsthand the forced relocation of many friends, neighbors, and relatives. Those memories are still with me, Mr. Chairman, and with those who were interned. I believe that the passage of this legislation will help to close this particularly unfortunate chapter in American history.

A great wrong was committed when nearly 120,000 American citizens were forced from their homes and placed in desolate "relocation centers" throughout the West and South. Nearly half of those who were interned have died. Let us not let more time pass before we do what is right.

Mr. Speaker, justice delayed is justice denied. We have waited nearly five decades for justice to be done. The time is now.

I urged my colleagues to support this measure, for with its passage we shall come one step closer to fulfilling the promise of America.

Mr. COBLE. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the conference report, and in doing so I realize that my position here tonight is going to be a minority view. The bill will pass when the vote is taken tomorrow. It will be signed by the President. This measure will become the law.

But nevertheless, I feel that I must speak out and at least express the reasons that I have used to come to the particular conclusion that I have come to. It seems to me that to support this bill, in good faith, one must find a cause and effect relationship, and I simply cannot find it. I have searched desperately. I cannot recall another bill that we have considered in recent years that I have given as much study to as I have this bill. I have done that because I have among my constituents in California many people who are vitally affected by this bill, very interested in it. I have done it because I have colleagues here, notably my good friend, the gentleman from California, Mr. BOB MATSUI, who have urged me to consider my position and who have given me some very thought-provoking reasons to do so.

I have studied it because I have read books that have been supplied to me, one of them by John Tateishi called "And Justice for All" containing some very touching stories about those who were kept in these camps.

I really do not have any quarrel with the facts. There was a serious wrong done to many good American citizens, and there are some resulting emotional scars. I can feel the hurt many of the Japanese-Americans feel today and will describe during this debate.

But I do not see the remedy, the payment of $20,000, as the right answer to the equation. Search my conscience and the facts as I might, I simply do not find the justification for that.

This payment will go to some who suffered great harm and, therefore, the payment of $20,000 would be but a token payment to them. It will go to some who suffered very little harm, and to those for whom maybe it will be nothing more than a windfall. It will go to some who made claims under claims statutes in prior years and received payment from the U.S. Government in return for which they signed full releases of any further liability. It will go to some who perhaps had greater allegiance to Japan during those difficult war years.

In spite of these differences in status, the proponents say that we must pay a lump sum to all to address the wrong, that this is the only fair, the only just way to proceed, and they say that this bill, by doing so, reflects our sensitivity to that wrong.

Mr. Speaker, it is at this point that I think the cause and effect relationship really breaks down. I simply cannot match that proclaimed sensitivity with the very arbitrary, cold, mechanistic formula contained in this bill. Those two things just do not jibe and equate, and they do not properly recognize the nature of the wrong.

In my view there are other, more appropriate ways to redress the wrong done to loyal American citizens, and I offered some alternatives during the debate, including the granting of scholarships, perhaps a lasting memorial, and of more interest, a formula that was individualized based upon age and length of detention that would take into account different factors that applied to those who were detained. All of those alternatives were resisted and indeed rejected by the proponents of this legislation, and therefore, we find ourselves tonight facing an arbitrary formula, one which to me does not really address the differences in the level of need and wrong done to different people.

It is ironic to me that many of my friends have said the money does not matter, but at this point, Mr. Speaker, I think the money does matter. I think that we should not pass this legislation on waves of emotionalism, but on sound reason, and for that reason I intend to vote "no" and I would urge my colleagues to do so as well.

Mr. FRANK. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. AKAKA] and I do so for sound reasons on behalf of this sound and reasonable bill.

Mr. AKAKA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to commend the House and Senate conferees for their diligence and determination to complete the conference report on H.R. 442, the Civil Liberties Act of 1987. As you know, on September 17, 1987, the House of Representatives voted in support of this legislation. The Senate followed with passage of S. 1009, a companion bill, on April 20, 1988.

The conference report before us today is a compromise which will begin to address the grave injustice committed against those Japanese-Americans who were interned and the Aleuts who were relocated from the Aleutian and Pribilof Islands during World War II.

The conference report extends a formal apology to the more than 120,000 Americans of Japanese ancestry, including at least 1,000 Japanese-Americans from Hawaii, who were interned and deprived of their civil liberties. It also authorizes $1.25 billion in reparations to the Japanese-Americans living on the date of enactment.

On December 1982, the Commission on Wartime Relocation and Internment of Civilians issued their report, "Personal Justice Denied." The Commission found that the evacuation and relocation of Japanese-Americans was a "grave injustice" caused by "race prejudice, war hysteria and a failure of political leadership." Since that time Congress has deliberated long and hard on this issue. The time has come for Government to recognize its mistake and provide those interned with just compensation. I know my colleagues will support this bill.

The laws of this country are based on a simple premise, "innocent until proven guilty." However, this basic law was violated when Japanese-Americans were relocated and interned. These Americans of Japanese ancestry were "guilty until proven innocent." They were denied their liberty and property without due process of law, a violation of their constitutional right. We cannot ignore this travesty of justice.

I strongly support passage of the conference report; it is a compromise which deserves the full support of the House of Representatives. Passage of this legislation will provide a long overdue apology and a token restitution; it demands our support.

Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, let me say that I differ with some of my colleagues with respect to what this bill is all about. This bill is not about Japanese-Americans. This bill is about the Constitution of the United States of America. This bill is about what each and every one of us does as our first official act when we walk into this Chamber. We raise our right hand and we take an oath of office that says that we will uphold and defend the Constitution.

The Constitution was not enacted in this country until such time as we ratified 10 very fundamental articles. The fifth amendment to the Constitution is what specifically this bill is all about. The fifth amendment says no person can be deprived of life, liberty, or property without due process of law. We are a nation not of men but of laws.

What does that mean? What it means, in simple terms, is what thousands of young children see every day when they walk across the street and look up at the facade of the Supreme Court and see the words inscribed, "Equal Justice Under the Law." It is what young children see when they see the statue that has come to symbolize our system of justice where Lady Justice is blind, colorblind, blind in terms of country of natural origin.

What really perturbs me as I look at this bill is many people are making the same mistake that I made when I first heard this bill argued. We are making the mistake of looking at it and saying this is the ethnocentric bill, this is a bill about how macho we are, this is a bill about how American we are. It had nothing to do with that, and I do not think I really understood that and grasped that until a Japanese-American came into my office before we even heard the first bit of evidence about this and he sat down and he said, "I want you to hear this personally, because I know you are going to be hearing the evidence, and I know you are going to be deciding on this."

□ 2215

I said "I want you to imagine—I know you are the father of a child" and at that point I had one child, and he went on and said, "I want you to imagine how I felt when I walked to my door, opened the door and there stood American soldiers that said, 'We are coming to take your father.'" I looked at my father as he was taken off and I said, "Why are they taking you?" And he said, "Because I am Japanese." And I said, "No, we are American, we are not Japanese, we are Americans." And the little boy was right. In this country you are an American citizen the day you are naturalized.

I have spoken at so many immigration swearing-in ceremonies that I could virtually repeat the speech here. I will not.

But one of the points that I always make, no matter the color of the skin, no matter what the national origin is, that the day they take that oath and become a citizen of the United States of America, they can bank on this Constitution.

The gentleman from California earlier said some of this money may go to individuals whose allegiance was still to Japan. I would say to him that may be true, but in this country we do not assume that. That is why we have due process of law. Due process says that if there is some reason that an individual can be deprived of life, liberty, or property, then bring them before our judicial system and prove it. It does not mean in any way that you will not be able to deprive them of life, liberty, or property, but it means there is a proper way.

We cannot embrace this Machiavellian concept that the end justifies the means and that is what we got carried away with a number of years ago.

I want to say that I think this is very important not only for those individuals who are concerned about the Constitution, but I made this argument earlier and I had a number of individuals who told me they had never quite thought in this direction.

I want to focus this debate on those individuals who come into this Chamber and speak from a prolife position, specifically they speak against abortion, constitutional perspective, because the argument they have very simply is that we cannot in this country allow individuals, whether they are born or unborn, to have their life taken without due process of law. And I would just remind my colleagues who have made that position known that if they vote in this instance differently, what they are saying is that they want selective meaning to be placed on the word "person."

You cannot have it both ways; we are either a nation of laws, as Thomas Jefferson said we were, or we are a nation of men where the majority rules irrespective of what this Constitution says.

I do not think there is anything fruitful to go back and try to determine what caused our Government to make the decision that because certain groups of individuals were identifiable that we could throw the Constitution out, we could throw the fifth amendment out.

But I do think that any nation that is grounded on the principle of the rule of law has to understand that when rights are violated, reparation is appropriate. Why is it appropriate? Because it says we are going to repair in a monetary fashion the damage done.

Many times I have argued before juries where I said "I wish I were not asking for money because frankly I think money is a very imprecise way to compensate and try to repair damage." But let us face it, there is very little other ways that you can say, in a meaningful way, that we are sincere when we say we want to repair damage.

If the FBI searches someone's home they are responsible for coming in and repairing the damage; basic restitution.

Why can we not look at the fact that, first, we are talking about a pittance—in fact, if you take the $20,000 and commute it to cash value back in terms of 1945 to 1950, you are talking about $7,000 roughly. You are talking about individuals who gave up their livelihood, you are talking about individuals who gave up their citizenship and you are talking about individuals who gave up their property, many of them never to reclaim it.

What price can you place on citizenship? What price can you pay to repair the damage that was done to that young boy 45 years ago when his Dad was carried off and he said, "But Dad, you are an American citizen"? There is not a price. But I really and truly think as a fiscal conservative that it is ludicrous to stand in this body and try to nickel and dime what ought to be paid.

Not a single penny of this money goes to a single person who was not personally interned.

Do you realize every day juries come back with verdicts for false imprisonment of an hour, 2 hours, 3 hours, of $10,000 to $20,000?

So we are not talking here about money.

In conclusion, we are talking about this Constitution. I want to close with a conversation I had this morning.

I had breakfast this morning with Judge Robert Bork—I should say former Judge Robert Bork. We all know that Judge Bork's views are fairly clear in terms of the Constitution.

I said, "Judge Bork, we are going to be debating a bill today on the floor, the Japanese internment bill." He said, "Yes, I am familiar with it." I said, "Let me ask you a question. I know you are an individual who believes in strict construction, original understanding. What is your opinion about that?" His answer in a nutshell was that he thinks it is a constitutionally correct thing to do.

That is what this bill is all about.

I would just ask my colleagues to set aside any predisposition that they may have had, to set aside the thoughts or even some of the statements that they may have made back home to civic groups before they knew what this bill was all about, and think in terms of what is right, but more importantly think in terms of whether we really and truly want to send a message to future generations that when we say we are a nation of laws and not men we mean it and we are willing to put the pittance that it is, our money, where our mouth is.

The SPEAKER pro tempore (Mr. MINETA). The gentleman from Georgia [Mr. SWINDALL] has consumed 10 minutes.

Mr. COBLE. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 442 whose purpose is to make $1.25 billion in reparation to the Japanese-Americans as a result of the World War II internment.

I voted against this legislation once before and I will do so again. Maybe I will not address this House quite as gracefully as the former speaker did, but I do not think there is anyone that opposes this bill who does not believe in the fifth amendment rights of people.

But yet as long ago as 1948, Congress enacted legislation to make restitution for the difficulties which the internment caused the citizens of Japanese ancestry.

Some $38 million was paid. In 1972, the Social Security Act was amended to give some benefits—eligibility for time served in relocation camps. The U.S. Suprme Court also granted internees the right to sue for property losses suffered because of this relocation.

We acknowledge our mistakes. We pay for it. We have learned from our actions.

No amount of money can adequately make up for the suffering which the Japanese-American citizens endured.

Now I do not know where we go from here. I mean, are we going—the gentleman spoke of the future—are we going to address this issue again in 10 years? Are we going to start looking at maybe saying, well, the $1.25 billion was not enough? Maybe we need to see if we can bring it up again and give another $22 billion, $180 billion. There is no figure to put on this. To me what was done, we realize at this point was wrong. Maybe at the time I would have done the same or I would have felt the same.

I often wonder what would have happened if we had agreed to pay this $1.25 billion a few years after the many millions of service boys were lost in this country due to World War II.

What were the feelings of the people then? I am sorry, but I cannot see where we go as a House, where we plan to go in the future as a House. I do not know if we are trying to buy the votes in the State of California from the people of Japanese ancestry, to try to bribe the people to vote one party or the other. Undoubtedly, we are not, because both parties seem to agree to this.

But it is just very hard for me to understand and go face veterans in my district who have suffered from World War II and to see the benefits that they are losing, to see that we have over $100 billion deficit every year and yet we choose to try to vote a bill like this in.

I am sorry, I do not see where we are trying to go. I plan to vote against this bill and I encourage every other Member of this House to do so.

Mr. FRANK. Mr. Speaker, I yield myself 30 seconds at first and then I will yield to others.

I have to express my disappointment that the gentleman from Louisiana would suggest that those of us who conscientiously differ with him are trying to bribe somebody's votes. I do not run in the State of California, I never plan to run in the State of California.

The gentleman from Georgia who made an eloquent statement today does not plan to run in the State of California. I think his colleagues deserve better of the gentleman from Louisiana than the entirely unwarranted suggestion that somehow this is a vote-buying effort.

Disagreement is one thing. I am disappointed that he does not even understand what seems to me to be the principles at stake.

Mr. Speaker, I yield 2 minutes to a distinguished libertarian, the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I rise in strong support of the conference report on H.R. 442, the Civil Liberties Act. It is a modest proposal which acknowledges and redresses the wrongs our Government perpetrated against American citizens of Japanese descent during World War II.

The internment policy undertaken by this Government during World War II was a tragic error on the part of the U.S. Government at that time. Under the policy, U.S. Army troops rounded up literally thousands of Japanese Americans on the west coast and forced them into relocation camps on the ludicrous grounds that they might collaborate with the Japanese Government. It was a policy driven purely by wartime hysteria and racial prejudice.

I recall that during my assignment to Japan in 1946-47, as a member of the U.S. Army, I met a number of first generation Japanese-Americans. These individuals were so distressed by their treatment by the United States during the war period that they left this country, the country of their birth, and returned to live in Japan. That people should emigrate from the United States to flee persecution demonstrates how far the U.S. Government had strayed from the principles upon which this Nation was founded.

Mr. Speaker, we are responsible for the ruining of lives beyond our comprehension. There is no adequate financial compensation for the fundamental violation of civil liberties and the humiliation that those individuals suffered. However, the payments to the surviving internees that this legislation contains are a symbol of the strong affirmation by this Congress that a terrible mistake was made, and a commitment by the U.S. Government that such a mistake will never be repeated.

I urge my colleagues to support the conference report.

□ 2230

Mr. SWINDALL. Mr. Speaker, we have no further requests for time now, so we will reserve the time for tomorrow.

Mr. COBLE. Mr. Speaker, I have no requests for this evening.

Mr. FRANK. Mr. Speaker, I have nothing further directly on the bill, but I yield myself 1 minute, because I just want the Members to know that one reason we are here today is because, with the leadership role of the chairman of the full committee, our colleague, the gentleman from New Jersey [Mr. RODINO], we know he will be leaving, and I just wanted to note that I have had the privilege to work as a subcommittee chairman under him.

These are his last 2 years, and this has been a time when we have done massive legislation in the area of protecting other people's constitutional rights. And again I am indebted to our colleague, the gentleman from Georgia, for his eloquent discussion of the subject of constitutional rights here. We have done the Fair Housing Act, and we have done the Grove City Act. I just wanted to note this and not let this debate go by without noting the leadership role of the gentleman from New Jersey [Mr. RODINO], one of the sponsors of the bill, and his presence is in this as it has been in so many other issues. He has in 40 years done an enormous amount to make our Constitution a living reality.

Mr. Speaker, this is one very important example of that, and I wanted to acknowledge it.

Mr. Speaker, I believe at this point all of us have yielded back our time, and we will resume tomorrow with out 6-6-8 agreement.

The SPEAKER pro tempore (Mr. MINETA). Pursuant to the previous order of the House, further proceedings on the conference report will be postponed.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that my special order previously agreed to be switched from a 60-minute special order to a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

[Mr. LANTOS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

MASSACHUSETTS ELDERLY THREATENED BY STATE GOVERNMENT POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, we will hear a great deal during the election campaign about who is doing what with regard to elderly Americans, and I think it is important that we begin to focus on just what some of the policies were in Massachusetts under Governor Dukakis, because Governor Dukakis evidently has some rather strange views of how we deal with long-term illness of the elderly and what happens should they have to go to nursing homes.

The way I became aware of this is through a newsletter that I received out of Massachusetts. That is the newsletter sent to his constituents by the house chairman of the legislative committee on taxation. This is not someone who comes from a Republican point of view. In fact, he is a Democrat who chairs that committee.

Writing in the April 1988 newsletter, he tells about a program the Dukakis administration submitted to the legislature. In that newsletter, he writes, and I quote as follows:

"The latest example of government policy hurting those it is supposed to help is the Administration's"—and let me say parenthetically that that means the Dukakis administration—"recent proposal to place liens on the homes of elderly people as they enter nursing homes. To finance an out-of-control bureacracy, the State wants to take this extraordinary action even no debt has yet been incurred by the patient."

Now, let us understand what the means. The Dukakis administration in Massachusetts is proposing that the homes of elderly citizens should be taken by the State when they enter nursing homes even if they have incurred no debt.

Now, Representative Flood goes on in his newsletter to make a statement that I think is absolutely correct. He says this:

> Beyond the obvious legal problems with this, it is unspeakably cruel. Are we telling people who have worked all their lives, paid taxes and paid into the Medicaid system, that their last remaining asset—the home they want to leave as their only legacy to their children, will have to be sold to satisfy their ultimate debt to the state? Throw another piece of the American dream into the voracious jaws of government.
>
> Ironically, this quick and easy response to a growing revenue crunch is not only cruel but actually economically counter-productive. We have a serious problem in this state and in this country with capital formation—people are not saving and investing as much. Middle-income people often have as the only source of their savings an unexpected windfall, such as a small inheritance, which they can put in a money market account or invest in stocks and bonds or mutual funds and add to over the years.
>
> And now the state would seize the foundation of that nest egg and thereby eliminate a significant source of capital. So a short-term attempt to squeeze a little "savings" out of the Medicaid program will not only cause unnecessary anguish among our older citizens, but will end up hurting us economically in the long-run. This is government policy at its worst.
>
> As I have often pointed out, there are other more humane ways to save money in this state than to instinctively try to squeeze more out of people who have worked hard all their lives.
>
> Finding alternatives might be more difficult than taking elderly people's homes away from them, but I think it's time we remember that government does not exist just to feed and perpetuate itself. In the words of Thomas Jefferson, "The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government."

Mr. Speaker, I could not agree more with Representative Flood. But I think it is an appalling circumstance that we have Dukakis administration in Massachusetts that has proposed as its solution to the long-term nursing home care of the elderly citizens of this country that we take their homes away from them as the first resort. I think the American people need to reflect upon this kind of policy as they reflect on who they want to govern this country for the next 4 years.

Do we want someone who has a demonstrated record of compassion like GEORGE BUSH, or do we want someone like Governor Dukakis who has proposed in his own State the taking away of the homes of the elderly in order to put them in nursing homes even if they owe no debt to that nursing home?

SAMUEL HUNTINGTON—1939-1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 5 minutes.

Mr. BOLAND. Mr. Speaker, it was with deep sadness that I learned of the tragedy which took the life of Samuel Huntington, president of the New England Electric Co.

Sam was only 49 years old when he was struck by lightning and killed instantly Tuesday, July 26, in Aspen, CO. It is incredible to consider all that he had achieved, at such a young age, and just as sorrowful to imagine what he might have accomplished in the years to come. He was a man who was respected by everyone with whom he came in contact—friends, contemporaries, and even competitors in the energy field.

Stephen Sweeney, president of Boston Edison said after Sam's death:

> Sam was a giant in the electric utility industry. He was a visionary and a realist whose enormous skills and leadership had an enormous impact on New England's energy future.

Indeed, the intelligence and vigor which Sam brought to his work and the people in his life will be sorely missed. I express my profound sympathy to Sam's family, his wife Jennifer, his son Henry and his daughter Claire.

Mr. Speaker, David Warsh wrote an article for the Sunday, July 31, Boston Globe which eloquently summarized the life of Sam Huntington and what his work has meant to the energy community. In it, he called Sam "a star person of the very first magnitude."

Mr. Speaker, Sam Huntington was indeed a man for all seasons. I repeat again David Warsh's moving description of his extraordinary personality, "He was a star person of the very first magnitude."

I am submitting David Warsh's column as follows:

SAM HUNTINGTON AND NETWORKS

In "The Dreams of Reason," his just-published book about the way that new sciences are emerging to deal with various aspects of the complexity of life, physicist Heinz Pagels makes a fundamental distinction between networks and hierarchies, between parallel and serial systems.

"I remember hooking up lightbulbs in series circuit in electrical shop at my junior high school," Pagels writes. "In the series circuit, one wire ran from the power source to the first light bulb and then to the second and third and finally back to the power source. In the parallel circuit, two wires ran to the first light bulb, each connecting in effect to the filament of the bulb, and then the two wires continued to the next bulb and so on.

"The series circuit had the advantage of fewer connections [one wire]. But it was vulnerable—if one light bulb was removed or blew out, the circuit was broken and all of the lights went out. By contrast, the parallel circuit had more wire, more connections, but because of this redundancy it was much less vulnerable. If one light was removed, it would continue to function."

The distinction between hierarchies and networks was quite fundamental and universal, Pagels noted, especially when thinking about the social order. Companies, churches, the military—all relied on hierarchical organization, pyramid-shaped, with narrow tops and broad bottoms. Break a link in the chain of command and the system usually would be in trouble. But networks have no central executive authority to oversee the system. The existence of many connections increases the number of possible interactions among components of the network. Networks generally have lots of redundancy, so that if part of a network is destroyed, the network continues to function. Most real systems exhibit both characteristics, Pagels noted, whether the global financial system, or the human brain.

Pagels, 49, a leading scientist and an able writer on topics at the frontiers of science, died last week when he slipped and fell off a mountain ridge near Aspen, Colo. By an extraordinary coincidence, Samuel Huntington, 49, president and chief executive officer of the New England Electric System, died two days later when he was struck by lightning while climbing on another mountain ridge near Aspen. Huntington was a remarkable person, and the life he lived provides a memorable example of the way that networks are perhaps even more crucial to the functioning of the American economy than hierarchy. Though president of the largest utility in Massachusetts, Huntington also served as a single consciousness through which the medical, banking, education and environmental communities met and interacted, nationally and at a local level. There may be a few other executives of similar scope and depth in the United States—but surely no more than a dozen. He was a star person of the very first magnitude.

Huntington was in no sense a typical utility executive. He taught science and math in Nigeria after graduating in 1961 from Harvard College, then learned and practiced law, served for three years as an assistant solicitor general of the United States during the Nixon administration and taught for three years at Boston University before he was recruited in 1976 to serve as assistant general counsel at New England Electric. Eight years later, he was named president, having learned the utility business well enough to have become a notable figure in the industry even before his accession.

Through the hierarchy that is New England Electric, Huntington sat at the pinnacle of a pyramid of 5,200 employees and 871,000 customers in 146 communities, the company owned in turn by some 74,000 shareholders, among whom big institutions held something like a quarter of the common stock. But the next branch of his unusual influence extended outward in a literal network, to other companies in the electricity business, starting with the more than 100 members of the New England Power Pool, whom he convinced early on to prepare to import large quantities of Canadian hydroelectric power rather than go on a building binge.

An influential proponent of conservation measures as well, earlier this year Huntington made an offer to buy Public Service Co. of New Hampshire, the beleagured proprietor of the Seabrook nuclear plant; the move further contributed to his leadership on the issue of nuclear safety. The $1 billion offer is still pending. In an industry just beginning to be stirred deep down by changes in regulatory philosophy, Huntington stood out as an exemplar of the next wave of leadership.

Just as striking were the handful of boards of directors on which he sat. They included the Bank of Boston, the dominant financial institution in New England; the Harvard Community Health Plan, an influential pioneer of the kind of health maintenance organization whose emergence has unleashed a revolution in the financing and provision of health care; the Cambridge Friends School, a small Quaker school on the fringes of the turmoil in public schooling; and Worcester Polytechnic Institute, one of the hot spots of the emerging Massachusetts biotech industry. In different ways, each gave him an extraordinary window on changing times. Nor did he stint; at the Bank of Boston, Huntington was chairman of the audit committee; at Cambridge Friends School, he was chairman of the board of trustees.

But perhaps most remarkably, Huntington reached out to groups not ordinarily included within the compass of the establishment consultations—to conservation groups, consumer representatives, "watchdogs" of all sorts—and not in a patronizing but rather in a thoroughly collaborative way. "He really enjoyed talking to them," says Paul Joscow, an MIT economists who is a corporate director of New England Electric. "He wanted to hear what they had to say, and he wanted them to hear what he had to say." Those who knew him agree that what stood out about Huntington in a political way was his relentless pursuit of consensus in areas where consensus was truly important. What stood out about him in a personal way was his sheer vitality. "He was so full of life. I couldn't have been more stunned if it had been a member of my family," said William Brown, chairman of the Bank of Boston.

So what happens when a star dies? Well, at first glance, at least, it appears to be an exception to Pagels' generalization about the fragility of hierarchies versus the durability of networks. The hierarchy is the much less for Huntington's death, of course. But as an industry cynosure, New England Electric has an unusually strong corps of executives and managers from which to choose. The death of a key officer is not an uncommon story in business and it is relatively rare that the loss proves to be a corporate turning point.

The personal network of persons of both goodwill and steely purpose at whose center Huntington was, is another story. Who is likely to take his place as a leader whose credibility is equally great among, say, those who favor nuclear energy and those who propose its abandonment? "I don't know how we will replace him said the Bank of Boston's Brown on Friday. "I think New England has suffered a great loss. His family certainly has, and his company has, but I think many more people are going to be impacted by his absence from the scene, in ways they'll never know."

HUMAN RIGHTS VIOLATIONS IN ROMANIA AND TRANSYLVANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I had planned to take this special order tonight to discuss one of the great slanders of American history, a court case brought against dozens of Americans, named and unnamed agents of the Central Intelligence Agency, the FBI, and the courageous men on the front line in the battle against drugs, the Drug Enforcement Agency. But there is a human rights situation that has come to my attention, and I intend to infringe upon my own special order here for the first 5, 10, or 15 minutes, if it takes that long, to discuss this human rights situation in the country of Romania.

That is a nice, romantic name for a country—Romania, once a part of the Roman Empire. It has a language with an alphabet similar to ours, and it is a country caught up in that area where between Asia and Europe they sometimes are Occidental in their culture and customs and sometimes Oriental. But one part of Romania has only been a part of Romania in modern times, and that is the area in the northwestern part of that country called Transylvania.

To most Americans, Transylvania only became prominent in the Bram Stoker book, "Dracula." Bram Stoker was an Irishman who wrote that fascinating fiction tale. But Transylvania is actually a beautiful part of the mountain country that was part of the nation of Hungary for centuries and centuries, lost in the mist of time when the Magyar people first emigrated to that beautiful part of Europe.

But only since the Second World War, when the Soviet Union cut up all sorts of boundaries and borders, did Communist dictators decide that this piece of Hungary would now be placed in Romania, and it has not been a tranquil history since then.

One of my colleagues, the gentleman from California, Mr. ERNIE KONNYU, of Hungarian descent, was actually born in the nation of Hungary, and he is one of two Hungarians in this House, the other being our distinguished colleague on the other side of the aisle, the gentleman from California, Mr. THOMAS LANTOS, who was called away to other business and who had hoped to participate in his own special order tonight, one that the gentleman from California [Mr. KONNYU] and I were going to share. He will make a statement probably tomorrow on these ghastly human rights violations in Romania, in that part of the country where 2½ million Hungarians live in Transylvania.

So I have asked my colleague, the gentleman from California [Mr. KONNYU], to join me on the floor. I think it would be better, I say to the gentleman from California, if he would come down to this other lectern here and use the perfect acoustics down here to inform the Speaker and, through him, 400,000 Americans, which is the current figure of the people who follow the procedures of this House through the electronic technology and then through the literally thousands of libraries in America that get the CONGRESSIONAL RECORD, so that in 1 or 2 days the people can go to those libraries around America and read the proceedings of this House.

So as a Hungarian-born American, let me ask the gentleman from California [Mr. KONNYU], if he could tell us, what is the situation right now in the area of Romania that is known as Transylvania and controlled by the Communist dictatorship?

□ 2245

Mr. KONNYU. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for yielding.

Mr. Speaker, I call on this Congress to stand up. The cause of human rights is calling. This is the time. Now or never.

The madman of Romania, Communist Dictator Nicolae Ceausescu, has done it again. He's gone into the village liquidation business and in no small way. He's liquidating some 8,000 villages, mostly in the pre-World War I Hungarian province of Transylvania, now belonging to Romania, where the overwhelming majority of Romania's 2½ million ethnic Hungarian minority lives. To be sure he's also liquidating ethnic German and even some Romanian villages, he's forcing all of the farm and handicraft population to be moved into cities, mostly far away from ethnic Hungarian areas.

Yes; the 2½ million ethnic Hungarians residing in villages concentrated in northwest Romania are being dispersed in cities in the rest of that suffering country. This is just the newest atrocity in a series of atrocities designed to achieve cultural destruction of the ethnic Hungarian minority.

The dictator began his Romanianization campaign in 1974 when he launched a national effort, as the July

4, 1988, issue of Time magazine described "to distract Romanians from economic problems." Since that time, Romanian authorities have systematically closed Hungarian language schools, changed Hungarian place names to Romanian, and forcibly relocated Hungarian families to Romanian areas. This year, he's doing it to villages.

To understand better what the mad dictator of Romania is doing, let me use an analogy. Just as 10 percent of Romania is made up of Hungarians, around 10 percent of the U.S.A. is made of Hispanics. Now let's imagine the unimaginable; namely, that the Government of this country would force all rural villages in the Southwest—from Texas to California—where most of our Hispanics live, to be leveled to the ground, and the people living in them, whether Anglo or Hispanic, be forcibly moved mostly to the other regions of our county, the Southeast, the Midwest, and New England States where, with the exception of Chicago and New York City, very few Hispanics live. Now we can better comprehend what the madman's program is all about.

Of course, if this atrocity were tried here there would be a revolution in our country but, sadly, under the police state dictatorship of Romania, such justified revolution is impossible today.

We, Americans, believe in human rights. We, as a Nation have taken strong steps, whether in Afghanistan or Cambodia, Nicaragua, or South Africa, to demonstrate our beliefs.

It is now time to deal with Stalin's kissing cousin, the village liquidator, Ceausescu.

For over two decades this country has worked with Romania and was generous to her. The aim was good. Help the impoverished people of that country in exchange for Romanian demonstrations of independence from the Cowbell of Moscow. However, now the dictator of Romania is willing to throw away two decades of work with the free world in order to destroy the ethnic identity of the Hungarian minority.

The United States must not stand silent in the wake of the gross and public Romanian violation of the Helsinki accord on human rights. We must turn the screws on this madman and his plan.

One. We must seriously debate the recall of our Ambassador from Bucharest and issuing an invitation to the Romanian Ambassador to leave.

Two. We must abrogate the commercial treaty with Romania now in effect.

Three. We must strongly debate the freezing of all Romanian assets in the United States.

Four. We must publicly state that the above points stay in effect as long as Romania fails to live up to the provisions of human rights spelled out in the Helsinki accords, and agreement signed by Romania.

Five. Our Representative in the United Nations must ask that body to denounce Romania's inhuman acts.

Six. Our Secretary of State must ask our allies in Europe to take the same steps as points one through three.

Mr. Speaker, last week I did something I never thought I would, namely, I personally thanked, on behalf of the human rights loving people of our country, a Communist ruler. Yes; I thanked the new Communist Premiere of Hungary, Karoly Grosz, for his Government's efforts to stop cultural genocide in another Communist country, Romania. Indeed, even Budapest and Moscow are embarrassed by the homes, churches, cemeteries, and cultural traditions being destroyed in Romania.

Now Mr. Speaker, it is up to everyone of us who can choose where we live and how we pray to stand up for those who cannot. Today the voices of the oppressed are being heard. The Romanian madness must stop. We, Members of Congress, who believe in what the Statue of Liberty symbolizes have made a start today. Now, let's lead boldly on behalf of freedom. Those who suffer know we are their only hope. Any journey toward a goal begins with one step. House Resolution 505 is that step. Let's take it.

Mr. DORNAN of California. My colleague from California, that House Resolution 505 is mine, and it is not nearly as comprehensive as the 6-point plan of action called for. It merely denies most-favored nation status to this Communist dictatorship.

I would like to go over just for a few minutes here so that it is very clear to the Speaker and through him to the world what we are discussing should be the toughest steps we should take.

One of the distinguished former public servants and foreign service officers that you see turn up occasionally on "Nightline", or "Viewpoint" on ABC, or "Cross-fire", is Ambassador Larry Eagleburger who serves in a lot of high positions in our Government including right under the Secretary of Defense as Under Secretary and Assistant Secretary for——

Mr. KONNYU. Yes, he was the gentleman who was in Romania.

Mr. DORNAN of California. Oh, I did not know that.

Well, when he was Ambassador there, he very toughly and with great dignity represented the United States of America and freedom as the President's representative in this Communist dictatorship, and he said that one of the dirtiest little hidden secrets in the world was that Ceausescu gave this very liberal, with a small "1", attitude to the world on foreign affairs outside this country. Even visited Israel, allowed Jews to immigrate freely and tourists to come into his country from Israel. But meanwhile he ran the most vicious police state inside Romania of any of the East Bloc countries. And then even kept some of the Communist Stalinists cells that were underground and in an area that had been cleared and then paved over which turned out to be the main square, even had people underground in these prison cells where at one time people were being tortured as President Nixon, unknown to President Nixon, actually drove across the cobblestones over these torture cells under that main city square. But Ambassador, former Under Secretary, Eagleburger said what he gets away with in his country, police state brutality, is unheard of, and now there are all sorts of rumors that he is sick, and he is dying and he is going through the pathetic spasms that Atheist dictators go through right before they die where there is this one last reaction of ugly terror.

Now I think the legacy that he wants to leave his country is an evil one indeed, to destroy any remaining Hungarian identity in any part of that country, particularly in Transylvania. So let us take a look at the points of the gentleman here, and I will tell you this:

Every time I put in—I have done this many years in a row—an amendment to take away most-favored-nation status, the Romanian Ambassador shows up in my office within hours, days.

Mr. KONNYU. If the gentleman will yield on that point?

Mr. DORNAN of California. Sure.

Mr. KONNYU. Of course we know that the United States has withdrawn most-favored-nation status.

Mr. DORNAN of California. Right.

Mr. KONNYU. At Romania's request interestingly enough.

Mr. DORNAN of California. Because they were tired of having it used against them as a leverage of freedom.

Mr. KONNYU. Well, absolutely.

And, of course, some say that the key reason was what I was talking about, which is that there are these 8,000 villages that he wants to destroy. He wants to destroy the rural Hungarian minority that is living in Romania, and he knew that the world was going to flame up over this outrageous act and that he would lose his issue.

If my colleague will remember the debate last year on the Wolf amendment, the gentleman knows the atrocities that Romania had already committed last year and the years before that, in that they were laid out to this House and of course to the world.

Mr. DORNAN of California. Grinding up the Bible and turning it into toilet paper.

Mr. KONNYU. Those kinds of ugly things.

Well, this tops it all. This is the worst of all because think about it. Churches and cemeteries and homes of people who have lived in them through their families and forefathers for centuries are going to be leveled to the ground ostensibly for the purpose of providing more agricultural land.

Mr. DORNAN of California. Right.

Mr. KONNYU. But for the real purpose, of course, of wiping out that Hungarian minority.

Mr. DORNAN of California. The gentleman's analogy was startling about taking the exact, almost to the percentage point, of our Hispanic Americans and trying to utterly destroy their culture where in our country we are telling them to enjoy their heritage, take pride in it, revel in it. We will try and create even bilingual situations.

Our Presidential candidate speaks in Spanish, the majority——

Mr. KONNYU. Well, that is the other side.

Mr. DORNAN of California. And I am sure that in the seconding speeches—I get to follow Jeb Bush at the convention, the Vice President's son who is the secretary of commerce in Florida, which also has a large Hispanic population, not just Cuban, but now Nicaraguan American, Salvadoran American, as they flee Communist instability in Central America. Jeb will probably have his beautiful Mexican-American wife, Colomba, who was only a Mexican citizen when they married and now has the beauty of two citizenships. She will stand up there with Jeb, I hope, and say something to the convention.

So here we are talking 10 percent of our country, which is no small number out of 245 million people, and glorying in it by saying, "Here is a rich culture in the Western United States all the way through Texas, all the way down to Florida." Imagine if they had a party convention of the Communist party in Bucharest and they had people up there speaking in Hungarian trying to nurture this great cultural heritage. Eight thousand villages is a lot of villages to wipe off the face of the Earth. Hitler's name still rings in infamy for leveling the village of Lidice in revenge for the underground of Reinhard Heydric, one of the evil men of the German Secret Service and the Gestapo who was a brutal ruler and Nazi-occupier of Czechoslovakia. I mean one cannot hardly keep track of 10 villages, let alone 8,000.

So let me walk down closing here some of your suggestions.

The gentleman says, point, 1, that we must seriously debate the recall. Do not say put an amendment to recall them. Just want to debate it, the recall of our Ambassador, and issuing an invitation to the Romanian Ambassador to leave.

Mr. KONNYU. If the gentleman will yield further, I really believe that, as members of the State Department leadership have said, that we do not have the usual leverage points with Romania that we do with many other countries in this world. And there are very few left, but there are a few left, and I pointed out six items——

Mr. DORNAN of California. The gentleman is correct.

Mr. KONNYU. Of recommendation, and that is clearly a leadership one.

Mr. DORNAN of California. Abrogating what commercial treaties we do have with them.

Mr. KONNYU. We just signed some codicils based on the old 1973 treaty with Romania with respect to commercial relationships. This is upon the withdrawal of MFN so that there is still a continuing element of commercial relationship, and clearly there is a need to do something and more than we have already done, and that is certainly one element of it.

Mr. DORNAN of California. Now, if the horror unfolds there as badly as we fear and anticipate right now; the gentleman's point 3 is really tough, but we did it with Iran, and although there is persecution of many of their own people, those who have been loyal to other regimes, particularly the Shah of Iran. We did what we had to do when they touched our hostages. We froze their assets. The gentleman says we should debate again, debate, to get the attention of this aging Communist dictator, Nicolae Ceausescu, the freezing of all Romanian assets in the United States.

□ 2300

I think we ought to talk about that.

Mr. KONNYU. Mr. Speaker, if the gentleman will yield further, clearly there is evidence on the part of our diplomatic leadership, and I do not need to state any names, but that is one element that was said, that Ceausescu can be moved only on two things from his intended course on those things. One way of moving him is through money and this is getting at his money and access to his money in the United States. The other one, of course, is through his ego. If you stroke his ego, but since the United States is in no position to stroke the ego of a madman, this is one way you can affect him is to take his money away.

Mr. DORNAN of California. If we had taken direct action like that in the middle or even in the last thirties against Adolf Hitler, we could probably have saved millions of lives, done early enough might even have destabilized his government and had him thrown out of office when we won with only 34 percent. Germany had, of course, much richer assets in this country than Romania does, but that always gets a nation's attention.

Mr. KONNYU. Mr. Speaker, if the gentleman will yield on that point, I think the gentleman and I differ on that one. I do not think Hitler was motivated by issues related to money. I think his motivations were other than that, but that is for further debate.

Mr. DORNAN of California. Where Ceausescu like aging Communists has this greed side to him.

Mr. KONNYU. That is right, greed and ego.

Mr. DORNAN of California. Point No. 4 would publicly state that the above points stay in effect as long as Romania fails to live up to the provisions of human rights spelled out in all the Helsinki accords since 1974. We have seen those accords taking a beating.

Mr. KONNYU. Mr. Speaker, if the gentleman will yield on that point No. 4, the key is, and we must remember as Americans that Romania signed the Helsinki accords, including obviously the human rights provisions in there, which requires that minority nationalities, and Romania has the largest minority nationals in all of Europe, the Hungarian minority, that they pledged to follow the Helsinki accords, which of course we in the United States monitor as an example when a Member of Congress from Maryland sits on that particular board.

Mr. DORNAN of California. No. 5 is our representative, of course that is the distinguished gentleman, scholar, linguist, speaks 14 languages, Dick Walters in the United Nations, Ambassador Walters. He must ask that the United Nations take a look at this and denounce Romania's inhumane acts against their Hungarian 10 percent minority peoples.

No. 6, that our Secretary of State, George Shultz, ask our allies in Europe to take at least steps 1 through 3, which is asking for the debate of the recall of their ambassadors, abrogating any of their commercial treaties and debating the freezing of Romanian assets in their countries. These acts are so simple in the area of diplomacy, compared to what nations in frustration try to think to do once the human rights horror is over with, once the genocide is over, the crushing of a culture is over. Then times marches on and history relegates a whole people, a whole culture sometimes, to the ash can of history because people are a little ashamed that they did not move to stop something in the cradle when they had an opportunity.

I appreciate the gentleman asking if he could join this special order of mine to get this out while it is before the world and get it before the world, because any human rights issue should always take precedence in this

House. That is when we should waive all rules, expedite all matters, get the debate on the House floor, because this is the most successful democracy republic in the history of the world.

These countries all watch what takes place in the proceedings of this House. One of the amazing things about the coverage of this house electronically is that as we talk to our Speaker and advise him, sometimes pretending that he does not know and hopefully he does, we end up being played over the C-SPAN facilities through satellite in hotels in Japan, in Malaysia, in the Caribbean resort islands and in all the major Swiss hotels in all their cities, and in Geneva there are a lot of Romanians nurturing themselves at the mother breast of the United Nations and a lot of their agencies that pump money around the world, money raised from the capitalist nations, and at this moment in some hotel some Romanian diplomat who has awakened very early or could not sleep well during the night is watching this discussion. I hope he knows that as long as the gentleman from California [Mr. KONNYU] is in this body, the gentleman from California [Mr. LANTOS] on the other side of the aisle and myself, we will call attention to these human rights abuses in Romania.

Mr. KONNYU. Well, Mr. Speaker, if the gentleman will yield for a final moment, I want to thank the gentleman for yielding to me and to allow me to make my statement and then, of course, to cross-examine each of the points so ably and in such a learned manner. It is always a pleasure to discuss foreign policy issues with the gentleman. Of course, we find ourselves almost always on the same side. Therefore, I take great pride in the gentleman's accomplishments and in-depth knowledge of these issues, and I thank him for his leadership, which I think is very important to this Congress, to America, and of course now because of what the gentleman has done and what I have done it is very important to the poor souls in Romania who are suffering under the madman.

Mr. DORNAN of California. Mr. Speaker, keep your attention on this issue, because the gentleman from California [Mr. LANTOS] will be in the well tomorrow, given our fast schedule on a Thursday getaway day, to emphasize many of the points that the gentleman from California [Mr. KONNYU] has made. The only price you have to pay Ernesto, my good friend, is when you get back to your office leave the television on. I want you to hear some of this information on the Christic Institute.

Mr. KONNYU. Mr. Speaker, I thank the gentleman.

THE CHRISTIC INSTITUTE

Mr. DORNAN of California. Mr. Speaker, it is very difficult to make a special order and want to use every minute of precious time on what I consider to be one of the major lying slanders that has taken place in modern American history and not have to go back to all those people who are totally unaware of the facts of the Christic Institute versus truth and bring them up to date with all of the particulars and the legal battle. It is going to be very difficult for me to capsule this, so let me start by discussing in the popular marketplace of entertainment a ghastly lie that has spread across America and been fed viciously by an institute claiming to have roots in Christianity, particularly in my religion that I dearly love, the Roman Catholic faith, and they have attempted to destroy lives and ruin careers. I believe now it has reached the point where they know beyond a shadow of a doubt that they are lying.

First of all, I cannot stand to say the name Christic Institute, because the name is taken from Jesus Christ, the Son of God, to this believer. It is a beautiful name, Christ, or Jesus. The word "Christic" comes from a mystic Jesuit priest named Teilhard de Chardin. He was sort of the prototype for the priest in the film the Exorcist, the archaeologist priest dealing with all sorts of new concepts about the spirit in the world and things in this Christic spirit he talked about that will always be around, fighting the forces of evil. It is a concept I could understand and embrace, that there is a Christ spirit that fights evil everywhere, since God sent his Son down to redeem all of us, or each one of our series of sins and each individual grievous sin.

But to take that name, Christ, in that form that Jesuit priest Chardin had coined it and apply it to this unbelievable series of lies that has gone on for several years is horrendous.

Last night in a gathering of many of the victims of the Christic Institute, one of them, a former ambassador from Costa Rica, Kurt Windsor, suggested that we merely drop the word Christ off and call it the Tic Institute, after the blood-sucking insects that we see poison many people around this country with lying diseases and all sorts of other ghastly diseases. A tic will latch on to the body as this Tic Institute has latched on to the body politic, and as you do with most tics, destroy them, I hope to see this institute destroyed by a judicial decision down in Florida where Judge King completely threw out this case and showed that it was a fraud. They should be ridiculed now on the "Tonight Show," the "Today Show," the "Nightwatch Show," the "CBS Morning News," "Good Morning America," "This Week With David Brinkley," "Viewpoint on ABC" at night, all the evening news shows, everybody should set the record straight on the lies that the Christic Institute, the Tic Institute, has spread acoss this country.

Before I read some about this group and then try in the short time I have left to correct some of these lies, and it is probably going to take three or more special orders to do this, let me tell you a metaphor that a nun, a Dominican sister used to a third grade class that I was attending in New York City in the late 1930's. This nun was trying to teach third graders about lying about people's characters and how dangerous it was. The graphic example she used of how you can never take back all the lies of slander, she told a story that was very graphic for a young New Yorker who had just been up on the Empire State Building with his brothers and father.

She said, "When you tell lies about people and destroy their character, whether it is in ignorance or deliberately," this sister said, "it is like going up with a pillow on the top of the Empire State Building and in a roaring wind cutting open the pillow and flapping all the feathers out to the four winds, each one of those feathers being a lie, and then when your conscience begins to hurt, if you are a decent person and you want to redeem yourself," and she used, of course, the Catholic metaphor because we were some of us making our First Communion or had made it just a couple of years before, and she said, "You go to confess your sins to a priest and he gives you absolution"—or God gives you absolution through the priest—"he will tell you that you must make restitution and try to the best of your ability to restore the reputations of all these people that you destroyed."

And the sister said, "That is like trying to collect all the feathers from that pillow that you ripped open on top of what was then the Nation's highest building and collect all those feathers. At best you can fumble around in the streets and find a few of those feather lies to bring back."

Listen to this opening in a very thoughtful intellectual journal called the American Spectator about the Christic mystics, as they call them, and their drug-running theories. This lie is so pervasive that it worked its way into the keynote speech at the Democratic Convention. This very pretty Democratic grandmother from Texas, Ann Richards, gave the keynote, had a rotten vicious line in her keynote speech at one of the best, most successful conventions the Majority Party has ever had in this country. She said, "Testimony is given daily that the CIA, the Central Intelligence Agency, the Drug Enforcement Agency, the Federal Bureau of Investigation, knowingly have stood by and watched," and the implication was even been involved in drug running from Central America.

She got that lie from a weird series of hearings that have been conducted on the other side of the Hill in the U.S. Senate by a junior Senator from one of the New England States, Massachusetts by name, that has been constantly trying to nail the Freedom Fighters in Nicaragua, the so-called Contras, with this drug-running theory, and by implication involving people in the Central Intelligence Agency and by acquiescence, people in the Drug Enforcement Agency. I do not know where she got the idea that the FBI is supposed to be involved.

This obscure Washington so-called institute is filling the head of this Nation, I mean our collective Americans' brains, with nonsense, and they are making a gigantic financial killing doing it, raising money all the way from Harvard Law School to Jane Fonda and the limousine liberals who are millionaires living on the west side of Los Angeles County.

Here is the way they begin their article. It is about as good a way I can think of:

> For the past 30 years, says this earnest curly haired man who is the main liar in a short film called the "Heart of the Matter," a gang of gung-ho military and intelligence veterans, a shadow government, a secret team, has been conducting its own version of U.S. foreign policy. They have been "killing and maiming innocent people"——

This is a direct quote—

> selling weapons of death, shipping cocaine by the tons into the United States, skimming millions of dollars, all as part of a global anti-Communist war conducted in the back alleys of the world.

The Iran Contra affair, this man is here to tell you, did not begin with Oliver North. "Evil things are done by the human family and done in the dark," he says. "He enters a church and lights a votive candle as the organ music rises, and then this man says, 'and we are here to expose it.'"

"The solemn voice belongs to one Daniel Sheehan, general counsel and prognosticator in chief of the Christic Institute which calls itself an interfaith center for law and public policy."

□ 2315

That means that through lawsuits the Washington-based group aims to effect a shift in American politics and culture. The group was founded only in 1980, but even a year ago it was just considered another wacky, moribund, left-wing hive with no more of a following than, say, the Rainbow Lobby or Partners for Global Justice. The institute took its name from the writings of Jesuit mystic Teilhard de Chardin, who wrote in the early 20th century of a Christic force that unifies all beings and overpowers destructive manmade forces. That appears to be the extent, the only extent, of the role religion plays in the institute's doings.

After the Iran Contragate issue broke they began to travel around this country to the point where they were taking in $60,000 a day, and it is a money machine. I for one hope to help them lose their 501(c)(3) tax status as a nonpolitical group, because they are a heavy-hitting, left-wing, radical, pro-Communist hit team spread around this country poisoning the minds of young people on college campuses, and raking in all of this money and affecting the scripts of Hollywood productions that are tuned out by the liberal left in Hollywood from television to nature motion pictures.

For example, "Lethal Weapon," a very exciting movie with the Australian star Mel Gibson, and he does not know what he is saying; he just takes his paycheck and takes it back to Australia, I guess, but in the film they are making a case that all of this drug-running, vicious torturing, murdering, big, tall, strapping handsome kids, that they are all ex-CIA agents who we know supposedly were running drugs in Indochina, one of the great calumnies and slanders to come out of the Vietnam war, and another film, "No Way Out," playing all over on HBO and television right now, and Mr. Speaker, the handsome new actor who made a big mark with his "Silverado" and then a starring role with "The Untouchables," Kevin Costner, a young actor, attractive, and probably apolitical, I hope, does not know what he is saying in the film. There are mock office buildings which are supposed to represent the Pentagon, and the Secretary of Defense has a mistress that the Secretary of Defense murders or is it manslaughter, anyway, he pushes her over a railing because she is cheating on him with this young naval officer, and this came on the heels of the Oliver North testimony, so they raked a windfall in the box office. At one point he is being chased around the Pentagon through the halls by two thugs chasing him with guns, beating up people, murdering people, right inside the Pentagon gymnasium, and when he says to one person in the presence of the two thugs, "Who are these people?" the answer was, "Well, they used to be part of the CIA effort down in Honduras and El Salvador, and they were part of the right-wing death squads down there or something." Unbelievable slander that I just sort of dismiss, because I am just so angry at the movie one minute and enjoying some of the technical perfection and some of the good acting and the performances, so I kind of dismissed it all as Hollywood left-wing, disgusting, vicious crapola, so I just put it out of my mind. But the young people in college campuses and high schools see these movies, and that goes into their minds and stays there, this poison that we should hate these agencies of our Government. One whole segment of "Cagney & Lacey" was devoted to glorifying the Christic Institute by name, and in the end, the husband and boyfriend on "Cagney & Lacey," the husband and boyfriend of the two award-winning actresses are saying that the Christic Institute is terrific; "This Daniel Sheehan, he is my hero," the husband of one of the lady leads of the main character says. It is phenomenal how this has affected the productions coming out of Hollywood.

What are the facts about drug running from Central America? The hard facts are that the Communist Sandinista leadership in Managua is nailed with hard evidence including film of them loading cocaine onto a C-47 Douglas gooney bird aircraft to be flown up to this country. The man flying the airplane was an American informant working with our antidrug agencies who was later assassinated in the streets of New Orleans. He did not get proper protection, and I think it was his own fault he did not ask for proper U.S. Government protection, but we have got film evidence of Borge's operation, the MINT down there, the Minister of the Interior, and we have had people defect that say that Borge himself takes care of all of the cocaine-running that comes through Nicaragua, and the Ortega brothers know about it.

Here is the winner in the Washington Post, Tuesday, July 26. What is That? Eight days ago. The Washington Post is hardly a conservative paper: "Five Guilty In $10 Million Cocaine Run; Trial Uncovers Evidence Of Cuban Drug Trafficking Involvement." Michael Isikoff is the byline. "Five members of a Miami-based drug ring were convicted yesterday of smuggling more than $10 million worth of cocaine through Cuba in a case prosecutors said contains some of the strongest evidence yet of Cuban Government involvement in drug-trafficking. The conviction of Hugo Ceballos, a Venezuelan native with ties to Colombian cocaine traffickers, and four codefendants came after a 2-week trial in which prosecutors presented evidence that the smugglers last year arranged to have two loads of cocaine totaling 700 kilograms flown from a farm in Colombia to Varadero, Cuba." And remember that name. I have learned this in secret briefings. I was briefed at a location in the United States where all of this evidence is collected with highly sophisticated means, and I am sworn to secrecy, because it is a top-secret briefing, but now it is in the Washington Post, and I can read it. There is an island off the coast of Cuba, and there are other places where we know that these drugs are trafficked through. It goes all the way up to Fidel Castro. "With the assistance of men alleged to be Cuban Government officials, the drugs were loaded onto boats that were escorted out of the country's territorial waters by the Cuban Coast Guard, according to trial evidence and prosecutors."

Here is one of the prosecutors saying, "The evidence in the trial demonstrated that Cuban territory was used with the knowledge, approval and cooperation of the Cuban Government."

Why do we not see this in Hollywood films? This is the U.S. attorney in Miami. "These are not simply a few rogue, low-level Cuban officials. This demonstrated knowledge at high levels of the Cuban defense establishment."

It goes on to say, "For more than 5 years, Reagan administration officials have publicly accused the Cuban Government of Fidel Castro," and the Cuban Foreign Minister was convicted years ago in a Miami court in absentia for drug-running, as well as the Sandinista leadership in Nicaragua and the leftist guerrillas in South America who have complicity in the narcotics trade, but until recently law enforcement officials did not have enough hard evidence to substantiate the charges relating to the Cuban officials.

In an NBC television interview earlier this year with Brokaw, Castro vehemently denied that his country was involved in the drug trade, and he called allegations that he cooperated lies from top to bottom. No, he is the father of lies down there.

"This is the first time we have had evidence that Cuba, like other Caribbean countries, is being used as a transshipment base for drug-trafficking," as was said by Jack Hook, a spokesman for the Drug Enforcement Administration in Miami.

This is incredible, we have hard evidence that this has been going on for years, and in a bond hearing last month, another one of these people on tape boasted to an informant that, "I am the only one that has connections to Cuba" and then a reference to Castro, Mr. Ruiz says, "The money went into Fidel's drawer."

We have had people testify on the Senate side, which was not the plan of some Senators, about the plan of leaving huge suitcases of money in the offices of some of these Cubans and in some of the offices of some of these Panamanians, and none of the truth is coming out on this because we are too busy listening to Daniel Sheehan and the Tick Institute which put out these ghastly lies against the FBI, CIA, the DEA.

Here are some excerpts from Judge James Lawrence King's opinion throwing this suit out the last week in July.

"The whole suit started off with a bombing at La Penca where Eden Pastora was almost killed," and 30 journalists had traveled for hours in canoes up the san Juan River, which is most of the border between southern Nicaragua and northern Costa Rica, and Eden Pastora was going to have a press conference and this bomb went off, and Eden Pastora, who I grew to like over the years of 1984, 1985, and 1986, but who became a little erratic in his charges. He blamed the Sandinistas, then he blamed the disgruntled people in his own movement, and then he blamed people from the northern part of Nicaragua, and finally he ended up blaming the CIA, and then it came to the point where wherever one gets the most attention, then this man, whom I still admire for a lot of things that he did, finally decided to take his five handsome sons and his daughters back to shark fishing, and he now fishes off the northern part of Costa Rica.

This bombing was attended by two American newspapers, a man and a wife, and the wife uses her maiden name, Martha Honey, and the other guy's name is Avirgan, and these two people went to the Christic Institute, the blood-sucking Tick Institute and said, "Will you represent us in this lawsuit," and after the Iran/Contra issues hit the front pages, they were off and running raising tens of thousands of dollars.

Here is an excellent affidavit of General John K. Singlaub, who I thought conducted himself with great dignity and honor in front of the Senate-House joint Iran/Contra committee. He has not been charged with anything. He is proud of his help to freedom fighters from Afghanistan to Angola to Nicaragua to Cambodia.

He hired a lawyer only a year ago, a year ago May, Thomas R. Spencer, Jr. Here is the affidavit that is finally a part of the court record that tells the final story of the idiocy of this man Sheehan who claims to have thought about studying for the priesthood at one point, who appeared before my Select Committee on Narcotics Abuse and Control a few months ago, and embarrassed the whole committee, including our chairman, CHARLES RANGEL, of New York, and BEN GILMAN, CLAY SHAW, former mayor of Fort Lauderdale, Congressman for a decade, BEN GILMAN, two decades in this House, both of them who have worked tremendous hours of dedication trying to roll back this drug plague that is ripping our country apart, and we all looked at one another, and we said, "Mr. Sheehan, you are not telling us anything." I did not know at that time what a world-class lying mouth this guy had. I said, "Where is the evidence? We have 200 press people waiting in the hall. You are going to come up with this explosive evidence tying the Contra freedom fighters to drug-running." He had nothing. CHARLIE RANGEL had to call the press in, and I was there to make sure that he did it in simple, good, straightforward language; Mr. RANGEL did; he said, "We have heard nothing." Big sigh from the press, "Oh, boy, we thought this was going to be the smoking gun that would really get Oliver North and get everybody who has ever tried to help the Contras including everybody on both sides of the aisle," that has voted to give them sustenance in their fight for freedom against the nine Communist dictatorship junta down there in Managua, another dead-end street, but little did I know at that time, a few months ago, what Sheehan was doing in this incredible fairyland case down in Florida.

He came in with a case claiming, by the way, in his background, he once represented briefly, and he hyped this and blows this up, too, in a lot of lies that he had something to do in a peripheral way with the Karen Silkwood case, and that was the woman that Cher played in the movie about Silkwood and had the Academy Award-winning performance in the movie, about the young lady who was taking plutonium home from one of the nuclear reactor sites, and I believe it was in Oklahoma, but at least that is where the production company made that film, and it was a great performance by the young actress that goes by one name, Cher, but at the end of the film, when almost all of the young people are leaving, in the crawl at the end of the film is a little legal disclaimer. It said that when Karen Silkwood was found dead in a car accident, supposedly on her way to tell all to some eastern reporter, it said that in her body, at the time of her death, was found the following drugs, and I remember meprobamate, probably Valium, some others, and it was just a little thing to cover themselves in case she was fantasizing all of this, and they say that at the end of the film where nobody is watching and, of course, they are all filing out of the theater, "We did say that she might have been a little bit cuckoo on drugs and we covered ourselves." He has some background in that case—Sheehan.

He now comes in with a list of 79 defendants, and just as he did in the Karen Silkwood case he said some of these people were so secret he could not identify them. He identifies them by number and then puts words in these fictitious people's mouths and then they slander all of these people from distinguished, known American general officers down to unnamed people in the FBI.

I will try to do this fast in the time I have remaining. Listen to this: "Before me, the undersigned authority, personally appeared Thomas R. Spencer, Jr., who, being first duly sworn, deposed on oath and said," and this is dated just a few days ago, July 20, 1988, "I have served as counsel for defendant John K. Singlaub since August 1987. I have become intimately familiar with the record in this case and the related discovery, evidence, production, briefs and other papers. Attached hereto and made a part hereof is the affidavit of Daniel P. Sheehan dated December 12, 1986, hereinafter referred to as the affidavit. I have annotated it to show the names now revealed as we procured them through elaborate and protracted court proceedings. The materials attached here were produced or filed in this case during its long evolution. Affidavit was filed in this cause and thereafter widely publicized by Mr. Sheehan and his wife, Sarah Nelson, executive director of the Christic-Tick Institute," and notice it is a family operation and they are all getting rich off of this. Some liberation theology people claim to work for the poor and they suddenly find a way to roll in the money from the naive Americans. It was sold and distributed to thousands of Americans.

It was sold, distributed to thousands of Americans, the Sheehan affidavit, which was sold in Hollywood, sold at the Harvard Law School and sold to colleges, and they have this videotape that I spoke about where he is going to light this bolt of light and he is going to uncover this evil called the Secret Team, a team of secret Americans and a secret government that has been operating secretly since the Second World War and tied into the Bay of Pigs, South America, Iran, Angola, all over the world and funding it all with tons of cocaine.

□ 2330

Did any of you ever see this documentary, one of a series of three by that Texas guy who was the press secretary for President Lyndon Baines Johnson, Moyers, this sickening thing called the Secret Government? He had TICK Institute liars in that film, barely identified, spewing out this sick theory that our country, since World War II, has been run by a secret shadow government. Moyers is the guy's name. I cannot believe what this guy did, and in a followup hour documentary, paid for with tax dollars through the Corporation for Public Broadcasting, Moyers then begins to attack his own Baptist faith, his religious upbringing and slanders whole groups of religious Americans in this country.

This affidavit, filled with lies by Daniel Sheehan, "was used by numerous journalists as the basis for countless articles written and disseminated throughout the world. It was presented as evidence to at least two other federal district courts, the U.S. District Court for District of Columbia, and the U.S. District Court for Kansas. It was used as the basic script for a prepared video-taped speech of Mr. Sheehan. This tape was shown all over the country.

"Based upon my knowledge of the Record, and the discovery taken in the case, I have concluded that many of the representations made by Mr. Sheehan to the Court in this Affidavit were false and were made with a reckless disregard for their truth."

In other words, in not such nice, legal language, that this is a knowing, foul, liar, this Daniel Sheehan, and I will say everything I say in this well, as I did last night, across the street, outside to the public. I would love to see this guy try and take me on. I will expose this phony, so-called Catholic interfaith organization for what they have done to people's reputations.

Spencer goes on:

"I believe that in some instances, the statements were made with a clear understanding that they were false at the time that they were made. In many instances, the attributions were consciously designed to mislead. In other instances, I am convinced that Mr. Sheehan acquired knowledge of their inaccuracy and took no steps to correct them," while he was drawing millions of dollars from Jane Fonda. As she sells exercise tapes across this country, she pumps the money into this liar so that he can go around to all of the universities, to Harvard University, to college campuses, and he can sell them videotapes and lying affidavits.

"This affidavit was made by Mr. Sheehan directly to this court. He represented that it contained evidence collected by a lawyer supposedly experienced for 16 years in trial practice. It was requested that this court rely on that affidavit. Mr. Sheehan represented that he had received this information from confidential sources which he numbered sequentially."

Now what Mr. Spencer does in the rest of his affidavit, he says, "Discovery was concluded May 20, 1988. Many Sources are now alleged by Mr. Sheehan to be 'unknown'. For example, Mr. Sheehan now claims that he has 'lost' the name of Source #1 (a Minister). He now claims that Source #2 (an F.B.I. Agent) was never known to him, but was really a 'Source' of Source #1. Source #3 (an F.B.I. Superior) is similarly unknown now. The reader, however is clearly led to believe that these were identified by Mr. Sheehan and known by name. They were supposed to be and have 'evidence', as that term is known even to inexperienced lawyers.

"5. Mr. Sheehan now claims that he communicated to Sources #4 (Taylor), #5 (Fink), #6 (Rosenberg), and #7 (Barger) the name of Source #1 (the unknown Minister). He now claims that he does not know that name. Source #7 (Barger) has refused to confirm the veracity of many of the statements reported to have been made by him to Mr. Sheehan (Exhibit 'E').

"6. We took the deposition of Source #8, Michael Hirsh (Exhibit 'F'). Mr. Hirsh testified that he did not give Mr. Sheehan the information attributed to him in paragraph 21 of the affidavit. He stated that he was never afraid of the defendants because he had no idea that he was a 'Source'.

"7. Mr. Sheehan now says that he has never known the name of Source #11 (a member of the Louisiana Guard).

"8. Mr. Sheehan now says that his Source #12 is unknown by him.

"9. Source #13 (Jack Terrell) has refused to confirm the veracity of the statements reported to have been made by him to Mr. Sheehan (see Deposition previously filed).

"10. While Source #19 was alleged to have provided direct first hand information, he is now alleged to be unknown.

"11. In paragraph 40 of the Affidavit, Mr. Sheehan contends this his 'Sources' informed him that an ABC cameraman had discovered that he had been injured in an attack 'planned by Defendant John Hull and a Costa Rican based anti-Sandinista terrorist group supplied with C-4 explosives by Defendants Thomas Posey, John Hull and Bruce Jones.' As is now clear from the 'evidence' submitted to the Court, there was no such information.

"12. The 'facts' stated by Mr. Sheehan in paragraph 42 of the Affidavit attributed to Mr. Avirgan and Ms. Honey are untrue. Both plaintiffs revealed on deposition that they never saw the Affidavit until much later and that they 'disagreed' with many of the facts alleged therein.

Imagine, this lying affidavit being sold on campuses all across the country for $10, $15, whatever the traffic will bear until they were taking in $60,000 a day in the dumpy little townhouses over here where the people, in the hippy style of the 1960's, slept in very rough conditions inside of the so-called legal offices, the beat-up old townhouses where the TICK Institute resides.

The affidavit states, and now this is the affidavit of the mad liar, Sheehan:

> In fact, General Singlaub raised money inside the United States which was directed, by him, to be deposited by contributors in a Grand Cayman bank for use in the purchasing of weapons and explosives for the Contras. Singlaub also traveled to Central America with Robert K. Brown "he is known to me personally as an honorable gentleman, the publisher of Soldier of Fortune" and personally facilitated providing one John Harper to the Contras, who trained Contras in the construction of C-4 anti-personal bombs exactly like the one which was used to bomb the La Pence press

conference. In fact, Plaintiffs' Counsel has been informed by Source #24 (Wheaton) that Defendant Singlaub and Robert K. Brown directly provided John Harper to Defendant Amac Galil who helped Defendant Galil construct the very C-4 bomb which Galil used to blow up the May 1984 Eden Pastora press conference. Source #24 is a person with knowledge of the activities of Defendant Singlaub, Robert K. Brown and John Harper with the Contras.

This statement was published throughout America to defame Singlaub and link him with the La Penca bombing.

14. Mr. Gene Wheaton was interviewed extensively by Mr. Sheehan before and after he filed suit. At deposition, however, Mr. Wheaton testified:

(Spencer) Q. I was asking you about this Affidavit. The next sentence of that affidavit states: "In fact, plaintiffs' counsel has been informed by Source Number 24 that defendant Singlaub and Robert K. Brown directly provided John Harper to defendant Amac Galil, who helped Galil construct the very C-4 bomb which Galil used to blow up the May 1984 Eden Pastora press conference"

I'd be happy to read it back to you.

(Wheaton) A. No I heard the statement.

Q. My question—

A. What's the question?

Q. My question is: Did you make that statement to Mr. Sheehan?

A. No. I did not.

Q. Do you know why Mr. Sheehan included that sentence in that Affidavit—which was under oath by Mr. Sheehan—attributing that fact or alleged fact to you?

A. No. I don't.

Deposition of Wheaton, (page 706).

(Spencer) Q. Do you have any knowledge that Mr. Harper had anything to do with the La Penca bombing?

(Wheaton) A. I have no knowledge of that whatsoever.

Q. Or that General Singulaub had anything to do with the La Penca bombing?

A. I have no knowledge of that whatsoever.

Q. But you are aware, are you not, of the fact that Mr. Sheehan crafted a statement attributable to you to give that implication. Are you not?

A. I don't know.

Deposition of Wheaton (page 712) (see Transcript previously filed).

15. There is no identification anywhere in the Affidavit of the identity of "David" and his third-hand narrative could not constitute admissible evidence. Mr. Sheehan had never interviewed "David" and he was not, therefore, a "Source". Mr. Sheehan failed to tell the Court and the readers that "David" has never been identified.

16. In paragraph #49, Mr. Sheehan attests that "both Tony Avirgan and Martha Honey spoke by telephone, with David, confirming his existance, his name and his possession of the general information set forth [in paragraph 50]." As Mr. Sheehan knew, neither Avirgan nor Honey ever confirmed David's existance or his name. Mr. Sheehan sought to give the Court, journalists and the public, the impression that "David" was a real person, who was identified and who had provided first-hand information. As he well knew, this was untrue. The real supposed conversations would never constitute evidence in a Court as that term is used in the civilized world.

17. Sources numbered 27, 28 and 29 were indentified simply as "Mother" or "Father".

18. Source #31 is now allegedly "unknown".

19. Source #33 is now alleged to be "unknown".

20. The facts attributed to Source #34 (Brarrantes) are unsubstantiated by him.

21. Source #35 is now alleged to be unknown.

22 Although serious statements and charges are attributed to Source #36, he is now alleged to be unknown.

23. Curiously, Mr. Sheehan now claims that Sources #37 and 38 provided certain information. However, Source #38 Col. Barrantes (who is also Source #34) denied the facts attributed to him.

24. Source #39 is now alleged to be unknown. But in the Affidavit, he was alleged to be an intelligence officer who was interviewed.

25. Mr. Sheehan refused (until ordered by the Court) to reveal the names of "Sources" #42, 43, 44 and 45—although the attribution was to a report prepared in 1985 by the plaintiffs which listed all names of those interviewed. Furthermore, many of these "Sources" have more than one Source number. For example, Eden Pastora is now alleged to be both Source #42 and Source #77.

26. Source #46 is now alleged to be Brian Barger. He is also alleged to be Source #7. Paragraphs 59 and 60, however, are contradictory to earlier attributions of facts to Source #7 (see paragraph 40 and 41). There was no justifiable reason in 1986 for Mr. Sheehan to use two "Source" numbers for the same person, except to deceive the Court and the Public into believing that more individuals were attesting to the alleged facts. The truth is that Mr. Barger's information was widely quoted (he is a journalist) before the Affidavit was filed. Still, Mr. Barger has denied various attributions made to him by Mr. Sheehan.

27. Source #47 (Paul Hoven) has denied the attributions made to him. (Exhibit "H").

28. Source #48 is alleged now to be the same person as Source #24 (Gene Wheaton). Source #48, however, was described to be a former U.S. Intelligence officer."

By the way, this guy, Sheehan, puts all sorts of people in Indochina 2 or 3 years before they even got there on assignment as field grade officers. Now they are general officers, so the average college kid says, oh, I assumed he was a general at that time, with all of this power in the American military to correct our country.

Mr. Wheaton says he "had no first-hand knowledge." The Affidavit clearly represents that it is based on first hand knowledge. These attributions were misrepresented by Mr. Sheehan to create a "Secret Team" concept and to defame Mr. Shackley and Mr. Clines.

30. Source #49, Carl Jenkins, has rejected the factual statements attributed to him. Indeed, Mr. Jenkins testified by affidavit:

"Subsequent to reviewing the affidavit, I met with Mr. Sheehan in the presence of Mr. Wheaton. I expressed to Mr. Sheehan my displeasure at being used as a source for his affidavit, and I again explained and emphasized to Mr. Sheehan that I had no personal knowledge concerning the misconduct which he was alleging in the affidavit. At that time Mr. Sheehan said to me that he was not concerned with the actual state of my knowledge and that he was using the affidavit simply to keep the case in court so that he could take discovery to prove the story. He further told me that he would drop sources such as me once he had developed hard source. . ." (Exhibit "I").

Mr. Jenkins, did not provide the conclusion attributed to him in paragraph 62 that the explosives used in the La Penca bombing were on the ranch of John Hull.

31. Source #50 (General Brett) never talked with Mr. Sheehan, and never confirmed the alleged facts attributed to him.

32. Source #51 is now alleged to be unknown. But Source #51 in paragraph 62 made serious allegations:

According to Source #51, it was in Iran and Libya, while working for Wilson that Raul and Rafael Villaverde met Amac Galil, the right-wing anti-Gadhafi Libyan terrorist whom the defendants actually procured to carry out the La Penca bombing.

To be continued, folks, the most unbelievable, disgusting lying I have ever come across in my congressional career or 15-year career as a broadcaster. And it was important I get the Hungarian stuff out, Mr. Speaker.

I will be back again and again and again to drive the truth home that the Christic Institute is a bloodsucking tick. It must have its 501 C-3 removed, and Daniel Sheehan must be driven from the city in disgrace, and Hollywood must stop perpetuating the lies based upon this unbelievable, vicious, lying, digusting staff that he has got on a free ride and raising millions of dollars for the last 2 years.

Mr. Speaker, I include this entire affidavit along with the other articles on the subject of this special order.

[From the Washington Post, July 26, 1988]

FIVE GUILTY IN $10 MILLION COCAINE RUN

(By Michael Isikoff)

Five members of a Miami-based drug ring were convicted yesterday of smuggling more than $10 million worth of cocaine through Cuba in a case prosecutors said contains some of strongest evidence yet of Cuban government involvement in drug trafficking.

The conviction of Hugo Ceballos, a Venezuelan native with ties to Colombian cocaine traffickers, and four codefendants came after a two-week trial in which prosecutors presented evidence that the smugglers last year arranged to have two loads of cocaine totaling 700 kilograms flown from a farm in Colombia to Varadero, Cuba, a site identified as a Cuban military base.

With the assistance of men alleged to be Cuban government officials, the drugs were loaded onto boats that were escorted out of the country's territorial waters by the Cuban coast guard, according to trial evidence and prosecutors.

"The evidence in the trial demonstrated that Cuban territory was used with the knowledge, approval and cooperation of the Cuban government," said Dexter Lehtinen, U.S. attorney in Miami. "These were not simply a few, rogue low-level Cuban officials . . . . This demonstrated knowledge at high levels of the Cuban defense establishment."

For more than five years, Reagan administration officials have publicly accused the Cuban government of Fidel Castro—as well as the Sandinista leadership in Nicaragua and leftist guerrillas in South America—of complicity in the narcotics trade. But until recently, law enforcement officials said, little or no hard evidence has substantiated the charges relating to Cuban officials.

In an NBC television interview earlier this year, Castro vehemently denied his government's involvement in the drug trade, calling allegations that he cooperated with members of the Colombia-based Medellin cocaine cartel "lies from top to bottom."

U.S. officials stressed that there is still no way to determine how high up Cuban government complicity may go. But officials said the Ceballos case, combined with evidence developed for a related case involving some of Ceballos' associates, is significant in any event because it shows that cocaine traffickers may be turning to Cuba as a transit base as U.S. law enforcement officials crack down on smuggling through the Bahamas and other Caribbean islands.

"This is the first time we've had evidence that Cuba—like other Caribbean countries—is being used as a transhipment base for drug trafficking," said Jack Hook, a spokesman for the Drug Enforcement Administration in Miami. "Before this, it's only been rumors."

In the course of the trial, prosecutors introduced videotapes and taped telephone conversations in which Ceballos contacted a U.S. government undercover agent and recruited him to fly cocaine into Cuba in March 1987, promising that his safety would be guaranteed.

After a second shipment in May 1987, an alleged Cuban-American coconspirator, Ruben Ruiz, is quoted on videotapes telling a secret government informant that he arranged to have Cuban officials "at the toppest channels in Havana" contact Federal Aviation Administration officials in Miami to inform them the Cessna they were using had run into "fuel trouble" and needed to make an emergency landing in Veradero.

Prosecutors said it was necessary to concoct the fuel trouble to provide the smugglers with an explanation of why they did not follow their pre-filed flight plan from Panama to Miami. When the plane landed in Cuba, it was met by a group of men dressed in civilian clothes who supervised the unloading of the cocaine onto a jeep.

"Oh, those [men] are government," Ruiz said on the tape. "Those are big guys."

In a bond hearing last March, Ruiz was quoted as boasting to the informant that "I am the only one that has connections" in Cuba. Then, in an apparent referral to Castro, Ruiz says, "the money went in Fidel's drawer," although at that point, the videotape was stopped.

[U.S. District Court, Southern District of Florida, Case No. 86-1146-CIV-KING]

TONY AVIRGAN AND MARTHA HONEY, PLAINTIFFS, *vs.* JOHN HULL, ET AL., DEFENDANTS

AFFIDAVIT OF THOMAS R. SPENCER, JR., COUNSEL FOR DEFENDANT, JOHN K. SINGLAUB, RE: RULE 11 SANCTIONS

Before me, the undersigned authority, personally appeared Thomas R. Spencer, Jr. who, being first duly sworn, deposed on oath and said:

1. I have served as counsel for Defendant John K. Singlaub since August, 1987. I have become intimately familiar with the Record in this case and the related discovery, evidence, production, briefs and other papers.

2. Attached hereto and made a part hereof is the Affidavit of Daniel P. Sheehan dated December 12, 1986 (hereinafter referred to as the Affidavit). I have annotated it to show the names now revealed as we procured them through elaborate and protracted Court proceedings. The materials attached here were produced or filed in this case during its long evolution. The Affidavit was filed in this cause and thereafter widely publicized by Mr. Sheehan and his wife Sarah Nelson, Executive Director of the Christic Institute and the "Public Education" section of the Institute. It was sold or distributed to thousands of Americans (Exhibit "A"). It was used by numerous journalists as the basis for countless articles written and disseminated throughout the world. It was presented as evidence to at least two other federal district courts, the U.S. District Court for District of Columbia, and the U.S. District Court for Kansas. It was used as the basis script for a prepared video-taped speech of Mr. Sheehan. This tape was shown all over the country.

Based upon my knowledge of the Record, and the discovery taken in the case, I have concluded that many of the representations made by Mr. Sheehan to the Court in this Affidavit were false and "were made with a reckless disregard for their truth." I believe that in some instances, the statements were made with a clear understanding that they were false at the time that they were made. In many instances, the attributions were consciously designed to mislead. In other instances, I am convinced that Mr. Sheehan acquired knowledge of their inaccuracy and took no steps to correct them.

This Affidavit was made by Mr. Sheehan directly to this Court. He represented that it contained evidence collected by a lawyer supposedly experienced for 16 years in trial practice. It was requested that this Court rely on that Affidavit. Mr. Sheehan represented that he had received this information from confidential sources which he numbered sequentially.

3. In August, 1987, at the time that I began my representation of Defendant Singlaub, I and several other defense counsel requested the names of the "Sources" referred to in the Affidavit. This request was in the form of Interrogatories and Requests for Production. The process to procure the identities of the accusers against my client ultimately resulted in numerous hearings and Orders requiring the revelation of the names and addresses. (Exhibit "B"). In resisting the production, Mr. Sheehan and his colleagues contended, of these names, that all of the Sources for his Affidavit were confidential, that they had evidence incriminating the defendants, and that the Sources were afraid for their lives since all of the defendants were dangerous and some had allegedly threatened many of the "Sources". (Exhibit "C"). In some instances, Mr. Sheehan actually accused the defendants with the murder of an unknown person named "David" and the murder of Steven Carr. Extended proceedings were thereafter undertaken to force Mr. Sheehan to reveal the Sources. The Court is familiar with these elaborates proceedings. (See Docket Index previously filed). Over a period of approximately six months, the supposed identities of these Sources were revealed. A schedule of the source numbers, and attributions and the chronological progression of revelation is attached as Exhibit "D".

4. Discovery was concluded May 20, 1988. Many Sources are now alleged by Mr. Sheehan to be "unknown". For example, Mr. Sheehan now claims that he has "lost" the name of Source No. 1 (a minister). He now claims that Source No. 2 (an F.B.I. Agent) was never known to him, but was really a "Source" of Source No. 1. Source No. 3 (an F.B.I. Superior) is similarly unknown now. The reader, however is clearly led to believe that these were identified by Mr. Sheehan and known by name. They were supposed to be and have "evidence", as that term is known even to inexperienced lawyers.

5. Mr. Sheehan now claims that he communicated to Sources No. 4 (Taylor), No. 5 (Fink), No. 6 (Rosenberg), and No. 7 (Barger) the name of Source No. 1 (the unknown Minister). He now claims that he does not know that name. Source No. 7 (Barger) has refused to confirm the veracity of many of the statements reported to have been made by him to Mr. Sheehan (Exhibit "E").

6. We took the deposition of Source No. 8, Michael Hirsch (Exhibit "F"). Mr. Hirsh testified that he did not give Mr. Sheehan the information attributed to him in paragraph 21 of the Affidavit. He stated that he was never afraid of the defendants because he had no idea that he was a "Source".

7. Mr. Sheehan now says that he has never known the name of Source No. 11 (a member of the Louisiana Guard).

8. Mr. Sheehan now says that his Source No. 12 is unknown by him.

9. Source No. 13 (Jack Terrell) has refused to confirm the veracity of the statements reported to have been made by him to Mr. Sheehan (see Deposition previously filed).

10. While Source No. 19 was alleged to have provided direct first hand information, he is now alleged to be unknown.

11. In paragraph 40 of the Affidavit, Mr. Sheehan contends that his "Sources" informed him that an ABC cameraman had discovered that he had been injured in an attack "planned by Defendant John Hull and a Costa Rican based anti-Sandinista terrorist group supplied with C-4 explosives by Defendants, Thomas Posey, John Hull and Bruce Jones." As is now clear from the "evidence" submitted to the Court, there was no such information.

12. The "facts" stated by Mr. Sheehan in paragraph 42 of the Affidavit attributed to Mr. Avirgan and Ms. Honey are untrue. Both plaintiffs revealed on deposition that they never saw the Affidavit until much later and that they "disagreed" with many of the facts alleged therein (see Transcripts previously filed).

13. In paragraph 42, footnote No. 3 on page 17, the Sheehan Affidavit states:

"In fact, General Singlaub raised money inside the United States which was directed, by him, to be deposited by contributors in a Grand Cayman bank for use in the purchasing of weapons and explosives for the Contras. Singlaub also traveled to Central America with Robert K. Brown and personally facilitated providing one John Harper to the Contras, who trained Contras in the construction of C-4 anti-personnel bombs exactly like the one which was used to bomb the La Penca press conference. In fact, Plaintiffs' Counsel has been informed by Source No. 24 (Wheaton) that Defendant Singlaub and Robert K. Brown directly provided John Harper to Defendant Amac Galil who helped Defendant Galil construct the very C-4 bomb which Galil used to blow up the May 1984 Eden Pastora press conference. Source No. 24 is a person with knowledge of the activities of Defendant Singlaub, Robert K. Brown and John Harper with the Contras."

This statement was published throughout America to defame Singlaub and link him with the La Penca bombing.

14. Mr. Gene Wheaton was interviewed extensively by Mr. Sheehan before and after he filed suit. At deposition, however, Mr. Wheaton testified:

SPENCER. I was asking you about this Affidavit. The next sentence of that affidavit states: "In fact, plaintiffs' counsel has been informed by Source Number 24 that defendant Singlaub and Robert K. Brown directly provided John Harper to defendant Amac

Galil, who helped Galil construct the very C-4 bomb which Galil used to blow up the May 1984 Eden Pastora press conference." I'd be happy to read it back to you.

WHEATON. No I heard the statement.

SPENCER. My question——

WHEATON. What's the question?

SPENCER. My question is: Did you make that statement to Mr. Sheehan?

WHEATON. No. I did not.

SPENCER. Do you know why Mr. Sheehan included that sentence in that Affidavit—which was under oath by Mr. Sheehan—attributing that fact or alleged fact to you?

WHEATON. No. I don't.

Deposition of Wheaton, (page 706).

SPENCER. Do you have any knowledge that Mr. Harper had anything to do with the La Penca bombing?

WHEATON. I have no knowledge of that whatsoever.

SPENCER. Or that General Singlaub had anything to do with the La Penca bombing?

WHEATON. I have no knowledge of that whatsoever.

SPENCER. But you are aware, are you not, of the fact that Mr. Sheehan crafted a statement attributable to you to give that implication. Are you not?

WHEATON. I don't know.

Deposition of Wheaton (page 712) (see Transcript previously filed).

15. There is no identification anywhere in the Affidavit of the identify of "David" and his third-hand narrative could not constitute admissible evidence. Mr. Sheehan had never interviewed "David" and he was not, therefore, a "Source". Mr. Sheehan failed to tell the Court and the readers that "David" has never been identified.

16. In paragraph No. 49, Mr. Sheehan attests that "both Tony Avirgan and Martha Honey spoke by telephone, with David, confirming his existence, his name and his possession of the general information set forth [in paragraph 50]." As Mr. Sheehan knew, neither Avirgan nor Honey ever confirmed David's existence or his name. Mr. Sheehan sought to give the Court, journalists and the public, the impression that "David" was a real person, who was identified and who had provided first-hand information. As he well knew, this was untrue. The real supposed conversations would never constitute evidence in a Court as that term is used in the civilized world.

17. Sources numbered 27, 28 and 29 were identified simply as "Mother" or "Father".

18. Source No. 31 is now allegedly "unknown".

19. Source No. 33 is now alleged to be "unknown".

20. The facts attributed to Source No. 34 (Barrantes) are unsubstantiated by him. (See Exhibit "G").

21. Source No. 35 is now alleged to be unknown.

22. Although serious statements and charges are attributed to Source No. 36, he is now alleged to be unknown.

23. Curiously, Mr. Sheehan now claims that Sources No. 37 and 38 provided certain information. However, Source No. 38 Col. Barrantes (who is also Source No. 34) denied the facts attributed to him. (See Exhibit "G").

24. Source No. 39 is now alleged to be unknown. But in the Affidavit, he was alleged to be an intelligence officer who was interviewed.

25. Mr. Sheehan refused (until ordered by the Court) to reveal the names of "Sources" #42, 43, 44 and 45—although attribution was a report prepared in 1985 by the plaintiffs which listed all names of those interviewed. Furthermore, many of these "Sources" have more than one Source number. For example, Eden Pastora is now alleged to be both Source #42 and Source #77.

26. Source #26 is now alleged to be Brian Barger. He is also alleged to be Source #7. Paragraphs 59 and 60, however, are contradictory to earlier attributions of facts to Source #7 (see parageraph 40 and 41). There was no justifiable reason in 1986 for Mr. Sheehan to use two "Source" numbers for the same person, except to deceive the Court and the Public into believing that more individuals were attesting to the alleged facts. The truth is that Mr. Barger's information was widely quoted (he is a journalist) before the Affidavit was filed. Still, Mr. Barger has denied various attributions made to him by Mr. Sheehan.

27. Source #47 (Paul Hoven) has denied the attributions made to him. (Exhibit "H").

28. Source #48 is alleged now to be the same person as Source #24 (Gene Wheaton). Source #48, however, was described to be a former U.S. Intelligence officer. Mr. Wheaton was not a U.S. Intelligence officer and there was no way that Mr. Sheehan could have confused that fact. Mr. Wheaton was a military warrant officer—a policeman.

29. The facts alleged in paragraph 62 of the Affidavit, attributed to Mr. Wheaton are totally at odds with Mr. Wheaton's testimony Mr. Wheaton had no first-hand knowledge. The Affidavit clearly represents that it is based on first hand knowledge. These attributions were misrepresented by Mr. Sheehan to create a "Secret Team" concept and to defame Mr. Shackley and Mr. Clines.

30. Source #49, Carl Jenkins, has rejected the factual statements attributed to him (see deposition of Carl Jenkins filed herein). Indeed, Mr. Jenkins testified by affidavit:

"Subsequent to reviewing the affidavit, I met with Mr. Sheehan in the presence of Mr. Wheaton. I expressed to Mr. Sheehan my displeasure at being used as a source for his affidavit , and I again explained and emphasized to Mr. Sheehan that I had no personal knowledge concerning the misconduct which he was alleging in the affidavit. At that time Mr. Sheehan said to me that he was not concerned with the actual state of my knowledge and that he was using the affidavit simply to keep the case in court so that the could take discovery to prove the story. He further told me that he would drop sources such as me once he had developed hard source . . ."

Mr. Jenkins, did not provide the conclusion attributed to him in paragraph 62 that the explosives used in the La Penca bombing were on the ranch of John Hull.

31. Source #50 (General Brett) never talked with Mr. Sheehan, and never confirmed the alleged facts attributed to him.

32. Source #51 is now alleged to be unknown. But Source #51 in paragraph 62 made serious allegations:

"According to Source #51, it was in Iran and Libya, while working for Wilson that Raul and Rafael Villaverde met Amac Galil, the right-wing anti-Gadhafi Libya terrorist whom the defendants actually procured to carry out the La Penca bombing."

This statement was used in numerous press interviews to connect the "Secret Team" with the bombing at La Penca. It had no factual basis.

33. Source #52, an active CIA agent, never confirmed to Mr. Sheehan the facts attributed to him in paragraph 63. They were complete falsehoods. (Exhibit "J"). Furthermore and incredibly, although Mr. Sheehan knew the legal prohibitions against such disclosure, nevertheless, proceeded to imperil this agent's life by setting up the process which revealed his CIA affiliation.

34. Source #53 an active CIA agent, never confirmed to Mr. Sheehan the facts attributed to him in paragraph 63. They were complete falsehoods. (Exhibit "K"). Furthermore and incredibly, although Mr. Sheehan knew the legal prohibitions against such disclosure, nevertheless, proceeded to imperil this agent's life by setting up a process which revealed his CIA affiliation.

35. Source #54 is alleged now to be unknown. However, through this attribution in paragraph 65, plaintiff's counsel widely distributed statements concerning defendant Nunez which were absolutely untrue:

"In early 1986, Plaintiffs' Counsel established contact with Source #54, a man actively engaged in the trafficking of cocaine with Defendant Francisco "Paco" Chanes and Defendant Dagoberto Nunez, which source communicated to Plaintiffs' Counsel detailed information confirming the participation of Defendants Chanes, Nunez, and Hull in the smuggling of cocaine into the United States through Miami and Memphis. Source #54 supplied Plaintiff's Counsel with the names and whereabouts of some half-dozen pilots who flew guns, ammunition and C-4 explosives from the United States to John Hull's ranch in Costa Rica—and who flew cocaine back into the United States from Defendant Hull's ranch . . ."

These made their way into a book, Out of Control, by Leslie Cockburn published in 1987, by Atlantic Press Monthly which completely destroyed Mr. Nunez' reputation and business.

36. Sources #55, 56 and 57 made no statements to Mr. Sheehan, which were produced herein.

37. Source #58 is now identified only as "Mike".

38. Source #61 (Lotz) is alleged to be the same person as Source #55. Source #61 did not provide the information alleged and it was not produced in this case. However, in paragraph 67, Mr. Sheehan stated:

"Plaintiffs' Counsel has also personally interviewed Source #61, a Costa Rican pilot with intimate knowledge of the cocaine smuggling operations of Defendants Hull and Nunez—and of the fact that the income from their smuggling activities is being used to finance the Contra operations of the Defendants in Costa Rica. Source #61 introduced Plaintiffs' Counsel to Source #62, a Roman Catholic Priest from Costa Rica who has personally interviewed numerous peasants in Costa Rica who have come to know with direct personal knowledge of Defendants Hull and Nunez cocaine smuggling operations—and their partnership in these operations with Defendant Francisco "Paco" Chanes in Miami."

Source #62 did not provide the information attributed to him. No such proof was produced throughout discovery and Mr. Sheehan never had it.

39. Sources #63 and 64 were never interviewed by Mr. Sheehan. He reports third-hand. Their testimony did not support the attribution.

40. Source #65 is an alleged DEA Agent who is now unknown. However, Mr. Sheehan contends that this Source stated:

"Plaintiffs' Counsel's investigators have interviewed Sources #63, #64, and #65 who are active agents of the Federal Drug Enforcement Administration who are directly knowledgeable concerning the cocaine smuggling operation of Defendants Chanes, Vidal, Corbo, Nunez, Hull, Ochoa and Escobar and the use of a portion of the profits from this enterprise to fund their Contra operations in Costa Rica."

41. Source #66 is an alleged Florida Agent who was alleged by Mr. Sheehan to have been personally interviewed by him. He now says that it was an anonymous interview. Incredibly, through this "Source", Mr. Sheehan makes the following representation:

"Source #66, an active Florida state law enforcement intelligence officer, who is familiar with the drug smuggling—and illegal gunrunning operations of the defendants—but who has been directed to "stand clear" from his investigation of their activities."

42. Sources numbered #48, 49, 67, 68, 69, 70 and 71 are Sources for incredible allegations against the defendants—ranging from Cuba in 1959 to the assassination of John F. Kennedy to the Vietnam War to Nicaragua. None of these Sources even remotely provided any first hand evidence of those allegations against the defendants. Some of the historical facts (such as the date of the Kennedy assassination) are accurate. However, the alleged criminal acts of the defendants are not supported by the Sources or anyone else (see Affidavits attached as Exhibit "L").

43. Source #70 described as an Asian border Policeman, is now alleged to be unknown.

44. Source #71 is alleged to be Carl Jenkins, the same person as source #49. Mr. Jenkins did not provide the facts attributed to him.

45. Source #72 (Douglas Schlacter) completely disputed the allegations attributed to him (Exhibit "M").

46. Neither Source #73 (Secretary Simons) nor Source #74 (Congressman Wilson) were interviewed by Mr. Sheehan.

47. The facts contained in paragraph 71 describing action by President Reagan by Sources #49 and 50 are unsupported by said Sources.

48. Source #75 (Steven Carr) is deceased. During his life, he did not attest to the facts attributed to him and none are contained in the record.

49. Source #76 is now alleged to be unknown. However, according to Mr. Sheehan, this Source made incredible statements:

"Source #76, who can identify Felix Rodriguez as the man who, along with Luis Posada Carriles, supervised the unloading of weapons and ammunition flown in from Florida to Illopango Air Force Base in El Salvador by Defendant Thomas Posey and who then trans-shipped said equipment to Defendant John Hull's ranch in Costa Rica."

50. Incredibly, Source #77 is revealed as Eden Pastora (he is also source #42). Eden Pastora, Mr. Cruz and Mr. Solano had no facts concerning any defendant other than Mr. Hull. None evidentially supported the allegations against Mr. Hull.

CONCLUSIONS

I believe that the Affidavit was conjured because of a number of motivations. First and foremost, it was to be a fundraising tool. Therefore, Mr. Sheehan had to stretch the "story" over the facts to make it dramatic and interesting. Second, it had to give the semblance of credibility, in form, if not substance. Thus, Sources were assigned where Mr. Sheehan merely had a desire that a Source attest to a particular fact. Third, the intent was that the Court, journalists and the Public believe that Mr. Sheehan had enough proof to justify a wide ranging discovery adventure.

I have concluded, based upon a careful analysis of the Affidavit, against information revealed during discovery and the protestations for security by Mr. Sheehan of these known public figures (such as Eden Pastora) and the fact that his name and information was widely reported in 1985, that many of these Source names were simply contrived in 1987 and 1988. I have concluded that Mr. Sheehan simply assigned some convenient names to numbers after the fact to "fill in" the gaps when he was pressed for names by Court Order in 1987.

I believe that Mr. Sheehan refused to reveal the Sources after several main "Sources" (particularly Barger and Jenkins) protested to Sheehan about the accuracy of the information. Further, other historians noted to him that he had several people in the wrong time frame. See the articles in Nation and Mother Jones attached. (Exhibit "N"). He became, in my view apprehensive that he could be criticized for supplying a knowingly false statement. Consequently, he conjured the excuse that the defendants were dangerous. He conjured the legal objection (which had no legal precedent) that he was entitled to withhold the Sources as a private attorney general. This is not the first time Mr. Sheehan has engaged in the same offense. In the Karen Silkwood matter, he claimed that he had several secret Sources, which he refused to reveal. He still refuses to reveal them (see attached article from the Nation).

Finally, even when deposition and evidentiary and historical material was produced which contradicted the Affidavit, Mr. Sheehan failed and refused to correct the statements. Indeed, he and the Christic Institute continued to sell (and still continue to sell) and distribute the Affidavit making the statement that discovery was confirming the allegations. In fact, the opposite was true.

Further Affiant sayeth not.

CHRISTIC'S "FAIRY TALE" LAWSUIT CALLED "LEGAL TERRORISM"

(By Michael Hedges)

Several defendants in the Christic Institute lawsuit, dismissed by a federal judge last week in Miami, charged yesterday the suit cost them and taxpayers "millions of dollars" and denounced it as "legal terrorism."

Attorneys for the defendants accused Christic of abusing the judicial system by keeping what they described as a "fairy tale" case alive while using it to raise $60,000 a month on college campuses and among Hollywood supporters.

Some legal experts friendly to the defendants cited the lawsuit as an illustration of how the Racketeer Influenced and Corrupt Organizations Act (RICO) could be used in civil cases to "extort money from defendants" with no risk to those filing the suits.

"You file the case, and if you survive a motion to dismiss at the beginning, you are home free to fly-cast all over the world," said Theodore Klein, a member of an American Bar Association committee examining RICO.

"This case is perhaps the most egregious example of how it can be abused," said Mr. Klein, who represented three minor defendants in the case.

Several defendants said they had spent between $100,000 and $500,000 defending themselves against the charges.

Defense attorneys are moving against the Christic Institute, seeking to regain legal fees and have the plaintiffs charged with malicious prosecution. At least one attorney said he also would pursue ethical sanctions against Daniel Sheehan, an attorney for Christic, a leftist organization that calls itself an "interfaith center for law and public policy."

But the very nature of the civil RICO statute makes recovering costs difficult.

Unlike other cases, in civil RICO actions the losing side is not charged with the attorney fees of the person or group it sued.

"It was a case where Congress was so anxious to have people use the statute against white-collar criminals that they left it very loose," said Thomas Spencer, attorney for one of the defendants, former Army Maj. Gen. John Singlaub. "Instead it has become an invitation to extort money from a defendant, and if you lose, you just pay filing costs and other things that amount to pocket change."

"It was legal terrorism," said Theodore Shackley, a former CIA operations official named in the suit. "They create this thing, tie you up for two years, and use the Big Lie technique to destroy your reputation."

Gen. Singlaub said he spent nearly $500,000 fighting the suit. "I realized I had to do it," he said. "I did not want my grandchildren to remember me as someone accused of drug smuggling, assassinations and all these other evil things."

Still, the case was "all-consuming" for two years, Gen. Singlaub said, wrecking his finances and diverting him from other causes.

The case also cost the government about $2 million, said Mr. Spencer, who analyzed the court expenses absorbed by the public over two years.

The suit, which one lawyer said "more resembled a third-rate novel than a legal document," was first filed in Miami in May 1986 and amended four months later.

It charged 29 defendants with a bizarre conspiracy that linked events from the Bay of Pigs invasion of Cuba, the Vietnam War, arms sales in the Middle East and Central America, assassinations, bombings and drug smuggling by the world's major cocaine cartels.

According to the suit, all these events were run by a "secret team" of CIA and military officers, with the overall goal of ending world communism.

The specific incident that triggered the suit was a bombing of a 1984 Nicaraguan resistance press conference in the village of La Penca in Nicaragua in which several people were killed, and several others, including Tony Avirgan, a journalist, were injured.

Mr. Avirgan and his wife, Martha Honey, filed the suit, claiming the loss of camera equipment and convalescence costs from Mr. Avirgan's injuries. They retained Mr. Sheehan to handle the case.

Judge Lawrence King who heads the U.S. District Court for the Southern District of Florida, said at the first hearing that the total damages to the plaintiffs could not have amounted to more than $10,000. Several of the defendants offered to pay that amount then to avoid a protracted court case.

But the Christic Institute insisted on pushing ahead with claims for alleged damages of $24 million. It claimed testimony of 79 anonymous witnesses would substantiate its charges.

Those witnesses were cited by Mr. Klein as "a hodge-podge of dead informants, lost witnesses, character actors with first names only and assorted shadow figures who shriveled when exposed to the light."

Several people who Christic named as witnesses filed affidavits calling the statements attributed to them lies and claiming they never talked to the Christics. Others said they were coached by Mr. Sheehan, according to several defense attorneys.

Last week, Judge King wrote a 45-page opinion dismissing the suit in which he cited gaping holes in the logic of Christic's complaint and set aside nearly every piece of its evidence.

Mr. Sheehan called a press conference to charge that the judge had joined the "secret team" of conspirators. This was the Christic Institute's only comment, beyond suggesting the verdict would be appealed.

"That was true conspiratorial nut jargon," said Mr. Klein. "It relegated them to sharing lunch with people who say we didn't land on the moon."

Others said the case had become "a cash cow" for Christic, which sold copies of the complaint in the case for $5 and a 95-page affidavit detailing the alleged "secret team" activities for $10, and whose speakers lectured for fees on college campuses.

Mr. Spencer said the group collected donations from California supporters, including Jane Fonda, musician Jackson Browne and actor Mike Farrell. The defense attorneys said Christic earned $60,000 a month to support the case.

Christic did not return a reporter's call yesterday.

Christic Mystics and Their Drug-Running Theories

AN OBSCURE WASHINGTON SO-CALLED INSTITUTE IS FILLING AMERICA'S HEAD WITH NONSENSE AND MAKING A KILLING

(By David Brock)

For the past thirty years, says the earnest, curly-haired man in the short film "The Heart of the Matter," a gang of gung-ho military and intelligence veterans, a "shadow government," a "secret team" has been conducting its own version of U.S. foreign policy. They've been "killing and maiming innocent people," selling "weapons of death," shipping "cocaine by the tons" into the U.S., "skimming millions," all as part of a "global anti-Communist war" conducted in "the back alleys of the world." The Iran-contra affair, the man is here to tell us, did not begin with Oliver North. "Evil things are done by the human family," he says, "and done in the dark." He enters a church and lights a votive candle as the organ music rises. "And we are here to expose it."

The solemn voice belongs to Daniel Sheehan, general counsel and prognosticator-in-chief of the Christic Institute, which calls itself an "interfaith center for law and public policy," meaning that through lawsuits the Washington-based group aims to effect a shift in American politics and culture. The group was founded in 1980, but even a year ago it was considered just another wacky, moribund left-wing hive, with no more of a following than, say, the Rainbow Lobby or Partners for Global Justice. The institute took its name from the writings of the Jesuit mystic Teilhard de Chardin, who wrote in the early twentieth century of a "Christic force" that unifies all beings and overpowers destructive manmade forces. That appears to be the extent of the role religion plays in the institute's doings.

That year, the obscure institute had a dozen people on staff and was raising about $500,000 a year from groups like the National Methodist Programs in New York, the J. Roderick MacArthur Foundation in Chicago, and the C.S. Fund in Los Angeles.

At the Christics' Washington office, things don't appear to have changed much from those lean times. Several staff members work and live (complete with subsidized rent) in three chaotic Capitol Hill townhouses owned by the institute, which claims to pay each staffer $15,000 a year. But this 1960s-style communalism belies the 1980s-style high-intensity marketing success the Christics are having these days. For one thing, there are a lot more of them: the staff now numbers at least sixty, including attorneys, private investigators, and public relations specialists. And then there's the cash: the Christics are bringing in almost $60,000 a week, 70 percent of it from direct-mail and other solicitations from private citizens, making the institute one of the hottest properties on the left today. (Contributions are tax-deductible.)

The Christics' influence among liberal political organizations has thus been enhanced substantially, particularly on Central American policy. The institute has recently established relationships with an impressive array of mainline groups like the Americans for Democratic Action, the National Organization for Women, the Southern Christian Leadership Conference, and church organizations like the United Methodist Board of Global Ministries, the Presbyterian Church USA, and the Union of American Hebrew Congregations. In all, eighty such groups have joined the Christics in a "Communications Alliance," agreeing to publicize Christic charges and fundraising appeals in their publications and public events. And the Christics are getting noticed in the political sphere as well: the latest Christic literature includes endorsements from Democratic presidential aspirants Richard Gephardt and Jesse Jackson. One recent morning at the institute, a Christic staffer returned from Capitol Hill announcing breathlessly that Rep. Mervyn M. Dymally, a California Democrat on the House Foreign Affairs Committee, had agreed to "help us."

The money goes to cover the costs of investigating, litigating, and promoting what has come to be known as the Secret Team theory. In May 1986, the Christics filed a massive civil rights suit against twenty-nine defendents in U.S. District Court in Miami, charging them under the Racketeering and Corrupt Organizations Act (RICO) with participating in a twenty-five year "pattern of racketeering activity" including "acts or threats of murder, kidnapping, bribery and the felonious manufacture, importation, selling and otherwise dealing in cocaine and proscribed drugs." This elaborate web of private covert activities is alleged to include the attempted assassinations of Eden Pastora Gomez, a former leader of the Nicaraguan contras, and Lewis Tambs, the U.S. ambassador to Costa Rica, as well as the selling of narcotics to buy military equipment for the contra forces.

The institute traces the genesis of the Secret Team partnership to the failed Bay of Pigs invasion and the Phoenix program of the Vietnam war through Iran in the late 1970s and, latterly, to Central America, in an attempt to show a close association between the team and official U.S. covert actions or * * * Calero, with several Miami Cuban-Americans and a few Latin American drug smugglers thrown in for good measure. In all, the defendants are said to constitute a "powerful criminal network, fanatically right-wing, financed by drug profits and closely connected to the Reagan administration." The case is expected to go to trial June 29.

The case attracted little attention until the Iran-contra affair. With its exposure of the private contra re-supply operation run by current and former U.S. officials and financed in part from arms sales to Iran, the affair moved the Christic conspiracy theory into the realm of the possible. Iran-contra was also a boon to the Christic strategy of attempting to criminalize foreign-policy differences. Since the scandal broke, Sheehan, a magnetic figure who rouses audiences with calls for a "return to the fervor of the 1960s," and his staff have tirelessly propounded their views in media appearances and in speeches to college and community groups across the country. The Los Angeles Times recently reported that Sheehan, helped by entertainment industry people like Jackson Browne and Don Henley, had raised $200,000 in the Los Angeles area in six months: "Seated on white folding chairs in the hot sun, sipping Perrier and Evian waters out of wine glasses, the crowd listened to Sheehan describe the secret team, a shadow government he calls it, and its 25 years of covert activities."

Packets distributed at such gatherings contain a suggested letter to Congress requesting investigation of Christic charges and material hawking a host of Christic wares: the Contragate affidavit, "a must!" ($10); an "education and organizing packet" ($7); the Contragate VHS video "The Heart of the Matter," "ideal for public events and meetings" ($35); and a two-hour radio cassette featuring Sheehan ($12). The Christics say that in Minneapolis alone more than 1,500 private parties have featured the video cassette and they claim to have put 100,000 Christic brochures into the hands of voters in the Iowa caucuses.

Press notices have been uniformly favorable as to the institute's ends—spelled out in its literature as "dismantlement of Contragate's secret team," an "end to the contra war," and the establishment of a U.S. foreign policy "based on law and morality"—while expressing some measure of skepticism about the veracity of Christic claims. (The sign-in book at the Christics' Washington office one recent day was filled with the names of journalists, representing organizations from the Nation to UPI.) Typical was a long and sympathetic take-out in the New York Times, under the banner headline "A liberal Group Makes Waves With Its Contra Lawsuit," which waited until the very end of the article to tell the reader: "Federal agents, United States prosecutors and spokesmen for the CIA have characterized the suit as a political fantasy. Other investigators including reporters from major news organizations, have tried without success to find proof of aspects of the case, particularly the allegations that military supplies for the contras may have been paid for with profits from drug trafficking."

The story is much the same even in the radical press. A Mother Jones reporter recently followed Sheehan to Harvard Law School to hear his table-thumping Christic pitch: "He unrolled the harrowing story of the Secret Team, and accused his law school listeners of trooping off to Wall Street at a time when the Constitution is in mortal peril. And then Sheehan closed—as he almost always does—to a standing ovation. Down the aisles went the index cards, and back they came, dozens of them, with offers of help for Danny Sheehan. The campus crusade for Christic was swelling." But the reporter, after polling an array of left-leaning sources, concluded: "Ask these journalists, experts, Capitol Hill investigators, and former CIA agents, many of whom are sympathetic to Danny Sheehan's general critique of covert operations, and they will tell you that his gorgeous tapestry is woven of rumor and half-truth and wish fulfillment." Despite this astonishing admission, the reporter concluded: "If Danny Sheehan has the Secret Team—or whoever the hell they are—running scared, he must be doing something right."

It is, of course, precisely in this fuzzy stratus of bizarre charge followed by predictable denial and lingering doubt that the Christics' phenomenal juggernaut thrives. And it is an effective one, as journalists and their audiences not only are more predisposed than ever to take a dim view of the CIA and the American military, but also are increasingly preoccupied with events that most resemble fiction. And it seems clear that even though the Secret Team story has been deemed largely blue smoke and mirrors by all who have examined it, a portion of the public is prepared nevertheless to accept it willfully as truth, filling as it does a psychic or emotional need to make sense of Iran-contra. The point for the Christics is not to prove the case in court, but rather to advance a political cause in the media and in left-wing circles while raising funds to stay in business. "The Secret Team theory," according to Mother Jones, is "fast becoming the official explanation of the Iran-Contra events in progressive circles around the country." And that is probably only the beginning.

The Christics have clearly modeled the Secret team theory on the Karen Silkwood case, perhaps the most celebrated public-interest lawsuit in history and an engine of the anti-nuclear power movement. Silkwood, an Oklahoma plutonium plant worker, had contended that the plant where she worked was unsafe and that she had been contaminated with highly radio-active plutonium. She was killed while on her way to a meeting with a reporter to discuss these contentions. Although Sheehan exaggerates his own role in the case, Silkwood family attorneys put forth a fascinating conspiracy theory, alleging not only that Kerr-McGee, Silkwood's employer, was responsible for her contamination, but also that company agents killed Silkwood to cover up the theft of nuclear fuel from the plant. But recall: although the company settled the ten-year-old lawsuit in 1986 for $1.38 million, Kerr-McGee in no way acknowledged the Silkwood charges, which remain unproved. (Kerr-McGee attorneys said the cost of settling was less than the projected costs of continued litigation.) Similarly, the damages in the Greensboro case were awarded despite the failure of Christic attorneys to establish who was actually responsible for the killings.

In the case of Silkwood, the Christics contend that their campaign "inspired a Congressional investigation, two books, a play, several television dramas and a major motion picture. Activists were mobilized, new alliances were forged, and the Nuclear Reform Project, a national campaign to help towns and cities expand their power to prevent radiation hazards, was launched." The Silkwood campaign was helped tremendously, to be sure, by riding the crest of nationwide antinuclear hysteria following the Three Mile Island accident of March 1979. With the same fortuity, the Iran-contra revelations have propelled the Christics and their crackpot mysticism from the fringes of a gathering storm.

The notion that there is a sinister network of current or former U.S. intelligence officials trafficking in drugs and committing other nefarious deeds has been popularized in the past year or so in books and films, most notably in the hit movie Lethal Weapon, in which veterans of the CIA and U.S. Special Forces in Vietnam were cast as the villains. One scene—in which a bank president breaks down and admits his participation in a drug smuggling scheme—evokes the spirit, if not the letter, of the Christic yarn. The banker says he had worked for "Air America," a "CIA front," during the Vietnam war with a special unit called "Shadow Company." The company later reunited as private citizens after the war and began bringing heroin into the U.S., using their Southeast Asian connections. "It's all run by ex-CIA, soldiers, mercs," the banker says.

Other Christic demonologies are enjoying a certain vogue as well, as a reenergized left rises up to repeal the political and cultural legacies of Reaganism. A rivulet of books, ranging widely in coherence and tone though not in intent, has been flowing from the prestige presses, all of them positing that in the wake of the Iran-contra scandal, the CIA must be reined in once again and covert actions must be further curtailed. (This, despite the fact that the Iran-contra affair, if it shows anything, shows that bureaucratic intransigence at the CIA led William Casey and North to consider an "off-the-shelf" operation.)

The left has an obvious stake in keeping the Iran-contra affair alive, and so the view that the ten-month, $10 million-plus bipartisan investigation by Congress was somehow circumscribed is taking root, not only in the People's Daily World and the Nation, but also in respected publications like Harper's, which recently sponsored a roundtable discussion on the matter. The star participant was former CBS news producer Leslie Cockburn, a leading Christic mouthpiece. And several Christies, as those who compare them to LaRouchies dub them, were seen on a recent Bill Moyers, PBS special, "The Secret Government: The Constitution in Crisis." The Christies, from Minnesota, were interviewed at the end of the show, identified merely as people who had "organized citizens around their state to monitor the Iran-contra hearings, as a way of increasing public awareness." Christic drug smuggling charges against the Nicaraguan contras have been raised before every congressional aid vote, usually by Democratic Sen. John Kerry of Massachusetts, whose staff works closely with the institute. And as if that were not enough, Oliver Stone, who has endorsed the Christics in a public letter, is now making a movie called simply Contras.

The complex Christic tale upon which all of this rests begins at a small farm called La Penca just inside Nicaragua on May 30, 1984. Tony Avirgan, at the time a stringer for ABC News in Costa Rica, and his wife, freelance journalist Martha Honey, attended a news conference held by Eden Pastora, better known as "Commandante Zero," the leader of the rebel assault on the National Palace in Managua during Anastasio Somoza's reign. Pastora eventually split with the Sandinistas and joined the contras, but called the La Penca press conference to announce his split with the resistance. The conference was rocked by an explosion; Pastora has at different times attributed the crime to the Sandinistas, enemies within his organization, other contra factions, and the CIA. Three people were killed; Avirgan was one of the wounded. He would later claim that he suffered shrapnel wounds, burns, and a mangled hand, though Curtin Winsor, the U.S. ambassador to Costa Rica at the time, and Dr. Max Pacheco, the physician who initially treated Avirgan, have said in affidavits that Avirgan only sustained an injury to his middle finger.

After the bombing, Avirgan and Honey undertook an investigation and published their findings in a 1985 book, La Penca: Pastora, the Press and the CIA, in which they allege that the bombing, an attempt to assassinate Pastora, had been planned by the CIA, contra leader Adolfo Calero, a group of U.S. contra supporters, and anti-Castro Cuban-Americans in Miami. Sheehan has said that by early 1986, the Secret Team theory was already percolating, as stories about the private contra re-supply effort began circulating in Washington. Avirgan and Honey then hooked up with the Christics, giving them a lawsuit on which to hang their theory. The suit was filed by the Christics on behalf of Avirgan and Honey in May 1986, seeking $1.28 million in compensatory damages for Avirgan's alleged injuries, $2.56 million under a special feature of the RICO statute, and $20 million in punitive damages.

According to the Christics' affidavit, the Secret Team's point man is former CIA official Theodore Shackley, who worked for the agency in Laos in the 1960s organizing opposition to the Pathet Lao guerilla force and was later CIA station chief in Saigon. That defendants Shackley, Secord, Singlaub, and Thomas Clines, a former CIA director of clandestine operations training, were stationed in government posts in Southeast Asia at the time is self-evident. But the Christics charge that the group funded their covert efforts with kickbacks from opium warlord Vang Pao, and continued, while both in and out of government service, to operate their own private intelligence network throughout the world in the 1970s and 1980s, when they were chosen by the Reagan Administration to keep the contras going after U.S. aid was scuttled by Congress.

Many of the Christic claims about Southeast Asia emanate from retired Army Col. Bo Gritz, who repeated the story last spring to the House Task Force on International Narcotics Control, chaired by Democrat Lawrence J. Smith of Florida. Smith told UPI afterwards that Gritz was a "crazy character who has made these outrageous statements before . . . . I heard no credible evidence that would make me believe that any of this is true." In addition, thousands of man-hours were spent by U.S. auditors and inspectors general from 1965 to 1975 examining the American position in Southeast Asia, detecting no links between American officials and drug traffickers. The question of drug trafficking and CIA operations was also investigated by the Church committee of the 94th Congress, which reported: "On the basis of its examination, the Committee has concluded that CIA air proprietaries did not participate in illicit drug trafficking." Says General Singlaub: "The idea that we needed to deal in drugs to fund U.S. covert operations [in Asia] is ridiculous. All of these intelligence programs were official, funded by the U.S. government, and funded well."

Last July, James Lawrence King, chief U.S. district judge of the Southern District of Florida, confined discovery by the plaintiffs to charges made concerning the period 1982 to 1986, requiring them to prove the existence of a criminal conspiracy in relation to three specific charges—the alleged Pastora and Tambs assassination plots and drug smuggling by the Secret Team in collusion with the contras—before permitting discovery to move back to the 1970s and 1960s. In October, the judge ordered the Christics to reveal the identities of the seventy-nine anonymous sources listed in their affidavit so that the defendants could depose their accusers. (The Christics have identified an additional ninety-eight people said by them to "have knowledge" of the Secret Team operation, including Vice President George Bush and Pentagon official Richard Armitage.)

The only source said to have had firsthand knowledge of the La Penca plot is a man identified soley as David, who, the Christics claim, as befits good conspiracy theory, is now dead. In a chance meeting in a bar, the story goes, David tells a carpenter named Carlos Rojas Chinchilla that the bomb at La Penca was planted by a Libyan exile, Amac Galil, posing as a Danish journalist. David claims to be a member of the group that hired Galil, which he says includes contras and CIA agents. But when deposed in November by attorneys for both sides in the case after he surfaced in Canada, Rojas, advertised by the Christics as their star witness, broke down several times and admitted he had no * * * assault on the embassy in Costa Rica in 1983. The assassination plan was hatched in order to collect a $1 million bounty placed on Tambs's head by South American drug lord Pablo Escobar, the bounty to be used to fund a Cuban-American brigade to invade Nicaragua from the south, according to Garcia's story. His allegation was made after a federal grand jury convicted Garcia in late 1985 of illegally possessing a machine gun and silencer. Garcia claimed that Tom Posey, the head of an Alabama-based group called Civilian Materiel Assistance, which has aided the contras, had framed him to prohibit him from revealing the Tambs plot.

Consequently, the Miami division of the FBI and the U.S. Attorney's Office there conducted an exhaustive investigation of the alleged Tambs plot in early 1986, including a polygraph test of Garcia. Garcia said he had attended a Miami meeting, along with Posey, John Hull, and Bruce Jones, two Americans who owned ranches in Costa Rica, and three mercenaries, Steven Carr, Robert Thompson, and Peter Glibbery, where the Tambs plot was discussed. On May 14, 1986, Assistant U.S. Attorney Jeffrey Feldman wrote in a memo: "The evidence we have gathered does not support Garcia's claim that Tom Posey and others planned to murder Ambassador Tambs." The attorney pointed out that while Garcia had said the plot was discussed in January and February of 1985, Tambs was not the ambassador to Costa Rica until July (he was posted to Colombia at the time). All of the other people that Garcia claims attended the planning meeting fervently deny it, and one to them, Peter Glibbery, could not have possibly been in Miami at the time, Feldman determined.

But there is more, Feldman concluded that "Garcia obtained this story from Martha Honey. Honey attended Garcia's trial in December 1985 * * * In relation to another Christic source, former Civilian Materiel employee Jack Terrell, whom the Christics claim has firsthand knowledge of Adolfo Calero's involvement in the Tambs plot, Feldman reported: "Terrell has no personal knowledge of the events described. He said that he learned of the plot, the meeting, and Calero's approval of the plot from . . . a journalist named Martha Honey." At his subsequent deposition, Terrell took the Fifth Amendment, much to Sheehan's dismay. (The Christics have never explained, moreover, why the contras and their supporters would want to kill a Reagan ambassador who had been on their side.)

Both of these alleged assassination plots are said by the Christics to be part of a larger criminal conspiracy to finance the contra war from the sale of drugs smuggled from Colombia to Costa Rica and into the United States by the Secret Team. The defendants, some of whom have been involved in raising funds and buying supplies for the contras, categorically deny the drug charges. Shackley says that he was not involved in providing aid of any kind to the contras. Singlaub says that he has raised money from contributors outside the U.S. to purchase weapons on the international arms market for the contras. Secord's role has been well documented in the Iran-contra investigation. And Posey acknowledges that his organization has raised millions of dollars in non-lethal aid for the contras, but notes that the group was cleared of any illegal conduct in a Justice Department investigation.

Last July, the Christics brought their charges to a hearing of the House Select Committee on Narcotics. Before hearing their presentation, Capitol Hill sources say, Rep. Charles Rangel, a New York Democrat and leading contra critic, had scheduled a follow-up news conference to publicize the Christic charges. But Sheehan's case was so amorphous that Rangel was forced to tell 200 reporters: "None of the witnesses gave any evidence that would show that the Contra leadership was involved in the trafficking of drugs."

Some contra rebels with ties to Eden Pastora have been linked to drug trafficking, which is one of the reasons the CIA says it broke with Pastora in 1984. This is, after all, Central America. But as to the Christic charges that the current leadership of the contras and their private re-supply network are involved in the smuggling of drugs, investigators for the Democratic-controlled House Iran-contra panel have found no evidence. A memorandum by Robert A. Bermingham, an investigator for the House committee, said investigators had questioned "hundreds of persons, including U.S. government employees, leaders of the resistance, representatives of foreign governments, U.S. and foreign law enforcement officials, military personnel, private pilots and crew, and examined reams of documents." He concluded: "Despite numerous newspaper accounts to the contrary, no evidence was developed indicating that contra leadership or contra organizations were actually involved in drug trafficking. Sources of news stories indicating the contrary were of doubtful veracity. There was no information developed indicating any U.S. government agency or organization condoned drug trafficking by the contras or anyone else."

The Christic case is beginning to unravel. All of those listed by the Christics as sources for their allegations who have been deposed in the case have recanted or denied ever making statements attributed to them. (The Christics have so far identified seventy-four sources and kept five secret.) Both Glibbery and Carr, who had made allegations of drug smuggling and bomb plots, have sworn that those allegations are untrue, and, moreover, that they were made in exchange for promises by Avirgan and Honey of legal assistance from Sen. John Kerry and financial aid from Robert White, Jimmy Carter's ambassador to El Salvador. Eugene Wheaton, a former warrant officer for the U.S. Army, the end source for much of the Secret Team theory, has said in a deposition that he has no firsthand knowledge of the alleged conspiracy. Wheaton admitted that he has been receiving about $20,000 a year from the Christics in small bills since he became one of their sources.

Carl E. Jenkins, a former CIA official, is also listed in the Christic affidavit as a key source of many of their charges. In a sworn affidavit Jenkins has filed with the court in Miami, he says the Christic allegations with which he is identified are "either known by me to be false" or "I have no personal knowledge of them," Jenkins continued: "I am astounded that on the basis of his conversation with me, Sheehan would swear under oath that I supplied him with this information. . . . I did not offer Mr. Sheehan any information whatsoever." Upon learning that the Christics listed him as a source, Jenkins says, "I expressed to Mr. Sheehan my displeasure at being used as a source for his affidavit and I again explained and emphasized to Mr. Sheehan that I had no personal knowledge concerning the misconduct he was alleging in the affidavit. At that time, Mr. Sheehan said to me that he was not concerned with the actual state of my knowledge and that he was using the affidavit simply to keep the case in court so that he could take discovery to prove the story. He further told me that he would drop sources such as me once he had developed hard sources."

This raises some troubling ethical questions as to how the Christic affidavit was assembled in the first place. Some of the Christic sources, in trouble with the law, made statements that they were to believe would help them plea bargain their cases or get legal aid or financial remuneration. Some, like Terrell, got involved with the Christics for political reasons (he turned against the contras after leaving the Posey organization). Wheaton met Sheehan in the course of a personal investigation of drug smuggling, sparked by his daughter's drug problem, apparently became smitten with Sheehan, and collaborated with him in developing the theory. Others say they met with Sheehan to discuss his theories and later found allegations in the Christic affidavit attributed to them that they had never made. In the most egregious cases, Sheehan got appointments with some of his alleged sources, read them statements that he wanted to attribute to them, and included these statements in the affidavit over their objections.

As the trial date in the case nears, Sheehan finds himself in a quandary as each of his sources refuses to back up the Christic story. But he apparently believes, with the apordictic fervor of his followers, that he will stumble upon information to prove the case yet.

One question remaining is whether some hidden hand is driving Sheehan and his compatriots to fabricate such a bogus story with such single-minded intensity. General Secord believes that the initial Christic aim was to cut off the contra re-supply effort that he had helped organize. He is also convinced that "foreign intelligence services" clued the Christics into their communications intercepts, gleaned from the Soviet spy facility at Lourdes, Cuba, enabling them to learn about the contra operation before the Iran-contra scandal broke. Former NSC aide Oliver North apparently had similar suspicions. According to a passage from the minority report of the Iran-contra committee, ". . . North appears to have suggested, in conversation, an FBI investigation [be conducted] of certain individuals based on a suspicion that a foreign government was secretly financing or supporting a lawsuit against various U.S. citizens, a matter about which it would have been legitimate for North to inquire for national security reasons and which, if true, might have constituted a fraud on the courts of the United States. North a non-lawyer, was flatly told that the FBI did not have the legal authority to investigate such a matter, and did not pursue the request." Singlaub commends the Christics' main purpose is to divert attention from drug smuggling by the Sandinistas and Fidel Castro, a charge long made by the Reagan Administration and detailed in the recent statements of Sandinistas defector Maj. Roger Bengoechnea Miranda. "It is a classic KGB technique to accuse us of precisely what they are doing," says Singlaub.

* * * *

"From Hanoi with Love." Honey has freelanced for the New York Times; they both write for the Nation. Orlando Castro, head of the Costa Rican Democratic Association, has charged that Avirgan and Honey are spies for the Sandinistas working against Costa Rica's national security and has tried to get the pair expelled from the country. This was also the belief of Tomas Castillo, the CIA station chief in San Jose, according to Iran-contra committee documents. There have been reports that Avirgan and Honey have met regularly with the Soviet ambassador in San Jose.

The Christics have other indirect ties to the Sandinistas. Sheehan, one of the institute's founders, was formerly on the staff of the Quixote Center, the group which spearheaded the "Quest for Peace"—a fundraising project that sent tens of millions in private aid to the Sandinista government. Two Catholic priests now in Managua as advisers to the government, Cesar Jerez and Wally Kasuboski, have been intimately involved in Christic activities. The Christic Institute also has been a prominent endorser of such activities as last summer's "Hands Off the Americas Festival," advertised as a "rally to support non-intervention in Central America and self-determination everywhere. In celebration of Nicaragua's new constitution, and the eighth anniversary of the revolution. Proceeds to let Nicaragua live."

Whatever the Christics ultimately are up to, the Secret Team lawsuit will remain their prime vehicle. They're now trying to delay the start of the trial to postpone an inevitable defeat in the courts. The defendants speculate that the Christics might in fact drop the case just before the trial date on the grounds that some of their sources must remain anonymous for their safety, declare victory, and continue raising funds off the Secret Team theory. On the other hand, the suit may be thrown out for lack of evidence. But the pounds of documents, bank and telephone records, and credit card receipts of the twenty-nine defendants already in the Christics' hands should be enough to keep the rumor mills of the left churning for quite some time. Legal action against the participants in the Iran-contra affair in the wake of recent indictments will also keep the Christic charges in the news. The Christics may even seek to include Oliver North and John Poindexter as defendants in the case, now that both have left U.S. government.

[From the Washington Times, June 29, 1988]

THE MALIGNING OF AN AMERICAN PATRIOT

(By Patrick Buchanan)

Last week, only hours before trial, Miami Federal Judge James Lawrence King threw out of court the $24 million damage suit the radical-left Christic Institute filed two years ago against retired Gen. John Singlaub and 28 others.

Filed on behalf of Tony Avirgan, a journalist injured in the 1984 bombing of the La Penca jungle headquarters of maverick Contra leader Eden Pastora, the Christics' suit alleged the blast was the work of a right-wing terror network which, since 1959, has engaged in assassination plots, gun running and drug trafficking.

Although only 13 of the 29 defendants filed for summary judgment, the judge threw out the entire case, ruling the Christics, even with scores of depositions, had failed to prove that Gen. Singlaub, or any other accused American, was involved in drug running or murder plots with Colombia's vicious Medellin Cartel.

The exoneration of Gen. Singlaub, a combat veteran of World War II, Korea and Vietnam, however, was not without cost, and the courtroom rout of the Christics masks a strategic success for the latest tactic of the new left.

For two years, the Christics have reaped extensive, indulgent publicity; they have raised millions, much of it from Hollywood, putting themselves on the political map as "the" activist outfit of the new left. Taking in $40,000 to $60,000 a week, their suit has become self-financing. Keeping 60 lawyers and researchers working, they have tied up Gen. Singlaub, and, through mounting legal fees, near bankrupted codefendants such as Robert Owen, the aide to Ollie North whose "crime" is to have helped the Contra cause.

In a letter on Gen. Singlaub's behalf, attorney Thomas Spencer Jr. outlines the Christics' success: "They have made life absolute hell for the general with incessant demands for filings, hearings and a thousand technical motions. The general cannot ignore this legal tyranny or its massive cost. He is required by the court to respond and . . . has had to spend thousands of hours and dollars on his defense. . . .

"While the allegations against the general are completely without foundation, the Christic lawyers have achieved their real goal. They have forced him to drop his work on behalf of the Nicaraguan Freedom Fighters and focus on his legal defense." The general estimates the cost of his defense at $260,000, of which 60 percent remains unpaid.

(According to sources close to the case, a political objective of the suit is to link Vice President George Bush to the conspiracy in the public mind, thereby crippling GOP chances in November.)

Even though the Iran-Contra panel, Democratic Rep. Charles B. Rangel's committee, and, now, a federal judge have all looked into, and dismissed, Christic's charges, Americans tend to think that where there is smoke there must be fire.

To clear his name, Gen. Singlaub intends to take the offensive, to countersue for malicious libel and defamation of character, and perhaps seek disbarment of Christic leader Danny Sheehan, the radical from the Vietnam era who brought the suit.

Excellent! Here is a cause that merits support. Gen. Singlaub, Rob Owen, Contra leader Adolfo Calero and former CIA Deputy Director Theodore Shackley are our conservative wounded, reviled as "neo fascists" and "neo Nazis" by the hard left, because they have been on the front lines in the campaign to roll back the Soviet Empire, the campaign that was once known as the Reagan Doctrine.

In his letter pleading for support, Mr. Spencer notes that, in a 35-year military career, Jack Singlaub won the Bronze Star, the Silver Star, the Croix de Guerre, the Distinguished Service Medal and the Purple Heart, fighting behind Nazi lines in France and Communist lines in Korea and Vietnam, while the Christic Institute "has a history of collaboration with and support for Communist and Marxist governments, movements and terrorists around the world."

While the Christics have proven themselves a formidable enemy, Mr. Sheehan may have bitten off a bit more than he can digest. Even in the sympathetic Mother Jones magazine, skepticism is being raised over his veracity.

"And there is a question of whether the Secret Team conspiracy (Gen. Singlaub's alleged network) exists only in Danny Sheehan's vivid imagination," writes James Straub. "Susan Morgan, British television reporter and La Penca victim currently assembling a documentary on the bombing, says that after months of investigation she has been unable to corroborate any of Christic's claims. "It's extremely frustrating," she says. Some of Mr. Sheehan's sources are "compulsive liars." Others, she adds, such as Edwin Wilson, claim to have been misquoted. Mr. Wilson thought that Danny Sheehan was "putting two and two together and getting six." Even CIA dissidents Frank Snepp and John Stockwell are described as "appalled" at the errors in Christic's filings.

"Gen. Singlaub," writes Mr. Spencer, "is one of the world's most effective anti-Communists. A large, well funded and powerful pro-Communist organization is trying to put him out of action." Well, the Christic Institute failed to put Jack Singlaub out of action. Hopefully, he will reciprocate and put them out of action.,

After all, he's been dealing with their kind his whole life.

[From the Washington Inquirer, July 1, 1988]

CHRISTIC CASE THROWN OUT OF COURT

(By Cliff Kincaid)

By dismissing the Christic Institute's two-year-old "Contragate" lawsuit just four days before it was scheduled to go to trial, federal Judge James Lawrence King was telling the world that Christic general counsel Daniel Sheehan didn't have enough evidence to present to a jury.

Working with the major media, especially CBS News, and Massachusetts Democratic Senator John Kerry's Senate subcommittee on narcotics, Sheehan had popularized the notion of a "Contra drug connection." The network evening news programs saved Sheehan some embarrassment by failing to report King's repudiation of his charges.

The suit claimed that a "secret team" of retired CIA and military officials had been smuggling arms and drugs and murdering people over a period of decades. In 1984, the suit claimed, this criminal conspiracy tried to assassinate dissident Nicaraguan Resistance leader Eden Pastora. The plaintiffs were left-wing activists Tony Avirgan, who was slightly injured when a Pastora news conference was bombed, and his wife, Martha Honey.

Although the defendants welcomed the ruling, they also believe that the justice system had been so abused that Sheehan and his associates should be forced to pay, financially and otherwise, for what they have done.

Tom Spencer, attorney for Maj. Gen. John Singlaub, says, "It's payback time." He wants Sheehan to pay Singlaub's legal costs, amounting to several hundred thousand dollars. He wants Sheehan to be disciplined and punished by the legal community. Spencer also believes there should be substantial changes in the federal racketeering statute under which the suit was brought. Spencer says that it was originally designed to enable prosecutors to go after organized crime, but was used by the Christic Institute to go after its political enemies.

Besides Singlaub, the defendants included Maj. Gen. Richard V. Secord, former CIA official Theodore Shackley, and Rob Owen, Oliver North's liaison to the Nicaraguan resistance.

Secord, who managed North's re-supply effort for the Nicaraguan resistance, has already sued one of Sheehan's "sources" for slander. He also has filed a libel suit against former CBS News producer Leslie Cockburn, who promotes Sheehan's conspiracy theories in her book, "Out of Control." Next in line is Sheehan himself. Months ago, Secord vowed, "We will definitely deal with this guy. It will be a service to the country."

Shackley, a retired prominent CIA official, has vowed to "take legal action against those who make false and malicious claims and those who found them." He says a way must be found to protect present and current government officials from this kind of "legal terrorism."

Another victim of the Christic suit, Rob Owens, helped Oliver North and the Nicaraguan resistance when Congress refused. A true humanitarian, Owen nevertheless had to defend himself against Christic charges that he was part of a criminal conspiracy.

It appears that the only "crime" of these individuals was to serve their country in the military and intelligence community, or participate in covert operations against the Communists.

Lately, Sheehan had been claiming that vice president George Bush was somehow involved with the "secret team." Aids and associates of the Vice President had been dragged into the case. One of them, retired CIA operative Felix Rodriquez, who was ordered to give a deposition, managed to have the last laugh on the Christics. He showed up in Little Havana on May 20 for his deposition with 30 cheering supporters carrying signs that said, "Investigate the Christic Institute." The Christic didn't show.

Rodriquez says they sent him a check to cover the costs of the appearance, and he promptly made it payable to the Nicaraguan resistance.

Rather than admit defeat, the Miami Herald reports that Sheehan will appeal. He claims Judge King bowed to Republican pressure to save George Bush Plaintiff Avirgan went so far as to claim that King had joined the "secret team."

[From the Washington Times, June 30, 1988]

THE LEFT IN DISNEYLAND

The Christic Institute was one of the lesser stars in the orbit of the American left until 1986, when it hit the big time with a lawsuit against 29 individuals, some of whom were connected to the Iran-Contra business. Accusing them of murder, kidnapping, bribery and drug-dealing and of constituting a sinister conspiracy that came to be known as the "Secret Team," the Washington-based foundation got lots of publicity and backing—until last week, when a federal judge in Miami threw its bizarre $24 million suit out of court. But much of the nation's liberal establishment seems to remain enamored with the fables concocted by the Christic mystics.

The centerpiece of the plot imagined by the institute was a supposed covert group of bad guys who it alleged had spent 25 years trying to wipe out communism with assassinations, to take over U.S. foreign policy and to help arm the Nicaraguan resistance through drug trafficking. The "Secret Team," the institute claimed, was a "powerful criminal network, fanatically right-wing, financed by drug profits and closely connected to the Reagan administration."

Most of the "evidence" for the grand conspiracy consisted of what attorney Theodore Klein, who represented some of the defendants, calls "a hodge-podge of dead informants, lost witnesses, character actors with first names only and assorted shadow figures who shriveled when exposed to the light." All the witnesses named by the institute recanted or denied statements attributed to them, and U.S. District Judge James Lawrence King finally dismissed the suit as being without merit.

The defendants—some of whom now face financial ruin as a result of the institute's litigation—included former CIA Deputy Director Theodore Shackley, Maj. Gen. John Singlaub, Maj. Gen. Richard Secord, Nicaraguan resistance leader Adolfo Calero and conservative activist F. Andy Messing of the National Defense Council, among others. A later affidavit filed in the case charged President Reagan, the late CIA Director William Casey and Attorney General Edwin Meese III with directing the Secret Team.

Gen. Singlaub says he has spent about $500,000 to fight the suit, and Mr. Messing says some of his group's donors fell away because of negative publicity. The taxpayer also took a drubbing, with court costs amounting to about $2 million over the past two years, and the scars on the reputations of some of the defendants may never be healed.

Aside from the damage done to innocent men, the Christic Institute's fairy tales seem to have been swallowed whole by many of its cohorts on the left. As publicity about the suit mounted, the institute gathered the donations of some leftish high rollers, including musician Jackson Browne and actress Jane Fonda, who no doubt will some day apologize. It forged relationships with such groups as Americans for Democratic Action, the National Organization for Women and the Southern Christian Leadership Conference, and its literature now sports endorsements from Jesse Jackson and Richard Gephardt.

Sen. John Kerry's staff is reported to work closely with Christic personnel in trying to prove that the Nicaraguan resistance is involved in drug smuggling. The "Secret Team" theory, as the left-wing monthly Mother Jones noted is "fast becoming the official explanation of the Iran-Contra events in progressive circles around the country."

Historian Richard Hostadter once wrote about what he called "The Paranoid Style in American Politics," referring to those political causes that throughout American history have launched crusades against imaginary dark forces conspiring against the Republic. Hofstadter saw political paranoia as being largely the property of the right wing, but it recently seems to have migrated leftward.

Conspiracy ideologies such as the Christic Institute's Secret Team theory, as Insight's David Brock has written, attempt to "criminalize foreign policy differences." The far right has used such tactics in the past to portray liberals as tools of the Trilateral Commission or other bogies, while the political left exploits such demonology to try to decredit anti-communists in and out of government.

Such radical intolerance is reprehensible in any form, and is especially dangerous when groups use nuisance suits to destroy the lives and wreck the finances of their political opponents. The judge was right to dismiss the suit and protect a framework of civility for the public discourse.

CONFERENCE REPORT ON H.R. 4800

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fical year ending September 30, 1989, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-817)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 10, 11, 12, 14, 16, 20, 21, 25, 27, 28, 29, 31, 34, 35, 36, 37, 38, 39, 43, 47, 48, 53, 55, 59, 61, 65, 67, 72, 74, 77, 78, 79, 82, 83, 84, 85, and 86.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 22, 26, 33, 41, 42, 49, 52, 54, 63, 66, 69, 71, and 80, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$480,106,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$46,500,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$80,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,100,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$13,200,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$716,609,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$715,625,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert the following: *consisting of $1,275,000,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $150,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds*; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$941,000,000*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$941,000,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *; and $68,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $20,000,000 for section 510, $3,000,000 for section 512, $25,000,000 for section 513, and $20,000,000 for section 515*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: Provided further*, and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,583,000,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$10,542,546,000*; and the Senate agree to the same.

The committee for conference report in disagreement amendments numbered 1, 3, 6, 13, 17, 18, 23, 24, 30, 51, 56, 57, 58, 62, 64, 70, 73, 75, 76, and 81.

Edward P. Boland,
Bob Traxler,
Louis Stokes,
Lindy Boggs,
Alan B. Mollohan,
Martin O. Sabo,
Jamie L. Whitten,
Bill Green,
Lawrence Coughlin,
Jerry Lewis,
Silvio O. Conte,
Managers on the Part of the House.

Bill Proxmire,
John C. Stennis,
Patrick J. Leahy,
J. Bennett Johnston,
Frank R. Lautenberg,
Barbara Mikulski,
Daniel K. Inouye,
Jake Garn,
Alfonse M. D'Amato,
Chuck Grassley,
Pete V. Domenici,
Don Nickles,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,538,765,000, to remain available until expended: Provided, That of the new budget authority provided herein, $89,350,788 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program (section 202 of the Act, as amended by section 2 of Public Law 100-358, approved June 29, 1988); $343,347,300 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $1,646,948,200 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $969,570,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $572,059,890 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); $368,473,610 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), of which $45,000,000 is to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77); up to $307,430,000 shall be for section 8 assistance for property disposition; and $1,354,937,780 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): Provided further, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who as a result of rental rehabilitation actions are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): Provided further, That up to $145,462,500 shall be for loan management under section 8 and that any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that exceeds five years, notwithstanding the specification in section 8(v) of the Act that such term shall be 180 months: Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: Provided further, That of the $7,538,765,000 provided herein, $355,509,000 shall be used to assist handicapped families in accordance with section 202(h)(2), (3) and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q), and $20,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242) and the immediately aforementioned $20,000,000 shall not become available for *obligation until July 1, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (excluding public housing for Indian families), for modernization of existing public housing projects (excluding such projects for Indian families), and for programs under seciton 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1989, shall be rescinded: Provided further, That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: Provided further, That amounts equal to recaptured amounts for housing development grants shall be made available during 1989 on the terms specified in the sixth proviso under this head in the Department of Housing and Urban Development appropriation for 1987 (section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783, 1783-242, and 3341, 3341-242).*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the Department and the Office of Management and Budget to adhere to the 1989 program detailed in the following table. The Department is expected to continue to utilize the regular reprogramming procedure if any changes are required to the agreed upon program contained in the table.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1989—GROSS RESERVATIONS

	Units	Cost	Term	Budget authority
New authority	NA	NA	NA	$7,538,765,000
Rescission of recaptures	NA	NA	NA	−303,500,000
Total, budget authority (net)	NA	NA	NA	7,235,265,000
Public housing:				
New construction/major reconstruction	5,000	$68,669	NA	343,347,300
Indian housing	1,243	71,851	NA	89,350,788
Amendments	NA	NA	NA	36,737,000
Lease adjustments	NA	NA	NA	22,400,000
Modernization	NA	NA	NA	1,646,948,200
Subtotal, public housing	6,243			2,138,783,288
SEC. 8				
Sec. 202:				
Regular	7,125	6,804	20	969,570,000
Handicapped[1]	2,375	7,484	20	355,509,000
Amendments	NA	NA	20	145,000,000
Subtotal, Sec. 202	9,500			1,470,079,000
Vouchers:				
Incremental	47,000	4,844	5	1,138,340,000
Opt outs/prepayments	1,500	4,844	5	36,330,000
Renewals	NA	4,844	5	38,712,780
Fees (8.2 percent—new incremental units)	NA	585	5	141,555,000
Subtotal, vouchers	48,500			1,354,937,780
Existing certificates	18,000	6,022	5	541,980,000
Public housing demolition	333	6,022	15	30,079,890
Subtotal	18,333			572,059,890
Loan management	7,500	3,879	5	145,462,500
Moderate rehabilitation:				
Regular	2,942	7,329	15	323,473,610
Homeless (SRO)	1,270	NA	NA	45,000,000
Subtotal, moderate rehabilitation	4,212			368,473,610
Property Disposition	3,157	6,493	15	307,430,000
Amendments:				
Existing housing	NA	NA	5	708,798,932
Project reserves	NA	NA	7	383,740,000
Moderate rehabilitation	NA	NA	10	46,500,000
Property disposition	NA	NA	15	22,500,000
Subtotal amendments	NA	NA		1,161,538,932
Subtotal, section 8	91,202	NA		5,379,981,712
Total, public housing and sec. 8	97,445	NA		7,518,765,000
Nehemiah grants	NA	NA		20,000,000
Total use of authority	NA	NA		7,538,765,000
Incremental units	84,955	NA	NA	

[1] Includes 950 units for the deinstitutionalized mentally ill.

Amendment No. 2: Establishes the 1989 direct loan limitation on the housing for the elderly or handicapped fund at $480,106,000, instead of $478,422,000 as proposed by the House and $537,736,000 as proposed by the Senate.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring that 25 percent of the loan authority provided be used only for handicapped projects, with the mentally ill homeless handicapped receiving priority, instead of requiring adequate loan authority be used to provide for an estimated 2,000 handicapped units as proposed by the House.

The conferees agree that 950 of the 2,375 units provided for the handicapped should be reserved for the deinstitutionalized mentally ill.

Amendment No. 4: Appropriates $5,400,000 for congregate services as proposed by the House, instead of $7,000,000 as proposed by the Senate.

Amendment No. 5: Appropriates $3,500,000 for housing counseling assistance as proposed by the Senate, instead of $4,500,000 as proposed by the House. The conferees agree that within available funds, the Department will implement the new counseling provisions carried in the Housing and Community Development Act of 1987.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting language clarifying that the flexible subsidy fund is to be operated as a revolving fund and that monies in the revolving fund are available for use until expended, instead of permitting two year availability of funds and the use of excess rental receipts collected in 1989 as proposed by the House.

Amendment No. 7: Appropriates $46,500,000 for the emergency shelter grants program, instead of $65,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

Amendment No. 8: Appropriates $80,000,000 for the transitional and supportive housing demonstration program, instead of $85,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 9: Appropriates $1,100,000 for the Interagency Council on the Homeless, instead of $1,200,000 as proposed by the House and $1,000,000 as proposed by the Senate.

COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 10: Transfers $200,000,000 from the Rehabilitation loan fund to Community development grants as proposed by the House, instead of $160,000,000 as proposed by the Senate. The conferees urge the Department to issue the notice of fund availability early in the fiscal year and to make funds available for rehabilitation loans expeditiously as repayments are received. The conferees support the administrative changes to the rehabilitation loan program suggested in the Senate report.

Amendment No. 11: Restores language proposed by the House and stricken by the Senate transfering $150,000,000 from the Flexible subsidy fund to Community development grants.

Amendment No. 12: Restores language proposed by the House and stricken by the Senate earmarking $5,000,000 of Community development grants for a public housing child care demonstration.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $2,000,000 of Community development grant funds for a neighborhood development demonstration.

The conferees are in agreement that the Secretary's Discretionary Fund shall be increased by $10,000,000 above the budget request for the following special projects:

+$750,000 for the district heating and cooling program, as described in both the House and Senate reports.

+$2,885,000 to be divided proportionally for special project grants to address the serious ground subsidence problems in the Roxborough and Logan areas of Philadelphia. The conferees urge the Department to make these funds available expeditiously to be matched by equal contributions from both the city and state.

+$1,100,000 for secondary migration assistance in the Fresno, California vicinity.

+$500,000 for downtown revitalization projects in Ada, Oklahoma.

+$140,000 for handicapped accessibility improvements to the Columbia County Courthouse in Dayton, Washington.

+$1,560,000 for modification and repair of an innovative sewage treatment plant in Henderson, Nevada.

+$1,220,000 for infrastructure development for the Hawaiian Homes lands.

+$1,000,000 for a math and science high school in Oklahoma City, Oklahoma.

+$785,000 for purchase and renovation of a building for Covenant House in New York City.

+$60,000 to support expanded tenant management of the Northgate Apartments in Burlington, Vermont.

Amendment No. 14: Deletes language proposed by the Senate earmarking $4,650,000 in 1988 funds in the Secretary's discretionary fund for special projects identified in conference report language. These funds have already been released for obligation by the Administration.

Amendment No. 15: Appropriates $13,200,000 for urban homesteading, instead of $12,000,000 as proposed by the House and $14,400,000 as proposed by the Senate.

Amendment No. 16: Restores language proposed by the House and stricken by the Senate continuing the solar bank program in 1989 with recaptures and deletes language proposed by the Senate rescinding solar bank funds recaptured in 1989.

POLICY DEVELOPMENT AND RESEARCH

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$17,200,000, of which not less than $1,200,000 shall be available for lead-based paint studies, with all funds.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Responsible action and effective leadership on lead-based paint is long overdue from HUD. To assure that critical research needs begin to be addressed, bill language has been included to require that at least $1,200,000 be made available for lead-based paint studies in 1989. The conferees place a high priority on this work and understand that, absent this bill language, HUD would have provided significantly less resources for this effort.

In addition to supporting the 18-month demonstration in HUD-owned housing, there are a number of pressing research and technical studies which need to be conducted, including the following: Development of the technical guidelines called for in amendment No. 24; reevaluation of XRF and other testing technologies; lead dust sampling methodologies and laboratory analysis techniques; air lead monitoring for worker protection; long term post-abatement monitoring; and training and certification programs to assure the safety of abatement work. In addition, the Department is directed to renegotiate its Memorandum of Understanding with the Environmental Protection Agency on lead-based paint to take greater advantage of that agency's experience and perspective in responding to serious environmental health hazards.

On May 11 the House and Senate Appropriations Committees directed HUD to reprogram funds, as the highest priority, to undertake the development of technical guidelines for lead testing and abatement. It is inexcusable that the Department still has not obligated those funds after almost three months. The Department is directed to initiate that effort and aggressively support its completion without further delay or excuses.

FAIR HOUSING AND EQUAL OPPORTUNITY

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $10,000,000, to remain available until September 30, 1990: Provided, That not less than $5,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to consolidate fair housing funding in a single account to give the Department additional flexibility. Language has been included to require that at least $5,000,000 is used for the fair housing insitiatives program in 1989. The conferees urge HUD to provide additional resources for fair housing initiatives, if such funds will strengthen the overall fair housing program.

MANAGEMENT AND ADMINISTRATION

Amendment No. 19: Appropriates $716,609,000 for salaries and expenses, instead of $719,371,000 as proposed by the House and $709,763,000 as proposed by the Senate.

The Committee of Conference is in agreement with the following changes from the budget estimate:

+$11,438,000 for 301 staff years to support the recommended program levels.

+$2,000,000 for 50 staff years to continue rebuilding the public housing programs.

−$520,000 and 13 staff years in the Office of Policy Development and Research.

+$1,000,000 for the Housing Assistance Council.

+$8,500,000 for 250 staff yearsto support the anticipated FHA workload. The Department is to allocate a substantial portion of the additional staff to those field offices with the heaviest property disposition and loan management workloads.

−$3,000,000 from the $19,754,000 increase requested for the Working Capital Fund. This savings results from slippage in the date for converting the Department's ADP applications system to the HUD integrated information processing system.

The following table reflects the 1989 staffing agreed to by the conferees:

STAFF YEAR SUMMARY

	1989			
	Agency request	House recommendation	Senate recommendation	Conference agreement
Housing:				
Washington	544	544	544	544
Field	5,517	5,780	5,667	5,780
Public and Indian housing:				
Washington	141	141	141	141
Field	972	1,224	1,174	1,224
Government National Mortgage Association: Washington	56	56	56	56
Community planning and development:				
Washington	245	269	248	258
Field	776	873	809	829
Policy development and research: Washington	145	132	140	132
Fair housing and equal opportunity:				
Washington	130	130	130	130
Field	468	468	468	468
Departmental management: Washington	138	138	138	138
Office of General Counsel: Washington	227	227	228	227
Field legal services: Field	268	268	268	268
Office of Inspector General: Washington/Field	495	495	495	495
Administration and staff services: Washington	1,164	1,164	1,116	1,164
Working capital fund: Washington	236	236	284	236
Field direction and operational support; Field	533	533	533	533
Field administration: Field	858	878	877	878
Total	12,913	13,556	13,316	13,501

Amendment No. 20: Transfers $381,528,000 from the various funds of the Federal Housing Administration as proposed by the House, instead of $371,920,000 as proposed by the Senate.

Amendment No. 21: Restores lanaguage proposed by the House and stricken by the Senate requiring a minimum staffing level of 1,365 for public and Indian housing programs.

ADMINISTRATIVE PROVISIONS

Amendment No. 22: Inserts center heading.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amending the Housing and Community Development Act of 1974 to limit the amount a city may receive in each urban development action grant round to $10,000,000 unless each city and urban county which submitted a fundable application has been awarded a grant.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

None of the funds provided in this Act or heretofore provided may be used to implement or enforce the regulations promulgated by the Department of Housing and Urban Development on June 6, 1988, with respect to the testing and abatement of lead-based paint in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods, and acceptable post-abatement lead dust levels.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees share the widespread frustration over the Department's failure to provide effective leadership on lead-based paint in housing. Over the past decade, only token efforts have been made to address lead problems in housing, while adverse health effects have been documented at lower and lower concentrations. Clearly, it is time to aggressively begin addressing the vast task of abating lead in housing. The conferees strongly endorse the 18-month demonstration to identify definitively the best approaches and have earmarked $1,200,000 of research funds to support that effort and the associated research and technical studies.

However, the Department's recently promulgated regulations mandating immediate full scale testing and abatement of lead-based paint in public housing raise serious concerns. Many lead-based paint abatement experts are convinced that the vast majority of current work employs improper techniques and is of poor quality. There is also strong evidence that poorly conducted abatement significantly *increases* lead dust levels, presenting greater health risks to residents and workers.

The conferees understand the authorizing committees are reviewing a number of issues related to lead-based paint and may be considering additional legislation. In the meantime, the conferees believe the development of technical guidelines is essential prior to undertaking widespread testing and abatement programs. It is expected that useful guidelines can be developed within six months through the process already being initiated with the National Institute of Building Sciences.

These guidelines are to be based on a consensus of the best technical judgments of experts in public health, housing and public housing, environmental science, and the abatement industry. At a minimum, technical guidelines should identify and prescribe reliable testing methods and protocols for lead in paint and dust, safe and effective techniques for abating various types of surfaces and surface conditions, safeguards to protect workers and building residents, cleanup and disposal methods, and standards to assure that post-abatement lead dust levels are safe. It is essential that these guidelines be comprehensive and of sufficient detail to provide practical assistance to the field practitioner. The conferees intend to follow this effort closely to assure that meaningful guidelines are developed as expeditiously as possible.

Amendment No. 25: Deletes language inserted by the Senate expressing the intention of the Senate to make new appropriations for the urban development action grant program if additional funds become available.

TITLE II
INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

Amendment No. 26: Inserts language proposed by the Senate requiring that $829,000 of the appropriation be deposited in the Foreign Currency Fluctuations account, instead of extending the availability of $829,000 of the appropriated funds for use in defraying the costs of foreign currency fluctuations as proposed by the House.

COMPETITIVENESS POLICY COUNCIL

Amendment No. 27: Deletes language inserted by the Senate appropriating $1,000,000 for the Competitiveness Policy Council subject to authorization.

CONSUMER PRODUCT SAFETY COMMISSION

Amendment No. 28: Appropriates $34,500,000 for the Consumer Product Safety Commission as proposed by the House, instead of $34,667,000 as proposed by the Senate.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 29: Appropriates $804,000,000 for salaries and expenses as proposed by the House, instead of $802,000,000 as proposed by the Senate. The conferees agree to the following changes from the budget request:

−$1,700,000 from travel, contracting and consultant services.

+$2,000,000 and five FTE for Title III support. These resources are to be evenly divided between 1) emergency planning activities and 2) assuring the quality of the section 313 data base, developing tools to assist communities in analyzing data, and enforcing reporting requirements.

+$1,700,000 and 30 FTE for waste minimization and pollution prevention. The conferees are in agreement that EPA must begin providing leadership to the states and industry for reducing the generation of wastes through an aggressive, multi-media program of research, outreach and technical assistance. These resources are intended to be the nucleus of such a program, to be allocated equally to the research office, the program offices, and regional technology transfer staffs.

+$600,000 and 10 FTE for the Great Lakes program office.

+$600,000 and 10 FTE for stratospheric ozone and global climate change, to be evenly divided between the air and policy offices.

+$500,000 and 10 FTE for radon contractor proficiency programs and to establish regional pilot training centers.

+$300,000 and five FTE to develop radiation criteria, standards, and guidelines.

The conferees understand that under an existing Memorandum of Understanding with the Department of Housing and Urban Development, EPA has ceded to HUD virtually all responsibility for lead-based paint. Without a doubt, lead is indisputably one of the most serious environmental health problems—with lead dust from paint being the primary source of exposures to children with elevated blood levels. Yet, little attention or resources have been devoted to this problem by EPA. The conferees believe that EPA must exercise its broader responsibilities under the Toxic Substances Control Act relating to lead-based paint testing and abatement standards, cleanup methods, and acceptable post-abatement lead dust levels. The Agency's extensive experience with the similar problem of asbestos in buildings should be brought to bear. The conferees direct EPA and HUD to renegotiate the Memorandum of Understanding on lead in buildings to provide for a more appropriate and effective division of responsibilities. The Department and EPA should advise the Appropriations Committees of the new division of responsibilities by April 1, 1989.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$202,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement on the following changes from the budget request:

−$3,000,000 from stratospheric ozone research. Additional funds have been added in the abatement, control, and compliance account for higher priority policy studies related to ozone depletion.

−$250,000 as a general reduction.

+$2,500,000 for the Center for Environmental Management to continue priority research, education and policy activities.

+$2,000,000 to be matched on a 50-50 basis by private contributions for jointly funded asbestos research. The conferees intend that this research be conducted under the auspices of the Health Effects Institute to assure the quality of science and objectivity of peer review. This research is intended to determine actual airborne exposure levels prevalent in buildings, to characterize peak exposure episodes and their significance, and to evaluate the effectiveness of asbestos management and abatement strategies in a scientifically meaningful manner. The conferees believe it is important that the sponsorship of and participation in this effort encompass the full range of private interests, including current and former product manufacturers, realtors, developers, building owners and managers, mortgage bankers, the insurance industry, labor organizations, and environmental groups. Before funds are obligated for research, a plan shall be submitted to the Appropriations Committees describing the framework for an open consultative process, the organizational, staffing, and peer review structures, the general workplan for research, and arrangements for non-Federal cost sharing. This effort shall in no way be construed to limit or alter EPA's authority or obligation to proceed with rulemakings and to issue rules as necessary.

+$2,000,000 for waste minimization and pollution prevention research. A multi-year plan addressing the critical research elements to support an Agency-wide, multimedia pollution prevention initiative should be submitted by May 1, 1989.

+$1,000,000 for global warming research.

+$450,000 for completion of the Kanawha Valley health effects study.

+$300,000 for desert ecological studies in the great basin.

+$500,000 for a cumulus clouds acid rain study at the University of North Dakota.

The conferees understand that recent scientific findings by research organizations and universities in the southeast indicate that current ozone control strategies do not adequately account for regional differences including climate, topography, and natural sources of emissions. A more thorough understanding of such regional differences would result in better ozone control strategies and improved clean air attainment. Therefore, the conferees direct the Agency to provide adequate research funds to increase the scientific understanding of regional differences in ozone conditions and attainment, particularly as they affect the southeast.

Amendment No. 31: Deletes language inserted by the Senate earmarking $2,800,000 of 1988 funds for the Center for Environmental Management. These funds have already been released for obligation by the Administration.

Amendment No. 32: Appropriates $715,625,000 for abatement, control, and compliance, instead of $727,500,000 as proposed by the House and $708,750,000 as proposed by the Senate. The conferees agree to the following changes from the budget request:

−$13,650,000 from pesticide storage and disposal.

+$47,500,000 for asbestos in schools.

+$7,500,000 for the national, competitive clean lakes program.

+$5,000,000 for the ten special lake and waterway projects authorized by section 315(b) of the Water Quality Act of 1987.

+$6,000,000 for stratospheric ozone depletion studies. A detailed funding plan is requested for all EPA stratospheric ozone studies by March 1, 1989.

+$5,000,000 for global climate change studies. By June 1, 1989 EPA should submit a workplan and report describing its various global warming research and policy studies, summaries of other Federal agencies' research activities, and the mechanisms for assuring coordination.

+$4,000,000 for incentive grants to state environmental agencies for developing integrated technical assistance and training programs to expand multi-media waste minimization activities.

+$3,000,000 for the Great Lakes program. These funds are intended to support the bilateral agreement with Canada and complete the full outfitting of the research vessel.

+$3,000,000 for drinking water technical assistance as described in the Senate report.

+$5,000,000 for water quality state grants.

+$1,000,000 for underground injection control state grants.

+$6,500,000 for air state grants, including the following set-asides: (1) $1,000,000 to cover one-third of the cost of the cooperative San Joaquin Valley ozone modelling effort, to be matched equally with funds spent or to be spent by the State/local governments and by private sources. The conferees believe that Federal support is justified in completing this jointly funded project and recognize that a three-year effort will be required; (2) $700,000 for

EPA's air pollution institute for training state personnel; (3) $300,000 for high altitude vehicle testing as described in the Senate report; (4) $250,000 for El Paso/Juarez air monitoring as described in the House report; and (5) $250,000 to support state efforts in evaluating and addressing the most severe multi-state ozone nonattainment and visibility problems.

+$2,000,000 to accelerate the pesticide/groundwater study.

+$2,000,000 for expanded emissions factor testing.

+$1,000,000 for wastewater treatment operator training.

+$1,000,000 for controlling sources of pollution to the Spokane aquifer.

+$1,000,000 for academic training. In addition to the traditional academic training activities, the conferees urge EPA to consider funding university programs designed to retrain geologists as hydrogeologists.

+$975,000 for revising regulations on high level and transuranic radioactive wastes.

+$900,000 for regional radon training centers.

+$600,000 for ensuring the proficiency of radon contractors.

+$750,000 for toxic studies in Chesapeake Bay.

+$700,000 for the National Academy of Sciences study on global climate change.

+$500,000 for a task force study and report on sugar cane processing mills on the Hilo-Hamakua coast of Hawaii. While the bill language in amendment No. 36 requiring this study has been deleted, the conferees direct that up to $500,000 be provided for the task force and report described in the Senate language. This study shall evaluate all pertinent factors, including the effects of modifying the limitation on total suspended solids on public health, the marine environment, non-water quality environmental impacts, energy requirements, the economic capability of the owner or operator, the engineering aspects of various types of control techniques and process changes, and the relationship between the costs and benefits of effluent reductions.

+$250,000 for continuing the study of the health and safety effects of pesticides on farmworkers.

+$100,000 for pesticide enforcement state grants, as specified in the Senate report.

Amendment No. 33: Limits administrative expenses for asbestos in schools to $2,500,000 as proposed by the Senate, instead of $1,500,000 as proposed by the House. Of that amount, $100,000 shall be provided as a grant for training minority contractors and workers and $400,000 shall be provided as grants to joint labor-management trust funds organized pursuant to section 302(c) of the National Labor Relations Act for training workers in asbestos abatement and disposal under an EPA approved training program.

Amendment No. 34: Deletes language inserted by the Senate earmarking $500,000 for asbestos worker training through joint labor-management trust funds. While the conferees have agreed to delete this bill language, the conference report directs the Agency to provide $400,000 to joint labor-management trust funds for asbestos worker training as described in the Senate language.

Amendment No. 35: Deletes language inserted by the Senate earmarking $16,000,000 and $700,000 of 1988 funds for Boston Harbor and Spokane aquifer, respectively. These funds have already been released for obligation by the Administration.

Amendment No. 36: Deletes language inserted by the Senate earmarking $500,000 for a task force and report on sugar cane processing mills on the Hilo-Hamakua coast of Hawaii. The conference report provides up to $500,000 for this purpose and directs that the task force report be submitted as called for by the Senate language.

Amendment No. 37: Deletes language inserted by the Senate requiring EPA to submit a report to Congress examining the direct economic and environmental impacts of regulations reducing ozone depleting substances. The conferees direct EPA to prepare and submit the report called for in the Senate language and believe this should be coordinated with the Federal Trade Commission.

Amendment No. 38: Deletes language inserted by the Senate making general reductions in EPA's Salaries and expenses, Research and development, and Abatement, control, and compliance accounts and earmarking $25,000,000 for nonpoint source control state grants and $5,000,000 for wellhead protection state grants. In view of the disruption such general reductions would cause all other EPA programs, the conferees cannot justify funding the nonpoint source and wellhead protection programs in this manner.

Amendment No. 39: Appropriates $1,425,000,000 for the Hazardous Substance Trust Fund as proposed by the House, instead of $1,525,000,000 as proposed by the Senate. The conferees agree to the following changes for the budget request:

−$204,000,000 to be taken as a general reduction at the Administrator's discretion.

+$3,300,000 and 60 FTE for enforcement to be allocated based on the House report.

+$15,000,000 for emergency removals.

+$1,200,000 and 20 FTE for regional contract management.

+$500,000 for mediation, arbitration, internal appeal and other dispute resolution activities.

+$1,500,000 for the Gulf Coast Hazardous Waste Research Center.

+$6,000,000 for the National Institute of Environmental Health Sciences' basic research grants.

+$1,500,000 and 25 FTE for the Agency for Toxic Substances and Disease Registry.

Amendment No. 40: Inserts language proposed by the Senate appropriating $1,286,000,000 from the Hazardous Substance Superfund and $239,000,000 from the General Fund, amended to appropriate $1,275,000,000 from the Hazardous Substance Superfund and $150,000,000 from the General Fund.

Amendment No. 41: Deletes language proposed by the House and stricken by the Senate requiring EPA regional administrators, prior to obligating funds for remedial investigation feasibility studies (RIFS), to certify that appropriate interim measures are being taken and that all RIFS elements are relevant to cleanup decisions. While these requirements have been dropped from bill language, the conferees agree that regional administrators must assume greater responsibilities and play a more substantive role in Superfund site decisions.

First, Superfund decisions must be based on reducing risks to human health and the environment—not just proceeding rigidly through the various steps of the engineering process. Before RIFSs are undertaken, the regional administrator must assure that appropriate emergency removals and interim measures have been taken to stabilize sites, control risks, and limit long term cleanup costs. An additional $15,000,000 has been added to assure that resources are available to meet these needs.

Second, regional administrators must take responsibility for policy level oversight of Superfund enforcement and contracting decisions. The resources available for Superfund—both now and in the future—are finite and must compete with other priorities. It is clear that unless fundamental changes in approach are made, Superfund cannot meet its objectives. The resources available must be used to achieve maximum environmental benefits, including leveraging significantly more privately funded RIFSs and cleanups through a more aggressive enforcement program. The agency is directed to submit a report to the Appropriations Committees by December 31, 1988, on management changes which will create meaningful incentives for regional administrators to leverage resources to maximize total cleanups.

Finally, the focus of the program must be redirected from *studying* sites to *cleaning up* sites. The program's heavy reliance on contractors creates a substantial risk of resources being wasted. The conferees note that in less than three years, both the cost and time required to complete RIFSs have almost doubled. Regional administrators must be held accountable for controlling costs and assuring the relevance of all RIFS work.

Amendment No. 42: Deletes language proposed by the House and stricken by the Senate prohibiting the expenditure of funds for natural resource damage claims. These claims were made ineligible for funding by the SARA amendments.

Amendment No. 43: Appropriates $1,950,000,000 for construction grants as proposed by the House, instead of $2,100,000,000 as proposed by the Senate.

Amendment No. 44: Earmarks $941,000,000 for title II construction grants, instead of $934,000,000 as proposed by the House and $1,050,000,000 as proposed by the Senate.

Amendment No. 45: Earmarks $941,000,000 for title VI revolving funds, instead of $934,000,000 as proposed by the House and $1,050,000,000 as proposed by the Senate.

Amendment No. 46: Earmarks $68,000,000 for four special projects authorized by title V of the Water Quality Act of 1987, instead of $82,000,000 as proposed by the House and zero as proposed by the Senate. Bill language has been included to earmark funds for the following projects:

$25,000,000 for Boston Harbor (section 513).

$20,000,000 for Tijuana sewage (section 510). The conferees understand that the full Federal cost of an operational defensive system is estimated to be $27,000,000. However, the schedule for completing certain design work makes it unlikely that full construction funding would be required much before the beginning of fiscal year 1990. The conferees recognize the special nature of this international problem and expect to provide the remaining $7,000,000 next year.

$20,000,000 for Des Moines, Iowa (section 515).

$3,000,000 for Oakwood/Redhook (section 512).

Amendment No. 47: Makes change in center heading.

Amendment No. 48: Deletes language proposed by the Senate providing that up to $30,000,000 in fees may be collected by EPA for deposit in a special fund in the Treasury to remain available until expended to carry out activities for which the fees were collected.

Executive Office of the President

Amendment No. 49: Appropriates $850,000 for the Council on Environmental Quality as proposed by the Senate, instead of $870,000 as proposed by the House.

Amendment No. 50: Restores language proposed by the House and stricken by the Senate requiring that the Office of Science and Technology Policy reimburse other agencies for all personnel compensation costs of individuals detailed to it, amended to require that OSTP reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

Federal Emergency Management Agency

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$100,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The disaster relief funding level is ultimately a function of the number, frequency and magnitude of disasters occurring during any given year. Any unusual increase in the number or intensity of disasters could necessitate additional resources. In recent years, the disaster activity level has been below the historical average. The reduction of $100,000,000 below the budget estimate assumes a lower-than-average level of disasters in fiscal year 1989.

Amendment No. 52: Appropriates $137,274,000 for salaries and expenses as proposed by the Senate, instead of $137,494,000 as proposed by the House.

The Committee of Conference is in agreement with the following changes from the budget estimate:

+$704,000 for 16 FTE in the Disaster Relief Administration. This increase is to be allocated only to the regional offices.

+$660,000 for 15 FTE in the radiological emergency preparedness program. This increase is to be allocated only to the regional offices.

+$176,000 for 4 FTE in the U.S. Fire Administration.

+$132,000 for 3 FTE in the acquisition management program.

Amendment No. 53: Deletes language proposed by the Senate requiring that FEMA, during fiscal year 1989, maintain 140 full-time permanent duty-stationed employees at Emmitsburg.

The conferees have agreed to delete the Senate amendment requiring a statutory floor on employment at FEMA's Emmitsburg facility. At the same time, the conferees are deeply distressed that FEMA has failed to make even a good faith effort to reach the 140 FTE level which the Director personally agreed to reach at Emmitsburg by March 31, 1988. Therefore, the conferees direct the Director to fully comply with the Senate language upon enactment of the conference agreement. In addition, unless FEMA complies with the 140 FTE level by the time its fiscal year 1990 budget is submitted to the Committees on Appropriations, the conferees will seriously consider relocating the agency's entire Office of Training to Emmitsburg.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

The emergency management planning and assistance paragraph is not in conference because both Houses recommended the same appropriation amount—$282,438,000. However, the assumptions in the House and Senate reports are not completely identical.

The Committee of Conference agrees to the following changes from the budget estimate:

+$1,134,000 for student travel stipends, including $312,000 for the Emergency Management Institute and $822,000 for the National Fire Academy. The funds requested for student travel stipends in the civil defense training and education program were not reduced and FEMA is not to require additional cost sharing for these students.

+$1,000,000 for the radiological emergency preparedness program.

+$445,000 for the earthquake program.

+$65,000 for the hurricane program.

+$3,000,000 for the U.S. Fire Administrations' fire prevention and arson control program.

+$2,000,000 for emergency management assistance grants.

−$300,000 from the $600,000 increase requested for the civil defense research program.

−$1,450,000 from the $2,900,000 increase requested for the civil defense population protection program.

−$2,000,000 from the $4,542,000 increase requested for the radiological defense program. The reduction is to be taken in activities other than grants to states for radiological defense officers.

−$800,000 from the $3,315,000 increase requested for the civil defense training and education program.

−$3,450,000 from the $4,798,000 increase requested for the telecommunications and warning program.

The conferees are aware of the need for a mobile emergency command post in the City of New Orleans. The fact that the Republican National Convention will be held in New Orleans at the height of the hurricane season makes it particularly urgent that these funds be dispersed immediately. In addition, New Orleans is one of the most vulnerable metropolitan areas in the nation to natural and man-made hazards. Hurricanes coming in from the Gulf of Mexico are particularly threatening to the New Orleans area which is largely below sea level. The port of New Orleans is the nation's largest and more hazardous materials are transported through the area than through any other metropolitan area in the nation. The agency is directed to make available $150,000 from within the emergency management planning and assistance appropriation for a matching grant to the City of New Orleans/State of Louisiana. These funds are for acquisition and equipping of a mobile emergency command post.

The conferees have deleted the $5,000,000 added by the Senate for Title III training grants because of restrictions on the budget allocation. However, favorable consideration will be given a proposal to reprogram $5,000,000 from civil defense funding to title III training grants in fiscal year 1989. The Agency is urged to remove restrictions on personal services and percentage of state training courses pursuant to authorizing legislation.

Department of Health and Human Services

OFFICE OF CONSUMER AFFAIRS

The conferees agree that the Office of Consumer Affairs shall provide at least $300,000 for publication distribution costs as proposed by the Senate, instead of $350,000 as proposed by the House.

National Aeronautics and Space Administration

Amendment No. 54: Makes a technical change in the title of the research and development paragraph.

Amendment No. 55: Appropriates $4,191,700,000 for research and development as proposed by the House, instead of $3,552,800,000 as proposed by the Senate.

The conferees agree that if the administrator elects to exercise the option of transferring up to $30,000,000 of funding from the construction of facilities account, it is to be allocated relative to amounts provided in the House bill in the following priority order:

1. +$10,000,000 for planetary programs.
2. + *up to* $10,000,000 for the "scatterometer" instrument.
3. +$5,000,000 for the total ozone mapping spectrometer (TOMS) instead of $5,000,000 provided from within available funds as recommended by the House.
4. +$5,000,000 for space telescope operations.
5. +$2,000,000 for life sciences.
6. +$2,700,000 for the AdaNET software project.

The conferees direct that an operating plan reflecting these and other changes to the fiscal year 1989 budget be submitted to the Committees on Appropriations within 30 days of enactment of this bill.

The conferees did not include any funding for a National Technology Transfer Center in West Virginia. However, the conferees direct the Office of Commerical Programs to conduct a definition/design study of the five year master plan for the establishment of a national repository for federal research and development (technology transfer), which would be located in West Virginia, and to transmit the definition/design study along with five year cost estimates and a proposal for cost-sharing, to the Committees on Appropriations of the House of Representatives and the Senate by February 1, 1989.

The committee of conference is agreed that the $1,000,000 earmarked by the Senate for curriculum development activities for grades K-9 should be provided through competitive awards made under additional funding provided to the National Science Foundation's science and engineering education account.

The conferees also agree that $1,000,000 shall be available for distribution at the agency's discretion for studies associated with global climate change.

Finally, the conferees agree that no funds are made available for the administration of a joint US/USSR Mars Mission Commission.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, of which $900,000,000 is for the space station program only: Provided, That $515,000,000 of the $900,000,000 for the space station program shall not become available for obligation until May 15, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy* *change: Provided further, That the aforementioned $515,000,000 shall become available unless the President submits a special message after February 1, 1989, notifying the Congress that such funds will not be made available for the space station program*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In connection with space station funding, the conferees direct NASA to continue work on solar dynamic power and satellite servicing to the extent practical within the limited funds available.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$4,364,200,000: Provided, That, notwithstanding any provision of this or any other Act, not to exceed $100,000,000 may be transferred to the National Aeronautics and Space Administration in fiscal year 1989 from any funds appropriated to the Department of Defense and such funds may only be transferred to the "Space flight, control and data communications" appropriation for space shuttle operations: Provided further, That the transfer limitation in the immediately preceding proviso shall not apply to funds transferred for advanced launch systems or under existing reimbursement arrangements: Provided further, That the funds appropriated under this heading are, together with funds permitted to be transferred hereunder*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that within the funds made available in this account, $5,000,000 shall be allocated for a TITAN III expendable launch vehicle for the Mars Observer Mission and $20,000,000 shall be allocated for a TITAN IV expendable launch vehicle for a planetary backup launch.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That in addition to sums otherwise provided by this paragraph, an additional $20,000,000, to remain available until expended: Provided further, That up to $30,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Research and development" and/or "Research and program management".*

SCIENCE, SPACE, AND TECHNOLOGY EDUCATION TRUST FUND

There is appropriated, by transfer from funds appropriated in this Act for "Construction of facilities", the sum of $15,000,000 to the "Science, Space, and Technology Education Trust Fund" which is hereby established in the Treasury of the United States: Provided, That the Secretary shall invest such funds in the United States Treasury special issue securities, that such interest shall be credited to the Trust Fund on a quarterly basis, and that such interest shall be available for the purpose of making grants for programs directed at improving science, space, and technology education in the United States: Provided further, That the Administrator of the National Aeronautics and Space Administration, after consultation with the Director of the National Science Foundation, shall review applications made for such grants and determine the distribution of such available funds on a competitive basis: Provided further, That such grants shall be made available to any awardee only to the extent that said awardee provides matching funds from non-Federal sources to carry out the program for which grants from this Trust Fund are made: Provided further, That of the funds made available by this Trust Fund, $250,000 shall be disbursed each calendar quarter for a ten-year period to the Challenger Center for Space Science Education: Provided further, That the Administrator of the National Aeronautics and Space Administration shall submit to the Congress an annual report on the grants made pursuant to this paragraph.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to delete the language permitting the transfer of $27,000,000 for construction of an advanced solid rocket motor facility to the space flight, control and data communications account without prejudice.

The committee of conference has included bill language providing the Administrator of NASA with the option of transferring up to $30,000,000 from the construction of facilities account to the research and development and/or research and program management account. The use and relative priority of such funds is described above under the research and development account.

Amendment No. 59: Appropriates $1,855,000,000 for research and program management as proposed by the House, instead of $1,870,000,000 as proposed by the Senate. The conferees agree that the reduction of 100 positions in NASA headquarters, which is specified by office and activity in the report accompanying the House bill, may be taken at the agency's discretion.

NATIONAL SCIENCE FOUNDATION

Amendment No. 60: Appropriates $1,583,000,000 for research and related activities, instead of $1,578,000,000 as proposed by the House and $1,593,000,000 as proposed by the Senate.

The conferees agree that the specific projects, programs and activities enumerated in the House and Senate reports shall be implemented by the Foundation.

Amendment No. 61: Restores language proposed by the House and stricken by the Senate providing that $900,000 shall be available only for the International Institute for Applied Systems Analysis.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to include bill language prohibiting the use of appropriated funds to pay any grantee or assignee from a non-federal entity at a rate in excess of $95,000 per year.

Amendment No. 63: Appropriates $131,000,000 for United States Antarctic program activities as proposed by the Senate, instead of $136,000,000 as proposed by the House.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That no funds in this Act shall be used to acquire or lease a research vessel with ice-breaking capability built by a shipyard located in a foreign country if such a vessel of U.S. origin can be obtained at a cost no more than 50 percentum above that of the least expensive technically acceptable foreign vessel bid: Provided further, That, in determining the cost of such a vessel, such cost be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: Provided further, That a new competitive solicitation for such vessel shall be conducted: Provided further, That if the vessel contracted for pursuant to the foregoing is not available for the 1989-1990 austral summer Antarctic season, a vessel of any origin may be leased for a period of not to exceed 120 days for that season and each season thereafter until delivery of the new vessel: Provided further, That the preceding four provisos shall not apply to appropriated funds used for the lease of the vessel POLAR DUKE*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees encourage the issuance of a new request for proposal that is similar to the initial offering and, in so doing, the Foundation is directed to take steps to insure that specifications in the request for proposal are well understood by all potential bidders.

Amendment No. 65: Appropriates $171,000,000 for science education activities as proposed by the House, instead of $156,000,000 as proposed by the Senate.

The commitee of conference is agreed that $1,000,000 of the funds added above the budget request shall be used specifically for a program of curriculum development activities for grades K-9 and should be provided through competitive awards made under this activity.

NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 66: Appropriates $19,494,000 for payment to the Neighborhood Reinvestment Corporation as proposed by the Senate, instead of $19,094,000 as proposed by the House.

SELECTIVE SERVICE SYSTEM

Amendment No. 67: Appropriates $26,313,000 for salaries and expenses as proposed by the House, instead of $26,113,00 as proposed by the Senate.

VETERANS ADMINISTRATION

Amendment No. 68: Appropriates $10,542,546,000 for medical care, instead of $10,567,546,000 as proposed by the House and $10,445,171,000 as proposed by the Senate.

The conference agreement reflects the following additions to the original budget request:

+$82,625,000 for 1,782 FTE to maintain the current hospital staffing level of 194,140.

+$35,000,000 for an additional 580 FTE, including $23,000,000 for 300 FTE for the treatment of patients with AIDS. The balance of the increase of $12,000,000 is for 280 FTE for facility activations.

The VA's current resource allocation system does not cover fully the cost of treating patients with AIDS. Because of this, VA hospitals—especially those treating the largest number of patients with AIDS—have been operating under great financial strains. According to information supplied by the Veterans Administraiton, treatment for approximately 50 percent of the cumulative AIDS caseload is provided by 16 of the 172 medical centers. Those 16 medical centers are at the following locations: New York, West Los Angeles (Wadsworth Division), Bronx, San Francisco, Houston, Miami, Brooklyn, East Orange, San Juan, Washington, DC, Long Beach, Tampa, Atlanta, Dallas, San Diego, and New Orleans. The VA is to distribute the $23,000,000 and 300 FTE only to those 16 medical centers. The current staffing allocation of 33,794 FTE for those 16 medical centers is not to be reduced. Further, the distribution of these additional resources should be by an acceptable methodology.

+$45,000,000 for special pay rates for nurses and other scarce medical specialties.

+$5,000,000 for tuition assistance payments for nursing and other associated health care occupations.

+$42,375,000 to fully fund a two percent pay increase in 1989.

+$5,000,000 for treatment of post-traumatic stress disorder (PTSD). The additional funds are to be used at the discretion of the VA to increase resources for the 13 existing inpatient PTSD treatment programs or to support the establishment of new programs that best meet the needs of veterans suffering from PTSD.

The Veterans Administration may utilize up to $3,000,000 of existing resources for mobile clinics for furnishing health care in areas where veterans live at least 100 miles from the nearest VA facility.

This amount of funding is specifically intended to support 194,720 full-time equivalent employees (FTEEs) with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available by enactment of supplemental appropriations, or through absorption of the cost, or some combination thereof.

Amendment No. 69: Provides $13,252,000 for community-based residential treatment programs for chronically mentally ill veterans as proposed by the Senate, instead of $5,000,000 as proposed by the House.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That, during fiscal year 1989, jurisdictional average employment shall not exceed 38,000 for administrative support: Provided further, That, notwithstanding any other provision in this Act, a supplemental budget request may be transmitted to maintain the personnel level mandated by this Act*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 71: Appropriates $47,909,000 for medical administration and miscellaneous operating expenses as proposed by the Senate, instead of $48,909,000 as proposed by the House.

The conferees agree with the following changes from the budget estimate:

+$1,000,000 to the $7,137,000 requested for the health professional scholarship program.

−$1,000,000 general reduction to be applied at the VA's discretion to activities other than the health professional scholarship program.

This amount of funding is specifically intended to support not more than 595 full-time equivalent employees with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA using funds made available by this measure, funds made available through the enactment of supplemental appropriations, or through absorption of the cost, or some combination thereof.

Amendment No. 72: Appropriates $774,316,000 for general operating expenses as proposed by the House, instead of $781,236,000 as proposed by the Senate.

The Committee of Conference is in agreement with the following changes from the original budget estimate:

+$17,500,000 for 590 FTE to maintain the 1988 field staffing level of 12,415 for the Department of Veterans Benefits

+$460,000 for 11 FTE to restore the Board of Veterans Appeals staffing to the 1988 level of 427.

−$8,400,000 requested for State approving agencies. Legislation has shifted funding for this activity to the readjustment benefits account.

−$6,560,000 from the $220,693,000 requested for general administration.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing clear statutory authority for maintenance guarantee service costs associated with warranted equipment provided under each project.

Amendment No. 74: Appropriates $363,040,000 for construction, major projects as proposed by the House, instead of $359,155,000 as proposed by the Senate.

The conferees agree to the following changes from the budget estimate:

+$7,500,000 for a 120-bed nursing home care unit at Saginaw.

+$4,670,000 for a 60-bed nursing home care unit at Wilkes-Barre.

+$6,815,000 for a 120-bed nursing home care unit at Mountain Home.

+$14,700,000 for a 120-bed nursing home care unit/parking garage structure project at New Orleans. An increase of $17,000,000 is included in the parking garage revolving fund for the parking garage component of the project.

+$14,000,000 for design of a clinical addition, renovate building 2 and spinal cord injury center project at Dallas.

−$6,600,000 requested to relocate the regional office to agency-owned grounds at Montgomery, Alabama.

−$37,800,000 from the budget request of $42,000,000 for the clinical improvements and patient privacy project at Nashville. This reduction is taken without prejudice and is a partial offset to the increased funding recommended for other medical facility projects. The conferees agree that construction funds for the Nashville project will be provided in next year's appropriations bill.

−$6,000,000 from the budget request of $22,600,000 for the advanced planning fund. The VA is directed to use $3,000,000 of the $16,600,000 appropriated for the advanced planning fund to begin advanced planning and required environmental impact studies associated with constructing a new medical center in Hawaii.

−$4,000,000 from the $15,450,000 requested for the design fund.

+$5,000,000 for an air-conditioning project at Madison.

−$3,000,000 from the working reserve.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Provided further, That the Veterans Administration shall, from funds previously appropriated for the replacement and modernization of the hospital at Allen Park, Michigan, immediately proceed with the planning, site acquisition, site preparation, and design of a new hospital in downtown Detroit, Michigan, which contains not less than 503 hospital beds*

The managers of the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing clear statutory authority for maintenance and guarantee period service costs associated with warranted equipment provided under each project.

Amendment No. 77: Establishes a limitation on the expenses of the Office of Facilities at not more than $41,731,000 as proposed by the House, instead of $42,731,000 as proposed by the Senate.

Amendment No. 78: Appropriates $26,000,000 for the parking garage revolving fund as proposed by the House, instead of $9,000,000 as proposed by the Senate.

TITLE IV

GENERAL PROVISIONS

Amendment No. 79: Deletes language inserted by the Senate exempting travel performed to provide technical assistance for the Emergency Planning and Community Right to Know Act of 1986 from the general limitation on travel expenses.

Amendment No. 80: Deletes language proposed by the House and stricken by the Senate prohibiting the expenditure of funds in any workplace that is not free of illegal use or possession of controlled substances. The conferees understand that this matter will be addressed on a government-wide basis in another appropriations measure.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring that all 1989 pay raises shall be absorbed within the levels appropriated in this Act.

Amendment No. 82: Deletes language inserted by the Senate reducing all agencies' appropriations to limit expenditures to 85 percent of the fiscal year 1987 level for management consulting services and to 95 percent for research, engineering, and technical consulting services. The conferees have ageeed to delete this bill language without prejudice. The conferees are concerned about reported abuses in this area of Federal activity and expect the Department and agencies funded through this Act to assiduously monitor and control these expenditures.

Amendment No. 83: Deletes language proposed by the Senate directing EPA to submit to the Congress a plan for the Agency to participate in the activities of the Pacific Northwest Hazardous Substance Research, Development, and Demonstration Center. While the Senate bill language has been deleted, the conferees are in agreement that it would be useful for EPA to explore with the Pacific Northwest Center possible areas of collaboration and coordination which would be of mutual benefit. As indicated in the Senate language, this review should consider direct participation in research, in-kind personnel exchange, interagency program coordination, and other measures to maximize the benefit of the Center to the public. A report should be submitted to the Congress by March 1, 1989.

Amendment No. 84: Deletes language inserted by the Senate directing EPA to report to the Congress within six months on the feasibility of using treated effluent waters from the Carson River Basin to improve the Lahontan Valley wetlands. While the conferees have agreed to drop the Senate bill language, the Agency is directed to reprogram funds as necessary to conduct the study and submit the report to the Congress no later than six months after enactment of this Act.

Amendment No. 85: Deletes language inserted by the Senate expressing the sense of the Senate that the President should call upon world leaders to begin negotiations on an international convention on the greenhouse effect. The conferees are concerned by the mounting evidence of global warming and have provided additional funds for research and policy studies to address this problem. The conferees hope that the next President will take a leadership role in seeking international coordination in addressing the range of issues related to both global climate change and strastospheric ozone depletion.

Amendment No. 86: Deletes language inserted by the Senate expressing the sense of the Senate that the HUD-Independent Agencies Subcommittee allocation be increased to permit development and production of the space station for deployment in the mid-1990's and to support other priority programs in the Department of Housing and Urban Development, the Veterans Administration, the Environmental Protection Agency, and the National Science Foundation.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1989 recommended by the Committee of Conference, with comparisons to the fiscal year 1988 amount, the 1989 budget estimates, and the House and Senate bills for 1989 follow:

New budget (obligational) authority, fiscal year 1988	$57,359,891,000
Budget estimates of new (obligational) authority, fiscal year 1989	58,666,772,000
House bill, fiscal year 1989	59,709,920,000
Senate bill, fiscal year 1989	59,077,033,000
Conference agreement, fiscal year 1989	59,386,045,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1988	+2,026,154,000
Budget estimates of new (obligational) authority, fiscal year 1989	+719,273,000
House bill, fiscal year 1989	−323,875,000
Senate bill, fiscal year 1989	+309,012,000

EDWARD P. BOLAND,
BOB TRAXLER,
LOUIS STOKES,
LINDY BOGGS,
ALAN B. MOLLOHAN,
MARTIN O. SABO,
JAMIE L. WHITTEN,
BILL GREEN,
LAWRENCE COUGHLIN,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

BILL PROXMIRE,
JOHN C. STENNIS,
PATRICK J. LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
BARBARA A. MIKULSKI,
DANIEL K. INOUYE,
JAKE GARN,
ALFONSE M. D'AMATO,
CHUCK GRASSLEY,
PETE V. DOMENICI,
DON NICKLES,
MARK O. HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 60 minutes, today.

Mr. QUILLEN, for 60 minutes, on September 20.

Mr. MCEWEN, for 60 minutes, today.

Mr. PORTER, for 60 minutes, on September 7.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. BOLAND, for 5 minutes, today.

Mr. LANTOS, for 5 minutes, today

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 60 minutes, on August 4.

Mrs. LLOYD, for 60 minutes, on September 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ALEXANDER to include extraneous matter following his remarks on H.R. 4352 in the Committee of the Whole today.

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous material:)

Mr. GILMAN in two instances.
Mr. COUGHLIN.
Mr. BADHAM.
Mr. HANSEN in two instances.
Mr. MCDADE.
Mr. PORTER.
Mr. DANNEMEYER in two instances.
Mr. HEFLEY.
Mr. HAMMERSCHMIDT.
Mr. LAGOMARSINO.
Mr. WELDON.
Mr. LIGHTFOOT.
Mr. FISH.
Mr. SOLOMON.
Mr. SCHAEFER.
Mr. GRADISON in two instances.
Mr. ROTH.
Mr. STANGELAND.
Mr. DORNAN of California.
Mr. GALLO.
Mr. FIELDS.
Mr. DAVIS of Michigan.
Mr. DONALD E. LUKENS.
Mr. HORTON.
Mr. CRANE in two instances.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. COELHO.
Mr. DARDEN.
Mr. MORRISON of Connecticut.
Mr. YATES.
Mrs. BOXER.
Mr. HOYER.
Mr. HAMILTON in two instances.
Mr. FLORIO in two instances.
Mr. MILLER of California.
Mr. LEHMAN of California.
Mr. STARK.
Mr. DORGAN of North Dakota.
Mr. FUSTER.
Mr. VENTO.
Mr. DINGELL.
Mr. BROOKS.
Mr. LEHMAN of Florida.
Mr. WAXMAN.
Mr. STOKES.
Mr. TORRICELLI.
Mrs. BYRON.
Ms. SLAUGHTER of New York.
Ms. PELOSI.
Mr. WALGREN.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2629. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native corporations and the State of Alaska.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and a joint resolution of the House of the following title:

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr. Federal Building;" and

H.J. Res. 475. Joint resolution to designate October 1988 as "Polish American Heritage Month."

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 43 minutes p.m.) the House adjourned until tomorrow, Thursday, August 4, 1988, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and an amended report of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1988 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Howard Coble, MC	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia		[6]181.00		[3]12.49		[4]241.28		434.77
Committee total					507.00		67.99		353.64		928.63

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[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [3] Ground transportation, prorated share. [4] Miscellaneous expenses, New Zealand and Australia, prorated share. [5] No per diem paid in Antarctica; meals and lodging provided by National Science Foundation. [6] Congressman Coble returned $326 to the State Department, Washington, DC; total allowance, Australia equals $507. Transportation for Codel Hutto provided by military aircraft.

WALTER B. JONES, Chairman, July 6, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Howard Coble, MC	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
Lee Crockett	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
Rebecca Feemster	1/6	1/8	New Zealand	490.24	32600		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
Gene F. Hammel	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
Earl Hutto, MC	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.40		493.90
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.54		[4]241.22		760.76
William O. Lipinski, MC	1/6	1/10	New Zealand	980.48	652.00		[3]55.50		[4]112.36		819.86
	1/10	1/14	Australia	966.68	676.00		[3]12.49		[4]241.28		929.77
Kurt Oxley	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
George Pence	1/6	1/10	New Zealand	980.48	652.00		[3]55.50		[4]112.36		819.86
	1/10	1/14	Australia	966.68	676.00		[3]12.49		[4]241.28		929.77
Owen Pickett, MC	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
Norman Shumway, MC	1/6	1/8	New Zealand	490.24	326.00		[3]55.50		[4]112.36		493.86
	1/8	1/10	Antarctica								(5)
	1/11	1/14	Australia	725.01	507.00		[3]12.49		[4]241.28		760.77
W.J. (Billy) Tauzin, MC	1/6	1/10	New Zealand	980.48	652.00		[3]55.50		[4]112.36		819.86
	1/10	1/14	Australia	966.68	676.00		[3]12.49		[4]241.28		929.77
Jeanne Timmons	1/6	1/10	New Zealand	980.48	652.00		[3]55.50		[4]112.36		819.86
	1/10	1/14	Australia	966.68	676.00		[3]12.49		[4]241.28		929.77
Committee total					11,976.00		815.93		4,243.66		17,035.59

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[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [3] Ground transportation, prorated share. [4] Miscellaneous expenses, New Zealand & Australia, prorated share. [5] No per diem paid in Artarctica; meals and lodging provided by National Science Foundation. Transportation for Codel Hutto provided by U.S. military.

WALTER B. JONES, Chairman, June 28, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
D. Dreier	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
C. Duncan	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
C. Hayes	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
D. Hiatt	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
J. LaFalce	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
S. Lubick	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chine		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
K. Mfume	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
D. Terry	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
Committee total					6,816.00		29,053.84		619.84		36,489.68

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN J. LaFALCE, Chairman, May 30, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. E de la Garza	4/6	4/7	Belgium	13,766	394.00						394.00
Codel	4/7	4/10	Italy	396,546	316.98						316.98
Commercial transportation							4,497.00				4,497.00
Hon. Charles Stenholm	4/5	4/7	Belgium	20,650	591.00						591.00
	4/7	4/10	Italy	396,546	316.98						316.98
Commercial transportation							2,192.00				2,192.00
A. Mario Castillo	4/5	4/10	Italy	981,228	784.35						784.35
Commercial transportation							3,265.00				3,265.00
Timothy Galvin	4/5	4/7	Belgium	20,650	591.00						591.00
	4/7	4/10	Italy	396,546	316.98						316.98
Commercial transportation							2,192.00				2,192.00
Daniel Waggoner	4/5	4/7	Belgium	20,650	591.00						591.00
	4/7	4/10	Italy	396,546	316.98						316.98
Commercial transportation							2,192.00				2,192.00
Codel de la Garza other expenses:											
Representation function (Italy)									1,998.48		1,998.48
Transport of documents									70.00		70.00
Hon. E de la Garza	4/28	4/29	Mexico		150.00						150.00
Commercial transportation							1,493.00				1,493.00
Committee total					4,369.27		15,831.00		2,068.48		22,268.75

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. current is used, enter amount expended.

E de la GARZA, Chairman, July 28, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Les Aucoin	3/31	4/11	United Kingdom		2,300.00		5,740.50				8,040.50
Hon. Norman Dicks	5/25	5/26	Switzerland		210.00						210.00
	5/26	5/31	France		992.00		2,201.00				3,193.00
Hon. John Murtha	4/22	4/24	Dubai		147.58						147.58
Military transportation							6,610.00				6,610.00
Hon. Alan Mollohan	4/22	4/24	Dubai		147.58						147.58

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military transportation							6,610.00				6,610.00
Hon. Charles Wilson	5/27	6/10	Switzerland		840.00						840.00
	6/1	6/10	Pakistan		731.50						731.50
	6/10	6/13	Egypt		264.00						264.00
	6/13	6/14	England		251.00		3,900.00				4,151.00
Mark W. Murray	6/20	6/22	Jamaica		364.00		1,049.00				1,413.00
John Plahsal	4/22	4/24	Dubai		147.58						147.58
Military transportation							6,610.00				6,610.00
William Schuerch	6/20	6/22	Jamaica		364.00		1,049.00				1,413.00
Committee total					6,759.24		33,769.50				40,528.74
Appropriations, surveys and investigations staff:											
Paul T. Grishkat	4/17	4/29	Germany		1,150.25		2,123.00		71.50		3,344.74
William P. Haynes	4/18	4/27	Germany		774.75		2,123.00		52.45		2,950.20
Susan E. Lloyd	4/18	4/27	Germany		774.75		2,123.00		14.70		2,912.45
Robert J. O'Brien	4/17	4/29	Germany		1,150.25		2,123.00		54.00		3,327.25
Steven R. Pletcher	4/18	4/27	Germany		774.75		2,123.00		5.40		2,903.15
Robert J. Reitwiesner	4/18	4/27	Germany		762.25		2,123.00		57.20		2,942.45
A.M. Statham	4/17	4/29	Germany		1,257.25		2,123.00		54.00		3,434.25
Joseph M. Stehr	4/17	4/29	Germany		1,161.25		2,123.00		37.65		3,321.90
R.W. Vandergrift	4/18	4/20	Germany		237.25		3,981.00		18.00		4,236.25
Thomas F. Ward	4/17	4/29	Germany		1,257.25		2,401.00		28.00		3,686.25
Vernon Westbrook	4/17	4/29	Germany		1,161.25		2,401.00		67.98		3,630.23
Committee total					10,461.25		25,767.00		460.88		36,689.13

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE WHITTER, Chairman, July 26, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. George Wortley	4/26	5/2	Manila, Philippines		536.00		[3]1,844.00				2,380.00
Robert Browne	4/25	5/1	Manila, Philippines		670.00		[3]2,302.05				2,972.05
Steve Horblitt	5/22	5/27	Port Au Prince, Haiti		680		[3]473.00				1,153.00
Walter Fauntroy	5/29	6/4	Abidjan, Cote D'Ivoire		825.00		[3]2,881.00				3,706.88
Robert Browne	5/29	6/4	Abidjan, Cote D'Ivoire		825.00		[3]2,928.88				3,753.88
John Balder	5/29	6/4	Abidjan, Cote D'Ivoire		825.00		[3]2,928.88				3,753.88
Committee total					4,361.00		13,358.69				17,719.69

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Commercial.

FERNAND J. ST GERMAIN, Chairman, July 21, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter M. Storm	5/30	6/3	Ivory Coast		875.00						875.00
	6/3	6/7	France		1,044.00				[3]15.44		1,059.44
Commercial transportation							3,307.88				3,307.88
Committee total					1,919.00		3,307.88		15.44		5,242.32

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Local transportation.

WILLIAM H. GRAY III, Chairman, July 23, 1988.

REPORT OF EXPENTITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Representative Charles Hayes	6/12	6/16	Switzerland	902.15	630.00		[3]4,429.00				5,059.00
Carole Stringer	6/10	6/18	Switzerland	2,105.00	1,470.00		[3]2,293.00				3,763.00
Dorothy Strunk	6/10	6/17	Switzerland	1,803	1,260.00		[3]2,293.00				3,553.00
Committee total					3,360.00		9,015.00				12,375.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Local transportation costs not available from State Department.

AUGUSTUS F. HAWKINS, Chairman, July 31, 1988.

REPORTS OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
H. Berman	5/26	6/2	Israel								
Commercial transportation							1,656.50				1,656.50
R.K. Boyer	4/1	4/6	Korea		970.00		100.90		26.41		1,097.31
	4/6	4/10	Hong Kong		848.00						848.00
Commercial transportation							4,593.00				4,593.00
T.W. Bruce	4/19	4/20	Brazil		137.00						137.00
	4/20	4/21	Brazil		125.00						125.00
	4/21	4/22	Venezuela		125.00						125.00
	4/22	4/23	Mexico		125.00						125.00
Commercial transportation							3,299.00				3,299.00
S. Dawson	4/2	4/10	Austria		1,424.00						1,424.00
Commercial transportation							2,299.00				2,299.00
T.E. (Jake) Dunman	5/23	5/26	Haiti		544.00						544.00
Commercial transportation							827.00				827.00
Total					4,298.00		12,775.40		26.41		17,099.81
M. Dymally	4/21	4/24	Trinidad		522.50				257.70		780.20
	4/24	4/25	Barbados		170.00						170.00
	4/25	4/25	St. Lucia		107.00						107.00
Commercial transportation							1,365.14				1,365.14
M.F. Finley			Haiti		[3]429.00		150.00				579.00
Commercial transportation							827.00				827.00
B. Ford	4/1	4/6	Korea		970.00		100.90		26.41		1,097.31
	4/6	4/10	Hong Kong		848.00						848.00
Commercial transportation							4,593.00				4,593.00
L. Heyes	4/19	4/20	Brazil		125.00						125.00
	4/20	4/21	Brazil		125.00						125.00
	4/21	4/22	Venezuela		125.00						125.00
	4/22	4/23	Mexico		125.00						125.00
Commercial transportation							3,299.00				3,299.00
Total					3,546.50		10,335.04		284.11		14,165.65
R.M. Jenkins	4/1	4/6	Korea		970.00		100.90		26.41		1,097.31
	4/6	4/10	Hong Kong		848.00						848.00
Commercial transportation						4,593.00					4,593.00
C.A. Kojm	4/4	4/10	Egypt		813.50						813.50
Commercial transportation							4,129.00				4,129.00
R.S. Oliver	5/30	5/31	Spain		141.00				61.85		202.85
Commercial transportation						111.00					111.00
W. Owens	4/3	4/5	Greece		[3]196.00						196.00
	4/5	4/7	Egypt		[3]65.00						65.00
	4/7	4/9	Bahrain		[3]302.00						302.00
	4/9	4/11	Jordan		[3]250.86		344.51				595.37
	4/11	4/13	Israel		320.00						320.00
Commercial transportation							3,087.00				3,087.00
Total					3,906.36		12,365.41		88.26		16,360.03
K. Peel	4/19	4/21	Brazil		283.00						283.00
	4/21	4/22	Venezuela		125.00						125.00
	4/22	4/23	Mexico		125.00						125.00
Commercial transportation							3,299.00				3,299.00
S. Roth	4/3	4/4	Jordan		278.00		26.20		17.54		321.74
	4/5	4/11	Israel		1,050.00						1,050.00
Commercial transportation							3,487.00				3,487.00
S.J. Solarz	4/3	4/4	Jordan		278.00		26.20		17.54		321.74
	4/5	4/11	Israel		1,050.00						1,050.00
Commercial transportation							3,487.00				3,487.00
M. Tavlarides	6/6	6/9	Switzerland		630.00						630.00
Commercial transportation							4,089.00				4,089.00
M. Van Dusen	4/4	4/10	Egypt		813.50						813.50
Commercial transportation							4,129.00				4,129.00
Total					4,632.50		18,543.40		35.08		23,210.98
T.G. Verstandig	4/1	4/6	Korea		970.00		100.90		26.41		1,097.31
	4/6	4/10	Hong Kong		848.00						848.00
Commercial transportation						4,593.00					4,593.00
L. Watson	5/22	5/27	Haiti		680.00		150.00				830.00
Commercial transportation							1,140.00				1,140.00
H. Weinberg	4/4	4/10	Egypt		813.50						813.50
Commercial transportation							4,129.00				4,129.00
Total					3,311.50		10,112.90		26.41		13,450.81
Grand total for 2d quarter											84,287.28

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

DANTE B. FASCELL, Chairman, July 29, 198.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPANDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Barbara Vucanovich, MC	4/5	4/9	Marshall Islands		66.09		1,811.72		10.00		1,887.81
Committee total					66.09		1,811.72		10.00		1,887.81

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MORRIS K. UDALL, Chairman, July 26, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Robert Garcia	4/13	4/17	Spain	82,880	746.00					82,880	746.00
Commercial transportation							3,763.000				3,763.00
Thomas Joyce	4/12	4/17	Spain	103,434	931.00					103,434	931.00
Commercial transportation							1,086.00				1,086.00
Melvenia Gueye	4/21	4/26	Antigua, Trinidad, and Guyana	2,516.85	700.00					2,516.85	700.00
Commercial transportation							1,195.00				1,195.00
Committee total					2,377.00		6,044.00				8,421.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM D. FORD, Chairman, July 5, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Salvatore J. D'Amico[3]	4/12	4/13	Hong Kong		424.00		[4]10.55				434.55
Committee total					424.00		10.55				434.55

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] There will be more data on future reports as it is received.
[4] For local transportation.

GLENN M. ANDERSON, Member, July 14, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Harold P. Hanson	3/31	4/12	China								
	4/12	4/13	Hong Kong	1,655.10	212.00	82.50	10.55			1,737.60	222.55
Commercial air							2,228.59				2,228.59
George S. Kopp	3/31	4/12	China								
	4/12	4/15	Hong Kong	4,965.30	636.00	82.50	10.55			5,047.80	646.55
Commercial air							2,422.20				2,422.20
Robert E. Palmer	3/31	4/12	China								
	4/12	4/14	Hong Kong	3,310.20	424.00	82.50	10.55			3,392.70	434.55
Commercial air							2,247.00				2,247.00

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Billie Gay Larson	3/31	4/12	China								
	4/12	4/15	Hong Kong	4,965.30	636.00	82.50	10.55			5,047.80	646.55
Commercial air							2,422.20				2,422.20
Barbara Bruin	3/31	4/12	China								
	4/12	4/14	Hong Kong	3,310.20	424.00	82.50	10.55			3,392.70	434.55
Commercial air							1,384.41				1,384.41
Charles E. Cooke	4/16	4/18	France	2,797.44	496.00					2,797.44	496.00
	4/18	4/20	Switzerland	577.50	420.00					577.50	420.00
	4/20	4/24	Austria	9,512.58	812.00					9,512.58	812.00
Commercial air							1,383.91				1,383.91
Todd R. Schultz	4/16	4/18	France	2,797.44	496.00					2,797.44	496.00
	4/18	4/20	Switzerland	577.50	420.00					577.50	420.00
	4/20	4/24	Austria	9,512.58	812.00					9,512.58	812.00
Commercial air							1,383.91				1,383.91
David J. Goldston	5/27	5/30	Portugal	67,544	486.00					67,554	486.00
Commercial air							2,195.00				2,195.00
Robert E. Palmer	6/28	7/2	Ecuador	315,125	625.00					315,125	625.00
Commercial air						1,637.00				1,637.00	
Committee total					6,899.00		17,356.97				24,255.97

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT A. ROE, Chairman, July 28, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Dan Rostenkowski	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Hon. Sam Gibbons	6/5	6/7	France		318.00						
Military transportation							1,456.97				1,456.97
Hon. Fortney Stark	4/4	4/12	Italy	2,287,830	1,854.00		4,307.00				6,161.00
Hon. Don Pease	6/13	6/15	Switzerland	601.15	420.00		785.00				1,205.00
Hon. Michael Andrews	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,.093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Hon. Bill Archer	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Hon. Guy Vander Jagt	4/2	4/4	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							3,928.09				3,928.09
Hon. Dick Schulze	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Thelma Askey	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Virginia Fletcher	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Charles Mellody	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00						531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							7,114.44				7,114.44
Rufus Yerxa	4/5	4/6	West Germany	650.44	390.00						390.00
	4/7	4/10	Italy	1,093.95	884.00		114.91				998.91
	4/11		Switzerland	289.59	210.00						210.00
Military transportation							2,998.20				2,998.20
Commercial transportation							293.00				293.00
Committee total					20,772.00		64,603.53				85,375.53

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, July 26, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Samuel G. Wise	4/18	4/29	Austria		918.00		[3]534.50				1,452.50
	4/29	5/1	Norway		635.00	15,530	[4]1,331.33				1,966.33
	5/1	5/11	Austria		765.00		[3]534.50				1,299.50
	5/22	6/22	Austria		2,330.96		[4]1,028.00				3,358.96
Catherine H. Cosman	4/17	4/24	Soviet Union		1,281.00		[4]1,978.00		21.00		3,280.00
	4/24	4/25	France		198.00						198.00
Mary Sue Hafner	5/26	5/29	Portugal		486.00		[4]2,241.00				2,907.00
Mary Sue Hafner	4/2	4/6	England		972.00		[3]1,131.50		406.70		2,510.20
							[5]306.36				306.36
Jesse L. Jacobs	4/2	4/6	England		972.00		[3]1,131.50		374.70		2,478.20
							[5]306.36				306.36
Jane S. Fisher	4/3	4/6	England		729.00		[3]1,131.50		374.70		2,235.20
							[5]306.36				306.36
R. Spencer Oliver	4/3	4/6	England		729.00		[3]1,131.50		398.70		2,259.20
							[5]306.36				306.36
Erika B. Schlager	4/3	4/6	England		729.00		[3]1,131.50		374.70		2,235.20
							[5]306.36				306.36
Steny H. Hoyer	4/4	4/6	England		486.00		[6]3,480.40		374.70		3,855.10
							[5]306.36				306.36
Donald Ritter	4/4	4/6	England		486.00		[6]3,480.40		374.70		3,855.10
							[5]306.36				306.36
Michael J. Ochs	4/4	4/9	Poland		870.00		[3]1,103.15				1,973.15
						37,000	[7]93.19				93.19
							[5]157.42				157.42
Steny H. Hoyer	4/6	4/9	Poland		522.00	37,000	[7]93.19				615.19
							[5]157.42				157.42
Donald Ritter	4/6	4/9	Poland		522.00	37,000	[7]93.19				615.19
							[5]157.42				157.42
Mary Sue Hafner	4/6	4/9	Poland		522.00	37,000	[7]93.19				615.19
							[5]157.42				157.42
Jesse L. Jacobs	4/6	4/9	Poland		522.00	37,000	[7]93.19				615.19
							[5]157.42				157.42
Jane S. Fisher	4/6	4/9	Poland		522.00	37,000	[7]93.19				615.19
							[5]157.42				157.42
R. Spencer Oliver	4/6	4/9	Poland		522.00	37,000	[7]93.19				615.19
							[5]157.42				157.42
Erika B. Schlager	4/6	4/9	Poland		522.00		[7]93.19				615.19
							[5]157.42				157.42
Steny H. Hoyer	4/9	4/10	Germany		194.00		[8]4,319.07		21.36		4,534.43
Donald Ritter	4/9	4/10	Germany		194.00		[8]4,319.07		21.36		4,534.43
Mary Sue Hafner	4/9	4/10	Germany		194.00		[9]1,174.65		21.36		1,390.01
Jesse L. Jacobs	4/9	4/10	Germany		194.00		[9]1,174.65		21.36		1,390.01
Jane S. Fisher	4/9	4/10	Germany		194.00		[9]1,174.65		21.36		1,390.01
R. Spencer Oliver	4/9	4/10	Germany		194.00		[9]1,174.65		21.36		1,390.01
Erika B. Schlager	4/9	4/10	Germany		194.00		[9]1,174.65		21.36		1,390.01
Michael J. Ochs	4/9	4/10	Germany		194.00		[9]1,146.30		21.36		1,361.66
Commission total					17,792.96		41,175.77		2,870.78		62,019.61

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[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [3] One way commercial. [4] Round trip commercial. [5] Military in theater. [6] Military one way. [7] Commerical in country. [8] Bus and military air. [9] Bus and commercial air.

STENY H. HOYER, Chairman, June 30, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Louis Stokes	4/2	4/10	Asia		1,188.00						1,188.00
Military aircraft							16,117.56				16,117.56
Delegation expenses							15.41		479.54		494.95
Hon. Bill Richardson	4/2	4/10	Asia		1,188.00						1,188.00
Military aircraft							16,117.56				16,117.56
Hon. Bud Shuster	4/2	4/10	Asia		1,188.00						1,188.00
Military aircraft							16,117.56				16,117.56
Mr. Martin C. Faga, staff	4/2	4/10	Asia		1,188.00						1,188.00
Military aircraft							16,117.56				16,117.56
Mr. Duane P. Andrews, staff	4/2	4/10	Asia		1,188.00						1,188.00
Military aircraft							16,117.56				16,117.56
Mr. Calvin R. Humphrey, staff	4/2	4/10	Asia		1,188.00						1,188.00
Military aircraft							16,117.56				16,117.56
Mr. Bernard Raimo, Jr., staff	4/3	4/10	Europe		1,182.00		2,179.00				3,361.00
Mr. Bernard R. Toon II, staff	4/3	4/10	Europe		1,182.00		2,179.00				3,361.00
Committee total					9,492.00		101,078.77		479.56		111,050.31

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LOUIS STOKES, Chairman, July 26, 1988.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4118. A letter from the Secretary of Health and Human Services, transmitting a report on the scientific and clinical status of organ transplantation, pursuant to Public Law 98-507, section 201; to the Committee on Energy and Commerce.

4119. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by James E. Goodby, of New Hampshire, Ambassador Extraordinary and Plenipotentiary-designate to Greece, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4120. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the annual report of the Commission's compliance with the Government in the Sunshine Act for calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4121. A letter from the Commissioner, Immigration and Naturalization Service, transmitting a quarterly report on the number of waivers granted from certain inadmissibility requirements for refugees, pursuant to 8 U.S.C. 1157(c)(3); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1580. A bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes; with an amendment (Rept. 100-642, Pt. 5). Ordered to be printed.

Mr. PEPPER: Committee on Rules. H.R. 4338. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to impose special fees on the ocean disposal of sewage sludge, and for other purposes (Rept. 100-747, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4658. A bill to provide for more effective Coast Guard enforcement of laws relating to drug abuse; with an amendment (Rept. 100-814, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4850. A bill to amend the Public Health Service Act with respect to research programs relating to acquired immune deficiency syndrome; with an amendment (Rept. 100-815). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5090. A bill to implement the United States-Canada Free-Trade Agreement (Rept. 100-816, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5090. A bill to implement the United States-Canada Free-Trade Agreement (Rept. 100-816, Pt. 2). Ordered to be printed.

Mr. BOLAND: Committee of Conference. Conference report on H.R. 4800. (Rept. 100-817). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ORTIZ (for himself, Mr. Fields, Mr. Tauzin, Mr. Hutto, and Mr. Callahan):

H.R. 5141. A bill to delay temporarily certain regulations relating to sea turtle conservation; to the Committee on Merchant Marine and Fisheries.

By Mr. WAXMAN:

H.R. 5142. A bill to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BLILEY (for himself, Mr. Dellums, Mr. Fauntroy, Mr. Parris, Mr. Mazzoli, Mr. Gray of Pennsylvania, Mr. Dymally, Mr. Wheat, Mr. Morrison of Connecticut, Mr. Combest, and Mrs. Martin of Illinois):

H.R. 5143. A bill to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds; to the Committee on the District of Columbia.

By Mr. GEJDENSON (for himself, Mr. Beilenson, Mr. Bates, Mr. Stark, Mr. Brown of California, Mr. Dwyer of New Jersey, Mr. Towns, Mr. Lewis of Georgia, Mr. Robinson, Mr. Garcia, Mr. Atkins, Mr. Foglietta, and Mr. Owens of New York):

H.R. 5144. A bill to require that light trucks and multipurpose vehicles shall be subject to certain Federal motor vehicle safety standards which are applicable to passenger motor vehicles; to the Committee on Energy and Commerce.

By Mr. GRADISON (for himself and Mrs. Kennelly):

H.R. 5145. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY (for himself and Mr. Ridge):

H.R. 5146. A bill to direct the Administrator of Veterans' Affairs to conduct a pilot program for the provision of assistive monkeys to quadriplegic veterans; to the Committee on Veterans' Affairs.

By Mr. MURPHY:

H.R. 5147. A bill to amend the Tariff Schedules of the United States to clarify the scope of item 806.30 thereof; to the Committee on Ways and Means.

By Mrs. SAIKI:

H.R. 5148. A bill to provide for compensation with respect to former members of the Armed Forces of the United States for each day spent avoiding capture by hostile forces or as underground fighters while unattached to any regular unit of the Armed Forces during World War II; to the Committee on the Judiciary.

H.R. 5149. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished in kind in the form of room or rent to any individual by an immediate family member shall be disregarded in determining the amount of the individual's benefits thereunder; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. Waxman, and Mr. Wyden):

H.R. 5150. A bill to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHULZE (for himself, Mr. Archer, Mr. McGrath, Mr. Matsui, and Mr. Chandler):

H.R. 5151. A bill to amend the Internal Revenue Code of 1986 to provide that contracts for residential construction which are completed in less than 12 months shall be exempt from the requirement to use the percentage of completion method; to the Committee on Ways and Means.

By Mr. STANGELAND:

H.R. 5152. A bill to restrict the Army Corps of Engineers' authority to increase releases from the headwaters reservoirs of the Upper Mississippi River; to the Committee on Public Works and Transportation.

By Mr. TAUZIN (for himself, Mr. Huckaby, Mr. Hayes of Louisiana, Mrs. Boggs, and Mr. McCrery):

H.R. 5153. A bill to designate the Veterans' Administration Medical Center in Alexandria, LA, as the "Gillis Long Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. TORRICELLI (for himself, Mr. Jacobs, Mr. Biaggi, Mr. DioGuardi, Mr. Edwards of California, Mr. Gray of Illinois, Mr. Berman, Mr. Rodino, Mr. St Germain, Mr. Solarz, Mr. Rose, Mr. Akaka, Mr. Feighan, Mr. Mrazek, Mr. Conyers, Mr. Hyde, Ms. Kaptur, Mr. Florio, Mr. Hawkins, Mr. Tallon, Mr. Manton, Mr. Clay, Mr. Gallo, Mr. Downey of New York, Mr. Wise, Mrs. Boxer, Mr. Pease, Mr. Guarini, Mr. Roe, Mr. Schumer, Mr. Russo, Mr. Anderson, Mr. Gilman, Mr. Scheuer, Mr. Stark, Mr. Gregg, Mr. Mineta, Mr. Dellums, Ms. Snowe, Mr. Wortley, Mr. Dornan of California, Mr. Kostmayer, Mr. Martinez, Mr. Traficant, Mr. Rinaldo, Mr. Shays, Miss Schneider, Mr. Ackerman, Mr. Smith of New Hampshire, Mr. Dyson, Mr. Dymally, and Mr. Flake):

H.R. 5154. A bill to promote the dissemination of biomedical information through modern methods of science and technology and to prevent the duplication of experiments on live animals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. Madigan):

H.R. 5155. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize appropriations for activities under such act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. APPLEGATE:

H.J. Res. 630. Joint resolution designating April 16 through 22, 1989, as "National Ceramic Tile Industry Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY:

H.J. Res. 631. Joint resolution to designate the first Sunday in October 1988 as "National Children's Day"; to the Committee on Post Office and Civil Service.

By Mr. de la GARZA (for himself, Mr. Hall of Texas, Mr. Kolbe, Mr. Ortiz, Mr. Hunter, Mr. Skeen, Mr. Coleman of Texas, Mr. Bustamante, Mr. Chapman, Mr. Leland, Mr. Stenholm, Mr. Wilson, Mr. Bryant, and Mr. Udall):

H. Con. Res. 344. Concurrent resolution commending the International Boundary and Water Commission for its efforts during the past 100 years to improve the social and economic welfare of the United States and Mexico and to improve good relations between our two countries; to the Committee on Foreign Affairs.

By Mr. JACOBS:

H. Con. Res. 345. Concurrent resolution expressing the sense of the Congress that federally funded school lunches should provide optional meatless meals; to the Committee on Education and Labor.

By Mr. SCHEUER (for himself and Mr. Neal):

H. Con. Res. 346. Concurrent resolution expressing the sense of the Congress regarding the Pacific Forum; to the Committee on Foreign Affairs.

By Mr. RODINO:

H. Res.511. Resolution appointing managers on the part of the House in the matter of the impeachment of Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida; considered and agreed to.

H. Res. 512. Resolution providing that a message be sent to the Senate informing the Senate of the impeachment of Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida; considered and agreed to.

H. Res. 513. Resolution providing certain authorities to the managers on the part of the House in the matter of the impeachment of Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida; considered and agreed to.

By Mr. FASCELL (for himself, Mr. Broomfield, Mr. Porter, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Bonker, Mr. Mica, Mr. Lantos, Mr. Smith of Florida, Mr. Berman, Mr. Weiss, Mr. Ackerman, Mr. Fuster, Mr. Bilbray, Mr. Gilman, Mr. Lagomarsino, Mr. Leach of Iowa, Ms. Snowe, Mr. Solomon, Mr. Bereuter, Mr. Smith of New Jersey, Mrs. Meyers of Kansas, and Mr. Miller of Washington):

H. Res. 514. Resolution in support of a peaceful, negotiated settlement to the Cyprus dispute; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 243: Mr. Eckart.

H.R. 297: Mr. Eckart.

H.R. 347: Mr. Eckart.

H.R. 570: Mr. Boulter.

H.R. 631: Mr. Eckart.

H.R. 700: Mr. McEwen.

H.R. 722: Mr. Yatron.

H.R. 920: Mrs. Collins and Mr. Bates.

H.R. 1028: Mr. Gallegly, Mr. Bunning, Mr. Herger, and Mr. Horton.

H.R. 1381: Mr. Eckart.

H.R. 1716: Mr. Walgren, Mr. Jontz, Mr. Leach of Iowa, Mr. Owens of Utah, Mr. AuCoin, Mr. McCloskey, Mrs. Lloyd, Mr. Vento, Ms. Kaptur, Mr. Waxman, Mr. Hayes of Illinois, Mr. Weiss, and Mr. Wolpe.

H.R. 1726: Mr. Eckart.

H.R. 1918: Mr. Lantos, Mr. Hawkins, Mr. Rahall, Mr. Edwards of Oklahoma, Mrs. Bentley, Mr. Biaggi, Mr. de Lugo, Mr. Garcia, Mr. Bates, Mr. Owens of New York, Mr. Hughes, and Mr. Donald E. Lukens.

H.R. 1990: Mr. Mollohan.

H.R. 2219: Mr. Eckart.

H.R. 2246: Mr. Eckart.

H.R. 2632: Mr. Bosco.

H.R. 2776: Mr. McEwen, Mrs. Bentley, and Mr. Smith of Texas.

H.R. 2793: Mr. Callahan.

H.R. 3174: Mr. Richardson and Mr. Clement.

H.R. 3250: Mr. Lowery of California.

H.R. 3304: Mr. Oberstar.

H.R. 3314: Mr. Jeffords, Mr. Mollohan, and Mr. Hall of Texas.

H.R. 3501: Mr. Holloway and Mr. Baker.

H.R. 3565: Mr. Lowry of Washington.

H.R. 3628: Mr. Skaggs.

H.R. 3726: Mr. Rangel.

H.R. 3760: Mr. Hyde, Mr. Hastert, Mr. Crane, Mr. Gekas, Mr. Smith of New Hampshire, and Mr. Solomon.

H.R. 3814: Mr. Solomon.

H.R. 3824: Mr. Bates.

H.R. 3834: Mr. Richardson.

H.R. 4077: Mr. Eckart and Mr. Atkins.

H.R. 4199: Mr. MacKay.

H.R. 4221: Mr. Espy and Mr. Feighan.

H.R. 4292: Mr. Hayes of Louisiana.

H.R. 4359: Mr. Evans, Mr. Goodling, and Mr. Atkins.

H.R. 4384: Mr. Rangel, Ms. Kaptur, Mr. Eckart, and Mr. Stallings.

H.R. 4432: Mr. de Lugo.

H.R. 4437: Mr. Rangel and Mr. Jontz.

H.R. 4502: Mr. Smith of New Hampshire and Mr. Henry.

H.R. 4511: Mr. Herger.

H.R. 4531: Mr. DeWine.

H.R. 4534: Mr. Packard.

H.R. 4552: Mr. Jacobs.

H.R. 4649: Mr. Panetta and Mr. Berman.

H.R. 4661: Mr. Atkins.

H.R. 4708: Mr. Atkins and Mr. Brennan.

H.R. 4718: Mr. McCloskey.

H.R. 4758: Mr. Tauzin.

H.R. 4759: Mr. Upton and Mr. Pursell.

H.R. 4767: Mr. Frost.

H.R. 4831: Mr. Boulter.

H.R. 4856: Mr. Berman, Mr. Stark, Mr. Rinaldo. Mr. Moakley, and Mr. Penny.

H.R. 4866: Mr. Wortley.

H.R. 4870: Mr. Anderson and Mr. McCrery.

H.R. 4894: Mr. Schulze.

H.R. 4900: Mr. Atkins, Mr. Neal, Ms. Kaptur, Mr. Fauntroy, Mr. Dwyer of New Jersey, Mrs. Meyers of Kansas, Mr. Owens of New York, Mr. Owens of Utah, Mr. Rangel, Mr. Walgren, Mr. Lancaster, Mr. Hughes, Mr. Hochbrueckner, Mr. Kolter, and Mr. Weiss.

H.R. 4918: Mr. Buechner.

H.R. 4921: Ms. Kaptur and Mr. Bates.

H.R. 4951: Mr. Fauntroy.

H.R. 4956: Mr. Coelho, Mr. Hughes, Mr. Berman, Mr. Lancaster, and Mr. Towns.

H.R. 4979: Mr. Frank, Mr. Rangel, Mr. de Lugo, Mr. Garcia, Ms. Oakar, and Mr. Martinez.

H.R. 4987: Mr. Quillen.

H.R. 5009: Mr. Saxton.

H.R. 5010: Mr. St Germain and Mr. Staggers.

H.R. 5017: Mr. Bustamante.

H.R. 5036: Mr. Lipinski, Mrs. Collins, Mr. Bonior of Michigan, Mr. Atkins, and Mr. Lancaster.

H.R. 5066: Mr. Kolbe.

H.J. Res. 152: Mr. Watkins, Mr. Solarz, Mr. Blaz, and Mr. Holloway.

H.J. Res. 320: Mr. Atkins.

H.J. Res. 330: Mr. Edwards of California, Mr. Stangeland, Mr. Kolter, Mr. Thomas A. Luken, and Mr. Ford of Tennessee.

H.J. Res. 441: Mr. Bunning, Mr. Bates, Mr. Coleman of Missouri, Mr. Fuster, Mr. Sabo, Mr. Scheuer, Mr. Bryant, Mr. Schaefer, Mr. Fields, Mr. Gray of Illinois, Mr. Frost, Mr. Bevill, Mr. Sundquist, Mr. Hatcher, Mr. Martinez, Mr. Stark, Mr. Young of Florida, Mr. Callahan, Mr. Davis of Michigan, Mr. Dixon, Mr. Hastert, Mr. Dwyer of New Jersey, Mr. Mineta, Mr. Stokes, Mr. Kleczka, Mr. Garcia, Ms. Pelosi, Mr. Kildee, Mr. huckaby, Mr. Coleman of Texas, Mr. Rangel, Mr. Smith of Iowa, Mr. Moody, Mr. Mavroules, Mr. Clarke, Ms. Oakar, Mrs. Kennelly, Mr. Murtha, Mr. Obey, Ms. Slaughter of New York, Mr. Dyson, Mr. Leath of Texas, Mr. Wilson, Mr. Gonzalez, Mr. Rahall, Mr. Brown of California, and Mr. Robert F. Smith.

H.J. Res. 454: Mr. Traxler, Mr. Stump, and Mr. Wolf.

H.J. Res. 489: Mr. McEwen, Mr. Boland, Mr. Hyde, Mr. Ford of Tennessee, Mr. Holloway, Mr. Ireland, Mr. Michel, Mr. Martin of New York, Mr. Dwyer of New Jersey, Mr. Denny Smith, Mr. Boulter, Mr. Wolpe, Mr. Lewis, of Florida, Mr. Hughes, Mr. Smith, of New Hampshire, and Mr. Dixon.

H.J. Res. 509: Mr. Robert F. Smith.

H.J. Res. 516: Mr. Upton.

H.J. Res. 518: Mr. McGrath, Mr. Weiss, Ms. Slaughter of New York, Mr. Bliley, and Mr. Lancaster.

H.J. Res. 522: Mr. Broomfield, Mr. Burton of Indiana, Mr. Hamilton, Mr. Anderson, Mr. Nielson of Utah, Mr. Tallon, Mr. Dornan of California, Mr. Rowland of Georgia, Mr. Henry, Mr. Bevill, Mrs. Saiki, Mr. Espy, Mr. Chapman, Mr. Campbell, Mrs. Bentley, Mr. Bliley, Mr. Martin of New York, Mr. LaFalce, Mr. Matsui, Mr. Clay, Mr. Harris, Mr. Boland, Mr. Wortley, Mr. Montgomery, Mr. Horton, Mr. Neal, Mr. Owens of New York, Mr. Frenzel, Mr. Wolf, Mr. de la Garza, Mr. Conte, Mr. English, Mr. Quillen, Mr. Lagomarsino, Mr. Bunning, Mr. McCloskey, Mr. Rinaldo, Mr. Moorhead, Mr. Fazio, Ms. Kaptur, Mr. Gallegly, Mr. Flippo, Mrs. Lloyd, Mr. Spratt, Mrs. Collins, Mr. Akaka, Mr. Gray of Illinois, Mr. Chandler, Mr. de Lugo, Mr. Fields, Mr. Fuster, Mr. Garcia, Mr. Hutto, Mr. Hyde, Mr. Kolter, Mr. Livingston, Mr. McDade, Mr. McHugh, Mr. Mack, Mr. Murphy, Mr. Nichols, Mr. Ortiz, Mr. Roe, Mr. Skelton, Mr. Smith of New Jersey, Mr. Spence, Mr. Sunia, Mr. Traxler, Mr. Valentine, Mr. Wilson, Mr. Wyden, Mr. Weber, Mr. Schumer, Mr. Owens of Utah, Mr. Bryant, Mr. Richardson, Mr. Russo, Mr. Frost, Mr. Hammerschmidt, Mr. Coats, Mr. Hatcher, Mr. Bustamante, Mr. Dowdy of Mississippi, Mr. Kostmayer, Mr. Mfume, Mr. McGrath, Mr. Volkmer, Mr. Stangeland, Mr. Conyers, Mr. Jacobs, Mr. Traficant, Mr. Whittaker, Mr. Young of Alaska, Mr. Towns, Ms. Oakar, Mr. Hughes, Mr. DeWine, Mrs. Byron, Mr. Daub, Mr. Hefner, Mr. Kasich, Mr. Dwyer of New Jersey, Mr. Annunzio, Mr. Fauntroy, Mr. Boucher, Mr. Rangel, Mr. Panetta, Mr. Yatron, Mr. Packard, Mr. Waxman, Mr. Rowland of Connecticut, and Mr. Lungren.

H.J. Res. 529: Mr. Lent.

H.J. Res. 564: Mr. Owens of Utah, Mr. DeWine, Mrs. Morella, Mr. Rodino, Mr.

Barton of Texas, Mr. Scheuer, and Mr. Dwyer of New Jersey.

H.J. Res. 590: Mr. Bustamante, Mr. Eckart, and Mr. Hughes.

H.J. Res. 591: Mr. Campbell, Mr. Moorhead, Mr. Lungren, Mr. Goodling, Mr. Cooper, Mr. Alexander, Mr. Mineta, and Mr. Weldon.

H.J. Res. 592: Mr. DeWine, Mr. Dwyer of New Jersey, Mr. Espy, Mr. Fascell, Mr. Fuster, Mr. Hefner, Mr. Horton, Mr. Jones of North Carolina, Mr. Lehman of Florida, Mr. Lewis of Florida, Mr. Lujan, Mr. Markey, Mr. Martin of New York, Mr. McHugh, Mrs. Meyers of Kansas, Mr. Miller of Ohio, Mr. Miller of California, Ms. Oakar, Mr. Packard, Ms. Pelosi, Mr. Richardson, Mr. Ritter, Mr. Saxton, Mr. Schumer, Mr. Sundquist, Mr. Upton, Mr. Ackerman, Mr. Anderson, Mrs. Bentley, Mr. Bliley, Mr. Bosco, Mr. Boulter, Mr. Burton of Indiana, Mrs. Byron, Mr. Chandler, Mr. Chapman, Mr. Chappell, Mr. Coleman of Missouri, Mr. Cooper, Mr. Crockett, Mr. Dannemeyer, Mr. Davis of Illinois, Mr. de Lugo, Mr. Donnelly, Mr. Erdreich, Mr. Barnard, and Mr. Frost.

H.J. Res. 603: Mr. McDade, Mr. Borski, Mr. Blaz, Mr. Lagomarsino, Mr. Levine of California, Mr. de la Garza, Mr. Hall of Ohio, Mr. Dicks, Mr. Erdreich, Mr. Mack, Mr. Tallon, Mr. McHugh, Mr. Dornan of California, Mr. Schumer, Mr. Bliley, Mr. Foglietta, and Mr. Hefner.

H.J. Res. 609: Mr. Annunzio, Mr. Atkins, Mr. Bevill, Mr. Brennan, Mr. Carper, Mr. Davis of Michigan, Mr. Erdreich, Mr. Hastert, Mr. Kleczka, Mrs. Lloyd, Mr. Ritter, Mr. Sawyer, and Mr. Smith of New Hampshire.

H.J. Res. 610: Mr. Lancaster, Mr. Mineta, and Mr. Price of North Carolina.

H.J. Res. 611: Mr. DeFazio, Mr. McCloskey, Mr. Rangel, Mr. Badham, and Mr. Levin of Michigan.

H.J. Res. 625: Mr. Dreier of California, Mr. Badham, Mr. Swindall, Mr. DeWine, Mr. Lungren, Mr. Quillen, and Mr. McCandless.

H. Con. Res. 277: Mr. Florio, Mr. Downey of New York, Mr. Levine of California, and Mr. Shays.

H. Con. Res. 281: Mr. Swindall and Mr. Smith of New Hampshire.

H. Con. Res. 295: Mr. Gallegly, Mr. Derrick, and Mr. Smith of Texas.

H. Con. Res. 297: Mr. Atkins, Mr. Weiss, Mr. Russo, and Mr. Bates.

H. Con. Res. 323: Mr. Donnelly.

H. Res. 471: Mr. Kildee, Ms. Pelosi, and Mr. Clinger.

H. Res. 487: Mr. Fields, Mr. DeFazio, Mr. Atkins, Mr. Boulter, Mrs. Patterson, Mr. English, Mr. Barton of Texas, and Mr. Jontz.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 316: Mr. Rogers.

EXTENSIONS OF REMARKS

STATEMENT TO THE NATIONAL ECONOMIC COMMISSION

HON. JOHN PAUL HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HAMMERSCHMIDT. Mr. Speaker, the economic future of this Nation will undoubtedly be profoundly affected by the findings of the National Economic Commission, established by the Omnibus Budget Reconciliation Act of 1987.

As part of its mandate, the Commission will study the budgetary treatment of the airport and highway trust funds and analyze the effects of taking these very important trust funds off budget.

Because I am so concerned that we continue year after year to break faith with the users of our highways and airways by not using the taxes collected to improve these systems, I have recently submitted my views to the Commission on the importance of according the highway and aviation trust funds off-budget treatment.

I am pleased to share my thoughts on this very important matter with my colleagues:

STATEMENT OF HON. JOHN PAUL HAMMERSCHMIDT TO THE NATIONAL ECONOMIC COMMISSION

The mandate of this Commission is an extremely important one, and its ultimate recommendations with respect to treatment of our highway and airport and airway trust funds could affect significantly the future of those vital transportation programs.

Indeed, it could impact on the entire direction and impetus of efforts to rebuild what is widely acknowledged to be an alarmingly deteriorating national transportation infrastructure.

The Committee on Public Works and Transportation, on which I serve as the Ranking Republican Member, has submitted a proposal containing, among other things, an important recommendation with respect to the highway and airport and airway trust funds and the importance of removing those funds from the Unified Budget.

I fully support that proposal and while it is not my intent to restate the very cogent arguments presented in the Committee document, I would like to focus the Commission's attention on one of the points made by the Committee in support of off-budget treatment for these trust funds and to expand somewhat on the Committee's presentation in that regard.

There are many strong and valid arguments in favor of taking the highway and airport and airway trust funds off-budget, and in my judgment, those arguments continue to withstand the challenges of others who would have the trust funds continue as part of the Unified Budget and subject to its constraints.

However, there is one key principle on which the trust fund concept is based—the fiduciary obligation of the Federal government to those users of our transportation systems who pay the taxes for the specific purpose of maintaining the nation's highways and airways.

Each time Congress established or increased highway or aviation user taxes it did so with the understanding that the taxes collected would be deposited into a trust fund and would be used to improve these systems. This commitment was necessary to make these tax increases acceptable to those who would bear the burden of paying the taxes. By assuring these taxpayers that the tax revenues would be spent for their benefit, the tax increases were made politically feasible. Without this commitment, it is very doubtful that these tax increases would have been enacted.

Thus, the Federal government has, in a very real sense, a fiduciary obligation to follow through on its commitment to spend highway and airway tax revenues on improving the highway and airway systems—just as it promised to do when the taxes were established.

In other words, the trust fund process does indeed have as its basis the principle of "trust," and if we ignore that very basic principle, the process is tainted.

What is at work here is really quite simple. Our government has been collecting literally billions of dollars in taxes from those who travel our highways and use our airports and fly our skies. These taxes are being collected, and have been for quite a few years now, for the stated purpose of expanding or repairing highway and aviation facilities.

Yet, at the same time, our government has been refusing to spend much of the revenue collected for their specified purpose. And since the funds can only be spent for the highway and aviation programs, billions of badly needed tax dollars are not spent at all. They languish in the trust funds collecting interest and are used instead to present a distorted picture of the federal deficit.

By any yardstick, this amounts to breaking faith with the highway and airport users in this country. They are making a considerable investment in these transportation systems and not getting a fair return.

It is important that we consider the gravity of what is happening. Taxation is a very serious matter and one with deep historical roots. Our nation traces its very beginning to the seeds of discontent sowed in response to the imposition of an outrageous and repressive tax policy forced on colonial America by the British crown.

Largely as a consequence of taxation over which the colonists had no control and from which they received no benefit, the relationship between the government and the governed deteriorated to the point of open revolt.

More than two centuries later, millions of Americans are being deceived into thinking that their user taxes are being used to provide them with the benefits of better and safer transportation. Is there any rational reason to expect that these 20th Century taxpayers will continue to pay for something they do not get? Might not they just as easily stage a "revolt" of their own and refuse to continue their support for our vitally important transportation systems? And who could blame them?

In a very real sense, the failure to make good on the promise made when user taxes were initially imposed and subsequently increased severely jeopardizes the integrity of the Federal government. Essentially, the Federal government entered into a covenant with highway and aviation users promising that it would spend the money collected for the clearly specified purpose of improving the systems.

However, once the tax revenues started pouring in, the budget strategists changed the rules and basically froze a large portion of the revenues in these trust funds. Instead of spending down the trust fund balances in accordance with Congressional authorizations, the balances were allowed to balloon dramatically for no other purpose than to mask the true deficit in the General Fund.

All the while, our states have been unable to spend money that is readily available to meet growing infrastructure needs that must be addressed and for which the states are perfectly willing to make the necessary expenditure of funds.

An excellent case in point is the treatment accorded the airport improvement and airspace modernization programs, the revenues for which are derived exclusively from the airport and airway trust fund, and that consists of taxes imposed on aviation users.

Largely at the urging of the Administration, which said that higher aviation taxes were needed to support the proposed 20-year modernization of our nation's air traffic control system, Congress passed the Tax Equity and Fiscal Responsibility Act of 1982.

That act raised the taxes that finance aviation trust fund programs. Most of that revenue comes from a tax on domestic airline tickets, which was raised from 5% to 8%, but also from taxes imposed on air cargo, international departures, general aviation fuel, and airplane tires and tubes.

The airline industry and passengers were told that such increases were necessary to modernize the air traffic control system and to expand airport capacity so that the system could handle the increased demands expected during this decade.

That was an accurate assessment of the situation. The needs were well documented. They still are, but something is missing from the equation. The money collected was not used to accomplish the high-minded goals that had been championed as a means of getting public and Congressional support for the tax increase. The users were deceived. Their trust was betrayed. The covenant was broken. The Government failed in carrying out its fiduciary responsibility to properly manage what is not the government's money, but the highway and airport users' money—and it continues to fail.

The government's obvious failure to properly manage the trust funds and its willingness to hoodwink the traveling public into paying taxes for precious little return would

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

be less noticeable, if not less offensive, were there not so many needs for which the trust dollars could be used.

We cannot close our eyes to the dire assessments of our transportation infrastructure's predicament made by the Joint Economic Committee, the Council on Public Works Improvement, and others. We are barely coping with current requirements, let alone prepared to meet the demands of the next century.

It is both amazing and appalling that the Federal government so cavalierly refuses to exercise its clear fiduciary responsibility in the management of our transportation trust funds. Are we to hold our government to a different standard from that required of other sectors of our society?

If on receiving the responsibility of handling a trust for a client, an attorney were to so casually breach his responsibility to manage that trust, he would probably face legal action and could possibly be disbarred.

Just like the attorney, the Federal government is charged with the stewardship of those taxes paid into our transportation trust funds. Its record thus far inspires neither confidence nor trust, and that is shocking in a system under which the power of government supposedly is derived from the consent of the governed.

While the key issue is not the alternative purpose for which these transportation trust funds balances are being used but rather that they are not being spent for transportation, taking them out of the Unified Budget would at least remove the obviously overwhelming temptation to freeze trust fund monies as part of this seemingly endless game of smoke and mirrors.

I urge the Commission to consider the devastating impact this current budgetary treatment of our transportation trust funds is having on the basic integrity of our government. We will never have a better opportunity to restore some very basic trust to our trust funds.

THOMAS M. REDANAUER RETIRES AFTER 32 YEARS SERVICE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I take the opportunity to bring to your attention the retirement of Barrington Borough clerk, Thomas M. Redanauer.

Mr. Redanauer spent 32 years serving the needs of the Borough of Barrington, located in my congressional district in Camden County, NJ. His dedication and hard work are worthy of recognition, for his constant effort and determination are illustrative of the character necessary to successfully master a public administrative position.

In 1962, Mr. Redanauer was appointed borough clerk of Tavistock. He also held a variety of positions in the Municipal Clerks' Association of New Jersey: Appointee to the advisory board as Camden County representative, assistant treasurer, and president.

Mr. Redanauer also organized the Camden County Municipal Clerks Association and served as the group's first president in 1987.

Exemplary of his loyalty to the public, Mr. Redanauer has held several positions in the International Institute of Municipal Clerks, including: Appointee to an unexpired term of the board of directors; a 3-year term on the board of directors; and fifth vice-president. In 1987, he was elected president of this prestigious organization. Such achievement is significant for Tom, who has represented, guided, and encouraged clerks from both the United States and abroad. This record is one of which every New Jersey citizen can be proud.

A dinner honoring Mr. Redanauer will be held August 20, 1988, at the Riviera Ballroom, Audubon, NJ. Representatives from all the organizations in which Mr. Redanauer was a member, along with his family and friends, will be present to celebrate the retirement of this distinguished individual. It is my pleasure to extend my congratulations to Tom and to wish him continued good health and happiness in the future.

JAPAN'S CHANGING ROLE IN THE WORLD

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs Newsletter for Wednesday, August 3, 1988, into the CONGRESSIONAL RECORD:

JAPAN'S CHANGING ROLE IN THE WORLD

Japan is an economic giant. Poor in natural resources, with a population of 122 million crowded on a landmass the size of Montana, Japan today has an economy second in size only to the United States. Developments in Japan, perhaps more than in any other country, will shape the world economy of the 21st century. The question is: What role does Japan seek to play?

Americans often marvel at Japan's success but also want it to contribute more to shared Western economic, security and political goals. Yet the Japanese are reluctant world actors. Acutely aware of their history, and traditionally an insular people, the Japanese for 40 years have shunned security matters and focused their efforts on export expansion. Today, important changes are occurring in Japan's self-image and global role.

Several trends in Japan are evident. First, Japan recognizes that leadership in high technology is vital to its security and prosperity, and is therefore developing dozens of industrial city centers, or Silicon Valleys, to keep its technological edge in the 21st century. Second, educational reform is occurring. There is new emphasis on openness, creativity and freedom in the classroom. Third, prosperity has brought increased consumerism. As it slowly opens itself to the world, Japan faces the test of absorbing change without undermining its success.

ECONOMICS

The first test of Japan's desire to play a more responsible global role is its willingness to open its markets and increase consumption. To reduce trade surpluses, Japan must consume more than it produces. In recent years, it has taken many steps: It has lowered or eliminated several tariff barriers and import quotas. Domestic demand, rather than exports, is now the primary economic driving force. The Japanese market is considerably more open today than it was a decade ago, but more progress is needed. Japan must open up not only to U.S., but to Third World exporters who lack access to the Japanese market and are flooding the American one.

A second test for Japan is foreign aid. In June, Japan approved a five-year, $50 billion aid program to double current levels and make it the world's leading donor. Past aid was intended to benefit Japanese business interests, but today there is a recognition of aid's role in supporting broader security interests. Tokyo's program will provide assistance to several strategic countries, including Turkey, Egypt, Jordan, Pakistan and countries in the Western Hemisphere. Japan also has begun to provide cash grant aid, to key countries such as the Philippines, rather than funds tied to purchases of Japanese goods.

A third test is Japan's willingness to play a leading role in support of international economic cooperation, including interest rate coordination, currency stability, and Third World debt. At the recent economic summit in Toronto, Japan announced a $1 billion debt forgiveness plan for Africa and Southeast Asia and a proposal to address the Latin American debt problem. These steps represent a new effort to lead in a traditional U.S. area.

DEFENSE

Constitutional restrictions and war memories make defense a sensitive issue for Japan. Since 1951, Japan has enjoyed close security cooperation with the U.S., which is bound by treaty to provide for its defense. About 55,000 U.S. military personnel are stationed at over 100 facilities in Japan, and Tokyo contributes over $2 billion a year to defray U.S. costs. Many Americans feel this arrangement has enabled Japan to prosper behind a costly U.S. security umbrella.

Recently, a consensus has evolved that Japan must bear primary responsibility for its own defense. The government has abandoned a cap of 1% of GNP on defense spending. Though still only a fraction above it, Japanese defense spending has increased by 5% in each of the last 3 years and now ranks fifth in the world. Japan responded to pressure for allied support in the Persian Gulf by offering more aid to Mideast states, navigational support to Gulf shipping and more funding for U.S. forces in Japan. The U.S. and Western Europe have applauded these developments, but many states, such as Japan's Asian neighbors, will want Japan to move cautiously in any defense expansion.

FOREIGN POLICY

Commercial concerns have dominated Japan's foreign policy. Its reputation is one of little interest in policy matters other than market share. The fact that Japan is South Africa's primary trading partner, and incidents such as the 1986 Toshiba technology diversion to the Soviet Union, have reinforced this perception.

Prime Minister Takeshita has sought to raise Japan's political and diplomatic profile. In May, he stated his intent to strengthen ties with Europe. In June, in a major departure from Japan's trade-dominated Mideast policy, a Japanese Foreign Minister visited Israel for the first time. Japan is playing a more active role in Asia. It recently announced a plan for an international peacekeeping force for Cambodia and is participating in U.N. monitoring of the Afghanistan Accords. Japan is now the U.N.'s second largest financial donor.

Japan's leaders recognize the need to change. They realize Japan is now a global economic power whose continued prosperity depends on its active participation in world affairs. Many agricultural and business interests, and the politicians they support, oppose this change, which will require difficult adjustments. They wish to continue protectionist and inward-looking policies. Still others fear that Western values and materialism are destroying Japan. Japanese leaders will have to be sensitive to these trends.

Japan is our largest export market after Canada and our third largest foreign investor. We are Japan's largest market and foreign investor. Together we produce 40 percent of the world's wealth. Since 1985, Japanese investment has played a key role in financing U.S. deficits. Japan's willingness to finance western strategic interests is likely to take on increased importance as our ability to finance them decreases. The prosperity of our two economies are closely intertwined, and U.S.-Japanese collaboration will be crucial to shaping peace and stability in the 21st century.

WELCOME TO OUR NEWLY NATURALIZED CITIZENS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the residents of New York's 22d Congressional District who have chosen to become citizens of the United States with all the privileges, freedoms, and responsibilities that American citizenship entails.

Our beautiful Hudson Valley region in New York State is proud of its newest citizens, and I invite my colleagues to join me in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland.

Mercie McCormick, Janet F.A. McKenzie, Jean-Claude Alix Mehu, Khana Menaker, Gillian Alison I. Merritt, Mark Meskin, Almanola Minott, Reeta Mohleji, Arturo A.P. Monsalve, Rita L. Montaperto, Pierre Lemaire Moreau, Melania and Catalina Morilla, Claud Bernd Muller, Gail A. Myrie, Judith P-S Nagy, Albina Napier, Anthony Nargi, Maria Cristina Nargi, Priti Narula, Hormoz Nozari, Dao Cam O, Ha To O, Linh Cam O, Margaret O'Neill, Ernestina E. Orlandi, Teresa Lourdes Ortega, Audrey K. Osofsky, Wasylina Stuparek, Michael Sullivan, Kiyotsugu Sunakawa, Mansueta C. Swierski, Lina Sylvain, Asif Tlat, Alexander Arnold Taller, Azriel Yehuda Tauber, Chana Tauber, Delphene Rubylin Taylor, Bhavana M. Thaker, Prabulal Trambaklal Thaker, Christina Yuk-Chee Ting, Eva Valenciano Tomines, Arthur Toral, Gunnel M. Trelin, Bui Trinh, Sonal Sanjay Trivedi, Landry Valmand, Thomas Veras, Su-Jen Wang, Bela Weisbaum, Robin Lewis Wells, Ruth Naomi White, Lisa Stephanie Winkelman, Myoung Won Seok, Sew Wang, Ines A. Rowe, Edard Diaz Roxas, Vincenzo G Rubino, Arlene Rusk, Ryszard Rzepa, Paul Sabbagh, Yves Saint-Cyr, Jules Raphael Sainte, Al Salha, Kingbeston Salvant, Ella Scheinwald, Al Jacob and Eyall Schlericher, Jonathan Schwartz, Kwei H.W. Sha, Arun P. Shah, Charulata S Shah, Ervin Cleophoster Shaw, Sarwat Naguib Shenouda, Abraham Shwarz, Mordechai Simonovits, Ruth Simonovits, Ana Belkis Siris, Joseph Sklar, Nedjeljka Smircich, Maria De Fatima Sousa, Solomon Speilman, Gillian Webb Stage.

Michael Panagos, Carolina Bautista Panglinan, Anna Papachristopoulos, Saramma Mathiai Parakkattu, Hrusikesh Parida, Ralph and Bryan Paride, James Yoo Hyun Park, Margaret Peill, Ramona Teresa Del Carmen Perez VI, Mathilda Perl, Marie Mireille Plaise, Amanda Villaflores Poblete, Sabine A. Poisson, Jerzy Presiner, Annunziata Puglisi, Pretti P. Raj, Viswanathan Ramachandran, Abdelhadi Rettoun, Priscilla Ramos Reyes, Rosa Maria Ribeiro, Otto Rihtaric, Constantino Georgios Rina, Rudolpho Eugenio Rios, Julia Melania Rodriguez, Rafaela Rodriquez, Dereck Anthony Romeo, Periklis Routis, Slavik Lambach, In Ha Lee, Horace Alvaro Leighton, Gary Lim, Maria Lin, Shen-Sui Lin, Elbi Antonio Lopez, Jean Claude Louis, Jean Roosevelt Louis, Emmela Louishamme, Yehuda Lovinger, Gabriel Po-Jen Lu, Ling Huang Lu, Nikki Lucksam, Cesar M. Manapat, Villaflor M. Manel, Peter Manouvelos, Sergio Marin, Linda M. Marshall, Loretta Marshall, Ruben Marte, Albano Martell, Dario Martinez, John Pappachan Mathews, Marie Lourdes Maurice, Nina Mayor, Pilar P. Mazzaferro, Teodorico Ramos Gundayao, Ayse Betigul Guneri, John C. Gunning, Daniel De Jesus Guzman, Manzoor Jamal Habibi, Quyen Hao Ly, Shayne Haysom, Maureen Mary Healy, Rita Hora, Hsiou-Hua Huang, Mary Brigid Hughes, Sherman R. Hutson, Peter Steven Hyman, Perla Inacay, Naveed Iqbal, Aleyamma Ittampillai, Radha Balaji Iyer, Hang Wei Jiang, Loredana Johnson, Valsalan Abraham Katt, Rusen and Alis Kilerciyan, Ki H. Kim, Choy Sun Ko, Susana A. Kochovos, Angelika Heiderose Koops, Hilary Kopelowitz, Dorit Kramer.

Gregorio Cruz Francisco, Friedman, Lotus L.T. Fu, Israel Gabai, Akim Gabriel, Ernesto Gallardo, Miledy Altagarcia Garcia, Rosemarie Jacqueline Garvin, Kazimierz Gefert, Marc Phillip Geissbuhler, Stephen Geissbuhler, Nicole and Maria Gerasimopoulos, Bhupinder S. Gill, Simon, Marina and Jon Ginsburg, Maria Guinta, Shea Glick, Chana Rivka Gluck, Francesco Joseph Greco, Janet Yvonne Griffith, Ephraim Grossman, Irma Grossman, Mercedes Grullo, Osnaldo Guerra, Rafael Guerra, Ramona Guerrero, Troy Donahue Guerrero, Raj Gulati, Marlene Bron Aber, Eugene Simon Abraham, Marjorie Delovise Akel, Elizabeth Alafian, George Alafian, Elaine Anderson, Oscar G. Andrade, Rodolfo L. Anicete, Ramon Aquilar, Alberto Daniel Arengo, Sambamurty Arisetty, Daisy Aspee, Victor Audige, Rajesh Pravin Aya, Jose M. Baptista, Abraham Barnoy, Elsie Bastarrechea, Steven Hean and Sokum Bell, Margaret Benitez, Klara Bevanda, Deta A.P. bond, Joseph Bertrand Boule, Amelia Boumis, Malka Bresler, Kelvin and Agnes Briones, Yolanda Leonardo Caceres, Cecilia B. Capella, Yolanda Elsy Castillo, Sinoun Yong and Bunthan Chan, Siu Leung Chan, Joel Charles, Howard Chen, Jerry Chong-Yih Chou, Margaret Josephine Camerford, Gaston Compas, Aldo Cotignola, Facundo Primitivo Cruz, Gaspar Heraclito Cruz, Beverly M. Davis, Lucia De La Cruz, Adria Yvelise Ziomara, Lascelles Leroy Deta, Ralph H. Dignan, William Dolce, Mona Dougherty, Martha Duroseau, Yacoub S. El-Tawil, Irma Esteril, Miachel Sylvester Fahy, Miguel Angel Fardales, Melania del Rosario Ferna, John C. Fogarty, Regine Fontaine, Vivian Wai Ying Wong, Wai Wong, Marcus Lister Wright, Lih-An Yang, Lih-Wen Yang, Mark Ghing-Chau Yang, Shiu-Shia Hu Yang, Pik Chu Chou Yip, Dionisio Zacarias, Elsie Zee.

LONG-TERM CARE INSURANCE PROMOTION ACT OF 1988

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. GRADISON. Mr. Speaker, this year the Congress and the President, sensitive to the elderly's concern over physician and hospital costs due to catastrophic illness, took action to allay their fears in the Medicare Catastrophic Coverage Act. The act gives the elderly the protection they need against unanticipated, large medical bills.

It is now time to turn our focus to long-term care. Survey after survey shows that elderly Americans live in dread of becoming chronically ill and thus requiring the assistance in daily living which only a nursing home or significant formal or informal home health care can offer. The elderly are afraid of the cost of this care but more particularly of the implications of losing control over their lives. It is tragic in our society that all too often they must lose that control and lose their dignity.

This is why I am introducing today the Long-Term Care Insurance Promotion Act of 1988. I am joined in sponsorship by my colleague on the Ways and Means Committee, Representative BARBARA KENNELLY of Connecticut. She and I have been assisted in developing this measure by the American Council of Life Insurance [ACLI]. The ACLI's efforts have been invaluable and illustrate the type of leadership which is critically needed to make the private side of our Nation's long-term care policy workable.

Any long-term care policy which the Congress develops should not depend on a Government program alone. Private insurance must be available and an integral part of any comprehensive approach to protecting Americans against the potentially crushing costs of a debilitating chronic illness. But, to build a private component of Federal long-term care policy, private coverage must be made attractive for Americans of all ages so that the risk can be shared and the price of premiums kept affordable.

The Long Term Care Insurance Promotion Act encourages long-term care coverage in three ways. First, it defines long-term care for the purposes of the Tax Code so that long term care insurance would receive the same favorable treatment as accident, health and life policies. This will enable insurers to offer such affordable long-term care coverage and provide an added incentive for employers to offer such coverage to employees and their dependents.

Second, it provides a refundable tax credit for individuals who purchase long-term care insurance. This credit will help defray a portion of the cost of the polices. Since the credit is refundable, all Americans would have access to it. It should put long-term care insurance within the reach of a broad base of Americans.

Third, the final provisions of the bill would allow, first individuals over 50 to use their IRA's to purchase long-term care insurance without suffering a penalty, and second, tax free use of income attributable to the change of an existing life insurance, endowment or annuity contract for the purchase of long-term care insurance. These provisions would encourage those who have saved or prepared for other financial catastrophies to use their resources in a tax-favored way, specifically for long-term care.

Mr. Speaker, this proposal is by no means an end-all. Its purpose is to add to the debate and offer new ideas for discussion. Its introduction also allow me an opportunity to emphasize my view that any solution to the problem of assuring Americans protection against the cost of a disabling chronic illness must include a partnership of private and public approaches.

MISCELLANEOUS REVENUE ACT OF 1988

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DANNEMEYER. Mr. Speaker, it is with great regret that I must cast my vote against passage of H.R. 4333, the "technical corrections" bill. This legislation contains several provisions which I support and have cosponsored as individual measures. Unfortunately, it is fatally encumbered with $7.1 billion in tax increases.

Among the many positive elements are the following:

First, it extends the exclusion from an employee's income of tuition or other employer-provided educational benefits through 1990, limiting the exclusion to $1,500 annually.

Second, it extends the tax credit for owners of new or rehabilitated rental property for low-income renters for 2 years.

Third, it extends the tax exemption for mortgage revenue bonds and certificates—used by State and local governments to back mortgages for first-time buyers—for 2 years.

Fourth, it extends the Targeted Jobs Tax Credit for 2 years—for employers hiring economically disadvantaged youth—reducing the eligible age to those between 18 and 21—from 18 to 24 under the expiring statute.

Fifth, it exempts farmers and off-road users of diesel fuel from having to collect the fuel excise tax for which they are exempt from paying. Currently, these users must pay the tax and subsequently file for a refund, which is costly and cumbersome.

Sixth, it stipulates that current employees of State and local governments do not have to pay taxes on certain employer-provided "fringe benefits" such as vacation and sick leave, death benefit plans, compensatory time, or disability or severance pay—applying only to benefits in effect on July 13, 1988. Tax-exempt organizations are also exempt from requirements that such compensation be included as employee taxable income.

Seventh, it exempts from tax liability so-called innocent spouses who sign joint tax returns without knowing that the other spouse has understated his or her income. This exemption applies only to spouses whose marriages subsequently terminate, leaving them with a net worth of less than $10,000.

Eighth, it permits freelance artists, writers, photographers, livestock producers, and certain growers to deduct business costs from current income each year, even if the projects generating the costs have not created any income. Under current law, these individuals are unfairly and adversely affected by requiring business costs to be deducted only when the products are sold, which may be years later than creation.

If these and similar provisions were the only components of H.R. 4333, I could enthusiastically support it. There are serious drawbacks, however.

First, it repeals the "completed contract" method of accounting, under which firms with long-term contracts may partially defer taxes on income from such contracts until they are fully paid. This is inherently unfair and would be comparable to requiring an individual to pay an entire year's tax liability based upon estimated annual salary, rather than having taxes deducted when actually paid.

Second, it imposes income taxes and a 10 percent penalty on loans or cash distributions from certain types of life insurance policies, applying to plans structured to allow the most rapid buildup of earnings over the first 7 or fewer years. To be called "modified endowments," these plans, as in the case of annuities, would render the policyholder liable for taxes on loans or distributions taken before age 59½, or before death or disability. Admittedly, there has been misuse of this type of insurance policy, bordering on tax avoidance rather than tax sheltering. But the cure may be no better than the ailment since it would inhibit legitimate policies of this nature.

Third, it reduces the "dividends received" deduction, which currently allows corporations to deduct 70 percent of dividends received from stock if the investing corporation owns less than 20 percent of the payor corporation, to 50 percent by 1991.

Fourth, it accelerates estimated tax payments by corporations changing accounting methods which produce a shortfall in estimated taxes. Under this bill, the entire shortfall must be made up instead of 90 percent according to current law. The Federal Government often changes payment schedules—like military pay or COLA increases—in order to play games with the budget (payment on October 1 rather than September 30 defers spending into the next fiscal year, thus "reducing" the deficit for the current year). It is unfair to require corporations to pay taxes solely on the basis of a change in accounting method.

Accordingly, because the negatives—in this case $7.1 billion in new or increased taxes—outweight the positives, I must reluctantly oppose the Miscellaneous Revenue Act of 1988.

PROBLEM IN THE SOUTH AFRICA SANCTIONS BILL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. CRANE. Mr. Speaker, I would like to call your attention to one of the many problems in the South Africa sanctions bill which we will be asked to vote on very soon. The problem lies in the definition of "South Africa," which, for those of my colleagues who are unaware, is defined as any territory under the administration, legal or illegal, of South Africa." The definition was decided upon during the South African Anti-Apartheid Act of 1986, without the benefit of a hearing, or any serious debate for that matter.

I strongly objected to this language in 1986, and today I oppose it even more stridently then I did 2 years ago. The problem with this definition is that it punishes innocent people—Namibians in this case—for the illegal actions of South Africa. It does not make sense to punish the Namibian's with punitive sanctions when they have already been through enough. I fail to see how hurting the people of an innocent country will help to change the system of the opposing country.

There seems to be a misconception that South Africa controls all business in Namibia, and would therefore, benefit if Namibia was not included in the sanctions bill. However, this is clearly not the case. Of the registered companies doing business in Namibia, only 2.26 percent are South African based companies. With this figure in mind it is very clear to see that, in Namibia, the Namibian's will be seriously affected by sanctions and not the South Africans.

I wish to share a letter I received from a group of 60 Namibian students, studying in the United States, expressing their approval for an amendment I offered in the Ways and Means Committee. The purpose of the amendment was to allow the President to waive sanctions against Namibia if he deems Namibia is in compliance with provisions laid down in the South African sanctions bill of 1986. Further, it encourages the recognition of Namibia as an independent state and gives an incentive for production in Namibia by treating its products more preferentially than products of South Africa. Unfortunately the amendment did not pass, however, the problem still exists and I hope my colleagues will take the time to read this thought-provoking letter.

NEW YORK, NY, *July 25, 1988.*

DEAR CONGRESSMAN: The Namibian Students' Association, an organization representing over 60 Namibian Students studying in the United States, has been informed that the House Committee on Ways and Means will soon be considering H.R. 1580, a bill to impose stronger sanctions against South Africa. As the bill now stands, Namibia, our country, will again be included in the measure.

As Namibians, we can not understand why we should continue to be punished simply because South Africa will not grant us independence. It seem confusing to us that the U.S. Congress will voice its support for Namibian independence from South Africa on one day, then define Namibia as part of South Africa, as is done by this bill, on the next.

There is one aspect of this legislation that seems to us, as Namibian students, as being particularly unfair. Although Namibia has been included in the punitive sanctions imposed against South Africa, the Namibian population has not received any of the benefits provided by the sanctions bill to assist the "victims of apartheid" and other "disadvantaged South Africans." We are acutely aware that none of the funds for scholarships provided under the sanctions bill have been made available to Namibian students, as there are some within our association who are in need of such assistance.

During the Trade Subcommittee mark-up hearing on July 7, 1988, an amendment was introduced which would lift import restrictions on Namibian products. We strongly support this amendment, which will help us decrease our ties to the South Africa economy, and will thus further the cause of Namibian economic and political independence from South Africa.

It has been asserted by some that this measure would be a "weakening amendment," to the sanctions bill. We do not feel that this is so. The amendment to lift import restrictions on Namibian products, aside from allowing Namibia to decrease its economic dependence on South Africa, will serve to educate the public that Congress recognizes the legitimate claim of the Namibian people that Namibia is not part of South Africa, geographically, politically, or legally. Furthermore, the language of the amendment specifically prohibits the use of this provision by South Africa to circumvent its own sanctions.

We were encouraged by the discussion on Namibia that took place during the Trade Subcommittee mark-up hearing, in which Congressman Sam Gibbons, chairman of the Subcommittee, voiced support for this amendment in a form which would give the President the authority to lift import restrictions on Namibia.

We are hopeful that the U.S. Congress will realize that punishing Namibia for her oppressor's (South Africa's) reprehensible laws serve no useful purpose. Sanctions against Namibia should be equally opposed by those who favor and those who are against South African sanctions.

We will be following the upcoming House Ways and Means Committee markup of this bill with great interest.

Sincerely,

KAMANENE MUPYA,
Chairman, Namibian Students' Association.

PS. Please, kindly distribute the letter to every Member of the House Committee on Ways and Means.

TRIBUTE TO THE WORK OF BUDDY KILLEN

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. GORDON. Mr. Speaker, today I would like to recognize someone who has helped bring Nashville, TN, to fame as the "Country Music Capital of the World," Mr. Buddy Killen.

In 1953, just out of high school, Buddy began work with a small, newly formed company called Tree International. Today, Tree International is one of the largest song publishing companies in the business, and Buddy has been with it all the way. From song auditioner then, to CEO now, Buddy has contributed his unique combination of musical talent and business savvy to expand the music publishing market and bring famous names to Nashville.

I'd like to thank Buddy for the contributions he has made to music, Nashville and Tennessee, and recommend to my colleagues the reading of the following article about the achievements of Buddy Killen. I'm sure they will find him every bit as impressive as I do. The article appeared in Billboard magazine and was written by Betty Hofer:

BUDDY KILLEN: MUSICAL MISSIONARY

A native of Florence, Ala., William D. ("Buddy") Killen became a part of the Nashville music community less than 24 hours after his graduation from Coffee High School.

Music was his only dream.

Music was his only ambition.

And today, after years of "dues-paying," he rightfully reigns as one of the main architects within the entire music industry. He has constantly served the music business by etching out images of sounds never before envisioned around the capital of country music. His commitment to the future has frequently netted Nashville newfound musical success in such diverse areas as R&B, pop, contemporary, and even gospel.

At the same time, however, he has steadfastly upheld country music and has produced countless hits for artists in that field. He has also lured to Music City studios such luminaries as Paul McCartney, Grand Funk Railroad, Jack Palance, Dinah Shore, Burt Reynolds, and Carol Channing. And he has certainly evolved as a pillar among all music publishers, since that big day back in 1953, when Jack Stapp hired the young musician as a $35-a-week song plugger for Tree.

Over the years, Killen has worked on-the-road as a "picker" for such big names as Moon Mullican, Cowboy Copas, Ray Price, Jim Reeves, and Hank Williams, Sr. And not only has he had his hand in writing hundreds of songs himself such as "Forever," "Sugar Lips," "I May Never Get To Heaven," "I Can't Wait Any Longer," "We Love Each Other," and "Watchin' Girls Go By," but he's also provied his abilities at spotting great songs by other writers, as witnessed by the phenomenal list of hits he's acquired for the Tree catalog.

In other words, this man has almost mastered the whole "kit and kaboodle!" He's covered the entire spectrum as singer, songwriter, song plugger, picker, producer, and publisher, right up to the giant part he plays today as sole owner and CEO at Tree International.

On top of that, he's owner of Sound-shop Recording Studios in Nashville. He's owner and GM of Music City's famous Stockyard Restaurant & Bull Pen lounge. He's co-owner of Nashville's Ambassador Travel Agency. And he also owns a large chain of restaurants throughout the South with his "Buddy," Burt Reynolds.

In addition, he's had roles in two movies, and is one of today's most sought-after individuals for serving on prestigious advisory boards. He's been known to donate mega bucks, as well as untold hours of his time to the Easter Seal Society. And don't forget, he's also the same guy who gave his last $5 to a promising young entertainer down on his luck long before the world came to recognize that same talent as Roger Miller!

Killen was the first person to ever be inducted into the Alabama Hall of Fame. He was the recent recipient of the Abe Olman Publishers Award presented by the National Academy of Popular Music. And he's been literally bestowed with every entertainment accolade in existence.

At any rate, Buddy Killen has come a long way from Coffee High School, where the principal once had him expelled from school for letting his music get in the way of his studies. "I had to talk hard and fast," Killen says, "before he realized that when I would skip class to play music jobs, it wasn't that I was 'dropping out,' but just that I wanted desperately to get started in the music business. So, he did eventually decide to reconsider and let me come back to school."

Graduation day did finally happen for the aspiring musician, and Nashville quickly became his new home. But little did he know that the rest of his career would become one of the greatest rags-to-riches stories to ever take place in Music City, while today Buddy Killen quietly goes about "living" his only dream.

In an industry he loves.

In a business he'll always personify.

HOWARD BROOKS' MEMORIAL DAY ADDRESS

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, this past Memorial Day, May 29, Mr. Howard Brooks addressed a gathering in Orange, CT. I tremendously enjoyed the speech and found his comments about the need to defend that for which so many have given so much to be particularly moving. So that all of my colleagues may benefit from Howard's thoughts, I include the text of his speech in the RECORD.

MEMORIAL DAY SPEECH OF HOWARD BROOKS

First Selectman Ralph Capecelatro, parade officials, fellow veterans and veteran organizations, town officials, civic and school groups, members of the clergy, townspeople of Orange:

We have gathered here today to honor those who have died in the service of their country—to honor those of different racial origins, different religions, different occupations, different personal and political beliefs—to honor those men and women who once lived with their own hopes and aspirations—to honor those who, with all their personal differences, followed a common path of loyalty and service to country.

It is not possible to completely or even adequately chronicle the services of these Americans who have died for their country or to fully understand and appreciate the full meaning and significance of their services.

It is possible, however, to acknowledge their services through our participation in Memorial exercises such as these held here today in Orange.

It is also possible that Memorial Day is more than just a time for acknowledgement and memories in that it is a time for personal reflection and commitment. It is a time to come together as a town and townspeople with our town officials, our civic groups, our schools and our youth. It is a time to re-examine and restate the ideals which have given us strength of purpose in the past and to rededicate ourselves toward the more complete attainment of these ideals. It is a time to work and pray for a lasting peace and yet, as did those we honor, to individually determine what price we are willing to pay for our freedom.

As Americans, we cherish and safeguard our individual freedoms, but these freedoms truly exist only as they equally exist for us all. Our freedom includes the right of dissent as well as that of assent, the right of criticizing the actions of our government as well as supporting such actions. Our freedom, in our American democracy, includes restraints and responsibilities—both self-imposed and those which form the basis of our democratic society.

Such responsibilities include a respect for the Constitution and the existing laws of our country and, indeed, a respect for our country itself. Such responsibilities include the willingness to seek change through established laws and procedures. Such responsibilities derive from a respect for the rights of others.

Indeed, the very existence of a country depends upon the respect of its citizens for its laws and its government. It has been said that the surest way to destroy an individual is to destroy his self-respect. It may well be that the surest way to destroy a nation is not by conquest or by force of arms but by the destruction of its self-respect, that is, by the destruction of the respect which the member citizens hold and affirm for their country.

Such self-respect, both individual and national, not only permits criticism and change, but is indeed founded on the freedoms, rights, and responsibilities of the individual.

Such self-respect is the very essence of loyalty and patriotism for country—loyalty and patriotism which are supportive but not blind or unthinking. In fact, blind loyalty and unthinking patriotism are inconsistent with our principles of freedom and self-government. We are a nation of individuals, each with a degree of freedom and self-determination, each guided by his or her own moral and spiritual concepts. It is a nation which has, I believe, been more successful than any other nation in the world in reconciling social aims and responsibilities with individual freedom and liberty. It is a nation that, at great sacrifice, has sought to maintain freedom both home and abroad and has been generous with its material resources in helping those in need.

In a Memorial Day speech over twenty years ago, Secretary of State Dean Rusk, in describing our worldwide objective, eloquently said, "Those are some of the things the American people have done in the last two decades. Why? To build a peace, to sustain the freedom of man, to lift the burdens of misery, ignorance, and disease, to bring turbulence under law."

Even so, we realize that as individuals and as a nation, we are far from perfect. We have made mistakes in the past, we undoubtedly are making some at the present time, and we will make more in the future. This, however, should not prevent us from being proud of our achievements while recognizing our mistakes, and this does not prevent us from maintaining our self-respect as a people and a nation while admitting our imperfections. We, the people, constitute the nation, and, in the final analysis, if we cannot be true to our nation, its Constitution, and its laws, we then cannot be true to ourselves, our families, and our communities.

We are here today, then, to remember and honor those who died in the service of their country with our realization that the freedoms and rights we exercise and the opportunities we enjoy have been preserved through the sacrifices of those who have gone before us. Let us hope and pray that we have the wisdom and courage and strength to safeguard these freedoms, these rights, and these opportunities.

We are a nation with objectives worldwide of achieving a lasting peace, of helping others attain the freedom we enjoy, of showing compassion for and giving aid to those in need. These objectives require that we be a nation of strength, of will, of vision, and that we are unafraid to raise our voice or our hand in support of freedom.

It is a privilege to participate with you in these Memorial Day exercises. I hope these few words have added, in some small measure, to the meaning and significance of this day.

A TRIBUTE TO SHULER B. ANTLEY

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DARDEN. Mr. Speaker, when I first moved to Marietta, GA, in 1967, Shuler B. Antley already was something of a legend in that community. His years of outstanding service in the city's school system, including his term as superintendent of schools, had earned him a degree of respect and admiration enjoyed by only a few others.

Shuler Antley was always eager to help newcomers such as I was to become established in the community life of Marietta. He came from a distinguished Marietta family which today includes his son-in-law, State Representative Sam Hensley of Marietta.

Mr. Speaker, I invite my colleagues to join me in paying tribute to the life and works of Shuler B. Antley, and in expressing our best wishes to his widow, Neva Antley. I also would like to submit for inclusion in the Congressional Record a proclamation issued earlier this year by the Governor of Georgia, the Honorable Joe Frank Harris, in honor of Shuler B. Antley.

A Proclamation—Shuler B. Antley

Whereas throughout his life, Shuler B. Antley, a Marietta School educator, devoted himself to his career and his community; and

Whereas Shuler Antley served with distinction as Superintendent of the Marietta City Schools, Principal of Marietta High School, and Administrator of the St. James Day School in Marietta; and

Whereas a Life Deacon of the First Baptist Church of Marietta and a Charter Member of the Marietta Kiwanis Club, Shuler Antley was respected throughout his community; and

Whereas Shuler Antley should be remembered for his dedication to the education of our children and his work toward the betterment of life in his community; Now therefore

I, Joe Frank Harris, Governor of the State of Georgia, do hereby join in remembering the late Shuler B. Antley for his exemplary service as an educator, and do further pray that God will bless his family with great love and peace.

THE DUKAKIS DEFENSE RECORD IS NOT REASSURING

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. SOLOMON. Mr. Speaker, today, I wish to insert into the Record a letter from former Secretary of Defense James Schlesinger to Governor Dukakis regarding the Governor's defense record. Needless to say the Dukakis record on national defense is one the majority of Americans would not find reassuring.

[From Time Magazine, Aug. 1, 1988]

"Your Record Is Not Reassuring"

(In an open letter, a former Secretary of Defense questions Dukakis' grasp of national security.

(James Schlesinger has dealt with national security for every President since Dwight Eisenhower. He was CIA director and Secretary of Defense in the Nixon and Ford Administrations, then Energy Secretary for Jimmy Carter.)

Dear Governor Dukakis: While congratulating you on your nomination, many of us who have worked for the nation's security in Democratic and Republican Administrations feel trepidation about your views—and, more important, your instincts—on crucial defense issues. All that we have to go on are your actions as Governor and your statements in the campaign.

As chief executive of Massachusetts, you have had an opportunity to affect the national-security policy of the country as a whole, and your record is not reassuring. You have steadily prevented Massachusetts' participation in the Ground Wave Emergency Network, a communications system designed to transmit warnings or presidential orders to the Strategic Air Command and the North American Aerospace Defense Command if the nation were under nuclear attack. Of 56 intended GWEN sites around the country, 52 have now been completed. Only your state and Rhode Island continue as holdouts. This Massachusetts gap in the national-warning system is particularly disquieting since the primary radar installation for detecting a submarine-launched missile attack is located on Cape Cod.

In your 1986 letter to the Air Force objecting to the placement of GWEN in Massachusetts, you suggested that having such a communications system might encourage the "mistaken belief that nuclear war can be kept under control once it begins" and thereby "make national leaders more inclined to let one begin." Governor, what deters war is the completeness and integrity of the U.S. deterrent, and secure communications enhance our deterrent. Yet you seem to suggest that the way to deter war is to be unprepared to respond.

In a matter less consequential but perhaps equally indicative, in your ten years as Governor you have declined all invitations to visit Hanscom Air Force Base, the premier military facility in Massachusetts and the home of the Air Force's Electronic Systems

Division. Four ESD commanders have invited you. Accepting such invitations is the normal political practice, and other Massachusetts officials have regularly done so. Your unwillingness to visit Hanscom has led many of us to wonder whether you are viscerally antimilitary.

Your campaign statements to date have done little to dissipate such concerns. You have explicitly opposed America's latest intercontinental ballistic missile, the MX; plans for a small, single-warhead mobile ICBM, the Midgetman; the B-1 and Stealth bombers. You have also urged a ban on all missile test flights. You have indicated that you would terminate or radically reduce the Strategic Defense Initiative (SDI).

To be sure, you have strongly supported efforts to achieve further arms-control agreements. Nonetheless, for us unilaterally to curtail our strategic programs, as you have suggested, would remove much of the Soviet Union's military incentive for compromise and thus destroy much of America's leverage in negotiations. In recent months, as you have moved toward the political center, you have acknowledged the continued necessity for nuclear deterrence and have indicated that, despite your opposition to the MX and Midgetman, you are not necessarily against a new ICBM in principle. Yet you will find that any new missile program is impossible unless you back off from your commitment to a missile test-flight ban. We cannot have a new missile system unless we test it.

You have expressed support for NATO and called for a "conventional defense initiative." This exhortation, which so far is largely lacking in its content, seems intended to constitute your substitute for SDI and other new strategic programs. Those of us who have long advocated an improved conventional capability are eager to join in any serious effort to that end. But you seem not to have faced up to the intractable reality that improvement in the conventional balance is both difficult and costly.

Quite simply, nuclear weapons and nuclear strategy hold NATO together. Our European allies will view with alarm any statement that seems to weaken the nuclear element of the deterrent. They will be especially disturbed by any repetition of your remarks to the Atlantic Council on June 14 that NATO must be up "to the challenge of fighting and winning" a conventional war. The Europeans are interested not in fighting but in deterring a war. They would not want as an American President anyone who believes that conventional war is somehow fightable and winnable—therefore acceptable.

Moreover, you will find that over the past decade or so, the Soviet Union has enormously improved the number and quality of its conventional forces. The Warsaw Pact has particularly improved its capability for short-warning attack. Therefore we have a dauntingly long way to go in restoring the conventional balance. Yet we and our key allies are under immense budgetary and other pressures to shrink NATO's forces. So while strengthening NATO's conventional capability is desirable, it will require careful handling of our allies and additional resources. In estimating the price tag for these conventional improvements at $3 billion over four or five years, as you did in an interview with the Baltimore *Sun* published on July 3, you have trivialized the problem. A more realistic estimate would be tens of billions of dollars a year. Strengthening NATO's ability to deter war should not be simply an afterthought for a politician who may have painted himself into a corner by opposing strategic nuclear programs; a true conventional defense initiative will require additional expenditures roughly on the order of the Strategic Defense Initiative itself. As you seek to become the leader of the free world and our Commander in Chief, many of us hope that you will acquire a better feel for these complexities.

James Schlessinger.

THE UNCERTAINTY OF SURETY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. FLORIO. Mr. Speaker, in the uncertain business world, surety bonds have fulfilled an essential role, making it possible for construction companies to do their jobs and for developers to build. However, minority contractors are concerned about the difficulties that they face in obtaining surety bonds.

Surety bonds are the tools of the trade that ensure that a construction job will be completed regardless of who actually completes the job. The company completing the job could be either the original contractor or a replacement contractor.

Surety bonds must be obtained by contractor in most instances. These bonds are required for all public projects and for many private developments. If a contractor cannot finish what was started, then the surety bond picks up where the initial contractor left off. That form of insurance guarantees the developers can complete a project while ensuring that subcontractors are paid for their work.

If these bonds are necessary for most construction projects, what is the problem? For minority contractors the problem is that surety bonds are not always available.

Some insurance companies require that minority contractors go through hoops to obtain the bonds. Many minority-owned companies have been unable to get any bonds whatsoever.

Inability to obtain surety bonds has a chilling effect on a segment of the construction industry that cannot afford being at a disadvantage any further.

Recently, I chaired hearings on the issue through the Subcommittee on Commerce, Consumer Protection, and Competitiveness. The consensus among minority contractors testifying at that hearing was that minority contractors need assistance in overcoming the roadblocks to obtaining surety bonds.

This may not be intentional discrimination. However, the effect of an inability to obtain surety bonds is discriminatory. Companies with the ability, the skill, and the workers to do a good job are denied the opportunity to work because they cannot get surety bonds.

The consequences are counterproductive for several reasons. First, the unavailability of surety bonds narrows the market, decreasing competition for construction projects. Without competition, costs are driven upward for developers and Federal agencies. Ultimately, the person who rents office space, buys a home, or foots the tax bill gets to pay the price of no surety.

Second, there are fewer options open to minority contractors wishing to make a difference for themselves, their families, and their communities. Without these companies, many individuals in neglected communities would be left unemployed.

The inability to secure surety bonds hurts minority-owned businesses that can least afford the actuarial pain of the marketplace. In the long term, if minority contractors cannot obtain surety bonds, then there will be no minority contractors left to speak of.

These minority contractors are not multinational conglomerates with branches in the Bahamas and default records stretching from Manhattan to Miami. These are hard-working men and women who want the opportunity to do their job and to succeed at it.

Before the unavailability of surety bonds makes the minority contractor an endangered species, it is wise to listen to their plea for a solution.

I am pleased by the response already received from some companies who have a say in surety bonding. Prudential Insurance Company's request for proposal to examine the matter and to recommend how to improve bonding accessibility is an important move to help minority contractors.

I hope that the following article from the Newark Star-Ledger will afford an understanding of the problem faced by those who cannot afford to stay in an environment of obstacles. Hopefully, bringing to light the persistent problems faced by minority contractors will have a beneficial impact on the way that government and business address the issue.

Minority Contractors, Underwriters Clash on Issuance of Surety Bonds

(By Robert Cohen)

Washington.—A New Jersey construction executive told a congressional subcommittee yesterday that surety bond underwriters discriminate against minority contractors, a charge that was vigorously denied by industry representatives.

"It is my personal appraisal that the surety industry is involved in racist practices that limit the growth and development of qualified, experienced minority contractors", said Hamilton Bowser, the head of Evanbow Construction Co. of East Orange and the president of the National Association of Minority Contractors.

"I believe these practices are not written company policies but are primarily the result of individual bias", he said. "Collectively, they are not only a cap on minority contractor growth but also stifle initiative and entrepreneurial spirit."

The comments by Bowser, coming before a House Energy and Commerce subcommittee headed by Rep. James Florio (D-1st Dist.), were countered by the Surety Association of America and the American Surety Association.

"I can assure you that our membership does not discriminate on the basis of ethnic background, sex, or religion", said Kathy Zack of the American Surety Association. "The only discrimination, if that is the proper word, is on the basis of the individual contractors' ability to perform."

She said surety underwriters are in business to accommodate contractors, but added that all businesses are subjected to the same strict underwriting standards and financial requirements. She acknowledged that problems do exist, noting that minority contractors often are unable to provide adequate financial information or do not have sufficient working capital.

Dennis Wine of the Surety Association of America said the bottom line for contractors to receive bonding lies in their ability to convince the surety that they are qualified. If they cannot, he said, their application will be declined.

"There always has been and always will be a bond availability problem for contractors, large or small, black, white, Hispanic or otherwise, who cannot demonstrate to the surety underwriters satisfaction that they are capable of operating a successful construction company and performing the desired work", said Wine.

Surety bonds are a form of insurance and serve as a guarantee that a contractor will perform construction work specified for a project.

If the contractor defaults and does not complete the job, the surety company is generally responsible for reimbursing the developer for reasonable costs to complete the unfinished construction project. Surety bonds also can guarantee that subcontractors will be paid for their work.

Surety bonds are required for all public construction projects, and for a good deal of private development.

Florio, whose subcommittee has been investigating various segments of the insurance industry, said a denial of a surety bond excludes contractors from a significant portion of the construction industry.

"Minority contractors have a serious problem obtaining surety bonds, and this creates a significant problem participating in many construction projects", said Florio.

Florio said many minority contractors have a difficult time entering the "economic mainstream" and breaking into the business. He said it is often impossible to get surety bonding without a "track record", and added that there is no way to get work without the bonding.

"We cannot sit back and let good minority contractors lose out because they have difficulty getting bonds", said Florio. "That hurts minority contractors, their employees and project developers, who lose the competition that minority contractors offer."

There are currently several government programs to help small contractors, including minority companies, obtain surety bonds. But Bowser and a representative from the National Hispanic Association of Construction Executives said changes are needed in these programs to provide greater opportunities and fewer roadblocks for minorities.

THE ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 3, 1988, into the CONGRESSIONAL RECORD:

THE ECONOMY

In recent years we have made significant progress on some nagging economic problems, such as inflation and unemployment. Yet there are still some major uncertainties about the strength of the U.S. economy which must be addressed.

There are several pieces of good economic news. First, the economy continues to expand. We are in the midst of a 67-month expansion, the longest peacetime expansion in U.S. history. Second, inflation generally remains under control. Inflation last year was 4.4 percent, down from 13.3 percent in 1979, though it has recently crept up to an annual rate of 5.3 percent. Third, the unemployment rate continues to fall. The 10.7-percent unemployment rate at the end of 1982 has been reduced to 5.3 percent, the lowest rate since 1974. The economy has spawned 4 million new businesses since 1981, and has generated almost 17 million new jobs since 1982. The continued strength of the economy and its ability to shake off gyrations in the stock market, the plunge in the dollar, and regional recessions, have led some to speculate that the expansion could continue well into the next decade. Our economic system is being copied by many other countries, and foreign investor confidence in the U.S. remains strong.

On the other hand, there are also several danger signals for the U.S economy, as recently pointed out by the Cuomo Commission on Trade and Competitiveness. First, the U.S. is increasingly unable to compete in international trade. Our merchandise trade balance went from a slight surplus in 1975 to a $171 billion deficit last year. Second, we have become a nation of debtors. In recent years there has been a sharp increase in consumer debt, farm debt, corporate debt, and federal debt. In 1980 the federal government's accumulated debt was $1 trillion; by the time the next President takes office it will be $3 trillion. Once the world's largest creditor, the U.S. is now its largest debtor. Third, economic risk and volatility are increasing. Business bankruptcies and bank failures have soared in recent years, and bond and stock prices have fluctuated widely. Fourth, the U.S economy is becoming less innovative and less dynamic. Investment in new plant and equipment is weak; our competitors are catching up to our productivity; Japan and Germany devote a much larger share of GNP to civilian research and development than we do; and American primary and secondary education trails many countries. Finally, the standard of living is no longer rising for many Americans. Real income levels have generally declined since the early 1970s, and there has been a growing economic inequality. The rich have been getting richer while others have fallen behind.

It is critically important that we face the central economic realities of our time. America is being tested now as it has been tested only a few times in its history. We must frankly acknowledge our economic problems and our economic strengths. We should not exaggerate either, but we can afford to be generally optimistic. We have no problems that we cannot solve.

We must be committed to economic growth. That is the most workable solution to our economic problems. The focus of our efforts should be on investment, growth, and production. It is slow and unglamorous work, but necessary. A critical point is the priority that we must give to competitiveness. It is certainly as worthy as any other national priority.

Governments at all levels have a role to play in restoring our economic power. We have a great advantage in the strength of the federal system. We should reject the extreme views on government's role. On the one hand, government cannot do it all. We do not want a single, all-encompassing national industrial plan; we want to allow for the role of the market and individual enterprise. We should also reject the view that government has no role to play. The issue is not whether government should intervene in the market, because it already does, even massively, but whether it intervenes in a way that helps or hurts growth. The proper government role is necessary in trade, fiscal policy, exchange rates, and interest rates.

The first step to spur economic growth must be to reduce the U.S. budget deficit and to increase savings. That will mean more funds available for productive investment. We have a profound competitiveness problem, and addressing it will require a major effort to increase saving. Raising the national saving rates should be a top priority of economic policy in the coming years.

We should invest in those things which strengthen us and make us more productive. That means investments in infrastructure, research and development, and education. There is no more important investment than in education. It is the most important path to competitiveness. We should also provide incentives for research and development. We must get an R&D program directed toward improving America's competitive capability, and we must disseminate better the results of our research. Without investment in infrastructure—roads, airports, water systems—we cannot sustain future growth and prosperity.

We have to pay more attention to how economic policy is made. Economic policymaking in the federal government is too widely dispersed. Some must be in charge of American economic policy—including trade policy—and that someone must have the clout to direct and coordinate it.

We must recognize that the United States is not part of a global economy, and is not the only strong economy. The U.S. must insist on strict reciprocity in its relationships with advanced countries throughout the world, and we should move aggressively toward a level playing field. Our goal should be more trade, not less. Trade should be seen as an integral part of American economic and national security policy. The issue is not free trade or unbridled protectionism, because we have never had either, but rather what combination of free trade and managed trade is the best.

Finally, I think we should lower the rhetoric blaming the government, the incompetence or greed of business leaders, or the lethargy of labor. Legitimate criticism is always in order. The point is that all of us have to try harder. The U.S. cannot succeed if industry, government, and labor maintain hostility and mutual suspicion.

PRESIDENT ADDRESSES NATIONAL POW/MIA LEAGUE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. GILMAN. Mr. Speaker, the 19th annual meeting of the National League of Families of our Prisoners of War and Missing in Action in Southeast Asia has just concluded here in Washington. This fine organization has done more than any other to keep the issue of our POW's and MIA's alive in our hearts and in the hearts of all Americans.

Ronald Reagan delivered his final address to the Leagues as President. More progress has been made on this issue under the current Administration than any previously.

The President's report to the National League of Families was thorough and candid. More important, the President's report was optimistic.

The chairman of the Board of the National League of Families, George Brooks, of Orange County, NY—one of the organizations original founders—presented the President with an original portrait: a fitting farewell memorial.

Let us all join with the President and the League in hoping that this will have been the last year that the families would have to meet on this issue. May we continue to work together for the day when all of our missing American heroes are accounted for.

Mr. Speaker, I would like to share President Reagan's remarks to the National League of Families with all of our colleagues by reprinting them in full at this point in the CONGRESSIONAL RECORD:

REMARKS BY THE PRESIDENT TO THE ANNUAL MEETING OF THE NATIONAL LEAGUE OF POW/MIA FAMILIES

For me there is no group more special than the National League of Families, and I'm glad to be here to speak to you at your annual meeting. You are a remarkable group that has bonded together into an extended family that is both effective and compassionate. Some of your beloved family members are missing; we want to know their fate, we yearn for them to come home. And we will continue to work for their return.

It is a wound that does not close with the passing of time. In 1961, the first American was listed as missing in action in Vietnam. After Operation Homecoming in 1973, there remained over 2,500 Americans unaccounted for. Your anguish since that time has been immense, and for long years the Government did far too little to learn the facts, to convey the truth, and to try to bring our men home.

But the National League of Families changed that. You pulled together, you spoke with a unified and unflagging voice, and you were heard. When we began together, there was an unresponsive bureaucracy without clear direction, there are now over 100 people in Defense, State, and the intelligence agencies working full-time to find your loved ones and bring you answers. That is a change that we made together, and that is how it must stay until your questions are answered. You stood alone for far too long, and that must never happen again.

Your causes has aroused a Nation. Your responsible leadership has resisted simplistic solutions, sought facts, and moved this issue forward. For this you deserve great credit, and I particularly want to recognize your dedicated board chairman George Brooks and your hard working and very talented Executive Director Ann Griffiths. The devotion of each family member and your long-term commitment have sent a message that has become embedded in the consciousness of our country. A bipartisan group in Congress now supports our effort. The POW/MIA flag flies over State Capitols, over veterans posts, in parades in every city and town across America, and each year now it flies over the White House as well. The international community speaks directly about the Americans still missing in action. And, yes, we can find encouragement in the knowledge that through these efforts over 100 of you have received answers.

A decade ago we were told that after so much time had passed there was little chance any remains could be recovered. And there have always been those rushing to say that it was time to forget. To those in a hurry to forget, your love for your fathers, brothers, husbands, and sons stands in the way. Those who want to close the door on the true history of the Vietnam War, to excape accountability and leave important questions unanswered, they would close the book on those Americans still missing. This is more than a betrayal of faith with the men. It is more than a breach of faith with their families and loved ones. It is a denial of the truth. To them I say: America cannot move forward by leaving her missing sons behind.

For you, the families of MIA's and POW's unaccounted for, the Vietnam War is not over and will not end. For you the only way we can "give peace a chance" is to give you the truth: The fullest possible accounting of the fate of your loved ones. Who can still question that America's youth fought a noble battle for freedom? And how can we not keep faith with those who served that cause? If there are living Americans being held against their will, we must bring them home. I implore the governments concerned to respond to our previous proposals. Should there be anyone remaining voluntarily, their family deserves to know. And every American who has perished deserves to rest on U.S. soil. And until our questions are fully answered, we will assume that some of our countrymen are alive.

There are two things that your country must do for you. First, it must obtain the fullest possible accounting. And second, it must draw the true lessons of Vietnam, so that we are a wiser, stronger, and prouder Nation, and the ordeal under which you suffer can be prevented from ever happening again.

Well, thanks to your work, and as part of your legacy, future generations of American servicemen will be assured that they will never be forgotten by their countrymen. And one of the most moving things is all the children from POW/MIA families who have chosen to wear their country's uniform. When I was Governor of California, at a press conference a 3-year-old boy asked me to help find his father.

Two months ago, that boy, that brave young man, Todd Hansen, graduated from the U.S. Naval Academy. And the children of George Shine, a member of your board and himself a retired Air Force Colonel: one son killed in action in Vietnam, another still missing, and today, two others, a son and a daughter, are on active duty with our Armed Forces. I cannot describe a greater love of country than that.

Well, as you gather for your 19th annual meeting, the Vietnamese government has once again raised our hopes for a breakthrough. I welcome their pledge to my special emissary General Vessey to accelerate their work on those cases that he has discussed with them. We look forward to its fulfillment. We have witnessed promises made in the past by Vietnam that were not carried out, but we are following this offer up aggressively. I would also like to thank those charitable organizations that have been supporting the efforts of General Vessey.

The governments of Indochina know that resolution of this issue is critical to any future relationship, that we will not tire of this quest, and that the longer this wound persists, the more likely that it will be permanent. And we will not weaken in our resolve to resist attempts to use this humanitarian issue for political gain.

Normalization of relations with Hanoi can come only in the context of political settlement in Cambodia. Vietnam has recently stated its intention to withdraw their forces from Cambodia, and we would welcome a genuine settlement. If they are serious, then it is time to move rapidly to resolve the POW/MIA issue; for the deep pain that this issue brings to the American people will turn against Hanoi if it lingers past a Cambodian settlement. It is in the interests of Hanoi to position itself for a new era and to help bring this to pass.

With the Lao government, our joint search activities have been marked by a sincere effort to provide answers. We hope this can be sustained and expanded for many unanswered questions remain. The government in Phnom Penh has announced they are holding the remains of Americans but have yet to agree to our proposals to receive them. I call upon them today to do so.

During the remainder of our Administration these efforts will continue on a priority basis. We must call upon the next Administration to do the same. In preparation for transition, I am directing a comprehensive study on the POW/MIA issue, detailing our efforts, accomplishments, and what remains to be done to achieve the fullest possible accounting. The study will be given to you the families, the Congress, and the American people.

When I was Governor of California, a number of families gave me their POW/MIA bracelets. I took those bracelets with me when I came to Washington, and I have kept them in my study. They represent an unbreakable bond of trust between you and your country, forged with your courage, your tears, your prayers, and your pain, forged in the hearth of your steadfastness and resolve. Whoever may occupy this office, it is a bond that cannot be broken.

We have walked a long road together, and we will continue to walk together. My concern for this issue began long before I took this office, and it will continue after I leave. I have previously noted Calvin Coolidge's remark that "the nation which forgets its defenders will be itself forgotten." But thanks to your efforts, I know that America will never forget. And I believe that each of your families, and with them, this Nation, shall one day be healed. Your are all in my prayers.

CHILD-CARE TIME IS NOW

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. WAXMAN. Mr. Speaker, the lack of safe and affordable child care is a pressing concern among parents in every region of the country. As any working parent will tell you, child care choices are limited by high cost, limited supply, and uneven quality.

Families in California's 24th Congressional District share the strong desire of families in every other area of the country for a thoughtful, comprehensive response ot the serious shortage of child care. The Act for Better

Child Care Services [ABC] would give parents real choices in arranging child care. It would help them meet child care expenses and provide health and safety protections for their children in their child care settings.

Support for ABC is particularly strong in Los Angeles, where it has been endorsed by Mayor Tom Bradley and the Los Angeles City Council.

The Los Angeles Times recently ran the following editorial on this legislation, which I urge my colleagues to take a moment to read.

Child-Care Time Is Now

Polls of voters show that a majority considers child care an urgent need and wants government action. Democrats at their national convention interrupted keynoter Ann Richards with hearty applause when she mentioned child care. Nominee Michael S. Dukakis spoke about "young families . . . forced to choose between the jobs they need and the children they love." Vice President George Bush has proposed a $1,000 child-care tax credit.

The time for child care won't get any better than it is now, in this election year. Fortunately, Congress already has before it a plan to increase the amount of government child-care support and to make sure that the care is safe.

The Act for Better Child Care Services has bipartisan sponsorship and more than 200 House and Senate supporters. It would subsidize day-care costs for poor families. It would require states to set up grants or low-interest loans to help start or expand child-care programs. It says that some of the money could be used for training people who care for children in their own homes. The bill would require states to set standards that would protect children's health and safety to prevent harm to youngsters like Jessica McClure, who fell into a well at an unregulated family day-care program last year. And it would establish referral services so that parents could get better information on child care.

Unless this bill becomes law, there won't be enough child-care slots to enable parents to use the $1,000 tax credit that Bush has proposed. His idea is good, as far as it goes—especially his proposal to extend the credit to families that are too poor to pay taxes. But the demand for child-care services far exceeds the supply. Young mothers are especially affected; studies show that thousands of them turn down job offers each month because they cannot find or cannot afford child care. And those jobs are critical: A House committee reports that one-third more families would fall into poverty if the wives weren't working.

The most serious threat to the measure exists in the House and involves federal aid to church-related programs. Rep. Augustus F. Hawkins (D.-Los Angeles) has postponed a session during which his House Education and Labor Committee was to have started working on the bill today. Too much is at stake to let this measure get off the track now.

The question is important, because churches and synagogues now provide about one-third of all existing centers for day care. They often favor children of their own religion in order to win continued financial support from their congregations. Some members of Congress are understandably concerned about providing federal support to programs operated by religious groups.

Civil-rights laws say that any institution receiving federal money must not discriminate on the grounds of race, sex, age or disability throughout the institution and the specific program. The civil-rights laws reaffirmed earlier this year with the passage of the Civil Rights Restoration Act, allow religiously affiliated human-services programs to prefer members of their own religions in public accommodations, employment and housing.

The child-care bill does say that no program may discriminate on grounds of religion for the day-care slots that federal money pays for, although a church-related center could still favor its co-religionists in admissions in the rest of its program. The bill also provides that no federal money may be spent for any religious instruction.

Congress may well want to clarify its position on federal aid to religiously based social programs, but it should be done in separate debate. The bill follows the lead of all existing civil-rights laws, so the debate is with those laws, not the child-care bill. Children should not be victimized by an argument that the nation has never resolved. The cumulative good of day-care services that would be made available outweighs the need for resolving the broader church-state question at this moment.

ABORT—OR ELSE!

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DANNEMEYER. Mr. Speaker, Communist China's population control policy of one child per married couple is evidence of the bureaucratic lengths a Communist state will go to control its citizenry. Nevertheless, this policy is Communist China's and not ours.

However, a recent story in the Washington Post and the Reader's Digest has brought home the tragedy of this barbaric policy. Mr. Speaker, I commend the following article for your review and the perusal of our colleagues:

[From the Reader's Digest, August 1988]

Their Baby Is Illegal

ABORT-OR ELSE! SAID CHINESE AUTHORITIES TO A COUPLE EXPECTING THEIR SECOND CHILD WHILE LIVING AND STUDYING IN AMERICA. INCREDIBLY, OUR OWN GOVERNMENT REFUSED THEIR PLEA FOR HELP

(By Steven W. Mosher)

The man on the phone was nervous, as if afraid of being overheard. "I am calling you as a last resort," he said in a Chinese accent. "I don't know where else to turn. . . . It concerns China's one-child policy.

Since my stay in a Chinese village in 1980, when I saw women in the third trimester of pregnancy forced to undergo abortions, I have written extensively about China's coercive population-control program. I have interviewed many Chinese about their experience. But Li Quan Bang's story was different.

"My wife is seven months pregnant with our second child," Li told me. "The Chinese government has been trying to force her to get an abortion."

I was astounded, Li was calling me from Phoenix. He was a student at an American university. Q.B., as his American friends call him, and his wife, Ping Hong, did not reside in China, but in the United States! "We hope you can help us to stay here," Li said, "at least until our baby is born."

To enforce Beijing's one-child policy, Chinese birth-control officials were harassing the couple to return to China for a late-term abortion, intimidating them with threats against Ping Hong's mother and co-workers back in China.

Q.B. was selected by the Chinese eight years ago to come to the United States to pursue a doctorate in mechanical engineering. His wife, a nurse, and his four-year-old son had to remain in China, to ensure that he would return.

Ping Hong chafed at this separation from her husband and four years ago applied to join him in America. Such requests are seldom granted. Ping Hong, however, was in good standing, and her unit, the Walfantia Bearings Factory, endorsed her application. She and her son arrived in America a year later.

Q.B. completed his Ph.D. degree in March 1986 and was allowed by the U.S. government to stay for an additional 18 months of training. He and his wife were looking forward to returning to China. Q.B. had been promised a professorship, while Ping Hong was told that a good position awaited her at the factory.

Then in late May 1987, Ping Hong became pregnant, even though she'd had an IUD inserted after the birth of their son, as mandated by Chinese birth-control regulations. In China, Q.B. said, his wife "was very responsible about going in for the required pelvic examinations each quarter. The IUD was always in place."

The couple rejected the idea of an abortion. Back home Ping Hong had assisted in forced abortions. Now those experiences came back to her in nightmares.

They wrote Ping Hong's factory, asking the population-control official for an exemption from the one child policy. Surely the limitation did not apply in the United States.

They soon received a letter from Q.B.'s sister that set them straight.

When you left for America three years ago, the birth-control policy was already very strict. The one-child policy is now even stricter. If you come back pregnant, you will absolutely not be allowed to have your baby.

Last year, Communist Party General Secretary Zhao Ziyang reaffirmed the "technical policy on birth control" and officials were ordered to redouble their enforcement efforts. The regulations call for IUD insertion after one child, sterilization after two, and abortion for women pregnant without official permission.

There were also new reports that women pregnant with "illegal" second children were being forced to have abortions, even as late as the final months of pregnancy. I heard shocking accounts of infanticide of "illegal" newborns.

While the Lis were debating what to do, Ping Hong received a letter from her factory's personnel officer.

Second children are absolutely banned. If a woman insists on having the child, all the workers of her factory will be punished. No salary increases will be allowed, and the factory will be disqualified from production contests. She herself will be placed on probation, and receive only minimum living expenses. Do not lose any more time. Fix this problem as soon as possible.

Without further delay, the Lis applied to the U.S. Immigration and Naturalization service (INS) for permission to stay in the States. They also moved from an apartment in North Phoenix to a house in the suburbs. "Ping Hong was afraid that even in the

United States we might be watched by agents of our government," Q.B. told me.

As efforts to pressure the Lis continued, Chinese officials turned to their next of kin. Ping Hong's elderly mother was paid nightly visits and warned of the terrible consequences for the entire family if Ping Hong did not abort. "My poor mother-in-law could not eat or sleep for worry over what they would do to us if we returned with a second child," Q.B. recalled. "Her blood pressure was up, and she was having severe headaches. We were afraid she would have a stroke."

In desperation, Q.B. wrote his mother-in-law that Ping Hong had gone for the abortion. Ping Hong's mother showed the letter to officials, ending the nightly visits.

But then Q.B. made a serious error. He wrote to his Chinese university, the Dalian Institute of Technology, hoping that colleagues there might be more forgiving of their situation. The Walfantia Bearings Factory found out about it—and the pressure was on again.

When Ping Hong was five months pregnant, she received this letter:

After explaining the birth-control policy to you in our last letter, we were sure that you would fix your problem right away. But from your husband's recent letter we know that your pregnancy continues.

We have been severely criticized by the birth-control departments and ordered to send you this extremely urgent letter of warning.

The Walfantia Bearings Factory is now working on a major government-sponsored expansion. If our birth-control program allows even a single second birth, the factory will not be permitted to advance. The strenuous efforts of our 20,000 employees toward this goal will have been in vain. We will all be punished.

The consequences for you are unthinkable. You would be condemned by all the employees of the factory. How could you bear the losses you would cause and suffer?

You should come to a speedy decision to fix your problem If you have real difficulties [getting an abortion in the United States], return to China immediately. There is no time to waste. To your health!

Population Control Office Walfantia Bearings Factory.

The last letter Ping Hong received, approximately two weeks before Q.B. called me, was the bluntest of them all.

Have you received our last express mail letter? Have you taken any action as a result?

The factory officials are anxious to know whether you have done as ordered. The punishment for this violation is very severe. If you cannot have this abortion-done abroad, then the factory director orders you to return to China immediately. Any further delays, and you will be punished according to the law.

There is nothing ambiguous about our order! Make up your mind immediately!

To you, health!

On February 24, 1988, the application of Li Quan Bang and his family to remain in the United States was turned down on the recommendation of the State Department because they did not prove "a well-founded fear of persecution upon return" to China. The next step: deportation.

The decision provoked strong reaction. Declares former Under-secretary of State William Schneider, "It's unconscionable that our government should abet this barbaric act of state intrusion into the most intimate sanctum of human life."

The news was not all bad, however. On February 1, Ping Hong gave birth to a healthy, 7½ pound baby girl. The Lis have named their daughter Mahwae, which means beautiful and smart but also stand for America, land of her birth.

ROMANIA'S VIOLATION OF HUMAN RIGHTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. CRANE. Mr. Speaker, the Romanian Government is waging war on its own people. When basic human rights are so blatantly, cruelly, and continuously violated, it is long since time that the United States speak up and soundly condemn that Government. House Resolution 505 condemns the Government for destroying Hungarian villages to develop agricultural centers and takes the most-favored-nation status away. The resolution before the House therefore deserves all our support.

Critics of this resolution feel that this is merely a high sounding resolution, a piece of paper without effective authority. However, I urge these colleagues to look again at the evidence of human rights abuse by the Ceausescu regime and ask themselves whether it is conscionable for the U.S. Congress to delay and equivocate in publicly condemning these crimes with this resolution.

The Romanian Government has for years practiced a brutal policy of forced assimilation that goes beyond closing minority language schools and newspapers. The policy is calculated to destroy all traces of ethnic minority presence in Romania, particularly that of 2.5 million Hungarians. It harasses and imprisons ethnic leaders. It has beaten and killed several of them. It disperses ethnic professionals to areas inhabited by Romanians. It falsifies history, tears down monuments, and is about to level thousands of villages, all as part of this ongoing design. Cultural genocide is no exaggeration, and it has been going on for years.

In response to this evidence, both Houses of Congress last spring overwhelmingly approved the suspension of Romania's most-favored-nation status. The evidence of human rights violations is so damning that under no pretext could we keep extending privileges to this regime. Even after last year's congressional action, Romania's human rights policies have not shown the slightest improvement. On the contrary, they have grown more drastic.

As a free nation justifiably proud of its tradition of respect for human rights and cultural plurality, and as a great power democracy, the United States has a clear moral duty to raise its voice in defense of human rights whenever they are violated. In his speech to the House of Representatives last year, Mr. Wolf described the moral force of such resolutions:

Even more important than sending a message to the Romanian Government, let us send a message to the Romanian people, who at night listen to Radio Free Europe. They listen to it because it is the only honest thing that comes in. If this body defeats this amendment the people of Romania will be demoralized. They will be demoralized. They will find out that the people's body, the U.S. Congress, has voted in favor of Communist dictator Ceausescu and not in favor of the people. * * * Let us send them a message and let them know that the Congress cares about the Romanian. * * *.

I heartily commend my colleague's perceptive words. We must never underestimate the tremendous potential of our Congress for exerting a positive moral force, particularly in the eyes of a demoralized people.

Congress should insist that no serious discussion of restoring MFN status to Romania should take place without the actual reversal of Romania's human rights policies and the village razing plan, the restoration of the previously existing cultural institutions of the minorities, and the granting of full opportunity to preserve and develop their own culture, use their language, and profess and practice their religion. This is the clear and potent message that this resolution will convey to the Ceausescu regime, to the citizens of Romania, and to the world.

CHILD CARE CRISIS, SAN FRANCISCO EXAMINER-CHRONICLE

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mrs. BOXER. Mr. Speaker, in a recent nationwide poll, the American people told us what they think needs to be done to support families who are struggling to make ends meet.

Eighty-six percent said the need for affordable child care is an important issue to them. Seventy-four percent believe it is difficult for parents to find child care that is both affordable and of good quality. Seventy-five percent want the Federal Government to ensure minimal health and safety protections for children in child care. And by a 2-to-1 margin, they support the Act for Better Child Care Services.

The American people are not confused about their priorities. They know our current child care crisis did not happen overnight. They know that only a comprehensive, thoughtful plan to improve the entire child care system will be successful in solving the dilemma faced by so many of our families.

We have such a bill pending in Congress—the ABC bill. Why should Congress be confused?

The support for ABC in California's Sixth District is strong and includes the endorsement of San Francisco Mayor Art Agnos. Mr. Speaker, I ask that the attached editorial from the San Francisco Examiner-Chronicle be printed in the Record. I believe it best displays the public sentiment from my constituents for ABC.

CHILD CARE CRISIS

Legislatures Across the country, including the U.S. House of Representatives and Senate, are now responding to a national crisis with belated recognition that a growing number of American families are in urgent need of child care and that state and federal spending for it has been inadequate.

Chief among the family issues that are receiving legislative priority this year are measures to expand and improve infant and day care, with at least a dozen bills under consideration in Sacramento and as many as 80 in the Congress.

A package of bills introduced by Assemblyman Dominic Cortese, D-San Jose, would provide $42.8 million for state-subsidized centers and employer-operated programs.

A new federal investment from Washington would be provided by the Act for Better Child Care Services, which proposes to spend $2.5 billion to help low and moderate-income families pay for child care. It also would improve the availability and quality of child care services for all families.

California, which has an estimated 1 million children who need but do not get care, would receive about $225 million from this act and would have to add $45 million in state funds.

A gloomy survey of the unmet needs of children and their parents, analyzing the funding obtainable for the 9.5 million preschool children with mothers in the labor force, has been prepared by the Children's Defense Fund with the assistance of the American Federation of State, County and Municipal Employees, AFL–CIO. The report found that:

The largest federal spending program that provides child care assistance, the Title XX Social Services Block Grant, was worth last year only half its 1977 level after adjustment for inflation.

The number of poor children younger than 6 increased by more than 41 percent between 1981 and 1986, from 3.4 million to 4.8 million, and yet the amount of federal and state money to meet their child care needs remained approximately unchanged, when adjusted for inflation.

Twenty-two states are serving fewer children now than they did six years ago.

Appropriate child care services are essential to low-income families, in which, often, parents can not work and attain self-sufficiency without such assistance. The urgency of the problem is reflected in the increasing number of mothers with young children who are required to work out of economic necessity.

The Children's Defense Fund estimated that by 1995 two-thirds of all preschool children, or nearly 15 million of them, will have mothers who are employed. More than three-fourths of all school-age children, or 34.4 million, will have a mother in the work force.

In a special category, but also a class in great need, are teenage parents who are unable to complete high school without programs uniquely designed to care for children of adolescents.

Studies show that well-supervised infant and day care lead to better education and a healthier transition from childhood to productive citizenship. And quality care can not be achieved without improved salaries to attract child care providers with the training to look after young children. Staff salaries in this field, according to Patty Siegel of the California Child Care Resource and Referral Network in San Francisco, are at "the occupational index rank just above dogcatcher."

The federal Act for Better Child Care Services, which is primarily targeted to help the neediest families, is supported by a national coalition of nearly 100 organizations, ranging from unions and religious groups to women's and education associations. The success of this measure is vital if the construction of a stable child care system is to become a matter of national public policy.

IN SUPPORT OF THE ACT FOR BETTER CHILD SERVICES

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. PERKINS. Mr. Speaker, I rise in support of the Act for Better Child Services, the ABC bill.

Any working parent will tell you their child care choices are limited by high cost, limited supply, and uneven quality. ABC is the only legislation that addresses all these issues and would expand the range of good child care choices available to our working families.

These arguments have not fallen on deaf ears in Kentucky. In my State, State and local governments, community groups, schools, churches and synagogues have been working together to help families find the child care they need to be selfsufficient. But the task is too large to be accomplished without help from the Federal Government.

The ABC bill has earned widespread support in Kentucky among State and local elected officials and various community groups. They know that passage of ABC is critical to their efforts to address the child care crisis in the State.

Mr. Speaker, I include the attached list of organizations and public officials to be printed in the RECORD as testament to the strong support for ABC in Kentucky:

MEMBERS OF THE KENTUCKY ALLIANCE FOR BETTER CHILD CARE SERVICES WHICH SUPPORT THE FEDERAL ACT FOR BETTER CHILD CARE (H.R. 3660 AND S. 1885)

Ashland Child Development Center.
Audubon Head Start.
Big Brothers and Big Sisters.
Brighton Center.
Cathedral Child Development Center.
Children's Council of St. Paul's United Methodist Church.
Communication Workers of America (Kentucky).
Community Coordinated Child Care (4-C).
Council for Retarded Citizens.
Court Appointed Special Advocate (CASA) Project.
Derby City Coalition of Labor Union Women.
Fayette County Education Association.
International Brotherhood of Electrical Workers—Local 2100.
Junior League of Louisville, Inc.
Kentucky Academy of Trial Attorneys.
Kentucky Association for Children Under Six (KACUS).
Kentucky Association for the Education of Young Children (KAEYC).
Kentucky Citizens for Child Development (KCCD).
Kentucky Coalition for School Age Child Care.
Kentucky Head Start Association.
Kentucky Women Advocates.
Licking Valley Head Start.
Louisville Coalition for the Homeless.
Louisville Urban League.
Lynn Acres Day Care Center.
Metro United Way.
Metropolitan Louisville Women's Political Caucus.
Nagler's Child Care Centers, Inc.
National Council of Jewish Women, Louisville Section.
Perry County Child Advocates.
Presbyterian Child Development Center.
Ridgewood Child Development Center.
St. Alban's Child Care Center.
Save the Children.
Southside Christian Day Care III.
TLC Growth Center.
The Merry Moppets, Inc. Child Care Center.
United Food & Commercial Workers—Local 227.
Whitley County Communities for Children.
YWCA.

PUBLIC OFFICIALS SUPPORTING THE ACT FOR BETTER CHILD CARE SERVICES

Louisville Mayor Jerry Abramson and the Louisville Board of Aldermen.
Jefferson County Judge/Executive Harvey Sloane.
Jefferson County Commissioner Darryle Owens.
Jefferson County Commissioner Irv Maze.
Jefferson County Commissioner Chris Gorman.
Marshall Long, State Representative, 58th District.
Joe Meyer, State Representative, 65th District.
Dr. Walter Blevins, Jr., State Representative, 71st District.
Louie Mack, State Representative, 77th District.
Gene Cline, State Representative, 96th District.
Rocky Adkins, State Representative, 99th District.
Clarence Jackson, State Representative, 100th District.
Georgia Powers, State Senator, 33rd District.
Tommy Turner, Larue County Judge/Executive.
Bruce Ferguson, Boone County Judge/Executive.
Clifford F. Haley, Jr., Bullitt County Judge/Executive.
Donald Houchin, Edmonson County Judge/Executive.
Sandra M. Varellas, Fayette County Judge/Executive.
Pam Miller, Lexington-Fayette Urban County Council Member.

ART LINKLETTER'S "GOLDEN RIGHTS OF SENIOR AMERICANS"

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. ROTH. Mr. Speaker, I have come before you and other Members of this House many times to share my ideas on how we can best help our Nation's senior citizens. In everything from introducing legislation that would repeal the earnings test, to cosponsoring the Older Americans Act, I have always objected to anything that takes money away from hard-working older Americans.

One and a half years ago I hosted my annual senior seminar featuring Art Linkletter. Mr. Linkletter joined me in Appleton, WI, with over 2,000 others who came to hear his words of wisdom on growing older—something, I might add, we all have in common.

At that time, Art Linkletter was in the process of writing a book. He shared with the seminar attendees a sample of his anecdotes and wit that taught us all how to appreciate the aging process. As many of you probably already know, Mr. Linkletter's book was released in January of this year and went straight to the bestseller's list 3 weeks later. "Old Age Is Not for Sissies" is both a humorous and insightful compilation of stories from someone who continues to live quite a fulfilled and exciting life.

I spoke extensively with Mr. Linkletter about his proposal to come up with "Golden Rights of Senior Americans." These basic, fundamental rights are included in his book, and they are so important that I would like to include them in the RECORD for everyone's benefit:

ART LINKLETTER'S "GOLDEN RIGHTS OF SENIOR AMERICANS"

1. Irrespective of individual status or achievement, Senior Americans have the right to expect to be held in esteem and treated with consideration and dignity because of age alone.

2. Senior Americans have the right to independence, privacy, and choice of persons with whom they live and associate; they also have the right not to fear abridgement of those rights because of advancing age.

3. In all instances where decisions governing personal health are concerned, Senior Americans have the right to complete and accurate information necessary to ensure freedom of choice in selection of health care services. The have the further right to expect medical treatment from persons whose knowledge is strengthened with compassion and whose judgment is governed by moral restraint.

4. Senior Americans have the right to manage their financial affairs, as well as the right to complete information and full disclosure of possible consequences from those through whom they seek assistance with the management of those affairs.

5. Senior Americans have the right to freedom from fear of mental and physical abuse, as well as from chemical or physical restraint except in medical emergencies.

6. Senior Americans have the right to the information and assistance needed to ensure a continuing health lifestyle.

7. Senior Americans have the right to choose how and with whom they spend leisure time, as well as the right to expect considerate assistance when they travel.

REMOVING THE RIGHT OF REVERSION TO THE UNITED STATES IN LANDS OWNED BY SHRINERS HOSPITAL FOR CRIPPLED CHILDREN IN SALT LAKE COUNTY, UT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mrs. COLLINS. Mr. Speaker, S. 892 passed the House by a unanimous recorded vote on Tuesday, August 2, 1988, as an item on the Private Calendar. The bill directs the Administrator of General Services to release the Government's reversionary interest in certain land to the Shriners Hospitals, which are to pay $200,000 to the United States in consideration of the release. The bill was reported by the Committee on Government Operations after having been considered and approved by the Government Activities and Transportation Subcommittee, which I chair. The subcommittee conducted a hearing on the measure June 1, 1988.

In 1946, the Congress directed the Secretary of War to transfer a 7.8-acre parcel of land, then part of Fort Douglas, to the Shriners Hospitals for use as a hospital for crippled children. The 1946 act provided that if the grantee should ever fail to use the property for that purpose, or even try to dispose of it, the property would revert to the United States.

The new hospital facility began admitting patients in 1951. Many of the young patients in those years were polio sufferers. The hospital has been operating continously since that time. Shriners Hospitals now wish to replace this facility, and relocate the operation perhaps to the nearby grounds of the University of Utah Medical School. In order to facilitate this, Shriners Hospitals have sought legislation to release the reverter interest. This would give them discretion to dispose of the hospital they have built and realize some funds needed for accomplishing the relocation.

I have, personally, visited the location of this hospital. It is an impressive building located on an impressive site that overlooks the entire Salt Lake Valley.

The other body passed a version of the bill that required the Shriners Hospitals to make a $97,627 payment to the United States. GSA and the Shriners Hospitals had differing views as to the amount of payment to the United States on the basis of their separate appraisals. As a result, GSA and the Shriners Hospitals entered into negotiations, which proved successful. At the subcommittee hearing, both parties testified to their agreement on a payment of $200,000 and language to accelerate completion of the transaction. The bill as passed by the House reflects that agreement.

I am pleased, Mr. Speaker, that our subcommittee has been able to aid this step toward realization of a new, state-of-the-art intermountain unit of the Shriners Hospital for Crippled Children.

MAYOR ARTHUR HOLLAND RECENTLY ELECTED PRESIDENT U.S. CONFERENCE OF MAYORS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues one of New Jersey's distinguished public servants, Mayor Arthur Holland, who was recently elected president of the U.S. Conference of Mayors.

Arthur Holland, mayor of Trenton, NJ, for over 20 years, will clearly be an effective and articulate advocate for the over 800 cities, which the U.S. Conference of Mayors represents, throughout the country. Mayor Holland brings to the U.S. Conference of Mayors a wealth of experience and dedication to solving the problems many urban areas face today. Despite inadequate funding levels and diminishing commitment on the part of the Federal Government—and often State governments, Trenton, NJ, under Mayor Holland's leadership, has managed to overcome many of the ills associated with urban decline.

Unfortunately, many other urban areas throughout the Nation have not had this good fortune. With Mayor Holland at its helm, we can all be assured that Art will aggressively pursue the goals of the conference. That is, to persuade all of us, particularly those of us who are in a position to effect urban policy, that cities need our support—support in terms of fighting crime and drugs, improving mass transit and housing, creating jobs, and providing quality, affordable child care. I am confident that Mayor Holland will serve the conference well by virtue of this unyielding dedication and impeccable credentials. I am equally proud to have someone of Art's stature repesent New Jersey among the Nation's mayors.

As I applaud Mayor Holland for his accomplishments and dedication, I also applaud the support that his family, especially his wife, Betty, has given him.

We all truly owe Mayor Holland a tremendous debt of gratitude for this service to the community and commitment to urban revitalization across the country.

PROBLEM OF WRONGFUL EXECUTION IN CAPITAL CASES

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. STAGGERS. Mr. Speaker, I would like to bring to my colleagues' attention an article from the New York Times highlighting a study which focused on the problem of wrongful execution in capital cases. I urge my colleagues to read this article before contemplating attaching a death penalty amendment to the drug bill. The fallibility of human reasoning is undeniable—if we must err, let us err in favor of life:

MIA BERNARD CONKLIN COMES HOME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. LAGOMARSINO. Mr. Speaker, as Chairman of our House Task Force on our Prisoners of War and Missing in Action in Southeast Asia, I am well aware of the sympathy and compassion we all hold for the families still living in uncertainty. And, hopefully, our Nation will remain united behind our efforts to end this uncertainty—to obtain a full accounting of all American heroes still missing.

This past March, the uncertainty ended for a family in Stony Point, NY. The remains of Lt. Col. Bernard Conklin, whose RC–47 reconnaissance plane was shot down in the jungles of North Vietnam on July 29, 1966, were finally recovered. Found at the Son La-Hoa Binh Province crash site, and positively identified by our laboratories, the remains of Lt. Col. Bernard Conklin have at long last returned home.

Bernie Conklin grew up on Wayne Avenue in Stony Point, NY, where his mother, Erna Doyle, still resides. A graduate of the Haverstraw-Stony Point High School and of Clarkson University, Bernie Conklin was a patriot who initially enlisted in the Air Force during the Korean war.

At the time of his death, Bernie Conklin was 34 years old. However, it was 22 more years before his family learned of his fate.

This past weekend, a memorial service marking the 22d anniversary of Lieutenant Colonel Conklin's disappearance, was held at the Stony Point Town Hall. Over 150 persons, including Bernie's mother, Mrs. Erna Doyle, were in attendance. The ceremony was organized by local Chapter No. 33 of the Vietnam Veterans of America, led by chapter president Jerry Donnellan.

Stony Point is represented in this Chamber by our colleague Hon. BENJAMIN A. GILMAN. For 16 years, he has been in the forefront of the POW/MIA issue, having served as a member of the select committee on this issue in the mid-1970's as a former chairman, and as current vice chairman of the House Task Force on POW/MIA's Congressman GILMAN was certainly an appropriate spokesperson to attend Colonel Conklin's memorial services.

Mr. Speaker, I would like to share Congressman GILMAN's remarks with all of our colleagues by inserting them in full in the CONGRESSIONAL RECORD at this point:

SPEECH BY REPRESENTATIVE BENJAMIN A. GILMAN AT THE MEMORIAL SERVICE HONORING LT. COL. BERNARD CONKLIN OF STONY POINT, NY, JULY 30, 1988

I want to thank you for inviting me to join you at this most solemn occasion. And I especially want to thank Jerry Donnellan and the other Members of the Vietnam Veterans of America for arranging this appropriate, long overdue memorial service. I thank you for making certain that we have not forgotten Lt. Col. Bernie Conklin, his heroism and his devotion to his nation.

We have not forgotten the many other brave Americans who have given of themselves in the cause of freedom.

It is fitting that this service is taking place today, for as we meet here in Stony Point, New York, the National League of Families of POWs and MIAs is holding its annual conference in Washington, D.C. That organization has been a leading organization in keeping this issue alive.

Just yesterday, President Reagan assured the National League of Families that he will pass on to his successor in the White House a program "for the fullest possible accounting of servicemen still missing from the Vietnam war."

The President went on to say that he has been acting on the assumption that "some of our countrymen are still alive . . ."

The point we have reached today is the result of the hard work and determination by many patriotic Americans and organizations.

During the 1970's, we had a difficult time convincing the American public and the Administration that our missing Americans should not be forgotten. Past Administrations, along with many in our nation, were ready to close the door on the Vietnam era—and were not receptive to our pleas to further pursue this issue.

However, in the 1980's the whole situation turned around. The Reagan Administration made it clear that a full accounting of our POWs and MIAs would be a top national priority. And, the American people have a renewed interest in the fates of these heroes.

Unfortunately along with the demise of apathy, a new enemy has come forward: the enemy of oversimplification. Too many well meaning Americans do not seem to understand why we simply don't send over a few good Marines to let our boys out.

If it were all that simple, you can rest assured that our Administration would be the first to urge we do so.

Unfortunately, the fates of our Americans are tied up with the complexities of international politics. It will take patience, and unity, on the part of the American people to continue to push for a full accounting of all our 2,394 Americans still missing.

But, we owe it to the Bernie Conklins, and to their brave and tireless families, to see that this will be done.

To Bernie's mom, Mrs. Erna Doyle; to his wife Peg and their four daughters, we extend our heartfelt sympathies.

The entire community extends our condolences. Hopefully your grief can be assuaged by the knowledge that Lt. Col. Bernard Conklin did not die in vain: that the principles for which so many Americans like him died—the principles of liberty, freedom and self-determination for all—are still alive in the hearts of all Americans.

Thank you and God bless.

UTAH STATE UNIVERSITY'S PARTNERS PROGRAM

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HANSEN. Mr. Speaker, I am pleased to make my colleagues aware of a unique business program at Utah State University. The Partners program of the College of Business at USU is one of the leading educators in productivity improvement in America. In the last 18 years, over 50,000 students and 35,000 managers have learned the latest state-of-the-art management techniques in world trade, quality, productivity, information systems, human resources, banking, accounting, and real estate from some of the most distinguished business leaders in the world. The opportunity to learn the most innovative ideas and methods has enabled Utah State to train business leaders capable of meeting the challenges of the marketplace.

On June 4, 1988, USU awarded Shigeo Shingo an honorary doctorate in recognition of his lifetime achievements. Dr. Shingo is one of the world's foremost experts on improving quality and productivity in the manufacturing process. His methods have been used by companies around the world to improve their production systems and he is now known as Japan's "dean of quality consultants." His genius is in his understanding of why and how products are manufactured and transforming that understanding into a system for low-cost, high-quality production.

It is fitting that Dr. Shingo and USU's Partners Program have joined in establishing the annual Shigeo Shingo Prizes in Manufacturing Excellence. Prizes will be awarded annually to 10 students from U.S. business schools accredited by the American Assembly of Collegiate Schools of Business and to 6 businesses.

The United States must continue to pursue initiatives to improve our national productivity. Utah State University's Partners Program, its curriculum in productivity and the Shingo Prize will play a vital role in the U.S. effort to meet foreign competitors. I am proud of USU's work and applaud its efforts to raise public sensitivity to the critical importance of productivity in regaining a share of the global market.

TRIBUTE TO SALLY ORR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. MILLER of California. Mr. Speaker, the Association of Junior Leagues will lose a valued and committed advocate this month when Sally Orr steps down from her post as director of public policy. During the decade of Sally's service to the league, the organization has become a standout among child advocates. It is primarily due to Sally's energy, dedication, and perseverance that thousands of Junior League members in communities across the country have become committed partners in the effort to improve the lives of America's women and children.

Anyone who thinks the Association of Junior Leagues is all spectator pumps, pearls, and white gloves has a lot to learn. These women are seasoned; they are tough, articulate fighters. In their hometowns and nationwide, they have gone to work on issues that make most politicians stutter—family violence, parental leave, child care, child abuse, and child poverty. These are not easy issues; the problems are troubling, the solutions sometimes complex, and the political payoffs often unclear. But in communities across the country, local Junior Leagues have developed and supported shelters for victims of spousal abuse and their children, court-appointed special advocate [CASA] programs to represent abused and neglected children, emergency hotlines, and other critical services for America's most vulnerable citizens. And in every instance, Sally Orr was out in front early, encouraging her members' local efforts, representing their interests, shaping the strategy and calling the shots.

As chairman of the Select Committee on Children, Youth, and Families, it has been my privilege to work with Sally on issues that concern us both. In fact, without Sally's dogged persistence, there probably would not be a Select Committee on Children, Youth, and Families. Due to her insight and leadership, the Association of Junior Leagues recognized early the importance of creating a forum for children's concerns within the Congress and its members worked aggressively and successfully toward this goal.

Sally Orr has left her mark on laws and programs serving children and families. When during efforts to pass the landmark Family Violence Prevention and Services Act, the chips were down and our vote counts looked dismal, Sally would go back to her membership rolls and find the perfect Junior League member to educate a reluctant member with impressive results. During the fight to achieve landmark reforms in the Federal foster care law, she was an inside player both with members of the committees and with advocacy organizations. Without a doubt, Sally Orr's efforts and the good work of her army of advocates have been not only critical in legislative battles, but also very often the margin that has provided the difference between success and failure.

I'm going to miss Sally Orr. Her departure from the Association of Junior Leagues will leave a gaping hole in the ranks of child advocates working the Hill. In her postassociation of Junior League pursuits, I wish her all the best.

AMERICAN HERITAGE TRUST FUND ACT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. BENNETT. Mr. Speaker, I recently became a cosponsor of the American Heritage Trust Fund Act, which was introduced in the 100th Congress by my friend and colleague, Morris K. Udall, of Arizona.

The American Heritage Trust Act takes the land and water conservation fund, along with the historic preservation fund, and makes them dedicated, interest-bearing trusts. The two funds—which derive their funding from money made available from offshore oil drilling leases—would be invested in new interest-generating accounts. Eventually the flow of revenues into the trust would stop, but by then the trust would be self-perpetuating. The principal would never be spent, but the interest would be appropriated every year, thus providing Federal, State, and local governments the resources they need to acquire open spaces before they are lost and build recreational facilities, such as pools, marinas, and ball fields.

I am glad to be a sponsor of this legislation, which essentially takes money gained from nonrenewal resources, such as offshore oil, and uses it for permanent assets for future generations.

I would like to share with you a success story in my district of Jacksonville, FL, which was brought about by the land and water conservation fund, which Chairman Udall's bill seeks to improve and build upon. This project was inaugurated under the leadership of the able and former Jacksonville mayor Jake M. Godbold and continues under the support of my good friends, Tommy L. Hazouri, the present mayor of Jacksonville, and Dan Lee, director of the Jacksonville Department of Recreation and Public Affairs. This is a great example of how the Federal Government can work successfully in conjunction with State and local governments to improve the quality of life in many growing cities throughout the United States—all without damaging the already-strained Federal Treasury.

I submit for the Congressional Record a statement prepared by Mr. Lee that describes Jacksonville's metropolitan park project, which received some $1,725,422 from the land and water conservation fund:

A Land Water Conservation Fund Success Story

(By Dan Lee)

The development of Metropolitan Park with LWCF assistance helped to meet a critical identified need for additional urban open space and recreational opportunities in an expanding Jacksonville area. This park has provided a unique opportunity for the federal level to join with the City, State and local interests in developing and providing an optimal waterfront recreational experience to users. The 23 acre park, an urban landfill supported by bulkhead, is an excellent example of land recycling while also maximizing energy conservation. Pergola structuring throughout the park serves as a natural "air conditioning" effect with complimentary landscaping, paving and low-energy incandescent lighting planned to minimize maintenance. The expressway and excellent public transportation system serving the area has made the park accessible to a large and diverse population. The adjoining Sports Complex regularly provides recreation and leisure opportunities to crowds of several hundred to 90,000+ with events varying from public ice skating and amateur events to concerts, the Gator Bowl Game and the critically acclaimed Jacksonville Jazz Festival. In addition to the picnic, playground, boating, fishing, parking and support facilities funded under LWCF, the park features a unique stage for entertainment activities, constructed with assistance from the nearby public television station. Added boating facilities have been constructed with a state grant on an area adjacent to the existing park. It is expected that cruise ships, in addition to pleasure craft, will dock at this site to provide users expanded opportunities to enjoy use of the park as well as the St. Johns River. Development of this exciting recreation complex would not have been possible without generous assistance from the LWCF program.

WHAT SHOULD SOCIAL SECURITY "SURPLUSES" MEAN FOR FISCAL POLICY?

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. GRADISON. Mr. Speaker, increasing interest is being shown among Members over the accelerating buildup in reserves—frequently called surpluses—in Social Security. This growing concern has spawned several proposals related to the budgetary treatment of Social Security in the context of deficit goals. My own concern led me to ask the Congressional Research Service for a special study on the distributional and economic consequences of such proposals. That study[1] has just been released, and I'd like to describe briefly its findings.

The impending huge buildup in the Social Security account raises questions about whether the Nation will actually be saving to ease the future burden of retirement costs, and whether Government should take steps to increase national saving. Social Security "surpluses" per se do not increase national saving. The CRS study examined the consequences on national saving of three cases:

First, continuing the budget fiscal deficit at the historic level—2 percent of GNP—but without counting Social Security. Essentially, this means examining the outcome of the implications behind the 1977 and 1983 amendments to the Social Security System.

Second, maintaining a balanced total budget over a long period of time—that is, a deficit-to-GNP ratio of zero including Social Security receipts and expenditures. Essentially, this assumes the Gramm-Rudman-Hollings target of a zero budget by 1993 is met and maintained.

Third, maintaining a zero deficit over a long period of time without counting Social Security.

CASE I

The changes to Social Security made in 1977 and 1983 fundamentally changed fiscal policy from the standpoint of aggregate saving. With respect to Social Security, they mark the beginning of a transition from an unfunded system to a more funded pension program. Previously, contributions to Social Security did not constitute saving—as many believe. Rather than making contributions to a funded pension system, workers paid a tax, the receipts of which were paid to beneficiaries at that time—in other words, "pay as you go." This, of course, is evidenced by the fact that, up to now, Social Security has never built up substantial reserves.

Subsequent to the 1977 and 1983 amendments, and in contrast to prior law, workers paying into the system are actually saving through Social Security. This is due primarily to higher Social Security taxes and, to a lesser extent, reduced benefits. In economic parlance, compared to the historic pattern, this represents an intergenerational transfer of resources.

The upshot is that Social Security is beginning to accumulate assets. The question is, Are these assets real? They are only real if they exist independent from the rest of the budget—assuming the general historic fiscal policy of a deficit-to-GNP ratio of approximately 2 percent—which is to say not merely as bookkeeping entries in a trust fund account. The answer to this question has nothing to do with whether Social Security is on-budget or off-budget, and everything to do with the net of the Government's total fiscal activities.

The 1983 amendments took Social Security off-budget, albeit in 1993, later accelerated to 1988 Gramm-Rudman-Hollings. Thus, case I assumes that the receipts and expenditures of the Social Security system are not counted in the budget's deficit totals, and examines the consequences of maintaining our historical fiscal position—deficit: GNP = approximately 2 percent. In addition to being independent of Social Security, case I is also independent of Gramm-Rudman-Hollings—which is case II. The conclusion is that if this is realized, the result will represent a real accumulation of capital. What does this mean?

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[1] "Deficit Targets, National Savings, and Social Security, CRS Report for Congress 88-513 S, by Jane G. Gravelle (July 27, 1988).

The importance of the shift away from an unfunded system cannot be overestimated. It represents nothing less than an intergenerational shift of resources, but only if it's real. And, of course, it is real only if we stick to the policy. Because case II produces a strikingly similar result, the implications are elaborated on below.

CASE II—GRAMM-RUDMAN-HOLLINGS

As revised, GRH establishes a zero total deficit target for 1993 and presumably, though not explicitly, thereafter. The GRH deficit targets are for the deficit of the total budget—they include Social Security receipts and expenditures, even though the official unified budget does not—as noted above. CRS found that this policy, assuming it is implemented, represents a major historical shift in fiscal policy for the United States. Over time, it will provide real resources to back up the huge Social Security balances—which are, of course, only accounting entries—to pay for the baby boomers' Social Security benefits. Like the 1977 and 1983 amendments, it will generate intergenerational aggregate saving.

Because we've generally not had a balanced budget, GRH represents a sea change in fiscal policy. Under GRH, assuming the zero deficit target once met is continued indefinitely, the historic deficit-to-GNP ratio falls from 2 percent to zero over time, and therefore portends real capital accumulation—an increase in aggregate saving—relative to our historic experience.

This means that GRH leads to a wealthier country, one that has more resources with which to pay Social Security benefits to retired baby boomers. So, to put it another way, GRH accomplishes the "saving" objective of the 1977 and 1983 changes to Social Security, even if this is a pure legislative accident.

If the plan is not to burden the post-baby-boomer generation with excessive taxes to pay for the baby boomers' retirement, then meeting the goals of GRH is important. One could say that GRH makes possible the distributional and economic objectives behind the changes to Social Security for the entire budget and economy, even though these objectives were not articulated at the time of those reforms.

The distributional and economic consequences of case I and case II are remarkably similar with respect to the accumulation of real assets by the year 2022—the peak of the accumulation. Frankly, were it not for the changes to Social Security, we could only dream of meeting the long-term GRH objective of a zero total deficit.

At this point one might argue that the historic debt level would not be maintained in any event that is, with or without GRH—if only because the accumulating Social Security reserves would overwhelm our historical experience, with the result that the debt level would decline even in the face of Congress' prolific spending inclinations. To the extent this is true, GRH is superfluous.

But case II reinforces the importance, if not the difficulty, of meeting the GRH targets. Failing to do so bodes ill for the future with respect to being able to pay Social Security benefits. Keep in mind that there is a big difference between accounting "surpluses' in a trust fund and real resources which are required to pay Social Security beneficiaries. What counts is the total budget margin—surplus or deficit.

CASE III—GRH EXCLUDING SOCIAL SECURITY

Rising Social Security reserves have caused considerable concern because of the fear that the accumulating reserves growing to enormous proportions would be used for non-Social Security purposes. I share this concern; in fact, it was this very political concern that caused me to make an exception to my categorical support for an all-inclusive uniform budget by advocating off-budget status for Social Security only. Perhaps a naive notion, but I argued then—1983—that we should make the coming "surpluses" as politically hard to tap for non-Social Security purposes as possible.

One need not be a rocket scientist to grasp the notion that the consequences of meeting and maintaining a zero deficit without counting the Social Security accounts represents an even more dramatic policy shift than case I or II. Meeting such a goal would constitute an enormous hit on consumption, one that is politically unlikely. In fact, the effect is almost twice as much, as shown in the following table:

[In percent]

	Case I	Case II	Case III
Current debt-to-GNP ratio (1987)[1]	43	43	43
Ratio in year 2022	5	7	[2] −22
Change in the ratio	−38	−36	−65

[1] Use of the post-World War II average ratio of 38 percent would not change the relative differences.

[2] The negative sign indicates no public debt. The Government would be holding private assets.

Although quantitiative estimates of the actual impacts—for example reductions in discretionary income over time—are beyond the scope of this CRS study, case III clearly goes too far. Adopting case III is to choose lower consumption, tax increases, and Government spending cuts on a scale hard to contemplate. That is, to move beyond current law by removing Social Security balances from the measurement of a balanced budget target is, however well intentioned, to move from a policy that will be extremely difficult to accomplish to one that is beyond the realm of the politically possible.

CONCLUSION

Large reductions in the debt-to-GNP ratio—see table—imply large changes in the asset position of Americans. It means greater savings and necessarily lower consumption, which in turn mean an initially lower standard of living. That is the cost of increased saving. The relative benefit of increased saving is a higher standard of living later and a much greater ability to pay retirement benefits to the baby boomers. That is the trade-offs implicit to the policies we have enacted. Our children will pay the price if we take the easy path out.

CUSTOMS SERVICE MISCONSTRUES TARIFF PROVISION 806.30

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. MURPHY. Mr. Speaker, today I am introducing legislation to amend the Tariff Schedules of the United States to exclude metallic scrap that is exported from the United States, fabricated abroad, and re-exported to the United States in the form of metal plate, sheet, strip, and other fabricated products, from the scope of tariff provision 806.30. This amendment to the Tariff Schedules is necessary because the U.S. Customs Service has misconstrued the original intent of the Congress and has considered metal products produced abroad from exported scrap to be eligible for entry under 806.30. The erroneous classification of such products under item 806.30 results in reduced duty payments on imports of metal products to the detriment of U.S. manufacturers.

Item 806.30 of the Tariff Schedules developed from a provision proposed in 1954 by Hon. Victor A. Knox. According to Mr. Knox, the purpose of the provision was to facilitate the processing of United States metal articles in contiguous areas of Canada during breakdowns and other emergencies at nearby U.S. plants. Mr. Knox stressed that his proposal was a limited emergency measure designed to "avoid shutdowns in factories as we have in the past, so that instead of having to send all of the employees home, they will just export this particular product over into the Canadian factory where they have the facilities in order to go ahead with the processing and the factory will continue to operate." (99 Cong. Rec. 8681.) The chairman of the U.S. Customs Committee, testifying in support of passage of this provision, listed as an example of its potential application the exportation of ingots to be made into slabs abroad, preparatory to them being rolled into sheet in American steel mills.

The purpose underlying item 806.30, therefore, was to assist a United States metals producers who needed a limited, intermediary processing stage performed abroad—not to bypass all metal production in the United States by shipping raw materials to other countries for manufacture into finished metal products which are then imported and sold to United States consumers. Customs' extension of the special 806.30 duty treatment to fabricated metal products manufactured from scrap goes well beyond its intended limited application. The result of Customs' interpretation is the antithesis of the purpose sought by the drafters of the provision: rather than preserving United States metal-producing industries, Customs' current application of 806.30 encourages the overseas manufacture and exporation of finished metal products.

Efforts by U.S. stainless steel producers to date to correct Custom's misuse of this special provision have been unavailing. Customs rejected the limited application of 806.30 described in the legislative history, claiming that it had a longstanding practice of granting 806.30 treatment to articles manufactured from scrap. While Customs may have a longstanding practice of classifying such items in this manner, such classification is inconsistent with the plain language of the law as well as the intent of the drafters of the provision.

The requirement of item 806.30 entry are not satisfied where articles manufactured from scrap are involved. Item 806.30 requires that the article exported from the United States be "manufactured in the United States or subjected to a process of manufacture in the United States." Scrap is a raw material input to the production of a final product, not a "manufactured product" itself. Moreover, there is serious doubt that an exporter could demonstrate that scrap is of United States origin, as the law requires. Further, the operations conducted overseas in manufacturing finished flat-rolled products from scrap do not constitute an intermediate processing step, as required by 806.30, but result in the production of finished articles of commerce. For all of these reasons, metal products produced overseas from exported scrap should not be accorded the benefits of 806.30 classification.

The legislation I am proposing would ensure that foreign producers that export fabricated metal products to the United States would not be subsidized by the United States government for using scrap sourced in the United States as a raw material input. This legislation would also ensure that the jobs of American workers and the financial health of American industries are not further jeopardized due to an unreasonable interpretation of item 806.30 by the Customs Service. I urge my colleagues to favorably consider this proposed legislation.

IN RECOGNITION OF THE 10TH ANNIVERSARY OF THE ROCHESTER WOMEN'S NETWORK

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to recognize and celebrate the 10th anniversary of a very fine organization, the Rochester Women's Network. Through the vision, hard work and determination of many talented women, the Network has grown from a few members to include more than 500 business, professional and entrepreneurial women from diverse backgrounds.

The Network provides opportunities for women to build personal and professional contacts, attend informational and educational programs and strengthen knowledge within specific professions. Using the time-honored process of alliances and informal referrals to further professional advancement and success, these women have contributed greatly to the economic growth of the Rochester area.

The rapid expansion of the Network is testimony to the need for women to support and counsel each other as we attain our goals of economic equity. Please join with me in recognition of the achievements of the Rochester Women's Network.

SUPPORT FOR THE ABC BILL

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. LEHMAN of Florida. Mr. Speaker, I would like to express my strong support for the Act for Better Child Care Services, the ABC bill.

Child care is one of our most critical needs in Dade County and in the State of Florida. Florida is a rapidly growing State, and both its population and economy are on a rapid upswing. Young families with children will make up a substantial portion of this increase. More families than ever before are going to need child care in order to become self-sufficient, and the demand for reliable child care is overwhelming.

The ABC bill will help to improve our entire child care system in a comprehensive manner, while still preserving parental choice. In addition, it will help local communities seeking to address their own concerns.

Recently, both the Florida House of Representatives and the Florida Senate passed resolutions endorsing the ABC bill. The text of these resolutions follows:

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, URGING CONGRESS TO PASS THE ACT FOR BETTER CHILD CARE SERVICES

Whereas, the Act for Better Child Care Services has been introduced in Congress with bipartisan support, including key members of both the Senate and House Appropriations Committees, and

Whereas, the Senate bill is S 1885, cosponsored by Chris Dodd (D-CT) and John Chafee (R-RI), and the House bill is H.R. 3660, cosponsored by Dale Kildee (D-MI) and Olympia Snowe (R-ME), and

Whereas, many crucial child care issues can be addressed by the passage of this legislation, and

Whereas, the passage of this legislation will make federal funds available to help the states improve the quality, quantity, and affordability of child care resources, Now, therefore, Be It Resolved by the House of Representatives of the State of Florida:

That the Congress of the United States is hereby requested to pass the Act for Better Child Care Services so that the states may provide better child care resources to the citizens thereof.

Be it Further Resolved that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

SENATE MEMORIAL NO.

A MEMORIAL TO THE MEMBERS OF THE FLORIDA DELEGATION TO THE UNITED STATES SENATE AND UNITED STATES HOUSE OF REPRESENTATIVES, URGING THEM TO SUPPORT AND COSPONSOR THE ACT FOR BETTER CHILD CARE SERVICES.

Whereas, the State of Florida is currently in the midst of a child care crisis, with over 25,000 children on waiting lists for child care services, and

Whereas, the critical shortage of accessible and affordable quality child care throughout the nation demonstrates the need for this act, and

Whereas, this act will make child care more affordable in Florida for families of low or moderate income through grants to such families earning up to 115 percent of the median income for the state for families of the same size, and

Whereas, this act will serve to increase the number of child care providers and improve the quality of child care, Now, Therefore, Be It Resolved by the Legislature of the State of Florida:

That the Florida delegation of United States Senators and United States House of Representatives is requested to support and cosponsor the Act for Better Child Care Services.

Be It Further Resolved that copies of this memorial be dispatched to each member of the Florida delegation to the United States Congress.

TEN TO ZIP

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, when it comes to glass budget houses, you would think that the Reagan-BUSH team would leave rock throwing to others.

Not so.

It seems that the same folks who have produced consistent deficit whoppers, have sent their gum-shoed accountants up to Boston to snoop on the budget record of the Dukakis administration. Yes, the same phony pennypinchers who have doubled the national debt in 8 years, who have spilled more red ink than all prior U.S. Presidents since George Washington, now want to check the bottom line in the Massachusetts State House. It may be a learning experience. There they will find balanced budgets.

But they really ought to stop passing the budget buck and to start working with the Congress on a realistic and effective plan to balance the Federal budget—Congress can use the leadership.

A recent editorial in the Grand Forks Herald offers a sensible alternative to rock throwing on budget issues and I commend it to my colleagues:

BALANCED BUDGET ISN'T THE TOP FISCAL ISSUE

Now here's a laugh:

The Republicans are haunting the Massachusetts statehouse, scrutinizing the numbers in the state budget. They're sure that Michael Dukakis has created a mirage, and not a balanced budget at all.

That would be political dynamite, the Republicans think, because Dukakis has bragged about his ability to balance state budgets. He told the Democratic national convention that he'd balanced 10 of them.

We're not experts on the Massachusetts budget, but we've got good memories. We remember that Ronald Reagan and the Republicans promised a balanced federal budget when they came to office in 1980.

And we know that the federal budget is awash in red ink. In fact, the federal deficit is bigger than it's ever been.

So we suggest that the Republicans hovering like vultures over the budget books in Boston should figure out what to tell Americans about their own failures in Washington.

And we'd urge the American people to let the partisan talk about budget balances flow around them. Instead of recriminations about who has and who hasn't balanced a budget in Boston or in Washington, let's ask what kinds of programs each party would sponsor, and how they'd pay for them. That goes for the social programs as well as for the defense programs, for farm subsidies as well as food stamps.

In the final analysis, American voters bear responsibility for balanced budgets. We're going to have to make reasoned judgments about what we want from government, since it's clear we can't have it all.

The only way those judgments can be made is at the ballot box, and politicians must be pressed to describe their vision for the country, and how they'd go about financing it. That goes for candidates for state legislatures and the U.S. Congress as well as for the presidency.

Judging by the performance of our politicans so far, this isn't going to be an easy job. The shrieking from Boston doesn't help any, either.—Mike Jacobs

TRIBUTE TO THE HILL FAMILY OF PICKFORD, MI

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DAVIS of Michigan. Mr. Speaker, I rise today to recognize the Hill family of Pickford, MI. More than 150 family members, coming from as far away as California, are expected to participate in the Hill family reunion during the weekend of August 6 in Pickford. I would also like to commend those who have contributed to making the reunion such a special event.

It is refreshing to see a family take pride in its heritage. The Hill family came from Scotland over 100 years ago and became one of the first settlers of the area. In 1987 when Michigan was celebrating 150 years of statehood, the Christmas tree that was chosen to stand in front of the State capitol in Lansing was taken from the Hill's property in Sterlingville, MI. The 75-foot white spruce was even larger than the tree at New York's Rockefeller Center.

I would like to extend my best wishes to the Hill family for a successful reunion and a second hundred years of fond memories.

FOR 50 YEARS, ALWAYS THE GOOD SPORTS

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. GALLO. Mr. Speaker, there are many parallels that can be drawn between having team spirit and being civic minded. In sports, as in life, it takes a group of individuals working together to accomplish the goal, whether it be hitting a grand slam homer, scoring a touchdown or starting a community scholarship fund.

In 1938, a group of individuals in Boonton, NJ, formed a sports club with high hopes and great expectations.

The club's stated purpose was to enable its members to compete in organized sporting activities that were both professionally managed and, at the same time, open to involvement by the community at large.

This year, the South Boonton Field Club celebrates its 50th anniversary.

From 1946 through 1950, the Boonton Panthers were at the top of the heap among New Jersey semipro football teams. The Panthers practically owned the State championship during that time, with two undefeated seasons to their credit.

During the time when I was a student at Boonton High, we took a great deal of pride in our sports teams. The solid foundation of pride and performance shown by the individuals who were the moving force behind this organization provided those of us who were coming up in the 1950's with high standards to meet.

Since 1950, the focus of the club has been broadened, but the high club standards and its commitment to community service have never diminished over the years.

The South Boonton Field Club has organized and sponsored teams for our young people, in areas such as little league baseball, midget football, girls' softball and girls' bowling.

The club has contributed to municipal projects, including the library, and has promoted community involvement in special events, such as Citizen's Day and the annual Christmas Pageant.

The good works of club members extend beyond the community as well, with participation in CARE assistance programs for needy children in other countries.

The South Boonton Field Club is also actively involved in a Boonton High School scholarship program that promotes academic, as well as athletic, excellence.

On the occasion of the 50th anniversary of the South Boonton Field Club, I ask my colleagues in the U.S. House of Representatives to join with me in recognition of the club's past accomplishments and to encourage those individuals who are current members to carry on the club's tradition of community service well into the 21st century.

BALLENGER WINS FIRST AMENDMENT AWARD

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, one of our own has received an award I think we all should be aware of.

Congressman CASS BALLENGER has been awarded the North Carolina Press Association's William C. Lassiter, First Amendment Award. We should all congratulate him.

CASS's award recognizes, in part, his more than 15 years of work in providing humanitarian aid to Central America.

During a 1987 factfinding mission to Nicaragua, BALLENGER met with two leaders of the Nicaraguan opposition—Violetta Chamorro, coowner of the newspaper La Prensa, and Miguel Cardinal Obando y Bravo, leader of the nation's Catholic Church.

The opposition leaders were under constant pressure from the Sandinista regime. Essential electronic equipment for the Cardinal's Catholic radio station were withheld. La Prensa's presses had been destroyed by Sandinista thugs and even newsprint was denied them.

CASS worked with local business leaders and the Inter-American Press Association to provide the necessary electronics for Radio Catholica and supplies to restart La Prensa's printing press.

Because of the work of Congressman BALLENGER, an element of freedom returned to Nicaragua. Recently the Sandinistas again closed La Prensa and Radio Catholica returning darkness to the country. To reopen these voices of freedom will take the work of the entire Congress rather than just one Member.

We all owe CASS BALLENGER and congratulations and thanks for what he has done. We should join him in his commitment to freedom of speech.

THE RESEARCH ACCOUNTABILITY ACT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. TORRICELLI. Mr. Speaker, today I am reintroducing the Research Accountability Act. The purpose of this bill is to correct the longstanding deficiency in the way this country manages its biomedical research enterprise. While we spend billions of dollars annually for research, there is no way that scientists can readily and economically find out what has been done before, so as to avoid performing duplicative research. The Research Accountability Act will serve both the scientific community and the taxpayer, and will result in more productive, efficient, and innovative research.

The legislation stipulates that the National Library of Medicine, an arm of the National Institutes of Health, shall make available to all of the Nation's medical libraries the full text of published research results using modern information technology. It further provides for the establishment, within the facilities of the National Library of Medicine, of a National Center for Research Accountability, staffed by specialists in the biomedical information sciences, who would conduct a full-text literature search prior to the funding of grant proposals involving live animals. This provision is currently restricted to live animal research because it continues to be the research method of choice, in addition to the fact that there is deep public disquiet over the duplication of experiments on live animals.

Mr. Speaker, the problem of duplicative and redundant biomedical research is not new.

The National Library of Medicine has existed under various names since 1836. Today, with its computerized facilities, the National Library of Medicine disseminates bibliographic information and brief abstracts. The serious researcher must then find the full-text documents. This often requires a far-flung search of medical libraries all across the country, including the National Library of Medicine's seven regional medical libraries. Only as a last resort does the library provide documents to the scientist.

To add to the difficulty, the quantity of published biomedical literature doubles every 10 to 15 years. It has reached such massive proportions that no individual scientist could devote the necessary time to find out what has been done, currently or historically. Cancer research alone, for example, which uses large numbers of animals, is published in over 1,500 journals worldwide. In fact, the volume of biomedical information available has become so vast that not even grant reviewers and funding agencies can readily find out what has been done before—not even in specialized fields. As a result, public funds are routinely awarded for research projects that duplicate experiments that have already been completed. It is this situation at which the Research Accountability Act is directed.

It makes no sense for our Government to go on spending billions of dollars annually for biomedical research while it is virtually impossible for scientists to find out what has already been done. The budget of the National Institutes of Health alone is over $6.6 billion this year, and is expected to top $7 billion in 1989. According to an internal National Institutes of Health memorandum, 55 percent of this money is spent for animal research—for a total of over $3.6 billion this year.

The real tragedy here is that duplication of biomedical experiments wastes medical research dollars and scientific talent, resources that could be used for vital research to help AIDS patients and cancer sufferers. This is a betrayal of those people whose very lives depend on our Government's wise investment of its research dollars. Implementation of the Research Accountability Act is expected to save millions of taxpayer dollars by eliminating duplicative and redundant experimentation, money which can then be redirected to important projects aimed at helping the victims of these tragic diseases.

This bill would not affect ongoing research. It would become operative only with new grant applications. Furthermore, it is not aimed at experiments in which researchers wish to confirm the results of experiments performed by other researchers. Rather, the bill is to address duplication and redundancy of the kind of experiments which appear in the published literature.

Since the modern technology is now at hand, this legislation, for the first time, gives the Congress and the American people the opportunity to address this enduring problem of efficient, cost-effective, full-text biomedical information storage and retrieval. Solving it will require the expertise of the high-tech biomedical information sciences supplied by specialists from both inside and outside Government.

This bill will create the most modern, up-to-date medical library in the world capable of providing our scientists, researchers, teachers, and students with almost instantaneous references and information. It would also eliminate the tragic duplication of experiments on live animals, which costs millions of taxpayer dollars and animal lives each year.

I encourage my colleagues to support this legislation.

ALAMEDA COUNTY, CA, PHARMACISTS ASSOCIATION ESSAY WINNERS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. STARK. Mr. Speaker, three very bright Alameda County high school students, Matthew Gels of Pleasanton, CA, Henry Thai of Fremont, CA, and Raymone Miller of Oakland, CA, recently won the Alameda County, CA, Pharmacists Association "Why I Don't Use Drugs" essay contest. I read their essays with much interest and pride, for they all show the initiative and courage to say no to drugs. The subject of saying no to drugs is an important one, for it is their generation which has been forced to confront daily the temptation of these deadly illicit substances.

Drugs—and that includes illegal drugs, alcohol abuse, prescription drug misuse, and tobacco addiction—are wrong, are harmful, and ought to be strongly discouraged. We, as a society, have not emphasized enough the negative effects of all drugs. Society has set an awful example to young people by glamorizing consumption of alcohol, liquor, tobacco products, and illicit drugs. Mr. Speaker, we can do better.

These essays are a perfect written expression of how to avoid these temptations. Matthew, Henry, and Raymone are deserving of this award from the Alameda County Pharmacist Association.

I am entering their essays in the RECORD for my colleagues to read and consider:

WHY I DON'T USE DRUGS

(By Matthew Wayne Gels, Amador Valley High School, Pleasanton, CA)

Many a time arose when I was forced to ask myself a question: "Why exactly is it that I do not use drugs?" I knew the reasons were good, but I could not single them out. With so many people and peers of mine using drugs, it was no easy task to figure out what separated me from them. I finally pinpointed the reasons as the plain facts that I am healthier without drugs, I am happier without drugs, and I have too much that I could lose by abusing drugs.

First and foremost, drugs are a danger to a person physically. I am healthy, in good shape, and I enjoy participating in sports. Abusing drugs would only jeopardize that for me. Also, what pleasure can be derived from being a slave to a small poppy, pill, or white powder? Merely the facts that drugs are an inconvenience and are hazardous insured that I would not abuse them. I did not even have to take into account the life-threatening danger that they pose.

Furthermore, I am totally content living without drugs. To deny the real world and turn to drugs does not make one stronger. Problems remain unsolved and will still plague the drug user when he returns to reality. Moreover, there are too many enjoyable things to do in the short lifetimes we are given. Consequently, I will never have to turn to drugs for pleasure, for I will always have something else to do.

Most prominent among my reasons is that I have too much to lose by using drugs. I am at the top of my class, I am lucky enough to have a lot of good friends, and I have a wide range of interests. To abandon these in pursuit of a false pleasure would be the most foolish thing I could ever do. I have seen people hurt by drugs and the respect that they lost because of it, and I am thankful to be far away from their place.

I used to ask that question of myself frequently, to assure myself that those "harmless" drugs were unnecessary, I suppose. Now that I am confident of my choice, I no longer need to convince myself that drugs are bad; I simply know that it couldn't be otherwise. I have never abused drugs, and I don't intend to. I must admit that does give me a feeling of accomplishment, but it is a feeling that I could never have found in drugs.

THE HIGH LIFE

(By Henry Thai, Hayward, CA)

Death. Nobody thinks of this when they begin using drugs. Pleasure. Escape. Acceptance. These are some of the reasons drugs are used. Yet the affects users achieve are out of their realm of imagination. These people become addicted to the grass, angel dust, crack, that circulate through dealers. The dealers attract addicts like the way garbage attracts maggots. Once a person is chained to the "high" feeling, he/she is playing Russian roulette with his/her life.

Drugs kill. It doesn't deal a quick death like a car accident or bullet through the ears does. Drugs burn. It burns like fire, but drugs burn from the inside. An addict first loses his/her sense of reality, totally engulfed in a fantasyland. Then, the drugs disintegrate the love that exists between family and friends; up to the point where the user will do anything, even kill loved ones, for the money to fuel their journey through insanity, to the brink of death.

Len Bias, a young basketball star enroute to a brilliant career in the National Basketball Association, fell to the overwhelming power of drugs. An overdose took his life tragically after he was drafted by the Boston Celtics. Len Bias was cut down in the prime of his life, before he had really began it.

Unborn generations can also be harmed by drugs. A pregnant mother who inhales cocaine will have a baby that's addicted to cocaine. It is a shame to think that the fate of a child has been decided even before that child is born. The baby will be unable to live a normal free life, chained to the need for narcotic stimulation. If this was only all that could happen to an unborn child, the situation would not be as bad as it is. The truth is that drugs cause birth defects. The child may wear the stupidity of his/her mother for the rest of his/her life.

Drugs aren't worth it. The few minutes of pleasure aren't worth years of pain and risking one's precious life for. Drugs may be fun for someone today, but tomorrow they may be gone because drugs will get you at the end.

"JUST SAY NO TO DRUGS"—WHY I DON'T USE DRUGS

(By Raymone Miller, Freemont High School)

The reason I don't use drugs and will never try drugs is because of the terrible life-threatening things I have learned about all of them.

I have learned that they can make you very sick, go into a coma, become brain-dead—or, even worse, they can kill you. The knowledge of the consequences that may occur from drug use of any kind has convinced me that they are something that I do not want, do not need, and will never use.

Another reason why I will always abstain from using drugs is the things you can end up doing when you are high or loaded. Some people believe that if they take a drug that they are not going to behave like other people who do stupid things when they take them. The thing they don't understand is that when you are under the influence of a powerful drug substance, you are relinquishing, or giving up the power you have over making your decisions. And, in a way, it's like you are outside your own body and watching yourself while your body is doing what it wants and not giving any consideration to the possible outcomes of its actions.

I have become aware of the worst drug that has been commonly used throughout the centuries and which is considered socially acceptable by society. It is marketed in nearly all liquor, drug, and grocery stores. It is served in most restaurants, planes, and just about any place imaginable. It is alcohol—prepared in cans as beer, light beer, as wine, cocktails and so forth. It is easily addictible and has destroyed the lives of hundreds of millions of people.

Currently, alcohol ranks first as the killer of teenagers. Annually, approximately 25,000 young people are killed in alcohol-related accidents, and around 800,000 more are injured in these accidents. Along with alcohol, another highly acceptable drug is tobacco. The grief, suffering, illness and death caused by smoking is all too well-known to society. Yet, very little is being done about educating the public about its harms or the harms of liquor. Believe me, you won't find me using alcohol or tobacco in any form! I want to live a long healthy life!

Next in the line of drugs that I have learned that I will never use is cocaine. I will never use it in any form. Why? Because it inflames the arteries of the brain. As a disabler or killer, it can quickly take your life the first time you use it, or it can inflame your brain and create a disability called vasculitis which brings on paralyzing strokes, heart attacks, strokes, ruptured arteries, abnormal heart rhythms and heart inflammation. When you consider how South Americans make cocaine from coca leaves by using gasoline on the leaves and stomping the leaves with their feet for several hours, it's a wonder that anyone would dare eat, smoke, sniff, inject, or anything else this filthy substance. Again, the public isn't being educated enough about cocaine products or they would soon become repulsed at the thought of using them.

The sad part about all this is that most people don't know the processes used in the making of cocaine substances. People don't know that PCP is phencyclidine, a mind altering drug which causes paranoia. They don't know that alcohol damages the brain and changes a person's behavior. They haven't learned that tobacco damages the lungs, may cause ulcers, and bring on multiple circulatory diseases as well as cancer. People haven't learned that heroin comes from the opium poppy and that China was once addicted to opium to the point that it almost destroyed itself.

I have learned these things about drugs, and because I know how harmful and dangerous these products can be, I know that I will never take any of these products because I want to live a long, healthy, and vigorous life, enjoying it to the fullest.

I believe that if we start educating the public and, in particular, teenagers, to the harm of drugs, we will some day soon have a drug-free society. A society that says "No to Drugs!"

CHILDREN'S INN AT NIH

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. WALGREN. Mr. Speaker, on July 29, a groundbreaking was held at the National Institutes of Health for the Children's Inn, a new facility to provide housing for up to 36 families whose children are receiving treatment at the NIH clinical center. Currently, families must stay in nearby hotels without kitchen and recreational facilities.

The Children's Inn is a splendid example of cooperation among Government, the private sector and private citizens in filling a critical need in our society. The Inn was made possible by a generous donation by Merck & Co., a New Jersey-based pharmaceutical company, and the donation of land by NIH.

I am pleased to share with my colleagues the message sent by Ted Kennedy, Jr., one who knows the problem of serious illness firsthand and has faced his problems with great courage and strength:

> As a longtime advocate in the fight against cancer, I applaud the National Institutes of Health and Merck & Company, Inc., for their successful efforts to establish the Children's Inn. I also applaud Speaker WRIGHT and his wife Betty, as well as all other Members of Congress who have taken the leadership on this matter to help make the Children's Inn a reality. For the children at NIH's Clinical Center and for their families, your united efforts are making a real difference. Let the Children's Inn serve as an example to us all that when we work together, we can truly serve.

UTAH STATE UNIVERSITY

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. OWENS of Utah. Mr. Speaker, located in northern Utah among the transcendent beauty of the Cache Valley is Utah State University, a land grant university founded in 1888. The university has spent the past year commemorating the 100th anniversary of the institution's beginning with a commitment to continue the academic success into the second century. Utah State University has long been recognized as a leader in the fields of agriculture, space engineering, and business.

The Partners Program at Utah State University has long been an international leader in educating business managers and students in methods for improving quality and productivity.

Hosted by USU students, the Partners Program has brought in leading world experts such as John Kenneth Galbraith, Milton Friedman, Peter F. Drucker, James Buchanan, and over 100 such experts from industry, academics, labor and government. The students along with the leaders from these areas exchange ideas on career planning, management practices, and job opportunities. In a time of increasing trade deficits, I commend Utah State University's quality education program which strives to make businesses more competitive.

I would also like to commend Dr. Shigeo Shingo, known as Japan's Dean of Management Consultants whose productivity systems are used by hundreds of businesses, for setting up $2 million endowment in order to provide an annual manufacturing excellence award to students, faculty, and business.

Not only has Utah State University excelled in educating students, they have also made significant contributions to the business world.

COUGHLIN POLL SHOWS CONSTITUENTS PREFER TOUGHER POLICIES AT HOME, BACK INITIATIVES ABROAD

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. COUGHLIN. Mr. Speaker, residents of Pennsylvania's 13th Congressional District responding to my annual questionnaire indicated by strong majorities their preference for stronger action versus spending more money in the battles against drug abuse and illiteracy.

The 8,000-plus respondents also signalled support of the direction of U.S. foreign policy and, more specifically, President Reagan's initiatives in the Persian Gulf and Central America.

Questionnaires were mailed out to every home and postal box in the district which includes 28 municipalities in Montgomery County and three wards in the city of Philadelphia.

Major findings of the survey are:

Three-quarters chose tougher enforcement against drug users and pushers and drug testing to more money for interdiction and abuser treatment when asked what is more important in the war against drugs.

Eighty percent favored greater emphasis on the basics and stronger student and teacher evaluations as more important in improving the quality of basic education. The other option of more money for teachers and facilities was preferred by 20 percent.

To combat the trade deficit, 65.8 percent approved reciprocity in dealing with other nations' exports, versus industry-specific protective quotas (10.9 percent), tariffs or taxes on selected imported goods (13.5 percent), or continuation of current trade practices (9.8 percent).

The U.S. economy is on the right track according to 63.6 percent, while 36.4 disagreed.

Opinion was more closely divided on questions regarding senior citizens and health care insurance for workers. While 51.4 percent responded that the Federal Government provides adequate protection and benefits to older American, 48.6 percent disagreed. Mandatory, employer-sponsored health care insurance protection for workers was endorsed by 58.4 percent, while 41.6 opposed it.

A majority—59.7 percent—agreed that, on balance, U.S. foreign policy is on the right track, with 40.3 percent in disagreement.

Over 82 percent cited the Nicaraguan resistance (Contras) as necessary for a Democratic change in that country, with a dissent of 18 percent.

United States Naval presence in the Persian Gulf was favored by 71.3 percent versus 28.7 percent. It should be noted that the questionnaire responses were tabulated before the July 3 incident involving a United States naval vessel and an Iranian jetliner.

As I have done in the past, the results of my annual Congressional Questionnaire will be provided to the White House.

QUESTIONNAIRE RESULTS—1988

	Percent
1. On balance, do you believe the U.S. economy is basically on the right track or is it moving in the wrong direction?	
Right track	63.6
Wrong direction	36.4
2. To combat the trade deficit which threatens jobs but also provides lower consumer prices, would you (Choose one):	
A. Use quotas to protect entire industries threatened by imports:	
Yes	10.9
No	89.1
B. Impose tariffs or taxes on selected imported goods:	
Yes	13.5
No	86.5
C. Treat another nation's exports exactly as they treat our exports:	
Yes	65.8
No	34.2
D. Continue current trade practices:	
Yes	9.8
No	90.2
3. Do you believe the federal government generally provides adequate protection and benefits to older Americans?	
Yes	51.4
No	48.6
4. Should the federal government require employers to provide health insurance protection for their workers?	
Yes	58.4
No	41.6
5. Which do you think is more important in fighting the war on drug abuse (Choose one):	
A. More money for drug interdiction, education and treatment:	
Yes	25.0
No	75.0
B. Tougher enforcement against users and pushers; drug testing:	
Yes	75.0
No	25.0
6. Which do you think is more important in improving the quality of basic education (Choose one):	
A. More money for teachers, smaller classes, better facilities:	
Yes	19.9
No	80.1
B. Greater emphasis on basics, stronger student and teacher evaluations:	
Yes	80.1
No	19.9
7. On balance, do you believe U.S. foreign policy is basically on the right track or is it moving in the wrong direction?	
Right track	59.7
Wrong direction	40.3
8. Absent pressure from the Nicaraguan Resistance (Contras), do you believe the Sandinista government of Daniel Ortega will undertake major democratic reform?	
Yes	17.6
No	82.4
9. Do you believe freedom of oil shipping lanes in the Persian Gulf remains sufficiently important to warrant current U.S. Naval actions there?	
Yes	71.3
No	28.7

IN COMMEMORATION OF HUMAN RIGHTS ACTIVIST NELSON MANDELA ON HIS 70TH BIRTHDAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HORTON. Mr. Speaker, on the occasion of Nelson Mandela's 70th birthday, I would like to take this opportunity to recognize the tremendous sacrifice this man has made to abolish the practice of apartheid in his nation.

Mandela is a man known throughout our Nation and the world for his courage and strength in protesting the evils of the apartheid system in South Africa. He has led a continous protest as a founder and leader of the African National Congress, as a renowned human rights leader, and as a role model for those who are oppressed by apartheid. Mandela began his protest as a nonviolent one. He turned to violent means only after he realized that it was the only way to counter the extreme repression of the black population by the South African Government.

Perhaps he, like George Washington and the leaders of the American Revolution, will be the founder and leader of a new form of government in South Africa. Like the British mercantile system against which our founding fathers fought, the apartheid system will hopefully be cast off the shoulders of those who have been bearing the burden of oppression. I have every hope that in his lifetime, Nelson Mandela will be able to make this possible.

I find it incredible that Nelson Mandela has spent exactly the same amount of time in jail that I have spent in Congress: 26 years. While I have spent these years fighting for legislation in which I believe, he has had a much more difficult fight against a system that will not allow him to win, as yet.

We in the United States continue to follow and support the protest that Mandela and his wife, Winnie, are leading with such bravery and strength. It is my wish that they be aware of the international solidarity that stands behind their efforts.

1988 CONGRESSIONAL CALL TO CONSCIENCE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HOYER. Mr. Speaker, I rise today to join my many colleagues who have participated in this year's Congressional Call to Conscience Vigil for Soviet Jews. I would like to commend the sponsors of this year's vigil, Congresswoman CARDISS COLLINS and Congressman JOHN MILLER for their efforts in focussing Congressional and public attention on the continuing problems facing Soviet Jews.

Mr. Speaker, in this era of glasnost and perestroika, we have seen some improvements in the human rights climate in the Soviet Union. One such improvement is the increase in the number of Jews who have been permitted to emigrate. In 1986, only 914 Soviet Jews were permitted to leave. That figure jumped almost tenfold in 1987 to 8,155. The numbers continue to increase with 7,753 more Jewish emigrants through the first 7 months of this year.

Two of those who recently emigrated are Benjamin Charny and Yuri Zieman who, after more than 9 years of refusal, have been permitted to join their loved ones here in the United States. Benjamin Charny suffers from cancer and heart disease, while Yuri Zieman has suffered from a life-threatening aneurysm of the brain, which may require surgery. Now both men will be able to receive the medical attention that their conditions require.

While we welcome the emigration of Benjamin Charny and Yuri Zieman, as well as the increase in the total number of people emigrating from the Soviet Union, there are cases that still continue to come to my attention of individual's denied the right to join their loved ones, despite their repeated appeals to Soviet authorities. It is with them in mind—so that we do not forget, so that we continue our focus on their suffering—that I join in this Congressional Call to Conscience for Soviet Jews.

Boris and Esfir Orlov have been refused the right to emigrate for over 11 years. The Orlov's were denied permission to emigrate for Boris' alleged knowledge of state secrets. But more importantly, 80-year-old Boris suffers from Parkinson's disease and his wife, Esfir, also is in poor health. Their wish is to spend their remaining days with their daughter and three grandchildren in Israel.

Vladimir Knokh has been attempting to emigrate to Israel since 1974. He is another of the so-called secrecy refuseniks. Vladimir's appeal to General Secretary Gorbachev in January of this year has gone unanswered, and he and his wife continue to hope for the chance to see Israel.

Grigory Gimpelson, forced to divorce his wife, Bronislava, so that she and her son could emigrate, still waits in Leningrad. He is told, after 20 refusals that he will not be reunited with his wife and child until 1995.

And, finally, Mr. Speaker, there is Yuli Kosharovsky who was the spokesperson for the refusenik community at a reception at Spaso House during President Reagan's recent visit to Moscow. A refusenik for 17 years, longer than any other, Kosharovsky was "rewarded" for his outspokenness on the issues facing Soviet Jews by being told by Soviet officials that he will be unable to emigrate until 1991.

Mr. Speaker, I could go on and on with the names of individuals whose cases have come to my personal attention, as well as to the attention of the Helsinki Commission, which I chair. The fact remains that individuals remain in a country, not by their own choice, but by the capricious and arbitrary decisions of others. These individuals starkly illustrate the Soviet failure to live up to the international agreements, such as the Helsinki accords, to which they are a signatory. That is why I am here today, participating in the Congressional Call to Conscience, Mr. Speaker—to continue to draw attention to those individuals who suffer as a result of Soviet noncompliance with these agreements. I urge my colleagues to continue their efforts in this program and their efforts to encourage greater compliance by the Soviet Union with its international commitments.

TRIBUTE TO RAYMON HARRISON ROEBUCK

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. PICKLE. Mr. Speaker, I was not able to take part in yesterday's special order honoring Raymon Roebuck, but I want to take this opportunity to say a few words about Raymon and his service to this House.

Those who run for public office are always looking for the right place to get the latest words of wisdom and the most current political intelligence. Sometimes these gems of knowledge come from taxicab drivers who can tell us what their passengers are thinking. Sometimes we go to the neighborhood barbershop to avail ourselves of a wealth of free advice and political wisdom. Whatever the source, you always feel you're listening to the "X factor" in conventional wisdom.

Well, in the House of Representatives, the place of all wisdom for Democratic Members is the Democratic Snack Bar, where "Judge" Raymon Roebuck presides. You can always hear the most current intelligence and the latest rumors—you can even start a few, if you like, and Raymon will help you spread them.

Raymon is always on hand to take care of the needs of our Members, and he always does so with a smile, never losing his patience with our demands or problems. Whenever we call on him, he is always in a good frame of mind. He even helps serve our famous Texas venison chili—even though he knows it cuts into his sales. Raymon has served us good refreshment and conversation, and given us sustenance and the means to revive body and spirit. He is truly "one of us."

Now, these precious services are not for free—like any good lawyer, Raymon has learned how to charge his fee. But we always come back to Raymon and his delightful place to relax in an atmosphere of good fellowship.

I am proud to join my colleagues in honoring Raymon Roebuck for his 25 years of loyal and faithful service to this House. As we celebrate this anniversary, it's fitting and proper that we say "thanks, Raymon" for being a steadfast friend and confidant to us all.

THE COMPREHENSIVE ANTI-DRUG ACT

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of H.R. 4842, the Comprehensive Antidrug Act of 1988. This legislation, which I have cosponsored along with 114 of my colleagues, seeks to combat the production, sale, and use of illegal drugs.

It is no secret drugs are dangerous. Americans are more conscious than ever of the tragedies of drug use. Polls indicate that the American public believes we are losing the war on drugs. In 1986, Congress approved an omnibus antidrug abuse bill that increased penalties for drug offenses, and increased funding for drug eradication and interdiction efforts, and for education, treatment and rehabilitation programs. The 1986 bill, which I supported, has been a good starting point for our war on drugs.

However, more can and should be done to combat illegal drug usage. It is for this reason that my colleagues and I offer this bill concentrating on four key priorities. First, it seeks to reduce the demand for illegal drugs by sending a strong signal to drug users that they will be held accountable for their actions. For example, the bill would require states to establish policies suspending or revoking a driver's license upon conviction of a drug offense. It would also prevent individuals convicted of drug offenses from being eligible for certain federal benefits, such as student loans and grants. Furthermore, the bill would beef up drug education programs which are important in persuading young people to stay away from drugs.

Second, it is time for us to clamp down on drug-related murders by strengthening criminal penalties. Among other things, the bill would establish the death penalty for drug kingpins, reform the exclusionary rule, examine habeas corpus law to improve the way in which the system punishes criminal law violators, and expand penalties for dealers who target our children.

Third, this bill would enhance our efforts in limiting the supply of illegal drugs coming into our country by establishing a multinational strike force capable of attacking and destroying drug trafficking havens wherever they exist around the world. It would also authorize covert and intelligence gathering operations to detect supplies of drugs. As well, it would call for a Western Hemisphere summit to coordinate a strategy to control trafficking. These efforts would expand upon current activities to eliminate supplies of illegal drugs produced in foreign countries.

Finally, the bill would improve interdiction efforts by increasing the role of the military and expanding Coast Guard operations. Also, it would prohibit reissuance of an airman certificate to pilots convicted of an aviation-related drug offense.

Mr. Speaker, this bill sends a strong signal to drug users, sellers, traffickers, and foreign and domestic drug producers that we are willing to take bold steps to combat this country's drug problem. I urge my colleagues to cosponsor this antidrug bill.

INTRODUCTION OF THE INSIDER TRADING AND SECURITIES FRAUD ENFORCEMENT ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DINGELL. Mr. Speaker, over the past 2 years, we have been hit by a series of insider-trading bombshells: from the arrest of Dennis Levine and the $100 million settlement of Ivan Boesky in 1986, to the fall of top investment bankers Martin Siegel and Boyd Jeffries last year, through the ongoing criminal investigation of Drexel Burnham, and the so-called Yuppie Five case. This June the SEC filed charges alleging that a Morgan Stanley & Co. mergers and acquisitions analyst had communicated material nonpublic information on the securities of at least 25 issuers to a Taiwanese businessman who made more than $19 million of illegal profits by trading on that information. Suspicious trades at no less than eight major Wall Street firms are being investigated by the SEC and three exchanges concerning insider trading by a number of broker-dealers with advance knowledge of the content of the "Inside Wall Street" column at Business Week. Advance copies of the magazine appear to have been leaked by printing plant employees.

This is not the handiwork of yuppies lean in years and short on morals. This is not an isolated bad apple or two on the fringes of the barrel. The registered broker-dealer firms are the sentries in the first line of defense of our self-regulatory system. The corruption that we are seeing suggests that the Street's ethical foundation is being seriously eroded and that the sentry posts are vacant.

The capital formation process depends on investor confidence in the fairness and integrity of our securities markets. Clearly what is needed here is legislation to send a strong signal to Wall Street and to investors. The Energy and Commerce Committee has crafted a comprehensive bill which I am pleased to cosponsor with several distinguished Members on both sides of the aisle. As introduced, the Insider Trading and Securities Enforcement Act would subject brokerage firms for the first time to stiff civil penalties for failing to take adequate steps to supervise their employees and prevent insider trading violations; the Securities and Exchange Commission would be permitted to award bounty payments to individuals who provided valuable information leading to the imposition of insider-trading penalties; private rights of action would be codified for those injured as a result of insider trading; monetary penalties for criminal securities law violations would be increased; and the Commission would be granted greater authority to cooperate with foreign securities authorities.

The bill further mandates that the SEC submit to Congress recommendations with respect to extension of the Commission's authority to impose civil penalties or administrative fines for violations other than insider trading. The bill also calls for a special study of the Federal securities laws. Such an undertaking is extremely important given the outgrowth of securities fraud and the issues raised in the wake of the October 1987 stock market crash. It is not intended however that this study should delay the adoption of necessary and appropriate reforms by the Congress or the securities industry.

I urge my colleagues to give this important legislation their favorable consideration and their support when it is brought before the House.

COMMEMORATING THE 100TH ANNIVERSARY OF THE DEATH OF GEN. PHILIP SHERIDAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. DORNAN of California. Mr. Speaker, August 5, 1988, is the 100th anniversary of the death of Civil War General Philip Henry Sheridan. On behalf of my wife Sallie, who is General Sheridan's great-great-great niece and on behalf of my constituent, Rosemary Stokes, who is also related to the late general, I rise today to pay tribute to his indispensable role in preserving our Union more than 100 years ago.

As many of you know, General Sheridan was one of the most illustrious officers of the Civil War. When the Civil War began in 1861, Phil Sheridan was an obscure lieutenant of infantry serving in Oregon. During the early months of the war, Captain Sheridan held administrative positions. His aggressive spirit chafed, however, under the restrictions of staff duty, and he therefore welcomed his appointment as colonel of the 2d Michigan Cavalry in May 1862.

In little more than a month, Sheridan won the stars of a brigadier-general for his signal victory at Booneville, MO. His subsequent service was equally as brilliant: at Perryville, commanding an infantry division, he succeeded where prior attempts failed; and at Stone River, he saved the army under the command of Gen. William Rosecrans with a stubborn resistance to the Confederate advance. His well-merited promotion to the rank of major-general of volunteers followed in December 1862.

In the battle of Chattanooga, Sheridan's command swept up the heights and over the crest of Missionary Ridge in a magnificent charge which contributed largely to General Grant's defeat of Bragg. Grant subsequently gave Sheridan command of all the cavalry of the Army of the Potomac, a corps consisting of three divisions, with about 10,000 men for duty. This cavalry was engaged in successive raids against the Confederate lines, performing brilliant service and security decisive results.

General Sheridan is perhaps best remembered as the commander of the Federal Army of the Shenandoah, for which he obtained command early in 1864. In the subsequent months, Sheridan's army destroyed the Confederate army under Early and laid waste to the Shenandoah Valley, thus cutting off General Lee's supply source. On April 9, 1865, Sheridan was present for Lee's surrender at Appomattox.

After the Civil War, Sheridan assumed important commands. In charge of the Division of the Gulf, he used demonstrations along the Rio Grande to persuade Napoleon III's French Army to end its occupation of Mexico in May 1866. During the reconstruction, he served as commander of the Fifth Military District. Promoted to lieutenant general in 1869, Sheridan commanded the Division of the Missouri, with its area of responsibility that included all U.S. territory between the Mississippi and the Rockies. He was commanding general of the Army from 1884 until his death in 1888—having achieved the highest military rank, that of general.

"Little Phil," as Sheridan was known to his soldiers, was at his best—cool, exact, self-possessed, the dashing and brilliant leader of men willing to follow him anywhere—when the battle raged hottest. He was determined in defense and relentless in attack. He envisioned the Union victorious, and he helped to make that vision a reality. As one of the three most important Union generals, he had a key role in preserving the unity of our great nation. Therefore, Mr. Speaker, I would like to urge my colleagues to join me in paying tribute to Gen. Philip Henry Sheridan by commemorating the centennial of his death.

INTRODUCTION OF THE UPPER MISSISSIPPI HEADWATERS PROTECTION ACT OF 1988

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. STANGELAND. Mr. Speaker, today I'm introducing legislation to restrain the Corps of Engineers from making any hasty or imprudent decisions about the headwaters reservoirs of the upper Mississippi River in Minnesota.

Recently, Governor Perpich requested the corps to increase releases from one or more of the six headwaters reservoirs. This is part of the Governor's two-step plan to address drought-caused problems along the upper Mississippi River and in the Twin Cities area.

Step 1 requires the river flow measured at Anoka, MN, to drop below 1,000 cubic feet per second [CFS] and the Twin Cities to implement restrictions on nonessential water use. This has happened already.

Step 2 allows the Governor to request the corps to increase releases from the headwaters reservoirs if the flow stays below 1,000 CFS for 72 or more hours. This, too, has happened. Now, the corps must decide what to do.

The Upper Mississippi Headwaters Protection Act of 1988 responds to this critical situation by giving the corps direction. The guidance in my bill is based on concerns expressed during a July 13, 1988, hearing by the Public Works and Transportation Committee and chaired by Congressman JAMES OBERSTAR. The corps, the Minnesota Department of Natural Resources, and others testified.

Before the hearing, I was concerned about a drawdown's impact on those who live and make their livings in the region. I am still not convinced an increased release offers the best approach. The current proposal may set a bad precedent, provide an unworkable solution, and treat upstream residents and users unfairly. Before the corps proceeds with a drawdown, they need to address concerns of homeowners, lake users, resort owners, Indians, and other interests. At the very least, they must make sure any proposed release will not unduly affect fish and wildlife, property interests, agricultural production, and Indian treaty rights.

In response, my bill simply requires the corps to analyze these concerns and report to Congress before implementing a drawdown. The House and Senate Public Works Committees would not have an outright veto power over the corps proposal. Rather, the intent of the bill is to force the agency to take a hard look at a controversial proposal. Rather, the intent of the bill is to force the agency to take a hard look at a controversial proposal before they rush to judgment. The bill would prohibit the corps from implementing the drawdown until Congress has a chance for review.

Section 2 contains the basic requirement to report to Congress. It has some built-in safeguards to allow maximum flexibility. First, the requirement does not apply where an increased release of less than 150 CFS is contemplated or in the event of an emergency involving critical threats to water supply, water quality, or power production. Second, the corps need not wait longer than 7 days for a congressional response.

Section 3 is a savings clause, stating that the bill does not in any way affect existing restrictions on the corp's authority to manage the reservoir releases. Section 4 provides definitions.

Mr. Speaker, this is a responsible bill that responds to an immediate need. It sends a strong and timely signal to the corps. I urge my colleagues to support this narrowly crafted, but important legislation.

SHOULD WE RAISE THE MINIMUM WAGE?

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. HEFLEY. Mr. Speaker, the current minimum wage, $3.35 an hour, hasn't been raised since 1981. By 1987 it stood at 37 percent of average hourly earnings. It hasn't been that far below the average wage rate since 1949. Workers earning minimum wage make about $7,000 per year—that's less than two-thirds of the Government's official poverty level for a family of four. This is dismal information. It's also very misleading.

Raising the minimum wage appears to be a long-overdue way of helping the poor. That is just not true. In fact, a big increase in the minimum wage, which is currently being suggested by Congress will raise inflation, increase unemployment, and eliminate jobs for the poor.

Every time the minimum wage is raised, some minimum wage jobs are eliminated, one estimate indicates that for every 10-percent raise of the minimum wage, unemployment rises 3 percent. If the minimum wage is increased to $4.65 an hour by 1990 and to $5.05 an hour by 1992, as Congress is proposing, a minimum of 882,000 jobs will be lost. This estimate does not include those jobs lost due to the "ripple effect" of the higher minimum as pressure is exerted to increase wages for higher wage workers in order to maintain the previous wage differentials.

Job loss, especially at the minimum wage level, where the young and inexperienced are trying to break into the workplace, inevitably means more demand for unemployment and welfare benefits. That means more Government expenditure and more deficit. One estimate indicates that passage of the minimum wage increase would mean an increase in the deficit by roughly $7 billion.

Aside from the loss of jobs and increase of the deficit, a raise in the statutory minimum increases the cost of doing business. When that happens, business reduces costs where it can, thus the reason for job loss. Where it cannot, it must increase prices. When the cost of doing business goes up, consumers are usually the ones who pay the price.

There are better ways of helping the working poor. One possibility suggests improving the earned-income tax credit, which goes to working parents with low incomes. The maximum credit is now $874. Because most of these workers don't owe income taxes, the credit doesn't vary according to family size. The idea would provide bigger credit for larger families, up to $2,500 for four children. This approach wouldn't raise prices, wouldn't deter hiring, and would direct benefits to those in need.

The best help for the poor is to improve the economy so there is more demand for workers. In many parts of this country where the economy is going great guns and the unemployment rate is around 2 percent, there is no worry about minimum wage because you can't hire anyone at minimum wage anyway. You must pay more to get people you need, a healthy economy with jobs for everyone able to work would mean more to the elimination of poverty than all our well-meaning Government poverty programs. Raising the minimum wage may be good politics in an election year but it's not good economics.

The question of whether to raise the minimum is not easily answered. The dilemma is basic; the larger the increase, the greater the economic damage; the smaller the increase, the more political ramifications.

A lot of complicated legislative maneuvering lies ahead. Let's hope Congress doesn't fall prey to another election year ploy and increase our economic problems in Colorado.

KEEP THE DEATH PENALTY OUT OF THE DRUG BILL

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. MOODY. Mr. Speaker, I'm pleased that the House is taking action to combat the Nation's drug crisis. Too many lives are being sacrificed to this illegal enterprise. Not only are drug users and dealers dying, but innocent bystanders to the trade are being cut down by cross fire. It's time to take decisive action and I look forward to the production of a comprehensive antidrug bill that cracks down on drug profiteers.

I'm concerned, however, that inclusion of the "death penalty for drug kingpins" provision in the omnibus drug bill might doom all chances of the bill's success. The death penalty is a controversial issue at the best of times, and no bill with the death penalty can expect quick passage by the House. I urge you and the House leadership to produce a clean drug bill, one that does not include the death penalty.

Everyone would agree that we need to take decisive action to stop the drug kingpins. More often than not, narcotics arrests net only lower level dealers, not the distributors who import the drugs. These kingpins are the ones ultimately responsible for the deadly drug virus attacking American society, and we must have the power to stop them.

But the death penalty for drug kingpins provisions is not the answer.

First, our judicial system is not perfect; it makes mistakes. And if it makes a mistake and a person is wrongly sent to death, there is no way to reverse the sentence.

Consider the case of Shabaka Sundiata Waglini, sentenced to die in Florida's electric chair in 1983. After nearly 10 years on death row, his life was saved by a stay granted a mere 15 hours before the execution. After 3 more years of deliberation, Shabaka was released from jail when it became clear that he was not guilty of the robbery, rape, and murder that was almost the cause of his death.

Why was this man almost killed for a crime he did not commit? Because our court system is not perfect. The prosecutor in Shabaka's case withheld information and misled the jury. A witness lied. And a man almost died because these errors were not discovered for more than 10 years.

Luckily for Shabaka, he was freed after only 13 years on death row. Had our capital punishment system worked as quickly as proponents would like, he would have been dead long before the truth came to light.

The courts stopped imposing the death penalty in 1967 amid questions of legality. In 1972, the Supreme Court ruled that existing death penalty laws were unconstitutional. Since then, several States have crafted new death penalty laws and begun putting people on death row. One hundred people have been executed. Now, more than 2,100 people sit on death rows across the country. Years of appeals stretch before them as they strive to prove they are innocent of the crime for which they were sentenced. Some of them will be right. But will the courts discover this before the sentence is fulfilled? Let's hope so.

The second basic reason to oppose this provision in the omnibus drug bill is a practical one; not only will it harm the bill's chances of passage, it may very well put the drug kingpins even farther out of the reach of the law. Most of these drug kingpins live abroad and according to Federal judicial officials, these countries are not going to agree to extradite their citizens to face the death penalty here in the United States. The result will be to insulate further the people behind the drug trade, the very people this provision aims to capture.

Until we can guarantee a fast, fair, and infallible judicial system, we should not consider a Federal death penalty provision. And until we can devise a law that will hold responsible the real drug kingpins, we should not act in haste.

Keep the death penalty out of the drug bill and Congress has chance to produce an effective and enforceable law to clean up America's drug problem. Include the death penalty and Congress may have killed the bill.

SOVIET IMMIGRATION POLICY QUESTIONABLE

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. YATES. Mr. Speaker, I wish to take this opportunity to call to the attention of the House the continued effrontery of the Soviet immigration policy. The specific point of contention is the definition of a divided family. The Lein family of Leningrad and the Pyatetsky family of Kiev would seem at first blush to meet the criteria to be considered divided families. But look again, it would seem as though the Leins are not yet divided enough to be deemed divided, and I guess, the Pyatetskys were simply not a family, for they can be divided no further.

Ten years ago, the Lein family of Leningrad consisted of Evgeny, his wife, Irina and their two children, Alexei and Sasha. Today, Sasha and her husband and their children are living in Israel, while her parents and brother remain in Leningrad. They are not yet considered a divided family. Evgeny and Irina hope above all else that Alexei will be permitted to emigrate before he reaches the age of majority and is forced to serve in the armed forces and, thus, subject to refusals on the grounds of secrets. Just this past week, Evgeny received word that he and Alexei had been approved for exit permits, but, since Irina was not approved and since the Soviets do not separate families, all permits were canceled.

Ten years ago, the Pyatetsky family of Kiev included the parents, Sarra and Michael, their two sons, Mark and Alexander and their respective families. Today, there is only Alexander still in Kiev; all of the others, including Alexander's wife, Sofia and their children, have emigrated to the United States and now reside in the Chicago area. Certainly, this family did not ask to be separated. Surely, this is a divided family. Efforts on Alexander's behalf continue.

Alexander Pyatetsky, Evgeny Lein, Irina Lein and Alexei Lein—to name but a few—all have first degree relatives living outside of the Soviet Union; if the Soviet Government did not separate them, how did their children and parents come to be living in Israel and the United States? Where is the point at which the Soviets will actually consider a family divided?

We must continue to make every effort to see that divided families and separated spouses are reunited. For truly, there is nothing sadder than parents and children or husbands and wives being kept apart. The Soviet Government says it does not separate families, why then are there so many families in need of reunification?

The Pyatetskys and the Leins ponder this same question.

A SALUTE TO THE POLLEY FAMILY REUNION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. STOKES. Mr. Speaker, the tradition of family unity reaches back to our earliest moments as a people, and it lives on in all the many cultures we embrace today. From August 12-14, 1988, the Leonard C. Polley family reunion will be held in Atlanta, GA. This marks the fourth annual reunion of the Polley family. On behalf of the residents of the 21st Congressional District, I am proud to salute the Polley family on this important occasion.

Mr. Speaker, family reunions offer a special time for families to come together for celebration and renewal of the ties that bind them. Although the Polley family has endured many trials and tribulations over the years, the family has maintained their love, devotion and commitment to one another. I am certain that the reunion will be a very special and joyous occasion.

I ask my colleagues to join with me in extending heartiest best wishes to the entire Polley family.

FISHKILL NATIONAL BANK CELEBRATES 125TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. FISH. Mr. Speaker, it is with great pride that I rise in honor of the 125th anniversary of "the Fishkill National Bank," based in Dutchess County in my home district of New York.

The bank, then known as the "First National Bank of Fishkill Landing," first opened its doors on August 15, 1863. Today it still operates under National Bank Charter No. 35—the oldest charter of its kind in the State and the 11th oldest in the Nation. It received its charter on July 24, 1863, not long after President Abraham Lincoln signed into law national banking legislation.

In 1914, a year after the villages of Matteawan and Fishkill Landing were merged into the city of Beacon, the bank changed its name to "The Fishkill National Bank of Beacon." In 1962 the bank merged with the National Bank of Cold Spring-on-Hudson and changed its name to the Fishkill National Bank.

Throughout its long and successful history, the bank has shown concern for community interests. Its first president, Walter Brett, and Director Joseph Howland were among the founders in 1871 of Highland Hospital, and Howland also helped organize Beacon's public library. The bank's third president, John T. Smith, was a founder of a company that installed trolley lines in Matteawan and Fishkill Landing in the 1890's.

The bank has been guided by careful, conservative consideration of business. Thanks to those policies, its depositors never lost a penny during the Great Depression of the 1930's. The bank continues to prosper: a month and a half after the bank opened, it had resources totaling $94,759; today it has assets of nearly $200 million. Throughout the bank's growth, it has retained its identity with the community, and its board of directors consists of people who live and work in the area.

Mr. Speaker, the people of this bank have much to be proud of, and I congratulate them as they celebrate the institution's 125th anniversary.

CLEAN AIR DEADLINE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. SCHAEFER. Mr. Speaker, our feet are to the fire, but it's our constituents that get burned. Last December, we in the House approved a Conte amendment declaring that America could wait no longer than the end of this month to have its Clean Air Act renewed. Along with this self-imposed deadline came an appropriate message—that air quality is simply too important an issue to be put aside. Yet today, 8 months later and approaching August 31, no clean air bill in the House has even seen its way through subcommittee. We turned up the heat, and then walked away.

Left behind are cities like Denver, CO, which have made tremendous improvements in their air quality since passage of the Clean Air Act. With this Federal/State partnership in place, days which Denver has exceeded the health standard for carbon monoxide has plunged from 83 in 1977 to 24 in 1987. It is therefore easy to understand my interest in seeing substantive amendments to the Clean Air Act adopted as expeditiously as possible. As a member of the Energy and Commerce Committee, I recognize the difficulty in formulating legislation which is tough, yet reasonable; aggressive, yet attainable. But as a resident of Colorado's Sixth District, I also understand the overriding need for such a compromise to build on the progress which we have made to date.

Mr. Speaker, we have faced countless deadlines during my tenure in the House. But I believe there are few more essential for us to meet than the one we face August 31. Allowing the Clean Air Act to again expire would send a dangerous and misguided message to the millions of Americans currently residing in nonattainment areas throughout the country. Their health is simply too important to be put on hold.

TROPICAL FORESTRY INSTITUTE SALUTED

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. FUSTER. Mr. Speaker, I am sure my colleagues join me today in saluting the Institute of Tropical Forestry as it prepares to celebrate 50 years of research activity in Puerto Rico. The contributions that the Institute has made to tropical forestry research are well known internationally, and the Federal facility is certainly a credit to Puerto Rico.

By way of background, let me note that the Institute of Tropical Forestry is operated by the U.S. Department of Agriculture's Forest Service and cooperation with the University of Puerto Rico and the Caribbean National Forest. Already, the Institute is planning an ambitious series of special activities to celebrate its golden anniversary, culminating with a symposium to be held May 24-26, 1989 at the Condado Beach Hotel in San Juan.

At that time, a field trip will be made to the world-famous Luquillo Experimental Forest, which is part of one of the few remaining true rain forests in the world and the only tropical forest in the U.S. National Forest System. Many of my colleagues who have visited Puerto Rico have most certainly toured El Yunque Rain Forest, where they have seen some of the 240 tree species, the unique flowers and other impressive vegetation in a pristine, verdant, mountainous setting, complete with waterfalls and other visual delights.

Thus, the Institute of Tropical Forestry is obviously involved in some ambitious research and other scientific projects of an international nature as it celebrates its golden anniversary. Moreover, the Institute will also involve the residents of Puerto Rico in its 50th year of service to the Commonwealth by seeking public involvement for the establishment of a register of champion trees.

I congratulate the Institute of Tropical Forestry for its impressive list of accomplishments, and I know my colleagues join in as we salute this important agency as it continues to address research issues in an area that today is of such vital importance to the well-being of the world.

HOMELESS WORKERS ENDANGERED BY ASBESTOS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. VENTO. Mr. Speaker, I was shocked to read a story published in last Sunday's Oakland (CA) Tribune—July 31, 1988—which revealed that dozens of homeless people had been hired by San Francisco Bay area contractors to work as "scrapers" removing cancer-causing asbestos from offices, banks, hotels, and churches. The story noted that despite Federal regulations, some workers received no safety training on how to work with asbestos and received no medical exams. Some of these homeless workers were sent into asbestos-contaminated areas without being given protective body suits. Workers were sometimes allowed to take off their respirator masks while working in contaminated areas.

During a 1986 job at the San Francisco Hilton Hotel, two homeless men who worked on the project said that the contractor sent them into an asbestos-contaminated area wearing respirators, but no protective suits. When a vacuum machine broke down on the job, some of the workers used their bare hands to pick up asbestos off the floor. Some of these workers drank from a water hose lying amid asbestos wastes because they were afraid to ask to go to the bathroom, which would have involved a lengthy decontaminated process that would have meant time off the job. As one man said, "You don't want to get on bad terms with the supervisor by asking if you can use the restroom * * * that's 15 minutes of company time."

Mr. Speaker, this is a shocking and sad story of contractors who were indifferent to strictly observing asbestos health and safety regulations on the job. It is also a story about the indifference of State and Federal OSHA authorities, who did not adequately monitor the compliance of these contractors, even after some of them had been cited for violations of existing regulations. Cal-OSHA, the California State Occupational Safety and Health Administration, reeling from severe budget cuts by the Deukmejian administration, was not on the scene when it should have been nor were Federal OSHA inspectors.

Finally, Mr. Speaker, this is a story which speaks volumes about the attitudes of some in our society who would treat homeless people as being expendable. A homeless man or woman who is told that he or she can make $9 or $10 an hour scraping asbestos may not be thinking first about the possible danger to their own health when they are desperate for a chance to work and to provide for their family. But certainly any building contractor with a conscience should be thinking first and foremost about the safety of those workers. Any State or Federal regulatory agency which knows that vulnerable homeless people are being hired to perform this dangerous work should be especially alert to enforcing health and safety regulations on the job. Terry Messman-Rucker of the Oakland, CA Union of the Homeless may have said it best when he said, "Society doesn't want asbestos, and it doesn't want the homeless, and it treats both as waste products."

What a travesty. What an outrageous exploitation of the vulnerable and the powerless in our society, in a nation that reveres the dignity and value of the individual.

The fact that asbestos-related diseases have no immediate acute symptoms does not diminish the seriousness of this problem. The latency period for asbestos-related lung, colon, and stomach cancers is 10 to 40 years and it may take decades for workers to develop asbestosis, a crippling lung disease.

I have written to Chairman GAYDOS of the Education and Labor Subcommittee on Health and Safety requesting a congressional investigation of these incidents. I have also initiated a letter, signed by most Members of the San Francisco Bay Area congressional delegation to John Pendergrass, the Assistant Secretary of Labor at OSHA requesting an immediate inquiry into this matter to determine the facts and to determine how widespread this problem may be elsewhere in the Nation. I hope my colleagues will join me in seeking answers to these questions so that this will never happen again to any workers, whether they be homeless or not.

HOMELESS WORKERS ENDANGERED BY ASBESTOS

(By Jack Cheevers)

Dozens of homeless people have been hired by major Bay Area contractors for the dangerous work of removing asbestos from banks, churches, offices and hotels.

And critics say the homeless are being exploited as a source of cheap, docile labor in jobs that may damage their health.

"It's sickening, in the literal sense of the word, because some of the workers will sicken and die," said Terry Messman-Rucker, of the Oakland Union of the Homeless.

In the past three years, at least four contractors have hired homeless people from Oakland, San Francisco, Berkeley and Hayward to work as "scrapers," removing thousands of square feet of asbestos-tainted material.

Once widely used in construction, asbestos is targeted for removal across the country. Inhaling or swallowing its fibers can cause lung, stomach and colon cancer, as well as asbestosis, a disabling lung disease.

The health worries have prompted officials at two San Francisco homeless shelters to stop referring clients to asbestos removal companies.

"I won't send them to a job that will kill them 20 years from now," said Cheri Putnam, a job counselor at Hospitality House in the gritty Tenderloin district.

Also, San Francisco homeless program officials are quietly monitoring people in city-funded shelters and clinics for signs of asbestos-related disorders.

Asbestos contractors strongly deny they exploit or endanger homeless workers. They say safety rules are followed closely, and jobs are offered to any qualified applicant.

But in interviews at local parks and shelters with 15 homeless people who have removed asbestos, The Tribune was told:

"Some homeless workers were sent into asbestos-contaminated areas at a San Francisco hotel without being given protective body suits;

Despite federal regulations, some workers received no safety training or medical exams;

Workers were sometimes allowed to take off their respirator masks in contaminated areas.

Those interviewed said homeless persons—most of them black men—made up anywhere from 20 percent to 90 percent of their work crews.

The crews worked for firms as large as Bechtel-Control Asbestos Management Inc., which is partly owned by the giant, San Francisco-based Bechtel construction company.

UP TO $10 AN HOUR

Homeless laborers said they were not recruited by the companies, but learned of the jobs at shelters or on the street.

And since entry-level asbestos jobs pay $9-$10 an hour—far more than minimum-wage hotel and restaurant jobs—the homeless have flocked to them.

In the last year alone, at least 70 homeless persons have been referred by San Francisco shelters to asbestos-abatement firms. But some homeless workers estimate that hundreds of them have been hired throughout the Bay Area.

Local contractors are hiring the homeless in the midst of a boom in the asbestos removal industry that is providing nearly $2 billion a year in work.

No laws prohibit hiring homeless persons for asbestos work, and federal job-safety officials said they have received no complaints.

"Whether they're homeless or own a castle is something we won't consider," said David Crockett, acting area director of the U.S. Occupational Safety and Health Administration in Walnut Creek.

Asbestos-abatement firms say homeless people can perform the work as well as anyone. And removal projects are monitored by independent consultants, who can order a job redone if it's inadequate, they said.

Some shelter officials are satisfied homeless workers are treated properly.

NO COMPLAINTS

"I haven't received any complaints," said Larry Marrs, a job counselor who has referred about 25 people to asbestos work from the Episcopal Sanctuary in San Francisco's South of Market district.

But critics say dangling $9 an hour in front of the destitute to perform such hazardous work is morally questionable, akin to paying prisoners to take experimental drugs.

"There's a history to this . . . Poor people always get the worst jobs in the stockyards and the coal mines," said Dr. Dan Wlodarczyk, medical director of San Francisco's city-run health care for the homeless program.

Critics say the homeless, because they need money so badly, are unlikely to report injuries or dangerous working conditions, boosting their exposure to risk.

"The asbestos companies . . . know they are so desperate to get back on their feet, to feed their families, that they'll do anything," said Putnam of Hospitality House.

Anne Adams, a recovering heroin addict and alcoholic who did asbestos removal while living at the Episcopal Sanctuary, said her need for work overcame her qualms about asbestos hazards.

"I went (to work) without really understanding the dangers of it," she said. "I was just so desperate to change my situation, that's all I thought of."

Since many homeless people are drug addicts, alcoholics or mentally disabled, critics argue they are at greater risk when surrounded by hazardous materials.

"If the companies were hiring children to use dynamite to do demolition work, there would be cries of outrage," said homeless activist Messman-Rucker.

ACCOUNTABILITY

Homeless workers also can be hired and laid off easily as the firms move from city to city, job to job, homeless activists say. And they're unlikely to file health-related lawsuits, as did thousands of shipyard workers against asbestos manufacturers, especially since homeless workers often stay in asbestos jobs only a few weeks or months.

"Twenty years down the line, they're going to barely remember who they worked for," said Messman-Rucker. "They're being used because they're expendable."

Although some homeless people said their employers complied with all or most safety rules, others cited problems.

During a 1986 job at the San Francisco Hilton Hotel, for example, some homeless workers were sent into an asbestos-contaminated work area wearing respirators but no protective suits, according to two homeless men who worked on the project.

The job was performed by SOS International, a South San Francisco-based firm that is one of the country's biggest asbestos contractors.

Federal and state regulations require protective suits, gloves and boots to prevent asbestos from clinging to workers' bodies and contaminating them or others.

When a vacuum machine broke down on the hotel job, some homeless workers used their bare hands to pick up asbestos, the two men said.

"It was a real bad scene," said Calvin Kelly, a homeless Vietnam veteran. "They didn't issue no gloves."

AFRAID OF BEING FIRED

Eric E-Tee, another homeless man who worked at the Hilton, said many of his fellow workers were hired through nearby Glide Memorial Church.

Kelly said he and others drank from a water hose lying amid asbestos wastes because they were afraid to ask to go to a bathroom, which would have involved a lengthy decontamination process.

"You took a chance of being . . . fired," he said. "You don't want to get on bad terms with the supervisor by asking if you can use the restroom . . . that's 15 minutes of company time."

Cal-OSHA inspectors cited SOS for two violations of state health and safety rules in connection with the job, records show. Cal-OSHA said the firm failed to properly train workers how to use respirators and did not follow procedures to make sure their masks fit properly.

SOS President Bob Mooring said "industrial hygiene was fairly rigid" on the hotel job, but that "there's no company anywhere that implements its (safety) policies 100 percent."

He refused to answer further questions.

Peter Hansen, an SOS environmental health official, said he couldn't comment because he wasn't employed by SOS in 1986.

Homeless workers employed by other contractors claimed they were permitted to remove respirator masks in contaminated work spaces.

Two men who worked for Bechtel-Control Asbestos Management said they saw fellow workers take off masks on two jobs they did for the firm, also known as B-CAM.

Homeless workers often felt too hot or confined in the protective gear, and took off masks to wipe sweat or talk, said Elroy Webb, a homeless man who said he worked last month for B-CAM.

DANGEROUS DUST

"They really didn't know what they were breathing," he said. "To them it was just dust. But it was dangerous dust."

Webb said B-CAM supervisors tried to strictly enforce mask rules, and other workers agreed overall supervision was good.

But one homeless B-CAM worker said supervisors on a job at a San Francisco bank "just kind of blew it off" when told of mask violations.

"They needed the (workers) and didn't want to retrain people," he said, asking to remain anonymous so he could work again for the firm.

B-CAM President Jerry Seifert stressed his firm does not recruit the homeless. B-CAM, he said, hires through Local 16 of the Asbestos Workers Union in San Francisco.

Seifert said B-CAM strictly enforces prohibitions against removing masks, and company records show two workers have been fired for doing so.

"In our company, that's grounds for firing without any exceptions," he said.

Karl Leist, B-CAM's quality-assurance manager, said workers are told repeatedly of the dangers of inhaling asbestos at mandatory daylong training sessions.

Federal and state law requires asbestos removal workers be taught 11 subjects, including proper use of respirators and how to avoid asbestos exposure.

GIVEN NO TRAINING

But some homeless men, working for contractors other than B-CAM, said they were given no training. One said he did not even know he was working with asbestos his first day on the job.

Some also said they weren't given required medical exams, including chest X-rays and lung tests.

Charles Cedric Thompson, who worked for an Alameda County contractor at a Pinole church, said he was ignored when he tried to get a checkup.

"And I wasn't the only one," he said.

Other homeless scrapers said their employers never set up on-the-job showers required by law.

"I just kind of brushed myself off" after work, said Ron, who lives at a West Berkeley shelter and did a job last year with an Oakland contractor.

Even if employers strictly follow all safety rules, some homeless workers may fall through the cracks due to the circumstances of being homeless, critics say.

Before Webb went to work for B-CAM, for example, he said the company gave him a required "smoke test" to make sure his mask did not leak.

But the mask didn't seal on his face properly because he has a large lump above his left eye, the result of hitting his head on a car hood, Webb said.

He passed the test anyway, he said, by holding his breath when smoke was blown around the mask.

"I wanted the job," he said. "I assume a hundred other guys did the same thing."

B-CAM officials said test overseers have ways of insuring someone doesn't hold their breath, such as making them sing or tell jokes.

QUESTIONS ON SAFETY

"A man would have to hold his breath for a long, long, long time to get through that," said Seifert.

Some homeless activists also question the effectiveness of safety training programs, when the trainees are homeless.

Kelly and Webb said many B-CAM trainees, after walking the streets all night to keep warm, fell asleep during the five-hour training films.

Other trainees, due to drug and alcohol abuse, may not be able to pay close attention.

"If you've been living on the streets, spending your days drinking and getting high, your sense of comprehension isn't going to be very high," said Adams.

"It doesn't mean they're stupid. It's just that they haven't been exposed to the work force. It's like going back to school . . . You have to make the wheels in your head turn again."

Kenneth Fulbright, a homeless man who said he worked for B-CAM last month, claimed he skipped training to keep an appointment at the welfare office. But he was still put to work when he showed up the next day, he said.

"They just assumed I went to class," said Fulbright, sitting on a bench in Old Man's Park in downtown Oakland.

B-CAM's Leist said whenever someone falls asleep during training films, instructors stop the film, wake them up and start over. If they fall asleep again, they are told to drink coffee.

THOROUGH TRAINING

Leist said "checks and balances" insure every worker receives training. B-CAM supervisors must certify each worker has been trained, and those records are audited by an independent consultant, he said.

Seifert said the firm's training program is so thorough that it's used as a selling point to potential clients.

Asked how well homeless workers understand the training, Leist said:

"These guys aren't really scholars, but in training we just keep repeating all the basics: that exposure to airborne asbestos is harmful, that this is the correct way to put your respirator on."

Workers said because some homeless employees work just long enough to buy drugs or booze and return to the streets, they cared little for safety rules.

"The people would get money on payday, and wouldn't show up the next day," said one B-CAM employee. "They'd go down to Sixth Street (San Francisco's skid row) and toke it up, put it in their arm or drink it up."

B-CAM's Leist said job applicants who seem "fuzzy" are screened out in pre-training interviews. About 20 to 25 percent wash out, he said.

The homeless-asbestos debate swept San Francisco public health circles about two months ago, said Bob Prentice, coordinator of the city's homeless programs. City nurses worried about homeless people being exposed to asbestos, and officials began monitoring shelter dwellors.

Officials said some homeless people developed skin rashes or coughs, but there appeared to be no serious short-term effects.

But they also noted that asbestos-related diseases have no acute symptoms, and the latency period for asbestos-related lung, colon or stomach cancers is 10 to 40 years. It also can take decades for workers to develop asbestosis, a crippling lung disease.

With no clear evidence of immediate medical harm to the homeless, Prentice said San Francisco homeless officials decided not to bring the issue to the public's attention.

Instead, they set up the monitoring program and began to hand out information at shelters describing the hazards of asbestos.

"I certainly understand the issue . . . of hiring people who will be doing work that's notorious for being dangerous," he said. "On the other hand, I don't want our undocumented righteousness to jeopardize" jobs for the homeless.

But homeless activist Messman-Rucker condemned shelter operators who still refer people to asbestos contractors.

"These companies . . . are using the homeless to reap substantial profits, but the homeless will reap sickness, disability and early death," he said.

"Society doesn't want asbestos and it doesn't want the homeless, and it treats both as waste products."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 2, 1988.

Hon. JOSEPH M. GAYDOS,
Chairman, Education and Labor, Subcommittee on Health and Safety, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you to express my concern about a recent story in the Oakland (Calif.) Tribune (7/31/88) which revealed that numerous Bay Area building contractors have hired homeless people to work as "scrapers" to remove asbestos from buildings, often with little or no training or medical examination and without requiring workers to wear proper protective clothing.

These workers have reportedly removed thousands of square feet of cancer-causing asbestos-tainted material from banks, churches, offices, and hotels. Their health may be at risk because of violations of existing Federal and State regulations.

I hope that you will review the story (enclosed) and that your Subcommittee will be able to initiate an investigation of this matter and conduct hearings to determine how widespread this problem may be. Homeless people desperately seeking work should not have to sacrifice their health on the job. They deserve the same protection as all American working men and women.

Sincerely,

BRUCE F. VENTO,
Member of Congress.

A TRIBUTE TO JACQUELINE BELLANTI

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to Jacqueline Bellanti, a remarkable and determined woman who nurtured, forged, and directed the highly respected National Coalition on Immune Systems Disorders [NCISD].

For the past 25 years Jackie Bellanti has actively volunteered her time for causes in which she believes. She is a registered nurse who has focused on important health issues such as pediatrics and immunology. She has been involved in outreach programs of education, research, and patient care, and was vice president for research of the Asthma and Allergy Foundation of America. In 1987, Jackie received a commendation from the President's Volunteer Action Award for her efforts with the National Coalition on Immune Systems Disorders.

Jackie Bellanti and a handful of other like-minded representatives of voluntary health organizations got together in 1982 to develop plans for what they perceived to be an important need in the health field: a coalition of diverse groups with one thing in common—immune-related diseases and disorders—which would interact with the National Institutes of Health, scientific organizations, and the public to bring about great national awareness of the need for research on the immune system.

The NCISD was formally established in 1983. Jacqueline Bellanti was unanimously selected to be the coalition's first chairman, a voluntary post she occupied with distinction until April 1988. The vigor and enthusiasm Jackie brought to NCISD, her leadership, dedication, and diligence, have resulted in the development of a strong, effective, and respected national organization. Almost singlehandedly, Jackie has gained support for the coalition, whose membership includes some 14 national voluntary health groups and professional societies. One of her singular achievements was the formation of the NCISD's Scientific Advisory Board, comprised of distinguished scientists and researchers knowledgeable in the disorders of the immune system.

Jackie Bellanti has stepped down from her post as chair of the NCISD, but she will continue her active interest in the group as it enters a new phase of its development. The members and supporters of the coalition, including the scientific community and a large array of health groups, as well as her friends in Congress, wish Jacqueline Bellanti well in her new undertakings, and express their heartfelt thanks for her many contributions to society and the health of the Nation.

THE 60TH WEDDING ANNIVERSARY OF ABE AND FREIDA HOCHBERG

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mrs. MORELLA. Mr. Speaker, I would like to bring to your attention the 60th wedding anniversary of Abe and Freida Hochberg of Chevy Chase, MD, in my eighth Congressional District. Their story is a living testament to the American dream.

Abe and Freida grew up in the same small town in east Poland. Abe Hochberg left Poland in 1923 at age 18 to start a new life. Freida left 5 years later to pursue the same dream. They met in Cuba and got married in 1928. They came to the United States and settled in Washington, DC in 1932, during one of the worst years of the Depression. They did not know a word of English.

Through hard work and perseverance, they were able to fulfill the American dream. They built a family business and raised three children. Some of the more senior of my colleagues may remember Hochberg Jewelers that was located on 7th Street for two decades. In 1958, the Hochbergs moved from Washington, DC to Chevy Chase, MD.

Today, the Hochbergs have 11 grandchildren. I congratulate Abe and Freida on their remarkable relationship and wish them many more years of happiness.

A TRIBUTE TO THAD ULRICH

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. CARPER. Mr. Speaker, I rise today to bring to the attention of my colleagues an accomplishment of one of my young constituents. Thad Ulrich, a student at Indian River High School, was recently in Washington, DC, competing in the national finals of the Close Up Citizen Bee. I am very proud of the tremendous amount of time and effort he put into preparing for the competition and learning about the history and culture of the American people. Thad has competed in the Citizen Bee 2 consecutive years and was State champ this year and first runner-up in Delaware last year.

I would also like to take this opportunity to acknowledge the support provided to the Citizen Bee in my district by the office of the Governor, the Delaware Department of Public Instruction and the Secretary of State Michael Harkins. Their support helped to enable Thad and many other young people in my district to compete in the Citizen Bee and learn more about our American heritage.

Congratulations, Thad on your achievement, and for proudly representing the State of Delaware in the Citizen Bee.

SALUTE TO HAVERFORD TOWNSHIP

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. WELDON. Mr. Speaker, I rise today to salute Haverford Township located in the Seventh District of Pennsylvania. In a time when crime and murder rates soar and parents are careful to keep a watchful eye on their children, Haverford emerges as America's ideal city. Haverford enjoys the title of safest medium size municipality in the Nation for 1987, according to FBI and U.S. Department of Justice crime reports. First out of 290 cities with no murder, no rapes, only 8 robberies and 19 assaults, Haverford is a comparative dreamland for children and adults alike. This honor is a tribute to both the citizens and police force of Haverford Township. It is an example of what a community can do when the people join together for the good of everyone. In this decade of I's and me's, it is good to see that the all for one and one for all theory still lives.

A GREAT SCOUT

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. BADHAM. Mr. Speaker, it is my privilege and honor today to salute one of the most outstanding citizens in the 40th Congressional District of the State of California, Mr. Michael K. Hayde.

It pleases me to be able to tell my colleagues that Mike was chosen by the Orange County Council of the Boy Scouts of America to receive the 1988 Good Scout Award.

Mr. Speaker, I could not think of a better choice. Mike's record of service to his community is outstanding. As chairman of the California Housing Council, as a member of the Urban Land Institute, as a campaign cabinet member of the Santa Margarita Catholic High School, as a supporter of our local facility for abused and abandoned children, as a supporter of the Orange County Performing Arts Center, as part of Hoag Hospital's 552 Club and as part of Big Brothers, his service has been tremendous. He has done all this despite the fact that he has spent countless hours building the second largest company in

California commited to owning and managing apartments, as a founding partner of Western National Properties.

Of course, of special significance on the occasion of this award is Mike's contribution to the Orange County Council of the Boy Scouts. Since 1984, he has played a leadership role. The council's financial well-being and organizational success depend significantly upon Mike's outstanding work.

All of us here in the House of Representatives recognize the importance of scouting programs in building character and helping to strengthen the foundation of our Nation. I'm sure my colleagues join me in wishing Mike well on this important occasion.

Mr. Speaker, I would also like to mention the outstanding efforts of the construction industry in sponsoring the annual luncheon tribute to Orange County's Good Scouts, the efforts of Peter Ochs, the luncheon chairman, and the hard work and dedication by everyone involved with this event, which benefits our entire community.

CONDEMNING ROMANIA'S HUMAN RIGHTS POLICY

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. COELHO. Mr. Speaker, I rise today to express my deep concern about the deteriorating human rights situation in the Socialist Republic of Romania and to urge my colleagues to cosponsor and support House Resolution 505 condemning Romania's human rights abuses.

For years the Romanian Government has been trying to destroy the cultural and ethnic diversity of the region of Transylvania. In this effort to denationalize the region the Romanians have closed schools, abridged freedoms of religious worship, and have systematically eradicated the symbols of cultural heritage which are so important to the Jews, Germans, and over 2 million Hungarians who live there.

However, these actions, which are in violation of a number of international covenants to which the Romanian Government is a signatory—including the 1975 Helsinki Final Act—have been recently overshadowed by a new and more sinister development. The Government of Romanian President Ceaucescu has now proposed to eradicate over half of the country's 13,000 villages and to resettle the inhabitants in Government agrocommunities. These resettlements would annihilate Transylvania.

This plan, Mr. Speaker, evokes memories of Stalin's forced collectivization in the Soviet Union and similarly brutal reforms in Mao's China. Given the ongoing reform process in both of those countries, Romania's action seems all the more barbaric. I support the suspension of Romania's most favored nation trading status and urge the Romanian Government to reconsider its actions.

THE REUNION OF THE 489TH ANTIAIRCRAFT ARTILLERY AUTOMATIC WEAPONS

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. McDADE. Mr. Speaker, it is with great pleasure that I speak today about an upcoming reunion of the 489th Antiaircraft Artillery Automatic Weapons Battalion and the respect I have for the individuals of this battalion who heroically served our country during World War II. The reunion will be held in Scranton, PA, and will provide an opportunity for these men to renew their friendships and talk over their experience which were forged when they, as ordinary Americans, were thrown into extraordinary circumstances.

The 489th was involved in the great battle for Bastongne as part of General Patton's 3d Army. They were part of the movement of the 3d Army which came in from the west toward the encircled Bastogne and broke through the German lines to free the encircled 101st Airborne. They then moved on toward Germany where it wasn't very many months before the German surrender. For their bravery, they rightfully received the Presidential Unit Citation.

We owe a debt to these men that can never be repaid except with our deep respect and eternal gratitude for their efforts in our behalf. I am extremely proud of the members of the 489th Antiaircraft Artillery Automatic Weapons Battalion and I wanted to ask you to join with me in saluting their achievements and wish them well on their reunion.

LIGHT AT THE END OF THE TUNNEL ON HARBOR CLEANUP

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. PORTER. Mr. Speaker, there is good news coming out of Waukegan, IL in my congressional district. The harbor in Waukegan has been polluted for over a decade with large quantities of the suspected carcinogen PCB. Legal jousting between the Government and the Outboard Marine Corp. has delayed a cleanup for far too long, a situation benefiting no one.

Recently, OMC announced an additional set-aside of corporate funds into a specially designated cleanup fund; that fund now contains 20 million. Company spokesmen announced that negotiations on the technicalities of a cleanup strategy are going well. There is hope that an environmentally sound plan will be agreed upon in the near future.

The Waukegan Harbor situation is a lesson in the frustrations of environmental law—Superfund cleanups bring with them a clash of competing economic and public health interests, resolved through our legal system by lawyers and judges who must master the jargon of biochemistry. Small wonder these cleanups seem to move at a snail's pace. But I believe that Waukegan Harbor will ultimately show that the public interest can prevail and that the Superfund Program can work—protecting public health and environmental integrity without forcing businesses to shut their doors.

TRIBUTE TO DOUGLAS G. DAHLIN

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. BROOKS. Mr. Speaker, over the years, the Committee on Government Operations has had the good fortune to be served by a loyal and capable staff. Last week, Douglas G. Dahlin, a former associate counsel for the committee, died as a result of a heart ailment.

Doug Dahlin began his career with the Committee on Government Operations in March 1959. For many years he served as staff attorney on the Military Operations Subcommittee, chaired by the Honorable Chet Holifield of California. From June 1973 to July 1975, he served as associate counsel for the full committee. His friends and associates on the committee remember him with affection and have a high regard for his loyalty and dedication to the work of the committee and the Congress.

Doug Dahlin was a native of Minneapolis, MN. He was graduated magna cum laude from Harvard College in June 1952. Although his law studies were interrupted for 3 years by service in the Navy, he received his LL.B. from Harvard Law School in 1958. While on the committee staff, he was selected as one of the first group of Congressional Staff Fellows by the American Political Science Association. He received a master's degree from the Harvard Graduate School of Public Administration in 1964. Since his departure from the committee, he practiced law here in Washington.

Doug Dahlin will be missed by his friends and family. To his wife Elizabeth "Betts" Dahlin, his three daughters—Christine, Cynthia, and Constance—and other members of his family, we extend sincere sympathy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and

purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 4, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 5

9:30 a.m.

Judiciary

To hold hearings on the nomination of Richard L. Thornburgh, of Pennsylvania, to be U.S. Attorney General.

SD-266

Joint Economic

To hold hearings on the employment-unemployment situation for July.

SD-628

10:00 a.m.

Foreign Relations

War Powers Subcommittee

To resume hearings to review the War Powers Resolution of 1973 (P.L. 93-148).

SD-419

AUGUST 8

10:00 a.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings on U.S. policy toward Indochina.

SD-419

2:00 p.m.

Energy and Natural Resources

To hold oversight hearings on the status and outlook of the Strategic Petroleum Reserve.

SD-366

AUGUST 9

10:00 a.m.

Foreign Relations

To hold hearings on the Investment Treaty with Panama (Treaty Doc. 99-14), Investment Treaty with Senegal (Treaty Doc. 99-15), Investment Treaty with Haiti (Treaty Doc. 99-16), Investment Treaty with Zaire (Treaty Doc. 99-17), Investment Treaty with Morocco (Treaty Doc. 99-18), Investment Treaty with Turkey (Treaty Doc. 99-19), Investment Treaty with Cameroon (Treaty Doc. 99-22), Investment Treaty with Bangladesh (Treaty Doc. 99-23), Investment Treaty with Egypt (Treaty Doc. 99-24), Investment Treaty with Grenada (Treaty Doc. 99-25), Supplementary Protocol to the 1970 Tax Convention with Belgium (Treaty Doc. 100-15), Protocol to the 1967 Tax Convention with France (Treaty Doc. 100-21), and a related tax treaty with Indonesia.

SD-419

Judiciary

To hold hearings on pending nominations.

SD-226

AUGUST 10

9:00 a.m.

Office of Technology Assessment

The Board, to meet on pending business matters.

EF-100, Capitol

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 2047, to require health warning labels on containers of alcoholic beverages.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

10:00 a.m.

Foreign Relations

Business meeting, to consider the Investment Treaty with Senegal (Treaty Doc. 99-15), Investment Treaty with Zaire (Treaty Doc. 99-17), Investment Treaty with Morocco (Treaty Doc. 99-18), Investment Treaty with Turkey (Treaty Doc. 99-19), Investment Treaty with Cameroon (Treaty Doc. 99-22), Investment Treaty with Bangladesh (Treaty Doc. 99-23), Investment Treaty with Egypt (Treaty Doc. 99-24), Investment Treaty with Grenada (Treaty Doc. 99-25), Supplementary Protocol to the 1970 Tax Convention with Belgium (Treaty Doc. 100-15), Protocol to the 1967 Tax Convention with France (Treaty Doc. 100-21), and a related tax treaty with Indonesia.

SD-419

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

Oversight of Government Management Subcommittee

To hold joint hearings on the U.S. Postal Service contract with Perot Systems.

SD-342

AUGUST 11

9:00 a.m.

Veterans' Affairs

To hold oversight hearings to review certain veterans health care programs.

SH-216

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine new developments in computing and computer networking.

SR-253

10:00 a.m.

Foreign Relations

To hold hearings on the nomination of Carol C. Adelman, of Virginia, to be an Assistant Administrator of the Agency for International Development.

SD-419

SEPTEMBER 20

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings to review the U.S. and foreign commercial service.

SR-253

CANCELLATIONS

AUGUST 4

10:30 a.m.

Judiciary

Constitution Subcommittee

Business meeting, to mark up H.R. 3146, to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities.

SD-226

HOUSE OF REPRESENTATIVES—*Thursday, August 4, 1988*

The House met at 10 a.m.

The Reverend George Wheat, associate pastor, Trinity United Methodist Church, Grand Island, NE, offered the following prayer:

Almighty God, whose concern for this world's people has been expressed by prophets and psalmists and apostles, and whose nature is that of guiding and nurturing those people who turn to You in faith; we pray Your blessing upon the Members of this Congress, upon our President, and upon all who share the responsibility of government of the people, by the people, and for the people. We are truly grateful that we live in a nation where citizens have opportunity to share in the governing process. May the results of their legislative efforts make the community life of all citizens more orderly and rewarding.

Grant us all a desire and strength of living fruitful and righteous lives. In the name of Christ, our Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BARTLETT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 145, not voting 37, as follows:

[Roll No. 262]

YEAS—249

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Florio
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price
Rahall
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Schneider
Schulze
Schumer
Sharp
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Traficant
Traxler
Udall
Valentine
Vento
Volkmer
Watkins
Waxman
Weiss
Whitten
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—145

Armey
Badham
Baker
Ballenger
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clay
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Edwards (OK)
Emerson
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Goodling
Gradison
Grandy
Gregg
Hammerschmidt
Hansen
Hastert
Hawkins
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Murphy
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Porter
Pursell
Quillen
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Wortley
Young (AK)
Young (FL)

NOT VOTING—37

Biaggi
Boggs
Boulter
Bryant
Chapman
Dornan (CA)
Dowdy
Espy
Foglietta
Ford (TN)
Gingrich
Gray (PA)
Hall (OH)
Houghton
Hyde
Kemp
Konnyu
Leland
Lott
MacKay
Mica
Neal
Owens (NY)
Rangel
Savage
Scheuer
Shaw
Spence
St Germain
Stratton
Stump
Sweeney
Taylor
Torricelli
Towns
Walgren
Williams

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

REV. GEORGE WHEAT

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Nebraska. Mr. Speaker, we are called to serve our fellow man in our own special way, but a calling that may be the closest to God is that of a minister.

We have with us today a distinguished member of my Third District in Nebraska, a man who answered that very special calling, Rev. George Dewey Wheat, associate pastor of Trinity United Methodist Church in Grand Island, NE.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Reverend Wheat did not rush his decision to answer this particular calling. After growing up on a dairy farm in New York, George attended Colorado College in Colorado Springs where he received a bachelor of science degree in geology. He then worked as a geophysicist in oil exploration for 10 years.

Reverend Wheat attended Iliff School of Theology, in Denver, CO, where he received his master of divinity degree. He is now serving in his fifth congregation in the Third District. His work has taken him to the Methodist congregations in Sidney-Gurley, Bertrand-Loomis, Scottsbluff, Chappell-Lodgepole, and Grand Island, NE.

During the summer of 1987, Reverend Wheat served as an exchange pastor to England through the World Methodist Council of Churches. He traveled a circuit of eight churches for 5 weeks in Ilfracombe, Devon County, England. We are all very proud of Reverend Wheat for that distinction.

It is a great honor to have a man of such faith and talent to lead us in prayer today in the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3980. An act to make technical corrections to the agricultural credit laws; and

H.R. 4848. An act to enhance the competitiveness of American industry, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 1860) "An act entitled the 'Federal Land Exchange Facilitation Act of 1987'."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1912. An act to authorize a study of the Mimbres culture in Southwestern New Mexico, and for other purposes;

S. 2157. An act to authorize a feasibility study of the Spanish Frontier Culture and Spanish Borderlands story, and for other purposes;

S. 2496. An act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements, and

S. Con. Res. 135. Concurrent resolution to correct the enrollment of H.R. 4848.

REPORT ON RESOLUTION PROVIDING AMOUNTS FROM CONTINGENT FUND OF THE HOUSE FOR FURTHER EXPENSES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN 2D SESSION OF 100TH CONGRESS

Mr. GAYDOS, from the Committee on House Administration, submitted a privileged report (Rept. No. 100-818) on the resolution (H. Res. 500) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the second session of the 100th Congress, which was referred to the House Calendar and ordered to be printed.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to lay on the table the privileged motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 164, not voting 26, as follows:

[Roll No. 263]

AYES—241

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—164

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari

Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—26

Biaggi
Boggs
Boulter
Bryant
DioGuardi
Dornan (CA)
Dowdy
Espy
Foglietta
Ford (TN)
Gingrich
Houghton
Kemp
Konnyu
Lott
MacKay
Martinez
Mica
Owens (NY)
Shaw
Spence
Stratton
Sweeney
Taylor
Towns
Williams

□ 1048

The Clerk announced the following pairs:

On this vote:

Mr. Foglietta for, with Mr. Boulter against.

Mrs. Boggs for, with Mr. Shaw against.

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENSION OF TEMPORARY PROHIBITION OF STRIKES OR LOCKOUT WITH RESPECT TO CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY LABOR-MANAGEMENT DISPUTE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 356) to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute, and ask for its immediate consideration in the House, and that the previous question be ordered to final passage without intervening motion.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. WHITTAKER. Mr. Speaker, reserving the right to object, I will not object to the gentleman's request. However, I would like to ask the distinguished chairman of the Subcommittee on Transportation, Tourism, and Hazardous Materials for an explanation of Senate Joint Rsolution 356.

Mr. Speaker, I yield to my good friend, the gentleman from Ohio, for that purpose.

Mr. THOMAS A. LUKEN. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, the purpose of Senate Joint Resolution 356, which the House is now considering, is to provide a 36-day cooling-off period to permit labor and management of the Chicago & North Western Railroad to continue negotiations over the size of train crews. This cooling-off period is necessary to prevent a strike or lockout, and to keep the trains running while the parties continue to negotiate.

The legislation has been necessitated by the failure of the parties to reach agreement on the issue of new crew consist arrangements on the railroad. As a result of management unilaterally imposing its own crew consist rules and the decision of labor to strike, the railroad was shut down this morning. Thousands of commuters in the Chicago area have been stranded without rail service.

Moreover, the loss of rail service in parts of the Midwest will cause significant hardships for farmers trying to get their grain to market. The normal alternative for these farmers is barge transportation, which owing to the extremely low water levels on the Mississippi and other rivers, is simply not available.

The legislation is important to thousands of people and businesses in the Midwest. It enjoys strong bipartisan support. I urge my colleagues to support this resolution.

Mr. WHITTAKER. Mr. Speaker, I thank the chairman of the subcommittee for that information.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois [Mr. Bruce].

Mr. BRUCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, at 9 o'clock central time, 10 o'clock eastern time, some 50 minutes ago, the people in the city of Chicago were denied additional transportation facilities by a strike which began at that time at the Chicago & North Western Railway. But this morning, by an agreement worked out between the union and that company 41,000 working people in the city of Chicago got to work. We were able to work through the evening with the help of many individuals, to get those negotiations completed.

This legislation will allow those good faith negotiations to continue between the United Transportation Union and the Chicago & North Western Railroad. It will give them a cooling-off period of 36 days, a reasonable amount of time for labor and management to reach an agreement.

There were several architects of the agreement through last evening: First of all, the chairman of the Committee on Energy and Commerce, the gentleman from Michigan, Mr. Dingell, who allowed us to negotiate, with his consent and guidance; the subcommittee chairman, the gentleman from Ohio, Mr. Thomas A. Luken; Senator Paul Simon, the sponsor of the legislation in the Senate; the gentleman from Illinois, Mr. Ed Madigan; and our minority leader, the gentleman from Illinois, Mr. Bob Michel, who last evening at a critical time in the negotiations made a call to the president of the Chicago & North Western Railway and followed that with a call to Gov. James Thompson of the State of Illinois. Through all these efforts, we were able to effectuate a compromise which delayed the strike from starting at midnight last night until 9 a.m. this morning.

The gentleman from Illinois, Mr. Ed Madigan, has been involved in making calls, but special thanks should go to Bob Schmiege, the president of the Chicago & North Western Railway, who in many conversations last night was always accommodating, and to Fred Hardin, the president of the United Transportation Union.

We have numerous things we have to do in this particular strike. We have agreed to three conditions: that we will monitor the proceedings between the union and the railway over the next 36 days. We will demand that both sides bargain in good faith on all issues that remain unresolved, and at the end of that time, Mr. Speaker, if those two sides fail to reach a conclusion, then this Congress will have to seriously consider implementation of the Emergency Railroad Board's recommendations reducing railroad personnel. I do not know whether that legislation would pass this body or the other body, but I think this piece of legislation allows both parties an additional 36 days to bargain in good faith.

After our conversations with the union this morning, everyone got to work, and we hope that with the passage of this legislation and the signature of the President today, we can get people back home in Chicago and 41,000 people will have commuter services starting early this afternoon.

Mr. Speaker, I urge the adoption of this legislation. It is needed immediately in the city of Chicago.

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right object, Mr. Speaker, I yield further to the chairman of the subcommittee.

Mr. THOMAS A LUKEN. Mr. Speaker, I have no further comments on the substance of the legislation, but I think the efforts of the gentleman from Illinois [Mr. Bruce] should be recognized. He has played a leadership role in keeping the trains rolling, and I think he should be congratulated for that.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Speaker, I want to join in thanking all those who have been instrumental in assuring that this resolution is passed. I single out the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], the chairman of the subcommittee, the gentleman from Ohio [Mr. THOMAS A. LUKEN], and my colleague, the gentleman from Kansas [Mr. WHITTAKER].

Mr. Speaker, the resolution before us, already approved by the other body, is intended to maintain the status quo—and prevent an interruption of rail service—on one of the major railroads in the Midwest, the Chicago & North Western.

The essential purpose of this legislation is similar to that of resolutions adopted by the Congress in 1986 and early 1987. Those measures ended the interruption of rail service due to labor-management disputes on the Maine Central Railroad and the Long Island Rail Road.

Senate Joint Resolution 356 maintains the status quo on the CNW for an additional 36 days, to allow labor and management to work out their differences on the unresolved issues—principally reduction in the size of train crews. It is my fervent hope, and I am sure of my colleagues, that the parties will reach a final settlement through collective bargaining during that time period. The resolution is well suited to achieving that purpose. I would also note that the Secretary of Transportation has conveyed to the members of the Energy and Commerce Committee the administration's view of this legislation—that the administration has no objection to a one-time extension of the status quo for about a month.

If there is any cause for hesitance about this measure, it is the lurking possibility, that if agreement is not reached before this additional cooling-off period expires on September 9, then Congress will again be faced with a second strike, and will again be asked to intervene legislatively.

For that reason, I would have preferred to specify in today's legislation that the compromise proposals contained in the report of Presidential Emergency Board 213—a comprehensive report issued on July 1, 1988—would become the basis of a mandatory settlement if the parties do not resolve their differences by September 9. This parallels what the Congress eventually had to do in the Maine Central case in 1986. Nevertheless, given the occurrence of today's strike and the already adopted Senate resolution, I cannot in good conscience risk a delay that would further disrupt service for Midwestern shippers and the commuters of Chicago merely to modify this legislation to my own liking. I therefore support the immediate adoption of the resolution.

On a deeper level, Mr. Speaker, the recurring appeals for congressional intervention in railroad labor disputes are largely a symptom of the structural change going on in the railroad industry. After decades of neglect and inaequate earnings, the railroads—thanks principally to the Staggers Rail Act of 1980—now have the tools to compete as viable businesses with each other and with other modes of transportation. But they are still fighting for their financial existence. Part of that struggle involves bringing their route structure and their operating costs under control to face the fierce competition of the trucking and barge industries. We see that in the continuing reduction in the mileage of the larger railroads. Fortunately, new short-line railroads are often able to maintain rail service that would otherwise have to be abandoned as too costly. But overall, the modernization of the rail industry must in the end be a team effort of rail labor and railroad management. I hope that in a spirit of mutual cooperation, they can bring about needed changes with a minimum of disruption to the rail service that the public relies on.

Finally, Mr. Speaker, when dealing with these disputes, labor and management—as well as the Congress—should bear in mind that in industry as in many other human endeavors, the only real constant is change. The CNW in fact is the embodiment of a long history of change—expansion, competition, restructuring. It is hard to believe—but true—that when the CNW's forebear was founded in Chicago in 1848, railroads were strongly opposed by the citizenry of Chicago. Why? Because railroads were perceived as a spur to the development of rival cities, and even more astounding, as a competitive threat to Chicago's network of fine planked wooden roads that carried 200 wagons a day in and out of the city. The CNW faced that challenge, and I believe its current-day labor force and its management will overcome the challenges of today and see to it that it continues to be a major economic sinew of the Midwestern United States.

Mrs. COLLINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, I yield to the gentlewoman from Illinois.

Mrs. COLLINS. Mr. Speaker, I rise in support of their legislation which calls for a cooling-off period until September 9 relative to the current dispute between Chicago & North Western Transportation Co. and the United Transportation Union is serious. No one wants this strike, and no one would benefit from a strike which would result in a long list of losers including the residents of the Chicago area. As the Representative of a large portion of Chicago. I wish to make it clear that this strike must be avoided and that the legislation which we are now considering is a fair and effective means for effectuating that goal.

The disagreement between these two parties is based on the issue known as crew consist; that is, how many people ae needed to run a train and the compensation which would flow both to employees who lose their jobs and to employees who remain. A Presidential Emergency Board made compromise recommendations for resolution of each of the contentious issues, but C&NW and UTU have not adopted these nonbinding recommendations.

No party in the dispute received all that they had wished. But that's negotiation. The Emergency Board made a good effort to resolve differences; and whether or not it is the ultimate solution, one thing is clear: this dispute can, if both parties are willing, be amicably resolved. A strike would be unnecessary, ineffective, counterproductive, and altogether bothersome.

In a situation such as this, we must all join together in an effort to overcome the tension of the dispute and access the tranquility of common interests. An interruption of service to Chicago and affected areas in the Midwest would certainly not serve the interests of customers hoping to ship goods, consumers who await those goods, nor commuters who rely on the railways to get to work or school.

Mr. Speaker, as a matter of public interest I strongly encourage all my colleagues to support this legislation.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I thank the gentleman from Kansas for yielding and for is leadership and assistance in this legislation. I also want to extend my thanks to the gentleman from Iowa [Mr. TAUKE].

Let me express my appreciation for the work of the chairman of the subcommittee, the gentleman from Ohio, Mr. THOMAS A. LUKEN, and of the chairman of the full committee, the gentleman from Michigan, Mr. JOHN DINGELL. They have expeditiously brought to the floor this legislation that will prevent a disruption of commuter service. This has bipartisan support, and I would also commend the Senate and our colleague, the gentleman from Illinois, Mr. BRUCE, for their work in bringing this matter to the House floor.

□ 1100

If we pass the bill, it will give us 36 additional days, Mr. Speaker, to negotiate. But I think we ought to raise the question right now. If an agreement is not reached during the next 36 days, and that is certainly possible, and perhaps it is even probably since that they had a year to work this out and not been able to work it out up to this point; what happens at the end of the 36 days? What happens on the 9th of September, a Friday, when the House is not in session? We will have been back from our summer recess for just 2 legislative days prior to that Friday, and, if action is not taken, a strike could occur at that time that would tie up the service of the Chicago & North Western Railroad for commuters on Saturday, Sunday, Monday, and perhaps Tuesday in early September.

And so I would say to the subcommittee, and to the full committee, and to the gentleman that perhaps we should give some consideration right now as to what further legislative steps may be necessary at that time. Perhaps a short additional period for further negotiations, and then, perhaps in the absence of an agreement, we should mandate a settlement of the dispute on the terms recommended by the President's Emergency Board.

Mr. Speaker, we should think now about what we hope will not come to pass, but may be necessary, in early September if we are to avoid a strike. For the present I simply thank the committee and the subcommittee for their fine work in preventing a disruption of commuter service and from preventing Chicago commuters, 41,000 strong, from paying the price for this unrelated freight dispute.

The SPEAKER. The Chair announces in view of comments made by the gentleman from Illinois [Mr. PORTER] that it is anticipated that the House will be in session on Friday, the 9th of September.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I thank the gentleman from Kansas [Mr. WHITTAKER] for yielding.

I offer my congratulations for all who have been responsible for getting us to this point for what is clearly going to be a transportation catastrophe if this situation is allowed to deteriorate any further. I think it is important to emphasize, however, that in this period of time the parties to this dispute should work very hard to resolve the dispute because what undoubtedly will happen at the end of this period, if it is not resolved, is that we will resort to the same thing that we have resorted to on at least two other occasions that I am aware of. We will have a legislative imposition of a collective bargaining agreement as represented by the Emergency Board's recommendations.

Mr. Speaker, it is my understanding that some are prepared to object to this process or to oppose it ostensibly under conservative principles. It seems to me that the conservative principle ought to be that collective bargaining should be done by the parites, that we should not do as we unfortunately have done in two instances, in the settling of the Boston & Marine strike in the past and the Long Island Rail Road strike in the past. We should not be by act of Congress imposing the terms of collective bargaining discussions as embodied in the Emergency Board's recommendations.

I have no doubts whatsoever that, if this agreement is not adhered to today or at the end of this period, there is no agreement. There will be irresistible pressure for this body to pass into law the recommendations of the Emergency Board which represent a collective bargaining agreement by operation of the will of Congress. That was a bad precedent the previous two times we have done it. It would be a terrible precedent to do it again, and it may very well end up being the norm, not just in railroad matters, but in all matters of collective bargaining disputes that are uncapable of being resolved.

So, to those how are truly concerned about conservative principles, one of which is that the Government should not be dictating terms of collective bargining agreements, they should be in the forefront of approving this bill today, this proposal today, and then during the parties to resolve their dispute as rapidly as possible.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. LENT], a member of the full committee.

Mr. LENT. Mr. Speaker, I would like to join with my other colleagues in commending the chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for bringing, along with the gentleman from Ohio [Mr. THOMAS A. LUKEN], the chairman, and the ranking minority member of the Transportation Subcommittee, the gentleman from Kansas [Mr. WHITTAKER], this legislation very quickly here to the House floor to avert a great transportation tragedy.

Mr. Speaker, as Members may recall, during the first session of this Congress, similar legislation was enacted to maintain rail service on the Long Island Rail Road—the Nation's largest commuter rail carrier and a vital means of transportation for the citizens of my district. That measure ended the strike, and allowed the collective bargaining process to move forward, and a prolonged lapse in a rail service was averted. It is my hope that the measure we are considering today will be equally effective in promoting a resolution of this dispute through collective bargaining, while avoiding a prolonged disruption of service for the rail freight shippers of the Midwest and Chicago commuters.

It is always preferable to have these labor-management differences settled through private-sector collective bargaining with a minimum of Government intervention. On some occasions, however, Congress must exercise its authority over interstate commerce to maintain essential rail service. I believe this is such an occasion.

We have reached the current situation only after all of the normal bargaining and mediation procedures of the Railway Labor Act have been exhausted. Although long and arduous, this process has produced a valuable foundation for a final resolution of the dispute. The report of Presidential Emergency Board No. 213, issued on July 1 of this year, provides the basic outline of a compromise between the prior positions of labor and management, including the thorny issue of crew size on the CNW.

It is my hope that the 36-day cooling-off period that is afforded by Senate Joint Resolution 356 will allow the parties to reach final agreement on all outstanding issues. On that basis, I strongly support immediate adoption of the resolution.

Mr. WHITTAKER. Mr. Speaker, further reserving my right to object, I yield to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman from Kansas [Mr. WHITTAKER] for yielding to me, and I rise in support of this resolution.

Mr. Speaker, I rise in support of this resolution, which would extend the temporary prohibition of strikes or lockouts in the Chicago & North Western labor-management dispute, thus averting a devastating long-term rail strike.

I wish to thank the chairman and ranking member of the full committee, Mr. DINGELL and Mr. LENT, as well as the chairman and ranking member of the subcommittee, Mr. LUKEN and Mr. WHITTAKER, for taking quick action to allow the House to proceed with this resolution.

Passage of this resolution will give the Chicago & North Western Railroad and the United Transportation Union an additional 36 days to reach an agreement on crew size.

If the House had not passed this resolution, a Chicago & North Western strike would have seriously disrupted agricultural shipping in Illinois, Wisconsin, Iowa, Minnesota, and Nebraska, already thrown into disarray by the tied-up barge traffic on the Mississippi.

And while Chicago & North Western planned to operate a core system during any strike, that core system would not have served Nebraska. A strike would have left northern Nebraska—served only by Chicago & North Western—with no rail service at all.

I think it is important to note that both the UTU and Chicago & North Western are hopeful—as I am—that a voluntary agreement can be reached before the end of this extension.

If there is no agreement, it has been made clear by Members of both the House and Senate that there will be no further extensions, and that the Congress will be prepared to implement the recommendations of the Presidential Emergency Board in order to prevent a strike.

Mr. WHITTAKER. Mr. Speaker, further reserving my right to object, I yield lastly to the gentleman from Illinois [Mr. Crane].

Mr. CRANE. Mr. Speaker, I thank my colleague, the gentleman from Kansas [Mr. Whittaker] for yielding to me on this issue.

Mr. Speaker, I am very troubled personally with the proposal before us. If we look at the history of this dispute, it goes back to May 1987. We recently had a controversial bill before us on plant-closings. We wanted to guarantee workers 60 days' notice before a closing. These negotiations have been moving forward to this deadline over approximately 18 months and are unresolved because of the adamant position taken by the United Transportation Union. The fact of the matter is it has been costing Chicago & North Western $50 million a year in losses because of this featherbedding practice. They wanted to eliminate it altogether. They remained tough in their position for a solid year. The union would not make any alternative proposal, and finally, when the railway board intervened, the railway board came up with a compromise that said, "Instead of laying off 1,165," as I recall the number was, "we will take it to 679 or some such, and, instead of a $25,000 severance payment, you've got to give these fellows $50,000 or a year's extended employment." Now that to me seems quite generous, and, as I say, Chicago & North Western went along with this proposal, and the union still held fast.

Now I do not believe it is the function of Government to get involved in such disputes, and I would argue that the conservative position is, in fact, that the parties to the dispute have to make the determination whether they really want to disrupt 40,000 commuters, and that includes commuters in my district, and certainly in my distinguished colleague's district more than mine, but it is a serious disruption, not only of commuter service, but there is a concern about exports to markets with regard to our farmers.

Mr. Speaker, this would be a tragedy if it is not resolved, but how does providing another 36 days do anything when they have been negotiating unsuccessfully for 18 months?

My point is: let them sit down at the bargaining table. Let them make whatever concessions, either management feels are in order or the union feels are in order, and hammer it out. They have known they were coming to this deadline. They have graciously provided service this morning during the rush hour rather than tie things up, so they have already gone past their deadline. Let them continue to go past their deadline, but let the Government stay out of these negotiations which appropriately belong in the private sector between the parties that are going to be bargaining to find a solution to the problem.

Mr. Speaker, I would urge my colleagues to defeat this proposal.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I rise in support of Senate Resolution 356, and I include herewith the text of a letter dated August 2, 1988, and addressed to me from the Office of the Secretary of Transportation, as follows:

The Secretary of Transportation,
Washington, DC, August 2, 1988.

Hon. Bob Whittaker,
Subcommittee on Transportation, Tourism and Hazardous Materials, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Dear Bob: There is a growing possibility that the United Transportation Union will strike the Chicago & North Western Transportation Company on August 4, 1988, over a dispute regarding the size of train crews. It is my understanding that your Subcommittee will be asked to consider legislation to extend the "cooling-off" period under the Railway Labor Act (45 U.S.C. 151, et seq.), to prevent a strike and give the parties additional time to resolve their dispute. The administration would have no objection to a one-time extension of the status quo period of about a month's duration to give the Congress time to act. However, the Director of OMB and I would recommend to the President that he veto any bill that contained labor protection provisions or Staggers Act amendments (such as the CURE bill).

Presidential Emergency Board No. 213 has already reviewed the UTU/C&NW dispute and recommended terms of settlement. Unfortunately, the report has not had the intended effect of leading to a resolution of the dispute. While this Administration is committed to the principle of collective bargaining as the basis for the labor-management relations, it is not clear that an extension of the bargaining period will lead to a negotiated agreement. If the Subcommittee intends to enact a legislative solution to the dispute in the absence of a negotiated agreement, it may wish to act well in advance of the expiration of the extended status quo period. The Department of Transportation stands ready to provide whatever assistance the Subcommittee may need in addressing the UTU/C&NW dispute.

Sincerely,

Jim Burnley.

Mr. DINGELL. Mr. Speaker, I rise in support of Senate Joint Resolution 356, which will extend until September 9 the cooling-off period in the current dispute between the United Transportation Union and the Chicago & North Western Railroad. While I deeply regret that it has been necessary for the Congress to intervene in this dispute, the joint resolution will ensure that the status quo ante is restored, so that uninterrupted service is provided at least until after Congress returns from its summer recess.

Several members of the Energy and Commerce Committee and the House deserve special recognition for their efforts to minimize the disruption caused by the parties' exercise of self-help today. Foremost among them is the gentleman from Illinois [Mr. Bruce], who worked all day yesterday to obtain an agreement by the parties postponing until 10 a.m. this morning the CNW's planned rules changes and thus the UTU's planned strike. As a result of Mr. Bruce's efforts, 41,000 commuters in Chicago were able to get to work this morning with minimal difficulty.

Also deserving of special recognition are the gentlemen from Iowa [Mr. Tauke] and from Illinois [Mr. Madigan], whose close cooperation and hard work enabled us to bring this resolution to the floor under these expedited procedures. They have been invaluable partners in this effort.

Credit is also due to the subcommittee chairman, Mr. Luken, and to the ranking Republican members of the committee, Mr. Lent, and the subcommittee, Mr. Whittaker. Last but not least, several Members from the Chicago area, including Mr. Rostenkowski, Mrs. Collins, and Mr. Porter provided me with valuable help and advice in addressing this matter.

A great deal of attention has been paid in recent days to our committee's precedent and tradition of not acting in these matters until the parties themselves have changed the status quo by exercising self-help. Today's action provides a good opportunity to reiterate the rationales for this policy.

On a very practical level, the House should not and cannot allow the parties to such disputes to believe that Congress will relieve them of the responsibility for negotiating rationally and reaching their own agreements. If we act in advance of self-help—and thereby ensure the parties that they need not worry about the consequences of their bargaining positions—we guarantee that the parties will never reach agreement on their own. Instead, they will take unreasonable positions, make unreasonable demands, and stick to them unreasonably long. We cannot allow this to occur, much less encourage it.

Beyond this practical consideration, it would be inappropriate and of questionable constitutional validity for Congress to act in advance of self-help. The law provides both labor and management with certain rights, including the rights to strike and to lock out. These prerogatives are protected in part by the fifth amendment, which guards against the elimination of private rights without due process or just compensation, and, with respect to labor's rights, perhaps also by the 13th amendment, which prohibits involuntary servitude. The only basis for congressional action in this area is the commerce clause of the Constitution—and therefore, until commerce has been interfered with or burdened, Congress should exercise restraint.

I recognize that these considerations are cold comfort to those in the Upper Midwest and elsewhere who would be impacted by a CNW strike or service interruption. Nevertheless, as chairman of the Energy and Commerce Committee, I must consider the potential consequences of premature House action. Were it not for this policy, we would face many more of these disputes in the Congress. As it is, such disputes are not infrequent. This is the third such case in 2 years, and I would observe to my Midwestern friends that in both of the earlier cases—one involving the Maine Central, the other involving the Long Island Rail Road—the House did not act until several days had passed under a strike.

One additional point deserves mention. Lest there be any doubt, the Members should know this—I have been unequivocal in communicating this policy and precedent to both the CNW and the UTU for the past several weeks. Any disappointment on their part about our refusal to act until self-help was exercised has only one source—the parties' own unfounded optimism that we would depart from our usual practice and precedent.

So that there will be no doubt today, tomorrow, or on September 9 when this resolution expires, let me reiterate the point. If the parties cannot resolve this dispute themselves before the extended cooling-off period ends, our committee and the House will not act again unless and until the parties exercise self-help and thereby alter the status quo. The parties, their shippers, their passengers, and their communities will, I hope, take this admonition to heart.

Mr. WHITTAKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 356

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY PROHIBITION.

Section 10(h) of the Railway Labor Act (45 U.S.C. 160) shall be extended until September 9, 1988, with respect to the dispute referred to in Executive Order No. 12636 of April 20, 1988, so that no change, except by agreement, shall be made by the rail carrier, Chicago and Northwestern Transportation Company, or by the employees of such carrier represented by labor organizations that are a party to such dispute, in the conditions out of which the dispute arose as such conditions existed before 12:01 ante meridiem of August 4, 1988.

The SPEAKER. Does the gentleman from Ohio [Mr. Thomas A. Luken] desire time on the Senate Joint resolution?

Mr. THOMAS A. LUKEN. No, Mr. Speaker.

The SPEAKER. Pursuant to the unanimous consent agreements, the previous question is ordered. The question is on the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on Senate Joint Resolution 356, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 442, CIVIL LIBERTIES ACT OF 1988

The SPEAKER. Pursuant to the order of the House of yesterday, Wednesday, August 3, 1988, the unfinished business is the completion of the debate on the conference report on the bill (H.R. 442) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the order of the House of Wednesday, August 3, 1988, 20 minutes remain in general debate.

The gentleman from Massachusetts [Mr. Frank] will be recognized for 6 minutes; the gentleman from Georgia [Mr. Swindall] will be recognized for 6 minutes; and the gentleman from North Carolina [Mr. Coble] will be recognized for 8 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Rodino], the chairman of the committee.

Mr. RODINO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. Frank] for yielding.

I say that it is really long past due that we address this wrong that we committed way back in the early 1940's and in fairness and decency to justice that we act on this conference report.

Mr. Speaker, I urge its approval.

Mr. Speaker, on September 17, 1987, the 200th anniversary of the signing of our Constitution, the House passed H.R. 442, the Civil Liberties Act of 1988. Today, we have the opportunity—and the obligation—to complete our work on this legislation by adopting the conference report on H.R. 442. Fairness and decency and justice demand that we act.

More than 45 years ago, the Federal Government committed a grave injustice against Japanese American citizens and resident aliens. It herded nearly 120,000 loyal Japanese Americans into remote internment camps. The United States at the time was at war with Japan, yes, but the Government's evacuation and internment of these Japanese Americans could not be justified by military necessity or security concerns. Despite this shameful misdeed, their government has never compensated these loyal citizens for this denial of their freedom. The House on September 17, 1987, passed H.R. 442 by a vote of 243 to 141. Today we can correct a great wrong by passage of the conference report on H.R. 442 and help speed to these people—our fellow citizens—the just recompense that has been too long delayed.

The conference report also provides for compensation to the residents of the Aleutian and Pribilof Islands. The Commission on Wartime Relocation and Internment of Civilians recommended compensation for those residents of the Aleutian chain who were relocated during World War II by the Government and their villages destroyed by U.S. occupation. The story of the Aleut relocation and internment in abandoned canneries is one of Government negligence. The camps were harsh and medical care was woefully wanting. Approximately 10 percent of the Aleut evacuees died during the 2 to 3 years they were forced to spend in the camps.

The villagers of Attu Island were destined never to return to their home. Part of the island was made a Coast Guard base after World War II, and the rest was designated a wilderness area in 1980. The bill would also compensate the Aleuts for the loss of Attu Island. The Judiciary Committee reported on September 29, 1987, to the House, H.R. 1631, which provides for restitution to the Aleuts in a manner similar to the provisions contained in the conference report. The committee therefore recommends that the House accept the Aleut provisions of H.R. 442 as contained in the conference report.

The conference on H.R. 442 refined and perfected the language of both House and Senate bills, producing a bill that carries out the recommendations of the Commission on Wartime Relocations and Internment of Civilians regarding with the Aleuts and Japanese Americans. The conference agreement contains a 10-year authorization to establish a trust fund of $1.25 billion to be used for two purposes. First, it will provide payments of $20,000 to each surviving individual of Japanese ancestry who was deprived of his or her liberty through relocation and internment. Second, it will finance a civil liberties public education fund by providing $50 million to publish the hearings of the Commission and to sponsor research and public education activities about the internment period.

The conference agreement also establishes a $5 million trust fund for the general benefit of the Aleuts: $12,000 to each Aleut relocated during the war, $1.4 million for destroyed church property, and not more than $15 million for the loss of Attu Island.

The conference agreement complies with the Budget Act, which authorizes new budget authority effective only for fiscal year 1989 and thereafter. In regard to restitution payments to Japanese-Americans, not more than $500 million in budget authority may be appropriated in any year.

The conference agreement asserts that those persons of Japanese ancestry who are living on the date of enactment of the bill qualify for restitution. The agreement also states that the right to payments vests in the survivor at the time of enactment but that payments of the vested rights of deceased persons are limited to three categories: First, surviving spouse; second, equal shares to living children and; third, equal shares to living parents.

The Committee on the Judiciary has jurisdiction over the claims of individuals against the U.S. Government. The committee regularly considers such claims. The committee recognizes that it is nearly impossible to provide adequate compensation to Japanese-Americans and residents of the Aleutian chain relocated during World War II. However, restitution payments are recommended by the committee in accordance with legal precedent for the payment of monetary damages for detainment without due process of law. The Congress has issued a formal apology in the bill, but that alone is not enough to redress the wrongs.

The committee recommends that the House act favorably on the conference agreement of H.R. 442 to remedy the gross inequity done by the United States Government to these Japanese-Americans and residents of the Aleutian chain.

I particularly want to commend Representative BARNEY FRANK, chairman of the Subcommittee on Administrative Law and Government Relations for his work on this bill.

I urge the House to favorably consider the conference agreement on H.R. 442.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, today marks a very important day in the making of our Nation's history. It is a day which clearly demonstrates that the U.S. Congress will not let anything interfere with its sworn duty to uphold the principles which have made this country the great Nation that it is.

I am referring, of course, to the upcoming final passage of H.R. 442, the Civil Liberties Restoration Act of 1988, and before I go further I would like to thank the numerous Members of Congress, Members of both parties, who have supported this legislation and made this great day possible.

The success of the redress bill demonstrates the true character of America in a way that the whole world can recognize. While all countries inevitably make mistakes, few have the courage and wisdom to recognize and acknowledge those mistakes. We all grow tired of reading the meaningless excuses that have been given as explanations for so many tragic actions—excuses which inevitably find a way to blame the victims for their own suffering.

Fortunately, however, since the time when the full rights of citizenship were made available to all Americans, those stories rarely originate from this country. American history books and newspapers record the growth and development of freedom, liberty, and justice, with our Constitution standing as the greatest cornerstone that democracy has ever stood upon. And today will mark another great step in the growth of our democratic Government.

As Democrats and Republicans, liberals and conservatives, politicians and pundits, and, most importantly, citizens of every race and creed across the Nation have recognized, the internment of Japanese-Americans during World War II clearly violated the rights guaranteed to these people by the United States Government under the Constitution. While patriotic men, such as our distinguished colleagues Senators MATSUNAGA and INOUYE, bravely risked their lives defending their country, their country wrongfully imprisoned their families, and forced those families to leave behind anything that they could not carry.

The worst part of the internment grew out of the patriotism of the internees. True believers in the freedom and justice of the American system, many internees simply could not believe that their country could do this to them. My own father could not even talk about his experience in the Tule Lake Internment Camp until 40 years after his freedom was returned to him.

The stigma of the internment weighed heavily on the hearts and souls of these Americans, and, in my fathers words, "the specter of disloyalty attached to anybody who was in those camps." Unfortunately, that specter is alive and well. I know because I have seen it in the tears and painful rememberances of internees. I know because I have seen the letters and heard the voices of those expressing their thanks for the action this great body took last September by its initial passage of H.R. 442.

The redress bill is widely supported not only because of the clearly wrongful nature of the internment, but because of the importance of redress to the integrity of our Constitution. "No person shall * * * be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation." Words which have ensured the greatness of our country, but words which will only be as meaningful as the redress granted to these American citizens who were forcibly removed from their homes and incarcerated, forfeiting many of their possessions, without due process or justice of any kind.

The $20,000 which will go to each internee is not a payoff to some interest group. It is, however, a significant reparation, a reparation just large enough to prove to those internees that the apology they will receive is real and not a meaningless, effortless gesture of pacification.

Redress compensation also reflects the most basic concept of our judicial system—that one party, even if that party is the Government itself, who injures another party shall be held accountable. There would be no accountability, and no justice, in the redress bill without compensation.

Both Houses of Congress, including Members of both the majority and the minority parties, have already voted for this compensation, and we stand poised here today to clear this bill for the President's signature. My friends and colleagues, as someone who is intimately acquainted with the pain caused by the internment and as someone who deeply cares about our Constitution, I cannot tell you how much this vote means to me.

Mr. Speaker, I salute our President who has not only endorsed this bill but has also urged the House to act "swiftly and favorably" on it. In the spirit of our Constitution, I hope my colleagues will seize this tremendous opportunity to bring a positive and healing close to what has been a painful chapter in our Nation's history.

Mr. Speaker, I would just like to quote from a document that appeared in the CONGRESSIONAL RECORD in 1941. It was put in by a gentleman by the name of Mike Masaoka. Mike Masaoka was born in Salt Lake City, UT. He had five brothers, and he and his family were interned during World War II although they were American citizens. When they were in the internment camps, they decided that they needed to prove their loyalty to their country, and so all of the brothers volunteered for the 442d Combat Troop to fight in the European front on behalf of the U.S. Government.

□ 1115

Their sisters, mother and father, and other relatives wre incarcerated by their own Government. Ben Masaoka was killed in action. Todd Masaoka was severely wounded. Ike Masaoka was completely disabled. The others survived. They received numerous medals from the Federal Government.

Mr. Speaker, Mike Masaoka in 1941 asked the U.S. Senate to insert a statement in the CONGRESSIONAL RECORD, and I think the statement is so fitting of the greatness of this country and the greatness of this institution that I would like to read the statement of Mike Masaoka:

JAPANESE AMERICAN CREED

I am proud that I am an American citizen of Japanese ancestry, for my very background makes me appreciate more fully the wonderful advantages of this Nation. I believe in her institutions, ideals and traditions; I glory in her heritage; I boast of her history; I trust in her future. She has granted me liberties and opportunities such as no individual enjoys in this world today. She has given me an education befitting kings. She has entrusted me with the responsibilities of the franchise. She has permitted me to build a home, to earn a livelihood, to worship, think, speak, and act as I please—as a free man equal to every other man.

Although some individuals may discriminate against me I shall never become bitter or lose faith, for I know such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way: above board, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair pay will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.

Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her I pledge myself to do honor to her at all times and in all places, to support her Constitution, to obey her laws, to respect her Flag, to defend her against all enemies, foreign or domestic, to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America.

MIKE M. MASAOKA.

Mr. Speaker, I urge adoption of this conference report.

Mr. SWINDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 442—the Wartime Relocation Compensation Act. I believe it is the obligation of a fair and just government to repay citizens for property taken by that government, even where the motive is to protect the Nation in time of war. I would like to say, however, the compensation to citizens who were interned does not in any way reduce our respect for all those whose sacrifices allowed us to win the war and remain a nation of freedom and liberty. It is from respect for that freedom and liberty that our Government should repay citizens for property forcibly taken during the war.

The conference report contains provisions which provide justifiable compensation for Japanese-Americans and Aleuts living in Alaska who were forcibly relocated during World War II. The provisions in the conference report are patterned after the recommendations of the Wartime Relocation Commission and are nearly identical to legislation I introduced which passed the Judiciary Committee of this body. These provisions provide for individual per capita payments for the survivors of internment and a trust fund for the heirs of those who did not survive. It is important, Mr. Speaker, that 10 percent of the Aleuts who were relocated did not survive their stay in camps in southeast Alaska due to extremely poor health conditions and lack of medical treatment.

The conference report further provides for the payment to the Aleut Corporation for the loss of ownership of Attu Island. Villagers were forcibly relocated from Attu Island and were not allowed to return after the war. In 1980, the island was designated a wilderness area and cannot be returned to the Aleuts at this time.

We took the rights of the residents of Aleutian chain detained during the war. In justice and fairness, I believe we should recognize those rights and provide compensation.

This issue is one of fundamental basic fairness for a fair and just society. I strongly support the conference report and urge my colleagues to vote in favor of it.

Finally, Mr. Speaker, I commend the chairman of the subcommittee, Mr. FRANK of Massachusetts, for his fine work on this legislation as well as the excellent work of the committee staff.

Mr. COBLE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, last night when I arrived home, my husband, who served in the Army during the Korean war, came into the kitchen shaking his head and muttering, "If you want a fast divorce, you vote for that outrageous expenditure of our money."

I was not sure what he was talking about. I asked him.

He responded that he had been watching C-SPAN and had heard the floor debate concerning the reparations to those persons who had been incarcerated during World War II.

"That was wartime," he shouted, "and we did not start the war. If anyone should get anything, it should be the American prisoners who were treated cruelly and frequently tortured, sometimes tortured to death."

Mr. Speaker, my veteran husband, Bill Bentley, like all the veterans in my district, oppose this legislation, as do I.

Mr. COBLE. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, when I came to this Congress 10 years ago, one of the concerns that was raised to me by some folks who worked with me plus some people in my district was the question of the treatment of the Japanese Americans during World War II. Having been someone who grew up in southern California, an area which was dramatically changed as a result of the Executive order signed by President Franklin Delano Roosevelt, but having been born after the war and not knowing that much about it, I began to investigate it.

Once I realized what had occurred, I decided that I ought to be part of bringing this to the attention of the American people. Therefore, I cosponsored the original legislation to create the Commission and served as the only Member of this House on that Commission.

Mr. Speaker, what we discovered was what had been described here both in terms of treatment of American citizens in California and other parts of the 48 States, but also as far as the Aleuts were concerned up in Alaska.

There are reasons, I would suggest, that these things were done, even though I agreed with the unanimous recommendation of the Commission that this decision was made in error and was based on those three cited reasons. It is easy for us to look back and judge others.

What we need to do is to learn the lessons of the past, to make sure it does not happen again, and we need to, as one of our colleagues said, remove any vestige of a stigma that attaches to those loyal Americans and non-Americans who happened to be taken away in those camps.

I have fought against the idea of individual reparations. I still believe it is a wrong thing to do. I do not think we expiate our guilt by paying money from a subsequent generation. Nonetheless, lost in the whole debate about money has been the prime purpose of this legislation, and I believe the prime purpose of the product of the Commission's work is to make crystal clear to Americans now and in the future that there is no disloyalty that attaches to Japanese-Americans and others who were incarcerated or the Aleuts. It was the product of wartime hysteria and the other things that have been mentioned and that there ought to be no thought that anybody in those camps was disloyal.

Mr. Speaker, I think we need an educational program. I think we need to take care of the property losses that existed, and even though I am still believing that it is an error for us to pay individual reparations to individuals in these circumstances. On balance, I think we must make a statement that this was wrong.

When I was on the Commission, I voted with all the other Commissioners in favor of the overall report, although I dissented with respect to the recommendations with respect to individual reparations.

In the Congress of the United States you do not have the luxury of voting and at the same time dissenting and having that recorded. I did that in some way when this bill was first up. I had hoped we might be able to work further toward a discussion of the final ramifications of individual reparations and the precedent it might set. I did my best on that. Other felt that that was not the case, including the President of the United States.

Therefore, Mr. Speaker, at this time I think this ought to be supported even though I still hold reservations with respect to some parts of it.

The symbol is more important than the question of the money, I believe.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the former chairman of the subcommittee before we began work on this issue, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this is a great day for America, because it bears witness to the unique and special greatness of America that we are today repaying American citizens for injustices suffered during World War II as a result of denial of due process. Very few other societies or countries would do what we Americans are doing today.

Mr. Speaker, this bill proves our respect for human rights and liberties is paramount. This bill also establishes a historical precedent that this will never happen again to any racial, religious, ethnic group or individual—that those folks will be deprived of due process because of their background.

Mr. Speaker, behind me is a statement by Daniel Webster. He closes the remarks by saying, "And let us see whether we in our day and in our generation may not perform something worthy to be remembered."

We are doing that today.

Mr. SWINDALL. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, when this bill was before us, I criticized its appropriateness, and as I frequently do, criticized the spending of money in the amounts called for. I spoke my piece, and I lost the argument.

Through the good work of a host of managers, the bill has been improved and has moved forward. A national apology will be offered when this bill is passed today. One of the managers, a particular friend, the gentleman from California [Mr. MATSUI], has been most gracious in talking to me about this bill and explaining what his aspirations for it are.

Partly as a result of those discussions, I see this bill now as an important national apology. As such, it is one which should be made by all of us, and for all of the people of this country. Therefore, on this vote I am going to swallow my objections on appropriateness and unnecessary spending and I will reverse my vote against the bill.

Mr. Speaker, it is a time for apology, healing, and reunification, and I intend to be a part of it.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, enactment of this legislation will bring to a close a painful chapter in this Nation's history. The forced internment of 120,000 persons of Japanese ancestry, most of them American citizens, was a national shame.

Extraordinary sacrifices occur in times of national crisis, and we recognize that thousands of Americans lost their lives in that conflict. The war exacted a price that can never be repaid.

What they fought for, what they fought and died for, was a Nation that respects basic freedoms, justice, and rights. Their sacrifice is the very reason we have the responsibility of coming to terms with this tragic moment of our history.

That is the lesson we all must learn.

Mr. Speaker, I rise today in support of the conference report for the Civil Liberties Act of 1987, which will provide restitution to Japanese Americans interned and relocated during World War II, an apology to these people, and an education fund to ensure the future study of this tragic moment of American history.

The treatment of Japanese Americans in the months following the attack on Pearl Harbor has long been a source of controversy and debate in this country. On February 10, 1942, 10 weeks after America's entrance in the war, President Franklin D. Roosevelt signed Executive Order 9066 giving the Secretary of War and regional military commanders the power to exclude any and all persons from designated areas for security reasons. In the end, more than 120,000 persons of Japanese ancestry—two-thirds of whom were American citizens—were uprooted from along the coasts of California, Oregon, and Washington and interned in remote relocation camps.

Today, more than 40 years later, the controversy surrounding that decision continues. Congress moved in 1980 to address this sensitive issue by establishing a bipartisan Commission on Wartime Relocation and Internment of Civilians to examine the circumstances leading up to the exclusion of Japanese Americans from the west coast and their subsequent detention under armed guard.

After months of hearings and extensive examination of public records, the Commission reported in January 1983 that circumstances in this country during the war did not warrant the internment of thousands of Japanese Americans. In support of this conclusion, the Commission reported that there was not a single documented act of espionage or subversion committed by an American of Japanese heritage on the west coast. The Commission also noted the unequal treatment of suspected nationals, pointing out that no mass exclusion or detention was ordered against Americans of German or Italian descent.

Frankly, we all recognize the necessity of extraordinary measures in times of national crisis. Mandatory military service and gas and food rationing were but a few of the hardships and sacrifices that touched the lives of all Americans during World War II. For the thousands of young Americans who lost their lives in that conflict, the war exacted a price that can never be repaid.

The question before Congress and the Nation is whether, some 40 years after the fact, we should try to compensate for losses suffered by Americans of Japanese ancestry. I believe that we must come to terms with this tragic moment of our history. The education programs provided for in the bill will finally give this nearly forgotten casualty of World War II the attention it deserves. Children in schools across the Nation will learn about the cruelties of war and racism.

Too many young Americans are unaware of the events of World War II. For a variety of reasons the Japanese internment camps are not given adequate attention in the classrooms of the United States. At a time when young people are learning about the controversial events that occurred in Vietnam, so should they be learning of the assault on liberties that occurred right here in the United States during World War II. The money authorized in the bill specifically for education will ensure that future generations will know of these events and learn from them. While I recognize the concern of some over the price of this legislation, the price of not taking this action seems even higher. Only through a knowledge of history can similar events be avoided in the future.

Mr. SWINDALL. Mr. Speaker, I yield 1 minute to the gentleman from Guam [Mr. BLAZ].

Mr. BLAZ. Mr. Speaker, I asked to speak here today because I sense history in the making, and I wanted to be part of it. I wanted to be part of a body that was noble enough, is noble enough, to right a wrong. I wanted, as a soldier, to pay tribute to the members of the 442d who, despite the enormous trauma that must have been upon them as they fought in Italy, nevertheless, distinguished themselves beyond imagination as no other, no other, battle organization has ever done since and probably will never be duplicated.

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During the debate I said that there is one similarity between myself and BOB MATSUI and NORM MINETA. We all were incarcerated in our youth, but there was one big distinction. My guards were enemy soldiers; theirs were American soldiers.

It was wrong. Let us do it right.

Thank you, NORM, thank you, BOB.

Mr. SWINDALL. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. KONNYU].

Mr. KONNYU. Mr. Speaker, I was a refugee in a camp at the end of World War II in Austria. Our family was forced to live there and we could not leave.

Last year I visited a refugee camp in Honduras where 10,000 people were there. They were forced to live there. They could not leave.

That is the situation that happened during the Second World War. I met with those who were incarcerated in my district and others.

I think an apology is appropriate. I think that reimbursement of lost assets created by forced sale at fire sale prices is appropriate.

I ask for support of this legislation.

Mr. SWINDALL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing I would like to urge my colleagues to support this legislation. The President has stated that he not only supports it but will sign it.

I would urge Members to support it not only because it is right, but because it is constitutionally mandated. The gentlewoman from Maryland made the statement that one of her constituents said we did not start this war. Let me remind those who make that argument that neither did these individuals who were interned. We cannot simply transfer the wrongs of the Japanese Government to the wrongs of individuals that are descendants.

In closing, the Federal Government has a responsibility to protect and uphold the Constitution. When it fails in that responsibility and in this case actually participates in violating the Constitution, it must step forward and not only say we were wrong, but make repair. Stating you are wrong is inadequate. You must repair as best you can the damage.

This is a small step in the right direction, but it does close this chapter of American history.

Mr. COBLE. Mr. Speaker, I yield myself my remaining 4 minutes.

Mr. Speaker, I am not comfortable rising to oppose this bill because some will accuse me of being insensitive and uncaring. It is inaccurate. Many proponents of this bill are Members of this House for whom I have the highest regard, and that compounds my discomfort.

I cannot argue to my colleagues that this legislation does not represent a humane gesture by the United States, nor can I argue that Americans of Japanese descent who were living on the west coast of the United States did not experience a horrendous and regrettable interruption of their lives and livelihoods during World War II because of the relocation program.

I can, however, argue, Mr. Speaker, that in a time of war when a country is threatened for its very survival, as this country was after Pearl Harbor in 1942, many things happen and many lives are disrupted for no logical reason. Many travesties of justice occur during a time of war. Many people lost their lives during World War II. Many people's lives were disrupted against their will, and this country went to war in order to help stop the further loss of lives.

I believe it is unfair and perhaps even presumptuous for us to sit in the calm of this House, thousands of miles away from any threat of war today, with the benefit of 20-20 hindsight, and pass judgment on the decisions made by President Roosevelt, his Secretary of War, and other members of his Cabinet during the threat of war which faced them in 1942 following the attack on the front line of defense at Pearl Harbor.

Was there perhaps war hysteria? No doubt. Was there perhaps racial prejudice involved? No doubt.

Was there a failure of political leadership? I think not. We joined that war and helped our allies win it.

But the decisions that are being questioned today, Mr. Speaker, were intertwined with a threatened national security.

I furthermore have reservations about the precedent that we may be setting in passing legislation of this kind. I do not believe that this Government can make restitution for every wrong committed by it during a time of global war, and where do we draw the line? Perhaps descendants of slaves, perhaps American Indians who were forced from their ancestral grounds and placed upon reservations. The potential is endless.

Our office has received many letters from veterans who fought in the Second World War who disagree with this bill, and the tone of their letters is generally the same. Many of them fought and were injured during World War II in conflict with our enemies. Some lost friends and loved ones as a result of the attack upon Pearl Harbor.

Mr. Speaker, in closing, I have no problems with the United States apologizing to those citizens of Japanese descent who were interned during the Second World War or whose lives were disrupted and detrimentally so during that war. And there are, furthermore, many people who should be recipients of apologies for acts that were done to them during the time of war.

But it is a problem, Mr. Speaker, that cannot be simply and summarily resolved after the fact through legislation.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I am glad to yield to the gentleman from Georgia, if I have any time remaining.

Mr. SWINDALL. Mr. Speaker, I would just like to engage the gentleman from North Carolina in one question which I think is at the heart of many individuals' misunderstanding of this bill. The gentleman said where do we draw the line, does this mean that we may well end up compensating descendants of slaves.

I asked that same question and I think the signficance of this bill is that it has nothing to do with the descendants of internees. No individual compensated here is a descendant. They are people who were actually interned.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I rise in strong support of H.R. 442.

Mr. Speaker, I rise to express my strong support for the conference report on H.R. 442, the Civil Liberties Act of 1988, implementing the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

I am proud to have served as a conferee on this historic legislation, and am delighted that the conference report retains the House provision vesting the right to restitution payments in those who are living on the date of enactment. In this and in other key respects, the conference report succeeds in retaining the critical provisions of H.R. 442.

But my pride in being a Member of the Congress which finally apologizes on behalf of the Nation for the relocation and internment of Japanese Americans during World War II and provides redress for their suffering is tempered by my sadness that these events ever happened at all, and that it has taken us over 45 years to admit our mistake and make amends.

It is impossible to overstate the suffering to which over 120,000 Japanese Americans were subjected when they were uprooted from their homes and their communities and compelled to live in mass detention camps. As a Californian, I personally know many people who endured this terrible loss of civil liberties and property.

It is entirely fitting, though long overdue, that we apologize and try to make amends. But I find of almost equal importance what this bill does for the rest of us who did not suffer the terrible injustice.

How many Americans have tried to make sense of the internment camps, and have concluded that there must be some unspoken exceptions to the ringing words of our Constitution and the Bill of Rights? And what price does that effort to reconcile the irreconcilable exact from our vigilance in protecting civil liberties and civil rights today?

How many Americans over the past 45 years have had their pride in our Nation as a beacon of human rights shaken by an acknowledgment of this stain on our national record?

We must approve the conference report on H.R. 442 today not simply for Japanese Americans, but for all Americans.

I salute the individual Japanese Americans and their organizations who have worked so long and so hard to win approval of this measure. Their efforts have not been for themselves alone, but for us all.

Our action today, following on the heels of the action of the other body last week, is eloquent testimony to the vibrancy of our democracy, to our desire to recognize wrongs which have been done to our people, and to right them. I urge passage of the conference report on H.R. 442.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise in support of one of the most important measures this Congress will pass.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 442, and urge my colleagues to support this long-overdue legislation. Passage of this conference report, which the other body has already agreed to, is one more step in the lengthy process of righting one of the most reprehensible episodes in our history. I am very proud to have the opportunity to be part of this historic legislation.

President Roosevelt called December 7, 1941, "A day that will live in infamy." One historian has written that February 19, 1942, was a day that "should live in infamy," for shortly thereafter all American citizens of Japanese descent were prohibited from living, working, or traveling on the west coast of the United States.

With no charges filed, with no hearings or trials, and with little notice, Japanese-American citizens and aliens were given numbers and herded to assembly centers. Allowed to bring only what they could carry, they were transported for the duration of World War II to 10 relocation centers—barely habitable camps of tar-paper shacks, surrounded by barbed wire fences.

It was not until December 1944 that Japanese-Americans were freed to return to their homes on the west coast. But many had lost everything. They were the victims of an indignity of tremendous proportions, and they lived with a tremendous stigma.

Adequate amends can never be made to the internees for their losses and suffering. However, this legislation—which recognizes and apologizes for the grave injustice done to Japanese-Americans, provides restitution to victims, and establishes a trust fund for research and educational activities related to the wartime internment—is an important recognition of the injustices committed against loyal citizens. I urge my colleagues to give it their full support.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank my friend for yielding and rise in strong support of this legislation, and in support of the two gentlemen from California of Japanese extraction who have taken a lot of heat in the enactment of this legislation as well.

Mr. Speaker, I rise in support of H.R. 442; a bill to provide for reparations to Japanese-Americans for their internment during World War II.

On September 17, 1987, the 200th anniversary of the U.S. Constitution, the House passed H.R. 442, the Civil Liberties Act. It was a fitting way to commemorate the bicentennial of our Constitution and a step toward righting a 45-year-old wrong.

The measure has generated a great deal of controversy, due, I believe, to a misunderstanding of the events which the bill attempts to redress. The goal of the Civil Liberties Act is not to repay internees for physical losses or damages. Rather, it seeks to make amends for their unlawful imprisonment.

More than one-half of the men, women, and children put in the internment camps were American citizens by birth. The remainder were permanent residents who had lived in the United States for up to 40 years, but were unable to become citizens due to the Oriental Exclusion Act. Internees, who were mainly teachers, businessmen, and farmers, and their families, had as little as 48 hours to settle their accounts and pack only the possessions which they could carry before being shipped to detention camps by armed soldiers.

The U.S. Government deprived the internees of their constitutionally guaranteed right to the due process of law, the rights to a speedy and fair trial, freedom from arrest and search without probable cause, and the freedom of travel and speech.

We have heard many times that these Americans of Japanese ancestry were a security risk. Yet, even J. Edgar Hoover saw no justification for the internment of an entire community due to its race. War Department documents, declassified in 1983, also show that military authorities knew that there was no military necessity for internment. In fact, no citizens or resident aliens of Japanese ancestry who were interned were ever charged with or convicted of treasonous activity.

We know that the Japanese Government instigated the war in the Pacific and that America was attacked without warning or provocation. But, associating the Americans of Japanese ancestry with the acts of the Japanese empire during World War II would be wrong. Most of the internees were American citizens and had nothing to do with the Japanese Government. Blaming them for the acts of the Japanese Government is equivalent to blaming German-Americans for the horrors of Hitler and the Nazi regime. We were also at war with Germany and Italy, but we did not round up any Americans of German or Italian heritage and intern them in camps.

A nation at war must make many sacrifices, and Americans of Japanese ancestry shared in the American sacrifices for victory in World War II; 33,000 Americans of Japanese ancestry fought in World War II, many in the 100th Battalion and 442d Regimental Combat Team, which fought in Italy and France until the German surrender. While these soldiers were fighting for their country and giving their lives, their families were living behind barbed wire, by order of the same Government the soldiers were defending.

By compensating the surviving internees, we would in no way diminish the sacrifices of millions of Americans who lost their lives in defense of the United States during World War II. Our sense of obligation leads us to publicly and formally apologize on the Nation's behalf to United States citizens of Japanese ancestry who were interned during World War II. I am proud of the fact that our country is composed of people of many different races and heritages. The internment of American citizens due to their race was wrong. By passing this bill, we will be apologizing on behalf of the people of the United States for the evacuation, relocation, and internment of Japanese-Americans.

Mr. Speaker, I cannot think of a better way to reconfirm our belief in and the value of our Constitution than to enact the Civil Liberties Act. I urge my colleagues to pass this important measure.

Mr. FRANK. Mr. Speaker, I include at this point in the RECORD the letter from President Ronald Reagan supporting this bill.

The letter referred to follows:

THE WHITE HOUSE,
Washington, August 1, 1988.

Hon. JAMES WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We welcome the action of the House-Senate conference on H.R. 442, a bill to provide compensation for Americans of Japanese descent interned in the United States during the Second World War. The bill reported from the conference and passed by the Senate on July 27 is substantially improved over the versions of the bill previously considered.

We are particularly pleased that the bill provides for a measured disbursement of the amounts authorized for the trust fund and ensures that acceptance of compensation under the legislation fully satisfies claims against the United States based on the unique circumstances of the internment.

The enactment of H.R. 442 will close a sad chapter in American history in a way that reaffirms America's commitment to the preservation of liberty and justice for all.

I urge the House of Representatives to act swiftly and favorably on the bill.

Sincerely,

RONALD REAGAN.

Mr. FRANK. Mr. Speaker, I yield my remaining 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I am delighted at the agreement reached among the conferees on H.R. 442, and I urge my colleagues to approve this report.

This legislation has been carefully drafted, after many years of debate, discussion, and hearings. In resolving the differences between the House and Senate versions of H.R. 442, the members of the conference committee further refined and strengthened an already well-crafted bill.

The major points remain, unweakened, in this legislation: An apology from the U.S. Government, compensation for survivors, an education fund to assure that such a violation of civil rights never again occurs, and review of administrative decisions and criminal convictions influenced by the hysteria of the time.

In addition, H.R. 442 now also contains redress for the Aleuts who suffered so during their evacuation and relocation.

This bill is certainly about the specific injuries suffered by a small group of Americans. But the bill's impact reaches much deeper, into the very soul of our democracy. We want not just to close the books on the sad events of 1942: we want to make certain that such blatant constitutional violations never again occur.

Today I hope that this body will take another step toward righting a monumental injustice. I hope that we will resoundingly approve this report, and in so doing, will reaffirm the precious rights and freedoms guaranteed in our Constitution.

I applaud the hard work of the conferees in their careful consideration of the many points covered in this bill, and in crafting legislation to successfully meet the intent of both Houses.

I especially want to thank my good friend, the distinguished gentleman from Massachusetts [Mr. FRANK] whose vision, brilliance and untiring efforts made this bill a reality.

I also want to thank the majority leader, Mr. FOLEY, for his sponsorship of the bill, and the distinguished and honorable gentleman from New Jersey [Mr. RODINO] the chair of the Committee on the Judiciary. This fine gentleman will shortly be retiring from this body, after a long and distinguished career and we will miss him greatly. This achievement will be marked as another outstanding accomplishment among his long list of achievements in service to this Nation.

Of course, I think Speaker WRIGHT, in his role as the original author and constant supporter of this bill. I also commend Mr. FISH, Mr. HYDE, Mr. SWINDALL, Mr. GINGRICH, Mr. KEMP, Mr. YOUNG, and Mr. BLAZ for their support.

I also want to thank the hard-working House and Senate staff members whose patience and determination helped mold this legislation into a well-written and historic bill.

This bill is a tribute to the bravery of those who served in the 100th Battallion, 442d Regimental Combat Team and the Military Intelligence Service during the Second World War.

This legislation touches a deep chord in the hearts of the thousands of loyal Americans whose rights were summarily abrogated many years ago.

But though this is a deeply personal issue for a small number, this legislation touches all of us, because it touches the very core of our Nation. Does our Constitution indeed protect all of us, regardless of race or culture? Do our rights truly remain inalienable, even in times of stress; and especially in times of stress?

The passage of this legislation answers these questions with a resounding yes.

After many years of prayer, struggle, and dreams, now the 100th Congress takes its final action on H.R. 442. I am deeply honored to serve in this body, with fine colleagues such as Mr. MATSUI and Mr. LOWRY, as it takes the brave step of admitting and redressing a monumental injustice. I am delighted that this legislation has the support of the President.

Today we can again say yes to justice. I urge my colleagues to approve this report.

Mr. BONKER. Mr. Speaker, I am extremely pleased to rise today in support of the conference report on H.R. 442, the Civil Liberties Act of 1988. At long last, our Nation stands on the threshold of providing restitution for one of the most painful episodes in American history—the internment of Japanese-Americans during World War II.

This legislation finally acknowledges the injustice these U.S. citizens experienced and makes a formal apology to them and their families. In addition, the bill provides for restitution payments as compensation to Japanese-Americans and resident aliens who were denied their civil liberties 40 years ago.

Certainly, the terrible injustice to these innocent people can never be fully undone. Forcing them to give up their homes and businesses and locking them up in concentration-like camps was such a fundamental violation of civil rights that it is near impossible to understand how it could ever have been tolerated or how the damage can ever be repaired.

Mr. Speaker, I am hopeful, though that the actions of the House of Representatives today followed soon by the President's signature making it law, will not only provide consolation to those who were so disgracefully treated but will also stand as a reminder to future generations. We can never again allow our country, which was founded on the principle of individual freedom, to sacrifice those sacred ideals to the hysteria of fear and racism.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on H.R. 442.

This is long overdue legislation designed to address the personal and financial injuries caused by the internment of over 120,000 Americans of Japanese ancestry during most of World War II.

Some erroneously view this legislation as a gift to internees. Nothing could be further from the truth.

This legislation is a gift from the internees to each American who loves and respects our Constitution. Because what this legislation says is that we, in the Congress, recognize the enormous blunder and disrespect for constitutional liberties which the internment was, and that we vow never to permit it to reoccur.

The Constitution of the United States guarantees the rights of all citizens, including Japanese/Americans, in times of peace as well as during times of war. This legislation sends a clear message to our people that as a country, we will constantly uphold these rights for all the racial groups, the ethnic groups and the social groups which are part of this country.

The internment of Japanese-Americans was ordered as a result of the conclusions of military leaders that Japanese-Americans—regardless how long they had lived here or their unqualified loyalty to America—posed a military threat to the United States. That conclusion was not based on facts; it was not based on law. It was based on racism pure and simple.

In fact, during the war, not a single person of Japanese descent was convicted of espionage. Japanese-Americans were no different from the Americans of German and Italian descent who had come to America seeking political and economic freedom. Yet they suffered a fate far more cruel and unjust than any other immigrant group.

I take this matter very personally, because among the children with whom I grew up in northern California in the 1940's were many whose parents and siblings were assigned to internment camps. Many of these Japanese-Americans of Contra Costa County were farmers and small businesspeople who lost their possessions because of the internment policy.

In my district alone, the internment forced 1,200 people to leave their jobs, friends, and possessions to spend up to 4 years in permanent relocation camps. One of those Contra Costans, Chiyeko Tahira, was lucky enough to have Caucasian friends with whom she hurriedly stored family china and other heirlooms before she left for over 3 years internment in Topaz, UT. Many others were not so lucky and returned to find that the barns where they had hidden their belongings had been looted or burned.

Beyond the material loss was the physchological damage of having been suddenly uprooted and labeled a potential traitor. Over 7,000 of the internees were children less than 5 years old. These children were scared by the strains of overcrowded, impoverished living behind chain-link fences. Most of them fortunately survived the internment experience, returned home, and began reconstructing their lives, burdened by financial loss and social stigma. And admirably, they maintained faith in a country that had broken faith with them.

Forty years after that tragic period of American history, it falls to this Congress and this generation of America to make amends for the past error. In authorizing $20,000 to each surviving internee, we make only a symbolic effort to compensate these Japanese-Americans for their years of hardship. Twenty thousand dollars is not a great sum when we consider that settlements of up to $10,000 were made for only 1 night of false imprisonment during the Vietnam protests of the late sixties.

I am proud to be a cosponsor of this legislation, and we as Americans should be proud that we have finally the courage to confront this unpleasant chapter in our Nation's history and attempt, however symbolically, to right the wrongs. In approving this conference report, we do far more than acknowledge our debt to the interned Japanese-American citizens of the 1940's.

We reiterate our national commitment to the primacy of our Constitution and the rule of law which can be diminished neither by racial distinctions or the passage of time. By admitting to our past mistakes, we are a better and more united country today.

It is imperative that we give this conference report our overwhelming support and never again allow the constitutional rights of any group of citizens to be swept away by the powerful tides of prejudice and irrationality.

Mr. LEHMAN of California. I join my colleagues in support of the conference report on H.R. 442, the Civil Liberties Act, legislation to provide reparation to Japanese-Americans and Alaskan Aleuts who were forced into relocation camps during World War II. As a cosponsor of H.R. 442, I would like to offer my congratulations to the Members who have worked so long and hard to perfect this long-awaited legislation.

It has taken us 46 years to correct this terrible injustice against a small group of people, most of whom were American citizens, and whose only crime was to be of Japanese ancestry. We have all been told many times, by many different Members, and in very eloquent terms during the lengthy debate on this legislation of the grave injustice and serious breach of constitutional rights that was committed against over 110,000 Americans of Japanese ancestry.

We are all well aware of the circumstances which led up to the actions by our Government and the justification which was given for the relocation policy. With the usual historical hindsight, we now know that there was no military necessity for removing Japanese-Americans from the west coast, and that there was not a single documented act of espionage or sabotage committed against the United States Government by a Japanese-American.

We all know that Executive Order 9066 giving the Secretary of War the authority to implement the relocation policy was the result of war hysteria, gross failure of political leadership, and racism, and it was the beginning of one of the most shameful chapters in the history of the United States.

We know that for over 110,000 individuals the action resulted in the forfeiture of property, the loss of 3 years of their lives removed from the mainstream of the American economy and society, and the loss of countless and unknown opportunities that would never come to those who were relocated.

We also know of the significant contributions which Japanese-American soldiers were making in both the European and Pacific military theaters. No one could question the patriotism and loyalty of the Americans who formed the famous 442d Regimental Combat Team, which remains as the most highly decorated unit of its size in United States military history, nor that of the Japanese-Americans who served in the Pacific as interpreters and helped to shorten that war effort.

Finally, we know of the terrible memories that the survivors of the relocation camps have had to carry for the past 46 years. There has been the silent suffering that many of the Issei, the first generation immigrants, have had to endure. There has been the personal conflict which their children, the Nisei, have had to overcome in speaking out forcefully to address the issue—the conflict which good friends and colleagues like NORM MINETA and BOB MATSUI have so eloquently shared with us.

Mr. Speaker, H.R. 442 cannot diminish the tragedy of this unfortunate event nor can it wipe from the memories of the survivors and their families the emotional scars that remain.

It is, however, an important step in helping to ease the pain of this shameful episode in the history of the country, and it should serve as a reminder of how easily men and governments can make wrong decisions. Finally, it serves to show the respect we all have for the contributions that Japanese-Americans have made to our society.

As a California native I am well aware of the contributions which Japanese-Americans have made to the State and Nation as a whole. I grew up in a small San Joaquin Valley farm community where the Japanese-American families flourished and were just as large a part of the community as were German-Americans, Italian-Americans, Hispanic-Americans, and Armenian-Americans.

H.R. 442 is a responsible and just bill, and it is an appropriate reflection of the shared responsibility that we have as a community and Nation. We can stand proud in approving this legislation today.

Mr. DAVIS of Illinois. Mr. Speaker, when H.R. 442 was first before the House on September 17, 1987, I considered the reaction that we might be facing if the same terrible events that were perpetrated on the Nisei Japanese-Americans in 1941 were visited upon the Irish, Dutch, Italians, and other ethnic groups and I concluded the hue and cry would be great and that this bill would have sailed right through Congress.

I consequently voted "yes" and since that time have had time to further review that vote and to consider a considerable amount of mail objecting to that vote. I have now reached the conclusion while I still deplore that black day in American history. I have also further considered that until the United States Government comes to grips with its past policies and treatment of American Indians, blacks, and other ethnic and legally deprived minorities it is not fair to start with the Japanese-Americans but rather in some historical sequence.

I am also mindful that the term "representative" means to represent and while no one has sought my "yes" vote on this bill a large number of constituents phoned, wrote, and verbally communicated their opposition to this measure.

I therefore have decided to reverse myself and vote "no" on the conference committee report on H.R. 442.

Ms. PELOSI. Mr. Speaker, Americans of Japanese ancestry have suffered enough. For 45 years, Japanese-Americans have sought redress for the injustice of their internment. It is time that we act to rectify that injustice by passing the conference report on H.R. 442 and sending it on to the President.

Solely because of their Japanese ancestry and heritage, 120,000 loyal Americans were forced to leave their homes to go to Government internment camps during World War II. They lost their houses, their farms, their businesses, and their dignity. The stress experienced by individuals and families caused untold damage to these Americans. It is up to this Nation to ensure that these losses are adequately redressed.

No piece of legislation can repay the losses and the harm caused by this relocation. However, by providing compensation and a formal national apology, this bill takes important steps in that direction.

Mr. Speaker, this country was founded on the principle that civil and constitutional rights are not the privilege of a few, but a guarantee to all citizens. Our judicial system was established to protect those rights; to guard against the tyranny of the majority. During World War II, we failed in that vigilance and tyranny ensued. The victims were productive, patriotic Americans of Japanese ancestry.

In compensating these victims of our inhumanity, we will reaffirm our dedication to the principles on which this Nation was founded. Let us learn from past mistakes so that loyal Americans will never again suffer the indignity of forced internment. I urge my colleagues to pass this conference report and to see that justice is done.

At this time, I would like to make special reference to the people in my district of San Francisco who have worked so hard for the passage of this report.

I am proud to represent a district in which I work closely with many Japanese-American leaders—survivors of the camps and their sons and daughters who, despite the racism and adversity they endured, continue to express a firm commitment to constitutional principles.

I am also proud to represent citizens who have successfully led the coram nobis efforts to overturn the Korematsu, Hirabayshi, and Yasui cases. They have proven that patriotism, commitment to democracy, and a belief in a free society are not determined by race or ethnic origin, but are held within the heart, the mind, and the soul.

Mr. FRANK. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 257, nays 156, not voting 18, as follows:

[Roll No. 264]

YEAS—257

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Atkins
AuCoin
Badham
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bustamante

Campbell
Cardin
Carr
Chandler
Cheney
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Davis (MI)
de la Garza
DeFazio
Dellums
DeWine
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallo
Garcia
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gradison
Gray (IL)
Gray (PA)
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Herger
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Johnson (CT)
Jones (NC)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (UT)
Panetta
Pashayan
Pease
Pelosi
Pepper
Perkins
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Rhodes
Richardson
Rinaldo
Rodino
Roe
Rostenkowski
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Swindall
Synar
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Yates
Young (AK)

NAYS—156

Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Buechner
Bunning
Burton
Byron
Callahan
Carper
Chapman
Clarke
Clement
Coats
Coble
Coleman (MO)
Combest
Cooper
Crane
Darden
Daub
Davis (IL)
DeLay
Derrick
Dickinson
DioGuardi
Dorgan (ND)
Dyson
Emerson
English
Erdreich
Fawell
Fields
Flippo
Gallegly
Gaydos
Gekas
Goodling
Gordon
Grandy
Grant
Green
Gregg
Guarini
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Hiler
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jenkins
Johnson (SD)
Jones (TN)
Kanjorski
Kasich
Kolbe
Kyl
Latta
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lukens, Donald
Mack
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Neal
Nichols
Olin
Oxley
Packard
Parris
Patterson
Payne
Penny
Petri
Pickett
Quillen
Ray
Regula
Ridge
Ritter
Roberts
Robinson
Rogers
Rose
Roth
Rowland (GA)
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Tallon
Tauke
Tauzin
Thomas (GA)
Upton
Vander Jagt
Walgren
Walker
Watkins
Whittaker
Wylie
Yatron
Young (FL)

NOT VOTING—18

Aspin
Biaggi
Boulter
Chappell
Dowdy
Espy
Foglietta
Ford (TN)
Gephardt
Kemp
Kolter
Lott
MacKay
Mica
Owens (NY)
Spence
Taylor
Wilson

□ 1202

The Clerk announced the following pair:

On this vote:

Mr. Gephardt for, with Mr. Boulter against.

Messrs. LATTA, CLEMENT, and HILER, and Mrs. SMITH of Nebraska changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, AUGUST 5, 1988, TO FILE REPORTS ON H.R. 1149 and H.R. 3763

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tomorrow night, Friday, August 5, 1988, to file reports on H.R. 1149 and H.R. 3763.

Mr. Speaker, this request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

STATEMENT OF REPRESENTATIVE PEPPER ON AMENDMENTS TO AIDS BILL

(Mr. PEPPER asked and was given permission to address the House for 1 minute.)

Mr. PEPPER. Mr. Speaker, I rise to inform the House of the procedure that I expect the Rules Committee to follow with respect to consideration of a rule on H.R. 5142, legislation relating to the prevention and treatment of acquired immune deficiency syndrome. It is anticipated that the Committee on Rules will meet to consider a rule for this bill during the week of August 8, and it is my understanding that the leadership of the Committee on Energy and Commerce will request a modified open rule which permits the consideration of only those amendments which are included in the report which accompanies the rule.

Mr. Speaker, in order that members of the Rules Committee may have a full opportunity to make informed judgments with respect to matters to be included for consideration under the rule, it is my expectation that the committee will consider making in order only those amendments which are received at the Rules Committee offices by 3 p.m. on Tuesday, August 9, 1988.

Therefore, Mr. Speaker, any Member of the House who may wish to offer an amendment during House consideration of H.R. 5142 should have 35 copies of the amendment and of explanatory materials delivered to the offices of the Committee on Rules—room H-312 in the Capitol—by 3 o'clock p.m. on Tuesday, August 9, 1988. Members should have their amendments drafted to the text of H.R. 5142 as it was introduced.

Mr. Speaker, this announcement on the part of the Rules Committee, I will say to my colleagues, relates to the AIDS legislation, and is concurred in by the leadership of the House, which recognizes the reason for our making this request. The Rules Committee is always reluctant in any way to hamper the utter freedom of the Members of the House in offering amendments. This is in respect to the AIDS bill.

PROVIDING FOR CONSIDERATION OF H.R. 4333, MISCELLANEOUS REVENUE ACT OF 1988

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 507

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, as modified by the amendment in the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit, with or without instructions.

The SPEAKER pro tempore (Ms. PELOSI). The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Madam Speaker, I yield the usual 30 minutes, for the purpose of debate only, to my distinguished friend, the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. PEPPER. Madam Speaker, House Resolution 507 is a closed rule providing for the consideration of H.R. 4333, the Miscellaneous Revenue Act of 1988. The rule waives all points of order against consideration of the bill and provides 1 hour for general debate.

The Ways and Means Committee reported the bill with an amendment in the nature of a substitute, which is now printed in the bill. The Ways and Means Committee also approved a free-standing amendment to extend the Foster Care Independent Living Initiatives Program. The free-standing amendment is now printed in the Rules Committee report, House Report 100-812, which accompanies the rule.

House Resolution 507 makes in order the amendment in the nature of a substitute, modified by the free-standing amendment, as an orginal bill for purpose of amendment. All points of order are waived against the substitute as modified and no amendments are in order to the substitute as modified. Finally, the rule makes in order one motion to recommit, with or without instructions.

Madam Speaker, H.R. 4333, the Miscellaneous Revenue Act of 1988, makes technical tax-related amendments and corrections to the Tax Reform Acts of 1984 and 1986 and the Revenue Act of 1987 (title X of last year's reconciliation bill), these technical corrections are long overdue.

As amended in the Ways and Means Committee, the bill modifies and extends, through fiscal year 1990, certain expiring tax provisions. H.R. 4333, as amended, extends the Qualified Mortgage Revenue Bond Program and certain tax credits for research and development. The legislation also allows off-highway business users of diesel fuel, principally farmers who are already exempted from the excise tax, to purchase the fuel directly without paying the excise tax. The measure restores but limits the tax-free treatment, which expired in 1987, for employer-provided educational assistance. The low-income rental housing tax credit and the targeted jobs tax credit are also extended through fiscal year 1990.

The committee amendment extends for 1 year the current moratorium on collection of penalties against States with AFDC excessive error rates. The measure terminates Social Security benefits to individuals deported as Nazi war criminals. The amendment provides the administration with its long-sought authority to issue long-terms bonds, bonds which mature more than 10 year after issue. Under current law, the Treasury may issue only a limited amount in long-term bonds at interest rates higher than 4.25 percent. H.R. 4333 also exempts the expenses of freelance authors, artists, and photographers from the uniform capitalization rules.

Extensions of tax benefits and other provisions that cost the Treasury will be paid for by several items that raise revenues. Over the next 3 years the measure is essentially revenue neutral. Among other provisions raising revenue, H.R. 4333 repeals the completed contract method of accounting for long-term contracts, restricts tax-free distributions from certain single premium life insurance policies, accelerates the collection of corporate estimated tax payments, imposes an excise tax on pipe tobacco, repeals special rules that allow Alaska Native corporations to sell tax losses to profitable corporations, and reduces from 70 percent to 50 percent the dividends-received deduction.

One provision, however, concerns me very seriously. Section 367 of the bill applies low-income tenancy requirements to multifamily housing owned by charitable organizations if the rental property is financed by tax-exempt bonds. The provision has unfortunate, and I am convinced unintended, debilitating effects on the development of church-sponsored retirement homes and health care facilities for the elderly. I am hopeful that a conference committee would carefully reexamine this provision in light of its potential chilling effect on development of church-sponsored retirement communities, congregate living arrangements, and health-care facilities.

Madam Speaker, I am certain each Member wishes he or she could have prevailed upon the committee to include a transition rule providing worthwhile tax relief to specific constituents. The committee, however, has chosen to take the high road, eschewing all amendments that might be characterized as providing special tax benefits to a select few. We have all heard Chairman Rostenkowski insist there will be no "rifleshot" provisions.

Mr. Speaker, while I am personally disappointed about section 367 and several other worthy matters I advocated, I can understand the value and necessity of the committee's approach. I support the bill, and I urge adoption of the rule.

□ 1215

Mr. LATTA. Madam Speaker, I yield myself such time as I may consume.

Mr. LATTA. Madam Speaker, the bill made in order by this rule is a big bill. As reported the bill consists of 960 pages, with numerous unrelated provisions. On balance it is a needed piece of legislation. While each of us might have done it differently if we were writing the bill ourselves, this bill represents a fair balancing of the problems.

There are two provisions I would particularly like to note, because I cosponsored legislation to make these changes, and the proposals were incorporated into this comprehensive bill.

The first is a provision dealing with diesel fuel. This bill would allow tax-exempt off-highway users of diesel fuel, such as farmers, to purchase the fuel directly from producers without paying the Federal excise tax. Madam Speaker, this will be a big improvement over present law, which since April 1, has required farmers to pay the tax and then claim a refund from the Treasury Department. It does not make sense to require farmers, who have enough other problems right now, to pay a tax and then have to apply for a refund to get their own money back. Since they are exempt from the tax under the law, they should not be required to go through a lot of unnecessary paperwork.

Madam Speaker, the second provision which I cosponsored, and which is incorporated in this bill is repeal of the so-called heifer tax. This provision exempts from the application of the uniform capitalization rules otherwise deductible expenses that are incurred by an individual farmer in connection with the production of animals. Madam Speaker, the application of the uniform capitalization rules to small farmers engaged in the production of livestock is just one more burden the small farmer should not be forced to bear.

Madam Speaker, I commend the Committee on Ways and Means for including these two provisions in the bill they reported. They have helped to make life less difficult for many of America's farmers.

Madam Speaker, I should note that this rule before the House today like most rules on tax bills is a closed rule. It waives all points of order to allow consideration of the bill and to protect the committee substitute.

Members should be aware that two of the waivers covered in the waiver of all points of order are Budget Act waivers.

First a waiver of section 311(a) of the budget act is included because this bill reduces revenues in fiscal year 1988, even though it is estimated to produce a small revenue gain over the first 4 years. Any reduction in revenues this year causes a budget act problem because the current level of revenues is under the budget floor for fiscal year 1988.

The Second Budget Act waiver is included because this legislation increases new entitlement authority by $12 million in fiscal year 1989 as a result of the inclusion of a number of amendments to the social security act. Since the Ways and Means Committee has no allocation of entitlement authority for fiscal year 1989, a waiver of section 302(f)(1) of the budget act is included.

Madam Speaker, the committee on ways and means reported this bill by a record vote of 33 to 3. It is a good bill, and I will not oppose this rule, so that the house may proceed to consider the miscellaneous revenue act of 1988.

Madam Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Madam Speaker, I support H.R. 4333, the Miscellaneous Revenue Act of 1988 and the rule providing for its consideration. H.R. 4333 contains much needed technical corrections to the Tax Reform Act of 1986, which will eliminate many uncertainties, and correct for unintended consequences in several areas. Unfortunately, it has taken 2 years to make these corrections to the 1986 act.

H.R. 4333 extends and modifies on policy and revenue grounds several important, expiring tax provisions such as the research and development tax credit and mortgage revenue bonds. The modifications made by the committee to these provisions better target those people the provisions are intended to help. For example, the mortgage revenue bond and mortgage credit certificate programs are tightened so that the benefits are directed more toward lower income families.

This bill also makes two minor but relatively important changes to the Tax Code. It permanently exempts mutual fund shareholders from being taxed on "phantom income" which they never receive, and it modifies the collection of the diesel fuel excise tax so that off road business users are not forced to pay the tax and then collect a refund at a later date.

Furthermore, I am happy to say that this bill is deficit neutral. As a result of modifying the expiring provisions and of limiting the other provisions of the bill, it is much smaller than it could have been.

As with most large pieces of legislation, I do not support every provision in this bill. In particular, I have strong concerns regarding at least three provisions. The reduction in the dividends received deductions is of questionable merit at best. Double taxation is bad enough, but triple taxation is ridiculous.

In practice, this reduction may also have severe negative consequences. This change increases the tax benefits of corporate debt financing over equity financing. This could increase bankruptcies during economic downturns because a corporation can forgo dividend payments but not interest payments. It will also depress the value of preferred stock and, harm industries which have historically relied on such financing vehicles. I hope that the conference with the Senate will find a way to eliminate this provision.

My second concern is with the bill's treatment of life insurance. According to the analysis of the Joint Committee on Taxation, a seven-pay model is not sufficient to restrict the well recognized investment abuses of single premium life insurance. If the abuses of investment oriented life insurance continue, it will be necessary to revisit this issue to protect the integrity of the 1986 Reform Act.

My final concern is with the exemptions from the uniform capitalization rules. Granting these tax breaks now will make it that much harder to refuse other groups in the future. I fear that the compromises that were necessary to lower the marginal rates will unravel, and ultimately, lead us back to the high tax rates that existed prior to tax reform.

However, taken as a whole, I support this bill. I am pleased with the bipartisan process by which the committee developed it, and believe it should be approved by the House so that the Senate can act promptly on those features of this bill which deserve enactment before the end of this session.

Mr. PEPPER. Madam Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Madam Speaker, I rise in support of H.R. 4333, the tax legislation.

I support this measure, for several reasons. Among them is the repeal of the most burdensome tax requirement to hit American agriculture since the contemporaneous recordkeeping requirement of a few years back.

I refer to the requirement that off-road users of diesel fuel pay the diesel excise tax and receive a refund of the tax later—much later.

The Ways and Means Committee wisely recognized that diesel-fueled generators and combine harvesters have nothing to do with the Nation's highways, and should have nothing to do with the highway trust fund.

Since April 1 of this year, farmers and other off-road diesel users have seen the diesel tax take a big bite out of their cash-flow. This was unfair.

The requirement in current law essentially meant that farmers were forced against their will into the business of making interest-free loans to Uncle Sam. Would that Uncle Sam was so generous to the farmers.

I was one of several Members who introduced legislation to relieve farmers of this burden, and I am gratified to see that our efforts have been successful. I am also pleased that farmers who paid this unfair tax will be able to file for a special refund of the tax, with interest.

I hope the other body will accept this provision as it is and act speedily on the bill before the diesel tax puts anybody out of business. Cash-flow was difficult enough on the farm before this year, and the drought has made things that much worse.

Farmers simply cannot afford to pay taxes they don't owe. I commend the Ways and Means Committee for its action, and urge passage of the bill.

Mr. PEPPER. Madam Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Madam Speaker, I want to take this opportunity to strongly urge my colleagues to support the measure before us.

I am pleased to see that the measure contains the diesel fuel tax exemption which was part of my bill that I sponsored to help farmers and fishermen.

Madam Speaker, American farmers are already having to bear severe hardship because of the drought. They do not need the extra headache and the extra expense of paying excise tax on diesel fuel for their farm equipment. In Maine fishermen are also suffering because of these unfair taxes. Fishing crews often chip in to buy gas before the boat leaves the dock for the sea while most of us also have transportation costs to get to work. The fisherman's cost is increased by a fuel tax that they simply do not rightly owe.

Madam Speaker, frankly I find it absurd that fishermen are contributing to the highway trust fund through the diesel fuel excise tax. The purpose of the highway trust fund is for the contruction and repair of the Nation's roads. I was not born yesterday, and I have yet to pass a fishing vessel while driving the roads in Maine. Our fishermen, farmers and others who use diesel fuel for off-highway uses have no business paying into the highway trust fund, and the Government certainly has no right to take their hard-earned dollars, even temporarily, to repair highways they do not use with their boats.

So, Madam Speaker, Let us stop this unfairness, this inequity, and let us restore fairness to our fishermen and to our farmers who need our help. And for the damage done, let us pay. Let us pay interest on the money that we have taken from them unfairly.

Please join me in voting yes on this bill and asking that others in the other body act promptly on this bill because we are doing an injustice to our fishermen, we are doing an injustice to our farmers, and we have a chance now, and we ought to act promptly.

Mr. LATTA. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Madam Speaker, for purposes of debate only, I yield 2 minutes to the able gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Madam Speaker, I would like to urge support for this important piece of legislation, but most specifically this legislation contains a correction of a matter that affects many artists, writers, photographers in this country who in the Tax Reform Act were deprived of their deduction when they donated their work to a charity.

I especially wish to commend the gentleman from New York [Mr. Downey] for his efforts within the committee and several members of the minority, especially the gentleman from New York [Mr. Green] who I know represent large artist communities in their States.

Madam Speaker, in my own State of New Mexico we have the arts as the second largest industry, and this was a provision that there was a lot of concern for around the country. It affects all kinds of artists.

Madam Speaker, not every artist in this country is wealthy, and not every artist is not conducive to giving some of their works to charity. You find many good men and women trying to do their best, trying to donate their works to a positive organization, yet they found that their deduction was taken away. That is the main reason why I am supporting this bill, and I think it is critically important that the legislation pass with a very strong margin.

Madam Speaker, I yield back the balance of my time.

Mr. PEPPER. Madam Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Ms. Pelosi). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GREEN. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 288, nays 123, not voting 20, as follows:

[Roll No. 265]

YEAS—288

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Darden
Daub
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Huckaby
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Lujan
Luken, Thomas
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schulze
Schumer
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—123

Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carr
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Dymally
Emerson
Fawell
Fields
Frank
Gallegly
Gallo
Gekas
Gingrich
Grandy
Green
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hubbard
Hughes
Hunter
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Nielson
Oxley
Packard
Pashayan
Petri
Porter
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Saxton
Schaefer
Schneider
Schroeder
Schuette
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland

Stump	Tauke	Walker
Sundquist	Upton	Weldon
Sweeney	Vander Jagt	Whittaker
Swindall	Vucanovich	Young (FL)

NOT VOTING—20

Biaggi	Ford (TN)	Panetta
Boulter	Kemp	Quillen
Crockett	Kolter	Slattery
Dowdy	Lott	Spence
Edwards (OK)	MacKay	Taylor
Espy	McCurdy	Williams
Foglietta	Mica	

☐ 1248

Mr. CARR changed his vote from "yea" to "nay."

Mr. LUJAN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, SATURDAY, AUGUST 6, 1988, TO FILE SUNDRY REPORTS

Mr. BROOKS. Madam Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Saturday, August 6, 1988, to file three legislative reports: H.R. 3345, Office of Federal Procurement Policy Reauthorization; H.R. 4719, Drug-Free Workplace; and H.R. 5090, Canada Free Trade Agreement.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO FILE REPORT ON H.R. 5094, DEPOSITORY INSTITUTIONS ACT OF 1988

Mr. ST GERMAIN. Madam Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until midnight tonight, Thursday, August 4, 1988, to file a report on H.R. 5094, the Depository Institutions Act of 1988.

Madam Speaker, I am happy to inform the Chair that the ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 5, 1988, TO FILE REPORT ON H.R. 5090, IMPLEMENTATION OF UNITED STATES-CANADA FREE TRADE AGREEMENT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs have until midnight, Friday August 5, 1988, to file a report on H.R. 5090, legislation to implement the United States-Canada Free Trade Agreement.

Again, happily, Mr. Speaker, the ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

MISCELLANEOUS REVENUE ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 507 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4333.

☐ 1250

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, with Mr. HAYES of Louisiana in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to urge my colleagues to support H.R. 4333, the Miscellaneous Revenue Act of 1988. This legislation was favorably reported from the Committee on Ways and Means by a strong, bipartisan vote of 33 to 3. That vote is a reflection of the committee's successful effort to write a disciplined, bipartisan bill.

As originally introduced, H.R. 4333 made technical corrections to the Tax Reform Act of 1986, other tax legislation enacted in the 99th Congress, and the tax provisions of the Omnibus Budget Reconciliation Act of 1987. In addition to these long overdue technical corrections, the bill as reported by the Committee on Ways and Means contains a number of substantive provisions which will benefit literally millions of taxpayers. These include:

Allowing tax-exempt off-highway users of diesel fuel, such as farmers, to purchase the fuel directly from producers without paying the Federal excise tax;

Exempting mutual fund shareholder expenses from the 2-percent floor for miscellaneous itemized deductions;

Extending the research and development tax credit;

Extending the mortgage bond and mortgage credit certificate programs;

Extending the targeted jobs tax credit;

Extending the low-income rental housing credit; and

Extending the tax-free treatment of employer-provided educational assistance.

The extensions of expiring provisions include new restrictions to better target these tax incentives and to reduce the overall cost of the extensions.

The bill includes a number of other miscellaneous, generic provisions that many House Members have requested. For example:

Farmers could deduct currently their preproductive expenses of farm animals. This provision repeals the so-called heifer tax.

Individual artists, writers, and photographers also could deduct currently the business expenses they incur in the production of their work.

The bill as reported by the committee is revenue neutral. The revenue losing provisions are paid for by a number of revenue raisers. These include:

Reducing the dividends received deduction from 70 percent to 50 percent;

Repealing the completed contract method of accounting;

Restricting tax-free distributions from certain single premium life insurance policies;

Speeding up certain corporate estimated tax payments; and

Repealing special rules that allow Alaska Native Corporations to sell tax losses, thereby reducing the taxes of profitable corporations.

My colleagues will recall that legislation similar to H.R. 4333 was passed by the House last year as part of the Omnibus Budget Reconciliation Act of 1987. That legislation was overtaken by the Economic Budget Summit that followed the stock market crash. During the summit, administration officials insisted that no revenue losing provisions could be included in the final budget agreement, even if the overall package was revenue neutral. Consequently, the technical corrections provisions, along with other miscellaneous tax law changes, were dropped from the final reconciliation package.

Mr. Chairman, enactment of this important legislation is long overdue. The technical corrections will be of great help to individual taxpayers, business planners, and tax practitioners. The extension of expiring provisions will preserve and more carefully target important tax incentives. In addition, the bill provides essential diesel fuel tax relief to farmers and other similarly situated taxpayers. And the bill is kept revenue neutral through base broadeners and loophole closers that are in keeping with the spirit of tax reform.

As I indicated, this is a disciplined bill. The members of the committee worked hard to produce a bipartisan, responsible package. The overall size of the bill is just about the same as the revenue provisions contained in the President's budget. In fact, the revenue increases are $700 million less than the amount proposed in the President's budget. And we adopted several of the President's substantive recommendations.

In addition, I would like to point out that the committee did not add any special transitional rules or other forms of targeted tax relief for the benefit of specific taxpayers. After careful consideration, the committee made the decision that such rifle shot provisions were inappropriate.

Several issues regarding the legislation have arisen, and I would like to take this opportunity to make a few clarifications regarding those provisions of the bill.

The committee bill extends the low-income tenant occupancy requirements that currently apply to bond-financed apartments owned by for-profit developers to apartments financed with qualified 501(c)(3) bonds. This provision was adopted to close a loophole in present law whereby some section 501(c)(3) organizations are issuing tax-exempt bonds as fronts for for-profit developers attempting to churn burned-out real estate tax shelters. Through these transactions, for-profit developers of apartment projects may be able to continue receiving lucrative fees as project managers while avoiding compliance with State volume limitations on private activity bonds and avoid including low-income tenants in the projects.

The report explaining this provision indicates that the committee intends that apartment units included in certain integrated continuing care facilities for the elderly and disabled not be subject to the bill's restrictions. This exemption recognizes the fact that a primary objective of these facilities is the provision of significant nonhousing services such as health care. I would like to address two questions that have arisen about the requirements that must be satisfied for these apartment units to be exempt from the bill's restrictions.

First, exemption from the new restrictions is available only for apartments in continuing care facilities that provide at the same site apartment units, domiciliary care units, and nursing care units. I am aware that the term site traditionally has been defined under the tax-exempt multifamily rental housing bond rules as encompassing only physically contiguous land. I also am aware that, in some States, church organizations operate integrated continuing care facilities for a geographic area and that each of these three types of housing may not be provided at every individual location where housing is provided. However, all three types of housing are provided on an integrated systemwide basis.

For purposes of this exemption, the committee did not intend that the term site be interpreted to preclude qualification of continuing care facilities if each of the three types of housing is provided as part of an integrated system within a specific geographical area, even though each specific type of housing is not available at each individual location where housing is provided. For example, a continuing care facility may qualify for the exemption if (a) it has nursing care units at one location which serve residents in other types of housing located at noncontiguous physical locations, (b) the residents of all of the apartment units are unconditionally entitled to avail themselves of the other types of housing, including the nursing care units, as their health needs require and (c) it is reasonably expected based on all facts and circumstances (including relative locations of the facilities) that the residents will do so.

Second, the bill requires that all residents of an exempt continuing care facility be subject to uniform mandatory charges for significant nonhousing services. Some persons have asked whether this provision precludes any variation of charges based on services provided. That is not the intent of the bill. Rather, uniform fees must be imposed on each resident for significant nonhousing services, but these uniform fees need not be the exclusive fees charged for nonhousing services. Further, the fact that these fees are reduced or waived in the case of residents having low-incomes is not a violation of the requirement. In fact, such a reduction or waiver is entirely consistent with the Committee's intent—also expressed; for example, through the requirement that exempt facilities be participating providers in both the Federal Medicare and Medicaid programs—that the residents of these facilities include low-income individuals.

The committee bill imposes new restrictions on tax-exempt pooled financing bonds requiring that borrowers enter into commitments to borrow at least 25 percent of the proceeds before bonds are issued and that loans be made in a timely manner or bonds be redeemed. As stated in the report accompanying the bill, this provision reflects the committee's strong belief that tax-exempt bonds should be issued only to finance a legitimate purpose of the issuer, should be issued only for relatively current financing needs, and should remain outstanding for the minimum period necessary to satisfy those financing needs. One recent example—but not the exclusive example—of bonds understood to be affected by these restrictions, was the issuance of so-called interest rate hedge pool bonds. These bonds were issued with no concrete indications that the proceeds would be used and with the option of retiring the bonds should future interest rates make their use unattractive.

Some persons have suggested that an alternative safeguard to the bill's borrower identification requirement may be appropriate for certain pooled financings, such as those issued by the Ohio Water Resources Development Program, that historically have been issued without actual loan commitments, but with respect to which the bill's loan origination periods and bond redemption requirements could be easily satisfied. It is my understanding that these pooled financing bonds could, subject to some procedural changes in the program, satisfy the borrower identification requirement because demand for loans is demonstrated. However, consideration of an alternative safeguard to the borrower identification requirement that would be administratively easier for issuers of these bonds to satisfy while not enabling other issuers to engage in questionable transactions would be appropriate during the conference on the bill.

The bill provides a cap on employer provided educational assistance. As under present law, the cap would not apply to tuition remission provided to graduate students under Code section 117, except for tuition remission which is provided in return for services. Of course, tuition remission would not be considered provided for services merely because it is provided under a collective-bargaining agreement between the university and its graduate students.

The bill provides a grandfather from the cap on nonqualified deferrals in the case of nonelective plans provided under an agreement which was in writing on July 14, 1988. The grandfather does not apply if the agreement is modified after that date. Of course, modifications which decrease benefits for all participants would not eliminate the grandfather.

During floor consideration of the conference report on the Tax Reform Act of 1986, on October 2, 1986, I discussed the application of the rules contained in title XIII of that act regarding Federal guarantees of tax-exempt bonds. I indicated the intent of the conferees that "the substance of these guarantee transactions as opposed to any statement of form or intent in the enacting legislation govern their treatment under the tax laws." I went on to indicate that guarantees by entities "like the new College Construction Loan Insurance Association established in Public Law 99-498, will be treated as Federal guarantees that are prohibited by the rules governing tax-exempt financing." I made that statement based upon my understanding of the original plan for the operation of the association.

Since I made that statement, it is my understanding that the operational plans of the College Construction Loan Insurance Association have changed. For example, I am told that there has been an 80-percent reduction in the Treasury equity contributions to the association, the association will issue guarantees only through a private subsidiary corporation funded largely, if not entirely, with non-Treasury money, and the association will not contract for management and staff services with a subsidiary of the Student Loan Marketing Association. Under these circumstances, I no longer hold an affirmative view that the association's activities result in direct or indirect Federal guarantees of tax-exempt obligations. Consequently, I wish to remove any taint upon the association which may have resulted from my prior statement. As in all such cases, the substance of the guarantee transactions should govern.

Mr. Chairman, I understand that in 1985, the bankruptcy of the savings and loan industry in Maryland resulted in substantial losses to MSSIC and the bankruptcy of that company. Maryland assumed the liabilities of that company in order to make its depositors whole. The IRS currently will not allow the losses to be applied against past debts of MSSIC.

Maryland is now attempting to pay off all depositors and is being held up by the dispute with the IRS. I believe that the IRS should move quickly to resolve this case to allow Maryland to make its depositors whole.

I believe that this matter can and should be resolved administratively by the IRS. However, if the IRS fails to take appropriate administrative action, the Ways and Means Committee would be happy to consider action on this issue at some time in the future.

Finally, because the rule provides for the committee amendment on foster care independent living initiatites to become original text of the bill, and there is therefore no committee report on the provision, I would like to insert in the record the following explanation of the foster care provision:

FOSTER CARE INDEPENDENT LIVING INITIATIVES

PRESENT LAW

The Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) authorized funds for State foster care independent living services programs for fiscal year 1987 and fiscal year 1988. These programs are designed to help children in foster care who are age 16 or older make the transition from foster care to independence.

Foster care children who are eligible for services under the program are those who are eligible under title IV-E for federally assisted foster care maintenance payments. Eligibility for title IV-E is limited to those foster care children who would have been eligible for AFDC before they were removed from their home and placed in foster care.

The Secretary of Health and Human Services is required to provide Congress with a report on the program by July 1, 1988. The authorization level for this entitlement is $45 million for each of the two fiscal years. States did not begin receiving funds under the program until July 1987.

EXPLANATION OF PROVISION

The current authority for State independent living initiatives would be extended for 1 year with an authorization level of $45 million. The following additional changes would be made:

First. States would be permitted to spend fiscal year 1987 carryover funds in fiscal year 1989.

Second. In addition to children who are eligible under the title IV-E foster care maintenance payment program, States would be permitted to use funds under the foster care independent living program for services to any or all other children in foster care under the responsibility of the State. Funds could not be used for the provision of room and board.

Third. States would be permitted to provide for a transition period of independent living program eligibility for 6 months after youth leaves the foster care home or institution. These services might include activities such as training in daily budgeting, help in locating and maintaining housing, and so forth.

Fourth. The definition of case review system would be modified to clarify that the 18-month dispositional hearing may also consider issues related to independent living.

Fifth. The State report would be due on January 1, 1989 and a Federal report would be due on March 1, 1989.

EFFECTIVE DATE

The authority for States to include non-AFDC foster care children in the independent living program would be effective on enactment. The remaining provisions would take effect on October 1, 1988.

Mr. Chairman, I want to thank all of the members of the committee, particularly the ranking Republican Bill Archer, for their hard work and cooperation in developing this legislation. I urge my colleagues to vote in strong support for this important bill.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4333, the Miscellaneous Revenue Act of 1988. This bipartisan measure, which was reported out of the Ways and Means Committee on a 33 to 3 vote, will accomplish a number of essential and desirable goals, and will do so on a revenue neutral basis.

The chairman of our committee, the gentleman from Illinois, has done a remarkable job in constructing this package. I am grateful for his leadership and have enjoyed working with him to fashion a genuine consensus bill.

First and foremost, H.R. 4333 would provide long-awaited technical corrections to the 1986 Tax Reform Act. This process started nearly 2 years ago and it is extremely important that the Nation's taxpayers be given, as soon as possible, the guidance necessary to understand the new and highly complex Internal Revenue Code of 1986. To illustrate the breadth of corrections needed for this purpose, I need only point out that they take up nearly 700 pages of statutory text and 400 pages of report language.

The bill also makes necessary technical corrections to other recent tax legislation including the Revenue Act of 1987, the Superfund Revenue Act of 1986, the Harbor Maintenance Revenue Act of 1986, and the Omnibus Budget Reconciliation Act of 1986.

H.R. 4333 additionally extends a number of popular tax provisions which had expired or were due to expire in the near future, including: employer provided educational assistance, the research and development tax credit, mortgage bond and credit certificates, the targeted jobs tax credit, and the low-income rental housing tax credit.

The bill further solves a number of other problems that have been called to our attention over the past few months. It offers relief to farmers and other off-highway users with respect to diesel fuel tax collections; eliminates uniform capitalization accounting rules that had been applied to authors, photographers and artists and to the raising of livestock, sometimes called the heifer tax; clarifies the allocation of research and development expenditures between domestic and foreign sources, and improves permanently the treatment of mutual fund expenses.

As the chairman stated, we worked hard to exclude special provisions—rifle shots—that benefit particular special interests. The provisions in title VI are general transition provisions.

I must indicate that two provisions of the bill do bother me. First, I am deeply troubled by the idea of reducing the intercorporate dividends received deduction and, in effect, heading further toward a triple or even more repetitive taxation of corporate profits. This provision was included, I believe, because of its revenue factor and not for any tax policy reason. Most of that revenue comes from the arguably retroactive nature of the provision, in that it would apply to already issued corporate stock, with particular adverse impact on suffering savings and loan institutions. Second, I am concerned about the elimination of the completed contract method of accounting, particularly in its impact on increasing the cost of housing construction.

Both of these provisions also are opposed by the administration and I will work to eliminate them in conference with the Senate.

Despite these concerns, Mr. Chairman, I am supporting H.R. 4333. It is not a perfect bill, but most complicated pieces of legislation we produce here on a bipartisan basis necessarily represent compromises. The benefits of H.R. 4333 will flow to millions of taxpayers from the correction of inadvertent errors in the tax laws, the extension of popular tax provisions, and elimination of various inequitable provisions of current law.

I urge my colleagues to join me in voting for this bill.

□ 1300

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, I rise in strong support of H.R. 4333, the Miscellaneous Revenue Act of 1988. This bill extends several important expiring income tax provisions, makes needed technical corrections to the Tax Reform Act of 1986, and makes additional changes to the 1986 act which make it more fair, and easier for taxpayers to comply with.

Let me focus my remarks on one aspect of the bill which is of special interest to me: extension of the Mortgage Revenue Bond Program. Mr. Chairman, the MRB Program is designed to assist low- and middle-income individuals achieve the American dream of owning a home. I introduced legislation—which 367 Members of this House have cosponsored with me—to extend the program.

The Committee on Ways and Means is aware of the strong support that exists for this program, and agreed to extend it for 2 years. In addition, the bill further targets this program to its intended beneficiaries, while remaining conscious of the budget constraints facing us this year. As the sponsor of the program extension, let me say that these targeting provisions will make this program work better. In Massachusetts, we have a shining example of how the MRB Program can work and should work nationwide. I believe that the committee bill moves us in that direction.

I also want to comment on an amendment to this bill which I offered in committee relating to multifamily housing bonds. There has been much discussion over this amendment since I offered it.

One provision of the amendment provides that proceeds of tax-exempt bonds used by tax-exempt organizations to finance multifamily housing are subject to new restrictions. These restrictions require that a portion of facilities financed with these bonds serve low-income individuals.

Certain continuing care facilities may be affected by this provision because it is unclear under existing law whether these facilities are considered multifamily housing. The committee—very generously, I might add—carved out an exception from my amendment for qualified continuing care facilities. If I had my way, these facilities would be forced to serve a low-income population for the privilege of being entitled to use tax-exempt bonds.

But for several reasons, an exception is provided for qualified facilities. These facilities must meet 6 criteria, enumerated in the committee report, to be qualified. One criterion is that the facilities be Medicare and Medicaid providers. Let me say, as the sponsor of this amendment, that this is the correct approach.

The exemption from Federal income tax for interest on State and local bonds is not a right. It is a benefit, granted by Congress. My amendment says that, as a condition of receiving this benefit, you have to help the poor.

Finally, let me say with respect to the other revenue-raisers in this package it seems to me that the committee had a responsibility and an obligation to keep this package revenue-neutral. In the budget this year, the administration proposed several revenue-losing proposals and proposed to pay for them with a regressive tax increase on low-and middle-income Government employees by subjecting them to the Medicare payroll tax.

Conversely, this bill offers fair and reasonable revenue increases. The lobbyists, and others may object to the tax changes which affect them, but when the Ways and Means Committee can report a bill to help put Americans in their first home without raising taxes on hardworking, middle-income people, I'll support it every time.

Mr. Chairman, this is responsible and, I might add, necessary legislation. It deserves the support of the House, and I urge its adoption.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the respected gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I thank the gentleman from Texas for yielding time to me.

Mr. Chairman, I rise in support of the Miscellaneous Revenue Act of 1988 and to thank my chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and my committee colleagues, especially the gentleman from Texas [Mr. ANDREWS], for their work on a troublesome provision of the 1987 Omnibus Budget Reconciliation Act.

An unexpected and unintended burden resulted from a provision in that bill. Because of problems with tax evasion, Congress changed the point of collection of the excise tax on diesel fuel. With certain exceptions, consumers of diesel fuel were—and still are—required to pay the excise tax at the time of purchase.

Off-highway users remain exempt from the tax, but must nonetheless pay the tax at the time of purchase and then apply for a refund. The cash flow problems for farmers, general contractors, waterway operators, drilling contractors, and other off-highway users have been considerable.

Earlier this year, the gentleman from Texas [Mr. ANDREWS] and I joined the chairman of the Oversight Subcommittee, the gentleman from Texas [Mr. PICKLE] and the gentleman from Massachusetts [Mr. DONNELLY] in introducing H.R. 4192, to exempt off-highway users from this burden.

The measure before the House includes the provisions of H.R. 4192. It allows off-highway users to purchase diesel fuel directly from producers without paying the tax, and it expands the definition of producers to include retail dealers to sell exclusively to waterway and marine users.

Mr. Chairman, it is indeed gratifying that the Committee on Ways and Means has agreed to address this problem, and I thank my chairman and my colleagues for their good work on this issue.

Mr. Chairman, I urge my colleagues to support this measure. It makes much-needed technical corrections to the 1986 Tax Reform Act and other recent tax legislation, and extends several expiring tax incentives, including the exemption for employer-provided educational assistance, authority to issue tax-exempt mortgage revenue bonds, the research and development tax credit, and the targeted jobs tax credit.

I'm proud of the committee's work on this bill and I'm proud to support its passage in the House today.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise today to support passage of H.R. 4333, the Miscellaneous Revenue Act of 1988. I thank the gentleman from Illinois, the chairman of the House Ways and Means Committee, Mr. ROSTENKOWSKI, for his leadership in crafting this bipartisan package of necessary corrections, extensions and other important provisions.

In particular, I would like to thank the chairman of our committee, and the gentleman from Washington [Mr. CHANDLER], for their efforts to resolve the problem created in the 1987 act for off-highway users of diesel fuel. I also commend my colleague, the gentleman from Texas [Mr. PICKLE] and my colleague, the gentleman from Massachusetts [Mr. DONNELLY], for their contribution to the resolution of the diesel fuel issue, as original cosponsors of H.R. 4192. I also thank the many other Members of the House for bringing this issue to the attention of the Ways and Means Committee, in particular the gentleman form Texas [Mr. COMBEST]. Without the support of so many Members it would have been difficult to pass this legislation in our committee.

The measure before the House includes the provisions of H.R. 4192, introduced jointly by my colleagues Mr. CHANDLER, Mr. PICKLE, Mr. DONNELLY, and me. The language in H.R. 4333 improves the diesel fuel tax provisions of the Omnibus Budget Reconciliation Act of 1987. The 1987 act provision, included at the urging of the Treasury Department, changed the collection point for the diesel tax. This change has caused severe cash flow problems for drilling contractors, waterway operators, farmers, general contractors and other off-highway diesel fuel users.

Off-highway users remain exempt from the tax under the 1987 act. The act, however, requires some industries—such as oil drillers, oilwell servicing contractors, geophysical contractors, waterway operators, fishermen, stonecrushers, general contractors, and farmers—to pay the excise tax at the time of purchase and then file for a refund from the Internal Revenue Service each quarter. They will not earn any interest from this loan to the Federal Government.

While these businesses are required to pay the 15.1-cents-per-gallon Federal tax and then file for a refund of the tax, State and local governments, aviation companies, railroads and industrial users, will have the ability to gain an exemption from the Treasury Department.

The Miscellaneous Revenue Act will add off-highway users to the list of groups which will be exempt from the 1987 act provisions. It will change the wording of the 1987 act so that it is mandatory, not discretionary, for IRS to issue these guidelines within 90 days of enactment of the bill. The groups listed would also be permitted to file for an immediate refund of amounts already paid prior to the issuance of guidelines, providing a method by which they can recoup their initial loss quickly. Interest will accrue on amounts already paid.

In addition to the reporting requirements set out by Treasury under the authority of the 1987 provisions, H.R. 4333 would also require the purchasers and sellers of diesel to report the number of gallons sold or bought at the end of the year—on their tax return—and to report their tax identification numbers. This enables the IRS to use computer matching to assure increased compliance.

I am pleased that H.R. 4333 also includes many other worthy provisions, including extensions of the research and development tax credit, the Mortgage Revenue Bond Program, the targeted jobs tax credit, the low income housing credit, and the employee education assistance tax exemption.

For these important reasons, I urge my colleagues to vote in favor of this legislation today.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 4333, the Miscellaneous Revenue Act of 1988. Overall, the merits of providing guidance to millions of taxpayers, and extending tax preferences important to our economy and work force, outweigh the drawbacks of specific tax increases used to make the bill cost-neutral.

I want to commend our committee chairman, the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], and our ranking member, the distinguished gentleman from Texas [Mr. ARCHER], on their efforts to craft a bipartisan bill which meets last year's budget summit guidelines. Our 33 to 3 committee vote is a tribute to the spirit of inclusion and cooperation surrounding the development of the legislation before us—legislation which deserves our strong support.

My concerns with our efforts revolve around certain taxpayers we have left out, not those we have assisted. Small businesses with revolving credit accounts may not survive for the next tax bill. Taxpayers with trust or estate problems, which were deemed to insignificant for the committee to address, and who could now suffer extreme economic hardship, will not benefit. Finally, first-time home buyers, renters, or those simply looking for housing may be hurt because we failed to overturn a flawed IRS revenue policy. It's not those who were included that I congratulate, but it's those who lost or will lose, who deserved attention, that we should console. This bill is far from perfect, but it is fair, and was developed in a bipartisan fashion.

Mr. Chairman, there are problems which remain. The IRS must not be allowed to pull off a revenue-grab from the pockets of home buyers and homebuilders. IRS's application of long-term accounting procedures to residential contracts under 12 months in duration, will result in taxes being levied on income never received. It will also increase housing costs and slow home construction.

Finally, I commend Chairman ROSTENKOWSKI for agreeing to examine important policy issues next year, including problems with the low-income and historic rehabilitation tax credits and the deductibility of interest on student loans. I look forward to addressing these, and other more substantial problems in the future, but for now, this is about the best that we can do, and I ask my colleagues to recognize this fact by voting for the bill.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Miscellaneous Revenue Act of 1988. It not only contains important technical corrections to tax legislation passed over the last 2 years, but it also includes a number of provisions that simplify the law or correct inequities in our present system. For example:

The bill allows off-highway business users of diesel fuel to purchase diesel fuel from "producers" without payment of the excise tax. This means oil drillers, farmers, contractors, stonecrushers, waterway operators and other off-highway users will not have to go through the burden of applying for a refund for taxes paid but which were not owed.

H.R. 4333 repeals the requirement that governmental pension plans begin mandatory distribution of pension benefits at age 70½. This provision will resolve the funding dilemma State and local plans would have experienced had they been forced to allow workers to draw retirement benefits while also drawing a current salary and accruing new benefits.

The bill exempts artists, photographers, and other producers of creative works from the uniform capitalization rules. H.R. 4333 will resolve the administrative nightmare and inequity caused by the Tax Reform Act of 1986.

H.R. 4333 allows gasoline marketers to take over the refund process for State and local governments and school districts for purposes of the gasoline excise tax. This provision will help keep gasoline marketers competitive with their suppliers and it also will relieve many governmental users from the burden of applying for a refund for gasoline excise taxes paid but not owed.

Mr. Chairman, H.R. 4333 also calls for the extension of a number of provisions that have already expired or will expire at the end of the year. In my view, two of these extenders are vital in our fight to keep America competitive. These important provisions are 2-year extensions of the research and development tax credit and the university basic research tax credit, as well as the so-called section 861 compromise relating to allocation of research and development expenses.

There is widespread concern that the U.S. competitive position in the world marketplace is eroding. We are not doing enough to develop and commercialize new products, improve on existing products, and market the results. Vigorous research and development is the key to achieving the technological advances that will create and improve on products we can sell here and abroad.

The R&D tax credit has proven itself to be an effective incentive for stimulating new research. Studies show that spending on research and development increased at an average annual rate of 7 percent between 1982 and 1985 because of the R&D tax credit. Thus, the credit has generated $2 of R&D for every $1 of lost revenue.

We have tremendous resources in this country for innovative research and for the development that turns research into marketable products. However, new research often entails a risky process that only produces income after a significant time lag. Private sector managers who must worry about profits need to be encouraged to make choices in favor of innovative research, rather than backing away from the risks. This is where the tax incentives come in. The R&D tax credit encourages these managers to take those risks.

The basic research credit is important because it encourages companies and universities to cooperate in research efforts, which is crucial for developing new technologies and for assuring that some of our most innovative research is turned into useful products. Under the basic research credit, companies are encouraged to support university research.

H.R. 4333 extends both the R&D credit and the basic research credit through 1990. As with the other expiring provisions, the R&D credit was pared back to keep costs down. This was achieved by reducing R&D deductions by the amount of the credit. While I would have preferred a different method for cutting the cost of the credit, I am pleased that at least this important credit was extended. Over 270 Members cosponsored my legislation to extend the R&D credit and this support was instrumental in our efforts to include the extension in this bill.

H.R. 4333 also embodies the section 861 compromise. This measure is aimed at encouraging companies to conduct more research in the United States. Everyone benefits when more domestic research is undertaken, because there is higher employment and greater likelihood that American researchers from more than one institution will work together.

Mr. Chairman, the R&D incentives are wise, long-term investments in our economic future, and I urge my colleagues to support HR. 4333.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in strong, support of H.R. 4333, the Miscellaneous Revenue Act of 1988. I commend the distinguished Chairman of the Committee, Mr. ROSTENKOWSKI, and the ranking Republican member, Mr. ARCHER, for their bipartisan efforts to bring this revenue neutral package to the floor in an expeditious fashion.

Mr. Chairman, I voted against the Tax Reform Act of 1986 due in part to the fact that Members of Congress and our staffs had little time to review a bill of such magnitude. My decision proved correct. Many provisions included in the omnibus tax bill, concealed from the vast majority of Members, discriminated against innocent groups, such as our farmers, our creative artists and public employees. The Miscellaneous Revenue Act, in addition to making technical corrections to the Tax Reform Act of 1986, provides relief in a number of areas to millions of citizens who were inadvertently disadvantaged by this cumbersome law. They include: restoring credits for employer educational assistance; extending the targeted jobs tax credit; exempting livestock producers and freelance authors, artists and photographers from the uniform capitalization rule; and exempting farmers and other off-highway diesel fuel users from the diesel fuel excise tax collection.

I opposed the original Tax Reform Act of 1986 due also to my apprehension about the bill's intention of simplicity and fairness. For example, one case in point is our public servants who almost fell victim to a malicious implementation of the law by the Internal Revenue Service. As we are all aware, in January 1987, the IRS chose to apply section 457 of the Tax Reform Act to deferred compensation and nonelective compensation plans to employees of State and local governments and tax exempt organizations. The effect of this regulation would have impacted tax earned benefits such as vacation leave, sick leave, severance pay, compensatory time, disability pay, and death benefit plans as they are accrued rather than when they are used. Fortunately, H.R. 4333 waives these limits on unfunded deferred compensation plans for State and local government and nonprofit organization employees.

Mr. Chairman, I am not fully satisfied with the committee bill. While the Employer-Provided Educational Assistance Program has been extended for 3 years, eligibility has been limited to undergraduate study, other than for graduate teaching and research assistance, and the exclusion would be capped at $1,500 each year, rather than the current $5,250. These limitations undermine the intent of the program to assist low and middle-income employees in obtaining educational assistance to improve their skills and qualify them for job advancement. More than three-quarters of the Members of the House are cosponsors of the legislation offered by our distinguished colleague, the gentleman from New Jersey [Mr. GUARINI], to extend permanently the Employer-Provided Education Assistance Program. I hope that the committee will bear in mind this program's overwhelming popularity with Members of Congress, employers and employees, and will readdress this issue through a freestanding legislative vehicle in the near future.

Mr. Chairman, Congress has been awaiting a technical corrections bill since the opening of the 100th Congress. I urge my colleagues to join in support of H.R. 4333, the Miscellaneous Revenue Act of 1988.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. DAUB].

□ 1315

Mr. DAUB. Mr. Chairman, I rise today in strong support of this bill, the so-called technical corrections act. It is long past the time that this bill should have been passed, having originated almost 2 years ago in House Congressional Resolution 395. That resolution was passed alongside tax reform from our committee, Ways and Means.

Had this bill been passed swiftly it would have saved an enormous amount of time, money and effort on the part of both the taxpayers of this country and the IRS. What is important now is that we quickly pass the bill, go to conference with the Senate, and get the President's signature before we are once again faced with another tax season full of question marks.

H.R. 4333 provides essential time-sensitive simplification and clarification provisions to the Tax Reform Act of 1986, as well as other recently enacted tax legislation. It also contains the extension of several provisions in the Tax Code which have either expired, or are scheduled to expire. Among the more popular items are the research and development credit, the Educational Assistance Act, mortgage revenue bonds, and the targeted jobs tax credit. Perhaps no provision in this bill is more important to the constituents of my State than the repeal of the dreaded diesel-fuel tax provision imposed on off-highway business users. Since the beginning of this session, Byron Dorgan and I have been like a gadfly on farmer's livestock to our chairman over this issue, and I thank him for including its repeal in his original mark.

As a result of this bill, no longer will 20 million taxpayers have to apply the 2 percent test for itemized deductions to their mutual funds. No longer will farmers have to keep track of all the costs associated with the raising of their livestock in order to capitalize their expenses. My friend from North Dakota and I again teamed up to introduce the first bill to repeal this so-called heifer tax.

I can honestly say that the coalition that Byron Dorgan and I had on agriculture issues in this bill is typical of other bipartisan coalitions that were formed in order to reach a common goal. I would like to congratulate our chairman and our new ranking member, Bill Archer, in working together to pass a bill out of our committee that garnered 33 out of 36 votes. I think that they both deserve a great deal of credit for the hard work that they have done to see this bill to completion.

This bill is consistent with the intent and goal of tax reform, that is, to lower the tax rates and broaden the base by eliminating tax loopholes and special interest provisions. For those of you that are concerned that a $7.1 billion tax bill overall is revenue neutral over 3 years. Although I do not like to see tax increases, I think the committee has acted in the spirit of tax reform, in a bipartisan way, to pass a tax bill that addresses some important loopholes. Second, the bulk of the tax expenditures were made on the extension of provisions which had previously been retained under tax reform. The cost of these items is some $6 billion of the total package. These items include research and development provisions that are vital to corporate America to remain competitive in the world market. Mr. Pickle and Mr. Anthony were instrumental in these changes and virtually every Member has business in their district that is affected.

They also include the Educational Assistance Act, which I introduced in the first day of this Congress and which Mr. Guarini was instrumental in seeing to completion. Virtually every student who obtains financial help from their employer is affected by this provision. And, of course, the repeal of the diesel fuel tax, continuation of mortgage revenue bonds, and the repeal of the phantom tax are included in this $6 billion figure.

The remainder of the bill is made up of tax changes that received broad based support. Things like the repeal of the so-called heifer tax which Mr. Dorgan and I introduced and gathered support from over half the House. Also included is the repeal of the burdensome capitalization rules for artists and authors, a bill that Mr. Downey introduced that gained popular support.

The bottom line is that this is the best bill that this committee could have written under the circumstances. It is an excellent bipartisan effort, and I urge its overwhelming passage so that we can get to conference and get on with it.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. I thank the chairman.

Mr. Chairman, I rise in support of this legislation.

Today we will vote on H.R. 4333, the Miscellaneous Revenue Act of 1988. The bill extends certain tax provisions that have expired or are due to expire, makes a number of much-needed technical corrections to the 1986 Tax Reform Act, and includes other provisions which are of special interest to farmers and those who live in rural States, such as North Dakota.

I support this bill and I urge my colleagues to vote for it. Let me share with you several important provisions for which I have worked and which I am especially pleased to see incorporated into H.R. 4333.

DIESEL FUEL EXCISE TAX

Many of my constituents will breathe a sigh of relief knowing that this bill will end the nightmare regarding the collection procedures for diesel taxes. Farmers and other off-highway users have been faced with the bureaucratic and financial burden of having to pay the 15-cent-per-gallon excise tax on diesel fuel and then apply for a refund. Under this bill, farmers and others would once again be permitted to buy diesel fuel without paying the tax, provided that they buy in bulk directly from a producer or wholesaler. This bill brings back fairness for the farmer in this system of tax collection.

HEIFER TAX

The bill before us today also repeals the so-called heifer tax, a burdensome tax law affecting livestock producers. Much to the dismay of farmers, the 1986 Tax Reform Act included a section requiring producers to capitalize the cost of raising replacement breeding livestock if the preproductive period exceeds 2 years. As a result, livestock farmers must maintain records on the costs attributable to each animal and cannot deduct those costs until that animal goes into production. While the farmer may elect not to follow these rules and deduct costs as they are incurred, they would then be required to use straightline depreciation schedules on all farm assets. Election, or no election, this law is an administrative horror story for livestock producers. H.R. 4333 brings a happy ending to this story by repealing preproductive expensing and allowing farmers to utilize the cash method of accounting to deduct costs as they are incurred.

RURAL TELEPHONE COOPERATIVES

This bill will help small, rural telephone cooperatives compete with larger commercial companies for technically qualified staff. It does so by allowing tax-exempt telephone cooperatives to offer 401(k) cash or deferred arrangements to their employees. This will aid rural utilities in their ability to attract top-notch, technical employees to their ranks.

RURAL LETTER CARRIERS

Rural letter carriers also get a fair shake in this legislation. These letter carriers must use their own autos and most travel over unimproved roads that are often in need of repair. Thus, rural letter carriers have very high maintenance and repair costs. This bill recognizes the unique business expenses of rural carriers by allowing them to take a deduction for the job-related use of their autos that's equal to 150% of the standard mileage deduction that's normally available. For 1987, that would be 33.75 cents per mile. This bill recognizes the greater expenses incurred by rural letter carriers and accords them fairer tax treatment.

SPECIAL USE VALUATION AND FARM FAMILIES

This bill also will help to solve an unfortunate problem for farm families. Despite congressional intent, some surviving farm spouses are being forced to sell their farms in order to pay off large estate tax obligations. This bill will help carry out the original intent of the 1976 law on special use valuation for farm estate taxes by allowing surviving farm spouses to cashrent their farm property to qualified heirs and still be eligible for the special valuation. This will encourage family farms to remain within the family and operating after the death of the owner.

H.R. 4333 contains many provisions necessary for our rural, farm communities. I urge a "yes" vote on this legislation.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. Crane].

Mr. CRANE. Mr. Chairman, I would like to focus my comments on a specific provision contained in the legislation before us. Section 311 of the bill would reduce the dividends received deduction from its current level of 70 percent to 55 percent in 1989, 52.5 percent in 1990, and 50 percent in 1991 and thereafter. This proposed change represents fundamentally bad tax policy and can only be characterized as a "money grab" to pay for other provisions.

Let me briefly review the history of the dividends received deduction. Traditionally, the United States has employed a two-tiered corporate tax system, taxing income once to the corporation when earned and once to individual shareholders when distributed. Since 1917 the law has allowed a dividends received deduction to eliminate or minimize further multiples of taxation of corporate earnings as the earnings pass from one corporation to another. Providing another round of tax on dividends remaining in corporate solution, when the issuer has already been taxed on the earnings, has rightly been viewed as imposing unjustified additional tiers of tax on earnings at the corporate level before the earnings are distributed to individuals. Without a dividends received deduction, the situation would be exacerbated for dividends passing through a chain of corporate shareholders and a multiple of cascading corporate tax, before coming to rest in the hands of the individual who pays tax on the dividends pursuant to the individual tax tier of the system. Such a result would not serve the purpose of the corporate tax system.

A 100-percent dividends received deduction applied from 1917 to 1935. An 85-percent deduction generally was in effect from 1936 through 1986 for all corporations. The reduction in the dividends received deduction made in 1936 was meant to discourage the abuse of the graduated corporate tax rates and multiple surcharge exemptions. It did not represent a departure from the policy of taxing earnings only once while in corporate solution.

The 1986 act did reduce the deduction for dividends received from nonaffiliated corporations from 85 percent to 80 percent. Congress took this action in 1986 only in order to retain the same effective tax rate on dividends. In the absence of the reduction, the marginal corporate tax rate reductions of the 1986 act would have resulted in a reduction of the effective tax rate on dividends. The change in the deduction did not represent a departure from the historical policy of mitigating multiple taxation of corporate earnings.

The proposed reduction in the dividends received deduction also is fundamentally unfair because it applies to existing and outstanding stock and thus is retroactive in its impact. The vast majority of the revenue being raised by the provision comes from this retroactive feature. This is clearly illustrated by a letter which I received from Ron Pearlman, chief of staff of the Joint Committee on Taxation, on July 13, 1988. In that letter Mr. Pearlman indicated that the revenue raised from the proposed reduction of the dividends received deduction would be reduced from $1.7 billion over 3 years in its retroactive form to $104 million if it is made prospective only so that it would apply only to newly issued stock. This clearly illustrates that most of the revenue being raised results from the retroactive feature of the legislation—a patently unfair result.

Don Chapoton best summed up the analysis of this proposed reduction when he made the following observation about it on July 13, 1988, "We must look at what we are doing before we drop this bomb on the corporate tax structure."

I believe that the bill should be sent back to committee to delete, or should I say defuse, this unwise provision.

To the extent that the bill passes I would strongly encourage the House to instruct its conferees to recede on this provision as it is unlikely that the Senate Finance Committee will include any such provisions.

I urge my colleagues to vote "no" on H.R. 4333.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the very fine gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of the Miscellaneous Revenue Act of 1988. It is a good bill that contains many, many technical corrections to the 1986 Tax Reform Act that would have been enacted last fall except for the Budget Summit Agreement. It also contains technical corrections discovered since that time, but needed just as badly now. I think our constituents have waited too long for these clarifications, and that we must make every effort to enact these technicals this year.

H.R. 4333 also contains several extensions of expiring tax provisions which are important to a number of specific industries, such as high-tech industries, the housing industry, and mutual funds. We pay for these tax benefits by increasing the tax burden on other specific industries, such as defense and insurance. During the committee deliberations, I supported both the revenue raisers and the revenue expenditures, and continue to do so.

As with any bill, this bill contains drafting errors. When they are discovered after a bill is enacted into law, they form the basis of a new technical corrections bill. When they are discovered prior to the beginning of a conference committee, they can easily be corrected at that point during the conference. It is my hope, and my expectation, that drafting errors in this bill—be they of great significance or little significance—will be corrected at that time so that the intent of the committee will be carried out.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, today I rise in support of the Miscellaneous Revenue Act of 1988. Although my support for the bill is tempered by the fact that it contains provisions that are particularly onerous, I, nevertheless, believe that it should pass the House today because it contains many provisions that are of vital importance to millions of taxpayers.

These necessary and important provisions provide for both the extension of popular tax provisions and the clarification of past tax bills that have left many taxpayers baffled and confused over congressional intent.

The bill's most important element provides technical corrections to the Tax Reform Act of 1986. These provisions have been pending for nearly 2 years now as Congress has failed to pass legislation that would eliminate the uncertainty surrounding many of the provisions in the Tax Reform Act. I believe any further delay in enacting these provisions would mean prolonged uncertainty, inequity, and unfairness for literally millions of taxpayers.

As important as the technical correction provisions are, they are not particularly glamorous and they are not what has propelled the bill through the Ways and Means Committee—at least not entirely. The bill also provides for extension of several expired and expiring tax provisions.

Provisions such as the R&D tax credit, allocation and apportionment of R&D expenses, employer provided educational assistance, mortgage revenue bond authority, the low-income rental housing tax credit and the targeted jobs tax credit were all extended for 2 years.

Some of these provisions include new restrictions and expiration dates which better target the provisions and reduce the overall cost of their extension. While I would have preferred permanent extensions to provide a degree of certainty for taxpayers, I recognize the severe budgetary constraints in which the Congress must operate.

In addition, exemption from paying the diesel fuel excise tax for off-highway users of diesel fuel is permanently extended as is the exemption for mutual fund shareholders from the so-called phantom income tax. I strongly favor these provisions to remove the unintended and inequitable situations that arose because of past legislation. Individual taxpayers need the certainty of permanence in these two measures.

As I mentioned earlier, however, my strong support for these provisions is tempered by objections to some of the revenue raising provisions that are included in the bill. Foremost on this list is the reduction in the dividends received deduction [DRD] from 70 to 50 percent for portfolio stock.

A reduction in the DRD is at direct odds with our system of taxing income earned by corporations. Our system imposes double taxation on corporate equity income. By reducing the DRD we are subjecting that income to triple taxation.

This erosion in the DRD will discourage the use of equity financing and will enhance the tax bias toward debt which will result in the deterioration of corporate balance sheets and increase the corporate vulnerability to insolvency and bankruptcy. It will also mean a more expensive capital structure which will make U.S. firms less competitive in international competition.

Other provisions such as the one that disallows a marital deduction for foreigners for purposes of the Federal estate and gift tax are simply unfair and in some cases may be unconstitutional.

It would be my hope that as this bill moves through the legislative process, that Congress will have the opportunity to delete and tidy up several of the more onerous provisions in the bill. I recognize the need to raise revenue to pay for the revenue losing provisions, but there are better and more equitable ways to do it than the ways this bill proposes.

I rise in support of this bill today, but I do so mostly with the hope that Congress will have an opportunity to amend it at a later time in conference. I commend the chairman and the ranking minority member for the bipartisan basis upon which this bill was put together. I hope we can continue this bipartisan effort as we continue to improve the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in strong support of the bill. The enactment of technical corrections to the Tax Reform Act of 1986 has been postponed too long already, and taxpayers are depending on us to follow through on these small but important changes.

I would like to say a few words about the portion of the bill which deals with the extension and modification of expiring provisions of the Internal Revenue Code. Such worthwhile programs as employer-provided educational assistance, the research and development tax credit, the Mortgage Revenue Bond Program, and the targeted jobs tax credit enjoy wide support here in Congress and among taxpayers as well.

The fact that all of these important programs had to be reined in as they were reauthorized is bound to be a disappointment to some. I am sorry that the reauthorizations could not be more generous. But the way these extenders had to be modified reflects both the stark reality of the deficit and the scarcity of revenue.

I suggest that the extenders, as they stand in the bill before us today, are consistent with the spirit of tax reform. We were able to retain useful programs by targeting them more precisely to those Americans most in need of the benefits they confer.

The compromises that were made to get the extender package we have in this bill were not made lightly. Deciding how to pay for it required some tough choices, but those tough choices were made. This bill is modest all the way around, but it is an honest package that deserves your support.

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Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I rise to express my regret that the committee did not see fit to include in this bill a provision to extend the taxable consequences now under current law for the FDIC assistance that is given to the troubled institutions and for the tax loss carry forward those transactions represent to an acquiring institution.

We heard yesterday in the Committee on Banking, Finance and Urban Affairs, Mr. Seidman, the Chairman of FDIC, tell us that the resolution of the savings and loan insurance corporation problem is probably going to represent a $50 billion expense to the taxpayers of this Nation. To eliminate the desirability of the attractiveness of additional capital to troubled thrifts and banks in this Nation is, in my opinion, shortsighted.

Mr. Chairman, to get a few dollars for the Treasury and cost billions for the resolution of this problem is, in my opinion, an oversight the committee should have addressed, and I hope it will take care of that problem in its processes in the future.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, "Poets are the unacknowledged legislators of the world." So wrote Percy Bysshe Shelley, the 19th century English poet.

Unfortunately, poets were in short supply when we drafted a footnote to the Tax Reform Act of 1986 that has become the bane of American writers, photographers, and artists.

Technically, this footnote tells professional creative people that they cannot recover their costs until their books or paintings produce income and that they have to allocate specific expenses to specific projects.

What does it really mean? Well, imagine Matthew Brady sitting down in the middle of some battlefield calculating his expenses and projected income before shooting his next classic Civil War photograph—or missing it.

Fortunately, the muse of poetry cast her watchful eye over the Ways and Means Committee while we drafted the Miscellaneous Revenue Act of 1988. Our bill frees writers, photographers, and artists from the strictures of uniform capitalization. I urge my colleagues to support H.R. 4333 because it achieves not only tax justice but poetic justice as well.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this bill.

I feel this bill does much to tighten the U.S. Tax Code and alleviate the nightmare that accountants and others have been tackling, as a result of the two previous tax reform bills signed into law. This is a good government bill, in that it rights many of the wrongs, of these previous bills.

I was encouraged to see this bill incorporate some very necessary tax preference extensions, such as the Educational Assistance Program, the targeted jobs tax credit, the Mortgage Revenue Bond Program and the repeal of the diesel fuel excise tax collection process, which has been causing major problems for off-road users of diesel fuel.

In conclusion, I would like to add that in my judgment the practical benefits of this bill far outweigh any of the tax liabilities associated with this legislation. The tax incentive provisions ensure that the focus of our Tax Code is geared toward helping promote growth, while at the same time, minimizing tax burdens. Also, I would like to commend my colleagues on the Ways and Means Committee for their thoughtful and comprehensive consideration of this legislation and I urge my colleagues to join me in supporting this necessary measure.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this bill reaffirms our committee to at least four basic principles:

First. Fairness. Fairness to farmers and other off-highway users of diesel fuel.

In our zeal to catch tax cheaters, our 1986 Tax Reform Act required farmers and businesses, whose vehicles don't generally use highways, to pay the 15-cents-per-gallon diesel fuel tax anyway and to file later on for a refund of a tax they really didn't owe.

At a time when American farmers are reeling from drought, we don't want to require them to make an interest-free loan to the U.S. Government. This bill corrects a basic inequity.

Second. Competitiveness. Enhancing the competitiveness of the United States in the world marketplace. How? In two ways: By extending the tax credit for research and development; and by restoring an expired provision so that employees will once again have a tax incentive to continue their education leading to a more productive work force.

Third. Shelter. The need to provide safe and decent shelter for American families. The extension and retargeting of the mortgage revenue bonds and mortgage credit certificates will help put home ownership within reach of tens of thousands of additional low-income and lower-middle income families. Similarly, the extension of the low-income housing tax credit will encourage the construction, rehabilitation and acquisition of many units of rental housing for American families unable to buy their own homes but needing a place to live.

Fourth. Employment opportunity. Helping people off of public assistance rolls on to payrolls by extending the targeted jobs tax credit. This bill states that if you are a welfare recipient, an economically disadvantaged youth, a Vietnam-era veteran or a former convict, and you want to work, we'll provide an incentive for an employer to give you a chance.

I realize this bill is not perfect, but the good in it clearly outweighs the bad. The committee and its chairman are to be commended. Their bill deserves our support.

Mr. ARCHER. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I am not sure the bill is good poetry, but it is very good prose. It is responsible legislation. It belies the notion that we in Congress sit around here eagerly looking forward to raising revenues.

It is not an easy task. There are compromises that have to be made, and we were responding within the committee to express needs: Extension of the R&D tax credit, for example, and education assistance. We trimmed those, but we wanted to sustain them. We had to leave out some programs. Some of them many of us thought were good programs, like legal assistance in terms of tax treatment.

But there was a balancing that had to be undertaken between clear, unmet needs and revenues that had to be raised. As a relatively new member of this committee, I am proud of the process. It is a good product. I hope that no Member will vote against it because it is a tax bill. This is a responsible revenue measure. It should be supported overwhelmingly within this House.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 4333, and I would also like to commend the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the ranking minority member, the gentleman from Texas [Mr. ARCHER], for the good work they did.

To the accountants and the tax practitioners who have been pulling their hair out since 1986, since passage of the Tax Reform Act, let me say that we have finally responded. This is the second time this bill has passed. We are trying to help them out.

To the farmers in my area who have called and have written, let me say that we have taken care of their problem not only with the so-called heifer tax but also putting them within the payment system, although they were exempt and continued to be exempt from paying tax on diesel fuel.

For my people who say they want continued research and development so we can keep jobs here, create creativeness, and have the innovations for the future, they should take a look at the research and development tax credits and something I personally worked on for over a year and a half, the 861 section. Those 2 sections were both contained in the President's budget submitted to the Congress, and I recommend a yes vote on those.

For the mortgage bonds and the mortgage credit certificates, they would be extended. The housing industry, the real estate agents, and the home builders have been asking for that. That is in there.

For our youth who still are unemployed and are continually subject to unemployment, a reauthorization of the targeted jobs credit will be extended, and that will help them. If one is on the low-income scale and needs low-income rental housing tax credits, that provision is extended.

So, Mr. Chairman, I commend to my colleagues that this is a broad-ranging piece of legislation that does lots of good. It corrects mistakes and keeps good programs going. I urge a "yes" vote for the bill.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I support H.R. 4333, the Miscellaneous Revenue Act of 1988. Besides making many necessary corrections and clarifications in the Tax Reform Act of 1986, it contains at least two provisions in which I am particularly interested and strongly support.

Probably the best result of passage of this bill will be the reinstatement of the diesel fuel tax exemption for users of off-highway vehicles and equipment. Before April of this year, farmers, oilfield and construction contractors, commercial fishermen, and others who use diesel fuel have been exempt from paying Federal fuel taxes, since they don't use the fuel on the Nation's highways. Last December, Congress passed a law which all of a sudden required them to start paying the tax, fill out and send in a bunch of forms, and wait for a refund from the Government.

This created a tremendous paperwork burden and severely limited the cashflow of farmers and other small businessmen. Early on, I cosponsored legislation to reinstate the exemption and asked the IRS to delay enforcing the new law. Today we can take another step toward restoring the exemption. When Congress finally restores common sense and fairness to this issue, and I hope that doesn't take too much longer, it will not be soon enough, as far as I'm concerned.

I also want to mention another provision in this bill, which will help nearly 2,000 employees of CLECO [Central Louisiana Electric Cooperative] in my district. Section 111B(i) of the bill clarifies the tax rules and the qualification requirements relating to distributions from tax-credit employee stock ownership plans [ESOP's].

The workers and management of CLECO want to terminate their existing ESOP and put the assets into a 401(k) employee benefit plan. Enactment of this bill will allow them to do so without fear of losing the tax benefits. The bill allows them to terminate the ESOP within the exception of the 84-month rule provided under the law, without regard to whether CLECO establishes a successor plan, including an ESOP.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one item which I believe has not yet been mentioned in this debate, one which is an extremely important component of this legislation, is the extension of the long bond authority to the Treasury of the United States, which permits them the flexibility to arrange the borrowing for the entire country and benefits all taxpayers by practically permitting a reduction in the overall interest rate. I applaud the chairman of the committee for including that provision in this bill. It is extremely important to all taxpayers within the United States.

Ms. SNOWE. Mr. Chairman, I rise in support of H.R. 4333, the Miscellaneous Revenue Act of 1988. This legislation has several provisions that are very important to the people of Maine that I will briefly review, and I urge my colleagues in the House to support it.

Most importantly, as reported by the House Ways and Means Committee, H.R. 4333 includes language that will correct a problem in the current procedure for collecting the 15-cents-per-gallon Federal diesel fuel excise tax. This measure will permit off-highway users of diesel fuel to purchase diesel fuel directly from producers and wholesalers without having to pay the Federal highway user tax.

The committee correctly decided that current tax law on this issue, which required off-highway diesel fuel users to first pay the 15 cents tax and apply for a refund from the Internal Revenue Service later, was not working properly and needed to be changed. Thus, this bill simply restores off-highway diesel fuel users to their prior status of being exempt from the tax. Farmers, loggers, and fishermen in Maine have been quite concerned about this problem, and I am particularly pleased that the committee adopted provisions to address their concerns.

Mr. Chairman, this measure will renew for 2 years a valuable tax policy that allows employees to exclude from their taxable income educational assistance provided by their employer. In extending the employer-provided educational assistance exclusion, however, the committee narrowed the exclusion to $1,500 per employee per year, and mandated that the exclusion not be available for graduate-level education courses. Nonetheless, for the many people in Maine who are holding down a job while taking classes to help improve themselves, this provision will be very helpful.

H.R. 4333 also extends the authority of State and local governments to issue tax-exempt mortgage revenue bonds through 1990. Mortgage revenue bonds are commonly used to provide reduced-rate mortgages for low- and middle-income first-time home-buying families. In approving this 2-year extension, the committee added some new language to the program in order to focus its assistance on those individuals who benefit most from these reduced-rate mortgages. For crafting legislation that will help low-income families in Maine buy their first home, the committee should be commended as well.

Mr. Chairman, H.R. 4333 will exempt free-lance writers, artists, and photographers from current uniform capitalization rules, thus enabling them to deduct expenses associated with their businesses as these expenses are incurred. This move will provide for an easier record-keeping process, and will bring their tax treatment in line with that of other businesses that provide personal services. In this regard, the committee-approved bill will correct a real problem for America's creative writers, artists, and photographers.

Mr. Chairman, H.R. 4333 is important tax legislation that the 100th Congress should enact. This measure makes necessary technical corrections to our Tax Code, extends a series of valuable tax provisions that are due to expire shortly and modifies other existing provisions within the Internal Revenue Code that will be of great value to the people of Maine. I urge adoption of this measure.

Mrs. LLOYD. Mr. Chairman, after much deliberation about this bill, I believe there are several issues that have not been addressed to my satisfaction. There are many provisions that I have supported and was pleased to see in the bill, but as a whole the negatives outweigh the positives.

The positives include the targeted jobs tax credit provisions, the repeal of the onerous provisions concerning the collection of the diesel fuel excise tax, the provision restoring artists' rights to take expenses as ordinary deductions in the year they were incurred. I either cosponsored or supported bills to do these things, and would have voted for them had they come before us on a separate vote.

My reservations about this bill being a tax increase in disguise have not been allayed. I will not vote for a bill that could mean more taxes on individuals and businesses. The net effect in the out-years could represent a tax increase that is not fully foreseen. The increase of $5.6 billion in corporate taxes is something that must be evaluated in terms of the impact on economic growth and employment.

Many provisions are not technical in nature and cause me some concern. These include the repeal of the "completed contract" method of accounting—particularly as it will affect the housing market, the restrictions on life insurance and employer-provided education assistance, and the alteration of depreciation rules for property used in farming so as to reduce the percentage of the total deductions that can be taken in the early years. This latter provision is a slap in the face to farmers who are already suffering great economic losses due to the drought.

I commend my colleagues on the Ways and Means Committee for all the difficult work they have done on this bill. There were many hard decisions to make.

On balance, though, I am voting "no" to send it back to committee for a more favorable bill.

Mr. ROWLAND of Georgia. Mr. Chairman, H.R. 4333, the Miscellaneous Revenue Act of 1988, gives us an opportunity to right a wrong which was dealt to farmers and other off-highway users of diesel fuel.

Until recently, these individuals could purchase this fuel without payment of the highway excise tax. However, the Budget Reconciliation Act of 1987 repealed this method of purchase and required payment of the tax, allowing for a refund later.

In this creative manner, the users of the tax-exempt fuel were treated to an increase in paperwork and loss of cash flow in the process. This is simply unfair and another example of bureaucratic red tape.

H.R. 4333 will repeal these burdensome rules and allow farmers and other off-highway users to again purchase diesel fuel without the payment of tax. I urge my colleagues to support H.R. 4333.

Mr. COYNE. Mr. Chairman, the 1986 Tax Reform Act was the right bill at the right time. No one enjoys paying taxes—but because of the Tax Reform Act, which was written under the capable leadership of Chairman DAN ROSTENKOWSKI, we have moved towards a system that distributes the tax burden much more fairly than before. The 1986 legislation took millions of the working poor off of the tax rolls altogether. And the law gave millions of middle-income taxpayers tax relief that was badly needed and long overdue.

As much as the Tax Reform Act accomplished—and it has accomplished a lot—it's easy to see that an enormously complex document of 878 pages was not perfect. In any legislation so wide-ranging and technical, it was inevitable that it would contain some mistakes which had to be corrected. H.R. 4333 makes those corrections.

Some of the most important features of H.R. 4333 are its extensions of several Tax Code provisions that have expired or were about to expire.

For example, it would extend through 1990 a measure that would allow taxpayers to exclude from taxable income the educational assistance that their employers provide. H.R. 4333 does not go as far as I would like. It would reduce the maximum amount of the exclusion from $5,250 to $1,500. But it is still better to retain a $1,500 exclusion than to have none at all, and I support it.

H.R. 4333 extends through 1990 the tax credit for owners of residential rental property used for low-income housing that is newly constructed, rehabilitated, or newly acquired.

H.R. 4333 extends for 2 years the authority for State and local governments—such as Pittsburgh and Allegheny County—to issue tax-exempt mortgage revenue bonds. This will keep mortgages within reach for many low- and middle-income individuals buying homes for the first time.

H.R. 4333 will have a constructive effect on research and development. It extends for 2 years the 20-percent tax credit for some research expenditures, and it reforms the temporary rules on allocating research expenses between domestic and foreign income for firms that conduct research here but produce abroad.

H.R. 4333 extends the present tax credit for employers who hire economically disadvantaged youth, Vietnam-era veterans, individuals needing vocational rehabilitation services, former convicts, and recipients of various public assistance benefits.

And H.R. 4333 makes it easier for individual shareholders of mutual funds to deduct some of their investment expenses.

All of these changes need to be made. That is why I urge my colleagues to support H.R. 4333.

Mr. WELDON. Mr. Chairman, I rise in support of the bill and to commend Chairman ROSTENKOWSKI and the members of the Ways and Means Committee for keeping revenue losses resulting from targeted relief provisions to a minimum. The benefits to the taxpayers in this bill outweigh the costs associated with the limited number of targeted relief provisions contained in the bill. I intend to vote for this bill.

In a letter to me, Chairman ROSTENKOWSKI pointed out that "during its markup of H.R. 4333 the Committee on Ways and Means did not add any new targeted rifleshot provisions to the bill." New is the operative word here. I wish to emphasize that the bill does contain targeted provisions that were originally intended to be in either the Tax Reform Act of 1986 or the continuing resolution for that year that was never enacted.

I believe it is a bad precedent to accept these targeted provisions simply on the grounds that they were intended to be in legislation that was never enacted in a prior Congress.

These targeted provisions will have a minimal impact on the budget because they are already assumed by the staff to be the law. This too is a bad precedent.

Chairman ROSTENKOWSKI, in his letter, stated that "many amendments were rejected by the committee solely because they were viewed to be rifleshots." I hope this will serve as a precedent for the committee when it considers future tax legislation.

Mr. TRAFICANT. Mr. Chairman, I would like to commend the members of the Ways and Means Committee for working diligently and producing a technical corrections bill which will extend some valuable programs, as well as clarify portions of our current tax law.

H.R. 4333 is a good bill because it addresses some of the sections of the 1986 Tax Reform Act which have created problems for the taxpayers and Congress. The bill is also revenue neutral; the extended programs are paid for by revenue-raising provisions.

Extension of the Employer Educational Assistance Program means that students will be able to exclude a portion of their assistance moneys from taxable income. It will provide students a little help as they battle the ever-rising costs of education. I would also like to draw attention to the Targeted Jobs Tax Credit Program. By extending this program through 1990, disadvantaged youth and people on public assistance can claim some of their income back through this tax credit. The people in my district of Ohio have voiced their strong support for these extensions. Education and jobs are two valuable commodities in my area and help in getting them is crucial.

As I mentioned, while the bill makes plenty of extensions, there are also provisions which raise revenue, primarily through closing a loophole on contract income and reducing the deduction on corporate dividends.

I think it's high time we review the mistakes made in the 1986 Tax Reform Act before taxpayers are subjected to additional uncertainty and unfairness. While this bill will in no way please everybody, it was crafted with bipartisan support. I urge my colleagues to support this fair and revisionary tax measure.

Mr. HATCHER. Mr. Chairman, I rise today in support of the Miscellaneous Revenue Act of 1988, also known as the Technical Corrections Act to the 1986 tax reform legislation. An important provision of this bill will restore that right of agricultural and off-highway users to purchase diesel fuel without collection of the excise tax.

Although off-highway users such as farmers and construction workers have always been exempt from the tax, changes in tax collection procedures that took effect on April 1 of this year required the tax to be paid at the time of the sale and the user to then seek a refund.

My constituents have legitimately questioned the current law which requires them to pay a 15.1-cents-per-gallon tax only to apply for a refund at a later date. The language of the legislation before us today will allow these off-highway users to purchase diesel fuel directly from producers and wholesale distributors without payment of the Federal excise tax, as long as they were permitted to make such purchases before April 1 of this year. As approved, this new policy would be retroactive to July 1, 1988.

For the past several months my constituents in south Georgia have been required to pay this unfair and burdensome tax when purchasing diesel fuel. As a result, many farmers have been forced to borrow additional operating funds, accruing more debt in order to pay the tax. This additional borrowing brings further interest costs on an agriculture economy that is already burdened by the drought and other financial problems.

I urge my colleagues to support this legislation so that we can finally end this unfair tax on our farmers and small businesses.

Mr. PARRIS. Mr. Chairman, today the House is considering H.R. 4333, legislation to make technical corrections to the Tax Reform Act of 1986 and the Omnibus Budget Reconciliation Act of 1987. While this legislation addresses numerous provisions of the Tax Code, I am concerned that H.R. 4333 does not address two provisions, which I feel are very important in aiding failing financial institutions and lessening the enormous burden that the Federal Savings and Loan Insurance Corporation [FSLIC] and the FDIC currently shoulders.

The provisions to which I am referring were originally adopted in 1981 and were later extended in 1986. Unfortunately, both will expire at the end of this year.

These tax provisions provide that Federal insurance assistance is treated as a tax free income to the recipient and that net operating losses of an acquired troubled thrift are available to a purchaser. I believe that, in some cases, mergers can be the most cost-effective means of resolving problem cases for the insurance funds. I also believe that these provisions are vital if the FSLIC is to attract qualified bidders and minimize its ever-increasing caseload. The rules which provide for tax-free treatment of FSLIC assistance have made it possible for the beleaguered insurance fund to focus its resources on a broader range of problems than would otherwise have been possible.

This concept was favorably recognized by the Department of the Treasury during original consideration of the Tax Reform Act of 1986. In "Treasury I" the Department recommended extending these provisions to 1991.

Mr. Chairman, we are all aware of the problems confronting the FSLIC and the thrift industry. I believe it is imperative the Congress do all it can to stabilize the S&L industry and lighten the enormous caseload of both of the Federal insurance funds, which will cost billions of dollars to resolve. Extending the preferred tax treatment of financially troubled financial institutions will help achieve this objective.

I would urge that before a final conference report on this legislation is filed it include the necessary language to extend these provisions, which are currently contained in the Internal Revenue Code.

Mr. CRANE. Mr. Chairman, today we will consider H.R. 4333, the Miscellaneous Revenue Act of 1988. Unfortunately what was supposed to be a technical corrections bill has turned into a conglomeration of hefty tax burdens to certain business communities. As a senior member of the Ways and Means Committee, I cannot support this bill. As stated before, it is unfortunate that such worthy tax relief for preproductive period expensing also known as the heifer tax and the collection of diesel fuel taxes on sales to retailers are included in a bill that raises over $7 billion in new taxes. In particular, I have serious reservations on three revenue raising items. These include the ludicrous elimination of the completed contract method of accounting [CCM], the taxation of inside buildup in single premium life insurance policies and the lowering of the dividends received deduction [DRD].

The extinction of CCM has been at the forefront of the last two tax bills. In 1986, Congress decided to accelerate the taxes paid by many large defense contractors at the insistence of the Ways and Means Committee. A compromise agreement was achieved, but before the ink was dry from the 1986 tax bill, CCM was once again being considered. In 1987, the Ways and Means Committee was back garnering a larger slice of the proverbial long-term contract pie. Thus they have achieved the result they were seeking. The elimination of CCM.

Cost-to-cost percentage of completion does not raise revenue that otherwise would not have been collected. It only accelerates the time when these taxes must be paid. Under current law, long-term contractors are required to pay tax on 70 percent of their income from long-term contracts before it is earned under cost-to-cost percentage of completion. The other 30 percent uses the completed contract method of accounting. This system requires income from a long-term contract to be reported as costs are incurred on a contract. It assumes that the contractor earns the same margin of profit on each dollar of cost incurred. You do not need to be a Ph.D in economics or a CPA to know that incurred cost does not reflect the manner in which income is earned. In 1986, Congress imposed the cost-to-cost method on all long-term contractors, including many small businesses. Now we propose to eliminate CCM and our support for the business that engage in long-term contracts in favor of the greedy cost-to-cost method.

Another classic example of the shortsightedness of the Ways and Means Committee is the singling out of single premium life insurance policies for taxation. Single premium policies are those policies that can be purchased with one large payment. The "abuse" concern is that the purchaser then takes out an immediate loan on the equity and deducts the interest paid back, but does not have to pay taxes on the proceeds. Original bills on this issue would treat any and all distributions from an insurance policy as a taxable event. Eventually, through the committee process, the Kennelly-Guarini substitute was passed.

While this amendment would simple apply the annuity distribution rules to a limited number of life insurance contracts which failed to meet the seven-pay standard, the whole premise is flawed. The newly created taxation of single premium policies will no doubt tend to discourage some individuals from utilizing life insurance products as a combination death protection-long term savings vehicle. It will also limit to a certain extent the flexibility of the life insurance industry in designing insurance products to meet consumers' needs. I feel that both single premium whole life and single premium deferred annuities serve a socially desirable purpose. The typical purchaser of these plans is an individual between 51 and 55 years old, with approximately $15,000 to allocate to life or annuity policy. Their hope is that the policy will provide financial security and supplement future retirement income. Generally, the money utilized to purchase these policies comes from the sale of a home or family business, or alternatively as the proceeds from the estate of a deceased relative. The level of borrowing against these policies is very low. Once again, Congress is trying to raise revenues by taxing certain perceived problems. Unfortunately, all we do is discourage savings for the taxpayers of this country.

I also have strong objections to the portion of the bill that would reduce the dividends received deduction from its current level of 70 percent to 55 percent in 1989, 52.5 percent in 1990, and 50 percent in 1991 and thereafter. This proposed change represents fundamentally bad tax policy and can only be characterized as a "money grab" to pay for other provisions. The proposed reduction in the DRD is unfair because it applies to existing and outstanding stock and thus is retroactive in its impact.

The vast majority of the revenue being raised by the provision comes from this retroactive feature. This is clearly illustrated in a letter I received from Ron Pearlman, chief of staff of the Joint Committee on Taxation, on July 13, 1988. In that letter, Mr. Pearlman indicated that the revenue raised from the proposed reduction of the DRD would be reduced from $1.7 billion over 3 years in its retroactive form to $104 million if it's made prospective only so that it would apply to newly issued stocks alone. This clearly illustrates that most of the revenue being raised results from the retroactive feature of the legislation—a patently unfair result. Don Chapoton best summed up the analysis of this proposed reduction when he made the following observation about it on July 13, 1988, "We must look at what we are doing before we drop this bomb on the corporate tax structure."

The time has come for the Members of Congress to recognize that we cannot continue to tax indiscriminately without regard to the response of our actions. Too often we create taxes to regulate the growth of an industry as in the case of life insurance. Let us stop the continued taxation for revenue sake to pay for our foolish spending habits. Let us send our business community the message that Congress is ready to step back and let them make their own business decisions. After all, is that not what is meant by "free enterprise?" I urge my colleagues to oppose H.R. 4333 as it is a detriment to the business community.

Mr. ROTH. Mr. Chairman, the bill before us today includes two important provisions which will provide tax relief to the farmers in northeast Wisconsin—repeal of the diesel fuel tax requirement and the heifer tax.

Over the past year, many farmers in my district have contacted me about the severe impact of the diesel fuel tax collection and heifer tax on their operating costs, not to mention the nightmare of added paperwork that they now face. I have strongly advocated the repeal of these provisions and in fact, introduced H.R. 3903 which specifically calls for the repeal of the heifer tax.

Last December, the House enacted the Budget Reconciliation Act which contained many unwise provisions, including the diesel fuel tax requirement. I voted against that bill.

For the past 4 months, farmers and other off-road users have been required to prepay the diesel fuel tax, from which they are exempt, and then submit a request for a rebate. Since application for a refund can only be made after $1,000 in taxes has been prepaid or at the end of the year, many farmers have felt the pinch of a tightening cash flow. In fact, the Farm Bureau Federation estimated that the diesel fuel requirement could tie up as much as $420 million in farm income.

H.R. 4333 repeals this unfair requirement and ensures that farmers in Wisconsin and throughout the Nation will no longer have to pay a tax they don't owe. In addition, it provides relief from a paperwork burden that farmers can well do without. No one should be required to pay a tax they do not owe.

Likewise, the requirement to capitalize preproduction expenses needlessly penalizes small farmers by increasing their tax liability on young stock. For many years up till 1987, farmers and ranchers were allowed to write-off production expenses for raising young stock in the year incurred. As the law now stands, farmers must keep detailed records on the feed, housing, utilities, and medical treatment allocated for each individual animal with a preproductive of more than 2 years.

Although, farmers supposedly have the option of capitalizing these expenditures or using the cash accounting method, in reality, the farmer faces a significant penalty for electing to use the cash accounting method of recordkeeping. Either way, the farmer loses.

If a farmer capitalizes his expenses, it costs an estimated $100 per head to add a young animal to the herd. This new cost is attributed solely to the change in the accounting method.

Earlier this year, I introduced the Family Farm Tax Accounting Relief Act, H.R. 3903, to repeal this complicated capitalization requirement. My legislation was designed to restore some simplicity and fairness in the Tax Code for farmers. I am pleased that H.R. 4333 contains language similar to my proposal.

Repeal of the heifer tax will put money back into the farmer's pockets and eliminate a staggering recordkeeping burden. During this past tax filing season, many Wisconsin farmers were forced to file for extensions because of the difficulty in calculating the capital costs and finding tax accountants willing to tackle the job.

Mr. Chairman, while I am deeply concerned about some of the provisions in the tax technical corrections bill, I applaud the committee's efforts to address the concerns of our Nation's farmers. Repealing the diesel fuel requirement and heifer tax bill help many Wisconsin farmers who are experiencing severe cash flow problems due to the drought.

Clearly, now is not the time to saddle our farmers with excessive tax burdens. I strongly urge my colleagues to continue to support these responsible changes to the Tax Code.

Mr. GARCIA. Mr. Chairman, I rise to lend my support to certain provisions in H.R. 4333, the Miscellaneous Revenue Act of 1988, which extends certain expiring programs that have a positive impact on my congressional district in the South Bronx.

These provisions include the low-income housing tax credit that provides tax incentives for individual investments in housing for low-income families. These provisions also include the extension of authority for State and local governments to issue mortgage revenue bonds. These bonds allow low- and moderate-income families to become first-time homeowners.

I hope that we all recognize that the solution to America's housing crisis will be no easy solution and will be accomplished through no small national effort. But I believe that in conjunction with a renewed national commitment to provide adequate levels of assistance and assistance in the appropriate format.

We must provide a panoply of housing assistance. This includes assistance to families for rent payments and mortgage payments and to low-income housing developers for increased production and rehabilitation. These tax incentives also play a part in housing production and they should not be allowed to expire. But our time has long since expired in the field of low-income housing assistance. Today the challenge remains to renew our commitment and make things happen.

In addition to incentives for housing assistance, this bill provides tax credits for targeted job creations for disadvantaged youth, Vietnam veterans and welfare recipients. It is essential that we keep alive the hope of work and the opportunity of self-improvement for these groups that have historically been underemployed even in the best of times. I strongly support jobs programs that involve public and private participation and support the extension of these incentives.

The bill also provides tax credits for research and development and provides tax deductions for educational assistance provided to workers by employers. If we as a nation are going to remain competitive in the world marketplace and if we hope to nurture our economy and work force for a better tomorrow here at home, we must provide incentives for meaningful industrial expansion through research and development and we must provide incentives for private sector participation in providing educational opportunities to America's work force.

We are a mobile people and it is time to retain and create new programs and incentives to provide opportunities of upward mobility to our working people. A well trained and well educated work force is the foundation for economic expansion. It is not money alone. It is not good times for the very wealthy. It is accomplishments and capabilities among the larger group that makes up America's working men and women that will provide our economic success in this generation and in the next.

I believe that we must be forward looking and that we must make our hopes and dreams as individuals and as a nation become realities. These provisions in the tax measure before us today will help and I urge my colleagues to vote in favor of their extensions.

Mr. MARLENEE. Mr. Chairman, the IRS is engaged in an all-out bloodletting that is gradually bleeding the American taxpayer dry. This bloodletting is draining the life out of American businesses, withering their attempts to expand and create new jobs and forcing hard-working Americans to scream for protection from this blood-thirsty tax monster.

This bloodletting has became a real-life nightmare and Congress must seize the opportunity to do something to turn back the tax monster. H.R. 4333, the Miscellaneous Revenue Act of 1988, offers such an opportunity.

While I don't like every one of its provisions and wish it contained more, quote-unquote, "corrections" to the Tax Code, the bill does offer some relief from onerous and burdensome requirements imposed on the American taxpayer by the Tax Reform Act of 1986—a bill I voted against because I saw what it would do to the taxpayers, businesses, and workers of this country.

H.R. 4333 at least lifts some of the paperwork burden off the backs of business, makes it a little easier for businesses to create jobs and protects workers from having to pay new taxes.

This bill will assist businesses in creating jobs by continuing tax credits for hiring the poor, the disabled, and disadvantaged youths.

Businesses and workers alike would also benefit from provisions that extend tax credits for research and continue tax breaks for workers who want to further their education.

H.R. 4333 offers relief for farmers and ranchers. No longer would these off-road users of diesel fuel have to shoulder the burden of collecting fuel taxes they don't owe. No longer would cattle raisers be subjected to absurd rules that demand they try to figure the costs of feeding cattle that haven't even been born.

H.R. 4333 offers relief for public schoolteachers and State and local government workers. This bill throws up a roadblock against IRS plans to tax benefits like sick leave and vacation pay—benefits they may never get a chance to use.

H.R. 4333 offers relief for free-lance artists from complicated accounting rules that stifle creativity and are counterproductive to a better life for Americans. No longer would they have to be certified public accountants in order to profitably pursue their chosen professions.

In addition, H.R. 4333 assists rural mail carriers, giving them a better deduction for expenses involved in using their own vehicles to deliver mail, and assists first-time homebuyers by continuing the availability of affordable financing through issuance of mortgage revenue bonds.

Finally, H.R. 4333 offers desperately needed relief for accountants—and the taxpayers who pay their fees—from some of the ambiguous provisions of the 1986 tax law—provisions that have created 115 million manhours of new paperwork so far, according to the Office of Management and Budget [OMB].

Mr. Chairman, this bill should never have been needed. Two years ago I stood on this floor and warned my colleagues that the Tax Reform Act of 1986 was tax fraud, not tax reform; tax law confusion, not tax law simplification. Unfortunately, I was right and the bill under consideration today is the evidence of that.

I urge my colleagues to vote "yes" on H.R. 4333 and help put our Tax Code on the road to fairness and sensibility.

Mr. YOUNG of Alaska. Mr. Chairman, I rise today in opposition of a provision of the technical corrections bill, H.R. 4333 which would terminate the sale of net operating losses by the Alaska Native corporations. This legislation is unfair, and is not consistent with traditional notions of fairness and equity.

The Tax Reform Acts of 1984 and 1986 terminated the sale of net operating losses, but allowed an exemption for Alaska Native corporations. This exemption was seen as a way to allow the native corporations to rebuild their financial base consistent with existing law. Indeed, the exemption worked, and many of these corporations are operating at a surplus.

Suddenly, and without warning, H.R. 4333 was introduced. This legislation terminates the exemption granted to the native corporations. The effective date of the legislation is set at April 26, 1988, the date of the bill's introduction into the House. This date, should the bill become law, would effectively cancel all NOL transactions that were in the process of negotiation, but not yet completed. Many of these sales were ready to be closed when the bill was introduced. In fact, native corporations have expended great sums of money in preparing and negotiating the sale of NOL's, all acting in good faith and in compliance with the law.

Mr. Chairman, in these days of fiscal restraint and mounting deficits, there isn't anyone who is not interested in saving money. This provision reportedly will save an estimated $853 million over 5 years. These figures, however, are just estimates, and it is my belief that they are inflated. Nonetheless, the native corporations are not asking that this exemption be continued. All they are simply asking for is a fair and just transition period that would allow them to complete what they have already begun.

In some cases, the success of financial restructuring for some of these corporations hinges upon the completion of NOL transactions entered into on or before April 26. Should this legislation pass as written, this provision of the Technical Tax Correction Act would sound the death-knell of certain Alaska Native corporations.

Tax legislation of this nature has always contained a fair and just transition period. This situation should be no different. A transition period that would allow native corporations to complete NOL transactions entered into when this bill was introduced is fair, it is just, and it is the right thing to do. People should not be punished for good faith compliance with the laws passed by this Congress.

I would like to remind my colleagues of one more thing. NOL transactions are subject to the careful and meticulous scrutiny of an Internal Revenue audit. Some concern has been expressed that a fair transition period in this legislation would only open the starting gate in an all out race to generate as many NOL transactions as possible, many of which would be somewhat suspect. Nonsense.

Without IRS approval an NOL transaction cannot be legally recognized. Furthermore, any corporation which completes such a suspect transaction that does not pass IRS muster must pay taxes on that sale, complete with interest and any appropriate penalties.

As the ravenous watchdog for every penny that flows in and out of the American Treasury, the IRS will not allow a single cent to slip past its able-bodied team of auditors realized from NOL transactions completed in a fair and just transition period, completed in strict compliance with the law.

Mr. BERMAN. Mr. Chairman, I rise in support of the technical corrections bill. There are many good provisions in this bill that will further the goals of tax equity and simplicity, but one is particularly important to me and to a large number of my constituents—the repeal of the capitalization rule for writers, artists, and photographers.

I commend the Ways and Means Committee, and particularly its chairman, DAN ROSTENKOWSKI, for their decision to include a provision to repeal this unfair and onerous tax rule. Two years ago, congressional tax aides and Treasury officials decided to extend the capitalization rules to writers, artists, and photographers without prior discussion by Congress. They defended this action on the grounds of principle, even though the substantial accounting and forecasting burdens of the new tax rule threatened the livelihood of our Nation's writers and artists. By adopting the technical corrections bill today, which repeals the capitalization tax rules for the creative community, the House is saying that there is another principle that deserves to be heard: Tax rules should be no more intrusive than they have to be to collect reasonable revenue and assure reasonable equity.

Mr. Chairman, we have a long and rich history of supporting our Nation's writers and artists. Much of our unique American culture can be attributed to the free and unencumbered environment in which our creative community is allowed to work and create. By repealing this unfair tax rule, the House today is reaffirming our past support for the arts and promoting the greatness that is yet to come.

Mr. Chairman, I strongly support the adoption of the technical corrections bill and urge my colleagues to support final passage of the bill.

Mr. MACK. Mr. Chairman, I rise today in opposition to H.R. 4333, the Technical Tax Correction Act. I object to the tax increases included in this bill which would raise $7.1 billion in taxes over fiscal years 1988-91.

There are many provisions of the Technical Tax Correction Act which I fully support, including extension of the research and development tax credit, restoring credits for employer educational assistance, exempting livestock producers from uniform capitalization rules—the heifer tax—and removing farmers and other off-highway diesel fuel users from the diesel fuel excise tax. I have cosponsored various bills for these purposes and will continue to work hard for enactment of these provisions.

However, I strongly oppose the tax increases included in H.R. 4333. Especially objectionable are provisions to reduce the corporate portfolio "dividends-received" deduction from 70 to 50 percent over 3 years and to repeal the "completed contract" method of accounting. Because of these and other tax increases, I cannot support the bill. These provisions will only drive up costs and constrain our Nation's strong economic growth.

The correct approach is one that stimulates economic growth and investment. Therefore, it would be much better to reduce the capital gains tax rate from 28 to 15 percent to raise the revenues necessary to pay for the desirable tax preferences included in the bill. Harvard economist Lawrence Lindsay estimates that such a reduction in the capital gains rate would raise $31 billion over 3 years—more than four times as much as the cost of the tax preferences. I have introduced H.R. 3552 to reduce the capital gains tax rate. A reduction in the capital gains rate will spur investment and the creation of new jobs.

Mr. Chairman, I hope that when the other body considers this legislation that the objectionable tax increases are dropped from the bill. I am still confident that we can produce a final conference report that we can all support.

Mr. McEWEN. Mr. Chairman, I rise in support of H.R. 4333 and for a very specific reason. This bill repeals two burdens placed on the American farmer known as the diesel tax and the heifer tax. The diesel tax placed an unnecessary burden on farmers by requiring them to pay a tax on diesel fuel used for off-highway purposes, and then go through the long and tedious process of applying for a rebate. The heifer tax refers to the uniform capitalization rules which were applied to taxpayers involved in the production of animals. As a cosponsor of H.R. 3884, H.R. 3865, and H.R. 3881, I advocated the removal of the diesel tax. At the same time I cosponsored H.R. 3907 to eliminate the heifer tax. I commend the committee for its wisdom in incorporating these measures into H.R. 4333. Last week, Mr. Chairman, this body showed its support for our Nation's agricultural producers by approving the Drought Assistance Act of 1988. Now let's show our farmers that we will not only help them during an emergency, but we'll also work to restore equity to their everyday lives. I call upon this House today to support H.R. 4333.

Mr. CLINGER. Mr. Chairman, I rise today in support of H.R. 4333, the Technical Corrections Act of 1988. I would like to take this opportunity to talk about just one of the many provisions of this bill because I feel it is so critically important.

The grinding issue of diesel fuel tax collection has been a burden to our many farmers and other off-road users long enough. If enacted, H.R. 4333, will repeal the 15.1-cent-per-gallon tax imposed on off-road diesel users.

As it stands now, off-highway users must pay the tax up front and apply to the Treasury for a refund either quarterly or annually. It has been apparent to me for some time that this system has placed a tremendous and unnecessary burden on our agriculture, water transportation, construction, and timber industries. The tax has caused problems far more burdensome and unfair to users than any benefits originally envisioned by enactment of the law. I congratulate the Ways and Means Committee chairman, DAN ROSTENKOWSKI, and the ranking minority member, BILL ARCHER, for responding to the concerns over this issue raised by so many Members of this body.

The bill before us today will allow off-highway users to remain exempt from payment upon purchase fuel tax collection and will eliminate up-front production costs and unnecessary paperwork. Finally, it will reverse the profound effect the new law has had on the cash-flow and interest funds of our producers.

Mr. Chairman, I urge support for this bill and remind Members that the other body has also addressed this issue. It is important for all of us to recognize the need to pass this legislation.

Mr. GOODLING. Mr. Chairman, I rise today in support of the Miscellaneous Revenue Act of 1988. This long awaited legislation contains a number of provisions of benefit to the American taxpayer, and I wish to commend the Committee on Ways and Means for producing such legislation in a timely and deficit neutral manner.

Public employee's retirement plans in the States of Pennsylvania, Hawaii, and Oregon have been adversely affected by a section of the Tax Reform Act of 1986 which eliminated the 3-year basis recovery rule for Federal employees and changed the way in which lump-sum distributions were taxed.

Unfortunately the public employee's retirement plans of these three States were inadvertently excluded from the transition rule grandfathering preannuity lump-sum distributions of after tax contributions made prior to 1987.

Language correcting the situation is included in this bill, as are provisions clarifying the law regarding the taxation of State and local government employees' benefits, repeal of diesel fuel excise tax provisions so burdensome to the farmer and other off-road user, and an exemption to the uniform capitalization rules for artists and authors, who cannot reasonably meet the requirements of current law.

This legislation is responsive to the concerns of those who have been the victims of drafting errors and other small misunderstandings occurring as a result of the comprehensive overhaul of the Tax Code in 1986. I urge my colleagues to support the bill and hope the other body will give it favorable consideration in a timely manner.

Mr. DENNY SMITH. Mr. Chairman, I rise in opposition to H.R. 4333, the Miscellaneous Revenue Act of 1988. Clearly, the tax system we have now is far from perfrect, and due in large part of the Tax Reform Act of 1986, has evolved into a convoluted entanglement of rules, regulations, and redtape that even CPA's have trouble deciphering. However, there comes a time when our attempts to fix the inequities of the system only serve to complicate the mess further. I believe that H.R. 4333 is another such attempt.

Since I came to Congress in 1981, over 3,000 tax-related bills have been introduced in both the House and the Senate, and we have voted nine times on major pieces of tax legislation. In spite of all this, the tax system is not simple and it is not fair—nor will it be after the passage of H.R. 4333, a 960-page behemoth designed to make technical corrections. The results are predictable: we reform the tax system, we make technical corrections to the reforms, and ultimately, we will be making technical corrections to the technical corrections. With all the reforms and corrections we are making, it should come as a surprise to no one that the tax system is in the mess it is in today.

H.R. 4333 is bad policy for several reasons. Changing the rules every few years not only confuses taxpayers and business people in America, it also creates financial hardship to those who make decisions under the old rules only to have the rug pulled out from them by the reformers and the technical correctors. In a time when competitiveness is one of the watchwords of the day, it makes absolutely no sense to create an economic environment that is more unpredictable than it would be ordinarily. Stability is a vital component of our economic strength.

H.R. 4333 contains some necessry provisions, such as the diesel tax exemption for farmers and off-road users, and the extension of the exclusion for employer-provided educational assistance. However, because this bill must be deficit neutral, these good provisions must be countered by $7.1 billion in tax increases that individuals and businesses must bear. This defeats the very pyrpose of the legislation—fairness to the taxpayers.

Most of all, H.R. 4333 is bad policy because it fails to address the underlying cause of our problems—the budget deficit. If we could summon the courage necessary to balance the budget, we would no longer find ourselves in the position of having to make wholesale changes in the Tax Code, in which each corrective measure must be offset by a tax increase. This must be our No. 1 priority, and I believe we must do it by enacting a spending freeze immediately. We can no longer afford to muddle the tax system any further.

Mr. ARCHER. Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, as modified by the amendments printed in House Report 100-812, shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

No amendments to said substitute, as modified, are in order.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 4333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Revenue Act of 1988".

(b) DEFINITIONS.—For purposes of this Act—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(c) CLERICAL AMENDMENT.—Paragraph (29) of section 7701(a) of the 1986 Code is amended by striking out "of 1954" and inserting in lieu thereof "of 1986".

TITLE I—TECHNICAL CORRECTIONS TO TAX REFORM ACT OF 1986

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE REFORM ACT.—

(1) Paragraph (2) of section 6867(b) of the 1986 Code is amended by striking out "at a 50-percent rate" and inserting in lieu thereof "at the highest rate of tax specified in section 1".

(2)(A) Section 531 of the 1986 Code is amended to read as follows:

"SEC. 531. IMPOSITION OF ACCUMULATED EARNINGS TAX.

"In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 28 percent of the accumulated taxable income."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.

(3) The last sentence of section 1(g)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "and subparagraph (B) shall be applied as if a deduction for a personal exemption were allowable under section 151 to such individual for such individual's spouse."

(b) AMENDMENTS RELATED TO SECTION 102 OF THE REFORM ACT.—

(1) Paragraph (5) of section 63(c) of the 1986 Code is amended—

(A) by striking out "the standard deduction applicable" and inserting in lieu thereof "the basic standard deduction applicable", and

(B) by striking out "STANDARD DEDUCTION" in the paragraph heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION".

(2) Subclause (I) of section 6012(a)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or".

(3)(A) Subparagraph (A) of section 62(a)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies."

(B) Paragraph (2) of section 527(e) of the 1986 Code (defining exempt function) is amended by adding at the end thereof the following new sentence: "Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

(c) AMENDMENT RELATED TO SECTION 111 OF THE REFORM ACT.—Paragraph (3) of section 32(i) of the 1986 Code is amended to read as follows:

"(3) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) AMENDMENTS RELATED TO SECTION 123 OF THE REFORM ACT.—

(1)(A) Clause (ii) of section 4941(d)(2)(G) of the 1986 Code is amended to read as follows:

"(ii) scholarships and fellowship grants which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(B) Paragraph (1) of section 4945(g) of the 1986 Code is amended to read as follows:

"(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(2)(A) The second sentence of section 1441(b) of the 1986 Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act and which are—

"(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

"(2) in the case of an individual who is not a candidate for a degree at an educational organization described in 170(b)(1)(A)(ii), granted by—

"(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(B) a foreign government,

"(C) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States."

(B) Subsection (c) of section 871 of the 1986 Code is amended—

(i) by striking out "section 1441(b)(1) or (2)" and inserting in lieu thereof "the second sentence of section 1441(b)"; and

(ii) by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(C) The following provisions of the 1986 Code are each amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)":

(i) Section 3121(b)(19).

(ii) Section 3231(e)(1).

(iii) Section 3306(c)(19).

(D) Clause (i)(I) of section 7701(b)(5)(D) of the 1986 Code is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (F) or (M)".

(E) Section 210(a)(19) of the Social Security Act is amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(e) AMENDMENT RELATED TO SECTION 131 OF THE REFORM ACT.—Subsection (f) of section 86 of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(f) AMENDMENTS RELATED TO SECTION 132 OF THE REFORM ACT.—

(1) Section 67 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH OTHER LIMITATION.—This section shall be applied before the application of the dollar limitation of the last sentence of section 162(a) (relating to trade or business expenses)."

(2) Paragraph (4) of section 67(b) of the 1986 Code is amended—

(A) by striking out "deduction" and inserting in lieu thereof "deductions", and

(B) by inserting before the comma at the end thereof "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)".

(3) Subsection (e) of section 67 of the 1986 Code is amended to read as follows:

"(e) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(1) the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate, and

"(2) the deductions allowable under sections 642(b), 651, and 661,

shall be treated as allowable in arriving at adjusted gross income. Under regulations, appropriate adjustments shall be made in the application of part I of subchapter J of this chapter to take into account the provisions of this section."

(4) Subsection (c) of section 67 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply—

"(1) with respect to cooperatives and real estate investment trusts, and

"(2) except as provided in regulations, with respect to estates and trusts."

(g) AMENDMENTS RELATED TO SECTION 142 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 274(n)(2) of the 1986 Code is amended to read as follows:

"(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),".

(2) Paragraph (2) of section 274(k) of the 1986 Code is amended to read as follows:

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e), and

"(B) any other expense to the extent provided in regulations."

(3) Clause (ii) of section 274(m)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).".

(4)(A) Paragraph (2) of section 274(n) of the 1986 Code is amended—

(i) by striking "or" at the end of subparagraph (C), *(ii) by striking the period at the end of subparagraph (D) and inserting ", or", and*

(iii) by adding at the end thereof the following:

"(E) in the case of an employer who pays or reimburses moving expenses of an employee, such expenses are includible in the income of the employee under section 82.

In the case of the employee, the exception of subparagraph (A) shall not apply to expenses described in subparagraph (E)."

(B) The following provisions of the 1986 Code are each amended by striking out "section 217" and inserting in lieu thereof "section 217 (determined without regard to section 274(n))":

(i) Section 3121(a)(11).

(ii) Section 3306(b)(9).

(iii) Section 3401(a)(15).

(C) Section 209(k) of the Social Security Act is amended by striking out "section 217 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code)".

(5) Paragraphs (1) and (2) of section 274(h) of the 1986 Code are each amended by striking out "trade or business that" and inserting in lieu thereof "trade or business and that".

(h) AMENDMENTS RELATED TO SECTION 143 OF THE REFORM ACT.—

(1) Paragraph (5) of section 280A(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any amount taken into account for any taxable year under the preceding sentence shall be subject to the limitation of the 1st sentence of this paragraph whether or not the dwelling unit is used as a residence during such taxable year."

(2) Clause (ii) of section 280A(c)(5)(B) of the 1986 Code is amended by striking out "trade or business" and inserting in lieu thereof "trade or business (or rental activity)".

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE REFORM ACT.—

(1) Subsection (d) of section 1250 of the 1986 Code is amended by striking out paragraph (11).

(2) Subparagraph (B) of section 201(d)(14) of the Reform Act is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "within the meaning of section 168(c)(2)(F)".

(3) Paragraph (4) of section 312(k) of the 1986 Code is amended by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)".

(4) Paragraph (4) of section 46(e) of the 1986 Code is amended—

(A) by striking out "168(j)(6)" in subparagraph (B) and inserting in lieu thereof "168(i)(3)",

(B) by striking out "paragraphs (8) and (9) of section 168(j)" in subparagraph (D) and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)",

(C) by striking out "168(j)" in subparagraph (E) and inserting in lieu thereof "168(h)", and

(D) by striking out "168(j)(4)" in subparagraph (E) and inserting in lieu thereof "168(h)(2)".

(5) Clause (i) of section 168(d)(3)(A) of the 1986 Code is amended by striking out "and which are".

(6)(A) Subparagraph (B) of section 168(f)(5) of the 1986 Code is amended—

(i) by striking out "1st full taxable year" in clause (ii) and inserting in lieu thereof "1st taxable year", and

(ii) by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor."

(B) Paragraph (5) of section 168(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986."

(7)(A) Subparagraph (A) of section 168(i)(7) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In any case where this section was in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect."

(B) Subparagraph (B) of section 168(i)(7) of the 1986 Code is amended to read as follows:

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B)."

(C) Subparagraph (D) of section 168(i)(7) of the 1986 Code is hereby repealed.

(8) Subparagraph (B) of section 168(h)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter."

(9) Subsection (a) of section 178 of the 1986 Code is amended by striking out "the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194" and inserting in lieu thereof "the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization".

(10) Subparagraph (A) of section 280F(d)(3) of the 1986 Code is amended by striking out "any recovery deduction" and inserting in lieu thereof "any depreciation deduction".

(11)(A) Paragraph (2) of section 168(b) of the 1986 Code is amended to read as follows:

"(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(A) any 15-year or 20-year property, or

"(B) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply."

(B) Paragraph (5) of section 168(b) of the 1986 Code is amended by striking out "under paragraph (3)(C)" and inserting in lieu thereof "under paragraph (2)(B) or (3)(C)".

(C) Subsection (c) of section 168 of the 1986 Code is amended to read as follows:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	*The applicable recovery period is:*
3-year property..........	*3 years*
5-year property..........	*5 years*
7-year property..........	*7 years*
10-year property.........	*10 years*
15-year property.........	*15 years*
20-year property.........	*20 years*
Residential rental property......................	*27.5 years*
Nonresidential real property......................	*31.5 years.*

"(2) PROPERTY FOR WHICH 150 PERCENT METHOD ELECTED.—In the case of property to which an election under subsection (b)(2)(B) applies, the applicable recovery period shall be determined under the table contained in subsection (g)(2)(C)."

(12) Clause (i) of section 56(a)(1)(C) of the 1986 Code is amended by striking out "do not apply" and inserting in lieu thereof "do not apply by reason of section 203, 204, or 251(d) of such Act".

(13) The heading of paragraph (24) of section 381(c) of the 1986 Code is amended by striking out "RECOVERY ALLOWANCE FOR RECOVERY PROPERTY" and inserting in lieu thereof "DEPRECIATION DEDUCTION".

(14) Paragraph (5) of section 48(a) of the 1986 Code is amended—

(A) by striking out "168(j)(4)(C)" and inserting in lieu thereof "168(h)(2)(C)",

(B) by striking out "168(j)(4)(A)(iii)" and inserting in lieu thereof "168(h)(2)(A)(iii)",

(C) by striking out "168(j)(4)(B)" and inserting in lieu thereof "168(h)(2)(B)",

(D) by striking out "168(j)(6)" and inserting in lieu thereof "168(i)(3)",

(E) by striking out "168(j)(3)(C)(ii)" and inserting in lieu thereof "168(h)(1)(C)(ii)",

(F) by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)", and

(G) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) CROSS REFERENCE.—

"For provision providing special rules for the application of this paragraph and paragraph (4), see section 168(h)."

(15) The last sentence of section 46(e)(3) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "present class life" and inserting in lieu thereof "class life", and

(C) by striking out "168(g)(2)" and inserting in lieu thereof "168(i)(1)".

(16)(A) Subsection (s) of section 48 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) TERMINATION.—This subsection shall not apply to any property placed in service after December 31, 1985, unless such property is transition property (as defined in section 49(e)(1))."

(B) Paragraph (4) of section 168(f) of the 1986 Code is amended to read as follows:

"(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(17) Paragraph (7) of section 46(c) of the 1986 Code is amended—

(A) by striking out "recovery property" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "168(c)" each place it appears and inserting in lieu thereof "168(e)",

(C) by striking out "168(f)(3)(B)" and inserting in lieu thereof "168(f)(3)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)", and

(D) by striking out "RECOVERY PROPERTY" in the paragraph heading and inserting in lieu thereof "PROPERTY TO WHICH SECTION 168 APPLIES".

(18) Paragraph (1) of section 47(d) of the 1986 Code is amended by striking out "section 48(c)(8)(C)"
and inserting in lieu thereof "section 46(c)(8)(C)".

(19) Paragraph (1) of section 179(d) of the 1986 Code is amended by striking out "recovery property" and inserting in lieu thereof "tangible property (to which section 168 applies)".

(20) Section 48 of the 1986 Code is amended by redesignating the subsection (s) relating to cross references as subsection (t).

(21) Clause (v) of section 168(e)(3)(B) of the 1986 Code is amended by striking out "any property" and inserting in lieu thereof "any section 1245 property".

(22) The last sentence of section 167(l)(3)(G) of the 1986 Code is amended by striking out "section 168(e)(3)(C)" and inserting in lieu thereof "section 168(i)(9)(B)".

(23) Subparagraph (B) of section 168(d)(3) of the 1986 Code is amended to read as follows:

"(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any nonresidential real property and residential rental property, and

"(ii) any other property placed in service and disposed of during the same taxable year."

(24) Subsection (a) of section 167 of the 1986 Code is amended by striking out the last sentence.

(25) Subparagraph (B) of section 46(d)(1) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" in clause (i) and inserting in lieu thereof "property to which section 168 applies", and

(B) by striking out "which is not recovery property (within the meaning of section 168)" in clause (ii) and inserting in lieu thereof "to which section 168 does not apply".

(26)(A) Subparagraph (E) of section 47(a)(5) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) TREATMENT AS RECOVERY PROPERTY.—Any reference in this paragraph to recovery property shall be treated as including a reference to any property to which section 168 (as amended by the Tax Reform Act of 1986) applies."

(B) Subparagraph (D) of section 47(a)(5) of the 1986 Code is amended by striking out the last sentence.

(C) Clause (iii) of section 47(a)(5)(E) of the 1986 Code is amended by striking out "section 168(c)" and inserting in lieu thereof "section 168(e)".

(27) Subparagraph (A) of section 47(a)(9) of the 1986 Code is amended by striking out "section 168(j)(4)(C)" and inserting in lieu thereof "section 168(h)(2)".

(28) Clause (i) of section 47(d)(3)(C) of the 1986 Code is amended—

(A) by striking out "present class life (as defined in section 168(g)(2))" and inserting in lieu thereof "class life (as defined in section 168(i)(1))", and

(B) by striking out "no present class life" and inserting in lieu thereof "no class life".

(29) Paragraph (1) of section 48(a) of the 1986 Code is amended by striking out "recovery property (within the meaning of section 168)" in the material following subparagraph (G) and inserting in lieu thereof "property to which section 168 applies".

(30) Subparagraph (C) of section 48(1)(2) of the 1986 Code is amended by striking out "which is recovery property (within the meaning of section 168)" and inserting in lieu thereof "to which section 168 applies".

(31) Subsection (d) of section 167 of the 1986 Code is amended by striking out "recovery property defined in section 168" and inserting in lieu thereof "property to which section 168 applies".

(b) AMENDMENTS RELATED TO SECTION 202 OF THE REFORM ACT.—

(1) Paragraph (3) of section 179(b) of the 1986 Code is amended to read as follows:

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year (determined after the application of paragraphs (1) and (2)) shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) CARRYOVER OF DISALLOWED DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be increased by the lesser of—

"(i) the aggregate amount disallowed under subparagraph (A) for all prior taxable years (to the extent not previously allowed as a deduction by reason of this subparagraph), or

"(ii) the excess (if any) of—

"(I) the limitation of paragraphs (1) and (2) (or if lesser, the aggregate amount of taxable income referred to in subparagraph (A)), over

"(II) the amount allowable as a deduction under subsection (a) for such taxable year without regard to this subparagraph.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the deduction allowable under this section."

(2) Paragraph (1) of section 280F(d) of the 1986 Code is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a) and (b), and the limitation of paragraph (3) of this subsection,".

(c) AMENDMENTS RELATED TO SECTION 203 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 203(a)(1) of the Reform Act is amended by adding at the end thereof the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 would not apply by reason of section 168(f)(5) of such Code if such property were placed in service after December 31, 1986."

(2) Subsection (d) of section 203 of the Reform Act is amended—

(A) by striking out "the case of any taxable year" and inserting in lieu thereof "the case of any taxable year beginning before October 1, 1987", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

(3) Notwithstanding section 203 of the Reform Act, the amendments made by section 201 of the Reform Act shall apply to any real property which was acquired before January 1, 1987, and was converted on or after such date from personal use to a use for which depreciation is allowable.

(4) Paragraph (1) of section 203(b) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of this paragraph, all members of the same affiliated group of corporations (within the meaning of section 1504 of the Internal Revenue Code of 1986) filing a consolidated return shall be treated as one taxpayer."

(5) Paragraph (1) of section 203(c) of the Reform Act is amended by striking out "Subparagraph" and inserting in lieu thereof "Except as otherwise provided in this subsection or section 204, subparagraph".

(6) Clause (i) of section 203(b)(2)(C) of the Reform Act is amended by striking out "shall be the class life" and inserting in lieu thereof "applies shall be the class life".

(7) Paragraph (3) of section 203(b) of the Reform Act is amended—

(A) by inserting before the comma at the end of subparagraph (A) "(or would have met such requirements if placed in service by such person)", and

(B) by inserting ", or is leased to such person," before "not later than".

(8) Paragraph (2) of section 203(a) of the Reform Act is amended to read as follows:

"(2) SECTION 202.—

"(A) IN GENERAL.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(B) SPECIAL RULE FOR FISCAL YEARS INCLUDING JANUARY 1, 1987.—In the case of any taxable year (other than a calendar year) which includes January 1, 1987, for purposes of applying the amendments made by section 202 to property placed in service during such taxable year and after December 31, 1986—

"(i) the limitation of section 179(b)(1) of the Internal Revenue Code of 1986 (as amended by section 202) shall be reduced by the aggregate deduction under section 179 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for section 179 property placed in service during such taxable year and before January 1, 1987,

"(ii) the limitation of section 179(b)(2) of such Code (as so amended) shall be applied by taking into account the cost of all section 179 property placed in service during such taxable year, and *"(iii) the limitation of section 179(b)(3) of such Code shall be applied by taking into account the taxable income for the entire taxable year reduced by the amount of any deduction under section 179 of such Code for property placed in service during such taxable year and before January 1, 1987."*

(d) Amendments Related to Section 204 of the Reform Act.—

(1) Subparagraph (B) of section 204(a)(1) of the Reform Act is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) described in subparagraph (F) or (H)."

(2) Subparagraph (C) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1994' for 'January 1, 1991' each place it appears."

(3) Subparagraph (E) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1998' for 'January 1, 1991' each place it appears."

(4) Subparagraph (F) of section 204(a)(1) of the Reform Act is amended—

(A) by striking out "paragraph" and inserting in lieu thereof "subparagraph",

(B) by striking out ", or" at the end of clause (iii) and inserting in lieu thereof a period, and

(C) by striking out so much of clause (iv) as precedes subclause (I) thereof and inserting in lieu thereof the following:

"A project is also described in this subparagraph if it is a mixed-use development which is—".

(5) The last sentence of section 204(a)(1)(F) of the Reform Act is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "section 203(b)(2)", and

(B) by striking out "1993" and inserting in lieu thereof "1998".

(6) Subparagraph (H) of section 204(a)(1) of the Reform Act is amended by striking out "July 1, 1986" and inserting in lieu thereof "June 30, 1986".

(7)(A) Paragraph (4) of section 204(a) of the Reform Act is amended to read as follows:

"(4) Property treated under prior tax acts.—The amendments made by section 201 shall not apply—

"(A) to property described in section 12(c)(2) (as amended by the Miscellaneous Revenue Act of 1988), 31(g)(5), or 31(g)(17)(J) of the Tax Reform Act of 1984,

"(B) to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984, and

"(C) to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982."

(B) Paragraph (2) of section 12(c) of the Tax Reform Act of 1984 is amended by striking out "which is placed in service before January 1, 1988".

(8) Subparagraph (K) of section 204(a)(5) of the Reform Act is amended—

(A) by striking out "either" in the matter preceding clause (i),

(B) by striking out "super calendar" in clause (i) and inserting in lieu thereof "supercalendered",

(C) by striking out "were incurred" in clause (i) and inserting in lieu thereof "was incurred", and

(D) by inserting "the project" before "involves" in clause (v).

(9) Paragraph (5) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A project is described in this subparagraph if—

"(i) such project involves a fiber optic network of at least 475 miles, passing through Minnesota and Wisconsin; and

"(ii) before January 1, 1986, at least $15,000,000 was expended or committed for electronic equipment or fiber optic cable to be used in constructing the network."

(10)(A) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) a bond volume carryforward election was made for the facility and the facility is for Chattanooga, Knoxville, or Kingsport, Tennessee, or

"(E) such facility is to serve Haverhill, Massachusetts."

(B) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out ", and section 203(c),".

(11) Paragraph (10) of section 204(a) of the Reform Act is amended—

(A) by striking out "either" in the material preceding subparagraph (A),

(B) by striking out "wastewater treatment facility" in subparagraph (C) and inserting in lieu thereof "wastewater treatment facility serving Greenville, South Carolina", and

(C) by striking out "the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph" in subparagraph (D) and inserting in lieu thereof "such letter of intent and service agreement".

(12) Paragraph (11) of section 204(a) of the Reform Act is amended—

(A) by striking out "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and inserting in lieu thereof "the United States",

(B) by striking out "the purchase" in subparagraph (C) and inserting in lieu thereof "the purchaser", and

(C) by striking out the last sentence.

(13) Paragraph (14) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by inserting after subparagraph (E) the following:

"(F) the project has a planned scheduled capacity of approximately 38,000 kilowatts, the project property is placed in service before January 1, 1991, and the project is operated, established, or constructed pursuant to certain agreements, the negotiation of which began before 1986, with public or municipal utilities conducting business in Massachusetts, or

"(G) the Board of Regents of Oklahoma State University took official action on July 25, 1986, with respect to the project.

In the case of the project described in subparagraph (F), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1991' for 'January 1, 1989'."

(14) Paragraph (15) of section 204(a) of the Reform Act is amended—

(A) by adding "located in New Mexico" after "to a project",

(B) by striking out "$72,000" and inserting in lieu thereof "$72,000,000", and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this paragraph, section 203(b)(2) shall be applied by substituting 'January 1, 1996' for 'January 1, 1991' each place it appears."

(15) Paragraph (24) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(E) The amendments made by section 201 shall not apply to the Muskegon, Michigan, Cross-Lake Ferry project having a projected cost of approximately $7,200,000.

"(F) The amendments made by section 201 shall not apply to a new automobile carrier vessel, the contract price for which is no greater than $28,000,000, and which will be constructed for and placed in service by OSG Car Carriers, Inc., to transport, under the United States flag and with an American crew, foreign automobiles to North America in a case where negotiations for such transportation arrangements commenced in 1985, and definitive transportation contracts were awarded before June 1986."

(16) Paragraph (25) of section 204(a) of the Reform Act is amended by striking out "wood energy products" and inserting in lieu thereof "wood energy projects".

(17) Paragraph (27) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "$400,000,000" and inserting in lieu thereof "$500,000,000", and

(ii) by striking out "letter of intent" and inserting in lieu thereof "memorandum of terms",

(B) in subparagraph (B), by striking out "525,000" and inserting in lieu thereof "540,000",

(C) in subparagraph (C)—

(i) by striking out "$32,000,000" and inserting in lieu thereof "$22,000,000", and

(ii) by striking out "before" and inserting in lieu thereof "on",

(D) in subparagraph (D), by striking out "and 7th Avenue", and

(E) in subparagraph (H), by striking out "$62,000" and inserting in lieu thereof "$62,600,000".

(18) Paragraph (27) of section 204(a) of the Reform Act is amended by adding at the end thereof the following:

"(I) A 600,000 square foot mixed use building known as Flushing Center with respect to which a letter of intent was executed on March 26, 1986.

In the case of the building described in subparagraph (I), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1993' for the applicable date which would otherwise apply."

(19) Paragraph (31) of section 204(a) of the Reform Act is amended by striking out "$10,200,000" and inserting in lieu thereof "$10,500,000".

(20) Paragraph (32) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "July 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "February 28, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on June 17, 1985" and inserting in lieu thereof "in May 1985",

(B) in subparagraph (B)—

(i) by striking out "August 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "May 4, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on July 3, 1985" and inserting in lieu thereof "in July 1985",

(C) in subparagraph (E)—

(i) by striking out "$2,200,000" and inserting in lieu thereof "$5,000,000",

(ii) by striking out "on January 27, 1986" and inserting "in 1986", and

(iii) by inserting "in Masontown, Pennsylvania," after "plant",

(D) by amending subparagraph (K) to read as follows:

"(K) A 250 megawatt coal-fired electric plant in northeastern Nevada estimated to cost $600,000,000 and known as the Thousand Springs project, on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate (and section 203(b)(2) shall be applied with respect to such plant by substituting 'January 1, 1995' for 'January 1, 1991'),",

(E) in subparagraph (L), by inserting "in connection with" after "housing",

(F) by amending subparagraph (M) to read as follows:

"(M) property which is part of the Kenosha Downtown Redevelopment Project and which is financed with the proceeds of bonds issued pursuant to section 1317(6)(W),",

(G) in subparagraph (O), by striking out "New Orleans, Louisiana" and inserting in lieu thereof "Pensacola, Florida", and

(H) in subparagraph (S)—

(i) by inserting "to be" before "placed",

(ii) by inserting "Coal" before "Company",

(iii) by inserting "(or any subsidiary thereof)" after "Company", and

(iv) by striking out "on December 31, 1985" and inserting in lieu thereof "by December 31, 1985".

(21) Subparagraph (T) of section 204(a)(32) of the Reform Act is amended to read as follows:

"(T) a portion of a fiber optics network placed in service by LDX NET after December 31, 1988, but only to the extent the cost of such portion does not exceed $25,000,000,".

(22) Subparagraph (U) of section 204(a)(32) of the Reform Act is amended by striking out "placed in service" and inserting in lieu thereof "constructed".

(23) Subparagraph (X) of section 204(a)(32) of the Reform Act is amended by striking out "the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985" and inserting in lieu thereof "the home rule city on December 4, 1985, and the State housing finance agency on December 20, 1985, adopted inducement resolutions".

(24) Subparagraph (C) of paragraph (33) of section 204(a) of the Reform Act is amended to read as follows:

"(C)(i) a waste-to-energy project in Derry, New Hampshire, costing approximately $60,000,000, and

"(ii) a waste-to-energy project in Manchester, New Hampshire, costing approximately $60,000,000,".

(25) Paragraph (33) of section 204(a) of the Reform Act is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by inserting after subparagraph (K) the following:

"(L) a cogeneration facility to be built at a paper company in Turners Falls, Massachusetts, with respect to which a letter of intent was executed on behalf of the paper company on September 26, 1985."

(26) Subsection (a) of section 204 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(34) The amendments made by section 201 shall not apply to an approximately 240,000 square foot beverage container manufacturing plant located in Batesville, Mississippi, or plant equipment used exclusively on the plant premises if—

"(A) a 2-year supply contract was signed by the taxpayer and a customer on November 1, 1985,

"(B) such contract further obligated the customer to purchase beverage containers for an additional 5-year period if physical signs of construction of the plant are present before September 1986,

"(C) ground clearing for such plant began before August 1986, and

"(D) construction is completed, the equipment is installed, and operations are commenced before July 1, 1987.

"(35) The amendments made by section 201 shall not apply to any property which is part of the multifamily housing at the Columbia Point Project in Boston, Massachusetts. A project shall be treated as not described in the preceding sentence and as not described in section 252(f)(1)(D) unless such project includes a nonprofit community health center—

(A) which receives funds under secton 330 of the Public Health Service Act (42 U.S.C. 254(c)),

(B) which covers at least 12,000 (but not more than 18,000) square feet, and

(C) which is granted a lease for a period not ending before the close of the 20th year after the project is placed in service and the rent under which per square foot cannot exceed the average rent per square foot payable for rent-restricted units in the project.

"(36) The amendments made by section 201 shall not apply to any ethanol facility located in Blair, Nebraska, if—

"(A) in July of 1984 an initial binding construction contract was entered into for such facility,

"(B) in June of 1986, certain Department of Energy recommended contract changes required a change of contractor, and

"(C) in September of 1986, a new contract to construct such facility, consistent with such recommended changes, was entered into.

"(37) The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if, prior to January 1, 1986, the City of Conyers, Georgia, selected a privatizer to construct such facility, received a guaranteed maximum price bid for the construction of such facility, signed a letter of intent and began substantial negotiations of a service agreement with respect to such facility.

"(38) The amendments made by section 201 shall not apply to—

"(A) a $28,000,000 wood resource complex for which construction was authorized by the Board of Directors on August 9, 1985,

"(B) an electrical cogeneration plant in Bethel, Maine which is to generate 2 megawatts of electricity from the burning of wood residues, with respect to which a contract was entered into on July 10, 1984, and with respect to which $200,000 of the expected $2,000,000 cost had been committed before June 15, 1986,

"(C) a mixed income housing project in Portland, Maine which is known as the Back Bay Tower and which is expected to cost $17,300,000,

"(D) the Eastman Place project and office building in Rochester, New York, which is projected to cost $20,000,000, with respect to which an inducement resolution was adopted in December 1986, and for which a binding contract of $500,000 was entered into on April 30, 1986,

"(E) the Marquis Two project in Atlanta, Georgia which has a total budget of $72,000,000 and the construction phase of which began under a contract entered into on March 26, 1986,

"(F) a 166-unit continuing care retirement center in New Orleans, Louisiana, the construction contract for which was signed on February 12, 1986, and is for a maximum amount not to exceed $8,500,000,

"(G) the expansion of the capacity of an oil refining facility in Rosemont, Minnesota from 137,000 to 207,000 barrels per day which is expected to be completed by December 31, 1990, and

"(H) a project in Ransom, Pennsylvania which will burn coal waste (known as 'culm') with an approximate cost of $64,000,000 and for which a certification from the Federal Energy Regulatory Commission was received on March 11, 1986.

"(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina."

(27) Subsection (b) of section 204 of the Reform Act is amended by inserting "(as amended by the Tax Reform Act of 1984)" immediately before the period at the end thereof.

(28) Subparagraph (A) of section 204(c)(1) of the Reform Act is amended by inserting "located in Pennsylvania and" before "constructed pursuant".

(29) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by striking out "for the applicable date" and inserting in lieu thereof "(or, in the case of a project described in subparagraph (B), by substituting 'April 1, 1992') for the applicable date",

(B) by striking out "before April 1, 1986" in subparagraph (A) and inserting in lieu thereof "on or before April 1, 1986", and

(C) by adding at the end thereof the following:

"In the case of an aircraft described in subparagraph (A), section 203(b)(1)(A) shall be applied by substituting 'April 1, 1986' for 'March 1, 1986' and section 49(e)(1)(B) of the Internal Revenue Code of 1986 shall not apply."

(30)(A) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that precedes subparagraph (L) and inserting in lieu thereof the following:

"(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in a submission before September 16, 1986, by the following taxpayers:

"(A) Arena project, Michigan, but only with respect to $78,000,000 of investments.

"(B) Campbell Soup Company, Pennsylvania, California, North Carolina, Ohio, Maryland, Florida, Nebraska, Michigan, South Carolina, Texas, New Jersey, and Delaware, but only with respect to $9,329,000 of regular investment tax credits.

"(C) The Southeast Overtown/Park West development, Florida, but only with respect to $9,000,000 of investments.

"(D) Equipment placed in service and operated by Leggett and Platt before July 1, 1987, but only with respect to $2,000,000 of regular investment tax credits, and subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to such equipment.

"(E) East Bank Housing Project.

"(F) $1,561,215 of investments by Standard Telephone Company.

"(G) Five aircraft placed in service before January 1, 1987, by Presidential Air.

"(H) A rehabilitation project by Ann Arbor Railroad, but only with respect to $2,900,000 of investments.

"(I) Property that is part of a cogeneration project located in Ada, Michigan, but only with respect to $30,000,000 of investments.

"(J) Anchor Store Project, Michigan, but only with respect to $21,000,000 of investments.

"(K) A waste-fired electrical generating facility of Biogen Power, but only with respect to $34,000,000 of investments."

(B) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that follows subparagraph (L) and inserting in lieu thereof the following:

"(M) Interests of Samuel A. Hardage (whether owned individually or in partnership form).

"(N) Two aircraft of Mesa Airlines with an aggregate cost of $5,723,484.

"(O) Yarn-spinning equipment used at Spray Cotton Mills, but only with respect to $3,000,000 of investments.

"(P) 328 units of low-income housing at Angelus Plaza, but only with respect to $20,500,000 of investments.

"(Q) One aircraft of Continental Aviation Services with a cost of approximately $15,000,000 that was purchased pursuant to a contract entered into during March of 1983 and that is placed in service by December 31, 1988."

(31) Paragraph (29) of section 204(a) of the Reform Act is amended—

(A) by striking out "January 18" in subparagraph (A) and inserting in lieu thereof "January 25", and

(B) by striking out "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and inserting in lieu thereof "a law suit filed on October 25, 1985".

(32) Subparagraph (J) of section 204(a)(33) of the Reform Act, as amended by paragraph (25), is amended to read as follows:

"(J) A 25.85 megawatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986,".

(33) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by inserting "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(34) Subclause (II) of section 204(a)(5)(J)(ii) of the Reform Act is amended to read as follows:

"(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of existing facilities to produce new models of a vehicle not currently produced in the United States, such facilities will be placed in service by July 1, 1987, and such Board action occurred in July 1985 with respect to a $602,000,000 expenditure, a $438,000,000 expenditure, and a $321,000,000 expenditure."

(35) Subparagraph (T) of section 204(a)(5) of the Reform Act is amended to read as follows:

"(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope which is placed in service before January 1, 1988, and—

"(i) the approximate cost of which is $675,000,000, of which approximately $400,000,000 was spent on off-site construction,

"(ii) the approximate cost of which is $445,000,000, of which approximately $400,000,000 was spent on off-site construction and more than 50 percent of the project cost was spent prior to December 31, 1985, or

"(iii) the approximate cost of which is $375,000,000, of which approximately $260,000,000 was spent on off-site construction."

(e) AMENDMENTS RELATING TO SECTION 211 OF THE REFORM ACT.—

(1) Paragraph (1) of section 49(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of periods after December 31, 1985, with respect to so much of the credit determined under section 46(a) with respect to transition property as is attributable to the regular investment credit (as defined in subsection (c)(5)(B))—

"(A) paragraphs (1), (2), and (7) of section 48(q) and section 48(d)(5) shall be applied by substituting '100 percent' for '50 percent' each place it appears, and

"(B) sections 48(q)(4) and 196(d) shall not apply."

(2) Subparagraph (B) of section 49(c)(4) of the 1986 Code is amended to read as follows:

"(B) NO CARRYBACK FOR YEARS STRADDLING JULY 1, 1987; GROSS UP OF CARRYFORWARDS.—In any case to which paragraph (3) applies—

"(i) the amount of the reduction under paragraph (3) may not be carried back to any taxable year, but

"(ii) there shall be added to the carryforwards from the taxable year (before applying paragraph (2)) an amount equal to the amount which bears the same ratio to the carryforwards from such taxable year (determined without regard to this clause) as—

"(I) the applicable percentage, bears to

"(II) 1 minus the applicable percentage."

(3) Clause (i) of section 49(c)(5)(B) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—The term 'regular investment credit' means the credit determined under section 46(a) to the extent attributable to the regular percentage."

(4) Paragraph (1) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new sentence: "Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years."

(5) Paragraph (4)(A) of section 211(e) of the Reform Act is amended—

(A) by striking out "Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954" and inserting in lieu thereof "Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986", and

(B) by striking out "1935" and inserting in lieu thereof "1985".

(6) Paragraph (4)(B) of section 211(e) of the Reform Act is amended by striking out "shall be treated as transition property" and inserting in lieu thereof "shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property".

(7) Paragraph (4) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on August 7, 1985.

"(ii) 2 large passenger ocean-going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act."

(8)(A) Subsection (d) of section 38 is amended to read as follows:

"(d) ORDERING RULES.—For purposes of sections 46(f), 47(a), 196(a), and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

"(1) IN GENERAL.—The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

"(2) COMPONENTS OF INVESTMENT CREDIT.—The order in which credits attributable to a percentage referred to in section 46(a) are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.

"(3) CREDITS NO LONGER LISTED.—For purposes of this subsection—

"(A) the credit allowable by section 40, as in effect on the day before the date of the enactment of the Tax Reform Act of 1984, (relating to expenses of work incentive programs) and the credit allowable by section 41(a), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, (relating to employee stock ownership credit) shall be treated as referred to in that order after the last paragraph of subsection (b), and

"(B) the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2)."

(B) Subparagraph (C) of section 49(c)(5) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(f) AMENDMENTS RELATED TO SECTION 212 OF THE REFORM ACT.—

(1) Paragraph (2) of section 212(f) of the Reform Act is amended by striking out so much of such paragraph as precedes subparagraph (A) and insert in lieu thereof the following:

"(2) SPECIAL RULE.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—".

(2) Subclause (I) of section 212(f)(2)(B)(i) of the Reform Act is amended by striking out "such involvement begins" and inserting in lieu thereof "when the corporation receives the refund".

(3) Subsection (g) of section 212 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR RESTRUCTURING.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring."

(4) Section 212 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(h) TENTATIVE REFUNDS.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section."

(5) Subparagraph (B) of section 212(g)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(6) Paragraph (2) of section 212(f) of the Reform Act is amended by adding at the end thereof the following new sentence:

"In the case of the corporation referred to in the preceding sentence, no offset to any refund under this section may be made by reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation's status under title 11, United States Code."

(g) AMENDMENT RELATED TO SECTION 213 OF THE REFORM ACT.—Subparagraph (B) of section 213(e)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(h) AMENDMENTS RELATED TO SECTION 231 OF THE REFORM ACT.—

(1) Subsection (g) of section 41 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39."

(2) Subsection (c) of section 6411 of the 1986 Code is amended by striking out "unused research credit,".

(3) Section 936(h)(5)(C)(i)(IV)(c) of the 1986 Code is amended—

(A) by striking out "section 30" and inserting in lieu thereof "section 41", and

(B) by striking out "section 30(f)" and inserting in lieu thereof "section 41(f)".

(i) AMENDMENTS RELATED TO SECTIONS 241 AND 242 OF THE REFORM ACT.—

(1) Section 167 of the 1986 Code is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) TRADEMARK OR TRADE NAME EXPENDITURES NOT DEPRECIABLE.—

"(1) IN GENERAL.—No depreciation deduction shall be allowable under this section (and no depreciation or amortization deduction shall be allowable under any other provision of this subtitle) with respect to any trademark or trade name expenditure.

"(2) TRADEMARK OR TRADE NAME EXPENDITURE.—For purposes of this subsection, the term 'trademark or trade name expenditure' means any expenditure which is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name."

"(2)(A) Paragraph (1) of section 168(c) of the 1986 Code (as amended by section 102(a)) is amended by adding at the end thereof the following new item:

"Any railroad grading
or tunnel bore .... 50 years."

(B)(i) Paragraph (3) of section 168(b) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Any railroad grading or tunnel bore."

(ii) Paragraph (5) of section 168(b) of the 1986 Code (as amended by section 102(a)) is amended by striking out "(3)(C)" and inserting in lieu thereof "(3)(D)".

(C) Subsection (e) of section 168 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) RAILROAD GRADING OR TUNNEL BORE.—The term 'railroad grading or tunnel bore' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track."

(D) Paragraph (2) of section 168(d) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by inserting "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any railroad grading or tunnel bore,".

(E) Clause (i) of section 168(d)(3)(B) of the 1986 Code (as amended by section 102(a)) is amended by striking out "and residential rental property" and inserting in lieu thereof "residential rental property, and railroad grading or tunnel bore".

(F) The table contained in paragraph (2)(C) of section 168(g) of the 1986 Code is amended by adding at the end thereof the following new item:

"(iv) Any railroad
grading or tunnel bore. 50 years."

(G) Subparagraph (E) of section 168(i)(1) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR RAILROAD GRADING OR TUNNEL BORES.—In the case of any property which is a railroad grading or tunnel bore—

"(I) such property shall be treated as an assigned property,

"(II) the recovery period applicable to such property shall be treated as an assigned item, and

"(III) clause (ii) of subparagraph (D) shall not apply."

(H) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by adding at the end thereof the following new item:

"Any railroad grading
or tunnel bore .... 50 years."

(j) AMENDMENTS RELATED TO SECTION 243 OF THE REFORM ACT.—

(1) Section 243 of the Reform Act (related to deduction of bus and freight forwarder operating authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) APPLICATION OF SECTION 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334(b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 shall be a reference to such section as in effect before its repeal."

(2) The heading of subparagraph (A) of section 243(b)(2) of the Reform Act is amended by striking out "TO BEGIN IN 1987".

(k) AMENDMENTS RELATED TO SECTION 251 OF THE REFORM ACT.—

(1) Paragraph (2)(B) of section 251(d) of the Reform Act is amended by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) Subparagraph (P) of section 251(d)(3) of the Reform Act is amended by striking out "San Francisco" and inserting in lieu thereof "San Jose, California".

(3) Paragraph (4) of section 251(d) of the Reform Act is amended—

(A) by striking out "Lakeland Marble Arcade" in subparagraph (K) and inserting in lieu thereof "Marble Arcade office building",

(B) by striking out "and" at the end of subparagraph (Y), and

(C) by striking out subparagraph (Z) and inserting in lieu thereof the following:

"(Z) the Bigelow-Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the Bristol Carpet Mill project rehabilitating 2 buildings for approximately 156 apartment units and accompanying commercial and office use,

"(CC) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(DD) the Warehouse Row project in Chattanooga, Tennessee,

"(EE) any project described in section 204(a)(1)(F) of this Act,

"(FF) the Wood Street Commons project in Pittsburgh, Pennsylvania,

"(GG) the John Fitch Court in Windsor, Connecticut,

"(HH) any project described in section 803(d)(6) of this Act,

"(II) Union Station, Indianapolis, Indiana,

"(JJ) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(KK) Union Station in Providence, Rhode Island,

"(LL) South Pack Plaza, Asheville, North Carolina,

"(MM) Old Louisville Trust Project, Louisville, Kentucky,

"(NN) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(OO) Bernheim Officenter, Louisville, Kentucky,

"(PP) Springville Mill Project, Rockville, Connecticut, and

"(QQ) the D.J. Stewart Company Building, State and Main Streets, Rockford, Illinois."

(4) Subsection (d) of section 251 of the Reform Act is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) EXPENSING OF REHABILITATION EXPENSES FOR THE FRANKFORD ARSENAL.—In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8-year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall—

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement.

"(7) SPECIAL RULE.—In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 shall be applied by substituting '1987' for '1986'."

(5) Subparagraph (B) of section 251(d)(3) of the Reform Act is amended by striking out "Pontabla" and inserting in lieu thereof "Pontalba".

(6) Subparagraph (T) of section 251(d)(4) of the Reform Act is amended by striking out "Louisville" and inserting in lieu thereof "Covington".

(l) AMENDMENTS RELATED TO SECTION 252 OF THE REFORM ACT.—

(1)(A) Subparagraph (A) of section 42(b)(2) of the 1986 Code is amended by striking out "for the month" and all that follows and inserting in lieu thereof "for the earlier of—

"(i) the month in which such building is placed in service, or

"(ii) at the election of the taxpayer—

"(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

"(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable."

(B) Clause (ii) of section 42(b)(2)(C) of the 1986 Code is amended by striking out "the month in which the building was placed in service" and inserting in lieu thereof "the month applicable under clause (i) or (ii) of subparagraph (A)".

(2)(A) Subparagraph (A) of section 42(c)(2) of the 1986 Code (defining qualified low-income building) is amended to read as follows:

"(A) which is part of a qualified low-income housing project at all times during the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and

"(ii) ending on the last day of the compliance period with respect to such building, and".

(B) Paragraph (1) of section 42(f) of the 1986 Code (defining credit period) is amended by striking out "beginning with" and all that follows and inserting in lieu thereof "beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable."

(3) Clause (ii) of section 42(d)(2)(D) of the 1986 Code is amended to read as follows:

"(ii) SPECIAL RULES FOR CERTAIN TRANSFERS.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

"(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

"(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

"(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation, or

"(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure."

(4) Paragraph (3) of section 42(d) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(B) EXCEPTION WHERE TAXPAYER ELECTS TO EXCLUDE EXCESS COSTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

"(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

"(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

"(ii) EXCESS.—The excess described in this clause with respect to any unit is the excess of—

"(I) the cost of such unit, over

"(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs."

(5) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by inserting before the period "(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))".

(6)(A) Paragraph (5) of section 42(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELIGIBLE BASIS NOT TO INCLUDE EXPENDITURES WHERE 167(k) ELECTED.—The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)."

(B) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(7) Subparagraph (A) of section 42(d)(6) of the 1986 Code is amended by inserting "or" at the end of clause (i), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(8) Clause (ii) of section 42(d)(6)(B) of the 1986 Code (defining federally assisted building) is amended by striking out "of 1934".

(9)(A) Paragraph (3) of section 42(f) of the 1986 Code is amended to read as follows:

"(3) DETERMINATION OF APPLICABLE PERCENTAGE WITH RESPECT TO INCREASES IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if—

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to ⅔ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase."

(B) Paragraph (3) of section 42(b) of the 1986 Code is amended to read as follows:

"(3) CROSS REFERENCES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

"(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

"(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(6)."

(10) Subparagraph (B) of section 42(g)(2) of the 1986 Code (defining gross rent) is amended by striking out "Federal rental assistance" and inserting in lieu thereof "rental assistance".

(11) Paragraph (2) of section 42(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation

under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such unit were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made."

(12) Paragraph (3) of section 42(g) of the 1986 Code is amended to read as follows:

"(3) Date for meeting requirements.—

"(A) In general.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 12-month period beginning on the date the building is placed in service.

"(B) Buildings which rely on later buildings for qualification.—

"(i) In general.—In determining whether a building (hereinafter in this subparagraph referred to as the 'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) Treatment of elected buildings.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) Date prior building is treated as placed in service.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) Special rule.—A building—

"(i) other than the 1st building placed in service as part of a project, and

"(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service."

(13) Paragraph (4) of section 42(g) of the 1986 Code is amended by inserting before the period "; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection".

(14)(A) Paragraph (1) of section 42(h) of the 1986 Code is amended to read as follows:

"(1) Credit may not exceed credit amount allocated to building.—

"(A) In general.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

"(B) Time for making allocation.—Except in the case of an allocation which meets the requirements of subparagraph (C) or (D), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

"(C) Exception where binding commitment.—An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

"(D) Exception where increase in qualified basis.—

"(i) In general.—An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

"(ii) Limitation.—The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

"(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

"(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

"(iii) Housing credit dollar amount reduced by full allocation.—Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2)."

(B) Clause (ii) of section 42(h)(6)(B) of the 1986 Code is hereby repealed.

(15) Subparagraph (A) of section 42(h)(4) of the 1986 Code is amended by striking out "financed" and all that follows and inserting in lieu thereof "financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing."

(16) Paragraph (5) of section 42(h) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) Treatment of certain subsidiaries.—

"(i) In general.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) Qualified corporation.—For purposes of clause (ii), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence."

(17)(A) Subparagraph (B) of section 42(h)(6) of the 1986 Code is amended by adding after clause (i) the following new clause:

"(ii) Carryforward where secretary determines unforeseen delay in placing building in service.—A housing credit dollar amount which was allocated to a building for a calendar year after 1987 may be carried forward to the succeeding calendar year for such building if—

"(I) it was reasonable to believe that such building would be placed in service during the earlier calendar year but was not solely because of unforeseen conditions which, as determined by the Secretary, were not within the control of the taxpayer, and

"(II) such building is placed in service during such succeeding calendar year."

(B) Clause (i) of section 42(h)(6)(B) of the 1986 Code is amended by striking out "The portion" and inserting in lieu thereof "Except as provided in clause (ii), the portion".

(18) Subparagraph (D) of section 42(h)(6) of the 1986 Code is amended to read as follows:

"(D) Credit reduced if allocated credit dollar amount is less than credit which would be allowable without regard to placed in service convention, etc.—

"(i) In general.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) Determination of percentage.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the housing credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) Determination of credit amount.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

"(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to ⅔ of'."

(19) Paragraph (6) of section 42(h) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) Housing credit agency to specify applicable percentage and maximum qualified basis.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection."

(20)(A) Subparagraph (A) of section 42(i)(2) of the 1986 Code is amended—

(i) by inserting "or any prior taxable year" after "such taxable year",

(ii) by striking out "there is outstanding" and inserting in lieu thereof "there is or was outstanding", and

(iii) by striking out "are used" and inserting in lieu thereof "are or were used".

(B) Subparagraph (B) of section 42(i)(2) of the 1986 Code is amended to read as follows:

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY BALANCE OF LOAN OR PROCEEDS OF OBLIGATIONS.—A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d)—

"(i) in the case of a loan, the principal amount of such loan, and

"(ii) in the case of a tax-exempt obligation, the proceeds of such obligation."

(C) Paragraph (2) of section 42(i) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—Subparagraph (A) shall not apply to any tax-exempt obligation or below market Federal loan used to provide construction financing for any building if—

"(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

"(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service."

(D) Subparagraph (D) of section 42(i)(2) of the 1986 Code is amended by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph".

(21) Paragraph (4) of section 42(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) NO RECAPTURE WHERE DE MINIMIS CHANGES IN FLOOR SPACE.—The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

"(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

"(ii) the building is a qualified low-income building after such change."

(22) Clause (i) of section 42(j)(5)(B) of the 1986 Code is amended to read as follows:

"(i) more than ½ the capital interests, and more than ½ the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and".

(23) Paragraph (6) of section 42(j) of the 1986 Code is amended—

(A) by inserting "(OR INTEREST THEREIN)" after "BUILDING" in the heading, and

(B) by inserting "or an interest therein" after "disposition of a building" in the text.

(24) Subparagraph (B) of section 42(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

(25)(A) Subsection (l) of section 42 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor."

(B) The subsection heading of subsection (l) of section 42 is amended to read as follows:

"(l) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—".

(26) Paragraph (1) of section 42(n) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989".

(27) Subsection (d) of section 39 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF LOW-INCOME HOUSING CREDIT BEFORE 1987.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 42 (relating to low-income housing credit) may be carried back to a taxable year ending before January 1, 1987."

(28) Paragraph (1) of section 55(c) of the 1986 Code (defining regular tax) is amended by striking out "section 42(j)" and inserting in lieu thereof "subsection (j) or (k) of section 42".

(29) Subparagraph (A) of section 252(f)(1) of the Reform Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma, and by inserting after clause (ii) the following new clauses:

"(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

"(iv) the amendments made by section 803 shall not apply."

(30) Subparagraph (E) of section 252(f)(1) of the Reform Act is amended by striking out "maximum annual additional credit" and inserting in lieu thereof "maximum present value of additional credits".

(31) Subparagraph (E) of section 252(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building."

(32) Subsection (f) of section 252 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana—

"(A) the amendments made by this section shall not apply, and

"(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150."

(33) Subsection (g) of section 42 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted."

(m) AMENDMENTS RELATED TO SECTION 261 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 7518(g)(6) of the 1986 Code, is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

(2) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 172(d)(4) of the 1986 Code is amended by striking out ", (2)(B),".

(2) Paragraph (1) of section 3402(m) of the 1986 Code is amended by striking out "section 62) (other than paragraph (13) thereof)" and inserting in lieu thereof "section 62(a) (other than paragraph (10) thereof))".

(3)(A) Subsection (b) of section 1211 of the 1986 Code is amended by striking out all that follows "gains)" and inserting in lieu thereof "whichever of the following is the smallest:

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return),

"(2) the excess of such losses over such gains, or

"(3) the taxable income for the taxable year.

For purposes of paragraph (3), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof."

(B) Paragraph (2) of section 1212(b) of the 1986 Code is amended by striking out "paragraph (1) or (2) of section 1211(b)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1211(b)".

(b) AMENDMENTS RELATED TO SECTION 302 OF THE REFORM ACT.—

(1) Section 302 of the Reform Act is amended by striking out subsection (c).

(2)(A) Paragraph (2) of section 904(b) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) IN GENERAL.—Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(B) SPECIAL RULES WHERE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of any taxable year for which there is a capital gain rate differential—

"(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain."

(B) Paragraph (3) of section 904(b) of the 1986 Code is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if—

"(i) in the case of a taxpayer other than a corporation, subsection (j) of section 1 applies to such taxable year, or

"(ii) in the case of a corporation, any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)).

"(E) RATE DIFFERENTIAL PORTION.—

"(i) IN GENERAL.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

"(I) the excess of the highest applicable tax rate over the alternative tax rate, bears to

"(II) the highest applicable tax rate.

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies), or

"(II) in the case of a corporation, the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the alternative rate of tax determined under section 1(j), or

"(II) in the case of a corporation, the alternative rate of tax under section 1201(a)."

(3) Effective for taxable years beginning after December 31, 1987, paragraph (1) of section 1445(e) of the 1986 Code is amended by striking out "34 percent" and inserting in lieu thereof "34 percent (or, to the extent provided in regulations, 28 percent)".

(c) AMENDMENTS RELATED TO SECTION 311 OF THE REFORM ACT.—

(1) Subsection (a) of section 1201 of the 1986 Code is amended by striking out "831(a)" and inserting in lieu thereof "831 (a) or (b)".

(2) Subsection (c) of section 311 of the Reform Act is amended by inserting before the period at the end thereof the following: "; except that the amendment made by subsection (b)(4) shall apply to payments made after December 31, 1986".

(3) Subparagraph (D) of section 593(b)(2) of the 1986 Code is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

"(I) the net long-term capital gain for the taxable year, or

"(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(d) AMENDMENT RELATED TO SECTION 321 OF THE REFORM ACT.—

(1)(A) Subsection (b) of section 422A of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term shall not include any option if (as of the time the option is granted) the terms of such option provide that it will not be treated as an incentive stock option."

(B) In the case of an option granted after December 31, 1986, and on or before the date of the enactment of this Act, such option shall not be treated as an incentive stock option if the terms of such option are amended before the date 90 days after such date of enactment to provide that such option will not be treated as an incentive stock option.

(2)(A) Section 422A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) $100,000 PER YEAR LIMITATION.—

"(1) IN GENERAL.—To the extent that the aggregate fair market value of stock with respect to which incentive stock options (determined without regard to this subsection) are exercisable for the 1st time by any individual during any calendar year (under all plans of the individual's employer corporation and its parent and subsidiary corporations) exceeds $100,000, such options shall be treated as options which are not incentive stock options.

"(2) ORDERING RULE.—Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

"(3) DETERMINATION OF FAIR MARKET VALUE.—For purposes of paragraph (1), the fair market value of any stock shall be determined as of the time the option with respect to such stock is granted."

(B) Subsection (b) of section 422A of the 1986 Code is amended by adding "and" at the end of paragraph (5), by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(C) Paragraph (1) of section 422A(c) of the 1986 Code is amended by striking out "paragraph (7) of subsection (b)" and inserting in lieu thereof "subsection (d)".

SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 405 OF THE REFORM ACT.—

(1) Paragraph (1) of section 108(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or" and by adding at the end thereof the following new subparagraph:

"(C) the indebtedness discharged is qualified farm indebtedness."

(2) Paragraph (2) of section 108(a) of the 1986 Code is amended to read as follows:

"(2) COORDINATION OF EXCLUSIONS.—

"(A) TITLE 11 EXCLUSION TAKES PRECEDENCE.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (b) of section 108 of the 1986 Code is amended—

(A) by striking out "subparagraph (A) or (B)" in paragraph (1) and inserting in lieu thereof "subparagraph (A), (B), or (C)", and

(B) by striking out "IN TITLE 11 CASE OR INSOLVENCY" in the subsection heading.

(4) Subsection (g) of section 108 of the 1986 Code is amended to read as follows:

"(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS.—

"(1) DISCHARGE MUST BE BY QUALIFIED PERSON.—

"(A) IN GENERAL.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

"(B) QUALIFIED PERSON.—For purposes of subparagraph (A), the term 'qualified person' has the meaning given to such term by section 46(c)(8)(D)(iv); except that such term shall include any Federal, State, or local government or agency or instrumentality thereof.

"(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) AMOUNT EXCLUDED CANNOT EXCEED SUM OF TAX ATTRIBUTES AND BUSINESS AND INVESTMENT ASSETS.—

"(A) IN GENERAL.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

"(i) the adjusted tax attributes of the taxpayer, and

"(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(B) ADJUSTED TAX ATTRIBUTES.—For purposes of subparagraph (A), the term 'adjusted tax attributes' means the sum of the tax attributes described in subparagraphs (A), (B), (C), and (E) of subsection (b)(2) determined by taking into account $3 for each $1 of the attributes described in subparagraphs (B) and (E) of subsection (b)(2).

"(C) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' means any property which is used or is held for use in a trade or business or for the production of income.

"(D) COORDINATION WITH INSOLVENCY EXCLUSION.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B)."

(5) Paragraph (4) of section 1017(b) of the 1986 Code is amended to read as follows:

"(4) SPECIAL RULES FOR QUALIFIED FARM INDEBTEDNESS.—

"(A) IN GENERAL.—Any amount which under subsection (b)(2)(D) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

"(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

"(ii) shall be applied to reduce the basis of qualified property in the following order:

"(I) First the basis of qualified property which is depreciable property.

"(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

"(III) Then the basis of other qualified property.

"(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' has the meaning given to such term by section 108(g)(3)(C).

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraph (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g)."

(6)(A) Paragraphs (6) and (7) of section 108(d) of the 1986 Code are each amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a), (b), and (g)".

(B) The subsection heading for section 108(d) of the 1986 Code is amended by striking out "SUBSECTIONS (a), AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(C) The headings for paragraphs (6) and (7)(A) of section 108(d) of the 1986 Code are each amended by striking out "SUBSECTIONS (a) AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(b) AMENDMENT RELATED TO SECTION 406 OF THE REFORM ACT.—Section 406 of the Reform Act is amended—

(1) by inserting "before October 1, 1987," after "from the sale", and

(2) by striking out "to the extent such gain" and all that follows down through the period at the end thereof and inserting in lieu thereof "to the extent such gain is properly taken into account under the taxpayer's method of accounting during 1987.".

(c) AMENDMENT RELATED TO SECTION 413 OF THE REFORM ACT.—Subsection (a) of section 1254 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENT FOR AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 617(b)(1)(A).—The amount of the expenditures referred to in paragraph (1)(A)(i) shall be properly adjusted for amounts included in gross income under section 617(b)(1)(A)."

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF THE REFORM ACT.—

(1) Clause (ii) of section 469(e)(1)(A) of the 1986 Code (relating to certain income not treated as income from passive activity) is amended by inserting "not derived in the ordinary course of a trade or business which is" after "gain or loss".

(2)(A) Subparagraph (A) of section 469(g)(1) of the 1986 Code (relating to disposition of interests in passive activities in fully taxable transactions) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) the sum of—

"(I) any loss from such activity for such taxable year (determined after application of subsection (b)), plus

"(II) any loss realized on such disposition, over

"(ii) net income or gain for such taxable year from all passive activities (determined without regard to losses described in clause (i)),

shall be treated as a loss which is not from a passive activity."

(B) Subparagraph (C) of section 469(g)(1) of the 1986 Code is amended to read as follows:

"(C) INCOME FROM PRIOR YEARS.—To the extent provided in regulations, income or gain from the activity for preceding taxable years shall be taken into account under subparagraph (A)(ii) for the taxable year to the extent necessary to prevent the avoidance of this section."

(3) Subparagraph (A) of section 469(g)(2) of the 1986 Code is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "such losses" the first place it appears and inserting in lieu thereof "losses described in paragraph (1)(A)".

(4) Section 469(g)(3) of the 1986 Code is amended—

(A) by striking out "realized (or to be realized)" and inserting in lieu thereof "(realized or to be realized", and

(B) by inserting a closing parenthesis after "completed".

(5) Paragraph (4) of section 469(h) of the 1986 Code (relating to certain closely held C corporations and personal service corporations) is amended by inserting "only" before "if".

(6) Paragraph (1) of section 469(i) of the 1986 Code (relating to $25,000 offset for rental real estate activities) is amended by striking out "in the taxable year in which such portion of such loss or credit arose" and inserting in lieu thereof "in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year)".

(7) Subparagraph (C) of section 469(i)(6) of the 1986 Code (relating to interest as a limited partner) is amended by striking out "No" and inserting in lieu thereof "Except as provided in regulations, no".

(8) Subparagraph (A) of section 469(j)(6) of the 1986 Code (relating to special rule for gifts) is amended by inserting "with respect to which a deduction has not been allowed by reason of subsection (a)" before ",and".

(9) Section 469(j) of the 1986 Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(10) COORDINATION WITH SECTION 280A.—If a passive activity involves the use of a dwelling unit to which section 280A(c)(5) applies for any taxable year, any income, deduction, gain, or loss allocable to such use shall not be taken into account for purposes of this section for such taxable year.

"(11) AGGREGATION OF MEMBERS OF AFFILIATED GROUPS.—Except as provided in regulations, all members of an affiliated group which files a consolidated return shall be treated as 1 corporation."

(10) Section 501(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) INCOME FROM SALES OF PASSIVE ACTIVITIES IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987.—If—

"(A) gain is recognized in a taxable year beginning after December 31, 1986, from a sale or exchange of an interest in an activity in a taxable year beginning before January 1, 1987, and

"(B) such gain would have been treated as gain from a passive activity had section 469 of the Internal Revenue Code of 1986 (as added by this section) been in effect for the taxable year in which the sale or exchange occurred and for all succeeding taxable years,

then such gain shall be treated as gain from a passive activity for purposes of such section."

(11) Subsection (j) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(12) SPECIAL RULE FOR DISTRIBUTIONS BY ESTATES OR TRUSTS.—If any interest in a passive activity is distributed by an estate or trust—

"(A) the basis of such interest immediately before such distribution shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year."

(12) Subsection (m) of section 469 of the 1986 Code, as redesignated by section 10211 of the Revenue Act of 1987, is amended by striking all that precedes subparagraph (B) of paragraph (3) thereof and inserting in lieu thereof the following:

"(m) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTEREST HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or passive activity credit for any taxable year beginning in calendar years 1987 through 1990, subsection (a) shall not apply to the applicable percentage of that portion of such loss (or such credit) which is attributable to pre-enactment interests.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	65
1988	40
1989	20
1990	10

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss (or passive activity credit) for any taxable year which is attributable to pre-enactment interests is the lesser of—

"(i) the amount of the passive activity loss (or passive activity credit) which is disallowed for the taxable year under subsection (a) (without regard to this subsection), or

"(ii) the amount of the passive activity loss (or passive activity credit) which would be disallowed for the taxable year (without regard to this subsection and without regard to any amount allocable to an activity for the taxable year under subsection (b)) *taking into account only pre-enactment interests."*

(b) Amendments Related to Section 502 of the Reform Act.—

(1) Subparagraph (A) of section 502(d)(1) of the Reform Act (defining qualified investor) is amended to read as follows:

"(A) if—

"(i) in the case of a project placed in service on or before August 16, 1986, such person held an interest in such project on August 16, 1986, and such person made his initial investment after December 31, 1983, or

"(ii) in the case of a project placed in service after August 16, 1986, such person made his initial investment after December 31, 1983, and such person held an interest in such project on December 31, 1986, and".

(2) Subsection (d) of section 502 of the Reform Act (defining qualified investor) is amended by adding after paragraph (2) the following new paragraph:

"(3) Special rule for certain partnerships.—In the case of any property which is held by a partnership—

"(A) which placed such property in service on or after December 31, 1985, and before August 17, 1986, and continuously held such property through the close of the taxable year for which the determination is being made, and

"(B) which was not treated as a new partnership or as terminated at any time on or after the date on which such property was placed in service and through the close of the taxable year for which the determination is being made,

paragraph (1)(A)(i) shall be applied by substituting 'December 31, 1988' for 'August 16, 1986' the 2nd place it appears."

(3) The subsection (d) of section 502 of the Reform Act which relates to special rules is redesignated as subsection (e).

(c) Amendments Related to Section 511 of the Reform Act.—

(1) Subparagraph (A) of section 163(d)(3) of the 1986 Code (defining investment interest) is amended by striking out "incurred or continued to purchase or carry" and inserting in lieu thereof "properly allocable to".

(2) Subparagraph (B) of section 163(d)(4) of the 1986 Code is amended to read as follows:

"(B) Investment income.—The term 'investment income' means the sum of—

"(i) gross income (other than gain taken into account under clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment."

(3) Subparagraph (A) of section 163(d)(6) of the 1986 Code is amended to read as follows:

"(A) In general.—The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of—

"(i) the amount which would be disallowed under this subsection if—

"(I) paragraph (1) were applied by substituting 'the sum of the ceiling amount and the net investment income' for 'the net investment income', and

"(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

"(ii) the applicable percentage of the excess of—

"(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

"(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2)."

(4) Subparagraph (A) of section 163(h)(2) of the 1986 Code is amended by striking out "incurred or continued in connection with the conduct of" and inserting in lieu thereof "properly allocable to".

(5) Subparagraph (C) of section 163(h)(3) of the 1986 Code (defining qualified residence interest) is amended to read as follows:

"(C) Cost not less than balance of indebtedness incurred on or before August 16, 1986.—

"(i) In general.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding principal amount (as of such time) of indebtedness—

"(I) which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986, or

"(II) which is secured by the qualified residence and was incurred after August 16, 1986, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(ii) Limitation on period of refinancing.—Subclause (II) of clause (i) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (i)(I), or

"(II) if the principal of the indebtedness described in clause (i)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such refinancing)."

(6)(A) The heading for section 163(h)(5) of the 1986 Code is amended to read as follows:

"(5) Other definitions and special rules.—For purposes of this subsection—".

(B) Paragraph (5) of section 163(h) of the 1986 Code is amended—

(i) by striking out "For purposes of this subsection—" in subparagraph (A), and

(ii) by striking out "For purposes of this paragraph, any" in subparagraph (B) and inserting in lieu thereof "Any".

(7) Clause (iii) of section 163(h)(5)(A) of the 1986 Code is amended by striking out "USED OR" in the heading thereof and by striking out "or use".

(8) Section 163(h)(5) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(C) Unenforceable security interests.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(D) Special rules for estates and trusts.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust."

(9) Paragraph (6) of section 163(h) of the 1986 Code is amended by striking out "subsection" the 3rd place it appears and inserting in lieu thereof "paragraph".

(10) Paragraph (2)(A) of section 511(d) of the Reform Act is amended to read as follows:

"(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out '163(d),'."

(11) If—

(A) any amount was disallowed as a deduction under section 163(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Reform Act),

(B) such amount would (but for this paragraph) be treated as investment interest paid or accrued by the taxpayer in the taxpayer's first taxable year beginning after December 31, 1986, and

(C) the taxpayer makes an election under this paragraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe,

to the extent such amount is attributable to an activity subject to the limitations of section 469 of the 1986 Code, such amount shall not be treated as investment interest but shall be treated as a deduction allocable to such activity for such first taxable year. Subsection (m) of section 469 of the 1986 Code and section 501(c)(2) of the Reform Act shall not apply to any amount so treated.

(12) Subparagraph (E) of section 163(h)(2) of the 1986 Code is amended by inserting before the period "or under section 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981)".

(13) For purposes of applying the amendments made by this subsection and the amendments made by section 10102 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(14)(A) For purposes of applying section 163(h) of the 1986 Code to any taxable year beginning during 1987, if, incident to a divorce or legal separation—

(i) an individual acquires the interest of a spouse or former spouse in a qualified residence in a transfer to which section 1041 of the 1986 Code applies, and

(ii) such individual incurs indebtedness which is secured by such qualified residence,

the amount determined under paragraph (3)(B)(ii)(I) of section 163(h) of the 1986 Code (as in effect before the amendments made by the Revenue Act of 1987) with respect to such qualified residence shall be increased by the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph shall be equal to the excess (if any) of—

(i) the lesser of the amount of the indebtedness described in subparagraph (A)(ii), or the fair market value of the spouse's or former spouse's interest in the qualified residence as of the time of the transfer, over

(ii) the basis of the spouse or former spouse in such interest in such residence (adjusted only by the cost of any improvements to such residence).

(15) Clause (i) of section 7872(d)(1)(E) of the 1986 Code is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE REFORM ACT.

(a) Amendment Related to Section 601 of the Reform Act.—Section 15 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REFERENCES TO HIGHEST RATE.—If the change referred to in subsection (a) involves a change in the highest rate of tax imposed by section 1 or 11(b), any reference in this chapter to such highest rate (other than in a provision imposing a tax by reference to such rate) shall be treated as a reference to the weighted average of the highest rates before and after the change determined on the basis of the respective portions of the taxable year before the date of the change and on or after the date of the change."

(b) AMENDMENTS RELATED TO SECTIONS 611 AND 612 OF THE REFORM ACT.—

(1) In the case of dividends received or accrued during 1987—

(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting "80 percent" for the percentage specified therein, and

(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting "$^{100}/_{80}$ths" for the fraction specified therein.

(2) Paragraph (3) of section 854(b) of the 1986 Code is amended to read as follows:

"(3) AGGREGATE DIVIDENDS.—For purposes of this subsection—

"(A) IN GENERAL.—In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

"(B) DIVIDENDS.—For purposes of subparagraph (A), the term 'dividend' shall not include any distribution from—

"(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(C) LIMITATIONS ON DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(c) AMENDMENTS RELATED TO SECTION 614 OF THE REFORM ACT.—

(1) Section 1059(d) of the 1986 Code (relating to extension to certain property distributions) is amended by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Section 1059(d)(5) of the 1986 Code (defining dividend announcement date), as redesignated by paragraph (1), is amended by inserting "amount or" before "payment".

(3) Section 1059(d)(6) of the 1986 Code (relating to exception where stock held during entire existence of corporation), as redesignated by paragraph (1), is amended to read as follows:

"(6) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(i) such stock was held by the taxpayer during the entire period such corporation was in existence, and

"(ii) except as provided in regulations, no earnings and profits of such corporation were attributable to transfers of property from (or earnings and profits of) a corporation which is not a qualified corporation.

"(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any corporation (including a predecessor corporation)—

"(i) with respect to which the taxpayer holds directly or indirectly during the entire period of such corporation's existence at least the same ownership interest as the taxpayer holds in the corporation distributing the extraordinary dividend, and

"(ii) which has no earnings and profits—

"(I) which were earned by, or

"(II) which are attributable to gain on property which accrued during a period the corporation holding the property was,

a corporation not described in clause (i).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply to any extraordinary dividend to the extent such application is inconsistent with the purposes of this section."

(4) Paragraph (1) of section 1059(e) of the 1986 Code (relating to treatment of partial liquidation) is amended by striking out "for purposes of this section (without regard to the holding period of the stock)" and inserting in lieu thereof: "to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock".

(5) Paragraph (2) of section 1059(e) of the 1986 Code (relating to qualifying dividends) is amended to read as follows:

"(2) QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in regulations, the term 'extraordinary dividend' does not include any qualifying dividend (within the meaning of section 243).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any portion of a dividend which is attributable to earnings and profits which—

"(i) were earned by a corporation during a period it was not a member of the affiliated group, or

"(ii) are attributable to gain on property which accrued during a period the corporation holding the property was not a member of the affiliated group."

(6) Subparagraph (A) of section 1059(e)(3) of the 1986 Code (relating to qualified preferred dividends) is amended to read as follows:

"(A) IN GENERAL.—In the case of 1 or more qualified preferred dividends with respect to any share of stock—

"(i) this section shall not apply to such dividends if the taxpayer holds such stock for more than 5 years, and

"(ii) if the taxpayer disposes of such stock before it has been held for more than 5 years, the aggregate reduction under subsection (a)(1) with respect to such dividends shall not be greater than the excess (if any) of—

"(I) the qualified preferred dividends paid with respect to such stock during the period the taxpayer held such stock, over

"(II) the qualified preferred dividends which would have been paid during such period on the basis of the stated rate of return."

(7) Clause (i) of section 1059(e)(3)(C) of the 1986 Code is amended—

(A) by striking out "any dividend payable" and inserting in lieu thereof "any fixed dividend payable", and

(B) by adding at the end thereof the following new sentence:

"Such term shall not include any dividend payable with respect to any share of stock if the actual rate of return on such stock exceeds 15 percent."

(8) Subparagraph (B) of section 1059(e)(3) of the 1986 Code is amended—

(A) by striking out "subparagraph (A)" and the material preceding clause (i) and inserting in lieu thereof "this paragraph", and

(B) by striking out "subparagraph (B)(i)(II)" in clause (ii) and inserting in lieu thereof "clause (i)(II)".

(9) Subsection (f) of section 1059 of the 1986 Code is amended by inserting before the period at the end thereof the following: "and in the case of stock held by pass-thru entities".

(d) AMENDMENTS RELATED TO SECTION 621 OF THE REFORM ACT.—

(1)(A) Section 382(e)(2) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTION" after "REDEMPTION" in the heading thereof.

(B) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption " each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTIONS" after "REDEMPTIONS" in the heading thereof.

(C) Section 382(m) of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(D) The amendments made by this paragraph shall apply with respect to ownership changes after June 10, 1987.

(2) Section 382(g)(4)(C) of the 1986 Code is amended by inserting "rules similar to" before "the rules".

(3)(A) Section 382(h)(1)(C) of the 1986 Code is amended to read as follows:

"(C) SPECIAL RULES FOR CERTAIN SECTION 338 GAINS.—If an election under section 338 is made in connection with an ownership change and the net unrealized built-in gain is zero by reason of paragraph (3)(B), then, with respect to such change, the section 382 limitation for the post-change year in which gain is recognized by reason of such election shall be increased by the lesser of—

"(i) the recognized built-in gains by reason of such election, or

"(ii) the net unrealized built-in gain (determined without regard to paragraph (3)(B))."

(B) Paragraph (5) of section 382(h) of the 1986 Code is amended by striking out "recognized built-in gains and losses" and inserting in lieu thereof "recognized built-in gains to the extent such gains increased the section 382 limitation for the year (or recognized built-in losses to the extent such losses are treated as pre-change losses)".

(4) Section 382(i)(3) of the 1986 Code is amended—

(A) by inserting "the earlier of" before "the 1st day", and

(B) by inserting "or the taxable year in which the transaction being tested occurs" after "1st post-change year".

(5)(A) Section 382(k)(1) of the 1986 Code is amended by inserting "or having a net operating loss for the taxable year in which the ownership change occurs" after "carryover".

(B) Section 382(k)(2) of the 1986 Code is amended to read as follows:

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) with respect to which there is an ownership change, and

"(B) which (before the ownership change) was a loss corporation."

(6) Section 382(l)(3)(A) of the 1986 Code is amended by striking out "and" at the end of clause (iii), and by striking out clause (iv) and inserting in lieu thereof the following new clauses:

"(iv) except to the extent provided in regulations, an option to acquire stock shall be treated as exercised if such exercise results in an ownership change, and

"(v) in attributing stock from an entity under paragraph (2) of section 318(a), there shall not be taken into account—

"(I) in the case of attribution from a corporation, stock which is not treated as stock for purposes of this section, or

"(II) in the case of attribution from another entity, an interest in such entity similar to stock described in subclause (I)."

(7) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "immediately after such ownership change" and inserting in lieu thereof "after such ownership change and as a result of being shareholders or creditors immediately before such change".

(8) Section 382(l)(5)(F) of the 1986 Code is amended—

(A) by inserting "'1504(a)(2)(B)' for '1504(a)(2)' and" after "substituting" in clause (i)(I), and

(B) by striking out "deposits described in subclause (II)" in clause (ii)(III) and inserting in lieu thereof "the amount of deposits in the new loss corporation immediately after the change".

(9) Paragraph (6) of section 382(l) of the 1986 Code is amended by striking out "shall be the value of the new loss corporation immediately after the ownership change" and inserting in lieu thereof "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditors' claims in the transaction".

(10) Section 382(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) PREDECESSOR AND SUCCESSOR ENTITIES.—Except as provided in regulations, any entity and any predecessor or successor entities of such entity shall be treated as 1 entity."

(11) Paragraph (1) of section 621(f) of the Reform Act is amended to read as follows:

"(1) AMENDMENTS MADE BY SUBSECTIONS (a), (b), and (c).—

"(A) IN GENERAL.—

"(i) CHANGES AFTER 1986.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change after December 31, 1986.

"(ii) PLANS OF REORGANIZATION ADOPTED BEFORE 1987.—For purposes of clause (i), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted.

"(B) TERMINATION OF OLD SECTION 382.—Except in a case described in any of the following paragraphs—

"(i) section 382(a) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a) and the amendments made by section 806 of the Tax Reform Act of 1976) shall not apply to any increase in percentage points occurring after December 31, 1988, and

"(ii) section 382(b) of such Code (as so in effect) shall not apply to any reorganization occurring pursuant to a plan of reorganization adopted after December 31, 1986.

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

"(C) COORDINATION WITH SECTION 382(i).—For purposes of section 382(i) of the Internal Revenue Code of 1986 (as added by this section), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted."

(12)(A) Section 621(f)(2)(C) of the Reform Act is amended by inserting "and reincorporated in Delaware in 1987," after "1924,".

(B) Clause (ii) of section 621(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall not apply to such debt restructuring, except that the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984 (relating to qualified workouts) shall apply to such debt restructuring."

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended by striking out "or reorganization".

(14) Section 621(f)(3) of the Reform Act is amended by striking out "after December 31, 1986".

(15) Paragraph (4) of section 621(f) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"Any regulations prescribed under section 382 of the Internal Revenue Code of 1986 (as added by subsection (a)) which have the effect of treating a group of shareholders as a separate 5-percent shareholder by reason of a public offering shall not apply to any public offering before January 1, 1989, for the benefit of institutions described in section 591 of such Code. Unless the corporation otherwise elects, an underwriter of any offering of stock in a corporation before September 19, 1986 (January 1, 1989, in the case of an offering for the benefit of an institution described in the preceding sentence), shall not be treated as acquiring any stock of such corporation by reason of a firm commitment underwriting to the extent the stock is disposed of pursuant to the offering (but in no event later than 60 days after the initial offering)."

(16) Subparagraph (A) of section 621(f)(7) of the Reform Act is amended by striking out "the parent corporation referred to in section 203(d)(13)(B)" and inserting in lieu thereof "a parent corporation incorporated in March 1980 under the laws of Delaware".

(17)(A) Subsection (e) of section 382 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF FOREIGN CORPORATIONS.—Except as otherwise provided in regulations, in determining the value of any old loss corporation which is a foreign corporation, there shall be taken into account only items treated as connected with the conduct of a trade or business in the United States."

(B) The amendment made by subparagraph (A) shall apply to any ownership change after June 10, 1987. For purposes of the preceding sentence, any equity structure shift pursuant to a plan of reorganization adopted on or before June 10, 1987, shall be treated as occurring when such plan was adopted.

(18) Subparagraph (C) of section 382(l)(5) of the 1986 Code is amended to read as follows:

"(C) REDUCTION OF TAX ATTRIBUTES WHERE DISCHARGE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In any case to which subparagraph (A) applies, 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been applied to reduce tax attributes under section 108(b) shall be so applied.

"(ii) CLARIFICATION WITH SUBPARAGRAPH (B).—In applying clause (i), there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(19) Subparagraph (E) of section 382(l)(5) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(E) ONLY CERTAIN STOCK TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor shall be taken into account only to the extent such stock is transferred in satisfaction of indebtedness and only if such indebtedness—".

(20) Paragraph (4) of section 382(h) of the 1986 Code is amended—

(A) by inserting before the comma at the end of subparagraph (A) the following: "(or to the extent the amount so disallowed is attributable to capital losses, under rules similar to the rules for the carrying forward of net capital losses)", and

(B) by striking out "TREATED AS A NET OPERATING LOSS" in the paragraph heading and inserting in lieu thereof "ALLOWED AS A CARRYFORWARD".

(21) Paragraph (1) of section 382(g) of the 1986 Code is amended—

(A) by striking out "new loss corporation" and inserting in lieu thereof "loss corporation", and

(B) by striking out "old loss corporation" and inserting in lieu thereof "loss corporation".

(22) Paragraph (6) of section 382(h) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENTS.—The amount of the net unrealized built-in gain or loss shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph."

(23) Paragraph (9) of section 382(h) of the 1986 Code is amended by striking out "is transferred" and inserting in lieu thereof "was acquired (or is subsequently transferred)".

(24) Subsection (m) of section 382 of the 1986 Code (as amended by paragraph (1)) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(5) providing, in the case of any group of corporations described in section 1563(a) (determined by substituting '50 percent' for '80 percent' each place it appears and determined without regard to paragraph (4) thereof), appropriate adjustments to value, built-in gain or loss, and other items so that items are not omitted or taken into account more than once."

(25) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out

"stock of controlling corporation" and inserting in lieu thereof "stock of a controlling corporation".

(26) Clause (ii) of section 382(h)(3)(B) of the 1986 Code is amended by striking out "there shall not" and inserting in lieu thereof "except as provided in regulations, there shall not".

(27) Subparagraph (B) of section 382(1)(5) of the 1986 Code is amended by striking out "the net operating loss deduction under section 172(a) for any post-change year shall be determined" and inserting in lieu thereof "the pre-change losses and excess credits (within the meaning of section 383(a)(2)) which may be carried to a post-change year shall be computed".

(28)(A) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended by striking out "determinations under clause (i)" and inserting in lieu thereof "to the extent provided in regulations, determinations under clause (i)".

(B) The amendment made by subparagraph (A) shall apply in the case of ownership changes on or after June 21, 1988.

(29) Subclause (I) of section 382(1)(5)(F)(iii) of the 1986 Code is amended by striking out "section 368(a)(D)(ii)" and inserting in lieu thereof "section 368(a)(3)(D)(ii)".

(e) Amendments Related to Section 631 of the Reform Act.—

(1) Clause (ii) of section 336(d)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) Certain acquisitions treated as part of plan.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidated corporation after the date 2 years before the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as acquired as part of a plan described in clause (i)(II)."

(2) Paragraph (3) of section 336(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any distribution to the 80-percent distributee only if subsection (a) or (b)(1) of section 337 applies to such distribution."

(3) Subsection (e) of section 336 of the 1986 Code is amended by striking out "such corporation may elect" and inserting in lieu thereof "an election may be made".

(4) Subparagraph (B) of section 337(b)(2) of the 1986 Code is amended—

(A) by striking out "or 511(b)(2)" in clause (i),

(B) by striking out "in an unrelated trade or business (as defined in section 513)" in clause (i) and inserting in lieu thereof "in an activity the income from which is subject to tax under section 511(a)", and

(C) by striking out "an unrelated trade or business of such organization" in clause (ii) and inserting in lieu thereof "an activity referred to in clause (i)".

(5) Subsection (d) of section 337 of the 1986 Code is amended—

(A) by striking out "made to this subpart by the Tax Reform Act of 1986" and inserting in lieu thereof "made by subtitle D of title VI of the Tax Reform Act of 1986", and

(B) by inserting "or through the use of a regulated investment company, real estate investment trust, or tax-exempt entity" after "subchapter)" in paragraph (1).

(6) Subsection (b) of section 334 of the 1986 Code is amended to read as follows:

"(b) Liquidation of Subsidiary.—

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332(a) applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution.

"(2) Corporate distributee.—For purposes of this subsection, the term 'corporate distributee' means only the corporation which meets the stock ownership requirements specified in section 332(b)."

(7)(A) Subparagraph (B) of section 453(h)(1) of the 1986 Code is amended by striking out "to one person" and inserting in lieu thereof "to 1 person in 1 transaction".

(B) Subparagraph (E) of section 453(h)(1) of the 1986 Code is amended by striking out "section 368(c)(1)" and inserting in lieu thereof "section 368(c)".

(8)(A) Part VII of subchapter C of chapter 1 of the 1986 Code is hereby repealed.

(B) Subsection (b) of section 311 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for certain distributions of partnership or trust interests.—If the property distributed consists of an interest in a partnership or trust, the Secretary may by regulations provide that the amount of the gain recognized under paragraph (1) shall be computed without regard to any loss attributable to property contributed to the partnership or trust for the principal purpose of recognizing such loss on the distribution."

(C) The table of parts for subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to part VII.

(9) Paragraph (1) of section 267(a) of the 1986 Code is amended—

(A) by striking out "(other than a loss in case of a distribution in corporate liquidation)", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any loss of the distributing corporation (or the distributee) in the case of a distribution in complete liquidation."

(10) Paragraph (1) of section 301(b) of the 1986 Code is amended to read as follows:

"(1) General rule.—For purposes of this section, the amount of any distribution shall be the amount of money received, plus the fair market value of the other property received."

(11) Subsection (d) of section 301 of the 1986 Code is amended to read as follows:

"(d) Basis.—The basis of property received in a distribution to which subsection (a) applies shall be the fair market value of such property."

(12) Section 301 of the 1986 Code is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(13)(A) Subsection (a) of section 367 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Paragraphs (2) and (3) not to apply to certain section 361 transactions.—Paragraphs (2) and (3) shall not apply in the case of an exchange described in section 361. Subject to such basis adjustments and such other conditions as shall be provided in regulations, the preceding sentence shall not apply if the transferor corporation is controlled (within the meaning of section 368(c)) by 5 or fewer domestic corporations. For purposes of the preceding sentence, all members of the same affiliated group (within the meaning of section 1504) shall be treated as 1 corporation."

(B) The amendment made by subparagraph (A) shall apply to exchanges on or after June 21, 1988.

(C) Section 367(e)(2) of the 1986 Code (as amended by the Reform Act) shall not apply in the case of any corporation completely liquidated before June 10, 1987, into a corporation organized in a country which has an income tax treaty with the United States.

(14)(A) Subsection (d) of section 1248 of the 1986 Code is amended by striking out paragraph (2).

(B) Subparagraph (B) of section 1248(f)(1) of the 1986 Code is amended to read as follows:

"(B) such domestic corporation distributes stock of such foreign corporation in a distribution to which section 311(a), 337, or 361(c)(1) applies,".

(C) Paragraph (1) of section 1248(f) of the 1986 Code is amended by striking out "distribution, sale, or exchange" in the last sentence and inserting in lieu thereof "distribution".

(D) Subsection (f) of section 1248 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(E) The subsection heading for section 1248(f) of the 1986 Code is amended by striking out "Section 311, 336, or 337 Transactions" and inserting in lieu thereof "Nonrecognition Transactions".

(15) Paragraph (1) of section 995(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C) and the sentence following subparagraph (C).

(16) Subsection (d) of section 245 of the 1986 Code is hereby repealed.

(17) Paragraph (14) of section 1223 of the 1986 Code is amended to read as follows:

"(14) Cross reference.—

"For special holding period provision relating to certain partnership distributions, see section 735(b)."

(18) Clause (ii) of section 341(e)(1)(C) of the 1986 Code is amended—

(A) by striking out "sale or exchange" the first place it appears and inserting in lieu thereof "liquidating sale or exchange", and

(B) by striking out ", gain or loss on which was not recognized to such other corporation under section 337(a),".

(19) Subsection (l) of section 897 of the 1986 Code is hereby repealed.

(20) Paragraph (7) of section 338(h) of the 1986 Code is hereby repealed.

(21)(A) The heading of subsection (b) of section 336 of the 1986 Code is amended by striking out "In Excess of Basis".

(B) The heading of paragraph (2) of section 311(b) of the 1986 Code is amended by striking out "In Excess of Basis".

(22) Section 453B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) Certain Liquidating Distributions by S Corporations.—If—

"(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

"(2) receipt of the obligation is not treated as payment for the stock by reason of section 453(h)(1),

then, except for purposes of any tax imposed by subchapter S, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b)."

(f) AMENDMENTS RELATED TO SECTION 632 OF THE REFORM ACT.—

(1) Subsection (a) of section 1374 of the 1986 Code is amended by striking out "a recognized built-in gain" and inserting in lieu thereof "a net recognized built-in gain".

(2) Subsection (b) of section 1374 of the 1986 Code is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be computed by applying the highest rate of tax specified in section 11(b) to the net recognized built-in gain of the S corporation for the taxable year.

"(2) NET OPERATING LOSS CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed for purposes of this section as a deduction against the net recognized built-in gain of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the amount of the net recognized built-in gain shall be treated as taxable income. Rules similar to the rules of the preceding sentences of this paragraph shall apply in the case of a capital loss carryforward arising in a taxable year for which the corporation was a C corporation."

(3) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the amount of the net recognized built-in gain shall be treated as the taxable income."

(4) Paragraph (2) of section 1374(c) of the 1986 Code is amended by striking out "recognized built-in gains" each place it appears and inserting in lieu thereof "net recognized built-in gain".

(5)(A) Section 1374 of the 1986 Code is amended by striking out all that follows paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(2) NET RECOGNIZED BUILT-IN GAIN.—

"(A) IN GENERAL.—The term 'net recognized built-in gain' means, with respect to any taxable year in the recognized period, the lesser of—

"(i) the amount which would be the taxable income of the S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account, or

"(ii) such corporation's taxable income for such taxable year (determined as provided in section 1375(b)(1)(B)).

"(B) CARRYOVER.—If, for any taxable year, the amount referred to in clause (i) of subparagraph (A) exceeds the amount referred to in clause (ii) of subparagraph (A), such excess shall be treated as a recognized built-in gain in the succeeding taxable year. The preceding sentence shall apply only in the case of a corporation treated as an S corporation by reason of an election made on or after March 31, 1988.

"(3) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year for which it was an S corporation, or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(4) RECOGNIZED BUILT-IN LOSSES.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset to the extent that the S corporation establishes that—

"(A) such asset was held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3), and

"(B) such loss does not exceed the excess of—

"(i) the adjusted basis of such asset as of the beginning of such 1st taxable year, over

"(ii) the fair market value of such asset as of such time.

"(5) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the 1st taxable year for which the corporation was an S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the 1st taxable year referred to in subparagraph (A) shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENT TO NET UNREALIZED BUILT-IN GAIN.—The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph.

"(6) TREATMENT OF CERTAIN PROPERTY.—If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3)—

"(A) such asset shall be treated as held by the S corporation as of the beginning of such 1st taxable year, and

"(B) any determination under paragraph (3)(B) or (4)(B) with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such 1st taxable year.

"(7) RECOGNITION PERIOD.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(8) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any asset, and

"(ii) the S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of a C corporation,

then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by subparagraph (B).

"(B) MODIFICATIONS.—For purposes of this paragraph, the modifications of this subparagraph are as follows:

"(i) IN GENERAL.—The preceding paragraphs of this subsection shall be applied by taking into account the day on which the assets were acquired by the S corporation in lieu of the beginning of the 1st taxable year for which the corporation was an S corporation.

"(ii) SUBSECTION (C)(1) NOT TO APPLY.—Subsection (c)(1) shall not apply.

"(9) REFERENCE TO 1ST TAXABLE YEAR.—Any reference in this section to the 1st taxable year for which the corporation was an S corporation shall be treated as a reference to the 1st taxable year for which the corporation was an S corporation pursuant to its most recent election under section 1362.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

(B) Subparagraph (B) of section 1375(b)(1) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the amount of the corporation's taxable income for such taxable year as determined under section 63(a)—

"(i) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(ii) without regard to the deduction under section 172."

(C) Subsection (b) of section 1375 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 1374.—Notwithstanding paragraph (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374."

(D) Subsection (c) of section 1375 of the 1986 Code is amended to read as follows:

"(c) CREDITS NOT ALLOWABLE.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 34) against the tax imposed by subsection (a)."

(E) Paragraph (2) of section 1366(f) of the 1986 Code is amended by striking out "as defined in section 1374(d)(2)" and inserting in lieu thereof "within the meaning of section 1374".

(6) Paragraph (3) of section 1362(d) of the 1986 Code is amended—

(A) by striking out clause (v) of subparagraph (D), and

(B) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 con-

tracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

(7) The subsection (d) of section 1363 of the 1986 Code which relates to distributions of appreciated property, and subsection (e) of section 1363 of the 1986 Code, are hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 633 OF THE REFORM ACT.—

(1) Subsection (b) of section 633 of the Reform Act is amended to read as follows:

"(b) BUILT-IN GAINS OF S CORPORATIONS.—

"(1) IN GENERAL.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the return for the taxable year is filed pursuant to an S election made after December 31, 1986.

"(2) APPLICATION OF PRIOR LAW.—In the case of any taxable year of an S corporation which begins after December 31, 1986, and to which the amendments made by section 632 (other than subsection (b) thereof) do not apply, paragraph (1) of section 1374(b) of the Internal Revenue Code of 1954 (as in effect on the date before the date of the enactment of this Act) shall be applied as if it read as follows:

"'(1) an amount equal to 34 percent of the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or' ".

(2) Subparagraph (B) of section 633(c)(1) of the Reform Act is amended by striking out "50 percent or more" and inserting in lieu thereof "more than 50 percent".

(3) Paragraph (1) of section 633(d) of the Reform Act is amended—

(A) by striking out "this section" and inserting in lieu thereof "this subtitle",

(B) by striking out "would be recognized and inserting in lieu thereof "would be recognized by the liquidating corporation", and

(C) by adding at the end thereof the following new sentence: "Section 333 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall continue to apply to any complete liquidation described in the preceding sentence.".

(4) Subparagraph (C) of section 633(d)(2) of the Reform Act is amended to read as follows:

"(C) any gain on an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection."

(5)(A) Subparagraph (A) of section 633(d)(5) of the Reform Act is amended by striking out "10 or fewer qualified persons" and inserting in lieu thereof "a qualified group".

(B) Paragraph (6) of section 633(d) of the Reform Act is amended to read as follows:

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED GROUP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified group' means any group of 10 or fewer qualified persons who at all times during the 5-year period ending on the date of the adoption of the plan of complete liquidation (or, if shorter, the period during which the corporation or any predecessor was in existence) owned (or was treated as owning under the rules of subparagraph (C)) more than 50 percent (by value) of the stock in such corporation.

"(ii) 5-YEAR OWNERSHIP REQUIREMENT NOT TO APPLY IN CERTAIN CASES.—In the case of—

"(I) any complete liquidation pursuant to a plan of liquidation adopted before March 31, 1988,

"(II) any distribution not in liquidation made before March 31, 1988,

"(III) an election to be an S corporation filed before March 31, 1988, or

"(IV) a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before March 31, 1988,

the term 'qualified group' means any group of 10 or fewer qualified persons.

"(B) QUALIFIED PERSON.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (ii) or clause (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

"(C) ATTRIBUTION RULES.—

"(i) IN GENERAL.—Any stock owned by a corporation, trust (other than a trust referred to in subparagraph (B)(iii), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(ii) FAMILY MEMBERS.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(iii) TREATMENT OF CERTAIN TRUSTS.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in subparagraph (B)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person for the period during which it was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) SPECIAL HOLDING PERIOD RULES.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent.

"(E) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of determining whether any of such corporations met the requirement of paragraph (5)(B) and for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation for its taxable year which includes August 1, 1986, or it was not described for such taxable year in paragraph (1) or (2) of section 1374(c) of such Code (as in effect on the day before the date of the enactment of this Act)."

(6) Subsection (d) of section 633 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) APPLICATION TO NONLIQUIDATING DISTRIBUTIONS.—The provisions of this subsection shall also apply in the case of any distribution (not in complete liquidation) made by a qualified corporation before January 1, 1989, without regard to whether such corporation is completely liquidated."

(7) Paragraph (8) of the section 633(d) of the Reform Act is amended by striking out "becomes an S corporation for a taxable year beginning before January 1, 1989" and inserting in lieu thereof "makes an election to be an S corporation under section 1362 of such Code before January 1, 1989, without regard to whether such corporation is completely liquidated".

(8) Section 633 of the Reform Act is amended by redesignating the subsections following the first subsection (d) as subsections (e), (f), and (g), respectively.

(9) Subsection (f)(2) of section 633 of the Reform Act (as so redesignated) is amended by striking out "May 9, 1929" and inserting in lieu thereof "May 9, 1929 (or any direct or indirect subsidiary of such corporation)".

(10) Paragraph (3) of section 633(f) of the Reform Act (as so redesignated) is amended by striking out "of such Code)" in the last sentence thereof and inserting in lieu thereof "of such Code".

(11) Subclause (I) of section 633(f)(4)(A)(i) of the Reform Act (as so redesignated) is amended by striking out "binding on the selling corporation to sell substantially all its assets" and inserting in lieu thereof "to sell substantially all of the assets of a selling corporation organized under the laws of Massachusetts on October 20, 1976,".

(12) Subparagraph (A) of section 633(f)(5) of the Reform Act (as so redesignated) is amended to read as follows:

"(A) a voting trust established not later than December 31, 1987, shall qualify as a trust permitted as a shareholder of an S corporation and shall be treated as only 1 shareholder if the holders of beneficial interests in such voting trust are—

"(i) employees or retirees of such corporation, or

"(ii) in the case of stock or voting trust certificates acquired from an employee or retiree of such corporation, the spouse, child, or estate of such employee or retiree or a trust created by such employee or retiree which is described in section 1361(c)(2) of the Internal Revenue Code of 1986 (or treated as described in such section by reason of section 1361(d) of such Code), and".

(h) AMENDMENTS RELATED TO SECTION 641 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1060(b) of the 1986 Code is amended by striking out "the Secretary may find necessary" and inserting in lieu thereof "the Secretary deems necessary".

(2) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Treatment of Certain Partnership Transactions.—In the case of a distribution of partnership property or a transfer of an interest in a partnership—

"(1) the rules of subsection (a) shall apply but only for purposes of determining the value of goodwill or going concern value (or similar items) for purposes of applying section 755, and

"(2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b)."

(3)(A) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions)."

(B) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Cross Reference.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6721."

(i) Amendments Related to Section 642 of the Reform Act.—

(1) Paragraph (1) of section 453(g) of the 1986 Code is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) subsection (a) shall not apply,

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

"(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller."

(2)(A) Section 453(g) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Related persons.—For purposes of this subsection, the term 'related persons' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B)."

(B) Section 453(g)(1) of the 1986 Code is amended by striking out "(within the meaning of section 1239(b))".

(3) The heading of paragraph (2) of section 642(c) of the Reform Act is amended by striking out "Traditional" and inserting in lieu thereof "Transitional".

(j) Amendments Related to Section 643 of the Reform Act.—

(1)(A) Subsection (e) of section 171 of the 1986 Code is amended to read as follows:

"(e) Treatment as Offset to Interest Payments.—Except as provided in regulations, in the case of any taxable bond—

"(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

"(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment. For purposes of the preceding sentence, the term 'taxable bond' means any bond the interest of which is not excludable from gross income."

(B) Paragraph (5) of section 1016(a) of the 1986 Code is amended by striking out "allowable pursuant to section 171(a)(1)" and inserting in lieu thereof "allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2))".

(C) The amendments made by this paragraph shall apply in the case of obligations acquired after December 31, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986.

(2) Paragraph (2) of section 643(b) of the Reform Act is amended by striking out "issued after" and inserting in lieu thereof "acquired after".

(k) Amendments Related to Section 646 of the Reform Act.—

(1) Paragraph (2) of section 646(b) of the Reform Act is amended to read as follows:

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and".

(2) Paragraph (3) of section 646(b) of the Reform Act is amended by inserting "as of October 22, 1986," after "publicly traded".

(3) Subparagraph (A) of section 646(c)(1) of the Reform Act is amended by inserting "before January 1, 1991" after "entity".

(4) Paragraph (2) of section 646(c) of the Reform Act is amended to read as follows:

"(2) Agreement.—

"(A) In general.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) Permissible acquisitions.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity."

(5) Paragraph (1) of section 646(d) of the Reform Act is amended by striking out subparagraph (B) and inserting in lieu thereof:

"(B) for purposes of section 333 of such Code (as so in effect)—

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and

"(ii) the earnings and profits, and the value of money or stock or securities, of such entity shall be apportioned ratably among persons described in clause (i).

The amendments made by subtitle D of this title and section 1804 of this Act shall not apply to any liquidation under this paragraph."

(6)(A) Paragraph (2) of section 646(d) of the Reform Act is amended to read as follows:

"(2) Termination of election.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), the entity shall, for purposes of the Internal Revenue Code of 1986, be treated as a corporation for the taxable year in which such cessation or violation occurs and for all subsequent taxable years."

(B) Paragraph (3) of section 646(c) of the Reform Act is amended to read as follows:

"(3) Beginning of period for which election is in effect.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made."

(7)(A) Subsection (e) of section 646 of the Reform Act is amended to read as follows:

"(e) Special Rule for Persons Holding Income Interests.—In applying subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 to any entity to which this section applies—

"(1) a reversionary interest shall not be taken into account until it comes into possession, and

"(2) all items of income, gain, loss, deduction, and credit shall be allocated to persons holding income interests for the period of the allocation."

(B) Section 646(d)(3) of the Reform Act is amended by striking out "or by reason of subsection (e)".

(l) Amendments Related to Section 651 of the Reform Act.—

(1)(A) Paragraph (6) of section 852(b) of the 1986 Code (as added by section 651(b)(1)(A) of the Reform Act) is redesignated as paragraph (7).

(B) Subsection (b) of section 855 of the 1986 Code is amended by striking out "section 852(b)(6)" and inserting in lieu thereof "section 852(b)(7)".

(2) Paragraph (2) of section 4982(e) of the 1986 Code is amended to read as follows:

"(2) Capital gain net income.—

"(A) In general.—Except as provided in subparagraph (B), the term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(B) Reduction by net ordinary loss for calendar year.—The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company's net ordinary loss for the calendar year.

"(C) Definitions.—For purposes of this paragraph—

"(i) Net capital gain.—The term 'net capital gain' has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company's taxable year).

"(ii) Net ordinary loss.—The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(3) Paragraph (2) of section 852(c) of the 1986 Code is amended to read as follows:

"(2) Coordination with tax on undistributed income.—For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year and with such *other adjustments as the Secretary may by regulations prescribe. The preceding sentence shall apply—*

"(A) only to the extent that the amount distributed by the company with respect to the calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting '100 percent' for each percentage set forth in section 4982(b)(1)), and

"(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company."

(4) Subparagraph (C) of section 852(b)(3) of the 1986 Code is amended—

(A) by striking out "net capital loss" each place it appears in the 3rd sentence and inserting in lieu thereof "net capital loss or net long-term capital loss", and

(B) by striking out "regulated investment company taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the regulated investment company".

(5) Subsection (e) of section 4982 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF FOREIGN CURRENCY GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(6) Section 4982 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES.—This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

"(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

"(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding $250,000) made in connection with the organization of such company shall not be taken into account."

(7) Subsection (b) of section 852 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR TREATMENT OF CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year."

(8) Subsection (a) of section 852 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982."

(9) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (7) of section 852(b) of the 1986 Code (as redesignated by paragraph (1)) is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(10) Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(m) AMENDMENTS RELATED TO SECTION 652 OF THE REFORM ACT.—

(1) Paragraph (1) of section 851(a) of the 1986 Code is amended to read as follows:

"(1) which, at all times during the taxable year—

"(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

"(B) has in effect an election under such Act to be treated as a business development company, or".

(2) Paragraph (1) of section 851(e) of the 1986 Code is amended by striking out "a registered management company or registered business development company" and inserting in lieu thereof "a management company or a business development company described in subsection (a)(1)".

(n) AMENDMENTS RELATED TO SECTION 653 OF THE REFORM ACT.—

(1) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Income derived from a partnership or trust shall be treated as described in paragraph (2) only to the extent such income is attributable to items of income of the partnership or trust (as the case may be) which would be described in paragraph (2) if realized by the regulated investment company in the same manner as realized by the partnership or trust."

(2)(A) Paragraph (3) of section 851(b) of the 1986 Code is amended to read as follows:

"(3) less than 30 percent of its gross income is derived from the sale or disposition of any of the following which was held for less than 3 months:

"(A) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) options, futures, or forward contracts (other than options, futures, or forward contracts on foreign currencies), or

"(C) foreign currencies (or options, futures, or forward contracts on foreign currencies) but only if such currencies (or options, futures, or forward contracts) are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stocks or securities), and".

(B) Subsection (b) of section 851 of the 1986 Code is amended by striking out "which are not ancillary" in the material following paragraph (4), and inserting in lieu thereof "which are not directly related".

(C) Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by subparagraph (B), shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Clause (i) of section 851(g)(2)(A) of the 1986 Code (defining designated hedge) is amended by striking out "contractual option" and inserting in lieu thereof "contractual obligation".

(5) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of the taxable year in which a regulated investment company is completely liquidated, there shall not be taken into account under paragraph (3) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(o) AMENDMENTS RELATED TO SECTION 654 OF THE REFORM ACT.—Subsection (q) of section 851 of the 1986 Code (as added by section 654 of the Reform Act)—

(1) is redesignated as subsection (h), and

(2) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR ABNORMAL REDEMPTIONS.—

"(A) IN GENERAL.—Any fund treated as a separate corporation under paragraph (1) shall not be disqualified under subsection (b)(3) for any taxable year by reason of sales resulting from abnormal redemptions on any day and occurring before the close of the 5th business day after such day if—

"(i) the sum of the percentages determined under subparagraph (B) for the abnormal redemptions on such day and for abnormal redemptions on prior days during such taxable year exceeds 30 percent; and

"(ii) the regulated investment company of which such fund is a part would meet the requirements of subsection (b)(3) for such taxable year if all the funds which are part of such company were treated as a single company.

"(B) ABNORMAL REDEMPTIONS.—For purposes of subparagraph (A), the term 'abnormal redemptions' means redemptions occurring on any day if the net redemptions on such day exceed 1 percent of the fund's net asset value.

"(C) DETERMINATION OF NET ASSET VALUE.—For purposes of this paragraph, net asset value for any day shall be determined as of the close of the preceding day.

"(D) LIMITATION.—For purposes of subparagraph (A), any sale or other disposition of stock or securities held less than 3 months occurring during any day shall be deemed to result from abnormal redemptions until the cumulative proceeds from such sales or dispositions occurring during such day, plus the cumulative net positive cash flow of the fund for preceding business days (if any) following the day with abnormal redemptions, exceed the amount of net redemptions on the day with abnormal redemptions."

(p) AMENDMENTS RELATED TO SECTION 662 OF THE REFORM ACT.—

(1) Subclause (I) of section 856(c)(6)(D)(i) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "debt instrument" and inserting in lieu thereof "debt instrument (within the meaning of section 1275(a)(1))".

(2) Notwithstanding section 669 of the Reform Act, the amendment made by section 662(c) of the Reform Act shall apply to tax-

able years beginning after December 31, 1986, but only in the case of obligations acquired after October 22, 1986.

(3) Subsection (c) of section 856 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF LIQUIDATING GAINS.—In the case of the taxable year in which a real estate investment trust is completely liquidated, there shall not be taken into account under paragraph (4) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(4)(A) Paragraph (6) of section 856(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF INCOME RECEIVED UNDER CERTAIN AGREEMENTS LIMITING INTEREST RATE RISK.—

"(i) IN GENERAL.—In the case of any agreement described in clause (ii)—

"(I) any payment to the real estate investment trust under such agreement (and any gain from the sale or other disposition of such agreement) shall be treated as income qualifying under paragraph (2), and

"(II) such agreement shall be treated as a security for purposes of paragraph (4)(A).

"(ii) DESCRIPTION OF AGREEMENT.—An agreement is described in this clause if such agreement is a bona fide interest rate swap or interest rate cap agreement which protects the real estate investment trust from interest rate fluctuations under any variable rate indebtedness of such trust incurred to acquire (or carry) real property or interests in real property or committed to such an acquisition."

(B) The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(5) Subclause (I) of section 856(c)(6)(D)(ii) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "stock in" and inserting in lieu thereof "stock (or certificates of beneficial interests) in".

(q) AMENDMENTS RELATED TO SECTION 663 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 856(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) a portion of the amount such tenant receives or accrues, directly or indirectly, from subtenants consists of qualified rents,

then the amounts which the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' by reason of being based on the income or profits of such tenant to the extent the amounts so received or accrued are attributable to qualified rents received or accrued by such tenant."

(2) Subsection (f) of section 856 of the 1986 Code is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) where a real estate investment trust receives any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from the debtor will be excluded from the term 'interest'.

"(2) SPECIAL RULE.—If—

"(A) a real estate investment trust receives or accrues with respect to an obligation secured by a mortgage on real property or an interest in real property amounts from a debtor which derives substantially all of its gross income with respect to such property (not taking into account any grain on any disposition) from the leasing of substantially all of its interests in such property to tenants, and

"(B) a portion of the amount which such debtor receives or accrues, directly or indirectly, from tenants consists of qualified rents (as defined in subsection (d)(6)(B)),

then the amounts which the trust receives or accrues from such debtor shall not be excluded from the term 'interest' by reason of being based on the income or profits of such debtor to the extent the amounts so received are attributable to qualified rents received or accrued by such debtor."

(r) AMENDMENT RELATED TO SECTION 664 OF THE REFORM ACT.—Clause (i) of section 857(e)(2)(B) of the 1986 Code is amended by striking out "as original issue discount on instruments" and inserting "with respect to instruments".

(s) AMENDMENTS RELATED TO SECTION 668 OF THE REFORM ACT.—

(1) Paragraph (2) of section 4981(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—The term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(B) REDUCTION FOR NET ORDINARY LOSS.—The amount determined under subparagraph (A) shall be reduced by the amount of the trust's net ordinary loss for the taxable year.

"(C) NET ORDINARY LOSS.—For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(2) Subparagraph (C) of section 857(b)(3) of the 1986 Code is amended by striking out "real estate investment trust taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the real estate investment trust".

(3) Subparagraph (A) of section 4981(c)(1) of the 1986 Code is amended by striking out "such calendar year" and inserting in lieu thereof "such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))".

(4) Subsection (a) of section 857 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the real estate investment trust establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4981."

(5) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (8) of section 857(b) of the 1986 Code is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(t) AMENDMENTS RELATED TO SECTION 671 OF THE REFORM ACT.—

(1) Paragraph (1) of section 860C(e) of the 1986 Code is amended to read as follows:

"(1) AMOUNTS TREATED AS ORDINARY.—Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be."

(2)(A) Paragraph (4) of section 860D(a) of the 1986 Code is amended—

(i) by striking out "4th month ending after" and inserting in lieu thereof "3rd month beginning after", and

(ii) by striking out "and each quarter ending thereafter" and inserting in lieu thereof "and at all times thereafter".

(B) The amendment made by subparagraph (A)(ii) shall take effect on January 1, 1988.

(3)(A) Clause (i) of section 860F(a)(2)(A) of the 1986 Code is amended to read as follows:

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage (or the repurchase in lieu of substitution of a defective obligation),".

(B)(i) Paragraph (2) of section 860F(a) of the 1986 Code is amended by striking out the last sentence of subparagraph (A).

(ii) Subsection (a) of section 860F of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTIONS.—Notwithstanding subparagraphs (A) and (D) of paragraph (1), the term 'prohibited transaction' shall not include any disposition—

"(A) required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages, or

"(B) to facilitate a clean-up call (as defined in regulations)."

(C) Subparagraph (D) of section 860F(a)(2) of the 1986 Code is amended by striking out "described in subsection (b)".

(4) Subparagraph (A) of section 860F(b)(1) of the 1986 Code is amended by striking out "the transfer of any property to a REMIC" and inserting in lieu thereof "the transfer of any property to a REMIC in exchange for regular or residual interests in such REMIC".

(5)(A) Paragraph (1) of section 860G(a) of the 1986 Code is amended to read as follows:

"(1) REGULAR INTEREST.—The term 'regular interest' means any interest in a REMIC which is issued on the startup day with fixed terms and which is designated as a regular interest if—

"(A) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) interest payments (or other similar amount), if any, with respect to such interest at or before maturity—

"(i) are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate), or

"(ii) consist of a specified portion of the interest payments on qualified mortgages and such portion does not vary during the period such interest is outstanding.

The interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments."

(B) Paragraph (2) of section 860G(a) of the 1986 Code is amended to read as follows:

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC which is issued on the startup day, which is not a regular interest, and which is designated as a residual interest."

(C) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "on or before the startup day" in subparagraph (A)(i) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC",

(ii) by inserting "if, except as provided in regulations, such purchase is pursuant to a fixed-price contract in effect on the startup day" before the comma at the end of subparagraph (A)(ii), and

(iii) by striking out "on or before the startup day" in subparagraph (C) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC".

(D) Subparagraph (A) of section 860G(a)(4) of the 1986 Code is amended to read as follows:

"(A) which would be a qualified mortgage if transferred on the startup day in exchange for regular or residual interests in the REMIC, and".

(E) Paragraph (9) of section 860G(a) of the 1986 Code is amended to read as follows:

"(9) STARTUP DAY.—The term 'startup day' means the day on which the REMIC issues all of its regular and residual interests. To the extent provided in regulations, all interests issued (and all transfers to the REMIC) during any period (not exceeding 10 days) permitted in such regulations shall be treated as occurring on the day during such period selected by the REMIC for purposes of this paragraph."

(F) The amendments made by this paragraph shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(6) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(A) by striking out "directly or indirectly," in subparagraph (A), and

(B) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property."

(7) Subparagraph (B) of section 860G(a)(7) of the 1986 Code is amended by inserting before the period at the end of the 1st sentence the following: "or lower than expected returns on cash flow investments".

(8)(A) Paragraph (8) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "section 856(e)" in subparagraph (A) and inserting in lieu thereof "section 856(e) (without regard to paragraph (5) thereof)", and

(ii) by striking out the last sentence and inserting in lieu thereof the following:

"Solely for purposes of section 860D(a), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4)."

(B) Section 860G of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each REMIC. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the REMIC's net income from foreclosure property under section 857(b)(4)(B) if the REMIC were a real estate investment trust."

(C) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c)."

(9)(A) Section 860G of the 1986 Code (as amended by paragraph (8)) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX ON CONTRIBUTIONS AFTER STARTUP DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any amount is contributed to a REMIC after the startup day, there is hereby imposed a tax for the taxable year of the REMIC in which the contribution is received equal to 100 percent of the amount of such contribution.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any contribution which is made in cash and is described in any of the following subparagraphs:

"(A) Any contribution to facilitate a clean-up call (as defined in regulations) or a qualified liquidation.

"(B) Any payment in the nature of a guarantee.

"(C) Any contribution during the 3-month period beginning on the startup day.

"(D) Any contribution to a qualified reserve fund by any holder of a residual interest in the REMIC.

"(E) Any other contribution permitted in regulations."

(B) The amendment made by subparagraph (A) shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(10) Subsection (e) of section 860G of the 1986 Code (as redesignated by paragraph (9)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma, and by adding at the end thereof the following new paragraphs:

"(4) providing appropriate rules for treatment of transfers of qualified replacement mortgages to the REMIC where the transferor holds any interest in the REMIC, and

"(5) providing that a mortgage will be treated as a qualified replacement mortgage only if it is part of a bona fide replacement (and not part of a swap of mortgages)."

(11) Paragraph (6) of section 856(c) of the 1986 Code is amended by redesignating the last subparagraph as subparagraph (F) and by striking out the subparagraph (D) added by section 671(b)(1) of the Reform Act and inserting in lieu thereof the following:

"(E) A regular or residual interest in a REMIC shall be treated as a real estate asset, and any amount includable in gross income with respect to such an interest shall be treated as interest on an obligation secured by a mortgage on real property; except that, if less than 95 percent of the assets of such REMIC are real estate assets (determined as if the real estate investment trust held such assets), such real estate investment trust shall be treated as holding directly (and as receiving directly) its proportionate share of the assets and income of the REMIC. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest held by such REMIC in another REMIC shall be treated as a real estate asset under principles similar to the principles of the preceding sentence, except that, if such REMIC's are part of a tiered structure, they shall be treated as one REMIC for purposes of this subparagraph."

(12) Clause (xi) of section 7701(a)(19)(C) of the 1986 Code is amended by striking out "are loans described" and inserting in lieu thereof "are assets described".

(13) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended by striking out "issue price of residual interest" and inserting in lieu thereof "issue price of the residual interest".

(14) Clause (ii) of section 860F(b)(1)(D) of the 1986 Code is amended by striking out "the real estate mortgage pool" and inserting in lieu thereof "the REMIC".

(15) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this subsection, except that paragraph (2) shall be applied separately with respect to each corporation which is a member of such group and to which section 593 applies.

"(4) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, a corporation to which section 593 applies and each qualified subsidiary of such corporation shall be treated as a single corporation to which section 593 applies.

"(B) QUALIFIED SUBSIDIARY.—For purposes of this subsection, the term 'qualified subsidiary' means any corporation—

"(i) all the stock of which, and substantially all the indebtedness of which, is held directly by the corporation to which section 593 applies, and

"(ii) which is organized and operated exclusively in connection with the organization and operation of 1 or more REMIC's."

(16)(A) Subsection (a) of section 860D of the 1986 Code is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and

by adding at the end thereof the following new paragraph:

"(6) with respect to which there are reasonable arrangements designed to ensure that—

"(A) residual interests in such entity are not held by disqualified organizations (as defined in section 860E(e)(5)), and

"(B) information necessary for the application of section 860E(e) will be made available by the entity."

(B) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) TAX ON TRANSFERS OF RESIDUAL INTERESTS TO CERTAIN ORGANIZATIONS, ETC.—

"(1) IN GENERAL.—A tax is hereby imposed on any transfer of a residual interest in a REMIC to a disqualified organization.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any transfer of a residual interest shall be equal to the product of—

"(A) the amount (determined under regulations) equal to the present value of the total anticipated excess inclusions with respect to such interest for periods after such transfer, multiplied by

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) LIABILITY.—The tax imposed by paragraph (1) on any transfer shall be paid by the transferor; except that, where such transfer is through an agent for a disqualified organization, such tax shall be paid by such agent.

"(4) TRANSFEREE FURNISHES AFFIDAVIT.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1) with respect to any transfer if—

"(A) the transferee furnishes to such person an affidavit that the transferee is not a disqualified organization, and

"(B) as of the time of the transfer, such person does not have actual knowledge that such affidavit is false.

"(5) DISQUALIFIED ORGANIZATION.—For purposes of this section, the term 'disqualified organization' means—

"(A) the United States, any State or political subdivision thereof, any foreign government, any international organization, or any agency or instrumentality of any of the foregoing,

"(B) any organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter unless such organization is subject to the tax imposed by section 511, and

"(C) any organization described in section 1381(a)(2)(C).

For purposes of subparagraph (A), the rules of section 168(h)(2)(D) (relating to treatment of certain taxable instrumentalities) shall apply; except that, in the case of the Federal Home Loan Mortgage Corporation, clause (ii) of such section shall not apply.

"(6) TREATMENT OF PASS-THRU ENTITIES.—

"(A) IMPOSITION OF TAX.—If, at any time during any taxable year of a pass-thru entity, a disqualified organization is the record holder of an interest in such entity, there is hereby imposed on such entity for such taxable year a tax equal to the product of—

"(i) the amount of excess inclusions for such taxable year allocable to the interest held by such disqualified organization, multiplied by

"(ii) the highest rate of tax specified in section 11(b)(1).

"(B) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any regulated investment company, real estate investment trust, or common trust fund,

"(ii) any partnership, trust, or estate, and

"(iii) any organization to which part I of subchapter T applies.

Except as provided in regulations, a person holding an interest in a pass-thru entity as a nominee for another person shall, with respect to such interest, be treated as a pass-thru entity.

"(C) TAX TO BE DEDUCTIBLE.—Any tax imposed by this paragraph with respect to any excess inclusion of any pass-thru entity for any taxable year shall, for purposes of this title (other than this subsection), be applied against (and operate to reduce) the amount included in gross income with respect to the residual interest involved.

"(D) EXCEPTION WHERE HOLDER FURNISHES AFFIDAVIT.—No tax shall be imposed by subparagraph (A) with respect to any interest in a pass-thru entity for any period if—

"(i) the record holder of such interest furnishes to such pass-thru entity an affidavit that such record holder is not a disqualified organization, and

"(ii) during such period, the pass-thru entity does not have actual knowledge that such affidavit is false.

"(7) WAIVER.—The Secretary may waive the tax imposed by paragraph (1) on any transfer if—

"(A) within a reasonable time after discovery that the transfer was subject to tax under paragraph (1), steps are taken so that the interest is no longer held by the disqualified organization, and

"(B) there is paid to the Secretary such amounts as the Secretary may require."

(C) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 860E(e) (relating to taxes with respect to certain residual interests)."

(D)(i) The amendments made by subparagraph (A) shall apply in the case of any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code, as in effect on the day before the date of the enactment of this Act) is after March 31, 1988; except that such amendments shall not apply in the case of a REMIC formed pursuant to a binding written contract in effect on such date.

(ii) The amendments made by subparagraphs (B) and (C) (except to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as added by such amendments) shall apply to transfers after March 31, 1988; except that such amendments shall not apply to any transfer pursuant to a binding written contract in effect on such date.

(iii) Except as provided in clause (iv), the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to excess inclusions for periods after March 31, 1988 but only to the extent such inclusions are—

(I) allocable to an interest in a pass-thru entity acquired after March 31, 1988, or

(II) allocable to an interest in a pass-thru entity acquired on or before March 31, 1988, but attributable to a residual interest acquired by the pass-thru entity after March 31, 1988.

For purposes of the preceding sentence, any interest in a pass-thru entity (or residual interest) acquired after March 31, 1988, pursuant to a binding written contract in effect on such date shall be treated as acquired before such date.

(iv) In the case of any real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership, no tax shall be imposed under section 860E(e)(6) of the 1986 Code (as added by the amendment made by subparagraph (B)) for any taxable year beginning before January 1, 1989.

(17) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended—

(A) by inserting "(adjusted for contributions)" after "residual interest" the second place it appears, and

(B) by striking "decreased by" in clause (ii) and inserting in lieu thereof "decreased (but not below zero) by".

(18)(A) Subsection (e) of section 860F of the 1986 Code is amended by adding at the end thereof the following new sentences: "Such return shall be filed by the REMIC. The determination of who may sign such return shall be made without regard to the first sentence of this subsection."

(B) Unless the REMIC otherwise elects, the amendment made by subparagraph (A) shall not apply to any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before the date of the enactment of this Act.

(19) Subsection (a) of section 860D of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a qualified liquidation (as defined in section 860F(a)(4)(A)), paragraph (4) shall not apply during the liquidation period (as defined in section 860F(a)(4)(B)."

(20) Subsection (a) of section 860A of the 1986 Code is amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subtitle".

(21) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and in the same manner" and inserting in lieu thereof "and, except as provided in regulations, in the same manner".

(22) The following sections of the 1986 Code are each amended by striking out "real estate mortgage pool" and inserting in lieu thereof "REMIC":

(A) Section 382(l)(4)(B)(ii).
(B) Section 860F(a)(2)(A)(iii).
(C) Section 860F(a)(2)(C).
(D) Section 860F(b)(1)(C)(ii).
(E) Section 860F(b)(1)(D)(ii).

(23) Subsection (d) of section 860E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Rules similar to the rules of the preceding sentence shall apply also in the case of regulated investment companies, common trust funds, and organizations to which part I of subchapter T applies."

(24) Subparagraph (C) of section 6049(d)(7) of the 1986 Code is amended by striking out "the issue price" and inserting in lieu thereof "the adjusted issue price".

(25)(A) Paragraph (19) of section 7701(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi)."

(B) Paragraph (4) of section 593(d) of the 1986 Code is amended by adding at the end thereof the following new sentence "For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph."

(26) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF VARIABLE INSURANCE CONTRACTS.—Except as provided in regulations, with respect to any variable contract (as defined in section 817), there shall be no adjustment in the reserve to the extent of any excess inclusion."

(27) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH SECTION 172.—Any excess inclusion for any taxable year shall not be taken into account—

"(A) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(B) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2)."

(u) AMENDMENTS RELATED TO SECTION 672 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 163(e)(2) of the 1986 Code is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(2) Subparagraph (B) of section 1278(a)(4) of the 1986 Code is amended by striking out "section 1272(a)(6)" and inserting in lieu thereof "section 1272(a)(7)".

(3) Section 1288(a) of the 1986 Code is amended by striking out "paragraph (6)" each place it appears and inserting in lieu thereof "paragraph (7)".

(4) Sections 1271(a)(2)(A)(ii) and 1275(a)(4)(B)(ii)(I) of the 1986 Code are each amended by striking out "subsection (a)(6)" and inserting in lieu thereof "subsection (a)(7)".

(v) AMENDMENT RELATED TO SECTION 674 OF THE REFORM ACT.—Subparagraph (A) of section 6049(d)(7) of the 1986 Code is amended by inserting "(and such amounts shall be treated as paid when includible in gross income under section 860B(b))" before the period at the end thereof.

(w) AMENDMENTS RELATED TO SECTION 675 OF THE REFORM ACT.—

(1) Subsection (a) of section 675 of the Reform Act is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on January 1, 1987."

(2) Section 675 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the operation of the amendments made by this part and their competitive impact on savings and loan institutions and similar financial institutions. Not later than January 1, 1990, the Secretary shall submit a report of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (together with such recommendations as he may deem advisable)."

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE REFORM ACT.

(a) AMENDMENTS TO SECTION 55 OF THE 1986 CODE.—

(1) Paragraph (1) of section 55(c) of the 1986 Code is amended by inserting before the period at the end of the first sentence the following: "and the section 936 credit allowable under section 27(b)".

(2) Paragraph (2) of section 55(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(3) Effective with respect to taxable years ending after the date of the enactment of this Act, paragraph (3) of section 55(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000.".

(b) AMENDMENTS TO SECTION 56 OF THE 1986 CODE.—

(1) Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

(2) Subparagraph (E) of section 56(b)(1) of the 1986 Code is amended to read as follows:

"(E) STANDARD DEDUCTION AND DEDUCTION FOR PERSONAL EXEMPTIONS NOT ALLOWED.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed."

(3) Subparagraph (C) of section 56(b)(1) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clauses:

"(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term 'investment interest' shall not include any qualified housing interest (as defined in subsection (e)), and

"(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d)."

(4) Clause (iii) of section 56(b)(1)(C) of the 1986 Code is amended—

(A) by striking out "specified activity bond" and inserting in lieu thereof "specified private activity bond", and

(B) by striking out "section 56(a)(5)(B)" and inserting in lieu thereof "section 57(a)(5)(B)".

(5) Subparagraph (A) of section 56(d)(2) of the 1986 Code is amended—

(A) by striking out "(other than subsection (a)(6) thereof)", and

(B) by adding at the end thereof the following new sentence:

"An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c)."

(6)(A) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(i) by striking out "interest which is" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is", and

(ii) by striking out "section 163(h)(3)" in subparagraph (B) and inserting in lieu thereof "section 163(h)(4)".

(B) Paragraph (3) of section 56(e) of the 1986 Code is amended by striking out "interest paid or accrued" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued".

(7) The last sentence of section 56(f)(2)(B) of the 1986 Code is amended by striking out "any such taxes" and inserting in lieu thereof "any such taxes (otherwise eligible for the credit provided by section 901 without regard to section 901(j))".

(8) Clause (iii) of section 56(f)(3)(A) of the 1986 Code is amended by striking out "an income statement" and inserting in lieu thereof "an income statement for a substantial nontax purpose".

(9) Subparagraph (B) of section 56(f)(3) of the 1986 Code is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (C) of section 56(f)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

(11)(A) Subparagraph (F) of section 56(f)(2) of the 1986 Code is amended to read as follows:

"(F) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—For purposes of determining the alternative minimum tax foreign tax credit, 50 percent of any withholding tax or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(ii) LIMITATION.—If the aggregate amount of the dividends referred to in clause (i) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as a tax paid to a foreign country under clause (i) shall not exceed the amount which would be so treated without regard to this clause multiplied by a fraction—

"(I) the numerator of which is the excess referred to in paragraph (1), and

"(II) the denominator of which is the aggregate amount of such dividends.

"(iii) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(B) Clause (iii) of section 56(g)(4)(C) of the 1986 Code is amended by striking out "clause (ii)(I)" and inserting in lieu thereof "clause (i)".

(12) Clause (iii) of section 56(g)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

(13) Paragraph (1) of section 56(c) of the 1986 Code is amended—

(A) by striking out "ADJUSTED EARNINGS AND PROFITS" in the paragraph heading and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS", and

(B) by striking out "ADJUSTED EARNINGS AND PROFITS" in the heading of subparagraph (B) and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS".

(14)(A) Subsection (b) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired (in a taxable year beginning after December 31, 1986) pursuant to the exercise of an incentive stock option (as defined in section 422A). The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by the preceding sentence."

(B) Paragraph (3) of section 57(a) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply with respect to options exercised after October 16, 1987.

(15) Clause (i) of section 56(a)(1)(A) of the 1986 Code is amended by striking out "REAL" in the heading and inserting in lieu thereof "PERSONAL".

(16) The heading of paragraph (1) of section 56(b) of the 1986 Code is amended by striking out "ITEMIZED".

(17) Subparagraph (A) of section 56(g)(4) of the 1986 Code is amended by adding at the end thereof the following new clauses:

"(vi) ELECTION TO HAVE CUMULATIVE LIMITATION.—

"(I) IN GENERAL.—In the case of any property placed in service during a taxable year to which an election under this clause applies, in lieu of applying clause (i), the depreciation deduction for such property for any taxable year shall be the lesser of the accumulated 168(g) depreciation or the accumulated book depreciation; reduced by the aggregate amount of the depreciation deductions determined under this subclause with respect to such property for prior taxable years.

"(II) ACCUMULATED 168(g) DEPRECIATION.—For purposes of this clause, the term 'accumulated section 168(g) depreciation' means the aggregate amount of the depreciation deductions determined under the alternative system of section 168(g) with respect to the property for all periods before the close of the taxable year.

"(III) ACCUMULATED BOOK DEPRECIATION.—For purposes of this clause, the term 'accumulated book depreciation' means the aggregate amount of the depreciation deductions determined under the method used for book purposes with respect to the property for all periods before the close of the taxable year.

"(IV) ELECTION.—The taxpayer may make an election under this clause for any taxable year beginning after 1989. Such an election, once made with respect to any such taxable year, shall apply to all property placed in service during such taxable year, and shall be irrevocable.

"(V) SIMILAR RULES FOR PROPERTY DESCRIBED IN CLAUSE (i), (iii), OR (iv).—Rules similar to the rules of the preceding provisions of this clause shall also apply in the case of property to which clause (ii), (iii), or (iv) applies.

"(vii) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g)."

(18) Paragraph (4) of section 56(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph."

(19) Subsection (a) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply."

(c) AMENDMENTS TO SECTION 57 OF THE 1986 CODE.—

(1) Clause (iii) of section 57(a)(5)(C) of the 1986 Code is amended by inserting "(whether a current or advance refunding)" after "any refunding bond".

(2) Clause (i) of section 57(a)(5)(C) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bond' means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103."

(3) Subparagraph (A) of section 57(a)(6) of the 1986 Code is amended by inserting "or 642(c)" after "section 170".

(d) AMENDMENTS TO SECTION 58 OF THE 1986 CODE.—

(1) Paragraph (2) of section 58(a) of the 1986 Code is amended—

(A) by striking out "(as modified by section 461(i)(4)(A))", and

(B) by striking out "section 469(d), without regard to paragraph (1)(B) thereof" and inserting in lieu thereof "section 469(c)".

(2) Paragraph (3) of section 58(a) of the 1986 Code is amended by striking out "section 469(g)(1)(C)" and inserting in lieu thereof "section 469(j)(2)".

(3) Subsection (a) of section 58 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) DETERMINATION OF LOSS.—In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply."

(4) Subsection (b) of section 58 of the 1986 Code is amended by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) the adjustments of sections 56 and 57 shall apply,

"(2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and

"(3) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e))."

(e) AMENDMENTS TO SECTION 59 OF THE 1986 CODE.—

(1) Paragraph (2) of section 59(e) of the 1986 Code is amended by striking out "would have been allowable as a deduction" and inserting in lieu thereof "would have been allowable as a deduction (determined without regard to section 291)".

(2) Subsection (h) of section 59 of the 1986 Code is amended by striking out "taxable year—" and all that follows and inserting in lieu thereof "taxable year with the adjustments of sections 56, 57, and 58."

(3) Paragraph (1) of section 59(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1)(A) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies)."

(4) Subsection (i) of section 59 of the 1986 Code is amended—

(A) by striking out "of this subtitle" and inserting in lieu thereof "of this subtitle (other than this part)", and

(B) by striking out "by this title" and inserting in lieu thereof "by this subtitle".

(f) TRANSITIONAL PROVISIONS.—

(1) In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends.

(2) The last sentence of subparagraph (B) of section 701(f)(6) of the Reform Act is amended to read as follows: "The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000."

(3) Subsection (f) of section 701 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) AGREEMENT VESSEL DEPRECIATION ADJUSTMENT.—

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936, as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

(4)(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before January 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) with respect to such property shall be the excess of—

(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986).

(B) This paragraph shall apply to any property—

(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.

(5) In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986.

(g) MISCELLANEOUS AMENDMENTS.—

(1) Subparagraph (K) of section 26(b)(2) of the 1986 Code is amended by striking out the comma at the end thereof and inserting in lieu thereof ").".

(2)(A) So much of section 38(c) as precedes paragraph (4) thereof is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

For purposes of the preceding sentence, the term 'net income tax' means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(2) REGULAR INVESTMENT TAX CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular investment tax credit not used against the normal limitation, or

"(ii) 25 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF REGULAR INVESTMENT TAX CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular investment tax credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the application of the regular percentage under section 46, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(B) Subsection (c) of section 38 of the 1986 Code is amended—

(i) by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out "subparagraphs (A) and (B) of paragraph (1)" each place it appears in such paragraph and inserting in lieu thereof "subparagraph (B) of paragraph (1)".

(3)(A) Subsection (c) of section 47 of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(B) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(4) The last sentence of clause (ii) of section 53(d)(1)(B) of the 1986 Code is amended by striking out "earnings and profits" and inserting in lieu thereof "current earnings".

(5) Sections 173(b), 174(e)(2), and 263(c) of the 1986 Code are each amended by striking out "section 59(d)" and inserting in lieu thereof "section 59(e)".

(6) Section 511 of the 1986 Code is amended by striking out subsection (d).

(7) Sections 616(e) and 617(j) of the 1986 Code are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(e)".

(8) Paragraph (4) of section 701(c) of the Reform Act is amended by striking out "section 631(a)" and inserting in lieu thereof "section 221(a)".

(9) Subparagraph (B) of section 1362(e)(5) of the 1986 Code is amended by striking out "Subsection (d)(2)" and inserting in lieu thereof "Subsection (d)".

(10) Subsection (a) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended by striking out "11, 59A" and inserting in lieu thereof "11, 55, 59A".

(11) Paragraph (1) of section 962(a) of the 1986 Code is amended—

(A) by striking out "section 1" and inserting in lieu thereof "sections 1 and 55", and

(B) by striking out "section 11" and inserting in lieu thereof "sections 11 and 55".

(12) Subsection (h) of section 32 of the 1986 Code is amended by striking out "for taxpayers other than corporations".

(13)(A) Subsection (d) of section 2 of the 1986 Code is amended by striking out "the tax imposed by section 1" and inserting in lieu thereof "the taxes imposed by sections 1 and 55".

(B) Subsection (d) of section 11 of the 1986 Code is amended by striking out "the tax imposed by subsection (a)" and inserting in lieu thereof "the taxes imposed by subsection (a) and section 55".

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 801 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 448(d)(2) of the 1986 Code (defining qualified personal service corporation) is amended by striking out "or indirectly" and inserting in lieu thereof "(or indirectly through 1 or more partnerships, S corporations, or qualified personal service corporations not described in paragraph (2) or (3) of subsection (a))".

(B) Section 448(d) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) USE OF RELATED PARTIES, ETC.—The Secretary shall prescribe such regulations as may be necessary to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section."

(2) Subparagraph (C) of section 448(d)(4) of the 1986 Code (relating to special rules for application of paragraph (2)) is amended by striking out "all such members" and inserting in lieu thereof "such group".

(3) Paragraph (2) of section 461(i) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULE FOR SPUDDING OF OIL OR GAS WELLS.—

"(A) IN GENERAL.—In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

"(B) DEDUCTION LIMITED TO CASH BASIS.—

"(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

"(II) was secured by any asset of the partnership."

(4) Section 464 of the 1986 Code (relating to limitations on deductions for certain farming expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986."

(5) Paragraph (4) of section 801(d) of the Reform Act is amended by striking out "the completed contract method" and inserting in lieu thereof "a method of accounting for long-term contracts".

(6) Section 801(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PARAGRAPHS (2) AND (3).—If any loan, lease, contract, or evidence of any transaction to which paragraph (2) or (3) applies is transferred after June 10, 1987, to a person other than a related party (within the meaning of paragraph (2)), paragraph (2) or (3) shall cease to apply on and after the date of such transfer."

(7) Paragraph (3) of section 448(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "An S corporation shall not be treated as a tax shelter for purposes of this section merely by reason of being required to file a notice of exemption from registration with a State agency described in section 461(i)(3)(A), but only if there is a requirement applicable to all corporations organized or offered in the State that to be exempt from such registration the corporation must file such a notice."

(8) Subparagraph (C) of section 448(d)(4) of the 1986 Code is amended by striking out "substantially all of" and inserting in lieu thereof "90 percent or more of".

(9) Paragraph (3) of section 448(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF PREDECESSORS.—Any reference in this subsection to an entity shall include a reference to any predecessor of such entity."

(b) AMENDMENTS RELATED TO SECTION 803 OF THE REFORM ACT.—

(1) Paragraph (2) of section 263A(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

(2) Section 263A(c) of the 1986 Code (relating to general exceptions) is amended—

(A) by striking out "263(c), 616(a), or 617(a)" and inserting in lieu thereof "263(c), 263(i), 291(b)(2), 616, or 617", and

(B) by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH SECTION 59(e).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof."

(3) Subparagraph (B) of section 263A(d)(2) of the 1986 Code (relating to special rule for person with minority interest who materially participates) is amended—

(A) by striking out "such grove, orchard, or vineyard" in clause (i) and inserting in lieu thereof "the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred", and

(B) by striking out "such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard, or vineyard was lost or damaged" and inserting in lieu thereof "the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred".

(4) Paragraph (3) of section 263A(f) of the 1986 Code (relating to interest relating to property used to produce property) is amended—

(A) by striking out "incurred or continued in connection with" and inserting in lieu thereof "allocable (as determined under paragraph (2)) to", and

(B) by inserting "(as so determined)" after "allocable".

(5) Section 447(b) of the 1986 Code is amended—

(A) by striking out "of" before "expenses", and

(B) by striking out "OF" before "EXPENSES" in the heading thereof.

(6) Section 447(g)(1) of the 1986 Code is amended by striking out "trade or business of farming" each place it appears and inserting in lieu thereof "qualified farming trade or business".

(7) Paragraph (4)(A)(i) of section 803(d) of the Reform Act is amended by striking out "203" each place it appears and inserting in lieu thereof "204".

(8) The allocation used in the regulations prescribed under section 263A(h)(2) of the Internal Revenue Code of 1986 for apportioning storage costs and related handling costs shall be determined by dividing the amount of such costs by the beginning inventory balances and the purchases during the year.

(c) AMENDMENTS RELATED TO SECTION 804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 460(b) of the 1986 Code is amended—

(A) by striking out "subparagraph" and inserting in lieu thereof "paragraph",

(B) by striking out "paragraph (1)" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph (A)", and

(C) by striking out "paragraph (1)" in subparagraph (C) and inserting in lieu thereof "subparagraph (B)".

(2)(A) Section 460(b) of the 1986 Code (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—

"(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

"(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (2)(B) and subsection (a)(2) shall not apply to any contract—

"(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

"(I) $1,000,000, or

"(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

"(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply."

(B) Section 460(b)(2) of the 1986 Code is amended by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (4), in".

(3) Subparagraph (B) of section 804(d)(2) of the Reform Act is amended by striking out "section 263A(c)(5)" and inserting in lieu thereof "section 460(c)(5)".

(4)(A) Paragraph (3) of section 460(b) of the 1986 Code is amended by adding at the end thereof the following new sentences:

"For purposes of the preceding sentence, any amount received or accrued after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was received or accrued) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract."

(B) Subparagraph (B) of section 460(b)(2) of the 1986 Code is amended by striking out "completion of the contract" and inserting in lieu thereof "completion of the contract (or, with respect to any amount received or accrued after completion of the contract, when such amount is so received or accrued)".

(d) AMENDMENT RELATED TO SECTION 805 OF THE REFORM ACT.—

(1) Section 166(d)(1)(A) of the 1986 Code is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsection (b) of section 805 of the Reform Act is amended by inserting ", as amended by section 901(d)(4)," after "Section 166".

(3) Subsection (a) of section 582 of the 1986 Code is amended by striking out "subsections (a), (b), and (c) of section 166" and inserting in lieu thereof "subsections (a) and (b) of section 166".

(e) AMENDMENTS RELATED TO SECTION 806 OF THE REFORM ACT.—

(1)(A) Clause (i) of section 706(b)(1)(B) of the 1986 Code is amended to read as follows:

"(i) the majority interest taxable year (as defined in paragraph (4)),".

(B) Paragraph (4) of section 706(b) of the 1986 Code is amended to read as follows:

"(4) MAJORITY INTEREST TAXABLE YEAR; LIMITATION ON REQUIRED CHANGES.—

"(A) MAJORITY INTEREST TAXABLE YEAR DEFINED.—For purposes of paragraph (1)(B)(i)—

"(i) IN GENERAL.—The term 'majority interest taxable year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

"(ii) TESTING DAYS.—The testing days shall be—

"(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

"(II) the days during such representative period as the Secretary may prescribe.

"(B) FURTHER CHANGE NOT REQUIRED FOR 3 YEARS.—Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed, such partnership shall not be required to change to another taxable year for either of the 2 taxable years following the year of change."

(2) Clause (iii) of section 706(b)(1)(B) of the 1986 Code is amended by striking out "or such other period as the Secretary may prescribe in regulations" and inserting in lieu thereof "unless the Secretary by regulations prescribes another period".

(3) Section 706(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH OTHER SECTIONS.—Except as provided in regulations, for purposes of determining the taxable year to which a partnership is required to change by reason of this subsection, changes in taxable years of other persons required by this subsection, section 441(i), section 584(h), section 645, or section 1378(a) shall be taken into account."

(4) Paragraph (2) of section 441(i) of the 1986 Code (defining personal service corpo-

ration) is amended by adding at the end thereof the following:

"A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

(5)(A) Section 584 of the 1986 Code (relating to common trust funds) is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF COMMON TRUST FUND.—For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year."

(B) The amendment made by subparagraph (A) shall apply only to taxable years beginning after December 31, 1987. For purposes of section 806(e)(2) of the Reform Act—

(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

(ii) subparagraph (C) thereof shall be applied by substituting "December 31, 1987" for "December 31, 1986".

(6) Section 806(c)(2) of the Reform Act is amended by striking out "Section 267(a)" and inserting in lieu thereof "Section 267(a)(2)".

(7) Subparagraph (C) of section 806(e)(2) of the Reform Act is amended—

(A) by striking out "(including such short taxable year)", and

(B) by striking out "short taxable year" the second place it appears and inserting in lieu thereof "the partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends".

(8) Section 806(e)(2) of the Reform Act is amended—

(A) by striking out "any taxable year" and inserting in lieu thereof "the taxpayer's first taxable year beginning after December 31, 1986", and

(B) by striking out "taxpayer" each place it appears and inserting in lieu thereof "partnership, S corporation, or personal service corporation".

(9) Nothing in section 806 of the Reform Act or in any legislative history relating thereto shall be construed as requiring the Secretary to permit an automatic change of a taxable year.

(10) Subsection (e) of section 806 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) BASIS, ETC. RULES.—

"(A) BASIS RULE.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

"(B) TREATMENT OF DISPOSITIONS.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C)."

(f) AMENDMENTS RELATED TO SECTION 811 OF THE REFORM ACT.—

(1) Paragraph (4) of section 453C(b) of the 1986 Code is amended—

(A) by striking out "at any time during" and inserting in lieu thereof "as of the close of", and

(B) by striking out "as of the close of such taxable year in lieu" and inserting in lieu thereof "as of the close of such taxable year (determined by not taking into account any indebtedness described in paragraph (3)(B)) in lieu".

(2) So much of paragraph (2) of section 453C(d) of the 1986 Code as precedes subparagraph (A) is amended to read as follows:

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated under paragraph (1) to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—".

(3) Subparagraph (A) of section 453C(e)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term also includes any obligation held by any person if the basis of such obligation in the hands of such person is determined (in whole or in part) by reference to the basis of such obligation in the hands of another person and such obligation was an applicable installment obligation in the hands of such other person."

(4) Paragraph (2) of section 453C(e) of the 1986 Code (relating to aggregation rules) is amended by striking out "For" and inserting in lieu thereof "Except as provided in regulations, for".

(5) Subparagraph (B) of section 453C(e)(4) of the 1986 Code is amended by striking out "or (3)".

(6) Paragraph (4) of section 811(c) of the Reform Act is amended by striking out the second subparagraphs (D) and (E).

(7) Paragraph (5) of section 811(c) of the Reform Act is amended by striking out "October 23, 1985" each place it appears and inserting in lieu thereof "October 23, 1984".

(8) Section 811(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES.—For purposes of section 453C of the 1986 Code (as added by subsection (a))—

"(A) REVOLVING CREDIT PLANS, ETC.—The term 'applicable installment obligation' shall not include any obligation arising out of any disposition or sale described in paragraph (1) or (2) of section 453(k) of such Code (as added by section 812(a)).

"(B) CERTAIN DISPOSITIONS DEEMED MADE ON FIRST DAY OF TAXABLE YEAR.—In the case of a taxpayer's 1st taxable year ending after December 31, 1986, dispositions after February 28, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day."

(9) For purposes of applying the amendments made by this subsection and the amendments made by section 10202 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(g) AMENDMENTS RELATED TO SECTION 812 OF THE REFORM ACT.—

(1) Section 453 of the 1986 Code is amended by redesignating the subsection (j) added by section 812 of the Reform Act as subsection (k).

(2) Subsection (c) of section 453A of the 1986 Code (as in effect on the date before the date of the enactment of the Revenue Act of 1987) is amended by striking out "453(j)" and inserting in lieu thereof "453(k)".

(3) Paragraph (1) of section 812(c) of the Reform Act is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(4) Subsection (c) of section 812 of the Reform Act is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) SALES OF STOCK, ETC.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date."

(5) Paragraph (3) of section 812(c) of the Reform Act (as so redesignated) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such change shall be treated as having been made with the consent of the Secretary,

"(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

"(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	The applicable percentage is:
1st taxable year.......	15
2nd taxable year.....	25
3rd taxable year......	30
4th taxable year......	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986."

(6) Subsection (c) of section 812 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(4) ACCELERATION OF ADJUSTMENTS WHERE CONTRACTION IN AMOUNT OF INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

"(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

"(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

"(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

"(i) the percentage determined by dividing the aggregate contraction in revolving in-

stallment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

"(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

"(C) AGGREGATE CONTRACTION IN REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

"(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

"(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

"(D) REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

"(E) TREATMENT OF CERTAIN OBLIGATIONS DISPOSED OF ON OR BEFORE OCTOBER 26, 1987.—For purposes of subparagraphs (B)(i) and (C)(i), in determining the aggregate face amount of revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, there shall not be taken into account any obligation—

"(i) which was disposed of to an unrelated person on or before October 26, 1987, or

"(ii) was disposed of to an unrelated person on or after such date pursuant to a binding written contract in effect on October 26, 1987, and at all times thereafter before such disposition.

For purposes of the preceding sentence, the term 'unrelated person' means any person who is not a related person (as defined in section 453(g) of the Internal Revenue Code of 1986).

"(5) LIMITATION ON LOSSES FROM SALES OF OBLIGATIONS UNDER REVOLVING CREDIT PLANS.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

"(A) no losses from such dispositions shall be recognized, and

"(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

"(6) ADJUSTMENT PERIOD.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3)."

(h) AMENDMENT RELATED TO SECTION 821 OF THE REFORM ACT.—Section 821(b)(3) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to any taxable year beginning after August 16, 1986, and before January 1, 1987, if the taxpayer treated such income in the same manner for the taxable year preceding such taxable year."

(i) AMENDMENT RELATED TO SECTION 822 OF THE REFORM ACT.—Paragraph (1) of section 703(b) of the 1986 Code is amended by striking out "or (d)(4)".

(j) AMENDMENTS RELATED TO SECTION 824 OF THE REFORM ACT.—

(1) Section 6501(o) of the 1986 Code which relates to cross references is amended by striking out paragraph (3).

(2) Paragraph (4) of section 824(c) of the Reform Act is amended by striking out "an indemnity agreement" and inserting in lieu thereof "an underwriting agreement".

SEC. 109. AMENDMENTS RELATED TO TITLE IX OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 901 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 46(e)(4) of the 1986 Code is amended by adding at the end thereof the following new sentences: "Notwithstanding the preceding provisions of this subparagraph, any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986 and during which such organization (or any successor organization) was not at any time the lessee under any lease of regular investment tax credit property. For purposes of the preceding sentence, the term 'regular investment tax credit property' means any section 38 property if the regular percentage applied to such property and the amount of qualified investment with respect to such property would have been reduced under paragraph (1) but for an election under this subparagraph."

(2)(A) Paragraph (5) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION BINDING ON ALL MEMBERS OF GROUP.—Any election under this subsection made by a member of a parent-subsidiary controlled group shall be binding on all banks which are members of such group for the taxable year of the election."

(B) Subclause (I) of section 585(c)(3)(A)(iii) of the 1986 Code is amended by striking out "or such greater amount as the taxpayer may designate" and inserting in lieu thereof "or such higher percentage of such net amount as the taxpayer may elect".

(C) Clause (ii) of section 585(c)(3)(B) of the 1986 Code is amended by striking out "designates an amount" and inserting in lieu thereof "elects a higher percentage".

(3) Paragraph (4) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year."

(b) AMENDMENTS RELATED TO SECTION 902 OF THE REFORM ACT.—

(1) Paragraph (3) of section 902(f) of the Reform Act is amended—

(A) in subparagraph (F), by striking out "distribution company" and inserting in lieu thereof "distribution facility",

(B) in subparagraph (L), by striking out "waterfront project" and inserting in lieu thereof "2 Festival Market Place projects at Union Pier Terminal and 1 project at the Remount Road Container Yard, State Pier No. 15 at North Charleston Terminal",

(C) in subparagraph (M), by striking out "Pontabla" and inserting in lieu thereof "Pontalba",

(D) in subparagraph (P), by striking out "Birmingham, Alabama," and inserting in lieu thereof "Homewood, Alabama, the", and

(E) by adding at the end thereof the following new subparagraphs:

"(T) Bellows Falls, Vermont—building project.

"(U) East Broadway Project, Louisville, Kentucky.

"(V) O.K. Industries, Oklahoma."

(2) Paragraph (4) of section 902(f) of the Reform Act is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3)(A) Paragraph (3) of section 265(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation—

"(I) which is issued after August 7, 1986, by a qualified small issuer,

"(II) which is not a private activity bond (as defined in section 141), and

"(III) which is designated by the issuer for purposes of this paragraph.

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond—

"(I) any qualified 501(c)(3) bond (as defined in section 145), or

"(II) any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).

"(C) QUALIFIED SMALL ISSUER.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'qualified small issuer' means, with respect to obligations issued during any calendar year, any issuer if the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii)) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(ii) OBLIGATIONS NOT TAKEN INTO ACCOUNT IN DETERMINING STATUS AS QUALIFIED SMALL ISSUER.—For purposes of clause (i), an obligation is described in this clause if such obligation is—

"(I) a private activity bond (other than a qualified 501(c)(3) bond, as defined in section 145),

"(II) an obligation to which section 141(a) does not apply by reason of section 1312, 1313, 1316(g), or 1317 of the Tax Reform Act of 1986 and which would (if issued on August 15, 1986) have been an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of such Act) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exception from such definition other than section 103(o)(2)(A)), or

"(III) an obligation issued to refund (other than to advance refund within the meaning of section 149(d)(5)) any obligation to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation.

"(iii) ALLOCATION OF AMOUNT OF ISSUE IN CERTAIN CASES.—In the case of an issue under which more than 1 governmental entity receives benefits, if—

"(I) all governmental entities receiving benefits from such issue irrevocably agree (before the date of issuance of the issue) on an allocation of the amount of such issue for purposes of this subparagraph, and

"(II) such allocation bears a reasonable relationship to the respective benefits received by such entities,

then the amount of such issue so allocated to an entity (and only such amount with respect to such issue) shall be taken into account under clause (i) with respect to such entity.

"(D) LIMITATION ON AMOUNT OF OBLIGATIONS WHICH MAY BE DESIGNATED.—

"(i) IN GENERAL.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(ii) CERTAIN REFUNDINGS OF DESIGNATED OBLIGATIONS DEEMED DESIGNATED.—Except as provided in clause (iii), in the case of a refunding (or series of refundings) of a qualified tax-exempt obligation, the refunding obligation shall be treated as a qualified tax-exempt obligation (and shall not be taken into account under clause (i)) if—

"(I) the refunding obligation was not taken into account under subparagraph (C) by reason of clause (ii)(III) thereof,

"(II) the average maturity date of the refunding obligations issued as part of the issue of which such refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue, and

"(III) the refunding obligation has a maturity date which is not later than the date which is 30 years after the date the original qualified tax-exempt obligation was issued.

Subclause (II) shall not apply if the average maturity of the issue of which the original qualified tax-exempt obligation was a part (and of the issue of which the obligations to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(iii) CERTAIN OBLIGATIONS MAY NOT BE DESIGNATED OR DEEMED DESIGNATED.—No obligation issued as part of an issue may be designated under this paragraph (or may be treated as designated under clause (ii)) if—

"(I) any obligation issued as part of such issue is issued to refund another obligation, and

"(II) the aggregate face amount of such issue exceeds $10,000,000.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D)—

"(i) an issuer and all entities which issue obligations on behalf of such issuer shall be treated as 1 issuer,

"(ii) all obligations issued by a subordinate entity shall, for purposes of applying subparagraphs (C) and (D) to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(iii) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of subparagraph (C) or (D) and all entities benefiting thereby shall be treated as 1 issuer.

"(F) TREATMENT OF COMPOSITE ISSUES.—In the case of an obligation which is issued as part of a direct or indirect composite issue, such obligation shall not be treated as a qualified tax-exempt obligation unless—

"(i) the requirements of this paragraph are met with respect to such composite issue (determined by treating such composite issue as a single issue), and

"(ii) the requirements of this paragraph are met with respect to each separate lot of obligations which are part of the issue (determined by treating each such separate lot as a separate issue)."

(B) In the case of any obligation issued after August 7, 1986, and before January 1, 1987, the time for making a designation with respect to such obligation under section 265(b)(3)(B)(iii) of the 1986 Code shall not expire before January 1, 1989.

(C) If—

(i) an obligation is issued on or after January 1, 1986, and on or before August 7, 1986,

(ii) when such obligation was issued, the issuer made a designation that it intended to qualify under section 802(e)(3) of H.R. 3838 of the 99th Congress as passed by the House of Representatives, and

(iii) the issuer makes an election under this subparagraph with respect to such obligation,

for purposes of section 265(b)(3) of the 1986 Code, such obligation shall be treated as issued on August 8, 1986.

(D)(i) Except as provided in clause (ii), the following provisions of section 265(b)(3) of the 1986 Code (as amended by this subparagraph (A)) shall apply to obligations issued after June 30, 1987:

(I) subparagraph (C)(ii)(III),

(II) clauses (ii) and (iii) of subparagraph (D), and

(III) subparagraphs (E) and (F).

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the provisions referred to in clause (i) shall apply to such issuer as if included in the amendments made by section 902(a) of the Tax Reform Act of 1986.

(4) Subparagraph (B) of section 291(e)(1) of the 1986 Code is amended by redesignating the clause (iv) added by section 902(c)(2) of the Reform Act as clause (v).

(5) Clause (i) of section 291(e)(1)(B) of the 1986 Code is amended by striking out "section 582(a)(2)" and inserting in lieu thereof "section 585(a)(2)".

(6) Paragraph (1) of section 902(e) of the Reform Act is amended by striking out "Section 163(h)(12)" and inserting in lieu thereof "Section 163(i)(2) (as redesignated by section 511(b) of this Act)".

(7) Paragraph (4) of section 902(f) of the Reform Act is amended—

(A) by inserting "and qualified 501(c)(3) bonds designated by such Governor for purposes of this paragraph," after "1987),", and

(B) by striking out "subparagraph" in the last sentence and inserting in lieu thereof "paragraph".

(c) AMENDMENTS RELATED TO SECTION 903 OF THE REFORM ACT.—

(1) Paragraph (1) of section 172(b) of the 1986 Code is amended by redesignating subparagraphs (L) and (M) as subparagraphs (K) and (L), respectively.

(2) Subparagraph (A) of section 172(b)(1) of the 1986 Code is amended by striking out "Except" and all that follows down through "a net operating loss" and inserting in lieu thereof "Except as otherwise provided in this paragraph, a net operating loss".

(3) Subparagraph (B) of section 172(b)(1) of the 1986 Code is amended to read as follows:

"(B) Except as otherwise provided in this paragraph, a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(d) AMENDMENTS RELATED TO SECTION 905 OF THE REFORM ACT.—

(1) Subsection (l) of section 165 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) ELECTION TO TREAT AS ORDINARY LOSS.—

"(A) IN GENERAL.—In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

"(B) LIMITATIONS.—

"(i) DEPOSIT MAY NOT BE FEDERALLY INSURED.—No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

"(ii) DOLLAR LIMITATION.—With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

"(6) ELECTION.—Any election by the taxpayer under this subsection for any taxable year—

"(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

"(B) may be revoked only with the consent of the Secretary."

(2) Paragraph (1) of section 905(c) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981, and, except as provided in paragraph (2), the amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982."

(3) The subsection (f) of section 451 of the 1986 Code which was added by section 905(b) of the 1986 Reform Act is redesignated as subsection (g).

(4) If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act or by this subsection (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

(A) credit or refund of any such overpayment may nevertheless be made if claim therefore is filed before the date 1 year after such date of enactment, and

(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.

SEC. 110. AMENDMENTS RELATED TO TITLE X OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1011 OF THE REFORM ACT.—

(1) Paragraph (1) of section 813(a) of the 1986 Code (relating to foreign life insurance companies) is amended by striking out "the special life insurance company deduction and".

(2) Paragraph (1) of section 1011(d) of the Reform Act is amended—

(A) by striking out "any bond" and inserting in lieu thereof "any market discount bond (as defined in section 1278 of the Internal Revenue Code of 1986)",

(B) by striking out "28 percent" and inserting in lieu thereof "31.6 percent", and

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall apply only if the tax determined under the preceding sentence is less than the tax which would otherwise be imposed."

(3) Paragraph (2) of section 1011(d) of the Reform Act is amended to read as follows:

"(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term 'qualified life insurance company' means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986."

(b) AMENDMENTS RELATED TO SECTION 1012 OF THE REFORM ACT.—

(1) Clause (iv) of section 1012(c)(4)(C) of the Reform Act is amended to read as follows:

"(iv) dental benefit coverage provided by a Delta Dental Plans Association organization through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such organization."

(2) Clause (ii) of section 1012(c)(4)(C) of the Reform Act is amended by striking out "Association" and inserting in lieu thereof "Plan".

(3) The Secretary of the Treasury or his delegate may prescribe rules providing proper adjustments for taxpayers which become subject to subchapter L of chapter 1 of the 1986 Code by reason of the amendments made by section 1012 of the Reform Act with respect to short taxable years which begin during 1987 by reason of section 843 of such Code.

(4)(A) Paragraph (3) of section 501(m) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) charitable gift annuities."

(B) Subsection (m) of section 501 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) CHARITABLE GIFT ANNUITY.—For purposes of paragraph (3)(E), the term 'charitable gift annuity' means an annuity if—

"(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

"(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property)."

(C) Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall revise the tables used in determining the amount of the charitable contribution in the case of annuity contracts so that such determination will reflect the value of such contribution based on market interest rates at the time such contract was issued and more recent mortality experience.

(c) AMENDMENTS RELATED TO SECTION 1021 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 832(b)(7) of the 1986 Code (relating to special rules for determining premiums earned) is amended by striking out "this part" and inserting in lieu thereof "section 831(a)".

(B) The subparagraph heading for such subparagraph is amended by striking out "NONLIFE INSURANCE COMPANY" and inserting in lieu thereof "INSURANCE COMPANY TAXABLE UNDER SECTION 831(a)".

(2) Paragraph (7) of section 832(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) TREATMENT OF COMPANIES WHICH BECOME TAXABLE UNDER SECTION 831(a).—

"(i) EXCEPTION TO PHASE-IN FOR COMPANIES WHICH WERE NOT TAXABLE, ETC., BEFORE 1987.—Subparagraph (C) of paragraph (4) shall not apply to any insurance company which, for each taxable year beginning before January 1, 1987, was not subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) by reason of being—

"(I) subject to tax under section 821(c) (as so in effect), or

"(II) described in section 501(c) (as so in effect) and exempt from tax under section 501(a).

"(ii) PHASE-IN BEGINNING AT LATER DATE FOR COMPANIES NOT 1ST TAXABLE UNDER SECTION 831(a) IN 1987.—In the case of an insurance company—

"(I) which was not subject to the tax imposed by section 831(a) for its 1st taxable year beginning after December 31, 1986, by reason of being subject to tax under section 831(b), or described in section 501(c) and exempt from tax under section 501(a), and

"(II) which, for any taxable year beginning before January 1, 1987, was subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986),

subparagraph (C) of paragraph (4) shall apply beginning with the 1st taxable year beginning after December 31, 1986, for which such company is subject to the tax imposed by section 831(a) and shall be applied by substituting the last day of the preceding taxable year for 'December 31, 1986' and the 1st day of the 7th succeeding taxable year for 'January 1, 1993'.

"(E) TREATMENT OF CERTAIN RECIPROCAL INSURERS.—In the case of a reciprocal (within the meaning of section 835(a)) which reports (as required by State law) on its annual statement reserves on unearned premiums net of premium acquisition expenses, subparagraphs (B) and (C) of paragraph (4) shall be applied by treating unearned premiums as including an amount equal to such expenses."

(3) Paragraph (5) of section 832(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A) and by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma.

(d) AMENDMENTS RELATED TO SECTION 1022 OF THE REFORM ACT.—

(1) Section 832 of the 1986 Code (defining insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(g) DIVIDENDS WITHIN GROUP.—In the case of an insurance company subject to tax under section 831(a) filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group were not filing a consolidated return."

(2) Subclause (II) of section 832(b)(5)(B)(ii) of the 1986 Code (relating to losses incurred) is amended by inserting "(directly or indirectly)" after "attributable".

(3) For purposes of section 832(b)(5)(C)(i) of the 1986 Code, any stock or obligation acquired on or after August 8, 1986, by an insurance company subject to the tax imposed by section 831 of the 1986 Code (hereinafter in this paragraph referred to as the "acquiring company") from another insurance company so subject (hereinafter in this paragraph referred to as the "transferor company") shall be treated as acquired on the date on which such stock or obligation was acquired by the transferor company if—

(A) the transferor company acquired such stock or obligation before August 8, 1986, and

(B) at all times after the date on which such stock or obligation was acquired by the transferor company and before the date of the acquisition by the acquiring company, the transferor company and the acquiring company were members of the same affiliated group filing a consolidated return.

For purposes of the preceding sentence, the date on which the stock or obligation was acquired by the transferor company shall be determined with regard to any prior application of the preceding sentence. For purposes of this paragraph, if the acquiring corporation or transferor corporation was a party to a reorganization described in section 368(a)(1)(F) of the 1986 Code, any reference to such corporation shall include a reference to any predecessor thereof involved in such reorganization.

(e) AMENDMENTS RELATED TO SECTION 1023 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 846(f)(6) of the 1986 Code (relating to special rule for certain accident and health insurance lines of business) is amended by striking out "paid during the year" and inserting in lieu thereof "paid in the middle of the year".

(2) Subsection (g) of section 846 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing appropriate adjustments in the application of this section to a taxpayer having a taxable year which is not the calendar year."

(3) Subsection (e) of section 1023 of the Reform Act (relating to discounting of unpaid losses and certain unpaid expenses) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF FRESH START TO COMPANIES WHICH BECOME SUBJECT TO SECTION 831(a) TAX IN LATER TAXABLE YEAR.—If—

"(A) an insurance company was not subject to tax under section 831(a) of the Internal Revenue Code of 1986 for its 1st taxable year beginning after December 31, 1986, by reason of being—

"(i) subject to tax under section 831(b) of such Code, or

"(ii) described in section 501(c) of such Code and exempt from tax under section 501(a) of such Code, and

"(B) such company becomes subject to tax under such section 831(a) for any later taxable year,

paragraph (2) and subparagraphs (A) and (C) of paragraph (3) shall be applied by treating such later taxable year as its 1st taxable year beginning after December 31, 1986, and by treating the calendar year in which such later taxable year begins as 1987; and paragraph (3)(B) shall not apply."

(f) AMENDMENTS RELATED TO SECTION 1024 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 831(b)(2) of the 1986 Code (relating to companies to which alternative tax applies) is amended

by adding at the end thereof the following new sentence:

"The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) Subsection (a) of section 835 of the 1986 Code (relating to election by reciprocal) is amended by striking out "section 821(a)" and inserting in lieu thereof "section 831(a)".

(3) Subsection (f) of section 835 of the 1986 Code is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(4) Paragraph (6) of section 243(b) of the 1986 Code (relating to special rules for insurance companies) is amended by striking out "or 821".

(5) Subsection (c) of section 543 of the 1986 Code (relating to gross income of insurance companies other than life or mutual) is amended—

(A) by striking out "OR MUTUAL" in the heading and inserting in lieu thereof "INSURANCE COMPANIES", and

(B) by striking out "life or mutual" in the text and inserting in lieu thereof "a life insurance company".

(6) Subsection (g) of section 816 of the 1986 Code (relating to burial and funeral benefit insurance companies) is amended by striking out "section 821 or".

(7) The table of sections for part II of subchapter L of chapter 1 of the 1986 Code (relating to other insurance companies) is amended by striking out the item relating to section 831 and inserting in lieu thereof the following new item:

"Sec. 831. Tax on insurance companies other than life insurance companies."

(8) Paragraph (1) of section 1024(d) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any amount included in gross income under this paragraph shall be treated as gross investment income."

(g) Amendments Related to Section 1031 of the Reform Act.—

(1) Paragraph (1) of section 1031(a) of the Reform Act is amended by inserting "(whether made in a lump sum or a series of substantially equal payments over a period of not more than 6 years)" after "any initial payment".

(2) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "initial payment" each place it appears and inserting in lieu thereof "initial payment referred to in paragraph (1)".

(3) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "this title" each place it appears and inserting in lieu thereof "the Internal Revenue Code of 1986".

(h) Special Rule for Mutual Life Insurance Company.—

(1) In general.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows:

"(2) Effect of election on subsidiaries of electing parent.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

(3) Revenue loss limited.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed $300,000 per taxable year.

(i) Delay in Effective Date for Diversification Requirements With Respect to Accounts for Certain Immediate Annuities.—Section 817(h) of the 1986 Code shall not apply until January 1, 1989, with respect to a variable contract (as defined in section 817(d) of the 1986 Code) if—

(1) such contract provides for the payment of an immediate annuity (as defined in section 72(u)(4) of the 1986 Code),

(2) such contract was outstanding on September 12, 1986, and

(3) the segregated asset account on which such contract is based was, on September 12, 1986, wholly invested in deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(j) Treatment of Alternative Minimum Tax With Respect to Shareholders Surplus Account.—

(1) Paragraph (2) of section 815(c) of the 1986 Code (relating to shareholders surplus account) is amended by adding at the end thereof the following new sentence:

"If for any taxable year a tax is imposed by section 55, under regulations proper adjustments shall be made for such year and all subsequent taxable years in the amounts taken into account under subparagraphs (A) and (B) of this paragraph and subparagraph (B) of subsection (d)(3)."

(2) Effective Date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(k) Treatment of Certain Items as Not Interest for Source Rules, Etc.—Subsection (f) of section 818 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Items described in section 807(c) treated as not interest for source rules, etc.—For purposes of part I of subchapter N, items described in any paragraph of section 807(c) shall be treated as amounts which are not interest."

SEC. 111. AMENDMENTS RELATED TO PARTS I AND II OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) Amendment Related to Section 1101 of the Reform Act.—

(1) Paragraph (4) of section 219(g) of the 1986 Code (relating to special rule for married individuals filing separately) is amended to read as follows:

"(4) Special rule for married individuals filing separately and living apart.—A husband and wife who—

"(A) file separate returns for any taxable year, and

"(B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection."

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1987.

(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.

(b) Amendments Related to Section 1102 of the Reform Act.—

(1) Sections 408(d)(2)(C) and 408(o)(4)(B)(iv) of the 1986 Code are each amended by striking out "with or within which the taxable year ends" and inserting in lieu thereof "in which the taxable year begins".

(2)(A) Section 408(d)(4) of the 1986 Code (relating to excess contributions returned before due date of return) is amended by striking out "to the extent that such contribution exceeds the amount allowable as a deduction under section 219".

(B) Section 408(d)(4) of the 1986 Code is amended—

(i) by striking out "excess" each place it appears, and

(ii) by striking out "EXCESS CONTRIBUTIONS" in the heading and inserting in lieu thereof "CONTRIBUTIONS".

(3) Sections 408(d)(5) and 4973(b) of the 1986 Code are each amended by striking out all that follows "section 219" in the last sentence thereof and inserting in lieu thereof "shall be computed without regard to section 219(g).".

(4)(A) Section 6693(b) of the 1986 Code (relating to overstatement of designated nondeductible contributions) is amended to read as follows:

"(b) Penalties Relating to Nondeductible Contributions.—

"(1) Overstatement of designated nondeductible contributions.—Any individual who—

"(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

"(2) Failure to file form.—Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause."

(B)(i) The heading for section 6693 of the 1986 Code is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(ii) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(c) Amendments Related to Section 1105 of the Reform Act.—

(1) Section 402(g)(2)(C) of the 1986 Code (relating to taxation of distribution) is amended—

(A) by striking out "(and no tax shall be imposed under section 72(t))" in clause (i),

(B) by striking out "such excess deferral is made" in clause (ii) and inserting in lieu thereof "such income is distributed", and

(C) by inserting at the end thereof the following new flush sentence:

"No tax shall be imposed under section 72(t) on any distribution described in the preceding sentence."

(2) Section 402(g)(2) is amended by striking out "REQUIRED DISTRIBUTION" in the heading thereof and inserting in lieu thereof "DISTRIBUTION".

(3) Section 402(g)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL DISTRIBUTIONS.—If a plan distributes only a portion of any excess deferral and income allocable thereto, such portion shall be treated as having been distributed ratably from the excess deferral and the income."

(4) Section 402(g)(3) of the 1986 Code (defining elective deferral) is amended by striking out "paragraph" and inserting in lieu thereof "subsection".

(5)(A) Clause (iii) of section 402(g)(8)(A) of the 1986 Code (relating to special rule for certain organizations) is amended by inserting "(determined in the manner prescribed by the Secretary)" after "taxable years".

(B) Section 402(g)(8) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) YEARS OF SERVICE.—For purposes of this paragraph, the term 'years of service' has the meaning given such term by section 403(b)."

(6)(A) Section 402(g) of the 1986 Code, as added by section 1852(b)(3)(A) of the Reform Act, is redesignated as subsection (i).

(B) Section 402(g) of the 1986 Code, as added by section 1854(f)(2) of the Reform Act, is redesignated as subsection (j).

(C) Section 1854(f)(4)(C) of the Reform Act is amended by striking out "section 402(g)" and inserting in lieu thereof "section 402(j)".

(7)(A) Section 401(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(30) LIMITATIONS ON ELECTIVE DEFERRALS.—In the case of a trust which is part of a plan under which elective deferrals (within the meaning of section 402(g)(3)) may be made with respect to any individual during a calendar year, such trust shall not constitute a qualified trust under this subsection unless the plan provides that the amount of such deferrals under such plan and all other plans, contracts, or arrangements of an employer maintaining such plan may not exceed the amount of the limitation in effect under section 402(g)(1) for taxable years beginning in such calendar year."

(B) Section 403(b)(1) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a contract purchased under a plan which provides a salary reduction agreement, the plan meets the requirements of section 401(a)(30),".

(C) Subparagraph (A) of section 408(k)(6) of the 1986 Code, as amended by subsection (f)(1), is amended by adding at the end thereof the following new clause:

"(iv) LIMITATIONS ON ELECTIVE DEFERRALS.—Clause (i) shall not apply to a simplified employee pension unless the requirements of section 401(a)(30) are met."

(D) Subparagraph (D) of section 501(c)(18) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) the requirements of section 401(a)(30) are met."

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

(8) Section 1105(c)(2)(A) of the Reform Act is amended by striking out "the last of such collective bargaining agreements" and inserting in lieu thereof "such agreement".

(9) Section 1105(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) REPORTING REQUIREMENTS.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 1986."

(10) Notwithstanding any other provision of law, a plan may incorporate by reference the dollar limitations under section 402(g) of the Internal Revenue Code of 1986.

(11) Section 402(g)(3) of the 1986 Code is amended by inserting at the end thereof the following new sentence: "An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(12) Subparagraph (A) of section 403(b)(12) of the 1986 Code is amended by inserting after clause (ii) the following new sentence:

"For purposes of clause (i), a contribution shall be treated as not made pursuant to a salary reduction agreement if under the agreement it is made pursuant to a 1-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(d) AMENDMENTS RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) Section 404(l) of the 1986 Code (relating to limitation on amount of compensation which may be taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), (ii), or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, any adjustment under the preceding sentence shall not be taken into account for any year before the year for which such adjustment first takes effect.".

(2) Section 415(b)(5)(D) of the 1986 Code (relating to application to changes in benefit structures) is amended by striking out "this paragraph" and inserting in lieu thereof "subparagraph (A)".

(3) Paragraph (2) of section 415(k) of the 1986 Code (relating to contributions to provide cost-of-living protection under defined benefit plans), as added by section 1106(c) of the Reform Act, is amended—

(A) by striking out "to the arrangement" in subparagraph (C)(ii) and inserting in lieu thereof "to such increase", and

(B) by striking out subparagraph (D) and inserting in lieu thereof:

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

"(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(ii) separates from service."

(4) Sections 401(a)(17) and 404(l) of the 1986 Code are each amended by adding at the end thereof the following new sentence: "In determining the compensation of an employee, the rules of section 414(q)(6) shall apply, except that in applying such rules, the term 'family' shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the year."

(5) Paragraph (4) of section 1106(i) of the Reform Act is amended by striking the period at the end thereof and inserting in lieu thereof "(determined as if the amendments made by this section were in effect for such year).".

(6) Section 415(b)(5)(B) of the 1986 Code is amended by inserting "and subsection (e)" after "paragraphs (1)(B) and (4)".

(7) Subparagraph (A) of section 415(c)(6) of the 1986 Code is amended—

(A) by striking out "paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))", and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "paragraph (c)(1)(A) (as so adjusted)" and inserting in lieu thereof "paragraph (1)(A)".

(8) Sections 414(q)(1)(D) and 416(i)(1)(A)(i) of the 1986 Code are each amended by striking out "150 percent of the amount in effect under section 415(c)(1)(A)" and inserting in lieu thereof "50 percent of the amount in effect under section 415(b)(1)(A)".

(e) AMENDMENTS RELATED TO SECTION 1107 OF THE REFORM ACT.—

(1) Section 457(c)(2) of the 1986 Code is amended by striking out "and paragraphs (2) and (3) of subsection (b)".

(2) Section 457(d)(1)(A) of the 1986 Code (relating to distribution requirements) is amended to read as follows:

"(A) under the plan amounts will not be made available to participants or beneficiaries earlier than—

"(i) the calendar year in which the participant attains age 70½,

"(ii) when the participant is separated from service with the employer, or

"(iii) when the participant is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary in regulations)."

(3) Paragraph (7) of section 401(k) of the 1986 Code (defining rural electric cooperative plan) is amended to read as follows:

"(7) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural electric cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural electric cooperative.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i), and

"(iii) an organization which is a national association of organizations described in clause (i) or (ii)."

(4) Section 414(o) of the 1986 Code is amended by inserting "or any requirement under section 457" after "(n)(3)".

(5)(A) Paragraph (6) of section 818(a) of the 1986 Code (defining pension plan contracts) is amended—

(i) by striking out "State" in subparagraph (A),

(ii) by inserting "or any organization (other than a governmental unit) exempt from tax under this subtitle," after "foregoing," in subparagraph (B),

(iii) by striking out "or" before "agency" in subparagraph (B), and

(iv) by inserting ", or organization" after "instrumentality" the second place it appears in subparagraph (B).

(B) The amendments made by this paragraph shall apply to contracts issued after December 31, 1986.

(6) Section 1107(c)(3) of the Reform Act is amended—

(A) by striking out "eligible" each place it appears, and

(B) by inserting at the end of subparagraph (B) the following new sentence: "This subparagraph shall only apply to individuals who were covered under the plan and agreement on August 16, 1986."

(7) Paragraph (5) of section 1107(c) of the Reform Act is amended—

(A) by striking out "to employees on August 1, 1986, of",

(B) by striking out "a deferred compensation plan" in subparagraph (A) and inserting in lieu thereof "to employees on August 16, 1986,",

(C) by inserting "maintaining a deferred compensation plan" after "Alabama" in subparagraph (A), and

(D) by striking out "a deferred compensation plan" in subparagraph (B) and inserting in lieu thereof "to individuals eligible to participate on August 16, 1986, in a deferred compensation plan".

(8) Section 3121(v)(3)(A) of the 1986 Code is amended by striking out "457(e)(1)" and inserting in lieu thereof "457(f)(1)".

(9) Effective for years beginning after December 31, 1988, paragraph (9) of section 457(e) of the 1986 Code is amended by inserting "after separation from service and" before "within 60 days".

(10) Subclause (I) of section 457(d)(2)(B)(i) of the 1986 Code is amended to read as follows:

"(I) the amounts payable with respect to the participant will be paid at times specified by the Secretary which are not later than the time determined under section 401(a)(9)(G) (relating to incidental death benefits),".

(f) AMENDMENTS RELATED TO SECTION 1108 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 408(k)(6) of the 1986 Code (relating to salary reduction arrangements under simplified employee pensions) is amended to read as follows:

"(A) ARRANGEMENTS WHICH QUALIFY.—

"(i) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash.

"(ii) 50 PERCENT OF ELIGIBLE EMPLOYEES MUST ELECT.—Clause (i) shall not apply to a simplified employee pension unless an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer eligible to participate.

"(iii) REQUIREMENTS RELATING TO DEFERRAL PERCENTAGE.—Clause (i) shall not apply to a simplified employee pension for any year unless the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product of—

"(I) the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate, multiplied by

"(II) 1.25."

(2) Section 408(k)(6)(B) of the 1986 Code (relating to exception where more than 25 employees) is amended by inserting "who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained)" after "25 employees".

(3)(A) Section 408(k)(6)(D)(ii) of the 1986 Code (defining deferral percentage) is amended by striking out "(within the meaning of section 414(s))" and inserting in lieu thereof "(not in excess of the first $200,000)".

(B) Subparagraph (B) of section 408(k)(7) of the 1986 Code (defining compensation) is amended to read as follows:

"(B) COMPENSATION.—Except as provided in paragraph (2)(C), the term 'compensation' has the meaning given such term by section 414(s)."

(C) Subparagraph (C) of section 408(k)(3) of the 1986 Code is amended by striking out "total" before "compensation".

(D) Section 408(k)(8) of the 1986 Code is amended by striking out "paragraph (3)(C)" and inserting in lieu thereof "paragraphs (3)(C) and (6)(D)(ii)".

(4) Section 408(k)(6) of the 1986 Code (relating to employee may elect salary reduction arrangement) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) EXCEPTION WHERE PENSION DOES NOT MEET REQUIREMENTS NECESSARY TO INSURE DISTRIBUTION OF EXCESS CONTRIBUTIONS.—This paragraph shall not apply with respect to any year for which the simplified employee pension does not meet such requirements as the Secretary may prescribe as are necessary to insure that excess contributions are distributed in accordance with subparagraph (C), including—

"(i) reporting requirements, and

"(ii) requirements which, notwithstanding paragraph (4), provide that contributions (and any income allocable thereto) may not be withdrawn from a simplified employee pension until a determination has been made that the requirements of subparagraph (A)(iii) have been met with respect to such contributions."

(5) Section 408(d) of the 1986 Code (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TRANSFER OR ROLLOVER OF CONTRIBUTIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.

"(B) CERTAIN EXCLUSIONS TREATED AS DEDUCTIONS.—For purposes of paragraphs (4) and (5) and section 4973, any amount excludable or excluded from gross income under section 402(h) shall be treated as an amount allowable or allowed as a deduction under section 219."

(6) Subparagraph (C) of section 404(h)(1) of the 1986 Code is amended by inserting "(or during the taxable year in the case of a taxable year described in subparagraph (A)(ii))" after "taxable year" the second place it appears.

(7) Section 1108(h) of the Reform Act is amended to read as follows:

"(h) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

(8) Section 209(e)(8) of the Social Security Act is amended to read as follows:

"(8) under a simplified employee pension (as defined in section 408(k)(1) of such Code), other than any contributions described in section 408(k)(6) of such Code,".

(9) Section 3401(a)(12)(C) of the 1986 Code is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 402(h) (1) and (2)", and

(B) by striking out "a deduction" and inserting in lieu thereof "an exclusion".

(10) Section 408(k)(8) of the 1986 Code is amended by inserting ", except that in the case of years beginning after 1988, the $200,000 amount (as so adjusted) shall not exceed the amount in effect under section 401(a)(17)" after "section 415(d)".

(g) AMENDMENTS RELATED TO SECTION 1111 OF THE REFORM ACT.—

(1)(A) Section 401(l)(2)(B) of the 1986 Code (defining contribution percentages) is amended by inserting "by the employer" after "contributed" each place it appears.

(B) Clause (ii) of section 401(l)(3)(A) of the 1986 Code is amended by inserting "attributable to employer contributions" after "benefits".

(2) Section 401(l)(5)(C) of the 1986 Code (defining average annual compensation) is amended to read as follows:

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the participant's highest average annual compensation for—

"(i) any period of at least 3 consecutive years, or

"(ii) if shorter, the participant's full period of service."

(3) Section 401(l)(5)(E) of the 1986 Code (defining covered compensation) is amended—

(A) by striking out "age 65" each place it appears" and inserting in lieu thereof "the social security retirement age", and

(B) by adding at the end thereof the following new clause:

"(iii) SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subparagraph, the term

'social security retirement age' has the meaning given such term by section 415(b)(8)."

(4) Section 1111(c)(3) of the Reform Act is amended by striking out "benefits pursuant to, and individuals covered by, any such agreement in".

(h) AMENDMENTS RELATED TO SECTION 1112 OF THE REFORM ACT.—

(1) Section 410(b)(4)(B) of the 1986 Code (relating to exclusion of employees not meeting age and service requirements) is amended—

(A) by striking out "do not meet" and inserting in lieu thereof "not meeting", and

(B) by striking out "and".

(2) Section 410(b)(6) of the 1986 Code (relating to definitions and special rules) is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—A plan maintained by an employer which has no employees other than highly compensated employees for any year shall be treated as meeting the requirements of this subsection for such year."

(3) Section 401(a)(26) of the 1986 Code (relating to additional participation requirements) is amended by redesignating subparagraph (F) as subparagraph (H) and by adding after subparagraph (E) the following new subparagraphs:

"(F) SPECIAL RULE FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—Rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this paragraph."

"(G) SEPARATE LINES OF BUSINESS.—At the election of the employer and with the consent of the Secretary, this paragraph may be applied separately with respect to each separate line of business of the employer. For purposes of this paragraph, the term 'separate line of business' has the meaning given such term by section 414(r) (without regard to paragraph (7) thereof)."

(4) Section 402(b)(2) of the 1986 Code (relating to failure to meet requirements of section 410(b)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1), include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraph (1) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan."

(5) Subsections (m)(4)(A) and (n)(3)(A) of section 414 of the 1986 Code are each amended by striking out "and (16)" and inserting in lieu thereof "(16), (17), and (26)".

(6) Clause (iii) of section 1112(e)(3)(A) of the Reform Act is amended by striking out "a plan or merger" and inserting in lieu thereof "the plan".

(7) Section 1112(e)(2) of the Reform Act is amended by striking out "employees covered by such agreement in".

(8) Subsection (e) of section 1112 of the Reform Act is amended by striking out paragraph (3)(C) and by adding at the end of such subsection the following new paragraph:

"(4) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) would apply, the amendment made by subsection (b) shall only apply to years after the 1st year in which the plan is able to terminate."

(9) Subparagraph (B) of section 1112(e)(3) of the Reform Act is amended to read as follows:

"(B) INTEREST RATE FOR DETERMINING ACCRUED BENEFIT OF HIGHLY COMPENSATED EMPLOYEES FOR CERTAIN PURPOSES.—In the case of a termination, transfer, or distribution of assets of a plan described in subparagraph (A)(ii) before the 1st year to which the amendment made by subsection (b) applies—

"(i) AMOUNT ELIGIBLE FOR ROLLOVER, INCOME AVERAGING, OR TAX-FREE TRANSFER.—For purposes of determining any eligible amount, the present value of the accrued benefit of any highly compensated employee shall be determined by using an interest rate not less than the highest of—

"(I) the applicable rate under the plan's method in effect under the plan on August 16, 1986,

"(II) the highest rate (as of the date of the termination, transfer, or distribution) determined under any of the methods applicable under the plan at any time after August 15, 1986, and before the termination, transfer, or distribution in calculating the present value of the accrued benefit of an employee who is not a highly compensated employee under the plan (or any other plan used in determining whether the plan meets the requirements of section 401 of the Internal Revenue Code of 1986), or

"(III) 5 percent.

"(ii) ELIGIBLE AMOUNT.—For purposes of clause (i), the term 'eligible amount' means any amount with respect to a highly compensated employee which—

"(I) may be rolled over under section 402(a)(5) of such Code,

"(II) is eligible for income averaging under section 402(e)(1) of such Code, or capital gains treatment under section 402(a)(2) or 403(a)(2) of such Code (as in effect before this Act), or

"(III) may be transferred to another plan without inclusion in gross income.

"(iii) AMOUNTS SUBJECT TO EARLY WITHDRAWAL OR EXCESS DISTRIBUTION TAX.—For purposes of sections 72(t) and 4980A of such Code, there shall not be taken into account the excess (if any) of—

"(I) the amount distributed to a highly compensated employee by reason of such termination or distribution, over

"(II) the amount determined by using the interest rate applicable under clause (i).

"(iv) DISTRIBUTIONS OF ANNUITY CONTRACTS.—If an annuity contract purchased after August 16, 1986, is distributed to a highly compensated employee in connection with such termination or distribution, there shall be included in gross income for the taxable year of such distribution an amount equal to the excess of—

"(I) the purchase price of such contract, over

"(II) the present value of the benefits payable under such contract determined by using the interest rate applicable under clause (i).

Such excess shall not be taken into account for purposes of sections 72(t) and 4980A of such Code.

"(v) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subparagraph, the term 'highly compensated employee' has the meaning given such term by section 414(q) of such Code."

(10) Section 413(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) PLANS COVERING A PROFESSIONAL EMPLOYEE.—Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting 'section 410(a)' for 'section 410', and paragraph (2) shall not apply."

(11) Section 410(b)(4) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) REQUIREMENTS NOT TREATED AS BEING MET BEFORE ENTRY DATE.—An employee shall not be treated as meeting the age and service requirements described in this paragraph until the first date on which, under the plan, any employee with the same age and service would be eligible to commence participation in the plan.

(i) AMENDMENTS RELATED TO SECTION 1114 OF THE REFORM ACT.—

(1) Paragraph (1) of section 414(q) of the 1986 Code (defining highly compensated employee) is amended by adding at the end thereof the following new flush sentence:

"The Secretary shall adjust the $75,000 and $50,000 amounts under this paragraph at the same time and in the same manner as under section 415(d)."

(2) Section 414(q)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) RULES TO APPLY TO OTHER PROVISIONS.—

"(i) IN GENERAL.—Except as provided in regulations and in clause (ii), the rules of subparagraph (A) shall be applied in determining the compensation of (or any contributions or benefits on behalf of) any employee for purposes of any section with respect to which a highly compensated employee is defined by reference to this subsection.

"(ii) EXCEPTION FOR DETERMINING INTEGRATION LEVELS.—Clause (i) shall not apply in determining the portion of the compensation of a participant which is under the integration level for purposes of section 401(l)."

(3)(A) Section 414(q)(8) of the 1986 Code (relating to excluded employees) is amended—

(i) by inserting "and" at the end of subparagraph (D), by striking ", and" at the end of subparagraph (E) and inserting in lieu thereof a period, and by striking out subparagraph (F), and

(ii) by striking out "The" in the last sentence thereof and inserting in lieu thereof "Except as provided by the Secretary, the".

(B) Section 414(q) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection and subsection (r), employees who are nonresi-

dent aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)) shall not be treated as employees."

(4)(A) Paragraph (8) of section 414(q) of the 1986 Code is amended by inserting "or the number of officers taken into account under paragraph (5)" after "paragraph (4)".

(B) Section 416(i)(1)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(8) shall be excluded."

(5) Subparagraph (B) of section 408(k)(3) of the 1986 Code is amended to read as follows:

"(B) SPECIAL RULES.—For purposes of subparagraph (A), there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3)."

(j) AMENDMENTS RELATED TO SECTION 1115 OF THE REFORM ACT.—

(1) So much of section 414(s) of the 1986 Code as precedes paragraph (2) is amended to read as follows:

"(s) COMPENSATION.—For purposes of any applicable provision—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s) of the 1986 Code is amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PROVISION.—For purposes of this subsection, the term 'applicable provision' means any provision which specifically refers to this subsection."

(3)(A) Section 416(i)(1) of the 1986 Code (defining key employee) is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 414(q)(7)."

(B) The amendment made by this paragraph shall apply to years beginning after December 31, 1988.

(k) AMENDMENTS RELATED TO SECTION 1116 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 401(k)(2) of the 1986 Code (relating to distributions from a cash or deferred arrangement) is amended—

(i) by striking out subclauses (II), (III), and (IV) of clause (i) and inserting in lieu thereof:

"(II) an event described in paragraph (10),", and

(ii) by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(B) Section 401(k) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTIONS UPON TERMINATION OF PLAN OR DISPOSITION OF ASSETS OR SUBSIDIARY.—

"(A) IN GENERAL.—The following events are described in this paragraph:

"(i) TERMINATION.—The termination of the plan without establishment or maintenance of another defined contribution plan.

"(ii) DISPOSITION OF ASSETS.—The disposition by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation, but only with respect to an employee who continues employment with the corporation acquiring such assets.

"(iii) DISPOSITION OF SUBSIDIARY.—The disposition by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)), but only with respect to an employee who continues employment with such subsidiary.

"(B) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(i) IN GENERAL.—An event shall not be treated as described in subparagraph (A) with respect to any employee unless the employee receives a lump sum distribution by reason of the event.

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

"(C) TRANSFEROR CORPORATION MUST MAINTAIN PLAN.—An event shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless the transferor corporation continues to maintain the plan after the disposition."

(C)(i) Subparagraph (A)(i) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after October 16, 1987.

(ii) Subparagraph (B) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after March 31, 1988.

(2) Subparagraph (B) of section 401(k)(2) of the 1986 Code is amended—

(A) by inserting "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" after "under which",

(B) by striking out "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" in clause (i), and

(C) by striking out "amounts" in clause (ii).

(3)(A) Clause (ii) of section 401(k)(3)(A) of the 1986 Code is amended by inserting "eligible" before "highly compensated employees" each place it appears.

(B) Section 1116(b)(4) of the Reform Act is amended by striking out "any" the first place it appears and inserting in lieu thereof "an".

(4) Subparagraph (C) of section 401(k)(3) of the 1986 Code, as added by section 1116(e) of the Reform Act, is redesignated as subparagraph (D).

(5) Subclause (I) of section 401(k)(3)(D)(ii) of the 1986 Code, as redesignated by paragraph (4), is amended by striking out "meets" and inserting in lieu thereof "meet".

(6) Section 401(k)(4)(A) of the 1986 Code is amended by striking out "provided by such employer".

(7) Section 401(k)(8) of the 1986 Code (relating to arrangement not disqualified if excess contributions distributed) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of paragraph (2)(C), a matching contribution (within the meaning of subsection (m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under subparagraph (B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(8) Subparagraph (B) of section 1116(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "If clause (i) or (ii) applies to any arrangement adopted by a governmental unit, then any cash or deferred arrangement adopted by such unit on or after the date referred to in the applicable clause shall be treated as adopted before such date."

(9) Section 401(k)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"This subparagraph shall not apply to a rural electric cooperative plan."

(10) Clause (i) of section 1116(f)(2)(B) of the Reform Act is amended by striking out "(or political subdivision thereof)" and inserting in lieu thereof "or political subdivision thereof, or any agency or instrumentality thereof,".

(l) AMENDMENTS RELATED TO SECTION 1117 OF THE REFORM ACT.—

(1) Paragraph (1) of section 401(m) of the 1986 Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by striking out "A plan" and inserting in lieu thereof "A defined contribution plan".

(2) Paragraph (3) of section 401(m) of the 1986 Code (relating to requirements) is amended by adding at the end thereof the following new sentence: "If matching contributions are taken into account for purposes of subsection (k)(3)(A)(ii) for any plan year, such contributions shall not be taken into account under subparagraph (A) for such year."

(3) The last sentence of section 401(m)(2)(B) of the 1986 Code is amended by striking out "such contributions" the first place it appears and inserting in lieu thereof "contributions to which this subsection applies".

(4) Section 401(m)(4)(A) of the 1986 Code (defining matching contribution) is amended by striking out "the plan" each place it appears and inserting in lieu thereof "a defined contribution plan".

(5)(A) Section 401(m)(4)(B) of the 1986 Code (defining elective deferral) is amended by striking out "section 402(g)(3)(A)" and inserting in lieu thereof "section 402(g)(3)".

(B) The amendment made by this paragraph shall take effect as if included in the amendments made by section 1120 of the Reform Act.

(6) Subparagraph (C) of section 401(m)(6) of the 1986 Code is amended by striking out "EXCESS" in the subparagraph heading and inserting in lieu thereof "EXCESS AGGREGATE".

(7) Section 401(m)(7)(A) of the 1986 Code (relating to additional tax of section 72(t) not applicable) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(8) Section 4979(a)(1) of the 1986 Code (relating to tax on certain excess contributions) is amended by striking out "a cash or deferred arrangement which is part of".

(9) Section 4979(c) of the 1986 Code (defining excess contributions) is amended—

(A) by striking out "403(b),", and

(B) by striking out "408(k)(8)(B)" and inserting in lieu thereof "408(k)(6)(C)".

(10) Section 4979(d) of the 1986 Code (defining excess aggregate contribution) is amended by adding at the end thereof the following new sentence: "For purposes of determining excess aggregate contributions under an annuity contract described in section 403(b), such contract shall be treated as a plan described in subsection (e)(1)."

(11) Paragraph (2) of section 4979(f) of the 1986 Code (relating to inclusion in prior year) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made.

"(B) DE MINIMIS DISTRIBUTIONS.—If the total excess contributions and excess aggregate contributions distributed to a recipient under a plan for any plan year are less than $100, such distributions (and any income allocable thereto) shall be treated as earned and received by the recipient in his taxable year in which such distributions were made."

(12) Subsection (d) of section 1117 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

"(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of the plan.

"(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

"(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986.

"(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan."

(m) AMENDMENTS RELATED TO SECTION 1120 OF THE REFORM ACT.—

(1)(A) Section 403(b)(10) of the 1986 Code (relating to nondiscrimination requirements), as added by section 1120(b) of the Reform Act, is redesignated as paragraph (12).

(B) Subparagraph (D) of section 403(b)(1) of the 1986 Code is amended by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (12)".

(2) Clause (i) of section 403(b)(12)(A), as redesignated by paragraph (1), is amended—

(A) by inserting "(17)," after "(5),", and

(B) by inserting ", section 401(m)," after "section 401(a)" the first place it appears.

(3) Section 1120(c) of the Reform Act is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

"(A) January 1, 1991, or

"(B) the later of—

"(i) January 1, 1989, or

"(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

SEC. 111A. AMENDMENTS RELATED TO PARTS III AND IV OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Subparagraph (F) of section 402(a)(5) of the 1986 Code (relating to transfer treated as rollover contribution under section 408) is amended by striking out "described in subparagraph (A)" and inserting in lieu thereof "resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(2)(A) Section 408(d)(3)(A) is amended by striking out the last sentence thereof.

(B) The amendment made by subparagraph (A) shall apply to rollover contributions made in taxable years beginning after December 31, 1986.

(3) Section 1121(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) PLANS MAY INCORPORATE SECTION 401(a)(9) REQUIREMENTS BY REFERENCE.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the requirements of section 401(a)(9) of the Internal Revenue Code of 1986."

(4) Section 1121(d)(3) of the Reform Act is amended by striking out "plan years" and inserting in lieu thereof "years".

(5) Section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 shall not apply to distributions after October 22, 1986, and before the 1st taxable year beginning after 1986 which are attributable to benefits which accrued before January 1, 1985.

(b) AMENDMENTS RELATED TO SECTION 1122 OF THE REFORM ACT.—

(1)(A) Section 72(f) of the 1986 Code (relating to special rules for computing employees' contributions) is amended by striking out "for purposes of subsections (d)(1) and (e)(7), the consideration for the contract contributed by the employee,".

(B) Section 72(n) of the 1986 Code (relating to annuities under retired serviceman's family protection plan or survivor benefit plan) is amended by striking out "Subsections (b) and (d)" and inserting in lieu thereof "Subsection (b)".

(C) Sections 406(e) and 407(e) of the 1986 Code are each amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 72 of the 1986 Code (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by adding after subsection (c) the following new subsection:

"(d) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS AS SEPARATE CONTRACTS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(B) Section 72(e) of the 1986 Code is amended by striking out paragraph (9).

(3) Section 414(k)(2) of the 1986 Code (relating to certain plans treated as defined contribution plans) is amended by inserting "72(d) (relating to treatment of employee contributions as separate contract)," before "411(a)(7)(A)".

(4)(A) The amendment made by section 1122(e)(1) of the Reform Act is repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such amendment had not been enacted.

(B) Subclause (I) of section 402(a)(5)(D)(i) of the 1986 Code is amended by inserting "is payable as provided in clause (i), (iii), or (iv) of subsection (e)(4)(A) (without regard to the second sentence thereof) and" after "such distribution" the first place it appears.

(C) Section 402(a)(5)(D)(i) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of subclauses (I) and (II)."

(D) Section 402(a)(5)(D)(iii) is amended by striking out "10-YEAR" in the heading.

(E) Section 402(a)(5)(D)(i)(II) of the 1986 Code (as in effect after the amendment made by subparagraph (A)) shall not apply to distributions after December 31, 1986, and before March 31, 1988.

(5) Clause (ii) of section 402(a)(6)(H) of the 1986 Code (relating to special rule for frozen deposits) is amended by adding at the end thereof the following new flush sentence:

"A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (5)(C) (without regard to this subparagraph) such deposit is described in the preceding sentence."

(6) Clause (i) of section 402(e)(4)(B) of the 1986 Code is amended by striking out "taxpayer" and inserting in lieu thereof "employee".

(7) The last sentence of section 402(e)(4)(J) of the 1986 Code (relating to unrealized appreciation on employer securities) is amended to read as follows: "In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a distribution is required to be included, not to have this subparagraph apply with respect to such distribution."

(8) Section 402 of the 1986 Code (relating to taxability of beneficiary of employees' trust) is amended as follows:

(A) Subsection (a)(1) is amended by striking out "paragraphs (2) and (4)" and inserting in lieu thereof "paragraph (4)".

(B) Subsection (a)(4) is amended by striking out "or (2)".

(C) Subsection (a)(6)(C) is amended by striking out "paragraph (2) of subsection (a), and".

(D) Subsection (a)(6)(E)(ii) is amended by striking out "paragraph (2) of subsection (a), and" and by striking out the comma after "subsection (e)".

(E) Subsection (e)(1)(A) is amended by striking out "ordinary income portion of a".

(F) Subsection (e)(4)(A) is amended—

(i) by striking out "Except for purposes of subsection (a)(2) and section 403(a)(2), a" and inserting in lieu thereof "A", and

(ii) by striking out "subsection (a)(2) of this section, and subsection (a)(2) of section 403,".

(G) Subparagraph (L) of subsection (e)(4) is hereby repealed.

(H) Subsection (e)(4)(M) is amended by striking out ", subsection (a)(2) of this section, and section 403(a)(2)".

(I) Subsection (e)(5) is amended by striking out "and paragraph (2) of subsection (a)".

(J) Subsection (e)(6)(C) is amended to read as follows:

"(C) SPECIAL LUMP-SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under this subsection by reason of an election under paragraph (4)(B)."

(9)(A) Section 72(e)(7) of the 1986 Code is hereby repealed.

(B) Section 72(e)(5)(D) is amended by striking out "paragraphs (7) and (8)" and inserting in lieu thereof "paragraph (8)".

(C) Section 72(e)(8)(A) is amended by striking out "(other than paragraph (7))".

(D) Section 72(q)(2)(E) of the 1986 Code is amended by striking out "(determined without regard to subsection (e)(7))".

(10) Section 402(e)(1)(B) of the 1986 Code (relating to amount of tax on lump-sum distributions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, in determining the amount of tax under section 1(c), section 1(g) shall be applied without regard to paragraph (2)(B) thereof."

(11) Section 1122(h) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR STATE PLANS.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(12) Subparagraph (B) of section 1122(h)(2) of the Reform Act is amended by inserting ", except that section 72(b)(3) of the Internal Revenue Code of 1986 (as added by such subsection) shall apply to individuals whose annuity starting date is after July 1, 1986" after "1986".

(13) Sections 1122 (h)(3)(C) and (h)(4)(C) of the Reform Act are each amended by striking out "with respect to any other lump sum distribution" and inserting in lieu thereof "for purposes of such Code".

(14) Clause (i) of section 1122(h)(3)(C) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee", and

(B) by inserting "or by an individual, estate, or trust with respect to such an employee" after "1986".

(15) Section 1122(h)(5) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee",

(B) by inserting "and by including in gross income the zero bracket amount in effect under section 63(d) of such Code for such years" after "1986" in the last sentence, and

(C) by adding at the end thereof the following new sentence: "This paragraph shall also apply to an individual, estate, or trust which receives a distribution with respect to an employee described in this paragraph."

(c) AMENDMENTS RELATED TO SECTION 1123 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(t)(2) of the 1986 Code (relating to subsection not to apply to certain distributions) is amended by striking out "on account of early retirement under the plan" in clause (v).

(2) Subparagraph (C) of section 72(t)(2) of the 1986 Code (relating to certain plans) is amended to read as follows:

"(C) EXCEPTIONS FOR DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Any distribution made before January 1, 1990, to an employee from an employee stock ownership plan (as defined in section 4975(e)(7)) or a tax credit employee stock ownership plan (as defined in section 409) if—

"(i) such distribution is attributable to assets which have been invested in employer securities (within the meaning of section 409(l)) at all times during the 5-plan-year period preceding the plan year in which the distribution is made, and

"(ii) at all times during such period the requirements of sections 401(a)(28) and 409 (as in effect at such times) are met with respect to such employer securities."

(3) Subparagraph (A) of section 72(t)(3) of the 1986 Code (relating to certain exceptions not to apply to individual retirement plans) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(4) Subparagraphs (D) and (G) of section 72(q)(2) of the 1986 Code are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(5) Subparagraph (B) of section 72(q)(3) of the 1986 Code (relating to change in substantially equal payments) is amended by striking out "employee" each place it appears and inserting in lieu thereof "taxpayer".

(6) Section 72(q)(2) of the 1986 Code (relating to subsection not to apply to certain dispositions) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) to which subsection (t) applies (without regard to paragraph (2) thereof),".

(7) Subparagraph (D) of section 72(q)(2) and clause (iv) of section 72(t)(2)(A) of the 1986 Code are each amended by inserting "designated" before "beneficiary".

(8) Paragraph (2) of section 72(o) of the 1986 Code (relating to additional tax if amount received before age 59½) is hereby repealed.

(9) Subparagraph (I) of section 402(e)(4) of the 1986 Code is amended by striking out "clause (ii) of".

(10) Section 26(b)(2) of the 1986 Code is amended—

(A) by striking out ", (o)(2)," in subparagraph (C), and

(B) by striking out "408(f) (relating to additional tax on income from certain retirement accounts)" in subparagraph (D) and inserting in lieu thereof "72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans)".

(11) Section 1123(e)(2) of the Reform Act is amended—

(A) by striking out "taxable", and

(B) by inserting ", but only with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1986 which are attributable to assets other than assets held as of the close of the last year beginning before January 1, 1989" after "1988".

(12) Section 1123(e) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR DISTRIBUTIONS UNDER AN ANNUITY CONTRACT.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall not apply to any distribution under an annuity contract if—

"(A) as of March 1, 1986, payments were being made under such contract pursuant to a written election providing a specific schedule for the distribution of the taxpayer's interest in such contract, and

"(B) such distribution is made pursuant to such written election."

(13) Section 72(t) of the 1986 Code shall apply to any distribution without regard to whether such distribution is made without the consent of the participant pursuant to section 411(a)(11) or section 417(e) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1124 OF THE REFORM ACT.—

(1) Section 1124(a) of the Reform Act is amended to read as follows:

"(a) IN GENERAL.—If an employee dies, separates from service, or becomes disabled before 1987 and an individual, trust, or estate receives a lump-sum distribution with respect to such employee after December 31, 1986, and before March 16, 1987, on account of such death, separation from service, or disability, then, for purposes of the Internal Revenue Code of 1986, such individual, estate, or trust may treat such distribution as if it were received in 1986."

(2) Section 1124(b) of the Reform Act is amended—

(A) by striking out "employee" each place it appears and inserting in lieu thereof "individual, estate, or trust", and

(B) by inserting "with respect to an employee" after "receives".

(3) Section 1124 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(c) LUMP SUM DISTRIBUTION.—For purposes of this section, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4)(A) of the Internal Revenue Code of 1986, without regard to subparagraph (B) or (H) of section 402(e)(4) of such Code."

(e) AMENDMENTS RELATED TO SECTION 1131 OF THE REFORM ACT.—

(1) Subsection (c) of section 4972 of the 1986 Code (defining nondeductible contributions) is amended to read as follows:

"(c) NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year by the employer to or under such plan, over

"(ii) the amount allowable as a deduction under section 404 for such contributions (determined without regard to subsection (e) thereof), and

"(B) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(i) the portion of the amount so determined returned to the employer during the taxable year, and

"(ii) the portion of the amount so determined deductible under section 404 for the taxable year (determined without regard to subsection (e) thereof).

"(2) ORDERING RULE FOR SECTION 404.—For purposes of paragraph (1), the amount allowable as a deduction under section 404 for any taxable year shall be treated as—

"(A) first from carryforwards to such taxable year from preceding taxable years (in order of time), and

"(B) then from contributions made during such taxable year.

"(3) CONTRIBUTIONS WHICH MAY BE RETURNED TO EMPLOYER.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account any contribution for such tax-

able year which is distributed to the employer in a distribution described in section 4980(c)(2)(B)(ii) if such distribution is made on or before the last day on which a contribution may be made for such taxable year under section 404(a)(6).

"(4) PRE-1987 CONTRIBUTIONS.—The term 'nondeductible contribution' shall not include any contribution made for a taxable year beginning before January 1, 1987."

(2) Paragraph (1) of section 4972(d) of the 1986 Code (defining qualified employer plan) is amended to read as follows:

"(1) QUALIFIED EMPLOYER PLAN.—

"(A) IN GENERAL.—The term 'qualified employer plan' means—

"(i) any plan meeting the requirements of section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), and

"(iii) any simplified employee pension (within the meaning of section 408(k)).

"(B) EXEMPTION FOR GOVERNMENTAL AND TAX EXEMPT PLANS.—The term 'qualified employer plan' does not include a plan described in subparagraph (A) or (B) of section 4980(c)(1)."

(3) Section 1131(d) of the Reform Act is amended to read as follows:

"(d) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

"(2) SPECIAL RULES FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to contributions pursuant to any such agreement for taxable years beginning before the earlier of—

"(A) January 1, 1989, or

"(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

(4)(A) Subparagraph (A) of section 404(a)(7) of the 1986 Code is amended—

(i) by striking out "provisions" and inserting in lieu thereof "paragraphs", and

(ii) by inserting "or in connection with trusts or plans described in 2 or more of such paragraphs" after "1 or more defined benefit plans".

(B) Paragraph (3) of section 404(h) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH SUBSECTION (a)(7).—For purposes of subsection (a)(7), a simplified employee pension shall be treated as if it were a separate stock bonus or profit-sharing trust."

(5) In the case of any taxable year beginning in 1987, the amount under section 4972(c)(1)(A)(ii) of the 1986 Code for a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies shall be increased by the amount (if any) by which, as of the close of the plan year with or within which such taxable year begins—

(A) the liabilities of such plan (determined as if the plan had terminated as of such time), exceed

(B) the assets of such plan.

(f) AMENDMENTS RELATED TO SECTION 1132 OF THE REFORM ACT.—

(1) Section 4980(c)(1)(A) of the 1986 Code (defining qualified plan) is amended by striking out "this subtitle" and inserting in lieu thereof "subtitle A".

(2) Section 4980(c)(3)(A) of the 1986 Code (relating to exception for employee stock ownership plans) is amended—

(A) by inserting "or a tax credit employee stock ownership plan (as described in section 409)" after "section 4975(e)(7)", and

(B) by inserting ", except to the extent necessary to meet the requirements of section 401(a)(28)," after "must".

(3) Subparagraph (C) of section 4980(c)(3) of the 1986 Code is amended—

(A) by striking out "(by reason of the limitations of section 415)", and

(B) by adding at the end thereof the following new sentence:

"The amount allocated in the year of transfer shall not be less than the lesser of the maximum amount allowable under section 415 or ⅛ of the amount attributable to the securities acquired."

(4) Subparagraph (B) of section 1132(c)(2) of the Reform Act is amended by striking out "November 19, 1978" and inserting in lieu thereof "September 19, 1978".

(5) Section 1132(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP PLANS.—Section 4980(c)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to reversions occurring after March 31, 1985."

(6) Section 4980(c)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(F) NO CREDIT OR DEDUCTION ALLOWED.—No credit or deduction shall be allowed under chapter 1 for any amount transferred to an employee stock ownership plan in a transfer to which this paragraph applies.

"(G) AMOUNT TRANSFERRED TO INCLUDE INCOME THEREON, ETC.—The amount transferred shall not be treated as meeting the requirements of subparagraphs (B) and (C) unless amounts attributable to such amount also meet such requirements."

(7) Section 4980(c)(3)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of dividends on securities held in the suspense account, the requirements of this subparagraph are met only if the dividends are allocated to accounts of participants or paid to participants in proportion to their accounts, or used to repay loans used to purchase employer securities."

(g) AMENDMENTS RELATED TO SECTION 1133 OF THE REFORM ACT.—

(1)(A) Section 4981A of the 1986 Code (as added by section 1133 of the Reform Act) is redesignated as section 4980A.

(B) The table of sections for chapter 43 of the 1986 Code is amended by redesignating section 4981A as section 4980A.

(2) Paragraph (1) of section 4980A(c) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking out "$112,500 (adjusted at the same time and in the same manner as under section 415(d))" and inserting in lieu thereof "the greater of—

"(A) $150,000, or

"(B) $112,500 (adjusted at the same time and in the same manner as under section 415(d))."

(3) Section 4980A(c)(2) of the 1986 Code (relating to exclusion of certain distributions), as redesignated by paragraph (1), is amended—

(A) by striking out "employee's" in subparagraph (C) and inserting in lieu thereof "individual's", and

(B) by adding after subparagraph (D) the following new subparagraphs:

"(E) Any retirement distribution with respect to an individual of an annuity contract the value of which is not includible in gross income at the time of the distribution (other than distributions under, or proceeds from the sale or exchange of, such contract).

"(F) Any retirement distribution with respect to an individual of—

"(i) excess deferrals (and income allocable thereto) under section 402(g)(2)(A)(ii), or

"(ii) excess contributions (and income allocable thereto) under section 401(k)(8) or 408(d)(4) or excess aggregate contributions (and income allocable thereto) under section 401(m)(6)."

(4)(A) Section 4980A of the 1986 Code, as redesignated by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION OF ACCRUED BENEFITS IN EXCESS OF $562,500 ON AUGUST 1, 1986.—For purposes of this section—

"(1) IN GENERAL.—If an election is made with respect to an eligible individual to have this subsection apply, the individual's excess distributions and excess retirement accumulation shall be computed without regard to any distributions or interests attributable to the accrued benefit of the individual as of August 1, 1986.

"(2) REDUCTION IN AMOUNTS WHICH MAY BE RECEIVED WITHOUT TAX.—If this subsection applies to any individual—

"(A) EXCESS DISTRIBUTIONS.—Subsection (c)(1) shall be applied—

"(i) without regard to subparagraph (A), and

"(ii) by reducing (but not below zero) the amount determined under subparagraph (B) thereof by retirement distributions attributable (as determined under rules prescribed by the Secretary) to the individual's accrued benefit as of August 1, 1986.

"(B) EXCESS RETIREMENT ACCUMULATION.—The amount determined under subsection (d)(3)(B) (without regard to subsection (c)(1)(A)) with respect to such individual shall be reduced (but not below zero) by the present value of the individual's accrued benefit as of August 1, 1986, which has not been distributed as of the date of death.

"(3) ELIGIBLE INDIVIDUAL.—For purposes of this subsection, the term 'eligible individual' means any individual if, on August 1, 1986, the present value of such individual's interests in qualified employer plans and individual retirement plans exceeded $562,500.

"(4) CERTAIN AMOUNTS EXCLUDED.—In determining an individual's accrued benefit for purposes of this subsection, there shall not be taken into account any portion of the accrued benefit—

"(A) payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, or

"(B) attributable to the individual's investment in the contract (as defined in section 72(f)).

"(5) ELECTION.—An election under paragraph (1) shall be made on an individual's return of tax imposed by chapter 1 or 11 for a taxable year beginning before January 1, 1989."

(B) Section 4980A(c) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out paragraph (5).

(5) Section 4980A(d) of the 1986 Code (relating to increase in estate tax if individual dies with excess accumulation), as redesignated by paragraph (1), is amended—

(A) by striking out "section 2010" in paragraph (2) and inserting in lieu thereof "chapter 11", and

(B) by adding at the end thereof the following new paragraphs:

"(4) RULES FOR COMPUTING EXCESS RETIREMENT ACCUMULATION.—The excess retirement

accumulation of an individual shall be computed without regard to—

"(A) any community property law,

"(B) the value of—

"(i) amounts payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, and

"(ii) the individual's investment in the contract (as defined in section 72(f)), and

"(C) the excess (if any) of—

"(i) any interests which are payable immediately after death, over

"(ii) the value of such interests immediately before death.

"(5) ELECTION BY SPOUSE TO HAVE EXCESS DISTRIBUTION RULE APPLY.—

"(A) IN GENERAL.—If the spouse of an individual is the beneficiary of all of the interests described in paragraph (3)(A), the spouse may elect—

"(i) not to have this subsection apply, and

"(ii) to have this section apply to such interests and any retirement distribution attributable to such interests as if such interests were the spouse's.

"(B) DE MINIMIS EXCEPTION.—If 1 or more persons other than the spouse are beneficiaries of a de minimis portion of the interests described in paragraph (3)(A)—

"(i) the spouse shall not be treated as failing to meet the requirements of subparagraph (A), and

"(ii) if the spouse makes the election under subparagraph (A), this section shall not apply to such portion or any retirement distribution attributable to such portion."

(6) Subparagraph (B) of section 4980A(d)(3) of the 1986 Code, as redesignated by paragraph (1), is amended to read as follows:

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of a single life annuity with annual payments equal to the limitation of subsection (c) (as in effect for the year in which death occurs and as if the individual had not died)."

(7) Section 2013 of the 1986 Code (relating to credit for tax on prior transfer) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF ADDITIONAL TAX UNDER SECTION 4980A.—For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to section 4980A(d)."

(8) Paragraph (1) of section 1133(c) of the Reform Act is amended by inserting ", other than a distribution with respect to a decedent dying before January 1, 1987" after "1986".

(9) Section 4980A(d)(3)(A) of the 1986 Code is amended by inserting "(other than as a beneficiary, determined after application of paragraph (5))" after "the individual's interests".

(10) Section 691(c)(1) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) EXCESS RETIREMENT ACCUMULATION TAX.—For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

(11) Section 2053(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of section 4980A(d)."

(12) Section 6018(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) RETURN REQUIRED IF EXCESS RETIREMENT ACCUMULATION TAX.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d)."

(h) AMENDMENTS RELATED TO SECTION 1134 OF THE REFORM ACT.—

(1) Section 72(p)(3)(A) of the 1986 Code (relating to denial of interest deductions in certain cases) is amended by inserting "to which paragraph (1) does not apply by reason of paragraph (2) during the period" after "loan".

(2) Subparagraph (B) of section 72(p)(3) of the 1986 Code is amended to read as follows:

"(B) PERIOD TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), the period described in this subparagraph is the period—

"(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

"(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3)."

(i) AMENDMENTS RELATED TO SECTION 1135 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(u)(1) of the 1986 Code (relating to annuity contracts not held by natural persons) is amended by inserting "(other than subchapter L)" after "subtitle".

(2) Subparagraph (D) of section 72(u)(3) of the 1986 Code (relating to exceptions) is amended by striking out "until such time as the employee separates from service" and inserting in lieu thereof "until all amounts under such contract are distributed to the employee for whom such contract was purchased or the employee's beneficiary".

(3) Subparagraphs (D) and (E) of section 72(u)(3) of the 1986 Code (relating to exceptions) are each amended by striking out "which".

(4) Paragraph (4) of section 72(u) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) which provides for a series of substantially equal periodic payments (to be made not less frequently than annually) during the annuity period."

(j) AMENDMENTS RELATED TO SECTION 1136 OF THE REFORM ACT.—

(1) Section 401(a)(27) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(B) PLAN MUST DESIGNATE TYPE.—In the case of a plan which is intended to be a money purchase pension plan or a profit-sharing plan, a trust forming part of such plan shall not constitute a qualified trust under this subsection unless the plan designates such intent at such time and in such manner as the Secretary may prescribe."

(2) Section 401(a)(27) of the 1986 Code is amended by striking out "(27)" and inserting in lieu thereof:

"(27) DETERMINATIONS AS TO PROFIT-SHARING PLANS.—

"(A) CONTRIBUTIONS NEED NOT BE BASED ON PROFITS.—".

(k) AMENDMENT RELATED TO SECTION 1139 OF THE REFORM ACT.—Clause (i) of section 1139(d)(2)(A) of the Reform Act is amended by striking out "before January" and inserting in lieu thereof "after January".

(l) AMENDMENT RELATED TO SECTION 1145 OF THE REFORM ACT.—Subparagraph (E) of section 401(a)(11) of the 1986 Code (relating to cross reference) is redesignated as subparagraph (F).

(m) AMENDMENTS RELATED TO SECTION 1147 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 7701(j)(1) of the 1986 Code (relating to tax treatment of Federal Thrift Savings Fund) is amended by inserting ", section 401(k)(4)(B)," after "paragraph (2)".

(2) Section 8440(a)(3) of title 5, United States Code, is amended by inserting ", 401(k)(4)(B) of such Code," after "subsection (b)".

SEC. 111B. AMENDMENTS RELATED TO SUBTITLES B AND C OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1151 OF THE REFORM ACT.—

(1) Paragraph (2) of section 89(a) of the 1986 Code (relating to year of inclusion) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends.

"(B) ELECTION TO DELAY INCLUSION FOR 1 YEAR.—If an employer maintaining a plan with a plan year ending after September 30 and on or before December 31 of a calendar year elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the taxable year with or within which the plan year following the plan year in which the excess benefits occurred ends."

(2) Paragraph (4) of section 89(b) of the 1986 Code (defining nontaxable benefits) is amended by adding at the end thereof the following new sentence: "Such term includes any group-term life insurance the cost of which is includible in gross income under section 79."

(3) Paragraph (1) of section 89(g) of the 1986 Code (relating to the aggregation of comparable health plans) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYEES COVERED BY MORE THAN 1 PLAN.—The Secretary may provide that 2 or more plans providing benefits to the same participant shall be treated as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2), and (f)."

(4) Subparagraph (B) of section 89(g)(2) of the 1986 Code (relating to sworn statements) is amended by adding at the end thereof the following new sentence: "No statement shall be required under clause (ii) with respect to any individual eligible for coverage at no cost under a health plan which provides core health benefits and with respect to whom the employee does not elect any core health coverage from the employer."

(5) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by striking out "under such plan" and inserting in lieu thereof "under such plans".

(6) Paragraph (6) of section 89(g) of the 1986 Code (relating to operating rules) is

amended by striking out "subsection (d)(1)(A)(ii) or of" and by striking out "ELIGIBILITY REQUIREMENTS AND" in the heading thereof.

(7) Subparagraph (A) of section 89(h)(1) of the 1986 Code (relating to excluded employees) is amended by inserting "(or 1st day of a period of less than 31 days specified by the plan)" after "month".

(8) Section 89(j) of the 1986 Code (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—The requirements of subsections (d) and (e) shall not apply to any statutory employee benefit plan for any year for which the only employees of the employer maintaining the plan are highly compensated employees."

(9) Section 89(k) of the 1986 Code (relating to requirement that plan be in writing) is amended by adding at the end thereof the following new paragraph:

"(5) LOSS OF EXEMPTION FOR CERTAIN PLANS.—If a plan described in paragraph (2)(E) fails to meet the requirements of paragraph (1), the organization which is part of such plan shall not be exempt from tax under section 501(a)."

(10) Section 6652(l)(2)(B) of the 1986 Code (relating to amount of additional tax) is amended by striking out "subsection (g)(3)" and inserting in lieu thereof "subsection (g)(3)(C)(i)".

(11)(A) Subsection (a) of section 125 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan."

(B) Paragraph (1) of section 125(b) of the 1986 Code is amended by striking out "A plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year".

(C) Paragraph (2) of section 125(b) of the 1986 Code is amended by striking out "a plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "subsection (a) shall not apply to any plan year".

(12) Subparagraph (B) of section 125(c)(1) of the 1986 Code (defining cafeteria plans) is amended to read as follows:

"(B) the participant may choose among 2 or more benefits consisting of cash and qualified benefits."

(13)(A) Paragraph (1) of section 125(e) of the 1986 Code (defining qualified benefits) is amended by inserting "and without regard to section 89(a)" after "subsection (a)".

(B) The last sentence of section 125(b)(2) of the 1986 Code is amended to read as follows: "For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income."

(14) Subsection (d) of section 129 of the 1986 Code is amended by redesignating paragraph (8) as paragraph (7).

(15) Paragraph (7) of section 129(d) of the 1986 Code (as so redesignated) is amended—

(A) by inserting "under all plans of the employer" after "employees" the 2nd and 3rd time it appears in subparagraph (A),

(B) by striking out "there shall be disregarded" in subparagraph (B) and inserting in lieu thereof "a plan may disregard", and

(C) by striking out "415(q)(7)" in subparagraph (B) and inserting in lieu thereof "414(q)(7)".

(16) Section 414(m)(4) of the 1986 Code is amended by inserting "and" at the end of subparagraph (A), by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraphs (C) and (D).

(17) Paragraph (2) of section 414(t) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(18) Paragraph (6) of section 129(e) of the 1986 Code is amended by striking out "of subsection (d)" and inserting in lieu thereof "of subsection (d) (other than paragraphs (4) and (7) thereof)".

(19) Subparagraph (C) of section 414(n)(3) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(20) Section 414(t)(1) of the 1986 Code (relating to application of controlled group rules to certain employees) is amended by striking out "of section 414" each place it appears.

(21) Section 89(j)(6) of the 1986 Code is amended by striking out "described in subparagraph (A), (B), or (C) of subsection (i)(2)".

(22)(A) Section 3121 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(x) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(B) Section 3231(e) of the 1986 Code (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(8) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any other paragraph of this subsection (other than paragraph (2)), the term 'compensation' shall include any amount which is includible in gross income by reason of section 89."

(C) Section 3306 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (b) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(D) Section 3401 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(E) The third to last sentence of section 209 of the Social Security Act is amended—

(i) by striking out the period at the end of clause (2) and inserting in lieu thereof ", or", and

(ii) by inserting after clause (2) the following new clause:

"(3) Any amount required to be included in gross income under section 89 of the Internal Revenue Code of 1986."

(F) The amendments made by this paragraph shall not apply to any individual who separated from service with the employer before January 1, 1989.

(23)(A) Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the 1986 Code are each amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

(B) Section 209(e)(9) of the Social Security Act is amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "1986)".

(24) Section 1151(h)(3) of the Reform Act is amended by striking out "Section 6039B(c)" and inserting in lieu thereof "Section 6039D(c)".

(25) Paragraph (1) of section 1151(k) of the Reform Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986."

(26) Section 1151(k) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act."

(27)(A) Section 4976 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON FUNDED WELFARE BENEFIT FUNDS WHICH INCLUDE DISCRIMINATORY EMPLOYEE BENEFIT PLAN.—

"(1) IN GENERAL.—If—

"(A) an employer maintains a welfare benefit fund, and

"(B) a discriminatory employee benefit plan (within the meaning of section 89) is part of such fund for any plan year,

there is hereby imposed on such employer for the taxable year with or within which the plan year ends a tax in the amount determined under paragraph (2).

"(2) AMOUNT OF TAX.—The amount of the tax under paragraph (1) shall be equal to the excess (if any) of—

"(A) the product of the highest rate of tax imposed by section 11, multiplied by the lesser of—

"(i) the aggregate excess benefits (as defined in section 89) for such plan year, or

"(ii) the taxable income of the fund for such plan year, over

"(B) the amount of tax imposed by chapter 1 on such fund for such plan year."

(B) Section 4976(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION IN CASE OF BENEFITS TO WHICH SECTION 89 APPLIES.—If section 89 applies to any post-retirement medical benefit or life insurance benefit provided by a fund, the amount of the disqualified benefit under paragraph (1)(B) with respect to such benefit shall not exceed the aggregate excess ben-

efits provided by the plan (as determined under section 89)."

(C) Section 505(a)(1) of the 1986 Code is amended by adding at the end thereof the following new subsection: "This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies."

(28) Section 89(g)(6)(B) of the 1986 Code is amended by striking out "and (C)" and inserting in lieu thereof ", (C), and (D)".

(29) Section 89(h)(4) of the 1986 Code is amended by striking out "subsection (h)(5)" and inserting in lieu thereof "subsection (g)(5)".

(30) Section 89(k)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentences:

"Such inclusion shall be coordinated (under regulations prescribed by the Secretary) with any inclusion under subsection (a) with respect to such plan. In the case of a statutory employee benefit plan described in subsection (i)(1)(B), any amount required to be included in gross income under this subsection shall be included in the gross income of the beneficiary."

(31) Section 129(d)(1)(B) of the 1986 Code is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(32)(A) Section 129(d) of the 1986 Code is amended—

(i) by striking out the last sentence of paragraph (3), and

(ii) by inserting at the end thereof the following new paragraph:

"(8) EXCLUDED EMPLOYEES.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees who are excluded from consideration under section 89(h)."

(B) Sections 117(d)(4), 120(c)(2), 127(b)(2), 132(h)(1), and 505(b)(2) of the 1986 Code are each amended—

(i) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(ii) by striking out "may be" the second place it appears and inserting in lieu thereof "are".

(33) Section 505(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) $200,000 COMPENSATION LIMIT.—A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(34) Section 3401(a) of the 1986 Code is amended by inserting "or" at the end of paragraph (18), by striking out paragraph (19), and by redesignating paragraph (20) as paragraph (19).

(35)(A) Section 89(g)(3)(B) of the 1986 Code shall not apply to years beginning before the date which is 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans. The Secretary may provide in such rules a date which is later than the date determined under the preceding sentence.

(B) In the case of years beginning after December 31, 1988, and before the 1st year to which the rules described in subparagraph (A) apply—

(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 162(k)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, such value under clause (i) may be determined under any other reasonable method selected by the employer maintaining the plan.

(b) AMENDMENTS RELATED TO SECTION 1161 OF THE REFORM ACT.—

(1) Section 162(m) of the 1986 Code (relating to special rules for health insurance costs of self-employed individuals) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2."

(2) Section 162(m) of the 1986 Code (relating to cross reference) as redesignated by section 1161(a) of the Reform Act, is redesignated as subsection (n).

(3) Section 162(m)(2)(A) of the 1986 Code is amended by inserting: "derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established" after "401(c))".

(4) Section 211(a) of the Social Security Act is amended by inserting after paragraph (13) the following new paragraph:

"(14) The deduction under section 162(m) (relating to health insurance costs of self-employed individuals) shall not be allowed."

(c) AMENDMENTS RELATED TO SECTION 1163 OF THE REFORM ACT.—

(1) Paragraph (8) of section 129(e) of the 1986 Code (relating to treatment of onsite facilities) is amended—

(A) by inserting "maintained by an employer" after "onsite facility",

(B) by inserting "of dependent care assistance provided to an employee" after "the amount",

(C) by inserting "of the facility by a dependent of the employee" after "utilization" in subparagraph (A), and

(D) by inserting "with respect to such dependent" after "provided" in subparagraph (B).

(2)(A) Paragraph (2) of section 129(a) of the 1986 Code is amended to read as follows:

"(2) LIMITATION OF EXCLUSION.—

"(A) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

"(B) YEAR OF INCLUSION.—The amount of any excess under subparagraph (A) shall be included in gross income in the taxable year in which the dependent care services were provided (even if payment of dependent care assistance for such services occurs in a subsequent taxable year).

"(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(B) Section 6051(a) of the 1986 Code is amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d)."

(C)(i) Except as provided in this subparagraph, the amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987.

(ii) A taxpayer may elect to have the amendment made by subparagraph (A) apply to taxable years beginning in 1987.

(iii) In the case of a taxpayer not making an election under clause (ii), any dependent care assistance provided in a taxable year beginning in 1987 with respect to which reimbursement was not received in such taxable year shall be treated as provided in the taxpayer's first taxable year beginning after December 31, 1987.

(d) AMENDMENT RELATED TO SECTION 1164 OF THE REFORM ACT.—Section 119(d)(2) of the 1986 Code is amended—

(1) by striking out "(as of the close of the calendar year in which the taxable year begins)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following:

"The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins."

(e) AMENDMENTS RELATED TO SECTION 1166 OF THE REFORM ACT.—Section 7701(a)(20) of the 1986 Code (defining employee) is amended—

(1) by striking out "106, and 125" and inserting in lieu thereof "and 106", and

(2) by inserting "and for purposes of applying section 125 with respect to cafeteria plans," before "the term".

(f) AMENDMENTS RELATED TO SECTION 1168 OF THE REFORM ACT.—

(1) Paragraph (1) of section 134(b) of the 1986 Code is amended by striking out "or regulation thereunder" and inserting in lieu thereof ", regulation, or administrative practice".

(2)(A) Section 134(b)(1) of the 1986 Code is amended by inserting "(other than personal use of a vehicle)" after "in-kind benefit".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1986.

(3) Section 134(b)(3)(A) of the 1986 Code is amended by striking out "under any provision of law or regulation described in paragraph (1)".

(4) Section 1168(c) of the Reform Act is amended by striking out "1986" and inserting in lieu thereof "1984".

(g) AMENDMENTS RELATED TO SECTION 1172 OF THE REFORM ACT.—

(1) Section 1172(b)(1)(A) of the Reform Act is amended by inserting "each place it appears" before the comma.

(2) Paragraphs (2) and (3) of section 409(n) of the 1986 Code (relating to securities received in certain transactions) is amended by inserting "or section 2057" after "section 1042" each place it appears.

(3) Paragraph (1) of section 2057(b) of the 1986 Code (relating to qualified sale) is amended by striking out "is".

(h) AMENDMENTS RELATED TO SECTION 1173 OF THE REFORM ACT.—

(1) Section 133 of the 1986 Code (relating to exclusion of interest on securities acquisition loans) is amended by adding at the end thereof the following new subsection:

"(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES.—

"(1) IN GENERAL.—In the case of—

"(A) an original securities acquisition loan, and

"(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

"(2) EXCLUDABLE PERIOD.—For purposes of this subsection, the term 'excludable period' means, with respect to any original securities acquisition loan—

"(A) IN GENERAL.—The 7-year period beginning on the date of such loan.

"(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A).—If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

"(3) ORIGINAL SECURITIES ACQUISITION LOAN.—For the purposes of this subsection, the term 'original securities acquisition loan' means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1)."

(2)(A) Section 133(b) of the 1986 Code (defining securities acquisition loan) is amended—

(i) by striking out "or are used to refinance such a loan," in paragraph (1)(A),

(ii) by striking out ", except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years" in paragraph (1)(B), and

(iii) by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF REFINANCINGS.—The term 'securities acquisition loan' shall include any loan which—

"(A) is (or is part of a series of loans) used to refinance a loan described in subparagraph (A) or (B) of paragraph (1), and

"(B) meets the requirements of paragraphs (2) and (3)."

(B) Subparagraph (B) of section 133(b)(3) of the 1986 Code is amended to read as follows:

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan, but only if allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q))."

(3) Section 404(k) of the 1986 Code is amended—

(A) by inserting "(whether or not allocated to participants)" after "employer securities" in paragraph (2)(C), and

(B) by adding at the end thereof the following new sentence: "Paragraph (2)(C) shall not apply to dividends from employer securities which are allocated to any participant unless the plan provides that employer securities with a fair market value not less than the amount of such dividends are allocated to such participant for the year which (but for paragraph (2)(C)) such dividends would have been allocated to such participant."

(4) Subparagraph (C) of section 852(b)(5) of the 1986 Code (relating to interest on certain loans used to acquire employer securities) is amended by striking out "paragraph" and inserting in lieu thereof "section".

(5)(A) The amendments made by paragraphs (1) and (2) shall apply to—

(i) any loan used to acquire employer securities after July 18, 1984, and

(ii) loans made after July 18, 1984, which were used (or were part of a series of loans used) to refinance any loan which—

(I) was used to acquire employer securities after May 23, 1984 (July 18, 1984, in the case of a loan described in section 133(b)(3)(B) of the Internal Revenue Code of 1986), and

(II) met the requirements of section 133 of such Code as in effect as of the later of the date on which the loan was made, or July 19, 1984.

In no event shall such amendments apply to any loan described in section 133(b)(1)(B) of such Code which is made before October 22, 1986 (or loan used, or part of a series of loans used, to refinance such a loan).

(B) Subparagraph (B) of section 1173(c)(2) of the Reform Act is amended to read as follows:

"(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used (or part of a series of loans used) to refinance a loan which—

"(i) was used to acquire employer securities after May 23, 1984, and

"(ii) met the requirements of section 133 of the Internal Revenue Code of 1986 as in effect as of the later of—

"(I) the date on which the loan was made, or

"(II) July 19, 1984."

(6) Section 404(k) of the 1986 Code is amended by striking out "merely by reason of any distribution" in the third sentence and inserting in lieu thereof "or as engaging in a prohibited transaction for purposes of section 4975(d)(3) merely by reason of any distribution or payment".

(i) AMENDMENTS RELATED TO SECTION 1174 OF THE REFORM ACT.—

(1) Clause (ii) of section 409(o)(1)(A) of the 1986 Code (relating to distribution requirement) is amended by striking out "such year" and inserting in lieu thereof "distribution is required to begin under this clause".

(2) Section 1174(a)(2) of the Reform Act is amended by striking out "plan terminations" and inserting in lieu thereof "distributions".

(3) Section 409(o)(1)(A) of the 1986 Code is amended by striking out "unless the participant otherwise elects" and inserting in lieu thereof "if the participant and, if applicable pursuant to sections 401 (a)(11) and 417, with the consent of the participant's spouse elects".

(j) AMENDMENTS RELATED TO SECTION 1175 OF THE REFORM ACT.—

(1) Subclause (II) of section 401(a)(28)(B) of the 1986 Code (relating to method of meeting requirements) is amended by inserting "and within 90 days after the period during which the election may be made, the plan invests the portion of the participant's account covered by the election in accordance with such election" after "clause (i)".

(2) Clause (iv) of section 401(a)(28)(B) of the 1986 Code is amended to read as follows:

"(iv) QUALIFIED ELECTION PERIOD.—For purposes of this subparagraph, the term 'qualified election period' means the 6-plan-year period beginning with the later of—

"(I) the 1st plan year in which the individual first became a qualified participant, or

"(II) the 1st plan year beginning after December 31, 1986."

(3) The last sentence of section 409(d) of the 1986 Code (relating to employer securities must stay in the plan) is amended by inserting "or to any distribution or reinvestment required under section 401(a)(28)" after "section 401(a)(9)".

(4) Section 4978(d) of the 1986 Code (relating to section not to apply to certain dispositions) is amended by adding at the end thereof the following new paragraph:

"(4) DISPOSITIONS TO MEET DIVERSIFICATION REQUIREMENTS.—This section shall not apply to any disposition of qualified securities which is required under section 401(a)(28)."

(5) Section 409(h) of the 1986 Code (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraph:

"(7) EXCEPTION WHERE EMPLOYEE ELECTED DIVERSIFICATION.—Paragraph (1)(A) shall not apply with respect to the portion of the participant's account which the employee elected to have reinvested under section 401(a)(28)(B)."

(6) Section 401(a)(28)(B) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether—

"(I) a subsequent distribution is a lump-sum distribution under section 402(e)(4)(A), or

"(II) section 402(a)(5)(D)(iii) applies to a subsequent distribution."

(k) AMENDMENTS RELATED TO SECTION 1176 OF THE REFORM ACT.—

(1) Section 401(a)(22) of the 1986 Code is amended by striking out "is not publicly traded" each place it appears and inserting in lieu thereof "is not readily tradable on an established market".

(2) Section 401(a)(22) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, subsections (b), (c), (m), and (o) of section 414 shall not apply except for determining whether stock of the employer is not readily tradable on an established market."

(3) Section 409(l)(4) of the 1986 Code (relating to nonvoting common stock may be acquired in certain cases), as added by section 1176(b) of the Reform Act, is redesignated as paragraph (5).

(l) AMENDMENTS RELATED TO SECTION 1177 OF THE REFORM ACT.—

(1) Paragraph (2) of section 1177(b) of the Reform Act is amended by striking out "section 143(d)(3)(C)" and inserting in lieu thereof "section 146(d)(3)(C)".

(2) Subsection (b) of section 1177 of the Reform Act is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by section 1175".

(3) If any newspaper corporation described in section 1177(b) of the Reform Act, as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical corrections, then such dividend (to the extent the aggregate amount so paid does not exceed $3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986.

SEC. 112. AMENDMENTS RELATED TO TITLE XII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 904(d)(2) of the 1986 Code is amended to read as follows:

"(C) FINANCIAL SERVICES INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'financial services income' means any income which is received or accrued by any person predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, and which is—

"(I) described in clause (ii),

"(II) passive income (determined without regard to subclause (I) of subparagraph (A)(iii)), or

"(III) export financing interest which (but for subparagraph (B)(ii)) would be high withholding tax interest.

"(ii) GENERAL DESCRIPTION OF FINANCIAL SERVICES INCOME.—Income is described in this clause if such income is—

"(I) derived in the active conduct of a banking, financing, or similar business,

"(II) derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(III) of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(iii) EXCEPTIONS.—The term 'financial services income' does not include—

"(I) any high withholding tax interest,

"(II) any dividend from a noncontrolled section 902 corporation, and

"(III) any export financing interest not described in clause (i)(III)."

(B) Clause (i) of section 864(d)(5)(A) of the 1986 Code is amended by striking out "(C)(iii)" and inserting in lieu thereof "(C)(iii)(III)".

(2) Subparagraph (D) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term does not include any dividend from a noncontrolled section 902 corporation and does not include any financial services income."

(3) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(H) EXCEPTION FOR CERTAIN HIGH WITHHOLDING TAX INTEREST.—This paragraph shall not apply to any amount which—

"(i) without regard to this paragraph, is high withholding tax interest (including any amount treated as high withholding tax interest under paragraph (2)(B)(iii)), and

"(ii) would (but for this subparagraph) be treated as financial services income under this paragraph.

The amount to which this paragraph does not apply by reason of the preceding sentence shall not exceed the interest or equivalent income of the controlled foreign corporation taken into account in determining financial services income without regard to this subparagraph."

(4) Subparagraph (E) of section 904(d)(3) of the 1986 Code is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following: "If a controlled foreign corporation meets the requirements of section 954(b)(3)(A) (relating to de minimis rule) for any taxable year, for purposes of this paragraph, none of its foreign base company income (as defined in section 954(a) without regard to section 954(b)(5)) and none of its gross insurance income (as defined in section 954(b)(3)(C)) for such taxable year shall be treated as income in a separate category, except that this sentence shall not apply to any income which (without regard to this sentence) would be treated as financial services income.", and

(B) by striking out "income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation)" and inserting in lieu thereof "passive income".

(5) Paragraph (2) of section 1201(e) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF AFFILIATED GROUP FILING CONSOLIDATED RETURN.—For purposes of this paragraph, all members of an affiliated group of corporations filing a consolidated return shall be treated as 1 corporation."

(6) Subparagraph (A) of section 904(d)(2) of the 1986 Code is amended—

(A) by striking out "The term" in clause (ii) and inserting in lieu thereof "Except as provided in clause (iii), the term", and

(B) by adding at the end thereof the following new clause:

"(iv) CLARIFICATION OF APPLICATION OF SECTION 864(d)(6).—In determining whether any income is of a kind which would be foreign personal holding company income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation."

(7) Subparagraph (F) of section 904(d)(3) of the 1986 Code is amended to read as follows:

"(F) SEPARATE CATEGORY.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(ii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—

"(I) In determining whether any income of a controlled foreign corporation is in a separate category, subclause (III) of paragraph (2)(A)(iii) shall not apply.

"(II) Any income of the taxpayer which is treated as income in a separate category under this paragraph shall be so treated notwithstanding any provision of paragraph (2); except that the determination of whether any amount is high-taxed income shall be made after the application of this paragraph."

(8) Clause (iii) of section 904(d)(2)(B) of the 1986 Code is amended to read as follows:

"(iii) REGULATIONS.—The Secretary may by regulations provide that—

"(I) amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax interest where necessary to prevent avoidance of the purposes of this subparagraph, and

"(II) a tax shall not be treated as a withholding tax or other tax imposed on a gross basis if such tax is in the nature of a prepayment of a tax imposed on a net basis."

(9) Clause (ii) of section 904(d)(2)(I) of the 1986 Code is amended by striking out "except to the extent that" and all that follows down through "and" at the end thereof and inserting in lieu thereof the following:

"except that—

"(I) such taxes shall be treated as paid or accrued with respect to shipping income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income,

"(II) in the case of a person described in subparagraph (C)(i), such taxes shall be treated as paid or accrued with respect to financial services income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and

"(III) such taxes shall be treated as paid or accrued with respect to high withholding tax interest to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and".

(10) Clause (i) of section 904(d)(2)(E) of the 1986 Code is amended by striking out "during which it was a controlled foreign corporation" and inserting in lieu thereof "during which it was a controlled foreign corporation and the taxpayer was a United States shareholder in such corporation".

(11) Subparagraph (E) of section 904(d)(1) of the 1986 Code is amended by striking out "dividends" and inserting in lieu thereof "in the case of a corporation, dividends".

(b) AMENDMENT RELATED TO SECTION 1202 OF THE REFORM ACT.—

(1) Paragraph (7) of section 902(c) of the 1986 Code is amended—

(A) by striking out "secton 960" and inserting in lieu thereof "section 960", and

(B) by striking out "this section" the second place it appears and inserting in lieu thereof "this section and section 960".

(2) Paragraph (1) of section 902(c) of the 1986 Code is amended by striking out "sections 964 and 986" and inserting in lieu thereof "sections 964(a) and 986".

(3) For purposes of sections 902 and 960 of the 1986 Code, the increase in earnings and profits of any foreign corporation under section 1023(e)(3)(C) of the Reform Act shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986.

(4) Paragraph (3) of section 404A(d) of the 1986 Code is amended by striking out "the amount determined" and inserting in lieu thereof "except as provided in regulations, the amount determined".

(c) AMENDMENT RELATED TO SECTION 1203 OF THE REFORM ACT.—Paragraph (5) of section 904(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) DISPOSITIONS.—If any separate limitation loss for any taxable year is allocated against any separate limitation income for such taxable year, except to the extent provided in regulations, rules similar to the rules of paragraph (3) shall apply to any disposition of property if gain from such disposition would be in the income category with respect to which there was such separate limitation loss."

(d) AMENDMENTS RELATED TO SECTION 1211 OF THE REFORM ACT.—

(1) Subsection (d) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (c).—

"(A) GAIN NOT IN EXCESS OF DEPRECIATION ADJUSTMENTS SOURCED UNDER SUBSECTION (c).—Notwithstanding paragraph (1), any gain from the sale of an intangible shall be sourced under subsection (c) to the extent such gain does not exceed the depreciation adjustments with respect to such intangible.

"(B) SUBSECTION (c)(2) NOT TO APPLY TO INTANGIBLES.—Paragraph (2) of subsection (c) shall not apply to any gain from the sale of an intangible."

(2) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "(d), or (f)" and inserting in lieu thereof "(d)(1)(B) or (3), or (f)".

(3)(A) Clause (ii) of section 865(g)(1)(A) of the 1986 Code is amended by striking out "partnership,".

(B) Subsection (h) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF PARTNERSHIPS.—In the case of a partnership, except as provided in regulations, this section shall be applied at the partner level."

(4) Subsection (f) of section 865 of the 1986 Code is amended to read as follows:

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such sale occurs in a foreign country in which such affiliate is engaged in the active conduct of a trade or business, and

"(3) more than 50 percent of the gross income of such affiliate for the 3-year period ending with the close of such affiliate's taxable year immediately preceding the year in which the sale occurred was derived from the active conduct of a trade or business in such foreign country,

any gain from such sale shall be sourced outside the United States. For purposes of paragraphs (2) and (3), the United States resident may elect to treat an affiliate and all other corporations which are wholly owned (directly or indirectly) by the affiliate as one corporation."

(5) Effective with respect to taxable years beginning after December 31, 1987, subparagraph (B) of section 865(e)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale."

(6)(A) Subsection (g) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN STOCK SALES BY RESIDENTS OF PUERTO RICO.—Paragraph (2) shall not apply to the sale by an individual who was a bona fide resident of Puerto Rico during the entire taxable year of stock in a corporation if—

"(A) such corporation is engaged in the active conduct of a trade or business in Puerto Rico, and

"(B) more than 50 percent of its gross income for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year in which such sale occurred was derived from the active conduct of a trade or business in Puerto Rico.

For purposes of the preceding sentence, the taxpayer may elect to treat a corporation and all other corporations which are wholly owned (directly or indirectly) by such corporation as one corporation."

(B) Subsection (i) of section 865 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) providing that, subject to such conditions (which may include provisions comparable to section 877) as may be provided in such regulations, subsections (e)(1)(B) and (g)(2) shall not apply for purposes of sections 931, 933, and 936."

(7) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale."

(8) Section 865 of the 1986 Code is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GAIN FROM SALE OF CERTAIN STOCK OR INTANGIBLES.—If—

"(1) gain from the sale of stock in a foreign corporation or an intangible (as defined in subsection (d)(2)) would be sourced in the United States under this section,

"(2) under a treaty obligation of the United States (applied without regard to this section), such gain would be sourced outside the United States, and

"(3) the taxpayer chooses the benefits of this subsection with respect to such gain,

such gain shall be sourced outside the United States (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such gain)."

(9) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "outside the United States" the first place it appears and inserting in lieu thereof "in a foreign country".

(10) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended—

(A) by striking out "(including any gain or loss realized on the sale or exchange of such property)" in clause (i), and

(B) by striking out ", or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness" in clause (ii).

(11) Clause (i) of section 865(g)(1)(A) of the 1986 Code is amended to read as follows—

"(i) any individual who—

"(I) is a United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3)) in a foreign country, or

"(II) is a nonresident alien and has a tax home (as so defined) in the United States, and".

(12) Paragraph (2) of section 865(d) of the 1986 Code is amended by inserting "franchise," after "trade brand,".

(e) AMENDMENTS RELATED TO SECTION 1212 OF THE REFORM ACT.—

(1)(A) Paragraph (3) of section 883(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES FOR PUBLICLY TRADED CORPORATIONS.—

"(A) EXCEPTION.—Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

"(B) TREATMENT OF STOCK OWNED BY PUBLICLY TRADED CORPORATION.—Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized."

(B) Paragraph (1) of section 883(c) of the 1986 Code is amended—

(i) by striking out "Paragraphs (1) and (2) of subsection (a)" and inserting in lieu thereof "Paragraph (1) or (2) of subsection (a) (as the case may be)", and

(ii) by striking out "such paragraphs (1) and (2)" and inserting in lieu thereof "such paragraph".

(2)(A) Paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "to citizens of the United States and".

(B) Paragraphs (1) and (2) of section 872(b) of the 1986 Code are each amended by striking out "to citizens of the United States and to corporations organized in the United States" and inserting in lieu thereof "to individual residents of the United States".

(3)(A) The section heading for section 863 of the 1986 Code is amended to read as follows:

"SEC. 863. SPECIAL RULES FOR DETERMINING SOURCE."

(B) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to section 863 and inserting in lieu thereof the following:

"Sec. 863. Special rules for determining source."

(4) Subsection (c) of section 862 is hereby repealed.

(5) Paragraphs (1) and (2) of section 872(b) of the 1986 Code and paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "operation" and inserting in lieu thereof "international operation".

(6) Paragraph (1) of section 887(b) of the 1986 Code is amended—

(A) by striking out "under section 863(c)" and inserting in lieu thereof "under section 863(c)(2)", and

(B) by adding at the end thereof the following new sentence: "To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply."

(f) AMENDMENT RELATED TO SECTION 1213 OF THE REFORM ACT.—Paragraph (2) of section 863(e) of the 1986 Code is amended by striking out "foreign country" each place it appears and inserting in lieu thereof "foreign country (or possession of the United States)".

(g) AMENDMENTS RELATED TO SECTION 1214 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1214(d) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to payments made in a taxable year of the payor beginning after December 31, 1986."

(2) Subparagraph (B) of section 1214(d)(2) of the Reform Act is amended by striking out "section 904(d)(2)(G)" and inserting in lieu thereof "section 904(d)(2)(H)".

(3) Subparagraph (B) of section 861(c)(1) of the 1986 Code is amended—

(A) by striking out "subchapter)" in clause (i) and inserting in lieu thereof "subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation",

(B) by striking out "or chain of subsidiaries of such corporation" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'subsidiary' means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly)

stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears)."

(4) Paragraph (1) of section 2105(b) of the 1986 Code is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)".

(5) Paragraph (2) of section 864(c) of the 1986 Code is amended by striking out the last sentence.

(6) Paragraph (3) of section 907(c) of the 1986 Code is amended:

(A) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking out "and dividends described in subparagraph (B)".

(7) Subsection (a) of section 1442 of the 1986 Code is amended—

(A) by striking out "and the references in" and inserting in lieu thereof "the references in", and

(B) by inserting before the period at the end thereof the following: ", and the reference in section 1441(c)(10) to section 871(i)(2) shall be treated as referring to section 881(d)".

(h) AMENDMENTS RELATED TO SECTION 1215 OF THE REFORM ACT.—

(1) Paragraph (4) of section 864(e) of the 1986 Code is amended to read as follows:

"(4) BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—

"(A) IN GENERAL.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any stock in a nonaffiliated 10-percent owned corporation shall be—

"(i) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(ii) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(B) NONAFFILIATED 10-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term 'nonaffiliated 10-percent owned corporation' means any corporation if—

"(i) such corporation is not included in the taxpayer's affiliated group, and

"(ii) members of such affiliated group own 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(C) EARNINGS AND PROFITS OF LOWER TIER CORPORATIONS TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—If, by reason of holding stock in a nonaffiliated 10-percent owned corporation, the taxpayer is treated under clause (iii) as owning stock in another corporation with respect to which the stock ownership requirements of clause (ii) are met, the adjustment under subparagraph (A) shall include an adjustment for the amount of the earnings and profits (or deficit therein) of such other corporation which are attributable to the stock the taxpayer is so treated as owning and to the period during which the taxpayer is treated as owning such stock.

"(ii) STOCK OWNERSHIP REQUIREMENTS.—The stock ownership requirements of this clause are met with respect to any corporation if members of the taxpayer's affiliated group own (directly or through the application of clause (iii)) 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(iii) STOCK OWNED THROUGH ENTITIES.—For purposes of this subparagraph, stock owned (directly or indirectly) by a corporation, partnership, or trust shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence, shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(D) COORDINATION WITH SUBPART F, ETC.—For purposes of this paragraph, proper adjustment shall be made to the earnings and profits of any corporation to take into account any earnings and profits included in gross income under section 951 or under any other provision of this title and reflected in the adjusted basis of the stock."

(2)(A) Paragraph (1) of section 864(e) of the 1986 Code is amended by striking out "from sources outside the United States".

(B) Subsection (h) of section 936 of the 1986 Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SECTION 864(E)(1) NOT TO APPLY.—This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted."

(C) The heading for part I of subchapter N of chapter 1 of the 1986 Code is amended to read as follows:

"PART I—SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME".

(D) The table of parts for subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Source rules and other general rules relating to foreign income."

(3) Paragraph (3) of section 864(e) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "A similar rule shall apply in the case of the portion of any dividend (other than a qualifying dividend as defined in section 243(b)) equal to the deduction allowable under section 243 or 245(a) with respect to such dividend and in the case of a like portion of any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined)."

(4)(A) Paragraph (5) of section 864(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF BANK HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), and

"(ii) any subsidiary of a financial institution described in section 581 or 591 or of any bank holding company if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (C)."

(B) Subparagraph (B) of section 864(e)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of paragraph (6)."

(5) Paragraph (6) of section 864(e) of the 1986 Code is amended by striking out "directly allocable and apportioned" and inserting in lieu thereof "directly allocable or apportioned".

(6)(A) Paragraph (7) of section 864(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) for direct allocation of interest expense in the case of indebtedness resulting in a disallowance under section 246A,

"(E) for appropriate adjustments in the application of paragraph (3) in the case of an insurance company, and

"(F) that this subsection shall not apply for purposes of any provision of this subchapter to the extent the Secretary determines that the application of this subsection for such purposes would not be appropriate."

(B) Subsection (e) of section 864 of the 1986 Code is amended by striking out "(except as provided in regulations)" in the material preceding paragraph (1).

(7) Paragraph (2) of section 1215(c) of the Reform Act is amended to read as follows:

"(2) TRANSITIONAL RULES.—

"(A) GENERAL PHASE-IN.—

"(i) IN GENERAL.—In the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the general phase-in amount.

"(ii) GENERAL PHASE-IN AMOUNT.—Except as provided in clause (iii), the general phase-in amount for purposes of clause (i) is the applicable percentage (determined under the following table) of the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985:

"In the case of the:	The applicable percentage is:
1st taxable year..........	75
2nd taxable year........	50
3rd taxable year.........	25.

"(iii) LOWER LIMIT WHERE TAXPAYER REDUCES INDEBTEDNESS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the general phase-in amount shall in no event exceed the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985. To the extent provided in regulations, the average amount of indebtedness outstanding during any month shall be used (in lieu of the amount outstanding as of the close of such month) for purposes of the preceding sentence.

"(B) CONSOLIDATION RULE NOT TO APPLY TO CERTAIN INTEREST.—

"(i) IN GENERAL.—In the case of the 1st 5 taxable years of the taxpayer beginning after December 31, 1986—

"(I) subparagraph (A) shall not apply for purposes of paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section), but

"(II) such paragraph (1) shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the special phase-in amount.

"(ii) SPECIAL PHASE-IN AMOUNT.—The special phase-in amount for purposes of clause (i) is the sum of—

"(I) the general phase-in amount as determined for purposes of subparagraph (A),

"(II) the 5-year phase-in amount, and

"(III) the 4-year phase-in amount.

For purposes of applying this subparagraph to interest expense attributable to any month, the special phase-in amount shall in no event exceed the limitation determined under subparagraph (A)(iii).

"(iii) 5-YEAR PHASE-IN AMOUNT.—The 5-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount reduced by paydowns:

"In the case of the:	*The applicable percentage for purposes of subclause (I) is:*	*The applicable percentage for purposes of subclause (II) is:*
1st taxable year	*8⅓*	*10*
2nd taxable year	*16⅔*	*25*
3rd taxable year	*25*	*50*
4th taxable year	*33⅓*	*100*
5th taxable year	*16⅔*	*100.*

"(iv) 4-YEAR PHASE-IN AMOUNT.—The 4-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount reduced by paydowns to the extent such paydowns exceed the 5-year debt amount:

"In the case of the:	*The applicable percentage for purposes of subclause (I) is:*	*The applicable percentage for purposes of subclause (II) is:*
1st taxable year	*5*	*6¼*
2nd taxable year	*10*	*16⅔*
3rd taxable year	*15*	*37½*
4th taxable year	*20*	*100*
5th taxable year	*0*	*0.*

"(v) 5-YEAR DEBT AMOUNT.—The term '5-year debt amount' means the excess (if any) of—

"(I) the amount of the outstanding indebtedness of the taxpayer on May 29, 1985, over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1983.

The 5-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985.

"(vi) 4-YEAR DEBT AMOUNT.—The term '4-year debt amount' means the excess (if any) of—

"(I) the amount referred to in clause (v)(II), over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1982.

The 4-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, reduced by the 5-year debt amount.

"(vii) PAYDOWNS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the term 'paydowns' means the excess (if any) of—

"(I) the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, over

"(II) the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985 (or, to the extent provided in regulations under subparagraph (A)(iii), the average amount of indebtedness outstanding during any such month).

"(C) COORDINATION OF SUBPARAGRAPHS (A) AND (B).—In applying subparagraph (B), there shall first be taken into account indebtedness to which subparagraph (A) applies.

"(D) SPECIAL RULES.—

"(i) In the case of the 1st 9 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the applicable percentage (determined under the following table) of the indebtedness described in clause (iii) or (iv):

"In the case of the:	*The applicable percentage is:*
1st taxable year	*90*
2nd taxable year	*80*
3rd taxable year	*70*
4th taxable year	*60*
5th taxable year	*50*
6th taxable year	*40*
7th taxable year	*30*
8th taxable year	*20*
9th taxable year	*10.*

"(ii) The provisions of this subparagraph shall apply in lieu of the provisions of subparagraphs (A) and (B).

"(iii) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

"(iv) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

"(E) TREATMENT OF AFFILIATED GROUP.—For purposes of this paragraph, all members of the same affiliated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as 1 taxpayer whether or not such members filed a consolidated return."

"(F) ELECTION TO HAVE PARAGRAPH NOT APPLY.—A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph not apply. In the case of members of the same affiliated group (as so defined), such an election may be made only if each member consents to such election."

(i) AMENDMENTS RELATED TO SECTION 1221 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 953(c)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986."

(B) Clause (i) of section 953(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

"(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(II) TERMINATION.—If a foreign corporation which made an election under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year."

(C) Paragraph (3) of section 953(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term 'disqualified corporation' means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation for an uninterrupted period of 30 days or more during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such

corporation at some time during such taxable year."

(2)(A) Paragraph (1) of section 953(c) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ",and", and by adding at the end thereof the following new subparagraph:

"(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection."

(B) Subsection (c) of section 953 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DETERMINATION OF PRO RATA SHARE.—

"(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 951(a) if—

"(I) only related person insurance income were taken into account,

"(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

"(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

"(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

"(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A)."

(3)(A) Paragraph (2) of section 953(c) of 1986 Code is amended by striking out "with respect to which the primary insured is" and inserting in lieu thereof "with respect to which the person (directly or indirectly) insured is".

(B) Subparagraph (A) of section 953(c)(3) of the 1986 Code is amended—

(i) by striking out "persons who are the primary insured" and inserting in lieu thereof "persons who are (directly or indirectly) insured", and

(ii) by striking out "to any such primary insured" and inserting in lieu thereof "to any such person".

(C) The amendments made by this paragraph to the extent such amendments add the phrase "(directly or indirectly)" shall apply only to taxable years beginning after December 31, 1987.

(4)(A) Subsection (c) of section 953 of the 1986 Code (as amended by paragraph (2)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3).

"(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons."

(B) Paragraphs (2) and (3)(A) of section 953(c) of the 1986 Code are each amended by striking out "(within the meaning of section 954(d)(3))".

(5) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "insurance income attributable" and inserting in lieu thereof "insurance income (within the meaning of subsection (a)) attributable".

(6) For purposes of applying section 952(c)(1)(A) of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under section 1023(e)(3)(C) of the Reform Act.

(7) Subsection (b) of section 953 of the 1986 Code is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subparagraph (A) of paragraph (1) (as so redesignated) and inserting in lieu thereof the following:

"(A) The small life insurance company deduction.", and

(C) by striking out "(other than those taken into account under paragraph (3))" in paragraph (3) (as so redesignated).

(8) Subparagraph (B) of section 953(c)(3) of the 1986 Code is amended—

(A) by striking out "related person insurance income" and inserting in lieu thereof "related person insurance income (determined on a gross basis)", and

(B) by striking out "its insurance income" and inserting in lieu thereof "its insurance income (as so determined)".

(9) Subclause (II) of section 953(c)(3)(C)(i) of the 1986 Code is amended—

(A) by striking out "all benefits" and inserting in lieu thereof "all benefits (other than with respect to section 884)", and

(B) by striking out "under any income tax treaty" and inserting in lieu thereof "granted by the United States under any treaty".

(10) Paragraph (7) of section 861(a) of the 1986 Code is amended to read as follows:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States."

(11) Subparagraph (A) of section 955(a)(2) of the 1986 Code is amended by striking out "beginning before 1987" and inserting in lieu thereof "beginning before 1987 (to the extent such amount exceeds the sum of the decreases in qualified investments determined under this paragraph for prior taxable years beginning after 1986)".

(12) Paragraphs (6) and (7) of section 954(b) of the 1986 Code are each amended by striking out "(determined without regard to the exclusion under paragraph (2) of this subsection)".

(13)(A) Subparagraph (C) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "July 9" and inserting in lieu thereof "June 9", and

(ii) by striking out "March 31, 1982" and inserting in lieu thereof "November 3, 1981".

(B) Subparagraph (D) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "as of August 16, 1986, under a reinsurance contract in effect on such date" and inserting in lieu thereof "under a reinsurance contract",

(ii) by striking out "the preceding sentence" and inserting in lieu thereof "this subparagraph", and

(iii) by adding at the end thereof the following: "For purposes of this paragraph, the amount of qualified reinsurance income shall not exceed the amount of insurance income from reinsurance contracts for calendar year 1985. In the case of controlled foreign corporations described in subparagraph (C)(ii), the preceding sentence shall not apply and the qualified reinsurance income of any such corporation shall not exceed such corporation's proportionate share of $27,000,000 (determined on the basis of respective amounts of qualified reinsurance income determined without regard to this subparagraph)."

(14)(A) Paragraph (3) of section 954(d) of the 1986 Code is amended by striking out "50 percent or more" each place it appears and inserting in lieu thereof "more than 50 percent".

(B) Clause (ii) of section 861(c)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) such section shall be applied by substituting '10 percent or more' for 'more than 50 percent' each place it appears."

(15) Subsection (b) of section 951 of the 1986 Code is amended by striking out "section 957(d)" and inserting in lieu thereof "section 957(c)".

(16) Subsection (c) of section 952 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation."

(17) Subparagraph (A) of section 881(c)(4) of the 1986 Code is amended by striking out clauses (ii), (iii), (iv), and (v) and inserting in lieu thereof the following:

"(ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).

"(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(18) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which is an interest in a trust, partnership, or REMIC, or".

(19)(A) Subsection (a) of section 6046 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and".

(B) Subsection (b) of section 6046 of the 1986 Code is amended by striking out "sub-

section (a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of subsection (a)".

(C) Subsection (a) of section 6046 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation."

(20) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of any regular dealer in property, gains and losses from the sale or exchange of any such property or arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a dealer in such property shall not be taken into account under this subparagraph. Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(1) also shall not be taken into account under this subparagraph."

(21) Subsection (c) of section 953 (as amended by this subsection) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) COORDINATION WITH SECTION 1248.—If any person is treated under paragraph (1) as a United States shareholder with respect to any foreign corporation, for purposes of section 1248, such person shall be treated as meeting the stock ownership requirements of section 1248(a)(2) with respect to such foreign corporation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

"(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation."

(22) Subclause (III) of section 952(c)(1)(B)(iii) of the 1986 Code is amended by striking out "insurance income" and inserting in lieu thereof "insurance income or foreign personal holding company income,".

(23) Clause (iii) of section 952(c)(1)(B) of the 1986 Code is amended by redesignating subclauses (III) and (IV) as subclauses (V) and (VI), respectively, and by inserting after subclause (II) the following new subclauses:

"(III) foreign base company sales income,

"(IV) foreign base company services income,".

(24) Clause (ii) of section 952(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In determining the deficit attributable to qualified activities described in clause (iii)(III) or (IV), deficits in earnings and profits (to the extent not previously taken into account under this section) for taxable years beginning after 1962 and before 1987 also shall be taken into account."

(25)(A) Paragraph (1) of section 952(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year which is attributable to any qualified activity by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation to the extent such deficit is attributable to such activity. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under subparagraph (B).

"(ii) QUALIFIED CHAIN MEMBER.—For purposes of this subparagraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

"(I) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

"(II) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

"(iii) COORDINATION.—This subparagraph shall be applied after subparagraphs (A) and (B)."

(B) Subparagraph (B) of section 954(c)(3) of the 1986 Code is amended by inserting before the period at the end thereof the following: "or creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation".

(j) AMENDMENT RELATED TO SECTION 1224 OF THE REFORM ACT.—Paragraph (2) of section 901(g) of the 1986 Code and section 936(d)(3)(B) of the 1986 Code are each amended by striking out "section 957(c)" and inserting in lieu thereof "section 957(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(k) AMENDMENT RELATED TO SECTION 1225 OF THE REFORM ACT.—Subsection (c) of section 1225 of the Reform Act is amended by striking out "March 1, 1986" and inserting in lieu thereof "January 1, 1986".

(l) AMENDMENTS RELATED TO SECTION 1226 OF THE REFORM ACT.—

(1) Subsection (a) of section 246A of the 1986 Code is amended by striking out the last sentence.

(2)(A) Paragraph (8) of section 245 of the 1986 Code is amended to read as follows:

"(8) DISALLOWANCE OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation."

(B) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) COORDINATION WITH TREATIES.—If—

"(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

"(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

"(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend)."

(3) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) COORDINATION WITH SECTION 1248.—For purposes of this subsection, the term 'dividend' does not include any amount treated as a dividend under section 1248."

(m) AMENDMENTS RELATED TO SECTION 1228 OF THE REFORM ACT.—

(1) Subsection (a) of section 1228 of the Reform Act is amended by striking out "and" at the end of paragraph (3), and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) the transfer, sale, exchange, or other disposition is part of a single integrated plan, whereby the stock of the corporation described in paragraph (1) becomes owned directly by the 2 corporations specifically referred to in subsection (b) or by such 2 corporations and by 1 or both of their jointly owned direct subsidiaries,

"(5) within 20 days after each transfer, sale, exchange, or other disposition, the person making such transfer, sale, exchange, or other disposition notifies the Internal Revenue Service of the transaction, the date of the transaction, the basis of the stock involved, the holding period for such stock, and such other information as the Internal Revenue Service may require, and

"(6) the integrated plan is completed before the date 4 years after the date of the enactment of the Miscellaneous Revenue Act of 1988.

In the case of any underpayment attributable to a failure to meet any requirement of this subsection, the period during which such underpayment may be assessed shall in no event expire before the date 5 years after the date of the enactment of the Miscellaneous Revenue Act of 1988."

(2) Subsection (c) of section 1228 of the Reform Act is hereby repealed.

(n) AMENDMENTS RELATED TO SECTION 1231 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1231(g)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of any transfer (or license) which is not to a foreign person, the preceding sentence shall be applied by substituting 'August 16, 1986' for 'November 16, 1985'."

(2) Subparagraph (B) of section 1231(g)(2) of the Reform Act is amended by striking out "was made" and inserting in lieu thereof ", if any, was made".

(3) Subsection (g) of section 1231 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE FOR INCREASE IN GROSS INCOME TEST.—

"(A) IN GENERAL.—If—

"(i) a corporation fails to meet the requirements of subparagraph (B) of section 936(a)(2) of the Internal Revenue Code of 1986 (as amended by subsection (d)(1)) for any taxable year beginning in 1987 or 1988,

"(ii) such corporation would have met the requirements of such subparagraph (B) if such subparagraph had been applied with-

out regard to the amendment made by subsection (d)(1), and

"(iii) 75 percent or more of the gross income of such corporation for such taxable year (or, in the case of a taxable year beginning in 1988, for the period consisting of such taxable year and the preceding taxable year) was derived from the active conduct of a trade or business within a possession of the United States, such corporation shall nevertheless be treated as meeting the requirements of such subparagraph (B) for such taxable year if it elects to reduce the amount of the qualified possession source investment income for the taxable year by the amount of the shortfall determined under subparagraph (B) of this paragraph.

"(B) Determination of shortfall.—The shortfall determined under this subparagraph for any taxable year is an amount equal to the excess of—

"(i) 75 percent of the gross income of the corporation for the 3-year period (or part thereof) referred to in section 936(a)(2)(A) of such Code, over

"(ii) the amount of the gross income of such corporation for such period (or part thereof) which was derived from the active conduct of a trade or business within a possession of the United States.

"(C) Special rule.—Any income attributable to the investment of the amount not treated as qualified possession source investment income under subparagraph (A) shall not be treated as qualified possession source investment income for any taxable year."

(4) Subparagraph (B) of section 1231(a)(1) of the Reform Act is amended by striking out "at the end thereof" and inserting in lieu thereof "at the end of the material relating to payment of cost sharing".

(5)(A) Clause (ii) of section 936(d)(4)(A) of the 1986 Code is amended to read as follows:

"(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner."

(B) Clauses (i) and (ii) of section 936(d)(4)(C) of the 1986 Code are each amended by striking out "the Secretary of the Treasury of Puerto Rico" and inserting in lieu thereof "the Commissioner of Financial Institutions of Puerto Rico".

(o) Amendment Related to Section 1234 of the Reform Act.—Subsection (d) of section 6039E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence)."

(p) Amendments Related to Section 1235 of the Reform Act.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code is amended to read as follows:

"(1) In general.—This section shall not apply with respect to any distribution paid by a passive foreign investment company, or any disposition of stock in a passive foreign investment company, if such company is a qualified electing fund for each of its taxable years—

"(A) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(B) which includes any portion of the taxpayer's holding period."

(2) Subsection (c) of section 1296 of the 1986 Code is amended by striking out "owns at least" and inserting in lieu thereof "owns (directly or indirectly) at least".

(3) Paragraph (3) of section 1291(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 551(d), 959(a), or 1293(c)."

(4) Paragraph (2) of section 1294(c) of the 1986 Code is amended—

(A) by striking out "is disposed of" in subparagraph (A) and inserting in lieu thereof "is transferred",

(B) by striking out "such disposition or cessation" each place it appears and inserting in lieu thereof "such transfer or cessation", and

(C) by striking out "Dispositions" in the paragraph heading and inserting in lieu thereof "Transfers".

(5) Paragraph (1) of section 1296(b) of the 1986 Code is amended to read as follows:

"(1) In general.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c)."

(6)(A) Subsection (f) of section 1291 of the 1986 Code is amended to read as follows:

"(f) Recognition of Gain.—To the extent provided in regulations, in the case of any transfer of stock in a passive foreign investment company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of any such stock for gain recognized under the preceding sentence."

(B) Subsection (e) of section 1291 of the 1986 Code is amended by striking out "Rules similar" and inserting in lieu thereof "Except to the extent inconsistent with the regulations prescribed under subsection (f), rules similar".

(7)(A) Paragraphs (4) and (5) of section 1291(a) of the 1986 Code are hereby repealed.

(B) Section 1291 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Coordination With Foreign Tax Credit Rules.—

"(1) In general.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign investment company—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in subsection (a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904(d) and not below zero) the increase in tax determined under subsection (c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) Definitions.—For purposes of this subsection—

"(A) Creditable foreign taxes.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) Excess distribution taxes.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) Section 1248 gain.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248."

(8) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Cross Reference.—

"For provisions providing for interest for the period of the extension under this section, see section 6601."

(9) Paragraph (2) of section 1291(e) of the 1986 Code is amended by striking out "not" the second place it appears.

(10)(A) Subsection (a) of section 1297 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Options.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock."

(B) Paragraph (5) of section 1297(a) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(11) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) Look-thru applies to passive foreign investment company inclusion.—If—

"(i) a passive foreign investment company is a controlled foreign corporation, and

"(ii) the taxpayer is a United States shareholder in such controlled foreign corporation,

any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent such amount is attributable to income in such category."

(12) Clause (ii) of section 1291(a)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and".

(13) Subparagraph (A) of section 1291(b)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the

extent it was included in gross income under subsection (a)(1)(B)."

(14) Subparagraph (A) of section 1291(a)(3) of the 1986 Code is amended by striking out "in the case of an excess distribution" and inserting in lieu thereof "for purposes of applying this section to an excess distribution".

(15) Subsection (b) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period."

(16) Subparagraph (B) of section 1296(b)(2) of the 1986 Code is amended by striking out "by a corporation which" and inserting in lieu thereof "by a corporation which is predominantly engaged in an insurance business and which".

(17) Paragraph (5) of section 1297(b) of the 1986 Code is amended to read as follows:

"(5) APPLICATION OF PART WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—Under regulations, in any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of subsection (a)—

"(i) any disposition by the United States person or the person owning such stock which results in the United States person being treated as no longer owning such stock, or

"(ii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign investment company.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) and to any amount included in gross income under section 1293(a) (or which would have been so included but for section 951(f)) in respect of stock which the taxpayer is treated as owning under subsection (a)."

(18) Subsection (e) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF EARNINGS AND PROFITS.—The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund."

(19) Subsection (d) of section 1248 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 1293.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 1293 with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount under section 1293(c)."

(20) Paragraph (6) of section 1297(b) of the 1986 Code is amended by striking out "If a" and inserting in lieu thereof "Except as provided in regulations, if a".

(21) Section 1246 of the 1986 Code is amended by redesignating the subsection relating to information with respect to certain foreign investment companies as subsection (f), by redesignating the subsection relating to coordination with section 1248 as subsection (g), and by redesignating the subsection relating to cross reference as subsection (h).

(22) Subparagraph (A) of section 1297(b)(3) of the 1986 Code is amended to read as follows:

"(A) neither such corporation (nor any predecessor) was a passive foreign investment company for any prior taxable year,".

(23) Subsection (c) of section 1293 of the 1986 Code is amended by striking out "shall be treated as a distribution which is not a dividend" and inserting in lieu thereof "shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits".

(24) Subsection (b) of section 1297 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If—

"(i) a foreign corporation is subject to the tax imposed by section 531 (or waives any benefit under any treaty which would otherwise prevent the imposition of such tax), and

"(ii) such foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation,

for purposes of determining whether such foreign corporation is a passive foreign investment company, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust."

(25) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this section and section 1293, any loan by a qualified electing fund (directly or indirectly) to a shareholder of such fund shall be treated as a distribution to such shareholder.

(26)(A) Paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3)."

(B) The paragraph heading for paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "EXCEPTION FOR CERTAIN BANKS AND INSURANCE COMPANIES" and inserting in lieu thereof "EXCEPTIONS".

(27) Subsection (a) of section 1296 of the 1986 Code is amended by adding at the end thereof the following new sentences:

"A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(28) Paragraph (2) of section 1291(d) of the 1986 Code is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(II) the taxpayer holds stock in such company on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation (as defined in section 957(a)),

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such company attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under subsection (a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of such company beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the company was a passive foreign investment company.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph."

(29)(A) Clause (ii) of section 904(d)(2)(A) of the 1986 Code is amended by striking out "or section 1293" and inserting in lieu thereof "or, except as provided in subparagraph (E)(iii) or paragraph (3)(I), section 1293".

(B) Subparagraph (E) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF INCLUSIONS UNDER SECTION 1293.—If any foreign corporation is a non-controlled section 902 corporation with respect to the taxpayer, any inclusion under section 1293 with respect to such corporation shall be treated as a dividend from such corporation."

(30) Clause (ii) of section 864(b)(2)(A) of the 1986 Code is amended by striking out

"section 542(c)(7)" and inserting in lieu thereof "section 542(c)(7), 542(c)(10),".

(31) Paragraph (1) of section 1291(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year."

(32) Section 1293 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) OTHER SPECIAL RULES.—

"(1) EXCEPTION FOR CERTAIN INCOME.—For purposes of determining the amount included in the gross income of any person under this section, the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if—

"(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

"(B) such person establishes to the satisfaction of the Secretary that—

"(i) such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11, or

"(ii) such income is—

"(I) from sources within the United States,

"(II) effectively connected with the conduct by the qualified electing fund of a trade or business in the United States, and

"(III) not exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

"(2) PREVENTION OF DOUBLE INCLUSION.—The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once."

(33) Paragraph (3) of section 1291(b) of the 1986 Code (as amended by paragraph (3)) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign investment company."

(34) Paragraph (2) of section 1294(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, the preceding sentence shall not apply in the case of a transfer in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the transferee in such transaction shall succeed to the treatment under this section of the transferor."

(35) Section 1297 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign investment company is owned (or treated as owned under subsection (a)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(1) section 1291 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1291) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(2) section 1293 shall not apply with respect to such stock, and

"(3) in determining whether section 1291 applies to any distribution in respect of such stock, subsection (d) of section 1291 shall not apply."

(36) Paragraph (1) of section 1297(b) of the 1986 Code is amended by striking out "passive foreign investment corporation" and inserting in lieu thereof "passive foreign investment company".

(q) AMENDMENTS RELATED TO SECTION 1241 OF THE ACT.—

(1)(A) Subparagraph (B) of section 884(b)(2) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—

"(i) IN GENERAL.—The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

"(ii) ACCUMULATED EFFECTIVELY CONNECTED EARNINGS AND PROFITS.—For purposes of clause (i), the term 'accumulated effectively connected earnings and profits' means the excess of—

"(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

"(II) the aggregate dividend equivalent amounts determined for such preceding taxable years."

(B) For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) and 1021(e)(2)(C) of the Reform Act or arising from section 823(b)(4)(C) of the 1986 Code.

(2)(A) Paragraph (1) of section 884(e) is amended to read as follows:

"(1) LIMITATION ON TREATY EXEMPTION.—No treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless—

"(A) such treaty is an income tax treaty, and

"(B) such foreign corporation is a qualified resident of such foreign country."

(B) Paragraph (3) of section 884(e) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH WITHHOLDING TAX.—

"(A) IN GENERAL.—If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

"(B) LIMITATION ON CERTAIN TREATY BENEFITS.—If—

"(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

"(ii) subparagraph (A) does not apply to such dividend,

rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend."

(C) Subsection (f) of section 884 of the 1986 Code is amended—

(i) by striking out the 2nd sentence of paragraph (1), and

(ii) by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TREATIES.—

"(A) PAYOR MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country.

"(B) RECIPIENT MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country."

(3) Paragraph (1) of section 884(f) of the 1986 Code is amended—

(A) by striking out "sections 871, 881, 1441, and 1442" and inserting in lieu thereof "this subtitle", and

(B) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation."

(4) Paragraph (4) of section 884(e) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CORPORATIONS OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States."

(5) Subparagraph (A) of section 884(e)(4) of the 1986 Code is amended—

(A) by striking out "more than 50 percent" in clause (i) and inserting in lieu thereof "50 percent or more", and

(B) by striking out "or the United States" in clause (ii) and inserting in lieu thereof "or citizens or residents of the United States".

(6) Subsection (e) of section 884 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR INTERNATIONAL ORGANIZATIONS.—This section shall not apply to an international organization (as defined in section 7701(a)(18))."

(7) Subparagraph (B) of section 861(a)(2) of the 1986 Code is amended by striking out "other than under section 884(d)(2)" each place it appears and inserting in lieu thereof "other than income described in section 884(d)(2)".

(8) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and",

and by adding at the end thereof the following new subparagraph:

"(L) section 884 (relating to branch profits tax)."

(9) Section 861 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Cross Reference.—

"For treatment of interest paid by the branch of a foreign corporation, see section 884(f)."

(10) The paragraph (6) of section 906(b) of the 1986 Code which was added by section 1241(c) of the Reform Act is redesignated as paragraph (7).

(11) Subsection (c) of section 2104 of the 1986 Code is amended by striking out "section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)" and inserting in lieu thereof "subparagraph (A), (C), or (D) of section 861(a)(1)".

(12) Subparagraph (A) of section 904(g)(9) of the 1986 Code is amended by striking out "861(a)(1)(B)" and inserting in lieu thereof "861(a)(1)(A)".

(13)(A) Paragraph (1) of section 4373 of the 1986 Code is amended to read as follows:

"(1) Effectively connected items.—Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States."

(B) The amendment made by subparagraph (A) shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act.

(14) Paragraph (1) of section 884(f) of the 1986 Code is amended by inserting "(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)" after "United States" in the material preceding subparagraph (A) thereof.

(r) Amendments Related to Section 1242 of the Reform Act.—

(1) Paragraph (7) of section 864(c) of the 1986 Code is amended to read as follows:

"(7) Treatment of certain property transactions.—For purposes of this title, if—

"(A) any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, and

"(B) such property is disposed of within 10 years after such cessation,

the determination of whether any income or gain attributable to such disposition is taxable under section 871(b) or 882 (as the case may be) shall be made as if such sale or exchange occurred immediately before such cessation and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year for which such income or gain is taken into account."

(2) Paragraph (6) of section 864(c) of the 1986 Code is amended to read as follows:

"(6) Treatment of certain deferred payments, etc.—For purposes of this title, in the case of any income or gain of a nonresident alien individual or a foreign corporation which—

"(A) is taken into account for any taxable year, but

"(B) is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year,

the determination of whether such income or gain is taxable under section 871(b) or 882 (as the case may be) shall be made as if such income or gain were taken into account in such other taxable year and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year referred to in subparagraph (A)."

(s) Amendments Related to Section 1246 of the Reform Act.—

(1)(A) Section 1446 of the 1986 Code is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME.

"(a) General Rule.—If—

"(1) a partnership has effectively connected taxable income for any taxable year, and

"(2) any portion of such income is allocable under section 704 to a foreign partner,

such partnership shall pay a withholding tax under this section at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) Amount of Withholding Tax.—

"(1) In general.—The amount of the withholding tax payable by any partnership under subsection (a) shall be equal to the applicable percentage of the effectively connected taxable income of the partnership which is allocable under section 704 to foreign partners.

"(2) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) the highest rate of tax specified in section 1 in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners who are not corporations, and

"(B) the highest rate of tax specified in section 11(b) in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners which are corporations.

"(c) Effectively Connected Taxable Income.—For purposes of this section, the term 'effectively connected taxable income' means the taxable income of the partnership which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States computed with the following adjustments:

"(1) Paragraph (1) of section 703(a) shall not apply.

"(2) The partnership shall be allowed a deduction for depletion with respect to oil and gas wells but the amount of such deduction shall be determined without regard to sections 613 and 613A.

"(3) There shall not be taken into account any item of income, gain, loss, or deduction to the extent allocable under section 704 to any partner who is not a foreign partner.

"(d) Treatment of Foreign Partners.—

"(1) Allowance of credit.—Each foreign partner of a partnership shall be allowed a credit under section 33 for such partner's share of the withholding tax paid by the partnership under this section. Such credit shall be allowed for the partner's taxable year in which (or with which) the partnership taxable year (for which such tax was paid) ends.

"(2) Credit treated as distributed to partner.—A foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the last day of the partnership's taxable year (for which such tax was paid).

"(e) Foreign Partner.—For purposes of this section, the term 'foreign partner' means any partner who is not a United States person.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for the application of this section in the case of publicly traded partnerships."

(B) Paragraph (2) of section 6401(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any credit so allowed by reason of section 1446."

(C) The table of sections for subchapter A of chapter 3 of the 1986 Code is amended by striking out the item relating to section 1446 and inserting in lieu thereof the following:

"Sec. 1446. Withholding of tax on foreign partners' share of effectively connected income."

(D) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. No amount shall be required to be deducted and withheld under section 1446 of the 1986 Code (as in effect before the amendment made by subparagraph (A)).

(2)(A) Subsection (a) of section 872 of the 1986 Code is amended by striking out "the case of a nonresident alien individual" and inserting in lieu thereof "the case of a nonresident alien individual, except where the context clearly indicates otherwise".

(B) Subsection (b) of section 882 of the 1986 Code is amended by striking out the "the case of a foreign corporation" and inserting in lieu thereof "the case of a foreign corporation, except where the context clearly indicates otherwise".

(t) Amendments Related to Section 1247 of the Reform Act.—

(1) Subparagraph (A) of section 892(a)(2) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) derived from the disposition of any interest in a controlled commercial entity."

(2) Clause (ii) of section 892(a)(2)(A) of the 1986 Code is amended to read as follows:

"(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity."

(3) Subsection (a) of section 892 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Treatment as resident.—For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States."

(4) Section 893 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) Limitation on Exclusion.—Subsection (a) shall not apply to—

"(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

"(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government."

(u) Amendment Related to Section 1249 of the Reform Act.—Subsection (d) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) Treatment of losses of separate business units.—To the extent provided in regulations, any loss of a separate unit of a do-

mestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

"(4) INCOME ON ASSETS ACQUIRED AFTER THE LOSS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained."

(v) AMENDMENTS RELATED TO SECTION 1261 OF THE REFORM ACT.—

(1)(A) So much of section 986 of the 1986 Code as precedes subsection (c) thereof is amended to read as follows:

"SEC. 986. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS.

"(a) FOREIGN TAXES.—

"(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(b) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate."

(B) Section 987 of the 1986 Code is amended by inserting "and" at the end of paragraph (2), by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

(C) The table of sections for subpart J of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 986 and inserting in lieu thereof the following:

"Sec. 986. Determination of foreign taxes and foreign corporation's earnings and profits."

(2)(A) Subsection (c) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES WHERE TAXPAYER TAKES OR MAKES DELIVERY.—If the taxpayer takes or makes delivery in connection with any section 988 transaction described in paragraph (1)(B)(iii), any gain or loss (determined as if the taxpayer sold the contract, option, or instrument on the date on which he took or made delivery for its fair market value on such date) shall be recognized in the same manner as if such contract, option, or instrument were so sold."

(B) The amendment made by subparagraph (A) shall not apply in any case in which the taxpayer takes or makes delivery before June 11, 1987.

(3)(A) Subsection (b) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRACTS, ETC.—In the case of any section 988 transaction described in subsection (c)(1)(B)(iii), any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(B) Subclause (II) of section 988(c)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(II) any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(C) Paragraph (2) of section 988(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(D) Paragraph (3) of section 988(c) of the 1986 Code is amended to read as follows:

"(3) PAYMENT DATE.—The term 'payment date' means the date on which the payment is made or received."

(4) The first sentence of paragraph (1) of section 988(d) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(5) Subsection (b) of section 989 of the 1986 Code is amended—

(A) by striking out "951(a)" in paragraph (3) and inserting in lieu thereof "951(a)(1)(A)", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, any amount included in income under section 951(a)(1)(B) shall be treated as an actual distribution made on the last day of the taxable year for which such amount was so included."

(6) Clause (iii) of section 988(c)(1)(B) of the 1986 Code is amended to read as follows:

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year."

(7) Subparagraph (B) of section 988(a)(3) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR PARTNERSHIPS.—To the extent provided in regulations, in the case of a partnership, the determination of residence shall be made at the partner level."

(8) Clause (i) of section 988(a)(3)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If an individual does not have a tax home (as so defined), the residence of such individual shall be the United States if such individual is a United States citizen or a resident alien and shall be a country other than the United States if such individual is not a United States citizen or a resident alien."

(9) Section 903 of the 1986 Code is amended by striking out "this subpart" and inserting in lieu thereof "this part".

(w) AMENDMENTS RELATED TO SECTION 1274 OF THE REFORM ACT.—

(1) Subsection (e) of section 932 of the 1986 Code is amended to read as follows:

"(e) SPECIAL RULE FOR APPLYING SECTION TO TAX IMPOSED IN VIRGIN ISLANDS.—In applying this section for purposes of determining income tax liability incurred to the Virgin Islands, the provisions of this section shall not be affected by the provisions of Federal law referred to in section 934(a)."

(2) Paragraph (4) of section 932(c) of the 1986 Code is amended to read as follows:

"(4) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual—

"(A) who is a bona fide resident of the Virgin Islands at the close of the taxable year,

"(B) who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, and

"(C) who fully pays his tax liability referred to in section 934(a) to the Virgin Islands with respect to such income,

for purposes of calculating income tax liability to the United States, gross income shall not include any amount included in gross income on such return, and allocable deductions and credits shall not be taken into account."

(3) Paragraph (2) of section 932(c) of the 1986 Code is amended by striking out "his income tax return" and inserting in lieu thereof "an income tax return".

(4) Subsection (c) of section 1274 of the Reform Act is amended by striking out "this title" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(x) AMENDMENT RELATED TO SECTION 1275 OF THE REFORM ACT.—Section 1444 of the 1986 Code is amended by striking out "(as modified by section 934A)".

(y) AMENDMENT RELATED TO SECTION 1276 OF THE REFORM ACT.—Subsection (a) of section 7654 of the 1986 Code is amended by striking out "an individual to which" and inserting in lieu thereof "an individual to whom".

(z) AMENDMENT RELATED TO SECTION 1277 OF THE REFORM ACT.—

(1) Section 1277 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsection (b), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986."

(2) Subsection (e) of section 1277 of the Act is amended by striking out "The preceding sentence" and inserting in lieu thereof "Notwithstanding subsection (b), the preceding sentence".

(aa) COORDINATION WITH TREATIES.—

(1) IN GENERAL.—Subsection (d) of section 7852 of the 1986 Code is amended—

(A) by striking out "this title shall" and inserting in lieu thereof "this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall", and

(B) by striking out "in effect on the date of the enactment of this title" and inserting in lieu thereof "in effect on August 16, 1954".

(2) CERTAIN AMENDMENTS TO APPLY NOTWITHSTANDING TREATIES.—The following amendments made by the Reform Act shall apply notwithstanding any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1201 of the Reform Act.

(B) The amendments made by title VII of the Reform Act to the extent such amendments relate to the alternative minimum tax foreign tax credit.

(C) Except as provided in the Reform Act or in paragraph (3) of this subsection, any other amendment made by the Reform Act.

(3) CERTAIN AMENDMENTS NOT TO APPLY TO THE EXTENT INCONSISTENT WITH TREATIES.—The following amendments made by the Reform Act shall not apply to the extent the application of such amendments would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1211 of the Reform Act to the extent—

(i) such amendments apply in the case of an individual treated as a resident of a foreign country under a treaty obligation of the United States as so in effect, or

(ii) such amendments relate to income of a nonresident from the sale or exchange of inventory property which would otherwise be sourced under section 865(e)(2) of the 1986 Code.

(B) The amendments made by section 1212(a) of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(C) The amendments made by subsections (b) and (c) of section 1212 of the Reform Act.

(D) The amendments made by section 1214 of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(E) The amendment made by section 1241(a) of the Reform Act to the extent that, under a treaty obligation of the United States, interest described in section 884(f)(1)(A) of the 1986 Code (as added by such amendment) which is in excess of amounts deducted would be treated as other than United States source.

(F) The amendment made by section 1241(b)(2)(A) of the Reform Act.

(G) The amendment made by section 1241(a) of the Reform Act to the extent such amendment relates to section 884(f)(1)(B) of the 1986 Code.

(H) The amendments made by section 1242 of the Reform Act to the extent they relate to paragraph (7) of section 864(c) of the 1986 Code.

(I) The amendment made by section 1247(a) of the Reform Act.

(J) The amendments made by section 123 of the Reform Act.

(4) TREATMENT OF TECHNICAL CORRECTIONS.—For purposes of paragraphs (2) and (3), any amendment made by this title shall be treated as if it had been included in the provision of the Reform Act to which such amendment relates.

(bb) MISCELLANEOUS FOREIGN TECHNICAL CORRECTIONS.—

(1) PROVISIONS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—

(A) Subsection (f) of section 551 of the 1986 Code is amended—

(i) by amending paragraph (1) to read as follows:

"(1) a foreign partnership or an estate or trust which is a foreign estate or trust, or", and

(ii) by striking out the last sentence and inserting in lieu thereof the following: "In any case to which the preceding sentence applies, the Secretary may by regulations provide that rules similar to the rules of section 1297(b)(5) shall apply, and provide for such other adjustments in the application of this subchapter as may be necessary to carry out the purposes of this subsection."

(B) Subsection (a) of section 551 of the 1986 Code is amended by striking out "(other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States)" and inserting in lieu thereof "(other than foreign estates or trusts)".

(C) Subsection (c) of section 552 of the 1986 Code is amended to read as follows:

"(c) LOOK-THRU FOR CERTAIN DIVIDENDS AND INTEREST.—

"(1) IN GENERAL.—For purposes of this part, any related person dividend or interest shall be treated as foreign personal holding company income only to the extent such dividend or interest is attributable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which would be foreign personal holding company income.

"(2) RELATED PERSON DIVIDEND OR INTEREST.—For purposes of paragraph (1), the term 'related person dividend or interest' means any dividend or interest which—

"(A) is described in subparagraph (A) of section 954(c)(3), and

"(B) is received from a related person which is not a foreign personal holding company (determined without regard to this subsection).

For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(D) The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TREATMENT OF CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

(A) Subparagraph (A) of section 3405(d)(13) of the 1986 Code is amended by striking out "the United States" and inserting in lieu thereof "the United States and any possession of the United States".

(B) Clause (i) of section 3405(d)(13)(B) of the 1986 Code is amended to read as follows:

"(i) a United States citizen or a resident alien of the United States, or".

(C) The heading of paragraph (13) of section 3405(d) of the 1986 Code is amended by striking out "UNITED STATES" and inserting in lieu thereof "UNITED STATES OR ITS POSSESSIONS".

(D) The amendments made by this paragraph shall apply to distributions made after the date of the enactment of this Act.

(3) CLARIFICATION OF DISCLOSURE UNDER CERTAIN AGREEMENTS.—

(A) Paragraph (4) of section 6103(k) of the 1986 Code is amended—

(i) by striking out "or other convention" and inserting in lieu thereof "or other convention or bilateral agreement", and

(ii) by striking out "such convention" and inserting in lieu thereof "such convention or bilateral agreement".

(B) Subparagraph (A) of section 6103(b)(5) of the 1986 Code is amended by striking out "the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau" and inserting in lieu thereof "and the Commonwealth of the Northern Mariana Islands".

(C) The amendments made by this paragraph shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(4) COORDINATION OF TREATIES WITH SECTION 904(g).—

(A) Subsection (g) of section 904 of the 1986 Code is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) COORDINATION WITH TREATIES.—

"(A) IN GENERAL.—If—

"(i) any amount derived from a United States-owned foreign corporation would be treated as derived from sources within the United States under this subsection by reason of an item of income of such United States-owned foreign corporation,

"(ii) under a treaty obligation of the United States (applied without regard to this subsection and by treating any amount included in gross income under section 951(a)(1) as a dividend), such amount would be treated as arising from sources outside the United States, and

"(iii) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such amount to the extent attributable to such item of income (but subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to such amount to the extent so attributable).

"(B) SPECIAL RULE.—Amounts included in gross income under section 951(a)(1) shall be treated as a dividend under subparagraph (A)(ii) only if dividends paid by each corporation (the stock in which is taken into account in determining whether the shareholder is a United States shareholder in the United States-owned foreign corporation), if paid to the United States shareholder, would be treated under a treaty obligation of the United States as arising from sources outside the United States (applied without regard to this subsection)."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 121 of the Tax Reform Act of 1984.

(5) TREATMENT OF ELECTION UNDER SECTION 338.—

(A) IN GENERAL.—Subsection (h) of section 338 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(16) COORDINATION WITH FOREIGN TAX CREDIT PROVISIONS.—Except as provided in regulations, this section shall not apply for purposes of determining the source or character of any item for purposes of subpart A of part III of subchapter N of this chapter (relating to foreign tax credit). The preceding sentence shall not apply to any gain to the extent such gain is includible in gross income as a dividend under section 1248 (determined without regard to any deemed sale under this section by a foreign corporation)."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to qualified stock purchases (as defined in section 338(d)(3) of the 1986 Code) after March 31, 1988, except that, in the case of an election under section 338(h)(10) of the 1986 Code, such amendment shall apply to qualified stock purchases (as so defined) after June 10, 1987.

(6) TREATMENT OF TAX-EXEMPT SHAREHOLDERS OF A DISC.—

(A) Section 995 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX-EXEMPT SHAREHOLDERS.—If any organization described in subsection (a)(2) or (b)(2) of section 511 is a shareholder in a DISC—

"(1) any amount deemed distributed to such shareholder under subsection (b),

"(2) any actual distribution to such shareholder which under section 996 is treated as out of accumulated DISC income, and

"(3) any gain which is treated as a dividend under subsection (c),

shall be treated as derived from the conduct of an unrelated trade or business (and the modifications of section 512(b) shall not apply). The rules of the preceding sentence shall apply also for purposes of determining any such shareholder's DISC-related deferred tax liability under subsection (f)."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(7) TREATMENT OF CERTAIN AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—

(A) IN GENERAL.—Subsection (e) of section 959 of the 1986 Code is amended by striking out "such person under" and inserting in lieu thereof "such person (or, in any case to which section 1248(e) applies, of the domestic corporation referred to in section 1248(e)(2)) under".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of transactions to which section 1248(e) of the 1986 Code applies and which occur after December 31, 1986.

(8) TREATMENT OF SHARED FSC'S.—

(A) IN GENERAL.—Section 927 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SHARED FSC'S.—

"(1) IN GENERAL.—Except as provided in paragraph (2) , each separate account referred to in paragraph (3) maintained by a shared FSC shall be treated as a separate corporation for purposes of this subpart.

"(2) CERTAIN REQUIREMENTS APPLIED AT SHARED FSC LEVEL.—Paragraph (1) shall not apply—

"(A) for purposes of—

"(i) subparagraphs (A), (B), (D), and (E) of section 922(a)(1),

"(ii) paragraph (2) of section 922(a),

"(iii) subsections (b), (c), and (e) of section 924, and

"(iv) subsection (f) of this section, and

"(B) for such other purposes as the Secretary may by regulations prescribed.

"(3) SHARED FSC.—For purposes of this subsection, the term 'shared FSC' means any corporation if—

"(A) such corporation maintains a separate account for transactions with each shareholder (and persons related to such shareholder),

"(B) distributions to each shareholder are based on the amounts in the separate account maintained with respect to such shareholder, and

"(C) such corporation meets such other requirements as the Secretary may by regulations prescribe."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

(9) CLARIFICATION OF DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM A FSC.—

(A) Subsection (c) of section 245 of the 1986 Code is amended to read as follows:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

"(3) NO DEDUCTION UNDER SUBSECTION (a) OR (b).—No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) FOREIGN TRADE INCOME; EXEMPT FOREIGN TRADE INCOME.—The terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923.

"(B) EFFECTIVELY CONNECTED INCOME.—The term 'effectively connected income' means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

SEC. 113. AMENDMENTS RELATED TO TITLE XIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1301 OF THE REFORM ACT.—

(1) Clause (iii) of section 142(d)(4)(B) of the 1986 Code is amended by striking out "average rent" and inserting in lieu thereof "average gross rent".

(2) Clause (iii) of section 143(a)(2)(A) of the 1986 Code is amended by striking out "no bond which is part of such issue meets" and inserting in lieu thereof "such issue does not meet".

(3) Paragraph (4) of section 143(b) of the 1986 Code is amended by inserting "is part of an issue which" after "which".

(4)(A) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B)(i) Subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(ii) Subparagraph (A) of section 144(a)(12) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(iii) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph.

(C) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(5) Subparagraph (B) of section 144(b)(1) of the 1986 Code is amended—

(A) by striking out "to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply", and

(B) by striking out "of such Act" and inserting in lieu thereof "of the Higher Education Act of 1965", and

(C) by striking out "eligible" and all that follows in such subparagraph and inserting in lieu thereof the following: "eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a))."

(6) Subclause (I) of section 145(b)(2)(B)(ii) of the 1986 Code is amended by striking out "103(b)" and inserting in lieu thereof "103(b)(2)".

(7) Clause (i) of section 145(b)(2)(C) of the 1986 Code is amended by striking out "subparagraph (B)(ii)" and inserting in lieu thereof "subparagraph (B)".

(8) Paragraph (4) of section 145(b) of the 1986 Code is amended by striking out "subparagraphs (C) and (D)" and inserting in lieu thereof "subparagraphs (C), (D), and (E)".

(9) Subparagraph (A) of section 146(f)(5) of the 1986 Code (as in effect before the amendments made by section 10631 of the Revenue Act of 1987) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(10)(A) Paragraph (1) of section 146(k) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(B) Subsection (k) of section 146 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

"(A) for an output facility, or

"(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(11) Subsection (e) of section 147 of the 1986 Code is amended by striking out "treated as".

(12) Subsection (f) of section 147 of the 1986 Code (relating to public approval requirement for private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR SCHOLARSHIP FUNDING BOND ISSUES AND VOLUNTEER FIRE DEPARTMENT BOND ISSUES.—

"(A) SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond, any governmental unit which made a *request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.*

"(B) VOLUNTEER FIRE DEPARTMENT BONDS.—In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued."

(13)(A) Paragraph (1) of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue) is amended by striking out "aggregate face amount of the issue" and inserting in lieu thereof "proceeds of the issue".

(B) Paragraph (2) of section 147(g) of the 1986 Code is amended by striking out "aggregate authorized face amount of the issue does not" and inserting in lieu thereof "proceeds of the issue do not".

(C) The amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(14) Paragraph (2) of section 148(d) of the 1986 Code (relating to special rules for reasonably required reserve or replacement fund) is amended by striking out "any fund described in paragraph (1)" and inserting in lieu thereof "any reserve or replacement fund".

(15) Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A series of issues which are redeemed during a 6-month period (or such longer period as the Secretary may prescribe) shall be treated (at the election of the issuer) as 1 issue for purposes of the preceding sentence if no bond which is part of any issue in such series has a maturity of more than 270 days or is a private activity bond."

(16)(A) Subclause (I) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax or revenue anticipation bonds are expended) is amended by striking out "aggregate face amount of such issue" and inserting in lieu thereof "proceeds of such issue".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(17)(A) Subparagraph (C) of section 148(f)(4) of the 1986 Code is amended—

(i) by striking out the heading and inserting in lieu thereof:

"(C) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING $5,000,000 OR LESS OF BONDS.—

"(i) IN GENERAL.—",

(ii) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and moving the margins of such subclauses 2 ems to the right, and

(iii) by striking out the last sentence and inserting in lieu thereof the following new clauses:

"(ii) AGGREGATION OF ISSUERS.—For purposes of subclause (IV) of clause (i)—

"(I) an issuer and all entities which issue bonds on behalf of such issuer shall be treated as 1 issuer,

"(II) all bonds issued by a subordinate entity shall, for purposes of applying such subclause to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(III) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of such subclause (IV) and all other entities benefiting thereby shall be treated as 1 issuer.

"(iii) CERTAIN REFUNDING BONDS NOT TAKEN INTO ACCOUNT IN DETERMINING SMALL ISSUER STATUS.—There shall not be taken into account under subclause (IV) of clause (i) any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iv) CERTAIN ISSUES ISSUED BY SUBORDINATE GOVERNMENTAL UNITS, ETC., EXEMPT FROM REBATE REQUIREMENT.—An issue issued by a subordinate entity of a governmental unit with general taxing powers shall be treated as described in clause (i)(I) if the aggregate face amount of such issue does not exceed the lesser of—

"(I) $5,000,000, or

"(II) the amount which, when added to the aggregate face amount of other issues issued by such entity, does not exceed the portion of the $5,000,000 limitation under clause (i)(IV) which such governmental unit allocates to such entity.

For purposes of the preceding sentence, an entity which issues bonds on behalf of a governmental unit with general taxing powers shall be treated as a subordinate entity of such unit. An allocation shall be taken into account under subclause (II) only if it is irrevocable and made before the issuance date of such issue and only to the extent that the limitation so allocated bears a reasonable relationship to the benefits received by such governmental unit from issues issued by such entity.

"(v) DETERMINATION OF WHETHER REFUNDING BONDS ELIGIBLE FOR EXCEPTION FROM REBATE REQUIREMENT.—If any portion of an issue is issued to refund other bonds, such portion shall be treated as a separate issue which does not meet the requirements of paragraphs (2) and (3) by reason of this subparagraph unless—

"(I) the aggregate face amount of such issue does not exceed $5,000,000,

"(II) each refunded bond was issued as part of an issue which was treated as meeting the requirements of paragraphs (2) and (3) by reason of this subparagraph,

"(III) the average maturity date of the refunding bonds issued as part of such issue is not later than the average maturity date of the bonds to be refunded by such issue, and

"(IV) no refunding bond has a maturity date which is later than the date which is 30 years after the date the original bond was issued.

Subclause (III) shall not apply if the average maturity of the issue of which the original bond was a part (and of the issue of which the bonds to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(vi) REFUNDINGS OF BONDS ISSUED UNDER LAW PRIOR TO TAX REFORM ACT OF 1986.—If section 141(a) did not apply to any refunded bond, the issue of which such refunded bond was a part shall be treated as meeting the requirements of subclause (II) of clause (v) if—

"(I) such issue was issued by a governmental unit with general taxing powers,

"(II) no bond issued as part of such issue was an industrial development bond (as defined in section 103(b)(2), but without regard to subparagraph (B) of section 103(b)(3)) or a private loan bond (as defined in section 103(o)(2)(A), but without regard to any exception from such definition other than section 103(o)(2)(C)), and

"(III) the aggregate face amount of all tax-exempt bonds (other than bonds described in subclause (II)) issued by such unit during the calendar year in which such issue was issued did not exceed $5,000,000.

References in subclause (II) to section 103 shall be to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986. Rules similar to the rules of clauses (ii) and (iii) shall apply for purposes of subclause (III). For purposes of subclause (II) of clause (i), bonds described in subclause (II) of this clause to which section 141(a) does not apply shall not be treated as private activity bonds."

(B) Subclause (IV) of section 148(f)(4)(C)(i) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "(and all subordinate entities thereof)".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the amendments made by this paragraph shall apply to such issuer as if included in the amendments made by section 1301(a) of the Tax Reform Act of 1986.

(18) Clause (i) of section 148(f)(4)(D) of the 1986 Code is amended—

(A) by inserting "for a program" before "described in section 144(b)(1)(A)",

(B) by striking out "such a program" and inserting in lieu thereof "such program", and

(C) by adding at the end thereof the following: "Amounts designated as interest on student loans shall not be taken into account in determining whether the issuer is reimbursed for such costs. Except as otherwise hereafter provided in regulations prescribed by the Secretary, costs described in subclause (I) paid from amounts earned as described in the first sentence of this clause may also be taken into account in determining the yield on the student loans under a program described in section 144(b)(1)(A)."

(19) Subparagraph (B) of section 148(f)(7) of the 1986 Code is amended by striking out "due to reasonable cause and not" and inserting in lieu thereof "not due".

(20) Clause (iii) of section 149(b)(3)(A) of the 1986 Code is amended by striking out "with respect to any bond issued before July 1, 1989".

(21) Subparagraph (A) of section 149(b)(4) of the 1986 Code is amended by striking out "a qualified student loan bond, and a qualified redevelopment bond" and inserting in lieu thereof "and a qualified student loan bond".

(22) Paragraph (3) of section 149(e) of the 1986 Code (relating to information reporting) is amended by striking out "there is reasonable cause for the failure to file such statement in a timely fashion" and inserting in lieu thereof "the failure to file in a timely fashion is not due to willful neglect".

(23)(A) Subparagraph (B) of section 150(b)(4) of the 1986 Code (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by inserting before the period "or a qualified small issue bond".

(B) The heading for paragraph (4) of section 150(b) of the 1986 Code is amended by

inserting "AND SMALL ISSUE BONDS" after "EXEMPT FACILITY BONDS".

(C) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting "tax-exempt" before "qualified mortgage bond".

(24)(A) Subsection (e) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS PRIVATE ACTIVITY BONDS ONLY FOR CERTAIN PURPOSES.—Bonds which are part of an issue which meets the requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(25) Clause (ii) of section 1301(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out all that follows 'an amount of' and inserting in lieu thereof 'private activity bonds which it may otherwise issue during such calendar year under section 146,'."

(26) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages) is amended by striking out "1987" and inserting in lieu thereof "1988".

(27) The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such 103A(c)(1) applies.

(28)(A) Subparagraph (A) of section 146(i)(2) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or".

(B) Subparagraph (A) of section 146(i)(3) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or".

(C) Subsection (i) of section 146 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) AVERAGE MATURITY.—For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(29) Subparagraph (D) of section 147(f)(2) of the 1986 Code is amended by striking out "the maturity date" and all that follows and inserting in lieu thereof "the average maturity date of the issue of which the refunded bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A)."

(30) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting before the period "and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing".

(31) Subparagraph (A) of section 150(b)(2) of the 1986 Code is amended by striking out "described paragraph" and inserting in lieu thereof "described in paragraph".

(32) Paragraph (2) of section 150(b) of the 1986 Code is amended by adding at the end thereof the following: "If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond."

(33) Subsection (b) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SMALL ISSUE BONDS WHICH EXCEED CAPITAL EXPENDITURE LIMITATION.—In the case of any financing provided from the proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond."

(34)(A) Paragraph (7) of section 103(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking out "necessary" and inserting in lieu thereof "necessary".

(B) Subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which Treasury regulation section 1.103-13 (1979) was provided to apply.

(35) VALIDATION OF SINKING FUND REGULATIONS.—

(A) Treasury Regulation section 1.103-13(g) (1979) is hereby enacted into positive law.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply.

(ii) Treasury Regulation section 1.103-13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

(36) Clause (i) of section 147(f)(2)(E) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term."

(37) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking out the items relating to sections 103 and 103A and inserting in lieu thereof the following new item:

"Sec. 103. Interest on State and local bonds."

(38) Subparagraph (B) of section 141(b)(5) of the 1986 Code is amended by striking out "which would cause bond" and inserting in lieu thereof "which would cause a bond".

(39) Clause (ii) of section 142(b)(1)(B) of the 1986 Code is amended by striking out "(as defined in 168(i)(3))" and inserting in lieu thereof "(as defined in section 168(i)(3))".

(40) Subparagraph (B) of section 146(d)(4) of the 1986 Code is amended by striking out "with respect a possession" and inserting in lieu thereof "with respect to a possession".

(41) Clause (ii) of section 48(l)(11)(A) of the 1986 Code is amended by striking out "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(42) Subsection (a) of section 7478 of the 1986 Code is amended—

(A) by striking out "whether prospective obligations are described in section 103(a)" in paragraph (1) and inserting in lieu thereof "whether interest on prospective obligations will be excludable from gross income under section 103(a)", and

(B) by striking out "whether such prospective obligations are described in section 103(a)" and inserting in lieu thereof "whether interest on such prospective obligations will be excludable from gross income under section 103(a)".

(43)(A) Subsection (b) of section 148 of the 1986 Code (defining higher yielding investments) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE MINIMUM TAX BONDS TREATED AS INVESTMENT PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'investment property' does not include any tax-exempt bond.

"(B) EXCEPTION.—With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C)), the term 'investment property' includes a specified private activity bond (as so defined)."

(B) Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to obligations issued after March 31, 1988.

(44) Subparagraph (B) of section 46(c)(5) of the 1986 Code is amended—

(A) by striking out "INDUSTRIAL DEVELOPMENT BONDS" in the heading and inserting in lieu thereof "PRIVATE ACTIVITY BONDS", and

(B) by striking "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(b) AMENDMENTS RELATED TO SECTION 1311 OF THE REFORM ACT.—

(1) Section 1311 of the Reform Act is amended by redesignating subsection (d) as subsection (f), and by inserting after subsection (c) the following new subsections:

"(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

"(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986."

(2) Paragraph (2) of section 1311(b) of the Reform Act (relating to effective date for section 1301(f)) is amended by inserting "with respect to non-issued bond amounts elected" after "issued".

(c) AMENDMENTS RELATED TO SECTION 1313 OF THE REFORM ACT.—

(1) Clause (i) of section 1313(a)(1)(B) of the Reform Act is amended by striking out "the proceeds" and inserting in lieu thereof "the net proceeds".

(2)(A) Subparagraph (C) of section 1313(a)(3) of the Reform Act is amended by striking out "section 148" and inserting in lieu thereof "sections 143(g) and 148".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(3) Subparagraph (E) of section 1313(a)(3) of the Reform Act is amended by striking out "of such Code".

(4) Paragraph (3) of section 1313(a) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a refunding bond described in para-

graph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond."

(5) Subparagraph (A) of section 1313(a)(4) of the Reform Act is amended by inserting "and by substituting 'September 1, 1986' for 'August 16, 1986'" before the comma at the end thereof.

(6) Paragraph (2) of section 1313(b) of the Reform Act is amended by adding at the end thereof "For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (o)(2)(A) shall be made without regard to any exception other than section 103(o)(2)(C) of such Code."

(7) Subparagraph (F) of section 1313(b)(3) of the Reform Act is amended by striking out "of such Code".

(8) Paragraph (3) of section 1313(b) of the Reform Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds)."

(9) Paragraph (5) of section 1313(b) of the Reform Act is amended by striking out "are to be" and inserting in lieu thereof "are or will be".

(10)(A) The heading for subsection (c) of section 1313 of the Reform Act is amended by striking out "CURRENT" and inserting in lieu thereof "CERTAIN".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended—

(i) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)", and

(ii) by striking out "law do not" and inserting in lieu thereof "law did not".

(11)(A) Subparagraph (A) of section 1313(c)(1) of the Reform Act is amended to read as follows:

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code."

(C) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(D) Subparagraph (B) of section 1313(c)(2) of the Reform Act is amended by striking out "and (D)" and inserting in lieu thereof "and (C)".

(E) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph.

(12)(A) Subparagraph (N) of section 103(b)(6) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act (relating to termination dates), is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by striking out clause (i) and inserting in lieu thereof the following new clauses:

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall not apply to any obligation issued after December 31, 1986.

"(ii) CERTAIN REFUNDINGS.—This paragraph shall apply to any obligation (or series of obligations) issued to refund an obligation issued on or before December 31, 1986, if—

"(I) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(II) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(III) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of subclause (I), average maturity shall be determined in accordance with subsection (b)(14)(B)(i)."

(B) The date applicable under section 144(a)(12)(B) of the 1986 Code shall be treated as contained in section 103(b)(6)(N)(iii) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103(b)(6)(N)(iii) applies.

(13) Paragraph (2) of section 1313(c) of the Reform Act is amended—

(A) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)",

(B) by striking out "subsection does not" and inserting in lieu thereof "subsection did not", and

(C) by striking out "the proceeds" in subparagraph (A)(i) and inserting in lieu thereof "the net proceeds".

(14)(A) Section 1313 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) MORTGAGE AND STUDENT LOAN TARGETING RULES TO APPLY TO LOANS MADE MORE THAN 3 YEARS AFTER THE DATE OF THE ORIGINAL ISSUE.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond."

(B) The amendment made by subparagraph (A) shall apply with respect to refunding bonds issued after October 16, 1987.

(15) A bond issued to refund an obligation described in section 103(o)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall not be treated as described in section 144(b) of the 1986 Code unless it is described in section 144(b)(1)(A) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1314 OF THE REFORM ACT.—

(1) Subsection (a) of section 1314 of the Reform Act is amended by adding at the end thereof the following: "The treatment under the preceding sentence shall also apply to a bond issued before September 26, 1985, but only for purposes of determining whether any bond issued after September 25, 1985, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(2) Subsection (f) of section 1314 of the Reform Act is amended by striking out "December" and inserting in lieu thereof "August".

(3) Section 1314 of the Reform Act is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) TERMINATION OF MORTGAGE BOND POLICY STATEMENT REQUIREMENT.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

"(h) ARBITRAGE RESTRICTION ON INVESTMENTS IN INVESTMENT-TYPE PROPERTY.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(e) AMENDMENTS RELATED TO SECTION 1315 OF THE REFORM ACT.—

(1) Subsection (c) of section 1315 of the Reform Act is amended—

(A) by inserting "for calendar year 1986" after "1954 Code" each place it appears,

(B) by striking out "before August 16" each place it appears and inserting in lieu thereof "on August 15", and

(C) by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code."

(2)(A) Subsection (e) of section 1315 of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 10, 1987.

(f) AMENDMENTS RELATED TO SECTION 1316 OF THE REFORM ACT.—

(1)(A) Subsections (a)(1), (b)(1), (c)(1), and (f)(1) of section 1316 of the Reform Act are each amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(2) Subsection (c) of section 1316 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION 147(b).—A bond to which this subsection applies (other than a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a *maturity date not later than the date which is 20 years after the date on which the original bond was issued."*

(3) Paragraph (1) of section 1316(e) of the Reform Act is amended—

(A) by inserting "(and section 103(h)(2)(B)(ii) of the 1954 Code)" after "1986 Code" the first place it appears, and

(B) by inserting "(and section 103(b)(16) of the 1954 Code)" after "1986 Code" in the last sentence.

(4) Paragraph (2) of section 1316(g) of the Reform Act is amended—

(A) by striking out "described in the paragraph (3)" in subparagraph (A) and inserting in lieu thereof "issued to provide a facility described in paragraph (3)", and

(B) by striking out "which paragraph (3)" in subparagraph (C) and inserting in lieu thereof "which such paragraph (3)".

(5) Paragraph (6) of section 1316(g) of the Reform Act is amended by inserting "(and the provisions of section 1314)" after "section 1301".

(6) Paragraph (7) of section 1316(g) of the Reform Act is amended to read as follows:

"(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

"(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

"(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by substituting '25 percent' for '10 percent' each place it appears, and

"(C) section 149(b) of the 1986 Code shall not apply.

This paragraph shall not apply to any bond issued after December 31, 1990."

(7)(A) Subparagraph (A) of section 1316(g)(8) of the Reform Act is amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(8) Paragraph (2) of section 1316(j) of the Reform Act is amended to read as follows:

"(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting "the date which is 1 year after the date of the enactment of the Miscellaneous Revenue Act of 1988" for "December 31, 1984" and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.'"

(9) Paragraph (2) of section 1316(k) of the Reform Act is amended by striking out "$55,000,000 must be redeemed no later than November 1, 1987" and inserting in lieu thereof "no more than $55,000,000 shall be outstanding later than November 1, 1987".

(10) Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end of subsection (r) the following new sentence:

"Section 148(f) of the Internal Revenue Code of 1986 and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply to any bonds described in paragraph (1) which may be issued as a result of the amendments made by the Tax Reform Act of 1986."

(11) Subsection (l) of section 1316 of the Reform Act is hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 1317 OF THE REFORM ACT.—

(1) Subparagraph (J) of section 1317(2) of the Reform Act is amended by striking out "began construction in 1980" and inserting in lieu thereof ", a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate".

(2) Subparagraph (C) of section 1317(3) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if—

"(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

"(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84-1470 of the State in which such city is located (and by an agency created thereby), and

"(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph."

(3)(A) Subparagraph (P) of section 1317(3) of the Reform Act is amended—

(i) by striking out "approved" and inserting in lieu thereof "authorized", and

(ii) by striking out "December 9, 1985" and inserting in lieu thereof "December 2, 1985".

(B) Section 1317(3)(A) of the Reform Act is amended by striking out "domed".

(C) Section 1317(3)(U) of the Reform Act is amended by deleting "coliseum complex." and inserting in lieu thereof 'coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team."

(D) Section 1317(3)(W) of the Reform Act is amended by striking out "$225,000,000" and inserting "$25,000,000".

(4) Paragraph (3) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A facility is described in this subparagraph if—

"(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

"(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000."

(5) Paragraph (4) of section 1317 of the Reform Act is amended—

(A) by striking out "1986. The bonds" and inserting in lieu thereof "1986, and the bonds",

(B) by striking out "and" at the end the subparagraph (A), and

(C) by adding "and" at the end of subparagraph (B).

(6) Subparagraph (W) of section 1317(6) of the Reform Act is amended to read as follows:

"(W) A project is described in this subparagraph if such project is—

"(i) a part of the Kenosha Downtown Redevelopment project, and

"(ii) located in an area bounded—

"(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

"(II) on the north by 48th Street (extended),

"(III) on the west by the present Chicago & Northwestern Railroad tracks, and

"(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000."

(7) Paragraph (6) of section 1317 of the Reform Act is amended by redesignating subparagraph (X) as subparagraph (Z) and by inserting after subparagraph (W) the following new subparagraphs:

"(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986."

(8) The last sentence of subparagraph (A) of section 1317(7) of the Reform Act is amended by inserting before the period "and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated".

(9) Subparagraph (D) of section 1317(7) of the Reform Act is amended to read as follows:

"(D) A facility is described in this subparagraph if—

"(i) it is a convention, trade, or spectator facility,

"(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

"(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies."

(10) Clause (ii) of section 1317(7)(G) of the Reform Act is amended to read as follows:

"(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and".

(11) Subparagraph (J) of section 1317(7) of the Reform Act is amended—

(A) by striking out "civic festival" in clause (i) and inserting in lieu thereof "aquafestival",

(B) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and", and

(C) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

(12) Subparagraph (E) of section 1317(9) of the Reform Act is amended by striking out "March 5, 1985" and inserting in lieu thereof "March 6, 1985".

(13) Clause (iii) of section 1317(9)(J) of the Reform Act is amended by striking out all that precedes "by the governor" and inserting in lieu thereof the following:

"(iii) such facility's location was approved in December 1985 by a task force created jointly".

(14) Subparagraph (A) of section 1317(11) of the Reform Act is amended by striking out "and section 142(a)" and inserting in lieu thereof "in section 142(a)".

(15) Subparagraph (C) of section 1317(11) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act."

(16) Subparagraph (X) of section 1317(13) of the Reform Act is amended by striking out the last sentence.

(17) Paragraph (13) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(BB) A residential rental property project is described in this subparagraph if—

"(i) a contract to purchase such property was dated as of August 9, 1985,

"(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

"(iii) there was a State court final validation of such financing on November 15, 1985, and

"(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000."

(18) Paragraph (14) of section 1317 of the Reform Act is amended by striking out "$90,000,000" and inserting in lieu thereof "$130,000,000" and by inserting "incorporated on February 20, 1985" before the period at the end of the 1st sentence.

(19) Subparagraph (B) of section 1317(15) of the Reform Act is amended—

(A) by striking out all that follows "agreement with" in clause (i) and inserting in lieu thereof "an underwriter to provide planning and financial guidance for a possible bond issue, and", and

(B) by striking out "certificates" in clause (ii) and inserting in lieu thereof "bond issue"

(20) Paragraph (16) of section 1317 of the Reform Act is amended by striking out the last sentence.

(21) Clause (i) of section 1317(19)(D) of the Reform Act is amended by striking out "light rail transitway" and inserting in lieu thereof "fixed guideway".

(22) Paragraph (20) of section 1317 of the Reform Act is amended by striking out "Section 148(f)" and inserting in lieu thereof "Subsections (c)(2) and (f) of section 148".

(23) Subparagraph (B) of section 1317(21) of the Reform Act is amended—

(A) by striking out "Subsection (c)" and inserting in lieu thereof "Subsections (c)(2)", and

(B) by striking out "103A(g)(5)(C)l" and inserting in lieu thereof "103A(g)(5)(C)".

(24) Paragraph (22) of section 1317 of the Reform Act is amended to read as follows:

"(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"'(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

"'(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

"'(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

"'(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.' "

(25) Subparagraph (A) of section 1317(24) of the Reform Act is amended by adding at the end thereof the following: "The last paragraph of this section shall not apply to the treatment under the preceding sentence."

(26)(A) Clause (i) of section 1317(25)(A) of the Reform Act is amended by striking out "3 counties" and inserting in lieu thereof "1 or more of 3 counties".

(B) Clause (i) of section 1317(25)(B) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(27) Subparagraph (I) of section 1317(27) of the Reform Act is amended by adding at the end thereof the following: "For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government."

(28) Clause (i) of section 1317(29)(B) of the Reform Act is amended by striking out all that follows "1993" and inserting in lieu thereof ", by the State of Connecticut, and".

(29) Subparagraph (D) of section 1317(29) of the Reform Act is amended by striking out "the net proceeds" and inserting in lieu thereof "the proceeds".

(30) Section 1317(33)(A)(ii) of the Reform Act is amended—

(A) by striking out "on" and inserting in lieu thereof "dated" each place it appears, and

(B) by inserting "dated on December 1, 1985" after "(Series 1985A and 1985B)" in subclause (III).

(31) Subparagraph (B) of section 1317(33) of the Reform Act is amended—

(A) by striking out "and before August 7, 1988,", and

(B) by adding at the end thereof the following new sentence: "The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000."

(32) Subparagraph (G) of section 1317(33) of the Reform Act is amended by striking out "subparagraph (H)" and inserting in lieu thereof "subparagraph (F)".

(33) Subparagraph (H) of section 1317(33) of the Reform Act is amended—

(A) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985", and

(B) by adding at the end thereof the following: "Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service."

(34) Subparagraph (K) of section 1317(33) of the Reform Act is amended—

(A) by striking out "the issue is" in clause (i) and inserting in lieu thereof "the issue or issues are",

(B) by striking out "900 units" and inserting "at least 790 units",

(C) by striking out "2,000 square feet" and inserting in lieu thereof "245,000 square feet", and

(D) by striking out "$150,000,000" and inserting in lieu thereof "$112,000,000".

(35) Paragraph (33) of section 1317 of the Reform Act is amended by striking out subparagraphs (M), (N), and (O) and inserting in lieu thereof the following new subparagraphs:

"(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

"(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than subparagraph (A) thereof) shall be taken into account in determining whether such section applies to any later issue.

"(O) In the case of any refunding bond—

"(i) to which any subparagraph of this paragraph applies, and

"(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result."

(36) Paragraph (36) of section 1317 of the Reform Act is amended by striking out "$80,000,000" and inserting in lieu thereof "$400,000,000".

(37) Paragraph (38) of section 1317 of the Reform Act is amended by striking out "and sections 148 and 149".

(38) Paragraphs (39) and (40) of section 1317 of the Reform Act are amended to read as follows:

"(39) CERTAIN BONDS TREATED AS QUALIFIED 501(C)(3) BONDS.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

"(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

"(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

"(40) CERTAIN LIBRARY BONDS.—In the case of a bond issued before January 1, 1986, by the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds."

(39) Paragraph (41) of section 1317 of the Reform Act is amended to read as follows:

"(41) CERTAIN REFUNDING OBLIGATIONS FOR CERTAIN POWER FACILITIES.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

"(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

"(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies."

(40) Paragraph (43) of section 1317 of the Reform Act is amended by inserting before the period "and the Internal Revenue Code of 1986 shall be applied without regard to section 149(d)(2)."

(41) Paragraph (44) of section 1317 of the Reform Act is amended—

(A) by inserting after "1986 Code" the following: "and the temporary period limitation of section 148(c)(2) of the 1986 Code",

(B) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000", and

(C) by striking out "Hospitals Bond Pool" in the second item in the table and inserting in lieu thereof "Hospital Equipment Loan Council".

(42) Paragraph (48) of section 1317 of the Reform Act is amended by striking out "either" in the material preceding subparagraph (A) and inserting in lieu thereof "any".

(43) Subparagraph (B) of section 1317(48) of the Reform Act is amended by striking out "subparagraph (O)" and inserting in lieu thereof "paragraph (6)(U)".

(44) Paragraph (48) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000."

(45) Paragraph (49) of section 1317 of the Reform Act is amended—

(A) by striking out "149(d)" and inserting in lieu thereof "149(d)(2)", and

(B) by inserting "United States" before "Housing Act of 1937".

(46) Paragraph (50) of section 1317 of the Reform Act is amended to read as follows:

"(50) TRANSITIONED BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section."

(47) Paragraph (51) of section 1317 of the Reform Act is amended—

(A) by striking out "Section 141(a)" and inserting in lieu thereof "Section 141(b)", and

(B) by striking out "141(a)(3)" and inserting in lieu thereof "141(b)(3)".

(48) Paragraph (52) of section 1317 of the Reform Act is amended by striking out "This section" and inserting in lieu thereof "Except as otherwise provided in this section, this section".

(49) The material preceding subparagraph (A) of section 1317(2) of the Reform Act is amended by striking out "section 103(b)(4)(C)" and inserting in lieu thereof "section 103(b)(4)(F)".

(50) Clause (ii) of section 1317(27)(H) of the Reform Act is amended by striking out "November 14, 1985" and inserting in lieu thereof "November 13, 1985".

(51) Subparagraph (I) of section 1317(33) of the Reform Act is amended by striking out "November 11, 1985" and inserting in lieu thereof "November 1, 1985".

(52) Subparagraph (J) of section 1317(3) of the Reform Act is amended by striking out "October 29" in clause (iv) and inserting in lieu thereof "November 5".

(h) AMENDMENTS RELATED TO SECTION 1318 OF THE REFORM ACT.—Section 1318 of the Reform Act (relating to definitions, etc., relating to effective dates and transitional rules) is amended—

(1) by inserting "(a) DEFINITIONS.—" before "For purposes of this subtitle—", and

(2) by adding at the end thereof the following new subsections:

"(b) MINIMUM TAX TREATMENT.—

"(1) IN GENERAL.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

"(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

"(B) a private loan bond (as defined in section 103(o)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

"(2) BONDS DESCRIBED.—For purposes of paragraph (1), a bond is described in this paragraph if—

"(A) the amendments made by section 1301 do not apply to such bond by reason of section 1312 or 1316(g),

"(B) any provision of section 1317 applies to such bond, or

"(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

"(c) CURRENT REFUNDINGS NOT TAKEN INTO ACCOUNT IN APPLYING AGGREGATE LIMIT ON BONDS TO WHICH TRANSITIONAL RULES APPLY.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any ond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

"(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. Sections 1316(g)(5) and 1317(52) shall not apply to any refunding bond which meets the requirements of this subsection.

"(d) SPECIAL RULE PERMITTING CARRYFORWARD OF VOLUME CAP FOR CERTAIN TRANSITIONED PROJECTS.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond."

(i) APPLICATION TO 501(c)(3) BONDS.—In accordance with section 1302 of the Reform Act, each amendment and other provision of this Act which applies to private activity bonds shall, unless otherwise expressly provided, apply to qualified 501(c)(3) bonds.

SEC. 114. AMENDMENTS RELATED TO TITLE XIV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1401 OF THE REFORM ACT.—

(1) Subsection (e) of section 672 of the 1986 Code is amended to read as follows:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—

"(1) IN GENERAL.—For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

"(A) any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

"(B) any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

"(2) MARITAL STATUS.—For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of di-

vorce or of separate maintenance shall not be considered as married."

(2) Paragraph (3) of section 675 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual."

(3) Subsection (c) of section 674 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual."

(b) Amendment Related to Section 1402 of the Reform Act.—Section 673 of the 1986 Code is amended by adding at the end thereof the following new subsections:

"(c) Special Rule for Determining Value of Reversionary Interest.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

"(d) Postponement of Date Specified for Reacquisition.—Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such income would not be so includible in the absence of such postponement."

(c) Amendments Related to Section 1403 of the Reform Act.—

(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act.

(B) For purposes of subparagraph (A), the term "pass-thru entity" means any trust, partnership, S corporation, or common trust fund.

(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act, such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.

(d) Amendments Related to Section 1404 of the Reform Act.—

(1) Subsection (a) of section 1404 of the Reform Act is amended—

(A) by striking out "Subsection (k) of section 6654" and inserting in lieu thereof "Subsection (l) of section 6654, as amended by section 1841 of this Act", and

(B) by striking out " '(k) Trusts" and inserting in lieu thereof " '(l) Trusts".

(2) Subsection (l) of section 6654 of the 1986 Code is amended to read as follows:

"(l) Estates and Trusts.—

"(1) In general.—Except as otherwise provided in this subsection, this subsection shall apply to any estate or trust.

"(2) Exception for estates and certain trusts.—With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

"(A) the estate of such decedent, or

"(B) any trust—

"(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will.

"(3) Exception for charitable trusts and private foundations.—This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

"(4) Special rule for annualizations.—In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting 'ending before the date 1 month before the due date for the installment' for 'ending before the due date for the installment'."

(3) Subsection (g) of section 643 of the 1986 Code is amended—

(A) by striking out the last sentence of paragraph (1), and

(B) by amending paragraph (2) to read as follows:

"(2) Time for making election.—An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe."

(4) Subsection (g) of section 643 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Extension to last year of estate.—In the case of a taxable year reasonably expected to be the last taxable year of an estate—

"(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

"(B) the fiduciary of the estate shall be treated as the trustee."

(e) Amendments Related to Section 1411 of the Reform Act.—

(1) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Coordination with section 644.—If tax is imposed under section 644(a)(1) with respect to the sale or exchange of any property of which the parent was the transferor, for purposes of applying subparagraph (A) to the taxable year of the parent in which such sale or exchange occurs—

"(i) taxable income of the parent shall be increased by the amount treated as included in gross income under section 644(a)(2)(A)(i), and

"(ii) the amount described in subparagraph (A)(ii) shall be increased by the amount of the excess referred to in section 644(a)(2)(A)."

(2) The last sentence of subparagraph (A) of section 1(i)(3) of the 1986 Code is amended by striking out "any deduction or credit" and inserting in lieu thereof "any exclusion, deduction, or credit".

(3) Subparagraph (A) of section 1(i)(4) of the 1986 Code is amended—

(A) by striking out "gross income for the taxable year which is not earned income" in clause (i) and inserting in lieu thereof "adjusted gross income for the taxable year which is not attributable to earned income",

(B) by striking out "his deduction" in clause (ii)(II) and inserting in lieu thereof "his deductions",

(C) by striking out "the deductions allowed" in clause (ii)(II) and inserting in lieu thereof "the itemized deductions allowed", and

(D) by striking out "gross income" in clause (ii)(II) and inserting in lieu thereof "adjusted gross income".

(4) Clause (iv) of section 6103(e)(1)(A) of the 1986 Code is amended by striking out "section 1(j)" and inserting in lieu thereof "section 1(i) or 59(j)".

(5) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) Certain Unearned Income of Minor Children Taxed as if Parent's Income.—

"(1) In general.—In the case of any child to whom section 1(i) applies, the tax imposed by section 55 shall be equal to the greater of—

"(A) the tax imposed by section 55 without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by section 55 if—

"(I) the alternative minimum taxable income of such child for the taxable year were reduced by the net unearned minimum taxable income of such child, and

"(II) the regular tax of such child for the taxable year were reduced by the portion of such tax attributable to net unearned income (as defined in section 1(i)(4)), plus

"(ii) such child's share of the allocable parental minimum tax.

"(2) Allocable parental minimum tax.—For purposes of this subsection—

"(A) In general.—The term 'allocable parental minimum tax' means the excess of—

"(i) the tax which would be imposed by section 55 on the parent's alternative minimum taxable income if—

"(I) such income included the net unearned minimum taxable income of all children of the parent to whom section 1(i) applies, and

"(II) the amount of the parent's regular tax were increased by the amount of the aggregate of the regular taxes of all children of the parent to whom section 1(i) applies to the extent such taxes are attributable to net unearned income (as defined in section 1(i)(4)) of such children, over

"(ii) the tax imposed by section 55 on the parent without regard to this subsection.

For purposes of clause (i), the net unearned minimum taxable income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

"(B) Child's share.—A child's share of any allocable parental minimum tax shall be determined under rules similar to the rules of section 1(i)(3)(B).

"(C) Coordination with section 644.—Rules similar to the rules of subparagraph (C) of section 1(i)(3) shall apply.

"(3) Net unearned minimum taxable income.—For purposes of this subsection, the term 'net unearned minimum taxable income' means net unearned income (as defined in section 1(i)(4) computed with the adjustments provided in sections 56, 57, and 58; except that, notwithstanding section 56(b)(1)(E), the deduction under section 63(c) shall be allowed.

"(4) OTHER RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of paragraphs (5) and (6) of section 1(i) shall apply."

(6) Subparagraph (A) of section 1(i)(5) of the 1986 Code is amended by striking out "custodial parent" and inserting in lieu thereof "custodial parent (within the meaning of section 152(e))".

(7) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE WHERE PARENT HAS DIFFERENT TAXABLE YEAR.—Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year."

(f) AMENDMENT RELATED TO SECTION 1421 OF THE REFORM ACT.—Subsection (a) of section 1421 of the Reform Act is amended by striking out "within the time prescribed for filing such return (including extensions thereof)".

(g) AMENDMENTS RELATED TO SECTION 1431 OF THE REFORM ACT.—

(1) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "generation-skipping transfers" and inserting in lieu thereof "generation-skipping transfer".

(2) Subsection (b) of section 2611 of the 1986 Code is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR CHARITABLE LEAD ANNUITY TRUSTS.—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio for any charitable lead annuity trust, the applicable fraction shall be a fraction—

"(A) the numerator of which is the adjusted GST exemption, and

"(B) the denominator of which is the value of all of the property in such trust immediately after the termination of the charitable lead annuity.

"(2) ADJUSTED GST EXEMPTION.—For purposes of paragraph (1), the adjusted GST exemption is an amount equal to the GST exemption allocated to the trust increased by interest determined—

"(A) at the interest rate used in determining the amount of the deduction under section 2055 or 2522 (as the case may be) for the charitable lead annuity, and

"(B) for the actual period of the charitable lead annuity.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE LEAD ANNUITY TRUST.—The term 'charitable lead annuity trust' means any trust in which there is a charitable lead annuity.

"(B) CHARITABLE LEAD ANNUITY.—The term 'charitable lead annuity' means any interest in the form of a guaranteed annuity with respect to which a deduction was allowed under section 2055 or 2522 (as the case may be).

"(4) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) The amendment made by subparagraph (A) shall apply for purposes of determining the inclusion ratio with respect to property transferred after October 13, 1987.

(4)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR CERTAIN INTER VIVOS TRANSFERS.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio, if—

"(A) an individual makes an inter vivos transfer of property, and

"(B) the value of such property would be includible in the gross estate of such individual under chapter 11 if such individual died immediately after making such transfer (other than by reason of section 2035),

any allocation of GST exemption to such property shall not be made before the close of the estate tax inclusion period (and the value of such property shall be determined under paragraph (2)). If such transfer is a direct skip, such skip shall be treated as occurring as of the close of the estate tax inclusion period.

"(2) VALUATION.—In the case of any property to which paragraph (1) applies, the value of such property shall be—

"(A) if such property is includible in the gross estate of the transferor (other than by reason of section 2035), its value for purposes of chapter 11, or

"(B) if subparagraph (A) does not apply, its value as of the close of the estate tax inclusion period (or, if any allocation of GST exemption to such property is not made on a timely filed gift tax return for the calendar year in which such period ends, its value as of the time such allocation is filed with the Secretary).

"(3) ESTATE TAX INCLUSION PERIOD.—For purposes of this subsection, the term 'estate tax inclusion period' means any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross estate of the transferor under chapter 11 if he died. Such period shall in no event extend beyond the earlier of—

"(A) the date on which there is a generation-skipping transfer with respect to such property, or

"(B) the date of the death of the transferor.

"(4) TREATMENT OF SPOUSE.—Except as provided in regulations, any reference in this subsection to an individual or transferor shall be treated as including a reference to the spouse of such individual or transferor.

"(5) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) Paragraph (2) of section 2642(a) of the 1986 Code is amended by striking out the last sentence.

(C) Subparagraph (A) of section 2642(b)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned."

(D) Subsection (b) of section 2642 of the 1986 Code is amended by inserting "Except as provided in subsection (f)—" immediately after the subsection heading.

(E) Subparagraph (B) of section 2642(b)(2) of the 1986 Code is amended—

(i) by striking out "at or after the death of the transferor" and inserting in lieu thereof "to property transferred as a result of the death of the transferor"; and

(ii) by striking out "AT OR AFTER DEATH" in the subparagraph heading and inserting in lieu thereof "TO PROPERTY TRANSFERRED AT DEATH".

(F) Paragraph (3) of section 2642(b) of the 1986 Code is amended—

(i) by striking out "to any property is made during the life of the transferor but is" and inserting in lieu thereof "to any property not transferred as a result of the death of the transferor is"; and

(ii) by striking out "INTER VIVOS ALLOCATIONS" in the subparagraph heading and inserting in lieu thereof "ALLOCATIONS TO INTER VIVOS TRANSFERS".

(5)(A) Paragraph (1) of section 2613(a) of the 1986 Code is amended by striking out "a person assigned" and inserting in lieu thereof "a natural person assigned".

(B) Subsection (c) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) LOOK-THRU RULES NOT TO APPLY.—Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(e)(2) shall not apply."

(6) Subsection (c) of section 2652 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN SUPPORT OBLIGATIONS DISREGARDED.—The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if—

"(A) such use is discretionary, or

"(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act."

(7) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property."

(8) Paragraph (2) of section 2652(c) of the 1986 Code is amended—

(A) by striking out "NOMINAL INTERESTS" in the paragraph heading and inserting in lieu thereof "INTERESTS", and

(B) by striking out "the tax" and inserting in lieu thereof "any tax".

(9) Paragraph (1) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "a transfer of a kind" each place it appears and inserting in lieu thereof "any property", and

(B) by adding at the end thereof the following new sentence:

"An individual shall be treated as transferring any property with respect to which such individual is the transferor."

(10) Section 2663 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing for such adjustments as may be necessary to the application of this chapter in the case of any arrangement which, although not a trust, is treated as a trust under section 2652(b)."

(11) Paragraph (3) of section 2651(e) of the 1986 Code is amended to read as follows:

"(3) TREATMENT OF CERTAIN CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES.—Any—

"(A) organization described in section 511(a)(2),

"(B) charitable trust described in section 511(b)(2), and

"(C) governmental entity,

shall be assigned to the transferor's generation."

(12) Paragraph (2) of section 2654(a) of the 1986 Code is amended—

(A) by striking out "any increase" and inserting in lieu thereof "any increase or decrease", and

(B) by striking out "such increase" and inserting in lieu thereof "such increase or decrease (as the case may be)".

(13) Subsection (b) of section 2654 of the 1986 Code is amended to read as follows:

"(b) Certain Trusts Treated as Separate Trusts.—For purposes of this chapter—

"(1) the portions of a trust attributable to transfers from different transferors shall be treated as separate trusts, and

"(2) substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

Except as provided in the preceding sentence, nothing in this chapter shall be construed as authorizing a single trust to be treated as 2 or more trusts."

(14) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for the preceding sentence."

(15) Paragraph (3) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "any property" in subparagraphs (A) and (B) and inserting in lieu thereof "any trust", and

(B) by striking out "may elect to treat such property" and inserting in lieu thereof "may elect to treat all of the property in such trust".

(16) Paragraph (2) of section 2612(a) of the 1986 Code is amended to read as follows:

"(2) Certain partial terminations treated as taxable.—If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust's assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property."

(17) Paragraph (2) of section 2632(b) of the 1986 Code is amended by striking out "paragraph (1) with respect to a prior direct skip" and inserting in lieu thereof "paragraph (1) with respect to a prior direct skip)".

(18)(A) Subsection (c) of section 2642 of the 1986 Code is amended to read as follows:

"(c) Treatment of Certain Direct Skips Which Are Nontaxable Gifts.—

"(1) In general.—In the case of a direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) Exception for certain transfers in trust.—Paragraph (1) shall not apply to any transfer to a trust for the benefit of an individual unless—

"(A) during the life of such individual, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such individual, and

"(B) if such individual dies before the trust is terminated, the assets of such trust will be includible in the gross estate of such individual.

"(3) Nontaxable gift.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e)."

(B) Paragraph (1) of section 2642(d) of the 1986 Code is amended by striking out "(other than a nontaxable gift)".

(C) The amendments made by this paragraph shall apply to transfers after March 31, 1988.

(19) Clause (i) of section 2642(d)(2)(B) of the 1986 Code is amended to read as follows:

"(i) the value of the property involved in such transfer reduced by the sum of—

"(I) any Federal estate tax or state death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property, and".

(20) Paragraph (2) of section 2651(b) of the 1986 Code is amended by striking out "a spouse of the transferor" and inserting in lieu thereof "a spouse (or former spouse) of the transferor".

(h) Amendments Related to Section 1433 of the Reform Act.—

(1) Subsection (a) of section 1433 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(2) Paragraph (2) of section 1433(b) of the Reform Act is amended—

(A) by striking out "this part" in the material preceding subparagraph (A) and inserting in lieu thereof "this subtitle",

(B) by inserting before the comma at the end of subparagraph (A) the following: "(or out of income attributable to corpus so added)", and

(C) by inserting "or revocable trust" after "a will" in subparagraph (B).

(3)(A) Subsection (b) of section 1433 of the Reform Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) Treatment of certain transfers to grandchildren.—

"(A) In general.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term 'direct skip' shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"(B) Treatment of transfers in trust.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild,

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated, and

"(iii) all of the income of the trust for periods after the grandchild has attained age 21 will be distributed to (or for the benefit of) such grandchild not less frequently than annually.

"(C) Coordination with section 2653(a) of the 1986 code.—In the case of any transfer which would be a generation-skipping transfer but for subparagraph (A), the rules of section 2653(a) of the Internal Revenue Code of 1986 shall apply as if such transfer were a generation-skipping transfer.

"(D) Coordination with taxable terminations and taxable distributions.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A).

"(4) Definitions.—Terms used in this section shall have the same respective meanings as when used in chapter 13 of the Internal Revenue Code of 1986; except that section 2612(c)(2) of such Code shall not apply in determining whether an individual is a grandchild of the transferor."

(B) Clause (iii) of section 1443(b)(3)(B) of the Reform Act (as amended by subparagraph (A)) shall apply only to transfers after June 10, 1987.

(4) Subsection (d) of section 1433 of the Reform Act is amended—

(A) by striking out "shall be treated as a direct skip" and inserting in lieu thereof "shall be treated as a direct skip to such grandchild",

(B) by striking out "would be a direct skip" in subparagraph (B) and inserting in lieu thereof "would be a direct skip to a grandchild", and

(C) by adding at the end thereof the following new sentence: "Unless the grandchild otherwise directs by will, the estate of such grandchild shall be entitled to recover from the person receiving the property on the death of the grandchild any increase in Federal estate tax on the estate of the grandchild by reason of the preceding sentence."

SEC. 115. AMENDMENTS RELATED TO TITLE XV OF THE REFORM ACT.

(a) Amendment Related to Section 1501 of the Reform Act.—Subparagraph (B) of section 6724(d)(2) of the 1986 Code is amended by striking out "6031(b)" and inserting in lieu thereof "6031(b) or (c)".

(b) Amendments Related to Section 1503 of the Reform Act.—

(1) Subparagraph (A) of section 6013(b)(5) of the 1986 Code is amended to read as follows:

"(A) Coordination with section 6653.—For purposes of section 6653, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

"(i) such sum shall be treated as the amount shown on the joint return,

"(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

"(iii) any fraud on either separate return shall be treated as fraud on the joint return."

(2)(A) Paragraph (1) of section 6653(a) of the 1986 Code is amended to read as follows:

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to the tax an amount equal to 5 percent of the underpayment."

(B) Paragraph (1) of section 6653(b) of the 1986 Code is amended to read as follows:

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud."

(C) Paragraph (2) of section 6601(e) of the 1986 Code is amended by striking out "6659" each place it appears and inserting in lieu thereof "6653, 6659".

(3) Subsection (g) of section 6653 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the

portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a)."

(4) The amendments made by this subsection (other than paragraph (3)) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.

(c) Amendment Related to Section 1504 of the Reform Act.—The repeal made by section 8002(c) of the Omnibus Budget Reconciliation Act of 1986 shall take effect as if the Tax Reform Act of 1986 had been enacted on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(d) Amendments Related to Section 1511 of the Reform Act.—Section 6621 of the 1986 Code is amended—

(1) by striking out "short-term Federal rate" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "Federal short-term rate", and

(2) by striking out "Short-Term Federal Rate" in the heading of subsection (b) and inserting in lieu thereof "Federal Short-Term Rate".

(e) Amendments Related to Section 1521 of the Reform Act.—

(1)(A) Paragraph (1) of section 6045(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2)(A) Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Prohibition of separate charge for filing return.—It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1)."

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(3) Subsection (e) of section 6045 of the 1986 Code is amended—

(A) by striking out "real estate broker" each place it appears in the text and inserting in lieu thereof "real estate reporting person", and

(B) by striking out "Real estate broker" in the heading of paragraph (2) and inserting in lieu thereof "Real estate reporting person".

(f) Amendment Related to Section 1522 of the Reform Act.—Section 6050M of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Exception for Certain Classified or Confidential Contracts.—

"(1) In general.—Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

"(2) Reporting requirement.—Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

"(A) the information required under this section with respect to such person, and

"(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

"(3) Description of contract.—For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

"(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

"(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(g) Amendments Related to Section 1523 of the Reform Act.—Section 6676 of the 1986 Code is amended—

(1) by striking out "6049, or 6050N" in subsection (a)(3) and inserting in lieu thereof "or 6049",

(2) by striking out "6049, or 6050N" in subsection (b)(1)(A) and inserting in lieu thereof "or 6049", and

(3) by striking out ", Dividends, and Royalties" in the heading for subsection (b) and inserting in lieu thereof "and Dividend".

(h) Amendments Related to Section 1542 of the Reform Act.—Subsection (h) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended—

(1) by striking out "subject to the tax imposed by section 4940" in paragraph (1),

(2) by amending paragraph (2) to read as follows:

"(2) any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11, and", and

(3) by adding at the end thereof the following new sentence:

"In the case of an organization described in paragraph (1), subsection (c) of section 6655 shall be applied by substituting '5th month' for 'third month' and subsection (d)(3)(A) of section 6655 shall be applied by substituting '2 months' for '3 months' in clause (i), by substituting '4 months' for '5 months, in clause (ii), by substituting '7 months' for '8 months' in clause (iii), and by substituting '10 months' for '11 months' in clause (iv)."

(i) Amendment Related to Section 1551 of the Reform Act.—Clause (iii) of section 7430(c)(2)(A) of the 1986 Code is amended to read as follows:

"(iii) meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect)."

(j) Provision Related to Section 1556 of the Reform Act.—To the extent the salary recommendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period.

(k) Amendment Related to Section 1557 of the Reform Act.—

(1) Subsection (d) of section 7447 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

(2) The amendment made by paragraph (1) shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act regardless of when the services under section 7447(c) of the 1986 Code were performed.

(l) Amendments Related to Section 1561 of the Reform Act.—

(1) Subsection (e)(2) of section 7609 of the 1986 Code is amended—

(A) by inserting "or the summoned party's response to a summons described in subsection (f)," after "the summons described in subsection (c),", and

(B) by striking out "the summons is issued other" and inserting in lieu thereof "the summons is issued".

(2) Subsection (i) of section 7609 of the 1986 Code is amended—

(A) by striking out "the third-party recordkeeper" in paragraph (4) and inserting in lieu thereof "the summoned party", and

(B) by inserting "and Summoned Party" after "Recordkeeper" in the subsection heading.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(m) Amendment Related to Section 1562 of the Reform Act.—Subsection (d) of section 6212 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding."

(n) Amendment Related to Section 1563 of the Reform Act.—Subparagraph (B) of section 6404(e)(1) of the 1986 Code is amended—

(1) by inserting "error or" before "delay", and

(2) by inserting "erroneous or" before "dilatory".

(o) Amendment Related to Section 1565 of the Reform Act.—Effective with respect to levies made after December 31, 1988, paragraph (10) of section 6334(a) of the 1986 Code is amended—

(1) in subparagraph (A)—

(A) by striking out "IV" and inserting in lieu thereof "III, IV, V,", and

(B) by adding "or" at the end thereof,

(2) in subparagraph (C) by striking out "21," and inserting in lieu thereof "13, 21, 23," and

(3) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(p) Amendment Related to Section 1581 of the Reform Act.—Subsection (c) of section 1581 of the Reform Act is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply if its application would result in an increase in the number of withholding allowances for the employee."

(q) General Requirement of Return, Statement, or List.—

(1) Subsection (a) of section 6011 of the 1986 Code is amended by striking out "for the collection thereof" and inserting in lieu thereof "with respect to the collection thereof".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(r) CERTAIN REFUNDABLE CREDITS TO BE ASSESSED UNDER DEFICIENCY PROCEDURES.—

(1) Subsection (a) of section 6203 of the 1986 Code is amended by striking out paragraph (4).

(2) Paragraph (4) of section 6211(b) is amended to read as follows:

"(4) For purposes of subsection (a)—

"(A) any excess of the sum of the credits allowable under sections 32 and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

"(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax."

(3) Subsection (h) of section 6213 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) The amendments made by this subsection shall apply to notices of deficiencies mailed after the date of the enactment of this Act.

SEC. 116. AMENDMENTS RELATED TO TITLE XVI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1603 OF THE REFORM ACT.—

(1)(A) Subparagraph (A) of section 501(c)(25) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest."

(B) The amendment made by subparagraph (A) shall apply with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(2) Subparagraph (D) of section 501(c)(25) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) and inserting in lieu thereof the following:

"(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—"

(3)(A) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E)(i) For purposes of this title—

"(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

"(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

"(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

"(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock."

(B) Subparagraph (C) of section 501(c)(25) of the 1986 Code is amended by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v).

(4) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraph (A), the term 'real property' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease."

(5)(A) Paragraph (9) of section 514(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULES FOR ORGANIZATIONS DESCRIBED IN SECTION 501(C)(25).—

"(i) IN GENERAL.—In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

"(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

"(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

"(ii) DESCRIPTION OF AMOUNTS.—For purposes of clause (i)—

"(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

"(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

"(iii) DISQUALIFIED HOLDER.—For purposes of this subparagraph, the term 'disqualified holder' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C)."

(B) The amendment made by subparagraph (A) shall apply with respect to interests in the organization acquired after June 10, 1987, except that such amendment shall not apply to any such interest acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(6) The last sentence of section 514(c)(9)(B) of the 1986 Code is amended by striking out "clause (vi)" and inserting in lieu thereof "this paragraph".

(b) REPEAL OF SECTION 1608 OF THE REFORM ACT.—Section 1608 of the Reform Act is hereby repealed.

SEC. 117. AMENDMENTS RELATED TO TITLE XVII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1701 OF THE REFORM ACT.—Clause (i) of section 51(d)(12)(B) of the 1986 Code is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(b) AMENDMENT RELATED TO SECTION 1702 OF THE REFORM ACT.—Subsection (j) of section 6652 of the 1986 Code, as added by section 1702(b) of the Reform Act and as in effect before its repeal by the Revenue Act of 1987, is amended by inserting "(and the corresponding provision of section 4041(d)(1))" after "section 4041(a)(1)".

(c) AMENDMENTS RELATED TO SECTION 1703 OF THE REFORM ACT.—

(1)(A) Subsection (a) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by redesignating paragraph (2) as paragraph (3) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

"(A) the removal, or

"(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon."

(B) Subsections (b) and (c) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (a)".

(C) Subsection (e) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended—

(i) by striking out "subsection (d)(2)(A)" in paragraph (1) and inserting in lieu thereof "subsection (a)(2)", and

(ii) by striking out "subsection (d)(2)(B)" each place it appears in paragraph (2) and inserting in lieu thereof "subsection (a)(2)".

(D) Section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking out "section 6421(i) or 6427(j)" and inserting in lieu thereof "section 6421(j) or 6427(k)".

(3) Sections 4041(b)(1)(C) and 6427(m)(3) of the 1986 Code are each amended by striking out "section 6421(d)(2)" and inserting in lieu thereof "section 6421(e)(2)".

(4) Paragraph (3) of section 4041(f) of the 1986 Code is amended to read as follows:

"(3) TERMINATION.—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993."

(5) The amendment made by section 10502(d)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(6) Section 6421 of the 1986 Code is amended by redesignating subsection (i) (relating to income tax credit in lieu of pay-

ment) and subsection (j) (relating to cross references) as subsections (j) and (k), respectively.

(7) Subsections (a) and (b)(1) of section 6421 of the 1986 Code are each amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(8) Paragraph (2) of section 6421(j) of the 1986 Code (as redesignated by paragraph (6)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)(2)".

(9) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) of the 1986 Code are each amended by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

(10) Paragraph (2) of section 6427(k) of the 1986 Code is amended by striking out "subsection" and all that follows and inserting in lieu thereof "paragraph (2) or (3) of subsection (i)."

(11) Paragraph (6) of section 6511(i) of the 1986 Code is amended by striking out "section 6421(c)" and inserting in lieu thereof "section 6421(d)".

(12) Subparagraph (G) of section 1703(e)(2) of the Reform Act is amended by striking out all that follows "are amended" and inserting in lieu thereof "by striking out '6427(i)(2)' and inserting in lieu thereof '6427(j)(2)'."

(13) Paragraph (2) of section 1703(f) of the Reform Act is amended by adding at the end thereof the following new sentence: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this section."

(14) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out "3 cents" and inserting in lieu thereof "3⅓ cents".

(15) Subsection (d) of section 6421 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) APPLICATION TO SALES UNDER SUBSECTION (c).—For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose."

SEC. 118. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1801 OF THE REFORM ACT.—Clause (iii) of section 1801(a)(2)(A) of the Reform Act is amended to read as follows:

"(iii) a person became a partner in such partnership (or a beneficiary in such trust) after its formation but before September 26, 1985,".

(b) AMENDMENTS RELATED TO SECTION 1802 OF THE REFORM ACT.—

(1) The last sentence of section 31(g)(17)(L) of the Tax Reform Act of 1984, as added by section 1802(a)(10)(G) of the Reform Act, is amended—

(A) by striking out "Registry of Deeds" each place it appears and inserting in lieu thereof "Register of Deed", and

(B) by striking out "May 7, 1985" and inserting in lieu thereof "May 7, 1984".

(2) Subparagraph (E) of section 168(j)(9) of the 1986 Code (as amended by section 1802(a)(2) of the Reform Act and as in effect before the amendments made by section 201 of the Reform Act) is amended—

(A) by striking out "this paragraph" in clauses (i) and (ii)(I) and inserting in lieu thereof "this paragraph and paragraph (8)", and

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—

"(I) IN GENERAL.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (7)) shall be treated as 1 entity.

"(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof)."

(c) AMENDMENT RELATED TO SECTION 1803 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1803(a)(8) of the Reform Act is amended by striking out "September 27, 1985" and inserting in lieu thereof "December 31, 1985".

(2) Subsection (c) of section 1278 of the 1986 Code is amended by inserting before the period ", including regulations providing proper adjustments in the case of a bond the principal of which may be paid in 2 or more payments".

(d) AMENDMENTS RELATED TO SECTION 1804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1804(b) of the Reform Act is amended by striking out "Paragraph (3) of section 54" and inserting "Paragraph (3) of section 54(d)".

(2) Clause (i) of section 54(d)(3)(D) of the Tax Reform Act of 1984 is amended by striking out "subtitle D of title VI" and inserting "subtitle D of title VI of the Tax Reform Act of 1986".

(3) Clause (ii) of section 54(d)(3)(D) of the Tax Reform Act of 1984 (as added by section 1804(b)(3) of the Tax Reform Act of 1986) is amended—

(A) by striking out "December 9, 1968," each place it appears and inserting in lieu thereof "December 10, 1968,", and

(B) by striking out "October 5, 1981" and inserting in lieu thereof "March 2, 1978,".

(4) Subsection (b) of section 312 of the 1986 Code is amended by striking out "of any property" and inserting in lieu thereof "of any property (other than an obligation of such corporation)".

(5)(A) Section 361 of the 1986 Code is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO CORPORATIONS; TREATMENT OF DISTRIBUTIONS.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a corporation if such corporation is a party to a reorganization and exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

"(b) EXCHANGES NOT SOLELY IN KIND.—

"(1) GAIN.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by subsection (a) to be received without the recognition of gain, but also of other property or money, then—

"(A) PROPERTY DISTRIBUTED.—If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

"(B) PROPERTY NOT DISTRIBUTED.—If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized.

The amount of gain recognized under subparagraph (B) shall not exceed the sum of the money and the fair market value of the other property so received which is not so distributed.

"(2) LOSS.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by subsection (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

"(3) TREATMENT OF TRANSFERS TO CREDITORS.—For purposes of paragraph (1), any transfer of the other property or money received in the exchange by the corporation to its creditors in connection with the reorganization shall be treated as a distribution in pursuance of the plan of reorganization. The Secretary may prescribe such regulations as may be necessary to prevent avoidance of tax through abuse of the preceding sentence or subsection (c)(3).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation a party to a reorganization on the distribution to its shareholders of property in pursuance of the plan of reorganization.

"(2) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of this subsection, the term 'qualified property' means—

"(i) any stock in (or right to acquire stock in) the distributing corporation or obligation of the distributing corporation, or

"(ii) any stock in (or right to acquire stock in) another corporation which is a party to the reorganization or obligation of another corporation which is such a party if such stock (or right) or obligation is received by the distributing corporation in the exchange.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) TREATMENT OF CERTAIN TRANSFERS TO CREDITORS.—For purposes of this subsection, any transfer of qualified property by the corporation to its creditors in connection with the reorganization shall be treated as a distribution to its shareholders pursuant to the plan of reorganization.

"(4) Coordination with other provisions.—Section 311 and subpart B of part II of this subchapter shall not apply to any distribution referred to in paragraph (1)."

(B) Section 358 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Definition of Nonrecognition Property in Case of Section 361 Exchange.—For purposes of this section, the property permitted to be received under section 361 without the recognition of gain or loss shall be treated as consisting only of stock or securities in another corporation a party to the reorganization."

(C) Section 355 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) Taxability of Corporation on Distribution.—Section 311 shall apply to any distribution—

"(1) to which this section (or so much of section 356 as relates to this section) applies, and

"(2) which is not in pursuance of a plan of reorganization,

in the same manner as if such distribution were a distribution to which subpart A of part I applies; except that subsection (b) of section 311 shall not apply to any distribution of stock or securities in the controlled corporation."

(D) Subsection (c) of section 336 of the 1986 Code (as amended by section 631 of the Reform Act) is amended to read as follows:

"(c) Exception for Liquidations Which Are Part of a Reorganization.—

"For provision providing that this subpart does not apply to distributions in pursuance of a plan of reorganization, see section 361(c)(4)."

(E) Subsection (a) of section 311 of the 1986 Code is amended by striking out "distribution, with respect to its stock," and inserting in lieu thereof "distribution (not in complete liquidation) with respect to its stock".

(F) The table of sections for subpart C of part III of subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to section 361 and inserting in lieu thereof the following new item:

"Sec. 361. Nonrecognition of gain or loss to corporations; treatment of distributions."

(G) Effective with respect to transfers on or after June 21, 1988, section 351 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Controlled Corporation.—If—

"(1) property is transferred to a corporation (hereinafter in this subsection referred to as the 'controlled corporation') in an exchange with respect to which gain or loss is not recognized (in whole or in part) to the transferor under this section, and

"(2) such exchange is not in pursuance of a plan of reorganization,

section 311 shall apply to any transfer in such exchange by the controlled corporation in the same manner as if such transfer were a distribution to which subpart A of part I applies."

(6) Subparagraph (A) of section 280G(b)(5) of the 1986 Code is amended—

(A) in clause (i) by striking out "section 1361(b))" and inserting in lieu thereof "section 1361(b) but without regard to paragraph (1)(C) thereof)", and

(B) by adding at the end thereof the following: "Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights."

(7) Subparagraph (B) of section 280G(b)(5) of the 1986 Code (relating to shareholder approval requirements) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation."

(8) Paragraph (5) of section 280G(d) of the 1986 Code is amended by striking out "officer or any member" and inserting in lieu thereof "officer of any member".

(9) Paragraph (3) of section 338(e) of the 1986 Code is amended by striking out "which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3)" and inserting in lieu thereof "which meet the requirements of section 1504(a)(2)".

(10)(A) Paragraph (7) of section 1504(b) of the 1986 Code is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1))."

(B) Section 1504 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Special Rule for Certain Amounts Derived From a Corporation Previously Treated as a DISC.—In determining the consolidated taxable income of an affiliated group for any taxable year beginning after December 31, 1984, a corporation which had been a DISC and which would otherwise be a member of such group shall not be treated as such a member with respect to—

"(1) any distribution (or deemed distribution) of accumulated DISC income which was not treated as previously taxed income under section 805(b)(2)(A) of the Tax Reform Act of 1984, and

"(2) any amount treated as received under section 805(b)(3) of such Act."

(e) Provision Related to Section 1806 of the Reform Act.—If—

(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954,

(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act, and

(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year,

then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.

(f) Amendments Related to Section 1807 of the Reform Act.—

(1) Paragraphs (1)(A) and (2)(E) of section 468B(d) of the 1986 Code are each amended by striking out "the taxpayer" and inserting in lieu thereof "the taxpayer (or any related person)".

(2) Subparagraph (A) of section 468B(d)(2) of the 1986 Code is amended to read as follows:

"(A) which is established pursuant to a court order and which extinguishes completely the taxpayer's tort liability with respect to claims described in subparagraph (D),".

(3) Clause (i) of section 1807(a)(7)(C) of the Reform Act is amended to read as follows:

"(i) any portion of such fund which is established pursuant to a court order and with qualified payments, which meets the requirements of subparagraphs (C) and (D) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph), and with respect to which an election is made under subparagraph (F) thereof, shall be treated as a designated settlement fund for purposes of section 468B of such Code,"

(4) Paragraph (2) of section 468B(b) of the 1986 Code is amended—

(A) by striking out "the corporation," and inserting in lieu thereof "a corporation.", and

(B) by striking out "no other" and inserting in lieu thereof "No other".

(5)(A) Section 468B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Clarification of Taxation of Certain Funds.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise."

(B) Subparagraph (D) of section 1807(a)(7) of the Reform Act is hereby repealed.

(g) Amendments Related to Section 1810 of the Reform Act.—

(1) Paragraph (5) of section 1810(a) of the Reform Act is amended by striking out "section 125(b)(5)" each place it appears and inserting in lieu thereof "section 121(b)(5)".

(2) Section 133(d)(3)(B)(iii) of the Tax Reform Act of 1984, as amended by section 1810(i)(2) of the Reform Act, is amended by striking out "Tax Reform Act of 1985" and inserting in lieu thereof "Tax Reform Act of 1986".

(3) Clause (iv) of section 7701(b)(5)(A) of the 1986 Code is amended by striking out "section 274(k)(2)" and inserting in lieu thereof "section 274(l)(1)(B)".

(h) Amendment Related to Section 1821 of the Reform Act.—

(1) Subsection (e) of section 812 of the 1986 Code (relating to dividends from certain subsidiaries not included in gross investment income) is amended to read as follows:

"(e) Dividends From Certain Subsidiaries Not Included in Gross Investment Income.—

"(1) In general.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100 percent dividend.

"(2) 100 percent dividend defined.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(B) Certain dividends out of tax-exempt interest, etc.—The term '100 percent dividend' does not include any distribution by a corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

"(C) CERTAIN DIVIDENDS RECEIVED BY FOREIGN CORPORATIONS.—The term '100 percent dividends' does not include any dividend described in section 805(a)(4)(E) (relating to certain dividends in the case of foreign corporations)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984.

(i) AMENDMENT RELATED TO SECTION 1822 OF THE REFORM ACT.—Clause (i) of section 216(b)(4)(C) of the Tax Reform Act of 1984 (relating to section 818(c) elections made by certain acquired companies) is amended by striking out "clause (i)" and inserting in lieu thereof "subclause (I)".

(j) AMENDMENT RELATED TO SECTION 1825 OF THE REFORM ACT.—Paragraph (4) of section 1825(a) of the Reform Act (relating to amendments related to section 221 of the Tax Reform Act of 1984) is amended by striking out "Section 7702(e)(2)" and inserting in lieu thereof "Effective with respect to contracts entered into after October 22, 1986, section 7702(e)(2)".

(k) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(1) Paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) which is a qualified funding asset (as defined in section 130(d), but without regard to whether there is a qualified assignment)."

(2) The paragraph heading of paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS" and inserting in lieu thereof "CERTAIN ANNUITY CONTRACTS".

(l) AMENDMENTS RELATED TO SECTION 1842 OF THE REFORM ACT.—

(1) Subsection (c) of section 425 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(A) such transfer shall not be treated as a disposition for purposes of this part, and

"(B) the same tax treatment under this part with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(2) Paragraph (1) of section 425(c) of the 1986 Code is amended by striking out "paragraph (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(3) Effective with respect to transfers after June 21, 1988, subsection (d) of section 1041 of the 1986 Code is amended—

(A) by striking out "Paragraph (1) of subsection (a)" and inserting in lieu thereof "Subsection (a)", and

(B) by striking out "the spouse" and inserting in lieu thereof "the spouse (or former spouse)".

(m) AMENDMENTS RELATED TO SECTION 1866 OF THE REFORM ACT.—

(1) Section 1866 of the Reform Act is amended by striking out "obligation issued to refund" and inserting in lieu thereof "obligation (or series of obligations) issued to refund".

(2)(A) Paragraph (1) of section 1866 of the Reform Act is amended to read as follows:

"(1) the average maturity of the issue of which the refunding obligation is a part does not exceed the average maturity of the obligations to be refunded by such issue,".

(B) Section 1866 of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), average maturity shall be determined in accordance with subsection (b)(14)(B)(i) of such Code."

(3) Paragraph (4) of section 1866 of the Reform Act is amended by striking out "30 days" and inserting in lieu thereof "90 days".

(4) Section 1866 of the Reform Act is amended by adding "and" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(5) A refunding obligation issued before July 1, 1987, shall be treated as meeting the requirement of paragraph (1) of section 1866 of the Reform Act if such obligation met the requirement of such paragraph as enacted by the Reform Act.

(n) AMENDMENTS RELATED TO SECTION 1869 OF THE REFORM ACT.—

(1) Clause (ii) of section 1869(c)(3)(A) of the Reform Act is amended by striking out "pursuant to the exercise of eminent domain" and inserting in lieu thereof "(by a governmental unit having the power to exercise eminent domain)".

(2) Subparagraph (C) of section 1869(c)(3) of the Reform Act is amended by inserting "(or similar issues)" after "resulting from the issue".

(o) AMENDMENTS RELATED TO SECTION 1875 OF THE REFORM ACT.—

(1) Clause (ii) of section 6230(a)(2)(A) of the 1986 Code is amended by striking out "nonpartnership items" and inserting in lieu thereof "nonpartnership items (other than by reason of section 6231(b)(1)(C))".

(2) Subsection (g) of section 1246 of the 1986 Code (as redesignated by this Act) is amended by striking out "1248(g)(3)" and inserting in lieu thereof "1248(g)(2)".

(3) Subsection (f) of section 6229 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner."

(p) AMENDMENT RELATED TO SECTION 1878 OF THE REFORM ACT.—Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(q) AMENDMENTS RELATED TO SECTION 1879 OF THE REFORM ACT.—

(1) Subclause (II) of section 28(b)(2)(A)(ii) of the 1986 Code is amended to read as follows:

"(II) before the date on which an application with respect to such drug is approved under section 505(b) or 507 of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act; and".

(2) The last sentence of section 1361(d)(3) of the 1986 Code is amended by striking out "treated as a separate trust under section 663(c)" and inserting in lieu thereof "within the meaning of section 663(c)".

(3) Subsection (p) of section 1879 of the Reform Act is amended—

(A) by striking out "Subsection (a)" in paragraph (2) and inserting "Paragraph (1)", and

(B) by striking out "subsection (a)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1)".

(4)(A) Subsection (d) of section 1286 of the 1986 Code is amended to read as follows:

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(A) the amount of the original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon—

"(i) shall be treated as original issue discount on a tax-exempt obligation to the extent such discount does not exceed the tax-exempt portion of such discount, and

"(ii) shall be treated as original issue discount on an obligation which is not a tax-exempt obligation to the extent such discount exceeds the tax-exempt portion of such discount,

"(B) subsection (b)(1)(A) shall not apply, and

"(C) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the sum of—

"(i) the interest accrued but not paid before such bond or coupon was disposed of (and not previously reflected in basis), plus

"(ii) the amount included in gross income under subsection (b)(1)(B).

"(2) TAX-EXEMPT PORTION.—For purposes of paragraph (1), the tax-exempt portion of the original issue discount determined under subsection (a) is the excess of—

"(A) the amount referred to in subsection (a)(1), over

"(B) an issue price which would produce a yield to maturity as of the purchase date equal to the lower of—

"(i) the coupon rate of interest on the obligation from which the coupons were separated, or

"(ii) the yield to maturity (on the basis of the purchase price) of the stripped obligation or coupon.

The purchaser of any stripped obligation or coupon may elect to apply clause (i) by substituting 'original yield to maturity of' for 'coupon rate of interest on'."

(B)(i) Except as provided in clause (ii), the amendment made by subparagraph (A) shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

(ii) If—

(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person's trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).

(5) Clause (ii) of section 368(a)(2)(F) of the 1986 Code is amended—

(A) by striking out the two parenthetical phrases in the first sentence, and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, a person holding stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause shall, except as provided in regulations, be treated as holding its proportionate share of the assets held by such company or trust."

(6)(A) Subparagraph (A) of section 126(b)(1) of the 1986 Code is amended by inserting "or the Secretary of the Interior (whoever is appropriate)" after "Agriculture".

(B) For purposes of applying section 126(a)(10) of the 1986 Code to grants made after September 30, 1979, a State surface mining reclamation program which is primarily for 1 or more purposes specified in such section shall be treated as such a program primarily for such purposes whether or not such program is denoted as a program for public health and safety.

(r) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1) Subsection (b) of section 1895 of the Reform Act is amended by striking out paragraphs (1) and (2).

(2)(A) Clause (ii) of section 3121(u)(2)(B) of the 1986 Code is amended by striking out "or" at the end of subclause (IV), by striking out the period at the end of subclause (V) and inserting in lieu thereof ", or", and by inserting after subclause (V) the following new subclause:

"(VI) by an individual in a position described in section 1402(c)(2)(E)."

(B) The amendment made by subparagraph (A) shall apply to services performed after March 31, 1986.

(s) MISCELLANEOUS PROVISIONS.—

(1) Subsection (a) of section 8021 of the 1986 Code is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(2)(A) Section 2503 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOANS OF ARTWORKS.—

"(1) IN GENERAL.—For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if—

"(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

"(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(2) DEFINITIONS.—For purposes of this section—

"(A) QUALIFIED WORK OF ART.—The term 'qualified work of art' means any archaeological, historic, or creative tangible personal property.

"(B) PRIVATE FOUNDATION.—The term 'private foundation' has the meaning given such term by section 509, except that such term shall not include any private operating foundation (as defined in section 4942(j)(3))."

(B) The amendment made by subparagraph (A) shall apply to loans after July 31, 1969.

(3)(A) Subparagraph (B) of section 1563(d)(1) of the 1986 Code is amended by striking out "subsection (e)(1)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of subsection (e)".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Paragraph (8) of section 1888 of the Reform Act (and the amendment made thereby) are hereby repealed.

(t) ADDITIONAL AMENDMENTS RELATED TO PENSION PLANS.—

(1) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(A) Section 72(s)(7) of the 1986 Code is amended by striking out "primary annuity" and inserting in lieu thereof "primary annuitant".

(B) Section 72(q)(2)(B) of the 1986 Code is amended by striking out the last parenthesis.

(C) Section 419A(f)(5) of the 1986 Code is amended by striking out "accounts" and inserting in lieu thereof "account".

(D) Section 1826(c) of the Reform Act is amended by striking out "made" and inserting in lieu thereof "commencing".

(2) AMENDMENTS RELATED TO SECTION 1851 OF THE REFORM ACT.—

(A) Section 1851(a) of the Reform Act is amended by striking out paragraph (4) thereof.

(B) Subclause (II) of section 512(a)(3)(E)(ii) of the 1986 Code is amended, (i) by striking out "subclause (II)" and inserting in lieu thereof "subclause (I)", and (ii) by striking out the comma at the end thereof and inserting in lieu thereof a period.

(C) Section 419(a)(1) of the 1986 Code is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(D) Subparagraph (B) of section 1851(a)(3) of the Reform Act is amended by inserting ", section 505, and section 4976(b)(1)(B)" after "section 419A".

(3) AMENDMENTS RELATED TO SECTION 1852 OF THE REFORM ACT.—

(A) Paragraph (4) of section 1852(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) An individual whose required beginning date would, but for the amendment made by subparagraph (A), occur after December 31, 1986, but whose required beginning date after such amendment occurs before January 1, 1987, shall be treated as if such individual had become a 5-percent owner during the plan year ending in 1986."

(B) Section 1852(h)(2) of the Reform Act is amended by striking out "section 416(l)" and inserting in lieu thereof "section 415(l)".

(C) Section 1852(h)(1) of the Reform Act is amended by striking out "Subsection" and inserting in lieu thereof "Effective for years beginning after December 31, 1985, subsection".

(D) Subparagraph (E) of section 408(d)(3) of the 1986 Code is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(4) AMENDMENTS RELATED TO SECTION 1854 OF THE REFORM ACT.—

(A) Section 404(k) of the 1986 Code is amended by striking out "avoidance" in the 4th sentence and inserting in lieu thereof "evasion".

(B) Section 409(h)(2) of the 1986 Code (relating to plan may distribute cash) is amended by striking out "section 409(o)" and inserting in lieu thereof "paragraph (1)(B)".

(C) Subparagraph (C) of section 409(n)(3) of the 1986 Code (defining nonallocation period) is amended to read as follows:

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the period beginning on the date of the sale of the qualified securities and ending on the later of—

"(i) the date which is 10 years after the date of sale, or

"(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(D) Subparagraph (A) of section 1042(c)(4) of the 1986 Code (defining qualified replacement property) is amended by inserting "(as in effect immediately before the Tax Reform Act of 1986)" after "section 954(c)(3)".

(E) Clause (i) of section 1042(c)(4)(B) of the 1986 Code (relating to operating corporation) is amended by striking out "placement period" and inserting in lieu thereof "replacement period".

(F) Section 1854(a)(3)(B) of the Reform Act is amended by striking out "1042(b)(3)" and inserting in lieu thereof "1042(b)".

(G) Subparagraph (C) of section 1854(a)(3) of the Reform Act is amended to read as follows:

"(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

"(ii) A taxpayer or executor may elect to have section 1042(b)(3) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subparagraph (B)) apply to sales before the date of the enactment of this Act as if such section included the last sentence of section 409(n)(1) of the Internal Revenue Code of 1986 (as added by subparagraph (A))."

(H) Section 409(e)(5) of the 1986 Code is amended by striking out "(2) or".

(5) AMENDMENT RELATED TO SECTION 1875 OF THE REFORM ACT.—Section 1875(c)(7)(B) of the Reform Act is amended by striking out "and section 405(c)".

(6) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subparagraph (B) of section 125(c)(2) of the 1986 Code (relating to exception for cash and deferred arrangements) is amended by inserting "or rural electric cooperative plan (within the meaning of section 401(k)(7))" after "stock bonus plan".

(7) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(A) Section 106(b)(1) of the 1986 Code (relating to exception for highly compensated individuals where plan fails to provide certain continuation coverage) is amended—

(i) by striking out "any amount contributed by an employer" and inserting in lieu thereof "any employer-provided coverage", and

(ii) by striking out "to a group" and inserting in lieu thereof "under a group".

(B) Section 1895(d)(5)(A) of the Reform Act is amended by striking out "section 162(k)(2)" and inserting in lieu thereof "section 162(k)(5)".

(8) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(A) Subparagraph (G) of section 402(a)(6) of the 1986 Code (relating to treatment of potential future vesting), as added by section 1898(a)(3) of the Reform Act, is redesignated as subparagraph (I).

(B) Subparagraph (A) of section 411(a)(11) of the 1986 Code is amended by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(C) Section 402(f)(1) of the 1986 Code is amended by striking out "a eligible" and inserting in lieu thereof "an eligible".

(D) Section 1899A of the Reform Act is amended by striking out paragraph (13).

(E) Subparagraph (B) of section 414(p)(4) of the 1986 Code is amended—

(i) by striking out "means earlier of" and inserting in lieu thereof "means the earlier of", and

(ii) by striking out "in" each place it appears.

(F) Section 414(p)(10) of the 1986 Code (relating to waiver of certain distribution re-

quirements) is amended by inserting “, 403(b),” after “section 401”.

(G) Section 414(p)(9) of the 1986 Code is amended by adding at the end thereof the following new sentence: “For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies.”

(u) ADDITIONAL CLERICAL AMENDMENTS.—

(1) Paragraph (5) of section 104(b) of the Reform Act is amended by striking out “1222(b)” and inserting in lieu thereof “1122(b)”.

(2) The amendment made by section 122(c)(2) of the Reform Act shall be applied as if it also struck out the comma at the end of section 274(b)(1)(B) of the 1986 Code.

(3) Clause (i) of section 280F(b)(3)(B) of the 1986 Code is amended by striking out “recovery deductions” and inserting in lieu thereof “depreciation deductions”.

(4) Subparagraph (A) of section 803(b)(3) of the Reform Act is amended by inserting closing quotation marks after “section 189)” and by striking out the closing quotation marks following “subparagraph (B)”.

(5) Paragraph (1) of section 823(b) of the Reform Act is amended to read as follows:

“(1) Paragraph (5) of section 461(h), as amended by section 805(c)(5), is amended by striking out subparagraph (B) and by redesignating subpargraph (C) as subparagraph (B).”

(6) The amendment made by section 1122(b)(2)(B)(iii) of the Reform Act shall be applied as if it struck out “Initial separate tax”.

(7) The amendment made by section 1122(b)(2)(C) of the Reform Act shall be applied as if it did not strike out “the”.

(8) Paragraph (2) of section 72(q)(2) of the 1986 Code is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a comma.

(9) Subparagraph (A) of section 417(e)(3) of the 1986 Code is amended by striking out “subclause (II)” and inserting in lieu thereof “clause (ii)”.

(10) Subparagraph (A) of section 246(c)(1) of the 1986 Code is amended by striking out “Which” and inserting in lieu thereof “which”.

(11) Subsection (a) of section 164 of the 1986 Code is amended by striking out “the GST tax” and inserting in lieu thereof “The GST tax”.

(12) Subparagraph (B) of section 1851(a)(6) of the Reform Act is amended by striking out “Subsection (b)” and inserting in lieu thereof “Subsection (a)”.

(13)(A) Paragraph (1) of section 1878(e) of the Reform Act is amended by striking out “last sentence of section 514(c)(9)(B) (relating to exceptions)” and inserting in lieu thereof “second to the last sentence of section 514(c)(9)(B) (as amended by paragraph (3))”.

(B) Paragraph (3) of section 1878(e) of the Reform Act is amended by striking out “is amended” and inserting in lieu thereof “, and the last sentence of such section, are amended”.

(14) Paragraph (23) of section 501(c) of the 1986 Code is amended by striking out “any association” and inserting in lieu thereof “Any association”.

(15) Paragraph (1) of section 501(c) of the 1986 Code is amended by striking out “any corporation organized” and inserting in lieu thereof “Any corporation organized”.

(16) The table of chapters for subtitle E of the 1986 Code is amended by inserting “smokeless tobacco,” after “cigarettes,” in the item relating to chapter 52.

(17) Paragraph (4) of section 3321(c) of the 1986 Code is amended by adding a period at the end thereof.

(18) Paragraph (3) of section 521(b) of the Superfund Revenue Act of 1986 is amended by striking out “Paragraph (1) of section 9506(b)” and inserting in lieu thereof “Subsection (b) of section 9506”.

(19) Paragraph (2) of section 5054(a) of the 1986 Code is amended by adding a period at the end thereof.

(20) Paragraph (3) of section 9507(b) of the 1986 Code is amended by striking out “Deep Water” each place it appears and inserting in lieu thereof “Deepwater”.

(21) Subparagraph (I) of section 231(d)(3) of the Reform Act is amended by striking out “section 6511(d)(6)” and inserting in lieu thereof “section 6511(d)(4)”.

(22) Subsection (a) of section 1016 of the 1986 Code is amended by striking out all that follows paragraph (20) and inserting in lieu thereof the following:

“(21) to the extent provided in section 48(q), in the case of expenditures with respect to which a credit has been allowed under section 38;

“(22) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);

“(23) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

“(24) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d).”

(23) Paragraph (1) of section 7518(g) of the 1986 Code is amended by striking out “not qualified withdrawal” and inserting in lieu thereof “not a qualified withdrawal”.

(24) The table of sections for part IV of subchapter P of chapter 1 of the 1986 Code is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following:

“Sec. 1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties.”

(25) Paragraph (1) of section 453(f) of the 1986 Code is amended by striking out “subsection (g)” and inserting in lieu thereof “subsections (g)”.

(26) Paragraph (8) of section 453(f) of the 1986 Code is amended by striking out “payment to be” and inserting in lieu thereof “payments to be”.

(27) Subparagraph (B) of section 668(b)(1) of the Reform Act is amended by striking out “section 856” and inserting in lieu thereof “section 858”.

(28) The second to the last sentence of section 857(b)(3)(C) of the 1986 Code is amended by striking out “such capital loss such” and inserting in lieu thereof “such capital loss shall”.

(29) Subsection (a) of section 669 of the Reform Act is amended by striking out “this part” and inserting in lieu thereof “this subtitle”.

(30) The table of parts for subchapter M of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

“Part IV. Real estate mortgage investment conduits.”

(31) Subsection (c) of section 1277 of the 1986 Code is amended by inserting a closing parenthesis after “section 585(a)(2)”.

(32) The table of parts for subchapter L of chapter 1 of the 1986 Code is amended by striking out the items relating to parts II, III, and IV and inserting in lieu thereof the following:

“Part II. Other insurance companies.

“Part III. Provisions of general application.”

(33) Paragraph (7) of section 6051(a) of the 1986 Code is amended by adding a comma at the end thereof.

(34) Paragraph (14) of section 1114(b) of the Reform Act is amended—

(A) by striking out “section 501(c)(17)” and inserting in lieu thereof “section 501(c)(17)(A)”, and

(B) by striking out “duties consists” and inserting in lieu thereof “duties consist”.

(35) Subparagraph (C) of section 3121(v)(3) of the 1986 Code is amended by striking out “Saving” and inserting in lieu thereof “Savings”.

(36) Paragraph (4) of section 6652(k) of the 1986 Code is amended by striking out “or section 6678” and inserting in lieu thereof “or part II of subchapter B of this chapter”.

(37) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

“Sec. 865. Source rules for personal property sales.”

(38) The amendment made by section 1221(b)(3)(B) of the Reform Act shall be construed as striking out paragraph (3) of section 954(e) of the 1986 Code.

(39) The heading of section 861(a)(6) of the 1986 Code is amended by striking out “personal property” and inserting in lieu thereof “inventory property”.

(40) Subsection (a) of section 1296 of the 1986 Code is amended by inserting a comma after “this subpart”.

(41) Subsection (b) of section 7703 of the 1986 Code is amended by striking out “section 151(e)(3)” and inserting in lieu thereof “section 151(c)(3)”.

(42) Paragraph (3) of section 1404(c) of the Reform Act is amended by striking out “section 6601” and inserting in lieu thereof “section 6601(b)”.

(43) Subsection (a) of section 2611 of the 1986 Code is amended by striking out “mean” and inserting in lieu thereof “means”.

(44) Subparagraph (D) of section 3406(h)(5) of the 1986 Code is amended by adding a period at the end thereof.

(45) The table of sections for part III of subchapter C of chapter 76 of the 1986 Code is amended by adding at the end thereof the following new item:

“Sec. 7475. Practice fee.”

(46) The paragraph added to section 1276(b) of the 1986 Code by section 1803(a)(13)(A)(iii) of the Reform Act is amended—

(A) by inserting “(3)” before “SPECIAL” in the paragraph heading,

(B) by inserting a 1 em dash after “PAYMENTS.” in the heading, and

(C) by adding a period at the end thereof.

(47) Subparagraph (C) of section 809(d)(4) of the 1986 Code is amended by striking out “the Secretary—” and inserting in lieu thereof “The Secretary—”.

(48) Subsection (f) of section 7872 of the 1986 Code is amended by redesignating the paragraph (11) added by section 1854 of the Reform Act as paragraph (12).

(49) Paragraph (5) of section 7611(i) of the 1986 Code is amended by striking out "the title" and inserting in lieu thereof "this title".

(50) Section 13303(a) of Public Law 99-272 is amended (in the matter proposed to be inserted in section 3306(c) of the Internal Revenue Code of 1954), effective as of the date of its enactment, by inserting a comma immediately after "1988".

(51) Subsection (f) of section 6511 of the 1986 Code is amended—

(A) by striking out "chapter 42" in the text and inserting in lieu thereof "section 4912, chapter 42,", and

(B) by striking out "Certain Chapter 43 Taxes" in the subsection heading and inserting in lieu thereof "Similar Taxes".

(52) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

SEC. 121. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if included in the provision of the Reform Act to which such amendment relates.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

SEC. 201. AMENDMENTS RELATED TO SUPERFUND REVENUE ACT OF 1986.

(a) Amendments Related to Section 513 of the Act.—

(1) Subsection (e) of section 4662 of the 1986 Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Refunds directly to exporter.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where—

"(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

"(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations."

(2) Subparagraph (A) of section 4662(b)(10) of the 1986 Code is amended by striking out "a mixture of" and inserting in lieu thereof "one or more".

(b) Amendments Related to Section 515 of the Act.—

(1) Subparagraph (B) of section 4672(a)(2) of the 1986 Code is amended by inserting "(or more than 50 percent of the value)" after "more than 50 percent of the weight".

(2) Paragraph (2) of section 4672(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed."

(3) Paragraph (4) of section 4672(a) of such Code is amended to read as follows:

"(4) Modifications to list.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests."

(c) Amendments Related to Section 516 of the Act.—

(1) Section 59A of the 1986 Code (relating to environmental tax) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Exception for RIC's and REIT's.—The tax imposed by subsection (a) shall not apply to—

"(1) a regulated investment company to which part I of subchapter M applies, and

"(2) a real estate investment trust to which part II of subchapter M applies."

(2) Paragraph (1) of section 882(a) of the 1986 Code is amended by inserting "59A," after "55,".

(3)(A) Paragraph (2) of section 59A(b) of the 1986 Code (defining modified alternative minimum taxable income) is amended by striking out "section 164(a)(5)" and inserting in lieu thereof "section 164(a)(6)".

(B) The paragraph (5) of section 164(a) of the 1986 Code added by section 516(b) of the Superfund Revenue Act of 1986 is redesignated as paragraph (6).

(d) Amendments Related to Section 521 of the Act.—

(1)(A) The amendments made by subsections (b)(3) and (d)(17) of section 10502 of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 except that the last sentence of paragraphs (2) and (3) of section 4041(d) of the Internal Revenue Code of 1986 (as amended by such subsection (b)(3)) and the reference to section 4091 of such Code in section 9508(c)(2)(A) of such Code (as amended by such subsection (d)(1)) shall not apply to sales before April 1, 1988.

(B) Paragraph (2) of section 6416(b) of the 1986 Code is amended by striking out "(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)" and inserting in lieu thereof "(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)".

(2) Paragraph (3) of section 4041(c) of the 1986 Code is amended by striking out "the rate at which" and inserting in lieu thereof "the Highway Trust Fund financing rate at which".

(3)(A) Subparagraph (A) of section 4041(b)(1) of the 1986 Code is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (d)(1)".

(B) Subparagraph (B) of section 4041(b)(1) of the 1986 Code is amended by inserting before the period "and by the corresponding provision of subsection (d)(1)".

(C) Subsection (b) of section 4041 of the 1986 Code is amended by striking out paragraph (3).

(D) Subparagraph (A) of section 4041(b)(2) of the 1986 Code is amended to read as follows:

"(A) In general.—In the case of any qualified methanol or ethanol fuel—

"(i) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(ii) subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to the sales and uses to which clause (i) applies."

(E) Subsection (f) of section 6421 of the 1986 Code is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(2) Gasoline used in aviation.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

"(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

"(3) Leaking underground storage tank trust fund tax on gasoline used in trains.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used as a fuel in a train."

(F) The second sentence of section 6421(a) of the 1986 Code is amended by striking out "paragraph (3) of subsection (e)" and inserting in lieu thereof "paragraph (2) of subsection (f)".

(4)(A) Paragraph (1) of section 1703(f) of the Reform Act (relating to floor stock taxes) is amended by striking out "9 cents" and inserting in lieu thereof "9.1 cents".

(B) Paragraph (4) of section 1703(f) of the Reform Act is amended to read as follows:

"(4) Transfer of floor stock tax revenues to trust funds.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this section shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

"(A) at the Highway Trust Fund financing rate under such section to the extent of 9 cents per gallon, and

"(B) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cent per gallon."

(5)(A) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by inserting "and by substituting '⅑ cent' for '0.1 cent'" before "in the case of the removal".

(B) The last sentence of section 4081(c)(2) of the 1986 Code, as amended by such section 1703, is amended by striking out "5⅔ cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel".

(6)(A) Paragraph (1) of section 4091(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅑ cent per gallon."

(B) Paragraph (4) of section 4091(b) of the 1986 Code is amended by inserting "except as provided in subsection (c)," after "paragraph (1),".

(C) The last sentence of section 4091(c)(2) of the 1986 Code is amended by striking out "5 cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(7)(A) The amendment made by section 10502(c)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(B) Subparagraph (A) of section 6427(f)(1) of the 1986 Code is amended—

(i) by striking out "regular Highway Trust Fund financing rate" each place it appears and inserting in lieu thereof "regular tax rate", and

(ii) by striking out "incentive Highway Trust Fund financing rate" and inserting in lieu thereof "incentive tax rate".

(C) Subparagraph (B) of section 6427(g)(1) of the 1986 Code is amended to read as follows:

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof.

"(ii) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(D) Paragraph (2) of section 6427(l) of the 1986 Code is amended by inserting "under section 4041" after "exempt".

(E) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the provision of the Superfund Revenue Act of 1986 to which it relates.

SEC. 202. AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) ORDER OF ENACTMENTS.—

(1) For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986.

(2) Paragraph (2) of section 4042(b) of the 1986 Code is amended to read as follows:

"(2) RATES.—For purposes of paragraph (1)—

"(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs:	*The tax per gallon is:*
Before 1990	*10 cents*
During 1990	*11 cents*
During 1991	*13 cents*
During 1992	*15 cents*
During 1993	*17 cents*
During 1994	*19 cents*
After 1994	*20 cents.*

"(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon."

(b) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) of the 1986 Code is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(c) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSION.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "October 1, 1988".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

SEC. 203. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 1011 OF THE ACT.—

(1) Subparagraph (B) of section 501(c)(12) of the 1986 Code is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(2) Subparagraph (C) of section 501(c)(12) of the 1986 Code is amended to read as follows:

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from qualified pole rentals, or

"(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(3) The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 8011 OF THE ACT.—

(1) The following provisions of the 1986 Code are each amended by striking out "the 14th day after the date on which" and inserting in lieu thereof "the 14th day after the last day of the semimonthly period during which":

(A) Subparagraphs (A) and (B) of section 5061(d)(2).

(B) Paragraph (3) of section 5061(d).

(C) Clauses (i) and (ii) of section 5703(b)(2)(B).

(D) Subparagraph (C) of section 5703(b)(2).

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986.

(c) AMENDMENT RELATED TO SECTION 8041 OF THE ACT.—

(1) IN GENERAL.—Paragraph (3) of section 901(j) of the 1986 Code is amended—

(A) by striking out "Section 275" and inserting in lieu thereof "Sections 275 and 78", and

(B) by inserting ", ETC." after "DEDUCTION" in the paragraph heading.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 1987.

(d) AMENDMENT RELATED TO SECTION 9002 OF THE ACT.—Paragraph (3) of section 3509(d) of the 1986 Code is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (d)(4)".

SEC. 204. AMENDMENTS RELATED TO THE REVENUE ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10101 OF THE ACT.—Section 10101(b) of the Revenue Act of 1987 is amended to read as follows:

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

"(2) SPECIAL RULE FOR CAFETERIA PLANS.—For purposes of section 125 of the Internal Revenue Code of 1986, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1988, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1987, and such assistance included reimbursement for expenses at a camp where the dependent stays overnight."

(b) AMENDMENTS RELATED TO SECTION 10102 OF THE ACT.—

(1) Subsection (h) of section 163 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (5).

(2) Clause (ii) of section 56(b)(1)(C) of the 1986 Code is amended by striking out "163(h)(6)" and inserting in lieu thereof "163(h)(5)".

(3) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(A) by striking out "substantially rehabilitating" and inserting in lieu thereof "substantially improving", and

(B) by striking out "or is paid" in subparagraph (A).

(c) AMENDMENT RELATED TO SECTION 10103.—Paragraph (1) of section 10103(a) of the Revenue Act of 1987 is amended by inserting "in a plan established for its employees by the United States" after "participant".

(d) AMENDMENTS RELATED TO SECTION 10202 OF THE ACT.—

(1) Subparagraph (A) of section 453(l)(1) of the 1986 Code, is amended by striking out "disposes of personal property" and inserting in lieu thereof "disposes of personal property of the same type".

(2) Section 453A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(1) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related persons, pass-thru entities, or intermediaries, and

"(2) providing that the sale of an interest in a partnership or other pass-thru entity will be treated as a sale of the proportionate share of the assets of the partnership or other entity."

(3) Paragraph (3) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DISPOSITIONS DEEMED MADE ON 1ST DAY OF TAXABLE YEAR.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

"(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

"(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365."

(4) Paragraph (2) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 (as added by the Miscellaneous Revenue Act of 1988) shall apply."

(5) Subsection (k) of section 453 of the 1986 Code is amended by striking out "and section 453A".

(6) Subparagraph (A) of section 10202(e)(2) of the Revenue Act of 1987 is amended by striking out "section 453A of the Internal Revenue Code of 1986" and inserting in lieu thereof "section 453(l)(1) of the Internal Revenue Code of 1986 as added by this section".

(7) Paragraph (2) of section 453A(b) of the 1986 Code is amended by striking out "for purposes of this paragraph" and inserting in lieu thereof "for purposes of this paragraph and subsection (c)(4)".

(8) Paragraph (3) of section 453A(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)."

(e) AMENDMENTS RELATED TO SECTION 10206 OF THE ACT.—

(1)(A) Subsection (a) of section 444 of the 1986 Code is amended by striking out "as provided in subsections (b) and (c)" and inserting in lieu thereof "as otherwise provided in this section".

(B) Paragraph (3) of section 444(d) of the 1986 Code is amended to read as follows:

"(3) TIERED STRUCTURES, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

"(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

"(B) EXCEPTIONS FOR STRUCTURES CONSISTING OF CERTAIN ENTITIES WITH SAME TAXABLE YEAR.—Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year."

(C) Subparagraph (B) of section 444(d)(2) of the 1986 Code is amended by striking out "under subparagraph (A)" and inserting in lieu thereof "under subparagraph (A) or paragraph (3)(A)".

(2)(A) Section 444 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) PERSONAL SERVICE CORPORATION.—For purposes of this section, the term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(B) Subsection (f) of section 280H of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(3) Paragraph (2) of section 280H(f) of the 1986 Code is amended by striking out "section 296A(b)(2)" and inserting in lieu thereof "section 269A(b)(2) (as modified by section 441(i)(2))".

(4)(A) Paragraph (2) of section 7519(b) of the 1986 Code is amended to read as follows:

"(2) the net required payment balance."

(B) Subsection (e) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years, over

"(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years."

(5) Subsection (c) of section 7519 of the 1986 Code is amended to read as follows:

"(c) REFUND OF PAYMENTS.—

"(1) IN GENERAL.—If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

"(2) TERMINATION OF ELECTIONS, ETC.—If—

"(A) an election under section 444 is terminated effective with respect to any year, or

"(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

"(3) DATE ON WHICH REFUND PAYABLE.—Any refund under this subsection shall be payable on later of—

"(A) April 15 of the calendar year following the calendar year in which the year referred to in paragraph (1) or (2) ends; or

"(B) the day 90 days after the day on which claim therefor is filed with the Secretary."

(6) Subsection (g) of section 7519 of the 1986 Code is amended by striking out "including regulations" and all that follows down through the period at the end thereof and inserting in lieu thereof

"including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

"(1) 2 or more applicable election years begin in the same calendar year, or

"(2) the base year is a taxable year of less than 12 months."

(7) Subparagraph (B) of section 7519(d)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))".

(8) Subsection (d) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF GUARANTEED PAYMENTS.—

"(A) IN GENERAL.—Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

"(B) GUARANTEED PAYMENT.—For purposes of subparagraph (A), the term 'guaranteed payment' means any payment referred to in section 707(c)."

(9) Paragraph (4) of section 7519(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income."

(10) Subparagraphs (A) and (B) of section 7519(d)(2) of the 1986 Code are each amended by striking out "(other than credits)" and inserting in lieu thereof "(other than credits and tax-exempt income)".

(11) Paragraph (4) of section 10206(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989."

(12) Subparagraph (A) of section 444(d)(2) of the 1986 Code is amended by inserting "or otherwise terminates such election" before the period at the end of the first sentence thereof.

(13) Paragraph (4) of section 444(b) of the 1986 Code is amended by striking out "the term" and inserting in lieu thereof "except as provided in regulations, the term".

(14)(A) Paragraph (4) of section 280H(f) of the 1986 Code is amended to read as follows:

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

"(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A)."

(B) Subparagraph (A) of section 7519(d)(3) of the 1986 Code is amended by striking out "or incurred".

(C) Subsections (c)(1)(A)(i) and (d)(1) of section 280H of the 1986 Code are each amended by striking out "or incurred".

(f) AMENDMENTS RELATED TO SECTION 10211 OF THE ACT.—

(1) Paragraph (4) of section 7704(e) of the 1986 Code is amended by striking out "as may be required" and inserting in lieu thereof "or to pay such amounts as may be required".

(2) Paragraph (2) of section 10211(c) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

"(i) December 31, 1997, or

"(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B)."

(3) Paragraph (1) of section 7704(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership."

(4) Paragraph (1) of section 7704(d) of the 1986 Code is amended—

(A) by striking out "mineral or natural resource" in subparagraph (E) and inserting in lieu thereof "depletable product", and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraph (E), the term 'depletable product' means any product of a character with respect to which a deduction for depletion is allowable under section 613, and oil, gas, and timber."

(5) Paragraph (3) of section 7704(d) of the 1986 Code is amended to read as follows:

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if—

"(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

"(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner."

(g) Amendment Related to Section 10212 of the Act.—Subsection (k) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Coordination with subsection (g).—For purposes of subsection (g), a taxpayer shall not be treated as having disposed of his entire interest in an activity of a publicly traded partnership until he disposes of his entire interest in such partnership."

(h) Amendments Related to Section 10214 of the Act.—

(1) Subparagraph (E) of section 514(c)(9) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items."

(2) Clause (i) of section 514(c)(9)(E) of the 1986 Code is amended by striking out subclause (I) and by redesignating subclauses (II) and (III) as subclauses (I) and (II), respectively.

(i) Amendments Related to Section 10221 of the Act.—

(1) Paragraph (2) of section 10221(e) of the Revenue Act of 1987 is amended by striking out "amendments made by subsection (b)" and inserting in lieu thereof "amendments made by subsection (c)".

(2) Subsection (b) of section 244 of the 1986 Code is amended by striking out "section 243(c)(4)" and inserting in lieu thereof "section 243(d)(4)".

(j) Amendments Related to Section 10222 of the Act.—

(1)(A) Paragraph (1) of section 1503(e) of the 1986 Code is amended by striking out so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof the following:

"(1) In general.—Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—"

(B) Paragraph (2) of section 10222(a) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) Treatment of certain excess loss accounts.—

"(i) In general.—If—

"(I) any disposition on or before December 15, 1987, of stock resulted in an inclusion of an excess loss account (or would have so resulted if the amendments made by paragraph (1) had applied to such disposition), and

"(II) there is an unrecaptured amount with respect to such disposition,

the portion of such unrecaptured amount allocable to stock disposed of in a disposition to which the amendment made by paragraph (1) applies shall be taken into account as negative basis. To the extent permitted by the Secretary of the Treasury or his delegate, the preceding sentence shall not apply to the extent the taxpayer elects to reduce its basis in indebtedness of the corporation with respect to which there would have been an excess loss account.

"(ii) Special rules.—For purposes of this subparagraph—

"(I) Unrecaptured amount.—The term 'unrecaptured amount' means the amount by which the inclusion referred to in clause (i)(I) would have been increased if the amendment made by paragraph (1) and applied to the disposition.

"(II) Coordination with binding contract exception.—A disposition shall be treated as occurring on or before December 15, 1987, if the amendment made by paragraph (1) does not apply to such disposition by reason of subparagraph (B)."

(2) Subsection (e) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Adjustments.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of paragraph (1)—

"(A) in the case of any property acquired by the corporation before consolidation, for the difference between the adjusted basis of such property for purposes of computing taxable income and its adjusted basis for purposes of computing earnings and profits, and

"(B) in the case of any property, for any basis adjustment under section 48(q)."

(3)(A) Paragraph (2) of section 1503(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Application of section 312(n)(7) not affected.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(B) Subsection (e) of section 301 of the 1986 Code (as redesignated by section 106(e)(12) of this Act) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Application of section 312(n)(7) not affected.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(4) Subparagraph (B) of section 10222(b)(2) of the Revenue Act of 1987 is amended to read as follows:

"(B) Exception.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition of stock after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contact, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987."

(k) Amendments Related to Section 10223 of the Act.—

(1) Subparagraph (D) of section 355(b)(2) of the 1986 Code is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B) and was not acquired by the distributing corporation directly (or through 1 or more corporations) within such period, or

"(ii) was so acquired by any such corporation within such period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period."

(2) Subparagraph (A) of section 304(b)(4) of the 1986 Code is amended by striking out "stock of 1 member" and inserting in lieu thereof "stock from 1 member".

(3) Paragraph (2) of section 10223(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of certain members of affiliated group.—

"(i) In general.—For purposes of subparagraph (A), all distributees which were in existence on the designated date and were members of the same affiliated group on such date shall be treated as 1 distributee.

"(ii) Limitation to stock held on designated date.—Clause (i) shall not exempt any distribution from the amendments made by this section if such distribution is with respect to stock not held by the distributee (determined without regard to clause (i)) on the designated date, directly or indirectly, through a corporation which goes out of existence in the transaction.

"(iii) Designated date.—For purposes of this subparagraph, the term 'designated date' means the later of—

"(I) December 15, 1987, or

"(II) the date on which the acquisition meeting the requirements of subparagraph (A) occurred."

(4) Subparagraph (B) of section 10223(d)(2) of the Revenue Act of 1987 is amended—

(A) by striking out "before January 1, 1993" and inserting in lieu thereof "on or before March 31, 1988", and

(B) by striking out "before January 1, 1989,".

(l) Amendment Related to Section 10224 of the Act.—Sections 1201(a) and 1561(a) of the 1986 Code, and section 904(b)(3)(D)(ii) of the 1986 Code (as amended by section 106(b)(2) of this Act), are each amended by striking out "section 11(b)" and inserting in lieu thereof "section 11(b)(1)".

(m) Amendments Related to Section 10226 of the Act.—

(1)(A) Subsection (a) of section 384 of the 1986 Code is amended to read as follows:

"(a) General Rule.—If—

"(1)(A) a corporation acquires directly (or through 1 or more other corporations) control of another corporation, or

"(B) the assets of a corporation are acquired by another corporation in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(2) either of such corporations is a gain corporation,

income for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss (other than a preacquisition loss of the gain corporation)."

(B) Subsection (c) of section 384 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (8) and by inserting after paragraph (3) the following new paragraphs:

"(4) Gain corporation.—The term 'gain corporation' means any corporation with a net unrealized built-in gain.

"(5) Control.—The term 'control' means ownership of stock in a corporation which meets the requirements of section 1504(a)(2).

"(6) TREATMENT OF MEMBERS OF SAME GROUP.—Except as provided in regulations and except for purposes of subsection (b), all corporations which are members of the same affiliated group immediately before the acquisition date shall be treated as 1 corporation. To the extent provided in regulations, section 1504 shall be applied without regard to subsection (b) thereof for purposes of the preceding sentence.

"(7) TREATMENT OF PREDECESSORS AND SUCCESSORS.—Any reference in this section to a corporation shall include a reference to any predecessor or successor thereof."

(C) Paragraph (2) of section 384(c) of the 1986 Code is amended to read as follows:

"(2) ACQUISITION DATE.—The term 'acquisition date' means—

"(A) in any case described in subsection (a)(1)(A), the date on which the acquisition of control occurs, or

"(B) in any case described in subsection (a)(1)(B), the date of the transfer in the reorganization."

(D) Paragraph (1) of section 384(c) of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(1)(B)".

(2) Paragraph (2) of section 384(e) of the 1986 Code is amended by striking out "the gain corporation" and inserting in lieu thereof "a corporation".

(3) Subsection (b) of section 384 of the 1986 Code is amended to read as follows:

"(b) EXCEPTION WHERE CORPORATIONS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the preacquisition loss of any corporation if such corporation and the gain corporation were members of the same controlled group at all times during the 5-year period ending on the acquisition date.

"(2) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means a controlled group of corporations (as defined in section 1563(a)); except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears,

"(B) the ownership requirements of section 1563(a) must be met both with respect to voting power and value, and

"(C) the determination shall be made without regard to subsection (a)(4) of section 1563.

"(3) SHORTER PERIOD WHERE GAIN CORPORATION NOT IN EXISTENCE FOR 5 YEARS.—If the gain corporation was not in existence throughout the 5-year period referred to in paragraph (1), the period during which the gain corporation was in existence shall be substituted for such 5-year period."

(4) Section 384 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORDERING RULES FOR NET OPERATING LOSSES, ETC.—

"(1) CARRYOVER RULES.—If any preacquisition loss may not offset a recognized built-in gain by reason of this section, such gain shall not be taken into account in determining under section 172(b)(2) the amount of such loss which may be carried to other taxable years. A similar rule shall apply in the case of any excess credit or net capital loss limited by reason of subsection (d).

"(2) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(A) a preacquisition loss for any taxable year is subject to limitation under subsection (a), and

"(B) a net operating loss from such taxable year is not subject to such limitation, taxable income shall be treated as having been offset 1st by the loss subject to such limitation."

(5) In any case where the acquisition date (as defined in section 384(c)(2) of the 1986 Code as amended by this subsection) is before March 31, 1988, the acquiring corporation may elect to have the amendments made by this subsection not apply. Such an election shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe and shall be made not later than the later of the due date (including extensions) for filing the return for the taxable year of the acquiring corporation in which the acquisition date occurs or the date 120 days after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(n) AMENDMENTS RELATED TO SECTION 10227 OF THE ACT.—Paragraph (4) of section 1363(d) of the 1986 Code (relating to recapture of LIFO benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as provided in regulations, the corporation referred to in paragraph (1) shall not be treated as a member of an affiliated group with respect to the amount included in gross income under paragraph (1)."

(o) AMENDMENTS RELATED TO SECTION 10228 OF THE ACT.—

(1)(A) Subsection (a) of section 5881 of the 1986 Code is amended by striking out "gain realized by such person on such receipt" and inserting in lieu thereof "gain or other income of such person by reason of such receipt".

(B)(i) Subsection (b) of section 5881 of the 1986 Code is amended by striking out "a corporation to directly or indirectly acquire its stock" and inserting in lieu thereof "a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation".

(ii) The amendment made by clause (i) shall apply to transactions occurring on or after March 31, 1988.

(C) Subsection (d) of section 5881 of the 1986 Code is amended—

(i) by striking out "the gain" and inserting in lieu thereof "the gain or other income", and

(ii) by striking out "GAIN RECOGNIZED" in the subsection heading and inserting in lieu thereof "AMOUNT RECOGNIZED".

(2) Section 5881 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(p) AMENDMENTS RELATED TO SECTION 10241 OF THE ACT.—

(1) Paragraph (1) of section 811(d) of the 1986 Code is amended by striking out "the prevailing State assumed interest rate for the contract" and inserting in lieu thereof "the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract".

(2) Paragraph (2) of section 812(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A)."

(q) AMENDMENTS RELATED TO SECTION 10242 OF THE ACT.—

(1) Subsection (h) of section 816 of the 1986 Code is amended by striking out "section 842(c)(1)(A)" and inserting in lieu thereof "section 842(b)(2)(B)(i)".

(2)(A) Subparagraph (B) of section 842(b)(3) of the 1986 Code is amended by striking out "held for the production of such income".

(B) Subparagraph (B) of section 842(b)(4) of the 1986 Code is amended by striking out "held for the production of investment income".

(3) Subparagraph (d) of section 842 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) which may provide that, in the case of companies taxable under part II of this subchapter, determinations under subsection (b) will be made separately for categories of such companies established in such regulations."

(r) AMENDMENT RELATED TO SECTION 10301 OF THE ACT.—Paragraph (3) of section 6655(g) of the 1986 Code is amended by striking the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month', and subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV).".

(s) AMENDMENTS RELATED TO SECTION 10402 OF THE ACT.—

(1)(A) Paragraph (4) of section 2036(c) of the 1986 Code is amended to read as follows:

"(4) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—For purposes of this subtitle, if, before the death of the original transferor—

"(i) the original transferor transfers all (or any portion of) the retained interest referred to in paragraph (1), or

"(ii) the original transferee transfers all (or any portion of) the transferred property referred to in paragraph (1) to a person who is not the original transferor or a member of the original transferor's family,

the original transferor shall be treated as having made a transfer by gift of property to the original transferee equal to the paragraph (1) inclusion (or proportionate amount thereof). Proper adjustments shall be made in the amount treated as a gift by reason of the preceding sentence to take into account prior transfers to which this subparagraph applied.

"(B) COORDINATION WITH PARAGRAPH (1).—In any case to which subparagraph (A) applies, nothing in paragraph (1) or section 2035(d)(2) shall require the inclusion of the transferred property (or proportionate amount thereof).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) ORIGINAL TRANSFEROR.—The term 'original transferor' means the person making the transfer referred to in paragraph (1).

"(ii) ORIGINAL TRANSFEREE.—The term 'original transferee' means the person to *whom the transfer referred to in paragraph (1) is made. Such term includes any member of the original transferor's family to whom the property is subsequently transferred.*

"(iii) PARAGRAPH (1) INCLUSION.—The term 'paragraph (1) inclusion' means the amount which would have been included in the gross estate of the original transferor under subsection (a) by reason of paragraph (1) (determined without regard to sections 2032 and 2032A) if the original transferor died immediately before the transfer referred to in subparagraph (A). The amount determined under the preceding sentence shall be reduced by the amount (if any) of the taxable gift resulting from the transfer referred to in paragraph (1)(B).

"(iv) TRANSFERS TO INCLUDE TERMINATIONS, ETC.—Terminations, lapses, and other changes in any interest in property of the original transferor or original transferee shall be treated as transfers.

"(D) CONTINUING INTEREST IN TRANSFERRED PROPERTY MAY NOT BE RETAINED.—A transfer (to which subparagraph (A) would otherwise apply) shall not be taken into account under subparagraph (A) if the original transferor or the original transferee (as the case may be) retains a direct or indirect continuing interest in the property transferred in such transfer.".

(B) Subsection (d) of section 2501 of the 1986 Code is amended by adding at the end thereof the following:

"(3) For treatment of certain transfers related to estate tax valuation freezes as gifts to which this chapter applies, see section 2036(c)(4)."

(C) The amendments made by this paragraph shall apply in case where the transfer referred to in section 2036(c)(1)(B) of the 1986 Code is on or after June 21, 1988.

(2) Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(6) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a transaction solely by reason of 1 or more of the following:

"(i) The receipt (or retention) of qualified debt.

"(ii) Except as provided in regulations, the existence of an agreement for the sale or lease of goods or other property to be used in the enterprise or the providing of services and—

"(I) the agreement is an arm's length agreement for fair market value, and

"(II) the agreement does not otherwise involve any change in interests in the enterprise.

"(iii) An option or other agreement to buy or sell property at the fair market value of such property as of the time the option is (or the rights under the agreement are) exercised.

"(B) LIMITATIONS.—

"(i) SERVICES PERFORMED AFTER TRANSFER.—In the case of compensation for services performed after the transfer referred to in paragraph (1)(B), clause (ii) of subparagraph (A) shall not apply if such services were performed under an agreement providing for the performance of services over a period greater than 3 years after the date of the transfer. For purposes of the preceding sentence, the term of any agreement includes any period for which the agreement may be extended at the option of the service provider.

"(ii) AMOUNTS MUST NOT BE CONTINGENT ON PROFITS, ETC.—Clause (ii) of subparagraph (A) shall not apply to any amount determined (in whole or in part) by reference to gross receipts, income, profits, or similar items of the enterprise.

"(C) QUALIFIED DEBT.—For purposes of this paragraph, except as provided in subparagraph (D), the term "qualified debt' means any indebtedness if—

"(i) such indebtedness—

"(I) unconditionally requires the payment of a sum certain in money in 1 or more fixed payments on specified dates, and

"(II) has a fixed maturity date not more than 15 years from the date of issue,

"(ii) the only other amount payable under such indebtedness is interest determined at—

"(I) a fixed rate, or

"(II) a rate which bears a fixed relationship to a specified market interest rate,

"(iii) the interest payment dates are fixed,

"(iv) such indebtedness is not by its terms subordinated to the claims of general creditors,

"(v) such indebtedness does not grant voting rights to the person to whom the debt is owed or place any limitation (other than in a case where the indebtedness is in default as to interest or principal) on the exercise of voting rights by others, and

"(vi) such indebtedness—

"(I) is not (directly or indirectly) convertible into an interest in the enterprise which would not be qualified debt, and

"(II) does not otherwise grant any right to acquire such an interest.

The requirement of clause (i)(I) that the principal be payable on 1 or more specified dates and the requirement of clause (i)(II) shall not apply to indebtedness payable on demand if such indebtedness is issued in return for cash to be used to meet normal business needs of the enterprise.

"(D) SPECIAL RULE FOR STARTUP DEBT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified debt' includes any qualified startup debt.

"(ii) QUALIFIED STARTUP DEBT.—For purposes of clause (i), the term 'qualified startup debt' means any indebtedness if—

"(I) such indebtedness unconditionally requires the payment of a sum certain in money,

"(II) such indebtedness was received in exchange for cash to be used in any enterprise involving the active conduct of a trade or business,

"(III) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) transferred any property (including goodwill) which was not cash to the enterprise or transferred customers or other business opportunities to the enterprise,

"(IV) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) held any interest in the enterprise (including an interest as an officer, director, or employee) which was not qualified startup debt,

"(V) any person who (but for subparagraph (A)(i)) would have been an original transferee (as defined in paragraph (4)(C)) participates in the active management (as defined in section 2032A(e)(12)) of the enterprise, and

"(VI) such indebtedness meets the requirements of clauses (v) and (vi) of subparagraph (C).

"(7) REGULATIONS.—the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including such regulations as may be necessary or approriate to prevent avoidance of the purposes of this subsection through distributions or otherwise."

(3) Subparagraph (B) of section 2036(c)(1) of the 1986 Code is amended by striking out "while" and all that follows down through the comma at the end of such subparagraph and inserting in lieu thereof "while retaining an interest in the income of, or rights in, the enterprise,".

(4)(A) Subparagraph (A) of section 2036(c)(3) of the 1986 Code is amended by inserting "(before or after the transfer referred to in paragraph (1)(B))" after "in an enterprise if".

(B) The amendment made by subparagraph (A) shall apply in the case of transfers on or after June 21, 1988.

(5) Subparagraph (C) of section 2036(c)(3) of the 1986 Code is amended by striking out "An individual" and inserting in lieu thereof "Except as provided in regulations, an individual".

(6)(A) Subchapter C of chapter 11 of the 1986 Code is amended by inserting after section 2207A the following new section:

"SEC. 2207B. RIGHT OF RECOVERY WHERE DECEDENT RETAINED INTEREST.

"(a) ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

"(A) the value of such property, bears to

"(B) the taxable estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will specifically referring to this section.

"(b) GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

"(1) the value of such property for purposes of chapter 12, bears to

"(2) the total amount of the taxable gifts for such year.

"(c) MORE THAN ONE RECIPIENT.—For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

"(d) PENALTIES AND INTEREST.—In the case of penalties and interest attributable to the additional taxes described in subsections (a) and (b), rules similar to the rules of subsections (a), (b), and (c) shall apply."

(B) The table of sections for subchapter C of chapter 11 of the 1986 Code is amended by inserting after the item relating to section 2207A the following new item:

"Sec. 2207B. Right of recovery where decedent retained interest."

(t) AMENDMENTS RELATED TO SECTION 10512 OF THE ACT.—

(1) Section 5276 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR UNITED STATES.—Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States."

(2) Subsection (a) of section 5113 of the 1986 Code is amended—

(A) by inserting "taxpaid wine bottling house," after "bonded wine cellar," each place it appears, and

(B) by striking out "DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, OR BREWERIES" in the heading and inserting in lieu thereof "CONTROLLED PREMISES".

(3) Section 5123 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) COORDINATION OF TAXES UNDER SECTION 5121.—No tax shall be imposed by section 5121(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5121(b) with respect to such place for such year."

(u) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

SEC. 205. AMENDMENTS RELATED TO PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS.

(a) AMENDMENT RELATED TO SECTION 9303.—

(1) Section 4972(c) of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), if—

"(A) the amount which is required to be contributed to a plan under section 412 on behalf of an individual who is an employee (within the meaning of section 401(c)(1)), exceeds

"(B) the earned income (within the meaning of section 404(a)(8)) of such individual derived from the trade or business with respect to which such plan is established,

such excess shall be treated as an amount allowable as a deduction under section 404."

(2)(A) Subparagraph (C) of section 412(1)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (C) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(b) AMENDMENT RELATED TO SECTION 9305.—Effective for contributions made with respect to terminations and withdrawals occurring after the date of the enactment of this Act, section 404(g) of the 1986 Code is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3).

(c) AMENDMENTS RELATED TO SECTION 9307.—

(1) The last sentence of section 404(a)(1)(D) of the 1986 Code is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "For purposes of determining whether a plan has more than 100 participants".

(2) Section 404(a)(7)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if paragraph (1)(D) applies to a defined benefit plan for any plan year, the amount necessary to satisfy the minimum funding standard provided by section 412 with respect to such plan for such plan year shall not be less than the unfunded current liability of such plan under section 412(l).".

(3) Section 404(a)(1)(D) of the 1986 Code is amended by striking out "(without regard to any reduction by the credit balance in the funding standard account)".

SEC. 206. AMENDMENTS RELATED TO SECTION 9201 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Subsection (c) of section 4132 of the 1986 Code (relating to imposition of tax on certain vaccines) is amended by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

"(2) TREATMENT OF VACCINES SHIPPED TO UNITED STATES POSSESSIONS.—Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States."

(b) Subsection (a) of section 9510 of the 1986 Code is amended—

(1) by inserting "appropriated or" before "credited", and

(2) by inserting "this section or" before "section 9602(b)".

(c) The amendments made by this section shall take effect as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987.

TITLE III—SUBSTANTIVE REVENUE PROVISIONS

Subtitle A—Extension and Modification of Expiring Provisions

SEC. 301. EXTENSION AND MODIFICATION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—Subsection (d) of section 127 of the 1986 Code (relating to educational assistance programs) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1990".

(b) RESTRICTIONS RELATING TO EDUCATION AT THE GRADUATE LEVEL.—

(1) IN GENERAL.—Paragraph (1) of section 127(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree."

(2) EXCEPTION FOR TEACHING AND RESEARCH ASSISTANTS.—

(A) Paragraph (8) of section 127(c) of the 1986 Code is amended to read as follows:

"(8) SPECIAL RULES FOR TEACHING AND RESEARCH ASSISTANTS.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, the last sentence of paragraph (1) of this subsection shall not apply."

(B) Subsection (d) of section 117 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR TEACHING AND RESEARCH ASSISTANTS.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase '(below the graduate level)'. The preceding sentence shall not apply to taxable years beginning after December 31, 1990."

(c) REDUCTION IN MAXIMUM AMOUNT OF EXCLUSION.—Paragraph (2) of section 127(a) of the 1986 Code is amended by striking out "$5,250" each place it appears and inserting in lieu thereof "$1,500".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1988.

SEC. 302. 1-YEAR EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subsection (n) of section 42 of the 1986 Code (relating to termination), as amended by section 102(l) of this Act, is amended—

(1) by striking out "1991" in paragraph (2)(B)(iii) and inserting in lieu thereof "1992",

(2) by striking out "1990" in paragraph (2)(A) and inserting in lieu thereof "1991", and

(3) by striking out "1989" each place it appears and inserting in lieu thereof "1990".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 501(c) of the Reform Act is hereby repealed.

(2) Paragraph (2) of section 42(n) of the 1986 Code, as in effect before the amendments made by subsection (a), shall apply to the additional housing credit dollar amount (if any) allocated to an entity for 1989 by reason of section 252(f)(2) of the Reform Act which is not allocated to a project for 1989.

SEC. 303. PROVISIONS RELATING TO MORTGAGE REVENUE BONDS AND MORTGAGE CREDIT CERTIFICATES.

(a) EXTENSION OF AUTHORITY TO ISSUE BONDS AND CERTIFICATES.—

(1) Subparagraph (B) of section 143(a)(1) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "December 31, 1990".

(2) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages), as amended by section 113(a)(26) of this Act, is amended by striking out "1988" and inserting in lieu thereof "1990".

(b) ADJUSTMENTS TO INCOME LIMITS FOR AREAS HAVING HIGHER OR LOWER HOUSING COSTS THAN THE NATIONAL AVERAGE.—

(1) ALTERNATIVE OF STATEWIDE MEDIAN INCOME REPLACED.—Paragraph (4) of section 143(f) of the 1986 Code (relating to income requirements) is amended to read as follows:

"(4) ADJUSTMENT OF INCOME REQUIREMENT BASED ON RELATION OF HOUSING COSTS TO INCOME.—

"(A) IN GENERAL.—If the residence (for which financing is provided under the issue) is located in a high housing cost area or a low housing cost area, the percentage determined under subparagraph (B) shall be substituted for '115 percent' in paragraph (1).

"(B) INCOME REQUIREMENTS.—

"(i) RESIDENCES IN HIGH HOUSING COST AREA.—The percentage determined under this subparagraph for a residence located in a high housing cost area is the percentage (not *greater than 140 percent) equal to the product of—*

"(I) 115 percent, and

"(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

"(ii) Residences in low housing cost area.—The percentage determined under this subparagraph for a residence located in a low housing cost area is the percentage (not less than 90 percent) equal to the product of—

"(I) 115 percent, and

"(II) the sum of the housing cost/income ratio for such area plus 0.2.

"(C) High and low housing cost areas.—For purposes of this paragraph—

"(i) High housing cost area.—The term 'high housing cost area' means any statistical area for which the housing cost/income ratio is greater than 1.2.

"(ii) Low housing cost area.—The term 'low housing cost area' means any statistical area for which the housing cost/income ratio is less than 0.8.

"(D) Housing cost/income ratio.—For purposes of this paragraph—

"(i) In general.—The term 'housing cost/income ratio' means, with respect to any statistical area, the number determined by dividing—

"(I) the applicable housing price ratio for such area, by

"(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

"(ii) Applicable housing price ratio.—For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

"(iii) New housing price ratio.—The new housing price ratio for any area is the ratio which—

"(I) the average area purchase price (as defined in subsection (e)(2)) for residences described in subsection (e)(3)(A) which are located in such area bears to

"(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

"(iv) Existing housing price ratio.—The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B)."

(2) Technical amendments.—

(A) Paragraphs (1) and (3)(B) of section 143(f) of the 1986 Code are each amended by striking out "applicable median family income" and inserting in lieu thereof "area median gross income".

(B) Paragraph (2) of section 143(f) of the 1986 Code is amended by striking out "and area median gross income" and inserting in lieu thereof "area median gross income, and median gross income in the United States".

(c) Determinations of Family Income To Be Based on Family Size.—Subsection (f) of section 143 of the 1986 Code (relating to income requirements) is amended by adding at the end thereof the following new paragraph:

"(5) Adjustment to income requirements based on family size.—In the case of a mortgagor having a family of fewer than 3 individuals, the preceding provisions of this subsection shall be applied by substituting—

"(A) '100 percent' for '115 percent' each place it appears,

"(B) '120 percent' for '140 percent' each place it appears, and

"(C) '80 percent' for '90 percent' in paragraph (4)(B)(ii)."

(d) Mortgage Revenue Bonds Subject to Arbitrage Rebate Rules Applicable to Other Tax-Exempt Bonds.—

(1) Paragraph (1) of section 143(g) of the 1986 Code (relating to requirements related to arbitrage) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)", and

(B) by striking out "(other than subsection (f) thereof)".

(2) Subsection (g) of section 143 of the 1986 Code is amended by striking out paragraph (3).

(3) Paragraph (1) of section 148(f) of the 1986 Code is amended by striking out the second sentence.

(e) Loans Provided Through Qualified Mortgage Issue Must Originate Within 3 Years of Date of Issue.—Paragraph (2) of section 143(a) of the 1986 Code (defining qualified mortgage issue) is amended by adding at the end thereof the following new subparagraph:

"(D) Proceeds must be used within 3 years of date of issuance.—

"(i) In general.—Except as otherwise provided in this subparagraph, an issue shall not meet the requirement of subparagraph (A)(i) unless—

"(I) all proceeds of the issue required to be used to finance owner-occupied residences are so used within the 3-year period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 3-year period beginning on the date of issuance of the original bond), and

"(II) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the meaning of section 148(f)(6)(A)) after the close of such period.

"(ii) Exception where redemption of unspent proceeds within 6 months.—Clause (i)(I) shall not apply if all proceeds of the issue—

"(I) which are required to be used to finance residences, and

"(II) which are not so used,

are used (not later than 6 months after the close of the period referred to in clause (i)) to redeem bonds which are part of such issue.

"(iii) Exception for de minimis amounts.—Clause (i) (and clause (iv) of subparagraph (A)) shall not be construed to require proceeds of an issue in amounts of less than $25,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence."

(f) Prepayments of Financing Provided by a Qualified Mortgage Issue Must Be Used To Redeem Bonds.—Subparagraph (A) of section 143(a)(2) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) except as provided in subparagraph (D)(iii), prepayments of principal on financing provided by the issue (and the principal amount of financing which is completely repaid) are used not later than the close of the 1st semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds which are part of such issue."

(g) Recapture of Portion of Federal Subsidy From Use of Mortgage Bonds and Mortgage Credit Certificates.—

(1) In general.—Section 143 of the 1986 Code (relating to mortgage revenue bonds) is amended by adding at the end thereof the following new subsection:

"(m) Recapture of Portion of Federal Subsidy From Use of Qualified Mortgage Bonds and Mortgage Credit Certificates.—

"(1) In general.—If, during the taxable year, any taxpayer disposes of an interest in a residence with respect to which there is or was any federally-subsidized indebtedness for the payment of which the taxpayer was liable in whole or part, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by the recapture amount with respect to such indebtedness.

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A) any disposition by reason of death, and

"(B) any disposition which is more than 10 years after the testing date.

"(3) Federally-subsidized indebtedness.—For purposes of this subsection—

"(A) In general.—The term 'federally-subsidized indebtedness' means any indebtedness if—

"(i) financing for the indebtedness was provided in whole or part from the proceeds of any tax-exempt qualified mortgage bond, or

"(ii) any credit was allowed under section 25 (relating to interest on certain home mortgages) to the taxpayer for interest paid or incurred on such indebtedness.

"(B) Exception for home improvement loans.—Such term shall not include any indebtedness to the extent such indebtedness is federally-subsidized indebtedness solely by reason of being a qualified home improvement loan (as defined in subsection (k)(4)).

"(4) Recapture amount.—For purposes of this subsection—

"(A) In general.—The recapture amount with respect to any indebtedness is the amount equal to the product of—

"(i) the federally-subsidized amount with respect to the indebtedness, and

"(ii) the holding period percentage.

"(B) Federally-subsidized amount.—The federally-subsidized amount with respect to any indebtedness is the amount equal to 6.25 percent of the highest principal amount of the indebtedness for which the taxpayer was liable.

"(C) Holding period percentage.—

"(i) Dispositions during 1st 5 years.—If the disposition of the taxpayer's interest in the residence occurs during the 5-year period beginning on the testing date, the holding period percentage is the percentage determined by dividing the number of full months during which the requirements of subparagraph (D) were met by 60.

"(ii) Dispositions during 2d 5 years.—If the disposition of the taxpayer's interest in the residence occurs during the 5-year period following the 5-year period described in clause (i), the holding period percentage is the percentage determined by dividing—

"(I) the excess of 120 over the number of full months during which such requirements were met by

"(II) 60.

"(iii) Retirements of indebtedness.—If the federally-subsidized indebtedness is completely repaid during any month of the 10-year period beginning on the testing date, the holding period percentage for succeeding months shall be determined by reducing ratably over the remainder of such period (or, if lesser, 5 years) the holding period percentage which would have been determined under this subparagraph had the taxpayer disposed of his interest in the residence on the date of the repayment.

"(D) TESTING DATE.—The term 'testing date' means the earliest date on which all of the following requirements are met:

"(i) The indebtedness is federally-subsidized indebtedness.

"(ii) The taxpayer is liable in whole or part for payment of the indebtedness.

"(5) REDUCTION OF RECAPTURE AMOUNT IF TAXPAYER MEETS CERTAIN INCOME LIMITATIONS.—

"(A) IN GENERAL.—The recapture amount which would (but for this paragraph) apply with respect to any disposition during a taxable year shall be reduced (but not below zero) by 2 percent of such amount for each $100 by which adjusted qualifying income exceeds the modified adjusted gross income of the taxpayer for such year.

"(B) ADJUSTED QUALIFYING INCOME.—For purposes of this paragraph, the term 'adjusted qualifying income' means the amount equal to the sum of—

"(i) $5,000, plus

"(ii) the product of—

"(I) the highest family income which (as of the date the financing was provided) would have met the requirement of subsection (f) with respect to the residence, and

"(II) the percentage equal to the sum of 100 percent plus 5 percent for each full year during the period beginning on such date and ending on the date of the disposition.

For purposes of clause (ii)(I), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is excluded from gross income under section 103, and

"(ii) decreased by the amount of gain (if any) included in gross income of the taxpayer by reason of the disposition to which this subsection applies.

"(6) LIMITATION ON RECAPTURE AMOUNT BASED ON GAIN REALIZED.—

"(A) IN GENERAL.—In no event shall the recapture amount of the taxpayer with respect to any indebtedness exceed 50 percent of the gain (if any) on the disposition of the taxpayer's interest in the residence. For purposes of the preceding sentence, gain shall be taken into account whether or not recognized, and the adjusted basis of the taxpayer's interest in the residence shall be determined without regard to sections 1033(b) and 1034(e) for purposes of determining gain.

"(B) DISPOSITIONS OTHER THAN SALES, EXCHANGES, AND INVOLUNTARY CONVERSIONS.—In the case of a disposition other than a sale, exchange, or involuntary conversion, gain shall be determined as if the interest had been sold for its fair market value.

"(C) INVOLUNTARY CONVERSIONS RESULTING FROM CASUALTIES.—In the case of property which (as a result of its destruction in whole or in part by fire, storm, or other casualty) is compulsorily or involuntarily converted, paragraph (1) shall not apply to such conversion if the taxpayer purchases (during the period specified in section 1033(a)(2)(B)) property for use as his principal residence on the site of the converted property. For purposes of subparagraph (A), the adjusted basis of the taxpayer in the residence shall not be adjusted for any gain or loss on a conversion to which this subparagraph applies.

"(7) ISSUER TO INFORM MORTGAGOR OF FEDERALLY-SUBSIDIZED AMOUNT AND FAMILY INCOME LIMITS.—The issuer of the issue which provided the federally-subsidized indebtedness to the mortgagor shall—

"(A) at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection, and

"(B) not later than 90 days after the date such indebtedness is provided, provide a written statement to the mortgagor specifying—

"(i) the federally-subsidized amount with respect to such indebtedness, and

"(ii) the amounts described in paragraph (5)(B)(ii) for each category of family size for each year of the 10-year period beginning on the date the financing was provided.

"(8) SPECIAL RULES.—

"(A) NO BASIS ADJUSTMENT.—No adjustment shall be made to the basis of any property for the increase in tax under this subsection.

"(B) SPECIAL RULE WHERE 2 OR MORE PERSONS HOLD INTERESTS IN RESIDENCE.—Except as provided in subparagraph (C) and in regulations prescribed by the Secretary, if 2 or more persons hold interests in any residence and are jointly liable for the federally-subsidized indebtedness, the recapture amount shall be determined separately with respect to their respective interests in the residence.

"(C) TRANSFERS TO SPOUSES AND FORMER SPOUSES.—Paragraph (1) shall not apply to any transfer on which no gain or loss is recognized under section 1041. In any such case, the transferee shall be treated under this subsection in the same manner as the transferor would have been treated had such transfer not occurred.

"(D) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations dealing with dispositions of partial interests in a residence."

(2) ISSUER INFORMATION REQUIREMENT.—

(A) Subparagraph (A) of section 143(a)(2) of the 1986 Code is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (m)(7)".

(B) Subparagraph (C) of section 143(a)(2) of the 1986 Code is amended by striking out "and (h)" and inserting in lieu thereof ", (h), and (m)(7)".

(3) BROKER REPORTING.—Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) WHETHER SELLER'S FINANCING WAS FEDERALLY-SUBSIDIZED.—In the case of a real estate transaction involving a residence, the real estate broker shall specify on the return under subsection (a) and the statement. under subsection (b) whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(4) NO CREDITS AGAINST TAX.—Paragraph (2) of section 26(b) of the 1986 Code (relating to limitation based on tax liability; definition of tax liability), as amended by section 112(q) of this Act, is amended by striking out "and" at the end of subparagraph (K), by striking out the period at the end of subparagraph (L) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(M) section 143(m) (relating to recapture of portion of federal subsidy from use of mortgage bonds and mortgage credit certificates)."

(5) RECAPTURE TAX NOT INCLUDED IN ESTIMATED TAXES.—Paragraph (1) of section 6654(f) of the 1986 Code (relating to failure by individual to pay estimated income tax) is amended by inserting "(other than any increase in such tax by reason of section 143(m))" after "chapter 1".

(6) AUTHORITY TO CHANGE PREPAYMENT ASSUMPTIONS FOR ARBITRAGE RESTRICTIONS.—Clause (iv) of section 143(g)(2)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m)."

(7) CROSS REFERENCE.—Section 25 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF MORTGAGE CREDIT CERTIFICATES.—

"For provisions increasing the tax imposed by this chapter to recapture a portion of the federal subsidy from the use of mortgage credit certificates, see section 143(m)."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

(2) SPECIAL RULES RELATING TO CERTAIN REQUIREMENTS AND REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989—

(A) the amendments made by subsections (b) and (c) shall apply to financing provided after the date of issuance of the refunding issue, and

(B) the amendment made by subsection (f) shall apply to payments (including on loans made before such date of issuance) received on or after such date of issuance.

(3) SUBSECTION (g).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (g) shall apply to financing provided, and mortgage credit certificates issued, after December 31, 1988.

(B) EXCEPTION.—The amendments made by subsection (g) shall not apply to financing provided pursuant to a binding contract (entered into before June 23, 1988) with a homebuilder, lender, or mortgagor if the bonds (the proceeds of which are used to provide such financing) are issued—

(i) before June 23, 1988, or

(ii) before August 1, 1988, pursuant to a written application (made before July 1, 1988) for State bond volume authority.

SEC. 304. TREATMENT OF CERTAIN POOLED FINANCING BONDS.

(a) IN GENERAL.—Section 149 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN POOLED FINANCING BONDS.—

"(1) IN GENERAL.—Section 103(a) shall not apply to any pooled financing bond unless—

"(A) the issue of which such bond is a part meets the borrower identification requirements of paragraph (2),

"(B) such issue meets the loan origination requirements of paragraph (3), and

"(C) such issue meets the redemption requirements of paragraph (4).

"(2) BORROWER IDENTIFICATION REQUIREMENTS.—An issue meets the requirements of this paragraph if at the time of issuance—

"(A) there are written commitments with the ultimate borrowers of the proceeds of the issue for loans in an amount equal to at

least 25 percent of the net proceeds (as of the date of issuance) of the issue, and

“(B) it is reasonably expected that loans will be made (pursuant to such commitments) in an amount equal to at least 25 percent of the net proceeds (as of the date of issuance) of the issue.

“(3) LOAN ORIGINATION PERIOD REQUIREMENTS.—

“(A) REQUIREMENTS FOR EACH OF 1ST 3 YEARS.—

“(i) IN GENERAL.—An issue meets the requirements of this paragraph if—

“(I) all of the net proceeds of the issue are used to make loans to ultimate borrowers within the 3-year period beginning on the date of issuance of the issue,

“(II) loans to ultimate borrowers equal to at least 50 percent of the net proceeds of the issue are made within the 2-year period beginning on such date, and

“(III) loans to ultimate borrowers equal to at least 25 percent of the net proceeds of the issue are made within the 1-year period beginning on such date.

“(ii) SPECIAL RULES.—For purposes of clause (i)—

“(I) in the case of a refunding bond, the date of issuance taken into account is the date of issuance of the original bond, and

“(II) the term ‘net proceeds’ shall not include proceeds used to finance issuance costs and shall not include proceeds necessary to pay interest (during the year involved and prior years) on the bonds which are part of the issue.

“(B) EXCEPTION WHERE REDEMPTION OF UNSPENT PROCEEDS WITHIN 6 MONTHS.—Subparagraph (A) shall not apply if proceeds of the issue—

“(i) which are required to meet the requirements of subparagraph (A), and

“(ii) which do not meet such requirements,

are used (not later than 6 months after the close of the period applicable under subparagraph (A)) to redeem bonds which are part of such issue.

“(4) REDEMPTION REQUIREMENTS FOR REPAYMENTS.—An issue meets the requirements of this paragraph if repayments of principal on loans provided by the issue are used not later than the close of the 1st semiannual period beginning after the date the repayment is received to redeem bonds which are part of such issue.

“(5) POOLED FINANCING BOND.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘pooled financing bond’ means any bond issued as part of an issue more than 5 percent (or, if lesser, $5,000,000) of the proceeds of which are reasonably expected (at the time of issuance of the bond) to be used (or are intentionally used) directly or indirectly to make or finance loans to 2 or more ultimate borrowers.

“(B) EXCEPTIONS.—Such term shall not include any bond if—

“(i) section 146 applies to the issue of which such bond is a part (other than by reason of section 141(b)(5)) or would apply but for section 146(i), or

“(ii) section 143(l)(3) applies to such issue.

“(6) DEFINITION OF LOAN; EXCEPTION FROM REDEMPTION REQUIREMENTS FOR DE MINIMIS AMOUNTS.—

“(A) LOAN.—For purposes of this subsection, the term ‘loan’ does not include—

“(i) any loan which is a nonpurpose investment (within the meaning of section 148(f)(6)(A)), and

“(ii) any use of proceeds by an agency of the issuer unless such agency is a political subdivision or instrumentality of the issuer.

“(B) EXCEPTION FOR DE MINIMIS AMOUNTS.—Paragraphs (3)(B) and (4) shall not be construed to require proceeds in amounts of less than $25,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to bonds issued after July 15, 1988.

(2) SPECIAL RULES FOR REFUNDING BONDS.—In the case of a bond issued to refund a bond issued before July 16, 1988—

(A) if the 3-year period described in subclause (I) of section 149(f)(3)(A)(i) of the 1986 Code would (but for this paragraph) expire on or before July 15, 1989—

(i) such period shall expire on July 15, 1989, and

(ii) subclauses (II) and (III) of such section, and section 149(f)(2) of the 1986 Code, shall not apply, and

(B) if such period expires after July 15, 1989, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after July 15, 1988) for purposes of applying section 149(f) of the 1986 Code.

(3) REPAYMENTS.—If a bond is issued to refund a bond issued before July 16, 1988, paragraph (4) of section 149(f) of the 1986 Code, as added by this section, shall apply to repayments (including on loans made before the date of issuance of the refunding issue) received on or after such date of issuance.

SEC. 305. EXTENSION OF CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) EXTENSION.—Subsection (h) of section 41 of the 1986 Code (relating to credit for increasing research activities) is amended—

(1) by striking out “December 31, 1988” each place it appears and inserting in lieu thereof “December 31, 1990”, and

(2) by striking out “January 1, 1989” each place it appears and inserting in lieu thereof “January 1, 1991”.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the credit provided by section 41 of the 1986 Code.

(2) REPORT.—The report of the study under paragraph (1) shall be submitted not later than December 31, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 306. DENIAL OF DEDUCTION FOR AMOUNTS ALLOWED AS A RESEARCH CREDIT.

(a) IN GENERAL.—Section 280C of the 1986 Code (relating to certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

“(c) CREDIT FOR INCREASING RESEARCH ACTIVITIES.—

“(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified research expenses (as defined in section 41(b)) or basic research expenses (as defined in section 41(e)(2)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41(a).

“(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

“(A) the amount of the credit determined for the taxable year under section 41(a)(1), exceeds

“(B) the amount allowable as a deduction for such taxable year for qualified research expenses or basic research expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

“(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.”.

(b) RESEARCH CREDIT TO BE ELECTIVE.—

(1) IN GENERAL.—Section 41 of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) ELECTION TO HAVE RESEARCH CREDIT NOT APPLY.—

“(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

“(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last day prescribed by law for filing the return for such taxable year (determined without regard to extensions).

“(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.”.

(2) DEDUCTION FOR UNUSED RESEARCH CREDIT.—Subsection (c) of section 196 of the 1986 Code is amended by striking out “and” at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof “, and”, and by adding at the end thereof the following new paragraph:

“(4) the research credit determined under section 41(a) for taxable years beginning after December 31, 1988.”

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 28(b) of the 1986 Code is amended by striking out subparagraph (D).

(2) Subsection (n) of section 6501 of the 1986 Code is amended by striking out “or 51(j)” and inserting in lieu thereof “, 41(h), or 51(j)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 307. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—For purposes of sections 861(b), 862(b), and 863(b) of the 1986 Code, qualified research and experimental expenditures shall be allocated and apportioned as follows:

(1) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

(2) In the case of any qualified research and experimental expenditures (not allocated under paragraph (1)) to the extent—

(A) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(B) that such expenditures are attributable to activities conducted outside the

United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

(3) The remaining portion of qualified research and experimental expenditures (not allocated under paragraphs (1) and (2)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall be at least 30 percent of the amount which would be so apportioned on the basis of gross sales.

(b) Qualified Research and Experimental Expenditures.—For purposes of this section, the term "qualified research and experimental expenditures" means amounts which are research and experimental expenditures within the meaning of section 174 of the 1986 Code. For purposes of this subsection, rules similar to the rules of subsection (c) of section 174 of the 1986 Code shall apply.

(c) Special Rules for Expenditures Attributable to Activities Conducted in Space, Etc.—

(1) In general.—Any qualified research and experimental expenditures described in paragraph (2)—

(A) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

(B) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

(2) Description of expenditures.—For purposes of paragraph (1), qualified research and experimental expenditures are described in this paragraph if such expenditures are attributable to activities conducted—

(A) in space,

(B) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

(C) in Antarctica.

(d) Affiliated Group.—

(1) Except as provided in paragraph (2), the allocation and apportionment required by subsection (a) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5) of section 864 of the 1986 Code) were a single corporation.

(2) For purposes of the allocation and apportionment required by subsection (a)—

(A) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E) of the 1986 Code); and

(B) dividends from an electing corporation,

shall not be taken into account, except that this paragraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) of the 1986 Code is not in effect.

(3) The qualified research and experimental expenditures taken into account for purposes of subsection (a) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I) of the 1986 Code).

(4) The Secretary of the Treasury or his delegate may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by paragraph (3).

(5) Paragraph (6) of section 864(e) of the 1986 Code shall not apply to qualified research and experimental expenditures.

(e) Years to Which Section Applies.—

(1) In general.—Except as provided in paragraph (2), this section shall apply to taxable years beginning after August 1, 1987, and before January 1, 1991.

(2) Special rule for activities conducted outside the united states.—In the case of qualified research and experimental expenditures not attributable to activities conducted in the United States (determined without regard to subsection (c)), this section shall not apply to any taxable year beginning before June 21, 1988.

SEC. 308. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 2-Year Extension.—Paragraph (4) of section 51(c) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1990".

(b) Extension of Authorization.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "and 1988" and inserting in lieu thereof "1988, 1989, and 1990".

(c) Economically Disadvantaged Youth Status Restricted to Individuals Under Age 22.—

(1) In general.—Subparagraph (B) of section 51(d)(3) of the 1986 Code is amended by striking out "age 25" and inserting in lieu thereof "age 22".

(2) Effective date.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1988.

SEC. 309. TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.

(a) In General.—Subsection (c) of section 67 of the 1986 Code, as amended by section 101(f) of this Act, is amended to read as follows:

"(c) Disallowance of Indirect Deduction Through Pass-Thru Entity.—

"(1) In general.—The Secretary shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual and which contain such reporting requirements as may be necessary to carry out the purposes of this subsection.

"(2) Treatment of publicly offered regulated investment companies.—

"(A) In general.—Paragraph (1) shall not apply with respect to any publicly offered regulated investment company.

"(B) Publicly offered regulated investment companies.—For purposes of this subsection—

"(i) In general.—The term 'publicly offered regulated investment company' means a regulated investment company the shares of which are—

"(I) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa)),

"(II) regularly traded on an established securities market, or

"(III) held by or for no fewer than 500 persons at all times during the taxable year.

"(ii) Secretary may reduce 500 person requirement.—The Secretary may by regulation decrease the minimum shareholder requirement of clause (i)(III) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.

"(3) Treatment of certain other entities.—Paragraph (1) shall not apply—

"(A) with respect to cooperatives and real estate investment trusts, and

"(B) except as provided in regulations, with respect to estates and trusts."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 310. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) In General.—Subsection (c) of section 4093 of the Internal Revenue Code of 1986 (relating to exceptions; special rule) is amended to read as follows:

"(c) Exemption for Nontaxable Uses.—

"(1) In general.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)).

"(2) Exception for certain leaking underground storage tank trust fund taxes.—In the case of fuel sold for use in—

"(A) a diesel-powered train, or

"(B) an aircraft,

paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.

"(3) Registration required.—Except to the extent provided by the Secretary by regulations, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) Information reporting.—

"(A) Returns by producers and importers.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (according to the forms or regulations prescribed by the Secretary) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) Statements to purchasers.—Each person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return, the registration number under section 4101 of such person, and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) Returns by purchasers.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (according to the forms or regulations prescribed by the Secretary) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)(2)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1)."

(b) MARINE RETAILERS TREATED AS PRODUCERS.—Subparagraph (B) of section 4092(b)(1) of the 1986 Code (relating to certain persons treated as producers) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) a retailer selling diesel fuel exclusively to purchasers as supplies for commercial and noncommercial vessels."

(c) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) of the 1986 Code (defining payee statement) is amended by striking out "or" at the end of subparagraph (S), by striking out the period at the end of subparagraph (T) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1988.

(2) REFUNDS WITH INTEREST FOR PRE-JULY 1 PURCHASES.—

(A) IN GENERAL.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on June 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l)(2) of the Internal Revenue Code of 1986),

the Secretary of the Treasury or his delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than September 30, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Section 6427(l) of the 1986 Code shall not apply to any fuel with respect to which a payment is made under this paragraph.

(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED BEFORE EFFECTIVE DATE.—Not later than the 30th day after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).

Subtitle B—Revenue Increases

SEC. 311. REDUCTION IN DIVIDEND RECEIVED DEDUCTION FOR DIVIDENDS NOT FROM 20-PERCENT OWNED CORPORATIONS.

(a) GENERAL RULE.—The following provisions of the 1986 Code are each amended by striking out "70 percent" and inserting in lieu thereof "the DRD percentage":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Subsections (a)(3) and (b)(2) of section 244 (relating to dividends received on certain preferred stock).

(b) DRD PERCENTAGE.—Subsection (c) of section 243 of the 1986 Code is amended to read as follows:

"(c) DRD PERCENTAGE.—For purposes of this part—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"In the case of dividends received in:	*The DRD percentage is:*
1989	*55 percent*
1990	*52.50 percent*
1991 and subsequent calendar years	*50 percent.*

"(2) 80-PERCENT DIVIDEND RECEIVED DEDUCTION FOR DIVIDENDS FROM 20-PERCENT OWNED CORPORATIONS.—In the case of any dividend received from a 20-percent owned corporation, the DRD percentage shall be 80 percent.

"(3) 20-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term '20-percent owned corporation' means any corporation if more than 20 percent of the stock of a such corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account, and a corporation shall be treated as owning any stock which is owned by another member of such corporation's affiliated group (as defined in subsection (b)(5))."

(c) MODIFICATION TO TAXABLE YEAR LIMITATIONS.—Paragraph (3) of section 246(b) of the 1986 Code is amended—

(1) by striking out "section 243(c)(2)" and inserting in lieu thereof "section 243(c)(3)", and

(2) by striking out "70 percent" and inserting in lieu thereof "the DRD percentage determined under section 243(c)(1) with respect to the calendar year in which the taxable year begins".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 245(c)(1) of the 1986 Code (as amended by title I) is amended by striking out "70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))" and inserting in lieu thereof "the DRD percentage".

(2) Paragraph (1) of section 246A(a) of the 1986 Code is amended by striking out "70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))" and inserting in lieu thereof "the DRD percentage".

(3) Paragraph (2) of section 861(a) of the 1986 Code is amended—

(A) by striking out "100/70th" in subparagraph (B) and inserting in lieu thereof "the applicable fraction", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of subparagraph (B), the term 'applicable fraction' means a fraction the numerator of which is 100 and the denominator of which is the number of percentage points in the DRD percentage applicable to the dividend under section 243(c)."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dividends received after December 31, 1988, in taxable years ending after such date.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1988.

(3) AFFILIATED GROUP RULE.—The last sentence of section 243(c)(3) of the 1986 Code (as amended by subsection (b)) shall also apply for purposes of determining whether a dividend received in 1988 is from a 20-percent owned corporation.

(f) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the dividends received deduction. Not later than the date 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection together with such recommendations as he may deem advisable.

SEC. 312. REPEAL OF COMPLETED CONTRACT METHOD.

(a) GENERAL RULE.—Subsection (a) of section 460 of the 1986 Code (relating to special rules for long-term contracts) is amended to read as follows:

"(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method."

(b) REGULATORY AUTHORITY.—Section 460 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the use of related parties, pass-through entities, intermediaries, options, or other similar arrangements to avoid the application of this section."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 460 of the 1986 Code (as amended by title I) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(2) Paragraph (1) of section 460(b) of the 1986 Code, as amended by title I and redesignated by paragraph (1), is amended—

(A) by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)", and

(B) by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(3) Paragraph (3) of section 460(b) of the 1986 Code, as amended by title I and redesignated by paragraph (1), is amended by striking out "Paragraph (2)(B) and subsection (a)(2)" and inserting in lieu thereof "Paragraph (1)(B)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) Binding bids.—The amendments made by this section shall not apply to any contract resulting from the acceptance of a bid made before June 21, 1988. The preceding sentence shall apply only if the bid could not have been revoked or altered at any time on or after June 21, 1988.

(3) Special rule for certain ship contracts.—The amendments made by this section shall not apply in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

SEC. 313. TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.

(a) Distribution Rules.—

(1) In general.—Subsection (e) of section 72 of the 1986 Code (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(10) Treatment of modified endowment contracts.—

"(A) In general.—Notwithstanding paragraph (5)(C), in the case of any modified endowment contract (as defined in section 7702A)—

"(i) paragraphs (2)(B) and (4)(A) shall apply, and

"(ii) in applying paragraph (4)(A), 'any person' shall be substituted for 'an individual'.

"(B) Treatment of certain burial contracts.—Notwithstanding subparagraph (A), paragraph (4)(A) shall not apply to any assignment (or pledge) of a modified endowment contract which is described in section 7702(e)(2)(C) (determined with regard to the last sentence of section 7702(e)(2)) if such assignment (or pledge) is solely to cover the payment of expenses referred to in section 7702(e)(2)(C)(iii)."

(2) Technical amendment.—Subparagraph (C) of section 72(e)(5) is amended by striking out "Except to the extent" and inserting in lieu thereof "Except as provided in paragraph (10) and except to the extent".

(b) Additional Tax.—

(1) In general.—Section 72 of the 1986 Code (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (v) as subsection (w) and by inserting after subsection (u) the following new subsection:

"(v) 10-Percent Additional Tax for Taxable Distributions From Modified Endowment Contracts.—

"(1) Imposition of additional tax.—If any taxpayer receives any amount under a modified endowment contract (as defined in section 7702A), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) Subsection not to apply to certain distributions.—Paragraph (1) shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) which is attributable to the taxpayer's becoming disabled (within the meaning of subsection (m)(7)), or

"(C) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary."

(2) Technical amendment.—Subparagraph (C) of section 26(b)(2) of the 1986 Code is amended by striking out "or (q)" and inserting in lieu thereof "(q), or (v)".

(c) Modified Endowment Contract Defined.—

(1) In general.—Chapter 79 of the 1986 Code is amended by inserting after section 7702 the following new section:

"SEC. 7702A. MODIFIED ENDOWMENT CONTRACT DEFINED.

"(a) General Rule.—For purposes of section 72, the term 'modified endowment contract' means any contract—

"(1) which is entered into on or after June 21, 1988, and

"(2) which meets the requirements of section 7702 but fails to meet the 7-pay test of subsection (b).

"(b) 7-pay test.—For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

"(c) Computational Rules.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the determination under subsection (b) of the 7 level annual premiums shall be made—

"(A) as of the time the contract is issued, and

"(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years.

"(2) Reduction in benefits during 1st 7 years.—

"(A) In general.—If there is a reduction in the death benefit under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced death benefit level.

"(B) Distributions affected.—If a contract fails to meet the 7-pay test of subsection (b) by reason of subparagraph (A), such contract shall be treated as failing to meet such requirements only in the case of—

"(i) distributions during the contract year in which the reduction takes effect and during any subsequent contract year, and

"(ii) under regulations prescribed by the Secretary, distributions (not described in clause (i)) in anticipation of such reduction.

For purposes of the preceding sentence, any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in death benefits under the contract shall be treated as made in anticipation of such reduction.

"(3) Treatment of material changes.—

"(A) In general.—If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

"(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

"(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account premiums previously paid under such contract (or, if greater, the cash surrender value).

The preceding sentence shall not apply in the case of a reduction to which paragraph (2) applies.

"(B) Treatment of certain increases in future benefits.—For purposes of subparagraph (A), the term 'material change' includes any increase in future benefits under the contract. The preceding sentence shall not apply in the case of any increase which is required to satisfy the requirements of section 7702 and which is attributable to the payment of premiums necessary to fund the lowest death benefit payable in the 1st 7 contract years or to crediting of interest (or other earnings) in respect of such premiums.

"(d) Definitions.—For purposes of this section—

"(1) Amount paid.—

"(A) In general.—The term 'amount paid' means—

"(i) the premiums paid under the contract, reduced by

"(ii) amounts to which section 72(e) applies (other than amounts includible in gross income) to the extent that such returned amounts are not attributable to a reduction in the originally scheduled death benefits.

"(B) Treatment of certain premiums returned.—If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

"(C) Interest returned includible in gross income.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) Contract year.—The term 'contract year' means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

"(3) Other terms.—Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702."

(2) Clerical amendment.—The table of sections for chapter 79 of the 1986 Code is amended by inserting after the item relating to section 7702 the following new item:

"Sec. 7702A. Modified endowment contract defined."

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) Treatment of material changes.—The rules of section 7702A(c)(3) of the 1986 Code (as added by subsection (c)) shall apply in determining whether a contract is entered into on or after June 21, 1988.

SEC. 314. CORPORATE ESTIMATED TAX PAYMENTS.

(a) General Rule.—Paragraph (1) of section 6655(e) of the 1986 Code (relating to annualization) is amended by striking out the last sentence.

(b) Effective Date.—The amendment made by subsection (a) shall apply to installments required to be made after December 31, 1988.

SEC. 315. REPEAL OF RULES PERMITTING LOSS TRANSFERS BY ALASKA NATIVE CORPORATIONS.

(a) General Rule.—Nothing in section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986)—

(1) shall allow any loss (or credit) of any corporation which arises after April 26, 1988, to be used to offset the income (or tax)

of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended, or

(2) shall allow any loss (or credit) of any corporation which arises on or before such date to be used to offset disqualified income (or tax attributable to such income) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended.

(b) DISQUALIFIED INCOME DEFINED.—For purposes of subsection (a), the term "disqualified income" means any income assigned (or attributable to property contributed) after April 26, 1988, by a person who is not a Native Corporation or a corporation all the stock of which is owned directly by a Native Corporation.

Subtitle C—Simplification and Clarification Provisions

SEC. 321. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

(a) IN GENERAL.—Chapter 43 of the 1986 Code (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980B. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a qualified beneficiary shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the earlier of—

"(i) the date such failure is corrected, or

"(ii) the date which is 1 year after the last day in the period applicable to the qualified beneficiary under subsection (f)(2)(B) (determined without regard to clause (iii) thereof).

"(3) MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.—Notwithstanding paragraphs (1) and (2) of subsection (c)—

"(A) IN GENERAL.—In the case of 1 or more failures with respect to a qualified beneficiary—

"(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

"(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such beneficiary shall not be less than the lesser of $2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

"(B) HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations by the employer (or the plan in the case of a multiemployer plan) for any year are more than de minimis, subparagraph (A) shall be applied by substituting '$15,000' for '$2,500' with respect to the employer (or such plan).

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) $100 LIMIT ON AMOUNT OF TAX FOR FAILURES ON ANY DAY WITH RESPECT TO A QUALIFIED BENEFICIARY.—The maximum amount of tax imposed by subsection (a) on failures on any day during the noncompliance period with respect to a qualified beneficiary shall be $100.

"(4) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

"(A) SINGLE EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to plans other than multiemployer plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(B) MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to a multiemployer plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 213(d)) directly or through insurance, reimbursement, or otherwise, or

"(II) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as 1 plan.

"(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO PAY TAX.—If an employer is assessed a tax imposed by subsection (a) by reason of a failure with respect to a multiemployer plan, the limit shall be determined under subparagraph (A) (and not under this subparagraph) and as if such plan were not a multiemployer plan.

"(5) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be unduly burdensome relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN PLANS.—This section shall not apply to—

"(1) any failure of a group health plan to meet the requirements of subsection (f) if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(2) any governmental plan (within the meaning of section 414(d)), or

"(3) any church plan (within the meaning of section 414(e)).

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A)(i) In the case of a plan other than a multiemployer plan, the employer.

"(ii) In the case of a multiemployer plan, the plan.

"(B) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(B).—

"(A) NO LIABILITY UNLESS WRITTEN AGREEMENT.—Except in the case of liability resulting from the application of subparagraph (B) of this paragraph, a person described in subparagraph (B) (and not in subparagraph (A)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(B) FAILURE TO COVER QUALIFIED BENEFICIARIES WHERE CURRENT EMPLOYEES ARE COVERED.—A person shall be treated as described in paragraph (1)(B) with respect to a qualified beneficiary if—

"(i) such person provides coverage under a group health plan for any similarly situated beneficiary under the plan with respect to whom a qualifying event has not occurred, and

"(ii) the employer, plan administrator, or such qualified beneficiary submits to such person a written request that such person provide to such qualified beneficiary the same coverage which such person provides to the beneficiary referred to in clause (i).

"(f) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—A group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM REQUIRED PERIOD.—

"(I) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in paragraph (3)(B), except as provided in subclause (II), the date which is 18 months after the date of the qualifying event.

"(II) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event (other than a qualifying event described in paragraph (3)(F)) occurs during the 18 months after the date of a qualifying event described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event described in paragraph (3)(B).

"(III) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in subsection (g)(1)(D)(iii)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee.

"(IV) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in paragraph (3)(B) or (3)(F), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of subparagraph (C)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.

"(iv) GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary 1st becomes, after the date of the election—

"(I) covered under any other group health plan (as an employee or otherwise), or

"(II) in the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1)(D), entitled to benefits under title XVIII of the Social Security Act.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary:

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in subsection (g)(1)(D) within one year before or after the date of commencement of the proceeding.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of subsection (g)(1) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

"(6) NOTICE REQUIREMENT.—In accordance with regulations prescribed by the Secretary—

"(A) The group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection.

"(B) The employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event.

"(C) Each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3) within 60 days after the date of the qualifying event.

"(D) The plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(g) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the quali-

fying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in subsection (f)(3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) EXCEPTION FOR NONRESIDENT ALIENS.—Notwithstanding subparagraphs (A) and (B), the term 'qualified beneficiary' does not include an individual whose status as a covered employee is attributable to a period in which such individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the employer which constituted income from sources within the United States (within the meaning of section 861(a)(3)). If an individual is not a qualified beneficiary pursuant to the previous sentence, a spouse or dependent child of such individual shall not be considered a qualified beneficiary by virtue of the relationship of the individual.

"(D) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in subsection (f)(3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the employee, or

"(iii) as the surviving spouse of the covered employee.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 162(i)."

"(3) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

"(4) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the qualified beneficiary is placed in a financial position which is as good as such beneficiary would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the qualified beneficiary shall be treated as if he had elected the most favorable coverage in light of the expenses he incurred since the failure 1st occurred."

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 of the 1986 Code (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"Gross income of an employee does not include employer-provided coverage under an accident or health plan."

(2) Subsection (i) of section 162 of the 1986 Code (relating to group health plans) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 162 of the 1986 Code is amended by striking out subsection (k) and by redesignating—

(A) the subsection relating to stock redemption expenses as subsection (k),

(B) the subsection relating to special rules for health insurance costs of self-employed individuals as subsection (l), and

(C) the subsection relating to cross references as subsection (m).

(4) Subparagraph (C) of section 414(n)(3) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "and 505" and inserting in lieu thereof "505, and 4980B".

(5) Paragraph (2) of section 414(t) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "or 505" and inserting in lieu thereof "505, or 4980B".

(6) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(7) Paragraph (1) of section 2208 of the Public Health Service Act is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 4980B. Failure to satisfy continuation coverage requirements of group health plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988, but shall not apply to any plan for any plan year to which section 162(k) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) did not apply by reason of section 10001(e)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 322. MODIFICATIONS TO DISCRIMINATION RULES APPLICABLE TO CERTAIN EMPLOYEE BENEFIT PLANS.

(a) MODIFICATIONS TO SECTION 89.—

(1) DETERMINATIONS BASED ON TESTING YEAR.—

(A) Section 89 of the 1986 Code (as amended by title I) is amended by striking out "plan year" each place it appears and inserting in lieu thereof "testing year".

(B) Subsection (j) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(13) TESTING YEAR.—The term 'testing year' means—

"(A) any 12-month period beginning with the calendar month designated in the plan for purposes of this section, or

"(B) if there is no such designation, the plan year.

Any designation under subparagraph (A) may be changed only with the consent of the Secretary."

(C) Subsection (c) of section 4976 of the 1986 Code (as added by title (I)) is amended—

(i) by striking out "any plan year" in paragraph (1) and inserting in lieu thereof "any testing year (as defined in section 89(f)(13))"; and

(ii) by striking out "such plan year" each place it appears in paragraph (2)(A) and inserting in lieu thereof "such testing year".

(2) TIME FOR TESTING.—

(A) IN GENERAL.—Subsection (g) of section 89 is amended by adding at the end thereof the following new paragraph:

"(7) TIME FOR TESTING.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the determination of whether any plan is a discriminatory employee benefit plan for any testing year shall be made on the basis of the facts as of the testing day.

"(B) ADJUSTMENT WHERE BENEFIT OF HIGHLY COMPENSATED EMPLOYEE CHANGES.—If the employer-provided benefit (actually provided or available) of a highly compensated employee changes during the testing year by reason of any change in the terms of the plan or the making of an election by such employee, the amount taken into account as such employee's employer-provided benefit shall be adjusted to take into account such change and the portion of the testing year during which the changed benefit is provided (or made available).

"(C) TREATMENT OF NON-HIGHLY COMPENSATED EMPLOYEES WHERE CHANGE IN PLAN.—Rules similar to the rules of subparagraph (B) shall apply in the case of employees who are not highly compensated employees and who are affected by any change in the terms of the plan, except that the determination of such employees' employer-provided benefits (actually provided or made available) shall be determined as of the date after such change selected by the employer and permitted under regulations prescribed by the Secretary.

"(D) TESTING DAY.—For purposes of this paragraph, the term 'testing day' means—

"(i) the day designated in the plan as the testing day for purposes of this paragraph, or

"(ii) if there is no day so designated, the last day of the testing year.

"(E) LIMITATIONS.—

"(i) DESIGNATION MUST BE CONSISTENT FOR ALL PLANS OF SAME TYPE.—No day may be designated under subparagraph (D)(i) with respect to any plan unless the same day is so designated with respect to all other plans of the employer of the same type.

"(ii) DESIGNATION BINDING.—Any designation under subparagraph (D)(i) shall apply to the testing year for which made and all subsequent years unless revoked with the consent of the Secretary."

(B) DESIGNATIONS FOR 1989 NOT BINDING.—Any designation of a testing day for a year beginning in 1989 shall be disregarded in determining the day which may be designated as the testing day for years beginning after 1989.

(3) SAMPLING.—Subsection (g) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SAMPLING.—For purposes of determining whether a plan is a discriminatory employee benefit plan (but not for purposes of identifying the highly compensated employees who have a discriminatory excess or the amount of any such excess), determinations under this section may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

"(A) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

"(B) the statistical method and sample size result in a 99-percent probability that the results will have a margin of error not greater than 2 percent."

(4) SPECIAL VALUATION RULE FOR MULTIEMPLOYER PLANS.—Paragraph (3) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—Except as provided in regulations and clause (ii), an employer may treat the contribution such employer makes to a multiemployer plan on behalf of an employee as the employer-provided benefit of such employee under such plan.

"(ii) ADJUSTMENT.—If the allocation of plan benefits between highly compensated employees and other employees under a multiemployer plan varies materially from the allocation of employer contributions to such plan, the employer-provided benefit determined under clause (i) shall be appropriately adjusted to take into account such material variation."

(5) SPECIAL RULE FOR MULTIEMPLOYER PLANS UNDER INITIAL SERVICE REQUIREMENT.—Subsection (h) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR MULTIEMPLOYER PLAN.—Except as provided in regulations, any multiemployer plan shall not be taken into account in applying paragraph (1)(A) with respect to other plans of the employer."

(6) COMPARABILITY RULES.—Paragraph (1) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION TO USE LOWER PERCENTAGE IN DETERMINING COMPARABILITY.—If an election by the employer under this subparagraph applies for the testing year—

"(i) for purposes of applying subsection (f), subparagraph (B) of this paragraph shall be applied by substituting '80 percent' for '95 percent', and

"(ii) subsection (f) shall be applied with respect to all health plans maintained by the employer by substituting '90 percent' for '80 percent'."

(7) OTHER COVERAGE.—Subparagraph (A) of section 89(g)(2) of the 1986 Code is amended—

(A) by striking out "the requirements of subsection (e)" and inserting in lieu thereof "the requirements of subsection (e) or (f)", and

(B) by adding at the end thereof the following new sentence: "The provisions of the preceding sentence shall not apply for purposes of applying subsection (f) unless the requirements of subsection (f) would be met if such subsection were applied without regard to the preceding sentence and on the basis of eligibility to participate rather than coverage."

(8) SWORN STATEMENTS.—Paragraph (2) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE.—No employee who is not a highly compensated employee may be disregarded under subparagraph (A)(i) with respect to any health plan of the employer unless under such plan such employee is entitled, when the coverage under the other health plan referred to in subparagraph (A)(i) ceases, to elect coverage under the plan of the employer (whether or not an election is otherwise available). Such election is to be on the same terms as if such employee had initially elected health coverage from the employer and at a subsequent open season was changing such coverage. Rules similar to the rules of the preceding sentences of this subparagraph shall apply in the case of an employee treated as not having a spouse or dependents or having a spouse or dependents covered by a health plan of another employer providing core benefits."

(9) DEFINITION OF PLAN.—Paragraph (11) of section 89(j) of the 1986 Code is amended by striking out "Each option" and inserting in lieu thereof "Except as provided in subsection (g)(1), each option".

(10) MODIFICATION OF PENALTY.—Subparagraph (B) of section 6652(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "reduced by the amount of such benefit shown on timely statements under sections 6051(a) and 6051(d)".

(b) MODIFICATION TO DEFINITION OF HIGHLY COMPENSATED AND TO SEPARATE LINE OF BUSINESS RULES.—

(1) DEFINITION OF HIGHLY COMPENSATED.—Subsection (q) of section 414 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SIMPLIFIED METHOD FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—

"(A) IN GENERAL.—If an election by the employer under this paragraph applies to any year, in determining whether an employee is a highly compensated employee for such year—

"(i) subparagraph (B) of paragraph (1) shall be applied by substituting '$50,000' for '$75,000', and

"(ii) subparagraph (C) of paragraph (1) shall not apply.

"(B) REQUIREMENTS FOR ELECTION.—An election under this paragraph shall not apply to any year unless—

"(i) the employer did not maintain a top-heavy plan (as defined in section 416) at any time during such year, and

"(ii) at all times during such year, the employer maintained business activities and employees in at least 2 geographically separate areas."

(2) LINE OF BUSINESS REQUIREMENTS.—Paragraph (3) of section 414(r) of the 1986 Code is amended to read as follows:

"(3) SAFE HARBOR RULE.—

"(A) IN GENERAL.—The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if the highly compensated employee percentage with respect to such line of business is—

"(i) not less than one-half, and

"(ii) not more than twice,

the percentage which highly compensated employees are of all employees of the employer. An employer shall be treated as meeting the requirements of clause (i) if at least 10 percent of all highly compensated employees of the employer perform services solely for such line of business.

"(B) DETERMINATION MAY BE BASED ON PRECEDING YEAR.—The requirements of subparagraph (A) shall be treated as met with respect to any line of business if such requirements were met with respect to such line of business for the preceding year and if—

"(i) no more than a de minimis number of employees were shifted to or from the line of business after the close of the preceding year, and

"(ii) the employees shifted to or from the line of business after the close of the preceding year contained a substantially proportional number of highly compensated employees."

(c) TRANSITIONAL PROVISIONS FOR PURPOSES OF SECTION 89.—

(1) TEMPORARY VALUATION RULES.—In the case of testing years beginning before the later of January 1, 1991, or the date 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans—

(A) Section 89(g)(3)(B) of the 1986 Code shall not apply.

(B)(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, value under clause (i) may be determined under any other reasonable method selected by the employer.

(2) FORMER EMPLOYEES.—The amendments made by section 1151 of the Reform Act shall not apply to former employees who separated from service with the employer before January 1, 1987 (and were not reemployed after such date), and such former employees shall not be taken into account in determining whether the requirements of section 89 of the 1986 Code are met with respect to other former employees. The preceding sentence shall not apply to the extent that the value of employer-provided benefits provided to any such former employee exceeds the value of such benefits which were available under the terms of the plan as in effect on the last day of the last plan year beginning before January 1, 1989.

(3) WRITTEN PLAN REQUIREMENT.—The requirements of section 89(k)(1)(A) of the 1986 Code shall be treated as met with respect to any testing year beginning in 1989, if—

(A) the plan is in writing before the close of such year,

(B) the employees had reasonable notice of the plan's essential features on or before the beginning of such year, and

(C) the provisions of the written plan apply for the entire year.

(4) RULES TO BE PRESCRIBED BEFORE OCTOBER 1, 1988.—Not later than October 1, 1988, the Secretary of the Treasury or his delegate shall issue such rules as may be necessary to carry out the provisions of section 89 of the 1986 Code.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986; except that the amendment made by subsection (a)(8) shall apply to testing years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1986.

SEC. 323. CLARIFICATION OF TREATMENT OF JOINT AND SURVIVOR ANNUITIES UNDER QTIP RULES.

(a) ESTATE TAX.—Paragraph (7) of section 2056(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF SURVIVOR ANNUITIES.—In the case of an annuity where only the surviving spouse has the right to receive payments before the death of such surviving spouse—

"(i) the interest of such surviving spouse shall be treated as a qualifying income interest for life, and

"(ii) the executor shall be treated as having made an election under this subsection with respect to such annuity unless the executor otherwise elects on the return of tax imposed by section 2001.

An election under clause (ii), once made, shall be irrevocable."

(b) GIFT TAX.—Subsection (f) of section 2523 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF JOINT AND SURVIVOR ANNUITIES.—In the case of a joint and survivor annuity where only the donor spouse and donee spouse have the right to receive payments before the death of the last spouse to die—

"(A) the donee spouse's interest shall be treated as a qualifying income interest for life,

"(B) the donor spouse shall be treated as having made an election under this subsection with respect to such annuity unless the donor spouse otherwise elects on or before the date specified in paragraph (4)(A),

"(C) paragraph (5) and section 2519 shall not apply to the donor spouse's interest in the annuity, and

"(D) if the donee spouse dies before the donor spouse, no amount shall be includible in the gross estate of the donee spouse under section 2044 with respect to such annuity.

An election under subparagraph (B), once made, shall be irrevocable."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) the amendment made by subsection (a) shall apply with respect to decedents dying after December 31, 1981, and

(B) the amendment made by subsection (b) shall apply to transfers after December 31, 1981.

(2) NOT TO APPLY TO EXTENT INCONSISTENT WITH PRIOR RETURN.—In the case of any estate or gift tax return filed before the date of the enactment of this Act, the amendments made by this section shall not apply to the extent such amendments would be inconsistent with the treatment of the annuity on such return unless the executor or donor (as the case may be) otherwise elects under this paragraph before the day 2 years after the date of the enactment of this Act.

(3) EXTENSION OF TIME FOR ELECTION OUT.—The time for making an election under section 2056(b)(7)(C)(ii) or 2523(f)(6)(B) of the 1986 Code (as added by this subsection) shall not expire before the day 2 years after the date of the enactment of this Act (and, if such election is made within the time permitted under this paragraph, the requirement of such section 2056(b)(7)(C)(ii) that it be made on the return shall not apply).

Subtitle D—Miscellaneous Provisions

PART I—PROVISIONS RELATING TO INDIVIDUALS

SEC. 331. TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF AN INSTITUTION OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 170 of the 1986 Code is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (b)(1)(A)(ii), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 332. BUSINESS USE OF AUTOMOBILES BY RURAL MAIL CARRIERS.

(a) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route, such employee shall be permitted to compute the amount allowable as a deduction under chapter 1 of the Internal Revenue Code of 1986 for the use of an automobile in performing such services by using a standard mileage rate for all miles of such use equal to 150 percent of the basic standard rate.

(b) SUBSECTION (a) NOT TO APPLY IF EMPLOYEE CLAIMS DEPRECIATION DEDUCTIONS FOR AUTOMOBILE.—Subsection (a) shall not apply with respect to any automobile if, for any taxable year beginning after December 31, 1987, the taxpayer claimed depreciation deductions for such automobile.

(c) BASIC STANDARD RATE.—For purposes of this section, the term "basic standard rate" means the standard mileage rate which is prescribed by the Secretary of the Treasury or his delegate for computing the amount of the deduction for the business use of an automobile and which—

(1) is in effect at the time of the use referred to in subsection (a),

(2) applies to an automobile which is not fully depreciated, and

(3) applies to the first 15,000 miles (or such other number as the Secretary of the Treasury or his delegate may hereafter prescribe) of business use during the taxable year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1987.

SEC. 333. NONRECOGNITION OF GAIN WHERE 1 SPOUSE DIES BEFORE OCCUPYING NEW RESIDENCE.

(a) IN GENERAL.—Subsection (g) of section 1034 of the 1986 Code (relating to rollover of gain on sale of principal residence) is amended by adding at the end thereof the following: "For purposes of this subsection, except to the extent provided in regulations, in the case of an individual who dies after the date of the sale of the old residence and is married on the date of death, consent to the application of paragraph (2) by such individual's spouse and use of the new residence as the principal residence of such spouse shall be treated as consent and use by such individual."

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales and exchanges of old residences (within the meaning of section 1034 of the 1986 Code) after December 31, 1984, in taxable years ending after such date.

SEC. 334. MEALS ON CERTAIN VESSELS AND OFFSHORE OIL PLATFORMS EXEMPT FROM 80 PERCENT LIMITATION ON DEDUCTION FOR MEALS.

(a) IN GENERAL.—Paragraph (2) of section 274(n) of the 1986 Code (relating to only 80 percent of meal and entertainment expenses allowed as deduction), as amended by title I of this Act, is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) such expense is for food or beverages—

"(i) required by Federal law to be provided to crew members of a commercial vessel,

"(ii) provided to crew members of a commercial vessel—

"(I) which is operating on the Great Lakes, the Saint Lawrence Seaway, or any inland waterway of the United States, and

"(II) which is of a kind which would be required by Federal law to provide food and beverages to crew members if it were operated at sea, or

"(iii) provided on an oil or gas platform or drilling rig if the platform or rig is located offshore or in the United States north of 54 degrees north latitude.

Clauses (i) and (ii) of subparagraph (F) shall not apply to vessels primarily engaged in providing luxury water transportation (determined under the principles of subsection (m))."

(b) EFFECTIVE DATES.—

(1) Clauses (i) and (ii) of section 274(n)(2)(F) of the 1986 Code, as added by subsection (a), shall apply to taxable years beginning after December 31, 1988.

(2) Clause (iii) of section 274(n)(2)(F) of the 1986 Code, as added by subsection (a), shall apply to taxable years beginning after December 31, 1987.

SEC. 335. TREATMENT OF CERTAIN INNOCENT SPOUSES.

Subsection (c) of section 424 of the Tax Reform Act of 1984 (relating to innocent spouse relieved of liability in certain cases) is amended by adding at the end thereof the following new paragraph:

"(3) TRANSITIONAL RULE.—If—

"(A) a joint return under section 6013 of the Internal Revenue Code of 1954 was filed before January 1, 1985,

"(B) on such return there is an understatement (as defined in section 6661(b)(2)(A) of such Code) which is attributable to disallowed deductions attributable to activities of one spouse,

"(C) the amount of such disallowed deductions exceeds the taxable income shown on such return,

"(D) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such an understatement, and

"(E) the marriage between such spouses terminated and immediately after such termination the net worth of the other spouse was less than $10,000,

notwithstanding any law or rule of law (including res judicata), the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement, and, to the extent the liability so attributable has been collected from such other spouse, it shall be refunded or credited to such other spouse. No credit or refund shall be made under the preceding sentence unless claim therefor has been submitted to the Secretary of the Treasury or his delegate before the date 1 year after the date of the enactment of this paragraph, and no interest on such credit or refund shall be allowed for any period before such date of enactment.".

SEC. 336. INTERIM TREATMENT OF CERTAIN AMOUNTS AWARDED TO CHRISTA McAULIFFE FELLOWS.

(a) IN GENERAL.—In the case of an individual who is a Christa McAuliffe Fellow (as defined in section 561(b) of the Higher Education Act of 1965) and is awarded a fellowship pursuant to section 561 of such Act, for purposes of the 1986 Code, gross income shall not include any amount of such fellowship award—

(1) which is expended for a project approved by the Secretary of Education pursuant to section 563(b) of such Act, and

(2) which is not expended directly or indirectly for the personal use or benefit of such individual.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to amounts received before July 1, 1990, in taxable years beginning before such date.

SEC. 337. DENIAL OF DEDUCTION FOR CERTAIN RESIDENTIAL TELEPHONE SERVICE.

(a) GENERAL RULE.—Section 262 of the 1986 Code (relating to personal, living, and family expenses) is amended to read as follows:

"SEC. 262. PERSONAL, LIVING, AND FAMILY EXPENSES.

"(a) GENERAL RULE.—Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

"(b) TREATMENT OF CERTAIN PHONE EXPENSES.—For purposes of subsection (a), in the case of an individual, any charge (including taxes thereon) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

PART II—ACCOUNTING PROVISIONS

SEC. 338. AMENDMENTS TO UNIFORM CAPITALIZATION RULES.

(a) TREATMENT OF CERTAIN PRODUCERS OF CREATIVE PROPERTY.—Section 263A of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

"(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term 'qualified creative expense' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

"(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) WRITER.—The term 'writer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

"(B) PHOTOGRAPHER.—The term 'photographer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

"(C) ARTIST.—

"(i) IN GENERAL.—The term 'artist' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

"(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

"(I) The originality and uniqueness of the item created (or to be created).

"(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

"(D) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS.—

"(i) IN GENERAL.—In the case of a personal service corporation, this subsection shall apply to any expense of such corporation which directly relates to the activities of the qualified employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—The term 'qualified employee-owner' means any individual who is an employee-owner of the personal service corporation and who is a writer, photographer, or artist, but only if substantially all of the stock of such corporation is owned by such individual and members of his family (as defined in section 267(c)(4)).

"(iii) PERSONAL SERVICE CORPORATION.—For purposes of this subparagraph, the term 'personal service corporation' means any personal service corporation (as defined in section 269A(b))."

(b) TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.—

(1) IN GENERAL.—Subparagraph (A) of section 263A(d)(1) of the 1986 Code (relating to exception for farming businesses) is amended to read as follows:

"(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(2) CONFORMING AMENDMENTS.—

(A) The heading of paragraph (1) of section 263A(d) of the 1986 Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(B) Subsections (d)(3) and (e) of section 263A of the 1986 Code are each amended by striking out "or animal" each place it appears.

(c) TREATMENT OF PISTACHIO TREES.—Subparagraph (B) of section 263A(d)(3) of the 1986 Code (relating to certain persons not eligible) is amended to read as follows:

"(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph by a corporation, partnership, or tax shelter, if such corporation, partnership, or tax shelter is required to use an accrual method of accounting under section 447 or 448(a)(3)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to costs incurred after December 31, 1988, in taxable years ending after such date.

(B) REVOCATION OF ELECTION.—If the taxpayer made an election under section 263A(d)(3) of the 1986 Code for a taxable year beginning before January 1, 1989, such taxpayer may, without the consent of the Secretary of the Treasury or his delegate, revoke such election effective for the taxpayer's 1st taxable year beginning after December 31, 1988.

SEC. 339. TREATMENT OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.

(a) IN GENERAL.—Paragraph (3) of section 168(e) of the 1986 Code (relating to classification of property) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 8-YEAR PROPERTY.—The term '8-year property' means any property which would be described in section 48(p)(2) if 'poultry' were substituted for 'livestock' in subparagraph (A) thereof.

"(E) 12-YEAR PROPERTY.—The term '12-year property' means any single purpose agricultural or horticultural structure (within the meaning of section 48(p)) which is not described in subparagraph (D) of this paragraph."

(b) TECHNICAL AMENDMENTS.—

(1) The table contained in paragraph (1) of section 168(c) of the 1986 Code (as amended by title I) is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"8-year property	*8 years*
10-year property	*10 years*
12-year property	*12 years".*

(2) Subparagraph (C) of section 168(e)(3) of the 1986 Code is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(3) The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code is amended by striking out all that follows the item relating to subparagraph (C)(i) and inserting in lieu thereof the following new items:

"(D) or (E)	*15*
(F)(i)	*24*
(F)(ii)	*24*
(G)	*50."*

(4) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"8-year property	*8 years*
10-year property	*10 years*
12-year property	*12 years".*

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property if such property is placed in service before January 1, 1990, and if such property—

(A) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(B) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

SEC. 340. TREATMENT OF PROPERTY USED IN A FARMING BUSINESS.

(a) IN GENERAL.—Paragraph (2) of section 168(b) of the 1986 Code (as amended by title

I) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) any property used in a farming business (within the meaning of section 263A(e)(4)), or".

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(2) Exception.—The amendments made by this section shall not apply to any property if such property is placed in service before July 1, 1989, and if such property—

(A) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(B) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

SEC. 341. CERTAIN REPLEDGES PERMITTED.

(a) General Rule.—Section 453A(d) of the 1986 Code (relating to pledges, etc., of installment obligations) shall not apply to any pledge after December 17, 1987, of an installment obligation to secure any indebtedness if such indebtedness is incurred to refinance indebtedness which was outstanding on December 17, 1987, and which was secured on such date and all times thereafter before such refinancing by a pledge of such installment obligation.

(b) Limitation.—Subsection (a) shall not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing.

(c) Certain Refinancings Permitted.—For purposes of subsection (a), if—

(1) a refinancing is attributable to the calling of indebtedness by the creditor, and

(2) such refinancing is not with the creditor under the refinanced indebtedness or a person related to such creditor,

such refinancing shall, to the extent the refinanced indebtedness qualifies under subsections (a) and (b), be treated as a continuation of such refinanced indebtedness.

SEC. 342. TREATMENT OF INDIRECT HOLDINGS THROUGH TRUSTS UNDER SECTION 448 OF THE 1986 CODE.

(a) General Rule.—Paragraph (2) of section 448(d) of the 1986 Code (defining qualified personal service corporation) is amended by adding at the end thereof the following new sentence:

"To the extent provided in regulations which shall be prescribed by the Secretary, indirect holdings through a trust shall be taken into account under subparagraph (B)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

PART III—INSURANCE PROVISIONS

SEC. 343. CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.

(a) In General.—Section 7702 of the 1986 Code (defining life insurance contract) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Certain Church Self-Funded Death Benefit Plans Treated as Life Insurance.—

"(1) In general.—In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

"(2) Description.—For purposes of this subsection, a plan or arrangement is described in this paragraph if—

"(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, and

"(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

"(3) Definitions.—For purposes of this subsection—

"(A) Church.—The term 'church' means a church or a convention or association of churches.

"(B) Employee.—The term 'employee' includes an employee described in section 414(e)(3)(B)."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984.

SEC. 344. TREATMENT OF STRUCTURED SETTLEMENTS.

(a) Treatment Under Minimum Tax.—

(1) The last sentence of section 56(g)(4)(B)(iii) of the 1986 Code (as amended by title I) is amended to read as follows: "The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 701 of the Reform Act.

(b) Certain Creditor Rights Permitted.—

(1) In general.—Subsection (c) of section 130 of the 1986 Code (relating to certain personal injury liability assignments) is amended—

(A) by striking out subparagraph (C) of paragraph (2) and redesignating subparagraphs (D) and (E) of paragraph (2) as subparagraphs (C) and (D), respectively, and

(B) by adding at the end thereof the following new sentence:

"The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor."

(2) Effective date.—The amendment made by paragraph (1) shall apply to assignments after the date of the enactment of this Act.

SEC. 345. TREATMENT OF CERTAIN WORKERS' COMPENSATION FUNDS.

(a) Treatment for Taxable Years Beginning Before 1987.—In the case of any taxable year beginning before January 1, 1987, a deficiency shall not be assessed against (and if assessed, shall not be collected from) any qualified group self-insurers' fund to the extent such deficiency is attributable to the timing of policyholder dividend deductions.

(b) Qualified Group Self-Insurers' Fund.—For purposes of this section, the term "qualified group self-insurers' fund" means any not-for-profit group of 2 or more employers who are engaged in the same or a similar type of trade or business, who are members of a bona fide trade or professional association which has been in existence for not less than 2 years, and who enter into agreements to pool their liabilities under the State workers' disability compensation laws for the purpose of qualifying as a self-insurer under such laws, if—

(1) the group has received a certificate of approval from, and is subject to regulation by, the State board or agency that is responsible for administering the State workers' disability compensation laws,

(2) each employer who is a member of the group, by written agreement, is jointly and severally bound to assume and discharge, by payment, any lawful judgment or award entered by a court of competent jurisdiction or by the State agency responsible for administering the State workers' disability compensation laws against a member of the group,

(3) the group is prohibited by State law or regulation from using the monies collected for a purpose other than to pay, or to reserve against, claims under the State workers' disability compensation laws and expenses,

(4) the group is bound by State law or regulation or by its governing documents to promptly return to its members all monies not needed to pay, or reserve against, claims under the State workers' disability compensation laws and expenses,

(5) the group is prohibited by State law or regulation from taking projected investment income into account in determining members' premiums,

(6) the group is required by State law or regulation to submit to the State board or agency that is responsible for administering the State workers' disability compensation laws, within 120 days after the end of the group's fiscal year, an audited financial statement certified by an independent certified public accountant, and

(7) the group's investments are limited by State law or regulation to bonds, notes, or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by an agency or instrumentality thereof, certificates of deposit in a federally insured bank, shares or savings deposits in a federally insured savings and loan association or credit union, and certificates of deposit issued by a commercial bank duly chartered under State law.

SEC. 346. LIMITATION ON UNREASONABLE MORTALITY AND OTHER EXPENSE CHARGES UNDER SECTION 7702.

(a) General Rule.—Subparagraph (B) of section 7702(c)(3) of the 1986 Code (relating to guideline premium requirements) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) reasonable mortality charges which meet the requirements (if any) prescribed in regulations and which (except as provided in regulations) do not exceed the mortality charges taken into account in determining reserves for the contract under section 807,

"(ii) any reasonable charges (other than mortality charges) which (on the basis of the company's experience) are reasonably expected to be actually paid, and".

(b) Special Rules.—Paragraph (3) of section 7702(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Special rules for subparagraph (B)(ii).—

"(i) Charges not specified in the contract.—If any charge is not specified in the contract, the amount taken into account under subparagraph (B)(ii) for such charge shall be zero.

"(ii) New companies, etc.—If any company does not have adequate experience for purposes of the determination under subparagraph (B)(ii), such determination shall be made on the basis of the industry-wide experience.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts issued on or after July 13, 1988.

(2) TREATMENT OF MATERIAL CHANGES.—The rules of section 7702A(c)(3) of the 1986 Code (as added by this Act) shall apply in determining whether a contract is issued on or after July 13, 1988.

SEC. 347. VALUATION OF GROUP-TERM LIFE INSURANCE.

(a) GENERAL RULE.—Subsection (c) of section 79 of the 1986 Code (relating to the determination of the cost of insurance) is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 348. STUDY.

(a) GENERAL RULE.—The Secretary of the Treasury and the Comptroller General of the United States shall each conduct a study on—

(1) the effectiveness of the revised tax treatment of life insurance and annuity products in preventing the sale of life insurance primarily for investment purposes, and

(2) the policy justification for, and the practical implications of, the present-law treatment of the earnings on the cash surrender value of life insurance and annuity contracts in light of the reforms made by the Tax Reform Act of 1986.

(b) REPORT.—Not later than March 1, 1989, the Secretary of the Treasury and the Comptroller General of the United States shall each submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a), together with such recommendations as they may deem advisable.

SEC. 349. PREPAID TAX CERTIFICATES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 of the 1986 Code (relating to provisions of general application) is amended by adding at the end thereof the following new section:

“SEC. 847. PREPAID TAX CERTIFICATES.

“In the case of taxable years beginning after December 31, 1987, of an insurance company required to discount unpaid losses (as defined in section 846)—

“(1) ADDITIONAL DEDUCTION.—There shall be allowed as a deduction for the taxable year, if certificates are purchased as required by paragraph (2), an amount not to exceed the excess of—

“(A) the amount of the undiscounted, unpaid losses (as defined in section 846(b)) attributable to losses incurred after December 31, 1986, over

“(B) the amount of the related discounted, unpaid losses determined under section 846,

to the extent such amount was not deducted under this paragraph in a preceding taxable year.

“(2) PURCHASE AND REDEMPTION OF CERTIFICATES.—The deduction under paragraph (1) shall be allowed only to the extent that prepaid tax certificates are purchased in an amount equal to the tax benefit attributable to such deduction, on or before the date that any taxes (determined without regard to this subsection) due for the taxable year for which the deduction is allowed are due to be paid. If a deduction would be allowed but for the fact that prepaid tax certificates were not timely purchased, such deduction shall be allowed to the extent such purchases are made within a reasonable time, as determined by the Secretary, if all interest and penalties, computed as if this sentence did not apply, are paid. For a taxable year for which amounts are included in gross income under paragraph (5) or (6), an amount of prepaid tax certificates equal to the additional tax due as a result of such inclusion shall be redeemed but only for purposes of being applied against such additional tax. If, after any such certificate is redeemed, there is an adjustment reducing the amount of such additional tax, in lieu of any credit or refund for such reduction, a prepaid tax certificate shall be issued equal to the amount otherwise allowable as a credit or refund.

“(3) SPECIAL LOSS DISCOUNT ACCOUNT.—Each company which is allowed a deduction under paragraph (1) shall, for purposes of this part, establish and maintain a special loss discount account.

“(4) ADDITIONS TO SPECIAL LOSS DISCOUNT ACCOUNT.—There shall be added to the special loss discount account for each taxable year an amount equal to the amount allowed as a deduction for the taxable year under paragraph (1).

“(5) SUBTRACTIONS FROM SPECIAL LOSS DISCOUNT ACCOUNT AND INCLUSION IN GROSS INCOME.—After applying paragraph (4), there shall be subtracted for the taxable year from the special loss discount account and included in gross income:

“(A) The excess (if any) of the amount in the special loss discount account with respect to losses incurred in each taxable year over the amount of the excess referred to in paragraph (1) with respect to losses incurred in that year, and

“(B) Any amount improperly subtracted from the special loss discount account under subparagraph (A) to the extent prepaid tax certificates were redeemed with respect to such amount.

“(6) RULES IN THE CASE OF LIQUIDATION OR TERMINATION OF TAXPAYER’S INSURANCE BUSINESS.—

“(A) IN GENERAL.—If a company liquidates or otherwise terminates its insurance business and does not transfer or distribute such business in an acquisition of assets referred to in section 381(a), the entire amount remaining in such special loss discount account shall be subtracted and included in gross income. Except in the case where a company transfers or distributes its insurance business in an acquisition of assets, referred to in section 381(a), if the company is not subject to the tax imposed by section 801 or section 831 for any taxable year, the entire amount in the account at the close of the preceding taxable year shall be subtracted from the account in such preceding taxable year and included in gross income.

“(B) ELIMINATION OF BALANCE OF CERTIFICATES.—In any case to which subparagraph (A) applies, any prepaid tax certificates remaining after the redemption attributable to the inclusion under subparagraph (A) shall be voided.

“(7) MODIFICATION OF THE VALUE OF PREPAID TAX CERTIFICATES IN THE EVENT OF SUBSEQUENT MARGINAL RATE REDUCTION OR INCREASE.—In the event of a reduction in the tax rate provided under section 11 for any tax year after the enactment of this section, the Secretary shall prescribe regulations providing for a reduction in the value of any prepaid tax certificates purchased in years before the effective date of such section 11 rate reduction. Such reduction in the value of the prepaid tax certificates shall reduce the value of the certificates to the value that they would have had if the special deduction permitted under paragraph (1) had occurred during a year that the lower marginal rate under section 11 applied. Similar rules shall be provided in the event of a marginal rate increase.

“(8) REGULATORY AUTHORITY.—The tax benefit attributable to the deduction under paragraph (1) shall be determined under regulations prescribed by the Secretary, by taking into account tax benefits that would arise from the carryback of any net operating loss for the year, as well as current year tax benefits. Tax benefits for the current year and carryback years shall include those that would arise from the filing of a consolidated return with another insurance company required to determine discounted, unpaid losses under section 846 without regard to the limitations on consolidation contained in section 1503(c).”

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

“Sec. 847. Prepaid tax certificates.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

PART IV—PROVISIONS RELATING TO DEFERRED COMPENSATION

SEC. 350. MODIFICATIONS TO SECTION 457.

(a) CODIFICATION OF EXCEPTION FOR CERTAIN PLANS.—

(1) Subsection (e) of section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

“(11) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation.”

(2) Subsection (d) of section 457 of the 1986 Code (as in effect on the day before the date of the enactment of the Reform Act) is amended by adding at the end thereof the following new paragraph:

“(10) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation.”

(b) REPEAL OF EXTENSION TO TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 457(e)(1) of the 1986 Code (as amended by section 1107 of the Reform Act) is amended to read as follows:

“(B) any rural electric cooperative (as defined in section 401(k)(7)(B)).”

(2) CLERICAL AMENDMENTS.—

(A) The section heading of section 457 of the 1986 Code (as so amended) is amended by striking out “AND TAX-EXEMPT ORGANIZATIONS”.

(B) The table of sections for subpart B of part II of subchapter E of chapter 1 of the 1986 Code is amended by striking out “and tax-exempt organizations” in the item relating to section 457.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to tax-

able years beginning after December 31, 1986.

(3) TREATMENT OF CERTAIN NONELECTIVE DEFERRED COMPENSATION.—Section 457 of the 1986 Code shall not apply to amounts deferred under a nonelective deferred compensation plan—

(A) if such amounts were deferred from periods before July 14, 1988, or

(B) if—

(i) such amounts are deferred from periods on or after such date pursuant to an agreement which—

(I) was in writing on such date, and

(II) on such date provides for a deferral for each taxable year covered by the agreement of a fixed amount or of an amount determined pursuant to a fixed formula, and

(ii) the individual with respect to whom the deferral is made was covered under such agreement on such date.

Subparagraph (B) shall not apply to any taxable year ending after the date on which any modification of the amount or formula described in subparagraph (B)(i)(II) is effective. Amounts described in the first sentence of this paragraph shall be taken into account for purposes of applying section 457 of the 1986 Code to other amounts deferred under any eligible deferred compensation plan.

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the tax treatment of deferred compensation paid by State and local governments and tax-exempt organizations (including deferred compensation paid to independent contractors). Not later than March 1, 1989, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph together with such recommendations as he may deem advisable.

SEC. 351. RURAL TELEPHONE COOPERATIVES PERMITTED TO HAVE QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 401(k) of the 1986 Code (relating to cash or deferred arrangements) are each amended by striking out "or a rural electric cooperative plan" and inserting in lieu thereof "or a rural cooperative plan".

(b) RURAL COOPERATIVE PLAN DEFINED.—

(1) Paragraph (7) of section 401(k) of the 1986 Code (as amended by title I) is amended to read as follows:

"(7) RURAL COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural cooperative.

"(B) RURAL COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i),

"(iii) a cooperative telephone company described in section 501(c)(12), and

"(iv) an organization which is a national association of organizations described in clause (i), (ii), or (iii)."

(2) Subparagraph (B) of section 401(k)(4) of the 1986 Code (as amended by title I) is amended by striking out "rural electric cooperative plan" and inserting in lieu thereof "rural cooperative plan".

(c) AMENDMENTS TO SECTION 457.—Section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended—

(1) by striking out "rural electric cooperative plan" in subsection (c)(2) and inserting in lieu thereof "rural cooperative plan", and

(2) by striking out "rural electric cooperative" in subsection (e)(1)(B) (as amended by section 350) and inserting in lieu thereof "rural cooperative".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 352. MISCELLANEOUS PROVISIONS.

(a) SECTION 403(b) NONDISCRIMINATION RULES.—In the case of any plan year beginning before the later of—

(1) January 1, 1991, or

(2) the day 6 months after the date on which rules are prescribed by the Secretary to carry out the nondiscrimination requirements of section 403(b) of the 1986 Code,

a plan shall be treated as meeting such requirements if such plan reasonably relied on a good faith interpretation of such requirements.

(b) AMENDMENT RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Section 401(a)(9)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a governmental plan, the required beginning date shall be the later of the date determined under the preceding sentence or April 1 of the calendar year following the calendar year in which the employee retires."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1121 of the Reform Act.

(c) AMENDMENT RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) MODIFIED LIMITATIONS.—Section 415(b) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR STATE AND LOCAL GOVERNMENT PLANS.—

"(A) LIMITATION TO EQUAL ACCRUED BENEFIT.—In the case of a plan maintained for its employees by any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, the limitation with respect to a qualified participant under this subsection shall not be less than the accrued benefit of the participant under the plan (determined without regard to any amendment of the plan made after October 14, 1987).

"(B) QUALIFIED PARTICIPANT.—For purposes of this paragraph, the term 'qualified participant' means a participant who first became a participant in the plan maintained by the employer before January 1, 1989.

"(C) ELECTION.—This paragraph shall not apply to any plan unless each employer maintaining the plan elects, in such manner and at such time as the Secretary may prescribe, to have this subsection (other than paragraph (2)(B)) applied without regard to paragraph (2)(F). An election may be made under this subparagraph only if it is made before the close of the first year beginning after December 31, 1988."

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in this paragraph, the amendment made by this subsection apply to years beginning after December 31, 1982.

(B) ELECTION.—Section 415(b)(10) of the 1986 Code (as added by paragraph (1)) shall not apply to any year beginning before January 1, 1989.

(d) PROVISION RELATED TO SECTION 1112 OF THE REFORM ACT.—Section 401(a)(26) of the 1986 Code shall not apply to any governmental plan (within the meaning of section 414(d) of such Code) with respect to employees who were participants in such plan on July 14, 1988.

SEC. 353. AIR TRANSPORTATION OF CARGO AND OF PASSENGERS TREATED AS SAME SERVICE FOR PURPOSES OF FRINGE BENEFITS INCLUSION.

(a) IN GENERAL.—Subsection (h) of section 132 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) AIR CARGO.—For purposes of subsection (b), the transportation of cargo by air and the transportation of passengers by air shall be treated as the same service."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation furnished after December 31, 1987, in taxable years ending after such date.

SEC. 354. EXCISE TAX ON DISPOSITION OF STOCK BY AN ESOP NOT TO APPLY TO CERTAIN FORCED DISPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 4978A of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) FORCED DISPOSITION OCCURRING BY OPERATION OF A STATE LAW.—Any forced disposition of qualified employer securities by the employee stock ownership plan of a corporation occurring by operation of a State law shall not be treated as a disposition."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 10413 of the Revenue Act of 1987.

SEC. 355. STUDY OF TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

The Secretary of the Treasury or his delegate shall conduct a study of the treatment provided by section 1706 of the Reform Act (relating to treatment of certain technical personnel). The report of such study shall be submitted not later than September 1, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART V—FOREIGN PROVISIONS

SEC. 356. DUAL RESIDENT COMPANIES.

(a) GENERAL RULE.—In the case of a transaction which—

(1) involves the transfer after the date of the enactment of this Act by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

(2) qualifies, pursuant to Revenue Ruling 87-27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502-19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

(b) TREATMENT OF INCOME OF NEW FOREIGN CORPORATION.—

(1) IN GENERAL.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

(C) the amount in the qualified excess loss account referred to in subsection (a) shall be reduced by the net amount of any such income.

(2) LIMITATION.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

(3) BASIS ADJUSTMENTS NOT APPLICABLE.—To the extent paragraph (1) applies to any item of income, there shall be no increase in basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

(4) RECOGNITION OF GAIN.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

(A) the fair market value of the property transferred, over

(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMON PARENT.—The term "common parent" means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

(2) QUALIFIED EXCESS LOSS ACCOUNT.—The term "qualified excess loss account" means any excess loss account (within the meaning of the consolidated return regulations) to the extent such account is attributable—

(A) to taxable years beginning before January 1, 1988, and

(B) to periods during which the domestic corporation was subject to an income tax of a foreign country on its income on a residence basis or without regard to whether such income is from sources in or outside of such foreign country.

The amount of such account shall be determined as of immediately after the transaction referred to in subsection (a) and without, except as provided in subsection (b), diminution for any future adjustment.

(3) NET AMOUNT.—The net amount of any item of income is the amount of such income reduced by allocable deductions as determined under the rules of section 954(b)(5) of the 1986 Code.

(4) SECOND SAME COUNTRY CORPORATION MAY BE TREATED AS DOMESTIC CORPORATION IN CERTAIN CASES.—If—

(A) another foreign corporation acquires from the common parent stock of the foreign corporation referred to in subsection (a) after the transaction referred to in subsection (a),

(B) both of such foreign corporations are subject to the income tax of the same foreign country on a residence basis, and

(C) such common parent complies with such reporting requirements as the Secretary of the Treasury or his delegate may prescribe for purposes of this paragraph,

such other foreign corporation shall be treated as a domestic corporation in determining whether the foreign corporation referred to in subsection (a) is a member of the affiliated group referred to in subsection (a) (and the rules of subsection (b) shall apply (i) to any gain of such other foreign corporation on any disposition of such stock, and (ii) to any other income of such other foreign corporation except to the extent it establishes to the satisfaction of the Secretary of the Treasury or his delegate that such income is not attributable to property acquired from the foreign corporation referred to in subsection (a)).

SEC. 357. ELECTION TO BE TREATED AS QUALIFIED ELECTING FUND TO BE MADE BY TAXPAYER.

(a) GENERAL RULE.—Section 1295 of the 1986 Code (defining qualified electing fund) is amended to read as follows:

"SEC. 1295. QUALIFIED ELECTING FUND.

"(a) GENERAL RULE.—For purposes of this part, any passive foreign investment company shall be treated as a qualified electing fund with respect to the taxpayer if—

"(1) an election by the taxpayer under subsection (b) applies to such company for the taxable year, and

"(2) such company complies with such requirements as the Secretary may prescribe for purposes of—

"(A) determining the ordinary earnings and net capital gain of such company, and

"(B) otherwise carrying out the purposes of this subpart.

"(b) ELECTION.—

"(1) IN GENERAL.—A taxpayer may make an election under this subsection with respect to any passive foreign investment company for any taxable year of the taxpayer. Such an election, once made with respect to any company, shall apply to all subsequent taxable years of the taxpayer with respect to such company unless revoked by the taxpayer with the consent of the Secretary.

"(2) WHEN MADE.—An election under this subsection may be made for any taxable year at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believed that the company was not a passive foreign investment company."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code (as amended by title I) is amended by striking out "for each" in the material preceding subparagraph (A) and inserting in lieu thereof "with respect to the taxpayer for each".

(2) Subparagraphs (A)(i) and (B)(i) of section 1291(d)(2) of the 1986 Code (as amended by title I) are each amended by striking out "for a taxable year" and inserting in lieu thereof "with respect to the taxpayer for a taxable year".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 1235 of the Reform Act.

(2) TIME FOR MAKING ELECTION.—The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of the enactment of this Act.

SEC. 358. TREATMENT OF CERTAIN INSTRUMENTS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Clause (iii) of section 988(c)(1)(B) of the 1986 Code (as amended by title I) is amended by striking out "unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 988(a) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICATION OF SUBPARAGRAPH (B) IN THE CASE OF CERTAIN TRADERS.—In the case of any instrument—

"(i) which would be marked to market under section 1256 if held on the last day of the taxable year, and

"(ii) which was entered into or acquired by the taxpayer in the active conduct of the trade or business of trading such instruments,

to the extent provided in regulations, subparagraph (B) shall be applied without regard to the requirement that the instrument not be part of a straddle and without regard to the identification requirement contained therein."

(2) Paragraph (1) of section 988(d) of the 1986 Code is amended by striking out the second sentence and inserting in lieu thereof the following: "For purposes of the preceding sentence, the term 'section 988 transaction' shall not include any transaction with respect to which an election is made under subsection (a)(1)(B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to forward contracts, future contracts, options, and similar financial instruments entered into or acquired after July 14, 1988.

SEC. 359. TREATMENT OF CERTAIN UNITED STATES AFFILIATE OBLIGATIONS.

(a) GENERAL RULE.—Subparagraph (B) of section 127(g)(3) of the Tax Reform Act of 1984 is amended by inserting before the period at the end thereof the following: "as such principles are applied in Revenue Ruling 86-6, except that the maximum debt-to-equity ratio described in such Revenue Rulings shall be increased from 5-to-1 to 25-to-1.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 360. TREATMENT OF CERTAIN GAMBLING WINNINGS RECEIVED BY NONRESIDENT ALIENS.

(a) EXEMPTION FROM TAX.—

(1) Section 871 of the 1986 Code (relating to tax on nonresident alien individuals) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) EXEMPTION FOR CERTAIN GAMBLING WINNINGS.—No tax shall be imposed under paragraph (1)(A) of subsection (a) on the proceeds from a wager placed in any of the following games: blackjack, baccarat, craps, roulette, or big-6 wheel. The preceding sentence shall not apply in any case where the Secretary determines by regulation that the collection of the tax is administratively feasible."

(2) Subsection (c) of section 1441 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN GAMBLING WINNINGS.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(j)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 361. TREATMENT OF CERTAIN INSURANCE BRANCHES OF FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 964 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN BRANCHES.—

"(1) IN GENERAL.—For purposes of this chapter, section 6038, section 6046, and such other provisions as may be specified in regulations—

"(A) a qualified insurance branch of a controlled foreign corporation shall be treated as a separate foreign corporation created under the laws of the foreign country with respect to which such branch qualifies under paragraph (2), and

"(B) except as provided in regulations, any amount directly or indirectly transferred or credited from such branch to one or more other accounts of such controlled foreign corporation shall be treated as a dividend paid to such controlled foreign corporation.

"(2) QUALIFIED INSURANCE BRANCH.—For purposes of paragraph (1), the term 'qualified insurance branch' means any branch of a controlled foreign corporation which is licensed and predominantly engaged on a permanent basis in the active conduct of an insurance business in a foreign country if—

"(A) separate books and accounts are maintained for such branch,

"(B) the principal place of business of such branch is in such foreign country,

"(C) such branch would be taxable under subchapter L if it were a separate domestic corporation, and

"(D) an election under this paragraph applies to such branch.

An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1988.

PART VI—TAX-EXEMPT BOND PROVISIONS

SEC. 362. CLARIFICATION OF SMALL ISSUE BOND DEFINITION OF MANUFACTURING FACILITY.

(a) IN GENERAL.—Subparagraph (C) of section 144(a)(12) of the 1986 Code (defining manufacturing facility) is amended by adding at the end thereof the following new sentence: "For purposes of the 1st sentence of this subparagraph, the term 'manufacturing facility' includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this sentence) if—

"(i) such facilities are located on the same site as the manufacturing facility, and

"(ii) not more than 25 percent of the net proceeds of the issue are used to provide such facilities."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) REFUNDINGS.—The amendment made by subsection (a) shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued on or before the date of the enactment of this Act if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

SEC. 363. RULES APPLICABLE TO TAX AND REVENUE ANTICIPATION BONDS.

(a) CHANGE IN PERIOD USED TO DETERMINE CUMULATIVE CASH FLOW DEFICIT.—Subclause (III) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax and revenue anticipation bonds are expended) is amended by striking out "the earliest of the maturity date of the issue, the date 6 months after such date of issuance," and inserting in lieu thereof "the earlier of the date 6 months after such date of issuance".

(b) DUE DATE FOR LAST INSTALLMENT OF ARBITRAGE REBATE.—Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a tax and revenue anticipation bond, the last installment shall not be required to be made before the date 8 months after the date of issuance of the issue of which the bond is a part."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 364. RULES RELATING TO REBATE ON EARNINGS ON BONA FIDE DEBT SERVICE FUND.

(a) NO REBATE WHERE EARNINGS DO NOT EXCEED $100,000.—Clause (ii) of section 148(f)(4)(A) of the 1986 Code is amended by striking "unless the issuer otherwise elects,".

(b) $100,000 LIMIT NOT TO APPLY TO CERTAIN ISSUES.—Subparagraph (A) of section 148(f)(4) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of an issue no bond of which is a private activity bond, clause (ii) shall be applied without regard to the dollar limitation therein if the average maturity of the issue (determined in accordance with section 147(b)(2)(A)) is at least 5 years and the rates of interest on bonds which are part of the issue do not vary during the term of the issue."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 365. BONDS ISSUED BY VOLUNTEER FIRE DEPARTMENTS.

(a) OVERLAPPING AREAS.—Paragraph (2) of section 150(e) of the 1986 Code (relating to bonds of certain volunteer fire departments) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), other firefighting services provided in an area shall be disregarded in determining whether an organization is a qualified volunteer fire department if such other firefighting services are provided by a qualified volunteer fire department (determined with the application of this sentence) and such organization and the provider of such other services have been continuously providing firefighting services to such area since January 1, 1981."

(b) ACQUISITION OF LAND PERMITTED.—Subparagraph (B) of section 150(e)(1) of the 1986 Code is amended by inserting "(including land which is functionally related and subordinate thereto)" after "a firehouse".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 366. AMENDMENTS RELATING TO STUDENT LOAN BONDS.

(a) STUDENT LOAN INCENTIVE PAYMENTS TAKEN INTO ACCOUNT.—

(1) Section 148 of the 1986 Code is amended by striking out subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(2) Subsection (a) of section 625 of the Tax Reform Act of 1984 is hereby repealed.

(b) REDUCTION IN PERMITTED ARBITRAGE ON ACQUIRED PROGRAM OBLIGATIONS.—

(1) IN GENERAL.—If—

(A) any bond which is part of an issue purports to be a qualified student loan bond (as defined in section 144(b) of the 1986 Code), and

(B) the date of issuance of the issue is after July 31, 1988,

the number of percentage points permitted under - Treasury Regulation §1.103-13(b)(5)(viii)(B) (and any successor regulation) with respect to such issue shall not exceed 1.0 and Treasury Regulation §1.103-13(b)(5)(ix) (and any regulation which reaches the same result as such regulation) shall not apply. The Secretary of the Treasury or his delegate shall amend such regulations to carry out the effect of the preceding sentence.

(2) REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before August 1, 1988, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after July 31, 1988) for purposes of applying paragraph (1).

(c) LOANS MUST ORIGINATE WITHIN 3 YEARS OF DATE OF ISSUE; REPAYMENTS MUST BE USED TO REDEEM BONDS.—Subsection (b) of section 144 of the 1986 Code (defining qualified student loan bond) is amended by adding at the end thereof the following new paragraph:

"(5) PROCEEDS MUST BE USED WITHIN 3 YEARS OF DATE OF ISSUANCE; REPAYMENTS MUST BE USED TO REDEEM BONDS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a bond shall not be a qualified student loan bond unless—

"(i) all proceeds of the issue (of which such bond is a part) required to be used to provide student loans are so used within the 3-year period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 3-year period beginning on the date of issuance of the original bond),

"(ii) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the meaning of section 148(f)(6)(B)) after the close of the period referred to in clause (i), and

"(iii) repayments of principal on student loans provided by the issue are used not

later than the close of the 1st semiannual period beginning after the date the repayment is received to redeem bonds which are part of such issue.

"(B) EXCEPTION WHERE REDEMPTION OF UNSPENT PROCEEDS WITHIN 6 MONTHS.—Subparagraph (A)(i) shall not apply if all proceeds of the issue—

"(i) which are required to be used to provide student loans, and

"(ii) which are not so used,

are used (not later than 6 months after the close of the period referred to in subparagraph (A)(i)) to redeem bonds which are part of such issue.

"(C) EXCEPTION FOR DE MINIMIS AMOUNTS.—Subparagraph (A) shall not be construed to require proceeds in amounts of less than $25,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to bonds issued after July 31, 1988.

(2) SPECIAL RULES RELATING TO REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before August 1, 1988, the amendments made by this section shall apply to payments received (including on loans made before the date of issuance of the refunding issue) on or after such date of issuance.

SEC. 367. RESTRICTIONS ON BONDS USED TO PROVIDE RESIDENTIAL RENTAL PROPERTY FOR FAMILY UNITS.

(a) 501 (c)(3) BONDS USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS MUST MEET TARGETING REQUIREMENTS.—Section 145 of the 1986 Code (defining qualified 501(c)(3) bond) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) RESTRICTIONS ON BONDS USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a bond which is part of an issue shall not be a qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d))."

(b) RESIDENTIAL RENTAL PROJECT NOT LOCATED WITHIN JURISDICTION OF ISSUER TREATED AS INVESTMENT PROPERTY.—Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the issuer."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after July 14, 1988.

(2) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENT.—

(A) The amendments made by this section shall not apply to bonds (other than refunding bonds) with respect to a facility—

(i)(I) the original use of which begins with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before July 14, 1988, and was completed on or after such date, or

(II) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before July 14, 1988, and some of such expenditures are incurred on or after such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before July 14, 1988.

For purposes of the preceding sentence, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(B) Subparagraph (A) shall not apply to any bond issued after December 31, 1989, and shall not apply unless it is reasonably expected (at the time of issuance of the bond) that the facility will be placed in service before January 1, 1990.

(3) REFUNDINGS.—The amendments made by this section shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before July 15, 1988, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

PART VII—LOW-INCOME HOUSING CREDIT PROVISIONS

SEC. 368. CERTAIN DECREASES IN FAMILY SIZE NOT TAKEN INTO ACCOUNT IN DETERMINING LOW INCOME.

(a) IN GENERAL.—Paragraph (4) of section 42(g) of the 1986 Code (relating to certain rules made applicable) is amended by adding at the end thereof the following new sentence: "In applying the last sentence of section 142(d)(2)(B) for purposes of the preceding sentence, there shall not be taken into account decreases in family size resulting from death, divorce, separation, or abandonment."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 252 of the Reform Act.

SEC. 369. SIMPLIFICATION OF RULE WHERE PARTNERSHIP HOLDS QUALIFIED LOW-INCOME BUILDING.

(a) IN GENERAL.—Subparagraph (B) of section 42(j)(5) of the 1986 Code, as amended by title I of this Act, is amended to read as follows:

"(B) PARTNERSHIPS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 252 of the Reform Act.

(2) The period for electing not to have section 42(j)(5) of the 1986 Code apply to any partnership shall not expire before the date which is 6 months after the date of the enactment of this Act.

PART VIII—ESTATE AND GIFT TAX PROVISIONS

SEC. 370. TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A.

(a) GENERAL RULE.—Subparagraph (A) of section 2032A(b)(5) of the 1986 Code (relating to special rules for surviving spouse) is amended by adding at the end thereof the following new sentence: "For purposes of subsection (c), such surviving spouse shall not be treated as failing to use such property in a qualified use solely because such spouse rents such property to a member of such spouse's family on a net cash basis."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 371. VALUATION TABLES.

(a) GENERAL RULE.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. VALUATION TABLES.

"(a) GENERAL RULE.—For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

"(1) under tables prescribed by the Secretary, and

"(2) by using an interest rate equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

"(b) TABLES.—

"(1) IN GENERAL.—The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

"(2) INITIAL TABLE.—Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

"(3) REVISION FOR RECENT MORTALITY CHARGES.—Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

"(c) VALUATION DATE.—For purposes of this section, the term 'valuation date' means the date as of which the valuation is made.

"(d) TABLES TO INCLUDE FORMULAS.—For purposes of this section, the term 'tables' includes formulas."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Valuation tables.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the valuation date on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act.

SEC. 372. DISALLOWANCE OF MARITAL DEDUCTION WHERE SPOUSE IS NOT CITIZEN OF UNITED STATES.

(a) ESTATE TAX.—Section 2056 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) DISALLOWANCE OF MARITAL DEDUCTION WHERE SURVIVING SPOUSE NOT UNITED STATES CITIZEN.—

"(1) IN GENERAL.—If the surviving spouse of the decedent is not a United States citizen—

"(A) no deduction shall be allowed under subsection (a), and

"(B) section 2040(b) shall not apply.

"(2) TREATMENT OF CERTAIN SPOUSES.—If—

"(A) a property is transferred to the surviving spouse and but for paragraph (1) a deduction would have been allowable under this section with respect to such property, and

"(B) such surviving spouse dies and the estate of such surviving spouse is subject to the tax imposed by section 2001,

with respect to the property so transferred to the surviving spouse, there shall be allowed a credit under section 2013 to the estate of such surviving spouse and such credit shall be determined under subsections (b) and (c) of section 2013 without regard to when the transferor of the property died."

(b) GIFT TAX.—Section 2523 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(i) DISALLOWANCE OF MARITAL DEDUCTION WHERE SPOUSE NOT CITIZEN.—If the spouse of the donor is not a citizen of the United States—

"(1) no deduction shall be allowed under this section,

"(2) section 2503(b) shall be applied with respect to gifts made by the donor to such spouse by substituting '$100,000' for '$10,000', and

"(3) the principles of sections 2515 and 2515A (as such sections were in effect before their repeal by the Economic Recovery Tax Act of 1981) shall apply, except that the provisions of such section 2515 providing for an election shall not apply."

(c) ESTATES OF NONRESIDENTS WHO ARE NOT CITIZENS BUT HAVE CITIZENS AS SPOUSES.—Subsection (a) of section 2106 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) MARITAL DEDUCTION ALLOWED WHERE SPOUSE IS CITIZEN.—The amount which would be deductible with respect to property situated in the United States at the time of the decedent's death under the principles of section 2056."

(d) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) and (c) shall apply to estates of the decedents dying after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to gifts on or after July 14, 1988.

SEC. 373. RATE SCHEDULE FOR TAX ON ESTATES OF NONRESIDENTS NOT CITIZENS.

(a) GENERAL RULE.—Subsection (b) of section 2101 of the 1986 Code (relating to computation of tax) is amended by striking out "a tentative tax computed in accordance with the rate schedule set forth in subsection (d)" each place it appears and inserting in lieu thereof "a tentative tax computed under section 2001(c)".

(b) AMOUNT OF UNIFIED CREDIT.—Subsection (c) of section 2102 of the 1986 Code is amended to read as follows:

"(c) UNIFIED CREDIT.—

"(1) IN GENERAL.—A credit shall be allowed against the tax imposed by section 2101 equal to the amount which bears the same ratio to $192,800 as the value of the part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated. If a credit has been allowed under section 2505 with respect to any gift made by the decedent, the $192,800 amount referred to in the preceding sentence shall be reduced by the amount so allowed.

"(2) LIMITATION BASED ON AMOUNT.—The credit allowed by this subsection shall not exceed the amount of tax imposed by section 2101.

"(3) APPLICATION OF OTHER CREDITS.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (d) of section 2101 of the 1986 Code is hereby repealed.

(2) Subsection (a) of section 6018 is amended to read as follows:

"(a) RETURNS BY EXECUTOR.—

"(1) IN GENERAL.—In all cases where the gross estate at the death of the decedent exceeds $600,000, the executor shall make a return with respect to the estate tax imposed by subtitle B. The preceding sentence shall apply in the case of the estate of the decedent who is a nonresident not a citizen of the United States only if some portion of his gross estate is situated in the United States at the time of his death.

"(2) ADJUSTMENT FOR CERTAIN GIFTS.—The dollar amount set forth in paragraph (1) shall be reduced (but not below zero) by the sum of—

"(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

"(B) the aggregate amount allowed as a specific exemption allowed under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

PART IX—EXCISE TAX PROVISIONS

SEC. 374. AUTHORITY TO PRESCRIBE TOLERANCES FOR THE VOLUME OF WINE IN BOTTLES FOR PURPOSES OF THE EXCISE TAX ON WINE.

(a) IN GENERAL.—Section 5041 of the 1986 Code (relating to imposition and rate of tax on wine) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TOLERANCES.—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than ½ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wine removed after December 31, 1988.

SEC. 375. WHOLESALE DISTRIBUTORS TO ADMINISTER CLAIMS FOR REFUND OF GASOLINE TAX.

(a) IN GENERAL.—Subsection (a) of section 6416 of the 1986 Code (relating to certain taxes and services) is amended by adding at the end thereof the following new paragraph:

"(4) WHOLESALE DISTRIBUTORS TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, a wholesale distributor who purchases any product on which tax imposed by section 4081 has been paid and who sells the product to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

"(B) WHOLESALE DISTRIBUTOR.—For purposes of subparagraph (A), the term 'wholesale distributor' has the meaning given such term by section 4092(b)(2) (determined by substituting 'any product taxable under section 4081' for 'a taxable fuel' therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.

SEC. 376. AUTHORITY TO EXEMPT ARTICLES FROM EXCISE TAX ON HEAVY TRUCKS AND TRAILERS WHERE BENEFIT ACCRUES TO UNITED STATES.

(a) IN GENERAL.—Section 4293 of the 1986 Code is amended by inserting "section 4051," after "section 4041,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 377. DONATED CARGO EXEMPT FROM HARBOR MAINTENANCE TAX.

(a) GENERAL RULE.—Section 4462 of the 1986 Code (relating to definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR HUMANITARIAN AND DEVELOPMENT ASSISTANCE CARGOS.—No tax shall be imposed under this subchapter on any nonprofit organization or cooperative for cargo which is owned or financed by such nonprofit organization or cooperative and which is certified by the United States Customs Service as intended for use in humanitarian or development assistance overseas."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on April 1, 1987.

SEC. 378. STUDY ON HEALTH CARE COSTS RESULTING FROM SMOKING.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall, in consultation with the Surgeon General of the Public Health Service, conduct an ongoing study of—

(1) the public and private health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States,

(2) the incidence of cigarette smoking in the United States by adults and by teenage and younger children, and

(3) the impact of the rate of the excise tax imposed by section 5701 of the Internal Revenue Code of 1986 on cigarette smoking by adults and by teenage and younger children.

(b) REPORTS.—Reports of the study required by subsection (a) shall be submitted every 2 years, with the 1st such report to be submitted by January 1, 1989. Each such report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 379. QUARTERLY PAYMENT OF ARCHERY EXCISE TAX.

(a) IN GENERAL.—Subsection (d) of section 6302 of the 1986 Code (relating to mode or *time of collection) is amended to read as follows:*

"(d) TIME FOR PAYMENT OF MANUFACTURERS' EXCISE TAX ON SPORTING GOODS.—The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles sold by the manufacturer, producer, or importer after December 31, 1988.

SEC. 380. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF PIPE TOBACCO.

(a) IN GENERAL.—Section 5701 of the 1986 Code (relating to rate of tax on cigarettes, etc.) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PIPE TOBACCO.—On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $2.67 per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

(b) PIPE TOBACCO DEFINED.—Section 5702 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(o) PIPE TOBACCO.—The term 'pipe tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 of the 1986 Code (defining tobacco products) is amended by striking out "and smokeless tobacco" and inserting in lieu thereof "smokeless tobacco, and pipe tobacco".

(2) Subsection (d) of section 5702 of the 1986 Code (defining tobacco products) is amended by striking out "or smokeless tobacco" and inserting in lieu thereof "smokeless tobacco, or pipe tobacco".

(3) The chapter heading for chapter 52 of the 1986 Code is amended to read as follows:

"CHAPTER 52—CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO, AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting in lieu thereof the following new item:

"Chapter 52. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to pipe tobacco removed (within the meaning of section 5702(k) of the 1986 Code) after September 30, 1988.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act, is engaged in business as a manufacturer of pipe tobacco, and

(B) before October 1, 1988, submits an application under subchapter B of chapter 52 of the 1986 Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the 1986 Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture pipe tobacco under such chapter 52.

(e) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On pipe tobacco manufactured in or imported into the United States which is removed before October 1, 1988, and held on such date for sale by any person, there is hereby imposed a tax of $2.67 per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding pipe tobacco on October 1, 1988, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed by section 5701 of the 1986 Code and shall be due and payable on November 14, 1988, in the same manner as the tax imposed by such section is payable with respect to pipe tobacco removed on or after October 1, 1988.

(C) TREATMENT OF PIPE TOBACCO IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, pipe tobacco which is located in a foreign trade zone on October 1, 1988, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such pipe tobacco before such date pursuant to a request made under the first proviso of section 3(a) of such Act, or

(ii) such pipe tobacco is held on such date under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary of the Treasury or his delegate, provisions similar to sections 5706 and 5708 of the 1986 Code shall apply to pipe tobacco with respect to which tax is imposed by paragraph (1) by reason of this subparagraph.

(3) PIPE TOBACCO.—For purposes of this subsection, the term "pipe tobacco" shall have the meaning given to such term by subsection (o) of section 5702 of the 1986 Code.

(4) EXCEPTION WHERE LIABILITY DOES NOT EXCEED $1,000.—No tax shall be imposed by paragraph (1) on any person if the tax which would but for this paragraph be imposed on such person does not exceed $1,000. For purposes of the preceding sentence, all persons who are treated as a single taxpayer under section 5061(e)(3) of the 1986 Code shall be treated as 1 person.

PART X—COMPLIANCE PROVISIONS

SEC. 381. EXCHANGE OF INFORMATION.

Clause (i) of section 6103(b)(5)(B) of the 1986 Code (defining State) is amended by striking out "2,000,000" and inserting in lieu thereof "250,000".

SEC. 382. INCREASE IN PENALTY FOR BAD CHECKS.

(a) GENERAL RULE.—Section 6657 of the 1986 Code (relating to bad checks) is amended—

(1) by striking out "1 percent" and inserting in lieu thereof "2 percent",

(2) by striking out "$500" and inserting in lieu thereof "$750", and

(3) by striking out "$5" and inserting in lieu thereof "$15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to checks or money orders received after the date of the enactment of this Act.

PART XI—MISCELLANEOUS PROVISIONS

SEC. 383. TAX EXEMPTION FOR ENJEBI COMMUNITY TRUST FUND.

(a) IN GENERAL.—Any earnings on, and distributions from, the Enjebi Community Trust Fund created under section 103 of the Compact of Free Association Act of 1985 shall be exempt from all Federal, State, or local taxation.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

SEC. 384. EXTENSION OF TIME FOR ENACTING AUTHORIZING LEGISLATION RELATING TO THE OIL SPILL LIABILITY TRUST FUND.

Subparagraph (B) of section 4611(f)(2) of the 1986 Code (defining qualified authorizing legislation) is amended by striking out "September 1, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 385. AUTHORITY TO PAY REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.

Section 6402 of the 1986 Code (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsection:

"(i) REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.—Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation."

SEC. 386. CANCELLATION OF CERTAIN DEBTS ORIGINATED BY OR GUARANTEED BY THE UNITED STATES NOT TAKEN INTO ACCOUNT IN DETERMINING TAX EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

Subparagraph (A) of section 501(c)(12) of the 1986 Code shall be applied without taking into account any income attributable to the cancellation of any loan originally made or guaranteed by the United States (or any agency or instrumentality thereof) if such cancellation occurs after 1986 and before 1990.

SEC. 387. DETERMINATION OF OPERATING FOUNDATION STATUS FOR CERTAIN PURPOSES.

For purposes of section 302(c)(3) of the Deficit Reduction Act of 1984, a private foundation which constituted an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1986) for its last taxable year ending before January 1, 1983, shall be treated as constituting an operating foundation as of January 1, 1983.

SEC. 388. APPLICATION OF SECTION 7503 OF 1986 CODE FOR PURPOSES OF SECTION 10222(b) OF REVENUE ACT OF 1987.

Section 7503 of the 1986 Code shall apply for purposes of determining whether any disposition meets the requirements of section 10222(b)(2)(B) of the Revenue Act of 1987. If any disposition meets the requirements of such section by reason of the preceding sentence, for all purposes of the 1986 Code, such disposition shall be deemed to have occurred on December 31, 1988.

SEC. 389. REPEAL OF LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is hereby repealed.

SEC. 390. EXTENSION OF PLACED IN SERVICE DATE FOR CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Clause (ii) of section 29(f)(1)(A) of the 1986 Code is amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

SEC. 391. CERTAIN DISCHARGE OF DEBT INCOME NOT INCLUDED IN ADJUSTED BOOK INCOME.

(a) General Rule.—Paragraph (2) of section 56(f) of the 1986 Code (defining adjusted net book income) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) Exclusion of certain income from transfer of stock for debt.—In determining adjusted net book income, there shall not be taken into account any income resulting from the transfer of stock by the corporation issuing such stock to a creditor in satisfaction of its indebtedness. The preceding sentence shall apply only in the case of a debtor in a title 11 case (as defined in section 108(d)(2)) or to the extent the debtor is insolvent (as defined in section 108(d)(3))."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 392. TREATMENT OF CERTAIN BANK HOLDING COMPANIES.

(a) General Rule.—For purposes of subtitle A of the 1986 Code, the term "personal holding company income" shall not include any dividend received by a qualified bank holding company from a 25-percent owned bank during any taxable year ending in 1989 or 1990.

(b) $3,000,000 Limitation.—The aggregate amount excluded from the personal holding company income of any qualified bank holding company under subsection (a) for the taxable year shall not exceed $3,000,000.

(c) Qualified Bank Holding Company.—For purposes of this section, the term "qualified bank holding company" means any bank holding company (as defined in section 2(a) of the Bank Holding Company Act of 1956) if 80 percent or more (by value) of the assets of such company at all times during the taxable year consist of stock in 1 or more 25-percent owned banks.

(d) 25-Percent Owned Bank.—For purposes of this section, the term "25-percent owned bank" means any bank (as defined in section 581 of the 1986 Code) if at least 25 percent of the stock of such bank (by vote and value) is owned by the bank holding company.

SEC. 393. PROVISIONS RELATING TO PREVIOUSLY REQUIRED STUDIES.

(a) Repeal of Requirement for Certain Studies.—

(1) PIK study.—Section 6 of the Payment-in-Kind Tax Treatment Act of 1983 is hereby repealed.

(2) Accounting methods for inventory.—Section 238 of the Economic Recovery Tax Act of 1981 is hereby repealed.

(b) Changes in Due Dates for Certain Periodic Studies.—

(1) Reports on possessions corporations.—Effective for reports for calendar years after 1987, subsection (a) of section 441 of the Tax Reform Act of 1984 is amended—

(A) by striking out "1981" and inserting in lieu thereof "1988", and

(B) by striking out "second" and inserting in lieu thereof "fourth".

(2) Reports of FSC provisions.—Effective for reports for calendar years after 1989, subsection (a) of section 804 of the Tax Reform Act of 1984 is amended—

(A) by striking out "1985" and inserting in lieu thereof "1990", and

(B) by striking out "second" and inserting in lieu thereof "fourth".

TITLE IV—AMENDMENTS RELATING TO SOCIAL SECURITY ACT PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance and Related Provisions

SEC. 401. INTERIM DISABILITY BENEFITS IN CASES OF DELAYED FINAL DECISIONS.

(a) Disability Benefits Under Title II.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Interim Benefits in Cases of Delayed Final Decisions

"(h)(1) In any case in which an administrative law judge has determined after a hearing as provided under section 205(b) that an individual is entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability and the Secretary has not issued his final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month preceding the month in which such 110-day period expires and ending with the month preceding the month in which such final decision is issued.

"(2) For purposes of paragraph (1), in determining whether the 110-day period referred to in paragraph (1) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Secretary's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

"(3) Any benefits currently paid under this title pursuant to this subsection (for the months described in paragraph (1)) shall not be considered overpayments for any purpose of this title (unless payment of such benefits was fraudulently obtained), and such benefits shall not be treated as past-due benefits for purposes of section 206(b)(1).".

(b) Benefits Under Title XVI.—Section 1631(a) of such Act (42 U.S.C. 1383(a)) is amended by adding at the end the following new paragraph:

"(8)(A) In any case in which an administrative law judge has determined after a hearing as provided in subsection (c) that an individual is entitled to benefits based on disability or blindness under this title and the Secretary has not issued his final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month in which such 110-day period expires and ending with the month in which such final decision is issued.

"(B) For purposes of subparagraph (A), in determining whether the 110-day period referred to in subparagraph (A) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Secretary's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

"(C) Any benefits currently paid under this title pursuant to this paragraph (for the months described in subparagraph (A)) shall not be considered overpayments for any purposes of this title, unless payment of such benefits was fraudulently obtained.".

(c) Effective Date.—The amendments made by this section shall apply to determinations by administrative law judges of entitlement to benefits made after 180 days after the date of the enactment of this Act.

SEC. 402. APPLICATION OF EARNINGS TEST IN YEAR OF INDIVIDUAL'S DEATH.

(a) Year in Which Individual Would Have Attained Retirement Age but for the Individual's Death in Such Year Treated as a Year Throughout Which the Earnings Test for Individuals Who Have Attained Retirement Age Is Applicable.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)(3)) is amended by inserting "(or, but for the individual's death, would have attained)" after "who has attained".

(b) Elimination of the Short Taxable Year in the Year of Death for Purposes of the Earnings Test.—Paragraph (3) of section 203(f) of such Act is further amended—

(1) by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, notwithstanding section 211(e), the number of months in the taxable year in which an individual dies shall be 12."; and

(2) in the last sentence, by striking "preceding sentence" and inserting "first sentence of this paragraph".

(c) Effective Date.—The amendments made by this section shall apply to deaths after the date of the enactment of this Act.

SEC. 403. EXEMPTIONS FROM REDUCTION IN WINDFALL BENEFITS.

(a) In General.—Section 215(a)(7)(D) of the Social Security Act (42 U.S.C. 415(a)(7)(D)) is amended—

(1) by striking "30 years or more of coverage" in the first sentence and inserting "25 years or more of coverage";

(2) by striking "more than 25 years of coverage but less than 30 years of coverage" in the second sentence and inserting "more than 20 years of coverage but less than 25 years of coverage"; and

(3) by striking "29", "28", "27", and "26" (in clauses (i), (ii), (iii), and (iv)) and inserting "24", "23", "22", and "21", respectively.

(b) Effective Date.—The amendments made by subsection (a) shall apply to benefits payable for months after December 1988.

SEC. 404. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATIONS WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II.

(a) In General.—Section 202(n)(1) of the Social Security Act (42 U.S.C. 402(n)(1)) is amended by striking "or (18)" in the matter preceding subparagraph (A) and inserting "(18), or (19)".

(b) Time of Deportation.—Section 202(n) of such Act is further amended by adding at the end the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order became final.".

(c) Effective Date.—The amendments made by this section shall apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment of this Act, and only to benefits for months beginning (and deaths occurring) on or after such date.

SEC. 405. MODIFICATIONS IN THE TERM OF OFFICE OF PUBLIC MEMBERS OF THE BOARDS OF TRUSTEES OF THE SOCIAL SECURITY TRUST FUNDS.

(a) In General.—Sections 201(c), 1817(b), and 1841(b) of the Social Security Act (42 U.S.C. 401(c), 1395i(b), 1395t(b)) are each amended by inserting after the first sentence the following: "A member of the Board of Trustees serving as a member of the public and appointed to fill a vacancy occurring during a term shall be appointed only for the remainder of such term. A member appointed as a member of the public may serve after the expiration of such member's term until such member's successor has taken office.".

(b) Effective Date.—The amendments made by this section shall apply to members of the Boards of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, of the Federal Hospital Insurance Trust Fund, and of the Federal Supplementary Medical Insurance Trust Fund serving on such Boards of Trustees as members of the public on or after the date of the enactment of this Act.

SEC. 406. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(iii), by striking "June 1989" and inserting "June 1990"; and

(2) in paragraph (3)(B), by striking "January 1, 1989" and inserting "January 1, 1990".

SEC. 407. EXEMPTION FROM SOCIAL SECURITY FOR EMPLOYERS AND EMPLOYEES WHO ARE BOTH MEMBERS OF CERTAIN RELIGIOUS FAITHS.

(a) Exemption From Coverage Under Social Security.—

(1) In general.—Subchapter C of chapter 21 of the Internal Revenue Code of 1986 (general provisions under Federal Insurance Contributions Act) is amended by redesignating section 3127 as section 3128, and by inserting after section 3126 the following new section:

"SEC. 3127. EXEMPTION FOR EMPLOYERS AND THEIR EMPLOYEES WHERE BOTH ARE MEMBERS OF RELIGIOUS FAITHS OPPOSED TO PARTICIPATION IN SOCIAL SECURITY ACT PROGRAMS.

"(a) In General.—Notwithstanding any other provision of this chapter (and under regulations prescribed to carry out this section), in any case where—

"(1) an employer is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section, and has filed and had approved under subsection (b) an application (in such form and manner, and with such official, as may be prescribed by such regulations) for an exemption from the taxes imposed by section 3111, and

"(2) an employee of such employer who is also a member of such a religious sect or division and an adherent of its established tenets or teachings has filed and had approved under subsection (b) an identical application for exemption from the taxes imposed by section 3101,

such employer shall be exempt from the taxes imposed by section 3111 with respect to wages paid to each of his employees who meets the requirements of paragraph (2) and each such employee shall be exempt from the taxes imposed by section 3101 with respect to such wages paid to him by such employer.

"(b) Approval of Application.—An application for exemption filed by an employer under subsection (a)(1) or by an employee under subsection (a)(2) shall be approved only if—

"(1) such application contains or is accompanied by the evidence described in section 1402(g)(1)(A) and a waiver described in section 1402(g)(1)(B),

"(2) the Secretary of Health and Human Services makes the findings (with respect to such sect or division) described in section 1402(g)(1) (C), (D), and (E), and

"(3) no benefit or other payment referred to in section 1402(g)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) to the individual filing the application at or before the time of such filing.

"(c) Effective Period of Exemption.—An exemption granted under this section to any employer with respect to wages paid to any of his employees, or granted to any such employee, shall apply with respect to wages paid by such employer during the period—

"(1) commencing with the first day of the first calendar quarter, after the quarter in which such application is filed, throughout which such employer or employee meets the applicable requirements specified in subsections (a) and (b), and

"(2) ending with the last day of the calendar quarter preceding the first calendar quarter thereafter in which (A) such employer or the employee involved ceases to meet the applicable requirements of subsection (a), or (B) the sect or division thereof of which such employer or employee is a member is found by the Secretary of Health and Human Services to have ceased to meet the requirements of subsection (b)(2).".

(2) Clerical amendment.—The table of sections for such subchapter C of such Code is amended by striking the last item and inserting the following:

"Sec. 3127. Exemption for employers and their employees where both are members of religious faiths opposed to participation in Social Security Act programs.

"Sec. 3128. Short title.".

(b) Conforming Exemption From Eligibility for Benefits.—Section 202(v) of the Social Security Act (42 U.S.C. 402(v)) is amended—

(1) by inserting "(1)" after "(v)";

(2) by inserting "and subject to paragraph (3)," after "title,";

(3) by striking "waiver; except that" and all that follows and inserting "waiver."; and

(4) by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, and subject to paragraph (3), in the case of any individual who files a waiver pursuant to section 3127 of the Internal Revenue Code of 1986 and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver.

"(3) If, after an exemption referred to in paragraph (1) or (2) is granted to an individual, such exemption ceases to be effective, the waiver referred to in such paragraph shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on—

"(A) his wages for and after the calendar year following the calendar year in which occurs the failure to meet the requirements of section 1402(g) or 3127 on which the cessation of such exemption is based, and

"(B) his self-employment income for and after the taxable year in which occurs such failure.".

(c) Conforming Amendments Removing Time Limit on SECA Exemption Applications.—Section 1402(g) of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraphs (2) and (4); and

(2) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(d) Effective Dates.—The amendments made by subsection (a) shall apply to wages paid after December 31, 1988. The amendments made by subsection (b) shall apply to benefits paid for (and items and services furnished in) months after December 1988. The amendments made by subsection (c) shall apply to applications for exemptions filed on or after the date of the enactment of this Act.

SEC. 408. BLOOD DONOR LOCATOR SERVICE.

(a) Explicit Authorization of Use of Social Security Account Numbers to Assist in Identification of Blood Donors.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i) It is the policy of the United States that—

"(I) any State (or any political subdivision of a State) and any authorized blood donation facility may utilize the social security account numbers issued by the Secretary for the purpose of identifying blood donors, and

"(II) any State (or political subdivision of a State) may require any individual who donates blood within such State (or political subdivision) to furnish to such State (or political subdivision), to any agency thereof having related administrative responsibility, or to any authorized blood donation facility the social security account number (or numbers, if the donor has more than one such number) issued to the donor by the Secretary.

"(ii) If and to the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after such date, be null, void, and of no effect.

"(iii) For purposes of this subparagraph—

"(I) the term 'authorized blood donation facility' means an entity described in section 1141(h)(1)(B), and

"(II) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

(b) Establishment of Blood Donor Locator Service.—

(1) In general.—Part A of title XI of such Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"BLOOD DONOR LOCATOR SERVICE

"Sec. 1141. (a) In General.—The Secretary shall establish and conduct a Blood Donor Locator Service, under the direction of the Commissioner of Social Security, which shall be used to obtain and transmit to any authorized person (as defined in subsection *(h)(1)) the most recent mailing address of any blood donor who, as indicated by the donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, has or may have the virus for acquired immune deficiency syndrome, in order to inform such donor of the possible need for medical care and treatment.*

"(b) PROVISION OF ADDRESS INFORMATION.—Whenever the Secretary receives a request, filed by an authorized person (as defined in subsection (h)(1)), for the mailing address of a donor described in subsection (a) and the Secretary is reasonably satisfied that the requirements of this section have been met with respect to such request, the Secretary shall promptly undertake to provide the requested address information from—

"(1) the files and records maintained by the Social Security Administration, and

"(2) such files and records obtained pursuant to section 6103(m)(6) of the Internal Revenue Code of 1986 as the Secretary considers necessary to comply with such request.

"(c) MANNER AND FORM OF REQUESTS.—A request for address information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe, shall include the blood donor's social security account number, and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

"(d) PROCEDURES AND SAFEGUARDS.—Any authorized person shall, as a condition for receiving address information from the Blood Donor Locator Service—

"(1) establish and maintain, to the satisfaction of the Secretary, a system for standardizing records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of address information made by or to it,

"(2) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such address information and all related blood donor records shall be stored,

"(3) restrict, to the satisfaction of the Secretary, access to the address information and related blood donor records only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this section,

"(4) provide such other safeguards which the Secretary determines (and which the Secretary prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the address information and related blood donor records,

"(5) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by the authorized person for ensuring the confidentiality of address information and related blood donor records required under this subsection, and

"(6) destroy such address information and related blood donor records, upon completion of their use in providing the notification for which the information was obtained, so as to make such information and records undisclosable.

If the Secretary determines that any authorized person has failed to, or does not, meet the requirements of this subsection, the Secretary may, after any proceedings for review established under subsection (f), take such actions as are necessary to ensure such requirements are met, including refusing to disclose address information to such authorized person until the Secretary determines that such requirements have been or will be met. In the case of any authorized person who discloses any address information received pursuant to this section or any related blood donor records to any agent, this subsection shall apply to such authorized person and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such authorized person). The Secretary shall destroy all related blood donor records in the possession of the Department of Health and Human Services upon completion of their use in transmitting mailing addresses as required under subsection (a), so as to make such records undisclosable.

"(e) ARRANGEMENTS WITH STATE AGENCIES AND AUTHORIZED PERSONS.—The Secretary, in carrying out the Secretary's duties and functions under this section, shall enter into arrangements—

"(1) with State agencies to accept and to transmit to the Secretary requests for address information under this section and to accept and to transmit such information to authorized persons, and

"(2) with State agencies and authorized persons otherwise to cooperate with the Secretary in carrying out the purposes of this section.

"(f) PROCEDURES FOR ADMINISTRATIVE REVIEW.—The Secretary shall by regulation prescribe procedures which provide for administrative review of any determination that any authorized person has failed to meet the requirements of this section.

"(g) UNAUTHORIZED DISCLOSURE OF INFORMATION.—Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of address information or related blood donor records acquired or maintained by or under the Secretary, or pursuant to this section by any authorized person, or of information derived from any such address information or related blood donor records, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such address information or related blood donor record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in paragraph (4) of such subsection.

"(h) DEFINITIONS.—For purposes of this section—

"(1) AUTHORIZED PERSON.—The term 'authorized person' means—

"(A) any agency of a State (or of a political subdivision of a State) which has duties or authority under State law relating to the public health or otherwise has the duty or authority under State law to regulate blood donations, and

"(B) any entity engaged in the acceptance of blood donations which is licensed or registered by the Food and Drug Administration in connection with the acceptance of such blood donations, and which, in accordance with such regulations as may be prescribed by the Secretary, provides for—

"(i) the confidentiality of any address information received pursuant to this section and related blood donor records,

"(ii) blood donor notification procedures for individuals with respect to whom such information is requested and a finding has been made that they have or may have the virus for acquired immune deficiency syndrome, and

"(iii) counseling services for such individuals who have been found to have such virus.

"(2) RELATED BLOOD DONOR RECORD.—The term 'related blood donor record' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with respect to whom a request for address information has been made pursuant to this section.

"(3) STATE.—The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

(2) TIME LIMIT FOR ESTABLISHMENT OF BLOOD DONOR LOCATOR SERVICE.—The Secretary of Health and Human Services shall establish the Blood Donor Locator Service pursuant to section 1141 of the Social Security Act not later than 180 days after the date of the enactment of this Act.

(c) DISCLOSURE OF TAXPAYER ADDRESSES TO BLOOD DONOR LOCATOR SERVICE.—

(1) IN GENERAL.—Subsection (m) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(6) BLOOD DONOR LOCATOR SERVICE.—

"(A) IN GENERAL.—Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome, in order to inform such donors of the possible need for medical care and treatment.

"(C) SAFEGUARDS.—The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.".

(2) SAFEGUARDS.—

(A) IN GENERAL.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended—

(i) in subparagraph (F)—

(I) by striking "manner; and" at the end of clause (i) and inserting "manner,";

(II) by adding "and" at the end of clause (ii)(III); and

(III) by inserting after clause (ii)(III) the following new clause:

"(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;";

(ii) in the last sentence, by striking "subsection (m)(2) or (4)" and inserting "subsection (m)(2), (4), or (6)"; and

(iii) by adding at the end the following new sentence: "For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term 'return information' includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).".

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2) or (4)" and inserting "(m)(2), (4), or (6)".

SEC. 409. PAYMENT OF LUMP SUM DEATH PAYMENTS TO LEGAL REPRESENTATIVES OF WIDOWS AND WIDOWERS WHO DIE BEFORE RECEIVING PAYMENT.

(a) IN GENERAL.—Section 202(i) of the Social Security Act (42 U.S.C. 402(i)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking "death." and inserting "death; or";

(3) by inserting after paragraph (2) the following new paragraph:

"(3) if no person qualifies for payment under paragraphs (1) and (2), and such amount is not payable under this subsection to any widow or widower (within the meaning of the first sentence of this subsection or within the meaning of paragraph (1)) solely because such widow or widower dies before receiving payment (including negotiating any check for such payment), to the legal representative (other than a State or a political subdivision thereof) of the estate of such widow or widower.";

(4) in the third sentence, by inserting "(or to the legal representative of the estate thereof pursuant to paragraph (3))" after "any person", and by inserting "or, in the case of a widow or widower referred to in paragraph (3), by such person's estate" after "competent)"; and

(5) in the last sentence, by inserting "(or to the legal representative of the estate thereof pursuant to paragraph (3))" after "any person", and by inserting "or, in the case of a widow or widower referred to in paragraph (3), by such person's estate," after "competent)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to deaths (of widows and widowers referred to in section 202(i)(3) of the Social Security Act (as added by this Act)) occurring on or after January 1, 1989.

SEC. 410. REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER AS A CONDITION FOR RECEIPT OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i) in the matter preceding subclause (I), by inserting "and subparagraph (E)" after "subparagraph (A)";

(2) by redesignating subparagraph (E) (as redesignated by section 408(a)(1)) as subparagraph (F); and

(3) by inserting after subparagraph (D) (as added by section 408(a)(2)) the following new subparagraph:

"(E) The Secretary shall require, as a condition for receipt of benefits under this title, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Secretary or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits entitlement to which commences after the sixth month following the month in which this Act is enacted.

SEC. 411. SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN REDUCED WIDOW'S AND WIDOWER'S BENEFITS.

(a) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widow's insurance benefits,

"(ii) was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by her with the Secretary, in accordance with regulations prescribed by the Secretary, in which she elects to receive widow's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62.".

(b) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widower's insurance benefits,

"(ii) was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by him with the Secretary, in accordance with regulations prescribed by the Secretary, in which he elects to receive widower's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which he attains age 62.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable under section 202(e) or section 202(f) of the Social Security Act on the basis of the wages and self-employment income of an individual who dies after the month in which this Act is enacted.

SEC. 412. CALCULATION OF THE WINDFALL BENEFIT GUARANTEE AMOUNT BASED ON PENSION AMOUNTS PAYABLE IN THE FIRST MONTH OF CONCURRENT ENTITLEMENT RATHER THAN CONCURRENT ELIGIBILITY.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking "with respect to the initial month in which the individual becomes eligible for such benefits";

(2) in the second sentence of subparagraph (B)(i), by striking "eligibility for old-age or disability insurance benefits" and inserting "concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits"; and

(3) in subparagraph (C), by striking clause (iii) and redesignating clause (iv) as clause (iii).

(b) CONFORMING AMENDMENT.—Section 215(d)(5)(ii) of such Act (42 U.S.C. 415(d)(5)(ii)) is amended by striking "his or her eligibility for old-age or disability insurance benefits" and inserting "such concurrent entitlement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits based on applications filed after the month in which this Act is enacted.

SEC. 413. CONSOLIDATION OF REPORTS ON CONTINUING DISABILITY REVIEWS.

(a) IN GENERAL.—Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)) is amended by striking "semiannually" and inserting "annually".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports required to be submitted after the date of the enactment of this Act.

SEC. 414. EXCLUSION OF EMPLOYEES SEPARATED FROM EMPLOYMENT BEFORE JANUARY 1, 1989, FROM RULE INCLUDING AS WAGES TAXABLE UNDER FICA CERTAIN PAYMENTS FOR GROUP-TERM LIFE INSURANCE.

(a) IN GENERAL.—Subsection (b) of section 9003 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-287) is amended by striking "December 31, 1987." and inserting "December 31, 1987, except that such amendments shall not apply with respect to payments by the employer (or a successor of such employer) for group-term life insurance for such employer's former employees who separated from employment with the employer on or before December 31, 1988, to the extent that such payments are not for coverage for any such employee for any period for which such employee is employed by such employer (or a successor of such employer) after the date of such separation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if such amendment had been included or reflected in section 9003(b) of the Omnibus Budget Reconciliation Act of 1987 at the time of its enactment.

SEC. 415. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) The last paragraph of section 211(a) of the Social Security Act (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) is amended by striking "Any income" and inserting "(E) For purposes of this section, any income", and by moving such paragraph as so amended to the end of section 203(f)(5) of such Act.

(2) The last paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if such amendments had been included or reflected in section 9022 of the Omnibus Budget Reconciliation Act of 1987 at the time of its enactment.

SEC. 416. CLARIFICATION OF APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) CLARIFICATION OF TREATMENT OF FOREIGN SERVICE RETIREES.—Subsections (b)(4)(A)(ii)(II), (c)(2)(A)(ii)(II), (e)(7)(A)(ii)(II), (f)(2)(A)(ii)(II), and (g)(4)(A)(ii)(II) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4)(A)(ii)(II), (c)(2)(A)(ii)(II), (e)(7)(A)(ii)(II), (f)(2)(A)(ii)(II), (g)(4)(A)(ii)(II)) are each amended by striking "chapter 84 of title 5, United States Code," and inserting "the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980".

(b) TREATMENT OF EMPLOYEES WHOSE FEDERAL EMPLOYMENT TERMINATED AFTER MAKING AN ELECTION INTO SOCIAL SECURITY COVERAGE BUT BEFORE THE EFFECTIVE DATE OF THE ELECTION.—Subsections (b)(4)(A)(i), (c)(2)(A)(i), (e)(7)(A)(i), (f)(2)(A)(i), and (g)(4)(A)(i) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4)(A)(i), (c)(2)(A)(i), (e)(7)(A)(i), (f)(2)(A)(i), (g)(4)(A)(i)) shall not apply with respect to monthly periodic benefits of any individual based solely on service which was performed while in the service of the Federal Government if—

(1) such person made, before January 1, 1988, an election pursuant to law to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (or such person made such an election on or after January 1, 1988, and before July 1, 1988, pursuant to regulations of the Office of Personnel Management relating to belated elections and correction of administrative errors (5 CFR 846.204) as in effect on the date of the enactment of this Act), and

(2) such service terminated before the date on which such election became effective.

(c) EFFECTIVE DATE.—The preceding provisions of this section (including the amendments made by subsection (a)) shall apply as if they had been included or reflected in the provisions of section 9007 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-289) at the time of its enactment.

SEC. 417. AMENDMENTS TO RULES GOVERNING SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYMENT.

(a) CLARIFICATION OF AUTHORITY TO MAKE DETERMINATIONS CONCERNING THE SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYEES.—

(1) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(p)(1) of the Social Security Act (42 U.S.C. 405(p)(1)) is amended—

(A) by striking "whether an individual has performed such service, the periods of such service," in the first sentence;

(B) by striking "which constitute wages under the provisions of section 209" in the first sentence;

(C) by striking "wages were" in the first sentence and inserting "remuneration was"; and

(D) by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under sections 209 and 210 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.".

(2) AMENDMENTS TO FICA.—Section 3122 of the Internal Revenue Code of 1986 (relating to Federal service) is amended—

(A) by striking "the determination whether an individual has performed service which constitutes employment as defined in section 3121(b)," in the first sentence;

(B) by striking "which constitutes wages as defined in section 3121(a)" in the first sentence; and

(C) by inserting after the first sentence the following new sentence: "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under subsections (a) and (b) of section 3121 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to determinations relating to service commenced in any position on or after the date of the enactment of this Act.

(b) CLARIFICATION OF TREATMENT OF SERVICE COVERED UNDER THE FOREIGN SERVICE PENSION SYSTEM.—

(1) AMENDMENT TO THE SOCIAL SECURITY ACT.—Subparagraph (H) of section 210(a)(5) of the Social Security Act (42 U.S.C. 410(a)(5)(H)) is amended to read as follows:

"(H) service performed by an individual—

"(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

"(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;".

(2) AMENDMENT TO FICA.—Subparagraph (H) of section 3121(b)(5) of the Internal Revenue Code of 1986 (relating to employment) is amended to read as follows:

"(H) service performed by an individual—

"(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

"(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply as if such amendments had been included or reflected in section 304 of the Federal Employees' Retirement System Act of 1986 (100 Stat. 606) at the time of its enactment.

(c) CONTINUATION OF SOCIAL SECURITY COVERAGE OF FEDERAL SERVICE AFTER ANY INITIAL COVERAGE OF SUCH SERVICE.—

(1) AMENDMENT TO THE SOCIAL SECURITY ACT.—Paragraph (5) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(5)) is amended, in the matter following subparagraph (B)(ii), by inserting after "with respect to" the following: "any such service performed on or after any date on which such individual performs".

(2) AMENDMENT TO FICA.—Paragraph (5) of section 3121(b) of the Internal Revenue Code of 1986 (relating to employment) is amended, in the matter following subparagraph (B)(ii), by inserting after "with respect to" the following: "any such service performed on or after any date on which such individual performs".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any individual only upon the performance by such individual of service described in subparagraph (C), (D), (E), (F), (G), or (H) of section 210(a)(5) of the Social Security Act (42 U.S.C. 410(a)(5)) on or after the date of the enactment of this Act.

SEC. 418. TECHNICAL CORRECTIONS IN OASDI PROVISIONS.

(a) TECHNICAL CORRECTIONS.—(1) Section 205(c)(2)(C)(iii) of the Social Security Act is amended by striking "the Social Security Act" and inserting "this Act".

(2) Section 211(a)(7) of such Act (as amended by section 9023(b)(1) of Public Law 100-203) is amended by inserting "of the Internal Revenue Code of 1986" before the semicolon at the end.

(3)(A) Subsection (d) of section 3121 of the Internal Revenue Code of 1986 (as amended by section 9002(b)(2) of Public Law 99-509) is amended—

(i) by redesignating paragraph (3) as paragraph (4), by striking "; or" at the end of such paragraph and inserting a period, and by moving such paragraph (as so redesignated and amended) to the end of the subsection; and

(ii) by redesignating paragraph (4) as paragraph (3), and by striking the period at the end and inserting "; or".

(B) Section 3306(i) of such Code (as amended by section 9002(b)(2) of Public Law 99-509) is amended by striking "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" and inserting "paragraph (4) and subparagraphs (B) and (C) of paragraph (3)".

(4) Section 13303(c)(2) of Public Law 99-272 is amended—

(A) by striking "3121(b)" and inserting "312(b)";

(B) by striking "is amended" and inserting ", and paragraph (20) of section 210(a) of the Social Security Act, are each amended"; and

(C) by striking "after 'service' " and inserting "before 'performed' ".

(5) Section 9006(b)(1) of Public Law 100-203 is amended by striking "3111(a)" and inserting "3111".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.

Subtitle B—Public Assistance and Unemployment Compensation

SEC. 421. EXTENSION OF MORATORIUM ON PENALTIES.

(a) Moratorium Extended.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end thereof the following:

"(k)(1) During the 12-month period beginning on July 1, 1988 (hereafter in this subsection referred to as the 'moratorium period'), the Secretary shall not impose any reductions in payments to States pursuant to subsection (i) (or prior regulations), or pursuant to any comparable provision of law relating to the programs under this part in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

"(2) During the moratorium period—

"(A) the Secretary and the States shall continue to operate the quality control systems in effect under this part, and to calculate the error rates under the provisions referred to in paragraph (1), including the process of requesting and reviewing waivers; and

"(B) the Departmental Grant Appeals Board shall, notwithstanding paragraph (1), review disallowances for fiscal year 1981 and thereafter and hear appeals with respect thereto (but collection of disallowances owed as a result of Departmental Grant Appeals Board decisions shall not occur).

"(3) Not later than February 15, 1989, the Secretary shall submit to the Congress recommendations to revise the quality control systems under this part.".

(b) Conforming Amendment.—Subparagraph (A) of section 12302(c)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) is amended by striking "titles IV-A and" and inserting "title".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1988.

SEC. 422. SELF-EMPLOYMENT DEMONSTRATION PROJECT.

Section 9152(g) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended—

(1) in paragraph (1), by striking out "two" in the first sentence and inserting in lieu thereof "three"; and

(2) in paragraph (2), by striking out "four" and inserting in lieu thereof "six".

SEC. 423. DISREGARD OF CERTAIN HOUSING ASSISTANCE PAYMENTS IN DETERMINING INCOME AND RESOURCES UNDER SSI PROGRAM.

(a) Income.—Section 1612(b) of the Social Security Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.".

(b) Resources.—Section 1613(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the value of assistance referred to in section 1612(b)(14), paid with respect to the dwelling unit occupied by such individual (or such individual and spouse).".

(c) Effective Date.—The amendments made by this section shall be effective as though they had been included in section 162 of the Housing and Community Development Act of 1987 at the time of its enactment.

SEC. 424. FOSTER CARE INDEPENDENT LIVING INITIATIVES.

(a) Extension of Independent Living Program.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) by striking "1987 and 1988" in subsections (a) and (e)(1) and inserting "1987, 1988, 1989";

(2) by striking "for fiscal year 1988" and all that follows in subsection (c) and inserting "for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to January 1 of such fiscal year.";

(3) by striking "Not later than March 1, 1988" in subsection (g)(1) and inserting "Not later than the first January 1 following the end of each fiscal year";

(4) by inserting "during such fiscal year" in subsection (g)(1) after "carried out";

(5) by striking "(2) Not later than July 1, 1988," in subsection (g)(2) and inserting the following:

"(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

"(B) Not later than March 1, 1989,"; and

(6) by striking "the fiscal year 1987" in subsection (g)(2) and inserting "fiscal years 1987 and 1988".

(b) Permission to Expend Unobligated Funds Appropriated for 1987 in 1989.—Subsection (f) of section 477 of such Act (42 U.S.C. 677(f)) is amended by inserting after and below paragraph (3) the following:

"Notwithstanding paragraph (3), payments made to a State under this section for fiscal year 1987 and unobligated may be expended by such State in fiscal year 1989.".

(c) Inclusion in Independent Living Program of Non-AFDC Foster Care Children.—Subsection (a) of section 477 of such Act (42 U.S.C. 677(a)) is amended—

(1) by inserting "(1)" before "Payments";

(2) by striking "children" and all the follows through "age 16," and inserting "children described in paragraph (2) who have attained age 16"; and

(3) by adding at the end the following new paragraph:

"(2) A program established and carried out under paragraph (1)—

(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part, and

(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State.".

(d) Inclusion in Independent Living Program of Certain Former Foster Care Children.—Paragraph (2) of section 477(a) of the Social Security Act (42 U.S.C. 677(a)(2)) (as added by subsection (c) of this section) is further amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) may at the option of the State also include any child to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.".

(e) Determination of Services Needed for Transition to Independent Living.—Subparagraph (C) of section 475(5) of such Act (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" before the semicolon.

(f) Limitation on Use of Funds.—Paragraph (3) of section 477(e) of such Act (42 U.S.C. 677(e)(3)) is amended by adding at the end the following: "Amounts payable under this section may not be used for the provision of room or board.".

(g) Effective Dates.—(1) The amendments made by subsections (a), (b), and (e) shall take effect on October 1, 1988.

(2) The amendments made by subsections (c), (d), and (f) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Murtha] having assumed the chair, Mr. Hayes of Louisiana, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, pursuant to House Resolution 507, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

□ 1345

The SPEAKER pro tempore (Mr. Murtha). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were— yeas 380, nays 25, not voting 26, as follows:

[Roll No. 266]

YEAS—380

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—25

Bliley
Burton
Crane
Dannemeyer
Dornan (CA)
Dreier
Fields
Frank
Gallegly
Gregg
Hefley
Hertel
Hubbard
Hughes
Hyde
Livingston
Lloyd
Mack
Meyers
Moorhead
Murphy
Parris
Smith, Denny (OR)
Stump
Swindall

NOT VOTING—26

Barnard
Berman
Biaggi
Boulter
Brooks
Bustamante
Clement
Dorgan (ND)
Dowdy
Espy
Ford (TN)
Gordon
Jones (TN)
Kemp
Kolter
Levine (CA)
Lott
MacKay
Mica
Molinari
Nowak
Ortiz
Quillen
Spence
Taylor
Vander Jagt

☐ 1405

Mr. PORTER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4333, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE REPORTS ON H.R. 4526, ADDITION TO MANASSAS NATIONAL BATTLEFIELD PARK, AND H.R. 4338, AMENDING MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT OF 1972

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until 5 p.m., Friday, August 5, 1988, to file the committee reports on the following bills:

H.R. 4526. A bill to provide for the addition of approximately 600 acres to the Manassas National Battlefield Park; and

H.R. 4338. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to impose special fees on the ocean disposal of sewage sludge, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4396

Mrs. ROUKEMA. Mr. Speaker, due to an inadvertent reporting error, my name was added as a cosponsor of H.R. 4396. While I am considering the provisions of this measure, I must ask unanimous consent that my name be removed as a cosponsor at this time.

The SPEAKER. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1467, ENDANGERED SPECIES ACT AMENDMENTS OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 1467, to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

The Chair hears none, and appoints the following conferees: Messrs. JONES of North Carolina, STUDDS, LOWRY of Washington, TAUZIN, ORTIS, DAVIS of Michigan, YOUNG of Alaska, and FIELDS.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE REPORTS ON H.R. 2999, ELEPHANT PROTECTION ACT, AND H.R. 5141, TEMPORARY DELAY IN SEA TURTLE CONSERVATION RULES

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until 5 p.m., Friday, August 5, 1988, to file reports on H.R. 2999, the Elephant Protection Act, and H.R. 5141, temporary delay in sea turtle conservation rules.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE REPORT ON H.R. 4118, PUBLIC TELECOMMUNICATIONS ACT OF 1988

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until 5 p.m., Friday, August 5, 1988, in which to file a report on H.R. 4118, the Public Telecommunications Act of 1988.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Reserving the right to object, Mr. Speaker, has this been checked with the minority?

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, this has been checked by the minority and approved by the minority.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DESIGNATION OF THE HONORABLE NORMAN Y. MINETA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH AUGUST 5, 1988

The SPEAKER laid before the House the following communication:

WASHINGTON, DC, *August 4, 1988.*

I hereby designate the Honorable Norman Y. Mineta to act as Speaker pro tempore and to sign enrolled bills and joint resolutions through August 5, 1988.

JIM WRIGHT,
Speaker of the House of Representatives.

The SPEAKER. Without objection, the designation is agreed to.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my distinguished colleague, the gentleman from Washington, to respond to my inquiry.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding to me.

Mr. Speaker, we have concluded the program for today and for the week. The House will not be in session tomorrow.

On Monday, the House will meet at noon and consider 30 bills under suspension of the rules, as follows:

H.R. 1149, to amend the Foreign Sovereign Immunities Act with respect to admiralty jurisdiction;

H.R. 3763, to amend the Foreign Sovereign Immunities Act with respect to certain activities of foreign governments;

H.R. 4458, Parimutuel Licensing Simplification Act of 1988;

H.R. 1158, to concur in Senate amendments to the fair housing amendments;

H.R. 5037, Refugee Resettlement Extension Act of 1988;

H.R. 4478, Deceptive Mailings Prevention Act of 1988;

S. 2200, to designate National Hispanic Heritage Month;

H.R. 4665, to allow the obsolete submarine Growler to be transferred to the Intrepid Sea-Air Space Museum in New York;

H.R. 4952, to require that all contributions in elections for Federal office be subject to the Federal Election Campaign Act of 1971;

H.R. 4843, Abandoned Infants Assistance Act;

S. 2561, technology-related assistance to individuals with disabilities;

H. Con. Res. 61, volunteers and the importance of volunteerism;

H.R. 3621, California Indian land transfers;

H.R. 5010, Water Resources Research Act extension;

H.R. 4754, Pennsylvania Avenue Development Corporation authorization;

H.R. 4777, to modify the boundary of the Guadalupe Mountains National Park;

H.R. 4180, to establish a mining experimental program on critical minerals;

S. 1360, Indian Financing Act amendments;

H.R. 4354, Oklahoma Wilderness;

H.R. 4060, Emergency Hunger Relief Act of 1988;

H.J. Res. 620, to express support for the restoration of full and genuine democracy in Chile;

H.J. Res. 602, in support of the restoration of a free and independent Cambodia;

S. Con. Res. 120, urging Iran to respect the human rights of members of the Baha'i faith;

H. Res. 514, in support of a peaceful negotiated settlement to the Cyprus dispute;

H. Res. 484, to encourage a genuine democracy in Pakistan;

H.R. 593, to award a gold medal to Andrew Wyeth;

H.R. 1270, to award a gold medal to Mrs. Jesse Owens;

H.R. 2999, Elephant Protection Act;

H.R. 5141, to delay temporarily certain regulations relating to sea turtle conservation; and

S. 1979, to authorize Gray's Harbor National Wildlife Refuge.

On Tuesday, August 9, the House will meet at noon to consider H.R. 5090, legislation to implement the United States-Canada Free Trade Agreement, with 3 hours of debate, and the conference report on H.R. 4800, the HUD appropriations for fiscal year 1989, and recorded votes on suspensions postponed from Monday, August 8.

On Wednesday, August 10, the House meets at 10 a.m. to consider H.R. 4526, the Manassas National Battlefield Park addition, subject to a rule, and an unnumbered bill, the omnibus drug abuse bill, subject to a rule.

On Thursday, August 11, the House will meet at 10 a.m. and consider H.R. 1580, the Anti-Apartheid Act Amendments of 1988, subject to a rule.

At the conclusion of business on Thursday, August 11, the House will begin its August/Labor Day district work period, and will adjourn until noon on Wednesday, September 7.

Conference reports, of course, may be brought up at any time and any further program will be announced later.

□ 1415

Mr. MICHEL. I thank the gentleman. Am I to assume that since the recorded votes on suspensions postponed from Monday could come later in the day on Tuesday after consideration of the Canada free trade agreement debate and HUD appropriations, or would those votes come to begin the session?

Mr. FOLEY. No. We would schedule the votes on suspensions after the conclusion of the free trade agreement and the conference report on housing and urban development.

Mr. MICHEL. Then as the gentleman well knows, we discussed consideration of the drug abuse bill. The Speaker was very anxious to try to finish it up even next week, but we had a problem on our side with several of our key players in the drug legislation also being key players in our platform considerations, and out of deference to their exercising those other responsibilities, we would confine the consideration of that to simply the rule and several hours, and we do not know for sure, but several hours of general debate. Is that not correct? That could leave some of the general debate, a little bit at least, prior to consideration of the amendments when we return?

Mr. FOLEY. Yes. The gentleman from Illinois has made clear to this side that several members of the minority would be expected to be very active with respect to the drug legislation and at the same time have responsibility, as he mentioned, with your platform considerations in New Orleans. We will schedule the rule and partial debate only on the drug bill on Wednesday. We assume that most of the general debate will probably be concluded on Wednesday, but I would say at least an hour will be available when we return for the purpose of final general debate prior to the bill being open for amendment.

Mr. MICHEL. I thank the gentleman. Furthermore, the gentleman will recall our having a discussion several days ago about the possibility of action on one of our Members whose trial the jury was sequestered for and, of course, earlier when the Ethics Committee had recommended expulsion there were those of us who thought with a pending trial the gentleman ought to at least be accorded the courtesy of deferring action until such time as there was some resolution of that trial. I understand today a decision has been rendered, and then that automatically triggers part of the discussion the gentleman and I had. I wonder if he would be willing to share with the Members what he perceives to be the scenario for resolution of that matter so far as the House is concerned.

Mr. FOLEY. Mr. Speaker, we intend to call up the matter of Representative BIAGGI of New York on September 7, the day the House returns from the district work period.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I have a question of the majority leader, the same question as I had asked before regarding minimum wage. As the majority leader knows, in March of this year the Committee on Education and Labor passed out a minimum wage bill. In April the Committee on Rules, as far as we can tell, took a unique step or a previously unprecedented step of requiring that Members file their proposed amendments with the Committee on Rules. This was in April of this year. The letter also said that the Committee on Rules would meet on the subject the following week. It has been 4 months now.

This is a major watershed kind of legislation. It is still unclear as to when this bill will come to the House floor. I have inquired of the majority leader three times using this forum on the House floor.

I have three questions about it: The first is: When will we likely see minimum wage on the floor this session? The second is: How much notice will House Members have on that schedule? The third is: Will it be brought up under an open rule so that Members are able to offer amendments which are germane to the bill?

Mr. FOLEY. In response to the gentleman, I would say it will be brought up, in my opinion, in September, in any case, prior to the conclusion of the Congress, the final adjournment, which as the gentleman knows is scheduled for October 5. The Members will be given the notice that is usually given of the announcement of the previous week, and as far as the Committee on Rules is concerned, it has not yet rendered a rule for that bill. I am not able to say to the gentleman whether the rule will be open or will be a modified open rule.

Mr. BARTLETT. The issue really is with regard to a rule. The minimum wage has been considered by this Congress, or by this House, seven times since 1938. Each time it has been under an open rule with only one exception, in which case all amendments relating to the rate and the effective date were available, but the other six times were a completely open rule.

Will the leadership be making a recommendation to the Committee on Rules as far as consideration of minimum wage?

Mr. FOLEY. I will advise the gentleman that if we do make recommendation to the Committee on Rules, they will hear it first. I will not announce it on the floor as a way of communicating with the Committee on Rules, nor would the Speaker, but in any event the Members will have the same notice, and it will be a timely notice, of both the decision on scheduling and any action taken by the Committee on Rules. As the gentleman knows, the Committee on Rules does afford hearings to every Member of Congress, the opportunity to appear and state the case for their view, as the gentleman has repeatedly stated his view that it should be an open rule.

Mr. BARTLETT. I do want to call the attention of the House and the majority leader to one additional item on the rule, in addition to being an open rule, that there is a subject with regard to minimum wage that has been widely debated in the country as a whole, and in the Congress as being germane to the subject, although it is not technically germane to this bill, because it affects another committee, and that is the expansion of the earned income tax credit as an alternative to the minimum wage legislation.

It seems to me, and I would just say on the record, and it will be said by many others on both sides of the aisle between now and then, that it is important that Members have an opportunity to vote on that approach to minimum wage, and in addition to the other votes on other germane amendments to the minimum wage bill.

Mr. MICHEL. Let me inquire on one further matter more personal. The distinguished majority leader may recall when we were considering the trade bill in the House this last time the gentleman from Illinois had a motion to recommit with respect to the ethanol provision. When the measure passed the other body, that measure was not included, but later in the day, it is my understanding, the distinguished Senator, or both distinguished Senators, from the State of Nebraska had introduced a concurrent resolution that was adopted relative to that provision that would alter the basic trade bill before it was enrolled or went to the President. Obviously if the trade bill itself reaches the President and is signed, it is rather moot, but I would be rather curious to know, with that concurrent resolution having been adopted over in the other body, is there any intention on the part of the Democratic leadership to bring up that concurrent resolution in this House?

Mr. FOLEY. I have no information to give the gentleman about that at this time. We have not scheduled that resolution for consideration.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I am a little puzzled by the matter with regard to the ethics committee's report on a potential expulsion of a Member as recommended by the report. If I understood what the gentleman from Washington told us, we will be waiting more than a month to take up that particular resolution, given the congressional period. That would mean that the Member who has been recommended for expulsion, and I think this gentleman is correct, would continue to draw pay for that month of that period, and we are talking about something on the order of $10,000 of taxpayers' money that would be involved in that.

I guess this gentleman's question is why we are now waiting for that particular action, and also it seems to me that each individual Member does have the right to call that report up since the report is privileged. Therefore, we could potentially have action on that next week. I am just trying to understand.

Mr. FOLEY. That has been true since the report of the Ethics Committee was first presented to the House. Anytime, every Member of the House was in a position to call up such a resolution, including the gentleman from Pennsylvania, but we have undertaken to advise the Members when there would be consideration of the report of the committee. Frankly, we have an extraordinarily heavy schedule for the next week, the largest Suspension Calendar in my memory, at least prior to an ending week of the Congress, and important trade legislation, legislation relating to protection of the national resources and, finally, the extremely important Foreign Affairs proposal involving the antiapartheid legislation.

Under the circumstances, we have tried to accommodate Members because of the approaching national convention of the Republican Party, as we would expect to be accommodated in reverse, and to do all of the business that we have scheduled, and to prepare for the district work period, which includes the period of the national convention, would make it extremely difficult for us to add additional matters that might take some time.

It is scheduled for a date certain. Members are aware of the date by this announcement. That announcement was made deliberately in advance of next week in order to assure Members that the matter has been tentatively scheduled and that Members will be expected to return on September 7 and to take up the matter at that time.

Mr. WALKER. Can we expect that that action would take place even if the Member resigns in the meantime?

Mr. FOLEY. I do not want to anticipate what might happen with respect to a resignation. In the past, resignation from the House has generally been considered to make moot a report recommending expulsion from the House during that particular Congress. The precedents run in that direction. When a Member has effectively resigned his seat, he is not a Member of Congress for the purpose of any action by the Committee on Standards, but for me to make a judgment about that would involve suppositions that I am not able to make.

Mr. WALKER. If in fact the Member would resign and the decision would be made not to hear the matter before the House, would the report, the committee report from the Committee on Ethics, still be filed indicating what the charges were, since that knowledge is not public knowledge at this point and all of the testimony was taken in secret? Could we expect that the report would be made public so that there would be an understanding of the circumstances surrounding this?

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I would say to the gentleman from Pennsylvania that that has occurred in the past. That would be a decision that the committee would have to make.

Mr. MICHEL. In other words, it could be moot?

Mr. DIXON. If the committee decided to release the report, they would have the authority to do that.

Mr. MICHEL. It could be done?

Mr. WALKER. The concern of this gentleman is that the Bronx Democratic machine is one of the most corrupt in the country, and we certainly have indications of that in the report that has come from the gentleman. I think it is one of the things that we would want to reflect upon in the deliberations of the political year, and I would hope that we will get a release of that particular report, even if we are not given a chance to hear the circumstances that led the committee to its decision on the floor.

Mr. FOLEY. Mr. Speaker, if I may say, I regret personally that the gentleman from Pennsylvania has suggested that in a matter of a report from the Committee on Standards of Official Conduct that the matter should be politicized even in an election year. I think that it is the attitude of both sides of the aisle that by establishing a bipartisan committee on ethics and standards that we would take those issues out of politics and treat the reports on the basis of consideration of an other-than-political kind even in an election year.

□ 1430

Mr. WALKER. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. This gentleman was not suggesting that it be politicized at all. This gentleman was simply suggesting there is a report that has been done, and energy and time have been spent on. Because of the delay in consideration of the expulsion, it is very likely that the Member would have a chance to resign. This gentleman is simply trying to assure that that for which a lot of time and energy has been spent will ultimately become public knowledge so that it can be reflected upon by those people who need to go to the polls and make decisions this year. I do not think that is politicizing the issue. I think it is a legitimate part of what we are supposed to be doing, and one of the reasons why the Ethics Committee exists.

Mr. FOLEY. Mr. Speaker, I will only comment that I do not want to continue this debate, but the gentleman in question was nominated by both parties for the office he seeks this fall.

Mr. WALKER. If the gentleman will yield, that is exactly the problem, and one which ought to be reflected upon in the situation.

I would agree with the gentleman, and it seems to me that the aura of corruption becomes particularly relevant in that particular situation.

Mr. MICHEL. Before yielding to the distinguished gentleman from California [Mr. DIXON] might I say that while we do not have to discuss these matters very often, and we regret even when it does happen on the relatively few times that we have to confront it, might I inquire of the distinguished chairman of the committee, the committee has issued a report on the subject matter, has it not?

Mr. DIXON. If the gentleman will yield, that is correct.

Mr. MICHEL. Would there be any reason in view of the subsequent developments in that case to amend that report in any way, either by way of buttressing the committee's findings when we finally get to that point of debating the expulsion recommendation on the floor of the House?

Mr. DIXON. If the minority leader will yield, to the gentleman from Pennsylvania I would say that our report in the matter has been published on February 18. I do not know what other report the gentleman is referring to. Obviously he is referring to some other report when he relates to the Democratic Party of New York.

The transcript of the trial is analyzed in this report. Some may draw conclusions as to what they think about the Democratic Party in New York. It was not on trial in this report nor at the time the case was heard.

Any subsequent information about this trial is not relevant to the matter that is before the House, and so you have all of the information filed on February 18 as it relates to the Member that we have a privileged resolution at the desk on. That is published and made public already.

Mr. FOLEY. If the gentleman will yield, I want to express my appreciation to the distinguished minority leader. In our colloquies over the recent months we have attempted by this means to inform Members of the schedule that is forthcoming for the House for their mutual convenience and understanding, and I do suggest that in the spirit of that undertaking it is better to debate issues relating to issues of public policy of any kind at another time. We are not, in the normal course here, interested in objecting to colloquies. I think colloquy is helpful, but the purpose of our undertaking is to inform the Members of the schedule, not to debate the merits of the issues.

In that spirit, I hope we can continue to make the discussions between us useful to the Members and helpful to them in their planning for the legislative program.

ADJOURNMENT TO MONDAY, AUGUST 8, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. President, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE A REPORT ON H.R. 4060, EMERGENCY HUNGER RELIEF ACT OF 1988

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on Agriculture, I ask unanimous consent that the committee may have until 5 p.m., Friday, August 5, 1988, to file a report on H.R. 4060, the Emergency Hunger Relief Act of 1988.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REAGAN PRESIDENCY NOW FEATURES POLITICS

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, after Franklin Roosevelt, no President has used the national pulpit with greater mastery than Ronald Reagan.

When we lost *Challenger,* he healed us; when we soared at the Olympics, he inspired us. And for 7 years, he's reminded us that patriotism isn't corny and freedom isn't free.

Working on the deficit, arms control, or homelessness, the President could lead the Nation to greater heights.

Instead, the President has left the pulpit to join GEORGE BUSH in paving America with the political low road.

It's politics when the President lets become law a plant closing bill he's promised to veto.

It's politics when the President vetoes a strong $300 billion Defense bill and calls it weak.

It's politics—tasteless and premeditated—when he uses a slur like "invalid" to hype a false story on a candidate's mental health.

Get back to work, Mr. President, when you can still make a difference. Don't let Mr. BUSH or Lee Atwater squander the remainder of your term.

INTRODUCTION OF FEDERAL EMPLOYEE LONG-TERM CARE PROTECTION ACT

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, there has been much debate in the 100th Congress regarding the need to find better avenues to finance the rapidly growing long-term health care needs of elderly Americans.

I believe that at this time Congress needs to encourage the private insurance industry to expand their long-term care insurance products and make them more widely available. As we all know, it is extremely doubtful that the Federal Government can solve the problem of financing long-term care without appealing to a substantial degree to the private sector.

Toward that end, I am introducing legislation today, along with several of my colleagues, which will offer Federal employees the option of purchasing needed group long-term care insurance. In addition, this program will serve as an actuarial model to stimulate underwriters to further develop and market group long-term care policies to a broad spectrum of Americans.

In order to increase the incentive for the 2.5 million active Federal employees to participate in this new long-term care insurance option, our bill would permit those insured under Federal group life insurance at age 50 to convert a portion of this policy to the long-term care insurance program, thereby lowering the monthly premium. This conversion option recognizes the decreasing need for life insurance as one gets older, the house is paid off, and the children are in the working world, as well as the increasing need for protection against the greatest fear of old age: A debilitating illness that leaves one unable to care for himself or herself.

Under the provisions of our bill, the Federal Government's share of the total amount of basic insurance would remain unchanged, because the long-term care insurance option would be financed solely by voluntary employee contributions, with no additional cost to the taxpayer.

By taking the lead in providing a market in this emerging new field, the Federal Government can greatly enhance the development of badly needed group long-term health care insurance policies. I urge my colleagues to join me in providing this initial response to a clear and growing national need: The financing of long-term care.

BUSH ON THE OFFENSIVE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, GEORGE BUSH went on the offensive yesterday, and as usual he just ended up shooting himself in that old silver foot of his.

With his usual garbled logic, BUSH said that Dukakis' opposition to the star wars initiative would undermine the security of Israel.

This is pure campaign blather, and the Vice President ought to know better.

Israel's fundamental security isn't based on some dream of a space-shield 10 years down the road. It's rooted in an ironclad commitment to preserving the strength of the American-Israeli partnership, and in the effort to get Israel's Arab neighbors to recognize her existence and to finally enter into negotiations for real peace.

We can disagree among ourselves about which defensive systems will make sense, but to say that Mike Dukakis is soft on Israel because he opposes star wars is not just stretching—it's irresponsible and absolutely ludicrous.

What BUSH is talking about, the ATBM or AERO system, is only a tiny part of the SDI Program. Unlike the costly space-shield fantasy, this system deals not with ICBM's, but with short-range tactical missiles of the type that threaten Israel.

So BUSH also seems a little mixed up on the facts. The ATBM Program réceived full funding—over $100 million—in the Defense authorization bill that Congress sent to the President.

But yesterday the President responded by vetoing the bill.

So once again I think it's fair to ask that familiar question: Where was GEORGE?

If he really thought this program was so vital to Israel's security, why has he come out in strong support of Reagan's veto?

Surely, by supporting the veto, BUSH must also bear the blame for vetoing several other provisions in the bill that would strengthen United States-Israeli relations—like, for example, the language enhancing the strategic cooperation between our two countries, as well as the restrictions on introducing F-15's into the volatile Middle East region.

Which brings us to what is really the most important point of all.

If BUSH really wants to improve Israel's security, then he should get his administration to stop selling highly sophisticated missiles and warplanes to the Saudis and the Kuwaitis.

BUSH can go on gazing into the stars for his solutions, but those of us here on the ground know that Israel's safety will be best served by a President who will put an end to the dangerous escalation of the arms race in the Middle East.

CAMPAIGN POLITICS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, it is a little surprising to hear the majority whip come to the floor and talk about politics in this campaign year, and particularly the politics that he just talked about.

It is not politics when the Speaker of the House takes the plant closing bill to the Democratic Convention and enrolls it at the Democratic Convention? That is not politics?

Is it not politics when Michael Dukakis compares President Reagan to a rotten fish?

Is it not politics when the Democratic Party loads up a defense bill with all kinds of defense weakness kinds of goodies in it? That is not politics?

President Reagan had the good grace to apologize for the statement he made about Michael Dukakis. Michael Dukakis has yet to show that kind of grace.

I will say this also, President Reagan need not apologize at all for telling the American people the truth about Democratic Party weakness on defense and bankruptcy on national economic policy.

NEW BUSH EQUATION ON FOREIGN POLICY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, GEORGE BUSH has offered a new equation in American foreign policy, that if you support Israel you must by definition support SDI, as if there were some relationship between the kinetic defensive weapons for tactical missiles that Israel is developing and that this Congress and my party has helped to authorize, and the trillion dollar system of unproven, untested technologies for exotic weapons already dismissed by the scientific community and the President's own advisors.

The better question might be: How could a Vice President who now claims to be concerned for the security of Israel sit silent while years passed with no diplomatic effort for a solution, inevitably rising to new Palestinian frustrations, and sit silent while literally billions upon billions of arms sales were proposed by his own administration for nations who are intent upon the very destruction of Israel?

Those are the questions of the day. Mr. Vice President, if it is to be taken seriously what you propose, speak seriously.

THE LAST TEMPTATION OF JESUS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, there is a controversy at Universal City, CA, about a film that is due to be released next month called "The Last Temptation of Jesus." It has now become a widespread controversy. It is the subject of a lot of talk shows, and it has even been featured in major news magazine, for instance there was a big feature in People magazine.

What is going on here? To be blunt, there is now a vicious, dynamic anti-Christian spirit that has swept through Hollywood.

There are some of us who believe Jesus to be the Son of God as He said He was. Buddha never claimed to be such, nor did Mohammed, nor did confucious nor any of the other prophets or founders of great religions. Only Jesus has claimed to be the Son of God, and I accept that, as does a large segment of our society. And every time one of these Hollywood movies, and it is almost in every one now, they blaspheme the name of God by saying, "Jesus," or "Jesus Christ," or even put foul or scatological obscenities in between those two names, or even when they say, "God," and then "damn this" or "damn that" it makes the skin crawl on those of us who respect the name of God—Jews, Christians, every decent person in this society. It is offensive, it is blasphemy, it is a sin, it is evil. If any of these people were to do this against blacks as a racial group or to Asians, or to any other ethnic groups, or against any other religious groups, they would be roundly condemned.

Universal Studio must not release this film. As Hollywood has swallowed some films in the past—not many, but some—and put them on a shelf to last forever, "The Last Temptation of Jesus," Mr. Speaker, should not be released. It is an insult and a blasphemy.

□ 1445

PRESIDENT'S VETO OF THE DOD BILL HURTS OUR ARMED FORCES

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. DARDEN. Mr. Speaker, the President's veto of the Defense authorization bill did not hurt Congress, or the Dukakis campaign, as he might hope.

He did hurt our Armed Forces, which need clear and timely policy direction. He hurt the men and women who make those Armed Forces the world's best—and who deserve the 4.1-percent pay increase in that bill.

That Defense bill came in—as they say—ahead of schedule and under budget. It came as close as any Defense bill in recent years to meeting all Pentagon's requests, but also sought the greatest possible benefit from every dollar invested in defense.

The President—through his veto—also ignored the advice of his own Secretary of Defense, and his own National Security Adviser.

Mr. Speaker, the Defense authorization bill will soon return to President Reagan's desk as part of the Defense appropriations bill. When it does, I sincerely hope he will accept the counsel of his top military advisers, and give it his prompt signature. Let's not play politics with our national defense.

WHY THE PRESIDENT VETOED THE DOD BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I hesitate to disagree with my good friend from Georgia, but I think just to set the record straight on why the President vetoed the defense bill, it is useful to read back in certain key sentences out of his veto message.

He said, and I quote:

> It would needlessly concede military advantage to the Soviets. It would reward the Soviets for their words and not their deeds. This I shall not do. The bill would return us to the practice of rushing to give away our negotiating leverage without receiving a single thing in return from the Soviets. The bill trades vitally needed defense muscle for the parochial interests of those in Congress.

Yes, there are many on the left who wanted to concede things to the Soviets and there are many who had a lot of pork in the bill but it was a wise and a good decision for this President to veto a bill which gave away American strength while getting nothing from the Soviet Union.

DOD VETO CREATES A PROBLEM WHERE NONE EXISTS

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, yesterday the President vetoed the Defense authorization bill.

This was a bill which included $300 billion for the defense of this country. The same amount the President agreed to at last year's summit.

The blueprint for spending the $300 billion was altered less than any defense budget in the last 6 years. This includes 4 years when the other party controlled the Senate. Approval of the Defense bill was recommended by such acknowledged experts as Senator SAM NUNN, chairman of the Senate Armed Services Committee; Senator JOHN WARNER, ranking Republican on the Senate Armed Services Committee; Congressman LES ASPIN, chairman of the House Armed Services Committee; Senator STROM THURMOND, past President pro tempore of the U.S. Senate as well as the Secretary of Defense, Frank Carlucci.

No one was 100-percent satisfied with this bill but few people will ever be completely satisfied. On balance this is a good bill, crafted by concerned, knowledgable Americans; supported by most of the knowledgable leadership in both bodies.

The President has chosen to create a problem where none exists. In an effort to fabricate a political argument which might separate the Presidential candidates, the President has jeopardized the military's ability to get these funds on time and now faces the real possibility of another continuing resolution. It is quite possible this will also affect other appropriation bills and stall a process which until now has made more progress than in any year of this administration. Should either the defense funds be delayed or a CR be required, the responsibility fully rests with the administration and those members who advocated possible short-term political gain at the expense of our Nation's defense.

MISCELLANEOUS REVENUE ACT

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, the tax bill the House passed today corrects two unfair, unjust taxes that restrict farmers' cash flow: The diesel fuel tax and the heifer tax.

With the passage of this bill, farmers will no longer be forced to "float loans" to the U.S. Government by paying, up-front, diesel fuel taxes that they did not owe in the first place.

With the passage of this bill, livestock producers will once again be able to deduct the costs of raising replacement heifers. The repeal of the heifer tax makes good sense. Farmers will get tax deductions in the same year they incur cash expenses—without having to struggle through a mountain of paperwork.

The average Kansas farmer will save an estimated $1,100 in up-front costs each year with the repeal of the diesel fuel tax alone.

Mr. Speaker, what may seem like relatively minor tax revisions, are in fact very real dollar and cents changes for the family farmer.

TRIBUTE TO PAULA RUTH LINDON, OUR GRANDDAUGHTER

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, despite a reluctance to break into the heavy subjects on this week's agenda, I feel compelled to do so because of the importance of the announcement that I will make.

Early yesterday morning, Wednesday, August 3, Paula Ruth Lindon was born in Orlando, FL. Little Polly, who weighed in at 7 pounds 14 ounces, is the daughter of Pam and Dale Lindon of Orlando and the sister of Will Lindon.

Coincidentally, Polly is the granddaughter of the gentleman from Minnesota and his beautiful wife, Ruthy.

Most Members are familiar with the dreaded infection known as "Grandparents' disease" and will understand the need for this announcement.

Because births are time for optimism, it is appropriate to focus on the opportunities that await Paula rather than to worry about how much debt she inherits from the work of this body.

Good luck, Paula.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 5, 1988, TO FILE REPORT ON H.R. 5090, UNITED STATES-CANADA FREE TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

Mr. SLATTERY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until midnight, Friday, August 5, 1988, to file its report on the bill, H.R. 5090, a bill to implement the United States-Canada Free Trade Agreement.

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Is there objection to the request of the gentleman from Kansas?

There was no objection.

FLIGHT DELAYS ARE TOO COMMON—WE NEED MORE AIRWAYS SYSTEMS SPECIALISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MOLINARI] is recognized for 5 minutes.

Mr. MOLINARI. Mr. Speaker, I am sure you have all experienced flight delays but were unaware of their causes. I, too, have experienced many delays. One in particular was on my flight from Newark to National in order to meet with the Federal Aviation Administrator T. Allan McArtor. The delay resulted from a computer breakdown at the Washington Air Traffic Control Center [ARTCC] in Leesburg, VA. Normally the backup computer which automatically goes on within seconds after the main computer malfunctions, for some reason was slow to respond to the crisis. Air traffic controllers had to rely on their memories and at times guess where the planes they were controlling on their now-blank screens were headed.

My experience, however, is one that is all too common. In a similar incident, delays of more than 130 flights plagued the Chicago area when two processors in the main computerized radar system at Chicago ARTCC failed twice.

Today I am introducing legislation that would provide incentives and initiatives to replenish the severely depleted work force that maintains the air traffic control computers and communication networks—the airway systems specialists. Seven years ago this profession had over 11,000 members maintaining approximately 19,000 FAA facilities and systems throughout the Nation. Their ranks have been reduced to under 6,000 specialists, yet now they maintain approximately 23,000 facilities. That is a cut of almost half the specialists, with a 20-percent increase in the number of systems maintained.

As a direct result of insufficient staffing, routine maintenance has decreased, causing a 42-percent increase in delays due to air traffic control equipment failures, according to the General Accounting Office [GAO]. Now the work force is faced with an even greater future shortage of experienced workers due to retirements. The country's air traffic control system is in danger of losing over a third of the technician work force by 1990. By 1995, an estimated 60 percent of the technicians will be eligible to retire. In the past, 55 percent of those eligible to retire do so during their first year of eligibility, and the remainder do so during the next 2 years. Based on these figures, the GAO estimates that over 1,800 retirements will take place by 1990. Already this year, the FAA has experienced 460 retirements, while only hiring 180. The average training period is 2 to 5 years which means that the FAA is replacing many experienced retiring technicians with only a few trainees.

Presently, almost 20 percent of daily maintenance remains unfinished. The shortage of personnel leaves technicians with an additional workload which is done on overtime. Overtime hours in 1988 are expected to reach over 250,000 and to continue to increase rapidly. This not only costs additional funds, but it is a prime cause of "burnout." The FAA has recorded a burnout rate for technicians twice that of the air traffic controllers. In fact, technicians have the highest burnout rate in the entire FAA.

Congress has authorized the FAA plan to replace much of the new equipment used to control air traffic with newer technology. This plan, called the National Airspace System [NAS] Plan, assumed that fewer technicians would be needed for maintenance because of the new equipment. Based on this assumption, the FAA has used attrition to reduce the technician work force. But, staff reduction goals in the NAS Plan, independent studies have concluded, were unrealistic and underestimated. In addition, the NAS Plan experienced many equipment installation delays. Now the FAA has a depleted work force without the benefit of the full implementation of the advanced automated technology of the NAS Plan.

Everyone is in agreement that there is an insufficient maintenance staff and that we need a major adjustment to get back on the right track. The President's Commission on Aviation Safety noted this problem in its report, saying "we are facing severe hiring needs." The Department of Transportation [DOT], moreover, in its Secretary's Task Force on Internal Reforms of the FAA reported that, "the Federal classification and pay systems do not adequately recognize the differences in FAA working situations and may hinder the ability of the FAA to accomplish its mission most effectively." It recommended that the Office of Personnel Management study the current pay rates for safety related occupations. The FAA has also acknowledged that salaries and benefits fail to attract and retain safety related personnel at difficult-to-staff facilities. In addition, the DOT realized the necessity for recruitment and retention bonuses.

My legislation promotes public safety by setting a minimum staffing level for certified personnel and protects against future shortages of maintenance personnel and by establishing minimum levels for experienced technicians needed for maintaining a safe and efficient system. The bill will also require the Office of Personnel Management to review the classification, training, promotion procedures, and the need for a special pay rate for the maintenance work force. As for incentives, the bill provides for premium and standby pay.

I commend Howard E. Johannssen, president of the Professional Airways Systems Specialists, for his leadership, insights, and suggestions leading to the formation of this legislation.

In conclusion, Mr. Speaker, it is now in our hands to handle this problem and make for a safer and more smoothly run air traffic control system. If we are to restore the exhausted maintenance staff for the near future, we must address the major resources of the problem now. We must provide the incentives to keep experienced technicians while we hire and train the needed number of employees to effectively maintain the system. Both DOT and the Aviation Safety Commission have recognized the problems, but neither has proposed a suitable long-term solution. The FAA has been given a number of years to solve the problem, but they have, in effect, only prolonged it.

It is very clear that with the number of experienced technicians now retiring, the lack of new trainees, and the delays in the NAS Plan, we are headed for a serious safety crisis regarding our ability to maintain air traffic control equipment. The continuously increasing air traffic and a decreasing maintenance staff are resulting in an unsafe and inefficient air traffic control system.

We in Congress have an obligation to ensure a safe and efficient system. It is time to rebuild this system by retaining our experienced employees and hiring enough trainees. The American public can ill-afford the risks or the added delays caused by an understaffed work force. I urge my colleagues to support my legislation.

CONDEMNING ROMANIA'S POLICY OF DESTRUCTION OF VILLAGES AND PERSECUTION OF ETHNIC MINORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, President Nicolae Ceausescu's current policy for destruction of traditional villages is completely inhumane and in violation of fundamental human rights. The policy, if implemented, will affect an estimated 46.4 percent of the Romanian population. The policy will raze more than half the traditional rural villages, destroy local architecture, force mobilization of community members to centrally located "urban agro-industrial centers," and seriously hamper food production. In a time of food shortage in Romania, it sees counterproductive for the Ceausescu government that the private agricultural holdings are to be forcibly assimilated into the State sector when private land holdings have been highly successful in food production.

The villages targeted for destruction are populated by disproportionately large numbers of ethnic minorities, especially Hungarians and Germans. The policy forces separation of family members and dispersion of longstanding and traditional communities. The Romanian policy is therefore expected to further repress ethnic minorities and ultimately eliminate the existent indigenous culture.

The following list identifies villages targeted by the Ceausescu government for the plan of massive demolition and resettlement which has already been implemented in many villages:

KOVÁSZNA (COVASNA) COUNTY

Almás, Bölön, Csomortán, Elǫpatak, Esztelnek, Illyefalva, Kisbacon, Kisborosnýo, Lécfalva, Magyarhermány, Miklósfalva, Miklósvár, Polyán, Zzárazatja, Zalán, Zalánpatak.

HARGITA (HARGHITA) COUNTY

Andrásfalva, Homoródalmas, Karácsonyfalva, Orotva, Pálpataka, Székelyderzs, Székelyzsombor, Szentábrahám.

TEMES (TIMIS) COUNTY

Bodó, Bogra, Józefszállás, Kisberekszó, Magyarszentmárton, Sándorháza, Szapáryfalva, Ótelek.

ARAD COUNTY

Ágya, Bélzerind, Feketegyarmat, Simonyifalva, Szapáryliget, Székudar, Vadázi.

Mr. Speaker, the destruction of these villages will cause immeasurable human rights violations. These outrageous conditions demand our attention. As cochairman of the Congressional Human Rights Caucus, I commend my distinguished colleague from California, Mr. DORNAN, for introducing House Resolution 505, condemning the systematic violation of international recognized human rights by the Government of Romania. At this time, I would like to submit for the RECORD the complete text of the resolution.

HOUSE RESOLUTION 505

Resolution condemning the systematic violation of international recognized human rights by the Government of Romania

Whereas in recent years the Congress has received a substantial body of evidence on a persistent pattern of severe human rights violations in the Socialist Republic of Romania;

Whereas among these violations is the denial of the right of free emigration for Jews and other Romanians and the systematic manipulation of emigration figures;

Whereas the Romanian Government continues to deny ethnic minorities, among them 2.5 million Hungarians, the basic right of preserving their unique cultural heritage and native language, and the opportunity for their children to be educated in their mother tongue;

Whereas the Romanian Government continues to interfere with freedom of religion, harassing, intimidating, and arresting religious believers for as little as the possession of Bibles, and destroying places of worship;

Whereas the Congress in recent years has repeatedly condemned the Romanian Government for these human rights violations and urged it to observe the international standards of human rights;

Whereas in 1987 both Houses of Congress approved, by substantial margins, the suspension of nondiscriminatory tariff treatment for the products of Romania (commonly referred to as most-favored-nation or MFN status) as a response to human rights violations by the government of that country;

Whereas the products of Romania will cease to be eligible for nondiscriminatory tariff treatment on July 3, 1988, as a result of a decision by the President;

Whereas Romania's human rights policies have not shown the slightest improvement even after last year's congressional action, and the Department of State has determined in its Country Report on Human Rights Practices for 1987 that "(t)he poor human rights picture in Romania in 1987 showed no improvement" and "its human rights abuses remained pervasive";

Whereas Romania is intensifying its forced rural collectivisation program pursuant to which traditional villages will be destroyed and the inhabitants removed to make way for government-owned agricultural-industrial complexes; and

Whereas this program, if implemented, would eradicate a substantial part of the traditional settlement pattern, folk architecture, and way of life of the Romanian people and the Hungarian minority and would force the displaced population into government-owned, standardized colonies: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the continued practice of the Romanian Government of systematically violating a whole range of internationally recognized human rights;

(2) strongly protests the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights, and property rights of their inhabitants;

(3) urges the Romanian Government to revise its human rights policies and institute meaningful institutional reforms in compliance with international agreements that are binding Romania, including the Helinski Final Act of the Conference on Security and Cooperation in Europe and the Universal Declaration of Human Rights;

(4) calls on the President and the Secretary of State to continue to call these human rights violations to the attention of Romanian officials and demand meaningful reforms; and

(5) urges the President not to consider providing any special benefit for Romania until the implementation of a thorough reform in the human rights practices of the Government of Romania, including substantial actual improvement in the observance of the right of emigration, the rights of national minorities, and freedom of religion.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I am glad the gentleman has taken the lead on this because he sees everything through, generally, to a happy conclusion. This is such a horrendous story: 8,000 villages, it is just mind boggling to think that anyone would conceive of doing this in the modern world.

I want to ask a question that I do not think is cynical, but it is realistic and very depressing.

Mr. Speaker, does the gentleman at this point think Nicolae Ceausescu is going to get away with this? Does the gentleman think he could get away with this? And if the answer is a depressing "yes" what can we do to turn around that reality that he might get away with this?

Mr. LANTOS. Well, I do not believe that Ceausescu will get away with this. And before I give you my answers may I just pay tribute to my friend from California who is the author of the House Resolution 505 calling the attention of this body and the whole civilized world to this outrage.

Ceausescu has built a permanent dictatorial regime unprecedented in this day and age.

As a matter of fact, at the very time when even the Soviet regime is moving toward some degree of legality, when there is an opening up along many lines, the Ceausescu regime if flying directly in the face of all trends in Eastern Europe.

The Ceausescu regime cannot insulate itself from the opprobrium and criticism of the rest of the civilized world. The Ceausescu regime is trying to develop economic ties with the Western Europe. The Ceausescu regime is in the process of negotiating a treaty with the European Economic Community.

I think it is incumbent upon us to advise our friends and colleagues in the European Parliaments that they should have nothing to do with this regime until and unless it ceases its outrageous practices of human rights violations.

Mr. DORNAN of California. Mr. Speaker, I rise today with several of my colleagues to bring to the attention of this Congress and the American public, the systematic abuse of human rights which continues in Romania today. There is already significant bipartisan support for a legislative initiative which I sponsored, House Resolution 505, which denounces in the strongest terms the Government of Romania's "agricultural modernization plan" which is nothing but a ploy to destroy traditional villages of the Hungarian minority of that nation.

This forced rural collectivisation program would eradicate a substantial part of the traditional settlement patterns, folk architecture and way of life of the Hungarian minority. The plan envisions putting the displaced population into government-owned, standardized colonies.

Mr. Speaker, House Resolution 505 was introduced with over 60 original cosponsors and represents a significant bipartisan effort to:

First, condemn the continued practice of the Romanian Government of systematically violating a whole range of internationally recognized human rights;

Second, strongly protests the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights, and property rights of their inhabitants;

Third, urge the Romanian Government to revise its human right policies and institute meaningful institutional reforms in compliance with international agreements that are binding in Romania, including the Helsinki final act and the Universal Declaration of Human Rights;

Fourth, call on the President and the Secretary of State to continue to call these human rights violations to the attention of Romanian officials and demand meaningful reform; and

Fifth, urge the President not to consider granting most-favored-nation trading status to Romania until the implementation of a thorough reform in the human rights practices, including emigration, the rights of national minorities, and freedom of religion has occurred.

Finally, Mr. Speaker, I would like to take this opportunity to acknowledge the Hungarian Human Rights Foundation for the outstanding work they have done to call attention to this despicable situation. I am proud to submit to the RECORD a short issue brief about that organization and the current plight of the oppressed minorities in Romania.

HHRF AND THE PLIGHT OF HUNGARIAN MINORITIES

At the center of concern for Hungarians around the world is the burning issue of the survival of the approximately 3.5 million Hungarians who live as minorities in Rumania, Czechoslovakia, Yugoslavia and the Soviet Union. Beyond the usual intolerance of a Communist state, Rumania's 2.5 million Hungarians (living primarily in the region of Transylvania and comprising the largest national minority in Europe), 250,000 Germans, and other minority inhabitants are additionally repressed: a systematic program of interlocking administrative measures, physical brutality and state terror relentlessly destroys their thousand year-old languages, cultures, churches and traditions.

The Hungarian Human Rights Foundation, initially Committee for Human Rights in Rumania, was formed in 1976 by young Hungarian-Americans to alert public opinion and the political leadership of the United States and other Western countries to the gross human rights violations against national minorities in Rumania. More than 12 years ago, the Foundation outlined the specific elements of discrimination in its first *New York Times* advertisement. These have tragically intensified and proliferated in recent years to include murder, imprisonment and exile of leading Hungarian intellectuals. The last Hungarian-language secondary school in Transylvania was closed in Fall 1985; all Hungarian and German language radio and TV broadcasts have been eliminated; 20,000 Hungarian-language bibles donated by the West were recycled into toilet paper.

Relying on well-developed sources within Eastern Europe, the Foundation serves as a clearing house of information for Western governments, human rights orgainzations, the media and the general public. Since 1984, when the Foundation was incorporated, its scope was expanded to include the Hungarian minority in Czechoslovakia. The Foundation operates through offices in New York and Washington, and branch offices and representatives in several U.S. cities, Canada and Europe. Organizing demonstrations, testifying before U.S. Congressional committees, and representing the plight of Hungarian minorities at Helsinki Final Act Follow-Up Meetings, the Foundation has been at the forefront of the West's mounting concern and activity regarding Rumania's minorities. Because of the Rumanian regime's human rights violations under dictator Nicolae Ceausescu, the Foundation spearheaded the campaign to revoke that country's Most-Favored-Nation status; this special trade benefit allowed the Rumanian government to export to the United States at substantially reduced tariffs, and was perhaps the most significant honor our government could bestow upon a Communist country. Our efforts were realized in 1987, when both Houses of Congress voted on four separate occasions to suspend the status for 6 months, and it was formally terminated on July 3, 1988.

The Rumanian regime's campaign of forced assimilation of minorities has recently reached such proportions that recently tens of thousands of Hungarians have begun fleeing into Hungary. The massive flight, amounting to forced expulsion, is but one aspect of Ceausescu's goal: to create a culturally and ethnically "pure" nation-state. Coupled with Ceausescu's already initiated plan to demolish 8,000 of Rumania's 13,000 villages, the Hungarians of Rumania—and the Hungarian nation as a whole—presently the most critical juncture in their decades-old struggle for survival.

Most of these minorities live in Transylvania, one of Europe's most significant multiethnic regions populated by Hungarians, Germans, Rumanians, Jews and other nationalities for centuries. Transylvania, where in 1568 religious tolerance was enacted into law for the first time, could be the model for the coexistence of diverse nationalities. With its long and distinct tradition of literary and artistic achievements and independent and progressive thinking, Transylvania is also the well-spring of Hungarian culture.

Aware of the need to preserve this region's rich cultural heritage and to aid his less fortunate brethren, Baron Hans Heinrich Thyssen-Bornemisza, renowned art collector and European industrialist, in December 1986, offered a matching grant of $500,000 toward the creation of a special fund of the Hungarian Human Rights Foundation.

Baron Thyssen-Bornemisza is descended from the Hungarian Bornemiszas, who come from a long and proud tradition of contributing to the political leadership and cultural development of Transylvania. His generous offer to place the Foundation on a sound financial footing also represents a formidable challenge: to raise half a million dollars by December 31, 1988. Currently, the Foundation is investing all donations and the Baron's matching contributions into the HHRF Bornemisza Fund, an endowment whose interest will be used to help finance the organization's operating expenses. As of June 15, 1988, the Foundation has raised $91,000 of the $500,000 necessary to qualify for the grant.

Baron Thyssen-Bornemisza's offer is an unprecedented opportunity at a time when the sheer physical existence of Hungarians in Rumania is threatened as never before. The role of Hungarian-Americans is clear, and we call upon everyone to meet this challenge.

Mr. Speaker, the gentleman from California is Hungarian-born, he has been a most powerful voice in this House for decency and human rights.

If the gentleman will roll up his sleeves I will be at his side and I will do whatever I can to make his analysis come true that he will not get away with it before this world.

I thank the gentleman.

Mr. LANTOS. I thank my colleague for his remarks. Let me just say that the Congressional Human Rights caucus is unanimous in its condemnation of the policies of the Ceausescu regime. This is a totally nonpartisan issue and all of us, Democrats and Republicans, are united in demanding that the Romanian Government cease its policies of exterminating and destroying village cultures established for centuries and allowing these long-suppressed minorities to carry on with their peaceful and productive lives.

Mr. PORTER. Mr. Speaker, I want to commend Representatives TOM LANTOS and Robert DORNAN for calling today's special order to discuss human rights conditions in Romania. As cochairman and executive committee member, respectively, of the Congressional Human Rights Caucus, which I also cochair, Representatives LANTOS and DORNAN have continually displayed their leadership on this important issue.

I state my support for House Resolution 505, introduced by Representative DORNAN on July 28. This resolution has 67 original cosponsors, including myself, and was sent to the Foreign Affairs Committee.

House Resolution 505 finally puts on record the abhorrence of the U.S. Congress for the cruel methods of the Ceausescu regime. President Ceausescu is well-known for his egregious human rights record, including violations of religious freedom, freedom of emigration, minority rights, and many basic human rights guaranteed in international documents which the Romanian Government has signed.

President Ceausescu recently announced his plan to destroy thousands of villages in the Transylvanian region of Romania, which will displace hundreds of thousands of ethnic Romanians and Hungarians living in that area. I urge my colleagues to read the following article which further explains the situation occurring in Transylvania:

HUNGARY AND ROMANIA—WAR, ALMOST

In an earlier age, troops might have started moving into positions along the border, guns been heaved into place, hospital trains been shunted into convenient sidings. Such is the level of bitterness between Hungary and Romania.

Their argument is over Romania's treatment of the 1.7m Hungarian inhabitants of its Transylvania region. Since both countries belong to the Warsaw pact, their armies move only when the Soviet Union says so. Indignant Hungarians have therefore had to content themselves with a large demonstration in Budapest on June 27th, including a march to the Romanian embassy. President Nicolae Ceausescu of Romania promptly accused Hungary's rulers of having supported this "chauvinistic, nationalistic, anti-Romanian and anti-socialist" action, and retailated by closing the Hungarian consulate in Cluj, the chief city of Transylvania.

This new vehemence in an old quarrel has been caused by the Romanian government's plan to bulldoze more than 7,000 villages in Transylvania, to rehouse their inhabitants in tower blocks (not necessarily in the same area), and to put them to work in large "agro-industrial complexes". The government claims that the aim is better use of land and more efficient agriculture.

The Hungarians say that Romania has plenty of land and can find better ways to make farming more efficient. They say Mr. Ceausescu's real intention is to disperse Transylvania's Hungarian population. A charge of genocide was included among the slogans used by the demonstrators in Budapest: in their view, the Romanian plan means the destruction of the Hungarian presence in Transylvania (which was part of Hungary before 1918). The anger in Hungary has been further inflamed by the arrival of a large number of refugees from Romania, most of them from its Hungarian minority.

Unfortunately for Hungary, there is not much it can do to put pressure on Romania. The Romanians have relinquished most-favoured-nation treatment for their trade with the United States, in the well-founded belief that the Americans would anyway soon stop thinking of Romania as deserving of favour. It has also paid off a large part of its foreign debt, so it is not particularly vulnerable to financial pressure. At the Vienna conference on European security and co-operation, part of the process started at Helsinki in 1975, the Hungarians have raised the plight of their minority in Romania as a human rights issue. Romania retaliated by preventing the conference from adopting a final declaration, which required the agreement of all the 35 participating states.

Will Mr. Mikhail Gorbachev urge Mr. Ceausescu to call off his bulldozers? Probably not. The Soviet Union has less influence in Romania than in any other East European county except Albania. Besides, Mr. Gorbachev has enough trouble trying to sort out his own Armenians and Azeris.

Mr. SMITH of New Jersey. Mr. Speaker, earlier in the summer Romanian President Nicolae Ceausescu announced his latest plan to uproot almost half the population of Romania, demolishing their villages and forcing them to consolidate and resettle in designated towns. President Ceausescu has already earned the dubious reputation of instigating other destruction and construction projects in urban areas and Bucharest, in particular. The creation of new agro-industrial centers will result in the displacement of millions and the further destruction of historic, religious and cultural sites and structures.

Mr. Speaker, 1 month has passed since Romania's most-favored-nation trading status expired. Both the House and Senate had decisively supported amendments to the omnibus trade bill in 1987 which would have suspended Romania's privileged trading relationship with the United States but President Ceausescu preempted the change in U.S. policy by rejecting the trading status outright in February of this year. At that time, Congress had not completed action on the conference report of the trade bill and, subsequently, the responding amendments were withdrawn.

Many of my colleagues are aware that Congressmen TONY HALL, FRANK WOLF and I had been working since 1985 to suspend Romania's MFN because of their egregious abuses of human rights, including religious, civil and cultural rights. As the truth about Ceausescu's iron-fist rule and the desperate plight of the peoples of Romania became known in Congress, it was clearly evident that MFN was not deserved and the United States must make a public condemnation of the repressive Ceausescu policies.

Unfortunately, for the people living in Romania, their situation continues to disintegrate around them. This latest inhumane tactic of repression—his proposal to create urban agro-industrial complexes—Ceausescu plans to implement beginning in September. Essentially, the Romanian authorities would raze more than half of the 13,000 plus villages—uprooting as many as 13 million people—and build nondescript, impersonal complexes in other designated towns. There are reliable reports that these complexes are not designed to accommodate modern bathing and plumbing facilities.

Mr. Speaker, in an unprecedented reaction by citizens in other East bloc nations, protests have been widespread—several thousand Poles signed an appeal on behalf of the villagers, and outrage of the most radical measure has appeared in newspapers in Yugoslavia. In June an estimated 50,000 demonstrated in Budapest, Hungary, in solidarity with the citizens of Romania. Mr. Speaker, we also join in the protest. The destruction of family homes, village churches and cemeteries, and the uprooting of families and their neighbors is unconscionable. As stated in the appeal signed in Poland, this outrageous resettlement plan will result in "the burial of a people's religious, cultural, and national heritage."

Mr. Speaker, the Congress must again vocalize its deep rooted concerns. The Congress must boldly join in the movement of solidarity with the millions in Romania whose homesteads and villages—and lifestyles—are threatened by this ruthless plan for urbanization. We must again protest the abusive policies of the Ceausescu regime. We owe it to all the citizens of Romania whose voices are squelched by the repressive government under which they live.

Mr. GREEN. Mr. Speaker, I should like to commend my distinguished colleagues, Representatives DORNAN, LANTOS, and PORTER, for initiating this special order on the plight of the Hungarian minority in Romania. I should also like to commend them for initiating a letter to Secretary Shultz and a resolution on this same topic, both of which I am proud to have signed and cosponsored. All of those efforts are directed toward the same crucial end: drawing attention to the flagrant human rights violation to which the community of minority Hungarians in Romania has been subjected.

The 2.5 million Hungarians living in Romania face the systematic and forced destruction of their ethnic identity. Most recently the Romanian Government has announced its intention to bulldoze the majority of the area's small villages and move their occupants into prefabricated housing, leaving no trace of the ancient architecture, churches, and schools that knit communities together and help to preserve traditions.

Other continuing abuses include the progressive eradication of the native language, the closing of minority press and theater, and encroaching restrictions on minority churches. Intimidation tactics, including beatings and the imprisonment of ethnic leaders, are a regular part of the Socialist crusade of persecution that the Hungarians endure.

It was, in part, these violations which prompted President Reagan to decide to terminate Romania's tenure as a most favored nation for trade purposes. Romania's prejudicial policy of discrimination violates many international agreements to which the government had previously acceded. It is incumbent upon us to remind the Romanians continuously of their obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Final Act.

As Americans, we take pride in the rich ethnic diversity that has shaped our own country. As world citizens, we have a responsibility to use our influence to protect persecuted minorities in others countries.

Mr. COELHO. Mr. Speaker, I rise today to express my deep concern about the deteriorating human rights situation in the Socialist Republic of Romania and to urge my colleagues to cosponsor and support House Resolution 505 condemning Romania's human rights abuses.

For years the Romanian Government has been trying to destroy the cultural and ethnic diversity of the region of Transylvania. In this effort to denationalize the region the Romanians have closed schools, abridged freedoms of religious worship, and have systematically eradicated the symbols of cultural heritage which are so important to the Jews, Germans, and over 2 million Hungarians who live there.

However, these actions, which are in violation of a number of international convenants to which the Romanian Government is a signatory—including the 1975 Helsinki Final Act—have been recently overshadowed by a new and more sinister development. The government of Romanian President Ceaucescu has now proposed to eradicate over half of the country's 13,000 villages and to resettle the inhabitants in government agro-communities. These resettlements would annihilate Transylvania.

This plan, Mr. Speaker, evokes memories of Stalin's forced collectivization in the Soviet Union and similarly brutal reforms in Mao's China. Given the ongoing reform process in both of those countries, Romania's action seems all the more barbaric. I support the suspension of Romania's most-favored-nation trading status and urge the Romanian Government to reconsider its actions.

Mr. WORTLEY. Mr. Speaker, I am proud to join with my colleagues in condemning the plan by the Romanian Government to destroy at least 7,000 villages.

The people of Romania have suffered greatly under a government which does not heed its wishes and is unresponsive to the need for reform. The Ceausescu regime has proven it cannot even feed its own people, and now is further demonstrating its self-destructive tendencies by demolishing the country's ethnic heritage.

Romania's human rights record has already resulted in the suspension of most-favored-nation status, and this latest outrage should only harden our resolve to continue to oppose the totalitarian extremes of its Communist dictator. While most of the Eastern bloc seems to be waking up to the realities and benefits of reform, Romanian Communists seem intent on cementing the country into the dark winter of Stalinism.

The proposed demolition is to be condemned because it is targeted at the Hungarian minority population of Romania. We know from experience that we cannot ignore for long the brutalization of any ethnic group.

Numerous organizations and governments have already spoken out against the demolition. Most impressive perhaps is the recent action by Romania's Warsaw Pact ally Hungary to strengthen international protection for ethnic minorities. Even a country behind the Iron Curtain can appreciate the danger presented by a policy of demolition and ethnocide. In an unprecedented move, 100,000 Hungarians demonstrated in Budapest on June 27 in recognition of the violence perpetrated by Romania.

Mr. Speaker, if unopposed, the demolition will permanently scar Romania, and threaten long-term relations with the United States. We must focus attention on the proposal now because the damages will remain long after Ceausecu passes from the scene.

Mr. HENRY. Mr. Speaker, the Romanian Government has announced its intention to bulldoze up to 8,000 Romanian villages. This action would mean the destruction of centuries old churches and cemeteries, mother tongue schools, historical buildings, and greatly alter the way of life for many, particularly the Hungarian minority. I read with great interest this article from the London Times and urge my colleagues to do the same.

[From the London Times, June 30, 1988]

ROMANIAN HORROR STORIES

The Hungarian newspapers are reporting the expulsion by Romania of Hungarian consular officials from the city of Kolozsvar—which according to the Romanian newspapers does not exist. They call it Cluj. The more traditional German newspapers, for their part, still refer to it as Klausenburg.

This trinity of names reflects the ethnic composition of the province of Transylvania. Until 1919 it was one of the "lands of the Crown of St Stephen", founder of the Kingdom of Hungary. With the collapse of the Austro-Hungarian Empire the previous year, it was annexed by Romania. Partially recovered by Hungary in alliance with Hitler, it was lost again in 1945.

The majority of the population is Romanian, and their proportion has been increasing as West Germany has gradually brought out, and bought out, the previously large German-speaking community. Now the Hungarian minority of almost two million is also under threat, as Romania's "Conducator" (Leader), President Ceausescu, pursues his vision of an ethnically and ideologically "pure" Romania under the hereditary rule of the Ceausescu dynasty. The fictional home of horror stories is full of real ones.

The furious reaction of ordinary Hungarians, with an increasing amount of sympathy from their Government, has turned the policies of the Romanian Government in Transylvania into an international issue. The key issue is the extraordinary plan to demolish up to 8,000 Romanian villages so that the inhabitants can be concentrated into new concrete "agro-industrial complexes".

If President Ceausescu pushes ahead, almost two thirds of all villages across the whole of Romania will ultimately be affected. Their houses, churches and graveyards will be smashed into the mud by bulldozers. All links with the past will be broken. Massive concentrations of concrete hutches will be the breeding places for the New Romanian Man.

That President Ceausescu is deadly serious about this can already be seen in the Capital, Bucharest. Vast swathes of the old city, with its unique mixture of Ottoman and European architecture, are being demolished to make way for ceremonial avenues and squares, where the regimented masses can demonstrate their love for their Leader before concrete monuments.

In a bow to world opinion, a few famous churches are being moved bodily out of the way, but many others have already been destroyed. The Romanian Orthodox Church's declared approval for this and the other policies of the Romanian State may be explicable in terms of that Church's tradition of subordination to monarchical power. It remains however one of the most shameful instances of dereliction of duty in the history of Orthodox Christianity.

The Orthodox bishops may well be rejoicing in the prospect of a Romania purged of "impure" Hungarians and Germans, Catholics, Protestants and Uniates. They may hope to provide the religious element in President Ceausescu's paradise. Much more likely, Ceausescu and his kind will continue to treat them with contempt.

The official defenders of the destruction of Bucharest compare it brazenly to the reconstruction of Paris by Napoleon III's Prefect Haussmann. Haussmann, for all his faults, did express the justified confidence and pride of a dynamic new age, which was bringing many benefits to the world. Ceausecu's Stalinism has been repudiated by every other communist State, with the inglorious exception of Albania. His shivering, hungry subjects know very well what it has brought to Romania.

Mr. FEIGHAN. Mr. Speaker, I'm pleased to join this special order today to protest the continuing oppression of national minorities in Romania. I'd like to take this opportunity to commend my colleague, Representative TOM LANTOS, for organizing this event, and indeed for his outstanding leadership in the area of human rights.

As many Members of Congress are now aware, the Romanian Government has accelerated its plan to demolish over one-half of Romania's villages and to assimilate by force its largest minority, the 2.5 million Hungarians who live in Romania.

Repression in Romania has hit ethnic Hungarians especially hard. The Romanian Government has forbidden or restricted the use of the Hungarian language, even in private matters. It has cut back forums for Hungarian cultural exchange and destroyed historical landmarks. Religious persons and activists have been beaten, forced into emigration, and even murdered. And Hungarians have been forced to move into Romanian areas of the country.

Most recently, Romania has begun demolishing 8,000 villages: bulldozing homes, schools, important village architecture, and centuries-old churches and cemeteries. Villagers will be forced to move instead into government-owned, concrete apartment buildings. The Hungarian Press of Transylvania, an underground news agency, has obtained a list of the villages which are to be evacuated by August 10. Villagers are receiving eviction notices, ordering them to tear down their homes or pay the Romanian Government to do it. Already, three of these villages have disappeared.

It's absolutely critical that the U.S. Government speak out loudly in opposition to these cruel policies. I urge the administration and my colleagues in the Congress to use every opportunity to protest the Ceausescu regime's increasingly barbaric conduct.

Mr. HALL of Ohio. Mr. Speaker, I am pleased to join in this special order today regarding the current situation in Romania. I commend the gentleman from California [Mr. LANTOS] for taking this opportunity to focus the attention of the House on the systematic violations of human rights by the Government of Romania. I am also pleased to join him as an original cosponsor of House Resolution 505, which expresses the concern of the House about these developments in Romania.

I traveled to Romania in 1985, along with the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. WOLF], and I saw first hand the lack of civil rights and human rights for the Romanian people. I was especially struck by the efforts of the Romanian Government to harass and repress the free exercise of religion.

As the oustside world knows well by now, churches have been bulldozed, Bibles have been turned into toilet paper, and pastors and lay leaders have been jailed or heavily fined for preaching. Beatings and other forms of torture have been given to religious prisoners of conscience. During my visit in 1985, individuals would press messages into my hand as they shook hands with me. The information in these messages often concerned imprisoned family members and other personal tribulations imposed on them because of their Christian faith. My colleagues and I were deeply moved by the courage of the Romanian believers.

Efforts to bring about improvements in human rights conditions in Romania were unsuccessful, so my colleagues and I offered amendments to the trade bill to provide for a 6-month suspension of most-favored-nation trade benefits for the Ceausescu government. These amendments, which passed both the House and Senate by substantial margins, put the Romanian Government on notice that as a condition of continued trade benefits Congress expected to see genuine improvements regarding a wide range of human rights abuses, including religious restrictions, labor and emigration problems, and discrimination against ethnic minorities.

Reflecting congressional concern, State Department officials stressed the U.S. position on human rights issues in their dealings with the Ceausescu government. However, at the initiative of the Romanians, MFN trade status was completely suspended, effective as of July 3, 1988. In effect, the Ceausescu government has indicated that it would rather not have MFN benefits if this means that it must comply with internationally accepted standards on emigration, overall human rights, religious liberties, and the treatment of ethnic minorities.

The suspension of MFN has not ended congressional interest in the plight of the Romanian people under the Ceausescu regime. Indeed, as a result of the controversy over MFN trade status, human rights considerations are now acknowledged as a key element in United States-Romanian relations.

This fact is certainly highlighted by House Resolution 505, which I am pleased to cosponsor with the gentleman from California [Mr. LANTOS] and with other Members who have shared a deep concern for the well-being of the Romanian people. It should be noted that this resolution urges the President not to consider providing any special benefit for Romania "until the implementation of a thorough reform in the human rights practices of the Government of Romania, including substantial actual improvement in the observance of the right of emigration, the rights of national minorities, and freedom of religion."

The resolution also strongly protests "the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights, and property rights of the inhabitants." This particular provision is most timely in view of the current implementation of the campaign of the Ceausescu government to bulldoze about 7,000 traditional villages to make way for government-owned agricultural-industrial complexes. About 7,000 of the country's 13,000 villages are scheduled to be leveled by 1995, and their inhabitants will be relocated in about 600 agro-industrial centers. First they bulldozed churches and synagogues. Now they are going to bulldoze literally thousands of villages. What will be bulldozed next?

The targeted villages are mainly in Transylvania, where most of Romania's 2.5 million ethnic Hungarians live. The destruction of these villages would be yet another blow by the Ceausescu government against the culture and identity of ethnic Hungarians in Romania. Thousands have demonstrated in Hungary and Poland to protest the village destruction and resettlement campaign. As an appeal in Poland stated, "This is not solely an internal Romanian question, but an issue affecting the cultural legacy of all mankind."

The destruction of the ethnic Hungarian villages and other villages in Romania may exacerbate the movement of refugees from Romania to neighboring Hungary. It has been reported that over the past year, some 30,000 Romanian citizens have fled to Hungary. It is unprecedented for citizens from one Warsaw Pact country to seek refuge in another Warsaw Pact country. This situation is further straining relations between Hungary and Romania. At the end of June, the Romanian Government expelled the Hungarian consul-general in Transylvania and ordered the closing of the Hungarian cultural center in Bucharest. These actions apparently were in retaliation to a march by 50,000 Hungarians past the Romanian Embassy in Budapest to protest the destruction of the Transylvanian villages.

The United States needs to make clear its strong opposition to the actions and policies of the Ceausescu government. That government must understand that its relations with the United States cannot improve until it ends its repression of religious and ethnic groups and respects the basic human rights of all its citizens.

The resolution we have introduced provides an opportunity for the House to state a firm position on the current situation in Romania. I would urge my colleagues on the House Committee on Foreign Affairs and on the Subcommittee on Human Rights and International Organizations to expedite full House consideration of House Resolution 505. In particular, swift action is needed to put the House clearly on record in opposition to the impending destruction of the Hungarian culture in Transylvania.

Mr. LIPINSKI. Mr. Speaker, I would like to thank my colleague from California for calling this special order supporting H.R. 505, the resolution condemning the present Romanian Government's violation of human rights. It is necessary and very important that this body call attention to the human rights violations of the Romanian Government.

In this day when peace breakthroughs are enthusiastically reached between the United

States and the Soviet Union, it is important that American leaders and the American public do not become overly satisfied or starry-eyed with the new style and conduct of Soviet-bloc countries. Rather, we should keep in mind that in many aspects of the behavior of Communist regimes, little has changed. Of course, the area where significant strides toward improvement still must be taken is that of human rights.

Americans can be reminded daily that in many Communist bloc countries oppression of peoples and violation of human rights continue unabated. The most serious example of such violations taking place today is the treatment of Hungarians and other minorities in Romania.

While glasnost political trends have brought social and human rights improvements for some peoples of the Soviet bloc, such improvements are absent in Romania. In fact, the neo-Stalinist leader of Romania, Nicolae Ceausescu, has stepped up efforts of oppression in that country. Such efforts are mainly directed at Romanian minorities, primarily the country's 2 million Hungarians.

The most recent Romanian initiative to suppress minorities threatens to completely destroy the rights and culture of Hungarians in Romania. Romania's plan to bulldoze hundreds of villages in Transylvania will act to erase the Hungarian culture in that country by wiping out traditional Hungarian churches, schools, architecture, and all other signs of heritage. This program is only the latest of the Government's attempts at slashing minority rights, and diluting any cultural identities in the state. Romania has long been closing Hungarian-language schools, restricting native language use and publications, and general intimidation. Romania, in its attempt to destroy native Hungarian culture, is attempting to destroy a way of life.

In America, we know of the contributions which every ethnic group has made toward our country. We have experienced it. Thus, we know that it is ridiculous for any state to require such complete assimilation of its ethnic groups. This is especially true when one considers that Romania signed the Universal Declaration of Human Rights, the Helsinki Final Act, among other human rights treaties. It is obvious that Romania is violating those agreements, in addition to casting a large cloud over the sincerity of Soviet-bloc glasnost.

It is important for all those with a realistic view of United States relations with the Soviet Union to take a strong stance against blatant human rights violations in Romania and support H.R. 505. Terminating Romania's most-favored-nation status was a step in the right direction, and through H.R. 505 we must continue to condemn the Romanian Government.

As we continue to take steps toward peace with the Soviet Union, it is imperative that we be careful not to overlook serious violations in other parts of the Soviet bloc. We cannot proceed with symbolic strides toward peace until the Romanian Government takes responsibility for its conduct and stops the violation of Hungarians' rights in that country.

Mr. DWYER of New Jersey. Mr. Speaker, I want to thank my colleague, Mr. LANTOS, for obtaining time this evening to discuss a deplorable human rights situation in Eastern Europe.

While Soviet General Secretary Gorbachev has had noted success in bringing the Soviet Union and many of the Eastern bloc countries into an era of new openness, Romania has remained conspicuously imbedded in the era of Stalin. And actions taken by President Ceausescu have created an unprecedented rift between two Warsaw Pact nations, Romania and Hungary. The issue which has caused this break is the Romanian Government's policy toward minorities inside Romania, most notably Hungarians.

Located inside Romania's boundaries because of border realignments following World War I, there are over 2 million Hungarians living in a cultural exile in Transylvania. The Ceausescu government has had a very poor human rights record for many years, but its recent activities toward the Hungarian minorities can only be interpreted as deliberate efforts to denationalize the Hungarian community.

Romania has announced plans to raze over 7,000 traditional villages in order to establish Government-owned agricultural-industrial complexes. The prime targets are the Hungarian areas and churches, schools, and cemeteries have already been destroyed. Hungarians are being relocated to other areas of the country, areas with a majority of Romanian population. This is being done in an obvious effort to scatter, and therefore destroy, the Hungarian nation inside Romania.

To date, between 15,000 and 30,000 ethnic Hungarians have sought refuge in Hungary. The 2 million Hungarians still inside Romania continue to be victims of a regime which is becoming more repressive, as its efforts to destroy their ethnic heritage meets with greater criticism from both Eastern and Western governments.

A resolution has recently been introduced in this body condemning the violation of human rights in Romania and recently a letter was sent to Secretary Shultz asking him to consider the economic pressures placed on Hungary by the influx of refugees seeking asylum from the oppression of the Ceausescu government. I am pleased to be a part of both of these initiatives.

Again, I commend Mr. LANTOS for providing us with this forum and hope that we will continue to speak out against the abuses against the Hungarian minority in Romania.

Mr. BORSKI. Mr. Speaker, I rise in strong support of this resolution condemning blatant and well-documented abuse of human and minority rights in Romania.

The recently accelerated plan to level 8,000 of Romania's 13,000 traditional villages is only the latest chapter in the Ceausescu regime's history of brutal repression of its ethnic minorities, particularly of the 2.5 million ethnic Hungarians in their ancient Transylvania homeland.

The village-razing process will be thorough. It will be merciless. And, most tragically, it will be permanent. An ancient and beautiful culture will be willfully destroyed. A people who already struggle not only for life's physical necessities and who cannot freely speak or read their own language will not lose their homes, their roots, and their history.

In destroying centuries-old settlements, Romanian officials hope to further obliterate traces of non-Romanian settlements in the country. The forced assimilation of ethnic Hungarians has been degrading and cruel, in forbidding the use of the Hungarian language in schools, the press, place names, and even personal names.

Our first reaction to these human rights violations may well be shocked disbelief. But no one who is familiar with the Ceausescu regime's record can doubt that this Romanian Government will indeed proceed to destroy villages, lives, and a whole culture without a qualm. One need only see the ashen faces of Western diplomats as they describe the rubble that is Bucharest today; what is to prevent Ceausescu from extending his megalomaniacal policies to the entire countryside?

Last April, this body took a definite stand on this issue when it passed the Wolf amendment to the trade bill, voting 232 to 183 to suspend most-favored-nation status for Romania. This year, realizing that MFN would likely be revoked, the Romanian Government ostensibly rejected extension of MFN. Current Romanian repression of its ethnic minorities is so much a part of the country's basic domestic policy that Romania is no longer willing to debate this policy, even at the price of MFN.

The Ceausescu regime becomes ever more intractable. Its leaders no longer even pay lip-service to internationally recognized human rights. To this very day, the Romanian delegation to the Helsinki follow-up conference in Vienna continues to block passage of a concluding agreement that makes strong reference to minority rights.

I urge all of my distinguished colleagues to join me in resoundingly condemning human rights violations in Romania.

Mr. RITTER. Mr. Speaker, I wholeheartedly add my support to Representative DORNAN'S resolution condemning human rights violations against the ethnic Hungarian minority in Romania.

The current Romanian regime's plan to eliminate 8,000 Hungarian villages from the map is nothing short of cultural destruction. Nicolai Ceausescu's clear intention is to destroy all vestiges of Hungarian culture within Romania and therefore remove a major source of opposition to his rule—an idea and act which is abhorrent. Yet, unfortunately, it's no longer just a plan: Last week the Voice of America reported that three Hungarian villages have already been ruthlessly destroyed.

These actions have proceeded with tremendous cynicism. In Covasna country, villagers were forced to either demolish their own homes or else pay the government to do it. And what awaits these displaced villagers? They are forced to move into crowded concrete high-rises to be built on the site of their once proud cities, where city halls, historic buildings, and landmarks have been torn down.

Similar "rebuilding" has also resulted in the destruction of Romanian and German culture. In Bucharest, Ceausescu tore down the old Romanian center to build himself a massive and expensive monument to himself. It has also been carried out in Csikszereda—Miercurea Ciuc—and Szatmarnemeti—Satu

Mare—both historically significant cities from former centuries, when Hungarian culture flourished in Transylvania—then still part of Hungary.

These policies are a sad, yet realistic, commentary on the nature of Marxist-Leninism in Romania. The destruction of culture in order to more fully control its citizenry demonstrates the inherent bankruptcy of Romania's political system.

These actions are also at complete odds with the Helsinki accords to which Romania is partner.

The Helsinki accords in principle VII states that signatory states, such as Romania, will "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person." What could be more detrimental to people than denying them the rights to live in their homes and communities which have nurtured them, to maintain the cultures which inspire them, and to transmit their culture to future generations.

By forcing people to relocate to larger industrial centers, the Romanian Government is violating individual rights of self-determination. While self-determination is usually thought of in terms of a nation, many Helsinki commentators have considered that this right should also extend to the individual.

I call upon my colleagues to support Representative ROBERT DORNAN'S resolution, of which I am a sponsor, which condemns Ceausescu's policy of destroying Hungarian villages and culture. And I call on the Foreign Affairs Committee to expedite the passage of this legislation. The Hungarian minority in Romania, unable to freely speak for itself, is depending on the free world to stand up for their rights. This cruelty and destruction must stop. For three villages, it is unfortunately too late.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ESOP'S: WHO REALLY BENEFITS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, since the passage of the Employee Retirement Income Security Act of 1974, we in Congress have encouraged the formation of employee stock ownership plans [ESOP's] by enacting a series of very favorable tax incentives. We have done this because we have perceived an ESOP to be an employee benefit, a way for workers to share in the profitability of their company, a way for the little guy to get a well-deserved piece of the action.

It's time we stopped to assess the results of our actions. Are the little guys getting a piece of the action? Are American workers, the backbone of this country, sharing in the profitability of their labors? Are ESOP's really providing a benefit to loyal employees?

Let's take a look at some ESOP's. Hyatt-Clark, a ball-bearing plant, was purchased by an ESOP in 1981. In 1984, management voted bonuses for themselves, but put the employees shared profits into capital improvements. The plant closed in 1987.

Raymond Engineering terminated their pension plan to fund an ESOP. Unfortunately, the pricing projections were inaccurate and the company went out of business taking with it not only the jobs but the pensions of the employees as well.

In 1986, Wesray purchased Avis for $250 million plus the assumption of $1.6 billion in debt. Wesray then sold most of Avis' European operations for $234 million, a large portion of the domestic leasing operation for $140 million plus $148 million in debt, then sold what was left of the company to the employees—for $1.75 billion. Wesray made a $740 million profit on a 1-year cash investment of $265 million. Will the employees fare as well on their investment?

Some years ago, the Scott & Fetzer Co., proposed an ESOP in which management investors and investment bankers would purchase 29 percent of the corporation's stock for $9 million. The ESOP would purchase 41 percent of the same stock for $182 million. This worked out to a purchase price of $3.10 a share for the investors and $44 a share for the employees—for the same stock. Because of tax incentives encouraging ESOP formation, the taxpayers of this country would have invested $100 million so that the employees could obtain stock worth between $13 and $40 million, at a cost almost 15 times greater than the cost to investors. This just doesn't make sense. Fortunately, this particular sweetheart deal collapsed under the weight of its own excessiveness.

Current ESOP tax provisions, especially as they apply to highly leveraged transactions, encourage the formation of ESOP's as financing tools for corporate executives and investors, but do little if anything to encourage the formation of ESOP's as employee benefits. To quote Joseph Schuchert of Kelso & Co., "Take away the tax savings and there is no reason to do an ESOP."

If employee stock ownership means that employees take all the risks but get few, if any, of the benefits, then it's time to correct our course.

I am introducing two bills to do just that. The first will require the Securities and Exchange Commission to develop standards for determining the fair value of closely held stock. This will put an end to the sort of deal where the employees pay $44 per share and the investors pay $3 per share for the same stock.

The second bill will amend the Internal Revenue Code of 1986 to treat the interest exclusion on loans to ESOP's as a tax preference item for purposes of minimum tax. It will also require passthrough voting rights to ESOP participants where the ESOP owns a substantial part of the corporation. This will discourage those ESOP's that are formed for the sole purpose of securing cheap money at the expense of the taxpayer with no regard for the welfare or rights of employee participants.

I ask my colleagues to join me in preserving the employee benefit concept that led to the passage of ERISA, and to continue to monitor ESOP trends.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

☐ 1500

THE UNITED STATES SHOULD RETURN WITH ITS SHIELD

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, the word Aegis comes from the Greek—meaning shield. And that is what the Aegis is for the U.S. Navy.

The Aegis is the Navy's answer to the Air Force AWACS planes. The state-of-the-art integration of computers, radars, missiles, and software of the Aegis provides an unprecedented level of protection to naval battle groups.

The Aegis is one of the key underpinnings of America's new, high technology Navy. The numbers of the United States fleet are still below 600 surface combatant ships, which is a far cry from the over 2,000-ship Soviet Navy.

The U.S. Navy holds its own because of superior electronics and design. If the Soviets had the same technology and if they used it, the sheer weight of numbers would favor the Soviets in any possible confrontation.

That is why technology transfer to any country concerns me, but, in view of the recent Toshiba scandal, transfers of technology worry me greatly. The Toshiba incident highlighted the fact that Japanese compaines have been trafficking for years with the Soviets. And, from what I understand, other Japanese companies are under investigation for being conduits to the Soviets of American military secrets.

In response to the United States demands, the Japanese have promised to tighten security. Yet, this is a promise we have heard before.

But what has happened?

The Japanese Diet refuses to pass an antiespionage law.

History has shown that the Japanese are long on promises but short on performance. The book, "The Japanese Conspiracy," which I have been reading on the floor, catalogs promise after promise made, broken, and replaced by a new promise.

Can the United States leave its defenses to mere promises? Americans deserve better. How can we, in Congress, justify $300 billion in defense spending but not, at the same time, safeguard the secrets that are necessary to insure our defense?

Further, why should foreigners be subject to different—and laxer—espionage laws than Americans. The people who release our secrets should be prosecuted under American law, in American courts.

Is this unreasonable? In an analogous situation, India is trying to extradite United States Union Carbide officials for criminal prosecution.

Should United States secrets that involve the very defense of our country and the lives of our military be treated in a lesser manner?

But beyond the security aspects, there are economic reasons also. To build a frigate with Aegis capabilities costs somewhere in the neighborhood of $750 million in the United States. In Japan, this same ship would cost an additional $200 million.

If the Japanese used prevailing United States contracting officer logic, there would be no question that it would be purchased in the United States—because it's cheaper over here. I had hoped that the other body was going to hold firm that the Aegis could be sold to Japan only if the entire unit was built in the United States. But that apparently is not to be.

But the Japanese want something—the technology. The United States makes the best surface combatant ship in the world. The Japanese want to learn the knowhow of the way a modern fighting ship is built. But, beyond that, there is the question of the software.

In the past 10 years, the Japanese have shot past the United States in microchips and small computers. The United States is still the world's acknowledged leader in software. Can we really afford to give this to a competitor in the world market?

The Japanese have already taken advantage of the F-15 technology to leap frog from a propellor plane industry into production of commercial jets.

Yesterday, former Senator Jeremiah Denton, a retired Navy admiral and more respected Vietnam prisoner of war, told me that he and other military experts were shocked to learn that the United States would turn over such technology. It also happens that the Aegis cruiser and its technology were the speciality of Senator Denton when he was on active duty. And more than one expert has stated that the technology could be reverse engineered and, within 3 to 4 years, put to use in parallel civilian ways as well as military production.

So why is the United States doing this? And what happens to the American shipyard workers who could have stayed employed but for the fact the 2 or more Aegis cruisers would be built in Japan.

We should retain our Aegis—our shield. The Greeks used to say, "Return with your shield or on it." And United States sailors and United States shipyardworkers will not be able to return with their shield if that shield is in Japan.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

THE AMERICAN CRISIS IN SELF-GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk today on the American crisis in self-government. There are actually two crises. One involves the Presidency, and the other involves the U.S. House of Representatives.

The crisis in the House can be represented by a single number: 98.5; 98.5 is the percent of incumbents who were reelected in 1986. That is a real crisis because the Founding Fathers intended for elections to be fair, to be honest, and to involve the process of truly challenging whether or not the incumbent should be rehired. When only 1.5 percent of the incumbents are defeated, we or anyone with common sense know automatically that in fact we have a crisis in the system because it is not renewing itself.

The Founding Fathers debated in the Constitutional Convention whether we should have elections every 6 months or every 2 years. It was a very long debate, running almost a month, in which they argued for 6-month elections because they really believed that while they should elect the Senate and the White House for a long period of time, the one branch of Congress should be permanently scared.

Yet over a long period of time, in a trend which began in the 1890's and which accelerated dramatically after 1974, we have seen the building up of professional politicians' abuse until today the incumbent is so invulnerable that it is a major crisis in the system.

It is literally true that 1988 will be the first year in which the people of Mexico will have had a greater likelihood of defeating incumbents than the people of the United States. That is an historic moment, a moment in which literally in elections for the U.S. House of Representatives you are less likely to affect the balance of power with your vote than you would in elections in Mexico. And indeed if Gorbachev's glasnost succeeds, you will be less likely to affect the balance of power in the U.S. House than you would in the Soviet central parliament that they are inventing.

That sounds like hyperbole, that sounds like rhetoric, but it is literally and statistically true that in 1986, 98.5 percent of the incumbents were reelected. That is a fundamental subversion of the Founding Fathers' constitutional intent of having fair elections in which the challenger had a fair opportunity to defeat the incumbent and in which the voter had a fair choice.

The crisis in the House has led to a much, much more left-wing policy than the American people believe in. The fact is that the average American is part of a center-right majority, and that again and again, from 1968 to the present, the average American has voted against leftwing candidates for President. Hubert Humphrey got 43 percent of the vote, George McGovern got 38 percent, Jimmy Carter beat all the liberals in 1976 when he was perceived as a Southern Baptist populist, and in 1980 Jimmy Carter beat EDWARD KENNEDY and then was defeated. Then in 1984, Walter Mondale proudly stood up in San Francisco and said, "I really am a liberal," and the country said, "Yes, you are," and he got 41 percent of the vote.

So at the Presidential level we have had absolute evidence for a generation that leftwing policies do not get very much support. That has led, however, to the second crisis in our system, and that is the fact that self-government requires honesty and openness and requires some minimum level of candor to work. That is, the voter has to have the ability by election day to have some reasonable understanding of what the politician who is running for office stands for. If the politician can get away with a very high level of disinformation or just plain dishonesty, then the voters are not really sure what they are voting for.

As I reported in two previous special orders, we now have a systems crisis in which one of the two major parties, the Democratic Party, having concluded after 20 years of Presidential election results that it is simply not possible to run an honest liberal and win, has given up on the word, "honesty." So what we now have is a party systematically running a deceptive campaign. This was best illustrated recently in a three-page article by Fred Barnes in the New Republic.

But it emerges again in the current mini-flap over Governor Dukakis' health records. Let me say for the record that I think that it is Governor Dukakis' personal choice whether or not he releases his health records. I think he has every right as an individual citizen to not release his health records, and I think there is no automatic requirement that you release your records just in order to run for the Presidency.

I do think there is a legitimate concern on the part of the American people that they have a pretty good knowledge that the person they put next to the nuclear button, the person who in the Oval Office could start a nuclear war, be a relatively healthy and calm and rational person. And I think there are profound reasons for that, that starting with the rise of the nuclear age, beginning with Truman and Eisenhower, there has been a growing tendency to expect Presidents to be remarkably candid. Many people my age will remember Lyndon Johnson showing off his scars. Others a little older will remember Eisenhower's heart attacks. There has been a remarkable pattern of openness about Presidential health, because the Presidency is the one institution that could start a nuclear war.

But I do not object to Governor Dukakis having a right to privacy. He is an American citizen, and even though he is running for the Presidency, he has every right to remain private. I think there is an easy, simple compromise that he could follow, and that would be to allow two or three nationally respected doctors to review his health records, maintaining the privacy but nonetheless having neutral parties, not his mutual doctor and friend for 17 years, tell us how healthy he is.

But the point I want to make goes a bit deeper. It goes to the issue of deception, not the issue of health. Governor Dukakis has been running around the country saying that he is going to be the ethics President, that in his administration ethics is going to be in the Oval Office. He made the promise that there will be no secrets from the American people in the Dukakis administration. Now, I do think he has an obligation, if he is going to be honest, to withdraw that promise. He has every right to keep his health records private, to keep them secret, as long as he admits there are times he is going to be secret.

I am frankly willing to have a man run for President who says, "Yes, there are some secrets you won't learn. Yes, if we do certain things in international affairs and we have to keep them secret to protect our allies, you won't learn them."

I am willing to have a man who says, "Yes, there are times when the lives of American agents may be at stake, and you won't learn them." That is perfectly fine.

What I find impossible in this age of television is to have a candidate like Governor Dukakis who says, "I promise you there will be no secrets," and then 3 days later he says, "Oh, by the way, there are a few secrets you are not allowed to look at. Please don't pay attention to those."

□ 1515

Now which is it? And I think Mike Dukakis has to come clean with the rest of us. He has to either say, "Yes, I'm running an ethics campaign, I'm going to have ethics in the Oval Office, and here are my health records," or he has to say, "No, there are times I'm going to keep a few secrets, this is one of them, and by the way I take back all that stuff I said earlier."

Now I raise this because this is only the latest in a long series of deceptive efforts. If my colleagues will notice, in the Democratic platform in Atlanta they worked overtime to avoid the word "liberal" because they figured out that liberal is not a good word. They worked overtime to avoid talking about tax increases because tax increases, which is what liberal Democrats do to turn people off, and they do not get elected.

Also, they have worked very, very hard to hide the extent of the budget crisis in Massachusetts. All the time this spring that Governor Dukakis was parading around the country telling everyone what a great job he was doing in Massachusetts, in fact the government in Massachusetts was disintegrating, and the budget was getting worse and worse. They now have a crisis which is being papered over only by trying to do radical things like raid the pension funds of the teachers and the government employees, raise taxes in a variety of areas, borrow a lot of money. In effect Governor Dukakis is trying to hide the deficit in Massachusetts until he gets through to the election.

And, again, I just want to suggest that it is very difficult in the process of self-government to have an honest campaign in which a candidate like Governor Dukakis persists in saying things that are simply not candid and simply not forthcoming.

Now let me tie the two together, the crisis in the Congress and the crisis in the Presidential campaign process. The U.S. House, because it is no longer representative or accountable, because the American people cannot fire the Members, because, as I said earlier, 98.5 percent of us get reelected, the U.S. House is now the bastion of left-wing thought in America. Members of Congress who know they do not have to be afraid of the voter because the voters, after all, are not going to be able to fire them then look for the next source of pleasure and pain, and in the House and in the majority party that is the Democratic Caucus.

The Democratic Caucus is somewhere around Walter Mondale and liberalism with a strong faction to the left of McGovern, a weak faction that is around the SAM NUNN-Chuck Robb kind of southern moderatism, and the base of the party is somewhere between Mondale and McGovern. It is on foreign policy an increasingly left-wing majority, a majority that on any given day is more likely to understand the Nicaraguan Communist government than to understand the pro-American Nicaraguan freedom fighters, a majority that on any given day is more likely to accept the Soviet version of arms control than the American Government's version, a majority that tolerate having the Speaker of the House meet in secret on Veterans' Day with a Nicaraguan Communist dictator.

The fact is that the American people face a crisis in the process of governing themselves because Members of the House cannot be fired for all practical purposes. We have Members of this House who have been sanctioned by the ethics committee. We have some who have been sanctioned for some pretty bizarre things. They get reelected. We have a few Members of the House who get convicted of various things. They get reelected. We have a process here where we have Members who clearly would not under any circumstance be representative of a majority of American voters. Not only do they get reelected, which is perfectly reasonable; this House should represent all sorts of groups, but they are gradually elevated in power in positions which the vast majority of Americans would not understand, and the fact is we now have a Congress which has in the current Congress more ethics cases and more ethics problems than any Congress in modern history. We have a Congress which is out of control which the voters have lost the ability to directly influence and on which Members use the tax money given to them to do pretty much what they want.

It is interesting. For example, most voters do not realize that one party, the Democrats, have controlled the House for 34 years. Most voters do not realize that during that time that the Democrats have controlled the House we have built up a modern, invincible incumbent who has $1,200,000 a cycle in tax-paid opportunities: direct mail, staff, computers, offices, travel, a million two hundred thousand dollars before the challenger gets to raise a dime. Most voters do not realize that the power of the subcommittee chairmen and committee chairmen is now so great that in most cases it is not political action committees corrupting Congressmen. It is Congressmen like medieval aristocrats demanding tribute, in effect demanding the political action committees into contributing.

We have one Member, a chairman of a subcommittee, who has gotten 350 executives of that particular industry that goes to that subcommittee to give a thousand dollars apiece to that chairman. Just a straight relationship that says, "You have power over my business; what can I do to make you happy so you won't punish me?"

The result is that the average voter's ability to fire their incumbent is less in America today than it was a few weeks ago in the Mexican election, and I think that is an historic watershed. I think that political science and government classes and civics classes are about a generation behind the reality of American politics. I think most newspaper, television and radio reporters have not looked carefully at the implications of having a Congress which is not only out of control; that is, as it grows harder to defeat incumbents, incumbents get more arrogant, incumbents get more inclined to do what they want to, and incumbents get more willing to impose their views, not the views of their district.

But in addition, because the House has been controlled for 34 years by one party, the Democrats, because the House has been controlled for 34 years by a party which has been moving to the left, which has moved from Sam Rayburn, if you will, to Jesse Jackson, which is now a much more left-wing party than it was 34 years ago, because the left wing of that party has an agenda, a world view, and a willingness to use its muscle to get what it wants, you end up, as I read earlier, with the following message.

This is from the President of the United States talking about a bill which passed the House which he vetoed on defense. He charged in his veto message of yesterday that the bill: "Would needlessly concede military advantage to the Soviets."

That is that the Soviets would get advantages out of the bill that the Americans would not get. He charged in his veto message: "It would reward the Soviets for their words and not their deeds."

My colleagues might say to themselves: now wait a second. On a defense bill written by the Committee on Armed Services passed by the House why would we be conceding military advantage to the Soviets? Why would we be rewarding the Soviets? Well, the President went on to say: "The bill would return us to the practice of rushing to give away our negotiating leverage without receiving a single thing in return from the Soviets."

Now the fact is, when one looks at that, this House is dominated by a leftwing majority of the Democratic Caucus which believes, when possible, in unilaterally disarming and unilaterally giving up to the Soviets in appeasing the Communist dictatorship in the hopes that then it will behave nicely, a belief which Frank Gregorski reported in an essay entitled, "Whatever Happened to the Democrats in Foreign Policy?" in which he reported year by year, starting in 1970 with Cambodia, and Vietnam, and Laos, and Angola with Nicaragua, how year by year it is possible for leftwing Democrats to always find one more excuse, one more explanation, one more reason to vote for a weaker America and to accept an aggressive Communist world.

There is a second factor. As the Congress has gotten further and further away from being policed by the American people by having to worry about reelection, by being concerned that they might be fired, the special interests inside the Congress have grown more and more powerful. The President comments on that in his veto message when he says in short:

"The bill trades vitally needed defense muscle for the parochial interests of those in the Congress."

In other words, the mandated waste of the Congressmen who impose things on the Defense Department which the Defense Department does not want, and let me say very often ironically it is precisely the leftwing Member who is anti-Defense who then insures that his or her district gets the things they want out of the Defense budget.

Because it is impossible in a free society, even one in which the biases are so massively in favor of the incumbent with all the advantages I described, for an incumbent to go home and say openly, "I don't care what you believe. You can't fire me. I have power. I'm going to do what I want to do," incumbents learn over time not to be totally candid. Incumbents learn over time not to necessarily say to the voter exactly what they are doing. They learn to use artful words. They learn, if you will, to use deceptive language.

That is important because it relates directly to what is happening now in the Presidential election. The fact is when Governor Dukakis goes to the New Jersey beaches and says he would clean them up, he does not tell anyone that he is leaving behind in Massachusetts 11 beaches that have been closed this year because of the raw sewage that is spilling in. When Governor Dukakis suggests that he is concerned about ocean dumping, he does not tell people that it is his friends in the Democratic machine in New York City who refuse to stop the ocean dumping. He does not comment when he is pledging openness on the fact that he is in fact currently fighting a court order or fighting a court case which would require him to release 200 documents in the New Braintree Prison scandal.

When Michael Dukakis talks about the success that he has had in creating jobs—and imagine, if you will, the tremendous gall of a man who attacks Reagan, attacks the Reagan economy, attacks the Reagan tax cuts and then says that he brought about the Massachusetts miracle as though he was president of Massachusetts and it was an independent country. The fact is that Massachusetts did pretty well in a country which was creating 16 million jobs. New Hampshire did better. Rhode Island did better. Connecticut did better. Maine did better. In fact, the truth is that Massachusetts has the slowest growth rate of new jobs and new income of any New England State in the last 8 years. The truth is that the Massachusetts miracle was riding an escalator built by Ronald Reagan, and Dukakis was claiming he was carrying the State up on his own back and then not only not crediting Ronald Reagan, but attacking Reagan for the very economy which had allowed Massachusetts to grow.

The fact is that according to Ralph Nader the mental health programs of Massachusetts are far below the national average. The fact is that the prisons of Massachusetts are so bad that a newspaper in Massachusetts won a Pulitzer Prize describing the scandal in Michael Dukakis' prisons. The fact is that while Michael Dukakis claims to be against crime, he is a strong defender of a program that is reported in an article entitled, "Getting Away With Murder," in the Reader's Digest in July, a program which furloughs murderers on the weekends and which in some cases has had murderers out on the street who have then raped, tortured and in some cases killed other people.

Again and again, when one looks at these things, it is discovered that Governor Dukakis specializes, if you will, in deceptively packaging the version he wishes us to see.

So I come back full circle to suggest to my colleagues that there is a direct relationship between the conversation we had on the floor today about whether or not convicted felons should serve in Congress, about the Bronx machine, about a May 5 dinner of the Bronx machine which brought together all three elements of a Democratic Party which has less and less concern about honesty. At the base of the Bronx machine, which has been covered in Tom Wolf's fine novel, "Bonfire of the Vanities," at that particular dinner there were indicted city officials sitting at the head table. In addition there was a convicted U.S. Congressman who already had a report urging his expulsion sitting at the head table, and there was the Governor of Massachusetts, Governor Dukakis, proudly prepared to say he was in favor of ethics even while he sat at a machine dinner with a convicted Congressman and indicted city officials.

Let me say finally, because I think this fits into that pattern, that far from being ashamed of having people there who were convicted felons, far from being ashamed about having people there who were indicted city officials, that in fact, that convicted felon was introduced as one of America's greatest Congessmen, and did Michael Dukakis object? Did he say, "Oh, I'm going to be the ethics President?" No. Far from it because he was among his friends.

Now I think that is important because every citizen who cares about the poor, every citizen who worries about the south Bronx or Jersey City, every citizen who worries about the homeless in Chicago or the difficulties in Boston has to recognize that for 40 years the invisible prison in American life has been the big city machines that are corrupt. For 40 years we have failed to pay attention to what happens in situations where the big city machines are, in fact, ripping off both the poor and the taxpayer. For 40 years we who work hard and are honest have been told we have to raise our taxes so the liberal Democrats can give more goodies away to their big corrupt city machines.

I had a chance to meet yesterday with Gov. Tom Kean of New Jersey, a courageous crusader, a man who went into the Jersey City schools because he was concerned about education and discovered to his shock that the machine in Jersey City was dumping all of its hack politicians into the administration building of the school system, that people who were supposedly being paid to take care of the schoolchildren were, in fact, taking care of themselves, that the administration that was supposed to be taking care of the schools was, in fact, taking care of its cronies. Governor Kean moved to take over the Jersey City schools on the grounds that having a corrupt machine which trapped those children in classrooms where they were not learning was a form of child abuse, that the cocaine addict, the prostitute, and the AIDS victim of the future was being aided by the corrupt machine of the present.

□ 1530

He discovered to his shock two reactions: The Democratic Party opposed him bitterly, fought for its allies' right to rip off the public and rip off those children; but the parents did not jump up and say, "Why are you taking over our schools?"

He discovered to his shock from all over New Jersey, in inner city school after inner city school, parents began signing petitions, petitions that said, "Come and save our children, too."

Now, let us go back and look at the problems of New York, the problems of the homeless, the problems of the schools, the problems of AIDS victims. The fact is when you look at Boston, when you look at Chicago, when you look at Philadelphia, when you look at the District of Columbia, when you look at Jersey City, and there are others that could be lined up on this list, that again and again we have a problem of the corrupt big city Democratic Party which has no concern about the taxpayer and no concern about the poor, which systematically tolerates a level of bureaucratic corruption, which makes it almost impossible to truly help those who need help, and no one is willing to speak out against it, no one is going to stand up and say it has to be changed.

Furthermore, you could not get an investigation in the U.S. House of Representatives of a single corrupt big city. You could not get the Democrats to agree to hold a series of public hearings looking into a single corrupt machine. You could not get a single open effort to lay out a standard of honesty, because the truth is that the coalition that keeps the Democratic Party alive is a coalition that relies heavily on not being candid, on not being straightforward; to use plain old fashioned words, on not being honest.

Therefore, it was suggested today that we ought to allow a twice-convicted felon an extra 30 or 40 days. We ought to allow a man who pled guilty yesterday, it will be suggested, to have at least a month or a mouth and a half. That is a second member who has pled guilty this week. One was convicted this week, the other pled guilty. He only stole $130,000 from people, not a big amount. I find it interesting and fascinating that both at the Presidential level and at the congressional level the basic question of self-government, the basic question of the requirement of honesty, comes back to haunt those who most aggressively attack on that issue, comes back to haunt those who have told us for a year, "Let's not protect Ollie North. Let's not protect John Poindexter. Let's not protect the Israelis. Let's not protect America's allies. We have to know all the secrets."

All the Members who voted so eagerly for public hearings, for television, for making sure that week after week we looked at America's secrets, in the next few weeks they will get a chance to do the same thing in terms of the Congress.

Should we in fact have ethics committee hearings involving the Speaker out in the open with television under the Iran-Contra rules? Should we in fact have action on two felons, one convicted, one self-confessed? Should we in fact look at the big city machines that are corrupt? Should we in fact insist, very simply, either that Governor Dukakis release his health records or that he withdraw his pledges to have the Oval Office as an ethics office, that there will be no secrets in the Dukakis administration.

In 1988 for the first time in history, as I said earlier, the people of Mexico will have had a greater chance of defeating an incumbent than the people of the United States voting in U.S. House races. That should frighten every citizen who looks at the reality that in 1986 98.5 percent of the incumbents were reelected. That requires I think a crusade for honest self-government that is willing to turn over every rock, to open up every door, to look into every room, and that is going to require a lot of citizens to decide on this 200th anniversary of the 1st election under the Constitution that it is worth their time and their effort to go out and say to their Members of Congress, to their politicians, to their Presidential candidate, "if you can't be honest, don't expect my vote. If you can't be candid, don't expect my vote, and if you are going to arrogantly try to deceive me, expect me to aggressively try to defeat you."

Only if the citizens are willing to work to contribute, to fight for their rights, can we expect to have the kind of honest self-government that the Founding Fathers thought we deserve.

THE SAVINGS AND LOAN INDUSTRY CRISIS

The SPEAKER pro tempore. Under a previous order the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 5 minutes.

Mr. PARRIS. Mr. Speaker, I thank the Chair for the time. I especially want to express to the gentleman in the Chair my appreciation for accommodating this request.

Mr. Speaker, I come before the House this afternoon to attempt to educate by repetition of the status of the Federal Savings and Loan Insurance Corporation, the so-called FSLIC, the insurance fund that insures the deposits of every depositor in federally insured savings and loan institutions, thrift institutions of various kinds, in this nation up to a statutory limit of $100,000.

Now, let me initially reemphasize not everybody that has a modest account in some savings and loans around this Nation should run down and jerk it out. That is not the problem. This is not an individual depository problem. It is an industry problem.

There are approximately 1,400 savings and loans in the United States that either are insolvent on their normal accounting practices or they are undercapitalized and unable to compete in a normal marketplace for mortgage financing.

Now, the problem, Mr. Speaker, is very simply that of the savings and loan industry, the thrift industry generally in this Nation, about 75 percent, perhaps 70 or 75 percent are adequately financed. They are reasonably managed and they are doing very well. As a matter of fact, they are making record profits.

The problem is that the remaining 20 to 25 percent are losing money at a rate of three times as fast as the well-managed and well-capitalized institutions are making, so that it is costing the taxpayers of the United States in one way or another, direct or indirect, about $1 billion a month to sustain the thrift industry in this Nation.

Now, everybody says, well, that is a serious problem and it is. The resolution cost of that problem, depending on who you talk to, the Federal Home Loan Bank Board Chairman, Mr. Wall, testified before the committee a week or so ago that his estimate of the resolution cost now is $42.5 billion. There are others, experts in the field, who tell it is $50, $70, or $100 billion. It does not matter. It is an enormous number, whatever it is. The question is, What do we do about it, and how? Well, the answer is that it is not just enough to wring our hands and moan about the condition of the 140 institutions in Texas, for instance, that are either insolvent or undercapitalized, and this is the point that I want to make this afternoon, because we are overlooking the impact that that 25 to 30 percent has on the other healthy part of the industry.

The Chairman of the Home Loan Bank told us just a month or so ago that the Home Loan Bank was increasing the premium, the extraordinary premium, let alone the normal insurance premium, they are increasing the extra premium on insurance coverage for covered institutions by $700 million a year over the next decade, or $7 billion; so that the gross amount of the premiums are something close to 50 to 60 percent, based again on whose projections you believe, on the total income of the entire thrift industry over the next decade will go just to help maintain the existence of this braindead portion of the industry.

Now, the problem is not just how do we solve the problems of the 1,400 institutions that are in trouble. The real question is, how do we accomplish what I call severability, so that we take those 20 to 25 percent and put them over here and deal with them in a separate way and take the 70 to 75 percent industry that is doing very well, let it compete in the marketplace and provide mortgage financing for the great American dream for the average homeowner.

The answer to that, Mr. Speaker, is to the extent that we ignore a solution of the problem of the thrift industry that is in trouble, we are jeopardizing the continued existence of the healthy part of the industry. The reason for that is very simple. If you have an institution that is well managed and adequately financed and it is competing in a markeplace with an institution that is braindead, it is very likely, if not certain, that the braindead institution is paying what is commonly called a Texas premium, which is increased interest rates on deposit accounts so that they can attract more money to make more speculative investments in California, for instance, up to 100 percent of total assets. They then take that money that they have obtained by excessive interest rates and they put it into undermarket rate loans. That makes an institution that is well managed has to meet that underrate market loan. It increases their costs and reduces their profits and jeopardizes their existence.

In the meantime, we continue to tell them that they have to attrack additional capital and we increase the premiums paid to the Federal Government, which makes it impossible to generate earned income, and therefore they cannot afford to attract the capital.

Mr. Speaker, this is a serious problem, and we simply have got to address it at an early timeframe.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. SOLOMON, for 60 minutes, on August 9.

Mr. WOLF, for 60 minutes, on August 8.

Mr. MOLINARI, for 5 minutes, today.

Mr. HORTON, for 10 minutes, today.

(The following Members (at the request of Mr. LANTOS) to revise and extend their remarks and include extraneous material:)

Mr. LANTOS, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STAGGERS, for 10 minutes, today.

Mr. COELHO, for 60 minutes, on August 9.

Mr. GONZALEZ, for 60 minutes, each day on August 8 and 11.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PARRIS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. GOODLING.

Mr. SCHUETTE.

Mr. MACK in two instances.

Mr. LAGOMARSINO.

Mr. LUJAN.

Mr. GILMAN in two instances.

Mr. CLINGER.

Mr. TAUKE.

Mr. BROOMFIELD in two instances.

Mr. DAVIS of Illinois.

Mr. MCEWEN in two instances.

Mrs. BENTLEY in two instances.

Mr. PORTER.

(The following Members (at the request of Mr. LANTOS) and to include extraneous matter:)

Mr. MATSUI.

Mr. TRAFICANT in two instances.

Mr. HOYER.

Mr. LANTOS in two instances.

Mr. STARK.

Mr. FLORIO.

Mr. LIPINSKI.

Mr. MICA.

Mr. WEISS.

Mr. BENNETT.

Mr. CLAY.

Mr. TORRICELLI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1912. An act to authorize a study of the Mimbres culture in southwestern New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2157. An act to authorize a feasibility study of the Spanish Frontier Culture and Spanish Borderlands story, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2496. An act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements; to the Committee on Public Works and Transportation.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled Joint Resolutions of the Senate of the following titles:

S.J. Res. 40. Joint resolution to give special recognition to the birth and achievements of Aldo Leopold;

S.J. Res. 248. Joint resolution to designate the week of October 8, 1988, as "Mental Illness Awareness Week";

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week";

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day"; and

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of striker or lockout with respect to the Chicago and Northwestern Transportation Co. labor-management dispute.

ADJOURNMENT

Mr. PARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 41 minutes p.m.) under its previous order, the House adjourned until Monday, August 8, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4122. A letter from the Secretary of Transportation transmitting the views of the Department on Senate Joint Resolution 356; to the Committee on Energy and Commerce.

4123. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Egypt for defense articles and services estimated to cost $21 million (Transmittal No. 88-48), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4124. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report on the application of travel restrictions to personnel of certain countries and organizations, pursuant to 22 U.S.C. 4316; to the Committee on Foreign Affairs.

4125. A letter from the Comptroller General transmitting a report on the review of the independent certified public accountant's audit of the Financing Corporation's financial statements for the period August 18, 1987 (date of inception), through December 31, 1987 (GAO/AFMD-88-61; August 1988), pursuant to 31 U.S.C. 9105; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee on Foreign Affairs. H.R. 5090. A bill to implement the United States-Canada Free-Trade Agreement. (Rept. 100-816, Pt. 3). Ordered to be printed.

Mr. RODINO: Committee on the Judiciary. H.R. 5090. A bill to implement the United States-Canada Free-Trade Agreement (Rept. 100-816, Pt. 4). Ordered to be printed.

Mr. GAYDO: Committee on House Administration. House Resolution 500. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the second session of the One Hundredth Congress; with an amendment (Rept. 100-818). Referred to the House Calendar.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4904. A bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes; with an amendment (Rept. 100-819). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4986. A bill to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that Act, and for other purposes; with an amendment (Rept. 100-820). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4843. A bill to authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes. (Rept. 100-821, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ST GERMAIN: Committee on Banking, Finance, and Urban Affairs. H.R. 5094. A bill to strengthen the competitiveness and protect the safety and soundness of depository institutions, to provide additional benefits to and protections for consumers of financial services, to strengthen the enforcement authority of depository institutions regulatory agencies, and for other purposes; with an amendment; referred to the Committee on Energy and Commerce, for a period ending not later than September 22, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X. (Rept. 100-822, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COLEMAN of Texas (for himself, Mr. Ortiz, and Mr. Bustamante):

H.R. 5156. A bill to direct the Administrator of the Environmental Protection Agency to establish a demonstration program for installation of sewer and water supply facilities for certain colonias in the State of Texas and to establish a revolving loan fund to enable residents of such colonias to connect their residence to such facilities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ACKERMAN:

H.R. 5157. A bill to prohibit in any program or activity under the jurisdiction of a State educational agency or local educational agency that receives Federal financial assistance the recording of information relating to sexual maturity, including any description of any sexual part, or any rating or scale based on such description, with respect to any individual other than any employee of such an agency who is at least 21 years of age; to the Committee on Education and Labor.

By Mr. BENNETT (for himself and Mr. Ridge):

H.R. 5158. A bill to improve contracting procedures for procurements of advisory and assistance services by the Federal Government; to improve public access to information concerning such contracts and other contracts, and for other purposes; to the Committee on Government Operations.

By Mr. CLEMENT:

H.R. 5159. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 15-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefit accordingly; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut:

H.R. 5160. A bill to strengthen the role of United States business enterprises in the educational, community, and economic development of South African workers and their families; to the Committee on Foreign Affairs.

By Mr. KASTENMEIER (for himself, Mr. Hyde, and Mr. Boucher):

H.R. 5161. A bill to provide to Claims Court judges pay equality with judges of the U.S. Tax Court, to provide retirement and survivors' annuities for Claims Court judges, and for other purposes; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. LIPINSKI:

H.R. 5162. A bill to amend the Merchant Marine Act, 1936, to extend the Great Lakes set aside for the duration of the increase in the cargo preference; to the Committee on Merchant Marine and Fisheries.

By Mr. MACK (for himself and Mr. Smith of New Hampshire):

H.R. 5163. A bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress; jointly, to the Committees on Rules, Post Office and Civil Service, and House Administration.

By Mr. MAZZOLI (for himself, Mr. Frank, Mr. Swindall, Mr. Kastenmeier, Mr. Rangel, and Mr. Fuster):

H.R. 5164. A bill to provide for a hearing before an administrative law judge respecting the release of certain Mariel Cuban detainees; to the Committee on the Judiciary.

By Mr. MOLINARI:

H.R. 5165. A bill to promote the recruitment and retention of airways systems specialists; jointly, to the Committees on Post Office and Civil Service and Public Works and Transportation.

By Mr. RITTER:

H.R. 5166. A bill to permit the Federal Communications Commission to utilize value based assignments in awarding licenses for the use of the electromagnetic spectrum; to the Committee on Energy and Commerce.

By Mr. SLAUGHTER of Virginia (for himself, Mr. Rinaldo and Mr. Burton of Indiana):

H.R. 5167. A bill to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STALLINGS (for himself and Mr. Craig):

H.R. 5168. A bill to extend the moratorium on reconnaissance studies of plans for the importation of water into the Colorado River basin from certain other basins; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 5169. A bill to amend the Internal Revenue Code of 1986 to make permanent, and extend to 100 percent, the deduction for health insurance costs of self-employed individuals; to the Committee on Ways and Means.

H.R. 5170. A bill to amend the Internal Revenue Code of 1986 to treat the exclusion for certain loans to acquire employer securities as a tax preference for purposes of the minimum tax, and for other purposes; to the Committee on Ways and Means.

H.R. 5171. A bill to direct the Securities and Exchange Commission to develop standards for valuing stock which is not readily marketable for purposes of the provisions of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 which relate to employee stock ownership plants; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

By Mr. TRAFICANT:

H.R. 5172. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit to corporations equal to 55 percent of the cost of relocating certain foreign operations to labor surplus areas in the United States, and to partially recover such tax benefits if a relocated foreign operation is terminated within 5 years after commencement; to the Committee on Ways and Means.

By Mr. GOODLING:

H.J. Res. 632. Joint resolution designating April 2, 1989, as "National Cleaning Professionals Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. TORRICELLI (for himself and Mr. Wilson):

H.J. Res. 633. Joint resolution designating August 14, 1989, as "America-Pakistan Day"; to the Committee on Post Office and Civil Rights.

By Mr. BILBRAY:

H. Con. Res. 347. Concurrent resolution welcoming the board of directors of the Japan Association of Travel Agents on the occasion of their visit to the United States; to the Committee on Post Office and Civil Service.

By Mr. HORTON:

H. Con. Res. 348. Concurrent resolution expressing the sense of the Congress concerning the 1988 Seoul Olympic Games; to the Committee on Foreign Affairs.

By Mrs. MARTIN of Illinois (for herself, Mr. Hayes of Illinois, Mr. Savage, Mr. Russo, Mr. Davis of Illinois, Mr. Lipinski, Mr. Hyde, Mrs. Collins, Mr. Rostenkowski, Mr. Yates, Mr. Porter, Mr. Annunzio, Mr. Crane, Mr. Fawell, Mr. Hastert, Mr. Madigan, Mr. Evans, Mr. Michel, Mr. Bruce, Mr. Durbin, and Mr. Gray of Illinois):

H. Con. Res. 349. Concurrent resolution commemorating the 130th anniversary of the Lincoln-Douglas debate and the rededication of the Lincoln-Douglas debate site; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Con. Res. 350. Concurrent resolution authorizing the printing of a history of the Committee on Ways and Means; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BADHAM introduced a bill (H.R. 5173) for the relief of Ray F. Seuga; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 592: Mr. Gallegly.

H.R. 1198: Mr. Eckart.

H.R. 1382: Mr. Eckart.

H.R. 1555: Mr. McEwen.

H.R. 1810: Mr. Wolpe.

H.R. 2036: Mr. St Germain.

H.R. 2268: Mr. Eckart.

H.R. 2697: Mr. Daub.

H.R. 3241: Mr. Volkmer.

H.R. 3314: Mr. Jontz and Mr. Hansen.

H.R. 3639: Mr. Oberstar, Mr. Parris, and Mr. Miller of Ohio.

H.R. 3654: Mr. Conte, Mr. Shaw, Mr. Stump, Mr. Wolf, Mr. Pursell, Mr. Lungren, Mr. Hyde, Mr. Latta, Mr. Boehlert, Mr. Tauke, Mr. Lewis of Florida, Mr. Hastert, Mr. Coats, Mr. Rogers, Mr. Slaughter of Virginia, Mr. Stangeland, Mr. Dyson, Mrs. Byron, Mr. Anderson, Mr. Rhodes, Mr. Armey, Mr. Gingrich, Mrs. Morella, Mr. Lent, Mr. Young of Alaska, Mr. Lujan, Mr. Miller of Ohio, Mr. Bereuter, Mr. Broomfield, Mr. Upton, Mr. Ballenger, Mr. Donald E. Lukens, Mr. Burton of Indiana, Mr. Dreier of California, Mr. DeLay, Mr. Rangel, Mr. Guarini, Mr. Gilman, Mr. Cheney, Mr. Markey, Mr. Rinaldo, Mr. McEwen, Mr. Solomon, Mr. Kyl, Mr. McCrery, Mr. Buechner, Mr. Grandy, and Mr. Porter.

H.R. 3723: Mrs. Vucanovich.

H.R. 3845: Mr. Berman.

H.R. 3864: Mr. Bryant.

H.R. 3978: Mr. Atkins, Mr. Weiss, and Mr. Feighan.

H.R. 4119: Mr. Porter, Mr. Morrison of Washington, Mr. Tauzin, Mrs. Bentley, Mr. Michel, and Mr. Mack.

H.R. 4127: Mr. Chandler, Mr. Murphy, Mr. Clay, Mr. Emerson, Mr. Nowak, Mr. Alexander, Mr. Rinaldo, Mr. Mica, Mr. Schumer, Mr. Skelton, Mr. Penny, Mr. Visclosky, Mr. Coyne, and Mr. Cardin.

H.R. 4390: Mr. Towns, Mr. Buechner, Mr. Fauntroy, Mr. Frank, Mr. Atkins, and Mr. Owens of New York.

H.R. 4472: Mr. Burton of Indiana.

H.R. 4478: Mr. Horton.

H.R. 4479: Mr. Horton, Mr. Roe, Mr. Edwards of California, Mr. Hyde, Mr. Jontz, and Mr. Wyden.

H.R. 4548: Mr. Eckart.

H.R. 4570: Mrs. Boxer.

H.R. 4575: Mr. Lipinski, Mr. Dellums, Mr. Mavroules, Mr. de Lugo, Mr. Weiss, Mr. Solarz, Mr. Boehlert, and Mr. Rinaldo.

H.R. 4632: Mr. Gallo, Mr. Hastert, Mr. Sharp, and Mr. Yatron.

H.R. 4680: Mrs. Martin of Illinois, Mr. Hefley, Mr. Evans, and Mr. Herger.

H.R. 4695: Mr. Torres, Mr. Dymally, Mr. Miller of California, and Mr. Johnson of South Dakota.

H.R. 4866: Mr. Penny and Mr. Shaw.

H.R. 4963: Mr. Torricelli and Mr. Hoyer.

H.R. 4964: Mr. Torricelli and Mr. Hoyer.

H.R. 4965: Mr. Torricelli and Mr. Hoyer.

H.R. 4966: Mr. Torricelli and Mr. Hoyer.

H.R. 4992: Ms. Snowe, Mr. Kennedy, Mr. DeFazio, and Mrs. Patterson.

H.R. 5000: Mrs. Saiki, Mr. Lancaster, and Mr. Jontz.

H.R. 5001: Mr. Roe.

H.R. 5010: Mr. Rahall, Mr. Campbell, Mr. Boucher, and Mr. Young of Alaska.

H.R. 5018: Miss Schneider, Mr. Roe, Mr. Kastenmeier, Mr. Dellums, Mr. Cooper, Mr. Rangel, Mr. de Lugo, Mr. Ackerman, Mr. Bates, Ms. Pelosi, Mr. Udall, Mr. Hawkins, Mr. Oberstar, Mr. Fauntroy, Mrs. Collins, Mr. Flake, Mr. Ford of Tennessee, Mr. Clay, and Mr. Dymally.

H.R. 5032: Mr. Pease, Mr. Ackerman, Mr. DioGuardi, Mr. Fish, Mr. Garcia, Mr. Gilman, Mr. Hochbrueckner, Mr. Horton, Mr. Houghton, Mr. LaFalce, Mr. McGrath, Mr. McHugh, Mr. Martin of New York, Mr. Mrazek, Mr. Nowak, Mr. Scheuer, Ms. Slaughter, of New York, Mr. Solarz, Mr. Weiss, Mr. Wortley, Mr. Schumer, Mr. Biaggi, and Mr. Atkins.

H.R. 5043: Mr. MacKay.

H.R. 5056: Mr. Lancaster.

H.R. 5068: Mr. Bonior of Michigan, Mr. Borski, Mr. Gejdenson, Mr. Lancaster, Mr. Mollohan, Mr. Ackerman, Mr. Boehlert, Mr. Bustamante, and Mr. Hockbrueckner.

H.R. 5086: Mr. Coelho, Mr. Lewis of Florida, Mr. Hopkins, Mr. Johnson of South Dakota, Mr. Callahan, Mr. Wilson, Mr. Bevill, Mr. de Lugo, Mr. Parris, Mr. Nielson of Utah, Mr. Towns, Mrs. Bentley, Mr. Martinez, Mr. Murtha, Mr. Yatron, Mr. Clinger, and Mr. Horton.

H.R. 5119: Mr. Rodino, Mr. Nowak, Mr. DioGuardi, Mr. McGrath, Mr. Flake, Mr. Biaggi, Mr. Downey of New York, and Mr. Rangel.

H.R. 5129: Mr. Roberts and Mr. Hatcher.

H.R. 5151: Mr. Kostmayer, Mr. Murtha, Mr. Yatron, Mr. Kolter, and Mr. Thomas of California.

H.J. Res. 330: Mr. Kennedy, Mr. Olin, Mr. Johnson of South Dakota, Mr. Gray of Illinois, and Mr. Lehman of Florida.

H.J. Res. 390: Mr. Feighan, Mr. Stump, and Mr. Dannemeyer.

H.J. Res. 540: Mr. Davis of Michigan, Mr. Cheney, Mr. Espy, Mr. Bevill, Mr. Bruce, Mr. Jenkins, Mr. Flippo, Mr. Badham, Mr. Shays, and Mr. Hall of Ohio.

H.J. Res. 543: Mr. Borski, Mr. Cardin, Mr. Carper, Mr. Davis of Michigan, Mr. Ford of Tennessee, and Mr. Eckart.

H.J. Res. 559: Mr. Ford of Tennessee.

H.J. Res. 574: Mr. Rangel, Mr. Gordon, Mr. DeFazio, and Mr. Boland.

H.J. Res. 584: Mr. Lancaster, Mr. Ravenel, and Mr. Emerson.

H.J. Res. 592: Mr. Sweeney, Mr. Hammerschmidt, Mr. Quillen, Mr. Gejdenson, Mr. Pepper, and Mr. Rhodes.

H.J. Res. 598: Mr. Foley, Mr. Pursell, Mr. Kanjorski, Mr. Murphy, Mr. Owens of New York, Mr. Miller of Ohio, Mr. Ravenel, Mr. Natcher, Mr. Smith of New Hampshire, Mr. Bilbray, Mr. Sunia, Mr. Walgren, Mr. Regula, Mr. Jenkins, Mr. Mack, Mrs. Martin of Illinois, Mr. Gallegly, Mr. Lewis of Florida, Mr. Johnson of South Dakota, Mr. Wolf, Mr. Scheuer, Mr. Ritter, Mrs. Bentley, Mr. Carper, Mr. Cheney, Mr. Towns, and Mr. Holloway.

H.J. Res. 609: Mr. Campbell, Mr. Clinger, Mr. Rowland of Connecticut, and Mr. Biaggi.

H.J. Res. 613: Mr. Kasich, Mrs. Byron, Mr. Frenzel, Mr. Spratt, Mr. Levine of California, Mr. Bunning, Mr. Mrazek, Mr. Sharp, Mr. Fazio, Ms. Kaptur, Mr. Rangel, Mr. Kleczka, Mr. Holloway, Mr. Jontz, and Mr. Jenkins.

H.J. Res. 620: Mr. Jeffords, Mr. Dornan of California, and Ms. Snowe.

H. Con. Res. 258: Mr. Barnard, Mr. MacKay, Mr. Thomas of Georgia, and Mr. Young of Alaska.

H. Con. Res. 263: Mrs. Meyers of Kansas.

H. Con. Res. 310: Mr. Chandler.

H. Con. Res. 326: Mr. Horton, Mr. Ray, and Mr. Upton.

H. Con Res. 329: Mr. Kastenmeier, Mr. Mineta, Mr. Fauntroy, Mr. Evans, Mr. Rangel, Mr. Garcia, Mr. Levin of Michigan, Mrs. Lloyd, Mr. Mazzoli, and Mr. Kolbe.

H. Res. 467: Mr. Fawell, and Mr. Florio.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4396: Mrs. Roukema.

SENATE—*Thursday, August 4, 1988*

The Senate met at 9 a.m. and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Beloved, let us love one another: for love is of God * * * God is love * * *.* —IJohn 4:7, 8. *Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up, doth not behave itself unseemly seeketh not her own, is not easily provoked, thinketh no evil; rejoiceth not in iniquity, but rejoiceth in the truth; beareth all things, believeth all things, hopeth all things, endureth all things. Love never faileth* * * *.—I Corinthians 13:4-8.

Eternal God of infinite love, forgive us for our abuse of this beautiful word "love." Help us to appreciate love which is the perfect synonym for God. We think of it as weak or sentimental, but it is the most powerful force in history. We degrade it, but it is the purest form of human relationships. We treat it as irrelevant and of little importance, yet it is the only way of peace. Teach us to love one another as Thou dost love.

We pray in His name whose love is unconditional and universal. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 4, 1988.

To the Senate:

Under provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, the Chaplain in his prayer spoke of love. We all can remember from our earliest days in school that poem about Abou Ben Adhem, in which the poet spoke of love of fellow man.

Abou Ben Adhem (may his tribe increase!)
Awoke one night from a deep dream of peace,
And saw, within the moonlight in his room,
Making it rich, and like a lily in bloom,
An Angel writing in a book of gold:
Exceeding peace had made Ben Adhem bold,
And to the Presence in the room he said,
"What writest thou?" The Vision raised its head,
And with a look made of all sweet accord
Answered, "The names of those who love the Lord."
"And is mine one?" said Abou. "Nay, not so,"
Replied the Angel. Abou spoke more low,
But cheerily still; and said, "I pray thee, then,
Write me as one that loves his fellow men."
The Angel wrote, and vanished. The next night
It came again with a great awakening light,
And showed the names whom love of God had blessed,
And, lo! Ben Adhem's name led all the rest!

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the remainder of my time be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 9:20 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

IS OUR NUCLEAR ARSENAL SHRINKING WITHOUT ARMS CONTROL?

Mr. PROXMIRE. Mr. President, once in a great while we Senators are shocked by a revelation that reminds us of how fragile and feeble is our understanding of the facts on which we base the critical decisions the Senate must make for our country. Recently Norman Podhoretz pointed out in a column in the Washington Post that the great majority of Americans in this democracy in which a majority will rules, firmly believe that our country has massively expanded its nuclear arsenal over the past 20 years and especially in the past 8 years. Mr. Podhoretz did not make the charge that the great majority of U.S. Senators hold the same belief. This is a charge I make today on the floor of the Senate.

Podhoretz declares this widespread popular belief is wrong. Overwhelmingly—180 degrees wrong. Podhoretz is right. The fact is—as I pointed out on the same floor more than a year ago—the United States has not increased its nuclear arsenal in the past 20 years. We have on the contrary sharply reduced the megatonnage of our enormous nuclear arsenal since that arsenal reached its peak in 1967. Of course, like almost every other speech made on this floor and reprinted in the CONGRESSIONAL RECORD virtually no one heard the speech and almost no one read it.

Mr. President, how can it be that with our great free press, our hundreds of inquisitive reports, 535 Members of Congress, our thousands of able congressional staffers, our constant probing of nuclear weapons strategy and spending by the Foreign Relations Committee, the Armed Services Committee, the Defense Appropriations Subcommittee that so very few know the truth about this critical issue that goes to the heart of our survival in this most dangerous period in human history?

Mr. Podhoretz and I differ profoundly on arms control. I believe some control must be our salvation in this nuclear world. Podhoretz disagrees. But there can be no question that Mr. Podhoretz is absolutely correct in arguing that this grotesque public misunderstanding is a serious failure of the

American Congress, the American press and the American public.

Why do we continue to fail to convey the truth to the American public and the Congress that represents the American public? We only have to explain a simple proposition. It is this. A bigger and more powerful stockpile of nuclear weapons is not a more lethal instrument for the destruction of human life. We have reduced the number of nuclear weapons in our arsenal. We have greatly diminished the explosive power of these weapons. At the same time we have made those weapons far more accurate, far less vulnerable, a great deal more reliable. In the past 20 years while our nuclear stockpile has greatly declined in numbers and megatonnage, it has massively increased in its ability to penetrate and strike adversary targets including Soviet cities. Furthermore, this lethal efficiency will continue to improve. Within a few years after the pending START Treaty takes effect, it will slash our nuclear warheads by 50 percent. What will happen to our nuclear arsenal of the future? Answer: It will be more devastating than the arsenal we have today. How about the U.S.S.R.? The Soviet Union will probably be able to make the same kind of progress—a bigger punch with a smaller fist. In fact, unless the U.S.S.R. is confident it can increase its lethal nuclear power within a START Treaty, it almost certainly will not agree to it.

Mr. President, I ask unanimous consent that the article by Norman Podhoretz in the Washington Post headlined "Do We have more Nukes Than We Had 20 Years Ago?" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DO WE HAVE MORE NUKES THAN WE HAD 20 YEARS AGO?

(By Norman Podhoretz)

Question: By how much has the American nuclear arsenal increased over the past 20 years?

If you recognized this as a trick question—if, that is, you know that the American nuclear arsenal has become not larger but smaller, much smaller, over the past 20 years—then you are one of a very tiny minority of your fellow countrymen who know what they are talking about when they discuss the arms "race" and arms control.

Thus, in a recent poll taken for the Committee on the Present Danger, Penn and Schoen Associates asked a random national sample of Americans (not in the tricky form I have just used but in straight-forward terms) whether the total number of nuclear weapons in the U.S. arsenal has increased, decreased or stayed the same over the past 20 years.

Now, the plain fact is that we have 8,000 fewer nuclear weapons of one kind or another today than we had in 1967. Yet an astonishing 75 percent of the American people believe that the number has increased, and another 11 percent labor under the delusion that it has stayed the same.

As against this 86 percent who are ignorant or misinformed, only 7 percent of the American people are aware of the true situation, at least in general terms. And things get even worse as we examine the poll a little further.

For example, in addition to being asked about numbers, the respondents were questioned about the explosive power of our nuclear stockpile. On this point, 84 percent gave the wrong answers (that it has either increased or stayed the same), while only 4 percent said correctly that our nuclear arsenal is less powerful than it was 20 years ago.

Not even this 4 percent, however, had more than a vague idea of how large the decrease in explosive power has been. In fact, when asked about that, not one of the 802 persons polled, not a single one, picked the correct category of "50 percent or more."

In other words, practically nobody in America realizes that the total yield of our nuclear stockpile, as measured in megatonnage, has declined by about 75 percent—yes, 75 percent—in the past two decades.

Nor have arms control agreements had anything to do with these reductions. They are mainly the result of technological developments that have made nuclear weapons more accurate. Furthermore, such developments would ironically have been prevented if some arms-control enthusiasts had had their way.

Given the abysmal level of knowledge revealed by the Penn-Schoen poll about the trends over time, it is less surprising than it might otherwise have been to discover that very few people in America have an accurate notion of what has happened to our nuclear stockpile during the Reagan administration.

Here again only 7 percent know that under Reagan (and of course without counting the weapons that will be eliminated by the newly ratified INF Treaty) there has been a decrease in the size of our nuclear arsenal.

True, the decline under Reagan (about 3 percent) has been much smaller than was registered in the period between 1967 and 1980. But a decline it still is; and not the increase that nearly two-thirds of the American people imagine Reagan has brought us.

The Penn-Schoen poll did not go into the issue of defense spending. But it is a safe bet that no more than a comparably minuscule number of Americans realize that only 15 percent of the defense budget is devoted to nuclear forces. And how many Americans understand that even the 50-percent cuts in long-range missiles contemplated by the proposed START agreement would amount to only about 2 percent of the defense budget?

Stop for a minute and consider how it has come to pass that so many of us in this country are either ignorant or misinformed on issues that are literally matters of life and death to us all, and that we hear and read about almost every day.

Does the explanation perhaps lie in a lack of education? On the contrary. The respondents in this poll who went to college proved to be more (and on some questions a lot more) ignorant or misinformed than those who had not enjoyed the benefits of a higher education.

The reason for this discrepancy, I suspect, is that the college educated have paid more attention to the clamor about nuclear weapons that has for so long been filling the American air with distortions and outright lies. By contrast, people who have averted their eyes and ears—either because they thought they would be unable to understand the discussions, or because they found it too unpleasant, or because they had more interesting things to do—have undergone a less thorough course of brainwashing than their intellectual "betters."

Yet even without excessive exposure to the relentless campaigns waged in and through the media against the arms "race," the relatively unschooled have also for the most part been left with three flagrantly false impressions: that the United States has been engaged over the years in a massive buildup of its nuclear forces; that this process has escalated to unprecedented heights since Ronald Reagan became president; and that it is one of the main causes of the growth in the federal deficit.

In the face of this egregious illustration of how hard it is for a simple set of facts to penetrate the mind of the public against the will of the media, what becomes of the theories of liberal democracy on which our political system is built? What, in particular, becomes of the belief that the truth is bound to prevail in a free competition of ideas? And what becomes of the Jeffersonian faith in the protections that are supposed to be afforded by a well-educated citizenry against the deceptions of demagogues?

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

ECONOMIC GROWTH MEANS MORE GOOD JOBS

Mr. ROTH. Mr. President, we have now entered the 69th consecutive month of economic growth—the longest peacetime expansion in U.S. history. During this time 16 million new jobs have been created and the unemployment rate has fallen to its lowest level since 1974. By reducing the tax and regulatory barriers to economic growth, Reagan administration policy laid the groundwork for our renewed prosperity.

According to a Senate staff report I am releasing today, the tremendous employment gains brought by economic growth are primarily in middle and high paying positions. Over the course of this expansion, net job creation has improved the earnings of American workers.

In just the last 12 months, 2 million of the 2.7 million new jobs, or 74 percent, have been in managerial and professional occupations, with another 15 percent coming from precision production and craft positions with relatively high earnings.

These two occupational groups account for about 90 percent of the net job creation over the last 12 months. This is probably the largest proportion of medium to high paying new jobs in U.S. history. While we all would prefer that 100 percent of the new jobs were medium to high paying, 90 percent is not such a bad record.

Unfortunately, no economic system can create only average and better jobs all the time. We all feel concern for those holding jobs that do not pay well, and believe that it is important they advance into better jobs. A key ingredient for such advancement is economic growth, because it provides the best climate for economic advancement of our least advantaged citizens. While acknowledging the progress that we have made in creating better paying jobs, we must continue to push for even more opportunities, especially for our least advantaged citizens. As a matter of public policy, it is also important to get an accurate picture of the progress American workers have made in recent years. In other words, whether the conditions created by the longest peacetime expansion in U.S. history would tend to increase or decrease the standard of living and the proportion of low income jobs and families.

One way to examine this issue is to compare the net addition to employment between the fourth quarters of 1982 and 1987 to the change in pay levels for full-time wage and salary workers. By this measure, which excludes self employed and certain other kinds of jobs, over the course of this recovery about 12.1 million full-time wage and salary jobs were created. Of these, the number of workers earning over $600 weekly jumped 4.5 million, even after adjustment for inflation.

In other words, of the total increase in the level of full-time employment, 37 percent paid over $600 weekly, or $31,200 annually; 46 percent paid over $500 weekly, or $26,000 annually; 61 percent paid over $400 weekly, or $20,800 annually; and 73 percent paid over $300 weekly, or $15,600 annually.

The new full-time jobs are better overall than the job mix in 1982, even after adjustment for inflation. Only 19 percent of 1982 full-time jobs paid over $600 weekly, but 37 percent of the new jobs did; 46 percent of the new jobs paid over $500 weekly, but only 31 percent of the 1982 jobs did. On the other hand, 14 percent of the 1982 jobs paid under $200 weekly, but the number of these jobs actually declined—no net new jobs fell into this category.

There simply has been no trend toward low wage jobs. As suggested, the number of full-time jobs with weekly earnings under $200 actually fell by almost 600,000, even after adjustment for inflation. Without this adjustment, the number of full-time workers earning under $200 weekly fell by 5 million. Incidentally, about 90 percent of the jobs created during this expansion have been in full-time positions. Virtually none of the net addition to employment is due to involuntary part-time employment; the relatively small net increase in part-time jobs since 1982 is due to those who prefer part-time work.

This report also reviews the job gains during the expansion by occupation; 83 percent of the rise in employment is accounted for by occupations such as managerial and professional; sales, technical, administrative support; and precision production, craft, and repair. None of these occupational groups are usually considered minimum wage employment.

This is why economic growth should be the central goal of Government policy. Economic growth provides the basis for job creation, income growth, and a higher American standard of living. Reagan administration policy laid the foundation for the economic progress of the 1980's with the Economic Recovery Tax Act [ERTA] of 1981, which cut excessively high marginal tax rates. I am proud that the Roth-Kemp tax bill formed the core of this measure, and that its economic success has led nations around the world to unshackle their economies by similar tax reduction plans.

Mr. President, I ask unanimous consent that the Senate staff report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BENEFITS OF ECONOMIC AND EMPLOYMENT GROWTH: EVEN MORE FULL-TIME, HIGHER PAYING JOBS

(By Christopher Frenze[1])

Now in the 69th month of the longest peacetime expansion in American history, the U.S. economy has created 16 million new jobs since the end of 1982. This has pushed the level of civilian employment to 115 million, a record level. The civilian employment-population ratio—an important measure of the economy's ability to create enough new jobs—stands at 62.3 percent, also a record high. The tremendous record of job creation under the Reagan administration is impossible to dispute, so partisan critics have sought to belittle it with the argument that most of these jobs pay poorly, and are really not worth having.

A Democrat Congressional study purported to show that 58 percent of the new jobs created between 1979 and 1984 paid under $7,000 annually. The many problems of this study have uncovered by a number of observers,[2] and it is irrelevant for evaluating the jobs generated by the current expansion. One major failing is that job growth before the start of the current expansion was given more weight in this study than after.

When 1982 is used as a base year the percentage of low paying[3] jobs in the economy declined from 33.0 percent to 31.4 percent in 1985. Meanwhile, the share of high paying jobs rose from 13.0 percent in 1982 to 15.9 percent in 1985. Consequently, middle paying jobs declined from 54.0 percent in 1982 to 52.6 percent in 1985. Clearly there is no trend towards low paying jobs during this period. As a proportion of net new jobs, middle and high paying occupations grew fastest, improving the distribution of employment by decreasing the share at the bottom. The above discussion is based on the method used in the Democrat study, and shows how the choice of base years affects the results.

Another way to examine this issue is to compare the net addition to employment between 1982 and 1987 to the change in pay levels for full time wage and salary workers. As the table below shows, by this measure, which excludes self-employed, domestic, non-wage family, and certain other kinds of jobs, over the course of this recovery about 12.1 million jobs were created. The number of workers earning over $600 weekly (constant 1987 dollars) increased from 13.1 million in the fourth quarter of 1982 to 17.6 million in the fourth quarter of 1987, an increase of 4.5 million.

CHANGES IN FULL TIME EMPLOYMENT (THOUSANDS) BY WEEKLY EARNINES

(1987 DOLLARS)[1]

Earnings	1982:IV	1987:IV	Change
<$100	459	341	−118
$100 to $199	9,176	8,702	−474
$200 to $299	13,885	17,790	3,905
$300 to $399	13,723	15,147	1,424
$400 to $499	10,825	12,655	1,830
$500 to $599	8,263	9,297	1,034
>$600	13,148	17,630	4,482
Total	69,479	81,562	12,083

[1] The raw data are taken from Current Population Survey tables provided by the Bureau of Labor Statistics [BLS]. Linear interpolation was used to adjust the employment changes for inflation.

Of the net employment gain of 12.1 million full time jobs, 37 percent paid over $600 weekly, or $31,200 annually; 46 percent paid over $500 weekly, or $26,000 annually; 61 percent paid over $400 weekly, or $20,800 annually; and 73 percent paid over $300 weekly, or $15,600 annually in wage and salary earnings (not counting fringe benefits, cash incentive payments, bonuses, and other employer provided remuneration).

The median, or middle weekly earnings in the fourth quarter of 1987 were $382. Half of the workers made more than this amount and half less. But 63 percent of the job increase sine 1982 was in positions paying more than this median pay level, which amounts to $19,864 annually.

What of the low paying jobs? Before adjustment of the pay classes for inflation, the number of full time jobs paying less than $200 a week declined by 5 million during this expansion. Even after adjustment, such jobs declined by almost 600,000, as shown in the table above. The notion that most of the new jobs are for "hamburger flippers" is clearly incorrect.

Inclusion of part time workers does change the picture somewhat. The median weekly earnings of such workers amount to only about $101. The number of such workers has increased from 17.6 million in 1982:IV to 18.9 million in 1987:IV. This 1.3 million increase is only 10 percent of the total employment increase measured by the CPS data. Most of these workers choose to work part time as a matter of preference.

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[1] Mr. Frenze is a Senate Republican Staff Economist.

[2] Kosters, Marvin and Ross, Murray, "The Distribution of Earnings and Employment Opportunities: A Reexamination of the Evidence" Washington, D.C.: American Enterprise Institute, 1987); Brookes, Warren, "Low Pay Jobs: The Big Lie," Wall Street Journal, March 25, 1987; Norwood Janet, "The Job Machine Has Not Broken Down," New York Times, February 22, 1987; Lungren M.C., Daniel, and Frenze, Christopher, "The Chairman's Commentary," Republican Study Committee, March 2, 1987.

[3] The Democrat study defined low paying as under $7,012 in 1984, middle income as between $7,012 and $28,048, and high paying as over $28,048.

They earn much less than full time workers obviously because they work fewer hours. Involuntary part time employment has declined during this expansion—it accounts for no new jobs on net. The above data on full time employment demonstrate that there is no tendency towards low pay as a matter of wages. Naturally when no distinction is made between part time and full tme employment, the distribution of employment gains by weekly earnings is affected.

For example, jobs with weekly earnings over $400 account for 61 percent of the full time net addition to employment, but only 55 percent of job gains when part time workers are included. However, even with part time workers included, about 66 percent of new jobs are accounted for by those earning over $300 weekly. Incidentally, part time workers as a percentage of all CPS wage and salary employees have declined from 20.2 percent in 1982:IV to 18.8 percent in 1987:IV.

NET EMPLOYMENT GAINS BY OCCUPATION

Another way to look at the employment changes during the expansion is by occupation. The Bureau of Labor Statistics breaks monthly wage and salary employment into occupational categories. According to these non-seasonally adjusted data, 15.5 million jobs have been created between June 1982 and June 1988.

As the table below shows, of the net addition in employment, 6.4 million jobs, or 41 percent, were classified as managerial or professional positions. Another 29 percent were classified as sales (17 percent), technical (2.6 percent), and administrative support (9.8 percent), with 13 percent accounted for by precision, production, craft and repair positions. Thus these three occupational groups amounted to 83 percent of the net addition to employment during this time.

The weekly earnings of full time workers in these occupations have been compiled for the first quarter of 1988. A median measure is published, as it is considered more reliable than an average. Median weekly earnings for managerial and professional positions were $546, for techncial $445, sales $384, administrative support $318, and for precision production, craft, and repair $428. The biggest contributor to employment growth—managerial and professional-posts a median equivalent to $28,392. About three fourths of the employment gains were generated in occupations with median weekly earings of $384 ($19,968 annually) or more.

Meanwhile, service occupations accounted for only about 11 percent of the employment increase over the last 6 years, while "operators, fabricators, and laborers" accounted for another 8 percent. "Farming, forestry, and fishing," with the lowest median weekly earnings, actually declined during this period. Median weekly earnings in services were $251, "operators, fabricators, and laborers" $310, and farming $233.

EMPLOYMENT BY OCCUPATIONAL CLASSIFICATION

[Thousands]

	June 1982	June 1988	Change	Percent of net gains
Total, 16 years and over	100,683	116,209	15,526	
Managerial and professional	22,801	29,181	6,380	41
Technical, sales and administrative	30,727	35,310	4,583	29
Service occupations	13,713	15,390	1,677	11
Precision production, craft and repair	11,988	14,087	2,099	13
Operators, fabricators, and laborers	17,074	18,238	1,164	8
Farming, forestry, and fishing	4,324	4,003	−321	−2

Source: BLS.

What of the contention that there is a growing trend toward low wage jobs? As we have seen, over the expansion as a whole there has been no such trend. What of the possibility that more recent job creation may be concentrated in low wage occupations? Occupational data for the 12 months ending in June 1988 indicate that this is not supported by the evidence. Between June 1987 and June 1988 2.7 million new jobs were created. Of these about 2 million were managerial and professional, and another 0.4 million precision production, craft and repair. In other words, 89 percent of the employment gains were accounted for by these two groups with above average weekly earnings. This is probably the highest proportion of new good jobs in any 12 month period in U.S. history.

CONCLUSION

According to a recent study in the Monthly Labor Review,[4] the percentage of families falling into low, medium and high income categories between 1982 and 1986 reflects improvement. Low income families as a share of the total has declined, while the share of high income families has jumped to its highest level since 1969. The proportion of families in the middle class is declining only because more are becoming affluent.

A review of full time job growth by earnings shows that high paying jobs have increased significantly, while the number of low paying jobs has actually declined. The thesis that most of the new jobs are bad jobs is a myth. Not only are most of the new jobs not bad jobs, but there are even fewer full time bad jobs now than there were in 1982.

Over the last 12 months 9 out of 10 new jobs were in average to highly paid occupations. Managerial and professional jobs alone accounted for 74 percent of the recent employment gains. There is no evidence that these jobs are poorly paid; all the available evidence indicates that this is the highest paid occupational category.

TRIBUTE TO SENATOR GRAHAM

Mr. SIMON. Mr. President, before I get on the topic I want to speak to, let me note that the Presiding Officer is the Senator from Florida [Mr. GRAHAM]. Yesterday, as we were considering the ethanol measure, he made some remarks that indicate to me that his contribution in the Senate is going to be a very solid and substantial one.

I did not vote with him, but he pointed out some problems. He had done some research on the matter. It was the Senate at its best. I simply want to compliment the Presiding Officer.

THE ABE STOLAR CASE

Mr. SIMON. Mr. President, I have before me a picture of Abe Stolar and his wife. Abe Stolar is an American citizen, believe it or not, in the Soviet Union.

He voted by absentee ballot, from Moscow, for Ronald Reagan for reelection in 1984.

Abe Stolar was born in Chicago. When he was 19, in the early 1930's, his father thought communism was going to be paradise and took his family to the Soviet Union. His father eventually was killed in the Stalin purge. His mother and sister were taken off to Siberia.

Abe Stolar and his family want to come to the United States. I have been pushing this case for some time.

When President Reagan was in Moscow recently, if you saw the picture of President Reagan meeting with some of the refuseniks, he sat next to Abe Stolar there.

Abe Stolar, American citizen, wants to bring his family to the United States. He should be able to do that.

I hope that our friends at the Soviet Embassy who monitor what goes on in this body will heed the plea. I am going to keep up fighting for him.

I can remember when the Presiding Officer joined in our effort in working for a citizen who came from Florida, who was married over 30 years, and could not get his wife here. Finally, the Soviets relented.

I am pleased to say that relations between our two countries are improving, but they can continue to improve and move in the right direction, not just with arms control agreements but also with these small gestures that people everywhere understand. One of these gestures is to let Abe Stolar and his family come to the United States.

Mr. LEVIN. Mr. President, I commend my friend from Illinois on his persistence in the Abe Stolar case.

I have met with Abe Stolar and his family in the Soviet Union. The last time, just a few months ago, he gave me his absentee ballot to mail here so that he could vote in the Illinois election. So I had the pleasure of actually mailing his absentee ballot for him a few months ago.

The Senator from Illinois is right in persisting in this. It is a cause celebre, and it should be. The Soviet Union could finally allow the right thing to happen, if they let him and his family go.

SUPPLEMENTAL APPROPRIATIONS BILL

Mr. LEVIN. Mr. President, it is not uncommon for Congress to give bills titles which really do not match up with their substance. However, that is not the case with the dire emergency supplemental appropriations bill when it comes to the funding of a program which is a part of the bill. When it comes to the funding of the Trade Adjustment Assistance Program, this is a dire emergency supplemental appropriations bill. The TRA program provides unemployment benefits, training and other services to workers who have lost their jobs due to foreign competition. Twenty-six thousand people, five thousand of them from Michigan, benefit from this program. But many of them have been without benefits for 3 weeks, when funds first started to dry up.

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[4] Horrigan, Michael, and Haugen, Steven, "The declining middle-class thesis: a sensitivity analysis," Monthly Labor Review, May 1988.

It is because of the direct impact that the passage of this bill will have on the lives of thousands of Americans that I urge my colleagues to refrain from threatening to offer amendments which would slow its enactment. Here in Washington it is sometimes possible to lose sight of the human impact of our actions amid the devising of legislative or political strategies. We must not allow that to happen with this emergency supplemental appropriations bill. People who need the passage of this bill to simply make ends meet are not going to understand, and should not be asked to understand, why they are being held hostage to other disputes on the floor of the Senate. The right thing to do is to meet the present emergency and to pass this supplemental appropriations bill today as the leader is trying to have us do.

I thank the Chair and yield the floor.

ESSENTIAL FACTORS OF A RATIONAL POLICY ON INTOXICANT USE

Mr. MOYNIHAN. Mr. President, I rise today to bring to the attention of my colleagues a most insightful paper. One written by a highly respected and noted authority on a subject now so much in the fore of the American political and social consciousness. Dr. Norman Zinberg, professor of clinical psychiatry at Harvard's Medical School, provides us here with the kind thoughtful epidemiological research on intoxicant use. I would hope that my colleagues would find his words as important as I in tempering the misunderstanding surrounding this issue. I ask unanimous consent that Dr. Zinberg's paper be printed in the CONGRESSIONAL RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

ESSENTIAL FACTORS OF A RATIONAL POLICY ON INTOXICANT USE

(Norman E. Zinberg, M.D.)

In my book Drug, Set, and Setting (1984) I emphasized the importance of three variables in connection with the use of an intoxicant: the pharmacological properties of the substance itself; the attitudes and personality structure of the user; and the influence of the physical and social setting in which use takes place. Without knowledge of all three of these variables, we cannot identify the factors that affect the decision to use, or predict either the immediate impact of use on the individual or its long-term consequences. Because the third variable, setting, was least understood, the last chapter of the book pleaded for its inclusion in future considerations of social policy. Unfortunately, this plea has not been heard. And now, just a few years later, when social policy questions of grave importance are again being considered, the alarmed public is still thinking of drug use (as it did in the mid-sixties) as the most serious domestic problem and is not paying any attention to the social setting in which use occurs.

Yet vital changes in this area have taken place since the sixties. One result of the debate at that time between the "heads" (users of marihuana) and the "juicers" (users of alcohol) has been the increased recognition that alcohol, as well as tobacco, is indeed a drug. These two drugs differ from other drugs not only in pharmacological properties and effects but also in legal position; nonetheless, they also have some similar properties and effects, including the development of dependency. Because they are acceptable legally and socially, however, a more moderate, more humane policy has been adopted that does consider the social setting. Surgeon General Koop's recent announcement concerning the addictive properties of cigarettes has elicited a few cries for a "war" on cigarette smoking, but the decisions that have been reached about smoking and health eschew an all-out assault on smokers by separating use from abuse. Controlled users of tobacco—those who enjoy an occasional cigarette, pipe, or cigar in the proper quarters and at the proper time—have not been interfered with. Rather it is the compulsive smoker, who has trouble observing regulations on airliners or in public places, who is the target of the most recent anti-smoking rulings. No doubt these efforts will be stepped up, and smoking may be banned on all flights, not only on those lasting less than two hours.

Actions taken against excessive alcohol consumption have followed a similar pattern. Although "war" has not been declared on drinking and there seems to be little interest in repeating the disaster of the Volstead Act, striking changes have occurred in the public attitude toward driving while intoxicated. Several states have been sufficiently enlightened to mandate treatment rather than punishment, if there is no other violation involved, and attempts are being made to evaluate and improve treatment programs. The cry is being raised to expand employment assistance programs in order to provide easier access for more of the workers who are in trouble. The rise in the legal drinking age in most states has been accompanied by an effort to keep this drug out of the hands of young people. These attempts to cope with the public health problems resulting from alcohol consumption do not interfere in any way with those users (who make up 90 percent of all drinkers) who are controlled, who generally follow regulations, and who enjoy their relationship to the substance.

Similar procedures have not been followed in regard to illicit drug users, despite the obvious fact that it is not they but the licit drug users who incur the highest costs in terms both of health care and of drain on the economy. It is estimated that from 20,000 to 50,000 deaths result each year from alcohol use, with a health-care cost of $15 billion; estimates of cigarette smokers show 350,000 deaths per year and a cost of $117 billion. To estimate the cost of illicit drugs to the economy is more difficult: the figure of $50 to $60 billion is often used, but certainly the cost of law enforcement is far greater. For many years a succession of "wars" has been launched against illicit drugs, all notable chiefly for their lack of success.

LEGALIZATION

Recently, because of this failure and the high cost of this "war," as well as the generally disruptive and inhumane quality of the warlike stance, demands have been made for the legalization of all drugs so that they can be regulated openly, like alcohol and cigarettes. It is my impression that this call for legalization has arisen out of sheer frustration and that little serious consideration has been given to the three variables outlined that must be taken into account in determining a realistic social policy.

First, the illicit drugs are chemically and pharmaceutically different, with lesser or greater consequences in terms of toxicity and dependency. Despite the publicity surrounding individual cases, deaths from cocaine caused by heart stoppage are rare; death resulting from heroin overdose is more common; and there have been no known deaths from marihuana use. Whereas at least 95 percent of cigarette smokers are known to be addicted, addiction figures for cocaine, which are hard to garner, are probably between 10 and 20 percent, for alcohol 5 to 10 percent, and for marihuana 1 to 2 percent. Long-term health effects vary similarly. Second, under the conditions of virtually unrestricted availability that would accompany legalization, it would be almost impossible for certain personality types to resist use and reuse. Therefore, at least in the first-phase of legalization, use would greatly increase. And, in part because of the third variable, the social setting, the number of casualties would also increase greatly. This variable, which embodies norms, sanctions, and rituals, shows people how to use an intoxicant in a controlled and pleasurable manner rather than destructively. The history of alcohol use in the United States reveals that in certain historical periods this drug has been used in more or less destructive ways, and that it has been especially destructive to the Indians whose culture lacks regulatory norms. As recently as the sixties and early seventies the development of social norms and sanctions sharply reduced the casualties from the use of LSD and other psychedelics. Today, however, our society is not prepared for the legalization of cocaine and the opiates because the norms and sanctions that would encourage controlled use have not had an opportunity to develop.

A second issue relating to the influence of the social setting on drug use is the attitude of the reigning cultural majority toward illicit drugs. They have been told and often believe that these drugs are not controllable and therefore are far more deadly than the licit drugs. According to public opinion polls and social researchers, the majority also believe that many, if not most, of the users of these drugs are enemy deviants—criminals at best, depraved monsters at worst. They want them removed from society, and therefore they support the unsuccessful "war." Thus even an attempt to legalize marihuana—which according to every scientific study is the least damaging of the illicit drugs, and in all likelihood less damaging (this does *not* mean harmless) than the two licit drugs—could lead to a socially disruptive struggle akin to that surrounding abortion. The proponents of marihuana use—more than 70 million Americans have tried it—could become Wet-style activists, while the opponents, for example, the parent groups, could become diehard antagonists. Both sides could easily line up spokespersons filled with moral fervor, and buttressed by sometimes ambiguous but always powerfully stated scientific "facts." In the case of the political and legislative bodies that have so long espoused this war, the even more fervid rhetoric that would be needed to turn the tide toward legalization could only engender confusion and lead to bitter strife.

WAR

The war against drugs has been almost totally unsuccessful on the so-called supply side. Drugs are coming into this country at an increasing rate despite the expenditure of hundreds of billions of dollars. Suppliers of marihuana, the most bulky drug and therefore the easiest to interdict, have moved to production within the U.S., and when air patrols become a problem, they simply move production indoors. The effect of law enforcement has not been to reduce supply but to keep up the price, thereby guaranteeing a monopoly and incredibly high profits for those willing to take the risks.

One could argue that keeping up the price has brought some success on the demand side. Some people who would have experimented and might have got into trouble have probably been kept away. Nevertheless, it is likely that availability is so great that almost anyone who wants to use can do so. It is true that some use has been prevented by negative attitudes toward use, either personal or social. At the same time, the illicitness of certain drugs interferes with the development of those social sanctions and norms that are the most reliable preventive of destructive use. Whatever the previous argument about the impact of the war and its continuation and acceleration, conditions have changed so much in the last three or four years that the new situation must be recognized and taken into account.

An interesting and complex paradox has developed. The use of drugs, both licit and illicit, is down overall. Cigarette consumption continues to drop slowly. For the fourth consecutive year, more light wines and beer have been consumed than hard liquor which had never happened before in the history of the U.S., and the proof of hard liquor remains at 80 in contrast to the 86 to 100 proof of just a few years ago. The age of first use of all intoxicants has been rising for ten years. (It was the drop in age of first use in the early seventies that caused the greatest concern and led to the formation of the parents' movement.) Marihuana use is down, and, more important, the age of users has risen significantly. Heroin use is down too, and for each year of the past decade the age of heroin addicts has risen by almost a year, indicating that there are few new addicts. Cocaine use also is slightly down.

But here is the paradox. An increasing body of evidence indicates a growing class difference in drug use, particularly in respect to cocaine and alcohol use. (This has always been true of heroin.) The consumption of light wines rather than hard liquor centers in the middle class and does not extend to the low-skilled working class. Even the growth of employee assistance programs impacts most on those with regular jobs, and to get into therapy after a driving-while-intoxicated (DWI) conviction one has to have a car. The middle class, actually the upper middle class, fueled the boom in cocaine use in the late seventies and early eighties. It took several years to learn that cocaine, the champagne or caviar of drugs, was powerfully destructive. The initial mild sense of well being and enhanced performance changed, after heavy, continuous use, into dissociation, paranoia, sexual perversity, and isolation. By the mid eighties the members of that initial group were fleeing the drug and filling the treatment centers newly developed for them. At the same time, the use of the drug was rapidly dropping down the social scale. The consumption of crack and other more overtly intoxicating variants of cocaine quickly became associated with the South Bronx, East Los Angeles, and Roxbury. It is true that the continuing residue of heroin addicts, a sizable half million, also comes chiefly from those same areas. But at this time the cocaine drugs are the greatest problem. The qualifying phrase "at this time" is necessary, for the drug scene can change with surprising swiftness. It is interesting that the learned and comprehensive report of the National Commission on Marihuana and Drug Abuse of 1972-1973 hardly mentioned cocaine.

Thus at the moment, when the call for an increase in the war on drugs is at its height, including the unprecedented use of the military and mandatory, random urinalysis on the job, it looks as if these measures are to be aimed largely against a socially excluded and politically underrepresented group of our population. It should be added that the political representatives of these minority groups are mostly behind the war because, while the reigning cultural majority wants these intoxicant users to stop dirtying up their streets and go away, the brunt of drug-related crime, killing, and disorder is borne by the neighborhood. Nevertheless, if this war heats up, it will not be just a war on drugs but a war mobilized by the reigning cultural majority, the franchised and employed, against a minority—an essentially disenfranchised and deeply alienated segment of our society.

EDUCATION

Accompanying the call for an increase in the war is a call for increased education. This is an old call now, because since the Drug Revolution of 1962 "education" has been promoted, legislated, and relied upon. Like the war on drugs, "education" has been shown again and again to have failed. In fact, several studies have demonstrated that drug education, sometimes called education in decision-making, has usually resulted in an increase in use. The common goal of all these educational efforts has been to prevent all illicit intoxicant use. To my knowledge, no educational program has attempted to separate use from abuse or to indicate how abuse might be avoided by means other than abstinence. Some of the presentations have been less fervid than others, but they have all inclulcated the attitude that those who used any drugs at all, and of course those who got into trouble—and it was only a matter of time before the first group became the second—were social deviants and destroyers of the moral fabric of society. The centerprice of most anti-drug campaigns was an ex-addict (overwhelmingly male) who described in graphic detail the horror of his addiction and the terrible things he had done to support it. He pointed to himself as proof that one should never use any drug even once, because a single marihuana joint would inevitably lead to herion addiction.

Efforts to mount an educational campaign to inform the reigning cultural majority have had a similar flavor. Television has been in the vanguard with such programs as "48 Hours on Crack Street." What is the goal of such a program? Essentially—and here I believe the producers would agree—it is to increase the viewers' perception that all drug use is bad, that the users are or have become degenerates outside the pale of ordinary society, and that we as a nation must redouble our resolve and rid ourselves of this plague. Such programs make nonusers feel more righteous and more resolved to intensify the war. A question that is rarely raised is how such a program affects users, both occasional and addicted. The impact on occasional users is complex, but in essence these programs increase their sense of having to hide their use and not to oppose the party line in public. Studies show that they are already aware of and concerned about controlling their use; certainly this sort of education does not cause them to abandon use. This casual response to educational programs is sharply contrasted by the impact of cocaine use on sports terms, advertising agencies, law firms, and stock brokerage establishments, when a member of the group, a buddy, suddenly falls apart.

As for addicts who come from the already dispossessed minorities, such "education" is further proof that they cannot hope for understanding from the institutions of the cultural majority, especially the law and the media. They can only become further alienated. One of the clearest signs of the hardheartedness of our social institutions is their low investment in treatment. Although it is true that treatment is slow, is much more often maintenance than cure, and frequently fails, it is by any count enormously cost-effective. Yet for years there has been a continuing reduction in public investment in treatment for all groups, and virtually no help is available for cocaine users. That lack can be partially explained by the recent transfer of use from the middle class, whose members have insurance and can afford treatment, to those who cannot. Yet now, when it is clear that cocaine is the chief problem, treatment efforts are still paltry and poorly thought through.

The AIDS epidemic, coupled with the growing awareness that intravenous drug users (IVDUSs) are primarily responsible for the spread of the HIV to the heterosexual community, has led to an increase in demand for treatment. Even in the light of the deadliness of this virus, the moral fervor that demands that treatment be done in the "right" way, that is, in the non-condoning-drug-use way, has restricted innovative programs that would offer users bleach, clean needles, or methadone on demand. The answer to the argument that the population of addicts is removed and uneducable has been given by the San Francisco program. This group sent outreach workers into the addict population with a single message: "Use Bleach and Stop the Spread of AIDS." Purposely avoiding messages about treatment, stopping drug use, or morality, they delivered a straight health message, and it seems to be working. This approach is in sharp contrast to anti-AIDS programs that have attempted to induce IVDUs into treatment. That form of education tells people in trouble that unless they conform to society's desires they will fail. It is hard to imagine that people from the South Bronx, even those who think they want to stop use, will be willing to come into a system that seems to hate them. Even if they should seek and find treatment, what then? Treatment in this field is not like the treatment for pneumonia. It is the beginning of a process of social rehabilitation. Can people reenter or plan to reenter a social structure that views them as pariahs? The modicum of self-esteem that may have prompted them to seek treatment may make it impossible for them to accept the notion of treatment under current social conditions and attitudes. It is this lesson that educational proponents have so far failed to learn. They do not meet the client where the client is.

SOCIAL POLICY

The first element in a coherent social policy should be education. Athough this would include a form of education for the person in trouble, it would also be directed at the reigning cultural majority. The majority must know about the seriousness and the perniciousness of the problem, not just how deadly it is. They must hear about the terrible difficulty of struggling against addictions and must recognize that we are all addicts. Some of us have chosen a less dangerous and licit drug, such as coffee or tea, while others, for all sorts of social and psychological reasons, have chosen a more deadly and addictive illicit one. Above all, they must learn to differentiate use from abuse and put their money and their humane values to work against the latter. The war, the effort at zero tolerance, goes after the wrong people. Although urine testing is potentially useful in the criminal justice system, it is not useful in the work place. Urinalysis only tests for "have used" in the past, not for impairment, as the breathalyzer does for alcohol. Not only can mandatory random urinalysis interfere with civil liberties, but it costs a fortune to pick up a few cases which usually are not the ones the system is after. If workers, including airline pilots, are impaired, supervisors can detect it if they are properly trained for this kind of detection. I would hope supervisors would also look for the other sources of severe nervous strain and debilitation, including alcohol use, which is not picked up by urinalysis.

To pick up a ship, such as the notorious Monkey Business, carrying one twenty-eighth of a gram of marihuana or the oceanographic vessel from Woods Hole, yielding three joints, is chiefly a symbolic gesture and a very costly one. In part, I think, the purpose of the symbolism is to show that the war is not all class warfare, though here again the relative bulk and easy detection of marihuana make it a ready scapegoat. It probably would be worthwhile, as the education of the majority proceeds, to make symbolic gestures in the other direction to indicate that the majority wants to make sense of the issue, be humane, and recognize human rights, without opening the flood gates by adopting legalization. For example, it has now been shown that in the states that have decriminalized (not legalized) the use of marihuana, such as Oregon and California, the patterns of use, including its current reduction, are the same as in those states that have not decriminalized use. Why not, then, enact a federal decriminalization statute that includes a provision for a careful study of the effects of this change in policy? It would not be a cheap project, but it would be cheaper than current law-enforcement prosecution for simple possession and use. In a decade there might be solid information that would make it easier for Mr. and Mrs. Citizen to decide what would be the best way to go.

Above all, we must increase treatment capacity, improve access to treatment, and train and pay superior personnel. This too would be expensive, but it would be cost-effective. What would probably be harder to put into operation would be the policy changes that are necessary to make access to treatment easier. These changes would require more than just the elimination of long waiting lists; they would include a variety of efforts at outreach, unheard of in a system that wants clients to start off by playing the game according to the larger society's rules. For one thing, sterile needles should be given away with the fewest possible strings attached. Data from England and the Netherlands indicate that not only does providing needles *not* increase use or seem to condone drug use, but participating in a needle exchange program leads those people who have made this first preliminary attempt to become engaged in the larger social system and eventually seek out treatment. The same would be true of the practice of supplying methadone on demand. Any procedure that would engage the addicts, wean them away from their resentful isolation, should be encouraged. And equally important, the public must be willing to support reasonable salaries and a high level of training for personnel manning such sensitive spots.

Outreach should not stop there. Cocaine users, who are our chief target, are not touched by any of these efforts. Just as we should be doing for IVDUs and AIDS victims, so we should be sending workers, again properly trained onto the users' own turf. And these outreach workers *must* have more to offer than the simplisitic advice to "get treated and straighten out." If society is to make a dent in this problem, these outreach workers should be able to lend a sympathetic hand if the drug users try to reenter the society—not only a society that will offer fewer harsh words but one that will put deeds behind words by arranging special educational opportunities and job corps, physical care, and rehabilitation programs. Such ideas are not new. In 1971 the Vera Institute of Justice developed a supported work program that included many of those notions and was very successful. Vera recognized that by contrast with alcoholism, which characteristically develops later in life after its sufferers have had a chance to learn some skills to which they may return, drug addiction starts early. Its sufferers have had a little opportunity to acquire skills or, for that matter, to learn how to work, to be on time, or to communicate with others. The program was devised to meet the client where the client was, and with what we know now we could succeed even better in such educational efforts.

What is the alternative? If Congress, in its wisdom, approves the use of the military for operations against the crack gangs, will we have soldiers in flack jackets marching into the South Bronx? One participant in a media program has already wondered what would happen if the Air Force shot down by mistake the first dentist who commuted in his own plane between his office in Miami and his office in Palm Beach and had his radio off at the wrong moment. At least it is worthwhile trying to find other, less warlike ways to attack the problem.

These approaches do not exclude law-enforcement efforts. Both James Q. Wilson and John Kaplan have emphasized the capacity of law enforcement to reengage people with the social system when enforcement is fair, swift, and effective. The substantial percentage of arrests for other than drug-related crimes in which heroin, cocaine, and occasionally PCP (in the District of Columbia and Los Angeles) have been found in the urine indicates a high level of interaction between the use of these drugs (and alcohol) and the commission of other crimes. The interaction itself is no surprise, but the high rates—72 percent in the District of Columbia, 68 percent in New York, 67 percent in Los Angeles, for an overall average in the large cities of 70 percent—are greater than imagined. The so-called J curve, which shows that a small percentage of the users of any health care system use an enormous amount of the services, is likely to operate here too, so that a small percentage of users will commit a high percentage of the crimes. Assuming that regular urine testing is legal, it would have a place during pre-trial periods and certainly during any probationary period. Years ago George Vaillant, in his studies of people released from U.S. Public Health Service hospitals, concluded that enforced parole is the best way to keep people in treatment. John Kaplan, noting the overcrowding and the poor record of the penal system, suggests short but sure incarcerations following a dirty urine.

In fact, an approach that emphasizes coerced abstinence is not so different from treatment as it might sound. Methadone, for example, acts as a form of coercion in methadone maintenance, and the drug-free progrms are well known for their heavy-handed approach to constituents. In an odd way, coercion in the treatment of drug abusers makes theoretical sense, even though it does not in most other treatment situations. In contrast to alcohol users, who can get their drug anywhere, illicit drug abusers take a certain pride in their ability to hustle, survive, and keep up their habit on the street. They cohere around what Erik Erikson calls a "negative identity," and whatever self-esteem they can muster is invested in this antisocial know-how. As mentioned earlier, this source of self-esteem often prevents them from tamely submitting to the dictates of the reigning cultural outlook. They hate to admit that they can't or don't want to hack it on the street any more; giving in and asking for "help" is experienced as weakness or degradation. Being coerced into treatment saves face. "I wouldn't be here if I didn't have to" allows the program persons to respond, "Of course not, but as long as you're stuck here, let's see what we can do." Such a stance works in the criminal justice system as well, but it requires greater effort.

Educating the majority to a more humane approach, indicating by a series of symbolic but real gestures that our society is willing to make real changes, beginning to deal with drug abusers in areas other than just their drug abuse, and coordinating these measures with more pragmatic and swift law enforcement—these are the elements of a social policy that could deal significantly with the drug problem. This policy will not win the war and make drug use go away. Nothing will do that. But it would be neither a surrender nor just a repetition of an old policy that has not worked.

BICENTENNIAL MINUTE

OCTOBER 21, 1861: SENATOR BAKER KILLED AT BALL'S BLUFF

Mr. DOLE. Mr. President, at sunset on October 21, 1861, 127 years ago, a newspaper correspondent heard the insistent clicking of the telegraph inside Gen. George McClellan's headquarters, and then watched as President Abraham Lincoln stumbled out, with tears rolling down his cheeks.

Over the wire had come news that Col. Edward Dickinson Baker, a Senator from Oregon and close friend of the President's had been killed earlier in the day at the head of his battalion in the disastrous Union defeat at Ball's Bluff.

Baker, a Republican, had only come to the Senate in 1860, but because of his long friendship with the President that had begun when both were aspiring politicians in Illinois, he had quickly risen to social and political prominence. On Inauguration Day in March 1861, he had ridden with the newly elected President in an open coach from the Willard Hotel to the Capitol where he had introduced Lincoln to the waiting throng. In August 1861, Baker had won national attention as an actor in a dramatic scene on the Senate floor. On August 1, just days before the 37th Congress adjourned, Senator John Breckinridge, of Kentucky, who had opposed all war measures, addressed the Senate. The main Senate doors swung open to reveal Senator Baker in full uniform. He had been dividing his time between the Senate and his men in the field, and had arrived in time to hear the final lines of Breckinridge's speech. Laying his sword across his desk, Baker listened in silence. Then, with his face glowing under his silver hair, he sprang to his feet to assail the sentiments of Breckinridge as "words of brilliant, polished treason." Baker's eloquent attack focused attention not only on Breckinridge, who would soon join the Confederacy, but on himself.

Two months later, Baker was dead, killed fighting for the Union he had eloquently upheld. His funeral, attended by President Lincoln, attracted thousands. His dramatic career, and the invocation of his memory, became a potent political touchstone for Union orators throughout the war.

TRIBUTE TO ALOYSIUS A. MAZEWSKI

Mr. DIXON. Mr. President, today I rise to pay tribute to Mr. Aloysius A. Mazewski, who passed away yesterday afternoon. I am certain all of us in this Congress join his wife Florence and their family in mourning the loss of such a great American.

Al was a good man whom I am proud to say was my friend for over 30 years. As a leader of the Polish American community, Al held the respect and admiration of millions of Americans and Poles alike. A native Illinoisan, Al was always a strong advocate of Poland and its culture. He has served as president of both the Polish National Alliance and the Polish American Congress. Through these organizations, Al fought for the human rights of the people of Poland. His dream was to one day see Poland free.

Mr. President, Al was loved and respected in Poland as well. As an early supporter of Solidarity, Al rallied the American people behind Lech Welesa and the Solidarity cause. He even established the Polish American Congress Charitable Foundation, which raised $150 million for the Polish people following the Solidarity strikes in Poland during 1980. The foundation's work continues to provide indispensable assistance to the people of Poland.

As I am sure you are aware, Al's counsel was sought by many Presidents of the United States including Presidents Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan. His personal advice to this Senator proved invaluable time after time. Whenever an issue of importance to the Polish community arose, I knew I could turn to Al and seek his trustworthy advice.

Mr. President, Al will be dearly missed. His legacy is a dedicated and hard working group of supporters, who will continue to strive for the fulfillment of his dream: human rights and freedom in Poland.

SENATOR QUENTIN BURDICK: A TRIBUTE TO ROBERT BYRD

Mr. BURDICK. Mr. President, when I first came to Washington to represent North Dakota, I did not foresee that I would be serving in the Senate almost 30 years later. I would wager that our distinguished colleague, ROBERT BYRD, had no idea that he would not only be here, but be serving as majority leader of the U.S. Senate. Senator BYRD has decided to relinquish that position to serve his State and our Nation as chairman of the Appropriations Committee. Because of that decision, I would like to take a few minutes to honor this great public servant and personal friend.

As I got to know BOB BYRD, working with him on the Appropriations Committee and watching him rise to the leadership of this body, I developed a deep respect for him. We all know the sincerity of his dedication to this institution. His wonderful speeches on Senate history and his vast store of knowledge on legislative process and procedure are unsurpassed.

In addition to his seemingly endless store of energy and his keen mind, BOB BYRD has displayed the ingenuity and the courage that make him a truly great leader. While he could have shied away from controversial issues, ROBERT BYRD tackled trade legislation, arms control, and campaign finance reform.

Some people make assumptions about politicians, and BOB BYRD almost always contradicts the stereotype. Even with televised proceedings, he has made no move to give up his three-piece suits, sport a red tie, or change his barber. I know he would just as soon be playing his fiddle in a cabin in the mountains of West Virginia than attending a fancy Washington reception.

West Virginia voters like BOB BYRD and have given him a higher percentage of the popular vote than any other candidate four times. He is the only politician in the history of the State to carry every county in a general election. These achievements in the political sphere reflect his victories for West Virginia in the legislative sphere.

BOB, I have enjoyed working with you in the past, and I am looking forward to serving under your leadership in the Appropriations Committee. Congratulations on all your good work as you step down from the post of majority leader, and best wishes in your new position.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY addressed the Chair.

Mr. BYRD. Mr. President, does the distinguished Senator wish some time from morning business?

Mr. KENNEDY. Could I have 3 minutes?

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Massachusetts, Mr. KENNEDY, may speak for not to exceed 5 minutes out of order at this time as though in morning business, and then let morning business expire.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I appreciate the courtesy.

I see the chairman of the Banking Committee here, if I could have the attention of the Senator from Wisconsin. I want to speak on the nomination of Mr. LaWare.

Mr. PROXIMIRE. When the nomination comes up, Mr. President, that would not be in morning business. We are going to have a vote on it as I understand a little later and I am happy to yield some time to the Senator from Massachusetts. I want to speak on it, too, as I am chairman of the committee. We held hearings on it. We should have an opportunity to speak. But I am willing to yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I knew that we were voting at 9:30. I just came on the floor. If it is the desire of the leader to go into executive session, I will take a couple of minutes perhaps after the chairman of the committee prior to the vote if that is agreeable both to the floor manager and to the chairman of the committee.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I ask then, therefore, that the order just entered be vitiated, that the Senate will turn to the order entered yesterday under which business is now closed and the Senate goes into executive session for 10 minutes prior to the vote.

The ACTING PRESIDENT pro tempore. If the majority leader will withhold, there is a bill at the desk to be read for the second time.

Mr. BYRD. Very well.

PUBLIC LANDS, TONGASS TIMBER REFORM ACT—H.R. 1516

The ACTING PRESIDENT pro tempore. The clerk will read the bill.

The legislative clerk read as follows:

A bill (H.R. 1516) to repeal the permanent appropriation of $40,000,000 to the Secretary of Agriculture for the Tongass National Forest, require the Secretary of Agriculture to renegotiate two 50-year timber supply contracts, provide for a 5-year moratorium on commercial timber harvesting in 19 areas within the Tongass National Forest, and for other purposes.

Mr. BYRD. Mr. President, I object to any further proceedings on the bill at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the legislation will be placed on the calendar.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is closed.

EXECUTIVE SESSION

FEDERAL RESERVE SYSTEM

The ACTING PRESIDENT pro tempore. The Senate will now go into executive session and proceed to consider the nomination of John P. LaWare, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System. There will be 10 minutes of debate on this nomination to be equally divided and controlled between the Senator from Wisconsin and the Senator from Kansas.

The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I understand that I have 5 minutes; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes and then I will yield 2 minutes to my good friend from Massachusetts, the senior Senator.

Mr. President, John LaWare is a well-qualified candidate for the Federal Reserve Board. In the 31 years I have served on the Banking Committee, this is one of the best nominations we have had and I have absolutely no qualification in saying that.

Mr. President, I rise now to speak on this nomination because of the fact that this is the seventh member of the Board, in fact all the members of the Board now will have been appointed by a single administration, and this is the first time in memory that has happened.

The most important quality of the Federal Reserve Board is its independence of the administration and the Congress. It was established as an independent board. We deliberately provided that the terms will be very long, 14 years. Mr. LaWare will serve until the year 2002. Many of us will be dead by that time. And he will serve with other members. That means whoever is President of the United States in the next 4 years is not going to have control of the Board in his first term. Even if he is reelected, he is unlikely to have control of the Board.

So it is very important that we should recognize this and make as strong a declaration as we can on the floor that we hope and pray that Mr. LaWare and the other members of that Board will recognize the importance of showing their independence of the fact that they are appointed by the same President of the United States.

Mr. President, as I say, John LaWare is very, very well qualified. He served as a distinguished president, a very successful president of an outstanding bank in Massachusetts, the Shawmut Bank. He impressed our committee with his knowledge and his intelligence and I am sure he will serve as an excellent member of the Board of Governors of the Federal Reserve Board.

Mr. President, I reserve whatever time I have remaining.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator from Wisconsin.

Mr. President, I rise today in strong support of the nomination of John LaWare to the Board of Governors of the Federal Reserve System and congratulate Chairman PROXMIRE and the members of the Banking Committee for moving expeditiously during this busy time.

John LaWare is a son of Massachusetts and we will miss him. For not only has he been a leader in our financial community, but he has also been a tireless worker on behalf of educational and cultural institutions across the Commonwealth. But our loss is the Nation's gain.

John LaWare brings his considerable skills to the Board at a crucial time. As Congress and the administration continue to reduce our fiscal deficit, the Federal Reserve must assure that monetary policy sustains the current expansion. Simultaneously the Board must increase and intensify its efforts to secure the soundness of our domestic financial institutions as they continue their adjustment to a deregulated and internationalized environment. And if that were not enough the Federal Reserve must assert leadership in the international community to assure a common growth oriented policy and a permanent solution to the problem of developing country debt.

These are not easy tasks, and the Federal Reserve System surely cannot be expected to solve them if Congress and the administration sit on the sidelines. But this nomination makes a tough job somewhat easier. I am sure, in the years ahead, John LaWare's new colleagues will come, as I have, to turn to him for wise advise and counsel.

I reserve the remainder of our time and I thank the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. GARN. Mr. President, I rise in support of this nomination. I think it is one of the best recommendations that President Reagan has made to the Senate and particularly for the Federal Reserve Board.

I have personally known Mr. LaWare for several years in his capacity as the president of Shawmut Bank and have had a very good association with him, and a very favorable impression developed as a result of that association.

So I would certainly encourage all of my colleagues to support this nomination today.

I will make only one comment in response to the distinguished chairman from Wisconsin about the 14-year term. It is true that members of the Federal Reserve Board are appointed for 14 years. However, I have known in the time I have been in the Senate, which is nearly 14 years, not one single member ever to serve a full term. It is a long period of time. The natural turnover is less than 4 years average. So I do not think it becomes a practical problem. It is a problem as far as the statutory limitation on number of years; 14 years is a very long time. But I think the chairman will agree that from a practical standpoint I do not know of any who have served that length of time or anywhere close to that length of time.

But I think that is beside the point in that Mr. LaWare is very well qualified and I will very enthusiastically vote for his confirmation.

Mr. PROXMIRE. Mr. President, as we know, the Supreme Court is appointed for life and they stay on depending on their will and their view as well as their health and their other opportunities.

There is no question that when a person is appointed to the Federal Reserve Board for 14 years, if he feels very strongly about his ideology he is likely to persist. It is a very, very powerful position.

As we know, the man who is regularly recognized as the second-most powerful person in the country is the Chairman of the Federal Reserve Board. That was true of Arthur Burns, it was true of Paul Volcker, and I am sure it will be true of Alan Greenspan. And the other members are important, too. The Chairman has only one vote.

So I think it is important that what the Senate is doing in fact is providing for a 14-year term; until 2002 he will be serving, this Reagan appointment will be serving on the Board, and the Reagan majority might very well continue right into the term of the next President of the United States.

However, I will agree with my good friend who was also a chairman of the committee and is extraordinarily able that it may well be that he will not serve out his term. But I think we have to assume that he will when we vote on this kind of a nomination.

Mr. SHELBY. Mr. President, I would like to offer my support for one of the best nominations made by this administration. Today we consider the nomination of John P. LaWare, of Boston, MA, to serve as a Governor on the Federal Reserve Board. The Senate Banking Committee has considered Mr. LaWare's nomination and offered its unanimous approval.

If Mr. LaWare's nomination is confirmed, he will bring to the Federal Reserve 34 years of banking experience. This nominee is a career banker, working his way up from a bank training program to become a senior vice president at Chemical Bank in New York. During his 25 years at Chemical, he became good friends with John Woods, who today is the chief executive of one of the largest banks in my home State. Mr. Woods has recommended Mr. LaWare very highly for his competence and his thorough knowledge of the business of banking. This recommendation is in itself a compliment to the integrity of this nomination.

In 1978, Mr. LaWare joined the Shawmut Corp., of Boston as their president. Two years later, he became Shawmut's chairman and chief executive officer. Mr. LaWare's leadership at Shawmut has won him recognition as a leader in the banking industry. Not incoincidentally, he has testified before Congress several times, providing himself an articulate and helpful witness on different subjects. He will bring to the Board of Governors diverse knowledge of the world's economic and social relationships.

Mr. LaWare's commitment to excellence extends to his relationship with the community. Under his leadership, Shawmut fulfills its corporate objective of community involvement. He has led his organization in active participation in many community service organizations, providing an impressive illustration of the results that are possible when business and the community work together. I like Mr. LaWare's explanation of the importance of community involvement:

> Shawmut can stand as one example of the integral connection between good corporate citizenship and good business. Our commitment to our communities has certainly served us well. * * * We believe that the public has placed its trust in us and we must live up to that trust.

As a Governor of the Federal Reserve, Mr. LaWare would frequently speak publicly, to a variety of groups, from MBA candidates to national policymakers, from community bankers to international leaders. I would like to have a man of Mr. LaWare's philosophy influencing those that shape our world. His example of active involvement, his voice of responsibility and integrity, would prove an asset not only to the Federal Reserve but to this world's leaders, wherever they may be.

I commend the leadership of the Senate Banking Committee for expediting the consideration of this nomination and I urge my colleagues to support it.

Mr. SASSER. Mr. President, as a member of the Banking Committee, I rise regretfully in opposition to the nomination of John LaWare to the Federal Reserve Board. In doing so I want to say that I agree with many of the comments of the distinguished chairman of the committee, Senator PROXMIRE.

John LaWare is indeed a man with great qualifications. He has had significant and long experience in the banking industry, and a history of community activism in Massachusetts. I note that he is strongly supported by my colleagues the two Senators from Massachusetts.

But as my colleague from Wisconsin has pointed out, this marks the first time in history that a single administration has appointed every member of the Federal Reserve Board. This is significant because it was clearly Congress' intent in enacting the Federal Reserve Act that the Board be independent of all political pressure.

And this is an important post. The Chairman of the Federal Reserve has been called the second most important person in Washington. The other six members of the Federal Reserve Board are only slightly less important.

Should John LaWare be confirmed, and I suspect he will be overwhelmingly, he will serve a 14 year appointment, terminating in the year 2002.

Mr. President, we all know that the next President will face a fiscal crisis. Whether the next President is Governor Dukakis or Vice President BUSH, he will need to take action to reduce the size of the Federal budget deficit.

Yet, I am concerned that his efforts could be made more difficult by the policy of the Federal Reserve. The next President will not be able to have any input into the composition of the Federal Reserve until 1990, by which time his economic program will have to be well underway.

Given that the administration has left this important post vacant since December 15, 1986, I think it would have made sense for us to wait just a few more months, and let the next President decide this one.

We all know what kind of an impact the Federal Reserve can have on the economy, particularly on interest rates. Indeed, I am concerned that an over obsession with inflation on the part of the Federal Reserve, could cause needlessly higher interest rates and a contraction in the economy. Such an occurence would make it next to impossible to correct the budgetary imbalance.

A number of economists have said recently, that recession is "simply not an option." I could not agree more. A recession would cause social service spending to increase, revenue would fall. The thrift crisis, already estimated to be a $100 billion liability, would be greatly exacerbated.

Moreover, the portfolios of lesser developed country and leveraged buyout debt that the banks are carrying could spell disaster for the financial system should the economy go into a downturn.

Mr. President, interest rates are already rising. Many economists believe that the Fed is overreacting to perceived signs of increasing inflation in the economy. These higher rates will have a detrimental effect on homebuyers, farmers, and small businessmen, in particular.

Most of all, though, the economy could be moving toward a downturn, that could severely damage our efforts to get control over our fiscal imbalance.

Mr. President, next year we will need a Federal Reserve that is fully cooperative with the Congress and the administration. We must avoid an economic downturn at all costs.

I oppose this nomination primarily because of the timing. The next President deserves to have at least one member of the Federal Reserve that's on his team. I yield the floor.

NOMINATION OF JOHN LaWARE TO THE FEDERAL RESERVE BOARD

Mr. KERRY. Mr. President, I am very pleased that the Senate is today voting to confirm the nomination of John LaWare to become a member of the Federal Reserve Board. He is a highly qualified and competent individual who will fill this responsible position with distinction.

I have known John LaWare personally for many years, and I know him to be a thoughtful, dedicated banker with vision and idealism. John LaWare is an intelligent individual who has had a distinguished career in banking, both as leader of the Shawmut Bank in Boston, and through leadership roles in banking organizations such as the American Bankers Association and the Association of Bank Holding Companies.

John has been an innovative and effective leader at a time when rapid changes in the global economy, financial markets, and Government regulation have made the job extraordinarily demanding. His contributions to the ongoing debate over the future of financial institutions and regulatory reforms have been particularly notable. While we may disagree on some issues, I have always been impressed by the clarity and logic of his arguments.

Those who are not from Massachusetts may not be aware of John's many contributions as a civic leader in the Commonwealth. He has served as chairman of the Massachusetts Business Roundtable, as a trustee of several educational institutions, and as chairman of the Coordinating Committee, a Boston business leadership organization.

Membership on the Federal Reserve Board is an extremely important position, one which requires the utmost in financial and economic acumen combined with the highest standards of public service and integrity. Today, at a time of unprecedented economic volatility and huge budget and trade deficits, the pressures and demands on members of the "Fed" are even more severe.

I have no doubt that John LaWare will meet those demands with distinction. John LaWare understands the nature of the challenges that lie ahead for this Nation as we confront the demands of economic competitiveness and the need to invest in the future of this country. He understands the crucial role that the Federal Reserve Board plays in maintaining the stability necessary for our economic security and growth. I have great faith in the quality of the job that he will do for this Nation, and I enthusiastically support his nomination for a 14-year-term on the Federal Reserve Board.

Mr. GARN. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah, on behalf of the Senator from Kansas, has yielded back the remainder of his time.

Does the Senator from Wisconsin yield back the remainder of his time?

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays wre ordered.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is, will the Senate advise and consent to the nomination of John P. LaWare, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. BUMPERS], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. METZENBAUM] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 3, as follows:

[Rollcall Vote No. 290 Ex.]

YEAS—90

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Durenberger
Evans
Exon
Ford
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—3

Conrad
Gore
Sasser

NOT VOTING—7

Biden
Bumpers
Dixon
Dodd
Fowler
Metzenbaum
Mikulski

So the nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order the motion to reconsider is laid upon the table and the President will be notified of the confirmation of the nomination.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will return to legislative session.

The majority leader.

SENATE SCHEDULE

Mr. BYRD. Mr. President, may I have the attention of Senators? The Senate is very much on its schedule with a clear and achievable target date for sine die as of September 30 or October 8.

Now, whether or not the Congress achieves that goal will depend very much on where we go and how we deal with the DOD appropriations bill. That bill can keep us here beyond the hoped-for sine die adjournment. There is a supplemental appropriations bill, which is a dire emergency supplemental appropriations, which has in it money for trade adjustment assistance payments. We have run out of money in many States, my State included, and these are people whose jobs have been taken away by cheap foreign imports. They are having to wait on their payments.

Also, black lung payments, in the situations where there are court-awarded payments are needed. Many recipients have not been able to receive payments since May 31. So we have those two dire emergency needs—trade adjustment assistance payments and black lung.

There are other important items involved, none of which, perhaps at the moment, is so direly in need of funding, but which will be cramped for funds in the near future.

My hope is that we can take up the dire emergency supplemental appropriations bill, dispose of it without controversial amendments and send it on to conference with the House and then go to the DOD appropriations bill.

We can dispose of the emergency appropriations bill easily today, it seems, if we would agree that we would hold off on amendments dealing with the military until the DOD appropriations bill is brought up. I assure Senators that it would be my desire and intention to bring that bill up immediately upon the disposition of the emergency appropriations bill.

I have heard those who have indicated that they want to call up Contra aid amendments to the supplemental appropriations bill. I do not want to do that. That would subject the bill to considerable delay—delay here in the Senate perhaps and further delay in the conference. There is no necessity for that. There is just the opposite. Contra aid amendments should be offered to the DOD appropriations bill.

I have heard it said that there would also be amendments offered dealing with military pay to the supplemental.

Mr. President, the President of the United States has elected to veto the DOD authorization bill. I am not interested in stripping off those items that were in that vetoed bill, putting them on a supplemental and then eventually sending a stripped-down DOD appropriations bill to the President. If he wants to veto a bill that has payments to the military in it, let him veto the DOD appropriations bill lock, stock, and barrel. Let it all be in there. I am not going to make it easy for the President by stripping off military pay, putting it on the supplemental and then sending him down the stripped-down version which he can veto more easily. Let him bear the burden for the veto of pay to our men and women in the military, along with everything else, if that is his desire.

Mr. President, we have today and tomorrow and 4 days next week—we have 6 days—in which to dispose of these two appropriations bills. They both have to go to conference. If we wait until the last minute to pass the DOD appropriations bill before we go out for the convention, this means that the staff and Members will get a slow start in conference when we get back. Of course, if we do not pass the bill until we get back, that is even worse.

Mr. President, this bill is a big bill—the DOD appropriations bill—and it will have to go to conference. There are going to be some thorny issues in the bill. It has already been highly politicized by the President's veto. The longer the DOD bill is delayed, the later will be the sine die adjournment.

Along with the DOD appropriations bill, I am concerned that there may be others of the appropriations bills that have already been passed that may get lost along the way. So we are going to be fouled up when we come to September 30 with appropriations conferences that have not been able to complete their work.

This means, then, in the final analysis, we will be confronted with an omnibus appropriations bill; a continuing resolution.

The President put on a great show in the State of the Union Message and dumped a voluminous continuing resolution before the television cameras and made his point that he does not want any more continuing resolutions; he wants separate appropriations bills.

I have committed myself, the Speaker has committed himself, our Republican leader has committed himself; the members of the Appropriations Committees on both sides have worked hard, and we have passed, to this point, 12 of the 13 appropriations bills in this body and sent them to conference. The House has appointed conferees on seven, in addition to the one that has already gone to the President, the energy and water appropriations bill.

Members on both sides of the aisle have worked diligently. In the Senate, I have never seen better teamwork between the leadership of both parties in advancing these appropriations bills.

I would hate to see us come to the end of the session and have to send another continuing resolution to the President. This is what he said he does not want. I am concerned that he perhaps has set us up in a situation in which he is going to get what he said he did not want—a continuing resolution. I am interested in sending separate appropriations bills to the President. If he wants to veto each of them, let him do so, and then the Senate and House can act accordingly within their constitutional responsibility.

So I urge Senators to let us take up the dire emergency supplemental appropriations bill today, agree that we will not try to attach Contra aid and military pay and other DOD-related amendments, and dispose of it, and then let us get on the DOD appropriations bill and have at it then on Contra aid and other matters.

I am going to ask unanimous consent that the Senate proceed to the consideration of the dire emergency appropriations bill with the understanding that there will be no amendments thereto. That is one alternative. Another will be that only certain specified amendments, that we have to identify, be called up. The third will be that there be no nongermane amendments to that bill. There are Senators on both sides who perhaps have other amendments than those of the categories I have attempted to describe.

If we cannot get that consent, then I want to go to the DOD appropriations bill and hopefully, early on in the deliberations on that bill, deal with these controversial amendments—Contra aid, military pay—and then go back to the supplemental.

I do not want to be responsible for holding up that supplemental. It is an emergency supplemental. Emergency means emergency. Socrates said define your terms; the term "emergency" is self-defining.

It is an emergency. This is an emergency bill and it ought to be dealt with now. If it is not an emergency bill, then it can wait. That is the purpose of having this emergency supplemental appropriations bill. It has been reported out by the committee, and it is on the calendar. I say we ought to deal with it as an emergency.

So I am offering the Senate the opportunity to deal with this emergency bill now and put off the difficult fights until we are on the DOD appropriation bill.

I yield to the distinguished Republican leader before I make my request.

Mr. DOLE. Mr. President, I thank the majority leader for yielding. I would say, as I indicated to the majority leader last evening, we will have a meeting at 10:15 in my office to talk about Contra aid, discuss the package that we had presented to us yesterday afternoon by the majority leader, along with our package, and then try to make a determination whether we offer it on Contra aid or whether we do as the Senator suggests, wait for the DOD appropriation bill. But there is a lot of talk about there is never going to be a DOD appropriation bill, that we are going to have the authorization bill offered as an amendment. We have responsible leaders on the House side saying there is never going to be a DOD appropriation bill; it is going to be a continuing resolution. So we may feel that that is a dead end for Contra aid—dump everything onto the DOD appropriation bill; it is not going to go anywhere, and that is not in our view the way to approach a very important issue like aid to the freedom fighters, which also is an emergency.

So I hope we would have an opportunity to have our meeting, to have a chance to discuss this. We have the White House looking at the Democratic proposal on Contra aid. We have had some chance to review it. I have had a discussion on the floor with the distinguished Senator from Oklahoma, Senator BOREN, explaining some of the areas that I may have misinterpreted, so maybe we could have that opportunity before any request is made because otherwise I think we would just have to object and that would not further the majority leader's program. If there is something else we might take up for a couple hours, if there is any bill that we could dispose of, we would be happy to cooperate. I do not know about the Nuclear Regulatory Commission. We are prepared on this side to go to that. There may be other bills that the majority leader would like to dispose of.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. I have the floor.

Mr. DOLE. The majority leader has the floor.

Mr. BYRD. I will yield to the Senator for the purpose of a colloquy with the minority leader.

Mr. JOHNSTON. I thank the majority leader. I wonder if the minority leader would find it appropriate for us to deal with the committee amendments and discuss other matters not going to final passage, holding it open for a Contra aid amendment or at least not dealing with passage or third reading.

Mr. DOLE. I do not have a problem with that, and I cannot speak for others who may have amendments; if that is satisfactory to the majority leader. I thought maybe he either wanted to do it or not do it, not do it part way, but either get consent to do it without amendment or not do it at all, and we go on to DOD appropriations.

I do not have any problem with the suggestion of the Senator from Louisiana, go ahead and start it. I think we are prepared to do that, I say to my colleague from Oregon, and then not take any final action or get any consent there be no amendments or whatever until we have had a chance to have a meeting. If that would be helpful, we would be happy to do that.

Mr. BYRD. Mr. President, at the moment, I can move to go to either bill without debate. If we proceed for a while to do committee amendments, I can lose that right. And there may be a situation by then that I would have difficulty getting up the DOD appropriations bill, and I might not get consent to take up the DOD bill. I would have to move to take it up. The motion at that time would be debatable.

So I ask unanimous consent that the Senate may proceed to the consideration of the emergency supplemental appropriations bill but that I retain my present right under the rules to make a nondebatable motion to take up the DOD appropriations bill at a later time today.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOLE addressed the chair.

Mr. HATFIELD. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. May I inquire, reserving the right to object, if we begin the supplemental, as I understand the procedure incorporated in the unanimous-consent request, we would proceed under normal fashion to take up committee amendments or other amendments which may be offered by the membership, but we would not conclude the action on the bill until we get a report back on the question of Contra aid. Do I understand that correctly, there are no restrictions on the amendments that may be considered?

Mr. BYRD. That is correct. The distinguished Senator from Louisiana proposed moving forward on the committee amendments and amendments thereto, and it would be anticipated that they controversial type of amendments that we have been discussing, have been reading about in the newspaper, would not be called up at that point but that the bill would not go beyond third reading in any event, so we would return to the present situation hoping that in the conference the distinguished Republican leader has just indicated he wants to have with the Members, they would decide not to offer such amendments to the supplemental and let it go.

If they make a decision otherwise, then the supplemental would be taken down. My request merely preserves my right, which I have at this moment, to move to proceed to the DOD bill without debate. I do not want to wait and have this opportunity slip away, and we are on the supplemental appropriation bill and Senators are insisting that they call up Contra aid amendments or other amendments that are obviously going to slow that bill down for an interminable length of time, and then I shall have lost my opportunity to move without debate to the DOD bill. We only have 6 days, including today.

Mr. HATFIELD. I thank the Senator. I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ARMSTRONG addressed the chair.

Mr. NUNN. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ARMSTRONG. Reserving the right to object, is the request of the majority leader limited to this day?

Mr. BYRD. The request of the majority leader will certainly not go beyond this day.

Mr. ARMSTRONG. In other words, it is the leader's request that he be permitted to make a nondebatable motion after the initial period of the day for this day only?

Mr. BYRD. Yes.

Mr. ARMSTRONG. I thank the Chair. I have no objection.

Mr. NUNN. Reserving the right to object.

The ACTING PRESIDENT pro tempore. Is there objection? The Senator from Georgia.

Mr. NUNN. I reserve the right to object, and I hope not to object. Could I inquire of the majority leader, there are a good many of us who have not given up on trying to get a Department of Defense appropriations and authorization bill perhaps combined that the President can sign and will sign. I would share the majority leader's view that if we start piecemealing each part of that, then that is tantamount to giving up on the Department of Defense bill this year, that is tantamount to saying we are going to have a continuing resolution for 30 days or 4 months. And it may be we will come to that.

I certainly am in favor of military pay, and I think any continuing resolution we pass, if we have to go to continuing, should contain military pay. I do not want to see our men and women in the military basically caught in a political squeeze that has been started at the White House and, hopefully, can be put back together.

So I would ask the majority leader if we do have a piecemeal approach now beginning on this supplemental, Senators start offering individual components of the overall Defense bill, what would the majority leader's unanimous-consent request entail at that point?

Mr. BYRD. It would entail my moving to take up the DOD appropriation bill, which motion would not be debatable and which would have the effect of displacing the supplemental bill and putting it back on the calendar.

Mr. NUNN. I thank the majority leader.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. Reserving the right to object.

Mr. BYRD. Yes.

Mr. DOLE. As I indicated yesterday and I think the President indicated, the Senate authorization bill is no problem. The President said himself it was a good bill. I commended it, the Chairman, and Senator WARNER. That was not the problem. It was some of the measures that were insisted on by the House.

I know how conferences are, and that troubled the President as he stated in his message. So there still might be some hope of getting a combination which I think would certainly be satisfactory with me, but I am wondering if I could protect the leader's rights to do what he wants to do in this period if we could have a recess long enough to give us time to at least meet and he would not lose that right and I would not be forced to object.

I have been trying to be cooperative with the leader to get this work done. I think our record is good. But I do not want to frustrate what I need, and what the majority leader needs to do now. We would like to at least meet for a bit to get some sense of how Republicans feel, and how the White House feels on the Contra aid package. Maybe within 45 minutes we could come back and do one or the other, and then the majority leader would not lose his right to move to either one.

(Mr. BREAUX assumed the chair.)

Mr. BYRD. Mr. President, I shall ask unanimous consent momentarily to recess for 1 hour. That in itself protects my right. This will give the distinguished leader on the other side of the aisle an opportunity to have a conference with his Senators. Then I will renew my request at that time, and perhaps there will not be a need for it.

Mr. President, I thank all Senators. I thank the Republican leader.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:10 a.m., 1 hour.

There being no objection, the Senate, at 10:10 a.m., recessed until 11:09; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BREAUX).

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, there are no other Senators on the floor. I want to protect my right under the rule to move to make a nondebatable motion, which right presently exists. I ask unanimous consent that at such time until the distinguished Republican leader is on the floor I retain that right as of the status quo.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. The distinguished leader on the other side of the aisle has indicated that another 10 minutes would be helpful to him in his conference. I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 11:12 a.m., recessed until 11:28 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BREAUX).

The PRESIDING OFFICER. The Chair recognizes the majority leader.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the dire emergency supplemental appropriations bill, with the proviso that I may be permitted at any time during this day to move to proceed to the DOD appropriations bill, with 1 hour of debate to be equally divided in accordance with the usual form between the two leaders on such motion to proceed to the DOD appropriations bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators. I thank the Republican leader.

Now, Mr. President, the Senate will proceed to the consideration of the supplemental appropriations bill. Off the floor Senators are working with staffs in an effort to develop some way or procedure whereby the DOD-related amendments hopefully can be offered to the DOD bill, and that the supplemental appropriations bill will thus be free from such amendments. In the meantime, amendments can be offered to the supplemental appropriations bill. The distinguished manager is here on the floor and the ranking manager will be here shortly.

They can proceed with the committee amendments, and progress can be made. But at any time during the day, under the order entered, the majority leader, after consultation with the Republican leader, may decide, based on the circumstances at that time, to move off that supplemental, if necessary, and move to the DOD appropriations bill, with 1 hour of debate on the motion to proceed, to be equally divided in accordance with the usual form.

I thank all Senators.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I indicate to the majority leader that we are meeting now on Contra aid and we are trying to make a determination, based on the agreement with the majority leader and other Democratic Members, on Contra aid. We are looking at that package.

We have a meeting with General Powell, the President's National Security Advisor, and about a dozen Republican Senators.

We have staff now going over that.

We would be happy to be in a position to deliver to the majority leader some differences, some suggestions. If there is some indication that it might be resolvable, that would determine whether or not there is any amendment to the supplemental. If it cannot be resolved, I assume we would have to offer the Contra aid package, and the majority leader has indicated that if that is done, he will move on to the DOD measure. That is understood by both sides, and that is where we are.

Mr. BYRD. I thank the Republican leader. I am encouraged by his conferences. I understand that he wishes to discuss this with his colleagues, the proposed amendment that was developed among Democrats, and which proposal has been submitted to the Republican leader.

I will have to say at this point that that amendment was developed after many, many hours on several different days. It is a fragile coalition. Of course, we will be glad to look at whatever questions or suggestions the distinguished Republican leader wishes to present.

I thank all Senators, and I yield the floor.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5026) making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DIRE EMERGENCY PROGRAM SUPPLEMENTALS

To meet dire emergencies created by needs for **[**State Unemployment Insurance and Employment Service Operations,**]** the Black Lung Disability Trust Fund, Trade Adjustment Assistance and Small Business Disaster Assistance and for personnel, operations, and capital required to meet dire emergencies caused by the drought, disaster, and financial conditions:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

[STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

[For an additional amount for "State unemployment insurance and employment service operations", $50,000,000 which shall be expended from the Employment Security Administration account in the Unemployment Trust Fund, to fund activities under section 6 of the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202 (a)(1)(E)), including the cost of penalty mail made available to States in lieu of allotments for such purpose: Provided, That such amount shall be available for obligation for the period July 1, 1988, through June 30, 1989.**]**

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

(TRANSFER OF FUNDS)

In order to provide for the Black Lung Disability Trust Fund and for Trade Adjustment Assistance, such amounts for necessary advances for the fiscal year ending September 30, 1988, that exceed those provided in appropriations, may be derived from balances in the revolving fund established by 42 U.S.C. 1101(e).

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(BY TRANSFER)

For an additional amount for "Salaries and expenses", **[**$15,300,000**]** *$10,300,000,* to be derived by transfer from the "Business Loan and Investment Fund".

BUSINESS LOAN AND INVESTMENT FUND

Outlays in fiscal year 1988 resulting from the use of funds appropriated under this heading may not exceed $204,105,000, not including transactions originated by the Federal Financing Bank.

To meet the dire emergency which requires increased drug interdiction activities and the enhancement of protection of life and property:

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

(TRANSFERS OF FUNDS)

For an additional amount for "Operating expenses", to remain available until September 30, 1989, not to exceed $60,000,000, of which [$4,303,000 shall be derived from prior-year unobligated balances of "Access highways to public recreation areas on certain lakes"; $457,000 shall be derived from unobligated balances of "Territorial highways"; $2,460,000 shall be derived from unobligated balances of "Motor carrier safety grants"; $129,000 shall be derived from unobligated balances of "Conrail labor protection"; $651,000 shall be derived from unobligated balances of "Facilities, engineering, and development"; not to exceed $16,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Transportation Act of 1964, as amended, that would otherwise be reapportioned on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of "Research, training, and human resources" other than funds for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; not to exceed $8,000,000 shall be derived from unobligated balances of "Acquisition, construction, and improvements"; $8,000,000 shall be derived from unobligated balances of "Research, development, test, and evaluation"; $5,000,000 shall be derived from unobligated balances of "Pollution fund"; $2,000,000 shall be derived from unobligated balances of "Offshore oil pollution compensation fund"; $1,000,000 shall be derived from unobligated balances of "Deepwater port liability fund"; and $10,000,000 shall be derived from unobligated balances of "Panama Canal revolving fund"] *$69,467 shall be derived from unobligated balances of "Territorial highways"; $2,460,000 shall be derived from unobligated balances of "Motor carrier safety grants"; $129,000 shall be derived from unobligated balances of "Conrail labor protection"; $654,014 shall be derived from unobligated balances of "Facilities, engineering, and development"; not to exceed $22,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Transportation Act of 1964, as amended, that would otherwise be reapportioned on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of "Research, training, and human resources" other than funding for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; not to exceed $6,000,000 shall be derived from unobligated balances of "Acquisition, construction, and improvements"; $5,000,000 shall be derived from unobligated balances of "Research, development, test, and evaluation"; $6,687,519 shall be derived from unobligated balances of "Pollution fund"; $1,600,000 shall be derived from unobligated balances of "Offshore oil pollution compensation fund"; $1,400,000 shall be derived from unobligated balances of "Deepwater port liability fund".*

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The sum of $12,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is hereby rescinded.

To meet the dire emergency created by the [destruction occurring during the] Mariel Cuban prisoner riots in Federal prisons *and a deficiency in the United States Marshals Service*:

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses, United States Marshals Service", $3,500,000 to remain available until expended to be derived by transfer from "Immigration and Naturalization Service, Salaries and expenses".

SUPPORT OF UNITED STATES PRISONERS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Support of Prisoners", [$15,000,000] *$23,300,000*, to remain available until expended, *of which $8,300,000 shall be derived by transfer from the Immigration and Naturalization Service salaries and expenses.*

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For an additional amount for "Salaries and expenses, Community Relations Service", $6,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $42,609,000, to remain available until expended.

[BUILDINGS AND FACILITIES

[For an additional amount for "Buildings and facilities", $46,050,000, to remain available until expended: *Provided*, That funds available under this heading are authorized to be used to reconstruct Federal Prison Industries plants destroyed in the Mariel Cuban prisoner riots.]

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

EMERGENCY DROUGHT AUTHORITY

To meet the problems of the Mississippi River Basin, where the water is the lowest in history, with the River flowing north at New Orleans, with water systems endangered, and similar conditions elsewhere, the Secretary of the Army, acting through the Chief of Engineers, within existing law and within available funds, is directed to—

(a) conduct emergency drought relief activities for domestic, municipal, industrial, aquacultural and agricultural purposes in and adjacent to the Mississippi River and its tributaries. Such activities may include, but shall not be limited to, dredging of shoals impeding navigation; construction and operation of salt water intrusion barriers and associated facilities; transportation (by barge or other means) of potable water; and construction of water wells and necessary treatment and distribution facilities;

(b) as provided by existing law, in cooperation with local authorities, utilize water in any reservoir operated by the Secretary for emergency water supply purposes: *Provided*, That no additional authority to change the existing situation in regard to the Great Lakes or reservoirs at the headwaters of the Mississippi is provided by this langauge.

(c) provide technical assistance to State and local governments and public water agencies engaged in water conservation and drought management activities; and

(d) prepare regional drought management plans.

DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE PROVISION

Because of the effects of the drought, financial, and other problems, the Department of Agriculture is urged to use all authority in existing law in addition to such additional authority as may be provided by the Congress, to enable those engaged in agriculture to stay in business and to prevent foreclosure and make their normal and essential contribution to the general economy.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed an additional $45,427,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund to meet the increased workload in the county offices as a result of the 1988 drought, *and the portion thereof made available to county committees shall remain available until expended.*

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), $10,000,000, to remain available until expended, to be derived by transfer from the unobligated balances in emergency insured loans, Agricultural Credit Insurance Fund.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Food and Drug Administration for product emergencies and AIDS, $5,500,000, to remain available until expended.

[FUNDS APPROPRIATED TO THE PRESIDENT

[DEPARTMENT OF STATE

[UNITED STATES EMERGENCY MIGRATION AND REFUGEE ASSISTANCE FUND

[For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, $24,000,000 to remain available until expended: Provided, That not less than $6,000,000 shall be made available for Soviet and other Eastern European Refugees.]

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

The amount made available in the appropriation under this heading in the Department of Commerce Appropriation Act, 1988, shall remain available until expended.

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISION

Of the funds available to the Department of Defense during the current fiscal year, not more than $22,600,000 may be transferred to appropriations available for the Federal Bureau of Investigation to fund increased workload due to the INF treaty implementation, to be merged with and to remain available until expended.

DEPARTMENT OF STATE

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law, funds appropriated to the Department of State in fiscal year 1988 may be used without reimbursement to carry out the provisions of section 6 of the Arms Control and Disarmament Amendments Act of 1987 Public Law 100-213).

OTHER INDEPENDENT AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

In appropriation language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, delete the word "for"; add the following phrase at the beginning of the paragraph: "Notwithstanding section 501(b) of title V of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, for"; and delete the phrase "of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and ", Provided, That for purposes of section 202 of Public Law 100-119 (H.J. Res. 324, 100th Congress), this action is a necessary (but secondary) result of a significant policy change.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $296,500,000, to remain available until expended.

TITLE II—GENERAL PROVISIONS

No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Mr. JOHNSTON addressed the Chair.

Mr. STENNIS. Mr. President, will the Senator state the proposal?

Mr. JOHNSTON. Mr. President, the majority leader just called up the dire supplemental bill, and I was just getting ready to remark that that bill had been brought through the full committee under the leadership of the distinguished senior Senator from Mississippi [Mr. STENNIS], who is the chairman of our full committee; and I was going to mention that I had been mandated by him to assist in that matter and was going to yield to him for such comments as he wishes to make.

Mr. STENNIS. I thank the Senator. I just wanted to be sure we had a starting point with the Senator from West Virginia and the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this dire supplemental has been brought forward under the leadership of the distinguished Senator from Mississippi.

I might add, for the edification of my colleagues and the people in general who may not be aware, that yesterday was Senator STENNIS' 87th birthday. It has been a long and useful and distinguished life, especially that part of it—a considerable part of it—which has been spent in the U.S. Senate. Those of us on the Appropriations Committee are especially grateful for his leadership.

Mr. President, I am pleased to present before the Senate today H.R. 5026, the dire emergency supplemental appropriations bill, as passed by the Appropriations Committee on Tuesday, August 2, 1988.

A number of colleagues have asked what is the difference between a dire supplemental bill and an urgent supplemental bill. All I can say is that "dire" is considered to be more urgent than just a regular urgent supplemental bill. That is actually the language of the budget summit agreement, to try to set forth those items which are absolutely an emergency, skinnied down of all extraneous matter, dealing only with matters of utmost urgency and "must pass" nature.

I will highlight the provisions included in the House-passed measure which have been unchanged by our committee. Next, I will mention the House provisions which have been deleted by the committee. Finally, I will explain the provisions added in the committee markup.

First, the committee-reported bill concurs with the House provision which provides additional emergency funds for the black lung disability trust fund and for trade adjustment assistance. Quick action on these programs is necessary to avoid any further or additional interruption of important benefit payments to claimants which are provided by current law.

In other words, these two programs, trade adjustment assistance and black lung, are presently out, or soon will be out, of funds; and we simply have to have the money to pay those benefits for the rest of the year.

Second, a transfer of $10.3 million to the Small Business Administration is included in the reported bill which provides for salaries and related expenses for disaster loan-making activities and other costs. The $5 million reduction from the House level reflects the latest information received by the committee from SBA. Bill language is also included which limits outlays in fiscal year 1988 in the business loan and investment fund, thereby keeping the original outlay level approved for the Small Business Administration.

The bill also contains $60 million in budget authority for the Coast Guard to increase vital drug interdiction activities and other operations which enhance the protection and safety of life and property. However, the committee-reported bill provides $48 million by transfer and offsets the remaining $12 million with a rescission of unusable FAA contract authority.

H.R. 5026 further contains approximately $73 million, which is also in the House bill, to be used by the Department of Justice in order to reimburse them for the unanticipated costs incurred during the riots by the Mariel Cuban prisoners at Atlanta, GA, and Oakdale, LA.

Several provisions are also included in this dire emergency supplemental to enhance the Department of Agriculture and the Corps of Engineers' ability to deal with the severe problems our farmers and other citizens are facing due to the drought this Nation has experienced this summer. A provision is also included which will allow a transfer of an additional $10 million to the Emergency Watershed Protection Program in order to provide the essential services caused by the devastating rains which hit Arkansas, Hawaii, Mississippi, Missouri, New Mexico, and Puerto Rico.

Mr. President, that language with respect to the Corps of Engineers' ability to deal with the problems is of particular interest to me because it provides their ability to deal with freshwater problems caused by the lack of flow in the Mississippi River. The Corps of Engineers presently has the money to do the various things that need to be done, to manage the flow in the Mississippi River and to manage the flow in Bayou Lafourche.

I was just down in Louisiana this last weekend talking to sugar farmers who point out that the amount of freshwater in Bayou Lafourche is reaching very low levels and that as we approach the sugar grinding season which is, generally speaking, a drier part of the year than August, there may be a devastating effect upon freshwater not only for drinking but for agricultural purposes, for grinding purposes, and this language would permit the Corps of Engineers to use existing funds to provide water for Bayou Lafourche which is presently provided by a pumping station at Donaldsonville, LA. This would permit the corps to provide those services if necessary as we approach the even drier part of the year.

There are also three provisions which were included by the House but deemed by the committee not to be of a dire emergency nature. These provisions relate to the following accounts: State unemployment insurance; prison buildings and facilities; and refugee assistance fund.

Although these provisions are important they do not qualify to be included in this dire emergency supplemental. They are not programs which have either exhausted their current resources or will have insufficient resources to complete the remainder of the current fiscal year.

The bill contains several new provisions which meet the dire emergency requirements. These requirements set by the committee state that the bill may only include funding for high priority programs which have either exhausted their current resources or will have insufficient resources to complete the remainder of the current fiscal year. These provisions also must not create a budget act point of order and they must substantially comply with the budget summit agreement. Therefore, a transfer of $3.5 million has been included for the U.S. Marshal's Services to prevent a deficiency in the appropriations resulting from the forced headquarters relocation.

A provision has also been included which would change the appropriation for the periodic censuses and programs account within the Bureau of the Census. This proposal simply corrects an error in the fiscal year 1988 Department of Commerce appropriation, and does not affect outlays.

An administrative provision is also included which would benefit the Department of State. This provision has no outlay impact and is of a technical nature relating to the Arms Control and Disarmament Amendments Act of 1987.

The committee has provided an additional $5.5 million to the Food and Drug Administration contingency fund established in order to deal with unanticipated product emergencies. The FDA has encountered such emergencies in recent efforts aimed at protecting the Nation's blood supply.

As requested by the President, the committee also included a provision which allows the transfer of not more than $22.6 million to the FBI for increased workload due to the INF Treaty implementation.

There has also been a provision included which will have the effect of allowing funds to be used by Radio Free Europe/Radio Liberty, Inc. [REF/RL] to maintain its current broadcast operations. Without enactment of these proposals, REF/RL would be compelled to discontinue operations.

The last provision added to the House bill by the committee provides $296.5 million to the Veterans' Administration compensation and pension account. This amount will partially accommodate cost increases due to the Veterans' Compensation Cost-of-Living Adjustment Act of 1987, increasing compensation for spouses and children and providing an increased veterans clothing allowance. The funding will also assist the VA in providing for greater than anticipated caseload and average benefit levels as well as the rescheduling of certain compensation payment payments into 1988.

I would like to emphasize to all Senators that this is an absolutely clean dire emergency supplemental. I would, therefore, urge my colleagues not to offer amendments which are not of a dire emergency nature or which would be subject to a budget act point of order. Also we must honor the budget summit agreement and not exceed the spending caps agreed to by the Congress and the administration.

Our Republican colleagues are talking at this time about the question of which vehicle they would use for the Contra aid amendment and whether they would go along with the Democratic proposals or would request some modification in those. We will soon have their advice.

My hope is that they can bring this bill along up to the point where it is completed but for the Contra issue so that we can foreclose all amendments other than that one if that is desired to be dealt with in this bill later.

I would hope that we could deal with this bill with great dispatch. Any wish list amendments which are not of a dire emergency nature which I would guess would include almost all amendments that I know of, I would frankly expect to deal with those on motions to table without a great deal of debate. We have said the essential facts. It is a dire emergency bill. We simply cannot load it down with matters from the DOD bill and other matters.

If we are going to get into that, in the first place, there would be extended debate if we allowed those matters and, in the second place, that is not what this bill is. Those kinds of things can be put on another bill, the defense appropriation bill, for example.

I would hope, therefore, that we can deal with this matter with great dispatch here on the floor.

In conclusion, Mr. President, I firmly support this dire emergency supplemental appropriations bill and ask that it be adopted so that we can provide the necessary funding for the essential, high priority programs, which are so desperately needed.

Mr. President, before I make the usual motion, I yield the floor to my distinguished colleague with whom I worked so long through the years and with such a pleasant and productive relationship, the distinguished Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon, Senator HATFIELD, is recognized.

Mr. HATFIELD. Mr. President, H.R. 5026 as recommended to the Senate by the Committee on Appropriations is a responsible bill. The Senate should act promptly so that we can take this measure to conference, resolve our differences with our colleagues in the other body, and send the bill to the President for his signature. Whether or not we agree that this measure is properly titled as a "Dire Emergency Supplemental Appropriations Bill," it is clear that a number of programs have or will soon exhaust their fiscal year 1988 funds, and a supplemental must be enacted into law before our next recess. Of particular concern are continuation of black lung benefits, trade adjustment assistance, operations of the Small Business Administration, and the drug interdiction efforts of the Coast Guard.

The committee recommends a total of $421,036,000 in new budget authority. Of that amount, $296,500,000 is for veterans' compensation and pensions, a mandatory program under the definitions of the summit agreement, and the balance of $124,536,000 is for discretionary programs. We are within the constraints of the fiscal year 1988 budget resolution. We are within the budget authority limits of the budget summit agreement, but we exceed the nondefense domestic cap by $63 million in outlays, and the international affairs cap by $22 million in outlays.

Mr. President, I believe we need to get on with the consideration of this important measure and conclude action as soon as possible. I yield the floor.

Mr. President, I thank the chairman for yielding the floor and I join with the chairman in urging the handling of this bill under the most expedited procedures as we can without the formal expedited procedures.

Mr. President, whether or not we agree that this measure should be entitled as a dire emergency supplemental appropriations bill or not I believe it is very clear that a number of programs have or will soon exhaust their 1988 funds and a supplemental must be enacted into law before our next recess which supposedly begins at the end of next week.

I think we have to bear in mind that there are some very important programs within this bill including black lung benefits, trade adjustment assistance, operations of the Small Business Administration, the drug interdiction efforts of the Coast Guard.

Mr. President, these are mandatory programs or they are programs that have to be continued and which, as I say, have run out of funds.

Let me also say that we are within the budget authority limits of the budget resolution but we do not exceed in this bill the nondefense domestic cap by $63 million in outlays and the international affairs cap by $22 million in outlays under the budget summit agreement.

Mr. President, in light of that I think the chairman makes an excellent point that any additional amendments will make this subject to a point of order.

We have changed it very, very radically in one sense, if you look at the total number of dollars from the House version which means we have to go to a conference with the House to iron out those differences. All of that has to be accomplished and reports made back to the respective bodies and acted upon before Thursday ends next week.

So I do feel that the idea of adding amendments at this time for the delays that that would incur and for the levels of spending that we are operating under really would endanger this bill.

Mr. President, I am not putting a total faith or confidence in the fact that the House of Representatives has a second supplemental that has been introduced, the so-called longer version. Last year they had indicated to us if we would accept the first supplemental, the short form supplemental, and not change it and pass it as the House had sent it over that we would have an opportunity to express the Senate's will on a second supplemental. That second supplemental never did come down the track.

Again this year we have been assured by the House of that and they have demonstrated that by actually introducing a second supplemental, and that would be the so-called supplemental upon which the Senate could add the other important items that we are withholding from this one.

I cannot guarantee that that second supplemental will come over to the Senate. If it does, it will probably be middle or late September, close to the end of the fiscal year.

Nevertheless, the importance of this bill still stands on its own merit in terms of acting expeditiously, and that means we must get this bill out of here sometime today.

Mr. President, I would say that I am hopeful that the chairman will handle the committee amendments en bloc, if we could get that kind of consent, and be ready to complete the work except for that one exception the chairman of our committee has already enunciated.

Mr. JOHNSTON. Mr. President, I will go along with the suggestion of my distinguished colleague on the committee amendments, aside from the last one which has to do with veterans. We have a problem on veterans, and that is that to fully fund the veterans' benefits, which I think everyone wants to do, would subject the bill to a possible point of order and, in any event, that would have to be amended. So I would, therefore, exempt that last amendment dealing with the veterans from the en bloc motion.

Mr. President, at this time, I ask unanimous consent that the committee amendments be agreed to en bloc as original text for the purpose of further amendment, except the amendment on page 10, line 17, through page 12, line 19, and that all points of order be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc, with the exception of the amendment on page 10, line 17, through page 12, line 19.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the committee amendments were agreed to en bloc.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business, the Chair would state, is the excepted committee amendment.

Mr. JOHNSTON. Does that need to be reported, Mr. President?

The PRESIDING OFFICER. It does not. That is pending before the Senate.

THE DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

● Mr. CHILES. Mr. President, I rise to discuss the scorekeeping on this dire emergency supplemental appropriations bill. Senate Budget Committee scoring of the bill as reported by the full Appropriations Committee shows that the bill causes relevant subcommittees to just reach their fiscal year 1989 302(b) outlay allocations. Consequently, although no Budget Act point of order will lie against the bill as reported, any amendments that would increase outlays for fiscal year 1989 will be subject to a point of order under section 302(f) of the Budget Act.

I commend the distinguished chairman of the committee, Senator STENNIS, and the ranking Republican member, Senator HATFIELD, for their commitment to keep the sum total of the regular appropriations bills and this bill under the relevant allocations under section 302 of the Congressional Budget Act of 1974. The allocations under sections 302(a) and 302(b) of the Budget Act will continue to bind spending decisions when the regular appropriations bills come back from conference. When we add up the spending effects of this bill and those regular appropriations bills, the total will still have to come in under the relevant allocations. If they don't, points of order will lie at that time against the conference reports on those appropriations bills.

There will be no ignoring the 1989 implications of this supplemental, as the summit agreement and rules for accounting under Gramm-Rudman-Hollings require us to reflect these additional outlays in scoring fiscal year 1989 bills.

So, once again, I commend the leadership of the Appropriations Committee and express my appreciation for their assistance in this matter.●

AMENDMENT NO. 2796 TO COMMITTEE EXCEPTED AMENDMENT

(Purpose: To provide funding to meet expenditures required by law for the FY 1988 Veterans' Administration compensation cost-of-living adjustment and for implementation of veterans' health-care entitlements enacted in Public Law 100-322, and to eliminate an estimating mistake in a proviso)

Mr. CRANSTON. Mr. President, I call up amendment No. 2976 that I submitted for printing yesterday on behalf of myself, Senator DECONCINI, a member of the Veterans Affairs and Appropriations Committees, and our committee ranking minority member, Senator MURKOWSKI.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] for himself, Mr. DECONCINI and Mr. MURKOWSKI, proposes an amendment No. 2796.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 19, amend the Committee amendment as follows: strike out "$296,500,000" and all that follows on line 19 and insert in lieu thereof "$498,100,000, to remain available until expended, and for an additional amount for 'Medical care', $31,730,000, of which $21,730,000 is derived by transfer from the Veterans' Administration Loan Guaranty Revolving Fund: *Provided*, That the penultimate proviso in the appropriation language under the head 'MEDICAL CARE' in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted in section 101(f) of Public Law 100-202 is deleted.".

Mr. CRANSTON. Mr. President, I call up amendment No. 2976 that I submitted yesterday as chairman of the Veterans' Affairs Committee on behalf of myself, Senator DECONCINI, a member of the Veterans' Affairs and Appropriations Committees, and our committee's ranking minority member, Senator MURKOWSKI.

Mr. President, this amendment would provide funding to meet expenditures required by law—I repeat, required by law—for the fiscal year 1988 Veterans' Administration compensation cost-of-living adjustment [COLA] and entitlement caseload increases and for implementation of veterans' health-care entitlements and certain other requirements enacted in Public Law 100-322, and would eliminate a restriction on the use of VA medical care funds that all involved agree has become unnecessary.

Specifically, this amendment would add $201.6 million—for a total of $498.1 million—for the costs of the fiscal year 1988 compensation COLA and caseload increases. The amendment further would make $31.73 million available to the VA medical care account for fiscal year 1988 primarily to provide the funds required for implementation of veterans' health-care entitlements enacted on May 20, 1988, in Public Law 100-322, such as beneficiary travel payments, per diem payments for the care of veterans in State Veterans' Homes, and a new requirement of premium pay for VA nurses working on Saturday.

MEDICAL CARE ACCOUNT AND THE ABORTED BUDGET REQUEST

Regarding the medical care account, yesterday, as chairman of the Committee on Veterans Affairs, I was advised by the Office of the Administrator of Veterans' Affairs that the Office of Management and Budget had cleared and would transmit to the Congress later in the day a budget amendment, which OMB had approved Tuesday evening, making an emergency supplemental request of $25.909 million for the VA's medical care account. The VA provided the justification for the amendment in the course of the day, but the official OMB transmittal was not forthcoming. Then, at around 7 p.m., I was advised that OMB had not approved and did not intend to approve the request for consideration in connection with the pending Dire Emergency Supplemental Appropriations Act, but that it might later approve it for consideration in connection with a subsequent measure making supplemental appropriations for fiscal year 1988—if there were such a measure.

These events clearly evidence a heartless Office of Management and Budget playing fast and loose with the VA's ability to meet veterans' health-care needs. OMB, with its now-you-see-it-now-you-don't approach to aproving an emergency request for VA health-care funding, jerked the Senate around—and jerked our Nation's veterans around. Taking OMB at its word, top VA officials swung into action quickly and effectively yesterday morning and throughout the afternoon, providing the committee with information supporting its proposal and cooperating with me in every way in preparation for bringing this matter before the Senate. At the end of the day, the VA got word—which it immediately shared with me—that OMB was pulling the rug out from under the VA, the Senate, and our Nation's veterans.

Mr. President, this is an intolerable set of circumstances. No officer or agency of the Federal Government should ever trifle with the health-care needs of veterans. Yet, that is what has happened here, and I think it's just deplorable.

The need for these dollars is clear. OMB is playing fast and loose with medical care for veterans. The Senate should reject this shell game and do what is right and necessary.

Mr. President, my amendment incorporates the request transmitted to us yesterday by the VA, and increases the $25.909 million by $5.821 million to correct the VA's erroneous omission from its submission to OMB of an amount for newly mandated nurse premium pay for Saturday work.

The $31.73 million we are proposing is essential if the VA is to meet its statutory requirements in providing health-care services for eligible veterans. Public Law 100-322, enacted on May 20, 1988, made major restorations in administration cuts in VA beneficiary travel reimbursement for which our amendment would provide, $9,738,000, mandated the furnishing of outpatient care for certain service-connected-disabled and low-income veterans, $5,121,000, provided overdue cost-of-living increases in payments for the care of eligible veterans in State home facilities, $9,879,000, required the VA to pay premium pay for registered nurses for Saturday work, $5,821,000, directed the VA to carry our comprehensive AIDS information and education programs for VA beneficiaries and employees, $937,000, and provided for certain care for service-disabled veterans outside the United States, $165,000, and dental care for certain former POW's, $69,000.

According to a July 6, 1988, letter I received from the VA's Chief Medical Director, Dr. John Gronvall, and follow-up information from his office, the fiscal year 1988 requirements for these items would come primarily by withholding funds from nonrecurring maintenance projects and from activation of new medical facilities, by reducing equipment purchases, and by totally stopping purchases of certain expensive high-tech equipment. Even before these cutbacks were made, it had come to the Veterans' Affairs Committees' attention in both Houses that VA medical facilities were already experiencing serious financial difficulties. According to many VA medical center directors contacted very recently, because additional funds were not available to support higher than anticipated personnel and benefits costs, the funds for these nonrecurring items had already been seriously depleted and badly-needed maintenance projects and equipment purchases had already been delayed when the hospitals were hit with the further freezes and reductions.

To continue this course of action would seriously threaten the capacity of the VA to furnish the high quality of care our veterans are entitled to.

Apparently, the VA had also come to this conclusion—hence its aborted supplemental request for the $25.909 million.

FUNDING OFFSETS FOR MEDICAL CARE ADD-ON

Mr. President, the medical-care appropriation would be offset—along the lines proposed by the VA in the aborted request—by a $21.73 million transfer from the VA's loan guaranty revolving fund and receipts of $10 million from greater-than-anticipated VA collections from third-party payors, such as health insurance carriers. This approach is fully consistent with the approach in that request—which, since it omitted the $5.821 million for nurse Saturday premium pay, would have requested a total of only $25.909 million and a transfer from the revolving fund of only $15.909 million. According to the information I have received from the VA, the full $21.73 million is available for transfer from the loan guaranty revolving fund to the medical care account without impairing the operation of the Home Loan Guaranty Program or the VA's ability to meet its obligations under the loan guaranties since the VA now anticipates a surplus in the revolving fund of $57 million at the end of fiscal year 1988.

COMPENSATION AND PENSION ACCOUNT

Regarding the compensation and pension account, Mr. President, the amendment would provide an additional $201.6 million—for a total of $498.1 million, as opposed to the $296.5 million in the committee amendment—which is needed for payments under the VA's compensation and pension account. These are benefits to which eligible veterans and their survivors are entitled by law in return for the sacrifices which they made for our Nation.

The $498.1 million was requested by the administration in a supplemental budget amendment transmitted to the Congress on March 17. Of the total amount, $353.9 million is to cover the cost of the 4.2-percent fiscal year 1988 cost-of-living adjustment enacted last December 31, in Public Law 100-227, in compensation paid to veterans with service-connected disabilities and in dependency and indemnity compensation benefits paid to the survivors of those who have died from service-connected causes. The examining $144.2 million is needed because of higher caseload projections, higher average payments, and the rescheduling of some benefits payments from fiscal year 1987 to fiscal year 1988.

Without this supplemental, there is every reason to believe that the approximately $2.5 billion VA compensation and DIC checks for October could not be issued on time. In this regard, the administration, in an August 3 statement of policy on the pending measure, stated that the "Senate mark—of $296.5 million—is insufficient to provide full and timely benefits to disabled veterans and their survivors."

Mr. President, the Senate has always attached—and must never fail to attach—the highest priority to meeting the needs of the 2.2 million veterans with service-connected disabilities and the 346,000 survivors of those who have made the ultimate sacrifice.

ALTERNATE AMENDMENT: NO. 2797

Mr. President, I would note that the other amendment I submitted for printing in the RECORD yesterday, amendment No. 2797, would have provided an additional $67.5 million for the compensation and pension account, for a total of $565.6 million. That amendment would have restored to this account the $42.5 million which on March 30, 1988, was transferred from it to cover a funding shortfall in the loan guaranty revolving fund, out of which the Government pays lenders claims when veterans default on VA-guaranteed loans, and the $25 million which on June 21 was transferred to the readjustment benefits account—which provides educational, vocational rehabilitation, and special disability benefits and grants—to make up a shortfall resulting from an increase in caseload and a decrease in the collection of accounts receivables. Both of these transfers occurred after the administration's March 17 request for the $498.1 million. All of the benefits and obligations for which the transfers were made involve mandatory spending which must be funded, as is the case with all of the benefits paid from the compensation and pension account.

At the urging of the Budget Committee, however, I elected to proceed with the amendment containing just the amount of the administration's supplemental request, $498.1 million. But I would also note that the House Appropriations Committee, in H.R. 5096, another fiscal year 1988 emergency supplemental bill, which it reported on July 26, included a supplemental appropriation of $540.6 million, which covers the administration's request plus the first of the two transfers—for $42.5 million—that I have described.

Mr. President, I would like to urge that the conferees on this measure seek to resolve the VA compensation supplemental needs in connection with the pending measure, taking into account the most current and best estimates regarding the fiscal year 1988 needs in order to provide an amount that will result in no benefit payments or awards whatever being delayed.

PERSONNEL SERVICES FUNDING "FLOOR"

Mr. President, the amendment would also strike a proviso from the appropriation language for the VA medical care account in the fiscal year 1988 HUD-Independent Agencies Appropriations Act, as enacted in section 101(f) of the fiscal year 1988 continuing resolution, Public Law 100-202. This proviso, which is proving now to have an unintended, detrimental result, prohibits, the VA from spending $6.4 billion of the fiscal year 1988 medical care appropriation for any expenses other than those in "the personnel compensation and benefits objects classification." However, the administration's fiscal year 1989 budget submissions make clear that the amount of appropriated funds necessary for the medical care personnel level—94,140 FTEE's—intended to be supported by the so-called floor is only $6.362 billion since another $38 million is available in this object classification from reimbursements. Hence, the effect of the $6.4 billion floor is actually to impose a $6.438-billion floor and risk the lapse of up to $38 million—probably about $11 to $15 million—that could be used for sorely needed items such as maintenance and repair projects and equipment purchases that VA hosptial directors have been forced to forego in order to meet various personnel and other requirements and obligations that they cannot avoid or reduce.

I also note that the House Appropriations Committee, where this restriction originated, has proposed its repeal in H.R. 5096, another fiscal year 1988 emergency supplemental appropriations bill. In supporting the repeal, the House committee stated on page 30 of its report (H. Rept. No. 100-799):

> The 1988 Medical Care appropriation contained a provision earmarking $6,400,000,000 for personnel compensation and benefits costs. This provision was added to insure that hosptial staffing was not reduced at the beginning of fiscal year 1988. The experience to date suggests that hospital staffing has been maintained in accordance with congressional directives, and the VA has asked that this language be deleted to provide maximum flexibilty in fund utilization. The Committee has included language in the bill deleting the proviso with the understanding that the VA will maintain a minimum average employment of 194,140 in 1988. (Emphasis in original.)

Mr. President, I share this view and therefore strongly recommend that the proviso be stricken.

Mr. President, this compensation-COLA-increase money has always been contemplated by the budget resolution and all its assumptions. The administration requested a supplemental appropriation for the $498.1 million earlier this year. That is the amount provided for in this amendment to add $201.6 million for the COLA. The medical care money has offsets based on the V.A.'s supplemental budget request given to us yesterday. Those offsets—taking into account both the increased receipts and the outlays which had been assumed to result from the revolving fund appropriation that our amendment would transfer—would result in no net increase in Federal outlays as a result of the medical care part of the amendment.

CONCLUSION

Mr. President, I urge my colleagues to support this necessary amendment of great importance to veterans and their survivors. We owe a great debt to those who served in the defense of our Nation. This obligation requires us to do all we can to ensure that the VA health care system remains strong and capable of providing a good quality of care. Rejection of this amendment would place that system and the sick and disabled veterans who rely on it for their care in jeopardy.

We also must ensure that veterans and their survivors receive, in a timely manner and in the full amount, the compensation and other benefits to which they are entitled and which for many is the primary means of their subsistence. This amendment is necessary in order to achieve that goal.

Hence, Mr. President, under section 904 of the Budget Act, I move to waive the provisions of sections 302(f) and 311(a) of the Budget Act for the purposes of my amendment No. 2796, and I ask for the yeas and nays on this motion.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. The Senator from Louisiana.

Mr. **JOHNSTON.** Mr. President, this amendment is a very simple one and the question is a very narrow one. The law provides certain entitlements under veterans health care. To fully fund those entitlements, in other words to provide the veterans what the law allows, cannot be done except by waiving the Budget Act because of the particular technicalities of it. The amendment involved is not a huge amount compared to the total budget. It is $231 million. It is not a trifling amount.

The administration has requested it in budget requests, although as the distinguished Senator from California has outlined, they have been on again and off again.

The OMB sometimes, I think, speaks for the administration and sometimes speaks with its own voice, which can at times be a discordant voice and I think at this time it is a discordant voice.

Mr. President, I feel fully confident that the Senate will—should I say I am at least hopeful that the Senate will join with me in a desire to meet our obligations to the veterans. These are obligations. They are certified in law. It is an entitlement, a legal entitlement. It must be paid at some time and the question is do we want to take advantage of the waiver of the Budget Act he presented in order to pay them in a timely fashion or do we want to make them suffer?

It is just as simple and narrow a question as that and I hope the Senate will join with me in waiving the Budget Act.

The **PRESIDING OFFICER.** The Senator from Oregon.

Mr. **HATFIELD.** Mr. President, I urge the Senators on the Republican side of the aisle to join in this motion to waive the Budget Act offered by the Senator from California.

The **PRESIDING OFFICER.** Is there further debate?

Mr. **JOHNSTON.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. CRANSTON. Mr. President, I suggest we proceed with the rollcall.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion of the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Florida, [Mr. CHILES], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 5, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—89

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—5

Evans
Garn
Helms
Humphrey
Proxmire

NOT VOTING—6

Biden
Bumpers
Chiles
Daschle
Metzenbaum
Mikulski

So the motion was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Cranston amendment. Is there any further debate on that amendment?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I am pleased to join with my friend from California, the chairman of the Committee on Veteran's Affairs, in offering this amendment to provide emergency supplemental funding for Veterans' Administration compensation and medical care programs.

This amendment has three effects. First, it provides funding for the VA's compensation and pension account to cover the cost of living allowance we enacted last year. Second, it funds the mandatory provisions we enacted this May in Public Law 100-322. Finally, it removes an artificial floor to salary levels within the VA's Department of Medicine and Surgery.

COMPENSATION AND PENSION

This amendment would provide $498 million for the VA's compensation and pension account. As reported, the bill would provide only $296 million. The effect will be to fully fund, for the remainder of this fiscal year, the VA's compensation and pension account, the account used to pay benefits to disabled veterans and their survivors.

I support this provision for two simple reasons:

First, the funds are necessary. Without appropriation of the full amount, the fund will run dry prior to the end of the fiscal year. If we allow this to happen, disabled veterans may not receive the full amount of their disability compensation and pension checks. These are entitlements, Mr. President, to our most deserving class of citizens. This body cannot stand idly by when those dollars are threatened.

Second, the funds are necessary now. Without prompt action by the Congress, the VA will be compelled to delay new and increased benefit awards until October in order to make funding last through September. The suggestion that VA could stretch out funds by making only a partial payment for September is not only an administrative nightmare, it is just plain unfair. More than 2.2 million service-connected disabled veterans, 325,000 survivors and 1.2 million pensioners are counting on the full amount of the checks they are entitled to receive on October first.

This Senator intends to do all he can to ensure that these special citizens are not disappointed.

MANDATORY PROVISIONS OF P.L. 100-322

Mr. President, this amendment would also provide $31.7 million to fund veterans' health-care programs mandated by Public Law 100-322.

As my colleagues recall, earlier this spring the Congress passed the final version of H.R. 2616, the Veterans' Benefits and Services Act of 1988, which was signed by President Reagan on May 20, 1988 as Public Law 100-322. Although many of the provisions contained in this legislation are very important and worthwhile and will result in significant benefits for our Nation's veterans, the cost of some provisions was very high.

Certain provisions enacted in Public Law 100-322 had a significant effect on the fiscal year 1988 medical care appropriation. Three of those provisions—those relating to outpatient care, beneficiary travel and per diem payments to State veterans' homes—account for nearly $25 million of the $31 million request.

It is important to note that the VA has identified offsets for this portion of the supplemental. First, they have identified $10 million in additional funds which will result from the VA's third-party reimbursement program, a program we established in 1986 which authorizes the VA to collect from insurance companies the cost of care provided to veterans without service-connected disabilities. Second, it turns out that the Loan Guaranty Program is doing better than expected: The VA is currently anticipating a so-called unobligated balance of $57 million in the loan guaranty revolving fund. So in one sense, Mr. President, this request is deficit-neutral. We're just moving money around.

We enacted these provisions, Mr. President. They provide important services to our veterans. But those services are not free. We need to take fiscal responsibility for our actions, we need to meet our obligation and pay the bill.

FLOOR TO SALARY LEVELS

Mr. President, the amendment would also amend section 101(f) of Public Law 100-202, the fiscal year 1988 Appropriations Act, to eliminate the requirement that the VA spend $6.4 billion in the medical-care account on personnel. By deleting this requirement, we will be giving the Administrator of Veterans' Affairs the flexibility needed to operate the Nation's largest health-care system.

CONCLUSION

I urge my colleagues to join Senator CRANSTON and me in supporting this important amendment. I am prepared to respond to any questions from my colleagues.

Mr. BURDICK. Mr. President, I rise in strong support of the Cranston amendment to the dire emergency supplemental appropriations bill. This amendment appropriates $498 million, rather than the $296 million in the original bill, for the purpose of meeting the government's obligations to our nation's veterans and survivors of veterans. The money will be used to make full compensataion and pension payments and to finance some important new medical care provisions.

This money must be paid, Mr. President, and it must be paid now. People who receive disability compensation and pension payments each month don't have the luxury of postponing their rent or mortgage payments or putting off buying food or clothing. They can't suddenly reduce their expenditures by 25 percent, as the reported bill would require. They need their money now. They need 100 percent, not 75 percent, and I will not stand by and let them be shorted. To do so would be unconscionable.

As a member of the Appropriations Committee, I am well aware of the need for fiscal restraint, and I appreciate the importance of adherence to the Budget Act provisions. But there are special situations which call for special action, and this is one of those situations.

We have heard my distinguished colleague, the Senator from Louisiana, speak with clarity and eloquence about the criteria which this bill has been required to meet. We have heard the same Senator, who is also a member of the Appropriations Committee, tell us why this amendment must be an exception to those criteria. I urge my colleagues to join with me in waiving the Budget Act for this crucial purpose and to adopt the Cranston amendment. Thank you.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California [Mr. CRANSTON].

The amendment (No. 2796) was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the committee amendment, as amended.

Is there further debate on the committee amendment? If not, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, when the Committee on Appropriations was meeting to review this bill, I raised a question about the availability of funds to the Corps of Engineers to continue the dredging work it has been doing on the Mississippi River to keep it open for navigation. We are trying to ensure drought relief for farmers and ranchers but we are also having difficulty getting grain to market because of the water situation on the Mississippi. Barges have been backed up. We have had a serious problem particularly at Greenville, MS. During the Senate recess for the Democratic Convention, I had a chance to go to Greenville and go on the river with the Corps of Engineers to review the situation and get a briefing on what they had been doing, how much it had been costing, and whether additional funds will be needed for the remainder of the fiscal year so we could include an additional appropriation in this bill if it was needed. I was assured by the chairman at the time that instructions are contained in this bill—and they are on page 8—directing the Corps of Engineers to do what is necessary to keep the river open for navigation and that additional funds can be used for that purpose from within funds that have been previously appropriated.

I was told in a report following my meeting that an estimated $15 million would be needed for the remainder of the fiscal year to pay for previous activity and to ensure that we can continue the work necessary to keep goods moving to market on the river.

I wonder if I could ask the manager of the bill whether there has been any change of circumstance? Do we need to include an amendment at this point to provide additional funding, or has the committee been assured that the corps can continue to do that work?

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Mississippi very much for his interest. It is an interest that I share to the same extent, and to the same degree of intensity that he does. We have been in constant touch with the Corps of Engineers, and we are assured as late as yesterday by the budget office of the corps that they have sufficient funds under Public Law 99, and that there is no problem on funds. In other words, there is no contingency they see that they will need additional funds in this bill because, as I say, I share the same interest and was assured that those are not necessary.

I can assure the Senator form Mississippi that we will find a way to get those funds to the Mississippi River to keep it going.

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of the subcommittee and the acting manager of the bill for his assurances.

Mr. FORD. Mr. President, would the Senator yield to me just one moment?

Mr. JOHNSTON. Indeed.

Mr. FORD. Mr. President, I would like to join with my good friend from Mississippi as it relates to the Mississippi River, and also I want to add the Ohio River where he talks about getting grain out. We have a very difficult time bringing products in, particularly the aluminum industry in the valley. So anything we can do to help the Corps of Engineers to expedite the travel on the Mississippi and Ohio Rivers I would be grateful. I appreciate the managers of the bill watching this in the weeks and months ahead. I thank the Chair. I thank the Senator.

Mr. JOHNSTON. Mr. President. I thank the Senator.

AMENDMENT NO. 2798

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], proposes an amendment numbered 2798.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, beginning with line 5, strike all through line 4, page 6 and substitute in lieu thereof the following: For an additional amount for "Operating expenses", not to exceed $60,000,000, of which $69,467 shall be derived from unobligated balances of "Territorial highways"; $2,460,000 shall be derived from unobligated balances of "Motor carrier safety grants"; $129,000 shall be derived from unobligated balances of "Conrail labor protection"; $654,014 shall be derived from unobligated balances of "Facilities, engineering, and development"; not to exceed $22,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Transportation Act of 1964, as amended, that would otherwise be reapportioned on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of "Research, training, and human resources" other than funding for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; not to exceed $6,000,000 shall be derived from unobligated balances of "Acquisition, construction, and improvements"; $5,000,000 shall be derived from unobligated balances of "Research, development, test, and evaluation"; $6,687,519 shall be derived from unobligated balances of "Pollution fund"; $1,600,000 shall be derived from unobligated balances of "Offshore oil pollution compensation fund"; and $1,400,000 shall be derived from unobligated balances of "Deepwater port liability fund".

Mr. COCHRAN. This amendment has been cleared on this side of the aisle. We have no objection to it.

Mr. JOHNSTON. Mr. President, this is an amendment in the nature of a technical amendment, which simply strikes the language extending the availability of the $60 million Coast Guard supplemental through fiscal year 1989. In other words, that money, if this amendment is adopted, will be available in fiscal year 1988. I ask for passage of the amendment. The distinguished Senator from Mississippi has cleared it on that side.

Mr. COCHRAN. Mr. President, let me advise Senators that this amendment has been cleared on this side of the aisle. We recommend adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The amendment (No. 2798) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, other than the contra matter which may not be considered on the bill, I have no other requests for amendments.

Mr. WARNER. Mr. President, if the distinguished manager will yield, yesterday I had the opportunity to address the Senate regarding my concerns over the pay raise for active and reserve military personnel.

I am aware that the distinguished majority leader, the distinguished minority leader, and others, are looking at various options by which this whole series of disagreements on defense can be resolved here in the context of perhaps this bill, perhaps not. More likely, the defense appropriations bill, which as I understand from listening to the debate and other statements made on the floor today, is likely to be a piece of legislation to which this body will turn at the completion of the pending legislation. Nevertheless, I continue to harbor my great concerns about the urgency of the need to address this pay issue. I see on the floor the distinguished chairman of the Appropriations Committee, who for many years was chairman of the Armed Services Committee, and there is no Member of this body more conversant with the needs of the men and women of the Armed Forces than the senior Senator from Mississippi. It would be my intention here momentarily, as soon as the papers are provided, to send to the desk an amendment, which amendment would take that section from the DOD authorization bill adopted by this body earlier this year and add it as an amendment to the pending legislation.

Yesterday, I addressed the reasons why I felt that this step was necessary. I am hopeful that the executive branch and the two Houses of the Congress can reconcile the differences on defense. I urged the President not to veto the bill but that is history. One of my concerns for urging the President not to veto the bill was the pay raise for the men and women of the Armed Forces of the United States.

We are now witnessing in our uniformed services a decline in the retention rate. That is a vital statistic. It reflects those individuals who are willing to remain beyond their first term obligations. We are witnessing a growing disparity between the fair rate of compensation to the military people, and that compensation that is being received in the private sector by individuals of comparable ability, expertise, and skills. For those of us who have the privilege of working with the military, those are the two signals that are most troublesome because they indicate that the career force, the backbone of the professional military, is beginning to wither away. And that is not in the interest either present or long term for the defense of our Nation. Therefore, I feel that the question of pay quite frankly is just as urgent as any other element of the pending piece of legislation.

I recognize that the leadership on both sides of the aisle are concerned about getting this particular piece of legislation through. I recognize there are certain unanimous consent requests, at least one that I know of, which could enable this body to go from this bill to another bill in the event an amendment came up which had in the judgment of this body a sense of urgency which would justify putting that amendment on this bill. But I would like very much to encourage others in this body who spend as many or indeed more years than I have protecting the interests of the uniformed people to receive their views on the visibility of incorporating this amendment in the bill.

For that reason, I will not at this time send to the desk the amendment, but rather just alert the managers that it will be my intention to do so at an appropriate time. And by my remarks, I have alerted others, hopefully the chairman of the Armed Services Committee; the Senator from Ohio, Mr. GLENN, who is the chairman of the Subcommittee on Personnel of the Armed Services Committee; and the Senator from California, Mr. WILSON, who is the distinguished ranking member of the subcommittee of the Armed Services Committee.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WARNER. Yes.

Mr. JOHNSTON. Mr. President, I thank the Senator for not offering that amendment at this time. As the Senator knows, the funding for that pay raise is provided in the defense appropriations bill. Either the defense appropriations bill will pass and be signed into law or some bill providing for the defense appropriations will be signed into law because we cannot leave and will not leave this year without a defense appropriations bill of some kind or nature.

I can assure the Senator that there is every intention of putting that pay raise in whatever vehicle passes. For example, the continuing resolution which we operated on last year contained not just a continuation at the last year's rate, but it contained all the provisions which the Defense Appropriations Committee had worked out. We grafted those on the continuing resolution, and I am certain that would be done this year if we were forced into a continuing resolution.

Personally, I hope that we are not forced into a continuing resolution. I think it is clear that we will not be forced into that on this side of the aisle.

The bipartisan cooperation in the Appropriations Committee has really been excellent. Everybody has worked very hard in each of the subcommittees to get their work out.

We are here on the floor today, ready to take up the DOD bill, the defense appropriations bill, which will send the bill to the President in time to have a separate bill to avoid the CR and to get the Senate out at a reasonable time for the election, to achieve all those ends. I think it can be done.

I urge the Senator not to put that legislation on this bill. This is a dire supplemental for fiscal year 1988. That is a pay raise authorization for fiscal year 1989. The place to deal with that, if one wants to authorize it as well as appropriate, which is perfectly fine with me, would be on the DOD bill; or, if the DOD bill goes down, then on the successor defense appropriations bill, whether it be in the form of a CR or whatever form it is in.

The real, practical effect, I think, of putting that amendment on this bill would be to bring down the entire supplemental. I hope no one would want to do that.

I hope this bill does not become a grab bag for every desired piece of authorization legislation, because if it does, then the dire supplemental simply goes down, and those who need help from this particular supplemental will not be helped.

Let us get another bill. The DOD appropriations bill is an excellent vehicle on which to put this or other similar items.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. WARNER. I yield.

Mr. COCHRAN. Mr. President, in response to the statement made by the distinguished manager of the bill: On the defense appropriations bill, which has been approved by our committee and has been recommended to the Senate, there is included, as was pointed out by the Senator from Lousisiana, funding for this pay raise.

As a matter of fact, on page 26 of the committee report we find that the committee says as follows:

> The House assumed a 4-percent military pay increase and has reduced each military personnel account accordingly. The committee has not taken these reductions and has fully funded the recommended 4.3 percent military pay raise.

That is the action of the committee already on this issue.

We hope we can get this bill passed and signed by the President, which will implement the provision that the

Senator is raising and bringing to the attention of the Senate right now. So the committee is sympathetic with his position. We have already taken action on it, on the defense appropriations bill, and I hope we can get it in that bill and urge the Senate to approve it when it comes before the body.

Mr. WARNER. Mr. President, if I may reply to the distinguished Senator from Mississippi, he used the word "hope," which is the key word. We hope we can get the appropriations bill passed.

Watching the history of the use of the vetoes here in the last week or 10 days, I am not able to get the assurance that that will become law if, in fact, the two Houses of Congress agree on an appropriations bill and send it to the President.

I am concerned that the men and women of the Armed Forces should not be left in a state of uncertainty with respect to the compensation they justly deserve for the forthcoming fiscal year.

I daresay—and I say this respectfully—that I think every Member of this body is in agreement that they are entitled to that assurance, that they will receive their pay for the next fiscal year.

At an appropriate time, I will address—and I hope others would speak to this issue—how we might achieve that assurance. One vehicle would be the amendment which I am contemplating sending to the desk shortly. But let us talk about a technical difference between what was done in the appropriations bill language, which I propose to incorporate in the amendment I propose to send to the desk shortly, and what was done by the Appropriations Committee.

Will the Senator advise me whether or not the appropriations bill has or has not changed the pay rates that are in law and control the pay of members?

Mr. COCHRAN. Mr. President, if I may respond to the Senator I think that technically he is correct, in that this provision of the appropriations bill presumes the authorization of the pay raise. As the appropriations bill was drafted and recommended by the full Committee on Appropriations, it was presumed that that pay raise would be authorized.

So he does correctly point out to the Senate that there should be a technical amendment to permit the legal authorization of the pay raise. But it is fully funded, as he is urging that it be, so that members of the military will receive their pay when it is due under this pay raise.

Mr. WARNER. If I may address further this technicality to my good friend from Mississippi—and this reflects my understanding of the situation—the Senate defense appropriations bill contains sufficient funding to pay all military personnel a raise of 4.3 percent in all three elements of military compensation—one, basic pay; two, basic allowance for subsistences; three, basic allowance for quarters—effective January 1, 1989. This funding is $2.2 billion.

However, Mr. President, pay rates are established by law, and legislation is required to raise those rates. The defense appropriations bill is deficient in such legislative step, and I think that point has been acknowledged by my distinguished colleague from Mississippi.

Mr. COCHRAN. The Senator is correct. There is a need for a technical amendment to the appropriations bill or other authority to permit this funding to be made available under this bill. It does provide full funding for the recommended 4.3 percent military pay raise, but it does not contain the legal authorization for the increase. The Senator is correct.

Mr. WARNER. Mr. President, while my distinguished colleague is addressing this issue, I think it would be helpful if the RECORD also reflected that the Appropriations Committee provided a pay raise for those civilian workers in the Department of Defense, and therefore that need not be addressed in the proposed amendment of the Senator from Virginia to this measure—that they are going to be cared for in the defense appropriations vehicle.

Mr. COCHRAN. I think the Senator is correct, although I do not have a legal opinion to which I can refer. I think the Senator is correct on that point.

Mr. WARNER. My examination of the appropriations bill is that that has been cared for, and I will address the specifics of that later.

In continuing my colloquy with my good friend from Mississippi, furthermore, the pay raise included in the Defense Authorization Act is not a straight 4.3-percent increase but, rather, is a targeted raise of 4.1-percent increase in basic pay and BAS and a 7-percent increase in BAQ, which is designed to target additional funds toward the growing gap of BAQ and actual housing costs.

The amendment of the Appropriations Committee is identical to the Defense Authorization Act provision. The cost of that provision in my amendment is approximately the same as a straight 4.3-percent pay raise, or $2.2 billion, the amount funded in the defense appropriations bill.

I just want to make sure that my colleague concurs in that observation.

Mr. COCHRAN. Mr. President, this is a legal interpretation, as I see it, of the defense appropriations bill, and I am not prepared to respond to confirm that the distinguished Senator's interpretation of it is legally correct.

I would yield to the distinguished manager of the bill for such an interpretation if he would care to respond.

But I do not know that I am qualified to give an off-the-cuff legal opinion about the effect of the language as described by the Senator from Virginia.

Mr. JOHNSTON. Mr. President, does the Senator from Virginia have the floor?

Mr. WARNER. Yes; I have the floor, but I yield for a response to the question which I posed.

Mr. JOHNSTON. Mr. President, rather than attempt to respond to the technical question, I can say that if there is a problem that it ought to be corrected in the DOD bill. I think there is not one, but if there is and we will let the lawyers look at that, we would not be unfriendly to correcting that glitch at all, and that is the place to do it.

Everyone wants the armed services people to get their full 4.3-percent pay raise. We want to accomplish that and we will accomplish it. What we do not want to do is to bring down this dire supplemental which this amendment will do—I mean if this bill becomes a grab bag then the bill is brought down. That is all there is to it. And that is unnecessary. We have the defense appropriations bill on which to put it.

I hope the Senator will join with us in that spirit of cooperation to achieve the end that we both want to do.

Mr. WARNER. Mr. President, I respect the statements made by the manager of the bill and the advice given the Senate by our distinguished majority leader earlier today.

But the Senator and I went to the University of Virginia Law School and there was the old doctrine of clean hands. Remember that doctrine of clean hands? When you walked in a court of equity and you could have perhaps not the strongest case but if you had clean hands you could advocate your case and often get the ear and the concurrence of the judge.

I feel I can raise this amendment under the doctrine of clean hands because I fought the veto strategy as hard as any Member of this body could fight it.

Therefore, I am not a part of any strategy by which other actions are being taken in connection with this bill or the DOD appropriations bill. I stand solely on behalf of the urgent need, as I call it, of the men and women of the Armed Forces to receive just recognition by the Congress of the United States for their daily services, their daily risks and to ask this body to consider my amendment, which I do not feel will bring down or create a grab bag for this piece of legislation, and this amendment, if adopted by the Senate and incorporated in this bill, will become law, I think, in a matter of a week or 10 days and then this issue is put to one side and then the Congress can address the other issues which are involved in this greater dispute brought on by the veto strategy.

Mr. JOHNSTON. Mr. President, I have two points in response. One is that if in fact you did that, that is to say you passed this and it was signed into law, there would not be a penny available to our men and women in uniform. It is only an authorization. Then you would still have to get the appropriation. The appropriation gives money with or without an authorization. The authorization gives not 1 red cent. So you have to do it on the appropriations bill and that is the time and the place to do it.

Second, there is not a word in this bill about pay raises, about military, about defense, and it is obviously legislation on an appropriations bill with no germaneness and the Chair I am sure would so rule subject to a point of order.

So I just would hope that we would not have to go through the charade of having Members vote to overrule the Chair and to take a position against our brave people in uniform. You know, we all do appreciate election-year politics, but I would hope we would not have to play it on this bill because we need this bill.

I do not want to say the Senator from Virginia is playing election-year politics.

Mr. WARNER. No; I hope you will not say that because I raised the old doctrine of clean hands. I can stand here, because I have taken the heat on this position that I have stood on the veto which has been quite intense——

Mr. JOHNSTON. I just wanted to compliment the Senator from Virginia.

Mr. WARNER. And slightly roasted this Senator in several ways.

Mr. JOHNSTON. The Senator from Virginia stood like a stone wall——

Mr. WARNER. Ah, yes, General B at the Battle of Manassas, yes, of course.

Mr. JOHNSTON. Against the forces of darkness and ignorance in resisting the veto which is an interesting subject by the way. Why the Senator from Virginia with his cool logic on the question of the veto could not prevail I do not know. He was joined by the Secretary of Defense. He was joined by the Chairman of the Joint Chiefs. He was joined by that other great dove who happens to be chairman of the Defense Authorization Subcommittee, the Senator from Georgia, SAM NUNN. I mean those two great doves, NUNN and WARNER, joined with the Secretary of Defense and Senator GARN from Utah in saying "Sign that bill. It is essential for the Nation's defense and security." And who it was that told him to veto it I do not know.

Somebody asked at the convention "Where was George?" Maybe he was finally there.

So, Mr. President, I congratulate the Senator from Virginia and, please, I do not mean to suggest that he would ever play election-year politics. To the contrary——

Mr. WARNER. Mr. President, I hope the Senator would suggest it on certain occasions because I really want to be accepted back some day.

But on this issue, we come back to that simple old statement that Hardy Dillard—you remember Prof. Hardy Dillard—he taught both of us and he taught us the doctrine of clean hands.

And, therefore, seriously, I say, Mr. President, to my colleagues I feel very strongly about this issue. I would like now to send the amendment to the desk and invoke the Members of this Chamber to come forth and address the amendment as they see fit at an appropriate time.

Mr. BYRD. Mr. President, if the Senator will yield, I hope he will not send the amendment to the desk because I have already indicated that we will not strip off the DOD appropriations bill and put it piece by piece on some other legislation.

If the Senator offers his amendment, I will move to the DOD bill and we will go no further on this bill. It will be put back on the calendar.

So I hope that the distinguished Senator will not do that because in so doing he will delay the receipt of payments by those people in his State and my State and various other States in this country who are entitled to trade adjustment assistance payments and have been waiting on those payments, and also to black lung recipients in his State and mine and other States who are waiting on court-awarded payments. Because there is no money in the fund for that purpose, they will have to wait.

His offering the amendment to which he refers on this bill will not speed by one 60-second minute a final action on his amendment. It will merely serve to delay the action on the supplemental appropriations bill.

I have already an order which will allow me to go to the DOD bill with only 1 hour debate on the motion to proceed, and I assure the distinguished Senator from Virginia I do not want to do that. I know what he is seeking to do, and he stands as a paragon with respect to the old equity axiom coming into court with clean hands.

May I assure him that there is another axiom, that of not sitting on one's rights. The Senator will not be sitting on his rights, either. He will have his rights on the DOD appropriations bill.

I urge him not to offer that amendment to this bill, because it will go no further at this time.

Mr. WARNER. Mr. President, I thank the distinguished majority leader.

I would like to have the RECORD reflect the content of this amendment at this time and for that purpose I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. BYRD. Mr. President, I hope the Senator will just send it to the desk for printing and not offer it to this bill, because when I displace this bill——

Mr. WARNER. Mr. President, I carefully withheld requesting it be considered immediately.

Mr. BYRD. The Senator did, but the Chair proceeded to ask the clerk to report it.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. . MILITARY PAY RAISE FOR FISCAL YEAR 1989.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(b) INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.

(c) INCREASE IN BAQ.—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members of warrant officers.

(d) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525".

Mr. WARNER. I thank the leader for clarifying that technical point.

Did I understand the distinguished majority leader to say that if the Senator from Virginia asks for this amendment to be considered, that that act, in and of itself, would then precipitate the majority leader in taking the Senate from this bill to a subsequent piece of legislation?

Mr. BYRD. Yes, the Senator has heard the majority leader correctly.

May I say to my distinguished friend that we are at the point, I believe, where all amendments can be closed off to the supplemental appropriations bill, with the exception of possible Contra aid amendments. That was the understanding that I had with the distinguished Republican leader, that he would perhaps be willing to go to that point provided we left open possible Contra aid amendments, and we would go no further, then, with the supplemental appropriations bill and we would go then to the DOD bill or at least we would contemplate whether or not we wanted to offer those Contra aid amendments to the supplemental. We have not ruled that out.

But, other than the Contra aid amendment, I believe we are at the point, other than Contra aid amendments, where we can close off all other amendments by unanimous consent, amendments other than Contra aid.

Mr. JOHNSTON addressed the Chair.

Mr. WARNER. Mr. President, I believe the Senator from Virginia has the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I will be happy to respond to a question from the distinguished manager of the bill.

I thank the distinguished majority leader for his very explicit views on this procedural point.

For the purposes of a question, without losing my right to the floor, I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the Senator from Virginia.

I was simply going to respond to the distinguished majority leader in saying that I have received no requests from anyone on this side of the aisle for consideration of amendments. So I was just going to verify that the majority leader spoke correctly so far as I know, and that is that we would be ready to go to third reading, with an exception for the Contra issue.

Mr. HATFIELD. Will the Senator yield?

Mr. WARNER. Mr. President, I am happy to yield for the purposes of a question to the Senator from Oregon providing I do not lose the floor.

Mr. HATFIELD. Mr. President, I have been given an indication that there may be three amendments that would be offered on this side of the aisle, one by Senator D'AMATO, one by Senator GARN, and I understand Senator PELL and others may have an amendment to which Senator KASTEN may have an amendment in the second degree. But those are the only amendments, I would say to the leader, that I am aware of from our side at this time.

Mr. BYRD. They would not be DOD-related amendments, would they?

Mr. HATFIELD. No, they would not.

Mr. NUNN. Will the Senator from Virginia yield?

Mr. WARNER. I am happy to yield for the purpose of a question, without losing my right to the floor, to my distinguished chairman, the senior Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Virginia.

I would just like to make it clear that I agree with the purpose of the Senator from Virginia in proposing this amendment. We have a Department of Defense bill now that has been vetoed. We have an appropriations bill we hope to get up. I think that the defense appropriations bill is the proper place for all defense-related matters, because I am not ready to throw in the towel and say that we are going to go home with nothing more than a continuing resolution for 30 days or 60 days or 90 days.

I think we all have to make a good effort to put Humpty-Dumpty back together again. Humpty-Dumpty has been pushed off the wall. There are a lot of pieces around.

We can argue a long time about the fault. I have my own view on that. I have made it very plain as to where I think the fault lies and the motivations behind that.

Without stimulating that debate at this point, let me say to the Senator from Virginia, even if we get to the end of September and we have a veto of the appropriations bill, and even if we have to go to a 30-day continuing resolution, or a 60-day or a 90-day or a 120-day, it will be my full intent, as chairman of the Armed Services Committee, to work with the Senator from Virginia to make sure that the hard-working personnel in the uniform of the United States—Army, Navy, Air Force, and Marine Corps—are not deprived of compensation that we have already given them in the bill that was vetoed.

So I would certainly pledge to the Senator from Virginia that if he decides that this is not the appropriate place for this amendment, or if the majority leader moves to the defense bill, that I will work with him in making sure that the personnel of our services, no matter what the politics in this Presidential year, are not the victims of the political process that we are now embarked on.

I want to assure him of that, because we are together on this. I have heard no one on this side of the aisle that has any intention of in any way using the military pay as a hostage for any other purpose. I think everyone agrees that that will be part of a final package, whether it is an appropriations bill or whether it is a continuing resolution.

I thank my colleague for yielding.

Mr. WARNER. Mr. President, if I might continue.

I thank my distinguished chairman, because, indeed, we met this morning on this and other issues. I know that, in his capacity as chairman, he is one of the principal caretakers, or I should say trustees, of the rights of the men and women in the Armed Forces of the United States. It has always been a privilege for me to work with him.

I come back again, as hard as we are trying, and, indeed, I do detect a sense of bipartisanship, which we fall back on in times of crisis in this Chamber, to try and work out something, perhaps in the context of the defense appropriations bill, perhaps in the context of a CR, to put, as the Senator says most articulately, Humpty-Dumpty back—maybe not all of the pieces, but so he can sit back on the wall, sit tall and straight and proud for this country.

But I am still concerned about that element of uncertainty that remains. I know the chairman is concerned as I am with those people who are not witnessing this debate, will not have the benefit of this debate, who are standing guard at their own personal risk across this world today, but who know, having read about the veto, that this pay raise is in jeopardy.

Now, I continue to search for a way to send another message out from the Senate, indeed, hopefully, from the Congress, to give them some sense of assurance that this issue is going to be resolved. I am certain that the action, as reflected in that amendment, will do it, will send that message. But I am not as certain that the goodwill, as it is stated by my chairman and others, is going to be able to grapple with the seriousness of this situation and the implications that flow from the veto strategy. That is my concern, I say to the chairman.

Mr. NUNN. May I say to my friend from Virginia that I completely understand that concern and, as I said to him, I want to say again very clearly, I have heard no one on this side of the aisle in any way intends to hold military pay hostage for any other purpose. I believe—and I say this sincerely—that no matter what package we end up with at the end of this session and no matter how political this process gets before the Presidential election, that I can say, firmly, that I believe we will have a military pay provision enacted into law. I think the men and women in uniform will be protected.

I must also say, though, that I would not want to send a signal out to all the other people that depend on defense plants for their livelihood, depend on certain civilian employment in the Department of Defense for their livelihood, that we have basically given up getting a defense bill that makes sense for the country.

Men and women in uniform are concerned about pay. There is no doubt about that and they have every right to be. But they are also concerned, I think more than that, about the security of the Nation. And I would not want to piecemeal this now to the extent that we look like we are giving up on having any kind of defense bill enacted into law this year.

Because that sends a signal to everybody working in the defense industry, to everybody that is out there in uniform depending on a weapons system, to everybody that is depending on ammunition supplies, to everyone depending on procurement of fighter aircraft, to everyone depending on the new ships, that we are basically giving up on everything but military pay and I would not want that signal to go out either and I know the Senator from Virginia would not.

So I would hope we all work together to try to put Humpty-Dumpty back together again and also realize that certain crucial parts of defense, no matter what the political situation, will not be left strangled after this process concludes, whatever the result. And I would certainly pledge that to the Senator from Virginia as far as this pay increase is concerned. I am for it. I think everyone on this side of the aisle is for it. I have heard no one on the Republican side of the aisle who is not for it. I think we are all in favor of it.

The question is, Are we going to give up on defense at this stage or are we going to at least try when the mood gets calmer in this town and perhaps the Presidential election shifts to other subjects, to try to put Humpty-Dumpty together again?

Mr. WARNER. Mr. President, if I might once again address a question to my colleague? I have worked side by side with him for nearly a decade now, particularly here in the weeks preceding this moment, when we struggled with the conference with the House of Representatives and were forced, in my judgment and in fact, to accept certain provisions adopted by that body in the conference report; and it is those provisions that precipitated the veto.

As a matter of fact, I heard the President say that the Senate bill was a good bill. The Senate defense authorization bill was not only a good bill but it probably was the best that we have seen in some several years. What assurance can the chairman of the committee give me with respect to the other body, as to how they are likely to treat the issues arising out of the veto strategy? What assurance do we have that they will be having a willingness to reconcile what I perceive as looming differences, looming in size and proportion, that raise a doubt as to whether or not sound heads and objective minds can bridge the gap.

So I say to my good friend, would it not be better for this Chamber to go on record unequivocally with respect to the pay so that we have that as a matter of certainty, recognizing we cannot predict what the House of Representatives may do?

Mr. NUNN. I would say to the Senator that this is probably one of the most important items but I just have not given up on getting a defense bill this year. I have not given up on taking care of the needs of the military personnel. And I would say if we end up with everything else in chaos and the military gets a pay raise, our men and women in uniform are not going to feel very good about their security. Because I think they are primarily motivated by the security of the Nation and if we have a complete breakdown of this process and if we have the defense bill that does not pass at all or appropriation bill that is vetoed, if we end up with a 30-day continuing resolution and come back after the election and leave all of that hanging, I do not think that is the signal we want to send out right now.

So I say to my friend from Virginia, let us all work together to put these pieces back together, realizing, of course, if we get to the end of September or the first part of October and we are about to recess, that a continuing resolution would have to be passed and I can assure my friend from Virginia that that continuing resolution, if I have anything to say about it, will contain a military pay raise for our forces. I do not envision them being deprived of pay even 1 day.

Mr. WARNER. Mr. President, recognizing the admonition of the distinguished majority leader, and the need for the managers of this bill to continue to have it addressed by the Senate, at this time I will not ask for consideration of the amendment which is at the desk. But this Senator will remain in close proximity to the floor at all times and I say to my good friends and colleagues, I may seek recognition for the purpose of bringing this amendment up at a later time during the course of the consideration of the pending matter.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2801

(Purpose: To provide permissive authority for NASA to transfer additional sums to its personnel and operating expense account from other operational acounts, up to $19.6 million to address critical space shuttle recovery requirements and meet safety and quality assurance goals of the agency mandated by the Rogers Commission.)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 2801.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFER OF FUNDS)

For an additional amount for "Research and program management", up to $19,600,000, which shall be derived by transfer from "Research and development" and "Space flight, control and data communications".

DESCRIPTION.—The amendment provides permissive authority for NASA to transfer additional funds, up to $19.6 million, from Research and development and Space Flight, to the Research and Program Management account to meet staffing and institutional operating expenses. Delays in resuming regular shuttle launch operations, along with significantly higher than anticipated safety, reliability, and quality assurance costs require the agency to augment staffing levels, while addressing a new Congressionally mandated shift in account structure. This permissive authority will allow the agency to meet these unanticipated additional requirements in the Research and Program Management. This is the level of transfer proposed by the House in H.R. 5096, the Urgent Supplemental, however the House language would require that these funds be transferred. The Administration has requested a transfer of $42 million for this purpose.

Mr. GARN. Mr. President, this is an amendment that has no budgetary impact. It allows NASA—it is permissive—to allow NASA to transfer $19.6 million, if they desire, from one account to another for space shuttle recovery operations. I know of no opposition to the amendment. I believe the managers of the bill are willing to accept it.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator is correct. His amendment is acceptable. It does not involve the expenditure of any additional money. It simply involves the transfer within existing accounts at NASA and is high-priority matter not involving money.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Oregon.

Mr. HATFIELD. The amendment is cleared on this side.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2801) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I see no further Senators on the floor at this time seeking recognition but just to be sure, before we move to third reading minus the Contras, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I hoped that we could work out a way to address the United Nations' budget crisis in this bill. Unfortunately, sadly, this is not possible because the money that might have been available has been used up by the preceding amendment and a point of order would be lodged against it. I intend to continue working with my colleagues to find money to meet our obligations to the United Nations.

In recent months, in this regard, the United Nations has been proving its value to the United States. The United Nations played the key role in negotiating the Soviet withdrawal from Afghanistan, the premier objective of United States foreign policy in this decade. Further, U.N. resolutions condemning the Soviet invasion of that country were critical, according to the recent testimony of our Ambassador to the United Nations, Gen. Vernon Walters, in bringing international pressure on the Soviet Union to withdraw from Afghanistan.

More recently, the United Nations Security Council Resolution 598 has provided a frame work for a possible cease-fire in the Iran-Iraq war. An end to this war will significantly reduce the threat to freedom of navigation in the Persian Gulf and to our conservative Arab allies.

There will also be a substantial savings to the taxpayer. United States military operations in the Persian Gulf would cost some $388 million in fiscal year 1989; by contrast, our assessed contribution to the United Nations this year is $214 million. Even with a special assessment for Persian Gulf peacekeeping, the United Nations is a real bargain. It plays an equally important role in the present moves toward peace in different parts of the world.

U.N. peacekeeping in the western Sahara is making it possible for Morocco to get out of a war that has threatened the stability of this strategically important United States ally.

Mr. President, in each of these cases the United Nations has been serving a vital U.S. national security objective. The United Nations cannot continue, however, unless its members pay their dues. The United States has become the largest deadbeat among U.N. members. To date, our unpaid assessments total some $467 million. Without some payment, the U.N. may have to close its doors with disastrous consequences for peacekeeping and security activities that serve U.S. foreign policy interests.

I would hope that within the next few days one way or another moneys could be found that would help put the United Nations on the path to help American international interests.

I yield the floor.

Mr. HOLLINGS. Mr. President, it is time we faced up to the financial situation at the United Nations. That is not an easy thing for this Senator to say, as I have shared the misgivings many of this body have with the United Nations.

Certainly we have all been disappointed with much of what we have witnessed at the United Nations. I joined the distinguished junior Senator from Kansas [Mrs. KASSEBAUM] in her efforts to bring about meaningful reforms at the United Nations and supposed the Kassebaum amendment. That was good legislation and it got results.

No we haven't achieved peace on Earth, or even peace between the United States and the United Nations. Reasonable people certainly realize that in an international democratic body of 159 members we are not going to get 100 percent of what we want, anymore than a Senator thinks he can get 100 percent of his personal agenda out of this body.

On July 29 the Committee on Foreign Relations held a hearing on the United Nations. The chairman of the committee can better summarize the hearing but I have read Ambassador Vernon Walter's statement. The Ambassador confirms that the United Nations has made significant progress in carrying out the reforms we called for. The Secretary General has proposed cutting 1,465 secretariat jobs by January 1, 1990. A recruitment freeze and a system of vacancy management has reduced the professional staff by 15 percent. Overall, a 13-percent reduction in staff has already been reached. At the top level, 11 of 16 assistant Secretary-General or under Secretary-General posts slated for abolition by 1990 are vacant or have been eliminated.

With regard to consensus-based budgeting, the Committee on Programme and Coordination [CPC], which sets United Nations budget levels for approval by the General Assembly, will resume after labor day to continue its efforts toward consensus on the 1990-91 budget and a cap on supplemental UN spending. The pivotal role of the CPC and its use of consensus for reaching decisions has been underscored by the Assembly.

Finally, with regard to secondment, in May the Soviet Union announced for the first time that it was willing to consider taking some of its nationals off of secondment and permit them to accept permanent contracts at the United Nations. That is not as positive as I want but it is movement.

So we are getting results.

Mr. President, the hangup is that in the Foreign Relations Authorizations Act for fiscal years 1986 and 1987, as amended by the act for 1988 and 1989, we have section 143 which outlines how the appropriation is to be disbursed to the United Nations. Section 143 specifies that when the appropriation for the United Nations is less than the United States contribution to the United Nations, the final one-fifth of the amount appropriated is not to be paid until the President determines that the reforms we want are being achieved, and the Congress has had 30 days to review the Presidential determination.

We appropriated $144 million for the United Nations and the Department of State paid $100 million to the United Nations. The Department is holding the remaining $44 million in compliance with section 143. There is no budget problem with the $44 million. It was appropriated last December in the continuing resolution and it has been scored for outlay in 1988.

Mr. President, on August 1, a bipartisan group of 11 members of the Committee on Foreign Relations sent me a letter asking that section 143 be waived for fiscal 1988. That was a very unique request that does not come often from the members of that committee. Accordingly, on my recommendation the committee print included a waiver. However, the distinguished junior Senator from Wisconsin [Mr. KASTEN] moved that the waiver be deleted and by an 8 to 7 show of hands, the waiver was stricken.

Mr. President, I yield to no one in seeking reforms at the United Nations. Ambassador Walters has testified that we are moving toward these reforms and expects a Presidential determination before the end of fiscal 1988. I have had several conversations with Ambassador Walters. He has rendered magnificent service on behalf of the United States in securing support for our position in the United Nations. As I said earlier, we do not have peace on Earth, but we have achieved a lot more peace lately in Afghanistan, between Iran and Iraq, and in Angola. Undoubtedly a lot of that peace is due to the good relations established by President Reagan and General Secretary Gorbachev, but the front lines have been manned by Secretary-General Javier Perez de Cuellar, the much praised Deigo Cordorez, the Secretary General's personal representative on Afghanistan and Ambassador Walters.

Last year Ambassador Walters said that our withholdings of our assessed contribution to the United Nations were affecting his credibility in negotiating these agreements. In response to these concerns, it was agreed in the budget summit that the United Nations would get $144 million for 1988 and the Department of State requested an additional $144 million for fiscal 1989. All of that has been approved by the Committee on Appropriations. Ambassador Walters testified that if the remaining $44 million plus the $144 million for 1989 were disbursed to the United Nations by November, there would be no cash flow problem. While peace seems to be breaking out all over there is no request from the State Department for additional funding. In fact, they sent us a letter opposing the waiver. Funding of further United Nations peacekeeping is expected to follow the usual procedure of a United Nations resolution to establish additional peacekeeping forces, a decision on assessments, and the submission of a request from the Department of State.

Mr. President, let nobody mistake my support for the United Nations. We must have full compliance with the reforms. Ambassador Walters has said the United Nations is making progress on these reforms. He has also said that he must have the full $144 million for 1988 and the additional $144 million to maintain his credibility in the vital negotiations he is involved with on behalf of major U.S. foreign policy interests. Over the next few critical months I will work with the distinguished Senator from Rhode Island and his committee, and the other interested Senators, to give the Ambassador positive support to achieve those interests and the reforms Congress wants at the United Nations.

Mr. HATFIELD. Mr. President, I join the Senator from Rhode Island, the chairman of the Foreign Relations Committee, in expressing some grave concern about the situation he has described. I do not think any of us can ignore that it has not enhanced the status, reputation, or the character of our country to be caught in this particular problem. But on behalf of the leadership, the managers of the bill, I do also appreciate very much the understanding of the Senator of the unique circumstance we are in at this moment in regard to this bill. So I join, and I am sure the Senator from Louisiana, the chairman of our subcommittee joins, the Senator from Rhode Island in expressing his grave concern on the issue. But at the same time, we are grateful that he has seen fit not to pursue this in amendment form to the pending piece of legislation.

Mr. President, I suggest that any Member who has any amendment they wish to offer on this current vehicle, the supplemental appropriations bill, should come to the floor to offer that amendment for we shall move toward the objective of a unanimous consent request to close off all amendments to the current bill at the appropriate time, reserving one exception that has been agreed to by the leadership on the issue of Contra aid. So if there are other amendments not related to Contra aid, we would urge our colleagues to come to the floor and present those amendments.

AMENDMENT NO. 2802

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah, [Mr. GARN], for himself and Mr. PROXMIRE, proposes an amendment numbered 2802.

Mr. GARN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC. (a) The aggregate outstanding balance on promissory notes issued by the Federal Savings and Loan Insurance Corporation shall not exceed $11 billion. Further, it is the sense of the Congress that it should affirm and hereby does affirm that all promissory notes issued by the Federal Savings and Loan Insurance Corporation are backed by the full faith and credit of the United States.

(b) It is the sense of the Congress that the Federal Home Loan Bank Board should immediately adopt and enforce a program for prohibiting any new loans or investments on the part of insolvent institutions (as measured by generally accepted accounting principles) whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, this is an amendment that has been cleared on both sides. It does not have anything to do with DOD, but I would like to explain it briefly. I think everyone is aware that the Federal Home Loan Bank Board and specifically the insurance fund has great difficulty and as well many savings and loans across this country are on a troubled list, many of them are insolvent, when you look at generally accepted accounting principles.

I am offering this amendment on behalf of Senator PROXMIRE and myself as chairman and ranking Republican on the Banking Committee to assist the Federal Home Loan Bank Board in attempting to solve this problem. Section A of this amendment would place the level of full faith and credit of promissory notes issued by the Federal Savings and Loan Insurance Fund not to exceed $11 billion. "Further, it is the sense of the Congress that it should affirm and hereby does affirm that all promissory notes issued by the Federal Savings and Loan Insurance Corporation are backed by the full faith and credit of the United States."

Second, there are insolvent institutions that are continuing to make loans, so part B of this amendment would be, It is the sense of the Congress that the Federal Home Loan Bank Board should immediately adopt and endorse a program for prohibiting any new loans or investments on the part of insolvent institutions as measured by generally accepted accounting principles. This is to stop the hemorrhage, to say to these institutions that are in trouble, "Stop making new loans."

So this is important. It is an emergency situation and that is why we are offering it on this bill. It is my understanding the amendment has been cleared on both sides.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the amendment has been accepted on this side as well. We agree with its appropriateness. We have no objection.

Mr. HATFIELD. Mr. President, the amendment is cleared on our side of the aisle as well.

Mr. PROXMIRE. Mr. President, I want to thank Senator GARN for offering this amendment for himself and on my behalf. This amendment will help reduce the cost of savings and loan failures in two ways.

First, it will reduce the amount of FSLIC assistance needed by affirming that the notes offered by FSLIC do indeed have the full faith and credit backing of the United States. This will assure the companies acquiring insolvent thrifts that the FSLIC notes have real backing. It will also insure that the cost of borrowing by the Federal Home Loan Banks will not be driven up by any adverse accounting ruling concerning the acceptability of FSLIC notes as collateral for Bank advances.

Second, this amendment would call upon the Bank Board to begin a new and tougher program for preventing new loans or investments by insolvent thrifts. While the Board already places growth limits on insolvent thrifts, it has been under intense pressure from some elements of the industry to relax these limits. This amendment is intended to strengthen the resolve of the Bank Board. Allowing thrifts to continue lending without any capital is simply a prescription for greater losses down the road.

Mr. President, I believe this amendment is urgently needed and I urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2802) was agreed to.

Mr. GARN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2803

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2803.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The amendment is as follows:

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, $24,000,000 to remain available until expended: Provided, That not less than $6,000,000 shall be made available for Soviet and other Eastern European Refugees.

Mr. LAUTENBERG. Mr. President, this amendment simply appropriates $24 million for the U.S. Emergency Migration and Refugee Assistance Fund. It provides that not less than $6 million of that shall be set aside for Soviet and other Eastern European refugees.

Mr. President, this money is already in the House version of the bill, and it is needed to assure that the American Embassy in Moscow can proceed to issue refugee visas to Soviet citizens seeking to emigrate to the United States. This money is needed because there has been a significant and unexpected increase in the number of Soviet Armenians who sought to emigrate from the Soviet Union this year, and the Soviet Union has decided to let them leave. This increase has depleted the funds budgeted for processing refugees from the Soviet Union. Because of the shortfall, however, the State Department decided to stop processing visas in the Soviet Union until October 1, 1988.

Mr. President, the State Department decision leaves roughly 3,000 people stranded in the Soviet Union who counted on being processed to leave the country between July and October 1 of this year. Although the refugees who are actually stranded on the street have been taken care of, many others have given up their homes and their jobs in the legitimate expectation of being reunited with family members in the United States. They have nowhere to turn.

This decision also sends the wrong signal to freedom-loving people around the world. The United States has always been a beacon of hope to those struggling for fundamental human rights. For years, we fought tirelessly for the right of Soviet citizens to emigrate. Time and time again our leaders have insisted that Soviet imposed barriers to emigration are a major obstacle to improved relations between the United States and the Soviet Union and now, when our efforts have finally begun to bear fruit, when the Soviet Union has finally heard our plea and begun to grant thousands of citizens long-awaited exit visas, it is ironic that our State Department has decided to postpone these emigrants' long-awaited journey to freedom.

This decision sends a terrible signal to those seeking freedom all over the world and could give the Soviets an opportunity to claim that it is America, not the Soviet Union, which is impeding emigration.

Mr. President, 52 Senators sent a letter to the President of the United States on July 12 urging him to do everything possible to see that the money was found to take care of this problem.

I ask unanimous consent that this letter be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, July 12, 1988.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our deep concern and to seek your help in reversing the recent decision of the State Department to suspend until October 1 the issuance of refugee visas to Soviet citizens seeking to emigrate to the United States.

The State Department's decision to postpone the issuance of visas until October leaves thousands of Soviet citizens stranded in Moscow and elsewhere in the Soviet Union. Most of these citizens have given up their homes and jobs in the legitimate expectation of being reunited with their family members in the United States.

Aside from the immediate hardship caused by this decision, it also sends the wrong signal to freedom loving people around the world. The United States has always been a beacon of hope to those struggling for fundamental human rights. For years, we have fought tirelessly for the right of Soviet citizens to emigrate. Time and again, our leaders have insisted that Soviet-imposed barriers to emigration are a major obstacle to improved relations between the U.S. and the Soviet Union. Mr. President, you have been a leader in that struggle.

Now, when our efforts have begun to bear fruit, when the Soviet Union has finally heard our plea and begun to grant thousands of citizens long-awaited exit visas, it is ironic that the State Department has decided to postpone these emigrants' long-awaited journey to freedom. This decision sends a terrible signal to those seeking freedom all over the world, and could give the Soviets the opportunity to claim that it is America and not the Soviet Union which is impeding emigration.

We understand this policy has been instituted as a result of a purported lack of money for the processing, transporting, and resettling of these refugees due to an unexpectedly large number of applicants. We urge you to do everything possible to assure that money is set aside to cover the costs for these refugees to come to the United States without delay, including using the authorities available to you under the Foreign Assistance Act, to transfer money from other accounts.

We await your early reply.

Sincerely,

Bob Kasten, Arlen Specter, Dennis DeConcini, Quentin N. Burdick, Paul Simon, Larry Pressler, Harry Reid,Barbara A. Mikulski, Frank R. Lautenberg, Daniel K. Inouye, Daniel P. Moynihan, J. James Exon, Jeff Bingaman, Bob Graham, Carl Levin, Chic Hecht, Lowell P. Weicker, Jr., John D. Rockefeller IV, John C. Stennis, Patrick J. Leahy, Timothy E. Wirth, Lloyd Bentsen, David L. Boren, John C. Danforth, Donald W. Riegle, Jr., Tom Harkin, John Heinz, George J. Mitchell, Howard M. Metzenbaum, Bill Bradley, Alfonse D'Amato, Claiborne Pell, Wendell H. Ford, Paul S. Sarbanes, Rudy Boschwitz, John H. Chafee, William V. Roth, Jr., Alan Cranston, Kent Conrad, Gordon J. Humphrey, Dan Quayle, Dave Durenberger, Malcolm Wallop, Warren Rudman, Charles E. Grassley, Spark M. Matsunaga, Pete Wilson, Alan J. Dixon, John H. Glenn, William Proxmire, Wyche Fowler, Jr., and John F. Kerry.

Mr. LAUTENBERG. The distinguished chairman of the Subcommittee on Foreign Operations, Senator INOUYE, and the ranking minority member, Senator KASTEN, signed that letter. I understand that they both support the provision of this money in principle. But they were unable to include the funding of the bill because it would be subject to a point of order in the Senate as being in excess of the committee's allocation of budget authority and outlays under the Budget Act.

Mr. President, it is not my intention to press this amendment to a vote. However, I would like to get some assurance. We have the ranking minority member of the Appropriations Committee, the distinguished Senator from Oregon here. If he can give me any indication that he will help to see that this money might be approved on the supplemental, that would be very helpful, and would permit me to withdraw this amendment knowing full well that the matter has gotten the attention, and will get the attention of the Senate and Congress as we move along.

Mr. HATFIELD. Mr. President, I am happy to respond to the Senator from New Jersey, and at the same time the Senator from New York, who had indicated to the managers of the bill that he intended to offer such an amendment on this same subject.

I am also authorized on behalf of Senator INOUYE, the chairman of our subcommittee, and Senator KASTEN, the ranking Republican member of that committee, and my own view about it as a member of that subcommittee too—that we will seek to yield to the House on this in conference which is the figure that the Senators from New Jersey and New York are seeking to restore to the supplemental appropriations bill. We cannot do it within the constraints, as Senator INOUYE has already indicated, of our 302(b) allocation. This is another matter in the Budget Act that I think we ought to take note; that is, that we had different 302(b) allocations than the House of Representatives had under the same Budget Act.

I have long been involved in refugee matters throughout the world, in Southeast Asia with special emphasis. I can say from my own point of view, my own commitment, my own record, that I will certainly insure the Senators about our efforts to achieve this objective within the conference.

I must also say that we would otherwise have been forced, if the Senator from New Jersey should pursue this matter, or the Senator from New York, to make a point of order. And we really do that only reluctantly because of our responsibilities of getting this bill through, and not making this bill subject to a point of order itself.

So any amendment that does make the bill subject to a point of order, we would have to pursue that line.

But we are very sympathetic, and very supportive—as I say, not only the chairman and ranking member, but I myself as as member of that subcommittee.

I appreciate very much the Senator from New Jersey not pursuing this to a vote. I see the Senator from Hawaii who now may speak for himself. I have been speaking in behalf of the subcommittee and the chairman under the authorization of the chief of staff of the subcommittee and also Senator KASTEN in assuring the Senator from New Jersey of our strong support for his objective as incorporated in this amendment, to pursue that objective through the conference because of the inhibitions that we had to function under our own 302(b) allocations.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I share the thoughts of the distinguished Senator from Oregon with respect to the worthy nature of the objective sought by this amendment. And we will certainly look at it with sympathy in the conference.

We obviously cannot make a commitment because it involves 302(b) allocations, and a Budget Act point of order. And we really have to consider the implications of that in the conference committee.

But there are many times when in conference committees technicalities can be worked through, a way around them can be figured out, and perhaps this is one of those areas where creative thinking can produce a good result.

I hope so because the results are worthy.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, as noted, I have had a long discussion on this matter with the distinguished Senator form New Jersey, and I wish to publicly now assure him that this matter will be an item in our conference discussions, and preliminary steps have been taken to arrange for a decision that would carry out the intent of the Senator's amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank my colleagues for their expression of support in the intent of this amendment, and for getting the assurance from the chairman of the Foreign Operations Subcommittee in appropriations that he will be working toward that goal, and with the help of the others, the distinguished minority member, ranking minority member of the Appropriations Committee, that we will be able to move this along.

Mr. President, I am willing to withdraw this amendment. Just before closing I want to remind everybody within earshot that while we talk to those who are in this Chamber or who have access to the communications coming out of here that we have 3,000 people who have struggled for a long time to get permission to leave the confines of the Soviet Union, to come here to join their families, to see the beacon of freedom that radiates from this Nation of ours. And it would be ironic to say the least to say we do not have the money; we have the willingness, we have the intention to welcome you to our shores, but we do not have the money to process these visas.

That would be the ultimate irony in my view.

I hope when we get to the conference on the appropriations bill to which this matter is specifically addressed we will have expeditious treatment of this.

With that, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment, and the amendment is so withdrawn.

The amendment was withdrawn.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Let me say that I intend to offer a similar amendment and to be supportive of the amendment of the Senator from New Jersey. Having heard the assurances from the ranking member and from the chairman of the committee as to their willingness to undertake this matter in conference, I will not pursue this amendment.

My amendment was a very simple amendment. It would have provided $6 million to the State Department to carry out the refugee assistance provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, and earmarked this money for Soviet and other Eastern European refugees.

Mr. President, this is a true dire emergency. On July 5, 1988, the United States Embassy in Moscow announced that it was suspending issuing visas for Soviet emigres until October 1. This caused a serious hardship for the 3,400 persons who had received exit permission from the Soviet Union and who had scheduled interviews at the United States consulate. It is truly ironic that the United States is now blocking their ability to leave the Soviet Union.

This amendment was necessary because the United States has run out of funds for processing Soviet refugees. Right now, approximately 3,000 of the 3,400 Soviets who have received exit permission from the Soviet Government and who had scheduled interviews at the United States consulate in Moscow, have been told they cannot be interviewed until after the beginning of the next fiscal year, this October 1.

The House version of H.R. 5026 provided $24 million for refugee assistance, including $6 million earmarked for Soviet and Eastern European refugees, all of which was deleted during Senate markup. Senator LAUTENBERG's amendment would have restored the full $24 million. My amendment would have provided only the earmarked funds.

These people are in dire straits. They are required by the Soviet Government to take irrevocable steps in preparation for emigration. These steps are:

Quiting their jobs;

Giving up their homes or apartments; and

Surrendering their Soviet internal passports.

Usually, these people come to Moscow, where they must live illegally, until they can leave. Under normal conditions, this is a period of about a week. Without their internal passports and official permission to be in Moscow, they cannot stay in a hotel. So, most of them have to stay with relatives or make deals on the black market for places to stay.

Now, instead of being in an expensive, illegal state of limbo for a week, they are trapped for almost 3 months in a catch-22 created by the U.S. Government.

This does not just subject them to hardship and harassment; it also jeopardizes their ability to leave the Soviet Union at all. Soviet exit permission is usually good only for 6 months.

These refugees were planning to leave shortly after their embassy interviews and used some of this 6-month period putting their affairs in order for departure. Some of their exit visas may expire before October 1. If we do not process them, then we are responsible for keeping them in the Soviet Union, perhaps permanently.

How did this happen?

Mr. President, the amount of money the State Department requested for refugee assistance in its fiscal year 1988 budget was based upon a projection of conditions that existed when that budget was drafted. They anticipated an emigration rate for Soviet Armenians of approximately 400 per month, and provided funds for that number of people.

After the fiscal year began, the disturbances in Armenia caused a rush of people seeking exit permission. The Soviet Government granted it, and monthly rates rose to 1,000 per month, with surges exceeding 3,000 per month. Combined with the increase in numbers of Soviet Jews receiving exit permission, this exhausted available funds.

The Congress reacted with shock and alarm to this development. A joint letter signed by 37 Senators was sent to President Reagan on July 12, 1988, urging him,

> * * * to do everything possible to assure that money is set aside to cover the costs for these refugees to come to the United States without delay, including using the authority available to [him] under the Foreign Assistance Act, to transfer money from other accounts.

A joint Commission on Security and Cooperation in Europe letter, signed by 16 commissioners, was sent on July 13, 1988, to Secretary Shultz, calling upon him to,

> * * * make available funds so that the Moscow consulate may immediately resume processing refugee visas.

Well, the administration responded to these requests, reprogramming, I am told, $2 million to assist these refugees.

The problem is that this money, the Department tells me, is enough to process only the 400 people who had interview appointments for the week following the July 5 announcement that processing would be halted; 3,000 people remain stranded, in need of immediate help.

The $6 million that would have been provided by my amendment or by Senator LAUTENBERG's amendment would have provided this help. Again, let me stress that this is a real dire emergency and it fully justifies our support on this measure.

So far, I have emphasized the humanitarian side of this issue. Let me turn for a moment to its effects on our foreign policy.

The United States has pressed the Soviet Union at every turn to comply with its international human rights obligations. One of the obligations they have not met is to respect the rights of their citizens to leave their country and freely to return. This is the issue of Soviet restrictions on emigration.

I will not bore you by reciting the history of the Jackson-Vanik amendment, the Helsinki Final Act, and the extensive U.S. diplomacy on this point. The fact is that the United States has been outspoken in its support of the right of free emigration.

Now, the Soviet Union has begun to allow larger numbers of Soviet Armenians, Soviet Jews, and Soviet ethnic Germans to leave.

Just as this has started to move, it is ironic that the United States should become the barrier to emigration from the Soviet Union.

In fact, I understand that the Soviets are arguing that they need only give as many exit permissions as the United States can process. Now, Soviet Armenians and Jews are being told that it is the United States that is preventing them from leaving the Soviet Union.

This is an extraordinary and unacceptable position for the United States. We must act now to provide the funds to reverse this situation.

Mr. President, I call upon all in this body who are concerned about human rights in the Soviet Union and freedom of emigration to join me in support of the remarks made by the ranking member and the committee chairman on this issue.

I would like to take this opportunity to say that I believe that certainly this matter deserves expeditious handling in conference. We must see to it that at the very least an additional $6 million is provided to cover the cost of the emigration of those refugees who seek to come to this country, and who are necessarily now denied the opportunity of even having their applications processed. This situation is something that I do not think that anyone would tolerate.

So I am not going to press forward on this. I am very much encouraged as a result of the response that we have heard from the chairman and from the ranking member.

I commend the Senator from New Jersey for his undertaking to correct this matter. I hope that as it relates to these kinds of situations, we would better prioritize the appropriation of funds necessary to see to it that people who yearn for freedom have the opportunity to come to the United States and enjoy the freedom we all share.

Mr. WILSON. Mr. President, I rise today to give my full support to the provision in the dire emergency supplemental appropriations bill now before the Senate, which provides an addition $60 million to the Coast Guard for its dire operating needs.

However, the timing and title of the bill are ironic. This is a "dire" supplemental appropriations bill because the House has delayed its consideration of the legislation for such a long time. Approving a supplemental appropriations bill 10 months into the fiscal year, 7 months after the Coast Guard confirmed my fear that last year's appropriation would force it to close stations and reduce dramatically its drug interdiction patrols, would be laughable if the problems faced by the Coast Guard were not so serious.

Last year, I voted against the omnibus continuing resolution which cut the Coast Guard's budget by $117 million overall, including a direct 3.8-percent cut in its operating budget. The commander of the Coast Guard Pacific Area wrote me a letter earlier this year in which he described the budget problems facing the Coast Guard due to this cut. Last year's budget fiasco, wrote Vice Adm. John D. Costello, was "so completely unprecedented I cannot continue [to leave] budget skirmishing to those in Washington."

Vice Admiral Costello then continued to say that "law enforcement operations—for example, drugs, fisheries, and so forth—are being reduced by 55 percent * * * those who would violate our laws can now do so with an order of magnitude less risk." The vice admiral ended his letter by saying that the Coast Guard faces "the real possibility of a permanent and extensive reduction in our ability to serve the public."

This overdue legislation should help correct this situation, but by no means should its passage signal anything akin to an end in our efforts to fully fund the Coast Guard. Conferees of the House and Senate Transportation

Appropriations Subcommittees plan to meet early next week to agree upon the full fiscal year 1989 Coast Guard appropriation. I urge them in the strongest possible terms to agree to the large increases in the Coast Guard's budget already approved by the respective Chambers with their transportation appropriations bills. Indeed, in some respect each bill goes beyond even the President's full-funding request. Only through passage of a fully funded appropriations bill can the Coast Guard begin to reopen search and rescue stations such as Mare Island in California and resume its drug enforcement patrols both in the air and on the sea.

Again, Mr. President, I urge the Senate to approve the Coast Guard provisions, to help ensure that we do not have drug traffickers dancing in the streets like they did after the Congress slashed last year's Coast Guard budget so severely. Vital Coast Guard safety programs must be beefed up and made whole again. Passage of this $60 million supplemental appropriation is a first step in this process.

Mr. President, I also want to call the Senate's attention to and urge its full support for the Small Business Administration provisions which replenish that agency's already depleted salaries and expenses account, funds that are direly needed for the administration of the SBA disaster loan program.

Senators will recall the devastating earthquake and subsequent tremors that rocked southern California on October 1, 1987, the first day of the new fiscal year. As it turns out, the Whittier earthquake set the stage for a very tumultuous year in terms of natural disasters, a phenomenon which cannot be factored into any fiscal year's budget.

These supplemental funds come at a time when the SBA is no longer considering new requests for disaster relief because it doesn't have enough money. And as it stands now, the SBA has been unable to follow through on loan commitments already made to homeowners and renters. As a case in point, following the Whittier earthquake, the SBA approved $150 million for homeowners and businesses for relief. However, $90 million of this amount has not been disbursed.

Since January of this year, the city of Redondo Beach and its businesses and residents in the King Harbor area have been the unfortunate victims of four natural disasters. The economic impact to the community, its residents, and businesses is estimated to be $16.64 million in lost revenues over the next 12 months. Yet, the SBA has been unable to act on the State of California's request, on behalf of the city, due to insufficient operating funds.

The action we are taking today will correct that shortfall in funds and allow us to make good on our pledge to help these California communities and the other unfortunate victims of natural disaster to rebuild their lives, their homes, and their businesses.

Mr. President, I cannot overemphasize the importance of either the Coast Guard or the Small Business Administration provisions contained in what is truly and accurately described as a dire emergency supplemental appropriation measure.

Mr. BUMPERS. I would like to take a moment to discuss with my colleague from Florida a serious problem in the Childhood Immunization Program. As he knows, funding for the Childhood Immunization Program has increased steadily over the last few years, primarily to keep pace with rapid increases in vaccine prices. The chairman has been very supportive of efforts to increase Immunization Program funding and under his leadership the Labor-HHS-Education Subcommittee approved a large increase in immunization funding for fiscal year 1989. Despite our good efforts, the Immunization Program faces a funding shortfall in fiscal year 1988.

The National Vaccine Injury Compensation System authorized the collection of taxes on childhood vaccines purchases after January 1, 1988. These taxes go into a trust fund to pay for compensation to children injured by vaccines. These excise taxes were not authorized until after fiscal year 1988 appropriations were approved, so appropriations do not reflect increases in vaccine prices caused by the taxes. Yet the States have been responsible for paying the taxes. The States have supplemented Federal immunization funds with State funds—often taking funds from other important public health programs—in order to cover the excise taxes and to purchase sufficient vaccine to immunize their children.

The States have in some cases made up the shortfalls in Federal funding, but a recent survey of the States shows that the States just can't stretch their funding any further. The States need approximately $13.3 million for the remainder of fiscal year 1988 to cover the increased costs of vaccines caused by the excise taxes. California estimates a shortfall of $1.28 million if no additional funding is available; Tennessee estimates a $1.238 million shortfall; Kentucky estimates a shortfall of $1 million; and a number of other States estimate shortages of several hundred thousand dollars.

These are the estimates of the States before they head into their busiest time of the year for immunizations. August, September, and October are traditionally months when parents bring their children in for immunizations before school entry, and estimates of State funding shortfalls could go up.

As I have stood on this floor and said year in and year out, immunizations are still the best public health buy the Federal Government makes. To shortchange the Immunization Program and to force States to take funds from other public health programs to finance immunizations is simply not acceptable. We can't rob Peter to pay Paul when it comes to the health of our children.

I consider this a dire situation, and I had intended to offer an amendment to add $13.3 million in funding for the childhood immunization program. Frankly, I could not find a way to pay for this amendment. I considered taking funds from other programs within the Labor-HHS-Education Subcommittee to pay for this amendment, but there is simply not much fat in the programs funded by the subcommittee. I found that any amendment of that sort would force us to do what the States are already doing—rob one good program to pay for another one.

Mr. CHILES. As my colleague from Arkansas noted, I am committed to adequate funding for the Childhood Immunization Program. The fiscal year 1989 funding level approved by the Senate will cover all vaccine price increases related to excise taxes, will allow for the purchase of new vaccines which will become available in the fiscal year 1989 and will adequately fund all administrative functions of the Immunization Program. As the Senator noted, it is extremely difficult to find any additional funds for the program for fiscal year 1988, but I will do everything I can to work with the Senator to find a solution for the fiscal year 1988 shortfall.

Mr. JOHNSTON. Mr. President, we previously had discussion on the floor about the question of going to third reading and reserving the question of the Contras, so that we do not foreclose that amendment. We have had discussions at the request of the minority leader on that. The majority leader has given clearance on that question.

Therefore, I ask unanimous consent that when we move to third reading, it not foreclose amendments offered thereafter and germane amendments thereto relating to the Contras.

The PRESIDING OFFICER. Is there objection?

Mr. KASTEN. Mr. President, reserving the right to object, I want to be sure, and I think I will object at this time. There is a question with regard to an amendment that the Senator from Virginia intends to bring forward, having to do with military pay raises. I am told that the issue has not been decided as to whether or not he would prefer to put the amendment on this bill or on further legislation.

Mr. JOHNSTON. I am not asking that we go to third reading at this time. I am simply saying that when we do go to third reading, it not foreclose the question of the Contras.

Mr. KASTEN. I ask if the Senator will amend that to say "not foreclose either the amendment on the Contras or the amendment on the pay raise."

Mr. JOHNSTON. That is not foreclosed because it is not at third reading. The floor is open now. I would not want to exempt that from third reading.

Mr. KASTEN. For the time being, I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

Mr. WARNER. Mr. President, the Senate has been most indulgent to listen to this Senator during the course of today and yesterday with respect to the pay raise for the men and women in the Armed Forces, and there is at the desk printed as a part of the proceedings of today an amendment by the Senator from Virginia; cosponsored by the distinguished Republican leader; the Senator from Maine [Mr. COHEN], the Senator from California, [Mr. WILSON], and the Senator from Missouri [Mr. DANFORTH] dealing with the pay raises and more specifically the amendment which has been printed contains those portions of the authorization bill adopted in this Chamber earlier this year for the Department of Defense.

It has been clear that the leadership of the Senate, particularly the majority leader, is desirous that this particular amendment not be incorporated in this bill. I shall not enumerate the reasons. They are very clear and they are a matter of record.

The distinguished chairman of the Senate Armed Services Committee addressed the amendment and while he concurs in the thrust of the amendment, the objectives and the goal he, too, believes that issues on defense are more appropriately reserved for consideration as part of the defense appropriations bill which measure it is my understanding will be taken up following the pending matter.

The distinguished former chairman of the Armed Services Committee and the chairman of the Appropriations Committee likewise feels that this is a more appropriate place for this matter to be considered, and again I am not making a final decision at this time.

AMENDMENT NO. 2804

(Purpose: To express the sense of the Senate regarding the need to enact legislation authorizing a military pay raise for fiscal year 1989)

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2804.

At an appropriate place in the bill, insert the following new section:

"SEC. XXX. SENSE OF THE SENATE REGARDING THE NEED TO ENACT LEGISLATION AUTHORIZING A MILITARY PAY RAISE FOR FISCAL YEAR 1989.

It is the sense of the Senate that the Congress should expeditiously pass legislation authorizing a pay raise for all members of the uniformed services effective on January 1, 1989, which would increase the rates of pay by 4.1 percent for basic pay and for basic allowance for subsistence and by 7.0 percent for basic allowance for quarters.".

Mr. WARNER. Mr. President, this being a sense-of-the-Senate resolution, it clearly recites the intentions of this body to attain the goals that are set forth in the amendment which had been printed as part of the proceedings today authored by the Senator from Virginia and cosponsored by others.

It would be my intention to ask for a vote on the sense-of-the-Senate resolution and, for that purpose, I ask now for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I will defer to the managers of the bill at the appropriate time for the Senate to vote on this matter. There may be a time more propitious than this moment. Mr. President, I am not sure, but I think perhaps the distinguished chairman of the committee was seeking recognition.

Mr. JOHNSTON. Mr. President, if the Senator wants my advice on the appropriate time to vote on this sense-of-the-Senate, it would be no on this bill. But the Senator wants a vote on it and so I guess now is as good a time as any.

Everybody is for the pay raise. It is going to come up on the next bill, which is the appropriations bill, which provides the money, and that is the appropriate time for it.

I do not mean to chide the Senator for exercising his rights as a Senator. Having said that, I will proceed to do so by saying that to make this Senate run more efficiently I think we need to pay attention to the time needs of Senators. And where there is something which everyone approves, which they do on this, and which should not require a rollcall vote, we ought to try to ration those. To make this Senate run more efficiently, we need to do away with unnecessary, redundant, and meaningless votes and exercises. Maybe it is not meaningless because it is important to a lot of people.

Mr. WARNER. Mr. President, I say it is important to roughly 7 million Americans. So I wonder if my good friend from Louisiana wants to rephrase, in some delicate manner, his characterization.

Mr. JOHNSTON. Mr. President, I have such affection and respect for my dear friend. His request for the yeas and nays simply gives me the predicate to speak about something in a more general way, which is unnecessary work. Perhaps this is not a good example.

But there is no doubt that unnecessary votes are a problem in the Senate. Whether this is the proper example or not is for other Senators to decade. But I hope that we can find a way to avoid a lot of sense-of-the-Senate votes and to avoid a lot of other things.

Mr. WARNER. Mr. President, I concur in all that. But it is my understanding, quite frankly, that we were not ready to proceed to third reading. This is an important matter, in the judgment of this Senator. I think there will be a unanimous vote. I think it serves to allow each Senator to express their views with respect to the necessity, the essential nature of this pay raise.

Mr. JOHNSTON. Well, then, I am prepared to vote.

Mr. WARNER. I thank my good friend.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Virginia [Mr. WARNER].

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD. I announce that the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Tennessee [Mr. SASSER] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio [Mr. METZENBAUM] and the Senator from Maryland [Ms. MIKULSKI] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. KASSEBAUM] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 1, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Proxmire

NOT VOTING—8

Biden
Chiles
Cranston
Kassebaum
Metzenbaum
Mikulski
Sasser
Symms

So the amendment (No. 2804) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the leadership and Members of the Senate for their overwhelming support on this. I think in time we will be proud we made this statement to the men and women of the Armed Forces. I express my appreciation to all.

Mr. President, I ask unanimous consent that the senior Senator from Georgia [Mr. NUNN] be made a cosponsor.

The PRESIDING OFFICER. Without objection, both Senators from Georgia will be made cosponsors.

TRADE ADJUSTMENT ASSISTANCE

Mr. RIEGLE. Mr. President, I rise to address the issue of this dire emergency legislation, and particularly the part of it that deals with additional funds for trade adjustment assistance. I do so because we have truly an urgent need that has developed here and it has spread across the country. It is a very particular need in the State of Michigan, but there are 35 other States that are in the same situation—unable to pay TRA benefits because the money is not available until we pass this bill.

Now, this issue was first raised on July 8 when I brought it before the Senate; I raised it again on July 27. I have written four letters to the chairman of the House Appropriations Committee, the majority leader, Senator BYRD, and the chairman of the Appropriations Committee. On the 29th there were 25 Senators that joined me in urging the Senate Appropriations Committee to act swiftly on this bill. On August 2, the committee did act, and it placed the bill directly on the Senate Calendar.

Now, we have the opportunity to pass this legislation. Unfortunately, there are some differences with the House version. But it is essential that we get it passed today so that it can go to conference and the conferees can begin to resolve the differences.

In my State alone, we have over 5,000 workers who are drawing trade adjustment assistance benefits that are enabling them to keep their heads above water until they can find their way into other job opportunities. They desperately need to have this help continued.

After all, they lost their jobs because of the trade invasion. We just passed a trade bill yesterday to try to deal with that. But these workers who have lost their jobs have been officially identified by our Government as having lost their jobs because of foreign imports. That is why they qualify for trade adjustment assistance. But now that the benefits have expired because the money has run short, we are in a situation where many of them are facing the most extreme kind of circumstances.

I have talked with many of them in person. We have received many urgent phone calls, I want to tell you about one woman in my home town of Flint, MI, who was just in touch with my office. She is a laidoff auto worker. She has no other source of income. She cannot qualify for AFDC for 45 days and she has not received a trade adjustment assistance check now for 3 weeks. She has two children. She is the head of her household. She says she is about to become one of the homeless, literally out on the streets, because of an inability to be able to pay her bills. There are thousands of people who are one or two paychecks away from the same situation.

There is no question about the fact that they are entitled to these benefits, entitled to them for a valid reason, and that we intend to see that they get the money. But, for the moment, that does them no good whatsoever if we cannot complete the legislative process, replinish this fund, so that it can go out to those people in Michigan and across the country that are in desperate need of receiving it. They have rent and mortgages to pay. They have groceries to buy. They have other basic needs that they have to meet.

The fact that we say to them that there is sort of a bureaucratic hangup and we just cannot get the job done is not a satisfactory answer. I do not want to see us going out of there today, and I certainly do not want to see us leaving to go to the national convention that is upcoming without getting this issue settled. And by that I mean in and out of the conference, down to the President and signed by the President so that the money can go out to these people.

The fact of the matter is that anyone who has these benefits coming will receive retroactive payments. But, from a cash flow point of view, to the people who have lost their jobs and are trying to keep their heads above water and pay the bills and take care of their kids and so forth, the fact that the money may come later is not a sufficient answer, not if they are about to be evicted from an apartment or are finding that they are about to lose their car because they cannot make the car payments or even more directly because they cannot buy the food they need just to get by in this interim period.

So it is essential that this get done. If anyone wonders why we have labeled this the dire emergency bill, it is because, for many people, that is precisely what they are facing. They are facing an emergency here. It is one we have recognized when we crafted the trade adjustment assistance program to meet this need. And yet here we are, tied up on other matters, saying, "Sorry, even though you are entitled to these benefits, you need them, you are depending upon them, we can't get our act together to get this legislation passed and get the help to you."

Clearly, we can and we should and we have an obligation to move here with real speed.

So, again, I urge my colleagues: Let us get this legislation passed. Let us get to conference. Let us not get hung up on side issues. Let us get this settled. Let us have the President sign it. Let us get this help out to the people that are depending upon it and who badly need it.

Mr. President, I ask unanimous consent that four letters relating to the Trade Adjustment Assistance Program be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 8, 1988.

Hon. JAMIE WHITTEN,
Chairman, Appropriations Committee, House of Representatives, Washington, DC.

Dear Mr. Chairman: It has come to our attention that the necessary funds to meet mandatory Trade Readjustment Assistance payments have been exhausted in States in Regions V and VII of the Department of Labor.

In Michigan, over 5,000 workers will be without benefits next Monday, and, according to the Department of Labor, all States will be unable to pay benefits to thousands of workers by the end of this month.

The Department of Labor requested a Supplemental Appropriation of $49 million for this program on June 22, to meet the shortfall.

It is our understanding that the House Appropriations Committee is currently considering a Supplemental Appropriation which includes the necessary funds. We urge you to act immediately on this legislation so that all workers who are entitled to these benefits can continue to receive them without interruption. Should there be a delay, it is imperative that the benefits be paid retroactively.

Thank you for your consideration of this urgent request.

Sincerely,

DONALD W. RIEGLE, Jr.
JOHN HEINZ.
JOHN C. DANFORTH.
CARL LEVIN.
PAUL SIMON.
ALAN J. DIXON.
DAVE DURENBERGER.

U.S. SENATE,
Washington, DC, July 11, 1988.

Hon. ROBERT C. BYRD.
Majority Leader, Senate, Washington, DC.

DEAR ROBERT: As you know, the Trade Readjustment Assistance Program has exhausted funds in many States, and will be out of all funds by the end of July.

The Labor Department requested a Supplemental Appropriation of June 22, in the amount of $49 million. It is my understanding that the House Appropriations Committee now intends to move a limited supplemental bill, perhaps as early as tomorrow, which will include the TRA funds.

I urge you to try to schedule consideration of this measure prior to the recess, in order to avoid a disruption in benefits to the 25,917 enrollees.

Thank you for your consideration of this urgent request.

Sincerely,

DONALD W. RIEGLE, Jr.

U.S. SENATE,
Washington, DC, July 11, 1988.

HON. JOHN C. STENNIS,
Chairman, Senate Appropriations Committee, Washington, DC.

DEAR JOHN: As you know, the Trade Readjustment Assistance Program has exhausted funds in many States, and will be out of all funds by the end of July.

The Labor Department requested a Supplemental Appropriation on June 22, in the amount of $49 million. It is my understanding that the House Appropriations Committee now intends to move a limited supplemental bill, perhaps as early as tomorrow, which will include the TRA funds.

I urge you to try to expedite consideration of this measure prior to the recess, in order to avoid a disruption in benefits to the 25,917 enrollees.

Thank you for your consideration of this urgent request.

Sincerely,

DONALD W. RIEGLE, Jr.

UNITED STATES SENATE,
Washington, DC, July 29, 1988.

HON. JOHN C. STENNIS, Chairman, Senate Appropriations Committee, Washington, DC.

Hon. JOHN C. STENNIS,
Chairman, Senate Appropriations Committee, Washington, DC.

DEAR MR. CHAIRMAN: We urge you to move quickly on H.R. 5026, the Dire Emergency Supplemental Appropriations Bill.

Of particular concern to us is the replenishment of funds for the Trade Readjustment Assistance Program. As of today, 30 States are unable to pay TRA benefits. All States will soon be unable to make payments. These funds are vital to the 26,000 recipients of these benefits, many of whom have already been without support for three weeks.

These workers are the true victims of our nation's trade deficit, having lost their jobs because of imports. The TRA program was established to assist them in readjusting with additional unemployment insurance benefits, training and other support services. Parliamentary considerations are not adequate explanations for constituents who call us daily to inquire as to why their check have stopped, and why they cannot proceed with training programs.

We regret that this legislation was not able to be acted upon immediately after the House approved it on July 27. We therefore urge the Committee to report the bill as early as possible next week so that those who need these funds will not longer be denied benefits to which they are entitled.

Thank you for your attention to this matter of great urgency.

Sincerely,

Donald W. Riegle, Jr., John D. Rockefeller, John C. Danforth, Paul Sarbanes, Christopher S. Bond, William V. Roth, Paul Simon, Max Baucus, John Heinz, Dale Bumpers, Timothy E. Wirth, John Glenn, Wendell Ford, Alan J. Dixon, Edward M. Kennedy, David Pryor, Christopher Dodd, Carl Levin, Bill Bradley, Charles Grassley, Frank Lautenberg, Jeff Bingaman, John Melcher, Brock Adam, John Chafee, Dave Durenberger.

Mr. BYRD. Mr. President, I understand that the able Republican leader wants to continue conferring with colleagues anent a possible Contra aid amendment, and in the meantime, I would like to make a unanimous-consent request.

While I am waiting on the identification of certain amendments here, I should say to Senators, I expect the Senate to be in into the evening. After today, we only have tomorrow, which is Friday, and 4 days next week—Monday, Tuesday, Wednesday, and Thursday. It is very important that we complete action, if at all possible, on the DOD appropriations bill because that is the big appropriations bill, the last of all conferences. It may be that the fate of other appropriations bills could possibly be hanging on the fate of this one. So it is important we complete action on that bill before we go home and hopefully before Wednesday. We have other work we could be doing.

When we come back, we have 3 weeks and 3 days if we try to finish by the 30th. That target date will be pushed back, and back, and back by the appropriations bill dealing with the Department of Defense and the other appropriations bills conferences, most of which are working. Conferees have been appointed by the House for 7 appropriations bills, not counting the eighth, the energy and water bill, which has already been signed into law.

So those conferences are at work, and I would suggest to Senators that they be prepared to stay, therefore, into the evenings in the remaining days before the recess.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5026

Mr. BYRD. Mr. President, I ask unanimous consent that no other amendments be in order to H.R. 5026—that is the urgent supplemental appropriations bill—with the exception of any amendments relating to the issue of the Contras, a Melcher amendment dealing with EDA and a possible Conrad amendment dealing with delay in approving the sale of the Great Plains coal gasification plant; two possible amendments, other than the Conrad aid amendments.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, I am advised by Senator MELCHER and, in fact, have been delivered by him an amendment dealing with the Economic Development Administration involving the forgiveness of a $2 million loan balance with the Pierce Packing Co. of Billings, MT.

We have discussed this with Senator MELCHER. I think he is now aware that it would provoke a point of order on this bill, and so he has asked me to advise the committee and all Senators that he would be looking for the appropriate vehicle on which to consider this, but he will not bring it up on this bill. So we can exempt that from the unanimous consent.

Mr. BYRD. Very well. I thank Mr. JOHNSTON and I thank Mr. MELCHER.

The PRESIDING OFFICER. Is there an objection to the request of the leader?

Mr. HATFIELD. Mr. President, reserving the right to object, what is the Conrad amendment?

Mr. BYRD. Perhaps the manager has knowledge of that, that he would like to respond.

Mr. JOHNSTON. Mr. President, the Conrad amendment has to do with the 30-day limitation for Congress to take action after the announcement yesterday on the sale of the Great Plains gasification plant, and the amendment would be to extend that. I think it would be inappropriate on this bill but nevertheless that is the subject matter of that amendment.

Mr. HATFIELD. If the Senator will withhold for just one moment, the Senator from Idaho may have an interest on that particular point, on the unanimous-consent request by the leader relating to the Conrad amendment.

I reserve the right to object in order to clear it on our side. I thought the Senator from Idaho would be the one most interested.

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. McCLURE. I thank the Senator for asking me, but I do not know what he is talking about.

Mr. CONRAD. If the Senator will yield for just a moment so I might respond, the sale of the Great Plains plant will be announced tomorrow. We had earlier passed an amendment that would give Congress 30 days to analyze the potential sale. Because of the way things have come together, we are really being given about 5 days potentially, and what we would simply do is change the consideration date until the end of August so we have some real time to review the sale.

I have talked to the relevant people at the Department of Energy. They do not want it delayed past September 30 because one of the potential buyers would have certain important tax considerations. We are working on an amendment and would craft it so it would be considered within that timeframe.

I do not think there would be a problem, but this is critically important to my State—the single, biggest employer in my State, biggest industrial facility in my State. We just want Congress to have a chance. Frankly, I do not think it will be necessary but we would like the chance.

Mr. McCLURE. If the distinguished majority leader will yield further, I have no objection if, indeed, the amendment is carefully crafted so that we do have a chance during the month of September while we are in session but prior to September that the process can be completed expeditiously. That would give you another 15 or 20 days for congressional review without unduly interrupting. I certainly have no objection if that is the nature of the amendment.

Mr. CONRAD. If I might just indicate, it is not at all our intention in any way to hold up this sale. Frankly, I do not think there will be any problem.

Mr. HATFIELD. I say to the majority leader I withdraw my reservation.

Mr. BYRD. Very well.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. Hearing no objection, the proposal by the majority leader is agreed to.

Mr. BYRD. Mr. President, the only thing that remains with respect to the urgent supplemental would be amendments possibly dealing with Contras.

Mr. JOHNSTON. And Mr. CONRAD.

Mr. BYRD. And Mr. CONRAD. Very well. I thank all Senators. I yield the floor.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2805

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 2805.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place insert:
>
> DEPARTMENT OF ENERGY ADMINISTRATIVE PROVISION
>
> The 30-day notice period for the review of the sale of this Great Plains gasification plant by Congress shall not commence earlier than August 25, 1988.

Mr. CONRAD. Mr. President, this amendment is very simple. It simply indicates that the congressional review period for examining the sale of the Great Plains gasification plant start on August 25, so that we have additional time to review this sale, make sure it is in the public interest, and that the other agreements that we have reached, No. 1, give the highest consideration to the continuing operations of the plant. In fact, that has been the major determinant in judging who the ultimate purchaser would be.

I would be happy to answer any questions on the amendment.

Mr. JOHNSTON. Mr. President, the Senator's amendment was accurately described. We will accept the amendment.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Dakota [Mr. CONRAD].

The amendment (No. 2805) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GREENHOUSE EFFECT

Mr. WIRTH. Mr. President, the administration has done it again. About 2 months ago, at a time when the scientific community was telling us about the hole in the ozone and the fact that this discovery over the Antarctic could cause very significant problems for human beings and all living things on the face of the globe—the hole in the ozone and the discovery of the ultraviolet rays—we heard from the Secretary of the Interior, Secretary Hodel—and we all remember this—that we should not have any concern, except for the fact that we could just counter that by putting on dark glasses, wearing a hat, and donning suntan lotion.

That preposterous response, I think, was laughed down by most people in this body and across the country, and we developed a serious response, agreed to the Montreal protocol, and are now going on in the way we should.

Unfortunately, that has happened again. The Assistant Secretary of the Department of Energy, Ernest Baynard, has said, on the greenhouse effect, the situation related to global warming, about which we are all deeply concerned, that he thinks it is folly for us to try to come up with a solution for the problem before we know what the problem is.

This is the Assistant Secretary of the Department of Energy, which, for the last 8 years, is supposed to have been studying the greenhouse effect, the effect of carbon dioxide in the atmosphere, and coming back to the American public with a set of recommendations.

I hope the Assistant Secretary of Energy, Mr. Baynard, would not only have the good judgment to step back, as Secretary Hodel did, but also to come back to us with a reasonable set of recommendations on an issue that I think everybody in the country recognize is very severe.

We have a warming atmosphere, a vast amount of carbon dioxide in the atmosphere, giving a greenhouse effect. We are changing the climate of the globe, and it is time for us to respond, not to respond in the kind of silly fashion that has come out of the Department of Energy but with a serious one.

Mr. President, this summer, a series of events have occurred that have brought new urgency to scientific concern about the greenhouse effect. Scientists have been sounding an alarm about the prospect of unprecedented global warming primarily as a result of the burning of fossil fuels for many years. But this year's drought, coupled with the stunning testimony of NASA scientist James Hansen before the Senate Energy and Natural Resources Committee and the heightened level of public attention to this issue, have all led to a new level of concern about global warming.

There is no debate whatsoever in the scientific community about the increased levels of carbon dioxide in the atmosphere. Global atmospheric concentrations of CO_2 have been steadily increasing since the advent of the industrial age. During the past 150 years, the level of CO_2 in the atmosphere has risen from 270 parts per million to 350 parts per million. Since 1958, concentrations have increased by about 40 parts per million. There is also no argument about the fact that stable levels of CO_2 are what make this planet inhabitable. If there were no CO_2 in the atmosphere, our planet might be like Mars, where temperatures are too cold to support life. Too much CO_2, as on Venus, would cause the oceans to boil away.

Our lives are predicated on a delicate balance of atmospheric conditions. The concern of scientists stems from the fact that we may be spewing too many of the greenhouse gases into the atmosphere, causing the Earth to warm and changing climate patterns at a pace unprecedented in human history. And this year's drought is like a Polaroid snapshot of the kinds of events that could occur in the future. Scientists believe that as the Earth gets warm, the midlatitude continents will experience midcontinental soil moisture loss and less precipitation. Arable croplands and forests could migrate north, and rising sea levels could wreak havoc on low lying coastal areas.

The impact on this country and its infrastructure could be devastating unless we are prepared to adapt to climate change. And the economic consequences could be staggering.

There is debate in the scientific community about the scope of the warming that will occur. And there is debate in the scientific community, and more research needs to be done in this area about what the regional impacts of global warming will be. Finally there is debate in the scientific community about whether or not global warming is upon us and whether or not we can do anything, after more than a century of neglect, to slow it down. But, the scientific community is almost unanimous in its sense of urgency and in its level of concern about this issue.

Dr. James Hansen, the Director of NASA's Goddard Institute for Space Studies and one of the world's leading climatologists testified in the Senate 1 month ago that over the last 30 years the observed global warming is close to 0.4 degrees Celsius relative to the 30 year mean and that we can state with 99 percent certainty that current global temperatures represent a real warming trend.

The logical response to the concerns being expressed by the world's leading scientists and climatologists from public policy leaders, it seems to me, ought to be one of looking for ways to slow the rate of emissions of the greenhouse gases and work to stabilize our climate before it gets away from us. And many of us in the Congress have taken on the responsibility. Last week, Senator JOHNSTON and I introduced a comprehensive bill to develop an energy policy that will meet the needs of this Nation while slowing down CO_2 and other greenhouse gas emissions. Senator STAFFORD has introduced a bill that also looks at global warming and stratospheric ozone depletion. And on the House side, a number of Representatives are looking at this issue very closely.

Unfortunately, some of the Federal agencies believe that we should study this issue until it goes away. Mr. President, that simply is not going to happen. As forests literally are dropping dead along the Appalachian Mountains in the eastern United States, we are seeing what that approach has yielded with respect to the concern about acid rain. And the magnitude of the global warming phenonmenon is so vast that it could make the acid rain issue but a preface to a much larger chapter in our Nation's and the world's history.

I believe that the global warming phenonmenon is probably the most significant economic, political, environmental, and human challenge of the next decade and the next century. To address this issue we will need unprecedented levels of cooperation within our Government and among nations. Virtually every committee in the Senate will need to look at this issue. And the same is true of our Federal agencies. Leadership is required at the highest levels of Government, from the President on down. The Governments of Canada and Norway, and the United Nations have all expressed great concern about this issue.

For 10 years, since passage of the National Climate Program Act, the Department of Energy has been conducting research in the area of atmospheric CO_2. In its 1987 summary of this research effort, the Carbon Dioxide Research Division wrote on page one;

> The goal of this research program is the identification of possible policy options for governmental action in response to changes in the atomospheric CO_2 concentration.

Mr. President, I think it is fair to ask the Department of Energy to tell the Congress and the American people what policy recommendations have been made in the past 10 years to address the concerns being expressed by the overwhelming consensus of scientific conclusions about global warming. I cannot think of any.

Yesterday, DOE's Assistant Secretary for Environment, Safety and Health was quoted in the Energy Daily as saying that:

> I think it's folly to try to come up with a solution to the problem before we know what the problem is.

Mr. President, that comment, it seems to me, and that approach to this staggering issue, is exactly the kind of approach we do not want to take. I think it is time that the Congress ask the Federal agencies, DOE, the EPA, the Department of Commerce, which oversees the National Climate Program, to tell the Nation what it is doing to address this issue. Are we, as the Assistant Secretary suggests, going to stand by and let our climate change while we study the issue. Or are we going to take those steps that will slow down emissions of the greenhouse gases and that make sense anyway? There is no limit to the creativity that can be applied to meet the needs of our climate's future.

Increased energy efficiency and research into alternative sources of energy are policies that will help address the rising tide of energy dependence. We are importing more than 40 percent of the oil that we need and by the early 1990's, oil imports could total more than 50 percent. We must develop strategies to reverse this trend to strengthen our energy and national security and to bolster the international competitiveness of this Nation. Energy efficiency is one of the strategies that we should move on immediately. The United States uses about twice as much energy per unit of gross national product as does Japan. Clearly, there is a great deal of room for this Nation to improve the way we use our energy.

My point is simple. The overwhelming scientific evidence suggests that global warming is a serious concern. We know that the impacts could be devastating to this and the other nations of the world. And we should be doing everything that we can to develop strategies that will slow down the global warming trend and that make good sense for our Nation anyway.

I can only hope that the Assistant Secretary for Environment, Safety and Health was misquoted or that his statements were taken out of context, because they fly in the face of reams of scientific evidence. I, also, think it is time to ask the Federal agencies how they are coordinating their activities related to this issue. How is DOE and EPA using the data being generated by NASA, the National Oceanic and Atmospheric Administration and the National Center for Atmospheric Research to develop strategies to address this problem? I think that is a legitimate question at this point. And I am pleased to inform my colleagues that the Senate Energy and Natural Resources Committee will hold hearings on this very topic next week.

Mr. President, I ask unanimous consent that the article I referred to in my statement and several articles that discuss the scientific theory about global warming be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Energy Daily, Aug. 2, 1988]

GREENHOUSE EFFECT A FALSE ALARM?

Concern about global heating and the greenhouse effect may represent the over-publicizing of an unproven phenomenon, according to a Department of Energy official. "Sometimes you feel there is more conversation than knowledge [about the greenhouse effect]," Ernest Baynard, DOE's assistant secretary for environment, safety and health, told a recent meeting of the National Coal Association's government relations committee. "I think it's folly to try to come up with a solution to the problem before we know what the problem is."

According to NCA staff at the meeting, Baynard questioned the existence of global warming—saying that the earth throughout its history has cyclically warmed and cooled. In the period of 1940 to the early 1960s, Baynard said, the earth witnessed a cooling period although consumption of fossil fuel expanded. At the time, the consensus among scientists was that the earth was heading for a new ice age, the DOE official said—thus his skepticism concerning the greenhouse effect.

[From the New York Times, July 23, 1988]

DEADLY COMBINATION FELLING TREES IN EAST

By Philip Shabecoff

MOUNT MITCHELL, N.C., July 19.—Thousands of dead trees, their barren trunks and branches stark against a hazy sky, stand like an army of skeletons as far as the eye can see along the crest of this mountain.

Five years ago a red spruce forest covered the top of Mount Mitchell, the highest mountain east of the Mississippi. Today, only raspberry and blackberry bushes, clumps of sedge and a few young trees, brown and dying, cover the ground near the summit.

This stark evidence is forcing many scientists to accept a conclusion that seemed only a possibility five years ago: air pollution, including acids in the air, is combining with natural stresses to cause heavy damage to forests throughout the East.

"What you see here is happening all along the crest of the Appalachians from Maine to Georgia," said Prof. Robert I. Bruck of North Carolina State University, a plant pathologist.

Dr. Bruck observed early symptoms of the decline of Mount Mitchell's spruce and fir five years ago. Now the ecological system at the summit has collapsed, he said.

CANARY IN THE COAL MINE

Dr. Bruck said he was "90 percent certain" that manmade air pollution traveling from the Ohio and Tennessee valleys, particularly low-level ozone and acidic moisture in clouds, was combining with such natural stresses as the high temperatures and drought of recent years to create an environment in which the trees cannot survive.

So far, the effects are chiefly visible at high altitudes, where natural stresses are greatest and acidic clouds are nearest. But a number of scientists who believe that high levels of air pollution are instrumental in destroying coniferous forests at high altitudes in the East also expressed another fear in interviews over the past few days.

They warned that the death of the mountaintop spruce and fir forests might be what several of them called "the canary in the coal mine"—an early warning that forests of low altitudes, including hardwood forests, are also in danger of being damaged by a combination of man-made and natural stresses.

Dr. Bruck said the damage he is seeing on 6,684-foot Mount Mitchell seems similar to the early stages of the mass destruction of forests in recent years in central Europe. Dr. Bruck and the other scientists interviewed said that the role of air pollution in killing the trees was still a hypothesis rather than a scientific fact. But virtually all contended that prudence dictated action.

Of most serious concern, the scientists said, are ozone and acidity in clouds, rain, snow and dust. Ozone is formed at ground level by the reaction of sunlight with man-made pollutants from automobile exhaust, industry and a variety of small sources.

While ozone in the upper atmosphere shields the earth from damaging ultraviolet radiation from the sun, ground level ozone contributes to smog, respiratiory damage to people and damage to trees and crops. Acid rain, clouds, snow and dust are formed when pollutants, chiefly oxides of nitrogen and sulfur from coal-fired power plants, are transformed chemically as they travel through the atmosphere. Acid rain has been found by scientists to be destroying life in lakes and streams in the Northeast and Canada.

But while the ill effects of these pollutants have been documented, scientists say it is difficult to separate their influence from climate or other possible factors. The problem is complicated by the fact that scientists only began intensive studies of forests a decade ago.

WE SHOULD NOT WAIT

Volker H. Mohnen, a professor of atmospheric science at the State University of New York at Albany, who has watched half the spruce trees atop Whiteface Mountain in upstate New York die in recent years, said that while it has not been conclusively proved that air pollution added to natural stress is killing the trees, "I would advocate housekeeping before all the answers are in."

"We should not wait," he said. "We must address the problem holistically."

He said that a variety of pollutants released by the combustion of fossil fuel, including sulfur, nitrogen and carbon, might not only be damaging forests but also might be contributing to other crucial problems like urban smog, acidic lakes and global warming, the greenhouse effect.

There are, Dr. Mohnen said, "economic and technological solutions to improve our fossil fuel-based society by increasing efficiency and, at the same time, decrease emissions of sulfur nitrogen and carbon."

There is also growing evidence that air pollution may be damaging or slowing the growth of trees in other parts of the country, according to David L. Radloff, a United States Forest Service representative on the Administration's program to study acid rain. He said evidence in recent years supported the hypothesis that high ozone concentrations were contributing to the declining growth rate of southern yellow pine trees, one of the nation's more important commercial species. There are also indications that ozone and other airborne pollutants are damaging trees along virtually the whole length of the Sierras in California, he said.

OPINION HAS EVOLVED

Forest Service officials had been extremely skeptical until recently that air pollution might play a significant role in slowing the growth of trees and damaging forests. Dr. Radloff said that the evidence linking the declining health of forests and the high levels of pollution reaching those forests was still "circumstantial."

But the discovery in the past couple of years that ozone pollution was reaching very high levels in rural as well as urban areas and the discovery that clouds could be significantly more acidic than acid rain has caused opinion in the Forest Service to "evolve," Dr. Radloff said.

The World Research Institute, a Washington-based research and policy group, has had a team of scientists investigating the potential effect of multiple air pollutants on trees and field crops. Mohamed El-Ashry, the group's vice president for research and policy, said that the research over the last two years had demonstrated "systematic links" between air pollution and the destruction of trees and crops in all parts of the country.

Dr. El-Ashry also said the deaths of trees reflected the end of a long process reflecting the accumulated stress of air pollution stretching back for decades. "By the time we see visible damage it is the beginning of the end," he said.

Acid air pollution and ozone, Dr. El-Ashry said, had been found to weaken trees to the point where "they cannot avoid destruction by natural causes such as frost, high winds, insects and disease."

He also said the group's researchers had been finding that the forests dying along the Eastern Seaboard cannot regenerate because of high levels of lead and other heavy metals in the soil.

SCIENTIFIC DISAGREEMENT

Not all those with an immediate interest in the nation's forests agree that air pollution is a threat to the nation's forests. Rober C. Kaufman, director of the air quality program of the American Paper Institute and National Forest Products Association, industry groups, said that "there is no evidence that acid deposition is affecting the soil of commercial forests."

He asserted, "We do not see conclusive evidence air pollution in general is causing reduced productivity in commercial forests."

Mr. Kaufman added that the industry saw no need for a regulatory program to curb acid rain, but that it did support more research into the effects of acid rain.

Walter L. Warnick, who represents the Energy Department on the Administration's acid rain study program, said that the death of trees on a large scale "is not unprecedented in history." He also said that the scientific consensus that pollution from fossil fuels is damaging trees is "shaky."

Several scientists have contended that the trees are dying because of climatic factors, particularly the hot summers and cold winters of recent years.

But Dr. Michael Oppenheimer, an atmospheric physicist with the Environmental Defense Fund, a national environmental group, said that mounting evidence shows this: "Forests all along the Eastern seaboard and into Canada are experiencing stress at high and low altitudes. The stress comes from air pollution and from climate extremes we have seen in recent years from the greenhouse effect. What is going on is an indicator that the natural environment is in very, very deep trouble due to air pollution.

"Those mountain tops sit in a chemical soup made of ozone, acid fog and acid deposition, which puts them under continual stress. It is starting to look as if those stressed systems are snapping like rubber bands."

The soup has been especially potent on the top of Mount Mitchell in this hot, dry summer. It is widely agreed, Dr. Bruck said, that ozone levels of 55 parts per billion in the air are enough to cause physiological damage to spruce and fir trees. Measurements taken by his research team, he reported, have shown that since May 1, ozone levels have been above that level 90 percent of the time; more than 120 parts per billion 28 percent of the time, and once reached a high of 178 parts per billion. Moreover, the ozone has remained over the mountain through the night instead of dissipating as it normally does in lower lattitudes, he said.

Dr. Bruck has also noted a rapid deterioration of the forest down the slope, all the way to the transition line between the coniferous and hardwood trees. Dr. Bruck said he had observed some damage to the hardwood trees but that there had not been any studies of the extent or the cause of the damage to these trees.

Standing at the edge of a bowl of dead and dying trees several thousand feet below the summit of Mount Mitchell, Dr. Bruck said, "This is not supposed to be happening."

[From the Washington Post, July 31, 1988]

THE GREENHOUSE DOOMSDAY SCENARIO

(By Jeremy Rifkin)

The year is 2035. In New York, palm trees line the Hudson River from 125th Street to the Midtown exit.

Phoenix is in its third week of temperatures over 130 degrees, and the project to cover the city with air-conditioned domes is still unfinished.

Holland is under water. Bangladesh has ceased to exist. Torrential rains and rising seas there have killed several million people and forced the remaining population into makeshift refugee camps on higher ground in Pakistan and India.

In central Europe and the American Midwest, decades of drought have turned once fertile agricultural lands into parched deserts. Tens of millions of people continue to trek northward—the greatest mass migration in recorded history. Canada's population swells from 20 million to 200 million in less than four decades. Forest fires rage out of control over millions of acres in the Pacific Northwest, while the Mississippi River, closed to commercial traffic earlier in the century, becomes a vast earthen plain, allowing people to cross over by foot for the first time in human memory.

FIRE AND ICE

Welcome to the Greenhouse World of the 21st century. It is not science fiction; it is based on current projections by climatologists and environmental scientists. Many now believe that civilization may have doomed itself to a warning trend that could fundamentally affect the life process from microbes to man: In scarcely more than 100 years, we have polluted the atmosphere with gases that prevent the Earth from reflecting solar heat back into space and trap it in the lower air. [See illustration, box.]

Some researchers predict that if the current industrial growth and fossil-Fuel use continue unabated, it could subject the globe to a temperature increase of between 4 and 15 degrees Fahrenheit in half a century. By comparison, a rise of 9 degrees would exceed any temperature change on the planet during the last several million years, according to Irving Mintzer of the World Resources Institute.

Worse yet, global warming could lead to thermal expansion of seawater and the melting of land ice in the polar regions. Climatologists now predict a rise of up to 1.5 meters (about five feet) in sea level by the year 2050. That could devastate coastal areas where half of the world's population resides, resulting in massive loss of property.

According to the Bellagio Report (a study arising from an international workshop convened in Italy last fall under the auspices of the World Meteorological Organization, the United Nations Environmental Program and the International Council of Scientific Unions), the cost of protecting America's east-coast shore areas alone will be between $10 billion and $100 billion. The Public Works Department of the Netherlands estimates that a one-meter rise in sea level will necessitate the expenditure of several billion dollars in repair and maintenance to secure its fragile coastal infrastructure.

Worldwide, the encroaching oceans will devastate major port facilities and wreak havoc on drainage systems, locks and canals. Many nations are already concerned over the possibility of salt-water intrusion into fresh-water rivers and aquifers, contaminating drinking water for millions.

Global warming will also fundamentally alter precipitation patterns in every region of the globe, though its ultimate effect on climate patterns is uncertain. In some regions, lakes, rivers and aquifers that have nurtured entire ecosystems for millions of years will shrink or dry up altogether as water evaporates from the ground. It is estimated that the flow of the Upper Colorado River Basin will drop by as much as two-fifths. And some climatologists predict a 40-percent decline in rainfall in the agricultural belts of the United States. Meanwhile, the increase in global humidity will mean heavier rains in other areas, where new lakes and streams will appear for the first time in human history, radically changing the topography and environment.

FACING THE FUTURE

Retooling the nation's dams and irrigation systems will cost between $7 billion and $23 billion. According to a report presented at the International Conference on Food and Water in 1985, total world irrigation needs may require a $200-billion outlay. As water becomes scarce in many regions of the U.S. and the world, it will force the wholesale migration of entire communities and populations. Hundreds of ghost towns are likely to dot the Midwest farm belt.

The Great Lakes will be free of ice for 11 months of the year. But declining rainfall and evaporation will mean lower water levels—which in turn will entail an estimated increase of 30 percent or more in shipping costs for coal, limestone and grain if deep freighters are no longer able to navigate the lock systems.

On the other hand, new sea lanes will open if rising global temperatures melt much of the Arctic polar ice. "The fabled Northwest Passage would be open," says Walter Roberts of the National Center for Atmospheric Research. "You could sail from Tokyo to Europe in half the time."

The global warming is also likely to wreak havoc on the delicate chemical balances that regulate the growth and maturation of plants and animals. It threatens mass extinction of tree species and the loss of millions of acres of forest, especially in the middle latitudes of the planet. The authors of the Bellagio Report predict "large-scale forest dieback" before 2100.

The fact of the matter is that forests will not be able to migrate as fast as the climate changes accelerate. Writing in Science, Richard A. Kerr points out that "each one-degree centigrade of warming pushes climatic zones 100 to 150 kilometers northward." Within 60 years, the present climate structure of Yellowstone National Park, for example, will have shifted well into Canada. Trees are not capable of migrating at such speeds.

In every region of the globe, entire ecosystems will be trapped by these rapid shifts in climate, left behind to wither and die.

Yet virtually every nation in the world is currently making future development decisions based on the assumption that the climate environment its ancestors have lived within for thousands of years will continue to exist 50 years from now.

At the conclusion of the World Climate Program in 1985, scientists from 25 industrialized and developing nations warned that "many important economic and social decisions are being made today on long-term projects . . . such as irrigation and hydropower; drought relief; agricultural land use; structural designs and coastal engineering projects; and energy planning—all based on the assumption that past climatic data . . . are a reliable guide to the future. This is no longer a good assumption."

For example, British Petroleum has invested $11 billion in Alaska. The roads, housing and drilling equipment along the Trans-Alaska Pipeline is built on permafrost. Now a BP research consultant has warned that climate conditions in the area may change drastically within 30 years, potentially affecting the company's investment.

Multinationals and nation states around the world may have to retool trillions of dollars' worth of infrastructure to adapt to the rapidly changing climatic conditions. Bridges, dams, roads, sewer systems, canals, machinery of all kinds, and buildings are all designed for temperature ranges and stress tolerance that will no longer be applicable in 50 to 100 years. Jesse Ausubel of the National Academy of Engineers, expresses the feeling of deep anxiety emerging within the development community when he asks, "What do you do when the past is no longer a guide to the future?"

MAKING HARD CHOICES

Although the greenhouse global warming trend cannot be effectively reversed in the short run, it can be slowed down enough to allow us several more decades of lead time to adjust to the epochal change in the climate of the planet.

There is no quick technological fix for the greenhouse phenomenon. The only solution is to eliminate the sources of the problem. At both the Ballagio Conference and the Changing Atmosphere Conference held just last month in Toronto, scientists from around the world agreed that the first order of business is a radical reduction in the burning of fossil fuels—coal, oil and, to a lesser extent, natural gas—that produce carbon-dioxide emissions.

The goal is a 50-percent or greater reduction in fossil-fuel use by the year 2015. To reach that goal, governments must begin immediately to devise programs to increase end-use efficiency and replace fossil fuels with alternative energy sources, including solar radiation, hydro-power, geothermal and wind power. That initiative should begin with the United States and the Soviet Union, which together account for nearly 41 percent of the fossil fuel burning CO2 emissions on the entire planet. In addition, the Montreal Protocol on CFC emissions signed by 34 nations in 1987 must be implemented and chlorofluorocarbons eliminated as swiftly as possible. Elimination of CFCs could result in a 15- to 25-percent decrease in the global warming trend.

Slashing fosssil fuel use by half in less than three decades will require an enormous shift in economic, military and political priorities—a shift so extraordinary in scope that it would require a worldwide mobilization effort on a scale never before experienced. The task becomes even more difficult in light of the fact that many economists are currently forecasting a doubling of carbon-dioxide emissions in coming decades to keep pace with economic development projections.

Unfortunately, during the past eight years the Department of Energy has systematically eliminated 75 percent of the research-and development programs in renewable-energy technologies—at the very time that such efforts have become vital in addressing what is fast becoming the greatest environmental crisis in world history.

In addition, improvements in energy efficiency can be extremely valuable. For example, consider the simple replacement of a 75-watt incandescent bulb by a single 18-watt fluorescent bulb. According to Bill Keepin and Gregory Kats of the Rocky Mountain Institute, the fluorescent bulb produces just as much light over its lifetime but "prevents the burning of 400 pounds of coal, prevents the release of 12 pounds of sulphur dioxide into the atmosphere (which produces acid rain) and it saves the American economy $15." Similarly, by setting federal standards on automobile fuel efficiency at 40 miles per gallon, it would be possible to greatly reduce emissions without suffering adverse economic effects. Yet the Department of Transportation recently cut back the vehicle fuel standards from 27.5 mpg to 26. The 1.5-mpg rollback, according to Amory Lovins, research director of the Rocky Mountain Institute, wasted more oil than there is in the areas currently off-limits in Alaska and off the coast of California.

A study commissioned by the Department of Energy eight years ago concluded that the implementation of efficiency programs could reduce the energy used to heat and cool buildings by 50 percent and reduce energy requirements for industrial processes by 25 percent while doubling vehicle fuel efficiency. And as an article in Scientific American recently noted, technology is now available to construct energy-efficient buildings that would save enough in 50 years to avoid building "85 power plants and the equivalent of two Alaskan pipelines." While a nationwide energy efficiency program would cost approximately $50 billion, it could save $110 billion dollars per year in energy expenses—a net reduction of $60 billion each year. Yet as Rep. Claudine Schneider (R-R.I.) pointed out at recent hearings on the greenhouse effect, "less than 2 percent of the upwards of $50 billion per year in federal energy subsidies goes to promote greater reliance on energy efficiency."

Nitrous oxide emission from chemical fertilizers used in green-revolution agriculture around the world is another major cause of greenhouse warming. New research programs to promote regenerative, sustainable agricultural alternatives to chemical fertilizers need to be funded. Ironically, the Department of Agriculture eliminated a small pilot program nearly eight years ago and only reluctantly initiated a new program after Congress passed legislation mandating the agency to do so.

The only effective means of absorbing carbon-dioxide is through reforestation. At the present time, however, the worldwide rate of deforestation is 10 times the rate of reforestation. According to the World Resources Institute, the deforestation rate is approximately 27 million acres a year. Much of it is taking place in Brazil, Indonesia and Zaire, which contain nearly half of the forests in the tropics, International agreements need to be negotiated that would provide subsidies or direct payments to poor countries to encourage reforestation.

The developed nations also need to pursue a vigorous reforestation program within their own borders to help push back the global warming trend.

But perhaps no need is so urgent as public awareness. In the concluding statement issued at the Changing Atmosphere Conference held in Toronto last month, government leaders and scientists from 48 countries warned the world of the dangers that lie just ahead with the continued global warming brought on by the greenhouse effect: "Humanity is conducting an uncontrolled, globally pervasive experiment whose ultimate consequences could be second only to a global nuclear war."

Yet three months ago, in a Roper poll which asked subjects to rank major environmental problems in order of importance, the greenhouse effect placed 12th out of 14 concerns, barely edging out x-rays and microwave ovens.

THE FATAL ELEMENTS

(By Jeremy Rifkin)

The "Greenhouse" phenomenon—whereby certain gases in the atmosphere prevent the Earth from shedding its heat—has always been an essential feature of the atmosphere, providing warmth conducive to the emergence of life. It varied little until the Industrial Revolution, when massive consumption of fossil fuels began raising carbon dioxide levels dramatically—from about 275 parts per million before 1850 to 345 in 1985 to a projected 400-600 ppm by the mid-21st century.

Other problem gases are methane (from livestock and food processing), nitrous oxide (auto exhaust) and chlorofluorocarbons (coolants and plastics). One molecule of a CFC has 10,000 times the greenhouse effect of a molecule of carbon dioxide. Together they produce the feedback syndrome seen above.

[From the Washington Post, June 24, 1988]

SCIENTIST SAYS GREENHOUSE EFFECT IS SETTING IN

(By Michael Weisskopf)

Man-made gases that trap solar heat, resulting in the so-called "greenhouse effect," have left the Earth warmer today than ever before and increases the likelihood of the type of drought now parching U.S. farmland, a NASA scientist told a congressional hearing yesterday.

James E. Hansen, chief of NASA's Goddard Institute for Space Studies, said it is impossible to blame a specific heat wave or drought on the "greenhouse effect." But he said the record-breaking, global warming of the 1980s, hitting hardest in the American Southeast and Midwest, is the first firm evidence that gases emitted by automobiles and coal-burning factories have accumulated in the atmosphere, shrouding the Earth and trapping its heat like a greenhouse.

"The greenhouse effect has been detected and it is changing our climate now," Hansen testified at a hearing of the Senate Committee on Energy and Natural Resources. "We already reached the point where the greenhouse effect is important."

Although scientists have previously theorized about the greenhouse effect and issued vague projections of rising temperatures sometime in the next century, Hansen is the first to concretely link warming and greenhouse gases and to authoritatively proclaim the phenomenon's arrival.

He warned, moreover, of an "increasing tendency" for droughts and heat waves, especially in the Southeast and Midwest, during the balance of this decade and the 1990s.

None of the scientists joining Hansen at the hearing went as far in suggesting a link between current weather patterns and greenhouse gases. But Michael Oppenheimer of the Environmental Defense Fund appeared to express the consensus that the drought "is a warning. Whether or not it's related to global changes, it provides a small taste of the dislocations society will face with increasing frequency if we fail to act."

Syukuro Manabe, a scientist with the National Oceanic and Atmospheric Administration, lent theoretical support to Hansen's position. He said computer models show that with a doubling of carbon dioxide—the most common greenhouse gas—soil becomes drier over "very extensive," mid-continental regions of North America, including the American Great Plains, Southern Europe and Siberia.

Higher temperatures caused by carbon dioxide melt winter snows earlier than normal, increasing the land's absorption of solar energy that evaporates soil moisture, he explained. Moreover, the warmer, moisture-rich air moves north, reducing rainfall.

Manabe said the greenhouse effect probably aggravated the current drought but has not warmed the Earth enough to account solely for the dry conditions.

According to Hansen, a climate specialist at NASA, global temperature in the first five months of 1988 is "substantially warmer" than any previous period since measurements were first taken 100 years ago. This year is expected to be the warmest on record barring a "remarkable, improbable cooling" in later months, he said.

The Earth has warmed at a record pace in the past two decades, Hansen said, noting that the four warmest years of the last 100 years have been in the 1980s. The warning has been matched by increasing emissions of carbon dioxide, mostly from power plants.

Compared to the 30-year mean temperature, the recent warning pattern is three times larger than the standard deviation, giving NASA "99 percent confidence" that current temperatures represent a "real warming trend" rather than chance fluctuation, according to Hansen.

Although global climate models are not sufficiently reliable to predict the effects of greenhouse warming on regional climates, he said, studies projected into the late 1980s and 1990s indicate greater than average warming in the Southeast and Midwest, where high temperatures will be accompanied by less rainfall.

"It is not possible to blame a specific heat wave/drought on the greenhouse effect," he said. "However, there is evidence that the greenhouse effect increases the likelihood of such events."

Projections by as authoritative a figure as Hansen are expected to stimulate debate on the impact of greenhouse gases and fuel efforts in Congress to impose controls on sources of carbon dioxide, nitrous oxides, chlorofluorocarbons (CFCs), methane and other gases that do not easily break down in the atmosphere.

"We have only one planet," said Sen. J. Bennett Johnston (D-La.), committee chairman. "If we screw it up, we have no place to go. The greenhouse effect has ripened beyond theory."

Sen. Dale L. Bumpers (D-Ark.) said Hansen's report "ought to be cause for headlines in every newspaper of the country. What you have is all the economic interests pitted against our very survival."

Oppenheimer listed a number of measures designed to reverse the global warming trends, including a halt to deforestation because trees absorb carbon dioxide. He also recommended energy conservation, strengthening international controls on CFCs, development of alternative fuels and tapping solid waste landfills for methane.

Much of the opposition to such measures is expected to come from coal-producing states. Sen. Wendell L. Ford (D-Ky.) pointedly asked witnesses whether they were ready to endorse nuclear power as an alternative to coal-fired utilities.

[From the New York Times, June 24, 1988]

SHARP CUT IN BURNING OF FOSSIL FUELS IS URGED TO BATTLE SHIFT IN CLIMATE

(By Philip Shabecoff)

WASHINGTON, June 23.—The earth has been warmer in the first five months of this year than in any comparable period since measurements began 130 years ago, and the higher temperatures can now be attributed to a long-expected global warming trend linked to pollution, a space agency scientist reported today.

Until now, scientists have been cautious about attributing rising global temperatures of recent years to the predicted global warming caused by pollutants in the atmosphere, known as the "greenhouse effect." But today Dr. James E. Hansen of the National Aeronautics and Space Administration told a Congressional committee that it was 99 percent certain that the warming trend was not a natural variation but was caused by a buildup of carbon dioxide and other artificial gases in the atmosphere.

AN IMPACT LASTING CENTURIES

Dr. Hansen, a leading expert on climate change, said in an interview that there was no "magic number" that showed when the greenhouse effect was actually starting to cause changes in climate and weather. But he added, "It is time to stop waffling so much and say that the evidence is pretty strong that the greenhouse effect is here."

If Dr. Hansen and other scientists are correct, then humans, by burning of fossil fuels and other activities, have altered the global climate in a manner that will affect life on earth for centuries to come.

Dr. Hansen, director of NASA's Institute for Space Studies in Manhattan, testifed before the Senate Energy and Natural Resources Committee.

SOME DISPUTE LINK

He and other scientists testifying before the Senate panel today said that projections of the climate change that is now apparently occurring mean that the Southeastern and Midwestern sections of the United States will be subject to frequent episodes of very high temperatures and drought in the next decade and beyond. But they cautioned that it was not possible to attribute a specific heat wave to the greenhouse effect, given the still limited state of knowledge on the subject.

Some scientists still argue that warmer temperatures in recent years may be a result of natural fluctuations rather than human-induced changes.

Several Senators on the Committee joined witnesses in calling for action now on a broad national and international program to slow the pace of global warming.

Senator Timothy E. Wirth, the Colorado Democrat who presided at the hearing today, said: "As I read it, the scientific evidence is compelling: the global climate is changing as the earth's atmosphere gets warmer. Now, the Congress must begin to consider how we are going to slow or halt that warming trend and how we are going to cope with changes that may already be inevitable."

TRAPPING OF SOLAR RADIATION

Mathematical models have predicted for some years now that a buildup of carbon dioxide from the burning of fossil fuels such as coal and oil and other gases emitted by human activities into the atmosphere would cause the earth's surface to warm by trapping infrared radiation from the sun, turning the entire earth into a kind of greenhouse.

If the current pace of the buildup of these gases continues, the effect is likely to be a warming of 3 to 9 degrees Fahrenheit from the year 2025 to 2050, according to these projections. This rise in temperature is not expected to be uniform around the globe but to be greater in the higher latitudes, reaching as much as 20 degrees, and lower at the Equator.

The rise in global temperatures is predicted to cause a thermal expansion of the oceans and to melt glaciers and polar ice, thus causing sea levels to rise by one to four feet by the middle of the next century. Scientists have already detected a slight rise in sea levels. At the same time, heat would cause inland waters to evaporate more rapidly, thus lowering the level of bodies of water such as the Great Lakes.

Dr. Hansen, who records temperatures from readings at monitoring stations around the world, had previously reported that four of the hottest years on record occurred in the 1980's. Compared with a 30-year base period from 1950 to 1980, when the global temperature averaged 59 degress Fahrenheit, the temperature was one-third of a degree higher last year. In the entire century before 1880, global temperature had risen by half a degree, rising in the late 1880's and early 20th century, then roughly stabilizing for unknown reasons for several decades in the middle of the century.

WARMEST YEAR EXPECTED

In the first five months of this year, the temperature averaged about four-tenths of a degree above the base period, Dr. Hansen reported today. "The first five months of 1988 are so warm globally that we conclude that 1988 will be the warmest year on record unless there is a remarkable improbable cooling in the remainder of the year," he told the Senate committee.

He also said that current climate patterns were consistent with the projections of the greenhouse effect in several respects in addition to the rise in temperature. For example, he said, the rise in temperature is greater in high latitudes than in low, is greater over continents than oceans, and there is cooling in the upper atmosphere as the lower atmosphere warms up.

"Global warming has reached a level such that we can ascribe with a high degree of confidence a cause and effect relationship between the greenhouse effect and observed warming," Dr. Hansen said at the hearing today, adding, "It is already happening now."

Dr. Syukuro Manabe of the Geophysical Fluid Dynamics Laboratory of the National Oceanic and Atmospheric Administration testified today that a number of factors, including an earlier snowmelt each year because of higher temperatures and a rain belt that moves farther north in the summer means that "it is likely that severe mid-continental summer dryness will occur more frequently with increasing atmospheric temperature."

While natural climate variability is the most likely chief cause of the current drought, Dr. Manabe said, the global warming trend is probably "aggravating the current dry condition." He added that the current drought was a foretaste of what the country would be facing in the years ahead.

Dr. George Woodwell, director of the Woods Hole Research Center in Woods Hole, Mass., said that while a slow warming trend would give human society time to respond, the rate of warming is uncertain.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, there are various discussions going on off the floor with respect to Contra aid and other matters that affect the DOD appropriations bill. I think those discussions might progress just as well if the Senate were not in session.

So I ask unanimous consent that the Senate stand in recess until 3:45 p.m. today.

There being no objection, the Senate recessed at 3:08 p.m. until 3:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for an additional 30 minutes.

There being no objection, at 3:45 p.m., the Senate recessed until 4:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. LAUTENBERG].

The PRESIDING OFFICER. In his capacity as a Senator from New Jersey, the Chair suggests the absence of a quorum, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I may be allowed to proceed as if in morning business for a period not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR ROBERT C. BYRD

Mr. EXON. Mr. President, the Senate is about to close a historic chapter in its long history. Our leader, ROBERT C. BYRD of West Virginia, will step down at the end of the session.

The good news is that ROBERT BYRD, God willing and the voters of West Virginia complying, will remain with our Senate family for a long time to come. Indeed, he will be chairman of the Appropriations Committee and will succeed another outstanding Senator, JOHN STENNIS.

However, despite his continued presence in this body, life around the U.S. Senate next year will be very different without ROBERT BYRD's firm hand on the tiller.

The Senate is a one-of-a-kind institution. We have extremely liberal rules of operation here. One Senator, under the rules, can bring the Senate to a grinding halt. We are a body of 100 individuals, representing 50 different constituents and, perhaps, 100 different agendas. We each believe we are right even though we respect each other's views. If you combine 100 individuals with a set of rules allowing unique protections for each individual, it is easy to see how constant chaos could result.

That has not been the case, Mr. President. I am completing my 10th year as a Senator here and I speak today to thank the majority leader for all of his work, all of his efforts, and all of his consideration. ROBERT BYRD has been my leader here during that entire time, both in the majority and in the minority.

Leadership means being the person to whom everyone appeals. Leadership means being the person who must bring all sides together to get anything done. Leadership means being the person who must be tough and unyielding when principle or the national interest is involved. It also means accommodating diverse viewpoints and compromising when appropriate.

ROBERT BYRD has been our leader and has exhibited each of those outstanding qualities of leadership. At times, we may have taken him for granted because he has been so good and so understanding of our needs. Another great Senate majority leader, Howard Baker, once said that making the Senate move was sometimes like pushing a piece of Jello around. That is very true. Yet ROBERT BYRD makes the Senate move with competence, compassion and the right amount of firmness.

Our leader is a real man of the people. He came from humble beginnings and has never forgotten his roots. He is more comfortable in the lunch room than in the board room. His interests are America's interests. However, always, his dear West Virginia is in the forefront of his vision. That State is lucky to have had a West Virginia Senator and a U.S. Senator.

So, Mr. President, as ROBERT BYRD'S tenure as majority leader ends, I want to add my personal thanks and tribute to him. He is a unique individual who is steeped in history, yet who can apply history to today and tomorrow. When people today, and historians of the future, speak and write about great U.S. Senators such as Henry Clay, Daniel Webster, John C. Calhoun, and JOHN C. STENNIS, the name of ROBERT C. BYRD shall join their ranks.

On a personal note, I want to say that although I am looking forward to serving with ROBERT BYRD after next January, I will, indeed, miss his leadership, his counsel, his understanding, and his friendship that he has shared with me as one Member of this body.

I know that he has treated all of my 99 colleagues with the same love, the same respect, and the same understanding.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, at 4:53 p.m., the Senate recessed until 5:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROCKEFELLER).

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 6 o'clock p.m. today.

There being no objection, the Senate recessed, at 5:28 p.m., until 6 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HARKIN).

Mr. BYRD. Mr. President, for the understanding of those in the media and the viewing audience and for Senators as well, various conferences are going on in the hopes that by virtue of these discussions we may be able to, in the final analysis, expedite the action on the DOD appropriations bill.

I urge that Senators not leave the Hill. There may be, indeed, rollcall votes later today, and I hope there will be. I hope that following the next conference, which is about to begin, that we will be able to go to the DOD appropriations bill, or do something.

So I emphasize again that Senators are not to leave. Simply because it is a little after 6 o'clock is no indication that we are likely not to have votes.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a recess for an additional 30 minutes.

There being no objection, at 6:02 p.m., the Senate recessed until 6:32 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SHELBY].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Alabama, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD. Mr. President, the conferences have been going on. As I have indicated earlier, there is a conference on Contra aid and there is a conference on the DOD appropriations bill.

I think the best procedure is to proceed to take up the DOD appropriations bill.

There are Senators who do not want Contra aid on the urgent supplemental and that is a matter that is still under discussion. I do not think we can continue to delay action on the DOD appropriations bill.

So at the moment the distinguished Republican leader knows that I intend to move to proceed to DOD appropriations bill. Under the order previously entered there is 1 hour for debate on that motion.

I, therefore, Mr. President, move that the Senate proceed to the consideration of the bill H.R. 4781, the defense appropriations bill.

The PRESIDING OFFICER. Under the previous order the debate is limited to 1 hour.

Who yields time?

Mr. BYRD. Mr. President, so that Senators will know that there will be a rollcall vote on that motion, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I believe half that time is under my control. I yield that time under my control to Mr. JOHNSTON.

Mr. WARNER. Mr. President, reserving the right to object—and I hope I will not have to object—can we have a clarification of what the parliamentary situation is at the moment?

Mr. BYRD. Yes. The motion to proceed to the defense appropriations bill has been made, and under the order previously entered, there is 1 hour for debate, half of which time is under my control and half of which time is under the control of the Republican leader. I was in the process of yielding my time to Mr. JOHNSTON. The yeas and nays have been ordered on the motion to proceed.

Mr. WARNER. Mr. President, is it my understanding that no vote would occur until such time as either the leaders wish to yield back their time through their designees or after the 1 hour?

Mr. BYRD. That is correct.

Mr. WARNER. So the Members on this side will have a clear understanding.

Mr. BYRD. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this is the 1989 Defense appropriations bill.

We hope to get this bill through in reasonably expeditious order. A defense appropriations bill in some form must pass this Congress, whether it is in the form of a defense appropriations bill or whether it is in the form of a continuing resolution. We must provide for the national security of the United States. We must appropriate money.

Therefore, I would hope that all Senators would approach this bill with a view to getting it passed and to letting the Senate work its will.

Mr. President, it may well be that there will be a political confrontation by this administration with the Congress on the issue of national defense. That will perhaps occur, and the veto of yesterday would seem to indicate that that may well occur.

I urge my colleagues to recognize that we must pass the Defense appropriations bill and then go to conference, that there will be a very lengthy conference, a very difficult conference, and it is at that point that the negotiation, if any, with the White House will occur.

No meaningful negotiation, in my view, can take place at this stage of the proceedings which is the consideration of the Defense appropriations bill on the Senate floor.

So those who would wish to use this bill for extended debate or posturing on the pending fight between the White House and Congress I think are picking the wrong vehicle. All they are doing if that is done—and I am hoping in advance that it not be done—is delaying us well into October because the various steps must be taken, including a lengthy conference, including staff work after the conference is finished, and after that, then we must move to approval of the conference report. After that, if our proposal on the Contras is accepted, there will be another number of days for debate and consideration in the House and Senate for the Contra matter.

So, Mr. President, with that, let me make a few key points about this bill.

First, this bill conforms to the budget summit agreement and the Senate Appropriations Committee 302(b) allocation in both budget authority [BA] and in outlays. The budget summit agreement provides for $299.5 billion in BA and $294 billion in outlays. The Appropriations Subcommittee was allocated this target with its national defense responsibilities.

The Defense Appropriations Subcommittee allocation of the summit agreement is $282.6 billion in BA and is $278.4 billion in outlays.

This budget summit agreement is both a floor and a ceiling and can be interpreted to require that we hold to the exact targets in the summit agreement.

Next, dealing with the major titles of the bill, in military personnel, the committee recommends appropriations totaling $78.5 billion for military personnel, $63 million more than was requested. In operations and maintenance, the committee recommends $85.2 billion, slightly less than was requested, but $4.8 billion, or 6 percent more than was appropriated in 1988.

In procurement, the committee recommends an appropriation totaling $78.9 billion for procurement, about $1 billion less than was requested and 6 percent below what was provided in 1988.

Mr. President, what we have in this bill is more ships, more tanks, and more airplanes than the President requested. We feel very pleased that we were able to do that, principally by making savings in a number of areas.

In research and development, the committee recommends $37.6 billion for RDT&E, $550 million less than was requested.

On SDI, the authorized level of $3.7 billion—that was the authorization conference level—is a reduction of $800 million from the request.

We fully funded the classified amount for the advanced technology bomber and the advanced cruise missile. We provided $687 million for the Peacekeeper rail garrison intercontinental ballistic missile program and only $50 million for the small ICBM Program. We provided $682 million for the development of the advanced technology fighter, $936 million for the C-17 advanced transport aircraft, and $189 million for the national aerospace plane.

We provided increases in Army antiarmor efforts, including initiation of a major upgrade to the M-1 tank, expanded R&D for the hypervelocity missile antitank weapon, and improvement of existing TOW/Hellfire missiles.

Mr. President, we have some new initiatives of which the distinguished ranking minority member, Senator STEVENS, and I are very proud. Principal among these, Mr. President, is a burden-sharing amendment.

Mr. President, we have become aware in the Appropriations Committee of huge needs for revenue by this country, new initiatives which are being proposed for which no funding is available. Just yesterday, the Department of Energy made a recommendation for two new nuclear reactors at a cost, if I recall correctly, of some $6 to $7 billion. The thought is if you built the two they would probably cost twice that by the time they were built.

That comes on top of the space station for which we have money in this year in the conference on HUD and independent agencies. That amount of money provided this year is $900 million. The amount to be provided in the future is some $30 billion. There are new initiatives with the superconducting super collider, $6, $7, $8 billion. There are new initiatives for child health care. There are new initiatives for education. There are new initiatives for AIDS research. Across the board, Mr. President, there are huge needs in this budget and both parties are proposing huge needs, but no means of funding.

Vice President BUSH has said he is against any form of taxes—any form of taxes whatsoever. Presidential candidate Dukakis has been almost as strong, saying only as a last resort and has made it very clear that he is not for new taxes.

Well, just where, Mr. President, is the money going to come from? Where are you going to find these billions of dollars?

Well, Mr. President, one of the biggest targets in the whole budget is this Defense appropriations bill. It is almost $300 billion in scope. There are some Members in this body, Mr. President, who would fund all of these proposals from the Defense budget. They would do so by cutting missiles, tanks, guns and personnel.

But, Mr. President, there is another way it can be done, or at least the starting of that proposal can be done, without cutting defense at all. And that is by getting our allies more fairly to share the burdens of defense.

Mr. President, the unfairness, the lack of equity, in the share of burden of defense between us and our allies is stark. Just to give you the most outstanding figure, we find, Mr. President, that we spend some 6.8 percent of our gross domestic product [GDP] on our national defense. Our friends, the Japanese, spend only about 1 percent of their GDP on their national defense. And yet, Mr. President, we are protecting against the same enemy. Indeed, much of what we spend is on American ships, submarines, and aircraft carriers in the Sea of Japan and in and around Japan.

I want to make it clear, Mr. President, that this proposal on burden-sharing is not Japan bashing, it is not NATO bashing, it is not in any way meant to be a statement of a challenge or a slap in the face or a gauntlet thrown to our friends. Our relationship with the Japanese is one of the most successful bilateral relationships ever known in the history of the world. Our relationship with NATO and the NATO countries has been a tremendous success.

We do not intend by this burden-sharing initiative to do anything to interfere with the success of those relationships. But, Mr. President, we simply must change the share of the burden borne by the United States and borne by our allies.

The United States is now engaged in what Prof. Paul Kennedy of Yale has called imperial overstretch; that is, our country being involved in shouldering a higher defense cost, projecting our power all around the world, than we can afford. Certainly it is more than we can afford if we are also going to be able to afford those many things, a few of which I outlined a little bit earlier.

Mr. President, there are those who say that we should negotiate these matters first, that somehow it might offend the Japanese or our NATO allies if we put something in this bill without negotiating first. Well, Mr. President, I was here in 1973 when our late, great colleague Senator Scoop Jackson, perhaps the strongest man on defense in the Senate at that time, he and Senator NUNN teamed up with a proposal that said, in effect—which passed the Senate and we voted for it overwhelmingly—that said if NATO did not increase their contribution to defense then the United States would begin to withdraw its troops from Europe.

Well, Mr. President, do you know what has happened since 1973, through all these negotiations that we have tried? Well, since 1973, the U.S. military, Defense Department civilians, and Defense dependents for which we pay, have increased by 144,000, or a 27-percent increase. So much for negotiations, Mr. President. If we wait for the State Department or the Department of Defense or the White House to negotiate these matters in advance, we are going to end up with an increasingly expensive and inequitable defense burden. We are going to end up with no increase burden sharing by our allies.

Mr. President, what our proposal does is to recognize that what we have now is not fair and it is not what we can afford. With respect to our budget deficit, Mr. President—and first one of all, if my colleagues can see this chart—this is an indication of defense spending, the percent of gross domestic product which each country listed spends on their defense.

The United States spends 6.8 percent of its GDP on defense; South Korea, 5.5 percent; Great Britain, 5.1 percent; West Germany, 3.1 percent; and Japan, only 1 percent.

What that means, Mr. President, in expenditures per capita, is that the United States spends $1,164 per capita on defense; Great Britain, $481; West Germany, $454; and Japan, only $163 per capita.

Mr. President, I was recently in Japan. I talked to our great former colleague, the Ambassador to Japan, Mr. Mansfield. And he spoke about the progress which Japan is making and about the strength of our alliance. And I agreed with every word he said. And I had breakfast the other morning with the Secretary of Defense and he echoed the same statements and he said: "Do you know, Senator, that the Japanese now rank third in the world in defense spending? That they are spending about $40 billion?" I said, "Yes, sir."

He said, "Do you also know the Japanese are increasing every year their defense budget by over 5 percent?" And I said, Yes, sir."

And he said: "I think that is great progress and we are doing very well with the Japanese." Well, Mr. President, if you think that is progress, just look at those two figures: The United States spends $1,164 per capita, that is where your tax dollars are going; Japan spends only $163 per capita.

Mr. President, if the Japanese increase defense spending at the rate of 5.5 percent every year, if I am correct on my mathematics, they would end up doubling their defense budget in about a dozen years. In other words, at that rate they might be spending 2 percent of their GDP, or maybe $300-and-something per capita at that rate. Implicit in what our Secretary of Defense is saying, and I am a fan of our Secretary of Defense on most items, but implicit in what he is saying is that it is somehow fair for us to be paying, oh, what is that, seven or eight times as much per capita as the Japanese or over twice as much per capita as the West Germans or the people in the United Kingdom.

Mr. President, if you start with that premise, that somehow it is our responsibility to defend the world and not their responsibility to defend their territory, then of course, Mr. President, if you start with that premise then you end up where we are now. You end up, after telling NATO in 1973 that they had better put up a larger share or else we are going to pull our troops back, you end up with 144,000 more civilians and troops since 1973, a 27-percent increase since 1973.

Mr. President, Korea is a particularly stark example, it seems to me, on imperial overreach. We have 44,000 troops in Korea, in South Korea. South Korea is twice as large, in terms of population, as North Korea. They have a GDP seven times as large as North Korea. Their army is not quite as large, but their weapons are more modern. And yet we continue, over 35 years after the termination of that war in Korea, with troops in Korea. We do not readily know what the cost of that is. Mr. President do you know that the Armed Services cannot tell you what the cost of maintaining troops abroad is? We ask them every year and they say: It cannot be done. It cannot be predicted.

Can you imagine that? There must be something embarrassing about the huge cost of deployment of troops and of dependents abroad, otherwise they would have the green eyeshade people every year give us those figures and point to them with pride. But they cannot give it to us. And by the way, that is part of our initiative here on burden-sharing, is that it requires the Department of Defense to tell us what it costs and to break that cost down in unmistakable ways which we describe.

Mr. President, if these friends of ours, and they are all friends, Japan, West Germany, and Great Britain, and these other countries, if they could not afford to put up more, why of course we would undertake a Marshall plan, as we did; we would undertake to reconstruct the economy of Japan, as we did. But, Mr. President, that is no longer the case. We have already paid for the Marshall plan. We already reconstructed the economy of Japan.

Now what we have, Mr. President, is the exact opposite. Now we find that we have a trade deficit with Japan of $59.8 billion; we have got a trade deficit with NATO of $21.9 billion; and a trade deficit with South Korea of $9.9 billion.

Can you imagine that, Mr. President? Here we are, with almost a $60 billion trade deficit with Japan, and yet we are paying about eight times as much per capita as the Japanese to defend them. How did we ever get to that way of thinking? How did that ever come about?

Well, I am not sure, Mr. President. Under General MacArthur we adopted a constitution or provided leadership for a constitution for the Japanese, war weary that they were. All of their neighbors were afraid of the Japanese and the Japanese wanted to forever do away with war, military armaments. So they put that in the constitution.

The Japanese have long since proven themselves to be responsible members of the world community. I would sooner trust the Japanese with my security than most any country that I can think of in the world. Certainly there is no reason to say that the Japanese cannot put up more money.

But, in any event, Mr. President, whatever the reasons historically have been that we develop this imbalance so that we are putting up eight times as much per capita as the Japanese, there are a number of ways that they can help out with sharing the burden.

Our proposal, Mr. President, is to act decisively, not impetuously or not precipitously, but that the present assumption—that the alliance defense is our job with which the allies only help—if this bill is enacted, will be changed.

It will be our premise, it will be our purpose from this day forward when this bill is enacted, if it is, that defense of the NATO alliance, as well as our Pacific allies, is a mutual concern, and the burden should be fairly shared; and that nations with which we have a $60 billion trade deficit can afford to put up more than one-eight per capita of what the United States does.

Our plan is this, Mr. President: First, we require that the Secretaries of State and Defense review our strategic interests, our future troop requirements and how we may more equitably share this burden. They will tell you, of course, that they already have these negotiations ongoing. But, we mean to give this a very high priority and require that they come back with a report, and that the past assumptions, in effect, be replaced with new assumptions.

We provide explicitly, as I mentioned a moment ago, that the budget for overseas costs be determined and furnished to the Congress in detail, in ways that are understandable, and our language provides for that.

We provide that the President shall appoint a special representative or negotiator to undertake these negotiations. The Secretary of State does not have time to do it, nor does the Secretary of Defense, but it should be a high-level negotiator who can coordinate Korea and Japan and the Pacific rim and NATO and all these matters as a Presidential representative.

Next, Mr. President, we freeze U.S. defense costs and personnel overseas. The Japan-Korea end strength ceilings will be at 94,450 active duty end strength. We put a similar end strength ceiling on NATO in 1984. We did not put such a ceiling on Japan and Korea, but we ought to begin with that end strength ceiling because those numbers creep up every year.

Second, we put a ceiling on the overseas work-year limits of civilian employees because unless you put a ceiling on the work-years of civilian employees, then you can get around military end strength ceilings.

Third, we put an appropriations freeze on dependents overseas at 1987 levels. No more increase in dependents overseas, Mr. President. We freeze that number at 413,000, which is the goal.

Second, we establish a goal for a 10-percent reduction in these dependents by September 30, 1991, under a plan to be proposed and executed by the Department of Defense.

Next, and perhaps most significant, we provide for an overseas cost freeze above current levels, except for pay raises, that if there is a change in currency valuation that it must be paid by the host country or it must be absorbed from overseas expenditures.

Since 1985, there has been a $10 billion increased cost from currency fluctuations. If that kind of currency fluctuation takes place in the future, it must be absorbed by the host countries or by the military forces. It applies only to permanently stationed troops.

This is a very significant burden-sharing initiative. There are some other details to it, which I will not go into at this point. I am sure this matter will be debated further. It is a very significant burden-sharing initiative. It is a debate that has needed to take place in this Senate and in this Congress and in this country for a long time.

The figures are astonishingly unfair—astonishingly unfair. If the American public can focus on those figures and those charts that I provided a little earlier and think about the implications of how we get to a trade deficit of $60 billion, now becoming a debtor nation and yet providing an 8-to-1 ratio in defense costs, I think they will begin to see that it is time that the burden be shared more fairly by our friends, by our allies overseas.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Republican leader has 30 minutes; Senator Johnston has 37 seconds.

Mr. STEVENS. Mr. President, I am designated to manage the time on this side. I yield myself such time as I may need out of that 30 minutes.

It is my understanding we are talking now about whether to proceed with this defense bill at this time. Mr. President, I think it is imperative we get started on this bill because, as the Senator from Louisiana just outlined, there are some serious disputes that are going to come before the Senate in the next 4 to 5 days. The defense appropriations bill before us is in full compliance with the Budget Act and the section 302(b) allocation that was agreed to by the Appropriations Committee for defense.

This is the defense appropriations portion of the budget summit agreement which allocated $299.5 billion to defense. The funding for military construction for the Department of Energy-related programs are on separate bills. This bill actually contains $282.65 billion for defense.

The Appropriations Committee has lived up to the budget summit agreement, and the funding parameters defined in the authorization conference agreement were incorporated into our committee's markup of this reported bill.

It is important to note that the legislative issues which prompted the President to veto the authorization bill are not in this bill as it comes to the Senate. Those legislative issues are not in the House version of the bill which the committee amended. It is within the power of the Senate to keep this bill, the funding of the Department of Defense, free of those legislative issues.

I have made a suggestion—I hope it will be followed—that the Senate passed authorization bill be passed again and sent to the House so it can go back to conference. It was the House originated authorization measure that the President vetoed yesterday.

We should not have in this appropriation process the burden of attempting to confer at the same time on the authorization issues which we know are as contentious as the issues before us.

Mr. President, I will say more about this later, but our chairman, the distinguished President pro tempore, has guided us through a difficult process to yield a remarkable product.

It is a testimony to our chairman that the issues that I just mentioned are not in this bill. I think that should be kept in mind. This is the first time in recent memory that the defense appropriations bill totals are the same as the request, the resolution, the allocation, and the authorization. These are funding targets, not legislative comparisons. The only program funding level common with the authorization bill that was one of the motivations behind the President's veto—and that really is in the area, I think, we will have a dispute—is the SDI program. This bill includes $3.7 billion for SDI. This is the defense appropriations portion of the $3.9 billion authorization agreement. The balance of that is reflected again in the Department of Energy allocations.

I expect there will be an amendment offered to increase the appropriated level for SDI. Once the Senate has decided this issue, no other funding parallels to the authorization bill on issues cited by the President will remain.

The overall defense budget function 050 total of $299.5 billion represents a real decline of about 2 percent from the current rate of operations. While I personally feel that this level is less than I think desirable, it is based on the agreement between the administration and Congress last November. Given the circumstances, the Appropriations Committee has labored to produce a responsible program to meet mutually shared, overall policy objectives.

This bill contains sufficient funding for economic production rates to maintain cost efficiency, to operate and maintain a viable military presence and sufficient R&D funds to keep the United States on the leading edge of technology for tactical systems and basic research. Even within the constrained resources of the budget summit agreement, initiatives are included in this bill to expand the role of the military in drug interdiction, space recovery programs and special operations forces.

The 2-year budget agreement and time to focus on funding priorities has made this kind of a bill possible. It is instructive that the budget process, as currently conceived, can work given the right conditions—and we can duplicate those conditions year after year. But it takes the resolve to reach an understanding between the administration and Congress on overall, top line Government spending targets before the process begins.

I want to dwell at this point on the fact that this bill is really the product of the chairman's long experience and his leadership skills. We have forged a consensus within our committee which I think is unique, and unless the Senate realizes it, we are liable to get hung up on some issues that can be resolved in other forums before other committees—particularly the Armed Services Committee ought to settle disputes over policy. For years the Appropriations Committee has been accused of invading the area of defense policy. We now have the opportunity to avoid such accusations.

I think it is known that I am one of those who argued and urged the President not to veto the authorization bill despite the defects in it. I had voted against the bill when it came back from conference, but I am hopeful that the Senate will resist attempts to revisit the legislative issues that are incorporated in the authorization process.

Senator STENNIS has now guided the Senate to completion of 12 appropriations bills. They have been brought before the Senate in a timely fashion, and I say without any humility that I think the Appropriations Committee members have realized that this 13th appropriations bill is unique. It will be Senator STENNIS' last Defense appropriations bill. I have sat with Senator STENNIS longer than any man in the Senate in this endeavor of managing our Department of Defense appropriations bills. I believe he deserves nothing less than our best effort to conclude this bill promptly and enable us to go to conference so we can bring back a Defense appropriations bill.

I have argued around these Halls today for a process that will remove those authorization issues from this arena, and I tonight take this floor to call upon every Member of the Senate to take into consideration this process. This is unique.

We have had complaints for years about omnibus continuing resolutions and lumping all the bills together. Passing this bill would mean we have acted on 13 separate bills. If we fail to get this bill passed as a separate piece of legislation, the Defense appropriations bill, then I can predict for the Senate that we will be back to a continuing resolution and lumped into it once again will be all those other bills still in conference with issues unresolved. The way to keep this separate is to deal with the authorization process separately from appropriations.

I hope the joint leadership will join those Senators on the Appropriations Committee to resist bringing before the Senate the issues that were in dispute with the President over the authorization bill. If they will, we will take the chairman's last Defense appropriations bill to conference and bring back a bill that can be signed and that will become law.

Mr. President, as I said, I am going to speak more about that later when there are more Senators present, and I will say now that from my point of view—and again it is just my point of view—when the chairman makes his statement on this bill, I hope there are 100 Senators in their seats. We will be witnesses to a moment of history as a man who has guided us for so long makes the last statement to us on the subject to which he has dedicated so much of his life.

Mr. President, I think we ought to realize that Senator STENNIS has contributed greatly to our national defenses and that there are many of us who have learned a great deal from him.

Senator JOHNSTON discussed several issues incorporated in this bill.

Led me take just a moment to discuss and highlight one of the initiatives in this bill which will enhance the condition of our National Guard and Reserve forces. Again, these initiatives reflect upon Chairman STENNIS' strong leadership in this area to assure that the military reserve components are ready to serve alongside the active military.

I had the privilege of chairing the defense subcommittee for 6 years and Senator STENNIS worked with me as I have attempted to work with him. In every one of those bills that I brought before the Senate as the chairman, this same concept of enhancing the National Guard and Reserves, the "citizen soldier," was reflected. This bill once again carries on that philosophy.

First and foremost, I am pleased to report that this bill provides funding for the establishment of a NATO-based equipment maintenance unit composed of Guard and Reserve troops. We are looking for ways to reduce the cost of our commitment to NATO but keep it. The Defense Department responded favorably to the Senate Appropriations Committee request last year to develop and test a program for Guard and Reserve unit rotations overseas. On the basis of the Department's proposal, this bill contains funding to establish this equipment maintenance unit in the Federal Republic of Germany to be staffed by Reserve component personnel on a 3-week active duty deployment.

I am convinced that this proposal will prove to be a cost-effective way to meet these commitments and provide the Reserve components with realistic training to better prepare for their potential duty in active service should that become necessary. We have been working on this proposal for a series of years, particularly for the last 2 years, and I am delighted to see it finally underway.

In a continuing effort to modernize the Guard and Reserve equipment, we propose the addition of $843 million for new procurement items for the Guard and Reserve. Among the various systems included in the package are 50 unit support vehicles to support my home State's Guard, the Alaska Guard's new "round-out" battalion mission for the 6th Light Infantry Division.

And I would call the Senate's attention to the fact that our light infantry division will be rounded out by an Alaska Guard unit.

We have also sponsored an initiative to reengine up to 24 aerial refueling tanker aircraft to be turned over to the Air National Guard and the Air Force Reserve. Again, the intention is to give the Air Force Strategic Air Command a cost-effective option for Guard and Reserve KC-135 aircraft and crews to stand alert for strategic missions. Various reserve component units throughout the United States could receive additional aircraft as a result of this initiative including again our own Alaska Air National Guard.

I think that there are many local issues in this bill that have been resolved. I have tried to deal with some of them that affect Alaska. For instance, we had to determine that the Air Force must move away from the long-range search and rescue mission that they have had in my State, which is one-fifth the size of the United States. This bill contains a $7 million item to maintain active Air Force search and rescue units until the Alaska Air National Guard assumes this duty, which it cannot do until the aircraft on contract are completed and dispatched to Alaska.

I am convinced that we have worked out a plan to ease the transition between the Alaska Air Guard's ability to perform this mission and to assure the highest standards for continued search and rescue expertise in our State.

And I want to mention Air Force Under Secretary Jim McGovern, a former member of the staff of the Senate, who has been most accommodating in his efforts to devise a workable plan to guarantee coverage for Air Force pilots in this transition period.

Again, Mr. President, the committee has developed a coordinated plan to keep citizen soldiers trained, proficient and ready. As the Senate reviews our initiatives this year in this bill, including those mentioned by my good friend from Louisiana, the burden-sharing initiatives, I hope they will keep in mind these National Guard and Reserve force initiatives.

Mr. President, just a moment about those burden-sharing initiatives. Both Senator JOHNSTON and I did travel to Japan to talk to not only our distinguished former colleague, Ambassador to Japan, Senator Mansfield, but also to the members of the Japanese Government, and the Liberal Democratic Party members and their committees that have so much to do with their policy dealing with our presence in Japan. It is clear to me now that the increased cost of maintaining our forward deployment in Japan is something that we cannot continue at the current level without increased participation by Japan. The exchange rate alone has brought a profit to the Japanese budget—and a huge deficit to our budget to maintain our defense presence just on the level that existed last year.

I personally spoke to one member of the government about the fact that their purchases in the United States of military supplies are at a much lower yen value now, and they acutally are charging back to their treasury a surplus because they can buy our supplies much cheaper than they did before due to the increased value of the yen.

On the other hand, our increased costs in Japan since the beginning of this year alone are over $400 million already just from the exchange of currency. The difference in the value of yen since the beginning of the year alone has been staggering.

The Defense budget was presented in January assuming an exchange rate of 163 yen to $1. The actual exchange rate now is 135 to 1. That difference represents an increased cost to this budget before the fiscal year even starts. Relative to all international currencies, the Defense budget is over $1 billion short if current exhange rates prevail.

Burden-sharing is the only answer to that. And we have devised modest, very modest, proposals to present to the Senate to achieve those goals.

There is going to be some people complaining about that. I hope all Senators will consider the alternative. If our burden-sharing initiatives come out of this bill, then, I contend, there will be some bases closed at home. There has to be some production lines closed at home for equipment that is vitally needed by our defense forces. And there have to be some personnel brought home from overseas, personnel we have deployed there to meet our needs overseas. Senator JOHNSTON, Senator STENNIS, and I are trying to keep our commitments overseas, and asking our allies to do a little bit more now that their currency is worth more than ours. I think that is a very small request to make, Mr. President. These issues will be debated and I hope the Senate carefully considers these proposals.

Mr. President, how much time is remaining now?

The PRESIDING OFFICER. The Senator has 12 minutes and 58 seconds remaining.

Mr. STEVENS. On my time, let me suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield back the balance of my time.

Mr. STEVENS. Mr. President, I am prepared to yield back the balance of my time. I see the distinguished majority leader here. We would be prepared to go to a vote now on the motion to proceed. Is that his desire?

Mr. BYRD. Mr. President, I will respond to the distingushed Senator from Alaska. There is a desire that we go now to that vote. I think Senators should be apprised of the fact that it is the intention to call up the House passage on the Price-Anderson bill following this vote. Whether or not that would necessitate a vote, I do not know. Can the distinguished Senator from Louisiana indicate whether or not he would detect any problem on that?

Mr. JOHNSTON. Mr. President, I say to the majority leader that I have been unable to talk to Senator METZENBAUM, who has a question on that bill, an the answer to that really lies with him.

Mr. BYRD. All right. Then we will not be able to indicate at this point what will or will not happen to that matter.

During the rollcall vote, Mr. METZENBAUM will be here, and we will attempt to discuss that matter with him at that time.

I suggest to Senators that they not leave immediately after this vote.

Mr. STEVENS. There is some confusion. Which bill is the distinguished Senator referring to?

Mr. BYRD. There is a House measure, as I understand it, on the Price-Anderson legislation. There would be no further votes on the DOD bill tonight, but there conceivably could be some problem with the Price-Anderson measure from the House.

Mr. STEVENS. Mr. President, this may be presumptive, but I hope the two leaders will join us in requesting Senators to be here tomorrow when the distinguished President pro tempore makes his statement on this bill.

Mr. BYRD. There will be an early vote on something. I would say there would be a vote at 9:30 tomorrow and immediately following that vote the Senate will resume consideration of the DOD bill, and Mr. STENNIS will make his statement.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to proceed to the consideration of H.R. 4781. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Tennessee [Mr. SASSER], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Vermont [Mr. STAFFORD], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—7

Biden
Bond
Cranston
Mikulski
Sasser
Stafford
Symms

So the motion was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I do not anticipate any further action in relation to this bill today, but there is a House message on the Price-Anderson legislation.

I would like to hear from Mr. JOHNSTON and Mr. METZENBAUM as to the outlook with respect to that House message.

There will be a vote in any event in the morning at 9:30.

Mr. DOLE. Mr. President, there could be one tonight.

Mr. BYRD. And there could be one yet tonight.

Mr. JOHNSTON. Mr. President, I am seeking to work out with Senator METZENBAUM a problem on the House message on the Price-Anderson Act. It is a real emergency in terms of getting it passed soon.

My expectation is that we will be able to work that out tonight one way or the other and that we could then be in a position to vote on that in the morning at 9:30 or, if we cannot, I am sure that the Senator from Ohio, who can speak for himself, would not agree to a vote on that matter at 9:30, but we could vote on either that or another matter in the morning early if the majority leader wanted that.

Mr. BYRD. There will be a rollcall vote at 9:30 in the morning.

Mr. JOHNSTON. I think, Mr. President, that we could probably do best by shutting down here tonight and doing our negotiations off the floor.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes; I am happy to yield.

Mr. DOLE. I would just indicate that it is cleared on our side. We are prepared to go forward.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BYRD. Mr. President, I have the floor. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, everyond understands where we are on this matter. I have no desire to defeat this measure. When the measure was in our Energy Committee, there were a number of concessions made and it was a very controversial matter. Finally, the bill came out of the committee and which had to do with certain nonprofit institutions. As a compromise, in order to work that out, I think we named either seven or eight institutions that would be exempt and have special provisions in connection with them. I have no objection to that.

Now, what has happened is that the House has broadened that language greatly, and it is that broadening language that concerns the Senator from Ohio. I have learned that there was one Congressperson who was concerned about two institutions in his State. I said, if taking care of those two will solve the problem, that is not a problem with me. But just to open the doors wide to all these so-called nonprofit institutions—and let me make it clear that, although they are called nonprofit contracts, they receive literally ten and twenty millions of dollars for the purpose of overhead and expenses. So there is little question as to exactly how nonprofit they are.

I am not prepared to get into an entire debate on that subject. I think the Senator from Lousiana's point is well taken, if we can lay it over until tomorrow without any definite understanding. I had said to him just yesterday when we had spoken that I thought we should try to resolve this. I know there is some urgency for this measure, but until we can resolve this matter I do not think we can pass it.

(Mr. LEVIN assumed the chair.)

Mr. BYRD. Mr. President, there will not be any more rollcall votes tonight.

But let me urge Senators that we have only tomorrow and 4 days until we are out for 3 weeks. We have to work long hours in order to complete the DOD appropriations bill, hopefully by the time we go out at the close of business next Thursday.

I received a call from the Secretary of the Treasury, Mr. Baker, who hopes that we can act on the United States-Canadian trade agreement before we go out. We can do that. But I said that we will do that only if we finish the DOD appropriations bill first.

Now, we cannot go out at 6 o'clock every day and do all this work. So do not count on going out tomorrow at 11 o'clock or 11:30 or 12 or 1. Let us have a full day tomorrow and then we will go over and come in early on Monday, and every day next week will be a long day.

I thank all Senators.

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. McCLURE. Mr. President, I thank the distinguished majority leader for yielding. Is it the intention of the majority leader, with the exception of the possible accommodation that might be arrived at on the Price-Anderson message, to be on the DOD appropriations bill exclusively tomorrow?

Mr. BYRD. On the DOD appropriations exclusively as far as I know now. The only way we would be anything else would be by unanimous consent for it to be taken up and disposed of.

Mr. McCLURE. I thank the leader.

Mr. BYRD. I thank the distinguished Senator.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to consider the bill, which has been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$24,467,893,000**]** *$24,459,745,000.*

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$18,909,103,000**]** *$18,965,300,000***[**: *Provided,* That in addition to the funds appropriated in this paragraph, $34,000,000 is appropriated for Aviation Continuation Pay which shall not be obligated or expended until the Secretary of Defense submits a report to the Committees on Appropriations of the House of Representatives and the Senate setting forth a Department of Defense plan to implement a service integrated pilot retention program**]**.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$5,704,953,000**]** *$5,716,200,000.*

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$20,038,052,000**]** *$20,066,403,000: Provided,* That in addition to the funds appropriated in this paragraph, **[**$54,000,000**]** *$30,000,000* is appropriated for Aviation Continuation Pay **[**which shall not be obligated or expended until the Secretary of Defense submits a report to the Committees on Appropriations of the House of Representatives and the Senate setting forth a Department of Defense plan to implement a service integrated pilot retention program**]**.

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$2,255,870,000**]** *$2,261,200,000.*

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$1,617,185,000**]** *$1,621,400,000.*

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$315,149,000**]** *$315,700,000.*

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$656,771,000**]** *$657,964,000.*

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$3,319,049,000**]** *$3,334,000,000.*

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$1,027,497,000**]** *$1,033,686,000.*

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $18,487,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; [$22,094,277,000: *Provided,* That of the funds appropriated in this paragraph, $18,998,000 shall not be obligated or expended until authorized by law: *Provided further,* That of the funds appropriated in this paragraph, $900,000 shall be available only to support the 1989 World Ski Championships] *$22,015,900,000, of which $2,228,079,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits.*

Operation and Maintenance, Navy

[including transfer of funds]

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,014,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; [$24,992,800,000, of which $60,000,000 shall be transferred to the Coast Guard] *$24,853,901,000, of which $1,915,171,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits: Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76: *Provided further,* That [funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels] *of the amount appropriated, $40,000,000 shall be available after August 15, 1989, for repair of the USS MIDWAY at a shipyard in the United States: Provided further, That the USS MIDWAY may be repaired at a shipyard in Japan only if such costs are assumed by the Government of Japan.*

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; [$1,842,000,000] *$1,774,600,000, of which $154,317,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits.*

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,690,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; [$21,890,400,000] *$21,817,327,000 of which $1,549,883,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits: Provided,* That in fiscal year 1989, not less than $15,000,000 shall be available only for the cleanup of uncontrolled hazardous waste contamination at Hamilton Air Force Base, in Novato, in the State of California, sufficient to permit the unrestricted use of the property, subject to the resolution of procedural and technical issues to meet such standard which shall be established by the relevant State and Federal regulatory agencies in consultation with the Department of Defense, in accordance with the agreement between the Federal Government and the purchaser.

Operation and Maintenance, Defense Agencies

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, *and not to exceed $11,691,000 can be used for emergencies and extraordinary expenses to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes;* [$7,721,100,000] *$7,547,463,000,* of which [not to exceed $11,691,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes] *$843,966,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits: Provided,* That [$900,000] *$1,400,000* is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $794,900,000.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$977,548,000] *$979,200,000.*

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $77,500,000.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$1,033,900,000] *$1,028,500,000.*

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); [$1,797,000,000] *$1,801,200,000.*

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; [$1,971,000,000] *$1,965,400,000.*

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,300,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $3,500,000, and not to exceed $1,500 can be used for official representation purposes.

Environmental Restoration, Defense

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $500,000,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

[Goodwill Games

[For logistical support and personnel services including initial planning for security needs (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Goodwill Games) provided by any component of the Department of Defense to the Goodwill Games; $5,000,000.]

Humanitarian Assistance

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1990: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$2,828,379,000] *$2,883,700,000,* to remain available for obligation until September 30, 1991.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$2,565,500,000] *$2,519,700,000,* to remain available for obligation until September 30, 1991[: *Provided,* That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180)].

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$2,812,521,000] *$2,886,700,000,* to remain available for obligation until September 30, 1991.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$2,026,163,000] *$1,951,549,000,* to remain available for obligation until September 30, 1991.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 185 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes[; as follows:

[Tactical and support vehicles, $849,606,000;

[Communications and electronics equipment, $2,909,083,000;

[Other support equipment, $897,148,000;

In all: $4,655,837,000]*; $4,434,696,000,* to remain available for obligation until September 30, 1991[: *Provided,* That of the funds appropriated in this paragraph, $413,019,000 shall not be obligated or expended until authorized by law].

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; [$9,308,735,000] *$9,231,311,000,* to remain available for obligation until September 30, 1991[: *Provided,* That of the funds appropriated in this paragraph, $287,269,000 shall not be obligated or expended until authorized by law]*: Provided, That the provisions in Public Laws 100-180 and 100-202 which provide that funds are available in specific dollar amounts only for specific programs, projects, or activities funded by the appropriation "Aircraft Procurement, Navy" shall have no force or effect which would limit the application of a proportionate share of the general reduction of $250,000,000 allocated within the appropriation account against these specific programs, projects or activities.*

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway[, as follows:

[Poseidon, $188,000;

[TRIDENT I, $4,103,000;

[TRIDENT II, $1,865,609,000;

[Support equipment and facilities, $2,638,000;

[Tomahawk, $711,125,000;

[AIM/RIM-7 F/M Sparrow, $75,000,000;

[AIM-120 AMRAAM, $42,768,000;

[AIM-54A/C Phoenix, $325,802,000;

[AGM-84A Harpoon, $169,709,000;

[AGM-88A HARM, $302,749,000;

[SM-2 MR, $598,531,000;

[RAM, $52,094,000;

[Hellfire, $35,000,000;

[Maverick missiles, $82,390,000;

[Aerial targets, $109,981,000;

[Drones and decoys, $40,744,000;

[Other missile support, $21,313,000;

[Modification of missiles, $91,383,000;

[Support equipment and facilities, $206,947,000;

[Ordnance support equipment, $240,907,000;

[MK-48 ADCAP torpedo program, $541,800,000;

[MK-50 advance lightweight torpedo program, $247,047,000;

[Vertical Launched ASROC program, $17,552,000;

[Modification of torpedoes, $3,289,000;

[Torpedo support equipment program, $48,652,000;

[MK-15 close-in weapons system program, $19,449,000;

[25mm gun mount, $9,366,000;

[Small arms and weapons, $9,811,000;

[Modification of guns and gun mounts, $68,976,000;

[Guns and gun mounts support equipment program, $838,000;

[Spares and repair parts, $87,412,000;

In all: $6,033,173,000]; *$5,922,525,000,* to remain available for obligation until September 30, 1991[: *Provided,* That of the funds appropriated in this paragraph, $209,371,000 shall not be obligated or expended until authorized by law].

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,261,100,000;

SSN-688 attack submarine program, [$1,417,800,000] *$1,365,100,000;*

SSN-21 attack submarine program, $1,488,000,000;

Aircraft carrier service life extension program, [$243,400,000] *$62,743,000;*

DDG-51 destroyer program, [$2,134,400,000] *$2,140,200,000;*

LHD-1 amphibious assault ship program, $737,500,000;

MHC coastal mine hunter program, $197,200,000;

T-AO fleet oiler program, [$689,900,000] *$569,800,000;*

AO conversion program, $84,900,000;

T-AGOS surveillance ship program, $159,600,000;

AOE combat support ship program, $363,900,000;

LCAC landing craft air cushion program, $306,600,000;

For [craft,] outfitting, and post delivery, [$311,800,000] *$276,800,000;*

In all: [$9,396,100,000] *$9,013,443,000,* to remain available for obligation until September 30, 1993: *Provided,* That additional obligations may be incurred after September 30, 1993, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards[: *Provided further,* That of the funds appropriated in this paragraph, $340,000,000 shall not be obligated or expended until authorized by law].

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 492 passenger motor vehicles of which 434 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway[, as follows:

[Ship support equipment, $645,883,000;

[Communications and electronics equipment, $1,434,664,000, including $14,220,000 for the AN/SQR-18 Towed Array Sonar;

[Aviation support equipment, $593,311,000;

[Ordnance support equipment, $1,179,471,000;

[Civil engineering support equipment, $118,475,000;

[Supply support equipment, $104,295,000;

[Personnel and command support equipment, $399,034,000;

[Spares and repair parts, $218,196,000;

In all: $4,693,329,000]; *$4,909,597,000,* to remain available for obligation until September 30, 1991: *Provided,* That funds appropriated for procurement of TSEC/KY-67 (Bancroft) radios shall be available only for procurement of SINCGARS radios.

[Coastal Defense Augmentation

For the augmentation of United States Coast Guard inventories to meet national security requirements; $350,000,000, to remain available until expended: *Provided,* That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.]

Procurement, Marine Corps

[For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 150 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; [$1,311,322,000] *$1,265,067,000,* to remain available for obligation until September 30, 1991.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; [$15,915,397,000] *$16,093,500,000,* to remain available for obligation until September 30, 1991[: *Provided,* That none of the funds provided in this Act may be obligated on B-1B bomber contracts which would cause the Air Force's $20,500,000,000 cost estimate for the B-1B bomber baseline program expressed in fiscal year 1981 constant dollars to be exceeded].

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; [$7,620,587,000] *$7,649,757,000,* to remain available for obligation until September 30, 1991.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 517 passenger motor vehicles of which 403 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway[, as follows:

[Munitions and associated equipment, $646,832,000;

[Vehicular equipment, $261,568,000;

[Electronics and telecommunications equipment, $1,746,542,000;

[Other base maintenance and support equipment, $5,442,105,000;

In all: $8,097,047,000]; *$8,133,249,000,* to remain available for obligation until September 30, 1991[: *Provided,* That of the funds appropriated in this paragraph, $32,623,000 shall not be obligated or expended until authorized by law].

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces[, as follows:

[Army Reserve, $240,000,000;
[Navy Reserve, $129,800,000;
[Marine Corps Reserve, $66,800,000;
[Air Force Reserve, $241,900,000;
[Army National Guard, $333,000,000;
[Air National Guard, $163,000,000;

In all:-$1,174,500,000]; *$843,500,000,* to remain available for obligation until September 30, 1991[: *Provided,* That of the funds appropriated in this paragraph, $358,438,000 shall not be obligated or expended until authorized by law].

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 79 passenger motor vehicles of which 72 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; [$1,207,550,000] *$1,130,000,000,* to remain available for obligation until September 30, 1991[: *Provided,* That of the funds appropriated in this paragraph, $57,050,000 shall not be obligated or expended until authorized by law].

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); [$39,500,000] *$13,000,000,* [of which $27,500,000 shall] *to* remain available for obligation until September 30, 1991[, and of which $12,000,000 for a project to develop a reliable supply of titanium ore from ilemenite shall remain available until September 30, 1993.

[SPACE AND RELATED ACTIVITIES AUGMENTATION, DEFENSE

[For construction, procurement, and modification of missiles, spacecraft, specialized ground facilities, and associated equipment and services; $637,000,000, to remain available for obligation until September 30, 1991: *Provided,* That none of the funds shall be obligated or expended until authorized by law: *Provided further,* That none of the funds shall be available except for projects for which funds have otherwise been made available in this Act and except for conversion of existing contracts from an incremental funding basis to a full funding basis: *Provided further,* That none of the funds shall be available for expenditure prior to October 1, 1989.]

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$5,042,965,000] *$5,011,894,000,* to remain available for obligation until September 30, 1990: *Provided,* [That $7,300,000 shall be available only for type classification and operational testing of the 120 millimeter mortar system and development of a family of enhanced 120 millimeter ammunition: *Provided further,* That $2,500,000 shall be available only for the vehicular intercommunications system: *Provided further,* That $5,000,000 shall be available only for development of fluidtronics technology for use in ground combat or support vehicles] *That $5,480,000 shall be available only to continue development of the DRAGON III interim, medium anti-armor weapon under the auspices of a joint program with the Marine Corps.*

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$9,136,405,000] *$9,291,614,000,* to remain available for obligation until September 30, 1990[: *Provided,* That $1,000,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics: *Provided further,* That funds made available for the SSN-688 Class Vertical Launch System and the AN/BSY-1 Submarine Combat System programs may not be obligated or expended until thirty days after the reports required by section 211(e) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) are submitted to the Committees on Appropriations of the House of Representatives and the Senate].

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$14,313,135,000] *$14,588,332,000,* to remain available for obligation until September 30, 1990: *Provided,* [That funds made available for the Titan IV program may not be obligated or expended until the Secretary of Defense certifies that no funds other than those provided in Research, Development, Test, and Evaluation (RDT&E) appropriation accounts will be obligated or expended for RDT&E costs for the Solid Rocket Motor Upgrade project, and until the report required on page 205 of House Report 100-410, concerning the commercialization of research, development, test, and evaluation costs, is submitted to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That $2,000,000 shall be available only for development of high thermal stability and/or endothermic jet fuels, including studies on coal based fuels] *That, of the amounts available for obligation, $200,000,000 shall be transferred to the National Aeronautics and Space Administration.*

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$7,468,757,000] *$8,423,698,000,* to remain available for obligation until September 30, 1990: [*Provided,* That $114,000,000 shall be made available only for the Advanced Submarine Technology Program as described in section 231 of the National Defense Authorization Act for Fiscal Year 1989 (H.R. 4264), as passed the House of Representatives on May 11, 1988, except that funds may be obligated for test facilities: *Provided further,* That $25,000,000 shall be made available only for the Tactical Airborne Laser Communications Program: *Provided further,* That the Secretary of Defense shall award the funds made available in this Act for the University Research Initiative Program on the basis of competition; and, that none of the funds may be obligated or expended until the Appropriations and Armed Services Committees of the House and Senate approve a plan submitted by the Secretary of Defense to provide for broader geographic distribution of funds under such program in comparison to the distribution of such funds during fiscal year 1986 and 1987; and, sets aside a portion of the funds available for such program for fiscal year 1989 to implement such a plan: *Provided further,* That section 215(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is repealed] *Provided, That such amounts as may be determined by the Secretary of Defense to have been available in other appropriations available to the Department of Defense during the current fiscal year or the following fiscal year, as appropriate, for programs related to advanced research may be transferred to and merged with either of the foregoing appropriations, as appropriate, to be available for the same purposes and time period as the appropriation to which transferred: Provided further, That during their period of availability, such amounts of the foregoing appropriations as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That, of the total amount available for the Strategic Defense Initiative, not less than the following amounts may be spent only for the following programs: $175,000,000 for the Boost Surveillance and Tracking System (BSTS); $200,000,000 for the Advanced Launch System (ALS) Program under Air Force management; $114,900,000 for antitactical missile activities as part of the Army's Theater Missile Defense and Antitactical Missile System Programs; $202,000,000 for the Exoatmospheric Re-entry Vehicle Interceptor System; $150,000,000 for the High Endoatmospheric Defense Interceptor System; $105,000,000 for* *the Neutral Particle Beam Program; $29,000,000 for Medical Technologies; and $17,000,000 for the Gallium Arsenide Integrated Circuit Technology Program: Provided further, That of the funds made available for the ALS Program, not less than $96,500,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: Provided further, That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100-71 (Supplemental Appropriations Act, 1987): Provided further, That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes: Provided further, That of the amounts available for obligation, an additional $400,000,000 shall be transferred to the National Aeronautics and Space Administration: Provided further, That of the amounts available for the Strategic Defense Initiative, $114,900,000 for Theater Missile Defense related programs and Antitactical Ballistic Missile activities shall be transferred to the Army for the antitactical ballistic missile and theater missile defense programs: Provided further, That of the total amount available for obligation for the Strategic Technology Program, $20,000,000 shall be made available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering, and $5,000,000 shall be made available only for increasing the transfer of training and simulation technology between components of the Department of Defense through Department of Defense support (by contract or grant) of activities carried out by a university organization, as a continuing center of expertise, that augments such training and simulation technology transfer activities of the Department of Defense: Provided further, That of the amounts available for obligation, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated $3,500,000 from the Strategic Technology Program only to the Fund, to remain available until expended for the South Carolina Research Authority pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility: Provided further, That $6,561,000 of the funds appropriated under the heading, "Research, Development, Test, and Evaluation, Navy, 1988/1989", shall be transferred to the Lighter Than Air Technology Program in the Defense Advanced Research Projects Agency, to remain available only for the time period provided when originally appropriated.*

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; **[**$155,900,000**]** *$146,587,000,* to remain available for obligation until September 30, 1990.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; **[**$12,234,000**]** *$143,400,000,* to remain available for obligation until September 30, 1990.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; **[**$321,900,000: *Provided,* That of the funds appropriated in this paragraph, $15,000,000 shall not be obligated or expended until authorized by law**]** *$271,900,000, of which $20,000,000 is available only for paying administrative expenses associated with directing and performing studies, surveys, engineering analyses, requests for proposals, contracting and associated contract administration functions that have as their sole objective the increased use of coal by the United States Department of Defense facilities in the United States.*

NAVY STOCK FUND

For the Navy stock fund; **[**$204,700,000**]** *$184,700,000.*

AIR FORCE STOCK FUND

For the Air Force stock fund; **[**$206,900,000**]** *$186,900,000.*

DEFENSE STOCK FUND

For the Defense stock fund; **[**$30,000,000: *Provided,* That of the funds appropriated in this paragraph $5,000,000 shall not be obligated or expended until authorized by law**]** *$25,000,000.*

[FOREIGN CURRENCY FLUCTUATION, DEFENSE

[(INCLUDING TRANSFER OF FUNDS)

[For the Foreign Currency Fluctuation, Defense; $376,000,000: *Provided,* That this appropriation shall be available to transfer funds between this account and appropriations available to the Department of Defense for military personnel and operation and maintenance expenses with regard to obligations incurred after September 30, 1988: *Provided further,* That in transferring funds between this appropriation and appropriations for military personnel expenses, the substantial gains and losses to the appropriations for military personnel expenses related only to Cost of Living Allowances and Housing Allowances caused by fluctuations in foreign currency rates that vary substantially from those used in preparing budget submissions, may be based on budgetary estimates rather than accounting records: *Provided further,* That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law**]**.

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; **[**$375,400,000**]** *$179,500,000,* of which $117,300,000 shall remain available for obligation until September 30, 1989, $17,900,000 shall remain available for obligation until September 30, 1990, **[**$127,400,000**]** *$44,300,000* shall remain available for obligation until September 30, 1991**[**, and $112,800,000 shall remain available for obligation until September 30, 1993: *Provided,* **[**That of the funds appropriated in this paragraph $137,900,000 shall not be obligated or expended until authorized by law**]**.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $144,500,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; **[**$23,645,000**]** *$23,745,000.*

DRUG INTERDICTION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $199,060,000 for operations, personnel, and research and development necessary for Department of Defense drug interdiction activities: Provided, That the Secretary of Defense shall transfer the funds made available by this appropriation to other appropriations, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred and that such transfer authority shall be in addition to that provided elsewhere in this Act: Provided further, That $40,000,000 shall be available for transfer to "Military Personnel" appropriations, $10,000,000 shall be available for transfer to "Research, Development, Test and Evaluation" appropriations, and $149,060,000 shall be available for transfer to "Operation and Maintenance" appropriations.

SPECIAL OPERATIONS FORCES FUND

For expenses, not otherwise provided for, necessary for equipping and operating Special Operations Forces; $868,500,000, of which $75,000,000 shall remain available for obligation until September 30, 1989, and $793,500,000 shall remain available for obligation until September 30, 1991.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided,* That such contracts may be renewed annually.

SEC. 8003. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8004. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8005. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8006. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8007. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8008. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 8009. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, [That the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further*,] That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8010. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO *and the State of Israel* so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8011. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8012. [Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $15,000,000 for the current fiscal year: *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further*, That costs for military retired pay accrual shall be included within this limitation.] *No appropriation contained in this Act may be used to pay for the cost of legislative liaison activities of the Department of Defense in excess of $14,643,000: Provided, That costs for military retired pay accrual shall be included within this limitation.*

SEC. 8013. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8014. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed [$2,500,000,000] *$3,000,000,000* of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8015. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

[SEC. 8016. None of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.]

SEC. [8017] *8016.* Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. [8018] *8017.* No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. [8019] *8018.* None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of *the lower of: (a)* the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code*; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act*.

SEC. [8020] *8019.* No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $51,600,000: *Provided,* That costs for military retired pay accrual shall be included within this limitation.

SEC. [8021] *8020.* None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided,* That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. [8022] *8021.* No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided,* That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further,* That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further,* That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. [8023] *8022.* None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1990.

SEC. [8024] *8023.* None of the funds appropriated by this Act may be used to support more than [9,901] *6,040* full-time and [2,603] *1,570* part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

[SEC. 8025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.]

SEC. [8026] *8024.* During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. [8027] *8025.* None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. [8028] *8026.* None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. [8029] *8027.* None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. [8030] *8028.* None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. [8031] *8029.* None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

H-60 series helicopter engines;
CH-47 helicopter modifications;
Multiple Launch Rocket System;
AV-8B aircraft;
[*UHF follow-on satellite system*] *Defense Meteorological Satellite*;
F-16 aircraft;
AH-64 helicopters [(for four years)];
M-1 tank chassis[;]
[*CH/MH-53E helicopter*].

SEC. [8032] *8030.* None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. [8033] *8031.* None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. [8034] *8032.* None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. [8035] *8033.* None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. [8036] *8034.* None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. [8037] *8035.* None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

[SEC. 8038. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 70,325: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 46,622 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.]

[Sec. 8039. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1989 or with respect to the appropriation of funds for that year.

[(b) During fiscal year 1989, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year, or any constraint or limitation carried out through the measurement of full time equivalent employees, or for payroll allocation methodologies for industrially funded activities.

[(c) The fiscal year 1990 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1990 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1990.

[(TRANSFER OF FUNDS)

[SEC. 8040. Appropriations during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.]

SEC. [8041] *8036.* None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. [8042] *8037.* None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. [8043] *8038.* No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. [8044] *8039.* None of the funds made available by this Act shall be available to operate in excess of [247] *245* commissaries in the contiguous United States.

SEC. [8045] *8040.* None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. [8046] *8041.* None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. [8047] *8042.* None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. [8048] *8043.* None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. [8049] *8044.* None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. [8050] *8045.* Of the funds made available to the Department of the Air Force in this Act, not less than $11,749,000 shall be available for the Civil Air Patrol.

SEC. [8051] *8046.* Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. [8052] *8047.* Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. [8053] *8048.* Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. [8054] *8049.* It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. [8055] *8050.* None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

[SEC. 8056. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided,* That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.]

SEC. [8057] *8051.* Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. [8058] *8052.* None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. [8059] *8053.* Notwithstanding any other provision of law, during fiscal year 1989, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious, long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: *Provided,* That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: *Provided further,* That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. [8060] *8054.* Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. [8061] *8055.* Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. [8062] *8056.* None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. [8063] *8057.* Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act [*Provided further,* That $22,300,000 shall be provided to the Army for procurement of Tactical Army Combat Service Support Computer Systems].

SEC. [8064] *8058.* Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. [8065] *8059.* None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. [8066] *8060.* Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided,* That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. [8067] *8061.* None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided,* That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. [8068] *8062.* Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

[SEC. 8069. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.]

SEC. [8070] *8063.* (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered [3405], 3408, 3410-3419, 3426, 3433, [3438], 3441-3443, [3445,] 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. [8071] *8064.* None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. [8072] *8065.* None of the funds appropriated in this Act may be obligated or expended for the procurement, modification, product-improvement, or production qualification or prove-out of the five inch semi-active laser guided projectile (Deadeye).

[SEC. 8073. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1989, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.]

SEC. [8074] *8066.* None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. [8075] *8067.* Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. [8076] *8068.* (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: *Provided,* That the demonstration project shall be conducted at only one location: *Provided further,* That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. [8077] *8069.* None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. [8078] *8070.* Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. [8079] *8071.* [None of the funds in this Act may be used to issue a letter of intent to proceed with the phase-in of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative until December 1, 1989.] *(a) None of the funds in this Act may be used to award a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.*

(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans.

SEC. [8080] *8072.* None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. [8081] *8073.* None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: *Provided,* That these limitations shall not apply to members in combat arms skills.

SEC. [8082] *8074.* None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this provision applies to active components of the Army.

SEC. [8083] *8075.* Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. [8084] *8076.* For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1989, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. [8085] *8077.* (a) Of the funds appropriated to the Army, $109,895,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated or made available in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least 50 percent of the TACCS computers procured with Army fiscal year 1989 funds are provided to the Reserve Component.

[(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component until the RCAS contract is awarded.

[SEC. 8086. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided*, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further, That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.*]

SEC. [8087] *8078.* Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. [8088] *8079.* Not to exceed $35,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. [8089] *8080.* From the amounts appropriated in this Act, funds shall be available for Naval [Air Rework Facilities] *Aviation Depots* to perform manufacturing in order to compete for production contracts of Defense articles: *Provided*, That the Navy shall certify that successful bids between Naval [Air Rework Facilities] *Aviation Depots* and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further*, That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

[SEC. 8090. None of the funds available to the Department of Defense are available for obligation or expenditure to procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries, or from Kongsberg Vapenfabrik or any of its subsidiaries: *Provided*, That the Secretary of Defense may, on a case-by-case basis, waive the preceding prohibition upon a written determination to the Committees on Appropriations of the House of Representatives and the Senate that compliance would be detrimental to United States national security interests.]

SEC. [8091] *8081.* None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain [4¼] *4* inches in diameter and under manufactured outside the United States.

SEC. [8092] *8082.* [Beginning on October 1, 1988, and ending on July 1, 1989, none of the funds in this Act may be used by the Secretary of Defense or the Secretaries of the military departments to enter into any agreement or contract to convert a heating facility at a military installation outside the United States to district heating, direct natural gas, or other sources of fuel.] *None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel pending completion of a study by the United States Departments of Defense, State, and Commerce to determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas. This study will be completed no later than July 1, 1989, and submitted to all Members of Congress.*

SEC. [8093] *8083.* During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis, *until the Department of Defense has resolved inequities relating to applying diagnosis related group regulations to children's hospitals and neonatal care, such resolution including (1) adjustments that recognize the higher cost in children's hospital care by assuring that had the regulation been in effect in fiscal year 1988 it would have resulted in no reduction in estimated aggregate revenue to children's hospitals; and (2) refinements to the classifications applicable to neonatal care to reflect more accurately hospital resource use relating to that care*: *Provided*, That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: *Provided further*, That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

[SEC. 8094. None of the funds in this Act or any other funds available to commissaries and exchanges may be used to purchase or sell any Toshiba products in those commissaries or exchanges.

[SEC. 8095. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing or prior year funds, make available $18,000,000 for the next generation trainer engine (F-109) over the next three-year period.

[(TRANSFER OF FUNDS)

[SEC. 8096. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.]

SEC. [8097] *8084.* None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

[SEC. 8098. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.]

SEC. [8099] *8085.* None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified [by section 104 of] *by* the Intelligence Authorization Act [(H.R. 4387)] for fiscal year 1989.

SEC. [8100] *8086.* During the current fiscal year and hereafter, appropriations available to the Department of Defense for operation and maintenance shall be available for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof.

SEC. [8101] *8087.* None of the funds provided in this Act may be obligated or expended for the procurement of LANDSAT or SPOT remote sensing data except by the Defense Mapping Agency, in its role as primary action office for such purchases by Department of Defense agencies and military departments.

[Sec. 8102. None of the funds appropriated or made available by this Act may be obligated for any procurement or product improvement of the M30 (4.2 inch) heavy mortar, or for development or product improvement of 4.2 inch mortar ammunition.

[Sec. 8103. None of the funds appropriated by this Act may be obligated or expended after January 1, 1989 on contracts with the prime manufacturers of the Advanced Tactical Aircraft which do not require that all variants of the aircraft's design incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than the time scheduled for the first production of the Air Force variant of the aircraft.]

Sec. [8104] *8088.* Of the funds appropriated in fiscal year 1988 to the Navy for Project 7000, $7,000,000 shall be provided to the Air Force for Project Have Gaze.

[Sec. 8105. Of the funds appropriated by this Act, $65,000,000 are available only for engineering development of Joint Integrated Avionics Working Group standard avionics modules and supporting advanced avionics architecture elements, and of this amount $40,000,000 is available only for the Integrated Communications Navigation Identification Avionics (ICNIA) Program.]

Sec. [8106] *8089.* (a) None of the funds appropriated or made available by this Act shall be expended to award a contract pursuant to a solicitation issued on or after the date of the enactment of this Act under the Department of Defense overseas fuel procurement programs, including procurements in American Samoa and Guam, to a contractor other than a United States firm: *Provided,* That the foregoing limitation shall not apply unless the United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract, although exchange agreements *among United States refiners* are specifically permitted.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the Government if the contract were awarded to the foreign firm.

(c) This provision shall not supercede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For the purpose of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

Sec. [8107] *8090.* Not later than December 31, 1988, the Secretary of Defense shall submit to Congress a report on the causes and circumstances of all deaths of Navy personnel during Navy training since January 1, 1986, and on the actions taken by the Secretary of Defense and the Secretary of the Navy to prevent further such deaths.

[Sec. 8108. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the Federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.]

Sec. 8091. (a) None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on 1 April, 1984.

(b) Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and subsection (a) of this section, appropriations contained in this Act shall be available for, and the Secretary of Defense shall pay, reasonable costs under covered contracts incurred to promote American aerospace exports at domestic and international exhibits.

Sec. 8092. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Sec. 8093. Notwithstanding any other provision of law, the Secretary of Defense shall require that a provider of services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) also provide services to members of the armed forces pursuant to section 1074(c), title 10, in accordance with the same reimbursement rules, subject to modifications deemed appropriate by the Secretary of Defense, as apply under CHAMPUS.

Sec. 8094. Of the funds made available in this Act for military personnel appropriations, $2,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses. A bonus, in an amount not to exceed $3,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: Provided, That the officer is on active duty under a call or order to active duty for a period of not less than one year: Provided further, That the officer is qualified and performing as an anesthetist: And provided further, That this provision shall not be effective unless specifically authorized.

Sec. 8095. None of the funds available by the authorities of the Foreign Currency Fluctuation, Defense fund may be used to cover fluctuations from the budgeted exchange rate relative to the Japanese Yen.

Sec. 8096. None of the funds available to the Department of Defense shall be obligated or expended during fiscal year 1989 for the purpose of converting the Naval Avionics Center, Indianapolis, the Naval Civil Engineering Laboratory, Port Hueneme, and the Naval Air Engineering Center, Lakehurst, from operation under the Navy Industrial Fund as authorized by 10 U.S.C. 2208 to operation as a direct appropriation financed authority.

Sec. 8097. Notwithstanding any other provision of law, during fiscal year 1989, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $200,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs.

Sec. 8098. Of the funds appropriated by this Act, not more than $1,126,120,000 may be obligated for morale, welfare, and recreation activities: Provided, That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

Sec. 8099. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 182,011 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: Provided further, That workyears expended in dependent student hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

Sec. 8100. (a) No later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate, his evaluation of the Deputy Inspector General, Department of Defense, study team report titled "Review of Unified and Specified Command Headquarters, February 1988": Provided, That the evaluation shall specifically include a list of the report recommendations, by command, that the Secretary intends to implement and those recommendations that he does not intend to implement, together with the reasons for rejecting those recommendations not adopted.

(b) The Secretary shall provide for the implementation of those recommendations included in the list submitted under subsection (a) in the five-year defense program submitted to Congress for fiscal years 1990 through 1994 under section 114(g) of title 10, United States Code.

Sec. 8101. During the current fiscal year, salary increases granted to direct and indirect hire foreign national employees shall not be at a rate in excess of the percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code.

(TRANSFER OF FUNDS)

Sec. 8102. In addition to any other transfer authority contained in this Act, amounts from the Defense Stock Fund shall be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided, That such transfers shall not be less than $40,000,000 for Operation and Maintenance, Army Reserve; $40,000,000 for Operation and Maintenance, Air Force Reserve; $50,000,000 for Operation and Maintenance, Army National Guard; and $50,000,000 for Operation and Maintenance, Air National Guard: Provided further, That $80,000,000 may be transferred from the Navy Industrial Fund to Operation and Maintenance, Navy, to refund excess asset capitalization charges.

Sec. 8103. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 6 percent or more of its operating funds from *contributions and that limits the care it provides to the treatment of heart and lung conditions: Provided, That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under section 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.*

SEC. 8104. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

SEC. 8105. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: Provided, That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): Provided further, That the Secretary shall implement this demonstration project no later than September 30, 1988.

SEC. 8106. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 8107. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1989 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8108. No more than $182,402,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8109. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8110. The Secretary of Defense shall submit a quarterly report of cumulative reprogrammings from any project or program in excess of an initial $10,000,000 in total for procurement and an initial $4,000,000 in total for research and development.

SEC. 8111. Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counter-productive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses:

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

SEC. 8112. (a) If a reduction in variable housing allowance (VHA) rates was required subsequent to January 1, 1988, to comply with section 8047 of the Department of Defense Appropriations Act, 1988, a member of the uniformed services who received reduced rates and who, on the effective date of this Act, is still a member of the uniformed services, shall be paid the difference between the VHA rate as reduced subsequent to January 1, 1988, and the VHA rate to which the member would have been entitled under the rates established on January 1, 1988: Provided, That such payments shall be made from appropriations provided by this Act.

(b) None of the funds appropriated by this or any other Act for fiscal year 1989 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, and the payments authorized by subsection (a) of this section, in a total amount in excess of $1,150,000,000: Provided, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

SEC. 8113. (a) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than March 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(b) The President shall appoint a special representative who shall have the primary responsibility for conducting burdensharing negotiations directly with other members of the North Atlantic Treaty Organization, Japan, the Republic of Korea, and other countries allied with the United States by treaty. The objective of such negotiations shall be to secure increased defense spending by such countries, increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and a more balanced sharing of foreign assistance costs.

(c) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of the following costs: (1) all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, personnel and their dependents who accompany such personnel outside the United States, (2) research and development costs associated with the specific military capabilities needed to counter a threat, or to address other operational conditions, uniquely associated with operations within a particular geographic region outside the United States, (3) research and development costs associated with compliance with rationalization, standardization, and interoperability requirements imposed by multilateral or bilateral agreements between the United States and its allies, (4) the United States' share of the research and development costs for research, development, test, and evaluation programs and acquisition programs conducted jointly by the United States Govern-

ment and its allies (but not including the costs of authorized intelligence activities), and (5) the cost of procuring systems and supplies for the use of Department of Defense overseas personnel.

(d) None of the funds appropriated by this or any other Act entered before, on, or after the date of the enactment of this Act may be obligated or expended for the support of more than the following maximum number of dependents of Department of Defense overseas personnel who accompany such personnel outside the United States. After September 30, 1989, the maximum number of such dependents shall be 413,020 (the number of such dependents who were residing with such personnel outside the United States on September 30, 1987). The Secretary of Defense should prescribe and implement personnel and deployment policies that, by September 30, 1991, result in a reduction in the number of such dependents who reside with such personnel outside the United States by percent of the maximum number of such dependents specified in the preceding sentence.

(e) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987).

(f)(1) After fiscal year 1988, that portion of the costs incurred for Department of Defense personnel and units in permanent duty stations ashore outside the United States which exceeds the amount of such costs incurred in fiscal year 1988 shall be defrayed only out of (1) increased financial or in-kind contributions made by the allied countries in which such personnel are assigned by mutual defense alliance organizations supported by the deployment of such personnel outside the United States, or (2) amounts appropriated or otherwise available to or for the use of the Department of Defense for personnel and units in permanent duty stations ashore outside the United States. The Secretary of Defense may not defray such excess cost by reducing the amounts allocated for the support of Department of Defense personnel and units afloat or assigned to permanent duty stations in the United States.

(2) In computing the amount of the excess of the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States over the amount of such costs incurred in fiscal year 1988, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel and forces and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(g) In this section—

(1) the term "Department of Defense personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 8114. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose under the heading "Army Stock Funds" in title V of this Act, the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That such action shall be subject to use of only the most cost-effective fuel system in the construction of new plants or the conversion of existing plants: Provided further, That the requirement to purchase 300,000 short tons of anthracite coal expressed in the Department of Defense Appropriations Act, 1988, section 8113, must be complied with: Provided further, That, if the Department does not execute contracts to purchase the anthracite coal mandated in the fiscal year 1988 Defense Appropriations Act by September 30, 1988, it shall use such funds as are necessary from appropriations made available in this Act to complete this purchase.

SEC. 8115. The Secretary of Defense shall complete the study that was initiated by the Department of Defense in 1985 for the purpose of determining and testing the factors that increase the supply of minority and women scientists, engineers, and technologists needed by defense industries and the Department of Defense to fulfill the national defense mission.

SEC. 8116. None of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

(TRANSFER OF FUNDS)

SEC. 8117. Of the funds made available by this Act to the Department of the Army, $5,500,000 shall be transferred to the Bureau of Land Management for the relocation of the smokejumper facility at Ft. Wainwright, Alaska: Provided, That such sum shall remain available until expended.

(TRANSFER OF FUNDS)

SEC. 8118. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriation from which transferred: Provided further, That funds shall be transferred between the following appropriations in the amounts specified:

(1) From:

Under the heading "Shipbuilding and Conversion, Navy, 1985/89":

Trident submarine program, $89,200,000;

T-ACS auxiliary crane ship program, $500,000; and

Outfitting and Post Delivery programs, $7,200,000;

Aircraft Procurement, Navy 1987/89, $28,000,000;

Research, Development, Test, and Evaluation, Navy, 1988/89, $40,000,000; and

Research, Development, Test, and Evaluation, Air Force, 1988/89, $31,000,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

T-AO fleet oiler ship program, $54,400,000;

MCM mine countermeasures ship program, $30,500,000;

DDG-51 guided missile destroyer program, $105,000,000; and

T-AGS ocean survey ship program, $6,000,000;

(2) Under the heading, "Shipbuilding and Conversion, Navy 1986/90":

From: Trident submarine program, $8,900,000;

To: Mine countermeasures ship program, $8,900,000; and,

(3) From:

Aircraft Procurement, Army, 1987/89, $14,800,000;

Missile Procurement, Army, 1987/89, $75,200,000;

Weapons and Tracked Combat Vehicles, Army, 1987/89, $51,000,000;

Other Procurement, Army, 1987/89, $79,400,000;

Weapons Procurement, Navy, 1987/89, $145,000,000;

Other Procurement, Navy, 1987/89, $99,900,000;

Aircraft Procurement, Air Force, 1987/89, $110,500,000;

Missile Procurement, Air Force, 1987/89, $119,300,000; and

Other Procurement, Air Force, 1987/89, $39,500,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":

DDG-51 destroyer program, $666,000,000; and

SSN-688 submarine program, $68,600,000.

SEC. 8119. Notwithstanding any other provision of law, the Secretary of Defense shall not sell or transfer or otherwise make available the Aegis weapon system or any part of the Aegis system to Japan for integration into a naval vessel unless the construction of such vessel is performed in a shipyard in the United States.

(RESCISSION)

SEC. 8120. Of the available funds under the heading, "Research, development, test, and evaluation, Air Force, 1987/1988", $47,900,000 are hereby rescinded.

SEC. 8121. In addition to the amounts appropriated or otherwise made available in this Act, $441,000,000 is appropriated for the DDG-51 destroyer program, and in addition $269,000,000 shall be available by transfer for this program from the following appropriations: Aircraft Procurement, Army, 1988/90, $30,000,000; Missile Procurement, Army, 1988/90, $3,800,000; Weapons and Tracked Combat Vehicles, Army, 1988/90, $30,000,000; Shipbuilding and Conversion, Navy, 1988/92, $126,300,000; Other Procurement, Navy, 1988/90, $53,900,000; Missile Procurement, Air Force, 1988/90, $23,000,000; and Other Procurement, Air Force, 1988/90, $2,000,000; Provided, That the amounts transferred shall remain available for obligation only for the time period provided when originally appropriated.

SEC. 8122. Of the funds made available in this Act to the Department of the Navy, $6,000,000 shall only be available for dredging and emplacement of a portion of dredge material at the critical zone Sandy Hook, New Jersey.

SEC. 8123. Notwithstanding any provision of title 10 United States Code, none of the funds appropriated by this Act and delineated by the accompanying report may be administratively withheld from obligation unless in compliance with Section 1012 of *the Congressional Budget and Impoundment Control Act of 1974, as amended by Public Law 99-177: Provided, That the Secretary of Defense shall submit by November 15, 1988, or within 45 days of enactment of this act, whichever is later, rescissions and/or deferrals of any budget authority so administratively withheld.*

SEC. 8124. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: Provided, That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

SEC. 8125. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $30,000,000. The Secretary of Defense shall allocate the amount of the reduction made by the preceding sentence in the procurement and research, development, test, and evaluation accounts of the Army, Navy, Air Force, Marine Corps, and Defense Agencies as the Secretary determines appropriate to reflect savings resulting from increased use of discount air fares that (1) are granted by commercial air carriers for travel of Federal Government employees on official Government business under agreements entered into between the Administrator of General Services and such carriers, and (2) are available to contractor personnel traveling in connection with the performance of cost-reimbursable contracts awarded by the Department of Defense.

SEC. 8126.None of the funds appropriated by this Act may be obligated for an Air Force training system aircraft for tanker and transport pilot training unless the requirements for bomber pilot training are also met by the aircraft selected.

This Act may be cited as the "Department of Defense Appropriations Act, 1989".

MORNING BUSINESS

Mr. **BYRD**. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 15 minutes and that Senators may speak therein for not to exceed 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

BILL SCHMIDT, WORLD CHAMPION

Mr. **HELMS**. Mr. President, one of the many rewards of being a Member of the Senate is the opportunity to call attention to outstanding achievements by our constituents, so often ignored by today's news media.

A fine young man in Raleigh, NC, Bill Schmidt, recently won the World Drug-Free Powerlifting Championship in Reading, England. Every participant in this unique event is absolutely free of any drug use whatsoever, including steroids. Each participant is tested prior to the event to insure a completely drug-free competition.

Bill Schmidt is the first world champion in his class. He has been national champion for the past 2 years.

Bill is a native of Allentown, PA, and moved to North Carolina in 1982 to become a meteorologist at WRAL Television in Raleigh.

Bill was graduated from Penn State in 1982 with a degree in meteorology. He became interested in weightlifting in 1974; he was then 14 years old. He has been competing for 11 years, rising from fifth place in his first attempt to national championships in 1986 and 1987 and a world championship in 1988.

Powerlifting, somewhat different from the Olympic-style weightlifting competition, is, I am told, simpler to learn but requires the same years of intense training to become a champion. The North Carolina Drug-Free Powerlifting Association is growing and Bill predicts the sport will become an Olympic event in the near future.

Mr. President, I commend Bill Schmidt upon winning the world title and I congratulate his colleagues in this relatively new sport. With the emphasis on body building, competition, and most importantly, drug-free, I am confident that this sport will continue to grow.

Mr. President, I ask unanimous consent that an article from the Allentown (PA) Morning Call be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Allentown (PA) Morning Call]

BILL SCHMIDT: A WEATHERMAN WITH A BIG LIFT

(By Gary R. Blockus)

We've all had it up to the Adam's apple at times with weathermen and their fearless forecasts.

We'd all love to get our hands around the neck of a meteorologist joker after he forecasts sunny skies and mild temperatures for the afternoon picnic, only to have those sunny skies give way to torrential downpours as lightning bolts try turning the family picnic basket into a superconductor.

Unless, of course, the weatherman is Bill Schmidt. Then we'd just politely smile and chalk up the misfortune to one of those twists of atmospheric fate where deep purple cumulus and nimbus clouds meet.

Schmidt, you see, is a two-time American Drug Free Powerlifting Association (ADFPA) national champion in the 181-pound class. The former Parkland High School football player captured his second consecutive national championship recently at the ADFPA meet in Chicago.

On top of being a verifiable strong man, Schmidt doubles as a meteorologist at CBS-affiliate WRAL-TV Channel 5 in Raleigh, one of North Carolina's largest-reaching television stations.

Weather isn't a joking matter in Raleigh like it is in Philadelphia, however. Tobacco farming is the main source of income in the North Carolina capital area, and providing the farmers with accurate forecasts is always a challenge.

To Schmidt, both powerlifting and meteorological forecasting require great discipline and concentration.

"You've always got to live with being wrong sometimes," the 27-year-old Penn State alumnus said in a recent telephone conversation. "It's just like lifting. If something doesn't go right, you put it behind you and learn from it. There's always the next workout or the next forecast."

Schmidt outdid himself at this year's national meet, which was held at the Hyatt Lincolnwood in Chicago. He squatted 644 pounds, bench pressed 385 pounds and deadlifted 672 pounds for a personal best of 1,701 pounds.

"I've never used anabolic steroids or growth hormones, and plan on lifting in a 'lifetime drug-free' national meet in the spring of next year," Schmidt said. "Currently, the ADFPA requires its lifters to be clean for 18 months. This provides lifters who are currently using strength inducing drugs to get off them and join the ADFPA."

The ADFPA tests for drug use by giving competitors lie detector tests. Competitors who have completed very heavy lifts are closely watched.

What makes Schmidt's story an unusual success story is not only that he injured his back in January and had to curtail his heavy training for three months, but that his power-lifting coach is located in Arizona!

"My coach is Tim McClellan, the strength coach at Arizona State," Schmidt said. "We went to grade school and high school together. We know each other pretty well. It's been a great help with Tim coaching me. Tim is good at figuring out what I need and when."

McClellan and Schmidt permeate the stratosphere of the 2,000-mile difference between them with the next-best thing to being there—by using the telephone. Schmidt will also tape videos of the lifts he is doing and send them to McClellan for review. McClellan will critique the lifts and Schmidt will make the appropriate adjustments.

"I had a back injury in January and I missed about three months of heavy training on my squat and deadlift. I had spasms, sustained contraction in the lower back muscles and what it did was put pressure on my sciatic nerve. I had pain from the middle of my back all the way down to my toes.

"I had to lay off for a couple of months, which is really hard to do, but it had to be done. When I started to increase the weights over the summer, the pain didn't come back."

"Bill's a celebrity among powerlifters," volunteered Mike Lambert, editor of Powerlifting USA magazine. "He's on television and he works at one of the biggest stations in North Carolina."

Schmidt has the same attitude for his profession that he has with his hobby.

"We're all serious about our forecasts," he said. "We like to have fun when the weather is quiet, but when the weather is serious, there's no joking."

Schmidt is certainly one weatherman no one wants to argue with, especially if the atmospheric conditions are rolling in from Arizona.

Like a clear day, Schmidt's powerlifting barometer is on the rise. It's definitely not time to rain on his parade—and that's one forecast you can bank.

MESSAGES FROM THE HOUSE

At 9:55 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 892. An act to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake City, Utah.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1544. An act to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5015) to provide drought assistance to agricultural producers, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Agriculture, for consideration of the House bill, the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Brown of California, Mr. Rose, Mr. Panetta, Mr. Huckaby, Mr. Glickman, Mr. Stenholm, Mr. Volkmer, Mr. Madigan, Mr. Jeffords, Mr. Coleman of Missouri, Mr. Marlenee, Mr. Hopkins, and Mr. Stangeland

Except that:

For consideration of sections 103 and 104 of the House bill and modifications committed to conference, Mr. Staggers is appointed, vice Mr. Jones of Tennessee.

For consideration of section 102 of the House bill and section 102 of the Senate amendment, Mr. Penny is appointed, vice Mr. Brown of California.

For consideration of section 313 of the House bill and section 312 of the Senate amendment, Mr. Stallings is appointed, vice Mr. Rose.

For consideration of sections 101 and 303 of the House bill and sections 101 and 303 of the Senate amendment, Mr. Nagle is appointed, vice Mr. Brown of California.

For consideration of title II and section 311 of the House bill and title II and section 313 of the Senate amendment, Mr. Jontz is appointed, vice Mr. Brown of California.

For consideration of section 323 of the House bill and section 341 of the Senate amendment, Mr. Johnson is appointed, vice Mr. Huckaby.

For consideration of title I of the House bill and title I of the Senate amendment, Mr. Robert F. Smith is appointed, vice Mr. Hopkins.

For consideration of section 102 of the House bill and section 102 of the Senate amendment, Mr. Gunderson is appointed, vice Mr. Stangeland.

For consideration of sections 203 through 208 of the House bill and sections 203 through 206 of the Senate amendment, Mr. Schuette is appointed, vice Mr. Jeffords.

For consideration of sections 301 and 302 of the House bill and sections 301 and 302 of the Senate amendment, Mr. Grandy is appointed, vice Mr. Jeffords.

From the Committee on Interior and Insular Affairs, as additional conferees for consideration of subtitle B of title IV of the House bill, and modifications committed to conference: Mr. Udall, Mr. Miller of California, and Mr. Pashayan.

From the Committee on Education and Labor, as additional conferees, for consideration of section 347 of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Martinez, Mr. Williams, Mr. Jeffords, and Mr. Gunderson.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 138. Joint resolution to authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizen Day";

H.J. Res. 140. Joint resolution designating August 12, 1988, as "National Civil Rights Day";

H.J. Res. 417. Joint resolution designating May 1989 as "Neurofibromatosis Awareness Month";

H.J. Res. 463. Joint resolution designating November 20-26, 1988, as "National Family Caregivers Week"; and

H.J. Res. 488. Joint resolution designating November 6-12, 1988, as "National Women Veterans Recognition Week".

At 12:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate numbered 16 to the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear accidents, with an amendment, in which it requests the concurrence of the Senate; and that the House disagrees to the amendments of the Senate numbered 1 through 15 to the said bill.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 40. Joint resolution to give special recognition to the birth and achievements of Aldo Leopold;

S.J. Res. 248. Joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week";

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; and

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day".

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. STENNIS).

ENROLLED JOINT RESOLUTION SIGNED

At 12:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. STENNIS).

At 4:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 442) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES of North Carolina, Mr. STUDDS, Mr. LOWRY of Washington, Mr. TAUZIN, Mr. ORTIZ, Mr. DAVIS of Michigan, Mr. YOUNG of Alaska, and Mr. FIELDS as managers of the conference on the part of the House.

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent:

H.J. Res. 138. Joint resolution to authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizen Day"; to the Committee on the Judiciary.

H.J. Res. 140. Joint resolution designating August 12, 1988, as "National Civil Rights Day"; to the Committee on the Judiciary.

H.J. Res. 417. Joint resolution designating May 1989 as "Neurofibromatosis Awareness Month; to the Committee on the Judiciary.

H.J. Res. 463. Joint resolution designating November 20-26, 1988, as "National Family Caregivers Week"; to the Committee on the Judiciary.

H.J. Res. 488. Joint resolution designating November 6-12, 1988, as "National Women Veterans Recognition Week"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1516. An act to repeal the permanent appropriation of $40,000,000 to the Secretary of Agriculture for the Tongass National Forest, require the Secretary of Agriculture to renegotiate two 50-year timber supply contracts, provide for a 5-year moritorium on commercial timber harvesting in 19 areas within the Tongass National Forest, and for other purposes.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. GRAHAM) announced that on today, August 4, 1988, he had signed the following enrolled bill, which had previously been signed by the Speaker of the House:

H.R. 2629. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native corporations, and the State of Alaska.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 4, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 40. Joint resolution to give special recognition to the birth and achievements of Aldo Leopold;

S.J. Res. 248. Joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week";

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; and

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day."

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3716. A communication from the Chief Immigration Judge, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, facts about each alien whose deportation has been suspended during the relevant period under section 244(a)(1) and 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3717. A communication from the Assistant Attorney General (Legislative and Intergovermental Affairs), Department of Justice, transmitting, pursuant to law, the 1987 Annual Report describing the activities of the Public Integrity Section, Criminal Division; to the Committee on the Judiciary.

EC-3718. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the Annual Report on the Commission's Competition Advocacy Program for the fiscal year 1987; to the Committee on Governmental Affairs.

EC-3719. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled "Final Regulation—Handicapped Special Studies Program"; to the Committee on Labor and Human Resources.

EC-3720. A communication from the Administrator of the John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, the annual report of operations and the Center's audited financial statements for the period ending October 4, 1987; to the Committee on Rules and Administration.

EC-3721. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, the report on the Department of Defense Procurement from Small and Other Business Firms for October 1987 through May 1988; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations:

Report to accompany the bill (H.R. 5026) making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-448).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary:

Harold G. Christensen, of Utah, to be Deputy Attorney General;

Edward S.G. Dennis, Jr., of Pennsylvania, to be an Assistant Attorney General;

Francis Anthony Keating II, of Oklahoma, to be Associate Attorney General;

Stanley J. Glod, of Virginia, to be Chairman of the Foreign Claims Settlement Commission of the United States for the remainder of the term expiring September 30, 1988;

Randall R. Rader, of Virginia, to be a judge of the U.S. Claims Court for the term of 15 years;

Simeon Timothy Lake III, of Texas, to be U.S. district judge for the Southern District of Texas; and

Herbert J. Hutton, of Pennsylvania, to be U.S. district judge for the Eastern District of Pennsylvania.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER (for himself and Mr. GRASSLEY):

S. 2682. A bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 2683. A bill to amend the Tariff Schedules of the United States to clarify the scope of item 806.30 thereof; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2684. A bill to amend title II of the Social Security Act to require the Secretary of Health and Human Services to provide personal earnings and benefits statements to individuals covered by Social Security, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. BRADLEY, Mr. MOYNIHAN, Mr. D'AMATO, Mr. DODD, Mr. WEICKER, and Mr. GRAHAM):

S. 2685. A bill to establish criminal penalties for the dumping of health care facility waste; to the Committee on the Judiciary.

By Mr. HATCH:

S.J. Res. 359. A joint resolution to congratulate Utah State University and Dr. Shigeo Shingo on the efforts they have made to improve manufacturing quality; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID:

S. Con. Res. 136. A concurrent resolution to welcome the board of directors of the Japan Association of Travel Agents to the United States; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER (for himself and Mr. GRASSLEY):

S. 2682. A bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY ACCOUNTABILITY ACT

Mr. PRESSLER. Mr. President, today I am introducing the Congressional Pay Accountability Act to prohibit back-door pay raises for Members of Congress. This bill was modeled after a successful amendment I offered to an appropriations bill earlier this year which was designed to stop back-door pay raises. I am pleased that my good friend from Florida, Representative CONNIE MACK, is introducing the companion bill in the House of Representatives. Representative MACK and I both have worked on this issue for several years. I commend him for his efforts. Mr. President, I ask unanimous consent that the senior Senator from Iowa, Senator GRASSLEY, be added as an original cosponsor.

Last year, Congress received not one, but two pay increases. The way our system works, it is easier to receive a pay raise rather than to reject one. My concern here is not necessarily the amount of the increase, but rather the questionable procedures through which Members of Congress receive pay raises.

My bill is very simple. Before Members of Congress may receive a pay raise, Congress must pass, by recorded vote, a joint resolution of approval.

Some Members of Congress may disagree with me on the substantive arguments associated with the issue of pay raises. However, I am not here to argue the amount of congressional pay raises, but the manner in which we allow them to be passed. There are two common methods to "sneak" them through. First, we allow some faceless Presidential Commission to recommend pay increases to the President, who in turn, recommends them to Congress. These go into effect automatically unless Congress specifically rejects them within 30 days. But Congress has the uncanny ability to wait 31 days before taking any action. The Members of Congress can vote against a raise, and still allow it to go through. This is exactly what the House of Representatives did in allowing the last $12,100 raise to sneak through. My legislation would prevent this by requiring a rollcall vote on the adoption of the "Recommendation." No longer would we be able to hide behind the administration's recommendations.

The second means of sneaking a pay raise through is to hide it in a 1,000-page omnibus bill, and by using obscure wording. Using this method, Congress received a $2,300 pay raise last year. My bill would prevent this by requiring a specific rollcall vote on the pay raise provision. Burying it in another bill no longer would work.

As I stated earlier, Congress received two pay raises last year. First, the President recommended a 2-percent pay increase for all Federal employees. However, Congress provided a 3-percent increase in the continuing appropriations bill for fiscal year 1987. On October 18, 1986, the President signed this measure into law. Consequently, Congress received a 3-percent pay increase effective January 1, 1987. The same month that pay raise became effective, the President recommended a 15.6 percent pay increase for Members of Congress. Congress had 30 days to disapprove this raise. While the Senate voted twice to reject this raise, the House failed to disapprove the pay raise before the 30-day deadline expired. Thus, Congress received a 15.6 percent pay increase on Febuary 4, 1987. Attempts to rescind this pay raise were unsuccessful. From 1985 to 1987, congressional salaries jumped from $75,100 to $89,500.

I personally always have opposed every pay raise since entering Congress in 1975. But, if others think a pay raise is needed, then the question should stand alone and not be a provision in some other legislation. Also, a pay increase should not become effective because of lack of action. Prior to 1967, Congress did not use such sneaky tactics. From 1789 to 1965 Congress adjusted congressional salaries 20 times. After Congress enacted the pay raise schemes noted here, salaries were adjusted nine times over an 18-year period. These spending practices have allowed Members to receive increases without being held accountable.

The American people are disgusted because Congress avoids addressing controversial issues directly. Frankly, Mr. President, this habit of avoiding direct votes on tough issues that are important to our constituents is very misleading. The public deserves better treatment than this. Americans are patient and understanding people, but they will not tolerate hypocrisy and deception.

I am sure most Members will agree that we should address the question of pay increases openly and honestly. I am tired of explaining back-door pay increases for Congress. We should change our pay raise procedures. If Members of Congress believe they deserve a raise, they should vote on the matter in a straightforward manner.

Since coming to Congress in 1975, I have opposed pay raises for Members of Congress. In fact, I took a case to the Supreme Court in 1977 in which I argued that automatic congressional pay raises without a recorded vote are unconstitutional. Unfortunately, the Court did not support my position on this issue. While back-door pay raises are not unconstitutional, they are disgraceful. It is my hope that the majority of Congress will agree with me on an open vote on each and every congressional pay raise proposal.

Immediate consideration of my bill is imperative. The Commission on Executive, Legislative, and Judicial Salaries is scheduled to meet this fall. Recommendations on salaries for fiscal year 1989 will be made to the President before the end of 1988. It is possible that the Commission and the President may recommend pay increases to take effect in 1989. Congress must take action now to prevent another pay raise from slipping through. The American people deserve accountability.

By Mr. MOYNIHAN:

S. 2684. A bill to amend title II of the Social Security Act to require the Secretary of Health and Human Services to provide personal earnings and benefit statements to individuals covered by social security, and for other purposes; to the Committee on Finance.

PERSONAL EARNINGS AND BENEFIT STATEMENTS FOR INDIVIDUALS COVERED BY SOCIAL SECURITY

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a very simple bill. This bill will require the Secretary of Health and Human Services to periodically inform individuals covered by Social Security about their personal earnings records, about their Social Security tax contributions, and about their future retirement benefits.

This is an idea whose time has come. I have described before for my colleagues the apocalyptic pronouncement made about the Social Security Trust Funds, not 7 years ago, by the then newly appointed Director of Management and Budget in the newly elected Reagan administration. Mr. Stockman told us then that the world's most devastating bankruptcy was but months away.

Today we contemplate trust fund reserves of unprecedented amounts. The reason? Because in 12 days in January 1983, a small group of us, spearheaded by the distinguished Republican leader and myself, reached agreement on changes in the Social Security system that assure its robust health far into the next century. Even as I speak, the reserves are building up at the rate of $109 million per day!

Notwithstanding this good news, many Americans have serious doubts. As recently as 1985, the public opinion survey firm of Yankelovich, Skelly and White conducted a survey on Social Security. I ask my colleagues to take note that fully two-thirds (66 percent) of nonretired adults thought it almost certain that they would receive no Social Security benefits when they reached retirement age. Our fellow citizens do not trust their Social Security system.

And I think I may understand why. First there was the "World's Biggest Bankruptcy" scare, courtesy of David Stockman. That silliness is now behind us. But there is another reason, Mr. President. All of us pay into Social Security but rarely, until we become beneficiaries, do we ever hear from Social Security. We pay our taxes to Federal, State, and local governments and we hear back from them every year—reminding us to tote up how much we've paid in and how much we still owe or are due back. We receive monthly statements from our banks and credit card companies. Yet every month, in every paycheck, we see money withheld for Social Security, but we hear nary a word from the Social Security Administration.

And so Mr. President, I propose that we rectify this situation. My bill would simply require that the Social Security administration provide us with statements on a regular basis. This is a large administrative undertaking and we must proceed carefully. Consequently, the bill phases in the new requirement over time.

To begin with, SSA must provide the new earnings record and benefit estimate statements to those who write in and request the information. SSA is, in fact, inaugurating this component of my bill today.

The second phase of my bill would require SSA to make such statements available to all individuals as they attain the age of 60 and near retirement. This requirement would not become effective until October 1, 1991.

The third phase of the bill requires the Secretary of HHS to submit a plan to the Congress, by October 1, 1991, indicating how he will, beginning in the year 2000, supply such statements at least once every 3 years to all individuals covered by Social Security.

Finally, my bill will require the General Accounting Office to conduct a study of wage-reporting systems now in use by SSA, the Internal Revenue Service, and the States. This study will review options for avoiding unnecessary duplication of effort and for improving the accuracy of wage reporting.

Mr. President, I urge my colleagues to join me in this effort. Let us take this simple step to reassure Americans that Social Security will be there for them.

Mr. President, I ask that the text of the bill be printed in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MANDATORY PROVISION OF PERSONAL EARNINGS AND BENEFITS STATEMENT.

(a) In General.—Title II of the Social Security Act (42 U.S.C. 401-433) is amended by adding at the end thereof the following new section:

"PERSONAL EARNINGS AND BENEFITS STATEMENTS

"Provision Upon Request

"Sec. 234. (a)(1) Beginning on October 1, 1989, the Secretary shall provide upon the request of an eligible individual a personal earnings and benefits statement (hereinafter referred to as the 'statement').

"(2) Each statement shall contain—

"(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the Secretary at the date of the request;

"(B) the old age, survivors, and disability insurance contributions, and the hospital insurance contributions of the eligible individual as shown by the records of the Secretary at the date of the request;

"(C) an estimate of the individual's future benefits upon retirement; and

"(D) a statement describing the basic benefits provided under medicare.

"(3) For purposes of this section, the term 'eligible individual' means an individual who—

"(A) has a social security number,

"(B) has attained age 25, and

"(C) has wages or net earnings from self-employment.

"Notice to Eligible Individuals

"(b) The Secretary shall to the maximum extent practicable take such steps as are necessary to assure that eligible individuals are informed of the availability of the statement described in subsection (a).

"Mandatory Provision of Statements

"(c)(1) Beginning not later than October 1, 1991, the Secretary shall provide a statement to each eligible individual who has attained age 60 and for whom a mailing address can be determined through such methods as the Secretary deems appropriate. The Secretary shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

"(2) Beginning on October 1, 2000, the Secretary shall provide not less than once every 3 years a statement to each eligible individual for whom a mailing address can be determined through such methods as the Secretary deems appropriate.".

(b) Report to Congress and Study.—

(1) Not later than October 1, 1991, the Secretary shall submit to Congress a report describing the method by which the Secretary plans to provide statements to all eligible individuals by the year 2000.

(2) The Comptroller General of the United States shall conduct a study of the wage-reporting systems now in use by the Social Security Administration, the Internal Revenue Service, and the States. Such study shall review options for avoiding unnecessary duplication of efforts between the different systems and improving accuracy in wage reporting. A copy of such study shall be provided to the Secretary not later than October 1, 1990.

(c) Disclosure of Address Information by Internal Revenue Service to Social Security Administration.—

(1) In general.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end thereof the following new paragraph:

"(6) Personal earnings and benefits statements furnished by Social Security Administration.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a personal earnings and benefits statement pursuant to section 234(c) of the Social Security Act, for use only by officers, employees, or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) Safeguards.—The last sentence of section 6103(p)(4) of such Code (relating to safeguards) is amended by striking out "subsection (m)(2) or (4)" and inserting in lieu thereof "paragraphs (2), (4), or (6) of subsection (m)".

(3) Unauthorized disclosure penalties.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking out "(m)(2) or (4)" and inserting in lieu thereof "(m) (2), (4), or (6)".

(d) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act.●

By Mr. LAUTENBERG (for himself, Mr. Bradley, Mr. Moynihan, Mr. D'Amato, Mr. Dodd, Mr. Weicker, and Mr. Graham):

S. 2685. A bill to establish criminal penalties for the dumping of health care facility waste; to the Committee on the Judiciary.

HEALTH WASTE ANTI-DUMPING ACT

● Mr. LAUTENBERG. Mr. President, today Senators Bradley, Moynihan, D'Amato, Dodd, Weicker, and Graham are joining me in introducing the Health Waste Anti-Dumping Act of 1988. This bill has been introduced in the House by my good friend Congressman Bill Hughes. I want to commend Congressman Hughes for taking this important initiative.

The shores from New Jersey to Massachusetts are being invaded by waves of garbage including medical waste. The medical waste appear to be the work of illegal dumpers. These dumpers threaten the well-being of their fellow citizens to save a few dollars in disposal costs. When medical wastes are disposed improperly, beaches are closed, vacations are ruined, our tourist economy is injured, and our health is threatened.

Yesterday, the Senate passed S. 2680, the New Jersey-New York-Connecticut Medical Waste Tracking Act of 1988. This bill requires CPA to set up a demonstration program for the tracking of medical waste generated in New Jersey, New York, and Connecticut. This regional tracking system will improve our ability to enforce existing disposal laws and deter those who contemplate illegally disposing of medical wastes.

The bill I am introducing today is consistent with S. 2680 and is a further deterrent to the illegal disposal of medical wastes. The bill imposes criminal penalties of up to $250,000 and 5 years in prison for anyone who knowingly dumps medical waste in coastal, ocean, and inshore waters.

Mr. President, our ocean and coastal waters are precious resources. We must ensure that these resources are not defiled by the illegal dumping of medical wastes. I urge my colleagues support the Health Waste Anti-Dumping Act of 1988, and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act my be cited as the "Health Waste Anti-Dumping Act of 1988".

SEC. 2. TITLE 18 AMENDMENT.

(a) In General.—Chapter 111 (relating to shipping) of title 18, United States Code, is amended by adding at the end the following:

"§2280. Dumping of health care facility waste

"(a) Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, knowingly dumps any health care facility waste shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'health care facility waste' means any solid or liquid waste generated by a facility providing health care services, including veterinary services and laboratory services.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"228. Dumping of health care facility waste.".

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the Health Waste Anti-Dumping Act of 1988.

This legislation is certainly timely as New York's beaches are being ravaged by tides of infectious waste washing ashore on a daily basis. This noxious onslaught has driven away thousands of bathers seeking relief from the summer heat. It has affected beaches both on the south and north shores of Long Island.

It is time to crack down on those who illegally dump these wastes. Last night, the Senate approved legislation directing the Environmental Protection Agency to promulgate guidelines on infectious waste management for the purpose of establishing a pilot program in New York, New Jersey and Connecticut. That program would require these States to develop manifest systems for tracking infectious waste. The paper trail created by a manifest system will enable enforcement officials to monitor all parties who store, threat and dispose of infectious wastes.

The legislation that we are introducing today gets tough on those who dump in the oceans by making such conduct a Federal felony. Those convicted of illegally dumping medical wastes in the ocean will be subject to stiff fines or sent to jail for no more than 5 years, or both. Fines for individuals will be $250,000 per violation and $500,000 for organizations. Illegal dumpers will be forced to think twice before unloading their waste into the ocean.

Effective tracking systems, tough enforcement and strict penalties will go a long way in curbing the tide of infectious waste and allow our citizens to return to the beaches. I urge my colleagues to act swiftly in passing this important legislation.●

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. Byrd, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of S. 14, a bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board.

S. 714

At the request of Mr. Specter, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Incorporated.

S. 927

At the request of Mr. Daschle, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 927, a bill to protect caves resources on Federal lands, and for other purposes.

S. 1429

At the request of Mr. Lautenberg, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1777

At the request of Mr. Karnes, his name was added as a cosponsor of S. 1777, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 2030

At the request of Mr. Lautenberg, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of S. 2030, a bill to amend the Marine Protection, Research, and Sanctuaries Act.

S. 2149

At the request of Mr. Mitchell, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to allow State secondary markets of student loan notes to continue serving the educational needs of postsecondary students and the Nation.

S. 2199

At the request of Mr. Chafee, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2229

At the request of Mr. Kennedy, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 2229, a bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such act, and for other purposes.

S. 2231

At the request of Mr. Kennedy, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 2231, a bill to amend the Public Health Service Act to authorize nurse education programs established under title VIII of such act, and for other purposes.

S. 2379

At the request of Mr. Sasser, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 2379, a bill to authorize the insurance of certain mortgages for first-time homebuyers, and for other purposes.

S. 2395

At the request of Mr. Wirth, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2402

At the request of Mr. Bradley, the names of the Senator from California [Mr. Wilson], the Senator from Indiana [Mr. Lugar], the Senator from Utah [Mr. Garn], and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of S. 2402, a bill to amend the Federal Cigarette Labeling and Advertising Act to require manufacturers and importers of cigarettes to place warnings concerning the addictive nature of cigarettes on packages and in advertisements.

S. 2411

At the request of Mr. Mitchell, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of S. 2411, a bill to amend the Internal Revenue Code of 1986 to extend the low-income housing credit through 1990.

S. 2561

At the request of Mr. Dole, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 2561, a bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

S. 2664

At the request of Mr. Moynihan, the names of the Senator from New Mexico [Mr. Domenici], the Senator from California [Mr. Cranston], the Senator from Michigan [Mr. Riegle], and the Senator from New Jersey [Mr. Lautenberg] were added as cosponsors of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

SENATE JOINT RESOLUTION 271

At the request of Mr. Quayle, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 296

At the request of Mr. SHELBY, the names of the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 296, a joint resolution designating April 1989 as "National Outdoor Power Equipment Safety Month."

SENATE JOINT RESOLUTION 314

At the request of Mr. BOSCHWITZ, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Oregon [Mr. PACKWOOD], the Senator from Connecticut [Mr. WEICKER], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 314, a joint resolution designating October 1988 as "Pregnancy and Infant Loss Awareness Month."

SENATE JOINT RESOLUTION 321

At the request of Mr. BRADLEY, the names of the Senator from Florida [Mr. CHILES], the Senator from Georgia [Mr. NUNN], the Senator from Texas [Mr. GRAMM], the Senator from Texas [Mr. BENTSEN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 321, a joint resolution to designate the period commencing February 19, 1989, and ending February 25, 1989, as "National Visiting Nurse Associations Week."

SENATE JOINT RESOLUTION 343

At the request of Mr. ADAMS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution to designate the period commencing November 13, 1988, and ending on November 19, 1988, as "Filipino American National History Week."

SENATE JOINT RESOLUTION 350

At the request of Mr. SIMON, the names of the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. STEVENS], the Senator from Virginia [Mr. WARNER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Maryland [Mr. SARBANES], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. QUAYLE], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Oklahoma [Mr. NICKLES], the Senator from Arkansas [Mr. PRYOR], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 350, a joint resolution designation Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Arkansas [Mr. BUMPERS], the Senator from Missouri [Mr. BOND] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

AMENDMENT NO. 2690

At the request of Mr. PRESSLER, his name was added as a cosponsor of amendment No. 2690 proposed to H.R. 4782, a bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

AMENDMENT NO. 2777

At the request of Mr. SPECTER, the names of the Senator from California [Mr. WILSON], the Senator from Rhode Island [Mr. PELL], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Washington [Mr. EVANS] were added as cosponsors of Amendment No. 2777 proposed to H.R. 1158, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

SENATE CONCURRENT RESOLUTION 136—TO WELCOME THE BOARD OF DIRECTORS OF THE JAPAN ASSOCIATION OF TRAVEL AGENTS TO THE UNITED STATES

Mr. REID submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 136

Whereas tourism is vital to the United States, contributing to economic prosperity, employment, and the international balance of trade;

Whereas the bilateral travel trade between Japan and the United States is the only element of the bilateral trade between the countries that economically favors the United States;

Whereas 2.16 million individuals from Japan visited the United States in 1987;

Whereas it is estimated that visitors from Japan to the United States will number 2.7 million in 1988 and 2.97 million in 1989;

Whereas, to improve the balance of trade between Japan and the United States, the Japanese Government has established a program to increase the number of visitors from Japan to the United States to 10 million by 1992;

Whereas the Japan Association of Travel Agents generate 90 percent of the total outbound Japanese travel; and

Whereas the Board of Directors of the Japan Association of Travel Agents will hold its first meeting in the 48 contiguous States in Las Vegas, Nevada, on September 9, 1988: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress welcomes the Board of Directors of the Japan Association of Travel Agents on the occasion of their visit to the United States.

Mr. REID. Mr. President, tourism is obviously important to Nevada, but my colleagues may not realize the full importance of tourism to the country as a whole.

Last year 29 million international visitors came to the United States. They spent $19.5 billion. Over 300,000 American jobs are directly supported by international travelers coming here. Tourism is obviously an important sector of our national economy.

The most rapidly expanding segment of foreign visitors is the Japanese, who numbered over 2 million last year. These figures rank Japan as the third most important country in total visitors, behind Canada and Mexico.

Considering the trade imbalance which we have with Japan, it is important to note that the Japan/United States travel trade is the only portion of bilateral trade which favors the United States. Japanese tourists spent over $2 billion in America last year.

In addition, the Japanese Government has established a program to greatly increase the number of travelers coming to the United States. We should recognize this effort as one step to improving the trade deficit.

Along that line, Mr. President, I am offering a resolution today to welcome the Japanese Association of Travel Agents whose board will be meeting in Las Vegas on September 9. Considering the importance of the travel trade to the United States, and the increasing importance of Japanese tourists in that trade, I think it is appropriate for us to encourage Japanese travel and to welcome their travel agent association.

AMENDMENTS SUBMITTED

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1988

JOHNSTON AMENDMENT NO. 2798

Mr. JOHNSTON proposed an amendment to the bill (H.R. 5026) making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 4, beginning with line 5, strike all through line 4, page 6 and substitute in lieu thereof the following:

"For an additional amount for "Operating expenses", not to exceed $60,000,000, of which $69,467 shall be derived from unobligated balances of "Territorial highways"; $2,460,000 shall be derived from unobligated balances of "Motor carrier safety grants"; $129,000 shall be derived from unobligated balances of "Conrail labor protection"; $654,014 shall be derived from unobligated balances of "Facilities, engineering, and development"; not to exceed $22,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Transportation Act of 1964, as amended, that would otherwise be reappointed on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of "Research, training, and human resources" other than funding for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; not to exceed $6,000,000 shall be derived from unobligated balances of "Acquisition, construction, and improvements"; $5,000,000 shall be derived from unobligated balances of "Research, development, test, and evaluation"; $6,687,519 shall be derived from unobligated balances of "Pollution fund"; $1,600,000 shall be derived from unobligated balances of "Offshore oil pollution compensation fund"; and $1,400,000 shall be derived from unobligated balances of "Deepwater port liability fund".

WALLOP AMENDMENT NOS. 2799 AND 2800

(Ordered to lie on the table.)

Mr. WALLOP submitted two amendments intended to be proposed by him to the bill H.R. 5026, supra; as follows:

AMENDMENT No. 2799

In lieu of the amendment proposed, insert the following:

"Notwithstanding any other provision of law, total assessed and voluntary funds made available to the United Nations, or any agency thereof, after March 31, 1989, except for funds to support the maintenance of U.N. peace-keeping forces, shall be reduced to a level not to exceed that of the total assessed and voluntary contributions of the Soviet Union, unless the President of the United States shall by that date make a certification that Soviet and Soviet-bloc nationals employed as personnel by the United Nations are no longer conducting espionage activities against the United States or its allies."

AMENDMENT No. 2800

At the end of the pending amendment add the following:

"*Provided, however*, That such funds shall be disbursed first to satisfy the obligations of the United States to support peacekeeping forces expressly authorized by the General Assembly or the Security Council including, on a priority basis, any amount the United States owes pursuant to a special assessment for such forces under Article 17(2) of the Charter. For purposes of disbursing funds to support peacekeeping forces as provided in this paragraph, further payments shall be transferred as necessary to the Contributions for International Peacekeeping account from the Contributions to International Organizations account."

GARN AMENDMENT NO. 2801

Mr. GARN proposed an amendment to the bill (H.R. 5026), supra; as follows:

On page 12, after line 15, insert the following:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION RESEARCH AND PROGRAM MANAGEMENT

(TRANSFER OF FUNDS)

For an additional amount for "Research and program management", up to $19,600,000, which shall be derived by transfer from "Research and development" and "Space flight, control and data communications".

Description.—The amendment provides permissive authority for NASA to transfer additional funds, up to $19.6 million, from Research and Development and Space Flight, to the Research and Program Management account to meet staffing and institutional operating expenses. Delays in resuming regular shuttle launch operations, along with significantly higher than anticipated safety, reliability, and quality assurance costs require the agency to augment staffing levels, while addressing a new Congressionally mandated shift in account structure. This permissive authority will allow the agency to meet these unanticipated additional requirements in the Research and Program Management. This is the level of transfer proposed by the House in H.R. 5096, the Urgent Supplemental, however the House language would require that these funds be transferred. The Administration has requested a transfer of $42 million for this purpose.

GARN (AND PROXMIRE) AMENDMENT NO. 2802

Mr. GARN (for himself and Mr. PROXMIRE) proposed an amendment to the bill (H.R. 5026), supra; as follows:

At the appropriate place, insert the following new section:

"SEC. . (a) The aggregate outstanding balance on promissory notes issued by the Federal Savings and Loan Insurance Corporation shall not exceed $11 billion. Further, it is the sense of the Congress that it should affirm and hereby does affirm that all promissory notes issued by the Federal Savings and Loan Insurance Corporation are backed by the full faith and credit of the United States.

(b) It is the sense of the Congress that the Federal Home Loan Bank Board should immediately adopt and enforce a program for prohibiting any new loans or investments on the part of insolvent institutions (as measured by generally accepted accounting principles) whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

LAUTENBERG AMENDMENT NO. 2803

Mr. LAUTENBERG proposed an amendment to the bill H.R. 5026, supra; as follows:

At the appropriate place in the bill, insert the following:

UNITED STATES EMERGENCY MIGRATION AND REFUGEE ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, $24,000,000 to remain available until expended: Provided, That not less than $6,000,000 shall be made available for Soviet and other Eastern European Refugees.

WARNER (AND OTHERS) AMENDMENT NO. 2804

Mr. WARNER (for himself, Mr. THURMOND, Mr. FOWLER, and Mr. NUNN) proposed an amendment to the bill (H.R. 5026), supra; as follows:

At an appropriate place in the bill, insert the following new section:

"SEC. XXX. SENSE OF THE SENATE REGARDING THE NEED TO ENACT LEGISLATION AUTHORIZING A MILITARY PAY RAISE FOR FISCAL YEAR 1989.

"It is the sense of the Senate that the Congress should expeditiously pass legislation authorizing a pay raise for all members of the uniformed services effective on January 1, 1989, which would increase the rates of pay by 4.1 percent for basic pay and for basic allowance for subsistence and by 7.0 percent for basic allowance for quarters.".

CONRAD AMENDMENT NO. 2805

Mr. CONRAD proposed an amendment to the bill (H.R. 5026), supra; as follows:

At the appropriate place insert:

DEPARTMENT OF ENERGY ADMINISTRATIVE PROVISION

The 30-day notice period for the review of the sale of the Great Plains gasification plant by Congress shall not commence earlier than August 25, 1988.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION ACT

INOUYE AMENDMENT NO. 2806

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill (S. 828) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That there are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

SEC. 2. (a) The Administrator of the National Telecommunications and Information Administration (hereinafter referred to as the "Administrator") shall establish semiannual goals for recruiting and hiring minority members and women to the staff of the Administration. Such goals shall be published in the Federal Register not later than thirty days after the date of enactment of this Act.

(b) The Administrator shall, not later than September 30, 1988, March 31, 1989, and September 30, 1989, submit a report on the success of the Administration in achieving the goals established under subsection (a) of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

SEC. 3. The Administrator shall enter into discussions with the Federal Communications Commission for the purposes of determining the feasibility of awarding public telecommunications facilities program grants for low-power television stations and television translator stations on a conditional basis pending the award by the Commission of licenses for such stations. The Administrator shall also work with the Commission to establish a schedule for the expedited and coordinated consideration, on a regular basis, of future grant requests and license applications for low-power television stations and television translator stations. The Administrator shall, within ninety days after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the progress made in carrying out the requirements of this section.

SEC. 4. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic importance to the United States, and other nations are seeking to establish their influence in this region;

(2) the Pacific Basin communities are important economically to the United States, and have sought a close relationship with the United States;

(3) because the Pacific Basin communities are geographically isolated and because many of such communities are relatively poor, they are in great need of quality, low cost communications services to maintain contact among themselves and with other countries; and

(4) since August 1985, the Pacific Basin communities have been without a vital communications service because the ATS-1 satellite of the National Aeronautics and Space Administration ceased operation.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until commercially viable alternatives are available and to provide initial funding in order that the Pan-Pacific Educational and Cultural Experiments by Satellite Program again serves the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate and acquire satellite space segment capacity for communications services for the Pacific Ocean region for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) Such satellite space segment capacity may, for a period of three years from the time it is acquired, operate in those portions of the UHF frequency band (225-400) Megahertz) assigned to the Department of the Navy, unless the President finds that the use of such spectrum solely by the Department of Defense is essential to the national security of the United States.

(B) The Secretary of the Navy shall join with the Secretary of Commerce in the negotiation and acquisition of satellite space segment capacity under this section in any case where the capacity to be used is the capacity specified in subparagraph (A) of this paragraph.

(3)(A) The Secretary of Commerce shall provide to the managers of the Pan-Pacific Educational and Cultural Experiments by Satellite Program such funds as the Secretary of Commerce considers necessary to manage the operation of satellite communications services acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,700,000 for each of the fiscal years 1988 and 1989 for use by the Secretary of Commerce in the development, including the acquisition, of satellite communications services under subsection (c) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the Pan-Pacific Educational and Cultural Experiments by Satellite Program, and other affected parties regarding the development of a long-term commercial solution to the communication needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, August 11, 1988, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from representatives of Federal agencies concerning their response to the scientific evidence of a global warming trend, and to receive comments on S. 2667, the "National Energy Policy Act of 1988."

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-364, Senate Dirksen Office Building, Washington, DC 20510-6150.

For further information, please contact Leslie Black, professional staff member, at (202) 224-9607.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I want to advise my colleagues that the major oversight hearing the Committee on Veterans' Affairs was to have had on August 11, 1988, for the purpose of reviewing the adequacy of available funds and personnel for the VA health-care system, has been postponed in order to accommodate the committee's ranking minority member, Mr. MURKOWSKI. This hearing has been rescheduled for September 9, 1988, beginning at 8 a.m. in room 216, Hart Senate Office Building. At the hearing, we will be receiving testimony from the VA Administrator, the VA Controller, and the Chief Medical Director and Deputy Chief Medical Director of the VA Department of Medicine and Surgery; VA regional directors, VA medical center directors, VA Chiefs of Staff, and VA Chiefs of Nursing; veterans' service organizations; and related professional organizations such as the American Association of Medical Colleges and the Association of VA Chiefs of Medicine.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday, August 4, 1988, to conduct oversight hearings on international debt.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on August 4, 1988, to hold a hearing on the nominations of Salvatore R. Martoche to be an Assistant Secretary of Treasury (Enforcement), Don E. Newquist and Ronald A. Cass to be Commissioners for the U.S. International Trade Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND ENVIRONMENTAL OVERSIGHT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, August 4, to conduct an oversight hearing on Federal facility compliance with hazardous waste laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, August 4, in open session to continue to receive testimony on the defense acquisition process, with emphasis on organization and management issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Senate Energy Committee be authorized to meet during the session of the Senate on August 4, to conduct a hearing on S. 2352, a bill to provide for the transfer of certain lands in the State of Arizona, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EMERGENCY MEDICAL SERVICES

●Mr. DASCHLE. Mr. President, I want to draw my colleagues' attention to a recent article in the New York Times describing the state of emergency medical services in rural areas. Many policymakers are sensitive to the physician and nursing shortages and the financial troubles of hospitals in rural areas. However, we have another crisis unfolding with the dwindling availability of emergency medical services.

About 555,000 persons die from heart attacks and another 140,000 die from injuries each year in the United States. Studies estimate that from 15 to 20 percent of injury and prehospital coronary deaths could be avoided with the delivery of appropriate emergency medical services.

In the 1960's and 1970's, a large infusion of Federal dollars allowed States to establish and upgrade their emergency medical services [EMS] systems. During that time, States established paramedic training programs for volunteers and purchased a fleet of ambulances that helped improve EMS delivery. However, in 1981, the States suffered a major setback when the Reagan administration succeeded in obtaining a drastic reduction in Federal EMS funding. Since that time, States have found it necessary to provide the funding shortfall and assume a much more active role in financing and regulating the delivery of EMS.

As a recent GAO report noted, States in rural areas have had a much harder time than urban areas in maintaining the same quality of EMS. These problems are particularly acute in the Western States, like South Dakota, where vast distances separate small towns. As the article states "because of the decline in agriculture and energy, these rural areas just don't have the money or the people to keep these services going the way they should." The budget in rural States, like South Dakota, simply cannot support significant improvements in expensive EMS systems where a low volume of trauma patients makes large investments impractical. Money needs to be spent on new ambulances and hiring more paramedics to replace the dwindling supply of volunteers.

I believe that my colleagues will find this article as disturbing as I did, and I look forward to working to improve access to and the quality of emergency medical services in rural areas. I ask that the article, "Colorado Danger Signs on Rural Emergency," be printed in the RECORD.

The article follows:

COLORADO DANGER SIGNS ON MEDICAL EMERGENCY

(By William E. Schmidt)

BYERS, CO, April 7.—The town's only-doctor left long ago and the closest clinic closed its doors in February. So what now passes for emergency medical care on this part of the Colorado high plains is a 10-year-old ambulance with a volunteer crew and a bumpy 45-minute ride to Denver.

"And that's only if we can keep the ambulance running," said Jo Eikelberry, who supervises the 13-member rescue squad in this tiny rural crossroads of 200 people, an exit off Interstate 70 50 miles east of Denver.

Across much of rural America, access to emergency health care has been defined by the range of the local ambulance. Now, just as the depressed rural economy is forcing many country doctors and local hospitals to close their doors, towns like Byers also are finding it increasingly difficult to come up with the money and the trained personnel to keep the state's aging network of ambulances at work.

The problems have been acute in Colorado and other states in the West. Vast distances separate small towns in this region and the financing of local ambulance services has often been left to local governments or groups of volunteers whose only sources of revenue are having a fish fry or a charity auction.

FEAR OF "FULL-BLOWN CRISIS"

As a result, Lieut. Gov. Mike Callihan of Colorado says rural emergency health care in the state is facing "a fullblown crisis," a situation that affects not only the people who live in these remote places, but also the tourists and others who travel the state's rural roads and remote stretches interstate.

"Because of the decline in agriculture and energy, these rural areas just don't have the money or the people to keep these services going the way they should," said Mr. Callihan, not only pointing to rising operating costs, but also to steep increases in liability insurance. "There are places in this state where you better pray you don't have an accident," he added.

Largely as a result of Congress's decision in 1981 to curtail Federal assistance, which in the 1960's and early 1970's provided millions of dollars that enabled many small towns to buy ambulances and train personnel, the state's budget for emergency medical services has declined 70 percent.

Meanwhile, Colorado's Legislature has refused to help local communities make up the difference, contending that because of the state's depressed economy, the money is not there to take on such new obligations.

"What are we supposed to do then?" asked William R. Metcalf, the director of state Emergency Medical Services. "Post signs on the interstate that say: 'Drive carefully for the next 20 miles, because if you do have an accident no one will come'?"

WHEN EMERGENCY OCCURS

According to The Rocky Mountain News in Denver, that is almost what happened to one man last summer, when his Jeep went out of control on a country road in Western Colorado and rolled over on him, fracturing his pelvis and causing internal injuries.

The nearest ambulance, in the firehouse at New Castle, less than a mile away, was out of service, because the local ambulance company could not afford repairs on the 12-year-old vehicle.

The man did survive, thanks to a group of local residents who gave him first aid in the back of a pick-up truck until a helicopter arrived, more than an hour later, from Grand Junction.

A fleet of seven helicopter ambulances, operated by hospital and private companies, do help, but Mr. Metcalf said they do not have the range to cover the whole state, and their operations are limited by bad weather and rough terrain.

Mr. Metcalf said that last year a survey by the State Auditor concluded that an accident victim was three times more likely to be killed in a rural area.

The nation's network of emergency medical services was built up largely as a result of the Federal Emergency Medical Services Systems Act of 1973, which provided millions of dollars in grants that enabled local communities to buy ambulances and communications equipment.

TURNING POINT ON FUNDS

But Federal aid all but stopped after passage of the Omnibus Budget Reconciliation Act in 1981, as the Reagan Administration pressed Congress to shift the burden for financing such services back to the states and local governments.

For the most part, urban areas have been able to make the transition, while rural areas, where population is widely dispersed and per capita operating costs are higher, have had more difficulty keeping pace.

"What you are seeing in Colorado is the local end result of the philosophy of trickledown economics," said Mr. Callihan, a Democrat. "Ambulance service in rural areas has trickled down to almost nothing."

The General Accounting Office in Washington took notice of the differences in quality between urban and rural emergency medical service in a 1986 report. As a result, Senator Alan Cranston, the California Democrat, has introduced legislation to provide more Federal money to rural areas to buy communication equipment and establish regional trauma networks to serve sparsely settled areas.

Barbara Masters, an aide to Mr. Cranston, said that given the overall decline in rural health care, "the role of the paramedic cannot be overemphasized." "It is essential, particularly in the West, where you have these huge distances," she said.

TENSIONS WITHIN STATE

Mr. Callihan says the refusal of the Legislature in Colorado to finance rural emergency services in the state underscores the tension between urban and rural legislators. "Urban interests dominate the Legislature," said Mr. Callihan. "And in the politics of scarcity, which this state must now practice, the rural areas are losing."

Mr. Callihan says the failure of the state to finance these emergency medical services is also shortsighted, because it directly contradicts efforts by the state to increase tourism and new investment in Colorado.

"We've got to remember that tourists drive through these rural areas on their way to and from ski areas," he said.

In Byers the local ambulance averages about 2.5 calls a week, and serves an area of nearly 800 square miles, in which fewer than 1,400 people live. But it is also responsible for a stretch of about 14 miles on Interstate 70, the state's main east-west artery.

Last year, as local income declined along with dwindling oil and agriculture receipts, donations to help run the local ambulance service slipped to $5,000 from $8,500. Meanwhile, liability insurance premiums doubled, to $3,600 a year from $1,800, and mechanical problems with the aging ambulance forced operating costs up.

In addition, says Mrs. Eikelberry, the number of volunteers has declined from 20 to 13. At times in the day, there is only one person on call to respond to emergencies.

"People here don't want us to go away," said Darl Landis, a volunteer. "But they can't afford a new $40,000 ambulance either."●

THE SILENT ECONOMIC BOOM

● Mr. **KASTEN**. Mr. President, the American economy is booming. Yet to hear my colleagues on the other side of the aisle and to read the press accounts, one would think that America is on the brink of recession.

The bare facts of America's economic prosperity are undeniable, but they have not been reported by the press. Misrepresentations, myths, and outright lies about the economy by liberal politicians routinely go unchallenged.

Columnist Warren Brookes has written an article that convincingly exposes this political coverup of America's prosperity. I would like to point out just a few of Brookes' facts about some of the more common economic myths.

The myth of lost competitiveness. Fact: U.S. exports are soaring with merchandise exports rising at a 30-percent annual rate. Fact: Unit labor costs—the key ingredient in our world competitiveness—actually fell at a 1-percent annual rate, following a nearly 2-percent fall for all of 1987. Fact: During this recovery, U.S. productivity has risen at an average annual rate of 4.2 percent—the greatest and most prolonged rise in U.S. history.

The myth of exporting jobs. Fact: Since 1982, our employment rate has grown 3 times as fast as Japan's and 10 times as fast as Europe's. Fact: the Nation's help-wanted advertising index remains in the record 155-160 range.

The myth of low-paying jobs. Fact: Over the last 12 months, the Labor Department reports that 63 percent of all new jobs were "managerial and professional," its highest paying and skills category, while only 1 percent were in "service occupations." Fact: Since 1981, nearly 47 percent of all new jobs were "high pay," and only a tiny 7 percent were "low pay."

The myth of America's falling living standard. Fact: U.S. living standards as measured by "purchasing power parities" continues to soar well above those of other Western countries. United States real per capita GNP is 10 percent ahead of Canada, 41 percent ahead of Japan, 33 percent ahead of West Germany, and 51 percent of Great Britain.

There is a boom going on in America. It is time for the Congress to acknowledge it, instead of pursuing policies to derail it. I ask that Mr. Brookes' article be printed at this point in the RECORD:

The article follows:

[From the American Spectator, August 1988]

THE SILENT BOOM

(By Warren T. Brookes)

As the primary campaign for the Democratic presidential nomination wound down in late spring, Jesse Jackson and Michael Dukakis continued their pledges to "end economic violence by ending Reaganomics," and "to put America back to work in decent jobs with decent pay." As they spoke, the U.S. unemployment rate dropped to its lowest rate in fourteen years, while the U.S. economy generated a world's record rate in fourteen years, while the U.S. economy generated a world's record rate of employment (the employment ratio of jobholders to population), ten points above Europe, and one point above Japan.

The fact that Jackson's and Dukakis's rhetoric went unchallenged by a sycophantic press shows how difficult is the task facing George Bush—and it's much worse than he thinks.

On May 26, for example, the Commerce Department revised its first quarter GNP growth estimate from 2.3 to 3.9 percent, from solid growth to a powerful surge. Yet the media treated this good news as a "new threat to inflation." The same pundits who six months ago were warning the nation of a recession or a depression now are warning us either of "the dangers of a boom," or of the economy's impending takeover by foreign powers.

Last January, there was a cartoon in the Christian Science Monitor—a normally moderate and sensible organ—showing Uncle Sam as a bedraggled and grease-stained mechanic standing next to the open hood of a tattered, over-sized, broken-down American car, labeled "U.S. economy." He was eyeing an on-rushing Model-T filled with Hispanics labeled "Latin American Debtors," all of them yelling cheerily at Uncle Sam, "Going our way?" The implication was clear: the Monitor, like the rest of the establishment press, tends to see the U.S. economy as a banana republic headed down the Latin American route, laden with external debt, ready to default at any moment.

But, just a week or so before that cartoon appeared, Charles Wolf and Sarah Hooker of the Rand Corporation reported in the *Wall Street Journal* that when our foreign investments are properly valued at market level, the U.S. in 1986 was a net *creditor* nation, to the tune of at least $50 billion—instead of $264 billion in debt, as the Commerce Department reported.

The reason for this is that the "net debt" position reported by Commerce is based on valuing all investments at book, not market, value. Since most of the U.S. investment abroad was made ten to thirty years ago, it is badly undervalued, while virtually all of the foreign investment in the U.S. was made in the last decade, and is closer to its real market value.

Rand's common sense analysis was backed up by a simple fact: In 1986, when we supposedly became "the largest debtor nation on earth," U.S. income from overseas investments was $20.8 billion greater than U.S. payments to foreign creditors and investors. As Milton Friedman politely told the Commerce Department in an article, "If your income from investments exceeds the cost of carrying your investments, you are clearly *not* a debtor."

The point of these examples should be clear. Shallow economic reporting and a fountain of misinformation have combined to spook and depreciate an otherwise booming economy.

That economy is now in its record sixty-eighth month of a peacetime recovery whose *average* GNP growth has been nearly 4 percent a year, and which has created over 15 million jobs even as it cut inflation from 12.6 percent to less than 4 percent, and put on the best competitiveness performance in the postwar history of the United States. In the process it has destroyed the ugly Phillips Curve, which postulated that there was a trade-off between inflation and unemployment.

That's the *good* news.

The *bad* news is that few Americans, and even very few investors, seem to know the good news. And unless George Bush can get across the good news—and how he intends to keep making it better—the public will put an end to the most powerful and successful economic restructuring ever undertaken by a major and mature industrial power.

The greatest irony of the Reagan recovery is that its loudest noise thus far was made on October 19 of last year. Yet at the moment of the market crash, the U.S. economy was expanding at its most rapid rate since 1983, with industrial production up over 5 percent, total jobs up over 3 million, and manufacturing jobs then up 340,000 from the year before—a rate of growth that has expanded to 466,000 a year as of April.

Factory capacity was at peak operating levels, as was the employment ratio, along with help-wanted advertising, and consumer confidence. Capital spending was surging at the fastest rate in three years, manufacturing profit reports were the highest since the 1960s, and exports were soaring by 20 percent, in an economy where unit sales per worker were rising more than thirteen percentage points faster than unit labor costs.

So what caused the crash?

Certainly an unnecessarily extreme shift in Fed policy—from far too loose in 1986, when money growth averaged 15 percent, to far too tight in 1987, when it averaged less than 2 percent—had much to do with it; even as stock yields had fallen to 5 percent or less, long T-bond yields had risen to more than 10 percent. Something had to give.

But that should only have caused a nasty but nevertheless controllable correction. What turned it into a crash?

I think two things: first, extreme but unwarranted fears about the future strength of the U.S. economy, in what I call the "silent boom," and second, the sudden and fully justified realization in the wake of Iran-contra that the Reagan years were over, and that no matter who is elected, the 1988 election could in fact reverse all the gains that were made.

As an example, consider the real story behind the nation's government deficit. About a year and a half ago in December 1986, my editor and I had lunch with the very bright young thirty-two-year-old state treasurer of Michigan, Bob Bowman, formerly a whiz kid with Goldman Sachs. He spent much of the lunch good-mouthing the "comeback recovery" of Michigan and bad-mouthing the Reagan Administration and its allegedly foolish economic policies.

Some of this was good-natured ribbing of the *Detroit News'* persistent pickiness against Bowman's liberal Democratic boss, Gov. James Blanchard, so we took it in stride. But near the end of the lunch, I finally got lucky and asked him just the right question: "By the way, how are Michigan's public pension funds doing?"

Dropping his political guard momentarily, he was suddenly and immensely proud: "We are nearly fully funded on the teachers and over 100 percent funded on the public employees." He then went on to tell us in glowing detail how, when he became treasurer in January 1983, he immediately moved those pension funds, then about 70 percent-funded and worth about $6 billion, heavily into common stocks.

Under his guidance the value of the Michigan funds has (very quietly) soared to more than $16 billion, even after the crash. As a result, Michigan's huge non-contributory pension funds (entirely taxpayer funded) are fully funded at least thirteen years ahead of the schedule announced as recently as 1981. So instead of being a permanent drain of more than $500 million in annual taxpayer contributions (over and above Social Security), they now throw off nearly $2.5 billion a year in income and growth, three times the cost of the pensions.

(By contrast, Governor Michael Dukakis has actually *decreased* the level of funding of the Massachusetts pension system to less than 32 percent, and its unfunded liability has soared over 65 percent since 1983, from $6 billion to more than $10 billion, the worst performance in the nation.)

Now, as of the moment when I asked my question, no one in the Michigan public or the legislature had any idea of this incredible explosion of pension wealth. It was simply hidden from public view by Democrats who didn't want the taxpayers to know!

Yet what happened in Michigan has *very quietly* been happening in most states around the nation. Much of the federal deficit has been offset by soaring $60 billion-plus annual surpluses in the national income accounts of state and local governments—most of it in the form of booming pension-fund wealth.

Indeed, it may come as a shock that the nation's total government deficit (at all levels combined) this last year was less than $108 billion, or about 2.4 percent of GNP—well below most of the major nations of the world.

What this means, of course, is that, at least in part due to the bull market of 1982-87, our actual deficits have never been as large as we were led to believe, and even after the crash the net rise in stock and bond values has been nearly triple the net $732 billion rise in real public debt since 1981.

The fact that you are probably being pleasantly surprised by this good news merely shows how dangerously at variance the public mood about the economy is with its reality. Polls consistently show that while public satisfaction with individual economic fortunes is at near record highs (over 70 percent), pessimism about the national economy is now at 1982 early recession lows!

And why not? If an ignorant alien were to visit the U.S. today and simply listen to the network news or read the *Washington Post* (whose stories are regurgitated by the press around the country), they would think the country is on the brink of depression.

The negativity takes many forms. In his current best-seller, *The Rise and Fall of the Great Powers,* Yale professor Paul Kennedy asks "How can the United States' relative decline be made to occur as smoothly and as slowly as possible?" Kennedy has since joined up with Norman Lear and Dukakis advisor Lawrence Summers to try to sell editorial writers on a "non-partisan" plan "to rebuild America."

Then there's Larry Krause, a Brookings Institution scholar who told the Democrats at the Joint Economic Committee a year ago: "Japan is replacing the U.S. as the world's strongest economic power. It is in everyone's interest that the transition go smoothly." In pursuing this Carteresque vision of Avis-hood, Professor Krause has apparently not noticed that Japan has zero population growth, zero natural resources, and, if it had to pay for its own defense, would pitch off the cliff with the resulting tax burden. That's why it is now sending all of its spare cash to invest in the U.S.!

Harvard's Robert Reich, in ignoring the entrepreneurial explosion taking place within blocks of his Cambridge offices, argues that "the myth of the self-made man" should be abandoned because "the opportunistic individual short-circuits progress," and "is no longer appropriate to our place in the world." Professor Reich is advising Michael Dukakis.

The plain truth is that the current recovery, now well into its record sixth year, has also been stronger than any peacetime recovery in our history, with GNP growth and per capita income growth setting a far stronger pace than anyone has noticed. (See Table 1.)

One reason this recovery has been so "silent" is that it has been fueled not by the big noisy corporations, but, contrary to Robert Reich, by an entrepreneurial boom in smaller businesses. As Joel Kotkin, the west coast editor of INC. magazine, put it in an article in the January 17 Washington Post, "From Thatcher's England to Takeshita's Japan, emulating America's entrepreneurial explosion has become a fundamental goal of policy-makers. . . . While large corporations lost 1.4 million manufacturing jobs between 1974 and 1984, those losses were virtually made up by positions created by 41,000 new industrial companies formed during that period. Companies with fewer than 250 employees, which now make up some 42 percent of all manufacturing employment, could constitute an absolute majority by the early 1990's."

As Peter Drucker puts it, "America shares equally in the crisis that afflicts all developed countries, but in entrepreneurship, in creating the different and the new, the U.S. is way out in front." Indeed, since 1982, U.S. industrial production has almost silently risen over 26 percent, compared with Japan's 22 percent, West Germany's 11.6 percent, and Europe's 8.8 percent.

TABLE 1.—ECONOMIC GROWTH TRENDS IN 2 5-YR PERIODS

[In percent]

	1975–80	1982–87
Real GNP growth total	18.3	19.8
Per year	3.4	3.7
Real disposable income total	14.6	18.3
Per capita	8.7	12.9
Annual p/c	1.7	2.5

Source: U.S. Commerce Department, Bureau of Economic Analysis.

In spite of this, thirty days before the crash, the *Washington Post's* Hobart Rowen, who since 1983 has forecast three recessions, chimed in again with a major piece. "The Coming Unpleasant Recession," which followed by just a few days a similar dose of despair in the *New Yorker* by Columbia economist Robert Heilbroner, "Hard Times Ahead." All this, combined with apocalyptic predictions from Peter Peterson and John Kenneth Galbraith in successive issues of the *Atlantic,* created a near hurricane of horror and despair storming across the financial markets during August and September. No wonder the bull market started to collapse.

Meanwhile, we simultaneously discovered that the U.S. manufacturing economy was soaring into a boom. As First National Bank economist James Howell told me last September 15, "In the more than twenty years we have been tracking some 150 economic indicators, they have never looked so strong at once."

Nevertheless, as Black Monday demonstrated, the cumulative effect of this avalanche of apocalyptic augury can at least temporarily overwhelm even the strongest economic basics. Even Howell suddenly went from extreme bullishness in September to complete doomsdaying on October 20.

Economies, after all, like investors, are moved by attitudes and expectations about the future—more than by real measurements of the present. If the country is continually told its future is bleak, it will sooner or later lose its self-confidence and turn away from growth investment, and its markets will crash. And over the last seven years we have been told one lie about the U.S. economy after another.

THE MYTH OF DECLINING SAVINGS AND SOARING DEBT

Take, for example, the myth about the nation's supposedly declining savings rate, as simplistically measured by the Commerce Department, and our supposedly soaring debt burden. While our debt has indeed risen dramatically, even counting the crash, our financial wealth has (quietly) risen even faster, making us more solvent than ever before.

It may come as a surprise to discover that in 1986, U.S. financial wealth, as measured by the Federal Reserve "Flow of Funds" analysis, reached 244 percent of GNP—an all-time high and up hugely from the 181.4 percent level of 1981. Even after the crash that figure remains over 240 percent.

Indeed, since 1980, U.S. financial wealth in constant 1982 dollars has soared 53.3 percent. In the 1970s that number rose only 17.6 percent. So the rise in the U.S. financial wealth under the Reagan Administration is over 7 percent a year, real, has been nearly five times the average 1.6 percent a year in the 1970s.

But what about our vast new debt to the rest of the world? Aside from the incredible overstatement of that "debt," most of it represents ready and willing investment in U.S.

assets (property, factories, stocks, bonds, deposits in U.S. banks for factoring purposes) because the U.S. is now the world's hottest economy. Or as Joel Kockin put it in the *Post.* "In fact, periods of heaviest foreign investment usually coincided with the most dynamic U.S. expansions, particularly in the late 19th and early 20th centuries when American industrial prowess overcame that of all European competitors. After several decades of American capital flight to other parts of the world, the same process is now repeating itself. Faced with declining populations, high unemployment and anemic economic growth, European investors again consider the U.S. a good place to put their money." It may shock you to know that right now overseas investors hold less than 5 percent of U.S. financial assets.

Ironically, the single most important reason we are now a "debtor nation" (and have a big trade deficit) was the 1982 decision by U.S. banks to stop throwing good money after bad and reduce foreign lending from $110 billion a year to less than $2 billion in 1985. This alone, and not the influx of new credit, turned our "net creditor" position into the current net "debtor" position. And it was this sudden sharp shift from creditor to debtor that was the main stimulus for exploding the trade deficit.

Last January, President Reagan told a Cleveland audience that "trade deficits and inflows of foreign capital are not necessarily a sign of an economy's weakness. They are more often a sign of strength." This immediately caused stifled smirks on the part of the knownothing network newsfolk. CBS's Jacqueline Adams told her viewers, "Of course few economists or investors agree with that view." In fact there are virtually no serious economists, left to right, who *don't* agree with it. The last time we had a merchandise trade surplus was in 1975, when unemployment was over 9 percent—and the last time our current account was in surplus was the 1980–81 recessions.

THE MYTH OF LOST COMPETITIVENESS

All of which explodes still another myth—namely the supposed decline in U.S. competitiveness. Last summer, Britain's prestigious National Institute of Economic and Social Research published a study showing that the U.S. now has the most competitive labor costs in the world. (See Table 2.)

TABLE 2.—U.S. LABOR COMPETITIVENESS

[Relative unit labor cost indexes in dollar terms (U.S.–100)]

	1980	1987 (June)
United States	100.0	100.0
Japan	89.1	142.4
West Germany	141.3	193.3
France	137.0	118.2
Italy	134.8	153.9
United Kingdom	217.4	185.1

Source: National Institute of Economic and Social Research, London.

This, more than the falling dollar, explains why U.S. exports are soaring (merchandise exports alone are rising at a 30 percent rate), and why our manufacturing production is now rising at a humongous 6.4 percent annual rate—the fastest of the major industrial nations—while Japan is now importing its own cars from the U.S.

Yet last April former president Jimmy Carter was allowed to get away with holding a national seminar in Atlanta, Georgia, on the subject of "restoring U.S. competitiveness." At the moment the conference began the U.S. was registering the sixty-sixth month of the greatest rise in industrial competitiveness of any period since World War II, as the Labor Department reported that manufacturing productivity rose by a solid 2.9 percent annual rate in the first quarter of 1988—buttressed by a stunning 33 percent annualized rise in capital spending on new plant and equipment.

At the same time, unit labor costs—the key ingredient in our world competitiveness—actually fell at a one percent annual rate, following a nearly 2 percent fall for all of 1987.

This means that as of the latest quarter, U.S. productivity stands 29 percent higher than in 1981, when President Carter left office, for an average annual rise of 4.2 percent a year—the greatest and most prolonged rise in U.S. history.

At the same time, unit labor costs in manufacturing as of the last quarter stand nearly one percent *lower* than in 1981. This is the most stunning reduction in relative labor costs for any nation in the last twenty years, except Japan—and even Japan has barely matched our own performance since 1982. And when you factor in the 40 percent drop in the dollar's relative exchange rate against our biggest competitors, the improvement is even more remarkable. As Irwin Jacobs, chairman of MINSTAR, said on "Wall Street Week" last January: "This country has never been better postured from an industrial side to flourish."

THE MYTH OF EXPORTING JOBS

Ironically, as a result of our soaring competitiveness, and our sudden export boom, the greatest danger facing the country today is not "exporting jobs," as the political myth goes, but increasing labor shortages. Since 1982, our employment has grown three times as fast as Japan's and ten times as fast as Europe's.

A year ago this July, I warned that labor shortages could mean a serious 1988–89 inflation surge. I pointed out that over the last twelve months the sixteen- to nineteen-year-old labor force had *fallen* 2.4 percent, and since 1980 had fallen nearly 15 percent, and that our working-age population grew only 7 percent while jobs grew 13.1 percent.

So even though soaring labor force participation rates for women and blacks have helped offset this "birth dearth," we are now close to full employment in this country with our employment ratio at a world-record 62.3 percent of our adult population.

In a nation where employment continues to grow at 2–3 percent a year, the working age population (16–65) is now growing only one percent per year. This is why, contrary to all the political hype of a "stagnant economy," the nation's help-wanted advertising index remains (quietly) stuck in the record 155–160 range.

THE MYTH OF LOW-PAYING JOBS

Of all the lies about the Reagan recovery, none has been more egregious than the Democrats' charge that most of the 15 million new jobs have been for "hamburger flippers." The best proof of the fraudulent nature of this argument is Michael Dukakis's Massachusetts. Over the last four years, it has lost over 96,000 manufacturing jobs, 14 percent of its entire industrial job base, even as the U.S. gained 2 percent. Yet the state's per capita income has been *rising* 40 percent faster than even the nation's powerful rate.

This completely debunks organized labor's notion that a move toward a service-sector economy means "low-paying jobs." In fact, over the last twelve months, the Labor Department reports that 63 percent of all new jobs were "Managerial and Professional," its highest paying and skills category, while only one percent were in "service occupations."

The "McJobs" nonsense was first advanced in December 1986 by Big Labor's economic propagandists, economists Barry Bluestone and Bennett Harrison (B/H), who contended that nearly 60 percent of all new jobs during 1979–84 were "low pay."

Yet, as a Labor Department analysis of B/H's own unpublished data base later showed, since 1981, nearly 47 percent of all new jobs were "high pay," and only a tiny 7 percent were low pay; moreover, the trend toward higher pay increases as you come forward in years, and when you use the more reliable Personal Consumption Expenditures (PCE) deflator (instead of the overhyped CPI), the trend toward high-pay jobs has been stunning.

TABLE 3.—THE LOW PAY JOBS MYTH DEBUNKED

[Percent of new jobs by income grouping]

Constant pay levels	1975–78	1982–85
Using the CPI Deflator:		
Low Pay	18.7	8.3
Medium pay	44.4	33.1
High pay	36.9	58.6
Using the PCE deflator:		
Low pay	18.7	−12.8
Medium pay	39.9	32.8
High pay	41.4	80.0

Source: Bluestone Harrison JEC Study, Labor Department Analysis, PCE data points supplied.

THE MYTH OF THE DISAPPEARING DREAM

But the best proof that the low-paying jobs thesis was bunkum came last summer, when the Census Bureau's report on family income and poverty showed not only a 4.2 percent rise in median family income in 1986 (the largest rise since 1972), but also that since 1981 median family income in real dollars had risen by 9.1 percent. (In the Carter budget years 1977–81, it fell by 6.8 percent!)

Indeed, one of the biggest problems now facing the Democrats is that from 1981 to 1986, real per capita disposable income rose 12.3 percent, or a little over 2.3 percent per year, more than double the 1.0 percent a year during the Carter budget years.

Figures like these explain why one of the nation's leading political-economic theorists, professor Ray Fair of Yale, predicted last September that the Republicans would win by 54 to 46 percent in 1988, based on his econometric model which has successfully "predicted" most elections since World War II. Even since the crash, Fair's update picks the Republicans by 52–48.

Critics scoffed at President Reagan's 1988 State of the Union contention that the American dream has been restored—but the Census income data clearly bear him out. They show that the main reason why incomes are rising again is that *all* groups are "trading up" to higher incomes, after "trading down" during the late 1970s.

TABLE 4.—INCOME TRENDS

[In percent]

	Carter 1977–81	Reagan 1981–86
Median family income	−6.8	+9.1
Per year	−1.7	+1.8
Average weekly wage	−10.0	+5
Per year	−2.6	+1
Per capita disposable inc.	+4.1	+12.3

TABLE 4.—INCOME TRENDS—Continued

[In percent]

	Carter 1977–81	Reagan 1981–86
Per year	+1.0	+2.3

Source: Census Bureau—Bureau of Economic Analysis.

From 1977-81, the percentage of families with incomes under $12,500 (constant 1986 dollars) *rose* from 34.7 percent to 36.6 percent for blacks, and from 13.9 to 15.9 percent for whites. But, since 1981, that picture was reversed, as the low-income percentage for blacks *fell* from 36.6 percent to 33.5 percent, and for whites back to 14.7 percent.

At the same time, even as these families were moving back to the middle class, the middle class itself was losing even larger numbers to the upper-income brackets above $50,000. From 1981 to 1986, the share of white families with incomes over $50,000 shot up from 16.6 percent to 22.0 percent, a huge 33 percent rise—offsetting a 7 percent drop from 1977-81.

But the most striking progress was made by blacks, whose share of families over $50,000 rose from 7.1 percent to 12 percent, an impressive 69 percent rise, after a 12.3 loss during 1977-81. What is happening, then, is that even as the low incomes are moving up, the middle is "vanishing" upwards.

THE MYTH OF AMERICA'S FALLING LIVING STANDARD

Which brings us to the final myth, perpetrated by the otherwise sensible *Economist*, namely that our "faltering growth in the standard of living is not the stuff dreams are made on, certainly not the American Dream."

Yet an analysis by the Organization for Economic Cooperation and Development (OECD) shows that "living standards in the U.S. continue to soar well above those of other Western countries." Using what they call "purchase power parities" (PPP), OECD found that not only is U.S. real per capita GNP 10 percent ahead of its nearest competitor (Canada), it is 41 percent ahead of Japan, 33 percent of West Germany, and 51 percent ahead of Great Britain, a clear proof that we remain competitive, with real U.S. PPP income rising another 4.3 percent in 1986 over 1985.

All in all, when you consider that the U.S. has created nearly 90 percent of all the new jobs in the Western world since 1980, this upward income performance in an era of exploding competition has been nothing short of incredible—and another testament to the fact that the U.S. economy, despite all its creaks and groans, continues to be a miraculous (if awfully quiet) success, and especially over the last five years when it has consistently outdone the world on every other indicator possible.

The question now is: Will presidential candidate George Bush turn the economic boom into a political bust by running away from the President who helped to create it?●

RUSSIAN ORTHODOX CHURCH IN THE UNITED STATES, NATIONAL CELEBRATION AUGUST 13-14, 1988

● **Mr. LAUTENBERG.** Mr. President, I rise to pay tribute to the Russian Orthodox Church in the U.S.A. millennium celebration. A national celebration commemorating its 1,000-year history will take place August 13-14, 1988, in Garfield, NJ.

The Russian Orthodox Church began 1,000 years ago in Russia, introduced by early rulers, Grand Prince Vladimir and his grandmother Olga. The Orthodox Church brought the Russian people together into "one holy Russia."

Missionaries brought the Orthodox Catholic faith to America 200 years ago. It spread across the country and encompassed Americans of Russian, Ukrainian, Byelorussian, Carpatho-Russian and Ruthenian descent. Thus, its 1,000-year-old history is the heritage of many Americans.

The Russian Orthodox faith has existed for 1,000 years. It is a fitting tribute that on August 13 and 14, citizens of and visitors to Garfield, NJ, will commemorate the millennium in a national celebration. The official ceremonies will commence August 13 at St. Nicholas Cathedral in New York City. The celebration will continue at Three Saints Church in Garfield, where a service for the blessing of water will take place, followed by various community celebrations.

I extend my best wishes to the official delegation who will be visiting from the "Holy Mother Church" in Russia, to His Excellency, Bishop Clement, to the Reverend Golubov, pastor of Three Saints Church, and to all who gather to pay homage to the great legacy of the Russian Orthodox Church.●

JAKE LINDSEY, AUTHENTIC WAR HERO, DIES

● **Mr. COCHRAN.** Mr. President, recently one of our Nation's authentic war heroes died at his home in southeast Mississippi. Jake W. Lindsey, whose exploits in World War II brought him the Congressional Medal of Honor, which was presented to him before a joint session of Congress by President Truman in May 1945, died of a heart attack at his home near Waynesboro, MS, on July 18. Burial services with military honors were held at the White House Cemetery at Clara, MS 3 days later.

Jake Lindsey proved himself to be one of America's greatest combat soldiers not once, but twice, in two different wars. He won the Medal of Honor, our Nation's highest decoration for Valor at Arms, in action in Germany in November 1944. He then volunteered for duty and persisted until allowed to serve in combat in the Korean war, where his bravery resulted in his being cited a second time for the Medal of Honor. He was then pulled from combat duty by his superiors because of his previous honor and bravery.

His portrait is on permanent display at the Smithsonian Institute. Jake Lindsey won virtually every medal and citation a soldier can receive, stamping him as one of our Nation's greatest military heroes—of all times.

Our sympathies go out to his family in this great personal loss. We are all proud that his record of valor and honor in combat stand as a milestone in American military history. I ask that an article from the New York Times on Jake Lindsey's death be included in the RECORD.

The article follows:

JAKE LINDSEY, WORLD WAR II HERO HONORED BY CONGRESS, DIES AT 67

(By Alfonso A. Narvaez)

Jake W. Lindsey, a combat hero of World War II who received the Medal of Honor at a special Congressional ceremony, died of a heart attack Monday at his home in Waynesboro, Miss. He was 67 years old.

Mr. Lindsey, then a technical sergeant, was the 100th infantryman awarded the Medal of Honor in World War II. As such he received his medal from President Truman at a joint session of Congress in May 1945, six months after the exploits that earned him the award.

In four days of fighting in the Huertgen Forest near Hamich, Germany, Sergeant Lindsey's platoon, an element of the First Infantry Division, had been reduced to 6 men of the original 40. The platoon captured its objective but faced an enemy counterattack.

FOUGHT OFF ENEMY COMPANY

The sergeant, although wounded, faced a German infantry company, backed by five tanks. With rifle and grenade fire, he killed more than 20 Germans, knocked out one of the tanks and then, after his ammunition was exhausted, took his bayonet and engaged in hand-to-hand combat.

His citation, read by Gen. George C. Marshall, stated: "His unerringly accurate fire destroyed two enemy machine-gun nests, forced the withdrawal of two tanks and effectively halted the enemy flanking patrol. Later, although painfully wounded, he engaged eight Germans, who were establishing a machine-gun position, in hand-to-hand combat, killing three, capturing three, and causing the other two to flee."

THE ESSENCE OF VICTORY

Mr. Lindsey, who was 24 years old at the time, quit high school in 1939 to enter the regular Army. He heard President Truman acclaim his gallantry as "unselfish valor" and "the essence of victory."

Mr. Lindsey also served in the Korean War, in which he received a battlefield commission as a second lieutenant. Later he gave up his bars for the stripes of a master sergeant. He retired from the Army in 1963 and then spent 10 years with the United States Forest Service.

He leaves his wife, Lucille; a son, William, and a daughter, Renee, all of Waynesboro; a son, Jake Jr., of Holbrook, Mass., and a daughter, Gail Darling, of Brockton, Mass.●

MINNESOTA DAILY ARTICLE

● **Mr. DURENBERGER.** Mr. President, when the Congress recently debated the welfare reform bill we had the opportunity to hear many excellent arguments about the importance of family responsibility in ensuring the welfare of our children. With only 24 percent of women receiving full payments for child support, it is no wonder that children make up the poorest segment of our society, accounting for one in five children growing up poor. We must: First, address the problems in our child support enforcement system; second, tighten the laws governing an irresponsible parent and third, ensure the care of all children. I am proud to have been the leading Republican cosponsor of the Family Security Act which would move us forward in this direction.

While working on the problems of child support in the context of welfare reform, however, it became increasingly evident to me that there are major flaws in our current system that were not addressed in the context of the bill and will need to be addressed in the future. Fathers, or other noncustodial parents, have not been given adequate help or visibility with many serious problems related to visitation rights and access to information about their children. Studies show that children of divorced parents benefit from the love and involvement of two parents who care for their welfare. Too often, however, a responsible and loving parent is not given the chance to share in his child's life. I would like to share with you a story about one such father from my own State of Minnesota. This is just one example of the system failing to support the best interests of the child by making certain that a responsible father is given the right to be a part of his sons lives. There are many more examples of people like Robert Palmer in every State. Mr. President, I ask that the following article "What About the Fathers" from the Minnesota Daily be printed in its entirety following my remarks.

The article follows:

WHAT ABOUT THE FATHERS?

(By Jeff Kish and Kelli Ann Schuster)

In May 1986, Michele and Robert Palmer divorced after five years of marriage. They had spent most of their married life in Cannon Falls, Minn., raising chickens, tapping the maple trees in their back yard for syrup and gardening their small plot of land. They had two children during that time. Robert and Kevin, who brought joy to their married lives. Since their divorce, however, their sons have become a source of constant dispute between them.

Michele has custody of the kids 10 and a half months out of the year while Robert pays her $405 a month in child support, despite a marital settlement agreement they both wrote, which equitably divided their property and parenting responsibilities. During the year before their divorce was finalized, while they lived apart and shared the parenting duties, two separate judges handed down orders for temporary relief in favor of joint physical custody. But in the final decree, the agreement worked out between Michele and Robert's lawyers gave her sole custody, despite affidavits from child psychiatrists and preschool teachers claiming that joint custody was working well for both little Robert and Kevin. Robert does not think this is fair and doesn't feel he can do anything about it.

"Conbined with no-fault (divorce), the presumption that the children do better in one home, and the presumption that the one who's the primary parent should have the kids, whoever stayed home can say, 'My ex-spouse and I can't get along; we can't coparent, so obviously it's in the best interests of the children to just be with me.' And the courts generally agree with that," Robert said.

A similar story is told my Michael Horton. Two years ago, Horton moved out of the home he shared with his wife and two children. He left knowing he could lose a lot.

Both he and his wife are teachers. Both earn the same income ($40,000 a year) and both continue to live within a mile of one another in the northern suburbs. Yet Michael Horton only sees his children slightly more than two weekends a month.

"With both of us making the same amount of money and living in the same area. (the divorce settlement) should be easy," Horton said. "Fifty-fifty agreement. I should see my children as much as she does, and then there wouldn't have to be any child support. I don't want to short-change my kids. I want them 50 percent of the time and I want to share equally and directly in the expenses. I want equality and I want to be a major part of their lives.

"There are men out there who leave their wives and children and don't care to continue being a part of their lives. Those are the people who give men like me a bad name," Horton continued. Because of men like that, he said, "the court considers the mother the best parent."

These stories are part of an increasingly vocal men's rights movement, small in number, which is pressing for changes in divorce laws to recognize men's legitimate rights as fathers. These men are angry at the court system for diminishing their parental rights to what one father calls "playing Santa Claus every other weekend." They feel that the current family law diminishes their role in the children's lives to that of a distant checkbook or the traditional breadwinner without considering the strides women have taken economically.

"Women are working now. This is not the '50s. Men are more than just financial supporters, and the courts need to be educated to that fact," Horton said.

In the 19th century, since custody decisions were based on property rights, children were usually awarded to the father as his property. At the time, it was a matter of economics. In the 20th century, with the "tender years" doctrine (ruling that mothers have custody of children under the age of seven) and the "primary parent" doctrine (stating that children too young to claim a preference between parents be given to the 'primary parent') given more weight by the courts, custody usually goes to the mother.

In the 1980s Americans are getting married later, but according to national statistics, divorce has remianed around the 50-percent mark for the past 15 to 20 years. On average, marriages that end in divorce usually last about seven years, time enough for most to start a family.

The divorce rate began to skyrocket in 1968. Bill Doherty, associate professor in the University's Department of Family and Social Sciences and the director of the Marriage and Family Therapy Program, believes this had some correlation to the women's movement.

"I think that the changing of women's roles and expectations has had an unsettling effect on martial stability. It would be hard for it not to. Expectations of men and women once were much more standard and stable.

"Men getting married now realize they are dealing with something different than their mother. But ultimately, it is going to take generations. We're dealing with an issue that has never been dealt with before in history—men and women being equal," Doherty continued.

Many men *and* women feel there's a gender bias at the heart of most divorce-court decisions, that women get the kids and men get the career assets (earning power) of the marriage.

Nationally, mothers receive sole custody of children in 90 percent of divorces involving children. But studies indicate that children in the custody of single fathers (on the average 35-50 years old, well educated, with good incomes) are as well adjusted as those in their mother's custody.

Conversely, 45 percent of female-headed, single-parent families (in 1984) lived in poverty level. On average, a man's standard of living goes up after a divorce and a woman's goes down.

Sarah Strand, coordinator of the Women's Legal Rights Center of R.M. French Associates, said, "I think that divorce laws are real fair when applied properly. I think that the court system is incredibly overworked.

"The men are angry because they don't have the money, and they're looking at (child support) as an outgoing expense," she continued. "There's just no way you can have two separate households as cheaply as you can have one. Bottom line, it's expensive."

"We're trying to have them, the legal system, respect the fact that these non-custodial parents *are* parents," said Sheryl Lopez, founder of R-Kids (Remember Kids in Divorce Settlements) of Minneapolis, a lobbying group to change divorce laws. "They love their children, they want to have time with them, and they want the judicial system to uphold that." Besides alienating the non-custodial parent, the winner-takes-all attitude of the court system also has a habit of labeling parents.

"Often our system tries to imply that one parent is better than the other, that the other one is a second-class citizen. Unless you can prove one parent is harmful to the children, they should be encouraged to have relationships with both parents," said Dr. Pi-Nien Chang, pediatric psychologist who directs the Single Fathers' Support Group at University Hospital.

Surveys show that children's main regret is not that their parents *got* divorced, but the *way* they got divorced. According to researchers, the key factor is how well children handle separation and divorce is the mental health of the custodial parent.

"Parents breaking up and one of the parents moving out in itself is a very stressful event for a child. Children are apt to feel abandoned. But a lot more difficult complications occur because of how the parents handle the divorce," said Doherty.

Glynnis Walker, in her 1986 book *Solomon's Children*, cited several studies that researched the effect of divorce on children. One, conducted by Dr. Mary Lund of the Child Care and Development Group at Cambridge University, found that children who no longer see their fathers have greater emotional problems. Los Angeles-based psychologist Holly Barrett and author Elyce Wakerman affirmed Lund's findings. Their study reported that two out of five women who had lost contact with their fathers because of divorce reported major marital problems. Another study at the University of California at Irvine came to a similar conclusion; their research revealed that the stronger the attachment between father and daughter, the better the daughter's social adjustment and later academic success.

Dr. Chang agreed. "Boys who don't see their fathers are sometimes defiant, underachievers, depending on the age of the child at the time of the divorce."

Some states are now trying to solve bitter custody disputes and drawn-out battles in court through mediation, which involves the assistance of a third party to help couples come up with a workable divorce agreement. Hennepin County and Los Angeles County in California have led in the development of family court mediation to lessen the costs of divorce and increase satisfaction for all involved.

When a couple files for divorce, as standard procedure a referee is assigned for a preliminary hearing. The case only goes to a judge if there has to be a trial, usually if the couple has a major disagreement. Under Minnesota law, the judge or referee can now order a couple into mediation.

"I think people should try mediation, because the most lasting solution in a family law problem is one that the parties think about honestly, respectfully and come up with themselves," said Connie Baillie, an attorney at Legal Aid Society.

Doherty said, "Mediation is the ideal for the willing and cooperative couple. I think that the adversarial legal system adds a lot of stress. But on the other hand, there are people who would just not be able to work it out."

Robert and Michele Palmer worked out a marital settlement agreement with a private mediator during their separation. "She called it 'the best agreement I've seen in 11 years of mediation,'" said Robert. But a second mediator, ordered by the court after they had shared the parenting duties for over seven months, told them that she was biased, "that she thought the children should always go to the mother." She called their marital agreement worthless.

Robert Palmer now lives in Lakeville, Minn., in a house built originally for farm hands. The paint is peeling and the house sits slanted toward Apple Valley across a tilled plain that used to be a horse farm. Palmer pays $250 per month for this house built along a gravel road in the middle of nowhere. The house he and his wife once shared in Cannon Falls was a split-level on three acres of land, which Palmer called a "nice house." Across the road is a tree house little Robert plays in, near the rubble of an old barn, the local fire department burned down for practice.,

His sons, Kevin and Robert, said the two weekends a month and six weeks in the summer are not enough, and that they would "like to see their father more often." One day Robert climbed a tree, determined not to go back with his mother, until Palmer climbed up and brought him down. Kevin has clung to a security blanket ever since the final decree ended joint custody.

Robert and Kevin seem like other children their age: rambunctious, loud and giggly, yet there is a sadness in their faces. They know that every other weekend they'll have to say goodbye to their father.

"I try to tell them that their mom is doing what she thinks is right. I just disagree," Palmer said. "I try to tell them when I'll see them again and to have a good time at Mom's. The partings are getting easier."●

TRIBUTE TO ALAN PAGE "TO HELP GIVE OTHER CHILDREN THE CHANCE TO REACH THEIR DREAMS"

● Mr. DURENBERGER. Mr. President, I rise to offer a tribute to a remarkable man who showed us all what a real hero is last Saturday when he accepted his most recent honor, his induction into the Pro Football Hall of Fame, seen by millions of Americans.

Alan Page, as every football fan knows, was the defensive end for the Vikings in the 1960's and 1970's. His record is extraordinary by any measure and his heroism on the football field is well known. He was the first defensive lineman ever to be voted most valuable player. But what makes him another kind of hero is what he said and what he stands for.

At a time, when most people get up and talk about themselves and those immediately around them, Alan Page used his moment of glory to shift attention to human consequences of missed opportunities in our society. He reminded us all of what a terrible thing we are doing to young people in this country by not educating our children.

But Alan Page did not just criticize our failures as a society. He offered solutions both for the children and for what we should be and stand for. After these comments, the full text of his eloquent acceptance speech is provided. But I was most touched by his recognition of the importance of teachers and schools in the following:

> We can make a difference, if we go back into the schools and find the shy ones and the stragglers, the square pegs and the hard cases before they have given up on the system * * * and before the system has given up on them.

Thank you, Alan Page, for all you gave Minnesota and the Nation as a Vikings player, for all you have done since then as a model citizen and public official, and for your leadership.

Mr. President, I ask that the full text of his remarks be inserted in the RECORD.

The remarks follow:

ALAN C. PAGE, ENSHRINEMENT SPEECH, PRO FOOTBALL HALL OF FAME, JULY 30, 1988, CANTON, OH

It is a great honor to be here today. Football was very good to me, and my good fortune has continued in my chosen career as a lawyer. But in the world where I now work, professional accomplishment is measured on a very different scale, over a much longer period of time. So I find it a bit strange to again be the object of this much attention for what I accomplished years ago, in a very narrow field of endeavor, called football.

As my football career ended, many of my contemporaries were already beginning to make their impact felt in society. And they continue—healing the sick, creating jobs, defending people in trouble and seeking peace among nations. Very few of them will receive a fraction of the tribute lavished on someone like me, who once tackled people for a living.

It's hard to say what today's inductees will mean to future generations, but for now, we are still looked upon as role models. And role models have an obligation, I think, to relate to the needs of the future, and not just relate to the deeds of the past.

It's certainly okay to enjoy the glory and the fruits of bygone efforts. But I think all the men you see here reached the Hall of Fame because they couldn't be satisfied with their past performances. So as I try to give meaning to this event for myself, I want to focus on what I can do here and now.

On this occasion, I ask myself, "What contribution can I still make that would be truly worthy of the outpouring of respect and good feelings as I have felt here today?" And the answer, for me, is clear: "to help give other children the chance to reach their dreams."

I don't know when children stop dreaming. But I do know when hope starts leaking away, because I've seen it happen. Over the past 10 years, I've spent a lot of time talking with school kids of all ages. And I've seen the cloud of resignation move across their eyes as they travel through school, without making any progress. They know they are slipping through the net into the huge underclass that our society seems willing to tolerate.

At first, the kids try to conceal their fear with defiance. Then, for far too many, the defiance turns to disregard for our society and its rules. It's then that we have lost them—maybe forever.

But this loss is not always as apparent as the kid who drops out of school for life on the street. I've seen lost men in the National Football League.

When I played for the Vikings, a new defensive line coach decided the best way for players to learn the playbook was to read it aloud. Maybe it was a good way to learn . . . for people who could read. There were nine players in the group—all college products. Three had no trouble reading the book. Two did okay. But for the other four, it was an agonizing struggle. And we all shared their pain.

These same young men were once the heroes of their schools, showered with recognition and praise for their athletic achievements . . . and allowed to slide by in the classroom. And for their time in the NFL, at least, these were the fortunate ones. They had beaten the long, 18,000-to-1 odds of even making it that far. But without reading skills, what were their chances of finding a dignified, fulfilling job after football?

We are doing no favors for the poor young men from Miami and Chicago and Philadelphia and LA, if we let them believe that a game shall set them free. At the very best, athletic achievement might open a door that discrimination had held shut. But the doors slam quickly on the unprepared and the undereducated.

We are at a point in our history where black teenagers constitute the most unemployed and undervalued people in the population. And instead of making a real investment in education that could pay itself back many times, our society has chosen to pay the bill three times:

Once, when we let kids slip through the educational system;

Twice, when they drop out to a street life of poverty, dependence and maybe crime;

And a third time when we warehouse in prison those who do cross over the line and get caught.

The cost of this neglect is immense—in dollars and in abuse of the human spirit. We must educate our children.

Once we've let it reach this point, the problem is virtually too big and too expensive to solve. But we can make a difference, if we go back into the schools and find the shy ones and the stragglers, the square pegs and the hard cases, before they've given up on the system . . . and before the system has given up on them.

Then we say to those children: "You're important to our world, and to our future. We want you to be successful and have the things you want from life. But being successful and reaching your dreams takes work. It means being responsible for yourself. If you aren't willing to go to class and do your homework and participate in the opportunities to learn, then you have no right to complain about the unfairness of this world. You're not alone in this. But only you can do the work that will make you free."

"If you wait until college—or even until high school—to get serious about an education, you may be too late. It's hard to go back as an adult to learn what you missed in the third grade. It's important to dream, but it's through learning and work that dreams become reality." We must educate our children.

But we can't preach responsibility to our children if we don't accept it ourselves.

We as parents—especially in the black community—must accept that we bear responsibility for our children. We must work with them. Not just by developing their hook shots or their throwing arms, but by developing their reading and their thinking abilities. If we don't have the skills ourselves to pass on, we can still encourage them, reward them and praise their academic accomplishments. We can educate our children.

We shouldn't put down athletics, because they can teach children the value of teamwork and disciplined effort. But insist that your children take school seriously as well. And if they can't handle the demands of both, school should come first, and athletics should go.

Finally, you and I can make a difference as members of our communities. We can't just leave it up to the schools, or the social workers, or the police and the legal system. We ultimately pay the cost of our educational system's failures. But we also have the solutions within our power. If we educate our children.

We can support the schools and the teaching profession instead of complaining about them. We can honor students and teachers who excel with the same rewards and recognition that we give to our athletes and coaches. As it stands, how can we expect kids with poor self esteem and shaky reading skills to pursue academics when often the *only* reinforcement they get is in sports?

Now, these words may seem too simple to the people on the front lines who have seen too many of the lost, and too few of the victorious.

The jobless single mother may have too little hope of her own to share some with her children.

To the kid surrounded by drugs and violence and acres of rotting city, a job in a law firm may seem more remote than a shot at the Hall of Fame.

And so we, who have been insulated by our successes from a loss of hope, must not turn our backs on these kids. We must not concede their lives to the forces that have worn so many children down. We must educate our children.

Yes, the things I'm suggesting are simple. But I've learned from school, from football, and from the law that even the biggest, scariest problems can be broken down to their fundamentals. And if all of us cannot be superstars, we can remember to repeat the simple fundamentals of taking responsibility for ourselves, and for the children of this country.

We must educate our children.

And if we do, I believe it will be enough.●

ENTRECEPT, INC.

● Mr. McCONNELL. Mr. President, I rise today to insert into the RECORD a copy of an article that appeared in Monday's Louisville Courier-Journal about Entrecept, Inc., a Louisville-based company that franchises the popular White Mountain Creamery ice cream stores. These stores are well-known to ice cream fans in over nine States.

The White Mountain Creameries got their start in Boston in 1983, selling the "super premium" class of ice cream, a type rich in butterfat and overwhelmingly popular with today's indulgent market. Entrecept's present owners, Kentuckians Gary Smith and Charles Ducas, bought the company in 1987 and moved the headquarters to Louisville. Ducas and Smith entered the business in 1985 as franchise owners, running 6 of the 23 stores then in operation.

The stores take their name from the type of machine used to make the ice cream at each individual shop. Watching the ice cream being made enhances the distinctive character of the stores and seems to appeal to the patrons. About 18 flavors are available at any given time in the stores, 11 of which appear on a near-permanent basis. While vanilla is the best selling flavor, another favorite is Kentucky Bourbon Ball ice cream, made with chocolate chips, pecans, and another Kentucky specialty—world famous Maker's Mark bourbon whiskey.

I commend Gary and Charles not only for the fine business example they set for Kentucky and for the Nation, but for their dedication to the unique in-house system of making delicious ice cream. I encourage my colleagues to read this article and to join me in congratulating these two young entrepreneurs—and in thanking them for providing such an outstanding product.

The article follows:

ICE CREAM CHAIN IS A HOT PROPERTY

(By Calvin Miller)

With Americans expected to spend nearly $4 billion on ice cream this year, the frozen delight is no longer just kids' stuff.

It's big business, fueled by every flavor from vanilla to cherry burgundy in creamy textures that range in quality from regular to super-premium.

And the owners of Louisville's White Mountain Creamery have a vision of dominating the fastest growing end of the retail ice cream market—the lucrative super premium, which is the richest in butterfat content and holds the richest rewards for producers.

"We've got the best overall product, bar none," said Gary Smith, co-owner and chief financial for entercept Inc., of Louisville, which does business as White Mountain Creamery. "In five years, we expect to have 363 stores franchised and should control the retail market."

The International Ice Cream Association, in Washington, D.C., represents 200 manufacturers who produce 80 percent of the ice cream made in the United States. Ice cream consumption has increased steadily for years and experts expect the annual 2 percent increase to continue, said Becky Davenport, spokeswoman for the association.

"But the super premiums are increasing much faster," she said. "It was a 15 percent increase last year and will probably continue that way."

Sixty percent of the ice cream consumed in the United States is bought in grocery stores, but the numbers of people walking into "dip shops" to buy their favorite flavors is increasing, Davenport said.

And it was that walk-in business that amazed Smith, 28, and Charles Ducas, 27, three years ago and led them to buy six White Mountain Creamery franchises and, eventually, the entire business. Last November, after completing the purchase for an undisclosed sum, the two friends moved company operations from Boston, Mass., to Louisville.

"It fulfilled the dream we had in college," said Ducas "We just didn't know what kind of business it would be back then."

Ducas and Smith graduated from the University of Kentucky in 1982 and 1983, respectively, and went their separate ways for two years. Ducas was involved in marketing for the Proctor & Gamble Co. in Atlanta and Smith worked for the accounting firm Arthur Andersen and Co. in Boston when Smith stumbled onto their new careers in frozen desserts, they said.

"After two weeks of accounting in Boston, I knew it wouldn't be my career," Smith said, "So I went out for ice cream with my wife."

Smith said he walked into a White Mountain shop in Boston, saw the ice cream machines churning out super-premium ice cream and then tasted the product for the first time.

"I just said 'This is it' and phoned Charles the next day to have him fly out," Smith said.

Ducas said normally he wouldn't fly to Boston on a moment's notice—especially to try ice cream—but Smith is "too level headed" to ignore when it comes to business.

The previous owners of White Mountain had used the original concept of the Steve's Ice Cream, also a Boston based company, and produced a wide variety of ice creams in small batches in each shop, Smith said.

Steve's had abandoned the in-house production of ice cream and moved into mass production for the lucrative wholesale market, such as supermarkets, he said.

"They're still good, but people love the character of our stores and our ice cream is fresher and better," Smith said.

He said all super premium ice creams have at least 14 percent butterfat, compared with 12 to 14 percent in regular ice creams and 10 to 12 percent in economy brands. White Mountain ice creams exceed 16 percent butterfat and more people are looking for that quality ice cream—like that at Baskin-Robbins and Ben and Jerry's—but seeing it made while buying it appeals to everybody, he said.

"Just a year ago, Smith and Ducas were owners of six White Mountain franchises, including one in Louisville and one in Lexington. Already owning the largest number of White Mountain's existing 23 stores, they dreamed about taking over the company some day.

"This just happened a lot sooner than we expected," Smith said. "It took two years instead of five."

They took control of 75 percent of the company in "the deal of a lifetime" and privately sold shares for the remaining 25 percent, they said.

"The way it worked out, we paid off our investment in the first year," Ducas said.

With their dreams of owning the business fulfilled, the two men have already opened two new franchises and have a vision of opening 338 more by 1992. That includes 12 more—four of them in Louisville—within the next year, they said.

"We'll also expand in Nashville and sell franchises in Cincinnati, Dayton and Columbus," Ducas said. White Mountain Creamery shops already exist in nine states, including Hawaii, he said.

All of the areas targeted will support ice cream shops where ice cream cones, with only one dip of creamy delight, cost more than $1.25, he said.

"Super premium ice cream is more for the affluent or those wanting to be affluent," said Howard Englander, marketing director of Steve's Ice Cream. "Everybody can't own a BMW, but they can afford quality ice cream and that's why White Mountain will probably succeed."

Englander said it will be a while before White Mountain can compete with Steve's 100 outlets nationwide, or its $12 million in sales this year. But with Steve's selling more to supermarkets and less in shops, White Mountain captured $2.7 million in retail sales in dip shops in the first half of 1988, Smith said.

"That's why we're the best," he said. "We make everything right in the shop and people can see it happening. Steve's used to do it that way, but they're into capturing the wholesale market now."

Smith said White Mountain will probably never be available in supermarkets because the company is dedicated to producing ice cream in small batches right in front of the customers. But sticking to those ideas will benefit the company overall and franchise owners who pay $15,000 for franchise rights and an additional $100,000 to $125,000 to open a store, Smith said.

"In five years, this company will be generating about $85 million in system-wide sales," Smith said. "And to date, no White Mountain franchise has failed under our concept."

Despite the visions of growth and the determination to succeed, it's unlikely White Mountain can overcome Baskin-Robbins Ice Cream as the No. 1 retailer in the country. The California based company has more than 3,500 stores, including 2,511 in the United States, but their product line includes everything from dietary to super-premium ice creams, sorbets and sherbets, Baskin-Robbins officials said.

Ducas said White Mountain now produces frozen yogurt and frozen desserts such as ice cream cakes and pies, but will not sway from the concept of producing only super-premium frozen desserts.

With the whirlwind success of the past year behind him, Ducas said he is just now realizing the potential of White Mountain Creamery along those lines.

"We were the classic business failure looking for a place to happen when we started three years ago," he said. "But we were lucky enough to have friends and family who believed in us and gave us guidance to succeed, . . . Now we're into this long term, to build upon that and pay them back for that belief."●

INFANT MORTALITY

● Mr. CHILES. Mr. President, I am pleased today to present to the Senate the final report of the National Commission to Prevent Infant Mortality. The members and staff of the Commission have worked diligently during the past year and I would like to take a few minutes to outline our work and our findings.

It is a shocking fact that, in saving the lives of babies, America ranks 15th among the nations of the world.

It is shocking, all right. Mr. President, what makes it more so, is that those are not my words, and they are not from our time.

The words were Lyndon Johnson's and the time was 20 years ago. And what shocks us even more is that while we may have been 15th in 1968, today we are 19th.

A full generation of medical advancement has somehow come and gone without answering the riddle of why 40,000 American infants are dead before their first birthday.

For the past year, the National Commission to Prevent Infant Mortality has probed the experiences of the Nation's parents and professionals for answers. What we found is that many infants are born too small, many are born too soon, many mothers never get decent care and guidance during their pregnancy.

Mr. President, if our fight against infant mortality has stalled, it is because we have not reached the mothers and children at risk. We need to invest the kind of resources that provide preventive health care rather than waiting to provide costly "rescue" treatment later.

Our Commission report, therefore, calls for universal access to early, comprehensive maternity and infant care. And, second, it describes the need to make children's health and well-being a front-row national priority—not just to recognize the problem but to reach the people who need the help.

Mr. President, the Commission believes the Nation has the means to help the children and the means justify a new beginning. We need to weld the resources of medicine, government, and community into a commitment and a capacity to care for mothers and infants.

It has been said that no nation can call itself great that does not put its children first. To that end, our Commission report is a hammer on the anvil of public commitment. And we want the echoes to spread throughout the country.

We want the dying to end, and we are convinced it can be ended. It is not inevitable that the grave and the cradle be one in the same for thousands of American infants.

At this time, Mr. President, I would like to submit a copy of the final report of the National Commission to Prevent Infant Mortality for inclusion in the RECORD.

The report follows:

AUGUST 4, 1988.

DEAR FRIENDS: "It is a shocking fact that, in saving the lives of babies, America ranks 15th among the nations of the world."

It is shocking, alright. What makes it more so, is that those are not my words, and they are not from our time.

The words were Lyndon Johnson's and the time was 20 years ago. And what shocks us even more is that while we were 15th in 1968, today we are 19th.

A full generation of medical advancement has somehow come and gone without answering the riddle of why each year 40,000 American infants are dead before their first birthday.

For the past year, the National Commission to Prevent Infant Mortality has probed the experience of the nation's parents and professionals for answers. What we found is that too many infants are born too small, too many are born too soon, too many mothers never get decent care and guidance during their pregnancy.

Our fight against infant mortality has stalled because we have not reached the mothers and children at risk. We need to invest the kind of resources that provide preventive health care rather than waiting to provide costly "rescue" treatment later.

Our Commission report, therefore, calls for universal access to early, comprehensive maternity and infant care. And, second, it describes the need to make children's health and well-being a front-row national priority—not just to recognize the problem but to reach the people who need the help.

The Commission believes the nation has the means to help the children and the means and the need together justify a new beginning. We need to weld the resources of medicine, government, and community into a commitment and a capacity to care for mothers and infants.

No nation can long call itself great that does not put its children first. To that end, our Commission report is a hammer on the anvil of public commitment. And we want the echoes to spread throughout the country.

We want the dying to end, and we are convinced it can be ended. It is not inevitable that the grave and the cradle be one in the same for thousands of American infants.

Please join us in our fight to guarantee a healthy beginning for all.

Sincerely,

LAWTON CHILES,
Chairman, National Commission to Prevent Infant Mortality.

DEATH BEFORE LIFE: THE TRAGEDY OF INFANT MORTALITY

Joey came into this world three month too early and three and a half pounds too light. At one pound, thirteen ounces, he stood a fifty percent chance of survival. The odds that he would have other problems in life if he survived were even higher. Joey lived his first weeks on earth on a respirator. When he left the hospital, he spent his first months at home on a monitor. His parents couldn't find anyone willing or qualified to care for him, and so they couldn't leave him for a moment.

From the time Joey was two months old a social worker visited him and his family every week. A variety of other services—preventive care, vision teachers, mobility teachers—were available through county and state government social service programs. Where the services weren't available, the family's private insurance helped fill the gaps.

Even so, it cost nearly $200,000 in medical bills before Joey could celebrate his third birthday this June. His only problem now is that he is blind. Joey has a deterioration of the retina as a result of the oxygen needed to keep him alive.

Joey is lucky. His parents were educated, middle-class, white-collar residents of a major metropolitan area. They sought out and used whatever resources they could find, and fortunately, their area provided comprehensive help. Unlike many families and their babies, they didn't fall through the cracks.

Other families aren't so fortunate.

Rhonda went for her first pregnancy test at the age of 16. The test alone cost $80. Before Rhonda left the clinic, she was told that she would have to pay $1,500 for the delivery of her child—and have to pay it in cash, before the seventh month, or they would drop her altogether. Only two doctors in her county delivered babies. Her friends told her that the other doctor also demanded cash up front for patients, like Rhonda, who lacked health insurance. With no money and no way to get to the nearest clinic, 26 miles away, she delayed a doctor visit until six months into her pregnancy.

Then, Rhonda heard about a medical center staffed by nurse midwives. She visited them and became briefly hopeful when she found she could afford the care. Then she had her first examination. The people at the clinic couldn't find the baby's heartbeat. The clinic referred her to another center, where they induced labor. The baby was stillborn at six and a half months.

Lizzie's husband worked for an orange grower. His employer's insurance covered only workers, not dependents. Lizzie applied for Medicaid but was rejected because she was married, and her husband owned a little bit of family land with his father. She and her husband sold everything they could to pay the doctor and hospital bills. It helped, but they couldn't get all the prenatal care she needed.

Whenever she could, Lizzie would drive to a neighboring state to see a private doctor. Late in her pregnancy, the doctor saw clear signs of an abnormal pregnancy. He sent her to a small hospital where a nurse midwife delivered a three-pound baby. The baby was transferred to another hospital with facilities to care for premature births. But for a month, Lizzie couldn't see her daughter because she couldn't get transportation. The baby is now five, cross-eyed, and slightly retarded—but alive.

Unlike Joey, or Lizzie's daughter, 40,000 infants in America each year do not live to celebrate their first birthday. Every hour of every day, five babies take their last breath. Each year, 11,000 babies weighing less than five and a half pounds—known as low birthweight babies—are born with long-term disabilities that result from their fragile condition. Unless we act today, in the next 13 years we will lose more American infants than we have lost soldiers in all the wars fought by the nation in this century.[1]

These facts would be sad enough were it not for the additional fact that at least half of the deaths are preventable, and many of the disabilities avoidable.

America prides itself for its moral leadership and concern for its citizens. That the tragedy of infant mortality is so prevalent in a wealthy nation such as ours is all the more distressing and depressing.

A child born in Japan, Finland, Hong Kong, Ireland, Australia, Canada, Singapore or any of twelve other industrialized nations has a better chance of surviving his or her first year than a child born in the United States of America.

For black infants, the story is even more heartbreaking. A black American infant is half as likely as a white child to live more than a year. A child born in Czechoslovakia or Bulgaria has a better chance of celebrating its first birthday than a black child born in America.

Within the United States, infant mortality is most severe in urban areas and the rural South. In 1985, four-fifths of our largest cities had infant mortality rates greater than the national rate. Of the 12 states with the highest rates of infant death, 10 are in the South.

But as Joey's mother could tell us, infant mortality transcends boundaries of geography, race, income and social class. No matter what circumstances a child is born into, no parent wants to leave a child behind in the hospital. And no mother or father wants to outlive their children. For all the figures that could be cited, when a parent loses a child the loss—and the sorrow—is total. The price we pay for this tragedy is great—in both human and economic terms.

And, the costs of infant mortality are borne by all of American society.

Every low birthweight birth that could be averted would save the U.S. health care system between $14,000 and $30,000.

The lifetime custodial costs for a low birthweight infant can reach $400,000. The costs of prenatal care—care that might prevent low birthweight condition in the first place—can be as little as $400.

Other countries do so much better than we do. Japan, for instance, surpasses all other industrialized nations in its infant mortality ranking. What separates Japan from the United States on the issue is not national wealth, or income, or technology, or training in the medical profession. Shortly after World War II, Japan ranked 17th in infant mortality rates. But in 1951, the Japanese enacted a "Children's Charter." When a mother registers a pregnancy, she receives a letter from the government congratulating her, and a handbook detailing what she must do to help ensure that she gives birth to a healthy baby. The letter and handbook may seem like gimmicks to a jaded American public, but they symbolize Japan's deep commitment to overcoming the tragedy of infant mortality—a commitment that has established Japan as the world leader in preventing infant mortality.

If we could achieve Japan's low rate of infant mortality, the 20,000 children whose lives would be saved each year would contribute in their lifetime up to $10 billion in productive earnings.

It is a commitment the United States must now make.

As Japan has proven, infant mortality is a problem with a solution. And as pediatrician Marsden Wagner of the World Health Organization has said, "Infant mortality is not a health problem. Infant mortality is a social problem with health consequences."

For generations, we have known how to improve the health of mothers and infants. Unlike other social problems, where cause and effect can blend together to obscure solutions, we know what we can do to halt the tragedy of infant mortality.

Medical genius alone will not solve the problem absent a far-reaching comprehensive health care delivery system. We have not significantly improved our rate of success in reducing the incidence of low birthweight babies because we have not significantly improved our capacity to find those in need and provide the up-front care. We spend vast amounts on a compassionate effort to save sick children, when we could spend far less to assure they are born healthy.

In 1979, the United States established national health objectives for 1990. Thirteen of those top-priority goals concerned pregnancy and infant health. The Centers for Disease Control reports that we will probably meet only three of those thirteen goals. We will fall short on the overall infant mortality rate, on the rate for minorities, on the rate of low birthweight babies, and on the proportion of women who go without prenatal care in the first three months of pregnancy, among others.

We know that low birthweight puts babies at risk for short- and long-term complications, and for an early death. We know that prenatal care and early pediatric care are effective and cheap compared to the high technology care needed to sustain babies born at risk. We also know that we are reaching the limits of our ability to save babies at risk through technology.

Clearly, one key to reducing infant mortality is reducing the incidence of low birthweight babies. The rate of babies born too soon and too small has remained virtually unchanged since 1950. Sophisticated technologies and great expense can save babies born at risk. But we need to turn toward making sure that potential low birthweight babies go full term.

The lack of access to health care, the inability to pay for health care, poor nutrition, unsanitary living conditions, and unhealthy habits such as smoking, drinking, and drug use all threaten unborn children. Unquestionably, poverty creates substantial risks—but infant mortality is not just a problem of poor people alone.

Our current health care system addresses infant mortality as a medical issue, rather than as a social problem with medical consequences. The case of Joey, Rhonda and Lizzie offer instruction—and hope.

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[1] The total number of battlefield deaths of American forces in World War I, World War II, Korea, and Vietnam is 426,594; by the year 2000, some 520,000 infants can be expected to die if the recommendations of this report are ignored.

Joey and his parents had access to comprehensive services. With that support, Joey can look forward to leading a productive life.

Rhonda sought prenatal care in the first trimester of her second pregnancy. She was able to use a newly-opened satellite clinic office in her county. When she went into premature labor at 26 weeks, an obstetrician saw her, placed her on medication, and looked after her on a weekly basis. She went into labor at 38 weeks, and when the baby showed signs of distress a caesarean section was performed. The baby had a mild case of pneumonia. Now, the child is fine.

From her cousin, Lizzie learned of a clinic where she could get prenatal assistance and advice on nutrition and other matters. Lizzie went to the center in her second trimester, and carried a healthy baby to full term.

This report of the National Commission to Prevent Infant Mortality has been written with one principal goal in mind. It is our hope and belief that of all the nations in the world, babies born in the United States should have the best chance of living and fulfilling their promise.

RECOMMENDATIONS

Two major steps must be taken immediately if the United States is to activate our fight against infant mortality and if we are to assure our children and mothers the health and well-being that are their right.

First, we must provide universal access to early maternity and pediatric care for all mothers and infants. The existing financial, administrative, logistical, geographical, educational, and social barriers to essential health services for pregnant women and infants must be eliminated. Employers must make available health insurance coverage that includes maternity and well-baby care. Government must assume responsibility for those who lack private insurance or are unable to pay.

Second, we must initiate immediately a sustained, broad-based effort to make the health and well-being of mothers and infants a national priority and give them the public attention and resources they deserve.

These broad courses of action are the major recommendations of this report. To implement these goals, federal, state, and local governments, business and industry, community organizations, and the public and private sector health care communities must assume the responsibility for specific actions. The recommendations offered in this report represent a strategy that can make a difference.

We can spend the money now or we can spend a lot more later. The costs of prenatal care—that can prevent low birthweight—can be as little as $400 per mother. The lifetime custodial costs for a low birthweight infant can reach $400,000.

Every year 40,000 babies die in the United States. From now until the end of this century, 520,000 infants will die if the infant mortality rate continues unchecked. This is more than the total number of all battlefield deaths of American forces in World War I, World War II, Korea, and Vietnam.

Medicaid, the federal-state public health financing program for the poor, now assists less than 40 percent of America's poor and only half of America's poor children. Between 1977 and 1983, the number of Americans in poverty grew by 10.5 million while the number of Medicaid recipients declined by 1.3 million.

RECOMMENDATIONS—EVERY MOTHER AND EVERY BABY MUST BE ABLE TO GET THE HEALTH CARE THEY NEED—UNIVERSAL ACCESS

Every baby should have the right to a healthy start in life. No pregnant woman or infant should go without preventive health services because avenues to care are blocked. Front-end prenatal and early pediatric care are matters of life and death. They are far too important to allow anyone to fall through the cracks. Unless we make a commitment to providing universal access to maternity and infant care, the financial and human cost of infant mortality and morbidity will continue to climb. So will the cost to society of supporting the care and treatment of unhealthy children who, through no fault of their own, grow up with long-term disabilities or have difficulty becoming self-supporting adults.

The Commission holds that every pregnant woman and infant should be able to get the health care they need.

There must be no financial barriers to care.

The health of a pregnant woman or infant should never depend solely on their wealth. Health care should not be limited to those with the ability to pay. To the maximum extent possible, the private sector should make available health insurance coverage, with the government guaranteeing it will be the provider of last resort.

There must be no geographic or administrative barriers to care.

In some rural areas, the closest health care facilities are hundreds of miles away. Often, mothers and infants needing help have no way of getting to or from a clinic.

Women seeking to enter medical or other public assistance programs are often forced to wait as long as 30 to 60 days while their case is considered. Often, pregnant mothers and their small children must wait hours to receive much needed services. Many mothers just give up out of frustration.

Where no services are available, public health departments or local hospitals should establish them. Where there are long forms to fill out, waiting lists, hard to reach clinics, poor transportation, lack of child care services, or other administrative barriers to care, agencies should knock down those barriers.

We must provide early care that is high quality, readily accessible, and appropriate to the health risks presented.

Pregnant women and infants must be guaranteed maternity and infant care as early as possible—women as soon as they know they are pregnant, infants as soon as they are born. Health services—prenatal, delivery, and pediatric—should be coordinated, comprehensive, sensitive to cultural differences, and consistent with accepted health care standards.

THIS NATION MUST MAKE THE HEALTH AND WELL-BEING OF MOTHERS AND BABIES A TOP PRIORITY

If the health and well-being of pregnant women, new mothers and infants is currently a national priority at all, it is far down the list. We are willing to spend an unlimited amount of money to keep low birthweight babies alive once they are born, but we are strangely reluctant to spend far less on the front-end preventive care that would make heroic, glamorous and expensive efforts to save young lives unnecessary. The consequences is that too many of our youngest children are dying. Our infant mortality rate is irrefutable evidence that although we care, we do not care enough. It is time we made a visible, tangible commitment to our children's health, to their quality of life, and to our nation's future—because it is cost effective, and more importantly, because it is right.

The Commission recommends that a national campaign to bring infant mortality to the forefront of our country's awareness be launched and that there be established a permanent national council on children's health and well-being to focus efforts on preventing infant mortalilty and reducing infant morbidity.

FIRST STEPS FOR REDUCING INFANT MORTALITY

Financing care: Pay now or pay later

Comprehensive maternity and infant care saves lives and money: those facts are well documented. We can spend the money now or we can spend a lot more later.

This nation's hospital bill for keeping low birthweight babies alive during their first year of life can be as high as $2 billion a year. The cost of providing front-end prenatal care for those women who do not currently receive it could be as little as $500 million.

One of the main reasons millions of pregnant women and infants do not get the health care they need is simply because they cannot afford it. Most Americans finance health care with insurance provided by or through their employer. But a job does not guarantee that a women or her family will automatically have health insurance, or that the insurance they have will cover all their needs.

In 1985, 9.5 million women of childbearing age—had no health insurance. More than 7 million of these women were married to workers or had jobs themselves. More than 20 percent of all children without health insurance lived with a parent who was insured through work.

Even those who have private insurance must often pay substantial out-of-pocket expenses, especially if their coverage specifies cost-sharing for maternity and well-baby care benefits, or if it restricts coverage for new policyholders who have personal or family histories of medical conditions such as diabetes. Some policies simply do not cover maternity care at all. In 1987, five million women of childbearing age had private health insurance that did not cover maternity care.

[Story Box]

The People In Between: "An increasing number of babies are born in Washington state to low-income women who do not receive adequate health care, giving them an infant death rate five times the state average. 'It's as if we're going back a hundred years in the care of mothers and babies,' says Dr. Zane Brown, a professor of obstetrics and gynecology at the University of Washington. 'Ten years ago, we would occasionally get a woman "walk-in" here,' he says, referring to women who come to University Hospital in labor, ready to give birth, who have been unable to obtain earlier care by a doctor. 'Now we're getting about one a day. And it's not just the real poor. It's the people in between the working poor.'"—from "Born Poor, Born at Risk" Post-Intelligencer, February 8, 1988.

Public programs, primarily Medicaid, fill some of the gaps in coverage. But even Medicaid, the largest source of public funding of health care for pregnant women and infants, covers less than 40 percent of individuals in families with incomes below the federal poverty level—$9,690 per year for a family of three in 1988.

Medicaid coverage for the poor has eroded severely over the years. A family must be poorer today than a decade ago to qualify for Medicaid assistance. And there is no room for discretion: if a family's income is just a dollar above the cutoff for eligibility, coverage is unavailable.

Our patchwork system of health care financing leaves nearly 20 million women of childbearing age and children with no insurance whatsoever. Millions more have inadequate coverage.

Universal access to health care has been a goal, but not a reality, for some time. The Commission is encouraged and heartened by the recent expansions of Medicaid for pregnant women and young children. By July 1, 1990, all states will cover pregnant women and infants with family incomes at or below federal poverty level. In the private sector, some employers have begun to improve their maternity and well-baby coverage. The private sector has also worked with the public health community to improve access to health care at the state and local level.

But for all progress we have made, it is not enough. The Commission's goal is straightforward: women and infants must be able to get health care. The private and public sectors must strengthen their commitment to ensure that women and infants can, in truth, obtain the services they need.

The Commission maintains that the first step toward guaranteeing pregnant women and infants the care they need is assuring financial access to maternity and infant care. The primary responsibility for achieving this goal rests with the private sector and employers who help provide the vast majority of health care in this country. But the government must assume more responsibility for those who lack private insurance or are unable to pay.

A PLAN OF ACTION

Public Sector:

The Medicaid program should be expanded to cover all pregnant women and infants who have family incomes at or below 200 percent of the federal poverty level.

Assets tests for pregnant women applying for Medicaid should be eliminated. As of July 1988, 16 states still considered assets, such as a family automobile, in computing eligibility.

Eligibility in Medicaid for pregnant women and infants should be continuous through the infant's first year of life.

Private Sector:

The private sector should make available prenatal and pediatric health care. All employment-based health insurance should include maternity and well-baby care coverage for employees, their spouses, and dependents.

The self-employed and unincorporated businesses, should be allowed to deduct the full cost of their health insurance as a business expense. Corporations can now do this.

To increase the availability and affordability of private group health insurance for small employers, insurance pooling mechanisms should be established.

ACCESS TO CARE: EVERY MOTHER AND EVERY BABY MUST BE ABLE TO GET THE HEALTH CARE THEY NEED

Limited financial resources are not the only barriers between pregnant women and children and the care they need. There is also a formidable array of obstacles within the system that makes it difficult, if not impossible, to get care. Not the least among these is the fact that the United States lacks a national health policy defining the needs of mothers and infants and the services they require.

Even those eligible for Medicaid may be unable to get into the system. Sometimes they cannot locate documents to verify their eligibility. They may lack the ability, or even the self-confidence, needed to complete complex applicaiton forms. Sometimes the intimidating "official" surroundings deter them. They may be unaware of the program, or how or where to apply for it.

Needy people may live in rural or poor inner-city areas with few if any health care providers nearby. They may lack transportation. They may need child care to take advantage of services. They may be unable to get a timely appointment because of long waiting lists. They may be unable to cope with the hours, lines, and procedures that are the hallmarks of bureaucracy.

And most importantly, they may be unaware of the critical need for early and continuous maternity and pediatric care.

In addition, providers of obstetric care, faced with escalating medical malpractice costs, are increasingly refusing to take high risk patients, if they are taking any new patients at all. They may be unwilling to treat people because they are on Medicaid, or because they are poor and unable to pay. Often, they cannot speak the language of those who need their services.

Some women and infants are in a more precarious position than others. Those who are poor, young, minority, substance abusers, and those whose pregnancies are unintended are at greatest risk.

The Commission maintains that no pregnant woman or infant should go without preventive health care because the "system" currently prevents them from doing so. Prenatal and early pediatric care are too important to allow anyone to fall through the cracks.

[Story Box]

Disillusioned and Unwilling to Work with the System "Only one country clinic accepts patients who receive public medical assistance. The clinic receives funds from a state grant which provides for only a limited number of patients. Women have to wait six weeks for an appointment. The majority of physicians and nurse-midwives in our community refuse to care for women who receive public medical assistance. The reasons: low fee schedules, cumbersome paperwork, and tardy reimbursement. In fact, they are frequently not reimbursed at all. Health care providers in the country feel disillusioned and unwiling to work with the system."

From a letter received by the Commission, May 17, 1988.

A PLAN OF ACTION

Women must be made aware of the full array of available services as soon as they become pregnant. It would be best if pregnant women and infants could secure all necessary services at one location. At a minimum, there must be coordination of programs including Medicaid, Title V Maternal and Child Health Programs, the Special Supplemental Food Program for Women, Infants, and Children (WIC), Community and Migrant Health Centers, social and welfare services, mental health and mental retardation services, substance abuse, prevention and rehabilitation, special education and family planning services.

Congress should require that all Medicaid-eligible infants be automatically enrolled at birth in the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program. Currently, fewer than half of eligible children receive any EPSDT services. States should also be required to offer follow-up services for any problems identified in the screenings.

The Medicaid application forms must be simplified and states should adopt a streamlined eligiblity process, such as "presumptive eligibility" under which all pregnant women applying for Medicaid would be immediatley eligible for services for up to 45 days or until the formal application is denied or accepted, whichever is sooner. (As of July 1988, only 19 states had adopted the presumptive eligibility process.)

The number of providers willing to serve high risk pregnant women and infants must be increased and the malpractice crisis must be addressed. The Commission encourages the development of demonstration projects to test innovative ways to increase the participation of obstetricians, family physicians, pediatricians, and certified nurse midwives in Medicaid and underserved communities.

In order to encourage more maternity and pediatric providers to participate in the Medicaid program, states should exmaine ways to adjust their Medicaid remibursement rates and simplify the admistrative requirements.

A "home visitors program" for pregnant women and new mothers, particularly those in high risk populations, should be established. The program would educate and work wtih pregnant women throughout their pregnancies to promote healthy outcomes. Community organizations and volunteers could be trained to encourage healthy behavior and to refer pregnant women and infants to appropriate services.

BUILDING A SYSTEM OF COMPREHENSIVE, COORDINATED CARE, EFFECTIVE MATERNAL AND CHILD HEALTH SERVICE PROGRAMS

Meeting maternal and child health care needs requires a stable base of essential services. While public programs exist, they do not have the funds to serve all of those in need. The Commission recommends that Congress increase funding for the following programs to better meet the demand and effectively serve pregnant women and infants.

Program and purpose of increased funding:

Title V Maternal and Child Health Services Block (Social Security Act).

To help states assess, plan for, evaluate, and meet the Grant needs of childbearing women and infants, and to strengthen the state's public health leadership in these areas.

Special Supplemental Food Program for Women, Infants, and Children (WIC).

To ensure that the funding level is sufficient to enable all eligible pregnant women and infants to receive services.

Community and Migrant Health Centers and the Infant Mortality Initiative.

To increase the number of Centers receiving grants for the Infant Mortality Initiative and to address malpractice and liability insurance cost issues.

National Health Service Corps.

To increase the availability of maternal and child health providers in health manpower shortage areas and to address malpractice insurance cost issues.

Title X Family Planning Program (Public Health Service Act).

To increase access to services for populations at high risk of poor pregnancy outcomes.

Child Immunization Program.

To improve the immunization status of all children, beginning in infancy and continuing through early childhood, to protect them against infectious diseases.

THIS NATION MUST MAKE THE HEALTH AND WELL-BEING OF MOTHERS AND BABIES A TOP PRIORITY

Sadly, knowledge of the tragedy of infant mortality is confined largely to those who experience it—either its human or financial costs. Before our nation can devote the resources needed to succeed in the fight against infant mortality, we must first make the public aware of the extent—and the seriousness—of the problem.

In America today, mass media—television, newspapers, radio—are the most important shapers of public consciousness and opinion. In recent years, they have contributed to raising public awareness about a number of health problems, including smoking, AIDS, and substance abuse. But hard experience tells us that a limited, one-shot series of 15-second public service advertisements will not do the job—especially when many of the people most at risk will not see them.

Our success in making the health of pregnant women and children a national priority depends, in large measure, on the amount of continuing visibility these efforts have in the eyes of the nation. Unfortunately, the existing federal structure does not provide significant exposure for maternal and child health issues. It fails to provide the kind of unified leadership provided by the Children's Bureau prior to its dissolution in 1969. It does not encourage full coordination of federally sponsored services to pregnant women and infants to issue a clarion call for action. But we have done it before.

In the 1950's this nation rallied its forces to fight polio. The public was poised and ready to begin using the vaccine. Newspapers and radios were calling for all children to be vaccinated. However, the vaccine was not immediately accessible to all and not all understood the importance of being vaccinated.

Fortunately, community volunteers and health care providers committed their resources and made sure that all in need were vaccinated. Public health clinics extended their hours to meet the needs of working parents. Schools required proof of vaccination and for those unvaccinated provided information on how to get the inoculation. Within a surprisingly short period of time, every child under the age of 20 and all pregnant women in this country were free of the fear of polio.

The Commission believes that a single entity, such as a permanent council on children's health and well-being, could serve as a national focal point for developing and executing a public awareness campaign on infant mortality. The council might begin by developing and distributing to every pregnant women a maternal and child health handbook, based on the Japanese model, to encourage early prenatal care and serve as an infant's health record. The Council must work closely with the public and private sector, academia, the media, state and local leaders.

The council's permanence would ensure that it actions become an integral part of this nation's planning and budgeting for children.

A national council should:

Design and implement a national awareness campaign to promote maternal and child health. An expert panel of television, radio, print journalism and advertising executives, along with medical and public health experts and private sector representatives could be established to advise on such a campaign.

Provide coordination with the U.S. Departments of Health and Human Services, Agriculture, Education, Housing and Urban Development, and other federal agencies to promote the health and well-being of mothers and children.

Serve as a liaision between public and private sector initiatives and collaborative efforts for mothers and children and as a national focal point for information and activities on maternal and child health.

FURTHER STEPS FOR REDUCING INFANT MORTALITY

The major recommendations of this report will have little impact if they are not accompanied by further steps to reach pregnant women and infants in communities across the nation. Responsibilities must be assumed by—and resources must come from—state and local governments, communities, and the private sector, over and above what the federal government must do.

Infant mortality is a national tragedy. But our ability to cure it depends on our success in adopting approaches appropriate to diverse and distinct communities. For too long, we have turned to doctors—and doctors alone—for answers. The mandate of this Commission is to identify solutions to the infant mortality problem, and to direct any and every available resource and institution toward solving the infant mortality problem. It is time to ask others to live up to their community responsibilities. The recommendations that follow constitute a more detailed plan of action for reducing the tragedy of infant mortality.

Financing Care: Pay Now or Pay Later

Government:

Current exemptions in the federal Pregnancy Discrimination Act of 1978—which requires most employers who offer health insurance to their employees to include maternity coverage—should be eliminated so that maternity coverage is available to all women who are insured under private plans. Employers with 15 or fewer employees and dependents of employees who are not spouses should be covered by the Act.

States should require that well-baby care be included in all group insurance plans.

States should require that group health insurance policies eliminate waiting periods and preexisting condition clauses for pregnancy related care.

States should require that health insurance risk pools for people who are unable to purchase private insurance because of preexisting medical conditions (medically uninsurable people) include maternity and well-baby care.

Community and Private Sector:

Business associations should develop educational programs for employers about the long-term cost-effectiveness of insurance benefits for prenatal and preventive well-baby care.

Business leaders should educate their colleagues and employees about the importance and cost effectiveness of preventive prenatal and well-baby care.

Access to Care: Every mother and every baby must be able to get the health care they need

Government:

The Secretary of Health and Human Services should require that all women and infants, particularly those at high risk, be guaranteed entry into a system of regionalized, risk-appropriate, obstetrical and pediatric care. The Secretary should require that standards for federally supported maternity and infant care be developed.

The Secretary of Health and Human Services should expand the Department's work with the states and with health professionals to address their malpractice concerns and increase the number of providers who serve high-risk pregnant women and infants.

To accomplish this, the Secretary could:

Test innovative ways to increase the participation of obstetricians, family physicians, pediatricians and certified nurse midwives in Medicaid. Demonstration projects could include initiatives to deal with medical malpractice, related liability issues and low reimbursement levels.

Develop more effective strategies to bring minorities into the health care professions.

Encourage fair and effective peer review among providers of obstetrical care.[2]

Encourage risk-management and quality assurance in health care facilities and for health care professionals.[2]

Develop educational programs for health professionals and the general public on malpractice issues.[2]

The Secretary of Agriculture should increase the department's efforts to bridge the cultural gaps that inhibit women at risk from using existing services, particularly WIC.

The Secretary of Health and Human Services should set up a national network of "hotlines" to provide information on access to maternity and infant care, particularly preventive services and general health education.

States should provide supplemental funding for WIC so that all those eligible may be served.

States should establish "State Maternal and Child Health Councils" to monitor activities and progress in preventing child mortality and morbidity. The Councils should promote the coordination and increase the accessibility of services to mothers and infants, especially where there are high infant mortality rates, with the pragmatic goal of making services available in every community.

Governors should require their state health departments and Medicaid offices to determine why providers are reluctant to participate in Medicaid and other public programs serving pregnant women and infants, and develop strategies for bringing them into the program.

States should develop a plan with the state boards of education to work with the local school officials to implement family life education courses through all grades in all schools.

Governors should identify specific geographic areas with high rates of infant mortality, declare them "Infant Mortality Disaster Areas," and mobilize and coordinate resources and efforts to attack the problem.

States should encourage the establishment and expansion of certified nurse midwifery training programs in the state university system.

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[2] These are discussed in detail in the *Report of the Task Force on Medical Liability and Malpractice*, U.S. Department of Health and Human Services, August 1987.

Governors and state legislatures should require each state's maternal and child health office to work with the Medicaid office to identify the financial barriers facing women and children in the state, to make more efficient use of resources in the state, and to devote new funds to these problems as needed and as they become available.

State and local health departments can and should use a variety of administrative options to serve more women and infants and to identify areas of persistent need:

Private health care providers should be more involved in meeting the needs of high-risk populations.

When a pregnancy is confirmed, there should be an immediate referral to a health care provider.

Schedules should be organized so that women can be seen within two weeks of their request for an appointment, and all missed appointments should be followed up routinely.

Indigenous community outreach workers should be trained to support efforts to reach pregnant women and infants.

Telephone "hotlines," linked to the national hotline, should be set up to answer questions concerning the availability of care, who qualifies for care, where and how to apply, and to communicate the importance of preventive care.

Mobile health units, satellite clinics, health clinics at schools, and other mechanisms should be organized to provide quality care to people in urban and rural areas who are not currently being served.

Communities and the Private Sector:

Businesses, community and religious groups should work together to improve access to health care for pregnant women and infants by, for example, volunteering transportation and child-care assistance.

Commercially available pregnancy testing kits should include information on the need for early and adequate prenatal health care.

Groceries, pharmacies and retail stores should make maternal and child health education materials widely available and include information about local services that are available to pregnant women and children.

Local public health officials, in conjunction with health care providers (including maternal and child health clinics and community and migrant health centers) and community leaders, should develop strategies to identify pregnant women and infants eligible for Medicaid, and assist them in applying for the program.

Quality services: Comprehensive, coordinated care

Government:

The Secretary of Health and Human Services, through the Health Care Financing Administration, should require that all pregnant women in the Medicaid program be screened to determine if they are in a high-risk group. Where necessary, they should be referred to appropriate available services.

The Secretary of Health and Human Services should redouble the Department's efforts to eliminate smoking, drinking and substance abuse among pregnant women, and to reduce substance abuse among women of childbearing age. A special component of this effort should focus on drug abuse and the spread of the AIDS virus to infants during pregnancy.

The Secretary of Health and Human Services, in conjunction with state agencies, local drug-abuse officials, and representatives of drug treatment programs, should develop and implement a plan for meeting the increasing demand for drug treatment services, particularly for women of childbearing age who need those services.

State and local health departments and other agencies should ensure that prenatal, infant care, and other social support service programs have strong referral ties so that no one falls through the cracks.

State and local health departments and other agencies, in cooperation with hospitals, should guarantee that every newborn child is discharged to an identified health care provider who will assume responsibility for coordinating health services for the infant (i.e., a medical home).

Governors should require their states to develop and implement statewide plans for preventive maternity and infant care that include coordinated, comprehensive services. The plans should respect cultural differences, and provide medical, nutrition, education, and social support services appropriate to the risks of the populations involved.

State and local health departments should provide continuing education for their staffs on the unique cultural needs of the people they serve. They should have bilingual staffs or trained translators at sites serving people for whom English may not be a first language.

State departments of health and education should increase their efforts to develop education programs for women, teenagers, and their partners about the consequences of unintended pregnancies, and promote alternatives such as delaying sexual activity or using contraceptives.

Community And Private Sector:

Community and religious groups should develop programs targeted to people at risk, including programs in nutrition, parenting, smoking cessation, elimination of alcohol and substance abuse, family life education, self-esteem development and life-options education.

Business and community groups should work with local school districts to develop job-training programs for women and girls at risk for unintended pregnancies and encourage them to finish their education.

Adding to our knowledge

Government:

Congress should require the Secretary of Health and Human Services to develop and oversee a comprehensive, coordinated research agenda for all maternal and child health issues.

Congress should require the states to report systematically on the numbers of women and infants (and their race and ethnicity) being served by federal programs highlighted in this report, as well as on the specific services they receive.

Federal agencies such as the National Institute of Child Health and Human Development, the Centers for Disease Control, and the Bureau of Maternal and Child Health and Resources Development, should expand their basic, epidemiological and clinical research on:

Motivating women at high risk to seek and continue preventive health care;

Preventing premature labor and intrauterine growth problems;

Preventing and treating babies born with birth defects, fetal alcohol syndrome, cocaine addiction and AIDS;

The interplay between demographic, social, cultural, biological and environmental factors that affects the incidence of low birthweight and infant mortality;

The causes of Sudden Infant Death Syndrome; and

Strategies ot improve access to and delivery of maternity and infant health care services, particularly in rural and inner-city urban areas.

The National Center for Health Statistics, together with the Bureau of Maternal and Child Health and Resources Development, the Bureau of Health Care Delivery and Assistance, Health Care Financing Administration, and the Department of Agriculture, should develop the data needed to establish relationship between child health indicators, low birthweight, insurance status, and participation in public programs such as Medicaid and WIC. This information is critical in monitoring and evaluating the impact of public policies and programs.

State health departments should adopt the 1989 revised standard birth and death certificates, and fully report all items, including data on ethnic origin, use of prenatal care, and all other factors associated with pregnancy and delivery, including medical, social and demographic factors.

State and local health departments should establish expert review panels to investigate each infant death and pregnancy that results in problems, forwarding the information to state vital statistics and epidemiological offices.

State and local health departments should work with hospitals to strength discharge planning and follow-up programs for low birthweight babies.

State health departments should adopt the National Center for Health Statistics' recommended definitions and reporting standards for live births and fetal deaths which are based on the World Health Organization's recommended definitions.

Community And Private Sector:

Communities, in cooperation with state and local health departments and private and public health care providers, should use technique such as surveys and structured interviews to systematically identify the barriers to infant and maternity care unique to each community, and then implement solutions.

Physicans, hospitals and coroners should more accurately identify causes of death on the death certificates of infants. Classifying the majority of infant deaths as "other," or as a result of "Sudden Infant Death Syndrome," masks important information needed to reduce infant mortality.

This Nation must make the health and well-being of mothers and babies a top priority

Government, Community and Private Sector:

The Secretary of Health and Human Services should develop, promote, and distribute to all pregnant women a maternal and child health handbook, based on the Japanese model, designed to encourage early prental care and serve as an infant's health record. In conjunction with that effort, a national network of hot-lines for providing information on maternal and child health shoud be established.

The White House Conference on Children, in the tradition established by Theodore Roosevelt in 1909 and maintained by presidents in every decade through 1970, should be revitalized.

National, state, and local elected officials should report annually on the progress being made to reduce infant mortality and improve children's health. Such reports should be accompanied by proposals to address continuing problems.

Governors and state legislatures should convene annual State Conferences on Children to report on progress and refine strategies for promoting maternal and child health.

State health departments should implement statewide media campaigns, in concert with the campaign, to promote the health and well-being of mothers and infants. These should be based on market research to determine how to best assure that the message concerning the need for and availability of services actually reaches women and their families.

National, state, and local government associations should develop continuing initiatives to promote awareness of maternal and child health. They should also encourage state policies to prevent infant mortality and morbidity.

Organizations of health professionals should encourage their members to participate fully in promoting and using the maternal and child health handbook.

National organizations of artists, writers, and performers should speak out on behalf of children's health, with a special focus on high-risk populations.

National media organizations, state broadcast organizations, and their local counterparts should encourage multi-media, multicultural campaigns to promote the health and well-being of pregnant women and infants.

National business and labor organizations and their local chapters and affiliates should develop policy statements and initiatives to benefit mothers and infants.

Neighborhood churches and synagogues should develop and support community public awareness programs to emphasize the importance of preventive care for pregnant women and infants.

International links, such as a "Sister Cities" project, and an international summit of health ministers from around the world to share strategies for promoting maternal and child heath initiatives from other nations should be developed.●

FEDERAL COURT NOMINEES ON EXECUTIVE CALENDAR

● Mr. SIMON. Mr. President, at its business meeting on August 3, the Judiciary Committee approved three nominations to the Federal courts for action by the full Senate. Since I presided at the committee hearings held on these three nominees, I offer the following brief summaries of the nominees' qualifications, and of the matters raised in the committee's investigations and at the hearings, for the benefit of Senators who will soon vote on whether to confirm these nominations.

First, Herbert Hutton has been nominated to be U.S. district judge for the eastern district of Pennsylvania. The nominee has practiced for the last 19 years with small law firms in Philadelphia, concentrating in the representation of small businesses, nonprofit corporations, and condemnees in eminent domain proceedings. The nominee also serves, by appointment of the Philadelphia Court of Common Pleas, on the County Board of Revision of Taxes, which hears real estate assessment appeals, the Board of Viewers, which hears condemnation proceedings, and the Board of Directors of City Trusts, which supervises various charitable institutions funded by bequests to the city of Philadelphia. Mr. Hutton is 50 years old, and is a graduate of Lincoln University and Temple University Law School. He appears to have a good reputation in his local community, and was rated qualified by a majority of the American Bar Association Committee, with a minority finding him not qualified.

At the hearing on July 27, Mr. Hutton was introduced by Senator SPECTER. I then questioned the nominee about his extensive record of public service and pro bono work; his membership in traditionally all-black social organizations, including one which has never had female members; and his relative lack of Federal litigation experience. Senator THURMOND questioned the nominee concerning his service on the tax board, his litigation experience, and his views on judicial activism and judicial temperament.

Second, Randall R. Rader has been nominated to the U.S. Claims Court. Since 1987, the nominee has served as minority chief counsel to the Subcommittee on Patents, Copyrights, and Trademarks of the Judiciary Committee. Before that, he served as counsel to the Judiciary Committee Subcommittee on the Constitution, Legislative Director to Representative PHIL CRANE, and legislative assistant to Representative VIRGINIA SMITH. Mr. Rader is 39 years old, and is a graduate of Brigham Young University and George Washington University National Law Center. Like all nominees to the Claims Court, he was not rated by the ABA Committee.

At the hearing on July 27, the nominee was introduced by Senator HATCH. I then questioned him on the following subjects: First, his lack of courtroom experience; second, his familiarity with the issues that fall within the jurisdiction of the Claims Court—although the nominee has authored numerous articles and speeches, most were on issues outside the jurisdiction of the Claims Court, and were not considered at the hearing; and third, his involvement with a request to obtain funding for a book from the Justice Department Office of Juvenile Justice and Delinquency Prevention at the same time he was serving on the staff of the committee with oversight over the Justice Department. After the hearing, the nominee also answered written questions concerning the Justice Department grant proposal and his ability to rule impartially in Claims Court cases involving the Government. Although the nominee has written and spoken extensively on a number of legal policy issues, including school desegregation, court-stripping, and the exclusionary rule, he was not questioned about them, as a nominee to an article III court might be, because these issues fall outside the limited jurisdiction of the Claims Court.

Third, Simeon Lake has been nominated to the U.S. district court for the southern district of Texas. Since 1972, he has practiced with the firm of Fulbright & Jaworski in Houston, where he has primarily represented large corporate clients in energy and environmental litigation. He also served as a lawyer in the Army for 2 years after graduating from law school. Mr. Lake is 43 years old, and is a graduate of Texas A&M University and the University of Texas Law School. He was rated well qualified by the ABA Committee.

A number of issues were raised concerning Mr. Lake's nomination, and the committee held two hearings and sent several sets of written questions to Mr. Lake in an effort to fully explore the issues raised. At the first hearing on May 16, Senator GRAMM introduced Mr. Lake and I then questioned the nominee on the following subjects: First, the small amount of pro bono work he has done in 19 years as a member of the bar; second, his membership in a country club that has no black members and has by-laws that are not gender neutral; third, his representation of the defendants in the case of Bean versus Southwestern Waste Management, Inc., in which a group of black plaintiffs charged racial discrimination in the siting of a waste disposal facility in their community; fourth, his knowledge of a $25,000 fee paid to State Senator Jack Ogg in connection with the Bean case that was later investigated by a Federal grand jury.

After the hearing, I submitted two sets of written questions to Mr. Lake on behalf of the committee, which, along with the committee's investigation, developed the following information:

First, in the Bean case, Browning-Ferris Industries, one of Mr. Lake's clients, paid two individuals to conduct a "community relations effort" in the community surrounding the proposed waste disposal site to familiarize residents with the landfill that was to be constructed. However, these individuals being paid by Browning-Ferris not only contacted community leaders, but actually attended meetings of the plaintiffs' group without disclosing their employment by Browning-Ferris, offered to raise money for the group, and then began encouraging the group to mute its protests and urged the group to meet without its lawyer with Browning-Ferris officials.

Testimony to this effect was presented by one of the plaintiffs at a hearing before Judge Gabrielle McDonald on November 4, 1981, at which Mr. Lake was present. However, in responding to the committee's questions on June 9, 1988, Mr. Lake denied knowledge of such activities, stating:

> I was not aware then, nor am I aware now, that the individuals who were being paid to conduct this community relations effort for BFI actually met with the named plaintiffs in the suit without their attorney present to urge them to abandon the suit. Had I been aware that such activities occurred, I would have strongly admonished BFI that such activities should cease forthwith and would have informed plaintiffs' counsel about them.

Second, also in the Bean case, Mr. Lake disclosed to a Houston city councilman a settlement proposal that had been made by plaintiffs' counsel at Lake's request. The city councilman proceeded to publicize selected portions of the proposal on a radio program. At a hearing before Judge McDonald on November 4, 1981, plaintiffs' counsel sought a temporary restraining order and preliminary injunction restraining Mr. Lake from further such actions, claiming that the disclosure of the proposal constituted harassment of her and her clients. Judge McDonald ruled that the plaintiffs had been "adversely affected" by Mr. Lake's actions, and admonished Mr. Lake as follows:

> Normally, settlement proposals are kept among the parties and their attorneys. You told me that you heard that broadcast, you did not try to stop it.

In responding to the committee's questions about this matter, Mr. Lake stated that Judge McDonald had ruled in his favor on the plaintiffs' motion for a temporary restraining order and a preliminary injuction. He indicated that he provided the proposal to the city councilman in the councilman's role as a member of a committee appointed by the mayor of Houston to monitor the status of the lawsuit, and also added:

> In my experience as a litigator, settlement demands by opposing counsel are not considered to be confidential.

Third, in responding to the committee's questions about his pro bono work, Mr. Lake listed the following as the pro bono cases he had worked on during his 19 years as a lawyer: assisting other attorneys in the preparation of two briefs on behalf of indigent criminal defendants in his first year as a lawyer, assisting another lawyer in the defense of a black serviceman in Vietnam during his second year as a lawyer, and providing consultation without compensation on several matters amounting to a total of 50 hours over the remaining 17 years of his practice.

Fourth, Mr. Lake represented Browning-Ferris Industries in several lawsuits filed by residents of eastern Texas seeking damages because of his client's alleged sale of hazardous waste materials for use in surfacing rural roads in that part of the State. He was asked whether, as a condition to settlement of those suits, he asked the opposing counsel to destroy medical or other information that had been compiled reflecting the damage that may have been caused by the dissemination of the hazardous wastes involved, and whether, in his experience, it was a normal practice to require the destruction of such information as a condition to settling a suit. Mr. Lake responded by indicating that, as in other sensitive cases, he did ask the opposing counsel to either turn over to him or destroy all of the "investigation and discovery" materials that had been compiled during the case. He added that "the public interest favors out-of-court settlement of contested matters, and my client paid a substantial amount of money to settle this and similar cases."

Fifth, Mr. Lake responded to additional written questions, indicating: that he has not handled any criminal cases since 1971; that he has represented individuals or small businesses in seven cases during his career; that he would not preside over any cases involving his current law firm for a period of 4 years after assuming the bench; and that he was not aware that any secret payments had been made to one of his law partners to hire witnesses to oppose the issuance of a landfill permit to a competitor of Browning-Ferris Industries.

I presided at a second hearing on Mr. Lake's nomination on July 27, 1988, at which the committee heard testimony and received written statements both in favor of and in opposition to Mr. Lake's nomination. Two plaintiffs in the Bean case and a third individual who had been an officer of the community group that sponsored the litigation testified in opposition to the nomination. They testified that Mr. Lake used "underhanded, divisive, and unethical tactics" in an effort to undermine their suit, pointing to the planting of spies in their group and Mr. Lake's provision of the settlement proposal to a city councilman. They presented a resolution of the Houston City Council which they said demonstrated that the city councilman had not been authorized to monitor their suit, as asserted by Mr. Lake's actions in the suit displayed an insensitivity to racial minorities. The committee also received a letter from Houston attorney David Jones setting forth opposition to Mr. Lake's nomination, based on the nominee's lack of criminal law experience, failure to fulfill his obligation to provide legal services to the disadvantaged, lack of sensitivity to the needs of minority citizens, and "unquestioning association" with a former State senator suspected of unethical conduct. The committee also received a letter from the National Toxics Campaign concerning Mr. Lake's request that evidence of hazardous waste damage be destroyed as a condition to settling a case, which states, "It is not in the public interest to have this information suppressed in order to spare Mr. Lake's clients embarrassment."

The committee also heard testimony from three witnesses in support of Mr. Lake's nomination. Howard Hoover, vice president of Browning-Ferris Industries, testified that Mr. Lake was not involved in the community relations efforts that his company had conducted simultaneous with the Bean case. Larry Veselka, former chairman of the Democratic Party in Harris County, testified to Mr. Lake's intelligence, integrity, and sensitivity to the concerns of racial minorities. John Hill, former attorney general of Texas and former chief justice of the Texas Supreme Court, testified that Mr. Lake is sensitive, ethical, and highly qualified to be a Federal judge. In addition, the committee received letters in support of Mr. Lake's nomination from a black law professor, a black Federal judge, and three other judges from the U.S. district court in Houston. At the conclusion of the hearing, Mr. Lake again testified about the Bean case and about his membership in the Houston Country Club, and after the hearing answered several written questions submitted by Senator THURMOND.

On my own behalf, I offer the following comments on these nominations.

First, I wish to call attention to Mr. Hutton's exemplary record of public service and particularly his devotion of time, energy and legal expertise to aid the disadvantaged. From assisting ventures for low-income housing and employment training, to his numerous charitable activities, Mr. Hutton has found time to fulfill his professional responsibility to serve the disadvantaged to a degree that far surpasses the record of many other nominees. He has never had the resources of a large law firm to fall back on; it appears that he simply recognized his professional responsibility and performed it. Additionally, it is worth noting that, upon confirmation, Mr. Hutton will join the select group of black Federal judges appointed by President Reagan, a distinction that, in nearly 8 years, has been shared by only half a dozen other lawyers.

Second, while Mr. Rader's lack of litigation experience is a concern, his intensive and effective involvement in the legislative process throughout his career should stand him in good stead on the Claims Court, whose jurisdiction is focused to a great extent on the interpretation and application of complex Federal statutes. Randy has made an important contribution to the work of the Judiciary Committee, and I wish him well in his new responsibilities on the Claims Court.

Finally, with respect to Mr. Lake, the committee received a considerable amount of testimony concerning the nominee's conduct in the case of Bean versus Southwestern Waste Management. Three of the plaintiffs in that case, who were officers of a black community group, testified that in their opinion the nominee's conduct reflected insensitivity to the concerns of minorities. That testimony, which clearly reflects the sincere beliefs of those witnesses, was helpful to the committee. But I also sought to take a broader view, and therefore asked the other witnesses, who are familiar with a broader range of the nominee's activities, about Mr. Lake's attitudes on this score. Their responses were positive and reassuring. While the testimony of the Bean plaintiffs deserves serious consideration, I do not think the record establishes a broad or pervasive pattern of insensitive conduct on the part of the nominee. This conclusion underlies my decision that it would not be a mistake for the committee to recommend to the Senate that this nomination be confirmed.

Mr. President, the confirmation of these three judicial nominees will bring to 80 the number of President Reagan's judicial nominations which have been approved by the Senate during this Congress. Contrary to rumors that Senators may have heard, and contrary to what may have been the practice in prior Presidential election years, the Judiciary Committee is continuing to consider judicial nominations, and to approve those nominees—such as the three reported by the committee on August 3—whom it finds to be qualified for the posts to which they have been nominated.●

DROUGHT ASSISTANCE

● Mr. KARNES. Mr. President, yesterday, House and Senate conferees met for the first time to begin ironing out the remaining differences between the two drought packages recently passed by the Congress. This has been an extraordinary process, one that has been singularly marked by a spirit of bipartisanship and bicameral cooperation.

The speed with which we have been able to craft legislation and move it through both Houses of Congress is testimony to how serious the drought is in certain parts of the country.

I support this process, and I have spent a great amount of time in participating in the drafting of this bill and in gathering input from my constituents on what is proper and reasonable for the Government to do in aiding those who have been dealt such a harsh blow. I look forward to voting in favor of the conference package when it is presented to the Senate.

Yesterday, I sent to the Senate conferees a letter in which I laid out those changes that, I feel, would substantially improve the final drought assistance package.

In that letter, I asked that the more expansive House language allowing hail victims to be included in the drought assistance effort. In mid-July I toured several farms in western Nebraska that had just been devastated by hail. One moment these farmers had a promising crop. A crop that they had nurtured and would harvest. The next moment they were wiped out.

Mr. President, these farmers are clearly the victims of a disaster as surely as those farmers who are suffering from the drought. While visiting the Charles Tines farm located south of Venango, NE, I viewed destruction that is complete. There is nothing green left in the fields. They are bare of all vegetation. These farmers will not harvest a crop. Not only that; these farmers had their maximum investment in these crops an average of approximately $200 per acre for irrigated ground—Now in some cases with absolutely $0 crop to show for their investment. I urge that the drought conferees show the compassion needed to provide relief to these farmers.

In addition to the hail language, I asked the conferees to adopt the House provision which would require the Secretary to offer farmers the option of planting up to 25 percent of their feed grains base to oilseed production, specifically soybeans where they are appropriate, for the 1989 crop year. I think that this is needed, especially in a drought year, to send the message to our foreign competitors and customers alike that the drought is not going to remove us from the international market place. The most productive agricultural nation in the world should simply not be importing agricultural products that can and should be produced here.

I have also asked that the Senate conferees insist on its ethanol language. The domestic industry has recently been hit with a crippling blow. Yesterday, I spearheaded a move, with several of my colleagues to remove a provision from the trade bill that would allow up to 200 million gallons of cheap European wine alcohol into this country at a time when the domestic ethanol industry is reeling from the impact of skyrocketing input costs.

I have also asked that the Senate conferees accept the House provision requiring crop insurance for those who receive disaster assistance in 1988. I realize that such a provision would be difficult to administer, but I believe the difficulties can be overcome.

However, crop insurance is the only long-term viable solution to the costs farmers confront when a natural disaster strikes. This bill provides no other incentive for farmers to continue buying crop insurance. That's wrong and should be rectified.

On balance, however, the drought bill that is being crafted today appears to be a good one. I believe it will be measured and responsive. It should provide a measure of support to rural small business. We cannot afford to ignore our fragile rural communities at a time when they had just begun to recover from the devastating affects of the rural recession. It is also responsible in the economic sense because if the drought is substantially ended before the end of the year and production is able to recover slightly, then the outlays associated with the drought bill would be reduced.

Mr. President, I ask that the letter I sent to Senate drought conferees be included with this statement, along with an article from the Ogalala, NE, newspaper pertaining to the hail storm.

The material follows:

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.
Washington, DC, August 3, 1988.

SENATOR,
Senate Office Building, U.S. Senate, Washington, DC.

DEAR DROUGHT CONFEREE: As a Senate conferee on S. 2631, the Drought Assistance Act of 1988, I would ask that you consider some items of concern that I have on drought assistance. The drought legislation will need to be a delicate balance of the needs of farmers and ranchers, the rural economy, which includes small town businesses, as well as the continuation of the rebuilding of our important export markets.

I would recommend that you adopt the House language defining the types of disasters eligible for assistance. The House bill defines disaster as "drought, hail, and flood". I feel that the House language will better accommodate those farmers who have had catastrophic losses but still face the loss of deficiency payments because of higher than normal prices directly attributable to the drought.

As you can see from the attached copy of photos taken near Ogallala, Nebraska on July 13, of a hail storm that wiped out many producers last month, disaster does not simply apply to those who have been without water this spring. These people were going to harvest a good crop. They had made the investment in water, fertilizer and pesticides to bring in a good crop. One minute they were facing a good year, the next minute they are facing disaster. These people need help as surely as the farmer who lost his crop earlier this year to drought. You have it in your power to help.

I would also recommend that you adopt the House language in Section 301, that makes it mandatory that farmers be permitted to plant between 10 and 25 percent of their permitted acreage to soybeans. This language is supported by the American Soybean Association and it leaves the final decision where it belongs: with the farmer who will decide based on his own economic situation. The House language would make it mandatory in 1989 and optional in 1990.

I feel the Senate language regarding assistance to ethanol plants is critical to the survival of this industry and must be included in the final bill. I strongly urge that you fight hard to maintain this provision.

I would also ask that the Senate conferees accede to the House language in section 101 that provides for premixed feed as being one of the items eligible for feed assistance. This will allow livestock producers to choose that product which is most appropriate for their operation.

I also ask that section 207 of the House bill be retained. This section maintains that any producer receiving assistance under this Act shall purchase multi-peril crop insurance for the 1989 and 1990 crop years, with limitations. This will restore the credibility of the Federal Crop Insurance Corporation system by putting all farmers on an even playing field so that they do not plan on being bailed out by the government in the event of an emergency.

The resolution for the Sense of the Senate calling for expeditious action on tax legislation affecting farmers, specifically the diesel tax repeal and the heifer tax, should be expanded to an identical Sense of the Congress resolution.

To ensure that farmers harvest from low-yield fields, I recommend that conferees give those farmers with a harvestable crop sufficient incentive to ensure that the crop is harvested.

I think that the drought assistance package is a workable one. There are certain changes of a technical measure that will make it a better package. I look forward to voting on passage of this bill when it comes to the floor.

Sincerely,

DAVID K. KARNES,
U.S. Senator.

STORM DAMAGES 115,000 ACRES; MILLIONS LOST

On the heals of a poor wheat harvest in Keith County, area farmers got "slam dunked" Monday afternoon by a devastating hail storm which affected some 150,000 acres of crop land in the county, according to Lee Reimers of the ASCS office in Ogallala.

Reimers estimated the losses at 90 to 100 percent on most crops in three separate areas of the county.

The hail struck an 8x10 square mile area between Ogallala and Brule hit a 2x7 square mile area southwest of Brule, and pulverized an 8x15 square mile area between Paxton and Roscoe.

"The damage between Paxton and Roscoe was really the worst," Reimers said, "but 100 percent loss is still 100 percent loss."

Affected were about 1,500 acres of wheat, 7,500 acres of corn, 1,600 acres of oats, 285 acres of barley and 154 acres of rye, all 90 to 100 percent destroyed.

Beans, some 2,100 acres, suffered 80 percent loss according to Reimers, while 30 percent of 120 acres of milo also was destroyed.

"That doesn't include damage to pasture land, some popcorn, alfalfa and hay," Reimers added. "The grass can come back, but the row crops have very little chance."

"There was a lot of soil erosion with reuse pits washing out, terraces, and ditches," he noted. "When you get two or three inches of rain and hail in a half hour, all the conservation practices in the world won't help."

According to the ASCS chief, the corn was just defoliating when the storm hit, stripping the tassles away, along with any ears and most leaves. "We'll just have to wait and see if they have enough leaf structure left to do anything," he said. "Even if they tassle out and polinate, there probably won't be enough leaf left to provide nutrients. The ears will probably be deformed and short on kernels."

"The really bad thing is it's too late to replant. Even milo, and what corn they have isn't much good for silage. There's no grain there—just stalk. There's no dollar value to it."

With the nation-wide drought and poor wheat harvest, prices for farm commodities have been up considerably from a year ago, providing some relief for area farmers, even with prospects of a poor harvest.

"Now, even that's gone for a lot of them," Reimers said. "This storm really pounded them. Now they got slam dunked."

Before the farmers take any action with their disaster crops, Reimers has urged that they come into the ASCS office and make it a matter of record.

"Whatever they are going to do, we need to know," he said. "If we go out there later and can't find what's supposed to be there, it'll be another problem for everyone."

Reimers could place no dollar value on the total crop loss from the storm and noted that the ASCS no longer has a disaster program. The program was removed by the federal government a few years ago.

"Some of them have private insurance," Reimers said. "Others are under the Federal Crop Insurance Program, but that program is required to wait at least 10 days before they can make any damage estimates."

STORM DAMAGE IN MILLIONS

Alfred Baum with the Federal Crop Insurance Program in Ogallala estimated that, should the damage ultimately turn out to be as bad as it now appears, insurance payouts alone could total $2-million.

Actual loss to the farmer, with the market up and the demand high, would far exceed that, making 1988 one of the most disastrous ever for Keith County farmers and ranchers.

"Except for harvest costs, the farmers had everything invested they could possibly invest in their crop," Baum noted. "I talked to a number of them and they'd just put on their last application of fertilizer. They are in a terrible position right now."●

KHMER ROUGE

● Mr. BOSCHWITZ. Mr. President, I rise today to bring a very important matter to my colleagues' attention. Recently, Vietnam has pledged to remove 50,000 of its troops from Cambodia by the end of the year and to remove its remaining troops—another 50,000 or so—by 1990. While I am heartened by Vietnam's announcement to end its illegal occupation of Cambodia, I am frightened by a possible consequence—a return to power for Pol Pot's Khmer Rouge.

The United States must work closely with the United Nations and Cambodia's neighbors to ensure that the murderous Khmer Rouge is not allowed to return to power in Cambodia. This is absolutely imperative. Last Sunday night "The Killing Fields" was shown on TV. This movie served as a grim and vivid reminder of the atrocities committed against the Cambodian people by the Khmer Rouge and its leader, Pol Pot. Two million people were put to death between 1975 and 1978.

Mr. President, genocide is a word I do not utter lightly. Its meaning is too painful for me and my family to use cavalierly. But I believe it entirely appropriate to apply it to the actions of the Khmer Rouge. It is, it must be, our duty to do all we can to ensure they are not allowed to start the genocide all over again.

Jeane Kirkpatrick wrote an important article in the Washington Post last Monday on this very topic titled "Cambodia: Specter of Another Holocaust." Mr. President, I ask that it be inserted into the RECORD and I ask my colleagues to take the time to read it.

The article follows:

[From the Washington Post, July 25, 1988]

(By Jeane Kirkpatrick)

CAMBODIA: SPECTER OF ANOTHER HOLOCAUST

Will the world permit a return of the executioners to the killing fields of Cambodia? It is a harsh question that has been pushed to the top of the international agenda by Prince Norodom Sihanouk.

Sihanouk has lately engaged in some uncharacteristically straight talk. "Another holocaust is becoming inevitable," he said flatly. "At the moment that the Vietnamese danger begins to disappear, the mortal danger of the Khmer Rouge reappears."

Sihanouk greatly fears that "the world will permit" Pol Pot's forces to regain power—even though the murderous group has changed little since it slaughtered some 2 million Cambodians before being driven from power by Vietnam's invasion.

His fears are well-grounded. Organization, discipline, terror and a steady flow of supplies from China have made the Khmer Rouge by far the strongest of Cambodia's divided resistance forces. The KPNLF, headed by former Premier Son Sann, and Sihanouk's own army have been starved for supplies and arms. Again and again Western aid intended for them has, with the acquiescence of Thailand, been blocked and diverted to the Khmer Rouge.

Meanwhile, the Khmer Rouge has grown stronger and has manifested a clear determination to eliminate all rivals in its drive for power.

For several years Khmer Rouge forces have attacked the armies of the KPNLF and of Sihanouk, as well as the occupation forces of Vietnam. Now, in areas from which the Vietnamese troops have withdrawn, attacks have been stepped up against the rival resistance forces.

Through this long period of coalition resistance to the Vietnamese occupation, the United States and other democracies have offered symbolic and diplomatic support to the non-Communist forces of Sihanouk and Son Sann. Still, they have said and done little when supplies sent by them were blocked and diverted, and have said and done little about the help China and Thailand have provided the Khmer Rouge.

This history of Western passivity provides good grounds for fearing that Western powers may not actively oppose any settlement—even if it provides no protection against Pol Pot for the Cambodian people. To draw attention to this danger, Sihanouk spoke the strong words cited previously and refused to attend a meeting now under way in Indonesia of all contenders for power in Cambodia.

Instead, Sihanouk again offered his plan—with a broad outline that called for the withdrawal of Vietnamese troops in three phases, the introduction of an international peace-keeping force at phase two, the establishment of a provisional coalition government (with all parties represented) and election of a constituent assembly to write a new constitution.

Both the Vietnamese and the Khmer Rouge oppose the introduction of an international armed force. The Khmer Rouge see it as an obstacle to their seizure of power and elimination of opposition. Like the Soviet Union in Afghanistan, the Vietnamese hope to retain indirect control through the government that they have put in power, the army they have raised and the thousands of Vietnamese immigrants they have brought into the country.

Whether the Vietnamese are ready or not, their Soviet suppliers are eager for a settlement, the Chinese having made it clear that there can be no "fraternal Socialist relations" between them until the end of Soviet support for Vietnam's occupation of Cambodia.

The ASEAN countries—especially Thailand—also long for a settlement because they would like to see peace on their borders and repatriation of refugees. But the Thais are experts in the art of survival, and one of the requirements of survival is sensitivity to their huge Chinese neighbor. Though it isn't very diplomatic to say so, it is generally true for Thailand that broadly speaking, what China wants, China gets.

Today what China wants for Cambodia is not quite as clear as it once was. China has continued to supply the Khmer Rouge, and no one has much confidence in the Chinese government's verbal assurances that it no longer has an interest in the restoration of a Khmer Rouge government. Still, Pol Pot's murderous utopia matched the China of the Cultural Revolution a great deal better than it matches the new China. The Khmer Rouge bear a close resemblance to the internal adversaries of Deng Xiaoping.

Sihanouk has said that only China and Thailand can prevent the Khmer Rouge from returning to power, by blocking the flow of arms, and that only "the world" can provide the international forces needed to prevent a Vietnamese withdrawal from becoming the preface to yet another Cambodian tragedy.

Prince Sihanouk and Premier Son Sann are living symbols of the possibility of a more peaceful, more democratic Cambodia. They are the clear alternatives to two totalitarianisms that threaten to engulf this tragic land once again.

Sihanouk has drawn attention to the problem. Now it is time for the democracies to demonstrate that they will not acquiesce or tolerate acquiescence in the further victimization of the Cambodian people.●

IN MEMORY OF MAYOR WILBUR J. THOMPSON

● Mr. LAUTENBERG. Mr. President. I rise in tribute to the late Wilbur J. Thompson of Lakewood Township, NJ.

The memory of the late Wilbur J. Thompson, who in his two terms as mayor of Lakewood Township, became one of its most illustrious and best liked citizen-municipal executives, will be honored Sunday afternoon, August 7, 1988.

In ceremonies at the Lakewood Middle School athletic field, the township's board of education and the township's governing committee, will formally join in renaming the playing area "The Wilbur J. Thompson Memorial Field."

Before his death in 1982 following a long illness, Thompson compiled a record of achievements. He was twice mayor—in the 1976 Lakewood Bicentennial Year and in 1980—and a three-term elected township committeeman. He served as police commissioner, a parks-recreation advisory board member as well as president of the board of health and a community school board member.

Today's restoration of Lakewood's downtown business sector had its beginnings in 1976. Mayor Thompson, accompanied by several township officials, went to Washington to plead for government funds to revive the downtown. It finally came to fruition 3 years ago.

The Strand Theater in Lakewood also survived because of Thompson and others. He was among the chief organizers in 1979 of the Ocean County Center for the Arts at the Strand and served as president for 2 years. Through the group's efforts the theater was purchased, renovated and today is a bright jewel in the downtown area as a center for Broadway shows, plays, concerts, ballets, symphony or orchestras, and over a 100 annual community events of all kinds.

Mayor Thompson led the campaign to raise $76,000 in 1975 to send the 240-member Lakewood High School Band to the Tournament of Roses parade in Pasadena, CA. There it joined with the Lakewood (California) High School Band as the second largest group ever to participate in the Roses parade. Television, radio, newspapers, and other media gave Lakewood, NJ, much favorable nationwide coverage.

Mayor Thompson is buried in St. Mary's cemetery. His tombstone carries the inscription from his 1979 citation of merit from the New Jersey Association of Small Community Mayors.

> No man can give his community a richer gift than a generous part of his precious lifetime.

Mr. President, that is exactly what Mayor Thompson did. I join with his friends and colleagues in remembering him when "The Wilbur J. Thompson Memorial Field" is dedicated August 7, 1988.●

RAOUL WALLENBERG

● Mr. MOYNIHAN. Mr. President, I rise today to mark a most solemn occasion, the birthday of Swedish diplomat Raoul Wallenberg. There is no joy on this, the 76th anniversary of Wallenberg's birth. There is only uncertainty. Uncertainty over where Raoul Wallenberg is being held—if he is indeed alive—and where he has been held since he disappeared in 1945.

As Members of this body surely know, Raoul Wallenberg extended the protection of the Swedish crown to tens of thousands of Hungarian Jews in 1944, saving them from certain death. After the war, Josef Stalin thought Wallenberg a spy and had him arrested in Budapest. Wallenberg has not been heard from since.

For its part, the Soviet Government did not admit to having arrested Wallenberg until 1957. At that time, then-Deputy Foreign Minister Andrei Gromyko announced Wallenberg had died 10 years prior. Gromyko gave no proof, nor has the Soviet Government done so since.

This, combined with persistent reports from the Soviet Union that Wallenberg is alive, gives hope to those of us who wish to display our gratitude to this man. We have tried. Wallenberg was made an honorary citizen of the United States in 1981—a distinction extended to only four people in the whole of American history. But honors in absentia cannot repay the debt we owe Raoul Wallenberg.

Under Mr. Gorbachev, the Soviet leadership has begun a drive to make its official histories more accurate. Might we not take this opportunity to press the Soviets to own up to the fate of Raoul Wallenberg? The time is surely right, Mr. President.

I call my colleagues' attention to a column on this subject which appeared in the New York Post this morning. Some here might remember the author, Eric Breindel, from his days on my staff. It is a good column, and an important one. It raises serious issues. And it honors a man who surely deserves to be honored.

Mr. President, I ask that the column be printed in the RECORD at this point.

The column follows:

[From the New York Post, Aug. 4, 1988]

LET MOSCOW REVEAL WALLENBERG'S FATE

(By Eric Breindel)

Raoul Wallenberg, the Swedish angel of mercy who plucked tens of thousands of Budapest Jews from Adolf Eichmann's clutches in the summer of 1944—sparing them certain death in the gas chambers of Auschwitz—would be 76 years old today.

It is important that his birthday be honored—for two reasons.

He is evidence of the fact that when it comes to human rights—indeed to saving human lives—one man can make a difference. There is, in fact, no one who better illustrates this truth in the entire history of the 20th Century.

The other reason Wallenberg should be celebrated is that his own fate is a mystery. It is important, in other words, simply that he be remembered.

In one of life's bitter ironies, after preventing thousands from disappearing into the nacht und nebel [night and fog] of the Nazi concentration camp universe, Wallenberg himself vanished into the night and fog of Moscow's gulag archipelago.

He was seized by the Russians in early 1945, just after the Red Army entered Budapest, which isn't astonishing. He was an almost perfect combination of everything that excited Soviet paranoia: a Swede (i.e., a World War II neutral); an heir to a multimillion-dollar industrial fortune (the Wallenbergs remain one of Sweden's wealthiest and most prominent families); a private individual capable of defying the Gestapo (this undoubtedly led the KGB to suspect him of links to either the OSS or the British security services). He was also a man with a fiercely loyal following in a city the Soviets were determined to tame.

All in all, it would have been astounding if the Russians hadn't arrested Raoul Wallenberg.

But it took Moscow 12 years just to acknowledge that they had done so. In 1957, after Nikita Khrushchev's "secret speech" on the crimes of Stalin, Soviet Deputy Foreign Minister Andrei Gromyko admitted what his government had long denied—Wallenberg had been arrested by the Soviets in 1945 and taken to Moscow.

But according to Gromyko, Wallenberg had died in prison of natural causes in 1947.

The fact that no body or grave or clothing had survived, not to speak of witnesses—along with the fact that Wallenberg would have been only 35 years old at the time—combined to inspire considerable skepticism in the West. That skepticism has been heightened in the three decades since Gromyko's undocumented pronouncement by persistent claims on the part of liberated inmates to have seen Wallenberg or heard tell of his presence somewhere in the gulag.

Along with the mass exodus of Soviet Jews to Israel and America between 1974 and 1979 came reports and rumors about a mysterious Swede. Some former gulag inmates said they had met the Swede. After reaching the West and learning about Wallenberg, a number were sure the man they'd encountered was him.

Other Soviet emigres who'd been in KGB custody at one time or another had heard of such a person.

It may be that Raoul Wallenberg is alive today. Only Moscow knows.

It may be that he died of neglect or maltreatment, perhaps in 1947, perhaps in the years since. Only Moscow knows.

Never, however, has there been a more opportune moment for the Soviets to make a clean breast of it. Mikhail Gorbachev has made coming to terms with history a central component of *glasnost.*

Surely if Soviet citizens can be taught about Stalin's murderous purges, about the execution on trumped-up charges of early Bolsheviks (subsequently transformed into unpersons) and about the 1939 Nazi-Soviet Pact, then the Soviet people can handle the truth about Raoul Wallenberg's fate.

Washington—which has a direct interest thanks to the fact that Congress made Wallenberg an honorary U.S. citizen seven years ago—has joined forces with Stockholm, with the Wallenberg family and with men and women he rescued (many are still alive) to create a formidable lobby.

Now is the time for that lobby to apply the maximum pressure. It is entirely possible that Gorbachev will prove responsive.

It's wrong that we don't even know what became of this extraordinary individual—this "crystal spirit," to use George Orwell's phrase.

Wallenberg combined tenacity with ingenuity and raw courage. His practice in Budapest was to appear on the scene as the trains were being loaded with Jews bound for Auschwitz. In his capacity as the honorary Swedish consul, he would distribute passport-like documents to as many Jews as possible. The confused SS tended generally to honor the "Wallenberg passports."

Later he grew bolder, and placed entire streets in the Jewish ghetto under the protection of the Swedish government.

He was a beacon of light at one of the darkest moments in the history of man. Today is his birthday. Where is he?

TRIBUTE TO SALLY ORR

● Mr. DECONCINI. Mr. President, Sally Orr, director of public policy for the Association of Junior Leagues, will be stepping down from that position this month after almost a decade of service. Due in large part to her energy and dedication, the league has worked aggressively at all levels on issues that touch the heart of America—child care, family violence, poverty, just to name a few. These are the toughest issues that we can face. Many politicians would just as soon avoid them, but Sally Orr would not tolerate avoidance. She combined her skills as organizer and advocate to mobilize Members of Congress as well as members of the Junior League throughout the country in behalf of children and families.

I have worked with Sally Orr on many occasions, particularly on the issue of helping ensure quality child care at a reasonable cost for the children of our Nation. Whenever the cause seemed hopeless, Sally would have another idea, another person to contact, another angle from which to approach the issue. With her initiative, with her encouragement, and with her insight, the job got done. Although the Junior League and all others who care about improving the lives of American children will miss her tireless efforts, we join together to thank her and to wish her the best of luck in all future endeavors.●

UNANIMOUS-CONSENT AGREEMENT: S. 2443—NRC AUTHORIZATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may at any time turn to the consideration of Calendar Order No. 697, the Nuclear Regulatory Commission authorization bill, and that at such time it be in order to offer an amendment in the nature of a substitute, with time on the amendment to be limited to 20 minutes to be equally divided and controlled between and by Senators BURDICK and STAFFORD or their designees, and that following the adoption of such substitute amendment, it be considered as original text for purposes of further amendment; provided further, that there be 2 hours of general debate on the bill with 1 hour to be equally divided and controlled between Mr. BURDICK and Mr. STAFFORD or their designees and 1 hour to be controlled by Senator GLENN; provided further, that following disposition of the amendment in the nature of a substitute, the following amendments be the only other amendments in order and that they be considered under the following time limitations:

That 60 minutes on an amendment to be offered by Mr. McCLURE on standardized designs for nuclear powerplants; and

That 60 minutes on an amendment to be offered by Senators FORD and DOMENICI on uranium enrichment and mill tailings reclamation;

Ordered further, that no amendments in the second degree be in order; provided further, that no motion to recommit, with or without instructions, be in order, and

Ordered further, that upon the disposition of the above listed amendments, without further debate or intervening action or motion, the Senate proceed to third reading of S. 2443; that following third reading of S. 2443, the Senate then proceed to the immediate consideration of Calendar No. 645, H.R. 1315; that all after the enacting clause be stricken, and the text of S. 2443, as amended, be inserted, and, the bill be advanced to third reading and immediately go to final passage, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, we have no objection on our side but I have an inquiry.

Is the leader's anticipation that this would occur on tomorrow?

Mr. BYRD. No. It is not my anticipation that it would, but it might. It depends on how things go on the DOD bill. I do not want anything to slow up that bill.

Mr. ARMSTRONG. Would it be the anticipation of the majority leader to go to this following the DOD bill if it is disposed of before action on this?

Mr. BYRD. Let me see, how much time is involved in this? Overall, it looks as though there is over 4 hours involved here, so I cannot say with any certitude as to just precisely when we would be able to take this up because I want the Senate to spend its time on the DOD appropriations bill.

It might be possible and I would hope that we could do this before the Senate goes out for the break, I would hope.

Mr. ARMSTRONG. I thank the leader and I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That the majority leader, after consultation with the minority leader, may at any time turn to the consideration of Calendar No. 697, the Nuclear Regulatory Commission authorization bill, and that at such time it be in order to offer an amendment in the nature of a substitute, with time on the amendment to be limited to 20 minutes to be equally divided and controlled between Senators Burdick and Stafford or their designees, and that following the adoption of such substitute amendment, it be considered as original text for purposes of further amendment. *Ordered further*, That there be 2 hours of general debate on the bill, with 1 hour to be equally divided and controlled between Senators Burdick and Stafford or their designees and 1 hour to be controlled by Senator Glenn. *Ordered further*, That following disposition of the amendment in the nature of a substitute, the following amendments be the only other amendments in order and that they be considered under the following time limitations:

1. 60 minutes on an amendment to be offered by Senator McClure on standardized designs for nuclear power plants; and

2. 60 minutes on an amendment to be offered by Senators Ford and Domenici on uranium enrichment and mill tailings reclamation.

Ordered further, That no amendments in the second degree be in order.

Ordered further, That no motion to recommit, with or without instructions, be in order.

Ordered further, That upon the disposition of the above listed amendments, without further debate or intervening action or motion, the Senate proceed to third reading of S. 2443; that following third reading of S. 2443, the Senate proceed to the immediate consideration of Calendar No. 645, H.R. 1315; that all after the enacting clause to stricken, and the text of S. 2443, as amended, be inserted, and the bill be advanced to third reading and final passage, with no intervening action or debate.

Mr. GLENN. Mr. President, I want to take just a brief moment to discuss with my colleagues from the Committee on Environment and Public Works, Senators Breaux and Simpson, the situation with respect to both S. 2443, the Nuclear Regulation Reorganization and Reform Act of 1988, and S. 908, the Inspector General Act Amendments of 1988. Our staffs have worked long and hard on these two pieces of legislation, in an effort to reconcile the differences of the Committee on Environment and Public Works and the Committee on Governmental Affairs on how best to address the various NRC reform issues. Those discussions have been most productive. Accordingly, it is my sense that both of these bills are now ready to move forward. I wonder if I might ask my colleagues from the Environment Committee, Senator Breaux and Senator Simpson, if, in view of the discussions that have been underway for the past 2 months, we are now ready in their judgment to move forward on these two bills?

Mr. BREAUX. Mr. President, I can say that the discussions that the Senator from Ohio has referred to have, in my judgment, been most productive and I do indeed agree that we are now ready to move forward on both S. 2443 and S. 908.

Mr. SIMPSON. I, too, agree with that assessment, Mr. President.

Mr. GLENN. In view of that, I wonder if I might seek the assurances of both Senators that with respect to S. 908—which has been passed by both the House and the Senate, but in differing forms—we be permitted to move forward with the appointment of conferees and that, when we complete our conference, we be permitted to move to the consideration of the conference report when that comes back before the Senate?

Mr. BREAUX. I certainly have no objection to that arrangement, Mr. President. The accommodation that we have reached is a fair one and accordingly, I will not object to either the appointment of conferees on S. 908 or, upon completion of the conference report, the consideration of the conference report for that legislation. Indeed, the Senator from Ohio has already assured me that it is not his intention to address those issues related to NRC's Office of Investigation in S. 908 and, with that understanding, I am prepared to lift my hold on the consideration of S. 908.

Mr. SIMPSON. That arrangement is satisfactory with me, too, Mr. President, and I can assure my good colleague that I will not object to the appointment of conferees or the consideration of the conference report on S. 908.

Mr. BREAUX. Could I ask my colleague from Ohio, Senator Glenn, as well as my colleague from Delaware, Senator Roth, if we could reach a similar arrangement on consideration of S. 2443—whereby we would be permitted to consider this bill in the Senate, request a conference with the House appoint conferees, and upon completion of that conference move to consideration of the conference report in the Senate without objection? In the alternative, if we should wind up amending S. 2443 between the two Houses, would be Senator permit us to proceed on that path without objecting to consideration of this legislation?

Mr. GLENN. I think that is a most reasonable arrangement, Mr. President, and can assure both Senators Breaux and Simpson that I will not object to either the appointment of conferees on S. 2443 or, upon completion of the conference report, the consideration of the conference report for that legislation. Alternatively, if S. 2443 does not go to conference but instead is amended between the two Houses, I will not object to consideration of the legislation in that manner either.

Mr. ROTH. That arrangement is satisfactory with me, too, Mr. President, and I can assure my good colleague that I will not object to the appointment of conferees or the consideration of the conference report on S. 2443. Similarly, I would have no objection to consideration of this legislation if the bill were to be amended between the two Houses.

Senator BREAUX. I think this represents a most reasonable arrangement, Mr. President, and I thank the members of the Committee on Governmental Affairs for their assurances. Let me also say that it is my understanding that we have reached an accommodation on the issue of appointment of conferees on S. 908 and S. 2443. We on the Environment Committee are prepared to name Senators Roth and Glenn as conferees on S. 2443, for the limited purpose of title I of that bill. In return, it is my understanding that Senator Simpson and I will be named as conferees on those portions of S. 908 that deal with the establishment of an inspector general for the Nuclear Regulatory Commission. Furthermore, in both instances—the appointment of conferees from the Environment and Public Works Committee on S. 908 and the appointment of conferees from the Governmental Affairs Committee on S. 2443—it is not our intent to establish any precedent with respect to the jurisdiction of the two committees over the issues in either of these two bills.

Mr. GLENN. That arrangement is fully satisfactory with me, Mr. President, and I think it is reasonable approach to resolving this matter, and I certainly agree with the Senator's statement that this arrangement is not intended to establish any precedent with respect to the jurisdiction of the two Committees on these matters.

Mr. ROTH. I, too, think this is a reasonable approach, Mr. President.

REMOVAL OF REVERSIONARY RIGHTS IN CERTAIN LANDS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 892.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 892) entitled "An Act to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, Utah", do pass with the following amendment:

Page 2, line 9, strike out "$97,627", and insert: $200,000 within 60 days after the date of enactment of this Act.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 219, S. 828.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 828) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment:

On page 2, after line 5, insert the following:

SEC. 2. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic importance to the United States, and other nations are seeking to establish their influence in this region;

(2) the Pacific Basin communities are important economically to the United States, and have sought a close relationship with the United States;

(3) because the Pacific Basin communities are geographically isolated and because many of such communities are relatively poor, they are in great need of quality, low cost communications services to maintain contact among themselves and with other countries; and

(4) since August 1985, the Pacific Basin communities have been without a vital communications service because the ATS-1 satellite of the National Aeronautics and Space Administration ceased operation.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until commercially viable alternatives are available and to provide initial funding in order that the Pan-Pacific Educational and Cultural Experiments by Satellite Program again serves the educational, medical and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate and acquire satellite space segment capacity for communications services for the Pacific Ocean region for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) Such satellite space segment capacity may, for a period of three years from the time it is acquired, operate in those portions of the UHF frequency band (225-400 Megahertz) assigned to the Department of the Navy, unless the President finds that the use of such spectrum solely by the Department of Defense is essential to the national security of the United States.

(B) The Secretary of the Navy shall join with the Secretary of Commerce in the negotiation and acquisition of satellite space segment capacity under this section in any case where the capacity to be used is the capacity specified in subparagraph (A) of this paragraph.

(3)(A) The Secretary of Commerce shall provide to the managers of the Pan-Pacific Educational and Cultural Experiments by Satellite Program such funds as the Secretary of Commerce considers necessary to manage the operation of satellite communications services acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,700,000 for each of the fiscal years 1988 and 1989 for use by the Secretary of Commerce in the development, including the acquisition, of satellite communications services under subsection (c) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the Pan-Pacific Educational and Cultural Experiments by Satellite Program, and other affected parties regarding the development of a long-term commercial solution to the communication needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 2806

(Purpose: An amendment in the nature of a substitute)

Mr. BYRD. Mr. President, on behalf of Mr. INOUYE, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. INOUYE, proposes an amendment numbered 2806.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following: That there are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

SEC. 2. (a) The Administrator of the National Telecommunications and Information Administration (hereinafter referred to as the "Administrator") shall establish semiannual goals for recruiting and hiring minority members and women to the staff of the Administration. Such goals shall be published in the Federal Register not later than thirty days after the date of enactment of this Act.

(b) The Administrator shall, not later than September 30, 1988, March 31, 1989, and September 30, 1989, submit a report on the success of the Administration in achieving the goals established under subsection (a) of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

SEC. 3. The Administrator shall enter into discussions with the Federal Communications Commission for the purposes of determining the feasibility of awarding public telecommunications facilities program grants for low-power television stations and television translator stations on a conditional basis pending the award by the Commission of licenses for such stations. The Administrator shall also work with the Commission to establish a schedule for the expedited and coordinated consideration, on a regular basis, of future grant requests and license applications for low-power television stations and television translator stations. The Administrator shall, within ninety days after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the progress made in carrying out the requirements of this section.

SEC. 4. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic importance to the United States, and other nations are seeking to establish their influence in this region;

(2) the Pacific Basin communities are important economically to the United States, and have sought a close relationship with the United States;

(3) because the Pacific Basin communities are geographically isolated and because many of such communities are relatively poor, they are in great need of quality, low cost communications services to maintain contact among themselves and with other countries; and

(4) since August 1985, the Pacific Basin communities have been without a vital communications service because the ATS-1 satellite of the National Aeronautics and Space Administration ceased operation.

(b) It is purpose of this section to assist in the acquisition of satellite communications service until commercially viable alternatives are available and to provide initial funding in order that the Pan-Pacific Educational and Cultural Experiments by Satellite Program again serves the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate and acquire satellite space segment capacity for communications services for the Pacific Ocean region for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) Such satellite space segment capacity may, for a period of three years from the time it is acquired, operate in those portions of the UHF frequency band (225-400 Megahertz) assigned to the Department of the Navy, unless the President finds that the use of such spectrum solely by the Department of Defense is essential to the national security of the United States.

(B) The Secretary of the Navy shall join with the Secretary of Commerce in the negotiation and acquisition of satellite space segment capacity under this section in any case where the capacity to be used is the capacity specified in subparagraph (A) of this paragraph.

(3)(A) The Secretary of Commerce shall provide to the managers of the Pan-Pacific Educational and Cultural Experiments by Satellite Program such funds as the Secretary of Commerce considers necessary to manage the operation of satellite communications services acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,700,000 for each of the fiscal years 1988 and 1989 for use by the Secretary of Commerce in the development, including the acquisition, of satellite communications service under subsection (c) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretaary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the Pan-Pacific Educational and Cultural Experiments by Satellite Program, and other affected parties regarding the development of a long-term commercial solution to the communication needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

Mr. INOUYE. Mr. President, I am pleased to rise today to offer an amendment in the nature of a substitute to S. 828, the NTIA authorization bill. This amendment is a bipartisan product, thanks to the efforts of Chairman HOLLINGS and the ranking members of the committee, Senator DANFORTH, and the Communications Subcommittee, Senator PACKWOOD.

S. 828 authorizes $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989, together with such sums as are necessary for nondiscretionary costs for each fiscal year. This is the same amount as the House authorized in its NTIA authorization bill, H.R. 2472, which passed the House on October 13, 1987. The amount authorized for fiscal year 1988 is identical to the amount requested by the President in his fiscal year 1988 budget request.

Mr. President, this bill was reported without objection by the Commerce Committee with an amendment authorizing funds for the Peacesat Program. The House bill included two amendments of its own that we are adopting here in order to avoid a conference. To accomplish this, we are offering an amendment in the nature of a substitute that contains all of these provisions.

Let me briefly describe these amendments.

The Peacesat Program provided a valuable public communications service to the inhabitants of the Pacific Rim for 14 years. In 1985, the NASA satellite used to carry the Peacesat communications run out of fuel and was decommissioned. The Peacesat Program has been searching ever since for alternative satellite services and funding.

Meanwhile, most of the former users of the Peacesat Program have been without service. For many years, Peacesat provided the only means by which local residents could communicate with the residents of the nearby islands and with the developed world. Through Peacesat, local residents engaged in cultural exchange and educational programs, received medical treatment and advice, and received warnings of emergency weather conditions.

This provision authorizes $1.7 million in funding for each of the next 2 years for the acquisition of satellite services necessary to re-establish the program. The amount for fiscal year 1988 has already been appropriated. This is close to the amount that NASA in 1986 found to be necessary to acquire the space segment, develop the prototype earth station for use by the concerned communities, and administer the program. Significantly, each community has agreed to fund the cost of providing its own earth station. The bill also directs the Secretary of Commerce to explore the long-term commercial solutions to the communications needs of these Pacific communities and to report to Congress within a year after final passage of this act on its findings.

The next amendment requires NTIA to set goals for recruiting and hiring minorities and women to its staff. NTIA shall also be required by this provision to report semiannually to the pertinent committees of the House and Senate on its success in achieving these goals. The evidence we have shows that NTIA's percentage of minority and women employees is about 3 percent below the minority representation in the civilian work force and about 5 to 6 percent below the minority representation in the other Government agencies.

This amendment differs from the provision in the House bill only in the timing of implementation. The House version requires NTIA to publish its goals 30 days before the fiscal year and to issue its reports on January 15 and July 15 of each fiscal year. These dates are obviously unenforceable as we are already almost half-way through fiscal year 1988. The amendment I offer today requires NTIA to publish its goals within 30 days after final enactment of this bill and to file semiannual reports on its success in achieving these goals by September 30, 1988, March 31, 1989, and September 30, 1989.

The final amendment in this bill, Mr. President, concerns applications by low-power television stations and television translator stations for funding from the NTIA's Public Telecommunications Facilities Program [PTFP]. Currently, there is no formal means by which NTIA coordinates its funding process with the FCC's process of awarding construction permits to these stations. As a result, there is a danger that funding for a certain station will be held up for a year or more because the FCC has not yet issued the necessary construction permit to that station. This situation would cause a delay in the ability of residents in some rural areas to receive television broadcast signals.

The provision in this bill would require that NTIA take three actions: analyze the feasibility of awarding conditional funding grants to those stations that have applied for construction permits from the FCC; enter into discussions with the FCC to establish a schedule for the expedited consideration of those applications for funding submitted by stations that have also submitted an application for a construction permit from the FCC; report to Congress within 3 months on its success in carrying out these provisions.

In short, the provision requires little more than discussions between NTIA and the FCC and a report to Congress on those discussions. It is my understanding that NTIA has recently begun working with the FCC to accomplish these goals and that their efforts have been successful. The purpose of this legislation is only to ensure that these efforts continue.

Mr. President, NTIA carries out a number of important functions in the field of telecommunications. It acts as chief advisor to the executive branch on telecommunications policy, manages the Federal use of the radio spectrum, engages in negotiations with foreign administrations to advance U.S. trade opportunities in telecommunications, assists in coordinating U.S. policy positions before various international standard-setting and regulatory bodies, and it conducts research in communications technology. Passage of this authorization bill will recognize the value of NTIA's active participation in all these issues. I strongly urge its passage by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2806) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 377.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2472) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the text of S. 828, as amended, be substituted in lieu thereof, that the bill go to third reading and immediate passage, that the motion to reconsider laid on the table, and that S. 828 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

INSPECTOR GENERAL ACT AMENDMENTS

Mr. BYRD. Mr. President, on behalf of Mr. Glenn, I ask that the Chair lay before the Senate a message from the House on S. 908, the Inspector General Act.

The PRESIDING OFFICER. laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 908) entitled "An Act to amend the Inspector General Act of 1978", do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I—INSPECTOR GENERAL ACT AMENDMENTS

SECTION 101. SHORT TITLE.

This Act may be cited as the "Inspector General Act Amendments of 1988".

SEC. 102. ESTABLISHMENT OF NEW OFFICES OF INSPECTOR GENERAL.

(a) Purpose; Establishment.—Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App.) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) Addition of Departments of Energy, Health and Human Services, Justice, and Treasury, FEMA, and Railroad Retirement Board to List of Covered Establishments.—Section 11 of such Act is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the term 'head of the establishment' means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency or the United States Information Agency; or the Chairman of the Railroad Retirement Board; as the case may be;

"(2) the term 'establishment' means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;".

(c) Transfers of Existing Audit and Investigation Units.—Section 9(a)(1) of such Act is amended—

(1) by striking out subparagraph (I), relating to the Community Services Administration;

(2) by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively;

(3) by striking out "and" at the end of subparagraphs (L) and (M) (as so redesignated); and

(4) by adding at the end thereof the following new subparagraphs:

"(N) of the Department of Justice, the offices of that Department referred to as (i) the 'Audit Staff, Justice Management Division', (ii) the 'Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service', the 'Office of Professional Responsibility, Immigration and Naturalization Service', and the 'Office of Program Inspection, Immigration and Naturalization Service', (iii) the 'Office of Internal Inspection, United States Marshals Service', (iv) the 'Financial Audit Section, Office of Financial Management, Bureau of Prisons' and the 'Office of Inspections, Bureau of Prisons', and (v) from the Drug Enforcement Administration, that portion of the 'Office of Inspections' which is engaged in internal audit activities and that portion of the 'Office of Planning and Evaluation' which is engaged in program review activities;

"(O) of the Department of the Treasury, the offices of that Department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco and Firearms', the 'Office of Internal Affairs, Customs Service', and the 'Office of Inspections, Secret Service', which is engaged in internal audit activities;

"(P) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';

"(Q) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(R) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505); and

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(d) Technical and Conforming Amendments.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Justice.

"Inspector General, Department of the Treasury.

"Inspector General, Agency for International Development.

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Environmental Protection Agency.

"Inspector General, Federal Emergency Management Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.

"Inspector General, Railroad Retirement Board.".

(2) Section 5316 of such title is amended by striking out each of the following paragraphs:

"Inspector General, Agency for International Development.

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Community Services Administration.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.".

(3)(A)(i) Section 208 of the Department of Energy Organization Act is repealed.

(ii) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(B) Title II of Public Law 94-505 is repealed.

(C) Section 23 of the Railroad Retirement Act of 1974 is repealed.

(4) Any individual who, on the date of enactment of this Act, is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978.

SEC. 103. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

The Inspector General Act of 1978 is further amended by inserting after section 8A the following new section:

"PROTECTIONS AND REQUIREMENTS FOR CERTAIN DESIGNATED FEDERAL ENTITIES

"SEC. 8B. (a) Not later than 180 days after the date of enactment of this section, there shall be established in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such Office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such Office any program operating responsibilities.

"(b) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity involved, but shall not report to, or be subject to supervision by, any other officer of such designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(c) Except as provided in subsection (g), the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

"(d) If the Inspector General is removed from office or is transferred to another position or location, the head of the designated Federal entity shall promptly communicate the reasons for any such removal or transfer to each House of the Congress.

"(e)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as such terms are defined in subsection (h)) by substituting—

"(A) 'designated Federal entity' for 'establishment'; and

"(B) 'head of the designated Federal entity' for 'head of the establishment'.

"(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

"(f) Within one year after the date of enactment of this section, and on October 31 of each succeeding calendar year, the head of each Federal entity which is not a designated Federal entity shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

"(1) states whether there has been established in the Federal entity an internal audit office that meets the requirements of this section;

"(2) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

"(3) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

"(g) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Chief Postal Inspector shall be appointed by the Governors of the United States Postal Service and may be removed from office or transferred to another position or location within the United States Postal Service by the Governors. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Governors shall promptly notify each House of the Congress of the reasons for such removal or transfer.

"(h) Notwithstanding section 11 of this Act, as used in this section—

"(1) the term 'Federal entity' means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the executive branch of the Government, or any independent regulatory agency, but does not include—

"(A) an establishment (as defined in section 11(2) of this Act) or part of an establishment;

"(B) the Executive Office of the President;

"(C) the Central Intelligence Agency;

"(D) the General Accounting Office; or

"(E) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

"(2) the term 'designated Federal entity' means ACTION, Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Nuclear Regulatory Commission, the Office of Personnel Management, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

"(3) the term 'head of the Federal entity' means the director, administrator, president, or chief policy-making officer or board of a Federal entity, or any other person or persons designated by statute as the head of a Federal entity;

"(4) the term 'head of the designated Federal entity' means the director, administrator, president, or chief policy-making officer or board of a designated Federal entity, or any other person or persons designated by statute as the head of a designated Federal entity;

"(5) the term 'Office of Inspector General' means an Office of Inspector General of a designated Federal entity; and

"(6) the term 'Inspector General' means an Inspector General of a designated Federal entity.".

SEC. 104. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS.

(a) REPORT INFORMATION REQUIRED ON AUDITS.—Section 5(a) of the Inspector General Act of 1978 is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period, and, where applicable, the amounts of costs reported as ineligible costs and the amounts of costs reported as unsupported costs, in each such report;

"(7) a summary of each particularly significant report; and

"(8) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of costs reported as ineligible costs and costs reported as unsupported costs, such amounts which management, in a management decision, has agreed to recover, amounts of funds recommended to be put to better use and the amounts of such funds which management has agreed should be put to better use, for audit reports—

"(A) for which no management decision had been made by the beginning of the period,

"(B) which were issued during the period,

"(C) for which a management decision was made during the period,

"(D) for which no management decision has been made by the end of the period, and

"(E) which were over six months old with no management decision at the end of the period;

"(9) a summary of each particularly significant audit report issued before the commencement of the reporting period for which a management decision was not made within 6 months after the date of issuance of such report, an explanation of the reason such management decision was not made, and a statement as to the current status of each such report;

"(10) a description of, and explanation of the reasons for, any significant revised management decision made during the reporting period;

"(11) information concerning any significant management decision with which the Inspector General is in disagreement; and

"(12) separate sections that include, with respect to each audit and investigative office of the establishment outside the Office of Inspector General (other than audit or investigative offices that conduct audits or investigations as an integral part of a program of the establishment), the matters required to be included under paragraphs (1) through (5) and (7) through (11) of this subsection.".

(b) REPORT ON FINAL ACTION.—Section 5(b) of such Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by striking out "containing any comments such head deems appropriate." and inserting the following:

"containing—

"(A) any comments such head deems appropriate;

"(B) a list of audit reports issued by the establishment's Office of Inspector General on which final action had not been taken within one year after the date on which a management decision was made in response to such report and an explanation of the reason final action had not been taken, except that such list may exclude audit reports under formal administrative or judicial appeal but shall identify the number of reports so excluded; and

"(C) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of ineligible and unsupported costs agreed upon; such amounts actually returned to or offset by the Federal Government; the amounts of funds which management agreed to put to better use; and the amounts of funds put to better use as a result of final action on a management decision; for audit reports for which a management decision had been made by the end of the period but on which final action—

"(i) had not been taken by the beginning of the period,

"(ii) was taken during the period,

"(iii) was pending at the end of the period, and

"(iv) has not been taken within one year of the date of the management decision.

"(2) Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.".

(c) CONFORMING AMENDMENT: DEFINITIONS.—Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section—

"(1) the term 'ineligible cost' means a cost that is questioned by the Office because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(2) the term 'unsupported cost' means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost was not supported by adequate documentation;

"(3) the term 'management decision' means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a written final decision by management concerning its response, including actions concluded to be necessary, to such findings and recommendations.

"(4) the term 'final action' means the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report, and, in the event that agency management concludes no corrective action is necessary, final action occurs when a management decision has been reached.".

SEC. 105. OATH ADMINISTRATION AUTHORITY.

Section 6(a) of the Inspector General Act of 1978 is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;".

SEC. 106. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General and internal audit offices described in section 8B(f)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or another Office of Inspector General.".

SEC. 107. TECHNICAL AMENDMENT.

(a) SENIOR EXECUTIVE SERVICE POSITIONS.—Section 6 of the Inspector General Act of 1978 is amended by adding at the end thereof the following:

"(d) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the 'appointing authority' for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the office of an Inspector General, be deemed to be a reference to such Inspector General.".

(b) COAST GUARD OPERATION AS PART OF DEPARTMENT OR AGENCY.—Section 8(e) of the Inspector General Act of 1978 is amended by inserting before the period at the end thereof the following: ", except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency".

SEC. 108. REPORT ON IMPLEMENTATION.

Within one year after the date of enactment of this Act, the head of each designated Federal entity (as such term is defined in section 8B(h) of the Inspector General Act of 1978) shall submit to the Director of the Office of Management and Budget and to each House of the Congress a report on the status of the implementation by that agency of the requirements of section 8B of such Act. Such report shall identify any area or areas in which implementation is not complete and describe the reasons for that failure.

SEC. 109. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this Act shall be effective only to such extent as provided in appropriations Acts.

SEC. 110. APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General established by section 2 of the Inspector General Act of 1978.".

SEC. 111. DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.

Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

SEC. 112. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act, except that section 5(b)(1) (A), (B), and (C) of the Inspector General Act of 1978 (as amended by section 104(b) of this Act) shall take effect one year after the date of enactment of this Act.

TITLE II—GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This Act may be cited as the "Government Printing Office Inspector General Act of 1988".

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end the following new chapter:

"CHAPTER 39—GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.
"3901. Purpose and establishment and Office of Inspector General.
"3902. Appointment of Inspector General; supervision; removal.
"3903. Duties, responsibilities, authority, and reports of the Inspector General.

"§3901. Purpose and establishment and Office of Inspector General

"In order to create an independent and objective office—

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§3902. Appointment of Inspector General; supervision; removal

"(a) APPOINTMENT OF INSPECTOR GENERAL.—There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the

Public Printer. The Public Printer shall have no authority to prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(b) Removal.—The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly after such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§3903. Duties, responsibilities, authority, and reports of the Inspector General

"(a) Sections 4, 5, 6 (other than subsection (a)(7) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and shall be applied to the Government Printing Office and the Public Printer by substituting—

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

"(b) The Inspector General, in carrying out the provisions of this chapter, is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of this title governing appointments and employment in the Government Printing Office.".

SEC. 203. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end the following new item:

"39. Government Printing Office: Office of Inspector General .... 3901".

SEC. 204. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

Amend the title so as to read: "An Act to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes.".

Mr. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to name the conferees on the part of the Senate.

The motion was agreed to, and the Chair (Mr. LEVIN) appointed Mr. GLENN, Mr. CHILES, Mr. SASSER, Mr. PRYOR, Mr. ROTH, Mr. STEVENS, and Mr. HEINZ, and for the purposes of the Nuclear Regulatory Commission provisions only, Mr. BREAUX, and Mr. SIMPSON conferees on the part of the Senate.

ORDERS VITIATED

Mr. BYRD. Mr. President, I am now informed that there is a measure on the calendar on which the vote can occur at 9:30 tomorrow morning.

I therefore ask that the previous orders which I have promulgated about adjourning, recessing, and so on, be vitiated and stricken from the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The RECORD was corrected to reflect the above order.)

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BYRD. Mr. President, if the Senate now goes out, the DOD appropriations bill will be the unfinished business on tomorrow, will it not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. What would happen to the emergency appropriations bill?

The PRESIDING OFFICER. That bill has already been displaced by virtue of the motion to proceed to the DOD appropriations bill.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. And it is placed on the calendar.

Mr. BYRD. I thank the Chair.

ORDERS FOR FRIDAY

ADJOURNMENT UNTIL 8:30 A.M.

Mr. BYRD. Mr. President, let me state the orders for tomorrow by unanimous consent.

I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders under the standing order there be a period for morning business not to extend beyond the hour of 9:30 a.m., that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar under rule VIII be waived, and that no motions or resolutions over under the rule come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTE ON SENATE CONCURRENT RESOLUTION 63

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning a vote occur, without further debate and without amendment thereto, immediately at 9:30 a.m. on Calendar Order No. 842, Senate Concurrent Resolution 63, a concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESUME CONSIDERATION OF H.R. 4781

Mr. BYRD. I ask unanimous consent that no motions or intervening action occur, that at the hour of 9:30 the Senate proceed immediately to vote, and that upon the disposition of the vote on Senate Concurrent Resolution 63, the Senate then resume consideration of the DOD appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the distinguished acting Republican leader have anything further he wishes to say or any business he would like to transact?

Mr. ARMSTRONG. Mr. President, we thank the majority leader for his courtesy, and we have nothing further on our side.

Mr. BYRD. I thank my friend.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 8:30 tomorrow morning.

The motion was agreed to, and at 8:26 p.m. the Senate adjourned until tomorrow, Friday, August 5, 1988, at 8:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate August 4, 1988:

FEDERAL RESERVE SYSTEM

John P. LaWare, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1988.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

SPECTRUM ASSIGNMENT IMPROVEMENT ACT OF 1988

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. RITTER. Mr. Speaker, today I am introducing the Spectrum Assignment Improvement Act of 1988. It is intended to benefit the public by speeding up the provision of new radio spectrum services, through the use of value based assignments by way of a competitive bidding procedure. It would provide a test to determine the efficiency and practicality of using value based assignments of spectrum licenses. In addition, it will provide new moneys to the U.S. Treasury.

The authority to use competitive bidding would give the Federal Communications Commission a third method of assigning licenses for unassigned spectrum. Under the Communications Act of 1934, as amended, the Commission currently has two means of assigning licenses—comparative hearings and, in some instances, lotteries. These procedures, especially comparative hearings, can be slow and expensive. Regardless of the selection method, licensees have considerable freedom to sell their licenses. Thus, the method of assignment can be expected to have little effect on who holds the license in the long run. Value based assignments would reduce the costs of selecting a licensee while speeding up the process and getting the license to the party who most values it sooner.

Under the proposal, competitive bidding would be used only for unassigned spectrum for services other than mass media, public safety, and amateur radio service. The Commission would be authorized to use the competitive bidding process only in the assignment of licenses in the remaining unallocated six megahertz in the UHF—the 849-851, 894-896, 901-902 and 940-941 MHz—bands. Services which are compatible with these bands include land mobile radio, cellular radiotelephone, basic exchange telecommunications radiotelephone, and air-to-ground telephone.

The Commission could hold competitive bidding if it determines that there likely will be, or there actually are, mutually exclusive applications for a license or construction permit. In such a case the Commission could hold competitive bidding for the license, with the highest bidder being the tentative licensee. The Commission could not award the license, however, until it had reviewed the application of the highest bidder, and found that party to be qualified.

Under the act's terms, bidders would submit a bid consisting of an amount to be paid in four equal annual payments, to begin prior to the issuance of the license or construction permit. The payment of the bid would be on these terms, or at the bidder's option, in a lump sum. In calculating the lump sum amount, the Commission will use the present value of the winning bid. The present value will be determined by using a discount rate equal to the rate for underpayment of incomes taxes, currently 11 percent. The use of a payment plan more effectively matches payment to the likely revenues derived from use of the license and will help assist small entrepreneurs who wish to participate in competitive bidding. The license would not be granted until the applicant makes initial payment on its bid.

Value based assignments would provide significant advantages over existing procedures. First, competitive bidding will likely speed up the delivery of services to the public. Comparative hearings usually take 18 months to 2 years to select a licensee, and may drag out further if the final decision is appealed in the courts. Lotteries, while somewhat faster, still take about a year to select a licensee, due to the large number of participants. Even after the licensee is selected by these administrative processes, the license is often sold to another party, one who values it more than the initial licensee. This resale, besides monetarily benefiting only the initial licensee, adds further delay before the party who most values the license can actually make use of it. Use of competitive bidding would avoid delay and allow the eventual licensee to begin service sooner.

Second, value based assignments would establish the market value of the license when the Commission makes the initial assignment of the license. Currently this determination is not made until a subsequent transaction when the license is sold to another party by the initial licensee. By capturing the economic value of the license in the initial assignment process, the public realizes the value of the license, rather than the initial licensee who monetarily benefits from the resale of the license.

Third, value based assignments will substantially reduce both the private and public costs involved in the initial assignment process. Comparative hearings and lotteries use substantial resources, primarily the time of lawyers, engineers, and other consultants preparing the applications and materials for comparative hearings. In addition, the Commission must devote large amounts of staff time to review the applications—many of which are frivolous—and conduct the lotteries and comparative hearings. Indeed, the Commission has estimated that it costs the Government alone about $20,000 per comparative hearing and about $5,000 per lottery. The use of competitive bidding would significantly reduce these costs. Only the winning bidder would be required to prepare a complete application, and the Commission staff would only need to review that application and related materials.

In addition, the use of value based assignments would raise substantial public revenues in connection with the licensee's use of a public resource. All moneys raised from the use of competitive bidding would go to the general fund of the U.S. Treasury. Currently the moneys raised through the sale of licenses go to the party which survived the administrative process and thus received the initial license. These parties are not prohibited from reselling the license, and often do, so that in the end the party that values the license most will receive it. The difference the use of value based assignments will make in determining the final ownership of the license in such cases is whether a private party or the public will receive the payment. It is estimated that the 6 MHz designated for assignment through auctions could raise approximately $800 million.

The Spectrum Assignment Improvements Act of 1988 will authorize a test of this procedure, to determine its efficiency and practicality. As discussed earlier, the Commission would be authorized to use the competitive bidding process only in the assignment of licenses in the remaining unallocated 6 megahertz in the UHF bands. The Commission will report annually to Congress on its experiences with value based assignments and their effect on licensing. Finally, the act is scheduled to sunset in 5 years. At that point, Congress can evaluate the desirability of continuing to use competitive bidding to assign spectrum licenses.

THE SPECTRUM ASSIGNMENT IMPROVEMENTS ACT OF 1988

SECTION-BY-SECTION ANALYSIS

Section 309(j):

The "Spectrum Assignment Improvements Act of 1988" provides the Commission authority to use competitive bidding for awarding licenses or construction permits for unassigned spectrum in non-mass media services. Such value based assignments would be permitted when there are mutually exclusive applicants for an authorization or when the Commission determines that there will likely be mutually exclusive applicants for a frequency assignment prior to the filing of applications.

This subsection would give the Commission an additional option in selecting among mutually exclusive applicants for unassigned spectrum. Under the Communications Act of 1934, as amended, the Commission currently has two means of assigning licenses—comparative hearings and, in some instances, lotteries. The Act would grant the Commission the authority to test a third option—competitive bidding.

Value based assignments would provide significant advantages over existing procedures. First, competitive bidding will likely be the fastest way to assign a license to the party which values it most. Regardless of the selection method, licensees have considerable freedom to sell their license. Thus, the method of assignment can be expected

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to have little effect on who holds the license in the long run. But value based assignments would reduce the delay involved in the initial assignment and substantially reduce any incentive for immediate resale.

Second, value based assignments could substantially reduce the total private and public cost of preparing and processing applications. Comparative hearings and lotteries use a great deal of resources, primarily the time of lawyers, engineers, and other consultants preparing the applications and materials for comparative hearings. Under value based assignments, however, much of the private expenditure of obtaining a license would be a transfer of resources to the government in the form of a winning bid. Value based assignments would also lower administrative costs, in part by weeding out frivolous applications—those who have no real intention of operating but hope to gain through reselling the license. In addition, competitive bidding would raise substantial new revenues, providing a benefit to the general public. It is estimated that use of this authority for assigning the six megahertz specified in the Act would raise approximately $800 million.

Paragraph (1):

The Commission is authorized to use value based assignments when it either determines, prior to opening a frequency assignment for the filing of applications, that there are likely to be mutually exclusive applicants, or upon receiving mutually exclusive applications for a license or construction permit. In such cases, the Commission may require interested parties to submit statements of their intent to participate in the competitive bidding process. The requirements for such statements shall be set out in the rules implementing this Act, in accordance with paragraph (6). After conducting the competitive bidding process, if the Commission finds the winning bidder to be qualified pursuant to paragraph (3), it may issue the license or construction permit to the winning bidder after payment on its bid as detailed in paragraph (2).

Paragraph (2):

Bids submitted for a spectrum assignment must be stated in terms of four equal annual payments to begin prior to the issuance of the license or construction permit. The intent of the annual payment mechanism is to help assist small entrepreneurs who wish to participate in competitive bidding. Such a plan effectively matches payment to revenues derived from the use of the license thereby allowing more parties to participate in competitive bidding.

Applicants which prefer to pay their bid in one payment will have that option under the second part of this paragraph. If an applicant makes such a decision, the Commission will calculate the amount of the lump sum payment by using the present value of the winning bid. The present value will be determined by using a discount rate equal to the rate for underpayment of income taxes, currently eleven percent. This rate is determined quarterly by the Secretary of the Treasury in accordance with section 6621(a)(2) of title 26 of the United States Code.

The use of installment payment calculations by all bidders in making their bid is for administrative convenience in evaluating the bids when they are submitted. Regardless of which method of payment is chosen by the applicant, the license or construction permit cannot be granted until the applicant is found to be qualified pursuant to paragraph (3), and initial payment of the bid is made.

Paragraph (3):

The Act requires that no license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to section 308(b) and section 309(a) of the Communications Act, as amended. This procedure would be similar to that used by the Commission when assigning licenses through the use of lotteries. (47 U.S.C. §309(i).) Accordingly, the Commission would: (1) select a single applicant through the competitive bidding process and then determine if the applicant is fully qualified, and (2) only consider petitions to deny at the post-bid stage. Following the bidding, a determination regarding the qualification of the applicant under sections 308(b) and 309(a) would be made. If the applicant selected is found unqualified, another applicant would be selected pursuant to the Commission's rules to implement the Act, in accordance with paragraph (6). Among the options for selecting another applicant would be to use the next highest bidder, or to conduct a new bidding procedure. In any case, section 308(b) and 309(a) determination need be made only as to the winning bidder.

Only at the post-bid stage will hearing rights arise and petitions to deny the application be considered. The hearings will be "paper hearings" unless the Commission determines, by rule or by decision in a particular case, that due process or other public interest considerations require some or all of the hearing to be conducted by responsible Commission staff, including Bureau Chiefs or their delegates, to whom the Commission would by rule, delegate such functions. If the Commission chooses to delegate the function of presiding over these paper hearing to employees other than Administrative Law Judges (ALJ), the Commission should assure that the examiner or reviewer is truly independent in order to avoid any undue influence in the fact-finding process. The use of non-ALJ's to govern hearings shall be strictly limited to post-bid hearings.

Paragraph (4):

The Commission may use the authority in this Act only to assign licenses in the 849-851, 894-896, 901-902 and 940-941 MHz bands. These bands, totalling 6 megahertz, are part of the 42 megahertz of spectrum initially set aside as land mobile reserve in the Commission's 1974 Second Report and Order in Docket 18262. In later proceedings (Gen. Doc. Nos. 84-1231, 1233, and 1234), the Commission allocated the majority of this reserve spectrum to conventional cellular and private land mobile services. However, 2 megahertz (the 901-902 and 940-941 MHz bands) were allocated to a new General Purpose Mobile Service (GPMS) to provide for a wide range of mobile communications uses, and 4 megahertz (the 849-851 and 894-896 MHz bands) were continued in unallocated reserve. The Commission has very recently proposed to allocate this latter 4 megahertz of spectrum to air-to-ground service or, alternatively, to add them to the 2 megahertz already allocated to the GPMS. (NPRM in Gen. Doc. No. 88-96, adopted Feb. 25, 1988.) This spectrum could be made available to a wide range of mobile uses, including private land mobile radio, cellular radiotelephone, basic exchange telecommunications radiotelephone, and air-to-ground telephone.

Paragraph (5):

The Act expressly limits the authority to use value based assignments to unassigned spectrum for services other than any media of mass communications, public safety or amateur radio services. The provision contains definitions of "media of mass communications" and "unassigned spectrum."

The first restriction is that competitive bidding may be used only in the case of unassigned spectrum. Under this limitation, existing licensees who already have received assignments would not be affected. This should not be a problem under the provisions of the Act, since the only spectrum that is authorized for value based assignment is currently held in reserve and consequently has no existing permanent assignments.

The second restriction is that competitive bids may not be used for assigning licenses for media of mass communications, public safety or amateur radio services. The public safety and amateur radio services are characterized by shared (as opposed to exclusive) channels, strict eligibility requirements, and a spirit of cooperation among users. Consequently, there usually are not competing applications for license in these services. In addition, the use of a bidding process for these services could impose undue hardship on public safety agencies and amateur radio operators. Services that are eligible for the bands authorized for value based assignment include land mobile radio, cellular radiotelephone, basic exchange telecommunications radiotelephone, and air-to-ground telephone.

Paragraph (6):

This provision requires the Commission to adopt rules implementing this Act no later than one year after enactment. The rules will be adopted and may be amended after public notice and comment. These rules should specify, among other things, the circumstances under which the Commission will use value based assignments, and the information required for filing statements of intent to bid.

This provision also limits the use of value based assignments and requires the Commission to report to Congress annually on its experiences with the use of competitive bidding procedures. The authority under this Act will expire five years after enactment. This legislation only authorizes a test of the use of value based assignments. After five years enough information should be available about the utilization and effectiveness of value based assignments to allow a thorough review by Congress. To that end, the Commission will report annually concerning its experience with the use of competitive bidding. These reports should contain a listing of all uses of competitive bids together with a description of the spectrum utilized and the purposes therefore, a summary of the Commission's processing time in utilizing the competitive bidding process compared to other licensing methods, a compilation of monies derived from the value based assignments, and an estimate of the Commission's cost of administering the competitive bidding program. The final report should also include an evaluation of the program and a conclusion as to whether or not the Commission seeks authority for the continued use of value based assignments.

Paragraph (7):

All revenues raised through the use of value based assignments will be deposited in the general fund of the U.S. Treasury as miscellaneous receipts.

Paragraph (8):

All bidders will be required to submit fees with their bids in accordance with current statutory charges. (47 U.S.C. §158.) These fees will cover the Commission's costs of processing and reviewing bids, and will not be refundable.

Paragraph (9):

The final selection of licensees under the authority of this Act will not be subject to judicial review.

LONG-TERM CARE LEGISLATION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. STARK. Mr. Speaker, today, the Ways and Means Health Subcommittee, began its in-depth work on one of the great issues of our time: how to provide financial protection against the staggering costs of long-term and chronic illness care.

To help explain the issues and the options, I would like to include my opening statement in the RECORD at this point:

STATEMENT OF FORTNEY (PETE) STARK, CHAIRMAN, SUBCOMMITTEE ON HEALTH COMMITTEE ON WAYS AND MEANS, AUGUST 4, 1988

Today the subcommittee begins its work on developing long-term care legislation.

It will be a difficult task, but I believe that our work will lead to enactment in the 101st Congress of a law providing protection against the costs of chronic illness and long-term care expenses.

The cost of long-term care has become a major issue to our elderly. These people, who expect to enjoy a moderate standard of living during retirement, fear that they will be reduced to near poverty if they are ever forced to pay for expensive long-term care services.

Their concern is well founded. Nursing home care now costs over $25,000 a year; even home health services can cost $1,000 a month. And the vast majority of the elderly do not have any insurance against these costs.

Medicare does not, as we all know, cover long-term care services. And private insurance, by health insurance standards, is almost non-existent.

Medicaid does cover long-term care but only after a life-time of assets is exhausted.

So the options are bleak: Private payment without the support of insurance or Medicaid spend down and poverty.

It is not surprising that this has become a major issue to our elderly and their families.

The problem will grow in the years ahead.

With falling mortality rates and the aging of the baby boom generation, the elderly population will increase substantially in the future. The total elderly population is projected to increase from 27 million in 1983 to—million in 2020.

More important for long-term care, it is the 85 and older population which is most likely to require long term care assistance. The age 85 and older population will increase—fold between 1983 and 2020.

Our current system of financing and organizing long term care is not working.

Unfortunately, recognizing that this problem exists does not mean the answers are self evident. Quite the contrary. Within the long-term care area, the choices are complex and difficult.

In beginning its work in this area, the Subcommittee will need to identify the essential elements of a national long-term care policy.

The first issue to be addressed is the types of care that should be covered. Should a program cover only home health care as suggested by Senator Pepper's bill or should nursing home services be included as well?

The answer may be that when we hear about long-term care from our elderly constituents, the questions are about nursing home care. The bills that are displayed at town meetings are nursing home bills. I know many Members were surprised to learn that the Pepper bill did not cover nursing home care.

A second set of questions deal with striking the balance between a public program like Medicare and the role for private long-term care insurance.

A fully public program would be very expensive. A balance between public and private insurance would reduce the Federal costs of a program. Some, of course, would like to see the private sector meet all our long-term care needs.

But long-term care may not be the type of service that can be privately insured for a significant segment of the population.

Long-term care insurance doesn't fit the Medigap model. All of the elderly need physician and hospital services and so most people over 65 are anxious to buy Medigap insurance. But, since most long-term care is used by those over age 85, most of those in the age 65 to 85 group won't use their often meager incomes to purchase long-term care insurance at $500 to $1,000 a year.

Insurers, of course, do not usually want to sell policies to the over 85 age group nor could many of this group afford the very high premiums for coverage if they did.

Long-term care insurance more closely fits the life insurance model. It needs to be financed over a period of decades beginning with the middle years.

Yet much of the working age population feels they are already "insuranced out" after paying for health, car, house, life and disability insurance.

Further, employers are not a likely source of long-term insurance for the vast majority of the elderly. Only 20 percent of the elderly now have employer-based acute care Medigap insurance. And employers today seem more interested in reducing, rather than expanding, fringe benefits.

Some believe tax incentives for private long-term care insurance will solve many of the problems. However, this may only help the affluent. Only 20 percent, mostly the very affluent, bought IRAs.

And we should not underestimate the loss in revenue to the Treasury. A tax incentive program proposed as a way of reducing public costs could result in a large increase in the Federal deficit.

The Subcommittee may conclude, as Drs. Joshua Wiener and Alice Rivlin did in their Brookings study, that a long-term care program will only work if it is a publically based program like Medicare.

If a Medicare type long-term care program is considered, then several more questions must be answered:

What types and levels, if any, of beneficiary cost sharing—deductibles, waiting periods and coinsurance—should be included?

How can we balance an adequate supply of high quality nursing homes and home care agencies with reasonable payments?

How should eligibility for benefits be determined?

Who should manage patients through the many types and levels of care?

While these are tough issues, they don't begin to compare with the difficulty of the decisions the Subcommittee will face in deciding how to finance benefits.

Increasing the estate and gift tax may be the most appropriate source of revenues.

Medicaid, our current national long-term care program requires individuals to spend down their assets. And people who have been in a nursing home longer than twelve months rarely leave. Therefore, some may argue that the spending down of assets may be appropriate.

A new Federal long-term care program would, among other benefits, protect assets for children and other heirs. An estate and gift tax would pool these costs. It would be far more equitable and progressive than the current patient financed system.

A 10 percent surtax on estates would raise $5 billion a year.

The cap on earnings subject to Medicare portion of the payroll tax could be removed as proposed by the Pepper bill.

This would be a progressive tax paid only by those with the highest incomes. While some would say this violates the "social insurance" basis of Medicare, it would raise about $7 billion a year.

Another revenue option would be to increase the payroll tax.

This may be the only way to raise sufficient revenues to cover costs of over $20 billion a year or more. An increase of the payroll tax of ——— percent on each the employee and employer would raise $——— billion. Without a wage cap, it would raise ———.

Requiring all State and local government employees to pay the Medicare portion of the payroll tax could contribute about $2 billion a year to the costs of long-term care.

Finally, beneficiaries payments may have to be included in the revenue equation. The part B premium could be further increased although, following the increase for Medicare catastrophic coverage, it will already be more than $40 a month in 1993.

Medicaid offsets also need to be factored into any long-term care program. Medicaid now spends over $——— billion per year on long-term care; this is split roughly 55 percent to 45 percent between the Federal and State governments. A Medicare program would replace most of these costs.

These off-sets could be used to cover cost-sharing for the indigent, as provided by the Medicare catastrophic coverage bill, or for other purposes.

A final issue is what features of a long-term care program might be enacted first if it is not possible to do everything at once?

Since a comprehensive long-term care program might cost up to $50 billion a year, benefits may have to be phased-in. We have, of course, begun this process by adding over a billion dollars a year in new long-term care benefits in the Medicare catastrophic program.

All in all, the Subcommittee faces many difficult and complex choices in the months to come. This will require a long and difficult process. We are prepared to take the time.

In the end, as with the Medicare Catastrophic bill, I believe the Subcommittee can fashion a program that is fair and efficient and will meet the needs of our nation's elderly and disabled.

TRIBUTE TO OLIVER WEAVER AND ROSS JAMES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to pay special tribute to two dedicated employees of the Youngstown City Public Works Department, Oliver Weaver and Ross James. Together, these outstanding gentlemen have served the Youngstown community for 60 years, and shall retire from service on August 13, 1988.

Mr. Weaver began his term of employment on October 12, 1953, as a civil service maintenance man, becoming the first black civil service employee in the street department. He rose through the ranks and eventually assumed the position of heavy equipment operator, which he has held for 24 years until his retirement this month. In addition, Oliver has been a member of the local AFL-CIO union, serving as its president for 15 years, as well as participating in a variety of other organizations.

Mr. James dedicated 25 years to the Youngstown Public Works Department, starting on May 9, 1963, as a maintenance laborer with the street department and Youngstown Airport. He set a precedent as well by being the first black civil service employee at the Youngstown Airport. Since 1972, Ross has served as a truck driver for the street department, and has extended himself as a distinguished member of the local AFL-CIO union, serving on the executive board and as a trustee.

I consider it an honor, on behalf of the people of the 17th Congressional District, to salute these fine individuals and their outstanding terms of service. I wish them much happiness in their years of retirement.

URGING THE WAYS AND MEANS COMMITTEE TO ENACT THE PEPPER HOME-HEALTH LEGISLATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

OF

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. GILMAN. Mr. Speaker, recently I had the opportunity to testify before the Subcommittee on Health of the Committee on Ways and Means in support of the initiative offered by our good friend and venerable colleague, the gentleman from Florida [Mr. PEPPER]. Mr. Speaker, the need to enact this legislation has never been more acute. Millions of Americans throughout our Nation are struck down each year with catastrophic, debilitating illness. Three million of our Nation's citizens suffer with Alzheimer's disease; 5 million Americans have cancer; 10 million children suffer chronic health problems.

Mr. Speaker, the majority of these citizens do not require intensive hospital treatments. Fortunately, H.R. 2470, the catastrophic costs legislation enacted earlier this year, will assist in protecting many of our Nation's senior citizens from these devastating expenses.

For most Americans struck down with catastrophic illness, the greater portion of the need comes in the performance of routine day-to-day activities, where the costs of providing long-term custodial care will become truly staggering.

Mr. Speaker, the Nation is crying out to the Congress on this issue. Survey results indicate that the majority of Americans believe it is time to consider a proposal for Federal long-term care insurance programs. The majority of Americans are willing to pay progressive taxes in order to finance such a program, and they agree that the patient's home is by far the best place for such care to be provided.

This is why we need to enact the Pepper long-term home health care legislation. Unfortunately, despite my own pleas and those of Senator PEPPER, the House voted to delay consideration of this vital topic. While I am pleased that the Ways and Means Committee has turned to consideration of the issue in such an expeditious fashion, I urge my colleagues to consider the many merits of the original Pepper legislation, and I am hopeful that the committee will use the bill as a minimum point of departure in the consideration of this important debate.

Mr. Speaker, I request that the full text of my statement before the Ways and Means Subcommittee on Health be inserted at this point in the RECORD:

STATEMENT OF REPRESENTATIVE BENJAMIN A. GILMAN, TWENTY-SECOND DISTRICT OF NEW YORK, BEFORE THE SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON WAYS AND MEANS, REGARDING LONG-TERM HEALTH CARE

Mr. Chairman, Members of the Committee, I would like to take this opportunity to commend you for holding today's hearings on the pressing topic of long-term health care. My colleagues are well aware of the tremendous support throughout the Nation for expanded Federal programs to protect against the devastating effects of long-term illness. As a leading Republican advocate and co-sponsor of the legislation offered by our venerable Chairman of the House Rules Committee, the distinguished Gentleman from Florida, [Mr. PEPPER], I appreciate the Committee's willingness to consider this matter in a prompt and timely fashion. While I voted to allow for full House consideration of the legislation, along with 169 of my colleagues including the 153 bi-partisan co-sponsors, I recognize that the Ways and Means Committee is desirous of affording this probelm with the most thorough possible analysis.

Nonetheless, I would commend to the Committee's attention the many merits of the original Pepper bill offered this summer. H.R. 3436 (formerly H.R 2762) would establish five Activities of Daily Living (ADL's) comprising the minimum essential body functions necessary for the maintenance of quality of life. A dissabled person's incapacity to perform any two of the five ADL's would be sufficient to qualify the individual for newly created home care benefits.

Mr. Chairman, this framework for viewing the long-term care dilemma has many beneficial aspects. Perhaps most importantly, our proposal would have the desirable consequence of insuring all Americans, young and old alike, against the high costs typically associated with catastrophic illness. In addition, our method would provide a concrete way for the state and local management agencies established in the legislation to determine eligibility for coverage. Finally, our bill maintains a level of compassion commensurate with the degree of suffering experienced by the victims of long-term illness.

Furthermore, I recommend that the committee retain the financing mechanism in the orignal Pepper legislation. H.R. 3436 would have eliminated the cap on income subject to the 1.45 percent Medicare payroll tax. This is a progressive change in the tax law which would affect only those 5 percent of American workers who earn more than $45,000 a year in taxable income. While the change may impose a slight additional burden on those affected, along with Senator Pepper, I feel that this change is necessary in order to protect the estimated 1 million or more Americans impoverished each year due to tragic long-term disabilities. It appears that the American public concurs with our assessment. According to a nationwide survey conducted by Lou Harris & Associates, fully 7 out of 10 Americans would favor such a financing mechanism to provide long-term health care for all Americans.

Finally, Mr. Chairman, I feel certain that the committee is aware of the resistance to this legislation based on the premise that expanded Medicare benefits will contribute to the burgeoning Federal budget deficit. These arguments fly in the face of the Congressional Budget Office (CBO) analysis of costs associated with H.R. 3436. Due to revenue collections which outpace benefit expenditures, CBO indicated that enactment of H.R. 3436 would actually reduce the budget deficit by almost $2 billion in the first year and by roughly $6 billion over the first five years. In addition, the Federal provision of long-term care insurance would achieve tremendous cost savings in other social programs which currently serve the victims of long-term illness. At the state and local level, H.R. 3436 would have resulted in savings of roughly $2.5 billion. This bill pays for itself. For the mid-1990's and beyond, when the revenue picture might change, our proposal includes extensive safeguards to ensure that H.R. 3436 remains self-financed.

Mr. Chairman, I applaud your leadership and the efforts of the Committee to expand coverage for long-term illness. At a minimum, however, I would urge the committee to retain the essential benefits of the original Pepper legislation. Should the committee see fit to provide further benefits, such as coverage for nursing home costs, I would likely support such an effort. However, the final package should retain the Pepper bill emphasis on maintaining the quality of life, protecting all Americans young and old, and paying for the benefits in a self-financing way which avoids increasing the budget deficit.

Thank you for affording me this opportunity to testify.

A SALUTE TO ST. JOSEPH HOSPITAL SCHOOL OF NURSING

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mrs. BENTLEY. Mr. Speaker, I rise today to salute the St. Joseph Hospital School of Nursing. Like many other nursing schools across the country, this distinguished school has recently had to close its doors. I attended the ceremonies and would like to include some select excerpts from Sr. Margarella's speech into the CONGRESSIONAL RECORD.

At present, there is a shortage of nurses in this country. Fewer and fewer are available to care for the rising number of the sick and the elderly. Because of the potential danger this poses, we must closely examine the implications of nursing school closings and the reduced enrollment at those still open. The low pay, the long and awkward hours, the limited chance for advancement, and the lack of respect in the workplace are the genuine reasons that nurses are dropping out of the profession and prospective ones are looking elsewhere for employment. If this trend is not checked, the health care community could soon face its worst crisis in years.

We must pay strict attention to the situation, for it affects us all. I hope that the passages from Sr. Margarella's speech will give each and every one of you insight into the nursing profession and further understanding of the vital service that these nurses perform for our society.

STATEMENTS MADE AT THE CLOSING OF ST. JOSEPH HOSPITAL'S SCHOOL OF NURSING

"We gather to honor everyone who learned the art and science of nursing care—that beautiful Christian vocation that privileges us to minister in sickness and in health from pre-birth to those tender last moments when we are privileged to assist another in the passage from life through death into eternity. * * *"

"We need to transform the education we received into symbolic memories that have molded our nursing careers and now chart our present journey. We need to reinforce that our learning has prepared us for a future that is still before us as practitioners of a glorious profession.* * *"

"We capture these symbolic memories in images because symbols go beyond the image in meaning and significance. The images of our profession take ordinary things: a basin, a stethoscope, a medicine tray or syringe, and make the means of reinforcing not only the qualities of our professional care, but in so doing, capture the heart to fit it all: for nursing's deepest memories when remembered move us to the immaterial: the spirit of hope and joy, of birth and life, of return to health and vigor, or preparation and journey beyond the known to the unknown. * * *"

"But even as we say good-bye to our dear school and the sound nursing education it gave to all of us, we as professionals, know that we cannot be true to our past if we do not seek to be creators of the future health provisions for our great society. The next century will begin in less than twelve years, and not one of us will be able to accurately predict what it will bring or challenge us to in the delivery of optimum health care. While healthier than ever before, our elderly will continue to grow dramatically both in numbers and as a percent of our total population. But the end of the first decade of the next century, it is predicted that more than 55 million citizens will be over 65 years of age.* * *"

"We are already aware of the trends which are providing more diagnostic and therapeutic procedures on an ambulatory basis, while the acutely ill patient is filling the hospital beds with care that is becoming more and more expensive. Alternatives to expensive hospital care are being created: there are numerous home care programs in the nation which have been formed by nurses. Hospice programs are increasing in value as families seek an alternative to the hospital for the final days of their loved one's lives.* * *"

"Women, Including professional nurses, are developing a more independent life style and decision making assertiveness which will influence their roles as wives, mothers and members of the nursing profession.* * *"

"Of greatest moment, perhaps, is the challenge for the future which surrounds the quality of life in general. To maintain health and prevent disease, both emotionally and physically, the health provider will need to find new strategies to manage stress and displacement experienced by individuals who are replaced by technology. A new "poor" is being created. It will be a challenge to develop modalites that will enable people to live in a manner that will encourage a sense of purpose, self-worth, and pleasure, while not laboring primarily for material gain. Finally, the dynamic environment in which we are living and which we face for the future presents different opportunities and issues. It should be acknowledged that no one health worker will be able to provide all the care that an individual will need all the time. Therefore it is imperative that nurses, physicians and other professionals join forces and offer a collective approach to meeting the health care needs of our nation's society for the future.* * *"

"We serve the public, a most demanding master. As nurses we have committed ourselves to the purpose of serving society. No one can foresee or predict the real changes which will occur in the society of tomorrow. To grow, to improve, to change is our legacy. Our challenge is to continue to learn and to change to meet society's expectations for nursing care.* * *"

"We have been fortified by tonight's encounter with each other and the distilling of memories and stories from the past. We know we will continue to carry our profession forward into the future—our future as a part of that larger society in which we live.* * *"

THE PRESIDENT OF THE REPUBLIC OF CYPRUS AND HIS QUEST FOR PEACE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. BROOMFIELD. Mr. Speaker, the newly elected President of the Republic of Cyprus, Mr. George Vassiliou, recently met with members of the House Foreign Affairs Committee and presented his plan for peace on the island of Cyprus. All of us were deeply impressed by his commitment to finding a solution to the 14-year division of that island, and by his strong support for a negotiated and fair solution to the Cyprus dilemma.

In recent months, President Vassiliou has traveled to the United Nations and to various European capitals where he presented his demilitarization plan for that divided island. In brief, his plan calls for Turkey to remove both its 30,000 troops and its 65,000 illegal settlers from that island. The Republic of Cyprus would have to dismantle its own defense system and call for the removal of all Greek and Turkish troops in Cyprus under the 1960 Treaty of Alliance. When this effort is completed, the only forces remaining in the Republic will be an international peacekeeping force and a small joint Greek-Turkish Cypriot police force. Both of these groups would be under the auspices of the United Nations.

I believe that President Vassiliou's demilitarization proposal deserves our support. It offers a classic opportunity to restore the sovereignty of Cyprus and addresses the security concerns of the Turkish Cypriots.

President Vassiliou recently agreed to meet with the leader of the Turkish Cypriots, Mr. Rauf Denktash, on August 24 in New York. This meeting will be the first opportunity for those two men to formally discuss the details of the demilitarization plan.

Many years have gone by since the Turkish invasion of Cyprus. The tragic division of that island has divided the Cypriot people and has split up families. Over 200,000 Greek Cypriots had to flee their ancestral homes in the north. The presence of armed troops creates tensions which recently resulted in the killing of a young Greek Cypriot National Guardman. The conflict over Cyprus could undermine the security of NATO's vital southern flank.

Time is of the essence. The opportunity for a negotiated settlement is now. Let us hope that President Vassiliou's energetic commitment to his demilitarization plan for Cyprus will bear fruit and bring peace to that troubled island.

During the President's stay here in Washington, I joined Chairman DANTE FASCELL in crafting a resolution supporting the search for peace in Cyprus and congratulating President Vassiliou and Rauf Denktash for their planned August meeting.

I want to share with my colleagues in the Congress the text of this resolution and thank the chairman for his efforts to expedite committee consideration of this legislative initiative.

H. RES. —

Whereas the Cypriot nation has been tragically divided since the military conflict of 1974;

Whereas the division of Cyprus has persisted despite numerous international mediation efforts, particularly those of the Secretary General of the United Nations;

Whereas the newly elected president of Cyprus, George Vassiliou, has indicated that he is committed to a peaceful, negotiated settlement of the 14-year dipute over the division of the island;

Whereas President Vassiliou's visit to the United States is aimed at stimulating United States support for further international efforts to resolve the Cyprus issue;

Whereas President George Papandreou of Greece and Prime Minister Turgut Ozal of Turkey have initiated a series of meetings aimed at reducing bilateral tensions; and

Whereas President Vassiliou and Turkish Cypriot leader Rauf Denktash are scheduled to meet in the near future in New York under the auspices of the United Nations: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends President Vassiliou of Cyprus and Turkish Cypriot leader Denktash for agreeing to meet in the near future on steps to resolve the Cyprus issue;

(2) congratulates President Vassiliou, Mr. Denktash, and United Nations Secretary General Xavier Perez de Cuellar for arranging this meeting in order to further the internationally mediated process of resolving the division of Cyprus; and

(3) expresses its strong support for the United Nations mediation effort and continuation of negotiations between all parties to the dispute.

PROBLEM OF WRONGFUL EXECUTION IN CAPITAL CASES

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1988

Mr. STAGGERS. Mr. Speaker, I would like to bring to my colleagues' attention an article from the New York Times highlighting a study which focused on the problem of wrongful execution in capital cases. I urge my colleagues to read this article before contemplating attaching a death penalty amendment to the drug bill. The fallibility of human reasoning is undeniable—if we must err, let us err in favor of life:

Wrongfully Executed in United States, Study Finds

(By David Margolick)

A new study on capital punishment in the United States asserts that in this century 343 people were wrongly convicted of offenses punishable by death and that 25 were actually executed.

The study was done in part to rebut assertions that the problem of wrongful execution is at best theoretical, the authors said. The American Civil Liberties Union, which opposes the death penalty, is circulating the report.

"Regardless of our position on capital punishment," the authors wrote, "a criminal justice system culminating in the death penalty is fallible, and the gravest errors in its administration are inevitable."

"This report adds a very significant dimension to the debate over capital punishment," said Julian Epstein, a spokesman for Representative John Conyers Jr., a Michigan Democract who is chairman of the House Judiciary Committee's Subcommittee on Criminal Justice, which is now holding hearings on the death penalty.

A VERY ACCEPTABLE NUMBER

But Ernest van den Haag, a professor of jurisprudence and public policy at Fordham University who is a long-time supporter of the dealth penalty, said the apparent infrequency of improper executions over 85 years buttressed the case for capital punishment. He called the 25 wrongful executions, "if true, a very acceptable number," and added: "All human activities—building houses, driving a car, playing golf or football—cause innocent people to suffer wrongful death, but we don't give them up because on the whole we feel there's a net gain. Here, a net gain in justice is being done."

Henry Schwarzschild, director of the A.C.L.U.'s capital punishment project, said: "The study shows that in hundreds of routine criminal cases, including cases where the defendant's life is at stake, the criminal justice system makes egregious errors. It convicts innocent people and it executes innocent people."

Capital punishment has been abolished in most of the Western world and was halted in the United States for a decade after 1967, in which time the Supreme Court invalidated state and Federal death-penalty laws. In 1976 the Court upheld the constitutionality of the penalty, and 49 people here have since been executed.

7,000 EXECUTED SINCE 1900

More than 7,000 people have been executed in this country since 1900, according to the study's authors, Hugo A. Bedau of Tufts University and Michael L. Radelet of the University of Florida.

"One or more persons in every year of this century have been on death row who are eventually shown to be innocent," their report said. "Although this rate shows some decline since 1950, there is every reason to believe that at this moment, one or more of the over 1,600 men and women currently under sentence of death are innocent."

The study was financed by the Veatch Program of the North Shore Unitarian Universalist Society of Plandome, L.I., which has also provided money for many liberal groups that seek to change national policies on social issues. The authors said their two-year study was the first comprehensive survey of erroneous convictions in death penalty cases since Mr. Bedau made a similar study 20 years ago.

The authors said they had "only scratched the surface" in their study, whose findings were summarized yesterday at the annual convention of the American Society of Criminology in San Diego.

Among those listed as unfairly executed are the anarchists Nicola Sacco and Bartolomeo Vanzetti, convicted of murder; Bruno R. Hauptmann, convicted of kidnapping and murdering the baby of Charles A. Lindbergh, and Ethel and Julius Rosenberg, convicted of conspiring to spy for the Soviet Union.

Many people maintain that these executions were proper, and the authors acknowledged that some of those listed as wrongfully convicted may well have been guilty.

But in 32 cases they cited it turned out that no crime had been committed, usually because the purported murder victim was found alive.

AMENDMENT TO THE OMNIBUS DRUG INITIATIVE ACT OF 1988

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. PORTER. Mr. Speaker, I will be introducing the following as an amendment to the Omnibus Drug Initiative Act of 1988.

Amendment to Committee Print of the Committee on Rules Offered by Mr. Porter of Illinois

Page 207, strike line 1 and all that follows through line 12 on page 211 and insert in lieu thereof the following:

SEC. 6503. WAITING PERIOD REQUIRED BEFORE SALE, DELIVERY, OR TRANSFER OF HANDGUN.

(a) In General.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1) It shall be unlawful for any person to sell, deliver, or transfer a handgun, otherwise permitted by law, to an individual who is not licensed under section 923 unless—

"(A) before delivery of the handgun and within 1 day after the date the transferee proposes such transfer, the transferor has sent by registered or certified mail (return receipt requested) to the chief law enforcement officer of the place of residence of the transferee a copy of a sworn statement by the transferee notifying the officer of the proposed transaction; and

"(B) 15 days have elapsed from the date the sworn statement was sent and the transferor has not received information from the chief law enforcement officer that—

"(i) receipt or possession of the handgun by the transferee would be in violation of Federal law or of a State or local law of the residence of the transferee; or

"(ii) the transferee is receiving or has received treatment for a significant behavioral, emotional, or mental disorder (as defined in the most recent diagnostic manual of a nationally recognized psychiatric association) and has not been documented medically to have been cured of such disorder.

"(2) The sworn statement referred to in paragraph (1) shall contain only—

"(A) an accurate description of the handgun which is the subject of the proposed transaction;

"(B) the serial number of the handgun;

"(C) the name, address, and date of birth appearing on a valid piece of the transferee's personal identification containing a photograph of the transferee, and a description of the identification used;

"(D) a statement that Federal law does not prohibit the receipt of the handgun by the transferee;

"(E) a statement that the transferee has never received treatment for a significant behavioral, emotional, or mental disorder (as defined in the most recent diagnostic manual of a nationally recognized psychiatric association), or, if the transferee has received such treatment, the name and address of the person from which, or the facility at which, the transferee received such treatment and medical documentation showing that the transferee has been cured of the disorder; and

"(F) the date the sworn statement is made.

"(3) Any transferor who, after a handgun has been transferred to the transferee, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee is in violation of Federal law or of State or local law of the residence of the transferee, or that the transferee has received treatment for a significant behavioral, emotional, or mental disorder (as defined in the most recent diagnostic manual of a nationally recognized psychiatric association) and has not been documented medically to have been cured of such disorder, shall immediatley communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of—

"(i) the place of business of the transferor, in the case the transferor is a licensed importer, licensed manufacturer, or licensed dealer; or

"(ii) the place of residence of the transferor, in any other case; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection or from a dealer with respect to such a report shall not disclose such information except—

"(A) to a law enforcement officer;

"(B) to a Federal or State court; or

"(C) to a dealer.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the sworn statement of the transferee with respect to the handgun transaction for at least 1 year after the date the transaction is completed.

"(B) Unless the chief law enforcement officer to whom a copy of the sworn statement is sent determines that the proposed transaction which is the subject of the statement would violate Federal, State, or local law, or that the transferee is receiving or has received treatment for a significant behavioral, emotional, or mental disorder (as defined in the most recent diagnostic manual of a nationally recognized psychiatric association) and has not been documented medically to have been cured of the disorder, the officer shall destroy the copy within 60 days after the date transferee made the statement.

"(6) As soon as is practicable after receipt of a copy of a sworn statement made by a transferee under paragraph (1)(A)(i), the chief law enforcement officer receiving such statement shall—

"(A) contact all Federal law enforcement agencies to obtain information on—

"(i) whether or not the transferee has been convicted of a violation of Federal, State, or local law;

"(ii) whether or not the transferee is a fugitive from justice; and

"(iii) whether or not the transferee is receiving or has received treatment for a significant behavioral, emotional, or mental disorder (as defined in the most recent diagnostic manual of a nationally recognized psychiatric association) and, if so, whether or not the transferee has been documented medically to have been cured of the disorder; and

"(B) except as otherwise prohibited by law or rule of law, determine—

"(i) whether or not the proposed transaction which is the subject of the statement would violate Federal, State, or local law; and

"(ii) whether or not the transferee is receiving or has received treatment for a significant behavioral, emotional, or mental disorder (as defined in the most recent diagnostic manual of a nationally recognized psychiatric association), and, if so, whether or not the transferee has been documented medically to have been cured of the disorder.

"(7) Notwithstanding any other provision of this title—

"(A) any dealer who violates any provision of this subsection shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both; and

"(B) any other individual who willfully violates any provision of this subsection shall be fined not more than $500.

"(8) For purposes of this subsection, 'chief law enforcement officer' means the chief of police, the sheriff, an equivalent officer, or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to dealers and to the public.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(25) The term 'handgun' means a firearm which has a short stock and is designed to be held and fired by the use of a single hand or any combination of parts from which a handgun can be assembled.".

(c) EFFECT ON STATE LAW.—Section 927 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "No"; and

(2) adding at the end the following:

"(b) A provision of State law is not in direct and positive conflict with section 922(p) if the provision provides—

"(1) for a waiting period of at least 15 days before the transfer of a handgun; or

"(2) that, before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun.".

(d) CONFORMING AMENDMENT.—Section 924(a)(1) of title 18, United States Code, is amended by inserting "section 922(p)," after "section," the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers first proposed on a date occurring 90 or more days after the date of the enactment of this Act.

CONSULTANT REGISTRATION AND REFORM ACT OF 1988 INTRODUCED

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. BENNETT. Mr. Speaker, on behalf of myself and Mr. RIDGE of Pennsylvania, as the two cochairmen of the Congressional Military Reform Caucus, I am introducing the Consultant Registration and Reform Act of 1988.

This bill is an identical House companion to S. 2674, which was introduced August 1 by Senator DAVID PRYOR. Senator PRYOR first authored this legislation 7 years ago, and has since modified it based on recent hearings and investigations. Doubtless, many persons will be able to suggest improvements, and such suggestions will be welcome. But this bill is a thoughtful attempt to comprehensively address this problem. It seems that in this day and age, the conduct of Government business is helped by the service of consultants. But we cannot allow persons who are not subject to normal accountability to operate in the shadows and slip between the cracks.

Mr. Speaker, this is essentially a sunshine bill. It does not stop agencies or contractors from using consultants. But it does ensure that there is full disclosure so that the Government is protected from conflicts of interest and unwelcome surprises.

We do not yet have the full story on the recent scandal at the Department of Defense [DOD], and will not for many months. But it is clear that consultants are a part of the problem. We do not know who they are, what they do, who they work for, or even at times whether their loyalties are to Government or industry.

Obviously, the first step is to require full information about their activities, and to stop consultants who refuse to provide this information from doing business directly with the Government, or with Government contractors. We must act immediately to get good information. Then, based on this information and the full facts about the defense scandal, Congress can take further action as necessary.

SUMMARY OF MAJOR PROVISIONS

The most important provisions of the bill are as follows:

(1) Require registration by all consultants working for the Government or to prime contractors working on Government projects—including all Federal agencies;

(2) Require such registration by the consultant to include a description of services furnished each client, a list of all public and private clients—domestic and foreign—a statement as to whether the consultant has ever been convicted of a felony or is under indictment, a statement as to whether the consultant is currently suspended or debarred, and a certification that the consultant and its employees are not in violation of conflict-of-interest laws;

(3) Prohibit the Government from hiring a consultant unless the consultant registers and the Defense Department determines that the consultant does not have a conflict of interest;

(4) Require contractors receiving Government contracts to certify that each consultant who assisted in obtaining the contract has properly registered;

(5) Require reports prepared by consultants for Federal agencies to be clearly identified as such, and not presented as agency work;

(6) Upon completion of a contract by a consultant for the Government, require an agency evaluation of the performance of the consultant;

(7) Require Federal agencies to submit with their budget requests an itemized statement of amounts requested for consultant services;

(8) Require Federal agencies to accurately report to the Federal procurement data computer system on contract awards for consultant services;

(9) Make information on Government contracts with consultants publicly available;

(10) Require public notice of an award of a contract for consulting services, and require internal agency review of any proposed award of a contract for consulting services to be made on the basis of an unsolicited proposal.

Following appears a section-by-section analysis, and also the full text of the bill as introduced:

CONSULTANT REGISTRATION AND REFORM ACT OF 1988

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill "The Consultant Registration and Reform Act of 1988."

Section 2 sets out Congressional findings regarding the government's use of consultants; the lack of compliance by the Inspectors General with current law and the need for stricter Congressional oversight in this area.

Section 3 states that it is the policy of the United States to have Federal government policy and decisions made by accountable Federal officials; that procurement of advisory and assistance services should be carried out in compliance with applicable procurement laws and regulations; and that Federal government functions should be performed in the most economical fashion while recognizing the inherently governmental nature of certain activities.

Section 4 defines the terms used in the Act. It defines consultants as those persons/firms who provide "advisory and assistance services", which includes management and professional services; the conduct and preparation of studies, analyses, and evaluations; and engineering and technical services.

Section 5 requires the publication of notices of advisory and assistance services contracts, including those based on unsolicited proposals, worth $25,000 or more. Notice must be placed in the "Commerce Business Daily" at least 30 days prior to the award of the contract.

Section 6 institutes monitoring requirements on advisory and assistance services contracts. Before the award of such a contract worth more than $25,000 which is based on an unsolicited proposal, the responsible employee must transmit a written notice of the proposed contract and the justification for the contract to the Inspector General. No later than 30 days after the award of an advisory and assistance services contract worth $25,000 or more, the responsible employees shall provide the Inspector General with the justification for the contract. Whenever an advisory and assistance service contract is modified by at least $25,000, the responsible employee shall transmit to the Inspector General a written notice of the modification which shall include a description of the original contract, a description of the modification and the justification for the modification.

Section 7 requires that each report submitted to an agency by a contractor or consultant and each agency report which is substantially derived from such a report include the following information: the name and business address of the contractor; the total amount of the contract; a notification of whether the contract was awarded using competitive or noncompetitive procedures; the name of the office which authorized the award of the contract; in the case in which a subcontractor is used to prepare any portion of the contractor's report, the name and address of the subcontractor and the amount paid to the subcontractor; and the names of all employees of the contractor and any subcontractor who substantially contributed to the preparation of the report submitted to the agency.

Section 8 requires an evaluation of the contractor's performance. Within 90 days after the completion of a consultant contract worth more than $25,000, the agency must prepare a written evaluation of the consultant's performance. The evaluation shall include a summary description of the contractor's performance; an assessment of the performance judged against the terms of the contract; any differences between the action cost and time for completion of the contract and the estimated cost and time for completion; and the purposes for which the services were procured and the use to which any reports were put. The contractor shall be given a copy of the evaluation and shall have 10 days to transmit any comments to the agency regarding the evaluation.

Section 9 requires that both the agency and President's budget contain itemized statements regarding the amounts requested for consultant services.

Section 10 amends Section 1114, Title 31 to require agency heads to provide information regarding advisory and assistance services costs which are embedded in larger contracts.

Section 11 requires that certain information regarding agency contracts be available to the public. Each agency shall be required to keep and make available to the public a list of all contracts entered into during the previous year. That list shall be updated quarterly and contain the following information: the contract identification number assigned by the agency, the contractor's name, the date of the award and the estimated completion date, the original and current amounts paid under the contract, and a brief description of the work to be performed.

Section 12 creates a consultant registration requirement for all consultants doing business with the government directly or for prime contractors who are working on government projects. A contract for advisory and assistance services may not be awarded unless the consultant complies with the registration requirement and the General Counsel has reviewed the registration information and determined that the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States. A consultant is required to provide the following information: name and address, a description of the services provided by the consultant, a list of all public and private clients, both foreign and domestic, a description of the services furnished each client, and a statement as to whether the consultant has even been convicted of a felony or whether the consultant is under indictment, a statement as to whether the consultant is currently suspended or debarred by the government. The Inspector General is charged with monitoring compliance with this section and shall submit an annual report to Congress containing the IG's findings. If a consultant fails to comply with this section, suspension and debarment proceeding shall be initiated.

Section 13 provides for an exception for sensitive foreign intelligence or counterintelligence activities, sensitive law enforcement investigations or is classified under the national security classification system under sections 5, 6, 7, 8, 9, and 11.

Section 14 provides for an effective date of 180 days after the date of enactment of the bill.

H.R. 5158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consultant Registration and Reform Act of 1988".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Federal procurement officials have not consistently complied with procurement laws, regulations, and management guidelines in awarding contracts for the procurement of advisory and assistance services.

(2) Procurement practices relating to the procurement of advisory and assistance services do not (A) adequately provided for full and open competition, (B) adequately prevent conflicts of interest, or (C) adequately provide for public disclosure of the use and role of contractors who provide such services and studies.

(3) Information regarding the Federal Government's use of advisory and assistance services is not maintained in a manner that results in helpful or meaningful information being available to Congress, the executive branch or the public.

(4) Federal Government agencies have not consistently complied with the requirement in section 1114 of title 31, United States Code, to include in budget justifications submitted to Congress the amounts requested for consulting services, and the Inspector General (and comparable officials) of such agencies have not consistently complied with the requirement in such section to submit to Congress certain evaluations relating to contracts for consulting services.

(5) Full and open competition in the Federal procurement process is consistent with the basis of the free enterprise system and enables the Federal Government to obtain maximum value for Federal procurement expenditures.

(6) The costs of performing governmental functions are borne by the taxpayer regardless of whether the functions are performed in the private or public sector.

(7) The integrity of the governmental process, especially when advisory and assistance services are used in the performance of governmental functions, requires full public disclosure of the use and role of contractors who perform such functions.

(8) Legislation and oversight is necessary in order to establish and implement consistent policies and practices needed for procurement of advisory and assistance services.

SEC. 3. POLICY

It is the policy of the United States that—

(1) Federal Government policymaking and decisionmaking functions should be performed by accountable Federal Government officials;

(2) the procurement of advisory and assistance services should be carried out in compliance with applicable procurement laws and regulations; and

(3) Federal Government functions should be performed using the most economical means available while recognizing the inherently governmental nature of certain activities.

SEC. 4. DEFINITIONS

In this Act:

(1) The term "agency" has the same meaning as is provided in section 552(f) of title 5, United States Code.

(2) The term "contract" means (A) any agreement, including any amendment to or modification of an agreement, entered into by the Federal Government for the procurement of property or services, and (B) any letter authorizing the provision of property or services to the United States prior to a specification of the compensation for the provision of such property or services.

(3) The term "contractor" means any person, including, in the case of a business organization, any affiliate of such organization and including any consultant and any organization of consultants, which is a party to a contract with the Federal Government.

(4) The term "report" means a written study, plan, evaluation, analysis, manual, or similar document, in draft or final form, which is prepared by a contractor pursuant to a contract with an agency and which is

submitted to such agency or is submitted on behalf of such agency to any other agency. Such term does not include a billing document, invoice, or other routine business transmittal made with respect to the contract.

(5)(A) The term "advisory and assistance services" means those services acquired by an agency from any nongovernmental source, by contract, to support or improve agency policy development, decisionmaking, management, and administration, or to support or improve the operation of management systems.

(B) Such term includes—

(i) management and professional services;

(ii) the conduct and preparation of studies, analyses, and evaluations; and

(iii) engineering and technical services.

(6) The term "management and professional services" means professional services relating to the management and control of programs, including—

(A) management data collection services;

(B) policy review and development services;

(C) program evaluation services;

(D) program management support services;

(E) program review and development services;

(F) systems engineering services; and

(G) other management and professional services of a similar nature which are not related to any specific program.

(7) The term "studies, analyses, and evaluations" includes the following:

(A) Any analysis or other examination of a subject which—

(i) is undertaken to provide greater understanding of relevant issues and alternatives regarding organizations, policies, procedures, systems, programs, and resources; and

(ii) leads to conclusions or recommendations with respect to planning, programming, budgeting, decisionmaking, or policy development.

(B) With respect to a program of an agency, any study initiated by or for the program management office of the agency.

(C) A cost-benefit analysis, a data analysis (other than a scientific analysis), an economic study or analysis, an environmental assessment or impact study, a legal or litigation study, a legislative study, a regulatory study, a socioeconomic study, and a feasibility study which does not relate to construction.

(D) A geological study, a natural resource study, a scientific data study, a soil study, a water quality study, a wildlife study, and a general health study.

(E) Any similar study or analysis.

(8) The term "engineering and technical service" means the furnishing of advice or training to personnel in order to ensure the efficient and effective operation of maintenance of equipment and associated software by such personnel.

SEC. 5. PUBLIC NOTICE OF CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES

(a) IN GENERAL.—An agency may not award a contract for advisory and assistance services estimated to cost more than $25,000 unless a notice describing such contract is published in the Commerce Business Daily at least 30 days before the award.

(b) EXCEPTION.—The head of an agency is not required by this subsection to transmit to the Secretary of Commerce a notice with respect to a contract for advisory and assistance services if the agency's need for such services is of such an unusual and compelling urgency that the United States would be seriously injured as a result of delaying the award of the contract until such a notice has been published.

(c) INAPPLICABILITY OF OTHER NOTICE EXCEPTIONS.—No exception to a contract notice requirement provided in any other provision of law shall apply to a notice required under subsection (a).

SEC. 6. MONITORING PROCUREMENTS OF ADVISORY AND ASSISTANCE SERVICES

(a) CONTRACT AWARDS.—(1) Before an employee of an agency awards a contract for advisory and assistance services for an amount of $25,000 or more on the basis of an unsolicited proposal, such employee shall transmit to the Inspector General of such agency or a comparable official, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a written notice of the proposed contract award. The notice shall include a description of the contract and the justification for the contract.

(2) Not later than 30 days after the date on which an employee of an agency awards a contract for advisory and assistance services for an amount of $25,000 or more, such employee shall transmit to the Inspector General of such agency or a comparable official of the agency, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a justification for the award of such contract.

(b) CONTRACT MODIFICATIONS.—Whenever an employee of an agency modifies a contract for advisory and assistance services and the modification of such contract increases the amount of the contract by at least $25,000, such employee shall transmit to the Inspector General of such agency or a comparable official of the agency, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a written notice of the modification. The notice shall include—

(A) a description of the original contract;

(B) a description of the modification; and

(C) the justification for the modification.

SEC. 7. IDENTIFICATION OF REPORTS PREPARED BY CONTRACTORS.

Each report submitted to an agency by a contractor, and each agency report which is substantially derived from or includes substantial portions of any such contractor report, shall include the following information:

(1) The name and business address of the contractor.

(2) The total amount of the contract.

(3) A statement of whether the contract was awarded using competitive or noncompetitive procedures.

(4) The name of the office which authorized the award of the contract.

(5) In any case in which a contractor uses a subcontractor to prepare any portion of the report submitted by the contractor, the name and business address of the subcontractor and the amount paid to the subcontractor for preparation of the report.

(6) The name of all employees of the contractor, and any subcontractor, who substantially contributed to the preparation of the report submitted by the contractor.

SEC. 8. EVALUATION OF CONTRACTOR PERFORMANCE.

(a) EVALUATION.—Within 90 days after the completion of the performance of a contract for advisory and assistance services, the head of the agency that awarded the contract shall prepare a written evaluation of the contractor's performance. An evaluation is not required under this subsection in the case of a contract that does not exceed $25,000.

(b) CONTENT OF EVALUATION.—An evaluation of contractor performance under subsection (a) shall include the following information:

(1) A summary description of the performance of the contractor.

(2) An assessment of the performance of the contractor based on the terms and specifications of the contract performed.

(3) Any differences between the cost of the contract and the time for completion of the contract as provided in or estimated for such contract at the time of contract award and the actual cost of the contract and the actual time for completion of the contract, respectively, and a statement of the reasons for any such difference.

(4) The purposes for which and the manner in which the services procured and any reports received under such contract are used by the agency.

(c) RECORD OF EVALUATION.—The head of an agency shall include each evaluation required by subsection (a) in the records maintained by the agency in connection with the contract to which the evaluation relates, and shall maintain copies of all such evaluations in one location in the agency that is readily accessible to the public.

(d) CONTRACTOR'S RIGHTS.—After preparing an evaluation of contractor performance under this section, the head of an agency shall promptly transmit to the contractor a copy of the evaluation together with a notice stating that the contractor may, within 10 days after receiving such copy, transmit comments to the agency concerning such evaluation. Any such comments shall be made a part of the evaluation as a supplement.

SEC. 9. BUDGET INFORMATION.

(a) AGENCY SUBMISSIONS.—The head of each agency shall include with the request for regular appropriations for each fiscal year submitted to the President pursuant to section 1108 of title 31, United States Code, an itemized statement of the amounts requested by the agency for procurement of advisory and assistance services in such fiscal year. The statement shall identify such amounts according to the same subfunctional categories to be used by the President in the submission of the budget for such fiscal year pursuant to section 1105 of title 31, United States Code, and, within each such category, shall identify such amounts according to classifications for procurement of—

(1) management and professional services;

(2) studies, analyses, and evaluations;

(3) engineering and technical services; and

(4) other advisory and assistance services.

(b) BUDGET SUBMISSIONS.—The budget submitted by the President to Congress for each fiscal year under section 1105 of title 31, United States Code—

(1) shall set forth separately, within each subfunctional category used in such budget, requests for new budget authority for, and estimates of outlays by, each agency for procurement of advisory and assistance services; and

(2) within each such category, shall identify such requests and estimates according to classifications for procurement of—

(A) management and professional services;

(B) studies, analyses, and evaluations;

(C) engineering and technical services; and

(D) other advisory and assistance services.

(c) Justifications for Revisions of Budget Request.—Within 60 days after the President transmits to Congress a revision of any request for new budget authority or of any estimate of outlays included in the budget for any fiscal year pursuant to subsection (b), the head of the agency affected by such revision shall prepare and transmit to Congress an analysis of such revised request or of such revised estimate, as the case may be, and a statement justifying the need for such revised request or such revised estimate.

SEC. 10. FEDERAL PROCUREMENT DATA SYSTEM.

Section 1114 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) The head of each agency shall provide the Federal Procurement Data System timely, complete, and accurate information on (A) contracts awarded by such agency primarily for the procurement of consulting services, and (B) all procurements of consulting services under contracts awarded by such agency not primarily for the procurement of consulting services.

"(2) The information provided under paragraph (1) shall include the amounts expended for the procurement of consulting services specified separately for contracts described in clause (A) of such paragraph and for procurements described in clause (B) of such paragraph.

"(3) The subsection shall not apply to a contract for consulting services, or any data, reports, or other material pertaining to such services, if the contract—

"(A) involves sensitive foreign intelligence or foreign counterintelligence activities;

"(B) involves sensitive law enforcement investigations; or

"(C) is classified under the national security classification system.

"(d) In this section:

"(1) The term 'consulting services' includes advisory and assistance services.

"(2)(A) The term 'advisor and assistance services' means those services acquired by an agency from any nongovernmental source, by contract, to support or improve agency policy development, decisionmaking, management, and administration, or to support or improve the operation of management systems.

"(B) Such term includes—

"(i) management and professional services;

"(ii) the conduct and preparation of studies, analyses, and evaluations; and

"(iii) engineering and technical services.

"(3) The term 'management and professional services' means professional services relating to the management and control of programs, including—

(A) management data collection services;

(B) policy review and development services;

(C) program evaluation services;

(D) program management support services;

(E) program review and development services;

(F) systems engineering services; and

(G) other management and professional services of a similar nature which are not related to any specific program.

"(4) The term 'studies, analyses, and evaluations' includes the following:

"(A) Any analysis or other examination of a subject which—

"(i) is undertaken to provide greater understanding of relevant issues and alternatives regarding organizations, policies, procedures, systems, programs, and resources; and

"(ii) leads to conclusions or recommendations with respect to planning, programming, budgeting, decisionmaking, or policy development.

"(B) With respect to a program of an agency, any study initiated by or for the program management office of the agency.

"(C) A cost-benefit analysis, a data analysis (other than a scientific analysis), an economic study or analysis, an environmental assessment or impact study, a legal or litigation study, a legislative study, a regulatory study, a socioeconomic study, and a feasibility study which does not relate to construction.

"(D) A geological study, a natural resource study, a scientific data study, a soil study, a water quality study, a wildlife study, and a general health study.

"(E) Any similar study or analysis.

"(5) The term 'engineering and technical services' means the furnishing of advice or training to personnel in order to ensure the efficient and effective operation or maintenance of equipment and associated software by such personnel.".

SEC. 11. PUBLIC AVAILABILITY OF INFORMATION ON CONTRACTS.

(a) Lists and Justifications.—(1)(A) Not later than November 1, 1989, the head of each agency shall compile a list of all contracts awarded by the agency during fiscal year 1988 and a separate list of all contracts entered into by the agency for which performance has not been completed at the time of the preparation of such list. Each list shall be updated, on a quarterly basis, with information on contracts awarded since the list was prepared.

(B) Each list of contracts compiled and updated by the head of an agency under subparagraph (A) shall include, for each such contract, the following information:

(i) The contract identification number assigned by the agency.

(ii) The contractor's name.

(iii) The date of award and the estimated completion date.

(iv) The original and current amounts to be paid by the agency under the contract.

A brief description of the work to be performed

(2) The head of each agency shall maintain a written justification for each contract awarded by the agency.

(3) The head of each agency shall permit the public to inspect and make copies of the list prepared and updated under paragraph (1) and the justifications maintained under paragraph (2). The agency may impose a reasonable charge for the costs of making such copies.

(b) Other Information.—Except as otherwise provided by law, the following information shall be available to the public upon request:

(1) Copies of contracts awarded by an agency.

(2) In the case of a contract for advisory and assistance services, the name and qualifications of each person designated in such contract to perform such contract.

(3) In the case of a contract for advisory and assistance services awarded on a sole source basis, the justification for awarding such contract on a sole source basis.

SEC. 12. PROHIBITIONS AND REQUIREMENTS RELATING TO REGISTRATION OF CONSULTANTS.

(a) Prohibited Contract Awards Involving Consultants.—(1) The head of an agency may not award a contract for the procurement of advisory and assistance services to a consultant unless—

(A) such consultant complies with the registration requirements of this section; and

(B) the General Counsel of the agency has reviewed the information registered by such consultant and such other information as may be available to the head of the agency and determined that, with respect to such contract, the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States.

(2) The head of an agency may not award a contract to any person submitting an offer to such agency unless the offeror certifies that each consultant that has furnished advice, information, direction, or assistance to the offeror in support of the preparation or submission of the offer has complied with the registration requirements of this section.

(b) Registration Requirements.—(1) A consultant submitting an offer for a contract referred to in subsection (a)(1) shall register with an officer or employee designated by the head of the agency awarding such contract. The consultant shall register within such time after submitting the offer as the head of that agency shall prescribe in regulations.

(2) A consultant retained by a person in connection with the preparation or submission of an offer for a Federal Government contract shall register with an officer or employee designated by the head of the agency awarding such contract. The consultant shall register within such time after the retention of such consultant as the head of that agency shall prescribe in regulations.

(3) A consultant who is registered with an agency under this subsection with respect to one contract shall update the registered information whenever the consultant submits an offer for another contract of such agency (if such contract is for the procurement of advisory and assistance services) and whenever the consultant is retained by a person in connection with the preparation or submission of an offer for another contract of such agency. The consultant shall update such information within such time as the head of that agency shall prescribe in regulations.

(c) Information Required.—A person registering as a consultant under this section shall furnish the following information:

(1) The name and address of the consultant.

(2) A description of the nature of the services furnished by the consultant in the normal course of the consultant's business.

(3) A list of all public and private clients for which the consultant has furnished advisory and assistance services, including foreign and domestic clients.

(4) A description of the services furnished each such client by the consultant.

(5) A statement of whether the consultant has ever been convicted of a felony and whether, at the time of the registration, there is pending any indictment or information charging the consultant with a felony.

(6) A statement of whether, at the time of the registration, the consultant is ineligible, by reason of suspension or debarment, to be awarded a contract by the Federal Government.

(7) A certification that, at the time of the registration, the consultant and all employees of the consultant are not in violation of any applicable requirement set out in, and are not engaged in any conduct prohibited by, sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code, any similar provision of law, and any contract term required by such section 2397c (or any similar provision of law).

(d) The Inspector General of each agency or, in the case of an agency that does not have an Inspector General, the head of such agency shall monitor the compliance of consultants with the registration requirements of this section and shall submit to Congress an annual report containing a discussion of the extent of such compliance. The first report of each agency shall be submitted not later than one year after the date of the enactment of this Act.

(e) Suspension and debarment proceedings shall be initiated in the case of each consultant who fails to comply with the registration requirements of this section.

(f) In this section, the term "consultant" means any person (including, in the case of a business organization, any affiliate of such organization) that—

(1) furnishes or offers to furnish advisory and assistance services; or

(2) furnishes advice, information, direction, or assistance to any other person in support of the preparation or submission of an offer for a Federal Government contract by such other person.

SEC. 13. EXCEPTIONS.

Sections 5, 6, 7, 8, 9, and 11 shall not apply to a contract for advisory and assistance services, or any data, reports, or other material pertaining to such services, if the contract—

(1) involves sensitive foreign intelligence or foreign counterintelligence activities;

(2) involves sensitive law enforcement investigations; or

(3) is classified under the national security classification system.

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

HEALTH INSURANCE FOR THE SELF-EMPLOYED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. STARK. Mr. Speaker, I am introducing today legislation to amend the Internal Revenue Code of 1986 to make permanent and to increase to 100 percent the deduction for the health insurance costs of self-employed individuals.

Access to health care should be considered a basic right of every American. Unfortunately, our society has not yet reached that goal, and it appears that we are slipping further away from it every year.

In 1986 there were an estimated 36.9 million Americans without health insurance and another 7 to 10 million Americans with partial coverage for a portion of the year. From all signs, the number of uninsured Americans is growing. Almost 15 percent of the nonfarm population were not covered in 1980, while almost 18 percent were not covered in 1986.

The most startling statistic associated with the uninsured is that the majority are employed. Some 19 million people or 55 percent of the uninsured were employees and almost 70 percent of this population live in families of full-time, full-year workers. For most of these families, the family head experienced no unemployment.

Many of these employed Americans or their dependents work for self-employed individuals or small unincorporated businesses. While 90 percent of workers with more than 26 employees are offered health insurance, only about half of businesses with 25 workers or less offer their employees health insurance. The inability of self-employed individuals to take the business deduction for their health insurance has been a significant disincentive to the provision of health insurance in these businesses.

Under current tax law, the cost of employer paid health insurance premiums is not counted as taxable income to workers. In small, unincorporated businesses, however, the owner-operator of the business receives tax benefit for only 25 percent of the cost of his or her own health insurance. If the owner offers health insurance to employees, they do not pay any tax on the cost of the premium, but the self-employed owner must pay 75 percent of the cost of the premium out of after-tax dollars.

Given the number of Americans without health insurance we need to provide all of the incentives we can to encourage the provision of health insurance. Lack of health insurance coverage often means that proper care is delayed until the problem is serious. Research shows that uninsured persons are less likely to see a physician in a year, less likely to have children appropriately immunized, less likely to receive prenatal care, and less likely to see a physician if they have serious symptoms.

Medical care for the uninsured often begins at the hospital, instead of beginning as it should with primary medical care provided in a physician's office. This means that not only do these individuals not receive the kind of early and comprehensive care which could solve problems before they are serious, but the care they do receive is provided in the most expensive health care setting, the hospital.

Moreover, the increase in bad debt and charity care is putting a difficult burden on the backs of those hospitals which try to step in and shoulder the load. In 1985, hospitals provide $7.4 billion in uncompensated care. This is a particularly difficult burden for public hospitals which have only about 21 percent of hospital beds, but provide 55 percent of all charity care.

This bill would be one small step toward our goal of providing universal access to health care. I urge my colleagues to join me in seeking its enactment.

THE JOB RELOCATION INCENTIVES ACT OF 1988

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday August 4, 1988

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation that will provide a tax incentive for American corporations with foreign operations to relocate here in the United States in areas with high unemployment.

Mr. Speaker, America is supposed to be the land of incentives and opportunity. Sadly, over the past 10 years America has experienced a dramatic loss of manufacturing jobs. For U.S. manufacturers incentives and opportunities are becoming harder to find here in America. For the American worker the picture has been even bleaker.

My congressional district has lost 55,000 manufacturing jobs in the past 10 years. Many areas of the country have seen the same type of economic devastation. Over the past 8 years about all my area has gotten has been rust-proof paint. Instead of continuing to dole out unemployment checks and food stamps to unemployed workers—we should be providing incentives for U.S. corporations to create jobs here in America and put our people back to work. Instead of watching our jobs go overseas, let's take action to stem the tide and bring jobs back to America.

The legislation I am introducing today, the Job Relocation Incentives Act, will do just that. The bill would provide a relocation tax credit for U.S.-owned foreign subsidiaries that relocate here in America in a labor surplus area. The credit would be awarded every year for 10 years and would be equal to a percentage of the relocation expenditures for that year based on the following scale:

The first taxable year: 10 percent.

The 2d through 10th taxable years: 5 percent.

In order to qualify for this tax credit, a U.S.-owned plant must meet the following criteria:

First, a U.S.-owned foreign subsidiary plant employing at least 500 people must be relocated in the United States in a labor surplus area—labor surplus area determined by the U.S. Department of Labor.

Second, the new U.S.-operation must create at least 500 new jobs.

Third, the new plant must maintain at least 500 employees for at least 5 years in order to continue receiving the tax credits.

These credits would become available 2 years after the foreign operation has closed down and once the new U.S.-based operation employs at least 500 employees. The U.S.-based operation must produce products which are "substantially the same" as those produced at the foreign operation. This program terminates 5 years after the enactment of the bill. This "sunset clause" will restrict the shifting of American employees from one U.S. plant to another.

Under the bill, penalties would be assessed to any new U.S. operation that shuts down prior to being active for 5 years. In addition, 50 percent of all credits awarded must be paid back to the U.S. Treasury if the U.S.-

based operations violates any provision in the bill. An exclusion does apply for bankruptcy cases.

Mr. Speaker, this legislation will provide a much needed and positive incentive for American corporations to come back home. American companies are faced with intense competition from overseas. The Federal Government should provide a positive economic climate for American firms to operate in here in the United States. Failure to provide positive incentives will only result in the continued exodus of manufacturing jobs to foreign countries.

I urge all Members to closely examine this legislation and lend their support to this important initiative.

EXTENDING THE 1988 EMERGENCY LOAN AND DISASTER ASSISTANCE ACT TO VICTIMS OF HAIL STORMS AND OTHER NATURAL DISASTERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. GILMAN. Mr. Speaker, I rise in order to urge my colleagues to request the conferees considering the Emergency Loan and Disaster Assistance Act of 1988, H.R. 5015, to agree to retain the House language in this bill, extending the disaster relief to victims of hail storms and other natural disasters.

As my colleagues in the House are aware, many of our Nation's farmers have suffered significant crop losses due to natural phenomenon other than the drought. In my New York district there are onion farmers who, last month for the second consecutive year, were wiped out by a hailstorm. Unless we extend to them the assistance we are about to provide victims of the drought, many of these vegetable growers will be forced out of business.

Accordingly, Mr. Speaker, I urge my colleagues to call upon the drought bill conferees to retain the language passed by this Chamber, making victims of hail and other natural disasters eligible for agricultural disaster payments. I believe that this is the least that the Congress can do for these farmers, upon whom we all depend for so much. Failure to act on their behalf will, I fear, condemn many family farms to financial ruin due to circumstances beyond their control. If we are going to help the victims of the drought, and we should, then it is only equitable that we should also assist the victims of hail and natural disasters.

A TRIBUTE TO DR. UTHMAN RAY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mrs. BENTLEY. Mr. Speaker, I rise in honor and tribute to one of the most inspiring men of our time, a respected pediatrician and humanitarian of Maryland's Second District. Rarely in one lifetime is it possible to attain the standards of commitment and sincerity that Dr. Ray was able to exhibit in every aspect of his life. His contributions to society, considered by most to be those of a saint, he viewed as nothing more than a fulfillment of the expected norm, and became increasingly involved in the community as his prosperity grew. He surpassed greatness in humanitarian activities as well as in his medical practice, touching everyone he knew with his enthusiasm and vitality.

Uthman Ray was born on December 28, 1930, and spent his childhood in Baltimore and the surrounding area. He received his education in the Baltimore City Public School System and graduated from Douglas Senior High School. After attaining a B.S. from Morgan State University in 1951, Dr. Ray went on to Meharry Medical College, receiving his Ph.D. in 1955. Dr. Ray honorably served as a captain and flight surgeon in the U.S. Air Force Reserve and was discharged in 1959 after 4 years of loyal leadership.

Dr. Ray, in his pursuit of a medical career, had already began to demonstrate interest in the community as an extremely active member of the Union Baptist Church, which he joined at an early age. IN 1957, he married his wonderful wife, Lelia and they began to raise a family which eventually included three sons, Uthman III, Selwyn, and Kevin.

At his medical career flourished, Dr. Ray became involved in 42 prestigious organizations including the Maryland Chapter Board of the American Diabetes Association, the Univeristy of Maryland's System Board and Morgan State University President's Advisory Council. He also became the assistant chief of dermatology of Provident Hospital, and served as the school physician of Baltimore City Department of Education.

In his community he is a member of several societies including the N.A.A.C.P., the Monumental City Medical Society, and the Kappa Alpha Psi Fraternity. Dr. Ray also took an avid interest in the environment and formerly served on the board of parks and recreation for Baltimore City.

Dr. Ray has received over 100 awards, most notably he has been named the Physician of the Year by Golden Agers, the United Baptist Church Man of the Year, and the St. Francis Academy Man of the Year. Awards have been presented to him for outstanding service to the city and State by the Governor, mayor, city council, comptroller, and the house of delegates.

Although the organizations he is involved with are impressive and the awards he has been honored by are outstanding, they cannot begin to describe Dr. Ray's true valor. He is indeed a capable and well-respected physician. He is indeed an active community member and church leader. The strength and inspiration which radiates from him surrounds all who know him, and countless awards would not truly repay him for the compassion and concern he has shown to friends and strangers alike.

On the evening of Wednesday, May 4, 1988, Dr. Uthman Ray was honored by Project Survival as an honoree of their Man of the Year. There is no individual more worthy of this grand honor, for he has helped not only those who are close to him but also those in need regardless of their identity. To him I deliver my most wholehearted respect and contratulations.

KING HUSSEIN TELLS THE PLO TO PUT UP OR SHUT UP

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. BROOMFIELD. Mr. Speaker, King Hussein's recent decision to sever his ties to the West Bank is a clear challenge to the PLO. That organization, which claims to represent the Palestinian people, should either "shape up or ship out." If the PLO truly represents the Palestinians on the West Bank and Gaza, that group must become a serious and mature organization.

Jordan may soon cut its legal and administrative ties to the occupied territories. The PLO will be faced with the reality of providing the necessities of life to the Palestinian people there.

If the PLO cannot manage its new responsibilities in the occupied territories, it should give up its claims to leadership of the Palestinian people. It should let King Hussein take the helm in the search for peace.

Now is the time for the PLO to shed its bomb throwers image. That organization should renounce its covenant to destroy Israel. It is time for the PLO to change its leadership if it is ever to have any credibility. That group must now use the funds it receives from Arab governments to do more for the Palestinian people in the territories. It must cease using those resources for terrorist operations. The PLO should also formally accept the U.N.'s resolutions that establish a framework for peace in the Middle East. Stonethrowing kids will never help the cause of peace in the volatile region.

If the PLO can really "go it alone" and find a settlement with Israel, that organization will win our admiration. If PLO leaders fail, however, that group should step aside and let King Hussein again take the reins of leadership and find a solution to the Arab-Israeli conflict.

EXCELLENCE SEEKS ITS OWN LEVEL AT AC

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. HALL of Texas. Mr. Speaker, recently I read a letter to the editor column which touched me so much that I felt compelled to share it with my colleagues. The column, written by Perry Flippen of the Sherman Democrat, is a letter of recommendation to Austin College for his daughter, Anne.

Never before have I read such a tribute to a daughter from her father. Mr. Flippen's love and admiration for his daughter are reflected in his high words of praise for her accomplishments and ideals.

As I read this letter, I couldn't help but feel that if I had a daughter, I would want to have the relationship with her that Perry Flippen and Anne have achieved.

Thank you for allowing me to share the following letter. If you have a daughter, hopefully this will give you insight into how to achieve a warm relationship with her, and if you don't—then perhaps like me—you will now more greatly understand that special bond between father and daughter.

EXCELLENCE SEEKS ITS OWN LEVEL AT AC

DEAR AUSTIN COLLEGE: My daughter wants to be a Kangaroo, Class of '92. She asked me to write a letter recommending her admittance next fall. It's one of life's happy chores.

Anne chose Austin College because it's an excellent school, she's a serious student and her parents live barely two miles from the campus. Although AC is her choice, higher education is our gift—an inheritance as precious as the legacy from our parents. Besides being family, we're also the best of friends.

For 12 years, Anne has striven to attain education's basic purpose: getting weaned. By that I mean she's matured, not only physically, intellectually and emotionally, but also morally and spiritually. Without maturity there can be no wisdom, insight, judgment or compassion. She understands—and likes—herself. She also wants to understand other human beings as well as great issues of our time.

Anne's grades are good, but they're hardly the measure of her true capabilities. She has cunningly protected herself from much of the academic clutter that many of us spend a lifetime trying to forget. (Do you know the size of the Electoral College? Do you care?) Because of her determination, Anne brings to AC a precious gift—a pure, nimble mind that's unscarred by any educational production line. Hers is a mind ripe for wakening.

Perhaps Anne's greatest asset is her belief that she needn't prove to anyone how extraordinary she is. In 12 years she has never ranted through megaphones at crowded grandstands, never tormented her elders with violin sonatas, never maimed fact or taste by publishing student editorials.

Despite occasional obstacles by professional educators, Anne has emerged reasonably free of neuroses. She drives with confidence, spends with caution and performs a devastating imitation of her father berating TV newscasters. Outside of class, she expertly attends her tropical fish, and patiently schools Balderdash and Twaddle, her pet rats. (If you enroll Anne, the rats go, too.)

Anne is an avid reader. Ever since Sesame Street opened her eyes at age four to the world of letters, she's been consuming huge gulps of Twain, Dostoyevsky, Hugo, Asimov, Seuss, Burke, Poe, Bellow, Tolkien, Lehrer, Breathed, Heinlein, Lorenz, Kipling, Salinger, Andersen, Dumas, Bronte, Dreiser, Sagan, Chaucer, and C.S. Lewis. She also reads J.C. Penney and Sears Roebuck.

From somewhere, she concluded that no 18-year-old kind should tell her how to spend here life. So if you ask her about career objectives, she might reply that she likes the humanities. That's as vague as she can be; like saying one enjoys the western hemisphere. She is exceedingly civil to old people, even when they ask juvenile questions that deserve juvenile answers.

Concerning religion, Anne is fervently indifferent. She never accepted any notion that religion, like varsity football or Army boot camp, does you no good unless it makes you suffer. About three doses of that and she quietly opted for secular interests, which exalt reason, humor—and sanity.

Austin College's gentle brand of spiritual inquiry appeals to free minds. A chapel elevates a campus so long as its beliefs and practices are free of coercion. In a world of virulent religionists, Austin College seems serenely tolerant.

It brings to mind Anne Morrow Lindbergh's quaint description of Smith College, "where I began to grow up under the scholarship, wit, wisdom, and moral grandeur of President Nielson." Moral grandeur ain't what it was in 1924, but its remnants, I believe, endure on AC's campus.

Anne has made a few A's—roughly as many as she wanted. I used to make a big deal of A's, saying she wouldn't be admitted to a good college if she didn't try harder. After considering my complaints, she remembered that I don't know a logarithm from an arpeggio or a bi-valve mollusk. Anne didn't chide my gaping ignorance or defend her lack of enthusiasm in the War of 1812.

"The way I look at it," she told me, "if I make a big deal out of proving I can get into a good college, I'll either be a physical wreck or a very unpleasant person by the time I get there, and I won't enjoy it."

Anne, at 18, is wise, wry, fit and happy. She hasn't wrecked her health or psyche in the pursuit of A's. Lots of stuff still mystifies her (which keeps her humble). Yet understanding all that senior students know gives her no hint of arrogance.

Austin College has a proud heritage that dates back 141 years to the founding of this state. Can AC attain its summit by denying my daughter admission? I think not.

Consider Anne's future contributions to the human race. She absorbs ideas, rather than publishes them, so she won't kill trees to print newspapers or useless books. She merely tolerates politics, so she won't run for office, raise taxes, incite wars or make speeches. Most admirable, she lacks the brilliance to become an attorney general, an advertising executive, a newspaper columnist or the governor of Arizona. Her lack of scientific know-how guarantees she'll spare the universe a bigger computer or a deadlier nerve gas.

Not accept Anne? AC can't refuse her. In the 21st Century, old grads will gather to brag about all the bad books, high taxes, big lawsuits, slick beer commercials and terrifying inventions they've inflicted upon humanity.

That's when Anne can quietly say, "I guess I'm the only one here who hasn't made the world just a little more unbearable. I could have, but thanks to Austin College's encouragement, I learned that there's a place in life for everybody, even for a few who refuse to do their worst."

Yrs. to serve,

PERRY FLIPPIN,
Sherman, Texas.

THE ACT FOR BETTER CHILD CARE SERVICES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. MATSUI. Mr. Speaker, as we consider a number of new child care proposals this year, it is more apparent than ever that the national debate on child care has shifted in two important ways. No longer is the discussion about whether mothers should hold jobs. It is understood that they are and will continue to work outside the home in order to provide their families with some degree of economic security. As to Government action to improve child care, the debate is no longer whether, but how.

But as any working parent will tell you, their child care choices are limited by high cost, limited supply and uneven quality.

We are fortunate to have a bill pending—the Act for Better Child Care Services—that would address these issues and expand the range of child care choices available to our working families. It is reasonable and comprehensive approach to our complex and far-reaching child care crisis.

As a recent nationwide poll demonstrated, public support for the ABC bill is wide and it is deep, cutting across all lines of income and region.

The ABC bill has earned the support of many in the State of California. The California State Legislature recently endorsed the ABC bill.

Additionally, the people of California's Third District have expressed their support for the ABC bill. On March 8, 1988, the city of Sacramento passed the attached resolution in support of H.R. 3660 bill. Mr. Speaker, I ask that this resolution be printed in the RECORD as one measure of the strong support that exists for the ABC bill in my district and in the State:

RESOLUTION NO. 88-187

Whereas, the number of children living in homes where both parents work or living in homes with a single parent who works has increased dramatically over the last decade; and

Whereas, the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity; and

Whereas, high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers; and

Whereas, the years form birth to age 6 are critical years in the development of a young child; and

Whereas, high quality early childhood development programs provided during the period referred to in the above paragraph are cost effective because such programs can reduce the chances of juvenile delinquency, adolescent pregnacy, and improve the likelihood that children will finish high school and become employed; and

Whereas, the number of quality child care arrangements falls far short of the number required for children in need of child care services; and

Whereas, the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers; and

Whereas, the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day; and

Whereas, many working parents are unable to afford adequate child care services, and do not yet receive adequate financial assistance for such services from employers or public sources; and

Whereas, a large number of parents are not able to work or to seek the training or education they need to become self-sufficient because of the lack of affordable child care; and

Whereas, making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy; and

Whereas, the exceptionally low salaries paid to child care workers contributes to an inordinately high rate of staff turnover in the child care field, makes it difficult to retain qualified staff, and adversely affects the quality of child care; and

Whereas, several factors result in the shortage of quality child care options for children and parents including:

A. the inability of parents to pay for child care;

B. the lack of up-to-date information on child care services;

C. the lack of training opportunities for staff in child care programs;

D. the high rate of staff turnover in child care facilities; and

E. the wide differences among the States in child care licensing and enforcement policies; and

Whereas, improved coordination of child care services will help to promote the most efficient use of child care resources; and

Whereas, Sacramento has been a leader among cities by helping to create the Child Care Coalition, by creating the Mayor's Child Care Task Force, by hiring a City Child Care Coordinator, and by working with the public and private sectors to increase the availability, affordability, and accessibility of quality child care in Sacramento; and

Whereas, even with much effort, Sacramento still has licensed child care space for only 60% of the Sacramento children needing care; now, therefore, be it

Resolved by the Mayor and members of the Council of the City of Sacramento, That we strongly support the Act for Better Child Care Services Bill of 1987 to assist and support the State to offer more accessible, available, and affordable quality child care.

ACT FOR BETTER CHILD CARE SERVICES, H.R. 3660

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Ms. PELOSI. Mr. Speaker, the face of America's work force has changed dramatically. Today, fewer than one-fifth of all American households fit the mold where the father works outside the home and the mother works inside the home caring for the children. Some of these women work as a matter of choice. Most work because they must house and feed their families.

Yet, these women will tell you that finding affordable, quality child care ranges from difficult to impossible.

The lack of adequate, affordable child care holds serious consequences for us all. Parents, low-income parents, are faced with the painful choice of placing their children in potentially harmful situations or foregoing work and training opportunities. Employers and businesses suffer as employees become increasingly distracted or worried or are absent because of child care problems; and, of course, no one suffers more than the young children who are denied safe and quality care.

It's time that the Federal Government did more to help our families help themselves.

My constituents in California's Fifth District have demonstrated strong support for the act for better child care services. They support its thoughtful. comprehensive approach to solving our child care crisis.

Mr. Speaker, I ask that the attached written transcript of an editorial by KPIX television in San Francisco be printed in the RECORD. It most adequately describes the sentiment of my constituents for the Act for Better Child Care.

EDITORIAL

(By Carolyn Wean, Vice President and General Manager)

In a recent KPIX survey we learned that childcare is a critical issue for most parents with young children. That's why we support both local and national efforts to make childcare a political priority in 1988.

It's a fact that 63 percent of mothers with children under 18 are in the labor force. Over half of mothers with children under one year are working. And we know too that on the average, a working parent will miss one week of work each year because of childcare problems.

Whether we like it or not, traditional roles have changed. Mothers who used to stay home and care for young children now have to work; the two paycheck family is here to stay.

Both Democrats and Republicans are accepting this as a fact of life. Senate Bill 1885 is a bi-partisan plan to help working parents. Over 100 national organizations support it. What it will do is this: Two and a half billion dollars will be allocated to the fifty states to make childcare available to parents and to train childcare workers. California will be eligible for $225 million a year for five years. Low income parents will have the first priority, but middle income families will also be eligible. If the bill passes, parents who work will then have peace of mind that their children are safe and in centers that meet federal health and safety requirements. And this will ultimately benefit all of us. This plan is called the A-B-C Bill—Act For Better Child Care. It's the most important bill of its kind ever to be drafted.

It's in committee now, and it needs our support. Write to Senators Cranston and Wilson and to your congressmen. Tell them the time has come to get realistic about childcare in America.

For Kid's Sake and for our sake, let's get this bill passed.

THE 76TH BIRTHDAY OF RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. LANTOS. Mr. Speaker, today—August 4th—marks the 76th birthday of the outstanding Swedish humanitarian and Holocaust hero, Raoul Wallenberg. It is tragic and ironic that this great man will again celebrate his birthday in a Soviet prison. Of his 76 years, Raoul Wallenberg has spent the last 43—well over half of his life—in Soviet prisons.

Wallenberg voluntarily went out of his way to undertake a dangerous assignment at the request of the United States. He left the comfort and affluence and safety of Stockholm to go to Budapest in the last, ugly days of World War II. Daily he put his life on the line for people he did not know, because he believed in the right of every human being to live. Through his efforts as many as 100,000 Hungarians were saved from Nazi extermination camps.

Over the years my colleagues, my wife Annette, and I have fought for his release. We have pleaded with Soviet officials in person and in writing to free this great hero. In 1981, the U.S. Congress adopted legislation proclaiming Raoul Wallenberg an honorary American citizen, the second person in history after Sir Winston Churchill to be so honored. Just as Wallenberg gave Jews a Swedish shutz pass to make them Swedish citizens and rescue them from Nazi butchers, we hoped that we could deliver him from the Soviet Gulag with American citizenship. Unfortunately, we have not yet succeeded—but we will never stop our fight for his life.

Though he has been viciously and irresponsibly denied his freedom for these many years, he has not been forgotten. His incredible story is known around the globe and it is getting better known with each passing year. Wallenberg Committees have been and are being established in communities around the world to keep alive the spirit that he exemplified.

Raoul Wallenberg personifies the highest ideal in concern for our fellow man. His deeds during the dark night of the Holocaust are a candle of hope in the midst of unbelievable Nazi horrors.

Mr. Speaker, opn this 76th birthday of Raoul Wallenberg, I invite my colleagues to join me in paying tribute and respect to this great man.

NATIONAL RECOGNITION OF QUALITY OF LIFE IN BERGEN COUNTY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. TORRICELLI. Mr. Speaker, this year a Money magazine survey established Bergen County as 1 of the 10 best areas to live in America. Of course I believe that Bergen County is the very finest community in our Nation and it pleases me that a prominent national magazine recognizes the area's high quality of life.

Bergen County has much of which to be proud. It contains the beauty of the Palisades. The Meadowlands has made a great comeback. Our sports complex is a major success. Our industry is flourishing. We have become a major setting for corporate headquarters and high technology firms. The unemployment rate currently 2 percent, is substantially below national and statewide levels.

Culturally, our people have brought great diversity to the communities making up the area. Every town is rich with community clubs, ethnic associations, youth leagues, and community theaters.

This quality of life is a function of Bergen County's culture, it's schools, recreational facilities, businesses, overall economic climate, restaurants, and local theaters. But all of these factors point back to one overriding force: The people of Bergen County. For it is the people of Bergen County who make our schools, parks, businesses, and economy the best in the Nation. It is the people of Bergen County who have made the area one of the very best in which to live and raise a family. So, I am very proud to represent these great people in this Congress and to make my contribution to the quality of life in Bergen County.

Residents of Bergen County have always known they live in one of the best areas in America. Now we are pleased to see the Money magazine and the rest of America recognizes the outstanding quality of life in Bergen County as well.

THE EASTERN HIGH SCHOOL CHOIR OF WASHINGTON, DC—INTERNATIONAL WINNERS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. FAUNTROY. Mr. Speaker, today I rise in order to salute and congratulate the members of the Eastern High School Choir, who have recently returned to the District of Columbia from competing in one of the world's most prestigious and demanding international youth music festivals. These talented young people under the musical direction of Mrs. Joyce Garrett and accompanied by Mr. Shelton Becton, won second place among mixed school choruses at the Vienna International Youth and Music Festival.

Many of my colleagues were able to hear the wonderful music of these high school students at the annual Congressional Foster Children's Christmas Party in December 1987. The entire Metropolitan Washington community was also given an opportunity to be serenaded by these beautiful voices when they performed in concert at the John F. Kennedy Center for the Performing Arts on May 22, 1988. The congratulations and good wishes bestowed on them by the Members of Congress and the citizens of the Metropolitan Washington area served them well as they sang music in English, German, and Latin before an international audience.

Nationally known as a dynamic gospel singing choir, the Eastern High School Choir has now added classical sacred music, classical secular music, spirituals, jazz, and blues to their repertoire. During the school year, the choir typically performs between 10 and 30 concerts in the city and in the neighboring Eastern States. They have been heard on local radio and have been featured on both local and national television. The recipient of numerous honors and awards, the 54-member choir is living out its motto, "If you can dream it, you can achieve it."

I've included an article by Mr. William Raspberry from the July 25, 1988, issue of the Washington Post because it tells of the obstacles, extraordinary high standards and competition the Eastern High School Choir confronted head on, with a winning attitude. This is a story of leadership that inspires individual development, while at the same time providing successful training in skills, self-discipline, and teamwork. It is also a commentary on the vast resources of untapped potential in our midst.

The article follows:

[From the Washington Post, July 25, 1988]

TRIUMPH AT EASTERN HIGH

(By William Raspberry)

Listen to the Eastern High School Choir, whose 54 members return to Washington this afternoon after a triumphant European tour, and the impression is of talented, sophisticated, disciplined, near-professional musicians.

Listen to the adults who have worked with this outstanding group, and the impression is of youngsters who have learned so much more than how to make fabulous music. Joyce Garrett, their director, has taught them lessons in life that will stand them in good stead for years to come.

She has, quite obviously, taught them to sing. You don't win second place at Vienna's International Youth and Music Festival—the Olympics of youth music—unless you sing unusually well. She has taught them to appreciate a wide variety of music, including classical compositions in German and Latin, without diminishing their appreciation for the gospel that was their first love. (The choir had already won back-to-back U.S. gospel music competitions.)

That new sophistication has permanently expanded their horizons beyond their inner-city neighborhood, hard by RFK Stadium, D.C. General Hospital and the D.C. Jail.

But the other lessons, while less obvious, may be, in the long term, more important.

Even the task of raising the $160,000 that made the trip possible was chock full of lessons, says Maudine Cooper, a city official who is chairman of Friends of the Eastern High School Choir. "A lot of them came in with the attitude that 'If y'all raise the money, I'll go,'" Cooper said. "Joyce Garrett beautifully informed them that they shouldn't expect a free lunch, that they each had to raise $500 on their own. Virtually all of them did. It was important for them to understand that, no matter how talented you are, nothing is handed you on a silver platter. You have to work."

Cooper said some of the youngsters had trouble hanging on to their button and balloon money even as they were raising it. "In many cases, we're talking about very poor families. You get a dime, and Mom may need it for the light bill."

Perhaps the most impressive changes Garrett managed in these youngsters involved their attitudes and behavior. "They were a wonderful bunch of kids from the start," said Cooper, director of both the city's Human Rights Commission and its Minority Business Opportunity Commission. "Many of them were strong-willed survivalists. But many of them were in need of someone to direct that strength, and they don't always get that at home. Several got there on personal gut because there was nobody at home to encourage them."

They learned the value and the necessity of hard work, members of the committee said. They learned the importance of getting to rehearsals on time, of developing a team spirit, of setting priorities, of sticking to a four-hour-a-day practice schedule when there were other things they might have been doing.

A couple of students didn't make the trip. They either quit the choir or found themselves unable to commit to what was required of them. There are lessons in that, too. Youngsters tend to believe that if they are talented enough, sympathetic adults will overlook their lack of discipline, Joyce Garrett taught them otherwise.

They learned that even among the talented, there are differences in ability, that not everybody can be a soloist. But they also learned that the stars can't shine without the disciplined support of the group.

"The interesting thing is that they never stopped being kids," Cooper said. "If you had been backstage at the Kennedy Center [for their May 22 fund-raiser] you would have seen them fussing, giggling, acting silly just like any other kids. But when they took the stage, they were transformed into disciplined 'professionals.' Even their appearance seemed to change. You could see Joyce's teaching taking hold."

Joyce Garrett was not the only teacher these brilliant youngsters had. One of the key lessons might have come from Cooper herself, who will be on hand to meet them when they return today (4:30 p.m. at Dulles on Pan Am's Flight 61). Cooper didn't make the trip to Europe, although the cost of the trip was oversubscribed.

"A lot of people who contributed are minority vendors who do business with the government, and I didn't want it to appear that I was personally benefiting from their contributions," she explained. "There wouldn't have been anything illegal about my going, but it would have been inappropriate in my judgment."

There is a lesson, not just for Eastern's magnificent choir but for a lot of adults as well.

The names of the members of the Eastern High School Choir appear below: Sharon Bellinger, Terry Bookhart, Lawanda Cook, Camesha Cooper, Lisa Edwards, Fredericka Gordon, Kimberly Grayton, Keisha Harrison, Donna King, Tanya Lee, Tracey McKinney, Meshelle McNair, Leslie Minor, Crystal Ransom, Twanda Rhinehart, Tracy Robinson, Tamara Smith, Raesharn Spain, Sakinah Tate, Sharee Thompson, Lynette Bandy, Ayesha Brock, Lucretia Brown, Vanessa Brown, Yolanda Bryant, Fitimiah Davis, Donna Duncan, Yolanda Eiland, Cheryl Green, Cynthia Jones, Tania Lumpkin, Cheryl McCullers, Quantrice Parish, Lavern Pickard, Rozetta Robinson, Marvena Rorls, Tijuan Bradford, Dion Brown, Gregory Crawley, Jonathan Elliott, Angela James, Edward Love, Luis Lovell, Bryan Nelson, Kevin Nicholson, Rory Stona, Darryl Tate, Aaron Blyther, John Clarke, Allen Coaxum, William Day, Thaddeus Ellis, Hatari Farmer, Albert Graves, Jude Harris, Aaron Lomax, and Michael Williams.

Mr. Speaker, I am pleased and honored to have these young people as ambassadors from the Nation's Capital and I invite my colleagues to join me in saluting them for the honor that they have brought to their high school, Washington, DC, and to the United States of America.

THE 100TH ANNIVERSARY OF INCORPORATION OF LYONS, IL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. LIPINSKI. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the celebration to the 100th anniversary of the incorporation of the oldest suburb of Chicago, the village of Lyons, IL. The anniversary celebration will be held between August 17, and August 19.

The history of Lyons encompasses a rather fascinating examination of progress within a community, offering a fine example of the growth and development of a truly American settlement. In tracing the years of Lyons' existence, one notes some strongly appealing and desirable aspects of lifestyle in the village which attract people. This explains, the increase in population, accompanied by tremendous maturation and progress.

Hundreds of years ago the accessible water transit system drew forth various Indian tribes for potential settlement. There they took advantage of Mud Lake which connected the Chicago and Des Plaines Rivers. Aside from transportation conveniences, these natives enjoyed use of the fertile soil for their crops and stalked the herds of buffalo, elk, and black bear.

Subsequent to raving reports about the Chicago portage by the French explorers Louis Joliet and Father Marquette, swarms of tradesmen and fur trappers made their homes in the region. This justifies the origin of the village name of Lyons, derived from Lyons, France.

Years later, white European pioneers, primarily German and Czechoslovakian, turned Lyons into an important connection between Chicago and Naperville. The creation of such a central location inspired Lyons businessmen to construct inns, taverns, and other recreational establishments. Before the Lyons' nightlife and reputation as the place to go for "fun" could get out of hand, a number of decent citizens moved for passage of restrictive and regulating laws. However, to do this Lyons had to be incorporated. So, in 1888 Lyons became an official town and is identified today as being the oldest Chicago suburb.

Since its incorporation, Lyons has impressively grown into a strongly developed business community. Today there are approximately 300 retail, wholesale, industrial, and manufacturing offices of all sizes.

I'm sure my fellow Members of Congress will join in celebrating the 100th anniversary of the incorporation of the village of Lyons, the oldest suburb in Chicago.

THE WORLD LOOKS FORWARD TO THE 1988 SUMMER OLYMPICS IN SEOUL, SOUTH KOREA

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. HORTON. Mr. Speaker, more than 160 nations, which differ in their economic and political organization, and in their size, population, geography and wealth, will gather this fall for a time-honored and most prestigious international event. These nations will put aside their differences, and for several days present their finest athletes in the great quest for the bronze, the silver and the gold.

The event is the 1988 Summer Olympics. The site is Seoul, the Republic of Korea (South Korea).

Mr. Speaker, I am very proud today to introduce a resolution commending the people of the Republic of Korea for their outstanding efforts to ensure a successful Olympiad. They are justly proud of their extensive preparations, which include construction of athletic facilities that are state-of-the-art. They are ready to welcome the more than 12,000 athletes and hundreds of thousands of visitors to their modern accommodations, to their cuisine and to their hospitality.

More importantly, the people of the Republic of Korea welcome the opportunity to acquaint us and visitors from all participating nations to their culture and their country. They are and have every right to be proud.

South Korea is a rising star in an increasingly competitive international economy. The South Koreans want to show and share with us their success.

South Korea is friend and trusted ally of the United States. The South Koreans want to show and share with us the climate of democracy they continue to nurture and develop.

South Korea is a country whose economy is vibrant and whose cultural heritage is rich. The South Koreans want to show and share with the world their accomplishments.

South Korea is the site of the 1988 Summer Olympics. And the South Koreans, proud and strong, want to show and share with us their enthusiasm, their hospitality and their dedication to making this a successful and competitive event.

Finally, Mr. Speaker, I want to underscore the point that this is the first Olympics in 12 years in which the superpowers will gather to compete. South Korea is the country where this reapproachment will occur. The world looks forward to the 1988 Summer Olympics, and to the opportunity to gain an understanding of the people and culture of South Korea.

To newly elected Republic of Korea President Roh Tae Woo and the National Assembly, and to the people of the Republic of Korea, I and Americans everywhere commend you for your work and for your friendship, a friendship you have shared with the United States for more than 100 years.

PERSONAL EXPLANATION

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. MICA. Mr. Speaker, on August 3, my colleagues voted on two issues that are of great concern to me. While I was unable to be present for these votes, I requested to be paired on the votes so that my views would be on record. Since the pairing was not possible, I would like to take this opportunity to express my views.

Concerning the impeachment of Judge Alcee L. Hastings. I share the position taken by my colleagues in their virtually unanimous decision that this representative of our judicial branch of Government should be removed from office. The Judiciary Committee found that Judge Hastings not only participated in corrupt practices, he knowingly undermined the entire judicial system and the people it represents. My vote is for the impeachment of Judge Alcee L. Hastings.

I would have voted in favor of the Stewart B. McKinney homeless assistance reauthorization. Last year, the House passed this historic legislation. Review has shown that it has aided in the fight against homelessness. I believe that we must continue to fund these programs if we are to work toward the goal of providing services to the homeless.

THE EMPLOYMENT SERVICE SHOULD BE ADEQUATELY FUNDED

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. DOWDY of Mississippi. Mr. Speaker, I am very pleased that the House, on July 27, 1988, approved H.R. 5026, the dire emergency supplemental appropriations bill, 1988, and included in that measure $50 million for State employment service operations.

Although the Veterans' Affairs Committee does not have legislative jurisdiction over the Employment Service [ES], we are interested in our national labor exchange because it is the delivery system for most veterans' employment and job training programs. As chairman of the Subcommittee on Education, Training and Employment of the Veterans' Affairs Committee, I know that a weakened, underfunded Employment Service will not provide the employment assistance our Nation's veterans need and deserve.

The dramatic reduction in Employment Service funding since 1981 has taken a toll on services to veterans. For example, during the program year ending June 30, 1987, nearly half of the 2.5 million veterans who registered for employment services nationwide received no reportable services. In my home State of Mississippi, during the same timeframe, although 33,599 veterans registered for services, only 14,188 received some services.

This deplorable situation is a direct result of the inadequate funding provided for the Employment Service in recent years. Nationwide, staffing has dropped from 30,000 to the current level of approximately 17,000. In 1981, there were 2,400 local offices nationwide. Today, there are only 1,800, and many of these offices are severely understaffed.

In Mississippi, staffing levels have plummeted from 408.4 employment service positions in 1981 to 220 positions today. The Mississippi Employment Security Commission has determined that, unless additional funds are provided, 13 job service offices and more than 15 staff positions will be eliminated. State officials have told me it is impossible to provide adequate service to the citizens of Mississippi with the current funding levels.

Because of staffing cutbacks, services which made our national labor exchange system unique and productive are no longer available in many areas of the country. As a result of the significant reduction in counseling staff, the number of individuals provided employment counseling has decreased by 50 percent. This service is now considered a luxury rather than an effective tool for guiding individuals as they make critical decisions regarding their career choices. Employer assistance programs, which provided direct, personalized services to employers, have been largely eliminated due to insufficient ES staffing.

Our subcommittee recently guided to enactment substantial reforms in the veterans' employment and training programs administered by the Department of Labor. These reforms, which are meant to strengthen and clarify employment services for veterans, will be worthless without additional funds for the Employment Service. We cannot allow this program to be further diminished nor its services further reduced. Assisting our citizens, particularly those who have served in our defense, who want to be productive and who want to work, is the very core of any Government's responsibilities.

I want to again commend my colleague and good friend from Mississippi, JAMIE WHITTEN, for including additional ES funding in H.R. 5026, as passed by the House. Chairman WHITTEN is a strong advocate of our national labor exchange and a great friend to veterans.

I would also like to take this opportunity to express my appreciation for the outstanding job that Ms. Linda Ross Aldy, director of the Mississippi Employment Security Commission, and Mr. Robert Morgan of the Employment Service in Mississippi have done under very challenging conditions. Despite severe budget restrictions, they have worked diligently to try to maintain quality services for the people of our State.

PERSONAL EXPLANATION

HON. JACK DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. DAVIS of Illinois. Mr. Speaker, further complications from a poisonous spider bite caused me to remain hospitalized on Tuesday, August 2, 1988, and I was unable to be on the House floor during the recording of two votes.

Had I been able to be present on the floor, I would have voted "yea" on the passage of S. 892 in rollcall 250. Also, I would have voted "yea" on the passage of H.R. 1414, to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 in rollcall 251.

My illness of recent day, Mr. Speaker, reminded me of the miracle of modern medicine and the effective and swift care furnished by an House Navy doctor as well as my doctor, Bill Garvin D.D. of Crete, IL.

I am also grateful to the Olympia Fields Osleopathie Medical Center for their care during my 5-day hospital stay.

TRIBUTE TO LEROY BENNETT

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. McEWEN. Mr. Speaker, we often hear of certain celebrities who perform volunteer work with community organizations. However, more often than not, we do not hear of the selfless efforts of average Americans who give of their time and energy to the senior citizen centers and other community groups across the country. But today, I want to bring to the attention of my colleagues in the Congress, the noteworth efforts of Leroy Bennett of Washington Court House, Ohio.

Because of his willingness to give of his time and energy to the people of his community, Leroy Bennett has been nominated by the Fayette County Commission on Aging for the 1988 Outstanding Senior Citizen Award.

Leroy has worked diligently for the senior citizens center and its patrons. He has served on the board of trustees and served as vice president for 2 years. Additionally, Leroy has served as chairman of the activities committee for several years. He has also recruited scores of volunteers for numerous projects. Moreover, he has always provided the essential organizational support to ensure the success of the center's efforts and local activities.

Leroy has earned the title of "Kernel Popcorn" from his friends for the many years that he as served as chairman of the Popcorn project. In addition, he is also known as the goodwill ambassador at the local Kroger store in Washington Court House, Ohio.

Mr. Speaker, I am sure that Leroy's wife, Ruth, and his children, Larry, and twin daughters, Penny and Patsy, and all of his many friends are proud of Leroy's achievements. It is indeed a privilege for me to extend my heartfelt best wishes to Leroy and his family for this special recognition. It is my sincere hope that he will continue to share his good spirits with the people of Fayette County, and we wish him every success in his endeavors.

CLEAN WATER LEGISLATION

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to introduce legislation to authorize a series of demonstration projects to bring relief to residents of "colonias," or unincorporated subdivisions where residents live without running water or sewage service along the U.S. southern border.

According to estimates by the Congressional Research Service, there are hundreds of thousands of people—predominantly Mexican American—living in deplorable conditions in the States of Texas, New Mexico, Arizona, and California. In fact, in my congressional district alone, 28,000 people live in colonia communities without running water and 53,000 without sewage facilities.

Colonia residents drink, cook, and bathe without safe water, and as a result experience high rates of diseases that have been eradicated in other parts of the country. A study of a community in my district, for example, found that 67 percent of the residents in the area have been infected with hepatitis A, commonly caused by poor sanitation, contaminated food and water. Furthermore, since lots are typically small and residents are not aware of the consequences of doing this, many residents do not adequately separate their septic systems from their wells and end up contaminating their ground water with their own sewage.

The economic conditions of the colonias make the responses to problems that would be resolved traditionally by State and local governments more difficult to devise and implement. While water supply problems are normally considered local matters, the problems of the colonias extend beyond individual counties, and there is a Federal role to be played because the situation involves four States and two countries and presents a serious public health threat to border communities on both sides.

The bill that I am introducing today along with my colleagues from Texas would provide construction grants under the Environmental Protection Agency for improving drinking water supply and sewer systems in colonias. Specifically, $5.6 million would be authorized for demonstration projects in Cameron County, Hidalgo County, Maverick County, and El Paso County, TX.

Additionally, a $10 million revolving loan fund would be established to have indoor plumbing facilities installed and to have individual homes connected to sewer facilities and drinking water supplies, with EPA promulgating regulations for the terms of these loans. While this bill would not provide a comprehensive solution, the approach proposed by this legislation is a firm first step needed to begin to resolve the appalling conditions that exist along our country's southern border.

The conditions in the colonias have existed since the 1960's when developments were established outside the city limits as developers sold lots at low monthly payments to poor individuals eager to own their home. Unfortunately, many of these people bought land believing that adequate water and sewage systems would eventually be furnished, which did not occur.

The U.S border area, in particular the colonias, has been neglected for many years, and it is time for the Federal Government to address the depressed conditions that exist in the region. I urge my colleagues to support this legislation.

DAVID M. DEL VECCHIO, OUTSTANDING PUBLIC SERVANT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues a dedicated and effective public servant, Mr. David M. Del Vecchio, who was recently honored by the Essex County Board of Chosen Freeholders.

Mr. Del Vecchio, a resident of Montclair, NJ, has served the Essex County Improvement Authority [ECIA] for over 2 years in a number of key staff positions, including his service as executive director. During his tenure with the improvement authority, Dave has worked with the ECIA Airport Task Force to develop the authority's business plan, administered the ECIA's Industrial Development Bond Program, financing over $8 million in projects, administered the Pooled Government Loan Program, which has issued below market loans totaling over $43 million for needed capital projects, and developed the ECIA's Multi-Family Rental Housing Program, creating nearly 100 units of senior citizen housing.

Under Dave's leadership, the authority has served the residents of Essex County well, and has produced many tangible results in terms of jobs created and homes built, as well as the implementation of other economic and financial plans. I applaud Dave's hard work and dedication to the residents of Essex County. We all owe Mr. Del Vecchio a debt of gratitude for his unyielding efforts in bettering his community and placing a premium on sound economic planning.

SECRETARY HERRINGTON RECOMMENDS BUILDING TWO NUCLEAR REACTORS

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. LUJAN. Mr. Speaker, Secretary of Energy John Herrington recommended yesterday that our Government build two nuclear reactors on an "urgent schedule" to supply material for atomic weapons.

The Secretary's recommendation is that a heavy-water nuclear reactor be built at the Department's Savannah River plant near Aiken, SC, and that a gas-cooled reactor be built at the Idaho National Engineering Laboratory near Idaho Falls.

The recommendation is a momentous decision that could have a far-reaching beneficial impact on our Nation and the world for many years to come.

This gas-cooled reactor is inherently safe. It will replace our aging weapons-production reactors. This safe gas-cooled reactor technology has the potential to provide our future electric power needs in the United States and, in fact, throughout the world. It is a technology that we will export throughout the world.

There is some concern in the Congress that we should forego the two-reactor strategy, because of budgetary restraints and the high-costs involved. While these concerns are understandable, there is a more persuasive argument that we're already too late in advancing this new technology which has such great potential.

It is my sincere hope, Mr. Speaker, that we will support Secretary Herrington's recommendation and that the debate will not get bogged down in election-year politics.

As a member of the Committee on Space, Science and Technology, I have been exposed to arguments pro and con, on both of these nuclear reactors for several years. I have been convinced for quite sometime that we must pursue the two-reactor strategy.

The leadtime that is needed to get these two reactors on line is such that we can't delay any longer. The future of our nuclear weapons program and the need for a realiable safe energy for the future make it imperative that we build both of these reactors.

I applaud Secretary Herrington for his decision on the two-reactor strategy, and I hope that Congress will make an early decision to support it.

ROMANIAN VILLAGE DESTRUCTION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. HOYER. Mr. Speaker, the Members of this body have watched with sorrow and horror as conditions have worsened for the population of Romania. Extreme shortages of food and fuel testify not only to an economic catastrophe, but also to the Romanian regime's unwillingness to offer or even accept aid to its people.

In addition to food and fuel, a third necessity is in painfully short supply: human dignity. This dignity lies at the heart of the Helsinki Final Act, which stipulates that governments will encourage their citizens to exercise their human rights fully. And cultural rights are among the fundamental freedoms to which the Romanian Government has committed itself in the Helsinki Final Act and the Universal Declaration of Human Rights.

Romanian President Nicolae Ceausescu's plan is to consolidate the populations of some 7,000 to 8,000 villages into agro-industrial complexes. The economic benefits of such a drastic transformation of the rural landscape are doubtful, at best. In human terms, they could be disastrous.

The result would be to rip apart communities, and to tear people away from their past, obliterating the homes and churches and graveyards that carry their history. The Romanians, Hungarians, and Germans who have inhabited many of these villages for centuries would lose a vital bond with their cultural heritages. All of the area's inhabitants would have to live without the small garden plots that have sustained them through the hardest times.

This is a callous plan, and a violent one. It must be stopped before Romania loses another rich cultural, and human, treasure.

HONORING CAREER YOUTH DEVELOPMENT OF MILWAUKEE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. MOODY. Mr. Speaker, I rise to praise the work of an outstanding organization in Milwaukee, WI, Career Youth Development, and its dynamic leaders, Mrs. Jeannetta Robinson and Mrs. Claretta Simpson.

We often hear talk about young people as our Nation's most precious resource. We all know that more needs to be done to lead our children toward the path of opportunity.

That is why I ask Congress to pay tribute to this organization, an organization that is actually doing something for our children, an organization, that is committed to helping inner city youths obtain a better chance and a better life.

On August 12 the Career Youth Development organization—called CYD—will celebrate 18 years of serving youth and their families in the inner city of Milwaukee. CYD has been helping juvenile delinquents regain direction and hope in life. It has helped to change the lives of many hundreds of delinquents. Almost 9 out of 12 delinquents helped by CYD turn away from crime. Few organizations have made a more profound difference in our community. For its great success CYD has been recognized across the Nation.

Only truly committed people will take on the formidable task of helping young people who have gone astray. The founders of CYD, Mrs. Robinson and Mrs. Simpson, are two such rare people.

Too often our Nation forgets about inner-city youths, leaving them to a future of callous indifference. But not Jeannetta Robinson and Claretta Simpson who are unshakeable in their belief that young people need guidance and support, not neglect. It is a privilege to know these two women, and to honor them for dedicating their lives to the neglected and underprivileged youth in our community.

Mrs. Robinson, Mrs. Simpson, and the CYD staff have succeeded against all odds. Every day we hear about young people involved in street gangs, crimes, and drugs. We hear about children giving birth to children, about the hopelessness and despair among young people in our cities. We know there's a better way.

CYD has found that better way. Working with community agencies, it has developed various services to serve young people and their families.

CYD runs treatment and support centers for young people addicted to drugs and alcohol. It provides education and training programs to teach young people the skills they need to find jobs. Real jobs. It offers an employment service for its clients. It counsels troubled families hit hard by poverty, by child abuse, or by drug addiction. It works with young people to prevent teen pregnancies, to keep high school students from dropping out, and to reduce the allure of street gangs. It also brings toys to inner-city children and provides emergency food and clothing for poor families.

In short, CYD realizes that to be effective in the inner city, you must address and anticipate the real life problems of urban life. And you must teach young people the meaning of self-respect. CYD has done that. And done it well.

In its 18th anniversary celebration, CYD rededicates its theme of "love in action." There is no more appropriate description for the work of such a dedicated group of people. I think I express the views of my colleagues in Congress in expressing appreciation and congratulations to Jeannetta Robinson, Claretta Simpson, and the whole CYD staff for their vital and successful efforts.

NATIONAL CLEANING PROFESSIONALS RECOGNITION DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. GOODLING. Mr. Speaker, many of us marvel at the beauty of our world as we walk through the square of a quiet little town in our district or admire the majestic architecture of our Nation's Capital City. The beauty of these places is much more appreciable when it is reflective of a larger, clean and fresh environment. Even a shopping trip to our local mall is more enjoyable when the surroundings are clean and free of filth. Also, in our society, anything less than a clean and sanitary health facility is simply not acceptable. The desirability of a clean and healthy environment is a priority in our society that sometimes overshadows the human factor which makes it a possibility.

Much of the time, many of us do not even consider or acknowledge all of the hard work and effort that has been expended to help make our environment a clean and healthy one. The resolution which I am introducing would provide public recognition and appreciation for the dedication and contribution of the cleaning professionals for all of us and our communities.

Because members of the cleaning profession rarely receive the recognition that they deserve, it is appropriate that they be recognized with such a resolution. Many times, these professionals work long hours into the night so that we may enjoy a clean environment in which to live and work during the day. These professionals, many times, are not equipped with the most efficient or adequate resources to perform their tasks and yet continue to do so. We, the general public, are the beneficiaries of their efforts.

Because members of America's cleaning profession do so much to make our day to day living more pleasant, it is not too much for us to at least recognize them and thank them for their efforts. I urge my colleagues to join me in cosponsoring a resolution I introduced today designating April 2, 1989, as National Cleaning Professionals Recognition Day.

CONGRESSIONAL PAY ACCOUNTABILITY ACT OF 1988

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. MACK. Mr. Speaker, today I am introducing the Congressional Pay Accountability Act of 1988. I am proud to be able to jointly introduce this legislation as a companion bill to one being introduced today in the other body by Senator LARRY PRESSLER of South Dakota.

The Congressional Pay Act of 1988 is simple and direct: It would require Congress to vote on any increase in its own salary. This legislation would prohibit the "backdoor" pay increases Congress has received in the past.

Under current law, Congress can use a backdoor system of receiving a pay raise without a direct rollcall vote. We know this to be true because that's exactly how the Members got their 16-percent pay raise last year. I believe it is wrong for a sitting Congress to approve in any way a pay raise for itself without even having the political courage to vote publicly to do it.

The bill introduced by Senator PRESSLER and myself would require Congress to approve pay increases through rollcall votes. If Congress really wants more money, get it the old-fashioned way—earn it. Since the Members earn their salaries by casting ballots, it's not unreasonable to ask them to vote on pay increases. This legislation changes the process for approving congressional pay raises in such a way that the increases could only come after a recorded vote.

Mr. Speaker, the bill I am introducing today is similar to the Pay Raise Accountability Act—H.R. 617—that I introduced on January 20, 1987. Unfortunately, that bill has been left to languish in the Committee on Post Office and Civil Service.

But I am more optimistic about today's efforts because this is a joint House-Senate undertaking. I commend the excellent work Senator PRESSLER has done to raise awareness of the backdoor pay increases for Members of Congress.

There is a compelling reason that this legislation should be passed as quickly as possible by Congress. The President's Quadrennial Commission on Executive, Legislative, and Judicial Salaries is scheduled to convene October 1 and make its recommendations to the President in December. The President is scheduled to forward a proposal to the 101st Congress in January. If both Houses of Congress do not disapprove the President's proposal within 30 days, the proposed increases go into effect.

This sets the stage for exactly the same sort of situation we faced in January of 1987 at the beginning of the 100th Congress. The President proposed a pay raise for Members of Congress which the Senate voted down. Because of parliamentary maneuvering, the House vote disapproving the pay raise occurred one day too late and the pay raise went into effect. We must see to it that this disgraceful display does not take place again.

Besides recommendations from the Quadrennial Commission, Congress can also receive pay raises through Government-wide cost-of-living adjustments [COLA's] which usually occur on January 1. This legislation would require a rollcall vote for these pay raises as well. We in the Congress must lead by example and we should start by passing the Congressonal Pay Act of 1988. I urge all of my colleagues to lend their support to this legislation before Congress receives recommendations from the President's Commission next January.

REPEAL OFF-HIGHWAY USER DIESEL FUEL TAX

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. TALLON. Mr. Speaker, I rise in strong support of the Miscellaneous Revenue Act's repeal of the diesel fuel tax for off-highway users. This tax, lodged in the recesses of the 1987 Budget Reconciliation Act, has created havoc for our Nation's farmers. Although off-highway users, such as farmers, are exempt from the diesel fuel tax, they have had to pay it and then apply for a refund.

The result has been more costs, more paperwork, and more regulation, all at a time when farmers must cut expenses and increase efficiency to simply get by. It forced from our farmers an interest-free loan to the Federal Government.

The small farmer, who could least afford to shoulder such a burden in the first place, is the one who has felt the crunch. The typical farm operation would have to pay more than $1,000 a year in taxes to the highway trust fund for off-road diesel use.

All total, America's farmers would have paid $420 million every year—money that shouldn't and doesn't belong to the Government. Yet, the Treasury would have the use of this money, interest free, for as long as a year. And in order for farmers to get their money back, they would fill out yet another IRS form.

Reversing this requirement is a sensible, long overdue step toward reducing the costly, bureaucratic web that seems to have overcome agriculture in this country.

The 1980's have not been kind to our Nation's farmers. The road to economic recovery has been long and difficult. By restoring the right of off-highway users of diesel fuel, such as farmers, to purchase fuel without paying the highway user tax we have made the road a little smoother and straighter. And well we should.

MORATORIUM ON FEDERAL STUDIES OF WATER IMPORTATION

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. STALLINGS. Mr. Speaker, 20 years ago Members of Congress representing the Pacific Northwest had the vision and the foresight to ask their colleagues to pass legislation that would protect the waters of the Snake and Columbia River Basin from diversion to the Southwest.

I am very pleased to introduce today legislation that continues the bipartisan spirit that has characterized this effort in the past. We in Idaho and the Northwest are united in our determination to maintain control over our rivers and streams.

This bill will extend for 10 more years a moratorium on Federal studies for the importation of water into the Colorado River Basin.

The original moratorium, passed with bipartisan support in 1968, was extended in 1978 for another 10 years. The current ban on Federal studies, however, will expire on November 2, 1988.

Even though the possibility of a major interbasin water transfer is remote, it is a risk that Idaho and other Northwest States cannot afford to take. The implications of any large-scale transfer from the Columbia and Snake River Basin would be very devastating to Idaho and the Pacific Northwest.

With very few legislative days left in this Congress, I believe it is critical to move forward to ensure that our valuable water resources of the great Northwest are safe from outside threats.

Diversion of our water for use in another State is of major concern and importance to the citizens of the region. Economic development and protection of our resource values are dependent on the availability of water and low electrical energy.

Our water is truly the lifeblood of the region. Irrigation, energy production, fish and wildlife, recreation, and other uses all benefit from effective stewardship of our water resources.

The use and control of our water has been and will continue to be one of the most important issues facing Idaho and the Pacific Northwest. This legislation is needed to assure that we are in control of this precious natural resource.

MIDTOWN CENTER IN CHICAGO

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mrs. COLLINS. Mr. Speaker, for the past 25 years, the Midtown Center in Chicago has been a wonderful asset and inspiration to the Chicago community. It has offered support, guidance, and training to many of our youth, including 2,000 students since 1972. Rather than offer mere lip service that today's youth must take responsibility and uplift themselves, the Midtown Center actually takes these youth by the hand and shows them the way.

The Center's Midtown Achievement Program focuses on an individual's contribution to society: to encourage today's youth to develop and use their talents to provide useful goods and services to their community. This is accomplished through strengthening academic areas such as math, science, and English, stressing sportsmanship in various recreational activities, offering basic training in certain professions, and emphasizing character enhancement in all endeavors.

By engaging in these activities with such a constructive and beneficial attitude, the Midtown Achievement Program has regularly inspired its junior high aged enrollees to go on to higher achievements. Whereas about 50 percent of the youth in Midtown's vicinity drop out of high school, the students who participate in the Midtown Achievement Program almost invariably graduate from high school and about 60 percent go on to college.

Since 1963, the Midtown Center has offered direction and hope to disadvantaged youth in Chicago. They have done so in a very well conceived, structured, and effective manner that is tailored to the needs of these youth and the principle of contributing to one's society. Many communities nationwide would benefit substantially from viewing Midtown as a role model for its aims and a structural model for its programs. A proliferation of such worthwhile programs as Midtown's might well result in a new trend toward limitless success among our Nation's urban, disadvantaged youth.

Mr. Speaker, I believe we should be unanimous in applauding such valiant efforts which have resulted in such substantial victories.

HAPPY BIRTHDAY, COAST GUARD

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. HUTTO. Mr. Speaker, I want to call to the attention of my colleagues in the House that today is the 198th birthday of the U.S. Coast Guard.

On August 4, 1790, the First Congress authorized the construction of 10 sailing ships for guarding the coast of the United States of America against smugglers. Since its beginning in 1790 as the Revenue Cutter Service, the Coast Guard has a long and distinguished record of service to the American people.

The Coast Guard is widely recognized as the premier search and rescue service in the world. In addition, the Coast Guard has numerous other peacetime responsibilities—maritime safety, protection of the marine environment, enforcement of maritime laws and treaties, and polar ice operations in support of U.S. installations and research activities.

As the fifth branch of our Armed Forces, the personnel of the Coast Guard have fought alongside the Navy in every war since the United States conflict with France in 1799. In addition, the Coast Guard is responsible for the coastal defense of our Nation.

As the oldest continuous seagoing service of the United States, it is only fitting that we wish the Coast Guard a happy birthday today. However, I also want to look ahead. Just 2 years from today, the Coast Guard will celebrate its bicentennial. Two bills have been introduced in the Congress to provide recognition of the Coast Guard on that important date.

The first is House Joint Resolution 456, to provide a commemorative stamp. That bill already has 200 cosponsors. A second bill, H.R. 3919, introduced by the gentleman from Illinois [Mr. ANNUNZIO] would direct the striking of a medal in honor of the Coast Guard's bicentennial. We would like to get 218 cosponsors for both of these bills.

Mr Speaker, all Americans benefit from the services of the men and women of the Coast Guard and I hope my colleagues will join in cosponsoring these two bills, particularly H.R. 3919, to honor the Coast Guard on its bicentennial.

TRIBUTE TO CHAPLAIN CLYDE M. JOHNSTON

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. WILSON. Mr. Speaker, this past May my district lost a valuable member of its religious community. Chaplain Clyde M. Johnston had served the Baptist community in east Texas for more than 30 years. He worked long and hard to fill the role of teacher, counselor, and preacher to each of his congregations.

He served as a chaplain at the Texas Department of Corrections in Huntsville for 27 years, and became the director of chaplains for the TDC in 1973. For most people this alone would constitute a full-time and overtime job. Chaplain Johnston, however, also found the energy to share his ideas in published articles, serve as an interim pastor for other area churches and conduct workshops for a number of Christian groups. He also served for some time as the president of the American Protestant Correctional Chaplains Association.

This was a good man, in the most basic and self-sacrificing meaning of the phrase. I know that the people of east Texas who knew him and found comfort and hope in his ministry will miss him a great deal. His death leaves a void that will be very hard to fill.

IMPROVE SAFETY STANDARD IN LIGHT TRUCKS AND MULTIPURPOSE VEHICLES

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. GEJDENSON. Mr. Speaker, earlier this session I introduced legislation to require that light trucks and vans meet the same safety standards as passenger cars. Recently there has been a great deal of attention paid to this issue, with considerable focus on the safety of the Suzuki Samurai, the Jeep CJ and other multipurposed vehicles. As it was not clear that these vehicles were also covered by this bill, I have reintroduced new legislation that expands upon the original bill by specifically stating that "light trucks and multipurpose vehicles" meet the same safety standards as passenger cars.

This new modified legislation covers not only the light truck and the minivan but the Suzuki Samurai and other multipurpose vehicles as well. This bill also specifies the safety standards needed and establishes an effective date of January 1, 1990 to give manufacturers the opportunity to make the design adjustments that would be required.

As you may know, light trucks and other multipurpose vehicles account for more than one-third of the automobiles sold in the United States. However these vehicles lack some of the most basic standards we expect from our cars including side door strength, head restraints and roof crush resistance.

The use of light trucks, minivans and multipurpose vehicles has grown dramatically over the past decade. Between 1971 and 1986, the light truck market share of vehicles sold increased from 15 to 30 percent and the new passenger minivan accounts for more than 50 percent of all light truck sales. At the same time, the number of persons killed in light truck accidents has increased while fatalities among occupants of passengers cars has declined.

When light trucks and multipurpose vehicles were exempted from many safety standards established in the 1960's, the rationale for the exemption was that some safety features were not necessary because these vehicles weighed more than passenger cars and were not used as passenger vehicles. However neither of these reasons for weaker safety standards applies today. Light trucks and multipurpose vehicles have shrunk in size and are often marketed as passenger cars. Light trucks and multipurpose vehicles have become the new family vehicles, the "station wagon of the 80's."

Like most Americans, when I bought my minivan, I assumed that it met the same safety standards as a station wagon. It is marketed as a passenger vehicle and is built in a K-car chassis, not a truck chassis. I had every reason to believe that it met the same safety standards as a car but learned long after I brought the van that it did not. As a father of two small children I was shocked to learn that it did not and I am concerned about the safety of my family every time I drive them in this vehicle.

This gaping hole in the vehicle safety standards must be closed and that is why I have introduced this legislation. Common sense dictates that families who ride in these vehicles, whether it be a light truck or a Jeep CJ should be afforded the same safety protection as families, who ride in passenger cars. Many injuries can be avoided and many lives will be saved if this small improvement in vehicle safety regulation is made.

A TRIBUTE TO GLADYS NISEWANDER

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. SCHUETTE. Mr. Speaker, I rise today to honor a constituent who will be turning 100 years old on August 14, 1988. A celebration has been planned in the town of Buckley, MI for Gladys Nisewander to commemorate her 100th birthday and, perhaps more importantly, her overflowing generosity to the people of the community.

Gladys worked as a nurse for 44 years, serving with the same doctor the entire time. During that time period, she attended college to obtain her pharmacy license, becoming one of the first women pharmacist in the State of Michigan. She also managed to find time to write newspaper articles and send care packages to soldiers during both World War I and World War II.

At the age most poeple begin to slow down and rest, Gladys was just getting her second wind. In 1942, at the tender young age of 54, she began running the local bus station out of her own home in Buckley, MI. Gladys continues to run the bus station today, having survived several changes in bus lines at the station.

But, Gladys did not confine her activities to her business alone, she also was recently awarded a gold pin from the American Red Cross of Wexford County for 60 years of volunteer service. More recently, Gladys has been imparting her wisdom and knowledge of the history of northern Michigan to Buckley's seventh grade class.

Gladys Nisewander is truly a symbol of American dedication, pride, and sacrifice for others. She is an example that we, the Members of Congress, should acknowledge and pay tribute to her many great accomplishments. I know all my colleagues join me in wishing her many more healthy years.

THE PRESIDENT'S POLICY SUCCESSES IN THE PERSIAN GULF

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. LAGOMARSINO. Mr. Speaker, the following commentary by William Randolph Hearst, Jr. appeared in the Los Angeles Herald Examiner and offers an insightful analysis of President Reagan's policy in the Persian Gulf. This commentary also explains the necessity for continued resolve by our diplomats, rather than politically motivated interference by any unauthorized private citizen, to bring about the safe release of our hostages. The determined, unwavering resolve of the Reagan administration's policy to protect the interests of the United States and our allies in the Persian Gulf has brought about the praise of our European Allies as they recognize the success of our policy in the Persian Gulf. These successes only establish the necessity of continued resolve by the United States in the Persian Gulf as we seek to further the prospects for peace in this troubled area. I urge my colleagues to carefully consider this commentary by Mr. Hearst and the President's foreign policy achievements in the Persian Gulf.

(From the Los Angeles Herald Examiner, July 31, 1988]

REAGAN'S GULF POLICY TRIUMPHS DESPITE CRITICS

(By William Randolph Hearst, Jr.)

SAN SIMEON.—Once again, critics of President Reagan's foreign policy have been proved totally wrong.

You may remember how the president was castigated by Democratic politicians, liberal media pundits and editorial writers when he ordered the Navy to protect freedom of navigation in the Persian Gulf.

Senate Democratic leaders, among them Robert Byrd, Claiborne Pell and Sam Nunn, opposed re-flagged and escorting Kuwaiti oil tankers. Sen. Pell even sponsored legislation to cut off funding for our naval forces in the Persian Gulf.

When the president increased our naval strength in the gulf and ordered the Navy to aid any oil tanker under attack by Iranian forces, the New York Times accused him of "hindering peace negotiations."

When early this month the commander of the U.S. cruiser Vincennes shot down an Iranian commercial aircraft, the president was assailed for having the Navy in the gulf. There were demands for its withdrawal and predictions that Iran would resort to terrible retaliation against Americans, including execution of our hostages in Lebanon.

What happened? There was no terrible retaliation. President Reagan said there would be no withdrawal of our Navy until Iran agreed to a cease-fire and peace negotiations. The Iranian government, with Khomeini's approval, accepted the United Nations cease-fire resolution and negotiators from Iran and Iraq began discussions on how to implement it and bring an end to the eight-year war, which has cost more than a million casualties.

This turn of events is unquestionably one of President Reagan's greatest foreign-policy achievements. But is he getting the credit he deserves? Certainly not at home. But in Europe, his gulf policy is recognized as a mayor American political triumph. This is clearly evident in the following report I received from Bernard Kaplan, our chief European correspondent.

Bernie reported that European observers almost unanimously agree that Iran's bid for a cease-fire in the gulf war represents:

"A victory for the Reagan administration's display of diplomatic and, above all, military resolve and an enormous boost to America's longer-term prestige and power in the Middle East.

"Thus," Bernie added, "France's leading daily, Le Monde, seldom a champion of U.S. foreign policy, conceded that 'if the cease-fire proves effective, faith in the U.S. will soar among the gulf states.'

"Switzerland's highly regarded Journal de Geneve said the unfavorable conditions under which the Khomeini regime decided to accept an end to the conflict 'can be seen as America's revenge for the humiliations it suffered at the Iranian revolution's hands less than a decade ago.'

"The London daily Independent said the Persian Gulf Arab states of the region 'will surely now regard America as their savior.

. . . It's fair to say that, without U.S. naval intervention and the fundamental threat it posed to Iranian strategic security, the war would have gone on and on.'

"Another British paper, the Sunday Times, believes the key to the sudden Iranian turnabout was its 'critical shortage of arms,' brought about, essentially, by the growing effectiveness of a Western arms embargo largely 'orchestrated by the United States.'

"It took a long time for the U.S. to exert the necessary pressure to cut off Iran's arms supplies, the paper added, but once it did, Iran's war machine was 'doomed.'

"The Journal de Geneve said the setback which Khomeini's Islamic fundamentalism has suffered 'changes the politcal balance in the Middle East. . . . Iran's allies and other extremists cannot fail to take account of the implications. For them, the Ayatollah's nemesis has proved to be less Saddam Hussein [Iraq's dictator] than Ronald Reagan.'"

The prospect of President Reagan getting the hostages released before the November elections has obviously created such consternation in the Dukakis camp that Jesse Jackson has announced he will try to deal first with the Iranian foreign minister. He apparently is unaware of the Logan Act, which prohibits a private citizen from engaging in any talks or negotiations with a foreign government with which the U.S. is involved in a dispute or controversy.

That act should be invoked without delay to stop the scene-stealing political maverick from interfering with President Reagan's diplomatic efforts to secure release of the hostages and end the Iran-Iraq war.

WEST MICHIGAN ENVIRONMENTAL ACTION COUNCIL CELEBRATES ITS 20TH YEAR

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. HENRY. Mr. Speaker, we have an obligation to insure that America is forever known as that land which is beautiful for its "spacious skies", and seas which "shine". "From California to the New York island", this land belongs not only to us, but future generations. It is with great pride that I commend the West Michigan Environmental Action Council [WMEAC] for its 20 year educational and public policy commitment to this obligation.

At a time when environmental conservation was not a primary concern for the majority of Americans, WMEAC established one of the first truly grassroot environmental organizations comprised of church groups, parent teacher groups, business clubs, labor organizations, and other associations. It soon became a dynamic force behind a number of initiatives to promote sound natural resources management and environmental protection policies.

As many of our colleagues will recall, Mr. Chairman, within the first 2 years of its existence, the West Michigan Environmental Council had initiated, along with the Environmental Defense Fund, National Audubon Society, and the State of New York, the Federal suit that led to the end of most uses of DDT in the United States. In this short period, they also led a successful statewide battle to pass Michigan's internationally known Environmental Protection Act. This act is now the model for at least nine other States and has been the subject of respect and interest for environmental conferences around the world.

Into the 1970's and 1980's, the West Michigan Environmental Action Council brought action that successfully stopped the experimental recycling of plutonium. They led the campaign for passage of the nationally known State Inland Lakes and Streams Act, which prevents the unauthorized diversion, dredging, and filling of inland lakes and streams. In addition, they won protection from oil drilling for the Pigeon River country in the Michigan Supreme Court and then worked with the Michigan DNR to establish protection guidelines before oil drilling could occur in that region. WMEAC also began the Michigan used Motor Oil Recycling Program. They coordinated a successful campaign to ban the dangerous use of chloradane. And WMEAC continues to engage in ongoing efforts to preserve the fragile sand dunes which hover above the Lake Michigan shoreline.

While WMEAC's accomplishments are many, you will find that this organization's achievements best exemplify that strong protection of the environment prospectively is more cost effective than reclaiming past abuses retrospectively.

Furthermore, through its educational outreach programs—publications, presentations, and seminars—WMEAC has fostered an understanding of key environmental concerns among our citizenry. WMEAC has helped us to focus upon changes that each of us can make so as to not squander or contaminate our valued and limited resources.

Mr. Speaker, I would like to commend all those people who have been associated with WMEAC during the past 20 years. Their hard work and sense of commitment has enabled Michigan residents to live in a more healthy environment, and from this, future generations will also benefit. Mr. Speaker, please join me in wishing the West Michigan Environmental Action Council a happy 20th anniversary. We look forward to the many more productive and successful years which are sure to follow.

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. WEISS. Mr. Speaker, I am proud to participate today in the 1988 Congressional Call to Conscience for Soviet Jewry. I commend all who have taken part in and organized this activity for their commitment to this important cause.

Mr. Speaker, it is especially appropriate that we address the issue of human rights in the Soviet Union this week. On Monday, we commemorated the 13th anniversary of the signing of the Helsinki Final Act. By signing this document, the Soviet Union made a commitment to honor the basic human rights of its citizens, including the right of free emigration. Despite the new glasnost policy in the Soviet Union, However, we have yet to see a fulfillment of this commitment as it affects emigration of Soviet Jews.

There are still between 300,000 and 500,000 Jews in the Soviet Union who want to leave that country. And yet the Soviet Union persists in manufacturing reasons to prevent their emigration. I have spoken on this floor many times about these human rights violations—about secrecy refuseniks who know no secrets, about prisoners of conscience who have committed no crimes, about 10 years and longer refuseniks who have lost their jobs and homes while repeatedly being denied permission to emigrate. Indeed, there is much to talk about.

Today, however, I want to concentrate on one particular family whose case I have followed for many years. It is a family that has been torn apart by the arbitrary Soviet legal system. The family is that of one of my constituents, Dr. Sophia Fishel.

Dr. Fishel emigrated to the United States in 1977. Two years later, her son Sergei and his wife and two children applied to join her. His application was denied without reason, and both he and his wife were fired from their jobs. Left by the Government without any means of sustaining himself and his family, Sergei became involved in an attempt to smuggle an icon out of the Soviet Union. While his partner in this attempt was assessed a modest fine, Sergei was sentenced to 9 years of hard labor in a Siberian camp.

Over the years, his mother and I have tried numerous times to arrange for clemency for Sergi. Now, finally, as his sentence has expired, I have news that Sergi may be returning to Moscow. This is certainly a welcome development. Meanwhile, however, the rest of the Fishel family has suffered from the arbitrariness of Soviet law as well.

Sergei's son Mark, who is now 18 years old, has only one kidney, Despite this severe medical problem, he was drafted into the Soviet army last winter. Even the Soviet army doctors have now admitted that Mark needs medical care, and upon invitation from his grandmother, he applied for a visa to come to the United States for treatment. His application was refused on the grounds that his invitation did not come from a close relative. Needless to say, his grandmother is astounded to learn that her only grandson is not a close relative.

It is imperative that Mark be allowed to come to the United States. And in fact, when Sergi returns to Moscow, his whole family plans to apply once again for permission to emigrate. This will be the family's fourth application. I call upon the Soviet authorities to honor their pledge to live up to their human rights agreements and allow the reunification of the Fishel family.

But the Fishel family, while important, is only an example of the gross violations of human rights perpetuated by the arbitrariness of Soviet law. I call upon the Government of the Soviet Union today to make glasnost a reality for the hundreds of thousands of refuseniks, Jewish and non-Jewish, by adopting a uniform and free emigration policy for all Soviet citizens who wish to leave the country.

Mr. Speaker, once again I commend my colleagues JOHN MILLER and CARDISS COLLINS, as well as the Union of Councils for Soviet Jews, for their work on this Congressional Call to Conscience, and I thank them for allowing me to participate. I will continue to do everything I can to secure basic human rights for Soviet Jews until the very last refusenik is given freedom.

JOAN HERBST—A GRACIOUS PUBLIC SERVANT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. TAUKE. Mr. Speaker, it is with a great deal of sadness that I announce today that my personal secretary, Mrs. Joan Herbst, will be retiring on August 31. Joan's dedication, positive attitude, and insight have made her an integral member of my staff. She will be greatly missed, and I know that I speak for my entire staff and those in the House who have worked with her in extending my appreciation for a job well done and my best wishes for a successful and rewarding retirement.

Joan is a native Floridian and came to Washington in the 1940's to serve in the State Department, where she was eventually stationed in Geneva, Switzerland. She married Mr. Kennedy Herbst and settled in my hometown of Dubuque, IA. They raised four children, before Joan answered my request for assistance in Washington in 1985.

Joan has served me well. She is a trusted and loyal friend, and a woman of deep faith and strong conviction. She lives according to the values and ideals she articulates, and in doing so has inspired me and many others. She provides countless courtesies to constituents, congressional staffers, and lobbyists who visit my Washington office. She's the pleasing voice at extension 5-2911, and she offers a stable balance to the all-too-hectic days when Members seemingly rush from crisis to crisis. Joan cuts down on the number of crises which I face each day, and for that I am very grateful. She is a thoughtful, considerate, and gracious public servant.

Joan, you have my warmest commendation for your great service to my office and to northeast Iowa. You can take faith in the Biblical admonition: "Well done, thou good and faithful servant. Thou hast been faithful over a few things. We will still make thee ruler over many, many in the years to come."

PRO-LIFE AND CAPITAL PUNISHMENT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. CLAY. Mr. Speaker, I am appalled that so many Members of this body who consistently use the well of this House as a forum for championing the right-to-life of the unborn are now demeaning the sacred lives of those already born by supporting a capital punishment amendment to the Omnibus Drug Initiative Act. This contradictory behavior, however, is by no means exclusively limited to Members of Congress.

Recently, when the Roman Catholic Bishops of America suggested that the right-to-life movement expand its agenda to include poverty, hunger, nuclear war, and capital punishment, an intense disagreement between leadership and laity erupted and became a matter of public debate. The recommendation to align these issues soared among ultraconservative, Catholic, antiabortion groups like a lead-filled balloon. If the Catholic Bishops are not more judicious in their moral interpretations, they may soon find themselves the objects of petition drives demanding their impeachment.

Despite the direction given by religious leadership, most Christian followers refuse to recognize the logical link between right-to-life and the abolition of capital punishment. Speaking to this point, the Catholic Bishops of the United States said:

> We do not wish to equate the situation of the criminals convicted of capital offenses with the condition of the innocent unborn or of the defenseless aged or infirm, but we do believe that the defense of life is strengthened by eliminating exercise of a judicial authorization to take human life.

The American Bishops have been backed on this issue by Pope John Paul II. A spokesman for the Vatican said:

> If we are going to be for life, we have to be for all life, not just in the womb * * * and this Pope is definitely for life.

In spite of this endorsement, Cardinal Joseph L. Bernardin of Chicago, who advanced the idea of aligning other moral considerations with the right-to-life movement, has found himself under attack from the Catholic right.

Robert M. Patrick of the ad hoc committee in Defense of Life Inc. explained that:

> A broad range of prolife leaders * * * are rejecting the Chicago Archbishop's demand that abortion be made just another issue among many others—ranging from poverty to a concern for human rights in El Salvador—because it would deny abortion's unique status as the nation's premier special issue.

In the organization's newsletter, "Lifeletter," it was reported, "The great majority of antiabors (sic) reject linkage of abortion with anything else." That judgment was the result of a nationwide poll. In a similar reaction to Cardinal Bernardin's proposal, an antiabortion group in Massachusetts adopted a resolution decrying "Any and every attempt to classify as pro-life any candidate * * * locally or nationally, who supports abortion, promotes abortion or votes to fund abortion." The "Catholic Eye," a conservative news organ of the church opines "Proabortion Catholic politicians like Senators Teddy Kennedy and Vermont's Pat Leahy can now claim to be as pro-life as, say, Henry Hyde or Jesse Helms—you know, they just take different sides."

Mr. Speaker, the bishop's statement makes it clear that it is inconsistent to cherish the life of the unborn and at the same time demean the life of those already born. In the vernacular of the ghetto, the bishops are saying, "That bird won't fly."

Speaking of birds, one member of the prolife movement, James Hitchcock, a professor of history at Saint Louis University, rejected Bishop Bernardin's wedding of abortion to capital punishment. He wrote, "The bishops want to shed the abortion albatross by changing the subject from abortion to the immorality of nuclear war * * *"

Others in the right-to-life movement are not so poetic in their depictions. A board member of Missouri Citizens for Life, said, "Abortions and nuclear war are not analogous moral questions."

It seems as if ardent supporters of the prolife movement who also advocate the death penalty adhere to a definition of life which is limited in scope and relegated to a time certain. As our colleague Representative Barney Frank of Massachusetts said recently "* * * according to them, life begins at conception and ends at birth." What occurs after that miraculous occasion is of far less consequence to them. Perhaps that explains why most prolifers oppose Government funding of programs to clothe the naked, feed the hungry, and house the homeless. It also may explain how they rationalize hawkish stances or war and nuclear proliferation while displaying little concern for toxic contamination of the air and water. If life begins at conception and ends at birth, why should anyone give serious thought to what transpires thereafter?

Executing a 13-year-old boy in the electric chair at a State prison in Florida is acceptable to those same people who believe that aborting a 13-day-old fetus is sufficient cause for a massive protest demonstration. In fact, recent marches sponsored by the national right-to-life movement have attracted thousands of people to Washington, DC. These marches are scheduled to coincide with the anniversary of the 1973 Supreme Court decision, Roe versus Wade, which held that the Constitution protects a woman's decision to terminate her pregnancy. Although the same Supreme Court is responsible for opening the floodgates and allowing States to take the lives of over 1,400 prisoners, few, if any of the protesters have decried this particular assault on human life.

Mr. Speaker, since Cardinal Bernardin observed the relationship between abortion and other life support issues, most leaders of the prolife movement have scrambled to capture the moral high ground. While emphasizing abortion as the only question of ethics on the political horizon they carefully articulate the evils of nuclear war, decry the abandonment of the sick, the hungry and the elderly, and silently disregard capital punishment. The leaders of this movement have demonstrated a single-minded crusade to defeat all elected officials who disagree with them on the question of abortion while simultaneously embracing those who oppose the other life support issues inherent in the right-to-life struggle—including capital punishment.

CLOSED-CAPTIONED TELEVISION SERVICES FOR THE HEARING-IMPAIRED ACT OF 1988

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. BONKER. Mr. Speaker, it is with great pleasure that I am introducing today legislation to ensure that our Nation's more than 24 million deaf and hearing impaired citizens have access to information provided through television—a critical form of communication that those of us without impaired hearing take for granted.

My legislation—the "Closed-Captioned Television Services for the Hearing Impaired Act of 1988"—simply states that a variety of federally funded facilities and educational institutions must ensure that those who use their services have access to closed-captioned television viewing. It also would require that public service announcements paid for or produced by the Federal Government—such as IRS information—must be captioned.

Before I say a few words about the importance of my bill I would like to thank my distinguished colleagues, Senator Claude Pepper and Congressman David Bonior, who have joined me in cosponsoring this bill. Senator Pepper's record in serving the disabled is extraordinary. His most recent accomplishment is the creation of the National Institute for Deafness and Communicative Diseases at the National Institutes of Health. My esteemed colleague, Mr. Bonior, in addition to his fine work in Congress, serves as a member of the board of directors for Galludet College, our Nation's only college for the hearing-impaired.

Also, I am delighted to announce that my good friend and colleague, Senator Tom Harkin, chairman of the Labor and Human Resource's Subcommittee on the Handicapped, will offer the companion measure to my bill in the Senate.

Closed-captioning is, in essence, a form of subtitling that enables those who cannot hear television programming to "see" the dialog at the bottom of the screen. It's like viewing a subtitled foreign film which I'm sure all of us have done.

How is this accomplished? Actually, it's quite simple. It's done primarily through the use of a "decoder," which now comes as a small 4 pound box that can be attached quickly to an individual television set. This electronic wonder now costs less than $200. Moreover, institutions can acquire systems than can handle up to 1,000 TV sets for $1,800.

And, this technology continues to develop. Several TV manufacturers have indicated that they will put a "decoder module" into newly manufactured TV's that will add no more than $10 to the cost of a television.

Over 24 million Americans are deaf or are hearing impaired. Some 38 percent of older Americans are either deaf or have a serious hearing impairment. My bill will be of immense benefit to these populations.

But they are not the only ones who will benefit. Captioned television helps children with learning disabilities and those who are having difficulty learning to master basic reading skills. Captioned viewing can help with our serious illiteracy problem. Also, this technology helps those who are learning English as a second language.

Television improves the quality of life for many Americans. Researchers at Western Oregon State College [WOSC] placed decoders in a number of nursing homes, including in my home district, to study the impact of closed-captioned services on nursing home residents. Not surprisingly, they found that not only did the residents' quality of life improve, but interaction between residents also improved.

Television serves us as an invaluable source of information. It is much more than a form of entertainment. Television programming is used to teach and inform—at home, in publicly funded programs and at universities and colleges. Essential public announcements are communicated through television.

But this critical source of information is simply not available to great numbers of hearing impaired Americans, and others who would benefit from closed-captioned television. The amount of captioned programming provided by the networks is increasing rapidly. In particular, ABC is doing a terrific job in this area.

Yet, Mr. Speaker, regardless of the amount of captioned programming available, if the viewer does not have access to the decoder technology, they are denied this fundamental source of information. My legislation expands opportunity and access to a very large segment of our population with a significant disability.

This legislation is endorsed by key organizations representing the deaf, including the National Association for the Deaf, Self-Help for the Hard of Hearing, the National Captioning Institute, and 15 others. I urge my colleagues to join Mr. Pepper, Mr. Bonior, and me in supporting this legislation which will help to bring the hearing impaired more completely into the mainstream of American life.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Closed-Captioned Television Services for the Hearing-Impaired Act of 1988".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Captioned television provides access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired.

(2) Captioned television provides benefits for the nearly 38 percent of our Nation's elderly who suffer from some loss of hearing.

(3) Captioned television assists both hearing and hearing-impaired children with reading and other learning skills, and improves literacy skills among adults.

(4) Captioned television assists those among our Nation's large immigrant population who are learning English as a second language with language comprehension.

SEC. 3. DECODER REQUIREMENTS FOR CERTAIN FEDERALLY-CONNECTED BUILDINGS AND FACILITIES.

(a) Eligibility of Certain Health Care Providers To Participate in Medicaid or Medicare Programs.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) (as amended by section 428 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360)) is amended by adding at the end the following new section:

"TELEVISION DECODER REQUIREMENTS FOR CERTAIN PROVIDERS OF MEDICAID AND MEDICARE SERVICES

"Sec. 1141. (a) The Secretary shall provide that a hospital meeting the requirements of title XVIII or XIX may participate in the program established under such title only if the hospital certifies that—

"(1) each patient at such hospital is provided, upon request, with a patient room furnished with a television that displays closed-captioning; and

"(2) the hospital provides notice of the availability of a patient room furnished with such a television to each patient at the time of such patient's admission,

unless the hospital certifies that it does not make televisions available to patients.

"(b)(1) The Secretary shall provide that a nursing care facility or an intermediate care facility for the mentally retarded meeting the requirements of title XVIII or XIX may participate in the program established under such title only if such facility certifies that each television in each common area in such facility displays closed-captioning.

"(2) The Secretary shall provide that such a facility may participate in such a program only if such facility certifies that—

"(A) each resident at such facility is provided, upon request, with a resident room furnished with a television that displays closed-captioning; and

"(B) the facility provides notice of the availability of a resident room furnished with such a television to each resident at the time of such resident's admission, unless the facility certifies that it does not make televisions available to residents.".

(b) Decoder Requirements for Televisions Used in Certain Veterans' Administration Facilities.—(1) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§630A. Television decoder requirements

"(a) The Administrator shall ensure that each patient at each hospital under the direct jurisdiction of the Administrator is provided, upon request, with a patient room furnished with a television that displays closed-captioning, and that each such hospital provides notice of the availability of a patient room furnished with such a television to each patient at the time of such patient's admission.

"(b)(1) The Administrator shall ensure that each resident at each nursing home and domiciliary facility under the direct jurisdiction of the Administrator is provided, upon request, with a resident room furnished with a television that displays closed-captioning, and that each such nursing home and domiciliary facility provides notice of the availability of a resident room furnished with such a television to each resident at the time of such resident's admission.

"(2) The Administrator shall ensure that each television in each common area in each such nursing home and domiciliary facility displays closed-captioning.

"(c) The provisions of subsections (a) and (b)(1) shall not apply with respect to any hospital, nursing home, or domiciliary facility which does not make televisions available to any patients or residents.”.

(2) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting immediately after the item relating to section 630 the following new item:

“630A. Television decoder requirements.”.

(c) DECODER REQUIREMENTS FOR TELEVISIONS IN PUBLIC HEALTH SERVICE HOSPITALS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by inserting immediately after section 321 the following new section:

“TELEVISION DECODER REQUIREMENTS

“SEC. 321A. The Secretary shall ensure that each patient at each institution, hospital, or station of the Service is provided, upon request, with a patient room furnished with a television that displays closed-captioning, and that each such institution, hospital, or station provides notice of the availability of a patient room furnished with such a television to each patient at the time of such patient's admission.”.

(d) ELIGIBILITY OF INSTITUTIONS OF HIGHER EDUCATION FOR STUDENT ASSISTANCE PROGRAMS.—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094) is amended by adding at the end the following new paragraph:

“(11) The institution certifies that each television set in each classroom and common area under its authority and control displays closed-captioning, unless the Secretary determines that a waiver of such certification requirement would be appropriate.”.

(e) DECODER REQUIREMENTS FOR TELEVISIONS USED IN BASIC ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—Part F of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end the following new section:

SEC. 1492. TELEVISION DECODER REQUIREMENTS.

“(a) IN GENERAL.—An agency conducting a program under this chapter which consists in whole or in part of the viewing of television programming shall certify that each television used in carrying out such program displays closed-captioning.

“(b) WAIVER.—The Secretary may waive the requirement of subsection (a) if he determines that, in the case of a particular agency, such a waiver would be appropriate.”.

(f) OTHER FEDERAL ENTITIES.—Each entity of the Federal Government which uses television or video programming to provide informational or educational services to the general public, or which produces informational or educational television or video programming, shall make reasonable efforts to caption such programming, and shall make information on such captioned programming available to the general public and to organizations that serve the hearing-impaired.

(g) EFFECTIVE DATES.—The amendments made under subsections (a), (b), (c), (d), and (e) shall take effect 1 year after the date of the enactment of this Act.

SEC. 4. RESTRICTIONS ON ALLOWABLE EXPENSES FOR OVERNIGHT ACCOMMODATIONS FOR FEDERAL EMPLOYEES TRAVELING ON OFFICIAL BUSINESS.

(a) IN GENERAL.—

(1) AMENDMENT TO TITLE 5.—Section 5702 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) An employee who is described in subsection (a) of this section is not entitled to any payment pursuant to such subsection for lodging expenses incurred in any State at any hotel, motel, or other place of public accommodation which does not, upon request, provide guests with guest rooms furnished with televisions that display closed-captioning, unless there is no room available at a place of public accommodation providing such television sets located within a reasonable distance of the place of his official business, as determined in accordance with regulations prescribed by the Administrator of General Services.

“(2) For purposes of this subsection—

“(A) the term “place of public accommodation” means any inn, hotel, motel, or other establishment which provides lodging to transient guests and, in the course of providing such lodging, provides such guests with guest rooms furnished with televisions, other than an establishment located within a building which contains not more than 5 rooms for rent or hire and which is actually occupied as a residence by the proprietor of such establishment; and

“(B) the term ‘State’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.”.

(2) NOTICE TO FEDERAL AGENCIES.—Not later than 6 months after the date of the enactment of this Act, the Administrator of General Services shall notify the head of each agency whose employees will be subject to the amendment made by paragraph (1) of the existence of such amendment.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to lodging expenses which are incurred after the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) ESTABLISHING RATES AND DISCOUNTS FOR LODGING EXPENSES.—

(1) AMENDMENT TO TITLE 5.—Subchapter I of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

“§5707a. Effect of television decoder requirements on establishment of rates and discounts for lodging expenses

“(a) Studies or surveys conducted for the purposes of establishing per diem rates for lodging expenses under this chapter shall be limited to places of public accommodation which, upon request, provide guests with guest rooms furnished with televisions that display closed-captioning. The provisions of this subsection shall not apply with respect to studies and surveys that are conducted in any jurisdiction that is not a State as defined in section 5702(d)(2)(B).

“(b) The Administrator of General Services, in negotiating lodging discounts for official travel, shall not accept, or include in any directory of lodging accommodations, any rates offered by a place of public accommodation which does not provide guests with guest rooms furnished with televisions that display closed-captioning.

“(c) For purposes of this section, the term ‘place of public accommodation’ has the meaning given such term under section 5702(d)(2)(A).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chaper 57 of title 5, United States Code, is amended by adding at the end the following new item:

“5707a. Effect of television decoder requirements on establishment of rates and discounts for lodging expenses.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 year after the date of the enactment of this Act.

(c) PROHIBITION OF FEDERAL FUNDING OF CONFERENCES HELD AT NON-COMPLYING PLACES OF PUBLIC ACCOMMODATION.—

(1) IN GENERAL.—No funds may be provided by the Federal Government for the specified purpose of sponsoring or funding in whole or in part a meeting, convention, conference, training seminar, or any similar event that is conducted in, or that otherwise uses the rooms, facilities, or services of, a place of public accommodation which does not, upon request, provide guests with guest rooms furnished with televisions that display closed-captioning.

(2) DEFINITION.—For purposes of this subsection, the term “place of public accommodation” has the meaning given such term under section 5702(d)(2)(A) of title 5, United States Code (as added by subsection (d)(1)).

(3) EFFECTIVE DATE.—The provisions of this subsection shall take effect 1 year after teh date of the enactment of this Act.

SEC. 5. CLOSED-CAPTIONING REQUIREMENTS FOR PUBLIC SERVICE ANNOUNCEMENTS.

(a) IN GENERAL.—Each public service announcement which is sponsored by or funded in whole or in part by the Federal Government shall be closed-captioned.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 1 year after the date of the enactment of this Act.

SEC. 6. ASSERTION OF OTHER RIGHTS NOT PRECLUDED.

Nothing in this Act shall preclude any individual from asserting any right based on any Federal or State law not inconsistent with this Act, including any statute or ordinance requiring nondiscrimination by a recipient of Federal financial assistance or requiring nondiscrimination in places of public accommodation, or from pursuing any civil or criminal remedy which may be available for the vindication or enforcement of such right.

RECLAIMING HOUSING FROM DECAY, CRIME

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1988

Mr. AuCOIN. Mr. Speaker, I am delighted that the HUD appropriations conferees decided to give deteriorating neighborhoods a facelift, by including $20 million for the Nehemiah Housing Program. This money will help cities, including Portland, OR, begin to reverse neighborhood deterioration, decrease crime and provide more first-time homeownership opportunities for low- and moderate-income families.

Portland, OR, ranks fifth in the Nation for major crimes. Seventy-five percent of those crimes are drug related. We've got whole blocks of abandoned houses, which are just magnets for drugs and crime.

In northeast Portland alone, there are 2,600 vacant houses and in some cases entire city blocks stand abandoned. Without this program, city of Portland officials estimate that they can only save 10 percent of the abandoned housing problem. This program drives the drug dealers out and bring the homeowners in.

The Portland Oregonian has been running a series entitled "Neighborhoods Under Siege." The series not only spotlights the problem of deteriorating neighborhoods, but also the deterioration of families and communities caused by the drugs, crime, and poverty that are as much a mark of these neighborhoods as are broken windows and empty lots.

I am inserting in the RECORD two of these Oregonian articles so my colleagues can see what it's like to walk through these neighborhoods.

The articles follow:

ABANDONED HOUSES BLIGHT NE COMMUNITY

(By Kathie Durbin)

The back streets of the King neighborhood reveal a Portland most residents never see—a Portland more closely resembling the shattered cityscape of Detroit than one of the nation's most livable urban areas.

On Northeast Grand Avenue just behind the King Early Childhood Education Center, five abandoned, boarded-up houses cluster in the short block between Northeast Alberta and Humboldt streets.

A huge blue derelict house, empty for at least a dozen years, looms at the corner of Northeast Prescott Street and Grand Avenue. Farther south, empty houses bear witness to the predations of drug addicts and transients who have removed doorknobs, pulled down light fixtures and taken anything that can be salvaged and sold.

At one house the central furnace vent has been removed, leaving a gaping rectangular hole in the floor. At another, blackberry vines grow through a window. Many houses bear the red stickers that indicate they have been posted by the city of Portland as dangerous buildings.

Edna Robertson, coordinator for 10 inner-Northeast neighborhoods for the city of Portland, has lived in the King neighborhood for 30 years. She believes outside property owners have contributed to the area's blight. "During that time that you could afford to get a house," she said, "absentee landlords were buying up houses as tax write-offs and putting no money into them."

Robertson spent 3½ months earlier this year conducting a "windshield survey" of abandoned buildings in the 11 neighborhoods she serves. She counted about 900 in all and 196 in the King neighborhood alone—by far the highest number in any city neighborhood.

Neighborhoods bordering King—most of them poor and predominantly black—also had high numbers of abandoned houses: 120 in Boise, 97 in Concordia, 92 in Eliot, 90 in Humboldt, 82 in Woodlawn, 61 in Sabin, 60 in Vernon. Only scattered low-income neighborhoods in other areas such as Errol Heights, Montavilla and Lents in Southeast Portland and St. Johns in North Portland have abandoned buildings in numbers approaching those levels.

Robertson's survey verifies the inventory recently compiled by the Portland Water Bureau, which counted at least 2,500 abandoned houses citywide based on the number of single-family houses in each city neighborhood that had their water shut off for at least six months.

The city of Portland is mobilizing to tackle the complex problem of abandoned housing. Two committees, recently merged under Mayor Bud Clark's office, are studying ways to turn the growing inventory of empty houses back into habitable dwellings. They are scheduled to make their recommendations to the City Council in September.

The abandoned hulks on the side streets of inner-Northeast Portland are a magnet for the crack dealers who set up shop in empty houses for a few hours or a few days with just a folding chair, then move on when the word gets out about their presence.

"To drive through some sections of Northeast Portland and see the large number of vacant and abandoned houses, to me it's a shame," said Capt. Tom Potter of the Portland Police Bureau's North Precinct. "When good people leave their houses, there's a vacuum and the vacuum is filled by a criminal element."

Attacking the city's abandoned-building problem is the job of the Portland Bureau of Buildings, and the city's dangerous-building ordinance, adopted in 1978, is its main tool.

Under the ordinance, it is a violation for a house to be left vacant for more than six months and allowed to deteriorate. Leaving a vacant house open is a violation of a separate nuisance ordinance, which is also aimed at property with high unmowed grass, garbage and debris.

If a building is posted as dangerous, owners have 30 days to apply for a building permit to make repairs. If they don't, another inspection is made and the case is referred to the city code hearings officer, William Shatzer.

Owners are required to repair dangerous buildings within six months after they obtain permits unless Shatzer grants an extension—which he does routinely the first time. He has the authority to fine owners up to $500 a day for non-compliance—but he said he rarely levies fines because most owners of abandoned houses aren't wealthy and he'd rather see them spend their money to fix up their property. He may also order a building vacated and demolished—which he does about 10 times a month.

The Bureau of Buildings has two inspectors to investigate complaints of dangerous buildings. In 1987, they made 1,816 inspections, including follow-ups on neighborhood complaints as well as repeat visits. As a result, 166 building permits were issued to do the required repairs, 99 demolition permits were issued and 65 houses were demolished—42 by owners and 23 by the city.

Doug Miller, the bureau's director of housing, said he could do more if he had more inspectors and a larger budget. But the housing section ran through its $160,000 demolition fund for dangerous buildings in April, with two months left in the 1987-88 fiscal year.

The city also has powers it doesn't use.

When the city does pay for demolition and charges the cost to the owner as a lien against the property, it seldom recoups the cost because it does not foreclose for delinquent taxes or assessments—a political decision the City Council made in the early 1970s after it received a torrent of negative publicity in a controversial foreclosure case. It doesn't exercise its powers of condemnation to acquire dangerous and abandoned buildings. And although it has authority to repair houses and bill the owners, it doesn't have the money or any assurance it could sell the properties if it did, said Margaret Mahoney, Bureau of Buildings director.

"We still have the general livability issue," Mahoney said. "We have to provide support for people who go back into some of these neighborhoods."

Multnomah County does foreclose on property, Shatzer said, but only after five years—and it usually doesn't go after property in inner-Northeast Portland because it considers it a liability, not an asset.

"There are properties in this city that have negative value, a value of less than zero," he said. "Not only can't you sell them, you can't give them away."

More aggressive enforcement of the dangerous-building ordinance would help, Miller said, but the city also has to consider that most neighborhoods don't want to lose housing.

So unless a house is dangerous enough to warrant demolition, it's likely to stand there, year after year, in a state of disrepair. Several abandoned houses in the King neighborhood have been posted two or three years in succession with no apparent response to repair orders.

"The problem with many of these is finding an owner who's willing to do the repair work," Mahoney said. "In some cases where property has changed hands repeatedly through land sales contracts, it's very difficult to find the owners."

Most owners of abandoned houses are what Mahoney calls "close absentee owners"—people who live somewhere in the metropolitan area, and own between 15 and 40 run-down houses that they bought cheap in the late 1970s when property values were on the upswing.

With the explosion of criminal drug activity and other problems in inner-Northeast, she said, "I've known responsible property-owners who are just exhausted. They don't know what to do with these properties."

CRACK EPIDEMIC RIPS AT FABRIC OF WEST COAST

(By Kathie Durbin)

Crack cocaine has focused a spotlight on persistent poverty, neighborhood blight and lack of opportunity for youths in low-income communities.

"Crack is definitely an enemy within our society that is ripping through our society," said Useni E. Perkins, president of the Urban League of Portland. "It feeds upon those who are disenfranchised and gives them a means for escapism. It serves as a crutch."

In cities up and down the West Coast, the crack epidemic has put pressure on police, neighborhood activists and political leaders to counter the crime, violence and physical deterioration of drug-infested communities.

Long-term solutions to the crack plague lie with parents, with the schools, and with city and business leaders willing to make tough choices about investing in low-income areas where crack has offered a road out of poverty.

In the meantime, ordinary citizens who live near drug houses are banding together in many cities to save their neighborhoods and salvage young lives. Some groups work closely with police; others keep their distance from the law so they can gain the trust of young drug dealers and help turn their lives around.

In Sacramento, Calif., when Los Angeles gang members moved into the southside Meadowview neighborhood and began selling crack cocaine in 1985, the 20-member Meadowview Improvement Association mobilized.

To the astonishment of police, its members enlisted young men with gang affiliations to help register voters and found them jobs at the state fair and in parks and recreation programs.

"If you talk to gang members and you continue to bug them, some of them will turn around," said organizer Barbara McFalls. "They need this kind of (job) experience to help them out when they go to court."

She helped persuade witnesses in a near-fatal beating to set aside their fears and testify in a court, resulting in the conviction of four gang members just this month. "So far we haven't had any retaliation (against) witnesses because we're getting the hard-core people off the street," McFalls said.

She and her neighbors have worked with the city and school district to keep school gyms and swimming pools open all summer, and they've put pressure on owners of low-income rental houses to screen out drug-dealing tenants. Through the association's efforts, gang drug dealers have stopped selling crack openly outdoors and moved inside.

But citizens can't accomplish much without support from their elected representatives, McFall said. "I feel if the city officials don't look after the areas they represent, they'll become little ghettos," she said. "That's what we're trying to prevent."

Sections of some California cities already have been claimed by violent crack-dealing gangs. In some areas the problem is so entrenched that it is difficult for ordinary citizens to do much on their own.

In San Francisco, where crack dealers have virtually taken over some public housing projects and made parents fearful of allowing their children to play outdoors, residents of the Sunnydale project on the city's southeast side have called for housing officials to stem the trade by filling vacant units in the projects, screening new tenants, issuing parking stickers and evicting dealers.

In Los Angeles County, where more than 165 persons have died this year in violence attributed to street gangs, black ministers last week took the initiative in bringing together leaders of the Bloods and the Crips—the two most notorious gangs—in talks aimed at ending the violence.

SEATTLE RESPONSE

In Seattle, which has recorded seven gang-related murders in the past two years, concerned citizens and business owners formed the South Seattle Crime Prevention Council in January to fight drug-related crime in an area from Lake Washington to Interstate 5. Their main tactic is a hot line to encourage reports of suspicious behavior, including drug dealing and prostitution.

Kay Godefroy, the council's half-time director, estimates the area has more than 50 crack houses, operating primarily out of rental houses. She turns in phone reports weekly to the Seattle Police Department's South Precinct and gets follow-up reports on action taken to deal with problems, including such confidential information as when undercover drug buys are made and when search warrants are served.

People call the hot line because they want to remain anonymous or because they mistrust police, Godefroy said. Since the hot line began operating in late February, she said, it has received about 900 calls, "calls that weren't being made before."

"Eventually what evolved was our plan for the police to work more efficiently for us, which was fairly presumptuous," she said. "We set priorities. The police do more drive-bys in those areas."

In exchange, she said, the council recognizes an "officer of the month" each month through the Rainier Valley Chamber of Commerce.

Godefroy said the program had paid off already in reduction of drug-related crime. Burglaries in South Seattle were down 23 percent in the first quarter of 1988 compared to the same period in 1987, while burglaries climbed 20 percent citywide. Similarly, car thefts dropped 18 percent in South Seattle while they increased by 29 percent for the city as a whole.

While citizens grapple with the fallout from the drug trade on the streets of their neighborhoods, police and prosecutors are devising new ways to arrest and convict sophisticated and highly mobile crack dealers.

Seattle police, in cooperation with federal drug agents and prosecutors, have acted aggressively to put pressure on Los Angeles gang members who import crack to the Puget Sound area. Police there say they have slowed the influx of drug dealers by using stiff federal drug-possession and weapons laws and a statute that makes it a felony to sell narcotics within 1,000 feet of a school, and by arresting suspected gang drug dealers at the city's entry points.

In Sacramento, police have switched to 9mm semi-automatic weapons so they can match the firepower of crack-peddling gangs. In addition, the city is using "red-light abatement" laws to force landlords to shut down crack houses or risk having their property padlocked by police.

On the East Coast, where scores of young crack dealers from New York have invaded Washington, D.C., over the past year to tap a lucrative market, police have launched an interdiction effort to catch the drug importers. About 140 New York youths under 18 have been brought to D.C. Superior Court on drug charges since last summer.

In New York, police have all but conceded the fight to wipe out crack houses. Intense sweeps of the worst drug streets and buildings, followed by months of harassment aimed at uprooting entrenched crack dealers, have succeeded mainly in driving dealers to less familiar streets.

PORTLAND EFFORTS

Portland police, prosecutors and community activists are coming at the crack crisis from various directions but with limited success so far.

Capt. Tom Potter, commander of the Police Bureau's North Precinct where most of the city's crack is bought and sold, said police could do only so much.

"It's not just a police problem. It's a community problem," Potter said. "The police do the job of society that society should be doing for itself. I think the reason drugs are here is because people allow them to be."

Potter believes responsibility is the key: parents' responsibility for their children, citizens' responsibility for their community. "I'm no raving conservative," he said, "but I see what happens when people don't take responsibility for their own lives."

Still, police agencies in the Portland metropolitan area have mobilized against the crack trade. North Precinct's street crimes unit raided more than 65 suspected drug houses this year before it was transferred to the gang unit July 15. The Organized Crime Narcotics Task Force, which draws its members from city, county, state and federal police and drug enforcement agencies, has nabbed several major cocaine suppliers. And the U.S. attorney's office in Portland brought its first two prosecutions against suspected gang-affiliated drug dealers last month, using a federal law that prohibits distribution of illegal narcotics within 1,000 feet of a school.

Portland's highly touted drug-house ordinance has persuaded several landlords to evict drug-dealing tenants, board up their houses or change the locks.

Neighborhood efforts against the crack trade so far have been small-scale and ad hoc, focusing on violence, noise, traffic and blatant street dealing. Crime prevention specialist Sharon McCormack says the hardest-hit neighborhoods are also the poorest, have the fewest owner-occupied homes and are least likely to have strong formal neighborhood watch programs.

In the business community, merchants on a strip of Northeast Alberta Street where drug dealing is especially blatant are working to get better street lighting and have succeeded in getting some pay-telephone booths altered to allow only outgoing calls so they can't be used to arrange drug deals.

The King Neighborhood Facility has become a kind of staging area for activities aimed at gang-related drug dealing and violence. Housed there are a Gang Hotline that keeps busy with calls on suspected gang activity, and the 55-member Youth Gangs Task Force, a panel of school, juvenile-justice and police representatives seeking to dim the allure of money and status that gangs offer to black youths who see few other options. The King facility also is headquarters of the Northeast coalition of Neighborhoods, which has demanded crisis-level action by the city to reduce gang violence and drug-dealing.

The newly formed Coalition of Black Men, which meet Saturdays at the community center, staged a march and rally through inner-Northeast Porland July 16 and declared its intention to strengthen the black community by providing positive role models for black youths.

Still, those are long-term solutions to what is a very immediate problem on the streets of Portland neighborhoods. Street drug-dealing shows no sign of abating, and the frustration of law-abiding citizens about the situation is growing.

"This is a black neighborhood," said Robin Mayfield, a painting contractor who worries about the area's future. "Downtown they really don't care unless we get up in arms and demand more police enforcement."

Perkins said Portland's crack problem had forced city leaders to take a belated look at what was happening to their inner city, if only for political reasons in this mayoral election year.

They cannot ignore a problem forever, especially when you begin to have the shootings and other violent incidents that have taken place," Perkins said. "You have an aroused community. The city government is reacting to a community response that was always there but is more vocal now. It's a national problem; Portland can't hide it anymore."

SENATE—*Friday, August 5, 1988*

The Senate met at 8:30 a.m., and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *Blessed be the name of God for ever and ever: for wisdom and might are his: and he changeth the times and the seasons: he removeth kings, and setteth up kings: he giveth wisdom unto the wise, and knowledge to them that know understanding:* * * *—Daniel 2:20, 21.

Sovereign Lord of history and the nations, we pray for the Senators running for reelection. Thou knowest the tensions inevitable between campaigning and business as usual in the Senate. Thou knowest the ambivalence inescapable in delicate decisions when voting against conscience for the sake of constituent approval is so compelling. Give wisdom to those who direct their campaigns—give the Senators special persuasiveness in speech—hold them to truth—and provide wherever needed adequate campaign funds.

We pray in His name through whom Thou dost promise to supply all our needs according to Your riches in glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 5, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the acting majority leader is recognized.

Mr. **ROCKEFELLER**. Mr. President, I ask unanimous consent that the time of the majority leader and the minority leader be reserved for their use later in the day.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

WHY WE MUST STOP THE TECHNOLOGICAL NUCLEAR ARMS RACE

Mr. **PROXMIRE**. Mr. President, consider the widely held belief that peace and safety come from keeping our nuclear weapons technology ahead of the Soviet Union. Both the United States and the U.S.S.R. talk loudly about nuclear arms limitations. We even negotiate sensible nuclear arms treaties like the Intermediate Nuclear Force [INF] Treaty of 1988. But, meanwhile, with little fanfare, both sides continue to spend billions of dollars every year to build ever more lethal and accurate nuclear weapons. In the next few years, the INF arms control treaty will eliminate intermediate nuclear weapons from the Soviet arsenal and the United States nuclear arsenal. That will constitute a roughly 4-percent cut in nuclear weapons. But, meanwhile, the nuclear weapons technology races on. We have no present limit on the intercontinental nuclear missiles. Ah, but isn't the Strategic Arms Limitations Treaty [START] being negotiated right now between the superpowers? And isn't that treaty expected to reduce nuclear weapons on both sides by a drastic 50 percent? That's true. So, what happens then? What happens with the continued advance of nuclear weapons technology? What happens is that any negotiated nuclear arms reduction will be counterbalanced by more devastating future nuclear arsenals. That advancing weapons technology will more than compensate for the 50-percent reduction in numbers of strategic nuclear missiles negotiated by START.

As of this moment, nuclear weapons experts, such as the top scientists who are members of the National Academy of Science, tell us that if only 1 percent of the present Soviet nuclear arsenal should strike American cities, we would instantly suffer the loss of between 35 and 55 million dead Americans. What does this mean? It means this: no conceivable defense could stop 99 percent of the Soviet nuclear warheads from finding their targets. And no matter how successful scientists may be in developing defenses against nuclear attack, both sides will, usually at far less cost, research, develop and deploy an offensive nuclear capability that will penetrate the defense and devastate their targets. Ironically, the very defensive technology designed to defend against missile attack will be easily turned to offensive purposes.

To date, regardless of arms limitations or arms reductions treaties, both sides have poured increasing billions into the arms race. Both sides will continue to do this until we strike at the heart of this recklessly spendthrift spending by negotiating an agreement to stop the technological nuclear arms race. We must find a way to agree not to pour our economic and especially our scientific resources into building ever swifter, more accurate, surer-to-penetrate nuclear weapons.

It is the illusion that, if only we can win the technological nuclear arms race by building constantly superior devastation into our nuclear weapons, only then can we prevent the holocaust. Why is this an illusion? Because the new speed of light weapons with their great complexity will very likely require instantaneous reactions. They will probably be much more accident prone and unstable. Technology will also, as time goes on, make these weapons cheaper, very likely so much cheaper that a score of nations can afford them. Imagine a world in which cheap energy directed laser beams from Syria, or Libya could in a fraction of a second wipe out the Capitol, the White House, the Pentagon, and a score of major American cities.

Impossible? Maybe. But this is the nightmare world that unrestrained nuclear technology could be racing toward. This is why treaties simply reducing the number of nuclear weapons is not enough. Here is why enforceable agreements to stop nuclear weapons testing and to slap a tight cap on the nuclear weapons technology arms race is quintessential.

SOVIET JEWRY

Mr. **ROCKEFELLER**. Mr. President, I rise today in support of the congressional call to conscience on behalf of Soviet Jewry. Despite the advances made by the policy of glasnost and General Secretary Gorbachev's economic and political reforms, there are still many thousands of Jews trapped in the Soviet Union against their will. In a recent Newsweek article on growing religious freedom in the U.S.S.R., Judaism was conspiciously absent. Indeed, Soviet Jews have no national body and no schools to train rabbis or cantors. They are allowed no contact with Israel. There are only 100 synagogues across the Soviet Union for 2½ million Jews. There are only two ritual slaughterers in the country, making it almost impossible to keep kosher. Jews are not allowed to study the "Torah" in Hebrew.

As a member of the Finance Committee's Subcommittee on Health, I am especially interested in health care, and I find it shocking that many of these refuseniks are denied needed medical attention. One refusenik, an elderly man of 81, has been trying for 12 years to join his only daughter in Jerusalem. He has Parkinson's disease, which can be regulated with proper attention and medication. But Soviet authorities have, incredibly, denied this man the necessary basic medical care.

Another individual with multiple health problems has applied to emigrate nine times since 1979 and has been rejected each time. This refusenik has undergone surgery twice for rectal cancer, has had two heart attacks, has chronic high blood pressure and has suffered from diabetes for 15 years. He cannot get proper medical supplies and medication for his illnesses. He lives a daily existence in agony without the use of colostomy bags which the Soviet Government denies him.

Mr. President, is this the same government that professes to have made such strides in human rights? At the same time as we are beginning to see some degree of economic and political enlightenment, refuseniks continue to suffer from both physical and mental pain as part of their daily life. Their oppression by the Soviet Government continues. Although the plight of this small minority may seem distant to many Americans, we Members of the U.S. Congress must continue to champion their cause.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

DR. FREDRICK F. CHIEN

Mr. WALLOP. Mr. President, I wish to add my voice today to those of my colleagues who are commending the record of Dr. Fredrick F. Chien, Representative of the CCNAA. Dr. Chien will leave Washington for Taipei, Taiwan, on August 12. He is my friend. He is my country's friend. He will be sorely missed here by all who know him.

Fredrick Chien is a close student of American culture, economics and political affairs. He received his masters and doctorate degrees in the United States. He has been immersed these past several years in economic matters, primarily trade issues involving the United States and Taiwan. He knows the workings of a free republic, not only from his experience here, but in his strong support for the fast pace of social and political liberalization that is taking place in modern Taiwan.

During his nearly 6 years of service in Washington, Fred Chien has done much to promote a deeper and stable relationship between his country and the United States. It was not an easy task. A rocky situation existed immediately after President Jimmy Carter abandoned our alliance of relations with Free China opened a new relationship with the 1 billion Chinese of the People's Republic of China by moving the U.S. Embassy to Beijing. Dr. Chien owes the existence of his office since 1979 to the Taiwan Relations Act, a creation mainly designed by Congress, but signed by President Carter in April 1979. That statute provided for the operation of continued, close relations between Taiwan and the United States under the auspices of the American Institute in Taiwan [AIT] and the Coordination Council for North American Affairs [CCNAA]. Dr. Chien has taken the opportunity offered by the TRA and, in the period from January 1983, when he was appointed Representative of the CCNAA, until now, he has helped mold that law in practice into the conerstone of friendly and solid ties between the two countries, even though the Republic of China on Taiwan no longer enjoys formal diplomatic relations with our Government. One example of these contacts is the conclusion of over 40 agreements through the AIT and CCNAA on subjects and with the use of language that "smell, feel and taste" like formal international agreements.

Needless to say, the question of how technically unofficial contacts will be conducted with another nation presents sensitive and unprecedented problems for any individual attempting to properly implement such a unique law. Dr. Chien has wonderfully succeeded in that task. Perplexing issues of military sales, trade frictions, and human rights have been resolved amicably and satisfactorily between the United States and Taiwan during recent years thanks in great measure to the contributions made by Dr. Chien.

With his knowledge and understanding of the American position and his ability to explain and present his government's policies to American leaders, Dr. Chien has helped remind U.S. negotiators, American business, and the American people of the mutual benefits of close and friendly United States-Taiwan relations. For example, two predominately free market economies and freedom loving peoples have every reason to follow a course of cooperation rather than rivalry.

In this spirit, I believe Fred deserves great credit for encouragaing Taipei to relax duties earlier this year on more than 3,500 import items and to allow the new Taiwan dollar to appreciate by over 40 percent since mid-1985. This is not to say that all trade issues are resolved, but that Dr. Chien's calm and realistic approach has contributed to progress in the area.

Mr. President, Fred and Julie Chien have been welcome in Washington and will be missed by all who knew them. I convey my wishes to them both for a successful future. God's speed, Fred and Julie—your country and ours will benefit from your new position. So even as we bid you farewell, we say thank you, and we will work with you toward ever greater, ever more cordial, ever more productive relations between our countries.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DR. FREDRICK P. CHIEN, REPRESENTATIVE OF THE COORDINATING COUNCIL FOR NORTH AMERICAN AFFAIRS' OFFICE IN THE UNITED STATES

Mr. HATCH. Mr. President, I wish to take this occasion this Friday morning to make a statement on behalf of a great world leader.

I rise this morning to pay tribute to a great foreign diplomat serving in our land. This gentleman represents a country which has been encumbered in its ability to do its business of state in the United States. This, because of a hasty, unnecessary and, as time has shown, embarrassing action taken by the United States in 1978.

Of course, I speak of Dr. Fredrick Chien, the distinguished representative of the Coordinating Council for North American Affairs' Office in the United States. Dr. Chien will leave the United States to serve as Minister of State and Chairman of the Council for Economic Planning and Development.

Known to all of us throughout the Washington community as "Freddie," Dr. Chien is the Ambassador ex officio from the Republic of China. I wince, Mr. President, when I am compelled to refer to Taiwan's Embassy as the "CCNA." My embarrassment, on behalf of all Americans, becomes acute when I am further compelled to accord Freddie less than this full diplomatic status and courtesies enjoyed by other Ambassadors in the United States.

But, Mr. President, I am encouraged when people and leaders of the Republic of China, despite this awful humiliation, find in their hearts the forgiveness and understanding that allow them to treat Americans with such grand generosity and kindness.

It is entirely fitting that a person of Dr. Chien's stature would be chosen to represent this magnificent nation. Dr. Chien is not only a product of the finest qualities of his national culture, he is also a man of tremendous vision for the future of his country—despite its uncomfortable place in a world that our acts of a decade ago have made still more difficult.

Allow me then, to tell you more about Dr. Chien. In the nearly 5 years that he has served in the United States, we have come to know him well.

Dr. Chien straddles the past and the future. He takes a deep bow to the past, and to the China that he and his family have served as distinguished public servants for many generations. Yet, with uncommon grace, he will swing around, giving a snappy salute to the future. Dr. Chien derives great strength from his heritage, like so many of his countrymen. Mr. President, it is a humbling experience to witness Dr. Chien's unbounded confidence in his country's future. And it is certain that this faith is rooted in the acknowledgement of the almost incredible obstacles that Taiwan has overcome in its nation building process.

Mr. President, there is something I must ask: How does Taiwan thrive, yet alone survive, in such a climate of indifference, and sometimes hostility?

I would like to let Dr. Chien answer this question for his nation. I refer to his own words:

> At a time when most countries are advocating a pragmatic approach in international dealings, we are the country that still attaches great importance to the time-honored moral standards of principles, righteousness and justice.

Obviously, we expect this standard of behavior from a nation founded by Dr. Sun Yat-Sen. Indeed, Taiwan's international behavior is guided by a code that is very much like the three principles which form the constitutional foundations of Taiwan: Nationalism, democracy, and the common welfare of the people.

Parenthetically, Mr. President, I need hardly dwell further on the extent to which Taiwan has assured the welfare of its people. Nor must I say much more about its nation-building commitment. However, I do find it necessary to remind all Americans of the recent selection of Dr. Lee Teng-Hui as President of the Republic. President Lee was born in Tamsui, on the island of Taiwan. His elevation to the Presidency effectively and forever legitimizes the integration and the enfranchisement of native Taiwanese into the leadership of this great nation.

Let me turn the page back to Taiwan's international presence. And let me focus on two relationships that we enjoy with Taiwan. After all, the purpose of my remarks today is to honor the way that Dr. Chien has enhanced this relationship.

First, I want to review our strategic relationship with Taiwan. And let me refer to Dr. Chien's warning of the perils of excessive "pragmatism" in international relations. It is an interesting sidenote, Mr. President, that Dr. Chien studied international relations at Yale University, from which he received his doctorate in that field.

Dr. Chien would remind us that friends remain friends. He, therefore, regretted that so-called exercise of the China card, an act that led us to denigrate and old friend, Taiwan.

Many have felt that had to be and, of course, many are proud that we have at least started down the pathway of having a decent and good relationship with the People's Republic of China. But, at what cost?

In many ways, the month of December has two "infamous" days, the other being December 15, 1978, when President Carter, without consulting the Senate, announced his decision to end the 1955 American-Taiwan Mutual Defense Pact.

That act, Mr. President, examined in retrospect, seems to vindicate Dr. Chien's caution. I find myself agreeing with Prof. Chalmers Johnson who, writing in the fall 1984 issue of Foreign Affairs, said:

> Most *independent* [and I emphasize the word "independent"] American analysts are prepared to admit that the United States can expect little more from the PRC than it has already received in terms of a counterweight to the Soviet military buildup in East Asia.

It was not until after the Carter era, after we had had enough international humiliation, that we again turned to still another principle that the Taiwanese had long practiced—that peace comes from strength and will necessarily deter conflict.

After the renunciation of the Taiwanese defense pact, Taiwan did not stop dead in the water. As Dr. Chien said, looking back on that awful period:

> The setback of the U.S. diplomatic break was only temporary. * * * We are a Nation growing more confident by the day. We are growing stronger politically and economically. Our enemy is weak but dangerous. Social disorder afflicts the mainland as the people's hunger for a better life grows stronger.

Mr. President, let me now turn to our economic relations. The economic "miracle" of Taiwan has produced many benefits. From a strong economy emerged a strong defense. Its economy continues to be a model for the People's Republic of China. The Republic of China's economic strength has fulfilled one of Dr. Sun Yat-Sen's three principles: assuring the common welfare.

It is important for regional, if not global peace, Mr. President, that Taiwan's economic strength may underwrite the longtime goal of all chinese: reunification. Indeed, reunifying China under the three principles of the people was the legacy and last testament of the late President Chiang Ching-Kuo.

For Dr. Chien, Tawian's economic recovery has provided still another opportunity for his nation to demonstrate its commitment to justice in foreign trade.

Taiwan has been embarrassed by its success. Dr. Chien has tried to mollify the impact of Taiwan's substantial surplus in its American trade. And he has done this in a way that invites a competitive response from the United States.

First, Dr. Chien has repeatedly encouraged U.S. firms to be more aggressive in entering the Taiwanese market, even offering preferential treatment on the sales of such products as business information systems, manufacturing process controls, scientific instruments, and home appliances.

And, Dr. Chien has reminded us of his Government's "buy American" efforts. This has meant preferred American access to construction contracts for rapid transport systems, harbors and medical complexes.

Although I applaud these efforts, I would be more happy if such efforts were successful in creating greater business opportunities with my home State of Utah, expecially since Utah is such a strong supporter of Taiwan.

Dr. Chien has also been instrumental in getting his Government to lower tariffs on agricultural products, as was done this April. And he has further allowed American law enforcement agencies to cooperate with Taiwanese officials in controlling copyright piracy, long a contentious issue between our countries.

Dr. Chien has taken steps to find out why American business does not interest itself in doing business in Taiwan. He has concluded that we tend to think of Taiwan as "too small." He evidenced this conclusion with a survey of 2,000 firms in New York State. Only 15 responded to the Taiwanese offer to provide more information on their markets.

Mr. President, from this detailed review of Dr. Chien's distinguished service in the United States, it becomes apparent that he will be genuinely missed. But it is no surprise that his nation recognizes his talents. The new President, Dr. Lee, has decided to position him to contribute to the enhancement of Taiwan's stature among the family of responsible nations. I know that all in the U.S. Senate, as well as many other Americans, will join in this farewell message.

I want to personally express my personal friendship and regard for Dr. Freddie Chien and wish him the best and let him know that many of us will look forward to seeing him in his country and look forward to having him come and visit us from time to time and continue to keep the great relationship we have established with this truly great international human being.

DRUNK DRIVERS

Mr. REID. Mr. President, while in Los Angeles recently, I had occasion to read the Los Angeles Times. I was only in the city for a short time, but it seemed that every day I picked up the paper, I would read the tragic story of a yet another family being devastated by a drunk driver. This morning, Mr. President, I would like to direct the Senate's attention to one particular story which appeared in the July 15 issue of the LA Times, and a second one which was published just 3 days ago.

The first story is titled "Man Learns of Family Tragedy on Phone Answering Machine," and I would like to read a portion of it into the RECORD this morning.

> His son's panicked, but brief, cry for help on the family's telephone answering machine was what Bill Cramer of Glendale went home to late Wednesday night.
>
> When he had left for a meeting three hours earlier, he had said goodbye to his wife, Valerie, 32, and daughter, Brianna, 9, who were heading out for a walk with his son, Billy, 11, and two neighbors.
>
> When he got home, his house was empty. "Normally, Valerie would come running over and give me a kiss," Cramer said Thursday, "but there was nothing." Then he turned on the answering machine and heard his son's voice.
>
> "I started crying," Cramer said. "I ran out of the house and my father caught me. He said it was very, very bad."
>
> Shortly after 8:30 p.m. Wednesday, the three Cramers along with neighbors Patricia Carr, 36, and her daughter, Karen, 6, were waiting on a median strip in a Glendale intersection to cross the street when a suspected drunk driver lost control of his car and plowed into them.
>
> Both of the Carrs and Brianna, called Breezy by her family, were killed instantly. Valerie Cramer was taken to a nearby hospital where she died a short time after. The only survivor, Billy, suffered a broken hand.

Mr. President, Bill Cramer picked up his son at the hospital and brought him to his parents' home, a short distance from his own. Upon arriving at his grandparents' home, the young boy's first comment was "Daddy, have you called to see how mom is?" to which Cramer replied, "Billy, you have to be real quiet. You have to listen to daddy real carefully, Breezy and mommy have gone to heaven." The elder Cramer then related that it was at that moment—a moment in which he had to explain the tragedy to his surviving child—that Cramer himself understood they were gone forever.

In 1986 alone, the families of 24,000 other victims had to come to grips with the realization that their loved ones would never return. Many to this day still mourn the loss of their husbands, wives, daughters, and sons. In the 21 days that have passed since the story about the Cramer family appeared in the Times, almost 1,500 other drunk driving fatalities have occurred.

One of these 1,500 needless deaths is the subject of the second story. In Tuesday's LA Times there was an article about Actor Trinidad Silva. Silva was killed and his wife and infant son injured when a drunk driver ran a red light and smashed into the side of Silva's truck. The force of the crash hurled Silva more than 100 feet from the vehicle, killing him instantly.

Commenting on the death, a friend and fellow actor said, "It is truly sad that a life of this magnitude would be taken so tragically."

Mr. President, these are but two isolated examples from one city in the ongoing horror of drunk driving. In another 22 minutes, another family somewhere in the United States will be added to the growing list of lonely survivors, and another "life of magnitude" will be lost. Clearly, this is not simply a Los Angeles problem or a Las Vegas problem—it is a national problem, and it requires a national solution.

Those closest to the problem—the families of the victims—are appealing for help. Bill Cramer himself said:

> If nothing else comes out of what happened, I hope the lawmakers or somebody responsible will do something to make it ugly for people who drink and drive.

Mr. President, this issue is not going to go away. We cannot let it go away. I will not let it go away. I am going to continue to remind the U.S. Congress that we have a duty to address this national problem. We have the duty to come up with a national solution to a national disgrace.

We, as Members of the Senate, as Members of this Congress, have an obligation as well as an opportunity to end this ugly situation.

There are a number of alternatives, but S. 2367, a bill that was recently reported out of the Environment and Public Works Committee, is one in a series of measures that can reduce the number of deaths on our highways caused by drunk drivers. I urge my colleagues to join me in the effort to remove drunk drivers from the road and thus reduce the number of people who will feel the shock, pain, and grief that Bill Cramer felt as he listened to his son's voice on the answering machine on July 15.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TRIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DR. FREDRICK CHIEN

Mr. TRIBLE. Mr. President, I rise to honor an able and outstanding diplomat, Dr. Fred Chien, who has served since 1983 as the emissary of the Republic of China on Taiwan.

For the past 5 years, Fred has been an eloquent and articulate spokesman for a stronger bond between Taiwan and the United States. He has nurtured the strong defense relationship between our two countries.

He has also been a forceful advocate for stronger economic ties between America and Taiwan. He was especially helpful in establishing a sister-city relationship between Bristol, VA, and the city of Kaohsiung in Taiwan. This kind of relationship will promote jobs and economic opportunity in Virginia and will benefit the people of Taiwan as well.

In every respect, Fred Chien has been the consummate diplomat. He has also, however, been deeply involved in developments at home.

Great changes are taking place in that country. The political landscape shifted dramatically with the passing of the late President, Chiang Ching-Kuo. The democratic reforms are underway, and Fred Chien has been an advocate of those reforms every step of the way.

Just last week, I had the honor of meeting two members of Taiwan's provincial assembly—Lin Hui Wang and Cheng Feng-Shik—who are husband and wife. They are very much symbols of the new, more democratic Taiwan. And Fred Chien is very much a supporter of democratization in that land.

Because of his leadership, in Washington and at home, the Taiwanese people today are freer, more prosperous, and more secure. Fred Chien has made the special relationship between Taiwan and the United States even more special.

I regret that he will soon depart the United States. I will miss him, and I know that Taiwan will miss his presence here. But as he moves home, he is also moving into a position of greater authority and prestige. Fred has been asked to serve as Taiwan's Minister of State, and Chairman of the

Council for Economic Planning and Development.

I have no doubt that Dr. Chien will excel at that task, as he has during his stay in the United States. I wish him and his wife Julie well.

I yield the floor.

TRIBUTE TO DR. FREDRICK CHIEN

Mr. DASCHLE. Mr. President, it is with great pleasure that today I join my colleagues in paying tribute to Dr. Fredrick Chien, a fine and honorable diplomat for the Republic of China of Taiwan, who is returning back to his home country after a distinguished career in the United States. Dr. Chien was recently appointed Chairman of the Council for Economic Planning and Development for Taiwan and will be leaving on August 13 for his new position.

Dr. Fredrick Chien has ably served as Chief Representative for the Coordination Council for North American Affairs [CCNAA], the unofficial Embassy of the Republic of China on Taiwan in the United States, for over 5 years. Throughout his tenure in Washington, Dr. Chien has done a tremendous job of promoting a better trade relationship and cultural understanding between Taiwan and the United States.

I consider Fredrick Chien a good friend. No one has worked harder than Dr. Chien to successfully strengthen the relationship between our countries by working with every level of government. In addition, he has reached thousands of American citizens through his travels around our Nation giving lectures at universities and speeches at business meetings.

Mr. President, during Dr. Chien's service at the CCNAA, he has proven his abilities as an eloquent spokesperson for his country and has been instrumental in shaping his country's policies. In his new cabinet position, Dr. Chien will have an even greater opportunity to serve his country. I am confident that while he will ensure economic growth and stability within his own country, he will continue to work toward reducing trade conflicts between our countries.

Dr. Chien deserves a great deal of credit for the relaxation of duties on more than 3,500 import items in his country and the appreciation of the new Taiwan dollar by over 40 percent since 1985. Although there are still many unresolved trade issues between Taiwan and the United States, it appears that the large trade surplus enjoyed by Taiwan in recent years is now beginning to follow a trend of steady decline. I am sure that as Chairman of the Council of Economic Planning, Dr. Chien will continue to move his country in this direction. These efforts will help to develop an even closer relationship between the United States and the Republic of China on Taiwan.

In closing, Mr. President, I wish Dr. Fredrick Chien and his wife, Julie, best wishes on a bright new future.

COMMENDATION OF DR. FRED CHIEN UPON HIS RETURN TO TAIWAN, REPUBLIC OF CHINA

● Mr. SYMMS. Mr. President, next week my good friends, Fred and Julie Chien, will return to Taipei. Fred will take an important new assignment as Minister of State and Chairman of the Council of Economic Planning and Development for the Republic of China. I know that many of my colleagues know Fred on a personal, as well as professional, level. All who have worked with him will miss Fred's wit, charm, and professionalism. I, for one, am sorry to see him go, but I know the Government of Taiwan will be well served by placing Fred in that cabinet-level position.

Fred Chien will bring to this new calling all his recognized qualities of dignity, intelligence, professionalism and vision that have marked his past record in several difficult activities. Fred has held the sensitive post, for example, of English language interpreter to the late President Chiang Kai-shek, and later he served as Vice Minister of the Ministry of Foreign Affairs.

Like his father, who passed away a few years ago, Fred is a scholar. Father and son each were university professors, his father having been head of the Academia Sinica, the foremost scholarly research institution in Taiwan. Fred himself holds masters and doctorate degrees from the Yale School of International Relations.

It is fair to say that during his service as representative of Taiwan, Dr. Chien has proven to be an eloquent spokesman for his country and has generated a great deal of goodwill toward it. Fred's public speeches are not only well informed, he never seems to give the same one twice.

Those who have heard Fredrick Chien talk either at informal gatherings or public events are ever impressed at his ability to use the latest statistics, the most current world events, and a new insight or point, in his talks.

Ever the gentleman, he patiently describes the growing new importance of the Pacific Rim region to the United States and stresses the mutual benefits of friendly United States-Taiwan relations. He is so successful at this that Members of Congress who were in the House or Senate in 1979 and can remember the pains with which we crafted the Taiwan Relations Act might see Fred Chien as the living embodiment of congressional design to preserve lasting contacts with a people whose government had just lost official recognition by the United States.

Further, I would suggest that Dr. Chien is symbolic of the newly industrialized, newly democratized economy and society on Taiwan. Wave after wave of progressive reforms have occurred in Taiwan since Fred Chien took office in Washington in January 1983. Martial law under the emergency decree of December 10, 1948, was repealed. The system of newspaper restrictions has been deregulated. Pluralist political parties have been formed and their candidates elected to public office. Foreign exchange controls were lifted. Several trade barriers have been dismantled. And, at long last, a plan of parliamentary reform has been approved by the majority Kuomintang Party.

I have been to Taiwan twice during my time in Congress. It is a nation of hard working, educated people with a deep reservoir of goodwill toward the U.S. Government and the American people. I know the ties between our two nations will be strengthened throughout Fred's tenure in his Government. I wish him and Julie, Godspeed.●

FORMULATION AND IMPLEMENTATION OF CENTRAL AMERICAN REGIONAL ECONOMIC DEVELOPMENT AND RECOVERY PROGRAM

Mr. SANFORD. Mr. President, on behalf of Central Americans, we can hand to the next President of the United States their plan for their own future, a plan which can be the heart of our foreign policy for Central America.

Mr. President, this resolution is a signal to Central America that the United States wishes that region free of conflict and on the way to stable democratic governments.

But it is more than that. This resolution strongly encourages the five signatories to the Esquipulas accords to produce their own plan for regional development.

In this troubled region, Mr. President, there is great talent and great aspiration for better conditions for its people. There is also great opportunity for a better future.

In the spirit of this resolution, an extraordinary commission, led by Central Americans, has been at work for 18 months. It is made up of 45 members from 17 countries including Europe, Latin America, and North America. It has conducted extensive research and held detailed deliberations on its way to producing recommendations that are preciously in accord with this resolution.

With this resolution, the United States looks to a time when democracy unleashes the energy and productive capacity of 26 million people, brings them out of perennial conflict and takes them into creative and responsive societies.

It is most important to recognize that this resolution insists that regional development be devised by the people and the leaders of the region. And it calls on the developed nations of the world to assist in the implementation of the plan.

Mr. President, this resolution is in the tradition of the historic U.S. policy that enabled Europe to recover from the ravages of World War II. That is a tradition of which we can all be proud. Mindful of the differences between Central America and Europe, the same kind of approach can once again lead to the economic health of a region that need not be caught in poverty and despair.

Mr. President, I send forth a technical amendment and ask unanimous consent that it be in order and be considered when Senate Concurrent Resolution 63 is called up for a vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. I thank it can be accepted by unanimous consent.

The PRESIDING OFFICER. The amendment will be reported at 9:30 under the previous order.

Mr. SANFORD. The amendment, I might say for anyone listening, simply adds Belize to the Central American countries that want to be involved.

Mr. President, I thank the Chair. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. I ask unanimous consent that the time for morning business be extended by 2 minutes.

The PRESIDING OFFICER (Mr. GORE). Without objection, it is so ordered.

DR. FREDRICK CHIEN

Mr. KASTEN. Mr. President, I would like to take this opportunity to join my colleagues in honoring Dr. Fredrick Chien, who is completing his distinguished tour of duty as United States Representative of the Republic of China's Coordination Council for North American Affairs.

Dr. Chien has done an excellent job in promoting strong, person-to-person ties between our two countries. He reminds us continually that our two countries share a great common inheritance: The spirit of freedom that moves ever forward, until it is fully realized in all areas of life.

Dr. Chien has acted with great sensitivity to American concerns, and provided a lot of help to those of us who are friends of the Republic of China. It has been my great pleasure to work with Fredrick Chien, and to know him as a resource, as a diplomat, and as a friend. I know my colleagues will join me in wishing him all the best as he returns to Taipei—and plays what I am sure will be an ever larger role in building his nation's future.

Mr. President, I ask unanimous consent that a biography of this distinguished gentleman be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DR. FREDRICK F. CHIEN—REPRESENTATIVE OF THE CCNAA OFFICE IN THE UNITED STATES OF AMERICA

Fredrick Chien believes that China's long history proves human efforts can surmount any obstacle. He is determinedly optimistic that the 1980s will favor the cause of the Republic of China.

In January 1983, Dr. Chien was appointed Representative of the CCNAA, Office in the United States of America. Since then he has been most active in calling on prominent American leaders, seeking to improve substantive relations between the U.S. and the ROC. A painstaking worker, he exercises a close supervision over all CCNAA offices in different parts of the U.S. He receives daily a stream of visitors. Ever solicitous of the welfare of his compatriots, he keeps in touch with Chinese community leaders everywhere. An eloquent speaker, he has also been invited to speak to many outstanding organizations in America.

Representative Chien works long hours and spends most of his leisure time keeping up with the world through books, newspapers, and periodicals. His favorite relaxation is a weekend game of golf on one of Washington's courses. He is married to the former Julie Tien; they have a son and a daughter.

"At a time when most countries are advocating a pragmatic approach in international dealings, we are the country that still attaches great importance to the time honored moral standards of principles, righteousness and justice."

Fredrick F. Chien, Representative of the Coordination Council for North American Affairs, Office in the United States of America, sums up his nationalism and internationalism in these words. He constantly seeks to improve the relations between the Republic of China and other friendly nations while maintaining his country's high sense of dignity and her position in the world.

Dr. Chien was born in Chekiang Province, February 17, 1935. He comes from a long line of illustrious public servants. His grandfather was a Special Court judge in Shanghai; his father is former president of National Taiwan University and heads the Academia Sinica, foremost academic institution in the Republic. He spent his early years in Peking and Shanghai. After V-J Day, the family moved to Peking to be with his father, who was teaching chemistry at The National Peking University.

When the Communists threatened Peking in late 1948, President Chiang Kai-shek ordered the evacuation of the university's faculty. The family moved first to Nanking, then to Shanghai and in early 1949 to Taipei.

Fredrick Chien was graduated from National Taiwan University with a major in political science, then completed his ROTC training at the Che Lung Pu Army Base. He studied English at the Officers' Language School and became a translator in the Ministry of National Defense. Not long afterward he went to the United States for advanced study and received his Ph.D. from the Yale School of International Relations in 1961

Returning to Taipei, he entered the Ministry of Foreign Affairs (MOFA) as a specialist on North America. In May 1962, he became the secretary to Chen Cheng, Vice President-Premier of the Republic, while concurrently continuing his service at MOFA as section chief in the North American Affairs Department. In 1965 he became President Chiang Kai-shek's English translator and served until the President's death in 1975. He became deputy director of his MOFA department in 1967 and director in 1969.

Dr. Chien was named Director General of the Government Information Office and government spokesman in June 1972. Speaking tours of the United States resulted in two books: "Speaking as a Friend" (1975) and "More Views of a Friend" (1976). In 1975 he returned to the Ministry of Foreign Affairs as Administrative Vice Minister and in 1979, he assumed the post of Political Vice Minister.

Since the break in U.S. diplomatic relations January 1, 1979, Vice Minister Chien has strived to preserve the traditional friendship between the Chinese and American people. He feels strongly that the United States should not have tried to play the "Red China Card" and predicts that the Chinese Communists will try to play the "U.S. Card" against the Soviets.

"The setback of the U.S. diplomatic break was only temporary," he has said, adding: "We are a nation growing more confident by the day. We are growing stronger politically and economically. Our enemy is weak but dangerous. Social disorder afflicts the mainland as the people's hunger for a better life grows stronger."

Mr. KASTEN. I thank the Chair.

DR. FREDRICK F. CHIEN: A TRUE FRIEND OF THE UNITED STATES

Mr. HOLLINGS. Mr. President, for nearly 5 years now, the Republic of China has been represented with grace and exceptional skill by Dr. Fredrick F. Chien. I am proud to call Dr. Chien my friend. Today, as his tenure as Taiwan's chief representative to the United States draws to a close, I rise to pay tribute to this exceptional and honorable man.

Perhaps no other foreign representative in Washington has faced a task as challenging and delicate as Dr. Chien's. Since 1979, his government has not had the benefit of formal diplomatic recognition by the United States. Yet this has not deterred Dr. Chien from winning friends for Taiwan and strengthening the bonds of friendship and commerce between the United States and the Republic of China.

The fact is, few other diplomats and representatives can match Dr. Chien's circle of friends and admirers in official Washington. And the key to his success is no secret: Dr. Chien represents all the best in modern China. As a scholar, as a speaker, as a man of culture, he has made his mark in this town.

Mr. President, our loss here in Washington will be Taipei's gain. Dr. Chien is returning to the Republic of China to a super-Cabinet position in which he will serve simultaneously as Minister of State and chairman of the Council for Economic Planning and Development. He departs for home on August 12.

Accordingly, Mr. President, I appreciate the opportunity to join other Senators this morning in wishing Fred Chien and his wife Julie the very best of luck. They are good friends, and we shall miss him.

DR. FREDRICK CHIEN

Mr. QUAYLE. Mr. President, I would like to take this opportunity to offer my best wishes to Dr. Fredrick Chien on his recent appointment to be Minister of State and Chairman of the Council of Economic Planning and Development. Many of our colleagues have had the chance to work with Dr. Chien and his talented staff during the past 5 years of his tenure in Washington as representative of the Coordination Council for North American Affairs.

The last 5 years have witnessed a remarkable growth in United States trade with Taiwan. Dr. Chien has helped to expand Taiwan's purchases of United States goods and services. He has ably represented his Government in its importance of reducing Taiwan's trade barriers and foreign exchange controls. Obviously, we have a long way to go in achieving a better balance of trade with Taiwan. I know that Dr. Chien understands the strong feelings of the American people that we continue to improve this balance.

I am confident that in his significant new role in Taipei, Dr. Chien will be a strong advocate for policies that will encourage expanded trade and a continuing close relationship with the United States. Dr. Chien is an example of the new generation of leadership that is coming to Taiwan. As such, there is much reason to be optimistic about the future.

FREDRICK CHIEN: A WISE COUNSELOR

Mr. HELMS. Mr. President, all of us are aware of the close relationship which exists between the Republic of China and the United States. The Republic of China has been a beacon for all Chinese people in terms of its political liberty and its economic success.

As most Senators know, Mr. President, the Republic of China is represented in the United States by the Coordination Council for North American Affairs. For the past 5 years that office has been headed by Dr. Fredrick Chien. Dr. Chien has ably represented his country in countless ways. He has helped in difficult trade negotiations; he has offered wise political counsel; and he has served as a model for people who cherish liberty throughout the world. He has been my valued friend for many years.

Next week Dr. Chien will return to Taipei. There he will take up his new responsibilities as Minister of State, member of the Standing Central Committee of the Kuomintang, and Chairman of the Council for Economic Planning and Development. I know that all Senators will join in wishing him well. Dr. Chien will be a friend on whom we can count in Taipei.

It is vital that the United States honor its commitments to the Republic of China on Taiwan. The coming years will offer new challenges to the United States. Our best course is to work with those friends who have proven that they share our commitment to individual freedom.

We shall miss Dr. Chien and his lovely wife Julie. We bid them farewell with our best wishes for a successful and happy future which they so richly deserve.

TRIBUTE TO DR. FREDRICK CHIEN

Mr. LUGAR. Mr. President, I rise today to express my best wishes to Dr. and Mrs. Fredrick Chien. The Chiens will be leaving Washington after 5 successful years representing the Coordination Council for North American affairs. Their tenure has been marked by intelligence, wit, and graciousness.

Dr. Chien will become Chairman of Taiwan's Council of Economic Planning and Development. I am certain that in this new capacity Dr. Chien will continue to be a strong advocate for economic growth, liberalized trade relations, and close friendship with the United States.

As our colleagues know, Taiwan is undergoing significant political changes. Marshal law has been lifted, and a substantial number of new faces have appeared on the Standing Central Committee of the Kuomintang. Dr. Chien's is one of those new faces. Those of us who know Dr. Chien and who have worked with him have every reason to be confident that the United States and Taiwan will continue to grow in friendship in the coming years.

Mr. President, a profile of Fred Chien appeared in the New York Times on July 16, 1986. I ask unanimous consent that this profile be reprinted in full.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 16, 1986]

PERSUADING AMERICA NOT TO HATE TAIWAN

(By Robert D. Hershey, Jr.)

WASHINGTON, July 15.—Partly obscured by gasoline stations a mile outside the Washington city limits in Bethesda, Md., sits a squat, three-story building housing a group whose unrevealing name is known to only a handful of the thousands of Government officials and other commuters who pass by each day.

Yet this unprepossessing headquarters of the Coordination Council for North American Affairs has become a major focal point for one of the most sensitive economic and political issues of the day: the United States' $150 billion-a-year deficit in international trade.

The Coordination Council is actually the quasi-embassy of Taiwan, an island mini-power that exports nearly four times as much to the United States as it buys from the United States and that has become, along with Japan, the ally many Americans most love to hate.

COMPLICATED JOB

Dr. Fredrick F. Chien, head of the Coordination Council, is the man whose main job is to fend off angry trade groups and those on Capitol Hill who favor protectionist legislation. His task is not made easier by his lack of formal diplomatic status, a result of the 1978 decision by the United States to recognize the People's Republic of China and "derecognize" the Nationalist Government on Taiwan. Since then, relations have been carried on through the Coordination Council and the American Institute on Taiwan, the unofficial counterpart of the Coordination Council in Taipei.

"The U.S. side is very serious about the strict adherence to this formality," said Dr. Chien, a 51-year-old holder of a doctorate from the Yale School of International Relations who for 10 years was English translator for President Chiang Kai-shek until his death in 1975.

Yet Dr. Chien, whose mantel sports a picture of President Reagan and who enjoys what he calls "functional" diplomatic privileges, is not without considerable resources. He presides over a staff of about 200 in various offices, including seven full-time operatives on Capitol Hill, and has a substantial allowance with which to entertain American legislators and representatives of other governments.

And dozens of times a year Dr. Chien accepts invitations to address business groups and other organizations, seeking always to convince the American public that "the people in Taiwan are not their enemies taking undue advantage of them" and that his Government wants to make sure that "American jobs are secured."

One of the council's duties, in fact, is to screen prospective United States investors so as to bar those planning to rely heavily on lower labor costs in Taiwan. This is done to avoid aggravating the United States trade deficit with Taiwan, which at $13 billion a year is Washington's fourth biggest trade deficit, after those with Japan, Canada and West Germany.

There are two main reasons for this big gap, neither of them the result of predatory pricing or other unfair trade practices, Dr. Chien asserts. One reason is what he calls a "built-in imbalance" whereby a country with a large market can absorb more goods from a small country than the small country can absorb from one as big as the United States.

The other reason—and Dr. Chien is apologetic in asserting it—is that American companies, in his view, have not been aggressive enough in seeking to penetrate Taiwan and other foreign markets and have not paid enough attention to consumer preferences, quality-control and service.

On a trip home after an absence of three years, for example, he said he noted that European cars, such as Mercedes-Benz, had taken away much of the foreign-car market in which American producers had previously competed successfully.

Many Americans say their own efforts are often frustrated by various Taiwanese import barriers, including hefty tariffs. When asked whether these have been significantly reduced, as Dr. Chien insists, a Commerce Department official indicated she was unimpressed with Taiwan's efforts, saying: "Numbers speak louder than words in this case."

Despite the Coordination Council's efforts to explain its side of the strife ridden trade issue and despite Taiwan's crackdown on product counterfeiting and piracy at home. Congressional support for protectionist legislation seems to be rising. The island's reserves of gold and foreign currencies are piling up at a rate of about $1 billion a month, says Harold B. Maimgren, a Washington trade consultant, and are expected by year's end to exceed Japan's.

Dr. Chien, interviewed in his plush, red-carpeted office that once belonged to the founder of the Marriott hotel and restraurant chain, was asked about the increasing sentiment for protectionist legislation. "I'm rather alarmist in this respect," he said, "I am afraid that the worst is yet to come."

Indeed, the Reagan Administration's announcement this week of an agreement to curb the import of textiles from Taiwan, the biggest foreign supplier, brought strong denunciations here because it did not roll back the sharp increases of recent years that Senator Ernest F. Hollings, Democrat of South Carolina, said resulted from violations of the current agreement with the Taiwanese.

Meantime, although all 100 or so speeches Dr. Chien has made in the past two years have been about some facet of trade, he also maintains numerous other Taiwanese-American ties.

He keeps an eye on what, at 25,000, is the biggest contingent of foreign students in the United States. He supervises 35 employees who annually purchase about $700 million worth of American military hardware. And he helps coordinate joint scientific and technical projects in meteorology, seismic research, tropical diseases and the study of snakes.

Invariably, however, trade issues dominate a five-and-a-half-day office work week that leaves Dr. Chien less time than he would like for golf and to be with his wife, Julie, and their son and daughter who are enrolled at local Universities.

This fall, the Coordination Council will move into a new, custom-designed building near Tenley Circle in the Upper Northwest section of Washington and will then be somewhat more visible. But Dr. Chien, lacking, formal diplomatic status, still will not be found at either State Department or White House social functions even though he continues, apparently in error, to be asked to attend.

"In your country, the name list is a very interesting thing," he observed. "Once you find yourself on a certain list you get invited, and I have to be prudent not to accept the sensitive invitations."

DR. FREDRICK CHIEN

Mr. PACKWOOD. Mr. President, no country has had a finer representative in this country than Dr. Fredrick Chien. For 5 years he has served as representative of the Coordination Council for North American Affairs for Taiwan. He has in every sense been an outstanding diplomat. He has represented the views of his country patiently and intelligently and well. Especially in the area of trade has he understood that indeed it is a two-way street and that his country and ours both have problems to overcome in expanding trade between our countries and throughout the world.

Fred is now returning to Taiwan to undertake the position of Minister of State and Chairman of the Council for Economic Planning and Development. In addition, he will also serve as Minister of State. In those dual positions he will have influence without peer in decisions made involving trade between the United States and Taiwan.

In addition to representing his country well, Fred and his wife, Julie, have left a wonderful gift for the United States. Under their joint leadership, the Government of Taiwan agreed to refurbish Twin Oaks, a large house which his government has owned for half a century. The house was built a century ago by the founder of the National Geographic magazine. It sits on 19½ acres of land—grounds that are larger than the White House. Under Fred and Julie Chien's leadership, the House has been restored. It has now been designated by the U.S. Government as a national historic site. This means it will be kept in its wonderful condition on its beautiful grounds in the center of Cleveland Park forever. No finer present could have been given by Taiwan to the United States and it would not have been done without Fred and Julie's leadership.

All of us in the United States will miss his day-to-day leadership, but we know that the calling to which he is now turning his attention will only further cement the close and warm relationship between our two countries.

A TRIBUTE TO DR. FREDRICK CHIEN

Mr. SHELBY. Mr. President, I rise today to bid farewell to a friend of many of us in the Congress, Dr. Fredrick F. Chien, who is returning to his home in the Republic of China after serving his country honorably for 5 years in the United States.

Dr. Chien received part of his education in the United States which gave him an opportunity to relate to America not as a government bureaucracy, but to the people of this country who have hopes and fears like the people in any other country. As most of us already know, Dr. Chien comes from a family with a long and impressive record in public service. His grandfather was a special court judge in Shanghai and his father is a renowned educator in Taiwan. Dr. Chien has continued his family's tradition of public service through his work in the Ministry of Foreign Affairs in his own country and in the United States as representative of Taiwan's Coordination Council of North American Affairs. He has worked to further greater economic cooperation between our two countries. In this regard, he has set high standards for how two trading partners should conduct their economic affairs.

During his stay in the United States, Dr. Chien has kept me and the citizens of Alabama informed of business opportunities in his country which would help to create jobs for Americans while reducing our trade imbalance. Dr. Chien's insight and guidance will be missed and his departure will create a void which will be difficult to fill. We wish him well on his return home because he has earned the right to assume greater responsibility in his country's government. Dr. Chien, we wish you and your family well as you depart on your journey home.

APPRECIATION TO DR. FREDRICK CHIEN

Mr. BOREN. Mr. President, it is a special pleasure for me to join with my Senate colleagues in expressing congratulations and appreciation to Dr. Fredrick Chien, the newly appointed Minister of State, and chairman of the Council for Economic Planning and Development of the Republic of China on Taiwan.

My association with Fred Chien goes back to our college days at Yale University, where he compiled an impressive academic record. Since then, Fred has had a distinguished diplomatic career, most recently as representative of the Coordination Council for North American Affairs here in the United States. Under his leadership, there has been a steady growth in trade between the United States and Taiwan. Total trade between our two countries has climbed from $13 billion in 1982, just before Fred came to Washington, to $32 billion in 1987.

Fred Chien's contributions go far beyond commercial interests, however. The real strength of United States-Taiwan relations is grounded in the sincere friendship between our two peoples. Over the years, Fred Chien has helped foster the growth and development of that friendship. Because of his efforts, we have an even greater appreciation for the commonly shared values of democracy, free enterprise, and the rule of law which bind our two countries together.

I wish my friend, Fred Chien, the very best as he undertakes his new position of responsibility.

THE DEPARTURE OF FREDRICK F. CHIEN

Mr. PELL. Mr. President, on August 12, 1988, a great diplomat will leave Washington, DC after 5½ years of distinguished service in the United States. He departs with the realization that he has successfully managed a difficult transition in relations with our country, and that the economic prominence his native land has achieved in America is now being supplemented by the beginnings of dynamic political change toward increased democracy.

The man of whom I speak is Dr. Fredrick F. Chien, and the country is Taiwan. Dr. Chien has served his nation and his people as the Representative of the Coordinating Council for North American Affairs is one of the most difficult assignments of any diplomat in Washington, DC. Since normalization of U.S. relations with Beijing nearly 10 years ago the United States has maintained contact with Taiwan through the Coordinating Council, and has benefited enormously from the wisdom and judgment of its leader, Dr. Chien.

During his tenure as Representative of the Coordinating Council for North American Affairs, Dr. Chien worked tirelessly to preserve and expand the traditional friendship between the Chinese and American people. Although this was a period of increasing American attention to the Mainland, Dr. Chien served as a constant reminder to our Government, both in the executive and the legislative branches, of the enormous strides that Taiwan has been making first in economic, and now in political life, making Taiwan a model for development throughout the region.

Dr. Chien will be returning to Taipei as Minister of State and Chairman of the Council for Economic Planning and Development. He will additionally serve on the Kuomintang Central Standing Committee.

Dr. Chien and I have disagreed on some issues, but I wish at this time to acknowledge the many outstanding contributions that Dr. Chien has made to friendship and cooperation between Taiwan and the United States, and to wish him every success now and in the future.

COMMENDING DR. FREDRICK F. CHIEN

Mr. NICKLES. Mr. President, I wish to add my voice today to those of my colleagues who are commending the record of Dr. Fredrick F. Chien, of the Republic of Taiwan, Representative of the Coordination Council for North American Affairs. After more than 5 years here in Washington, Dr. Chien will leave Washington to return to Taipei, August 12. He has been appointed by President Lee Teng-Hui as Minister of State and the chairman of the Council for Economic Planning and Development.

Fred Chien is a friend of mine whom I admire greatly. He has contributed greatly to promoting a deeper and more stable relationship between his country and the United States. With his knowledge and understanding of the American political process and his ability to explain and present his Government's policies to American leaders, Dr. Chien has helped remind U.S. negotiators, American business and the American people of the mutual benefits of close and friendly United States-Taiwan relations. It only makes sense that two predominately free market economies and freedom loving peoples should follow a course of cooperation rather than rivalry.

Fred Chien has studied American culture, economics and political affairs: His time here in America has allowed him to gain an understanding and appreciation of the U.S. political system. He is aware of the importance of the executive and legislative branches in our system of representative government under a written Constitution. With increasing democratization under way in Taiwan and with the benefit of his many years living in the United States, he understands the complicated process involved in hammering out trade policies of governments.

Mr. President, Fred and Julie Chien have been a welcome addition to the diplomatic corps in Washington. I will miss them and convey my wishes for a successful future.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business has expired.

FORMULATION AND IMPLEMENTATION OF CENTRAL AMERICAN REGIONAL ECONOMIC DEVELOPMENT AND RECOVERY PROGRAM

The PRESIDING OFFICER. Under the previous order, as modified, the clerk will report calendar No. 842.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 63) expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

The Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 2807

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 2807.

On page 3, line 1 after the words "Honduras," add the words "Belize,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2807) was agreed to.

Mr. DOMENICI. Mr. President, I regret that I am unable at this time to support this concurrent resolution regarding the formulation of a regional economic development program for Central America. I appreciate the efforts of the junior Senator from North Carolina since he came to the Senate.

Like almost every other Senator, I favor economic aid to Central America. In fact, since I had the honor of serving as a senior counselor to the National Bipartisan Commission on Central America in 1983-84, I have made the provision of adequate economic aid for Central America one of my top priorities.

In 1984 and 1985 the Senate and the Congress, with the leadership and support of my fellow counselors Senators INOUYE, Mathias, and BENTSEN, set in motion legislation and appropriations that have directed billions of dollars into the four democratic states of Central America. We already have legislation encouraging a regional economic program.

The United States has done its part in providing economic help for Central America. We have gotten Japan and Europe to help. I don't hear anyone claiming that we have not done that. Why then do we need this concurrent resolution?

I don't believe the problem down there is lack of aid. The problems are different than those addressed once again by this concurrent resolution. The problem is lack of security and confidence.

Until the situation in Nicaragua no longer destabilizes the other Central American nations, until the narcotics corruption is defeated, until all Central American leaders are able to make social and economic development a top priority, no amount of additional aid will help. Until security problems are adequately addressed, no regional economic plan will help.

Mr. HELMS. Mr. President, my distinguished colleague from North Carolina [Mr. SANFORD] has offered a concurrent resolution expressing the sense of the Congress regarding a regional economic development program for Central America.

My colleague has worked very hard on his resolution, chairing a number of hearings at which numerous academic witnesses testified on the problem. Duke University has played a major role in formulating the program, and some major foundations have financed the scholarly work involved.

Unfortunately, I cannot support the resolution. I did not oppose it in committee, but neither did I vote for it when it was approved on a voice vote. I believe that the resolution is fundamentally flawed in its basic premise; namely, that "economic development" can be achieved through central planning. Some of my colleagues have said that the resolution is of no consequence because it is a "motherhood" resolution. That may be so if one's mother is a Socialist.

Moreover, it is further flawed by its premise that the economic collapse in the region is caused by men and women in the region who are fighting for freedom from communism. The truth is that the economic collapse in the region is the result of the imposition of Marxist and socialist systems.

Mr. President, in Nicaragua, a Communist government has imposed a Marxist economic system with vast sums being spent for the upkeep of the largest military machine in Latin America. No Marxist economy has ever worked and no one ever will.

El Salvador was once one of the most thriving countries in Central America with one of the broadest distributions of economic rewards across the income spectrum; it was put into a shambles by U.S. economic planners of the sort who have been working on the Sanford resolution. Fortunately, the defeat of the Christian Democratic Party at the last election offers the best hope for freedom and economic recovery in the region, providing the Communist guerrillas can be wiped out. Mr. Duarte's socialists have been as inept in prosecuting a war against their fellow Marxists as they have been skilled at destroying Salvador's economy.

Mr. President, I have not felt inclined to criticize Senator SANFORD's resolution. We disagree on many things, maybe most. But we are friends nonetheless. I am making this statement, not in a sense of hostility, because none exists—but because I feel obliged to have the RECORD reflect my views.

Another aspect of this resolution is that it picks up the discarded shreds of the Arias peace plan and makes them a condition for economic assistance. The Arias peace plan is demonstrably not the solution to the problems of Central America; the Arias plan is in fact the present cause of the problems in Central America. The only way that peace and freedom can be established in Central America is to eliminate the Communist government in Nicaragua and the Communist insurgency in El Salvador. Unless we help the freedom fighters in Central America get rid of communism and socialism, there will never be any economic development there. The notion that foreign aid and central planning can bring about economic development is a simplistic idea that has been discredited by history.

The people of Central America are not poor because we have failed to give them economic aid; they are poor because of communism. We have given more economic aid to Nicaragua after the Communists took over than we gave in all the years before.

Yet this concurrent resolution calls for the United States to assist Nicaragua once more. It calls for amnesty for the Salvadoran Communists. It calls for the half of assistance to the freedom fighters, without even demanding that the Soviets stop assistance to the Communist government of Nicaragua. It tells people fighting for freedom that they should have a cease-fire and pursue a negotiated settlement. That means that there will never be any freedom. It condemns them to surrender to the Communist government.

After World War II, the United States gave assistance both to Germany and Japan to help them rebuild. But we did so only when the totalitarian governments had been destroyed and all vestiges of Nazism and socialism rooted out. It is folly to demand that people fighting for freedom capitulate to communism and socialism. Any economic assistance or private investment on those terms would be money thrown away.

Mr. President, I realize that this concurrent resolution is just a sense-of-Congress resolution that mandates nothing and changes nothing. However, I am inserting these comments in the RECORD to make clear my view that it is incompatible with true economic development and the survival of freedom.

Mr. PELL. Mr. President, Senate Concurrent Resolution 63, which expresses the sense of Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America supports a forward looking approach to development worked out by the Central Americans themselves. Senator SANFORD is to be congratulated for pursuing this concept which would provide the economic and social component of the Central American peace plan in recognition that peace and economic well-being in the region are inextricably linked.

The idea that Central America needs the type of support similar to that which pulled Western Europe out of the ashes of World War II is the motivation for this plan. That is why some have termed it a "mini-Marshall plan" for Central America. It is envisioned that under this plan, resources would flow from the industrialized countries of Western Europe and Japan, as well as from the United States in support of a plan that the Central Americans have developed for themselves.

Through the dynamic initiative of Senator SANFORD, an International Commission for Central American Reconstruction and Development, comprised of the economists, statesmen, and development specialists from 17 countries has been formed and is well underway in its mission to develop recommendations that will provide a blueprint for real economic, social, and political progress in the region. The Commission, which is conducting a thorough analyses of the economic problems of the region, recently held a meeting in Sweden, hosted by the Swedish Government, and will be holding its next meeting in Washington in November. The final recommendations will be announced at a meeting in Guatemala in February.

This is an endeavor that everyone in the Congress can support. Its cosponsors represent a wide range of political views but yet are united in the belief that with the proper international assistance, Central America can become a politically and economically healthy region. On July 27, this resolution was approved by the Committee on Foreign Relations by voice vote, with no dissenting votes. This is truly a bipartisan plan that deserves the resounding support of the U.S. Senate today.

Mr. President, I request unanimous consent that this statement be placed in the RECORD, in the appropriate place, as if read.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. SASSER], the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Colorado [Mr. WIRTH] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is necessarily absent.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NAYS—3

Domenici
Gramm
Helms

NOT VOTING—5

Biden
Cranston
Sasser
Symms
Wirth

So the concurrent resolution (S. Con. Res. 63), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 63

Whereas the perpetuation of individual poverty, the lack of trade and economic opportunities, the shortage of capital for investment, the absence of adequate transportation and communication facilities, and inadequate educational opportunities and health care facilities have long plagued the countries of Central America and have long mitigated against the prosperous and peaceful development of this crucial region of the Western Hemisphere;

Whereas significant progress continues to be made toward reliance on democratic institutions and initiatives for the orderly reconciliation of differences, both of which can lead to political stability and provide the foundation for economic growth;

Whereas economic prosperity and free and open societies lead to peaceful relationships with neighboring countries;

Whereas a condition of economic success is inevitably the removal of political hindrances such as armed conflict, repression, and the denial of basic political, social and economic rights;

Whereas all conditions indicate this is a propitious time for a renewed effort to formulate and implement plans for economic growth and development in Central America;

Whereas chances for the success of such a plan will be greatly enhanced if the formulation is accomplished through the initiative, and at the direction, of the involved Central American countries themselves; and

Whereas it would be in the enlightened self-interest of the United States to encourage and assist in the formulation and implementation of a regional economic development and recovery program for Central America: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) encourage and assist, as requested, the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, Belize, and Nicaragua in their planning and formulation of a comprehensive long-range plan for their economic recovery and development, including the needed infrastructure, educational system, and monetary institutions to provide for the growth of opportunities for all people of Central America; and

(2) assist in the implementation of said plan, and encourage other countries in other parts of the world to join in extending such assistance to those Central American countries that have made—

(A) substantial progress toward peaceful relations and peacekeeping mechanisms as generally set forth in proposals currently being disussed by the presidents of the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua and, for purposes of this clause, progress in peaceful relations may be measured by efforts to achieve—

(i) national reconciliation, including a general amnesty for all political and related offenses in countries where there are armed conflicts, and dialog with all nonmilitary internal opposition groups,

(ii) a cease fire,

(iii) a free, fair, and open electoral process, with provision for the regular and periodic scheduling of elections,

(iv) the suspension of all military assistance from extraregional governments to irregular or insurgent forces,

(v) a prohibition upon the use of the territory of a Central American country to allow, directly or indirectly, individuals, organizations, or groups to attempt to destabilize the governments of other Central American countries,

(vi) arms control and reduction,

(vii) the establishment of a verification mechanism which provides for unimpeded onsite inspection,

(viii) continued dialogue among the governments of the five Central American countries for the purpose of evaluating implementation of the peace process; and

(ix) the undertaking of economic and cultural agreements to facilitate and accelerate development; and

(B) substantial progress toward an open political system in the spirit of the present negotiations of the several Central American countries, and such progress in political systems may be measured by verifiable efforts to achieve—

(i) respect for democratic principles and political pluralism,

(ii) constitutional guarantees of, and actual protection for, individual civil liberties,

(iii) adherence to constitutional practices and procedures, including total civilian control over the military,

(iv) guaranteed freedom of speech, freedom of the press, freedom of religion, and freedom of assembly,

(v) safeguards of property rights and provision for economic self-determination,

(vi) a free, fair, and open electoral process, with provision for the regular and periodic scheduling of elections, and

(vii) a fair and impartial court system for the administration of justice and law enforcement.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that on a message from the House on H.R. 1414 there be a time limitation of not to exceed 5 minutes, to be equally divided between Mr. JOHNSTON and Mr. MCCLURE.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRICE-ANDERSON AMENDMENTS ACT

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 1414

The PRESIDING OFFICER (Mr. SANFORD) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate numbered 16 to the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

(The amendment of the House is printed in the RECORD of August 2, 1988, beginning at page H6114.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, last evening Senator METZENBAUM raised a question about one of the House amendments. In his view it permitted the Department of Energy to authorize nonprofit universities to deal in nuclear defense matters with very little supervision and without proper attention to safety.

Over the evening, Mr. President, we sought and received from the Secretary of Energy a letter which fully satisfies Senator METZENBAUM's concerns. It states as follows:

DEAR SENATOR METZENBAUM: I am writing to you to clarify our intentions in implementing the provisions of Section 234A (b)(2) of the Atomic Energy Act of 1954 as that Act would be amended section 17 of H.R. 1414, a bill currently pending before the Senate. Specifically, I refer to the language requiring the Secretary, when implementing section 234A, to "determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section."

The Department will not be able to issue any proposed rules under this section with respect to automatic remission of penalties assessed to nonprofit educational institutions before the spring of 1989. Further, we will continue to inspect, at least annually, all nuclear safety facilities operated for the Department of Energy.

The letter goes on with some other assurances. But based upon this, Mr. President, Senator METZENBAUM is able to assure that these institutions will be inspected for safety and that no new rules will be issued until the next administration.

Mr. President, I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, August 5, 1988.
Hon. HOWARD METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: I am writing to you to clarify our intentions in implementing the provisions of Section 234A(b)(2) of Atomic Energy Act of 1954 as that Act would be amended by section 17 of H.R. 1414, a bill currently pending before the Senate. Specifically, I refer to the language requiring the Secretary, when implementing section 234A, to "determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section."

The Department will not be able to issue any proposed rules under this section with respect to automatic remission of penalties assessed to nonprofit educational institutions before the spring of 1989. Further, we will continue to inspect, at least annually, all nuclear safety facilities operated for the Department of Energy. This practice is also consistent with the guidance we have received from the fiscal year 1989 Energy and Water Development Appropriations Act that all nonprofit educational institutions under contract with the Department in activities to be covered under the Price-Anderson Act will be inspected annually to ensure that they are in full compliance with all rules, regulations or orders related to nuclear safety.

Yours truly,
JOHN S. HERRINGTON.

Mr. JOHNSTON. Mr. President, today I hope we will take final action on legislation to reauthorize and extend the Price-Anderson Act. The Price-Anderson Act provides a system for public compensation in the event of a nuclear accident.

This legislation is long overdue. It was first passed by the House a year ago, and amended by the Senate in March. We now have before us House amendments to the Senate amendments to H.R. 1414.

The compromise is not perfect, but I believe it is acceptable. As with all compromises, it does not make everyone completely happy. But it is a responsible piece of legislation, and I hope the Senate will act on it quickly.

The Price-Anderson Act provides a unique benefit to the public in the form of swift, assured compensation in the event of a catastrophic nuclear accident. To be sure, our Nation's nuclear facilities—commercial power reactors and facilities of the Department of Energy—have an enviable safety record. But if a serious accident were to occur, the resulting damage could be very, very expensive.

The Price-Anderson system is a comprehensive, compensation-oriented system of liability insurance for DOE contractors and NRC licensees operating nuclear facilities. Under Price-Anderson, a form of no-fault insurance is in effect at each facility where there is risk of a nuclear accident. In the event of a catastrophic accident, the operating entity—a utility or DOE contractor—would accept all liability for injuries caused by the accident and would waive traditional legal defenses. The issues in court would simply be to establish causation and the extent of the damages. Damages determined by the court would then be paid, quickly and without question.

Under current law, the aggregate amount of damages that could be paid to the victims of a catastrophic nuclear accident is limited to just over $700 million in the case of an accident at a commercial reactor and to $500 million in the case of DOE facilities. Compensation above these limits would be available only if Congress enacted a law providing for such compensation. Today, it is universally recognized that these limits are too low. But the limits are written into the law, so the law needs to be changed to reflect current costs.

Moreover, currently there is no authority to provide insurance under the Price-Anderson system for new reactor licensees and new or renewed DOE contracts. The authority to indemnify new licensees or contractors under Price-Anderson Act expired on August 1, 1987.

Of course, the Federal Government will not shut down its essential national security activities simply because it cannot indemnify its contractors under the Price-Anderson system. Work for the Department of Energy will continue.

The Department of Energy has the authority by which to indemnify its contractors, so the work will get done. The difference is that the unique public protection features of the Price-Anderson Act would not be available.

So there is an urgent need to extend and reauthorize the Price-Anderson Act not to protect the contractors or the nuclear utilities but to protect the public. Public protection in the case of a catastrophic nuclear accident is far superior under a renewal of the Price-Anderson system. In the absence of Price-Anderson for DOE contractor activities, compensation for victims would be less predictable, less timely, and potentially inadequate compared to the compensation that is available under the current system.

Let me address briefly the specific provisions of the legislation before the Senate. H.R. 1414, with House amendments to the Senate amendments, would replace the existing limit on liability under Price-Anderson to about $7 billion, a tenfold increase over the limits of existing law. In the event that damages were greater than $7 billion, a compensation plan would be submitted to the Congress by the President.

H.R. 1414 will extend Price-Anderson authority for 15 years for both NRC licensees and DOE contractors. This represents a compromise between the Senate and House. The House would have extended the act for 10 years and the Senate would have extended the act for 20 years.

The bill also contains the Senate provision to impose civil and criminal penalties for violations of Department of Energy regulations with a House modification. The civil and criminal penalty provision was developed by the Committee on Energy and Natural Resources to address our members' concerns that DOE contractors be held to the highest of safety standards.

The modification adopted by the House directs the Secretary to conduct a rulemaking to determine if nonprofit universities should receive automatic remission of penalties. The Senate provision already authorizes the Secretary, when assessing penalties, to take into consideration the violator's ability to pay. The House modification clarifies this authority by directing the Secretary to conduct a rulemaking.

I believe that this is an acceptable modification. It is not intended to provide a loophole in the penalties provision and I do not believe that it will. I believe that the amendment simply clarifies what is already contained in the Senate amendment.

The bill contains a new provision from the House to require the Nuclear Regulatory Commission to conduct a negotiated rulemaking to determine whether there should be Price-Anderson coverage for nuclear pharmacies. This provision replaces the Senate amendment that had extended Price-Anderson coverage to these NRC licensees. The House did not believe that nuclear pharmacies should be included in Price-Anderson without further evidence that it was necessary and appropriate. Accordingly, the House adopted this new provision to have the NRC thoroughly review the situation and report to Congress on it.

The last remaining major difference between the House and Senate versions of the bill is the Senate amendment to provide Price-Anderson coverage when the Secretary of Energy or DOE employees actually physically undertake work involving nuclear waste. The purpose of this amendment was to be absolutely sure that all potential accidents would be covered under the Price-Anderson indemnity provisions. The House rejected this amendment because they did not feel it was necessary.

Personally, I am satisfied that we have covered all bases. The Department of Energy has told me that in fact no Federal employees would ever actually carry out any of the activities involving a nuclear risk at these DOE facilities. It is my understanding that all work done by the Department involving a nuclear risk is actually carried out by contractor employees. Therefore, any actions carried out by these contractor employees would be covered under the indemnity provisions of Price-Anderson.

All in all, I believe that H.R. 1414, as now amended by the House, is a good piece of legislation. It is not perfect, but it is acceptable. It retains the essential provisions of the Price-Anderson Act as originally enacted in 1957, and it contains new improvements to the existing law. Therefore, I urge my colleagues to adopt this bill without further amendment.

Mr. DOMENICI. Mr. President, Congress enacted the Price-Anderson Act in 1957 to:

First, ensure that adequate funds would be available to compensate the public for injuries resulting from nuclear activities; and

Second, remove the threat of unlimited liability for a nuclear accident that was deterring private industry from participating in nuclear activities.

The Price-Anderson system is a comprehensive, compensation-oriented system of liability insurance for Department of Energy contractors and Nuclear Regulatory Commission licensees operating nuclear facilities.

Most importantly, Price-Anderson provides a no-fault system for equitable, efficient, reliable, and comprehensive compensation to the public in the event of an accident. The channeling of liability to a single entity and the waiver of defenses insures that protracted litigation will be avoided.

Price-Anderson is a model for bringing order and predictability to a situation where high potential liabilities exist.

Price-Anderson has been fulfilling its intended purpose of providing prompt financial protection to the public and removing a deterrent to private sector participation in the nuclear energy field.

Unfortunately, the Price-Anderson Act expired last August. Although, DOE contractors and NRC licensees under existing contracts remain covered, NRC no longer has the authority to indemnify new licensees and DOE has lost its ability to enter into new indemnity agreements.

The need for Price-Anderson today is essentially the same as in 1957. The amount of private insurance available is inadequate to cover the potential damage and personal injury claims that would result from a catastrophic nuclear accident.

In the absence of Price-Anderson, compensation to victims of a nuclear accident would likely to be seriously limited.

We need to reauthorize the Price-Anderson Act. H.R. 1414 would reauthorize Price-Anderson, and I support that.

However, Mr. President, I do have a concern about the bill now before us.

When the bill was considered in the Senate, it was amended to include a provision that Senator JOHNSTON proposed on my behalf to provide Price-Anderson coverage when the Secretary of Energy or DOE employees undertake work involving nuclear waste. It would have treated DOE employees involved in nuclear waste work as if they were contractors for the purposes of Price-Anderson.

The Johnston-Domenici amendment would have allowed claims involving the waste activities of DOE employees to be compensated according to the same procedures and from the same sources of funds as other claims arising from nuclear waste activities of the Department of Energy.

The amendment provided an important protection for New Mexico, since the Nation's first underground nuclear waste repository, the waste isolation pilot plant, is located in New Mexico. DOE contractors at WIPP will be covered under H.R. 1414, and the amendment would have extended that protection to the activities that are carried out by the Department of Energy itself, rather than a contractor.

Although the Senate adopted this amendment, the House refused to accept it. The House has repeatedly rejected this amendment, arguing that it is not needed. I believe it is needed.

Mr. President, in order to continue to provide adequate protection to the public, Price-Anderson needs to be reauthorized. H.R. 1414 contains many protections for the public. However, I regret that the Senate did not insist that the final bill extend to the Department of Energy the same protections under Price-Anderson that are afforded to DOE contractors for nuclear waste activities.

Mr. BINGAMAN. Will the distinguished Senator from Louisiana yield for a question?

Mr. JOHNSTON. Yes. I will be happy to yield to my colleague from the State of New Mexico for a question.

Mr. BINGAMAN. As you know, the House of Representatives did not accept the Senate amendment to H.R. 1414 that would have provided Price-Anderson coverage when the Secretary of Energy, or his employees, physically undertake work involving nuclear waste. The purpose of this Senate amendment was to be absolutely sure that all potential accidents at the waste isolation pilot plant in New Mexico would be covered under the Price-Anderson indemnity provisions.

It is my understanding that the House did not accept this amendment because they did not feel it was necessary. The House, I understand, is confident that such a circumstance will never arise.

Let me state at the outset that I still believe in this amendment. I understand, however, that compromises are necessary in order to enact a complicated piece of legislation such as Price-Anderson. I believe that Price-Anderson is a very important piece of legislation. Price-Anderson provides unique protections to the public in the unlikely event of a nuclear accident, and I am anxious to see it reauthorized and extended without any further delay. Therefore, I am willing to recede to the House on this amendment, so long as I am assured that the people of my State will be protected.

It is my understanding all work done by the Department of Energy involving a nuclear risk is actually carried out by contractor employees. As such, any actions carried out by these contractor employees would be covered under the indemnity provisions of the Price-Anderson Act. Furthermore, any potential accident involving nuclear waste would be the responsibility of the contractors working for the Department of Energy at the affected facility. Under Price-Anderson, liability for an accident would be channeled to the operator of the facility—the prime contractor—and the indemnity provisions of the act would kick in.

Is that also the Senator's understanding of how Price-Anderson would work in the unlikely event of an accident at one of these DOE owned, contractor-operated facilities?

Mr. JOHNSTON. Yes, that is my understanding.

Mr. BINGAMAN. It is further my understanding that no Federal employees would ever actually physically carry out any of the activities involving a nuclear risk at these DOE facilities. In fact, I understand that Federal employees at these facilities only oversee program and policy development. Federal employees at these facilities manage the contractor employees; however, they do not actually physically carry out any work involving a nuclear risk.

Is that also the understanding of the Senator?

Mr. JOHNSTON. Yes, that is my understanding as well.

Mr. BINGAMAN. I have only one further question. As I understand the way the Price-Anderson Act works, the indemnity coverage under the act would also apply to any transportation of nuclear waste to or from the waste isolation pilot plant. As with other DOE activities involving a nuclear risk, any transport of nuclear materials would be carried out by contractors to the Department of Energy. In the case of WIPP, the Department of Energy has made a commitment to the State of New Mexico under the terms of the 1982 supplemental stipulated agreement that Federal employees will not be used to carry out the transportation of waste to or from the WIPP facility. It is my full understanding that this commitment will be fulfilled by the Department of Energy, so that the people of New Mexico will be fully protected.

Is this also the understanding of the Senator from Louisiana?

Mr. JOHNSTON. Yes, that is my understanding. Let me just say also that I fully understand the concerns of my colleague from New Mexico, and I appreciate his efforts to clear this matter up so that the public protection provisions of Price-Anderson can be reauthorized and extended without further delay.

Mr. BINGAMAN. I thank the Senator.

Mr. McCLURE. Mr. President, for well over 30 years the Price-Anderson nuclear indemnification system has served this Nation well. I speak today in support for early Senate action on the measure before us, H.R. 1414. The bill reflects the considerable effort that has been made over the last 2 years by many of our colleagues, including Senators JOHNSTON, SIMPSON, BURDICK, STAFFORD, and BREAUX. This effort is reflected in the extensive debate that took place in this body during its consideration by the Senate.

As I described earlier, the Price-Anderson system provides a unique, but much needed, no-fault mechanism for prompt, assured compensation of victims in the event of a catastrophic nuclear accident, if such accident were to occur at any of our commercial nuclear powerplants or at any Department of Energy nuclear facility.

The mechanism, Mr. President, that is embodied in Price-Anderson consists of two elements. First, there is a no-fault insurance scheme, under which the operating entity involved in a nuclear accident accepts all liability for that accident—often referred to as umbrella coverage. In return, the operating entity also agrees to waive all traditional tort defenses in court settlement of the claims. As a consequence, the court's task is greatly reduced to one of simply establishing causation and the extent of damages.

The second element, the quid pro quo to the operator accepting all liability and waiving his defenses, is a limitation on liability. It is possible to see that limit at a relatively high value, by the pooling of premiums by all commercial nuclear powerplants, or, in the case of DOE facilities, by a broad Federal indemnity provision. This limit is substantially augmented under H.R. 1414, compared to current law.

From the victim's perspective, H.R. 1414 does an admirable job. The amount of compensation made available to any victim increases over tenfold compared to the present Price-Anderson scheme. If a catastrophic nuclear incident were to occur, this legislation makes $7 billion—indexed for inflation—readily available to the victims, whether the incident were to occur at a nuclear powerplant, or at a Department of Energy nuclear facility, or during the course of disposal of nuclear waste. Furthermore, if claims were to exceed the $7 billion, the President and Congress would step in to provide additional funds.

Failure to reauthorize Price-Anderson would result in substantially less protection for the public in the event of an accident. Compensation would be less predictable, less timely, and potentially inadquate compared to the compensation that would be available under Price-Anderson.

For considerable time this measure has been tied up in discussions between the Senate and House on a matter not related to the basic thrust of Price-Anderson. I am relieved that the leadership of the various committees involved in this legislation have been able to resolve the issue of radiopharmaceutical insurance in a manner preferable, in my opinion, to the original version passed by the Senate. The compromise approach now in the bill provides for a negotiated rulemaking process to resolve the critical question of the availability of private insurance for radiopharmaceutical licensees. Maintaining the viability of nuclear medicine is vital to the practice of medicine in many hospitals across the Nation and, thus, to the health of many Americans.

The bill before us represents extensive discussions with the House. It is a good bill that has been approved by the other body. It is a realistic and responsible bill. It is one that the Congress should consider expeditiously so that it can be enacted into law sooner rather than later.

Mr. President, I ask unanimous consent that a letter from Secretary Herrington to Senator JOHNSTON, dated August 3, 1988, urging expeditious Senate passage of this measure, be included in the RECORD at this point.

THE SECRETARY OF ENERGY,
Washington, DC, August 5, 1988.

Hon. HOWARD METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: I am writing to you to clarify our intentions in implementing the provisions of Section 234A(b)(2) of the Atomic Energy Act of 1954 as that Act would be amended section 17 of H.R. 1414, a bill currently pending before the Senate. Specifically, I refer to the language requiring the Secretary, when implementing section 234A, to "determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section."

The Department will not be able to issue any proposed rules under this section with respect to automatic remission of penalties assessed to nonprofit educational institutions before the spring of 1989. Further, we will continue to inspect, at least annually, all nuclear safety facilities operated for the Department of Energy. This practice is also consistent with the guidance we have received from the fiscal year 1989 Energy and Water Development Appropriations Act that all nonprofit educational institutions under contract with the Department in activities to be covered under the Price-Anderson Act will be inspected annually to ensure that they are in full compliance with all rules, regulations or orders related to nuclear safety.

Yours truly,

JOHN S. HERRINGTON.

● Mr. SYMMS. Mr. President, I would like to make a few brief remarks about the legislation currently before the Senate. This bill will reauthorize the Price-Anderson Act, and significantly improve the protections previously afforded to all citizens from the hazards associated with this Nation's nuclear program. The legislation also provides a process by which the Nuclear Regulatory Commission will likely extend the act to radiopharmaceutical licensees. Radiopharmaceutical licensees, including nuclear pharmacies, hospital nuclear medicine departments and radiopharmaceutical manufacturers, currently make available radioactive drugs in unit doses. These important drugs are necessary for the maintenance for the high standard of health care all citizens in our country presently enjoy. Each year, millions of Americans are diagnosed through the use of these drugs. In addition, researchers are making great progress with these drugs in reducing abnormal cells to acceptable levels in children with leukemia and other serious diseases.

The ability of radiopharmaceutical licensees to maintain operations in the future is in serious question because of recent State tort law decisions which expose them to lawsuits for damages allegedly due to low level radiation emission, even emissions within NRC guidelines. From the evidence presented to the Environment and Public Works Committee, I am convinced that the potential liability faced by these radiopharmaceutical licensees can realistically force them out of business because they cannot obtain insurance for the nuclear risk. As with the vaccine industry, the unwillingness of the commercial insurance industry to provide coverage creates the need for Federal intervention so the standard of healthcare may be sustained.

It is my understanding that despite the evidence submitted to the committee by the radiopharmaceutical licensees themselves, there is some question as to whether or not commercial insurance is available for this risk. For this reason, the process that would be put in place by this legislation will allow a final determination on the insurance question to be made in 18 months from the date of enactment. An independent convener will make an initial determination that can only be reserved by the Commission in the event that clear and convincing evidence supporting such a reversal is subsequently developed. It is not anticipated that the Commission will do work that duplicates efforts undertaken in the negotiated rulemaking process. I am fully confident that, after the Commission has had an opportunity to fully explore the commercial insurance market, coverage under the act will be extended to radiopharmaceutical licensees. I particularly commend the distinguished subcommittee chairman for affording this unique process by which this issue can be finally and swiftly resolved. I urge adoption of the legislation.●

Mr. BURDICK. Mr. President, today the Senate is considering for the second time H.R. 1414, the Price-Anderson Amendments Act of 1987. Last spring, we passed a version of this bill which establishes a method for determining compensation and liability in the event of a nuclear accident. The House has looked to our amendments and we have been involved in lengthy negotiations to reach significant compromises which are contained in this bill we have currently before us. The basic protections for the public in the event of a nuclear accident, however, have not been altered. The essential elements of the Senate bill have been retained.

One of the significant compromises on which I would like to comment involves the issue of indemnity for radiopharmaceutical licensees, including nuclear pharmacies, hospital nuclear medicine departments, and radiopharmaceutical manufacturers. An amendment on this critical and important health care issue was first introduced by my able colleague and subcommittee chairman, and I congratulate him for his excellent work on this issue.

Under the compromise provision currently before us, the NRC is directed to undertake a negotiated rulemaking in order to determine whether and under what terms and conditions radiopharmaceutical licensees should receive the benefits of the law. Through this negotiated rulemaking process, the radiopharmaceutical licensees will be able to make their case before the NRC and an independent convenor. I am quite convinced in view of the evidence presented before this committee that Price-Anderson indemnification should be extended to these licensees because they can not obtain adequate private insurance for their substantial potential liabilities. When this evidence is before the NRC in an appropriate proceeding such as the one this bill calls for, I believe the Commission will use Price-Anderson to ensure that these licensees have adequate coverage. The benefits to be derived from radiopharmaceuticals, which are used extensively in the diagnosis of, and therapy for, a broad array of medical problems, are substantial. The use of radiopharmaceuticals is widespread and essential for many activities in modern medicine.

Another change made by the House that I would like to note deleted the Senate provision which would have allowed victims of a nuclear incident to bring suit against the Federal Government, under the same terms and conditions as against an indemnified contractor, when the Department of Energy actually handled nuclear waste. In its explanation of the rejection of this amendment, the House included a summary which stated that the rejection of the Senate amendment preserved current law "which permits suits under Price-Anderson only against private parties and suits against the Government only under the Federal Tort Claims Act."

Mr. President, I would like to clarify that the House's explanation is true only for suits against DOE. The rejection of the Senate amendment does not affect the waiver of sovereign immunity of the Federal Government that would occur in the event of an extraordinary nuclear occurrence involving a Federal licensee of the Nuclear Regulatory Commission, where such waiver is required by the indemnity agreement with the NRC.

In closing, I urge the swift adoption of this compromise legislation. The public should receive the benefits of the Price-Anderson Act—a tenfold increase in the funds that would be available in the event of a major nuclear accident—as soon as possible.

Mr. SIMPSON. Mr. President, I simply want to add a few brief remarks in support of this legislation, the Price-Anderson reauthorization bill. This effort has been a long, long time coming—we have toiled hard on this legislation for over 3 years, and all sides have produced a remarkable piece of work.

As we all know, nuclear issues can most often be so controversial and polarizing—making it all the more difficult to achieve consensus, particularly in an election year such as this. But we have set aside partisan politics, and the work that was done here in the Senate was done with a true spirit of cooperation. All of my Senate colleagues—including BENNETT JOHNSTON, JIM MCCLURE, QUENTIN BURDICK, and BOB STAFFORD—have contributed mightily to this effort. But I should like to pay a special tribute to my subcommittee chairman, JOHN BREAUX, for this, his first of what I am sure will be many responsible nuclear initiatives that he has spearheaded for the Environment and Public Works Committee. He is such a capable gentleman and a delight to work with. He and his staff, Tim Smith and Paul Carrothers, have done yeoman work and this bill is a remarkable tribute to the legislative skills of Senator BREAUX. Tim Smith has moved on to other fields of endeavor. He has served well. He will be greatly missed. We wish him well. Jim Curtiss of my staff deserves tremendous praise. Whatever legislative successes I have accomplished in this arena—are directly attributed to him. He is truly superb.

In addition, we found that same spirit of cooperation from our good colleagues on the House side, led by our loved and respected friend, MO UDALL, the strong firm and fair JOHN DINGELL, the bright and thoughtful PHIL SHARP, and the steady and highly regarded BOB ROE. This is an effort that I am most pleased to have been a part of—and this legislation truly deserves broad support here in the Senate.

Before I conclude, I should comment just briefly on one of the more controversial and difficult issues in this legislation, the provision directing the NRC to undertake a negotiated rulemaking on the issue of whether to extend Price-Anderson indemnity to radiopharmaceutical licensees. Nuclear medicine plays a vital role in maintaining the public health and welfare. Radiopharmaceuticals aid in the diagnosis of many serious human diseases. Imaging agents used on the brain and the cardiovascular system are the two most frequently administered diagnostic agents. Moreover, in future years, it is anticipated that radiopharmaceutical technology will become more common, particularly in the treatment of cancer. Currently, a substantial percent of patients with thyroid cancers benefit from radioiodine therapy. In addition, advanced research using radionuclide therapy now shows promise in reducing growing cancer cells to acceptable levels.

This bill will encourage and promote the development and use of nuclear medicine because it contains a process whereby the Nuclear Regulatory Commission is directed to ensure that all radiopharmaceutical licensees are appropriately indemnified or insured against their liabilities arising out of nuclear incidents. I wish to commend our committee and subcommittee chairmen for their outstanding leadership and efforts to insure that this issue is appropriately addressed in the context of this legislation.

We have fashioned an approach here—the negotiated rulemaking process—that was originally recommended by the Administrative Conference of the United States. This provision relies in large measure on that approach. Two points of clarification, though: Under this provision, the convenor is required to come back with a recommended rule for publication by the NRC, even though there may not be complete consensus in the working group. And second, the NRC, if it chooses may, under this provision—consistent with the recommendation of the Administrative Conference of the United States—exempt the process from the Federal Advisory Committee Act.

Again, Mr. President, I sincerely congratulate all of my colleagues who have been associated with this effort—and urge all of my other colleagues to contribute their support to this initiative.

Mr. BINGAMAN. Mr. President, I rise today to express my support for extending the provisions of the Price-Anderson Act. The Price-Anderson Act is extremely important because it establishes a system for compensating victims of accidents of nuclear power plants, facilities operated by contractors for the Department of Energy, and research reactors operated by universities and private businesses. First enacted in 1957 through the leadership of Senator Clinton Anderson, the Price-Anderson provisions have since been extended twice. The current provisions expired last year, therefore requiring the extension.

Basically, the Price-Anderson Act provides a form of no-fault insurance to the public in the event of a major nuclear accident with damages in the hundreds of millions or perhaps billions of dollars. Liability is channeled to the facility operator where the accident occurs. A limited pool of funds to pay damages is identified and payments are made without settling the issue of negligence. State law determines the cause and extent of the alleged damages, and the facility operator pays the court-approved damages from the pool of funds until the limit is reached. Thereafter, the Congress must step in if further compensation is warranted.

The Price-Anderson Act allows the Energy Department to indemnify—protect against damage claims—the numerous firms, universities and other organizations that operate DOE nuclear facilities under contract. Damage to the public caused by accidents at those facilities would automatically be compensated by DOE.

In New Mexico, the extension of DOE's Price-Anderson authority is essential to the continued involvement of the private sector in the Government's nuclear activities. The legislation covers the activities of both Sandia and Los Alamos National Laboratories. Neither AT&T Technologies, Inc., nor the University of California, operators of Sandia and Los Alamos respectively; would have been able to participate in this program had it not been for the Government's indemnity protection.

The new provisions we consider today are particularly important because they provide a tenfold increase, from $700 million to $7 billion, in the maximum amount of money that would be available for quick disbursement to victims of such accidents at nuclear facilities. Additionally, the bill provides for stiff civil penalties, for violations of safety rules by DOE contractors. Additional fines, and prison sentences ranging up to 5 years, could be imposed on corporate officials who commit knowing and willful safety violations. I am pleased that the bill includes a provision I fought for in the Senate Energy Committee to exempt our national laboratories, such as Los Alamos and Sandia, from these penalties due to the limited research and development activities they perform.

In order to preserve the important protections provided by Price-Anderson, I urge my colleagues to vote in support of this legislation.

Mr. BREAUX. Mr. President, I am very pleased to rise today in strong support of H.R. 1414, the Price-Anderson Amendments Act. This legislation is of great importance in providing assured protection for our citizens from the hazards associated with this Nation's nuclear program. The path to enactment of this legislation has been long, and occasionally rocky, but a great many dedicated Members of both the Senate and the House have worked hard to resolve a number of thorny issues and produce the significant legislation before us today.

I would like to make a few comments, Mr. President, on two specific provisions of H.R. 1414. Section 13 of the bill deals with the issue of lessor liability by adding to the Atomic Energy Act a new subsection 170(r) relating to the sales and leasebacks of interests in nuclear facilities. Sale and leaseback transactions represent an additional source of financing for existing nuclear facilities which can provide significant benefits both to the utility and to its ratepayers. Such benefits arise from the lower cost of capital inherent in such transactions and from the leveling of utility revenue requirements. The continuation of these benefits warrants inclusion of this section so that existing and prospective investors providing equity for such transactions may do so free from concern that they may thereby become subject to legal liability arising from nuclear incidents.

The lease must be "bona fied." In other words, this section will not protect any NRC licensees who enter into a lease transaction as lessor solely for the purpose of avoiding its obligations in respect of nuclear incidents. This section will protect any person who acquires an interest in a nuclear facility and leases such interest as a part of a lease transaction. Where such lessor is a trust, the beneficiaries of the trust and the trustees, as well as the trust, will not be subject to any legal liability. Similarly, where the lessor is a partnership or other entity, the members of or interest holders in such partnership or other entity, as well as such partnership or other entity, will not be subject to any legal liability. Under current law the lessor of a facility is not required to be licensed by the NRC and is therefore not subject to the obligations of NRC licensees. This section further clarifies that lessors are not liable for any other liabilities—under Federal or State law—relating to a nuclear incident.

The second section on which I would particularly like to comment, Mr. President, is section 19 regarding a negotiated rulemaking on the issue of financial protection for radiopharmaceutical licensees. This provision directs the NRC to ensure that these licensees, including nuclear pharmacies, hospital nuclear medicine departments, radiopharmaceutical manufacturers and others, have sufficient liability protection in the event of a nuclear incident. These licensees serve a vital public health role, and it is crucial that Congress make certain that these licensees have insurance so that they may continue to provide the benefits of these lifesaving drugs. Without adequate insurance, the availability of radiopharmaceuticals may be jeopardized, as the availability of vaccines was jeopardized when vaccine manufacturers were unable to protect against the enormous potential liability exposure associated with providing those vital drugs.

The central issue in the debate with respect to this provision involves whether these licensees have or can obtain adequate commercial insurance to protect against liability claims associated with a potential nuclear incident. I have found the evidence presented to me to be compelling that such insurance may be unavailable. For that reason, I have been and continue to be in favor of extending the indemnification provisions in this act to radiopharmaceutical licensees. However, in the interest of resolving differences with our colleagues in the other body and moving forward with this important legislation, I am supporting the negotiated rulemaking provision contained in section 19. Under the process in this bill, an independent convenor will look to the evidence on the issue of the availability or lack thereof of insurance, and will submit recommendations to the Commission on whether and under what conditions to indemnify these licensees.

The mechanics of this provision are straightforward. Within 30 days of enactment of this legislation, the Commission will designate the convenor from among individuals recommended by the Administrative Conference of the United States. The convenor will identify individuals representing nuclear pharmacies, radiopharmaceutical manufacturers, hospital nuclear medicine departments, and other radiopharmaceutical licensees and affected interests as appropriate. The convenor shall gather testimony and is encouraged to call upon experts in the field. Within 7 months of enactment of this act, the convenor shall submit recommendations to the NRC. Even in the event that a consensus is not reached among the parties to the negotiation, the convenor is required to submit recommendations that include a proposed resolution to the issue. The NRC shall publish the recommendations of the convenor as a proposed rule. Within 18 months after enactment of this act, the NRC shall publish a final rule.

It is clear that the Commission has the authority to indemnify radiopharmaceutical licensees, including those located in agreement States, under existing law. While the authority to make the final decision on the merits of the proposed rule recommended by the convenor continues to rest with the Commission, the Commission should carefully weigh the recommendations of the convenor and should implement these recommendations in the absence of compelling evidence to indicate that these recommendations are unwarranted.

If the convenor determines that insurance is, in fact, unavailable, it is expected that indemnification shall be provided. Likewise, it is not intended that the Commission may decline to provide coverage on the grounds that the risks involved from these operations are so slight that no insurance is needed. It is my hope that this process moves swiftly and results in a solution that will allow the licensees involved in nuclear medicine around the country to continue to provide their needed products and services. I certainly encourage my colleagues to join me in supporting this legislation today.

Mr. JOHNSTON. Mr. President, I move that we recede en bloc from Senate amendments 1 through 15 and concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. I thank all Senators especially Senator METZENBAUM.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I know it may appear frustrating to some of our colleagues to have so many recesses as we had yesterday but conferences are being conducted with respect to the DOD appropriations bill and I believe as a result of those conferences we have had, which have necessitated the recesses that in the long run we will find that the action on the DOD appropriations bill has been expedited, at least to some degree, and I hope that after another brief recess this morning we can proceed with the DOD appropriations bill.

I suggest to all Senators that this will be a full day, there will be rollcall votes, and I hope that they will schedule their day accordingly.

ORDER FOR RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Republican leader the Senate stand in recess for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader.

DEPARTURE OF DR. CHIEN

Mr. DOLE. Mr. President, I am certain that many of our colleagues are aware that Dr. Fredrick Chien and his wife Julie will be leaving Washington to return to Taipei in the next week. Dr. Chien has served ably as Taiwan's representative to the United States for the past 5 years.

I know that many Senators and Members of Congress and their staffs have had the opportunity to consult with Dr. Chien and his colleagues on political and economic issues. Dr. Chien's comprehensive knowledge of trade and economic issues, coupled with his openness and ready understanding, have helped to create a highly positive atmosphere between Members of Congress and the people of Taiwan. Taiwan is the fifth largest trading partner of the United States.

There have been many issues that have divided Taiwan and the United States in the past 5 years. But Dr. Chien's positive contributions to resolving those issues have helped to guarantee the harmonious relationship between Taiwan and the United States. Dr. Chien has helped to place the day-to-day issues of trade in the broader political and moral context of the relationship between the United States and Taiwan.

Dr. Chien has represented the interests of his country in a highly professional and thoughtful way. Many of our colleagues know that he has also helped to represent and to explain to his Government the views of Members of the U.S. Congress.

I ask unanimous consent that an editorial in the Free China Journal entitled "A Career Diplomat at Work" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Free China Journal, Jan. 13, 1988]

A CAREER DIPLOMAT AT WORK

It is fair to say that the substantive relations between the Republic of China and the United States have developed well and steadily over the past three years. Although issues of greater, and lesser, importance sometimes threatened this smooth progress they were generally addressed in the spirit of mutual cooperation.

In contrast to this agreeable situation, the international community's expectations of increased mainland China trade, Communist China's current policy of more trade openings to the world, and Peking's increasing activities on international scene, pose more direct challenges and difficulties to the ROC.

It is in spite of such mounting communist pressures, that the ROC's cultural, economic, scientific, and other ties with the U.S. have grown even stronger. Washington has even publicly expressed its determination to support the ROC's legal status and interests in the Asian Development Bank.

Against this background, it is well understood here that President Ronald Reagan's longtime friendship with the people and government of the Republic of China is a major ingredient in the sparkling relationship. However, Dr. Fredrick Chien, representative of the ROC Coordination Council for North American Affairs, is a central factor in making it all work—especially via his pioneering work to establish a mutually acceptable association between the officials of the two countries, outside the framework of the formal diplomatic practice.

Since his appointment to his current position in 1983, Chien has been maintaining an active, yet deliberately low-profile approach in seeking meaningful enrichment of the substantive relations between Taipei and Washington. Some observers have characterized him as too adroit a diplomat, too well trained in international politics to directly challenges Washington's fundamental policies toward Communist China even though these are not generally appealing to the ROC. Chien has, instead, convinced the White House and Congress that good ROC-U.S. relations are very much in the U.S. interest, apart from any Washington relationship with Communist China. A January 8 editorial in the local China News noted in this connection: "His tactful separation of Taipei-Washington and Peking-Washington ties when more delicate issues are involved also helps bail him out of some 'thorny situations.'"

The absence of formal diplomatic relations prevents ROC official access to U.S. foreign policy makers; yet, Chien directs a corps of young and capable aides to use whatever opportunities and channels may arise to increase their association with various U.S. counterparts and congressional staff.

Chien has also left his footprints across the U.S., in his efforts to establish friendships with local politicians, scholars, and the media. In all his speeches, he speaks of the mutual benefits of good ROC-U.S. relations.

Chien's personal style, approach, sincerity, and bredth of knowledge, observers agree, are the basic elements in the excellent rapport he has established with his U.S. counterparts. At home, as a result of these same qualities, he is among the most prominent and respected diplomats.

The members of the Foreign Affairs Committee of the ROC Legislative Yuan gathered January 6 to hear Chien's report on the development of ROC relations with the U.S. Such legislative sessions in this country often feature very harsh interpellations, resulting in embarrassed officials and administrators. However, according to local news reports, the committee members, instead of grilling Chien ruthlessly, acclaimed his valuable achievements during his three years' service in the United States. This legislative honor is highly unusual for any ROC public official. It testifies to the quality of Chien's efforts over the past three years.

If international politics is ruled by the art of possibility, Chien has exerted to the utmost to open new and rewarding vistas for ROC-U.S. substantive relations.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Maine.

Mr. COHEN. Mr. President, I rise to join my colleagues in commending the diplomatic service and achievements of Dr. Fredrick F. Chien. For the past 5½ years, Dr. Chien has ably served as representative of the Coordination Council for North American Affairs in the United States, the unofficial Embassy of Taiwan. Recently, Dr. Chien was promoted to a super-Cabinent position in which he will hold the dual offices of Minister of State and Chairman of the Council for Economic Planning and Development. On August 12, Dr. Chien will leave his post to return to Taipei to assume his new duties.

Fredrick Chien is admirably qualified to assume his new responsibilities. He is an accomplished student of American culture, economics, and political affairs. He received his masters and doctorate degrees from Yale University. He has been immersed these past several years in economic matters, primarily trade issues involving the United States and Taiwan.

It is my understanding that one of the primary responsibilities that Dr. Chien will assume as chairman of the council will be United States-Taiwan trade relations. I wish him well in this capacity and hope that his ideas and suggestions will serve as an impetus for continued improvement of the United States-Taiwan trade picture. I am confident that Fred Chien will do his best to promote fair and friendly trade between our two countries.

In closing, Mr. President, Dr. Chien has done much to promote and nurture the strong and deep friendship between his country and the United States. I offer my congratulations and best wishes to Fred Chien and his wife, Julie, as they depart from our Nation's capital to undertake challenging and important new duties in Taipei.

Mr. DOLE. I yield to the distinguished Senator from Alaska.

Mr. MURKOWSKI. I thank the minority leader.

FAREWELL REMARKS FOR DR. FRED CHIEN

Mr. MURKOWSKI. Mr. President, next week, a very close friend to many of us will leave Washington to return to his home in Taiwan. In the 5 years that I have had the pleasure to work with Dr. Fred Chien, or Freddy as he is known to many of us, I have always found him to be an effective representative of the concerns and interests of the people of Taiwan.

When Dr. Chien returns to Taiwan to assume the position of Chairman of the Council for Economic Planning and Development, I am confident that he will continue to promote the strengthening of democratic institutions in Taiwan and further internationalization of Taiwan's economy. His appointment to this important position emphasizes President Lee's commitment to continuing the political and economic reforms initiated by the late President Ching Ching-Kuo.

I want to extend my best wishes to Fred, his lovely wife Julie, and their two children as they prepare for their return to Taiwan. It is comforting to know that in his new position, we will continue to have the opportunity to work together to strengthen the important relationship between our two countries.

I thank the Chair and thank the minority leader.

BICENTENNIAL MINUTE

AUGUST 5, 1864: THE WADE-DAVIS MANIFESTO

Mr. DOLE. Mr. President, 124 years ago today, on August 5, 1864, Senator Benjamin Wade of Ohio and Representative Henry Davis of Maryland issued a document known as the Wade-Davis manifesto—a classic defense of congressional prerogatives. The manifesto, a sulphurous harangue against President Abraham Lincoln, brought to the fore intense passions kindled by the issues of who would direct the reconstruction of the South following the Civil War. Rarely has a President been attacked as vehemently and as openly by members of his own party, and in an election year at that.

In the spring of 1864, after a string of Union victories, an increasingly influential faction of Senators known as the radical Republicans began to plan for the restoration of the seceded States. Anticipating their actions, President Lincoln unveiled his own Reconstruction plan. No matter how compassionate or vindictive Lincoln's plan had been, it could not have pleased the radicals, who believed Congress—not the Chief Executive—should formulate such policies.

Countering the President's move, Wade and Davis introduced their own proposal for congressional reconstruction and skillfully maneuvered it through the Senate and House. Though the Wade-Davis bill differed significantly from the President's plan, the radicals believed he would feel compelled to sign it. They were mistaken. On July 4, 1864, the last day of the session, after signing other acts in the President's room adjacent to the Senate Chamber, Lincoln placed the measure into his pocket and returned to the White House.

Lincoln's refusal infuriated Wade. He spent the next 4 weeks hammering out the blistering manifesto, which began with the stinging words, "a more studied outrage on the legislative authority of the people has never been perpetrated." The Wade-Davis bill and the manifesto it spawned proved to be the opening salvos in a bitter struggle between the President and Congress over who would guide the Reconstruction of the South.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess for 20 minutes.

Thereupon, the Senate, at 9:59 a.m., recessed until 10:19 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the recess be extended by an additional 15 minutes.

There being no objection, at 10:20 a.m., the Senate recessed until 10:35 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk reported as follows:

A bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 4781.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendments be considered as original text for the purpose of further amendment, that they be adopted en bloc, and that no points of order be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. JOHNSTON. I further ask unanimous consent that, thereafter, Senator BRADLEY be recognized to make a motion to strike the Aegis amendment; that that motion to strike be nonamendable; that there be an hour and a half time limit equally divided between the Senator from New Jersey [Mr. BRADLEY] and me; that following that, Senator WALLOP be recognized to offer an amendment to the SDI provisions; that that not be subject to amendment; that there be a 1-hour time limit on that amendment, equally divided, between the distinguished Senator from Wyoming [Mr. WALLOP] and me.

Mr. BYRD. Mr. President, reserving the right to object—and I do not have any intention of objecting—the distinguished manager referred to Mr. BRADLEY's amendment as a strike amendment but no amendments to the amendment. Does he wish to include amendments to the material to be stricken? I would hope that would be included—include amendment to the language to be stricken.

Mr. BRADLEY. No amendments to the language to be stricken.

Mr. JOHNSTON. I so move.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Reserving the right to object, does the distinguished Senator mean that the hour-and-a-half amendment on Aegis is not to be displaced?

Mr. JOHNSTON. That is correct.

Mr. STEVENS. Mr. President, reserving the right to object—and I will not object—I presume that the distinguished majority leader means that during the pendency of the amendment to be offered by the Senator from New Jersey, there will be no amendment in order to the attempt to strike from the bill. I think that language may need some technical corrections later. So this is just for the purpose of consideration of the Bradley amendment. Is that correct?

Mr. JOHNSTON. The Senator is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from New Jersey is recognized.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2808

(Purpose: To strike out section 8119 prohibiting transfer of the Aegis weapon system to Japan)

Mr. BRADLEY. Mr. President, I send an amendment to the desk on behalf of myself, Mr. EVANS, Mr. EXON, Mr. GLENN, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LUGAR, Mr. MCCAIN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. ROCKEFELLER, Mr. SANFORD, Mr. KERRY, Mr. SYMMS, and Mr. WALLOP.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and others, proposes an amendment numbered 2808:

On page 112, strike out lines 6 through 11.

Mr. BRADLEY. Mr. President, for years now, Congress, the President, and the American people have been urging our allies, especially Japan, to carry a bigger share of the burden of defending freedom. In agreeing to purchase the Aegis weapons system, the Government of Japan has done just that. Yet, the provision in the appropriations bill wants to prohibit the sale from going through. This is called prohibition burden-sharing.

Mr. President, I would argue that it is just the opposite. I think the amendment in the bill is an antiburden-sharing amendment, and I will say why.

In 1981, the United States Government initiated talks with Japan over how to share more equitably the burden of defending Western interests in the Pacific. Japan undertook to extend the defense of its sealanes out 1,000 miles, at our request. This is burden sharing. To carry out that new mission, Japan needed a more sophisticated radar system to track Soviet ships coming through the area, for example. Our Department of Defense suggested the Aegis system.

The Japanese marine and self-defense forces were interested in buying the Aegis, but there is substantial opposition elsewhere in Japan. Nonetheless, the Department of Defense and the marine self-defense forces prevailed. Japan has agreed to buy four Aegis systems and may eventually buy as many as eight systems.

Each system costs about $526 million and creates thousands of American jobs—a rough estimate is about 5,000 people a year working on an Aegis system. The Japanese express no interest in buying the hull of the ship to go with the system.

This is not surprising because Japan has not bought a foreign ship for over 100 years. Even so, senior DOD officials raised the issue of the hull and were told by senior Japanese officials that it would simply not be possible for them to buy the ship and if purchase of the hull was made a condition of access to the Aegis radar, Japan would have no option but to cancel the deal.

This would mean the loss of billions of dollars and thousands of American jobs in many States across this country.

But there is something else at issue here besides economic issues, which are not insignificant; besides Japanese money and American jobs, which are not insignificant. Our national security is also at stake.

Let me quote from a letter dated August 3, 1988, to all Senators from the chairman of the Joint Chiefs of Staff, William Crowe, and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. BILL BRADLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR BRADLEY, I am pleased to have the opportunity to provide my thoughts on an issue that we both agree is important to our national security.

Over the past few years in an effort to obtain a more equitable sharing of the burden of the common defense of the free world, we have encouraged our allies to develop military capabilities that complement those of the United States. From a military point of view, we have made worthwhile progress in this endeavor, particularly with the Japanese, who have been especially cooperative and forthcoming.

The Japanese have agreed to accept responsibility for the mission of the defense of the air and sealanes which lie within one thousand miles of Japan, thus allowing our forces to concentrate on Soviet military challenges throughout the rest of the Western Pacific. The Japanese military is making steady progress toward this worthwhile goal, but significant deficiencies remain to be overcome before Japan can fulfill its responsibility alone.

Japanese acquisition of such US weapon systems as Patriot, Over-the-Horizon Radar, F-15, E-2C, P-3C, and AEGIS supports three highly desirable goals. First, they are critically important to the establishment of an effective Japanese self-defense force. Second, they promote the continued development of interoperability between US and Japanese forces, a factor which could be of significant value in a future war. Third, since the Japanese procure almost all of their military equipment from the United States, such purchases contribute toward balancing the burden of providing for the common defense.

While some might argue that the rearmament of Japan could be considered threatening by other East Asian and Pacific nations, I believe that each of our Asian allies understands the importance of Japanese efforts in support of the common defense to the long-term security of the Pacific Basin. The capabilities that the Japanese are seeking to acquire from us are, above all, prudent self-defensive measures.

It is my belief, supported by the Service Chiefs, that the purchase of AEGIS by Japan is important to our national objectives and our interests in the Western Pacific. This enhancement of Japanese defense capabilities will also provide increased security to the United States and greater participation by a key US ally in sharing the burden of our common defense.

I hope that you will find these views useful during your consideration of this important matter. If you have any questions on this issue, I would welcome the opportunity to address them.

Sincerely,

William J. Crowe, Jr.,
Chairman, Joint Chiefs of Staff.

Mr. BRADLEY. Mr. President, he states in one part of the letter:

> Over the past few years in an effort to obtain a more equitable sharing of the burden of the common defense of the free word, we have encouraged our allies to develop military capabilities that complement those of the United States. From a military point of view, we have made worthwhile progress in this endeavor, particularly with the Japanese, who have been especially cooperative and forthcoming.

He goes on:

> The Japanese have agreed to accept responsibility for the mission of the defense of the air and sealanes which lie within one thousand miles of Japan, thus allowing our forces to concentrate on Soviet military challenges throughout the rest of the Western Pacific. The Japanese military is making steady progress toward this worthwhile goal, but significant deficiencies remain to be overcome before Japan can fulfill its responsibility alone.

The letter from the Chairman of the Joint Chiefs of Staff says sell the Aegis, do not put this restriction on.

According to the Chairman of the Joint Chiefs purchase of the U.S. system like the Aegis supports these important national security goals and contributes significantly toward balancing the burden of the common defense. Reneging on the deal would put these goals in jeopardy.

Mr. President, the only argument in favor of the committee prohibition is that if we hang tough and insist that the Japanese buy the Aegis hulls, they will ultimately agree to do so. This is the theory: If they disagree, hit them with a stick across the head and they will then agree.

Mr. President, I frankly do not believe that. If I did, I would be urging the Department of Defense to even try harder, but all the evidence indicates it is not so. The Secretary of Defense and the Secretary of State believe it is not so.

I ask unanimous consent that a letter from Secretary of Defense Carlucci and Secretary of State Shultz be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 4, 1988.

Hon. Robert J. Dole,
U.S. Senate,
Washington, DC.

Dear Senator: We are deeply concerned about a provision in the Senate version of the FY 1989 Defense Appropriations bill that would effectively cancel a major sale of military equipment to one of our staunchest allies, the Government of Japan. We are referring to the provision banning the sale of Aegis technology overseas unless that sale includes the purchase of a U.S. hull.

While very broad in its application, this provision is clearly aimed at our planned sale of the Aegis combat system to the Government of Japan. Japan is prepared to purchase the first Aegis system in 1988, which will provide $525 million and 5,400 work years to the U.S. economy. While this provision may not prevent the sale of the first Aegis system to Japan, we are concerned that a prohibition on future sales will lead the Japanese to reconsider their plans to purchase any Aegis systems. Additional sales over the next decade will result in billions of dollars being invested in the U.S. economy, and the creation of more than 48,000 man years of labor.

Since 1981, we have been working with the Government of Japan to identify ways for them to increase their contribution to our mutual security efforts. This resulted in Japanese agreement to take on the responsibility of defending the airspace and sealanes out to 1000 miles. This expanded Japanese role is required to offset a growing Soviet naval and air presence in the Pacific Basin, and it complements U.S. regional defense missions. In order to perform this expanded role, the Japanese Government decided to purchase the Aegis air defense system. Without Aegis, Japan's naval forces are vulnerable to attack by numerous Soviet aircraft. The Aegis system on Japanese naval vessels will not only protect them against such attacks, but will enable Japanese ships to link up with U.S. Aegis ships to provide a safe air defense zone for our aircraft carrier battle groups.

The decision by the Japanese Government to purchase the Aegis system from the United States was a difficult one, as it involved an expensive system with more than 50 percent of the funding being invested overseas. Requiring, in addition to the Aegis system itself and the ship's engines, that the hull be purchased abroad would almost certainly result in the cancellation of the entire project. The Japanese have not purchased a foreign-built ship since the 1880's, and there is no prospect they will change this century old decision.

The U.S. wants Japan to spend more on defense and to purchase U.S. equipment. The sale of Aegis meets both of of these goals. Japan can and will protect the system adequately. There is no conceivable way to convince the GOJ to purchase an American made hull. Requiring Aegis to be wrapped in a U.S. hull is a no-win policy. Selling Aegis to Japan makes infinite good sense for the United States. We urge you in the strongest possible terms to oppose the "no-sale-without-hull" provision.

Sincerely,

George P. Shultz,
Secretary of State.
Frank C. Carlucci,
Secretary of Defense.

Mr. BRADLEY. Mr. President, I have no reason to doubt the Secretary of Defense or the Secretary of State. I see no reason to sacrifice American jobs and contracts and national security for what? For nothing. There is no gain from prohibiting this sale, only a big loss.

As I said and as the letter from the Secretaries of State and Defense will indicate, they strongly oppose this. In a rather unusual event, they wrote a joint op-ed piece in the Washington Post just a few days ago in which Secretary of State Shultz and Secretary of Defense Carlucci said the following:

> Blocking the sale will do significant harm to Japan's contribution to our mutual defense and to U.S. trade interests. American foreign policy interests as well as the interests of American manufacturers and workers would be best served by allowing the sale to go forward without restriction.

Mr. President, I ask unanimous consent to have printed in the Record the op-ed to which I referred.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Japanese and the Aegis Sale

Japan spends a much smaller percentage of its gross national product on defense than does the United States. Japan can and will be doing more. However, some critics lose sight of the fact that Japan has already begun to make very significant contributions to the defense of the West and that Japan's defense expenditures in the 1990s will be the third largest in the world, outdistancing the expenditures of such traditional allies as France, West Germany and the United Kingdom.

Both the administration and Congress have called for Japan to bear a larger share of our mutual defense burden, and Tokyo has been listening. Japan has increased its defense spending by an average of 5 percent per year in the 1980s, despite keeping overall government expenditures relatively flat over the same period.

As part of the ongoing 1986-1990 defense program, Japan has decided to purchase the weapons systems and engines for two new Aegis guided-missile ships in the United States. Acquisition of the Aegis ships will enhance Japan's air defense capability and, thus, our mutual security in the Pacific.

With this purchase Japan is committed to spending in excess of $1 billion in the United States, generating more than 10,000 man-years of U.S. labor. There is little security risk involved as the hardware technology is unclassified and the sensitive software codes will continue to be controlled by the United States. Also, the Japanese government, as distinct from private industry, has a perfect security record in handling U.S. military equipment it has obtained.

Sounds good doesn't it? And who could be against Japan's spending more on defense in the United States in our interest? A current provision of the Department of Defense appropriations bill pending in the Senate would prohibit the sale of this Aegis weapons system to any foreign nation unless the purchaser also buys a ship constructed in the United States. A bipartisan group of senators is atempting to strike the restrictive provision. They understand the military and economic benefits to the United States in having Japanese Aegis ships on station close to the Soviet threat and paid for by Japanese taxpayers.

Japan is the only country now interested in purchasing this highly capable but very expensive system. Japan's navy (the Maritime Self-Defense Force) had a difficult time selling its own government on Aegis. Japan has not purchased a naval vessel abroad since the 19th century. It is understandable that U.S. shipbuilders would like the Japanese to build Aegis ships here, but insisting that there will be no sale without a hull purchase will not sell a U.S. hull. What it will do is cancel the Japanese purchase of Aegis.

If the proposed restrictions on the Aegis sale are voted by Congress, Japan will opt for a less capable air defense system, perhaps from another foreign country, or for one produced in Japan for installation in a Japanese hull. By attempting to force Japan to purchase an American hull, the United States will lose enhanced defense capability of a Japanese Aegis, a $1 billion cash flow to the United States and 10,000 man-years of U.S. work.

Japan will embark on a new five-year defense program for 1991-1995, which could include long-range early warning ground- and air-based radar systems, aerial tankers and more Aegis systems. These types of systems would further enhance Japanese defense capability; the entire five-year program could exceed $150 billion.

Japanese arms manufacturers are eager to obtain business that has in the past gone to the United States. Failure to approve the sale of Aegis would undermine the reliability of U.S. suppliers and encourage Japan to build its own weapons rather than purchase them from the United States. Over the past year, Japan has chosen a U.S. aircraft as the basis for its next advanced fighter plane. As a result, more than $400 million in development work will flow into the American economy while Japan's contribution to air defense in Northeast Asia will increase sharply.

Buying Aegis systems from the United States is another positive Japanese action that helps the United States a great deal. Blocking the sale will do significant harm to Japan's contribution to our mutual defense and to U.S. trade interests. American foreign policy interests as well as the interests of American manufacturers and workers would be best served by allowing the sale to go forward without restriction.

Mr. BRADLEY. Mr. President, I agree with that assessment. Let us not get sidetracked by appeals from one group. Let us put American interests first and strike this provision from the bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Alaska such time as he may wish.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the distinguished Senator from Louisiana and I made individual trips, but we did make trips to Japan with our staffs to look into some of the mutual problems of defense. One of them is this problem of the Aegis weapons system, and I believe we should recognize that the Aegis system is a very good technology. It is a very sensitive one for us and it does provide the U.S. shipbuilding industry a competitive edge in that the system really was designed to go into the U.S.-built ships and if we sell the system independently of the ships, we will in effect be giving away part of that competitive edge.

I believe that providing the technology to Japan alone would weaken our competitive position with them and with others in the free world in shipbuilding.

It is like taking the heart, the major system, out of any of our current highly technological and classified military defense weapons and weapons systems and selling just the internal high technology alone.

It would be like taking the AWACS sensors and the total technology that fits into those AWACS aircraft and selling it and not selling the Boeing plane along with it. We have not done that.

There is a compromise, and that is why I mentioned at the beginning that I think that it might be that the language could be modified if the Bradley amendment is defeated, because there is the possibility of coproduction to a certain extent on these vessels, and we discussed that when we were in Japan. We discussed American shipyards building the vessels and our industry installing the system and then sending that partially completed vessel over to Japan so that they could complete the hotel, what we call the hotel portion of a vessel like this, the crews' quarters, the creature comforts that go into a vessel. But we should maintain control of this technology.

So far as I know, it has not gotten away from us. And I do not think that I need to say too much on the floor of the Senate about the fact that technology that is shared with Japan has a way of getting away.

That was behind our move to say that if they wanted this system, they had to buy the ship because if they bought the ship, we would put the Aegis system in it and we would not be giving away the total classified system that is involved.

I understand full well what the Secretary of State and Secretary of Defense are saying, and I understand also that they wish to encourage them to spend more to bolster their own defense.

We share that objective. But we ought to be sensitive to the restrictions we just put in the trade bill. Those restrictions are in the trade bill against a particular Japanese organization because of activities that were proven beyond a question of doubt.

Now, I say to the Senate that this is a good provision. I am not sure that they would have to buy the whole ship, but they ought to buy the hull and the technology and the Aegis system as a package and we could let them furnish the superstructure and furnish the creature comforts. They might design their vessels differently from ours as far as military operations, and that we can respect.

But I oppose the position of the Senator from New Jersey based upon a firsthand visit with leading members of the Liberal Democratic Party of Japan, members of the Government of Japan, members of our military in Japan, in view of what I mentioned on this floor time and time again, the great advantage of the Japanese in terms of their yen costs as compared to our dollar costs of these systems.

We would be literally giving away our technology in view of the great advantage of their currency over ours today. And there is no reason to do that. They can easily afford to buy our ships. As a matter of fact, Mr. President, it is probably going to be less expensive for them to do it that way. They probably would be able to get their systems cheaper if we built the basic vessel and they built the superstructure.

If they could assume more of the air defense around their self-defense force—and they are now defending 1,000 miles from their island, so at least they have assumed that responsibility—that will lessen the United States burdens in Japan. But as we lessen those burdens I think we should make certain that they purchase from us a complete system which, in my mind, the Aegis includes the basic hull and installation of the system itself.

(Mr. GRAHAM assumed the chair.)

Mr. JOHNSTON. Mr. President, I yield myself 10 mintues.

Mr. President, our committee has come up with a whole bevy of fairness amendments, of which this is one of the most important. In my view, burden sharing and fairness in the split of our responsibilities for the defense of the world is going to be the most important defense issue of the next few years. It is the most important defense issue, because we are spending billions of dollars with what has been called imperial overreach, protecting our allies, providing for the defense of our friends all at our expense.

Mr. President, the situation is outrageous in terms of burden sharing. If I may show a chart which I demonstrated last night, the facts are so absolutely clear in terms of how the burden of defense is shared. The United States spends 6.8 percent of its GNP on national defense. South Korea, Great Britain, and West Germany spend less, but Japan, Mr. President, spends only 1 percent of its GNP on national defense. In other words, the United States is spending seven times as much in terms of percentage of its GNP as Japan is spending.

In terms of dollars per capita, Mr. President, the United States spends $1,164 per capita and Japan spends $163 per capita. In other words, the United States is spending seven times as much per person in hard earned tax money as the Japanese are spending.

Now, we were glad, after World War II, to lift up the Japanese economy, to bring it up from the position of destruction, which it was in. We did the same thing in Europe with the Marshall plan.

But, Mr. President, that is no longer the situation. The Japanese are no longer a devastated country. Now the tables have turned completely. These great friends of ours—and they are great friends and they are great allies—now have a trade surplus with us, or we have a deficit with them, of $59.8 billion. We are a debtor nation of the Japanese to the tune of almost $60 billion.

Mr. President, how in the world did we get in this kind of situation. How did the United States get in a situation of paying for the defense of Japan while we are $60 billion in trade deficit to them. I am not sure how we got there, but I can tell you how we get out of that situation. It is by putting provisions in the defense appropriations bill such as we have here which, even though they are small steps, are important first steps in trying to correct this imbalance.

Now, what do we propose, Mr. President? A number of things in terms of burden sharing. Why did we pick on Aegis? Well, because our options are reasonably few in number and reasonably small.

While we ought, in my view, to share equally the cost in terms of percentage of GNP and in terms of per capita expenditure, we know that that it is unrealistic to, say in 1 year, ask the Japanese to increase their defense spending seven times over. They have constitutional problems. It makes some of their neighbors nervous. The South Koreans, for example, and the Chinese get nervous when the Japanese rearm. We understand all of these sensitivities.

But, Mr. President, the Japanese have agreed finally to help protect the sealanes out to 1,000 miles off of their own islands. That is a very appropriate thing for them to do.

We are glad that they want to do the American technology, the Aegis technology. But, Mr. President, why do they want to scrape the cream off the American technological bottle and not take the bottoms, the ships, as well? Well, they want to give jobs at home. Well, we understand that. But if they are going to share that burden, this is a proper and appropriate way to share the burden. It does not make anybody nervous. It is fair to do so. We have a devastated American shipbuilding industry, and it is something they can help with.

Oh, we are told that they have no interest in buying ship bottoms in America. Well, do you know that, until we raised this matter in the defense appropriations bill, they have not even been asked to do that? And even if they had been asked, the problem with our negotiators—and this goes beyond just this administration—the problem with our negotiators is that they come in and say, "Well, we are going to defend your islands, but please help us do that."

It is kind of like with NATO, Mr. President. You remember, back in 1974, we said, "It is time for you to share a great burden," the Jackson amendment. Some of my colleagues who were here at that time remember the Jackson amendment which said if they do not do something in NATO to share a great burden, then we are going to begin to pull our troops back. And what happened? Well, in 1971, NATO had 5.4 percent of their GNP for defense. Today, it is 5.1 percent. So NATO went down. So what did the United States do? Well, it is increased its NATO troops and civilians by 144,000, by 27 percent.

Mr. President, if you do not nail it down in a bill like this, if you do not nail it down by saying you do not get the Aegis technology unless you buy the Aegis ships, it will not get done. It just will not.

I have talked to Secretary Carlucci—and he is a great Secretary and I like him very much—and I have talked to Secretary Taft and they are very proud of what they have done in terms of burden sharing which, in my view, Mr. President, is not much, because they accept as the basic thesis that it is a fair proportion for them to do 1 percent of their GNP and for us to do 6.8 percent. They take the basic thesis that we ought to be spending seven times as much American tax dollars as the Japanese do. If you accept that thesis, then you ought to vote for this amendment, because what this amendment does is say, "Let's bring some of those Japanese dollars, a few of them, back to the United States."

Mr. President, we want to sell the Aegis technology. Although I must tell you, judging by past performance, I am very nervous about the question of technology transfer. Some of the most sensitive parts of Aegis technology is the incorporation of the Aegis technology, the radar and the fire control mechanism and all these machines, into the hull of a ship. It takes a lot of expertise to do that. Indeed, our Navy Department says we should not have new people bidding on those ships because it takes such a great degree of expertise in order to be able to do that.

Mr. President, to the extent we let them take the technology and build the boats and learn how to do that integration, we promise, or we lay the groundwork for, a new Japanese arms industry.

It is a self-imposed limitation now, that the Japanese have been not getting into the arms industry. But I can tell you there are a lot of people who are nervous. Here is the August 8 issue of U.S. News and World Report, which has an article here on "Now Japan is Up in Arms." It talks about the nervousness of Americans, about our policy planners, on the Japanese getting into this business.

I do not mean to wave too much of a red flag, except to say that it is very sensitive technology to incorporate the technology into the hull. And we can do it as a package deal and sell it to them.

In my view, they will buy it because they ought to buy it, because it is fair. It is sandlot justice, Mr. President.

It reminds me a little bit of that fellow who had the brother-in-law who used to come to dinner every evening. My friend was glad to have his brother-in-law, he loved his brother-in-law. He was a good fellow. And every evening he would come and they would cook him a nice dinner, and they did not charge him a cent.

Certainly, in the early years when the brother-in-law came, Mr. President, the brother-in-law did not have a job and he was hungry and he was needy and my friend had a steady job. But as the years rolled on, my friend got in debt. In fact, in the last 8 years he has more than doubled his debt.

The brother-in-law, Mr. President, now is driving a big Mercedes, he has got a big-shot job, he is making a million dollars a year, and he is smoking big cigars, and he is still not contributing 1 cent to the cost of the meal.

Well, my friend the other day told his wife, he said, "Why don't you tell your brother just to bring the dessert? We will take the cost of all the rest of the meal, the roast beef and the salad and the wine and the cheese and all of that, and we will cook it for him; but just have him bring the dessert."

Mr. President, I do not really have that friend, in case you have not guessed by now, but the story illustrates the very situation we have. We started off after the war, we rebuilt the Japanese economy, and that is one of the greatest stories in history of one Nation's help to another. We built that economy, and they built it themselves; per capita, the strongest economy in the world. And they have a $60 billion trade deficit with us.

Now, the question presented by this amendment is: Do we want to change those trends? Do we want to keep a 7-to-1 ratio, a 7-to-1 ratio on what we spend on defense as opposed to what they spend on defense? Do we want to begin to bring at least a few of those dollars home and a few of those jobs home? I think, Mr. President, if we kill this amendment we will help set a trend for burden sharing, for being fair, for once, and we will help our national defense a great deal, not hurt it. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I am prepared to yield 10 minutes to the Senator from Washington. Prior to doing that I want to just say that there is a theme here that if the Japanese are required to buy hulls, they will not buy Aegis and it will cost American jobs. And we will have less defense coverage in the Pacific.

Mr. President, that will be a theme that we will come back to throughout this debate. I am prepared to yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President. I have listened with care to the arguments of the opposition, the Senator from Louisiana and the Senator from Alaska, and I must say I am disappointed that their arguments hold no more weight than the ones they have at least used today. Let me first briefly, respond to those arguments.

The Senator from Alaska said that it is a compromise, a coproduction of the hull. The Senator from New Jersey has said it bluntly and correctly: This will not fly. Japan will not buy American hulls. The Aegis system will not be sold. And we will lose over 4,300 United States jobs in what otherwise would be the biggest single defense purchase of Japan outside of that country in the history of that nation.

Second, the Senator from Alaska said the technology has a way of getting away, which I think is a low blow to the Japanese Defense Agency. It has an absolutely perfect record in protecting sensitive U.S. defense technology. This is not a sale to private companies in Japan. We are talking about the Japanese Defense Agency, and it has had a spotless record.

The Senator from Louisiana said the Japanese per capita defense budget is $165. The reality is that it is now $265; at current exchange rates. It is up $100 from just a few years ago, and it is continuing to rise. It is not a question of skimming the cream. Using the same procedure Japan has built 60 postwar destroyers, their own hulls, including 8 DDG's, guided missile destroyers. Japan intends to buy their air defense and other weapons systems from us, but they will build the hulls. This is not new.

As far as the concept that somehow the sensitive part of this whole system is the installation into the hull, that assertion simply does not wash. The biggest and most sensitive part of the system is internal to Aegis itself. And as far as the sensitivity of installing it into the hull, that will be done by United States technicians hired by Japan, not installed by the Japanese.

Let me turn to a broader share of this debate. We have had a lot of talk about burden-sharing. Let me start with the definition of burden-sharing.

It seems to me it is to build a common responsibility for defense of the free world, understanding shared values and shared goals. Within that sharing, however, we are a superpower. Japan is not. We are a superpower, none of the individual NATO nations are superpowers.

Our U.S. troops and military equipment are abroad, not for someone else's interests, but for our own interests.

We have believed, since World War II, it was in the interests of the United States to continue to develop and maintain our military security by having installations and troops around the world.

The gross national product approach to burden sharing simply does not make much sense if you are really talking about appropriate burden sharing. What does make sense is to try to anticipate and analyze what we want the roles and missions of each of our allies and ourselves to be. That is the proper and sensible way to share our burdens.

What do we want Japan to be anyhow? Do we want to push them into being another supermilitary power? Do we want to fully rearm Japan by forcing them—and they certainly have the capability, they have shown it in every other aspect of their economy—to ultimately rebuild a formidable military machine? I do not think so.

So what is their mission? And what do we both want that mission to be? The protection of their sea lanes to a thousand miles of the Japanese archipelago. Is Japan doing its share? It certainly is. They now have 25 destroyers and they will have 60 by the end of their next 5-year plan. Ten of those are guided missile destroyers. Two of them, if we approve this amendment, will be Aegis-equipped. The United States has 20 destroyers in all of the Western Pacific, including the Indian Ocean.

In terms of antisubmarine warfare aircraft, Japan by the end of this 5-year plan will have 100 modern antisubmarine warfare aircraft. The United States has 25 in the entire 7th Fleet in the Pacific.

Japan has 300 fighter aircraft. The United States has less than 300 fighter aircraft west of Hawaii.

Those figures don't sound to me like they are not doing their share of the military mission we have asked and the Japanese have accepted.

Within Japan, there are many interests opposed to this Aegis purchase from the United States. The army and the air force of Japan are not very enthusiastic because they believe it drains from what otherwise might be yen funds going to their respective branches of the armed forces. The political opposition in Japan, the opposition parties, are opposed to the Aegis sale because they believe it wraps Japan too closely into the United States strategy in East Asia and around the world.

MITI, and many of the Japanese major corporations, would love to see the bill pass and be signed into law as it came from committee. They would love to see it. Because it would represent the finest excuse possible to build a pure Japanese military machine. Not just the Aegis ships and eventually an alternative system, but to enter into the capacity, which they certainly can easily develop, to build the equivalent of AWACS, of aerial tankers, of over-the-horizon radars, and other advanced equipment.

The decision to go with the proposal that came out of the committee could affect the current FSX fighter agreement we do have with Japan. It would also put Japan full tilt, potentially, into an international arms market as a major arms producer and exporter.

Is that what the Senator from Alaska and the Senator from Louisiana really want to see? That would be the end result of their proposal.

Mr. President, the Aegis sale is in our security interest. It adds markedly to the air attack defense in that 1,000-mile circle around the Japanese islands and will be as protective for us as for Japan. The protection of confidential technology, as I have mentioned, has been perfect by Japan Defense Agency. The building and operating of an Aegis system by the Japanese enhances joint operations because it would be a compatible system with that of the United States, in other words, interoperable.

The sale is in our economic interest— $526 million per system, the biggest single foreign procurement by the Japanese in their history. We are talking about two in Japan's current 5-year plan, two in the 1990-95 5-year plan of Japan and possibly four more beyond that.

The ship engines themselves will be manufactured in the United States. The installation of the Aegis system, as I have pointed out, in the ships will be done by U.S. technicians.

I come from a maritime and a Navy State in Washington State. Shipyards are thirsty for work in my State and elsewhere. If I thought this provision would truly aid them, of course I would support it. But, in fact, Mr. President, greed, and I call this greed, is behind this provision. Not satisfied with half billion dollar per vessel, they want to add to it the building of the hull itself. But greed will almost certainly lead to failure and disappointment, as it usually does.

It was said by one of the opponents that the U.S. negotiators did not even attempt to include U.S. bottoms in this sale. That simply is incorrect. The Defense Department negotiators tried and tried hard to include U.S. bottoms in the total sale of the Aegis system. But the Japanese side made it clear from the beginning, in no uncertain terms, that it simply could not and would not buy foreign hulls along with the expensive Aegis weapons system.

There has been no foreign military vessel built for Japan since 1880. That is before the modern era of naval vessels. Since then, they have shown their capacity to build able naval vessels, starting with the Russo-Japanese War in 1904 and continuing through the recent history that we all know so well.

Mr. President, in conclusion, I think there are three options for Japan. The Japanese can continue to equip destroyers with the present Tartar weapons systems and end up with lesser capability.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. EVANS. I wonder if the Senator from New Jersey will yield me an additional 2 minutes?

Mr. BRADLEY. I yield 2 minutes to the Senator from Washington.

Mr. EVANS. So their option, as they are doing now, is to equip the destroyers which they are building with Tartar systems giving lesser air defense capabilities to its Navy and lessening our own security interests in the western Pacific. Or, second, they can, as an increasing number of other nations are now doing, look at European systems. The Kuwaitis, Saudis, and others are beginning to look at European systems. Why? Because they find the United States an undependable supplier. We keep shifting our policies one way and the other, zigging and zagging until foreign buyers, in great disappointment, simply look elsewhere.

Or third, they could and certainly have the capacity to start developing their own advanced Aegis-like weapons systems.

Are any of these alternatives in our long-range security interests? No, of course not. Are any of them contributing to our economic prosperity? Of course not. Do any of them show America as a strong and dependable military leader? No.

Failure of this amendment will steer Japan down the road of integrated, internally developed and sophisticated arms programs and potentially put them deeply into international arms sales. And does anyone in this body doubt the potential ability of the Japanese to succeed with such an effort? They have so far chosen a discrete and cooperative course. It is based on the dependability of the United States. If we now show ourselves to be unreliable and selfish, who will be the loser? The United States.

I urge my colleagues to vote for the Bradley-Evans amendment. It is in America's security interests; it is in America's economic interests; and it is in America's diplomatic interests.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey.

Mr. BRADLEY. I yield 8 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. Will the Senator restate the time?

Mr. BRADLEY. Eight minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Chair and the distinguished Senator from New Jersey.

In 1981, Japan agreed to our request that they defend their sea lanes out to a limit of 1,000 miles. This was part of a determined effort on the part of our Government to get Japan to assume more of the defense burden in the Pacific. There was a lot of study and there was a lot of discussion about it, but last year, Japan decided to purchase the Aegis system to help meet that commitment, which we asked of them. The executive branch has approved it, and the only thing that now stands in the way of the sale is that provision in the current bill which the Bradley amendment is trying to remove. I support that amendment.

The Aegis sale is very much in the American national interest. It means Japan will, in fact, take on more of its own defense burden. It means a half billion dollar sale for the first Aegis system and, ultimately the possibility of over $2 billion of sales for four systems. Japan has committed, in its budget for this year, to purchase one Aegis system. In their current plan they will buy a second. In their next defense plan, covering the period 1990 through 1996, Japan might purchase at least two more systems, and maybe more. We are talking about enormous numbers of dollars, enormous numbers of jobs, all to be built and spent in the United States, all to employ American workers in our own country.

It will go a long way in helping ensure the safety and the effectiveness of our own forces in the Pacific, as the Senator from Washington has pointed out very clearly.

Several issues have been raised in opposition to the sale of Aegis and I would like to dispose of each of them.

First, questions have been raised about Japan's ability to safeguard this exceptionally sensitive technology. From where does that concern come? It comes as a result of the Toshiba Machine Co. and sale of milling equipment to the Soviet Union.

We are not talking about a private corporation here, however. We are not talking about Toshiba. We are talking about the Government of Japan, their Maritime Self-Defense Forces.

In the almost four decades in which we have had close military and security relations with Japan, there has never been—not once—a case of the Japanese Government failing to protect perfectly the technology and the equipment received from the United States, and that includes a variety of very sensitive weaponry.

Japan is a close and reliable ally, and there is no reason to expect the Government of Japan to treat the Aegis technology differently than it has treated other sensitive defense technology throughout the past 40 years.

Second, Mr. President, the concern has been expressed that Japan can reverse engineer the Aegis technology and then produce it domestically. The Defense Department has assured us, our Defense Department, that is, that Japan cannot get at the Aegis source codes.

The final concern that is raised relates to the platform for Aegis. If we insist that Aegis can only be put on a ship built in the United States, we will, as has been said by others, lose the sale entirely. Japan is not going to buy a major naval ship of any kind from the United States or from any other country, no matter what. In over 100 years, it has never happened, and it will not happen now.

Anyone who thinks they will buy a foreign made ship for their self-defense forces is absolutely wrong and just does not understand the way the Japanese think or work.

We would not do that ourselves, Mr. President. We would not buy naval ships from some other country. That is clear.

The implications of a lost sale, should the Bradley amendment fail, because we put on unacceptable conditions, are perilous. It would seriously impede our efforts to get Japan to take over the defense of its sealanes, the very thing about which the Senator from Louisiana and others have been talking.

We want them to take over these burdens. By defeating the Bradley amendment, we would be creating very great problems in our continuing efforts to develop even closer cooperation with Japan on a whole variety of military matters. We would be giving ammunition to those in Japan—and as has been pointed out, there are those not only in the military but in the liberal Democratic Party, the controlling and ruling party—who believe we are not a reliable military partner, or who believe that Japan should become much more independent of the American security system, partly because of our lack of reliability. This is not, Mr. President, where any of our national interests lie.

Let me conclude by saying that we are not giving something away free here. We are talking about Japan assuming more responsibility for its defense, precisely what we all want to happen. And each Aegis system represents a half billion dollar sale to Japan.

I urge all of my colleagues to support this amendment so that we can move ahead with the Aegis sale. It is in our national security and economic interests.

I thank the Chair. I yield back the remainder of my time.

Mr. BRADLEY. Mr. President, I yield 3 minutes to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I rise in strong support of the Bradley-Evans amendment, for a number of reasons, many of which have been covered today; I shall not be redundant in my remarks and repeat arguments already made. But I frankly believe this amendment is in our national security interests.

In 1981, the United States and Japan agreed on a sharing of defense responsibilities which included a Japanese commitment to defend the air and sea lands or sealanes near Japan out to a distance of 1,000 miles from their nation.

Japanese acquisition of the Aegis system is absolutely critical to the fulfillment of this mission. The requirement that Japan also purchase the hull, that is, the complete ship is unrealistic. But purchase of the Aegis weapon system will result in Japan becoming an integral part of our overall defense structure in that area.

Japanese purchase of Aegis will contribute greatly to the interoperability of our naval forces. If you review the history of our relationship with other U.S. allies, our NATO allies, one of the principal criticisms has been our lack of interoperability—munitions, spare parts, and especially communications. The sale of Aegis systems to Japan begins to lay the foundation in the Pacific region for interoperability between our naval forces and those of Japan.

Aegis will become the keystone of the structure of fleet air defense for the Japanese surface combatants, and will enhance the integration of United States military and Japanese maritime defense forces in the cause of protection of our freedom in that region. Interoperability with our friends and allies is a goal that we should pursue relentlessly in every area of the world in which our Armed Forces are operating.

The Japanese today have a real air defense problem. The Soviets have been increasing the strength of their military aviation forces in this part of the Pacific. Soviet air power is based only a short distance away from Japan and its territorial waters. Aegis is an essential fleet air defense system. At the same time, it is unrealistic to expect the Japanese to purchase large naval vessels offshore.

I urge this body to adopt this amendment.

I thank the Senator.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Mississippi 5 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I appreciate the distinguished manager yielding time to me on this amendment.

Mr. President, I cannot think of any other action that the Senate can take which would send a clearer and stronger message to Japan that we are going to stand up for important industries here in our trade relationship than the defeat of the Bradley amendment today.

We passed the other day a very important trade bill, and some important changes are made in that bill, one of which is to require that our Government take certain actions to try to improve our access to foreign markets and to try to do something effective about resistance to the purchase and trade of U.S.-produced commodities and services overseas. That is also what the provision of the defense appropriations bill being cited by this amendment seeks to do.

In our hearings in the Appropriations Committee, I had an opportunity to ask Secretary Richard Armitage about the discussions held with Japan concerning this sale, and he quickly pointed out to me that these were not the usual kinds of negotiations that are undertaken in a trade relationship. He pointed out in his testimony on page 59 of the transcript of that hearing, "I would leave you with a misimpression, Senator, if I led you to believe that these are negotiations. These are foreign policy discussions."

The point is that there has been no effort by our Government to negotiate a sale of the Aegis system with a U.S. ship, no effort whatsoever.

There was a discussion, not a negotiation, about the sale of the Aegis system, and the Japanese agreed to purchase the Aegis system. But there was no suggestion that it ought to come with a ship, no suggestion whatsoever.

We have said in this appropriations bill that there should be that suggestion. We should insist that the United States will sell the Aegis system only with the ship.

We see Toyota and Nissan products coming to this country and in the showroom there are optional accessories, but when you get down to it, many of those really are not optional. I suggest that the time has come for us to consider that same kind of tactic in our trade relationship with Japan. We are behind by the amount of $60 billion in our trade relationship with Japan. I think the time has come for us to try to cut through some of the diplomatic niceties of the situation and drive a hard bargain for a change.

We passed the other day an endangered species bill which I supported. We sought to protect a lot of endangered plants, and animals. Let me tell you, the American shipyard worker is in danger too. We ought to have listed one other endangered species in that bill, Homo Sapiens. It is time for us to look out for the workers and the businessmen and women of America in our trade relationships, particularly with Japan. I suggest the Senate ought to vote down this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. I yield 2 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from New Jersey.

I think what he seeks to do is simply to avoid putting the Senate and the Congress of the United States in the posture of protectionism. I understand why people try to see to it that their shipyards are filled, but in the name of burden sharing I think you would have to ask, "Who are we trying to increase the burden upon?" My view of it is that the Johnston provision increases the burden upon American defense contractors because if the Japanese do not buy it from us they will buy it from Britain, and two things happen. One is a weak defense is weakened substantially, and that means American sailors and allied sailors are needlssly put at risk. The other thing that happens is the United States does not even get the benefit of the sale of the Aegis system. So the cost of burden sharing, as defined by the Senator from Louisiana, becomes shouldering an even greater burden. I do not think that induces cooperation. I think, in fact, it basically says to the Japanese we are not interested in your cooperation with us.

Just imagine for a moment if the shoe were on the other foot. Supposing we agreed to buy, say, a naval gun from the British or the Germans, but they would only sell it to us if we bought the ships that go under it. I think we would react quite appropriately and say, "No." So this whole question of interoperability, the safety of American sailors, the safety of the

American forces in the Far East is simply disregarded. And I do not think that is the kind of act that this Senate wishes to engage in for whatever reasons, and certainly not for the instance of protectionism. The Japanese are slowly, gradually beginning to shoulder a greater burden, and the move to purchase the Aegis is a greater shouldering yet. On the other hand, too, it has to be noticed that that does a good deal for the American-Japanese balance of payments at 500 million bucks a crack.

So I would suggest that what we are trying to do here with the Bradley amendment is prevent the loss of cooperation with the Japanese Government that has already begun, to provide for interoperability of our forces in the Western Pacific, and to provide for a much safer Pacific Rim for all of us to operate in.

I ask unanimous consent that I might further expand these remarks. Mr. President

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I thank the Chair.

I thank the Senator from New Jersey.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when we sell an AWACS airplane, we do not sell the guts out of it, the technology out of it and let them make the airplane over in the host country. When we sell an F-15 or F-16, we do not do that either. Why we ought to do it with the Aegis ship I do not know, especially when you consider the decision for U.S. shipyards. They have experienced 5 straight years of decline, notwithstanding the completion, the virtual completion, of the 600-ship Navy. In 1982, there were 110 U.S. shipyards employing 112,000 workers. Today there are only 69 shipyards with 80,000 workers.

So, Mr. President, we have seen American shipyards go down and down and down. We are told that if we do not let the Japanese take this technology which is very strong and intense technology, if we do not let them take the technology, they will buy the ship somewhere else or they will make it themselves. That is simply unreasonable to think that they would do that. First, there is no other Aegis ship or comparable ship in the world. So there are no alternate builders from which they could buy these ships.

The R&D costs which we have which are in the hundreds of millions of dollars, probably in the billions of dollars, to develop this technology, we have developed for a 65-ship fleet. The Japanese are talking about buying only four. They have contracted to buy only four. So the thought that they would develop their own without our help is I think totally illogical because in the first place I do not believe the Japanese would seek to develop one with their own R&D costs. It would take many years to do so. It would take billions of dollars for a relatively small buy of only four Aegis ships.

Mr. President, to say that the Japanese will not buy these ships from the United States is I think not the correct decision. Can I prove that? No, of course not. Neither side can prove it. But they have undertaken to defend their sealanes out to a 1,000 miles finally, and it seems to me that the only real technology to do so is the Aegis ship. And if we are going to be such patsies in our bargaining with the Japanese that we allow them to take the most sensitive part of this ship and keep the jobs in Japan for the building of the hulls, then of course that suits the Japanese just fine.

That is the problem, Mr. President, it seems to me—the basic problem we have had not only in bargaining with the Japanese but with bargaining with NATO and everybody else. Those in our Defense Department will take, maybe, perhaps, or we will try better next year for an answer, and we continue with this trend of spending seven times per capita more than the Japanese do. We talk tough to NATO while their share of GNP goes down, and while our troop commitments in NATO go up. It is a very simple question, it seems to me.

If you are satisfied with spending $300 billion a year on national defense, undertaking the defense of the whole world, including Japan, giving them the benefit of our nuclear umbrella, undertaking those huge costs, then if you are satisfied with that, Mr. President, vote for the motion to strike. But if you want to change, you have to show the Japanese some specific ways in which they can better share the burden. We have a number of ways in this bill. This is one of the most direct ways in which they can better share the burden. We are not telling them to develop an offensive capability. That may be against the Japanese Constitution and against the way the Japanese feel. But they can darned sure build these hulls in the United States that they are going to buy. That is what they ought to do. That is what they ought to be expected to do.

Mr. President, I hope my colleagues will keep these jobs in the United States.

Mr. BRADLEY. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, let us put this in some perspective. In 1981-82, we said, "Japan, you have to spend more money, you have to carry your share." We agreed they would help protect the sealanes out to 1,000 miles. Formerly, it was all us. We said, "You do it, Japan." We then said to them, "You do it by purchasing an Aegis system, in fact purchase four, maybe eight Aegis systems at $526 million each." And we said, "Deploy those systems." Why? Because we need to monitor Soviet ships that are moving through the area. The Japanese were not too enthusiastic about this. As Senator ROCKEFELLER, from West Virginia, said, the political opposition parties were opposed, even elements internal in the liberal Democratic Party, but we worked together because we believed in partnership and burden-sharing. We agreed that they would buy the Aegis to deploy them to monitor Soviet ships.

That has been going on for 4 to 5 years. The first Aegis was signed for and purchased. But Congress did not veto it. Six weeks ago they had 15 days to do so and did not do so. On the eve of deployment we get this amendment that says, no, just do not deploy the Aegis, but you cannot get the Aegis, we will not sell you the Aegis now unless you also buy American ships. The Japanese say, "No. We have not bought any ships other than Japanese ships since the 19th century. Why would we begin now buying other kinds of ships?"

The Senator from Louisiana said he has no evidence to refute the Japanese claim that they would not buy the Aegis if the amendment in the bill were adopted. The Senator from Louisiana says he has no evidence. I offer as evidence to the contrary a letter from the Secretary of Defense, who describes negotiations trying to get the Japanese to buy hulls. He says in a rather unequivocal statement that the Japanese made clear that requiring a hull purchase in the United States would trigger a cancellation of Aegis—a cancellation of eight Aegis, at $500 million each, $400 billion, 500 jobs per Aegis system, and for what? We end up with less defense coverage in the Pacific. We end up with fewer jobs in the United States. No shipbuilder gets any more jobs.

Mr. President, this does not make sense.

One other point: We have a partnership with Japan. We do not have a lot of things in common—different culture, different parts of the world, and so forth. The only thing we have to secure the mutual defense in our mutual interests, based on any values, is our relationship and how we conduct that relationship.

For over 4 to 5 years, we have tried to stitch them, their picking up some element of the defense burden. They are doing so now by purchasing the Aegis, and on the eve of that, we want to shatter that agreement and endanger the partnership and, in the process, cause American jobs to be lost.

Mr. President, the amendment in the bill does not make sense, and the motion to strike should be supported.

I yield 1 minute to the distinguished Senator form West Virginia.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from West Virginia.

Mr. ROCKEFELLER. I thank my friend from New Jersey.

Mr. President, we talk about reducing the trade deficit. Here we are talking about a half billion dollars for the first Aegis system and maybe three, four, or five more in the future. When you talk about reducing the trade deficit, this does it, if you are just looking at it from that point of view.

Talk about increased burden-sharing: This is an enormous increase in burden-sharing by the Japanese, requested by us, acceded to by them.

There are interesting figures our colleagues should understand. For the period 1982 through 1986, the Japanese defense budget has increased by an annual average of 5.6 percent in real terms. Our NATO allies were increasing their annual defense budgets then by only 1.8 percent.

Japan, next fiscal year—and their fiscal year starts on April 1—plans to increase it by 6.7 percent. It will be a much larger percentage increase than the United States will be doing.

Japan must do more on burden-sharing, and I have said that repeatedly in the past. We should all be aware that they have been increasing at a relatively rapid rate and doing a lot of things at our request. They have much more to do, but we cannot lose sight of the fact that defeat of the Bradley amendment means killing the Aegis sale altogether.

This amendment must be supported.

Mr. BRADLEY. Mr. President, I yield 2 minutes to the distinguished Senator from Washington.

Mr. EVANS. Mr. President, let me first respond to the Senator from Mississippi, who attempted to paint this as a simple trade picture.

It has been pointed out by the Senator from West Virginia that this is not simple trade. This is military, national defense, security—it is a wholly different kind of concept in our relationships from the simple trade of automobiles, textiles, and the other elements.

Let us look at trade, however, in terms of military. There, I suppose, the Japanese would have great cause for concern. We have sold the Japanese this year 1 billion dollars' worth of military technology. They have sold nothing to us. We have a billion-dollar positive trade balance in military sales. In the 1990-95 range, over the next 5 years, that will double. We still will buy nothing from Japan. Especially if this sale goes ahead, we will more than double that trade balance in military equipment. So if everything else was as good as we have already achieved in military sales, we would not have a trade imbalance; we would have a positive trade balance with Japan.

Let me turn to the Senator from Louisiana and his talk of 7 to 1. He just repeats a fallacy. It is now less than 4 to 1. But that is not the whole story. The whole story is that both for NATO and other nations, they are harboring or having in their country the stationing of foreign troops, which we do not have. That is a cost, but it is a cost that does not appear on the balance sheet. The countries of Europe engage in a military draft, and I ask the Senator from Louisiana if he does not think that is a real cost. It may not appear in dollars of gross national product; but if we tried to implement a military draft as part of our burden-sharing, there would be a cost to it.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The proponent has 4 minutes; the opponents have 6 minutes and 37 seconds.

Mr. BRADLEY. I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, just to set one figure correctly, the distinguished Senator from Washington says that the ratio of the United States to Japan is not 7 to 1 but is 4 to 1. Our source was the Department of Defense report on allied contributions to the common defense, dated April 1988. We had a hearing on that in May of this year, in which those figures were repeated.

The figure we have is $11.64 per capita for the United States and $163 per capita for Japan. There may be some different figures from this, but I do not know what is more authoritative than the Department of Defense.

Mr. EVANS. I ask the Senator from Louisiana, in what exchange are those comparisons made, the exchange rate between the Japanese yen and the American dollar?

Mr. JOHNSTON. I do not know, but it was whatever the Department of Defense had as the current exchange rate, I assume.

Mr. EVANS. The exchange rate at that time was not the same as it is now, and it was quite significantly different. Maybe what the Senator said as of that date is correct, but is no longer correct.

Mr. JOHNSTON. I am advised that this is normalized for foreign currency fluctuation.

Mr. President, to say that the Japanese are now doing OK, that they are now doing their share because the dollar went down and the yen up, without their increasing their burden at all, without taking the burden off the American taxpayer at all, and that now it is only 4 to 1, assumes that 4 to 1 is somehow what the norm ought to be.

Mr. President, what we have been trying to do on the Defense Appropriations Subcommittee is to point out that these ratios are simply not the norm. They are not fair. We cannot continue to accept those kinds of ratios, not if you want to do something about our $150 billion budget deficit or $160 billion trade deficit or our 7-to-1 ratio or 4-to-1 if the currency fluctuated again—I do not think it has—but if you are going to accept that as the norm, then this country is going to do nothing but increase its trade deficit and its budget deficit and leave the needs of the American public unmet.

Mr. President, on the Appropriations Committee we are the recipients of all the requests for spending. Just day before yesterday a new request for spending some $5 billion for two new reactors came in from the Department of Energy. They say "We have got to have these two new reactors." They told us we have to have a superconducting super collider at a cost of some $6 billion or say we need a space station at the cost of perhaps $30 billion, and I certainly want that.

We say in the Congress we need money for AIDS research. We say we need airport safety, we need to rebuild our infrastructure, our highways, we need a new initiative in education, and we need day care. And we do not provide 1 cent for any of these things. Vice President BUSH says not 1 new cent of taxes and candidate Dukakis about the same thing on taxes, and there is limited enthusiasm for taxes in this Congress, certainly limited enthusiasm to cut entitlements, Social Security.

So where is the money going to come from? It is going to have to come, it seems to me, in part from burden sharing.

If you want to have money to do what you can to have any new initiative in the United States, then our allies are going to have to begin to share a bit of that burden.

How else can you do it? I do not know. I am waiting for suggestions. How is Japan going to share this burden if not by buying the Aegis? Give us an alternative. Give us another way for Japan to share the burden.

Could they make payments into the American Treasury? Sure. But they are not going to do that.

But we know for sure they can buy the Aegis bottoms. They cannot get them anywhere else. They cannot get this Aegis technology anywhere else and they need it.

Mr. President, my distinguished colleague from Mississippi has a very interesting story which I think is very apropos of this argument and I recognize him at this point for 5 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, the distinguished Senator from New Jersey has said we cannot realistically expect the Japanese to buy a ship from the United States because they never have before; throughout their history, they have always refrained from purchasing ships from other countries.

I recall several years ago, 6 or 7 years ago, meeting with the Minister of Agriculture in Tokyo to talk about the trade relationship of our countries in agricultural commodities. We sell a lot of soybeans to Japan. We sell a lot of other commodities to Japan. They buy cotton. They buy a number of other commodities which we appreciate very much.

We have a good working relationship in agriculture except for a few isolated areas.

At that time there was a great amount of tension between our countries because Japan refused to buy any beef from the United States and they imposed such onerous restrictions and regulations on our citrus industry that they in effect did not buy much citrus either.

We were talking about that, and he explained to me, after making a pretty impassioned speech, that we had to recognize that they had political problems in these areas, that the diet, the legislature, the Parliament was made up of strong and influential members who came from areas where they grow their own beef. They were not about to irritate that important constituency by agreeing to buy U.S. beef and we could just forget it.

I remember coming back and telling my beef cattle industry friends to forget it, and I explained why. I said this guy is pretty convincing, and I do not think we are going to get anywhere with them.

Well, times have changed. Just in the last few years we turned that problem over to our U.S. Trade Representative Clayton Yeutter, and other officials of the administration and Members of Congress have continued to talk about that problem.

The barriers that had been established in these isolated and selected agriculture areas against U.S. interests have now been broken down. The Japanese have just recently entered into citrus and beef agreements with the United States for the first time in history, buying products and commodities from our country that they have never bought before.

In the instance we are discussing now, the sale of the Aegis system, we wrote this language in the appropriations bill because our Government never really asked that as a condition to buying the Aegis system the Japanese should buy the ship as well. It was an afterthought. We brought it up in the hearings. We talked about it with Secretary Armitage. We found out these were not negotiations at all; these were discussions at the Assistant Secretary level.

We asked if our trade people were involved at all. No. These were foreign policy and defense area subjects, and they did not want to mix the two.

That is the administration. They compartmentalize responsibilities, jurisdictional areas. This was not his problem. The $60 billion trade deficit was not his problem. Unemployed shipyard workers were not his problem.

But it is our problem, Mr. President. It is the problem of the United States, and as Senators we have to look at the big picture. I suggest that we are refusing to take a look at an opportunity to drive a harder bargain, to say that we are not going to do business as usual and we are not going to accept the proposition that just because the Japanese have never bought a ship from the United States nor contributed to the construction of a ship for their use that they ought not be asked to do so now. We ought to drive a harder bargain, and that is the point. If we do, it may pay off. It paid off in the agriculture area. The beef and citrus agreement is a clear and shining example of what we can do if we put our minds to it.

The **PRESIDING OFFICER.** The Senator from New Jersey.

Mr. BRADLEY. I yield 3 minutes to the distinguished Senator from Georgia.

The **PRESIDING OFFICER.** The Senator is recognized for 3 minutes.

Mr. NUNN. Mr. President, I come from a little different perspective than the appropriators. I do believe we need to increase our pressure on Japan. However, I believe we are applying pressure in the wrong place with this appropriations bill as now envisioned.

I rise to support the amendment offered by the Senator from New Jersey. His amendment would allow the United States Government to move forward with the sale of several Aegis air defense systems to Japan, and I believe these sales are in the best economic and security interest of our country.

If I thought this leverage would work and we all of a sudden would have the Japanese come in and say, "Yes, we will buy your ships because we heard the message from the Senate," I would support the Appropriations Committee bill because I agree with the basic premise that the Japanese need to do more.

However, I think we have lost sight of the big picture. If we want to put pressure on the Japanese, it ought to be with regard to what they do not simply with defense—that may not be the most important area—but with regard to what they do on their broader security. For example, it ought to be in asking the Japanese to take on a great deal of the burden of Third World debt. That is where the need is—in Pakistan, the Philippines, Thailand, and many other developing countries in the world. We need not only to be talking about buying two ships when we meet with the Japanese, we need to be talking to them about national security in the broader aspect. We need to be talking to them about spending 3½ to 4 percent of their gross national product on the broad definition of national security.

I can tell all of us in the Senate have experience in dealing with the Japanese. It does take pressure. However, I simply do not believe that this pressure here will be productive. I do not think it will accomplish the end result that the appropriators believe it will. I think it will be counterproductive, and I think we will be missing the sale of some very important equipment in order to exercise leverage that does not have a very large payoff. When we put leverage on the Japanese, it ought to be for a large payoff and large goals. We ought to take a much more macro view.

Mr. President, I summarize my views by saying that I would also prefer that the Japanese buy the entire ships rather than just the Aegis system. Unfortunately, I do not believe that is going to happen when the issue is raised to this level of confrontation directly in the legislative process.

In light of that fact of life, I believe that the United States can only lose if it now refuses to sell the Aegis air defense system to Japan. It is in our security interest for the Japanese to be able to defend, in accordance with their announced goal, the sealanes and airlanes 1,000 miles from their own shores. This system will help them do that.

I believe if we do not adopt the Bradley amendment, we are going to have real difficulty in getting the Japanese to move forward in their defensive efforts, and I think they are moving forward in that respect now.

Mr. President, I support the Bradley amendment.

The **PRESIDING OFFICER.** The Senator from New Jersey has 1 minute and 10 seconds remaining. The Senator from Louisiana has 6 minutes and 13 seconds remaining.

Who yields time?

Mr. BRADLEY. Mr. President, in the remaining minute, let me just say that unless we strike this provision from the bill, we will lose American jobs because the Japanese are not going to buy the Aegis system. They are not going to spend $4 billion on the Aegis system. The people who are working in those industries will lose their jobs, and we will not have sufficient defense coverage in the Pacific. The 1,000 miles area that the Aegis system and ships are supposed to patrol will not be patrolled effectively. The burden-sharing efforts we have been working on for the last 4 to 5 years will have been shattered. The partnership is too important to be trivialized with an amendment which is, I believe, contrary to our economic interests and our national security interests.

I urge the Senate to strike the provision in the bill.

The PRESIDING OFFICER. The Senator has 11 seconds remaining.

The Senator from Louisiana has 6 minutes and 13 seconds remaining.

Mr. JOHNSTON. Mr. President, this burden-sharing initiative on Aegis is not the only thing we are doing in burden sharing. We have over a dozen burden-sharing initiatives, some with respect to the Japanese, some with respect to NATO. They are designed to turn around the trend, which is decades long, under which the United States is bearing the burden of world security.

It is true in NATO. As I stated when I started out, Scoop Jackson, in the Jackson-Nunn amendment back in 1974, expressed the will of the Senate that NATO bear a greater burden of defense. If they did not do so, so said the sense-of-the-Senate resolution at that time, the United States would begin to pull back from Europe. In the meantime, NATO has gone down from 5.4 percent of GNP spent on defense to 5.1 percent, while we have increased our presence there by 27 percent, by 144,000 troops.

Mr. President, the Japanese are spending one-seventh, or perhaps one-fifth, if you correct for currency devaluation. Who knows where that currency devaluation is today? Of what the United States is spending. Every year, in the Defense Appropriations Committee, we talk about burden sharing and every year they say: "Yes, we are getting ready to make some breakthroughs; yes, we are in discussion with the Japanese; yes, we are in discussions with NATO; and, yes, things are going to get better in the future."

And, guess what, Mr. President? The only thing that gets better, or should I say bigger, is our trade deficit. And the only thing that increases is the American budget deficit. And the only progress that is made is rhetorical.

Mr. President, we are taking a number of steps, not just on Aegis. But it is a specific step because we can identify something that they can do. This is something clear. It does not violate the Constitution. There is not another source of Aegis ships. There is not another comparable technology. They have to buy it here or they do not buy it at all.

I believe they will do it. I think they will do it because it is right and it is fair and they need it and they can only get it here.

If we allow them to take part of a system, then we may well start a trend—take the avionics out of the F-15; take the radar out of the AWACS; take the guts out of all of our weapons systems and let the Japanese begin to develop their own industry, their own shipbuilding defense industry, their own aircraft defense industry. And pretty soon, as in the case of televisions and radios and VCR's and automobiles, and all the rest, it will all have a Japanese label on it.

Mr. President, we can get the Japanese, I believe, to buy these hulls. If they do not, we can come back and consider it early next year. I think they will do it, because it is fair.

Just as the distinguished Senator from Mississippi says, they said for years, "We will never buy one pound of American beef. We can't do that. It is impossible. We have this fixation on beef. There is so much power of these people in the Diet."

A few years later, they changed their way of doing things. While it was not a big breakthrough in terms of trade, in terms of dollars, it did not turn around our $60 billion trade deficit, it at least began to make some progress. It at least began to be, to some extent, fair.

So, Mr. President, what our initiative does, just to a little extent, is begin to right the balance between us and our friends, the Japanese. And they are friends. It is in that spirit of friendship and a mutually-shared defense obligation that we have offered this burden-sharing initiative. We hope the Senate will go along with it.

Mr. DOLE. Mr. President, last week I made an extensive statement regarding lost opportunities for U.S. products as a result of our foreign arms sales policies. The bottom line is this—ultimately we must do what is in the maximum interest of the United States. In the case of the Aegis sale, our interests are best served by the Bradley amendment.

While I clearly understand the position taken by the opponents of this amendment, the President's burden-sharing initiatives will be better served if we allow the Japanese to purchase Aegis. The administration has consistently encouraged the Japanese to spend more on defense and those initiatives are beginning to show promise. The Government of Japan is shouldering more and more of the cost of hosting our troops in their country. But as my colleagues have pointed out here today, they, as well as our other allies in the region, must continue to increase these efforts.

PURCHASE U.S. MADE EQUIPMENT

In parallel with their increased military spending, we have also encouraged the purchase of U.S.-made equipment. The American worker gets obvious advantages from this purchase. Should the committee provision be upheld, those potential jobs will be lost. These jobs are important and I recognize that American shipbuilding employment is equally important.

Yet, while we do not want to risk the loss of jobs associated with this sale, another key factor plays into this equation—the ability of United States forces to fight alongside Japanese forces in times of conflict is clearly enhanced. This interoperability will pay great dividends in wartime.

As the uncertainty of U.S. bases in the Pacific region continue to threaten our ability to defend our national security interests abroad, it's good to see a staunch ally ready to do more. Let's take advantage of this tremendous economic opportunity and demonstrate to the Japanese that they can depend on the United States to make the right decisions to enhance our mutual security interests.

Mr. LEVIN. Mr. President, the logic for supporting the Bradley amendment is both simple and compelling. The United States has an unacceptably large trade deficit with Japan. Selling the Aegis system to Japan will reduce that trade deficit. Requiring that the Japanese buy ships manufactured in the United States with the Aegis system is an illusory prospect because it is clear that the Japanese will not buy the Aegis system under that condition. So, the realistic choice is the sale of the Aegis system by itself or no sale at all.

I agree with the floor managers that we should promote burden sharing. However, I disagree with them as to the effect of the Bradley amendment on achieving this goal. By selling the Japanese the Aegis system their ability will be enhanced to defend the vital sealanes within 1,000 miles of the Japanese homeland, and, thereby, share the burden of defense.

For these reasons, I will vote for the Bradley amendment striking the committee language banning the sale of the Aegis technology to Japan.

Mrs. KASSEBAUM. Mr. President, I rise in support of the Bradley amendment which could allow the sale of the Aegis weapons system to Japan.

I believe the arguments for this sale are very straight forward. For years we have been pressing the Japanese to contribute more to their own self-defense and more to the alliance as a whole. This policy has been a strong element of President Reagan's overall approach to United States-Japanese relations and an important element in almost every debate here in Congress on burdensharing and Japan.

President Reagan has specifically pressed to have Japan develop its self-defense forces into a conventional force strong enough to undertake a major role in the defense of the Japanese home islands and the Northwest Pacific in the event of a war with the Soviet Union.

Japan has been responding positively and are proving willing to increase their defense efforts. It was agreed that Japan could consistent with its Constitution, extend the defense of its sealanes to a distance of 1,000 miles. This was not an easy move for the Japanese because the Japanese Constitution precludes an assertive military role in international relations.

Mr. President, the Aegis sale is an important component of the Japanese commitment to develop their self-defense forces. I strongly believe it would be counterproductive to our overall national security interests and our efforts over the past 8 years to block this sale and consequently the development of the Japanese defense forces by requiring that the Japanese also buy United States built ships along with the Aegis weapons system.

Mr. LUGAR. Mr. President, I rise to indicate my strong support for the amendment by the distinguished Senator from New Jersey. Senator BRADLEY's amendment would delete the provision in the bill which conditions the purchase of the Aegis system by Japan to their purchasing the ships on which the system would be installed.

In an ideal world, it is preferable that Japan purchase the ships as well as the naval battle management system—Aegis—and related technology from the United States. The cold truth before us, however, is that the Japanese will not buy the ships or the battle management system from us under the sales conditions now in the bill. They will purchase none of this from us. They will look elsewhere.

If we fail to approve this amendment, we will not only fail to sell the ships to Japan, we will also fail to sell the Aegis system as well. In the end, we will lose a potential multibillion dollar sale, deny this country some 5,400 man-years in our labor market, and legislate away an opportunity to help keep our defense industrial mobilization base warm and ready. These are all direct and clear benefits to the United States from this sale and we should be guided in our deliberation by what is in our best interests.

The most important consideration, however, is not the jobs, not the revenue that would be generated through our exports and not even the fact that we would be missing a chance to help maintain our defense production base through foreign military sales. The most important considerations are strategic. We have to ask ourselves if we are prepared to assist the Japanese perform the naval defense role we urged them to take, a role which is in our security interest and one which responds to our request that they assume a greater defense burden.

The sale of the Aegis system and of the ships will enable the Japanese to perform their maritime role with effectiveness. This is in our national interest. If we compel them to purchase similar naval vessels elsewhere to perform this defense role, they will not be able to perform their naval role with as much effectiveness as they would if they made the purchase from the United States. We would be retreating from our requests that they assume a greater share of the defense burden in the Western Pacific. We would be lessening their ability to play an enhanced martime role in that part of the world.

Mr. President, this sale makes good sense strategically, it makes good sense economically, it makes good sense commercially, it makes good sense for our own Armed Forces, and it makes good sense to support an ally, a friend and a fellow democracy. It doesn't make good sense to bluff Japan into buying our ships, however desirable that may be. They simply won't do it. We don't live in an ideal world where we are the only country able to produce and willing to sell sophisticated technology abroad. Others will do it and the advantages that we stand to gain from this sale will be lost and gained by someone else.

The arguments in favor of this sale and in favor the Bradley amendment are compelling and, in my judgment, self-evident. I support the Bradley amendment and hope it is agreed to by a strong vote.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time if the Senator from New Jersey is.

Mr. BRADLEY. Mr. President, I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question occurs on the adoption of the amendment.

Mr. JOHNSTON. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana [Mr. JOHNSTON] to table the amendment of the Senator from New Jersey [Mr. BRADLEY]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. SASSER], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 20, nays 75, as follows

[Rollcall Vote No. 295 Leg.]

YEAS—20

Breaux
Burdick
Cochran
Cohen
Conrad
Dixon
Heflin
Helms
Johnston
Leahy
McClure
Metzenbaum
Mikulski
Mitchell
Sarbanes
Shelby
Stennis
Stevens
Weicker
Wilson

NAYS—75

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Byrd
Chafee
Chiles
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heinz
Hollings
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Simon
Simpson
Specter
Stafford
Thurmond
Trible
Wallop
Warner

NOT VOTING—5

Biden
Cranston
Sasser
Symms
Wirth

So the motion to table amendment (No. 2808) was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2808) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized.

AMENDMENT NO. 2809

Mr. WALLOP. Mr. President, on behalf of myself and Senators SIMPSON, WILSON, HEFLIN, DOLE, GARN, KASTEN, ARMSTRONG, MCCLURE, QUAYLE, MCCAIN, and BOND, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for himself, Mr. SIMPSON, Mr. WILSON, Mr. HEFLIN, Mr. DOLE, Mr. GARN, Mr. KASTEN, Mr. ARMSTRONG, Mr. MCCLURE, Mr. QUAYLE, Mr. MCCAIN, and Mr. BOND, proposes an amendment numbered 2809.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 13, strike "$14,588,332,000" and insert "$14,488,332,000".

On page 36, line 3, strike "$200,000,000" and insert "$100,000,000".

On page 36, line 15, strike "$8,423,698,000" and insert "$8,523,698,000".

On page 39, line 5, strike "*Provided further*, That of the amounts available for obligation, an additional $400,000,000 shall be transferred to the National Aeronautics and Space Administration:".

Mr. WALLOP. Mr. President, this proposed amendment restores $500 million reduced in the committee bill from the President's request for SDI and from the Senate's authorization bill for SDI. The new level of funding would simply match the Senate-authorized level of $4.4 billion. The amendment simply sustains the Senate's already adopted position. I might add, that the new level of funding still represents a decrease of $300 million from the President's budget request.

Mr. President, funding at this level still restrains some of the planned development for SDI but would provide sufficient growth to keep the planned research and testing moving forward. Limiting money to the Appropriations Committee recommendation effectively stagnates SDI for 1989 and it forecloses options as programs within the offices of SDI must compete for scarce dollars.

Recognizing the national priority of the space station, the Appropriations Committee had provided $600 million mainly from the SDI account, but the HUD-independent agencies conference has now provided sufficient funds for NASA, thereby negating the need for defense appropriations funds. Senators might note by Senator GARN's cosponsorship of this amendment that he feels the deal struck with NASA has been kept.

The amendment still retains transfer of $100 million to support defense related activities at NASA. This amendment has no budgetary nor any scorekeeping impact.

Funds stay in the RDT&E appropriation account and it does not require any other adjustment within the bill. Finally, Mr. President, the amendment dramatically strengthens the position of the Senate in conference with the House. But importantly, Mr. President, with all those things said, Senators should consider what this extra $500 million will mean for the SDI Program. The schedule of major experiments supporting the most mature technologies, those associated with an initial phase of strategic defense, would not have to be substantially changed. Some experiments could not be conducted and would be reduced to concept studies under the Appropriations Committee figure. Some experiments would have to be restructured. The progress through the demonstration-validation phase of the defense acquisition process would be at a reduced level of confidence.

Furthermore, if we do not do this, major experiments for the follow-on defense system elements, advanced technologies, would be delayed by 1 to 2 years causing both delay in capability and increases in expenses. These technologies offering the capability to defend against possible future Soviet offensive systems include the ground-based laser, the neutral particle beam, and the hypervelocity gun.

Furthermore, if we remain where we are, engineering activities essential to a prefull-scale development decision would be reduced to a minimum and in some instances a nonexistent level of effort. Follow-on systems research would be limited only to the technology base. Clearly, another major restructuring of the SDI Program would be required. Contracts would be terminated; competition would be sacrificed; work already begun would be halted; and major inefficiencies in this program so essential and so frequently supported by this House, by the other House, and by the President of the United States would be inevitable.

Mr. President, the amendment is rather simple. Some low level of SDI funding such as contained in the committee bill forces SDI to make premature decision about ongoing programs critical to the success of defending America, and it would certainly unbalance the balance that the Office of SDI has maintained between mature technologies, those ready to get to advanced testing, and more advanced technologies, and this balance has been one of great achievements of General Abrahamson.

Now, the amendment provides the extra funding that the Senate, when it adopted the defense authorization bill and made its statement on this issue, found to be vital to keep the program moving forward, not just keep it alive at a stagnation level.

What I am asking the Senate to do is to return to a position it has already taken. What I am asking the Senate to do is to make certain that we do not waste either money or time by drastically underfunding and so curtailing the ability of the Office of SDI to make precise decisions as to which level of technology should go forward and which level of technology requires further study or even abandonment, that we cannot make those decisions. What is going to happen is that the Office of SDI, if it is going to be able to do anything, is going to make funding decisions entirely prematurely, without the necessary knowledge.

Now, this, as we have seen more than once in the Senate of the United States, as we have watched the growth of defense related technology of America, is not a wise thing to do. Premature decisions lead often to mistakes, to great expenses, and more particularly to the loss of time.

Very specifically, what we are trying to do is to see to it that this whole program advances in a competent, technologically sound, militarily thought-out way. If we go to the lower level of funding that is included in this bill, then I am afraid, Mr. President, what we do is basically spend the American taxpayer's money without giving him or her, whosever taxes they may be, the confidence that the decisions made in the Office of SDI are being made on the balance of knowledge that we have about the whole system of technologies under study. To do less is to be irresponsible. To do more would perhaps be the same thing, though the Senator from Wyoming has often urged more. But I urge us to adopt the position that we have already adopted and to take on the level of funding that we have in the Senate said was most important.

Mr. President, I yield 3 minutes to the Senator from California [Mr. WILSON].

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. WILSON. I thank the Chair.

Mr. President, with his usual and his customary eloquence and thoroughness, the Senator from Wyoming has set forth the case for his amendment in such a way that it is difficult for anyone reasonably to resist it. The purpose of the diversion of funds from the SDI account into the NASA account has been addressed, as he said, by other legislation. The NASA independent agencies conference report has provided sufficient funding for NASA, and indeed as he has pointed out one of the cosponsors of his amendment is Senator GARN. I will leave to Senator GARN further explanation of why they have amply afforded the money necessary for NASA to proceed with its programs, and why therefore there is no need—and this continues to provide an additional $100 million even to NASA—to take the other $500 million from SDI.

The Senator from Wyoming is absolutely accurate in saying that what he is asking by this amendment is that the Senate simply reaffirm a position we have already taken in the defense authorization bill. In that bill we offered to fund the SDI programs, both those having to do with the Department of Defense and those having to do with programs undertaken by the Department of Energy, at a combined total amount of $4.4 billion. By restoring this $500 million, we would come again to that figure which the Senate thought the proper figure in the defense authorization bill.

Now, what do we do, Mr. President, if we leave this money and do not restore it? Well, as you have been told, we have already seen that there are a number of people willing to slow down, to derail much of the research that has been underway by General Abrahamson in the SDI Program. In fact, in his veto of the defense authorization bill, the President explicitly stated that one of the cardinal points upon which his veto rests is the fact that SDI suffered not simply funding cuts but the kind of micromanagement that further derails those efforts by General Abrahamson and the SDI office.

Specifically, you will recall that funding was not permitted for any kind of space-based element, and obviously it is in the space-based elements that the greatest promise exists that SDI can fulfill the President's stated hope, one that he expressed quite eloquently in the phrase, "How much better to save lives than to avenge them."

Mr. President, what we have here is an opportunity to set things right. We are not adding beyond the request. We are not adding beyond the decision of the Senate already taken on the authorization. We are simply restoring it to that status. And it would be a tragic thing if we circled around to find ways to spend this money, money that is required for the purpose of moving forward as scheduled on that technology that offers us such great promise.

So let me just say that this does not involve any additional adjustment really. It does not require budgetary or scorekeeping changes. The funds will stay in the research, development, testing, and evaluation appropriations. There is no good argument really for not granting to the Senator from Wyoming the request made in his amendment to simply restore the funding to the full amount the Senate has already approved in the authorization bill.

Mr. President, I thank the Chair. I yield the remainder of whatever time I have to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, at this moment, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. EXON). Since no one is using time, I will instruct the Senate that the time will be charged equally to both sides.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment of the distinguished Senator from Wyoming would increase the SDI budget by $500 million above that which would have been provided by the conference committee on the defense authorization. It would exceed that by a full $500 million because the Appropriations Committee went with the authorized amount. Obviously, the authorizing bill has been vetoed. But the will of the Congress as expressed therein remains. And that is exactly what the defense appropriations bill has done. It has carried out the will of Congress as expressed in that bill.

Mr. President, the amount of money Congress has provided to SDI is no small amount. The Congress has provided $13 billion for SDI, or in real terms about what the Manhattan Project used during World War II.

Mr. President, the SDI Organization says that research, development and deployment of phase 1 of SDI will be $75 to $150 billion. Operating costs will add another $10 to $21 billion over a period of 5 years. One national lab study has estimated that the cost of phase 2 will be $541 billion. Thus the total cost of phase 1, which is $171 billion, plus phase 2 could reach nearly $750 billion. Mr. President, this is no time to rush in prematurely to deploy an SDI Program.

The SDI Program has been characterized by hype and flimflam. Mr. President, the best example of that is in my view what occurred in an exchange of letters between myself and General Abrahamson. On June 12, 1988, we released a staff report—that is, Senator PROXMIRE, Senator BUMPERS, and I—an indepth staff report that analyzed the SDI Program. Frankly, I was very proud of that staff report because it was put together after visiting every national lab by our staff members, by talking to over a hundred scientists, including the program managers who deal with the program. It was a very careful report.

After that, this report was submitted to the SDI. It was classified in part, and we were then allowed to publish the unclassified parts of that report. One of our conclusions was as follows: "Even if phase 1 meets its operational requirements, it will intercept"—deleted, that was a percent—"of Soviet missile warheads projected by SDIO for"—deleted, that was classified. "In the face of the likely Soviet countermeasures, this would fall"—deleted. "This is even less effective than our estimate last year."

So it was unclassified to say that this year's estimate of how effective SDI would be was even less than our estimate last year. What was the estimate last year? You may recall that the Senate staff report on SDI prepared for Senator PROXMIRE and me last year concluded that an early deployment, as then envisioned, would have an effectiveness against Soviet ballistic missile warheads of no more than 16 percent.

The PRESIDING OFFICER. The Chair would advise the Senator that his time has expired. Does he wish to yield himself an additional 5 minutes?

Mr. JOHNSTON. Yes.

Mr. President, we said in our report that phase 1 of SDI, would intercept less than 16 percent of Soviet ballistic missile warheads. What did the SDI Organization say? They said this:

> Though the specific military effectiveness requirement for phase 1 as set by the Joint Chiefs of Staff is classified, that level is considerably greater than 16 percent.

Mr. President, that would seem to be saying that our estimate that SDI would intercept less than 16 percent was incorrect, that the study was flawed, that the information was incorrect. In fact, our information is correct.

I wrote to General Abrahamson and pointed out that his answer was incorrect and, in effect, brought into question the integrity of our staff report. I said this: "I think your organization's response was misleading and should be immediately clarified."

In one sense, in a very technical sense, what they have said is true. But they have shifted ground, redefined terms, and made it appear that SDI's phase 1 will in fact intercept more than 16 percent of Soviet warheads, when it will do no such thing. In short our study was correct.

Mr. President, it is characteristic of the flimflam of the SDI Organization that they want to mislead people and bring into question the clear evidence of what it will do and what it will not do.

I know this is strong language, but I make these statements about the flimflam of that Organization only after having written to General Abrahamson and pointed out to him that his response was misleading, that he was trying to flimflam me and Congress and the public.

The fact of the matter is that SDI is a good research program. We ought to engage in SDI for the purpose of not being surprised by the Soviet Union, which, by all evidence, is well behind us in everything but the deployment of a rather primitive ground-based interceptor system, which we are permitted under the treaty to do. But we do not do it because we think it is an ineffective way to run a defense program. But the fact of the matter is that SDI, in terms of early deployment, is simply not workable.

Mr. President, one of the tests for the effectiveness of SDI is what we call the Nitze test—cost effectiveness at the margin. SDI will never pass that test. Let me give the figures on the way SDI fails that test.

SDIO says that the acquisition cost of phase 1 would be as much as $150 billion. The cost of 5 years of operation and maintenance would be $21 billion, or a total cost of $171 billion for phase 1.

If phase 1 shoots down, as we have stated, 16 percent of Soviet warheads and if there are 16,000 Soviet warheads—and that figure is taken from "Soviet Military Power, 1987"—then, hypothetically, phase 1 would destroy 2,560 Soviet warheads, if it works as advertised and as hoped by the SDI office.

The $171 billion divided by 2,560 warheads is $67 million, which is the cost of phase 1 to destroy each Soviet warhead—that is, if it works, if it works perfectly, as they hope it will, and if they bring it in at the $150 billion projected cost.

What does it cost to deploy a warhead? Trident II with eight warheads costs $28 million. If you add in the money for the cost of the nuclear devices and for the silo for a land-based version, the Trident II missile would cost about $50 million for eight warheads, or $6.25 million per warhead.

So it would cost us $67 million per warhead to shoot down one Soviet missile, if phase 1 works. It would cost the Soviet Union only one-tenth of that, or $6.25 million, to build another one, if they can do it at the same cost we can, and I submit that they can.

So we fail the Nitze test by a factor of 10 to 1.

If you want a way to go broke, it is to engage in an SDI Program; because for every warhead we shoot down, they can, at similar cost, put 10 additional warheads in the air.

Mr. President, it seems to me that the amount of money we have provided, which is the full amount of the authorization, is sufficient, and that should not be increased.

I reserve the remainder of my time.

Mr. STEVENS. Mr. President, will the Senator from Wyoming yield me 4 minutes?

Mr. WALLOP. I yield 4 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment of the Senator from Wyoming has no budgetary impact, because what it really does is that it will fund the authorized level of SDI as it was in the Senate authorized level.

We propose in this bill to incorporate the limits of the Senate-passed authorization bill by reference. This amendment would fund that level, and it is important for us to be able to go to conference with the same level that the authorization committee went to conference.

I point out to my friends in the Senate that the centerpiece of our negotiation strategy with the Soviets on strategic arms has been, is, and will continue to be the strategic defense initiative.

Those of us who have paid a great deal of attention to that negotiation in Geneva, I think, all agree that it was SDI that brought the Soviets back to the bargaining table. In fact, it is SDI that convinced the Soviets that we had the determination to develop, to the extent possible, a nonnuclear response to nuclear attack.

I have great respect for Ambassador Nitze, who has been quoted at length by the Senator from Louisiana in terms of his cost-effectiveness-at-the-margin concept. I also know that Ambassador Nitze leads our negotiators in believing in the reduction of strategic weapons and the fact that we can bring them about through the negotiating process we are following now.

I ask the Senate to approve this amendment. We have this money available now because the independent agencies in the HUD bill provided for the space station a portion of the moneys that we had provided in this bill as it came from the committee. There was $600 million in this bill for HUD, for the space station. We had taken that from SDI. We now need only $100 million in this bill for the space station because of the provisions of the HUD bill, and we now can restore the authorized level in the Senate Armed Services bill by approving the amendment of the Senator from Wyoming.

I hope that it is approved.

Again, I urge Members of the Senate to realize that if we are to have the same negotiating capability dealing with the Appropriations Committee on SDI as the authorization committee did, in dealing with the House in conference on this bill we should go to conference with the fully authorized level of $4.4 billion.

I could go at length into the comments made by my good friend from Louisiana. Let me simply state for this Senator the possibility that we can develop a nonnuclear response to nuclear attack is not something that can be quantified at this time under any theory. No one really knows the answers yet, and that is why we are providing this money. It is completely research-and-development money. It is not deployment money. It is R&D money. It represents slightly more than 1 percent of the total defense budget of the United States, and it is my position that the United States can, must, and should commit that level of funding to determine whether a nonnuclear response is available to nuclear attack.

I thank the President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute simply to reply to this extent.

In my view, SDI has never been the centerpiece of our negotiating strategy in Geneva. I have been there. I have also heard the President say time after time after time that SDI is not negotiable. In fact, it has not been negotiated, and it is not a quid pro quo in Geneva.

In fact, the Soviet Union has offered us a treaty with respect to nuclear weapons. It seems to me the key question on the reduction of nuclear weapons is not SDI but rather it is the Soviet offensive capability with conventional weapons in Eastern Europe. That is the real question. It is not the question of SDI because that is not now and never has been a bargaining chip in Geneva and it is not a very effective one besides.

Mr. President, I yield 5 minutes to the distinguished Senator from Nebraska.

(Mr. JOHNSTON assumed the chair.)

Mr. EXON. Mr. President, I rise in opposition to the amendment offered by my colleague from Wyoming.

As chairman of the Strategic Deterrence Subcommittee of the Armed Services Committee, the matter of SDI and all the rest of our deterrent comes directly under my subcommittee and the Armed Services Committee as the authorizing agency.

I would first say that this amendment is wrong from the standpoint that if we are going to reallot money that has been found available, it should be done, in my view, through the authorizing committee, which is the Armed Services Committee and not to hastily drawn amendments on the floor of the U.S. Senate.

Now, having said that, Mr. President, I think the record is very clear as far as the Senator from Nebraska is concerned. I have been an early supporter of research, laboratory research and laboratory development of the SDI Program. In fact, it was the Senator from Virginia and I who called the Senate into a rather unique and unusual closed highly classified session in the early part of this program to try and acquaint our colleagues with what we thought was a worthwhile program that it needed consideration and development by the Congress of the United States.

Over the years we have funded this program handsomely, handsomely indeed. The present occupant of the Chair, the Senator from Louisiana, has also supported SDI over the years, not with as much enthusiasm from time to time or with the same amount in billions of dollars, as the Senator from Nebraska. In fact I think that the present occupant of the Chair will recall that on one or two occasions on relatively close votes I stood on one side and the Senator from Louisiana stood on the other side with regard to some reduced funding level for SDI. I emphasize some reduced funding levels. And one of the problems that we have over and over again in this body is the fact that we say how much was cut from a program, but we never say a cut from what?

Actually, there has never been any cuts in the SDI program. It has been nothing but a very steady and pronounced increase. In most instances the Senator from Nebraska has agreed somewhere halfway between what we funded the previous year and what the President had requested in his budget, and if there is any one part of the defense budget that I worked with almost all the time that the President has been most generous with, it is with SDI.

I would simply say that in this regard under the tight budget restraints that we have, does it make any sense whatsoever to have a 16 percent net increase in funding over last year on the SDI program? That would give SDI far more than all of the other pressing needs that we have in defense.

I would simply say that, while I am sure that those who are sponsoring this amendment are very sincere in their desire and their belief that this money should go to the program, at the same time I would point out that the cosponsors of this amendment look like a who's who from what State the SDI Program is located in and who would benefit the most.

So from that standpoint, this is pork barrel, and I do not think we have that much pork to spread around.

SDI has been generously funded. I would simply point out that when the Armed Services Committee, under my recommendation, came out with its budget this year, it was funded at $4.7 billion. Now that was considerably under the initial request that was somewhere in the $5.6 billion range in the President's initial budget but was relatively close to the scaled down version for SDI funding that the President later recommended.

I would say that that was the recommendation of myself as the chairman of the strategic subcommittee. It was passed in the subcommittee. It was passed in the Armed Services Committee. And it was passed on the floor of the U.S. Senate. When we made our authorization someone at that time, and it may well have been the Senator from Louisiana, offered an amendment again to reduce it. I held very strongly for the $4.7 billion level because I felt that we should have the figure that high because over on the House side they had made a dramatic reduction in the area of funding for SDI down to in the area of $3.3 billion. Therefore, to get near the $4 billion to $0.2 billion figure that the Senator from Nebraska felt was the reasonable slight funding increase for SDI we had to keep our number higher for bargaining reasons. As I had anticipated, we came out of conference with the House of Representatives at a figure of $4 billion for all of the SDI funding.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. EXON. I yield myself an additional 2 minutes.

The conference report then, which has now been vetoed by the President, came out with $4 billion.

I think I should just explain at this time that most of the SDI funding is in the DOD budget but a portion of it is in another agency of the Government, in this case the Energy Department.

If we will accept the amendment offered by the Senator from Wyoming we would be right back up to or very near the $4.7 billion figure that passed out of the Armed Services Committee which all members of the Armed Services Committee recognized at that time was a bargaining position and not a figure that we would likely hold.

I would simply say that if we have additional money, then there are other higher priority places for that money to go, basically conventional defense, which I think is continuing to lag, and the record will clearly show that this chairman of the subcommittee of jurisdiction has raised that while I want to continue this program I want to do it at a level that does not unnecessarily rob higher priority programs.

Therefore, I think this is an ill-advised amendment, and I hope that the Senate will reject it.

I reserve any time that I have remaining.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield 4 minutes to the Senator from Arizona.

Before I do, this is not pork barrel from the standpoint of Wyoming. To my knowledge, neither Senator SIMPSON nor I represent any major SDI funders.

I will also point out that the Senator from Nebraska is arguing against his own committee mark that he crafted, recommended, and strenuously defended on the floor of the Senate during markup.

I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Chair and I thank my friend from Wyoming.

I strongly advocate that we support his amendment, and support the President, by restoring the funding level agreed to in the authorizing committee. I can assure my friend from Nebraska that he does not speak for all of us on the Armed Services Committee when he says that that $4.7 billion mark was only a bargaining position. In the view of this member of that committee—and many on my side of the aisle—we viewed the figure the committee agreed to as an appropriate number. In fact, we viewed it as one that was less than the level necessary to pursue the kind of SDI in research and development that we need in order to defend this Nation.

I would also like to comment that I am a bit concerned by one statement by my friend from Louisiana and I am flabbergasted by another.

First, I am concerned that he should say that General Abrahamson or anyone in his office practices "flimflam." I have known General Abrahamson for 6 years. I have been through hundreds of hours of briefings with General Abrahamson. I can tell my friend from Louisiana that the majority of the Members of this body do not share his opinion that General Abrahamson now, or at any other time, has flimflamed anybody. General Abrahamson is a military officer of integrity and honor.

Second, the statement that flabbergasts me is the statement that SDI has nothing to do with the arms control bargaining that has been going on between the United States and the U.S.S.R. I do not know where my friend from Louisiana landed in Geneva to talk about arms control, but he should also have noticed what took place at Reykjavik. In fact, SDI was one of the key issues in Reykjavik. It became clear to the world that the strategic defense initiative is a crucial aspect of future bargaining as far as START is concerned.

I know of no observer of the arms control process that does not believe that SDI continues to play a major role, not in motivating the Soviet Union to negotiate and is a key element in pushing the Soviet Union to make the progress necessary to reach toward a START agreement. If the Senator from Nebraska believes you can leave SDI out of arms control, then I thnk he has a very different view than most, in fact, all, informed observers.

More broadly, the key problem that we face in debating this amendment is the attitude that we in Congress can micromanage a vital national security program without regard to the need to keep our Nation strong. This amendment restores much of the initial program request for SDI, and reinforces the policy that our Nation must maintain its strength.

This amendment reacts to the fact that the Soviet Union—for all its talk glasnost—is spending far more on similar R&D and procurement programs than we are.

This amendment reacts to the fact that the Soviet Union is creating a new ABM system around Moscow. It is deploying a 100 missile launcher force with two new kinds of missiles, new sensors, and with a new command and control system.

This amendment reacts to the fact that the Soviet Union is nearing a breakout capability to deploy a new land-based ABM system. It reacts to the fact that while we are making advances in research and development, the U.S.S.R. is making advances toward early deployment.

This amendment reacts to the fact that any concessions we make on SDI should only come as a result of major and decisive Soviet concessions on START.

Finally, this amendment reacts to the fact that certain pro-Dukakis liberals are attempting to kill the SDI Program by nibbling it to death because they know full well that the American people will never support an overt attempt to eliminate SDI.

In fact, this amendment symbolizes the issues relating to defense we must face during the upcoming Presidential campaign. The supporters of this amendment believe in preserving our strength and our security and in negotiating real arms control. The pro-Dukakis liberal opponents of this amendment believe in undermining our future deterrent, undercutting our arms control negotiators and, ultimately, in making concessions through weakness.

Mr. President, we can debate many different estimates of the numbers of missiles that can be intercepted, the number of missiles that are required to make these intercepts, how much each missile will cost, and how much it will cost to deploy given SDI systems. The fact is, Mr. President, that the real debate is whether to accept the basic precept behind SDI. The issue is whether we should develop a defense that will assure the Soviet war planner that he cannot count on a first-launch success. It is to confront any attacker with so much uncertainty regarding how many of his offensive nuclear weapons will be destroyed in any kind of launch against the United States that the likelihood of our Nation ever experiencing nuclear war is dramatically, and almost totally, diminished.

Mr. President, I strongly support the amendment of my colleague from Wyoming. I respect the views and indepth knowledge of my colleague from Louisiana, but I believe this amendment serves vital national security interest, and the President's efforts both in arms control and in seeking to eliminate the risk of nuclear war.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

Mr. President, on the question of flimflam of the SDI Office, I simply submit for the record my letter to General Abrahamson of June 17, 1988, and his reply to me of July 26, 1988. I invite the Senator from Arizona to speak with me later about these two letters. Unfortunately, some of it deals with classified information.

If it is not flimflam, then I will be the first to apologize to General Abrahamson. I wrote him and I can tell you it is not—I can tell you there was what—you know, when I was at West Point, in the honor system they had, they had a rule that a cadet will not lie, cheat, or tolerate one who does.

They also had a corollary to that, that there shall be no quibbling. Quibbling was not a direct lie. Quibbling was where you sort of shave the truth in such a manner as to give an incorrect result.

I remember, for example, one cadet. The tactical officer came by and said, "You must get rid of those shoes. Send me a note when you do."

He wrote the tactical officer back. He said: "I have gotten rid of a pair of shoes," which was correct. He had gotten rid of another pair and kept that pair, sort of trying to mislead the tactical officer. He was adjudged by the honors committee to be guilty of a violation of the honor code; quibbling, they said, because it was misleading.

Mr. President, that is what the SDI Office has done in this case, I can tell you. I wrote General Abrahamson and asked him to correct the record. I invite any of my colleagues to carefully read these. They can see that it is meant to give a different impression than what the facts are.

I will let the facts speak for themself and I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 17, 1988.

Lt. Gen. JAMES A. ABRAHAMSON,
Director, Strategic Defense Initiative Organization, Department of Defense, Washington, DC.

DEAR GENERAL ABRAHAMSON: When Senator Bumpers and Senator Proxmire joined me in releasing the staff report entitled, "Star Wars at the Cross Roads: The Strategic Defense Initiative After Five Years," one of the key conclusions was, as described in the press release,

Even if Phase I meets its operational requirements the Senators said SDI "would intercept less than 16 percent of the Soviets' warheads . . ."

Your organization issued a "Response to Query—Proxmire/Bumpers/Johnston Report" stating,

"Though the specific military effectiveness requirement for Phase I, as set by the Joint Chiefs of Staff, is classified, that level is considerably greater than 16%".

I think your organization's response was misleading and should be immediately clarified. Your organization's response is a true statement taken by itself, the JCS military effectiveness (stated as a number) for Phase I is considerably greater than 16%. However, it does not refute our staff's conclusion which addressed the effectiveness of Phase I requirements against the *overall* Soviet threat, not against a subportion of the threat.

Yet, it was offered as a categorical refutation. In the original classified document the staff report laid out three pages of analysis of classified information to arrive at an overall assessment of Phase I's effectiveness. The conclusions said,

"Even if Phase I meets its operational requirements, it will intercept —— of Soviet missile warheads projected by SDIO for ——. In the face of likely Soviet countermeasures this would fall ——. This is even less effective than our estimate last year."

As you well know, the estimate in our report last year was that an "early deployment" would destroy no more than 16% of Soviet warheads".

When the press read your response to the staff report they drew an erroneous conclusion, the error of which would have been obvious had they had our staff's full and undeleted text in front of them.

Our system of protecting classified information, which I fully respect, should be used to prevent the public disclosure of sensitive information, not to disseminate false or self-serving information to the American public. Had all the discussion in last year's and this year's report about SDI's overall effectiveness against Soviet missiles been designated classified material, then obviously we would not have discussed it publicly. That is not the case.

Your "Response to Query" on this issue calls into question our own integrity. It should therefore be promptly clarified, preferably by you, but in any event, promptly clarified.

Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

DEPARTMENT OF DEFENSE,
STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, July 26, 1988.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you very much for your letter of June 17, 1988, concerning our public statements on the effectiveness of the Phase 1 Strategic Defense System (SDS).

It is certainly not my intent to deceive anyone regarding effectiveness of the Phase 1 system. We have never claimed Phase 1 would be a perfect defense. However, we remain convinced that the Phase 1 SDS will perform at a level of effectiveness sufficient to satisfy the requirements established by the Joint Chiefs of Staff. Indeed, our studies have shown that the Phase 1 system would likely exceed those requirements.

When we prepared our public statements about the Senate staff report, we tried to focus our comments on the main findings and the summary points highlighted in your press release. The ". . . less than 16% . . ." effectiveness of Phase 1 finding appeared to me to be misleading as it dramatically understated the effectiveness of the SDS when compared to the requirements for the SDS. Therefore, we responded as accurately as we could, limited by classification, that Phase 1 would meet the military effectiveness requirements which were in excess of the 16% figure.

I do not believe that our statements have been deliberately misleading. On the other hand, I remained concerned, greatly, about the tone and substance contained in the staff report prepared for your use and released publicly.

I would welcome the opportunity to discuss with you and others, at your convenience, the contributions which a defensive system could make to our national security.

Sincerely,

JAMES A. ABRAHAMSON,
Lieutenant General, USAF, Director.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Mississippi such time as he may wish.

Mr. STENNIS. Mr. President, I thank the Senator from Louisiana very much.

I will be quite brief in what I say now. For a good number of years, in fact during the life of this kind of weaponry, I have had some duties and responsibilities in connection with several phases of it. I was skeptical at first but, everything considered and put together, the progress, the development, and the end result in all of these cases, almost without exception, have been good and meaningful and they are going to serve their purpose. I am satisfied of that now.

It is true it is a lot of money. It does not look very large to me now, since we are getting on the results side, bringing in results, and it is proving out. We are going to be able to operate in some phases of our defenses, I believe, in the finest manner we have ever been able to have and be consistent.

So I think we just have a little choice now. We made this investment. We have made up our minds year after year and it will be almost a unanimous conclusion that I think this vote will reflect. And that is with all deference, of course, to everyone.

This is not a slight matter. I have looked into it carefully as much as I know how, and those that are advising me, to find out. This is a good, solid program involved here. This money is being carefully but effectively spent.

I, personally, know some of the men responsible for what they have been achieving in the last few months.

I know they are very capable and I hope and predict that, if you give them the money now they will bring out the results and we will move forward at the right rate and with the final distances to have it completed in sight.

So I think that we should back up this amount of money the committee has recommended and extend the program along this line. It is going to prove to be not so high priced, by comparison, as we thought, and a good job is being done.

I thank the Senator and the Chair very much and I yield the floor.

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes and 26 seconds.

Mr. JOHNSTON. I yield the Senator 1 minute.

Mr. LEVIN. I thank my friend from Louisiana.

Mr. President, we have a crucial shortfall in conventional capability. We have received reports from the Army, the Navy, and the Air Force about shortages in conventional weaponry and materiel and spare parts. The Army posture statement for 1989 says that the commanders continue to highlight shortages of ammunition stocks as a top warfighting concern. Their ability to accomplish missions assigned by the National Command Authority is jeopardized by continuing shortages of modern ammunition stocks.

The budget that was proposed to us by the administration cut the Apache helicopters, cut MLRS rockets, cut the M-1 tank, cut the EA-6-D planes, cut the F-18's, F-15's—all were reduced in production rates so we could have big increases in the SDI Program.

We have to make some choices. They are tough choices. But I would suggest rather than another huge increase in the SDI Program such as is proposed by this amendment before us, that we can far better use this $500 million on needed conventional materiel.

That is the priority this Senate is going to have to be deciding in the next few minutes. Do we want $500 million to go to an additional increase for the SDI Program? It is already getting more than last year. Do we want it to get $500 million more on top of that, despite the Office of Technology Assessment report? Or would we rather this $500 million go into needed, really needed conventional capabilities?

I hope we will opt for the real world which is the conventional needs that we have and that we have shorted and not opt for $500 million more for a very uncertain SDI Program.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I yield 2 minutes to the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, I rise in support of the amendment by my colleague from Wyoming. The amendment simply takes $500 million that was intended to be transferred to NASA and reverts it back to the SDI Program. There is $600 million in the bill to transfer to NASA in order to allow the space station to survive. At the time that was done, it was absolutely vital that that $600 million be transferred. Recently, the HUD-Independent Agencies Appropriations Subcommittee finished its conference on its bill. That bill now provides $900 million for the space station. In that regard it is no longer necessary that this $600 million be transferred to NASA. However, $100 million of that $600 million will still be needed. This amendment takes that into account and takes the balance, $500 million, and places it in the SDI Program. This $500 million is now available. In that regard, I believe that it should go to SDI.

I think SDI is in a very crucial position in its research life. Sometimes I have been put between a rock and a hard place, choosing between a space station and some of the SDI. I have supported both programs very vigorously and on one amendment by Senator JOHNSTON a while back I came down on transferring funds from SDI to the space station.

I really did it most reluctantly. And I want to make one point perfectly clear, since I do have full confidence in the committee and the committee action. That is that I completely support the actions that the Appropriations Committee has taken in dealing with the SDI funding. They have done an outstanding job of ensuring that SDI conduct a balanced program, researching near-term and far-term technologies. However, it is the overall funding level that I believe should be increased.

As I have said, I feel that SDI is a very crucial stage. We are at a stage in regards to research that needs to be fully funded and I think, if we allow this amendment to go through, it will give sufficient funds at a very crucial time when the United States is embarking upon a vigorous and comprehensive research program to analyze and design defenses that could eventually allow us to deploy a major defensive system based upon a commitment to self-defense. I think, of course, when the research has reached a stage where we could properly evaluate SDI, then some hard choices and decisions are going to have to be made. But I think that we are at a crucial stage and that we need these additional funds for research in the SDI Program, and I, therefore, support the amendment and urge any colleagues to do the same.

The PRESIDING OFFICER. The Senator from Wyoming

Mr. WALLOP. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 59 seconds—4 minutes and 59 seconds remaining under his control.

Mr. WALLOP. Mr. President, I do not want to turn this into an argument on the qualifications or the integrity of General Abrahamson, but I think it is shocking to hear him accused of quibbling or dissembling on this floor. I personally resent that and I think the man is a general officer of great esteem, gerat reputation, all of which has been earned by him.

Let me just say that the Senator from Nebraska made as good an argument in behalf of this amendment—I know he was talking against it—as I know you could make. This is his mark, the mark from his authorizing committee. And he said he wanted to go to the House and argue there against what would undoubtedly be a much lower figure. Now he is going into the House with a figure that is equivalent of last year's figure, and to negotiate from there downward for a real cut in strategic defense.

The whole thing has been a ratchet-down effect. Some in the Senate forced the President first to submit a smaller budget number than he wished, down to $4.5 from $5.8. This was in the Senate Armed Services Committee to $4.2 and then reduced in their conference with the House to $3.7. Then the Appropriations Committee marks at the low level of $3.7 and now we go to conference again, if this amendment were to fail, with a lower figure. So the ratchet-down effect is intelligently constructed in order to end up with a real cut in SDI.

I would just say that the mark that we are talking about as the numbers in my amendment would restore is the number that the President has endorsed, even though it is lower than what he formerly asked. And the mark that is in the bill is the one that the President has rejected.

I would say to my friend from Louisiana that the costs are more likely to be high or higher if we progress blindly. What his mark, in this appropriations bill, would ask us to do is to progress in SDI without the ability for comparative tests and for the full study that each of these technologies needs in order to go forward.

Let me just say one other thing about the so-called Nitze criterion. The Senator from Louisiana made the case that SDI will never meet that test. Then why, in the name of responsibility, fund it at all? If it will never meet that test, why do we try to dissimulate with the American people and say we are just going to waste $3.7 billion of your dollars? In fact, Mr. President, SDI will meet the test, and the reason we got the figures that we got from the Senator from Louisiana is because he inflated the figures for phase 1 costs well beyond any legitimate estimate, he inflated the nature of the threat that we confront, and he deflated the capabilities that we have already achieved.

I can make figures like that sing too. But in point of fact we have a good, solid, intelligent program, well crafted, and if we fund it we will not only save the American people money but we will save the American people time in achieving a defense against nuclear weapons which they now do not possess in any way. America has not got any means of doing that. Even the distinguished chairman of the Senate Armed Services Committee has now recognized, with his ALPS proposal and his statement earlier this year, that the objective should be to develop survivable, cost effective defensive options for enhancing survivability of U.S. retaliatory forces and systems of command, control, and communications.

These are requirements that Americans need for survival. Not the requirements we need for pork in our State.

I again say the State of Wyoming, to my knowledge has, if anything, a bare minimal part of research on SDI.

Mr. President, I yield the remaining time to the Senator from Indiana, Mr. Quayle.

Mr. QUAYLE. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 50 seconds remaining.

Mr. QUAYLE. Mr. President, let me just reiterate a point that the Senator from Wyoming made and that is that as of today, the United States of America has absolutely no defenses against ballistic missiles. The Senator from Wyoming, who has been in the forefront of trying to advance a reasonable SDI Program, needs to be congratulated and supported on this amendment.

I would imagine that most Americans feel, and probably think, particularly with the thousands of ballistic missiles and their warheads pointed at this country, that we might have some capability to defend ourselves. Mr. President, we do not. This amendment is very needed and I hope that we adopt it.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? The Senator from Louisiana has 17 seconds.

Mr. JOHNSTON. Mr. President, I yield myself the remainder of the time.

Mr. President, in vetoing the authorization bill, the President of the United States said: "The appropriations bill, as it stands, is one that I could sign"——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. I thought I had a minute left.

The PRESIDING OFFICER. The Senator had 17 seconds.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. May I be yielded 30 seconds?

The PRESIDING OFFICER. All time has been used on the bill.

Mr. EXON. Mr. President, I ask unanimous consent for an additional 30 seconds for the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection to the request? Without objection, the Senator from Nebraska is recognized for 30 seconds.

Mr. EXON. Mr. President, I just want to say the chairman of the Armed Services Committee, the Senator from Georgia, Senator Nunn, had hoped to get to the floor to oppose this amendment. He is opposed to it. I just want to show in the record that Senator Nunn hopes we would defeat the amendment that is before us.

I thank the Chair for the additional time.

Mr. WALLOP. Mr. President, I ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is there sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to table the amendment of the Senator from Wyoming. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. Cranston], the Senator from Tennessee [Mr. Sasser], and the Senator from Colorado [Mr. Wirth] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. McClure] and the Senator from Idaho [Mr. Symms] are necessarily absent.

The PRESIDING OFFICER (Mr. Bradley). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 44 as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—50

Adams
Baucus
Bentsen
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Conrad
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatfield
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Simon
Stennis
Weicker

NAYS—44

Armstrong
Bingaman
Bond
Boschwitz
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—6

Biden
Cranston
McClure
Sasser
Symms
Wirth

So the motion to table amendment number 2809 was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2810

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 2810.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . The amount appropriated under the heading, Research, Development, Test and Evaluation, Air Force," is hereby reduced by $200,000,000; the amount appropriated under the heading, "Research, Development, Test and Evaluation, Defense Agencies," is hereby reduced by $300,000,000: *Provided,* That the $200,000,000 transfer specified to the National Aeronautics and Space Administration from "Research Development, Test, and Evaluation, Air Force" shall not occur and that $100,000,000 shall be transferred to the National Aeronautics and Space Administration from "Research, Development, Test, and Evaluation, Defense Agencies" in lieu of the $400,000,000 provided for elsewhere in this Act: *Provided further,* That in addition to funding provided elsewhere in this Act, the specified amounts for the following programs are appropriated to be transferred and merged with the appropriate appropriation accounts: Bradley Fighting Vehicle System procurement, $67,000,000; Multiple Launch Rocket System procurement, $37,000,000; SEMATECH research and development, $55,000,000; National Training Center operations, $50,000,000; Naval aviation depot maintenance, $62,000,000; research and development construction related activities of the Army, Navy and Air Force, $126,000,000; Space Recovery Program research and development, $50,000,000; Marine Corps operations, $25,000,000; Aegis IFF system research and development, $9,000,000; SLQ-32 upgrade procurement, $9,000,000; and Joint Standoff Weapons Program research and development, $10,000,000.

Mr. STEVENS. May we have order, Mr. President?

The PRESIDING OFFICER. May we have order in the Senate? Will the Senators please clear the well?

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the bill as reported by the Appropriations Committee contained a $600-million transfer to NASA for certain defense-related operations of NASA. Since the time that that bill has been reported, the HUD and independent agencies conference met, and found $500 million from other sources so that only $100 million of that transfer is necessary thereby freeing up some $500 million in the defense bill.

The amendment allocates that $500 million to a conventional readiness package as follows: Multiple launch rocket system, $37 million in budget authority, $2.6 million in outlays; the Bradley fighting vehicle, $67 million in budget authority, $2.8 million in outlays; SEMATECH—that is the new cooperative Department of Defense private industry R&D program—$55 million in budget authority, $28.1 million in outlays; National Training Center operations, $50 million in budget authority, $37.5 million in outlays; the naval aviation depot maintenance, $62 million in budget authority, $50.4 million in outlays; R&D construction project, $126 million in budget authority, $64.3 million in outlays; space R&D for the Air Force, $50 million in budget authority, $26.5 million in outlays; Marine Corps operations, $25 million in budget authority, $20.3 million in outlays; the Aegis IFF, $9 million in budget authority, $4.5 million in outlays; the SLQ-32 upgrade, $9 million in budget authority, $.9 million in outlays; the Joint Standoff Weapons Program, $10 million in budget authority, and $5 million in outlays.

The total of that is $500 million in budget authority, and $242.9 million in outlays. Mr. President, these are in the opinion of the Appropriations Committee the highest priorities of conventional readiness which is an area that has been long neglected. As my colleagues who have dealt in defense know, the way we have budgeted in past years is to take care of the sexy programs first, take care of things like the big weapons program, whether it be the Stealth bomber, or a new missile, and when the time comes for the budget crunch, as it always does, we have cannibalized our conventional readiness. This restores a bit of that balance, Mr. President, by funding some of our highest priority readiness needs.

So I hope this package will be adopted by the Senate.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I might state to the Senate I am not ready to vote on this amendment today. After the vote of the Senate on the last amendment, it means to me that we are going into conference with the House which has a stated position against SDI $500 million below the level that the authorizing committee went to conference with. In allocating that money now to these programs—incidentally, I do not agree with the priorities. I think the national aerospace plane is the No. 1 priority for research and development for the department that is not funded properly in the bill. Are we foreclosing any attempt for the Senate to consider this?

The Senate will not vote $500 million for SDI. Will it vote $400, will it vote $300, will it vote $200, or are we seeing the death of the SDI Program now on the floor of the Senate? There has been bipartisan support for the SDI Program. The authorizing committee took to the conference, their conference, $4.4 billion total authorization SDI. They took $4.2 billion for the defense portion of this bill to conference. Some Members of this body who voted for and asked us to support the 4.4 level have now opposed the 4.4 level on the appropriations bill. That means to us that those of us who support SDI and respectfully my good friend from Louisiana does not the way I do, those of us who do are going in the conference with the House with our hands tied behind us.

We are seeing, and we are now witnessing on the floor the beginning of the political season as far as I am concerned. That is a very unfortunate vote that the Senate just cast. Year after year I have stood before the Senate and asked the Senate to give us an authorized level to go to conference just as the conference went to the conference on the authorized bill. Until now I think that has been granted. In this instance it is not.

We have ongoing contracts that require more money now than I can see coming out of conference with the House on SDI under the action the Senate has just taken. If that is what the Senate wants to do, then I think it ought to think about it over the weekend.

I say seriously I am prepared to debate this bill for the rest of the day until I can get the time this evening to confer with the Department of Defense to see what they want to do about this situation and to confer with the President's people, and to confer on the priorities if we are to accept this judgment of the Senate at this time.

I am not prepared to accept it yet because I think it is wrong. I think the Senate ought to give those of us who believe as strongly in this bill as we did in the authorization bill at least the same level to go to conference as we gave the authorizers as they went to conference on their bill. And, remember, the outcome of their bill was a bill the President would not support; a bill the President would not sign.

We are seeing now a decline in support for SDI which I think is unfortunate. As I said before, in this Senator's opinion the SDI has been the center, focus, of the negotiating strategy of this country with the Soviet Union. Some people questioned that before, and I would be happy to debate that for the rest of the afternoon.

But so far as I am concerned, I am not willing to vote on this amendment until I can check it out with the Department of Defense and with those who are conducting those negotiations.

I will state to the Senate that just in the last interim between the vote, the last two votes, I visited with one of the people who has been in Geneva now for well over 2 years on these negotiations. He said to me again, "Senator, if there is one thing that has brought us to the success we have had on INF and will give us success on the strategic negotiations it is SDI. Do not let the Senate micromanage SDI and do not let the Senate reduce the level of SDI if we are to be successful in our ongoing negotiations with the Soviets on Strategic weaponry."

Mr. JOHNSTON. Will the Senator yield?

Mr. STEVENS. In just a second.

Mr. President, this does not give us the advantage we need in negotiations. We hear some people talk in the Senate, and you would think this money was for deployment of SDI. Not one penny was for deployment of SDI. It was for and is for research into a very esoteric area of our defensive strategy, research to determine whether we have the capability eventually of deploying a strategic defense concept.

As I said, I would be happy to debate it with any one who wants to debate it. But this Senator who has stood here now for years in support of this SDI wants an opportunity to talk to those people who are managing the system to find out what has happened.

I may well present an amendment to the Senate to deal with this. It would be an amendment to the amendment, subject to amendment, to say well, let us at least keep $400 million in it or maybe $450 million. The Senate has now turned down $500 million which was exactly the same level as it approved in the Senate version of the authorization bill.

I yield to my friend.

Mr. JOHNSTON. Mr. President, my dear friend from Alaska, who is the ranking minority member of the Defense Appropriations Subcommittee, is not just merely a member of this committee. He is a strong presence. He is a coworker. He is an ally. He has participated at every step of the way.

We are not going to sneak in in the middle of the night, or even in the middle of the afternoon, and attempt to adopt an amendment on which he wants to be heard or on which he wants to confer.

So I urge my friend not to have a wounded tone to his voice, because we will cooperate in this matter, as we have in other matters.

Lest anyone gets the impression that this bill which is now before the Senate hurts SDI and underfunds SDI, let me tell you that it has $3.7 billion for SDI. That is more than last year. We have already spent more, in real terms, on SDI than we did on the Manhattan project.

I may be accused of being an opponent of SDI, of wanting to spend only $3.7 billion, which is the largest R&D project in all the Department of Defense, but I can tell you that I believe in a robust R&D program, and we will be dealing with what the proper size of that program should be.

I can tell you that the $3.7 billion level is 100 percent of the authorized level. It is the level that apparently President Reagan believed in, because he said in his press conference at which he vetoed the authorization bill, "Well, the appropriation bill as it stands is one that I could sign and would sign." Apparently, that includes $3.7 billion for star wars, for SDI.

So, Mr. President, we might disagree on how to get to that $3.7 billion level; but I submit that that is the level that the Appropriations Committee came to, with not only the assent but also with the active participation of the Senator from Alaska. I think we were virtually unanimous on that level. It is one that the President of the United States says he is for.

We can discuss tactics on how finally to get to that level, but this committee should not be accused of underfunding, undercutting, trying to demolish SDI simply because we give it only $3.7 billion, the amount which apparently the President of the United States, himself, the author, the progenitor, the original creator of SDI, said he is for.

While I have a few moments here, unless there is another amendment ready to go, I thought I might discuss SDI for a moment.

Mr. THURMOND. Mr. President, I would like to say a word on this, if somebody will yield to me.

Mr. STEVENS. I thought I just yielded to my friend for a comment, Mr. President.

Mr. JOHNSTON. Mr. President, on that ground, I will not impinge further on the time of the Senator from Alaska, if it is his time.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. THURMOND. Mr. President, will the Senator yield to me?

Mr. STEVENS. Mr. President, I will be happy to yield to the distinguished Senator from South Carolina. Does he wish to make a statement?

Mr. THURMOND. A brief statement.

Mr. STEVENS. I yield to him for a statement.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I join in the statement made by the distinguished Senator from Alaska, for two reasons.

The first is that I talked today to one of the negotiators, and he told me that one of the biggest things that is of importance to help them in their negotiations is for Congress to give the amount of money for SDI that the President has requested.

We had in our authorization bill, I believe, $3.42 billion, and it is extremely important that that amount be approved.

The other thing is that in the fall of 1985, eight Senators went to the Soviet Union, and we conferred with Mr. Gorbachev for 3½ hours. Can you imagine him giving anybody 3½ hours? Do you know the reason he did it? Because he wanted to try to convince us to come back and tell the President that we ought to lay off SDI and go to something else. He mentioned that he would do this, and so forth, if we would do that, and so forth.

SDI is misunderstood by many people. SDI is a purely defensive weapon. It does not kill anybody. It does not destroy any property. It merely knocks down missiles that would kill people and destroy property. There would be no objection if every country had SDI. SDI is important.

Mr. Gorbachev is afraid that we are going to develop it first, and if a war should come, then we can knock down his missiles, and he cannot knock ours down. That is the whole juice in the coconut.

When I got back, I told the President: "That is your ace in the hole—SDI. Gorbachev is scared to death of it." I said: "We must go forward with it; we must develop it."

In my opinion, it is highly important that we do so. We should not reduce this amount. The President said it is necessary. The Defense Department has said it is necessary. The negotiators say it is necessary. So why are we quibbling here over a little money when the negotiators, who are representing us over there, and the President of the United States and the Chairman of the Joint Chiefs of Staff and the Defense Department say we should give that amount to SDI?

I say we should grant that, should approve it, and I am heartily in accord with the statement made by the distinguished Senator from Alaska.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have been listening with great interest to my friends and colleagues on the matter of SDI.

This Senator rose to oppose the last amendment and started the reasons for it.

I strongly support the amendment offered by the Senator from Louisiana because what it actually does is take some money that we have and place it in conventional defense, where we need to beef up.

I have listened with great interest to my friends on the other side of the aisle who at this time are raising questions about SDI. I simply want to say that there is no one I know of on this side of the aisle—there may be some—and probably none on the other side of the aisle who want to cut the strategic defense initiative below last year's funding level. I simply say to the Senate that we have a budget crisis on our hands.

Also, when I hear some of the statements that are being made with regard to consultation with the Department of Defense as to what the level should be, I wonder if those who are suggesting that they are going to check with the Department of Defense will have had faith in what the Department of Defense says on this issue. It is quite obvious by the recent veto of the President of the United States that he pays no attention whatsoever to his appointed top officials in the Department of Defense, including the Secretary of Defense and including his National Security Adviser.

Therefore, I would say to my colleagues, that if they want to go to the Department of Defense for information as to what the funding level should be for the strategic defense initiative, then they are probably not going to get a figure that is likely to be supported by the President of the United States.

Mr. President, I cite once again the veto of the President of the United States of the defense authorization bill. I cite once again the statements that this Senator made a week before the president vetoed the defense authorization bill when I appealed, I pleaded with the President of the United States to reject the political advice that he was receiving and to sign the bill into law.

Myself and others at that time warned if the President vetoed the defense authorization bill he was likely to get something back in his lap that he would not like and would not be as good from his stated perspective.

I note with interest the statement just made by the Senator from Louisiana that the President said the other day that he, the President of the United States, could support the measure passed by the Appropriations Committee which is significantly below the SDI figure that was agreed to in conference with the House of Representatives on the defense authorization bill.

I am simply saying, and I think it is time that we draw the line, when the President of the United States vetoed that defense authorization bill he shattered—he shattered, Mr. President—a bipartisan coalition that has been working cooperatively with him and his appointed defense chiefs to come up with a reasonable proposal.

I can understand that there are those on this side of the aisle that may have been somewhat surprised that the Senator from Nebraska opposed the amendment that had just been offered. I might not have opposed that amendment had it been offered under a different setting, had it been offered before the President of the United States took the politically convenient position for him to veto the defense authorization bill.

I would simply say that in vote after vote on the strategic defense initiative this Senator has stood with most of those on that side of the aisle and with the President of the United States at the level of SDI funding and, as I said in my remarks on the previous amendment, there were several extremely close votes that I think those of us who were supporting a higher level for SDI prevailed by only a few votes. It only takes a few votes and it only takes a few of us who feel terribly letdown by the partisan motivated veto that the President of the United States cast on the defense bill.

Two that I can mention are the chairman of the Armed Services Committee, the Senator from Georgia, and this Senator from Nebraska, who traditionally have been on the other side of votes not dissimilar from the one that we just cast.

But the responsibility for this does not lie with the excellent Republican leadership on that side of the aisle—the Senator from Alaska, the Senator from South Carolina, the Senator from Virginia. Senator WARNER, the ranking member of the Armed Services Committee, is a man who cautioned against the politically motivated veto of the defense authorization bill by the President.

I simply do not blame them for that, but I think they should understand that we have a situation now where that coalition has been shattered and several of us said it would come to pass if the President vetoed the bill and here it is right now. It is reality. The President made a terrible mistake and I suppose that there will be raging pros and cons on this during the upcoming Presidential election year.

I simply say, Mr. President, that this Senator has stood in a different position with even the majority of the Democratic members on the Armed Services Committee on this strategic defense initiative time and time again, and it has not been easy but I generally vote my convictions, what I think is right for the national security interests of the United States. I believe that by the actions of the President of the United States in vetoing the defense authorization bill we have a brandnew ballgame.

I will continue to do what I can to protect what I think are the vital interest of the United States of America including the strategic defense initiative.

I would simply say when the President of the United States with his action and with the coalition of partisans that went to the White House, over the objection of all of the top advisers to the President of the United States, both in his administration and on the floor of the Senate, vetoed that defense authorization bill he is going to regret that very much.

I am going to do what I can to make sure that the national security interests of the United States are not adversely affected.

I simply want my colleagues on that side of the aisle to fully understand the position of this Senator. I want to work with you. I want to be helpful and I want to be reasonable. I want to do what we can to put together a coalition to bring us out of the mess that the President of the United States has gotten us into with that veto.

It is not going to be easy. We have to work together and I think beginning to work together would be best demonstrated by accepting the amendment offered by the Senator from Louisiana who takes the money and puts it into the conventional defense that I think most Members of this body would agree needs the support.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Nebraska who is such a strong and knowledgable member of the Armed Services Committee for his support on this amendment.

Mr. President, I might say to my friend from Alaska and other Senators, because the Senator from Alaska wants time on this amendment to discuss it overnight, we will not press it for a vote this afternoon. Rather we will talk about it for a short period of time and then withdraw the amendment to propose it on another day after the distinguished ranking minority member of this subcommittee has had time to deal with it. And we would never try to push any matter on which he asks for time or other consideration.

Mr. President, let me deal with one very interesting aspect of SDI, and that is the question of how it came about. I have discussed in previous days the question of how President Reagan himself was in fact the creator of SDI. He claims credit for SDI. It did not come from the Joint Chiefs of Staff. It did not come from his Secretary of Defense. It did not come indeed from the Department of Defense. Most of those had to be told about it some time later.

A new book is just out on the question of how it came about. It is by Simon Ramo, and it is entitled "The

Business of Science." Mr. Ramo is perhaps best known as being the "R" in TRW, a very distinguished scientist.

Dr. Ramo explains how he and a select group of about 20 scientists holding top secret clearances were summoned to the White House for dinner on March 23, 1983. My colleagues will remember that was the starting date for SDI. President Reagan came in and read portions of his SDI speech just hours before he delivered it to the American people.

Dr. Ramo says that in the ensuing discussion after the President left the room, the scientists expressed every criticism or question about SDI that has arisen in the years since SDI's inception.

And George Keyworth and Robert McFarland—George Keyworth was a science adviser; Robert McFarland at that time was the Deputy National Security Adviser—could not allay the fears expressed by those scientists.

As for the leakproof shield, Dr. Ramo said;

> I am positive that no one present who had a science background believed this to be possible in the foreseeable future against a determined large-scale ICBM attack.

What baffled Dr. Ramo was how could such top level scientists all be taken by surprise at the President's announcement. How, he asked Attorney General Ed Meese who was also at the dinner, had the secret been kept from the media?

To Dr. Ramo's amazement the Attorney General responded:

> Because only six people knew about it, including the secretary who typed it.

Dr. Ramo concluded in his book:

> From everything I learned that evening and since, I retain the impression that everyone—presumably with the exception of those six individuals, whoever they might have been (Reagan, Meese, Clark, McFarlane, Keyworth, a stenographer) was taken by surprise by the announcement. This included the Joint Chiefs and Secretaries Shultz and Weinberger.

Robert McFarlane, the President's former National Security Adviser, also has shed new light on the birth of SDI. On May 17, 1988, he testified before the House Armed Services Committee. He said quite candidly that he first proposed SDI to the President. But he acknowledges, he was proposing a system that would protect missiles, not people. McFarlane says:

> The military was talking about that, I was talking about that, and also frankly about just stressing the Soviet system.

It was President Reagan, McFarlane says, who decided to press for a fundamental change in strategy and call for an Astrodome to protect the population.

Mr. President, is there any doubt about why this program can absorb $13 billion, which is what we have spent on SDI to date, and still not seem to know where it is going, still not have an architecture that anybody in this country, so far as I know, at least anybody in this Senate, knows what it is? It is still going through definition and redefinition and re-redefinition. We do not know whether we are talking about a ground-based system or space-based or a kinetic kill vehicle or whether it is supposed to use ray guns or whether it is supposed to use rockets shot from space. Thirteen billion dollars later and we have little more idea than we did on March 23, 1983 of where and why and how this program will eventually be defined or paid for or whether it will work.

Mr. President, President Reagan has great skills, in so many ways. He is perhaps the greatest communicator that we have ever had. But a rocket scientist, he is not. And an SDI scientist, he is not. But he is, in fact, the originator of the SDI Program, be it a good program or a bad program. I happen to think it is a program worthy of some expenditures on R&D; in fact, robust expenditures on R&D programs. It is not a program invented by the scientists or indeed which passes muster with most of the scientists in this country in terms of deployment of that program.

Mr. President, did the Senator from Alaska wish me to withdraw that amendment at this time?

Mr. STEVENS. Mr. President, I would like to make some comments concerning this amendment.

Mr. JOHNSTON. I yield the floor.

Mr. STEVENS. Mr. President, I remember the days that the Senator from Louisiana was discussing because, as I said, I was the chairman of the subcommittee at that time. Prior to that time, during the period of the previous chairmanship of the distinguished Senator from Mississippi, we had had a series of unrelated research projects in the Department of Defense in R&D.

If you want to go back, you can look at the radio wave frequency research that was going on. Even the Soviets were doing it in the sixties. Our President, President Reagan, found that in the Department of Defense there were these unrelated projects going ahead, projects that had been sold to the Congress and the Department of Defense in the research area and they were all seeking answers to aspects of this concept of: Is there a nonnuclear response to a nuclear attack?

And, as the Senator from Louisiana has said, if there is any one genius that the President has—and I think he has several—it has been the means of communicating to the public the necessity for Government action. He saw that this could become the centerpiece of our negotiations with the Soviets. He also had the dream that it might be possible to really accomplish this concept of having a nonnuclear response to a nuclear attack and, as you know, made the speech at the time holding out the hope that we might eventually be able to do away with nuclear weapons if we could prove that it would be no good to anyone to attack the greatest power on Earth, that is, this country.

As a matter of fact, I went to many meetings in those days concerning SDI. I became convinced that it had great promise for what it was meant to do: First, to give us hope that there is a way out of the nuclear age in terms of military use of nuclear weapons; and, second, it had great hope to take the Soviets back to the bargaining table so we could proceed in negotiating.

Once again, I say to the Senate, how much is the INF Treaty worth? How much is it worth to America? We have seen now an entire reversal. It is like seeing a group of ball players go down the field one way and, all of a sudden, they all turn around and say, "Oh, no, that is not our goal. Let's go the other way." We have seen the world change 180 degrees because of SDI. We have seen the emergence of things like glasnost and perestroika, a whole new concept of relationship with the Soviet Union.

In my opinion, they all come out of the day when we said, "Let's try to see if we can change the course of the world with regard to nuclear weapons."

Now, I believe we have to maintain nuclear weapons as long as they are necessary to defend this country. But I also believe we ought to hold out the hope that we might change that.

My problem with this amendment that is pending before us now is this. And we say things from time to time on this floor, Mr. President, about our good friend and whatnot. I want everyone to know that this is one of my good friends, and I think everybody knows it. Senator JOHNSTON spends almost as much time in my State as I get the time to spend there. He is an Alaskan at heart and that is a way of life to me.

But I want to remind the Senate that when the authorization bill was before the Senate, my good friend offered an amendment to transfer $700 million from defense to NASA. That failed. It failed. In committee, my good friend and I, working with our chairman, agreed that the space station was such a high priority that even I, a committed SDI supporter, would agree to take money out of SDI in order to fund the space station if there is no other way to find it.

But, in conference on the HUD bill, those people managing that bill recognized their responsibility and they did find a way to fund the space station through the bill that it should be funded in and we now have the opportunity to restore to SDI the money we took from it for the space station.

Mr. JOHNSTON. Will the Senator yield?

Mr. STEVENS. Yes, for a question.

Mr. JOHNSTON. I think the Senator will recall that the $600 million was not taken from SDI. The Senator from Alaska objected to taking it from SDI, but stated he would join with me in taking it from defense generally if we did not take it from SDI. And that is what we did.

Mr. STEVENS. Well, I would say to my friend, we did not do it directly but we did it indirectly, because we reduced the numbers. As we pointed out, this bill that came out of committee without the $600 million was, in fact, lower than the authorization bill called for and we knew it at the time. The Senator from Louisiana is correct. We tried to use prior-year money. We could not do it, so we eventually had to use current-year money. This is the only amount of money I know that was decreased from the budget in that amount in our bill was the SDI. We ended up with a funding in HUD that was not authorized and not budgeted and now that necessity is eliminated.

Mr. JOHNSTON. Will the Senator further yield?

Mr. STEVENS. Yes.

Mr. JOHNSTON. Does the Senator recall that, by agreement, we reduced SDI to the full conference level—the $3.7 billion is 100 percent of the conference level—and we did that together as we have done on most things?

Mr. STEVENS. This Senator does remember that, and that is true. If we had a defense authorization bill—I wish the Senator from Nebraska could hear my statement now; I hope he does—if we had an authorization bill that limited us to the authorization amount, it would be another matter. We armed the authorization committee with the authority to go to negotiate with the House with $4.4 billion. The House went into that conference with $3.1 billion. The conferees came back with $3.7 billion.

That bill has been vetoed. It is gone. We are starting again. There is no authorization level. There is no conference level.

The premise that we set this at at the time the Senator from Louisiana mentions was when we had a conference level. That has all been eradicated now. The question is: How do we negotiate with the House? The House Armed Services Committee had a level of $3.1 billion, as does the House Appropriations Committee. When it goes to conference with us, it will come in at a $3.1 billion level. I am sure the Senator from Louisiana would agree with that. That is the floor.

The question is: What is the ceiling in this negotiation? If we take the bill as it stands now, after the defeat of the Wallop amendment, it is $3.7 billion and the House is $3.1 billion and we are going to end up somewhere in between, probably somewhere at $3.3 billion or $3.4 billion. As I say, we may split the difference and make it $3.35 billion. But it is clear that we do not have the ability to maintain the course that the authorizers did.

But the main thing is that we now are in the position where we can restore this money and if we cannot restore the money, the question is what do we do with it?

I would like the Senate to think about that last vote a little bit, because I have the feeling that this is the centerpiece, still, of our strategic policy, vis-a-vis the Soviets.

We need the strength in conference to maintain this research base that we have now. If we start dismantling it, if we say that the maximum level that can be appropriated is $3.7 when the President asked for $4.5 billion, than I think we have signaled that we will be at least $1 billion below the budget request and for the first time since the SDI Program started, it will not be increasing in terms of its intensity, in terms of our commitment to this concept.

I know there are many people that question it and rightly so. I think anything that costs this much money deserves public attention and deserves our scrutiny. God knows, our committee has scrutinized it over the past 5 years. But, Mr. President, to take action on this pending amendment now preclude the Senate from, in any way, increasing the capability of negotiators to meet the position of the House and if I hear my friend from Nebraska right, it means to me that this may be one of the areas where the Congress decides to reduce spending in order to convince the President he was in error in vetoing the bill.

I think he vetoed the bill primarily because of the micromanagement concepts in SDI that came out of the conference report; micromanagement concepts that were not in the Senate version of the authorization bill; are not in this bill; and ought not to be in the conference report on this bill.

I hope that we can find some way to have some meeting of the minds about what emphasis there will be on SDI, as far as the Senate is concerned. To go into conference with the House at the level that came out of the conference with the authorizers, to me, is predicting that the Senate, once again, will suffer defeat in conference. I think that there is no one that has negotiated with the House over the years that can expect us to come out anywhere near $3.7 billion from the conference this time under the circumstances and I think that is wrong.

Furthermore, and I would urge my friend to consider withdrawing his amendment and let us have a chance to take a look at it. I also had another conference today concerning the National Aerospace plane and saw a statement from the Air Force saying that is their number one priority. If that is the case, I think if we are going to allocate some of this money around. We ought to meet the highest priority of the three services in doing so and this does not do that. I have no question that each one of the items that the Senator from Louisiana has mentioned are priority items but I do not know how high the priority is, vis-a-vis other items that were in the authorization bill, that we have not funded. We have not funded a series of items in the authorization bill.

Mr. President, I would like an opportunity to confer on the proposed amendment and also confer on the strategy on SDI.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, of course we will accede to the request of the distinguished ranking minority member of the committee. I would invite him to look at our amendment in the meantime because at some point after the level of SDI is finally fixed, and I would suppose looking at this last vote that it will be fixed at its present level which is 100 percent of the authorization level—but in any event, whatever that level is we are going to have to allocate the additional money to some other purposes.

We think this conventional readiness initiative is a very excellent package. We have heard members of the Armed Services Committee speak on it in support of it this afternoon. So I would urge him and other Senators to take a careful look at that package. In the meantime we will have time for the Senator from Alaska and others to confer with the White House.

Let me just say one thing to the distinguished Senator from Alaska about the conference committee. Yes. We will go to the conference committee, if we have our way, at $3.7 billion. But the House side of the defense appropriations conference is bullish on SDI; considerably stronger on SDI, in my judgment, than is the House of Representatives generally. So I would tell the Senator that his fears about a House Appropriations Subcommittee coming in with a view to savaging SDI, I think are not borne out by, at least, my impressions of that House Appropriations Subcommittee. It seems to me that they are very strong supporters of SDI. Certainly Chairman CHAPPELL is a very strong supporter of SDI and I think the majority of those members are.

With that said, Mr. President, I would like to withdraw the amendment for proposal on another day.

The PRESIDING OFFICER. The Senator from Louisiana has withdrawn his amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD. Mr. President, I am awaiting a little conference that is occurring right now with respect to Contra aid. I do not want to be shut out of an opportunity this afternoon to offer the amendment. I do not want to offer it until the conference has completed its work. In the meantime, there could be other amendments, perhaps, that could be called up, but I would not want another amendment up and then have to get consent to lay it aside to call up the Contra aid amendment. I might not get that consent.

So I ask unanimous consent that I may, at any time this afternoon, be recognized to call up a Contra aid amendment and make it the pending question before the Senate.

The PRESIDING OFFICER. Is there objection?

The Senator from Maine.

Mr. COHEN. Reserving the right to object, and I shall not object.

Mr. BYRD. Mr. President, I withdraw the request for the moment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, while awaiting the outcome of the conference that is being conducted anent the Contra aid amendment, which I am prepared to call up this afternoon at some point, I ask unanimous consent that Mr. WILSON be recognized for morning business purposes and that he be permitted to speak for 10 minutes, and that I be recognized at the conclusion of the 10 minutes.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

The Senator from California.

(The remarks of Mr. WILSON pertaining to the introduction of legislation are printed in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I thank the Chair.

Mr. President, I would like to see the Senate continue to deal with amendments to the bill. I want to offer a Contra aid amendment this afternoon, but I want to await the conference that is presently underway. I wonder if I can get consent that I be recognized sometime during the afternoon for the purpose of calling up a Contra aid amendment making it the pending question before the Senate.

Mr. STEVENS. Mr. President, reserving the right, I know my distinguished friend, the majority leader, has the right to call up an amendment at any time. I have been asked to object to the concept that could be without regard to what is pending at the time. It was my understanding the group that is working on the Contra amendment is still in session now.

Mr. BYRD. Yes.

Mr. STEVENS. I do not know how to put this, but my information is that those who are working on the group feel that that is sort of constraining in the sense that perhaps the Senator already has his version of a Contra amendment without regard to what they are doing, and they wonder if they should break up the negotiations this time.

Mr. BYRD. No, that is not the purpose at all. My purpose is to avoid freezing of the Senate at this point. I would like to see other amendments called up and disposed of.

But if there is another amendment pending and a Senator refuses to allow unanimous consent to set that amendment aside so I can call up the amendment, then I am shut out on Monday. So I hope I can get consent at some point during the afternoon to be recognized for the purpose of calling up that amendment, so I await the outcome of the conference because I hope something good will come out of that conference. And I am still hoping that the Republican leader and the Republicans can join me on that amendment. I certainly want them to have time. That is why I have asked consent that I may be recognized at some point during the afternoon to call up the amendment, so that I will not shut out the opportunity of having that amendment up this afternoon by virtue of another amendment that may be pending and a refusal to give consent to lay that amendment aside.

Mr. STEVENS. Mr. President, I am requested to present an objection. I do not like to present an objection to my good friend. He is the majority leader. He has the right, priority of recognition at any time. As a matter of fact, he has the right to control the agenda at this moment and preclude anybody else having the ability to propose an amendment because he has the floor. Could we explore that avenue, with the Senator retaining his right to the floor somehow? I know the Senator from Virginia has an amendment that he wishes to call up, and I think we could inquire of him whether or not he would be prepared to agree that the distinguished Senator from West Virginia could set aside his amendment at any time if the distinguished majority leader wishes to pursue it.

Mr. BYRD. That would be fine.

Mr. STEVENS. I am informed that I am to object. I do not want to object. I would like to work it out with our leader so that he has that flexibility if we can achieve that.

Mr. BYRD. Yes, I would be agreeable to that. I do not know who is interposing the objection on the other side, but I could go ahead and offer the amendment now, which I do not want to do. I could put the Senate into recess for 30 minutes or an hour and then be the first to be recognized, then offer the amendment. But I do not want to waste the time of the Senate on a recess.

I would be happy, if the distinguished Senator from Virginia wants to call up an amendment at this time, if he will agree to laying it aside temporarily at such time as I may be ready to call up the Contra aid amendment.

Mr. STEVENS. If the Senator will yield, Mr. President, I am informed the distinguished Senator from Virginia has an amendment to offer that he would be pleased to set aside at any time the distinguished leader indicated he had the desire to propose a Contra amendment. So could we proceed on that basis?

Mr. BYRD. Oh, yes.

Mr. STEVENS. Do it one at a time as we go down the road here.

Mr. BYRD. Absolutely. The only problem is the distinguished Senator may be willing to set it aside and somebody else may object. I am going to proceed on a gentlemen's understanding. I know the Senator from Virginia will live up to that as well as the Senator from Alaska; that the Senator from Virginia may go ahead with his amendment with the understanding that if I am ready to call up the Contra aid amendment prior to the action on the amendment by the Senator from Virginia, that amendment may be temporarily laid aside to allow me the opportunity to call up the Contra aid amendment.

The PRESIDING OFFICER. Is that the understanding of the Senator from Virginia?

Mr. WARNER. Mr. President, I am delighted to concur in whatever condition the distinguished manager on this side wishes to place on me.

The PRESIDING OFFICER. That is the understanding.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, for the past several days I and others have been calling to the attention of the Senate the status of the pay raise which has been thus far approved by this Chamber in the authorization bill and to a certain extent in the pending bill. I continue to have deep concerns about the uncertainty around this particular pay raise to which the men and women of the Armed Forces are entitled.

What I propose to do now is a duplicate of what I have done on two prior pieces of legislation; namely, send to the desk at this time an amendment and ask that it be printed.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WARNER. Yes.

Mr. President, I withhold my request pending the statement by the manager of the bill.

Mr. JOHNSTON. I very much appreciate it. As I was rising to speak, I just caught the import of the Senator's asking that the amendment be printed. As he knows, I and everyone else in the Senate support the substance of what he is trying to do, but as he also knows we are negotiating an idea of putting on the Senate-passed bill which contains those same levels, so that we will not have to take up that bill piecemeal. But do I gather he is simply going to put it in for printing and discuss it at this time?

Mr. WARNER. Mr. President, there are several steps I intend to follow, and I say to my distinguished colleague from Louisiana I am very much involved in those negotiations and I believe I have as much knowledge about the progress, and I do not mean to suggest there is not progress—there is good progress—but I think in fairness to this Senator and other Senators who are concerned I simply wish to make a record at this time.

Mr. JOHNSTON. I thank the Senator very much.

Mr. WARNER. At the appropriate time I am going to ask the Senate to consider the sense-of-the-Senate resolution which I offered and I will not require a rollcall vote on that.

Mr. JOHNSTON. I thank the Senator very much.

Mr. WARNER. Mr. President, I send the amendment to the desk at this time and ask that it be printed.

(The text of the amendment is printed later in today's RECORD under "Amendments Submitted.")

Mr. WARNER. Mr. President, yesterday, the Senate passed by a vote of 91 to 1 an amendment to the dire emergency supplemental appropriations bill calling on the Congress to quickly pass legislation authorizing a military pay raise for fiscal year 1989.

At that time, the leadership indicated that the DOD appropriations bill, now before the Senate, was the appropriate vehicle for such legislation.

Therefore, I introduce this amendment at this time.

It is imperative that the men and women in uniform not be made the pawns in our attempts here in Congress to resolve larger struggles about the direction of our defense programs.

Not only must they not be made into pawns, but we, all of us in the Congress, must act positively to assure these men and women that we are not trifling with their well being.

Merely saying that we are sure they will get a pay raise is not enough, we must pass legislation which will make that statement a reality.

Our people in uniform have not failed us, we can not fail them.

AMENDMENT NO. 2812

(Purpose: To express the sense of the Senate regarding the need to enact legislation authorizing a military pay raise for fiscal year 1989)

Mr. WARNER. Mr. President, I send to the desk a second amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. THURMOND, proposes an amendment numbered 2812:

At an appropriate place in the bill, insert the following new section:

SEC. XXX. SENSE OF THE SENATE REGARDING THE NEED TO ENACT LEGISLATION AUTHORIZING A MILITARY PAY RAISE FOR FISCAL YEAR 1989.

It is the sense of the Senate that the Congress should expeditiously pass legislation authorizing a pay raise for all members of the uniformed services effective on January 1, 1989, which would increase the rates of pay by 4.1 percent for basic pay and for basic allowance for subsistence and by 7.0 percent for basic allowance for quarters.".

Mr. WARNER. Mr. President, as I am sure all my colleagues are now aware, President Reagan vetoed the defense authorization bill.

While there may be differences among us on how to best provide for our national security, I am sure all my colleagues will agree that we must honor our obligations to our men and women in uniform around the globe who are serving this Nation.

These men and women who serve in our Armed Forces do so unselfishly and often at great sacrifice to themselves and their families.

The people in our military should not suffer while we in Congress strive to settle our differences on defense issues.

Therefore, I ask all my colleagues to join me in ensuring that our men and women in uniform receive the 4.1-percent pay raise which would have been provided by the defense authorization bill.

These young people serving our country have always responded, they have never failed us.

We must not fail them.

We must ensure they know they have our loyalty and support regardless of the differences we may have on how best to provide for our Nation's defense.

The proposed fiscal year 1989 pay raise for civilian employees in the Department of Defense is not part of the defense authorization process and, therefore, is not affected by the veto of the Defense Authorization Act.

However, legislation is necessary to insure that the pay raise for military personnel is forthcoming.

My amendment would provide a raise of 4.1 percent in basic pay and basic allowance for subsistence, and of 7 percent in basic allowance for quarters for all military personnel, effective January 1, 1989.

This is identical to the pay raise provisions in the defense authorization conference report.

The pay raise would affect some 2.1 million active duty personnel, some 2.9 million dependents of active duty personnel, some 1.1 million Reserves and National Guardsmen and their 1.2 million dependents.

In short, approximately 7.3 million military personnel and family members are looking to the Congress for our support.

I urge each of my colleagues to register their strong support for the members of the Armed Forces and their families by voting for this amendment.

Mr. President, I ask unanimous consent that I be allowed to put in the RECORD at this point the vote taken on that identical amendment yesterday, at which time the Senate voted in favor 91 to 1.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Virginia [Mr. WARNER].

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD. I announce that the Senator from Florida [Mr. Chiles], the Senator from California [Mr. Cranston], the Senator from Ohio [Mr. Metzenbaum], the Senator from Maryland [Ms. Mikulski], and the Senator from Tennessee [Mr. Sasser] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio [Mr. Metzenbaum] and the Senator from Maryland [Ms. Mikulski] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Kassebaum] and the Senator from Idaho [Mr. Symms] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 1, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—91

Adams, Armstrong, Baucus, Bentsen, Bingaman, Bond, Boren, Boschwitz, Bradley, Breaux, Bumpers, Burdick, Byrd, Chafee, Cochran, Cohen, Conrad, D'Amato, Danforth, Daschle, DeConcini, Dixon, Dodd, Dole, Domenici, Durenberger, Evans, Exon, Ford,

Fowler, Garn, Glenn, Gore, Graham, Gramm, Grassley, Harkin, Hatch, Hatfield, Hecht, Heflin, Heinz, Helms, Hollings, Humphrey, Inouye, Johnston, Karnes, Kasten, Kennedy, Kerry, Lautenberg, Leahy, Levin, Lugar, Matsunaga, McCain, McClure, McConnell, Melcher, Mitchell, Moynihan, Murkowski, Nickles, Nunn, Packwood, Pell, Pressler, Pryor, Quayle, Reid, Riegle, Rockefeller, Roth, Rudman, Sanford, Sarbanes, Shelby, Simon, Simpson, Specter, Stafford, Stennis, Stevens, Thurmond, Trible, Wallop, Warner, Weicker, Wilson, and Wirth.

NAYS—1

Proxmire.

NOT VOTING—8

Biden, Chiles, Cranston, Kassebaum, Metzenbaum, Mikulski, Sasser and Symms.

So the amendment (No. 2804) was agreed to.

Mr. WARNER. Mr. President, I hope that that amendment could be incorporated in this bill by voice vote and ask the managers if that is feasible.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. As one who voted for the amendment yesterday, I am happy to accept it on a voice vote and I congratulate the Senator on putting yesterday's vote into the RECORD today.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2812) was agreed to.

Mr. WARNER. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I express my appreciation to the managers and all Members of the Senate who have been supportive not just to this Senator but to the concept of this amendment.

RECESS

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 3:18 p.m. recessed until 3:23 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I am at this time awaiting the outcome of the conference. If Senators want to speak in morning business for 5 minutes each, it might be a good time.

I ask unanimous consent that there be a period for morning business for 15 minutes, that Senators may speak therein not to exceed 5 minutes each, and that I be recognized at the conclusion of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

ORDER FOR STAR PRINT—S. 2662

Mr. HOLLINGS. Mr. President, I request a "Star Print" of S. 2662, and that the following corrections be made:

(1) On page 1, line 3, strike "and" and after the word "Apparel" insert the words "and Footwear."

(2) On page 14, line 4, strike "1988" and insert "1989."

And, Mr. President, I request the following Senators be added as cosponsors: Mr. SANFORD, Mr. FORD, Mr. MOYNIHAN, Mr. JOHNSTON, Mr. REID, Mr. PRYOR, Mr. SHELBY, Mr. ROCKEFELLER, Mr. STENNIS, Mr. MITCHELL, Mr. BURDICK, Mr. LEVIN, Mr. RIEGLE, Mr. SIMON, Mr. HEFLIN, Mr. COHEN, Mr. SASSER, Mr. HEINZ, Mr. DECONCINI, Mr. NUNN, Mr. MCCONNELL, Mr. LAUTENBERG, Mr. WEICKER, Mr. HELMS, Mr. COCHRAN, Mr. KENNEDY, Mr. LEAHY, and Mr. D'AMATO and that the bill remain open for further cosponsorship.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF SENATOR MATSUNAGA AS ACTING PRESIDENT PRO TEMPORE

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. MATSUNAGA may be designated as Acting President pro tempore for the purpose of signing duly enrolled bills and resolutions on today, Friday, August 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. POLICY TOWARD VIETNAM

Mr. PELL. Mr. President, on Wednesday, August 3, 1988, the Government of Vietnam announced a halt to its search for the remains of Americans missing in action in Indochina. The Government further indicated that it would suspend its efforts to facilitate the resettlement of released Vietnamese Reeducation Camp prisoners to the United States. Both these actions are regrettable, and it is my hope that the Government of Vietnam will reconsider its action, so as to restore the momentum toward improved United States-Vietnamese relations which has begun in recent months.

The Vietnamese statement was contained in a letter to Gen. John Vessey, the President's Special Emissary for MIA matters. The letter stated that the reason for suspending further action on MIA's and Reeducation Camp prisoners is the hostile attitude of the United States, in particular the policy of the administration to continue to isolate Vietnam and to oppose the establishment of interest sections in Hanoi and Washington, DC.

On August 2, 1988, the Senate Foreign Relations Committee held a hearing on U.S. Policy Toward Indochina. The committee received testimony from Senator MARK HATFIELD and Senator JOHN MCCAIN, as well as the Administration, on possibilities for improved United States-Vietnamese relations. Based on the presumption that Vietnam would continue its efforts on MIA's and other humanitarian issues, there was a substantial body of support for better relations with Vietnam, and especially for the establishment of interest sections.

Vietnam's announcement yesterday was therefore particularly unfortunate. It presents serious complications for those of us seeking improved relations with Vietnam. Senator MCCAIN, for one, has announced his intention to suspend his efforts to gain passage of his resolution calling for interest sections.

For my part, I will continue to press for an improvement in United States relations with Vietnam. Such an improvement is in the American interest. It would help facilitate Vietnam's withdrawal from Cambodia; it would help address ways to prevent the return to power of the murderous Khmer Rouge; it would provide Vietnam an alternative to the Soviet bloc; and it would help direct Vietnam's efforts away from the problems of war to the more urgent needs of peace and domestic development.

It is my hope that in the coming weeks and months the Vietnamese leadership will renew its efforts on MIA and other humanitarian matters, irregardless of what happens on the political issues between the United States and Vietnam. I urge the Government of Vietnam, to promptly renew its political and humanitarian efforts so that the next administration will have a solid basis on which to normalize relations.

DUCKS AND THE DROUGHT

Mr. CHAFEE. Mr. President, in addition to human suffering and economic hardship that is being caused by the drought, we are seeing that wildlife, especially migratory birds, are being hard hit.

Wild animals across the Nation are suffering. In some areas, the problem is made worse by contamination and diversion of water for crop irrigation.

Wildlife biologists tell us not to worry. According to these experts, 1 year of drought is a natural phenomenon to which most animals can adapt. If normal rainfall returns, most species will be able to rebound in a year or two.

Unfortunately, this optimism does not extend to North America's ducks which are being particularly hard hit by the drought that began in 1980.

Approximately 50 percent of our ducks normally nest in small lakes and ponds, known as prairie potholes, in the north-central United States and southern Canada. Today, we see that almost one-half of these 5 million potholes are dry.

This year, ducks and other migratory birds went farther north to find water. This kept them from nesting in their normal areas and, in some cases, may have prevented nesting altogether.

The U.S. Fish and Wildlife Service has estimated that the fall migration probably will be the second lowest on record. They project that only 66 million ducks will fly south this year, 8 million fewer than last year.

One Fish and Wildlife spokesman has been quoted as saying "this is a dismal rock bottom year for waterfowl, we've gone bust." The Director of the Service, Frank Dunkle, was quoted as saying "it's the worst time in the history of waterfowl, other than the 1930's."

Mr. President, I recently received two statements of concern and will ask that they be printed in the Record immediately following my remarks.

These statements are especially significant because they come from the Currituck Shooting Club, one of the oldest duck hunting clubs in America, and the North American Wildlife Foundation. Both of these groups are sounding the alarm and calling for immediate action.

This is not a ploy by antihunting preservationists. These are statements by those who will be directly affected by any new regulations. These people are among the estimated 2 million duck hunters in this country who spend close to $1 billion a year on the sport.

Mr. President, there is a long-standing policy of regulating hunting dates and bird limits on a flyway by flyway basis. The Fish and Wildlife Service and the States have some tough decisions to make in the next few weeks when they set the dates and limits for this fall. I do not envy them but would hope that they follow the advice of the experts and consider the views of affected, knowledgeable groups, including the Currituck Shooting Club and the North American Wildlife Foundation.

I ask unanimous consent that the statements to which I referred be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Currituck Shooting Club—Statement of Concern

The Currituck Shooting Club strongly urges the U.S. Fish and Wildlife Service to heed the alarming message from the North American Wildlife Foundation and the Delta Waterfowl Research Station about the plight of the North American duck population, and to take prompt and effective action.

Currituck has existed for 131 years as one of the oldest duck hunting clubs in America. More than seven generations of members have known the privilege of duck hunting, and the joy of passing this tradition on to their sons.

We want this treasured part of the American heritage to continue. The present grave situation, which is the predictable result of years of ignoring clear trends, guarantees that this will not happen without an immediate and drasitc change in hunting regulations.

We support nationwide closed season on Canvasback and Pintail, and on any other species as threatened as they are.

We support a much reduced season, and lowered bag limits.

The facts are too clear to permit debate as to the basic situation that exists. It is the responsibility of our government, as steward of the nation's resources, to act with courage.

Gordon Hanes, Philip Hanes, Calder W. Womble, James G. Hanes III, E.B. Leisenring, Jr., Ralph H. Womble, John W. Hanes, Jr., Eldridge C. Hanes, Stuart H. Richardson, Jr., Alan T. Dickson, Fred Folger Chatham, John M. Chatham.

[For Release June 14, 1988]

State of Prairie Ducks—June 1988

The trustees of the North American Wildlife Foundation and its Delta Waterfowl and Wetlands Research Station today called upon the governments of Canada, the United States and Mexico to recognize the severe plight of prairie ducks and to implement strong regulatory measures to prevent further population declines. They urge that hunting regulations for the fall of 1988 be severely restricted and that a continent-wide prohibition on the hunting of two species, pintail and canvasback, be imposed.

The Canadian and United States Federal Wildlife Services have just completed their annual spring breeding surveys of the prairie potholes where the great majority of North America's game ducks breed. The results are alarming. Poor fall rains, record low snowfall and an absence of spring moisture have caused nearly one million ponds to disappear over the past year, leaving 44 percent fewer prairie potholes than the 1965-1987 average.

As a result of the severity of the drought, for the first time in recorded history fewer than one million mallards were found in southern Saskatchewan, the most important breeding area for mallards. Southern Alberta also recorded all-time low mallard numbers. As a whole, for the prairie pothole region of the U.S. and Canada, mallards are down 25 percent from the last year and 43 percent below the 1965-1987 average. Pintail populations are even lower. Only 675,000 pintails were counted in all the prairie pothole country, a record low. This is down 52 percent from 1987 and a staggering 80 percent from the 23-year average. Prairie canvasback and blue-winged teal numbers have also shrunk dramatically.

Due to the low breeding numbers and continuing drought, duck production this summer will be minimal. Early breeding efforts appear to be modest and poor water conditions will discourage late re-nesting attempts.

"Now is the time to recognize the severity of the situation," said Peter Green, President of the North American Wildlife Foundation. "We call upon Canadian, U.S. and Mexican authorities to take the necessary action to preserve this precious resource for our own and future generations."

BUSH: A NEW AMERICAN INTERNATIONALISM FOR THE 1990's

Mr. QUAYLE. Mr. President, yesterday Vice President Bush presented his vision for America's foreign and military policy—a new American internationalism for the 1990's—in a speech he delivered to the Mid-America Committee in Chicago, IL.

It was described by the press as a political speech and, in fact, did appeal on several counts—SDI, strategic modernization, arms control prudence—to those in my party.

But it did much more. Indeed, what recommends it to the consideration of the Senate as whole, are the issues it addresses that are too new yet to be matters of party line.

It offers specifics on how we should go about conventional arms control in Europe. It details how we should address the emerging problem of missile proliferation. It describes how we go about lowering tariff and trade barriers to speed further development of countries such as Mexico while enriching our own economy and that of our allies. In a word, it is a blueprint for action.

Mr. President, the Senate would do well to consider what Vice President Bush has laid out as his seven point program for U.S. security affairs.

In hopes that its wider distribution will help guide this body in the shaping of its own views in these critical policy areas, I ask unanimous consent that the full text of the Vice President's speech be entered in to the Record at the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Excerpts of Remarks, Vice President Bush, Mid-America Committee Luncheon

The "American Century"—it dawned as World War II closed, and for the next three decades the United States fulfilled its historical mission. We defeated the Nazi tyranny, and from the rubble of a war built a new international order that ushered in a period of peace and prosperity unrivaled in human history. We travelled to the moon, and on earth kept alight the flame of freedom and the hope of a better lift for all men.

Eight years ago, however, when Ronald Reagan and I took office, it seemed that the American Century had come to a premature end. America, we were told, suffered from "malaise" at home and a crisis of confidence abroad: high taxes, exorbitant interest rates, and double-digit inflation had sapped our once mighty economy strength, while our military might and international prestige had fallen to all time lows. The Soviet Union had invaded Afghanistan and Soviet power advanced in Southeast Asia, Africa, and even into our hemisphere. The Iranians had seized our embassy in Tehran.

But it wasn't the American people who suffered from "malaise"—it was our leaders who lacked the understanding, experience and resolve to pursue American greatness and seemed resigned merely to preside over our decline.

President Reagan and I immediately set about the task of returning America to its role as world leader—to its strategic role as peacemaker and apostle of prosperity. We repaired our nation's defenses, modernized our strategic nuclear forces, deployed INF's in Europe, and restored pride in our nation's military services.

We didn't just preach about human rights, we pursued a forward strategic for freedom. We provided that Mujahadeen in Afghanistan with weapons and now the Soviet tanks are rolling home. We liberated the tiny island nation of Grenada from a dictatorship controlled by Cuba, supported freedom in El Salvador, and helped restore democracy to the Philippines.

We struck back against terrorism, teaching Quadhafi a lesson he'll not soon forget.

And at home, we liberated the American economy from high taxes and over-regulation, creating what our allies came to call "the American Miracle"—17 million new jobs and low inflation in what is not the longest peacetime expansion in American history.

In the 1980's, we rebuilt the foundation of American strength, restored America's self-confidence, and with it, our statute abroad. But we did more, much more, than simply undo the damage of the late seventies. The revival of American leadership is today changing the world and shaping the future, creating new opportunities, new possibilities, barely dreamt of eight years ago.

In the 1990's, we can move the world once again—or we can be pushed along by it. It is not a time for timidity, hesitancy, and on-the-job training. We must draw on our experience, creativity, and special genius to mold these changes to make the world a better place. For the American people, born in revolution, will have the chance to benefit from five other revolutionary changes that are reshaping the international landscape.

First, the democratic revolution. Ten years ago, 25 percent of the people of Latin America lived under democratic governments—today 90 percent do, with the Philippines and South Korea also firmly joining the family of free nations.

Second, is the revolution of free enterprise. The American model of low taxes and economic growth is being adopted around the world; from the Pacific Rim to the Atlantic Borderlands of Europe, Africa, and South America, socialism is discredited and economic liberty is the new driving force.

The third revolution is the ferment in the communist world. Concepts of political democracy and market economies are being debated from Budapest to Moscow, from Warsaw to Beijing—we even hear supply-side arguments advanced inside the Kremlin walls, and the first, cautious, attempts to tell the truth about Soviet history. While it is too soon to know where the pressure for reform will lead, what is taking place in the Soviet Union today would have been unthinkable only a short time ago. We should not underestimate the power truth can work even on totalitarian societies.

The fourth revolution is in arms reduction: Take the INF treaty—for the first time in history the United States and Soviet Union will completely eliminate an entire class of their nuclear missiles—and we have agreed in principle to a 50 percent cut in strategic weapons.

The fifth revolution is in information and communications. A single individual, sitting at his or her desk-top computer, can access more resources of information world-wide than were recently available to the most powerful governments—just one example of the developing new world economy that increasingly shrinks space and time and transcends political and geographic barriers.

We have come to the end of the post-war era—a unique moment to determine America's place for the rest of the century. All these revolutions present unparalleled opportunity—and risk. With the proper leadership, America should be able to direct these changes for the common good. Indeed, our efforts helped set them in motion, and each plays to our greatest strength as a nation—our openness and capacity of change.

Yet, in the wrong hands, revolutions can drift into frightening forms. Young democracies are fragile and may be overcome by authoritarian pressure. Economic competition may slip into protectionism and mercantilism. The communist world could snap back to its old ways, or the ferment could produce a more powerful force with unchanged objectives. Arms reduction could become an excuse for a weak defense and create dangerous instability. And the new information flows could be used to control instead of to liberate.

This new era demand from America, and its elected officials, firm, consistent and experienced leadership with a program that can shape the course of change.

My program for the 1990's will have seven elements:

The President is the Commander-in-Chief. The national security must be his first occupation. That means U.S.-Soviet relations must be high on our foreign policy agenda as long as the Soviet Union has the power to destroy our civilization.

We welcome the developments in the Soviet Union—but we should not let our hopes outrun our practical experience. Soviet ideology has proven bankrupt—but Russia remains a formidable military power. We welcome what Mr. Gorbachev says—I am impressed by the steps he has taken for more openness, more reform, but in the final analysis the Soviet Union will be judged by what it delivers—on conventional and chemical arms reduction; on defusing reigonal tension and reining-in aggressive Soviet clients; on human rights and emigration, and repudiating the Brezhnev Doctrine in Eastern Europe. These are the measures of meaningful change.

My program would avoid swings between unjustified euphoria and exaggerated pessimism. I know we can attend realistically to common problems by working together without false illusions.

The second element is arms reduction and control, a process relating primarily to U.S.-Soviet relations—yet given new realities—increasingly extending to other quarters as well.

Here our experience with intermediate-range missiles is instructive. I worked closely with NATO leaders in 1983 when the allies bit the bullet—in the face of all the power the freeze movement could muster—and stuck to our planned deployment despite unprecedented Soviet pressure. Then we stood together again, successfully, when Mr. Gorbachev finally took up Ronald Reagan's offer to scrap all these missiles.

The lesson is clear: real arms reduction, real improvements in East-West relations, and real security can only be achieved through strength and consistency. We can pursue negotiations tenaciously while proceeding with the military measures to guarantee our security. To halt the modernization of our strategic deterrent is to disarm unilaterally—rendering the United States increasingly vulnerable and reducing incentives for serious negotiations by the Soviets—who incidentally continue a fast modernization program of their own.

My policy will be continued modernization as we pursue a verifiable and stabilizing agreement to reduce each strategic arsenal by 50 percent, mindful that a reduction in arms must also mean a reduction in danger. The ratio of forces must leave us more, not less, stable.

My policy will recognize that despite the drama of nuclear weapons, the imbalance in conventional weapons is a basic source of instability in Europe. For over 40 years, the Soviet Union has maintained a huge forward-deployed land army. If the change in the Soviet attitude is genuine, the Soviet Union should accept the forthcoming NATO proposal to reduce both NATO and Warsaw Pact forces to lower balanced levels of tanks and artillery in Europe, from the Atlantic to the Urals—these are the weapons that make an attack thinkable. Let's reduce them in a way that lessens the danger of war, strengthens deterrence and secure the peace.

My policy will be to develop a viable strategic defense system, an outgrowth of the SDI research program, to protect our people from ballistic missile attack. The fact is, that this city, Chicago, just like every other city in the United States, has absolutely no defense against an attack. Even if only one missile were launched against us, the President would have no choice but to stand by as destruction hurtled toward millions of Americans—helpless to defend them.

Already, the first phase of a space-based SDI technology is ready to come out of the lab and begin demonstration. The technology isn't the problem, that's progressing faster than its most ardent supporters ever imagined—it's the Democrats in Congress that are dragging their feet, for instance, cutting the space-based interceptor appropriations from over 300 million to 85 million and boasting they've "taken the stars out of star wars."

I am confident we can find a better way than mutual assured destruction, with all its admitted shortcomings, I am committed to deployment of SDI, as soon as feasible, and will determine the exact architecture of the system in my first term, as the technologies are tested and proven. As President, I will not leave America defenseless against ballistic missiles.

Precisely because of the spread of dangerous military technologies, we must also extend the arms control process beyond the narrow confines of the superpowers. States like Iran, Syria, Iraq, and Libya are working to develop the capacity to produce chemical arms, and to acquire—in some cases produce—the ballistic missiles to deliver them. The danger is real and we have to get active now if we are to avert disaster.

We must start by giving new life to multinational programs to limit these modern plagues.

My program includes a drive to ban the production of chemical weapons and create an intrusive verification system to guard against violations. Anyone who has seen the pictures from the gulf war—of women and children killed by chemical poisons—knows that we must put this terrible genie back in the bottle.

We must also intensify our drive to halt the spread of nuclear weapons. I will work to secure universal adherence to the nuclear non-proliferation treaty, and to strengthen the International Atomic Energy Agency.

But that's not enough. We must also stop the spread of ballistic missiles and ballistic missile technology. There are few developments more firghtening than that of unstable, sometimes irrational, Third World regimes being able to press a button and deliver weapons of terror across great distances.

I will work to revitalize the missile technology control regime—the mechanism created to stop the transfer of missile technology—get it moving and make it effective. Those who refuse to join it or who violate its principles must know that they will pay a price for doing so.

New circumstances necessitate new direction. I will put one senior official in charge of the ballistic missile problem and give him the responsibility to integrate the intelligence, military, technical, diplomatic, and economic resources needed to respond. But we must also cope with the reality that ballistic missiles have already spread too far—that, for instance, Israel is already threatened by them. That is why I am proud that we are developing with Israel an ATBM system—a derivative of SDI research—to protect that nation from ballistic missile attack. It is one thing to say you are committed to Israel's security, but in an age of ballistic missiles, if you are against defensive systems such as SDI, that slogan has little meaning.

The third element of my program is a strategy to help douse regional flashpoints where these arms might be used. Arms do not cause wars, and arms control alone cannot secure the peace. Conflicts in the Middle East, Southern Africa, Central America, and South Asia could spark further violence and destruction—and inflame outside involvement.

We can and should work with other nations to settle these disputes. Yet, in the end, there is no substitute for us; we must take the lead in the search for negotiated solutions.

Our leadership will reflect a strategic design that is different from that of our critics, whose constant refrain amounts to using diplomacy while depriving it of its tools. We will integrate every available and suitable policy instrument into a multifaceted approach. That means using negotiations, intelligence, economic strength and aid, public diplomacy, and, yes, military power.

By way of example, our deployment of naval forces in the Gulf, with the support of five European navies, is not a military solution, as sometimes charged by those with a narrow foreign policy vision. To the contrary, we are employing military force to enhance our ability to achieve satisfactory political results. And make no mistake about it, the U.S. military presence in the Gulf, our willingness to use it, and our refusal to back down to threats, have sobered the Iranian leadership and contributed to the conditions that seem, at last, to be bringing the Gulf war to an end. At the UN the other day, I told the Iranians in no uncertain terms what would be necessary for the peace process to go forward—and now it's happening.

The fourth component is to increase the scope and momentum of the democratic revolution. Its lights are burning brightly in locations around the globe, but many other regions remain dark. We know from experience that the march toward democracy will not be without setbacks, but it always progresses. Our resolve starts with encouraging freedom and prying nations away from oppression, both external and internal. Then we must support genuine freedom fighters and assist fledgling democracies. And throughout, our actions must not diminish the bright light from the long-lasting American experiment and example. We are the beacon on the hill. When all is said and done, democracy depends on the soul of a people, and the American beacon can only reach that deep if we keep it strong and clear.

The fifth element of my program is an international alliance against the scourges of drugs and terrorism. We confront sophisticated networks of death, sometimes interacting, sometimes existing independently. It is, in essence, a war against humanity, devouring young and old. To be most productive, we must channel our rage into a broad-based counterattack, working with other nations on a sustained basis to defeat this evil. That means generating complementary support to gather intelligence, eradicate supplies and causes, interdict traffickers and agents, and respond with swift justice. With drugs in particular, we will never win unless all the American people recognize the face of the enemy—through education, prevention, treatment, and most importantly, a new public attitude that will not tolerate the presence of drugs.

The sixth element is international economics—an increasingly important feature of our relations with the world. Our work over the past eight years has complemented the rebuilding of the world economy after 1945. We returned the world to prosperity, through both our economic reconstruction at home and a new network of initiatives spanning the global economy.

My program would refine and build on this new, sophisticated United States leadership for modern times. One of the first priorities of the Bush Administration will be to build upon the U.S.-Canada Free Trade Agreement by aggressively negotiating elimination of tariffs and barriers around the world. We will look to the west, to our allies in the European Community—and convince them that the integration of the European Community scheduled for 1992 should also reach across the North Atlantic. We will look to the east, to Japan and the rising economies of the Pacific Rim, and bring them into a new economic system based on cooperation, rather than economic warfare. We will look south to forge a real economic compact with Mexico that is sensitive to the special needs and concerns of its people. At the same time we will continue to evolve the program for sustained growth—based on the American model of low taxes, deregulation, and entrepreneurship—the one realistic approach for helping debtor nations restructure their economies to be receptive to long-term investment.

Seventh, and finally, any successful U.S. foreign policy most grow from the roots of domestic support, economic and political. Our prosperous nation can do better. We can have a new era of achievement—fostered, not dictated, by government—through low taxes, opportunities for entrepreneurs and the small businessperson with the big idea, decentralized government that encourages experimentation, a good broad-based educational system, and reliance on markets.

I believe the political support for a new American internationalism for the 1990's is also present, though latent. It needs to be drawn out by a blend of experienced and creative leadership. It requires a genuine partnership with the Congress. It requires also a commitment to the bipartisan principles of strength, realism, dialogue, and global engagement that Harry Truman, Dwight Eisenhower, John Kennedy and Scoop Jackson embraced. I think all generations of Americans want an active, positive foreign policy. I think most Americans want to return to the days when politics stopped at the water's edge. They are all sympathetic to fostering American values abroad, but they want to be realistic about the cost. They want America's pride to be pro-U.S., not anti-foreign. They want America's hand to be steady, not overbearing or shaky.

The American Century has not drawn to a close. We are not in decline. America has set in motion the major changes underway in the world today—the growth of democracy, the spread of free enterprise, the creation of a world market in goods and ideas. For the foreseeable future, no other nation, or group of nations, will step forward to assume leadership. And as the 20th Century gives way to the 21st, the American republic will continue to represent mankind's last, best hope, the leader among nations seeking a more open and peaceful world.

Thank you all very much and God bless you.

TRIBUTE TO DR. FREDRICK F. CHIEN

Mr. INOUYE. Mr. President, it is a pleasure to join my colleagues in paying tribute to Dr. Fredrick F. Chien, representative of the Coordination Council for North American Affairs, Office in the United States of America. It was with mixed emotions that I learned of Fred's imminent return to the Republic of China, where he will become the Minister of State and Chairman of the Council for Economic Planning and Development. On the one hand, he is assuming new responsibilities which will enable him to improve trade relations between the United States and Taiwan. On the other hand, we are about to lose a good friend and skilled diplomat.

Dr. Chien's major contribution during his tenure in Washington was to realize that it was in the best interests of both Taiwan and the United States to maintain strong ties between our two nations. In helping Taiwan through delicate trade and diplomatic negotiations, he also helped the United States. Thanks to his efforts, we have seen improved economic relations over the past few years and a greater emphasis in Taiwan on reciprocal trade. During the difficult negotiations with the People's Republic of China, Dr. Chien was instrumental in preserving a working relationship between Taiwan and the United States; he then helped both to embark on a new relationship with a former adversary. Finally, Dr. Chien has been keenly aware of the important role that Taiwan has to play in the Pacific Basin and how best to coordinate with the United States in this regard. His skill and accomplishments will be greatly missed, and we wish him well in all his endeavors. I look forward to welcoming Fred back to the United States in the near future.

DR. FREDRICK CHIEN

Mr. ROCKEFELLER. Mr. President, Fredrick Chien, the chief representative of Taiwan in the United States in his capacity as head of the Coordination Council for North American Affairs, will be returning to Taipei next week after 5½ years in Washington. He has been a superb representative of Taiwan, helping keep the United States-Taiwan relationship on an even keel. He has been a friend to many in this body, and we will miss him.

Fortunately, Fred Chien will still be deeply involved, as he has been throughout his life, in United States-Taiwan relations. He has been named as Minister of State and Chairman of the Council for Economic Planning and Development in Taipei. In that capacity, he will be the key person responsible for economic relations between the United States and Taiwan. We can all be confident that the more enlightened trade policies of Taiwan, vis-a-vis the United States will continue.

These have been difficult times for the United States and Taiwan, especially on trade issues. In no small measure, because of Fred Chien, Taiwan has altered its policies, and the trade statistics this year demonstrate that.

Fred Chien's transfer back to Taipei is a reflection of the very positive changes going on in Taiwan under the progressive leadership of President Lee Teng-Hui, a most impressive individual. A generation is retiring, and the next generation is moving into positions of real influence. Along with these personnel moves, I see dramatic changes in Taiwan's domestic political scene as well as how Taiwan interacts with the mainland. I welcome these developments which can only bring increased stability to Taiwan and to the entire Asian region.

Fred Chien, in his new position in Taiwan, will make this process move faster and further. I look forward to continuing to work with him in the future.

Senator JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would like to join in the comments of the distinguished Senator from West Virginia with respect to Mr. Freddy Chien who is not an ambassador, but of the representatives of countries he is one of the most popular I think who has ever been in Washington.

He is very, very well respected, and I would say beloved by people in Washington, who know him well, who respect his intelligence, and his knowledge not only of this country but his own in the Far East. He is one of the most formidable figures in the diplomatic corps ever to come to Washington. I know my wife and I will greatly miss him and his lovely wife, who is his peer in every respect, in charm, in intelligence, and in fact in terms of charm and beauty far exceeds him I must say. But he will be greatly missed in Washington, and I know that his new position and new challenge in Taiwan will be of great advantage to the government of Taiwan.

So I just simply would like to join in the generous and well-deserved comments of my distinguished friend from West Virginia.

TRIBUTE TO JUDGE HARRY TAKIFF OF PHILADELPHIA

Mr. SPECTER. Mr. President, the outstanding career of a distinguished jurist, Judge Harry Takiff who recently died, merits the attention of the Senate in recognition of his work and as a representative of thousands of judges who daily contribute so much to the administration of justice in America.

More than 30 years ago, I came to know Harry Takiff as an outstanding trial lawyer at the Philadelphia Bar. Shortly thereafter, my family moved into his neighborhood, and I had the opportunity to have many discussions with him on the law, philosophy, literature, and life. When my wife and I would walk down Timber Lane in the East Falls section of Philadelphia to visit with Joy and Harry Takiff and their three children, it was always a delight. He was profound, patient, and a very decent human being.

In the late 1960's, when I grappled with the problems of city government, law enforcement, and politics as Philadelphia's district attorney, I received much good advice from Harry Takiff.

In 1970, he attained his life-long ambition when he was appointed judge of the Court of Common Pleas of Philadelphia. He was an immediate star on that bench.

In 1971, he was designated as the supervising judge to preside over a special grand jury which investigated drug trafficking and official corruption in Philadelphia. Those were the relatively early days in the war on drugs. While most judges in that capacity simply administered oaths and handled perfunctory matters, Judge Takiff was a tower of strength in providing guidance to the prosecutors and jurors on their important functions.

Judge Takiff later handled important court administrative matters in the critical role of speeding up the trail calendar, which is so important in the administration of criminal and civil justice in a big American city. Beyond his judicial work, he made outstanding contributions to the social, professional and cultural life of Philadelphia as a public-spirited citizen.

Judge Takiff's role is replicated by thousands of jurists across our country whose contributions are worth our attention and praise.

DR. FREDRICK CHIEN

Mr. HATFIELD. Mr. President, it is with a mixture of pleasure and sadness that I join my colleagues in the Senate this morning to honor Dr. Fredrick Chien, the Representative of the Republic of China at the Coordination Council for North American Affairs in its U.S. office in Washington, DC. This is a pleasant task for me because Dr. Chien is my friend and I am pleased to recognize him. It is a sad task for me because the occasion that prompts these accolades is his imminent departure from our shores. While he leaves to take on a large mantle of responsibility—and he is very deserving of such a position—we will miss his presence here in our country.

It is difficult to overstate the significance of the role Dr. Chien, and his extraordinarily competent associates, have played in relations between the United States and Taiwan. In the absence of formal diplomatic relations between our two countries, Dr. Chien's skill has preserved the unique aspects of the special relationship our Nation has with his. Owing in large part to his hard work, trade between our nations is booming and the Republic of China has retained representation of its interests here.

Dr. Chien speaks a diplomatic language that is unfortunately too scarce in the conduct of international relations. He speaks of principles, right and wrong and justice rather than of mere pragmatism and national interest. He reminds us that we are a country that still attaches great importance to time honored standards of morality in approaching our fellow world citizens.

Dr. Chien's efforts have focused on many aspects of relations between the Chinese and American people: economic, trade, scientific, and technological matters. But he has been particularly dogged in his pursuit of bettering our trade relations. With our Nation's enormous trade deficit, we have welcomed Dr. Chien's work. Of course, we applaud the outstanding achievements of the Government and people he represents in building an economic powerhouse in Taiwan in an exceedingly adverse international diplomatic environment. Not only his own country, but our Nation owes a great debt of gratitude to this unique individual. He has given much to both countries. In his eloquent, polite but persistent diplomacy he is an example to all in foreign service.

I want to add a personal note to my remarks today because foremost in my mind Dr. Chien is not a diplomat, but a friend. It has been a great joy to me and my wife to have had many opportunities to share ideas, hopes, and concerns with Dr. Chien and his lovely wife, Julie. These have been special times in which we have been privileged to see the personal depth within the public man. We have been enriched in having had this opportunity and will miss being able to do so as frequently in the future.

But Dr. Chien now moves to his new appointment as Minister of State and Chairman of the Council for Economic Planning and Development and we congratulate him and wish him well in his efforts at a most challenging task. He leaves behind an open door in United States-Taiwan and both our countries shall benefit from his efforts for years to come.

DR. FREDRICK CHIEN

Mr. McCLURE. Mr. President, it is with great pleasure that I join my colleagues in saluting a unique man and a skilled and effective diplomat, Dr. Fredrick Chien.

Dr. Chien is returning to Taiwan after 5½ years of exemplary service as representative of the Coordination Council for North American Affairs Office in Washington, DC, the unofficial embassy of the Republic of China. He has recently been promoted to serve in a dual capacity as Minister of State, and Chairman of the Council for Economic Planning and Development, with the Government in Taipei. Fred Chien will be sorely missed by his friends and colleagues here in Washington.

As Chairman of the Council for Economic Planning and Development, Dr. Chien will apply his talents to the most sensitive issue between our two countries, United States-Taiwan trade relations. He is certainly well qualified to do so, having handled these same issues with skill and professionalism during his tenure in Washington. It is a measure of his success that despite frictions over trade policy, Fred Chien has been able to preserve the deep friendship nearly all Americans feel for the free people of Taiwan.

With his guidance and innovative thinking, I am confident that we can expect continued improvement in our trade relations. There is much room for improvement. But in recent years we have seen encouraging steps, including the relaxation of duties on over 3,000 items and the Taiwanese Government's decision to allow its currency to appreciate against the U.S. dollar.

Educated in the United States, Dr. Chien possesses a rare understanding and appreciation of the U.S. political system. His many years in the United States will prove a valuable asset as he returns to a country where the power of democracy is on the rise. I might add that he has been a strong and consistent supporter of the political and social liberalization that is occurring in Taiwan today.

Mr. President, once again I offer my congratulations and respect to Dr. Fred Chien and his wife, Julie, as they leave Washington to assume responsibility of his new and challenging duties in Taipei. We shall miss them, and we wish them well.

SALUTE TO DR. FREDRICK F. CHIEN

Mr. PRESSLER. Mr. President, Dr. Fredrick Chien and his charming wife, Julie, soon will leave our Nation's capital. For the past several years he has ably represented his Nation's interests here. As head of the Coordination Council for North American affairs, he has been Taiwan's Ambassador to the United States. Although by virtue of the vagaries of world politics he does not possess the actual title of ambassador, in fact he is an ambassador in every sense of the word.

I gratefully recall that Dr. Chien was my host when I visited Taiwan several years ago to discuss agricultural trade and other issues. That enjoyable and educational experience was made all the more worthwhile because Fred and Julie Chien are the consummate hosts.

Dr. Chien's distinguished service here in Washington, DC, has been marked by stability and progress in relations between the United States and the Republic of China. He is highly respected throughout the United States and foreign diplomatic community. His dignified, intellectual approach to the task of representing Taiwan's interests has resulted in a greater degree of good will toward the Republic of China. Dr. Chien has presided over that Nation's interests here during a period of remarkable political change and economic progress on Taiwan.

Mr. President, I wish the best for Dr. Chien and his family. I am confident that he will continue to serve his country in the most masterful fashion. We will miss his thorough understanding of the political situation throughout the Pacific rim region—at least here in Washington—but we can rest assured that the United States will have a very good friend and ally in Taipei, or wherever Fredrick Chien serves.

BIPARTISAN CONSENSUS FOR STRONG NATIONAL DEFENSE

Mr. GORE. Mr. President, we are in the midst of an impasse between the executive branch and the legislative branch of our Government in this year's attempt to fashion a bipartisan policy on national defense.

In a democracy, consensus is itself a strategic asset. In the finest traditions of the United States of America, throughout the years, leaders in both political parties have attempted to work together to find a set of common principles and values which can serve to support a national defense policy that can attract political support from all over the United States and from people of varying political persuasions.

It is ironic that this impasse has been created for political reasons on the eve of the national election campaign at the behest of the pollsters and political advisers to Vice President George Bush. And at the very moment that he creates this impasse and hurts our national security, he goes out on the political hustings and attempts to characterize his opponent, the Democratic nominee, as weak on national defense.

He is attempting, in my view, to divert attention from the record of this administration on foreign policy. After all, it is this administration that has squandered the bipartisan consensus on the need for a stronger national defense, even as it has created the present impasse.

It is this administration whose irresponsible fiscal policies have undermined our economic strength, vis-a-vis other nations, upon which a sound national defense policy must always rest.

It is this administration that has virtually tripled our national debt so that we are now forced to spend more than $150 billion a year, not on improving our national defense, or improving our educational system, or strengthening our ability to compete, but on interest payments to foreign governments and citizens around the world. And it is this administration that has allowed the worst scandal in defense procurement in the history of the United States of America to take place right under their noses, further undermining the public support for a sensible policy on national defense.

The Secretary of Defense and the National Security Council Adviser and the distinguished ranking Republican members of the Armed Services Committee in this body all said to the President and the Vice President: "Don't veto this bill. We've worked hard with the Congress to come up with a set of policies that are not exactly to our liking, as they are not exactly to the liking of any Member of the U.S. Senate or the U.S. House of Representatives."

But those policies, in sum, represent a series of compromises that the American people can support and that will allow the Nation to move forward with needed improvements to our national security. Why did the Secretary of Defense take that position if it is an irresponsible bill? Why did the National Security Council Adviser take that position? Why did the ranking Republican member of our Armed Services Committee take that position?

Consensus is a strategic asset. We have seen them go it alone in the past on the eve of a national election. Two years ago on the eve of the biennial congressional elections when they were worried about the majorities they were hoping to build in support of President Reagan's policies, we saw, and perhaps it was coincidental that it took place on the eve of that election, but we saw a unilateral effort to try to get the hostages released on the eve of the election with a policy on which the Congress was not consulted. Again, playing politics and not consulting with the Congress.

Was the chairman of the Senate Armed Services Committee consulted in advance of this veto? Was the leadership consulted in advance of this veto? The evidence indicates that Vice President Bush's pollster was consulted, at great length, and his political strategists were consulted at great length, but they did not have the time or the inclination to make the least effort at building and preserving the bipartisan consensus upon which a strong national defense depends.

Mr. President, one of the themes that I think is of most concern to the American people in this election year of 1988 is how we are going to unify our Government again. Whether you look at national defense policy or education policy or economic policy, you can spend your time trying to assign blame to the President or the Congress and figure out who is most at fault, or you can try to solve the problem. If you go about trying to solve the problem, you will quickly find that the impasse itself is the principal problem. The deficit has soared because the President and the Vice President have insisted on pursuing policies that the Congress cannot support.

Sometimes in American history the American people believe that for a variety of reasons maybe it is good to have one party in control of the White House and one party in control of the Congress, so there is an extra check and balance in addition to those designed into the fabric of our Constitution. At other times in our history, the American people are restless for progress and constructive, responsible change, and in their wisdom they decide to reunify our Government with one party controlling both the executive and the legislative branch of the Government.

Vice President George Bush in his political attacks is at the same time promising more of the same. Does that mean a continued impasse of the kind we see holding up improvements to our national defense right now? Does more of the same mean a continued impasse on the fiscal policy that is driving us toward bankruptcy? I believe the American people understand the need for cooperation between this body and its counterpart, the other body, and the White House, the executive branch. If there was ever any doubt about why that cooperation is so essential for this Nation to move forward, let the doubters come and witness his debacle that has followed the Vice President's decision to have the administration veto this defense bill for political reasons. We produced a responsible measure. Instead, they looked at politics.

We have not heard much from the Vice President about his own foreign policy because he is reluctant to utter one word about the swap of arms for hostages. National security reasons compel him to remain silent about that embarrassing episode, or to offer a single bit of enlightenment on why he did not try to stop that outrageous mistake.

Likewise, he is silent on his role in fashioning policy toward the Panamanian dictator Noriega. What kind of foreign policy is that? Again, in both of those instances, the dealings with Noriega and the sale of weapons to the Ayatollah, the administration, this administration decided to go it alone, bypass cooperation, ignore the need for bipartisan consensus, and try their hand at a unilateral foreign policy fashioned exclusively by the executive branch.

What we are trying to do in this body with this defense authorization bill is get bipartisan consensus on a responsible measure designed to strengthen our national security. It is time to stop playing politics with national defense. It is time to have a responsible approach to national defense. And so I think the political attacks we have been seeing in the last several days by the Vice President on Governor Dukakis are part and parcel of the same approach we have seen in the irresponsible veto of this bill supported by the defense experts in their own administration.

I urge my colleagues to support reenactment of a measure as close as possible to the measure that was vetoed by the President, the defense authorization conference report. We are willing to have a dialog with him about changes that are in the national interest, but we cannot stand by and allow them to merely play politics and at the same time brazenly accuse our side of not having a responsible national defense policy when they are in the midst of an irresponsible policy themselves.

PAYING TRIBUTE TO DR. FREDRICK CHIEN

Mr. KARNES. Mr. President, I want to add my words to those of my colleagues in the Senate who have taken time to commend Dr. Fredrick Chien, who has served with distinction as representative of the Coordination Council for North American Affairs. In this capacity, he has served as the chief representative of the interests of Taiwan in the United States.

Dr. Chien holds masters and doctorate degrees from the Yale School of International Relations. He has had a long and distinguished diplomatic career. He has served as Vice Minister of the Ministry of Foreign Affairs. He has held his current position since January 1983. These are just a few of the notable accomplishments of Dr. Chien. His great abilities have served the people of Taiwan well.

Mr. President, it is important to point out the extraordinary progress that has been made by the people of Taiwan during Dr. Chien's service here in Washington. Taiwan is one of the shining examples of the newly industrialized countries of the Pacific. Taiwan has undertaken bold new efforts to further democratize their society. These efforts include reforming the structure of the Parliament, rescinding martial law, deregulating the press, and liberalizing the rules regarding political parties. Taiwan's economy is very strong and should serve as a model for the rest of the developing world. I know that Dr. Chien must be extremely proud of what has been achieved in Taiwan during his tenure at the Coordination Council for North American Affairs.

Shortly following my appointment to the Senate, last year, Dr. Chien graciously invited me to dine with him. My relatively short tenure and lack of seniority in the Senate made no difference to Dr. Chien. He immediately extended to me his warm welcome as I assumed my duties here in the U.S. Senate. My meeting with Dr. Chien over dinner was both delightful and informative. Dr. Chien is a capable diplomat and an eloquent spokesman for Taiwan.

Mr. President, I wish Dr. Chien well, as he prepares to assume his new duties as Minister of State and Chairman of the Council for Economic Planning and Development. I am sure that Dr. Chien will continue to serve the people of Taiwan with great ability and professionalism in his new positions. I cannot help but be encouraged about the future of United States-Taiwan relations with Dr. Chien continuing to provide his leadership to the people of Taiwan. I know that I speak for many Americans when I thank Dr. Fredrick Chien for all he has done during his tenure as representative of the Coordination Council for North American Affairs.

DR. FREDRICK CHIEN

Mr. REID. Mr. President, I would like to add my voice to those of my colleagues to commend Dr. Fredrick Chien, the Representative of the Coordination Council for North American Affairs, the unofficial embassy of Taiwan. He will soon be leaving the United States to serve in the cabinet of the Government of Taiwan.

During his 6 years here he has done an outstanding job of representing the interests of Taiwan. While I am sure he will be missed here, he will be a welcome addition to the Government in Taipei, where he is to hold the dual post of Minister of State and chairman of the Council for Economic Planning and Development.

His expertise in economics and his understanding of America bodes well for future United States-Taiwanese relations. He understands the importance of the different branches of our Government, and I am sure he will do his best to promote fair and friendly trade relations between our two countries.

Dr. Chien has shown skill in dealing with the difficult situation of representing a country without official relations with the United States. He understands that the strength of the United States-Taiwan relationship stands on the friendship the American people offer to others who share our respect for freedom and democracy. I am sure that he will encourage the increasing democratization underway in Taiwan, and I would like to wish him well in his new position.

TRIBUTE TO DR. FREDRICK F. CHIEN

Mr. THURMOND. Mr. President, it is my understanding that Dr. Fredrick F. Chien, who has served as the Republic of China's top official at the Coordination Council for North American Affairs [CCNAA] office here in Washington, DC, has been assigned to a new position with his Government in Taipei. The CCNAA has functioned as Taiwan's unofficial embassy since the Carter administration's decision to break formal diplomatic relations with that country.

Dr. Chien was appointed chief representative of the Coordinating Council in 1983, but this was not his first exposure to the United States. After graduating from National Taiwan University, he received his doctorate from Yale in international relations. Upon his return to Taipei, he entered the Ministry of Foreign Affairs as a specialist on North America. Then in 1962, he assumed the duties of secretary to the Premier of the Republic of China, Chen Cheng. In 1965 Dr. Chien became the English translator for President Chiang Kai-Shek and served in this capacity until the President's death. He then returned to the Ministry of Foreign Affairs in 1975 as administrative vice minister and commandeered the position of political vice minister in 1979.

During Dr. Chien's tenure as representative of the CCNAA, he has worked diligently to improve ties between our two countries under a difficult diplomatic arrangement. Dr. Chien should be commended for the fine job he has done in serving his countrymen. He is returning to Taiwan to take a new position of great responsibility as the administrator of state and chairman of the Council of Economic Planning and Development for Taiwan. Because of his lofty character and dedication to duty, Dr. Chien will be greatly missed by all whose paths he has crossed in the United States. My wife Nancy and I want to wish him and his family the best of luck and success in all of their future undertakings.

RECESS

Mr. BYRD. Mr. President, the conference is still going forward.

I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate recessed at 3:38 p.m. until 3:53 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

RECESS

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senate stand in recess for an additional 20 minutes.

There being no objection, the Senate, at 3:54 p.m., recessed until 4:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURDICK].

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

The Senate continued with the consideration of the bill.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, further conferences are continuing. For the time being, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate recessed at 4:41 p.m. until 5:02 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 5:02 p.m., recessed until 5:22 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2813

Mr. BYRD. Mr. President, I am going to propose an amendment concerning which there have been many discussions, some of which have been bipartisan; others have been discussions that have taken place on each side of the aisle.

It is my hope that on Monday, the distinguished Republican leader and others—especially the Republican leader—may be in a position to join in the sponsorship of the amendment. As of this moment, he is not able to do that, but I want to go ahead with the amendment, and I do this with his understanding and approval. As I say, hopefully, by Monday he may be in a position to add his name.

This amendment is the product of long discussions, particularly among the following Senators and has been agreed to by those Senators: Senators BOREN, JOHNSTON, DODD, NUNN, GRAHAM, SASSER, HARKIN, HOLLINGS, KENNEDY, KERRY, MITCHELL, INOUYE, PELL, and STENNIS. If I think of others, I will add them.

This amendment sends a strong signal to the Nicaraguan Government that it cannot continue to play fast and loose with the democratic commitments it has made to conform to the requirements of the Arias peace plan. The amendment maintains the integrity of the Arias peace process by withholding lethal assistance today but makes it clear to the Sandinistas that if they continue to threaten the stability and peace of Central America, and blatantly violate the Esquipulas accords, Congress is prepared to expeditiously take up a Presidential request for the release and transport of previously authorized military assistance for the Contras. In order to maintain the Contras as a pressure point, the amendment provides $27 million in humanitarian aid until March 31, 1989.

The amendment also provides $5 million in medical assistance for the innocent civilian victims of the war in Nicaragua, to be administered by the Nicaraguan Catholic Church. The amendment sets forth economic incentives for the Sandinistas to reach a general peace settlement with the Contras. It provides no new lethal aid in or out of escrow, at this time.

But, the Sandinistas have reached a crucial fork in the road. They have to make a fundamental decision in regard to their future course. The Nicaraguan Government can either fully comply with the requirements for democratization that they agreed to in the Arias peace plan and move into the mainstream of harmonious democratic relations with their neighbors, or, they can further isolate themselves from their neighbors and the people of Nicaragua by continuing to blatantly violate the provisions of the peace plan and repressing the legitimate democratic aspirations of the Nicaraguan people. This legislation is a flexible instrument which can deal with either choice. It clearly signals President Ortega that he faces continued and further isolation in this hemisphere, and renewed military aid to the Contras if Nicaragua continues to violate the peace agreement he signed in Guatemala on August 7, 1987. But it also signals that if Nicaragua goes back to the Esquipulas accords, and agrees to a ceasefire settlement with the Contras it will be eligible to receive substantial trade and economic benefits.

The consideration of the release of the frozen aid will be triggered by a Presidential request that Congress authorize the use of military aid previously appropriated. The Senate will give such a request expedited consideration when it comes over from the House, if the President has:

First, consulted fully with the other Democratic Presidents in Central America—President Arias of Costa Rica, President Duarte of El Salvador, President Azcona of Honduras, and President Cerezo of Guatemala.

Second, demonstrated that the Government of Nicaragua has acted to create an emergency in Central America which is having a detrimental impact on the peace and stability in the region, and that Nicaragua is violating the Esquipulas accords and continuing to accept high levels of Soviet bloc, including Cuban, armament.

Mr. President, this Senator considers that the security of the United States is of paramount importance in the debate on United States policy in Central America. For that reason I have repeatedly urged this administration to open bilateral negotiations with the Nicaraguan Government and press for the removal of the Soviet and Cuban military advisers and war materiel from Nicaragua, as well as guarantees that the Sandinistas will not permit the establishment of Soviet or Cuban bases on their territory. I have written to the Secretary of State, talked to him on this matter and continue to be baffled by the administration's reluctance to put the Sandinistas to the test on their repeated offers to negotiate on these vital security matters.

Furthermore, I am concerned that the administration has failed to press the Soviet leadership to cease and desist from its military aid program for the Government of Nicaragua.

I continue to believe that United States national security would be best served by direct bilateral negotiations on getting Soviet and Cuban influence out of Nicaragua.

We have no reluctance to negotiate with the Soviet Union. Why should we have any reluctance to at least sit down and have bilateral talks with the Nicaraguan Government?

I am convinced that the diplomatic track advocated by President Arias and the other Central American Presidents has not been fully explored and tested by the administration. If I were, then I might be prepared to support the resumption of military aid to the Contras at this moment. But I believe that the peace process may yet bear fruit and that we must allow a little more time.

So the amendment I am offering today supports that overall goal of moving the Central American region toward peaceful settlement of its differences by throwing United States support behind the Arias peace process, while at the same time telling the Sandinistas that they cannot have their cake and eat it too.

This legislation puts the Sandinistas on notice that this Congress supports the diplomatic solution envisioned in the Arias peace process as the way to resolve the conflict in Central America but that we are prepared to return to military pressure if Ortega fails to keep his word and continues to deny the democratic hopes of the people of Nicaragua.

It also says that Congress wants a regular, detailed assessment by the President on the military, diplomatic, economic, and political situation now and as those situations evolve in the immediate future.

This Senate agreed in March that we would deal with a Contra aid request if the President makes such a request and the House approves it. If the President feels strongly that he wants new aid, he may request it. To date, he has not done so. No Member of this body can be pleased with the recent actions by Ortega with regard to his obligations under the Esquipulas accords. But is it time for new military aid? This amendment says, not yet.

Will Ortega's behavior over the next 2 months convince the Congress that military aid to the Contras is warranted? Maybe so, and this amendment provides clearly for that happening. It is structured to keep our options open, and on a fast track. These options have been thoroughly aired, thoroughly discussed with Senators and among Senators from across the political spectrum. I have suggested a compromise to allow the Senate to deal, before adjournment, with any situation, any contingency, and I commend my colleagues and I thank my colleagues, and especially those who have worked and who have participated in the working group that I established and which has met from time to time and often, for the work that has gone into the amendment.

This is a carrot-and-stick approach that hopefully will promote the Central American peace process and lead to a peaceful democratic settlement of the Nicaraguan conflict.

I would be happy to yield the floor to any of my colleagues who may wish to comment on the amendment.

Mr. STEVENS. Mr. President, our Republican leader has left the floor because he has a dental appointment. He has asked me to comment on the majority leader's statement, having personally been involved in part of the negotiations; but then I was not able to go through all of the negotiations because this Senator has been involved here on the floor with the Defense appropriations bill. I have not been in the last two meetings, but there have been a series of meetings now on this subject.

We have seen earlier drafts, but I must state we have not seen this draft of this amendment and cannot comment precisely upon the provisions because of that situation.

Our leader has called a meeting on this amendment for 2 p.m. on Monday. We will have a conference at that time on it. I understand that the other side has had a conference on this subject. We have not. We hope that we can work together and our leader has indicated repeatedly our desire to work together in a bipartisan fashion.

I note that there is no Republican cosponsor of this amendment as yet.

We are worried about the adequacy of the action contemplated by this amendment and also by the vehicle or vehicles that may take this amendment to a conference with the House. As the Republican manager of this bill, I am, of course, hopeful that we will not have a veto of it, but it appears that that may be the case. It appears that this bill may not be the proper bill to expect action on prior to the recess that is necessary for our convention.

In any event, I would like to convey to the Senate Senator DOLE's feelings that the process of mutual accommodation leading to a bipartisan support of this amendment are not complete. We would hope that there will be an opportunity for modifications to meet the Republican comments and suggestions.

In any event, I have been requested to ask my good friend for assurance to the Republican leader that there would be an opportunity to present the Republican version as a substitute or as an alternative to this draft that is to be filed now as the majority leader's amendment in the event we cannot reach a bipartisan position on it, stating again, of course, that it is our hope that we will join together and take the action that is necessary to send word, as the majority leader has said, to the Sandinistas that the Ortega government cannot, again, as the majority leader has said, have their cake and eat it too.

They must start to comply with the commitments they have made. They must start to keep their promises. They must stop the harassment of the resistance through its peaceful expression of opposition to the Sandinista government, in particular the harassment of the news media and to those who have sought peaceful assembly for the purpose of protest must stop.

Mr. President, I hope that we would be able to have a chance to review this draft—it is not a draft; it is the majority leader's amendment—over the weekend and, as a result of our conference at 2 o'clock, deliver to the Senate the Republican point of view on this current version of this amendment.

As one who has had the task at times of carrying this amendment on the floor, I, personally, welcome the sizable numbers of Members on the other side of the aisle who are joined together in expression on this issue, because I think it would be a very good thing if we could take politics out of this issue. It is an issue that I think has a great deal to do with the ultimate security of our country and eventual restoration of the concepts that we have previously known as the Monroe Doctrine. As far as I am concerned, I think it would be very healthy for our country if we could reach a total accommodation on a bipartisan basis and send an amendment to the House expressing that bipartisan position.

As I indicated last evening on the floor, I hope that we will take up the authorization bill and add a similar amendment to the authorization bill and send it back to the House, with the hopes that one of these bills will meet the approval of the President and be signed as quickly as possible.

Mr. JOHNSTON. Mr. President, I want to congratulate the majority leader for bringing us together on this matter. I have been involved with some of my colleagues in these negotiations, and I can say that on a number of occasions the negotiations may well have broken down but for the leadership of the majority leader, who spoke of unity not only of the party but of the country in a very persuasive way.

I want to congratulate Senator BOREN, Senator GRAHAM, and Senator NUNN, speaking for what we fondly call the Contra boys; Senator HARKIN, Senator DODD, Senator KENNEDY, and others; Senator EXON is also one of the Contra boys who have labored so hard on this matter.

It has been, Mr. President, a gargantuan task to reach the point that we have because in the Democratic Party there is at least as great a span in terms of deep feelings in this as there is between Democrats and Republicans. The fact that we were able to come together, I think augurs well for our chances of being able to enlist a bipartisan majority behind this proposal.

The genius of the proposal, Mr. President, is that both sides can claim victory; that it gives to both sides that which is essential to them. To those who are opposed to arms for the Contras under any circumstance, they can point out, correctly, that this proposal gives not $1 in lethal aid to the Contras. To those who are strong for aid to the Contras, we can point out that this gives a chance for the President to request and for the House and the Senate to consider under expedited procedures and a vote to be taken on that issue at a more appropriate time than right now; that is, in September when there is more time for the issues to be clarified.

And that, after all, is the only advantage that can be sought from the present situation, because in the present situation, all that those of us who believe in aid to the Contras, the only ace in the hole, in effect, that we have, is that this bill or some defense bill, some appropriation bill, is a must pass bill. And if this proposal is attempted to be put on all of those, at some time it will have to be considered.

So, Mr. President, in effect we are in the situation of the immovable object met by the irresistible force. You must pass legislation and both sides have the votes to block that legislation. So something has to give and this proposal, worked out so painstakingly by both sides, gives the opportunity to break that deadlock, to have the measure considered and fairly considered and if voted up, it will be lethal aid at a time and place and under circumstances where it can be delivered and appropriately delivered in appropriate amounts. And on the other hand, the Congress can have a right to work its will and defeat Contra aid without at the same time putting the Congress in a filibuster, tying up the country's business, and tying up the Government of the United States.

It is a classic compromise, Mr. President. Both sides can claim victory. But principally the country can claim victory from this compromise and I do hope over the weekend that our Republican colleagues will be able to join in, in a truly bipartisan effort.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I want to join my colleagues in expressing support for the amendment that has just been put forward by the distinguished majority leader. And I want to join also in the tributes that have been paid to him for his efforts in this process.

One of the most debilitating things that has confronted this country is our failure to come together in the area of foreign policy, to speak to the rest of the world with a single voice. In no area of the world is that single voice and that sense of unity more important than in our own hemisphere, where our own national interests are so vitally at stake.

When I go home to talk to my constituents about the serious problems that face this country, they often say to me: What happened to statesmanship? We have got plenty of politicians in this country, but we do not have enough statesmen.

Let me say that as I watched our distinguished majority leader over the past several days, as he endeavored to bridge the gap and to halt the polarization that has developed on this issue so that we could come forward, not only united as Democrats but, hopefully, as Americans—and I appreciate the statement just made by the Senator from Alaska on behalf of the other side of the aisle and the minority leader—he has worked and he has struggled to come forward with the kind of proposal that can be embraced on both sides of the aisle so that we can send a message by an overwhelming majority that this Congress is putting some leverage behind the peace process, trying to help make the peace process work and bring the other side back to the bargaining table, make them stop their violation of human rights and begin to move toward democratic reforms so that the peace process can work.

So, Mr. President, to those that say to me there is often too much politics in Washington and not enough statesmanship, I am pleased that I will have the opportunity to go back and tell them that I have seen in action a statesman this week, Senator ROBERT BYRD, our distinguished majority leader; and that the kind of statesmanship that he has practiced during this past week and during these days of negotiation on this matter is the kind of statesmanship that this country cries out for.

I have been in some of the negotiations with the distinguished leadership on the other side, and let me say that I heard the distinguished minority leader say there are some on both sides of the aisle who would like to play politics with this issue, but it is time we got together and tried to do what is right for the country, right for the cause of freedom and stability in our hemisphere.

With this kind of example being shown by the leadership on both sides of the aisle, the kind of patient and statesmanlike work done by our majority leader this past week, I think we can only say that the week is ending on a good note—a good note for the country. We have seen the kind of qualities of leadership practice here that the country badly needs, and I want to salute our leader for what he has done in this process and to add my enthusiastic endorsement for what I think is a very fair and balanced proposal, one that I hope will soon become a bipartisan proposal that is now before the Senate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me add my voice in praise of our leader. He did a remarkable job. This has not just been just a few days. It has been several weeks; and he showed more patience than should be expected of a leader.

This is a matter that has not only been difficult to resolve over the last several days, but as I mentioned a few short days ago, this is the first time in 7 years, in my memory, anyway, that we have come together, at least both on substance and on procedure, setting out a very clear roadmap over these next coming weeks on how to try to deal with the problem that confronts us in Central America.

Now, each Member, depending on where they come out on this issue, I suppose will give a different interpretation of what this all means. I would like to characterize it, Mr. President, as an opportunity. This is a wonderful opportunity, in the remaining days of this the 100th Congress, for the executive branch and the legislative branch to really get together and try to do something constructive in Central America. We will not resolve the issue in these next couple of days or week on the issue of lethal assistance. The leader is absolutely correct. There is nothing in this proposition which calls for lethal assistance to the Contras.

It is clearly, of course, setting up a framework in the coming weeks when such a vote and a positive vote could be taken by both Houses. But I would hope that, between now and that occurrence or that possible occurrence, that the executive branch and the legislative branch, acting together, with our allies in the region, would try and promote and support a restarting, if you will, of the Esquipulas agreement.

I would hope that both our friends and our adversaries in the hemisphere would see this situation, if it in fact is adopted by this body, and I hope it is, this amendment, would see this decision as a positive one, as a constructive one. I guarantee you, Mr. President, there will be people tonight who will say that those who have supported the Contras have not done enough. And I will also guarantee you that there will be those who have opposed the Contra program that will say that those of us who have have caved in.

I am prepared to take that criticism from some, but they are wrong. I happen to believe that had there been a vote today or tomorrow or sometime in the next few days, that Contra aid probably would have passed. I do not know that for certain but I suspect that would have been the case.

What we have done here is provide, once again, maybe the last opportunity that we will have for some time to try to see that the Arias plan and the courageous leadership of President Arias, of Costa Rica; President Cerezo, of Guatemala; President Azcona, of Honduras; and President Duarte, of El Salvador, a great friend of this Congress, will have a chance to restart this effort.

So I am going to cosponsor and vote for this proposition. It has been a difficult week. There are things in this particular proposal, Mr. President, which I would have preferred were not included.

Our side, if you will, the opponents of Contra aid, gave up the procedural opportunities that this body provides us for extended debate on questions like this. That is not a minor concession. But we did so in the spirit of cooperation. We did so, recognizing that in exchange for that we would have some time to start or restart the peace efforts in Central America and to bring stability and democracy, freedom to the people of that part of the world.

So I commend the majority leader. It would not have happened without him. It would not have happened without people like TOM HARKIN, DAVID BOREN, and BENNETT JOHNSTON, JOHN KERRY, and TED KENNEDY, and DAN INOUYE, and JIM SASSER, and GEORGE MITCHELL, and others, who worked during these past few days to try to come together.

All of us are not happy. All of us would write this thing entirely differently were it our sole option to do so. That is not the case. That is not how this body functions. But I think it is a good product. I hope the opposition, our friends on the other side of the aisle, will support us in this, join us in this. I hope the President will come forward with some constructive efforts over these next few weeks before proposing a new round of legislation lethal aid. I would hope that his emissaries from the State Department and the intelligence community and others would act in a like manner; a cooperative, thoughtful, constructive way.

If we do that, we might be able to avoid a lethal aid package. That does not have to be a foregone conclusion. It is a possibility, but time is on our side now and that is basically why I am supporting it. It gives us some time for people like TOM HARKIN and CHRIS DODD to try to do what we can to see if we canot get that Esquipulas agreement back on track.

That is basically why I am supporting this, because it gives me that little amount of time to try to do something constructive in conjunction with the executive branch, the administration. I cannot do it alone.

So I commend, once again, the majority leader and my colleagues, those who have exhausted a great deal of time over these last few days, to bring this amendment to the floor. And I hope next week when this does come for a vote, that we will have a strong bipartisan support for this effort. It does not resolve this problem. This problem is not going to go away. But at least it puts us on a sound track; intelligent, thoughtful, rational approach for dealing with this thorny foreign policy matter that has tied this institution in knots for so many, many years.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I will be brief. These gentlemen have worked so hard on this for several days, including, of course, our leader, floor leader, and deserve a great deal of credit. They tackled a difficult matter in a very successful way. I think it is highly important, and I believe this will prove to be a turning point in this problem that has been so prevalent and so persistent for so long.

I rejoice at what I believe is going to be a highly satisfactory solution and accommodation by a good vote Monday, or whenever it is decided.

I supported this plan, not because I thought it was a great plan, I felt like we could not afford to leave this area.

No telling what would have happened by now if we had not stayed down there and met this problem the best we could in the manner we have.

I will not take up any more time now. I am very pleased, and I want to personally thank my colleagues. I believe we have reached a success. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. Mr. President, I want to join with my colleagues in complimenting and paying my respects to the distinguished majority leader for his leadership, his diligence and certainly his patience in keeping the talks going, keeping the negotiations among those of us who have long opposed Contra aid and those who supported Contra aid for a long time, keeping us together to bring this package to fruition.

Indeed, it was not an easy task to do that. Sometimes with the shifting positions, with trying to get these opposing viewpoints together, it tried the patience of Job. The distinguished majority leader had that patience, he had that leadership and he kept us together.

I also want to compliment the distinguished Senator from Louisiana who also with very clear thinking was able to delineate time after time the various positions around the table. I want to pay my respects to him for doing that.

I also want to thank Senator BOREN, for whom I have the greatest respect. It is one of those odd things about legislative bodies. I find when it comes to agricultural matters, there are probably few things Senator BOREN and I ever differ on, but this is one issue where we have differed in the past, on opposite positions on this Contra aid. But in these negotiations bringing this again to the point of getting an agreement, Senator BOREN could not have been more gracious, thoughtful, accommodating and willing to listen to the other side and try to get this package put together.

I, again, also want to thank Senator DODD, the chairman of the Subcommittee on Latin America of the Foreign Relations Committee, for his long-time leadership in this area, his leadership in, again, trying to point out what—again, I use my own words—I have considered to be a failed and flawed and dead-end policy since it was first initiated by Alexander Haig in the opening months of 1981.

Senator DODD has always been in the forefront of that struggle to have a sane and rational policy toward ensuring democracy and economic and social justice in Central America. I am just proud to have been associated with him over the years, in the House and here in the Senate, on this issue.

Mr. President, this is a contentious issue. We all know that. I just want to make it clear and point out to my constituents, my friends, to other Americans who have long taken the position that funding the Contras is a failed and flawed policy, that the amendment offered by the distinguished majority leader continues the humanitarian aid program, which I voted for. It continues that humanitarian aid program, but it does not provide military assistance. I want to make that very clear. This amendment does not provide military assistance.

What it does provide is a procedure whereby the Senate works its will, as Senator DODD says, in an expedited manner to determine whether or not we will give military aid at some point in the future. I think that is most clear because I am somewhat apprehensive that this amendment then will go out this evening and the press might pick it up and consider that the Senate agrees to provide military aid. We have not reached that point yet. That point will be reached later on sometime.

Again, while I will support this amendment because I believe it offers a bridge, it is a reasonable compromise, it is a classic compromise, I do not like everything that is in it, and I am sure the Contra supporters do not like everything in it, either. So it is a classic compromise and one I think represents a very good-faith effort.

I just again also compliment the majority leader on his opening comments when he proposed the amendment. He just called for bilateral negotiations on mutual security interests on reducing the Soviet military aid to Nicaragua. On that we can all agree. There is no disagreement on that.

If we are going to do that, it is going to require bilateral negotiations, which the majority leader has long called for. I believe he is on the right track.

Last, Mr. President, and again I am not going to debate this issue, perhaps when the amendment comes up later, but I just have to point out that I believe this amendment today will send two signals. It should send a signal to the Sandinistas that we want them to abide by the Esquipulas II accords. We want them to abide by those accords in a good-faith manner.

It also sends another signal to the Contras that we want them to negotiate in good faith because I believe, Mr. President, the record is clear. It was not the Sandinistas on June 9 who broke down the talks. The Sandinistas had agreed to a whole series of measures for openness, democratic reforms and everything else. At 2 o'clock in the afternoon on June 19, the Contras came in with a whole package of new demands and said, "Agree to these or we leave at 4 o'clock." Consequently, the talks broke down.

I point that out because I believe the Contras have to understand that contrary to what one of the Contras said, and I will give this quote—"So long as we were talking, we had no chance for a renewal of military aid"—I do not want the Contras to get the idea that if they do not go back to the table, if they do not continue to negotiate in good faith that the military aid will continue. I do not think the people here will vote for it; I do not think people in the other body will vote for it.

Again, I just close by saying I think Senator DODD was correct when he said what we have to do is we have to get the peace talks back on track again, we have to get the Central American nations involved again, we have to get President Arias involved again and make sure these peace talks get back on track.

I am hopeful between the passage of this amendment, which I intend to vote for and support, and that time when the President would send down his request, that those talks will be reviewed and that future military aid to the Contras will, indeed, become a moot point.

I thank the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I am going to send the amendment up in two stages but only one stage today. I will send an amendment up in the first degree. I will not send an amendment up in the second degree today so as to give the distinguished Republican leader an opportunity to look over the amendment and think about it over the weekend and talk with his colleagues so that when I do offer the amendment in the second degree, it will be after time for him to determine whether or not he would like to join in that action.

Mr. STEVENS. Mr. President, on behalf of our leader, let me thank the distinguished majority leader for his courtesy. I think he is very thoughtful. We have discussed that possibility, and I think this does give us a better opportunity to bring about a bipartisan basis on this issue, if that is possible, after our 2 o'clock meeting. So I am indebted to the distinguished Senator from West Virginia for his courtesy.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska, who is my friend, for his helpfulness and his suggestion in this regard.

AMENDMENT NO. 2813

(Purpose: To extend humanitarian assistance to the Nicaraguan resistance, to require a report on diplomatic efforts to resolve the Central American armed conflict, and to provide procedures for Congress to consider legislation made necessary by an emergency in Nicaragua occurring before the adjournment of Congress)

Mr. BYRD. Mr. President, I sent to the desk an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. DODD, Mr. BOREN, Mr. STENNIS, and Mr. JOHNSTON, proposes an amendment numbered 2813.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

They yeas and nays were ordered.

DOD IG REVIEW OF COMMAND HEADQUARTERS

Mr. WEICKER. Mr. President, I rise in support of the bill and to call attention to a small but important provisions in it—section 8100. If implemented, this provision could save as much as $1.7 billion over the next 5 years.

Section 8100 takes as its starting point a major study completed in February 1988 by the Deputy Inspector General [IG] of the Department of Defense, Mr. Derek J. Vander Schaaf. Entitled "Review of Unified and Specified Command Headquarters," it is an excellent piece of work that should be read front to back by anyone interested in military reform.

In directing the Deputy IG to undertake this study, Secretary of Defense Carlucci specified that its primary objective should be to "reduce manpower levels and overhead costs," with an eye to the "substantial" budget cuts the Defense Department faces in the future.

The Deputy IG's study found plenty of room for change. It documents significant duplication of functions, excessive layering of organizational structures, and overlapping responsibilities among the various command headquarters.

Based on these findings, the Deputy IG's review recommends the elimination of 7,309 military and civilian positions from the worldwide military headquarters structure by the end of fiscal year 1989. These proposed reductions would yield estimated savings of $336 million in fiscal year 1990 and $1.7 billion over the 5-year period, fiscal years 1990-94.

Rather than approach the problem with an arbitrary, across-the-board percentage cut as in the past, this study advocates substantial trimming targeted at very specific command functions and based on a thorough analysis of manpower requirements at designated headquarters.

Mr. President, at this point I ask unanimous consent that the list of recommended personnel reductions at affected command headquarters be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECOMMENDED PERSONNEL REDUCTIONS AND ASSOCIATED MANAGEMENT SUPPORT CONTRACT SAVINGS

	Potential military and civilian total	Management support contracts (thousands)
A. Joint Chiefs of Staff:		
Office of the Chairman, JCS	20	
Joint Staff	250	
Target planning staff—unfilled authorized billets	16	
Subtotal, Joint Chiefs of Staff	286	
B. U.S. Atlantic Command:		
Operational planning billets	100	
Merge intelligence activities	150	
Duplicate watch standards	25	
Disestablish U.S. forces, Caribbean	99	
Disestablish Caribbean joint intelligence centers	21	
Disestablish joint air reconnaissance center	30	
Disestablish Atlantic Training Command	41	
Terminate U.S. Atlantic Fleet contracts		$2,800
Disestablish Naval activities, Caribbean	41	
Subtotal, U.S. Atlantic Command	507	
C. U.S. Central Command:		
Consolidate operations with plans and policy	34	
Combine special fusion with intelligence directorate	2	
Eliminate special command, control and information systems	1	
Subtotal, U.S. Central Command	37	
D. U.S. European Command and North Atlantic Treaty Organization:		
Consolidate indicators and warning centers	35	
Reduce 24-hour watch positions	20	
Consolidate Joint U.S. Military Group, Spain	23	
Abolish contact office, Turkey	17	
U.S. Army, Europe:		
Reduce 24-hour watch positions	20	
Realign base operations, management and oversight	550	
U.S. Navy, Europe:		
Eliminate headquarters	238	
Eliminate fleet operations control center	84	
U.S. Air Forces, Europe:		
European personnel center	80	
Inspection and safety center	31	
Eliminate 7055th Operations Squadron	66	
Eliminate 7000th Special Activities Squadron	37	
Ground launched cruise missile spaces	35	
Airlift control center positions	24	
Operations support center—24-hour watch positions	20	
Management support contracts		3,700
North Atlantic Treaty Organization:		
Consolidate U.S. Delegation and U.S. Mission	40	
Subtotal, U.S. European Command and NATO	1,320	3,700
E. U.S. Pacific Command and U.N. Command, Korea:		
Create dual-hat positions at U.S. Pacific Command and U.S. Pacific Fleet	110	
Merge intelligence organizations in Oahu	500	
Consolidate operational planning under unified commander	70	
Eliminate excess staff billets	31	
Western Army Command:		
Abolish command	467	
Logistics Command Pacific:		
Eliminate command	66	
Data Processing Service Center Pacific:		
Reduction	11	
Training Command Pacific:		
Eliminate command	68	
Fleet intelligence center, Pacific:		
Realign intelligence production department	34	
Pacific Air Forces:		
Deputy Chief of Staff—Operations	50	
Deputy Chief of Staff—Plans	40	
Deputy Chief of Staff—Personnel	44	
Deputy Chief of Staff—Logistics	60	
Engineering and services group	100	
U.S. Forces, Japan:		
Eliminate Army IX Corps	25	
Disestablish U.S. Naval Forces, Japan	73	
U.S. Forces, Korea:		
Reduce to shell organization	168	
U.S. 8th Army and support elements:		
Realign base operations, management and oversight	500	
Subtotal, U.S. Pacific Command and UN Command, Korea	2,417	
F. U.S. Southern Command		
G. U.S. Space Command and North American Aerospace Defense Command:		
Watch standers	28	
Air Force Space Command:		
1st Manned Space Flight Squadron	83	
Shift training to Combat Crew Training Squadron	11	
Unified Command manpower savings	341	
Naval Space Command:		
Management support contracts		1,300
North American Aerospace Defense Command:		
Watch standers	11	
Subtotal, U.S. Space Command and NORAD	474	
H. U.S. Special Operations Command:		
231 transfers in from military services only		
I. U.S. Transportation Command:		
Unify Military Traffic Management Command with Transportation Command	193	
Unify Military Sealift Command with Transportation Command	202	
Unify Military Airlift Command with Transportation Command	620	
Subtotal, U.S. Transportation Command	1,015	
J. Forces Command:		
Disestablish as specified command	300	
Reduce overlap between FORSCOM and CONUSA's	300	
Subtotal, Forces Command	600	
K. Tactical Air Command:		
Consolidate combat operations staff	300	
Disestablish Air Defense Combat Operations staff	121	
Subtotal, Tactical Air Command	421	
L. Strategic Air Command:		
Eliminate air divisions—Continental United States	130	
Eliminate Pacific operational liaison	17	
Eliminate rather than convert positions	85	
Subtotal, Strategic Air Command	232	
Grand total, all commands	7,309	

Note.—Estimated savings in fiscal year 1990: $336,000,000. Estimated savings, fiscal year 1990-94: $1,700,000,000.

Mr. WEICKER. Mr. Vander Schaaf ends his study by concluding that the cuts in headquarters' staff could be accomplished without "jeopardizing military readiness and without curtailing useful and necessary work conducted by headquarters."

The "Review of Unified and Specified Comman Headquarters" was delivered to the Secretary of Defense in early February—about 6 months ago.

The Chairman of the Joint Chiefs of Staff and Secretary of Defense are still reviewing it, but there is no established deadline for completing the process or acting on its recommendations.

For that reason, the Defense Appropriations Subcommittee decided that some additional spur to action was needed and chose to include language in the bill requiring the Secretary of Defense to submit a report to the committee by December 31, 1988, explaining how he intends to act on the command structure study.

Mr. President, I ask that the committee's report and bill language be placed in the RECORD at this point.

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INSPECTOR GENERAL HEADQUARTERS STUDY

The Committee recommends a reduction of $11,500,000 for management support contracts based on recommendations contained in the "Review of Unified and Specified Command Headquarters" analysis prepared by the study team chaired by the Department of Defense Deputy Inspector General.

The Committee is impressed with the analysis of unified and specified commands prepared at the request of the Secretary of Defense. The Committee has not reduced the funding for the 7,309 positions identified for elimination in the report, and it has not assumed that all recommendations will be adopted. The Committee intends to hold hearings on the staffing and missions of the unified and specified commands next year.

The Committee finds interesting the inspector general's finding that command headquarters strength is actually 59,510, not 33,132 end strength as reported by the Department. The Committee also appreciates that the study team reviewed previous departmental analysis of European command requirements that were requested by the Committee. The study team found these analyses to be both inaccurate and misleading. The Committee fully agrees.

While the command structure study was conducted for the Secretary of Defense, there is currently no requirement for the Secretary to respond to or implement recommendations. The Committee believes such a requirement is needed and has included bill language that requires the Secretary to evaluate the inspector general report and determine which recommendations will be implemented and which will not (and reasons for rejecting specific recommendations). The Secretary is required to submit this evaluation to the House and Senate Appropriations Committees by December 1, 1988, and to integrate recommendations into the fiscal year 1990-95 5-year defense program.

SECTION 8100, H.R. 4781 (PAGE 96)

SEC. 8100. (a) No later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate, his evaluation of the Deputy Inspector General, Department of Defense, study team report titled "Review of Unified and Specified Command Headquarters, February 1988": *Provided*, That the evaluation shall specifically include a list of the report recommendations, by command, that the Secretary intends to implement and those recommendations that he does not intend to implement, together with the reasons for rejecting those recommendations not adopted.

(b) The Secretary shall provide for the implementation of those recommendations included in the list submitted under subsection (a) in the five-year defense program submitted to Congress for fiscal years 1990 through 1994 under section 114(g) of title 10, United States Code.

When this matter was brought before the full committee on May 24, I felt that the subcommittee's proposal needed refinement. My amendment, which became subsection (b) of section 8100, is very simple and straightforward. It directs the Secretary of Defense to incorporate into the new Five-Year Defense Program for fiscal year 1990-94, which will be submitted to Congress early next year, those recommendations in the IG's report he chooses to accept.

My amendment carries the committee's recommendation to its logical conclusion. Secretary Carlucci initiated the study. It is only fitting and proper that he have responsibility for its implementation and that he make the necessary adjustments in future budgets. Congress will have ample opportunity to review any action he might take. Furthermore, the staffing and financing of the military command structure is extremely complex and very political, especially since reductions and transfers at specific geographic locations are involved. This is a job for the Defense Department.

Mr. President, before I conclude my remarks on section 8100, I want to point out to my colleagues that there is one disturbing aspect to the deputy inspector general's report which is not adequately addressed in the bill.

During the course of his investigation, Mr. Vander Schaaf was able to document the existence of 59,510 authorized headquarters positions—80 percent more than the 33,132 positions reported to Congress in official budget reports—documents specifically requested by Congress to monitor staffing at military headquarters worldwide. These documents are submitted to Congress annually in compliance with the law. It is imperative that they be accurate and complete in every aspect.

The submission of inaccurate or misleading budgetary material is a very serious matter indeed. It must not be tolerated, and what makes this discovery so disturbing is that it is not an isolated case. It is part of a broad pattern that has emerged over the past few years. I have seen it in the Five-Year Defense Program, congressional data sheets, the NATO cost report, and the military status report—most are reports mandated by law. Such practices are inexcusable and must be stopped.

I urge the chairmen of the Defense Subcommittee and the Armed Services Committee to take appropriate action to ensure that all budget documents given to Congress contain accurate and valid information and that this particular error be corrected immediately.

Mr. President, there is a very important question now before the new Secretary of Defense and the Congress as well.

We have before us irrefutable evidence of overlapping responsibilities and duplication of functions at certain command headquarters. The problem has been thoroughly analyzed and documented. A very specific remedy has been given to the top leadership by an authority within the Pentagon. Our work is cut out for us. The savings are there.

Here is an opportunity for modest and meaningful reform. So often in the past the recommendations of the inspector general have been suppressed, overlooked, ignored or forgotten. Instead of reorganizing the DOD IG's office as some suggest in the face of the latest scandal, those who serve in high positions in the Pentagon and on the defense committees in Congress should start by reading the IG's investigative reports and act on them in appropriate ways—to save money and reform the process.

Mr. President, this is the question: Are the Defense Department and the Congress prepared to act in a responsible way?

Is Secretary Carlucci willing to follow through on his commitment to cut excess manpower levels and overhead costs?

Is Congress willing to support him in that effort? And is Congress willing to follow through on its demands for a more efficient Department of Defense?

Well, here is a chance for everyone involved in defense to demonstrate their commitment to reform. It is not very sensational, but it would be another important step down the long road toward defense reform.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into a 10-minute morning business session and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty, which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the requirements of 42 U.S.C. 3536, I hereby transmit the Twenty-third Annual Report of the Department of Housing and Urban Development, which covers calendar year 1987.

RONALD REAGAN.

THE WHITE HOUSE, *August 5, 1988.*

PROPOSED PLAN TO RESPOND TO THE THREAT OF AIDS—MESSAGE FROM THE PRESIDENT—PM 151

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I have approved a 10-point action plan to advance the national and international response to the public health threat caused by the Human Immunodeficiency Virus (HIV) infection and the AIDS epidemic. These strong measures require compassion, cooperation, and commitment from all levels of government and all segments of society.

It is imperative that action and progress continue in the Federal government and in the private sector, as well as throughout the Nation. Those infected with the HIV must be treated with dignity and compassion as our health systems accelerate their response to the infection. To this end, my initiatives direct that every Federal agency adopt policies and guidelines on compassionate treatment of HIV-infected persons in the workplace. I ask that unions, schools, businesses, and private citizens consider adopting similar guidelines. The 10-point action plan is consistent with the fine work and recommendations of the President's Commission, which has moved the Nation forward in its understanding of the HIV infection and AIDS.

I now ask the Congress to take another important step forward; I ask you to enact the FY 1989 appropriations for HIV activities as expeditiously as possible. I further call on the Congress to adopt the FY 1990 budget request regarding HIV measures as soon as possible after the budget is submitted.

It is imperative to the future of our Nation that we move with compassion and skill to ease the tremendous human, social, and economic costs caused by the HIV infection and AIDS. I know we can work together in this matter of tremendous concern and priority for all Americans.

RONALD REAGAN.

THE WHITE HOUSE, *August 5, 1988.*

MESSAGES FROM THE HOUSE

At 9:51 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 442. An act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The enrolled bill was subsequently signed by the Acting President pro tempore [Mr. MATSUNAGA].

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-610. A resolution adopted by the council of the city and county of Honolulu urging that the Island of Kaho'olawe be returned to the people of Hawaii for peaceful and productive use; to the Committee on Armed Services.

POM-611. A petition from a citizen of Fort Branch, IN, praying for a redress of grievances; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2018. A bill to expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes (Rept. No. 100-449).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1939. A bill to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and for other purposes (Rept. No. 100-450).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3431. A bill to release a reversionary interest of the United States in a certain parcel of land located in Bay County, FL, (Rept. No. 100-451).

H.R. 3880. A bill to extend the authorizataion for the Upper Delaware Citizens Adviasory Council for an additional ten years (Rept. No. 100-452).

H.R. 3960. A bill to authorize the establishment of the Charles Pinckney National Historic Site in the State of North Carolina, and for other purposes (Rept. No. 100-453).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with amendments:

S. 2393. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to authorize such Act, and for other purposes (Rept. No. 100-454).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2337. A bill to amend the U.S. Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes (Rept. No. 100-455).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 2653. A bill to establish a National Commission on the Thrift Industry, (Rept. No. 100-456).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1294. A bill to promote the development of technologies which will enable fuel cells to use alternative fuel sources (Rept. No. 100-457).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 1295. A bill to develop a national policy for the utilization of fuel cell technology (Rept. No. 100-458).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 2686. A bill to provide for the use and distribution of certain funds awarded the Sioux Nation of Indians; to the Select Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. STAFFORD, and Mr. DURENBERGER):

S. 2687. A bill to provide the Environmental Protection Agency and the public with additional information about asbestos products; to the Committee on Environment and Public Works.

By Mr. WILSON (for himself and Mr. DECONCINI):

S. 2688. A bill to incorporate ChildHelp USA, Incorporated; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 2689. A bill to establish the Calumet National Historical Park in the State of Michigan, and for other purposes; to the

Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself and Mr. COCHRAN):

S. 2690. A bill to improve family and community-based child care, and for other purposes; to the Committee on Finance.

By Mr. EVANS (for himself, Mr. INOUYE, and Mr. ADAMS):

S. 2691. A bill to extend eligibility for the Indian Claims Commission Expert Witness Loan Fund, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BAUCUS:

S. 2692. A bill to require the initiation of trade negotiations with Japan; to the Committee on Finance.

S. 2693. A bill entitled the "PCB Control Act of 1988"; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 2694. A bill to amend the Internal Revenue Code of 1986 to provide that contracts for residential construction which are completed in less than 12 months shall be exempt from the requirement to use the percentage completion method; to the Committee on Finance.

By Mr. BENTSEN:

S. 2695. A bill to amend title 5, United States Code, to provide for the payment of interest on delayed initial payments under the Civil Service Retirement System and the Federal Employees' Retirement System and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATFIELD:

S. 2696. A bill to provide for restoration of the Federal trust relationship with, and assistance to the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself, Mr. METZENBAUM, Mr. PRESSLER, Mr. DODD, Mr. DURENBERGER, Mr. D'AMATO, Mr. BRADLEY, Mr. DOLE, Mr. KERRY, Mrs. KASSEBAUM, Mr. DECONCINI, Mr. MITCHELL, Mr. INOUYE, Mr. GRASSLEY, Mr. SYMMS, Mr. BUMPERS, Mr. BOREN, Mr. DIXON, Mr. LEVIN, Mr. RIEGLE, Mr. DOMENICI, Mr. LUGAR, Mr. KARNES, Mr. GORE, and Mr. SARBANES):

S. Res. 455. A resolution condemning Romania for its human rights abuses, particularly its plan to raze agricultural villages in traditionally Hungarian areas; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 2686. A bill to provide for the use and distribution of certain funds awarded to the Sioux Nation of Indians; to the Select Committee on Indian Affairs.

SIOUX NATION VOTING RIGHTS ACT

Mr. PRESSLER. Mr. President, I rise to speak on the issue of the Sioux Indian Nation's claim to certain lands in and near the Black Hills of South Dakota. Today, I would like to introduce a bill to resolve this matter.

For many years, there has been a dispute over funds appropriated by Congress to pay a judgment ordered by a Supreme Court decision in 1980. That Supreme Court decision awarded the Sioux Indian Tribes $106 million. That amount has increased to $202 million with accumulated interest, but it has never been disbursed because Sioux tribal leaders have decided to block its distribution.

I propose that the Secretary of Interior, who is the custodian of these funds, develop a list of all the eligible Indians, the lineal descendents of the Sioux, who are eligible to receive a portion of the award and hold an election to decide whether or not the money should be disbursed. Under my legislation, we could reach a final decision on the disbursement of the judgment award.

My legislation also provides that if 50 percent of those voting, voted to disburse the money, that would confirm that any land claims to the Black Hills is extinguished.

This all comes about because of the existence of legislation that essentially would give back to the Sioux a major area in the western part of South Dakota, which is now owned by thousands of private owners and has been for over 100 years.

I have visited all of our reservations. I was recently at Pine Ridge, and during my time there, when I held a hearing on the special problems of the Indian elderly, not a single person mentioned to be a desire for a return of the land. I think it is more a desire of the tribal leaders, not of the majority of the Indian people. That is why I would like to see all of them participate in a decision regarding the money because the money belongs to the tribes. It belongs to the Indian people. My legislation would allow the Indians to have a vote on this matter.

Mr. President, I feel a real personal interest in this because I have been involved in it since I was in the House of Representatives. I was one of those who supported legislation to waive res judicata to allow the Indians to bring their suit in the Supreme Court, which at the time was a very risky political decision and which many advised me against. But I feel strongly that we can resolve this issue now once and for all with a disbursement vote, assuming the vote for disbursement is positive. If it is not, we would be where we're at today—but nothing will be lost. It would amount approximately, according to calculations by the Library of Congress, to approximately $3,000 per Indian citizen, and in some families it would be, with four or five in the family, $15,000 or $20,000. That is enough to start a small business, enough to finance a college education, enough to dig out of a hole, enough to do a number of things. I feel this money should be used for positive economic development, for the creation of jobs, and to end the type of racial strife that has been created in that part of our State. It is my feeling that the so-called Bradley bill is like a dark cloud over western South Dakota. The Bradley bill would give these lands away. No one is certain of the future. My bill would resolve that issue. It would disburse the money, and it would allow our people to move forward in our State.

My office sent a survey to every home in all South Dakota counties on the Sioux reservations. Fifty-six percent of those Indians responding said yes, "the tribes should conduct a referendum vote asking tribal members whether the monetary settlement should be accepted or rejected."

These results, while admittedly unscientific, illustrate that many individual Sioux Indians would like a voice in the final determination of this matter.

I consider the 1980 Supreme Court decision to be the final settlement of this issue. The Sioux have pressed their claim in court and won a substantial judgment award.

The Sioux tribal leaders' attempt to circumvent the 1980 Supreme Court decision through supporting S. 705, the Sioux Nation Black Hills Act. This bill, known informally as the Bradley bill, would return 1.3 million acres of valuable, scenic, Federal land in the Black Hills of South Dakota to the Sioux. I believe that these lands should be kept open to all races as they presently are.

Ever since its introduction, I have strongly opposed this bill and have made many statements on the floor of the Senate opposing it. In a recent floor statement entitled, "The Sioux Nation Black Hills Controversy: Need For Resolution," on page S10496 of the August 1, 1988 CONGRESSIONAL RECORD, I described in detail my position against the Bradley bill.

Because this issue remains unresolved, as I mentioned a black cloud hangs over western South Dakota. Racial tensions between Indians and non-Indians have been heightened. Because of this deadlock, it is more difficult to bring new businesses to western South Dakota. Many realtors have told me that property values are depressed in the Black Hills and it is very difficult to sell private property.

Today, I am introducing legislation to allow individual tribal members a greater voice in solving this emotionally charged problem. Under my bill, the Department of the Interior would hold an election among the Sioux who are determined to be eligible to receive portions of the Supreme Court judgment fund. Last year, the Congressional Research Service estimated that

68,000 Sioux were eligible to receive portions of the judgment fund. If a majority of these individuals voted to accept a per capita settlement, the money then would be distributed and the Supreme Court's extinguishment of the land claim would be confirmed. Then we can all get on to more productive activities.

Mr. President, it is important to point out what this bill does not do. Its scope is limited to the issue of whether the monetary award, which already belongs to the Sioux people, should be distributed. At a recent meeting I held in Rapid City regarding this legislation, some of the Sioux tribal leaders suggested that this vote should also entail the land claim issue. That is inappropriate—it does not and should not. Let me explain.

The judgment money and the land claim are two very distinct issues. The judgment award already belongs to the Sioux. The land does not.

My legislation very simply asserts that the Sioux people ought to have a voice in how their property is handled. Currently, a few tribal leaders control this decision. My legislation says that the people should decide what to do with property that belongs to them. The property does not belong to the tribal leaders. It belongs to all Sioux people. So it makes sense for them to have a voice in how it is utilized.

The land, on the other hand, does not belong to the Sioux. There is no issue here for the Sioux to resolve. Congress resolved the issue over a hundred years ago. There is no need to revisit it now.

I also should make very clear what the impact of this legislation would be. If the Sioux vote to accept the money that is being held for them, it would be disbursed, the land claim which the tribal leaders are pursuing through the Bradley bill would be acknowledged by the Sioux as being extinguished, and that would resolve this issue once and for all.

If, on the other hand, the Sioux tribal members vote to not accept this money, the situation remains as it is today. Recently, I had a meeting with our very fine Attorney General, Roger Tellinghuisen. He pointed out that we would be back to square one. The land still does not belong to them and I will continue to oppose vigorously the Bradley bill objective of giving the land to the Sioux. The land claim is not an issue which the Sioux can or should decide because it is not their property. The judgment award is their property, and therefore they should have a voice in how that is handled.

Frankly, I believe that many Sioux Indians realize the land claim issue is a pipe dream which will never be achieved. That is why they would prefer a disbursement of the money and getting on with the real issues and problems on their reservations.

We should be focusing our attention on Indian health care, housing, economic development, education, and other productive endeavors instead of being bogged down with this terribly divisive issue. I want to proceed on a positive front on Indian issues in South Dakota. We cannot do so with this dark cloud hanging over us. I hope this legislation will allow us to remove that cloud once and for all.

Mr. President, allowing the Sioux Indians an opportunity to vote to resolve this matter is in keeping with the democratic principle of majority rule on which our Government is based. It is time to put this issue to rest, for the good of both Sioux Indians and non-Indians.

So, Mr. President, in conclusion, I would say I want to allow our Indians to vote on this important matter of the disbursement of the funds which would confirm the extinguishment of the land claim. I do not feel there is any valid land claim. I shall continue to strongly oppose the Bradley bill but the point is we need to move toward a resolution of this Indian-white strife. We need to move forward with relations in our State. We need to move forward with economic development. This legislation would do so, I submit this legislation for the attention of my colleagues and I ask for its consideration.

I ask unanimous consent that a copy of my bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) the original claim of the Sioux Nation of Indians was for monetary damages;

(2) the Sioux Black Hills claim has been one of the lengthiest Indian land claims in United States history, and was resolved by the U.S. Supreme Court in its 1980 decision (*Sioux Nation of Indians, et al.* v. *United States,* 448 U.S. 371);

(3) initially filed in 1923, the Sioux Nation of Indians sought additional compensation for the amount paid to the Sioux for the Black Hills by the United States Government in 1877;

(4) at the request of the Sioux tribal leaders, Congress passed legislation in 1978 waiving *res judicata* so that the Sioux Nation of Indians could press their claim for monetary damages in the Federal court System;

(5) after the Sioux Nation of Indians won their case and were awarded the additional compensation they sought, some Sioux leaders refused to accept the award of damages which they had previously sought;

(6) many individual Sioux Indians have urged that the judgment be distributed;

(7) conducting a federally supervised election would provide a democratic opportunity for the Sioux people to decide whether the Sioux Black Hills claim award for which they have been waiting for many decades should be distributed;

(8) resolution of the Sioux Black Hills claim would be beneficial to both Indians and non-Indians because—

(A) current efforts to obtain a return of the Black Hills land have increased racial tensions in South Dakota, and

(B) economic development efforts in South Dakota are hampered by moves to transfer ownership of the land, much to the detriment of Indians and non Indians; and

(9) allowing individual Sioux Indians to vote on this issue is in keeping with the democratic principles of majority rule on which our Government is based.

(b) The purpose of this Act is to provide an opportunity for individual Sioux Indians to vote on whether they wish to accept the monetary compensation awarded by the Federal courts for the Sioux Black Hills claim.

WAIVER OF PUBLIC LAW 93-134

SEC. 2. Notwithstanding any provision of Public Law 93-134 (25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, the funds appropriated in satisfaction of the judgment awarded the Sioux Nation of Indians in *Sioux Nation of Indians, et al,* v. *United States,* 601 F. 2d 1157 (Ct. Cl. 1979), aff'd 448 U.S. 371 (1980) shall be used and distributed as provided in this Act.

DISTRIBUTION

SEC. 3. (a) The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall invest the funds appropriated in satisfaction of the judgment described in section 2 (less attorney fees and litigation expenses), including all interest and investment income earned on such funds, in accordance with subsection (a) of the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) until the date on which the funds are distributed under subsection (d).

(b)(1) Under regulations prescribed by the Secretary, the Secretary shall compile a roll of those individuals who—

(A) were born on or before, and are living on, the date of enactment of this Act, and

(B) are eligible to share in the judgment described in section 2.

(2) In compiling the roll under paragraph (1), the Secretary shall include—

(A) all individuals who—

(I) are enrolled members of any Indian tribe that the Secretary has determined to be an Indian tribe eligible to share in the judgment described in section 2, and

(II) meet the requirements of paragraph (1)(A), and

(B) all individuals who submit, in such form and at such time as the Secretary shall prescribe, an application for inclusion on the roll that establishes to the satifaction of the Secretary that the individual meets the requirements of paragraph (1).

(c) The Secretary shall publish notice of—

(1) the requirements an individual must meet to share in the distribution of funds under this Act,

(2) the procedures and time limitations regarding applications for inclusion in the roll compiled under subsection (b)(1),

(3) the amount of each per capita share to be distributed under subsection (d),

(4) the procedures regarding the election conducted under subsection (d)(2)(A), and

(5) the requirement that a majority of the individuals who vote in such election must vote to accept payment of their per capita share before any payments will be made.

in newspapers of general circulation in those geographic areas in which individuals who meet the requirements of subsection (b)(1)(B) are likely to reside.

(d)(1) As soon as practicable after the roll required under subsection (b)(1) has been compiled, the Secretary shall determine the per capita share of the funds appropriated in satisfaction of the judgment described in section 2 (less attorney fees and litigation expenses), including all interest and investment income earned on such funds to the date of payment by the Secretary under this subsection, to which each individual listed on the roll will be entitled to receive under this subsection if the requirements of paragraph (3) are met.

(2)(A) After the Secretary has published notice under subsection (c)(3) of the amount of each per capita share of funds to be distributed under this subsection, the Secretary shall conduct an election in which every individual listed on the roll compiled under subsection (b)(1) shall be provided a ballot and asked to vote on whether the individual wants to accept payment of the per capita share.

(B) The identity of each individual who votes in the election conducted under subparagraph (A), and of the vote of such individual, shall be kept confidential and, notwithstanding any other provision of law, shall not be disclosed by any officer or employee of the United States unless such disclosure is necessary to administer the distribution of funds under this Act. Any officer or employee of the Federal Government (including any former officer or employee of the Federal Government) who willfully discloses, or whose gross negligence is responsible for the disclosure of, the identity of such an individual when such disclosure is not necessary to administer the distribution of funds under this Act shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than 1 year, or both, and shall, in addition, be dismissed from Federal office or discharged from Federal employment.

(3) If a majority of the individuals who vote in the election conducted under paragraph (2)(A) vote to accept payment of the per capita share of funds under this subsection, the Secretary shall pay the per capita share of funds to each of the individuals listed on the roll compiled under paragraph (2)(A). If a majority of the individuals who vote in such election vote to reject such payment, no funds may be distributed under this Act.

(4)(A) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(B) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the heirs and legatees thereof determined, under regulations prescribed by the Secretary.

(C) Any per capita share of funds to which a legally incompetent individual or an individual under 18 years of age is entitled under this Act shall be paid to the legal guardian or parents of such individual.

(5) The Secretary shall make reasonable efforts, both before and after the requirements of paragraph (3) are met, to locate each individual listed in the roll compiled under subsection (b)(1) and, if the requirements of paragraph (3) are met, to offer to such individual, or to the heirs, legatees, or guardian of the individual, the per capita share of funds to which the individual is entitled under this Act.

EXTINGUISHMENT OF CLAIMS

SEC. 4. The vote by a majority of the individuals voting in the election conducted under section 3(d)(2)(A) to accept payment of the per capita share of funds to be distributed under section 3(d), and the payment (or offer of payment) of the per capita share under section 3(d)(3) shall constitute payment in full and complete satisfaction of the judgment awarded the Sioux Nation of Indians in the civil action described in section 2 and confirms that all claims (including any claims against any land) arising out of the taking of the Black Hills by the United States are extinguished.

TAX AND BENEFIT STATUS

SEC. 5. None of the funds distributed per capita or made available under this Act shall be subject to Federal, State, or local income taxes, nor shall such funds nor their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which any household or individual would otherwise be entitled under the Social Security Act or, except for per capita payments in excess of $2,000, any other Federal program or federally assisted program.

SECTION-BY-SECTION ANALYSIS OF THE SIOUX NATION VOTING RIGHTS ACT

Sec. 1. (a) Contains findings of Congress: the original claim of the Sioux Nation was for monetary damages; that claim has been one of the lengthiest Indian land claims in United States history and remains unresolved; it was initially filed in 1923 when the Sioux Nation sought additional compensation for a payment to the Sioux for the Black Hills in 1877; in 1878, at the request of the Sioux tribal leaders, Congress passed legislation to enable the federal courts to entertain the claim despite res judicata; after winning the case the Sioux leaders refused to accept the judgment awarded by the United States Supreme Court; many individual Sioux Indians have urged that the judgment fund be distributed; conducting a federally supervised election would provide a democratic opportunity for the Sioux people to decide whether the award should be distributed; resolution of the Black Hills claim would benefit both Indians and non-Indians because of an increase in racial tensions and hampering of economic development concomitant with current efforts to obtain a return of the Black Hills; and allowing individual voting would be consistent with democratic principles of majority rule upon which our Government is based.

(b) Sets forth the purpose of the legislation as providing an opportunity for individual Sioux Indians to vote on whether they wish to accept the monetary compensation awarded by the Federal courts for the Sioux Black Hills claim.

Sec. 2. Declares that the funds appropriated in satisfaction of the judgment awarded the Sioux Nation of Indians in *Sioux Nation of Indians* v. *United States*, 601 F. 2d 1157 (Ct. Cl. 1979), aff'd, 448 U.S. 371 (1980), are to be distributed in accordance with this legislation, notwithstanding any other law or plan promulgated thereunder.

Sec. 3. (a) Provides that the Secretary of the Interior is to invest the judgment funds, less attorney fees and litigation expenses, including interest and investment income, in accordance with 25 U.S.C. 162a until distribution under subsection (d) of this section of this legislation.

(b) Requires the Secretary of the Interior to compile a roll of individuals living on the date of enactment of this Act and eligible to share in the judgment. This roll shall include all enrolled members of any Indian tribe that the Secretary has determined to be eligible to share in the judgment and all individuals who submit application for inclusion on the roll who establish to the satisfaction of the Secretary that such individuals are entitled to share in the judgment.

(c) Requires the Secretary to publish, in newspapers in areas in which individuals who are likely to meet the requirements are likely to reside, a notice of requirement that an individual must meet to share in the distribution of funds, the procedures and time limitations for applying for inclusion in the roll, the amount of each per capita share, the procedures regarding the election conducted under this legislation, and the requirement that there must be a majority vote agreeing to per capita distribution before such distribution may take place.

(d) Requires the Secretary as soon as practicable after the roll is complete to determine the per capita share of the funds to which each individual listed on the roll will be entitled to receive should there be a majority vote in favor of per capita distribution. It also requires the Secretary, after publishing the notice of the amount of the potential per capita share, to conduct an election in which every individual listed on the roll is to be provided a ballot and asked to vote on the issue of whether the individual wants to accept payment of the per capita share.

In such an election the identity of each individual and the vote of each such individual is to be kept confidential and not to be disclosed by any officer or employee of the United States unless necessary to administer the distribution of funds. Any federal officer or employee willfully disclosing, or through whose gross negligence such disclosure occurs, is to be subject to criminal penalties of up to $1,000, imprisonment of 1 year, or both, as well as dismissal from federal employment.

If a majority of the individuals who vote in the election, vote to accept per capita payment, the Secretary is to pay the per capita share to each individual listed on the roll. If a majority vote rejects such payment, no funds may be distributed under this legislation.

Living adults entitled to per capita payments are to be paid directly; deceased individuals entitled to such payments shall be paid through their heirs and legatees as determined under regulations prescribed by the Secretary. Legally incompetent individuals or individuals under 18 years of age are to be paid through their legal guardians or patents.

Requires the Secretary to make reasonable efforts to locate each individual listed on the roll and to offer such individual, heirs, legatees, or guardians, the per capita share to which the individual is entitled.

Sec. 4. States that a vote of a majority of the individuals voting to accept a per capita distribution constitutes payment in full and complete satisfaction of the judgment awarded the Sioux Nation of Indians and extinguishes all claims, including any claims against any land, that were raised in such civil action.

Sec. 5. Provides that none of the funds distributed per capita or made available under this Act are to be subject to federal, state, or local income taxes, or to be considered income or resources or otherwise used as the basis for denying or reducing the financial assistance or other benefits to which any household or individual would otherwise be entitled to under the Social Security Act or, except for per capita payments in excess of $2,000, any other federal program or federally assisted program.

By Mr. CHAFEE:

S. 2687. A bill to provide the Environmental Protection Agency and the public with additional information about asbestos products; to the Committee on Environment and Public Works.

ASBESTOS INFORMATION ACT

● Mr. CHAFEE. Mr. President, today I am introducing the Asbestos Information Act to set in place a mechanism that will speed the process of resolving legal disputes over the potential hazards associated with asbestos in buildings. It is now widely recognized that asbestos-containing materials are present in thousands of buildings. Building owners face the difficult task of determining whether this situation presents a danger sufficient to require some form of abatement of these materials and, if so, whether to seek compensation from the manufacturers of them. Efforts to deal with the resulting cost allocations have been, and will continue to be, centered in the courts.

We have seen just the beginning of litigation relating to asbestos in buildings. While the claims are being processed through the legal system, the uncertainty of the outcome leaves hundreds of millions of dollars in both removal costs and legal costs hanging in the balance, with drastic impact on both building owners and manufacturers. The procedural wrangling over these cases also presents a drain on the resources of the legal system and on society as a whole.

The bill we are introducing today is designed to assist the legal system and avoid a repetition of the nightmare of asbestos personal injury litigation. In that litigation, thousands of deserving claimants were denied compensation for many years by the avalanche of cases that clogged the courts and by the procedural maneuvering of the lawyers on both sides. The result was not only delay, but enrichment of lawyer rather than claimants.

This bill seeks to avoid or reduce some of the uncertainties of such litigation, without influencing the merits of the litigation, by providing information on asbestos products to EPA. These building materials are of distinct types—ceiling tile, plasters, pipe insulation, fire-proofing, and so forth—and they can be further identified through laboratory analysis. Building owners often do not know who manufactured the asbestos products in their buildings and without the manufacturers' product formulas, often cannot know, even if they have analyses of samples from their buildings. Thus, in order not to overlook a potentially responsible party, they often sue 40 or more defendants, even though only a few might actually have supplied the products in their building. For the others, the legal defense costs mount nonetheless.

Under this bill the identification process will be accelerated. The bill is designed to increase litigation efficiency without affecting the substantive issues in asbestos-in-building litigation. In short, I am introducing this bill to speed the process by which asbestos-in-buildings gets cleaned up and responsibility for the costs of such cleanup is decided. Having learned a valuable lesson from the asbestos personal injury litigation, this is an attempt to enable claimants to reach the merits of their claims more quickly. With the increase in certainty, building owners are more likely to get on with the necessary business of assuring a healthful environment for the occupants of their buildings.

Under this bill, the companies that manufactured asbestos building materials will be required to disclose formulas and descriptions of their product. These formulas and descriptions will then become a matter of public record.

The information that will be generated under this bill sets up a situation whereby building owners can match their asbestos material to the formulas and descriptions provided by manufacturers. This will enable the building owners to seek recovery for damages from a narrow group of suspects rather than from the universe of all manufacturers of asbestos building material.

Any bill that touches asbestos litigation seems to create controversy and strong feelings, both pro and con. One thing that should be clear to everyone is that we do not intend to affect the substantive rights or liabilities of anyone with this bill. We are trying to speed the process of justice.

I urge my colleagues to assist me in eliminating a tragic waste of our judicial resources and a bottleneck to prompt cleanup and compensation for asbestos in buildings.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos Information Act of 1988".

SEC. 2. DISCLOSURE OF INFORMATION BY MANUFACTURERS.

(a) REQUIREMENT.—Within 90 days after the date of the enactment of this Act, any person who manufactured or processed, before the date of the enactment of this Act, asbestos or asbestos-containing material that was prepared for sale for use as surfacing material, thermal system insulation, or miscellaneous material in buildings (or whose corporate predecessor manufactured or processed such asbestos or material) shall submit to the Administrator of the Environmental Protection Agency the years of manufacture, the types or classes of product, and, to the extent available, other identifying characteristics reasonably necessary to identify or distinguish the asbestos or asbestos-containing material. Such person also may submit to the Administrator protocols for samples of asbestos and asbestos-containing materials.

(b) PUBLICATION.—Within 180 days after the date of the enactment of this Act, the Administrator shall publish the information submitted under subsection (a).

SEC. 3. DEFINITIONS.

In this Act:

(1) The term "asbestos" means—

(A) chrysotile, amosite, or crocidolite, or

(B) in fibrous form, tremolite, anthophyllite, or actinolite.

(2) The term "asbestos-containing material" means any material containing more than one percent asbestos by weight.

(3) The term "identifying characteristics" means a description of the asbestos or asbestos-containing material, including—

(A) mineral or chemical constituents (or both) of the asbestos or material by weight or volume (or both),

(B) the types or classes of the product in which the asbestos or material is contained,

(C) the designs, patterns or textures of the product in which the asbestos or material is contained, and

(D) the means by which the product in which the asbestos or material is contained my be distinguishable from other products containing asbestos or asbestos-containing material.

(4) The term "miscellaneous material" means building material on structural components, structural members, or fixtures, such as floor and ceiling tiles. The term does not include surfacing material or thermal system insulation.

(5) The term "protocol" means any procedure for taking, handling, and preserving samples of asbestos and asbestos-containing material and for testing and analyzing such samples for the purpose of determining the person who manufactured or processed for sale such samples and the identifying characteristics of such samples.

(6) The term "surfacing material" means material in a building that is sprayed on surfaces, trowelled on surfaces, or otherwise applied to surfaces for acoustical, fireproofing, or other purposes, such as acoustical plaster on ceilings and fireproofing material on structural members.

(7) The term "thermal system insulation" means material in a building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other structural components to prevent heat loss or gain or water condensation, or for other purposes.●

By Mr. WILSON (for himself and Mr. DECONCINI):

S. 2688. A bill to incorporate ChildHelp USA, Inc.; to the Committee on the Judiciary.

CHILDHELP USA, INC.

Mr. WILSON. Mr. President, it is with pride that today I introduce a bill to congressionally charter the nonprofit, privately funded ChildHelp Institute for Research on Child Abuse. ChildHelp, founded by Sara O'Meara and Yvonne Fedderson of California, has come to be perhaps the most recognized and respected organization to combat child abuse in the Nation whose purpose is to eliminate from our land the ugly secret of child abuse.

It seems that there is almost no objective that these two remarkable and determined women, along with the competent staff that they have assembled, have not been able to achieve or will not achieve in furtherance of their purpose to rid America of child abuse.

They understand and are helping to spread their understanding to the public at large. Child abuse is not only an intolerable sin, suffered by the children of America, but it is one that is visited upon future generations.

There is all too much evidence suggesting, Mr. President, that those in death rows have chosen a path of criminal conduct in no small part because they themselves were abused as children. So it is their purpose to eliminate present suffering, to eliminate a next generation of criminal offenders.

Now they have undertaken a new goal—the creation of an international institute on child abuse, a new but affiliated nonprofit organization also funded by private contributions. By this charter, we seek to recognize that creation and to offer assistance in seeing to it that the Congress of the United States provides its encouragement to this enterprise.

Clearly, what ChildHelp proposes to do with this institute has not been developed before—an integrated system of those engaged in research on this vital subject coupled with counseling practitioners in locations throughout the Nation, and ultimately in other nations, coordinated by a centrally located staff with appropriate data collection capabilities.

While there is a small center on child abuse located at the National Institutes of Health, which acts mainly as a referral service, there is no comprehensive program such as ChildHelp proposes.

Mr. President, in the Senate, a bill which, when passed, will provide a Federal charter for the ChildHelp institute is what we are introducing today. In the history of the Nation, only 50 nonprofit organizations have been awarded a congressional charter. The standards for a congressional charter are strict, understandably, but I believe that my colleagues in the Senate and the House of Representatives will agree that this institute meets those standards.

Without question, the work of this ChildHelp institute will assist us in understanding and treating both the causes and the symptoms of child abuse in America. Our Nation, born with the ideal of equal opportunity, should strive to insure that no one is barred from reaching the full limits of their skills, the gifts which God has given by being inhibited in the exercise of those God-given talents by this terrible affliction of child abuse. Mental, physical—in either case—the waste, as well as the suffering, is something America cannot comprehend.

How, then, can we abide the crippling of the most vulnerable among us—our children—before they even reach an age when they can grasp the opportunities this Nation offers in abundance?

Mr. President, I, for one, and I am sure I am joined by virtually all my colleagues, am grateful for the energy, the dedication, and the professionalism that ChildHelp has given in this fight. ChildHelp has been founded and developed to probe the serious mysteries that lie behind the problem of child abuse. The world will literally be a better place because this organization has taken the step to probe those mysteries on a national, and even international, scale. I hope that Congress and the President will agree by expeditiously taking action to adopt this charter.

Mr. President, I offer this legislation on behalf of myself and Senator DeConcini.

By Mr. LEVIN:

S. 2689. A bill to establish the Calumet National Historical Park in the State of Michigan, and for other purposes; to the Committee on Energy and Natural Resources.

CALUMET NATIONAL HISTORICAL PARK

● Mr. LEVIN. Mr. President, today I am introducing legislation that will establish the Calumet National Historical Park in Michigan. Calumet is on the Keweenaw Peninsula, which is the northernmost point of Michigan. A copper range runs the length of the peninsula, and this range, where copper occurs in a pure metalic state unalloyed with other elements, supported a copper mining industry for more than 100 years. Those hundred years are important to the history of Michigan, and the Nation, and it is appropriate that we recognize their significance by establishing this national historical park.

The remains of prehistoric mining efforts led French and British explorers to attempt to develop the resources on the Keweenaw. Significant development occured in the mid-1800's, when Michigan's first State geologist, Douglas Houghton, surveyed the area. His surveys sparked the copper boom.

The most productive and profitable copper deposits were found in the central portion of the peninsula, and were initially developed by the Quincy Mining Co. in the late 1850's. The Calumet and Hecla Mines were developed in the 1860's a few miles to the north of the Quincy operations. Although over 400 companies were organized to exploit this resource, the Quincy and Calumet and Hecla Companies were the only ones able to maintain their operations after the initial boom.

The development of the area saw the U.S. production of copper rise from 6 to 17 percent of world production, with Michigan supplying 12 percent of world production.

The Qunicy Mining Co. ranked first in national production of copper from 1862 to 1868, and was able to make a significant contribution to the Northern effort during the Civil War by supplying the material for brass buttons, copper canteens, bronze cannons, and naval equipment. Quincy used some of the largest steam engines in the United States to hoist the ore from its mines, including one which was the largest steam hoisting engine in the world and was able to lift 10 tons of rock per trip. The company continued to develop its mines, and by 1931 the Quincy Mine shaft No. 2 was the deepest mine in the United States at 9,009 feet in depth.

The Calumet and Hecla Mining Co. was developing its operations at about the same time as the Quincy Co. Calumet and Hecla achieved high production figures and financial success by introducing methods to mine efficiently at great depths and exploit deposits with low mineral content. In 1868, its production outpaced the Quincy Co.

In addition to the business acumen and fortitude that was necessary to make these copper mines successful another critical element was needed: people. Immigrant laborers worked the mines and established an ethnically diverse and rich community. That ethnic heritage is still prevalent in Michigan's Copper Country today.

We must preserve these elements of the copper mining industry and history in the Keweenaw Peninsula of Michigan, and allow them to be visited and understood for generations to come. The bill I am introducing today establishing the Calumet National Historical Park will do just that.●

By Mr. DURENBERGER (for himself and Mr. Cochran):

S. 2690. A bill to improve family and community-centered child care, and for other purposes; to the Committee on Finance.

FAMILY AND COMMUNITY-CENTERED CHILD CARE OPTIONS ACT

● Mr. DURENBERGER. Mr. President, I rise today to introduce legislation with Mr. Cochran today that will give increased options and equity to families searching for child care for their children. Today's changing demographics make it imperative that we as a nation address the family needs of our society and recognize the problems so many parents face when attempting to find quality and affordable child care.

Less than 10 percent of today's families are the "typical 1950's American family" where the father works and the mother stays home and cares for her children. In 1986, 41 percent of women with children are in the work force. In my own State of Minnesota, 69 percent of women in the child-bearing years are in the work force. This Nation can no longer afford to look at child care as a women's issue. Inadequate child care affects everything from the future competitiveness of this country to the Nation's fundamental family values.

Today's family demographics and inadequate family incomes have contributed to over one-fifth of our children growing up in poverty. We must ensure that affordable child care options are available for single parents and the two-wage earner families struggling to maintain jobs and support a family at the same time. In Minneapolis there are 34 licensed child care slots for every 100 children needing care. This legislation will help provide this support by encouraging the creation of a diverse array of care options and by providing assistance to low- and moderate-income families. It will focus on improving quality in all child care services, and will provide funds to allow States to address specialized local needs including care for infants, the handicapped, the sick, and latchkey children.

When developing comprehensive child care legislation, we must not forget the needs of the many families where one parent has chosen—often at considerable financial sacrifice—to stay home and raise the child. We must not discourage this type of care as an option by making it fiscally out of reach for the average American family. My bill would bring equity to the child care issue by offering a double dependent tax deduction to families where one parent stays home.

Some will claim that this is not an issue of interest to business. I believe this is an issue that business has a vital interest in and one that, if business and Government work together, will benefit this whole Nation. As this country confronts an increasing shortage of labor, it will become more and more important that workers have the skills, the technical knowledge, and qualifications to hold jobs. Quality child care and early childhood development are essential to ensuring that tomorrow's work force is capable of competing in the international marketplace. According to the Department of Labor, by the year 2000, 64 percent of all new entrants to the work force will be women. Currently, 70 percent of working women are in the childbearing years. Of these women, 80 percent will choose to have children. Business simply cannot afford to ignore the needs of a majority of their work force.

In March of this year, I sponsored a symposium on child care that was hosted by the Foundation for Future Choices. This symposium was the first of its kind to bring policy leaders together with top corporate executive to discuss practical solutions to child care options in this country. The companies represented at this conference were some of the most responsible companies in the country on issues pertaining to family and children. These companies, however, continue to voice concern about the uncertainty of options available to them. They continue to confront the fact that every employee has different needs in child care and no one program will solve these needs.

My bill, Mr. President, will help coordinate the efforts of business and Government in meeting the diverse needs of today's families by increasing options available to the employee and the employer. In addition to encouraging innovation and expansion in the child care industry through tax-exempt savings bonds, my bill gives a tax credit to encourage the employer to provide onsite child care services. Minnesota has only four onsite corporate child care centers.

This bill will also provide a coalition demonstration grant program to encourage nonprofit entities and small businesses, who would otherwise not be able to provide child care service, to collaborate and form a single child care facility. More and more, small entities are working together to solve their child care needs. One such example is where several airline-related unions came together to establish a child care facility at the airport where they worked. We should encourage, not stifle, such innovation.

The Family and Community-Centered Child Care Options Act will also address early childhood development needs by providing funding for before and after school child care programs utilizing the existing school structure. The child care setting can be enhanced through the use of playgrounds, cafeterias, and health facilities already in place within the schools. This legislation will also establish an awards program that will recognize business and child care providers for their excellence and their contributions in the area of child care.

Child care centers in Minnesota report increases of 300 percent in liability insurance over the past couple of years. This legislation will also address the problems faced by many in Minnesota and around the country by decreasing the liability barriers that prevent people from giving care, and establishing liability insurance risk pools.

A majority of child care in this country is currently being provided by family day care or relatives. This legislation will help family day care providers through tax incentives as well as helping give them the tools and incentives they need to become a licensed facility. I have heard from family day care providers in Minnesota who have been denied the second home mortgages because they provide day care in their home. This legislation would change Federal Home Mortgage Association restrictions to allow a homeowner who is providing day care in her home to remain eligible for a mortgage.

There is no single answer to the child care problem in this country. That is why we need legislation that is comprehensive in scope and provides an array of options to meet a complex and diverse demand. Mr. President, how many young parents are neglecting their children just to make it in a world that makes so many demands but seems to provide fewer and fewer opportunities. I urge my colleagues to support this bill and offer opportunities to today's families struggling to provide a decent living for their families, and hope for tomorrow's children.●

By Mr. EVANS (for himself, Mr. INOUYE, and Mr. ADAMS):

S. 2691. A bill to extend eligibility for the Indian Claims Commission Expert Witness Loan Fund, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN CLAIMS COMMISSION EXPERT WITNESS LOAN FUND LEGISLATION

● Mr. EVANS. Mr. President, today I am introducing legislation to expand the eligibility for the Bureau of Indian Affairs expert witness loan fund.

The expert witness loan fund was established by act of November 1, 1963. The fund was intended to provide financial assistance to claimants before the Indian Claims Commission. The Commission was terminated on September 30, 1978, but the fund is still being administered for the benefit of Indian Claims Commission cases that were transferred to the U.S. Court of Claims in 1978 and further transferred to the U.S. Claims Court in 1982.

The same reasons that justified the loan fund as it was administered for Indian claims filed in the Indian Claims Commission also apply to Indian claims directly in the claims court. That is, tribes and other Indian groups often have entirely plausible claims against the United States, their statutory trustee, but are unable to pay the expert witnesses necessary to verify the claims. Therefore it is entirely appropriate to extend access to the fund to Indians whose claims were filed after termination of the Indian Claims Commission. The bill would do this.

The usual beneficiaries of these loans are Indian tribes. However, the act also allows loans to any "identifiable group" of Indians even if they do not constitute a tribe in the formal sense. In this way, the expert witness fund would be available, for example, for owners of individual trust allotments who may have virtually identical claims against the U.S. Government.

In addition, given the current backing of unfunded applications, and the possibility that additional Indian tribes or identifiable Indian groups may become eligible for loans as a result of this legislation, I believe it is entirely appropriate, as this bill does, to increase the authorization level beyond that provided in 1973.

The original act contains certain safeguards which would not be affected by the amendment. It limits loans to Indian groups which do not have funds available to pay for the expert assistance that they need. And furthermore, it authorizes the Secretary of the Interior to turn down any loan if the fees of the experts proposed to be hired are unreasonable in his opinion.

Mr. President, this is a bill of general application. My motivation for introducing it, however, is my concern over a particular case pending before the U.S. Claims Court. Specifically, I am greatly disturbed by the lack of progress in U.S. versus Mitchell, a case in which allottees on the Quinault Indian Reservation allege breach of trust by the United States in the management of their forest resources. My colleague from Washington, who is a cosponsor of this legislation, provides the background of this case, and I see no need to elaborate any further.

Historically, expert witness loan fund has assisted Indians to obtain the expert representation required for fair consideration of their legal claims against the Government. Under the original act, loans bear interest and are repayable out of any judgment. Since the act was passed in 1963, only $15,000 worth of loans have been defaulted. It is a simple and self-sustaining program which will be strengthened by this addition. I am confident my colleagues will grasp the importance of this legislation to Indians with legitimate claims against the Federal Government and support this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 1 of the Act of November 4, 1963 (Public Law 88-168, 77 Stat. 301), as amended, is further amended—

(a) by striking "$2,700,000" and inserting in lieu thereof "$4,000,000"; and

(b) by adding at the end thereof "or the United States Claims Court".●

● Mr. ADAMS. Mr. President, this legislation involves the Indian claims expert witness loan fund, which was established to help tribes pay for expert witnesses in litigation before the Indian Claims Commission. The Indian Claims Commission was terminated in 1978, but the fund is still being administered for those Indian Claims Commission cases that were transferred to the U.S. Claims Court.

This legislation extends the availability of the fund to cases filed by Indians in the U.S. Claims Court. Since this court is now the customary venue for cases brought by Indian tribes against the United States, extending the availability of the fund to cases brought before this court is consistent with the purposes for which the fund was established.

This legislation is intended to be of general application to all Indian tribes or groups bringing claims before the U.S. Claims Court. It is being introduced today, however, because of concerns about the status of a specific claim pending against the U.S. Government for mismanagement of timber contracts on the Quinault Reservation in Washington State.

Allegations regarding BIA mismanagement of these contracts were raised as early as 1956 and 1957, when Congress held hearings on this issue. Despite recommendations from Congress that the BIA institute reforms designed to ensure that the timber would be sold for prices equivalent to those available in the open market, there was little change in BIA policy. Finally, in 1971, the Quinault Tribe and other Indian timber allottees on the reservation joined forces and brought suit against the U.S. Government.

This litigation, Mitchell versus United States, has been lengthy and protracted. Since 1977, the Justice Department has raised a series of technical defenses, one of which was considered on two different occasions by the Supreme Court. The trial on the technical timber issues, initially scheduled for 1977 or 1978, has yet to occur.

The impact of these delays on the plaintiffs in this case has been substantial. Of the approximately 1,500 individual plaintiffs, approximately 200 have died since the case was filed. About half of the plaintiffs originally agreed to contribute 2 percent of their timber proceeds to pay for experts and other litigation costs, but those funds are now nearly exhausted.

Mr. President, I do not presume to take a position on the merits of this case. That is a matter for a court to decide. I am concerned, however, that the Justice Department may appear to have adopted a policy of delay designed to drain the plaintiffs of their resources, and force them to settle for much less than they might otherwise receive. Senator EVANS and I have communicated these concerns to the Justice Department, and have been told that the Department believes it is litigating this case in good faith.

While I hope that this is indeed the case, I do believe it is important to send a signal to the Justice Department that Congress feels strongly that pending Indian claims against the United States should be litigated promptly. The Federal Government has long held a trust responsibility toward Indian peoples. In terms of the management of valuable Indian resources, however, such as timber, fishing, and oil and gas, the Government has too often been a very poor trustee. When such mismanagement of Indian resources is alleged, Indian tribes and other groups should have the ability to have their claims heard in court in a timely manner. Legal strategies of obstruction and delay breach the spirit of the Federal trust responsibility toward Indian peoples.

Passage of this legislation will allow the plaintiffs in this case, and all other similar cases, access to the expert witness loan fund. Given that this fund was established for the express purpose of enabling tribes with claims against the Government to be able to pay for expert witnesses to assist them at trial, extension of these funds to these type of cases seems entirely appropriate. I hope my colleagues will join me in supporting this legislation.●

By Mr. BAUCUS:

S. 2692. A bill to require the initiation of trade negotiations with Japan; referred to the Committee on Finance.

A NEW TRADE STRATEGY FOR A NEW ADMINISTRATION

● Mr. BAUCUS. Mr. President, it is time to take the bull by the horns. We simply must bring down the U.S. trade deficit.

Even with the lower dollar, the trade deficit is likely to remain at well over $100 billion per year for the foreseeable future.

A $100 billion plus trade deficit might sound like a welcome relief from last year's $170 billion trade deficit. But it is still huge by historical standards. Aside from the current U.S. binge, no nation has ever run a trade deficit even approaching $100 billion. The U.S. trade deficit in 1987 was actually larger than the GNP of all but 18 nations. Such a tremendous transfer of U.S. wealth to other countries is historically unprecedented.

If we are to bring down the deficit, we cannot merely rely on a lower dollar and ad hoc, product-by-product negotiations to eliminate trade barriers. We must establish a real trade policy. The trade bill—which will hopefully become law this session—provides an excellent framework for such a policy. But it is not enough.

We need an aggressive strategy. One that will attack and eliminate the trade deficit. And since more than one-third of the United States trade deficit is with Japan, a central element of this strategy should be a bilateral economic accord with Japan to set trade flow targets and to address the underlying causes of the trade deficit. I am today introducing legislation that directs the President to begin negotiations to reach such an accord.

THE CHALLENGES

The United States has slid into a very deep hole.

The trade deficit has reached $170 billion. That deficit figure converts to between 2 and 4 million lost American jobs over the last 8 years.

In order to finance this trade deficit, the United States borrowed $100 billion from the rest of the world last year. The United States now owes foreign creditors almost $400 billion. By the mid-1990's, the total U.S. foreign debt may exceed $1 trillion. In 7 years, the United States has gone from being the world's largest creditor nation to being—by far—the world's largest debtor nation.

The annual interest on the U.S. debt in the 1990's is likely to approach $100 billion. Each $40 billion in interest payments converts to about a 1-percent drop in the U.S. standard of living. Thus, in the 1990's, interest payments could force the U.S. standard of living down by 2½ percent—about the same amount that the U.S. standard of living declined during the Great Depression.

As the Office of Technology Assessment prophesized a few weeks ago: "No nation, not even one as rich as the United States, can go on forever paying for its current account deficit with foreign capital. A time of reckoning will come."

The huge deficit and the ominously growing foreign debt mask a perhaps even more serious long-term problem. The United States has lost control of some critical manufacturing industries, such as semiconductor and consumer electronic product manufacturing. The United States is now being challenged in areas, such as the design and manufacture of leading edge computers, that it previously completely dominated.

At the center of most of our trade problems is Japan.

Between 1980 and 1986, United States-Japan trade grew from $54 billion to $115 billion. Of the $61 billion increase, increased Japanese exports to the United States accounted for $53 billion. Increased United States exports to Japan accounted for only about $8 billion. More than one-third of the United States trade deficit—$60 billion—is with Japan. The United States bilateral deficit with Japan is more than three times as large as the bilateral deficit with any other nation.

The story does not end there. Over the last 10 years, the United States has imported 60 percent of the products exported by less developed countries (LDC's). Japan has imported only about 5 percent. This disparity contributes to the U.S. trade deficit by depressing potential export markets in LDC's, and diverting LDC exports into the U.S. market.

Further, while the United States has slipped to its current status as the world's largest debtor, Japan has risen to become the world's largest creditor. The world now owes Japan almost $300 billion.

Finally, due primarily to a coordinated government-business effort to gain market share, Japan has come to dominate many of the critical manufacturing industries previously controlled by the United States.

A large part of the trade problem with Japan is due to Japanese protectionism and mercantilism. Japan has the most protected market of any nation in the developed world. According to a 1987 World Bank study, the United States and the EEC impose import restrictions on about 15 percent of the industrialized country imports entering the country. Japan imposes similar restrictions on almost 30 percent. The study also noted that Japan imposes about 25 percent more barriers against LDC imports than the United States.

Japanese mercantilism has clearly hurt the United States in certain sectors. The case history of the Japanese attack on the United States semiconductor industry is particularly enlightening. In 1980, the United States manufactured almost 75 percent of the semiconductors sold in the world. Japan manufactured about 25 percent.

But what a difference 8 years can make. Now, the United States is responsible for less than 25 percent of the semiconductors manufactured in the world. Japan is responsible for almost 75 percent.

Why the tremendous shift? A number of factors, including an overvalued U.S. dollar, contributed to the decline of the U.S. semiconductor industry. But—unquestionably—a major factor was persistent predatory pricing by Japanese semiconductor producers with the expressed goal of driving their United States competitors out of business. Some Japanese semiconductor manufacturers were caught dumping as many as five time over the last 8 years.

But Japanese unfair trade practices are certainly not the whole problem. In large part, the deficit is really an expression of underlying economic problems. Widely fluctuating exchange rates, stagnant Japanese consumer demand, and an out of control United States budget deficit have all contributed. The lion's share of the bilateral trade deficit is probably due to a combination of these factors. The United States budget deficit alone is almost certainly a larger contributor to the bilateral trade deficit than Japanese unfair trade practices.

Further, the burden of defense spending drags down the United States economy relative to Japan's. The world security burden is extremely unbalanced. Though both the United States and Japan obviously benefit from maintaining world security, the United States devotes about 6½ percent of its GNP to security (military spending plus foreign assistance). Japan devotes only about 1 percent. This unequal distribution of the security burden keeps the United States from reinvesting resources in building up its economy.

Any attempt to deal with the trade imbalance must address these issues as well as the issue of trade barriers.

U.S. TRADE POLICY IN DISARRAY

The magnitude of the problems that we face indicate that our international economic policies need to be overhauled. But what exactly is wrong?

The basic failing is simple; this Nation has not developed a realistic, effective strategy for controlling and reversing the trade deficit. Further, the United States has no coordinated strategy for dealing with Japan—the toughest nut to crack in the international trade arena.

Most of our resources on the trade front are funneled into multilateral or bilateral negotiations to open foreign markets—neither approach has been yielding spectacular results as of late.

MULTILATERAL NEGOTIATIONS—THE GATT

The central tool for trade liberalization since World War II has been multilateral trade negotiations through the General Agreement on Trade and Tariffs—the GATT. Multilateral negotiations through the GATT have opened markets in the post-war era. The GATT has served the United States well.

Unfortunately, the GATT process now appears to be stagnating.

The European Community—a strong advocate of the GATT in the past—now seems to be focusing more on its internal market liberalization through the "Europe 1992" talks than on multilateral market opening through the GATT.

Although it may have more to gain from a successful GATT round than any other nation, Japan is not now and has never been an enthusiastic participant in GATT negotiations.

Some of the newly industrialized countries [NIC's]—like Korea—would rather pursue mercantilist policies on the Japanese model than be further restricted by the GATT.

Finally, a number of developing nations, in particular Brazil and India, would prefer to keep their domestic markets closed instead of being subject to further GATT discipline.

Only the United States and a few of its closest allies appear truly committed to the GATT process.

A commitment by the United States may have been enough to move the GATT in years past, but we no longer have that kind of economic and political power. Given that the GATT works by consensus, intransigence on the part of even one major trading partner can cripple the negotiations. As the results of the Toronto summit on agricultural trade indicate, other nations are ready, willing, and able to block U.S. trade initiatives.

Other major trading nations—especially Japan, Korea, and others—do not share the United States' commitment to the market principles enshrined in the GATT. They are also increasingly unwilling to have those principles imposed upon them through multilateral negotiations.

We should not abandon the GATT, but we must recognize that the odds are stacked against its success. Unless the United States can find a way to bring effective pressure on those nations that are unwilling to seriously negotiate in the GATT, very little is likely to be achieved in the near future. If serious progress on the U.S. trade deficit is the goal, other tools must be found.

THE OTHER MULTILATERAL—THE G-7

In addition to working through the GATT, the Reagan administration has attempted to coordinate international economic policy through the so-called group of seven [G-7] and the group of five [G-5]—the G-7 minus Italy and Canada—the informal economic coordination group of the world's major industrialized nations.

Through the G-5, the United States and other industrialized nations have—with varying degrees of success—attempted to stabilize exchange rates and coordinate macroeconomic policy. Recently, the United States has had some success in bringing the dollar down to a more reasonable level and encouraging some of our trading partners to expand their economies.

But the G-5 process has been hampered over the years because nations put their own domestic economic priorities above the collective goals of the G-7.

Germany provides an excellent case in point. Since the out-of-control inflation that preceded World War II, Germany's economic policy has emphasized avoiding inflation over other goals. Since growth often triggers inflation, this policy has held the German growth rate below that of the rest of the world.

The United States and other nations will continue to pressure Germany to increase its growth rate. But fear of inflation will likely keep Germany from fully complying.

Problems like this are inherent in the informal nature of the G-5. One nation or another will benefit from almost every economic distortion. Quite naturally, the nations that benefit from it will not be enthusiastic about eliminating the distortion.

The current U.S. trade imbalance is huge, and it bestows obvious benefits on other industrialized nations. Sweeping international economic coordination is likely to be necessary for the United States to make the large macroeconomic corrections necessary to pull out of the trade deficit.

Unfortunately, it is difficult to imagine other nations agreeing to a multilateral arrangement to establish a more binding economic coordination mechanism because of conflicting domestic priorities—that is, the German fear of inflation or unwillingness to undermine export industries.

Once again, if progress is to be made, the United States must develop leverage to encourage other nations to accept increased coordination.

BILATERAL NEGOTIATIONS

Neither the current administration nor its predecessors have been willing to leave trade disputes with major trading partners—especially Japan—exclusively to the GATT. Most disputes have actually been dealt with through bilateral negotiations.

The administration has had a notable bilateral success in the Canada free trade agreement. But its record with tougher cases—notably Japan—has not been impressive.

Certainly, the situation we face with Japan is far more difficult than the situation we face with Canada. The United States trades slightly less with Japan than with Canada, but the bilateral trade deficit with Canada is about $15 billion while the deficit with Japan is $60 billion. Further, the United States faces a far more extensive set of trade barriers in Japan than it does in Canada. Pervasive trade barriers stretching down through all levels of the Japanese economy make a free trade agreement with Japan—like the one concluded with Canada—an unrealistic goal in the foreseeable future.

Since it is difficult to address Japanese trade barriers on a sweeping basis, the Reagan administration has chosen to pursue an ad-hoc, case-by-case approach. Each trade and economic problem—whether it be the Japanese beef quota or Japanese unwillingness to bear an increased share of the cost of keeping United States military forces in Japan—has been dealt with through a separate set of bilateral negotiations.

This approach has had some notable successes, such as the recent agreement to open the Japanese beef and citrus markets to United States exports. But it has some serious shortcomings.

First, the Reagan administration has done a poor job of choosing its targets. Often the United States has expended tremendous political capital and man hours trying to open the Japanese market to exports of minor products such as grape juice, whiskey and, legal services. Taken together, these items amount to only a few tens of million dollars in U.S. exports. With several billion dollar plus trade problems remaining, this seems a very poor allocation of resources.

Second, the case-by-case approach has given the average Japanese citizen the impression that the United States is a tireless complainer that tries to blame all of its problems on Japan. Largely as a result, the United States image in Japan has declined sharply. According to a New York Times/CBS News poll, in May 1986 about 31 percent of Japanese citizens surveyed characterized United States-Japan relations as "unfriendly." By May 1987—after several heated trade disputes—that figure had risen to 55 percent.

The perception of the United States as a perpetual complainer is certain to lessen United States leverage with Japan. Already, many observers characterize Japan as increasingly willing to shrug off United States criticism.

Third, the Reagan administration has not done an effective job of coordinating efforts between agencies. At various times over the last 4 years, simultaneously and independently the United States Trade Representative has been pressuring Japan to open its markets, Treasury has been pressuring Japan to increase its growth rate and allow the yen to appreciate, and the Defense Department has been pressuring Japan to increase its contributions to United States military operations in Japan.

The lack of coordination of these efforts leaves the United States open to a sort of international rope-a-dope. Japan perpetually makes relatively minor concessions to the United States and plays one United States agency off of another without ever making any fundamental adjustments. As George Packard, dean of the school of advanced international studies of Johns Hopkins University recently wrote: "Japanese negotiators have learned to wait patiently until today's issue gives way to tomorrow's. They cannot be blamed for failing to understand or act upon American priorities, for no one can say at any moment what these priorities are."

Clearly, we must establish one central agenda in our talks with the Japanese, not allow each agency to set its own agenda. We must speak with one voice. As Clyde Prestowitz, former Reagan administration trade negotiator wrote: "As for the matter of trade, the first step in improving U.S. policies is development of a comprehensive agenda in which trade and domestic programs mesh. Rather than being determined by today's batch of complaints, the trade agenda ought to be based on the overall interests and priorities of the United States . . . This is not to say that we should ignore legitimate complaints . . . but that we will not spend all of our time on issues of relatively minor import."

TIME FOR A CHANGE

The trade and economic problems that the United States faces with regard to Japan are so serious that a new approach is clearly needed.

On both sides of the Pacific, reasonable people are calling for a change. The Gephardt amendment to the trade bill, the concept of a Japan-United States free trade agreement, and the Japanese Maekawa Commission report all call for a sweeping change in United States-Japan international economic relations.

The trade and economic challenges that we face have grown so serious that they threaten this Nation's continued prosperity. They must be raised from the current issue-by-issue, subcabinet negotiations into a comprehensive dialog between the United States and Japan. We must seek a sweeping economic accord between the United States and Japan. To quote former Secretaries of State Kissinger and Vance: "We consider it essential that the dialog with Japan be lifted to a more comprehensive level. Japan will be one of the major powers of the 21st century. We are becoming more and more interdependent. The issue is how to deal with the consequences of interdependency, not how to reverse or change the relationship."

In order to raise the dialog to this new level, I am today introducing legislation that directs the administration to negotiate a sweeping economic accord with Japan. I do this in hope that it can provide a model for the next President.

OUTLINE OF A UNITED STATES-JAPAN ECONOMIC ACCORD

A United States-Japan economic accord should include four major elements: First, negotiated trade targets set to increase trade while decreasing trade imbalances, second, rules-of-the-road to eliminate the most serious trade problems, third, the establishment of a mechanism for increased economic coordination between the United States and Japan—a kind of G-2, and fourth, an agreement to more equitably redistribute the world security burden between the United States and Japan.

NEGOTIATED BILATERAL TARGETS

The central irritant in the United States-Japanese bilateral relationship is the trade deficit. If we are to eliminate the deficit in the foreseeable future, we must pull away from a process oriented trade policy that attempts to force the rest of the world to accept the U.S. model of a free market, and instead pursue a policy that aims to achieve concrete results. We must negotiate bilateral trade targets with the Japanese to achieve those results.

To again quote former Secretaries Kissinger and Vance: "The two countries should seek to establish overall goals and work toward them. One step would be to establish an overall trade balance the United States would find tolerable . . ."

These trade targets should be set so as to both encourage trade and eliminate the bilateral trade imbalance over a period of a few years. For example, targets might be set so as to increase trade flows 1 percent per year while reducing the trade imbalance by $15 billion per year.

Both nations should agree to pursue all macroeconomic and microeconomic policies necessary to meet the targets.

RULES OF THE ROAD

The centerpiece of this accord should be trade targets. But certain trade practices have such a devastating impact upon certain U.S. industries or upon the world trading system that they should be addressed individually. Two practices—both discussed above—that fall into this category are the problem of recidivist dumping—the bane of the U.S. semiconductor industry—and the problem of Japanese trade barriers against LDC products.

MACROECONOMIC COORDINATION

There is disagreement among respected economists as to how much of the United States trade deficit is due to Japanese trade practices and how much is due to macroeconomic problems—that is exchange rate fluctuations and the United States budget deficit. But all concede that addressing these fundamental macroeconomic problems is a necessary precondition to solving the trade deficit.

Clearly, to address such problems economic cooperation between major nations is necessary. But the prospects for success through the G-7 appear very limited. The best way to make more rapid progress on this front would be for the world's two most important economies—the United States and Japan—to take the lead in developing a more sweeping macroeconomic coordination mechanism—a kind of G-2.

As C. Fred Bergsten, the Director of the International Institute of Economics, recently wrote: "The case for a G-2 lies in hard economic realities. As noted, the United States and Japan are the two largest economies in the world and have the two most important currencies. They share by far the largest two-way trade of any major trading pair * * * Thus there is a strong rationale for constructing a G-2, and using it as a primary if informal tool for seeking to exercise leadership of the world economy * * * the broader groups have yet to offer a more promising alternative."

As part of a broad economic accord, a G-2 arrangement could allow the United States and Japan to control excessive exchange rate fluctuations and coordinate macroeconomic policy. This would lay a foundation for eliminating the trade deficit and spurring world growth.

Hopefully, a G-2 could lead the rest of the world by example and necessity into further multilateral economic coordination. Once a G-2 was functioning, other nations would be left with the choice of joining in the process or letting the United States and Japan dictate the world economic environment. As long as the United States and Japan make it clear that they will not let new members bog down the process, wider participation would be extremely helpful in managing the world economy. But, if other nations choose not to participate, G-2 could—at minimum—make tremendous progress toward eliminating the international economic problems faced by the United States and Japan.

BURDEN SHARING

Perhaps the most difficult part of the United States-Japan economic equation to address is that of the unequal security burden. The obvious solution to the problem—increasing Japanese military spending—raises serious concerns within Japan, and is sure to alarm Japan's Asian neighbors. Nonetheless, until this underlying disparity is addressed, the United States will be at a permanent economic disadvantage in relation to Japan.

The best approach to this problem is encouraging Japan to further increase direct payments to partially offset United States military spending and to further increase its foreign assistance—preferably through multilateral agencies.

Japan has been moving in the direction of payments to offset United States military spending. It has been gradually increasing its contribution to maintaining United States military operations in Japan. Substantial increases in direct payments are not likely to be popular in Japan, but they appear to be the least of the possible evils.

The idea of increasing foreign assistance to make up for low defense spending is likely to be more palatable in Japan. There are numerous indications that Japan already plans to significantly expand foreign assistance. But Japan must go even further. For example, as part of an economic accord, Japan might agree to plow back some of its current account surplus into foreign assistance to solve the Latin American debt problem. In this way, a signifcant international economic problem could be addressed in the process of redistributing the world security burden.

Some will doubtlessly criticize this proposal for giving Japan an opportunity to increase its influence and prestige in the Third World relative to the United States. It may very well do that. But Japan has now gained a position where such influence and prestige is earned. Realistically, it is impossible to address the unequal security burden without—in one way or another—giving Japan new status in the world.

WHY WOULD JAPAN NEGOTIATE?

One of the most frequent questions I hear regarding the concept embodied in this legislation is "Why would Japan want to negotiate such an agreement?"

The answer is that Japan has as great a stake as the United States in the United States-Japan relationship.

The United States has now slipped into Japan's debt to the tune of $250 billion. But the United States debt to Japan does not necessarily work against the United States in efforts to establish an economic accord. In fact, the debt actually gives Japan a direct stake in the future prosperity of the United States. A recession here would directly impact Japanese investors.

As farmers in Montana are fond of saying: "If you owe a bank $5,000 and don't pay, it will foreclose. But if you owe a bank $5 million and don't pay, it will loan you more money."

Further, the United States has not yet been forced into a backseat in the United States-Japan relationship. The United States is still Japan's largest export market—absorbing 40 percent of Japanese exports, the guarantor of free world security, and the leader of the Western alliance.

THE IMPACT UPON THE GATT

But what about the GATT? Does this proposal represent the abandonment of the GATT which has served us so well since World War II?

No, it most certainly does not. It does represent an admission that there are limits to the success that we can reasonably expect through the GATT. Bilateral agreements are perfectly compatible with the GATT. Bilateral and plurilateral arrangements, like the United States-Canada Free Trade Agreement, ASEAN, and the European Economic Community, have coexisted with the GATT from the beginning. Such arrangements are specifically provided for by the GATT, and in no way undermine its operation.

Beyond that, a successful United States-Japan bilateral agreement would actually strengthen the GATT process in at least two ways. First, it would demonstrate that a significant trade agreement between major trading nations is achievable. Such an agreement could break ground and provide a model for further agreements. Second, it would give other nations an incentive to negotiate in the GATT round. It would send a powerful message to the Europeans and others that those nations that are not willing to negotiate with the United States may find themselves losing the United States market to those nations that are.

The bottom line, however, is that we must not let the GATT become a barrier to new trade agreements. We cannot lock ourselves into only one approach to solving our international trade problems. We must be open to new approaches and willing to look beyond the GATT—especially if the GATT negotiations are bogged down. If we do not, the GATT may actually become a barrier to trade liberalization.

THE FIRST 100 DAYS

In January, a new President will take office. That President will be confronted with the worst international economic problems that this Nation has ever faced. But he will also have a tremendous opportunity. If he uses the "honeymoon" period to take a bold step along the lines outlined in the legislation that I am introducing today, exciting progress is possible.

The United States is at a crossroads. We can choose to continue current policies which will surely lead us deeper into debt or we can strike out on a new course.

It is time to take a new course. A new bilateral economic accord with Japan is not by itself a trade policy. The President must deal with other U.S. trading partners. He must also work to bolster American competitiveness through better education, a tax code designed to encourage investment and exports, and a Government-business partnership to boost exports. But the United States-Japan economic accord is the centerpiece of a new trade policy that can reverse the economic decline of the United States.

Mr. President, I strongly urge the next President—whoever that may be—to use this legislation as a model for a new trade policy.

I ask that a copy of the bill appear immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEGOTIATIONS.

(a) IN GENERAL.—The President shall take action to initiate negotiations with Japan for the purpose of entering into one or more agreements by no later than June 30, 1990, that meet the objectives described in subsection (b).

(b) OBJECTIVES.—The objectives of the negotiations conducted under subsection (a) shall be—

(1) to establish numerical goals for—

(A) increased trade between the United States and Japan,

(B) control of the bilateral balance of trade between the United States and Japan, and to obligate the United States and Japan to use all available economic means to meet those goals,

(2) to address specific trade problems, including—

(A) the establishment of stronger rules to address recidivist dumping,

(B) the establishment of a set of preferences to encourage the export to Japan of the products of least developed countries,

(3) to increase the degree of coordination between the macroeconomic policies of the United States and the macroeconomic policies of Japan through—

(A) the establishment of minimum and maximum rates of exchange between the currency of the United States and the currency of Japan that—

(i) will be maintained to the extent feasible by the central banks of Japan and the United States, and

(ii) will be periodically re-evaluated to reflect underlying economic conditions,

(B) the coordination, in a specific and enforceable manner, of growth, consumer expenditures, and government expenditures to achieve balance in the current account, and

(4) to increase the amount of funds expended by Japan for—

(A) foreign assistance, particularly through multilateral agencies,

(B) debt relief of less developed countries, and

(C) compensation to the United States for the funds expended by the United States for military defense,

in order to balance the burden of world security.

(c) MULTILATERAL NEGOTIATIONS.—The negotiation of an agreement that meets the objectives described in subsection (b)(3) should be conducted on a multilateral basis if progress in obtaining an agreement with Japan that meets such objectives is not hindered by multilateral negotiations.

(d) CONSULTATION.—Before the President enters into any agreement negotiated under subsection (a), the President shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and with each committee of the House and the Senate and each joint committee of the Congress which has jurisdiction over legislation involving subject matters which would be affected by such agreement. Such consultation shall include all matters relating to the implementation of such agreement, as provided in section 2. If it is proposed to implement such agreement, together with one or more other agreements entered into under this section, in a single implementing bill, such consultation shall include the desirability and feasibility of such proposed implementation.

SEC. 2. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) Any agreement negotiated under section 1(a) shall enter into force with respect to the United States if (and only if)—

(A) the President has, at least 90 days before the day on which he enters into such trade agreement, notified the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

(B) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of the final legal text of such agreement together with—

(i) a draft of a bill implementing such agreement,

(ii) a statement of any administrative action proposed to implement such agreement,

(iii) an explanation as to how the implementing bill and proposed administrative action change or affect existing law, and

(iv) a statement of the reasons as to how the agreement serves the interests of United States commerce and as to why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement, and

(C) the bill implementing such agreement is enacted into law.

(2) To ensure that a foreign country which receives benefits under a trade agreement negotiated under section 1(a) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the bill implementing such agreement and in the statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) USE OF EXPEDITED CONGRESSIONAL PROCEDURES.—The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to any draft of a bill submitted by the President to the Congress under subsection (a)(1)(B)(i) that approves an agreement negotiated under section 1(a) and makes changes in existing laws, or adds new statutory provisions, that are necessary to implement such agreement.●

By Mr. BAUCUS:

S. 2693. A bill entitled the "PCB Control Act of 1988"; to the Committee on Environment and Public Works.

PCB CONTROL ACT

● Mr. BAUCUS. Mr. President, in 1976 Congress, in enacting the Toxic Substances Control Act, singled out PCB's as being so hazardous that their production needed to be terminated. Congress then required EPA to develop standards for the disposal of this hazardous waste.

Congress in establishing this policy put in place what was intended to be a comprehensive program to address polychlorinated biphenyls.

Unfortunately, EPA's handling of the disposal of these wastes has been woefully inadequate. Utilities were required by law to properly dispose of these hazardous wastes. In order to comply with the intent of the law, utilities turned to EPA for guidance. Using EPA recognized and permitted PCB disposal firms, utilities thought they were complying with the law.

Many of these utilities now find themselves being singled out as responsible parties at Superfund sites where PCB's were improperly disposed. In my own State of Montana nine rural electric cooperatives have been implicated in the Martha Rose Chemical Superfund site in Holden, MO.

These rural electric cooperatives trusted the regulatory mechanisms which EPA had in place to insure proper handling of the waste.

While Federal regulations do not completely obviate a utility's responsibility, their regulations do create a presumption that EPA is sufficiently in control of the problem to insure proper handling of these wastes.

In 1981 the Government Accounting Office reported that limited EPA headquarters guidance and oversight hindered the development of an effective inspection program.

When GAO reevaluated the situation in May 1987, the conclusions of the 1981 report were resubstantiated. The GAO found there were inadequate controls over PCB's and limited headquarters oversight and guidance to its regions.

During February of last year, Senator LAUTENBERG, chairman of the Superfund and Environmental Oversight Subcommittee, undertook a study of EPA's implementation of its natural gas pipeline polychlorinated biphenyl condensate remediation program. Mr. LAUTENBERG focused his investigation on the Texas Eastern Pipeline Co.

The remediation program was established by EPA to reduce or, if possible, to eliminate PCB's from natural gas pipelines and to insure disposal following the PCB rule promulgated under TSCA.

What the subcommittee found was a company that discharged PCB contaminated condensates into unpermitted, unlined earthen pits in what the company claimed was in full view of EPA.

In short, this investigation concluded the Agency's regulatory program had failed. The report by the subcommittee concluded:

> * * * It is the story of an agency which, for lack of foresight, lack of resources and lack of an efficient and effective enforcement structure failed to observe violations in a timely fashion—or even to notify its affected regional offices or affected states.

Congress finds itself confronting a situation in which a program which has failed is about to be required to insure the proper disposal of a huge volume of PCB contaminated wastes.

Potentially over 1 million PCB capacitors must be removed from service by October 1988 and thousands of PCB transformers must be disposed by October 1990.

A large peak of PCB's are about to be disposed but with little or no hope of EPA having an adequate program in place to assure safe disposal.

The legislation that I am introducing recognizes a need for short-term immediate steps to upgrade the current program to address the large volume of capacitors that will be disposed of this October. To address the immediate problem, every handler of PCB's must register with EPA. Every shipment of PCB's will be required to be manifested in a manner similar to that required under RCRA. The legislation further requires regulation for transportation, storage, financial responsibility, contingency plans, and both closure and post-closure.

These steps are important steps to address the immediate inadequacies of the current program but fail to either recognize or address certain basic fundamental problems caused in regulating PCB's under a scheme separate from the Resource Conservation and Recovery Act's hazardous waste disposal regime.

The fundamental question of staff resources can only be addressed through a sharing of responsibility with the States. RCRA recognizes this shared responsibility. It makes little or no sense for all other hazardous waste to be handled through a shared Federal/State partnership and PCB's to be regulated as a Federal program.

A key component of this Nation's hazardous waste storage, treatment and disposal law is a requirement that the handler of a hazardous waste be responsible for correcting any problems posed to public health or the environment in handling hazardous waste.

TSCA does not include this same authority. Until a site is listed as a superfund site, no cleanup occurs. Under Superfund every utility that disposed of any quantity of PCB's must pay for the cleanup when the agency or a State could have taken quicker action and the disposer would have been required to make the cost of cleanup a cost of doing business, if it were a RCRA regulated site.

Specifically, the legislation I am introducing today designates PCB's as a hazardous waste subject to RCRA 6 months after the date of enactment and then allow EPA 24 months to determine whether or not current regulations promulgated either under this act or TSCA adequately protect public health and the environment.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD as if read.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "PCB Control Act of 1988".

SEC. 2. ADDITIONAL REQUIREMENTS FOR PCBS UNDER TOXIC SUBSTANCES CONTROL ACT.

Section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)) is amended by adding after paragraph 5) the following new paragraphs:

"(6) NOTIFICATION AND IDENTIFICATION NUMBER REQUIREMENT.—

"(A) General requirement.—Beginning 120 days after the date of the enactment of this paragraph, a person may not—

"(i) by contract, agreement, or otherwise arrange for transport, storage, or disposal of polychlorinated biphenyl waste generated by such person;

"(ii) transport polychlorinated biphenyl waste for storage or disposal; or

"(iii) store or dispose of polychlorinated biphenyl waste; unless the person submits a notification to the Administration and receives and identification number from the Administrator.

"(B) Notification.—(i) In the case of a person carrying out an activity described in subparagraph (A) on the date of the enactment of this paragraph, the person shall notify the Administrator in writing not later than 90 days after such date of the intent to continue carrying out the activity. Such person may continue to carry out the activity (without an identification number) until the date which is 120 days after the date of the enactment of this paragraph, but only if the person has filed a timely notification.

"(ii) Each person who desires to begin carrying out an activity described in subparagraph (A) after the date of the enactment of this paragraph may notify the Administrator in writing of the intent to begin to carry out such activity at any time after the promulgation of rules under subparagraph (D), but such person may not begin to carry out such activity until the person receives an identification number from the Administrator.

"(C) Identification number.—Not later than 30 days after the date of receipt of a notification from a person under this paragraph, the Administrator shall, in writing, either issue an identification number to the person or recognize a previously issued EPA identification number as valid for purposes of this paragraph. Any person who has an identification number previously issued by the Administrator under the Solid Waste Disposal Act shall include such number in the notification submitted to the Administrator and shall use that number for purposes of this paragraph unless the Administrator notifies the person that the person must use another identification number for purposes of this paragraph.

"(D) Rules.—Not later than 60 days after the date of the enactment of this paragraph, the Administrator shall promulgate rules to implement this paragraph. Such rules may exempt any person or class of persons from the requirement in subparagraph (A) to notify the Administrator and may provide for assignment of identification number which are different from those issued under rules promulgated under the Solid Waste Disposal Act and for assignment of identical numbers to classes of persons. Such rules shall be final and shall take effect on the date of publication in the Federal Register. The Administrator shall provide an opportunity for comment on such rules after their promulgation (unless the Administrator has proposed such rules for public comment before the date of the enactment of this paragraph) and, after considering such comment, shall make any amendments that the Administrator considers appropriate.

"(7) Manifest requirement.—

"(A) General requirement.—Any person who—

"(i) by contract, agreement or otherwise arranged for transport, storage, or disposal or polychlorinated biphenyl waste generated by such person;

"(ii) transports polychlorinated biphenyl waste for storage or disposal; or

"(iii) stores or disposes of polychlorinated biphenyl waste; shall comply with the requirements of the manifest system set forth in rules promulgated by the Administrator under subparagraph (C). If such rules are not promulgated by the effective date of this paragraph, such a person comply with the requirements of the manifest system set forth in rules promulgated under section 3002 of the Solid Waste Disposal Act (42 U.S.C. 6922) until such rules (under subparagraph (C)) are promulgated.

"(B) Initiation.—A manifest required under this paragraph shall be initiated when either of the following occurs:

"(i) Polychlorinated biphenyl waste leaves a storage facility at which the waste may be stored until such time as it is required to be disposed, of, and such storage facility is owned and operated by the same person who owned and operated the equipment in which the polychlorinated biphenyls were used or generated immediately before becoming a waste material.

"(ii) Polychlorinated biphenyl waste leaves the site at which it is generated, and (I) ownership or control of the polychlorinated byphenyl waste is vested in a person other than the person who owned and operated the equipment in which the polychlorinated biphenyls were used or generated immediately before becoming a waste material, or (II) the polychlorinated biphenyl waste is taken to a storage facility owned by a person other than the person with ownership or control of the polychlorinated biphenyl waste when it leaves such site.

"(C) Rules.—Not later than 60 days after the date of the enactment of this paragraph, the Administrator shall promulgate rules to implement a manifest system for polychlorinated biphenyl waste. Such rules may exempt a person or class of persons from the requirements of this paragraph. Such rules shall be final and shall take effect on the date of publication in the Federal Register. The Administrator shall provide an opportunity for comment on such rules after their promulgation (unless the Administrator has proposed such rules for public comment before the date of the enactment of this paragraph) and, after considering such comment, shall make any amendments that the Administrator considers appropriate.

"(D) Effective date.—This paragraph shall apply with respect to polychlorinated biphenyl waste that, after the effective date of the rules under subparagraph (C) or after the end of the 120-day period beginning on the date of the enactment of this paragraph (whichever is later), leaves the site at which it is stored for disposal by the person who generated the waste.

"(8) Transportation Requirement.—

"(A) General requirement.—Any person who transports polychlorinated biphenyl waste for storage or disposal shall comply with the requirements for transportation set forth in rules promulgated by the Administrator under subparagraph (C). If such rules are not promulgated by the effective date of this paragraph, such a person shall comply with the requirements for persons who transport hazardous waste set forth in rules promulgated under section 3003 of the Solid Waste Disposal Act (42 U.S.C. 6923) until such rules (under subparagraph (C)) are promulgated.

"(B) Initiation.—The transportation requirements under this paragraph shall apply when either of the following occurs:

"(i) Polychlorinated biphenyl waste leaves a storage for disposal facility at which the waste may be stored until such time as it is required to be disposed of, and such storage facility is owned and operated by the same person who owned and operated the equipment in which the polychlorinated biphenyls were used or generated immediately before becoming a waste material.

"(ii) Polychlorinated biphenyl waste leaves the site at which it is generated, and (I) ownership or control of the polychlorinated biphenyl waste is vested in a person other than the person who owned and operated the equipment in which the polychlorinated biphenyls were used or generated immediately before becoming a waste material, or (II) the polychlorinated biphenyl waste is taken to a storage facility owned by a person other than the person with ownership or control of the polychlorinated biphenyl waste when it leaves such site.

"(C) Rules.—Not later than 60 days after the date of the enactment of this paragraph, the Administrator shall promulgate rules regarding transportation of polychlorinated biphenyl waste. Such rules shall be final and shall take effect on the date of publication in the Federal Register. The Administrator shall provide an opportunity for comment on such rules after their promulgation (unless the Administrator has proposed such rules for public comment before the date of the enactment of this paragraph) and, after considering such comment, shall make any amendments that the Administrator considers appropriate.

"(D) Effective date.—This paragraph shall apply with respect to polychlorinated biphenyl waste accepted for transport after the end of the 90-day period beginning on the date of the enactment of this paragraph.

"(9) Storage approval requirement.—

"(A) General requirement.—Beginning 270 days after the date of the enactment of this paragraph, a person may not store polychlorinated biphenyl waste (except as provided in subparagraph (E)) unless the person has approval under this paragraph from the Administrator.

"(B) Determinations by administrator.—The Administrator shall grant approval under this paragraph if the Administrator determines that—

"(i) the person is qualified to engage in the activity of storage of polychlorinated biphenyl waste;

"(ii) the person has certified compliance with the requirements for facilities storing polychlorinated biphenyl waste;

"(iii) the person has submitted an acceptable closure plan for the person's storage facility;

"(iv) the person has demonstrated financial responsibility in accordance with rules promulgated under paragraph (10); and

"(v) the person has met any other requirements that the Administrator considers appropriate.

"(C) Requests for approval.—(i) In the case of a person storing polychlorinated biphenyl waste on the date of the enactment of this paragraph, the person shall file a request for approval under this paragraph not later than 90 days after such date. Such person may continue to store polychlorinated biphenyl waste (without approval from the Administrator) until the date which is 270 days after the date of the enactment of this paragraph, but only if the person has filed a timely request for approval.

"(ii) Each person who desires to begin storing polychlorinated biphenyl waste after the date of the enactment of this paragraph may file a request for approval of such storage at any time after promulgation of rules under this paragraph, but such person may not begin such storage until the person receives approval from the Administrator.

"(D) RESPONSE TO REQUESTS.—Not later than 180 days after the receipt of a request for approval under this paragraph, the Administrator shall approve or disapprove, in writing, the request.

"(E) EXCLUSIONS.—(i) Subparagraph (A) does not apply to any person storing polychlorinated biphenyl waste that consists soley of polychlorinated biphenyl waste generated by—

"(I) that person;

"(II) a corporate parent to that person;

"(III) a corporate subsidiary of that person;

"(IV) a corporate subsidiary of the same corporate parent as the corporate parent of that person; or

"(V) any combination of persons listed in subclauses (I) through (IV).

"(ii) The exclusion in clause (i) does not apply to a person who generated the polychlorinated biphenyl waste in rebuilding, repairing, or recycling electrical equipment that the person did not use, or will not use, in an electrical system owned by such person.

"(iii) A person with approval from the Administrator to dispose of polychlorinated biphenyl waste may continue to carry out the activities associated with such disposal (including storage) without having to obtain additional approval under this paragraph. However, nothing in this clause prevents the Administrator from modifying or revoking approvals under paragraph (11).

"(F) RULES.—Not later than 60 days after the date of the enactment of this paragraph, the Administrator shall promulgate rules to implement this paragraph. Such rules shall contain information requirements for persons filing requests for approval and criteria to be applied by the Administrator in granting or denying such approvals. Such rules shall be final and shall take effect on the date of publication in the Federal Register. The Administrator shall provide an opportunity for comment on such rules after their promulgation (unless the Administrator has proposed such rules for public comment before the date of the enactment of this paragraph) and, after considering such comment, shall make any amendments that the Administrator considers appropriate.

"(10) FINANCIAL RESPONSIBILITY, CONTINGENCY PLAN, AND CLOSURE AND POST-CLOSURE REQUIREMENTS.—

"(A) GENERAL REQUIREMENT.—Any person who—

"(i) requires approval from the Administrator under paragraph (9) to store polychlorinated biphenyl waste; or

"(ii) requires approval from the Administrator under rules promulgated under paragraph (1) to dispose of polychlorinated biphenyl waste;

shall comply with the financial responsibility, contingency plan, and closure and post-closure requirements set forth in rules promulgated under subparagraph (B). If such rules are not promulgated by the effective date of this paragraph, such a person shall comply with the financial responsibility, contingency plan, and closure and post-closure requirements set forth in rules promulgated under section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) until such rules (under subparagraph (B)) are promulgated.

"(B) RULES—Not later than 60 days after the date of the enactment of this paragraph, the Administrator shall promulgate rules regarding financial responsibility, contingency plan, and closure and post-closure requirements for persons who store or dispose of polychlorinated biphenyl waste. Such rules shall be final and shall take effect on the date of publication in the Federal Register. The Administrator shall provide an opportunity for comment on such rules after their promulgation (unless the Administrator has proposed such rules for public comment before the date of the enactment of this paragraph) and, after considering such comment, shall make any amendments that the Administrator considers appropriate.

"(C) EFFECTIVE DATE.—This paragraph shall apply with respect to persons who store or dispose of polychlorinated biphenyl waste after the end of the 180-day period beginning on the date of the enactment of this paragraph.

"(11) MODIFICATION AND REVOCATION OF APPROVALS.—

"(A) MODIFICATION.—Each approval for storage of disposal under this subsection shall be reviewed no later than five years after the date of issuance or reissuance of the approval and shall be modified as necessary to assure that the person with approval continues to comply with the currently applicable requirements of this subsection. Nothing in this paragraph shall preclude the Administrator from reviewing and modifying an approval at any time during the term for which the approval was given to assure such continued compliance. Each approval under this subsection issued after the date of the enactment of this paragraph shall be for a fixed term.

"(B) REVOCATION.—Upon a determination by the Administrator of noncompliance by a person having approval for storage of disposal under this subsection with the requirements of this subsection, the Administrator may revoke such approval.

"(C) RULES.—the Administrator may promulgate rules to implement this paragraph.

"(12) MANDATORY INSPECTIONS.—At least once every two years, beginning with the two-year period that begins on the date of the enactment of this paragraph, the Administrator shall thoroughly inspect the facilities at which each person with approval under this subsection to store or to dispose of polychlorinated biphenyl waste carries out such storage or disposal.

"(13) NOTICE OF ENFORCEMENT ACTIONS.—Notwithstanding the limitations of section 14, not later than June 30 of each year the Administrator shall publish in the Federal Register a notice of the identity of, and the amount of civil penalty assessed from, each person against who the Administrator has concluded an enforcement action for violations of this subsection during the previous calendar year. Subject to the limitations of section 14, the notice shall also include such other information as the Administrator considers appropriate. For purposes of this paragraph, the Administrator has concluded an enforcement action against a person for a violation of this subsection when one of the following occurs:

"(i) An order by the Administrator assessing a civil penalty from such person has become a final order (or, if such order is appealed, a final judgement has been entered by the court reviewing such order).

"(ii) A court has entered a final judgement with respect to any civil action described in section 17 against such person.

"(iii) The Administrator and such person have entered into an agreement which has been entered into the appropriate district court of the United States as a consent decree.

"(14) DEFINITIONS.—For purposes of paragraphs (6) through (13)—

"(A) The term 'generate' means to produce polychlorinated biphenyl waste by causing it to come into existence or causing it to become a polychlorinated biphenyl waste as described in rules promulgated under paragraph (11) of this subsection.

"(B) The term 'polychlorinated biphenyl waste' means all polychlorinated biphenyls and items containing polychlorinated biphenyls the disposal of which is regulated by the Administrator pursuant to rules promulgated under paragraph (1) of this subsection.

"(C) The term 'storage' means storage (for disposal of polychlorinated biphenyls) that is regulated by the Administrator pursuant to rules promulgated under paragraph (1) of this subsection.

"(D) The term used in such paragraphs that are defined in the rules promulgated under paragraph (1) of this subsection shall have the meanings given such terms by such rules.".

SEC. 3. The Resource Conservation and Recovery Act is amended by adding a new section as follows:

"REGULATION OF POLYCHLORINATED BIPHENYLS

"SEC. 3021. Effective six months from the date of enactment of this section, polychlorinated biphenyls shall be deemed to satisfy the criteria of section 3001 and the generation, storage, treatment, and disposal of polychlorinated biphenyls shall be regulated pursuant to the requirements of this act in lieu of the requirements of the Toxic Substances Control Act, 15 USC 2601, et seq. Not later than two years after the date of enactment of this section, the regulations and other actions, taken under the authority of section 6(e) of such act shall be reviewed by the Administrator and, where necessary, revised to protect human health and the environment or otherwise satisfy the requirements of this act. Regulations, orders, rules, permits, grants, contracts, licenses or privileges, or any other action, taken or issued under the authority of the Toxic Substances Control Act with respect to the generation, storage, treatment and disposal of polychlorinated biphenyls shall remain in full force and effect until rescinded or replaced.".

"SE. 4. The Toxic Substances Control Act is amended by adding a new section 6(e)(6) as follows:

"(6) Effective six months after the date of enactment of this subsection, the generation, storage, treatment and disposal of polychlorinated biphenyls shall be regulated pursuant to the requirements of the Resource Conservation and Recovery Act."●

By Mr. DECONCINI:

S. 2694. A bill to amend the Internal Revenue Code of 1986 to provide that contracts for residential construction which are completed in less than 12 months shall be exempt from the requirement to use the percentage completion method; to the Committee on Finance.

TAX TREATMENT OF CERTAIN RESIDENTIAL CONSTRUCTION CONTRACTS

● Mr. DECONCINI. Mr. President, today I am introducing legislation which would clarify that contracts for residential construction, which are completed in less than 12 months, shall be exempt from the requirement to use the percentage completion method.

Frankly, Mr. President, it came as a surprise to me that this legislation was necessary. Unfortunately the IRS, in advance notice 88-66, took actions previously inconceivable; legislation is now required to correct the situation. Notice 88-66 states that homebuilders are considered to be constructing property under a long-term contract on any home that is under contract at the end of a taxable year if there is a contract for the sale of that house.

While this might not seem controversial on the surface, let me take a moment to explain the inequity of this proposal. Homebuilders typically receive only small deposits on sales' contracts. Failure by the prospective homeowner to obtain financing often results in the return of the deposit and the homebuilder bears the loss. Unlike defense contractors who receive progress payments during the life of a contract, homebuilders receive only this deposit when a sales contract is accepted. The serious cash flow problems resulting from this new interpretation of what is a long-term contract could devastate many homebuilders and result in higher home prices in the long term.

The bill I am introducing today is carefully crafted to only cover homes which are completed in less than 12 months. This is to assure that custom homes, which often are built on the basis of progress payments and take in excess of 12 months to build, would not be covered. My bill will insure that we clearly delineate what is and what is not a long-term contract.

I urge my colleagues to join me in cosponsoring this legislation. Fairness requires that we move quickly to correct the inequities of IRS advance notice 88-66.●

By Mr. BENTSEN:

S. 2695. A bill to amend title 5, United States Code, to provide for the payment of interest on delayed initial payments under the Civil Service Retirement System and the Federal Employees Retirement System, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE RETIREES' INTEREST ON DELAYED PAYMENTS ACT

● Mr. BENTSEN. Mr. President, I introduce legislation today that would help to solve a very important problem with respect to the way the Federal Government treats its employees. As the situation now exists, it takes the Federal Government from 3 to 6 months, and sometimes even longer, to send to a recently retired, hard working, and dedicated Federal worker his or her first pension check. That is a burden on eligible retirees they ought not continue to bear, especially in this modern age of advanced technology and computers on nearly every desk in the Federal Government.

The bill I have introduced is very simple. It is understood by all of us who work and pay our bills. It is a simple premise. The legislation requires the Government to pay interest to eligible annuitants, when through no fault of their own, the Federal Government has inordinately delayed—that is, more than 75 days—in sending their first pension check. Now Mr. President, 75 days is a long time to go without an income. That is over 2 months. Creditors won't wait 75 days. Mortgages have to be paid every month. Tuition can't wait. Savings shouldn't have to be used.

Mr. President, I want to make it clear that this legislation is no budget buster. If a pension check is delayed for more than 75 days and it is not due to the action or inaction of the eligible retiree, the Government entity responsible for the delay is required to pay the interest out of its own budget, not additional appropriations.

That makes it budget neutral. In other words, this legislation provides the necessary incentive for Government agencies to treat retirement papers with dispatch, and not let them languish on a desk until a convenient time is found to process them. If the papers are processed within a given time period, and the Office of Personnel Management [OPM] has an opportunity to complete its segment of the transaction, then no interest payment is necessary and no cost to the agency results. If, on the other hand, delay is built into the transaction on the Government side, then that agency itself has to be accountable to pay interest for delaying a pension check beyond 2½ months. That is where the burden should properly fall, not on the retiring employee.

I am well aware that the OPM and other Government agencies do not have unlimited resources, and that this legislation may create some initial implementation problems. These problems will not endure indefinitely, and I believe the Government has sufficient personnel that is talented and resourceful enough to solve any preliminary implementation problems associated with the new law.

Mr. President, I should point out that the idea of the Government paying interest on late checks is not a novel idea, and it is one the Congress has comfortably embraced in the past. I mention only two of the areas in which late interest payments from the Federal Government are made.

Last year, the Senate passed the Prompt Payment Act, which requires the Government to pay interest to its contractors when payments are late. That is good legislation and I support it vigorously. By law, the Internal Revenue Service pays interest on tax overpayments. In each of these instances, interest payments have proven to be good policy, and I agree with it. It is clearly time that we extend the policy to another area.

Interestingly, Mr. President, those most hurt by the present situation are those who are least able to afford it. They are those who work in the lower grades of the Federal job classification system. They are some of the working poor. They are minorities and women. They are those who may already wear it or find themselves just a few years from wearing the senior citizen label. They are those about to face increased medical bills. They are also middle class citizens with familial responsibilities, such as house notes or children in the final years of college or graduate school. They are those who have put off major vacations for most of their adult lives and who are poised to take one upon their retirement—finally. In short, they are ordinary people who need their Government, their employer, to be responsive to their economic needs. What is more they only expect to get what is legitimately owed to them. They earned it after long years of service to the Government.

Several of my constituents have written to explain to me how they are, personally, disadvantaged by so substantial a delay in receiving an annuity. One particular constituent has worked for the Government for 36½ years. He decided to retire recently. He notified the agency he works for. The agency told him that it would take from 3 to 6 months to get his first retirement check. He wrote to me and stated that he would find it "virtually impossible to live for that period without a fixed income. Therefore, I must forgo retirement until someone is able to straighten out this mess."

I asked the agency to look into the problem, and the response I received was hardly encouraging. The agency said that my constituent's situation "is reflective of actual retirement processing timeframes experienced by [Federal employees]." Further, the agency reported to me that "OPM has the final authority and responsibility for processing retirement claims."

OPM, of course, says that it cannot get a retirement check processed and in the mail until and unless the agency completes the paperwork for a retiring employee, and often the agencies delay in getting the paperwork done. These responses were probably as good as could be expected given the unintended breakdown in the Federal bureaucracy.

Such fingerpointing does not help my constituent much, however. He wants to retire now, and cannot do it until he can get an annuity fairly soon after his effective date of retirement. He needs to be able to live and to pay his bills. He should not have to use his hard-earned savings for everyday expenses or take out a loan to tide him over until his first retirement check arrives. That is the situation working people face. They cannot afford to retire, not necessarily because their annuity is too small—though for some it certainly is—but because they can't get it for nearly a half year after they retire. Well, in the words of my consitituent, it is high time we "straightened this mess out." I am pleased to say that my legislation gives us the tools to do just that.●

By Mr. HATFIELD:

S. 2696. A bill to provide for restoration of the Federal trust relationship with, and assistance to the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes; to the Select Committee on Indian Affairs.

COQUILLE RESTORATION ACT

● Mr. HATFIELD. Mr. President, today I am introducing a bill to extend Federal recognition to the Coquille Tribe of Indians.

The Coquilles were 1 of 63 western Oregon tribes to have Federal recognition of their tribal status revoked in the Termination Act of 1954. The tribe is originally from the southern Oregon coast and, despite both termination and the earlier forced relocation of the tribe to the Siletz Reservation, many of the Coquilles' 527 members still reside in this area.

As has become apparent, the Termination Act was a mistake of immense proportions that did serious damage to the welfare of those tribes involved. American Indians were ill-equipped to deal with the white man's world. At the same time they were failing to cope with our economic system, tribal members were stripped of health services and educational benefits. In addition, many lost their land because they were not able to pay the property taxes for which they were suddenly liable. The Coquilles were no exception. They have, however, managed to remain a cohesive group and to preserve the customs, tradition, and language of their ancestors. Their unity in the face of tremendous obstacles should be commended.

I am happy to report that it is my understanding this bill will complete the process of reinstating Federal recognition to the terminated tribes of Oregon. The Oregon tribes' progress in this area is symptomatic of a larger move in our country. That move is toward the recognition of three sovereigns in the United states—the Federal Government, State governments, and Indian nations. It should be noted that this bill seeks to do more than reestablish basic program services for the tribe. It is designed to restore the tribe's cultural identity—and to give back to the Coquilles the sense of dignity and respect they deserve as an Indian nation.

Mr. President, after my statement, I would like to ask unanimous consent that the RECORD print a June 23 editorial from the Oregonian. This piece is representative of the support that exists in the State of Oregon for this measure. Oregon Governor, Neil Goldschmidt, the State of Oregon Commission on Indian Services, Ecumenical Ministries of Oregon, the Coos County Commissioners, and the Curry County Commissioners also endorse this bill. Additional support comes from the tribe's State Senator Bill Bradbury, their State Representative Peg Jolin, numerous churches, the Coos Bay City Council, the Bandon City Council, the Port of Coos Bay, the Port of Bandon, the city of Coquille, and the other Oregon tribes. An impressive list indeed.

The bill I am introducing today is identical to legislation introduced in the House of Representatives by Congressman PETER DEFAZIO of Oregon. It is my hope that the House will soon approve the Coquille recognition bill and that its Senate introduction today will hasten the passage of this long-overdue measure into law.

There being no objection, the article mentioned earlier was ordered to be printed in the RECORD, as follows:

[From the Oregonian, June 23, 1988]

RESTORE COQUILLES' TRIBE

Passage of the bill in Congress to make the Coquille Indians a tribe again would be a long-overdue act of justice.

Two acts of Congress in 1954 ended the tribal status of 63 Indian tribes in Oregon. They were supported with the argument that Indians should be full-fledged citizens, freed from federal paternalism.

The terminations turned out to be disastrous for the Indians. They suffered from the loss of government protections and benefits. Many were not prepared to compete in the white man's world.

In a remedial series of acts in recent years, Congress has restored tribal status and federal benefits to most of the Indians of Oregon. The Coquilles (they pronounce the name Co-KWIL) are the last Indian group in the state known to be seeking tribal restoration.

This month Rep. Peter DeFazio, D-Ore., introduced a bill in the House that would accomplish that. It would entitle the Coquilles to the medical, economic and educational benefits federal law provides for Indian tribes. Most important, said the tribe's restoration chairman, Linda Procter, it would give them back the dignity of dealing with the federal authorities as government to government.

Historically the Coquilles lived in scattered villages on the Southern Oregon coast roughly in a triangle from present-day Coos Bay to Bandon and up the Coquille River as far as Myrtle Point. Today 527 persons are on the tribal roll, 70 percent of whom live in Western Oregon—40 percent in the Coos Bay-Bandon area.

DeFazio's restoration bill grants them no reservation land and no special hunting, fishing, trapping or water rights. With its passage, the Coquilles would qualify for federal money to develop an economic plan. That plan might lead later to a proposal for a tribal center, but providing it with federal resources would take another act of Congress.

The county commissions of Coos and Curry counties, along with several other Indian tribes, support the restoration. The only visible opposition to the bill has come from the federal Bureau of Indian Affairs. It has recommended that Congress ask the bureau to study whether the Coquilles qualify for recognition as a tribe.

But the federal government has been dealing with the Coquilles, by name, in treaties, laws and court cases going back as far as 1855. Studies by anthropologists at Oregon State University, as well as the tribe's own records, are available to document its history, culture and the current depressed economic status of many of its members.

Testimony before Congress could bring out in days the information that a study by the Bureau of Indian Affairs could take years to complete. The Coquilles deserve a prompt hearing, and a favorable one.●

ADDITIONAL COSPONSORS

S. 473

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 473, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 1391

At the request of Mr. EXON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1391, a bill to amend the Surface Transportation Assistance Act of 1982.

S. 1738

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1777

At the request of Mr. ARMSTRONG, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1777, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 2030

At the request of Mr. LAUTENBERG, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2030, a bill to amend the Marine Protection, Research, and Sanctuaries Act.

S. 2199

At the request of Mr. Chafee, the names of the Senator from Iowa [Mr. Harkin], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2221

At the request of Mr. McCain, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 2221, a bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes.

S. 2367

At the request of Mr. Lautenberg, the names of the Senator from Wisconsin [Mr. Proxmire] and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of S. 2367, a bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2409

At the request of Mr. Bumpers, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 2409, a bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the National Organ Transplant Trust Fund, and for other purposes.

S. 2420

At the request of Mr. McCain, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 2420, a bill to provide for the disposition of certain lands in Arizona under the jurisdiction of the Department of the Interior by means of an exchange of lands, and for other purposes.

S. 2449

At the request of Mr. Pryor, the names of the Senator from Washington [Mr. Adams], the Senator from Utah [Mr. Garn], the Senator from Indiana [Mr. Lugar], and the Senator from South Carolina [Mr. Thurmond] were added as cosponsors of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2517

At the request of Mr. Riegle, the names of the Senator from Illinois [Mr. Simon], the Senator from Hawaii [Mr. Inouye], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of S. 2517, a bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable under title II, to provide for continued entitlement to disability and Medicare benefits for individuals under disabled and working status, and for other purposes.

S. 2549

At the request of Mr. Lautenberg, the names of the Senator from Wisconsin [Mr. Proxmire] and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of S. 2549, a bill to promote highway traffic safety encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2550

At the request of Mr. Symms, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 2550, a bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States, and for other purposes.

S. 2609

At the request of Mr. Danforth, the name of the Senator from Nebraska [Mr. Exon] was added as a cosponsor of S. 2609, a bill to amend the Internal Revenue Code of 1986 to provide that the special rule for proceeds from livestock sold on account of drought apply to livestock used for draft, breeding, dairy or sporting purposes.

S. 2662

At the request of Mr. Hollings, the names of the Senator from North Carolina [Mr. Sanford], the Senator from Kentucky [Mr. Ford], the Senator from New York [Mr. Moynihan], the Senator from Louisiana [Mr. Johnston], the Senator from Nevada [Mr. Reid], the Senator from Arkansas [Mr. Pryor], the Senator from Alabama [Mr. Shelby], the Senator from West Virginia [Mr. Rockefeller], the Senator from Mississippi [Mr. Stennis], the Senator from Maine [Mr. Mitchell], the Senator from North Dakota [Mr. Burdick], the Senator from Michigan [Mr. Levin], the Senator from Michigan [Mr. Riegle], the Senator from Illinois [Mr. Simon], the Senator from Alabama [Mr. Heflin], the Senator from Maine [Mr. Cohen], the Senator from Tennessee [Mr. Sasser], the Senator from Pennsylvania [Mr. Heinz], the Senator from Arizona [Mr. DeConcini], the Senator from Georgia [Mr. Nunn], the Senator from Kentucky [Mr. McConnell], the Senator from New Jersey [Mr. Lautenberg], the Senator from Connecticut [Mr. Weicker], the Senator from North Carolina [Mr. Helms], the Senator from Mississippi [Mr. Cochran], and the Senator from Massachusetts [Mr. Kennedy] were added as cosponsors of S. 2662, a bill to remedy injury to the U.S. textile and apparel industries caused by increased imports.

S. 2664

At the request of Mr. Moynihan, the names of the Senator from New Mexico [Mr. Bingaman] and the Senator from Nevada [Mr. Reid] were added as cosponsors of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

S. 2675

At the request of Mr. Daschle, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of S. 2675, a bill to amend title 38, United States Code, to provide certain service-connected presumptions in the case of veterans who performed active service in Vietnam during the Vietnam era; to make improvements in the composition of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects on Phenoxy Herbicides and Contaminants and the procedures used by such advisory committee, and for other purposes.

SENATE JOINT RESOLUTION 350

At the request of Mr. Simon, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of Senate Joint Resolution 350, a joint resolution designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. Sanford, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

AMENDMENT NO. 2421

At the request of Mr. Quayle, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of amendment No. 2421 intended to be proposed to S. 1943, a bill to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provision of services with respect to mental health and alcohol and drug abuse.

SENATE RESOLUTION 455—CONDEMNING ROMANIA FOR ITS HUMAN RIGHTS VIOLATIONS

Mr. LAUTENBERG (for himself, Mr. Metzenbaum, Mr. Pressler, Mr. Dodd, Mr. Durenberger, Mr. D'Amato, Mr. Bradley, Mr. Dole, Mr. Kerry, Mrs. Kassebaum, Mr. DeConcini, Mr. Mitchell, Mr. Inouye, Mr. Grassley, Mr. Symms, Mr. Bumpers, Mr. Boren, Mr. Dixon, Mr. Levin, Mr. Riegle, Mr. Domenici, Mr. Lugar, Mr. Karnes, Mr. Gore, and Mr. Sarbanes) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 455

Whereas in recent years the United States Congress has received a substantial body of evidence establishing a persistent pattern of severe human rights violations in the Socialist Republic of Romania;

Whereas among these violations is the denial of the right of free emigration for Jews and other Romanians and the systematic manipulation of emigration figures;

Whereas the Romanian Government continues to deny ethnic minorities, among them 2.5 million Hungarians, Germans, Serbs, Croatians, Saxons, and Ukrainians, the basic right of preserving opportunity for their children to be educated in their native tongue;

Whereas the Romanian Government continues to interfere with freedom of religion, harassing, intimidating, and arresting religious believers for as little as the possession of Bibles, and destroying places of worship;

Whereas the United States Congress in recent years has repeatedly condemned the Romanian Government for these violations and urged it to observe basic human rights as set forth in the Helsinki Accords and other agreements, to which the Socialist Republic of Romania is a party;

Whereas in 1987 both Houses of Congress voted by substantial margins to suspend Romania's most-favored-nation status in response to human rights violations by the Government of that country;

Whereas Romania's MFN status expired on July 3, 1988;

Whereas Romania's human rights policies have not shown improvement even after last year's congressional action, and the United States Department of State has determined in its Country Report on Human Rights practices for 1987 that "(t)he poor human rights picture in Romania in 1987 showed no improvement" and "* * * its human rights abuses remained pervasive.";

Whereas Romania is about to undertake a new and massive agricultural collectivization program, bulldozing 7,000 traditional villages to make way for government owned agricultural-industrial complexes, a program whose implementation will result in new, gross abuses of human rights;

Whereas this program, if implemented, would eradicate a substantial part of the traditional settlement pattern, folk architecture, and way of life of the Romanian people and the Hungarian, German, Saxon, Croatian, Serbian, Ukrainian, and other ethnic minorities;

Whereas this program would force the displaced population into government-owned, standardized housing units to be built in centuries-old town centers: Now, therefore, be it

Resolved, That the Senate:

(1) condemns the Romanian Government's continued practice of systematically violating a whole range of internationally recognized human rights of its citizens;

(2) strongly protests the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights and property rights of their inhabitants;

(3) urges the Romanian Government to revise its human rights policies and institute meaningful reforms to comply with international agreements that are binding on Romania;

(4) urges the President and the Secretary of State to continue to call the above violations to the attention of Romanian officials and demand meaningful reforms;

(5) urges the President to make clear to the Romanian government that restoration of Romania's most-favored-nation status or any extension of other favorable trading privileges to Romania will not be considered by the United States until that country implements a thorough reform in its human rights practices, including substantial improvement in the observance of the right of emigration, the rights of national minorities, and freedom of religion.

● Mr. LAUTENBERG. Mr. President, I rise to submit this sense of the Senate resolution concerning Romanian human rights abuses with 24 original cosponsors. It expresses the Senate's opposition to President Ceausescu's plans to destroy more than half of Romania's villages, greatly damaging the Hungarian and German minorities who largely populate such villages.

A bipartisan group, including Senators Metzenbaum, Pressler, Dodd, Durenberger, D'Amato, Bradley, Dole, Kerry, Kassebaum, DeConcini, Mitchell, Inouye, Grassley, Symms, Bumpers, Boren, Dixon, Levin, Riegle, Domenici, Lugar, Karnes, Gore, and Sarbanes all join me in introducing this resolution. A similar resolution was introduced in the House of Representatives this week.

Mr. President, this resolution puts the Senate on record in strong opposition to President Ceausescu's newly announced plans, already underway, to destroy more than half of Romania's traditional folk villages. Such action violates the human rights, minority cultural rights, and property rights of the affected Romanians, and also dilutes the cultural identity of the two major ethnic minorities in Romania—Hungarians and Germans. The resolution expresses the Senate's outrage over what Ceausescu is doing, and urges the President and Secretary of State to protest it to the Romanian Government in the strongest possible terms. The resolution also takes note of Romania's continuing abysmal record on human rights in general, and urges the President and the Secretary of State to continue to press the Romanian Government for meaningful reforms.

Mr. President, the focus of this resolution is President Ceausescu's plans to raze roughly half of Romania's folk villages, cutting off the traditional roots of their population. Under this new and massive agricultural collectivization program, Romania will bulldoze 7,000 of its 13,000 traditional villages to make way for government-owned agricultural-industrial complexes. Then, the displaced people will be herded into state-owned, standardized housing units to be built in centuries old town centers, and forcing them to work as state employees on state farms.

This program has been going on on a small scale since 1978, but in its new and more ambitious incarnation, will be completed by the year 2000. It is our understanding that this policy is already being implemented in some villages of the Transylvanian Plains, where Transylvanian Hungarian families have been moved from those villages to Moldavian towns.

Although President Ceausescu claims this plan is necessary to gain more tillable land for the production of food, the facts belie this claim. Romania suffers no shortage of tillable land. With 90 people for each 247 acres, it already enjoys Europe's lowest population density. In fact, this plan will deprive people of the small plots of land surrounding their homes where extra food is often grown.

President Ceausescu's true goals become clearer when we consider that his plans will not only have a devastating impact on Romanian society in general but on its ethnic Hungarian and German minorities in particular. This plan will wipe out a substantial part of the traditional settlement pattern, folk architecture, and way of life of the villages that are largely populated by ethnic Hungarians and Germans. Execution of this plan would summarily eliminate a vibrant folk life and culture which the Hungarian minority has nurtured in these villages for 11 centuries. Croatian, Serbian, Ukrainian, and other ethnic minorities will also be affected.

The razing of these villages will erase monuments, historical buildings, and cemeteries that have stood for generations. It will tear down the churches where psalms are sung in the Hungarian language. It will also further diminish the number of schools and classes using the Hungarian language.

Unfortunately, this plan is not surprising in Ceausescu's Romania, which already suppresses the study and teaching of the Hungarian language, limits Hungarian language publications, and has institutionalized widespread discrimination against ethnic Hungarians, all in violation of its obligations under the Helsinki accords and other international human rights agreements.

This latest move is only one part of an overall pattern in which the Romanian Government continues to violate the human rights of all of its citizens. It has a sad history of denying ethnic minorities, among them 2.5 million Hungarians, Germans, Serbs, Croatians, Saxons, and Ukrainians, the right to preserve their unique cultural heritage and native language, and the right of their children to be educated in their native tongue.

The Romanian Government also continues to interfere with freedom of religion, harassing, intimidating, and arresting religious believers for as little as the possession of Bibles, and destroying places of worship. Romania's human rights policies have not shown improvement even after last year's congressional votes to strip Romania of its most flavored nation trading statuts. In fact, the U.S. Department of State has determined in its Country Report on Human Rights Practices to 1987 that "(t)he poor human rights picture in Romania in 1987 showed no improvement" and "* * * its human rights abuses remained pervasive."

Mr. President, last summer both Houses of Congress passed amendments to the trade bill suspending the most-favored-nation status of Romania because of a persistent pattern of human rights violations by the government of that country. Although this particular provision was not enacted into law, the Ceausescu regime's repressive conduct since that time, and especially its heightened persecution of national minorities, only reinforce our conviction that we made the right decision 12 months ago. This latest Ceasescu plan, is one more piece of an overall pattern of disregard for the rights of its citizens.

The consequences of Ceasescu's actions have been increased emigration from Romania and deterioration of relations between its closest neighbor and Warsaw Pact ally, Hungary. Because of President Ceausecu's actions in this matter, and because of his other abuses of the Hungarian minority, some 30,000 Rumanian citizens, roughly 10 percent of whom are reportedly ethnic Romanians, have fled that country and sought refuge in neighboring Hungary since last summer. This is an exodus of unprecedented magnitude.

The reaction in Hungary has been striking, and caused a widening rift between Hungary and Romania, military allies in the Warsaw Pact. In June, between 50,000 and 100,000 Hungarians in Budapest staged a public protest of Romania's actions. Romania ordered the immediate closure of a Hungarian consulate, expelling its consular staff. Hungary has launched a formal protest of the action, and Romania ordered the closure of the Hungarian cultural center in Bucharest, indicating a further deterioriation in relations between the two countries.

Mr. President, the purpose of this resolution is to express the Senate's horror at President Ceausescu's latest plan, and the overall state fo human rights in that country. Morever, it is to urge the President to communicate our concerns to the Romanian Government immediately, and to press this issue strongly with the Romanians in every possible forum, including the Helsinki Review Follow-Up Conference in Vienna, Austria, and any other negotiations or discussions.

I ask unanimous consent that a letter sent today to Secretary Shultz on this matter, as well as several newspaper articles, and an excerpt from the State Department's Country Reports on Human Rights Practices for 1987 on Romania be included in the RECORD.

Mr. President, it is important that the Senate be heard on this issue. I urge my colleagues to support this resolution and support its swift passage.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 5, 1988.

Hon. GEORGE SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing to express our opposition to President Ceausescu's announced plans to destroy 7,000, or more than half, of Romania's villages, and reports that he plans to accelerate that effort, which is already under way. This destruction will have a devastating impact on Romanian society in general and its ethnic Hungarian and German minorities. We are extremely concerned about damage to the ethnically Hungarian region known as Transylvania.

We urge you to vigorously protest this action to the Romanian Government in every possible forum, including the Helsinki Review Follow-Up Conference in Vienna, Austria, and any other negotiations or discussions. We also urge you to make clear that the United States will not consider reinstating Most Favored Nation status for Rumania, which expired on July 3, 1988.

The announced policy of the Romanian government calls for the destruction of homes, depriving people of the small plots of land surrounding their homes where extra food is often grown. The plan then calls for moving the people into state owned apartment houses and having them work as state employees on state farms. It is our understanding that this policy is already being implemented in some villages of the Transylvanian Plains, where Transylvanian Hungarian families have been moved from those villages to Moldavian towns.

The Ceausescu government has already begun to destroy some of the 13,000 villages in Romania by converting them into state farms. Implementation of this Stalinist agricultural collectivization program will violate Romania's obligations under the Final Act of the Conference on Security and Cooperation in Europe, better known as the Helsinki Accords. It will do untold harm to the human and cultural rights of the Romanian people, including the ethnic Hungarian and German minorities in Rumania.

Many of the villages slated for destruction, and some that have already been destroyed, are populated by Hungarian majorities. Execution of this plan would summarily eliminate a vibrant folk life and culture which the Hungarian minority has nurtured in these villages for eleven centuries.

In addition, the razing of these villages will erase monuments, historical buildings, and cemeteries that have stood for generations. It will tear down the churches where psalms are sung in the Hungarian language. It will also further diminish the number of schools and classes using the Hungarian language.

Because of President Ceausescu's actions in this matter, and because of his other abuses of the Hungarian minority, roughly 30,000 Rumanian citizens, roughly 10% of whom are reportedly ethnic Romanians, have fled that country and sought refuge in neighboring Hungary since last summer. This is an exodus of unprecedented magnitude.

Last summer both Houses of Congress passed amendments to the Trade Bill suspending the Most Favored Nation status of Romania because of a persistent pattern of human rights violations by the government of that country. Although this particular provision was not enacted into law, the Ceausescu regime's repressive conduct since that time, and especially its heightened persecution of national minorities, only reinforce our conviction that we made the right decision twelve months ago.

In keeping with this decision and our strong concern over human rights violations in Romania, we again urge you to communicate our concerns to the Romanian government immediately, and to press this issue strongly with the Romanian government until it is satisfactorily resolved.

Thank you for your help in this urgent matter.

Sincerely,

Frank R. Lautenberg, Larry Pressler, Dave Durenberger, Howard M. Metzenbaum, Christopher J. Dodd, Alfonse M. D'Amato, Bill Bradley, Nancy L. Kassebaum, George J. Mitchell, Charles E. Grassley, Dale Bumpers, Alan J. Dixon, Donald W. Riegle, Jr., Robert Dole, David K. Karnes, Paul S. Sarbanes, John F. Kerry, Dennis DeConcini, Daniel K. Inouye, Steve Symms, David L. Boren, Carl Levin, Pete V. Domenici, Dick Lugar, Albert Gore, Jr.

[From the New York Times, July 2, 1988]

RAZING RUMANIA

Even as Stalinism's disastrous legacies come under attack in Moscow, the old tyrannical style flourishes in Rumania. Nicolae Ceausescu's harsh 20-year rule has turned one of Europe's traditional breadbaskets into a land of legendary deprivation. He has razed acres of ancient houses and churches in Bucharest, its once-elegant capital, to make a parade ground. Now he pushes a program to destroy half the nation's villages and move their inhabitants into new "agro-industrial" centers.

Mr. Ceausescu is unmoved by the pleas of those whose carved fences, ancestral cemeteries and family homes will be plowed under. He touts the gain in food production promised by converting the land now occupied by 6,000 to 7,000 "nonviable" small villages to agriculture. Yet Rumania already has Europe's lowest population density; it suffers no shortage of tillable land.

Even so, Rumanians are hungry. They're also cold in winter, thanks to severe fuel rationing. They are grateful even for 30-watt light bulbs. And they are brutally repressed day to day. This state of affairs is the direct result of Mr. Ceausescu's corrupt, nepotistic, megalomaniac rule. First, his grandiose projects piled up unsupportable levels of foreign debt. Then he managed to halve the indebtedness by imposing unimaginably severe austerity. Now, he wants to tighten his iron control more by destroying the villages.

Mr. Ceausescu used to win plaudits in the West for his occasional departures from Moscow's foreign-policy dictates. No more. His brutalities have broken even the steely unanimity among East bloc nations, where he is now openly criticized.

Late last year, when he again tightened fuel rationing, thousands took to the streets in Brasov, Rumania's second-largest city. Even some among the Communist Party elite assayed tentative criticism. But the rioters were met with tanks, dogs and tear gas. Rumanians, beaten down by years of repression, have been mostly quiet since.

Quiet is just what others shouldn't be. Mr. Ceausescu has now headed off likely American trade sanctions—but only by ending Rumania's favored trade status himself. Other forms of leverage are needed too. Mr. Ceausescu's Stalin-style contempt for human rights, cultural legacies and foreign opinion have no place in today's Europe, East or West.

[From the Economist, July 2-8, 1988]

HUNGARY AND ROMANIA: WAR, ALMOST

In an earlier age, troops might have started moving into positions along the border, guns have been heaved into place, hospital trains been shunted into convenient sidings. Such is the level of bitterness between Hungary and Romania.

Their argument is over Romania's treatment of the 1.7m Hungarian inhabitants of its Transylvania region. Since both countries belong to the Warsaw pact, their armies move only when the Soviet Union says so. Indignant Hungarians have therefore had to content themselves with a large demonstration in Budapest on June 27th, including a march to the Romanian embassy. President Nicolae Ceausescu of Romania promptly accused Hungary's rulers of having supported this "chauvinistic, nationalistic, anti-Romanian and anti-socialist" action, and retaliated by closing the Hungarian consulate in Cluj, the chief city of Transylvania.

This new vehemence in an old quarrel has been caused by the Romanian government's plan to bulldoze more than 7,000 villages in Transylvania, to rehouse their inhabitants in tower blocks (not necessarily in the same area), and to put them to work in large "agro-industrial complexes". The government claims that the aim is better use of land and more efficient agriculture.

The Hungarians say that Romania has plenty of land and can find better ways to make farming more efficient. They say Mr. Ceausescu's real intention is to disperse Transylvania's Hungarian population. A charge of genocide was included among the slogans used by the demonstrators in Budapest: in their view, the Romanian plan means the destruction of the Hungarian presence in Transylvania (which was part of Hungary before 1918). The anger in Hungary has been further inflamed by the arrival of a large number of refugees from Romania, most of them from its Hungarian minority.

Unfortunately for Hungary, there is not much it can do to put pressure on Romania. The Romanians have relinquished most favoured-nation treatment for their trade with the United States, in the well-founded belief that the Americans would anyway soon stop thinking of Romania as deserving of favour. It has also paid off a large part of its foreign debt, so it is not particularly vulnerable to financial pressure. At the Vienna conference on European security and co-operation, part of the process started at Helsinki in 1975, the Hungarians have raised the plight of their minority in Romania as a human-rights issue. Romania retaliated by preventing the conference from adopting the agreement of all the 35 participating states.

Will Mr. Mikhail Gorbachev urge Mr. Ceausescu to call off his bulldozers? Probably not. The Soviet Union has less influence in Romania than any other East European country except Albania. Besides, Mr. Gorbachev has enough trouble trying to sort out his own Armenians and Azeris.

[From the Christian Science Monitor, June 27, 1988]

HUNGARIANS PROTEST ROMANIAN PLAN TO DESTROY VILLAGES

(By William Echikson)

PARIS.—As Soviet leader Mikhail Gorbachev prepares for his all-important party conference tomorrow, he may be distracted by a mounting dispute between two of his communist allies, Romania and Hungary.

A spectacular, unofficial, anti-Romania demonstration is scheduled for today in Budapest. Organizers expect tens of thousands of marchers to protest Romanian treatment of its ethnic Hungarian minority of 1.8 million.

Hungary's leaders probably will not intervene. They support the protesters' demands, if not their way of expressing them. Early this year, the Hungarian authorities began giving asylum to thousands of Hungarian refugees fleeing persecution in Romania.

Two new developments are behind today's planned demonstration.

First, refugees in Hungary have heard that Romanian police are intimidating their families, threatening them with the loss of their jobs in an effort to discourage others from emigrating.

Second, Romanian leader Nicolae Ceausescu unveiled plans last month to "modernize" 7,000 villages. Hungarian villages would be destroyed, Mr. Ceausescu announced, in order to increase the amount of arable land and "eliminate essential differences between villages and towns. "

"What a barbaric notion, calling it progress to destroy peoples' homes," complains Rev. Attilla Komlos, director of a refugee center for the Romanian refugees in Budapest. "When they bulldoze cemeteries and churches, they will bulldoze the entire Hungarian historical heritage."

Hungarian officials lodged a protest by letter about the Romanian village plan. Romanian authorities replied in a letter accusing the Hungarians of "deforming Romanian policies towards its minorities."

These vital fireworks must not be pleasing to Gorbachev, who is preoccupied with his own nationality problems in Armenia and the Baltic States.

Karoly Grosz, the Gorbachev disciple who became Hungary's leader last month, has proposed to visit Romania within two months in an effort to diffuse the situation.

Top-level Hungarian officials interviewed last month in Budapest were pessimistic about resolving the problem. They see little Romanian willingness to improve treatment of its Hungarians—and ironically blame Gorbachev for part of the problem.

"In the past, we could count on our Big Brother to impose a solution," one Hungarian diplomat said. "Now with glasnost (openness) and perestroika (restructuring), all the different socialist countries are on their own."

[From the New York Times, June 29, 1988]

HUNGARIANS MARCH TO PROTEST RUMANIAN PLAN

BUDAPEST, June 28.—Tens of thousands of Hungarians marched to the Rumanian Embassy on Monday to protest plans by President Nicolae Ceausescu to destroy more than half of the villages in Rumania, many populated by ethnic Hungarians.

The crowd was estimated by the official Hungarian news agency at 30,000 and by Westerners who watched it at about 50,000. It was by far the biggest unofficial demonstration in Hungary since the 1956 uprising against the Communist leadership, which was suppressed by Soviet troops.

"It is unprecedented," a Western diplomat said. "Never in Eastern Europe has one country been able to demonstrate against another member of the Warsaw Pact."

President Ceausescu announced his intention this year to level 8,000 of Romania's 13,000 villages and replace them with 500 large agricultural-industrial complexes.

TROUBLE IN TRANSYLVANIA

Many of the villages populated by ethnic Hungarians are in Transylvania, which belonged to Hungary before World War I.

Hungary announced it had formally complained to Rumania this month against the "unjustified measure," which it said was aimed at weakening the identity of national minorities. Rumania has denied that.

The march on Monday was preceded by a rally in Heroes' Square, where demonstrators waved banners bearing the names of threatened Rumanian villages and slogans including "S.O.S. Transylvania," "Europe Without Dictators" and "Adolf Ceausescu."

"Formally, Rumania is our ally—in practice, it is our enemy," a Hungarian playwright, Istvan Csurka, said in a speech read by an actor in the National Theater, Istvan Bubik. The speech accused the Rumanian leader of "cultural genocide."

Members of the crowd lit torches to march from the square along the wide May Day parade ground to the Rumanian Embassy, which was guarded by policemen in helmets and carrying riot shields.

WAITING AT THE EMBASSY DOOR

A delegation of organizers waited at the door for five minutes to deliver a memorandum calling on Rumania to fulfill human-rights obligations to minority groups that are guaranteed in various international forums. They were not allowed to deliver the memorandum.

The demonstrators then returned to Heroes' Square without incident for more speeches and songs, including a traditional Rumanian anthem.

Hungary's official press had hinted that a "foreign hand," apparently a reference to Rumania, had sought to discredit the demonstration by publishing leaflets calling for the return of Transylvania to Hungary.

"We don't want Rumania back," Mr. Csurka told journalists earlier. "We just want human rights for minorities in Rumania."

AN IRRECOVERABLE LOSS

Transylvania is the home of most of Rumania's ethnic-Hungarian minority, estimated by Rumania at 1.7 million and by Hungarians at up to 2.5 million.

Prime Minister Karoly Grosz of Hungary said at a meeting this month that liquidation of the villages would represent an "irrecoverable loss not only for Rumania and the Hungarian nationality, but for the whole of mankind."

More than 15,000 Rumanians have entered Hungary in the last two years to escape the Ceausescu regime.

[From the New York Times, May 29, 1988]

Hungary Assails Rumania on Village Razings

(By Henry Kamm)

Budapest, May 28.—Hungary has charged that a vast program in Rumania to consolidate villages is intended to erase the Hungarian heritage in areas of Transylvania that were severed from Hungary after World War I.

The Hungarian Foreign Ministry, which has not made a formal statement on the matter to the Rumanian Government, has given foreign reporters translations of articles from Hungary's Government-controlled press. The articles protest the program.

The articles charge that President Nicolae Ceasescu has decided to accelerate a program to reduce the number of villages in Rumania from 13,000 to 6,000 and to convert the land where the villages stood to agriculture. Rural populations are to be consolidated in small agricultural towns.

Western diplomats confirmed that Rumania has been consolidating villages on a small scale since the program was adopted in 1978. The fear now is that the project will be stepped up. Rumania acknowledges the program but denies that its intention is to decrease the rights of minorities.

Diplomats assume that the program is a personal project of Mr. Ceausescu, similar to his destruction of much of central Bucharest, Rumania's capital, to replace traditional homes and historic churches with a grand avenue. With one of the lowest population densities in Europe—90 people for each 247 acres—Rumania is not thought to suffer from a shortage of tillable land.

Hungarian newspapers said Mr. Ceausescu has ordered all the agricultural towns to be under way by 1995 and to be completed by the year 2000.

The Western diplomats agreed with Hungarian charges that the mass relocation of villagers would dilute the cultural identity of two major ethnic minorities in Rumania—Hungarians and Germans. Hungary says the number of ethnic Hungarians in Rumania exceeds 2 million, while Rumania puts the number at 1.7 million. There are 350,000 ethnic Germans. Rumania has a population of 23 million. Hungary's population is 10.5 million.

Villages in Transylvania, in northwest Rumania, have historically been distinctly Rumanian, Hungarian or German in character, with only small representations of the other ethnic groups. Hungarians fear that the consolidation of population will further diminish the number of schools and classes using the Hungarian language.

Magyar Ifjusag, the newspaper of Hungary's Communist Party youth organization, has accused Rumania of threatening to erase the Hungarian heritage. It lamented the expected loss of "the native villages of grandparents, the monuments, the cemeteries where tombstones speak the ancestral language, the churches, where psalms are sung in the Hungarian language."

Hungary admits Rumanians seeking asylum, 80 to 90 percent of them ethnic Hungarians. A Hungarian official said 4,000 Rumanians were registered as "temporary settlers" this year.

The Hungarian official said ethnic Germans and Rumanians among the refugees are quietly sent to Austria, marking the first time a Warsaw Pact country has helped citizens of a member nation go to the West.

The Hungarian press has reported that since last month, Rumanian minority-language publications have been forbidden to use minority place names. Most Transylvanian villages have three names—Rumanian, Hungarian and German—and only the Rumanian names are now permitted.

[From the Wall Street Journal (Europe), July 12, 1988]

Chronicling Oppression in Transylvania

(The unofficial Hungarian Democratic Forum issued earlier this year a "Summary Report on the Situation of the Hungarian Minority in Romania." Here are some of the main points:)

RESETTLEMENTS

To disperse Hungarians while making Romanians a majority in all areas, Moldavian and Wallachian Romanians have been moved into Transylvania towns since the 1910s. The process, often involving shifting factories and work forces, accelerated in 1948 and, radically, in 1975. Romanian intellectuals moving into Hungarian areas earn relocation allowances, while Hungarian university graduates are compelled to work in distant, pure-Romanian regions. To break the traditionally heavy minority concentration in some Transylvanian cities a numerus clausus was decreed to restrict minority presence in a work force to 10%. Some towns are designated as "closed to Hungarians."

Seeming concessions are often traps. In 1952 the Autonomous Hungarian Region, containing a third of Romania's Hungarians, was decreed. At the same time official use of Hungarian was banned outside the region. Eight years later, the area was redrawn to increase Romanian presence and renamed the Mures-Maghiar Autonomous Region, and after another eight years dissolved in favor of a new county system. The official language ban now was virtually universal. Earlier this year even the mention in a newspaper of the Hungarian name of a locality was forbidden.

POLITICS

Between 1949 and 1951, Stalinist-style show trials were used to disband the Hungarian People's Front. Minority presence in the party and in central and local administrative positions was progressively and drastically reduced. There are no ethnic Hungarian ministers and only three Hungarian deputy ministers. Karoly Kiraly, a Hungarian named to the Central Committee in the early 1970s, wrote a series of letters that were released to the 1977 Belgrade conference of the Helsinki process, expressing concern about the under-representation of minorities in the National Assembly. He was promptly arrested and sent into internal exile. What remains of the minority's political role are a shrinking number of lower-level officials, a network of agents and informers, and the collaborationist Hungarian Nationality Worker's Council, formed in 1968. It has no constitution, no local membership or bodies and conducts its infrequent meetings in Romanian. Its function is to disseminate the official nationalistic line in the name of Romanian Hungarians—as it has in the most recent disputes.

EDUCATION

In this critical area the strategy has been to consolidate Romanian and Hungarian schools and progressively eliminate Hungarian language instruction. Hungarian primary schools, essentially the only level remaining where teaching takes place in Hungarian, were merged with Romanian ones in 1956. In 1958 the last Csango-Hungarian school in Moldavia was shut, and in 1959 the Hungarian and Romanian Universities in Kolozsvar/Cluj were merged. In 1973 a decree stipulated that in "communities where education in the language of cohabiting minorities" is carried out, Romanian language classes must be organized independently of the number of pupils present. But for classes to be formed in the minority language, there must be at least 25 pupils at the primary level and 36 at the secondary level. Teacher appointments have been similarly discriminatory. In Hargita county, where as of 1982 still 86% of the pupils were attending Hungarian sections, out of 223 new-teacher appointments in 1985 only eight were Hungarian speakers and 191 teachers knowing no Hungarian were assigned to Hungarian sections.

As a result, between 1976 and 1986 the number of students taught in Hungarian shrank to 61,000, or 2% of the total, from 172,000, or 5.6%, in the primary level. The shrinkage was to 16,000, or 1.3%, from 26,000, or 3%, at the secondary level. At the university level, the proportion of Hungarians graduating in 1966 was 5.3%, compared with 9.1% for Romanians, 8.8% for the country as a whole. By the mid-1980s the proportion of Hungarians in higher-education institutions had withered to 2%.

CULTURE

Hungarian language newspapers, periodicals, school publications have been severely reduced in circulation or eliminated. The weekly Hungarian-language 2- to 2½-hour television program was ended in the mid-1980s and the seven-hour daily Hungarian radio programs on three stations have been cut to 30-minute propaganda-laden transmissions. Book publishing in Hungarian has been essentially centralized at Bucharest's Kriterion publisher from the 19 houses that published such works in the 1970s. There has been a sharp reduction in titles and copies, and restrictions placed on topics. Historical exhibits and archives, and churches' birth, baptismal, marriage and death records and other vestiges of minority heritage have been carted awary. Similarly, many historic churches, mansions, forts, sections of towns and architectural monuments have been bulldozed into oblivion. A once-renowned theater culture has been curtailed into near-extinction, and many theater professionals have joined writers, artists and other intellectuals in emigration.—Peter Keresztes

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[From the Newark (NJ) Star-Ledger, Apr. 21, 1988]

Hungary Walks Tightrope on Romania Refugees

Budapest, Hungary.—Every Friday, hundreds of refugees from Romania converge on a suburban church, seeking food, work, money or advice on how to rejoin loved ones they abandoned in a desperate escape for a better life.

They are among thousands who have become the first in history to flee one Soviet bloc nation for another. Hungary took the unprecedented step in January of refusing to send these people back to their homeland.

Most refugees are ethnic Hungarians from Transylvania, a region of mountains and forests disputed for centuries between Hungary and Romania and rules by Romania since 1918.

Hungary's decision to let the refugees stay has unleashed a charity effort unseen in Soviet bloc history. Budapest firms have offered at least 7,000 jobs. Clothing pours into churches and Red Cross offices, even from abroad.

As refugees sift through old clothes and wait for work or small cash handouts, many tell dramatic tales.

A young father who abandoned his child in Romania beseeches a Western reporter for help. He spends hours, he says, peering across the border from eastern Hungary and contemplating a mad dash to get his 18-month-old baby.

A teacher sobs as she realizes that her pupils will wait in vain for her to return from what was supposed to be a short trip to Hungary.

On Hungarian TV, a couple touch the nation with their account of fleeing from Romania by wading through marshes under cover of darkness.

Hungary claims that under Romanian President Nicolae Ceausescu, the culture of Transylvania's estimated 2 million Hungarians, Europe's lagest ethnic minority, is systematically being squeezed out of existence.

This alleged oppression and the hardships of day-to-day life in shortage-plagued Romania have pushed as may as 20,000 to use short visits to stay in Hungary.

A few hundred ethnic Romanians have also made the dash through Hungary's open door, driven by what they describe as extreme privation.

"For a family of four, I got 200 grams (7 ounces) of butter a month," said Cornel Rosca, an economist from Timisoara. "My dream in Romania was to eat a roast chicken, which I didn't have for nine months."

Ethnic Hungarians interviewed charged they were increasingly discriminated against in housing, jobs and education in the last few years.

The plight of the ethnic Hungarians has touched a nerve in Hungary, which is accused by Romania of whipping up sentiment over Transylvania in order to reclaim the region.

Budapest students tell of groups of women who marry ethnic Hungarians in Romania to get them out. Other youngsters journey to Romania with foodstuffs for relatives or acquaintances.

A fund set up in March to aid refugees amassed $24,000 in less than a month despite Hungary's economic crisis.

For ethnic Romanians it is harder to obtain the work and residence permits given to ethnic Hungarians to settle. Most of them want to move on to the West, seeing countries like visa-free Sweden as an initial goal.

Even if they have tickets, however, like engineers Maria Chiorean and Teodor Petrus, they find themselves stopped at the Hungarian border.

This shows Hungary's delicate position as a refugee for people from another Warsaw Pact nation. As dissident critic Sandor Szilagyi puts it, "It is unimaginable for the comrades that there exist refugees from a Socialist society."

His unofficial group helping refugees has urged that a United Nations' office be set up in Budapest to handle the refugees, organize emigration to the West and reunite parents with spouses and children still in Romania.

So far Hungary has rejected the idea of foreign aid and refugees officially even to use the word "refugee" to describe the new arrivals.

"The best solution would be for them to stay at home, even if they have temporary difficulties," said Interior Ministry official Laszlo Albrecht.

If more refugees do come, however, Hungary's policy may have to change, and the popular welcome may run out.

Hungary may also be forced to seek international help in reuniting an estimated 2,000 children with parents. The Hungarian Red Cross says it will write to its Romanian counterpart about the children this month.

But pastor Geza Nemeth, a main mover behind church aid for refugees, bluntly tells refugee parents who leave children behind to return to Romania.

"No pastor is going to help a mother who abandons her child," he said.

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1987

(Report, Committee on Foreign Affairs, House of Representatives, and Committee on Foreign Relations, U.S. Senate, by the Department of State)

ROMANIA

Romania is a highly centralized Communist state. The Constitution describes the Romanian Communist Party as "the leading political force in the whole of society." Nicolae Ceausescu, Secretary General of the party, is also President of the Republic, Chairman of the Council of State, and Chairman of the Romanian Defense Council. Through the Government, the party seeks to control every significant aspect of the country's life.

The Ministry of Internal Affairs administers the powerful Department of State Security, among whose major functions are providing security for the leadership and suppressing dissent and opposition of any kind.

Pursuing President Ceausescu's policy of repaying Romania's foreign debt obligations as soon as possible, the Government in 1987 continued to make drastic efforts to increase exports and reduce imports. A program of harsh austerity was enforced domestically, causing great hardship for the population. Shortages of food and consumer items were widespread and particularly severe during the winter months. Basic foodstuffs continued to be rationed but were frequently unavailable. Electricity was rationed, and stiff surcharges were assessed if usage exceeded prescribed limits, while cooking gas and heating facilities often ceased to function at all in many areas. Austerity on this scale, combined with wage reductions when industrial production targets are not met, appears to be causing serious damage to the physical and psychological health and welfare of the population.

The poor human rights picture in Romania in 1987 showed no improvement. Although the Constitution provides for freedom of speech, assembly, and the press, it states that these freedoms may not be used "against the Socialist order or the workers' interests." Vigorous use of these open-ended limitations by the authorities together with constant harassment by security forces have stifled formation of any opposition or dissident groups which might take issue with or question party policy.

Religious practice, although widespread and growing, is controlled and circumscribed by the enforcement of regulations governing the licensing of pastors, the importation and distribution of religious materials, and the granting of church building permits. The Government approved some applications, albeit after a lengthy and difficult process, for the construction of new churches or the renovation of old ones, while withholding approval in other cases. It also permitted, as promised, the delivery of 5,000 Cornilescu Bibles to the Baptist General Union.

Members of the Hungarian ethnic minority in Transylvania continued in 1987 to object to government policies designed, in their view, to promote the minority's assimilation. The Government countered that it does not discriminate against members of the Hungarian minority.

The Government permitted 16,543 Romanian citizens to emigrate to the United States, Israel, and the Federal Republic of Germany in 1987, an increase over the 15,222 who emigrated to these three countries in 1986. At the same time, Romania continued to be granted Most-Favored-Nation (MFN) tariff treatment for its exports to the United States under the terms of the Jackson-Vanik amendment (1974 Trade Act) which ties MFN to the country's performance on emigration. A special case was that of Ioan Ruta who, in the opinion of outside observers, was convicted unfairly of accepting bribes and imprisoned in 1986 after applying to emigrate. Released in July 1987, he was permitted to join his wife and daughter in the United States. The Government's October 1987 amnesty may benefit some persons imprisoned on political grounds.

On the whole, despite Romania's adherence to various international accords related to human rights, its human rights abuses remained pervasive.

Respect for human rights

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Political killing

There were no subtantiated claims of political killings during 1987. However, allegations continue to be made that prisoners are mistreated, sometimes to the point of causing their death.

b. Disappearance

There have been some unconfirmed reports of politically motivated disappearances. Family and friends of persons arrested on political charges are frequently left unaware of their arrest, their circumstances, and their location for long periods of time.

c. Torture and other cruel, inhuman, or degrading treatment or punishment

There were numerous reports that persons are mistreated while in Romanian prisons or police custody and that police authorities act brutally to obtain information. Romanian authorities also use physical and mental degradation to intimidate those caught or suspected of wrongdoing. Persons detained for questioning are often held incommunicado and kept for long periods without sleep, food, or access to toilet facilities. Those caught attempting to leave the country illegally, for example, are reportedly subject to physical and mental harrassment, often prior to being given only relatively light sentences if they are first offenders. Reliable witnesses also report incidents in which police administered severe beatings to persons being arrested for minor infractions.

The most common complaints about mistreatment cite long periods of isolation, excessive use of force by guards, cells which are badly ventilated and poorly heated, bad food in small quantities, difficult working conditions, and segregation of prisoners deemed "dangerous to the State" because of their religious beliefs or for other reasons.

Political prisoners who do not cooperate with their jailers reportedly are treated with great cruelty. They are generally kept apart from other offenders and restricted to their cells. Prison guards are said to engage in abusive behavior and allow, and in some cases even encourage, favored prisoners to punish those less favored. While most political prisoners are reportedly kept in local jails and released when authorities believe their behavior has been corrected, those who are not cooperative are kept for longer periods of time.

Amnesty International reported ("Romania—Human Rights Violations in the Eighties," July 1987) that there has been a decline in the abuse of psychiatric treatment as a form of punishment in recent years. Other sources, however, note that the practice continues, in particular through administration of drugs to prisoners. Some prisoners claim that they have been denied needed medical treatment; the evidence suggests that medical care in prisons is poor at best.

d. Arbitrary arrest, detention, exile, or forced labor

Romanian law provides for either a judge or a prosecutor to issue an arrest warrant. Once arrested, a person may be held without trial for up to 1 month before a hearing, but the prosecutor may obtain an extension for an additional 3 months. After this, the court may order further extensions in 30-day increments. There is no limit set by law on the cumulative length of time a person may be held prior to trial. There is no provision for bail.

The law also provides for preventive detention. Persons detained for investigation often are held incommunicado. They are detained for varying periods of time, usually a matter of hours, and then released without charge. Such arbitrary detention may be repeated several times, and subjects may be called back for additional lengthy interrogation and threatened with further harassment or punishment. This treatment is particularly common for religious activists. Among those detained in December were Radu Filipescu and Doina Cornea, reportedly for having spoken out concerning the state of human rights in Romania on a French television program.

Romanian citizens are required to perform involuntary labor, but for the most part this seems to fall within the area of "civic obligations." For example, a 1971 law, amended in 1985, required up to 6 days' unpaid labor per year from each citizen, although an additional tax may be substituted for labor. Some men have reportedly been called up to work in undesirable industrial or agricultural jobs for periods of from 4 to 6 months, apparently in connection with each male citizen's duty to serve in the military and remain in the reserves.

e. Denial of fair public trial

Most trials are held in public, though secret trials are common where state security is involved and may also be permitted in certain other cases. The law states that a trial may be held in secret if a public trial would be contrary to the interests of the State, Socialist morals, or the dignity of the individual. Some former prisoners have reported they were tried in secret by military courts on essentially political charges.

The ability of an accused individual to defend himself effectively can be severely limited, especially in politically sensitive cases. Acquittals in such cases are extremely rare. Defendants are often represented by state-appointed attorneys whose role appears to be that of apologizing for defendants' offenses. The law requires in most cases that a defendant be represented by counsel, although some sources claim that defendants do not always have an opportunity to consult with their attorneys before trial. The court may appoint an attorney to represent a defendant. The defendant has the right, in theory, to choose another attorney, but in practice this right is severely restricted. When defendants pursue their right to appeal, they sometimes receive longer prison terms from the higher courts, thus discouraging defendants from exercising this right. In the past, Western observers have also reported clear cases of subordinating and intimidating witnesses by prosecuting attorneys, although no such cases were reported in 1987.

In 1987 one case reflecting apparent abuse of the right to a fair trial was that of Victor Opris. Opris, a Pentecostal pastor from Satu Mare, was initially imprisoned in 1985 on charges of bribery after he allegedly assisted four members of his congregation who were attempting to leave the country illegally. Sentenced to 5 years' imprisonment, Opris benefited from the June 1986 amnesty and was released from prison. However, in January 1987, he was retried on the same charge, reportedly by a military court, and was sentenced to 9 years' imprisonment. His case has been appealed to the Supreme Court. Many who are familiar with the case maintain that Opris was retried and given a harsh sentence because he was a popular, active pastor, suspected by the Government of involvement in smuggling Bibles and other unauthorized activities.

A number of Romanian criminal laws are open-ended enough to insure that persons coming under official scrutiny may be charged with some offense. Examples of typical charges are "defaming the Socialist order" for speaking frankly to a foreigner; "disturbing the peace" or "illegal" assembly for private prayer meetings in the home; "social parasitism" if unemployed but technically guilty of no other offense; or "distributing literature without a license"—a felony—if caught attempting to transport or hand out free Bibles. Although a June 1986 presidential decree, which granted amnesty for certain offenses to most Romanians sentenced to prison terms of less than 5 years, freed a number of persons imprisoned on relatively minor charges related to their religious activities, some of those released have reportedly been retried and again imprisoned.

It is impossible to estimate accurately the number of political prisoners in Romania. Some former prisoners have estimated the number at several hundred. If the estimate includes those tried with apparent political motivation for common crimes and those convicted of attempting to leave the country illegally, the number could be several thousand.

On October 26, 1987, a new amnesty was announced, in honor of the 40th anniversary of the proclamation of the Republic. Those sentenced to less than 3 years' imprisonment, or a fine, were amnestied, and those sentenced to up to 5 years had their sentence remitted. Other sentences were shortened. Certain categories of violent and economic crimes were excluded, such as deadly assault, robbery, influence peddling, and giving or receiving bribes. It is not yet clear how many prisoners may be affected by this amnesty, or if it will affect people who could be considered "political prisoners."

f. Arbitrary interference with privacy, family, home, or correspondence

Romanian laws and regulations governing the security apparatus sanction a high degree of interference with the individual and the family. The interference is somewhat mitigated by the limitations on the resources of state security forces, by uneven application of regulations, and by official corruption.

Deliberate and arbitrary interference with the privacy of the family, home, and correspondence is a frequent occurrence. Searches are made of private homes, persons, and personal effects without search warrants or probable cause that a crime may have been committed. The authorities occasionally enter homes on the pretext of looking for building code violations, excessive consumption of electricity, illegal use of electrical appliances, etc. These searches facilitate the discovery of other items, such as forbidden books and publications, religious materials, or any other evidence of "wrongdoing." Militiamen at checkpoints located on most roads leading out of the cities and at major highway intersections in the countryside randomly stop and search vehicles as a matter of course.

Violation of privacy of the person also arises from the antiabortion campaign. Regular pregnancy tests and physical examinations are mandatory every 2 months for many female workers in order to insure that pregnancies are discovered and carried to term.

Complaints about interference with both domestic and international correspondence continue. Letters to or from persons of interest to the authorities often never arrive at their destination. People have reportedly been questioned by the security police about topics discussed in letters which were delivered seemingly unopened. On other occasions, people have been questioned about statements made in letters sent abroad but never received by the addressees.

The Government has the capability to monitor domestic and international telephone calls and appears to do so frequently.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of speech and press

These freedoms are severely restricted. Public expression of viewpoints at variance with official policy is almost always severely punished. While the Constitution provides for freedom of speech and press, it prohibits their use for any purpose "hostile to the Socialist system and the interests of the working people," as defined by the State and party. Similarly, the penal code prohibits "propaganda with a Fascist (as defined by the State) character delivered in public by any means . . . (or) . . . the undertaking of any action for the changing of the Socialist system. . . ." It also prohibits acts "which would result in a danger to state security." These offenses are punishable by prison terms of up to 15 years.

The Government seeks to control the domestic dissemination of information in a variety of ways. Although official consorship was abolished some years ago, all media are state owned, rigidly controlled, and used primarily as vehicles for government and party propaganda. Publications from the West or from other Communist countries are not generally available, although foreign cultural centers and libraries are open to the public and are allowed to distribute limited quantities of Western periodicals with government approval. The unauthorized importation or distribution of foreign publications is forbidden. In 1987 there were frequent reports of confiscations of foreign-source materials, especially religious materials, at the border. Tourists from the West regularly report that customs officials have confiscated video and audio cassettes. Romanian libraries carefully control access to "restricted" materials such as prewar historical texts. For live theater, offical boards must approve all new productions before the opening performance. Serial numbers and type-face samples of all typewriters must be registered with the authorities, and the use of duplicating machines is strictly regulated. On the positive side, Western radio broadcasts in the Romanian language are not jammed and are a major source of both foreign and domestic news for the Romanian people.

b. Freedom of peaceful assembly and association

The Government attempts to control all group activity. No organization independent of government or party influence is permitted to exist. Peaceful assembly and association without permission are usually shortlived and may bring severe penalties to those involved. Citizens are required to obtain permission in advance to attend functions held by non-Romanians. Secret decrees promulgated late in 1985 (never offically published and often not obeyed) further discourage contacts with foreigners and strengthen the requirement that all such contacts be reported to the authorities within 24 hours. In particular, Romanian writers, scientists, and professionals are reportedly forbidden to speak with their foreign counterparts without government permission.

The Constitution stipulates the right to join a union. As noted earlier, however, it also enshrines the Communist party as "the leading political force in the whole of society," which applies with respect to unions and other "mass and public organizations." Trade unions independent of the party are thus prohibited, and workers do not have the right to form their own associations, elect representatives, or affiliate with international organizations except through the official unions.

Workers do not have the right to organize or bargain collectively. While they nominally have a direct voice in the management of the workplace through the unions that all must join, in most factories the union's chief executive is also the senior party official, and a primary function of the unions is to channel party doctrine and directives to the workers. Unions also dispense social benefits, such as vacations at union-owned hotels (for which the member pays only a fraction of the real cost), low-interest loans, and access to cultural, educational, and other leisure activities.

Romania's labor code is silent on the right to strike, except to elaborate procedures by which the union leadership is required to mediate disputes between the workers and management, with recourse to the courts when the dispute cannot be settled. In practice, sanctions available to the party and the union make it unlikely that such disputes will reach the courts. In the past, the Government's reaction to actual strikes, or to advocacy of the worker'ge right to strike, has been harsh repression.

Brutal suppression of miners' strikes in the late 1970's led to an investigation by the International Labor Organization (ILO). Inadequate responses, failure to respond further to charges, and refusal to accept a direct-contract mission led the ILO to find Romania substantially in violation of generally accepted labor standards.

In 1987 Romania lost its eligibility for the U.S. Generalized System of Preferences (GSP) tariff treatment after the U.S. Government found under the standards of revised legislation that Romania was not taking steps to afford its workers internationally recognized workers' rights.

The institution of unrealistic production and sales quotas and penalties in the form of salary deductions for failure to meet them has increased worker dissatisfaction. In November several thousand people, led by industrial workers in Brasov, demonstrated in the main square in protest against sharp pay cuts as a result of production shortfalls and stiff new restrictions on the use of gas and electricity. With frustrations high because of the harsh austerities enforced by the Government, the demonstration turned violent. Scores of workers were reportedly detained after the demonstrators were dispersed. More minor incidents were reported in other Romanian cities.

c. Freedom of religion

The Constitution provides for freedom of conscience, and the penal code prescribes a penalty of up to 6 months' imprisonment or a fine for anyone who impedes or disrupts any recognized religious sect. However, the Communist Party officially promotes atheism, and the Government exercises broad control over religious practice. Although many Romanians fear that open exercise of their beliefs would inhibit chances of social or professional advancement, religious practice remains very active throughout the country and at all levels of society. There are 14 recognized religions, of which by far the largest is the Romanian Orthodox Church, to which about 80 percent of the population belongs. The Government subsidizes clerical salaries (which some denominations do not accept), issues licenses to preach, controls permits for church construction or renovation, severely limits the number of new admissions to seminaries, and controls the importation and printing of religious materials, including Bibles. These powers are often used arbitrarily, especially against groups that arouse official concern.

Government restrictions are applied more severely to groups whose beliefs, in the Government's view, inspire "antisocial" or "antigovernment" behavior. Several of these are unrecognized religious groups, such as the Nazarenes and Jehovah's Witnesses. In 1987, however, there were no reports of significant restrictions on meetings held by these groups. But local and national newspapers carried articles criticizing these groups and alleging that, outside Romania, some of these sects are involved in intelligence-gathering for foreign intelligence agencies or in drug trafficking.

The Government does not recognize the Uniate Church, also known as the Catholic Church of the Byzantine Rite. This branch of the Catholic Church was outlawed in 1948, and many of its leaders were imprisoned. Despite its unrecognized status, there remain adherents to this faith throughout the country. The Government also has taken active measures to suppress a revival movement within the Romanian Orthodox Church known as "The Lord's Army." Members of this group often meet in small gatherings for prayer and Bible study, and they report being fined for holding illegal assemblies. They also report being subject to other harassment, such as loss of jobs or surveillance.

The Government remains in disagreement with the Roman Catholic Church, most of whose members are ethnic Hungarians, on a number of issues, and the church technically remains without a government-approved charter. However, the church enjoys de facto recognition and operates as if it were fully recognized.

The rapid growth of evangelical denominations has led to pressures for more religious training, more printing of religious materials, and the expansion and construction of more churches. Conflicts between evangelical groups and the authorities have arisen frequently, and the Government's response has at times been harsh. Activists who are vocal are kept under surveillance and often are subject to loss of jobs and social benefits, police intimidation or arrest, and in some cases beatings. In December, Nelu Prodan, a Baptist lawyer who had defended those accused of illegally distributing Bibles and had helped church groups obtain building permits or avoid demolition of their churches, was arrested and held for about 2 weeks before being released. He remains under threat of being charged with accepting bribes. Prodan and his wife had been repeatedly warned by officials to stop involving themselves in the legal problems of church members.

The 1986 amnesty led to the release of a number of religious activists from prison, and some of them have been allowed to emigrate. Others, like Victor Opris, however, reportedly have been retried and imprisoned again. Still others, like Ilie Neamtu, an elder of the Ploiciesti Evangelical Brethren Church, are still awaiting permission to emigrate.

Five thousand Protestant Bibles were printed for the Baptist General Union, the first such printing since 1921. Negotiations have begun regarding another printing. The shortage of religious materials overall has led some Romanians to risk severe penalties for smuggling Bibles and other religious literature.

Many religious denominations are able to publish a newspaper or newsletter on a regular basis. They are also permitted from time to time to publish other religious materials, although usually in small quantities.

All religious groups continue to be concerned over issues of maintenance, repair, and construction of church buildings. Extensive urban renewal projects undertaken in Bucharest and other cities, have resulted in demolition of a number of churches of various faiths. Several noted Romanian Orthodox churches in Bucharest of historic and cultural significance were demolished, including Sfintu Vineri and the 18th century Sfintu Spiridon. Members of the congregations and other citizens protested these actions.

The Government has often been slow to approve the purchase or construction of replacement buildings for the affected congregations. A large Seventh-Day Adventist congregation in Bucharest, whose church was demolished in August 1986, has still not received approval for a new site and has had to meet in a temporary, tent-like structure inadequate to its needs. The Government claims the church leaders have not yet proposed a suitable new site, although in fact over a dozen suitable alternatives have been proposed. The Government's Department of Religious Affairs gave oral approval for one site in April but has not followed through on its commitment.

The country's largest Baptist church, in Oradea, was not demolished, as had earlier been threatened, but approval previously granted for construction of a new church on land purchased by the congregation was revoked, leaving the several-thousand-member congregation in an overcrowded building with a decaying foundation.

Any repair or addition to a church building requires a building permit approved by both the local city council and the Government's Department of Religious Affairs. Church members state there are unreasonable delays in obtaining these approvals. A church may be demolished, or the congregation fined large sums, for infractions of the building codes. In past years, churches of various denominations have been demolished or threatened with demolition under these regulations.

Reconstruction of the Baptist church in Bistrita was started. The authorities did not proceed with demolitions begun or approved in the cases of the Pentacostal church in Bistrita or the Baptist church in Hlipiceni, thus giving the congregations time to negotiate a more moderate solution. A Baptist congregation in Timisoara was given permission to purchase a new and larger replacement for its current church, and a new Baptist church to serve ethnic Hungarian members opened in Tirgu Mures. Another Baptist church, in Baia Mare, underwent significant renovation and enlargement. The congregation of a Hungarian Reformed church in Oradea, which had faced destruction as a result of urban renewal, was allowed to "trade" its old building for a new and larger one.

Seminary admissions remain extremely limited. In 1987 the Baptists were allowed only four new students. Admissions for the Seventh-Day Adventists and Pentecostals are similarly restricted. By comparison, the Baptists were permitted an average of 40 per year in the late 1970's. Their current needs are estimated at over 100 new seminarians each year.

There is an active Jewish community organization which provides religious education to its members and enjoys relatively unrestricted freedom of emigration. Jewish leaders also continue to be able to travel freely outside Romania. Jewish leaders emphasize that, due to the level of emigration to Israel permitted by the Romanian Government, their numbers are declining, and they are permitted to maintain enough synagogues to meet their needs.

Leaders of religious denominations generally receive permission to travel abroad on official business without difficulty, and most visitors to Romanian churches in 1987 were able to travel around the country without interference.

d. Freedom of movement within the country, foreign travel, emigration, and repatriation

Except for certain very limited military or other restricted areas (access prohibited) and border areas (access limited to residents of the areas and those with economic need to travel there), there are no official restrictions placed on travel within Romania. Most foreigners, including Western diplomats, are permitted to travel freely but often are kept under surveillance.

The right of a citizen to change his place of residence is restricted. All citizens are required to have residence permits and may not legally move from one town to another, or between districts within a city, without official permission. Implementation of residence permit regulations and antiunemployment laws has had the effect of diluting the ethnic mixture of the population in parts of the country with a heavy concentration of ethnic minorities, especially Hungarians. Workers are technically free to change jobs, although antiunemployment laws and governmental controls limit this freedom in practice.

Travel outside Romania is treated as a privilege, frequently arbitrarily withheld, even for those who can "guarantee" their return by leaving a close family member behind. Older persons wishing to visit their children resident abroad generally have few problems.

In principle, the Government continues to oppose emigration for any purpose but family reunification and seeks to discourage those wishing to emigrate. The waiting period for Romanian emigration approval is still long: successful applications generally take between 1 and 5 years. The authorities sometimes refuse arbitrarily to accept emigration applications from some Romanians. However, the Government has permitted significant numbers of citizens to emigrate to the United States, Israel, and the Federal Republic of Germany. In 1987 emigration from Romania to these three countries increased to 16,543, as compared to 15,222 in 1986.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Though the Constitution assures the right of Romanians to change their government and leaders, in practice the individual citizen has virtually no voice in shaping public policy or choosing public officials. The Romanian Communist Party, led by the President and a few advisers, rules the country. No actual or potential alternatives to this present rigidly centralized control are apparent, and no meaningful opposition exists or would be tolerated. Public criticism of the President, the Government, the party, and the state leadership is forcefully suppressed.

The Communist Party comprises about 13.5 percent of the total population of the country. Women officially represent 52 percent of the general membership, and minorities are reportedly represented in proportion to their numbers within the general population but they are underrepresented at the middle and higher levels.

National parliamentary elections by secret ballot are held every 5 years. For about 60 percent of the positions, there are two candidates, both of whom are chosen by the Front for Democracy and Social Unity, a large organization whose president is Nicolae Ceausescu. Over 75 percent of its officers are members of the Communist Party's Central Committee. The Parliament approves the President's decisions by unanimous vote.

In Romania, the chief party executive for each city, county, or enterprise is also the chief civil executive. Internal party elections were held for the new Communist Party leadership late in 1984. Though these preceded the national general election by several months, those chosen for senior party posts the previous fall were universally "elected" to the corresponding government or enterprise posts the following spring.

In November, elections for city councils were held throughout the country; 80 percent of the seats being sought were contested by two or more candidates. However, actual differences on policy among the candidates were negligible.

In 1987 there was at least one attempt to revive one of Romania's historical political parties. A former leader of the outlawed National Peasant Party, Ion Puiu, wrote to President Ceausescu and to Western media, urging that the National Peasant Party be allowed to reemerge as a loyal and democratic opposition to the Communist Party. Puiu has been arrested twice within the past year, most recently immediately before the visit of Soviet General Secretary Mikhail Gorbachev in May. The purpose of his arrest was reportedly to prevent him from communicating with the Soviet leader. Puiu was released after about 1 month, but he has been prevented from contacting foreigners since then.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no human rights monitoring organizations operating in Romania. The Government has not commented officially on reports issued by governmental or nongovernmental organizations such as the Council of Europe, Amnesty International, or Freedom House, all of which have been critical. Romania continues officially to proclaim that discussion and examination of its human rights situation is "unwarranted interference in domestic affairs," despite its professed support for human rights standards embodied in the United Nations Charter and the Final Act of the Conference on Security and Cooperation in Europe (CSCE). At the same time, discussion of human rights issues is a regular feature of diplomatic exchanges between the U.S. and Romanian Governments. In August Romania received a delegation from the U.S. Congress' CSCE Commission, which was invited to certain areas with high concentrations of ethnic minorities and which met with national and local officials, as well as with individuals concerned with human rights issues.

Section 5. Discrimination Based on Race, Sex, Religion, Language, or Social Status

According to official figures, about 12 percent of the country's population of nearly 23 million are members of ethnic minorities, including Hungarians, Germans, Gypsies (Csangos), and many smaller groups. These total about 2.7 million, with Hungarians, according to the Government, comprising the largest group at 1.7 million. The Government takes its figures from a 1977 census based on self-declaration. Various Hungarian sources claim that the true figure for the Hungarian minority is actually between 2 and 2½ million.

Most minority groups are concentrated in Transylvania, the central and northwestern part of Romania. In recent years, opportunities for minorities to have periodicals, theaters, and schools in their native language have been eroding. The ability of members of the minority groups to visit friends and relatives in nearby countries is limited. Minority groups protest that government controls and restrictions constitute discrimination. Many observers maintain that the Government is pursuing a program of "Romanianization" in order gradually to absorb the minority groups into one unified Romanian culture, although the Government denies this.

While the economic situation of the Hungarian minority in Romania is difficult, especially by comparison with that of Hungarians in Hungary, a pattern of economic discrimination against ethnic Hungarians as a group is not evident.

There are no longer any television or radio broadcasts in the Hungarian language. Most Hungarian-language theaters now have Romanian-language sections, and some ethnic Hungarians claim that Romanian eventually will replace Hungarian completely.

In the field of education, primary schooling remains available in Hungarian and German, and even in the native language of tiny minorities, such as the Czechs in western Romania, although opportunities are shrinking. The number of ethnic Hungarian children being educated in the Hungarian language has declined significantly. Several German-language high schools still operate, although declining enrollment due to emigration may soon compel a change in their language of instruction. Several sources indicate that Hungarian-language sections in Romanian high schools have largely replaced entirely Hungarian-language high schools. Students can no longer take university entrance examinations in minority languages, except in a few faculties, and the opportunities for university study in Hungarian have also gradually decreased. Babes-Bolyai University in Cluj, formerly a Hungarian-language institution, has increased its intake of ethnic Romanian students over the years and made Romanian the language of instruction in most subjects.

Members of the Hungarian minority claim that the Government uses its controls over residence permits, employment, and study opportunities to dilute the concentration of the Hungarian population in its traditional centers. The Government maintains that demographic changes in Transylvania are natural and result in part from increased industrialization which has drawn ethnic Romanian workers into urban areas formerly inhabited predominantly by ethnic Hungarians.

The Government recently released from prison several ethnic Hungarians, including Erno Borbely, Laszlo Buzas, and Bela Pal, who were reportedly imprisoned for promoting minority rights. On the other hand, the authorities in 1987 prevented foreign diplomats from making any contact with Karoly Kiraly, a former senior party official and leading defender of Hungarian minority rights.

Women are constitutionally accorded the same rights and privileges as men. The Government seeks to upgrade the role of women in society with specific policies in the areas of education, access to employment, and comparable wages. As a result, women are employed in virtually all sectors of the economy, and there is equal opportunity in education, but at the senior levels of responsibility and authority, they appear in far smaller numbers. The higher ranks of the party are occupied predominantly by male Romanians.

Conditions of labor

The Constitution stipulates the right to work. Unemployment is a crime ("social parasitism"). The Government closely controls the labor market, sets the wage rates for different occupations, and claims that there is no unemployment. A number of sources note, however, that economic dislocations and shifts may require transferring workers from one factory or region to another, with attendant long periods of inactivity among large numbers of workers.

The Constitution provides for an 8-hour workday (or a 6-hour day for arduous occupations), a 24-hour rest period each week, paid vacations, and the "right to leisure." Labor law elaborates these promises but allows employers to override them "if conditions warrant." In 1987 there were widespread reports of workers required to perform extra, uncompensated labor to make up for lagging production or for official holidays. During two important national holidays (May 1-2 and August 23-24), many were required to report to work as factories and stores were kept open. Workers also reported that wages and salaries were cut when an enterprise failed to meet its production quota, even though production shortfalls were often due to the lack of raw materials or insufficient electrical energy.

There is no specific minimum employment age, although Romanian law requires schooling to the age of 16. Exceptions, however, are allowed for youths 14 years of age in temporary jobs and for youths of 15 employed in industrial work, so long as the employer provides continuing educational opportunities and shows that the work being performed is "appropriate for the age and condition" of the employee. In such cases, the law limits work to 6 hours per day. Children from age 11 may work in the fields or in other "patriotic work," usually as part of a school or other group activity.

The labor code ensures Romanian workers a safe environment. The Ministry of Labor has established safety standards for most industries and is responsible for enforcing these standards. In practice, however, observers report that conditions in many factories present substantial health and safety hazards. Although management is reportedly aware of these deficiencies in most cases, government emphasis on meeting production goals clearly takes precedence over safety and health factors in light of the party leadership's insistence on rapidly paying off the foreign debt and on pursuing industrial and economic development at all cost.●

● Mr. PRESSLER. Mr. President, as an original cosponsor of the resolution condemning the Government of Romania for its abuse of human rights, I would like to offer a few comments pertaining to this serious problem.

For several years Romania has played a game with the United States in order to retain continued most-favored-nation [MFN] trade status with our Nation. Congress finally saw through that game and will refuse to play it any longer. Romania's reputation as liberal on emigration policies is questioned now as never before.

One must inquire why so many Romanians, especially those of minority ethnic background, are so eager to leave Romania. The resolution clearly states the facts in this regard:

First, Jews and other Romanians are denied the right of free emigration;

Second, millions of ethnic minority peoples are denied the opportunity to have their children educated in their native languages;

Third, the Government of Romania systematically interferes with the freedom of religion; and

Fourth, the Romanian Government is now embarking on a massive agricultural collectivization program that will result in the destruction of thousands of villages.

It is clear from these facts, Mr. President, that the Romanian Government is engaged in nothing less than a wholesale assault on the traditional way of life of ethnic Romanians and Romanians of Hungarian, German, Saxon, Croatian, Serbian, Ukrainian, and other ethnic origins.

I join the distinguished cosponsors of this resolution in urging the Senate to approve it quickly. It is an appropriate expression of American respect for human rights, and it is timely. As we speak, preparations are moving forward for the destruction of 7,000 traditional villages in Romania. Millions of people will be affected. They are being forced by the muscle of Romanian state power to march lockstep into a new Communist order they do not wish to accept. The least we should do is to pass this resolution promptly so that they and Romanian authorities will know of our outrage and condemnation.●

● Mr. DeCONCINI. Mr. President, I am proud to be a cosponsor of the resolution condemning the human rights situation in Romania which my colleague from New Jersey has introduced today. This resolution illustrates our deep concern over Romania's serious rights violations.

Whether or not Romania enjoys most-favored-nation status—which it does not, at present—we have an obligation to pay close attention to the state of human rights in that country. As a signatory to the Helsinki Final Act, Romania pledged to uphold the rights and fundamental freedoms of its citizens. Yet many of the Romanian regime's policies impinge directly on its citizens' exercise of their rights.

Cultural rights face a graved threat in Romania today. President Ceausescu repeatedly has voiced his intention to drastically accelerate the village consolidation plan first formulated in 1974. The plan would result in the destruction of 7,000 to 8,000 villages in Romania. Up to 10 million people could be forced to leave their communities and be merged, against their will, into large agro-industrial complexes.

President Ceausescu thinks there are economic and social benefits to his plan. He notes that the provision of social services—education, health care—could be more effective in large settlements. But he does not take account of the upheaval he will be creating, tearing people away from their homes, their neighborhoods, their heritages. The human tragedy would be far greater than any economic benefit from the plan.

Understandably, ethnic Hungarians living in Romania fear that the plan constitutes yet another assault on their national identity. Their opportunities for Hungarian-language education and publishing could be further curtailed if they are forced to live in mixed communities. Removed from their ancestral homes, they would lose a vital tie with their heritage.

But Hungarians are not the only citizens who would suffer if this plan proceeds. Ethnic Romanians, Germans, and members of other minority groups would be severed from their centuries-long village life. The villages have been the repositories for three vibrant cultures; now they are slated for destruction.

I urge my colleagues to join the Senator from New Jersey in registering our concern over the Romanian village consolidation plan. A cultural loss of such a scale would indeed be a loss to us all.●

AMENDMENTS SUBMITTED

REGIONAL ECONOMIC DEVELOPMENT AND RECOVERY PROGRAM FOR CENTRAL AMERICA

SANFORD AMENDMENT NO. 2807

Mr. SANFORD proposed an amendment to the concurrent resolution (S. Con. Res. 63) expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America; as follows:

On page 3, line 1, after the words "Honduras," add the words "Belize,".

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1989

BRADLEY (AND OTHERS) AMENDMENT NO. 2808

Mr. BRADLEY (for himself, Mr. Evans, Mr. Exon, Mr. Glenn, Mrs. Kassebaum, Mr. Lautenberg, Mr. Lugar, Mr. McCain, Mr. Murkowski, Mr. Nickles, Mr. Nunn, Mr. Quayle, Mr. Rockefeller, Mr. Sanford, Mr. Kerry, Mr. Symms, and Mr. Wallop) proposed an amendment to the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; as follows:

On page 112, strike out lines 6 through 11.

WALLOP (AND OTHERS) AMENDMENT NO. 2809

Mr. WALLOP (for himself, Mr. Simpson, Mr. Wilson, Mr. Heflin, Mr. Dole, Mr. Garn, Mr. Kasten, Mr. Armstrong, Mr. McClure, Mr. Quayle, Mr. McCain, and Mr. Bond) proposed an amendment to the bill (H.R. 4781), supra; as follows:

On page 35, line 13, strike "$14,588,332,000" and insert "$14,448,332,000".

On page 36, line 3, strike "$200,000,000" and insert "$100,000,000".

On page 36, line 15, strike "$8,423,698,000" and insert "$8,523,698,000".

On page 39, line 5, strike "Provided further, That of the amounts available for obligation, an additional $400,000,000 shall be transferred to the National Aeronautics and Space Administration:".

JOHNSTON AMENDMENT NO. 2810

Mr. JOHNSTON proposed an amendment to the bill (H.R. 4781), supra; as follows:

At the appropriate place in the bill insert the following new section:

Sec. . The amount appropriated under the heading, "Research, Development, Test and Evaluation, Air Force," is hereby reduced by $200,000,000; the amount appropriated under the heading, "Research, Development, Test and Evaluation, Defense Agencies," is hereby reduced by $300,000,000: *Provided*, That the $200,000,000 transfer specified to the National Aeronautics and Space Administration from "Research, Development, Test, and Evaluation, Air Force" shall not occur and that $100,000,000 shall be transferred to the National Aeronautics and Space Administration from "Research, Development, Test, and Evaluation, Defense Agencies" in lieu of the $400,000,000 provided for elsewhere in this Act: *Provided further*, That in addition to funding provided elsewhere in this Act, the specified amounts for the following programs are appropriated to be transferred and merged with the appropriate appropriation accounts: Bradley Fighting Vehicle System procurement, $67,000,000; Multiple Launch Rocket System procurement, $37,000,000; SEMATECH research and development, $55,000,000; National Training Center operations, $50,000,000; Naval aviation depot maintenance, $62,000,000; research and development construction related activities of the Army, Navy and Air Force, $126,000,000; Space Recovery Program research and development, $50,000,000; Marine Corps operations, $25,000,000; Aegis IFF system research and development, $9,000,000; SLQ-32 upgrade procurement, $9,000,000; and Joint Standoff Weapons Program research and development, $10,000,000.

WARNER (AND OTHERS) AMENDMENT NO. 2811

(Ordered to lie on the table.)

Mr. WARNER (for himself, Mr. Dole, Mr. Cohen, Mr. Wilson, and Mr. Thurmond) submitted an amendment intended to be proposed by them to the bill (H.R. 4781), supra; as follows:

At an appropriate place in the bill, insert the following new section:

Sec. . Military Pay Raise For Fiscal Year 1989.—

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(b) Increase in Basic Pay and BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.

(c) Increase in BAQ.—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

(d) Increase in Cadet and Midshipman Pay.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525".

WARNER (AND THURMOND) AMENDMENT NO. 2812

Mr. WARNER (for himself and Mr. Thurmond) proposed an amendment to the bill (H.R. 4781), supra; as follows:

At an appropriate place in the bill, insert the following new section:

"SEC. . SENSE OF THE SENATE REGARDING THE NEED TO ENACT LEGISLATION AUTHORIZING A MILITARY PAY RAISE FOR FISCAL YEAR 1989.

It is the sense of the Senate that the Congress should expeditiously pass legislation authorizing a pay raise for all members of the uniformed services effective on January 1, 1989, which would increase the rates of pay by 4.1 percent for basic pay and for basic allowance for subsistence and by 7.0 percent for basic allowance for quarters.".

BYRD (AND OTHERS) AMENDMENT NO. 2813

Mr. BYRD (for himself, Mr. Dodd, Mr. Boren, Mr. Stennis, and Mr. Johnston) submitted an amendment to the bill (H.R. 4781), supra; as follows:

On page 114, after line 22, add the following:

TITLE IX—ASSISTANCE FOR THE NICARAGUAN RESISTANCE

SEC. 9001. POLICY.

It is the policy of the United States to advance peace and democracy in Central America and to protect American security interests in the region. In pursuing that policy it is the objective of the United States to seek a just and lasting peace for the region in a manner compatible with the Esquipulas Accord of August 7, 1987, the declaration of the Central American presidents at San Jose, Costa Rica, on January 16, 1988, the Sapoa Agreement of March 23, 1988, and United States national security interests in the region.

SEC. 9002. SPECIAL CONDITIONS WARRANTING EXPEDITED PROCEDURES FOR LEGISLATION CONCERNING TRANSPORTATION OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

If, at any time after enactment of this Act and before the adjournment sine die of the 2nd session of the One hundredth Congress—

(1) the President finds that the Government of Nicaragua has caused an emergency situation in Central America which is having a critical impact on peace and stability of that region, and

(2) the President has consulted with the presidents of Costa Rica, El Salvador, Honduras, and Guatemala regarding that emergency situation, and

(3) the President submits to the Congress the report described in section 9004(a), and

(4) the President requests the Congress to consider legislation which would authorize the transportation to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance and, if necessary, provide authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States, and

(5) the House of Representatives has passed legislation, with or without amendments, with respect to the request under paragraph (4),

then a joint resolution described in section 9013(a)(1), shall be considered in the Senate in accordance with the procedures specified in section 9013 of this title.

SEC. 9003. RESTRICTIONS REGARDING THE EMERGENCY TRANSPORT OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

(a) In General.—This section shall only apply upon the enactment of legislation, considered in the Senate in accordance with section 9013, authorizing the transportation to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance and, if necessary, providing authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States.

(b) Funds for Transportation.—(1) There shall be transferred to the Secretary of State from unobligated funds from appropriations accounts specified in 9011—

(A) such sums as are necessary to carry out the transportation requirements described in subsection (a), but not to exceed $5 million; and

(B) such sums as are necessary to provide for the indemnification of aircraft leased with funds transferred under clause (A), but not to exceed $20 million.

(2) The Secretary of State shall transfer the balance, if any, remaining of funds transferred under paragraph (1)(B) to the appropriations accounts from which such funds were transferred under such paragraph when the transportation requirements described in subsection (a) have been met.

(c) Monitoring by Congressional Committees.—(1) The chairmen and ranking minority members of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be kept fully and currently informed regarding the transportation or exchange of any assistance described in subsection (a), including the value and purpose of the items transported or exchanged and the costs of such transportation.

(2) For purposes of this subsection, the term "fully and currently informed" includes the provision of all records, data, and other information necessary to carry out the monitoring of activities described in this subsection.

(d) Role of the Secretary of State.—The Secretary of State (or his designee) shall be responsible for support, coordination, and supervision of the transportation of assistance described in subsection (a). Such support shall involve the provision of funds as well as the provision and transportation of materiel and other assistance.

SEC. 9004. REPORTS.

(a) Presidential Report.—At the time of the submission to the Congress by the President of any request for the authority described in section 9002(4), the President shall submit to the Congress a report containing—

(1) a detailed discussion and substantial evidence of the nature of the emergency situation in or adjacent to Nicaragua caused by actions taken by the Government of Nicaragua having a critical impact on peace and stability of the Central American region,

(2) a description of the recommendations made by the presidents of the Central American democracies consulted in accordance with section 9002(2), and

(3) the justification for the transport to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance,

including specific information pertaining to at least two of the following three actions:

(A) Sandinista initiation of an unprovoked military attack and any other hostile action directed against the forces of the Nicaraguan Resistance, as well as participation or support of any hostile actions against such forces by any other foreign country or organized group;

(B) Other blatant violations of the Esquipulas Accord of August 7, 1987, such as suppression of the media and the internal political opposition, including a denial of its rights to assemble and to hold peaceful demonstrations, and other human rights violations against the people of Nicaragua; and

(C) A continued unacceptable level of military assistance by Soviet-bloc countries, including Cuba.

(b) Monthly Report by the Secretary of State.—The Secretary of State shall, not less than once every 30 days after the date of enactment of this Act until the funds provided under this title are expended, submit to the intelligence committees and foreign relations committees of the Congress a report—

(1) describing the conditions in Nicaragua and the use of the funds provided under this title;

(2) a detailed statement of any progress toward a negotiated settlement of the armed conflict in Central America, as agreed to under the Esquipulas Accord of August 7, 1987;

(3) a detailed discussion of United States efforts since the signing of the Sapoa agreement to encourage the Soviet Union to restrict the shipment of Soviet arms to the Government of Nicaragua and specifying Soviet reaction to such efforts;

(4) a discussion reviewing the status of United States national security interests in Central America, with particular attention to the advisability of entering into bilateral negotiations with the Government of Nicaragua concerning—

(A) the termination of the presence of Soviet and Soviet-bloc (including Cuban) military and security advisors in Nicaragua;

(B) the termination of Soviet and Soviet-bloc (including Cuban) assistance to the Government of Nicaragua; and

(C) a prohibition on the establishment or use of bases in Nicaragua by the Soviet Union or any Soviet-bloc country, including Cuba;

(5) a description of United States diplomatic efforts in support of the Esquipulas Accord of August 7, 1987, and the Sapoa Agreement of March 23, 1988, and an analysis of the actions taken by the Nicaraguan Resistance and the Government of Nicaragua to negotiate a settlement under the provisions of these agreements;

(6) an evaluation of the effect that additional military assistance for the Nicaraguan Resistance would have on political and economic stability in Honduras, Costa Rica, and El Salvador, as well as how such assistance would advance the process of negotiation and political settlement in Nicaragua;

(7) a description of the progress made by economic development programs that have been implemented in Honduras, El Salvador, and Costa Rica since the Esquipulas Accord of August 7, 1987, was signed and what effect renewed fighting in Nicaragua would have on these programs; and

(8) a discussion of the policies of the European allies of the United States and the Latin American democracies (outside Central America) toward Central America, and the extent of their support for and cooperation with United States policies regarding the Nicaraguan Resistance.

(c) Definitions.—For purposes of this section—

(1) the term "intelligence committees" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(2) the term "foreign relations committees" refers to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 9005. PROHIBITION.

Except as provided in this title, no additional assistance may be provided to the Nicaraguan Resistance unless the Congress enacts a law specifically authorizing such assistance.

SEC. 9006. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) Transfer of Funds.—The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 9011—

(1) $27,000,000 to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through March 31, 1989, except that funds provided by this subsection shall not be obligated for humanitarian assistance prior to October 1, 1988; and

(2) such funds as may be necessary to provide transportation in accordance with section 9007 for assistance authorized by paragraph (1).

(b) Definition.—For purposes of this section and section 9007, the term "humanitarian assistance" means—

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights; and

(4) payment for such items, services, and training; and

(5) replacement batteries for hand-held communications equipment.

SEC. 9007. TRANSPORTATION OF HUMANITARIAN ASSISTANCE.

(a) In general.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 9006, shall be arranged—

(1) in the case of the forces of the Nicaraguan resistance outside Nicaragua, solely by the Agency for International Development; and

(2) in the case of the forces of the Nicaraguan resistance in Nicaragua, solely by the Agency for International Development, acting through the Nicaraguan resistance, the Pan American Development Foundation, or a similar nongovernmental organization, consistent with the provisions of the Sapoa Agreement and any subsequent agreement between the parties to the armed conflict in Nicaragua.

(b) Prohibition on Mixed Loads—Transportation of any military assistance, or of any assistance other than that specified in 9006(b), is prohibited.

SEC. 9008. MEDICAL ASSISTANCE.

There are hereby transferred to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 9011 $5,000,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaragua civil strife to be transported and administered by the Catholic Church in Nicaragua.

SEC. 9009. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission,

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America,

(3) and in the context of an agreement to end military conflict in the region, the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 9010. ECONOMIC INCENTIVES FOR DEMOCRACY IN NICARAGUA SIMILAR TO THOSE AVAILABLE TO CENTRAL AMERICAN DEMOCRACIES.

(a) Condition on Termination of Trade Embargo and Provision of Relocation Assistance.—(1) If the Government of Nicaragua and the Nicaraguan Resistance sign a comprehensive final agreement to provide for peace and democracy in Nicaragua, then—

(A) the President shall terminate the trade embargo imposed against Nicaragua by Executive Order 12513 of May 1, 1985; and

(B) there shall be transferred to the President from unobligated funds from the appropriations accounts specified in section 9011 $10,000,000, to remain available for a period of twelve months after the signing of the agreement, to provide assistance for the relocation in Nicaragua and the reintegration into Nicaraguan civil society of members of the Nicaraguan Resistance, and the Nicaraguans outside Nicaragua displaced by the conflict.

(2) Nothing in this section shall be construed to limit the authority of the President under the International Emergency Economic Powers Act.

(b) Trade Benefits.—On or after the date which is 180 days after the date of signing of the agreement described in subsection (a), if the President certifies to the Congress that the Government of Nicaragua is continuing to comply with that agreement, then the President may, notwithstanding any other provision of law—

(1) designate Nicaragua a beneficiary country for purposes of proposals referred to in section 9009 and for purposes of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.);

(2) designate Nicaragua a beneficiary developing country for purposes of title V of the Trade Act of 1974 (relating to the generalized system of preferences); and

(3) authorize loan assistance to Nicaragua under the Export-Import Bank Act of 1945.

(c) Interpretation.—Authority granted by subsections (a) and (b) shall be in addition to, and shall not be construed to limit, authority otherwise available to the President by law.

SEC. 9011. AVAILABLE APPROPRIATIONS ACCOUNTS.

The appropriations accounts referred to in sections 9003(b), 9006, 9008, and 9010(a)(1)(B) are non-ammunition Procurement accounts in any of the following:

(1) the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) the Department of Defense Appropriations Act, 1987, as contained in section 101(c) of the further continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591); and

(3) the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1988 (Pubic Law 100-202).

SEC. 9012. PROHIBITION ON THE USE OF CERTAIN FUNDS.

Except as provided in this title, no funds available to any agency or entity of the United States Government under this title may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, materiel, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

SEC. 9013. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS.

(a) Definitions.—For purposes of this section—

(1) the term "joint resolution" means, except as otherwise provided, only a joint resolution or bill described in section 9002(5) which originated in the House of Representatives and is received in the Senate.

(2) the term "session days" means days on which the Senate is in session.

(b) Referral of Joint Resolution.—A joint resolution referred in the Senate shall be referred to the Committee on Foreign Relations of the Senate.

(c) Committee Action.—(1) If the Committee on Foreign Relations has not reported such joint resolution (or an identical joint resolution) at the end of 3 session days after its introduction, such Committee shall be discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the Senate.

(2) After the Committee on Foreign Relations reports or is discharged from a joint resolution, no other joint resolution with respect to the same matter may be reported by or be discharged from such Committee while the first joint resolution is before the Senate (including remaining on the calendar), a committee of conference, or the President.

(d) Floor Action.—(1)(A) When the Committee on Foreign Relations has reported, or has been discharged under subsection (c) from further consideration of such joint resolution, notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for the Majority Leader, after consultation with the Minority Leader, to move to proceed to the consideration of the joint resolution and, except as provided in paragraph (2) of this subsection (insofar as it relates to germaneness and relevancy of amendments), all points of order against the joint resolution and consideration of the joint resolution are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order, except that such motion may not be entered for future disposition. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate, to the exclusion of all other business, until disposed of.

(2)(A) Consideration in the Senate of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which, except as otherwise provided in this section, shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or by their designees. The Majority Leader or the Minority Leader or their designees may, from the time under their control on the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(B) (i) Subject to subparagraph (ii), only amendments which are germane to the joint resolution are in order. Debate on any amendment to the joint resolution shall be limited to 2 hours, except that debate on any amendment to an amendment shall be limited to 1 hour. The time of debate for each amendment shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(ii) It shall be in order for the Majority Leader or the Minority Leader to offer one amendment to strike out the text of the House originated measure and insert in lieu thereof the following text: "That the Congress hereby authorizes the President to transport to the Nicaraguan Resistance all previously appropriated assistance held in title by the Nicaraguan Resistance and provides, if requested, the authority for the interchangeability of the assistance with certain equipment."

(C) A motion to postpone the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is in order, except that such motion may not be entered for future disposition, and debate on such motion shall be limited to 1 hour.

(3) Whenever all the time for debate on a joint resolution has been used or yielded back, no further amendments may be proposed, and the vote on the adoption of the joint resolution shall occur, except that a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate may occur immediately before such vote.

(4) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be limited to one-half hour of debate, equally divided between, and controlled by, the Senator making the appeal and the manager of the joint resolution, except that in the event the manager is in favor of any such appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(e) Resolution of Differences Between the House and the Senate.—(1)(A) The time for debate in a House of Congress on all motions required for the disposition of amendments between the Houses shall not exceed 2 hours, equally divided between, and controlled by, the mover of the motion and the manager of the joint resolution at each stage of the proceedings between the two Houses, except that in the event the manager is in favor of any such motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. In the case of any disagreement between the two Houses of Congress with respect to a joint resolution which is not resolved, any Member of Congress may make any motion or motions referred to in this subparagraph within 2 session days after action by the second House or before the appointment of conferees, whichever comes first. In the event the conferees are unable to agree within 72 hours after the second House is notified that the first House has agreed to conference, they shall report back to their respective House in disagreement.

(B) Notwithstanding any rule in either House of Congress concerning the printing of conference reports in the Congressional Record or concerning any delay in the consideration of such reports, such report, including a report filed or returned in disagreement, shall be acted on in the House of Representatives and the Senate not later than 2 session days after the first House files the report or, in the case of the Senate acting first, the report is first made available on the desks of the Senators. Debate in a House of Congress on a conference report or a report filed or returned in disagreement on any such joint resolution shall be limited to 3 hours, equally divided between, and controlled by, the Majority Leader and the Minority Leader, and their designees.

(2) If a joint resolution is vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 6 hours in each House of Congress, equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

(f) Congressional Rulemaking Powers.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, (insofar as it applies to that House), but applicable only with respect to the procedure to be followed in that House in the case of legislation described in this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 9014. STANDARDS, PROCEDURES, AND CONTROLS.

(a) In General.—Any agency to which funds are transferred under this title shall establish standards, procedures, and controls to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures, and controls shall be developed in consultation with the Comptroller General of the United States and with respect to lethal assistance, the intelligence committees of the Congress, or, with respect to non-lethal assistances, the foreign relations committees of the Congress, and shall include such safeguards as segregation of assets, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

(b) Definition.—For purposes of subsection (a), the term "intelligence committees of the Congress" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(c) The provisions of the Act of April 1, 1988 (P.L. 100-276) contained in subsection of (b)(d)(e), of section 4 and section 5 shall apply to the provision of assistance under this title except that section 4(d), shall not apply to the Intelligence Community.

INTELLIGENCE AUTHORIZATION ACT

DOLE AMENDMENT NO. 2814

Mr. STEVENS (for Mr. Dole) proposed an amendment to the bill (S. 2366) to authorize appropriations for fiscal year 1989 for the intelligence activities of the U.S. Government, the intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes; as follows:

In Title 10, United States Code, chapter 75 paragraph 1489(a)(1) after subsection (A), add the following new subsection (B):

"(B) dies on or after June 15, 1988 while serving on active duty as a member assigned to duty with a Defense Attache office outside the United States; or"

and reletter the existing subsection (B) as subsection (C).

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD (for Mr. Cranston). Mr. President, I want to advise my colleagues that the major oversight hearing the Committee on Veterans' Affairs was to have had on August 11, 1988, for the purpose of reviewing the adequacy of available funds and personnel for the VA health-care system, has been postponed in order to accommodate the committee's ranking minority member, Mr. Murkowski. This hearing has been rescheduled for September 9, 1988, beginning at 8 a.m. in room 216, Hart Senate Office Building. At the hearing, we will be receiving testimony from the VA Administrator, the VA Controller, and the Chief Medical Director and Deputy Chief Medical Director of the VA Department of Medicine and Surgery; VA Regional Directors, VA Medical Center Directors, VA Chiefs of Staff, and VA Chiefs of Nursing; veterans' service organizations; and related professional organizations such as the American Association of Medical Colleges and the Association of VA Chiefs of Medicine.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on August 5, 1988, to hold a Department of Justice nomination hearing on Richard L. Thornburgh to be Attorney General of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL SUBCOMMITTEE ON WAR POWERS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Special Subcommittee on War Powers of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, August 5, to hold a hearing on the War Powers Resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DIPLOMATIC EFFORTS IN NAMIBIA AND ANGOLA

● Mr. SIMON. Mr. President, while I differ with the failure of this administration to move forcefully—as it should—on the problems of apartheid in South Africa, I commend Assistant Secretary of State Chester Crocker for his diplomatic efforts to provide independence for Namibia and to achieve withdrawal of Cuban troops from Angola.

Secretary Crocker's efforts for these goals should continue, and these goals should be vigorously pursued by the next administration, whether it is headed by GEORGE BUSH or by Michael Dukakis.

There are a number of fairly clear signals that the negotiations, headed by Secretary Crocker, have been making some headway. Even Fidel Castro referred to that possibility in his recent major speech in Cuba. However, the news of the last 2 days has been somewhat discouraging. In light of the private nature of the negotiations, South Africa's public announcement of its proposal for a timetable on the withdrawal of South African and Cuban troops is disturbing. I hope, however, that the parties can agree to move forward.

Moreover, I am concerned that some in the administration are talking about continued military assistance to Jonas Savimbi and his UNITA forces even if Cuban troops are withdrawn. The reason given for providing the military assistance in the first place was the presence of Cuban troops. If they leave, there is clearly no justification for assisting rebels to overthrow the legitimate Government of Angola, even if that government may follow a philosophy and practices with which we may disagree.

The Government of Angola eventually will have to sit down with UNITA representatives and negotiate an end to the conflict there. That is reality. But part of reality is also that if Cuban troops are withdrawn, support for Savimbi will decline in Congress. And I would add that my personal belief, not shared apparently by a majority in Congress, is that the United States has no business trying to overthrow governments in other countries anyway.

"Chet" Crocker is working toward a negotiated solution. I hope he can succeed.●

NUCLEAR NONPROLIFERATION IN SOUTH ASIA

● Mr. KASTEN. Mr. President, I am pleased today to bring to the attention of my colleagues a letter which I have just received from Ambassador Jamsheed Marker of Pakistan concerning nuclear nonproliferation in South Asia. The Ambassador noted the letter of his counterpart, Ambassador Kaul of India, which Senator HATFIELD inserted in the CONGRESSIONAL RECORD on Monday, August 1, and wrote me to provide his response to that letter and to report language on this issue in the Appropriations Committee's report on the fiscal year 1989 foreign aid appropriations bill.

Last year, in the fiscal year 1988 foreign aid appropriations bill, Senator INOUYE and I proposed a new approach to United States policy on nuclear nonproliferation in South Asia. This approach, which was based upon the regional nature of nuclear competition in South Asia, sought to apply equal pressures on India and Pakistan to convince them to find a regional solution to this issue. Given the fact that the bill was not brought to the Senate floor until very late in the session, and the concern of many of our colleagues that there was simply too little time left for a full debate of such a major shift in U.S. policy, we withdrew the proposal.

This year, in the report accompanying the fiscal year 1989 bill, the Appropriations Committee again addressed the regional aspects of the nuclear nonproliferation issue in South Asia and its concerns about the nuclear programs in both India and Pakistan. Ambassador Kaul's letter to Senator HATFIELD provided India's perspective on the report language. Ambassador Marker's letter, and the speeches which he attached to it, provide Pakistan's comments both on the language which the committee included and on Ambasssador Kaul's letter.

I believe that it is useful for the Senate that both Ambassadors have responded to the committee's concerns in as thoughful a manner and in such detail as they have. Pakistan is a vital ally of the United States whose steadfast support for the Afghan Mujahidin, with American help, has resulted in the ongoing Soviet withdrawal from Afghanistan. India, a major trading partner of the United States, has an important role to play in the future of Asia. These letters provide an important and useful basis for debate on our policy toward these countries next year, when, in the context of the foreign assistance authorization bill, we will have the kind of full debate which last year's committee proposal deserves.

For several years, many of us have been concerned about nuclear nonproliferation in South Asia, and the inability of India and Pakistan to find a common ground and reach a solution to this problem. It is clear to me that pace of the nuclear program in each country is directly related to the other, and that these two countries must find a way to reach a solution to this issue. Pakistan has made several proposals to India concerning mutual steps which they might take to reduce tensions on this issue, but thus far India has either refused to respond or, in one of the few cases where a response has been forthcoming, refused to put into writing a joint commitment not to attack one another's nuclear facilities. I believe that a more forthcoming and positive response to these proposals by India would help move the two countries toward a solution to this issue.

I would like to thank the distinguished Senator from Oregon for bringing to our attention the response of Ambassador Kaul to the committee's language. I would also like to thank Ambassador Marker for writing to me to provide Pakistan's position on this critical issue. I commend these materials to the attention of my colleagues.

I ask unanimous consent that the letter which I have referred to and the attachments to it be included in the RECORD at this time.

The material follows:

EMBASSY OF PAKISTAN,
Washington, DC, August 4, 1988.

Hon. BOB KASTEN,
House of Representatives,
Washington, DC.

MY DEAR SENATOR KASTEN: I read with interest the statement of Senator Hatfield in the *Congressional Record* of August 1, and the letter of the Indian Ambassador which he included. In this connection, permit me to presume on your good offices to take this opportunity to present Pakistan's comments on both the report language on South Asia and nuclear non-proliferation which was included in the FY 1989 Foreign Aid Appropriations Bill, and the letter of Ambassador Kaul.

Whilst Pakistan, also, was not fully satisfied with the report language in the foreign aid bill, we are nevertheless conscious of the general concerns of the Appropriations Committee, on the vital issue of nuclear non-proliferation in South Asia. At the same time, I note with interest that the report language also addressed the issue of the regional approach to nuclear non-proliferation—a proposal considered favourably by the Appropriations Committee last year and supported in principle by Pakistan.

Pakistan's nuclear programs are peaceful and do not represent a threat to any other nation in the region. Pakistan has repeatedly declared, at the highest levels of our government, that we do not possess, and have no intention of developing, a nuclear weapon. As our representative to the United Nations told the recent Disarmament Conference, "We have not conducted a nuclear explosion nor do we intend to conduct one". Pakistan, however, continues to pursue nuclear research as a very promising source of economical energy for our country of more than 100 million people.

Pakistan believes, however, that the United States must recognize the concerns which the Indian nuclear program present for Pakistan. It is for this reason that Pakistan, in contrast to India, strongly agrees with the Appropriations Committee that a regional approach to nuclear non-proliferation is the best way to make progress on non-proliferation in South Asia. Ambassador Kaul's blunt assertion that "India has never believed that nuclear weapons proliferation can be ensured by adopting a regional approach", is therefore a matter of regret. Pakistan believes the opposite, and feels that specific approaches—such as on a regional basis—offer the most promising hope of curbing the spread of nuclear capability.

Permit me to suggest that the proposal of Prime Minister Rajiv Gandhi, explained both before and during the United Nations Third Disarmament Conference, is theoretically attractive, but practically unrealistic, and therefore did not evoke any noticeable response at the Disarmament Conference. It calls for the elimination of all nuclear weapons by the year 2010 and the participation of all countries, along with other requirements. The difficult and extensive negotiations by the United States and the Soviet Union of an Intermediate Range Nuclear Forces (INF) Treaty, is both a positive and a hopeful beginning, but it fails to set limits on strategic weapons, and is still a long way away from nucler disarmament. Meanwhile, the threat of horizontal proliferation continues to grow, and needs to be addressed in urgent fashion.

The regional approach to nuclear non-proliferation is as simple in concept as it is practical in application, provided there is a political will to do so. This approach states that although the ultimate goal is worldwide non-proliferation, the best starting point is on a regional basis. For example, India and Pakistan or Argentina and Brazil would seek to reduce regional tensions through negotiations to reassure each other of their peaceful intentions with regard to nuclear capability. Brazil and Argentina have taken such a step by agreeing to exchange visits to their facilities by their heads of state. Although Pakistan has made numerous overtures to India, none have received a positive response. The attached speech presented by the Pakistani representative to the UN Disarmament Conference at which Indian Prime Minister Gandhi also spoke, includes a partial list of these proposals. The fundamental options which Pakistan has proposed to India are—

We are ready to accede to the Non-proliferation Treaty simultaneously with India;

We are ready to accept full-scope safeguards to our nuclear programme simultaneously with India;

We are ready to conclude a bilateral agreement with India for the mutual inspection of each other's nuclear facilities;

We are ready to make a joint declaration with India renouncing nuclear weapons; and

We are ready to enter into a bilateral nuclear test ban treaty with India.

We await a positive response to any of the above proposals or to any other idea, from any quarter, including the United States, that is non-discriminatory in nature. We remain convinced that their acceptance would mark a significant progress toward nonproliferation.

In essence, the regional approach has already been accepted by the superpowers, whose negotiations are both bilateral and regional although, because of the destructive power involved, they affect the rest of the world. For years, the United States and the Soviet Union have negotiated on a regional basis—whether it involves U.S. Pershing missiles in Europe or Soviet SS-20's in East Asia. The INF Treaty proves that progress can be made in this area without making progress on the broader strategic issues.

Ambassador Kaul restates India's assertion that China's nuclear capabilities make it impossible for India to negotiate with Pakistan on the nuclear issue. The argument is somewhat curious, to say the least. Pakistan lives in the same region as India, and is flanked by three nuclear weapons states, not all of which are friendly to Pakistan. Indeed, if India's argument on China is given credibility, we could, with perhaps greater justification, forward the overwhelming nuclear weapons arsenal of the Soviet Union as a reason for which Pakistan cannot negotiate with India. But this would be just a patent excuse for avoiding negotiations on non-proliferation, something which Pakistan does not want to do. Indeed, Pakistan believes that a start in non-proliferation must be made wherever possible, in order to develop the atmosphere in which broader non-proliferation can occur.

Ambassador Kaul also states that India's "bonafides" on non-proliferation are "impeccable", an assertion which needs to be viewed with some reserve, considering that India has the distinction of being the only country in the world to have detonated a nuclear device, and yet still insists that it is a non-nuclear weapon state. Such an assertion flies in the face of common sense. In addition, the U.S. assessment of the Indian commitment to non-proliferation is obviously less than favourable. In 1982, the United States stopped supplying fuel for India's Tarapur reactors because of India's refusal to accept full-scope International Atomic Energy Agency safeguards on these reactors. At this time, there are ongoing disputes between India and the U.S. on the final disposition of the fuel that has already been supplied. Professor Gary Milhollin, writing in the American Journal of International Law, states "India is also hinting that it may immediately convert about 40 bombs' worth of U.S. and Canadian-origin plutonium from peaceful to military status. The plutonium has been made by the CIRUS reactor, which Canada exported to India in the early 1960s. The United States exported the heavy water (deuterium oxide) needed to run the reactor. This conversion would boost enormously India's military stockpile, which now consists of only six to 10 bombs' worth of plutonium". More recently, reports indicates that India may have been the recipient of 15 tons of Norwegian heavy water, which was illegally diverted from its original destination.

Neither Pakistan nor India allows full inspection of all of its nuclear facilities. Pakistan has proposed to India that both nations agree to mutual inspection of one another's nuclear facilities. Again, there has been no positive response to this proposal.

With regard to India's military build-up, Pakistan believes that the Committee addresses serious and legitimate concerns. Since Prime Minister Gandhi came into office, India's defense expenditures have increased from $6 billion per year to nearly $12 billion per year. Where has the threat to India doubled in four years? India's naval expansion in the Indian Ocean is an issue of concern for all littoral states in the area, and also a legitimate concern of the United States. In particular, the nuclearization of the Indian Navy is a quantum escalation of significant proportions, for it brings nuclear technology into an entirely new and dangerous ground. Ambassador Kaul states that the Soviet Union has only "leased" India one nuclear-powered submarine, and that it simply is a "training" submarine which will be returned to the Soviet Union after four years. However, training on any military equipment, including nuclear submarines, is only done if there is a practical application. What Ambassador Kaul fails to mention is that India has several other nuclear-powered submarines on order from the Soviet Union, including Victor III nuclear attack submarines. This is the first time that a "non-nuclear weapon state" has inducted militarized nuclear technology in the Indian Ocean—an area which India insists it wants to make into a "zone of peace".

The assertion that the Soviet Union is permitted by the Nuclear Non-Proliferation Treaty (NPT) to transfer nuclear propulsion technology to a non-NPT member is false. The NPT states that "all countries accepting the treaty agree not to export nuclear equipment or material to non-nuclear weapon states except under IAEA (International Atomic Energy Agency) safeguards." These safeguards include reporting requirements, audits, and on-site inspections. It is difficult to envisage IAEA inspectors having access to the Indian submarines and the reactors on board.

In conclusion, I believe that nuclear non-proliferation in South Asia is not an issue which we can leave aside until the superpowers have decided to take further steps to ease the threat of strategic nuclear war. I believe that Pakistan and India must find a way to ease nuclear tensions on the sub-continent, and that a regional approach is the best way for us to reach that goal. I welcome the Committee's continuing interest and efforts in this area, and I thank you for your personal support on an issue which is vital not only to the security of my country, but also to the entire South Asian region, and, by definition, to world peace.

With kind regards,

Yours sincerely,

Jamsheed K.A. Marker.

STATEMENT BY HIS EXCELLENCY, MR. S. SHAH NAWAZ, AMBASSADOR AND PERMANENT REPRESENTATIVE OF PAKISTAN TO THE UNITED NATIONS

(The third special session of the United Nations General Assembly Devoted to Disarmament, New York, June 13, 1988)

Mr. President, It is with great pleasure that I convey to you my delegation's sincerest felicitations on your election as the President of the Third Special Session of the General Assembly devoted to Disarmament. We feel confident that in your experienced hands this Special Session will be able to fulfil the expectations of its participants and the purposes for which it has been convened. Allow me to add my voice to that of the speakers, before me, who have paid rich tributes to your leadership, and to wish you success in guiding the deliberations of this

Session. I, also, salute your great country with which Pakistan enjoys close and cordial relations.

I take this opportunity of conveying to the Secretary General, His Excellency, Mr. Javier Perez de Cuellar, our profound appreciation of his role as a source of ideas and inspirational thought, to facilitate initiatives to be taken in our quest for strengthening the foundations of peace and security in our world.

The opening statement made by the Secretary General and your own address have brought into sharp focus the importance of this Special Session, which is the third of its kind in a decade. We hope that, at the conclusion of this Session, we would have achieved concrete progress and succeeded in building a credible edifice of disarmament on the foundations laid at the first Special Session.

The suggested elements for consideration, under the substantive items of the provisional agenda of this Special Session, have been spelt out in the report of the Preparatory Committee which has greatly facilitated the work of this Special Session. I take special pleasure in acknowledging the contribution of Ambassador Mansur Ahmed, whose able leadership of the committee, as its Chairman, has earned generous praise from so many speakers. Ambassador Mansur Ahmed's unanimous election as Chairman of the Committee of the Whole was a great honour for Pakistan and a source of particular satisfaction to me, personally, in view of our long association in the Foreign Service of Pakistan and our close friend over the years.

Mr. President, as we assembled here to discuss the disarmament issues, we have several concerns dominating our thoughts. There is the fear, no longer unrealistic, of the entire human race perishing in a nuclear holocaust. There is the concern among smaller nations, in far flung corners of the globe, that the diversion of precious resources to armaments may produce economic and social chaos, on the one hand, and military preponderance and expansionist ambitions, on the other, which, together, will destroy the fragile fabric of security and breed aggressive wars in which the very foundations of sovereignty, independence and freedom of states may crumble.

The urge for security is universal and transcends the factors of size or capability. The great powers are as much pre-occupied with it, as are the smaller states. The only difference is that the great powers are everywhere, whereas the smaller states have to worry, mainly, about their own neighbourhoods.

The search for a disarmament regime, therefore, must be the equal concern of all states, big or small. Without universal participation in the efforts to achieve disarmament, a viable disarmament regime, answering global as well as regional concerns, is hardly conceivable.

The United Nations is the only political and security forum in which all the nations of the world are represented. As such, its indispensable role in the disarmament process cannot be overstated.

The non-aligned countries, of which Pakistan is a member, can take legitimate pride in having promoted the First Special Session of the General Assembly on Disarmament, in 1978, which focussed world attention on such a role by the United Nations. Indeed, that Special Session produced a Final Document which provides a comprehensive basis for the development of any further ideas and concepts in the field of disarmament. This Document, which represents a distillation of our collective wisdom and thinking is, truly, universal in its scope and character.

It is a matter of concern that we have not been able, so far, to live up to the hopes generated by that Document. But we need not feel despondent. Progress in this field is slow, since mankind learns its lessons, often, through costly mistakes. The time has come for a less leisurely pace for constructive thought to produce concrete results.

The need for speed is obvious. Our thinking has to keep pace with weapons which can reach their targets at incredible speeds and carry warheads capable of obiterating life on earth. The unbridled advance in the science, technology and sophistication of weapons of mass destruction, at the disposal of mankind, leaves us in no doubt that the preservation of peace and the survival of mankind, depend, as never before, on collective initiatives and efforts to halt and reverse the runaway arms race.

It is imperative that the fear of global annihilation should not be allowed to breed a state of mind so steeped in resignation, anguish and despair, as to stifle thought and paralyse action, thereby, hastening the doom we all fear and must avoid. Mr. President,

In order to keep alive our urge for survival, we have to be optimists and believe that mankind has a great future before it. We have, only now, acquired the experience, the knowledge and the capability to transform this world into a cradle of peace and security and a haven of prosperity and happiness.

Developments have taken place around us which renew hope and encourage optimism. As well in the global arena, as in the regional context, things have begun to happen which should be of good cheer to all of us.

The two Super Powers which, between them, have the capability to make life extinct on this planet, are engaged in a meaningful dialogue to arrest the breathless rush towards the brink of doom and to begin a new experiment in cooperation for restraint.

There have been four meetings between President Reagan and General Secretary Gorbachev, since 1985.

We were heartened by the Declaration issued after the first summit in Geneva which said "a nuclear war cannot be won and must never be fought". This is a precept which should serve as the foundation of all our endeavors for banishing the threat of a nuclear conflict, because the concept of nuclear war-fighting is neither rational nor practical.

The Second Summit at Reykjavik saw the birth of the proposal for drastically reducing the strategic nuclear arsenals of the two super powers.

The signing of the INF Agreement in Washington, last year, was historic achievement by which the Third Summit will be remembered. The seemingly intractable issue of verification of measures of nuclear disarmament, which had defied solution, since such negotiations began more than forty years ago, has yielded to the political courage and skill of the two super powers. Even more important than its military significance, is the hope it has aroused of real progress in East-West detente. It is a matter of gratification to us that the INF Treaty also eliminated the SS-20 missiles deployed in Asia.

We hope that the Fourth Summit has prepared the ground for the eventual signing of a strategic arms reduction agreement. The nuclear arms race between the super powers has proceeded beyond the point where it makes any possible political or military sense. One cannot but ask why their nuclear stockpiles have vastly exceed the level needed to maintain a state of mutual deterrence.

Let us hope that the first destruction of missiles by mutual agreement by the two super powers, to which the Soviet Foreign Minister made an eloquent reference in his statement of June 8, will have dug the grave for weapons of mass destruction for all times to come.

Let us also hope that General Secretary Gorbachev's proposal for a joint venture to the Red Planet, symbolizing a new era of Super Power cooperation on earth and in space, will inspire more urgent ventures between the two countries, to achieve their declared objective of preventing an arms race in space, terminating it on earth and, ultimately, eliminating nuclear weapons from the face of this planet.

Mr. President, although the two super powers are the principal space powers and bear a special responsibility to avoid a competition in the military uses of outer space, the danger of the weaponization of outer space is equally the concern of all the other members of the international community. This is because emplacement of weapons in outer space will introduce a qualitative new dimension to the arms race, undermining existing Disarmament Agreements and jeopardizing the disarmament process as a whole. The spiral of an offensive-defensive nuclear arms race can best be prevented by political, not technological means.

The existing legal regime, imposing some restraints on the military uses of outer space, is not enough to prevent an arms race in outer space. It needs to be strengthened with new rules of international law to ensure that outer space, which is a common heritage of mankind, is reserved only for peaceful exploration and use by all nations.

Pakistan, therefore, supports the early establishment of an international space monitoring agency which can make a positive contribution to verification, confidence building and transparency.

Mr. President, we cannot subscribe to the doctrine of nuclear deterrence which is often advocated on the ground that it has prevented war in Europe since 1945, whereas millions of lives have been lost in more than 150 conflicts around the world. This is a self-defeating argument which, in fact, would invite other regions of the world to follow the European example.

Mr. President, the overwhelming majority of non-nuclear states have seen the extreme danger in such a line of reasoning and have contributed to the goal of a world free of nuclear weapons by voluntarily renouncing the nuclear option. We hope that states possessing nuclear weapons and the "threshold" nuclear states will follow this example.

Mr. President, there is another category of weapons which shares with nuclear weapons the capacity for mass murder and is similar in its indiscriminate and dehumanizing effect; I mean chemical weapons which are, already, an ugly reality both in their development and deployment.

These weapons have been responsible for the killings of thousands of innocent lives recently in the Iran-Iraq conflict. The use of chemical weapons is a clear violation of the Geneva Protocol and cannot be condoned in any circumstances.

The threat of proliferation of chemical weapons capability is both real and present.

In order to put a stop to the danger of further development and use of these weapons the Conference on Disarmament must bring to an early conclusion the on-going negotiations on a chemical weapons Convention.

We call upon all states concerned to approach the outstanding remaining issues, in particular, of verification, in a spirit of compromise and a sense of urgency. In the long-term, it would not be strategically advantageous to throw away the chance of agreement because of the risk of a little cheating, if 100% foolproof measures cannot be devised.

Mr. President. The dark side of human genius is capable of disturbing not only the serenity of the blue skies in space but, also, the calm of the blue oceans. Nuclear weapons, both strategic and tactical, have been deployed, also, at sea. The naval forces of a few states have acquired an unprecedented capability with the introduction of nuclear-powered attack submarines.

Naval forces of many countries have been expanded and modernized beyond the legitimate requirements of coastal defence, causing smaller states, within their reach, to feel threatened. The question of naval disarmament and the placing of limits on the military uses of the high seas, therefore, deserve to be addressed without delay.

The security concerns of the smaller coastal states need particular attention. In order to ensure sea-front security for the threatened states, it is necessary for the major naval powers and these states to enter into negotiations to prevent naval dominance of the oceans and high seas as a result of the introduction of sophisticated weapon systems, such as aircraft carriers and nuclear-powered attack submarines.

Mr. President, a moment ago, I spoke of the danger of nuclear proliferation. A Treaty prohibiting all nuclear test explosions by all countries, in all environments, for all times, is long overdue. The central importance of a Nuclear Test Ban Treaty for non-proliferation has been fully recognized. Its conclusion must not be delayed any further because of the strategically insignificant advances that could be made in warhead technology by continued testing. Such a ban would make an effective contribution towards stopping the qualitative improvement of nuclear weapons and preventing their proliferation. At the very least, the nuclear weapon powers must set a time-limit—not exceeding five years—on further nuclear tests for any nuclear weapons programme in which they are engaged.

Mr. President, the Non-proliferation Treaty has, so far, served a useful purpose, despite the fact that it is unequal and discriminatory. However, in order to ensure that the credibility of non-proliferation regime is not eroded, it is imperative for the nuclear weapon states to live up to their commitments regarding a comprehensive test ban, nuclear disarmament and cooperation with non-nuclear weapon states in the peaceful application of nuclear technology.

Indeed, a viable and durable non-proliferation regime requires further measure at the global and regional levels to allay the security concerns of non-nuclear states, such as the establishment of nuclear-weapon-free zones and effective assurances that states possessing nuclear weapons will not use or threaten to use them against those who have renounced these weapons.

Pakistan's commitment to nuclear non-proliferation is firm and unwavering. We want the present non-proliferation regime strengthened, so that our world is not made more insecure by the addition of even a single nuclear weapon state.

Pakistan does not possess nuclear weapons, nor does it intend to possess them. We have not carried out a nuclear explosion nor do we intend to conduct one. Our nuclear programme is emphatically peaceful in nature. Indeed, we are firm in our resolve to keep our area free from all nuclear weapons.

Mr. President, in our region, that is South Asia, nuclear proliferation concerns are the product of a history of regional tensions and conflict which feed upon mutual suspicions about each other's nuclear programmes. It is obvious, therefore, that only a regional approach can provide an effective answer to the problem.

Pakistan is fully committed to this approach which, in our belief, is the only viable approach to the problem of non-proliferation in South Asia. All the states of South Asia have declared at the highest level that they will not acquire or develop nuclear weapons. We have made a number of proposals to convert these unilateral declarations into binding legal obligations, which I would like to repeat here:

We are ready to accede to the Non-proliferation Treaty simultaneously with India;

We are ready to accept full-scope safeguards to our nuclear programme simultaneously with India;

We are ready to conclude a bilateral agreement with India for the mutual inspection of each other's nuclear facilities;

We are ready to make a joint declaration with India renouncing nuclear weapons;

We are ready to enter into a bilateral nuclear test ban treaty with India.

Mr. President, we will accept any equitable and non-discriminatory agreement with effective verification arrangements that would commit the countries of the region, in a legally binding manner, not to acquire or produce nuclear weapons.

Stockpiles in our region of separated plutonium, are increasing with every passing day, for which there is no conceivable use in nuclear power plants for at least the next two or more decades.

Pakistan has proposed the convening of a conference on nuclear non-proliferation in South Asia, under UN auspices, with the participation of the regional and other interested states to explore the possibilities of such an agreement. We hope our proposal for the Conference will receive the support of this Assembly which will enable such a Conference to be held at an early date.

Mr. President, earlier in my statement I underlined the indispensable role of the United Nations in the disarmament process. The overwhelming majority of its members are non-nuclear states and as such have had no role in the current super power negotiations on the INF Treaty and the on-going negotiations on 50 percent reduction of long-range strategic arms. But, it is self-evident that there must be multilateral participation in the negotiations over a whole range of disarmament measures such as chemical weapons, regional conventional disarmament, a comprehensive test ban and prevention of an arms race in outer space.

The concept of "constructive parallelism" between the super power negotiations and those which must necessarily involve the United Nations membership as a whole, would point the way to the harmonization of the respective roles and cooperation between the nuclear weapon powers and the non-nuclear states, in their common quest for putting at rest the haunting fear of the arms race.

Mr. President, we are not a super power and take a modest view of our role in fields, where our reach is limited. While giving the foremost priority, and rightly so, to measures for nuclear disarmament, we do not allow such pre-occupations to divert our attention from the need to limit and reduce conventional weapons, armed forces and military budgets.

Once again, the regional approach offers the most realistic prospect for success in the area of conventional disarmament.

In many regions the arms race is fueled by the efforts of the militarily most powerful states to attain positions of dominance in order to be able to pursue policies of regional hegemony. In such situations the states of the region become victims of a vicious circle of ever-increasing levels of forces and armaments and diminished security. It is, therefore, the special responsibility of states, which are in a preponderant military position in a particular region, to be responsive to proposals for arms limitations and, indeed, to initiate such proposals, themselves.

We are deeply conscious of the need for conventional disarmament measures in South Asia, which has a long history of conflict and tension. An unduly large part of our resources is currently devoted to military expenditure instead of being spent for the economic and social development of our respective countries. We have made concrete proposals to India for a mutual agreement to limit arms or reduce military budgets. We hope India will respond positively to our initiatives.

Mr. President, confidence building measures are a widely recognized means of reducing tensions and creating conditions which facilitate disarmament negotiations. These are particularly suited to regions such as South Asia where mistrust and mutual lack of information on the military intentions and activities of neighbouring states have sometimes led to an escalation wanted by neither side.

We believe that the countries of South Asia could follow, with advantage, the European example on the prior notification of large scale military manoeuvres. Another measure would be for the regional states in South Asia to agree to exchange information on their military capabilities and expenditures.

Other confidence building measures could include treaties on non-aggression and non-use of force as well as agreements on force deployments and the creation of fully or partially demilitarized zones; establishment of mutually acceptable military equilibrium and force ratios; clarification of security objectives and doctrines; commitment to resolve outstanding disputes through recognized international procedures; and promotion of economic cooperation on the basis of mutual benefit, which would generate a common stake in the preservation of regional peace.

Mr. President, the peace of a region can also be disturbed by external factors, over which it may have no control. The conflict in Afghanistan was such a factor which has had serious consequences for the peace and security of the South Asian region.

For more than eight years, the brave Afghan nation has carried on a heroic struggle to free itself from foreign domination. It has still to reassemble the pieces of its fragmented society. The tragedy of the people of Afghanistan was also our tragedy. Over a million Afghans died in resisting the aggression. One-third of the Afghan nation had to abandon their hearths and homes to seek refuge abroad. Three million Afghans sought shelter in Pakistan. Mr. President, they are still there. The dimensions of this tragedy have few parallels in recent times. Mercifully, the long night of that tragedy is coming to an end.

Next to the gigantic effort and sacrifices of the Afghan people themselves, it is the overwhelming support of the great majority of the membership of the United Nations which has been responsible for the dawn of the day of freedom for this valiant nation.

The role of the United Nations in setting in motion the peace process in Afghanistan, augers well for the resolution of conflict situations in other parts of the world. We wish to express our profound appreciation of the contribution made by Secretary General Perez de Cuellar and his Personal Representative Diego Cordovez in initiating the Geneva process and bringing it to a successful conclusion.

Pakistan is grateful to the members of the United Nations for their consistent support to the cause of Afghan freedom. We are also grateful to the international community for the generous assistance which enabled Pakistan to fulfill its humanitarian obligation of providing shelter and sustenance to the Afghan refugees on its soil.

Mr. President, in the unfolding saga of the freedom struggle in Afghanistan, the positive role of General Secretary Mikhail Gorbachev must be recognized. It was the historic statement of Mr. Gorbachev, of February 8, in which he announced the time-framd for the withdrawal of Soviet troops from Afghanistan, together with his commitment to the restructuring of a new edifice of global peace, that made it possible for the Geneva Agreements to be concluded successfully.

These Agreements remain an important first step. It is our earnest hope that the Soviet Union will continue to play a positive role in the restoration of peace and tranquility in Afghanistan, which is yet to be achieved.

Indeed, the Soviet Union has a crucial role to play in the continuing United Nations process to enable the Afghan people to reach agreement on the form of a transitional government of their choice. Pakistan is committed to help such a process.

The establishment of such a transitional government in Afghanistan will facilitate the smooth implementation of the Geneva Accords and create the necessary conditions for the safe return of the Afghan refugees to their homeland.

The difficulties, if any, which may be experienced in the implementation of the Geneva Accords will be directly attributable to the absence of a transitional government acceptable to the people of Afghanistan.

Mr. President, the distinguished members, who were present, heard a statement from this podium, in the afternoon of Tuesday, June 7, which contained wild allegations against Pakistan by the Kabul regime. These baseless allegations were accompanied by threats which were reported by the New York Times of June 8, as sabre-rattling against Pakistan.

The Kabul regime cannot establish its credibility or legitimacy on false premises. As the day for the total withdrawal of Soviet troops draws near, the regime is gripped with fear of being overtaken by nemesis. It must be this concern which impairs its vision and warps its judgment. The world will not be surprised if a crumbling regime makes a desperate bid to retain the protective umbrella of foreign troops, the withdrawal of which is the central element of the Geneva Accords. Not only the people of Afghanistan and the international community, but, we believe, even the Soviet leadership will oppose such a reversal of the Geneva process. The Kabul regime should not be trying to rattle a sabre which lies in another's scabbard.

The Geneva Agreements provide a mechanism for monitoring the implementation of the Geneva Accords and a United Nations Good Offices Mission for Afghanistan and Pakistan (UNGOMAP) has its offices in Kabul and Pakistan. The proper procedure is, for the parties to refer complaints, if any, to the UNGOMAP offices available to them and to await the results of their investigations. Pakistan has been following this procedure and has refrained from using, for political and propaganda purposes, the numerous instances of violation of its territory and airspace from the Kabul side.

It is quite clear that the deliberate and vociferous propaganda campaign against Pakistan had been carefully orchestrated, over the past few weeks, to reach a crescendo at the time of the delivery of the afore-mentioned statement before this Session, last Tuesday.

Mr. President, I, now, come to the concluding theme of my statement. Disarmament, by itself, is an incomplete process. It has been, rightly, recognized that disarmament and development are two most urgent challenges facing the world, today, and are two pillars on which international peace and security can be built. The continuing arms race absorbs far too great a proportion of the world's human, financial, natural and technological resources and hinders the process of confidence building among states.

The global military expenditure, estimated at a trillion dollars annually, is in dramatic contrast to economic and social underdevelopment and to the misery and poverty afflicting two-thirds of humankind.

Mr. President, there is also a growing recognition that both overarmament and underdevelopment constitute threats to international peace and security.

The lop-sided commitment of the world's resources to the development of any product of armaments of ever-increasing sophistication and destructive power, as against the extremely limited investment in the socio-economic well-being of our society, represents an increasing perversion of the values on which our civilization rests.

Such a situation, Mr. President, creates a moral imperative for the international community to heave together in a determined effort to stop the militarization of our earth and space and, in a reversal of priorities, to concentrate on the development of mankind's material and spiritual resources.

We must reconstruct, while we can, the convoluted reflection of our present-day society, in the distorting mirror of the arms race. Time has not run out on us, yet. We retain the capacity to reassert our humanity and to save ourselves and future generations from having to face a final count-down.

Thank you, Mr. President.

TRADE BARRIERS

● Mr. **HATFIELD**. Mr. President, recently some of my colleagues have expressed concern over the delay in providing small package air service between the United States and Japan, as provided in a memorandum of understanding [MOU] between our two countries. Under the terms of the MOU, Federal Express was scheduled to begin service on May 12, 1988, using facilities at Portland, OR, as its gateway to Japan. Due to a number of obstacles, particularly a dispute over the proper interpretation of the MOU, service was delayed until mid-June. I note with some concern that this service finally commenced not as a result of a commonsense reading of the MOU by the Japanese Government, but primarily because of continued diplomatic pressure by the United States.

Rather than dwell on the specific circumstances surrounding the delay, I would like to place this problem in the larger context of the global difficulties American companies face in international air cargo markets.

Recently, the Departments of State [DOS] and Transportation [DOT] completed a study entitled "An Analysis of the United States International Air Cargo Market." The report underscores the decline in the share of the international air cargo market held by U.S. air carriers. For example, from 1975 to 1985, America's share of the international air cargo market dropped one-third, from 21 to 14 percent, while Japan's increased by more than 40 percent, from 6.3 to 9 percent. More significantly, from 1985, the year the MOU with Japan was signed, until 1986, the United States share of the United States-Japanese air cargo market declined from 48.3 to 43.5 percent. In that same period, the Japanese share of that market increased from 35.6 to 40.9 percent.

The study not only provides a statistical basis for analysis, it also identifies the problems encountered in initiating international small package express service, particularly to Japan. The report refers to the "many and costly" restrictions known as doing business problems which have become the major barrier for U.S. air carriers.

Mr. President, this report lays out the present difficulty in implementing air cargo agreements with Japan. The agreements are embodied in several MOU's that have grown increasingly technical and complicated. It is from the preoccupation with these technical requirements that trade barriers grow. For example, small package service to Japan was delayed by Japanese refusal to accept a standard airway bill format, even though the MOU does not require any particular airway bill format. This preoccupation with the minutia of these memoranda spawns the problems that have frustrated the very purpose of the agreements: the facilitation of service.

The air cargo study also reveals the present failure of the process embodied in the MOU for "beyond rights" which domestic air carriers are entitled under current bilateral aviation agreements. These "beyond rights" allow air carriers to transport cargo beyond the destination country, to another country under which we have also entered into agreement. This inadequacy eliminates the potential for a United States carrier to make deliveries of cargo originating, for example, in the United States, to points beyond its Japanese destination. This obviously makes for costly long hauls and effectively prevents United States air carriers from establishing a cost-effective distribution system in Asia.

Obtaining "beyond rights" for United States cargo carriers is essential to their competitiveness in the Far East. It is also a matter of simple reciprocity and basic fairness. Nippon Cargo Airlines has been able to fashion an integrated cargo service between the Far East, Europe, and the United States—in effect, exercising "beyond rights" through the United States—while the Japanese Government denies American carriers this same opportunity.

Federal Express' instant problem underscores the need to stop this downward spiral of divisive technical squabbles over trade agreements with Japan. Clearly, it is time for the Government of Japan to negotiate with the United States agreements about air cargo markets which facilitate orderly and efficient service and at the same time provide a fair market for competition.

Mr. President, I am an advocate of free trade and am one of the few Senators who opposed the omnibus trade bill. Negotiations between countries over trade matters produce far more meaningful and effective results than legislation. But this belief of mine is being tested by trade difficulties with Japan on small package air service. I trust that the Japanese Government will look upon this matter with an open mind and a willingness to abide by both the letter and spirit of the agreements upon which we have agreed and relied in good faith. And I expect our U.S. Trade Representatives to expect no less.●

SMITHSBURG, MD, CELEBRATES ITS 175TH ANNIVERSARY

● Mr. SARBANES. Mr. President, I would like to bring to the attention of my colleagues the 175th anniversary of one of Maryland's most beautiful small towns, Smithsburg. Smithsburg takes great pride in its history, a pride shared by many throughout Washington County and over the State.

The Smithsburg name first came into existence when Christopher Smith bought land and laid out a village. He sold plots of land in an attempt to secure the future of his family, and in doing so, he set up the town of Smithsburg.

Smithsburg grew quickly. Stores, schools, and churches sprang up throughout the town, and in 1820 Smithsburg boasted a population of 136 people. At that time, it was one of the largest towns in the county.

Adding to the population were the farmers who were attracted to the rich and fertile soil of the area. As an experiment, farmers planted peach trees on mountain land. Their endeavors were successful, and to this day Smithsburg is famous for its mountain orchards and its delicious peaches.

In 1846, Smithsburg was officially incorporated as a town. Later it was briefly involved in the Civil War. There was an exchange of fire between Stuart's Confederate troops on Nicodemus Hill and Kilpatrick's Union forces on Gardenhour's Hill lasting an hour.

Through the years, Smithsburg continued to grow. Feed mills were set up as well as large companies such as the Hagerstown Water Co., Smithsburg Bank of Washington County, the Chesapeake and Potomac Telephone Co., the Western Maryland Railroad, and the Frederick & Hagerstown Power Co.

In addition to large companies, small community organizations and services were created. Libraries were housed in an apothecary shop, a bakery, and two private homes before the Reading Club bought a building for a library. In addition, a volunteer fire department was established based on the efforts of many of the town's citizens.

Today Smithsburg is a thriving, attractive town which has preserved much of its history, architecture, and strong community spirit. Mr. President, I ask my colleagues to join with me in congratulating the residents of Smithsburg on its 175th anniversary, and in wishing them the best for the years ahead.●

CHRIST TEMPLE CHURCH CELEBRATES 20TH PASTORAL ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Dr. Willie C. Tolbert, Sr., and his wife, missionary Ozzie D. Tolbert. They and their congregration are celebrating the 20th pastoral anniversary of the Christ Temple OFW Baptist Church in Newark, NJ.

As the congregration's spiritual leader, Dr. Tolbert founded Christ Temple in August 1967. Although the building to house the church was rundown, it didn't matter. The church members worked diligently to have their first service that September. Today Christ Temple makes its home at 260 South 20th Street in Newark.

Christ Temple expanded in May of 1978 and the church began broadcasting live services in 1981. In 1982 it received an award for excellence of service in broadcasting and also an award for Pastor and Church of the Year.

The church has had nine associate ministers, including missionary Ozzie D. Tolbert, Dr. Tolbert's devoted wife of 34 years. They have eight children and have been blessed with four grandchildren. Dr. and Mrs. Tolbert participate actively in community life. Dr. Tolbert holds an earned doctorate degree and is the president of the OFW Baptist Northern District Union, a member of the North Jersey Black Churchmen, chairman of the investigating committee under the auspices of the OFW Baptist Annual Conference.

Mr. President, I am pleased to honor the efforts of Christ Temple and its spiritual leader, Dr. Tolbert, and his wife. I extend my warmest wishes for a bright future and continued success as a dynamic force in the community of Newark.●

HOW TO SUCCEED

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to my colleagues' attention an excerpt from Harvey Mackay's book "Swim With the Sharks Without Being Eaten Alive." Mackay, a fellow Minnesotan, has been called "Mr. Make-Things-Happen" by Fortune magazine. He is the chairman and chief executive officer of Mackay Envelope Corp., and is a charismatic leader of his community. At the age of 26, he turned a failing envelope company into a multimillion-dollar corporation. He was the driving force behind getting the Metrodome built in Minneapolis, and he masterminded the famous $6 million "Twins Ticket Buyout" to keep the World Champion Minnesota Twins in Minnesota.

Mackay has recently written a book about being successful—not only in business, but in life. Harvey himself has "made it" in more ways than one. Not only is his business thriving, but he is also an internationally renowned public speaker, a marathoner, a ranked tennis player in Minnesota, and a marvelous family man as well, and I have often been in his home.

Mr. President, I submit to you, from his chapter on "How to Succeed," a story about Harvey's father, from whom he received his unlimited determination and energy. I hope my colleagues will give these simple, direct, and profound words the attention they deserve.

The excerpt follows:

> That was Jack Mackay. Determination and heart.
>
> Here's another example . . .
>
> During the early 1930's, Governor Olson of Minnesota was a national figure. If he'd had a cryptobiographer as gifted as Robert Penn Warren, author of *All the King's Men*, it would have been Olson as well as Huey Long immortalized as the quintessential de-

pression-era populist governor-*cum*-presidential aspirant.

In the summer of 1935, Olson lay dying of cancer in the Mayo Clinic in Rochester, Minnesota. A deathwatch had developed among reporters, and a competition sprang up among them as to who would be first to have the story.

My father had positioned himself in the street outside Olson's hospital window and had tipped Olson's nurse a few dollars to lower the shade in an adjoining room when Olson succumed.

Because the hospital would not let the reporters use hospital phones to call in their stories, and since pay phones were much rarer than they are today, my father also had given a boy a quarter to hold a phone for him at a corner grocery store a couple of blocks away.

Olson died, the shade came down, and my father began his run to the grocery store. Just as he was crossing the last street, with all his concentration focused on the national wire service story he would be reporting in the next few minutes, he was hit by a truck. He got up, dusted himself off, limped to the phone, called in his story, and only then forced himself to limp back to the hospital and check in. Jack Mackay had his scoop.●

FORMER GOV. RALPH CARR, COLORADO

● Mr. ARMSTRONG. Mr. President, yesterday was an ironic day in the Senate. Congress finally cleared for the President's signature the bill making reparations to Japanese-Americans who were imprisoned during World War II.

In a way, we should breathe a sigh of relief that our society has admitted a terrible mistake and tried to make it right. But it also cost the taxpayers of the country over a billion dollars.

Colorado historians cannot help but reflect that if the Nation had listened to the lone voice of Colorado Gov. Ralph Carr, the whole thing would never have happened. Governor Carr was the sole western Governor who refused to participate in rounding up American citizens and placing them in concentration camps.

An emotional controversy arose in Colorado over this issue in 1942. Of course, racial resentment ran high in the days right after Pearl Harbor, and President Roosevelt's order to imprison Japanese-Americans was popular, even in Colorado.

But Governor Carr, at the risk of his own political future, refused to participate in it, pointing out that all American citizens were entitled to equal protection under the law. He gave a very simple reply to President Roosevelt at the time, saying plainly, "I won't do it." Publicly he was more eloquent and was quoted as saying, "Right is like the eternal sun; the world cannot delay its coming."

Carr also publicly opposed a ballot initiative in Colorado in 1942 which would have barred Japanese descendants from citizenship in Colorado. His opposition helped defeat the measure, by a narrow margin, but it cost him his political career.

Governor Carr ran for the U.S. Senate that year, but he lost to Edwin C. Johnson, largely because of his stand against punishing American citizens for what Japan was doing in the Pacific. He laid his career on the line for a larger cause, and his foresight was much in evidence here in the Senate yesterday.

Had President Roosevelt listened to Gov. Ralph Carr in 1942, not only would the Treasury be $1.25 billion richer today, we would all be richer as a people. His legacy stands tall today and it is worth taking a moment to remember him.

I have received a letter from Mr. Wayne Patterson, who worked for Governor Carr, sharing his reflections about this great statesman. And I call attention to an article in the Colorado publication En Garde about George Robinson, another Carr staff member who later spent years in the office of the House Doorkeeper here in Washington. George Robinson is an amazing man in his own right, but above all he deserves great credit for bringing to light in the 1980's the legacy of Ralph Carr, and for making sure we do not foreget this great leader.

I ask that the letter and article appear in the RECORD at this point.

The material follows:

Attn: Greg E. Walcher, Executive Director.
WILLIAM L. ARMSTRONG,
Senator, U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for contacting me regarding the nomination of former Governor Ralph L. Carr as Colorado's second statue in the National Statuary Hall in the U.S. Capitol.

I wish to endorse his nomination, with enthusiasm, and submit some personal observations to support my thought that he is an outstanding candidate for this great honor.

Many of those historic citizens who will be nominated for this memorial will have outstanding records of contributions to the welfare and growth of our state but in most cases their accomplishments were by-products of other commitments such as financial ventures, exploration financed by others, or political success. I submit that Governor Carr qualifies in none of these areas his contributions to our State were made at the cost of great personal, financial and political sacrifices.

He was a true native son, born in the little mining town of Rosita Dec. 11, 1887 and lived his entire life in his beloved State of Colorado. He served two terms as Governor at a salary of $5000 per year and he had to spend much more than that each year to carry out the duties of the office. He left this world after accumulating little in the way of worldly goods when he died in 1950.

I was intimately associated with him during his last two years in office and we remained friends until his death. I served as his driver and bodyguard while I was a member of the State Patrol. During that time, when he was serving as wartime Governor, I saw him faced with many critical decisions that had serious ramifications for the State and its citizens. Many such decisions forced a choice between his belief of right and that of political expediency he never hesitated for a minute between the choices, usually with bad political results.

He had two quotes that I remember well. These quotes in my opinion accurately reflect his character and commitment.

They were:

"Right is the eternal sun; the world cannot delay its coming".

The second was Abraham Lincoln:

"Let us have faith that right makes might, and in that faith let us dare to do our duty as we understand it".

I was privy to many private conversations, official ceremonies, public meetings, speeches, and other official functions of the Governors office during the early 1940s and as we traveled over the state we had hundreds of conversations. It became clear to me that this man had a deep empathy for those whom he felt had little or no voice in our great Democracy and a great affection for his fellow man.

He spoke spanish fluently and had a clear understanding of mexican-american culture. He had great respect for those of american ancestry who had settled a large portion of our State and moulded it's history.

I recall that we made a trip to the San Luis valley after a meeting in Denver where a man in the audience had complained that the "Mexicans" were not becoming "Americanized". The Governor talked at length during the trip about his thoughts on the matter. I cannot quote him but as best that I can recall it was substantially this:

"Pat, this is the San Luis valley—These folk's ancestors were here long before yours and mine arrived. The man at the meeting in Denver talking about their refusal to become "Americanized"—whatever that means—he thinks they should abandon their culture and language. I just cant see that clinging to their culture makes them any less good citizens than you and I. Remember, too, that a great number of their children are serving in this war all over the world—some dying. Their culture is old and dear to them and I dont see any reason why they cant retain that culture. They love this country the same as you and I."

He corresponded with hundreds of Colorado men and women in the military service during the war, dictating to an ancient barrel-type Dictaphone recorder plugged into the cigar lighter in the automobile as we traveled over Colorado. The words sometimes carried descriptions of the Colorado scenery that painted a graphic picture to the recipient who was a long way from home. I suspect that many of these letters are tucked away in memory trunks today.

His more publicized example of moral and political courage came when the Japanese were being evacuated from the west coast at the beginning of world war II. The Governors of the western and midwestern states adopted a safe political stance by refusing to allow the displaced Japanese to enter their respective states. Governor Carr immediately went on record welcoming the displaced citizens to Colorado.

Again, I cant quote his words but he said something near this to me:

"Pat, these people are citizens of our country the same as you and I, and they are entitled to live peacefully anywhere they wish in our country. The United States is a great democracy because of our Constitution and It requires that all of our citizens be protected regardless of where their ancestors came from. I want my State to be a leader in protecting citizen rights not a follower."

I saw hatred and intolerance in the faces of some of the people in audiences where he spoke and we received several serious threats against his life but he exhibited no fear and never waivered for a moment in his resolve and dedication to the strict principles of the constitution. He walked into hostile crowds like a Crusader with a message.

He had the opportunity to enter the United States Senate by the "backdoor" when Senator Alva B. Adams died in office in 1941 or early in 1942. John C. Vivian who succeeded Governor Carr as Governor was Lt. Governor at the time and they were of the same political party, the Lt. Governor could have appointed him to Senator Adams unexpired term.

The Governor appointed Eugene D. Milliken to the vacancy and later said to me "Pat, I'm controversial and Gene will make a great Senator, the people have a right to vote on me going to the Senate and no matter how badly I would like to say some things on the Senate floor, this is not the way. Needless to say, his unpopular stand on the question of the Japanese refugees led to his defeat that fall. If I recall correctly, a change of only two votes in each precinct would have elected him.

I could recite many more examples of this man's wisdom, moral courage and devotion to his State but this could become boring to the readers and since I am doing my own "two-finger" typing, I will conclude by saying:

I have known a multitude of statesmen, outstanding citizens, politicians, fine professional men and women and many have made great contributions to the State of Colorado during my four decades of public service and I know of none more deserving of this great honor.

I respectfully urge your favorable consideration of Governor Ralph L. Carr for this enduring memorial.

Sincerely,

WAYNE K. PATTERSON.

[From En Garde, Mar. 7, 1988]

THE SAGE OF A DEVOTED GOVERNOR—AND OF A DEVOTED ASSOCIATE

When Ralph L. Carr took office as Colorado governor in 1939, he was merely taking another step in a career of raising eyebrows.

Before he died of a heart attack in 1950, he had proven repeatedly that he was fearless and he would not allow political repercussions to stand in the way of following his conscience.

Those points have been raised many times by many people, including a recent tribute on KCNC and an excellent story last September 27, by Bemy Morson in the Rocky Mountain News.

But no light burns as brightly when Ralph Carr's name is mentioned as it does in the only-slightly-dimmed eyes of George L. Robinson.

George Robinson is retired in Maryland now. But his memory is as sharp as it was the day he entered the governor's office and took his seat outside the office of Ralph Carr.

George Robinson, you see, was "a colored" and in those days "coloreds" didn't work in the governor's office.

In breaking a precedent, George displayed many of the traits of Jackie Robinson, who cracked the color barrier in major league baseball.

George was never a "yazzah, yazzah." He spoke up when he felt it was neccessary. Some critical legislators thought he was "uppity." Ralph Carr thought he was just fine.

I've known George for many years. When he was living in Denver, I used to hear from him regularly. Now I still get an occasional long-distance call. There's no reason for George to identify himself. The voice is unmistakable. The crisp tones are only slightly mellowed by age.

When there appeared in my mailbox a rather voluminous package, I had an instinctive feeling that George Robinson was on the move again. Inside was the Congressional Record with certain pages marked. The remarks were inserted in the Record by U.S. Congressman Hank Brown of Colorado. They included the Morson article, as well as Brown's own comments.

The letter contained this line: "My thanks go to George L. Robinson, who served on Governor Carr's staff, who brought these articles to my attention."

Ralph Carr contributed to a display of sheer guts in a manner perhaps unmatched in Colorado history. In 1942, he was the likely Republican choice to run for the U.S. Senate against the Democratic incumbent, Ed C. Johnson, the state's most successful politician ever to stalk a voter. Johnson died unbeaten having served multiple terms as governor, as U.S. Senator and then as governor again.

Colorado was violently anti-Japanese, following the sneak attack at Pearl Harbor. Generally, it applauded the evacuation of Americans of Japanese descent to relocation centers.

So when a measure appeared on the 1942 ballot which would have barred anyone of Japanese descent from citizenship in Colorado, the politically smart thing to do was support it. Ed Johnson, always one to know on which side his political bread was buttered, was all for the measure.

Ralph Carr was against it, spoke against it and eventually was the main reason the measure was defeated—a defeat that attracted national headlines about Colorado's understanding and objectivity in times of racial tensions.

It also ended Ralph Carr's lifelong dream of being U.S. Senator. Ed Johnson beat him by fewer than 5,000 votes. Analysts said at the time that if Carr had just remained mute on the Japanese issue, he would have won.

Said Representative Brown: "Carr, a Republican, reflected a branch of conservatism that read the Constitution as a guarantee of individual liberties. According to people who knew him, Carr had the ability—unusual in the more prejudiced days of a half century ago—to view people as individuals, regardless of race."

George Robinson was and is one of those individuals. As long as he remains to tend the fire, the flames of greatness surrounding Ralph Car will never be extinguished.

My name is Sam Lusky, and this time there aren't any questions.●

THE WEST MICHIGAN ENVIRONMENTAL ACTION COUNCIL

● Mr. LEVIN. Mr. President, the West Michigan Environmental Action Council is celebrating its 20th anniversary this year. Since its inception in 1968, the council has been vigilant in the struggle to preserve the quality of our environment for future generations. It has successfully brought together citizens from many diverse community groups in the battle to ensure a safe and healthy environment.

The West Michigan Environmental Action Council has been a powerful force on the environmental stage. During its first 20 years, the council initiated and successfully conducted the campaign in support of the Michigan Environmental Protection Act. That law became the focus of international environmental conferences and served as a model for at least nine other States. In addition the council was described by a congressional committee as playing a crucial role in the passage of the National Environmental Policy Act.

The 1970's found the West Michigan Environmental Action Council fighting court battles to protect the Pigeon River Country from oil drilling, and to establish an evenhanded enforcement of air pollution laws in the State of Michigan. The council also organized the Michigan Environmental Network, which is now composed of all environmental and conservation groups in the State of Michigan and serves as a medium through which information can be shared and priorities set. It taught Michiganders how to protect the environment and began the Michigan Motor Oil Recycling Program. Furthermore, the council led the battle for enactment of the landmark Michigan Inland Lakes and Streams Act, which protects against unauthorized diversion, dredging and filling of Michigan's many fresh water lakes and streams.

The West Michigan Environmental Action Council remains a diligent soldier in the fight for a better environment. Moreover, the council has carefully sought a balanced position by learning the concerns of industry and listening to legal and scientific advice before formulating a position on the issues. I congratulate the West Michigan Environmental Action Council on the celebration of its 20th anniversary and its many fine accomplishments over the years.●

ORDERS FOR MONDAY, AUGUST 8, 1988

RECESS UNTIL 10 A.M.—MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock a.m. on Monday next, and that after the two leaders or their designees have been recognized under the standing order there be a period for morning business not to extend beyond 10:30 a.m. and Senators may speak during morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5015

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate considers the conference report on H.R. 5015, the drought assistance bill, it is considered under the following time limitation: Two hours of debate to be equally divided and controlled between Senators LEAHY and LUGAR, and at the conclusion of the yielding back of the time the Senate proceed to vote on the conference report without any intervening action or motion.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATION ACT, 1989

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 767, the intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 2366) to authorize appropriations for fiscal year 1989 for the intelligence activities of the U.S. Government, and so forth, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2814

(Purpose: To amend Title 10, United States Code, to improve protection for personnel assigned to military intelligence collection activities)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of the distinguished Republican leader, Senator DOLE.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [M. STEVENS], for Mr. DOLE, proposes an amendment numbered 2814.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Title 10, United States Code, chapter 75 paragraph 1489(a)(1) after subsection (A), add the following new subsection (B):

"(B) dies on or after June 15, 1988 while serving on active duty as a member assigned to duty with a Defense Attache office outside the United States; or"

and reletter the existing subsection (B) as subsection (C).

Mr. DOLE. Mr. President, On June 28, 1988 Capt. William E. Nordeen was killed by a terrorist bomb on an Athens street. Bill's murder has surfaced the fact that the death gratuity benefit which the Secretary of Defense is authorized to pay to families of certain other military intelligence personnel is not available for our defense attachés.

Today I ask you all to join me in an effort to extract some good from Bill's senseless death.

The defense attachés are excluded from the death gratuity benefit because they are not classified as "clandestine." Indeed our attachés are not clandestine. They gather information about military affairs in each host nation completely openly and legally.

Unfortunately, it is precisely this openness which has made our attachés political targets. Terrorists view them as representatives and symbols of the American defense and intelligence establishments. No doubt the authors of the current law covered clandestine collectors in the belief that their position places them at an extraordinary risk. I have no quarrel with that.

My purpose is to seize upon the unhappy event of a few weeks ago to protect the families of our defense attachés. Bill Nordeen's murder underscores the risk they, too, run.

The amendment simply authorizes the Secretary of Defense to pay a death gratuity benefit to the family of a defense attaché killed as a result of hostile or terrorist activity. There can be no real objection to this.

There is no budgetary impact to this measure. The death gratuity is only 1 year's base pay. Had this amendment been law over the last 18 years, it would have been paid only five times. God willing, it will be paid infrequently—I hope never—in the future.

Some might say that it is wrong to single out one group within the military for special benefits. To some degree this has already been done for clandestine military intelligence personnel. The amendment is only a small extension.

And let us also recall that our attachés are special. They are specially selected, specially trained, and they assume the special risk of becoming a political target. They are targeted not as just one member of our Armed Forces, but as individuals.

Recall too that they must take their families into these risky situations. Indeed, Bill Nordeen left his wife, Patricia, and daughter, Annabelle, only moments before he stepped into his car on June 28.

Mr. President, this benefit is just a small token which a grateful nation can offer in appreciation for the courageous service of men and women like Bill Nordeen. Let us take this small reasonable step, and let us start with the Nordeen family.

I understand this amendment has been cleared on both sides of the aisle.

Mr. NUNN. Mr. President, it is a sad fact of modern life that U.S. servicemen and women overseas may be targets of terrorist attacks. It is also true that defense attachés are particularly vulnerable to these attacks because their identity is sometimes well known and their activities are often public. As a result, they are especially at risk.

The recent assassination of Captain Nordeen is tragic proof of this fact. All of us deeply regret Captain Nordeen's senseless death and our sympathy goes to his family and loved ones.

It is appropriate that his survivors receive adequate death benefits from the government.

Therefore, I understand the motive behind the minority leader's amendment and I commend him for his concern. However, I am also concerned about the families of other U.S. servicemen and women who are at risk. The Senator's amendment would give greater death benefits to the survivors of defense attachés than to the survivors of other members of the Armed Forces who die in the line of duty, such as the 37 sailors who died on the U.S.S. *Stark*, the Marines killed in Beirut, the pilots shot down in the raid against Tripoli, and Major Nicholson who was murdered by the Soviets in East Germany. One must ask if this disparity is fair.

I will not oppose this amendment because I believe the objective of the amendment—to provide adequate compensation for the survivors of members of the armed services who are killed in the line of duty overseas—is sound. However, I believe the conference should look very closely at this matter to ensure that this amendment does not create any inequities among various members of the armed services.

Mr. STEVENS. Mr. President, I urge adoption of the Dole amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2814) was agreed to.

Mr. BOREN. Mr. President, it is a distinct honor for me to present to the Senate the fiscal year 1989 intelligence authorization bill. This is the 12th consecutive year that the Senate has considered an intelligence authorization.

The intelligence authorization is the principal means for the Senate to set forth its priorities, and express its concerns for the U.S. intelligence community both for the coming year, and in some critical respects, for years to come. It is the product of many hours of closed hearings and meetings and review of thousands of pages of highly classified and detailed documentation relative to intelligence plans and programs. Of course, most of the actions recommended by the committee are classified and cannot be made public.

However, the classified supplement to the committee's report on the fiscal year 1989 intelligence authorization has been available for review by all Members of the Senate since early June in accordance with the provisions of Senate Resolution 400. This classified supplement explains in detail the specific recommendations of the committee on all intelligence programs.

It has been a privilege for me to have been able to work with the distinguished Senator from Maine, the vice chairman of the Intelligence Committee, on this piece of legislation. I would say to my colleagues that it is a rare privilege to be able to work with him. He is a person of immense intellect, great insight, and sound judgment. In addition, he has developed tremendous expertise in national security matters during his almost 6 years on the Intelligence Committee.

For the past 2 years, we have developed a truly bipartisan approach in the committee to the national security and foreign policy matters which we confront. I am very proud of the fact that the committee has worked as a unit on the essential matters that have been before it, including such important issues as intelligence oversight legislation, the CISPES investigation and the INF Treaty.

Senator COHEN and I, as representatives of the committee, also have endeavored to work closely with members of the executive branch to try to develop that kind of cooperative partnership between the two branches of Government.

This past year we have seen the fruits of this partnership as we worked to obtain needed funding for improvements in our national technical means with respect to our ability to monitor arms control agreements.

Our committee was charged with the responsibility of providing the U.S. Senate with a report on the ability of the United States to monitor and verify compliance by the Soviet Union with the treaty on the elimination of intermediate-range and shorter-range missiles—INF Treaty. In meeting this responsibility, the committee explored in depth not only the immediate intelligence issues raised by the treaty, but also the longer-term implications of the treaty, including its relationship to future requirements that may be levied against our intelligence capabilities as a result of any prospective START Agreement.

The committee's efforts in preparing this analysis of the INF Treaty were long and comprehensive. We followed both the negotiations and arms control monitoring on a continuing basis, focusing on U.S. technical intelligence capabilities, both for now and the future. Indeed, for several years, this committee has worked with the executive branch to obtain needed funding for improvements in our technical collection capabilities against identified gaps in our coverage of the Soviet military threat, while encouraging the intelligence community to use those funds as efficiently as possible.

In carefully studying the complex verification issues, the committee held more than 20 closed hearings and more than 25 on-the-record staff briefings, in addition to numerous informal staff briefings. Our witnesses included ranking officials and substantive experts from the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the intelligence arms of the military services, the intelligence community staff, the State Department, the Arms Control and Disarmament Agency, the Defense Department, the Joint Chiefs of Staff, and—on counterintelligence implications of onsite inspection—the FBI and former defense officials who are leading authorities on arms control.

In addition to these proceedings, and the many thousands of pages of documents that the committee has studied, both we and our staff have traveled to many of the most important installations where monitoring systems are produced or operated, as well as to the site of Magna, UT, where Soviet portal monitors will be able to observe items entering and leaving a United States missile production facility. In short, we have endeavored to ensure that every issue was fully addressed during the course of our work.

Mr. President, while the committee's report was not an assessment or prejudgment of START or its monitoring requirements, the committee concluded that without additional technical collection capabilities, U.S. intelligence would be unable to monitor a START agreement, as currently envisioned. Accordingly, we worked very closely with all of the senior policy officials in the national security and defense arena, including the President of the United States, the Director of Central Intelligence, the Secretary of Defense, and the National Security Adviser to the President, as well as the leadership, on both sides of the aisle, of the Senate and the House, to obtain their support for the committee's initiative to improve our intelligence monitoring capabilities.

The intelligence authorization for fiscal year 1989 incorporates the committee's findings with respect to future requirements by authorizing funds to initiate a long-term program to modernize and improve upon current plans for intelligence collection. I urge the Senate to endorse this bipartisan, unanimous recommendation of the committee. These highly classified initiatives would provide needed improvement in our capabilities to verify a START Treaty, prevent technological surprise and support U.S. policy and military operations in crises.

Mr. President, I also wish to note another important area that the committee has continued to focus attention on. For the past 10 years, under leadership from both parties, the Intelligence Committee has given high priority to improvements in U.S. counterintelligence programs. The threat from Soviet bloc intelligence services and other hostile intelligence operations has continued unabated, regardless of foreign policy developments in other areas. Sometimes the impact has been clear and dramatic, as in such devastating espionages cases as Walker-Withworth, Howard, and Pelton. Recent cases have been important not only because of the damage done by known compromises, but also because they uncovered pervasive patterns of laxity in U.S. counterintelligence policies and the administration of security countermeasures that may well have allowed other compromises to take place undetected. Progress has been made in strengthening U.S. counterintelligence, but considerably more remains to be done.

The counterintelligence initiatives reflected in the Intelligence Authorization Act for fiscal year 1989 carry forward the committee's effort to identify and resolve gaps and weaknesses in U.S. programs to counter the hostile intelligence threat. They include unclassified measures related to the FBI's work in this country and to counterintelligence at U.S. missions around the world.

One of our primary objectives has been to improve the quality of U.S. counterintelligence personnel. The committee's 1986 report on "Meeting the Espionage Challenge" found that one of the most serious personnel problems in the entire counterintelligence community was the FBI's inability to attract and retain counterintelligence specialists in New York City where the FBI confronts a large hostile intelligence presence in a unique and difficult operating environment. In last year's Intelligence Authorization Act, Congress directed the FBI and OPM to study the cost-of-living problem for the FBI in New York.

The joint FBI-OPM report, as submitted this year with approval by the administration and the Justice Department, called for a 5-year demonstration project to ascertain the effects of providing transfer and retention bonuses to FBI personnel assigned to the New York office. Section 601 of the bill implements this recommendation. I want to point out to the Senate that it is our intent that this new authority be carried out in accordance with strict guidelines. In separate correspondence to the Senate Budget Committee, I have indicated my intent to accept house language relative to this provision in conference.

In addition to its direct benefits for attracting and retaining counterintelligence personnel in New York, this measure should help make counterintelligence careers overall more attractive to new FBI personnel who are recruited with specialized backgrounds or language skills and must count on the possibility of serving at least a substantial part of their FBI career working counterintelligence in New York.

A new challenge to U.S. counterintelligence arose in 1988 with the Intermediate Range Nuclear Forces Treaty which permits Soviet inspectors and portal monitors to have access to U.S. military bases and defense contractor facilities in this country. The committee examined in depth the counterintelligence implications of this aspect of the INF Treaty prior to ratification. The committee reviewed U.S. preparations to implement the INF Treaty, which include plans to expand FBI capabilities. Funding for this expansion in fiscal year 1989 was initially requested in the Defense Department budget, but our committee determined that funds should be provided directly to the FBI. Section 101(b) of the bill authorizes such funding.

I would like to take this occasion to remind the Senate the Intelligence Committee's finding in the unclassified report on the INF Treaty noted that the "extensive onsite inspection and portal monitoring that may be required by a START Agreement, including suspect site inspections, could have a far more significant impact on U.S. counterintelligence and security interests than those agreed to in the INF Treaty."

Turning from the counterintelligence problems at home to the threat to U.S. interests abroad, I want to stress importance of initiatives taken in the aftermath of the new Moscow Embassy bugging disclosures and the Marine security espionage cases. The committee's 1987 report on "Security at the United States Missions in Moscow and Other Areas of High Risk" discussed serious counterintelligence and security shortcomings brought to light by these incidents at U.S. missions targeted by hostile intelligence services.

At the committee's closed hearing on the budget authorization for U.S. counterintelligence programs in fiscal year 1989, CIA Director Webster, FBI Director Sessions, Assistant Secretary of State Robert Lamb, and Assistant Deputy Under Secretary of Defense Jack Donnelly reported to the committee on measures being taken to upgrade counterintelligence for U.S. missions abroad. While details were classified, Director Webster agreed to a public statement describing new initiatives that are already being implemented and that will be funded in the Intelligence Authorization Act for fiscal year 1989. One of these is the formation of a new, independent office which will report to Judge Webster in his capacity as Director of Central Intelligence and will evaluate the vulnerabilities of our foreign missions to the hostile intelligence threat. This action responds to the committee's recommendation in 1987 that the DCI certify the security conditions of all existing embassies and of all new facilities before they are used.

For the future, the committee will continue to evaluate the performance of U.S. counterintelligence and the lessons of recent security breaches. In that connection, for example, the committee is completing a review of the Marine security guard espionage cases.

At the same time, disclosures about the FBI's CISPES investigation raised serious questions about activities authorized in 1983-85 under the Attorney General's guidelines for counterintelligence investigations of international terrorism. The results of the committee's formal investigation of the CISPES matter will be reported later this year.

The committee recognizes the need for vigilant oversight to ensure that U.S. counterintelligence operations respect the rights of the American people. For that reason, the committee questioned FBI Director Sessions at the annual counterintelligence budget hearing about the "Library Awareness Program," and new guidelines for the program are under discussion with the FBI Intelligence Division.

Mr. President, at this time I would like to express my appreciation for the cooperation of the distinguished members of the Senate Armed Services Committee, especially the chairman, Senator NUNN of Georgia, and the ranking member, Senator WARNER of Virginia. They are also valued members of the Intelligence Committee. With their acknowledged expertise in military matters, combined with their keen awareness of the national security issues of the day, they make an immense contribution to our work.

I also wish to thank Senator EXON and Senator THURMOND, the chairman and ranking member of the Armed Services Subcommittee on Strategic Forces. They have the primary responsibility in the Armed Services Committee for review of those national intelligence programs that fall under the shared jurisdiction of our two committees. Their careful and diligent review of our intelligence programs have been instrumental in assuring the strong bipartisan support of these vital activities.

Mr. COHEN. Mr. President, I am pleased to join the distinguished chairman of the committee, Senator BOREN, in presenting the Intelligence authorization for fiscal year 1989 to the Senate. Perhaps the most potent oversight tool available to the Congress in monitoring the activities of the U.S. Intelligence Community is the power of the purse. The legislation before the Senate today reflects the Intelligence Committee's best judgment as to how the limited resources at our disposal can best be applied against the ever-expanding national intelligence requirements.

The recent ratification of the INF Treaty by the Senate, the prospect of a START Agreement in the near future, and the beginnings of a new relationship between the United States and the Soviet Union will pose immense challenges for the intelligence community.

But while the Soviet Union will undoubtedly continue to be the principal concern of United States intelligence, we must pay increasing attention to the growing problems in the Third World, the ever-present threat of international terrorism, the proliferation of nuclear technology, and the assessment of global economic stability. Last, we cannot ignore the potentially devastating consequences of the international drug trade. All of these areas require significant contributions from intelligence and, if ignored, may pose serious threats to all civilized societies.

Intelligence requirements are voluminous and complex, and are expensive to satisfy. In these times of shrinking defense and intelligence budgets, it is critical for the oversight committees to have a thorough and comprehensive understanding of the nature of these requirements, both in the short run as well as for the future. We must also ensure that those requirements with high priority for the Nation's security receive commensurate priority in terms of funding. This budget, in particular, reflects this sort of balancing by the committee. Several of the actions embodied in the classified annex to this bill will have significant implications for our national security well into the 21st century.

Last year, when we considered this bill, I pointed out the efforts being undertaken by the committee to improve its oversight of intelligence activities. I am pleased to say this year that those efforts have, indeed, moved forward since that time. For example, the independent audit staff we discussed last year has been put in place and is functioning. It is already demonstrating that it will be an important complement to our other oversight mechanisms.

In this year's bill, we have also included provisions requiring the Director of Central Intelligence to make available to the intelligence committees certain reports concerning the inspector general at CIA. Not only will this provide the committees better awareness of the inspector general's activities, it should go a long way in preserving his independence and effectiveness at CIA. These provisions, I might add, grew out of hearings held by the committee on a bill introduced by Senator SPECTER, who has made a particularly valuable contribution in this regard.

I would also note, Mr. President, the progress we have made over the past year in strengthening the legal framework for intelligence oversight. You will recall that the Intelligence Oversight Act of 1988 passed the Senate on March 15 by a vote of 71 to 19, indicative of the strong bipartisan support which this legislation received. A companion bill has been reported by the House Intelligence Committee and the House Foreign Affairs Committee, and is expected to be voted on in the House in the near future.

There remains, in essence, only one issue with respect to this legislation. That is the requirement that notice of covert actions be provided at least to the four congressional leaders no later than 48 hours after a finding authorizing such activities is approved by the President. The administration has indicated that it plans to veto the legislation because of its objections to this provision.

The administration, in fact, takes the position that the requirement under existing law that the President provide notice of such activities to Congress "in a timely fashion," in order to be consistent with his responsibilities under the Constitution, can only be interpreted as leaving him with "unfettered discretion" to determine when Congress is advised. Justice Department officials have conceded to the Intelligence Committee that this could mean weeks, months, or even years.

Moreover, the President has issued a National Security Decision Directive—NSDD 286—which has expressly reserved the right to withhold notice "in exceptional cases" for an indefinite period.

In a sense, Mr. President, Congress finds itself in a worse position after the Iran-Contra affair, than we thought we were in before it. We thought there was a clear understanding between the legislative and executive branches that notice "in a timely fashion" meant within a few days. Indeed, the practice of the administration before the Iran arms sales finding had been to provide prior notice. This also has been the practice since, except that now we are confronted with assertions that we have not had before of Executive power to keep Congress in the dark if a President so chooses.

I for one do not think Congress can accept these propositions. Covert actions involve shared governmental powers. They are not the exclusive province of the President. Congress must appropriate the money for them, and it has a need to learn of them in order to carry out its other legislative functions under the Constitution.

I appreciate the fact that such activities may take many forms, some requiring more delicate handling than others. We have attempted to build such flexibility into the bill by providing various options in terms of who must be notified. But I cannot accept the assertion that, under current law, the President has the right to keep Congress in the dark altogether. After all, ours is a system of checks and balances, not a monarchy. There is too much at stake for our country where covert actions are concerned for Congress to be denied a role. As Clark Clifford told the committe last December:

> In the last year or so, we have witnessed the recurrence of an all too frequent problem: covert activities that get out of control and embarrass the nation and undermine our credibility and capability to exercise world leadership . . . Moreover, the problem is getting worse, the costs are getting higher and the damage is getting greater. For this reason, I say that, unless we can control covert activities once and for all, we may wish to abandon them.

Finally, Mr. President, I want to discuss a matter regarding House Appropriations Committee Subcommittee on Defense report language. That language, in my opinion, unfairly and inaccurately undermines the effort of our committee, led by Chairman BOREN and myself, to improve our technical collection capabilities in light of the recent INF Treaty and of the prospoect of a START agreement in the near future.

Because we are in open session, I will not be able to fully respond to the misleading, distorted statements made in the House Appropriations Committee report. Those Members who wish to get a more accurate reading of the true state of our technical capabilities would be advised to read the classified annex to the reports on the bill we are considering today and on the INF Treaty which we recently approved.

There are, however, some points which can be made in this open forum and which are, I believe, important for members to keep in mind as they assess the intelligence community budget and the initiative to improve our National Technical Means. I would like briefly to lay them out for you.

The initiative proposed by the Senate Intelligence Committee has the approval of the President of the United States, the Director of Central Intelligence, the Secretary of Defense, and the President's National Security Adviser. Chairman BOREN and I have met and discussed this matter with all of them and there was close coordination to ensure that the package which was developed would be the most effective to meet our Nation's future needs.

Furthermore, the initiative is the result of over 2 years of exhaustive work on the part of this committee and United States intelligence in defining national collection solutions to emerging gaps in our coverage of the Soviet military threat. To suggest as the House Appropriations Committee report so blithely did, that this package "did not result from a thorough review by career intelligence professionals" is a disservice of the highest magnitude to the dedicated professionals—among the finest civil servants we have—in the intelligence community who put in literally thousands of hours in putting it together.

In closing, Mr. President, I would like to remind my colleagues of what the committee said in our April 21 unclassified report, "The INF Treaty Monitoring and Verification Capabilities." The report states:

> The U.S. intelligence community must be prepared to meet two priorities under a START environment—where the United States and the Soviet Union have agreed to reduce their strategic offensive forces while also complying with the INF, ABM and other arms control treaties. The first involves monitoring those weapons systems and activities limited or banned by arms control treaties. The second involves military activities which are not limited by treaties, but which take on an added importance as a result of their constraints.
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> By cutting strategic offensive forces on both sides by roughly 50 percent, a START agreement would raise the importance of intelligence on Soviet developments in other areas that would threaten the survivability and effectiveness on scaled back U.S. strategic forces.
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> Indeed, it is potential combinations of simultaneous developments in Soviet strategic offensive and defensive forces, particularly its capabilities against U.S. satellites, ballistic missile launchers and cruise missiles that raise the most urgent concerns about threatensing shifts in the strategic balance between the Soviet Union and the United States. Moveover, it is in areas not limited by a treaty where such Soviet efforts are likely to be most active.
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> The Committee accordingly recommends that the Congress authorize and appropriate funds required to initiate a long-term program to modernize and improve upon current plans for intelligence collection. It specifically recommends investing more in programs that would be most helpful in verifying a START Treaty, in preventing technological surprise and in supporting U.S. policy and operations in crises.

It is for these reasons, unanimously approved by members of the Intelligence Committee, that this initiative is so important and that it is so important to correct misimpressions which could be reached if one were to rely on the House Appropriations Committee's report as the sole source of information on this critical matter. The initiative, which represents the best advice of our finest intelligence professionals and which has broad support both in the administration and Congress, will have a lasting impact in the effort to bolster out intelligence capabilities and our Nation's security.

Mr. President, this authorization bill deserves the support of the Senate. It will, I hope, receive the affirmative vote of all our Members.

Mr. GLENN. Mr. President, I rise in support of S. 2366, but I wish to comment on that portion of the bill which would authorize some aspects of Inspector General coverage of the CIA.

Most key Federal agencies are now subject to Inspector General [IG] and General Accounting Office [GAO] audits. These audits ensure that agency heads, as well as Congress, receive accurate and reliable information concerning the audit resolution process and the implementation of corrective action. These audits also ensure that public funds are legally spent according to their stated intent. In addition, the internal investigations of IG's examine alleged employee misconduct. Together, these reviews encouraged economical and efficient operations throughout the Federal Government.

The CIA is one of the few important Federal agencies still exempt from the statutory title 5 Inspector General audit and investigative procedures. The CIA also claims to be exempt from GAO audits.

In the absence of such objective reviews of CIA programs and operations, a group of CIA and White House officials were able to hide from Congress for months the ill-founded and apparently illegal covert action that became known as the Iran-Contra affair. In fact, the current, nonstatutory IG at the CIA, appointed by the Director of Central Intelligence, has been criticized for his failure to detect and root out this scandal.

Clearly, the CIA needs greater independent audit and investigative coverage. Had the CIA been subject to the independent oversight of the GAO or a statutory inspector general not beholden to the CIA Director, the Iran-Contra problem might have been avoided. I would, therefore, wholeheartedly support any legislative proposal to provide the CIA with truly independent audit and investigative coverage.

Indeed, during this Congress, I introduced S. 1458, the GAO-CIA Audit Act of 1987. This bill was designed to give the GAO the authority to initiate and perform audits of the CIA under strict limits, while safeguarding classified information from unauthorized disclosure. This bill would not have placed any undue burden on the CIA's ability to maintain the secrecy of its operations, but would have made it more difficult for the Agency to hide ill-conceived or illegal activities from the scrutiny of the Intelligence Committees, to whom the GAO would report.

Unfortunately, S. 1458 was considered but never acted upon by the Senate Intelligence Committee, which instead reported the IG provisions of S. 2366.

While S. 2366 does take some helpful steps toward addressing the inadequate internal controls at the CIA, particularly the new requirement of semiannual congressional review of IG audit and investigative results, I do not believe it goes far enough in providing the type of independent internal reviews necessary to lead to early detection of either illegal CIA operations or improper Agency expenditures.

In particular, S. 2366 permits the CIA to remain exempt from the standard Federal Government procedure for IG appointment, whereby independent statutory IG's are appointed by the President and confirmed by the Senate and are subject to removal only by the President. This practice is codified in the Inspector General Act of 1978, which governs the duties and responsibilities of a majority of the current statutory IG community.

Instead, S. 2366 would authorize audits and investigations of the CIA by an inspector general who will continue to be appointed and subject to removal by the Director of Central Intelligence. This is exactly the system in place when the Iran-Contra affair occurred. It is a system that failed.

By giving the Director of Central Intelligence the power to both hire and fire the CIA inspector general, S. 2366 encourages the CIA IG to maintain a favorable relationship with the Director in order to preserve his job, rather than act as a proper independent fact-finder and, when necessary, a critic of CIA programs, operations, and personnel. The obvious conclusion is that the CIA IG will remain reluctant to track unwise and perhaps illegal conduct without the explicit approval of the Office of the CIA Director himself.

The Iran-Contra scandal shows the cost of high level CIA blunders in terms of both taxpayer dollars and our Nation's credibility with the rest of the world. This affair occurred, in part, because several CIA officials, including the CIA Director himself, had the ability and the freedom to spend the millions of taxpayers' dollars at their disposal without any form of independent accounting. Congress must be informed of the nature and extent of the CIA's spending activities if congressional oversight is to have any meaning. In my view, only a presidentially appointed, Senate-confirmed inspector general at the CIA would have the necessary authority and clout to ferret out and submit such needed critical information to the CIA Director and Congress.

If the CIA continues to claim exemption from GAO auditing procedures, Congress has no way of independently verifying that the funding that has been provided for covert activities has indeed been spent accordingly. Congress does not have the personnel, the expertise, or, quite frankly, the time to doggedly pursue periodic audits and investigations of CIA programs and operations. Despite the best efforts of the Intelligence Committee and its limited staff, Congress will continue to be forced to accept the CIA's word that its disposition of taxpayers' money for covert activities is proper. GAO oversight would significantly diminish this problem. Therefore, I encourage my colleagues on the Intelligence Committee to favorably act on my bill, S. 1458.

In the meantime, I believe that Congress should authorize a presidentially appointed, Senate-confirmed CIA inspector general to detect fraud and abuse and promote economy and efficiency within that Agency. I strongly believe that the traditional IG selection process that includes Presidential nomination and Senate approval, rather than an internal Agency appointment, will provide Congress and the public with more objective information about CIA expenditures and activities. Unfortunately, it now appears we may have to await the next scandal before these minimal steps are taken.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 714, H.R. 4387, the House companion bill; that all after the enacting clause be stricken; that the text of S. 2366, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4387), as amended, is as follows:

H.R. 4387

Resolved, That the bill from the House of Representatives (H.R. 4387) entitled "An Act to authorized appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States government, for the Intelligence Community Staff, for the Central Inteligence Agency Retirement and Disability System, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1989 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.

(b) In addition to the amounts authorized to be appropriated in this Act for the Federal Bureau of Investigation for fiscal year 1989, there is authorized to be appropriated $15,100,000 to be expended solely for carrying out its functions relative to the implementation of the Intermediate Range Nuclear Forces Treaty.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1989, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1989 the sum of $23,745,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 244 full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal year 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1989 the sum of $144,500,000.

TITLE IV—GENERAL PROVISIONS

AUTHORITY FOR CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

ONE-TIME PERSONNEL AUTHORITY

SEC. 501. (a) Whenever the Director of Central Intelligence finds during fiscal year 1989 that a former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee, the Director may grant such former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

(d) The Director shall report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives any use of the authority granted by this section in advance of such use.

FERS-CIARDS SPECIAL ELECTION AUTHORITY

SEC. 502. (a) Subsection (d) of section 301 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is redesignated as subsection (e); and

(b) A new subsection (d) is added after subsection (c) as follows:

"(d) An employee who has been designated as a participant in the Central Intelligence Agency Retirement System after December 31, 1987, pursuant to section 203 of this Act, may elect to become subject to chapter 84 of title 5, United States Code. An election under this paragraph—

"(1) shall not be effective unless it is made during the six-month period after the enactment of this section, or during the six-month period beginning on the date on which the employee is so designated, whichever comes first;

"(2) shall take effect beginning with the first pay period beginning after the date of the election; and

"(3) shall be irrevocable.".

AUTHORITY TO COMPENSATE RETIRED MILITARY PERSONNEL SERVING ON DCI ADVISORY COMMITTEES

SEC. 503. Subsection (a) of section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by adding at the beginning of the last sentence "Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation,"; and by changing the word immediately thereafter from "Other" to "other."

REPORTS CONCERNING INSPECTOR GENERAL ACTIVITIES

SEC. 504. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after section 16 the following new section:

"REPORTS OF INSPECTOR GENERAL ACTIVITIES

"SEC. 17. The Director of Central Intelligence shall furnish to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the following reports relating to the activities of the Inspector General at the Central Intelligence Agency:

"(a) A report made at the time any Inspector General is selected by the Director of Central Intelligence, specifying the name of the person selected, and certifying that such selection was made without regard to political affiliation. Such report shall also include a certification that the person selected meets Central Intelligence Agency security requirements and has had prior senior experience in the foreign intelligence field. It should also describe the background of such person as it relates to his or her experience in accounting, law, financial analysis, management analysis, public administration, other field directly relevant to the performance of functions assigned the Inspector General.

"(b) A report made at the time any Inspector General is removed by the Director of Central Intelligence, specifying the basis for such removal.

"(c) Semiannual reports, to be furnished not later than June 30 and December 31 of each year, summarizing the activities of the Office of Inspector General for the preceding six-month period. Such reports shall include: (i) a certification that such activities have been carried out in accordance with accepted Federal standards for inspections, investigations, and audits; (ii) a certification that the Inspector General has had full and direct access to all information relevant to his activities; (iii) a description of any violation of law or willful violation of regulations, or any evidence of serious fraud, waste and abuse, identified during the reporting period; and (iv) the status of corrective actions taken during the reporting period in response to Inspector General recommendations.

"(d) A report of any decision made by the Director of Central Intelligence to prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation within the Central Intelligence Agency, to be made within seven days of such decision.

"(e) A report of any other decision made by the Director of Central Intelligence which would substantially affect the ability of the Inspector General to carry out his duties and responsibilities. Such report shall include the position of the Inspector General with respect to such decision, and be transmitted within seven days to the committees.".

TITLE VI—FBI ENHANCED COUNTER-INTELLIGENCE AUTHORITIES

DEMONSTRATION PROJECT ON MOBILITY AND RETENTION FOR THE NEW YORK FIELD DIVISION

SEC. 601. (a) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a demonstration project to ascertain the effects on the recruitment and retention of personnel, and on field operations in the New York Field Division of the Federal Bureau of Investigation of providing—

(1) lump-sum payments to personnel upon directed assignment to the New York Field Division from another geographical location, and who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division; and

(2) periodic payments to New York Field Division employees who are subject by policy and practice to directed geographical transfer or assignment.

(b) Such demonstration project shall commence no later than ninety days after the date of enactment of this Act and shall terminate five years after such date, unless extended by law.

(c) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall jointly provide to the President and the Congress annual interim reports and, at the conclusion of the five-year period, a final evaluation concerning the results of the demonstration project.

TITLE VII—DEPARTMENT OF DEFENSE

INTELLIGENCE PROVISIONS

SEC. 701. (a) Section 421 of title 10, United States Code, is amended to read as follows:

"**§421. Funds for foreign cryptologic support**

"(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for Intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

"(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard to the provisions of law relating to the use of the United States Government funds, except that—

"(1) no such funds may be used, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds;

"(2) proceeds from the sale of cryptologic items may only be used to purchase replacement items similar to the items that are sold; and

"(3) the authority provided by this subsection may not be used to acquire items or services for the exclusive benefit of the United States.

"(c) Any funds used under the authority of this section shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947, as amended.".

MILITARY INTELLIGENCE COLLECTION ACTIVITIES

SEC. 702. In title 10, United States Code, chapter 75 paragraph 1489(a)(1) after subsection (A), add the following new subsection (B);

"(B) dies on or after June 15, 1988 while serving on active duty as a member assigned to duty with a Defense Attache office outside the United States; or";

and reletter the existing subsection (B) as subsection (C).

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. CONRAD] appointed Mr. BOREN, Mr. COHEN, Mr. BENTSEN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. ROTH, Mr. HATCH, Mr. MURKOWSKI, Mr. SPECTER, Mr. HECHT, and Mr. WARNER, and for matters within the jurisdiction of the Committee on Armed Services Mr. EXON and Mr. THURMOND, conferees on the part of the Senate.

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2366 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION AND EXTENSION OF BLOCK GRANT PROGRAM

Mr. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1579.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1579) entitled "An Act to amend the Public Health Service Act to revise and extend the block grant program, and for other purposes", do pass with the following AMENDMENTS:

Strike out all after the enacting clause and insert:

TITLE I—REVISION AND EXTENSION OF CERTAIN PROGRAMS WITH RESPECT TO PREVENTIVE HEALTH AND HEALTH SERVICES

SEC. 101. BLOCK GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "and" after "1986," and by inserting before the period the following: ", and $100,000,000 for each of the fiscal years 1989 through 1991".

(b) USE OF ALLOTMENTS.—Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended—

(1) in subparagraph (B), by inserting before the period the following: "and elevated serum cholesterol";

(2) in subparagraph (D), by inserting before the period the following: ", including immunization services";

(3) in subparagraph (F), in the second sentence, by striking "systems (other" and all that follows and inserting the following: "systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems."; and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) Establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, uterine cancer and breast cancer.".

(c) APPLICATION AND DESCRIPTION OF ACTIVITIES.—Section 1905(c) of the Public Health Service Act (42 U.S.C. 300w-4(c)) is amended by striking the matter after and below paragraph (6).

(d) REPORTS AND AUDITS.—Section 1906(b)(6) of the Public Health Service Act (42 U.S.C. 300w-5(b)(6)) is amended by striking "1983," and inserting "1990,".

SEC. 102. GRANTS FOR EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910(d) of the Public Health Service Act (42 U.S.C. 300w-9(d)) is amended by inserting before the period the following: "and $2,000,000 for each of the fiscal years 1989 through 1991".

SEC. 103. REPEAL OF PROGRAM OF STATE PLANNING GRANTS.

Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by striking section 1910A.

TITLE II—REVISION AND EXTENSION OF CERTAIN PROGRAMS WITH RESPECT TO SEXUALLY TRANSMITTED DISEASES, HEALTH INFORMATION, AND HEALTH PROMOTION

SEC. 201. GRANTS FOR PREVENTION OF SEXUALLY TRANSMITTED DISEASES.

Section 318 of the Public Health Service Act (42 U.S.C. 247c) is amended—

(1) in the title, by striking "AND ACQUIRED IMMUNE DEFICIENCY SYNDROME";

(2) by striking subsections (d) and (f);

(3) by redesignating subsection (e) as subsection (d) and subsection (g) as subsection (e); and

(4) in subsection (d)(1) (as so redesignated)—

(A) in the first sentence—

(i) by striking "(b), (c), and (d)" and inserting "(b) and (c)";

(ii) by striking "and" after "1986,";

(iii) by striking the period and inserting a comma; and

(iv) by adding at the end the following: "$78,000,000 for fiscal year 1989, and such

sums as may be necessary for each of the fiscal years 1990 and 1991.";

(B) in the third sentence, by striking "(b), (c), or (d)" and inserting "(b) or (c)"; and

(C) by striking the last sentence.

SEC. 202. HEALTH INFORMATION AND HEALTH PROMOTION.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) as amended—

(1) in section 1701—

(A) in subsection (a), by striking the first sentence of the matter after and below paragraph (10)(D); and

(B) in subsection (b)—

(i) by striking "this title," and inserting "sections 1701 through 1705,"; and

(ii) by striking "and" after "1986," and inserting before the period the following: ", and $10,000,000 for each of the fiscal years 1989 through 1991"; and

(2) in section 1706(e), by striking "and" after "1986," and inserting before the period the following: ", $5,000,000 for fiscal year 1989, $7,000,000 for fiscal year 1990, and $9,000,000 for fiscal year 1991".

TITLE III—GENERAL PROVISIONS

SEC. 301. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

Amend the title so as to read: "An Act to amend the Public Health Service Act to revise and extend the preventive health and health services block grant and to revise and extend certain programs for the prevention of sexually transmitted diseases and for the promotion of health, and for other purposes.".

Mr. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. CONRAD] appointed Mr. KENNEDY, Mr. PELL, Mr. ADAMS, Mr. HATCH, and Mr. QUAYLE conferees on the part of the Senate.

OCEAN DUMPING REFORM ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may at any time turn to the consideration of S. 2030, the ocean dumping reform bill, and that the Senate consider the bill under the following time limitations.

Mr. STEVENS. Mr. President, can I interrupt my good friend?

Mr. BYRD. Yes.

Mr. STEVENS. Might I ask that that be put off until Monday? I have personally been asked to check one provision in this bill, and I would like to do that over the weekend.

Mr. BYRD. All right. Very well, I withdraw that.

CONVENTION WITH THE REPUBLIC OF INDONESIA ON TAXATION

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention with the Republic of Indonesia on Taxation (Treaty Document No. 100-22), transmitted to the Senate today by the President; and ask that the convention be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol and exchange of notes, signed at Jakarta on July 11, 1988. I also transmit for the information of the Senate the report of the Department of State with respect thereto.

The Convention is the first tax treaty to be negotiated between the United States and Indonesia. It is based on model income tax conventions of the Organization for Economic Cooperation and Development, the United Nations, and the United States, with changes to reflect the tax laws and policies of the two countries.

It is most desirable that this Convention, together with the related Protocol and exchange of notes, be considered by the Senate as soon as possible and that the Senate give advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *August 5, 1988.*

PROGRAM

Mr. BYRD. Mr. President, at 10:30 on Monday, I will ask that the conference report on the drought assistance bill be laid before the Senate.

I indicated to Mr. DOLE that it was my intention to do this. This would mean that, there being 2 hours for debate, the vote then would occur on the adoption of the conference report at, let us say, 12:30 p.m.

Mr. STEVENS. Mr. President, I am informed that may prove to be a difficulty for the Republican leader in terms of the time of the vote. We have no problem about taking up the bill at that time, but as the leader has indicated, that would put the vote earlier than anticipated.

Mr. President, may I just inquire? Would it be possible to leave open the precise time at which that vote might take place? The majority leader certainly is correct in terms of the time of passage if we start at 10:30 under the agreement that the vote would normally take place, but it may be that our leader will seek to ask the vote itself take place slightly later.

Mr. BYRD. Yes, Mr. President; I certainly will be receptive to such a request. I would not want the vote to be at 3 or 4 o'clock in the afternoon. But I am certainly receptive to any request the Republican leader might wish to make.

Mr. STEVENS. It was my understanding he was seeking a vote no earlier or no later than 2 o'clock, 1 to 2, in that period, but I have not been in contact with him, as I say. He is not available at this time. I cannot clear that finally at this time.

Mr. BYRD. Very well. Mr. President, a rollcall vote will occur on the conference report at some point in the early afternoon, and this will be determined when the Republican leader is present on Monday.

Following the vote on the conference report, of if that is stacked to, say, 1 or 1:30, whatever, the Senate will return to the consideration of the DOD appropriations bill, at which time the pending question would be on the amendment offered by Mr. BYRD in the first degree.

It will be my intention to offer an amendment in the second degree to that amendment. I will be qualified by virtue of having gotten the yeas and nays on the first-degree amendment. But I certainly do not mean to deter. I want the Republican leader to have the opportunity to study the amendment over the weekend. So for that reason I have insisted on pursuing the offering of the second-degree amendment at this time.

RECESS UNTIL 10 A.M. ON MONDAY, AUGUST 8, 1988

Mr. BYRD. Mr. President, does my distinguished friend, the acting Republican leader, have any statement or business he would like to transact?

Mr. STEVENS. Mr. President, this Senator has nothing further to contribute and would be pleased to join my wife and family.

Mr. BYRD. Mr. President, I thank my friend.

I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock a.m. on Monday next.

The motion was agreed to, and at 6:50 p.m. the Senate recessed until Monday, August 8, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 5, 1988:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

JOHN DAVID DAVENPORT, OF OKLAHOMA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM OF THE 3 YEARS (REAPPOINTMENT).

MISSISSIPPI RIVER COMMISSION

SAM EPSTEIN ANGEL, OF ARKANSAS, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM OF 9 YEARS (REAPPOINTMENT).

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

EDWIN J. FEULNER, JR., OF VIRGINIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1991 (REAPPOINTMENT).

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT P. MCCOY, [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385, AND 3392:

To be major general of the line

BRIG. GEN. ROBERT H. APPLEBY, [redacted]

To be major general,

ADJUSTANT GENERALS CORPS

BRIG. GEN. ROBERT C. THRASHER, [redacted]

To be brigadier general of the line

BRIG. GEN. JULIUS L. BERTHOLD, [redacted]
BRIG. GEN. LARRY E. LEE, [redacted]
BRIG. GEN. DONALD W. LYNN, [redacted]
BRIG. GEN. ROBERT W. WILSON, [redacted]
COL. CHARLES R. ADAMS, [redacted]
COL. SHELBY K. BRANTLEY, [redacted]
COL. JERRY N. GURLEY, [redacted]
COL. STANLEY J. HARANSKY, [redacted]
COL. PAUL W. HUSBY, [redacted]
COL. NATHANIEL JAMES, [redacted]
COL. VITO MORGANO, [redacted]
COL. JAMES M. MORRIS, [redacted]
COL. NATHANIEL H. ROBB, [redacted]
COL. ROBERT R. ROSE, [redacted]
COL. MICHAEL W. RYAN, [redacted]

For Certificate of eligibility—brigadier general of the line

COL. BENNY P. ANDERSON, [redacted]
COL. RICHARD G. CAPPS. [redacted]
COL. ARVID FLANUM, [redacted]
COL. RODNEY R. HANNULA, [redacted]
COL. WILLIE F. JONES, [redacted]
COL. DAVID H. MCNINCH, [redacted]
COL. LOUIS C. MICHAUD, [redacted]
COL. WILLIAM E. MURPHY, [redacted]
COL. GARY J. TELLIER, [redacted]
COL. HAROLD M. THOMPSON, [redacted]

ADJUTANT GENERALS CORPS

To be brigadier general

COL. THOMAS B. BAKER, [redacted]
COL. JAMES R. DANIEL, [redacted]
COL. ARTHUR J. FARMER, [redacted]
COL. JAMES H. MALLOY, [redacted]
COL. CARROLL THACKSTON, [redacted]

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

For certificate of eligiblity—brigadier general of the line

COL. JAMES C. RINAMAN, JR., [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED INDIVIDUAL FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS) IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 593 AND 8351, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

MEDICAL CORPS

To be lieutenant colonel

THOMAS R. BLAIR, [redacted]

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. MICHAEL H. ABEL, [redacted] 3/5/88.
MAJ. DAVID H. ALEXANDER, [redacted] 3/31/88.
MAJ. JOHN R. CHATBURN, [redacted] 5/20/88.
MAJ. VIRGIL T. CONSIDINE JR., [redacted] 5/12/88.
MAJ. RAYMOND L. HARRIS, [redacted] 4/29/88.
MAJ. JAMES D. JACOBSON, [redacted] 6/7/88.
MAJ. KENNETH R. KIMBER, [redacted] 5/18/88.
MAJ. SCOTT L. KRAUSE, [redacted] 5/4/88.
MAJ. DANIEL E. KUEBLER, [redacted] 3/1/88.
MAJ. STEVEN R. MCCAMY, [redacted] 5/15/88.
MAJ. RICHJARD G. OELKERS, [redacted] 4/4/88.
MAJ. LAWRENCE W. REDMAN, [redacted] 5/14/88.
MAJ. MICHAEL R. REED, 530-7254, 4/1/88.
MAJ. IRA H. ROBBINS, [redacted] 4/17/88.
MAJ. RONALD L. SHULTZ, [redacted] 4/17/88.
MAJ. JOSEPH H. VANDEVENTER, JR. [redacted] 5/2/88.
MAJ. DANIEL M. WEISS, [redacted] 4/24/88.

LEGAL CORPS

MAJ. ALEXANDER S. NICHOLAS, [redacted] 5/8/88.

MEDICAL CORPS

MAJ. PAUL Y. NESKOW, [redacted] 5/15/88.

IN THE ARMY

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593 AND 3353:

MEDICAL CORPS

To be colonel

ORLANDO T. HINES, [redacted]
GEORGE N. LEWIS, III, [redacted]
DOUGLAS W. SONDERDAHL, [redacted]
JOHN WRIGHT, [redacted]

MEDICAL CORPS

To be lieutenant colonel

ARNALDO G. DE CARVALHO, [redacted]
DENNIS A. GREENE, [redacted]
CARROLL P. OSGOOD, JR., [redacted]
KEITH A. PICOU, [redacted]
DAVID E. PORTERFIELD, [redacted]
LAWRENCE A. PRICE, [redacted]
SARVOTHAM K. REDDY, [redacted]
RUSSELL R. RICE, [redacted]
TERRANCE A. ROBINSON, [redacted]
LAWRENCE C. RUNKE, [redacted]
WILLIAM D. SHEA, [redacted]
MOHAMMAD A. TOOR, [redacted]
LUIS TUMIALAN, [redacted]
ARISTEO E. VILLASENOR, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3385:

ARMY PROMOTION LIST

To be colonel

WILLIE L. BASLER, JR., [redacted]
JOHN C. BRIDGES, [redacted]
ROBERT C. BRUCE, [redacted]
DAVID B. BUNN, [redacted]
RICHARD L. BUTTERFIELD, [redacted]
JAMES B. CALLAWAY, [redacted]
MICHAEL D. DRISCOLL, [redacted]
JOSEPH A. FIARKOSKI, [redacted]
JOSIAH W. FULLER, [redacted]
BILLY J. HAMMONDS, [redacted]
JOHN J. HANNON, [redacted]
TERRY L. HOLDEN, [redacted]
JAMES S. IRWIN, JR., [redacted]
JOSEPH G. LABRIE, [redacted]
WILLIAM R. LABRIE, [redacted]
SHELDON R. LYONS, [redacted]
RONALD J. MANGANILLO, [redacted]
ALBERT A. MANGONE, [redacted]
JOHN E. MUTCHLER, [redacted]
DUANE D. PAISLEY, [redacted]
ALPHONSE F. RUSSO, JR., [redacted]
LUKE L. SHADE, [redacted]
KENNETH L. STALLS, [redacted]
WILLIAM R. SUHRE, [redacted]

CHAPLAIN

To be colonel

ASHLEY J. HALL, [redacted]
CAMERON M. HESS, [redacted]
ROBERT R. HILDERBRANDT, [redacted]

MEDICAL CORPS

To be colonel

PAUL J. SULLIVAN, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

ENRIQUE COSTAS, [redacted]
KENNETH E. COTTRILL, [redacted]
HERBERT K. CRUMLEY, [redacted]
DOUGLAS S. EVAUL, [redacted]
DONALD C. FRAZER, [redacted]
BOBBY G. GRIFFEY, [redacted]
JAMES E. HALL, [redacted]
ANDREW W. HUGHES, [redacted]
THOMAS D. INGLE, JR., [redacted]
WILLIAM F. JOY, JR., [redacted]
HILLIARD F. KELLY, JR., [redacted]
GREGORY P. KROT, [redacted]
CHARLES F. MARTIN, [redacted]
GARY J. MCCONNELL, [redacted]
JOHN R. MCGUIRE, [redacted]
FORREST M. MORRIS, III, [redacted]
KARL F. PFITZER, [redacted]
DONNIE K. SMITH, [redacted]
HUNTER M. SMITH, [redacted]
THARIEL W. SROCZYNSKI, [redacted]
PAUL A. SUM, [redacted]
MICHAEL H. TAYLOR, [redacted]
JOSEPH C. TOMASELLO, [redacted]
JERRY L. VEACH, [redacted]
PAUL M. WARNER, [redacted]

CHAPLAIN

To be lieutenant colonel

HARVEY H. BAKER, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

FARYL J. FULLER, [redacted]
MARIE L. MCGREOGR, [redacted]
CATHERINE A. MOZDEN, [redacted]
PATRICIA D. PRECHTER, [redacted]
MELINDA T. ROBERTSON, [redacted]
RAE L. TUCK, [redacted]

DENTAL CORPS

To be lieutenant colonel

JAMES M. MCNULTY, [redacted]
RICHARD R. STENZHORN, [redacted]

MEDICAL CORPS

To be lieutenant colonel

FRED M. FEINSOD, [redacted]
EDGAR E. PERRY, [redacted]
GARY R. ZELUFF, [redacted]